

# Minutes

## LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY

Louisiana Agricultural Commodities Commission

Veterans' Memorial Auditorium

5825 Florida Blvd.

Baton Rouge, LA 70806

June 28, 2010

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. Ryan Ellington  
Mr. Kenny Self  
Mr. Donald Zaunbrecher  
Mr. Mr. Donald Berken  
Mr. Keith Hensgens  
Mr. Kevin Adams

#### Absent Members

Mr. Filmore Bordelon  
Mr. Lee Carter  
Commissioner Strain

There were seven (7) members present at the meeting.

#### Staff Members Present

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, Robert Johnston  
Administrative Assistant IV, Gail Moutz

### III. Adoption of Minutes – May 28, 2010

A motion was made by Mr. Kenny Self and seconded by Mr. Ryan Ellington to approve the minutes as read. The motion carried unanimously.

#### **IV. Consideration of License Applications for Approval: (Renewal Applications)**

Mr. Robert Hanks commented to the Louisiana Agricultural Commodities Commission and staff that based on his understanding, there are guidelines for licensure stated in the law that are not requirements, consisting of a threshold of \$100,000 net worth. He stated that there have been several changes since the creation of the Grain and Cotton Indemnity Fund (GCIF). Mr. Hanks stated that in the past the guidelines for net worth were used in a way to protect the farmers from financially unsound companies. He said that he felt in the past that the Commission hesitated placing the companies in the Monitoring Program or requiring additional collateral from the companies that did not have the minimum \$100,000 net worth. Mr. Hanks stated that he felt that it was important that the Commission understand its role as it relates to approving these companies. He further stated that the Commission should review some of the smaller companies that are thinly capitalized and that don't have the equity in order to give the farmers more options to market their grains. Mr. Hanks stated that with the GCIF, there is a better reason to approve some of these marginal companies and to put them in the system in order to protect the growers. He stated that it was more positive than requiring additional collateral or putting an additional burden on these companies that do not have the \$100,000 net worth.

Mr. Donald Zaunbrecher stated that if the situation is a small operation that is not handling but approximately \$50,000 he would agree. He stated that he felt that if these companies are doing a larger amount of business, that the requirement should be no less than \$100,000 net worth and that the companies should take the responsibility.

Mrs. Dupree told Mr. Hanks that the statute allows the Commission grounds to revoke a license if the company does not have the net worth of \$100,000. She stated that it is permissive but not mandatory. Mrs. Dupree stated that the guidelines were established before the GCIF was created. She stated that if an entity's business fails, the GCIF, Self-Insurance Fund or a bond will protect the producers. Mrs. Dupree stated the GCIF is stable and established to help the producers.

Mrs. Dupree stated that in reference to Mr. Zaunbrecher's comments, when applicants submit their applications, it is a requirement of the applicants to report the previous year's aggregate amount of purchases from the producers. Mrs. Dupree stated that the only problem with requiring additional security is that a \$100,000 could be deposited into the company's account and taken out the following month. She also stated that a CD of \$100,000 could be requested but that would reduce the company's equity. Mrs. Dupree stated that her recommendation is that if the Commission is doubtful regarding a licensee's application, they can be placed in the Monitoring Program and the LDAF auditors, John Smith and Robert Johnston can audit the company on a consistent basis.

Mrs. Dupree stated that there will not be any future GCIF payments made until after the Douglas appeal has been settled. Mrs. Dupree told the Commission there are funds coming in to the GCIF and the fund is currently stable.

Mr. Kevin Adams stated that the role of the Commission is to protect the farmers and if that means that the under capitalized operators are out of business and can't participate, he felt that it is not the Commission's objective to have a certain number of operators, regardless of their capitalization, but to insure that the farmers get paid and stay in business. Mr. Adams stated that it is the Louisiana farmers that are funding the payments now and that the Commission needs to be just as cognizant in the present as in the past and not weaken the expectations in order for the companies to be approved. Mr. Adams

stated that he agreed with Mr. Zaunbrecher that until that fund is fully capped out it is the Louisiana farmers who are funding it.

Mrs. Dupree stated that there are eight entities lacking the renewal of their certificate of stock insurance. She stated that some of the insurance companies do not submit the stock insurance until the expiration date of the policy.

A motion was made by Mr. Keith Hensgens to go into Executive Session for discussion of the financials for the Cotton Merchants and Cotton Merchant and Grain Dealer license applications. The motion was seconded by Mr. Kevin Adams. The motion carried unanimously.

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

A. Cotton Merchants

1. Broadway and Hitt Cotton Company, Inc.
2. Farmers Cotton Company, Inc.
3. Hough Cotton Company, Inc.
4. Noble Ellington Cotton Co., Inc.
5. P.J.S. Incorporated
6. The Seam, LLC

B. Cotton Merchant and Grain Dealer

1. Cargill, Inc.

Mr. Ryan Ellington abstained from voting on #4, Noble Ellington Cotton Co., Inc. A motion was made by Mr. Kevin Adams to approve Cotton Merchants and Cotton Merchant and Grain Dealer license applications with #1, Broadway and Hitt Cotton Company, Inc. with #3, Hough Cotton Company, Inc. placed in the Monitoring Program. Mr. Zaunbrecher seconded the motion. The motion carried.

C. Grain Dealers

A motion was made by Mr. Donald Berken to go into Executive Session for discussion of the financials of the Grain Dealers license applications. The motion was seconded by Mr. Kenny Self. The motion carried unanimously.

A motion was made by Mr. Kevin Adams to come out of Executive Session. The motion was seconded by Mr. Keith Hensgens. The motion carried unanimously.

1. American Rice, Inc.
2. Beaumont Rice Mills, Inc.
3. Bertrand Rice, LLC
4. BU Growers, LTD
5. Bunge North America, Inc.
6. Bunge-Ergon Vicksburg, LLC
7. Bunkie Elevator & Gin Company, Inc.
8. Crews Trading Company, Inc.

9. DeBruce Grain, Inc.
10. Farmers Grain Terminal, Inc.
11. Farmers Rice Milling Co., Inc.
12. Harrington Rice & Soybean Buyer Co.
13. Harvest Rice, Inc.
14. Jamie Soileau d/b/a Soileau Rice Broker
15. Land O Lakes Purina Feed, LLC
16. Lansing Louisiana, LLC
17. Lockeby Rice & Grain
18. Louisiana Rice Mill Company, Inc.
19. Pilgrim's Pride Corporation
20. Pointe Coupee Farmers Elevator, Inc.
21. Southwest Rice Mill Company, Inc.
22. The Scoular Company

Mr. Kenny Self abstained from voting on Grain Dealers license application #20, Pointe Coupee Farmers Elevator, Inc. Mr. Robert Hanks abstained from voting on Grain Dealers license application #18, Louisiana Rice Mill, LLC. A motion was made by Mr. Ryan Ellington to approve Grain Dealers license applications #1-22, with #3, Bertrand Rice, LLC, #6, Bunge-Ergon Vicksburg, LLC, #8, Crews Trading Company, Inc., and #12, Harrington Rice & Soybean Buyer Co., #14, Jamie Soileau d/b/a Soileau Rice Broker and #19, Pilgrim's Pride Corporation being placed in the Monitoring Program and approve #13, Harvest Rice, Inc. and #15, Land O Lakes Purina Feed, LLC, subject to receiving proof of stock insurance. Mr. Donald Berken seconded the motion. The motion carried.

#### D. Grain Dealers and Warehouses

A motion was made by Mr. Donald Berken to go into Executive Session for discussion of the financials for the Grain Dealers and Warehouses license applications. The motion was seconded by Mr. Kenny Self. The motion carried unanimously.

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

1. Angelina Grain Elevator
2. Crowville Grain & Elevator Company
3. Falcon Rice Mill, Inc.
4. Fenton Rice Co-op
5. G & H Seed Company, Inc.
6. Holly Ridge Rice & Grain
7. Kaplan Rice Dryer, Inc.
8. Kennedy Rice Dryers, LLC
9. Lake Arthur Rice Drier, Inc.
10. Monticello Gin & Elevator Co., Inc.
11. Mowata Rice Drier, Inc.
12. Planters Rice Mill, LLC
13. Sweet Lake Land & Oil Company
14. Victory Supply, Inc.
15. Ville Platte Rice Drier, Inc.
16. Winnsboro Elevator, LLC

Mr. Ryan Ellington abstained from voting on Grain Dealers and Warehouse license application #16, Winnsboro Elevator, LLC. A motion was made by Mr. Donald Zaunbrecher to approve Grain Dealers and Warehouse license applications #1-#16 with #1, Angelina Grain Elevator, #2, Crowville Grain & Elevator Company and #10, Monticello Gin & Elevator Co., Inc., being placed in the Monitoring Program and approve #5, G & H Seed Company, Inc., #11, Mowata Rice Drier, Inc., and #13, Sweet Lake Land & Oil Company subject to receiving proof of stock insurance. Mr. Kenny Self seconded the motion. The motion carried.

E. Warehouses

A motion was made by Mr. Kenny Self to go into Executive Session for discussion of the financials for the Warehouse license applications. Mr. Kevin Adams seconded the motion. The motion carried unanimously.

A motion was made by Mr. Kenny Self to come out of Executive Session. Mr. Donald Zaunbrecher seconded the motion. The motion carried unanimously.

1. Basile Rice Drier & Storage Facility
2. Dixie Drier, LLC
3. Elton Drier, Inc.
4. H & E Grain, LLC
5. Hardy Rice Dryer, LLC
6. Jones Producers Gin, Inc.
7. Kaplan Farmers Co-op
8. Kinder Drier, LLC
9. Rayne Rice Drier and Warehouse

Mr. Keith Hensgens abstained from voting on Warehouse license application #2, Dixie Drier, LLC. Mr. Donald Zaunbrecher and Mr. Donald Berken abstained from voting on #9, Rayne Rice Drier and Warehouse. A motion was made by Mr. Ryan Ellington to approve Warehouse license applications, #1, Basile Rice Drier & Storage Facility, #2, Dixie Drier, LLC, #3, Elton Drier, Inc., #4, H & E Grain, LLC, #5, Hardy Rice Dryer, LLC, #6, Jones Producers Gin, Inc., #7, Kaplan Farmers Co-op, #8, Kinder Drier, LLC, and #9, Rayne Rice Drier and Warehouse, with #1, Basile Rice Drier & Storage Facility, #4, H & E Grain, LLC, #7, Kaplan Farmers Co-op, and #8, Kinder Drier, LLC, being placed in the Monitoring Program and #2, Dixie Drier, LLC, and #9, Rayne Rice Drier and Warehouse license applications subject to receiving proof of stock insurance. Mr. Kenny Self seconded the motion. The motion carried.

**V. Consideration of License Applications For Approval:  
(New Applications)**

A motion was made by Mr. Kenny Self to go into Executive Session for discussion of the financials for the Grain Dealers license applications. Mr. Donald Zaunbrecher seconded the motion. The motion carried unanimously.

A motion was made by Mr. Kenny Self to come out of Executive Session. Mr. Donald Zaunbrecher seconded the motion. The motion carried unanimously.

A. Grain Dealers

1. Ferriday Oilseed Enterprises
2. Producers Rice Mill

A motion was made by Mr. Donald Zaunbrecher to deny Grain Dealers license application, #1, Ferriday Oilseed Enterprises with the understanding that the LDAF auditors will attempt to obtain further information on the financial statement and approve #2, Producers Rice Mill. Mr. Kenny Self seconded the motion. The motion carried unanimously.

Mrs. Dupree informed the Commission she would send a letter to Ferriday Oilseed Enterprises denying approval of the Grain Dealer license application.

**VI. Old Business**

1. Central Louisiana Grain Update

Mrs. Dupree stated that on August 12, 2010, an Adjudicatory Hearing will be held regarding Mr. Douglas's appeal. She informed the Commission that the information submitted to them was the same information presented at the previous LACC meeting. Mrs. Dupree stated that the information consisted of two documents. Mrs. Dupree stated that one of the documents states what Central Louisiana Grain's opinion was in regards to Mr. Douglas's claim of not receiving payment for deliveries made. She stated that the second document was the actual appeal from Mr. Douglas relating to his defense.

Mrs. Dupree stated that it is her understanding from the last meeting that the Commission asked, relative to the hearing, if it would be permissive to allow Mr. Douglas a partial amount of his claim, or would the entire amount have to be awarded if the Commission decided to approve Mr. Douglas's claim. Mrs. Dupree stated that the Commission was allowed to award Mr. Douglas a partial claim, a full claim or a denial of his claim, as long as the Commission had a basis for what was denied or awarded and that precedent would be set once the Commission made a ruling.

Mr. Hanks asked if this will be discussed in at the Adjudicatory Hearing during the Executive Session. Mrs. Dupree stated that there will be an Executive Session for the Commission to discuss matters prior to ruling on the claim. She informed the Commission that an attorney from the Louisiana State Attorney General's office will be presiding as the hearing officer and will advise them of any questions or concerns they may have.

2. Legislative Update

a. House Bill 1463

Mrs. Dupree reported to the Commission that House Bill 1463 originated as House Bill 1183 by Representative Ritchie. She stated that this is the Bankers Association bill that the Commission was against. Mrs. Dupree stated that the bill has changed significantly to state, only during periods of gubernatorial or presidentially declared disasters, it is permissive that the grain dealer and the agriculture lender can communicate only particular information as announced in R.S. 3:3419.1 of the law. She stated that the bill passed and is presently being reviewed by the Governor.

b. Senate Bill 147

Mrs. Dupree reported that Senate Bill 147 changed the language and technical wording of the Louisiana Agricultural Commodity Dealer and Warehouse Law. Written examinations are no longer required in order for the Commission to approve a Grain Dealers license. There are no longer references to the position reports in the law. The moisture meter law is consolidated into one part and the receivership portion relative to the Commissioner's ability to put an entity into receivership is no longer a requirement.

Mr. Hanks commented on the report regarding the lien law from the Louisiana State Law Institute he received from Mrs. Dupree. He stated that it was informative regarding changes to the liens laws. Mrs. Dupree stated that there is a bill that was passed which was written by Mr. David Cromwell, an attorney. She stated that the whole issue of the lien law is extremely complicated. Mr. Hanks requested that Mrs. Dupree send a letter to Mr. Cromwell and a copy of the letter to the Commission, asking Mr. Cromwell to explain the lien law issue and inform him that the Commission may want to contact him for further clarification regarding the law. Mrs. Dupree agreed to send Mr. Cromwell a letter per the Commission's request.

Mr. Hanks asked Mrs. Dupree if the bill was an attempt to replace the old law. She replied no, it was to cure the many inconsistencies in the law. Mrs. Dupree stated that the Commissioner and the Louisiana Farm Bureau both felt that there was nothing harmful to the producers in the law.

**VII. New Business**

None.

**VIII. Public Comment**

Mrs. Tabitha Gray, LDAF legal counsel, brought to Mrs. Dupree's attention a bill that proposed to require public comment before any voting but not before each agenda item. Mrs. Dupree stated that if it is to become a law and put in the Public Records Law, the public comment period may have to be changed relative to the agenda.

**IX. Date for Next Meeting**

The Adjudicatory Hearing will be held on August 12, 2010, Thursday, 9:30 a.m.

**X. Adjournment**

A motion was made by Mr. Kenny Self to adjourn the meeting. Mr. Ryan Ellington seconded the motion. The motion carried unanimously.

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Mr. Robert Hanks, Chairman