

**MINUTES OF THE 368th COMMISSION MEETING  
TEXAS ANIMAL HEALTH COMMISSION  
July 29, 2008**

The Texas Animal Health Commission Meeting was called to order by Chairman Ernie Morales at 8:35 a.m. in the Texas Animal Health Commission conference room.

All Commissioners were present.

**Item 1 - Welcome and call to order by Chairman Morales**

**Item 2 - Approval of Minutes**

A motion to approve the minutes of the 367th Commission Meeting held on May 15, 2008 was made by Commissioner Simmons and seconded by Commissioner Wheelis. The motion carried unanimously.

**Item 3 – Report of the Executive Director and Approval of Actions for the Period 5/15/08 through 7/29/08.**

A report describing out-of-office meetings and trips from May 15, 2008 through July 29, 2008 was provided in the Commissioners' notebooks and was not included in the oral report.

Animal Identification

- The agency tested the capabilities of handheld technology during a TB test of a large dairy in Area 1. The cattle in the herd of approximately 3,000 head were all identified with RFID tags. TAHC veterinary, inspector and technology staff worked together to conduct the test. The handheld systems worked well during this dairy test.
- As of July 20, 2008, approximately 31,933 or about 17.1 percent of the state's premises have been registered voluntarily. Nationally, 474,532 premises have been registered which represents approximately 33% of the total premises nationally.
- The Farm-to-Consumer Legal Defense Fund filed a lawsuit on July 14, against the USDA in Federal District Court in Washington, DC, asking a federal judge to stop USDA from further implementation of NAIS. This lawsuit is supported by the locally organized Farm and Ranch Freedom Alliance.
- There is currently no identification requirement for beef cattle except identification as part of the brucellosis program. When mandatory brucellosis testing ceases as a result of our states Brucellosis Free Status, we will no longer have an identification system for beef cattle. The ability to trace animals for disease control purposes will be severely hampered. Serious consideration must be given to this issue and a solution developed and implemented before we dismantle the identification portion of the brucellosis program.

Fever Ticks

- The temporary preventive quarantine has been expanded in Starr and Zapata counties and a portion of Jim Hogg County. Currently, more than a million acres remain under temporary preventive quarantines and a half million acres along the Rio Grande are permanently quarantined.
- At the end of June, 2008, One-hundred thirty-five premises were quarantined due to fever tick infestation. Eighty-four premises were located in the Tick Eradication Quarantine Area (Systematic Area) and fifty-one were in the Temporary Preventive Quarantine Areas of the formerly Free Area. Since October 1, 2007, one-hundred twenty new fever tick infested premises have been identified through July 22, 2008 – 80 in the Tick Eradication Quarantine Area and 40 in the Free Area.

- The significant increase in fever tick infestations in the Free Area has resulted in many traces to identify cattle that were moved from premises prior to identification of infestation. Additionally, some cattle buyers are either reluctant to purchase or have already stopped purchasing South Texas cattle. Two livestock market operations, some cattle producers and several cattle buyers have asked the TAHC to scratch and dip cattle prior to movement from South Texas livestock markets. This option, discussed in 2005, was not implemented because of some cattle industry resistance and lack of program funds. TAHC and USDA staff updated estimates using current cattle numbers and treatment costs at the seven South Texas livestock markets. Additional funds must be obtained before implementing this request.
- The USDA provided CCC funds in March, but the funds are being depleted quickly. Because of the expansion of the temporary quarantines, the significant numbers of cattle traces and treatments outside the quarantine area, and the requests for scratching and dipping at livestock markets, the USDA-Texas and TAHC have submitted a new CCC fund request for more than \$15 million for a two-year period. Meanwhile, TAHC is also pursuing other possible sources of emergency funding and is including requests for the Fever Tick Program in its Legislative Appropriation Request (LAR) as an Exceptional Item.
- The Wildlife Subcommittee of the Fever Tick Working Group was formed and met in San Antonio on June 30, 2008. Subcommittee members deliberated on a number of issues and made suggestions for further consideration.
- TAHC and USDA staff continues to make presentations and reports at industry and public meetings in the fever tick impact areas and at statewide meetings. To gain the fiscal support needed, the program must have support from the U.S. cattle industry, animal health officials across the country, and state and federal legislators.

#### Tuberculosis

- At the May Commission Meeting, it was reported that a cluster of TB infected cattle from a feed yard had been identified at slaughter. The cattle remaining in the feed yard were quarantined as exposed. However, a number of heifers at the feed yard were moved from the facility prior to the discovery of infection. Efforts are underway to locate and test these heifers.
- Both New Mexico and California are slated to lose TB Accredited-Free status. Hundreds of cattle have been shipped to other states from at least one of the TB infected herds in California. Many of our additional activities relate to tracing of exposed cattle from herds in other states.
- Commissioner Reta Dyess and Dr. Bob Hillman participated in the BiNational TB and Brucellosis Committee meeting in Chihuahua City, Chihuahua, Mexico in June. Mexican officials reported that they have developed and are implementing a strategic plan to address TB. The plan is supposed to implement the provisions required of the five year USDA plan for Mexico to reduce the prevalence of TB and significantly reduce exportation of TB exposed cattle.
- USDA plans to publish their long-awaited proposed Domestic and International rules this fall. The USDA also is accepting comments on a proposed rule that would require a herd plan as a condition for indemnity.

#### Brucellosis

- Although Texas has achieved Brucellosis Free Status, the national brucellosis program standards recommend that first-point testing be continued for two years after a state achieves free status. Additionally, slaughter surveillance will be continued for a number of years into the future to identify any re-introduction of disease and to document that the US is free of disease.
- A request was received from the Livestock Marketing Association of Texas and the Texas and Southwestern Cattle Raisers Association asking TAHC to seek ways to increase the payment for first-point testing at markets from the current \$2.00 per head to help defray

increasing costs. Copies of these letters were included in the Commissioners' notebooks. The Brucellosis Eradication Working Group, in 2006, recognized the need to raise the payment of \$2 per head for first-point testing. The recommendation cannot be implemented without additional resources, which must come either from a state legislative appropriation or an increase in federal cooperative agreement funds. An Exceptional Item request is being developed as part of the Agency's Legislative Appropriations Request for this purpose.

#### Feral Swine Regulations

- There were discussions later during the meeting regarding comments received on the proposed feral swine rules. The rules were presented for consideration and adoption. Dr. Hillman expressed appreciation to Commissioner Real for chairing the Feral Swine Working Group.

#### Trichomoniasis

- Resolutions or letters of support for a program to address Trichomoniasis have been submitted to the TAHC by the Texas and Southwestern Cattle Raisers Association, Independent Cattlemen's Association of Texas, Texas Farm Bureau and the Texas Veterinary Medical Association. A Trichomoniasis Working Group, chaired by Commissioner Coleman Locke is being formed and will meet to define components of a Trich program for Texas and provide input for implementation. The Working Group may have proposed rules for the Commission to consider at its November meeting.

#### Live Bird Market Working Group

- A Live Bird Market Working Group has been formed with live bird market operators and suppliers and representatives of the poultry industry to discuss disease issues relative to live bird markets and the desirability for regulatory oversight to establish disease program parameters and reduce the potential for disease outbreaks and spread at live bird markets. The Working Group, chaired by Commissioner Ralph Simmons met in late June.
- It is anticipated the Working Group will develop recommendations for consideration by Commissioners at the November Meeting.

#### CWD Working Group

- A CWD Working Group was formed at the request of the Texas elk industry to pursue regulations for an intrastate CWD surveillance program for elk. This Working Group, chaired by Commissioner Winters, met in July.
- The Working Group recommended TAHC develop proposed regulations that address official identification, reporting of movements and testing of elk for CWD.
- It is anticipated that proposed regulations will be presented at the November Commission meeting for consideration.

#### Legislative, Budget and Personnel Issues

- On July 9, 2008, the House Committee on Agriculture and Livestock held a hearing on Interim Charge 2: "Evaluate Preparedness of relevant agriculture-related agencies to respond effectively to animal and plant disease threats". Dr. Hillman provided testimony which appeared to be well received.
- The Agency Strategic Plan has been completed and submitted.
- Agency personnel are developing the legislative Appropriations Request for submission in mid August. It is anticipated that our LAR will include five (5) Exceptional Item requests. Those are:
  - (2) Increased funding for Fever Tick Program
  - (3) Employee Compensation request
  - (4) Increased Mileage Reimbursement Allocation
  - (5) IR/IT Refresh
  - (6) Increased First Point Testing Fee

- Bill Powers, TAHC's retired Government and Industry Liaison, has been re-hired and will work halftime when the legislature is not in session, and full time during the legislative session.

Waivers

- There were three (3) requests for waiver received since the May Commission meeting:
  - (1) The first request was to waive the requirement for treatment of cattle removed from a fever tick infested premises, where there were fever ticks exhibiting some evidence of acaracide resistance, to the fever tick field lab at Mission. This waiver was granted to allow harvest of fever ticks on live cattle and movement of the ticks on the cattle to Mission where the ticks would be propagated and evaluated for acaracide resistance.
  - (2) The second request was to waive the post entry TB test requirement on horned steers from Mexico. These steers moved directly from the border to a feedlot for finish feeding for slaughter only. None of the animals entered trade channels for use as roping/rodeo. The waiver was granted.
  - (3) The third request was to extend a dairy commuter herd agreement and waive the TB test requirement for movement between Oklahoma and Texas for 90 days to allow time for the operator, who is headquartered in Oklahoma to complete construction and transition of his dairy operation to retain all adult cattle on his operation in Oklahoma. This waiver was granted.

Planned Activities

- Budget preparation
- Interim Legislative Hearings
- Fever Tick activities
- TB program activities
- Animal Identification activities
- Participate in industry organization meetings
- USAHA
- USDA/State Vets joint planning meeting
- Trichomoniasis program development efforts

Commissioner Coleman Locke moved and Commissioner Reta Dyess seconded the motion to approve the actions of the Executive Director for the period from May 15, 2008 through July 29, 2008. The motion carried unanimously.

**Item 4 – Presentation of Animal Health Activities Update and Animal Disease & Epidemiological Report.**

Brucellosis

- First Point testing suspect/reactor titers continue.
- Pilot project in Area 8 to locate old stable suspects almost complete.
- New Mexico will possibly lose first point testing funds in October. Since our Lubbock lab performs some of their testing, it may have an affect on them.
- 1 brucella suis (swine strain) has been identified in a Texas cow since the last Commission Meeting.

Bovine Tuberculosis

- The Dairy identification rule has been implemented with relatively few problems thus far.
- California has their third infected herd – 2 Holstein and 1 Jersey.
- New Mexico – the Federal Register notice is forthcoming to downgrade their status. TAHC oversight of all entries will increase due to the downgrade in status. A commuter herd option may be needed.
- 1 Texas panhandle dairy has been tested as a result of California traces.
- TAHC met with a large Oklahoma dairy owner along with the Oklahoma State Vet to discuss interstate movement of cows and calves into the Texas panhandle facility. TAHC will evaluate a possible pilot procedure for weekly batches of calves entering rather than daily accountability.

#### Poultry

- The Live Bird Market Working group continues to develop proposed rules for consideration. The National Guidelines are the starting point; feedback from the Live Bird Market operators is the next step. It is hopeful we will have a presentation of information at the next Commission Meeting.
- A recent AI situation was monitored. The entry test was shortened to 72 hours from 30 days to help ensure only healthy birds were entering.

#### Sheep and Goats:

- TAHC attended Texas Sheep & Goat Raisers Meeting In Kerrville
- One newly affected flock has been disclosed since the last meeting – investigation pending.
- USDA surveillance plans call for 780 animals to be sampled in Texas in FY '09.
- USDA entered into a cooperative agreement with TAMU for testing to be conducted at the Extension and Research Center in San Angelo.
- TAHC will use the San Angelo process for training opportunities to learn the new rectal biopsy procedure.

#### Swine

- The Feral Swine Working Group submitted proposed rules at this meeting.
- The USDA Swine Brucellosis review is tentatively scheduled for October.
- TAHC will be represented on the Wildlife Services Feral Swine Abatement Working Group in August.

#### Fever Tick Activities

- TAHC continues to provide support to USDA in performing Fever Tick activities.
- An organizational process has been implemented to streamline epidemiological traces.

#### Exotic Livestock

- The CWD Working Group will be initiated soon to formalize elk surveillance activities and develop proposed rules for presentation at the next Commission Meeting.
- MCF herd situation is resolved.

#### Emergency Management

- Hurricane Dolly
  1. TAHC deployed employees for initial damage assessment.
  2. TAHC acted as Animal Branch chief within the Governor's Incident Management Teams
  3. Participated in 24 hour activation of McAllen Disaster District and DPS and the State Operations Center in Austin, with an Area Command Center activated in the TAHC Office.
  4. TAHC deployed two response trailers.

Program Disease Progress Report

Handouts of this report were provided in the Commission Notebooks. This report provides statistics on Cattle Brucellosis, Indemnity/Diagnostic Purchases; Ticks; Bovine Tuberculosis; EIA; Swine; Scrapie; CWD activities; and Poultry.

**Item 5 – Administration/Budget Status Report**

Ms. Angela Lucas, Deputy Director of Finance and Administration presented the Administration/Budget Status Report and the Legislative Appropriations Request for Fiscal Years 2010 - 2011.

- The first report reviewed was the METHOD OF FINANCING report. A significant amount of TAHC's budget is based on Federal Funding. The Federal Cooperative Agreements budget year is being changed to April 1 through March 31 next year. Therefore, TAHC will receive Federal Cooperative Agreements with no increased funding spread over a 15 month period. The 2008 budget shows as much money as possible from the Cooperative Agreements in the FY 2008 budget. As we begin the LAR process, part of the funds will be rolled to the next Fiscal Year.
- The next report reviewed was the BUDGET & EXPENDITURES report. Overall, the agency is on target based on the % of Budget Expended at this point in the year.
- The next report reviewed was the BUDGET & EXPENDITURES BY DEPARTMENT. Again, the departments are on target based on the % of Budget Expended at this point in the year.
- Legislative Appropriations Request 2010 – 2011  
Ms. Lucas presented the details of the FY 2010 - 2011 Legislative Appropriations Request for approval by the Commissioners. Five exceptional items were submitted as part of the LAR. These exceptional expenditure items were additional funding requests for: the tick eradication program, employee compensation, mileage reimbursement, capital expenditures, and an increase in the First Point Testing amount. As part of the LAR, Ms. Lucas presented the Operating Budget for 2009.

Commissioner Reta Dyess moved and Commissioner Coleman Locke seconded a motion to approve adjustments to the Fiscal Year 2008 Operating Budget and to approve the Legislative Appropriations Request for 2010 and 2011 including the exceptional items and capital projects and the Operating Budget for 2009 as presented and discussed. The motion carried.

**Item 6 – Consideration of and possible action on Agency Contracts and Purchases**

Mr. Felix Volk presented the Agency Contracts and Purchases report.

Contracts, Purchases, Leases Greater than \$5,000 but Less Than \$10,000 for the period of May 1, 2008 through July 31, 2008

- Equine Certificate of Veterinary Inspection Forms - to replenish stock - \$5,444.61
- Computer hardware – Overland ArcVault 12, Single Drive, LT03; LTO-3 Tape; 3-Year "On Site Response" - \$6,464.00
- Reagent-Performance Verification Particles (PVP's) 5 ml/bottle (20/Box) - \$7,049.64
- Various Emergency Management items to stock emergency response trailers - \$6,690.69
- Nortel BCM50 Telephone System – Ft. Worth Lab - \$7,734.02

Contracts, Purchases, Leases \$10,000 or Greater for the period of May 1, 2008 through July 31, 2008.

- 4 Trucks; ¾ Ton Long Bed, Crew Cab, Gasoline engine - \$98,524.00
- Dectomax Injectable Insecticide, 500 ml/bottle 40 cases - \$21,319.20
- Replacement Computers – 10 Replacement units - \$13,755.00

- Photocopier Rental Renewals – Central Office + Area Offices - \$35,000
- Overnight, Second Day Air & Ground Delivery Services - UPS – 12 months - \$75,000
- Overnight Delivery Service – Gamma TB Shipments – Austin Lab – UPS - \$25,000
- Telecommunications Service – \$90,000
- Insurance Coverage – Texas Statewide & Mexico - \$11,068.00
- Pending Order which requires additional funding from USDA/APHIS/VS – CoRal Insecticide – 700 Cases - \$556,206.00

Commissioner Edmiston moved and Commissioner Kezar seconded the motion to approve the contracts and purchases requests for the period from May 1, 2008 through July 31, 2008. The motion carried.

**Item 7 – Audit Subcommittee Report**

Commissioner Reta Dyess, Chair of the Audit Subcommittee gave a report of the Audit Subcommittee meeting held at 8:00 a.m. All members of the Subcommittee were present. The following items were covered:

- Audit of the Budgeting Process
- Audit of the Emergency Management Process
- Audit of the Area One Office

Commissioner Mark Wheelis moved and Commissioner Coleman Locke seconded a motion to approve the Audit Subcommittee Report. The motion carried.

**Item 8 – Presentation for Approval – State Office Of Administrative Hearing Proposal for Decision Regarding Mr. Larry Smeal, Sr. Resolving violations of Commission Rules.**

Mr. Gene Snelson presented the enforcement action case against Mr. Larry Smeal, Sr. including the State Office of Administrative Hearing Proposal for Decision which supported the Agency's recommendation.

Commissioner Ken Jordan moved and Commissioner Randy Brown seconded a motion to approve the State Office of Administrative Hearing Decision regarding Mr. Larry Smeal, Sr. resolving violations of Commission Rules. The motion carried.

**Item 9 – Presentation for Approval of an Agreed Order with Steve and Larry Conley resolving violations of Commission Rules.**

Mr. Gene Snelson presented the case involving violations of entry requirements and dealer record keeping against Mr. Steve Conley and Mr. Larry Conley.

Commissioner Real moved and Commissioner Dyess seconded a motion to approve the Agreed Order with Mr. Steve Conley and Mr. Larry Conley resolving violations of Commission rules. The motion carried.

**Item 10 – Presentation for Approval of an Agreed Order with Mr. Justin Frizzell resolving violations of Commission Rules.**

Mr. Gene Snelson presented the case involving violations of requirements pertaining to feral swine slaughter holding facilities against Mr. Justin Frizzell.

Commissioner Winters moved and Commissioner Locke seconded a motion to approve the Agreed Order with Mr. Justin Frizzell resolving violations of Commission rules. The motion carried.

**Item 11 – Consideration of and Possible Action on Regulation ADOPTIONS Regarding:**

- a.) **Chapter 36, Exotic Livestock, Section 36.1, regarding definition of livestock**  
Commissioner Kenneth Jordan moved and Commissioners Winters and Vickers seconded a motion to APPROVE the amendments to Chapter 36, Exotic Livestock, Section 36.1, regarding the definition of livestock, as discussed today. The motion carried.
  
- b.) **Chapter 51, Interstate Entry Requirements, Sections 51.3 and 51.8, regarding identification for dairy steers**  
Commissioner Reta Dyess moved and Commissioner Ralph Simmons seconded a motion to APPROVE the amendments to Chapter 51, Interstate Entry Requirements, Sections 51.3 and 51.8 regarding identification for dairy steers, as discussed today. The motion carried.
  
- c.) **Chapter 55, Swine, Section 55.9, regarding feral swine**  
Commissioner Chuck Real moved and Commissioner Tommy Kezar seconded a motion to APPROVE the amendments to Chapter 55, Swine, Section 55.9, regarding feral swine to be implemented October 1, 2008, as discussed today. The motion carried.

**Item 12 – Public Comment**

Mr. Keith Chapman, Executive Director of the Livestock Marketing Association presented a resolution passed on May 18, 2008 by the Livestock Marketing Association of Texas requesting an increase in the payment amount for first point testing made to Texas livestock markets.

**Item 13 – Set Dates for the 369<sup>th</sup> & 370<sup>th</sup> Meeting**

369th Meeting – November 13, 2008

370th Meeting – Communicate with Commissioners to determine most appropriate date in February

**Item 14 – Adjourn**

The meeting adjourned at 11:05 am