

# PABC Journal



## Palmetto AgriBusiness Council Board Elects Officers for 2014

### Mikee Johnson Receives National Recognition



Congratulations to PABC Board member Mikee Johnson for being selected as the winner of the Jobs for America's Graduates (JAG) - National Workforce Development Leadership Award.

Mr. Johnson, CEO of Cox Industries and SC Workforce Investment Board Chairman, received the award for his commitment to helping the state's high school students prepare for success in the workplace.

If you would prefer to receive the *PABC Journal* electronically, please send us your email to [sandy@novingerqtr.com](mailto:sandy@novingerqtr.com).



**Gene Hundley** is the new Chairman of the PABC Board. Mr. Hundley is president of the Forestry Division of MWV Corporation. He joined Westvaco Corporation in 1974 as a district forester in West Virginia.

*(Cont. on pg 4)*



**Ronnie Summers** is the new Vice Chairman of PABC. He serves as AgSouth Farm Credit's South Carolina Regional President, and has a Bachelor of Science degree in Agriculture from Clemson University.

*(Cont. on pg. 4)*



**Fred West** is the new Secretary-Treasurer for PABC. He has been a member of the senior management team at Amick Farms for 15 years. As Vice President of Operations and Human Resources, Mr. West is responsible for all

*(Cont. on pg. 4)*

## PABC EXPANDS ECONOMIC DEVELOPMENT EFFORTS

Since changing its mission to include agribusiness economic development in 2012, PABC is expanding its efforts by updating ag-related associations, agencies and organizations about strategies and activities, as well as how they can become engaged in the initiative.

Jack Shuler, PABC President, has made several appearances around the state giving presentations on the initiative including speaking at the Marlboro County Farm-City Program and the Clemson Extension Agents work plan meeting. Mr. Shuler's presentation focuses on the current state of South Carolina's agribusiness industry and the potential that exists to increase its economic contribution. He also provided information on the Making Small Farms Big Business study which was recently completed and includes a comprehensive agricultural economic assessment of opportunities in regional food hubs and value-added processing across South Carolina. The study's website has received about 60,000 hits. Next steps include implementation of the study findings which will address the demand for local foods exceeding supply by creating food production nodes. The "nodes" will be formed by clusters of farmers and food producers who are in very close proximity to each other and to their targeted markets. This provides an opportunity for famers with small acreage to participate and increase their productivity.

The Making Small Farms Big Business initiative is part of the SC Department of Agriculture's plan to increase the profitability of small farms in the state.

## PABC'S 2014 LEGISLATIVE PRIORITY AGENDA

### STATE ISSUES:

#### Water Withdrawal:

To address recent developments concerning water withdrawal and ag users, PABC has formed a task force to examine the issue and make recommendations concerning strategies.

#### Taxes:

Continue to support preserving agribusiness sales tax exemptions and property tax assessments.

#### Agency Budgets:

Continue to support the budgets of the SC Department of Agriculture, marketing and economic development dollars, the SC Forestry Commission, Clemson PSA and the agritourism budget of SCPRT, including agribusiness.

#### Highway Issues & Funding:

Last year, the General Assembly passed legislation that provided almost \$600 million in funding for roads and bridges, but additional highway funding needs remain. PABC will continue to work collaboratively with other agribusiness and business partners on this issue, as well as address highway weight limits and posted bridge repairs & upgrades.

#### Tort Reform:

Continue to support tort reform efforts as it relates to agribusiness:

S. 773- Court Transparency Act- this proposed legislation addresses - companies employing or contracting with commercial driver's license holders may be held liable for the tortious actions of the license holder. It includes a provision that will protect companies from liability for negligent hiring, negligent retention, or negligent entrustment, should the CDL holder be involved in an accident. It also addresses Seatbelt Admissibility by allowing juries to hear evidence regarding whether a seatbelt was worn or not, and Phantom Damages - it will prevent juries from awarding damages that exceed the actual out of pocket costs incurred by the plaintiff.

S. 788 – Liability Reform Act – this proposed legislation addresses Trespasser Responsibility and will protect landowners from liability for injuries to trespassers. It also addresses Consumer Lawsuit Lending- a growing number of companies provide the funding necessary to bring lawsuits in exchange for a portion of the settlement. This proposal will make such funding arrangements illegal and subject to the provisions of the SC Consumer Protection Code.

S.916- Codifies existing trespassing laws.

#### Energy:

Continue to explore State and Federal alternative energy efforts to include offshore drilling, 3<sup>rd</sup> party generators, clean energy and their impact on the agribusiness industry. In order for SC to position itself for offshore drilling opportunities, the SC General Assembly will be encouraged to pass a concurrent resolution supporting offshore drilling.

#### SC Coordinating Council for Economic Development:

Support the addition of a forestry industry representative to the Council.

### REGULATORY ISSUES:

#### DHEC Permitting Time Frame:

Support a quicker process for approval of permits. Delays are occurring because of lack of resources at DHEC and processes.

#### DHEC Restructuring:

Monitor and evaluate restructuring legislation that would separate the components of health and environmental within the DHEC agency.

### FEDERAL ISSUES:

#### Immigration

Continue to support federal comprehensive immigration legislation that allows agribusiness access to a stable and legal workforce.

#### Farm Bill

Support the passage of a Farm Bill by Congress to ensure certainty for agribusinesses.

#### Bills to Watch List:

H. 4400– Minimum Wage Increase— Bill increases minimum wage in SC to \$10 per hour. Support SC not establishing minimum wage, but rather have this established by the Federal Minimum Wage.

S. 853—Deletion of Per Occurrence Cap under Tort Claims Act - Bill would delete the per occurrence cap, which is currently set at \$600,000.

S. 852— Increase on Per Person Cap under Tort Claims Act—Bill would increase the per person cap from \$300,000 to \$500,000 under the Torts Claims Act. (Oppose- both of these bills will lead to an increase in lawsuits in SC, increasing costs for citizens.)

## LEGISLATIVE UPDATES

### Surface Water Withdrawal

Legislation was introduced to make changes to a comprehensive permitting program for surface water withdrawals.

In 2011, the General Assembly passed the permitting legislation after years of development with all stakeholders involved. Stakeholders and legislators spent a great deal of time and energy developing the comprehensive surface water withdrawal program and the agribusiness community is concerned about changes that would negatively impact the state's number one industry.

### Clemson PSA Budget

PABC sent letters to the House Ways and Means Committee Chairman and members of the House Economic Development and Natural Resources Subcommittee in support of Clemson's PSA budget for FY2014-15. Included in the

budget is funding for three critical agribusiness economic development initiatives.

### Port Funding

PABC sent letters to the SC Congressional delegation in support of the Omnibus appropriations bill, which includes funding to keep the Port of Charleston's deepening efforts on track. Congress passed this bill, which also includes maintenance funding for the Port of Georgetown.

### Pollution Control Act (PCA)

H. 3925, a technical fix to the 2012-passed PCA, is pending on the House calendar. PABC signed on to a SC Chamber legislative piece in support of this fix. H.3925 again clarifies that there is not private cause of action under the PCA and simply reiterates the intent of the General Assembly that was agreed to by the business community and environmental groups in 2012.

## CLINT LEACH JOINS SCDA TEAM

The South Carolina Department of Agriculture (SCDA) recently gained a new Assistant Commissioner of External Affairs and Agribusiness Development. Late last year when Clint Leach joined the SCDA team, he brought years of experience from working as a member of staff with the SC Senate Finance Committee.

Commissioner Hugh Weathers and SCDA created the position Leach now fills, to help legislators on both the state and national level better understand the value of agribusiness.

"Having someone focused

primarily on economic development as it pertains to agribusiness will help SCDA better serve the industry. Clint is already a great asset to our team," said Commissioner Weathers.

If you would like to contact Clint Leach about an agribusiness matter, he can be reached at 803-734-2191 or [jcleach@scda.sc.gov](mailto:jcleach@scda.sc.gov).



Clint Leach

## South Carolina's Trespassing Law: The Legal Elite and the Death of Common Sense

### By: Cam Crawford President, SC Forestry Association

South Carolina's law provides that forest and agricultural landowners and forest and agribusiness product manufacturers owe no duty of care to trespassers except in the very narrow exceptions of causing "willful or wanton injury" to trespassers or when creating a dangerous artificial condition or "attractive nuisance" for children.

Unfortunately, the American Law Institute - a group of elitist lawyers, judges, and law professors - are recommending that courts

impose a duty on landowners to exercise reasonable care for the unwanted trespassers. The American Law Institute states that its members are "made up of 4000 lawyers, judges and law professors of the highest qualifications".

The American Law Institute is using the *Restatement of Third of Torts: Liability for Physical and Emotional Harm (2012)* as the vehicle to overturn South Carolina's (and other states) current law. According to the American Law Institute's website, their "Restatements of law" are

principles of law that are enormously influential in the courts.

Could the American Law Institute successfully encourage the South Carolina Supreme Court to adopt the 2012 "Restatement" to overturn the current trespassing law? I sure hope not.

It should be noted that in 2007, the South Carolina Supreme Court referred to the American Law Institute's "Restatement" in a trespassing case and adopted some of its principles in their opinion.

The law should reflect common sense. It defies

common sense to expand trespassers' rights to sue landowners. The trespasser should never have been on the property in the first place. Why should a trespasser have the right to sue a landowner? I cannot imagine a well-educated person advocating such a position. In this matter, there seems to be a difference between a legal scholarship and common sense. If the legal elites have their way, unwanted trespassers will be able to more easily file costly lawsuits against property owners which may result in increased insurance premiums and outrageous verdicts in certain jurisdictions.

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#### PABC OFFICERS

Gene Hundley, Chair  
Pamela Lackey, Past Chair  
Ronnie Summers, Vice-Chair  
Fred West, Secretary-Treasurer

#### STAFF

Jack W. Shuler, President  
Cathy B. Novinger, Executive Director

## WELCOME NEW MEMBERS Jason Walther, CEO Walther Farms

## Ray Langen, President Journal Communications

### South Carolina's Trespassing Law (cont. from pg. 3)

In 2014, the South Carolina Forestry Association will join with the Palmetto Agribusiness Council and the South Carolina Civil Justice Coalition to enact legislation that will codify the traditional common law rules governing trespassing to preempt courts from adopting the American Law Institute's principles in this area of law.

Hopefully, common sense will prevail and the General Assembly will take action to preserve the current standards for trespassing this year.

*(This is solely the opinion of the author. Please consult an attorney regarding legal issues mentioned in this Opinion)*

## PABC ELECTS NEW OFFICERS (cont. from page 1)

### Gene Hundley (cont. from pg. 1)

He transferred to the company's Southern Region as a timber production manager in 1984, and two years later transferred to the Summerville Lumber mill as the dry end superintendent. He was named mill manager in 1991. In 2000, Mr. Hundley joined the forestry division as a manager in the Commercial Ventures Group. In 2002, he was named vice president of forestry operations, and was promoted to division president in 2005. He currently serves on the Board of Directors for ArborGen, is a member of the Society of American Foresters and on the board of directors, Palmetto Agribusiness Council.

Mr. Hundley holds a BS in Forest Management from the University

of Tennessee and a PMBA from the University of SC.

### Ronnie Summers (cont. from pg. 1)

He has served in his current role since 2004. His 31 years with Farm Credit includes roles as a loan officer, credit manager, branch manager and manager of the commercial lending unit of Edisto Farm Credit and its successor, Palmetto Farm Credit. Mr. Summers is responsible for credit in the South Carolina service area of AgSouth Farm Credit.

Mr. Summer's educational background also includes graduating from the Georgia Southern Agribusiness School, the University of South Carolina Banking School and three years participation in the National Farm Credit Leadership Development Program.

Mr. Summers serves on the Board of Palmetto Agribusiness Council, the SC Poultry Federation, the SC Forestry Association, the SC Advocates for Agriculture and the SC State University Business School. He is a former board member of SC Cooperative Council, and is also a charter member of the Colleton Investment Association, having served as President, Vice President and Treasurer.

A native of the Branchville area, Mr. Summers and his wife, Lanee have two children.

### Fred West (cont. from pg. 1)

processing operations, human resource and personnel functions, quality assurance, compliance, legislative and governmental affairs, public relations and the corporate engineering functions.

A graduate of the University of SC with a Bachelor's degree in Business Administration, Mr.

West has over 25 years of experience in building, leading and working with teams of people. He currently serves as a Board member of Palmetto Agribusiness Council and the SC Poultry Federation. He is a member of the Society of Human Resources Management, a member of the International Foundation of Employee Benefit Plans, a Trustee on the DUFCW Health and Welfare Fund and serves on a variety of committees with the National Chicken Council. Other achievements and associations include being selected as a 1998 Outstanding Young Man of America and in 2005 received the SC Poultry Federation's Outstanding Service Award.

Mr. West has served as associate commissioner of the Lexington Soil & Water Conservation District, past ex-officio Board member of Volunteers in Medical Missions and past chairman of the Amick Farms Donation Committee.

He and wife, Michelle, have two children and reside in Leesville.