

Minutes

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY

Louisiana Agricultural Commodities Commission

Veterans' Memorial Auditorium

5825 Florida Blvd.

Baton Rouge, LA 70806

December 11, 2009

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. Kevin Adams

Mr. Robert Hanks

Mr. Keith Hensgens

Mr. Donald Zaunbrecher

Mr. Donald Berken

Absent Members

Mr. Filmore Bordelon, III

Mr. E. Lee Carter

Mr. Ryan Ellington

Mr. Kenny Self

Commissioner Mike Strain

There were five (5) members present at the meeting.

Staff Members Present

Assistant Commissioner, Benjy Rayburn

Director of the Louisiana Agricultural Commodities Commission, Ashley Dupree

Assistant Director of the Louisiana Agricultural Commodities Commission,

Kyra Holden

Executive Counsel, Tabitha Gray

Louisiana Department of Agriculture & Forestry Auditor, John Smith

Administrative Assistant IV, Tina Ficklin

III. Adoption of Minutes – September 21, 2009

A motion was made by Mr. Keith Hensgens and seconded by Mr. Donald Berken to approve the minutes as read. The motion carried unanimously.

IV. Consideration of New Grain Dealer License Applications

A motion was made by Mr. Donald Zaunbrecher and seconded by Mr. Kevin Adams to open Executive Session. The motion carried unanimously.

A motion to close the Executive Session was made by Mr. Donald Zaunbrecher and seconded by Mr. Kevin Adams. The motion carried unanimously.

A motion was made by Mr. Donald Zaunbrecher to approve the Grain Dealer License application for B. U. Growers, LTD. It was seconded by Mr. Keith Hensgens. The motion carried unanimously.

The Grain Dealer License application for Brazoria Diversified Property Mgmt., LLC d/b/a Ferriday Oilseed Enterprises was deferred at the request of Brazoria due to their inability to submit the information in a timely manner. This matter will be taken up at a later time.

V. Old Business

A. Update on Daily Risk Position Report regulations

On November 20, 2009, the final rule was adopted to dispense with the requirement of the submission of the Daily Risk Position Report. The intent of the Daily Risk Position Report was to be able to determine the position of the grain dealer. However, since the report required updated financial statements for a proper determination of risk position, it was not beneficial.

B. Update on Central Louisiana Grain and the Grain and Cotton Indemnity Fund (GCIF)

The balance of the GCIF fund as of Wednesday, December 9, 2009 is \$461,000.00.

There are three (3) claims pending totaling \$273,000.00.

The claims submitted during the claims period, which ends on December 20, 2009, are running in accordance with the projected \$941,000.00. The budget authority for the Louisiana Department of Agriculture & Forestry set by the Division of Administration is \$534,034.00. If expenses exceed this authority at any point within the fiscal year, the Louisiana Agricultural Commodities Commission will ask for a budget amendment from the Joint Legislative Committee on the Budget.

Mrs. Ashley Dupree, Director of the Louisiana Agricultural Commodities Commission (LACC), recommends at the conclusion of the claims process and after all claims have been verified by signed affidavit and claim form, that LACC distribute \$400,000.00. It was further determined that if additional claims were submitted, LACC would approach the Commission in the first or second quarter of 2010 to request additional distribution to fund the remainder of claims on a pro-rated basis.

Currently pending in the Bankruptcy Court is the issue regarding the \$75,000.00 bond. The Trustee is taking the position that the bond is an asset of Central La. Grain and is therefore part of the bankruptcy. The Louisiana Department of Agriculture and Forestry opposes this position and intends to argue this point.

Mr. Hanks expressed concern over the likelihood that the Court may take the position that the GCIF funds are also an asset of Central La. Grain. Mrs. Dupree felt that would not be the case because the money in the GCIF fund was not paid by the licensee. The GCIF fund was not set up until after the issue with Central La. Grain arose. Central La. Grain never paid into the Grain and Cotton Indemnity Fund. However, the issue remains unresolved as federal law supersedes state law.

Mr. Hanks suggested that LACC look closely at the position to make sure any money paid out does not go to non-farmers. He expressed that it would be very unfortunate to find out that funds contributed by farmers will be used by the Bankruptcy Court to pay a non-farmer.

Mrs. Dupree agreed and assured the board that the producers will be made whole by the GCIF fund.

A motion was made by Mr. Kevin Adams to grant authority to the Department to distribute \$400,000.00 on a pro-rated basis to producers, in payment of valid claims at the conclusion of the claims process on December 20, 2009. The motion was seconded by Mr. Donald Berken. The motion carried unanimously.

A motion was made by Mr. Donald Berken to give authority to the Department to pay up to \$25,000.00 for attorney fees associated with the GCIF fund claims, as approved by the Assistant Commissioner, Mr. Benjy Rayburn. The motion was seconded by Mr. Kevin Adams and carried unanimously.

VI. New Business

- A. An updated address list was distributed which included Mr. Donald Berken.
- B. Origin and Destination weight issue.

Mr. Hanks stated he had not heard anything further on the issue. Mr. Hensgens stated that the industry would likely solve the problem amongst them.

- C. Act 492

As part of the transparency law to disclose to taxpayers how state money is spent, Act 492 was derived. A copy of Act 492 was distributed to the commission members.

Mr. Rayburn informed the Commission of the proposal by George Mason University to the Governor's Commission on Streamlining Government to cut the Ag. Commodities Commission. Mr. Hanks offered, and other members agreed, to appear before the Streamlining Commission to explain the necessity and importance of the Commission.

VII. Public Comment

None.

VIII. Date for next meeting

The next Louisiana Agricultural Commodities meeting will be held in February or March of 2010.

IX. Adjournment

A motion to adjourn was made by Mr. Keith Hensgens and seconded by Mr. Kevin Adams. The motion carried unanimously.