

May 10, 2023

Shawn N. Jasper, Commissioner

Mr. Nicholas Bennion
Town of Durham, Dept. of Public Works
100 Stone Quarry Drive
Durham, NH 03824

RE: Watershed/ROW Special Permit – Town of Durham, Dept. of Public Works – Vegetation Management

SPECIAL PERMIT - SP-153

Dear Mr. Bennion:

The Town of Durham Department of Public Works' 2023 application for a Special Permit for the use of an herbicide to control invasive species (Japanese Knotweed) and native vegetation (crabgrass and poison ivy) in proximity to public water supply wells, as well as public and non-public surface waters along rights-of-way within the Town of Durham is hereby approved. This approval is given to those parts of your program that are not subject to further requirements, conditional on the following:

1. This Special Permit is approved for the application of *Rodeo Herbicide* (EPA Reg. No. 62719-324), plus any appropriate adjuvants, as specified in your Special Permit application and in accordance with the conditions of this Special Permit.
2. The sites approved for treatment under this Special Permit are those listed on the *Attachment A*, attached to this Special Permit.
3. All applications shall be made in *strict* accordance with label recommendations, except as allowed under Pes 502.01(d)(1-3), where phragmites, purple loosestrife, and listed invasive species (see <http://agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf> and <http://agriculture.nh.gov/publications-forms/documents/restricted-invasive-species.pdf>) may be treated by applying pesticides:*
 - a. At any dosage, concentration or frequency less than that specified on the label;
 - b. To any target pest not specified on the labeling if the application is to the crop, animal or the site specified on the labeling, except when the label states that pesticides shall be used only against pests specified on the label; or
 - c. By any method of application not prohibited on the label.

* NOTE, the above allowances do not apply to any native vegetation or any other non-listed species that might be treated under this permit. Such non-listed species shall be treated in *strict* accordance with the label.

4. In order to avoid propagation of invasive species by improper disposal, any brush that is cut down shall be disposed of in accordance with Agr 3802.04, which requires that **prohibited invasive species (which includes Japanese knotweed – shall only be disposed of in a manner that renders them nonliving and nonviable.** *Under this Permit this prohibition is extended to include Restricted Invasive Species.* Any violation of Agr 3802.04 will be considered a violation of this Special Permit.
5. Prior to conducting any foliar applications, the applicator(s) shall review the precautionary language on the pesticide labels, with particular attention being paid to the *Environmental Hazards, Spray Drift Management, and Sensitive Areas* sections of the *Rodeo* label, and shall take every reasonable precaution to prevent pesticide from moving off the target site. Applications under this Special Permit shall only be conducted on an as needed basis and where no reasonable alternative control measures are available.
6. In accordance with Pes 502.04(a), no pesticides shall be applied within two-hundred and fifty (250) feet of any public water supply surface water or its tributaries where:
 - a. The application site lies within the boundaries of the watershed surrounding said public surface water supply; and,
 - b. The application site is less than five (5) miles from any public water supply intake.

***Newmarket Water Works public water supply intakes PWSID# 1731010-002, -003, and -004 are INACTIVE. The Division did not identify any sites as listed on Attachment A which fall within the setback of surface waters or their tributaries used for public water supply.**

7. Where not otherwise restricted under Condition #6 of this Special Permit, the amended Shoreland Water Quality Protection Act (RSA 483-B:9) specifies that no pesticides shall be applied within fifty (50) feet of the reference line of any Public Water (i.e. the Waterfront Buffer) except if applied by “horticultural professionals” who have a pesticide application license issued by the department of agriculture or where granted under Special Permit by the Division of Pesticide Control*. Public waters include natural and artificial water bodies of ten (10) acres or larger, and fourth (4th) order or greater streams. If the applicant is uncertain of the status of a waterbody or his or her standing relative to being a recognized “horticultural professional,” he or she shall, prior to commencement of pesticide applications, check with the Division of Pesticide Control for a determination as to the applicable setbacks and/or whether they qualify as a “horticultural professional.”

***The Oyster and Lamprey Rivers are such public waters, subject to the provisions of RSA 483-B:9. Where not otherwise allowed by law, easement from this setback is granted at those sites listed within Attachment A which fall within the setback of**

public waters (including site #33). Easement is granted for applications of the pesticide listed under Condition #1 of this Special Permit, subject to all of the conditions of the permit, and with the understanding that no applications shall be made directly to water, or in a manner that allows pesticide to drift into or otherwise contaminate water.

8. With regard to surface waters that are not classified as "public water supplies" or "public waters," which are subject to the provisions of Condition #s 6 and 7, respectively, the following setbacks or buffers shall apply, **except as specified below***:
 - a. No pesticides shall be applied within twenty-five (25) feet from surface waters as mandated by Pes 1001.01(a); and
 - b. Beyond twenty-five (25) feet in such a manner or by such methods that would result in the presence of pesticides within twenty-five (25) feet of the reference line of any lake, pond, river or coastal water, as mandated by Pes 1001.01(b).

** Easement from the above setbacks is granted for application of the pesticide listed under Condition #1 of this Special Permit, to the reference line of non-public waters in proximity to the treatment areas identified in Attachment A, when applied in accordance with all applicable conditions of this Permit. This easement is granted with the understanding that no pesticides shall be applied directly to surface water or to vegetation which is within surface water, and that every reasonable effort will be made to avoid drift into, or contamination of surface water as a consequence of this application.*

9. In the event that the applicator becomes aware of any off-site movement of pesticides into nearby surface water, the applicator shall immediately cease any pesticide applications that might be contributing to such contamination, take steps to prevent further contamination where possible, such as contain a spill or otherwise control pesticide movement, and immediately report such contamination to the Division of Pesticide Control.
10. The applicator is responsible for locating all public water supplies and associated protection areas in the vicinity of the treatment areas; and is responsible for following all setbacks and other restrictions established by the Administrative Rules of the Pesticide Control Board (Pes 100-1100) and this Special Permit. Public water supply wells will generally include municipal well systems or wells of public water works, and may also include such facilities as day-care centers, apartments and condominiums, mobile home parks, and schools.

The Division's resources identified that portions of site #s 4 and 29 fall within the setback buffers of public water supply wells. These public wells include Durham Public Works (PWSID# 0699010-001) and Father Lawless Field (PWSID# 0697010-001). Easement from PWSID# 0699010-001 and PWSID# 0697010-001 is granted for applications of the pesticide approved for use under Condition #1, to within (i.e. no

closer than) seventy-five (75) feet. Applicator shall note the following locational data:

<u>Public Water Supply</u>	<u>PWSID#</u>	<u>GPS Coordinates</u>
Durham Public Works	0699010-001	43.13903 / -70.90574
Father Lawless Field	0697010-001	43.12451 / -70.95205

Applicator(s) shall operate under Best Management Practices as outlined in the “Best Management Guidelines for Protection of Groundwater,” available from the Division of Pesticide Control, when applying pesticides within source water protection areas and also when handling pesticides under this Permit. Updated and detailed information about public water supply locations and associated protected areas may be accessed by registering on the internet at: <http://www4.des.state.nh.us/onestopdatamapper/onestopmapper.aspx>.

11. *Except as granted under Condition #10, no pesticide application shall be made within four-hundred (400) feet of gravel packed wells used for public water supply or within two-hundred and fifty (250) feet of other wells so used, as mandated by Pes 502.05.*
12. *Mixing or loading of pesticides shall not be performed within four-hundred (400) feet of gravel packed wells used for public water supply or within two-hundred and fifty (250) feet of other wells so used, as mandated by Pes 805.01(b).*
13. *Mixing or loading of pesticides shall not be performed within two-hundred and fifty (250) feet of surface waters or their tributaries used for public water supply.*
14. *Mixing or loading of pesticides shall not be performed within seventy-five (75) feet of surface water or private water wells, as mandated by Pes 805.01(c).*
15. *There shall be no interference with water supplies or fish and other aquatic life or the habitat on which they depend; water quality shall not be lowered below designated classification standards for surface waters defined by RSA 485-A:8 (2000).*
16. *The applicator shall provide forty-eight (48) hour advanced notification to the Division of intent to commence spray operations. **Notifications shall be made using the Spray Notification form attached to this Permit. Notices may be provided by Fax (603-271-1109) or by e-mail (matthew.w.bosiak@agr.nh.gov).** In the event that the fax or e-mail avenues are unavailable, contact the Division (DPC) by phone (603-271-3695 or -3550) at least 24 hours prior to the scheduled treatment for notification instructions. DPC will provide an electronic, interactive copy of the notification form on request. *In the event that an unanticipated change in the spray schedule might be necessary after the initial notification has been made the applicator shall notify the Division of such change by phone, fax or e-mail in a timely fashion, and may commence spray operations upon provision of such updated information. Such amended schedule notification shall be provided with as much lead time as practicable. Where treatments are likely to go on over an extended period, the applicant shall provide updates of intended treatment schedules no less frequently than every two (2) weeks.**

17. In addition to the conditions of this Special Permit, applicant shall comply with all of the state regulations pertaining to pesticides, and to the Administrative Rules of the Pesticide Control Board.

18. This Special Permit expires on December 31, 2023.

If you have any questions concerning this Special Permit, please feel free to contact Matthew Bosiak of this office at 603-271-3695, or by e-mail at Matthew.w.bosiak@agr.nh.gov.

Sincerely yours,



David J. Rousseau
Director, Division of Pesticide Control

DJR/mwb

Enc.: Attachment A – List of Treatment Sites
Spray Notification Form

cc: Pesticide Inspectors

Attachment A

Town of Durham Special Permit Application Watershed Map Treatment Reference Sheet

Site Number	Target Pest	Name	Acreage
1	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	108/Main St Split	0.013245615
2	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	66 Main	0.685044428
3	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Ballard Park	0.095875698
4	Knotweed (Polygonum spp.); poison-ivy, eastern (Toxicodendron radicans); crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	DPW	1.150953434
5	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Durham Cemetery	1.76162787
6	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Jackson's Landing	0.898074923
7	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Library	0.906653615
8	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Madbury Booster Station	0.009143283
9	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Madbury/Pettee Brook Split	0.015291086
10	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Main St/Madbury Rd Split	0.030857265
11	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Main Street Circle	0.325143191
12	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Memorial Park	0.115666694
13	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Metered Lot	0.099178986
14	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Old Landing	0.007844698
15	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	PD	0.232266292
16	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Permit Lot	0.126126047
17	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Pettee Brook Lane Split	0.012822018
18	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Post Office Park Bench	0.003216669
19	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	PRV	0.095861592
20	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Sammy's Lot	0.051676454
21	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	School House Cementary Stone Wall	0.092203897
22	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Sidewalk Ext.	0.004529358
23	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Sidewalk: Not Within 5 Mile Boundary	2.352025906
24	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Sidewalk: Within 5 Mile Boundary	0.020725341
25	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Town Hall	0.329553172
26	Knotweed (Polygonum spp.)	Transfer Station	4.25346103
27	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Transfer Station	3.174439697
28	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Wagon Hill Dirt Road/ Parking	3.477454106
29	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Wood Ridge	0.943869672
30	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Smith Chapel	1.942767679
31	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Oyster River Pump Station/Bridge/Walking Path	0.301518488
32	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Oyster River Park	2.461197491
33	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Packers Falls Access Trails/Parking	2.237524191
34	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans); Poison-ivy, eastern (Toxicodendron radicans)	Doe Farm Access RD/Trail	1.82105576
35	crabgrass (Digitaria spp.); Poison-ivy, eastern (Toxicodendron radicans)	Doe Farm Grave Yard	0.352266906
36	Knotweed (Polygonum spp.)	Bayview Rd	0.029736352
37	Knotweed (Polygonum spp.); poison-ivy, eastern (Toxicodendron radicans); crabgrass (Digitaria spp.)	Depoy Lot	0.837340609

Total Area = 31.26823951

DPC USE ONLY:	
DATE:	_____
TIME:	_____
DPC:	_____

SPRAY NOTIFICATION FAX (603)271-1109

July 2014

Name of Person Giving Notification: _____

Telephone Number: _____ Special Permit No. _____

Contractor	Telephone	Contracting Entity	Telephone

Line #	Town(s)	Start Date	Approx. Start Time	Start Location	Pesticide	License Holder

Additional Information: