

# PABC Journal



The SC Farm Bureau Federation will host its 9th annual Palmetto Palate at 701 Whaley in Columbia on July 21, 6—9 pm.

The event pairs some of the finest chefs in the area with local farmers to produce a variety of excellent dishes for your taste buds! Also, there will be a Silent Auction featuring items donated from all of the local County Farm Bureau's in SC.

Proceeds from this year's event will benefit the Plant It Forward initiative.

For more information, contact Beverly Sease, 803-936-4215 or [bsease@scfb.org](mailto:bsease@scfb.org)

## FLOOD IMPACTED FARMERS TO GET RELIEF

Both the House and Senate voted to override Governor Nikki Haley's veto of \$40 million in state aid to farmers whose crops were devastated in the historic October flooding.

The legislation (H.4717) was introduced in response to the catastrophic agricultural losses suffered during the 1,000 year flood event. The South Carolina Department of Agriculture (SCDA), Clemson University and the USDA estimated direct crop loss at \$376 million, with estimated crop insurance only covering about one-third of the total crop loss. The bill sets up a state funded assistance program through a grant program for farmers who experienced significant losses limited to crop production expenses and losses.

PABC Chairman Ronnie Summers commended legislators saying, *"We appreciate our Senators and House Members responding to this crisis with a meaningful solution to keep our farmers in business."*

The SCDA has prepared a plan for implementation of the Farm Aid. An advisory board met and determined the criteria for eligibility and to establish the application process. To qualify, farmers must have a farm in a

USDA disaster declared county, a USDA—Farm Service Agency issued farm number and experienced a verifiable loss of affected agricultural commodities of at least 40 percent as a result of the October 2015 flooding. Documentation of crops and

acres planted, as well as loss will be required. Applicants must also sign an affidavit verifying their information to be true. For more information on the application process: visit <http://agriculture.sc.gov/SC-farm-aid/> or call Megan Heidkamp, 803-734-2210.

## FUNDING APPROVED FOR SC ROADS AND BRIDGES

Governor Nikki Haley signed into law S.1258, the road funding bond bill passed by the House and Senate this session.

The legislation allows the use of \$212 million in redirected existing fees and other revenue to bond up to \$2.2 billion in one-time funding through the State Infrastructure Bank. The bonded money will be prioritized on a needs-based methodology by SCDOT over 10 years for long-term highway projects and bridge replacement. Also included in the bill is SCDOT reform related to DOT Commissioners and the State Infrastructure Bank.

### Included in the plan:

- **Bridges**—\$950M - Eliminate structurally-deficient bridges on interstates and national highway system routes. This funding will replace 399 structurally deficient bridges.
- **Interstates**- \$2B - Widening and improvements to existing interstates (widen over 62 miles of the interstate system, including addressing Malfunction Junction).
- **Resurfacing**—\$1.4B—Pavement resurfacing—8700 lane miles across the state.

PABC worked collaboratively on this issue for the last two years with its Infrastructure Funding Group. Members include: SC Alliance to Fix Our Roads, SC Farm Bureau, SC Forestry Association, SC Chamber of Commerce, SC Trucking Association, SC Manufacturers Alliance, Carolinas AGC, American Council of Engineering Companies of SC and the SC Economic Development Association.

# Legislative Update

## Poultry Permitting

PABC hosted meetings with Farm Bureau, the SC Dept. of Agriculture, the SC Poultry Federation and PABC poultry industry reps with the SC Department of Health and Environmental Control staff to review the process of permitting poultry facilities in SC as compared to Georgia and North Carolina. The SC Department of Agriculture hosted a meeting for a presentation by DHEC Director Catherine Heigel and her staff on poultry permitting in May for integrators.

PABC will continue to focus on strategies for keeping South Carolina's poultry industry competitive.

## Eminent Domain

Bill S. 868 was passed by the General Assembly and signed into law by the Governor. This legislation prohibits private unregulated companies from having eminent domain authority.

## Job Tax Credits—Agricultural Packaging

The General Assembly passed S.427 and it was signed into law by the Governor. This legislation would give job tax credits to agricultural packaging operations. It also requires the Department of Commerce to consider agricultural businesses in awarding economic development benefits.

## Ag Use Exemptions

The State budget passed by the General Assembly contains an Ag Proviso 113.9 which would withhold a portion of funding (Aid to Subdivisions) to counties that impose additional requirements for an agricultural use exemption for a landowner's timberland beyond what is required by state law. This is in response to several counties requiring forest management plans in order for a timberland owner to claim an agricultural use exemption.

PABC signed onto to an amicus brief in support of a SC Forestry Association petition with the SC Supreme Court asking the Court to hear the

case against the counties that were requiring the forest management plans to qualify for an ag use exemption. The request was denied which makes the inclusion of this ag proviso so important to timberland owners.

## Agency Budgets

### Clemson University PSA

Legislators voted to override the Governor's veto of the Capital Reserve Fund—Clemson PSA, T.Ed Garrison Arena/Conference Center (\$1 million). This project is important to the upstate region and will allow SC to remain competitive with neighboring states in promoting and supporting the livestock and equine industries. Also included in the PSA budget: \$1 million in recurring funds for its agriculture and natural resources program and \$750,000 in recurring funds for the animal industry infectious disease program to address such issues as avian flu.

### SC Department of Agriculture

Legislators approved the SC Department of Agriculture's budget request including \$1 million for consumer protection equipment and \$500,000 in recurring funding for marketing (Certified SC Grown).

### SC Forestry Commission

Legislators voted to override the Governor's veto of Senate bill S. 973. This bill extended the sunset provision until 2022 for the Forestry Commission to receive insurance premium tax revenue for the purchase of firefighting equipment, which had a sunset provision that expires in 2017.

The Forestry Commission will also receive \$320,000 in recurring funds for additional firefighters and \$200,000 in recurring funds for implementing a forest inventory system.

### Workers Compensation

S. 975, the Workers Comp Chairman Reappointment bill, was passed by the General Assembly and signed into law by the Governor. This legislation addresses the Governor appointing the chairman of the Commission, with the

probation for appointing the chairman for consecutive terms lifted.

## Pollution Control Act

S.229, the Pollution Control Act (PCA) Fix bill, was passed by the Senate but the House adjourned debate on the legislation and it was not passed this session. The legislation returned to the House from the Senate contained components that would not be beneficial to businesses.

This legislation (before amended) is important to protecting businesses against unwarranted lawsuits and simply reaffirms the 2012 legislative compromise between the environmental and business communities stating that there is no private cause of action under the PCA and that a company may not be sued for not having a permit when no permitting program applies. PABC signed onto a letter with other organizations encouraging the House to pass S. 229.

## FEDERAL ISSUES

### Offshore Drilling

After the Obama administration announced it will bar drilling in the Atlantic region, PABC sent a letter to the Bureau of Ocean Energy Management (BOEM) expressing opposition to the exclusion of the region in the Five-Year Leasing Program. Although PABC has not taken a position on offshore drilling, we work in partnership with the Consumer Energy Alliance to support the exploration of the Atlantic region to find out what energy resources are along South Carolina's coastline. Obtaining an updated oil and gas resource through seismic testing is critical to ensuring informed decisions related to possible future Atlantic oil and gas development.

### Oil Tax Increase

With agribusiness being so dependent on energy for processing, transportation and distribution, PABC sent a letter to the South Carolina Congressional delegates asking their opposition to the President's \$10-a-barrel-oil-tax. Although this tax would be paid by the oil companies, the concern is that it would be passed on to users.

The oil tax increase has not been approved by Congress.

## AT&T, DOMINION DONATE TO PLANT IT FORWARD INITIATIVE



SC Advocates for Agriculture accepted the donation of \$10,000 from AT&T to Plant It Forward SC. Pictured above (left to right): Ted Creech, AT&T, SC Agriculture Commissioner Hugh Weathers and Pamela Lackey, AT&T.



SC Advocates for Agriculture accepted the donation of \$10,000 from Dominion to Plant It Forward SC. Pictured above (left to right): Ronnie Summers and Cathy Novinger, SC Advocates for Agriculture; SC Agriculture Commissioner Hugh Weathers and Kristen Beckham, Dominion.

PABC Board member companies **AT&T** and **Dominion** recently made \$10,000 donations each to the Plant It Forward South Carolina, an initiative by the SC Advocates for Agriculture.

This initiative was developed in response to the losses farmers suffered in the October flooding. It will provide funds specifically for covering a portion of seed costs for 2016, as well as hay losses livestock farmers suffered. Total agricultural losses from the flood are approaching \$600 million.

## SUPREME COURT RULING ALLOWS LANDOWNERS TO CHALLENGE CORPS DECISIONS

A recent unanimous Supreme Court ruling will allow landowners to challenge the federal government whenever the Army Corps of Engineers tries to improperly regulate land with regulations to protect water. The Supreme Court ruled 8-0 in the case *U.S. Army Corps of Engineers v. Hawkes Co. Inc.*

Landowners have attempted many times to challenge Corps rulings known as jurisdictional determinations, but the government successfully argued that those determinations were not "final agency actions" and the lawsuits were dismissed. Now, when the Corps asserts jurisdiction over low spots that look more like land than water, it will have to do with the know-

ledge that its jurisdictional determination can be tested in court.

The ruling builds on another unanimous ruling, *Sackett v. EPA*. The Court recognized that once the Corps finds that a landscape feature is a "water of the U.S.", these are immediate and often dire

legal consequences to the landowner. A farmer can continue a farming activity that results in an unlawful discharge and face an enforcement action with civil fines up to \$37,500 a day per discharge, or event criminal penalties, or the farmer can spend tens, if not hundreds, of thousands of dollars seeking

federal Clean Water Act permits over several years only to have the permit ultimately denied. This ruling could be especially bad news for the fate of the EPA WOTUS rule, since every determination by the Corps can now end up in court.

### IN MEMORIAM: ROBERT J. CONNELLY, JR.

Mr. Robert J. Connelly, Jr., President of Farmers Grain and Supply, Inc. and a PABC Board member, passed away in March. At the May PABC Board meeting, Chairman Ronnie Summers presented Mr. Connelly's wife Mrs. Alma Marie Connelly and his family with a resolution recognizing his service to PABC and to SC agriculture.

Born March 23, 1945, Mr. Connelly was the son of Mrs. Elma Lazar Connelly and the late Robert Edward Connelly, Sr. He was a lifelong farmer. Mr. Connelly was also co-owner and operator of Connelly Farms and Lowcountry Oil Company. He was a former member of the Board of Trustees of both Allendale Academy and Andrew Jackson Academy. He was a board member of Southern Carolina Alliance and was recognized by Governor Nikki Haley in 2015 as the Allendale County Economic Ambassador. He served on the Board of directors of Allendale County Farm Bureau from 1971 until 2005 and was county Farm Bureau president from 2005 until his death. He was a member of a number of farm agency committees and boards.



## **PABC Journal**



*A Publication of Palmetto Agribusiness Council*

**602 Meeting Street, Suite B  
West Columbia, SC 29169**

**PH: 803-926-3462**

**FAX: 803-926-3463**

**EMAIL: [cathy@novingerqtr.com](mailto:cathy@novingerqtr.com)**

**[www.scagribusiness.org](http://www.scagribusiness.org)**

### **PABC OFFICERS**

**Ronnie Summers, Chairman  
Randy Brown, Vice Chairman  
Fred West, Secretary/Treasurer**

### **STAFF**

**Cathy Novinger, CEO**

**For more information on joining PABC, please  
contact Cathy Novinger, 803-926-3462.**

## **WELCOME NEW PABC BOARD MEMBERS**

**Baynard Connelly** is the  
President of Farmers Grain  
& Supply in Ulmer.



**Barry Cronin** is the Complex  
Manager with House of Rae-  
ford in Greenville.

**William Robinson** is the  
Market Development Man-  
ager with The SEFA Group  
in Lexington.



Is your business barometer under pressure?  
**Our agribusiness lawyers can**  
guide you through fair  
weather and fowl so  
your nest is secure.

Companies large and small meet their challenges  
at the job site, at the deal table, in court and in the  
halls of government with Nexsen Pruet.

NEXT CHALLENGE. NEXT LEVEL.

# **NEXSEN | PRUET**

1230 Main Street | Suite 700 | Columbia, SC 29201

(T) 803.771.8900 | (F) 803.253.8277

John Sowards | Board Chairman | 1.800.825.6757

More than 190 lawyers in Charleston, Charlotte, Columbia, Greensboro,  
Greenville, Hilton Head, Myrtle Beach and Raleigh.

[nexsenpruet.com](http://nexsenpruet.com)