



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER WHITCOMB
COMMISSIONER

HENRY S. JENNINGS
DIRECTOR

September 16, 2014

Daniel E. Brown
40 Gravelwood Farm Lane
Blue Hill, ME 04614

RE: **Unresolved Consent Agreement**

Dear Mr. Brown,

On April 27, 2012, an inspector from this office conducted a routine restricted use pesticide dealer inspection at Northeast Agricultural Sales in Detroit. As part of that inspection, Board inspector Brian Barrett documented that you purchased a 2 ½ gallon container of the restricted use pesticide Gramoxone Inteon Herbicide on April 13, 2010. Restricted use pesticide may only be legally purchased and applied by certified pesticide applicators. Since you were not certified as a pesticide applicator at that time, your purchase and use of the Gramoxone Inteon violated both state and federal pesticide law. Over the last 25 years, the Board has levied monetary penalties in every instance where uncertified applicators purchase and apply restricted use pesticides. For these reasons, our staff has determined it is appropriate to seek a penalty in this case.

On August 5, 2014, I mailed you a proposed Administrative Consent Agreement in an effort to resolve this violation. You called on August 13, 2014, to say you would not settle the Consent Agreement by paying a penalty. Consequently, we have elected to present the matter to our Board for review at their meeting scheduled for October 24, 2014. The meeting is set for room 319 in the Deering Building, on the AMHI Complex, 90 Blossom Lane in Augusta. It starts at 8:30 AM.

Our intention is to present information that is both accurate and unbiased. For this reason, we request that you review the enclosed case investigation summary and notify us prior to October 10, 2014, if there are any errors or if you have additional information which you feel is pertinent to the case.

We encourage you to attend this meeting and speak on your behalf if you wish. You should understand that this will not constitute a formal hearing; however, the Board will likely determine how to proceed to resolve this case. You may have an attorney present if you so desire.

We will forward a copy of the agenda to you approximately one week prior to the meeting. If you have any questions, please do not hesitate to contact me at 287-2731.

Sincerely,

Raymond Connors
Manager of Compliance
Maine Board of Pesticides Control

Enclosure (3)

CASE INVESTIGATION SUMMARY

Company: Dan Brown (Gravelwood Farm)

License: None

Origin of Case: Restricted use pesticide dealer inspection at Northeast Agricultural Sales in Detroit on 4-27-12

Dates of Incident: 4-13-2010

Pesticide(s) Involved: Gramoxone Inteon

Summary of Allegation(s): A Board inspector did a routine restricted use pesticide dealer inspection at Northeast Agricultural Sales in Detroit on April 27, 2012. As part of that inspection, the inspector asked for and received random, representative copies of Northeast Agricultural Sales sales transactions records for some 2010 restricted use pesticide sales. A review of those records revealed that Daniel E. Brown Jr. (Gravelwood Farm) purchased two 2 ½ gallon containers of Gramoxone Inteon on April 13, 2010. Gramoxone Inteon is a restricted use pesticide that requires a pesticide applicator license to purchase. Brown was not licensed.

Staff Action: A Board inspector collected a copy of Northeast Agricultural Sale's transaction record showing Brown's purchase of the restricted use pesticide. Board staff attempted to resolve the violation through a consent agreement sent to Brown. Brown opposed the consent agreement and would not sign it.

Staff Findings: Brown purchased a restricted use pesticide without a pesticide applicator license.

Attachment(s):

- Consent agreement for Dan Brown
- Northeast Agricultural Sales transaction 1221 showing Dan Brown's purchase of Gramoxone Inteon.

Applicable Citations of Law: CMR 01-026 Chapter 40 Section 1(D) - Restricted use pesticides may be purchased and used only by applicators licensed by the Board as provided in Chapters 31 and 32.

Staff Recommendation(s): Since the staff has been unable to reach a settlement, it recommends referring the case to the Office of the Attorney General.

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

| | | |
|-------------------------|---|----------------------------------|
| Daniel E. Brown |) | ADMINISTRATIVE CONSENT AGREEMENT |
| 40 Gravelwood Farm Lane |) | AND |
| Blue Hill, ME 04614 |) | FINDINGS OF FACT |

This Agreement, by and between Daniel Brown and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S.A. §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 on April 27, 2012, a Board inspector conducted a routine pesticide dealer inspection with Northeast Agricultural Sales, Inc. in Detroit.
2. That during that inspection, the inspector collected and reviewed transaction document # 1221. That document indicated that Brown purchased a 2 ½ gallon container of Gramoxone Inteon Herbicide on April 13, 2010.
3. That Gramoxone Inteon Herbicide is classified as a restricted use pesticide.
4. That CMR 01-026 Chapter 40 Section 1(D) specifies restricted use pesticides may be purchased and used only by applicators licensed by the Board as provided in Chapters 31 and 32 of the Board's regulations.
5. That Brown was not certified or licensed at the time of the pesticide purchase described in paragraph two.
6. That the circumstances described in paragraphs one through five constitute a violation of CMR 01-026 Chapter 40 Section 1(D)
7. That the Board has regulatory authority over the activities described herein.
8. That Brown 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.
9. That this Agreement shall not become effective unless and until the Board accepts it.
10. That in consideration for the release by the Board of the cause of action which the Board has against Brown resulting from the violation referred to in paragraph six, Brown agrees to pay a penalty to the State of Maine in the sum of \$100.00. (Please make checks payable to Treasurer, State of Maine).

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

DANIEL BROWN

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General

Transaction Date 04/13/2010
 Due Date 04/13/2010
 Customer ID CashDe
 Payment Method Check
 625
 Time 09:12 (04/13/2010)

Cash Sales Detroit

Comment Dan Brown /FA 53236

| Quantity | Description | UPC Code | Unit Price | Total \$ |
|-----------|---------------------------------|----------|-------------|-------------------|
| 2.500 Gal | Cornerstone Plus | | 17.00 / Gal | 42.50 |
| 2.500 Gal | Gramoxone Inteon 2 x 2 1/2 Gall | RUP | 41.00 / Gal | 102.50 |
| 1.000 Qts | Alias Qt | | 25.00 / Qts | 25.00 |

Handwritten notes:
 RD
 OK # 625
 LMP

Sub Total ~~170.00~~
 Sales Tax 0.00
 Discount 0.00
Total Due ~~170.00~~
 Amount Tendered ~~170.00~~
 Change 0.00

Signature *[Handwritten Signature]*

STATE OF MAINE
MAINE REVENUE SERVICES
COMMERCIAL FARMING EXEMPTION
(SEE REVERSE SIDE FOR RESTRICTIONS)
EXPIRES 06-30-2010

BROWN JR DANIEL E FA53236
40 GRAVELWOOD FARM LN
BLUE HILL ME 04614

ISSUED: 03-01-2007 ACTING EXECUTIVE DIRECTOR
[Signature]