

IN THE MATTER OF *THE AGROLOGISTS ACT, 1994 S.S. 1994 c. A-16.1*

Section 26(1)(a) and (b)

AND IN THE MATTER OF THE HEARING OF A COMPLAINT AGTAINST

MR. GARRY MEIER, PAg

**DECISION OF THE DISCIPLINE COMMITTEE**

**Discipline Committee:**

George Lewko, PAg, Chairperson

Kurt Sawatzky, PAg

Vern Racz, PAg

John Spencer, PAg

Valerie Pearson, PAg

**Counsel for the Professional Conduct Committee:**

Jay Watson and Beau Atkins

**Counsel for Mr. Garry Meier:**

Grant Carson

**Assessor to the Discipline Committee:**

Christopher Boychuk, Q.C.

## **I. INTRODUCTION**

1. This matter came before the Discipline Committee for hearing on the recommendation of the Professional Conduct Committee of the Saskatchewan Institute of Agrologists as contained in its report made pursuant to s. 24(2) of *The Agrologists Act*, S.S. 1994 c. A-16.1. The Professional Conduct Committee was acting upon a written complaint made by Patrick Beaujot, PAg, dated 24 March, 2011 as against Mr. Garry Meier, P.A.g. stating in part as follows:

“Mr. Meier appears to be knowingly misleading the public contrary to the Code of Ethics for Agrologists. In particular, he is representing to the public that differences in stand and maturity of crop as depicted in pictures from a Balcarres farm is attributable to Side Band Fertilizer verses Mid Row Band. Mr. Meier is aware that the differences are a result of seeding depth not fertilizer placement.”

2. The complaint as formulated by the Professional Conduct Committee is set out in the Formal Complaint and Notice of Hearing dated 4<sup>th</sup> June, 2012 as follows:

“Between April 1, 2009 and February 1, 2011, you published photographs and text to the effect that the difference in crop development at Redland Farms in the Balcarres area of East Central Saskatchewan was due to the crop’s response to fertilizer placement despite the fact that you were aware that the difference in rate of development was due to the depth of seed placement, contrary to section 28(1) of *The Agrologists Act, 1994.*”

3. The matter was set down for hearing on the 1 and 2 of April, 2013. The parties were asked if there were any preliminary objections or matters to be dealt with at the outset of the hearing. Neither party made any objection to the constitution of the Discipline Committee or its jurisdiction to hear the matter.

## **II EVIDENCE ENTERED BY THE PROFESSIONAL CONDUCT COMMITTEE (“PCC”)**

4. At the outset of the hearing Mr. Watson produced a book of documents and requested that they be entered into evidence with the consent of Mr. Carson. Mr. Carson consented to the entry of the book of documents into evidence subject to his right to challenge the facts contained in the documents. The book of documents was entered as exhibit PCC-1 and contained the following documents:

TAB	DOCUMENT
1.	i) Letter dated June 4, 2012 from SIA to Gary Meier, P.A.g.
	ii) Formal Complaint & Notice of Hearing dated June 4, 2012.
	iii) Letter of Complaint from Pat Beaujot, P.A.g. to SIA dated March 24, 2011.
	iv) Letter from Pat Beaujot to SIA dated March 4, 2011.
	v) Letter dated May 25, 2011 from SIA to Gary Meier, P.A.g.
2.	Article from Western Producer from April 23, 2009 edition.
3.	Correction printed in Western Producer May 28, 2009.
4.	Excerpt from Bourgault Product Catalogue – Winter/Spring 2008/2009.
5.	Excerpt from Public Presentation of Gary Meier, P.A.g.
6.	Series of nine (9) photos of Balcarres field taken by Pat Beaujot on June 26, 2008.
7.	Series of four (4) photos/diagrams of Seed Hawk equipment.
8.	Section 28 of <i>The Agrologists Act</i> and copy of the Code of Ethics for Agrologists.

5. Also entered into evidence as ex. PCC-2 was a picture of two knives of a Seed Hawk seeder.
6. Mr. Watson called two witnesses on behalf of the Professional Conduct Committee, the complainant, Patrick Beaujot and Rod Priddell. Mr. Priddell is and was in 2008 the farm manager of a farming operation known as Redland Farms located near Balcarres, Saskatchewan.

**A. PATRICK BEAUJOT**

7. Mr. Beaujot testified that he obtained a four year degree in Agriculture from the University of Saskatchewan, specializing in Agronomy, in 1981. He grew up on a family farm near Langbank, Saskatchewan and was active in the family farm. He and his brother bought into the farm in 1986. He was actively farming until approximately three years ago.
8. Mr. Beaujot was interested in operating his farm on a zero till basis. In order to further this he, together with his brother and another individual, developed a design for an opener for an air seeder to address difficulties they were having with seeding depth control. They built and tested their design in the 1992 crop year with some success.

9. The purpose of the design was to build a seeder that would place the seed and fertilizer in the right locations. This was accomplished by putting the seed knife not too far in front of the packer wheel that would allow the packer wheel to gauge the seed depth instead of the frame. The design also included a separate knife for fertilizer. This is referred to as a dual knife seeding method. The Seed Hawk uses what is known as a side-row banding system.
10. In 1992 Mr. Beaujot and his brother incorporated a company called Seed Hawk with the intent of manufacturing and marketing air seeders based on the design that they had developed. Since that time Seed Hawk has been manufacturing for sale their particular brand of air seeder.
11. At some point in time Redhead Equipment, a Saskatchewan implement dealer, started carrying the Seed Hawk air seeder. The owner of Redhead Equipment, Garry Redhead, also owns and operates a farm near Balcarres, Saskatchewan, called Redland Farms.
12. In the Spring of 2008 Mr. Beaujot was notified that Redland Farms was planning to conduct a comparison of the Seed Hawk air seeder with one manufactured by Bourgault Industries. Bourgault is an agricultural implement manufacturing company in Saskatchewan. Redhead Equipment was carrying both lines of air seeders and wanted to have a comparison of their respective performance.
13. In the Spring of 2008 Mr. Beaujot met briefly with the manager of Redland Farms, Rod Pridell, regarding the comparison. Subsequently, sometime in June of 2008 Mr. Pridell contacted Mr. Beaujot and advised him that they were noticing a significant difference between the cereals, barley and wheat seeded with the Seed Hawk and with the Bourgault equipment. Mr. Pridell further informed Mr. Beaujot that Bourgault had a number of people at the farm including an agronomist. He also informed Mr. Beaujot that it appeared that the portion of the crops seeded with Bourgault had better emergence.
14. The next day Mr. Beaujot attended at Redland Farms to meet with Mr. Pridell. Mr. Pridell showed Mr. Beaujot various fields that had been seeded both using Seed Hawk and Bourgault equipment. According to Mr. Beaujot, Mr. Pridell stated that he was showing Mr. Beaujot the same fields as the people from Bourgault examined including several barley and several wheat fields. Mr. Beaujot could not remember exactly how many fields he examined but that there were at least two of each wheat and barley and several canola fields.
15. In the wheat and barley fields there was a significant difference between the crops seeded with the Seed Hawk and the Bourgault equipment. The Bourgault areas were generally higher and thicker. Mr. Beaujot wanted to investigate to determine what was the possible

cause of the difference. He did this by digging up a number of wheat and barley plants in both the Seed Hawk and Bourgault seeded areas to examine the seed depth and what the root development looked like.

16. Based on the examination of the plants he had dug up and measured on the Seed Hawk side they were at a depth of 2 ¼ inches or greater. The measurement was taken from where the seed was to where the plant started to turn green. The ranges in the seed depth varied from 2 ¼ to 3 inches and more on the Seed Hawk side of the field. The plants on the Bourgault side of the fields were all approximately 1 ½ inches.
17. To the best of his recollection Mr. Beaujot dug up and examined the roots of plants in two barley and two wheat fields. The findings were generally consistent in each of the fields as to seed depths. Those on the air seeder side were consistently 2 ¼ to 3 inches range and those on the Bourgault side were consistently 1 ½ inches.
18. Mr. Beaujot took a series of photographs of the plants he had examined and measured. The photographs were taken on June 28, 2008 and were exhibited at Tab 6 of ex. PCC-1, which consists of 8 photographs. A ruler is included in each photograph. Pictures 1 to 6 show plants on the Seed Hawk side, pictures 7 and 8 are taken of plants in the area seeded with the Bourgault seeder.
19. Mr. Beaujot was uncertain whether the plants in the photographs were barley or wheat, although he thought they were most probably barley. He did testify that he did examine a number of wheat plants that had been seeded both with Seed Hawk and Bourgault equipment and that the results were consistent with those as they appeared in the photographs.
20. Mr. Beaujot's position was that if the Seed Hawk equipment is used properly it is impossible to seed deeper than 1 ½ inches as that is the maximum setting of the seed knife. His explanation of the greater seed depths that he found on the Seed Hawk side of the wheat and barley fields was likely due to a mistaken setting of the diverter valves located on the equipment. In the Seed Hawk design the seed and fertilizer are each delivered into two separate air streams. The upper air stream leads to the fertilizer knife and the lower air stream leads to the seed knife. If the diverter valve is set in the wrong position it will deliver seed into the upper air stream and to the fertilizer knife. This is illustrated in the pictures and drawings included at Tab 7 of PCC-1.
21. The pictures and drawings show that the diverter valves allowed its product to be delivered into any air stream. The drawings at Tab 7 also illustrate the dual knife / side banding system used in the Seed Hawk air seeder. The fertilizer knife is approximately one foot in

front of the seed knife and is horizontally offset from the seed knife by 1 ½ inches. There is also a vertical separation between the two in that the fertilizer knife is set ¾ of an inch deeper than the seed knife from the pack surface. The intent is that the fertilizer is delivered deeper and to the side of the seed. The reason for doing this is that if the fertilizer is placed too close to the seed it can reduce or slow the germination of the plant.

22. It was Mr. Beaujot's opinion that, given the measurement of the seed depth he obtained on the Seed Hawk areas of the wheat and barley fields, that the most likely explanation is that the diverter valve had been set at the time of seeding to deliver the seed into the fertilizer knife.
23. Mr. Beaujot discussed his findings with Mr. Pridell at the farm that day. He stated that Mr. Pridell agreed that this was the likely cause of the difference found between the Seed Hawk and Bourgault seeded areas in the wheat and barley fields. He did not have a discussion with any representative of Bourgault about the seed depth issue at that point.
24. Mr. Beaujot testified that the issue again arose when he noticed an article in the Western Producer dated April 23, 2009. The article appears at Tab 2 of ex. PCC-1. The article is written by Ron Lyseng and the title is "Location, Location, Location" the article cites Garry Meier as the source of the information contained in the article. It deals generally with the issue of seed and fertilizer placement. The article describes a number of trials that Mr. Meier was involved with, regarding fertilizer placement and goes on to describe certain comparisons run by Bourgault Industries, Mr. Meier's employer.
25. According to the article Mr. Meier identified three farms on which Bourgault ran comparisons in 2008 with mid-row and side-row banding drills and states:

"To test this theory, Bourgault identified three Saskatchewan farms in 2008 that were large enough to operate two difference drills.

On each farm, one drill was a Bourgault 3310 with a mid-row banding. The other was a dual-knife system that bands nitrogen to the side of the seed row.

One farm used dry urea, another used liquid 28-0-0 and the third used anhydrous.

All three farms agreed to run both drills in the same fields to obtain valid comparisons.'
26. The article goes on to further state:

"Bourgault reports the side-banded phosphorus field was slower to develop compared to the seed-placed phosphorus.

Even with the close proximity of the side-banded nitrogen, the plants at this trial responded better to the seed-placed phosphate.

For more information, contact Meier at [gmeier@bourgault.com](mailto:gmeier@bourgault.com).”

27. There is a picture appearing with the article that is identified as one of the comparison fields near Choiceland, Saskatchewan.
28. Mr. Beaujot testified that he had attended at both farms, Choiceland and at Torch River, and that the picture included in the article appeared to him to be a picture of a field at Redland Farms near Balcarres. He also stated that he had attended at the farm in Choiceland and the farmer stated that he hadn't seen any difference in his crops that had been seeded with both types of drills. Likewise, he had attended at the Torch River Farm and that it was reported that the Seed Hawk strip looked better than the Bourgault strips.
29. As a result Mr. Beaujot contacted Michael Raine, the managing editor of the Western Producer to raise his concerns and in particular request that they speak to the farms at Choiceland and Balcarres. He was not certain whether Mr. Raines had a follow up discussion with Mr. Meier.
30. Subsequently, a correction was printed in the May 28, 2009 edition of the Western Producer with respect to the story of 23 April. The correction is shown as being written by Michael Raine and is at Tab 3 of ex. PCC-1. The correction reads in full:

“Several errors in a story that ran on page 29 of the April 23 edition of *The Western Producer* require correction.

Incorrect information was provided to us by a source in the story headlined “Location, location, location”, which dealt with seed and fertilizer placement research conducted by corporate agronomist Garry Meier on behalf of Bourgault.

The first error was the location and circumstances depicted in a photograph that accompanied the story. The photo, in fact, was taken near Balcarres, Sask., and it is not a fair comparison of results between mid-row banding drill and a dual knife drill.

The farmer of the land in the photograph said the crop seeded with the dual knife drill was inadvertently planted 3.5 inches deep, while the crop seeded with the mid-row unit was planted properly. The photo is a representative of the effects of seeded a crop too deeply, but nothing else.

In developing the story, *Western Producer* staff were told that three seeding trials comparing dual knife systems to a Bourgault 3310 took place in 2008. Those included

one at Balcarres and one at Choiceland. We published that information but later learned it was not true.

Only one of the three farms took part in a trial. The other two, Torch River Farm and the farm at Balcarres, operate both Seek Hawk dual knife and Bourgault drills but did not participate in the trial with Bourgault in 2008.

Both farm operators said no fair comparison could be made between the seeding systems on their farms due to operational errors in the trials.

The final paragraphs of the story were about phosphorus trials. However, the *Producer* has since learned that formal comparisons in trials at Torch River Farm were invalid because a fertilizer tank lid was left ajar when the field was seeded.

*The Western Producer* regrets these errors and remains committed to vigorous fact checking of all stories.”

31. Subsequent to the correction being published in *The Western Producer*, Mr. Beaujot noted that the picture of the field in the 23 April, 2009 *Western Producer* article was on Bourgault’s website in a publication entitled “Cutting Edge”. The Winter 2008 / Spring 2009 edition of the “Cutting Edge” is at Tab 4 of ex. PCC-1. The publication includes several photos taken at a wheat field at Redland Farms. One is dated 19 June and was later exhibited at hearing as photo number 1 in ex. R-5. The other photo is dated 7 August, 2008 and is the photo that previously appeared in the *Western Producer*.

32. Accompanying the photographs is the following text:

“Fertilizer placement is critical to crop maturity. Side-banded crops at Midale and Choiceland displayed opposite responses to seed placed and side-banded phosphate. The main difference between the location was moisture conditions. This observation suggests that side-banding systems impose a greater risk of fertilizer damage to the seed – good moisture conditions will help minimize the risk, poor moisture conditions will amplify the risk of damage. The observations at Redland Farms underline the crop’s responsible to fertilizer placement in the mid-row banded crop compared to the side-banded crop.”

33. Specifically in relation to the picture dated June 19, 2008 the publication states:

“This example clearly shows the MRB test [Bourgault 3310 mid-row banding seeder] displayed faster crop development than the dual-knife side-banded test.”



34. The publication goes on to state:

“A large amount of data was collected over this season, only a part of which was outlined here. More trials will be required with various seeding systems over a wide range of conditions to help confirm the observations made in the past.”

35. Mr. Beaujot testified that the next time the issue arose is when he met Mr. Meier at an agronomy event put on by Agri-Trend in late November or early December of 2009 in Saskatoon. He had had a discussion with Mr. Meier about the use of the field pictures from Balcarres. He explained during the conversation that there had been an issue with the seed depth in those areas, including wheat fields, seeded by the Seed Hawk seeder. He asked Mr. Meier to discontinue the use of the picture as it was an issue as to whether the development difference was caused by seed depth as opposed to fertilizer placement.
36. The matter next came to Mr. Beaujot's attention when he was notified by a farmer that Mr. Meier gave a presentation at the 2011 Agri-Trend seminar that continued to rely on photographs taken at Redland Farms in 2008 to support Mr. Meier's contention that the emergence problem was due to fertilizer damage to the seed relating to the side-row banding method.
37. Mr. Meier provided Mr. Beaujot with the thumb drive that included the pictures that Mr. Meier was using. The pictures from the thumb drive were entered into evidence at Tab 5 of ex. PCC-1 the pictures include a title page under Mr. Meier's name with the title "Managing That Burnin' Ring of Fire".
38. Also included were three photographs identified to be wheat fields near Balcarres, Saskatchewan. One of the photos dated June 19, 2008, (photo #1 ex. R-5) shows a comparison field showing the dual-knife system developing slower as compared to the Bougault. A similar photo dated August 7, 2008, was also included and a photo also dated June 19, 2008, showing two sets of wheat plants that had been dug up (photo #7 ex. R-5).
39. Mr. Meier, through his counsel Mr. Carson, admitted that the material at Tab 5 ex. PCC-1 was being used by Mr. Meier as part of a PowerPoint presentation that there was a higher risk of fertilizer damage using the side-banding method.
40. On cross-examination, Mr. Beaujot agreed that his company, Seed Hawk, competes in the market place with Mr. Meier's employer, Bourgault Industries. He further acknowledged that if it was established that mid-row banding presented a lesser risk of delayed seed emergence and fertilizer burn than the side-banding method that might have an impact on sales of his company's products.

41. In relation to the fields at Redland Farms near Balcarres, Mr. Beaujot acknowledged that he did not know the exact land locations of the fields he visited and that he was relying on Rod Pridell for his understanding that he was observing the same fields as the Bourgault representative.
42. He agreed that there was a risk to crop emergence and development if there is insufficient separation between the fertilizer and the seed during seeding. He did testify that the concern he had was with the use by Mr. Meier of the pictures taken at Redland Farms to establish that the difference in crop development was due to fertilizer placement. He further agreed that it would be fair for Mr. Meier to communicate to the public that mid-row banding method of seeding has advantages over the Seed Hawk system if the representation was scientifically based.
43. He acknowledged that during his discussion with Mr. Meier at the Agri-Trend conference in 2009 that Mr. Meier had raised certain issues with Mr. Beaujot's own presentation at that conference with respect to a trial involving two Seed Hawk seeders. Mr. Meier raised concerns regarding the accuracy of the presentation. As a result of the concerns Mr. Meier raised Mr. Beaujot agreed to discontinue using the presentation. At the same time he raised his concerns regarding Mr. Meier's use of the Balcarres pictures and specifically informed him that the difference in development was due to a seed depth issue and not a fertilizer placement issue.

**B. ROD PRIDELL**

44. Mr. Pridell testifies that he lives in Fort Qu'Appelle, Saskatchewan and comes from a farming background. He has been employed by Mr. Gary Redhead at Redland Farms near Balcarres, Saskatchewan since 2001. He is the "lead hand" in charge of day to day operations. His job includes running machinery and generally directing the farm operation including input on cropping and equipment purchase decisions.
45. Mr. Redhead's equipment dealerships were selling both Seed Hawk and Bourgault equipment. In 2008 they decided to use both brands of seeders side by side to see which worked best for the farm. Each crop that they seeded that year, including wheat and barley, was seeded side by side using a Seed Hawk and Bourgault variety seeder. Neither Seed Hawk or Bourgault were involved in the decision to conduct a comparison. There were no representatives of Seed Hawk or Bourgault involved in the actual seeding.
46. He testified that they had observed poor emergence in the crops wherever the Seed Hawk equipment had been used. He had made a number of phone calls and eventually

representatives from each of those manufactures attended at the farm although he couldn't recall specially making a phone call to Bourgault as they had representatives on site dealing with some equipment issues.

47. He stated that Mr. Pat Beaujot attended at Redland Farms in 2008 and that they visited a couple of fields to see if they could figure the reason for the poor emergence. He recalls that after digging down and finding the seed that the problem was that they had seeded too deep on the Seed Hawk side. The depths they found were about 3 inches when it should have been seeded to 1 ¼ inch or 1 ½ inch.
48. He does recall some discussion with Mr. Beaujot about the possibility of putting the seed down the wrong shoot or that they misread where they had put the pins in the shank to set the seed depth. He came to the conclusion that it was a physical error in the operation of the Seed Hawk on the part of Redland Farms that was the cause of the emergence problem.
49. He did not recall making any phone calls to Bourgault about his conclusion but he did recall a subsequent phone call from Mr. Beaujot later in the fall regarding a picture in the Western Producer. Mr. Beaujot sent him a copy of the picture which he identified as the same as the picture in the Western Producer article dated April 23, 2009 at Tab 2 of PPC-1 on the 2<sup>nd</sup> page of the article as field number 2 at Redland Farms.
50. He was not able to identify with certainty that the pictures at Tab 4 and 5 of PCC-1, other than the picture that appeared in the Western Producer, were of Redland Farms but acknowledged that they could be. He thought the top picture at Tab 5 was Redland Farms field 22 (Tab 4 and 5 are the Bourgault catalogue and Mr. Meier's power point, respectively).
51. He recalls receiving a phone call from someone at the Western Producer regarding the picture and that he told the people from Western Producer that there was an issue with seeding depth.
52. He specifically remembers being in a number of fields with Mr. Beaujot and remembers a wheat field in particular and also that they toured a canola field. He cannot remember specifically if they were in a barley field. He remembers that there was a representative of Bourgault, Lorne Ozipko, at the farm fairly regularly that year because of a problem they had with some of the equipment.
53. When asked in cross examination if he noticed any difference in the poor emergence between the high ground and the low ground in the field he couldn't recollect any other than to generally say that the biggest difference he saw was in the emergence of the crops on the

Seed Hawk sides as compared to the Bourgault sides. He remembers when they did the digging that the Seed Hawk and Bourgault seeds weren't seeded at the same depth but he cannot specifically recall digging up plants in any field seeded with the Bourgault seeder. He did not recall any specific conversation with Garry Meier regarding the seeding depth there but he does recall that he did speak to a Bourgault representative about it.

54. In cross-examination a series of four photographs in exhibit R-5 were shown to Mr. Pridell. He could identify Mr. Ozipko in the field but could not confirm the legal description as W ½-35-21-13 W2.

### **III EVIDENCE OF MR. GARRY MEIER P.A.g.**

55. Mr. Carson on behalf of Mr. Meier called Jason Robert Kirsch, Mark Cresswell, Lorne Ozipko, Donald Leister Hoover as well as Mr. Meier to testify. The following exhibits were accepted into evidence on behalf of Mr. Meier:

R-1 Email from Pat Beaujot to Les McLean of the Saskatchewan Institute of Agrologists dated August 17, 2011.

R-2 Seek Hawk fertilizer separation safety letter.

R-3 Letter from Edward Tanner dated December 12, 2008.

R-4 Email from SIA to Pat Beaujot dated August 16, 2011 and response.

R-5 Photographs

R-6 Certificate of Title (copy) form the Southwest and Northwest of 35-21-13, West of the Second (marked wheat).

R-7 Certificate of Title for the South Half of 19-20-11, West of the Second.

#### **a. JASON ROBERT KIRSCH**

56. Mr. Kirsch has been a long time employee of Bourgault Industries extending back some 22 year. He is currently their marketing manager and has been in that position for approximately 12 years. He was in the research and development department at Borugault for approximately 10 years. He is not an agronomist.

57. He testified that Garry Meier and Rob Fagnou, another employee of Bourgault Industries, were interviewed for the article that appeared in the Western Producer in April of 2009. Mr. Kirsch was not interviewed for the Western Producer article and he did not state in his testimony what his involvement was with respect to the comparisons/trials described in the article. He did state that the article had an error in that there was tests being conducted at three sites when, in fact, Bourgault only had tests ongoing at two sites.
58. Mr. Kirsh gave general evidence as to the research and development activities at Bourgault with respect to seed and fertilizer placement. He indicated that they had done a number of studies involving over 3,000 plots. They used both in-house agrologists such as Mr. Meier and independent agrologists in their studies. Bourgault has not published in any agronomy journal any data or information from their studies to date.

**B. GARRY LEONARD MEIER**

59. Mr. Meier is currently the Corporate Agronomy Team Leader at Bourgault Industries, a position he has occupied since 2006. He also is a farmer and a plant breeder. He obtained his degree in Crop Science and Economics from the University of Saskatchewan in 1976. He has been a practicing agrologist since the mid to late 1980's.
60. He stated that he has long been interested in the issue of seed and fertilizer placement during seeding and over the years has observed various technologies including various side-band seeders with double-shoot openers. It was his conclusion based on his observations that the problems with those technologies related to seedbed disturbance and that fertilizer placement is compromised when you disturb the seed bed. He had been conducting his own investigations into this phenomenon on his farm.
61. According to Mr. Meier, he initiated agronomic studies with respect to this phenomenon once he started his employment at Bourgault Industries. In 2008 Bourgault commenced, what Mr. Meier termed as a fairly aggressive program, studying the placement of phosphate in relation the seed row examining a number of technologies. He described it as Bourgault's "small plot program".
62. Mr. Meier stated that the intention of the small crop program was to create a document or set data that could be peer-reviewed and published. To that end they engaged outside expertise to assist them with the design of a protocol under which the small plot trials would be run. The individuals they engaged were Jeff Schoenau from the University of Saskatchewan and Kerry Foster from North Dakota State University. They also retained documenters who were independent of Bourgault to do plant counts, emergent counts and to

document the development of the plots. Mr. Meier did not provide a detailed description of the protocols that Bourgault adopted in its small plot trials.

63. He stated that in 2008 there were a number of field observations at a farm near Torch River, the Johner Farm and the Redland Farm. Mr. Meier was personally involved with the setup of the trial at the Torch River Farm. With respect to the Redland Farm observation he stated:

“Redland Farms was just a happenstance observation that occurred because of the mechanical issue with one of the Bourgault drills...”

64. Specifically in relation to Redland Farms, he testified that an employee of Bourgault, Lorne Ozipko, had been dealing with some problems with Bourgault equipment at Redland Farms. Mr. Ozipko became aware that the farmer was running a comparison between Seed Hawk and Bourgault seeders.

65. At each of these farms he testified there was a comparison between a Seed Hawk or a Seed Master drill with the Bourgault 3310 drill. He stated that the purpose of the field observations was to see if it correlated with their findings in the small plot trials they were running with respect to side-band verses mid-row banding methods. He stated that the choice of the types of machinery was based on the fact that they each had independent depth control that gave fairly good control of the depth of the seed in relation to the soil surface and this would allow for good comparison of the difference seed placement methods.

66. He described the two methods of seed placement. The side-band method places the fertilizer below and to the side of the seed band. The mid-row banding method places the fertilizer in a dedicated band below the seed and between two seeds bands.

67. Mr. Meier testified that in his experience with the side-band system that there was fracturing of the seed bed, especially on high ground, that would cause a mixture of the seed and fertilizer, although, he attributed this in part to the wear on the opener of the knife placing the seed. He referred the Committee to schematic set out in ex. R-5 to illustrate his contention.

68. He testified that fertilizer is toxic to emerging and developing plant material and that if the seed and fertilizer are placed too close together one of the results can be poor crop emergence. He also stated that the impact can be less on lower ground where there is adequate moisture.

69. Specially in connection with Redland Farms, he admitted that the field comparison was not part of a trial being run by Bourgault Industries and that he was not present during seeding

to observe the conditions or the equipment being used. He did testify that Lorne Ozipko had been present during seeding and had made those observations but Mr. Meier was not aware of that until just before the date of the hearing. As Mr. Meier stated he was a “johnny-come-lately” to what he described as the “project” on Redland Farms.

70. He attended personally at Redland Farms in June of 2008. He stated that he was primarily focused on a particular wheat field of approximately 320 acres. He was able to obtain the legal description of the wheat field from his GPS as the SW and NW of 35-21-13, W2. He took a number of photos of the wheat field and these appear as photos numbers 1, 2, 3, 4, 5, 6 and 7 of ex. R-5. He also made some observations in a barley field that he identified as the S ½ of 19-20-11 W2. Mr. Meier stated that this field was the only wheat field he observed at Redland Farms.
71. Based on his interpretation of the evidence of Mr. Pridell he was of the view that the wheat field that Mr. Pridell and Mr. Beaujot were in was 2 miles to the north of the wheat field that Mr. Meier observed.
72. He stated that the north side of the wheat field was seeded with a Bourgault 3310 with a mid-row bander using liquid 28-0-0 fertilizer. He stated that the Seed Hawk seeder was “on 10-in spacings at the time, placing its liquid 28 in the fertilizer knife, the leading fertilizer knife”. However, he acknowledged that he was not present during seeding and did not observe any of the machinery.
73. His observation in the wheat field in June 2008 was that on the high ground on the Seed Hawk side the plant emergence was much poorer than on the Bourgault side and that on the low ground there was virtually no difference between the performance of the two seeders. He referred to photographs no. 1, 2, 3, 4, 5 and 6 in ex. R-5 which he said illustrated the difference between the performance of the two pieces of equipment on the high ground and low ground. It was partly on this basis that he formed his conclusion that there was no issue with seeding depth on the Seed Hawk machine.
74. He stated that he did dig up a number of plants on both sides of the wheat field to compare seed depths. He did not find any significant differences in the seed depths. He referred to photo no. 7 of ex. R-5 to support his assertion that the root depths on both the Seed Hawk and the Bourgault sides of the wheat field were similar depth. He made no written record of the number of plants that were dug up and where and he was not able to produce any actual measurements of seed depths in either the wheat field or the barley field.

75. He stated that he did not use any of the pictures or observations from the barley field in his subsequent presentations as he came to the conclusion that the differential seeding was caused by a process he described as “stepping”.
76. Mr. Meier again attended at Redland Farms on 7<sup>th</sup> August, 2008 to look at the wheat field at the W ½ of 35. His observation was the crop development on the high ground was delayed on the Seed Hawk side but was on par with Bourgault on the low ground. The photograph he took on that day is the photograph that appeared in the Western Producer article of April 2009.
77. With respect to the article he stated he had been interviewed by a reporter by the name of Ron Lyseng of the Western Producer but that the photograph of the wheat field had been supplied by Rob Fagnou. He also testified that the error in the article relating to research at three farms was originated with Mr. Fagnou rather than with him.
78. He acknowledged that at the Agri-Trend Conference in Saskatoon in late Fall of 2009 he did speak to Mr. Pat Beaujot and that Mr. Beaujot had informed him of his opinion that the problem at the Redland Farms was a seeding depth issue. Mr. Meier was adamant that it was not a seeding depth issue.
79. Under cross examination he admitted that he first became aware of the seeding depth issue shortly after the correction was published in May of 2009 by the Western Producer. After the correction was published he contacted Rod Pridell and that Pridell informed him that it was Mr. Pridell’s conclusion that the problem had been caused by seeding depth.
80. He candidly acknowledged that after becoming aware of the correction in the Western Producer in May of 2009, after speaking to Mr. Pridell, and then Mr. Beaujot at the Agri-Trend conference in late 2009 that he continued to use the wheat field photographs in numerous presentations through to 2011 to support his proposition that the difference in emergence was caused by seed placement. Specifically with respect to his observations at Redland Farms he testified:
- “There was not a scientific test in this field, this was a case where two seed drills met in the middle of a field and we were there to observe and document the difference in the performance of those two drills; and in my case, after the crop had emerged.”
81. When questioned on whether he, or anyone from Bourgault, checked any variables at the time the seeding was done at Redland Farms in 2008 he stated that Mr. Lorne Ozipko of Bourgault was present at seeding and that Mr. Ozipko verified in relation to the wheat field, that:



- a. The seed was the same in both the Seed Hawk and Bourgault machines;
- b. Both the seeders were each set in the proper way;
- c. had observed the machines while seeding;
- d. had checked to confirm proper seeding depths.

82. Mr. Meier admitted that he was unaware of any of Mr. Ozipko's observations of the conditions at seeding until the week before the hearing. He certainly had no knowledge of that at the time he was making his presentations in 2009 through to 2011.

83. He also stated that after receiving notice of the correction, his conversation with Mr. Pridell and subsequently with Mr. Beaujot that he did not do any further investigation into the findings he was presenting with respect to the wheat field at Redland Farms.

84. Mr. Meier further admitted under cross examination that the photo no. 7 in ex. R-5 did show that some of the roots on the plants that were seeded with the Seed Hawk implement were definitely longer than the roots seeded by the Bourgault implement. He attributed the difference to the fact that some of the seeds on the Seed Hawk side would have fallen into the bottom of the fertilizer trench.

### **C. MARK CRESSWEL**

85. Mr. Cresswell is a mechanical engineer and is currently the Vice President of Research, Development and Sales and Marketing at Bourgault Industries. He has been employed with Bourgault since 1995. He grew up on a farm south of Tisdale, Saskatchewan and is actively farming since 1994. He is not an agrologist.

86. He testified that he had been visiting customers with Lorne Ozipko, another employee of Bourgault, and Mr. Ozipko suggested that they visit some fields at Redlands Farms. His recollection is they first went to a barley field and that there was an obvious difference between the part of that field seeded with the Bourgault 3310 and the area seeded with the Seed Hawk although he attributed it to the speed of the seed drill that lead to "stepping". His recollection was that he and Mr. Ozipko were in the field that day before Mr. Meier attended at the field. However, he was not present when Mr. Meier attended at Redland Farms.

87. He recalls visiting a wheat field with Mr. Ozipko after observing the barley field. He found a similar difference. He recalls digging in the fields to check the seed depth and found that there was similar seed depths on both sides of the wheat field. However, he cannot recollect

how many holes he dug to check the seed depth and did not produce any records of any measurements. He did testify that photo No. 7 in ex. R-5 was similar to what he observed as to root depths in the wheat field. He stated that his observation was that there was not much difference between the two sides of the field in the low ground. He did not examine any other fields at Redland Farms. He is not sure of the location of the wheat field.

#### **D. LORNE OZIPKO**

88. Mr. Ozipko is employed as a Territory Manager for Bourgault Industries. He has been with Bourgault for 21 years. His territory includes Balcarres, Saskatchewan including Redland Farms. He testified that in 2008 Redland had purchased 2 Bourgault 3310 55 foot seeders. During seeding in 2008 he received a call from the farm manager, Rod Pridell, that there had been a problem with the mounting bolts on the 2 Bourgault seeders and that the bolts were breaking. After a subsequent phone call from Mr. Pridell informing him that they continued to have problems with the mount bolt breaking and that they were not having good trash residue clearance on the machines. He then travelled to Redland Farms and attended at a wheat field he described as being approximately 3 to 4 miles north of the farm yard and as being a half section.
89. When he arrived at the field there was three seeding units in the field, 2 Bourgault 3310's and 1 Seed Hawk. One of the Bourgault units was stopped. He observed that the Seed Hawk was seeding on the south side of the field and the other Bourgault unit was seeding in the middle of the field. He observed that the crop residue from the previous year in that particular wheat field was pea stubble.
90. He was in the wheat field for approximately 1 ½ to 2 hours to inspect both of the Bourgault units with Mr. Pridell. In addition to inspecting the Bourgault he testified that he did check some seed depths randomly through the field, more on the Bourgault side, but he states that he did check the Seed Hawk side of the field. His observation was that both machines were seeding at the same depth from the packer wheel dent in the seed row. He never measured the seed depths below the soil surface.
91. Contrary to Mr. Meier's testimony about Mr. Ozipko's activities at the time, Mr. Ozipko stated that he never checked the settings on any of the seeding machines and did not check the seed bins to ensure that the same seed was being used.
92. Around June 19, 2008, he did attend at the wheat field with Mr. Meier. He confirmed that he is the individual pictured in the photographs contained in ex. R-5. During that visit with Mr. Meier he stated that they randomly checked seeding depths on both the Bourgault and Seed

Hawk sides of the field. They found that they were close to equal. He did not testify as to any difference in the quality of crops between the low ground and the high ground.

#### **E. DONALD LEISTER HOOVER**

93. Mr. Hoover obtained his B.Sc. in Agriculture from the University of Alberta. He has been active in the agricultural field since 1964. He has had his PAg designation since 1967 and he is a member and past President of the Alberta Institute of Agrologists. Since the early 1970's he had a consulting agricultural practice mostly in the areas of economic business planning, financial analyst, farm management and land appraisal. He is a certified Agricultural Consultant and a member of the Canadian Consulting Agrologists Association. He has taught ethics courses for the Consulting Agricultural Association and was involved with the development of the Code of Ethics and the Code of Practice with the Alberta Institute of Agrologists.

94. He was questioned by Mr. Meier's counsel as to the standard of care to be followed by a professional agrologist who intends to publish any findings. Mr. Hoover testified that any professional agrologists should adhere to a research model that includes:

- a) Set out the question or issue you wish to study;
- b) Conduct a literature review to find out what research has been done in relation to the question/issue;
- c) Set out your hypothesis ;
- d) Establish demonstrations or experiments to test the hypothesis in a matter that those tests should be replicated in sufficient form to give reliability to your data;
- e) Conduct a detailed analysis of the data and form a conclusion;
- f) In the event that there is any conflicting evidence to make sure that you have analyzed your data in the fullest detail.

95. He testified that following such process or protocol is a Code of Practice matter.

96. Mr. Hoover stated that in preparation for his testimony at the hearing he had reviewed a report by a Mr. Larry Durand, reviewed crop emergence trials carried out by two other

scientists (who are not named) and further information compiled by Mr. Meier. The Durand report, the trials carried out by the two other scientists and the information compiled by Mr. Meier were not in evidence before this Committee other than those exhibited by Mr. Meier's counsel.

97. Based on a review of that evidence Mr. Hoover formed the opinion that Mr. Meier had followed the scientific method in this case.

98. Mr. Hoover was asked to identify the variety of plant illustrated in the photographs at Tab 6 of ex. PCC-1. He testified that it was difficult to do the identification. He could not be absolutely certain but he felt that the plants in photographs 1, 2 and 3 of Tab 6 were barley and the others looked like they may be wheat.

#### IV. ANALYSIS AND DECISION:

99. The formal complaint against Mr. Meier's is set out in full above. The issue that has to be determined by the Discipline Committee is whether Mr. Meier's conduct, as described in the formal complaint, is contrary to s. 28(1) of *The Agrologist's Act, 1994*, S.S. 1994 c.A-16.1 (the "Act"). S. 28(1) of the Act states:

"28(1) Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, that:

(a) is harmful to the best interests of the public or the members of the institute;

(b) tends to harm the standing of the profession of agrology;

(c) is a breach of this Act or the bylaws; or

(d) is a failure to comply with an order of the professional conduct committee, the discipline committee or the council;

is professional misconduct within the meaning of this Act."

100. The Saskatchewan Institute of Agrologists has adopted as part of its Code of Ethics a Code of Practice: A Guideline to the Ethical Responsibilities of Agrologists. The Code of Practice states:

- “1. Among Agrologist’s professional obligations to the Public is the responsibility:
- b) to express a professional opinion only when it is founded on adequate knowledge and experience, and where Agrologists’ have an understanding of the situation and context against which this opinion is being offered.

Agrologists must clearly distinguish among facts, assumptions and opinions in their preparation of reports and professional statements. Professional opinions should be clearly stated, and should include clear indications of the constraints within which opinion holds and the relevant qualifying circumstances, facts and assumptions.

3. Agrologists’ responsibility to the Profession is:

- a) to inspire confidence in Agrology by maintaining high standards in conduct and work.

Agrologists must keep in mind that the work of an Agrologist is continuously open for public scrutiny, and it is the responsibility of each individual to build and maintain a positive image of the field and the profession. Not only must Agrologists perform their duties of employment to a high level of excellence, but the conduct of each Agrologist must also be of high standard.”

101. These provisions are relevant to the consideration of Mr. Meier’s conduct.

102. Although, the Committee heard extensive evidence as to the importance of fertilizer placement in seeding and the various advantages and disadvantages of the mid-row banding method versus the dual knife side-row banding method for seeding, it is not necessary for the Committee to determine which method provides the best fertilizer placement and under what conditions. Although this evidence provided useful background to the Committee, the important consideration for the Committee is Mr. Meier’s collection and use of information obtained through observations at the Redland Farms near Balcarres, Saskatchewan.

103. To a large extent Mr. Meier’s counsel properly framed the issue when he stated:

“... that the conduct or misconduct of Mr. Meier can be judged on the one hand by determining whether he religiously followed the scientific method”

104. Whether Mr. Meier was following proper scientific method is relevant to whether he was complying with the provisions of the Code of Conduct set out above. In particular, whether Mr. Meier complied with his obligation as a professional agrologist in the manner in which he collected and presented the observations at Redland Farms as supporting his conclusion that the side-row banding method imposed a greater risk of fertilizer damage to the seed than the mid-row banding method.

105. Much of the evidence lead by both parties as to the facts relating to Mr. Meier's involvement in the comparison being conducted between the Seed Hawk and the Bourgault seeders at Redland Farms, and the use he made of that information, is not in dispute. The undisputed evidence may be summarized as follows:

- a) The comparison between the Seed Hawk and the Bourgault equipment at Redland Farms was wholly initiated by the farmer and was not in any way a trial initiated by Mr. Meier or any other representative of Bourgault Industries;
- b) Mr. Meier was not present during seeding and had not made any observations regarding the conditions at seeding including the type and rate of application of the fertilizer, soil conditions, seeding depth or the settings on the machinery;
- c) The only observations made of the conditions at seeding were made by Mr. Ozipko in a wheat field at Redland Farms where he met the farm manager, Mr. Pridell, in relation a mechanical problem with the Bourgault seeders;
- d) Mr. Ozipko did observe the seeders in operation and did some tests of seed depth but made no other observations, nor did he record any, with respect to the conditions at seeding;
- e) At the time of the publication of the Western Producer article and during the presentations Mr. Meier made using the pictures and observations he made at Redland Farms Mr. Meier had no knowledge of Mr. Ozipko's observations at seeding or whether Mr. Ozipko made any observations at all;
- f) Mr. Meier only became aware of the observations made by Mr. Ozipko at seeding approximately one week before the date of this hearing;
- g) Mr. Meier did attend at Redland Farms on or about 19 June, 2008 and examined a wheat field described as W 1/2-35-21-13 W2 and a barley field

described as S 1/2 -19-20-11 W2 and took a number of photographs. Mr. Meier did examine some seed depths in both fields but the number of plants that were examined and actual measurements were not recorded;

- h) He re-attended at the wheat field sometime on 7 August 2008 and took the picture that subsequently appeared in the Western Producer article of 23 April, 2009;
- i) Mr. Meier was a source of information for the Western Producer article of 23 April, 2009 but that there were errors as to the description of the field trials. Mr. Meier did not provide a copy of the photograph, mis-identified as a field near Choiceland that appeared in the article;
- j) Mr. Meier became aware of the correction published by the Western Producer in May of 2009. Particularly that the farmer of the land identified in the photograph (Redland Farms), identified a seed depth issue as a reason for the differences between the two areas;
- k) Subsequent to the publication of the correction, Mr. Meier spoke to Mr. Pridell. Mr. Pridell informed Mr. Meier that in his view the differential emergence was caused by a seed depth problem on the Seed Hawk seeder;
- l) At some point Mr. Meier had developed a PowerPoint presentation that he was using in seminars and talks he was giving at agricultural seminars and conferences including the Agri-Trend conference held in Saskatoon in late November or early December of 2009. The PowerPoint included pictures taken of Redland Farms as proof that side-row banding posed a greater risk to proper fertilizer placement;
- m) The same photos and similar material on the Bourgault website as part of its "Cutting Edge" publication;
- n) At the Agri-Trend conference in 2009 Mr. Beaujot approached Mr. Meier and informed him that the difference in crop emergence at Redland Farms was due to a seeding depth error on the Seed Hawk seeder at Redland Farms;
- o) Mr. Meier continued to make use of the photographs in his PowerPoint presentations after the correction published by the Western Producer, his discussions with Mr. Pridell and Mr. Beaujot into late 2011.

106. Mr. Meier disputes that the observations made by Mr. Beaujot with Mr. Pridell in June of 2008 were in the wheat field that he was in and it identified as the W ½-35-21-13 W2. He maintains that there was no significant difference in the seeding depths on either the Seed Hawk or the Bourgault side of the wheat field. The parties are also in disagreement that the difference in crop emergence was only apparent on the high ground in the wheat field and that the emergence was similar on the low ground.
107. Mr. Beaujot was relying on Mr. Pridell to take him to the same fields that the Bourgault representatives had examined. However, Mr. Pridell in his evidence could not with certainty identify the legal descriptions of the fields he was in with Mr. Beaujot. As such, the Committee cannot say with certainty that Mr. Beaujot had examined the wheat field described as W ½-35-21-13 W2, the field which was used by Mr. Meier in his presentations. However, for the reasons given below the Committee is of the view that it is not necessary to establish, given all the circumstances, that Mr. Beaujot was in the same field in order to support the Committee's conclusions as to Mr. Meier's conduct.
108. As to the differential emergence between the low ground and the high ground in the wheat field the Committee has considered the pictures put into evidence by Mr. Meier as part of ex. R-5 to support his contention. The photographs do not clearly show differential emergence between the low and high ground. It is important to note that Mr. Ozipko, who attended the field with Mr. Meier, did not in his evidence describe any difference between the emergence in the wheat field between the low and high ground.
109. More importantly, Mr. Pridell, the individual with the most intimate knowledge of Redland Farms operations did not state that he found any difference in emergence between the Seed Hawk and Bourgault seeded areas on the low and high ground.
110. In relation to the seed depth the photograph taken by Mr. Meier himself in the wheat field shows a significant difference in the length of the roots on the Seed Hawk side as compared to the Bourgault side. This is photo #7 of Mr. Meier's own exhibit R-5. It is evidence that the area of the field that was seeded with the Seed Hawk was seeded at greater depth.
111. The evidence establishes that the observations made at Redland Farms were not part of any trial that followed any scientific method that is to be expected of a professional agrologist. The same applies Mr. Meier's handling and use of the information he obtained from his observations at Redland Farms.
112. Mr. Meier gave a fair description of what the scientific method might look like in relation to the small plot program being run by Bourgault in 2009. In the conduct of that program he recognized a potential conflict in the research being conducted by an equipment



manufacture such as Bourgault and the need for proper protocol with independent verification. He described the process himself as follows:

“Well our small plot program began in earnest in 2008 and we had met with Jeff Schoenau from the University of Saskatchewan, and Kerry Foster from the North Dakota State University to develop design structure protocols to run these small plot trials. They were designed, to be replicated four times, and at least three different locations to create - - the idea when we started this thing was to create a document -- or create a set of data that could be peer-reviewed and published...”

So I insisted, right from the get-go, that we have independent documenters come in and do the documentation work. So we have Edward Tanner, a retired soils and crop specialist, Saskatchewan Ag and Food, he does plant counts for us, emergent counts, documents the development of the plot in the northeastern part of the province, and he will cooperate with Colin Beaulieu, a retired ag rep out of the Estevan area, a lot of the sites we have in the southeastern part of Saskatchewan...”

113. Mr. Hoover was called on behalf of Mr. Meier to testify as to the appropriate proper professional standards. When questioned by Mr. Meier’s counsel as to the appropriate standard of care for a professional agrologist when publishing or presenting any findings Mr. Hoover stated:

“Well, any professional should adhere to the research model or the professional conduct in doing research, and that would be, first of all, to determine what is the question, what is it you're trying to analyze...”

114. Mr. Hoover’s summary of the steps that should be taken by a professional agrologist before proceeding to publish any findings is set out above.

115. Mr. Hoover concluded that Mr. Meier had met the professional standard of care. Unfortunately, this is a conclusion that with which the Committee cannot agree in connection with Mr. Meier’s publication of his observations and photos of Redland Farms.

116. There is no doubt that Mr. Meier had developed a hypothesis that the side-row banding method posed a greater risk, under certain conditions, of fertilizer damage to the seed. It appears from the evidence that he and his employer, Bourgault Industries, may have developed some field trials to test this hypothesis. However, it cannot be said that the field comparison conducted by the farmer at Redland Farms was any part of any proper scientific trial. There were absolutely no controls established over any variables that may impact seed development including soil conditions, nature of the seed used, nature of the fertilizer used, the rate of application of the fertilizer, the settings on the respective equipment and the

actual seeding depths. Not only were there no controls of these and other variables, neither Mr. Meier, nor any professional agronomist, was on site to do a proper observation of the seeding conditions at Redland Farms. This alone should have made Mr. Meier cautious about the use of the information he obtained from Redland Farms in June and August of 2008 to support his hypothesis .

117. Further, the observations that Mr. Meier made at Redland Farms do not accord to any well recognized scientific practice or protocol. There was no actual recording or documentation of the seed depths observed by Mr. Meier in June of 2008 other than the photographs he took. As a consequence he is not able to say how many plants he checked, where they were located in the field, what the actual measurements were. The proper recording of data is an important part of the scientific trial. The failure to do so on Mr. Meier's part is a significant failing. Especially in light of his subsequent publication of the observations to support his hypothesis. The fact that he restricted the publication only to the observations he obtained in a single wheat field do not make up for Mr. Meier's failure to set up a proper trial or adequately record his observations. Notwithstanding the shortcomings Mr. Meier proceeded to publish his findings on the Bourgault website and in a number of presentations and seminars commencing in 2009 and continuing to 2011. There is no qualification stated in his presentations that the information collected at Redland Farms was not part of a proper scientific trial, that it was part of a comparison initiated by the farmer, that no control of seeding variables had been implemented and there had been no proper observation or recording of the conditions at the time that seeding took place. This is in clear breach of the Code of Practice of the Institute that requires professional agronomists, when stating opinions, clearly state the constraints that may impact on the opinion and any relevant qualifying circumstances, facts and assumptions. He did not do so and the individuals hearing the presentations or reading his material would likely be misled into believing that the information being presented from Redland Farms was part of the trial as opposed to an after the fact observation.
118. In addition to the presentations he made himself, Mr. Meier was also the primary source of the information contained in the Western Producer article of 23 April, 2009. Although Mr. Meier testified that there was an error in the article in describing the number of trials that were actually run by Bourgault at the three farms, the conclusion presented on the basis of the Redland Farms observations made by Mr. Meier are reported in the article and are consistent with the presentations he made subsequently in his PowerPoint presentation and in the "Cutting Edge" publication on the Bourgault website.
119. Of equal concern to the Committee is the failure of Mr. Meier to take any steps to review or reconsider the content of his presentations after it had been brought to his attention that the difference in the emergence of the crops may have been due to a seeding error. This was

pointed out to Mr. Meier on three separate occasions including the correction in the Western Producer, his discussion with Mr. Pridell of Redland Farms and his conversation with Mr. Beaujot at the Agri-Trend conference in Saskatoon in late 2009.

120. When information is received that questions and challenges the assumptions and statements that have been made by a professional agrologist, the onus is on the agrologist to investigate the new information to either prove or disprove its validity. Mr. Meier made no effort to investigate the new information or question the data he was presenting to the public. Mr. Meier's own witness, Mr. Hoover, stated the importance of considering any new information that does not support the hypothesis.
121. Mr. Meier takes the position that there was no need for him to reconsider his presentation or conduct further investigation as Mr. Beaujot was not, in his opinion, in the same wheat field that Mr. Meier was using in his presentation. Although, there may be some uncertainty as to whether or not Mr. Beaujot was in the same wheat field, it is the Committees finding that this is not relevant to its determination.
122. Mr. Meier was fully aware that Redland Farms was conducting the comparison between the Seed Hawk and Bourgault equipment across its farming information. Similar differentials were appearing, according to Mr. Pridell's evidence, in most of the fields where the comparison was being conducted. Given that the farmer himself told them that the differential emersion was caused by a seeding depth error on Redland's part should have caused Mr. Meier to initiate further investigation. This is especially so given the lack of proper field trial or recording of data at Redland Farms.
123. In conclusion the Committee finds that Mr. Meier has not met the standards expected by a professional agrologist generally and under the Code of Conduct in presenting and publishing the results of his observations at Redland Farms.
124. The essence of the practice of agrology is the application of scientific principles and practices. It requires the maintenance of high standards in the conduct of the work of each agrologist. In the case of whether presenting research findings or otherwise. When research is presented the professional agrologist is obligated to clearly set out the constraints on that research and any relevant qualifying circumstances, facts and assumptions. Mr. Meier, in his presentation of the Redland Farms did not meet those standards for the reasons set out above and constitutes a breach of the Code of Practice.
125. His presentation of the observations at Redland Farms is part of some sort of scientific method or study was likely misleading to the public or at the very best at a high risk of doing so. As such it was both harmful to the interest of the public and tended to harm the

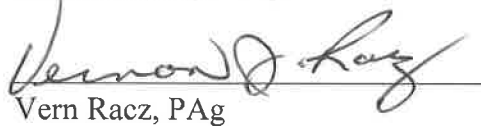
standing of the profession of agrolgy within the meaning of s. 28(1) of the Act. Accordingly, the Discipline Committee finds that the complaint has been made out and that Mr. Meier is guilty of professional misconduct.

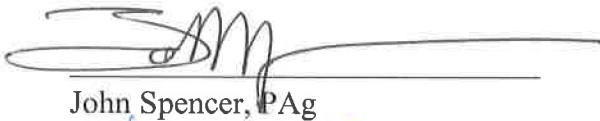
126. The parties did not make any submissions to the Committee with respect to appropriate penalty and that matter was reserved. The Registrar will contact counsel for the parties to set a time and date to allow counsel to present their submissions with respect to the appropriate Order to be made by the Discipline Committee pursuant to s. 27 of the Act.

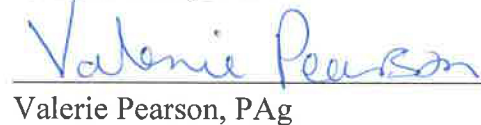
Dated this 31<sup>st</sup> day of July, 2013.

 PAg  
George Lewko, PAg, Chairperson

  
Kurt Sawatzky, PAg

  
Vern Racz, PAg

  
John Spencer, PAg

  
Valerie Pearson, PAg