

PABC Journal



COURT STOPS WOTUS RULE ENFORCEMENT

The Court of Appeals for the Sixth Circuit has ordered the Environmental Protection Agency (EPA) to stop enforcement nationwide of the Waters of the United States Rule (WOTUS).

The federal court ruling comes after Attorneys General from a total of 27 states, including South Carolina Attorney General Alan Wilson, as well as a number of trade groups, filed several lawsuits in federal courts claiming the EPA has usurped the state's primary responsibility for the management, protection and care of intrastate waters and land.

The rule expands WOTUS jurisdiction by regulating small and remote waters, some of which are not even considered waters. By increasing federal jurisdiction over lands, the rule would establish federal veto power over farming, forestry and other land uses.

FLOODING DISASTER IMPACTED ALL SECTORS OF AGRIBUSINESS INDUSTRY

SC farmers are facing millions in crop losses with the historical levels of rainfall, with some acres receiving nearly 25 inches of rain. Conservative estimates place direct crop losses at over \$300 million, with crop insurance only covering about a third of the costs. This leaves farmers with over \$200 million worth of losses. In addition to simply providing an income, farmers count on a successful crop to cover that year's loan payments, as well as seed costs for the next season.

The devastating results of this catastrophe will not go away quickly. This is why **Plant It Forward SC**, a relief fund for SC farmers, has been established. This fund, which will be housed by the SC Advocates for Agriculture, will reimburse farmers for a percentage of their seed costs used to plant crops destroyed during the 2015 flood. Plant It Forward SC will also pay livestock producers for a percentage of their hay losses during this event. Producers will be required to complete an application and present such information as proof of crop/livestock loss specifically attributed to the 2105 rain event, farm identification number and seed/hay records.

To learn more about how to apply or to donate to the fund, visit www.plantitforwardsc.org or contact Stefanie Kitchen, skitchen@scda.sc.gov, 803-734-2210.

The SC Forestry Commission estimates a loss of at least \$65 million in the forest industry's economic impact because of October's historic flooding. The estimate was derived from forest planting and inventory data, aerial surveillance, mill reports and consultations with foresters, loggers and landowners.

The assessment does not include the expected additional millions of dollars in damage and repair to private forest roads, which is currently unknown. While the economic loss represents a small part of the industry's \$18.6 billion contribution to the state's economy, it has a huge and immediate impact on the forest landowners, loggers, mills and suppliers in the counties affected by heavy rainfall and flooding. The loss of access to roads, bridges and rail lines, higher operating costs for loggers, increased transportation costs for mills and overall lost productivity account for most of the economic loss.

The South Carolina Forestry Commission has created a special section on the home page of its website at www.trees.sc.gov to both collect and provide information for those affected by the flooding. There are links to information about possible disaster assistance for individuals and businesses, research about the effects of trees submerged in water and details of the assessment the agency is currently conducting.

PABC 2016 LEGISLATIVE ISSUES

The PABC Board voted at the November meeting to approve the recommendations submitted by the Legislative & Regulatory Task Force for the 2016 Legislative Agenda. Priority issues include:

Highway Infrastructure – Increase funding for roads & bridges. **Support long-term sustainable funding to fix South Carolina's declining infrastructure.*

Surface Water Withdrawal ** Oppose H. 3564 - Surface Water Withdrawal Registration, which would amend the Surface Water Permitting Act of 2010 and place agriculture registrations into a permitting and public appeal situation. Support the completion of the Statewide Assessment of Water Resources before any changes are made to ensure they are based on science.*

Waters of the US (EPA) *● Oppose an EPA rule that would expand the scope of the navigable waters subject to the Clean Water Act jurisdiction by regulating small and remote waters.*

Eminent Domain ** (Property rights issue) Eminent domain laws are very specific to local governments and public utilities. We would oppose any effort to open discussion to change the definition of condemning rights.*

Increase Federal Highway Weight Limits *● Support federal legislation- the Safe Trucking Act, which will increase the weight limit for trucks traveling on federal highways from 80,000 pounds to 91,000 pounds. This bill has a state "opt-in" measure and requires addition of a sixth axle. The increase in weight limits would lead to a reduction in the number of truck trips and a decline in truck miles traveled.*

Poultry Permitting ** Support a more efficient permitting process for poultry houses to keep this industry doing business and expanding in SC.*

Renew Act 271 The Forest Fire Protection Act ** Act 271 diverts a percentage of the insurance premium tax (2.25% of the annual revenue) to the SC Forestry Commission for firefighting and firefighting equipment replacement. The legislation sunsets in 2017. Support continuing this funding.*

Immigration (State*/Federal●) *For agribusiness to remain profitable and in business, we must have federal immigration reform that allows access to a stable and legal workforce.*

Agency Funding (SC Dept. of Ag, SC Forestry Commission, Clemson PSA) ** Support funding for the budget requests of the SC Department of Agriculture, SC Forestry Commission and Clemson PSA.*

Pollution Control Act ** Support S. 229 which simply reaffirms a 2012 decision by the General Assembly stating that there is no private cause of action under the Pollution Control Act and that a business cannot be sued arbitrarily for a permit that does not even exist.*

Tort Reform (CDL Employment Protection Act) ** Support the CDL Employment Protection Act (S.529), which addresses limiting the liability of companies employing Commercial Driver's License holders, contracted or not contracted. This legislation would ensure such "direct negligence claims" serve their intended purpose and are not used simply to fault the employer based on the employee's action.* **Other Tort Reform Issues:** *Issues impacting business owners that increase liability and costs.*

Maintain Agribusiness Sales Tax Exemptions/Property Tax Assessments ** Keep tax exemptions and property tax assessments to sustain agribusinesses.*

Business License Fees ** Support an improved system of determining business license fees and a cap on the amount local governments can charge.*

Agricultural Packaging Operations Jobs Tax Credits ** Support S.427 which extends jobs tax credits to ag packaging companies and exempts sales taxes on packaging equipment, as is now available on processing equipment.*

Ag Equipment on the Roads ** Support H.3909 which would make it mandatory for motorists to yield to farm equipment, limiting liability.*

Energy Issues *● The BOEM recently announced initial approval for seismic testing to move ahead off the Atlantic states. PABC supports this important step in determining what resources are off the coast of SC.*

(cont. on pg. 4, see Legislative Agenda)

David Winkles Retiring As Farm Bureau President



David M. Winkles, Jr., has announced his retirement as President of South Carolina Farm Bureau Federation. Mr. Winkles, a founding member of PABC, served as Farm Bureau's President since 1997. He has served in numerous leadership roles in state and national agribusiness-related organizations and associations including Clemson University's PSA Advisory Board and President's Advisory Board. He also is a Board member of the American Farm Bureau Federation serving as the Biotechnology spokesperson presenting testimony to the National Academy of Sciences panels. He has also testified at the U.S House Ag Sub-committee on Federal Grain Standards.

The industry has acknowledged Mr. Winkles' commitment to promote agribusiness on the state and national levels with several merit awards including: the Soybean Man of the Year in 1989, SC Land Resources Commission "Clean Farming Award" in 1992, the FFA State Honorary Award in 1999, the FFA National Honorary Award in 2003 and the South Carolina Advocate for Agriculture of the Year in 2013.

KEITH WINDLE JOINS PABC BOARD OF DIRECTORS



Keith Windle is the General Manager for Dominion Carolina Gas. He will serve on the PABC Board of Directors as their representative.

Mr. Windle first worked for Dominion as an intern in 2001. After earning a degree in accounting from Christopher Newport University, he joined Dominion Virginia Power's Electric Distribution Group, where he held various analyst positions.

He became a senior financial analyst in 2006, was named manager-Electric

Distribution & Business Services in 2007 and was promoted to director of Financial & Business Services in 2011. In 2013, he became director of Financial & Business Services in Energy and was named to his current post in June 2015.

He oversees about 120 employees at Dominion Carolina Gas, which owns

1,500 miles of FERC-regulated natural gas pipeline in SC and GA and is based in Columbia.

Mr. Windle currently serves on the Board of Directors and Asset Management Liability Committee for the Dominion Credit Union and the Board of Directors for the Junior Achievement of Greater South Carolina.

PALMETTO AGRIBUSINESS COUNCIL WELCOMES NEW MEMBERS



Lesley Floyd is the Account Manager for the South Region division of International Paper based out of Lexington, SC.

Ms. Floyd graduated from Clemson University with a BS degree in Animal and Veterinary Science. She began her career at Mars Petcare in Quality Management positions over 6 years. She has over 15 years of Quality Management experience in manufacturing and is a Certified Quality Engineer.

International Paper employs over 1,910 employees, working at 11 sites in SC.



Leslie B. Hope is the Director of Government Relations and Divisions for Carolinas Associated General Contractors (CAGC). She has been with CAGC for 16 years.

Ms. Hope earned a degree in Speech Communications and Public Relations from the University of South Carolina. She has worked with a broad range of issues, including state labor laws, occupational and licensing practice acts and regulations, health care laws and regulations and alcohol and drug matters. She has served as contract lobbyist for several clients including SC LLR.



C.F. W. Manning, II (Fred) is a partner in the Columbia office of Fisher & Phillips, LLP, Attorneys at Law.

Mr. Manning earned his J.D. from the University of South Carolina School of Law. He regularly provides advice and assistance to employers regarding the drafting and enforcement of restrictive covenants, employment contracts and corrective action. He has assisted employers throughout the U.S. in union related matters. Mr. Manning is certified by the SC Supreme Court as a Specialist in Employment and Labor Law.



Erik Marechal is President and Owner of McLean Marechal Insurance and Financial Services, Inc.

Mr. Merchal is a graduate of the Virginia Military Institute with a degree in Economics and Business. With 23 years in the insurance and financial services industry, Mr. Merchal's agency is the second largest Nationwide Agency in SC and is the largest farm and agribusiness insurance agency in the state. With clients from Union County, NC to Allendale County, SC, the agency specializes in Land As Your Legacy, Farm Succession Planning.

PABC Journal



A Publication of Palmetto Agribusiness Council

602 Meeting St. Suite B
West Columbia SC 29169

Phone: (803) 926-3462
Fax: (803) 926-3463
cathy@novingerqtr.com
www.scagribusiness.org

For information about how to join PABC, contact: Cathy Novinger, 803-926-3462.

PABC OFFICERS

Ronnie Summers, Chairman
Randy Brown, Vice-Chairman
Fred West, Secretary-Treasurer

STAFF

Cathy B. Novinger, Executive Director

2016 Legislative Agenda (cont. from pg. 2)

Dams and Reservoirs Standards●

This relates to growing concern with the Corps of Engineers and ag exemptions for dam permitting on farm ponds.

Other Issues to Watch:

Federal Timber Taxes●: *Protect current tax laws to preserve timber tax provisions.*

EPA Clean Power Plan ●:(Forest Biomass): *Support Congress adopting federal policies on forest biomass that affirm the carbon neutrality of biomass derived from residuals of forest product manufacturers.*

GMO Regulations●: *Support timely GMO regulatory approval at the federal level to ensure row crop farmers are able to be competitive internationally.*

Increase the Use of Wood Products in Public Buildings●: *The SC Forestry Association, SC Forestry Commission and Clemson University's Wood Utilization and Design Institute are working to promote the increased use of wood products in public buildings. Support action plan that is anticipated to be developed in 2016.*

Buck Tags *: *Support legislation that would place a limit of bucks in the entire state and would require tags for all deer harvested. This does not affect depredation permits.*

Shorter Legislative Session*: *Support shorter legislative session to encourage business owners to seek office.*

Incentives to Grow More Trees*: *Support incentives for private landowners to grow more timber to help alleviate the severe scarcity of pulpwood size pine trees that is worsening and will stress existing manufacturing and restrict industry growth and forest management options if action is not taken.*

*State ●Federal



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

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