

April 17, 2024

Shawn N. Jasper, Commissioner

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

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

SPECIAL PERMIT - SP-094

Dear Mr. Bennion:

The Town of Durham Department of Public Works' 2024 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), *Finale XL F-VM Herbicide* (EPA Reg. No. 7969-464), *Finalsan Herbicidal Soap* (EPA Reg. No. 67702-8), plus any appropriate adjuvants, as specified in your 2024 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 <https://www.agriculture.nh.gov/publications-forms/documents/nh-invasive-plant-list.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 that might be treated under this Special Permit. Such non-invasive species shall be treated in *strict* accordance with the label.

4. With regard to listed invasives that might be physically cut down or removed in association with this project, the applicant is reminded that **disposal of all prohibited invasive plant material shall be in a manner that renders it nonliving and nonviable, as per Agr 3802.04.** Any violation of Agr 3802.04 will be considered a violation of this Special Permit.
5. Applications under this Special Permit shall only be conducted on an as needed basis and where no reasonable alternative control measures are available.
6. Prior to conducting any applications under this Special Permit, 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 labels, and shall take every reasonable precaution to prevent pesticide from moving off the target site.
7. 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.**

8. Where not otherwise restricted under Condition #7 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 pesticides 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.

9. 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 7 and 8, 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 pesticides 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.*

10. 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.
11. 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 as follows:

- a) Applications of Rodeo and Finals may be conducted to within (i.e. no closer than) seventy-five (75) feet of PWSID# 0699010-001 and PWSID# 0697010-001;**
- b) Applications of Finale XL F-VM may be conducted to within (i.e. no closer than) one-hundred (100) feet of PWSID# 0699010-001 and PWSID# 0697010-001; and**
- c) Applicator shall note the following locational data to determine setback easements:**

<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>.

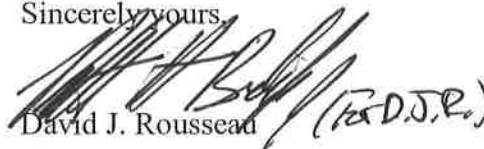
- 12. **Except as granted under Condition #11**, no pesticide application shall be made within four-hundred (400) feet of gravel packed wells used for public water supply or within two-hundred and fifty (250) feet of other wells so used, as mandated by Pes 502.05.
- 13. Mixing or loading of pesticides 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).
- 14. 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.
- 15. 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).
- 16. 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).
- 17. 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 e-mail (matthew.w.bosiak@agr.nh.gov).** In the event that the e-mail avenue is 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 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.

18. 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.
19. This Special Permit expires on December 31, 2024.

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

Town of Durham Special Permit Application Watershed Map Treatment Reference Sheet

Site Number	Target Pest	Name	Acreage
1	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	108/Main St Split	0.013
2	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	66 Main	0.685
3	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Ballard Park	0.096
4	knotweed (<i>Polygonum</i> spp.); poison-ivy, eastern (<i>Toxicodendron radicans</i>); crabgrass (<i>Digitaria</i> spp.)	DPW	1.151
5	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Durham Cemetery	1.762
6	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Jackson's Landing	0.898
7	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Library	0.907
8	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Madbury Booster Station	0.009
9	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Madbury/Pettee Brook Split	0.015
10	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Main St/Madbury Rd Split	0.031
11	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Main Street Circle	0.325
12	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Memorial Park	0.116
13	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Metered Lot	0.099
14	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Old Landing	0.008
15	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	PD	0.232
16	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Permit Lot	0.126
17	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Pettee Brook Lane Split	0.013
18	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Post Office Park Bench	0.003
19	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	PRV	0.096
20	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Sammy's Lot	0.052
21	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	School House Cementary Stone Wall	0.092
22	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Sidewalk Ext.	0.005
23	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Sidewalk Not Within 5 Mile Boundary	0.16
24	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Sidewalk: Within 5 Mile Boundary	9.285
25	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Town Hall	0.33
26	knotweed (<i>Polygonum</i> spp.)	Transfer Station	4.253
27	knotweed (<i>Polygonum</i> spp.)	Transfer Station	3.174
28	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Wagon Hill Dirt Road/ Parking	3.477
29	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Wood Ridge	0.944
30	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Smith Chapel	1.943
31	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Oyster River Pump Station/Bridge/Walking Path	0.302
32	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Oyster River Park	2.461
33	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Packers Falls Access Trails/Parking	2.238
34	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Doe Farm Access RD/Trail	1.821
35	crabgrass (<i>Digitaria</i> spp.); Poison-ivy, eastern (<i>Toxicodendron radicans</i>)	Doe Farm Grave Yard	0.352
36	Japanese Knotweed	Bayview Rd	0.03
37	knotweed (<i>Polygonum</i> spp.); poison-ivy, eastern (<i>Toxicodendron radicans</i>); crabgrass (<i>Digitaria</i> spp.)	Depoy Lot	0.837

Total Acreage

38.341

DPC USE ONLY:

DATE: _____

TIME: _____

DPC: _____

SPRAY NOTIFICATION

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: