

**COMMENTS FROM THE
NATURAL RESOURCES DEFENSE COUNCIL AND
THE CENTER FOR SCIENCE IN THE PUBLIC INTEREST
ON NOMINEES TO THE FIFRA SCIENTIFIC ADVISORY PANEL**

**Nominations to the FIFRA Scientific Advisory Panel; Request for Comments
Federal Register / Vol. 73, No. 54 / Wednesday, March 19, 2008**

Docket ID EPA-OPP-2008-0045

This letter comments on persons nominated to serve on the Scientific Advisory Panel (SAP) established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Panel was created on November 28, 1975, and made a statutory Panel by amendment to FIFRA, dated October 25, 1988. The Agency is, at this time, selecting two new members to serve on the panel as a result of membership terms that will expire this year.

The Agency must select from a limited number of nominees that have been forwarded by the National Institutes of Health (NIH) and the National Science Foundation (NSF). This list of nominees provided to EPA contains several industry consultants, which was not disclosed in the Federal Register notice announcing the nominations to this committee. This failure to disclose relevant conflicts of interest compromises the ability of the public to comment intelligently on the nominations and the Agency's ability to convene a panel without financially conflicted members. We urge the EPA to postpone making appointments to serve on the SAP until the Agency provides full public disclosure on any industry ties of all candidates submitted by NIH and NSF, and allows a period for public comment based upon that information.

Based upon the information currently available, we strongly oppose the following nominees for the FIFRA Scientific Advisory Panel, or for any Federal Advisory Committee, because of their routine financial relationship with regulated industries and/or polluters. There may be others on the list equally objectionable, but whose conflicts of interest are unknown to us.

Bruckner, James, Ph.D.,

Professor of Pharmacology and Toxicology, Department of Pharmaceutical and Biomedical Sciences, College of Pharmacy, University of Georgia, Athens, GA.

NRDC is aware that James Bruckner was a paid expert witness for Lockheed Martin Corp., in its efforts to defend itself against a lawsuit in California over whether its products that had contaminated the local drinking water supply were a health threat to the community. This was reported in the Washington Post.¹

Harwell, Mark, Ph.D.,

¹ Vedantam S, Pesticide Testing on Humans Is Ethical, Science Panel Says, Wash Post 2/20/04, A03

Ecosystems Ecologist and Partner, Harwell Gentile & Associates, LC, Hammock, FL.

Harwell Gentile & Associates, LC, conducts ecological risk assessments for government agencies and private entities. Among the latter is Exxon Mobil. We understand from reviewing his online resume that Harwell was a Scientific Consultant for ExxonMobil Corporation for its study of current ecological significance of effects from the Exxon Valdez oil spill from 2002 to the present. Harwell also provided expert witness services for New Brunswick Power Corporation on its Bay of Fundy Risk Assessment, between 2001 and 2002.

Haschek-Hock, Wanda, Ph.D., DVM, DACVP, DABT,
Veterinary Pathologist and Professor of Comparative Pathology, Department of Pathobiology, College of Veterinary Medicine, University of Illinois, Urbana, IL.

Haschek-Hock received research funding from: Pfizer Pharmaceutical (\$20,000/year from 1994-97), Procter & Gamble (\$30,000 from 1990-present), and the Illinois Pork Producers Association (\$8,000 from 1994-95, \$9,000 from 1990-91).² FDA reported a conflict of interest, which it waived, when she served on the FDA Center for Veterinary Medicine's Veterinary Medicine Advisory Committee (meeting on antibiotics, 1/25-26/99).³ Her research on fumonisin toxicosis in swine was supported in part by the Illinois Pork Producers Association and the Illinois Council for Food and Agricultural Research.⁴

Klaassen, Curtis, Ph.D., DABT,
Distinguished Professor and Chairman of the Department of Pharmacology, Toxicology and Therapeutics; University of Kansas, Kansas City, KS.

According to his CV, Klaassen has served since 1989 to the present as a Trustee of the Health and Environmental Sciences Institute (HESI) of the International Life Sciences Institute (ILSI).⁵ ILSI represents several hundred corporations in the chemical, processed food, agro-chemical and pharmaceutical industries.⁶ Members of ILSI include DuPont, 3M, Syngenta, Eli Lilly, ExxonMobil Biomedical Sciences, and Dow Chemical. Klaassen's service with ILSI has included Trustee of ILSI (1998 to present), Chairman of HESI (2000-2002), and finance/fundraising committee of ILSI (2002-2006).

² Curriculum Vitae, received: April 2000

³ Minutes; <http://www.fda.gov/cvm/antimicrobial/antimicrobial.html>; September 18, 2000

⁴ Environ. Health Perspect. 2001;109:251S-7S

⁵ <http://www.kumc.edu/pharmacology/facstaff/KlaassenCV.pdf>

⁶ <http://www.ilsilife.org/NR/rdonlyres/D2E60A78-F0FC-4D83-AEFE-5C4A629DBDE9/0/ILSI2007MembersofILSIlistFINAL.pdf>

By law, EPA committees must be composed in a manner that ensures that conflicts of interest and pro-industry bias are publicly disclosed, minimized, and eliminated if possible.

The Federal Advisory Committee Act (FACA) imposes requirements on agencies when they establish or utilize any advisory committee, which is defined as a group of individuals, including at least one non-federal employee, that provides collective advice or recommendations to the agency. 5 U.S.C. App. II, § 3(2). When an agency seeks to obtain such advice or recommendations, it must ensure the advisory committee is "in the public interest," Id. App. II, § 9(a)(2), is "fairly balanced in terms of points of view represented and the functions to be performed," id. § 5(b)(2), and does not contain members with inappropriate special interests. Id. § 5(b)(3).

We believe that to meet the requirements established by the FACA, committees should be largely composed of scientists able to provide a fair and complete review of all relevant data or issues. Therefore, committee membership should exclude financially conflicted members as much as possible. If industry representatives have specific knowledge or expertise of value to the deliberations of a committee, then invitations to address the committee during public meetings are appropriate only if conflicts of interest are properly disclosed at the time of their presentation.

The scientific credibility of the SAP is damaged by committees with real or perceived bias.

The mission of the SAP is to provide credible and independent scientific analysis and advice to EPA. Therefore, should industry representatives be chosen to serve on this committee, their number should be minimized and their potential bias offset by scientists with alternative and potentially contrasting points of view. We are convinced that members with industry bias cannot be "balanced" with government employees, whose freedom to voice opinion may be hamstrung by obligations to maintain consistency with government perspective. Similarly, academics and government employees are not often advocates for the public interest. Any attempt to balance industry representatives should rely on scientists who are advocates of a public interest perspective. Because there is substance to the argument that the public interest community has only a limited number of scientists able to serve on committees, we feel that the number of industry representatives should be thus limited to the number of public interest scientists, to maintain legally required balance.

Some scientists nominated to serve on this committee may have conducted extensive research for various industrial enterprises, but not for companies or trade associations that have a direct stake in the outcome of the questions that may come before the committee. However, even though EPA might argue that these scientists may not have a disqualifying conflict of interest, they may nevertheless harbor a pro-industry bias. The National Academies has stated "it is essential that the work of committees...not be compromised by issues of bias and lack of objectivity.... Questions of lack of objectivity and bias ordinarily relate to views, statements, or positions taken that are largely

intellectually motivated or that arise from the close identification or association of an individual with a particular point of view or the positions or perspectives of a particular group.”⁷

Panelists who are or often have been employed by industry, or frequently consulted for industry, are at risk of harboring pro-industry bias. Even if they have not taken a position on the issue at hand, they may seek to downplay the toxic effects of an agent on human health and well-being, or to overemphasize or focus solely upon the benefits of the agent, and may not be open to discussion of other alternatives. Their continued employment by industry may depend on the reliability of their maintaining a consistent point of view. The SAP committee, therefore, should ensure that bias born of extensive involvement with industry is publicly disclosed at a minimum, and eliminated if possible.

The work of the SAP is critically important to the credibility and quality of the OPP work products and is therefore of great interest to the public health and environmental community. EPA should hold a second public comment period, based upon full disclosure of industry ties of all NIH nominees, and reject any nominees who have any direct or potential conflict of interest or industry bias. Thank you for your consideration of these comments.

Respectfully,

Jennifer Sass, Ph.D., NRDC

Merrill Goozner, CSPI

⁷ NAS, “Policy on Committee Composition and Balance and Conflicts of Interest,” at 4 (2003)