

# State of Michigan Commission of Agriculture Meeting Minutes

**Milton Township Hall Keewadin, Michigan and Park Place Hotel Traverse City, Michigan  
July 10 & 11, 1997**

## **PRESENT:**

Norman R. Veliquette, Chairperson  
Douglas E. Darling, Vice Chairperson  
Jordan B. Tatter, Secretary  
Deanna Stamp  
Shirley A. Skogman  
Director Dan Wyant  
Ron Zellar, Assistant Attorney General  
Michigan Department of Agriculture Staff

## **PUBLIC APPEARANCES:**

Mike Fredericks, Aide to Senator George McManus  
Jim Jensen, CherrCo., Inc.  
Ron Nelson, Michigan Farm Bureau  
Arnold Rich, Senate Fiscal Agency  
Jim Byrum, President, Michigan Agri-Business Association  
Larry Olsen, MSU, Agricultural Experiment Station and Extension Service  
Jim Bardenhagen, Leelanau County Extension Director  
Terry Morrison, Executive Director, Michigan Food Processors Association

## **CALL TO ORDER AND ROLL CALL**

Chairperson Veliquette called the meeting to order at 4:05 p.m., Thursday, July 10, 1997, at the Milton Township Hall, Keewadin, Michigan. Chairperson Veliquette called the roll and all Commissioners were present.

## **APPROVAL OF AGENDA**

Commissioner Skogman moved to approve the agenda as presented with the following two changes:

Item 7. Motion to approve Employee Excellence Awards as presented.

Item 25. Receive an update on Rule Promulgation on Grading Standards for Dry Beans.

Seconded. Motion carried unanimously.

## **APPROVAL OF MINUTES**

Commissioner Tatter moved that the minutes of the June 10-11, 1997 meeting be approved. Seconded. Motion carried unanimously.

## **NEXT MEETING**

The next meeting of the Michigan Commission of Agriculture will be held in Escanaba,

Michigan, August 13-15, 1997. David Charney, Commission Liaison, outlined the tentative agenda and tours.

## **APPROVAL OF COMMISSIONERS' PER DIEM AND TRAVEL**

Commissioner Tatter moved to approve Commissioners' travel to Lansing to attend the July 24, 1997 Michigan Department of Agriculture Picnic and Employee Excellence Award Ceremony. Seconded. Motion carried unanimously.

## **APPROVAL OF DIRECTOR'S OUT-OF-STATE TRAVEL**

Commissioner Skogman moved to approve Director Wyant's June 25, 1997 travel to attend the Regional Beef Alliance Meeting in Marysville, Ohio. Seconded. Motion carried unanimously.

## **COMMISSION RESOLUTIONS**

Commissioner Tatter moved to approve a resolution honoring Jann Baugh, Assistant Attorney General and counsel to the Commission, upon the occasion of her retirement. Seconded. Motion carried unanimously.

Commissioner Darling moved to approve MDA Employee Excellence Awards for Barry Menser, Pesticide and Plant Pest Management Division, and Fairs and Racing Unit Team Members Marilyn Thelen, Jon Hartig, Bill Woodman and Dianne Emery of the Finance and Technology Division. Seconded. Motion carried unanimously.

## **COMMISSIONERS' COMMENTS**

Commissioner Stamp reported that crops in the Thumb area are progressing on a fairly normal schedule.

Commissioner Darling stated that crops in his area are behind schedule from normal years. Commissioner Darling and Dale Sherwin of MDA represented Michigan agriculture by appearing before the Commodity Futures Trade Commission (CFTC) in Washington, D.C. on June 12, 1997. They testified before the CFTC concerning the Chicago Board of Trades' proposed changes on points of delivery and price discovery.

Prior to the hearing, Commissioner Darling and Mr. Sherwin met with Congressman Dingell's staff to discuss the Chicago Board of Trade's proposal. Commissioner Darling referred to a letter received from Congressman Dingell stating that the House Commerce Committee is expected to begin consideration of legislation reauthorizing the CFTC after it has been reported from the House Agricultural Committee. The Chicago Board of Trade has stated that if the Committee does not approve the proposal, they would seek legal action. There is much opposition by agricultural groups and farm organizations to the Chicago Board of Trade's proposal.

Commissioner Darling also stated that a major area of agricultural concern is amendments to PA 591, Land Division Act.

Commissioner Darling reported that Four Star Greenhouses in Monroe County has received

township approval for a \$624,000 tax abatement for their greenhouse expansion.

Commissioner Tatter commented that warmer temperatures resulted in crops growing at a more normal pace. However, Southwest Michigan tart cherries are less than one-half of a normal crop and sweet cherries are almost a complete failure due to the April frost/freeze. Hail and wind damaged all crops, shade trees, standing timber, as well as many structures throughout mid-Berrien County and southern Cass County. Extensive hail damaged apples in the Fruit Ridge area of Kent County.

Commissioner Tatter attended the annual meeting of the Michigan Food Processors Association, the Berrien County MSU Alumni Association Summer Outing, the opening day of Agriculture Expo at MSU, the 42nd Annual Fruit Guesstimate sponsored by the Michigan Frozen Food Packers Association, the 60th Anniversary of the Michigan United Conservation Clubs, and an explanatory meeting of the Red Tart Cherry Industry Federal Marketing Order. He also participated in a Sarett Nature Center committee studying the development rights purchase of agricultural and open spaces land in the lower Paw Paw River Valley of Berrien County.

Commissioner Skogman reported that it has been a very bad year for potatoes due to extensive rain, extreme heat and humidity, even a predicted frost. She expressed her concern with USDA's diversion procedures. She appreciated the fact that MDA helped with minimal mileage and travel charges. They were able to divert potatoes to an area food bank.

Commissioner Skogman attended a meeting in Menominee to discuss deer crop damage in the Upper Peninsula. She believes that crop damage permits will be granted. She also expressed concern at the negative publicity received over Sawyer Lumber Company's purchase of equipment from Canada.

Commissioner Veliquette reported that the Michigan Agricultural Statistics Service postponed their forecast of the cherry crop due to the slow start this spring. The Marketing Board used the industry's estimated figures and had those figures actually been correct, the official diversion figure would have been 44 percent. When final figures were announced the crop was smaller than the industry estimate; therefore, the diversion figure was only 34 percent.

Commissioner Veliquette attended grower meetings at which Marketing Board and Extension staff were available to explain the 34 percent diversion figure. He explained that diverted cherries can be exported, left in the orchard, or stored. He stated that growers will be surprised if there is as much as 10 percent actually set aside. The large carryover from previous years is a problem.

## **DIRECTOR'S REPORT**

Director Wyant introduced and welcomed Mr. Ron Zellar, Assistant Attorney General and counsel to the Commission and department.

He also updated the Commission on the Michigan Food Safety Awareness Campaign. Its purpose is to provide information to consumers on how to prevent illness and disease from improper handling/cooking of food. Ninety-seven percent of all food-borne illness is caused by improper food handling by consumers. This campaign is a partnership between Senator

Abraham, Governor Engler, MDA and the state's food and agriculture industry. There are over 40 organizations that are part of this Food Safety Alliance. An organizational meeting was held July 3, 1997 and the campaign kick-off was held July 7, 1997, with press conferences held in four Michigan cities. The campaign complements industry and federal efforts to help consumers better understand the basics of food handling in the home. Another meeting is scheduled for August 6 for all parties involved.

Director Wyant stated that in September 1997, in conjunction with Michigan Food Safety Month, MDA will kick off a Food Safety Consumer Awareness Program for elementary school children (4th and 5th grades). He also advised that the theme at this year's MDA's State Fair booth will be food safety.

The Senate passed a 4-cent per gallon gas tax increase and increased fees for heavier trucks, but did not pass state assumption of local responsibility for road maintenance.

Meetings were held on PA 344 with respect to marketing and bargaining and with pork producers on confined feeding operations and the EPA.

Director Wyant reported that the Muskegon Raceway has closed and filed for bankruptcy. The Racing Commissioner is seeking interest in this raceway by other operators.

MDA division directors participated in the Customer Service Academy. Other MDA staff will do so in the future.

Director Wyant visited some migrant housing facilities at a 1000-acre gladiola farm located in Bronson, Michigan. The owner employs approximately 250 farm laborers, but still needs at least an additional 50 workers. MDA will monitor the possibility of any state farm labor shortages.

A letter will be sent to the Attorney General supporting the request by the Department of Community Health to recover costs incurred due to the recent outbreak of Hepatitis A. The outbreak was traced to strawberries supplied by a company in California. MDA's expenses of \$29,219 have been included in the total reimbursement amount requested of \$725,114.

Rep. David Anthony will hold a hearing in the Upper Peninsula to discuss the impact early retirements have on Escanaba offices and the U.P. State Laboratory. MDA will send representation.

## **RECESS**

The Commission Meeting recessed at 5:10 p.m.

## **RECONVENE**

Commissioner Veliquette reconvened the meeting at 9:07 a.m. on July 11, 1997 at the Park Place Hotel, Traverse City, Michigan.

## **CherrCO, INC. - JIM JENSEN, PRESIDENT**

Mr. Jim Jensen advised that there has been discussion for many years about forming a super

cooperative throughout the country to market tart cherries. Mr. Jensen was hired as CherrCo president in March of 1997 and has traveled throughout the United States talking to growers and processors in the tart cherry business. He states that clearly Michigan is the leading state in the production of tart cherries.

CherrCo ties together Michigan producers with producers in Washington, Utah, Wisconsin and New York. It is looked upon as one of the three legs of industry support. The first being the Cherry Marketing Institute/Michigan Cherry Committee funded by PA 232, administered by MDA. The second is the Federal Marketing Order which manages the supply available to the marketplace, and the third is CherrCo that will work to stabilize pricing, increase returns to growers, expand the markets and increase profitability not only in Michigan but throughout the U.S.

CherrCo, Inc. will provide marketing, finance, quality assurance and storage functions. The office is located in Ludington. CherrCo already has contracts with 24 grower cooperatives around the country.

Mr. Jensen introduced Mr. Terry Morrison as the new Executive Director of the Michigan Food Processors Association. Director Wyant expressed his appreciation to Mr. Jensen's years of service to the Association and MDA and congratulated Mr. Morrison on his new position.

## **LEGISLATIVE REPORT - VICKI PONTZ-TEACHOUT, LEGISLATIVE LIAISON**

The Legislature did not finish its work on the road package. The rBST Labeling Bills were re-referred to the House Agriculture Committee. There was no action in the Senate on bills to regulate and prohibit the possession of exotic wild animals or wolf hybrids.

The House and Senate did pass a substitute for SB 345, Amendments to the Land Division Act. The bill originally dealt only with water and sewer issues, but in the final analysis of the bill those land divisions of one acre or less would require compliance with DEQ rules. The same rules for water and sewer would apply for building on one acre or less. For over one acre, local regulations would apply. The department is still analyzing the impacts of this legislation.

Director Wyant commented that this is a very important issue. It may require bringing together a wide array of perspectives to discuss this issue.

The House and Senate Conference Committee reports were accepted and the MDA budget awaits the Governor's signature. The department began with \$33.6 million General Fund, and ended with \$33.2 million. Most of the one-time work projects consistent with the department's goals are still in the budget. There is still some concern over the projected horse race revenue. Boilerplate language states that horse race programs need to be funded first and set a minimum level based on potential shortfalls.

Senator Schuette introduced a bill to deposit one-tenth of one percent of all gross wagering, both simulcasting and live, into the Compulsive Gambling Prevention Fund. Mr. Arnie Rich of the Senate Fiscal Agency projects this to be about \$500,000 out of the total wagering pool.

## **WELCOMING REMARKS BY MIKE FREDERICK, LEGISLATIVE AIDE TO SENATOR**

## **GEORGE McMANUS**

Mike Frederick welcomed the Commission to Traverse City on behalf of Senator McManus.

Commissioner Veliquette inquired about the Department of Treasury change in position on the Single Business Tax. Mr. Frederick stated that Commissioner Tatter's idea was well received by the Jobs Commission whereby if you meet the threshold you would send in the paperwork, and if not, you would sign and return the form. Director Wyant is taking the lead for agriculture to ensure that we are promoting ag business. We are working to make Michigan a business-friendly environment. Doug Roberts, Director of the Department of Treasury, has indicated that this is a priority issue for him.

## **SPILL RESPONSE PROGRAM - BEN DARLING, MDA ENVIRONMENTAL STEWARDSHIP DIVISION**

Ben Darling presented an overview of the Agriculture Pollution Emergency Hotline and Spill Response Program, now in its second year. The purpose of the program is to assist the entire agricultural industry in times of emergency. The program is working as evidenced by the overall track record of the agri-chemical spills reported and MDA's response. MDA has communicated with applicators through seminars, field staff has been trained, a field manual has been developed, and promotional materials are continually being distributed. There were 78 reported incidents through June of 1997 compared to 34 at this time last year. People now know where to call to report spills and obtain assistance if needed.

## **MOTION TO REFER RIGHT TO FARM COMPLAINT TO MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY - WAYNE WHITMAN, MDA ENVIRONMENTAL STEWARDSHIP DIVISION**

Mr. Whitman presented a chronology of events relating to a complaint (Right to Farm File #95045) received in August of 1996 concerning Russell Eberstein, Park Township, Section 9, St. Joseph County. Mr. Eberstein's neighbor reported that Mr. Eberstein's hogs have uncontrolled access to a drain causing bank erosion and water quality concerns. MDA investigated the complaint and determined that 20 hogs have uncontrolled access to a drain causing bank erosion and manure runoff. MDA communicated with the farmer, as did John Barclay, USDA District Conservationist, on numerous occasions, to encourage Mr. Eberstein to take a voluntary approach to solving the problem. As of June of 1997, Mr. Eberstein had not corrected the problem and has indicated to Mr. Whitman that he does not intend to do so.

Commissioner Tatter moved to refer the matter to the Michigan Department of Environmental Quality due to Mr. Russell Eberstein's nonconformance with Right to Farm practices. Seconded. Motion carried unanimously.

## **REGULATION 641, COMMERCIAL FERTILIZER BULK STORAGE - KEN RAUSCHER, DIRECTOR, MDA PESTICIDE AND PLANT PEST MANAGEMENT DIVISION AND BEN DARLING, MDA ENVIRONMENTAL STEWARDSHIP DIVISION**

Ken Rauscher reviewed a number of revisions to Regulation 641, Commercial Fertilizer Bulk Storage. The revisions resulted from industry changes, industry concerns and updated information. The improvements to the regulation were based on two public hearings, as well as

MDA negotiations with the farm community and the Michigan Agri-Business Association. The July 7 draft of Regulation 641 has been part of the rule-making process previously and it is the department's desire to continue the process.

Ben Darling stated that Regulation 641 has been through two public hearings. Additions and deletions were made in definitions for clarity and simplicity.

Commissioner Tatter suggested that the term "single container or quantity" be used instead of the term "individual quantity".

Commissioner Tatter moved to continue in the rulemaking process for Regulation 641. Seconded. Motion carried unanimously.

### **PROPOSED REGULATION 642, FARM FERTILIZER BULK STORAGE - KEN RAUSCHER, DIRECTOR, MDA PESTICIDE AND PLANT PEST MANAGEMENT AND BEN DARLING, ENVIRONMENTAL STEWARDSHIP DIVISION**

Mr. Ben Darling explained that Proposed Regulation 642 is a working document and will undergo further review by an agency/university/producer committee.

MDA and Farm Bureau participated in field site visits to have an opportunity to observe facilities and talk with farmers with the proposed regulation in hand. These visits resulted in more flexibility and cost-effective containment.

Commissioner Tatter suggested that the definition for "individual quantity" be changed to "single container or quantity". He also inquired about the record keeping required and whether or not those records would be considered a public record. Records and inventories would belong to the farmer and kept for review purposes.

Commissioner Darling re-stated for clarification that this is a regulation that farmers will be expected to comply with and not a suggested guideline. Mr. Darling replied that was correct.

Commissioner Veliquette asked how this proposed secondary storage regulation differs from GAAMP under Right to Farm. Mr. Darling explained that it is much more detailed as it relates to recordkeeping, the operational pad, security, etc. Proposed Regulation 642 is more encompassing than the Generally Accepted Agricultural and Management Practices (GAAMP).

Motion by Commissioner Skogman to move forward in the rule-making process of Regulation 642 with the caveat it be presented to a representative committee for further review prior to public hearing. Seconded. Motion carried unanimously.

### **UPDATE ON RULE PROMULGATION ON REGULATION 523, DRY EDIBLE BEANS - KEN RAUSCHER, DIRECTOR, PESTICIDE & PLANT PEST MANAGEMENT DIVISION**

Mr. Ken Rauscher reported that many revisions were made to Regulation 523 to reflect the bean industry's desire to change the regulation from a mandatory point of origin inspection to a voluntary inspection program. These changes would allow a bean shipper's employee, certified by MDA, to take bean samples. Bean samples would be submitted to the Michigan Bean Shippers Association for grading. There is a meeting scheduled for late July with the Michigan Agri-Business Association, Michigan Bean Shippers Association, and Farm Bureau to continue

discussions.

New definitions were added: "certified shipper", "licensed bean inspectors". The intent is to provide an opportunity to eliminate the mandatory bean inspection program and proceed to a voluntary process.

Rule 3 pertains to three grading options: 1) point of origin inspection by a licensed bean inspector, 2) sample submitted to the Michigan Bean Shippers Association; beans would not be graded using this submitted sample, but labeled as "Michigan beans" without a Michigan grade, and 3) no inspection.

The previous Rule 5 that dealt with sales to federal agencies was eliminated. There would no longer be mandatory inspection under this program. The new Rule 5 deals specifically with point of origin inspection. Rule 6 pertains to the sample submitted and to the certificate issued. Certificates would apply to the sample itself and not to the entire lot or load.

## **PUBLIC COMMENT/APPEARANCES**

Director Wyant recognized and thanked Arnold Rich, Senate Fiscal Agency, for his many years of assistance to the Michigan Department of Agriculture budget issues. Mr. Rich then expressed his high regard for and appreciation of the Commission and the department.

Dr. Larry Olsen, MSU, Agricultural Experiment Station and Extension Service, stated that they are committed to being an active part of the food safety initiative campaign.

Mr. Jim Bardenhagen, Leelanau County Extension Director stated that the Legislature has not passed legislation to allow transfer of development rights (TDR). He believes it is a tool that would be useful in preserving farmland in Leelanau County.

Commissioner Tatter asked for a distinction between purchase of development rights and transfer of development rights. Vicki Pontz-Teachout explained that purchase of development rights is an outright purchase of the difference between the agricultural value and the development value of a piece of property. Development rights are one of a bundle of many rights. When development rights are transferred within a community, the developer may purchase those rights from area landowners. In turn, developers can build at a greater density in the developing area, thus exchanging that right for preserving the farmland in the sending area. Development rights are sent and received so the TDRs are transferred from one area of the county or township to another, where it makes more sense to develop, thus leaving the open spaces and the agricultural area untouched. The free market system is used to preserve farmland.

Mr. Bardenhagen stated these purchases tend to focus on those sites that are being purchased for homes and new sites, where he believes in the transfer of development rights.

Director Wyant asked if local units of government are prohibited from passing ordinances that utilize the transfer of development rights program. Vicki Pontz-Teachout explained they are not expressly prohibited, but there are those townships that are reluctant to actually become involved in TDR because nothing in the law expressly grants that authority.



Mr. Bardenhagen also believes we have a property tax system that is at odds with farmland preservation. Because we are using highest and best use assessing, it makes it more difficult to keep land in farming. Our youth are having a hard time getting into farming because the assessment cap will come off making the taxes unaffordable for the son or someone else wanting to purchase the land for farming.

Commissioner Tatter suggested amending the tax law to eliminate the assessment at market value at the time of transfer to farming family members.

Commissioner Darling suggested that guidelines are needed for assessors due to the great deal of discrepancy in how agriculture land is viewed.

Commissioner Tatter asked Ron Nelson of Michigan Farm Bureau if they had looked into the estate planning problem of retitling lands or granting land to family members. Mr. Nelson stated that this issue continues to be of great concern to Farm Bureau members.

Mr. Bardenhagen said that they are also evaluating agriculture security areas, leasing development rights, and looking closely at local zoning problems regarding migrant labor housing and other agriculture zoning. He believes that Vision 2000 will help people understand what agriculture is all about.

Ron Nelson, Michigan Farm Bureau, expressed his appreciation to MDA for the on-site farm visits relating to farm bulk fertilizer storage. Each visit offered an excellent opportunity to view entirely different facilities. Mr. Nelson feels two major areas of concern with this regulation are economics and record keeping. However, he believes MDA has done an excellent job in getting out to the farms and talking to people on the impact of the regulation.

Mr. Nelson also discussed farmland preservation and tax issues. Michigan agriculture is very diverse and complex and that growing diversity is part of the problem as it relates to tax discussions. There needs to be continued discussion to address the farm transfer tax implications. There are many implications and it is an issue that does not always receive the proper amount of focus. The solution will most likely be as complex as Michigan agriculture. One major point to really look at in terms of farmland preservation and to some degree the tax issue is agricultural security areas.

Jim Byrum, President of Michigan Agri-Business Association, commended MDA staff on their efforts relating to the secondary containment issue. Members of MABA are aware that there would be some expense involved in meeting those new requirements. He appreciates the fact that the two drafts represent common sense in government. He strongly believes this is a major step forward and strongly supports MDA's efforts.

## **ADJOURN**

Commissioner Skogman moved to adjourn the meeting at 12:35 p.m. Seconded. Motion carried unanimously.

## **ATTACHMENTS**

The following support documentation and handout materials are on file in the Commission of

Agriculture office:

Attachment A Commission Resolutions

Attachment B Director's Report

Attachment C CherrCo, Inc.--"What is CherrCo, Inc.?"

Attachment D Legislative Report

Attachment E Spill Response Program

Attachment F Draft Regulation 641 "Commercial Fertilizer Bulk Storage"

Attachment G Draft Regulation 642 "Farm Fertilizer Bulk Storage"

Attachment H Draft Regulation 523 "Dry Edible Beans"

I, Jordan B. Tatter, Secretary of the Michigan Commission of Agriculture, do hereby certify that I have read the minutes of the July 10-11, 1997 meeting of the Commission of Agriculture and they are a true and accurate description of the proceedings thereof.

Jordan B. Tatter, Secretary

I, Daniel J. Wyant, Director of the Michigan Department of Agriculture, do hereby certify that I have read the minutes of the July 10-11, 1997 meeting of the Commission of Agriculture and they are a true and accurate description of the proceedings thereof.

Daniel J. Wyant, Director

Approved on August 13, 1997.

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