

**ADVISORY COMMISSION ON PESTICIDES
VETERANS' MEMORIAL AUDITORIUM
5825 FLORIDA BLVD.
BATON ROUGE, LOUISIANA
July 19, 2017 9:30 AM**

AMENDED PROCEEDINGS

CALL TO ORDER

The meeting was called to order by Chairman, Dr. Grady Coburn at 9:35 am.

ROLL CALL

Members present: George Bragg, Dr. Grady Coburn, Dr. Gary Ross, Billy Guthrie, Dr. Sharon Meyer, Jenny Buller, Scotty Meador, Johnny Landry, and Roby Shields.

Members absent: Martin Floyd, Keith Majure

Others present: Kevin Wofford, LDAF, Harry Schexnayder, LDAF, Lindsey Hunter, LDAF General Counsel, Joe Ingraio, LDAF, Julie Nauta, LDAF, Tina Perkins, LDAF, Melissa Evans, LDAF, Michael Heier, Hearing Officer, Guthrie Sistrunk, LDAF, George Shepherd, LDAF, Raymond Carter Klumpp, LDAF, Kim Pope, LSU AgCenter, Bradley Ferrell, Jeffery Simmons, Mathews Ledet, Glenn Stokes

PUBLIC COMMENTS

Dr. Coburn opened the floor for public comments. There were none.

APPROVAL OF MINUTES

Motion: Mr. Landry made a motion to approve the proceedings from the March 8, 2017 ACP meeting. The motion was seconded by Ms. Buller and passed unanimously.

AMENDMENTS TO AGENDA

Dr. Coburn asked Mr. Schexnayder if there were any recommendations for amendments to the agenda. Mr. Schexnayder stated that there were none.

ADJUDICATORY HEARING

Hearing Officer Michael Heier conducted the hearing. LDAF General Counsel Lindsey Hunter presented the following cases:

Daniel Heath Clement, Case No. 2041

Mr. Clement was not present. Ms. Hunter stated that Mr. Clement agreed to a stipulation to the charge of one violation of LRS 3:3252 (A)(2). Following the penalty matrix, the charge includes a penalty of \$1,000.00 with \$500.00 suspended, due within the 30 days.

Motion: Mr. Guthrie made a motion to accept the stipulation as presented. The motion was seconded by Mr. Shields and passed unanimously.

Brent Barbier, Case No. 2043

Mr. Barbier was not present. Ms. Hunter stated that Mr. Barbier agreed to a stipulation to the charge of one violation of LRS 3:3252 (A)(2) and one violation of LRS 3:3252 (A)(4). Following the penalty matrix, the charge includes a penalty of \$3,500 with \$1,750 suspended, due within the 30 days.

Motion: Dr. Coburn made a motion to reject stipulation as presented. The motion was seconded by Mr. Bragg and passed unanimously.

A hearing for case 2043 will be held at the next Commission meeting on November 1, 2017.

Keith Carden, Case No. 2044

Mr. Carden was not present. Ms. Hunter stated that Mr. Carden agreed to a stipulation to the charge of one violation of LRS 3:3252(A)(2). Following the penalty matrix, the charge includes a penalty of \$1,000.00 with \$500.00 suspended, due within the 30 days.

Motion: Mr. Shields made a motion to accept the stipulation as presented. The motion was seconded by Mr. Meador and passed unanimously.

Bradley Ferrell, Case No 2042

The department charged Mr. Ferrell with one violation of LRS 3:3252(A)(2), making a pesticide application inconsistent with the label.

Ms. Hunter represented the department. Mr. Ferrell was present and sworn in by the hearing officer. Mr. Ferrell represented himself. Ms. Hunter called Mr. Sistrunk, LDAF AES Inspector, as a witness. Ms. Hunter offered exhibits into the record after their identification by Mr. Sistrunk. Mr. Ferrell had no questions for Mr. Sistrunk.

Mr. Ferrell answered questions and made a statement to the Commission.

Mr. Adam Plunkett made a statement to the Commission.

Motion: Dr. Coburn made a motion of the finding of fact that a non-target movement did occur and the application was inconsistent with the label. The motion was seconded by Mr. Bragg.

6 in favor Dr. Coburn, Mr. Bragg, Mr. Landry, Mr. Shields, Dr. Ross, Ms. Buller
3 opposed -Mr. Guthrie, Mr. Meador, Dr. Meyer

Motion passed.

Motion: Ms. Buller made a motion to assess no penalty for the charge. The motion was seconded by Dr. Coburn and was passed unanimously.

Jeffery Simmons, Case No. 2050

The department charged Mr. Simmons with three violations: 3:3252 (A)(2), making a pesticide application inconsistent with the label; 3:3252 (A)(5), refusing to comply with the provisions of this Chapter or rules and regulations; and 3:3252 (A)(21) evasion of payment of fines legally imposed by the commissioner.

Ms. Hunter represented the department. Mr. Simmons was present and sworn in by the hearing officer. Mr. Simmons represented himself. Ms. Hunter called Mr. Sistrunk, LDAF AES Inspector, as a witness. Ms. Hunter offered exhibits into the record after their identification by Mr. Sistrunk. Mr. Simmons had no questions for Mr. Sistrunk.

Mr. Simmons made a statement to the Commission. He stated he would have given records if we would have called. The day inspectors came by was a bad time.

Ms. Hunter called Mr. Shepherd, LDAF AES District Manager, as a witness. Ms. Hunter offered exhibits into the record after their identification by Mr. Shepherd. Mr. Simmons stated he did not say the words Mr. Shepherd claimed he said.

Ms. Hunter called Mr. Wofford, LDAF Director of Advisory Commission on Pesticides, as a witness. Ms. Hunter offered exhibits into the record after their identification by Mr. Wofford. Mr. Simmons had no questions for Mr. Wofford.

Mr. Simmons made a statement to the Commission. He stated the date range in a letter did not include the correct date. Mr. Simmons answered questions from the Commission.

Motion: Dr. Coburn made a motion of the finding of fact that Mr. Simmons committed a violation of LRS 3:3252(A)(2). The motion was seconded by Mr. Guthrie and passed unanimously.

Motion: Mr. Guthrie made a motion of the finding of fact that Mr. Simmons committed a violation of LRS 3:3252(A)(5). The motion was seconded by Ms. Buller and passed unanimously.

Motion: Mr. Landry made a motion of the finding of fact that Mr. Simmons committed a violation of LRS 3:3252(A)(21). The motion was seconded by Mr. Bragg and passed unanimously.

Ms. Hunter stated the department's recommended penalty following the approved penalty matrix: \$5,000 for violation of LRS 3:3252(A)(2), \$1,000 for violation of LRS 3:3252(A)(5), and \$1,000 for violation of LRS 3:3252(A)(21).

Motion: - Mr. Bragg made a motion to assess the penalty recommended by the department, \$7,000 for three violations, and a six month suspension of Mr. Simmons' license. The motion was seconded by Mr. Landry and passed unanimously.

Five minute recess. Everyone was present after the break.

David McGee, Case No. 2045

Mr. McGee requested a continuation for his case. The continuation was granted by Michael Heier, Hearing Officer.

Mathews Ledet III, Case No. 2055

Mr. Ledet was charged with one violation of LRS 3:3252(A)(2), making a pesticide application inconsistent with the label.

Ms. Hunter represented the department. Mr. Ledet was present and sworn in by the hearing officer. Mr. Ledet represented himself. Ms. Hunter called Mr. Klumpp, LDAF AES Inspector, as a witness. Ms. Hunter offered exhibits into the record after their identification by Mr. Klumpp. Mr. Ledet had no questions for Mr. Klumpp.

Ms. Hunter called Ms. Amy Hernandez, LDAF Pesticide Laboratory Supervisor, as a witness. Ms. Hunter offered exhibits into the record after their identification by Ms. Hernandez. Mr. Ledet had no questions for Ms. Hernandez.

Mr. Ledet called Mr. Glenn Stokes as a witness. Mr. Stokes was sworn in by the hearing officer. Mr. Stokes made a statement to the Commission. Mr. Ledet had no questions for Mr. Stokes. Ms. Hunter questioned Mr. Stokes regarding receipt of warning and charge letters. The Commission questioned Mr. Stokes and Mr. Ledet about the pesticide application.

Mr. Ledet made a statement to the Commission that they are doing everything they can to prevent this. Mr. Ledet offered exhibits into the record after their identification. Ms. Hunter questioned Mr. Ledet regarding his documents.

Motion: - Dr. Meyer made a motion of the finding of fact that Mr. Ledet committed a violation of LRS 3:3252(A)(2). The motion was seconded by Mr. Shields.

7 in favor: Ms. Buller, Mr. Guthrie, Dr. Meyer, Mr. Meador, Mr. Landry, Mr. Shields, Dr. Ross
2 opposed: Dr. Coburn, Mr. Bragg

Motion passed.

Ms. Hunter stated the department recommends a \$1,000 penalty for one violation of LRS 3:3252(A)(2) following the approved penalty matrix.

Motion: – Mr. Landry made a motion to assess the penalty of \$1,000 for one violation of LRS 3:3252(A)(2). The motion was seconded by Mr. Shields.

5 in favor: Mr. Landry, Mr. Guthrie, Mr. Shields, Dr. Ross, Mr. Meador
4 opposed: Dr. Meyer, Dr. Coburn, Mr. Bragg, Ms. Buller

Motion passed.

DEPARTMENT REPORTS

Mr. Ingrao presented an update on the Proficiency Test report. The commercial side has tested 1,937 applicators out of a total of 5,200. (38% through the list). The department will be implementing computerized testing in the near future and will offer the proficiency test at every district office.

Mr. Schexnayder discussed the structural portion of the proficiency test. He stated that there have been 1,600 proficiency tests done out of 2,800.

OLD BUSINESS

Mr. Schexnayder discussed the following proposed rule changes to Title 7 Part XXIII Pesticides:

Rule 711 – Certification of Commercial Applicators – originally proposed the removal of Subcategory 5b because TBT is no longer used. Subcategory 5b will remain and only the reference of TBT will be removed.

Rule 2101- Owner-Operators, Non-Fee Commercial Applicators, and Commercial Applicators – originally proposed the addition of private applicators requiring to meet the same record keeping requirements as are currently in place for Owner-operators, non-fee commercial applicators, and commercial applicators. Same change only more clarification in the language throughout the rule.

NEW BUSINESS

Mr. Wofford stated that any persons selling, purchasing, and applying the new 2,4-D and Dicamba products will have to go through the pesticide stewardship training. Once they have gone through the training, this information will show up on the back of their certification card.

Mr. Wofford stated in Arkansas there have been 930 complaints, with 706 of those complaints being referenced to Dicamba alone. Louisiana has received approximately 105 complaints with 1 Dicamba complaint. A proposal in Arkansas to ban Dicamba is currently being reviewed by the governor. The EPA originally approved this label for 3 years and will be up for review next year, contingent on drift or other issues. The department is currently waiting for more information.

Mr. Wofford and Mr. May discussed the feral hog toxicant, Kaput Feral Hog Bait. The department registered the product in February with more restrictions than the EPA, requiring the product be a state Restricted Use Pesticide and requiring additional training. Those requirements were implemented through a section 24(c) registration. In April the department cancelled the registration due to exposure concerns to larger mammals such as the Louisiana black bear. The registrant has different prototype feeders that are being evaluated to reduce exposure to the Louisiana black bear. The department is awaiting data from those studies before any future decisions are made regarding Kaput Feral Hog Bait.

CONSIDERATION OF AG CONSULTANT EXAM APPLICATIONS

Mr. Ingrao presented the application of the Ag Consultant Exam Ad Hoc Committee for the following:

Samuel Edward Fontenot- The commission could not recommend due to lack of 3 credits in the following categories: Ag Entomology, Ag Weed Control, Ag Plant Pathology, and Ag Field Soil Management.

Motion: Mr. Guthrie made a motion to disapprove the application at the recommendation of the Ad Hoc Committee. The motion was seconded by Mr. Bragg and passed unanimously.

FUTURE MEETING

The next scheduled meeting of the Advisory Commission on Pesticides will be on November 1, 2017 at 9:30am at LDAF.

PUBLIC COMMENT

No public comments were made at this time

ADJOURN

Motion: Mr. Meador made a motion to adjourn. This motion was seconded by Mr. Guthrie and passed unanimously. The meeting adjourned at 3:00pm.