

BOARD OF PESTICIDES CONTROL APPLICATION FOR VARIANCE PERMIT (Pursuant to Chapter 22 of the Board's Regulations)

I. Tim McBride 570-459-5800
Name Telephone Number

DeAngelo Brothers Inc.
Company Name

100 North Conahan Drive Hazleton PA 18201
Address City State Zip

II. Sean Donovan CMA43511/23A6A6B
Master Applicator License Number

978 Western Ave. Dixmont ME 04932
Address City State Zip

III. Area(s) where pesticide will be applied:

St. Lawrence and Atlantic Railroad – 24' Pattern (12' each side of track)
The purpose is to treat the ballast and shoulder sections of the track and the area adjacent to shoulder to control Weed, Grass and Brush species.

IV. Pesticide(s) to be applied:

Edict 2SC 3oz/Acre, 41% Glyphosate 2qt/Acre, Arsenal RR 1pt/Acre all at 30 gallons of water per acre.

V. Purpose of pesticide application:

The ballast, shoulder and areas adjacent to shoulder sections of the ROW must remain weed, grass and brush free for inspection, safety, drainage, visibility and better working conditions. FRA requires tracks to be free of vegetation.

VI. Approximate dates of spray application:

June 1st 2011

VII. Application Equipment:

Hi-Rail Truck Equipment with fixed mounted booms approximately 18 inches above the rail.

VIII. Standard(s) to be varied from:

Chapter 22, Section 2 (D) Identification of Sensitive Areas.

IX. Reason for variance:

Railroads run through towns and alongside rivers, lakes, ponds and streams. It would be an extreme hardship to the Railroad to note each sensitive area – the abutting property owners (homes, buildings, apartments). DBI Inc. chooses products that have been proven safe when applied according to the label. Because of the rates used and following regulations of the State of Maine as to buffer zones where no spraying occurs DBI Inc. feels these products in conjunction with an IPM Program will minimize risk for the general public and environment.

X. Method to assure equivalent protection:

The railroads patrolmen have track charts which show rivers, streams, ponds, road crossings etc. He normally is in a track vehicle running ahead of the spray unit and through the use of radio communication, gives a warning signal where there are culverts, bridges with running water underneath, and other sensitive areas adjacent to the track. DBI Inc. has check valves mounted on every nozzle to assure that no pesticides drip or enter the waterways of the State of Maine when going over any bridges. DBI Inc. will leave a buffer zone of ten feet (10') from lakes, rivers, streams and surface waters. In the case of a public water supply DBI will only apply 41% glyphosate for a distance of one half mile before the site and one half mile beyond. DBI Inc. will monitor the weather in conjunction with the uses of drift control agents to reduce the chance of drift to non-target areas along with surfactants that help make the herbicide adhere to the ground and plants. Uses of low pump pressure (20-60PSI) nozzles will produce larger droplet sizes to prevent off-target damage. DBI Inc. will notify those affected towns that the railroad runs through in advance via advertisement through newspaper and include a pesticide application form to post with information concerning the spray program.

Signed: _____ Date: _____

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028 OR**

E-mail to: pesticides@state.me.us

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. Tim McBride 570-459-5800
Name Telephone Number

DeAngelo Brothers Inc.
Company Name

100 North Conahan Drive Hazleton PA 18201
Address City State Zip

II. Area(s) where pesticide will be applied:

St. Lawrence and Atlantic Railroad – 24' pattern (12' each side center of track)

The purpose is to treat the ballast and shoulder sections of the track and the area adjacent to shoulder to control Weed, Grass and Brush species.

III. Pesticide(s) to be applied:

Edict 2SC 3oz/Acre, 41% Glyphosate 2qt/Acre, Arsenal RR 1pt/Acre all at 30 gallons of water per acre.

IV. Purpose of pesticide application:

The ballast, shoulder and areas adjacent to shoulder sections of the ROW must remain weed, grass and brush free for inspection, safety, drainage, visibility, and better working conditions. FRA requires tracks to be free of vegetation.

V. Approximate dates of spray application:

June 1st 2011

VI. Application Equipment:

Hi-Rail Truck Equipment with fixed mounted booms approximately 18 inches above the rail.

VII. Standard(s) to be varied from:

Chapter 29 Section 6: Standards of Conduct for Pesticide Applications

D. Identification of Sensitive Areas

VIII. Reason for variance:

Railroads run through towns and alongside rivers, lakes, ponds and streams. It would be an extreme hardship to the railroad to note each sensitive area – the abutting property owners (homes, buildings, apartments). DBI Inc. chooses products that have been proven safe when applied according to the label. Because of the rates used and following the regulations of the State of Maine as to buffer zones to where no spraying occurs, DBI Inc. feels these products or combinations of these products in conjunction with an IPM Program will minimize risk for the general public and the environment.

IX. Method to assure equivalent protection:

The railroad patrolmen have track charts which show rivers, streams, ponds, road crossings etc. He normally is in a track vehicle running ahead of the spray unit and through the use of radio communication, gives a warning signal where there are culverts, bridges with running water underneath, and other sensitive areas adjacent to the track. DBI Inc. has check valves mounted on every nozzle to assure that no pesticides drip or enter the waterways of the State of Maine when going over any bridges. DBI Inc. will leave a buffer zone of ten feet (10') from lakes, rivers, streams and surface waters. In the case of a public water supply DBI Inc. will only apply 41% glyphosate for a distance of one half mile before the site and one half mile beyond. DBI Inc. will continue using drift control agents, surfactants, and nozzles that enlarge droplet size along with low volatile chemicals to all prevent off target damage due to drift or run off. DBI Inc. will notify those affected towns that the railroad runs through in advance via advertisement through newspaper and include a pesticide application form to post with information concerning the spray program.

Signed: _____ Date: _____

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028**

OR E-mail to: pesticides@maine.gov

Tim McBride

To: Fish, Gary; Kyle Janny
Cc: Moosmann, Robert
Subject: RE: Maine variance permit applications

Mr. Fish,

Per our phone conversation last week and the email below I just want to Thank both you and Mr. Moosmann for your time and patience in explaining the State of Maines history and concerns with herbicide spraying.

As a result of our conversations DBi has removed the Diuron from our permitting request per the State of Maines suggestion. DBi has put a program together of herbicides that seems to be an agreed upon rate and product mix for the State of Maine.

Glyphosate	2 qts
Arsenal	1 pt
Edict	3 oz

DBi has been in the vegetation management business for over 33 years, we consider ourselves an industry leader when it comes to stewardship of the land. Like our competition and fellow industry leader RWC. DBi has been around the business of herbicide application long enough to learn a few things about the importance of proper herbicide selection, most importantly proper application times and rates. WE care is my point. DBi has this contract for the next three years and would like to discuss options for those years. It is DBi's educated understanding that modes of action in plants vary and chemical choices need to be changed up to properly allow vegetation control to fight resistance. I look forward to future discussions about possible herbicides that we will be able to use in the State of Maine.

DBi also wishes to address the issue of a July application date, it is the middle of the summer season far removed from not only spring rains but any significant precipitation is our first concern.

DBi believes July is to late in the season for the chemical program to work properly. One thing DBi is familiar with is the weather and how to keep track of it. DBi does a considerable amount of work to forecast and make sure our applications times line up properly with projected precipitation rates. DBi is suggesting an allowance for us to start at the earliest date possible between May 22nd –June 1st. June 1st in DBi's opinion would be the most opportune time. The purpose of our application is to maintain and allow for safe passage of freight and RR personnel over the St. Lawrence and Atlantics property. DBi must treat the area during the pre-emergent to early post stage of growth to properly provide the services we have been contracted for. Late May-Early June falls within the specifications of the herbicides we are using of when they will provide the best results.

A July application is too late based on our years of experience in how the chemicals work. The following are our thoughts: 1) July is historically a dry month, the chemical program will fail if we are limited to being able to only spray in July. 2) Waiting too late in the season also allows for the grasses and weeds we are attempting to control to grow, dry out and then become a fire hazard. This hazard is also not just for the railroad but the surrounding communities they traverse through. 3) The FRA-Federal Rail Administration is charged with regulating and fining Railroads for non-compliance when it comes to vegetation management and Railroad Safety. DBi does not want to be a contributor to their ability to

fine our customer by not being able to properly provide the vegetation management program we have been awarded by them.

I have attached with the original paperwork being mailed to you the May, June & July rain totals for the last three years in the suggested areas of application. It is DBi's position that the application time frame we are suggesting historically have not been times of high precipitation and are the best times for our program to have the required results for our customer.

It is not in DBi's best interest to perform our work in a way that would disrupt the eco-system of the property that surrounds the Railroads Right of way. It is DBi's intention to make sure we have a quality application and we take care of our customers needs all within the guidelines set upon us by the State of Maine. DBi is just asking for the ability to provide a quality program using our years of experience, education and application techniques to do it in the time frame the herbicides were designed to be used in.

I again Thank You for your time and consideration of our requests and look forward to future conversations about herbicide applications in the State of Maine.

Timothy (Tim) J. McBride
Railroad Division Manager - Region 1
DeAngelo Brothers, Inc
100 Conahan Drive
Hazleton, PA 18201
570-436-8738 (Mobile)
570-459-5800 ext: 1316 (Office)
570-459-5500 (Fax)
tmcbride@dbiservices.com

www.dbiservices.com

From: Fish, Gary [mailto:Gary.Fish@maine.gov]
Sent: Wednesday, March 09, 2011 11:30 AM
To: Kyle Janny; Tim McBride
Cc: Moosmann, Robert
Subject: Maine variance permit applications
Importance: High

Hi Kyle & Tim,

We have been reviewing your application for variance from the drift and water quality regulations and there are a couple of concerns.

1. Our right-of-way stakeholder committee agreed to stop using Diuron because of its runoff potential and they have developed an approach that is just as effective using the sticker NuFilm as an adjuvant and using a glyphosate product without any adjuvant in it to begin with like Accord.

- ✓ 2. The stakeholders also agreed to only do railroad applications later in the season, "***preferably in July so the risk of heavy spring rains is gone.***"

I recommend that you speak with Bob Moosmann (207-592-0774) robert.moosmann@maine.gov at Maine Department of Transportation and he can fill you in on what the stakeholders agreed to and he can tell you about the spray program they have been doing that is very effective.

If you have any questions, please reply or call me.

Gary Fish
Manager, Pesticide Programs
Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028
207-287-7545
207-624-5020 fax
<http://www.ThinkFirstSprayLast.org>
<http://www.YardScaping.org>

"What humanity is inflicting upon itself and earth is, to use a modern metaphor, the result of a mistake in capital investment. Having appropriated the planet's natural resources, we chose to annuitize them with a short term maturity reached by progressively increasing payouts." E O Wilson

From: Kyle Janny [mailto:kjanny@dbiservices.com]
Sent: Tuesday, March 08, 2011 2:08 PM
To: Fish, Gary
Subject: Sorry

Sorry Gary for those emails, got a lot going on here right now and I am getting you New England guys messed up...

Kyle Janny
Railroad Division Supervisor
DeAngelo Brothers Inc.
100 North Conahan Drive
Hazleton, Pa 18201
(570) 459-5800 (W)
(484) 894-5527 (C)

Tim McBride

From: Fish, Gary [Gary.Fish@maine.gov]
Sent: Tuesday, March 15, 2011 3:14 PM
To: Tim McBride
Subject: Spray dates in 2010

Hi Tim,

Last years program for RWC was approved for spray dates starting June 2 - September 29. We do not know the exact date that each railway was treated without a lot more research.

Gary Fish
Manager, Pesticide Programs
Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028
207-287-7545
207-624-5020 fax
<http://www.ThinkFirstSprayLast.org>
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<http://www.gotpests.org>

"What humanity is inflicting upon itself and earth is, to use a modern metaphor, the result of a mistake in capital investment. Having appropriated the planet's natural resources, we chose to annulize them with a short term maturity reached by progressively increasing payouts." E O Wilson

Pesticide Active Ingredient Rating Report

Active Ingredient Common Name	pH	Solubility in Water (ppm)	Half Life (days)	KOC (mL/g)	Human Toxicity (ppb)	Fish Toxicity MATC* STV (ppb)	SPISP II Pesticide Ratings			Exposure Adjusted Toxicity Category		
							Leaching Solution	Runoff Adsorbed		Water Human	Fish	Sediment Fish

ACTIVE INGREDIENTS

100% Pyraflufen-ethyl

Reg No:
 PC_Code: .082 4 1949 11.00 4.90 9,550.10 L L I I H V
 Method: Surface Applied
 Area: Broadcast
 Rate: Standard

100% Imazapyr, isopropylamine salt

Reg No:
 PC_Code: 500000 90 100 251,189.00 25,118,900.00 H H I V V
 Method: Surface Applied
 Area: Broadcast
 Rate: Standard

100% Glyphosate, isopropylamine salt

Reg No:
 PC_Code: 900000 47 24000 700.00 168.00 4,032,000.00 V H H V L V
 Method: Surface Applied
 Area: Broadcast
 Rate: Standard

LEGEND

- X -- eXtra high
- H -- High
- I -- Intermediate
- L -- Low
- V -- Very low

Conditions that affect ratings:

- (none) -- Broadcast application (default); applied to more than 1/2 the field
- b -- Banded application; applied to 1/2 the field or less
 - p -- Spot application; applied to 1/10 of the field or less

- (none) -- Surface applied (default); applied to the soil surface

- i -- Soil incorporated; with light tillage or irrigation
- f -- Foliar application; directed spray at nearly full crop/weed canopy

- (none) -- Standard application rate (default); greater than 1/4 lb/acre

- l -- Low rate of application; 1/10 to 1/4 lb/acre
- <u> -- Ultra Low rate of application; 1/10 lb/acre or less

SPISP II P-Ratings:

- Leaching -- Pesticide Leaching Potential
- Runoff Solution -- Pesticide Solution Runoff Potential
- Runoff Adsorbed -- Pesticide Adsorbed Runoff Potential