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Cape towns seek hearing to challenge Eversource herbicide spraying

The Department of Agricultural Resources has once again approved a plan for herbicide spraying under power transmission lines in several Cape Cod towns, despite stiff opposition from local legislators and officials.

State Sen. Daniel Wolf, D-Harwich, said he was frustrated but not surprised by the news.

“For the six years I’ve been in this seat, the towns have tried to have input into what chemicals are dumped in the backyards of their citizens, and for six years, the state has ignored them,” Wolf said.

The battle is not over, according to opponents of Eversource’s method of managing vegetation. Four communities are poised to file letters as “aggrieved parties” to the state’s approval. The towns will request an adjudicatory hearing where they plan to make their case against spraying with the help of scientific experts.

The deadline to file for a hearing is Aug. 5.

Such hearings take place in Boston before a hearing officer, who makes a recommendation to the 13-member Massachusetts Pesticide Board, which then renders a decision.

The fight to stop the herbicide spraying will not be easy.

“The State Pesticide Board has never reversed the Department of Agricultural Resources approval of a spray plan,” spokeswoman Katie Gronendyke wrote in an email.

Whether the issue will even make it to a hearing remains a question, since the state must first recognize the towns as aggrieved parties. State law defines an aggrieved party as someone who will be impacted by an action more than the general public will.

“Whether a party is determined to be an aggrieved party is handled on a case by case basis,” Gronendyke wrote.

Eversource’s spray plan calls for applying Glyphosate, sold in stores as Roundup, to leaves, stumps and bark by workers using backpack sprayers.

Glyphosate has been the source of considerable debate in the United States and Europe, particularly after the World Health Organization in 2015 claimed the chemical “probably” causes cancer.

Brewster, Eastham, Orleans and Dennis selectmen met with representatives of a citizens group called Protect Our Cape Cod Aquifer, or POCCA, recently and committed to taking on the Department of Agricultural Resources. Brewster, Eastham and Orleans also agreed to chip in \$15,000 each for the litigation.

Orleans attorney Bruce Taub will represent the towns during the hearing.

Jacquelyn Shea, administrative assistant to the Dennis selectmen, said Monday she was already drafting the town’s letter to the state.

Brewster officials also plan to make good on their commitment to push for a hearing, Town Administrator Michael Embury said.

“The overriding issue for the selectmen is the protection of the drinking water reserves,” Embury said. “The selectmen feel there are alternative ways of dealing with vegetation issues.”

Eastham Town Administrator Sheila Vanderhoef said the town’s Finance Committee had approved a transfer of the \$15,000 from the Reserve Fund, so “the money is available.”

Eversource uses only herbicides that are approved by the Department of Agricultural Resources for use in environmentally sensitive areas, company spokeswoman Priscilla Ress wrote in an email.

“It’s also important to note, Eversource makes up less than one percent of all of the pesticide usage on Cape Cod,” she wrote. “Transmission lines in rights-of-way serve thousands of customers in many communities and interconnects with a nationwide electric system, underscoring the importance of maintaining our rights of way.”

Eversource is in the fourth year of its five-year vegetation management plan.

“They allowed spraying last year when all 15 towns didn’t want it, and they allowed spraying the year before when all 15 towns didn’t want it,” said POCCA director Laura Kelley. “We’d like them to listen.”

If the Department of Agriculture prevails in the hearing process, eight towns — Barnstable, Bourne, Brewster, Dennis, Falmouth, Orleans, Sandwich and Yarmouth — are set to receive herbicide applications along power lines in late summer and early fall.

Kelley said her organization will take it to the next level if the decision on the spray plan is upheld, enlisting the help of some national environmental organizations and taking its case to Superior Court.

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Vegetation Control Services worker Mark Summers uses a power sprayer to apply herbicide to pitch pine saplings along an utility power line right of way in 2013. The state has approved the latest plan by Eversource to use the herbicides on Cape Cod, but towns have said they will push for a hearing to challenge the decision. Steve Heaslip/Cape Cod Times file

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