MEETING MINUTES

AGRICULTURAL PRODUCER SECURITY COUNCIL

December 16, 2015

Call to order

The Agricultural Producer Security (APS) Council held a meeting on Wednesday, December 16, 2015, at the headquarters of the Wisconsin Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, Madison, Wisconsin.

Attendance

Nine council members were present: Doug Cropp, Dave Daniels, John Manske, Craig Myhre, Jeremie Pavelski, John Umhoefer, Jim Zimmerman, Don Hamm and Nick George (arrived late).

One council member, Louise Hemstead, was absent.

DATCP staff members present were Eric Hanson, Jeremy McPherson, Lori Ronnerud and Lauren Van Buren.

Agenda Item I Call to Order

Chairman John Manske called the meeting to order at 9:31 am.

Agenda Item II Approve Minutes

Dave Daniels moved to approve the minutes from the November 13, 2015 meeting with the correction of two typos on pages 3 and 4. The motion was seconded by Jim Zimmerman. The motion passed without discussion.

Agenda Item III Agricultural Producer Security Fund

Annual Report

Eric discussed the APS Fund Annual Report. Over all, revenues are up a bit. Expenses include a payment for a portion of the actuarial study. The total Fund balance is down about 50% from last year as a result of the Allens default and the Liberty Milk default.

Grain Dealer revenue was higher due to an increase in deferred payments. The Grain Warehouse Keeper deficit is continuing to decrease and is expected to be positive by the end of next fiscal year. Both the Milk Contractor balance and the Vegetable Contractor balances declined due to defaults. Also as a result of the Allens default, the Vegetable Contractors are no longer eligible for annual license fee credits.

Expense details included a $50,000 payment for the actuarial study. Another payment of about $45,000 will be paid in fiscal year 2016 now that the final report has been accepted. John Umhoefer asked if the study was intentionally split neatly between 2 fiscal years. Jeremy McPherson said that splitting the payments made budgeting easier. He also reminded the

group that the expense for the actuary will be allocated between each of the programs.

Eric next discussed license history for each subaccount, noting that grain dealer deferred payments have grown almost every year and are at an all-time high of $263.7 million. Eric also noted that the number of licensed grain warehouse keepers declined but their capacity increased. Doug Cropp asked if this was due to added storage units and mergers of companies. Eric replied that both were true. John Umhoefer asked why the number of licensees went down so much in 2009-10. Eric explained that when license fees were increased some entities converted to a Federal license. John Umhoefer also asked if the milk contractor obligations were monthly or annual amounts. Eric said that they are annual amounts. John Manske asked if there is anything still under way to recoup some of the default losses. Jeremy said that the Dept. of Justice is still representing the Department in an attempt to recover default payments.

Dave Daniels asked why the individual security on page 22 doesn't match the chart on page 24. Eric explained that security shown on page 22 is all security held by the Department, while the amounts shown on page 24 are only amounts that are necessary under the law. John Umhoefer asked what the percentages in the chart on page 24 represented. Eric said the percentage next to each category is the category's percent of default exposure. Jeremy cautioned the group not to confuse this raw data with the numbers reported in the actuarial study, which reflects the probability of actual default occurrences. John Manske pointed to the category of exposure by nonparticipating contractors, both milk and vegetable, and clarified that those were milk contractors not required to participate and opt out potato processors. John Umhoefer asked if the Allens and Liberty default payouts were contained in one fiscal year. Eric said the default payouts were accounted for in the year in which they were paid, which happened to be at the beginning (Allens) and the end (Liberty) of FY 15.

Quarterly Statement

Eric said overall revenue was up from last year but down from two years ago. The grain dealer balance continues to grow and grain dealers continue to receive license fee credits. The grain warehouse balance is now positive by over $200,000 and is expected to remain positive for the full fiscal year barring any defaults. The milk balance has been declining by over $100,000 per year due to assessment holidays and license fees credits and was also reduced this past year by the $1 million Liberty default. The deficit in the vegetable contractor program was reduced by over $100,000 to $4.8 million.

Agenda Item IV Actuarial Study

Jeremy McPherson handed out the actuary's final report and explained that it was basically the narrative of the presentation Milliman gave to the Council at its November meeting.

Jeremy reminded everyone that the actuary was asked to do three things

- Predict future defaults and the level of funding needed for long-term sustainability
- Analyze fairness of the fund assessments contributed by each industry group
- Analyze the impact of creating a separate Fund for each industry

Jeremy also pointed out the limitations on distribution of the report, shown on page 7. This limitation language is standard in the actuarial field. Milliman prepared this report for a specific

purpose and a specific audience. One of the reasons they limit distribution of the report is to reduce the risk that people, who weren't a party to the contract, will use Milliman's work for a purpose that was not intended. Jeremy indicated that this limitation is not intended to circumvent Public Records law; but if the report is distributed, it should be in its entirety and Milliman would like to know about it.

Jeremy briefly reviewed the executive summary that starts on Page 8. Milliman concluded that about 90% of the time current funding levels are sufficient to cover expected defaults, to the limits outlined in the statute, over the next 10 years. Increasing the confidence level to 95% would require increasing the Fund by $5 million. Coverage for expected defaults beyond the 95% confidence level would not be cost effective and would require a substantial increase in Fund balances. The average expected annual indemnity payout is $480,000 per year and the Fund is expected to reach the $11 million assessment holiday threshold within 10 years. However, Jeremy pointed out that Milliman's analysis did not consider the impact of emergency rules to continue the assessment holiday for milk contractors or grain dealers.

Milliman found that, overall, members are assessed adequately for their default risk, but milk contractors pay proportionately a little more than the other 3 license groups.

Milliman's report indicates that segregating the Fund would significantly lower coverage for producers. Overall, more than 50% of the time segregated Funds would not be able to provide coverage for producers as outlined in the statute. With the exception of the milk industry, assessments and Fund balances would need to increase dramatically in order to provide the same coverage that a combined fund currently provides. Jeremy referred to the table on Page 9, which shows how much each industry would need to contribute in order to provide the same coverage. John Umhoefer thought the report should have highlighted the milk contractors fund status more clearly.

Nick George asked if the assessments and various balance thresholds would have to be raised if each program is segregated. Jeremy and Eric explained that the first challenge in segregating the funds would be how to distribute the remaining balance and how to address vegetable's negative balance. The next issue would be coverage for producers. To keep coverage for producers the same as is provided now, assessments and fund balances would need to be increased to reflect amounts shown on Page 9 of the report.

Chairman Manske said that additional questions about the report should be directed to Jeremy or Eric and, if necessary, they will contact Milliman. Manske also suggested members consider inviting Jeremy and/or Eric to give a presentation to their organizations. Jeremy agreed, and said staff are more than willing to attend meetings to talk or answer questions about the program.

Policy Recommendations

John Manske said Secretary Brancel wants to hear the Council's ideas for policy changes. Manske also requested that the discussion include the possibility of extending Emergency Rules for milk contractors and grain dealers.

John Manske proposed that the council consider a vote on the extension. Jeremy explained that, procedurally, extending the rule isn't possible. We would have to draft a new emergency rule and have it in place by 5/1/16 which is when the new milk contractor license year begins.

Don Hamm asked what the impact would be without an emergency rule. Jeremy and Eric replied that if the assessment holiday goes away total contributions would increase by about $250,000 for grain dealers and between $400,000 and $800,000 for milk contractors. The wide range for milk contractors takes into account the possibility that some may file individual security to reduce their assessment. Jeremy reminded the group that continuing the holiday results in less money available for producers. Jim Zimmerman said that the assessments should be considered a cost of doing business. John Manske said it was not a perfect answer but may be the best option for now. He believed that contractors who have participated for 5 years in good faith should benefit from the continuity provided by another emergency rule.

Jeremy mentioned that determining eligibility for a holiday requires us to look at both the overall Fund balance and the industry specific Fund balance. For Milk Contractors, their portion of the Fund balance must be at least $6 million on Feb. 28th. John Umhoefer commented that the milk contractor balance is getting close to the $6 million threshold and asked if any new emergency rule could lower it to $5 million. Doug Cropp asked if the emergency rule applied only to the overall Fund balance. Jeremy commented that the last emergency rules only applied to the overall Fund balance and were implemented because of concerns of one industry covering a default for another industry. Jeremy added that the emergency rule was used to maintain the status quo while the actuarial study was being conducted. John Umhoefer again expressed concern that Milk Contractors may not be eligible for the holiday. Discussion ensued about the original intent of the emergency rule and whether or not it should be expanded to continue assessment holidays when a default happens within the same industry.

Chairman Manske asked for a motion to recommend the agency initiate an emergency rule with existing language so it is in place by the new license year. Doug Cropp made the motion and it was seconded by Jim Zimmerman. During discussion, John Umhoefer asked to amend the motion to add language to reduce the milk contractor threshold to $5 million. Don Hamm suggested any motion should come after policy discussions including whether or not to segregate the Fund. Chairman Manske agreed to table the motion.

Chairman Manske asked if the department had any ideas on policy changes. Jeremy said that the Secretary was interested in hearing the Council's ideas but mentioned things that had been discussed at prior meetings, such as shortening Vegetable Contractor payment terms and combining the grain dealer and warehouse programs.

Regarding adjusting Veg. Contractor payment terms, Nick George stated that this would be a major undertaking with potential resistance from both producers and contractors. Jeremy explained that, based on feedback from a meeting with vegetable producers in Stevens Point, there may be some interest but the change may be difficult to make. There was discussion about 30 day payment terms necessary for PACA coverage and the awareness of banks about its potential impact on their lending practices with vegetable processors. There was also discussion about the potential tax implications for producers who choose to defer payment.

Jeremie Pavelski said that he will be talking about this issue with his membership now that the actuarial study has been completed. Nick George said he too had been waiting for the actuarial study. Jeremie stated that many of his members feel that the program did what it was supposed to do in relation to the recent defaults.

Regarding combining the Grain Dealer and Warehouse programs, John Manske said he was going to bring that up with Tom Bressner of WABA who was agreeable to that idea. Jim Zimmerman asked how many licensees had both a Grain Dealer and Grain Warehouse license. Eric confirmed that about 90% of the licensed Grain Warehouses were also Grain Dealers. Nick suggested the grain program would be in a better position combined versus separate. John Manske asked what the threshold would be if we combined the grain funds. Jeremy said that the actuarial study recommended combining the two programs and increasing the limits, similar to the level of Milk Contractors. Jim asked if other efficiencies would emerge from combining grain funds. Jeremy indicated that separate regulations of business practices would still be needed, and there wouldn't be much additional efficiency in how audits are conducted.

Chairman Manske recognized that members weren't ready to commit to a firm decision about combining grain programs but suggested a show of hands of those who were supportive of the idea. Continued discussion circled back to the idea of segregating the Fund. John Umhoefer thought that the focus should first be on whether to segregate the Fund before discussing other changes. His membership wants milk to be segregated from the other programs.

Nick George stated that his membership would like to eliminate the Fund. Jeremie Pavelski stated that he needs more time to determine the position of his membership on this issue. Jim Zimmerman is concerned about making any major changes and feels like we need to wait a year or two. However, he acknowledged that we need to shore up things in light of current events. Jim agreed that it is not dairies job to prop up the Fund, however collectively it requires less money for the Fund versus segregated and additional money needed to segregate the funds will come from farmers in the end. Jim added that corn growers like the existing administrative program but not the indemnity program and soybean growers like both parts of the program as they exist.

Chairman Manske said the majority of his Cooperative Network membership would support a resolution to segregate the fund. However, he acknowledged that some of his members are not in favor of segregating the fund. He said he had talked to Louise Hemstead of the Wisconsin Dairy Products Association said her organization, Organic Valley, doesn't want separate Funds. Don Hamm said he initially supported separation but after seeing the actuarial study, he believes there is better coverage with the Fund intact. He thinks we could make a few tweaks like lowering the assessment rate for milk contractors. Craig Mhyre presented the study to his Board and they want the status quo. He said the program worked the way it's supposed to but thought a few tweaks could fix any issues. Don Hamm asked what the payout maximums would be for each industry if the Fund was segregated. Jeremy stated that the current 60% Fund balance limit for the combined Fund would be maintained for segregated funds. In the case of the Allens default, producers would have been paid around $600,000 instead of the $6.1 million they were paid. Craig asked how much growers lost from the Allens default. Approximately $1.9 million (23%) of their loss was not covered by the Fund.

Chairman Manske asked for a show of hands for those who supported segregating the Fund: Manske, Daniels, Umhoefer. Those opposed to segregating the Fund: Mhyre, Zimmerman, Hamm; Undecided: Cropp, Pavelski, George

Chairman Manske then asked for a show of hands for those who supported combining the Grain Dealer and Warehouse programs: Manske, Hamm, Cropp, Daniels, Zimmerman, George, Pavelski. Craig Mhyre did not vote.

John Manske stated that as chairman, he is trying to get a feel for where members want to go. He requested that Council members speak with their organizations and get a clear direction. John Umhoefer expressed a need that we ask the same questions to all organizations so that we make certain we get consistent responses.

Lastly, Chairman Manske asked for a vote for the motion on the table to support creating another emergency rule in the same form as previously implemented. The motion passed unanimously.

The next Council meeting was scheduled for February 18th at 9:30 am.

Agenda Item V Adjourn

Motion to adjourn the meeting was made by Nick George and seconded by Dave Daniels. Motion unanimously approved at 12:34 pm.

Craig Myhre

Craig Myhre, Secretary

John Manske

John Manske, Chair