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

December 5, 2014

AMHI Complex, 90 Blossom Lane, Deering Building, Room 319, Augusta, Maine

MINUTES

8:30 AM

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

1. Introductions of Board and Staff

- The Board and Staff introduced themselves.
- Staff Present: Chamberlain, Connors, Fish, Jennings, Patterson, Tomlinson

2. Minutes of the October 24, 2014, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

- **Granger/Eckert: Moved and seconded to approve the October minutes as written.**
- **In favor: Unanimous**

3. Consideration of a Board Policy Covering Acceptable Notification Methods for Commercial Pesticide Applications under Category 6B to Trails and Sidewalks

At the October 24, 2014, meeting, the Board provisionally adopted amendments to Chapter 28, Notification Provisions for Outdoor Pesticide Applications. These amendments will require commercial applicators controlling vegetation on sidewalks or trails under commercial licensing category 6B to provide notice consistent with Board policy. Since these amendments require legislative approval, it may be prudent for the Board to adopt the policy prior to the legislative review process in case there are questions about the Board's intentions. The Board will review the staff's draft and brainstorm ideas about appropriate notification procedures for trails and sidewalks.

Presentation By: Henry Jennings
Director

Action Needed: Review/Approve Draft Policy

- Jennings noted that Morrill had suggested a policy should be adopted sooner rather than later so that when the rule amendment comes up in the Legislative Committee the Board's intent would be clear. The draft is an attempt to capture the Board's stated views from the previous

meeting. Concern was expressed about discouraging property owners from allowing the public to use trails on private properties. Definitions used in the draft came largely from the dictionary. For appropriate methods, the staff tried to think of things people/groups are doing voluntarily. The staff is hopeful the Board will come up with other ideas. It didn't want to suggest a 5 x 4 sign (such as that required for lawn applications); if a landowner wants to use a piece of poster board and a marker that might be okay. There is no minimum or maximum size to the signs in the draft policy, but that could be added by the Board.

- Granger asked whether the definition of trails as drafted would require notification for pesticide use on trails used by recreational vehicles, such as ATVs. Jennings said he thought it would as drafted.
- Flewelling asked whether the landowner had to do the posting. Jennings noted that only commercial applications under category 6B were required to post, therefore it has to do with the intent of the application. The requirement to post falls on the applicator, but they can delegate.
- Granger questioned whether this would provide a disincentive to landowners to allow ATVs to use their property. He noted that there are a lot of trails used by permission of landowners for hiking, skiing, snowshoeing, etc. Granger likes the word "marked" because then it is clear that the trail is used by the public; a lot of trails aren't used much. It would be a lot to ask to post if the trail is not generally used for hiking or biking. There would be less exposure on an ATV or snowmobile trail.
- Jennings noted that in Ogunquit there is a lot of interest in the Marginal Way Trail, and though there is no requirement to post, they have used a variety of approaches to provide notice, including use of the town website.
- Eckert said she is thinking of the Mountain Trail in Portland. It is clearly a walking trail, some of it paved, some gravel; that is the type of trail that if the railroad decides to spray, they should put up a sign. The Board should think about all the other kinds of trails, such as rights-of-way for power companies, used for walking, biking, snowmobiling, etc; The Board wouldn't expect those to be posted.
- Jennings suggested adding some adjectives, such as "clearly" or "prominently" to "marked." Side trails probably aren't likely to be treated.
- Morrill noted that it is clear what the Board wants to include, but not so clear what it doesn't want to include. A lot of landowners allow access. The Board needs to be very conscious that what it does doesn't detract from use of the land.
- Morrill remarked that the 24 hour requirement was an issue for him. In every other category there is no time frame for posting of applications other than just prior to treatment. It costs money, having to go out multiple times.
- Jemison noted that it would be nice if it were on the website 24 hours ahead so people can plan. He wouldn't want to require, but it would be nice. Eckert agreed that we should encourage managers of bigger trails to think ahead; if they have a website, it would be best to post ahead of time. It doesn't have to be a specific time. Morrill said it should be left up to those in charge of the application. Often weather is critical; the Board wouldn't want to delay applications because of a 24 hour requirement.
- The policy was amended consistent with the discussion
 - **Stevenson/Jemison: Moved and seconded to adopt the policy as amended**
 - **In Favor: Unanimous**

4. Consideration of a Board Policy Covering Acceptable Methods for Commercial Applicators to Positively Identify the Proper Treatment Site

At the October 24, 2014, meeting, the Board adopted an amendment to Chapter 20 which codifies a longstanding policy and will require commercial applicators to positively identify the proper treatment site using methods approved by Board policy. The existing policy needs to be slightly updated to reflect the fact that the basic requirement is now contained in rule.

Presentation By: Henry Jennings
Director

Action Needed: Review/Approve Draft Policy

- Jennings explained that because the Board had amended the rule to include the requirement “as in Board Policy,” they now needed to adopt a policy. The draft policy is virtually identical to the policy that had been in effect except that the preamble was amended. It allows flexibility and refers to rule.
- Jemison asked about properties that abut each other—where you can’t tell where one starts and the next begins. That circumstance isn’t clearly defined in this policy when the property boundaries aren’t obvious. What do we do when you’re not sure where the property line is? Morrill said that the drift rule would cover that. This policy is to ensure applicators are at the right property. Jemison said that it is appropriate to bring it up here. How do we make sure applicators are paying close attention if it’s unclear in the policy. Flewelling asked who the burden falls on; Morrill said it falls on the applicator.
- Morrill said that the Board rules are very specific with this type of issue. If you aren’t spraying the right property, that’s a violation. It happens very infrequently and is an egregious violation. It’s usually not about a fuzzy property line. It is up to the applicator and if they’re not sure they should back off and make sure.
- Jennings noted that there have been a few property line infringement cases, particularly with biting fly treatments. Customers sometimes are more concerned about making sure mosquitoes are not a nuisance than they are about property rights. As a result, companies are probably specifying that they can only treat the customer’s property.
- Morrill said that for companies doing a large volume of properties, lines are well defined prior to treating. Jemison noted that when the first contract comes up, that would be the time to verify the boundaries. Since he has been on the Board, there have been many cases. Fish said the only way is to work with the neighbor and find agreement. Applicators learn by experience; if the homeowner is telling you where the lines are, they may not be correct.
- Eckert noted that all the mechanisms described instruct the applicator to assess the site in advance of the application. Hopefully they talk to the customer and determine property lines.
 - **Eckert/Jemison: Moved and second to adopt policy as drafted**
 - **In Favor: Unanimous**

5. Consideration of a Request for Granting Continuing Education Credits for an Online Training Program

The Board received a request to grant continuing education credits for an online training course detailing the uses of Turfcide Fungicide. Historically, the staff has only approved continuing education credits for presentations made by pesticide manufacturers and distributors if they include a comprehensive review of the precautionary components of the label, such as PPE, re-entry requirements, and environmental hazards. The presentation in question is focused primarily

on the efficacy and uses of the product. Consequently, the staff is seeking Board input on how to best handle this and similar requests.

Presentation By: Gary Fish
Manager of Pesticide Programs

Action Needed: Provide Guidance to Staff on Whether to Grant Credits for Training

- Fish explained that the Board had received a request to approve online courses for continuing education credits. He referred to the materials in the Board packet. He routinely approves online courses and he requires an overview before approving them. This one looks too much like a sales pitch; there is a lot of good information, but much of it is instruction on how to use this particular product. Fish is uncomfortable approving requests like this one. On the label there is a requirement for respirators in certain situations; there are hazards to fish and aquatic organisms. There is nothing in the training about re-entry precautions. If they were to include information about these specifics, would the Board want to approve it, even though it's all about one chemical?
- Jemison said that it didn't seem too bad, if those things were added. Also, pollinator protection. Passing grade should be 80; a 70 is pitiful. Only someone who's going to use this product would go online to watch this.
- Stevenson said that the Board should trust Fish to make the call. Some courses have been really good, some have not. He agrees with John that if you're using that product, these types of courses are helpful.
- Flewelling asked whether it is common for companies to develop their own online courses; Fish said no. Flewelling suggested the Board should encourage that but give them guidelines. Why would we want to discourage that? Fish noted that he has guidelines; he is on the assessment group for the EPA and they have developed guidelines on what an online course should include. He agrees that it's good to have quality information about products as long as it's not just a sales pitch. For live training, the staff has started having trouble with some dealers giving talks which were just sales pitches. He requires them to include WPS information, all the PPE requirements, environmental hazards, and anything special on the label that applicators wouldn't necessarily be looking for.
- Eckert agreed that there has to be information about risks. Maybe also something about alternatives; chemical companies probably won't want to include that, but the Board needs to ensure that less biased information is available to applicators about downsides and alternatives. Chemical company employees should make it clear they are representing the company.
- Granger noted that if they do add the requested information and we can approve these types of courses then there are more options available to satisfy continuing education requirements. Companies can include a sales pitch if they want, but it's a bit of a stretch to allow a pure sales pitch for certification. He suggested the Board leave it up to Fish, if it's mostly sales pitch, don't approve it.
- Morrill said some of the best presentations he's gone to have been by the manufacturers. These presentations often include information on mode of action, etc. There is a pitch but they do cover the important things that Fish mentioned, like PPE. If they include that, a lot of the information is valuable, in this case information on snow mold, etc. It's a great idea to encourage free training.
- Stevenson noted that he has used products that require taking training prior to purchasing and often found them useful.
- Tim Hobbs noted that in the potato industry, when a new product is introduced, a salesman makes sure applicators know the label. If a company is willing to put in the effort, it would be a lot better than what's available now.

- Katy Green asked whether there was a concern about whether this could be viewed as an endorsement of a specific product by the Board. If there is a list on the website for specific products, what message does that send? It's obvious in the presentations there's more to it, but a list on the Board website might be misconstrued.
- Morrill suggested adding something on the website noting that credits are approved, but the products are not endorsed.

6. Consideration of a Consent Agreement with Servicios Sanchez, Inc., of East Boston, Massachusetts

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved application of pesticides inconsistent with the label by a person without a valid certification or applicator's license.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors explained that this case involved an application to a two-unit apartment building; the upper unit was occupied, the lower was not. The occupant called with concerns following the application. She had been given instructions to put clothes and linens in bags but leave them untied and that she and her four children should leave. When they returned they saw puddles in the bathroom and questioned whether the applicator was licensed based on how they operated. Connors spoke to Sanchez, the applicator, who said he used Hot Shot. Later a lawyer associated with the landlord sent the MSDS for Cyonara 9.7 insecticide to Randlett. The inspector collected samples; lab results came back positive for malathion in all samples, including inside the bags of clothes. No malathion products are registered for interior use. Cyonara 9.7 insecticide specifically says avoid contact with clothing. Initially, the applicator signed the consent agreement but didn't send the payment. Apparently he thought payment wasn't required until after the Board approved the consent agreement. Connors asked that Servicios Sanchez, Inc. put something in writing to show that they are no longer involved in that kind of treatment.

○ **Flewelling/Morrill: Moved and seconded to accept consent agreement as written**

- Tim Hobbs asked whether \$3,000 would cover the cost of sampling. He felt the Board should recoup the costs associated with staff time, samples, etc. for an out-of-state company. In-state companies are one thing, but the state should be recouping costs from an out-of-state company. Connors said that \$3,000 would cover the sampling, but it's difficult to factor in time.
- Randlett noted that a number of factors go into consent agreements; the time and expense involved to the Board is not one of the factors involved. There are limitations in statute on the amount of fines. Other factors include the seriousness of offense, history of company, how similar cases were treated. The staff tries to be fair and consistent. The enforcement process is not set up in a way to allow Board to recover all costs involved. In this case four violations were alleged, \$3,000 is half the maximum allowed. It is a settlement; we want to encourage them to settle.

- Jennings pointed out that fines collected go into the general fund; the Legislature doesn't want there to be incentives to the Board to levy a lot of fines. It is a losing proposition to do enforcement.
- Eckert asked whether the applicator was licensed. Randlett pointed out that an allegation about an unlicensed applicator is in paragraph 23 on the agreement.
- Blumenthal asked whether Massachusetts or other New England states had been notified. Connors replied that Massachusetts had a parallel case with the company; they took samples, and had similar findings. They had an enforcement action and the Criminal Investigation Division of EPA has been involved in looking at the company.
- Tim Hobbs noted that this is a really serious action; using malathion in a residential unit. They could kill someone; it's almost criminal.
- Eckert asked if there is any way to get the word out. Connors replied that consent agreements are on the website; it's also covered in training. Fish said that there have been presentations to landlords in the past.
- Jemison asked what the best way to control bedbugs is now. Stevenson said it is expanding: cryogenics, heat, steam, chemicals, dogs, etc. Lots of folks working on finding better products. There is no cheap way to control them; the industry is trying to develop traps.

○ **In favor: Unanimous**

7. Consideration of a Consent Agreement with Mosquito Squad of Southern Maine of Rye, New Hampshire

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved commercial application to property without consent of the owner.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors explained that this was an application made by a licensed applicator to a customer in Falmouth. The abutting owner observed the applicator go beyond the property line onto a section of her property. The inspector took a sample which came back positive.
- Eckert asked whether the property line was obvious. Connors replied that part of it was a chain link fence. In the disputed area there were pins with caps. Eckert asked whether the homeowner complained to the applicator; Connors replied that he didn't know.

○ **Eckert/Granger: Moved and seconded to accept consent agreement as written**

○ **In Favor: Unanimous**

8. Consideration of a Consent Agreement with Petro's Ace Hardware of Auburn, 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 involved the distribution of general-use pesticides without a General Use Pesticide Dealer License.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors explained that this involved a routine marketplace inspection which documented that the store was selling pesticides requiring a general-use pesticide dealer license. The store didn't have a license nor had they had one for several years. There was a previous consent agreement for the same violation. The staff encountered some resistance on the part of the owner to settle. In other cases we have used a \$100 base fee plus \$20 for each year not licensed (the cost of the license).
- Morrill noted that this is pretty disappointing; the company paid \$160 in 2010. A principal tenet is that there should be no economic incentive for being in violation. Morrill strongly recommend that the staff visit the store in 2015 and ensure it has a license. He encourages that the fine to be much higher next time.
- Jennings pointed out that sometimes people pay the fine and think they're licensed for a while. Morrill said he disagrees; if he gets a ticket for an unregistered vehicle he doesn't assume the fine covers the registration going forward.
 - **Flewelling/Morrill: Moved and seconded to accept consent agreement as written**
 - **In Favor: Unanimous**

9. Presentation on State Specific Managed Pollinator Protection Plans

The federal Environmental Protection Agency (EPA), in collaboration with other federal agencies, is developing a series of measures designed to improve protection of pollinators from pesticide-related risks. One of the proposed measures involves development of state-specific plans for protecting managed pollinators. The advantage of state plans is that it allows states to tailor protections to match specific local needs and conditions, while avoiding the potential pitfalls of a one-size-fits-all standard. The staff will provide an overview of the state-specific protection plans.

Presentation By: Gary Fish
Manager of Pesticide Programs

Action Needed: None—Informational Only

- Jennings explained that EPA is looking to states to create state-specific plans; he is not sure if they will be mandatory. State plans allow states to tailor concerns and policies to issues prominent in that state and dependant on what crops and systems are in place in that state. Listening to Tony Jadczyk (State Apiarist) at the pollinator conference, it is clear that there are areas where we should get agricultural producers and apiarists together. It's certain that a lot of bees are brought in from out of state for blueberries. EPA is hoping that states will have something in place by 2015. The Board needs to decide whether to ignore the idea or pursue it. We should identify areas where we can communicate better and work together. Jennings has heard some sentiment that some managed bee contractors won't come back to the state unless something is done. Does the Board want to start or wait and see what EPA does?
- Flewelling noted that the legislature clearly wants something done. Should start the ball rolling.

- Jennings said there are 80,000 hives brought in each year for blueberries. The higher the density of plants, the more pollinators needed to maximize blueberry yields. Apples also use managed pollinators, but Jennings hasn't heard the same kinds of concerns in the apple industry.
- Granger asked whether EPA would be doing any outreach on this. Jennings said it is not yet clear whether it is mandatory or optional. There have been a series of webinars and listening sessions put on by EPA. There has been some discussion about some labels being contingent upon existence of a state plan. It wouldn't likely happen in a short time frame. The blueberry industry would benefit from some sort of discussion on how to improve communication.
- Granger said it's easy to think about killing bees directly, but it's also about habitat; not killing bees directly but killing the weeds that pollinators rely on. It may affect farmer's ability to manage weeds. The devil is in the details; it may not be in the purview of the Board to look at all these things, but would be in the purview of the Department of Agriculture. Maybe it should be the Department, not the Board, working on this.
- Tim Hobbs remarked that he went to the pollinator conference and there was a lot of interest in the topic; over 250 people there, including people from Massachusetts and other states. Their concern is with bee management; there may be a role with neonics, but even eliminating them will not solve the problem. It's a popular idea that neonics are killing bees; nothing will change some people's minds. He is concerned about label restrictions based on a state plan with little guidance from EPA. When you look at neonics as a percentage of the whole issue, it's not very big. Let's not feed the frenzy because there's no science to back it up. Let's be cautious in embracing a cause because it may be used to build momentum in the legislature. He is fearful that the Board might vilify a pesticide and/or a pesticide use and it's not going to solve the problem. There was a big die-off of bees that went from blueberries to cranberries; neonics were definitely not the cause. Communication is good, but let's be cautious.
- Jemison said there were some really important points brought up at the conference, for instance: not all neonics are equal in toxicity; interactive effects that we can't ever have enough money to look at, but we need to be aware of them.
- Jemison asked whether the Department tracks where managed bees go in the state. If he was contracted to bring in a bunch of bees, could his neighbor go on a website and see they're there so he knows he shouldn't spray fungicide?
- Jennings said that in talking to Tony over the years, especially around blueberries, there's been about 10 bee kills in the last 30 years, almost always because one company doesn't know what the next company is doing. That's why communication is the key.
- Eckert asked, what is a pollinator plan? It's not only a pesticide issue; there are agricultural commodities that rely on contracted pollinator services.
- Morrill said there will be a lot of inputs. Is the Board the right venue to start the process where we may only be a small piece of the puzzle? The Department of Agricultural may want to be the lead. He suggests waiting to see what the guidance is from EPA which should be available by the January Board meeting. It may point more to Department than to the Board. He suggested putting it on the agenda for the next meeting after we see what the EPA guidance is.
- Jennings asked Tim Hobbs whether his concern was that if the Board takes the lead it will look like we're saying it's a pesticide issue. Hobbs said yes; Jennings noted that seemed to be Granger's concern as well. Morrill agreed: pesticides are part of the puzzle, but not the whole puzzle.

10. Interpretation of CMR 01-026, Chapter 10, Section 2 (P) (2), Definition of Property Open to Use by the Public

State statutes define pesticide applications made to property open to use by the public as commercial applications requiring a licensed applicator. Section 2 (P) (2) of Chapter 10 defines

property open to use by public while exempting property “where the public has not been permitted upon the property at any time within seven days of when the property received a pesticide application.” This exemption has been used for different outdoor purposes, but the most common use is by land trusts to treat for invasive plants when they post the treated area and indicate the area (but not the entire “property”) is temporarily closed to the public. The staff has received a question from a hotel owner who interprets that exemption as applying to hotel rooms provided that the room is not occupied for seven days following the pesticide application. Because indoor pesticide applications present unique risks to persons using the indoor space, the staff would like guidance on how to interpret the Chapter 10 definition.

Presentation By: Gary Fish
Manager of Pesticide Programs

Action Needed: Provide Guidance on Interpretation of the Chapter 10 Definition

- Fish explained that this exemption is mostly used by land trusts for invasive weed control. They post the area that’s treated and make it off limits for seven days, and the Board has been okay with that. The question is how to define the word “property”. Should they have to close the entire property or is it okay to just close the area that’s treated? How does that translate to indoor situations, like in a hotel? If they want to make an area off limits for seven days, should it be just the room or the apartment or the entire building?
- Morrill noted that in the Sanchez case (above) there was still residue a month after treatment.
- Eckert asked how long residues exist indoors. Is one room closed off safe? Will exposure move between rooms?
- Randlett said that the rule includes the words “occupied apartments” so by this definition unoccupied apartments would not require the use of a licensed applicator. The Board could extend that definition to hotel rooms as well or it could say that they are not the same because of size, adjacency, etc. The Board could make the argument that there’s a higher risk when treating hotel rooms.
- Fish asked how it fits with section 2(P)1B where application of pesticides for any form of remuneration is defined as a custom application and remuneration includes “rent”. Randlett said that under Section 2(P)2B it’s silent as to whether unoccupied apartments are open to use by the public. It would be a stretch because the rule has identified “occupied apartments” as areas open to the public.
- Stevenson noted that with indoor applications, the risks are different; ventilation issues; dust; seven days later there’s no change in risk.
- Eckert noted that we probably want to encourage people to treat when rooms are unoccupied. How long should it be before occupancy is allowed?
- Jennings said the third question is: what is the Board’s position concerning a proper standard of care around indoor applications? Maybe the Board needs to work on these definitions; the risks are so much higher indoors. Sanchez shows you the potential for harm.
- Morrill said the entire property should have to be closed. If people are in the other apartments, they are still in the building.
 - **Consensus reached that hotels and apartment buildings should use a licensed applicator unless the entire property is unoccupied.**
- Randlett noted that this will cause some conflict because the rule specifies “occupied apartments” and is silent about “unoccupied apartments.” The Board could adopt an interim policy, but it may not be enforceable. Rulemaking should be done.
- Jennings said that the value of an interim policy is that it informs the regulated community of the Board’s intentions. The rule is currently ambiguous, people have interpreted it differently.

He agreed it may cause difficulties in enforcement issues and the Board should ultimately do rulemaking to clean up the language.

- Regarding outdoor applications, Eckert said that if they post and make the area inaccessible for a week, that protects visitors but doesn't protect the people doing the applications.
- Morrill said that it also doesn't protect the water. Are unlicensed people aware of the rules? Fish noted that the staff has done training with land trusts.
- Katy Green asked if the cost of the license is what's preventing them from getting licensed. Jennings said that it's really the time that it takes; each land trust must have a master applicator, which is a minimum of four tests.
- Morrill noted that a lot of companies like doing pro bono work for land trusts.

- **Consensus reached to table until the next meeting when Bohlen is in attendance.**

11. Formation of an Advisory Committee to Develop Guidelines Related to the Issuance of Variance Permits for Spraying Railroads Adjacent to Surface Waters

At the May 16, 2014, meeting, the Board granted a one-year variance from Section 6 of Chapter 29 to Asplundh Tree Expert Company—Railroad Division to make broadcast herbicide applications less than 25 feet from surface water. At that time, the Board also directed the staff to develop guidelines/criteria for issuance of railroad variances prior to next season. The staff will present some ideas about forming a small committee to develop draft guidelines for Board consideration.

Presentation By: Henry Jennings
Director

Action Needed: Provide Guidance to Staff

- Jennings explained that at the May meeting there was discussion of a variance to Asplundh to treat railroads and there was some angst about the products they were using because of mobility and persistence; it's similar to the issue with compost. The Board granted a one year variance and agreed to get a committee together to look at the issue over the winter. Jennings talked to Bob Moosmann at MDOT; the state owns half the rail in the state now. MDOT is very cautious. However, in some circumstances, contractors are essentially spraying herbicides on rock right up to the edge of the water. This is a long term concern going back at least 15 years. Railroads didn't like it when we said they shouldn't apply diuron right up to the water's edge; they still spray 15 feet away. A committee might include Chateauvert from Railroad Weed Control, Inc., who has been willing to work with MDOT. They might be willing to share their standard of care. Moosmann recommended MDOT rail manager, Jeff Pitcher. Jemison mentioned including a weed scientist; maybe also include a water quality specialist.
- Morrill asked, what is the goal for the committee? Jennings replied that the Board felt it lacked objective criteria for approving/disapproving variances. In the past the Board has said that it wants variances to be consistent with MDOT model, but we're not sure what that model entails. Moosmann is a big proponent of adding a sticker to the spray mix. Railroad tracks are often right along the edge of the water in some locations. The end goal is to give the Board a better sense of expectations when approving variances.
- Morrill said the variance to Asplundh was for using a product that others said they wouldn't use. The committee should talk about products specifically. Advisory committee should include MDOT and railroad folks so they have their science straight.
- Eckert suggested writing BMPs. Jennings agreed; Moosmann has always advocated for not doing applications in May because the water table is higher; other companies don't want to agree to that; it's more than just products.

- Jemison and Morrill noted that the committee should be small; five at most.
- Jennings asked whether a weed scientist should be included. Granger said that it needs to be more than just applicators making the protocol. Morrill noted that while MDOT is a great resource they may be relying on old information. Jemison said that he would suggest someone; maybe someone from out of state who could skype in to meetings.
- Morrill noted that this all started with a specific variance that included a specific product. Be cognizant of people's time; look at products, application time frames, adjuvants, nozzle sizes and rates.
 - **Consensus that Jennings could choose weed specialist, that Jemison would serve as water quality specialist, and that Jennings should bring guidelines to the Board once they are complete.**

12. Other Old or New Business

- a. Other?

13. Schedule of Future Meetings

January 14 (Maine Agricultural Trades Show), March 13, April 24, and June 5, 2015 are tentative Board meeting dates. The Board will decide whether to change and/or add dates.

Action Needed: Adjustments and/or Additional Dates?

- No additional dates were added

14. Adjourn

- **Jemison/Stevenson: Moved and seconded to adjourn at 11:13**
- **In favor: Unanimous**