



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

March 14, 2025

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff

- Board members: Adams, Bohlen, Carlton, Fanning, Gray, Neavyn
- Staff: Boyd, Couture, Peacock, Pietroski, Saucier, Vacchiano

2. Consideration of a Request for Financial Support from Maine Mobile Health

Since 1995 the Board has supported the Migrant and Seasonal Farmworker Safety Education program. The Maine Mobile Health Program (MMHP) provided training to 65 farmworkers during the 2024 season. Funding to support the effort in 2025 is being requested in the amount of \$6,432.00 which is the same funding amount provided by the Board in 2024. The funding has been accounted for in the Board's FY25 budget.

Presentations By: Hannah Miller, Director of Outreach, Maine Mobile Health
Action Needed: Discussion and Approve/Disapprove this Request.

- Amelia Lyons Rukema, Chief Executive Officer (CEO) for the Maine Mobile Health Program (MMHP), requested funding in the amount of \$6432. During the 2024 season, MMHP provided Worker Protection Standard (WPS) training to 65 farmworkers in Spanish and Haitian Creole. Rukema thanked the Board for its past support and for considering this current request.
- Adams noted that this is already budgeted
 - **Bohlen/Gray: Moved and seconded to approve the fund request from MMHP in the amount of \$6432**
 - **In Favor: Unanimous**

3. Minutes of the December 6, 2024 Board Meeting and January 15, 2025 Board Meeting

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
WWW.THINKFIRSTSPRAYLAST.ORG

Presentation By: Alex Peacock, Director
Action Needed: Amend and/or Adopt

- **Bohlen/Neavyn: Moved and seconded to approve the December 6, 2024 and January 15, 2025 Board meeting minutes**
- **In Favor: Unanimous**

4. Election of Officers

The Board's statute requires an annual election of officers. The members will choose a chair and vice-chair to serve for the coming year.

Presentation By: Alex Peacock, Director
Action Needed: Nomination and Election of Officers

- Peacock told the Board that statutory requirements mandate that Board members elect officers.
- Carlton nominated Adams as Chair.
- Gray nominated Bohlen as Vice-Chair
 - **Carlton/Gray: Moved and seconded to appoint Adams as Chair and Bohlen as Vice-Chair**
 - **In Favor: Carlton, Fanning, Gray, Neavyn**
 - **Abstained: Adams, Bohlen**

5. Variance Permit Request for MDOT

MDOT is seeking a variance from CMR01-026 Chapter 29, Section 6 (A), to treat State-maintained rights-of-way, roads, and transportation facilities for evergreen and deciduous overgrowth, grasses and weeds in guardrail areas, pavement cracks, and invasive plants.

Presentations By: Alex Peacock, Director
Action Needed: Discuss; Approve/Disapprove Variance Request

- Peacock told the Board that the Maine Department of Transportation, MDOT, submitted a request to vary from CMR01-026 Chapter 29, Section 6 (A) for general vegetation management on state-owned rights of way. He added that Gustave Nothstein, Statewide Transportation Operations Manager, MDOT, was in attendance to respond to any questions the Board may have.
- Adams asked if this work included any of the knotweed along the Kennebec River.
- Nothstein replied that that site was part of the management plan. He added that knotweed was difficult to control due to its affinity for water and ability to spread via fragments.
- Adams stated that he often drove along the Kennebec near Hinckley and had observed that the knotweed in that area was back away from the road, but never all the way down to the river. He told Nothstein that his crew did an excellent job.
 - **Carlton/Bohlen: Moved and seconded to approve the variance request from MDOT**

- **In Favor: Unanimous**

6. Request to Extend Special Local Need [24(c)] Registration for Express® Herbicide with TotalSol (FMC Corporation) for Spot Application and Bunchberry Control in Lowbush Blueberries

In September 2008, the Board first approved a Section 24(c) registration for DuPont Express® Herbicide with TotalSol (EPA Reg. No. 729-9594). The 24(c) was renewed in 2010, 2013, 2019, and 2021. In 2021, a five-year extension for this SLN was approved with the stipulation that University of Maine Cooperative Extension conduct groundwater testing. This 24(c) allows for spot applications to control labeled weeds during the prune year and applications in the fall after harvest and in the spring of the non-crop year to control bunchberry. The proposed SLN will expire on December 31, 2030.

Presentations By: Julia Vacchiano, Registrar
Action Needed: Discuss; Approve/Disapprove SLN

- Vacchiano stated that this SLN for DuPont Express® Herbicide with TotalSol allowed for spot applications after harvest and in the spring of the non-crop year to control bunchberry. She added that the Board had previously approved renewal of this SLN with the condition that groundwater testing be conducted on this active.
- Lily Calderwood, Extension Wild Blueberry Specialist and Assistant Professor of Horticulture for UMaine, stated that the Board requested groundwater testing in 2019. She added that the groundwater testing returned no detectable results. Calderwood said that in 2021, a five-year extension of the SLN was requested and granted by the Board.
- Calderwood told the Board that the product was utilized to manage bunchberry in wild blueberry barrens. She added that bunchberry was a low-growing plant that was difficult to manage using cultural or other means because it was below the blueberry canopy. Calderwood explained that lowering the soil pH was not an option because bunchberry preferred low pH as well.
- Bohlen noted that the Board had renewed this SLN several times and asked why neither the pest nor the site had been added to the label yet.
- Calderwood replied that UMaine Extension had requested that the registrant add this use to the label, but it had not been added.
- Neavyn said that the memo provided stated that the active degraded rapidly in the soil and asked Calderwood if she knew the half-life.
- Calderwood said that she did not but would get the answer.
 - **Adams/Gray: Moved and seconded to approve the request to extend the SLN [24(c)] Registration for Express® Herbicide with TotalSol (FMC Corporation) to December 31, 2030**
 - **In Favor: Unanimous**

7. Request for Variance Permit from Irving Woodlands and JBI Helicopters

Due to increased populations of spruce budworm and the threat of large-scale defoliation that may result in tree decline and death, aerial forestry insecticide applications are being considered for 2025 to combat the potential budworm outbreak. JBI Helicopters will be conducting aerial applications for Irving Woodlands and is seeking a variance permit for

Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition Sections 3(B) and 3(C).

Presentations By: Alex Peacock, Director
Action Needed: Discuss; Approve/Disapprove Variance Request

- Ron Lemin was in attendance to speak as a representative for JBI Helicopters. Christopher Huston was present to talk on behalf of Irving Woodlands.
- Lemin told the Board that there were many Sensitive Areas Likely to be Occupied, SALOs, in the application area, and all precautions and standards detailed in Chapter 22 would be adhered to.
- Huston told the Board that the 38-40 places Irving Woodlands was seeking a variance for were all leases. He added that all leasees and recreational stakeholder groups would be contacted to notify them that the treatment area would be closed during the application until the impact area was treated and the restricted entry interval, REI, had elapsed. Huston stated that large temporary signs would be placed in obvious locations of ingress and egress, specifying that there was an aerial pesticide application in progress and entry was prohibited.
- Huston stated that all blocks impacted by a SALO would be treated using a helicopter rather than a fixed-wing aircraft.
- Carlton asked if a helicopter afforded better control of the application.
- Lemin replied in the affirmative but stated that it was slower and not as efficient.
- Carlton asked if all helicopters used in the application were equipped with GPS so the pilot could see the flight path.
- Lemin responded that they were, and the pilots all have maps, and the polygon, which includes all buffers and other information, is loaded directly into the aircraft.
- Bohlen commented that the Board needed to consider that this was not a one-off situation and they were likely to get this same question again. He added that addressing the SALOs for this application was not such a large issue, but an application with many more SALOs would be different.
 - **Gray/Carlton: Moved and seconded to approve the variance permit**
 - **In Favor: Unanimous**

8. Spruce Budworm Control in Northern Maine

Brief update on staff activities regarding possible aerial spray applications to control spruce budworm. Dr. Doug Van Hoewyk, BPC toxicologist, has completed a risk assessment of the proposed products for the effort, which include the active ingredient *Bacillus thuringiensis* sub. *Kurstakii* (Btk) and tebufenozide.

Presentations By: Alex Peacock, Director
Doug Van Hoewyk, Ph.D., Pesticide Toxicologist
Action Needed: Discussion

- Peacock updated the Board on activities regarding spruce budworm. He added that Pietroski had worked diligently to increase the number of licensed aerial applicators in

Maine and also with the Spruce Budworm Group to inform about licensing and pesticide application requirements.

- Pietroski stated that JBI Helicopter was bringing on thirteen applicators. BPC's contract with Metro Institute enabled staff to arrange for these individuals to take the necessary applicator exams in other states.
- Peacock introduced BPC's new Toxicologist, Doug Van Hoewyk. He added that Van Hoewyk had completed the risk assessments on the two actives proposed for spruce budworm control in northern Maine, and staff planned to turn the risk assessments into informational documents for the homeowners.
- The two actives, their characteristics, and why one may favor using one over the other were discussed.
- Neavyn stated that because this was an aerial application, there would be increased public interest, resulting in Northern New England Poison Control receiving many calls. He requested that they also have access to the provided information to come up with a public service message.

9. Consideration of Consent Agreement with Mosquito Squad of Southern Maine of Scarborough

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved several incidents where there was use of a pesticide inconsistent with its product label, application to a property without prior authorization, and pesticide drift onto a sensitive area likely to be occupied.

Presentation By: Allison Smith, Compliance Manager
Action Needed: Discuss; Approve/Disapprove

- Peacock summarized the enforcement case and detailed the multiple infractions, as well as the prior violations committed by the company that had resulted in prior enforcement actions. He reminded the Board that these infractions had been brought to them at a prior meeting.
- Adams asked if there was any discussion of revocation of licensure.
- Peacock responded that if the company committed another infraction, the issue would come before the Board.
 - **Adams/Gray: Moved and seconded to approve the consent agreement**
 - **In Favor: Unanimous**

10. Consideration of Consent Agreement with Stephen Antonson of Rockport

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits

to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved an application to a property without prior authorization.

Presentations By: Allison Smith, Compliance Manager

Action Needed: Discuss; Approve/Disapprove

- Peacock summarized the enforcement case detailed in the case summary and the consent agreement.
- Carlton noted the similarities to another recent enforcement case.
- The Board discussed the amount of the fine and whether it seemed sufficient.
- Peacock noted that the person could take civil action.
- Neavyn asked if the consent agreement could become evidence for a civil suit if the Board approved it, and whether their approval meant they agreed with the statement that the individual disputed the alleged violations and the findings of the Board.
- Gustanski stated that this was a negotiation of terms and said he did not think that it meant that the Board agreed. He added that the Board could
- Peacock stated that this was the language that was ultimately negotiated with the individual.
- Adams asked if this item could be tabled until the Board received clarification on whether their approval of this wording meant that they agreed with all of the language included in the consent agreement.
- Gustanski stated that if the individual refused to sign, the Board could still vote to levy a fine, and the case would be referred to the Assistant Attorney General's office.
- Adams replied that the Assistant Attorney General's office was limited to the statutory language, so the fine would remain the same.
- Bohlen commented that the problem here was less that someone used a pesticide illegally and more that someone did something egregious to their neighbor's property, and a \$3,000 fine did not seem sufficient.
- Neavyn said that rubberstamping a nominal fine in this case sent a message that it was okay to destroy your neighbor's property and pay a fine that was nowhere near the amount that the individual gained in property value for the destruction.
- Carlton stated he saw no reason to rush this through and that he echoed the comments of Bohlen and Neavyn.
- Adams stated that it seemed the only option the Board had was to ask staff to try to renegotiate to have that statement removed.
 - **Carlton/Neavyn: Moved and seconded to disapprove of the consent agreement**
 - **In Favor: Unanimous**

11. Other Old and New Business

- a. Variance Permit for CMR01-026, Chapter 29, New England Spray Tech, Shapleigh, ME
- b. Hiring of New Toxicologist, Dr. Doug Van Hoewyk
- d. EPA Announces Proposed Registration of New Pesticide Florylpicoxamid
- e. EPA Shares Fish and Wildlife Service's Final Endangered Species Act Biological Opinion for Methomyl

f. Proposed Falmouth Municipal Ordinance

g. LD 356: An Act to Require Notification of Certain Outdoor Pesticide Applications

h. Final Service Container Policy

- Carlton said he would like to have a Board meeting at a different location in the state where there would be an opportunity for Board members to learn more about a specific application type, such as an aerial application.
- Adams suggested arranging the trip for the June 6, 2025 meeting.

12. Schedule of Future Meetings

The next scheduled Board meeting dates are April 25 and June 6, 2025

Future Meetings: June 6, 2025, July 18, 2025

13. Adjourn

- **Carlton/Fanning: Moved and seconded to adjourn at 10:45 AM**
- **In Favor: Unanimous**