



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

September 13, 2019
9:00 AM

Room 118 Marquardt Building
32 Blossom Lane, Augusta, Maine

MINUTES

Present: Flewelling, Granger, Morrill, Waterman

1. Introductions of Board and Staff

- The Board, Assistant Attorney General Randlett, and Staff introduced themselves
- Staff Present: Connors, Couture, Patterson, Pietroski, Saucier, Tomlinson

2. Minutes of the July 15, 2019 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

- **Waterman/Flewelling: Moved and seconded to accept minutes**
- **In Favor: Unanimous**

3. Consideration of a Request for a Variance from Chapter 29 from Taylor's Invasive Plant Control to Treat Invasive Plants for Biddeford Pool Land Trust

Taylor's Invasive Plant Control is seeking a variance from Chapter 29, Section 6, Buffer Requirements, to treat invasive plants on Biddeford Pool Land Trust property, adjacent to Ocean Avenue in Biddeford. Although Board policy indicates staff may approve requests for variance from CMR 01-026 Chapter 29 for control of invasive plants, this variance includes the management of invasive plants within an area designated as significant wildlife habitat.

Presentation By: Megan Patterson, Director

Action Needed: Approve/Disapprove the Variance Request

MEGAN PATTERSON, DIRECTOR
32 BLOSSOM LANE, MARQUARDT BUILDING



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- Patterson explained that this is the second variance request for this property. The previous request was from Vegetation Control Services. Patterson added that staff had concerns about this application given the fact that part of the application area was designated as significant wildlife habitat by Inland Fisheries and Wildlife, IFW, and that we did not receive a revegetation plan with the initial application that is required by policy. We have since received a revegetation plan prepared by a contractor hired by Biddeford Pool Land Trust (BPLT).
- Patterson told the Board that staff reached out to IFW and the email response from IFW Biologist Brad Allen is included in the Board packet. Allen requested delay of the application until after September 30 or that it occur before July 15, 2020 to prevent disruption of shore bird habitat during summer months.
- Morrill stated that because of the time sensitivity of the application, he reached out to Patterson to ask if anyone from BPLT would be able to attend, and also thanked Alex Peacock, BPC inspector responsible for the southern Maine region, for visiting the site to collect first-hand knowledge for the Board.
- Patterson noted that there were several emails that came in past the Tuesday 8am deadline, but since the emails were pertinent to this issue staff decided to deviate from policy and allow the emails. She added that six emails were received in opposition of the application and one was received from Greg Tarbox, Vice President of BPLT, who was unable to attend today's meeting.
- Randlett stated that this policy could be deviated from and Patterson had contacted him, and they agreed in this case to allow the emails in order for the Board to have as much information as possible.
- Waterman asked if this variance proposed using the same herbicides as the previous one.
- Patterson stated that previously triclopyr and glyphosate were used and this year metsulfuron and triclopyr were proposed.
- Morrill stated that he would like to see the pictures Peacock took of the site
- Peacock displayed the photos to the Board via projector and explained that approximately 1.2 acres were managed and the honeysuckle in the area did not appear to have been treated. He added that the area was now dominated by rugosa rosa, grass, and bayberry, with bittersweet coming up in several areas. Peacock noted that there was not a lot of native plant material.
- Granger asked if the purpose was to remove all or just some of the invasives.
- Patterson stated from the application it appeared they planned on removing just some of the species.
- Granger expressed frustration that no one was present from BPLT to give the Board guidance on their goal for the property. He also asked if there had been any attempt to reintroduce native species.
- Patterson stated that another reason staff felt this variance should come before the Board was because of the seeming lack of continuity and clarity of land management approaches and goals.

- Flewelling asked how they were mowing it.
- Peacock stated they were using a Bobcat with a Brontosaurus head.
- Granger asked if that would disturb the soil.
- Peacock responded that the head goes up and down, so it potentially could. He added that all along the seawall is very thick bittersweet and almost everything is within 25 feet of the water.
- Morrill asked if the underlying soil was sand.
- Peacock responded that it was mostly sand, with a small amount of organic matter.
- Granger commented that Rodeo was glyphosate without an adjuvant and there are several formulations.
- Peacock noted that the Rodeo label calls for the use of adjuvants.
- Granger asked if the applicator was planning on using one.
- Patterson responded that the application indicated they planned to use an anti-drift additive, but not what it was, and the plan did not list any additional adjuvants.
- Flewelling asked what the Board's ultimate responsibility was here.
- Randlett stated that under rule the Board has the discretion to grant the variance permit if they find that procedures demonstrated are appropriate. He added that the application must be conducted in a manner that protects surface waters. Randlett added that there must be an appropriate balance of risk and benefit, and if the Board granted the permit they could put any limitations on it that they wanted.
- Granger stated that he was a little concerned with the timing of the application as most plants are going to seed at this time and even if they make the application, the site has already been reseeded. He added that this may not be an effective management strategy for the invasives on this site. Granger concluded that he could not support this application as it is submitted because he did not think it followed integrated pest management and he did not like the setup for long-time herbicide use at this site.
- Flewelling stated that everyone solves problems differently and he believed they had done their due diligence. He added that this is absolutely not a silver bullet, but he also did not want to micro manage anyone.
- Morrill stated that this does not pass the risk benefit analysis, and we want to protect surface water. He added that he is not comfortable with approving this request and did not think it would be prudent of the Board to do so. Morrill said he encouraged the applicant to come back at a later date to discuss the plan.
- Waterman stated that the benefits look to be very short term.
 - **Morrill/Flewelling: Moved and seconded to deny variance request**
 - **In Favor: Granger, Morrill, Waterman**
 - **Against: Flewelling**

4. Update Regarding Staffing Changes

During the first regular session of the 129th Maine legislature, the Board received approval of a new Environmental Specialist III position. This position will join the BPC team and will work in both water quality monitoring and pesticide product registration. Historically, the water quality and pesticide product registration programs were managed by two full time staff members. Existing staff work tirelessly to conduct water quality monitoring and provide timely responses to product registration requests, however the demand for these two important areas of work have increased substantially in the last few years.

Presentation By: Megan Patterson, Director

Action Needed: None, Informational Only

- Patterson told the Board she made a request to the Department and has been approved to hire for an additional Environmental Specialist III position. She stated that with increasing registrations the additional demand restricts staff time available for water quality work. Patterson said the BPC used to have a fairly robust water quality program and she would like to get back to that.
- Patterson informed the Board that the BPC also has a vacant Environmental Specialist III position. Anne Chamberlain has resigned and is starting a business using drones for aerial photography.

5. Other Items of Interest

a. Obsolete pesticides press release

- Morrill asked why there was no date on the press release.
- Patterson stated that the BPC collaborates with the Department of Environmental Protection and uses their facilities as the collection locations. When the press release did provide a date, materials were just dropped off outside. Staff receive some negative feedback around this, but the partnership with DEP is very positive and should not be jeopardized. That said, we do share the date with anyone who calls, but take that opportunity to emphasize the importance of and reason for preregistration and proper timing for drop-off.
- Morrill stated that the goal is to collect unwanted products.
- Patterson stated that she agreed, staff want people to be involved in it but do not want to cause any undue environmental or human hazard.

b. Staff updates

a. Water Quality

- Tomlinson stated she has been working on the Ten Cities water sampling project. She explained that staff have deployed passive samplers in 10 rivers and have obtained grab samples from 19 streams and a storm drain.
- Tomlinson stated that for this project staff have collaborated with DEP, IF&W, City of Ellsworth, a Biddeford citizen, Casco Bay, wastewater treatment facilities, and BPC inspectors.
- Heather Spaulding, of MOFGA, asked when the project would be completed.
- Tomlinson responded that she expected all samples to have been tested by December and the report should be ready by Spring.

- Patterson stated that staff are still pushing for an in-state lab, so shipping water in glass jars overnight to Montana might be avoided. She added that the Montana lab has been great to work with but having a nearby lab would lower costs and the BPC might receive a faster response if the program used an in-state entity. Patterson stated that other programs outside of the BPC might benefit from in-state lab resources such as the hemp program and other entities outside the Department.

b. Certification Program

- Pietroski stated that 541 people hold Agricultural Basic Pesticide Applicator licenses, 1046 have Private Pesticide Applicator licenses, 804 hold Commercial Master Applicator licenses, 1050 have Commercial Operator Applicator licenses. This is a total of 3441 licenses.
- Pietroski stated that for 2019 there have been 138 programs approved for recertification credits for a total of 336 credits. Staff have attended 84% of the programs and given presentations at 20% of the programs.
- Pietroski told the Board that staff are hosting a Hemp Program on December 13. This fall the BPC, in coordination with UMaine Cooperative Extension, will also host programs on Outdoor Ornaments and Biting Fly and Ticks.
- Flewelling asked how the hemp growers were getting around federal law.
- Patterson responded that the last Farm Bill made it legal to grow hemp and hemp can now be covered by crop insurance. She added that in Maine the Office of Marijuana Policy has taken over medical and recreational marijuana and Gary Fish now runs the hemp program and just hired a part-time inspector.
- Pietroski commented that there are currently over 3,000 acres of hemp planted in Maine.
- Spaulding stated that the U.S. Hemp Authority is applying for Round-up ready hemp.
- The Board had not heard this info.
- Spaulding stated she will try to find information on this and send it to Patterson.

c. Pesticide Risk Assessment for Management of Browntail Moths Near Marine Waters

- Patterson stated Bryer has been working with Tom Schmeelk to assemble a round table discussion with applicators and other stakeholders to discuss the risk assessment process and potential actives that may be used in proximity to marine waters. The intent is to narrow down the list with applicators and others with firsthand experience about what products are most effective—and potentially exclude those actives that have not been found to be effective.
- Patterson stated they will also reach out to the Maine Lobstermen's Association, so they are kept abreast of the policy changes.

6. Schedule of Future Meetings

- The next meeting will be at the Annual Agricultural Trade Show on January 15, 2020.
- Morrill proposed holding the meeting earlier, from 1-3:00pm, and breaking at 1:30 for the public forum.

7. Adjourn

- **Granger/Morrill: Moved and seconded to adjourn at 11:16am**
- **In Favor: Unanimous**