

COMMISSION MEETING HELD AUGUST 28, 2002

Minutes of the meeting of the Commission held the Department of Forestry, Charlottesville, Virginia.

THE COMMISSION:

PRESENT: Ms. Lucy Grubb, Commissioner/Chairperson, Ms. Lorna Daniels, Commissioner; Ms. Ursula Edmonds, Commissioner; Ms. Judith Motley, Commissioner; Mr. James Townsend, Commissioner; Mr. John Gillam, Commissioner; Mr. Edward C. Wilson, Jr., Deputy Administrator; Mr. Rodney L. Phillips, Administrator, Carolyn Wells, Agency Administrative Assistant, Michael Myatt, Cooperative Milk Producers; Allen O'Hara, Maryland & Virginia Milk Producers Association; Frank Johns, Dairy Farmers of America; Mike Todd, Dairy Farmers of America and Tony Banks, Farm Bureau

Lucy Grubb, Chairperson called the meeting to order at 10:30 a.m.

Ms. Grubb asked for a motion to accept the minutes from the previous meeting. Ursula Edmonds moved and Judith Motley seconded the motion. The minutes were accepted as written.

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

The Deputy Administrator reviewed the posting of minutes on the Regulatory Town Hall web site. Effective July 1, 2002, §2.2-3707.1 of the Code of Virginia requires executive branch agencies to post minutes of public meetings on the Internet. The legislation requires that draft minutes be posted within ten working days and that final minutes be posted within three working days of final approval of the minutes.

The Deputy Administrator reviewed the petitions for rule making, §2.2-4007 of the Code of Virginia. Within fourteen days of receiving a petition, the agency shall send a notice identifying the petitioner, the nature of the petitioner's request and the agency's plan for disposition of the petition to the Registrar for publication in the Virginia Register of Regulations in accordance with the provisions of subsection B of §2.2-4031. On the date of publication in the Virginia Register of Regulations, the agency shall commence a twenty-one day period for acceptance of written public comment on the petition. The agency shall issue a one-day period for acceptance of written public comment on the petition. The agency shall issue a written decision to grant or deny the petitioner's request within ninety days following the close of the comment period. However, if the rulemaking authority is vested in an entity that has not met within that ninety-day period, the entity shall issue a written decision no later than fourteen days after it meets. The written decision issued by the agency shall include a statement of its reasons and shall be submitted to the Registrar for publication in the Virginia Register of Regulations. Agency decisions to initiate or not initiate rulemaking in response to petitions shall not be subject to judicial review.

The Administrator reviewed the State Budget Crisis. He explained some of the causes of the crisis and that the State Milk Commission is a non-general fund agency. The agency is to come up with a plan to cut the agency budget 7%-11% or 15%. The Governor's office will make a decision as to how much to cut the agency budget.

The Deputy Administrator discussed assessment, cash balances and delegated authority for the Administrator and Deputy Administrator. He reviewed cash balances for 1999-2002. The Administrator advised that the assessment might have to be raised before the next commission meeting to get the agency through the budget crunch. The Administrator requested the Commission reaffirm his authority to raise the assessment rate to a maximum of \$.04/cwt. The Commission reaffirmed his delegated authority to do so. The Deputy Administrator advised that the auditor outstationed in Roanoke would be retiring this coming year.

The Administrator informed the commission that the Assistant Attorney General, John Purcell, will be retiring as of September 1, 2002. He introduced the new Attorney General, Mr. William A. Diamond. The Administrator suggested the agency prepare a resolution for Mr. Purcell, the Commission agreed.

The Deputy Administrator gave an update on the Ad Hoc Committee regarding the base pool proposal. A sub-committee was formed to study the federal milk marketing system proposals dealing with pooling milk. Inquires were made to Federal Order 1 (North Eastern US) to receive some insight on the proposal. The sub-committee recommends that at a memo of understanding of some of the coops to pool their own milk and not request regulatory action. A draft has been developed by the parties and approved a recommendation made to not have any further consideration to change regulations for a pool in Virginia.

The Deputy Administrator reviewed the suit with Cloverland-Green Spring Dairies, Inc. v. Pennsylvania Milk Marketing Board.

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. Lorna Daniels made a motion to accept all the following changes, seconded by Ursula Edmonds, effective June 1, 2002. Motion carried.

Licenses Issue/Cancel/Re-issue/Amend:

Issue:

<u>License No.</u>	<u>Type of License</u>	<u>Distributor</u>	<u>Company Rep</u>	<u>Markets</u>
300.000.1	PGD	Land-O-Sun t/a Pet Dairy 1291 New Cut Road Spartanburg, SC 29303	John McDonald	All
302.000.1	PGD	Jasper Products, LLC 3877 E. 27 th St Joplin, MO 64804	James Marshall	All
291.005.2	SD	Cardinal Freight Carriers 5333 Davidson Hwy Concord, NC 28027 Under: Morningstar Foods, Mount Crawford, VA	Perry Julian	All
304.000.1	PGD	Longacre's Modern Dairy P O Box 69 Barto, PA 19504	LuElla Gehman	All
305.000.1	PGD	Harrisburg Dairies, Inc. 2001 Herr St Harrisburg, PA 17103		All
306.000.1	PGD	Dairy Maid Dairy, Inc. 259 East 7 th St Frederick, MD 21701		All

Amend

Cancel/Re-Issue

<u>Cancel</u> <u>License No.</u>	<u>Type of License</u>	<u>Distributor</u>	<u>Company Rep</u>	<u>Markets</u>
213.002.3	NPGD	Mid-Mountain Foods, Inc. P O Box 129 Abingdon, VA 24212 Under: F-O-R Bristol	Mr. Donovan	All
<u>Re-Issue</u> 298.002.3	NPGD	Mid-Mountain Foods, Inc. P O Box 129 Abingdon, VA 24212 Under: F-O-R, Inc. Bristol Division	Mr. Donovan	All

Cancel:

<u>License No.</u>	<u>Type of License</u>	<u>Distributor</u>	<u>Company Rep</u>	<u>Markets</u>
225.001.3	NPGD	Wolf Management Service 7631 Whitepine Road Suite B Richmond, VA 23237	Wesley C. Wolf	All
252.000.1	PGD	Hershey Foods P O Box 810 Hershey, PA 17033-0810	Mark D. Novis	All
213.000.1	PGD	Flav-O-Rich Bristol P O Box 1539 Bristol, VA 24203	Wayne King	All
215.000.1	PGD	Flav-O-Rich, London P O Box 40 London, KY 40743	Tanya Smith	All

Amend

<u>License No.</u>	<u>Type of License</u>	<u>Distributor</u>	<u>Company Rep.</u>	<u>Markets</u>
291.002.3	NPGD	FROM: Alliant/Atlantic Food Service 13000 Livingston Road Manassas, VA 20109 Under: Morningstar/Dean Foods Mount Crawford, VA. TO: Alliant/Atlantic Foodservice Dba U.S. Foodservice 13000 Livingston Road Manassas, VA 20109 Under: Morningstar/Dean Foods Mount Crawford, VA.	Andrea Ault	All
283.000.1	NPGD	FROM: Land-O-Lakes 2515 McKinney Avenue, Ste 1000 Dallas, Texas 75201 TO: Morningstar/Dean Foods 920 Sextonville Road Richland Center, WI 53501	Keith Brown	All

The Deputy Administrator reminded the commission that by the first of the year the agency would begin another regulator and review.

There was no public comment.

The next meeting will be held in Charlottesville at the Department of Forestry on December 11, 2002 starting at 10:30 a.m.

Chairperson

Administrator

