



# 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*

January 2009

## President/CEO of NMPF Jerry Kozak to Lead Industry's Efforts for Research Center Fundraising Efforts

The Idaho Dairymen's Association (IDA) is pleased to announce that Jerry Kozak, the President and Chief Executive Officer of National Milk Producers Federation (NMPF), has agreed to serve as the National Chairman for the campaign to raise \$5 million for the construction of the Idaho National Center for Livestock and Environmental Studies (INCLES) and another \$5 million as a permanent endowment for future research.

The IDA has formed a the IDEAL Foundation a non-profit 501(c)3 to facilitate our fundraising efforts. Jerry's participation will help us gain access to national organizations for their support of the research center. His enthusiasm for this endeavor is summed up in his remarks below.

**"The rapid growth of Idaho's dairy industry in the past generation has benefited the state enormously. Now, the dairy industry across the country can benefit from Idaho's commitment to the new Idaho National Center for Livestock and Environmental Studies.**

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## Three wise men of the dairy industry

They might not have the largest dairies in Idaho, but three men who stepped down recently from top positions in the Idaho Dairymen's Association were giants in the industry and remain so in the eyes of other dairymen.

"It's hard to think of anyone who has contributed more than Jim Stewart, Bill Stouder or Mike Quesnell," says IDA Executive Director Bob Naerebout. "These men, each in their own unique ways, have put our industry ahead immeasurably."

*Jim Stewart*

"Jim is simply the model dairymen," Naerebout said. "He's the embodiment of how to do it right."

Stewart, a former IDA president and most recently a member of the Industry Relations Committee, balked at the idea of being included in an *Idaho Dairy Focus* story.

"Oh why write about me?" he said "I had my day in

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the sun. I've left the board, and now it's time to put the attention on someone else."

Still, he doesn't disagree that he has been on the forefront of innovation. Stewart invented the basement barn, which he estimates is now used by about 70 percent of dairymen throughout the nation and beyond. He participated in the first rbST trials. He came up with the idea of software to monitor production and costs of individual cows, and hired a programmer to write three different programs. He said he also thought up the idea and was the financier for milk meters.

But while Stewart was on the cutting edge much of the time in increasing efficiency and production, he adhered to an old-fashioned business model of paying cash for almost everything in his operation. The philosophy is serving him well these days while production costs are roughly 50 percent more than what dairymen are getting for their product.

"I've been lucky," Stewart said, downplaying his success.

Said Naerebout, "We have been very lucky here in Idaho to have him as one of our leaders. He committed 40 years of service and leadership to the Association and industry."

#### *Mike Quesnell*

"A Magic Valley native, Mike Quesnell has a reputation in his community, which is now one of the top dairy producing regions in the nation, as being fair, honest and aggressively involved in the dairy industry both at the state and national level." Naerebout said.

"Certainly my wife Valerie and I have always tried to be good neighbors, and we always tried to give more than we take," Quesnell said.

Quesnell is former IDA president who resigned from the board about two years ago when he also sold his dairy where he had about 800 cows in eastern Jerome County. He is also the latest recipient of the Idaho Dairy Hall of Fame award.

"My wife and my son and I sat down and looked at the future of the industry," he said. "We had had some reasonable years, but it didn't look like there was going to be much profit over the next four to five years, and so we sold at a time when things were relatively decent."

Quesnell says that with a smile.

Is he glad he's out of dairying?

"No," he said with a laugh. "Because we're still involved in ag. I have a lot of cattle that I feed, and I lease out some of my cows. And we're still doing some farming. You have to remember: We're still in ag, and ag involves risk."

Nonetheless, his exposure to loss of equity is reduced considerably, and he admits that his fellow dairymen are struggling through one of the worst downturns many have seen. But is this the worst?

"I'm not convinced this is epic," Quesnell said. "But if it does turn out to be that, I am convinced we will see far more vertical integration. I suspect the dairy industry is headed the same way as the poultry and pork industries."

#### *Bill Stouder*

"I can't think of anyone during my tenure who has given more of his time and effort to the Idaho dairy industry than Bill Stouder," Naerebout said. "His efforts to advance the industry in the state and national political arena are incomparable. He gave the Association 12 years of service and leadership, many chairing key committees like our Industry Relations Committee and Resolutions Committee."

Said Stouder, who came to Idaho from Chino, Calif. in 1979, "Well, that is because of my sons. By taking over the operation, they made it possible for me to attend meetings where I represent the industry."

Stouder started out as a veterinarian in California where he invented a system to do embryo transfers on dairies. In 1979 he came to Idaho to do what he had always wanted: own his own dairy.

He said he started out with 200 cows and that his wife along with his three sons worked side by side with him. A few years ago he and his sons increased the size of the dairy from 800 cows to 1,900 cows – a move that he says currently has him pretty concerned.

"My sons and I are partners," he said. "We did it to support four families. But right now the way things are, we're burning through some equity."

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*(Wise Men, Continued from page 2)*

“But that’s water under the bridge, and we gotta deal with what we got,” Stouder added. “I’ll be OK, but I wonder what the future of dairy is. I wonder what will happen to my kids if this thing goes on too long.”

“It is tough out there right now,” Naerebout said. “But of all the dairy families that will make it, the Stouders will. Bill and his sons are prudent, and they have a history of succeeding through the downturns. They work hard and are good managers.

“I can still understand, though, why Bill is so worried.”

Stouder said he blames the current world economy to a large degree on government intervention.

“Don’t get me going on it,” he said. “In my mind, the federal government is responsible for a lot of this – right from subsidizing corn for ethanol production and causing a run-up on the cost of feed.

“My dad used to tell me, and I found it to be true here on the dairy, if the government solves one problem, it causes two more.”

## European Starlings and Dairy Operations – PART 1: Economic Loss

George Graves, Assistant State Director, and Scott Stopak, Wildlife Disease Biologist, USDA, APHIS, Wildlife Services, Boise, Idaho

The European starling (*Sturnus vulgaris*) is a non-native, invasive species that has flourished in the U.S. over the past century. This bird was introduced from England into New York City’s Central Park in 1890, and has since spread throughout the U.S. and most parts of Canada and northern Mexico. It is estimated that there are well over 100 million starlings in the U.S. today.

Starlings were first documented in Idaho by the Audubon Society in 1960 and they can now be found throughout the State. Their presence can have a significant negative impact on dairy operations such as economic loss due to consumption and contamination of livestock ration, as well as their role as reservoirs and vectors of diseases that are transmissible to livestock and humans. They often consume and contaminate large quantities of livestock ration and can eat up to 50% of their body weight, or about 1 to 2 ounces, daily.

When feeding at dairies, starlings normally select for certain ingredients in the feed, thereby altering the composition and energy value of the prescribed ration. Typically, starlings select for ingredients with high fat or high protein/nutrient value, therefore, potentially reducing the availability of these key ingredients to the cattle which may result in loss of milk production. Additionally, the costs of these selected ingredients are normally higher in value per unit than grains and other fiber roughage found in the ration.

A simple formula can be used to estimate the amount of cattle ration that starlings could potentially consume during the winter (Johnson and Glahn 1994). First, estimate the number of starlings that visit your dairy during the entire day; then multiply that number by 0.09375 pounds (the number of pounds of food starling consume each day); multiply that number by 0.67 (the average proportion of cattle ration consumed by starlings from feed bunks and silage storage); then multiply that figure by a total of 181 days (November through April) which represents the normal duration in Idaho when starlings are more likely to feed at dairies. Then divide that sum by 2,000 (the number of pounds in a ton). Finally, multiply that figure by the cost of the feed by the ton. In the example below, we have estimated if 10,000 starlings were visiting each day and the value of the ration is \$200 per ton, the estimated value of the ration being lost to starlings, based only on what they are eating, is about \$11,369 per year.



**For Weekly Industry Updates:**

**Tune in to AM 1270 & 1240— Monday Mornings at 6:30**

*With Rick Haines & Bob Naerebout, Executive Director of IDA*

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(European Starlings, Continued from page 3)

$$\frac{10,000 \text{ starlings} \times 0.09375 \times 0.67 \times 181}{2,000 \text{ lbs.}} \times \$200/\text{ton} = \$11,369 \text{ (Estimated Starling Damage)}$$

During the winters of 2007 and 2008, the U.S. Department of Agriculture, Wildlife Services (WS) program conducted starling damage management at 12 and 17 individual dairies, respectively, or about 2.125 % of the total number of dairies in Idaho, and it was estimated that the combined total amount of ration consumed by starlings at these dairies averaged 647 tons each year, at a value of \$129,436. Based on these data, if all of Idaho’s dairies received the same proportion of starling damage as the ones where WS conducted starling damage management, it is estimated that starlings may be costing Idaho’s dairy industry up to \$6 million each year in cattle ration. Granted, the size of Idaho dairies vary greatly and not all dairies experience damage from starlings...and of those that do, the relative magnitude of damage and number of starlings will vary depending on the: 1) time of year, 2) weather patterns, 3) ambient temperatures, 4) snow cover, 5) density of dairies and cattle feedlot operations in the immediate area, 6) availability of food resources other than dairies, and 7) food preference of individual starlings.

If you have concerns about starlings at your dairy, a WS employee will be happy to assess the damage and discuss control techniques with you. To request more information or assistance with starlings or other wildlife conflicts please contact our Central District Office in Gooding (208) 934-4354, Eastern District Office in Pocatello (208) 236-6921, or State Office in Boise at (208) 378-5077, toll free 1-866-487-3297, if called from Idaho.

Part 2 of this series will be published in the February issue of the Idaho Dairy *focus* and titled “European Starlings and Dairy Operations: Potential Disease Threats” which will briefly discuss 4 diseases that can be transmitted by starlings and other birds.

Literature Cited

Johnson, R. J., and J. F. Glahn. 1994. European starlings. Pages E109-E120 in R. M. Timm, and G. E. Larson, editors. Prevention and control of wildlife damage. Cooperative Extension Service, University of Nebraska, Lincoln, USA.

## MILC Payment Projection from NMPF

You should have received information from your FSA office on signing up for the MILC program. The MILC program was renewed in the recent 2008 Farm Bill, with a provision that raises the MILC target price when dairy feed prices are high. The table below shows projections for MILC payment rates for February through June. All are based on futures prices for milk, corn, and soybeans. To keep their forecast current with the future market changes NMPF adjust their forecast weekly. To stay current with their MILC payment projections and to stay current with other issues relevant to the dairy industry go to their website at [www.nmpf.org](http://www.nmpf.org)

Under the renewed program, payments can be available for up to nearly 3 million pounds per year. The payment rate calculation was also returned to 45% of the difference between the Boston Class I price and the MILC target.

2009 MILC Payment Rate Projections.			
February	\$1.1205	May	\$1.5562
March	\$1.7488	June	\$1.4309
April	\$1.6103		

**If you would like to be added to the Idaho Dairy Focus e-mail list, please contact Bob Naerebout at 208-736-1953, ext. 102 or [bob@wdbs.us](mailto:bob@wdbs.us).**

## **rbST improves milk production efficiency... and saves the planet      ...Jude Capper, PhD**

In last month's newsletter I reported how improvements in dairy genetics, nutrition, health and welfare during the second half of the 20<sup>th</sup> century allow us to now produce more milk, using fewer resources. This improves the productive efficiency (milk output per unit of resource input) of dairying and also considerably reduces the carbon footprint per gallon of milk. This is increasingly important as environmental concerns are highlighted by media articles, considered in government policy and cited as components of consumer's food-buying decisions.

The dairy industry therefore faces a considerable challenge: how do we continue to produce enough milk to supply both domestic and export markets, while making the most efficient use of resources? We can improve energy efficiency in our homes by turning off lights and appliances when we're not using them, but we can't 'turn off' a dairy herd at the end of the day – it has a fixed nutrient cost for maintenance regardless of whether the animals are growing, dry, pregnant or lactating. The answer is to spread those "fixed costs" over more units of milk production by increasing milk yield per cow.

Our group at Cornell University has recently investigated the effect of using rbST to improve productive efficiency. Using rbST gives an average increase in milk yield of 10 lb per cow thus allowing the same amount of milk to be produced using fewer resources, and reducing total environmental impact by 9%. That's an impressive figure, but what does it mean?

Well, let's compare two dairy populations, A and B. Both are producing the same amount of milk (31 billion lb), but population A includes one million cows supplemented with rbST, whereas population B doesn't use rbST. To produce the same amount of milk, the rbST-supplemented population requires:

- 334,000 fewer animals (182,500 cows plus 151,500 heifers)
- 2.5 million fewer tons of feed

540,000 fewer acres of cropland (plus reduced soil erosion, fertilizer and fossil fuel use)

Improved efficiency in the rbST population also saves:

- Enough fossil fuels to heat ~16,000 households
- Enough electricity to power ~15,000 households

Enough water to supply ~10,000 households

Perhaps most importantly, the reduction in the annual carbon footprint is equivalent to taking ~400,000 cars off the road, or planting ~300 million trees.

As a scale-neutral technology, using rbST also has beneficial environmental effects at the farm-level. In the average 150-cow herd, rbST use allows the same amount of milk to be produced using 245 fewer tons of feed, 53 acres less cropland and 132,000 fewer gallons of water. This leads to a reduction in the annual carbon footprint equal to taking 38 cars off the road, or planting ~28,000 trees.

As the global population increases, it is essential that, as an industry, we continue to use technologies and management practices that allow us to make the most efficient use of resources to produce sufficient safe, healthy, nutritious milk. Using rbST, or any other technology or management practice that improves productive efficiency, will improve the environmental and economic sustainability of dairy production. In this case, 'got rbST?' also means 'got environmental sustainability'.

*Dr Jude Capper is a Post-doctoral Research Associate within Prof. Dale Bauman's group at Cornell University*

*(Jerry Kozak, Continued from page 1)*

Agriculture is at the intersection of a variety of challenges that are facing society today: nutrition, animal welfare, environment, immigration, global warming, and rural development, just to name a few. The new INCLES will help focus research on several of these issues, to develop new approaches and workable solutions for them.

In order for dairy farming to continue to grow in the 21<sup>st</sup> century, in any state or region, we need to be mindful of the environmental and economic footprint of dairy farms and processing plants. I see INCLES as being uniquely-positioned to help educate every stakeholder in the process about best practices, and the smartest ways to do things right, the first time.

I look forward to working with the entire dairy industry in support of the INCLES effort because everyone has a great deal riding on the outcome.”



**Jerry Kozak – December, 2008**

## **Senator Crapo's Office Hosting Meeting Addressing the Current Dairy Crises**

The Idaho Dairymen's Association board members and staff in cooperation with Senator Crapo's Boise office will be providing an industry update to the Idaho congressional offices. The purpose of the meeting will be to provide information on the current economic outlook for the Idaho dairy industry, what impact the current pricing failure could have on the Idaho rural economy and explore opportunities of fully utilizing established government programs. Besides staff members from all of the Idaho congressional offices also joining in the meeting will be ISDA Director Celia Gould, Idaho Department of Labor Director Roger Madsen, a representative from the Department of Commerce.

There are several actions that USDA could take to make more efficient and effective use of the tools at its disposal. Those tools have been put in place by Congress in order to help provide much-needed supports to the dairy industry during its most challenging times. We will be strongly recommending that our congressional offices urge USDA to act on an emergency basis to take the necessary steps needed to help address this crisis.

Since this is both a supply and demand issue we believe there are a number of steps that USDA, through the Commodity Credit Corporation (CCC) and the Dairy Product Price Support Program (DPPSP), could take to address the demand side of the equation. Those steps could help clear the dairy markets while also help feed the disadvantaged. Considering the many poor who are squeezed by the economic crisis both at home and abroad, the DPPSP provides an additional opportunity for the government to ease their hardship, as well as that of dairy farmers.

In addition there are steps dairy producers could take to help reduce the supply side of the equation. Please see the related article from IDA President Jack Davis and IDPC Art Lee on "helping ourselves." Please be assured that IDA will work closely with National Milk Producers Federation and likeminded organizations and identify and support avenues to change the current dairy outlook.



## *Idaho Dairymen's Association, Inc.*

1182 Eastland Drive North, Suite A  
Twin Falls, ID 83301

Phone: (208) 733-6372  
Fax: (208) 735-5955

Dear Idaho Dairy Producers,

As we begin 2009 the outlook for the dairy industry, both in Idaho and nationally, is not bright; we are at our lowest profitability point in years, with a forecast for prices to continue well below our cost of production. For the first time since the formation of Cooperatives Working Together (CWT) the pay-price next month will be below \$10.00/cwt in Idaho.

Although we are working with both state agencies and our Congressional offices to make sure all is being done to maximize the current programs that exist; the reality is that time is not on our side to develop any new government programs to assist the dairy industry. Daily, our offices are taking calls from concerned producers who believe the government should provide a ballot for agriculture similar to the financial and auto industries have received. We do not believe that is politically feasible at this time. The program many producers refer to is the 1985-1986 government sponsored and government control "Whole Herd Buyout." What we must recognize is that the 1985-1986 program was not to assist producers but was an incentive program to take producers out of business with a sole purpose of reducing government expenditures of surplus product. At the time government purchases exceeded \$2 billion annually due to a support price in excess of \$13.00/cwt

Do to the political realities above; we want to encourage all producers to help control the destiny of the Idaho and national dairy industry by investing in CWT. Since Idaho is almost equally split between producers who sell their milk through cooperatives and those who ship directly to processors, perhaps in Idaho a more appropriate name for CWT would be Cooperatively Working Together. Regardless of the name, CWT offers all of us an opportunity to almost immediately have a positive impact on the pay price to producers. Since its conception CWT has removed 276,000 animals, provided export assistance to move 186 million pounds of cheese, butter and non fat dry milk, with a combined milk equivalent of 9.3 billion pounds of milk.

We hear numerous examples of why producers won't invest in the program with responses going to both extremes. Some believe the program is not responding soon enough to low pay prices and others believe the program is responding to soon, believing prices should first fall to clearing house levels before the herd reductions occur. The decision on when to enact the herd retirement is decided on and managed by dairy producers. Those making the decision are producers who are both members of cooperatives and independents who ship directly to the processors, and they are making those tough decisions on the best available information they have at the time.

Sometimes we make differences too complex and we refuse to even consider a program like CWT unless it is designed specifically to our expectations. If you believe in the simple economic theory of supply and demand then it is time to recognize, short of an acceleration of dairy producers exiting the industry, the only viable alternative to control supply is for all of us to participate in CWT and maximize the number of animals we can take out of production.

It's time to act NOW, please contact National Milk Producers Federation, go onto the CWT website at [www.cwt.coop](http://www.cwt.coop) or contact the IDA office to get an application on CWT today.

Jack Davis  
President IDA

Art Lee  
Chairmen IDPC

## Idaho Congressmen WALT MINNICK serving on House Agriculture Committee

Idaho now has two of its congressional members serving on agricultural committees. Senator Crapo on the Senate Agricultural Committee and newly elected First district Congressman Walt Minnick is serving on the House Agricultural Committee.

On November 4, 2008, Walt Minnick, a democrat, was elected to represent Idaho's First Congressional District in Washington, D.C. On his website he pledges to always do what's "Right for Idaho."

He was born in Walla Walla, Washington, a small town just over the Blue Mountains from Lewiston, Idaho and grew up on a wheat farm that remains in his family today. His father was a small-town lawyer and his mother was a leader in the conservative rural county's local Republican Party. Congressman Minnick's background in politics includes working for President Nixon. After a year practicing law and a tour of duty in the Army, Walt was recruited to serve in the White House during the Nixon Administration.

Congressman Minnick, who moved to Idaho in 1974, is co-founder and board member of the Idaho Business Coalition for Education Excellence, a group of Idaho business leaders dedicated to improving education in the state. Currently he has an ownership in a landscaping nursery's business and previously served 21 years as an executive in the Idaho forest products industry.

## EPA Requirements Update

Two deadlines are fast approaching on required EPA reports pertaining to CAFO's. In both cases there is a lack of information is coming from EPA for producers to fully understand if these rules pertain to them and what if any consequences they will be subject to, for failure to file the proper report. **Both of these issues will be covered at the February producer district meetings.**

EPCRA: The first is the Environmental Protection Agency's decision on December 18<sup>th</sup> to require livestock farms to file reports under the Emergency Planning and Community Right To Know Act (EPCRA). The new rule requires dairy operations with 700 mature animals (milking and dry) to report certain types of releases to local and state agencies. The reportable quantity for ammonia and hydrogen sulfide is 100 pounds within any 24-hour period.

The National Pork Producers Council (NPPC) filed a lawsuit in federal court challenging the rule. In the challenge NMPC is alleging that EPA violated the due process rights of farmers by failing to develop an adequate system to accept the reports, making compliance with the law impossible. Under the rule, farms that fail to comply could face penalties of \$25,000 per day.

"In sticking the agricultural community with this unworkable rule," said NPPC President Bryan Black, a pork producer from Canal Winchester, Ohio, "EPA not only failed to provide any guidance to farmers on compliance with the new regulation or develop an adequate system to handle the volume of reports that would be filed, but it actively engaged in efforts that undermined the ability of farmers to comply with this new, stringent rule." In part their complaint states that "the agency did not issue guidance for complying with the rule until 4:30 p.m. Jan. 16 – the last business day before the filing deadline – giving livestock farmers only 30 minutes to receive, read and interpret the guidance and to develop and file the

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# IDAHO NATIONAL CENTER FOR LIVESTOCK AND ENVIROMETAL STUDIES

## JANUARY 2009 UPDATE

*By Rich Garber*

The Idaho National Center for Livestock and Environmental Studies continues to be the focus of a lot of planning and strategy discussions. Planning has primarily focused on designs for the joint lab and teaching center that will house the U of I Canine Veterinary, Research and Teaching Center and the Idaho State Department of Agriculture's diagnostic laboratory. Strategy has primarily focused on funding, siteing and timing issues.

In December we contracted with SRG Partnership Inc. out of Portland, Oregon to begin formal design work for the joint lab. SRG Inc. was selected because of prior work with them on other lab projects including Ag's Biotechnology building on our Moscow campus and because of their work on other Laboratory and VetMed facilities on campuses from California to Pennsylvania. Without question this firm brings a great team of experienced and qualified experts to the project. To date we have had three formal planning sessions with the team. These sessions have included all the key players involved with or having a vested interest in the Caine Center and the ISDA Laboratory. The meetings have focused on thoroughly examining what we do, how we do it and what we will need to do in the future.

I think everyone involved has been impressed with the process as well as the progress that has been made with the help of the SRG team. I personally have been immensely pleased with the exceptional cooperation and willingness by everyone involved to look critically at space and processes and to think for the future. Attached to this report is a first draft of a floor plan and building design. This will evolve over time as we fine tune space and functions but it gives a good conceptual idea of the building and layout.

As reported in the last Update we are now looking at existing facilities to assess whether there might be some benefits and cost savings by buying, or leasing with an option to buy, an operating facility. We have an appraisal in process as well as development of an updated business plan based on the lease purchase option. In addition to lower initial costs this model would also allow us to be up and running much sooner and then give us time to do the retrofitting as more resources become available.

Many have asked what effect the down turn in the state and national economy will have on the Research Center. It is clear that current economic conditions will make our funding much more challenging but these conditions also make the need for the Center even greater. Finding solutions too many of the environmental challenges the industry faces as well as helping create operating efficiencies for our livestock producers is critical to keeping the industry healthy and positively contributing to the state's economy. Minimally I think that current conditions will slow progress down but at the same time it will create opportunity and additional focus on the need for the Center. We will continue to move forward with the planning process but no financial commitments will be made until our funding package is complete.

With the formation of the IDEAL Foundation and the hiring of Dr. Greg Ledbetter as development director industry fundraising efforts are progressing very well. Jerry Kozak, President and CEO of the National Milk Producers Federation has agreed to Chair the fundraising efforts. Mary Hasenoehrl, Development Director for the College of Agricultural and Life Sciences at the U of I continues to work closely with the fundraising team. Since November over \$750,000 has been received in pledges.

(EPA, Continued from page 8)

appropriate emissions report.”

NPPC is asking the court to enjoin EPA from enforcing the rule until the agency develops a system that will allow producers to comply.

**NPDES:** No less confusing is the upcoming requirement for livestock producers who will discharge or have the potential to discharge nutrients associated with manure into waters of the United States. The rule takes effect February 27, 2009. Operations larger than 200 milking animals need to consider participation in the NPDES permit.

What is this Rule? Today's rule completes a process the U.S. Environmental Protection Agency (“EPA”) set in motion in the late 1990's to fundamentally reform and dramatically expand the federal regulation of livestock and poultry operations to protect water quality.

The latest final rulemaking issued today was made necessary by a court decision concerning the original 2003 rule. That rule was challenged in the Second Circuit Court of Appeals, and in 2005 that court issued their decision in *Waterkeeper v. EPA*. While EPA has amended the 2003 CAFO rule in light of *Waterkeeper*, many provisions of the 2003 CAFO rule were untouched by *Waterkeeper* and these remain in effect and are not changed by the final rulemaking.

Who is Covered by this Rule? Essentially all animal feeding operations (“AFOs”) are covered by this rulemaking and the CWA's prohibition against the discharge of pollutants to the waters of the U.S. AFOs over certain threshold sizes are considered “large CAFOs” and these CAFO rule requirements will in practice tend to be applied to them more commonly than for smaller operations. But in general, small, medium and large AFOs, if they are discharging manure to waters of the U.S. are subject to CWA penalties. “Large” CAFOs for dairy are defined by EPA as having animals in number equal to or greater than 700 mature dairy cows, whether milked or dry;

Who has to get a Permit?

Only CAFO's that discharge or propose to discharge are required to apply for an NPDES permit. While CAFOs that do not discharge nor intend to do so can apply for and receive an NPDES permit, it is the CAFOs decision to make. **BUT** that does not relieve the unpermitted CAFO from the significant CWA liabilities should they discharge manure into the waters of the U.S. at some point. Under the final rule, an unpermitted CAFO that has a discharge will be liable for the CWA's penalties of up to \$32,500 a day.

Furthermore, under EPA's interpretation of the CWA, a CAFO that does not have an NPDES permit and does have a discharge is liable for more than just this discharge penalty under the CWA. EPA holds that this CAFO is also liable for a penalty for their failure to obtain an NPDES permit in the first place to cover the discharge. This latter penalty is referred to as the “Duty to Apply” penalty. According to EPA's interpretation of the law and planned implementation of this rule, obtaining a permit is the only way for a CAFO to avoid these two penalties if the CAFO anticipates that it may have a discharge in the future.

CAFOs that have an NPDES permit will be required to file a EPA approved Nutrient Management Plan (NMP) that they must submit with their permit application both of which is reviewed by the public and approved for use by the permitting authority. We currently do not have a permit to review but have received information that it will require an increase in record keeping. It is uncertain at this time if your current NMP approved by the Idaho State Department of Agriculture will be accepted by EPA.

Since the current deadline for securing an NPDES permit, with an approved NMP, is February 27, 2009 and there is not a permit available for you to utilize, we are currently exploring with legal counsel development of a “intent to apply” letter for you.

**All of these items will be discussed at the district meetings, we encourage you to attend.**



## **SEND LAWYERS, GUNS AND MONEY- GET US OUTTA THIS.**

**BY DAVE KURZAWSKI**

*www.downesoneill.com - www.dairy.nu*

I hope Sir John Templeton, an investor and mutual fund pioneer, was right when he said: bull markets are born on pessimism, grow on skepticism, mature on optimism, and die on euphoria, because I've been up to my neck in pessimistic dairy news lately and I'm tired of it.

The out look is so bearish right now that no one is even talking about how out of whack the corn price is in relation to milk like they were six months ago (I believe milk and corn prices ought to converge sooner rather than later). The market environment is rich with dairy market bears throwing rocks into a wet paper bag. But such is the nature of the bear market cycle.

No one knows for sure how long low prices will linger. Some say years, most say months. I say I don't know but it appears, however, as though dairymen are poised to do something the CWT program, rBST bans and Canadian boarder closures could never quite do: reduce cow numbers and kill milk production in a dramatic, market changing way. And no matter how you slice it, negative milk production growth is bullish for the price of milk.

Eric Meyer, my business partner, traveled to this year's International Dairy Foods Association Dairy Forum last week in Orlando, Florida. He told me that while the weather could not have been more beautiful compared to sub-zero temperatures in Chicago, the mood was somber from most in attendance. Volatile commodity prices in 2007 and 2008 were very challenging as ingredient costs skyrocketed for end-users. High priced whey and non-fat dry milk powders made both mozzarella and cheddar cheese production unprofitable. Consumer packaging companies reformulated dairy out of their products to manage costs and foodservice customers began using smaller portions of cheese and butter to keep menu prices stable. All of this reduced demand – and quality. But that's old news.

There were two positive messages to come out of the IDFA meeting this year:

**Message #1:** Cheese and milk prices (and food prices as a whole) ought to rebound in mid-2009 and with long term positive projections for both domestic and international demand, dairy will continue to be an excellent business to be in for the long haul.

**Message #2:** Volatile commodity prices are here to stay, but that there is something companies can do about it. Both buyers and sellers learned a valuable lesson in 2007 and 2008. Dairy buyers could have locked in low to moderate costs in early 2007 nearly two years into the future and dairymen had the opportunity to lock in a \$20 Class III milk price average for all of 2009 just 7 months ago.

There is no reason to play Monday morning quarterback. But we can learn from those past opportunities and not let them sneak past us in the future. From one of the panels at the IDFA conference came the valuable takeaway that "hedging" needs to be a more important part of our business, regardless if you are a dairyman milking cows in Burley, Idaho or a procurement manager sitting in an office in Chicago. Both professionals may be striving for different price targets, but both should understand the importance of managing that risk.

If bull markets are born of pessimism, then I have to believe the dairy complex is nine months pregnant.



## IDAHO DAIRYMEN'S ASSOCIATION

1182 Eastland Drive North

Suite A

Twin Falls, Idaho 83301

# Upcoming Meetings

## Producer District Meetings

Watch your mail for notices on upcoming producer meetings. Meetings will occur in February in each District and will cover the following items:

- Current milk pricing outlook, the latest information on what is happening at the national and state level to elevate the current supply/demand imbalance.
- EPA information on your need to file EPCRA reports
- EPA information on the February 27, 2009 deadline for applying for your NPDES permit.
- Answering the frequently asked questions; who should file? What do you file? And more importantly should I file?

The *Idaho Dairy Focus* is Brought to You by the ***Idaho Dairymen's Association***

1182 Eastland Drive North, Suite A, Twin Falls, ID 83301

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