

Product registration decision expected next year

BY CURT HARLER
HARRISBURG — It probably will be late January before any decision is made on whether the Pennsylvania Department of Agriculture will grant registration to Agrispon.

But the local distributor of Agrispon, J&J Agri-Products Inc., is so sure the product will be registered for sale in the state they recently purchased a 50,000 square foot warehouse to serve as a office, warehouse, and distribution center.

The quasi-judicial hearing

on Agrispon concluded earlier this month.

At present both J&J and the Department of Agriculture are waiting for transcripts of the hearing and exhibits entered as testimony in the hearings.

Agrispon, manufactured by SnCorp, a Texas firm, is distributed locally by J&J. Principals in J&J include former Governor Milton Shapp; his former Secretary of Agriculture James McHale; and McHale's former deputy, Jane Alexander.

J&J has purchased the old

Gettysburg Shoe Factory in Dillsburg to serve as its headquarters. It will lease extra space.

The Department hearings were to determine whether Agrispon should be registered under Pennsylvania's fertilizer and soil additive law.

Registration was denied in September by State Agriculture Secretary Penrose Hallowell.

SnCorp and J&J requested a hearing on the decision. The hearing began in early November, and because of the number of witnesses appearing and the intervening Thanksgiving holiday, the hearings did not conclude until December 6 at 10 p.m.

While the Department of Agriculture has no official position on the hearings, a number of department employees say they feel hearing examiner Joseph Klein, who acts as judge on the matter, will rule with the Department.

Klein is a Harrisburg attorney.

McHale said Wednesday he felt the hearing went well for Agrispon.

"As far as I'm concerned, we proved beyond a doubt that Agrispon generates nitrogen," McHale said.

One of the central points of the hearing was whether or not a gallon of Agrispon, which is 99 percent water, can indeed provide any nutritional benefit when

applied over 10 acres of field crops.

The Agriculture Department maintained at the hearings that Agrispon had not presented evidence to prove the 26 claims made on its label. The nitrogen claim was among the 26.

Agrispon relied heavily on the testimony of E.H. Lloyd, Jr., a North Dakota scientist working for Agvise.

Other witnesses for Agrispon during the hearing included Dwayne Vance of North Texas State University and Robert W. Fisher of Virginia Commonwealth University.

Agrispon also presented several farmer witnesses during the hearings. Included were Albert Bentz, Thomasville, York County, who distributes Agrispon locally; Claude Reinheimer, Berwick; Albert Garber, York County; Keith Nichols, Spartansburg; and Clint Richards, a Maryland farmer.

Nichols had served in the Agriculture Department under McHale as a regional director.

Much controversy revolved around the reliability of testimonial statements as opposed to scientific data. And the Agriculture Department's witnesses often questioned the reliability of Agrispon's scientific witnesses.

Included on the Ag Department's list of witnesses were Edwin "Bud"

Wallis, Jr., director of the Bureau of Plant Industry; Lyle Forer, chief of plant pathology; and Tony Grigor, chief of the Bureau of Foods and Chemicals lab division.

Richard Fox and Dale Baker, two Penn State agronomists also took the stand.

Baker's lab assistant, Christine Hunt, was sworn in to talk about the experimental procedure used in the controversial Penn State tests which included Agrispon. But she gave no testimony.

Among other witnesses at the hearing was Robert Miller, an Ohio State University microbiologist.

Both sides seemed to feel Miller justified their position.

Eddie Albert, an actor from the Green Acres TV show, appeared as a witness for Agrispon. He has been active in promoting the product.

Once representatives of both sides receive the transcripts now being prepared they will have two weeks to write a proposed finding of facts and legal brief.

Klein, the attorney who is serving as hearing examiner, will then review all of the evidence presented him and will decide whether to advise the Secretary of Agriculture to grant a registration for the product.

Klein's decision is not binding on the Secretary, but

Agriculture Department officials said for the Secretary to go against the Hearing Examiner's recommendation would be extraordinary.

Klein said he hopes to have the final decision prepared in a matter of weeks, not months.

The Department of Agriculture said it expects the final decision by the end of next month.

Waiting in the wings is a second proposed registration for Agrispon.

This registration contains only two of the original 26 claims listed on the product label now in dispute. But it includes the claim that Agrispon produces nitrogen.

The Department of Agriculture has taken no action on the new label awaiting Klein's decision.

Should Klein recommend Agrispon be labeled and his decision be accepted, there would be no need for the new label since both of its claims are already included in the original 26.

Should Klein's decision go against Agrispon, the new proposed label will move.

But the Agrispon people may take the old label along with them to a higher court in an attempt to overturn the hearing board's decision, if it goes against the product.

For several hours Dale Baker's research plots were the target of extensive cross-examination. Baker him-

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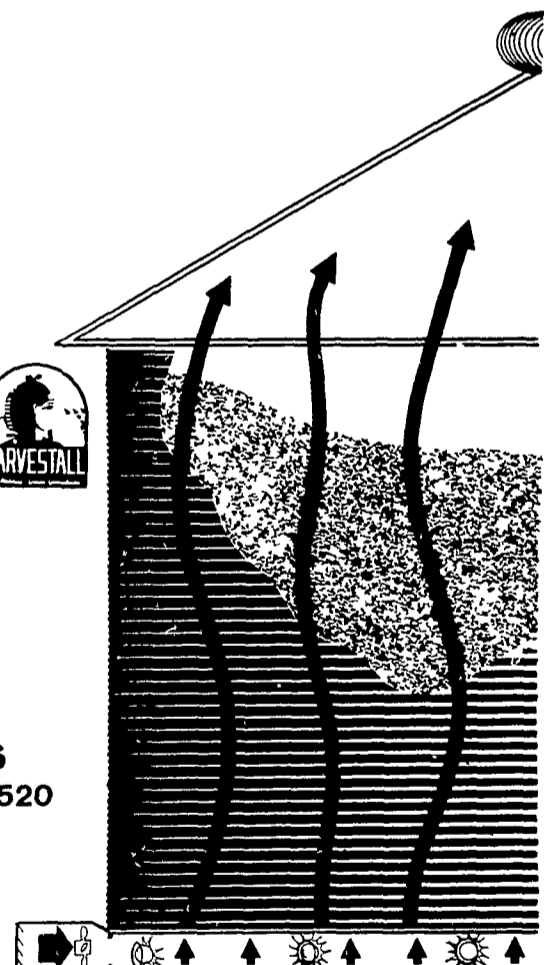
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