

MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

IN RE: MATTER OF)	
DANA LARRABEE SR. AND)	
DANA LARRABEE JR.)	
AND THE MAINE PULL)	DECISION AND ORDER
EVENTS COMMISSION)	
)	
)	

I. INTRODUCTION

On January 3, 2025, at 10 am, the Maine Department of Agriculture, Conservation and Forestry (“DACF”) held an adjudicatory hearing at the Deering Building in Augusta, Maine, pursuant to 7 M.R.S. § 96(8). The hearing was a hybrid-style hearing, whereby one witness was allowed by the Hearing Officer to participate remotely via Zoom (a virtual meeting platform), and the remaining witnesses testified in person. The purpose of the hearing was to allow the Department, Mr. Dana Larrabee Sr., and Mr. Dana Larrabee Jr. an opportunity to present evidence regarding the Notice of Positive Test and Suspension relating to the analysis of blood sample #E537344 taken from draft horse Prince (tag number 8636) during the pulling competition at the Windsor Fair on August 30, 2024. That sample identified the presence of Omeprazole, a prohibited substance under 7 M.R.S. § 81(11). The Windsor Fair pulling competition is an “event” as defined by 7 M.R.S. § 81(4). It is a violation of 7 M.R.S. §§ 96(1)-(2) to administer a prohibited substance to an animal and enter the animal in an event. Mr. Larrabee Jr. was the driver of Prince and submitted an email request for a hearing on October 25, 2024. The Department had previously received a request for a hearing from Mr. Larrabee Sr., the owner of Prince, on October 21, 2024.

Nancy McBrady, Deputy Commissioner, served as the Hearing Officer. Assistant Attorney General Caleb Elwell served as legal counsel for the Hearing Officer. Assistant Attorney General Cary

Gustanski represented the Department's Pull Events Commission (the Department). The DACF and the Office of the Attorney General instituted an ethical wall between the DACF staff and counsel, who assisted the hearing officer and those assisting the Department in presenting the Pull Event Commission.

The following individuals appeared for their respective parties. The Larrabees appeared on their own behalf. The Department presented testimony and exhibits via the following sworn witnesses: Greg Baker, Brian Blanchard, DVM, Kayla Frith, and Miles Greenleaf. Mssrs. Larrabee Sr. and Jr. did not offer any further witnesses. The following exhibits were entered into the record:

- Department's Exhibit 1, Attestation certifying Greg Baker as a member of the Pull Events Commission, June 10, 2024;
- Department's Exhibit 2, Blood Sample Form for Prince (#8636) at Windsor Fair, signed by Brian Blanchard DVM and Dana Larrabee Sr., August 30, 2024;
- Department's Exhibit 3, List of Larrabee's draft animal weights and pulls made at the Windsor Fair (undated);
- Department's Exhibit 4, Certificate of Analysis, Final Positive Report, Sample E537344, dated September 20, 2024;
- Department's Exhibit 5, Department of Agriculture, Conservation and Forestry's Notice of Positive Test and Suspension to Mr. Dana Larrabee, September 23, 2024;
- Department's Exhibit 6, Department of Agriculture, Conservation and Forestry's Notice of Positive Test and Suspension to Mr. Dana Larrabee Jr., September 26, 2024;
- Department's Exhibit 7, Invoice from Industrial Laboratories to Maine Harness Racing Commission, September 30, 2024;
- Department's Exhibit 8, Letter from Dana Larrabee Sr. to Commissioner Beal requesting a hearing, dated October 18, 2024, and received October 21, 2024;
- Department's Exhibit 9, Email from Dana Larrabee Jr. to Miles Greenleaf requesting a hearing, October 25, 2024;
- Department's Exhibit 10, Department of Agriculture, Conservation and Forestry Notice of Administrative Hearing, November 13, 2024;
- Department's Exhibit 11, Analytical Toxicology Lab Final, November 25, 2024;
- Department's Exhibit 12, Department of Agriculture, Conservation and Forestry Notice of Consolidated Administrative Hearing, December 2, 2024;
- Department's Exhibit 13, Letter from Windsor Fair President Tom Foster, advising Greg Baker is the superintendent of all draft animal pulling at Windsor Fair, December 4, 2024;
- Department's Exhibit 14, Industrial Laboratories' Laboratory Documentation Package for Sample E537344, December 19, 2024;
- Department's Exhibit 15, Excel spreadsheet of Maine Harness Racing program's blood sample collection dates, tracks, test type, and sample types between August 23, 2024, and September 21, 2024.

The Hearing Officer heard testimony from the Department's first witness, Mr. Gregory Baker, a Pull Events Commission member. He has participated in pulling events since 1986. He testified that he is the Pull Superintendent at the Windsor Fair and supervised the pull events on August 30, 2024. He identified page 1 of DACF Exhibit 3 as the weight slip and identification chip numbers of the animals driven by Dana Larrabee Jr. Mr. Baker testified that page 3 of Exhibit 3 showed the results of the "two lb." pull event held August 30, 2024, that the Larrabee team participated in. Mr. Baker testified that as superintendent when animals are tested at a pull event, he provides the veterinarian with a list of the participating animal pull teams. His role is to ensure that the drivers and the animals stay in the ring while the veterinarian takes the samples. Mr. Baker testified that the animals that competed in the two lb. pull event were tested after the event concluded. Mr. Baker explained that as part of his pulling superintendent responsibilities, he reviews statements from participants regarding therapeutic medications that have been administered to animals. He testified that the Larrabees did not approach him to discuss therapeutic drug use on August 30, 2024, nor did they submit any statement regarding a therapeutic medication administered to the horse "Prince."

The second witness for the Department was Dr. Brian Blanchard, who testified that he is a licensed Maine veterinarian who has conducted blood sampling of pull animals between four to six times a year over the past three years. He testified that he performed the blood testing at Windsor Fair on August 30, 2024. He testified that in conducting these tests, he would generally arbitrarily determine which horses to test and where to test them (either on their left or right sides, sometimes both). All horses will be tested on the same side(s). Dr. Blanchard testified that, as best as he could recall, he may have pulled blood samples from the horses' left sides on August 30, 2024, after the animals finished their pulls.

Dr. Blanchard described the process of drawing blood. It begins by approaching the owner representative of the pull team (sometimes the driver), identifying himself, and advising that he will be responsible for taking blood draws for routine testing and which side he will be drawing the sample from. Dr. Blanchard testified that he correlates the last four to six digits from the horse's identification chip ("ID chip") in its neck to the chip numbers from the pull superintendent's paperwork to confirm their identity.

Dr. Blanchard testified that he then confers with his assistant (who he identified as Kayla Frith on August 30, 2024) to confirm that it is the correct ID chip number. He will then proceed to inspect the blood draw materials provided by the State to ensure nothing is broken or punctured and then draw the blood from the horse's jugular vein. Dr. Blanchard testified that he did not recall any issues with the materials used during the August 30, 2024, blood draw. He stated that it is typical for the pull team representatives to observe the blood draw process.

Dr. Blanchard testified that stickers with numbers and barcodes corresponding to the blood draw paperwork are placed on the tubes containing the blood samples to identify them properly. The assistant will then help confirm with Dr. Blanchard that the numbers on the tubes correlate with the numbers on the paperwork. He testified that the document from which the stickers are pulled has "a place for the person who obtained the blood sample to sign, as well as the representative of the team." Dr. Blanchard testified that he signed the "blood cards" on August 30, 2024. He testified that the completed blood samples are then held by the representative from the State to be appropriately processed.

On cross-examination, Mr. Larrabee Sr. asked Dr. Blanchard how omeprazole could be administered. Dr. Blanchard testified that the common way of administering the drug is oral, but it can be injected as a longer-lasting product. He testified that an over-the-counter oral formulation, "Ulcer Guard," can be purchased at Tractor Supply, while another product, "Gastroguard," requires a

prescription, with the difference between the two mainly being the dosage. He testified that omeprazole might also be available for purchase online in granular, powder, or paste forms.

Mr. Larrabee Sr. asked whether Dr. Blanchard considers omeprazole a performance-enhancing drug. Dr. Blanchard stated that, in his opinion as a licensed veterinarian, omeprazole is not performance-enhancing and is a therapeutic medication necessary “in a lot of cases in these performance horses, to prevent undue suffering and maintain animal health and well-being.”

Mr. Larrabee Jr. asked Dr. Blanchard if he had any photo documentation showing that the blood samples came from the pull animals on August 30, 2024. Dr. Blanchard answered that he did not. Dr. Blanchard reiterated that the ID chip reader verification process he had previously described was completed and attested by him that day.

On re-direct by the Department, Dr. Blanchard testified that omeprazole is not a naturally occurring substance in horses. He also described the verification system for properly identifying the horses’ ID chip numbers and lining them up against the blood samples taken from each horse.

The third witness for the Department was Kayla Frith, a harness racing technician for the State. She has assisted veterinarians with draft horses for approximately eight years. Ms. Frith testified that she was at the blood draw at the Windsor Fair on August 30, 2024. She described the blood draw process, which starts with her first bringing all the needed supplies to the pull ring and then reviewing the list of horses with their ID chip numbers and preparing the blood cards for the participating horses. She testified that the cards contained the horse’s name, chip ID number, and owner and included attached stickers that would be applied to blood samples. She then provides the blood sampling tubes to the veterinarian. She waits for the veterinarian to scan the horses and verifies if the ID chip numbers are correct. The filled tubes are then given to her, and she puts evidence tape over their tops and the

corresponding stickers from the cards she prepared. Ms. Frith testified that the laboratories use these numbers to identify the samples to be analyzed.

Ms. Frith identified DACF exhibit 2 as a blood sampling card that she had filled out for the pull event on August 30, 2024, which the owner of the pull animals also signed.

On cross-examination, Mr. Larrabee Jr. asked Ms. Frith whether the last few digits of a chip number could be the same as another chip number. Ms. Frith testified that she guessed it might be. On re-direct, Ms. Frith was asked what she would do if chip numbers were the same between animals. She testified that she would “question it” and check the preceding numbers of the ID codes, stating, “We’d just go back to, like, six numbers...usually at six numbers [the chips] are different.”

Mr. Miles Greenleaf was the final witness for the Department. He is an Agricultural Program Supervisor for the Harness Racing Commission and the clerk for the Pull Events Commission. He testified that he has a role in coordinating the blood sampling at pull events, including the August 30, 2024, sampling. He testified that he also receives blood sampling results from laboratories that analyze the samples taken from pull events. Mr. Greenleaf testified that lab reports may state that no violations were detected or that a sample is pending. This means that the sample will undergo further confirmatory testing. That confirmatory test may come back below allowable thresholds or, if above the threshold, is deemed a positive result. Mr. Greenleaf identified DACF Exhibit 4 as an example of a positive result.

Mr. Greenleaf testified that he will alert the fair that hosted the pull event when a positive result is confirmed. The fair provides the contact information for that puller, and he will contact them verbally and send a written notice of the positive result. Mr. Greenleaf testified that pullers may request a split sample after being notified of a positive result. The purpose of the split sample is to conduct additional testing of the drawn blood to confirm the first result, which is why multiple tubes are taken during the blood draws. Mr. Greenleaf testified that the Larrabees requested additional split sample testing. Mr.

Greenleaf identified DACF Exhibit 11 as the report from the Analytical Toxicology Lab that conducted the split sample and confirmed the presence of Omeprazole in the blood.

Mr. Greenleaf identified DACF Exhibit 14 as the chain of custody document supplied by Industrial Laboratories that conducted the initial sampling of blood. He also testified that DACF Exhibit 15 is part of the bill he receives from the lab for all of the samples sent to it for testing that prior month. He verified that the Exhibit reflected the five samples sent from the Windsor Fair collected on August 30, 2024.

On cross-examination, Mr. Greenleaf confirmed that Dr. Blanchard is authorized to determine which horses to draw blood from and does not tell Dr. Blanchard which ones or how many to test. He explained that the laboratory in DACF Exhibit 14 redacts the results and only shows confirmatory positive samples. Mr. Greenleaf testified that the State would test only those horses entered in a particular pull class event. If, hypothetically, an individual wanted to test pull animals themselves, the State would not accept those results because only the State has the authority to test the animals competing in a pull event.

Attorney Elwell asked Mr. Greenleaf to explain how the analytical labs can determine an adverse analytical finding. He testified that there is zero tolerance for prohibited substances in the state pulling rules; therefore, “everything is prohibited in pulling.” He also explained that because no substances are allowed under the rules, there is no list that inventories all the prohibited substances. Mr. Greenleaf confirmed that the pull program relies on the definition of a prohibited substance in 7 M.R.S § 81(11)(A).

Mr. Larrabee Sr. testified on his own behalf. He testified he has been pulling for twenty years. Mr. Larrabee stated that he did not administer omeprazole to his animal and that omeprazole is not a performance-enhancing drug. Mr. Larrabee Sr. noted that the laboratory test results provided by the

Department, as Exhibit 14, redacted identifying information related to other tests performed and stated that this indicated that the Department was singling him out. Mr. Larrabee Sr. also testified that he had purchased the animal three days before the pull event. On cross-examination, he confirmed that as the owner of the animal, he is responsible for the condition of his animals, including the presence of prohibited substances, and he is charged with knowledge of the provisions of statute and rules. He also acknowledged that one of the pulling provisions states that regardless of whether the person himself administered a substance to an animal, a person may not enter an animal that has been administered a prohibited substance; however, he questioned how an owner could know whether an animal had been administered such a substance.

Mr. Larrabee Jr. testified that as the driver of the animal, he was unaware of any substance being administered to the animal and that it is difficult for drivers in their limited role to know what may or may not have been given to an animal. He testified that he was concerned about why he was notified of his suspension a few days after his father and not on the same day, and he asserted that other drivers have “gotten off for the exact same charge.”

In concluding remarks, Attorney Gustanski summarized the pulls statute’s prohibition against entering animals into a competition that have been administered a prohibited substance, the statutory definition of a prohibited substance, and the limited exemption for entering animals that have been administered a therapeutic medication. He stated that the Larrabees failed to provide evidence to the contrary that they were not responsible for the condition of the animals entered into the competition.

Mr. Larrabee Sr. concluded that he had trusted the person whom he purchased the pull animal from and that due to the nature of omeprazole, even testing for it prior to the pull event may not have detected it, particularly if the animal had been administered the injectable form. Mr. Larrabee Jr. reiterated that his role as a driver is limited, noting that he “literally grabs the reigns, warms [the

animals] up,” and pulls without any further participation or responsibility. He also questioned whether the blood sampling documentation “shows that was even my horse” given the loud environment and asserted that pull samples should be publicly posted and easily accessible.

After the conclusion of the parties’ testimony, no public testimony was offered.

II. STATUTORY CRITERIA

Pull events are regulated under 7 M.R.S. §§81-103. Under 7 M.R.S. § 96(3), pull animals entered in an event are subject to examination under the direction of a licensed veterinarian. The intent of this statute is to prevent the use of prohibited substances in pull animals. 7 M.R.S. § 96(1). Title 7 M.R.S. §96(2) states, "A person may not enter or use in an event an animal that has been administered a prohibited substance." There is a limited exception to the use of substances for the therapeutic use of drugs: 7 M.R.S. 96(12) states that it is not prohibited to administer “to an animal [] a drug the use of which is required for treatment of an illness or condition unrelated to the performance of the animal in an event” and provides a list of criteria that must be met for a drug to qualify for this exemption. The statute requires that a person wishing to qualify for this exception must submit “a statement in writing to the secretary or general manager of the event” that provides required information detailing how the drug meets the requirements for the therapeutic use of drugs exemption. Pursuant to 7 M.R.S. § 96(7), “[i]n the absence of substantial evidence to the contrary, the owner and driver of an animal are responsible for the condition of the animal, including the presence of a prohibited substance, and are charged with knowledge of all the provisions contained in this section and the rules adopted pursuant to this section.”

If the Commissioner of the Department concludes, after conducting an administrative hearing, that a person has committed a violation of 7 M.R.S. § 96, the Commissioner must prohibit that person from competing in any pull event within Maine for two years for the first offense and must also exclude

the animal from competing in any event within Maine for one year. 7 M.R.S. §96(8). The Commissioner may impose an administrative monetary penalty not exceeding \$1,000 for violating these provisions.

III. FACTS

The Commissioner finds the following facts;

1. Mr. Larrabee Sr. entered pull horses Prince and Burt into the two lb. pull competition at the Windsor Fair on August 30, 2024 (DACF Exhibit 3).
2. Mr. Larrabee Jr. drove the pull team owned by his father, Mr. Larrabee Sr.
3. Dr. Blanchard conducted blood sampling on the animals that competed in the two lb. pull event on August 30, 2024.
4. The samples drawn from Prince were labeled with the identifying ID of E537344, which matched the blood card documentation for Prince assigned on August 30, 2024 (DACF Exhibit 2).
5. Industrial Laboratories analyzed the blood drawn from Prince and reported detecting Omeprazole sulfide in the blood at 18.3 ng/mL (DADF Exhibit 4).
6. The blood drawn from Prince underwent additional confirmatory split sampling by Analytical Toxicology Lab, which confirmed that Omeprazole sulfide was detected in the blood at 9 +/- 1 ng/mL (DACF Exhibit 11).
7. Mr. Larrabee Sr. purchased Prince three days before entering him into the August 30, 2024, competition.

IV. DELIBERATIONS AND DECISIONS

The burden is on the Department to demonstrate by a preponderance of evidence that suspension is warranted.

The Department presented evidence from four witnesses that verified that Mr. Larrabee Sr. entered his horses into a two lb. pull competition on August 30, 2024, at the Windsor Fair. These witnesses all have years of involvement in pull racing. Mr. Baker has experience as the pull superintendent at the Windsor Fair and as a member of the Pull Events Commission. Dr. Blanchard has conducted animal blood sampling at fair pull events for the past three years. For eight years, Kyla Frith has assisted as a harness racing technician for pull and harness racing events. Mr. Greenleaf coordinates pull blood sampling in his role as the clerk for the Pull Events Commission. Their familiarity with the sport supports their testimonies that blood testing is a common event at pull events, with teams (owners and drivers) aware that blood draws can often occur. Ms. Frith clearly articulated the process for documenting the animals for blood draws, utilizing a blood sampling card that notes the horse's ID chip. She explained how she followed this process on August 30, 2024. Both Ms. Frith and Dr. Blanchard clearly articulated the process for verifying the horses' scanned ID numbers with the blood sampling cards prior to drawing the blood and the process for sealing the samples and labeling them with stickers that correspond to the blood card documentation, which they confirmed occurred on August 30, 2024. DACF Exhibit 2, the blood card for Prince, which included the identifying ID of E537344, was signed by Mr. Larrabee Sr.

Two separate laboratory reports (DACF Exhibits 4 and 11) detected the presence of omeprazole for sample ID E537344, which matched the blood card documentation for Prince assigned on August 30, 2024. Both Mr. Larrabee Sr. and Jr. acknowledged that the pull statute requires owners to be responsible

for the condition of their animals, including the presence of prohibited substances, and charged with knowledge of the provisions of the statute and rules.

Both Mr. Larrabee Sr. and Jr. testified that they did not give omeprazole to Prince, and, in any event, it is not a performance-enhancing substance. Mr. Larrabee Jr. suggested that the blood sampled might not have been from Prince because of a lack of photographic evidence. These are not compelling arguments. Owners and drivers are obligated under Maine law to maintain responsibility for their animals and be aware of all relevant laws and rules related to pull events. 7 M.R.S. § 96(7). Even if omeprazole is not performance-enhancing, two laboratory samples detected the substance in Prince's blood sample taken on August 30, 2024. Title 7 M.R.S. § 81(11)(A) defines prohibited substance as a stimulant, depressant, tranquilizer or local anesthetic that could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal" and § 81(11)(B) allows the commissioner to deem a substance as prohibited through rulemaking where such substance "could affect the conduct, endurance, strength, speed, performance, appearance or disposition of an animal."

Chapter 226 is the Department's rule chapter Governing the Administration of Certain Substances to Animals Entered in Pulling Contests. Those rules define a prohibited substance as:

Any substance, including, but not limited to, a narcotic, stimulant, depressant, tranquilizer, local anesthetic, analgesic, drug or drug metabolite, medication of any type or biological substance at a level greater than the level found in the normal, untreated animal.

01-001 CMR c. 226(10)(A) (emphasis added). Because two labs verified the presence of omeprazole in Prince at 18.3 ng/mL and 9 ng/mL, this meets the definition of a prohibited substance under the existing pull statute and rules. To the extent this definition is so broad as to include arguably non-performance enhancing substances, that is an issue that could be rectified through statutory or regulatory change pursued by the Pull Commission or members of the public and is beyond the scope of this proceeding.

Accordingly, Mr. Larrabee Sr. and Mr. Larrabee Jr. are prohibited from competing in any pull event within Maine for two years from the date of this decision. The horse, Prince, is excluded from competing in any event within Maine for one year from the date of this decision, as set forth in 7 M.R.S. §96(8). I decline to impose any administrative penalty in this case.

V. RIGHT OF APPEAL

Any aggrieved party to these proceedings may seek review of this Decision, to the extent that review is permitted by law, by filing a petition for review in Superior Court pursuant to 5 M.R.S. § 11001, et seq., within thirty (30) days after receiving notice of this Decision.

The petition must specify the person seeking review, the manner in which she/he is aggrieved, and the final agency action which she/he wishes to be reviewed. It must also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought, and a demand for relief. Copies of the Petition for Review must be served by Certified Mail, Return Receipt Requested on the Maine Pull Commission, all parties to the agency proceedings, and the Attorney General. Any other person aggrieved by this Decision may seek judicial review in like manner by filing a petition for review in Superior Court within forty (40) days after the date of this Decision.

Dated: March 10, 2025

Amanda E. Beal

Amanda E. Beal, Commissioner
Department of Agriculture, Conservation and Forestry