



Idaho Dairy

THE IDAHO DAIRY FOCUS IS BROUGHT TO YOU BY
IDAHO DAIRYMEN'S ASSOCIATION

focus

The Idaho Dairymen's Association (IDA) was established to continue to develop and sustain an economically viable Idaho Dairy Industry that works together to achieve success in the domestic and global marketplace in meeting the needs of the Idaho dairy farm families.

March 2010

When it Comes to Trade Agreements, Idaho Dairy Farmers Deserve a Level Playing Field

By Congressman Mike Simpson

The economic health of the agriculture sector has never been more important to Idaho than it has been during the course of the current economic downturn. While many sectors of our economy have been struggling mightily and shedding jobs, agriculture remains the backbone of Idaho's rural economy and is the economic driver for communities across our state. When agriculture suffers, so do rural communities, and so does virtually every sector of our state's economy.

That is why it is so important that we remain focused on the issues facing Idaho's agriculture industry. Idaho's dairymen have struggled for the past year as farm milk prices collapsed at the same time that the entire economy plummeted. While prices have dropped, costs have remained high, leaving the Idaho dairy industry facing a dire situation. (continued on page 2)



View from the Board Room

by IDA President Mike Roth

Being a dairy producer and serving on dairy industry related boards today requires your time, your personal involvement on issues and dedication.

In the first two months of 2010 several of your fellow dairy producers have represented the Idaho dairy industry in meetings and the political arena. I believe they all deserve recognition for the time they have taken away from their operation and their families to represent the industry. The meetings they attended included both state and national meetings. On the state level those meetings included; the UDI Board Meetings, Industry Relations Committee meetings, Independent Dairy Environmental Action League (IDEAL) meetings, Idaho Beef Council Meetings, Idaho Brand Board Meetings, Idaho State Department of Agriculture Negotiated Rule Making, IDA legislative banquet and testifying at both Idaho Senate and House Agricultural Affairs Committee

In This Issue:

- Page 2 - Idaho Senator Crapo Takes the US Senate Lead On Dairy Trade Issue
 - Idaho Legislation—Animal Cruelty Bills
- Page 3 - Update—Idaho National Center For Livestock And Environmental Studies
- Page 4 - IDA vs. Gooding County—Supreme Court Decision
- Page 5 - Producer Letter to Processors On rbST
 - IDA Legislative Banquet
- Page 6 - Idaho Legislation—Immigration
- Page 7 - Downs/O'Neill—Caveat Emptor! Markets Can Turn On A Dime

(Mike Simpson—continued from page 1)

To this end, I have joined my colleagues in the Idaho Congressional Delegation in supporting efforts to provide assistance to dairy producers through existing programs and authorities that were put in place to deal with economic emergencies like those now facing the dairy industry. I also believe it is important to ensure that when it comes to trade agreements, the U.S. dairy industry can compete on a level playing field. Recently I joined other members of the Congressional Dairy Farmer Caucus in sending a letter to U.S. Trade Representative Ron Kirk supporting the dairy industry's request that U.S.-New Zealand dairy trade be excluded from any final Trans-Pacific Partnership Agreement. Like my colleagues, I am concerned that unfettered dairy trade with New Zealand would send milk prices even lower, putting more dairy farmers out of business. I strongly believe that Idaho's dairy farmers can compete and win on a level playing field, and as we work to stabilize milk prices, we must work to see that they have that opportunity.

The importance of Idaho's dairy industry to both state and local economies in Idaho cannot be overstated. Providing Idaho farmers and ranchers with the tools they need to succeed is vital to the recovery of our whole economy. Farmers know better than anyone that tough times come and go, and by working together we can ensure that a healthy dairy industry can play an important role in turning our economy around.

Idaho Senator Crapo Takes the U.S. Senate Lead for Dairy on Dairy Trade Issue

Senators Crapo (ID), Feingold (WI) and Specter (PA) are encouraging Senators to add their signatures to a letter they drafted to U.S. Trade Ambassador Kirk. The joint letter to USTR Ambassador Kirk raises the concerns shared by many Senators about how dairy will be treated in the Trans-Pacific Partnership FTA and the strong negative impact that would result on the US dairy industry if US-New Zealand dairy trade were to be expanded as part of the TPP. The TPP is a trade deal that the Administration has committed the US to pursuing. For the dairy industry, the most notable fact is that it includes New Zealand (as well as Australia, Chile, Peru, Singapore, Vietnam and Brunei).

(View from ...-continued from page 1)

hearings. At the national level the meetings included; Dairy Management Inc. (DMI), International Dairy Foods Association (IDFA) annual meeting and Western States Dairy Producers Trade Association.

I want to thank all of those who have represented the Idaho dairy producers, hopefully I don't miss anyone but besides all of your 18 elected board members whose names can be found on the last page of this publication we also had the following dairy producers participating on behalf of IDA and IDEAI; Adrian Boer, Jack Davis, Lynn Keetch, Randy Lindley, Alan Reed, Joe Stewart and Arie Vanstrallen.

Many times we feel all of our governmental influence needs to occur at the national and state level and we tend to ignore what is occurring in local government unless it is an issue that pertains directly to our operation such as a conditional use permit. In this issue there is an article on our recent loss before the Idaho Supreme Court on our lawsuit against Gooding County. That loss demonstrates the need for the dairy industry, producers, processors and allied industry to be engaged at the county level in Planning and Zoning meetings, testifying at County Commission meetings and participating in community business organizations. Most importantly we need to be willing to become involved in the political process by supporting candidates that support the dairy industry, agriculture and small business. For some it may be time for you to consider a run for a locally elected office such as County Commissioner.

Idaho Legislation - Animal Cruelty Bills

The Idaho dairymen's Association supported two bills pertaining to animal issues that have passed the Senate, S1317 titled Animal Cruelty and S1331 establishment of a Livestock Care Standards Board. S1317 passed the Senate on a 31-1-0 vote and S1331 passed on a 24-11-0 vote. Both bills were worked on by the dairy industry, livestock industry, Farm Bureau and Food Producers over the past 9 months. The Bill's sponsor was Senator Corder, he successfully garnished support for S1317 from radical groups such as the Human Society of the United States (HSUS). After passing the Senate it was anticipated that the bills would be sent to the House Agricultural Affairs committee where they would have easily succeeded in being sent to the floor for a full vote by the House members. Instead House leadership decided to send the bills to House State Affairs committee where their fate is less certain and the probability of getting a hearing on the House side is diminished considerably.

UPDATE IDAHO NATIONAL CENTER FOR LIVESTOCK AND ENVIRONMENTAL STUDIES

By Rich Garber, Director of Industry and Government Relations, College of Agriculture and Life Science,
University of Idaho

The INCLES continues on somewhat of roller coaster ride toward reality. The events of the past few weeks could be characterized as having both good and bad implications for the project but the good news is that the vision for the Center remains a central component of the strategic direction for the University of Idaho and specifically the College of Agricultural and Life Sciences. U of I President Nellis and CALS Dean John Hammel continue to hold this project as a priority and they are collectively doing all they can to keep everyone's interest and energy focused and moving forward.

While on the one hand it was disappointing to have the State pull back its \$10 Million financial commitment to the project, on the other hand it was not too surprising. As State revenues continue to deteriorate it is understandable that there was tremendous pressure to tap what many considered to be a non performing asset that the State desperately needed in its current economic crisis. This pressure points out the crippling effect of the constraints placed on the appropriation from the beginning. First, was the inclusion of a \$10 million combined state and U of I diagnostic laboratory facility that was not a part of the original vision, business plan or funding strategy. Second, was the requirement that no part of the project was to be started until all of the funding commitments were in hand, which is very difficult to accomplish in light of the fact that industries commitment is being fulfilled by multiple year pledges.

Importantly Governor Otter and the legislature assures us that the project continues to be a priority for them and that it would be their desire to restore the funds at a future time when the State is in a better financial situation.

All this has provided the opportunity to reevaluate our strategy and to look at a new model for moving things forward. That model will be based on a phased process where we will scale back the project into manageable segments and then expand as the resources become available. The first phase will include redesigning the research facility into expandable components and reworking the corresponding business plan to reflect the budget requirements of the smaller initial facility and programs. This phase will be complete in the next two months.

The second phase will be to select a site that includes land for the initial construction but also gives us the opportunity to expand our land holdings to accommodate the broader research platform initially envisioned. Our goal is to complete this phase by the end of October. Additional phases will then be completed as resources become available. This new strategy will be kicked off upon the approval of the UI Administration and the State Board of Education.

Outside fundraising continues to be a priority and will be driven by a new agreement between the CALS and the UDI. Under this agreement CALS Development Director Mary Hasenoehrl will be committing part of her time and expertise in a team effort with Dr. Greg Ledbetter to raise money for the Research Center. Fundraising to date has generated approximately \$1 million toward the initial goal of \$5 million.

IDA vs. Gooding County – Supreme Court Decision

by Deb Kristensen

On February 1, 2010, the Idaho Supreme Court handed down its decision in *Idaho Dairymen's Association, Inc. v. Gooding County* (2010 Opinion No. 12) upholding various provisions of Gooding County's 2007 CAFO ordinance that had been challenged by the Idaho Dairymen's Association and the Idaho Cattle Association. In so doing, the Idaho Supreme Court unanimously held that counties, under the Land Use Planning Act, have the authority to regulate water quality within their boundaries. In a split decision (4-1, with Justice Linda Trout dissenting) the Court also held that Gooding's one-size-fits-all animal density cap of "five (5) animal units per tillable, irrigated acre owned by the CAFO applicant" and the requirement that "the land base to support the animal units is required to be in Gooding County" do not violate the substantive due process rights of CAFO operators.

Given the increasing (and seemingly inconsistent or duplicative) regulation of CAFO operators at the federal, state and local level to all combat "water quality" issues, dairymen and cattlemen brought this lawsuit to clarify who has authority to impose certain requirements on their day-to-day operation. The dairymen and cattlemen argued that counties were prohibited from regulating water quality through things such as setbacks and animal unit density caps because the regulation of water quality was impliedly preempted by state and federal law. In other words, because the state and federal governments had already instituted a comprehensive set of laws and regulations governing water quality there was no room left for counties to require additional or differing regulations. This argument seemed clear, particularly under the following provision in the Beef Cattle Act:

"The legislature recognizes that the beef cattle industry is potentially subject to various state and federal laws designed to protect state natural resources and that the Idaho department of agriculture is in the best position to administer and implement these various laws. It is therefore the intent of the legislature that the administration of this law by the department of agriculture fully meets the goals and requirements of the federal clean water act and state laws designed to further protect state waters and that administration of this chapter by the department of agriculture shall not be more stringent than or broader in scope than the requirements of the clean water act and applicable state and federal laws. The department shall have authority to administer all laws to protect the quality of water within the confines of a beef cattle animal feeding operation."

While the Idaho Supreme Court noted that "a few statutory provisions support the Associations' argument that the Legislature intended to preempt the field of water quality at CAFOs . . . [t]hese provisions are insufficient to find legislative intent to preempt local regulation of water quality at CAFOs." Notably, the Court cited to the Land Use Planning Act's grant of authority to counties "to regulate the siting of large confined animal feeding operations." In essence, the Court held that a county's ability to "site" a CAFO equates to the ability to regulate water quality at that CAFO (despite specific statutory language to the contrary in existing law).

In arguing against this holding, the dairymen and cattlemen relied on a provision in Idaho law which states "No power granted hereby [under the Land Use Planning Act] shall be construed to empower a board of county commissioners to enact any ordinance or resolution which *deprives any owner of full and complete use of agricultural land for production of any agricultural product.*" The Court avoided this argument altogether, claiming that "The Associations raise this issue for the first time on appeal." A review of the transcript of the hearing before Judge Wood below wherein this argument was specifically raised, however, reveals that the Court is wrong and merely avoided this issue altogether.

Dairymen and cattlemen also challenged the Gooding Ordinance's one-size-fits-all animal density cap of "five (5) animal units per tillable, irrigated acre owned by the CAFO applicant" and the requirement that "the land base to support the animal units is required to be in Gooding County" as arbitrary and established without a rational basis. For instance, we argued that setting an animal density cap is inherently arbitrary because, unlike the methods used by the state in issuing a Nutrient Management Plan, the county does not take into consideration the specific nature of the CAFO operation (e.g., how animal waste is managed) or the (continued on next page)

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geography and location of the CAFO. Justice Trout, sitting *pro tem*, agreed with the dairymen and cattlemen and voted to strike these provisions as violative of CAFO

operator's due process rights. Unfortunately, the other four members of the Court (Justices Burdick, Warren Jones, Horton and Justice *pro tem* Hurlbutt) disagreed and upheld these provisions.

Both sides had requested attorneys' fees on appeal, but the Court held that fees were not warranted given the uncertainty in the law and good arguments supporting the Associations' position.

About the Author: Deb Kristensen is an attorney with the law firm of Givens and Pursley in Boise Idaho and represented IDA in the Gooding County case.

Producer letter to Processors on rbST

There is a letter that is being circulated amongst Idaho dairy producers on Idaho Dairymen's Association letterhead pertaining to the restrictions from all Idaho processors on allowing Idaho dairy producers to utilize the technology rbST. The letter is not an endorsement of rbST but it is an attempt to defend the industries use of technology and make sure Idaho producers are being treated equitably. The letter in part states;

"It was our understanding that it was being implemented to meet the needs of your customers and was driven by the retail markets that are supplied by both Kraft and Schreiber. It is also our understanding that those markets have not evolved into rbST free markets as was initially feared; in fact Walmart has indicated they are willing to take dairy products made from animals supplemented with rbST.

Processors in other geographies are using milk from rbST supplemented cows to manufacture cheese that flows into the same customers being served by Idaho processors. When your competitors are selling cheese from rbST supplemented cows through the same channels as you why can't we?

We need to be able to use all tools that will help all of us recover equity that we have lost the past 15 months. The ban on rbST use in Idaho constricts our ability to manage and we need every available tool at our disposal that enables us to lower our cost to produce milk and thereby increasing our profitability. In these difficult economic times we would like to have the freedom to utilize rbST on animals within our herds and would like all Idaho processors to consider dropping the ban. "

We would encourage you to take the time to add your name to the letter. Contact Bob at bob@wdbb.us for more information.

Idaho Dairymen's Association Legislative Banquet

For the past six years the IDA has hosted a legislative banquet during Idaho's legislative session. This year's banquet was attended by over 130 individuals including Lt Governor Brad Little, ISDA Director Celia Gould, legislators, agricultural lobbyists, friends of the dairy industry, processors and dairy producers.

This year's featured processor was Nampa based Sorento Lactalis their company overview was presented by Boyd Phillips. To see their company profile go to www.idahodairymen.org.

Idaho Legislation - Immigration

There are three bills that were developed this year for consideration that pertain to immigration. One HO49 has already been heard in the House State Affairs committee and two that will be considered in the Senate State Affairs committee on March 8th. All of the proposed legislation can be found at: www.legislature.idaho.gov. The bill numbers are HO497, S1271 and S1303.

HO497 is sponsored by Representative Phil Hart and Representative Raul Labrador. The bill died in the House State Affairs Committee. The proposed law contained language that made E-Verify a tool that could be used voluntarily to identify properly documented workers. In the penalty section of the proposed law, if you are found guilty of "knowingly" hiring a foreign born laborer your business license suspended similar to the infamous Arizona law. The licenses that were subject to suspension would have been "all licenses that are held by the employer and that are necessary to operate the employer's business at the employer's business location where the unauthorized alien performed work."

The proposed law did allow for exemptions for those who hold "professional" licenses or licenses that have been issued by the Idaho Department of Environmental Quality (DEQ) or Idaho Department of Water Resources (IDWR). Those exemptions do bring into question how serious the sponsors are that this is a critical issue or it begs the question why are only blue collar jobs found in agriculture and construction being targeted.

S1303 The sponsor of this anti immigration legislation is Senator Mike Jorgenson. The bill is more restrictive than the HO497 that died in committee. The proposed law mandates the use of E-Verify. According to a published report in the Wall Street Journal a recent evaluation of E-Verify carried out for the Department of Homeland Security by research group Westat found the program couldn't confirm whether information workers were presenting was their own, and, as

a result, "many unauthorized workers obtain employment by committing identity fraud that cannot be detected by E-Verify." Westat put the **"inaccuracy rate for unauthorized workers" at about 54%.**

This bill also takes business licenses away from the "blue Collar" employers while providing professional exemptions and exemptions for companies that have licenses issued by DEQ and IDWR.

S1271 The sponsor of this bill is sponsored by Senator McGee and Co- Sponsored by Senator McKenzie. This legislation prohibits the manufacturing of false identification and the use of false identification by all persons to obtain employment and provides criminal sanctions for employers who knowingly employ persons using false identification. The proposed legislation does not utilize E-Verify, or penalize those found guilty of "knowingly" hiring someone without proper identification with suspension of the business licenses. The proposed law does not discriminate by providing exemptions base on who issued the license or if it was considered a "professional" license.

The Idaho Dairymen's Association opposes the bills based on the principle that the only true resolve to the immigration debate lies in the hands of the federal government. In addition we remain opposed to any legislation that only penalizes businesses that are required to have a license to operate which is limited to a handful of Idaho businesses, dairy being one of them.

Brent Olmstead, the Executive Director the Idaho Business Coalition for Immigration Reform, of which IDA is a founding member, has taken the lead on lobbying against the legislation. Additional members of the business coalition include JR Simplot Company, Idaho Association of Industry and Commerce (IACI), Idaho Associated General Contractors (AGC) and Farm Bureau.

In an effort to address this issue at the national level where it needs to be solved the Idaho Dairymen's Association has renewed its membership for 2010 on the executive committee of the Agriculture Coalition for Immigration Reform. In addition IDA has also made financial contributions for the immigration reform efforts of National Milk Producers Federation (NMPF) and Immigration Works USA.



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Caveat Emptor! Markets

Can Turn On a Dime

By Eric M. Meyer

The seasonal trend of cheese prices has taken hold in February and with lackluster demand, prices have been trending lower for most of the month. February is typically the slowest demand month of the year, so no one should be surprised at the price weakness. Additionally, a couple of bearish factors may compel you to sit on the sidelines. But, current market conditions present opportunities to lock in milk or cheese prices for the remainder of the year and even into 2011.

Market analysts point to two strong fundamental reasons why milk prices may stay low over the next three to six months, if not longer. The first is the robust cheese inventory level that does not want to fall. The storage numbers danced just below the one billion pound mark for the past eight months, and analysts do not expect any significant declines in January either.

Since this product is mostly of the aged or frozen variety, it will not have much impact on the CME spot price, which is based on a fairly narrow specification of 30 days old or less. The international market does not want our old cheese, they demand fresh product that fits their specifications and made to order. Prices can move around regardless of the inventory levels. The butter market has proven us wrong on this issue time and time again.

The second fundamental factor that analysts cite in growing numbers is the sharply higher number of replacement heifers in the US herd. USDA reported an additional 106,000 heifers to be in inventory over last year with only 32,000 of those heifers expected to calve. Sexed-semen technologies have made producing heifers a much more efficient process and have the potential keep heifer prices cheap in this country.

During this economic downturn, most dairymen are not discussing expansion. In fact, those lenders that are receiving inquiries are promptly telling their clients that money is not available until outstanding debt is paid down. For most of the country, December's milk check was the first in over 12 months that actually allowed them make a modest principal payment on their loans. Four years of dairy farm equity/profitability was wiped out in a one year period. Banks are not in a position to extend additional lines of credit for rapid expansion. These additional heifers will likely be brought into the herds through higher cull rates or even exported. An expansion of the US dairy herd in a significant way over the next 12 months is unlikely.

As prices head lower and market participants are leaning on the bearish news, we are concerned that the bullish factors that could impact our market have not been discussed. Much concern is being placed on the supply side of the market. While heavy cheese stocks and heifer replacements have weighed down the market, few are discussing that feed costs remain at elevated levels and with further increases in corn and soybean meal prices, dairies that purchase most of their feed could see margins shrink as milk prices move higher. This could limit gains in milk production even as prices increase.

Weather is another concern of ours; and not just in the US either. Australia and New Zealand production are lagging behind last year's figures and drought conditions are still playing with pasture conditions. US weather has been perfect over the past 12 months for milk production and we cannot expect optimum milking conditions for a second year in a row.

Demand is the wild card that has been the milk price driver over the past few years and will likely drive the volatility in the marketplace, both higher and lower. Foodservice demand was 5-10% lower last year but likely to post nominal gains in 2010. Export volumes started to pick up during the last few months of 2009 with December total cheese at their highest monthly levels since May 2008. While volumes may fade a bit during the first few months of 2010, USDEC and USDA are projecting nominal gains for the year. If numbers surpass these projections, it could unbalance the marketplace and drive prices higher.

While bearish fundamentals are currently driving milk and cheese prices lower, prudent buyers should view this time of year as an opportunity to lock in profitable cheese prices in 2010 and 2011. Dairy producers should get their plans in place, but wait for better days, prices and profit margins as we will get them.



IDAHO DAIRYMEN'S ASSOCIATION

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Upcoming Meetings

April 5 — Industry Relations and IDEAL Committee Meeting
Twin Falls, Idaho

April 7—8 Western States Dairy Producers Trade Association
Salt Lake City, Utah

May 19 —United Dairymen of Idaho Board Meeting
Twin Falls, Idaho

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