Minutes of the Bargaining Council, Perennial Ryegrass Price Negotiations
Supervised by the Oregon Department of Agriculture
February 21, 2003

The meeting began about 9:00 am on February 21, 2003 at the Oregon Department of Agriculture (ODA) in Salem, Oregon.

Brent Searle, Special Assistant to the Director, acting as the Director's designee, supervised the negotiations.

In attendance:
Perennial Ryegrass Bargaining Association (PRBA): Jim Carnes (Ex. Director); Board Members -- Don Fisher (Secretary/Treasurer), Roger Olsen, Alfred Pohlschneider, Steve Glaser, Jack Sayer, Mike Freeman, Dave Vanasche, Dick Lundy, and Phil Hawman (Vice President).

Seed Dealers:
Dan Walters (Cebeco International Seeds), Steve Tubbs (Turf Merchants), Roeland Kapsenberg (Barenbrug USA), Dick Olson (ProSeeds Marketing), Bill Dunn (Seed Research of Oregon), Mike Baker (Pennington Seed), Chris McDowell (Pickseed), Jon Odenthal (LESCO), Steve Rusconi (Simplot/Jacklin), Jay Burr and Kevin Turner (Scotts), Mike Berger (AmPac Seed Co.), Mick McGregor (Burlingham Seeds).

Proceedings:

Brent Searle, ODA representative supervising the meeting, began by reading a statement provided by the Oregon Department of Justice, referencing Supreme Court view on state action immunity that allows supervised price negotiations:

> For States which do choose to displace the free market with regulation, our [the Supreme Court's] insistence on real compliance with both parts of the … test will serve to make it clear that the State is responsible for the price-fixing it has sanctioned and undertaken to control… If, as the Federal Trade Commission examines the role and authority of the State in these matters, it concludes that the State has a minimal level of involvement or authority to the point where the State is merely deferring to private price fixing arrangements, then the agency will seriously consider rejecting the defense and taking enforcement action against the persons who are engaging in the unlawful conduct.

As it is the intent of the department to ensure that this process meets the criteria set by State and Federal law and court guidance, the department emphasized its role in actively supervising all discussions and ultimately setting the price, taking fully into account any recommended/negotiated price, if reached through the Bargaining Council.

All dealers present at the negotiations meet the definition of "dealer" as contained in ORS 646.515, pursuant to HB 3811. All dealers present are involved with grower contracts of members of the Perennial Ryegrass Bargaining Association cooperative.

The PRBA read and submitted into the discussion record the following statement: "Representatives of the PRBA are attending this bargaining session, to negotiate a PRBA member grower price on 50% of the TournamenT® Quality perennial ryegrass seed crop under various seed production service agreements for the crop year 2003, in accordance with legislation and in compliance with HB 3811 (2001).

…Under the legislation, the Oregon Department of Agriculture is directing the bargaining between the PRBA and dealer representatives, who represent those companies producing and marketing the majority of the production of TournamenT® Quality turf type perennial ryegrass seed produced by members of the PRBA; and the Department of Agriculture is directing the negotiating parties to use criteria of HB 3811 (2001)."

Reference was also made in the statement that the Oregon Seed Trade Association was not officially participating on behalf of dealers, and that participating dealers were acting on their own behalf.

(Dealers present represent more than 90% of contracted PRBA grower members and production.)

PRBA distributed a membership list of current PRBA member growers and the Board of Directors.

PRBA distributed data on seed movement compiled by the Oregon Ryegrass Growers Seed Commission. The data show movement for the first three quarters of FY02-03 was 131,790,462 lbs. compared to 115,459,656 lbs. in 2001-02, and 125,500,335 lbs. in 2000-01.

Projected movement for 2002-03 is 225 million lbs. Production is projected at 210 million lbs. for 2003.

A 15-year production and yield history was distributed which indicated approximately 126,000 acres of perennial ryegrass seed production in 2002, of which 62,833 acres were certified. This compares to 171,530 acres (76,435 cert.) in 2001, and 181,890 acres (89,238 cert.) in 2000.

2003 acreage is estimated by PRBA to be approximately 145,000, with about 50% of that certified.

PRBA stated that the build-up of inventory from the ABT bankruptcy was cleaned out, and that lower acreage has created a commodity market for perennial ryegrass presently pushing over 56-58 cents/lb.

PRBA stated that the price negotiating forum is a significant opportunity for growers and dealers to work together for the benefit of the industry.

Dealers agreed that inventory is tight and that acreage is down. Price discussions for 2003 should create opportunities for everyone with the present market situation. A statement about the challenges of some cooperatives related to overproduction and import pressures was read by one of the dealers. Dealers noted that present price signals could lead to overproduction in the future, and suggested exploring the potential for federal marketing order, storage options, or other mechanism to stabilize market movement. While there was some interest in these options, the Bargaining Council members noted that the primary purpose of the meeting is to reach agreement on a price, first and foremost; and that a pricing signal is the best way to indicate supply needs.

Data on imports and exports of perennial ryegrass seed was distributed by PRBA. There was some discussion about acreage in Canada, noting that Canada has a price and freight advantage to Eastern U.S. markets. It was also noted that Canadian production yields are about one-half of those in the Willamette Valley and that quality is also superior in Oregon. The dollar exchange value also plays into the equation of imports from Canada.

Generally, the data provided indicate that imports are presently a minimal factor affecting prices, with less than 4 million lbs. brought in from July '02 through November '02, compared to 12 million lbs. for the preceding year and 17-20 million lbs. for the three years prior.

Some discussion followed on the general topic of how to minimize or prevent "overproduction." Ideas such as contracting by pounds rather than acreage, and storage and marketing orders were again mentioned. The group feels there may be merit for some dealers and growers with these options, but the most universal tool is the pricing mechanism.

PRBA then presented a three-year pricing proposal, which they believe would provide market stability in pricing and production.

Crop year 2003:
Fixed price for 50% of production @ 54 cents/lb. on certified and 53 cents/lb. on uncertified. Price on the remaining 50% of production would be determined by another meeting of the Bargaining Council by August 1, 2003.

Crop year 2004:
Fixed price for 50% of production @ 52 cents/lb. on certified and 51 cents/lb. on uncertified. Price on the remaining 50% of production would be determined by another meeting of the Bargaining Council by August 1, 2004.

Crop year 2005:
Fixed price for 50% of production @ 52 cents/lb. on certified and 51 cents/lb. on uncertified. Price on the remaining 50% of production would be determined by another meeting of the Bargaining Council by August 1, 2005.

PRBA noted that there was some confusion over the 2002 price as a "minimum" price, which allowed for it to rise according to market conditions. In order to clarify this issue, the proposed 3-year plan is a "fixed" price.

Dealers asked how much acreage is under PRBA contracts. PRBA stated that member acreage is approximately 35,000 acres.

Dealers expressed concerns about pricing three years into the future, indicating their belief that 52 cents would send a signal for overproduction here and abroad, and significantly lower prices in future years.
PRBA noted that movement projected for 2003 with limited inventory and reduced acreage will support the prices proposed, and that imports would have minimal impacts. The structure of the proposal would create market certainty and still allow for flexibility on 50% of the pricing each year.

Dealers felt that longer-term contracts, practiced in the past, had been stopped, by and large, because of problems they caused. PRBA felt the end of longer-termed contracts was more a function of the ABT fiasco, which created significant disruption in the marketplace and could not be used as a benchmark to compare against.

Dealers suggested a very low price for "out-year" contracts that would discourage production. PRBA did not agree to this concept.

Dealers felt that settling on a price for 2003 should be fairly easy, but going into 2004 or beyond wasn't something they could agree to at this time. They felt that 52 cents would send a signal for overproduction and that potentially all wheat and vegetable crop acreage in the valley would move into grass seed.

PRBA noted that most present wheat acreage came out of tall fescue and wouldn't move into perennial ryegrass. PRBA differed on their view of what a 52 cent price signal would do, noting that the stability provided by that price on 50% of production would benefit both growers and dealers.

The groups broke for caucusing and reviewing other pricing options.

Reassembling, the dealers presented a proposal for contracting 100% of the 2003 crop at 55 cents/lb. for certified, 54 cents/lb. for uncertified. Dealers felt that a pricing signal on the entire crop enabled both growers and seed customers to lock in a known factor while costs for water, fertilizer, fuels, and other inputs were fluctuating. Dealers also felt that not setting a price for beyond 2003 would discourage speculative planting.

PRBA accepted the 55/54 cent/lb. offer on 50% of the 2003 crop year production, but maintained the position favoring 50% of the crop contracted at that price, leaving the remaining 50% to be determined at a later date, by June 15, 2003.

Discussion continued on the merits and problems of contracting 50% versus 100% of the crop at the present. Dealers appeared fixed on a 100% pricing schedule while growers were committed to 50/50.

One dealer suggested pricing 75% of the production now, leaving 25% for later pricing. The groups broke into caucus to consider this proposal.

Upon reassembling it was evident that neither side was ready to move away from their position.

Subsequently the discussion turned to establishing a date for another meeting to continue discussions toward establishing a suggested price that could be reviewed and certified by the Oregon Department of Agriculture.

The parties agreed that another meeting should be scheduled within 30 days. The department will contact the parties and arrange for another Bargaining Council meeting sometime in March or early April as agreeable by the parties.

The meeting was adjourned at approximately 1 pm.