
DECISION NOS. 2007-IPM-001(a); 2007-IPM-002(a)

IN THE MATTER OF THE INTEGRATED PEST MANAGEMENT ACT,
S.B.C. 2003, c. 58, AS AMENDED

- AND -

IN THE MATTER OF AN APPEAL BY
DANIEL SULLIVAN c.o.b. SULLIVAN'S FUMIGATION SERVICES and
SULLIVAN'S AGRICULTURAL SERVICES INC.

OF A DECISION DATED APRIL 13, 2007
BY THE SENIOR PESTICIDE MANAGEMENT OFFICER
TO SUSPEND PESTICIDE USER SERVICE LICENCE #12502

- AND -

IN THE MATTER OF AN APPEAL BY
DANIEL SULLIVAN c.o.b. SULLIVAN'S FUMIGATION SERVICES and
SULLIVAN'S AGRICULTURAL SERVICES INC.

OF A DECISION DATED APRIL 16, 2007
BY THE SENIOR PESTICIDE MANAGEMENT OFFICER
TO SUSPEND PESTICIDE APPLICATOR CERTIFICATE #130916

CONSENT ORDER

WHEREAS the Senior Pesticide Management Officer issued a Suspension of Pesticide Applicator License #12502 on April 13, 2007 and issued a Suspension of Pesticide Applicator Certificate #130916 on April 16, 2007 (collectively, the "Suspensions");

AND WHEREAS the Suspensions were precipitated by alleged non-compliant conduct and/or alleged conduct that may cause an unreasonable adverse effect pursuant to the *Integrated Pest Management Act* and/or *Integrated Pest Management Regulation* on the part of the Appellant Daniel Sullivan c.o.b. Sullivan's Fumigation Services ("Sullivan") relating to *inter alia* the use, handling, application, supervision, transportation and storage of Meth-O-Gas Space Fumigant (Pest Control Products registration number 9564), including on:

1. A number of occasions in 2006 at a North American Wood Treating Facility located at 3 3730 Enterprise Avenue, Abbotsford, B. C.;
2. April 11, 2007 at the Prudential Trucking Yard at 10198 Grace Road, Surrey, B.C.;
3. April 12, 2007 at 7055 Wilma Street, Burnaby, B.C.;
4. April 12, 2007 at 7464 Gilley Street, Burnaby, B.C.;
5. April 12, 2007 at the Prudential Trucking Yard at 10198 Grace Road, Surrey, B.C.;

6. April 13, 2007 at 7464 Gilley Street, Burnaby, B.C.; and,
7. April 16, 2007 at an unspecified location.

(collectively, the "Alleged Non-Compliant Conduct")

AND WHEREAS Sullivan and the Appellant Sullivan's Agricultural Services Inc. have appealed the Suspensions to the Environmental Appeal Board by Notices of Appeal dated May 11, 2007 (the "Appeals");

AND WHEREAS the Appellants and Her Majesty the Queen in Right of the Province of British Columbia – Ministry of Environment (Senior Pesticide Management Officer) ("MOE") agree to resolve the Appeals and the Alleged Non-Compliant Conduct by way of a consent order of the Environmental Appeal Board;

NOW THEREFORE the Environmental Appeal Board orders, by consent and pursuant to its powers under s. 14 of the *Integrated Pest Management Act* and Part 8 of the *Environmental Management Act* that

1. Pesticide User Service License No. 12502 (the "License") is suspended until April 30, 2008 at and from which time, but not before, Sullivan is eligible to apply in the ordinary course for the re-issuance of the License and/or the issuance of a new service license under the *Integrated Pest Management Act* or its successor legislation, if any;
2. Pesticide Applicator Certificate No. 130916 (the "Certificate") is suspended until August 15, 2007;
3. Before August 15, 2007, Sullivan shall provide to MOE evidence showing that:
 - (a) he has successfully completed the on-line Chemtura Corporation "Metho-Gas" test; and,
 - (b) he has successfully completed one industry recognized Self-Contained Breathing Apparatus ("SCBA") training program, which includes the SCBA training program offered by the Marine Training Institute (now part of the British Columbia Institute of Technology);
4. Effective August 15, 2007, the Certificate shall be reinstated and be endorsed with the following terms:
 - (a) Sullivan shall not act as a "certified individual" as that term is used in s. 5 of the *Integrated Pest Management Act* ("Certified Individual") for any company or individual that has held a service license for less than one year until MOE directs otherwise or until April 30, 2008, whichever is earlier;
 - (b) Sullivan shall not work as a fumigator at a location where he is not accompanied by at least one other Certified Individual who is directly employed by the same licensee that Sullivan is working for; and,
 - (c) Upon the request of a person designated as an inspector pursuant to s. 11(1)(a) of the *Integrated Pest Management Act* ("Inspector"), Sullivan shall provide not less than 24 hours

advance notice of the location and nature of fumigation work he intends to perform (the "Fumigation Activities") and shall take reasonable steps within his control to facilitate an Inspector's ability to observe and inspect the Fumigation Activities.

Dated at Victoria, British Columbia, this 12th day of July 2007.

"Alan Andison"

Alan Andison, Chair
Environmental Appeal Board

"Brent Johnston"

Brent Johnston
Counsel for the Appellants

"Dennis Doyle"

Dennis Doyle
Counsel for Her Majesty the Queen
in Right of the Province of British Columbia
(Ministry of Environment -
Senior Pesticide Management Officer)