

State Brand Board

Minutes of Meeting

The Brand Board met on September 17, 2008 at the State Brand Board office in Pierre, SD. Chairman Kimball called the meeting to order at 10:00 a.m. Members present were Mark Kimball, Bart Blum, Tom Conger, and Curt Mortenson. Other present were Harold Deering, Larry Stearns, Shorty Zilverberg, Wray Shouldis, Karen Webber-Boyer, Jim Murphy, Tammy Basel, Mary Ellen Cammack, Bill Gallagher, Jerry Vogeler and Bob Mercer.

Agenda: Conger moved to adopt the agenda for the meeting. Blum seconded the motion that passed.

Minutes: Mortenson moved the minutes for the August 20th meeting be approved. Conger seconded the motion which passed.

Director's Report: Stearns reported that in August 2008, there were 38 applications, 33 new brands, 21 transfers and 5 books sold. In September to date, there have been 16 new applications, 9 new brands, 14 transfers and 1 brand book sold. He reported that the ERS Brand Software is generating reports that are used for deposits and payroll for brand inspection. Amy Millage has been hired as the new Brand Clerk for the inspection program. The Directors is appearing before GOAC on September 23.

Investigator's Report: Zilverberg reported that in August 2008, there were 11 total cases reported. Of these, 0 were stolen cases, 5 were missing cases, 2 violation cases, and 4 complaint/info cases. Five cases are still active. The total stolen or missing was 8 head. Zilverberg reported on a new form, an affidavit of non-ownership. This would be used by the investigator for an individual that misbranded an animal to use instead of signing a bill of sale for an animal that they never owned. Mortenson moved to approve the new form. Blum seconded the motion and it was approved. Conger commented that it is very prudent to develop a tool to apply to a specific situation where an existing form is not applicable. Mortenson asked about the plans for road checks. Zilverberg reported that they will be conducting road check this fall. The board agreed that it is necessary to show a presence during this time of year.

Brand Inspection Report: Shouldis reported a total of 61,163 head inspected in August 2008. This consisted of 46,431 at markets, 14,499 local inspections, 233 at lockers with 434 holds. Mortenson asked that on the spreadsheet showing the cumulative inspection numbers that the 08/09 numbers be compared to the average of preceding years available. Conger asked if there was a breakdown available of the number of hide and live cattle inspected at locker plants. Shouldis said that it was about 50-50. He added that the inspection program loses money on the locker plants and looking at hides is a better form of time management. Mortenson asked about the number of holds. Shouldis explained that a hold represents one animal held.

Brand Inspection Fund: Stearns explained the revenues for the months of July and August and that the state accounting system is reporting revenues and expenses in the proper categories following the inclusion of brand inspection into the brand board office. Conger asked if there are any troubles separating brand inspection expenses from other board expenses. The director said the critical services are broken out by area of use. Mortenson asked about the reported number of cattle and revenue collected differences from the former contractor. Stearns stated he was comfortable with the differences in numbers and after operating the program for several months understands where the differences lie.

Kimball asked about the topic of the GOAC meeting that the director will be attending. Stearns said that the topic in the hearing is the feasibility study. Kimball asked if an audit may be needed and asked the Board for their input. Conger said that the question has to be answered completely but if the director is satisfied with the answers and GOAC is not questioning these numbers then an audit may not be needed.

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Mortenson asked that a comparison with the budget be prepared to show amount remaining as was shown in last year's report.

Brand Inspection Program: Stearns stated that it is a work in progress. He said the program picked up another six inspectors last week and have about a dozen on board. Shouldis added that there about 100 inspectors available but want to have a few more local inspectors available in some areas as some inspectors do not want to travel very far. Kimball said that a letter should be drafted to thank the brand inspectors for their hard work. Blum asked about the meal allowance. He had visited with a full-time inspector that had questioned the withholding on meal allowance. Deering explained that the IRS considers meals to be income not reimbursement. Stearns explained that part-timers will receive additional salary to make up the difference.

Open Comment: Murphy asked if traffic checks have been conducted since July. Vogeler asked if the LMA could have a copy of legislation that the Board is considering. Stearns presented a fax received from the Rapid City Chamber of Commerce. He will call them to reassure them that there are inspectors in place. Basel asked if investigators would be doing anything different than in the past. Martinez said that following a visit with the Attorney Generals office that the investigators will be performing random checks in addition to the traditional road checks for the next couple months. Another questioned that if they were helping their neighbors haul cattle, do they need some paperwork saying who owns the cattle? The person needs only paperwork, which could be handwritten, stating the owner of the cattle, the brand, the date and destination. The Board was asked about the use of the brand to show proof for COOL? This has not been brought to the Board's attention. A discussion of Canadian and Mexican brands followed.

Conger moved to go into executive session at 11:10 am for personnel matters. Mortenson seconded the motion and it carried.

Conger moved to come out of executive session at 11:55 am. Blum seconded the motion and it carried.

The meeting reconvened at 1:05 pm.

Legislative Issues: Discussion was held based on the drafts of proposals provided by counsel.

Authorized Bill of Sale: The suggested proposal will allow the use of an authorized bill of sale for transportation of livestock out of the ownership inspection area only if transported by the buyer or the buyer's agent and only on the date the authorized bill of sale is executed. Conger added that it should include the statement that the bill of sale needs to be in the possession of the buyer or buyer's agent. Mortenson asked that these drafts be released as a draft proposal to garner input for further discussion.

Inspection Service Fee: Mortenson commented that this is an attempt to emulate the Colorado model of a surcharge or service fee on inspecting livestock at locations other than a licensed livestock auction market in the ownership inspection area. This would allow a cap to be set and the rules process would be held to consider the amount of service fee. A discussion followed about the use of surcharge or service fee. The draft can be released for discussion and input.

Administrative Fine: Mortenson suggested taking the amount of the fine out of the draft. This would add a penalty for offenders that ignore the brand laws, namely repeat offenders, and when no prosecution comes through routine methods. The draft can be released for discussion and input.

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Out of State Branding: The proposal would allow a buyer to brand livestock within one calendar day after purchase at a livestock market. Currently, the permit brings knowledge to the Board that an individual is branding their livestock with an out-of-state brand within the brand inspection area. Proposed legislation would require an inspector to sign off on a permit and send a copy to the destination state and to the Brand Board office. The permit would follow the market clearance or tally to that state. The draft can be released for discussion and input.

Shippers Permit: The proposed legislation solves some of the issues of leaving the brand inspection area to get a brand inspection. Conger asked if the proposal should show a specific inspection location to be listed on the Shippers Permit such as a sale barn. The draft can be released for discussion and input.

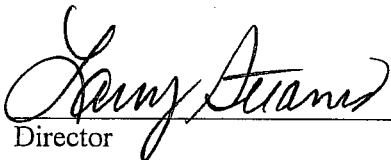
Voluntary Horse Inspection: Kimball emphasized that this proposal has nothing to do with brand registration. Deering said that this proposal will allow that a voluntary system for horse inspection be structured by administrative rule. Lifetime permits to take horses out of state would still be conducted by brand inspectors.

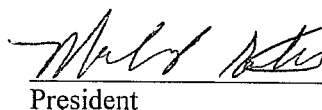
The next meeting is scheduled for Tuesday, October 28, 2008 and a conference call is scheduled for Friday, September 26, 2008.

Blum moved to adjourn the meeting at 1:45 pm. Conger seconded the motion which carried. The meeting was adjourned.

Respectfully submitted,

Larry Stearns



Director

President

These minutes were filed for the record on 10/28/2008.