

**BOARD OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
MINUTES**

**November 7, 2019**

The Board of Agriculture, Trade and Consumer Protection (Board) met on **November 7, 2019**, in the DATCP Boardroom, 2811 Agriculture Drive, Madison, WI 53718. The meeting was preceded by public notice as required by Wis. Stat. § 19.84.

**Call to Order**

Board Chair Miranda Leis called the meeting to order at 9:04 a.m.

**Members Present**

Miranda Leis, Paul Bauer, Andy Diercks, Patty Edelburg, Kurt Hallstrand, Paul Palmby, Dan Smith, and Carla Washington.

**Minutes**

**Motion**

A motion was made and seconded to approve the September 19, 2019 and October 21, 2019, DATCP Board minutes. Andy Diercks had a change to the September 19, 2019 minutes, he farms in Waushara and Adams Counties, not Washington. Motion was approved with correction.

**Randy Romanski, Interim Secretary**

Interim Secretary Romanski welcomed the Board members and stated that Brad loved his job and this agency. Brad wanted to convey to the Board his appreciation and enthusiasm for the work that you do, and to state his genuine appreciation to the frequent contributors to the Board and members in the audience as well. There are some things life doesn't prepare you for and this is one of them. We want everyone to know that the important work we do at DATCP will continue because of our outstanding staff and the many groups we work with on a regular basis.

**Leopold Conservation Award**

The National Director of the Leopold Conservation Award, Lance Irving, presented the 2019 Leopold Conservation Award to Jeff Lake and the Lake Family Farms for his outstanding achievement in conservation on private working land.

**Sara Meaney, Secretary Designee  
Department of Tourism**

Board Chair Miranda Leis introduced Secretary Designee Meaney from the Department of Tourism (Tourism). There are 19,973 jobs directly impacted by tourism in Wisconsin and

Tourism's working hard to promote Wisconsin as a good place to purchase a vacation home, go to college, start a business, start a career, and be a great place to live. The five goals this year Tourism is working toward is to drive economic impact, elevate the Wisconsin brand, foster positive travel experience for all, engage partners across the state in shared goals and visions, and to ensure organizational success. They need tools, skills and resources to fulfill these goals.

How does tourism work with agriculture? Tourism and DATCP have been working together for a very long time. Tourism exists to tell the stories across the state of agriculture opportunities, by learning from it, eating it, trying it and moving here. Tourism is also working on promoting the keys to success through a digital marketing strategy and ad campaign with Donald Driver. This strategy is teaching Tourism how to best use target ads and social media. They have seen a significant impact from these strategies.

### **Public Appearances**

**Cindy Leitner**, on behalf of the Wisconsin Dairy Alliance, appeared before the Board to oppose ATCP 51. Ms. Leitner stated that livestock siting is still on the agenda for the dairy industry because they want to keep dairy here in Wisconsin. We need to stop working around each other and work together on this rule. We need to talk to each other and come together with solutions. Ms. Leitner encourages the Board to send the rule back and force groups to work together.

**Joe Ruth**, on behalf of the Wisconsin Towns Association, appeared before the Board to speak on livestock siting. Mr. Ruth encourages the Board to reconsider bringing this topic back before the Statement of Scope expires. He would have like to see this move forward, but understands why it didn't. DATCP doesn't have statutory authority for fee caps or to prohibit financial assurances, but in Wis. Stats. 66.0628 political subdivisions can impose fees. The Association doesn't want tax payers to pay higher property taxes because of the lack of fee caps. Mr. Ruth asks the Board to take action to remove those caps and to consider moving the rule forward.

**Kara O'Connor**, on behalf of the Wisconsin Farmers Union, appeared before the Board in support of ATCP 51. Ms. O'Connor stated that it is time to move ACTP 51 forward because there are real problems that need to be addressed, like leaking manure pits and incinerating at farms, this rule will address those issues. Ms. O'Connor supports the rule overall and knows that as farms get larger and larger this rule will become more out of date. Wisconsin Farmers Union cares deeply about livestock siting and asks the Board to bring this rule to a vote, and to vote yes.

### **ATCP 51 – Livestock Siting Update**

Assistant Deputy Secretary Angela James and Division Administrator Sara Walling, from the Division of Agricultural Resource Management, presented an update on Wis. Admin. Code ch. ATCP 51, to the Board. Livestock siting will be an ongoing issue for the Department to consider and the third technical advisory group is working on that process. Ms. Walling stated she is proud of her staff for developing a rule with competing factors of promoting viability and growth in agriculture. The Department staff worked diligently by receiving and reviewing 460 written comments and over 160 verbal comments. There was lots of learning during this process in

engineering and in impacts of setbacks on small farms expanding modestly. Our staff worked with the Dairy Business Association, Agriculture engineers and had countless discussions in the agriculture community throughout the process.

Assistant Deputy Secretary James stated that we have learned a lot and we are charged with balance, which is crucial to the Wisconsin economy and agriculture. The Secretary's Office decided to pull this rule because of its importance, we need to get this right. The review of livestock siting must continue because we are charged to take action by the legislature.

Board member Smith asked what the next step is. Assistant Deputy Secretary James stated that we can't take up ACTP 51 at this meeting, but the Board could set a meeting to take it up. February 4, 2020 is the deadline for the Statement of Scope but practically speaking today was the date to take action due to the complexity of the rule process.

### **ATCP 83 – Dairy Labeling (Hearing Draft)**

Dr. Steve Ingham from the Division of Recreational and Food Safety presented the hearing draft rule for Wis. Admin. Code ch. ATCP 83, to the Board. Dr. Ingham gave a brief overview of the hearing draft rule and requested the Board approve the draft rule.

#### **Motion**

A motion was made by Paul Palmby and seconded by Andy Diercks to approve the hearing draft rule for Wis. Admin. Code ch. ATCP 83. Motion was approved unanimously.

### **ATCP 94 – Petroleum and Other Liquid Fuel Products (Statement of Scope)**

David Woldseth and Alicia Clark, from the Division of Trade and Consumer Protection presented the Statement of Scope of Wis. Admin. Code ch. ATCP 94, to the Board. Mr. Woldseth gave a brief overview of the scope and preliminary public hearing, and requested the Board to approve the Statement of Scope and allow the Department to start writing the draft rule.

#### **Motion**

A motion was made by Paul Palmby and seconded by Kurt Hallstrand to approve the Statement of Scope and to allow the Department to start writing the draft rule of Wis. Admin. Code ch. ATCP 94. Motion was approved unanimously.

### **ATCP 10, 12 – Animal Disease Movement and Animal Markets, Dealers and Truckers (Final Draft)**

Dr. Darlene Konkel, State Veterinary and Division Administrator from the Division of Animal Health presented the final draft rule of Wis. Admin. Code ch. ATCP 10 and 12, to the Board.

Dr. Konkel gave a brief overview of the changes that appear in the final draft rule and requested the Board to approve the final version.

### **Motion**

A motion was made by Andy Diercks and seconded by Paul Palmby to approve the final draft of Wis. Admin. Code ch. ATCP 10 and 12. Motion was approved unanimously.

### **DFRS Cheese Enforcement Update**

Dr. Steve Ingham from the Division of Food and Recreational Safety and Attorney Cheryl Daniels from the Office of the Secretary presented an overview of the DFRS 2018 cheese enforcement case. The case involves 6 million pounds of cheese, two brokers in Minnesota and Wisconsin, three Wisconsin licensed dairy plants, three licensed Wisconsin food warehouses, two Wisconsin milk farms and two trucking firms. Before sharing the facts of the case, we want you to keep in mind that when one deals with large amounts of product, small per pound increases in price add up. Also, when a product has the opportunity to cross from the animal consumption stream to the human consumption stream, in particular from animal food back to human food the price increases are larger and it is an extremely lucrative business if one figures out how to do that.

The key facts in this case are that a dairy plant saw black specs in their cheese and decided not to process it for human consumption. The cheese was then brokered in a sale to a milk farm and was stored in three food warehouses due to the amount of product. The original milk farm then sold some cheese to another milk farm. The second milk farm sold the cheese to a dairy plant to recommission the cheese. Mr. Curran believed the cheese he was hired to recommission came from a milk farm. The customer lists DATCP received from the dairy plant held numerous federal prisons on the lists and DATCP started asking questions which then put 5.8 million pounds of cheese on hold. That cheese did end up getting disposed of in a landfill or fed to milk. Throughout the investigation DATCP issued several CIDs, took depositions and found out that a lot of the business transactions in this case were done verbally with a very bad paper trail. DATCP took the case to DOJ in the summer of 2018. DOJ decided not to prosecute because there was no evidence of a specific crime committed and the sale of adulterated food is only a misdemeanor.

### **Hemp Update**

Sara Walling, Division Administrator of the Division of Agricultural Resource Management presented a Hemp overview to the Board. The 2014 Farm Bill authorized the State Department of Agriculture to create a pilot hemp program. 2017 Act 100 then directed DATCP to write rules to regulate the hemp activities. The Division had 90 days to deliver an emergency rule and to establish a licensing and regulation process. Emergency Rule ATCP 22 allows DATCP to issue licenses and registrations to growers and processors. A license is a one-time process and then the grower only has to register annually. Once a grower is approved for the license, the fees are

then pretty low. Wisconsin doesn't charge as much as other states, but there is a sampling fee for every sample taken.

Growers are required to submit a planning report and a 30 day harvest notice. Within two weeks before harvest DATCP staff goes out to sample the crop. A sample is taken of every type of plant and is taken to the lab for processing. If the crop passes, a fit certificate and invoice are issued. If the crop fails, there is an option for a retest. If the crop fails again, the crop is destroyed. DATCP handles the destruction, unless it is a small crop, the grower can destroy.

There were 5000 acres of planting this year in both field and greenhouse locations. Over 2000 samples were taken and 92% were CBD producing plants.

The 2018 Farm Bill provisions are introduced to align the state statutes and rules. USDA FSA will also be offering crop insurance for the coming growing season.

Moving forward, we plan to see a huge increase in workloads. The Department has requested 2 FTE positions and there will be new rulemaking taking place when the current emergency rule expires in June 2020. The Department will also continue their outreach and grower education, and revise their website to clarify the process.

### **Alice in Dairyland Abigail Martin**

Abigail Martin, the 72<sup>nd</sup> Alice in Dairyland, introduced herself to the Board. Ms. Martin grew up on a family dairy farm and loves talking about and sharing agriculture around the state. She attended UW Madison and worked at Babcock making cheese and ice cream throughout college. So far this year, Ms. Martin has promoted agriculture by participating in 20 speeches, 29 interviews, 111 radio interviews and writing 19 articles. Ms. Martin has reached 1,351,996 people with her message about agriculture and sustainability work on farms.

The Something Special from Wisconsin holiday campaign kicks off today. This campaign supports local farmers and processors around the State. Ms. Martin has many TV and radio interviews booked to promote the campaign and is proud to represent DATCP and Wisconsin agriculture.

### **Secretary's Office Report**

Interim Secretary Randy Romanski requested to change the title of this section to Secretary's Office Report. Board Chair Leis agreed to this change.

We have had a tough week at the Department. Tremendous appreciation for the Governor stopping by to talk to the staff today. Brad has been a friend for 25 years, and he will do his best in the Interim Secretary position to continue to promote agriculture.

Lake Family Conservation Award. The speaker's task force has been meeting for months. This shows our willingness and ability to support the legislature on water quality. Governor Evers has

endorsed our suggestions on water quality to increase support, nutrient planning, watershed protection programs and more.

Tribal Relations. Governor Evers Executive Order No. 50 declared the second Monday in October Indigenous Peoples Day in Wisconsin. Also Bad River Nation is coming to the Department this week to talk about tribes in Wisconsin and how they interact with the Department.

Governor Evers Executive Order No. 51 was in honor of State Representative Joseph Tregoning, who passed away. Representative Tregoning was a State Representative in southwest Wisconsin for 23 years, a former Deputy Secretary at DATCP and an Administrator. He was an advocate for all farmers and a dedicated public servant.

Governor Evers Executive Order No. 52 is relating to the creation of the Governor's Task Force on Climate Change. Governor Evers emphasized that farmers are an integrative part of the solution. There are three farmers on the task force because the Governor wants farmers at the table for this discussion.

### **Board Member Reports**

**Kurt Hallstrand:** He was chasing elk and didn't make the October board meeting, but had a wonderful time off. Kurt sits on the Wisconsin Angus Association Board as the vice president and recently received an e-mail from the president which requested he needed things and asked Kurt to help out. Kurt responded and got a very different reply. It was a scam. He half fell for the e-mail and brought it to the attention of Michelle in Trade and Consumer Protection to bring awareness to how easy these scams are to fall for. Up north it is cold. The corn is off the field, moisture was low, but there is a lot of mud. 2019 is a good year to put behind us with crops and the logging industry.

**Paul Palmby:** Expressed thanks in getting to know Brad and said that Governor Evers words were spot on about Brad's passion for agriculture and that this is a loss for the agriculture community. The crop situation is another of those extraordinary deals. Climate cycles are more dramatic than before which is making it difficult for sustained good planting schedules. It has been a difficult year again on the crop side. Delmonte has restructured in their area and closed some plants. Paul's company picked up one plant, expanding operations in both Wisconsin Cambria east and Cambria west. The company is doing great.

**Carla Washington:** Has been serving on boards for 30 years and the DATCP Board has been the shortest honeymoon period with a steep and fast learning curve. In her work world she deals with a vulnerable population and hears about scams with landlord/tenant issues. Carla has had the chance to talk to TCP about their efforts in the next year and is excited about how they can reach out to Southeast Wisconsin and Milwaukee about these issues.

**Andy Diercks:** This has been a challenging year with too much rain. The potato industry has been challenging around the country this year. They are struggling to get the corn and beans done and there are still a lot of crops in fields. On a happier note, Andy got married in October.

**Paul Bauer:** They are experiencing a lot less farms this year in their co-op. The hurt is deep and they anticipate losing 10% of farms by next spring. The cheese orders are also backing off, prices are high so consumers are backing off too. There is some hope, milk prices are up and trade to Mexico is moving again. On the crop side there is a lack of feed which will be a huge problem going forward. We might see sell outs just because of the lack of feed.

**Dan Smith:** At Cooperative Network they are looking forward to their annual meeting on November 19<sup>th</sup> and 20<sup>th</sup> in Minnesota. Governor Walz will be addressing the group of about 150 directors and staff. They also hosted a dairy huddle on October 16, 2016, in Fennimore at Southwest Tech. They decided to do this huddle due to the amount of misconceptions for the year of clean water and the livestock siting rules. About 60 people attended from credit unions, farm credit groups, agriculture groups and electrical cooperatives. Southwest Tech presented on their workforce development program which 100% of their Ag mechanics class for the last 2 years has been hired before they graduate. Also Brad, Sara and Chris Clayton spoke about the hemp program and ATCP 51, they had 2 bureau chiefs from DNR talk about the year of clean water, and a person from the Department of Workforce Development talk about how you recruit to the rural communities. They would like to do these huddles quarterly to keep up communication and education.

Dan would also like the Board to draft a letter of appreciation to Brad for the public. Brad and the public needs to hear from the Board. The letter will be posted on the DATCP website Board page when completed.

**Patty Edelburg:** Crops are not great this year because farmers all over are still trying to get beans and corn off. Milk prices are up which is great because farmers are starting to see a bit of relief, but production is down all over the state. She has been doing a lot of interviews lately on farmer mental health. The National Farmers Union has a federal grant for train the trainer on talking to farmers to be aware of the signs of mental health.

**Miranda Leis:** The Board will carry on the important work that Brad wants us to do. Farmers need us and we need to be there for them. At Organic Valley there has been lots of restructuring for the last six months and a lot of that work continues. They are taking a different look at things because the organic side is getting difficult to navigate as in what that looks like from supply moving around the country. The feed situation hasn't been talked about much, but in the next few months people will see how bad that situation is. There might be feed out there that is not high quality and won't sustain milk production. There is good quality hay in the west, you just have to find it and it is expensive to bring to your operation. In their product pool, it has been an epically bad year. With organic you have fewer options for fungal and pest control. As for crops it has been a tough year. Corn is still coming off but their beans are off. It has been tough to keep the farm going. How do we adapt and change to the effects of climate change? What does that mean for our food production and security in the future?

### **Open Records Training**

Chief Legal Counsel Jane Landretti trained the Board on public records law basics.

### **Future Schedule and Agenda Items**

The 2020, 2021 and 2022 Board meeting schedule was discussed along with possible tours to a hemp field and a grain inspection. A joint meeting with DNR was discussed for either September or October 2020.

Dan Smith asked where we stand with ATCP 51. Board Chair Miranda Leis stated nothing is scheduled at this point. Paul Palmby asked if we can bring a Statement of Scope back and Andy Diercks stated he would like to have a discussion about rescoping 51.

### **Adjournment**

#### **Motion**

A motion to adjourn was made by Miranda Leis and seconded by Paul Palmby. Motion approved unanimously.

The Board adjourned at approximately 2:55 p.m.

All reports and any associated documents presented during a Board meeting can be accessed by contacting the Office the Secretary, Legal Counsel at (608) 224-5029.