



Minutes of the Board of Agriculture

I. CALL TO ORDER – The meeting of the Board of Agriculture was called to order on December 29, 2014 at 9:00 a.m. by Board of Agriculture Chairperson Scott Enright, at the Plant Quarantine Conference Room, 1849 Auiki Street, Honolulu, Hawaii 96819.

Members Present:

Scott Enright, Chairperson, Board of Agriculture
Jerry Ornellas, Kauai Member
Michelle Galimba, Member-At-Large
Richard Ha, Hawaii Member
Clark Hashimoto, Member-At-Large
Lynn DeCoite, Maui Member
William Aila, Chairperson, Board of Land and Natural Resources
Dr. Kenneth Grace, Associate Dean and Associate Director for Research of the University of Hawaii at Manoa College of Tropical Agriculture and Human Resources (CTAHR) for Dr. Maria Gallo, Ex Officio Member

Members Absent:

Glenn Hong, Member-At-Large
Mary Alice Evans, Deputy Director, Department of Business, Economic Development and Tourism (DBEDT)
Michelle Galimba, Member-At-Large

Others Present:

Brad Duff- Big Island Dairy
Brian Miyamoto- Hawaii Farm Bureau Federation
C.N. Lee- University of Hawaii at Manoa
Andrew Gomes- Honolulu Star Advertiser
Ed Boteilho Jr., Clover Leaf Dairy
Jeri Kahana, Control Program Specialist/QAD
Juanita Kawamoto Brown- Environmental Caucus of the Democratic Party of Hawaii (ECDPH)
Robert Brown- ECDPH
Janelle Saneishi, HDOA Chairperson's Office (CHR)
Michael Opgenorth, HDOA/CHR
Margaret Ahn, Deputy Attorney General, Attorney General's Office

1 II. APPROVAL OF MINUTES FROM 10/28, AND 11/25/14 MEETINGS

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3 This agenda item was not discussed or voted on during this meeting.

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5 III. COMMENTS FROM THE GENERAL PUBLIC ON AGENDA ITEMS (ORAL OR
6 WRITTEN)

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8 Chairperson Enright stated the Board will take testimony for a maximum of three
9 minutes per testifier being that this milk issue was discussed in length at previous
10 meetings.

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12 IV. INTRODUCTION AND COMMENTS

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14 V. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

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16 A. QUALITY ASSURANCE DIVISION

- 17
18 1. Request for adoption of amendment to Section 4-60-10, Hawaii
19 Administrative Rules, entitled, "Minimum prices in the Hawaii milk
20 shed." Allows milk producers in the Hawaii milk shed to petition the
21 Board of Agriculture for a waiver to the minimum milk prices paid by
22 distributors to producers. (Deferred from November 25, 2014
23 meeting.)

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25 Motion: DeCoite/Ornellas

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27 Board member Ornellas asked if a member of Meadow Gold Dairy or Dean Foods was
28 present. He stated it is concerning that Meadow Gold did not attend any of the milk
29 related meetings. As they are such a large part of the dairy supply system, the reason
30 we are here today is because they will not purchase milk at the current prices dairy
31 farmers will be selling at in accordance with the milk shed prices.

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33 Mr. Brad Duff of Big Island Dairy testified that it is important to pass this request not just
34 because of the current industry, but to attract the future establishment of new dairies in
35 Hawaii. This request allows for greater security, and provides a way for milk producers
36 to sell their milk products to a processor.

37
38 Board member Hashimoto asked Mr. Duff if current producers will be able to survive if
39 they are allowed to receive a waiver and sell their milk at a reduced price.

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41 Mr. Duff stated that will be discussed in the upcoming waiver meeting, but as far as Big
42 Island Dairy goes, if they are allowed to request and receive a waiver, then yes they
43 anticipate they will maintain profitability.
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1 Mr. Boteilho of Clover Leaf Dairy testified. He stated, as he stated in previous Board of
2 Agriculture meetings, that a deal between the processor and producer was made
3 before, and now the Board should come forward and correct what was done. Under the
4 Sunshine law, the petition for a waiver should come forward in writing. He mentioned
5 he has never seen that. The processor has not been present at these previous
6 meetings, so who was the requestor? As far as the dairies, Big Island Dairy is a new
7 company which is going to have large production, providing them with more leverage in
8 the production they have and their cost of production goes down. Mr. Boteilho stated he
9 is a smaller dairy operation, so he has to have the pricing formula applied to him. He
10 stated he has been working with KTA stores for seventeen years. Milk was packaged by
11 Meadow Gold for the Mountain Apple Brand. Mr. Boteilho stated the law says he has a
12 right to his quota because it was issued to him. In this proposed rule change, it does
13 not explain what milk is being addressed. It does not distinguish if it is surplus milk or
14 all milk, which would also need clarification. He knows that the Board has heard much
15 testimony but if one dairy receives this price relief, it puts Clover Leaf in a category
16 where they need to submit to these new prices. If he was selling surplus milk, he could
17 survive. However, if it is quota milk, Clover Leaf would not survive.

18
19 There are all these questions that in his eyes, have not been properly addressed.
20 Even though his dairy is for sale, he stated that it should not have a bearing in this
21 decision. He then asked if the Sunshine Law applies here or not. He also stated the
22 December 29th Board of Agriculture meeting came about so suddenly. He heard the
23 news about the Board meeting through research, not because he was notified, which he
24 feels should have been the case.

25
26 Ms. Margaret Ahn, Deputy Attorney General said the Sunshine law has always been
27 followed at the Board meetings. Administrative Rule changes have separate legal
28 requirements, including public hearings. But the Board has also had to consider the
29 proposed rule change, and there have been many open meetings on this particular rule.

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31 Chairperson Enright stated the milk proceedings have been totally transparent. This
32 issue has been taken out over the course of a number of meetings and many hours of
33 testimony. This Board will need to go forward with the dairy industry in this manner.
34 The dairy industry is changing. The milk rules were enacted years ago when the dairy
35 industry climate was different, with many producers. Now, there are about a dozen
36 distributors of mainland milk in the State. Even Coca-Cola is getting into the market.
37 This marketplace is changing, and this Department is reacting to a request from Big
38 Island Dairy. They needed a contract that would enable them to sell at a certain price to
39 Meadow Gold. For Clover Leaf, they do not have to apply for a waiver, but if Big Island
40 Dairy wants to apply for a waiver they would be able to do so under this rule change.
41 The California commodity price is predicted to drop forty cents in the next month. Dean
42 Foods of Meadow Gold cannot sustain their market share if they do not have Hawaii
43 milk at competitive prices. This is the main reason the Board has been discussing this
44 over the last year.

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1 Further discussion:
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3 Mr. Boteilho asked for a rebuttle, and Chairperson Enright granted it. Mr. Boteilho
4 questioned how come the petition is moving forward and who is behind the petition.
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6 Chairperson Enright stated that it is actually a rule change and it was a request from Big
7 Island Dairy.
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9 Mr. Boteilho asked if that request from Big Island Dairy was in writing.
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11 Chairperson Enright confirmed it is in writing. The Board moved forward in February
12 with a rule change. That change went to public hearing, at which time Mr. Boteilho
13 provided his comments. Now, the Board is going to take a vote on this rule change. If it
14 goes forward, the Governor will need to sign off to approve the change. If the Governor
15 signs, dairies can then petition for a waiver. Tomorrow's meeting is when you will have
16 an opportunity to come forward and request a waiver.
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18 Mr. Boteilho stated that the statement from Meadow Gold should be in writing stating
19 that they will stop buying local milk in January.
20

21 Chairperson Enright stated Meadow Gold did not state their intention in writing but it
22 was made clear that was their intent. He then mentioned it is important for the producer
23 to be in relationship with their processor. The Department is not in charge of the
24 relationship between the producer and the distributor. The Department helps to
25 facilitate the industry, but is not in charge on that level. It is a two way street between
26 the producer and the processor. It does not appear Clover Leaf Dairy is communicating
27 with the processor and vice versa, which is an issue.
28

29 Mr. Boteilho stated there was a county resolution passed from the Big Island that was
30 submitted to then Governor Neil Abercombie. He then asked if the Board has seen that
31 resolution.
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33 Chairperson Enright answered he has not personally seen the resolution but that he
34 was aware of it since he reads the local paper and is a Hawaii Island Resident.
35

36 Mr. Boteilho asked if the Board members have been informed of the information relating
37 to this submittal.
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39 Chairperson Enright stated the Board has been informed of all information provided to
40 him up to this point. In addition, Chairperson Enright stated he is hard-pressed to think
41 that the Board does not understand the situation after the hours and hours of testimony
42 and the investigative committee's work. They should have all the information they need.
43 The Chair has empowered the Board, and this Chairperson empowers them to get
44 involved. This Chair does not lobby the Board members to agree with him. Anybody is
45 welcome to discuss issues individually with any of the Board members. The Board

1 understands your position, is also aware of Big Island Dairy's position, and feels poised
2 to move forward.

3
4 Mr. Boteilho stated the investigative report came in and was presented to the Board and
5 asked the question why is something being done after the fact. They felt more study
6 was needed. There was some unfairness, leaving Clover Leaf out completely and then
7 asking the Board to approve what is moving forward.

8
9 Board member Ornellas, chair of the milk investigative committee said there were some
10 unanswered questions from the investigative report, but with the amount of testimony
11 that was recieved, it is an appropriate time to move forward with this change. The truth
12 is, the processor is behind the motivation to move forward so swiftly. Mr. Ornellas then
13 stated he does not see a way out of this.

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15 Chairperson Enright stated the way the rule is written does not require the producer to
16 ask for a waiver, but allows a waiver to be an option. He then stated Clover Leaf will
17 still be protected by continuing to use the old pricing formula, but it does allow Big Island
18 Dairy to ask for a waiver if they choose to do so. The Department of Agriculture cannot
19 force Meadow Gold to buy local milk.

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21 Mr. Grant Tomita, stated the price for milk would be January \$19.49 per hundred weight
22 for Hawaii.

23
24 Mr. Boteilho stated prices paid by processors have gone as low as \$17.00 or \$16.00 per
25 hundred weight. Today's rule will require him to go into line, or be kicked out.

26
27 Chairperson Enright, stated he does not agree. That moving forward, the market will be
28 competitive. The way Mr. Boteilho has carried himself in the dairy industry, it has been
29 exemplary. He stated his sincere hope is that Clover Leaf will do well moving forward.

30
31 Mr. Boteilho stated he will have to move from an AFO (Animal Feeding Operation) to a
32 CAFO (Concentrated Animal Feeding Operation) to be competitve.

33
34 Chairperson Enright restated the HDOA cannot force Meadow Gold to buy Clover Leaf
35 milk. That is an agreement that needs to take place between the producer and
36 processor. Again, he asked Mr. Boteilho to consider that Meadow Gold was quite
37 serious that they do not want to buy local milk when it is not competitively priced with
38 California milk.

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40 Mr. Boteilho stated the highest price milk is branded, Meadow Gold milk. Even on
41 Oahu, there is existing competition between Meadow Gold and other brands of milk
42 found on store shelves.

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44 Vote: Approved 7/0

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VI. NEW BUSINESS

VII. ADJOURNMENT OF REGULAR MEETING

Call for Adjournment

Vote: Approved 7/0

VII. ADJOURNMENT OF REGULAR MEETING

Meeting adjourned at 9:40 am

Respectfully submitted,



Michael L. Opgenorth
Board Secretary