

MEETING MINUTES
AGRICULTURAL PRODUCER SECURITY COUNCIL

December 9, 2020

The Agricultural Producer Security Council held a virtual meeting on Wednesday, December 9, 2020.

Attendance

All ten council members were in attendance: Nick Brekken, Jason Culotta, Dave Daniels, Don Hamm, Howard Hartmann, Greg Pollesch, Craig Myhre, Steve Tzrebiatowski, John Umhoefer and Jennifer Wickman.

DATCP staff members attending included Eric Hanson, Jeremy McPherson, Lori Ronnerud, and David Woldseth. Secretary Randy Romanski provided opening remarks at the start the meeting. Tom Bressner from the Wisconsin Agri-Business Association was also in attendance.

Agenda Item I Call to Order

Chair Dave Daniels called the meeting to order at 1:32 p.m. He asked if there were any questions or comments. Jason Culotta said members of his organization were curious regarding the COVID-19 Vaccine realizing that care providers, nursing homes and others would be first up but wanted to make sure that Food Preparers and Producers need to be “up” on the list. John Umhoefer stated that cheese prices have gone up and down this year and reactions from COVID are causing higher inventories. Dave Daniels said there is no stability for now and probably for quite a while. All members will be in touch with DATCP if needed.

Agenda Item II Introductions

Recognizing that new members have been appointed to the Council, introductions were made.

DATCP Secretary Romanski addressed the Council and welcomed the new members.

Agenda Item III Election of Officers

Dave Daniels transferred control of the meeting to Jeremy McPherson who opened nominations for the position of APS Council Chair. Greg Pollesch nominated Dave Daniels. There were no other nominations. Jeremy McPherson requested a motion to close the nominations and cast a unanimous ballot electing Dave Daniels as Chair. Jason Culotta so moved, John Umhoefer seconded, and the motion passed unanimously.

Dave Daniels resumed control of the meeting and opened nominations for the position of Vice-Chair. Jason Culotta nominated John Umhoefer. There were no other nominations. Dave Daniels requested a motion to close nominations and cast a unanimous ballot electing John Umhoefer as Vice-Chair. Craig Myhre so moved, Steve Tzrebiatowski seconded, and the motion passed unanimously.

Dave Daniels opened nominations for the position of Secretary. John Umhoefer nominated Don Hamm. There were no other nominations. Dave Daniels requested a motion to close the nominations and cast a unanimous ballot electing Don Hamm as Secretary. Craig Myhre so moved, Howard Hartmann seconded, and the motion passed unanimously.

Agenda Item IV Approve Minutes from November 18, 2019 meeting

Chair Dave Daniels asked if there were any comments or corrections to the minutes from the November 18, 2019, meeting. Greg Pollesch moved to approve the minutes, as submitted. John Umhoefer seconded the motion. The motion was passed unanimously.

Agenda Item V Agriculture Producer Security Overview

Jeremy McPherson provided an overview of the Agricultural Producer Security Program, recognizing that there have been six new members appointed to the Council over the last two years.

The mission of the program is to provide assurance (but not a guarantee) that producers will be paid for milk, grain, and vegetables grown for processing, and that grain held in storage will be safeguarded. Regulatory oversight is provided for in Wis. Stats. Ch. 126 and Admin. Code ATCP 99, 100, and 101 to accomplish this mission. At the last meeting, a presentation was given that focused on the program history and recent statutory and administrative code changes. Jeremy encouraged new members to review the minutes from the last meeting, if they hadn't done so already.

The statutory provisions contained in Wis. Stats. § 15.137(1) establish the Council and identify its membership, nominating requirements, and term length. Likewise, statutory provisions contained in Wis. Stats. § 126.90 establish the role of the Council, which is to advise the Department on the administration and enforcement of the program. The Council must meet at least once a year, but more often if necessary, and the Department must consult with the council under certain circumstances, such as adjusting fees or Fund assessments.

As a practical matter, the Council makes recommendations on all major policy initiatives affecting the program. The Secretary, the DATCP Board, the Governor's Office, and the Legislature all take the recommendations of this Council very seriously. Jeremy asked if there were any questions and Dave Daniels said members should look at last year's meeting minutes because it gives a good explanation of the program history. Greg Pollesch asked how the money in the Fund was safeguarded, particularly in light of the current State budget projections. Jeremy stated that the program is established as a Segregated Fund in the budget so, by law, it can only be used for the stated purpose. While the law could be changed, the Council would be made aware if that were to happen. Jeremy also assured the group that, in the almost 20 years since the Fund has existed, that has never happened.

Agenda Item VI Agriculture Producer Security Fund – Annual Report

Eric reviewed the Statement of Revenues, Expenses, and Cash Balances, specifically noting overall declines in revenues, overall increases in expenditures, and the overall growth of the Fund for Fiscal Year 2020. Eric then discussed individual license program balances, noting and explaining the year to year variances in program revenues and expenses. Eric also reviewed the notes to the annual report highlighting changes that resulted from recent legislation and emergency/permanent rulemaking.

Craig Myhre asked how two local co-ops that merge effects the amount of fees collected by the department. Eric explained that, if it was two larger co-ops, fees would decrease because there are maximum license fee thresholds for both the grain dealer and grain warehouse keeper licenses. A merger of 2 smaller coops would have very little effect. Jeremy added that how the merger is structured can also have an effect on the amount of license fees and assessments that are paid by the surviving entity. For example, if the surviving legal entity was an existing licensee that participated in the Fund, they would get credit for past participation. However, if the merger resulted in a newly formed legal entity, they would start with year one assessment rates and lose any license fee credits either entity may have been receiving.

Greg Pollesch asked about the reasonableness of the vegetable contractor balance not being replenished for a projected 20 years after the 2013 default payout to Allens Canning producers. Jeremy explained that the statute requires us to modify assessment rates sufficient to rebuild the vegetable portion of the Fund to reach the

minimum balance within a reasonable amount of time. The challenge is determining what is reasonable under the circumstances. Out of 33 licensed Vegetable Contractors, only 23 contribute to the Fund. In raising assessment rates, we had to strike a balance between rebuilding the Fund and not overburdening the remaining contributing vegetable contractors.

Agenda Item VII Default Proceedings

Eric reported that since we last met, Asbury Grain Service, LLC, a licensed grain dealer and grain warehouse keeper, defaulted on producer payments and on storage obligations. The Recovery Proceeding for the grain dealer default resulted in payments to 23 farmers totaling over \$250,000, which was paid from an Irrevocable Letter of Credit Asbury had on file with the department. The Recovery Proceeding for the grain warehouse keeper default resulted in payments to 46 farmers totaling over \$65,000 which was paid from the Agricultural Producer Security Fund.

Eric also reported that the department recovered almost \$500,000 of the \$1,012,790 in payments to milk producers from the Liberty Milk Marketing Cooperative receivership.

John Umhoefer asked how the receivership found \$500,000. Jeremy explained that the receiver was able to claw back improper or preferential payments made by Liberty Milk and that they were able to collect additional receivables from milk sales. The Department of Justice represented DATCP in the receivership and helped us secure the payment to reimburse the Fund. Jeremy added that the department always seeks reimbursement anytime default payments are made from the Fund, and recent law changes have put DATCP in a better position to do so. John Umhoefer suggested that information be added to the default payment section of the Annual Report that identifies recoveries that have gone back into the Fund.

Jeremy McPherson stated that the number of default proceedings have increased recently, particularly by relatively small contractors. He said that although most of the payouts have been relatively small, it's a trend that we are watching closely. Dave Daniels asked if the new grain software is helping to monitor defaults. Eric said that the new software is used by 16 other states and the USDA, and it has procedures within it that may be useful helping identify when a grain operation is having issues. Craig Myhre noted that there are fewer Grain Dealer licensees, meaning there are less contributors to the Fund to help build it back up after defaults. Eric said that although the number of licensees in the grain industry has declined, the storage capacity and number of bushels sold had remained relatively constant over the last five years. Howard Hartmann asked about the overall state of the industry and if there are issues about which we should be concerned. Eric said that he personally reviews all licensee financials that are submitted and 90 to 95 percent of them are solid and are no cause for concern. For the other 5 to 10 percent, we perform more frequent audits, expand our audit procedures, and/or request additional reporting.

Jeremy reported that DATCP has completed a conversion of all Producer Security licenses to CRM. With this conversion, all of our licensees with now have the option to renew and pay license fees and assessments online. He recommended that Council members let their members know about this changes and that they should call us if they have any questions or problems.

Dave Daniels commented that the Council must meet at least once per year. Nothing is scheduled in the future, but everyone should anticipate an annual meeting next year around this time.

Agenda Item VIII Adjourn

Craig Myhre moved to adjourn the meeting at 3:20 p.m. Greg Pollesch seconded the motion. The motion was unanimously approved.

John Umhoefer, Secretary

Dave Daniels, Chair