

Minutes of the Milk Sanitation Board

August 7, 2008

The meeting was called to order at 10:00 a.m. by Chairman Robert J. Boggs in the FFA building at the Ohio State Fair. The following board members were present at roll call:

Mr. W. Charles Ellis
Mr. T. Chad Hollon
Mr. Gene Phillips

Mr. Thomas Fleming
Mr. Rocky Volpp

Also attending the meeting were: Ken Fagan, dairy producer; Frank Danalewich, OSU/FIC; Will Moore, DFA; David White, Ohio Farm Bureau Federation; Ron Geiser, DFA/DMS; Jim Patterson, Assistant Attorney General for ODA; and Bill Hopper, Lewis Jones, Brian Wise, David Mengel and Diane Schorr from the Ohio Dept. of Agriculture.

Director Boggs asked if anyone present had anything they would like added to the agenda. With no one requesting an addition, the agenda stood as presented. Director Boggs then asked if there were any additions or corrections to the minutes from the last meeting of the Board. Since there were no additions or corrections, he requested a motion from the board members to approve these minutes. Mr. Volpp made the motion to accept the minutes, with Mr. Fleming seconding the motion. The motion carried by a voice vote.

Old Business

Adoption of 2007 PMO

Lewis Jones, Chief of the Dairy Division, reported that the department has filed for the rule change to adopt the 2007 revised edition of the PMO.

Labeling Legal Update

Mr. James Patterson reported that following the enactment of the department's rule change regarding dairy product labeling, two lawsuits were filed in U.S. District Court by the Organic Trade Association and the International Dairy Foods Association. The suits have been combined into one to be heard before Judge Graham. Their filing claims that the rule violates commercial free speech and it is too vague. In addition, the Organic Trade group believes that the "Organic Food Protection Act" preempts the labeling law. Mr. Patterson will be defending for ODA in both cases. He has filed a motion with the court for dismissal and is waiting for the court to rule on his motion. Compliance with the new labeling law will be delayed until 90 days after the judge makes his final judgment, and at this point, there is no way to know when that date will be.

Director Boggs stated that he had just returned from the meeting of the Midwest Association of State Departments of Agriculture, and the 12 Midwest states are all over the

board with the labeling issue. Many of the states represented have no labeling issues over the use of rbST. Some states are considering labeling that will be stronger than Ohio's and will require the rbST free claim and the FDA disclaimer to be the same size font. Chief Lewis Jones stated that when he attended the NASDA Dairy conference recently, it was discussed that labeling proposals will be presented at the NCIMS Conference in April of 2009 in an attempt to come up with a uniform law for all states. However, FDA feels that the labeling is not a food safety issue.

Mr. Ellis asked who pays for the legal work on the labeling issue; does it come out of the Dairy Division budget? Mr. Patterson stated that he is employed by the Attorney General's office and works entirely on ODA legal matters. Director Boggs stated that ODA reimburses the Attorney General for Mr. Patterson's salary.

Budget Planning Procedure

Director Boggs stated that he and Mr. Marv Gutter, the Chief Financial Officer of ODA, have been working on the FY2010 - FY2011 biennial budget. Refreshing the memory of the board members, he reminded them that ODA had a reduction of \$1.6 million in General Revenue Funds from the 2009 budget. They anticipate another 10% reduction in General Revenue Funds for the FY2010 – FY2011 biennial budget. Twenty-two employees of ODA are participating in an early retirement incentive program, and ten of those positions will not be filled. The Director stated that the department is getting smaller and leaner and will need to be more fee reliant as they move through FY2010 – FY2011. The fact that department employees received a 3% raise, the costs of utilities and gasoline going up while the general revenue funds are decreasing, makes it a difficult time for the department. They have tried to limit the cuts to food safety issues, but that hasn't always been possible.

New Business

Staffing Changes

Chief Jones reported that, after about four years with no staffing changes, the last year had brought several retirements as well as three employees eligible for the early retirement incentive program. At this time, Mr. Jim Lawrenz and Mr. Rodney Reynolds are applying for the early retirement. A candidate has been selected to fill the position vacated by the promotion of David Mengel and will start employment as soon as he is approved by DAS. Mr. Jon Johns has been promoted to take the place of Mr. Lawrenz when he retires at the end of August. That will leave two farm sanitarian positions in the southeastern part of the state to be filled.

Director Boggs made note of the fact that other agencies, such as Rehabilitations and Corrections and Mental Health, have taken a worse hit in the state budget and have seen large layoffs. Part of the reason that Agriculture hasn't had more cuts is because it was lean to begin with, and the majority of the cuts that have been made have been in administration.

Dairy Division of NASDA Report

Chief Jones reported that the Dairy Division of NASDA will be changing their name to National Association of Dairy Regulatory Officials in September. At the Dairy Division of NASDA meeting that he just attended in July, discussion of the milk labeling issue occupied a considerable amount of their time. It is expected that the labeling issue will be presented at the next NCIMS conference. There also was discussion on raw milk issues.

Quality Conference – October 7, 2008

Brian Wise A reported on the agenda for the Quality Conference being held on October 7 in the Bromfield Building auditorium. Some of the topics to be discussed at the conference are: the economics of Methane Digesters and how they function; the do's and don'ts of installing used Dairy Equipment; and the use of dairy Robotic systems and milk Hauler issues.

Public Comment

At the designated 10:30 a.m. hour, the Director asked that anyone attending the meeting having an issue to come before the Milk Sanitation Board identify themselves and go on the record with their comments.

Mr. Ron Geiser of DFA/DMS raised the question of producers that are repeat offenders on sanitation. Director Boggs replied that they would take up that discussion at the end of the New Business topics.

With no other public comments, the meeting agenda was continued.

Farm Inspection Update

Brian Wise, Farm Section Head, presented the board members with a hand out showing how the increased fees are being used. He stated that the numbers of farms is staying fairly constant. The inspections of farms are being maintained at the same pace as 2007, with less staff. Milk production is up over last year with more farms converting from Manufacture to Grade A.

The Director informed the board of pending increases in cow population by 15,000 hesd, due to some of the applications for the large livestock permit farms.

Lewis Jones addressed Mr. Geiser's question on re-inspections. When the Dairy Division was evaluated by FDA in 2007, FDA was highly critical of the division for not taking the required regulatory action against producers that are repeat offenders.

Mr. Wise continued to address Mr. Geiser's question by stating that if a violation is marked more than two consecutive times, it needs to be corrected. More critical violations, such as dirty equipment, construction items, water violations and drug violations need to be

corrected immediately. However, the survey staff is marking all repeat violations, and those items need to be corrected. The Dairy Division is working with producers and our staff to get a handle on the re-inspections problem, and the cooperation of producers and industry is needed to resolve these issues.

Mr. Fleming asked what the requirement is on water sampling frequency.

Mr. Wise replied that it is once every 3 years, but the division is running at about a 2.5 year frequency.

Mr. Fleming asked if that included Manufacture Grade farms.

Mr. Wise answered that those farms are only required to have an acceptable water sample prior to obtaining a license to ship milk. Once they have started shipping milk, they are not sampled again.

Plant Inspection Update

Mr. Dave Mengel, Plant Section Head, gave an update on the plant inspections. He stated that even though the plant's section has less staff, all of the Grade A plants are being covered. Mr. Mengel stated that until he moved into his present position, he was not aware that there is such a large number of weigher, sampler, testers in the state. It has been difficult to keep up with all of the applications. He stated that there have been quite a few small cheese plants come on line. These small operations are under the same rules as the larger processors. He also informed the board that there is a new can receiving plant in Celina that is taking milk from Indiana producers.

Annual Expenditure Report

Chief Lewis Jones presented the board with the annual Dairy Division expenditures. The report showed that the division spent \$43,700.00 less in FY 2008 than it had in FY 2007. With the retirements that the division had and positions not being filled, the payroll expense was down \$58,165.26. The expenditures also showed approximately \$12,000.00 in fuel savings due to the fact that dairy had 3.5 fewer cars on the road much of the year. The report did not show the expenditures for new vehicles that were approved in last year's budget and haven't been received. When the last two months of contract lab bills are added in, it is expected that the division will just about break even.

Director Boggs called on Dave White of the Ohio Farm Bureau Federation to discuss the new agricultural vehicle license plates that ODA and Farm Bureau are supporting. Funds raised by the sale of these plates will go to support scholarships for future large livestock veterinarians.

The Director also informed the board of another issue in the works to take the **N**ational **P**ollutant **D**ischarge **E**limination **S**ystem program from the EPA and assign it to the Department of Agriculture. Certain changes in laws and regulations would have to take

place before the department could get conditional approval of this plan. Farm Bureau and other farm organizations have been helping the department with this process.

Next Meeting Date

The next meeting of the Milk Sanitation Board was set for November 13, 2008 at the ODA campus in Reynoldsburg.

With no other business to be brought before the board, Director Boggs called for adjournment of the meeting. It was approved.

_____ Approved

_____ Attested

_____ Date

_____ Date