

## MEETING MINUTES

### AGRICULTURAL PRODUCER SECURITY COUNCIL

April 1, 2010

#### **Call to order**

The Agricultural Producer Security Council held a meeting at 9:46 am on Thursday, April 1, 2010, at the headquarters of the Wisconsin Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, Madison, Wisconsin.

#### **Attendance**

Six council members were present: Ron Statz, John Manske, Jim Zimmerman, Craig Myhre, John Petty, and Nick George (left early).

Four council members were absent: Ed Welch, Dave Daniels, John Umhoefer, and Duane Maatz

DATCP staff members present were Eric Hanson, Kevin LeRoy and Jeremy McPherson. Janet Jenkins stopped in for a while near the end of the meeting.

There were no other individuals in the room.

#### **Agenda Item I. Approve Minutes from Previous Meeting**

**Motion** to Approve Minutes from the November 10, 2009 meeting, as mailed. Motion was approved unanimously.

#### **Agenda Item II Financial Reports**

Kevin LeRoy reported on the Fund's Statement of Revenues, Expenditures, and Cash Balances for the six months ending December 31, 2009. Overall assessment revenue for the period was \$700,387.69, compared to \$752,905.24 last year. Within overall assessments, milk contractor assessments were down from last year and each of the other three licensee groups were up.

At \$635,372.06, total license fee revenues were up dramatically from last year's \$371.846. This was because of the new license fee structure for grain dealers and grain warehouse keepers that was put in place in September, 2009. John Petty warned that future license fee revenue from grain warehouse keepers was in jeopardy because he believes that twenty to twenty-five existing licensees will not renew their state license and get a federal license instead.

While the written report that the group was examining does not show it; Kevin LeRoy mentioned that vegetable contractor license fees collected during January and February of 2010 were much higher than last year. DATCP had expected higher vegetable contractor license fee revenue because of the higher fee rate; but the actual amount collected was much higher than expected. DATCP believes this is mostly because this year's license fees are based on dollar amounts purchased (generally) during 2008 – when commodity prices were much higher than normal.

Interest revenue to the fund, at \$11,843.49 for the six month period, was dramatically lower than either \$78,559.92 in 2008 or \$173,635.66 in 2007.

The group turned its attention to expenditures. Salary and fringe expenses were \$492,867.42 and supplies and services expenses were \$109,523.56 for the six months ended December 31, 2009. Both of these amounts were similar to previous years' amounts -- with salary and fringe expenses just a little lower and supplies and service expenses just a little higher.

Kevin LeRoy explained that the salary & fringe amounts for grain dealer and grain warehouse would likely be readjusted retroactively before the end of this fiscal year. Historically, grain field auditors have spent roughly half of their time working with warehouse and half with dealers. However, a number of warehouse keepers opted to obtain a federal license this year rather than a state license. Therefore, field staff are now spending a greater portion of time working on dealer audits and a smaller portion of time working on warehouse audits.

The group discussed, at length, John Petty's observation that the long term viability of the grain warehouse keeper program was questionable. Mr. Petty said that he believes twenty to twenty-five licensees will leave the program in September, 2010 and obtain a federal license instead. (This is in addition to the twenty that left the program in September, 2009.) If so, revenues would drop to dangerously low levels. The group agreed that it would focus on this issue at its next meeting. The group will look at possible scenarios and alternatives on how the program must change based on those possibilities.

### **III Short Term Financial Projections**

Kevin LeRoy presented a month-by-month projection of fund revenues, expenses and balances for March 30, 2010 through June 30, 2011. Prior to the meeting, one of the council members had requested this financial estimate because of the important relationship between fund balance and AB 748 – the Milk Contractor Assessment Holiday Bill.

The department is currently projecting a cash balance of \$11,028,000 on February 28, 2011. This is significant because if the actual balance is greater than \$11,000,000, then there will be an assessment holiday for milk contractors. Kevin LeRoy cautioned, however, that the margin for error in these estimates is probably greater than \$28,000, so an assessment holiday in the 2011-12 is not at all certain. He said that – assuming no major defaults and also assuming AB 748 fails to pass – the department is confident that there is a very high probability that there will be a milk contractor assessment holiday in either 2011 or 2012. However, while staff is currently predicting that that assessment holiday will occur in 2011 rather than 2012; staff is only slightly more confident in this projection than it would be in predicting the outcome of a coin-toss.

### **IV Status Report – Pending Legislation**

Jeremy McPherson reported the status of the three bills that are currently pending before the legislature and how they would impact the producer security program. Companion bills AB 717 and SB 527 are the improvements to the program originally requested by the department. AB 747 would create an assessment holiday for milk contractors in the license year beginning May 1, 2010.

AB 717 was approved by the Assembly Committee on Agriculture, and is now in the Assembly Committee on Rules, waiting to be scheduled for a floor session.

SB 527 was passed by the full Senate, and submitted to the Assembly. The bill is currently in the Assembly Committee on Rules, waiting to be scheduled for a floor session.

AB 748 was approved by the Assembly Committee on Agriculture and the Joint Finance Committee, and is now in the Assembly Committee on Rules, waiting to be scheduled for a floor session.

John Manske said that he's been hearing from people in the Capital that the Producer Security Improvement Bill (AB 717 / SB 527) was considered a high priority and that it should pass. He said that the future of the assessment holiday bill (AB 748) was more questionable because it has not been approved by either house yet. He said that there is still a fair chance that it will become law, but time is getting short.

**Motion** by John Manske, seconded by John Petty:

*The Council goes on record in support of AB 717, AB 748, and SB 527.*

Motion carried unanimously on a voice vote.

There was some discussion about how the council could and should announce to legislators and other interested parties that it has now formally taken a position on these three bills. The idea of DATCP staff writing a statement on behalf of the council was considered. But in this particular case, that would be awkward because the department and the council have divergent positions on AB 748. In the end, the group concluded that – at least in this particular case -- there was no real reason for anybody to issue a written statement. Group members could relay the message verbally.

#### **V Status Report – Unlicensed grain dealers and DATCP's response to those operations.**

Jeremy McPherson led a discussion about how DATCP approaches compliance issues. Generally, progressive enforcement starts with a warning letter. If there is still a problem, DATCP can attempt licensing action or other administrative procedures such as special orders and summary orders. If there is still a compliance problem, DATCP can refer the case to a county district attorney or the state attorney general with a request that they bring an action in the circuit court system.

The group went through some hypothetical examples and how long it might take the department to react in those various scenarios.

#### **Next Meeting.**

The group tentatively set a meeting date of July 20, 2010. The main topic will be to discuss the potential fiscal position of the grain warehouse keeper portion of the program and what alternatives there are to address any potential decrease in grain warehouse keeper licensing revenues.

**Motion** to adjourn was approved.