

Commission Meeting Held May 25, 2005

Minutes of the meeting of the Commission held at the Department of Forestry Office Building Room 2063, Charlottesville, Virginia.

THE COMMISSION:

PRESENT: Judy Barnard, Commissioner; Kimberly Bridges, Commissioner; Lorna Daniels, Commissioner; Lowell Fulk, Commissioner; John Gillam, Commissioner; Yolanda Macklin, Commissioner; James Townsend, Commissioner; Edward C. Wilson, Jr., Deputy Administrator; Rodney L. Phillips, Administrator; Vanessa Jeffries, Administrative & Office Specialist III; Sharon Seymore, Dairy Accountant Auditor II; Dirk Holcomb Dairy Accountant Auditor II; Allen O'Hara, Maryland Virginia Milk Producers; Michael Myatt, Cooperative Milk Producers; John Siglow, Dairy Marketing Services and Dale Gardner, Virginia Dairymen's Association.

John Gillam called the meeting to order at 10:45 a.m.

The Administrator introduced Ms. Yolanda Macklin as the newly appointed consumer member of the Commission.

John Gillam asked for a motion to accept the minutes from the previous meeting James Townsend moved and Lorna Daniels seconded the motion. The minutes were accepted as written.

The Deputy Administrator gave a review of Class I sales summary and adjacent market prices. (see pages

The Deputy Administrator introduced Mr. Dirk Holcomb and Ms. Sharon Seymore staff Dairy Accountant/Auditor II's for a presentation on the Winn-Dixie Stores, Inc. Chapter 11 Bankruptcy and applicable State Milk Commission regulations and actions that were available to the Commission. The Administrator and Deputy answered questions from the Commission members. John Gillam asked for a motion to accept the action provided below Lorna Daniels moved and Kimberly Bridges seconded the motion.

Whereas, Maryland and Virginia, MPA has made raw milk deliveries to Winn-Dixie Stores, Inc., and whereas, Winn-Dixie Stores, Inc. filed for Chapter 11 Bankruptcy protection on February 21, 2005, and whereas, based on the evidence presented by Commission staff and in accordance with the provisions of Regulation 2VAC15-20-81, §D.1 – 6, the Commission authorizes the establishment of a producer recovery fund to collect from all base-holding producers an amount not to exceed \$46,984.49 and remit this amount less bank charges to Maryland & Virginia, MPA for their losses incurred on delivered base milk during the month of February 2005 to Winn-Dixie Stores, Inc. The period of collection will not exceed one month and at a rate not to exceed \$.10/cwt on class I allocations sufficient to recover the amount specified. The applicable month of assessment on class I allocations will be April 2005. Further, the Commission authorizes the collection of these recovery amounts directly from cooperative associations representing base-holding producers and/or independent base-holding producers unless objected to by licensed processing distributors or cooperative associations representing base-holding producers and/or independent base-holding producers. Additionally, the Commission further authorizes the agency to start the process as promptly as possible.

The motion was accepted. Ms. Judy Barnard and Mr. James Townsend producer members made and signed transactional disclosure statements under the provisions of the Conflict of Interest Act that they were members of a business group affected by this action and could nevertheless participate fairly, objectively and in the public interest. A written copy of these declarations is attached. (see pages

The Deputy Administrator reviewed the current status of the assessment rate, cash balance, expenditures and fiscal year 2005-06 budget requirements. He advised that due to current fiscal projections the Administrator was recommending an increase in the assessment rate to .0375/cwt. effective July 1, 2005. John Gillam asked for a motion to accept the action James Townsend moved and Lowell Fulk seconded the motion. The motion was accepted.

The Administrator advised that Bergey's Dairy Farm, a licensed producer distributor, had advised the Commission that it was discontinuing operations as a distributor effective May 1, 2005 and that it was continuing

as a producer. Mr. Phillips advised the Commission that the regulations provided that when such an action was undertaken by a licensed producer distributor the party was entitled to have base established in their name. Therefore, he recommended that base be established for Bergey Dairy Farm effective May 1, 2005 in the amount of 26,781 pounds of nine month base and 24,371 pounds of three month base. John Gillam asked for a motion to accept the action provided below Lorna Daniels moved and Yolanda Macklin seconded the motion. The motion was accepted. Ms. Judy Barnard and Mr. James Townsend producer members made and signed transactional disclosure statements under the provisions of the Conflict of Interest Act that they were members of a business group affected by this action and could nevertheless participate fairly, objectively and in the public interest. A written copy of these declarations is attached. (see pages

Commission staff held technical hearings and/or tele-conference interviews with various firms applying for distributor licenses on all Virginia markets. The applicants all agreed to comply with the Rules and Regulations of the Commission and there being no other evidence to the contrary the Administrator recommended the granting, canceling &/or issuing of licenses as indicated below. John Gillam asked for a motion to accept all the following changes, James Townsend so moved, the motion was seconded by Lorna Daniels, effective June 1, 2005. Motion carried. Mr. John Gillam processor member made and signed transactional disclosure statements under the provisions of the Conflict of Interest Act that he was a member of a business group affected by this action and could nevertheless participate fairly, objectively and in the public interest. A copy of this declaration is attached. (see page

Licenses Issue/Cancel/Re-issue:

Issue:

<u>License No.</u>	<u>Type of License</u>	<u>Distributor</u>	<u>Company Rep.</u>	<u>Markets</u>
313.000.1	PGD	Shamrock Foods Co. 2228 North Black Canyon Phoenix, Arizona 85009	Timothy Kelly	All

AMEND:

<u>License No.</u>	<u>Type of License</u>	<u>Distributor</u>	<u>Company Rep.</u>	<u>Markets</u>
227.000.1	PGD	From: Ryan Foods 2198 West Beaver Street Jacksonville, FL 32209 To: WhiteWave Foods Company 2198 West Beaver Street Jacksonville, FL 32209	Tracy L. Jackson	All
263.000.1	PGD	From: Tuscan/Lehigh L.P. 880 Allentown Road Lansdale, PA 19446 To: Tuscan/Lehigh Dairies, Inc. 880 Allentown Road Lansdale, PA 19446	John Infantino	All

Cancel:

<u>License No.</u>	<u>Type of License</u>	<u>Distributor</u>	<u>Company Rep.</u>	<u>Markets</u>
201.000.4	PPGD	Bergey's Dairy Farm, Inc. 2221 Mount Pleasant Rd Chesapeake, Va. 23322		All

The Administrator reminded the Commission of the retirement of Ms. Carolyn Wells and introduced her replacement Ms. Vanessa Jeffries.

The Administrator reviewed with the Commission a recent federal court decision involving the Commonwealth of Pennsylvania Milk Marketing Board. The case was brought by a Maryland processor questioning the authority of the Commonwealth to regulate wholesale prices. The Court affirmed the Pennsylvania Milk Marketing Board to establish wholesale pricing minimums.

The Administrator advised that progress on the Finance Building is on schedule and the projected timeline for relocation of Commission offices is early September 2005.

Mr. Phillips discussed with the Commission meetings and information about organic milk, its production, supply, and fluid milk sales.

The Administrator advised the Commission of the expiration of terms for Lorna Daniels, Consumer Member, and James Townsend, Producer Member effective July 1, 2005. He advised that they would continue to serve until the Governor appointed individuals to replace them.

The Administrator reviewed with the Commission the importance of the Freedom of Information Act and the Conflict of Interest Act in their individual capacities as Commission members and actions taken.

Mr. Phillips advised the Commission that the Code Commission was undertaking a review of the basic provisions of the Code of Virginia pertaining to the Commission legal authority to revise and edit old obsolete language. This process does not permit substantive changes. He briefly reviewed some examples of changes that have been discussed. These amendments may be introduced as bills in the 2006 General Assembly.

The Administrator reported that the USDA recommends amendments issued through a final decision to the Appalachian and Southeast Federal Orders. The decision recommends expansion of the Appalachian Order to include 25 counties and 14 cities located in Virginia. The recommendation also rejected a proposal to consolidate the two orders.

The next Commission meeting will be held at the Department of Forestry Office Building, 900 Natural Resources Drive, Charlottesville, Virginia in room 2054 on August 17, 2005 starting at 10:45 a.m.