



CITY OF PORTLAND
Sustainability Office
Troy Moon
Sustainability Director

Mr. Matthew TenEyck
Cheverus High School
267 Ocean Avenue
Portland, ME 04103

July 8, 2020

Dear Mr. TenEyck,

On June 29, 2020, the Waiver Committee of the Pesticide Management Advisory Committee convened to review your request that Cheverus High School be granted a waiver from provisions of the Portland Pesticide Ordinance to treat an infestation of sod webworms on its varsity athletic field located on Ocean Avenue. The Committee requested additional information and reconvened to complete its review of your request on the morning of July 8, 2020. I'd like to thank you for joining us to share additional information about your waiver application and to answer questions from the Waiver Committee.

Background: In your waiver application and in your testimony to the Waiver Committee you testified that the ongoing damage to the varsity field presents a threat to the health and safety of student athletes who are scheduled to use the field in August. The damage will result in a playing surface that has hard, compacted soils and weeds that could cause athletes to slip and fall. The hard surface and inadequate footing would result in injuries to players. You reported that your efforts to control an infestation of sod webworms on the varsity athletic field included non-pesticide methods but that these approaches have not been effective. You provided photographs showing damage to the field caused by the webworms and provided an assessment showing extensive infestation of webworms on all parts of the playing field.

The Committee asked for additional information regarding the non-pesticide approaches you have tried on the field. In response you indicated that you have overseeded, extensively aerated, and extensively irrigated the field but that these methods failed to stop the spread of the webworms. You reported that you have not allowed the grass to grow higher because of the need to cut it to 2" playing height before use by athletes. This would result in too much crown removal, which would make the turf grass susceptible to disease. You further noted that the

species of turf grass on the field thrives at 2" height. In response to questions about the use of Bt, an organic approach to pest management, you reported that this approach is not always effective and, given the limited time before the start of the athletic season, a more certain form of control is warranted.

In your application and in your testimony you noted that the area to be treated is not within 75 feet of a water body. You provided a diagram showing the catch basins for the field are outside of the area to be treated. You noted that the gate to the athletic field is currently locked and no one is using the field, which will prevent individuals from in contact with the treated area. You explained that you had mowed flowering clover to discourage bees from accessing the site and you would be using banging devices to discourage birds from landing on the field after application.

The waiver application states that you would use a 7.9% solution of Quali Pro Bifenthrin Golf and Nursery exclusively on the playing field and not of the adjacent grounds.

Waiver Committee Members' Findings and Conclusions: The City of Portland Pesticide Use Ordinance (Chapter 34) provides for the provision of waivers when a situation "is an emergency and threatens the public health and safety." (Section 34-7).

After reviewing the application materials and hearing testimony from the applicants the two members of the Waiver Committee disagree. Avery Yale-Kamila opposes granting the waiver. I support granting the waiver.

In support of her decision, Ms. Kamila has stated that, in her view, the application is incomplete and lacks information to support the requests. She also disagrees that potential injuries from playing sports on turf damaged by the sod webworms constitutes a threat to public health and safety. She noted that players could choose not to play and that the threat of sprains, bone breaks, or other injuries is less dangerous than the possible health impacts of the Bifenthrin treatment. She has concern about acute injuries but feels the potential long term health impacts to players could be worse.

She believes that the method of application specified by the applicant requires broadcast application that is prohibited by the ordinance.

She does not believe that the non-pesticide treatment methods tried by the applicant are adequate and believes that other methods including biological treatment and mowing the grass higher should be tried before granting a waiver. She asserts that this is more in line with Portland's community values.

I, on the other hand, believe that the applicant has satisfied all 4 criteria outlined in Section 34-7 for the granting of a waiver. Specifically, I find as follows:

Criteria 1 -- The situation is an emergency and threatens the public health and safety. The applicant demonstrated through photographs and testimony that sod webworms have caused extensive damage to the playing surface of the athletic field. The applicant showed that the infestation is extensive and will result in further damage if left untreated. This will result in bare spots on the field, hard ground, and reduced traction for athletes playing sports on the field when play resumes in August. This will result in unnecessary injuries to players that could be mitigated by treatment of the sod webworms.

Criteria 2 -- The applicant has carefully evaluated all alternative methods and materials including but not limited to, non-pesticide management techniques, minimum risk pesticides, non-synthetic pesticides, and is choosing to use the minimum amount of the least toxic, most effective pesticide necessary. The applicant explained that he has overseeded, extensively aerated, and generously irrigated the playing field to encourage the existing turf grass to overcome the effects of the sod webworm. This approach is a recognized best practice encouraged by turf experts to help the turf grass overcome the effects of sod webworm predation. The assessment and photographs provided by the applicant demonstrate that this has not been effective and that the pest has infested the entire field in quantities that will extensively damage the turf and make it unsuitable for athletic turf. The applicant noted allowing the grass to grow high is not appropriate for high performance athletic turf and noted that turf grass thrives at a 2" height. The applicant was reluctant to try Bt, a biological control because of lack of certainty in its effectiveness and lack of time to try a further treatment should it fail. Bt is most effective early in the first instar of development and this window of effectiveness has likely passed.

Criteria 3 -- The applicant will to the greatest extent practical, minimize the impact of the application on the abutting properties. The applicant proposes to apply Bifenthrin only on the playing surface that has been documented to have sod webworm present. No other areas of the grounds will be treated. He notes that the field is currently inaccessible to students and that he is taking additional measures to mow flowering plants and place "bangers" to discourage birds from landing on the field. The application will not be near water. Bifenthrin quickly binds to soils and is unlikely to reach catch basins in run off. Because the product will be applied only to areas where sod webworms are documented to be present the treatment should be considered a spot treatment. This is not a pre-emptive element or treatment to areas without sod webworm present.

Criteria 4 -- To the maximum extent possible the grant of the waiver will not be detrimental to the public's health, safety, or welfare. The area to be treated is a single play field on a large school campus. As noted above, it is not accessible to the public at this time and the applicant will take additional measures to discourage pollinators and birds from accessing the field before the application dries.

Further, best management practices for high performance turf differs from lawns and gardens. Building a foundation of healthy soil is essential for both, but if pests materialize strategies for

addressing them may differ. In the case of the Cheverus varsity field with a capable irrigation system available, the turf grass should be able to thrive at 2" height.

Decision: One member of the Waiver Committee opposes approval of a waiver. The other member supports approving the waiver. To approve the request the Waiver Committee members must be in agreement. Consequently, **the Waiver Committee must deny your request for a waiver.**

Right of Appeal: You have five (5) business days to appeal the decision to the City Manager. An appeal must be in writing and explain the basis of the appeal. The City Manager (or designee) has five (5) days to render a decision, which shall be final.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Troy Moon', with a horizontal line extending to the right.

Troy Moon
Sustainability Director