

## **Minutes of the Milk Sanitation Board**

**May 18, 2006**

The meeting was called to order by Chairman Dr. Tom Brisker, at 10:00 a.m. The meeting was held at the Ohio Department of Agriculture, Bromfield Building. The following Board Members were present at roll call:

Mr. Ellis	Mr. Fleming
Mr. Hollon	Mr. Schmid
Mr. Arbaugh	Dr. Brisker

Mr. Ted Strouth attended in the absence of Gene Phillips as a non-voting representative of the State of Ohio Health Department.

Also attending the meeting were: Will Moore, Dairy Farmers of America, Carl Schroeder, National Farmers Organization, Kristin Mullins, Midwest Dairy Foods Association, Warren Byle, Raw Milk Organization of Ohio, Larry Gearhardt, Ohio Farm Bureau, Tim Demland, Ohio Dairy Producers, Bill Hopper, Charles Twining, Tom Schroeder, Walter Brown, Mick Heiby, and Roger Tedrick of the Ohio Department of Agriculture.

Mr. Hollon moved to accept the Minutes from the March 1, 2006 Milk Sanitation Board Meeting. Mr. Ellis seconded. Motion carried.

### **Old Business**

#### **Dairy Division Budget**

Chief Jones reported to the Board current and future budgets. Chief Jones told the Board that this year's budget is very close to what was mentioned at the last meeting. At that meeting it looked as though the target of 52% industry money and 48% GRF would be met and Chief Jones said that is the case. Chief Jones reiterated fees would be going up to \$109,000 per month starting with the invoices that are going out this month. The Dairy Division has received the four trucks mentioned at the last Board meeting.

Chief Jones explained that if there was any money at the end of the year the division might buy a few more laptops for the field staff. All of the farm inspectors now have new laptops and the division is working towards being able to download directly to our farm database. In other words a paperless inspection but we will leave an inspection sheet on the farm.

Chief Jones said in order to make next years budgets, we have three people who are going to retire before next July. They are Ken White, Walter Brown, and Tom Schroeder. They will be retiring and hopefully we can replace them. We are not going to cut budget

by not replacing them. But they are so highly paid now, and sometimes we feel that they are underpaid for the jobs that they do. They have been around for a period of years and now they have “maxed” out on longevity pay and step pay. If we start somebody at the entry level on their positions and salary ranges it would be \$68,000 less than we are currently experiencing. So that could be a savings over next years budget even by replacing all three of those gentlemen, who have done an excellent job for us. They have all indicated that they want to retire before July 1 of next year.

Chief Jones then talked about the SPND 14, which is not on the budget but what we actually pay out. Through April our expenses are running 52%-48%. Our ideal split a year ago was 50%-50%, but due to expenses the way they are, such as salary increases and fuel costs, it is getting tight. But the division is trying to keep to the 52%-48% split.

Dr. Brisker pointed out the budget process of 08-09 has begun. Mr. Johnson and Dr. Brisker have been working on it and the definitive guidelines for that budget will be out in June. Dr. Brisker said that preliminarily the Department is looking at a 3% increase but only for 2008. 2009 will remain flat. Dr. Brisker said that effectively it is a regressive type of situation. The 3% will not meet the increase in utilities or gas. Bottom line is the budget is going to be a challenge. We need a balanced budget by October of this year.

### **Raw Milk Update**

Dr. Brisker told the Board that since H.B. 534 was introduced there have been 2 hearings. May 10<sup>th</sup> was all proponents and May 17<sup>th</sup> was mostly proponent but a couple of opponents. The department will be testifying on May 24 and Dr. Brisker felt that the Board was conversant with that testimony.

Mr. Ellis asked if there was a copy of the bill available.

Chief Jones said that copies would be available before the meeting ended.

### **Lab Service Contract**

Mr. Twining explained that the current lab service contract would end at the end of June. The contract is for producer lab services such as bacteria, somatic cells, and drug residues. Mr. Twining told the Board that the department entered with DAS into the bidding process and that has drawn to a close but we have not yet awarded any bids. With the upcoming contracts the department has added cryoscopes at the direction of the Director. So that test will not be routinely done each month. We also asked for a cost relative to sediment testing.

In the current contract there are 50 segments, in the new contract up for bid there are only 39. Mr. Twining went on to say that the number of producers in the bid were down 650 producers since the last bid. Mr. Twining also said that it was interesting that the average cost per test for bacteria, somatic cell and drug residue actually decreased as a result of this bidding process.

Mr. Twining told the Board that 3 segments did not receive any bids. Those are OPI (State Prisons), Buckeye Dairy Goat Association (7 producers), and Foremost. The first two in particular we will need to figure out what to do with them. We are considering our own State lab as an alternative. Foremost wanted to do their own and did not sign an affidavit for any other laboratory to do their work as they intended to submit a bid but failed to do so. Mr. Twining is now in negotiations with DAS as to what to do next. One other segment did have bids but no affidavits were signed and that was H.D. Organic. They are located in Utica and currently have one producer being marketed by DFA. So, Mr. Twining said that it is his opinion this producer falls under the FDA segment. Four labs submitted bids: Eastern Lab Services, Microbac, Michigan Milk Producers Association, and Prairie Farms. Prairie Farms will do their own producers. MMPA, although a question on insurance, will do their own producers. ELS and Microbac then were left to duke it out over a number of other segments. Mr. Twining said that it was the hope for this contract to be wrapped up by mid-June.

Mr. Schmid asked about the reason that the OPI and goat segments were not bid?

Mr. Twining explained that the last time the goat segment was bid, ELS after some arm-twisting finally agreed to do it. Cost on that segment was elevated because it is difficult to collect the samples. John Rhodes did not bid this time because of that difficulty. Our State Lab (CAL) runs that test for a considerably higher cost than any other laboratory. (\$40 vs. \$5). ELS bid the prison farms on this contract but then they asked to be released. The Department then took on those responsibilities at our own lab and will probably continue to run them there.

Mr. Hollon made the suggestion where-by the State Sanitarian could pick up the goat samples and deliver to ELS thereby saving some money on testing.

Chief Jones asked for a clarification relative to Mr. Twining's comment that the average cost per test was down, because we have lost over 600 farms.

Mr. Twining said that from the time that they bid the current contract till the time that they bid this contract, the cost per test average for bacteria is lower. The average cost per test for SCC is lower and the average cost per test for drug residue is lower.

Chief Jones said that the 600-farm decrease is over a 3-year period. To further clarify, Chief Jones said that from June 1 of last year to May 10<sup>th</sup> of this year, there has been a net loss of 50 Grade A farms and 23 Manufactured farms. Chief Jones stated that what we paid last year and comparing it with what was bid, we are up about \$30,000.

Mr. Schmid asked about total farm numbers.

Chief Jones explained that when he runs a count it does not include those farms under suspension. He told them that for the first time Ohio is under 1000 manufactured farms

(997). Grade A number somewhere around 2,550. Chief Jones further pointed out that out of the 997 manufactured farms 650 are can shippers.

### **USDA Inspections**

Mr. Heiby reported that USDA had informed Chief Jones of their intent to visit Ohio and audit our manufactured farms. This is similar but nowhere near FDA oversight. The USDA representative wanted to visit 40 manufactured farms. Mr. Hibiya told the Board the fact that the USDA inspector was taken to what we considered the heart of the manufacturing base, Wayne and Holmes counties. The USDA person asks for a copy of our rules, inspection sheets and any action letters. Mr. Heiby explained that he would come into the office tomorrow for an exit interview outlining what he found in the field.

Dr. Brisker asked if we get a report right away.

Mr. Heiby said that usually we get that within a week to ten days.

Mr. Hollon asked if Mr. Heiby had a feel for how the audit went or is going?

Mr. Heiby said that Monday and Wednesday seemed to be real good. But, Tuesday afternoon was a little rough. They visited typically rougher farms.

Mr. Hollon asked what happens if the farms fail?

Mr. Heiby said he does not know if there is such a thing in the manufactured realm.

Mr. Twining added that USDA's big push is for uniformity. They want the states to establish rules that mirror USDA recommendations. There have been some rumors that USDA wanted to copy somewhat what FDA has done on the Grade A side. That has never gotten off the ground so what we end up with is a report that compares our program with USDA and other states.

Dr. Brisker said the idea of having standardization is where this Federal oversight is going.

Mr. Twining said that it could lead to a situation where say Wisconsin would make reference to USDA report on Ohio and based on that it shows that Ohio's milk is not produced under the same stringent rules as Wisconsin therefor Wisconsin will not accept Ohio product.

Chief Jones added that there are two items that they mark on every audit and that is cooling of milk and SCC. Ohio's standards are 60 degrees and 250,000 above the current Grade A standard, which is 750,000. USDA is at 50 degrees and 750,000.

Dr. Brisker asked for any other old business.

## **New Business**

### **October Quality Conference**

Mr. Heiby pointed out that last week the Quality Conference Planning Committee met. The Quality Conference was set for October 10 at ODA. The Committee set the theme as “Quality Milk”. Agenda items include: a spokesman from Dean Foods outlining processor’s expectations, a representative from The Ohio State University discussing the different types of quality tests and some new cow-side tests, then a representative from a milk equipment dealer addressing cleaning and maintenance.

Mr. Heiby said a current “Quality Milk” concern seems to be a condition commonly known as ropey milk; someone will address that problem. Additionally there will be a panel addressing “Quality Milk” real life situations. Finally, the Department’s new State Veterinarian, Dr. Tony Forshey, will be called on to address timely topics.

Chief Jones asked what would be the cost of registration?

Mr. Heiby said that originally they thought \$20, then someone mentioned that their company might under-write part of the cost so it might be less than \$20.

Mr. Heiby added that Tim Demland has offered that the Ohio Dairy Producers and the Quality conference Committee work together on a joint Quality Conference. We were not able to do that this year but the planning committee has agreed to discuss the possibilities for future conferences.

### **License and Fee Subcommittee**

Mr. Twining explained the purpose of this item on agenda as one concerning sun setting of this special subcommittee. Mr. Twining went on to outline some of the history of this committee where it was conceived in a very volatile time. It was right after the program moved from Health to Agriculture and the law was changes that authorized the standing committees of Grade A, Manufacturing, and Frozen Desserts.

Mr. Twining also pointed out as a side bar that there was another special subcommittee, the lab services sub-committee. The special subcommittees are formed by the Chair or the Director’s representative and normally are time and task specific.

Mr. Twining said that we hung onto the Licensing and Fee Subcommittee due to some special circumstances. This subcommittee was formed in the 1994-95 time frame as the new Dairy Law was formed and Manufactured segment along with the Grade A worked together to create a fee structure. Mr. Schmid was and is the Chairman of the Licensing and Fee Subcommittee. More recently this subcommittee was called upon to look at the fee structure again as the Department went through a Supreme Court challenge from Diehl Inc.

Mr. Schroeder further explained some of the history and workings of the Licensing and Fee Subcommittee. Mr. Schroeder did point out the success of the concept of perpetual licensing. Before this the Department was billing industry, specifically producers, a yearly licensing fee (\$15). Mr. Schroeder told the Board that billing and collecting this yearly fee cost the Division somewhere around \$63,000.

Mr. Twining floated the idea of sun setting this special subcommittee. The Board created this subcommittee and could disband it.

Mr. Fleming moved to disband the Licensing and Fee Subcommittee. Mr. Arbaugh seconded. Motion passed by voice vote.

### **Transfer and Receiving Station Drug Testing Requirements**

Mr. Hollon outlined the concern relative to drug residue testing at transfer stations. He mentioned that each load that comes into the receiving station is tested for drug residues then when put onto a bigger over the road tanker and delivered to a milk plant it is again tested. Mr. Hollon said the issue of double testing has come to a head due to the fact that DFA no longer is willing to pay the transfer or receiving station's cost of the tests. In the case of one reload it amounts to an additional \$9,000 per year.

Mr. Tedrick then spoke of his conversations with this reload and mentioned that under the IMS system, it is mandatory to conduct drug residue testing. A transfer station has two choices, they either test each incoming load or they sample each load and send those samples along with the transport to the milk plant for testing.

Mr. Ellis asked if Mr. Hollon received milk from the smaller trucks into a silo?

Mr. Hollon answered that they do not, they pump milk from one truck to the other.

Mr. Hollon said that it does seem like it is a duplication of testing.

Mr. Ellis asked if there was a fee to the co-op or producers for the service of transferring?

Mr. Hollon said no as most times it is to the hauler's advantage. The only time they actually pay is during times of qualifying producer milk.

In conclusion, Mr. Tedrick said for anything to change relative to drug residue testing, it would have to be an action through the IMS conference.

### **Adoption of the 2005 PMO**

Mr. Brown said that he is preparing for the adoption of the 2005 PMO. Presently, our rules are the 2001 PMO. He is comparing the 2003 and 2005 with the 2001. Mr. Brown said that he is sending sections to the Grade A Committee with additions and subtractions. When the comparisons are complete, he will call for a Grade A Standing

Subcommittee meeting and ask for any concerns and then ultimately their blessing on adopting the 2005 PMO.

Mr. Hopper said that any vote would have to take place in a public meeting setting. This meeting would have to have a public notice.

### **Public Comment Period**

Mr. Warren Byle wanted to give the Board an update from the raw milk proponent's side relative to H.B. 535. Mr. Byle expressed their concern for a fresh clean milk supply just as the Department does. Mr. Byle said they are concerned that dairy farmers are going out of business and think that dairy farmers being able to sell raw milk would enhance the economic viability of dairy farming. There are so many people who want raw milk and we want it to be provided safely.

Mr. Byle outlined what the bill stipulates. He said the bill does not authorize anyone who is not Grade A to be able to sell raw milk. Also the sale of raw milk is limited to on-farm sales. This limits the exposure of multiple handlers contaminating the milk. It is Mr. Byle's opinion that the raw milk component would be ODA's responsibility, in other words, it does not separate out the other milk regulations.

Due to lower volumes, Mr. Byle stated that some allowances are in the bill relative to bottling and capping in a way that is not mechanized. In other words, it would allow for hand capping and bottling. Mr. Byle said that labeling would have wording such as: "this product may contain harmful organisms." In addition, signs will be posted at the farm stating the same.

Additionally the proponents proposed language stating that if the individual owns the cows and is consuming the milk, they would not fall under the regulations of the dairy rules.

Mr. Byle stated the people wanting raw milk is growing and it is not going away and the proponents would rather work with the Milk Sanitation Board and the Department on resolving a workable bill and subsequent rules. Mr. Byle said they do not want what happened in the state of Washington to happen here. Mr. Byle closed by thanking the Board for the time to speak and asked if there were any questions.

Mr. Ellis asked for a clarification to what Mr. Byle had said about the Department allowing for a cow owner to consume their own milk?

Mr. Byle said that at the last meeting, and numerous other times, he has heard from Department personnel stating if you want to own your own cow then you can drink the raw milk from that cow.

Mr. Hopper said that ODA has never enforced that chapter against someone who owns their own cow.

Mr. Ellis asked if that is not what cow sharing is all about?

Mr. Fleming said that in a cow share arrangement you couldn't determine if that milk comes from your cow. The milk is commingled with 100 other cows.

Mr. Byle said that herd shares is a way of providing this product that they want. He feels that proponents realize that long term this is not a solution. They want to work with ODA to provide raw milk in the proper manner.

Mr. Hollon inquired about a situation where a producer would sell all of his milk off the farm, would he then be considered a processor?

Mr. Tedrick said that he thought they would be considered in the Federal Order system as a type of processor or producer distributor. Young's as an example sold raw milk but not all of their milk was sold off the farm. The surplus went to the normal marketing channels but was counted as Class III.

Mr. Hollon also asked about drug residue testing. Would these raw milk retailers have to perform that function?

Mr. Ellis wanted to know whether there was a provision in this proposed bill for antibiotic testing?

Mr. Byle said that the testing would be the same as the Grade A rules state presently.

Mr. Ellis asked if selling raw milk in Pennsylvania is permissible?

Mr. Byle answered yes and they go beyond what the proponents are asking for by selling in stores. California has sold in stores for a number of years. Along with that a number of other states, around 28, allow raw milk states in one form or another.

## **Public Comment #2**

Mr. Larry Gearhardt of the Ohio Farm Bureau took a few minutes to bring the Board's attention to three items of interest. These items affect dairy farms either directly or indirectly.

The first issue is one of scrap tires. There is a regulation in the Ohio EPA that restricts the number of scrap tires that can be located in one place without there being a permit, license, and an inspection. An exemption under that rule states that a farm can have up to 250 scrap tires without having the permit. Mr. Gearhardt said that it is not uncommon for dairy producers to have numerous scrap tires holding down the tarps on their forage bunkers. A year or so ago the Ohio EPA stopped into a dairy farmer and tires were holding down the tarp and had a problem of some sort. Mr. Gearhardt said Farm Bureau thought this was an isolated incident but since that time a second dairy has been visited. It

is Farm Bureau's intent to look at the rule and seek an increase in the number of scrap tires for the agricultural exemption. Mr. Gearhardt said that in talking to other dairy producers, the number of tires used is greater than what was originally thought and an agreement may be hard to get to a number that would benefit dairy farmers.

The second issue that Mr. Gearhardt discussed dealt with a pending bill at the Statehouse relative to notification of local authorities when there is a permit filed for a large facility. When that law was originally written it was required for animal units of 10,000. At a 1,000 animal units they were notified that there was no need to negotiate on road improvement. There is a bill at the statehouse that would lower that limit to 1,000 to force negotiation on road improvements. Large dairies seem to be getting most of the attention.

Thirdly, a couple of weeks ago Farm Bureau was surprised when a tractor and manure spreader was pulled over and they claimed it was over weight. Mr. Gearhardt said that many times it came to Farm Bureau's attention that farm trucks were in question but never farm implements such as manure spreaders. Mr. Gearhardt's research does point out that farm implements fall under certain weight restrictions. This particular manure spreader was a 6500-gallon tanker pulled by a tractor and it was considerably over weight based on the axle restriction. There are 3 weight limits you have to worry about. You have to be concerned with your tire load limit, your axle limit, and then your total weight limit of 80,000 lbs. Farm Bureau is not exactly sure what they are going to do. A few years ago Farm Bureau introduced a law to allow for agricultural commodities to have a variance of 7.5%.

Mr. Hollon asked what they considered a scrap tire?

Mr. Gearhardt said that it is any tire not being used and has been discarded. Originally they thought a cut tire is not a scrap tire. But now they have included a cut tire as a scrap tire. This never used to be an issue but the horse people are worried about West Nile virus and are putting pressure on the authorities.

Mr. Demland asked Mr. Gearhardt, if a lot of this could be solved by addressing the axles?

Mr. Gearhardt said that is a problem. Much of the equipment is coming with dual wheels. If those wheels would be spread further apart you would not have been over weight.

Mr. Ellis asked about the ability of Counties to require permits of trucks that travel county roads? Presently there is at least one county that charges \$100 per year. Mr. Ellis' trucks travel in 12 different counties and he has been concerned that this would be a growing trend of assessing the need for permits.

Mr. Gearhardt said that there is a law that requires overweight permits.

There were no other Public Comments.

The next Milk Sanitation Board meeting will be held August 10, 2006 at the Ohio State Fair.

Mr. Hollon moved to adjourn the meeting. Mr. Schmid seconded. Motion carried.

Approved \_\_\_\_\_

Attested \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_