



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

PAUL R. LEPAGE  
GOVERNOR

WALTER E. WHITCOMB  
COMMISSIONER

**BOARD OF PESTICIDES CONTROL**

**January 10, 2018**

Ag Trade Show  
Augusta, Maine

**AGENDA**  
**3:00 PM**

1. Introductions of Board and Staff
2. Minutes of the October 27, 2017, Board Meeting  
  
Presentation By: Cam Lay  
Director  
  
Action Needed: Amend and/or Approve
3. Request for Financial Support from the Maine Mobile Health Program and the Eastern Maine Development Corporation

Since 1995 the Board has supported a Migrant and Seasonal Farmworker Safety Education program. The MMHP and EMDC provided training to 385 migrant agricultural workers during the 2017 season. Funding to support this effort in 2018 is being requested in the amount of \$5,360. The funding has been accounted for in the Board's FY'17 budget.

Presentation By: Chris Huh, Program Manager, Farmworkers Jobs Program, Eastern Maine Development Corporation

Elizabeth Charles McGough, Director of Outreach, Maine Mobile Health Program

Action Needed: Discussion and Determination if the Board Wishes to Fund this Request

CAM LAY, DIRECTOR  
90 BLOSSOM LANE, DEERING BUILDING



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

4. Recent Staff Activities Highlights and Updates

- Ms. Megan Patterson received the William Twarog Manager of the Year Award for the Dept. of Agriculture in December.
- The staff has provided significant assistance to DEP and DHHS regarding pesticide use and pesticide residues on medical marijuana.
- Staff has determined through consultation with the deer program at IFW that the “4-Poster” automated pesticide dispensing system for treatment of deer for ticks is not legal in Maine because it is a baiting device.
- Users are rapidly adapting to the Pega system. As of last Tuesday morning, some 421 users were registered, with 84 more in progress. 2527 product registrations had been accomplished, and 220 license had been renewed.
- An offer has been made to a candidate for the toxicologist position.
- Dr. Jack Waterman of Waldoboro has submitted an application for the BPC medical seat. We have also had expressions of interest from four other physicians in the last couple of weeks.

Presentation By: Cam Lay  
Director

Action Needed: Informational only.

5. Presentation from Monsanto and Dow AgroSciences Regarding Their Recent Registration Requests for Several New *Bt* Corn Products

At the last meeting the Board denied requests from Monsanto Company and Dow AgroSciences LLC for registrations of several new *Bt* corn products. Monsanto and Dow Agrosciences have requested time to present additional information to the Board regarding these requests.

Presentation By: Dow AgroSciences and Monsanto Company

Action Needed: Information only. Alternative: The Board should decide whether to entertain an amended request for registration of any or all of these products.

6. Constituent Request to Address the Board Regarding Right of Way Treatment Issues

Mr. Spencer Aitel requests time to address to the Board on the record (*i.e.* as an agenda item) regarding his concerns about the treatment of roadside rights of way adjacent to Two Loons Farm, an organic agriculture business owned and operated by Mr. Aitel. The Board currently has an open investigation concerning an application made by a Maine DOT contractor in June of 2017 along a right of way adjacent to Mr. Aitel’s property.

Presentation By: Spencer Aitel, Two Loons Farm

Action Needed: Information only

7. Discussion of Absorbing Fees for Credit Card Payments for Licenses and Product Registrations

License and product registration fees have typically been paid by check or by electronic funds transfer. Demand from the regulated community to be able to pay by credit card is considerable. There is not,

unfortunately, at this time a process in place to allow us to recover the fees associated with credit card payments. Raising the licensing or registration fees requires legislation, and affects all users of the system, whether they pay with credit cards or not. There is an effort underway to allow all state agencies to recoup the expense of credit card payments through “convenience fees,” as (for example) IFW does for hunting licenses. Until that system is in place we have been absorbing the fees for licensing and product registration. We would like the Board to agree that this is the proper course of action and approve the continuation of this process until the effort to allow convenience fees is either successful or withdrawn.

Presentation By: Cam Lay  
Director

Action Needed: Approve or disapprove absorbing credit card fees.

8. Consideration of Consent Agreement with Service Master Elite of Saco, Maine

The Board’s Enforcement Protocol authorizes 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 involves an application of pesticides (disinfectants) to the interior of a structure in Lewiston by an unlicensed applicator during mold remediation work.

Presentation By: Raymond Connors  
Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

9. Referral of Unresolved Consent Agreement with PLD Group of Augusta, Maine

The Board’s Enforcement Protocol authorizes 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 involves an application of pesticides for bed bug control to the interiors of structures in Augusta and the Augusta area by an unlicensed applicator. The company was offered a consent order in 2017 to resolve this case but has as yet failed to complete the settlement agreement.

Presentation By: Raymond Connors  
Manager of Compliance

Action Needed: Approve/Disapprove referral of this case to the Office of the Attorney General for prosecution.

10. Other Old or New Business

- a. Articles and correspondence submitted by Board constituents:
- b. Variances approved (all Chapter 29, Section 6):
  - VanDusen, Maine DOT Environmental Office, invasive plants in remediated and constructed wetlands

11. Schedule of Future Meetings

February 23, 2018 and April 6, 2018 (at the Marquardt Building) are the next proposed Board meeting dates. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

12. Adjourn

## NOTES

- The Board Meeting Agenda and most supporting documents are posted one week before the meeting on the Board website at [www.thinkfirstspraylast.org](http://www.thinkfirstspraylast.org).
- Any person wishing to receive notices and agendas for meetings of the Board, Medical Advisory Committee, or Environmental Risk Advisory Committee must submit a request in writing to the Board's office. Any person with technical expertise who would like to volunteer for service on either committee is invited to submit their resume for future consideration.
- On November 16, 2007, the Board adopted the following policy for submission and distribution of comments and information when conducting routine business (product registration, variances, enforcement actions, etc.):
  - *For regular, non-rulemaking business*, the Board will accept pesticide-related letters, reports, and articles. Reports and articles must be from peer-reviewed journals. E-mail, hard copy, or fax should be sent to the Board's office or [pesticides@maine.gov](mailto:pesticides@maine.gov). In order for the Board to receive this information in time for distribution and consideration at its next meeting, all communications must be received by 8:00 AM, three days prior to the Board meeting date (e.g., if the meeting is on a Friday, the deadline would be Tuesday at 8:00 AM). Any information received after the deadline will be held over for the next meeting.
- During rulemaking, when proposing new or amending old regulations, the Board is subject to the requirements of the APA (Administrative Procedures Act), and comments must be taken according to the rules established by the Legislature.



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WALTER E. WHITCOMB  
COMMISSIONER

**BOARD OF PESTICIDES CONTROL**

**October 27, 2017**

Room 118 Marquardt Building  
32 Blossom Lane  
Augusta, Maine  
**9:00 AM**

**DRAFT MINUTES**

Present: Granger, Morrill, Jemison, Flewelling.

1. Introductions of Board and Staff

- The Board, Staff, and Assistant Attorney General Mark Randlett introduced themselves.
- Staff present: Connors, Couture, Lay, Patterson, Pietroski, Tomlinson, Tourtelotte.

2. Minutes of the June 23, 2017, Board Meeting

Presentation By: Cam Lay  
Director

Action Needed: Amend and/or Approve

- **Granger/Flewelling: Moved and seconded approval of minutes**
- **In Favor: Unanimous**

3. Consideration of Registration Requests for Several New *Bt* Corn Products

Monsanto Company and Dow AgroSciences LLC have requested registrations of several new *Bt* corn products. The Board must consider whether these products are dissimilar enough from previous registrations to be reviewed by the Technical Committee before registration, or can be registered now based on the information submitted.

Presentation By: Mary Tomlinson  
Pesticides Registrar/Water Quality Specialist

CAM LAY, DIRECTOR  
90 BLOSSOM LANE, DEERING BUILDING



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

Action Needed: Approve/Disapprove Registration Request or Refer to Technical Committee

- Tomlinson has received multiple applications for *Bt* corn products featuring MON 87411 double stranded ribonucleic acid (dsRNA) to protect from western corn rootworm.
- Tomlinson provided the Board with a flow chart and explained how the products function. The corn rootworm ingests the plant material with the dsRNA, which is then taken up by specific midgut cells of the rootworm. That RNA is cleaved into shorter interference RNA (siRNA) that binds to and silences (stops) the production of a particular protein. Protein levels rapidly decline, growth is inhibited, and the rootworm dies within 24-48 hours.
- Tomlinson stated the interference RNA is essentially a gene silencing mechanism. When the plant takes up that distinct sequence it suppresses a species-specific section of RNA. It is extremely targeted and effects the production of one specific protein.
- Tomlinson added that many studies were completed on mammalian toxicity studies and there have been no observable effects.
- Tomlinson asked the Board if they considered these products substantially different enough from previous registrations to require review by the technical committee. If the Board does consider the products dissimilar the technical committee will need to be re-established.
- Jemison stated that it is both yes and no a different pesticidal organism because it has been used in other crops. He does think it is different for this particular use, but questioned if a technical group, given this information, would find anything new that EPA has not found. He doubts that they will but stated he still feels it to be a tough call.
- Jemison asked if there has ever been a western root cornworm problem in Maine. Dill answered that they have found them but they have never been abundant enough to lead to a yield or quality difference. He added that a one-year crop rotation basically breaks the cycle.
- Jemison asked the room if there was a farmer present that would like to have this variety. There was no response.
- Jemison stated his opinion was they would be adding another pesticide mechanism where there is not a need, and asked if we are doing this for Monsanto or for Maine farmers.
- Morrill asked Randlett about the statutory criteria for registering a pesticide in Maine and if one criterion required there be a need for the pesticide. Randlett responded that was one of the criteria.
- Flewelling asked if *Bt* corn is being used in the state. Jemison answered that it is, but it is directed toward different pests such as black cutworm. He added he would be all for this if we were in the Midwest where there is a need.
- Tomlinson stated when she registers a product she registers the brand name, but with *Bt* corn it is difficult for enforcement because she registers what is on the bag tag. She found out recently there are multiple products produced under the same name that are using the same registration.
- Jemison stated he is not concerned about the technology, but about adding a new material into our environment that there is not a need for.
- Flewelling commented that he would like to hear from a representative explaining their marketing.
- Granger stated that he does not approve of tinkering too much with a company's ability to provide products to use that are efficient. He added that he will not support the motion not to register, but he understands the merit behind it.
- Morrill and Jemison agreed that they do not want to register the product at this time without a clear and present need for it in Maine agriculture.

- Tomlinson stated she will notify registrant and invite them to come back and present their case for consideration.
  - **Jemison/Morrill: Moved and seconded to not to register the product based on lack of need.**
  - **Vote 3-1 In Favor; Granger Opposed**

4. Inquiry and Complaint Summary

Summary of enforcement actions taken in 2015-2016.

Presentation By: Raymond Connors  
Manager of Compliance

Action Needed: None—Informational Only

- Connors presented the Board with a summary of inquiries and complaints received by Augusta enforcement staff. They were in separate tables for 2015 and 2016 to give the Board an overview of the types and number of calls staff receive throughout the year.
- About halfway through 2016 staff switched from an Access database to the new Pega database, so the 2016 summary is a compilation from both databases.
- This information allows Board members to track trends in what kinds of calls are coming in, where they are coming in from, and what the response was.
- There was a discussion about the possibility of tracking all calls. Patterson stated staff are currently working to draw up parameters around what types of calls warrant recording.

5. Continuing Discussion of Funding for University of Maine Cooperative Extension PSAT and PSEP Positions

At the May 12, 2017 meeting, the Board tabled discussion of a request from Dr. James Dill of the University of Maine Cooperative Extension for a one-year grant of \$65,000 for a combined Pesticide Safety Education Program and Pesticide Applicator Training position. The Board requested that staff meet with Dr. Dill to develop a list of deliverables for this funding. The Board will now discuss the proposed list.

Presentation By: Megan Patterson  
Pesticide Program Manager

Action Needed: Discuss and Determine if the Board Wants to Fund this Request

- Patterson and Dill met and discussed what the Board had asked for in the previous meeting, including what outcome would be tied to monies funded by the Board. They came up with a plan of what would be produced for this fiscal year. After January 1, 2018, the funding will run yearly from October 1<sup>st</sup> to September 30<sup>th</sup> of each year.
- Patterson and Dill collaborated recently on a tick meeting that was very well attended, and a rodent management meeting, which is coming up next week. Kirby Stafford was the principal

speaker at the tick meeting and Bobby Corrigan will be the featured speaker at the rodent meeting. Both are nationally-recognized experts.

- Morrill told staff the Board should plan to revisit the grant in June every year so that there is no lapse in funding.
  - **Granger/Flewelling: Moved and seconded to fund request**
  - **In Favor: Unanimous; Jemison abstained**

#### 6. Consideration of Consent Agreement with Weyerhaeuser Company of Fairfield, Maine

The Board's Enforcement Protocol authorizes 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 involves multiple aerial applications of pesticides to sensitive sites (streams) and insufficient notification of an adjacent landowner prior to the application.

Presentation By:        Raymond Connors  
                                          Manager of Compliance

Action Needed:        Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors stated Weyerhaeuser Company is a paper company with substantial forestry tracts in Maine and they contract out for pesticide applications to those tracts. Applications are made to release softwood for the industry they are supplying. In this case the company self-reported in August 2016 after doing ground checking to see how the project went. They saw that the spraying of the prior year had encroached on areas that should not have been sprayed. There were buffer issues and streams that were sprayed over.
- Connors met with Weyerhaeuser staff to discuss how they prepare for forest spray projects and what steps are taken to ensure these things do not happen. This project was done in two separate Weyerhaeuser divisions, one in Greenville and one in Bingham. All incidences involving these violations occurred in the Greenville division. Weyerhaeuser attributed the application violations to a company employee not following company protocol.
- Granger asked if the spraying was done by Weyerhaeuser or contracted out. Connors stated it was contracted out to JBI Helicopters and Skyline.
- Granger asked why the company was liable and not the applicators. Connors explained that although Weyerhaeuser hired the companies to make the applications it was Weyerhaeuser who was responsible for detailing where the spraying was to be done. Weyerhaeuser employees lay out the spray blocks and then their foresters are responsible for walking the blocks with the map and making note of any sensitive areas that were not already noted on the maps. In this case, the Weyerhaeuser forester failed to mark the sensitive areas. The contractors sprayed where the Weyerhaeuser maps directed them to spray.
- In the Greenville division, Weyerhaeuser had invested the responsibility of walking the block and marking sensitive areas to a single forester and later found out the forester was not taking all steps that were required. They have since changed their requirements and now ensure more than one forester is involved in the walk-throughs to prevent the problem from recurring.

- Based on Weyerhaeuser's reports, BPC Inspector Tourtelotte and Weyerhaeuser foresters went into the spray areas and conducted ground-checking. Tourtelotte observed where there had been buffer violations and direct applications to water. Morrill asked how large the water bodies were. Tourtelotte stated the streams ranged from 12" to 15' wide. She added that some of the streams went below ground and came back above ground.
- Present in the audience were Mark Doty, public affairs manager in New England for Weyerhaeuser, and Frank Cuff, senior research forester for Weyerhaeuser, who were part of the group that investigated and followed up on the incident. Doty explained the softwood release process. He stated that there is an extensive layout process which begins a couple years before the application. Foresters use that information to build the plan and decide where they are going to spray. The year prior to the herbicide applications foresters are required to take maps and walk in the field to determine if there are any sensitive areas that were not noted. They then update the GIS information to more accurately reflect what is actually on the ground. Those updated maps are then given to the spray contractor.
- Doty stated his company is happy with the work of the Board, Marilyn Tourtelotte for all her work in the field, and Ray Connors for his assistance.
- Jake Metzler, Forest Land Stewardship Manager for the Moosehead Region Conservation Easement, was present and stated they have an interest in some of the property where the violations occurred. They wanted to hear the Board's findings and what enforcement actions were taken against Weyerhaeuser because they have their own enforcement process. Hearing the Board's decision will help them decide how they will move forward with this.
- Jemison commented that he was very encouraged that Weyerhaeuser came to us to admit there may be some issues.
- Tim Hobbs, Maine Potato Board, asked about self-reporting and what the incentive is for self-reporting. Morrill responded that a violation that is self-reported is still a violation. Connors stated the regulations describe events that must be self-reported. Connors added that when someone self-reports then he, Lay, and Randlett discuss how much effect that should have on the enforcement action pursued against the company.
  - **Flewelling/Granger: Moved and seconded to approve consent agreement.**
  - **Vote 4-0 In Favor**

## 7. Consideration of Consent Agreement with Town of Ogunquit, Maine

The Board's Enforcement Protocol authorizes 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 involves the misapplication of rodent bait.

Presentation By:        Raymond Connors  
                                          Manager of Compliance

Action Needed:        Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors stated this consent agreement involved a situation where a building caught fire or was razed and there was immigration of rodents to a public beach area in Ogunquit. The rats went into the rip rap between the beach and the parking lot. The administrative services director for

the town directed a few of the summer workers to make an application of rodenticide blocks to the rip rap. There was a total of 40 lbs. of blocks purchased. The employees were instructed to place the blocks in the rip rap every couple feet. The administrative services director himself put out bait stations in the upper parking lot on three different occasions.

- Connors stated the violations included applications by unlicensed applicators and the use of a pesticide product without a bait station which was required for the outdoor, above ground application made in the rip rap. Connors added that the town did end up hiring a licensed applicator.
- Jemison asked about legal placement of bait stations on public property. Connors responded that bait stations are legal but have to be within one hundred feet of a man-made structure.
  - **Flewelling/Jemison: Moved and seconded to approve consent agreement.**
  - **Vote 4-0 In Favor**

8. Consideration of Consent Agreement with Green Thumb Lawn Service, Brewer, Maine

The Board's Enforcement Protocol authorizes 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 involves the application of herbicide to the wrong property.

Presentation By:        Raymond Connors  
                                 Manager of Compliance

Action Needed:        Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors received a call from a home owner in Brewer asking how to remediate an unwanted herbicide application made to her property. She did not want to file a complaint. However, because an application had been made to the incorrect property, the Board was required to follow up on the issue.
- Green Thumb did have an established protocol for verifying the correct location but the applicator still made an application to the incorrect property. Connors stated the requirement to verify the location by checking the electric meter was the company's policy, but it was his understanding that the applicator did not check the meter.
  - **Flewelling/Granger: Moved and seconded to approve consent agreement.**
  - **Vote 4-0 In Favor**

9. Consideration of Consent Agreement with Frederick's Property Preservation and Inspections of Dixmont, Maine

The Board's Enforcement Protocol authorizes 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 involves the application of an herbicide in a manner inconsistent with its label, to an unauthorized property, by an unlicensed applicator.

Presentation By: Raymond Connors  
Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors stated that Frederick's Property Preservation and Inspections (FPPI) company was hired to clean up a foreclosed property so it could be auctioned off at a later date. An enclosed cargo trailer parked on an abutting property, but owned by the foreclosed property owner, was part of the cleanup project. When FPPI employees opened the trailer, they saw approximately thirty 20 pound bags of Sam's Choice Weed and Feed. FPPI employees said that when they dismantled the sides of the trailer the bags fell off the trailer and ended up in a marsh/wetland area on the abutting property and all but six bags broke. The unbroken bags were removed from the site by the company employees. The balance of the weed and feed was left in the wetland.
- Inspector Pietroski, aided by a Department of Environmental Protection agent, investigated the incident. They observed a large cone shaped pile of granular material consistent with the appearance of the weed-and-feed, with no bags in the pile. Statements from employees indicated that the company attempted to remove the product from the marsh but ran out of totes. The company then poked holes in the totes, filled them with weed and feed, and dragged them around the property in an effort to disperse the material. Granular weed and feed could still be seen in the wetland area. There was dead vegetation in this same area. Other granules could be seen spread out on both the foreclosed property and the abutting property and there was a strong smell associated with pesticides. The granules were not spread out uniformly and clumps and piles covered large areas. Connors added that there were no employees of FPPI that were licensed applicators and the max application rate of the weed and feed had been exceeded.
  - **Jemison/Flewelling: Moved and seconded to approve consent agreement.**
  - **Vote 4-0 In Favor**

10. Consideration of Consent Agreement with Dependable Pest Solutions of Rochester, New Hampshire

The Board's Enforcement Protocol authorizes 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 involves multiple applications of pesticides in Maine by an unlicensed and unsupervised applicator.

Presentation By: Raymond Connors  
Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

- Board staff received a tip that Dependable Pest Solutions company, based in New Hampshire, was sending an unlicensed applicator into Maine to make pesticide applications. The BPC

inspector went to the company and conducted a records check inspection. It was determined by the records check that an unlicensed applicator made 43 pesticide applications in Maine in 2016.

- Flewelling asked if the New Hampshire business was required to let BPC inspectors in to their facility to conduct the inspection. Connors replied that there was no opposition to let the Maine inspector in.
  - **Flewelling/Jemison: Moved and seconded to approve consent agreement.**
  - **Vote 4-0 In Favor**

## 11. Other Old or New Business

- a. Manchester Municipal Ordinance
- b. Articles and correspondence submitted by Board constituents:
  - Nancy Caudle Johnson email
  - Claire Adams, et al, *Lincoln County News* letter
  - Jody Spear, *Portland Press Herald* article
- c. Variances approved (all Chapter 29, Section 6):
  - Farrell, knotweed on her own property along Carrabassett River
  - High Pine Environmental, LLC, *Phragmites* in Kittery
  - Burman Land and Tree, LLC, invasive plants in Vassalboro
  - Baxter State Park, invasive plants

### Board member positions

- Jemison asked if there were any candidates yet to fill the empty position on the Board for an individual in the medical field. Lay replied he has initiated conversations in an attempt to find someone and is currently waiting for a response from one individual. Lay asked the Board to please let him know if they are aware of anyone that may be interested.
- David Adams has been selected to fill Richard Stevenson's position on the Board. Adams has been confirmed, but not sworn in. Adams stated the committee approved him, but the Senate has to vote and then he can be sworn in.

### Toxicologist position

- Lay told the Board that the BPC toxicologist position is open and they are actively looking for a good candidate to fill Lebel Hicks' position. The position is being held open until November 20<sup>th</sup>. Lay added he would be happy to hear any suggestions from Board members.

### Obsolete Collection Program

- Couture gave the Board a summary of this year's Obsolete Collection Program. There was a larger turnout this year. A total of 8,096 lbs. of obsolete and unusable pesticides were collected, which was an increase of 4,540 lbs. from 2016.

## 12. Schedule of Future Meetings

December 8, 2017, January 10, 2018, February 23, 2018 and April 6, 2018 are tentative Board meeting dates. The Board will decide whether to change and/or add dates.

13. Adjourn

- **Granger/Flewelling: Moved and seconded to adjourn at 10:30am.**
- **Vote 4-0 In Favor**

From: Elizabeth Charles <echarles@mainemobile.org>  
Sent: Tuesday, January 02, 2018 8:23 AM  
To: Lay, Cam; chuh@emdc.org  
Subject: RE: BOP Request for Funding

Good Morning Cam,

Thanks for your follow-up question regarding clarification on the AFOP funds. Each year, AFOP contributes a sum of money to the project. That funding is accessed directly from AFOP through an application process that we complete with their organization. The amount that we get is within the parameters of how they are funding programs like ours across the country and not necessarily an equal match to the value of the BOP funding. We have already confirmed, through a response from AFOP, that AFOP will fund this project at a level of \$3,333. Historically, we have combined the funding from AFOP with the funding from the BOP to make the staffing as associated expenses of this work possible.

Please let me know if you have further questions.

All my best,  
Liz Charles McGough

Director of Outreach and Deputy Director  
Maine Mobile Health Program, Inc.  
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From: Lay, Cam [mailto:Cam.Lay@maine.gov]  
Sent: Wednesday, December 27, 2017 8:45 AM  
To: Elizabeth Charles; chuh@emdc.org  
Subject: RE: BOP Request for Funding

I'll include this in the Board packet. I expect the Board will have questions about the extra funding to leverage (it's been a few days, but if I recall our discussion that means "matching funds") the money from AFOP. If you'd like to include that explanation the Board might appreciate it; they generally like to review things in advance, especially for financial matters. Also, as I think we discussed, for expenses over \$5,000 we will have to go through the contract process.

Thanks,  
C

From: Elizabeth Charles [mailto:echarles@mainemobile.org]  
Sent: Friday, December 22, 2017 2:07 PM  
To: Lay, Cam <Cam.Lay@maine.gov>; chuh@emdc.org

Hi Cam,

Thank you for reaching out yesterday to learn more about the funding that BOP has provided to MMHP and EMDC over the years and our collaborative work to provide the WPS training to farmworkers across the state. As we discussed on the phone, I'm following up with a summary of this historic partnership and am copying Chris Huh of EMCD, Farmworker Jobs Program as he has been involved in this programming longer than I have and may have additional information to share.

For over ten years, the Board of Pesticides Control has been providing funding to a partnership between the Maine Mobile Health Program (formerly Maine Migrant Health Program) and the Eastern Maine Development Corporation Farmworker Job's Program. The funding from BOP has been combined with funding from the Association of Farmworker Opportunity Programs to be able to provide staffing for multi-lingual Pesticide Safety Training to farmworkers. While there have been different models for staffing this work over the years, key elements that have made our programming successful include:

- \* Ability to provide trainings statewide
- \* Ability to provide free trainings to the growers and the farmworkers to comply with the EPA's WPS
- \* Ability to provide trainings in English/Spanish, English/Creole, or through contracted interpreters for other languages
- \* Ability to schedule on-farm trainings at the convenience of the growers to ensure that they can be complying with regulations while maximizing their time to harvest their crops (this includes offering trainings on evenings or weekends as needed)

In addition to providing the WPS training, the staff member is also trained and able to deliver curricula including LEAF (Limiting Exposure Around Families), Heat Stress Prevention, Jose Aprende (a curriculum for school-aged children to help them understand how to stay away from contaminated objects or clothing in a home setting), and Tractor Safety. When possible and appropriate, the trainer makes an effort to combine the curricula into a comprehensive training for farmworkers. This package of trainings is a selling point in our outreach to growers to encourage them to access our services rather than using pre-recorded trainings. The trainings are interactive and include give-aways (such as laundry bags, hats, or water bottles) to the farmworkers in an attempt to make them as engaging as possible.

Over the years, the BOP has trained the staff members in the WPS curriculum and the staff member has received supplemental training on the other curricula from AFOP. Numbers of workers trained have varied over the years and are often impacted by both regulations on the national level and harvest dynamics that influence the workforce on a local level. In the past five years, we have increased the number of growers with whom we have partnered to offer training to their farmworkers and are always open to new referrals while proactively providing outreach to work toward increasing the number of farms where we provide services. The key harvest areas where we provide the majority of trainings include diversified farms in June, broccoli in July and blueberries in August. The staff member is embedded in the outreach team of the Maine Mobile Health Program as a Community Health Worker (CHWs), thus allowing them to collaborate with other CHWs across the state to maximize their ability to work with growers with whom the program has relationships in addition to bringing them into contact with farmworkers on a day-to-day basis. At the same time, as a representative of the MMHP and the Farmworker Jobs Program, the CHW is able to refer farmworkers to health services if they have concerns about pesticide exposure or to other social services upon which they rely while in Maine. The funding from the BOP has been a key factor in the success of this work and the services available to farmworkers as it supports both the staffing and travel expenses related to making this outreach and training possible, serving populations of farmworkers who may otherwise not have the best access possible to information that keeps them safe in the fields.

Please let me know if you have any additional questions. Otherwise, we look forward to meeting you on January 10th.

All my best,  
Liz Charles McGough

Director of Outreach and Deputy Director  
Maine Mobile Health Program, Inc.  
9 Green St. / PO Box 405  
Augusta, ME 04332  
(cell) 207-441-1633  
(fax) 207-626-7612

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From: Lay, Cam [mailto:Cam.Lay@maine.gov]  
Sent: Thursday, December 21, 2017 12:11 PM  
To: Elizabeth Charles; chuh@emdc.org  
Cc: Patterson, Megan L  
Subject: RE: BOP Request for Funding

I will put you guys on the front end of the agenda.

Thanks,  
C

Cam Lay  
Director, Board of Pesticide Control  
28 State House Station  
Augusta, ME 04333-0028  
207.287.7543 office  
207.287.7548 fax  
207.287.4470 TDD

From: Patterson, Megan L  
Sent: Wednesday, December 20, 2017 10:02 AM  
To: Lay, Cam <Cam.Lay@maine.gov>  
Subject: FW: BOP Request for Funding

From: Elizabeth Charles [mailto:echarles@mainemobile.org]  
Sent: Wednesday, December 20, 2017 9:29 AM  
To: Patterson, Megan L <Megan.L.Patterson@maine.gov>

Cc: Christopher Huh <CHuh@emdc.org>  
Subject: BOP Request for Funding

3

Dear Megan,

Please find attached a request for funding from the Maine Mobile Health Program and the Eastern Maine Development Corporation to support multi-lingual Pesticide Safety Training in 2018. Most years, Chris and I have presented our request to the Board during the meeting at the Agricultural Trades Show and would be available to attend this meeting in 2018 if there is an opportunity for us to fit on your agenda.

Thank you for your consideration,

Liz Charles McGough

Director of Outreach and Deputy Director  
Maine Mobile Health Program, Inc.  
9 Green St. / PO Box 405  
Augusta, ME 04332  
(cell) 207-441-1633  
(fax) 207-626-7612

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To Maine Board of Pesticide Control  
Agenda Item Request.

Dec 29 2017

On July 10 & again on 26 July 2017 DOT subcontractor crews sprayed organic farmland & was stopped by our personnel. On our further investigations the categories of violation have been noted.

- ① failure by DOT & the subcontractors to create protocols that follow Maine Law including IPM, correct material choice, & properly instructing applicators working methods.
- ② Violations of material Label requirements
- ③ Right of way issues & property line violations.

While working with DOT is proceeding this issue is very crucial to our farms financial survival & deserves your attention

Thank

407 EAST VASSALBORO ROAD, SOUTH CHINA, MAINE 04358

207-445-2452 • FAX 207-445-3668 • CELL 207-441-9544 4169



7

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

**PAUL R. LEPAGE**  
GOVERNOR

**WALTER E. WHITCOMB**  
COMMISSIONER

January 2, 2018

To: Board of Pesticide Control  
From: Cam Lay, BPC Director  
Subject: Credit card fees

Agenda item #7 for the January 18<sup>th</sup>, 2018 Board of Pesticides Control meeting concerns the fees for the use of credit cards for product registrations and license renewals.

There are account fees and fixed fees for credit card transactions, plus variable fees that are based on the amount of the transaction. The fixed fees are relatively trivial, just over \$2,000. Those fees plus the transaction-based fees equal approximately 3% of the revenue from credit card transactions.

BPC product registrations generate approximately \$1.9M in revenue each year. We anticipate, based on conversation with the registrants, that no more than 80% will use credit cards. The cost of accepting credit cards for that 80% would be approximately \$45,000 to \$47,000. This is around 2.4% of the total registration revenue.

cc: Megan Patterson, DACF

**CAM LAY, DIRECTOR**  
32 BLOSSOM LANE, MARQUARDT BUILDING



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

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY  
BOARD OF PESTICIDES CONTROL

DEC 05 2017

8

CCAPS, LLC	)	ADMINISTRATIVE CONSENT AGREEMENT
d/b/a Service Master Elite	)	AND
14 Willey Road.	)	FINDINGS OF FACT
Saco, Maine 04072	)	

This Agreement, by and between CCAPS, LLC., d/b/a Service Master Elite (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. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the Company, located at 14 Wiley Road in Saco, is a commercial company which offers mold remediation services to both residential and commercial properties, including in the Lewiston area.
2. That on July 10, 2017, Board staff received a phone call alleging that the Company was making unlicensed commercial pesticide applications when doing commercial mold remediation work. JS
3. That in response to the call described in paragraph three, a Board inspector documented <sup>water mitigation</sup> mold remediation work done by the Company at Roland Mailhot's property at 26 Caron Street in Lewiston. On July 20, 2017, Mailhot's insurance company mailed the Board the Company's work plan at this address.
4. That the Company work plan described in paragraph three included the application of an anti-microbial agent.
5. That on July 2, 2017, a Board inspector completed an inspection with Joseph Scroggins, the Company's director of operations. During the inspection, the inspector documented that a Company employee applied Benefect Botanical Disinfectant to the interior of Mailhot's property at 26 Caron Street in Lewiston on April 30, 2016.
6. That during the inspection described in paragraph five, the inspector saw approximately fifteen to twenty, one gallon containers of Benefect Botanical Disinfectant on the Company shelves.
7. That during the inspection in paragraph five, Scroggins acknowledged that company employees apply the pesticide Benefect Botanical Disinfectant during commercial and residential mold remediation jobs, including to Mailhot's property as described in paragraph five.
8. 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 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.
9. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) includes 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.
10. That the circumstances described in paragraphs one through nine constitute a custom application of a pesticide in accordance with 22 M.R.S. § 1471-C (5-A).

11. That the Company did not employ a master applicator, and no one from the Company had a commercial pesticide applicator's license at the time of the application described in paragraph four. 8
12. That the circumstances described in paragraphs one through eleven constitute a violation of 22 M.R.S. 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
13. That the Board has regulatory authority over the activities described herein.
14. 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.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. 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 twelve, the Company agrees to pay to the State of Maine the sum of \$1,000. (Please make checks payable to Treasurer, State of Maine).

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

CCAPS, LLC, d/b/a SERVICE MASTER ELITE

By:  Date: 11-30-17

Type or Print Name: Joe Scrossino

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_

Cam Lay, Director

APPROVED

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mark Randlett, Assistant Attorney General

# CASE SUMMARY

8

**Subject:** CCAPS, LLC  
d/b/a Service Master Elite  
14 Willey Road  
Saco, Maine 04072

**Date of Incident(s):** April 13, 2016, and other occasions as indicated below.

**Background Narrative:** On July 10, 2017, the Board received a call alleging Service Master Elite was making unlicensed commercial pesticide applications when doing mold remediation work.

A Board inspector confirmed this type of work had been performed at a residential home in Lewiston on April 13, 2016.

The inspector later met with Service Master Elite's Saco director of operations on July 2, 2017. The director acknowledged company employees applied Benefect Botanical Disinfectant during both commercial and residential mold remediation jobs.

No one employed by Service Master Elite in Saco was a certified commercial pesticide applicator at the time the pesticide applications were made.

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

- 22 M.R.S. § 1471-D(1)(A) Requires that any person making a pesticide application that is a custom application must be a certified commercial applicator.

- CMR 01-026 Chapter 31 Section 1(A) III.

### 1. Individual Certification and Company/Agency Licensing Requirements

#### A. Any commercial applicator must be either:

I. licensed as a commercial applicator/master; or

II. licensed as a commercial applicator/operator; or

III. supervised on-site by either a licensed commercial applicator/master or a commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator. This supervision must include visual and voice contact. Visual contact must be continuous except when topography obstructs visual observation for less than five minutes. Video contact does not constitute visual observation. The voice contact requirement may be satisfied by real time radio or telephone contact. In lawn care and other situations where both the licensed and unlicensed applicator are operating off the same application equipment, the licensed applicator may move to an adjoining property on the same side of the street and start another application so long as he or she is able to maintain continuous visual and voice contact with the unlicensed applicator.

**Rationale for Settlement:** Commercial for hire work, involved multiple applications, botanical product.



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

9

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January 2, 2018

Rayfield Dobbins  
PLD Group  
PO Box 5353  
Augusta, ME 04330

RE: **Unresolved Consent Agreement**

Dear Mr. Dobbins,

I have attempted to resolve a consent agreement with you involving unlicensed commercial pesticide applications made by your company. Although you have agreed to sign the consent agreement and the related compliance verification statement, and send these in to our office along with the penalty payment, you have failed to do so.

Consequently, our office has elected to present the matter to our Board for review at their meeting scheduled for 9 AM on December 8, 2017. The meeting is set for room 118 in the Marquardt Building, on the AMHI Complex. Driving directions are enclosed.

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 November 27, 2017, 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 (7)

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## CASE INVESTIGATION SUMMARY

9

**Company:** PLD Group (Rayfield Dobbins)      **License:** None

**Origin of Case:** Numerous complaints received by the Board

**Dates of Incident:** Mid -August 2012; August 6, 2016 multiple sites; August 11, 2016, multiple sites; November 7, 2017, complaint that pesticide applications made to their rented apartment unit on three separate occasions.

**Pesticide(s) Involved:** HotShot Bed Bug and Flea Fogger, an unknown insecticide applied with a pressurized hand can inside apartments and to the exterior of an apartment building.

**Summary of Allegation(s):** The Board has received complaints about this company making unlicensed pesticide applications to apartment units they own or manage. These complaints date back to 2012. Inspectors have followed up with the company owner and his employee on multiple occasions. The owner and his employee have always denied making any pesticide applications to apartment units or exterior applications to apartment buildings.

**Staff Action:** Inspectors have followed up on complaints and interviewed tenants who have filed complaints about PLD pesticide applications to their rental units as well as tenants in the same apartment buildings as the callers. Inspectors also interviewed both the company owner and his employee.

**Staff Findings:** Inspectors have documented that this company has made numerous unlicensed commercial pesticide applications to tenant apartments.

**Attachment(s):**

- Consent agreement for PLD Group

**Applicable Citations of Law:**

22 M.R.S. 1471-D(1)(A) No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

CMR 01-026 Chapter 31 Section 1(A)III.

**1. Individual Certification and Company/Agency Licensing Requirements**

A. Any commercial applicator must be either:

I. licensed as a commercial applicator/master; or

II. licensed as a commercial applicator/operator; or

III. supervised on-site by either a licensed commercial applicator/master or a commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator. This supervision must include visual and voice contact. Visual contact must be continuous except when topography obstructs visual observation for less than five minutes. Video contact does not constitute visual

observation. The voice contact requirement may be satisfied by real time radio or telephone contact. In lawn care and other situations where both the licensed and unlicensed applicator are operating off the same application equipment, the licensed applicator may move to an adjoining property on the same side of the street and start another application so long as he or she is able to maintain continuous visual and voice contact with the unlicensed applicator.

**Staff Recommendation(s):** A consent agreement was mailed to Dobbins on July 7, 2017. Staff called Dobbins on August 22, 2017, to discuss resolution to the consent agreement and pay the penalty within two weeks. On September 1, 2017, staff called Dobbins about the consent agreement. Dobbins said he mailed it initially saying it was sent “last Friday” and then revising it to “this Monday”. If we do not receive it, he said he would come in and sign the consent agreement and pay it too.

September 7, 2017, staff called Dobbins informing him we received the signed consent agreement but no penalty payment. Dobbins said he would have to pay it in a couple of weeks. Staff informed Dobbins that if payment was not received the case would be sent to the AG’s office for resolution.

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, CONSERVATION, AND FORESTRY  
BOARD OF PESTICIDES CONTROL**

9

PLD Groups Inc.	)	
PO Box 5353	)	ADMINISTRATIVE CONSENT AGREEMENT
Augusta, Maine 04330	)	AND
	)	FINDINGS OF FACT

This Agreement, by and between PLD Groups Inc. (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. §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 management and property maintenance services in Augusta and surrounding areas.
2. That on September 28, 2012, the Board received a complaint alleging that Rayfield Dobbins had been making unlicensed pesticide applications in apartments at 132 Northern Avenue in Augusta to control bedbugs.
3. That on October 1, 2012, a Board Inspector met with Rayfield Dobbins the owner of the Company and conducted an inspection based on the allegations described in paragraph two.
4. That during the inspection described in paragraph three, Dobbins showed the inspector a hand pressurized sprayer that Dobbins stated he used in mid-August to spot spray all apartments at 132 Northern Avenue except units 11 and 12. Dobbins told the inspector he sprayed water in the apartments, but told the tenants it was chemical pesticide to pacify them about their bed bug complaints.
5. That on August 16, 2016, the Board received a second complaint against the Company involving a six unit apartment building the Company manages at 51 Eastern Avenue in Augusta. Norma Duterre, a tenant, stated that Peter Alexander, an employee of the Company set off two cans of insect bombs in her bed room to control bed bugs on August 6 and advised her to wait 2 hours and ventilate the room. The tenant said that on August 11, at approximately 3 PM Alexander set off another insect can bomb in the same bed room and gave her 2 insect can bombs. Duterre set one can off later the same day at approximately 10 PM. and sealed the room. On August 12, about noon time Duterre set off the last insect bomb in the same room and again sealed the room.
6. That in response to the complaint received in paragraph five, the inspector called the Company and spoke with Dobbins on August 17, 2016. The inspector asked Dobbins if Alexander made any pesticide applications to apartments in any of the Company's rental buildings. Dobbins told the inspector Alexander inspects for pests for the Company, but the Company hires Bug Busterzzz when treatments are needed. Dobbins provided the inspector with Alexander's contact information.
7. That later the same day, a Board inspector met with Alexander. Alexander had cans of HotShot Bedbug & Flea Fogger in his truck. Alexander stated he did not make applications for tenants but used the cans for his own personal periodic preventative use because he was often in apartments that were infested with bedbugs. The inspector asked Alexander if he made applications to Duterre's apartment. Alexander said he did not, but that he gave Duterre 2 cans of HotShot Bedbug & Flea Fogger and told her how to use them.

8. That on August 24, 2016, a Board inspector met with Duterre at her apartment. Duterre told the inspector that the Company hired Bug Busterzzz to treat her apartment once and then Peter Alexander set off two cans of HotShot Bedbug & Flea Foggers in her bedroom on August 6, 2016, and then Alexander came back and set off one more can of HotShot Bedbug & Flea Fogger on August 11, 2016, in the same bedroom. Duterre said she still had bedbugs in that bedroom and set off one can of HotShot Bedbug & Flea Fogger herself on August 12, 2016. The bedroom door was closed and sealed with plastic and tape when the inspector arrived. Duterre opened the room to retrieve the can of HotShot Bedbug & Flea Fogger. The inspector took photos of the can to document it.
9. That while at the apartment building described in paragraph five, the inspector talked to other tenants in two separate apartments. One of those tenants stated that Alexander set off one can of HotShot Bedbug & Flea Fogger in her bedroom on August 6, 2016. The second tenant said they had bed bugs but Alexander sprayed in the apartment twice and they have not had any problems since then.
10. That on November 7, 2016, the Board received an additional complaint from a Winthrop tenant. The tenant alleged Company employees applied insecticides to her apartment to control bedbugs.
11. That in response to the complaint in paragraph ten, an inspector conducted a follow up inspection with the Winthrop tenant. From that inspection the inspector determined that both Alexander and a Company employee named Randy, made pesticide applications to the interior of Company tenants' apartments.
12. 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 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.
13. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) includes 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.
14. That the circumstances described in paragraphs one through thirteen constitute custom applications of pesticides in accordance with 22 M.R.S. § 1471-C(5-A).
15. That the Company did not employ a master applicator, and no one from the Company had a commercial pesticide applicator's license at the time of the applications described in paragraphs eight, nine, and eleven.
16. That the circumstances described in paragraphs one through fifteen constitute multiple violations of 22 M.R.S. 1471-D(1)(A) and CMR 01-026 Chapter 31 Section 1(A)III.
17. That the Board has regulatory authority over the activities described herein.
18. 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.
19. That this Agreement shall not become effective unless and until the Board accepts it.

20. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraph sixteen, the Company agrees to pay to the State of Maine the sum of \$1,500. (Please make checks payable to Treasurer, State of Maine).

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

PLD GROUPS INC

By: \_\_\_\_\_ Date: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_

Cam Lay, Director

APPROVED

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mark Randlett, Assistant Attorney General

**BOARD OF PESTICIDES CONTROL  
APPLICATION FOR VARIANCE PERMIT  
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. Deane C. Van Dusen ( 207 ) 592-3198  
Name Telephone Number

Maine Department of Transportation, Environmental Office  
Company Name

16 State House Station Augusta Maine 04333  
Address City State Zip

II. Area(s) where pesticide will be applied:

Selected areas within the 25-foot buffer zone near surface waters and wetlands located within MaineDOT compensatory wetland mitigation sites statewide, potential wetland mitigation banking sites, and other environmental restoration areas.

III. Pesticide(s) to be applied:

The following products may be used: Habitat™ (imazapyr); Rodeo™, Roundup Pro™, Roundup Concentrate™, and Accord Concentrate™ (glyphosate); and Garlon 3A and Garlon 4 (triclopyr).

IV. Purpose of pesticide application:

1. To control wetland and upland vegetation considered invasive in Maine. Target plants include emergent and woody species such as the non-native genotype of Common Reed (*Phragmites australis*), Purple Loosestrife (*Lythrum salicaria*), Reed Canary Grass (*Phalaris arundinacea*), European Alder (*Alnus glutinosa*), Glossy Buckthorn (*Frangula alnus*), and Morrow's honeysuckle (*Lonicera morrowii*).
2. To control weeds or grass in and around areas designated as plant beds prior to planting and during the plant establishment period.

V. Approximate dates of spray application:

June 1, 2018 to October 31, 2021

VI. Application Equipment:

Non-powered equipment including backpack and hand-held sprayers, wipe/wick applicators, and droppers/syringes for cut-stem treatment.

VII. Standard(s) to be varied from:

Chapter 29 Section 6(A) – Buffer Requirement

VIII. Reason for variance:

The variance is needed to allow MaineDOT to comply with state and federal regulatory requirements. Maine DEP and U.S. Army Corps of Engineers environmental rules and permit conditions require MaineDOT to control invasive wetland and upland emergent and woody plant species within compensatory wetland mitigation sites. The growth of invasive species may adversely affect the structure and function of the wetlands and upland buffer areas within a site. Mitigation sites typically contain restored, enhanced, preserved, or created wetlands within 25 feet of pre-existing wetlands and surface waters. The variance is also needed in order for MaineDOT and its landscape contractors to control weed and grass competition within mitigation tree and shrub planting areas located within the buffer zone.

IX. Method to assure equivalent protection:

To avoid and minimize the potential for adverse effects to non-target species from drift or runoff to surface waters during herbicide application, the following measures will be taken: using backpack spray pump pressures of less than 50 PSI, trial use of an ultra low-volume spray nozzle e.g. a Meterjet Spray Gun or equivalent, using non-volatile materials, adding a sticker-spreader-extender (e.g. Nu-Film IR) to the spray solution to adhere spray materials to leaf surface and reduce the time before the material is rain-fast, scheduling application on days when no heavy rains or winds are forecast, and ceasing spray operations during windy periods or rain events that may lead to runoff from the plants.

Signed: Deanna C Van Dusen Date: 12-12-17

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028**

**OR E-mail to: [pesticides@maine.gov](mailto:pesticides@maine.gov)**



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

10b

PAUL R. LEPAGE  
GOVERNOR

WALTER E. WHITCOMB  
COMMISSIONER

14 December 2017

Mr. Deane Van Dusen  
Maine Department of Transportation Environmental Office  
16 State House Station  
Augusta, ME 04333

**RE: 2018-2020 Variance permit for CMR 01-026 Chapter 29**

Dear Mr. Van Dusen:

In 2013 the Board of Pesticides Control authorized the issuance of three-year Chapter 29 permits for invasive species vegetation control. This letter will serve as your variance permit for Section 6 of Chapter 29 for your invasive species vegetation control program associated with MDOT wetland mitigation activities until December 2020, subject to the following conditions:

- 1) You must notify the Board staff if you decide to use any products not listed on the application, and all products used must be properly registered for use in Maine.
- 2) All applications must be consistent with the information provided on the variance request.
- 3) All MDOT agency personnel and contractors must comply with the product labels, state and federal regulations, and the measures outlined in Section IX of the permit application.

We will inform the Board at the next meeting that this variance permit has been issued. If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

Cam Lay  
Director  
Maine Board of Pesticides Control

CAM LAY, DIRECTOR  
90 BLOSSOM LANE, DEERING BUILDING



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