

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICES
COTTON AND TOBACCO PROGRAMS

HEARING

- - - - - X
In the Matter of: : Docket No.
: AMS-CN-08-0063
Proposed Amendment to : AMS-CN-08-003
: :
Cotton Research and :
Promotion Order :
: :
- - - - - X

Friday
December 5, 2008

The above-entitled matter
commenced at 9:00 a.m. at the U.S.
Department of Agriculture James Whitten
Building, Room 107A, 1400 Independence
Avenue, S.W., Washington, D.C. 20250
BEFORE:

VICTOR W. PALMER

Administrative Law Judge

APPEARANCES:

On Behalf of the U.S. Department of
Agriculture:

HEATHER M. PICHELMAN, ESQ.
U.S. Department of Agriculture
Office of the General Counsel
Room 2325A, South Building
1400 Independence Avenue, S.W.
Washington, D.C. 20250
(202) 720-4977

C O N T E N T S

WITNESS	DIRECT	CROSS
Shethir Riva	10	
Philip Edwards	27	33 34
Drayton Mayers	37	

EXHIBITS		MARK	RECD
1	Federal Register Proposed Rules dated 12-1-08	5	
2	USDA Program Announcement by AMS re hearing	5	
3	Certificate of Mailing Docket AMS-CN-08-0063 CN-08-003, dated 12-1-08	6	
4	Certificate of making news release available to local newspapers, TV and radio stations dated 11-26-08	6	
5	Statement of Shethir Riva Chief, Cotton Research and Promotion Branch USDA	9	9
6	USDA Cotton Ginnings 2007 Summary issued May 2008	20	26

P R O C E E D I N G S

(9:25 a.m.)

JUDGE PALMER: My name is Victor Palmer. I'm an Administrative Law Judge and this is a rulemaking hearing, and it's in respect to a proposed rule under the Cotton Research and Promotion Program. This is a public hearing to receive evidence on proposed amendments to the Cotton Research and Promotion Order, and the Agricultural Marketing Service is proposing to amend the order to implement Section 14202 of the Food and Conservation Act of 2008, that amended the Cotton Research and Promotion Act.

The 2008 Farm Bill designated the states of Kansas, Virginia and Florida in the definition of cotton-producing state, effective beginning with the 2008 crop of cotton.

In addition, AMS proposes to make any other changes that may be necessary to conform the Order to any amendment that may

1 result from the hearing. And we've been
2 handed some exhibits. The first one I'm
3 marking as Exhibit 1, is the proposed rule
4 that appeared in the Federal Register. This
5 is a copy of the Federal Register, Volume 73,
6 No. 231, pages 72747 and 72748. That's
7 Exhibit 1.

8 [Exhibit No. 1 was
9 marked for
10 identification]

11 JUDGE PALMER: Exhibit 2 is a
12 Notice of the Hearing with a certification by
13 a public affairs specialist, that there's been
14 a news release available to the local
15 newspapers and television and radio stations.

16 [Exhibit No. 2 was
17 marked for
18 identification]

19 JUDGE PALMER: And then as Exhibit
20 3, I've marked that, is a certificate of
21 mailing that accompanies a letter that was
22 sent to the governors of the United States,

1 executive heads of territories, the mayor of
2 the District of Columbia, state departments of
3 agriculture, certified cotton producer
4 organizations, certified cotton importer
5 organizations.

6 So there's this certificate of
7 mailing and with the letter itself that was
8 sent out, and that's Exhibit 3.

9 [Exhibit No. 3 was
10 marked for
11 identification]

12 JUDGE PALMER: And then I
13 understand you have--we've just sworn in Ms.
14 Shethir Riva, and you have an exhibit that you
15 want to accompany your testimony and I've
16 premarked that. Or I'm marking that as
17 Exhibit 4.

18 MS. RIVA: That's correct.

19 JUDGE PALMER: And we'll receive
20 later, after you've given your testimony.

21 [Exhibit No. 4 was
22 marked for

1 identification]

2 JUDGE PALMER: And why don't I let
3 you do some work. Why don't you, first of
4 all, identify who you are.

5 MS. PICHELMAN: My name is Heather
6 Pichelman. I'm with the USDA, Department of
7 Agriculture Office of the General Counsel in
8 Washington, D.C., and I'm representing the
9 Secretary today.

10 Your Honor, I just wanted to make
11 clear, because I actually had four preliminary
12 exhibits, and I think you marked off three.
13 So I just wanted to go--

14 JUDGE PALMER: Well, maybe I
15 missed one.

16 MS. PICHELMAN: The first one is
17 the notice of hearing. The second is the
18 press release. The third is the certificate
19 of mailing to interested persons, including
20 officials.

21 JUDGE PALMER: Right.

22 MS. PICHELMAN: That's two pages.

1 And then the fourth begin the certificate
2 regarding making news release available to
3 local newspaper.

4 JUDGE PALMER: You want that as a
5 fourth?

6 MS. PICHELMAN: Yes, Your Honor.

7 JUDGE PALMER: All right. Let me
8 change that then. We'll make that particular
9 document Exhibit 4. Okay.

10 MS. PICHELMAN: And ask that those
11 all be received into evidence, Your Honor.

12 JUDGE PALMER: They are all being
13 received in evidence.

14 [Exhibit No. 1 through
15 No. 4, previously marked
16 for identification, were
17 received in evidence]

18 MS. PICHELMAN: And Your Honor, I
19 would also ask that official notice be taken
20 of the Food Conservation and Energy Act of
21 2008, also known as the 2008 Farm Bill.
22 That's Public Law 110-234. In addition, I

1 would ask that official notice be taken of the
2 Cotton Research and Promotion Act. That's 7
3 U.S.C. 2101 through 2018.

4 JUDGE PALMER: Right. Official
5 notice will be taken of those documents, as
6 described.

7 All right. And I've sworn in Ms.
8 Riva. Would you proceed.

9 MS. PICHELMAN: Yes, Your Honor.
10 We would like to be marked for identification
11 Ms. Riva's written testimony as Exhibit No. 5.

12 JUDGE PALMER: Her testimony
13 itself is five. All right.

14 [Exhibit No. 5 was
15 marked for
16 identification and
17 received in evidence]

18 MS. PICHELMAN: And I would that
19 Ms. Shethir Riva come to the, to testify,
20 which she's already up there.

21 JUDGE PALMER: All right. You've
22 been sworn, so go ahead and give your

1 testimony, your statement.

2 WHEREUPON,

3 SHETHIR RIVA

4 was called as a witness by and on behalf of
5 the Government and, having first been duly
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. PICHELMAN:

9 Q Could you please state your name
10 and spell it for the record.

11 A Sure. My name is Shethir Riva.
12 My name is spelled S-h-e-t-h-i-r, R-i-v-a.

13 Q And what is your current job
14 title?

15 A I am the chief of the Cotton
16 Research and Promotion Branch, Cotton and
17 Tobacco Programs, Agricultural Marketing
18 Service, AMS, USDA.

19 Q And your current office address?

20 A My current office address is 1400
21 Independence Avenue, S.W., Room 2635 South,
22 Washington, D.C.

1 Q And how long have you worked at
2 USDA, including in your current position? And
3 could you also give us a description of your
4 current job duties.

5 A I have been working for USDA since
6 1999, with Cotton and Tobacco Programs since
7 May 2006. I am responsible for the monitoring
8 and oversight of the Cotton Research and
9 Promotion Program, the Cotton Board, and
10 ensuring compliance with the Cotton Research
11 and Promotion Act, 7 U.S.C. 21091 through
12 2118, as amended, the Cotton Research and
13 Promotion Order, applicable rules and
14 regulations contained in 7 CFR part 1205.

15 I'm also responsible for
16 implementing statutory changes in rulemakings
17 that would amend orders, regulations, and
18 other rules; reviewing and recommending
19 approval or changes to the budget and
20 projects; facilitating the nomination and
21 appointment of board members; conducting
22 referenda or sign-ups; attending all board

1 meetings; reviewing and approving of all
2 materials and contracts, including
3 advertisements or promotional materials; and
4 also acting as a liaison to other government
5 agencies.

6 Q Could you give us some general
7 background information on the cotton industry
8 and on the Cotton Research and Promotion
9 Program, in order to put proposed amendments
10 in some sort of context.

11 A Sure. The cotton industry has
12 experienced significant changes since the
13 Cotton Research and Promotion Program began in
14 1966, and has addressed the challenges posed
15 by producer and importer concerns.

16 By the mid 1960's, cotton had lost
17 most of its traditional markets to the new
18 "easy-care" synthetic fibers. Realizing this,
19 U.S. Upland cotton producers conceived a self-
20 help research and promotion program, and later
21 in the 1990's, importers were included in the
22 program. The success of the program has

1 resulted in cotton becoming the best-selling
2 fiber in the United States and one of the
3 best-selling fibers in the world.

4 Congressional passage of the
5 Cotton Research and Promotion Act of 1966
6 established the Cotton Board to administer the
7 Cotton Research and Promotion Program. The
8 board, which is AMS's oldest board, is
9 currently composed of 37 members and 37
10 alternate members, 22 producer--which is
11 composed of 22 producers, 15 importer members
12 and alternate members, and one consumer
13 advisor.

14 The board is responsible for
15 carrying out an effective and continuous
16 program of research and promotion in order to
17 strengthen the competitive position of Upland
18 cotton by expanding domestic and foreign
19 markets for cotton, improving fiber quality,
20 and lowering the costs of production. The
21 "board," including the U.S. Department of
22 Agriculture's administrative costs, is

1 financed through the producer and importer
2 assessments levied on each bale or bale
3 equivalent of cotton at a rate of \$1 per bale,
4 with a supplemental, currently at 5/10ths of
5 one percent, assessment not to exceed one
6 percent of the value of lint of each bale.

7 There are appropriately 19,000
8 producers, and approximately 14,000 importers
9 that are subject to the Order.

10 In 2007, the board collected \$66.5
11 million assessments, 28.2 from producers and
12 28.3 million from importers.

13 Based in Memphis, Tennessee, the
14 board is the administrative arm of the Cotton
15 Research and Promotion Program, representing
16 Upland cotton. The Act also directed the
17 Cotton Board to contract with a separate
18 organization or association whose governing
19 body consists of cotton producers selected by
20 cotton producer organizations to conduct the
21 actual research and promotion activities.
22 This is contained in the Act at 7 U.S.C.

1 **2106(g).**

2 **The board has contracted with**
3 **Cotton Incorporated since 1970 to conduct**
4 **these activities.**

5 **Q Ms. Riva, in the middle of the**
6 **testimony you had stated that the "board,"**
7 **including USDA, Department of Agriculture**
8 **administrative costs, and continued on with**
9 **the sentence. Did you actually intend to**
10 **state "the program"?**

11 **A Yes.**

12 **Q Ms. Riva, what is the reason for**
13 **these two proposals?**

14 **A Earlier this year, the Food,**
15 **Conservation and Energy Act of 2008, more**
16 **commonly known as the 2008 Farm Bill, became**
17 **Public Law 110-234. Section 14202 of the 2008**
18 **Farm Bill amended the Cotton Research and**
19 **Promotion Act. Section 14202 states:**

20 **Section 17(f) of the Cotton**
21 **Research and Promotion Act, (7 U.S.C., 2116(f)**
22 **is amended, by (1) striking, "(f) The term"**

1 and inserting the following: "(f) COTTON-
2 PRODUCING STATE--("1) IN GENERAL--the term";
3 (2) by striking "more,a and the term" and all
4 that follows through the end of the subsection
5 and inserting the following: "More.

6 "(2) INCLUSIONS. The term
7 'cotton-producing State' includes "(A) any
8 combination of States described in paragraph
9 (1); and "(B) effective beginning with the
10 2008 crop of cotton, the States of Kansas,
11 Virginia and Florida."

12 These amendments require that the
13 States of Kansas, Virginia, and Florida be
14 designated in the definition of "cotton-
15 producing state" effective beginning with the
16 2008 crop of cotton. A crop year is
17 synonymous with marketing year and section
18 1205.320 of the Order defines "Marketing Year"
19 as a consecutive 12-month period ending July
20 31st. In accordance with all these
21 amendments, the Agricultural Marketing Service
22 is proposing to amend the Cotton Research and

1 Promotion Order, 7 CFR part 1205, of the
2 Cotton Research and Promotion Program. The
3 2008 Farm Bill amendments to the Order require
4 formal rulemaking.

5 Q Could you please state what the
6 two proposed amendments to the Cotton Research
7 and Promotion Order are.

8 A Proposal one. AMS is proposing to
9 amend section 1205.314 to read as follows:

10 "Cotton-producing State" means
11 each of the following States and combination
12 of states: Alabama; Arizona; Arkansas;
13 California-Nevada; Florida; Georgia; Kansas;
14 Louisiana; Mississippi; Missouri-Illinois; New
15 Mexico; North Carolina; Oklahoma; South
16 Carolina; Tennessee-Kentucky; Texas; and
17 Virginia.

18 Section 1205.314 of the Order
19 currently defines Cotton-Producing State as,
20 "Cotton-producing state means each of the
21 following States and combination of States:
22 Alabama-Florida; Arizona; Arkansas;

1 California-Nevada; Georgia; Louisiana;
2 Mississippi; Missouri-Illinois; New Mexico;
3 North Carolina-Virginia; Oklahoma; South
4 Carolina; Tennessee-Kentucky; Texas."

5 Currently Kansas is not included
6 in this definition, Virginia is combined as a
7 region with North Carolina, and Florida is
8 combined as a region with Alabama.

9 The agency is proposing to amend
10 the definition so that Kansas is added and
11 Florida and Virginia are separated from their
12 current partner states.

13 The major effect of these changes
14 is that any cotton producer organization, in
15 any cotton-producing state, including the
16 respective States of Kansas, Virginia, and
17 Florida, may request certification from the
18 Secretary pursuant to section 1205.341 of the
19 Order to participate in nominating members and
20 alternate members to represent such State on
21 the board pursuant to section 12-5.324 of the
22 Order, if they have not already done so.

1 The change would also allow the
2 States of Kansas, Virginia, and Florida,
3 pursuant to section 1205.322(b)(1) of the
4 Order, to have at least one order, and one
5 additional member for each 1 million bales or
6 major fraction (more than half) thereof of
7 cotton produced in the state and marketed
8 above 1 million bales during the period
9 specified in the regulations for determining
10 board membership.

11 Section 1205.402 of the Members of
12 Cotton Board subpart within 7 CFR part 1205,
13 states that in determining whether any cotton-
14 producing state is entitled to be represented
15 by more than one member of the Cotton Board,
16 as provided in section 1205.322, average
17 annual production of Upland cotton in terms of
18 480-pound net weight bales for the five most
19 recent marketing years will be used as the
20 criteria for determination of such additional
21 members.

22 The U.S. Department of

1 **Agriculture's National Agricultural Statistics**
2 **Service's report entitled Cotton Ginnings 2007**
3 **Summary, published the total bales produced**
4 **and ginned (or marketed) by State.**

5 MS. PICHELMAN: Your Honor, I
6 would ask that this report be marked as
7 Exhibit--what are we to? Exhibit No. 6?

8 JUDGE PALMER: No. I think it's
9 five. Oh, I'm sorry. She's five. Okay.
10 It'll be six. Her statement's five. Okay.

11 [Exhibit No. 6 was
12 marked for
13 identification]

14 JUDGE PALMER: Go ahead.

15 THE WITNESS: In the 2007
16 marketing year, according to this publication,
17 on page two, Florida produced 105,900 Upland
18 cotton 480-pound bales and would be entitled
19 to one member and one alternate. Kansas
20 produced 53,500 Upland cotton 480-pound bales
21 and would be entitled to one member and one
22 alternate. Virginia produced 98,050 480-pound

1 bales and would be entitled to one member and
2 one alternate.

3 According to the provisions in
4 section 1205.322(b)(1) of the Order, and if
5 the proposed changes are adopted, a total of
6 three additional members and three alternates
7 would be added to the board.

8 The 2008 board is currently
9 composed of 37 members and 37 alternate
10 members, which are 22 producer and 15 importer
11 members and their respective alternates, and
12 one consumer advisor.

13 Excluding the proposed amendment
14 to the order, the 2009 board, already
15 calculated, would be 38 members and 38
16 alternates, which would be 23 producers and 15
17 importer members and respective alternates.

18 If current cotton production and
19 cotton imports remain consistent with their
20 five year averages, and there are no changes,
21 then just three additional producer members
22 will be added based on the cotton gin for

1 those three states. The total board
2 membership would be 26 producers and 15
3 importer members and respective alternates,
4 and one consumer advisor.

5 Proposal two. AMS is proposing to
6 amend section 1205.319 to read as follows:

7 "Cotton-production region" means
8 each of the following groups of cotton-
9 producing States: (a) Southeast Region:
10 Alabama, Florida, Georgia, North Carolina,
11 South Carolina, and Virginia; (b) Midsouth
12 Region: Arkansas, Louisiana, Mississippi,
13 Missouri-Illinois, and Tennessee-Kentucky; (c)
14 Southwest Region: Kansas, Oklahoma and Texas;
15 (d) Western Region: Arizona, California-
16 Nevada, and New Mexico.

17 The Agricultural Marketing Service
18 is also proposing to amend the definition of
19 cotton-producing region in section 1205.319 of
20 the Order to make it consistent with the
21 change to the definition of cotton-producing
22 state.

1 "Cotton-producing region" is
2 currently defined as each of the following
3 groups of cotton-producing states: (a)
4 Southeast Region: Alabama-Florida, Georgia,
5 North Carolina-Virginia, and South Carolina;
6 (b) Midsouth Region: Arkansas, Louisiana,
7 Mississippi, Missouri-Illinois, and Tennessee-
8 Kentucky; (c) Southwest Region: Oklahoma and
9 Texas; (d) Western Region: Arizona,
10 California-Nevada, and New Mexico."

11 JUDGE PALMER: Did you misstate?
12 I think you said Arkansas. You meant Arizona
13 in the Western Region?

14 THE WITNESS: (d) Western Region:
15 Arizona, California-Nevada, and New Mexico.

16 Beyond the expense of a
17 referendum, the cost of these proposed
18 amendments to the program would be de minimis.
19 If these two proposals were approved, AMS
20 would implement the 2008 Farm Bill provisions,
21 which would only change representation and
22 increase producer participation on the board.

Costs would be limited to the nomination and appointment process for the new cotton-producing states. That concludes my testimony. Thank you.

BY MS. PICHELMAN:

Q Ms. Riva, I've got just one additional question for you.

Do you believe that emergency conditions exist that would warrant omission of a recommended decision in this rulemaking proceeding under 7 CFR 1200.13(d), of the Rules of Practice and Procedure, with respect to both of these proposed amendments?

A The statute, the 2008 Farm Bill provides that this change be made during the 2008 crop of cotton. So yes, it does warrant it.

Q And again, when does the 2008 crop year, when is that done by or--

A July 31st, 2009.

Q Okay. So in order to meet the deadline, you feel that it is proper to

1 expedite the process?

2 A Yes. The statute provides that it
3 must be done during the 2008 crop of cotton.

4 MS. PICHELMAN: Thank you. Your
5 Honor, I have no further questions for this
6 witness.

7 JUDGE PALMER: Are there any
8 questions for the witness? Anybody out there
9 have questions?

10 [No response]

11 JUDGE PALMER: There doesn't
12 appear to be any. Thank you so much.

13 MS. RIVA: Thank you.

14 [Witness excused]

15 MS. PICHELMAN: Your Honor, I ask
16 that Ms. Riva's written testimony and the
17 cotton ginning summary be received into
18 evidence.

19 JUDGE PALMER: Very well. That's
20 Exhibit 5 and Exhibit 6, and they're both
21 received.

22 [Exhibit No. 5 and No.

1 6, previously marked for
2 identification, were
3 received in evidence]

4 JUDGE PALMER: And now we're going
5 to hear from Mr. Edwards, is it?

6 MR. EDWARDS: Yes, sir.

7 JUDGE PALMER: All right, sir. If
8 you would raise your right hand.

9 Whereupon,

10 PHILIP EDWARDS
11 was called as a witness by and on behalf of
12 the Government and, having first been duly
13 sworn, was examined and testified as follows:

14 JUDGE PALMER: Very well, sir.
15 Mr. Edwards, you are sworn. As soon as you
16 get comfortable, give us your full name and
17 affiliation. Do you have a written statement?

18 THE WITNESS: Yes, sir. I do.

19 JUDGE PALMER: Can we get one over
20 to the reporter, so that she can follow it.

21 THE WITNESS: My name is Philip
22 Edwards, spelled P-h-i-l-i-p E-d-w-a-r-d-s.

1 JUDGE PALMER: All right. Let's
2 make sure. Here's the statement for the
3 reporter. Okay; fine. And incidentally, if
4 there's any variance between your testimony
5 and the written statement, do you want the
6 statement to control?

7 THE WITNESS: Yes.

8 JUDGE PALMER: All right. And do
9 you want to mark it? Do you have a copy you
10 want to mark as an exhibit, or do you want to
11 just--no. Okay. Go ahead, sir.

12 THE WITNESS: All right. Thank
13 you for the opportunity to present a statement
14 in support of amending the Cotton Research
15 Promotion Order designating Kansas, Virginia
16 and Florida as cotton-producing states,
17 effective with the 2008 crop as provided in
18 the Food Conservation and Energy Act of 2008.

19 My name is Philip Edwards. I am a
20 cotton producer from Virginia. I am appearing
21 today on behalf of the Virginia Cotton Growers
22 Association and the National Cotton Council.

1 The National Cotton Council is the
2 central organization of the United States
3 cotton industry. Its members include
4 producers, ginner, cottonseed handlers,
5 merchants, cooperatives, warehousemen and
6 textile manufacturers. A majority of the
7 industry is concentrated in 17 cotton-
8 producing States but downstream manufacturers
9 of cotton textile, apparel and home-furnishing
10 products are located in virtually every State.

11 The Cotton Board serves as the
12 oversight and administrative arm of the Cotton
13 Research and Promotion Program. To fund the
14 program, the Cotton Board collects a per bale
15 assessment on all Upland cotton harvested and
16 ginned in the U.S. as well as an assessment on
17 all Upland cotton products imported into the
18 U.S.

19 To conduct the research and
20 promotion program, the Cotton Board contracts
21 with Cotton Incorporated to carry out the
22 actual research and promotion activities for

1 U.S. producers and importers of cotton.

2 Part of the Cotton Board's mission
3 is to keep U.S producers and importers of
4 cotton informed on the developments resulting
5 from the Cotton Research and Promotion
6 Program.

7 Cotton producers strongly support
8 inclusion of the provision which requires USDA
9 to amend the Order in the new farm law, and we
10 urge USDA to proceed with this implementation.

11 We believe the amendment to the
12 Order, which would ultimately provide Kansas,
13 Virginia and Florida individual representation
14 on the Cotton Board, will enhance the board's
15 ability to carry out its mission.

16 Producers in these states have,
17 and will continue to contribute funds to the
18 Cotton Research and Promotion Program. By
19 providing them with individual representation
20 on the Cotton Board, we believe it will
21 strengthen their support, enhance
22 communication from these production areas, and

1 better enable the Cotton Board to represent
2 the interests of all cotton-producing areas in
3 the United States.

4 There is no other national
5 research and promotion program for Upland
6 cotton like the one carried out under the
7 Cotton Research and Promotion Act. The new
8 representation on the Cotton Board will not
9 overlap or contradict any ongoing promotional
10 activities in any region of the Cotton Belt.

11 The addition of individual
12 representation for Kansas, Virginia and
13 Florida through the amendment to the Order
14 reflects the shift in Upland cotton production
15 over the years. Successful completion of the
16 Boll Weevil Eradication Program has led to the
17 resurgence and expansion of cotton in the
18 Southeast, including Virginia and Florida.

19 Improved transportation, storage
20 and handling, some as a direct result of
21 research conducted under the Research and
22 Promotion Act, has led to Upland cotton

1 production in Kansas. In Virginia and
2 Florida, the total economic activity generated
3 by cotton production and processing exceeds "
4 a million dollars" annually in each state.

5 In Kansas, acreage expanded
6 rapidly, until recently, when prices from
7 competing crops reversed the trend. The three
8 states continue to plant more than 300,000
9 acres of cotton, employ over 3,000 people, and
10 produce annual cotton crops valued at "a
11 million dollars" at the farm gate.

12 The research and promotion program
13 funded through producer and importer
14 contributions have been highly successful.
15 Broader representation will facilitate even
16 stronger support and enhance participation by
17 producers.

18 I urge the Secretary to take the
19 necessary action to amend the Order as
20 provided in the new farm law. This action
21 will assure that nearly a thousand producers,
22 who account for nearly 5 percent of annual

1 production, will, for the first time, have
2 direct representation and input into the
3 program which they are helping finance.

4 Cotton production has declined
5 overall in the United States for the past few
6 years. We know from experience, that the key
7 to turning around the U.S. cotton industry is
8 to enhance demand for cotton and cotton
9 products. The United States consumes far more
10 cotton per capita than any other country in
11 the world.

12 We consume far more cotton
13 products than we produce cotton. The high
14 demand for cotton in the United States is no
15 accident, and not explained by our wealth as
16 a country. It is directly attributable to the
17 highly-effective research and promotion
18 program funded by producer check-off funds.

19 By allowing these new States
20 direct representation, cotton will be better
21 able to carry out its mission and the purpose
22 of the statute, to increase the demand for

1 cotton and cotton products, will be fulfilled.

2 Thank you for the opportunity to present a
3 statement today.

4 JUDGE PALMER: Thank you very
5 much.

6 Are there any questions?

7 MS. PICHELMAN: Your Honor, I have
8 one. Heather Pichelman, OGC, USDA.

9 CROSS EXAMINATION

10 BY MS. PICHELMAN:

11 Q Mr. Edwards, the Small Business
12 Administration defines a small agricultural
13 producer as one having annual receipts of no
14 more than \$750,000. Under this definition,
15 would you consider yourself a small producer?

16 A As defined technically, no.

17 Q Okay.

18 A But I'm--can I elaborate?

19 Q If you wish; yes. That was just
20 my question. Only if you wish.

21 A I can only speak to my particular
22 operation. It's a father-son operation. But

1 we also have two other families that we
2 support. I have an employee with two
3 children, a wife, and the family, support both
4 of them in the same position. So from that
5 standpoint, when you break it down, and what
6 we support, we are a small business, and
7 that's the way we see it.

8 MS. PICHELMAN: Okay. Thank you.

9 THE WITNESS: Thank you.

10 JUDGE PALMER: All right.

11 Mr. Maguire.

12 CROSS EXAMINATION

13 BY MR. MAGUIRE:

14 Q Can you clarify the number, the
15 farm-gate value of cotton produced in the
16 three States. You said one--

17 JUDGE PALMER: I tell you what. I
18 don't know if she's getting, the reporter's
19 getting your question. First of all, give
20 your name and then get somewhere--yes. Say it
21 loud enough we can hear it on the microphone.

22 MR. MAGUIRE: John Maguire. M-a-

1 g-u-i-r-e.

2 JUDGE PALMER: And your

3 affiliation?

4 MR. MAGUIRE: National Cotton

5 Council.

6 JUDGE PALMER: All right, sir.

7 Now ask the question.

8 BY MR. MAGUIRE:

9 Q Philip, my question is that in
10 your statement, you mention the farm-gate
11 value of cotton produced in the three States.

12 A Right.

13 Q Now could you clarify that number.

14 A Well, my statement is in Virginia,
15 Florida, the--it's \$100 million annually in
16 each State.

17 Q 100 million. Rather than "one
18 million," which was--

19 A Yes. I said a million.

20 JUDGE PALMER: I was trying to
21 figure that out, cause I multiplied that, it
22 sounded like 3,000 people, they were only

1 making about \$333 each. But I thought, well,
2 there must be something here that I don't
3 understand.

4 All right. Fine. Any other
5 questions?

6 [No response]

7 JUDGE PALMER: All right. Thank
8 you, sir. Thank you.

9 THE WITNESS: Thank you.

10 [Witness excused]

11 MS. PICHELMAN: Your Honor, just a
12 clarification.

13 JUDGE PALMER: Yes.

14 MS. PICHELMAN: Sorry. Heather
15 Pichelman, OGC, USDA.

16 Mr. Edwards' testimony, is it
17 being submitted as an exhibit? Or not?

18 JUDGE PALMER: No. He didn't have
19 an exhibit.

20 MS. PICHELMAN: Okay.

21 JUDGE PALMER: He just gave it
22 orally but we gave a copy to the reporter to

1 read, and if there were some minor changes
2 between what he said and then what she has,
3 she'll use the written statement to help her
4 out.

5 MS. PICHELMAN: Okay. Thank you,
6 Your Honor.

7 JUDGE PALMER: And we'll leave it
8 at that. And Mr. Mayers, or "Mayers."

9 WHEREUPON,

10 DRAYTON MAYERS

11 was called as a witness by and on behalf of
12 the Government and, having first been duly
13 sworn, was examined and testified as follows:

14 JUDGE PALMER: Mr. Mayers, would
15 you give your full name, sir.

16 THE WITNESS: My name is Drayton,
17 D-r-a-y-t-o-n, Mayers, M-a-y-e-r-s.

18 JUDGE PALMER: And you have a
19 statement.

20 MR. MAYERS: I do, sir.

21 JUDGE PALMER: Now would you like
22 this marked as an exhibit?

1 MR. MAYERS: This is a statement
2 only, sir.

3 JUDGE PALMER: Just a statement.
4 All right. Fine.

5 But again, if there's a variance
6 between what you say and what's in this
7 written statement, that we've handed a copy up
8 to the reporter, should the written statement
9 control, or would you prefer--

10 MR. MAYERS: My testimony will
11 control but there won't be any variance.

12 JUDGE PALMER: All right. Fine.
13 Thank you very much, sir. If you'd go ahead.

14 MR. MAYERS: Good morning, ladies
15 and gentlemen, and thank you, Your Honor, for
16 the opportunity to present a statement in
17 support of amending the Cotton Research and
18 Promotion Order to designate Kansas, Virginia
19 and Florida as cotton-producing States,
20 effective with the 2008 crop, as provided in
21 the Food Conservation and Energy Act of 2008.
22 My name is Drayton Mayers and I am

1 the president and CEO of the Cotton Board. I
2 am appearing today on behalf of the Cotton
3 Board.

4 The board is ready to comply with
5 the new farm law, and any changes to the Act
6 and Order that governs the Cotton Research and
7 Promotion Program.

8 Also, the board is all set to
9 include the States of Florida, Kansas and
10 Virginia, and their representatives into the
11 board's system of governance.

12 Finally, the board is organized to
13 administratively support and finance USDA's
14 efforts to amend the Order and implement this
15 provision of the new farm law.

16 We believe the amendment to the
17 Order, which would ultimately provide Kansas,
18 Virginia and Florida individual representation
19 on the board, will enhance the board's ability
20 to carry out our mission and fiduciary
21 responsibility, namely, to provide financing
22 for and oversight of the program.

1 Producers in these States have and
2 will continue to contribute funds to the
3 program. By providing them individual
4 representation on the Cotton Board, we believe
5 it will strengthen their support, enhance
6 communication from these production areas, and
7 better enable the Cotton Board to represent
8 the interests of all cotton-producing areas in
9 the United States.

10 The research and promotion
11 programs funded through producer and importer
12 contributions have been highly successful.
13 Broader representation will facilitate even
14 stronger support and enhanced participation by
15 producers.

16 The board supports the Secretary
17 and the Department, and their timely action to
18 amend the Order as provided in the new farm
19 law. This action will ensure that nearly
20 1,000 producers, who account for nearly 5
21 percent of annual production, will, for the
22 first time have direct representation and

1 input into the program which they are helping
2 to finance.

3 Thank you for the opportunity to
4 present a statement today.

5 JUDGE PALMER: Very well.

6 Questions? Any questions? Anything you want
7 to add?

8 [No response]

9 JUDGE PALMER: Nobody has
10 questions. Thank you very much, sir.

11 THE WITNESS: Thank you, Your
12 Honor.

13 [Witness excused]

14 JUDGE PALMER: Do we have any
15 other witnesses? Anyone else? Have we
16 completed everything? Looks like we may have.
17 Let's go off the record for a moment.

18 [[Discussion off the record]

19 JUDGE PALMER: We've had an off-
20 the-record discussion of the date of January
21 14, 2009, as being the date for filing any
22 briefs, statements, etcetera, for the

1 Secretary to consider. And that will be the
2 date. So everybody will have until January
3 14th, and that will mean up till midnight of
4 that day to mail in, or actually bring to the
5 Hearing Clerk office those materials, and we
6 distributed the name and the address of the
7 Hearing Clerk. I think everybody has it. If
8 you have any problems, just call us.

9 All right. Well, I believe that
10 concludes the hearing. I thank you all--yes,
11 sir? Want to go off the record?

12 [[Discussion off the record]

13 JUDGE PALMER: Yes, ma'am?

14 MS. PICHELMAN: Heather Pichelman,
15 OGC, USDA. Your Honor, the third proposal
16 that we have is our conforming changes
17 proposal, and I wanted to have that on the
18 record, to make other such changes as may be
19 necessary to the Order, to conform with any
20 amendment thereto that may result from the
21 hearing. We have no witnesses for this
22 proposal.

1 JUDGE PALMER: All right. And
2 it's just a technical one, nothing
3 substantive.

4 MS. PICHELMAN: Yes. Yes, Your
5 Honor.

6 JUDGE PALMER: All right. That's
7 fine, and no testimony will be needed.

8 Thank you all very much, and we
9 have to get Ms. Pichelman out to an awards
10 ceremony for her outstanding service as a
11 government attorney today.

12 [Applause]

13 JUDGE PALMER: Thank you all.

14 [Whereupon, at 10:00 o'clock a.m.,
15 the hearing was concluded.]

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