## Proposed Administrative Consent Agreement Background Summary

**Subject:** Bruce Hunter 32 High Street

Farmington, CT 06032

**Date of Incident(s):** Early June 2012, browning vegetation noticed

**Background Narrative:** On November 6, 2012, the Board received a call from the Chebeague Island Code Enforcement Officer (CEO). The CEO conveyed a complaint he received earlier in the season from the superintendent of the Chebeague Island Golf Club. In early June of 2012, golf course personnel noticed browning shrubs/brush on course property along their property line abutting Bruce Hunter's property. Also browning shrubs/brush was found on the on the opposite side of the course (ocean side) in line with browning brush leading up to Bruce Hunter's cottage porch. A course employee said Hunter admitted to him that he applied an herbicide along the property line.

On November 9, 2012, a Board inspector conducted a follow-up investigation at the site. Foliage samples of symptomatic vegetation were collected both on golf course property (3 separate sample sites) and one sample from Hunter's property. All samples were positive for glyphosate and/or AMPA a breakdown product of glyphosate.

Hunter agreed to sign a consent agreement, and pay the proposed penalty, but asked for a revision that included no admission of the violation.

## **Summary of Violation(s):**

• 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.

**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:	)	
Bruce Hunter	) ADMINISTRAT	IVE CONSENT AGREEMENT
32 High Street	)	AND
Farmington, CT 06032	) FIN	DINGS OF FACT

This Agreement by and between Bruce Hunter 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 Hunter's family owns a cottage on Chebeague Island and he is a seasonal visitor there. That property abuts the Chebeague Island Golf Club property.
- 2. That on November 6, 2012, the Board received a call from the Chebeague Island code enforcement officer (CEO). The CEO conveyed complaint information he received earlier in the season from the superintendent of the Chebeague Island Golf Club. The superintendent reported that trees had been cut on course property and it appeared an herbicide was also applied to course property to kill woody shrubs and ground vegetation. Hunter disputes these allegations.
- 3. That on November 9, 2012, in response to the information received in paragraph two, a Board inspector conducted a follow-up investigation contacting the CEO, golf club superintendent, and a golf club employee supervised by the superintendent. The inspector also attempted to contact Hunter leaving him messages through both phone calls and email. Hunter, whose primary residence is in Connecticut, did not reply.
- 4. That during the investigation in paragraph three, the Board inspector collected the following samples from vegetation showing symptoms of herbicide injury:

121109BCB01A: one liter vegetation sample from Hunter property

121109BCB02A: one liter vegetation sample from Chebeague Island Golf Club property

121109BCB02B: one liter vegetation sample from Chebeague Island Golf Club property

121109BCB02D: one liter vegetation sample from Chebeague Island Golf Club property

5. That all samples summarized in paragraph four were sent to a lab for analysis. Lab results for those samples were:

121109BCB01A: Hunter property = 1.42 ppm glyphosate and 0.286 ppm \*AMPA 121109BCB02A: golf club property = 2.72 ppm glyphosate and 0.372 ppm AMPA 121109BCB02B: golf club property = no detection of glyphosate and 0.093 ppm AMPA 121109BCB02D: golf club property = 0.021 ppm glyphosate and 0.037 ppm AMPA

<sup>\*</sup>AMPA is a breakdown product of glyphosate

- 6. That during the Board inspector's investigation described in paragraph three, the golf course employee told the inspector that he had a conversation with Hunter earlier in the 2012 season and Hunter acknowledged that he applied an herbicide to the shrubs and brush along the property line leading to his cottage. Hunter disputes these facts.
- 7. 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.
- 8. That Hunter did not have the consent of the Chebeague Island Golf Club owners to make an herbicide application to their property. There is a factual dispute regarding consent.
- 9. The Board believes the circumstances described in paragraphs one through eight constitute a violation of CMR 01-026 Chapter 20, section 6(B). While Hunter does not admit the violation, and while there are factual disputes involving the violation alleged by the Board, Hunter does agree to enter into this Consent Agreement for the purpose of resolving the alleged violation.
- 10. That the Board has regulatory authority over the activities described herein.
- 11. That Hunter 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.
- 12. That this Agreement shall not become effective unless and until the Board accepts it.
- 13. That in consideration for the release by the Board of the cause of action which the Board has against Bruce Hunter resulting from the alleged violations referred to herein in paragraph nine, Hunter agrees to pay a penalty to the State of Maine in the sum of \$600.00. (Please make checks payable to Treasurer, State of Maine).

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

BRUCE HUNTER	
By: All III	Date: 08/27/2013
Bruce Hunter	/
BOARD OF PESTICIDES CONTROL	
Ву:	Date:
Henry Jennings, Director	
APPROVED:	
	Date
By:	Date:
Mark Randlett, Assistant Attorney General	