

Minutes

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY

Louisiana Agricultural Commodities Commission

Veterans' Memorial Auditorium

5825 Florida Blvd.

Baton Rouge, LA 70806

August 30, 2011

9:30 a.m.

I. Call to Order

Mr. Robert Hanks called the meeting to order at 9:30 a.m.

II. Roll Call and Declaration of Quorum

Commission Members Present

Mr. Robert Hanks
Mr. Donald Berken
Mr. Lee Carter
Mr. Ryan Ellington
Mr. Keith Hensgens
Mr. Donald Zaunbrecher
Mr. Kevin Adams
Mr. Filmore Bordelon

Absent Members

Mr. Kenny Self
Commissioner Strain

There was a quorum of eight (8) members present.

Staff Members Present

Assistant Commissioner of the Agro Consumer Services Division, Benjy Rayburn
Director of the Louisiana Agricultural Commodities Commission, Ashley Dupree
Assistant Director of the Louisiana Agricultural Commodities Commission,
Kyra Holden
Legal Counsel, Tabitha Gray
Louisiana Department of Agriculture & Forestry Auditor, John Smith
Louisiana Department of Agriculture & Forestry Auditor, Jeff Fabre
Administrative Assistant IV, Gail Moutz

III. Public Comments: Mr. Robert Hanks, Chairman of the Louisiana Agricultural Commodities Commission (Commission), stated that comments from the public regarding any agenda items listed below will be accepted at this point in the meeting. The chairman may also allow further comments from the public as and when each agenda item is considered during the meeting process.

Mr. Robert Hanks, Commission Chairman, asked if there were any public comments.

There were none.

IV. Adoption of Minutes – June 20, 2011

A motion was made by Mr. Filmore Bordelon and seconded by Mr. Donald Berken to approve the minutes. The motion carried unanimously.

V. Adjudicatory Hearing

A. Noble Americas Corp., Case No. 001

Mr. Mike Valen, representing the Attorney General's Office, conducted the hearing and turned the matter over to Mrs. Tabitha Gray, Legal Counsel for the Louisiana Department of Agriculture & Forestry (LDAF).

Mrs. Gray stated that in the matter of Noble Americas Corp., the terms of the stipulation is a penalty of \$1,000 per violation, for a total of \$11,000, payable within thirty days after the receipt of the findings of fact and conclusion of law. She stated that Noble Americas Corp. is waiving all rights to the adjudicatory hearing, the right to hear the evidence and cross-examine witnesses, the right to subpoena and present witnesses and documents on respondents behalf, the right to require the Department to prevail by a preponderance of the evidence, the right to request a rehearing and the right of judicial review.

Mrs. Gray asked Mrs. Ashley Dupree, Director of the Agricultural Commodities Commission, to summarize the violations and penalties.

Mrs. Dupree reminded the Commission that Noble Americas Corp. had been functioning as a cotton merchant without a license. She stated that after the LDAF auditors, Mr. John Smith and Mr. Jeff Fabre, investigated and submitted information to the staff, it was discovered that from 2009 to the present, the corporation had entered into eleven contracts without being licensed as a cotton merchant. Mrs. Dupree stated that Noble Americas Corp. was subsequently charged with eleven violations of "purchasing or contracting to purchase cotton without a license." (LA R.S. 3:3411.1(A)) She stated that a reasonable resolution would be to charge Noble Americas Corp. the maximum penalty of \$11,000.

Mrs. Gray introduced and filed into evidence the charge letter, Exhibit S1, dated July 25, 2011. She stated that the respondent neither agreed to nor denied the charges and therefore agreed to pay the proposed penalty of \$11,000. Mrs. Gray asked that the stipulation be adopted as the findings of fact and conclusions of law and that the penalty be accepted.

Mr. Valen asked the Commission if there was a motion to accept the stipulation and the recommended penalty.

A motion was made by Mr. Kevin Adams and seconded by Mr. Filmore Bordelon to approve the stipulation. The motion carried unanimously.

Mr. Valen turned the meeting back over to the Commission.

A motion was made by Mr. Donald Zaunbrecher and seconded by Mr. Filmore Bordelon to move the business with Bunge-Ergon Vicksburg LLC, up on the agenda. The motion carried unanimously.

VI. Follow-up on licensee in Monitoring Program

A. Bunge-Ergon Vicksburg LLC

Mr. Robert Hanks, Commission Chairman, stated that at the last meeting a motion was made to have the representatives of Bunge-Ergon Vicksburg LLC appear at the next meeting with the most current financial statements.

Mr. Doug McNeely, the Regional Manager for Bunge North America Grain Division and Mr. Ken Hodges, Vice President of Financials for the interaction of banking for Bunge-Ergon Vicksburg LLC, were present at the meeting.

A motion was made by Mr. Keith Hensgens and seconded by Mr. Donald Zaunbrecher to go into Executive Session. The motion carried unanimously.

A motion was made by Mr. Kevin Adams and seconded by Mr. Donald Berken to come out of Executive Session. The motion carried unanimously.

VII. Consideration of License Applications for Approval: (Initial Applications)

A. Cotton Merchant

1. Noble Americas Corp.

A motion was made by Mr. Filmore Bordelon and seconded by Mr. Donald Berken to approve Noble Americas Corp.'s, DBA Noble Cotton, cotton merchant license application. The motion carried.

Mr. Donald Zaunbrecher abstained from voting on the motion.

Mr. Lee Carter voted no on the motion.

2. Noble Americas Resources Corp.

A motion was made by Mr. Filmore Bordelon and seconded by Mr. Ryan Ellington to approve Noble Americas Resources Corp.'s, DBA, Noble Cotton, cotton merchant license application, subject to the receipt of an independent financial statement within thirty days of the consolidation and transfer of Noble

Americas Corp.'s contracts, assets and liabilities to Noble Resources Corp. and with Noble Americas Resources Corp. being placed in the monitoring program. The motion carried.

Mr. Donald Zaunbrecher abstained from voting on the motion.

Mr. Lee Carter voted no on the motion.

Mr. Donald Zaunbrecher changed his vote to yes.

Roll Call:

Mr. Robert Hanks – Yes
Mr. Filmore Bordelon - Yes
Mr. Kevin Adams – Yes
Mr. Donald Berken – Yes
Mr. Lee Carter – No
Mr. Ryan Ellington – Yes
Mr. Keith Hensgens – Yes
Mr. Donald Zaunbrecher – Yes

B. Grain Dealer

1. Commodity Specialists Company

A motion was made by Mr. Donald Zaunbrecher and seconded by Mr. Filmore Bordelon to approve Commodity Specialists Company's grain dealer license application. The motion carried unanimously.

C. Grain Dealer and Warehouse

A motion was made by Mr. Donald Berken and seconded by Mr. Filmore Bordelon to go into Executive Session.

A motion was made by Mr. Filmore Bordelon and seconded by Mr. Donald Berken to come out of Executive Session. The motion carried unanimously.

1. Acadian Rice Mill, LLC

A motion was made by Mr. Ryan Ellington and seconded by Mr. Keith Hensgens to approve Acadian Rice Mill, LLC's, grain dealer and warehouse license application and be placed in the monitoring program. The motion carried unanimously.

VIII. Old Business

A. Follow up on licensee in Monitoring Program

Bunge-Ergon Vicksburg, LLC was moved up on the agenda.

B. Update on Status of Douglas Appeal

Mrs. Dupree gave an update on the Douglas Appeal and the Central La. Grain Bankruptcy matter.

Mrs. Dupree stated that oral arguments are to be held in the Douglas Appeal matter on October 3rd and that the Douglas Appeal matter has not advanced any further at this time. Mrs. Dupree stated that the Central La. Grain matter had several issues going on simultaneously and that the Department was awaiting a status report from the law firm that is handling the matter.

C. Update on Requested Applications

Mrs. Dupree stated that at the last meeting the Commission had requested a report on application requests for licensure. Mrs. Dupree submitted three spreadsheets to the Commission, 2011-2012 Licensing Period LACC Applications Request, 2010-2011 Licensing Period LACC Applications Requested and 2009-2010 Licensing Period LACC Applications Requested for the Commission's review.

D. Update on American Rice, Inc. Ownership Status

Mr. Smith stated that American Rice, Inc. was purchased by Riviana in 2003. He stated that Riviana has been purchased by Ebro Foods, DBA Riviana Foods recently. Mr. Smith stated that today Riviana Foods and American Rice, Inc. are in discussions to decide whether to become licensed by the department or purchase rice through a broker. He stated that if they decide to stay licensed with the department the license would remain under the name American Rice, Inc.

IX. New Business

Mrs. Dupree informed the Commission that she will be taking over the position of legal counsel as Mr. Marvin Montgomery, LDAF general counsel, is retiring. She also stated that Ms. Holden will be taking over her duties as director of the Agricultural Commodities Division.

Mr. Robert Hanks and the Commission congratulated both Mrs. Dupree and Ms. Holden on the promotions.

X. Public Comment

There was no public comment.

XI. Date for the Next Meeting

The next LACC meeting is to be determined at a later date.

XII. Adjournment

A motion was made by Mr. Donald Zaunbrecher and seconded by Mr. Ryan Ellington to adjourn the meeting. The motion carried unanimously.



Mr. Robert Hanks, Chairman