



The Cotton Chronicle

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November 2014

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Industry Calendar

Dec 1
Grower Board
Mtg—
Fresno

Dec 9
Ginners Board
Mtg—
Fresno

(Visit web calendar
for details)

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Urban Legislators Tour Valley Agriculture

Assemblywoman Christina Garcia (58th Assembly District – Downey) and **Assemblyman Marc Levine** (10th Assembly District – Marin) toured several farms and processors in the valley this



Assemblywoman Christina Garcia and Assemblyman Marc Levine

past month. Association staff on the tour included President/CEO **Roger Isom**, Director of Regulatory Affairs **Aimee Diener**, and Director of Technical Services **Christopher McGlothlin**. The tour included stops at citrus orchards, table grape harvesting and packing operation, aerial applicator operation, cotton gin, cotton field, dairy and pistachio operation. The tour included a ride on a cotton picker at grower **Mark Trigueiro's** farm. Several issues were discussed during the tour, but the focus was the effects of the prolonged drought. Participating with the Association was the **Western Agricultural Processors Association, the California Fresh Fruit Association, California Citrus Mutual, California Dairies Incorporated, and the California Agricultural Aircraft Association**. The tour was part of the Association's ongoing effort with the Agricultural Presidents Council (APC) to reach out to urban legislators to edu-

cate them on the critical issues impacting agriculture in the state.

Association Hosts Assemblyman Bob Wieckowski

The Association hosted Assemblyman **Bob Wieckowski** (25th Assembly District – Fremont) for a tour and meeting with agricultural organization leaders, including **Western Agricultural Processors Association, California Citrus Mutual, California Fresh Fruit Association, Nisei Farmers League, Western Plant Health Association, California Rice Commission, California Dairies Inc. and the Raisin Bargaining Association**. The day began with a visit to Firebaugh area almond and cotton grower **Mike O'Banion** to discuss the impact of the drought and lack of surface water in California. Representing the Association on the tour were President/CEO **Roger Isom** and Director of Technical Services **Christopher McGlothlin**. The group then visit-



Assemblyman Wieckowski discussing drought with Ginners Association Chairman Greg Gillard and almond/cotton grower Mike O'Banion

ed **Olam's Silver Creek Gins**. After that the group returned to the Association's offices for a

lunch and meeting with the participating agricultural groups. The tour and meeting was part of the Association's ongoing effort to reach out to urban legislators to educate them on the critical issues impacting agriculture in the state.



OFF-THE-CLOCK WORK? NOT ON MY WATCH (or time-sheet...)

[Note: Reprinted in part from the Saqui Law Group – WAPA's Labor Attorneys]

One of the primary lessons from the recent class action frenzy is the importance of policing off-the-clock work. Nearly every class action lawsuit that we have recently seen has included a claim for off-the-clock work, i.e., early arrival, standing in line, donning and doffing, etc. These claims are very attractive to plaintiffs' attorneys as they are easy to allege and difficult to disprove. In this respect, they can be the ideal glue to certify a class action. Relying on time records is no help, because the work is alleged to have happened before or after the recorded work hours. Thus plaintiffs can easily allege that they worked fifteen to thirty minutes before they signed in for their regular work without any hard evidence. Attacking these claims is an expensive and labor intensive task as you need to interview and present sworn statements from a significant number of employees who may or may not be keen on participating in a legal proceeding. In addition, if the allegations arise in a class action setting, there are restrictions on communicating with putative class employees so that the employer must be careful and guided by counsel in securing the statements. Judges are also often skeptical of declarations when current employees are asked by their employer to sign a statement in the employer's favor. If you cannot defend against these claims with time records, what is an employer to do? The answer lies in strict policies and aggressive enforcement. It is absolutely critical that every employer have clear policies prohibiting off-the-clock work. Supervisors must be drilled into policing and preventing any off-the-clock work irrespective of the demands for production. That means immediate discipline for any violation. Employees should not be allowed to linger at the work premises before or after a shift. Loose enforcement of start and end times to meet production can buy the employer a business crippling lawsuit. Clear, regular start and end times are also helpful to the extent that they are possible. **Counsel to Management:** Employers should

include clear prohibitions against off-the-clock work in their handbooks and written policies. They should further have employees sign a form acknowledging that they are not allowed to work before or after their start and end time or during rest or meal periods. Employers should further articulate and enforce a policy of recording all work hours. In this respect, supervisors must be well-trained on the paramount importance of keeping all work on the clock. For further guidance on off-the-clock work issues or policies, please contact **The Saqui Law Group**.

Joint Liability Legislation Signed by Governor

Many growers have moved to using contract labor as their source of seasonal labor. While the intent is to alleviate the employer from a multitude of issues including hiring, payroll, training, etc., it has not resulted in eliminating all liability to the employer. And now, that issue has been made clearer by the passage of AB 1897 (Hernandez). AB 1897 prohibits a client employer from shifting to the labor contractor legal duties or liabilities under workplace safety provisions with respect to workers provided by the labor contractor. Beginning January 1, 2015, a client employer utilizing a labor contractor will be jointly liable for all civil legal responsibility and civil liability for all works supplied by that labor contractor for the payment of wages, the failure to report and pay all required employer contributions, and personal income tax withholdings and the failure to obtain valid workers' compensation coverage.

Paid Sick Leave Now Required

Additional legislation was signed by the Governor that requires paid sick leave for workers, even those that are seasonal. AB 1522 (Gonzalez) enacts the Healthy Workplaces, Healthy Families Act of 2014 to provide that an employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days for prescribed purposes, to be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th day of employment. The bill authorizes an employer to limit an employee's use of paid sick days to 24 hours or 3 days in each year of employment. The bill prohibits an employer from discriminating or retaliating against an employee who requests paid sick days. The bill requires employers to satisfy specified posting, notice, and recordkeeping requirements and defines terms for those purposes. California becomes only the second state to adopt a mandatory paid sick leave law, following Connecticut.



More Proposed Regulations Coming Out of CDPR

The California Department of Pesticide Regulation has proposed to designate the active ingredient Chlorpyrifos as a state restricted material when labeled for the production of an agricultural commodity. Chlorpyrifos is more commonly known as “Lorsban”. In its justification for this des-



ignation, the department cites that Chlorpyrifos is frequently found in air samples, detected in surface water monitoring programs and detected in the Pesticide Illness Surveillance Program 35 times. What the justification leaves out are some pretty important details. It is true, Chlorpyrifos has been detected in the air through CDPR’s Air Monitoring Network, but most importantly the levels they have been found show no acute or chronic health effect. Simply stated, the chemical is detected but far below harmful levels. It is also true that Chlorpyrifos is detected in some watershed’s surface waters in the early 2000s. However, **DOW Agri-Sciences**, the chemicals registrant, has since put together a highly effective stewardship plan which included label amendments to prevent offsite movement. While initially many of the samples taken from these rivers and streams were above water quality benchmarks, in the years since the label changes, there have been a statistically large and steady decline of detections, and when it is detected, it is usually many times below water quality benchmarks. If approved as a state restricted material, under section 6400(e), Chlorpyrifos can only be sold to, purchased by, possessed or used by, a person who holds a restricted material permit issued by the local county agriculture commissioner (CAC). It is CDPR’s hope that this change will help facilitate a tighter watch on the chemical, its applications and its applicators. In addition to

the above stated use restrictions, restricted materials also require a Notice of Intent sub-

mittal to the CAC 24 hours prior to each application. The NOI also provides site and time specific application information to allow the CAC to evaluate the application to determine if any additional considerations or protections



might be needed. Comments for the proposed regulation are November 12th and the California Cotton Ginners and Growers Association will be weighing in on this very critical issue. Stay tuned for updates in the coming months!

Sivanto to the Rescue!

Bayer Crop Science’s new insecticide, **Sivanto** is just what the cotton industry ordered! The new chemical will be the first in a new class of chemistry known as Busenolides. It will target a variety of sucking pests such as aphids, leafhoppers, psyllides, aphids, *whiteflies* and others. As many older chemistries are coming under attack, **Sivanto** is state of the art and was designated as a “reduce risk” candidate by the United States Environmental Protection Agency! Sivanto will be registered for a broad range of horticulture and broad acre crops



(including cotton), benefiting growers by fitting into their crop rotation programs. Sivanto is exactly what the California Cotton industry needs for effective management of whitefly! Sivanto is to provide excellent knock down and residual control and quick feeding cessation of aphids and whiteflies. Sivanto also provides effective control of difficult to reach insects feeding on the undersides of leaves. And most importantly, the label allows for control during the extended flowering period of cotton without negative impacts to honey and bumble bees which may be foraging during the time of application! While the new product to many, including the US Environmental Protection Agency, seems like a step towards enhanced environmental stewardship, there has been a small hold up at CDPR. The association, along with other industry partners who need Sivanto are actively fighting to ensure its registration in California ASAP! More information will be available in the coming months and we will update you on its status as soon as CDPR moves! Looking for more information on Sivanto? Check out Bayer Crop Science’s website: <http://www.research.bayer.com/en/sivanto.aspx>

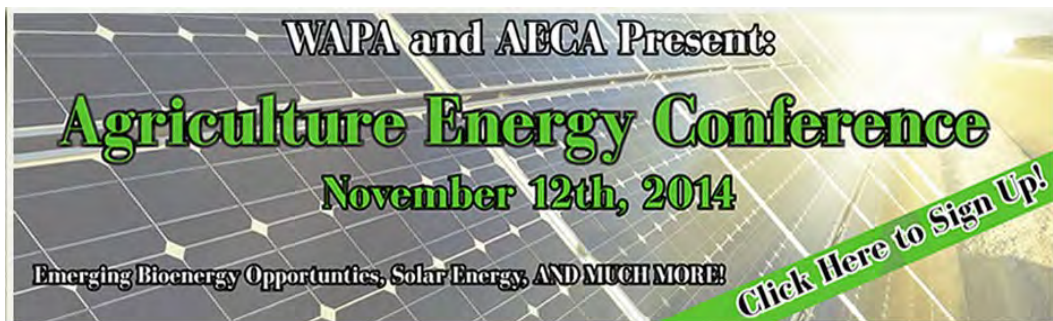
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Ag Renewable Energy Conference—Free for Growers, Farmers, Ranchers, & Processors

WAPA & AECA's Agricultural Renewable Energy Conference scheduled for Wednesday, November 12th is just a week away. Thanks to the overwhelming interest and support from renewable energy companies and the utilities, the cost to attend the conference is now **free to farmers, ranchers and processors**. Be sure to register online at www.agprocessors.org.



Wedding Bells Ring for Association's Director of Regulatory Affairs

This past month the Association's own **Director of Regulatory Affairs, Aimee Brooks**, became **Mrs. Aimee Diener**, as she and **Mr. Craig Diener** were married before the hometown crowd in Riverdale, California, followed by a beautiful reception in Madera at the home of **Mark and Peggy Borba**. For those that may be wondering, Craig is the son of former Cotton Growers Association Board Member **John Diener**. The Association congratulates Aimee and Craig and wishes them the very best in the wonderful years to follow!

