

# Agricultural Aviation

May/June 2008

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## Towers:

Challenging Obstacles  
To The Aerial Application Industry



- PAASS Sponsor Profile: BASF
- PAASS And Operation S.A.F.E. Programs Awarded For Stewardship Excellence
- Ag Industry Leader: Dr. Dennis Gardisser





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## National Agricultural Aviation Association

1005 E Street SE  
 Washington, DC 20003  
 (202) 546-5722 • Fax (202) 546-5726  
 information@agaviation.org  
 www.agaviation.org

### NAAA Staff

**Executive Director**  
 Andrew Moore

**Assistant Executive Director**  
 Peggy Knizner

**Director of Education & Safety**  
 Kenneth Degg

**Director of Communications/  
 Agricultural Aviation**

**Managing Editor**  
 Lindsay Barber

**Office Affairs Coordinator**  
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*The purpose of NAAA shall be to advance the aerial application industry and its members in their efforts to enhance agriculture, and to protect the public health and the environment.*

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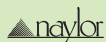
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**Publisher** Chris Hodges

**Editor** Saara Raappana

**Marketing Associate** Alex Scovil

**Project Manager** Tracy Tompkins

**Advertising Sales Director**

Lou Brandow

**Sales Representatives**

Erik Henson, Shirley Luster, Christine Ricci,  
Rick Sauers, Beth Sheahan

**Layout And Design**



Catharine Snell

**Advertising Art**

Effie Manson

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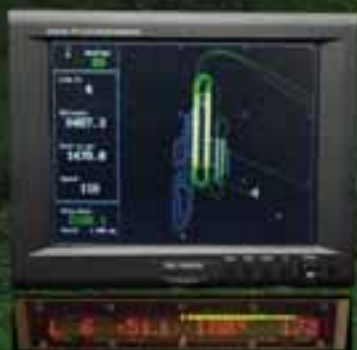

  
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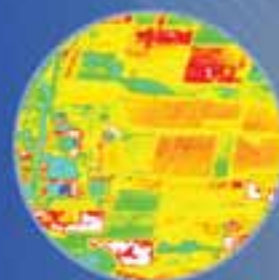
Position It



See It



Guide It



Control It



# THINK SAFETY AT THE START OF THIS NEW SEASON



**NAAA President Urges Congress to Enact FAA Reauthorization Bill:** Bob Bailey, NAAA President, of Bailey Flying Service in Dalhart, Texas (middle) met with U.S. Senator Kay Bailey Hutchison (R-TX) (right) in her Senate offices in Washington, D.C. recently. Bailey asked for the Senator's help to enact an FAA Reauthorization Bill this year that includes an exemption for the agricultural aviation industry from user fees and fuel excise taxes and authorizes the FAA to conduct a study on the effects wind-energy towers have on aviation sites and operations. Andrew Moore, NAAA executive director (left) joined in the meeting.

**W**ith the spray season in full swing and the state and regional conventions behind us, we look forward to the start of a new season (or the continuation of a season for those pilots in the South) and the long days of the summer season. As I have stated in previous columns, safety is the most important priority in flying ag aircraft, and safety must continue to be in the forefront of the mind of every pilot who gets into a cockpit during this season. Now that we have done all that we can to prepare for the season, let us focus on applying all the information that we have carried from the winter meetings and this past season's PAASS program.

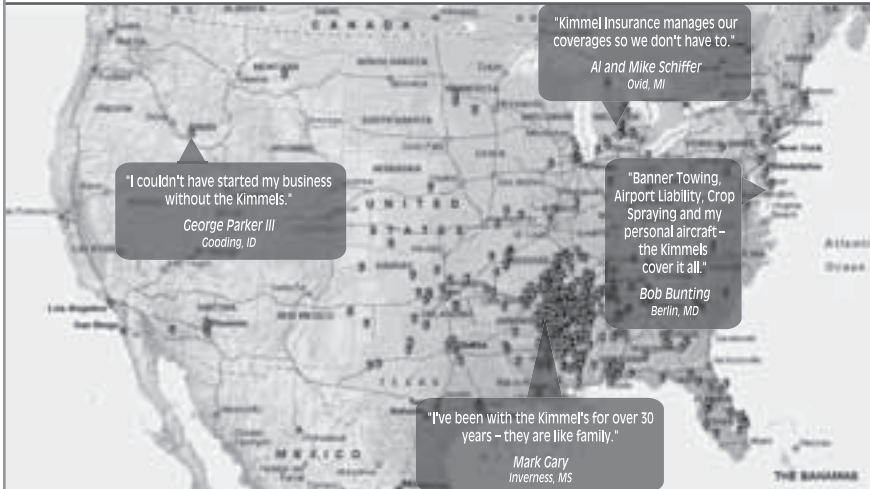
As stated in the 07-08 PAASS Program material, one of the leading causes of ag aviation accidents is controlled flight into terrain, which includes power line strikes, trees, towers and other objects. Over twenty-six percent of the fatal accidents reported over the last ten years have involved collisions with wires or towers. Although you may know a field, please continue to scout fields before you spray to ensure that there are no new towers or obstacles in the field. Towers have been known to be erected in a short period of time, sometimes in just a day or two, and if you don't know about them, they could cause serious harm. Take some time out of your morning routine and scout your fields.

An article in this issue on page 17 discusses towers and what the industry is doing to maintain and ensure that the owners of the towers know the safety hazard to pilots. No change can be made unless the industry voices its issues and opinions. The only way to avoid a collision with an obstacle is to avoid it, which is solely the responsibility of the pilot. As we progress through the long summer months of the season, please be cognizant of the obstacles that we are working around.

If you're interested in helping to make a difference, please enter the NAAA's Safety and Federal Air Regulation Committee's guy wire marking competition. Companies who install towers don't like to mark the guy wires because of cost; therefore, the committee has decided to help the aerial

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application industry by developing a competition for people to come up with a low cost guy wire marking system for companies to install. The winner of the competition will receive \$1,000.00 prize. In conjunction with this competition, NAAA will develop a letter that you can send to companies in your area to warn them of tower dangers to pilots and birds. You can also include the guy wire marking system or information about the winning guy wire marking system with the letter to show the companies that they can be done for a low cost and not a lot of labor. If you've always had an idea about guy wire markings, please enter this competition. The more towers and guy wires that are marked, the more lives will be saved. Please see more details about towers and the competition on page 17 and on the NAAA Website at [www.agaviation.org](http://www.agaviation.org).

Continue to fly safe this season! ✈  
*continued on page 16*

## NAAA MEMBERS ONLY WEBSITE

To access the NAAA Members Only Website, go to [www.agaviation.org](http://www.agaviation.org) and click on the Members Only box.

If this is your first time accessing the site, please enter the username and password below. Then, go to your email inbox where you'll have a verification email waiting for you. Click on the link in the email to change your password on the website and then you'll have full access.

Username: your email address  
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If you do not receive the verification email, please send an email to NAAA at [information@agaviation.org](mailto:information@agaviation.org). Also, please add [information@agaviation.org](mailto:information@agaviation.org) to your email contact list so that you receive important emails from NAAA.

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## Executive Director's Message

ANDREW MOORE

# KEEPING THE AMMUNITION ON OUR SIDE



**A**t the recent NAAA Board meeting, there was much discussion about what our industry could do to improve aerial application's public image. Individual members were expressing annoyance at the media's negative portrayal of the industry and the influence the media can have on local citizens, particularly when no attention is given to the fact that aerial application of crop protection products results in utilizing fewer acres to produce greater yields of safe, affordable and abundant food, fiber and bio-fuel to the world's consumers. This allows for the preservation of unique ecosystems, such as wetlands, forests and other types of land used for recreation and/or habitat for threatened species.

There is no question that this is and will continue to be a challenging task. So what can we do with the limited resources that we have to deal with the issue of our image? That is a tough question to answer. Let's start with the low-hanging fruit and discuss what not to do. Don't give the media ammunition. Every accident and every drift incident can, and on a number of occasions, has led to negative stories about aerial application. The other day I read a quote from Phil Boyer, president of the Aircraft Owners and Pilots Association (AOPA), in response to a Phoenix, AZ TV reporter exposing three unlocked aircraft at five area general aviation airports. Boyer said "Public perception is vitally important. I can't compete with pictures of a reporter walking up to a plane and opening an unlocked door. In the court of public opinion, we lose that argument every time." He's absolutely right. Don't provide the media with ammunition that could influence your neighbor's perception of you negatively.

And remember that these incidents can have a lingering affect. I recently made a presentation at The Pesticide Stewardship Alliance (TPSA) annual conference. I was feeling good about my talk that was informing state and federal pesticide enforcement agency officials as well as crop protection product manufacturing representatives about our stewardship programs. I communicated to the audience the positive effects these programs have on mitigating drift incidents and accidents. Following my talk was a presentation by an Upper-Midwest state's pesticide enforcement official. He was talking about how they enforce drift incidents in his state and he gave an example of a confirmed aerial drift incident his agency had investigated. When informed of the violation, the enforcement official claimed the applicator

stated that he didn't drift; he just didn't shut off his booms after he exited the field! It's impossible to positively affect public perception when you are faced with such a ridiculous defense. After our speaking session concluded I asked the state enforcement official more about the incident. It turns out that the applicator has since retired and the incident occurred all the way back in mid-1990. But again, as I stated, these negative incidents can linger. The thoughtless act of a rogue pilot over 10 years ago is still leaving a poor impression. Solution: Don't provide the public ammunition.

NAAA is working hard to strengthen our public image with its limited resources. It is difficult to get our message directly to the general public as a result of the exorbitant costs of advertising in the major media outlets. We have actively participated in a number of conferences attended by the EPA and the state pesticide enforcement agencies, such as the TPSA, as aforementioned, and the Association of American Pesticide Control Officials. At these conferences, we inform government representatives about the headway we have made in embracing technologies designed to make applications more efficacious and environmentally friendly and our success in mitigating accidents and drift incidents. This is a very important group to educate because the enforcement officials are the ones that receive the inquiries from the public about our activities. If they are aware of our stewardship efforts and our technological advancements they can communicate this to the public.

The previously mentioned Upper-Midwest state's pesticide enforcement official urged us to offer more Operation S.A.F.E. Fly-In clinics and to invite the public, media and government officials to attend to get a first-hand view of our professionalism. NAAA has constructed a comprehensive media kit to aid operators organizing these public open houses. The media kit is available on the NAAA Members Only Website at [www.agaviation.org](http://www.agaviation.org).

Another P.R. activity that has had some local success at the state and regional level is the use of billboards and radio advertisements in areas of the country where aerial application activity is heavy. The NAAA Board is investigating ways to expand these forms of marketing throughout the country by either acting as a facilitator between the states and/or placing targeted advertisements directly.

*continued on next page*

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These are just a few ways in which to strengthen our image. We've got a great message. You can't double global production of food, fiber and bio-fuels in 40 years without modern agricultural production techniques. Aerially applying crop protection and production inputs is the fastest way to do this. It does not disrupt the crop or the topsoil and in wet and late-growth stages of a number of crops it is the only application method possible. Keep saying it, and eventually people will have to face the facts. But we must not provide the public or the media any ammunition to oppose our industry. Be a good steward. We are the most highly visible form of application. Aerial applications are three dimensional; all other forms of application are two dimensional. As a result, we must be that much more careful. As NAAREF President Scott Schertz stated in the last issue of this magazine "We must conduct our activities in a considerate manner of operations to insure that we have continued opportunities." ✕

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# THE WNAAA WANTS YOU ...



● ● ● To join us! We are looking for representation from each state and regional association to join our board of directors. Prior experience not required!

The WNAAA is an organization that primarily supports the NAAA and our industry with many activities by fundraising and educational programs. Our hope is to have a director from every state and regional association be a part of our activities and join the network of women working together to continue to make it the successful organization it is.

WNAAA not only has the fabulous booth with all the wonderful items for sale at the National Convention Trade Show, but it also supports several other trade shows to promote our industry across the United States, such as Ag in the Classroom and the Future Farmers of America.

Funds raised by the WNAAA at the trade show booth—which is organized through the WNAAA Ways and Means Committee—as well as raffle tickets—which are sold for prizes—go to support the PAASS program, the development of the new Agriculture's Air Force video, the WNAAA scholarship awards given each year, the Athena Program and booths representing the NAAA at the other shows mentioned above.

WNAAA has several committees on which the directors serve to accomplish the work that leads to its success. WNAAA directors can also serve on the NAAA committees to help create an integrated working team to support the industry. In the past several years, a few committees have been combined from the WNAAA and NAAA to facilitate this.

I would like to personally invite you to join us and represent your state or regional association. Your state/region does not need to have an active woman's association for you to be a representative. My state, Washington, did not have a woman's program, but I went to the Washington AAA

Board of Directors and asked to serve for our state. If your husband is serving as a director on the NAAA board, please come with him and participate in the WNAAA.

Also, I would like to extend an invitation to any of you ladies that have husbands who will be participating in the Leadership Training Program to come to the fall board meeting in October and attend the WNAAA committee and board meetings. It would be a perfect opportunity for you to learn about our organization, observe what we accomplish and begin to form that network of women that will support you.

The more representation we have on the WNAAA board, the more we can accomplish to reach out and educate others about agricultural aviation. The legislative issues we fight today and the green movement that affects the general attitude towards our industry will not go away or become any easier. The more outreach we can have to our youth in trade shows like Future Farmers of America and Ag in the Classroom, the better we can educate them about the safety and importance that agriculture aviation plays in the food, fiber and bio-fuels in the United States.

Additionally, the network you will establish with other women within this industry is worth it alone. Even if you don't work in the business daily, you still are a part of it if your husband is an operator or a pilot. The relationships and friendships that I have found by participating in the WNAAA are incredible. I have found a group of ladies that understand my concerns, worries, frustrations, joys and responsibilities.

If you are interested in WNAAA or have questions, please contact me by phone, e-mail or regular mail. I would love to have the opportunity to talk with you and answer any questions you might have about the WNAAA and its activities. We need you! ✨

*The relationships and friendships  
that I have found by participating  
in the WNAAA are incredible.*



## INCREASE YOUR STEWARDSHIP

**T**his is the effective start of the application season for many parts of the country. In many ways, this year gives us opportunities that aerial applicators have not had since the early 1980s. Protecting and expanding our customer's crop prospects and returns are much more valued due to the current market conditions. In many ways, this current market situation—one aspect of which is the high price for corn—is similar to some of the crops being treated as specialty crops. The increased management demanded by higher value crops results in increased crop protection activities, and aerial application is the most appropriate avenue of that protection. With many commodities at record high levels, many more applications are worthwhile, some of which were only marginally worthwhile just a few years ago.

These opportunities do not come without some risk. The very value of

*The increased management demanded by higher value crops results in increased crop protection activities, and aerial application is the most appropriate avenue of that protection.*

these commodities, which expands the crop protection opportunities, also magnifies the risk of problems such as damaging drift. The difference between stunting a couple of acres of two-dollar-a-bushel corn as compared to the same acreage of five-dollar-a-bushel corn, especially since the inputs were costly to get to that stage, will be another expensive lesson to some operators this year. Another way of putting it is that, if there is ever the accusation of loss of livestock, the highest valued calf represents the loss. Another sign of this situation is the tight supply of agricultural aircraft. With the new production of agricultural aircraft

committed for the foreseeable future, hull losses will be even more difficult to replace. The risk of not meeting the demand due to a lack of serviceable aircraft adds immensely to the operator's risk, resulting from damaged or out-of-service aircraft.

These situations give operators the opportunity to increase their stewardship. The high probability of increased activity levels justify increased infrastructure investments and drift prevention actions. Ground support operations typically limit the effectiveness of aircraft operations by limiting the amount of acres an aircraft can treat in a given length of time. Increasing the loading capacity, providing additional manpower and streamlining order handling can greatly speed up this part of the operation. This is a great area in which to make improvements to increase the productivity of aircraft while reducing the likelihood of spills and other loading problems. As previously mentioned, it is even more worthwhile to conduct operations in a manner that reduces drift potential due to the increased value of the neighboring crops. This is a huge opportunity for our industry, hopefully one that we will use effectively to make our industry even stronger. ✕

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## CLARIFICATION ON DHS CHEMICAL SITE SECURITY REGULATION

By Andrew Moore, NAAA Executive Director

**Q**uestions about the Department of Homeland Security's (DHS) Chemical Site Security regulations continue to be raised by NAAA members. If it is determined that a facility possesses or plans to possess any of the chemicals listed in Appendix A: DHS' Chemicals of Interest (COI) list, at or above the screening threshold quantity (STQ), the facility must register with the DHS and conduct a "Top-Screen" analysis.

NAAA has received communications from members inquiring if a business that is in possession of a chemical from the COI list above the STQ for less than a day (for example, dropped off in a trailer in the morning above the threshold amount, but applied in its entirety by the evening) triggers the requirement to complete the "Top Screen?"



**NAAA Board Takes Capitol Hill By Storm:** At the recent NAAA Board Meeting in Washington, D.C., NAAA Secretary Eric Klindt of Tri-State Air Ag of Campbell, Minn. (left) with his Member of Congress, Chairman of the House Agriculture Committee, U.S. Representative Collin Peterson (D-MN) (middle) and Bob Bailey, NAAA President, of Bailey Flying Service in Dalhart, Texas (right).



NAAA received the following response from the DHS pertaining to this question:

*If a facility possesses a chemical of interest in an amount that equals or exceeds a STQ "at any point in time," they will be required to register and submit a Top Screen. The facility would count the chemical of interest stored in transportation containers "detached" from the motive power that delivered the container to the facility. The only possible exception is if a contractor brings the chemical on site and uses it "immediately." If a facility never has possession of the COI (e.g., if a contractor brings the COI onsite and uses it immediately), then the facility does not need to submit a Top Screen. In any event, there is no "holding time" threshold for possession of a COI.*

This response indicates that the only time a facility would not be required to complete a Top-Screen is if an outside "contractor" came onto the facility with a COI above the STQ and that "contractor" used that COI immediately. If the facility took possession of the COI and used it immediately themselves (e.g., spread one of the fertilizers on the COI at the STQ themselves, rather than having a "contractor" spread it), then the facility must complete the Top Screen.

NAAA has also received inquiries from members pertaining to the different STQs for the same COI and which one should be counted when determining if completion of the Top Screen is required. In regards to this inquiry DHS has provided the following response:

*In calculating chemical amounts, facilities should consider the chemicals in their possession within the framework for each of the three separate and distinct security issues categories (release, theft/diversion, and sabotage/contamination). A facility must count each chemical of interest in its possession, using the relevant calculation provisions for each of the categories, and if the facility possesses an amount that meets or exceeds the STQ for any one of the categories (i.e., security issues), the facility must complete and submit a Top Screen.*

One other question NAAA has received from members pertaining to the regulations is if a facility includes a product that includes multiple ingredients and that product includes ingredients on the COI list, how should the

facility determine the STQ of that larger product?

NAAA received the following response from the DHS pertaining to this question:

*A facility does not count chemicals of interest that are contained in an article. An article has end-use functions dependent in whole or in part upon the shape or design during end-use, and that it does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and*

*use. Toothpaste and paint may contain COI's identified in Appendix A. However, once the chemical of interest is contained in an article, such as toothpaste or paint, the security risks associated with the release of that chemical typically are no longer present. The COI has taken a new shape of a gel, paste or dense liquid.*

This response indicates that if a COI is an ingredient in a product, a facility is not required to count it in determining if it must complete the Top Screen. A facility need only count

a COI in its concentrated form, unless otherwise mentioned, when determining if it is required to complete the Top Screen. For example, dimethylamine is listed as a COI. A facility would be required to perform a Top Screen if it possessed 10,000 pounds of concentrated dimethylamine, but not if it possessed 10,000 pounds of the herbicide Banvel® of which 48.2 percent is dimethylamine, and 51.8 percent consists of "other ingredients." Some chemicals that are on the COI list do trigger a facility to complete a Top Screen when they are contained in an article with other mixtures. Ammonium nitrate is one such example on the COI. To view the final list of regulated chemicals at their threshold amounts go to [www.dhs.gov/xlibrary/assets/chemsec\\_appendixa-chemicalofinterestlist.pdf](http://www.dhs.gov/xlibrary/assets/chemsec_appendixa-chemicalofinterestlist.pdf).

The DHS Chemical Site Security regulations took effect January 22, 2008. More information on completing a Top Screen may be found at: [www.dhs.gov/xprevprot/programs/gc\\_1169501486197.shtm](http://www.dhs.gov/xprevprot/programs/gc_1169501486197.shtm). ✕



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# ECONOMIC STIMULUS PACKAGE CONTAINS SMALL BUSINESS TAX PROVISIONS

By Bob Schramm, Schramm Williams & Associates (SWA)

**O**n February 13, 2008, President George Bush signed into law the bipartisan Economic Stimulus Package (H.R. 5140). This legislation intends to jump start the economy after a very slow fourth quarter in 2007. According to one *New York Times* article, small businesses could receive the largest benefit from the package.

Businesses are set to reap rewards as well including elective expensing and bonus depreciation for the 2008 tax year. Congressman Devin Nunes (R-CA) weighed in on the economic stimulus package as to the benefits for farmers and agricultural aviators, saying, "increased expensing and advance depreciation represent an essential cash infusion for struggling businesses. By providing employers who purchase machines and equipment generous tax benefits, Congress believes that our economy will get the boost it needs." Additionally, he stated that these adjustments are effective immediately.

#### *Expensing:*

The package doubles the current business expensing limit to \$250,000 from \$125,000. This will allow small business owners to immediately expense certain investments, namely new equipment, in their business (investments under \$800,000 this year).

#### *Bonus Depreciation:*

Businesses that invest in certain property this year will be able to take an immediate bonus depreciation of 50 percent on those investments. The types of property that are eligible for the bonus depreciation are: (1) tangible property that has a recovery period of no more than 20 years; (2) purchased computer software; (3) water utility property; and (4) qualified leasehold improvement property.

With reference to direct tax benefits for ag aviation Congressman Nunes stated, "I believe the expensing and advance depreciation provisions will be helpful. For 2008, your members will be able to purchase new propellers, engine components or other upgrades to the airframe. Although real property is excluded, ag aviators can purchase or improve

communications systems and install components to existing towers."

"American agriculture has confronted recent economic hardship with the knowledge that, in today's competitive marketplace, there are very few options available in response to rising costs. With cash flow tight, the advance depreciation passed by Congress represents a

significant benefit to rural America. It will be particularly helpful to men and women serving in our farm economy."

Business owners are urged to contact their accountants to make sure their investments qualify for expensing and depreciation. ✦

*Bob Schramm and his firm provide lobby and legal services to the NAAA.*

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continued from page 8



**Ralph Holsclaw's Ag Cat Prepares for its Permanent Retirement Home-the Smithsonian:** This spring, Ralph Holsclaw of Grower's Air Service in Woodland, CA shipped his refurbished 1962 Ag Cat to our nation's capital area to prepare it for its final resting place in the Smithsonian Institute's Air & Space Museum, Udvar-Hazy Center, just outside of Dulles Airport. The museum receives over 2 million visitors per year, which is the second most visited tourist attraction in Virginia. Holsclaw has generously donated the aircraft to the museum after he and his mechanics beautifully restored it. The aircraft was shipped to the Smithsonian's Garber Preservation, Restoration, and Storage Facility in Suitland, Maryland where it will be reassembled and prepared for hanging at the Udvar-Hazy Center later this year. Bob Bailey, NAAA President and operator of Bailey Flying Service in Dalhart, Texas stands next to the aircraft the day after it was delivered to the Garber facility.



# TOWERS: CHALLENGING OBSTACLES TO THE AERIAL APPLICATION INDUSTRY

## NAAA Working To Make Towers More Visible Through National Competition And Legislation



An Ag Cat sprays a field that is near towers. You can see the guy wire in the left portion of the photo. Photo courtesy Craig Bair, Ag Flight Inc.

One of the most dangerous obstacles for an ag pilot is a tower, such as a wind turbine tower, cell phone tower or meteorological testing tower. The National Agricultural Aviation Association (NAAA) has been working hard to make towers more visible for ag pilots and to develop policies that prevent ag pilots from the perils of towers and their ability to access ag land.

### Background

The past decade has seen an increasing number of communication towers constructed as a result of an escalating demand for mobile phones and digital television networks. A statistic often used by the U.S. Fish and Wildlife Service states that there are more than 85,000 communication towers in the United States and they are being

constructed at a rate of about 7,000 each year.

But growing at an even greater rate are towers to generate wind-powered energy. According to the American Wind Energy Association (AWEA), the U.S. wind energy industry installed 3,188 wind towers in 2007, expanding the nation's total wind power generating capacity by 45 percent in a single calendar year. American wind farms

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will generate an estimated 48 billion kilowatt-hours (kWh) of wind energy in 2008, just over 1 percent of the U.S. electricity supply, powering the equivalent of over 4.5 million homes. Currently there are wind towers in 34 states and they could provide 20 percent of the electricity in some areas of the country by 2010. That poses a real concern to the aerial application industry, not just in terms of safety, but also in terms of accessing farmer's fields to treat their crops, since many prime wind-energy development areas are located in rural, agriculturally rich areas.

The obvious concerns that the aerial application industry has with towers being constructed in rural areas is related to safety. A single fatal accident in the industry is one too many, and in the past decade there have been 8 fatal accidents involving collisions with towers and an additional 18 fatalities involving collisions with power lines. That means that over 26 percent of the fatal accidents reported over the last ten years have involved collisions with wires or towers. With an expected boom in wind-energy tower construction in rural areas and power lines to deliver the electricity to the

## No Guy Wire Left Behind Competition

"No Guy Wire Left Behind" is an exciting new challenge for anyone who wants to make a difference. This contest will pay \$1,000.00 for the best guy wire marking design. The winning design will ultimately be attached to guy wires across America to help protect agricultural aircraft.

Scoring will be based on several factors including the low cost of the marker, visibility for pilots, how well the marker moves in the wind, how the system attaches to the guy wire, resistance to weather deterioration and the design concept drawing in the application.

Points will also be awarded if the applicant is an NAAA member.

The deadline for entering the contest is September 1, 2008 and an application form and further details can be downloaded from the NAAA Website at [www.agaviation.org](http://www.agaviation.org).

The designs will be reviewed at the October 2008 NAAA Board Meeting in Boise, ID, and the winner will be announced at the NAAA Convention in Las Vegas from December 8-11, 2008. Winner does not need to be present to win.



consumer, aerial applicators will be even more at risk. Also, there is the concern that with wind-energy towers peppered across America's ag land, it will be extremely difficult to access a farmer's land by aircraft to treat it.

According to the AWEA, new 1.8 megawatt wind-energy towers that are being constructed today have rotor disk diameters of over 260 feet, which is larger than the wingspan of a Boeing 747. When installed on a tower base, the top of the tri-blade disk is over 400 feet above the ground. The spacing of the towers is two-to-three rotor diameters apart, or a few thousand feet. There is no single pattern relative to the formation of a cluster of wind towers. Logic dictates that the best layout of a cluster of wind towers for an aerial applicator—other than the towers not existing—is for them to be placed in a linear fashion, but this is not necessarily the layout favored by wind farm designers. Areas with a larger cluster of wind towers are determined based on a variety of factors, such as proximity to roads so that they can be serviced easily, acceptability of the location by the landowner, and sufficient air movement to move the turbines and generate the electricity. The location is doubly hazardous because the wind farm must be located near large transmission lines to distribute the electricity generated. In addition, operators should remember that each wind farm will usually have at least one meteorological tower to sense and record wind patterns and possibly control the orientation of the farm's rotating turbine blades. These smaller towers are usually around 300 feet in height and are marked and lighted but are still much easier to miss in your area scan

when compared to the larger towers with the rotating blades.

The good news for aerial applicators is that at a height of over 200 feet, they fall into Federal Aviation Administration (FAA) rules requiring them to be lit. Also, new wind-energy towers constructed today are freestanding with no guy wires. Guy wires are difficult for aerial applicators to see and can sheer off an ag plane's wing. The bad news is that the developers are asking the FAA for permission to light only the outer perimeter towers in the cluster.

One way a potential wind-energy tower location is analyzed to determine if air movement is sufficient is to erect a meteorological testing tower. These testing towers can also jeopardize the safety of aerial applicators. These towers may be more dangerous than the wind turbine towers because they have no rotors, making them less visible. Furthermore, these towers use guy wires, which ag pilots have a hard time seeing, to anchor them in place. Meteorological testing towers are also typically below 200 feet in height and thereby exempted from marking and lighting requirements if not near a public airport. The good news is that they are not permanent; they stay in place for a few seasons to generate an appropriate amount of data to determine whether a site is suitable for the larger wind-energy towers. The bad news is that they go up quickly and, as just mentioned, can be difficult to see. Moreover, some counties don't require permits for towers that are not erected on cement, and a majority of temporary meteorological testing towers are not erected on cement.

Towers not only affect the aerial application industry; they also kill

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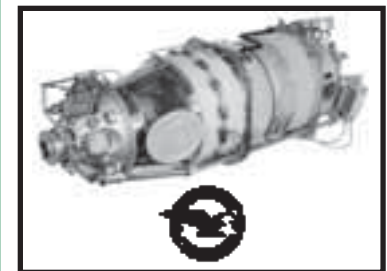
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birds. According to the U.S. Fish and Wildlife Service, there are millions of birds that are killed each year in the U.S. after being attracted by the lights on communication towers and colliding with the tower's structure or guy wires during night migration. Most incidents happen in poor weather with low cloud cover during the spring or fall. At least 231 species have been affected.

### NAAA and Members Working to Bring More Awareness

NAAA has been actively pursuing ways to ensure that tower construction neither jeopardizes the safety of aerial applicators, nor makes prime agricultural land inaccessible to aerial application. The Association has met with congressional offices to garner support for national legislation to make the 1.8-cent per kilowatt-hour tax credit for wind-generators conditional upon not developing them on prime ag land. This approach has not been met with much support as a result of a diversified and powerful coalition of wind-energy advocates consisting of the AWEA, some environmental groups and the American Farm Bureau Federation. In general, the Federal government has limited jurisdiction over where towers, generators or transmission wires are placed, unless it is on Federal land or near public airports. State, county and local governments are the primary entities that determine

the location or zoning of towers, generators and transmission lines.

Another legislative approach NAAA is taking related to towers is to urge Congress to authorize the FAA to conduct a study on the effects wind energy towers have on aviation sites. Legislation authorizing such a study was introduced by Congressman Neugebauer (R-TX) in the House of Representatives and was included in that legislative body's version of the FAA Reauthorization bill that passed last year. The Neugebauer amendment calls on the FAA Administrator to lead a study with the appropriate leaders of the Armed Services, the Department of Defense, the Department of Homeland Security and the Department of Energy pertaining to the safe height and distance that wind turbines may be installed in relation to aviation sites.

NAAA is currently urging the Senate to adopt the Neugebauer language when it takes up FAA Reauthorization language and to expand the study to include both aviation sites and operations. Unfortunately, because of partisan bickering this presidential election year, it appears that the FAA Reauthorization legislation will be postponed until 2009.

The language also directs the FAA to investigate the feasibility of developing a publicly searchable, Internet-based tool that would enable stakeholders such as industry, land

owners and airspace users to know in advance whether the site on which they wish to build wind turbines would have a negative impact on aviation.

Scott Schertz, NAAREF President, 2005 NAAA President and operator of Schertz Aerial Service in Hudson, IL has reported that he has communicated with several wind energy companies that are securing land for the purpose of constructing wind farms. Some companies are willing to work with applicators, and others don't want to be bothered. The cooperative companies have verbally agreed to stop the blade rotation while the spraying is conducted in fields; but until construction begins and the towers start working, you don't know for sure whether or not the company will hold up its verbal agreement. Schertz added, "It is very important to contact and work with these companies in order to have the opportunity to provide your input into the operation of the wind farms."

Operators have also been able to influence the marking and lighting of some towers that are not required to be lighted by FAA regulations. In an interview filmed for the 07-08 PAASS Program, Reid Potter of Lakeland Dusters Aviation in Corcoran, Calif. observed, "If we find a tower that isn't lighted and we think it should be, I call the owner and ask why it is not lighted. The usual reply is that it is not required to be lit. I tell them that we frequently work in the area and would like to see a light



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on it for our safety. If they are reluctant to take action, I say that if someone is injured by this tower not being lit, I assume that they will be responsible for the damages. That usually gets action and we will end up with lights on that tower.”

### Guy Wire Design Competition

The NAAA Safety and Federal Aviation Regulations Committee has taken a proactive approach to help solve the problem and work to save the lives of ag pilots. Many companies have stated to NAAA members that they don't place guy wire markings on their towers and electric poles because of the expense of the marking, as well as the labor cost to have them installed. The NAAA Committee has announced that they have developed a competition, which includes a \$1,000.00 prize, to the best guy wire marker system. See the box on page 18 for further details.

The following are some important points to think about and discuss with

farmer and land owners when towers may be erected in your area:

- It is important to communicate with the wind energy companies and any other companies who are proposing towers in your area. If you don't communicate the issue of erecting towers on farmland, they don't know that there is an issue.
- Besides speaking with the wind energy or other tower companies, you should also have a conversation with the farmers and land owners in your area about these same issues. You should state that there are issues with spraying a field where there are towers. If an ag pilot can't get in to spray the fields, how will that affect their crops?
- It has also been stated that the presence of a wind farm can negatively affect the value of the farmland. The farmer may not have thought about all the issues that may be involved with towers on their land.
  - The appraised value of the farmland could be less due to the fact that there is a contractual obligation

on the property to lease to a tower company.

- Because of towers on the property, the land is not available to use for developmental purposes.
- Make sure the farmer or land owner is well informed of his contract with the company that will be erecting towers on their land.
  - Will the farmer have any say in where the towers are erected?
  - When the contract expires or if the tower is decommissioned:
    - Will the tower be removed at the expense of the entity that did the erection?
    - Will the concrete base be removed from the ground and if so, to what depth? And again, at who's expense?
    - Is the farmer or land owner to be paid a monthly fee or are they to be paid a royalty based on electricity produced and is any payment received if the tower is not in operation for maintenance or any other reason? ✕

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# PAASS AND OPERATION S.A.F.E. PROGRAMS AWARDED FOR STEWARDSHIP EXCELLENCE



**T**he National Agricultural Aviation Association (NAAA) recently received the 2008 Stewardship Award for Program Excellence by The Pesticide Stewardship Alliance (TPSA) for its outstanding contributions to pilot and application safety through its stewardship programs PAASS—the Professional Aerial Applicators Support System and Operation S.A.F.E.—Self-Regulating Application and Flight Efficiency. TPSA is an organization of federal, state and local governmental agencies, educational and research institutions, public organizations, private corporations and individuals that are actively involved in different aspects of pesticide stewardship. TPSA promotes networking and cooperation among parties from around the world who work to improve stewardship efforts, increasing effectiveness and efficiency through proper labeling, judicious application, proper handling of empty containers and waste minimization.

The PAASS and Operation S.A.F.E. programs are administered by NAAA's sister organization NAAREF—the National Agricultural Aviation Research and Education Foundation. Since 1998, when the PAASS program first hit the stage, aircraft accidents in the agricultural aviation industry have decreased by nearly 20 percent and confirmed aerial drift incidents have declined by nearly 26 percent. Operation S.A.F.E. has also contributed to the decrease in drift incidents as well as more efficacious aerial applications of crop protection products through better calibration of aerial spray systems conducted at nationwide Operation S.A.F.E. clinics.

The Pesticide Stewardship Alliance President Carol Ramsay presented the award to NAAA Executive Director Andrew Moore at the TPSA annual conference in Asheville, NC. Receiving the award with Mr. Moore were Dr. Dennis Gardisser of the University of Arkansas and Dr. Bob Wolf of Kansas State University. Both are Operation S.A.F.E. analysts and members of the PAASS Program's Committees to develop educational content. The PAASS program offers educational content to nearly 1,800 aerial application pilots and operators each year in over 20 different classroom settings. The curriculum focuses

on preventing agricultural aviation accidents, drift incidents and strengthening the security of these operations. PAASS has received support from the EPA, FAA, the ag chemical, aircraft and insurance industry and a number of state pesticide enforcement agencies throughout the country.

The PAASS Program also won a Telly Award for its educational program produced for the 2002-2003 season. Telly Awards are a highly respected international competition that gives recognition to outstanding non-network film and video productions. ✕



*NAAA receives award for Program Excellence from The Pesticide Stewardship Alliance for its successful PAASS and Operation S.A.F.E. stewardship programs. From right to left: Andrew Moore, NAAA's executive director, receives the Program Excellence award from Carol Ramsay, TPSA President; also accepting the award were S.A.F.E. analysts and PAASS Program Development Committee members Dr. Dennis Gardisser, University of Arkansas, and Dr. Bob Wolf, Kansas State University.*

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# AG AVIATION INDUSTRY LEADER: DR. DENNIS GARDISSER

By Mary Lou Jay

**T**oday's aerial applicators are flying safer and doing a better job thanks to the efforts of Dr. Dennis Gardisser of the University of Arkansas, Division of Agriculture's Cooperative Extension Service. For more than 30 years, Gardisser has worked to improve the industry, sharing his extensive knowledge of aircraft, spraying patterns and equipment with pilots throughout the United States and the world.

Gardisser hails from northwest Arkansas, where he grew up on a dairy farm. Drafted in 1969, he served four years in the Marine Corps, including 27 months in Vietnam. "I flew in AWAC aircraft as a crew member; I don't know that I was that interested in flying at the time, but it was better than being on the ground," he recalls.

After his stint in the service, Gardisser attended the University of Arkansas, where he earned a bachelor's and master's degree in agricultural engineering. He worked for a year at Bush Hog R&D Center in Selma, AL, then returned to Arkansas and took a job as an extension engineer at the University of Arkansas.

"I really got into airplanes and aerodynamics when I started working there," he says. "One of my primary responsibilities was chemical applications, including working with agricultural aircraft and all types of sprayers. That's also when I began to work with the NAAA, helping pilots do more efficient and safe applications."

Gardisser earned his Ph.D. in engineering in 1992. His dissertation was "Computer Simulation of Dry Material Distribution Patterns from an Agricultural Aircraft." He continued to work with the Biological & Agricultural Engineering extension service, becoming a professor and associate department head in October 2002.

Gardisser also began taking flying lessons. "When I finished my Ph.D., I needed something to do," he explains. He holds a commercial pilot's license with ASEL and instrument ratings. He is also a licensed pilot in Australia. "I fly just enough ag aviation each year to stay abreast of the technology and to understand what the pilots are doing," he says.

## Improving Technologies

In the mid 1980s, Gardisser became interested in the work done by WRK, a Kansas firm that had won a NASA grant to develop calibration technology for testing airplane



*Dr. Dennis Gardisser*

spray and distribution. "The president of the Arkansas Agricultural Aviation Association and I drove to Manhattan, Kansas, to pick up a new system and bring it back to demonstrate," Gardisser recalls.

"We held some workshops to introduce the new computer-based analysis technology. Up until that time, we had simply put out clipboards with little squares on them and counted the droplets that fell in that square. It was a visual determination of spraying patterns; we didn't have any way of doing statistical work or mathematical estimations of what the uniformities were," he continues.

Gardisser became a partner in WRK Inc. in 1987, working for the company on weekends and during his own time. When the WRK went out of business in 1997, its name and its work were continued through Gardisser's own firm, WRK of Arkansas, and through a firm owned by Richard Whitney, WRK of Oklahoma. "We are two separate entities, but we do cooperate on a number of projects," Gardisser says.

In his roles at the extension service and at WRK, Gardisser has spent much of his time focusing on spreader and distribution techniques and technologies for airplanes.

"I've had a project almost every year that has involved some type of application technology to find ways to improve new designs for aircraft equipment or new designs of nozzles or application techniques to improve deposition on plants," Gardisser says. "For example, last year we did a big



*Dr. Gardisser conducts an Operation S.A.F.E. Clinic*

study on corn fungicides. We've also done a lot of work on different additives to put in with the sprays."

"Dennis has been the granddaddy of calibrating airplanes and spreader designs on airplanes for almost 30 years," says Mike Lee, owner of Earl's Flying Service in Missouri. "We've all done a better job as aerial applicators because of him. He has improved spreader designs drastically as far as pattern distribution and evenness of swath. We've minimized drift because of him, and we do a much better job of spraying even patterns for both liquid and dry applications."

"He has helped us go from being crop dusters to being agricultural aviators," says Barry Joe Wilson of Wil-Co Flying Services. "He has helped us evolutionize the spray business."

Gardisser's assessments of products for the ag aviation industry has been invaluable, adds John Garr, owner of Garco Products, an NAAA allied member. "He's one of those kinds of guys who tells it like it is. If your product doesn't work, he'll just flat out tell you that you need to change it, or do something else. He's very professional about it. The greatest benefit that he has from the allied perspective is that he tells the truth."

## **Sharing Knowledge**

Gardisser has been a major force in Operation S.A.F.E. (Self-Regulating Application and Flight Efficiency). This NAAA program helps pilots voluntarily minimize the potential for adverse health and environmental effects of agricultural chemical application. The backbone of the program is the professional application analysis clinic, also known as the Operation S.A.F.E. Fly-In. The clinic gives operators and pilots the opportunity to test their equipment

*After earning his degree, Gardisser also began taking flying lessons.*

*"When I finished my Ph.D., I needed something to do," he explains.*

with a trained analyst, who will help interpret the information and recommend changes to improve performance. Once a plane, the pilot and the operator meet all program requirements, they are awarded a S.A.F.E. certification for the year.

Gardisser went to the first analyst-training clinic in the early 1980s. "Since that time, I have probably trained about 80 percent of the existing analysts who serve in the program," he adds. Much of this work is done through WRK. He's traveled throughout the world speaking at conventions and conducting field experiments or calibration workshops.

"I've also done some training on drift investigation techniques, on what records to keep, what should be looked at, how to measure and take samples, and all that," he adds.

"Dennis has helped me on everything from record keeping to running the office," adds Wilson. "He has really helped me streamline my operations."

Gardisser has also played a large role in the Professional Aerial Applicator's Support System (PAASS) program. He is a long time member of the PAASS Program Development Committee and has been instrumental in developing a number of modules with the assistance of other experts in their fields, such as I.W. "Buddy" Kirk, Robert E. Wolf, Scott Bretthauer and Carol Ramsay. Some of the modules include Speaking and Understanding Label Language in the 06-07 program, Spray System Maintenance to Avoid Misapplication in 05-06 and On Target Delivery Tools in 04-05. He has also been a PAASS presenter for six years during which he presented 15 programs.

## **Safety At The Forefront**

Gardisser is also committed to promoting aircraft safety, an interest that stems in part from the close friendships he has formed with other pilots over the years. "I've had a couple of friends killed in agricultural aviation accidents, and I have helped carry the boxes to the grave. So it's a personal thing to me to try and increase safety awareness and safety training to reduce the number of accidents."

In addition to the safety messages he incorporates in all his programs, Gardisser has helped promote the Federal Aviation Administration's (FAA) PACE (pilot and aircraft courtesy evaluation) programs in Arkansas and other states. PACE is a program where a pilot can receive a courtesy evaluation from FAA on their pilot skills and/or the aircraft's airworthiness. This program is offered as a method to improve the pilot's overall piloting skills and to spot check the aircraft's airworthiness; thereby increasing awareness and improving the overall level of safety. He has also served on NAAA's Safety and Federal Aviation Regulations and Research and Technology Committees.

"Dennis wants people to go out and do the best they can and be safe," says Lynn Baxter, a technician who works with Gardisser in the extension office and at WRK. "He knows what the aircraft and the equipment can do, so he tries to help pilots understand what they're capable of doing in an airplane. At fly-ins, after we've calibrated the aircraft, I've never seen a pilot leave without Dennis telling him to fly safe."

*“He knows what the aircraft and the equipment can do, so he tries to help pilots understand what they’re capable of doing in an airplane.”*  
*-Lynn Baxter*

### Contributions Recognized

Because of his expertise, Gardisser is in demand as an expert witness in litigation involving application accuracy and airplane accidents. “I try to portray what is realistically possible in terms of drift potential,” he says. “Sometimes the perception that people have been violated is not necessarily fact.” But Gardisser has testified against “flagrant violators” who don’t follow the rules in making applications.

Gardisser also helps educate fire departments on the proper ways of dealing with aviation emergencies and has worked with the aerial fire fighting industry on the distribution pattern of their airplane fire-retardant drops and on reseed operations.

Although it’s difficult to imagine when Gardisser has a spare moment, he does find time for other activities, like hunting and fishing. He and his wife Beverly enjoy visiting with their two grown daughters and four grandchildren.

But aviation is never far from his mind. Gardisser also works as a flight instructor and is currently working with a dozen students. He even lives in an airport community, Country Air Estates, where he keeps the two planes he uses for his trips around the country.

Many different groups have recognized Gardisser’s contributions to the agricultural and aviation industries. Earlier this year, he was named the FAA Safety Team Aviation Safety Counselor of the year and the Certified Flight Instructor of the Year for Arkansas, and in 2007 he was elected to the Arkansas Aviation Hall of Fame. He recently received the Pesticide Stewardship Award for Educational Programs by The Pesticide Stewardship Alliance (TPSA) and the Outstanding Faculty of the Year award from the Arkansas Association of Cooperative Extension Specialists. He was honored with the NAAA’s William O. Marsh Safety Award in 2005, the Agrinaut Award in 1999 and the Delta Air Lines “Puffer” Award in 1993. He has also earned much recognition from Arkansas and other state ag aviation association previous to that time.

Although he will be eligible to retire from his extension job this June, Gardisser is not yet ready to announce his retirement date. “I have a couple of ongoing research projects involving agricultural aviation that I need to finish up before I can let go and leave,” he admits. But he has no plans to stop working on behalf of the industry. “I’ll be wholly WRK at that time, and I plan to remain just as active, or more so, than I am right now. I might even have more time to fly agricultural aircraft.” For all of the activities Dr. Gardisser is involved in on behalf of the agricultural aviation industry, he is a true, longtime industry leader. ✈

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# PAASS SPONSOR PROFILE: BASF

By Kenneth W. Degg, NAAA Director, Education & Safety



*BASF is one of the country's leading manufacturers of crop protection products for the agricultural industry. Several of their products are approved for aerial application, including Headline® fungicide, which helped aerial applicators spray thousands of acres of corn this past year. Also this past year, BASF has become a proud partner of the National Agricultural Aviation Research and Education Foundation (NAAREF) by donating \$25,000 to the Professional Aerial Applicators Support System (PAASS) Program. Besides their monetary contribution, BASF has provided access to knowledgeable BASF employees to serve on the PAASS Program Development Committee and other NAAREF committees.*

**R**ecently, I spoke with Dr. Gary Fellows, Technical Service Regional Manager at BASF and PAASS Program Development Committee member about his company's interest in and the support for PAASS.

## **How Did BASF Determine That PAASS Would Have Such A Positive Value To The Aerial Application Industry?**

*BASF's Dr. Fellows:* BASF is proud to support aerial applicators and the entire industry. We at BASF know that aerial applicators provide a vital service to America's farmers and we encourage ag aviators to get involved with their professional association, the National Agricultural Aviation Association (NAAA), as well as their state and/or regional associations.

BASF has an active product stewardship program and a very important part of that commitment is our involvement with NAAREF and the PAASS program. We believe the PAASS program has great value because the safe, effective application of crop protection products is essential to helping America's farmers produce enough food, fiber and fuel to meet increasing demand.

## **What, In Your Opinion, Is The PAASS Program's Biggest Strength?**

*Dr. Fellows:* The greatest strength of the PAASS program is the rigor of the program and constant follow-up with those who have completed the training. We can all agree that by improving the understanding of human factors and enhancing critical decision-making in the air, everyone is well served including the growers and ag aviators.

## **What Makes PAASS A Program That's Worthy Of Attention From Your Company?**

*Dr. Fellows:* BASF is a leader in supporting educational initiatives in the ag industry, which is why PAASS is a natural fit. The PAASS program provides training, professionalism and vigilance in safety out in the field through education. BASF fully supports these goals through our commitment but, most importantly, through our actions in sponsoring this program and getting involved in its development. It's a commitment I'm very proud of, that BASF is proud of, and it's unrivaled among chemical companies.

## **In What Other Ways Have Employees Of Your Company Participated In PAASS?**

*Dr. Fellows:* I am pleased to be involved with the Program Development Committee of PAASS and look forward to continuing to make that contribution for years to come.

In addition to my involvement, my colleagues Dr. Alvin Rhodes, Mark Storr and Brady Kappler were pleased to join me in presenting the results of our low volume spray coverage study at the NAAA Convention in Reno, NV last December along with Dr. Bob Klein from the University of Nebraska. This study helped contribute to the ongoing education of ag aviators

by broadening the understanding of effective application at low water volumes. (An article about this study can be read in the March/April 2008 issue of *Agricultural Aviation*.)

Finally, BASF encourages aerial applicators that we interact with throughout the country to participate in the NAAA and PAASS.

## **Does Your Company Manufacture Products That Lend Themselves Beneficial To Aerial Application?**

*Dr. Fellows:* Many of the crop protection products that BASF manufactures are labeled for aerial application and we encourage applicators to read and follow label directions to find out more.

However, there's no doubt that Headline® fungicide is the most prominent BASF product that aerial applicators are interested in. More and more corn growers are seeing the benefits that Headline® delivers and are demanding aerial applications of Headline® fungicide from their local ag aviators.

We're pleased to hear these success stories from ag aviators as their businesses continue to grow with the exponential growth of opportunities with Headline® in corn and soybeans.

## **What Message Do You Hope To Send To The Industry With Your Support Of PAASS?**

*Dr. Fellows:* BASF is a leader in education and fully supports the training and development of ag aviators for the safe, effective application of all crop protection products. The stated goal of the PAASS program is to reduce the number of aviation accidents and drift incidents associated with the aerial application of fertilizers and crop protection products. BASF supports this whole-heartedly. Safe, effective application of crop protection products is paramount. It's also essential to helping America's farmers get the most out of every acre.

## **Is There Anything Else You'd Like To Add?**

*Dr. Fellows:* BASF is a leading provider of crop protection solutions to America's farmers. Headline® is the leading and most researched fungicide on the market. In fact, in over 5,000 on-farm trials conducted over the past four years, Headline® delivered an average yield advantage of 12 to 16 bu/A in corn and 4 to 8 bu/A in soybeans over untreated acres.

Growers are impressed with the Plant Health advantages resulting from Headline® disease control in their corn and soybean acres. These include better standability, bigger kernels, more pods, increased tolerance to hot and dry conditions and better grain quality. However, the best result is still the bottom line—increased yields and a strong ROI. ✦

*For further information on BASF crop protection products, visit their website at [www.agproducts.basf.com](http://www.agproducts.basf.com). BASF has also been a sponsor for the past several years of the NAAA Kickoff Breakfast in conjunction with the NAAA Convention each December.*

# ADDITIONAL INSURED ADVICE FOR OPERATORS EMPLOYING OTHER OPERATORS

By NAAA Insurance Committee

**D**ue to continued emphasis on corn production, a substantial number of aerial applicators may earn additional income for their own operations or for other operators where they might provide supplemental lift (or act as a subcontractor) on a short-term basis.

When this “partnering” as a subcontractor occurs, it has become a standard practice to have one operator name the other as an additional insured under their insurance policies. Depending on various factors, the operator with the service contract may want to be named on the policy for the operator supplying the subcontractor. Sometimes, the operator supplying the subcontractor requires that the other operator name them as additional insured. Unfortunately, it will never be the same arrangement and it will most likely be required at the last minute.

The following depicts the common issues surrounding the additional insured status, as the NAAA Insurance Committee sees it. However, the following should not be a substitute for the operator’s own legal counsel, accounting and business professionals or, of course, insurance broker, all of whom we assume that the operator is consulting and whose professional opinions are most appropriately relied upon.

**1) All parties should request a written agreement.** Typically, when an operator selects another to provide a subcontractor, they seek out those operators that they know and trust. Quite often, they are also personal friends through business or other relations. This “friendly” relationship will typically result in partnering without a written agreement. Strangely enough, this situation should demand a written agreement. Contracts basically set out who is responsible for what. This is especially true when losses occur under a partnered operation. The last thing you want is to be opposing a friend in a courtroom without a contract that details the relationship. Typically, this ends any friendship that may have existed before the loss.

Conversely, when dealing with an operator that you don’t know very well, the contract is there to protect you, especially regarding those unknowns that arise out of a lack of having a prior relationship with this person.

**2) Be aware of the sharing of limits.** When one operator names another as an additional insured under their policy, they have just made their liability limits of coverage available to the other operator. This single action now divides the available limits between the two operators should they be faced with paying a judgment or settling a liability claim. How and when the limits get split between the two operators will depend on the court in which the case is heard or between the two parties when settling out of court. However, the important thing to remember is that you are now sharing your limit with the other operator. This applies to all liability limits—both occurrence and aggregate.

**3) Duty to defend.** When one operator adds another as an additional insured, there is now a duty to defend the additional insured in the event of a lawsuit arising out of a loss. In some cases, the two operators have distinctly different ideas how the defense should be handled. On one hand, the operator with the service contract may not want the claim settled—“let’s fight the case vigorously because it wasn’t my fault” or “I don’t want it on my loss run” or “I don’t want my limit exhausted.” On the other hand, the operator who is supplying a subcontractor may want the case settled as soon as possible—“I was just doing what I was told to do and it wasn’t my fault” or “this is a small job for me” or “I was just doing this for a friend, and I just want it to go away.” Now the insurance company is in the difficult position of “serving two masters.” And usually, this works to everyone’s detriment. Again, be aware of this issue and try to address it before the loss through a professionally crafted written agreement.

**4) Additional insured does not cure all ills.** Although it may be a good practice to include an additional insured requirement in a partnering or subcontractor agreement, don’t consider this as a “cure-all” because lawyers don’t. Most contracts contain both an insurance section and an indemnification section. There is a reason behind both of these sections appearing in contracts that most people (outside of the legal profession) don’t understand. Simply put, insurance does not cover everything. Or, there may not be enough insurance to cover a given loss. In these cases, the indemnification section becomes very important.

*continued on page 31*

# IN MEMORIAM

## Slim Cancienne

Mr. Emile Adolph “Slim” Cancienne passed away on January 28, 2008 at his home after a bout with lung cancer. He was born on January 15, 1920 on the “Hard Time Sugar Plantation” in Cancienne, LA.

No amount of words can describe Cancienne dedication to and love for his family, country and the Louisiana Aerial Applicators Association (LAAA). He was the true nucleus of this association until his retirement after 40 years of service. He was always willing to help anyone with any problem. His friendship, loyalty and devotion to the LAAA and NAAA were unsurpassed.

Cancienne served and saw action as a lieutenant in the U.S. Navy during WWII in the Pacific and was the Commanding Officer of the USS TWEEDY, which was a destroyer escort ship. After the war, he received his separation papers from the Navy and took a job at Louisiana State University with the Department of Agriculture. In 1949, he married his late wife, Mildred Rushing. He continued serving in the Naval Reserve until 1955.

From 1956 to 1960, Cancienne was the State entomologist for Louisiana Department of Agriculture, and in 1961, he started working for the Cooperative Extension Service. He was instrumental in establishing the Louisiana Pesticide Commission in 1965. He worked with the Cooperative Extension Service until 1977.

Cancienne began serving as the LAAA Executive Secretary in 1964 and retired from that position in 2004. He was associated with the organization for nearly 50 years. While with the organization, he spent countless hours working on behalf of the aerial applicators of his state.

Cancienne is survived by six children, seven grandchildren and two great-grandsons.

His family and close friends stood by his side throughout his illness, giving him love, care and support. He will be truly missed by all that were fortunate enough to have known him.



## Chuck Kemper

Chuck Kemper passed away on January 30, 2008 after ten months of battling multiple myeloma, a form of cancer. He succumbed to various complications brought on by this disease.

Kemper loved aviation and the arenas of aerial firefighting and agriculture. He gave a great deal of his time and support to the National Agricultural Aviation Association, as well as the Idaho Agricultural Aviation Association. He

held every office in the Idaho AAA, was the Idaho director on the NAAA board for many years and was the NAAA Secretary in 1996.

Kemper was raised on a farm in northern Illinois and he attended Northern Illinois State Teacher's College where he earned a Bachelor's Degree in Chemistry in 1957. During his senior year he held down three part-time jobs to pay for his

flying lessons. He married his wife Gail after graduation. He taught high school chemistry and also worked with Microma (a division of Intel).

In 1977, while on a sales trip to the Northwest, Kemper saw an ad in the Wall Street Journal for a “thriving aerial application business in southeastern Idaho.” He followed the lead and soon purchased “Queen Bee” at Rigby, ID. He had most of the advanced pilot ratings, plus sea and sail-plane ratings. In the mid 1980s, he became a dealer for Air Tractor.

In 1993, Kemper took the prototype Air Tractor 802F through the US and Canada showing interested persons its capabilities for use in fire-fighting. He was able to convince many that a single-engine tanker had a place in the fire-fighting industry because the plane could extinguish a fire while it was still small.

Kemper is survived by his wife Gail, three children, eleven grandchildren and four great-grandchildren. Gail is a past president of the WNAAA, and Kemper's son Chip is the current NAAA Board Member for the Dealer/Parts allied division.

## Elizabeth M. Whitaker

Elizabeth “Betty” Whitaker passed away on December 28, 2007.

Whitaker was born Sept. 28, 1917, in Chico, CA, and she completed nurse's training at the University of California Los Angeles (UCLA) Hospital. A resident of the Copeland, AR area since 1946, she was a registered nurse at A.H. Thiemann Hospital and Clinic. She married her husband, Earl Whitaker, on January 4, 1942 in Las Vegas.

Whitaker was very active with the Women of the National Agricultural Aviation Association (WNAAA). She served on

the board of WNAAA for many years, serving as the President in 1982. She also was an active member of the United Methodist Church and served on the board of the Haskell County Museum in Kansas.

Whitaker is survived by her husband, three children, eight grandchildren and two great-grandchildren.



continued from page 29

## ADDITIONAL INSURED ADVICE

Let's begin with the idea that insurance does not cover everything. Although most policies are quite comprehensive and may even be marketed as "all risk" policies, we all know that there are exclusions and conditions in insurance policies. And in some instances, insurance will not apply to financial damages suffered by a third party (i.e., intentional injury). To address these cases, most service contracts contain an indemnification provision that creates a contractual obligation between the two parties where one party is responsible for making the other party whole after a loss—separate from any insurance applying. In most cases, one party to the contract can fulfill their contractual obligation to make the other party whole by using insurance proceeds. But in the case of losses not covered by insurance, the contractual obligation still exists (as set forth in the indemnification section of the contract) where one party will have to use their own funds to make the other party whole. This, of course, could be a devastating financial blow to most operators.

If you consider the other scenario where there is insurance that covers the loss, just not enough limit available, the indemnification section of the service contract reacts in much the same way as depicted above. If a court hands down a judgment for \$300,000 and there is only \$100,000 of insurance coverage available to pay the loss, the contractual obligation still exists. And in this case, there exists a more direct line to the funds of the operator. In other words, insurance applies and the limit has been exhausted; now the contractual obligation is clearly enforced where one party is responsible for making the other whole. Again, this could be a potentially catastrophic financial event for most operators.

Basically, understand that in most cases, the indemnification section stands separate from the insurance section. An operator may use proceeds from an insurance policy to fulfill their contractual obligations to make the other party whole after a loss. But, there may be instances where insurance either doesn't apply or is inadequate. In these rare cases, the contractual obligations of the indemnification section require the operator to use whatever funds available (translated—their own funds) to make the other party whole.

The above are just comments and/or suggestions concerning this issue. If you don't have an agreement, get an attorney to draw one up. Remember, we usually do business with our friends and people we trust. So let's make sure we stay friends by deciding who's responsible for what before the loss happens!

Also, on another note, think about who will be providing the Worker Compensation coverage! ✕

## FLY SAFE 2008 KICKING OFF THE FLYING SEASON

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