

DIVISION OF ENVIRONMENTAL HEALTH
DIRECTOR'S OFFICE

555 Cordova
Anchorage, AK 99501
PHONE: (907) 269-7644
FAX: (907) 269-7654
<http://www.state.ak.us/dec/>
Kristin_Ryan@dec.state.ak.us

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Jim Tuttle
Klukwan, Inc.
P.O. Box 8100
Ketchikan, AK 99901

SUBJECT: LONG ISLAND HERBICIDE PERMIT APPLICATION
Summary of consolidated DNR/DEC Comments

The Department of Environmental Conservation (DEC) Pesticide Program received your permit application on February 25, 2004. Permit applications to apply pesticides by aircraft or helicopter, submitted under 18 AAC 90.505 for Forestry Vegetation Management, also require a review by the Department of Natural Resources (DNR). Copies of your application were provided to Michael J. Curran, DNR, Division of Forestry; Mark Minnillo, DNR, Office of Habitat Management and Permitting(OHMP), and John Dunker, DNR, Division of Mining, Land, and Water. State comments are summarized below. As provided in 18 AAC 90.520 (e), you are required to submit a written response to this document within 10 days of receiving this letter. When the comments and requested information have been sufficiently addressed, you will be notified to issue a public notice of the application, our comments, and your responses.

Project summary

Klukwan Inc. is proposing to apply the pesticides *Accord* and *Arsenal*, and the surfactant *R-11* by helicopter, to red alder sites on approximately 2000 acres on Long Island, property privately owned by Klukwan, Inc./Long Island Trust. The project is intended to allow an increase in conifer second growth by killing red alder and reducing salmonberry in the treated areas. The pesticide *Accord*, EPA Registration Number 524-326, active ingredient glyphosate, is

registered for forestry conifer and hardwood release. The label contains directions for aerial treatment, including mixing instructions if used with the herbicide, *Arsenal*. *Arsenal*, EPA Registration number 241-299, active ingredient imazapyr, also has label directions for conifer release treatment. A surfactant adjuvant is recommended on the *Accord* label to enhance its effect and reduce the amount of product needed. You propose to use the surfactant *R-11* on approximately half of the acreage, which has extremely dense vegetation.

Accord and *Arsenal* are categorized by EPA as Toxicity Category III/IV, the lowest acute toxicity rating for humans and animals. The EPA has concluded that the products are not likely to adversely affect freshwater and marine fish, birds, and aquatic invertebrates. The proposed products have a relatively short-half life and do not bioconcentrate in aquatic organisms or bioaccumulate in species in higher trophic levels. EPA has approved these products for aerial use in complex ecosystems such as forests. Neither product was included in a ban recently enacted in Washington and Oregon for spraying near endangered/threatened salmon streams.

Protection of aquatic areas

Pesticides can not be applied within a *protective area* (18 AAC 90.800). In addition, EPA has not registered Imazapyr for aquatic use. DEC will prohibit imazapyr applications to water and require *protective areas* be maintained as per 18 AAC 90.800. Detail how you plan to maintain the *protective areas* in your precautionary narrative as required per 18 AAC 90.515(12).

Surfactant/Adjuvant:

Instead of applying R-11 as the preferred surfactant, DNR suggests you consider using a new less toxic surfactant called "Competitor". Contact the manufacturer and determine its suitability under these application conditions and make the necessary changes to your application if applicable.

Protection of eagle nests from helicopter noise

DNR is concerned that the continued noise and disruption created by the helicopter could be detrimental to nesting pairs of eagles. What is your plan to avoid this disruption?

Water withdrawals from fish bearing waters

Your application includes the proposal to take water from several sites to mix the chemicals, under a “temporary water use” permit from DNR. Field inspections will be conducted by OHMP DNR staff to determine if the proposed temporary water use locations are cataloged anadromous fish streams or contain anadromous and/or resident fish species, additional permits will be required.

How will used containers be disposed of?

The permit application states that the empty triple-rinsed containers would be disposed of at the Ketchikan landfill. DNR has heard that disposal of the containers at the landfill will not be allowed. What is your alternative for disposal of the containers other than the Ketchikan landfill?

Water body identification and buffers need to be mapped

Your project maps should be revised to a scale that is sufficient to clearly delineate the areas and waters to be protected. The revised maps should include 20-foot contour lines, Eagle’s nests locations, water withdrawal sites, the historic Howkan Village site , thirty-five foot pesticide free zones (PFZ) and all buffers.

Aerial identification of buffers

Physical identification of buffers on the ground will not be visible by the air. Explain how the aerial applicator will precisely identify buffer boundaries, water bodies and eagle nests.

More Information needed about the application apparatus

Additional information is needed about droplet size, swath of application; spray apparatus, nozzle size, drift mitigation, recording equipment, and FAA safety operations certificates.

Public participation required

Following a determination that the information provided in response to this letter is sufficient for public review, two public notices will be published with a comment period of thirty days

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after the second public notice. Public hearings will be conducted with a comment period of 30 days after the final public hearing.

Sincerely,
Director