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FIRST DISTRICT ASSOCIATION

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July 19, 2000

Ms. Jennie Butler
Dockets Management Branch (HFA-305)
Food and Drug Administration
Room 1061
5630 Fishers Lane
Rockville, MD 20852

Dear Ms. Butler,

First District Association is a grass roots farmer owned dairy cooperative serving 1100 members in Litchfield, Minnesota. Our cooperative is estimated at handling in excess of 13 billion pounds of milk during year 2000.

Milk prices during year 2000 have been at 20 years lows. The average class III price for milk is \$9.56 for the first six months.

Meanwhile, I continue to read many disturbing articles about Milk Protein Concentrate and Casein Imports. The USDA reports that over 10,000,000 pounds of Milk Protein Concentrate (MPC) and 8,000,000 pounds of casein or casein products have been imported into the U.S. during the first four months of year 2000! This is an increase of 85% over the same period last year for MPC.

Based on the recent article written by Pete Hardin, much of this product may be used illegally within our own country. I am very disturbed that this activity allows for unfair competition and low milk prices within the U.S.

IMMEDIATE action must be taken to assure that these products are imported and used legally within the U.S. Reasonable tarrifs also need to be put in place on these products.

Enclosed is a copy of a recent article that warrants serious attention.

The U.S. dairy industry needs your support and assistance.

Sincerely,

Clint Fall
President/CEO

CF/dw

Enclosure

99P-4613

HOME OF



DAIRY PRODUCTS

DC 1328

How to Look for Cheese Illegalities

On July 10, Rep. Tammy L. Baldwin was told by New Mexico Rep. Joe Skeen, that either the General Accounting Office (GAO) or the investigations staff of the House Appropriations Committee would launch a study into the use of "alternate" dairy ingredients for cheese making in the U.S. Commitment from Rep. Skeen assures that the probe moves ahead. The sooner the better!

Since *The Milkweed* has led the investigative charge this issue, it's only appropriate that, on behalf of co-conspirators Joel McNair and John Bunting, I offer some specific directions to investigators who will be navigating unfamiliar territories.

Before getting specific, it's important that any investigation be broken down into a "quick-test," and, if details from the quick-test bear forbidden fruit, then a much longer probe be conducted.

The general issue revolves around illegal use of non-Grade A dairy proteins by U.S. cheese plants. FDA rules limit the quantity of non-Grade A dairy proteins to only 5% (by weight) of the cheese "starter." "Starter" is the culture added to raw milk in the cheese vat that causes milk proteins and butterfat to coagulate into curds — forming cheese. If cheese plants use greater quantities of imported dairy proteins in the vat than allowed under FDA's Grade A rules, the resulting product is considered "imitation cheese." To label such product "natural cheese" is fraud and misbranding of consumer products.

Follow the paper trail

Government investigators need the appropriate laboratory assay for cheese to determine (using concentration of whey proteins) whether product has been inappropriately made. Specifically, investigators should follow the paper trail of invoices for imported milk proteins (especially Milk Protein Concentrate—MPC) from foreign sources to U.S. buyers. In some instances, importers are warehouses or resale agents then sell to these dry dairy proteins to dairy processors. To what firms is the imported MPC then shipped and billed? Customs Department data on the destinations of imported dairy ingredients is very specific. Follow the paper trail from the dockside to the end-user!

For example, let's consider a "theoretical" warehouse buying dairy proteins, located in the non-existent 'burg of "Peanut Butter Cup-ville, Wisconsin." Specifically, what products did that firm import? What products were resold? To what firms? What was the ultimate end-use?

In Hinesburg, Vermont, take a good look at the remodeled Saputo Cheese plant where Feta cheese is produced. Industry sources puzzle at what they only half in jest, call the "Olympic swimming pool-sized" second "starter tank." What modern cheese making practices does Saputo engage in that, pray tell, require so much "starter" to be rehydrated?

At Allendale, Michigan, around May 30, 2000, Lepirino Foods started rehydrating so much dairy protein powder that, one day later, its silos were full of the thick material. Milk truck drivers were backed up, unable to offload farm milk. *The Milkweed* believes that Lepirino's Allendale plant is receiving 2,000-lb. "totes" of nonfat dry milk from Dairy Farmers of America's Goshen, Indiana, plant. Is all that "stuff" in those totes U.S.-produced nonfat dry milk?

In California, investigators ought to look to see which (multi-plant) cheese company it was that, back in the first half of 1999, suddenly had another employee signing the monthly reports on raw milk utilization to the Milk Pooling Branch of the California Department of Food and Agriculture. Did those reports square with reality, or ...?

Look overseas, too

Investigators in this cheese probe should also look abroad.

France has offered a special subsidy for dairy

powder exports to which an additional 3% casein was added. Hmmm. Add 3% casein (pure milk protein) to 36% nonfat dry milk and ... *Voilà!* You've darn near got MPC (40% milk protein).

I have in my possession a 25-kilogram bag of powdered dairy ingredients, imported from France. The original label claims the product is MPC. But the adhesive label affixed over the original label claims the contents are nonfat dry milk. This matter is clearly a case of either Customs fraud or product mislabeling. Sadly, the importer/seller (Wilfran Ag Industries of Malvern, Pennsylvania) has ceased business. Investigators who want to have my bag of Wilfran's "stuff" may take it for laboratory analysis.

China ... there's a heap of questions. For the first several months of 2000, China had the largest percentage gain in casein shipments to the U.S. compared to year-ago totals. Is this really "Chinese" casein? In late December 1999, Chinese buyers rejected a load of German nonfat dry milk, due to high levels of radioactive contamination. Is the Chinese casein that entered the U.S. in early 2000 merely the dairy proteins extracted from that "hot" nonfat dry milk? What tests were conducted by U.S. officials upon this product's entry? What was the end use? I'd impound the next shipment of Chinese casein and stick a Geiger counter in it!!!

Why haven't any violations been found?

The greater question here, beyond possible illegal cheese production practices and misbranding of consumer products, is why state/federal dairy plant inspectors failed to write up anybody for illegal use of non-Grade A ingredients. Last year, about 100 million lbs. of MPC entered the U.S. — most of it destined for cheese plants. No way all that "stuff" could have been used as cheese "starter."

I have a theory that FDA and states have purposefully looked the other way on illegal use of non-Grade A dairy ingredients in cheese making, because FDA wants to "globalize" Grade A standards. (See page 1, this issue.) It'd look bad, you know, in these days of "free-trade," if FDA enforced rules protecting the integrity and safety of dairy products consumed in the U.S.

If the allegation that widespread illegal use of imported dairy ingredients has occurred in manufacture of "Grade A" cheese by plants is true, then widespread consumer fraud has occurred. American consumers have been paying top-shelf prices, in some instances, for misbranded product that is, by FDA rules, imitation cheese! Where are the penalties?

Several federal programs—including School Lunch, Dairy Export Incentive Program, possibly military purchases — have requirements regarding domestic content and Grade A. Were any of these specifications violated? Certainly, illegal use of imported dairy proteins has reduced demand for domestically produced nonfat dry milk, which is piling up rapidly (at taxpayer cost) in the surplus holdings of USDA's Commodity Credit Corporation.

All these imported dairy proteins have resulted in "surplus" cheese, which has driven down commodity cash cheese prices to ruinous levels. Farm milk prices directly track cheese prices. All the imported dairy proteins (and their illegal use by certain cheese plants) have caused bankruptcy-level farm milk prices since last fall. Illegal use of imported dairy proteins in cheese production is bankrupting the U.S. dairy farmer — for no good reason! **This nation actually has a shortage of farm milk relative to demand.**

Illegal use of non-Grade A dairy ingredients ... widespread consumer product mislabeling ... willful failure by state/federal investigators to root out this illegal practice ... depressing commodity cheese prices, which in turn yield ruinous milk prices to farmers. The economic impact of this illegality is killing the nation's dairy farmers, who suffer prices akin to some-



Greetings from The Milkweed's editorial brain trust: Louis, Pete and EmmaLeah Hardin. We believe in good cheese with 100% American ingredients.

thing from the late 1970s.
Sic 'em.

'Ban rbGH' Conference: Footings for Positive Change

On June 17, I participated in what was the best meeting concerning dairy I ever witnessed. Dairy farmers, consumers, environmentalists (and a couple Monsanto spies) attended a day-long conference in Washington, D.C. that laid out many of the reasons why recombinant bovine growth hormone is bad for farmers and consumers, as well as part of a trend leading toward industrialization of animal agriculture.

There were many highlights of this day's program. On pages 5-8 of this issue, I am reprinting Dr. Michael Hansen's presentation, which was the best speech I ever heard. Time and time again, Hansen shows how the FDA has failed to err on the side of caution in assessing the human safety of this powerful synthetic hormone (and its derivatives) in our food supply. I reprint this speech as a matter of record. Anyone interested in the issue should invest the time to carefully read this speech from Consumer Union's in-house scientist.

Space considerations force me to bump back other coverage to the August issue. Other most memorable features were:

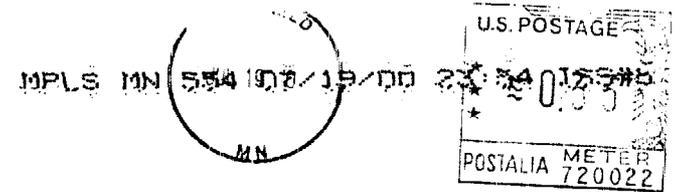
Television investigative reporters Steve Wilson and Jane Akre (a husband-wife team) describing how their news series on the human safety question posed by rbGH were killed by angry noises from lawyers representing Monsanto. Wilson/Akre documented how they were offered \$200,000 by their employer to walk away and never discuss the matter. They've sued for wrongful termination of employment, and are on the verge of a big court trial in Florida.

Canadian Victor Daniel explaining how our neighbors north of the border have re-looked their whole approach to agriculture after Monsanto's efforts to gain Canadian approval to sell rbGH. Interestingly, the Canadians are on the verge of concluding that any regular use of hormones in dairy cattle is a violation of national laws requiring improvement of livestock breeds.

The big lesson: Dairy farmers must take their concerns to as broader constituency than just fellow farmers. This conference proved that farmers, consumers and environmentalists can come together, communicate and learn.

A huge thank you goes to Chris Bedford, with the Maryland Chapter of the national Sierra Club, who coordinated the meeting.

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