MEETING NOTES

AGRICULTURAL PRODUCER SECURITY COUNCIL

December 9, 2021

Attendance

Eight council members were in attendance: Jason Culotta, Dave Daniels, Don Hamm, Howard Hartmann, Greg Pollesch, Tina Hinchley, Jennifer Wickman and John Umhoefer.

DATCP staff members attending included Eric Hanson, Jeremy McPherson, Lori Ronnerud, Paul LaZotte, and David Woldseth.

Agenda Item I Call to Order

Chair Dave Daniels called the meeting to order at 1:33 p.m.

Agenda Item II Introductions

Introductions were made.

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. Don Hamm 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, Tina Hinchley 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. There were no other nominations. Dave Daniels requested a motion to close nominations and cast a unanimous ballot electing Don Hamm as Vice-Chair. Greg Pollesch so moved, Howard Hartmann seconded, and the motion passed unanimously.

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

Agenda Item IV Approve Minutes from December 9, 2020 meeting

Chair Dave Daniels asked if there were any comments or corrections to the minutes from the December 9, 2020, meeting. Jason Culotta moved to approve the minutes, as submitted. Jennifer Wickman seconded the motion. The motion was passed unanimously.

Agenda Item V Agriculture Producer Security Fund Annual Report

Eric Hanson reviewed the Agricultural Producer Security Trust Fund Annual Report, starting with the Statement of Revenues, Expenses, and Cash Balances. Eric specifically noted an overall decline in revenues largely due to fee reductions; an overall decrease in expenditures due to default recoveries; and the overall growth of the Fund for Fiscal Year 2021. 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 the new table at the end that reflects recoveries of default payments made from the Fund.

John Umhoefer commented that the department has done a good job of obtaining recoveries of default payments. Jeremy noted that attempts are made to seek reimbursement anytime default payments are made from the Fund, adding that recent statute changes have put DATCP in a better position to do so. The Department of Justice has represented DATCP in several of our recoveries and helped us secure some reimbursements.

Greg Pollesch noted that the number of grain dealer and grain warehouse keeper licenses is declining and ask about how that effects revenues. Eric explained that it all depends on the reason fewer licenses were issued. In some cases it could result in higher revenues. For example, if two existing licensees merge and form a new single licensed entity, the new entity may not be entitled to license fee credits and may pay higher assessments depending on how the merger is structured.

Jennifer Wickman asked for an explanation of how a weaker financial statement causes a higher assessment fee. Jeremy explained that assessment rates are calculated based on complex formulas in the statute that take into account a licensee’s current ratio and debt to equity ratio. Companies with worse ratios have higher assessment rates and contribute more to the Fund than those with better ratios.

John Umhoefer inquired if the $331,000 in milk contractor license fee credits identified in Note 5 was just for the current fiscal year and whether we expected those credits to continue. Eric responded that it was just for the current license year, and that the credits would continue for as long as the Milk Contractor Fund balance remained above $4 million.

Dave Daniels made note that assessments relating to milk contractor deferred payments increased this year significantly. He also asked if the individual security amounts identified in Note 6 fluctuates from year to year or stays steady. Eric replied that it depends on multiple factors. For example, security generally increases during times when commodity prices are rising. However, individual financial ratios and exposure are also factors. Dave then asked who assess the security held by DATCP. Eric responded that our lead workers monitor and evaluate individual security amounts regularly. Any increases or releases of security are reviewed and approved by managers. Greg Pollesch asked about seeing security schedules for prior years. Eric mentioned that all prior Annual Reports are available on our website.

Jason Culotta asked why the vegetable contractor assessment revenues decreased in 2020. Eric replied that financial ratios, years of participation in the Fund, and purchase amounts are all factors in determining assessments, noting that total vegetable contractor obligations reported on 2020 license applications were lower than they had been in several years.

Greg Pollesch asked whether steps have been taken to replenish the negative $3.57 million vegetable contractor balance as a result of the 2013 default payout to Allens Canning producers. Jeremy said that emergency rules and permanent Admin Code changes were implemented to increase assessments for vegetable contractors, as required by statute, to rebuild that portion of the Fund back to its statutory minimum of $800,000. Jeremy explained that the statute specifically states that assessment rates must be adjusted so that they are adequate to reach minimum Fund balance thresholds "within a reasonable amount of time." The statute does not, however, define a reasonable amount of time. When determining how much to raise assessments, we had to strike a balance between rebuilding the Fund with not overburdening the remaining contributing vegetable contractors.

Jennifer Wickman asked Jeremy to explain how the Fund was protected from legislative raids. Jeremy said that, in governmental accounting terms, the program's finances are accounted for in a "segregated fund." That means that, in accordance with state statute, revenues from this program can only be used for the specific purpose for which they were collected. That is, paying for defaults and administrative expenses of the program. Jeremy added that, while it is always possible that a law could be passed to allow program funds to be spent elsewhere, the amount of money in the Fund is relatively small when compared to the entire state budget. Jeremy also said that an additional safeguard is that the law requires the department to inform the Council of Fund balances and payments, adding that if there was an attempt to use revenues from the program for other purposes, we would have an obligation to notify the Council.

Agenda Item VI Default Proceedings

Jeremy reported that since we last met, Pipeline Foods, LLC, a large multi-state grain dealer headquartered in Minnesota filed for bankruptcy. There were three Wisconsin producers who sold grain to Pipeline and were owed money. Only one of those producers had a valid claim that was covered by the Fund. One of the two other producers filed a default claim, but it was denied because the transaction occurred entirely outside the state. The third producer did not file a claim. Jennifer Wickman asked whether the one allowed producer claim against Pipeline was paid in full. Jeremy said no and explained that, with the exception of certain grain warehouse depositors, producer claims paid from the Fund are not covered at 100 percent. Rather, producer claims against grain dealers, milk contractors and vegetable contractors that are paid from the Fund are done so on a sliding scale that ranges from 75% to 90%, depending on the amount of loss and the specific type of contractor. Grain warehouse depositor defaults that are paid from the Fund are covered for 100% of their loss up to a maximum of $100,000 per depositor. If there is security on file, however, producers in all four industry segments may receive up to 100% of their loss.

Jeremy McPherson also reported that St. Nazianz Milling, a small feed mill licensed as both a grain warehouse keeper and a grain dealer located in east-central Wisconsin, defaulted on its storage obligations to depositors. Jeremy said that 15 claims were received and all were approved totaling about $123,000. However, nine producers owed St. Nazianz Milling money so their claims were offset by amounts owed. In the end, a total of $88,500 was paid from the Fund. There was a small amount of grain left in the facility, which was sold and the proceeds used to reimburse the Fund.

Jeremy noted that both of these defaults will appear on the Annual Fund report next year because they were paid out in the 2022 fiscal year.

Agenda Item VII Adjourn

Greg Pollesch moved to adjourn the meeting at 2:26 p.m. Howard Hartmann seconded the motion. The motion was unanimously approved.