

MEETING MINUTES

AGRICULTURAL PRODUCER SECURITY COUNCIL

December 10, 2024

The Agricultural Producer Security Council held a meeting on Tuesday, December 10, 2024 in the Board Room at 2811 Agriculture Drive, Madison.

Attendance

Nine Council members were in attendance: Jason Culotta, Dave Daniels, Howard Hartmann, Jerry Lippert, Randy Fleishauer, Tina Hinchley, Steve Tzrebiatowski, John Umhoefer and Jennifer Wickman.

DATCP staff members attending included Jeremy McPherson, Sally Sutherland, David Woldseth, Michelle Reinen and Paul LaZotte. Secretary Randy Romanski attended at the beginning of the meeting.

Agenda Item I Call to Order

Chair Dave Daniels called the meeting to order at 10:33 a.m.

Agenda Item II Remarks from Secretary Romanski

Secretary Randy Romanski addressed the Council. Secretary Romanski thanked everyone for their service on this important Council, recognized staff, and emphasized the Department's goal of being a resource to industry.

Secretary Romanski discussed the default of a large Iowa poultry processor and its impact on Wisconsin businesses, particularly growers. He said that most growers did not own the birds. Rather, the birds were owned, and feed was provided by, the processor. Secretary Romanski noted that poultry and livestock are not covered under Wisconsin's Ag. Producer Security Program, and DATCP has been encouraging growers to seek legal counsel. Several Council members asked about DATCP's oversight of the poultry industry and whether DATCP should have more regulatory authority, particularly as it relates to contract terms or security protections. Secretary Romanski responded by saying that primary oversight relates to animal health and feed. He added that the industry should think about how much they want DATCP involved and should use us as a resource if any legislative proposals are being developed. Secretary Romanski also encouraged Council members to stay engaged in discussions on this issue.

Secretary Romanski mentioned that the latest issue of *Growing Wisconsin Magazine* has been published, and its theme is "Celebrating the Year of the Worker." Secretary Romanski also highlighted the Department's efforts to encourage people to consider careers in the agriculture industry.

Finally, Secretary Romanski updated the Council on the outbreak of H5N1 in dairy cows. Secretary Romanski discussed the number of positive cases nation-wide, specifically mentioning California, Texas, and Kansas. He also said there was an unusual case where a pig was infected, which was a first. Secretary Romanski then noted that thousands of tests have been conducted in Wisconsin without a positive result, including required testing prior to moving animals to the State Fair and World Dairy Expo.

Agenda Item IV Election of Officers

Dave Daniels transferred control of the meeting to Jeremy McPherson who opened nominations for the position of APS Council Chair. Jason Culotta nominated Dave Daniels, and Steve Tzrebiatowski seconded the nomination. There were no other nominations. Jeremy McPherson requested a motion to close the nominations and cast a unanimous ballot electing Dave Daniels as Chair. Jerry Lippert so moved, Randy Fleishauer 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 Don Hamm, and Jerry Lippert seconded the nomination. There were no other nominations. Dave Daniels requested a motion to close nominations and cast a unanimous ballot electing Don Hamm as Vice-Chair. Jerry Lippert so moved, Jennifer Wickman seconded, and the motion passed unanimously.

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

Agenda Item V Approve Minutes from December 6, 2023 meeting

Chair Dave Daniels asked if there were any comments or corrections to the minutes from the December 6, 2023, meeting. Howard Hartmann moved to approve the minutes as drafted. Jennifer Wickman seconded the motion. The motion was passed unanimously.

Agenda Item VI Agricultural Producer Security Fund – Annual Report

Sally Sutherland reviewed the Agricultural Producer Security Fund Annual Report, starting with the Statement of Revenues, Expenses, and Cash Balances. She highlighted the overall increase in revenue in FY24, specifically interest revenue. Sally pointed out the fluctuation in salary and fringe expenses over the last three years. She also noted that there was a default payout this fiscal year (Hastings Creamery) and a small recovery from a previous default (Allens Canning). Despite the default, the Fund balance still increased \$360,000, acknowledging that the \$730,000 in interest revenue made that possible.

Sally then Reviewed the individual subaccounts on pages 4 through 7 of the report. Sally noted that grain dealer revenue increased as a result of deferred payment assessment collections (which grain dealers can pass on to producers) and interest revenue allocated to the grain dealer portion of the Fund (\$370,000). She also highlighted that revenue from license fees and assessments is minimal because of built-in fee reductions that are triggered when the Fund balance is high. The grain warehouse portion of the Fund remains strong, with an ending cash balance of \$480,000. Sally noted that grain warehouse keepers will be eligible for an assessment holiday when their cash balance hits \$500,000, which could be as soon as next year. The milk contractor cash balance dropped by just over \$700,000 this year due to the Hastings default payout, but overall revenue and expenses are stable. Sally also noted that a portion of the Hastings default was not paid out as of the end of the fiscal year, due to objections filed by three producers. Those objections were resolved in July, and the remaining \$340,000 will be reflected in FY25. Sally reported that Vegetable contractors continue to make progress recovering from the Allens default.

Sally noted that the amount of individual security held by the Department is \$145 million, which is down by approximately \$75 million. She indicated, however, that higher milk prices this year will likely mean that more security will be collected next fiscal year. Sally reported that the number of licensed grain dealers and warehouse keepers is up slightly this year. Although grain purchases were down slightly, total grain storage capacity is still quite high compared to the last 10 years.

Sally concluded her report stating that the overall program remains healthy and stable. Despite the large default this year, the Fund is still well ahead of actuarial predictions that defaults would average about \$400,000 per year over a 10 year period. The actual default payouts have averaged just \$170,000 per year over the last 10 years. That average doesn't take into account the success the program has had in recovering over \$1,000,000 from prior payouts.

Dave Daniels asked about the Salary and Fringe expense fluctuations. Jeremy said that there was a general wage adjustment and one extra pay period in the fiscal year. Vacancies the program has experienced have also had an impact.

John Umhoefer asked about the number of employees that are paid from the Fund. Staff referenced the chart on page 9 of the report, which shows the allocation of the 11.7 positions that are dedicated to the program's administration.

John Umhoefer also asked how much of the Hastings default will be accounted for in the next fiscal year. Sally responded that just over \$300,000 was paid out in fiscal year 2025.

Tina Hinchley asked about the nonparticipating potato licensing fee that appears on page 7 of the report. Jeremy said that a statute changed enacted in the late 2000's allowed certain potato buyers to opt out of participation in the Fund. However, those potato buyers are still required to be licensed and pay a licensing fee, which is capped at \$2,000.

Jason Culotta noted that fewer processing vegetables were planted this year, and inquired why the Vegetable Contractor assessment surcharge went up. Staff indicated that the collection of assessments is based on purchases reported on license applications from the previous growing year, so there is a one year lag in collections. As a result, the surcharge should be less next fiscal year.

Dave Daniels asked about why vegetable contractors are earning interest when their fund balance is negative. Staff indicated that administrative revenue (license fees) and expenses are tracked separately from assessment revenue and default payouts. On the administrative side, the vegetable program has a positive balance. The negative overall balance in the Vegetable Contractor portion of the Fund is due to the Allens default payout.

Agenda Item VII Agriculture Producer Security Program Update

Jeremy McPherson provided a general update on Agricultural Producer Security program. Jeremy reported that the program once again experienced turnover, particularly in the grain dealer and warehouse keeper work units. He said that a new grain warehouse keeper lead worker was recently hired, but other positions are still vacant and working through the recruitment process. Jeremy noted that these staffing shortages have had an impact on the number of grain warehouse and dealer audits we've been able to conduct. As a result, we've been prioritizing grain warehouse audits over grain dealer audits.

Jeremy gave an update on the Hastings default and recovery proceeding that had been initially reported at last year's Council meeting. Jeremy reminded the group that this had been a challenging default, because Hastings provided very few records and appeared to miscalculate some payments to producers before it stopped paying altogether. Jeremy said that auditors had to reconstruct milk payroll records based on milk house receipts that DATCP obtained from individual producers. Despite these challenges, DATCP had still hoped that the proceeding would be concluded and payments would be issued to producers before January 1, 2024. However, Hastings filed an objection, and because the objection had the potential of impacting payments to all producers, DATCP could not issue any payments. As the administrative hearing process developed, Hastings failed to provide any meaningful records to contradict DATCP's findings. Hastings ultimately withdrew its objection in April 2024, and the administrative proceeding was then concluded. In addition to the objection filed by Hastings, three producers also filed objections. Because those objections did not affect payments to other producers, DATCP proceeded to issue payments to all nonobjecting producers in May 2024. The remaining objections were subsequently resolved and payments were issued to the objecting producers in July 2024.

John Umhoefer asked if there was a limit on how long producers can continue to deliver milk after a default and still get paid by the Fund. Jeremy said that the statute requires DATCP to disallow claims if the producer continues to deliver to the defaulting contractor more than 10 days after first learning of the default, unless the producer has a contractual obligation to do so. In this case, the producers had contractual obligations

that required them to continue to deliver their milk. John asked if we know how many producers had written contracts. Staff responded that all the producers filing claims had written contracts.

Jerry Lippert asked how often milk contractors are required to provide financial statements. Staff responded that there are several sections of the law that address filing financial statements. First, many milk contractors are required to file CPA audited or reviewed financial statements annually. Second, Milk contractors that are not required to participate in the Fund, and elect to be licensed based on the strength of their financial statement, are required to file quarterly financial statements. Lastly, the Department has the authority to, at any time, request interim financial statements.

Other Business

Jason Culotta announced that he has accepted a new position and this would be his last Council meeting.

The Council agreed to schedule their next meeting for 10:30 a.m. on December 9, 2025.

Agenda Item VIII Adjourn

Jason Culotta moved to adjourn the meeting at 12:14 p.m. Steve Tzrebiatowski seconded the motion. The motion was passed unanimously.

John Umhoefer, Secretary

Dave Daniels, Chair