

Proposed Administrative Consent Agreement Background Summary

Subject: Erik Hanson
Mosquito Squad of Southern Maine
535 Central Road
Rye, NH 06032

Date of Incident(s): July 21, 2014

Background Narrative: On July 21, 2014, the Board received a call from Falmouth resident. The resident alleged that a Mosquito Squad of Maine applicator came over the property line of their customer and made a pesticide application to some of her property. The caller was home at the time of the application and observed this. A Board inspector collected a composite foliage sample from 5 to 20 feet on to the caller's property the same day she called the Board. The inspector met with the applicator on July 23, 2014, and collected labels for the three insecticides he applied as a tank mix with a powered-backpack sprayer. Lab results were positive for the three active ingredients in the pesticide tank mix applied.

Summary of Violation(s):

- CMR 01-026 Chapter 20 Section 6(D)2 specifies that no person may apply a pesticide to a property of another unless prior consent for the pesticide application has been obtained from the owner, manager or legal occupant of that property.

Rationale for Settlement: The staff compared similar cases settled by the Board in the past.

Attachments: Proposed Consent Agreement

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL

In the Matter of:)
Erik Hanson)
Mosquito Squad of Southern Maine) ADMINISTRATIVE CONSENT AGREEMENT
535 Central Road) AND
Rye, NH 06032) FINDINGS OF FACT

This Agreement by and between Mosquito Squad of Southern Maine (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board") is entered into pursuant to 22 M.R.S. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on June 3,1998.

The parties to this Agreement agree as follows:

1. That the Company provides commercial pesticide application services for compensation.
2. That the Company is a licensed spray contracting firm holding license number SCF 46730 issued by the Board pursuant to 22 M.R.S. § 1471-D (1)(2).
3. That Benjamin Gerrard (COA 47704) is a licensed commercial applicator with the Company.
4. That on July 21, 2014, the Board received a call from a Falmouth resident who resides at 305 Prime Farm Road. The caller said that she saw an applicator from the Company apply pesticides approximately twenty feet beyond the property line of their customer, Scott Bragdon at 404 Prime Farm Road, and spray part of her property. There is a corner pipe making the property line.
5. That on the same day the call was received, an inspector met with the caller and interviewed her. Based on the interview and on-site observations, the inspector collected a composite foliage sample five to twenty feet onto her property (sample number 140721EPM03A).
6. That on July 23, 2014, a Board inspector conducted a follow up inspection with Gerrard. Gerrard acknowledged he was in the area the caller said she saw him in on her property, but said he did not make an application there. Gerrard said on July 21, 2014, he did make a mosquito application to Bragdon's property using a powered backpack sprayer to apply a tank mix of Cy-Kick, Bifenthrin I/T and Astro insecticides.
7. That during the inspection described in paragraph six, the inspector collected the labeling of the three pesticides in the tank mix. The labeling listed the following as active ingredients in those pesticides: cyfluthrin, bifenthrin, and permethrin.
8. That the sample collected on the caller's property described in paragraph five was sent to a lab for analysis. The lab result for that sample was positive for bifenthrin at 0.39 ppm, cyfluthrin at 0.51 ppm, cis-permethrin at 0.55ppm, and trans-permethrin at 0.68 ppm.

9. That CMR 01-026 Chapter 20 Section 6(B) specifies that no person may apply a pesticide to a property of another unless prior consent for the pesticide application has been obtained from the owner, manager or legal occupant of that property.
10. That the Company did not have the consent of the residents at 305 Prime Farm Road in Falmouth to make an insecticide application to their property.
11. That the circumstances described in paragraphs one through ten constitute a violation of CMR 01-026 Chapter 20 Section 6(B).
12. That the Board has regulatory authority over the activities described herein.
13. That the Company expressly waives:
 - a. Notice of or opportunity for hearing;
 - b. Any and all further procedural steps before the Board; and
 - c. The making of any further findings of fact before the Board.
14. That this Agreement shall not become effective unless and until the Board accepts it.
15. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraph eleven, the Company agrees to pay a penalty to the State of Maine in the sum of \$400. (Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

MOSQUITO SQUAD OF SOUTHERN MAINE

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General