

**Proposed Administrative Consent Agreement
Background Summary**

Subject: Ted St. Amand
Atlantic Pest Solutions
PO Box F
Kennebunkport, ME 04046-1695

Date of Incident(s): July 12, 2013

Background Narrative: The Board received a call from a Wayne resident alleging that an Atlantic Pest Solutions's employee, in the process spraying an abutting property for mosquitoes and ticks, caused pesticide to enter a small brook that drains into Androscoggin Lake. Board staff interviewed the caller and employees of Atlantic Pest Solutions and also collected foliage samples beside the brook as well as a foliage sample from plants growing in the brook. Lab results were positive for bifenthrin, the active ingredient in Talstar P, the insecticide applied by Atlantic Pest Solutions's employees to their customer's property.

Summary of Violation(s):

- 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S.A. § 606 (2)(B) and 22 M.R.S.A § 1471-D(8)(F), use of a pesticide inconsistent with the product labeling
- 22MRSA §1471-D(8)(C), used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment

Rationale for Settlement: Evidence indicated that the application was made without taking sufficient precautions to keep the pesticide out of water. Allowing pesticide to enter surface water is a violation of the pesticide label as well as laws and regulations.

Attachments: Proposed Consent Agreement

JAN 27 2014

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

Ted St. Amand)
Atlantic Pest Solutions) ADMINISTRATIVE CONSENT AGREEMENT
PO Box F) AND
Kennebunkport, ME 04046-1695) FINDINGS OF FACT

This Agreement, by and between Atlantic Pest Solutions (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 is in the business of applying pesticides including outdoor applications to control mosquitoes and ticks.
2. That the Board received a call from an abutter to a Company customer in Wayne. The caller said he thought a Company applicator crossed the property line and pesticide spray went into a small brook that drains into Androscoggin Lake.
3. That on July 12, 2013, a Board inspector met with the abutting property owner who called the Board and the inspector collected a foliage sample from plants growing in the brook and a soil sample from the edge of the brook.
4. That on July 16, 2013, the same Board inspector met at the Wayne application site with Company personnel Garrett Bissonnette (operations mgr.), Ralph Blumenthal (general mgr.), and Tyler Gagnon (licensed applicator /supervisor on the job). Also present were the Company customer and abutting property owner. The inspector pointed out the flags he placed in the ground to mark the places he sampled earlier. Gagnon pointed out where and how he directed his unlicensed co-worker, Benjamin Chick-Reny, who made the application to spray. Gagnon confirmed the company made a mosquito/tick application to the customer's property at 22 Island View Drive in Wayne on July12, 2013.
5. That at the meeting described in paragraph four, Gagnon stated that Chick-Reny stood within two feet of standing water, his back towards the brook and sprayed inwards towards the customer's property using a hose connected to powered equipment in the back of a pickup truck. Gagnon acknowledged both he and Chick-Reny were involved in a confrontation with the abutting property owner during the application. The abutting owner took the position that spray was directed towards the standing water and flowing brook.
6. That at the meeting described in paragraph four, the inspector collected a specimen label for Talstar P Professional insecticide, the insecticide applied by Chick-Reny at the Wayne site on July 12, 2013, a photograph of the invoice/work order for that job, and a photo of the map of the job site. Gagnon also completed a written statement
7. That on July 17, 2013, the Board inspector met with Chick-Reny at the Company's Brunswick office. The inspector used the map collected at the meeting described in paragraph six to review the application practices of Chick-Reny for the Wayne job. Chick-Reny explained that he kept his back to any standing water or runoff areas and kept a three foot buffer from these areas when making his application. Chick-Reny also summarized his comments about the application in a written statement. The inspector collected an original Talstar P professional insecticide label and marked in blue on the map where the stream was, the applicator position when spraying, and an area not sprayed across the road.

8. That the lab results from the samples taken as described in paragraph two were positive for bifentrin, the active ingredient in Talstar P Professional insecticide. The foliage sample was positive at 0.820 ppm and the soil sample was positive at 0.069 ppm.
9. That the Talstar P Professional insecticide label (EPA reg. #279-3206) states "To protect the environment, do not allow pesticide to enter or run off into storm drains, drainage ditches, gutters or surface waters".
10. That the circumstances described in paragraphs one through nine, establish that the insecticide was applied in such a way as to allow it to enter surface water.
11. That the circumstances described in paragraphs one through ten constitute the use of a pesticide inconsistent with the product labeling in violation of 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S.A. § 606 (2)(B) and 22 M.R.S. § 1471-D(8)(F).
12. That the circumstances described in paragraphs one through ten were in violation of the following, 22M.R.S. § 1471-D(8)(C) which reads, "used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment".
13. That the Board has regulatory authority over the activities described herein.
14. 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.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraphs eleven and twelve, the Company agrees to pay to the State of Maine the sum of \$750. (Please make checks payable to Treasurer, State of Maine).

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

ATLANTIC PEST SOLUTIONS

By:  -DM Date: 1/24/17

Type or Print Name: THEODORE W. ST. AMANT. DM.

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED

By: _____ Date: _____

Mark Randlett, Assistant Attorney General