

## **ARKANSAS COTTON GROWER'S ORGANIZATION, INC.**

Minutes of the  
March 1, 2001 Meeting

Arkansas Farm Bureau  
Little Rock, AR

Members present were Joe Burns, Mark Bryles, Perry Stratton, Trent Felton, Ritter Arnold, Don Alexander, Jack Carey, Hal Hyneman and Charles Tilmon.

Others present were Cal McCastlain, attorney for ABWEP; Doug Ladner, Mike Catanach, Danny Kiser, David Murray, Joel Pietsch, Patty Carr, and JoAnn Arnn, ABWEP; Cecil Williams, Ag Council of AR; Darryl Little and Scott Longing, ASPB; Bill Robertson and Don Johnson, U of A CES; Gene Martin, AR Farm Bureau; Bill Yearian, U of A; Keith Martin, CES-Mississippi County; David Wildy, Koehler Blankenship, Bob Ramey, Cole Hawkins, Kenny Jackson, John Edwards, Randy Reynolds, Dale Wells, and Greg Bonds, Mississippi County; Richard Sharp, FSA; Henry Finch, Danny Finch, and Jim Kimbrough, Craighead County; Alec Farmer, landowner and ginner, Childers; Landiss Brantley, Jr., Lonoke County; Bobby Gammill, Randy Veach, and Mike McCarty, NE Zone; Jim Plato, Plato Industries; Bob Perry, beekeeper, Arkansas County; and David Risner, beekeeper, Desha County.

Chairman Burns called the meeting to order at 10:10 a.m.

Cecil Williams led in a word of prayer.

Chairman Burns thanked the Farm Bureau for use of the facility.

### Approval of January 24, 2001 meeting minutes

Chairman Burns asked if there were any additions, or deletions to the January 24, 2001 minutes. There were none. Mark Bryles made a motion that the minutes be approved as presented. Perry Stratton seconded and the motion carried.

### Mississippi County Grower Update

David Wildy introduced those who were present from the Northeast Zone. Copies of PowerPoint presentation were provided (Attachment 1). Wildy began with a review stating that Northeast Zone growers are not opposed to eradication, but they are concerned as to where the economic benefits are for them. A committee was formed in the Northeast to consider the options. The committee agreed on three things they wanted to propose.

1. Need a good grid sampling of the Zone
2. Need to develop a budget. Work for a low cost program that is built around possibly alternative approaches in the low habitat area. They have been told that probably the alternative method would not work in high habitat area where infestations for extremely high. The alternative method might no be the easiest way to do it, but if it would lower the cost to producers and landowners, Wildy and those on the Northeast Zone committee feel like it has to be seriously considered.

3. Without exception the committee wants a landowner provision included in the referendum. Wildy read a letter written by Steve Wilson of Lee Wilson & Company. Wilson concluded that including mandatory landlord participation as a prerequisite to the passage of the Northeast program is probably the only way it will be accomplished.

Wildy concluded that it is the responsibility of the Grower Board to see that the landowner provision is included, so the referendum gets passed in Northeast Arkansas. He stated that he hopes the Board will consider the recommendations very seriously.

Chairman Burns asked Cal McCastlain to address the issue of landlord participation. McCastlain said that any referendum will have to be based on some constitutional issues and so would the statute. We have two primary constitutional issues McCastlain thinks are going to impact on doing anything requiring the landowner to participate. The first standard is – you can't carve out a special section or group of people for legislation. If it's arbitrary there has got to be some sort of rational reason for doing that.

The other issue would be that both the US and the Arkansas constitution say that you cannot pass a law that adversely impacts an existing contract. For those rental arrangements that are in place, whether it's a long-term written arrangement or an automatically renewed year to year lease, if you pass amending legislation that would change the terms of those contracts, then that law or referendum provision could be declared unconstitutional.

If it's a statutory change, which it would have to be for the referendum to address it, the Legislative Council would go through a similar review and ask that question, "Have we created some constitutional issue with this amendment?". If it gets past that review, and that statute is passed, McCastlain thinks there is a risk of a lot of complaining parties in Southeast Arkansas where the operators are not getting that same kind of deal, and also from landowners in Northeast Arkansas. If it's a constitutional issue, it only takes one complaining party to tie the whole thing up.

In summary McCastlain stated that there would be two very critical constitutional issues that would indicate that you cannot pass a requirement that the landlords participate.

Hal Hyneman asked if so many landowners are already for it, then why is this such a concern. It sounds like a good consensus that the landowners are going to pay their part.

Wildy feels that he shouldn't have to go to the landowners to collect the money.

There was discussion about whether or not there had been problems getting landowners to pay. No one has asked a ruling of the Board.

Trent Felton pointed out that at the January Board Meeting Ritter Arnold made a motion and he seconded it that Northeast Arkansas growers along with Program personnel and the Technical Committee be involved in formulating a program. He said these groups should get together and start working to come up with a positive solution.

John Edwards from Mississippi County reiterated that without the landowner provision the referendum will not pass.

McCastlain made the following statement: It was not until ten days ago that anybody got information for him to look into that the landowner issue was an issue. It was not until today that this forum was able to discuss it. He said he had no problem with anybody second-guessing opinions. If you can find the right entity to go to the Attorney General and ask the question, or to the Legislative Council, by all means do it if there's a way to fix it. The only question that can be asked right now is "Are there any issues out there, if we have any special legislation regarding the landowners?". He is 100% convinced there is an issue. He doesn't know that it cannot be overcome, but if there is an issue in just creating this special legislation to accommodate the Mississippi County area, that means you have just as big, if not a bigger question for those who are down in the Southeast under a different type of agreement. Whatever is done to accommodate the Northeast, we have got to take into account the legal issues and how they affect the rest of the state. He said he would hate to see the main issue which has been a budget issue, and which he thinks can be addressed by everybody, shift over to a legal issue, based on constitutional issues, that could affect the whole region, and not just the Northeast. If we can focus on the budget, he thinks that is where we're going to find the common ground on getting this nailed down, and not unnecessarily create a legal issue.

Bob Ramey said in a coffee shop discussion the first thing is the cost, but it's a psychological thing if you say that the person I'm renting the ground from is going to be mandated to share in that cost, and you factor down by whatever percent rent he is paying, that becomes a more palatable budget issue. They wonder why are we different from other states. He, like Wildy, doesn't think he should have to go to the landlords and collect the money. He asked why if they have the allowance to vote do they not also have the mandated provision to pay their share.

After discussion on this, and on alternative methods, Dr. Bill Yearian stated that what the group up there (Northeast Zone) is saying is that they are willing to take a chance. They want the Program to take a chance and to this point the Program has not been willing to take a chance or step forward and say, "Yes, we'll take a chance together."

Hyneman said he thinks the alternative approach is the best way to look at it. He thinks that's the best chance of getting the cost down. Having said that he asked if the Northeast as a group would consider, if we try something like that to get the lower front end cost, agreeing in a referendum that maybe the maintenance cost might be higher for a couple of years. Not long term, but just in case there is a mistake made that we can clean it up without it being a burden on everybody else in the area. If you want a lower front-end cost, are you willing to share the risk that if it doesn't work that you would pay a little bit more to get the problem cleaned up?

Felton made a suggestion that Wildy get his group of growers together with the Technical Committee and the Program and start working toward finding out what the population of weevils is. Then present to the Board what they found out. A motion was made, seconded and passed at the January 24, 2001 Board Meeting that these groups put together a recommendation to bring back to the Board. The Board relies on the technical people to tell them what's out there, how to control them, and what it will cost. Then the Board tries to make a decision as to whether that is the best situation and if it's the most feasible situation. Another thing Felton emphasized is that when they come up with a cost for a program they have to come up with a worst-case scenario, a figure that will cover any situation that might come up. They will only charge what the program costs. The last three or four years of this program, if we have done it cheaper, then we will lower that assessment. It's the same thing with the maintenance fee. They had to go for the high cost to satisfy the people they borrowed the money from. Felton reiterated that Wildy's group, the

Program and the Technical Committee should get together, and then come back to the Board with a proposal, so they can discuss it after all of the options have been considered and we do have a cost that everyone thinks will pay for the program.

Don Alexander asked if grid sampling to be used for development of budget has been officially adopted. Hyneman said it was in the January minutes, but not in the form of a motion.

Alexander made a motion that grid sampling be used in developing a budget for the Northeast region, and also in that motion that this Board additionally asked for an opinion through the Plant Board from the Attorney General's office addressing the landlord issue of the current law. Arnold seconded. Chairman Burns asked for discussion.

Mark Bryles said that the Board needs to see figures on employing the alternative approach in Mississippi County. Doug Ladner said things are moving forward in the process of gathering that data.

With no future discussion, the motion passed.

Bryles made a motion that within a reasonable length of time the Program people and the Technical Committee come up with a budget, an estimated budget, on employing portions of the alternative approach to weevil control and eradication in the Northeast Zone.

Hyneman asked if that was to include an analysis of any risk factor.

Felton stated that he hoped that when the groups get together every aspect is looked at and they come up with a feasible program and make a recommendation to the Board, including whatever is prudent to achieve eradication.

Alexander seconded the motion.

Chairman Burns asked if there was further discussion.

McCastlain asked if there is a technical distinction or a bright line between the high infestation level and the low infestation so we'll know at what level we're triggering the use of the alternative method.

Dr. Yearian said that's one thing that has always been a hang up to this point as far as coming up with a realistic budget estimate in that the exact amount that fits into this category or that category is not known. He doesn't think it would take a long time to get that together. He said he had no problem with grid trapping, but people who understand boll weevils know where the over-wintering habitats are. The producers present know the fields on their farms where they have a problem. It would just be a matter of legwork to get this together, and so far, that legwork hasn't been done.

Bryles restated the motion which was to come up with a budget that would employ the alternative approach in the Northeast Zone, and bring that back to this Board at some future date before a referendum.

Chairman Burns called for a vote. The motion passed.

Chairman Burns told Wildy that the Board appreciated the effort he and others present from the Northeast had made.

### Chairman's Comments

Chairman Burns reported that the Malathion plant that produces half of our Malathion blew up. They haven't been in production since. Chairman Burns and Ladner went to Mexico and were concerned at what they saw. They don't know when they will be in production. We have been trying to get some alternative plans drawn up with all the programs throughout the United States to try to ration Malathion. They have not been able to reach agreement. A proposed moratorium on expansion was unacceptable to Texas.

The new proposal that has come from the National Cotton Council is to drop the rate from 12 ounces per acre to 10 ounces, which would save 460,000 gallons of Malathion in a year's operation.

Don Johnson suggested petitioning the USDA to initiate an effort to identify alternative chemistries to substitute for Malathion.

Senator Tim Wooldridge, Senator Steve Bryles, Representative Bill Bevis, and Representative Wayne Nichols were able to arrange a conference with the governor. Jack Carey and Chairman Burns, along with the aforementioned senators and representatives, and Rodney Baker and Andy Miller from the Farm Bureau met with the governor. The agreement that has been worked out with the legislature is for each side of the legislative branch to furnish ¼ of the \$5,000,000 and the governor's budget to furnish ½ of the \$5,000,000. The governor agreed to that. He didn't say you could count on the money, but he said he would support his half if the legislature supported their half. The only obstacle is whether or not there is enough money available. We need to continue to approach our senators, representatives and the governor. There is a need to keep this issue in front of them because they're being hit from all sides with requests for money. We're just one of many that have worthy causes for this money.

### Technical Committee Report

Dr. Yearian reported that the Technical Advisory Committee has not met since they met prior to the last Board meeting. He said he has been to Mississippi County and had talked to some producers. They discussed eradication in that area and he thought the meeting went very well. It was decided not to have another TAC meeting until after today's Board meeting to get feedback from the Board.

Dr. Yearian said after the last TAC meeting the committee was going to recommend to the Board that we move forward with a referendum in Mississippi County and eastern Craighead County as rapidly as possible. There was to be a budget put together. In putting the budget together it went awry and that's the reason he pulled it from the last Board meeting.

### Director's Update

This report was given by Doug Ladner. Copies were provided (Attachment 2).  
Copies of the revised trapper contract were provided (Attachment 3).

Ritter Arnold brought up the question of including eastern Poinsett County in this year's program. It had been discussed at the last Board meeting. A definitive decision was not reached. Ladner said the river still gives the best biological protection. The Program staff wants to keep it the way it was first presented. After some discussion, a motion was made by Perry Stratton that in Poinsett County the floodway be the dividing line. Mark Bryles seconded. Motion passed.

### New Business

On the Gasaway matter McCastlain said he had just received the rest of the operational information he felt was needed. He said procedurally the way to go is to get back with them and have some discussions on the merits of the claim and be ready to deal with it at the next meeting. The Gasaways should be offered the opportunity to be at the next meeting. If those discussions don't bear fruit, one of two things can happen at the meeting. McCastlain said he could bring a proposal for the Board's approval if the discussions go that far, or we hear more details from the Gasaways and then decide what we want to do.

There was a discussion of certified acres.

Felton made a motion that Cal, Doug, and Danny design an emergency spray form. He thinks it's imperative that we have a system where if a producer does not get his field sprayed he calls his Field Unit Supervisor. If there is no response there, he calls his zone manager. If he gets no response there, he calls headquarters. Felton thinks he should ask permission from the county agent to spray his field and ask the county agent to inspect. If the extension agent signs off on this form, the farmer can spray it and we in turn will give him credit the next year on his expense. He thinks we're a lot better off doing this type of a situation, then coming back six months later and having to address yield losses because a field was not sprayed.

Hyneman asked Ladner if he had any concerns over this. Ladner said he had concerns because he feels there should be a paper trail from the very beginning. There was discussion. Mike Catanach said they are in the process of making complaint procedure, and making documentation for when this happens. He thinks it would be feasible to include an outside county extension agent, or whoever, who would contact headquarters. He said they are putting in place a management staff to go out and do quality control to try and avoid this where we have management turnover and when we have turnover in the field. We are going to have systems and backup systems in place, so that when they leave their information will stay because they will not be able to carry it out with them.

Don Johnson said they wouldn't mind looking at any field in the state. He thinks it's a good idea, because they can catch those problems before they get too bad.

Ladner said the Program staff will enhance what they are preparing and include the county agents.

Chairman Burns asked for a second to the motion. Jack Carey seconded.

Hyneman suggested that they amend the motion and let the Program staff bring back to the next Board meeting the process they are going to use and then the Board could approve it at that point in time. Don Alexander seconded the amendment.

Chairman Burns called for a vote on the amendment. The amendment carried. He then called for a vote on the motion. Motion carried.

A brief recess was taken. The Board reconvened at 12:55.

Don Alexander asked two beekeepers, David Risner and Bob Perry, who had made requests for inspection, to be present. The Plant Board investigated these for possible pesticide misuse, off-target drift. The Board was given copies of the letters that were issued to both parties. Alexander read a paragraph on page 4 of a letter written to Risner (Attachment 4) and indicated a paragraph on page 2 of a letter written to Perry (Attachment 5).

Risner addressed the Board, detailing his complaint. There was some discussion concerning notifying beekeepers of how far the bees need to be from cotton fields. Ladner stated that it was 500 feet last year and this year it will be ¼ of a mile. We will monitor up to ¼ of a mile and that means we'll be there every time that field is sprayed.

Perry also addressed the Board, detailing his complaint.

Alexander moved that with the proper justification of loss of honey and bees we compensate these beekeepers according to the justified loss. He said he was not saying that this Board should admit any guilt. Felton seconded the motion.

Chairman Burns asked if it could be incorporated with the motion that the Program, the Plant Board and McCastlain get together with the beekeepers and get this settled up.

Arnold said that as a part of a policy statement some responsibility has got to be taken by beekeepers. Bryles expressed concern about being liable for things that are not on the label.

Chairman Burns call for a vote and the motion passed.

Ladner said that basically it would be the Plant Board and McCastlain. The Program doesn't have that much to say about it. He said from now on he wants the opportunity to defend the Program. The Program will do everything it can to make sure that data is available, accurate, and sufficient enough to defend its actions.

Hyneman asked McCastlain is we could put out a notice to beekeepers that would protect us. McCastlain said that is something we have to do, have a specific notice that goes to them. Ladner said that notices were sent out last year. Hyneman clarified that he was referring to language that would forewarn them and disavow liability so far as we can do that legally.

There were no reports from industry, Farm Bureau or the Ag Council.

Bryles said as a member of the Board he would like for the Board to go on record as encouraging Jack Carey and Perry Stratton to sit in on the Gasaway discussion. He said Board members need

to be kept informed about what's taking place, problems, etc. He would like to see one, or both, sit in on that discussion. Stratton said he needed to be left out of this particular case.

The next meeting was set for Thursday, April 5, 2001 at the Farm Bureau.

The meeting adjourned to executive session at 1:45.

The meeting reconvened at 3:05. Chairman Burns stated that personnel matters were discussed.

The meeting was adjourned at 3:05.

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JOE BURNS, Chairman