MEETING MINUTES

AGRICULTURAL PRODUCER SECURITY COUNCIL

August 9, 2012

Call to order

The Agricultural Producer Security (APS) Council held a meeting on Thursday, August 9, 2012, at the headquarters of the Wisconsin Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, Madison, Wisconsin.

Chairman John Manske called the meeting to order at 9:38 am.

Attendance

Nine council members were present: Craig Myhre, Doug Cropp, Dave Daniels, Louise Hemstead, Nick George, Don Hamm, Duane Maatz, John Manske, and Jim Zimmerman.

One council member was absent: John Umhoefer.

DATCP staff members present were Eric Hanson and Jeremy McPherson. In addition, Sandy Chalmers, Dave Ghilardi, and Jeff Lyon each attended some portion of the meeting.

Members of the public present included Joan Stanstadt and Tom Bressner.

Agenda

Chairman Manske reviewed the agenda for potential changes and the group agreed that the November/December 2012 Council meeting should include on its agenda a review of the default history for each program, a history of the number of licensees for each program, and a review of the Cuff Nutrition Services, LLC default.

Agenda Item I Approve Minutes from December 6, 2011 Meeting

Motion to Approve Minutes from the December 6, 2011 meeting with one minor correction by Jim Zimmerman, seconded by Doug Cropp. Motion was approved unanimously.

Agenda Item II Membership Appointments and Staff Changes

Jeremy McPherson reviewed the current Council membership list. Craig Myhre was reappointed to represent Wisconsin Farmers Union. The terms for John Umhoefer, Wisconsin Cheesemakers Association, Nick George, Midwest Food Processors Association, and Louise Hemstead, Wisconsin Dairy Products Association expire on June 30, 2013.

Kevin LeRoy has taken a position at the Division level and will no longer have responsibilities involving the APS Council. Chairman Manske expressed appreciation for Kevin's involvement with the APS Council.

Dave Ghilardi was introduced as replacing Reid Klopp as legal counsel assigned to the APS program.

Agenda Item III Financial Results, Third Quarter, March 31, 2012

Eric Hanson led a discussion on the Producer Security Fund's quarterly financial results through the 3rd quarter ended March 31, 2012. Eric reminded the group that a three-month statement can have some inherent timing problems that make comparisons from one year to the next somewhat less valuable and therefore proceeded to discuss the statements for the nine months ended March 31, 2012.

Grain dealer assessment revenue was up from about $570,000 to about $595,000 and grain warehouse was down from about $115,000 to about $84,000. These differences were partially due to timing of when assessments were collected. Milk contractor assessment revenues were down considerably from about $394,000 to about $99,000. This decrease was because of the "assessment holiday" for milk contractors that is currently in effect. Eric explained that the assessments collected from milk contractors was greater than zero because only those licensees that have been a part of the program for five years or more are granted the holiday, however more milk contractors have entered the 6th year of participation and are receiving the holiday.

Eric pointed out that revenues from grain dealer license fees went down from $297,000 in the Third Quarter FY 09-10 statement to $165,000 in FY 10-11 and $81,000 in FY 11-12. This was because of license fee credits. There were some licensee fee credits available last year, and greater amounts available this year, because the balance in the grain dealer portion of the fund had grown. While the grain warehouse keeper program continued to show a negative balance of about $187,000, this deficit decreased in Third Quarter FY 2011-12 by $94,000. The excess revenue over expenditures in the warehouse program is projected to continue to some degree in the near future resulting in future reductions in the negative balance.

Agenda Item IV Update on Tier System Project

Eric Hanson reported that DATCP has begun testing the new "Tier System" for prioritizing audit and field review work. DATCP selected two dozen Tier 1 companies and began review of internal control questions with several of them to determine whether they would be good candidates for lesser audit procedures. Through this process it was determined that it will be necessary to implement the Tiering in 2 stages. During stage 1, to be implemented in the license year beginning Sept. 1, 2012, DATCP auditors will be reviewing, testing, and documenting certain internal controls of grain licensees during their scheduled audits. Based on their results the auditor will identify and recommend specific more limited audit procedures for the next audit of that grain operation. Stage 2 will be the implementation of the limited audit procedures during audits performed in the license year beginning September 1, 2013.

DATCP plans to develop similar structures for vegetable and milk contractors the following year. Generally, DATCP will reduce the level of direct inspection of items it examines if licensees have met certain criteria. The specific criteria will not be released to the public, but generally, they include factors such as compliance history, financial strength, inventory management, and record keeping practices. The overall goal is to allow DATCP to focus resources on licensees that pose the greatest risk to producers and the Fund.

Mr. Manske asked for clarification on whether grain warehouses would see any reduced procedures and time savings during the 2012-2013 license year. DATCP explained that those changes would come in the second stage which is expected to begin in the 2013-2014 license year. Mr. Zimmerman asked if there would be any reductions in positions as a result of Tiering system. DATCP indicated that it was too soon to tell but initially any time savings from Tier 1 audits would result in allocating that time to towards working more frequently and closely with Tier 3 and Tier 2 companies.

Agenda Item V Grain Warehouse Temporary Storage Issue Paper

Eric Hanson led the discussion on a paper titled, "Grain Warehouse Temporary Storage Issue Paper." This paper had been prepared by DATCP staff. The goal of this paper was to outline how Wisconsin's current grain warehouse program handles the various types of grain storage structures that are not permanent in nature and some of the problems and concerns DATCP runs into when implementing program requirements for those structures. The paper also discussed how neighboring states and the federal warehouse program handles these storage issues.

DATCP currently has a very general definition of a grain warehouse resulting in licensing of a broad range of structures under an elevator's licensed capacity. These structures vary greatly in their ability to maintain the quality of the grain being stored. Because of the generality of its requirements, DATCP is only able to address inadequacy of storage structures after abnormal deterioration of grain has already occurred. While most elevators use good storage methods, if the trend towards larger corn crops continues, more elevators will store grain in less than ideal storage structures and the potential for losses to depositors will increase significantly.

The paper discusses what types of practices and structures elevators could use to help assure the safe keeping of depositor grain. Many surrounding states and the federal warehouse program have more specific requirements in regards to certain types of temporary or emergency storage including Ag Bags. The paper suggests that we consider being proactive in implementing some type of requirements for temporary and emergency storage.

Council members discussed temporary storage requirements in other states and under the federal program. John Manske inquired about the frequency of temporary storage problems and whether they are identified as a result of audits or complaints. Staff answered that the frequency depends on how good the growing year is, and over the last several years temporary storage issues are occurring more frequently. Staff also said that some issues are identified through routine audits; however, we have also received calls from producers and concerned citizens about large, steaming ground piles of grain.

Some council members said they could see how it may make sense to create some minimum requirements rather than potentially reacting with new requirements after a depositor loss has already occurred. Other members believe that elevators need to learn from their own mistakes and that we must be cautious about over complicating the storage requirements.

DATCP staff explained it is merely introducing this issue to the Council and is not currently proposing policy changes involving storage requirements.

Agenda Item VI Grain Warehouse Keeper Issue Paper

Jeremy McPherson started the discussion by pointing out that the fund balance attributable to the Grain Warehouse portion of the program has improved from the numbers included in the issue paper, which was written in Nov. 2011, and there is (perhaps) less urgency than there was a year ago. John Manske reminded the group that the Council role was advisory to DATCP. The floor was turned over to Doug Cropp, who handed out a written position provided by the Wisconsin Agri-Business Association (WABA). In the opinion of WABA the best alternative to resolving the current deficit in the grain warehouse program is to deregulate grain warehouses in Wisconsin. Alternatively, they do not believe the accounting should be combined with the dealer portion of the program. They also believe that, if the warehouse program continues, it should in part be funded by producers.

John Manske then handed out a written position of Cooperative Network's Farm Supply Committee. They supported a position that blends two policy options outlined in DATCP's Nov. 2011 issue paper. That is, eliminating DATCP's grain warehouse keeper license and replacing it with a requirement that elevators obtain a grain warehouse license from USDA/FSA, and deregulating grain warehousing in Wisconsin for those who qualify for federal licensure, while continuing to license those warehouses that can't qualify for a federal license.

Jeremy McPherson expressed confusion about the recommendations, since state licensed warehouses currently have the option to obtain a federal license in lieu of a state license. However, most warehouses have chosen to continue their state license. John Manske indicated concern that DATCP may increase fees down the road, perhaps under a different administration. Tom Bressner said he has had discussions with several warehouses about this issue. Some have run the costs of both programs and there wasn't much difference, while others just didn't want to change.

Jim Zimmerman indicated that the Corn Growers Association are on record to support deregulation, however the Soybean Growers Association have not committed either way. Craig Myhre indicated that he'd like to see some type of warehouse program continue. Doug Cropp said he didn't believe that combining the dealer and warehouse program was a good option because dealers who have a federal warehouse license don't want to support the state warehouse program. Craig Myhre said the federal program is currently subsidized by the CCC, and questioned what would happen to the cost of a federal license of that subsidy went away.

Dave Daniels said that the finances have improved in the warehouse program and his organization would be supportive of keeping it. Nick George said he would also be supportive.

Don Hamm said that, with the large gap in coverage that still exists, why have the program for some commodities and not for others. Doug Cropp said that coverage under either the state or federal program is minimal, and a maximum of $100,000 per producer

would not go far with current grain prices. Louise questioned the timing of this issue given high grain prices, but would not support combining the dealer and warehouse program. She also said that she would prefer the option that would require a federal license in order to operate in Wisconsin. Louise said she would not favor a one foot in/one foot out approach.

Jeremy McPherson indicated that, given DATCP's experience with a state law that requires compliance with a federal program, administration of such a law is extremely difficult both for industry and for DATCP.

Don Hamm questioned if push to deregulate the warehouse program was about cost. Doug Cropp said cost and oversight, noting the number of audits grain elevators are required to go through. Jeremy McPherson indicated that the number of audits wouldn't go down. We would still audit elevators as part of the grain dealer license. However, we have taken other efforts to reduce the amount of time spent on auditing.

The discussion concluded with Doug Cropp making a motion to recommend adopting policy option #1 contained in DATCP's Nov. 2011 issue paper (i.e. Eliminate DATCP's grain warehouse keeper license and replace it with a requirement that elevators obtain a grain warehouse license from USDA/FSA). The motion was seconded by Jim Zimmerman. John Manske asked for discussion on the motion. Doug Cropp said that the recommendation would need feedback from staff regarding feasibility. Duane Maatz asked if he could have potato chip processors included in the motion, saying the law was preventing expansion opportunities for businesses in Wisconsin. John Manske expressed concern that the Council could violate open meeting requirements, since the issue with regard to potato chips was not included on the agenda. John Manske called the vote, motion passed with one no.

Other Business

The group discussed Duane Maatz's request to have the potato chip processors included in the above motion and agreed to hold a "call-in" meeting on Aug. 15, 2012 to take up the issue.

Next Meeting.

The group agreed that, in addition to the call in meeting on Aug. 15, 2012, DATCP staff should contact the group to schedule a meeting in November or December of 2012.

Motion to adjourn was approved.

John Manske, Chair

John Manske, Chair