

Minutes

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY

Louisiana Agricultural Commodities Commission
Veterans Memorial Auditorium
5825 Florida Blvd.
Baton Rouge, LA 70806
May 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. Filmore Bordelon, III
Mr. Lee Carter
Mr. Ryan Ellington
Mr. Kenny Self
Mr. Donald Zaunbrecher
Mr. Mr. Donald Berken
Mr. Keith Hensgens

Absent Members

Mr. Kevin Adams
Commissioner Mike Strain

There were eight (8) members present at the meeting.

Staff Members Present

Assistant Commissioner, Benjy Rayburn
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
Louisiana Department of Agriculture & Forestry, Agricultural Specialist
Program Manager, Len Sanders
Administrative Assistant IV, Gail Moutz

III. Adoption of Minutes – March 26, 2010

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

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

Mr. Hanks told the Commission members that the applications being reviewed today did not represent all of the Cotton Merchant, Grain Dealer and Warehouse applications and that the remaining ones would be reviewed for approval at the next meeting.

Mr. Smith told the Commission that if they had any specific questions regarding the financials of the Cotton Merchant applicants on the agenda, then it was necessary to go into Executive Session. The Commission stated that they did not have any questions.

Mr. Hanks asked the Commission members if there were any abstentions. The Commission stated there were no abstentions.

A. Cotton Merchants

1. Johnston Cotton Co., Inc.
2. Louis Dreyfus Corporation
3. Staple Cotton Cooperative Association
4. Webb Cotton Co., Inc.

A motion was made by Mr. Filmore Bordelon to approve Cotton Merchant license applications #1-4. The motion was seconded by Mr. Ryan Ellington. The motion carried unanimously.

B. Grain Dealers

A motion was made by Mr. Donald Zaunbrecher to go into Executive Session for discussion of the financials for the Grain Dealer and the Grain Dealer and Warehouse license applications. The motion was seconded by Mr. Keith Hensgens. The motion carried unanimously.

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

1. Bayou Grain and Chemical Corporation
2. Delta Gin Company, LLC
3. Gulf Rice Milling, Inc.
4. Louisiana Farm Bureau Marketing Association, Inc.
5. Pitre Rice
6. Red River Grain, Inc.
7. Terral Seed, Inc.

A motion was made by Mr. Filmore Bordelon to approve Grain Dealer license applications, #1-3 and #5-7. Mr. Kenny Self seconded the motion. The motion carried unanimously.

Mr. Kenny Self and Mr. Donald Berken abstained from voting on #4, Louisiana Farm Bureau Marketing Association, Inc. A motion was made by Mr. Filmore Bordelon to approve Louisiana Farm Bureau Marketing Association, Inc.'s Grain Dealer application. The motion was seconded by Mr. Ryan Ellington. The motion carried.

C. Grain Dealers and Warehouses

1. Aaron Duhon Bins, Inc.
2. Crowley Grain Drier, Inc.
3. Hensgens Grain Elevator, Inc.
4. Hollybrook Enterprises, LLC
5. Mamou Rice Drier and Warehouse, Inc.
6. Thornwell Warehouse Association
7. Tubbs Rice Dryers, Inc.

A motion was made by Mr. Filmore Bordelon to approve Grain Dealer and Warehouse license applications, #1-7 with Hollybrook placed in the Monitoring Program. The motion was seconded by Mr. Kenny Self. The motion carried unanimously.

A motion was made by Mr. Filmore Bordelon to go into Executive Session for discussion of the financials for the Warehouse license applications. The motion was seconded by Mr. Donald Zaunbrecher. The motion carried unanimously.

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

D. Warehouses

1. Crowley Rice Drier Coop, Inc.
2. Producers Rice Drier, Inc.
3. Tri-Parish Rice Drier, Inc.
4. Vermilion Farmers Coop Association, Inc.

A motion was made by Mr. Kenny Self to approve Warehouse license applications #1-4. The motion was seconded by Mr. Keith Hensgens. The motion carried unanimously.

V. **Old Business**

1. Grain and Cotton Indemnity Fund Balance

Ms. Holden reported that the current balance of the Grain and Cotton Indemnity Fund is \$386,973.38. She stated there has been a disbursement of \$400,000 to the producers. Ms. Holden told the Commission the partial disbursements were made based on a ratio due to a lack of funds but there will continue to be future disbursements until everyone has been reimbursed.

2. Moisture Meter Update

Ms. Holden stated that there were seven non-NTEP moisture meters that were tested throughout the state of Louisiana that had failed. Ms. Holden also stated that the elevators have not expressed any issues regarding the requirement to purchase NTEP approved moisture meters when their current moisture meters fail inspection.

3. Aflatoxin Testing Update

Ms. Holden stated there has been no testing performed at this time.

Mr. Rayburn stated that there was an Emergency Rule published in the Louisiana State Register that gives the Louisiana Agricultural Commodities Commission the authority to establish and collect a fee for the testing for Aflatoxin. Mr. Rayburn said grain inspectors had to be certified in order to test for Aflatoxin. Mr. Rayburn stated there have not been any requests for aflatoxin testing as of this date.

4. Central Louisiana Grain Update

a. Douglas Appeal

Ms. Holden stated that an Adjudicatory Hearing will be held on June 11, 2010 to address Mr. Douglas's appeal. She explained to the Commission the process of the hearing and the Commission's responsibilities in regards to the hearing. Ms. Holden stated that an attorney with the Louisiana State Attorney General's office will preside as hearing officer over the adjudicatory hearing and will be available to answer any questions the Commission may have as it pertains to the adjudicatory process. Ms. Holden stated that it will be the responsibility of the Commission to make the final determination as to the outcome of the appeal.

Mr. Rayburn stated that the Louisiana Agricultural Commodities Commission staff, acting on behalf of the Commission, reviewed the claims and with the Commission's recommendations, denied Mr. Douglas's claim. Mr. Rayburn stated, as a result of the denial, Mr. Douglas filed an appeal. Mr. Rayburn stated that Mr. Douglas will be allowed to present his case as to why he feels he is eligible to be reimbursed for his claim.

Mr. Rayburn stated that \$160,000 is the dollar amount that Mr. Douglas is asking for in his appeal. Mr. Rayburn stated that due to the language in the law and the way the fund was set up, the LDAF staff feels that it is the Commission's responsibility to protect the producers money that goes into this fund.

b. Motion for Summary Judgment

Ms. Holden stated that on May 14, 2010 there was a motion for summary judgment filed in the Central Louisiana Grain matter in the Western District Bankruptcy Court. She stated that there was a dispute as to whether Self-Insurance Fund payment is the property of the estate. She stated there is a hearing in the matter scheduled for June 23, 2010, and that no opposition has been filed as of this date nor has the bankruptcy trustee filed any additional motions.

Mr. Hanks asked if the Central Louisiana Grain Trustee has filed an appeal against the Grain and Cotton Indemnity Fund. Mr. Rayburn stated not at this time.

Ms. Holden explained the difference between the Self-Insurance Fund, a bond, and the Grain and Cotton Indemnity Fund.

Mr. Carter asked about the late timing of the soybean delivery to Central Louisiana Grain and if the Commission would be allowed to ask questions about that in the appeal hearing. Mr. Hanks said that would be an appropriate question to ask during the hearing.

Mr. Carter asked Mr. Rayburn if the Commission would have the discretion of negotiating the financial amount that Mr. Douglas was asking for in his appeal. Mr. Rayburn stated that was something that needed to be researched.

Mr. Hanks agreed with Mr. Carter and asked the LDAF staff if this could be researched before the adjudicatory hearing. Ms. Holden told the Commission that she would research whether the Commission has discretion on how much can be awarded.

Mr. Hanks asked Ms. Holden if the Commission would be allowed to ask questions during the hearing. She answered that the hearing officer would answer any of the Commission's questions or concerns before the hearing.

Mr. Rayburn stated that there will be a LDAF attorney present at the adjudicatory hearing.

5. Legislative Update

a. HB 1463

Mr. Rayburn gave an update on House Bill 1183. HB 1183 was addressed at the March 26, 2010 meeting by Mrs. Dupree. Mrs. Dupree had stated that this bill was pending legislation and that it may affect this Commission and the agriculture industry. Mr. Rayburn stated that HB 1183 has been replaced by HB 1463, a substitute bill, which has passed the House Committee. The next step is for it to pass through the Senate Committee. Mr. Rayburn explained this bill allows communication between an elevator and a lending institution only during gubernatorially or presidentially declared disasters and that the wording has been changed from "shall" to "may" as it relates to communication between the elevator and banker or lending institution.

Mr. Bordelon commented that this bill allows either party to provide information without repercussions and reduces the liability for either party.

b. SB 147

Mr. Rayburn stated that SB 147 is a bill to change the language and technical wording of the Louisiana Agricultural Commodity Dealer and Warehouse Law. Mr. Rayburn stated that SB 147 passed through the House Committee and Senate Committee with minimal technical amendments and should be heard on the Senate floor in its current form. He said the existing intent of the law will stay the same.

VI. New Business

Ms. Holden stated that the deadline for all license applications was April 30, 2010, and that she had received all applications by the deadline with the exception of eight. She stated that at the present time she has one entity that has not submitted their application.

Mr. Hanks commended the staff for their efficient work and diligence as well as the staff's communication with the applicants, considering the reduction of staff. The Commission agreed unanimously.

VII. Public Comment

Mr. Kyle McCann with Louisiana Farm Bureau told the LACC members and the LACC staff that he was appreciative of all the good work they are doing.

VIII. Date for next meeting

The date of the next LACC meeting is June 11, 2010.

IX. Adjournment

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

Mr. Robert Hanks, Chairman