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GOVERNOR

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

HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

January 18, 2013

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

MINUTES

Present: Eckert, Flewelling, Granger, Jemison, Morrill

1. Introductions of Board and Staff

- The Board, Assistant Attorney General Randlett and staff introduced themselves.
- Staff present: Jennings, Connors, Fish, Hicks, Schlein, Tomlinson, Bills

2. Minutes of the December 7, 2012, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

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

3. Adoption of Proposed Amendments to Chapter 10

(Note: No additional public comments may be accepted at this time.)

On August 15, 2012, a Notice of Agency Rulemaking Proposal was published in Maine's daily newspapers, opening the comment period on the proposed amendments to Chapters 10, 27, and 50, and the proposed repeal of Chapter 21. A public hearing was held on September 7, 2012, and the written comment period closed at 5:00 PM on September 28, 2012. The Board reviewed the merits of the proposed amendments to Chapter 10 at the October 27 and December 7, 2012 meetings, and instructed the staff to make changes based on Board findings. The Board will now determine whether it is appropriate to adopt the revised amendments.

Presentation by: Henry Jennings
Director

Action Needed: Decision on whether to adopt the proposed amendments

- Jennings said that the changes requested by the Board had been made, including eliminating the reference to a license requirement for government employees making recommendations, and removal of the requirement for written permission for adults other than parents to apply repellents to a minor.
- Connors noted that in Section 2.P(3) “pesticide” should be singular.
 - **Flewelling/Eckert: Moved and seconded to accept the amended rule, the Basis Statement, the Statement of Impact on Small Business, and the Summary of Comments and Responses, as written.**
 - **In Favor: Unanimous.**

4. Consideration of the Plant Incorporated Protectants (PIP) Technical Committee Report

Syngenta Seeds, Inc., submitted registration applications for two new *Bt*-field-corn seed products that feature a reduced spatial refuge requirement. Since the PIP Technical Committee had not evaluated the reduced spatial refuge products, a review of this technology was warranted. The Board’s PIP Technical Committee met on December 4, 2012, to discuss risks and benefits associated with the new requests. The Board will now review the Committee’s report.

Presentation By: Lebelle Hicks
 Staff Toxicologist

 John Jemison
 Board Chair and PIP Technical Committee Chair

Action Needed: Evaluate the risks and benefits of the reduced spatial refuge products

- Jemison explained that the Board had been asked to consider two new hybrid types of corn, with different refuge requirements from those already approved. The Technical Committee met and considered the request, and a report was written with the Committee’s conclusions, along with some history to help those not familiar with the issues. He said the Committee had not been able to reach a consensus, adding that there was some logic to approve the requests and some logic not to.
- Hicks pointed out that these requests are for spatial refuges, while the currently approved products are five- and 10-percent refuge-in-a-bag products.
- Eckert asked if the proteins are the same and Hicks replied that they are identical.
- Flewelling asked why anyone would rather have a spatial refuge than refuge-in-a-bag. Jemison said that it’s possible a few growers would want to be able to use a structured refuge as a tool for evaluating any pest management benefit. It might be helpful for cutworms, where you could go in and actually spray if you saw some activity during the year; with a spatial refuge you would be able to see the activity. A grower might also buy this corn if they wanted redundant *Bt* proteins and they couldn’t get them with refuge-in-a-bag. He pointed out that there hasn’t been a lot of long-term research done on these proteins and that the resistance science has been done with modeling. Some people think that having two proteins in the corn will allow growers to use either refuge-in-a-bag or reduced refuge; Technical Committee member Andrei Alyokhin said

that there is not a lot of science to support the premise that resistance won't develop based on what the Committee read, but enough for EPA to register it.

- Granger asked if there was evidence that the worms detect the proteins and leave the corn alone. Jemison said that, so far, it was speculation, but Alyokhin thinks it will work. The idea being that the insects sense something is amiss with the corn and move onto other corn. The idea of a block refuge is that there will always be a population of insects that have never been exposed to breeding with the potentially resistant organisms.
- Jemison said the strength of having either refuge-in-a-bag or 20-percent refuge is that there is a degree of simplicity; while farmers are capable of doing a five-percent spatial refuge, the current products are simpler.
- Granger asked if these questions were unique to Maine or if other states have the same concerns. Jemison replied that almost all of the insects controlled by these products do not overwinter in Maine. If resistance develops in Maine, it would be because it developed in other states and the adults flew into Maine. He said that resistant western corn rootworms have been found in the Midwest; the *Bt* complex was not very effective on them, and it was like giving them a low (sublethal) dose. Northern corn rootworms don't do the magnitude of the damage that western corn rootworms cause, but he suspects that the effectiveness of the *Bt* on northern corn rootworm is likely also a sublethal dose and could promote resistance. The difference is in the damage between the two species of rootworm.
- Morrill asked whether growers are asking for the products and if they want to use it. He also asked how difficult it would be to enforce two different spatial refuges?
- Lauchlin Titus said that no one has asked him for it. He said he suspects Syngenta wants it registered in Maine because it's registered elsewhere and it's difficult for them to keep track of what you can and can't sell in Maine. He said they probably won't sell a lot, but there is some desirability to being able to market a full product line.
- Eckert asked if any research was being done to determine which technology works better. Jemison replied that no one in Maine is doing that research. He said a grower is most likely to have success with this technology in grain corn; if a grower has a horrible cutworm problem, he would see some population issues in the field before it killed worms. For grain corn growers it could be an issue because corn might be on the ground; silage corn could still be harvested.
- Eckert asked if any of these products were for sweet corn and Jemison replied that they were not.
- Eckert said that in the 90s the Board was approving products based on need and she doesn't see a real need here. Hicks pointed out that that's a standard the Board holds genetically engineered products to, but not other products.
- Jemison said that the strength of approving the products is that it simplifies things from a business side, and if a grower couldn't get the corn they wanted in refuge-in-a-bag they could get it with this product, but that seems unlikely to happen. The concern is that growers know what to do now, so why make things more complicated, especially when there is a low likelihood that anyone will use it.
- Eckert said that one advantage of a block refuge is that it can be used next to a neighbor. Jemison said that with refuge-in-a-bag, if a neighbor asks for it, we still require a buffer.
- Granger said that he felt the Board should make the product available if there is no compelling evidence against it.
- Katy Green said that at the *Bt*-corn session at the Ag Trades Show Jemison posed a question about how many people are following the refuge and 11 percent said they were not. Jemison explained that it was difficult to interpret the significance of the responses. Of the 100 or so

people in attendance, only 25 had used *Bt* corn, and of those, two, or 11 percent, had not followed the refuge.

- Dave Struble pointed out that Maine is a dead-end for many of these pests. Most pests do their damage and die, so what is the worst-case scenario if growers don't use the refuge? Jemison said the European corn borer will overwinter and we think black cutworms occasionally overwinter; if resistance does build up in a population, the product will lose effectiveness. He said it is not clear whether pests that develop resistance to this particular protein would also be resistant to topically applied *Bt*.
- Randlett said that when considering products for registration, they are required to consider five things (*see criteria in agenda item 5 below*). The Board needs to make affirmative findings to these under Maine law.
- Eckert stated that this is not about science; it is more about a philosophy, because, in her opinion, there isn't any compelling science to support the need for these products. The Board should be monitoring these products because there is public concern, and the more products there are the more difficult it is to keep track of them. She reiterated that there doesn't seem to be a need for these products.
- Hicks pointed out that the EPA is keeping track; these products are being monitored.

5. Consideration of Registration Requests for Two New *Bt*-corn Products

Syngenta Seeds, Inc., has submitted registration requests for two new *Bt*-corn products—Agrisure Viptera 3220 Refuge Renew Corn (EPA No. 67979-15), and Agrisure 3122 (EPA No. 67979-17). Both products feature a 5% spatial refuge. The Board will now decide whether these new products meet the criteria for registration in Maine.

Presentation By: Mary Tomlinson
Pesticides Registrar/Water Quality Specialist

Action Needed: Decide whether to approve/disapprove the registration requests

- **Granger/Morrill: Moved and seconded that the Board approve registration of the two products.**
- Randlett reminded the Board about the statutory considerations contained in 7 M.R.S. § 607 (8-A) (A) for registering a product.
- Criteria 1: Does its composition warrants the proposed claims for it?
 - **Board: yes (unanimous).**
- Criteria 2: Does its labeling and other material required to be submitted comply with the requirements of this subchapter?
 - **Board: yes (unanimous).**
- Criteria 3: Will it perform its intended function without unreasonable adverse effects on the environment?
 - Jemison stated that it is difficult to argue against registering these new products, since it has already been approved in other forms.

- **Board: yes (unanimous).**
- Criteria 4: When used in accordance with widespread and commonly recognized practice, will it not generally cause unreasonable adverse effects on the environment?
 - Eckert said that it probably won't right away, but might someday. Fish replied that that's true of almost every pesticide.
 - **Board: yes (unanimous).**
- Criteria 5: Does a need for the pesticide exist?
 - Jennings remarked that there are over 11,000 products registered. The Board doesn't ask whether there is already a product that controls that pest; otherwise there would be only one product per pest. The question really is, does the pest exist and is there a need to control it?
 - Jemison said that, in his opinion, this complicates things unnecessarily; the product is available in a form that simplifies use, why complicate it? It's not for the benefit of the growers, but for the benefit of the manufacturers.
 - Eckert said that standards should be different for GMOs than for other products until more is known about them.
 - Morrill said that the need had already been determined by registering other products; this product is no different than those already registered. Furthermore, there may have been no demand only because the product wasn't available.
 - Eckert said that it is also about making a product where the user can't mess up rather than a product where he can; common practice in medicine. Fish remarked that that is a great analogy; there are a lot of pesticides which can cause problems if used incorrectly. Hicks said that the Board doesn't consider that when registering other pesticides.
 - **Board: yes.**
 - **In Favor: Morrill, Granger, Flewelling.**
 - **Against: Jemison, Eckert.**
 - **In favor of approving the registration requests: Morrill, Granger, Flewelling.**
 - **Opposed: Jemison, Eckert.**

6. Discussion about Potential Amendments to Chapter 20 in Order to Facilitate Public Health Mosquito Abatement Programs

At its September 7, 2012, meeting, the Board adopted an emergency amendment to Chapter 20 of its rules. The purpose of the amendment was to facilitate public-health-related mosquito-abatement programs, in the event that risks of a mosquito-borne-disease outbreak become critical. The emergency amendment expired on December 12, 2012. Dr. Stephen Sears, State Epidemiologist, provided an overview of the state's likely response to a critical mosquito-borne-disease threat to the Board at its December 7, 2012, meeting. Following the overview, the Board directed the staff to prepare information for discussion of a permanent rule amendment at the January 2013 meeting.

Presentation by: Henry Jennings
Director

Action Needed: Determine the appropriate concepts to include in a draft rule amendment

- Jennings said that the Board had asked the staff to do some research about mosquito spraying in other states. The staff spent quite a bit of time exploring both laws and implementation, especially in the other New England states. Jennings talked to a person from Dynamic Aviation, the company which does a lot of the aerial spraying for mosquitoes, including Massachusetts, Vermont, Florida, and Texas. That person indicated that states were extremely variable in what they tried to exclude. In Texas in 2012, the threat was high, but the mosquito populations were low, so nothing was excluded. Massachusetts on the other hand has four exclusion categories: organic farms, public water supplies, fish hatcheries/aquaculture, and endangered species. He stated that his contact from Dynamic Aviation observed that the more exclusions there are, the fewer the number of mosquitoes killed, and efficiency goes down.
- Jennings referenced the handout. In Massachusetts, the state did all the mapping; several agencies were involved and the exclusions were coordinated into a dataset for the applicator. The spraying was done using a fixed-wing plane at 300 feet, with a 1,000-foot swath. Therefore, every exclusion area is 1,000 feet wide, and they leave a 500-foot buffer before and after, so each exclusion area is at least one million square feet (23 acres). In Massachusetts, farm country is not considered prime mosquito habitat, so they weren't too worried about excluding farms, but if Maine tries to exclude a lot of small parcels, they're going to end up with a lot of big holes. It's easy to exclude large surface water supplies like Sebago Lake. Jennings said he thought what the Board had written last time (Chapter 20 Emergency Amendment 2012) was fairly well thought out; notification is always key.
- Jennings said that in Massachusetts they did some studies on residue on cranberry bogs and found none. The products either evaporate or potentially begin to break down before reaching the ground. Staff couldn't find any data about residues found on the ground.
- Jennings also contacted the federal CDC. It was difficult finding an official CDC position on public-health, mosquito-control programs, but the e-mail from Dr. Roger Nasci, Chief, Arboviral Diseases Branch, shows that the CDC supports adult mosquito-control programs as part of an integrated vector-control program when the disease threat is high. It is obviously better to get out ahead with larviciding, but that is not always practical; it is expensive and labor intensive, especially in a state like Maine, where crypts are numerous and spread out. Other states that routinely do mosquito control do a lot of that kind of work, but much of it is around nuisance mosquitoes and they work year round.
- Eckert stated that a lot of issues have been raised, but she's not sure they're in the Board's purview; larviciding, incident command structure, etc., are really not the Board's place. Hicks said that it is the Board's place to get out of the way of the CDC if they want to do something. Eckert said the Board would perhaps be asked to provide technical assistance.
- Jennings said that there is a bill in front of the Legislature that would give the state some authority to conduct mosquito abatement. Without that authority it would be up to municipalities. Under that bill, the Maine CDC would have the authority to determine, if the threat is high, when and where spraying would be appropriate. The ACF Department would coordinate education, monitoring, and control efforts. There are several entomologists in the department and some employees in Forestry have experience in administering aerial spray programs. In addition, there is mapping expertise. The question before the Board is: are there rules that would make spraying impractical and does the Board want to do something about it?
- Jemison asked if there was anything in the proposed bill about avoiding organic farms or water supplies. Jennings said there was not, and Jemison suggested it was up to the Board to put something in its rules.

- Jennings explained that the proposed bill is similar to how other states operate; it makes it up to the public health agency to determine when it's appropriate to spray, but gives authority to another agency to coordinate. In this case, they're looking at the ACF Department because there are a lot of useful resources and skills within the department.
- Jennings said that another question that's been around, which is not our question, is: does spraying work? The research found by the staff indicates that it does both control mosquitoes and reduce risk of disease. The best studies were done in California; they looked at incidence of WNV and found that spraying statistically reduced risk.
- Granger suggested looking at it another way; regarding section E(iii) (of the 2012 emergency amendment), the intent is not to make aerial applications to farms etc., the intent is to make the application to the air. These sprays target the air intending to kill insects in the air; if the spray lands on the ground, it becomes drift. He suggested changing "to" to "over." The drift rule specifies that any off-target residue exceeding one percent of the residue found in the target area constitutes evidence of a violation. It's not possible to measure residue on the intended target (if air is the target), so there's no way to know.
- Jennings pointed out that there is a public health exemption in the drift rule. Fish also noted that in addition to the one-percent residue, causing an organic farm to lose its certification is also a violation to the drift rule. Schlein said that the national organic program uses the word "contact," which seems to be the key here. Katy Green said that with livestock operations that's equivalent to losing certification, because growers cannot sell the livestock as organic throughout the entire life of the animals.
- Hicks said that the difference is that, for registration, EPA relies on residues; for certification organic growers use process.
- Eckert asked, referring to Section E(iii), if there are any diseases that are not arboviral that might be an issue. She suggested changing from arboviral to mosquito-borne.
- Eckert said she was in favor of trying to exclude surface waters, but she understands from Randlett that "making an effort" is not enforceable. Jennings said that it has not been an issue in other states; if someone wants to be excluded, they figure out a way to handle it. He suggested the Board might not want to limit themselves by putting exclusion areas in rule, but instead rely on an implementation plan. He noted that in Massachusetts nothing is in their rule, it's all in an implementation plan.
- Dave Struble suggested that in a full-blown emergency, with people falling dead in the street, rights will get thrown aside; the point, he said, is what are we going to do when it's not an emergency?
- Jennings said that, in Massachusetts, they get the maps ready early, so they're prepared. They update them every year; state agencies are responsible for doing the work.
- Dave Bell commented that, although they are still learning about the issue, there are some potential concerns about wild blueberries. He said that many customers have residue specifications and any detect from a spray would make their product unsalable. It's good to know that there were no residues found on cranberries in Massachusetts; also, spraying after September 15 wouldn't affect blueberries, as they're all harvested by then. He is hopeful that any spraying could be done in a way that didn't result in unsalable product.
- Doug Bowers suggested it would be helpful if he explained the mechanics involved. With potatoes, a ground application would be about 15 gallons per acre of water with some pesticide in it; water droplets can be seen on the field. An aerial application of the same pesticide would be 5 gallons per acre; might still see some droplets. Mosquito products are applied at a rate of $\frac{2}{3}$ of

an ounce per acre, the total amount of spray mixture is 2.5 ounces per acre. At 300 feet; nothing will fall on your face if you stand there; nothing reaches the ground; they are very fine particles.

- Hicks pointed out that it is ultra-low volume; the idea is to keep it airborne as long as possible, because that's where the adult mosquitoes are.
- Doug Bowers also said that the aircraft has GPS, which shows exactly where they can and can't spray. There is an auto-shutoff for exclusions, and it records and maps where spraying occurred.
- Jemison asked if blueberry field owners would want to provide their location information so they could be excluded. Dave Bell replied that it depended upon whether growers believed if there would be residues that might affect marketability of the crop.
- Morrill said there needed to be a discussion about exclusion zones. A lot of small farms could end up with large exclusions.
- Doug Bowers said, in Maine, they might be using a helicopter with a 500-foot swath. The controlling agency that contracts for the spraying would give the applicator a file of what not to spray.
- Katy Green said that it wouldn't be that many acres (for organic farms); in Cumberland and York there are 1,000 certified acres, so with buffers maybe a total of 2,000 to 3,000 acres.
- Dave Bell said he wanted to make it clear that they're not interested in doing anything right away; they just want the rule to include an opt-out provision so growers would have the option if it becomes necessary.
- Jennings said there's plenty of incentive to protect sensitive sites without putting it in rule; he suggested tweaking the language, "protect sensitive sites as prescribed in plan." He is concerned about putting too many details in rule because rules are difficult to adjust; also, if there's a notification piece it would make the rule major substantive and have to be approved by the Legislature. Hicks pointed out that the public health plan is not the Board's document. Jemison said he was concerned that it would not be enforceable. Jennings suggested working with Randlett to come up with language that makes the intent clear. Jemison said the language has to show that there is concern about certain areas.
- Eckert pointed out that the chance of having an epidemic of any of these diseases is extremely low. She suggested the Board might want to wait to see what comes out of the Legislature since that might impact what the Board might need to do. Jennings said he felt the Board ought to move ahead; whatever the Legislature passes will not affect what the Board needs to do. He pointed out that there should also be amendments to Chapter 22, as the public health exception there isn't broad enough to cover this situation. He asked for the Board's guidance on what the rule should look like.
- Randlett said he liked the idea of referring to an implementation plan.
- Jennings said it sounds like the Board is saying that if the Maine CDC declares a public health threat and recommends spraying, the Board doesn't want any of their rules to be in the way. It should be similar to the 2012 emergency amendment; some kind of middle ground language that doesn't put the state in jeopardy of violating state law.
 - **Consensus was reached to move forward with rulemaking and schedule a public hearing on March 1, 2013, for Chapters 20 and 22.**

7. Discussion of Board Priorities

The staff is currently juggling a variety of important tasks which include a mandate to convert its webpages to a new template, a mandate to conduct training for the new Agricultural Basic licensees, a need to convert its licensing database to an enterprise software platform that allows for electronic transactions, and the need to convert the current master exam to a written format. In addition, there is the potential rulemaking effort to facilitate public health mosquito abatement programs and there may be several pesticide-related bills in front of the Legislature. However, the staff would like input on which future projects, including any remaining priorities from the March 2012 planning session, are most important to the Board when discretionary staff time arises.

Presentation By: Henry Jennings
Director

Action Needed: Provide guidance to the staff on Board priorities

- Jennings stated that, at some point, it may be appropriate to open all the licensing chapters at once and try to standardize them. The staff would like to be able to renew licenses online and take money online, but that has nothing to do with the rules. He said there is some question about whether there should be a planning session; usually these priorities are discussed at a planning session, but from the staff's perspective, there seems to be no difference between a Board meeting and a planning session. Eckert asked if there was anything left from the last planning sessions and Jennings said only the licensing chapters.
- Jennings mentioned that the Department is revamping the entire website, which will take a lot of staff time in the coming months. Moving to new database software will facilitate some of the desired changes, such as checking licenses and credits online, online payments, etc. The staff is also working on rulemaking. The staff would like to think about where to go as far as educational outreach, minimizing reliance on pesticides, etc. He mentioned that English as a second language had come up recently and the staff would work on something for that for the next meeting. Are there any other topics that the Board would like to bring forward?
- Jemison asked if the Master's exam was going to be totally written. Jennings replied that although the exams would be written there would still be an interview component; there is definitely value to talking one-on-one, but two people for two hours was taking too much staff time.
- Morrill said he thought it was great that we were thinking about English as a second language. He said the WPS is translated into Spanish, that agricultural workers are primarily Spanish, and that labels are in both English and Spanish. Fish pointed out that Spanish labels are not legal. Jennings said they would do some research and summarize information and bring to the next meeting; aside from the fact that there may be thorny legal issues, there's a resource issue also. The Board needs to decide where this fits into its priorities. Morrill said he has a lot of workers who speak Spanish; they have worked hard to learn English. Eckert said that it would be important to know if legal documents are available. Morrill said they need to be able to read the label regardless—that's the crux of the matter. Eckert replied that there are nuances to language which makes it difficult if English is not your primary language. The exams need to be a fair test of whether they can understand the label.
- Jemison remarked that the Board has tabled the issue about people who make pesticide recommendations. Jennings suggested that that be handled in the context of licensing; work on all together. He said that how we do recertification is very time intensive for the staff and should be looked at. Jemison asked how other states handle it and Fish said it varies—some audit a

certain number each year, other states require applicators to send all their credit information when they renew their license. Some states require that all licensees attend certain meetings each year instead of recertification credits.

- Jemison suggested that some paperwork could be eliminated by approving those with other certifications. Jennings said they wouldn't need to change the rule to do that; it could be done by policy.
- Lauchlin Titus suggested using bar codes on the licenses. Fish said it has been considered; it requires a different type of work, and would require buying the readers. Jemison suggested sign-in sheets at meetings, and Fish said they do that, but it still requires entering the data into the computer, and copying the sheets to put one in each attendee's file for backup in case of an error. Eckert said that many groups have a way that you enter the information yourself and then it's audited. Jennings said he hopes there will be movement soon on the ALMS database conversion; there is federal money set aside for it.

8. Election of Officers

The Board's statute requires an annual election of officers. The members will choose a chair and vice-chair to serve for the coming year.

Presentation By: Henry Jennings
Director

Action Needed: Nominations and election of officers

1. Granger suggested postponing until more members were present. Randlett said that was OK.
 - **Eckert/Morrill: Moved and seconded to table.**
 - **In Favor: Unanimous.**

9. Other Old or New Business

a. Central Maine Power Company's 2013 Vegetation Management Plan

b. Other?

1. Tomlinson said that EPA has granted the use of Avipel under the 24(c) from last year; but we will need to check again for 2014.
2. Tomlinson noted that the Malathion emergency use expired at the end of December 2012. She has been in conference with EPA and other states about the best way to proceed; EPA might suggest a 24(c) exemption.
3. Morrill said he was approached by residents of Scarborough regarding the turf policy at their schools. He wondered what the Board's role, and the staff's role, is in situations like that. Apparently the town had been looking for guidance from the Board regarding their ordinance. Jesse O'Brien said he had been attending meetings in Scarborough for the last 18 months. They had a good speaker at the last meeting, talking about an organic approach to turf. He said the Board (staff) had been asked to come and speak at the same meeting, but they declined. He said that disturbs him; it is important that there be a resource at the state level to talk about the

research that's been done. A question arose about a 25(b) product and there was no one there from the state to answer.

- Jennings clarified that O'Brien meant staff, as the Board members were not asked to attend the meeting. This particular meeting was a forum in which Chip Osborne made a presentation about organic land care practices. The Department has taken the position that they are reluctant to get in the middle of municipal discussions. The Maine Supreme Court made the decision that municipalities have the right to local rule on pesticide ordinances and there is some concern that there could be a perception of the state infringing on that right. The forum was not an open debate about ways to manage public properties, it was more of an information session, and the Department doesn't want to get in the middle. The Board may take a position on what it thinks its role should be regarding municipal ordinances; he suggested putting the question on the agenda for a future meeting
- Jemison asked O'Brien if this answered his questions. O'Brien said it might bring on larger questions; if the fields become unplayable, they will be asking the Board why weren't they there with guidance.
- Hicks said that she was asked to attend and she told them she could provide technical information, but could not attend.
- Granger said that last year he asked who supervised the staff and Dave Lavway said that the Department did. Granger said he has heard from several people that there is concern that staff is not available for these things. When Jennings gets a request does he go to Board chair, or does he go the executive branch of government? He said this has to be resolved; there's going to be more of this. We may need to look at the statute.
- Lauchlin Titus stated that he is a selectman with the town of Vassalboro and they rely on state agencies to give them expertise of a wide range of issues. He wouldn't like to see staff put in the middle of a discussion of whether a town should or should not do something, but the town manager and others should have access to expertise to help them bring good information to the town.
- Jemison noted that there are a lot of towns and if staff started going to every one, it would get out of control. His understanding has always been that the Board's role is to set policy, and the day-to-day operations of the staff are the responsibility of the Department.
- Jennings opined that one could argue that staff involvement in town politics is a policy, or you could argue that it's day-to-day supervision. From a practical standpoint, it wouldn't be possible to get a request from a town and wait for the Board to meet.
- Jemison said that it would be very difficult in a public meeting to draw a line between technical advice and policy advice. It would be easier in a meeting with the town manager and selectmen than in a public meeting.
- Flewelling asked if the town was looking for advice on ordinances or on how to manage pests. O'Brien said he brought them copies of the Board's BMPs and lots of other information. What he thinks towns need is someone from the state to bring information. It doesn't necessarily have to be the BPC.
- Jennings said that the town manager of Scarborough had suggested having someone go to the Association of Town Managers meeting and talk about state laws. The administration is more comfortable with that venue.
 - **Jennings said it would be placed on the agenda for the next meeting for an open discussion.**

4. Katy Green asked if the Board wanted to tour some farms while in Unity for the July meeting. The Board said yes, and Jennings said he would work with her on that.

10. Schedule of Future Meetings

March 1, April 12, May 17, June 21, and July 26, 2013, are tentative Board meeting dates. The Board will decide whether to change and/or add dates. The July 26 meeting is slated to take place in Unity.

Adjustments and/or Additional Dates?

- **No changes were made to the schedule.**

11. Adjourn

- **Granger/Eckert: Moved and seconded to adjourn at 11:39.**
- **In Favor: Unanimous.**