

**VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS (AAFM)  
VERMONT PESTICIDE ADVISORY COUNCIL (VPAC)  
MAY 3, 2017 MEETING MINUTES**

**MEMBERS IN ATTENDANCE**

Boccuzzo, Linda (Admin)  
Bosworth, Sid  
Giguere, Cary  
Hazelrigg, Ann  
Hoffman-Contois, Razelle  
Levey, Rick  
Palmer, Eric  
Shively, Andy

**MEMBERS ABSENT**

Darrow, Casey  
Schultz, Barbara

**GUESTS**

Jenn Callahan  
Alysha Kane  
Dominique Golliot  
Jarod Wilcox  
Sara Packer  
Jeff Disorda  
Mike Bald  
Robert Hyams  
Eric Trucott  
Aaron Bohn  
Eric Penka  
Brian Chateauvert  
Michael Mainer  
Keith Morris  
Tyler Hanson

**Meeting Called to Order**

10:00 am EDT

**Meeting Adjourned**

4:15 pm EDT (C. Giguere moved, A. Shively seconded)

**Announcements**

- Razelle Hoffman-Contois announced that minutes from the February 28, 2017 meeting were finalized and posted to the VPAC SharePoint. As requested by the Council, both subjective comments and technical clarifications provided by Mark Heilman, Ph.D. (guest speaker) are included and clearly marked.
- Minutes from the April 5, 2017 meeting were reviewed and approved (lake association name corrected) by all members present (A. Hazelrigg moved, S. Bosworth seconded. Barbara Schultz provided approval via e-mail). Final minutes will be posted on the VPAC SharePoint.
- Razelle announced that all members present at the April 5, 2017 meeting had reviewed the Spheratax® products recently requested for addition to the AAFM mosquito larvicide permit application procedure and had provided her with feedback. No concerns were identified and all recommended that these products be considered for inclusion. A recommendation was submitted by the Chair to the Secretary of AAFM (via Cary Giguere), on behalf of the Council, that Spheratax® SPH (50 G) WSP and Spheratax® (50G) be added to the Procedure with the same conditions for use as those currently listed for *Bacillus thuringiensis* subsp. *Israelensis* and *Bacillus sphaericus*.
- Guidance for Non-Native Invasive Plant Species Monitoring and Control in Connection with Section 248 Projects by the Agency of Natural Resources Department of Fish and Wildlife (October 1, 2016) was noted. As development of this document was not mentioned during the September 9, 2016 VPAC meeting where invasive species control was a specific agenda item, at the October interagency workgroup meeting or any subsequent VPAC meeting, Cary has asked the Public Service Board to wait on any decision until AAFM and the Natural Heritage Program can develop a workable solution.
- Razelle noted that as requested by the Council at the April 5, 2017 meeting, Mark Heilman, Ph.D., provided additional information via Misha Cetner (Permit Analyst in DEC Lake and Shoreland Permitting) regarding water quality monitoring data post treatment with solid Sonar® herbicide products. This information has been distributed to the Council and will be discussed at an upcoming meeting.
- Razelle reported that, again this year, VT-ALERT can be used to receive electronic notification of planned herbicide application to utility, railroad and Vermont Agency of Transportation Rights-of-Way (ROWs). She encouraged the use of this additional option for notification. Paper copies of sign up instructions, general information on VT-ALERT and the Special Accommodation Request Form from Vermont Rail System's and New England Central Railroad's Integrated Vegetation Management Plans were available for pick up at the meeting. Information regarding VT-ALERT has been posted on the VPAC homepage and SharePoint. Razelle thanked AAFM for continuing this joint effort with the Department of Emergency Management and Homeland Security. Ann Hazelrigg asked how many people had used VT-ALERT for this purpose in 2016 (first year). Cary explained there was no way to know as there is no pre-rollout count to compare to. Razelle shared that over 200 people were signed up for the general environmental notifications category in May 2016. Cary noted that the entirety of Barre Street in Montpelier was notified by mail approximately 2 weeks prior to the 2016 Right-of-Way (ROW) treatment.
- Razelle advised that the VPAC SharePoint site has a new appearance but works the same as before.
- Cary noted an updated Integrated Vegetation Management Plan was received from the St. Lawrence and Atlantic Railroad. Razelle was provided with a paper copy which she will post to the VPAC SharePoint.

**Public Comment** – None

**Business**

## **Review of Permit Application to Conduct Herbicide Treatment within Rights-of-Way**

Several permit requests were reviewed and subsequently recommended to the Secretary of AAFM (Secretary) for approval. Since the May 2014 meeting, the Council has requested that a summary of pesticide usage (for at least the last two treatment cycles if there have been at least two) be included with each permit application or that such information be provided at the annual VPAC ROW permit application review meeting. Some applicants provided this information in the permit application package while others distributed during the meeting. Permits issued in 2016 and the 2017 permit applications discussed below have been uploaded to the VPAC SharePoint.

## **Morning Session**

### **Vermont Agency of Transportation (VTRANS)**

Jennifer Callahan and Alysha Kane, Stormwater Technicians with the VTRANS Operations and Maintenance Bureau, provided an overview of a new mapping tool VTRANS has developed for use by their applicators. The new tool was developed using ARCGIS and can be viewed on a desktop or in the field using an iPad (VTRANS has provided an iPad to each district for use throughout the treatment season). Existing information from paper maps and use buffers have been incorporated and the product allows for modifications while in the field. In response to questions from Ann Hazelrigg, Ms. Kane explained that field modifications will be vetted and synched to the master. However, red-coded No Spray Zones are fixed features and cannot be revised in the field. A demonstration of the product ensued including, but not limited to, how different buffers, sensitive areas and public requests for no treatment are depicted. The ability to add data on the fly was noted to be very useful particularly with respect to flagging the location of private wells as some are not currently geo-located. Applicators have received training on the new tool and are reviewing and updating their territories for treatment areas in 2017 accordingly. Sid Bosworth asked if there will be any post-rollout evaluation. Ms. Kane described how there will be a post season meeting that will include discussion of information added from the field, vetting of such and, if data is added to the master, inclusion of an appropriate buffer. Cary asked if the tool was able to capture where treatment actually occurred. Ms. Kane that at present it just captures where spraying could have occurred. Ms. Callahan noted this is a work in progress and they are looking at building in the capability to add information as to what areas were sprayed and when. The Council was very supportive of this effort. Ann suggested that such a tool could be very useful for the railroads as well. Ms. Callahan noted that sensitive areas will continue to be physically marked. Rick Levey offered that this could allow development of a good QA/QC process for the electronic product. Ms. Callahan confirmed that weekly spray reports will be provided. Ms. Callahan and Ms. Kane presented the 2017 permit application. In response to an inquiry from Rick, Ms. Callahan described that while anticipated use this season is expected to be similar to that reported for 2016, budget constraints and differing product application rates could result in decreased usage. Guardrail treatment did not occur in 2015 due to budget constraints and in order to reorient treatment timing. Ms. Callahan and Ms. Kane confirmed for Razelle that timing has been synched. Also, there is an effort to treat earlier in the growing season to exert early control and thus require decreased product use. Cary noted that prior to 2005, 3000 – 5000 pounds of active ingredient could have been used per year. Razelle noted that adjuvants were not included in the permit application and Cary explained these are not required to be included. Ms. Callahan offered to send a list for the file if desired. She noted that adjuvant may vary by contractor. Based on notes from the May 11, 2016 meeting, Razelle asked how the 2016 treatment went in the northern part of the state where a new contractor was used. Ms. Callahan explained that VTRANS worked closely with the applicator to bring them up to speed and while there were some equipment issues and challenges with reporting, it is hoped that these matters have been resolved in time for this treatment season. The Council voted that the application be forwarded to the Secretary for approval (C. Giguere moved, S. Bosworth seconded; 6 yes, A. Shively abstained).

## **Utilities**

The Council discussed each proposed treatment plan in detail. Pesticide usage and highlights of the 2016 treatment cycle were provided. As in 2016, applicants were requested to consider areas where ROWs may cross authorized recreational paths (e.g., hiking trails, bike paths) and that means of making the public aware that such areas may be treated with herbicides be included in management efforts, e.g., posting of signage (with contact information) at appropriate locations.

1. **Green Mountain Power (GMP)** – Jarod Wilcox presented both the 2017 Distribution and 2017 Transmission line permit requests.

#### **A. Green Mountain Power Distribution (fourth year post merger with CVPS)**

The 2017 permit application for treatment of the Distribution line and aspects of the 2016 treatment season were discussed. Mr. Wilcox described use of GIS maps (a link is included in the permit application). He demonstrated use of the link and map and noted that mapping capacity is evolving. Over 3000 public notification requests are on file. Extensive, individual notification and outreach is underway and expected to continue. He observed that such advertising is an effective way to reach out to and hear back from the public. Similar to VTRANS, the ANR data base of private wells is not singularly relied upon but rather private wells are also looked for and flagged in the field as some are not currently geo-located. It was noted that the 2016 treatment focused on the southern end of the line along the I-91 corridor. Mr. Wilcox offered that he personally vets all potential contractors and it is becoming increasingly difficult to find qualified contractors to conduct the required work and outreach. Lack of qualified contractors resulted in less areas treated in 2016 than expected. Ann asked if it would be worth having in-house contractors. Mr. Wilcox stated line of sight is in-house and the rest is out sourced. It is anticipated that more acreage will be treated in 2017. If the program begins around May 22<sup>nd</sup>, stump and basal treatment will be employed until about the 3<sup>rd</sup> week of June when leaf-out generally occurs. Herbicide usage graphs were provided and discussed. A small uptick in the use of Krenite® was noted. In response to Razelle's follow up inquiry from the May 2016 meeting, Mr. Wilcox reported that use of Krenite® alone was not found to be effective on roadsides as good coverage was hard to achieve and more product had to be used. A mix of Krenite® and Polaris® was found to provide good control and reduce the use of Krenite®. However, as this mix tends to yield more brownout, GMP is sensitive to public perception and considers this in determining where the mix will be used. The program continues to evolve. Stump treatment along roads with foliar off roads was noted as a potential option under contemplation. Eric Palmer asked for future usage graphs to reflect acres treated and not just pounds of active ingredient. Mr. Wilcox noted reports to the Public Service Board indicate 480 acres were treated on the Distribution Line in 2016 and that he will add such information to next year's submission. The Council unanimously voted that the application be forwarded to the Secretary for approval (A. Hazelrigg moved, R. Levey seconded).

#### **B. Green Mountain Power Transmission (fourth year post merger with CVPS)**

The 2017 permit application for treatment of the Transmission line and aspects of the 2016 treatment season were discussed. 961 acres were noted to have been treated in 2016. Herbicide usage graphs were provided and discussed. Mr. Wilcox noted an increase in product use in 2016 was related to bringing in some legacy lines that previously had not been managed using integrated vegetation management practices. He described a 2 year process for bringing legacy lines into GMP's IVM program: mechanical control in Year 1 followed by treatment in Year 2. As all legacy lines should be incorporated by the end of 2018, he expects decreased herbicide use in 2019. A 5-year treatment cycle has been established and by 2019 all lines should be on this cycle. Razelle asked about the proposed use of Method 240SL® with active ingredient (a.i.) aminocyclopyrachlor. Mr. Wilcox explained that use of this product in combination with Thinvert® would decrease overall chemical use as the application rate is significantly less compared to Rodeo® (a.i. glyphosate). He noted there had been a massive influx of public concerns regarding the potential use of glyphosate.

Razelle and Cary again recapped that a few years ago there were concerns regarding use of products with active ingredients in this family given a major issue that had been identified regarding phytotoxicity of low levels of a related compound, aminopyralid, found in compost. Given the uncertainties, ongoing research and regulatory revisions that were underway, in 2014 the Council agreed it best to wait a year for additional information to become available before a product with aminopyralid was considered for use. At the April 28, 2015 and May 11, 2016 meetings and again at this VPAC meeting, Cary and Sid explained that potential use of aminopyralid, and other chemicals in this family such as aminocyclopyrachlor, in railroad ROWs was not a use pattern of potential concern in Vermont as there is no direct connection unless ballast areas were grazed by animals which they are not. The concern is that aminopyralid, in particular, may pass through an animal's system and be present at a concentration in the animal's waste which if used in the production of compost could be problematic for plant growth. There is now more experience dealing with this family of herbicides and a better understanding of potential use patterns of concern and necessary precautions. These are now classified as Restricted Use Pesticides and uses that could potentially lead to low levels getting into compost have been removed from the label in the northeast. Razelle noted that concerns regarding compost were associated with phytotoxicity not human health. Based on updated information, since 2015 the Council has recommended for approval treatment plans that have included use products with such active ingredients.

Use of Method 240SL® (a.i. aminocyclopyrachlor) within utility ROWs was then specifically discussed. Razelle indicated that concerns regarding the proposed use of aminocyclopyrachlor are associated with potential phytotoxicity, not human health and it would be for AAFM to determine if the proposed use was appropriate. Rick asked Cary for AAFM's opinion. Cary indicated aminocyclopyrachlor is a reduced risk pesticide and that use makes sense in terms of resistance management. At Ann's suggestion, to help understand potential environmental mobility, the Council reviewed a summary of surface water analytical results provided by AAFM from samples collected between 5/19/16 – 6/29/16 post use of various active ingredients, including aminocyclopyrachlor, within railroad ROWs. Aminocyclopyrachlor was not reported above detection limit (0.32 µg/L) in any sample. Significant discussion ensued which covered many aspects including, but not limited to, physical properties, measures taken to prevent off site migration (i.e., applied in combination with Thinvert®) and whether a pilot would be in order as this is proposed for use in a utility ROW. Mr. Wilcox noted there is a line in Searsburg wholly contained on GMP's property that could be treated essentially as a test area. Andy Shively indicated that while his sense is previous damage was due to off-site movement, as we have a valued partner willing to participate and report back their findings in 2018, this approach would be consistent with that taken by the Council regarding similar matters to date. The Council agreed. Mike Bald (Got Weeds?) stressed the importance of reading the land as the southern part of the state had not fully re-equilibrated post tropical storm Irene. As a follow up to the May 11, 2016 meeting, Eric Palmer asked about notification where ROWs may cross authorized recreational paths (e.g., hiking trails, bike paths). Mr. Wilcox stated GMP will post E-911 trails, and remove signage after treatment. Cary requested that the date of treatment be indicated somewhere on the sign in case one is inadvertently not removed. Mr. Wilcox noted that Kingdom Community Wind Farm had been removed from the permit application as the question of how to approach control of non-native species remains undecided. Hand pulling is being conducted in this area. Work in the Mad River Valley is coming up. Notification and outreach has occurred. Based on quite a bit of public interaction, it appears more mowing may be used in 2017. The Council unanimously voted that the application be forwarded to the Secretary for approval with the condition that a test plot on GMP owned land be conducted using Method 240SL® and that GMP report back their findings next year (A. Shively moved, R. Hoffman-Contois seconded).

2. **Vermont Electric Cooperative (VEC)** – Sara Packer presented the 2017 permit request. VEC involves both transmission and distribution lines. Treatment will be mainly via selective low volume foliar. While VEC has not used any cut stump treatment to date, as in previous years, permission to do so is requested in the event it becomes necessary. Ms. Packer noted the goal is to implement herbicide treatment one year post mechanical control and that at most one-third of the area permitted for treatment is actually treated in a year. Usage graphs were discussed. In response to her inquiry, Cary confirmed for Ms. Packer that submission of system-wide maps is acceptable in the permit application. Less acreage is proposed for treatment in 2017. VEC does extensive research to identify properties that may abut. Methods of notification include door to door, radio and newspaper. Written notification of treatment is provided to anyone who has ever expressed concern. She reported they've had a good response from the public. VEC does outreach but if someone still requests no treatment, VEC does not treat. Ms. Packer described challenges and questions that had come up regarding landownership/easement requests in 2016. Jeff Disorda (VELCO) joined Ms. Packer in describing their joint experience attending the Town of Essex Selectboard meeting. The Town requested to be notified which presents a challenge as notification is currently tied to an account and the Town does not have an account. Ms. Packer explained they are working on addressing this issue. There are few roads where developers have deeded the roads back to the Town but these are in GMP's territory. An overview of interaction with the Montgomery Selectboard was provided. It was observed that interactions appear to be transitioning from the individual measure to Town Selectboards. A five year maintenance cycle is employed on the Transmission line so mechanical and foliar is done in the same year. Foliar after mechanical is used on the Distribution line. Certified organic sugar bushes were noted to currently present big challenges as they represent large acreage and can be very costly to maintain via only mechanical means. The Council unanimously voted that the application be forwarded to the Secretary for approval (A. Hazelrigg moved, S. Bosworth seconded).

3. **Vermont Electric Power Company (VELCO)** – Jeff Disorda presented the 2017 permit request. VELCO is on a 4 year treatment cycle. Usage graphs of gallons of product used per acre in 2016 were provided and discussed. Mr. Disorda described difficulties they are having controlling softwood species such as white pine, spruce and fir. The tank mix previously used was not highly efficacious, especially late in the growing season. In the past, stump cutting was used but stem density is now so high that this is not practicable (up to 500 stems/acres in some areas). VELCO has been carefully observing efficacy achieved by peers who use different products. They may be interested in working with GMP and test an area of ROW on land wholly owned by VELCO with Method 240SL<sup>®</sup>. Stump treatments were up in 2016 as part of the northwest reliability project (345 KV line that runs from Rutland to New Haven). Mechanical means including use of the brontosaurus have been employed. Mr. Disorda reported that VELCO participated in Corridor Assessment with the Audubon Society to get an idea of how bird species of particular interest may be using this area. He reported early successional habitat bird species tend to be present in areas where herbicides (e.g., Streamline<sup>®</sup>) have been used. In 2016 birds were tagged with geo-locators. They are poised to embark on an effort to recapture and see if they can track movement pattern. A GIS mapping system is being used. As others have reported, as the ANR private well database may not be complete, VELCO relies on field reports. Treatment is proposed to occur in scattered areas across Vermont in 2017. Structures from the 1960's continue to be replaced. The Council unanimously voted that the application be forwarded to the Secretary for approval (A. Hazelrigg moved, R. Levey seconded).

## Afternoon Session

### Public Comment -None

### **Railways**

Each permit application was reviewed and discussed in detail. Applicants were requested to take into consideration areas where ROWs may cross authorized recreational paths (e.g., hiking trails, bike paths) and that means of making the public aware that such areas may be treated with herbicides be included in management efforts, e.g., posting dated signage with contact information at appropriate locations.

As follow up to a question raised by Sid at the 2016 ROW meeting, Razelle asked whether rail inspections may be conducted upon request. Cary and Andy explained inspections are conducted in accordance with federal regulations. Sid offered that while he was curious as to whether an inspection report could help inform the Council's review process, particularly in areas where treatment with herbicides has not occurred for a long period of time, he was satisfied with the information currently available for review. Andy will see if an inspection has been conducted in an area where there has been limited chemical treatment and will report back to the Council with his findings.

The previously noted summary of surface water analytical results provided by AAFM from samples collected between 5/19/16 – 6/29/16 post use of various active ingredients within railroad ROWS were further reviewed and discussed at length. Razelle noted that this effort was conducted in response to the Council's May 2016 recommendation that use of a product with a.i. indaziflam and a product with a.i. aminocyclopyrachlor be accompanied by a surface water monitoring effort, for both active ingredients, along a portion of the treated rail corridor. Aspects discussed included, but were not limited to, characteristics of locations sampled, sensitivity of analytical reporting limits (confirmed to be sufficiently sensitive to detect levels of potential concern), the fact that all analytes were reported below detection limit in 8/9 samples, 3/7 analytes (including diuron) were reported above detection limit in the single sample where any detects were reported and then only diuron was detected at any concentration of interest.

### **1. Vermont Rail Systems (VRS)**

At the suggestion of Aaron Bohn representing VRS, an overview of the 2017 proposed treatment program and each individual permit application were presented by and discussed in detail with Brian Chateauvert representing RWC, Inc. The 2017 program proposes use of Method50SG<sup>®</sup> (a.i. aminocyclopyrachlor at 4.75 ounces per acres) and Opensight<sup>®</sup> (a.i. aminopyralid at 3.3 ounces per acre). When asked by Razelle, Mr. Chateauvert explained that the request for Opensight<sup>®</sup> is because use of different active ingredients helps prevent creation of resistant species and does not mean there was any problem with use of Streamline<sup>®</sup> (active ingredients aminocyclopyrachlor and metsulfuron methyl)<sup>®</sup> in 2016. He noted Method50SG<sup>®</sup> allows the applicator to begin treatment in Vermont and cross into New York that same day without having to change the tank mix. Other products proposed for use: Aquaneat<sup>®</sup> (a.i. glyphosate at 1 quart/acre first application; 2 quarts per acre second application); Esplanade 200 SC<sup>®</sup> (a.i. indaziflam at 4.5 ounces per acres) and Polaris AC Complete<sup>®</sup> (a.i. imazapyr at 12 ounces per acre).

There was extensive discussion of requested increases in treatment distances, including, where not prohibited by distance to water or other buffers or requirements, revision of the ballast treatment program from 10 feet either side of centerline of the tracks to 12 feet and the basis for such. Mr. Chateauvert explained it is believed that, where consistent with buffers and other conditions, treatment of an additional 2 feet either side of centerline will reduce encroachment into the treated area by plant material that lies just outside the existing distance (which essentially narrows the pattern) and help prevent growth of vines over the ballast and into the tracks.

Additional distance requests comprehensively discussed include: 24 feet from either side of a public or designated private road crossing for 300 feet before and 300 feet after the crossing; no more than 12 feet from centerline on the opposite side of the rail from the whistle post with a maximum width of 24 feet on the side of the whistle not to begin more than 20 feet before and end no more than 5 feet after the whistle post; spray width of no more than 24 feet from centerline for mileposts not to begin more than 20 feet before and end no more than 5 feet after the milepost. Andy stated he would like to see discretion employed rather than blanket use of such distances. Mr. Chateauvert described that the requested measures are already needed across the state. Ann asked about the increase in the amount of herbicide that would be used if such distances are employed. Solid estimates were not available and the amounts presented on the permit applications were noted to not reflect the requested revisions.

Rick asked if there has been an increase in line of sight related accidents. Mr. Chateauvert noted that while he does not have statistics, this can, and does happen routinely nationwide. Mr. Bohn gave the example of having to ditch a train to keep from hitting a manure spreader.

Eric and Rick question why revision is now being requested as the existing program has been in place for some time. The impetus for the current request was described to be safety concerns including the desire to be proactive, bring areas under control, ensure safe operation and prevent accidents. Mr. Chateauvert noted that some rail lines conduct extensive cutting only to find complete regrowth/overgrowth the next year. Ann asked if the requested revisions could be done within one treatment season or phased in. She and Razelle asked if a pilot could be conducted in 2017. Mr. Chateauvert replied as each section is equally important, thus, work should be conducted during one season.

Cary asked several questions regarding line of sight at road crossings, whistle posts and mileposts and if any safety issues have been noted, particularly with the latter two. Mr. Chateauvert stated whistle posts are being overgrown/blocked by plants which prevents the conductor from seeing them. This presents a safety concern as whistle posts signify when the horn must be sounded. Milepost are used to identify location which provides a critical public safety function and allows for robust HAZMAT/Emergency Response capacity. It was further explained that trains do not have an onboard/built in GPS system and that electronics are prohibited from use.

Sid and Andy asked if the distances requested are typical of what is used in other states or if the intent of the request is to set some standard. Mr. Chateauvert and Mr. Bohn explained that while no specific footage is established nationally, they are trying to start someplace and gave examples of various distances used in other areas. Sid offered he believes this makes sense, but may result in an increase in total usage for a couple of years. Mr. Chateauvert noted that while there may be an increase in total usage, acreage treated (and total usage) would decrease once areas are opened up and offered that this may ultimately decrease the need for a second application run.

For the benefit of new Council members, Cary recapped that in the 1970s the entire width of the ROW was allowed to be treated. This was revised in the late 1980s to ballast treatment 8 foot from either side of centerline. According to Razelle's notes, in 2009 this was revised to 10 foot from either side of centerline based on input from the Council's Railroad Vegetation Management Workgroup.

Sid offered that the requested revisions at road crossings essentially adds a new module to the program. He quickly researched if there is a legal stopping distance for vehicles approaching railroad crossings. Vermont Statutes Title 23: Motor Vehicles Chapter 013: Operation of Vehicles, Subchapter 007: Special Stops, 1071 Railroad grade crossings (<http://legislature.vermont.gov/statutes/section/23/013/01071>) was identified and discussed (also e-mailed to Razelle for posting to VPAC SharePoint and distribution to Council).

Eric observed that the requested 2 foot increase from each side of centerline for the ballast treatment program was subjective. Andy offered that consistent with the previous revisions noted, lacking guidance, best professional judgement must be used. The Council discussed the difference between permit conditions for buffers and permit conditions for safety and how difficult it is to quantify safety given the lack of discrete federal guidance. Cary noted that to date, the program has focused on ballast maintenance. Sight distances and maintenance of such is essentially a different, and important, conversation. He agreed this would be a new facet to the program. Andy offered that the safety aspect must be respected; that there will be some increase in acreage treated in order to provide safety and that while it will be hard to measure the amount of safety gain gained, the gain is legitimate.

Further discussion of estimated potential increase in herbicide usage ensued including the need for the permit application to accurately reflect anticipated usage associated with the requested revisions, estimating annual use from the 2016 treatment reports and using this to ground truth actual acreage treated and amount of product used with a request to evaluate a specific line (e.g., the Green Mountain Rail Line) from 2016 to 2017 using revised distances if approved.

Following up on a May 2016 request, Razelle reported that the current proposed treatment plan and surface water monitoring data had been provided with sufficient time to evaluate the potential use of a tank mix containing Aquaneat® (a.i. glyphosate) and Polaris AC Complete® (a.i. imazapyr) in the area of the Burlington Waterfront (as opposed to use of a glyphosate product only). Based on the information available for review, imazapyr represents reduced risk as no hazards have been identified in studies via any route of exposure. It was noted that use of this mix may result in decreased use of glyphosate.

The VRS 2016 treatment effort was discussed.

After extensive deliberation, the Council unanimously agreed to recommend the 2017 proposed VRS treatment plan (identical for all lines in VRS) and associated permit applications to the Secretary for approval with the following amendments and conditions: revised estimates of acreage to be treated will be provided to AAFM; Mr. Chateauvert will provide justification for changes in distances that were extensively discussed and a commitment to evaluate 2016 versus 2017 usage on one rail line related to these increased treatment distances. In addition, the Council stated that all applications forwarded to the Secretary for approval are with the recommendation that other existing caveats and cautionary provisions be carried forward. For example, language regarding timing of treatment to reduce the potential for human exposure (e.g., in rail yards, at crossings, at the Burlington Waterfront) and details of tie end to tie end treatment are to be included. Any additional line-specific caveats are noted in the individual permit application review notes below as warranted. (A. Shively moved, S. Bosworth seconded).

- Washington County (Barre) –The line between Main Street and Granite Street in Montpelier will be treated only once, and then only with a product with active ingredient glyphosate. Cary Giguere stated he will check in with the Mayor of Montpelier to determine if in person notification process employed in 2016 is warranted this year.
- Clarendon and Pittsford
- Green Mountain Railroad
- Pan Am Southern

- Vermont Railway – The Burlington waterfront be treated prior to 6 a.m. but not on a weekend or holiday and only with a mix of products containing glyphosate and imazapyr.
- Washington County Railroad Connecticut River Division

## 2. Central Maine and Quebec Railway (formerly Montreal, Maine and Atlantic)

The 2017 treatment program is the same as proposed for VRS. Treatment will be conducted by RWC, Inc.; thus, this permit application was presented by Mr. Chateauvert along with VRS and included in the discussion above. Review and recommendations regarding this permit application were moved and voted on along with those lines noted under VRS. The same caveats as noted for VRS were recommended.

## 3. New England Central Railroad (NECRR)

Michael Mainer presented the 2017 permit application. In 2013 this line was purchased by the Genesee and Wyoming. A 15 foot no spray buffer to water's edge is proposed. The 2017 program proposes use of Esplanade 200 SC® (a.i. indaziflam at 4 ounces per acres), Opensight® (a.i. aminopyralid at 3 ounces per acres) and Razor Pro® (a.i. glyphosate at 2 pints per acre). Ballast treatment is proposed. In addition, where not prohibited by distance to water or other buffers or requirements, a shoulder treatment program of 10 feet beyond ballast treatment each side of centerline via high rail truck with boomless nozzles on a 5 year cycle is proposed.

The Council had many questions and concerns regarding the proposed shoulder program. Mr. Mainer explained that the request comes from Genesee and Wyoming management as they would like to conserve limited resources and decrease the amount of mechanical control by limiting to use in sensitive areas. Cary noted that AMTRAK, a passenger line, runs along this line at higher speeds. Mr. Mainer did not know if the rail company owned a brush cutter and noted that given that other areas require use of limited resources, they are requesting a 40 foot spray pattern such as used in other states. He described that resource allocation, and resource conservation, were the impetus for this request. He noted the ballast is in good shape. The company would like to reach out and treat the shoulder. The Council noted this would in essence result in retreatment of the ballast as the first application would consist of ballast treatment and the shoulder treatment appeared to essentially cover both ballast and shoulder. Mr. Bald described the area behind his home where there is a berm that blocks spray from treatment of the rail line that runs behind. He noted that a 20 foot spray pattern each side of centerline would surpass this and specifically told Mr. Mainer not to spray this area of the line. It was noted that the requested program would require a significant mapping effort. Mr. Mainer did not have maps or estimates of acreage proposed for treatment. In addition, usage amounts in the permit application did not reflect the proposed programs. He noted the desire is to control vegetation 8-15 feet off the ground and described that the equipment employed would be boomless nozzles essentially spraying product from the side of a vehicle. Rick asked how such spraying addressed killing vegetation of the height noted. Mr. Mainer noted the intent is to spray out and downwards towards the base.

Sid offered that while he understood that the VRS rationale for requesting a ballast program allowing treatment of an additional 2 feet from centerline (where consistent with buffers and other conditions) was in order to ensure safe operation and provide protection of public health, he did not see the same argument could be made for the proposed NECRR shoulder program. Rick asked what the rail line was doing to incorporate Integrated Vegetation Management. Mr. Mainer noted they use mechanical where they can but have focused on taking care of the ballast. He did not have other information regarding IVMP available. Razelle and Rick noted that the proposed programs have many unknowns, including potential impact along the Connecticut River, estimates of how much track would actually be covered under this program, estimated increase in usage, maps and other factors. Mr. Mainer explained they only do maps and estimates of acreage due to surface water setbacks, otherwise the cost is too, great. Rick asked if current maps could be used as a basis and Mr. Mainer replied they only make the maps after they receive all calls requesting no treatment. Cary referred to a photo from the May 2016 site visit to Norton, VT and asked Mr. Mainer to identify what would be a target. Rick noted they are trying to control woody vegetation but would be spraying the product out and downward. He detailed how consideration of such a proposal requires data, identification of areas where there are problems, a sound rationale for why there is a need to use a significantly wider pattern and an analysis balancing increased pesticide use with public safety. Razelle stated that no technical information had been provided for the Council to consider.

Eric suggested that the Council consider the permit application in 2 segments: ballast and shoulder. He noted the proposed shoulder program presents conceptual challenges with regard to both width and intent. The Council unanimously agreed. Shoulder treatment was not recommended for consideration. Mr. Mainer was invited to come back in 2018 with additional information if he would like to revisit.

With regard to the proposed ballast treatment program, Cary moved that the proposed treatment be recommended to the Secretary for approval with all standard caveats carried forward along with those related to treatment of the Burlington waterfront e.g., treatment will occur prior to 6 a.m. but not on a weekend or holiday etc. and with the provision that treatment of ballast, consistent with buffers and other conditions, may occur 12 feet from centerline on each side as discussed for VRS above (this would be an increase from the 10 feet proposed in the permit application). Ann seconded. The Council unanimously approved. Cary subsequently noted that a study as to what a shoulder treatment might encompass could make for an interesting summer study.

## 4. St. Lawrence and Atlantic

Michael Mainer presented the 2017 permit application. The same treatment program as for NECRR is requested. An updated Integrated Vegetation Management Plan was provided (Razelle will upload to SharePoint). Andy and Razelle recapped conditions noted during a May 3, 2016 site visit to Norton, VT which was requested by the Council. Findings were presented and discussed during the 4/5/17 meeting.

Materials are posted on the SharePoint. Given the conditions observed, Razelle asked if there are any plans to conduct ballast work in the area. Mr. Mainer did not believe so and noted that conditions are such that chemicals treatment cannot correct the issues noted. A 15 foot no spray buffer to water's edge is proposed. Andy offered that given the conditions observed, he expects federal inspection will require decreased speed of 2 mph through this area. Razelle asked Mr. Mainer to share information regarding conditions observed with the rail company management. He noted they will continue to use a 500 foot no spray buffer around the property in question. The Council voted unanimously that the permit application be forwarded to the Secretary for approval with the caveat that a 500 foot no spray buffer be established both north and south of the property in question and that both ends of the buffer be clearly flagged (A. Hazelrigg moved, S. Bosworth seconded).

**Next Meeting Date:** To Be Determined