

**ADVISORY COMMISSION ON PESTICIDES  
VETERANS' MEMORIAL AUDITORIUM  
5825 FLORIDA BLVD.  
BATON ROUGE, LOUISIANA  
May 28, 2014 9:30 AM**

**MINUTES**

**CALL TO ORDER**

The meeting was called to order by Mr. Guthrie at 9:40 am.

**ROLL CALL**

Members present: George Bragg, LA Mosquito Control Association, Keith Majure, LA Agriculture Aviation Association, Garry Ross, LA Audubon Society, Roby Shields, LA Vegetable Management Association, Billie Guthrie, Farmer-at-Large. Martin Floyd, LA Wildlife Federation, Wayne Ducote, LA Ag Chemical Association, John Landry, LA Farm Bureau Association, Dwayne O'Brien, LA Agricultural Aviation Association, Dr. Marcia Hardy, Society of Toxicology and Ray Young, alternate for Dr. Grady Coburn, LA Agricultural Consultant Association.

Members absent: Dr. Grady Coburn

Others present: Harry Schexnayder, LDAF, Kevin Wofford, LDAF, Todd Parker, LDAF, Lindsey Hunter, Assistant Attorney General, Christopher Mora, LDAF General Counsel, Mary Anderson, LDAF and Fran McVea, LDAF. Jay Skelton, Court Reporter.

**PUBLIC COMMENTS**

None

**APPROVAL OF MINUTES**

**Motion:** Mr. Floyd made a motion to approve the minutes. This motion was seconded by Mr. O'Brien and passed unanimously.

**AMENDMENTS TO AGENDA**

None

**DEPARTMENT REPORTS**

Mr. Wofford reported that the department is in the process of hiring five new AES Inspectors. Mr. Wofford reported that Mr. David Fields has retired and Mr. Harry Schexnayder has assumed his duties as the new Assistant Director of Pesticide and Environmental Programs and Mrs. Lisa Gautreaux was introduced as the new Coordinator for Pesticide Registration.

**OLD BUSINESS**

None

**NEW BUSINESS**

*Ag Consultant Committee*

Mr. Guthrie reported that the Ag Consultant Committee had met and voted to recommend approving the Ag Consultant applications for Kevin Adrian Caillouet and Joni Lyne Kernan.

Dr. Coburn turned the meeting over to Lindsey Hunter, Assistant Attorney General.

**ADJUDICATORY HEARING**

*Donald M. Johnson, Case No. 1652*

Ms. Hunter explained the procedures of the Adjudicatory Hearing. Ms. Hunter stated that it is the customary practice of this commission to allow commission members the opportunity to ask questions of each witness after the attorneys have done so and the attorneys would have a chance to redirect the witness. Both attorneys stated that they do not have any objections to this. Mr. Mc Aloon requested that the witnesses be sequestered. Ms. Hunter asked that all the subpoenaed witnesses leave the room and stay in the café area of the building and not to speak amongst themselves about the case. Mr. Mc Aloon asked that all witnesses be sequestered. Ms. Hunter asked both attorneys to identify the witnesses they intend to call.

Mr. Mora identified himself as the General Counsel for LDAF and gave an opening statement to the commission. Mr. Mora stated that this case has three separate violations not connected to each other.

Mr. Mc Aloon identified himself as the Attorney of Record for Mr. Johnson and gave an opening statement to the commission.

Mr. Mora asked that Mr. Gene Edmondson be called as the first witness. Ms. Hunter called for Mr. Edmondson. Mr. Edmondson was sworn in by the court reporter.

Mr. Mora questioned Mr. Edmondson. Mr. Mc Aloon questioned Mr. Edmondson. Ms. Hunter asked if the commission had any questions. The commission members had no questions and there were no redirect questions by either attorney. Ms. Hunter asked Mr. Edmondson to remain in the sequestered area for the rest of the hearing.

Ms. Hunter called for a break. Ms. Hunter called the hearing back to order. All commission members returned and there was a quorum present.

Mr. Mora asked that Deputy Richard A. Robertson of the East Carroll Parish Sheriff Department be called as the next witness. Mr. Robertson was sworn in by the court reporter. Mr. Mora questioned Deputy Robertson. Mr. Mc Aloon questioned Deputy Robertson. Mr. Mora redirected Deputy Robertson. There were no questions from the commission from this witness.

Mrs. Hunter asked both attorneys if they will need Deputy Robertson for further questions and both attorneys said they were finished with Deputy Robertson. Mrs. Hunter released Deputy Robertson from his subpoena.

Mr. Mora asked that Mr. Guthrie Sistrunk, LDAF AES Inspector, be called as the next witness. Mr. Sistrunk was sworn in by the court reporter. Mr. Mora questioned Mr. Sistrunk.

Mrs. Hunter called for a break. Mrs. Hunter called the hearing back to order. All commission members returned and a quorum was present.

Mr. Mora continued his questioning of Mr. Sistrunk. Mr. Mc Aloon questioned Mr. Sistrunk. Mr. Mora redirected Mr. Sistrunk. Mrs. Hunter asked the attorneys if they wanted to release Mr. Sistrunk from his subpoena. Mr. Mora said he wanted Mr.

Sistrunk to remain under the subpoena. Mrs. Hunter asked Mr. Sistrunk to remain in the sequestered area for the duration of the hearing.

Mrs. Hunter called for a break. Mrs. Hunter called the hearing back to order. All commission members returned. There was a quorum present.

Mr. Mora asked that Mrs. Amy Hernandez, LDAF Ag Chemistry office be called as the next witness. Mrs. Hernandez was sworn in by the court reporter. Mr. Mora questioned Mrs. Hernandez. Mr. Mc Aloon questioned Mrs. Hernandez. The commission was given the opportunity to ask questions. Mr. Hunter asked if he had any other questions, and Mr. Mora indicated that he did not. Ms. Hernandez was released from her subpoena.

Ms. Hunter asked Mr. Mora if he had any other witnesses to be called. Mr. Mora indicated that he did not.

Mr. Mc Aloon called for Mr. Donald M. Johnson to testify. Mr. Johnson was sworn in by the court reporter. Mr. Mc Aloon questioned Mr. Johnson. Mr. Mora questioned Mr. Johnson. Ms. Hunter gave the commission members the opportunity to ask questions of Mr. Johnson. Mr. Mc Aloon requested to give follow-up questions based on commission questions. Mr. Mora did not have any follow-up questions.

Mr. Mora asked to call an additional witness based on Mr. Johnson's testimony. Ms. Hunter said that there were still four more witnesses to call.

Mr. Mc Aloon then called Mr. Calvin Johnson to testify. Mr. C. Johnson was sworn in by the court reporter. Mr. Mc Aloon questioned Mr. C. Johnson. Mr. Mora did not have any questions for Mr. C. Johnson. The commission members were given the opportunity to ask questions of Mr. C. Johnson. After the commission questions, Ms. Hunter asked both attorneys if they had any follow-up questions. They did not. Mr. C. Johnson was released from his subpoena.

Mr. Mc Aloon called for Mr. Jeffery Thornton. Mr. Thornton was sworn in by the court reporter. Mr. Mc Aloon questioned Mr. Thornton. Mr. Mora did not have any questions. The commission members were given the opportunity to ask questions of Mr. Thornton. After the commission questions, Mr. Mc Aloon asked to give follow-up questions. The commission asked questions again and Mr. Thornton was released from his subpoena.

Mr. Mc Aloon called James Rushing to testify. Mr. Rushing was sworn in by the court reporter. Mr. Mc Aloon questioned Mr. Rushing. Mr. Mora questioned Mr. Rushing. The commission members were given the opportunity to ask questions of Mr. Rushing. Mr. Mc Aloon asked for follow-up question based on the commission members' questions. Mr. Rushing was released from his subpoena.

Mr. Mc Aloon called Mr. Mike Peeples to testify. Mr. Peeples was sworn in by the court reporter. Mr. Mc Aloon questioned Mr. Peeples. Mr. Mora questioned Mr. Peeples. Mr. Mc Aloon did not have any re-direct questions. The commission members were given the opportunity to ask questions of Mr. Peeples. Mr. Peeples was released from his subpoena.

Mr. Mora called Mr. Gene Edmondson back to testify. Ms. Hunter reminded Mr. Edmondson that he was still under oath. Mr. Mora questioned Mr. Edmondson. Mr. Mc Aloon questioned Mr. Edmondson. The commission members were given the

opportunity to ask questions of Mr. Edmonson and Mr. Edmondson was released from his subpoena.

Mr. Mora called Mr. Marty Pousson to testify. Mr. Pousson is a LDAF employee. Mr. Mc Aloon objected to Mr. Pousson being called as a witness because he had not been listed as a witness prior to this hearing and he had been present in the room and had heard the earlier testimony. Mr. Mc Aloon said he had requested all witnesses to be sequestered and that Mr. Pousson testimony would be prejudicial; to Mr. Johnson to have him testify.

Ms. Hunter agreed with Mr. Mc Aloon's objection.

Mr. Mora offered an alternative to this request. Ms. Hunter allowed Mr. Mora to enter into record a document from the department identified as Proffer Exhibit 1 and will become part of the record if there should be an appeal. This exhibit will be given to the court reporter.

Mr. Mora gave his closing argument. Mr. Mc Aloon gave his closing argument. Mr. Mora gave rebuttal to Mr. Mc Aloon's closing argument.

Ms. Hunter advised the commission that they could make a motion or take the case under advisement or it can be discussed in executive session, or it can be discussed on the record.

**Motion:** Mr. Landry made a motion to go into executive session. This motion was seconded by Mr. O'Brien and passed unanimously.

Ms. Hunter asked the court reporter to turn off all her equipment while in executive session for everyone to clear the room except the commission members.

**Motion:** Mr. Ducote made a motion to return from executive session. This motion was seconded by Mr. O'Brien and passed unanimously. All commission members were present at this time.

Ms. Hunter asked for the decisions on **Charge A:**

**Motion:** Mr. O'Brien made a motion to find Mr. Johnson guilty. This motion was seconded by Mr. Bragg and passed unanimously.

Ms. Hunter asked for the decisions on **Charge B:**

**Motion:** Mr. Landry made a motion to find Mr. Johnson guilty. This motion was seconded by Mr. Guthrie and passed unanimously.

Ms. Hunter asked for the decisions on **Charge C:**

**Motion:** Mr. Guthrie made a motion to find Mr. Johnson guilty. This motion was seconded by Mr. Bragg and passed unanimously.

Mr. Schexnayder presented the department's recommendation for the penalties in this case.

**Charge A** – Mr. Schexnayder said that Mr. Johnson has a history of drift violations and this drift gave rise to multiple complaints with human exposure involved, the department recommends a fine of \$1000. The department did not recommend suspension or revocation of Mr. Johnson's certification and or license.

**Charge B** - Mr. Schexnayder said the department's recommended a fine of \$2500.00 because this is a 2<sup>nd</sup> offense of a major violation.

**Charge C** – Mr. Schexnayder said the department recommended a fine of \$ 5000.00 because this is a 3<sup>rd</sup> offense with human exposure.

The total recommended fine in this case is \$8500.

Mr. Mc Aloon gave a statement on the department's penalty recommendations, suggesting fines of \$500 per violation for a total fine of \$1500.

Mr. Schexnayder stated that the Penalty Matrix has been consistently used for over 20 years by this commission.

**Motion:** Mr. Guthrie made a motion to accept the department's recommendation of a \$1000 for Charge A. This motion was seconded by Mr. Ducote and passed unanimously.

**Motion:** Mr. Guthrie made a motion to accept the department's recommendation of a \$2500.00 fine for Charge B. This motion was seconded by Mr. Bragg and passed unanimously.

**Motion:** Mr. Guthrie made a motion to accept the department's recommendation of a \$5000.00 fine for Charge C. This motion was seconded by Mr. Ducote and passed unanimously.

Ms. Hunter turned the meeting back over to Mr. Guthrie.

#### **FUTURE MEETING**

The next schedule meeting will be on October 22, 2014 at 9:30 am

#### **PUBLIC COMMENT**

None

#### **ADJOURN**

**Motion:** Mr. Ducote made a motion to adjourn. This motion was seconded by Dr. Hardy was seconded and passed unanimously.