

**MINUTES OF THE 378th COMMISSION MEETING
TEXAS ANIMAL HEALTH COMMISSION
February 22, 2011**

The Texas Animal Health Commission Meeting was called to order by Chairman Ernie Morales at 8:30 a.m. in the Texas Animal Health Commission conference room.

Item 1 - Welcome and call to order by Chairman Morales

Commissioner Tommy Kezar was not present.

Item 2 - Approval of Minutes

A motion to approve the minutes of the 377th Commission Meeting held on October 5, 2010, was made by Commissioner Locke and seconded by Commissioner Edmiston. The motion carried.

Item 3 – Report of the Executive Director and Approval of Actions for the Period 10/5/2010 through 2/22/2011

A report describing out-of-office meetings and trips from October 5, 2010 through February 22, 2011, was provided in the Commission notebooks and was not included in the verbal presentation.

Dr. Dee Ellis, Executive Director of TAHC, discussed the following issues in his report:

Agency Budget Situation:

The TAHC Budget was discussed in detail under Item 5 of the Agenda.

Brucellosis

- One (1) newly infected herd has been found in Starr County.
- This validates ongoing risk concerns and the need to continue market testing.
- The testing process was treated like a foreign animal disease – a small task force was created to quickly respond.
- Feral swine will be sampled by USDA Wildlife Services around the premise.

Animal Disease Traceability

- There have been no significant changes since the last Commission meeting.
- The proposed USDA rule is currently scheduled to be out in April of 2011.
- The earliest implementation of the program would be in the fall of 2012.
- USDA has selected a software vendor for tracking animals.
- USDA cooperative funds are still not finalized.

Bovine Tuberculosis

- Texas is still Free – there have been no newly infected herds.
- Texas lab continues to run more gamma tests than any other for a number of states.
- Colorado recently detected a newly infected dairy herd with many infected traces due to calves ingesting unpasteurized milk.

Bovine Tuberculosis (cont.)

- U.S. Situation – New cases have been found in a number of states. There have been increased cases in beef cattle and wildlife in other parts of the country. Texas will begin to work closer with USDA Wildlife Services to further evaluate and rule out wildlife implications where feeder cattle were grazed.

Trichomoniasis

- No significant problems have been noted with the operations of the Trichomoniasis Program.
- We are taking comments now for discussion at the May Trichomoniasis Working Group meeting. Comments received thus far have related to pooling samples, more concessions for out-of-state bulls, and concessions for large herds in general.

TAHC/USDA Laboratory System

NAHLN certification from USDA is still pending to run swine slaughter blood for pseudorabies and brucellosis.

Live Bird Market System

- TAHC committed to uniform enforcement of Live Bird Markets and suppliers.
- Reconciliation of records, routine inspections for health and inventory verification are key to the program.

Equine Piroplasmiasis

- Texas Racing Commission (TRC) and TAHC are working in close collaboration.
- A rule for testing at the track is needed, as positive horses continue to be found in the racing industry. A challenge will be enforcement at the tracks.
- Further work with veterinary practitioners is needed regarding the form/ID completion.

Cattle Fever Ticks

- Progress continues to be made in certain areas – there continues to be a close working partnership between TAHC and USDA/ VS.
- It is anticipated there will be a Carrizo Blanket release in the spring – except for a few individual premises.
- Southern Blanket Surveillance in Zapata/Jim Hogg counties is ongoing. There is a plan to release a portion in June.
- The Southern Blanket has intensified wildlife treatment.
- The Omal blanket is planning to downsize this summer as well.
- TPW wildlife biologists will participate in evaluation of release along with TAHC and USDA epi staff.
- The Ivomec Molasses treatment product approval is still in process.
- The Cuban Vaccine (GAVAC) is on track for field trial in 2011 – but it probably is not a long term solution.
- An Autogenous tick vaccine is to be pursued with ARS and other partners.
- Public Hearings in South Texas on wildlife fences are scheduled in March.

Border Port Issues

- 3 Border ports are still closed preventing USDA vets to work in Mexico.
- A temporary solution is working well;
 - Temporary facilities at San Juan, Amistad and Laredo are operating.
 - USDA continues to invest in upgrades to temporary facilities.
 - Crossing numbers are up.
 - There is still no contingency for Del Rio if Acuna is closed.
 - USDA owns property in Presidio – could be upgraded quickly.
- The long term goal is still to find safe facilities in Mexico – Nuevo Leon plans are under review.
- The State Department controls decisions on federal employee safety.
- Undersecretary of Agriculture visited the border in October and will visit again in April.
- Temporary border facilities were discussed at length with USDA, Texas cattle industry, Mexican industry and Mexican officials at NCBA.

Swine brucellosis

- USDA has indicated that Texas will receive “free” status shortly.
- USDA may then waive swine brucellosis rules, as they did for cattle.

USDA

- Cooperative programs funding continues to be cut – 35% over the last 3 years – possible elimination of some funds altogether in FY 2011 and further reductions are anticipated.
- Closer pooling of field force between USDA and TAHC is necessary to offset budget cuts in the future.

Waiver Report

2 waiver requests denied:

1. Trichomoniasis - Request to use pooled samples for releasing test on bulls in a large herd (365 bulls) due to expense.
2. Trichomoniasis - Request to turn quarantined bulls out with cows for breeding prior to 2nd releasing test, and not test again until fall of 2011.

Commissioner Simmons moved and Commissioner Locke seconded a motion to approve the actions of the Executive Director for the period from October 5, 2010 through February 22, 2011. The motion carried.

Item 4 – Presentation of Animal Health Programs Activities Update, Specific Disease Response Activities and Epidemiological Actions Report

Dr. Andy Schwartz, Assistant Executive Director of Epidemiology and Laboratories presented the following information.

Brucellosis:

First Point Testing disclosed the first brucellosis affected herd in 5 years:

- 3 reactors were found in a 6 cow consignment at market.
- 4 additional reactors were found on a herd test (2 units) in Starr County.
- Herd depopulated with indemnity (20 adults, 8 calves)

- Adjacent testing: All properties within 1 mile and between the two units are being evaluated.
- The Incident Management System (ICS) approach is being utilized and is based at the Starr County cattle fever tick office.

Bovine Tuberculosis

- The Texas dairy disclosed as TB affected in May 2009 was sold out in April 2010.
- Another Texas dairy received 1300 animals prior to infection being disclosed. This dairy was recently released following completion of herd testing as required in the herd plan. Three annual herd tests will be done to assure disease freedom.
- In the U.S. over the past 2 years, 23 TB affected herds have been found in 12 states (12 beef, 4 dairy, 7 cervid).

Trichomoniasis

- The interstate program began in April 2009. The intrastate program began in January 2010.
- TAHC field personnel follow up on all positive bulls, and are notifying adjacent herd owners.
- Management is currently capturing issues for discussion at the next Trich Working Group Meeting.

Foot and Mouth Disease:

- We are monitoring reports of the current outbreaks in South Korea, North Korea, Bulgaria, and South American countries.

Poultry

- Avian Influenza seropositive found in a commercial broiler breeder flock in January 2011.
- Infectious Laryngotracheitis (ILT) was found in a large LBM supplier.
- Follow up to the Live Bird Market System (LBMS) Working Group meeting held in September 2010 and the Commission meeting in October 2010 were discussed under Agenda Item 6.

Sheep and Goats:

- Consistent State Scrapie Program Review was conducted July 26 – 30, 2010. TAHC and USDA-APHIS-VS accepted the review team's recommendations and are in the final stages of implementing changes.
- Primary concerns dealt with identification of animals in trade channels, and assurance that animals sold for slaughter were not being diverted.

Equine Piroplasmiasis (EP)

- The first case of EP in the current outbreak was on a south Texas ranch and was diagnosed in October 2009, due to *Theileria equi*. This investigation is now complete.
- In Texas, 53 positive horses have been identified with no ties to the South Texas case.
- In the U.S., 154 positive horses have been identified with no ties to the South Texas case. Over 80% are Quarter Horse racehorses. A rule requiring testing at race tracks will be presented under Agenda Item XII.

- EP test chart is now available for use by veterinary practitioners.

Swine

- Swine Brucellosis Free classification – should receive certificate soon.
- Surveillance testing at markets and slaughter is on track to maintain free status.

Cervids

- We have been working with Texas Parks and Wildlife Department on issues related to illegally possessed deer.
- CWD/Cervid Disease Stakeholder Group meeting was held in November 2010.

Program Disease Progress Report

The Program Disease Progress Report was included in the Commissioners' Notebooks. This report provided statistics regarding:

- Cattle Brucellosis
- Indemnity/Diagnostic Purchases
- Ticks
- Bovine Tuberculosis
- EIA
- Swine
- Scrapie
- CWD Activities
- Poultry

Item 5 – Discussion of Legislative Fees and Budget

Dr. Dee Ellis, Executive Director provided the following report regarding the Agency budget situation.

- The Legislative Budget Board (LBB) has recommended that the TAHC be structurally changed from 95% General Revenue to 50% General Revenue with the remainder being primarily a "fee based" structure.
- The Legislative Budget Board (LBB) has also recommended cuts to the agency budget and gave direction to TAHC to offset the cuts by implementing fees to raise the needed funds.
- Legislation will be drafted and filed to give TAHC authority to set and implement fees.
- The TAHC goal is to return our agency to its 2010 fiscal funding level which exceeds the original LBB recommended amounts.
- The agency created a working group which included stakeholder organizations. Suggestions from this working group included:
 - Save \$1 million by reducing First Point Testing by \$1 per head (State money removed.)
 - Generate \$1 million by new lab fees.
 - Create a broad-based equitable fee process for the remaining \$5+ million which would be needed to return to the 2010 budget.
 - FTE's (Full-time equivalent positions) reduced to 205 from 209, but higher than the LBB recommended at 199.5.

- Capital budget authority for trucks and Information Technology not granted.
- Next steps – to create broad based equitable fees to support our agency with stakeholder interaction for all species regulated.
- Fees that are being proposed later in the meeting for CWD, fowl registration, and swine food waste feeders are under current existing authority.

Mr. Gene Snelson provided information regarding the process for obtaining statutory fee authority. He further provided a copy of the Texas Animal Health Commission's current fee authority. He explained that additional fee authority must be authorized by the state legislature. A copy of a preliminary "Draft" of legislation allowing TAHC to charge fees for non-inspection services was provided.

Following discussion by the Commissioners and staff, Commissioner Edmiston moved and Commissioner Vickers seconded a motion to approve movement forward to implement a fee-based system as a partial source of funding for Texas Animal Health Commission. The motion carried.

Item 6 – Live Bird Market Report

Dr. Andy Schwartz provided a summary of Live Bird Market System (LBMS) activities.

Action taken in the Live Bird Market System:

- Live bird markets are visited weekly. Health status of birds at the market is observed and inventory/receiving records are received. Suppliers are required to provide a current negative test document for birds at the time of delivery to the market.
- Supply flocks are visited once a month. Supply flocks are tested for avian influenza monthly and inventory/delivery records are reviewed.
- A system of record reconciliation has been established which allows inspectors to compare supply farm delivery records with market receiving records. This system allows verification of records on a monthly basis and TAHC has noted consistent improvement.
- Biosecurity measures are discussed with all live bird market system participants.
- Educational efforts by TAHC veterinarians and inspectors, in conjunction with their increased presence at the live bird markets and supply farms, have had a positive effect on the quality and accuracy of inventory/delivery/receiving records and biosecurity.
- Outcome from the Live Bird Market Working Group meeting in September 2010 suggested five (5) Action Items:
 - TAHC develop a written Response Plan for future outbreaks
 - Institute a method of notification to all Live Bird Market System participants
 - All participants in the Fowl Registration Program be tested once a year for Avian Influenza. (Funding and personnel are a constraint to implementation of this suggestion.)
 - Collect a one cent (.01) fee for every bird put down. It was suggested that this money be used to fund testing and depopulation. (TAHC currently has no statutory authority to implement this suggestion.)

- Consider taking no action if the disease is not High Path Avian Influenza (HPAI). (The agency responds to all disease outbreaks as required by the Agency mission.)

TAHC staff took these recommendations and additional input received under advisement, and will use this feedback as a resource when planning and carrying out response efforts to avian influenza situations involving the LBMS in the future.

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.

The Audit Subcommittee approved the minutes of the meeting held on October 5, 2010.

Mr. Monday Rufus provided a report on the:

- Audit of the Region 3 Office. The result of the audit disclosed that the TAHC Region 3 Office has implemented systems which are functioning adequately and are reliable. The following recommendations were made for further strengthening the current controls in place:
 - Changes in Region 3 Fixed Asset Inventory should be reconciled with Commission Records in a timely manner.
 - The Region 3 Office can enhance its process of verifying E-Permits by having each assigned Inspector sign the verification documents on a consistent basis.
 - Audit of the Fort Worth Laboratory. The result of the audit disclosed that the Commission has adequate controls in place to provide assurance that the laboratory is accurately and effectively performing testing procedures. The following recommendation was made for further strengthening the current controls in place:
 - Laboratory Fixed Asset Inventory needs to be reconciled with the Commission's Fixed Asset Inventory in Austin.
 - Annual Audit Report for FY 2010 The following audits were conducted for the Commission for fiscal year 2010:
 - Information Systems – Security
 - Payroll and Personnel Processes
 - Cash Disbursements/Purchasing and Receiving (excluding travel & consumable supplies)
 - Audit Follow-up: Region 4 Field Office (Mt. Pleasant, TX)
- The report was approved and copies will be sent to the Governor's Office of Budget and Planning, the Legislative Budget Board, the State Auditor's Office, and the Sunset Advisory Commission.
- There was no public comment at the Audit Subcommittee Meeting.

Commissioner Coleman Locke moved and Commissioner Ken Jordan seconded a motion to APPROVE the Audit Subcommittee Report as presented. The motion carried.

Item 8 – Administration/Budget Status Report

Dr. Matt Cochran, Assistant Executive Director of Administration presented the Administration/Budget Status report.

Budget

Dr. Cochran presented an overall summary as follows:

- Current positions vacant
 - 24% of Central Office Administrative positions are vacant
 - 10% of Laboratory positions are vacant
 - 10% of Field positions are vacant
- TAHC anticipates remitting \$973,114 of our annual General Revenue funding back to the Comptroller.
- 6% or greater reductions in cooperative funding are anticipated for the next cooperative cycle, which begins this spring.
- The Legislative Budget Board (LBB) has proposed that our General Revenue appropriation be reduced by 43% relative to the 2010 GR appropriation. This reduction would include 67 FTEs.
- The LBB also proposed that we raise roughly \$3.6 million in fees
 - This proposal is linked to programs
 - This proposal is also linked to 52, fee-basis FTEs
- TAHC has countered the LBB's proposed budget with a budget that would allow this agency to continue to function.
 - After working through the House Appropriations Committee, it appears any revenue in addition to what the LBB proposed in General Revenue will have to be brought in by other means than simple appropriation from the General Revenue account.
 - Any salary paid from other revenue sources will have to include benefits (to be paid back to the state), thus decreasing the "functional revenue".
- The Method Of Financing – General Revenue report reflecting a 7.5% Budget Reduction and the Year-to-date Activity report reflecting expenditures compared to a percentage of fiscal year completed were included in the Commission notebooks.

Emergency Management

- TAHC's partnership with the Texas A&M College of Veterinary Medicine continues to progress as we will be participating in a Joint Animal Response Team exercise in April.
- The Emergency Management staff recently participated in a continuity of business meeting with representatives of the Texas and national dairy industries.
- Emergency Management staff continues to work with our industry stakeholders to identify critical infrastructure in this state's animal agriculture systems. Success may result in better funding of biosecurity and other needed preparedness initiatives.
- The State Administrative Agency for grants recently denied all 4 of the TAHC's Homeland Security Grant Program Requests.
- TAHC is working with veterinarians, stakeholder groups, communities and interested individuals on submission of applications for the 8 Veterinary Loan Repayment Program slots allowed for this funding cycle.

Commissioner Ken Jordan moved and Commissioner Reta Dyess seconded a motion to APPROVE the Administration/Budget Status Report as discussed today. The motion carried.

Item 9 – Consideration of and Possible Action on Agency Contracts and Purchases

All Agency Contracts and Purchases for the period of October 1, 2010 through January 31, 2011 were forwarded to all Commissioners prior to the Commission Meeting for their review.

Commissioner William Edmiston moved and Commissioner Richard Winters seconded a motion to APPROVE the Contracts and Purchases Requests for the period from October 1, 2010 through January 31, 2011. The motion carried.

Item 10 – Order Extending Movement Authorization of Elk Enrolling in CWD Program

Mr. Gene Snelson presented the resolution to hold in abeyance enforcement of Section 40.5(b) of the Texas Administrative Code, for movement of elk within the state for those producers that properly enroll their elk herds in the Commission's CWD Monitored Herd program no later than January 1, 2012.

Commissioner Richard Winters moved and Commissioner Coleman Locke seconded a motion to APPROVE the Order extending movement authorization of elk enrolling in the CWD program as discussed today. The motion carried.

Item 11 – Consideration of an Agreed Order in the Matter of Juan Lara for Violations of Commission Rules

Mr. Gene Snelson presented the violation of Texas Animal Health Commission rules by Mr. Juan Lara who transported dairy animals without officially identifying them prior to movement. An administrative penalty was recommended.

Commissioner Chuck Real moved and Commissioner Edmiston seconded a motion to APPROVE the Agreed Order in the matter of Juan Lara resolving violations of Commission rules. The motion carried.

Item 12 – Consideration of and Possible Action on Regulation PROPOSALS Regarding:

(a) Chapter 40, Chronic Wasting Disease - Fees

In Section 40.3, Herd Status Plans for Cervidae, This section was amended to allow the Commission to assess a fee of \$100.00 per hour if requested by a producer to verify the annual inventory as required by the Chronic Wasting Disease Monitoring Program.

Commissioner William Edmiston moved and Commissioner Randy Brown seconded a motion to PROPOSE the amendment to Chapter 40, Chronic Wasting Disease, located in Title 4 of the Texas Administrative Code, as discussed today with notice of the proposed amendment to be published in the *Texas Register* with a 30-day comment period. The motion carried.

(b) Chapter 49, Equine – Piroplasmiosis Test Documents & Racetrack Requirements

The TAHC Commissioners **proposed** changes to **Chapter 49 Equine** located in *Title 4 of the Texas Administrative Code*. In **Chapter 49, Rule 49.5 Piroplasmiosis: Testing, Identification of Infected Equine**. This section was amended to define an official Piroplasmiosis test, and to require a standardized test form for piroplasmiosis submission. The rule was also amended to restrict positive animals and to require a test for equine entering into a racing facility.

Commissioner Reta Dyess moved and Commissioner Mark Wheelis seconded a motion to PROPOSE the amendment to **Chapter 49, Equine** located in Title 4 of the Texas Administrative Code, as discussed today with notice of the proposed amendment to be published in the *Texas Register* with a 30-day comment period. The motion carried.

(c) Chapter 51, Entry Requirements, Rule 51.3 Exceptions. This section was amended to allow equine entry into Texas for shows, fairs, exhibitions or assembly purposes when accompanied by a valid equine interstate passport or equine identification card and a completed VS Form 10-11 showing negative results to an official EIA (Equine Infectious Anemia) test within the previous six (6) months.

Commissioner Ken Jordan moved and Commissioner Coleman Locke seconded a motion to PROPOSE the amendments to Chapter 51, Entry Requirements, located in Title 4 of the Texas Administrative Code, as discussed today. It was further moved that notice of the proposed amendments be published in the *Texas Register* with a 30 day comment period. The motion carried.

(d) Chapter 54, Domestic and Exotic Fowl Registration. The TAHC Commissioners proposed changes to **Chapter 54, Domestic and Exotic Fowl Registration, Rule 54.4 Registration Fee.** The following fee revisions were proposed:

(1) **\$35** for less than 100 fowl, (2) **\$125** for 100 to 499 fowl, (3) **\$250** for 500 through 999 fowl, (4) **\$400** for 1000 to 2,499 fowl, (5) **\$600** for 2,500 fowl or greater, (6) **\$600** for any registrant whose flock does not reside in the state of Texas, except in cases where the out-of-state registrant provides to the Commission an affidavit certifying a verified maximum flock size, then the registration fee will be the same as the fee for Texas registrants with a corresponding flock size. The annual certificate of registration fee for a distributor or transporter of fowl shall be **\$600**. The annual certificate of registration fee for a combination fee for a seller, distributor or transporter of fowl shall be **\$800**.

Commissioner Coleman Locke moved and Commissioner Beau White seconded a motion to PROPOSE the amendments to Chapter 54, Domestic and Exotic Fowl Registration, located in Title 4 of the Texas Administrative Code as discussed today. It was further moved that notice of the proposed amendment be published in the *Texas Register* with a thirty (30) day comment period. The motion carried.

(e) Chapter 55, Swine, Rule 55.3 – Feeding of Garbage. The proposed amendment to this Rule adds a twenty-five (\$25.00) dollar annual fee to all garbage feeder registrants.

Commissioner Richard Winters moved and Commissioner Mike Vickers seconded a motion to PROPOSE the amendment to Chapter 55, Swine, located in Title 4 of the Texas Administrative Code, as discussed. The motion failed.

Item 13 – Recognition of Public Comment

Mr. Don Ward representing the Livestock Marketing Association of Texas provided testimony regarding HB 1 – Appropriations.

Item 14 – Executive Closed Session under Section 551.071 of the Texas Government Code to consult with its attorney in seeking legal advice on matters relating to pending litigation.

Item 15 – Set Date for the 379th Meeting

379th Meeting – May 24, 2011

Item 16 – Adjournment

The meeting adjourned at 11:55 a.m.