

**Crop Protection Product Harmonization and Registration Board
Minutes of December 19, 2012 Meeting**

The North Dakota Crop Protection Product Harmonization and Registration Board met at 1:00 pm on December 19, 2012, in the Pioneer Room of the State Capitol in Bismarck, ND.

Board Chairman Jeff Topp called the meeting to order at 1:19 p.m. Board members in attendance included Chairman Jeff Topp, Agriculture Commissioner Doug Goehring, Senator Terry Wanzek, Representative Mike Brandenburg, Stan Buxa, Troy Bassingthwaite, and Ivan Williams. Board members Terry Weckerly, Dr. Ken Grafton, and Representative Tracy Boe were absent. A quorum was declared.

Other individuals present during all or part of the meeting included Jim Gray (NDDA), Brandy Kiefel (NDDA), Dan Wogsland (ND Grain Growers Association), John Sandbakken (National Sunflower Association), Dr. Michael Wunsch (NDSU), Dr. Brian Jenks (NDSU), Dr. Rich Zollinger (NDSU), and Dr. Harlene Hatterman-Valenti (NDSU).

It was noted that the ND Department of Agriculture had filed a notice of meeting with the ND Secretary of State. A copy of the agenda was posted next to the main entry to the meeting room in the hallway.

I. Approval of Minutes. Williams moved to approve the minutes of the board meeting on February 10, 2012; seconded by Goehring. All voted in favor. Motion carried.

II. Budget Report. Gray gave a summary of the Minor Use Fund and spreadsheets were distributed to those who did not have a copy with them. Gray reported that there was \$227,859.81 available in the Minor Use Fund at the beginning of the current biennium. A total of \$103,115 has been paid to date this biennium, with another \$22,500 still obligated towards previously-approved projects. This left \$102,244.81 available in the Minor Use Fund for the rest of the biennium.

Gray then provided a summary of the board operating harmonization grant program. The board started the 2011-2013 biennium with a balance of \$75,000. Operating expenses (salary and travel) to date have totaled \$3,167.55. A harmonization grant payment of \$13,216 was made to the Grain Growers Association for E-Tour, and \$18,000 was approved to cover NDDA costs associated with the EPA residency program. This leaves \$40,616.45 available in the harmonization grant line for additional projects. Goehring reminded board members that the Department will require approximately \$3,000 of additional funds to cover operating costs for the rest of the biennium, and the ND Grain Growers were requesting an additional \$15,657 for the 2012 E-Tour. This leaves approximately \$20,000 available in the fund for additional projects.

III. Reports from Previously Funded Minor Use Fun Projects. The Board was provided written reports for five previously-funded Minor Use Fund projects. The grant recipients provided oral reports to the Board, either in person or via speakerphone.

- A. *Weed Control in Onion: Using an Integrated System for Early Season Control (MUF-03-11): Dr. Harlene Hatterman-Valenti, NDSU.* Hatterman-Valenti reported that she conducted herbicide research on onions at three locations. She examined micro rates of bromoxynil, oxyfluorfen, and clethodim, as well as preemergence or preplant applications of pendimethalin and glyphosate. She reported that three applications of the micro rate combination provided optimal weed control and that four applications would likely be cost-prohibitive.
- B. *Herbicides for Residual Weed Control In Dry Edible Beans and Sunflower (MUF-06-11): Dr. Rich Zollinger, NDSU.* Zollinger reported on his research with pyroxasulfone, a new herbicide from Kumiai. He reported that pyroxasulfone provided good control of kochia, smartweed, mustard, and other broadleaf weeds. It also provided good residual control 8 to 10 weeks after treatment.
- C. *Evaluation of Fungicides and Fungicide Rotation Strategies for Management of Ascochyta Blight of Chickpea (MUF-02-12): Dr. Michael Wunsch, NDSU.* Wunsch reported on research with fluazinam (trade name Omega) on chickpeas to manage Ascochyta. He conducted research in Carrington, Williston, and Minot. Omega reduced disease severity and increased seed size in all trials and performed better than market standards.
- D. *Evaluation of Fungicides for Management of Foliar Blights of Lentils (MUF-03-12): Dr. Michael Wunsch, NDSU.* Wunsch reported on research conducted with Omega and other fungicides on lentils. He stressed that many diseases in lentils are at high risk for fungicide resistance and that Omega would be a good addition for resistance management. He also stated that the purpose of the research project was to look at alternating Omega with Headline to maintain use of Headline. Omega did well against Sclerotinia and anthracnose. Goehring stated that Xenium did not appear to perform well at all. Wunsch replied that this was true. Wunsch also stated that he got 100 percent match for the research from BASF.
- E. *Evaluation of Fungicide Efficacy for Management of Sclerotinia Head Rot on Sunflower (MUF-04-12): Dr. Michael Wunsch, NDSU.* Wunsch stated that no fungicides are registered for use on sunflower that offer efficacy against Sclerotinia. He also stated that he knows of fungicides that will offer control of the disease, but that he doesn't know if there will be adequate spray coverage. The purpose of the research project was to look at both fungicide efficacy and spray coverage. He had trials in Carrington, Langdon, and Scottsbluff, Nebraska. Wunsch stated that the results had high levels of variability due to problems in having ideal levels of disease pressure.

Wanzek moved to accept all Minor Use Fund final reports and for the Board to remit any final payments. Buxa seconded the motion. Motion carried by voice vote.

IV. Contract Language and Final Payments. Topp moved up Item 10(b) from the agenda for discussion. He discussed problems with the Board paying invoices in a timely manner. Gray explained that most Minor Use Fund contracts are written with a provision that half of the total funds are paid when the contract is executed, with the remaining half payable when the Board approves a final report. Gray further explained that he received invoices from NDSU for the onion research from Hatterman-Valenti and the dry bean and sunflower research from Zollinger shortly after the Board met in February.

Gray stated that he was unable to pay the invoices because the Board had not met to approve final reports. He contacted Topp in the summer to ask him what to do. Topp stated that he directed Gray to pay the invoices even though the Board had not met. Topp opened the discussion up to the Board to discuss options. He laid out three options: 1) redo the contract language to eliminate the need for final approval of reports, 2) give a subset of the Board approval to send final payments, or 3) have the Board meet more often.

Board members generally supported the need for a final report for all Minor Use Fund projects so that the Board could be reassured that all funded research was conducted. Wanzek stated that it would be good to meet more often, although all Board members are extremely busy. Topp stated that the Board was never envisioned to meet very often, and they have typically met only when there is enough work to do to justify a meeting.

Williams made a motion to allow Gray to submit final payments whenever he receives a final report. Goehring stated that Gray is not a member of the Board. There was no second. Motion failed.

Brandenburg stated that a review of a final report gives the Board better oversight of Minor Use Fund projects. He asked whether a conference call could be used for final approval of payments.

Goehring suggested looking at several options. He suggested a provision allowing Topp, himself, and Gray to review reports and approve final payments with a clause that the recipient would repay those funds if the Board later voted to disapprove the report.

Wanzek asked if the Board has even received a final report that they have not approved. He asked if Gray could email final reports to Board members. Members could send an email reply with a "yes" or "no" on the report. Bassingthwaite supported the email idea and suggested giving Board members 7 to 10 days to reply. Gray reminded the Board of open meeting laws and that all Board discussions are open to the public. He stated that open meeting laws require filing a notice with the Secretary of State, making a copy of the agenda available and other provisions. Even email exchanges could be construed as an open meeting, especially if Board members are voting on something.

Brandenburg suggested giving the chair and the agriculture commissioner authority to approve final payments.

Buxa made a motion to allow the Board Chair and the Agriculture Commissioner to approve final payments when they receive a final report with the provision that the Board could recover payments if the Board later votes to not accept the report. Motion was seconded by Bassingthwaite.

Wanzek reiterated his idea of using email to notify Board members when a final report is received. He did not envision a system in which Board members would vote “yes” or “no” to approve a report, but did think that it was reasonable for final reports to be emailed to Board members. If a member had a concern, they could ask that the final payment be held until the final report was heard at the next meeting. Brandenburg agreed with the concept, but raised concerns with sunshine laws. Goehring stated that the email would need to be worded very carefully.

Topp suggested that the Board get into a mindset of meeting twice per year. Goehring agreed and suggested consistent meeting times.

Topp called for a vote on the Buxa motion. Motion carried on a voice vote.

V. Board Recovery of Funds. Gray referred Board members to tab P in their meeting folders. Under the administrative rules found in N.D.A.C. 107-02-01-01, the Board has the authority to recover funds related to Minor Use Fund projects. The rules specify that the Board can receive royalties, license fees, or other intellectual property rights on the sale or lease of any product, process, or service developed in whole or in part with a Minor Use Fund grant. Gray stated that this sort of language has never been part of a Minor Use Fund contract, but wanted the Board to be aware of it. Wanzek stated that the rule allows the Board to recover funds beyond its investment. Goehring questioned whether the recovery of funds would make companies reluctant to register a pesticide product. He stated that he would hate to throw up a barrier to a new use. Williams gave a history of the rule language and said that it was meant to be used when projects were not moved to IR-4. He stated that there is a difference between “sorting” research and research conducted at the IR-4 level. Brandenburg asked if Board projects could upset the risk cup. Williams stated that any risk cup discussions would happen well before a product reaches IR-4.

VI. Consideration of New Minor Use Fund Proposals.

Topp referred Board members to Tabs I through N in the meeting folders which included several research proposals. He noted that the total amount of Minor Use Funds being requested exceeded \$173,000.

Researcher	Project Title	Requested Amount
Dr. Brian Jenks	Effect of 2,4-DB on Lentil and Broadleaf Weeds	\$5,180
Dr. Rich Zollinger	Pyroxasulfon Registration on Sunflower	\$62,470
Dr. Rich Zollinger	2012 North Dakota Pesticide Use Survey	\$65,000
Dr. Michael Wunsch	Evaluation of Fungicide Efficacy for Management of Sclerotinia Head Rot on Sunflower	\$10,500
Dr. Michael Wunsch	Evaluation of Fungicides for Management of Foliar Blights of Lentils	\$16,000
Dr. Michael Wunsch	Evaluation of Fungicides and Fungicide Rotation Strategies for Management of Ascochyta Blight of Chickpea	\$14,000
Total:		\$173,150

He opened the floor to each researcher to provide a brief synopsis of their proposal.

A. *Effect of 2,4-DB on Lentil and Broadleaf Weeds: Dr. Brian Jenks, NDSU.* Jenks discussed a research project with the herbicide 2,4-DB. He stated that there are no herbicides registered for use on lentils that provide postemergence broadleaf weed control. The research looked at mixing 2,4-DB with different grass herbicides. Jenks stated that the research has already been conducted and has gone through IR-4. He was asking for \$5,180 to recoup costs associated with the project. There were no questions on the proposal.

B. *Pyroxasulfon Registration on Sunflower: Dr. Rich Zollinger, NDSU.* Zollinger presented the same USDA IR-4 proposal that was presented to the Board at its last meeting. Zollinger reiterated the positive fit that the herbicide would have in sunflowers. He further stated that he had obtained matching funds or commitments of \$45,000 from Kumiai and \$63,635 from IR-4. He was asking for \$63,635 from the Minor Use Fund. Zollinger stated that Canada had also committed \$30,000.

Goehring asked if the National Sunflower Association had added funds to the project. Sandbakken replied that the National Sunflower Association had added \$50,000 initially.

Bassingthwaite asked Zollinger how much money he needed to complete the project this year. Zollinger stated that IR-4 may complete the project if the Board failed to provide any funding. Topp then asked Zollinger to clarify how much he was requesting since the amount of \$62,470 was listed on the first page of the proposal, while \$63,635 was listed on the second page. Zollinger stated that he now needed \$48,000, but would take anything the Board could provide.

C. *2012 North Dakota Pesticide Use Survey: Dr. Rich Zollinger, NDSU.* Zollinger submitted a request for \$65,000 to work with the National Agriculture Statistics Service (NASS) to conduct a North Dakota pesticide use survey. NDSU and NASS have conducted the survey every four years for the last 30 years using a NASS survey instrument

Brandenburg asked how the survey was funded in the past. Zollinger stated that the survey has been totally funded with Minor Use Funds for the last decade or so. Brandenburg then asked Zollinger how soon he would need to start on the survey. Zollinger replied that NASS is ready to print the survey instrument and that they will start training enumerators in January.

Bassingthwaite asked how the survey information is used. Zollinger referred the question to Gray. Gray explained that the NDDA routinely uses the survey information when conducting endangered species risk assessments for Section 18 exemptions and 24(c) registrations. He also stated that the NDDA reviews draft risk assessments from EPA for pesticides undergoing registration or registration review. NDDA has submitted comments and argued against certain pesticide use restrictions in ND based on how and where pesticides are used in the state.

Goehring raised concerns with how the data will be received by the public, specifically those who do not like pesticides. He asked if the Board can review the results and help craft a message before the survey is released to the public. Zollinger stated that he would send the survey to the Board once it is drafted. Topp suggested that language be added to the contract stating that the final draft be routed to the Board prior to public release.

D. *Evaluation of Fungicide Efficacy for Management of Sclerotinia Head Rot on Sunflower: Dr. Michael Wunsch, NDSU.* Wunsch discussed his request for funding to continue his search from the previous year. He intended to conduct fungicide screening at three locations. He was asking for half of the total funding from the Minor Use Fund with the other half from the Sclerotinia Initiative through the National Sunflower Association. Goehring asked if Wunsch was going to look at Omega efficacy against stalk rot. Wunsch said that he was. Williams asked Wunsch to clarify the funding request. Wunsch stated that the total project cost was \$21,000 and that he was asking for \$10,500 in Minor Use Funds.

E. *Evaluation of Fungicides for Management of Foliar Blights of Lentils: Dr. Michael Wunsch, NDSU.* Wunsch discussed his request for \$16,000 in Minor Use Fund dollars to continue his research to find fungicides to manage diseases in lentils. He will be targeting Omega in his research project. Wunsch stated that both the registrant and IR-4 are supportive of pursuing a registration of Omega on lentils as long as the use is supported by adequate efficacy data. He stated that he will work with other pesticide companies to insert other products in the efficacy experiments as well.

F. *Evaluation of Fungicides and Fungicide Rotation Strategies for Management of Ascochyta Blight of Chickpea: Dr. Michael Wunsch, NDSU.* Similar to the lentil research project,

Wunsch was requesting Minor Use Fund dollars to further evaluate Omega on chickpeas for the management of Ascochyta and other diseases. The registrant is supportive of adding chickpeas to the Omega label if efficacy data supports it. Wunsch stated that while he does not have matching funds at the moment, he will apply for matching funds from the Northern Pulse Growers.

Brandenburg asked Wunsch if he needs money for all proposals now or if some projects could wait until July. Wunsch stated that he would need to know now whether or not the funds are going to be available. Wanzek cautioned that the Board cannot commit funds from next biennium.

The Board discussed available funding for all of the research proposals. Topp reiterated that there is an available balance in the Minor Use Fund of \$102,244.81. He also explained that approximately \$20,000 is available in the operating/harmonization grant budget, leaving \$122,244 available for the Board.

Gray and Kiefel compiled the Board score sheets for the six Minor Use Fund requests:

Project	Score
Jenks: 2,4-DB on Lentils	528
Zollinger: Pyroxasulfon on Sunflowers	449
Zollinger: 2012 Pesticide Use Survey	597
Wunsch: Sclerotinia Head Rot on Sunflower	541
Wunsch: Foliar Blights of Lentils	501
Wunsch: Ascochyta of Chickpeas	548

Buxa moved that the Board approve the Minor Use Fund proposals in the following amounts:

Project	Amount Requested	Amount Approved
Jenks: 2,4-DB on Lentils	\$5,180	\$5,180
Zollinger: Pyroxasulfon on Sunflowers	\$63,635	\$20,000
Zollinger: 2012 Pesticide Use Survey	\$65,000	\$55,000
Wunsch: Sclerotinia Head Rot on Sunflower	\$10,500	\$10,500
Wunsch: Foliar Blights of Lentils	\$16,000	\$16,000
Wunsch: Ascochyta of Chickpeas	\$14,000	\$14,000
	Total	\$120,680

Motion was seconded by Brandenburg. Topp called for a voice vote and all voted in favor. Motion carried.

VII. Consideration of Harmonization Grant Proposals. Dan Wogsland, Executive Director of the North Dakota Grain Growers Association presented a harmonization grant request for \$15,657 to defer costs associated with the 2012 E-Tour. Wogsland explained that the E-Tour was an opportunity for the Grain Growers to build relationships with staff from EPA's Office of Pesticide Programs and to showcase pesticide stewardship. The 2012 E-Tour took place June 25-28 and involved six staff members from EPA.

Board members were supportive of the E-Tour and discussed the benefits of showing EPA personnel modern agricultural practices. Wanzek moved to approve the funding proposal. Motion was seconded by Brandenburg. Topp called for a voice vote and all voted in favor. Motion carried.

VIII. Report on the EPA Residency Project. Gray gave a Powerpoint presentation on the EPA residency project. He thanked the Board for their funding of the project and thanked Commissioner Goehring for allowing him to take the time to participate. Gray explained that he made six visits to EPA's Office of Pesticide Programs Registration Division in 2012, each one a week in length.

The Board had approved \$18,000 to be used for the project. Gray referred Board members to the spreadsheet included with the operating/pesticide harmonization grant budget report. NDDA has expended \$14,598.10 to date under the residency project, and one more visit is scheduled for March.

Gray laid out the project goals as: 1) advise EPA on electronic label management, 2) review and update underlying assumptions of EPA's environmental and occupational risk assessments, 3) offer a state perspective on pesticide label language, and 4) addressing North Dakota issues and concerns with pesticide drift, pollinators, and use restrictions around surface water.

Gray explained that NDDA has made good progress on all four goals and that the residency project has been a great opportunity for two-way learning between NDDA and EPA. Topp stated that the NDDA should continue with the project if there is a good reason for doing so. Goehring stated that the NDDA was recently approached by EPA's Office of Enforcement and Compliance Assurance about a potential residency in their offices.

IX. Other business. Board members discussed the upcoming legislative session. Topp explained that he had requested a \$75,000 appropriation for the operating/harmonization grant program and \$325,000 in the Minor Use Fund. While the \$75,000 appropriation in the operating line is currently in the Agriculture Commissioner's Budget, the budget only includes \$200,000 in the Minor Use Fund. Brandenburg asked how much money the Board needed in the Minor Use Fund. Topp stated that \$325,000 is needed due to the increased number of requests. Brandenburg stated that he and Weckerly will work to get the full level of funding.

Topp then asked when the Board wanted to meet next. He stated that they had largely exhausted their funds for the current biennium. There was consensus that there was no good reason to meet before the end of the biennium unless an issue arose to justify it.

Topp adjourned the meeting shortly before 5 pm.