

VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS (AAFM)
VERMONT PESTICIDE ADVISORY COUNCIL (VPAC)
April 28, 2015 MEETING MINUES

MEMBERS IN ATTENDANCE

Bosworth, Sid
Decker, Kathy (via phone)
Gary, Lené (via phone)
Giguere, Cary
Hoffman-Contois, Razelle (Chair)
LaValley, Jenn (Admin)
Levey, Rick
Palmer, Eric

MEMBERS ABSENT

Darrow, Casey

GUESTS

Michael Bald
Sylvia Knight
Bob Wright
Dana Banks
Andy Shively
Jeff Disorda
Tim Harty
David Murray
Mariclaire Rigby
Brian Chateauvert
Ben Delorme
Eric Trucott
Randy White
Jeff Taylor
Michael Mainer
Martha Illick
Sara L. Packer

Meeting Called to Order

10:00 am EDT

Meeting Adjourned

4:45 pm EDT

Announcements

- Minutes from the 3/26/15 meeting were reviewed and approved by all members present with the correction of adding Rick Levey to the mosquito adulticide workgroup (C. Giguere moved, R. Levey seconded). Final minutes will be posted to the VPAC SharePoint site.
- Cary and Razelle reported on a 4/1/2015 investigatory meeting with the Department of Emergency Management and Homeland Security regarding potential use of VT ALERT all-hazards and notification web-based portal as a tool for public notification regarding pesticide treatment in rights of way. Cary noted that as a pilot, AAFM is working to coordinate establishment of a module within VT Alert where notification of permit initiation can be uploaded (permittees are required to notify AAFM before treatment is initiated). AAFM inspectors will sign up to receive such notifications and this will be used as a test of the system. Cary will report back on results of this trial. VT Alert home page <http://www.vtalert.gov/Public/SiteText/SiteTextDisplay.aspx?text=AboutSite>
- Razelle reported that, as agreed, the statement outlining the Council's concerns and revised recommendation regarding Natular G[®] were provided to Cary for discussion with the Secretary of AAFM. Cary confirmed receipt and completion of this action item.
- Razelle reported a confidential statement of formulation for the mosquito larvicide product Aquabac[®] (200G) was provided to Dr. Sarah Vose, State Toxicologist, for review of inerts. Review indicates addition of this product under the proposed use conditions is expected to result in negligible risk to public health. Based on this information and materials previously reviewed, the Council supports addition of this product to the Mosquito Larvicide Permit Procedure with the same conditions as currently listed for Vectobac G[®].
- VPAC SharePoint site continues to evolve. Please send any suggestions for improvement or documents for posting to Razelle.

Public Comment

- Ms. Marty Illick, Executive Director of the Lewis Creek Association (LCA), provided written comments prior to the meeting that were distributed to the Council; posted in their entirety to the VPAC SharePoint and presented in person at the meeting. Ms. Illick described the role of LCA in the Tactical Basin Planning program and in the Plan itself as well as LCA water and sediment monitoring efforts. She made several recommendations including, but not limited to, recommending that permit activities reviewed by VPAC be considered as a part of watershed planning; VPAC adopt a watershed based management approach; VPAC oversee and interpret additional environmental monitoring efforts; "VPAC toxins permit data" be shared with and included in the Vermont Agency of Natural Resources (ANR) Atlas to provide a visual of areas that may be treated under various permits. Rick Levey, ANR Department of Environmental Conservation (DEC), offered to provide VPAC with an overview of the Atlas at a future meeting. Rick noted that his review of the permits in question indicates these activities currently represent low risk to surface waters and that this is a well-managed use of pesticides in Vermont. He noted that use in Rights- of-Way (ROW) is integrated with decreased use and use of active ingredients with decreased toxicity. Thus, while a ROW use map layer could potentially be developed, it may not be a priority allocation of resources as other use patterns may be of greater impact e.g., homeowner use. Cary Giguere (AAFM) requested that any data layer developed be sent to the Secretary of AAFM for consideration. Cary described AAFM collaborative monitoring efforts outside of the ROW program with DEC and other partners. Sid Bosworth (University of Vermont) asked if such monitoring data was routinely turned

into formal reports. Cary explained this is project specific and sometimes a report is developed in conjunction with partners. Rick noted such information could help identify areas for further consideration where there could be greater potential for impact.

- Sylvia Knight identified herself as a resident of Charlotte, provided written comments prior to the meeting that were distributed to the Council; posted in their entirety to the VPAC SharePoint and presented in person at the meeting. Ms. Knight's comments focused on 5 areas: support for "Montpelier citizens in requesting that no herbicides be used along the track in Montpelier from the I-89 exchange to pioneer Street"; proactive maintenance of rail lines that run through Charlotte and timing of such activities; acknowledgment and appreciation for the use of a 15 foot buffer to surface water by New England Central Railroad and a request that the USGS conduct a water monitoring effort for glyphosate in areas adjacent to this rail line and adjacent to VT Railway ROW where lesser buffers were allowed; adoption of a watershed approach with regard to ROW permits and acknowledgement and appreciation for continued improvements to the VPAC SharePoint site.

Business

Right of Way Pesticide Treatment Permit Requests

Several permit requests were reviewed and subsequently recommended to the Secretary of the Agency of Agriculture, Food and Markets (Secretary) for approval. At the May 2014 meeting, the Council requested that a summary of pesticide usage (for at least the last 2 treatment cycles if there have been at least 2) be included with each 2015 permit application or that such information be presented at the 2015 VPAC Right of Way meeting. Some permittees provided this information in the 2015 application package while others distributed during the meeting. Those who came prepared to discuss usage and did so but who did not provide paper copies either in the permit application or at the meeting agreed to provide such to Razelle for distribution to the Council. Permits issued in 2014 and the 2015 permit applications discussed below have been uploaded to the VPAC SharePoint.

Vermont Agency of Transportation (VTRANS)

Andy Shively, manager of the VTRANS Pesticide Program, presented the 2015 permit application. Mr. Shively explained guardrail treatment will not occur in 2015 due to budget constraints and in order to reorient treatment timing. He noted the effort to GIS map all VTRANS assets including guardrails will help memorialize no spray zones. VTRANS overall goal is to limit treatment use. Treatment of highways and construction zones will be done on a case by case, as needed basis. As for medians, the proposal is to just mow and then cut stump treat if requested for a specific area. Vegetation control, using mainly foliar treatment, is proposed for state airport approaches and safety zones, on a case by case, as needed basis. Mr. Shively is investigating why District 4 reported higher than expected use in 2014 and hopes to have this resolved prior to July 2015. He noted his 2014 goal of formalizing the public notification and no-spray process is a work in progress. He was very supportive of developing VT Alert as a means of public notification. As requested, Cary will directly provide him with a list of current notification options. Mr. Shively would like to reach out and address any concerns of those who may have property near state airports. The Council unanimously voted that the application be forwarded to the Secretary of AAFM for approval (R. Levey moved, S. Bosworth seconded).

Utilities

The Council discussed each proposed treatment plan in detail. Pesticide usage and highlights of the 2015 treatment cycle were provided.

1. **Vermont Electric Power Company (VELCO)** – Jeff Disorda presented the 2015 permit request. Mr. Disorda noted they are watching information that becomes available regarding Streamline and have not requested it for use. Soft pines are still cut and treated. White Pine is still problematic as is Sugar Maple which is a prolific seeder. VELCO is on a 4 year treatment cycle. Usage graphs that compare allowed to actual usage data were provided and discussed. He anticipates less product will be used in 2015 than 2014 as new lines were treated in 2014. In 2014 low volume application in fresh lines with high densities meant slower going and good control but was labor intensive. It was noted that all projects have now been treated and VELCO is moving towards more of a maintenance program. Several products with the same active ingredient were requested on the permit in order to allow use of whichever brand is most easily obtained. VELCO is transitioning to electronic reporting by the crews. As requested in 2014, Mr. Disorda provided recently developed best management practices (bmp) to ANR where they are undergoing review. The Council unanimously voted that the application be forwarded to the Secretary for approval (E. Palmer moved, S. Bosworth seconded).
2. **Vermont Electric Cooperative (VEC)** – Sara Packer presented the 2015 permit request. VEC involves both transmission and distribution lines. A slight increase in proposed acreage to be treated was noted. Treatment will be mainly via selective low volume foliar. Ms. Packer noted the goal is to implement herbicide treatment one year post mechanical control. A few products with the same active ingredient were requested on the permit in order to allow use of whichever brand is most easily obtained. Usage graphs provided in the permit application were discussed. Cary and Rick inquired regarding the status of development of rare, threatened and endangered species bmp. Ms. Packer explained VEC continues to work on it; they have spoken with Bob Popp at ANR and unless Bob indicates something other than what has been developed by GMP should be used, VEC will likely adopt a similar approach. To date, if they come across a polygon that has not been addressed they just treat via mechanical means. Methods of notification include door to door, radio and newspaper. Ms. Packer noted written notification of treatment is provided to anyone who has ever expressed concern. She reported they have had a good response from the public. VEC does outreach but if someone still requests no treatment, VEC does not treat. There is an ongoing discussion with a beekeeper. The Council unanimously voted that the application be forwarded to the Secretary for approval (R. Levey moved, E. Palmer seconded).
3. **National Grid** – Mariclaire Rigby presented the 2015 permit request. Integrated Vegetation Management (IVM) is being used. Usage graphs were provided and discussed. A work plan for protection of rare, threatened and endangered species was developed with a botanist and provided to Bob Popp (ANR) for review. This will be used by the botanist to flag sensitive areas. Cary asked how work in Vermont compares to areas they own in other states, such as Massachusetts. Ms. Rigby explained that things are going well and they

essentially use the same provisions across all their rights of ways which translates to stricter requirements for contractors that work across states. Public notification includes newspaper ads, a letter to all abutters and door to door notification. The Council unanimously voted that this application be forwarded to the Secretary for approval (E. Palmer moved, R. Levey seconded).

4. **TransCanada Hydro Northeast-** Jeff Taylor (Vegetation Control Service, Inc.) presented the 2015 permit request for treatment in the Searsburg Penstock and Harriman Generating Station and distribution line Rights-of-Way. The Penstock was last treated in 2012. Methods of notification include newspaper and hand delivery to residents who are adjacent to the Rights-of-Way. A usage graph provided in the permit application was discussed. There was extensive discussion regarding the requested treatment buffers. Mr. Taylor described the layout of the Penstock and surrounding topography. Lené Gary (public member) queried whether non-chemical means of control was a viable option. Mr. Taylor explained there is only access on one side which is maintained by mowing a few times a year. The other side was described as treacherous with steep ledges and boulders and not possible to maintain using mechanical control. Concerns regarding how to address standing puddles were raised. After much discussion, the Council unanimously voted that the permit be forwarded to the Secretary for approval with the provision that there be a 10 foot buffer to flowing water, whether it be naturally occurring or due to a Penstock leak, when using cut stump treatment or selective foliar application and there be a 5 foot buffer to standing water (pooling/puddles) when cut stump treatment is used and 10 foot buffer when using selective foliar application.
5. **Green Mountain Power –** Jarod Wilcox presented both the 2015 Transmission and 2015 Distribution line permit requests
 - A. **Green Mountain Power Transmission (recently merged with CVPS) –** The 2015 permit proposes to include invasive species monitoring and treatment at the Kingdom Community Wind Farm (access road and corridor). Kathy Decker (Forest, Parks and Recreation) requested that Mr. Wilcox provide the Council with a list of species that will be looked for as well as the complete Invasive Species Monitoring Plan. Cary requested that a signed copy of the agreement/stipulation also be provided. Razelle Hoffman-Contois (Department of Health) noted inaccuracies in the Control Details sheets provided in the permit application. A corrected sheet was requested to be provided. Pesticide usage was discussed and a summary of usage data will be e-mailed to Razelle for distribution to the Council. Cary asked about the notification process since the merger with CVPS. Mr. Wilcox described that all Towns served are notified even if no treatment is planned for a particular area. He noted that no treatment has occurred on GMP North as of yet. Notification will be via newspaper ads, mailings and in person notifications. Personal notification letters were sent to thousands of customers. In 2014, Mr. Wilcox attended a meeting of the Waitsfield Select Board and reported this provided a good opportunity for outreach. Difficulties encountered regarding required language about a legacy fee for those who request no treatment were discussed. GMP has been exercising the waiver option but is still required by the Public Service Board to include this language in public notification which makes things very confusing for the public.
6. **Green Mountain Power Distribution (recently merged with CVPS) –** In a 2012 pilot, 15 trees along Congress Street in St. Albans were treated with a growth regulator product called Cambistat® under the lead of a former employee. Due to timing of application, 2013 observations indicate 2012 treatment was not very efficacious. Will continue to observe in 2014 and report back at 2015 permit review meeting. Mr. Wilcox reported that this concept is now being dropped as it was not efficacious and it is difficult to get support for direct soil injection. He noted that a new GMP manager had tried this product while at another utility and found it not productive. Mr. Wilcox described that in 2014 a couple of questionable applications were brought to GMP's attention by landowners. However, it is difficult to determine the details of such and their validity as the product in question does not show efficacy until the third year after application. Mr. Wilcox will be checking the area of potential concern closely in 2016 and will get a better gauge on any potential buffer issue. As he now manages both the Transmission and Distribution lines he will be watching things very carefully including well location and set back and waiting for leaf pop and conducting inspections. Razelle noted inaccuracies in the Control Details sheet and requested a corrected sheet be provided. Pesticide usage was discussed and a summary of usage data will be e-mail to Razelle for distribution to the Council. The Council unanimously voted to recommend both permit applications to the Secretary for approval provided the items noted Council are addressed and information requested is provided (E. Palmer moved, K. Decker seconded).

Railways

Each permit application was reviewed and discussed in detail. Applicants were reminded information on adjuvants and drift control products should be submitted.

1. Vermont Rail Systems (VRS)

The 2015 proposed treatment program and individual permit applications in the VRS were discussed in detail with Ben Delorme representing VRS and Brian Chateauvert representing RWC. The VRS Integrated Vegetation Management Plan has sunset and requires attention. Lené requested an updated Plan. Cary agreed to provide Mr. Delorme with a copy of the existing Plan which Mr. Delorme will update and submit to the Council by July. After extensive deliberation, the Council unanimously agreed to recommend the proposed treatment plan to the Secretary of AAFM for approval with the caveat that use of Esplanade 200 SC (active ingredient indaziflam®) at a rate of 5 ounces per acre must be accompanied by a surface water monitoring effort along rail corridors. Mr. Chateauvert explained he requested this application rate based on his experience that this is the maximum rate needed to provide effective vegetation control throughout the season based on a single application. The 2015 treatment plan also includes use of Opensight® (active ingredients aminopyralid and metsulfuron methyl). In 2014, the Council declined to consider use of this product. Cary explained that concerns at that time were associated with a major issue that had recently been identified regarding phytotoxicity of low levels of 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. Cary and Sid explained that potential use 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 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. Today there is more experience dealing with aminopyralid and a better understanding of potential use patterns of concern and necessary precautions. This is now

classified as a Restricted Use Pesticide and uses that could potentially lead to low levels getting into compost have been removed from the label. Razelle noted that the concerns regarding compost were associated with phytotoxicity not human health. Any line-specific additional caveats are noted in the individual permit review notes below.

The Council stated that any applications forwarded to the Secretary for approval, will be with the recommendation that all existing caveats and cautionary provisions be carried forward. For example, language regarding timing of treatment to reduce the potential for human exposure (rail yards, crossings, Burlington Water front etc.) and details of tie end to tie end treatment are to be included.

Razelle and Rick noted typographical errors that need to be corrected in the condition regarding buffers to waters and that the caveat regarding timing of treatment of the Burlington Waterfront must be included for the Vermont Railway (and also the New England Central).

Permit applications for the following individual lines that are part of the VRS were reviewed and discussed.

- A. Washington County – Public concern continues to be expressed regarding potential chemical treatment of the stretch of track that runs through the center of Montpelier as evidenced by e-mails and public comments. In 2014, after extensive deliberation, the Council agreed to recommend to the Secretary that a no spray zone be established for one year in the corridor that runs from Pioneer Street to the Route 89 overpass with the condition that the Council be briefed on the results of this effort at the 2015 meeting. The Council was willing to make this recommendation based on several factors including but not limited to, the indication from Mr. Delorme and Mr. Chateauvert that as this 2.5 mile stretch had been treated in 2013 a one year hiatus to allow those concerned to work cooperatively to determine if a functional, nonchemical means of vegetation control could be established would not result in degradation of track reliability or safety. At today's meeting, Mr. Delorme reported that a cooperative effort did not occur. The Council queried him extensively regarding why this effort failed. Based on the information provided, it is the Council's understanding that for safety reasons VRS could not support volunteers conducting mechanical control (e.g., mowing) on the tracks. In addition, Mr. Delorme explained that funding from the rail company would be necessary to support even a volunteer effort as equipment and materials would need to be paid for. Cary noted that due to concerns about vegetation maintenance, the City of Montpelier recently sent several Parks and Recreation employees to AAFCM for training to become certified pesticide applicators. The Council and all present discussed various types of non-chemical means of control and associated challenges and lack of efficacy. Lené confirmed the results of the last Alternative Vegetation Management Committee. The Council requested a briefing on the current condition of the stretch of track in question. Mr. Delorme and Mr. Chateauvert described that the track has become overgrown and presents a safety issue. Eric Palmer (Fish and Wildlife) summarized this as a complex issue consisting of interwoven safety concerns related to not treating this stretch of track and the need for multiple, effective options for public notification. He, and the entire Council, continues to encourage a dialog between the rail line and the concerned public. The Council stressed that maintenance of rail rights-of-way is essential for safe, reliable operation of this allowed mode of transportation while at the same time control methods employed must be protective of public health and the environment. To this end the Council unanimously voted to forward the proposed permit to the Secretary of AAFCM for approval with the traditional caveats; an additional caveat regarding timing of treatment in the area of the bike path (similar to that recommended for the Burlington Waterfront); use of glyphosate only on the stretch of tracks that runs from the Credit Union to the Hunger Mountain Coop with treatment to occur in July and only during times of low pedestrian traffic (R. Hoffman-Contois moved, R. Levey seconded).
- B. The proposed treatment program for the other lines in the VRS is identical to that for the Washington County. The Council unanimously voted that the following applications be forwarded to the Secretary for approval with any additional caveat noted below (unless otherwise noted R. Levey moved, S. Bosworth seconded).
 - Pan Am Southern – with standard caveats - presented by Dana Banks and Brian Chateauvert (S. Bosworth moved, E. Palmer seconded)
 - Green Mountain Railroad – with standard caveats
 - Clarendon and Pittsford – with standard caveats
 - Vermont Railway – with standard caveats and the Burlington waterfront be treated prior to 6 am but not on a weekend or holiday
 - Washington County Railroad Connecticut River Division – with standard caveats and sampling

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

Randy White and Brian Chateauvert presented the 2015 permit application. Mr. White noted that while no chemical treatment occurred in 2014 as the line was in between owners, a lot of tie and ballast work was conducted. The 2015 treatment program is the same as proposed for VRS. An updated Vegetation Management was provided and will be posted to the VPAC SharePoint. The Council voted unanimously to recommend this application to the Secretary of AAFCM for approval with the same caveats regarding use of Esplanade SC 200 (S. Bosworth moved, R. Levey seconded).

3. New England Central Railroad (NEC)

Michael Mainer presented the 2015 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. In addition, an area in Barre Town where the tracks run close to endangered plant species will not be sprayed. The proposed treatment program includes use of Esplanade 200 SC® and Opensight®. The Council requested that the standard caveats be carried forward along with those related to treatment of the Burlington waterfront e.g., treatment will occur prior to 6 am but not on a weekend or holiday etc. Cary noted NEC needs to submit an Integrated Vegetation Management Plan. Cary will send them the template and a Plan is to be provided to the Council by July 1, 2015. NEC is abiding by

Bob Popp's (ANR) map to ensure protection of endangered and threatened species. The Council voted unanimously that this permit application could be forwarded to the Secretary for approval with the caveats and provisions noted (E. Palmer moved, S. Bosworth seconded).

4. **St. Lawrence and Atlantic**

Michael Mainer presented the 2015 permit application. The same treatment program as described for New England Central is requested. A 15 foot no spray buffer to water's edge is proposed. In 2014, VPAC suggested that a representative of the rail line may want to investigate the status of the track in the area of Norton that has historically not been treated and reach out to current occupants to initiate a discussion. Mr. Mainer reported that the occupants remain the same. He described that years of no treatment caused issues with the Rail Company last year. Some work has been done up there. The Council voted unanimously that the permit application be forwarded to the Secretary of AAFM 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 (R. Hoffman-Contois moved, R. Levey seconded).

The same pesticide program as described for New England Central is proposed. It was suggested that a representative of the rail line may want to investigate the status of the track in the area of Norton that has historically not been treated and reach out to current occupants to initiate a discussion. The Council voted unanimously to recommend this application to the Secretary for approval (S. Bosworth moved, C. Giguere seconded).

Next Meeting: June 10, 2015 1 pm EDT Montpelier National Life Building Ottauquechee Room M205
Agenda: To Be Determined