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GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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WALTER E. WHITCOMB
COMMISSIONER
HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

**August 19, 2016
Conference Room
O'Donal's Nursery
6 County Road Gorham, Maine**

DRAFT MINUTES

11:30 AM

Present: Bohlen, Eckert, Flewelling, Granger, Jemison, Morrill, Stevenson

1. Introductions of Board and Staff

- The Board, Staff, and AAG Mark Randlett introduced themselves
- Staff Present: Connors, Couture, Hicks, Jennings, Meserve, Patterson, Tomlinson

2. Minutes of the March 25 and the May 13, 2016 Board Meetings

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

- **Eckert/Stevenson: Moved and seconded to adopt as amended.**
- **In Favor: Unanimous**

3. Public Forum (limited to one hour)

At this time, the Board invites anyone interested to address its members with questions or concerns about any pesticide-related issues.

Presentation By: Henry Jennings
Director

Action Needed: None required

- Public attendees who addressed the Board:
Donna Herczeg, Mary Cerullo, John Bochert, Cathy Chapman, Mike Hughes, Jesse O' Brien, Kevin Doyle, Matt Ten Eyck, Maria Woodbury, Doug Bogdan, Rick Lewis, Jody Spear, Mallory Hattie, Terry Showmaker, Sally Waite, Paul Sevigny, Tom Estabrook, Jeff O'Donal, Fred Daigle, Phil Roberts, Katy Green

4. Consideration of the EPA Special Local Need [FIFRA Section 24(c)] request to extend the use of Echo ZN, EPA Reg. 60063-4 for control of late blight (*Phytophthora infestans*) in long-season potatoes

The Special Local Needs (24c) request to extend the use of Echo ZN (EPA Reg. No. 60063-4) limits use to long-season potatoes during epidemics of severe late blight (*Phytophthora infestans*). The request is in response to high levels of late blight present in recent growing seasons in Maine, according to Steve Johnson, Ph.D., Crops Specialist, at the University of Maine Cooperative Extension. The continued use of this product at the higher annual maximum rate will permit growers the needed flexibility to respond more effectively during unique growing conditions that promote late blight.

Presentation By: Mary Tomlinson
Pesticide Registrar

Action Needed: Approve/Disapprove 24(c) Registration Requests

- Tomlinson noted that the Board previously approved a Special Local Needs (24c) request for Bravo Zn (EPA Reg. No. 50534-204-100). Tomlinson stated this request is for a similar product with the same percentage, but produced by another company, so the Board should not discriminate between companies. Tomlinson stated the Special Local Needs request will expire December 31, 2021, the same year the Bravo Zn Special Local Needs request expires.
- Eckert asked if late blight will be a large issue since it has been a very dry year. Flewelling stated it is not dry in Aroostook County and potato growers continue to make regular fungicide applications.
- Jemison stated he is somewhat critical of it, but realizes it will not be used if there is not a need. Flewelling replied it is a relatively inexpensive product with relatively low toxicity.
 - **Flewelling/Stevenson: Moved and seconded to approve the Special Local Need (24c) request to extend the use of Echo ZN (EPA Reg. 60063-4), for control of late blight (*Phytophthora infestans*) in long-season potatoes**
 - **In Favor: Unanimous**

5. Consideration of a Consent Agreement with the Maine Seed Company, Wales, Maine

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 involves the sale of a restricted-use pesticide to a grower with an expired license.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors stated that sales records were collected during a routine restricted use pesticide (RUP) dealer inspection in 2015. While reviewing records, the investigating inspector found two sales made, on separate occasions, to an unlicensed individual. Connors explained the individual

had been licensed at one time, but was not licensed at the time of the purchases. Connors sent a consent agreement to Maine Seed Company, which they have acknowledged and paid.

- Flewelling asked if there were consequences for the buyer. Connors answered that the buyer acknowledged and paid a \$200 consent agreement.
- Morrill asked about the typical use of Lumax. Connors replied that it is a corn herbicide containing the active ingredient atrazine.
- Morrill stated that a considerable amount of pesticide was purchased—50 two-and-a-half pound bags. He noted there have been several similar consent agreements in recent years and inquired if inspectors were conducting more effective compliance checks or if sellers required more education on RUP sales.
- Eckert asked if the new electronic license system would help with this. Connors stated dealers are supposed to be verifying applicator licenses at the point of sale. There is a field on the sales form to record applicator license number and there was no entry in that field for these sales. Jennings stated that some companies ask Board staff to provide a list of licensees and license numbers and use this to determine license status.

- **Flewelling/Eckert: Moved and seconded to approve the consent agreement negotiated by staff**
- **In Favor: Unanimous**

6. Other Old or New Business

a. Homeowner Education Update:

- Morrill stated that the Board would like updates, at each Board meeting, regarding staff progress on homeowner education outreach efforts.
- Jennings reported that work on homeowner education was done in the spring and a fairly ambitious plan had been mapped out. Due to a variety of circumstances, the staff has not conducted homeowner education during the latter part of the summer. For example, Gary Fish left his position resulting in a cascade of staff vacancies. In addition, the staff had to relocate to a new building and a large IT project is also taking up much staff time with everyone required to test their own part of it and work out the bugs.
- Jennings stated that several public education talks, including the master gardener talks, were presented this year by himself, Tomlinson and Patterson. The Tom Mather tick talks reached 167 people, whereas the GotPests website receives about 10,000 hits per month. Jennings said staff did not understand how early in the year garden centers develop their seminar schedule and found it was too late to get into some of the planned venues.
- O'Donal stated Jennings had been in contact with him on numerous occasions and feels it is as much his fault as the BPC staff's because the early spring and favorable weather resulted in an unusually hectic spring for garden centers. O'Donal advised that pesticide use is a hot topic right now and said homeowners need to know how to identify what the pest is, if they have a problem and if the insect is beneficial or detrimental to their garden plants. O'Donal expressed the need to get people into a meeting where they could look at and learn how to identify insects.
- Bohlen stated government is often poor at educating the public because it is a multiple year process, and that what staff did this spring is not as important as developing a long-term plan and committing to it. Bohlen advised that bumping this topic back into focus now and then is important and we should seek help from the private sector.

- Estabrook, president of the Independent Garden Centers of Maine (IGC), expressed that he would love to work with the BPC. He stated there are 19 garden centers in the IGC that he believes would feel the same way. Estabrook also stated he thought this outreach would fit in nicely with the Maine Landscape and Nursery Association's, (MELNA) 'Plant Something' initiative. Estabrook suggested working with the BPC staff beginning in the next couple months to get some meetings set up.
- Eckert commented on the recent pesticide ordinance movements involving large towns and stated they are becoming a semi-urban phenomenon which people are very passionate about. Eckert stated she feels the BPC has a large audience of people who have no specific interest in pesticides and that the Board needs a better understanding of potentially interested demographics because there are not unlimited resources for outreach.
- Morrill reiterated he would like homeowner education on the agenda at all Board meetings. He stated the most important question now is how the Board can increase outreach. Morrill also suggested reaching out to the general public and asking what topics they would like addressed and then focus the conversations on that. Morrill asked about offering educational grants to organizations that have the ability to, and would like to, take on some educational efforts.
- Jesse O'Brien recommended asking Kathy Murray and Extension to help out. He also stressed the need to teach about soil composition and landscape design, such as the right plant for the right location.
- O'Donal suggested the BPC identify two or three topics and present these with a schedule listing the dates staff or volunteers are available. He said he knows the garden centers would sign up to hear those talks. O'Donal also stated the BPC should conduct talks at the Portland Flower show and other trade shows.
- Morrill stated these are great ideas and need to be implemented. He said we now need a strategy and wants it included on the agenda for the next Board meeting. Eckert agreed and stated people are really passionate about these topics.
- Eckert asked about bed bugs and the ordinance in Augusta requiring tenants to report bed bugs and landlords to treat for bed bugs. Stevenson stated they are treating for bed bugs all over the state, but are seeing smaller numbers of them at the moment.
- Jemison referenced the letter from Jo Ann Myers that stated the Board is not fulfilling its statutory responsibilities regarding tracking all pesticides purchased and used in Maine. Jemison stated he was confused about the origin of the cited 700% increase in pesticide use given that the Board is not tracking use. Jennings stated that Myers is working from an old statute; the legislature repealed the sentence requiring the BPC to publish reports tracking pesticide use, and the '700%' figure came from an estimate of lawn and landscape pesticide use that Fish did.
- A discussion followed regarding where/how data on pesticides sold and used in Maine was obtained. Also discussed was the difficulty of normalizing the raw data into meaningful figures. Bohlen stated people are really interested in this information and the Board should provide it. Jennings replied that there are several issues with the data, not only methodology for calculating it, but also getting sales reports from stores and the inability to track online sales of pesticides. Tomlinson stated there is an issue with accuracy of the reports. Bohlen asked about the possibility of getting pieces of the data that would be useful to the public. Morrill said Bohlen raised a good point; there is a lot of desire out there for some data. Morrill suggested getting help from the public on exactly what data they want to see. Bohlen stated that if there is an underlying issue with data accuracy then it is not worth analyzing until the reports contain reliable data.

Katy Green asked about the possibility of getting data for a handful of active ingredients. The Board agreed to discuss this further at the next meeting.

- Stevenson asked about getting clarification on the '700% increase' quote because he hears it repeated often. Jennings stated he also hears it frequently. Stevenson asked if there is a way to retract the comment if it is not accurate. Jennings replied he would ask Fish about where and how he got the figure.
- Granger questioned how useful this data is, if it is worth spending this much time on, and if it will give any real answers to anyone. He asked if it means the public is using fewer pesticides, or does it mean the public is using less of different pesticides. Eckert stated the time period of the data is also important. Bohlen said the information needs to be democratized and the Board should not tell the public when they can see the data. Bohlen stated the reason the '700%' number keeps coming back to us is because it is the only number people have.
- Bohlen thanked Tomlinson for getting the data for the sediment and water quality tests out to the public.

- b. Chapter 29 Variance for Dasco Inc.
- c. Chapter 29 Variance for Dubois Contracting
- d. Omega 24c 2016 Use Report
- e. Letter to the Board from Spear

7. Schedule of Future Meetings

September 23, November 4 and December 16, 2016 are tentative Board meeting dates. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

- No changes or additions were made

8. Adjourn

- **Granger/Bohlen: Moved and seconded to adjourn at 2:06 pm**
- **In Favor: Unanimous**