

Minutes

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY

Louisiana Agricultural Commodities Commission

Veterans' Memorial Auditorium

5825 Florida Blvd.

Baton Rouge, LA 70806

March 2, 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. Kevin Adams
Mr. Donald Berken
Mr. Lee Carter
Mr. Ryan Ellington
Mr. Keith Hensgens
Mr. Donald Zaunbrecher

Absent Members

Mr. Filmore Bordelon
Mr. Kenny Self
Commissioner Strain

There was a quorum of seven (7) 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
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 (LACC), 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.

There were no public comments.

IV. Adoption of Minutes – November 18, 2010

A motion was made by Mr. Kevin Adams and seconded by Mr. Lee Carter to approve the minutes. The motion carried unanimously.

V. Consideration of License Applications for Approval:

A. GRAIN DEALER

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

A motion was made by Mr. Keith Hensgens and seconded by Mr. Ryan Ellington to come out of Executive Session. The motion carried unanimously.

1. LDC Holding Inc.

A motion was made by Mr. Ryan Ellington and seconded by Mr. Keith Hensgens to approve the LDC Holding application. The motion carried unanimously.

VI. Old Business

1. Central Louisiana Grain Update

Mrs. Ashley Dupree reported that there was a motion for summary judgment that had been filed in the Western District Bankruptcy Court in Alexandria, Louisiana, regarding Central Louisiana Grain. She stated that the intent of the motion for summary judgment was to inform the judge that the department felt that there was not a material issue of fact as to the bond. Mrs. Dupree stated that the trustee claimed that the bonds were the property of the estate because they were paid by the licensee. Mrs. Dupree stated that the conclusion of the motion stated that, "The Commissioner may not bar the enforcement of the bankruptcy codal scheme by resorting to its internal procedures. What is required here is a cooperative endeavor, permitting on the one hand the completion of the claims objections process in the bankruptcy court, followed by the department's payment of allowable claims from all funds available for such purpose. This Court is mindful, however, of the requirement of 11 U.S.C. §557 that the determination of interests in, and abandonment or other disposition of grain assets, be determined on an expedited basis."

Mrs. Dupree explained to the Commission that the judge does not feel that the bonds are the property of the estate. The judge wants the payments to be made from the bankruptcy court prior to the Commission making payments to the producers. She stated that there are \$75,000 worth of bonds in the bankruptcy court but the judge and the opposing counsel do not understand that \$25,000 of the bond is the warehouse portion. The \$25,000 portion of the bond is not technically applicable because Louisiana Central Grain was not operating as a warehouse.

Mrs. Dupree stated that there is a pre-trial conference scheduled for March 29, 2011 between department's counsel and opposing counsel. She stated that she has instructed the department's attorney to ask the judge to clarify what direction the department should take. Mrs. Dupree also said that she has asked the department's attorney to express to the judge that the department has requested several times that these proceedings be expedited.

The Commission expressed concern that the delay was unfair to the growers because they still have not received payments due to them. The Commission felt that this could set a precedent for growers receiving payments in any future bankruptcy claims and that there needs to be a resolution to this issue.

A motion was made by Mr. Ryan Ellington and seconded by Mr. Kevin Adams, giving Mrs. Dupree authorization to pay the remainder of the Central Louisiana Grain claims, subject to her research of the subrogation rights in regards to bankruptcy courts. The motion carried unanimously.

Mrs. Dupree stated that she would speak with the department's counsel and keep the Commission informed.

2. Approval of Provider Agreement for Electronic Warehouse Receipts

Mrs. Dupree explained that e-Grain Company requested to enter into an agreement with the Commission for services relating to electronic warehouse receipts. She said that technically the law does not require that the Commission approve the provider agreement but she felt that it was important that the Commission review the provisions to be sure that there were no issues. Mrs. Dupree stated that the system is going to be an internet based system that will allow for a quicker process of warehouse receipts. She stated that the inspectors in the Crowley office will still monitor the facilities as previously done but will have access to the documents online and use receipts in the system for cancellations, issuances, audits and examinations etc., to insure the correct quantities are in the system. Mrs. Dupree stated that the warehouses will have the option to use the electronic receipts or continue to use the paper receipts.

A motion was made by Mr. Lee Carter and seconded by Mr. Donald Zaunbrecher to approve the provider agreement with e-Grain Company. The motion carried unanimously.

3. Grain and Cotton Indemnity Fund

Ms. Kyra Holden stated that the balance of the Grain and Cotton Indemnity Fund (GCIF) is \$660,302.80. Ms. Holden stated that she reconciles the GCIF balance with the Revenue section of the Department monthly. Ms. Holden stated that there have been a couple of issues which are being resolved.

Mrs. Dupree stated that Ms. Holden discovered some discrepancies between some GCIF payments and monthly assessment payments received from a facility. Mr.

John Smith and Mr. Jeff Fabre, the Louisiana Department of Agriculture & Forestry auditors, visited the facility to inspect the financial records. Mrs. Dupree stated that the company refused to allow the auditors to photocopy the records. She stated that Mr. Smith and Mr. Fabre did not have the authorization needed to request the photocopied records. Mrs. Dupree informed the Commission that she would prepare a letter to the Attorney General's office and notify the Commission of the results.

Mr. Smith introduced Mr. Jeff Fabre, the newly employed auditor of the Louisiana Department of Agriculture & Forestry. The Commission welcomed Mr. Fabre.

VII. New Business

Questions were asked by the Commission members regarding the purpose of the budget and the responsibility of the LACC as to their authority over the budget of the LACC.

Mr. Benjy Rayburn, Assistant Commissioner, for the Office of Agro Consumer Services, explained that the assessments of the LACC budget is part of Agro Consumer Services and all revenues go into the Agricultural Commodity Dealer and Warehouse Fund with the exception of the GCIF. He stated that the funds are appropriated to operate the Louisiana Agricultural Commodities Commission.

Mrs. Dupree stated that the fund's purpose is to fund any and all of the costs related to the carrying out of those purposes of this Chapter and the powers and duties granted to the Commission and Commissioner in this Chapter.

Mr. Hanks asked Mrs. Dupree to investigate whether the Commission has a duty to regulate the LACC budget.

Mr. Rayburn stated that he would obtain the financial information that the Commission is requesting from the Office of Management and Finance.

1. Division of Administration Website

Mrs. Dupree stated that in 2009, a bill was passed that required that the Division of Administration develop a website that was accessible to the public, showing all of the boards and commission members, explaining how the boards and commissions are created, appointed and terminated. She stated that the law was supplemented to require financial information such as per diem and salaries due to travel reimbursements relating to certain boards. Mrs. Dupree informed the Commission that the staff wanted the Commission to be aware of the website and that the LACC staff is complying with the law. She stated that the Louisiana Agricultural Commodity Dealer and Warehouse Law, regulations, upcoming meetings, agenda and minutes are posted on the website.

2. Announcement of the Annual Rice Driers Association Meeting

Mrs. Dupree stated that the annual meeting of the Rice Driers Association is March 17, 2011. She informed the Commission that Mr. Hensgens will be attending so, if there is any subject that the Commission would like discussed at the meeting, please let Mr. Hensgens know.

The Commission suggested that the destination weights vs. origination weights be discussed.

Mrs. Dupree asked Mr. Hensgens if he would give a report at the next LACC meeting. Mr. Hensgens agreed to do so.

3. Update on the 2011-2012 applications

Ms. Holden reported that 79 applications were mailed on March 1, 2011. She stated that applications should start being received in the office within the next two weeks.

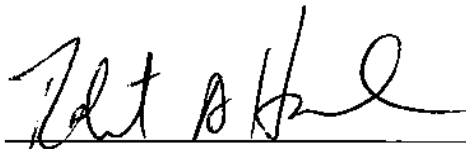
Mrs. Dupree informed the Commission that the application forms were revised and that the cover sheet of the application states that if the application is not received by April 30, 2011, there will be a fine of \$50 per business day until the application is received.

VIII. Date for the Next Meeting

The next LACC meeting is May 31, 2011 at 9:30 a.m. A meeting has also been scheduled for June 22, 2011 at 9:30 a.m.

IX. Adjournment

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



Mr. Robert Hanks, Chairman