

LOUISIANA AGRICULTURAL CHEMISTRY AND SEED COMMISSION
TENTATIVE MINUTES (*PENDING COMMISSION APPROVAL)
October 27, 2022
9:30 AM

Louisiana Department of Agriculture & Forestry Building
LDAF Veterans Memorial Auditorium
5825 Florida Boulevard
Baton Rouge, LA 70806

CALL TO ORDER

The meeting was called to order at 9:30 a.m. by Mr. Todd Parker, Confidential Assistant to Commissioner Mike Strain, DVM.

ROLL CALL

The roll was called by Mrs. Tina Ficklin.

The following commission members and/or designees were present: Mr. Todd Parker, Designee for Commissioner Mike Strain; Dr. Edward Twidwell, Louisiana Cooperative Extension Service; Mr. Cecil Jones, Seed Industry Representative; Mr. David Causey, Fertilizer Industry Representative; Mr. Ed O'Neal, Feed Industry Representative; Mr. Ron Harrell, Designee for Mr. Jim Harper, Louisiana Farm Bureau Assn; Mr. Gregory Gravois, House Ag Committee Appointee; and Mr. Travis Walker, Senate Ag Committee Appointee. A quorum was declared by Mr. Todd Parker.

Others Present: Lester Cannon, Director of LDAF Seed Programs Division; Dr. Ted Gauthier, Director of LDAF Agricultural Chemistry Programs Division; Dr. Ansel Rankins Sr, Assistant Commissioner LDAF Agricultural & Environmental Sciences; David Johnston, LDAF Seed Programs Coordinator; Brent Cutrer, Industrial Hemp Program Coordinator; Dr. Jonathan Roberts, Director of LDAF Feed Program; Angelle Pearson, Director of LDAF Fertilizer and Lime Programs; Courtney Foote, Feed Program; Erica Morse, Industrial Hemp Program; Paeton Burkett, LDAF Attorney; and Alicia Wheeler, Assistant Attorney General, Gary Primeaux, Director of the Louisiana Agricultural Industries Association; Baleigh Olah, LDAF Attorney; and Amy McInnis, LDAF General Counsel.

PUBLIC COMMENT

No public comment.

APPROVAL OF MINUTES

Paeton Burkett, LDAF attorney, made a motion to amend the minutes from the March 9, 2022 Agricultural Chemistry and Seed Commission meeting to show 'Adjudicatory Hearing' in plural form as Adjudicatory Hearings shown on page 3 and to add the title of Ag Chem Cases before Case No AC21-01 shown on page 5.

Motion to approve the minutes as amended by Paeton Burkett was made by Dr. Philip Elzer and seconded by Mr. Gregory Gravois. Motion approved unanimously.

NEW INDUSTRIAL HEMP PROGRAM STAFF INTRODUCTION

Lester Cannon introduced Brent Cutrer as the new Industrial Hemp Program Coordinator.

ADJUDICATORY HEARING

Mr. Todd Parker turned the meeting over to hearing officer, Ms. Alicia Wheeler, Assistant Attorney General.

FEED PROGRAM

Contested Case

Case No: FP 22-01, Holistic Hound c/o Prairie Dog Pet Products

Holistic Hound c/o Prairie Dog Pet Products was charged with four violations of the Louisiana Commercial Feed Law, La R. S. 3:1397(6), and more specifically, R.S. 3:1401(C)(4), for failure to file timely quarterly tonnage reports for quarters 1, 2, 3 and 4 for fiscal year 2022. No one was present for Respondent and the Department proceeded in their absence, as proper service was made on Respondent. LDAF General Counsel, Amy McInnis, presented evidence and LDAF Agricultural Program Specialist 2, Courtney Foote, testified on behalf of the Department.

Motion: Mr. Todd Parker made a motion to find Respondent in violation of all charges. This motion was seconded by Mr. Gregory Gravois and passed unanimously.

Motion: Mr. David Causey made a motion to impose a penalty of \$200.00 per violation for a total fine of \$800.00. This motion was seconded by Mr. Ed Oneal and passed unanimously.

SEED PROGRAM

Stipulated Cases

Case No: SD 22-01 Barenbrug USA, Inc

Barenbrug USA, Inc was charged with six violations of the Louisiana Seed Law and regulations La R. S. 3:1431, specifically, one violation of La R.S. 3:1444(2); three violations of LAC 7:XIII.301(14); and two violations of La. R.S. 3:1436(2)(a).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Seven Hundred and Fifty Dollars (\$750.00) for the violations.

Motion to accept the stipulation agreement as the findings of facts and conclusions of law, and to accept the recommended penalty of Seven Hundred Fifty Dollars (\$750.00) was made by Mr. Cecil Jones and seconded by Mr. David Causey. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-02, BWI Companies, Inc

BWI Companies, Inc was charged with nineteen violations of the Louisiana Seed Law and regulations, La. R.S. 3:1431; specifically, four violations of La. R.S. 3:1444(2); five violations of LAC7:XIII.301(14); one violation of La. R.S. 3:1436(2)(e); two violations of La. R.S. 3:1436 (LAC 7:XIII.301.4); two violations of LAC 7:XIII.143(B); two violations of LAC 7:XIII.143(A); and three violations of La. R.S. 3:1436(1)(d).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and

notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Three Thousand One Hundred and Fifty Dollars (\$3,150.00) for the violations.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Three Thousand One Hundred Fifty Dollars (\$3,150.00) was made by Dr. Philip Elzer and seconded by Mr. Travis Walker. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-03, Green Garden Products

Green Garden Products was charged with twenty-three violations of the Louisiana Seed Law and regulations La. R.S. 3:1431, specifically, La. R.S. 3:1436(5)(c).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Two Thousand Eight Hundred and Seventy-Five Dollars (\$2,875.00) for the violations.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Two Thousand Eight Hundred Seventy-Five Dollars (\$2,875.00) was made by Mr. Ed Oneal and seconded by Mr. David Causey. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-04, J & J Bagging

J & J Bagging was charged with nine violations of the Louisiana Seed Law and regulations La. R.S. 3:1431, specifically, one violation of LAC 7:XIII.301(4)(c); six violations of La. R.S. 3:1444(2); one violation of La. R.S. 3:1436(LAC 7:XIII.301.4); and one violation of La. R.S. 3:1444(4)..

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of One Thousand Five Hundred Dollars (\$1,500.00) for the violations.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of One Thousand Five Hundred Dollars (\$1,500.00) was made by Mr. Gregory Gravois and seconded by Mr. Cecil Jones. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-05, Pennington Seed, Inc.

Pennington Seed, Inc was charged with fifteen violations of the Louisiana Seed Law and regulations La. R.S. 3:1431, specifically, one violation of La. R.S. 3:1436 (LAC 7:XIII.301.4); six violations of LAC 7:XIII.143(1); one violation of La. R.S. 3:1444(4); three violations of La. R.S. 3:1444(2); two violations of LAC 7:XIII.301(14); one violation of La. R.S. 3:1436(1)(d), and one violation of R.S. 3:1437(A).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and

notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Three Thousand One Hundred and Twenty-Five Dollars (\$3,125.00) for the violations.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Three Thousand One Hundred Twenty-Five Dollars (\$3,125.00) was made by Dr. Philip Elzer and seconded by Mr. David Causey. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-06, Ragan & Massey, Inc.

Ragan & Massey, Inc was charged with fifteen violations of the Louisiana Seed Law and regulations La. R.S. 3:1431, specifically, nine violations of La. R.S. 3:1436(2)(d); one violation of La. R.S. 3:1444(4); three violations of La. R.S. 3:1436(2)(e); and two violations of LAC 7:XIII.301(14).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Two Thousand One Hundred and Twenty-Five Dollars (\$2,125.00), with half of the fine amount to be suspended due to this being a first-time offense.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended reduced penalty of One Thousand Sixty-Two Dollars and Fifty cents (\$1,062.50) was made by Mr. Cecil Jones and seconded by Mr. Travis Walker. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-07, River Valley Feed and Seed, Inc.

River Valley Feed and Seed, Inc was charged with four violations of the Louisiana Seed Law and regulations La. R.S. 3:1431, specifically, one violation of LAC 7:XIII.143(A); one violation of La. R.S. 3:1444(4); one violation of LAC 7:XIII.131(I); and one violation of LAC 7:XIII.301(14).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Seven Hundred and Fifty Dollars (\$750.00), with half of the fine amount to be suspended due to this being a first-time offense.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended reduced penalty of Three Hundred Seventy-Five Dollars (\$375.00) was made by Mr. Ed Oneal and seconded by Mr. David Causey. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-08, The Scotts Company

The Scotts Company was charged with eight violations of the Louisiana Seed Law and regulations La. R.S. 3:1431, specifically, four violations of LAC 7:XIII.143(A); and four violations of La. R.S. 3:1444(2).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and

notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of One Thousand Five Hundred Dollars (\$1,500.00), with half of the fine amount to be suspended due to this being a first-time offense.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended reduced penalty of Seven Hundred Fifty Dollars (\$750.00) was made by Dr. Philip Elzer and seconded by Mr. Cecil Jones. Motion passed unanimously. No recusals or abstentions.

Case No: SD 22-09 The Home Depot #349

The Home Depot #349 was charged with ten violations of the Louisiana Seed Law and regulations La. R.S. 3:1431, specifically, La. R.S. 3:1440 and La. R. S. 3:1444(9).

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed, and notarized stipulation agreement between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Five Thousand Dollars (\$5,000.00) for the violations.

Motion to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Five Thousand Dollars (\$5,000.00) was made by Mr. Gregory Gravois and seconded by Mr. Travis Walker. Motion passed unanimously. No recusals or abstentions.

INDUSTRIAL HEMP PROGRAM

Continued Case

Case No: IH 22-02 Crystal Grayson

Ms. Paeton Burkett requested continuance of this case until the next commission meeting due to late service to Respondent.

Adjudicatory hearing was adjourned.

OLD BUSINESS

Ms. Paeton Burkett provided the staff response to the seed regulatory authority of online/direct seed sales as requested by the Commission during the March 9, 2022 meeting.

The Department does not have the authority to regulate seed that is on the private property of the seed owner except in the case of an investigation of an official complaint initiated by the seed owner.

NEW BUSINESS

Program Updates

Seed and Industrial Hemp Programs Division

Seed Program – David Johnston gave an update of FY 2022 seed laboratory sampling and testing data.

Industrial Hemp Program – Lester Cannon gave an update of current calendar year Industrial Hemp data, including 2022 Hemp Law revisions.

Agricultural Chemistry Programs Divisions

Agricultural Chemistry – Dr. Ted Gauthier gave an update on current Agricultural Chemistry laboratory progress.

Fertilizer/Lime Program – Ms. Angelle Pearson gave a FY 2022 overview of the Fertilizer/Lime Programs.

Feed Program – Dr. Jonathan Roberts provided an update on the Feed Program for FY 2022.

Certified Sugarcane Seed Recertification Request

Certis Biologicals (Kleentek) requested consideration for certification of additional fields during the 2024 and 2025 planting seasons. The anticipated shortage of seed cane in several varieties was caused by the unexpected negative responses from tissue culture plantlets that were damaged as an effect of failed air control systems during Hurricane Ida.

Motion to recommend approval to allow for re-certification of sugarcane fields was made by Mr. Gregory Gravois and seconded by Mr. Travis Walker. Motion passed unanimously.

PUBLIC COMMENT

Mr. Jacob Barnes, with Pennington Seed, addressed the Commission regarding general seed industry information, and his appreciation for the Commission and Seed Program Staff cooperation with issues that arise in the seed industry.

ADJOURNMENT

Motion to adjourn the meeting was made by Dr. Philip Elzer and seconded by Mr. David Causey. Motion passed unanimously. Meeting adjourned at 10:58am.