

Proposed Administrative Consent Agreement Background Summary

Subject: Bruce Korhonen
Korhonen Land Care
294 Route 232
Woodstock, Maine 04291

Date of Incident(s): July 6, 2011

Background Narrative: The Board received a call alleging that Korhonen was making an unlicensed, commercial herbicide application to a town ball field in Woodstock. A follow-up inspection was done that included talking to both the town manager and the alleged violator. The Town manager said Korhonen Land Care won the 2011 bid that specified in part that “the infield areas will be kept free of weeds”. Korhonen would not confirm to the inspector that an herbicide was applied. A vegetation sample was collected and the lab result was positive for glyphosate at 2,139 ppm. No one employed by Korhonen Land Care was certified or licensed as a commercial applicator at the time of the commercial pesticide application to the public ball field.

Summary of Violation(s): Any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D(1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.

Rationale for Settlement: The staff compared the violation to similar cases settled by the Board and the applicator’s lack of candor in formulating the penalty proposal.

Attachments: Proposed Consent Agreement

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

Bruce Korhonen)
Korhonen Land Care) ADMINISTRATIVE CONSENT AGREEMENT
294 Route 232) AND
Woodstock, Maine 04291) FINDINGS OF FACT

This Agreement, by and between Korhonen Land Care (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.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 the Company provides property maintenance services for hire, including in the Woodstock area.
2. That on July 6, 2011, the Board received a call from an individual who observed either the Company owner or a Company employee, with a backpack applying what appeared to be an herbicide to the Bryant Pond Ball Field on Route 26 in Woodstock. The applicator was near the pitcher's mound working his way towards home plate.
3. That in response to the call in paragraph two, on July 7, 2011, a Board inspector met with the Woodstock town manager and was given permission to sample the ball field. The inspector took a one liter vegetation sample (110707EPM01A) from the Woodstock ball field.
4. That later that same day, the Board inspector did a follow-up inspection with Bruce Korhonen, the Company owner. Korhonen stated he was at the ball field the previous day but would not admit using Roundup Herbicide, the suspected herbicide.
5. That a review of the Town of Woodstock 2011 bid specifications for the Woodstock Ball Fields state that "the infield areas will be kept free of weeds". The Woodstock Town Manager confirmed that Korhonen Land Care won the bid to maintain the ball fields in 2011.
6. That the lab result for the one liter vegetation sample (110707EPM01A) collected in paragraph three was positive for glyphosate, the active ingredient in many common herbicides, at 2,139 ppm.
7. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator in accordance with 22 M.R.S. § 1471-D(1) (A).
8. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) as any application of any pesticide under contract or for which compensation is received or any application of a pesticide to a property open to use by the public.
9. That, as evidenced by the lab results described in paragraph six, the Company made an application of glyphosate herbicide to the Bryant Pond Ball Field, as described in paragraph two, which application constitutes a custom application, as defined in 22 M.R.S. § 1471-C(5-A), because it was an application for which compensation was received and/or it was to an area that was open to use by the public.
10. That no one from the Company had a commercial pesticide applicator's license at the time of the application described in paragraph two.

11. That the circumstances described in paragraphs one through ten constitute a violation of 22 M.R.S. § 1471-D(1)(A).
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 causes of action which the Board has against the Company resulting from the violation referred to in paragraph eleven, the Company agrees to pay to the State of Maine the sum of \$600. (Please make checks payable to Treasurer, State of Maine.)

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

KORHONEN LAND CARE

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Henry Jennings, Director

APPROVED

By: _____ Date: _____
Mark Randlett, Assistant Attorney General