



**STATE OF CONNECTICUT**

**CONSENT ORDER NUMBER  
COWSPST 2019-004**

**VS**

**SOLITUDE LAKE MANAGEMENT, LLC  
RESPONDENT**

**ISSUE DATE 3/9/2020**

A. With the agreement of Solitude Lake Management, LLC ("Respondent"), the Commissioner of Energy & Environmental Protection ("Commissioner") finds:

1. Respondent is registered with the Secretary of the State of Connecticut with a principal place of business at 590 Lake Street in Shrewsbury, Massachusetts. Marc Bellaud is the Manager of Respondent Solitude Lake Management, LLC.

2. Respondent is registered as a pesticide application business with the Department of Energy and Environmental Protection (DEEP).

3. Since 2016, the Respondent failed to abide by specific conditions required in at least nine (9) aquatic permits for the application of pesticides in waters of the state for at least seven (7) different sites where pesticide applications were made:

- Twin Lakes in Salisbury, Connecticut
- Lower Bolton Lake in Vernon, Connecticut
- Red Cedar Lake in Lebanon, Connecticut
- Lake Zoar in Monroe, Newtown, Oxford, and Southbury, Connecticut
- Chamberlain Pond in Woodstock, Connecticut
- Lake Housatonic in Oxford, Derby, Seymour, and Shelton, Connecticut
- Rader Pond in Woodbury, Connecticut.

4. Respondent failed to submit pre and post vegetation survey results to the Commissioner for the 2017 and 2018 treatment seasons as required by the permit conditions in permit numbers AQUA-2017-293, AQUA-2017-292 and AQUA-2017-296 for Twin Lakes (Third, East and Second) located in Salisbury, Connecticut.

5. Respondent failed to submit pre and post vegetation survey results to the Commissioner as required by the permit conditions in permit numbers AQUA-2017-366 and AQUA-2017-366rev for treatments performed in 2017 at Lower Bolton Lake in Vernon, Connecticut.

6. Respondent failed to submit a proposed treatment area map to the Commissioner at least fourteen days prior to treatment and performed treatment without first receiving Department approval as required by the permit conditions, and submit pre and post vegetation survey results as required by the permit conditions in permit number AQUA-2017-370 for Red Cedar Lake in Lebanon, Connecticut.
7. Respondent failed to submit pre and post vegetation survey results and a post treatment monitoring plan to the Commissioner for the 2017 and 2018 treatment seasons as required by the permit conditions in permit numbers AQUA-2017-164 and AQUA-2017-164rev for Lake Zoar located in the towns of Monroe, Newtown, Oxford and Southbury, Connecticut.
8. Respondent failed to notify the Commissioner that either there was no outflow at the time of sampling or provide Glyphosate monitoring results as required by the permit conditions in permit number AQUA-2017-230ws for treatment performed in 2018 at Chamberlain Pond located in Woodstock, Connecticut.
9. Respondent failed to provide the Commissioner with post treatment vegetation survey results for the 2018 treatment season and performed a chemical treatment in 2019 without receiving the commissioner's approval as required by the permit conditions in permit number AQUA-2018-372 for Lake Housatonic between the Derby and Zoar dams in the towns of Oxford, Derby, Seymour and Shelton, Connecticut.
10. Respondent failed to submit fluridone monitoring results to the Commissioner for treatments performed on 6/29/16 and 6/25/18 as required by the permit conditions in permit numbers AQUA-2016-385 and AQUA-2016-385rev for Rader Pond located in Woodbury, Connecticut.

By virtue of the above, Respondent has violated Connecticut General Statutes §22a-66z.

B. With the agreement of Respondent, the Commissioner, acting under §22a-6 and §22a-66, of the Connecticut General Statutes, orders Respondent as follows:

1. Effective immediately upon issuance of this consent order, Respondent shall take all steps necessary to comply with all applicable provisions of Chapter 441 of the Connecticut General Statutes governing Pesticide Control, regulations promulgated thereunder, permits issued, and shall maintain such compliance.
2. On or before thirty (30) days after issuance of this consent order, Respondent shall employ and notify the Commissioner of the identity of at least one "Compliance Specialist" to be directly responsible to assure timely compliance with the requirements of all Connecticut pesticide permits issued to the Respondent. Respondent shall employ at least one Compliance Specialist for at least two (2) years after the issuance of this consent order. The Compliance Specialist(s) shall be familiar with the permit requirements for all active permits issued to the Respondent and the day-to-day



operations of each crew operating within Connecticut. The Compliance Specialist(s) shall also be knowledgeable about all applicable provisions of Connecticut pesticide statutes and regulations, specifically with respect to requirements for the use of pesticides in the waters of the state. The Compliance Specialist(s) shall have and maintain a Connecticut commercial supervisory certification in the aquatic category. Respondent shall ensure that each Compliance Specialist employed is authorized to implement all necessary actions to promptly remediate incidents of non-compliance. The Compliance Specialist(s) shall consult with the Respondent, as necessary, on matters of compliance and report matters of non-compliance in writing to the Respondent as they occur. Respondent shall notify the Commissioner in writing within thirty (30) days of any change to the identity of the Compliance Specialist(s).

3. Respondent and its Compliance Specialist(s) shall create a checklist for each Permit Issued subsequent to the date of this consent order and in effect at the date of issuance of this consent order that indicates the specific requirements that must be implemented for each permit. For complex projects (projects requiring submission of surveys and/or sample results) that use a 3<sup>rd</sup> party to fulfill any permit or sampling requirement, Respondent shall submit the permit checklist to the Commissioner no later than seven (7) days prior to treatment of the waterbody.

4. On or before the last day of March, June, September and December for a period of two years from the date of issuance of this consent order, Respondent shall report to the Commissioner on the status of all active aquatic permits issued for which all work has been completed and identifies all aquatic permits issued with requirements that have not yet been completed with an estimated date of completion. The report shall include a copy of each checklist required in paragraph B.3 of this consent order for each Permit Issued for which the permit requirements have not been completed. The report shall also include copies of ten (10) permanent pesticide application records including supervisory written instructions, if applicable, maintained by the Respondent for treatments performed within the previous calendar quarter. If the Respondent is unable to provide copies of permanent pesticide application records as required, Respondent shall provide a statement consistent with the requirements of paragraph B.15 of this consent order stating the reason for the inability to provide the required records.

5. For a period of two (2) years after the date of issuance of this consent order, Respondent shall notify the Commissioner of all scheduled pesticide applications. Notification shall be made by e-mail not later than 12:00pm on the Friday prior to the week for which the treatments are scheduled. The notice shall include the following information: name and address of each waterbody to be treated and the date of treatment.

6. In addition to current posting and notification requirements, Respondent shall document the placement of posting signs by photographing the posted signs at all posting sites. The photographs shall be dated, time stamped, geo-located and maintained with the permanent pesticide application record for at least two (2) years after the date of application. The photographs shall be made available upon the Commissioner's request.

7. On or before thirty days from the date of issuance of this consent order, Respondent shall submit a business compliance plan (in accordance with the requirements of paragraph B.12 "Approvals" and B.26 "Submission of documents") that describes in detail business practices and procedures to ensure compliance including individual employee responsibilities in selling pesticide application services, coordination of review by a certified supervisor and his/her assignment of work to applicators, performing pesticide applications, communication and oversight between certified supervisors and operators, and reviewing and maintaining of permanent pesticide application records and supervisory written instructions.

8. Progress reports: On or before the December 31st of each year after the date of issuance of this consent order, Respondent shall submit annual progress reports until actions required by this consent order have been completed and approved to the Commissioners' satisfaction. Respondent shall submit a progress report to the Commissioner describing the actions which Respondent has taken to date to comply with this consent order.

9. Full compliance. Respondent 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.

10. Civil penalty. Respondent shall pay \$27,000.00 as the total civil penalty sought by the Commissioner in four (4) installments of \$6,750.00 payable on or before thirty (30) days, one hundred twenty (120) days, two hundred ten (210) days and three hundred (300) days after the date of issuance of this consent order for those, and only those, violations described in paragraphs A.3 through A.10 of this consent order.

11. 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 COWSPST2019-004."

12. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner



deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

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

14. 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.

15. 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."

16. 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.

17. 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.

18. Notice of transfer; liability of Respondent. Until Respondent has 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.

19. 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 Respondent 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 Respondent to undertake further investigation or further action to prevent or abate violations or pollution.

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

21. 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.

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

23. 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.

24. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.

25. Notification of noncompliance. In the event that Respondent becomes 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, Respondent 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 Respondent 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.

26. 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:

Zachary Donais, Environmental Analyst  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Pesticide Management Program  
79 Elm Street  
Hartford, Connecticut 06106-5127

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

**SOLITUDE LAKE MANAGMENT, LLC**

BY:

  
\_\_\_\_\_  
MARC BELLAUD  
MANAGER

02/27/2020  
\_\_\_\_\_  
Date

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

  
\_\_\_\_\_  
Betsey Wingfield  
Deputy Commissioner

3/9/2020  
\_\_\_\_\_  
Date