



File No. COWSPST 2020-012

Date of Issuance: June 7, 2022

STATE OF CONNECTICUT

v.

Thomas Luthy
Luthy Equities, LLC

CONSENT ORDER

A. The Commissioner of Energy & Environmental Protection (“the Commissioner”) finds:

1. Luthy Equities, LLC /dba/ Mosquito Squad (“Mosquito Squad”) is registered with the secretary of the state of Connecticut with a principal place of business located at 15 South Street, Suite 4a in Norwalk, Connecticut. Thomas Edward Luthy is identified as the sole member of the business (collectively, the “Respondents”).
2. The Respondent Mosquito Squad is registered with the Department of Energy & Environmental Protection (“DEEP” or “the Department”) as a commercial pesticide application business under the names Luthy Equities, LLC /dba/ Mosquito Squad located at 240 Depot Road in Milford, Connecticut and Luthy Equities LLC Norwalk located at 15 South Street in Norwalk, Connecticut, and has applied and may continue to apply pesticides in Connecticut. The Respondent Luthy holds a commercial pesticide supervisor certification in the mosquito and biting flies (7f) category.
3. On or before the date of issuance of this Consent Order the Respondents conducted the following unauthorized activities:
 - a) The Respondents failed to provide certain specific commercial pesticide supervisory written instructions to certified commercial junior operator employees.

- b) Without specific written instructions, certified commercial junior operator employees of the Respondents acted as certified commercial pesticide supervisors when making pesticide applications on the Respondents' behalf.
 - c) Permanent pesticide application records maintained by the Respondents lack specific required information.
4. By virtue of the above, the Respondents have violated Connecticut General Statutes ("CGS") sections 22a-56a(1), 22a-58, 22a-61(e), 22a-61(f)(1)(B), 22a-61(f)(1)(K), and Regulations of Connecticut State Agencies ("RCSA") section 22a-66-5(g)(2).
5. Based on an inspection conducted by DEEP, Bureau of Materials Management & Compliance Assurance, Pesticide Management Program, on October 29, 2020 at 15 South Street, Norwalk, the Department issued Notice of Violation No. NOVWSPST 21-002 ("NOV") on April 21, 2021 to inform the Respondents that DEEP personnel had observed violations of relevant statutes and regulations, including but not limited to those discussed in paragraph A.3, above. The NOV required a signed Compliance Statement detailing the actions taken to correct the violations and actions taken to assure the violations do not recur.
6. On May 18, 2021, the Respondents responded to the NOV and submitted an executed Compliance Statement to address violations of law and actions taken to assure the violations do not recur.
7. On January 26, 2022, the Commissioner issued Civil Penalty Notice No. PN-PEST 2020-012 to inform the Respondents that an administrative penalty was being assessed pursuant to CGS 22a-6b.
8. The NOV and the Civil Penalty Notice identified violations in addition to the violations identified in paragraph A.3. above. It is the intent of the Department that this consent order serve as the resolution to all violations identified in the NOV and Civil Penalty Notice.
9. By agreeing to the issuance of this Consent Order, the Respondents make no admission as to the Commissioner's findings of fact or law with respect to the matters addressed herein except for those findings detailed in paragraphs A.1. and A.2 of this Consent Order.
- B. With the agreement of the Respondents, the Commissioner, acting under Sections 22a-6, 22a-6b, and 22a-63 of the Connecticut General Statutes, orders the Respondents as follows:
 1. The Respondents shall take all steps necessary to comply with all applicable provisions of CGS Chapters 441, entitled Pesticide Control and regulations promulgated thereunder

and shall maintain such compliance.

2. Within thirty (30) days after the date of issuance of this consent order, the Respondents shall submit samples of commercial supervisory written pesticide application instructions and permanent pesticide application records to the Commissioner for review and written approval.
3. The Respondents shall notify the Commissioner of at least two scheduled pesticide applications per month within the first year after the date of issuance of this Consent Order to enable staff of the Pesticide Management Program to observe the treatment and methods utilized by the Respondents. Such notification shall be at least forty-eight (48) hours prior to the anticipated application and shall include the location and time that the application will be made. The Commissioner may suspend this requirement after two observations by the Department have occurred.
4. Full Compliance. The 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 satisfaction of the Commissioner.
5. Civil Penalty. The Respondents shall pay a penalty of twenty-four thousand, eight hundred forty dollars (\$24,840) as the total civil penalty to be sought by the Commissioner for those violations described in paragraph A.3 of this Consent Order. The penalty may be paid in four equal quarterly installments of six thousand two hundred ten dollars (\$6,210). The first quarterly installment shall be made not more than 14 days after the issuance of this Consent Order, and subsequent payments shall be made not more than 90, 180, and 270 days thereafter.
6. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the "Connecticut Department of Energy & Environmental Protection," Financial Management Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Energy & Environmental Protection. The check shall state on its face, "Bureau of Materials Management & Compliance Assurance, Pesticide Management Program Civil Penalty, Consent Order No. COWSPST2020-012."
7. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner of Energy & Environmental Protection or an agent of the Commissioner. The date of "issuance" of this Consent Order is the date the Order is deposited in the mail or personally delivered to the Respondents, whichever is earlier. "DEEP" and "the Department" mean the CT Department of Energy and Environmental Protection. "CGS" means Connecticut General Statutes. "RCSA" means the Regulations of Connecticut State Agencies.

8. Dates. 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 personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal legal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
9. Notification of noncompliance. In the event that the Respondents become aware that they 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 the Commissioner 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. In so notifying the Commissioner, Respondents shall state in writing 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 Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay. The Commissioner's approval of any revised compliance dates shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
10. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject Respondents to an injunction and penalties under Chapters 439, and 446i of the General Statutes.
11. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense in accordance with CGS section 22a-6, under CGS section 53a-157b.
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 action to prevent or abate violations of law, prevent or abate pollution, recover costs and damages for adverse impacts to natural resources and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to correct violations.

13. Respondents' 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 or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the corrective actions taken by Respondents pursuant to this Order will result in compliance with regard to any statute, regulation, permit, order or other authorization not identified hereunder.
15. Access to site. Any representative of the Department of Energy & Environmental Protection may enter the site 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 shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.
17. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order or any contact required to be made with the Commissioner shall, unless otherwise specified 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
18. Relationship to Administrative Civil Penalty Notice. This Consent Order supersedes Penalty Notice No. PN-PEST 2020-012 issued to Respondents on January 26, 2022. As a result, upon the effective date of this Consent Order, the Penalty Notice shall no longer be considered in effect as if such Penalty Notice was fully withdrawn.
19. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this consent order.

The Respondents consent to the issuance of this Consent Order without further notice.



Signature

Thomas E Luthy

Print Name

Thomas Luthy
Luthy Equities, LLC

Duly Authorized

05.27.22

Date

Issued as a final order of the Commissioner of Energy & Environmental Protection on

June 7, 2022.



Jennifer L. Perry, P.E.

Bureau Chief

Materials Management and Compliance Assurance



Connecticut Department of

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Certification of Mailing

On _____, 2022, at _____ a.m./p.m., I mailed a certified copy of Consent Order No. COWSPST2020-012 to the following, by placing it in the U.S. mail/interdepartmental mail:

Thomas Luthy
Luthy Equities, LLC
15 South Street
Suite 4a
Norwalk, Connecticut 06854

Name of person mailing

Title: _____

Date: _____