



STATE OF CONNECTICUT

VS

CONSENT ORDER NUMBER
COWSPST2017-004

Issue Date December 29, 2017

DAVID CICHOCKI
DBA/USL OF BLOOMFIELD CT LLC
DBA/US LAWNS
RESPONDENT

A. With the agreement of David Cichocki ("Respondent Cichocki") dba/USL of Bloomfield CT, LLC ("Respondent USL") and dba/US Lawns ("Respondent US Lawns"), (collectively "Respondents") the Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. Respondent USL is registered with the Secretary of the State of Connecticut with a principal place of business located at 37 Peters Road in Bloomfield, Connecticut. Respondent Cichocki is the sole Member of the business.
2. Respondent US Lawns is registered as a commercial pesticide application business with the Commissioner with a principal place of business located at 37 Peters Road in Bloomfield, Connecticut. Respondent Cichocki is the Responsible Individual for the business.
3. Respondent Cichocki and Respondent USL previously registered as a commercial pesticide application business with the Commissioner as Environmental Outdoor Services, LLC, Landscape Concepts of CT, LLC and US Lawns of Hartford with a principal place of business located at 37 Peters Road in Bloomfield, Connecticut. Environmental Outdoor Services, LLC and US Lawns of Hartford are not registered with the Secretary of the State of Connecticut. Landscape Concepts of CT, LLC is currently registered with the Secretary of the State of Connecticut.
4. Between 9/1/13 and 9/21/16, Respondents engaged in the operation of a commercial pesticide application business with an expired certificate of registration.
5. Between 6/19/12 and 9/1/13, Respondents failed to notify the Commissioner of changes to the information contained in their application for commercial pesticide application business registration regarding the employment status of one or more commercial operators.

6. On 10/1/12, Respondents submitted an incorrect and inaccurate application for commercial pesticide application business registration by failing to list all certified operators employed by Landscape Concepts of CT, LLC dba/US Lawns of Hartford.
7. Between 7/26/16 and 10/18/16, Respondents refused to allow an inspection of pesticide application and arborist business records despite repeated attempts by Department staff to conduct such inspections in accordance with the Connecticut General Statutes.
8. Respondents failed to maintain permanent pesticide application records for pesticide applications performed by their sub-contractor, New England Turf Management, on their behalf.
9. Respondents solicited to perform arboriculture services via internet advertising without first obtaining, or employing an individual with arborist certification issued by the Commissioner.
10. On 10/18/16, Respondents provided an incorrect and misleading statement concerning its franchise affiliation with US Lawns and its assertion that references to the performance of arboriculture in their internet advertising have been removed.
11. On at least 5/23/16, 5/31/16, 6/6/16, 6/11/16 and 6/13/16, Respondent Cichocki failed to provide supervisory written instructions with specific required information including the operator certification number and the place to be treated for pesticide applications performed by operator employees on Respondent's behalf. The written instructions provided incorrectly indicate Landscape Concepts of CT, LLC dba/US Lawns of Hartford as the name of the business.
12. On at least 5/23/16, 5/31/16, 6/6/16, 6/11/16 and 6/13/16, one or more certified commercial operator employees of Respondent USL acted as a certified commercial supervisor by deciding the place where pesticide would be applied.
13. Permanent pesticide application records maintained by Respondent USL do not contain specific required information including the operator certification number, the address and site where the pesticide application was made for applications performed on at least 5/23/16, 5/31/16, 6/6/16, 6/11/16 and 6/13/16. The records incorrectly indicate Landscape Concepts of CT, LLC dba/US Lawns of Hartford as the business name.

By virtue of the above, Respondents have violated sections 22a-61(b)(2), 22a-61(b)(14), 22a-61(e), 22a-66c(a), 22a-66c(b), 22a-66e(a)(9), 22a-66g(a)(1), 23-61b of the Connecticut General Statutes and section 22a-66-5(g)(2) of the Regulations of Connecticut State Agencies.

B. With the agreement of the Respondents, the Commissioner, acting under sections 22a-6, 22a-63(e), 22a-63(f), 22a-66h, 23-61f(c) of the Connecticut General Statutes, orders Respondents as follows:

1. Effective immediately upon issuance of this consent order, the Respondents shall take all steps necessary to comply with all applicable provisions of chapters 441 governing Pesticide Control and 451 governing arboriculture of the Connecticut General Statutes and regulations promulgated thereunder and shall maintain such compliance.

2. On or before five (5) days after the date of issuance of this consent order, Respondents shall submit to the Commissioner a written verification that no corporate advertising for the Respondents franchise(s) will represent or claim to perform any work requiring arborist certification until such time as Respondent(s) holds such certification. Such certification statement shall be certified pursuant to paragraph B.8.

3. Full compliance. Respondents shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.

4. Civil penalty. Respondents shall pay a penalty of ten-thousand eight-hundred dollars (\$10,800.00) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.4 through A.13 of this consent order. Payment of the civil penalty will be in four installments as follows; two-thousand seven-hundred (\$2,700) on or before thirty (30) days from the date of issuance of the consent order; two-thousand seven-hundred (\$2,700) on or before one-hundred fifty (150) days from the date of issuance of the consent order; two-thousand seven-hundred (\$2,700) on or before two-hundred seventy (270) days from the date of issuance of the consent order and two-thousand seven-hundred (\$2,700) on or before three-hundred ninety (390) days from the date of issuance of the consent order.

5. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "BMMCA, Pesticide Program civil penalty, consent order COWSPST 2017-004."

6. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.

7. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in

the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

8. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

9. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.

10. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.

11. Notice of transfer; liability of Respondent. Until Respondents have fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.

12. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any

pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate violations or pollution.

13. Respondent's obligations under law. Nothing in this consent order shall relieve Respondents of other obligations under applicable federal, state and local law.

14. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance.

15. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the Respondent's place of business without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.

16. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.

17. Notification of noncompliance. In the event that the Respondents become aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondents shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

18. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Diane Jorsey, Acting Supervisor
Department of Energy and Environmental Protection
Bureau of Materials Management & Compliance Assurance
Pesticide Management Program
79 Elm Street, Hartford, Connecticut 06106-5127

19. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this consent order.

Respondents consent to the issuance of this consent order without further notice. The undersigned certifies that he is fully authorized to enter into this consent order and to legally bind the Respondents to the terms and conditions of the consent order.

DAVID CICHOCKI

BY: 
David Cichocki


11/30/17
Date

USL OF BLOOMFIELD CT, LLC

BY: 
David Cichocki
Member

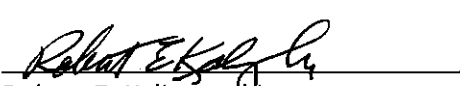
11/30/17
Date

US LAWNS

BY: 
David Cichocki

11/30/17
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.


Robert E. Kaliszewski
Deputy Commissioner

12/29/17
Date