

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN

GAVIN DOWNING, DIRECTOR APPOINTED
UNDER THE MILK ACT, R.S.O.1990, c.M.12

Applicant

– and –

AGRICULTURAL RENEWAL CO-OPERATIVE INC. o/a GLENCOLTON FARMS,
ELISA VANDER HOUT, MARKUS CHRISTIAN SCHMIDT,
JOHANNES OSTHAUS NIKOLAUS ALEXANDER,
JOHN DOE(S), JANE DOE(S) and PERSONS UNKNOWN

Respondents

AFFIDAVIT OF JAMES McLAREN

I, **James McLaren**, of the Regional Municipality of Ottawa-Carleton in the Province of Ontario, make oath and say that:

- 1) I make this Affidavit from my own personal knowledge of the matters and facts herein declared to by me, save where otherwise indicated. I declare that the information set out in this Affidavit is true and I have withheld no relevant information. Where I indicate I have obtained information from other sources, I verily believe that information to be true.
- 2) I became a vegetarian in 1987 and have been one ever since.
- 3) I became a raw food vegetarian in 2000 and have been one ever since.
- 4) Without animal protein, I feel chilled all winter.
- 5) The only source of purely non-flesh animal protein I am aware of is raw dairy.
- 6) I therefore require raw milk for health reasons.

- 7) Raw milk, however acquired, is legal to possess and consume in Canada but illegal to distribute except if that takes place on a dairy farm. However, federal and provincial laws require all milk distributed outside a dairy farm in Canada to be pasteurized. As a result, raw milk drinking is carried on by 90% of dairy farm families, who have a consumer choice, without legal offence or sufficient health risk to warrant prohibition
- 8) With a proper production protocol, the distribution of raw cheese is permitted in Quebec but elsewhere in Canada raw cheese must be aged for 60 days. All other Canadian cheese is pasteurized.
- 9) By contrast, every other G8 country distributes raw milk except for Canada.
- 10) The government maintains that, "Raw milk consumption is very low in Canada. It is *[sic]* constitutes about 1 per cent of all fluid milk consumed." (Per Dr. Joost Harwig, Director, Bureau of Microbial Hazards, Health Canada at the Proceedings of the Standing Senate Committee on Agriculture and Forestry, June 6, 1996).
- 11) Given my necessity for raw milk and with Canada's discriminatory legal incongruities, I set about to understand the raw milk laws and have them changed. This is what I learned:
 - a. Depending on its production method, raw milk can be made either safe enough to drink raw or not safe enough to drink raw.
 - b. In 1938 compulsory pasteurization was legislated in Ontario to ensure the potability of all milk sold to retail customers.
 - c. Ontario dairy producers lobbied for said legislation to simplify the enforcement of their then evolving supply/price management system.
 - d. Canadian federal health authorities of today only review and approve the applications submitted to them for the production of retail goods in various sectors, food being one. Their expertise is in matters of health not manufacture.
 - e. Such an application is a necessary precondition to change the health laws to legalize the distribution of raw milk for drinking in Canada.
 - f. Health Canada will review such an application for approval from any person.
 - g. The Ontario dairy producers' organization refuses to develop such an application for its retail customers who want raw milk for drinking.
 - h. The Ontario dairy producers' organization has a statutory obligation to provide Ontario consumers with the dairy products they want.
 - i. The Ontario dairy producers' organization is in breach of its governing statute.

- 12) The prohibition on the distribution of raw milk is contained in federal and provincial laws.
- 13) I was informed by Health Canada in 2005 that changes to said laws to thereby permit the off-farm distribution of raw milk would require a joint federal and provincial action.
- 14) In meetings with Health Canada officials at the time, I was informed that Health Canada was willing to take the lead in changing federal and provincial health laws if a formal application following a prescribed format was submitted and approved. See Exhibits "A" and "B". They cautioned however that changing said laws was a process and it involved consultations with all "stakeholders" which would include provincial dairy organizations, whose opinions mattered.
- 15) Health Canada explained that its role is not to take any initiative to develop a protocol for the production of safe raw milk. Rather, it is their mandate to accept and review from any interested person a submission, which describes in a particular manner a proposed protocol for the safe production of raw milk for drinking, and which contains sufficient scientific tests and evidence to prove the safety of the milk thereby produced. Further, any subsequent change to this production protocol would require a new submission to Health Canada for its evaluation.
- 16) Based on my experience with Health Canada as an individual having no prior involvement with its approval processes and from all the questions and alternatives posed to it and from its willingness to explain, assist and support someone who has never taken so much as even one course in biology, it was apparent that Health Canada was willing to review such an application for the production of raw milk for drinking from any person. Further, they would then take the lead in coordinating to the extent possible, changes to federal and provincial health laws to permit its distribution.
- 17) The cost of preparing such an application is not insignificant and could cost in the tens or even hundreds of thousands of dollars since the process in a general sense is not dissimilar to what I believe a drug company would do to obtain Health Canada's approval to distribute a new drug, which is another sector subject to its review. The cost, time and resources required to prepare such an application would be prohibitive for most individual citizens and farmers.
- 18) Canada has a supply management system for all domestic dairy production.

- 19) Thereto, the Ontario Milk Act governs all provincial dairy production. Its stated purpose in S.2 is, "to stimulate, increase and improve the producing of milk within Ontario." It appoints an internal government organization, Ontario Farm Products Marketing Commission (OFPMC) to administer this Act among others. OFPMC delegates its powers under the Act to an organization external to the government, Dairy Farmers of Ontario (DFO) which I believe is a farmers' cooperative, a marketing board and a supply-managed dairy monopoly.
- 20) The Ontario Milk Act contains safeguards to protect the public from monopolistic abuse requiring OFMPC and DFO to act as if they were in a competitive environment i.e. if it is possible to provide a particular dairy product consumers want, they must do so, arguably if it's available in other jurisdictions.
- 21) In 1938 Ontario was the first large jurisdiction in the world to implement the compulsory pasteurization of milk. It is my understanding that at the time, there was no way to test milk for microbial safety and reliance was placed on using hygienic production methods to minimize these risks. I understand that bacterium requires time and heat to grow. With urbanization came longer transportation and handling times and refrigeration methods were primitive. Also dairy farming began its trend towards large-scale commercialization which increased the health risks because it used herd confinement practices and grain feed, as opposed to the grass fed pasturing of cattle. Pasteurization was the only way at that time to ensure microbial safety and health authorities were lobbying for legislation.
- 22) Concurrently, dairy farmers were organizing themselves to protect against milk price fluctuations in an open market. In 1917 the Ontario Milk and Cream Producers' Organization was formed as, "the first full-fledged overall dairy producer organization in Ontario." One of its stated purposes was, "attending to legislation." Further, "*without pasteurization laws* [emphasis added], it was possible for producers to sell their milk directly to consumers and in the depressed period of the early thirties, many did this and greatly depressed the market for the other producers. This was especially true in London, Ottawa and many other places. The Ontario Whole Milk Producers' Association *sent resolutions to the Provincial Government and often sent delegations* [emphasis added]. In 1933 it was hoped a Provincial law would be possible but, as has been noted, this did not come until 1938." These quotes from Clarke and Brethour (1966) *1932-1966 -The Ontario Whole Milk Producers' League*. Toronto, Ontario: Ontario Whole Milk Producers' League.

- 23) Therefore the provincial dairy producers' organization lobbied for mandatory pasteurization legislation to stabilize milk prices under an evolving supply/price management system and to, "invoke the confidence of the consumer in the value and safety of milk as a food," [ibid.] under their educational and marketing initiatives at the time. The provincial dairy organization was as averse to raw milk distribution then as it is now. But the raw milk of today is significantly safer than in the 1930's given the advances in all areas of milk production, refrigeration and microbial science and testing, and with the eradication of communicable bovine diseases, so much so that every G8 country distributes raw milk for drinking except Canada.
- 24) I met DFO officials in 2001 to discuss the distribution of raw milk. I presented examples of raw milk legislation, including England's, which never legislated compulsory pasteurization but rather adopted a parallel supply management system which left consumers with a choice between raw or pasteurized milk. This fact must have been known to the Ontario dairy organizers in 1933 because they sent an official, "to Great Britain to study their milk marketing scheme," [ibid.] but curiously the results of his fact-finding mission were omitted from the text. I would speculate it conflicted with the single-minded focus Ontario dairy officials took then, as now, of compulsory pasteurization for the distribution of all milk. It's simpler that way.
- 25) In my 2001 meeting with DFO officials they explained that as a marketing organization, they were interested in developing what they call "niche market" products. They told me about the "Quality Jersey" program which was whole milk from only Jersey cows which produce more butterfat. It was marketed but cancelled due to lack of consumer demand. They also told me about developing and implementing their "Kosher" product line which was a consumer success and continues to this day. Subsequently they introduced "Organic" as a "niche market" product which also met with success.
- 26) Then in my meeting, the DFO officials said they would be willing to consider raw milk as a "niche market" product but first they would need to have the health laws changed. This they left up to me, which in 2005 I then learned was a deflection, because they could change the health laws as easily as me. Needless to say, at the 2001 meeting I was elated because I had DFO support in principle for raw milk distribution. I then set about to change the health laws, made submissions to Health Canada and eventually came to understand what needed to be done, which is described in paragraphs 13 to 15 above.

- 27) Once I learned the mechanics of how to change the health laws it was evident that any person with sufficient resources could do it. So why not DFO? They already told me of their interest in evaluating new “niche market” product opportunities and raw milk was a definite yes. I was beginning to sense a hidden agenda that DFO has no real interest whatsoever in raw milk distribution, legal or not, probably because they feel it undermines price stability as it did in the 1930’s or because of the administrative cost of implementing a parallel quota system like in England, or both. However, DFO’s not saying why and simply stonewalls by throwing up the existing health laws as a smoke screen.
- 28) The Milk Act has two clauses in S.3 to protect the public from just such monopolistic abuse. The first requires OFPMC and DFO, “to select, develop and maintain *research programs* [emphasis added] required for policy development and formulation.” I would argue DFO has denied the Ontario public by refusing to conduct research on raw milk for drinking, even though DFO conducts research and promotes programs to improve the quality of raw milk in general, perhaps even to the point of making it safe enough to drink raw, if they would just look at that aspect. The second clause requires OFPMC and DFO, “to develop and formulate policies to stimulate and improve the marketing of milk and milk products.” This clause is about sales and if there’s a way to increase dairy sales, which raw milk for drinking would do, then, it must be pursued. The stonewalling shown by OFPMC and DFO as follows therefore breaches these two provisions of the Milk Act.
- 29) I contacted John Karn, Secretary to the Board, DFO, on October 23, 2007 asking for a letter from DFO to document what I was told by its senior officials in 2001 that DFO supports raw milk sales provided the health laws were changed accordingly. Unexpectedly, the DFO Board reversed the position of its senior officials by saying it supports the current policy of compulsory pasteurization. See Exhibit “C”.
- 30) I replied on February 25, 2008 explaining that DFO’s position was a breach of the Milk Act and I asked to meet with the Board. John Karn replied, “DFO will not consider any raw milk marketing initiatives as long as there is provincial legislation in place that prevents its sale. Further, DFO does not have any intention *to lobby to have health legislation changed* [emphasis added] because we do not have the expertise to say whether or not raw milk poses a health risk.” He then advised the Board had declined my request to meet. I replied outlining in more detail how one makes a submission to Health Canada to have the health laws changed and I restated DFO’s statutory obligation to do so. See Exhibit “D”.

- 31) Disheartened by this response, I emailed Dr. Farber at Health Canada on April 21, 2008 asking him to communicate with John Karn to explain what I had learned from him, Dr. Farber, and his superior, Paul Mayers (A/Director General, Food Directorate, Health Canada) in our 2005 meetings that the existing legislation does not prevent DFO from making an application to Health Canada for raw milk for drinking. He replied on May 2, 2008, indicating the way is still open for a "submission on the safety of raw milk," using the methodology from "Guidelines for the Safety Assessment of Novel Foods," but not calling it a "novel food" as before because of a classification issue. See Exhibit "E". Whether he contacted John Karn as I had requested or not, I do not know, but he used my contacting him as an opportunity to correct a technical detail concerning the submission under discussion.
- 32) On May 7, 2008 I then appealed to Dave Hope, Chair of OFPMC, who responded, "The Dairy Farmers of Ontario may not market raw milk directly to the consumer and is under no obligation *to lobby for changes to the legislation* [emphasis added]. The Ontario Farm Products Marketing Commission will not intervene in this matter." I replied to him on May 19, 2008. See Exhibit "F".
- 33) On July 9, 2007 I began another round of emails with DFO attempting to emphasize both the importance of conducting *research* on a product such as raw milk for drinking and Health Canada's invitation to submit a proposal thereon for a safety assessment. This action met with a stonewall. See Appendix "G".
- 34) Requiring health law changes before distributing raw milk is agreed but DFO has a statutory obligation to enter into that change process to honour its responsibility to provide the public with dairy products it wants, which DFO ably demonstrated by introducing "Kosher" and "Organic". Both OFPMC and DFO in their correspondence maintain that changing the health laws is matter of *lobbying* the appropriate health authority for it to change the law. That is clearly not the case because health authorities are not experts in milk production methodologies, but rather experts in evaluating the safety of the milk so produced. Making changes to health laws is a matter of *research* into different milk production methodologies, documenting the results and making proper submission to health authorities for assessment. Therefore we seek the intervention of the court because OFPMC and DFO stubbornly refuse to conduct the necessary *research* on raw milk for drinking.

- 35) Furthermore if DFO were ordered to undertake this initiative and given DFO's entrenched opposition, DFO could easily sabotage the initiative by making the proposed protocol it submits to Health Canada so onerous as to be effectively impractical. For example, I believe the regulations Quebec put in place for the production of raw milk intended for fresh raw cheeses come very close to this. Therefore we request Michael Schmidt, with his expert knowledge for producing raw drinking milk, be appointed by the court to oversee DFO's *research* and submission paper to Health Canada in this matter.
- 36) The following makes claim that extensive efforts were made to legalize the distribution of raw milk through inquiry and discussion undertaken with most, if not all of the major organizations involved in the regulation or production of milk in Ontario.
- 37) Most of my efforts in this regard were posted in point form on my website www.naturalmilk.org. I therefore present this chronology from my website in Exhibit "H".
- 38) Inquiry and discussion were conducted typically by email, telephone and meetings. I therefore present in Exhibit "I" all the relevant emails with persons in a Canadian regulatory organization of one form or another. I excluded emails to regulatory bodies of other countries, educational institutions, the media and emails presented in another exhibit herein.
- 39) Despite these efforts, and others not documented herein, no response from any source could be generated that would initiate a change to legalize the distribution of raw milk, save for the positive response from Health Canada described above. This is why we seek the intervention of the court to mandate Ontario Farm Products Marketing Commission and Dairy Farmers of Ontario to honour their statutory obligation to legalize the distribution of raw milk, by undertaking the necessary *research* and making submission to Health Canada, as described above.
- 40) I make this affidavit for submission in the application *Gavin Downing v. ARC et al.* (Court File No. CV-16-125371-00) and the application *Regional Municipality of York et al. v. Michael Schmidt et al* (Court File No. CV-16-125250-00), and for no other or improper purpose.

SWORN before me at the City of Toronto,
in the Province of Ontario,
on the ____ day of _____, 2017.

Commissioner of Oaths

James McLaren

EXHIBIT "A"

This is Exhibit "A" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

From: James McLaren
Sent: Monday, April 11, 2005 6:46 PM
To: Paul Mayers
Cc: Brian Klunder
Subject: Thank you for meeting of Apr 4 and summary thereof

Dear Paul:

I would like to thank you personally for arranging to meet at your offices in Tunney's Pasture with me last Monday and with some of the others involved in our efforts to introduce raw milk as a consumer product in Canada. And I would also like to thank the other five other members of your staff who graciously participated and helped to make this meeting a success, because we now understand more clearly the issues which you must face in your capacity as regulators.

I must confess that before this meeting, I did not understand your role or the way in which you require information to be submitted to properly consider an initiative such as ours. I sincerely appreciate the time you took to listen to our presentation and to guide us in what would be the next steps for us to take in order to reach a cooperative and hopefully a mutually agreeable result.

I now look forward to working in a productive manner with our future submissions and to the support, encouragement and guidance of you and your staff, which was amply demonstrated at our meeting.

I have also prepared a draft summary of our meeting which is my understanding of what transpired and I would appreciate if you could review it and make any corrections or comments which you feel are appropriate.

With my best regards,
James

Health Canada Meeting of April 4, 2005
Summary

Attendees for Health Canada:

Paul Mayers
Jeff Farber
Ron Burke
Hélène Couture
Nora Lee
Karen McIntyre

Attendees for Natural Milk Coalition of Canada

Sally Fallon (president, Weston Price Foundation)
Marcus Koenig (organic farmer, Weston Price local chapter leader)
John Sorchen (consumer who home pasteurizes raw milk)
James McLaren (president, Natural Milk Coalition of Canada)

Location – Building 7, Tunney's Pasture, Ottawa from 2:30p to 4:45p

Introductions were made by all in attendance.

Sally Fallon presented her PowerPoint presentation on a projected screen. She covered the following topics:

- Health benefits of raw versus pasteurized milk
- Safety of raw versus pasteurized milk and milk products
- Legal issues
- Trends in various US states and overseas
- Comments on Paul Mayers letter of Feb 23/05 to Dr. Gould

Marcus Koenig then described the ready availability of raw milk in Switzerland and Austria. He was a Swiss national before immigrating to Canada. He presented a picture of a consumer raw milk vending machine, which are in common use there and described its operation.

John Sorchen grew up in Austria where he pasteurized raw milk for family consumption. He firmly believes in pasteurization but wants to do it himself rather than commercially because the milk tastes much better. He finds it difficult to buy raw milk in Canada, unlike in his native Austria because of farmers fear of the present law. He presented a \$30 double-walled aluminum pot that he uses for home pasteurization. It is designed specifically for home pasteurization and heats to the correct temperature without risk of boiling over.

James McLaren presented a 1-page summary of the major aspects of raw milk distribution that would need to be addressed for thorough regulation in a Canadian context. He then restated his earlier proposal for Health Canada to study a Canadian dairy farm that distributes 70,000 litres annually of raw milk and dairy products.

Mr. Mayers advised that if he knew of such an operation he would be obliged to notify the Canadian Food Inspection Agency for enforcement action. Mr. McLaren advised that this raw milk distribution was done legally under a cow sharing program. Mr. Mayers asked if the consumers under this program actually owned a cow or a share of a cow because Health Canada's interpretation was that the former was legal but not the latter. Mr. McLaren said he was not sure.

Health Canada inquired about the sources for the Canadian epidemiological data that was presented.

The prevalence and trends of consumer raw milk consumption was discussed.

At one point, Ms. Fallon inquired how Health Canada ensured the public safety of raw oysters. Mr. Mayers responded that it was through public education. Mr. McLaren inquired how effective that was and Mr. Mayers said that public education was an effective risk management tool.

Mr. Mayers assured that Health Canada's regulatory policies and procedures were based on science and that any changes would be so based.

Through discussion and inquiry, Health Canada indicated that the introduction of raw milk for consumer sale would have to follow their standard procedures for the introduction of a "novel food" into the marketplace. The framework for this application could be developed in one of two ways – either wait for Health Canada to develop it, which might take some time given their priorities, or the Coalition could propose a framework for Health Canada's review and comment which would be an iterative process until satisfactory to both sides.

It was suggested that the framework could be developed first before any money was spent on the study itself. A primary concern for Health Canada was microbial hazards and tests would have to be submitted to prove safety. Health Canada made it clear that they would not base a decision on epidemiological data, but wanted analyses of raw milk for pathogens.

Mr. Mayers then left the meeting at 20 minutes beyond its original conclusion time.

Discussion continued around further details of the framework elements. The Coalition suggested comparative tests with pasteurized milk and soy and juice products, as well as challenge test with raw and pasteurized milk. Based on the discussions, Ms. Fallon also suggested that the direct sales model contained in the Pennsylvania regulations might serve as a favorable regulatory model. Health Canada felt that the inclusion of both of these suggestions in a proposed framework or study would not be viewed unfavorably.

EXHIBIT "B"

This is Exhibit "B" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

Health Canada Meeting of September 13, 2005
Summary

I met with Dr. Farber at Health Canada on September 13, 2005 for an hour and in attendance were also Helene Couture and Dr. William Yan. We discussed the format of the lab tests that would be acceptable in our resubmission.

They said they were interested in 3 specific pathogens and out lab tests would have to cover salmonella, listeria monocytogenes and e-coli O157. They also said that the number of samples per batch would have to conform to current sampling principles which under the circumstances would be 60 per batch and all 60 would have to test positive. They gave me the reference and a photocopy from Micro-Organisms in Foods 2 by A.N. Sharpe.

They would like to see 4 seasons testing because pathogen levels vary by season. And they would prefer Canadian samples to assure the results in a Canadian context. They said they would not rule out US sources but Canadian would be preferred.

We would also have to address in our resubmission how the herd is free of tuberculosis and brucellosis and any other disease. But since these are covered by other existing procedures, we need only make reference to these procedures. The same would be true for antibiotic residues.

The accepted lab test methodology is on their website and they would forward me the URL.

I mentioned that we initially wanted direct sales only but that I had spoken to the DFO (Dairy Farmers of Ontario) and that they might consider joining in our reapplication. I asked how much more difficult would the lab testing be if we also included retail sales. They said that once the milk was tested safe by a producer they did not think it would add much complexity whether the raw milk was then sold directly to consumers or went through the existing dairy processing and retail distribution system. This was provided that again the safety issues are already known and addressed by the existing retail processing procedures which could be referred to and discussed in our resubmission.

They emphasized that our resubmission has to demonstrate that raw milk is safe and that that is their primary concern. They also said that whatever procedures we put down will have to be followed 100%. If we want to deviate in any way whatsoever, we would have to refile.

They also mentioned some consideration should be given to shelf life both in terms of safety and quality. They said pasteurized milk has a shelf life of six weeks. I said I have kept raw milk for up to three weeks but that shelf life doesn't matter to consumers who want raw milk, even if it's only 2 days, like on the carton I brought from England and presented at our last meeting.

I asked if we couldn't simply adopt the English system since they never banned the sale of raw milk. They said the English environment is different and raw milk safety must be evaluated in a Canadian context.

I also mentioned that we eventually would want a small producer exemption. They said that if I included it now, it would likely complicate the filing and take more time to have it approved.

They also mentioned that there is transparency for any filing such as ours and that our resubmission would be reviewed by a number of interested stakeholders who would be free to comment and whose comments would be considered from a standpoint of science and safety.

EXHIBIT "C"

This is Exhibit "C" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

From: John Karn [jkarn@milk.org]
Sent: Thursday, November 01, 2007 4:06 PM
To: 'James McLaren'
Subject: RE: Raw milk request

Dear Mr. McLaren,

The Board considered your correspondence at their meeting on October 29 and 30, 2007 and simply wishes to respond by stating that it supports the current position of Dairy Farmers of Canada (DFC) on pasteurization / raw milk, which is as follows, "With the exception of certain raw milk cheeses, DFC supports the legislation in place in all provinces and at the federal level that requires the pasteurization of raw milk".

Thank-you for corresponding with the Board.

John Karn

John W. Karn
Secretary to the Board
Dairy Farmers of Ontario
Phone 905-821-8970
FAX 905-821-3160
jkarn@milk.org

----- Original Message -----

From: James McLaren
Sent: Tuesday, October 23, 2007 3:48 PM
To: jkarn@milk.org
Subject: Raw milk request

Thank you for our telephone conversation today and for offering to present the following to the Board.

I represent consumers interested in legalizing the sale of raw milk directly from farmers to consumers. November 26 will be the first anniversary of the raid on Michael Schmidt's farm and we are planning a number of visible activities and events including a press conference to further our goal. We are asking the Board for a letter of support for our initiative along the lines of, "Provided the government puts in place a system that effectively monitors and controls the microbial safety of raw milk for human consumption, we support the right of individual consumers to purchase raw milk directly from farmers." If you are not willing to provide this, then on November 26, raw milk advocates will be publicly adding their voices to those who want an end to the quota system, and/or to bring about a combines investigation into the pricing

practices of the DFO as they did in England which resulted in wiping out quota values, and we will look for any and every opportunity to bring negative publicity to the DFO and their practices. I look forward to your response.

James McLaren

www.naturalmilk.org

EXHIBIT "D"

This is Exhibit "D" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

From: James McLaren
To: Dave Hope; John Karn
Cc: pgould@milk.org; Bruce Saunders (Office)
Sent: Friday, March 14, 2008 1:02 PM
Subject: Re: Request to meet with the DFO Board re: raw drinking milk

Dear Mr. Karn,

Thank you for your response.

What I hear you say is that you are not presently supplying raw drinking milk because
(a) there is no law permitting it; and
(b) you do not plan to take any action to change this in the future.

I agree with part (a) but take exception to part (b) which is why I request to meet with the Board.

What I'm saying for part (b) is that you have a responsibility under the Milk Act to maximize Ontario's milk production, consumers are demanding safe raw drinking milk including the former Ontario Minister of Finance, and that you therefore have an obligation under the Milk Act to make an application to the Health Department to supply it.

The expertise and the role of the Health Dept. is to review such applications for public safety, but not to create them in the first instance. If you would need some help with the application, I would be pleased to assist you with obtaining the appropriate expertise.

Furthermore in a telephone conversation I had with the former head of microbial hazards for Ontario, Dr. Fred Ruf, he said there were only two reasons why raw drinking milk would not go forward,

(i) the cost to the government of putting in place the appropriate safety monitoring system; and
(ii) the political optics of switching positions from disparaging raw milk to now permitting it.

I therefore restate my request to meet with the Board to discuss part (b) and I call upon Mr. Dave Hope for assistance.

Best regards,

James McLaren

----- Original Message -----

From: John Karn
To: 'James McLaren'
Cc: dave.hope@ontario.ca; Bruce Saunders (Office); pgould@milk.org
Sent: Wednesday, March 12, 2008 3:15 PM

Subject: RE: Request to meet with the DFO Board re: raw drinking milk

Dear Mr. McLaren,

This will acknowledge receipt of your e-mail and request to meet with the Board.

In your commentary you mention a number of "Acts" but fail to mention the Ontario Health Protection and Promotion Act. This Act prevents the sale and distribution of milk in Ontario that has not been pasteurized.

DFO relies on health officials who have the expertise to decide whether or not drinking raw milk poses a health risk. DFO will not consider any raw milk marketing initiatives as long as there is provincial legislation in place that prevents its sale. Further, DFO does not have any intention to lobby to have health legislation changed because we do not have the expertise to say whether or not raw milk poses a health risk.

The Board's position on this issue is very clear, as is yours. Arranging a meeting would not be a productive use of your time or the Board's.

Notwithstanding, I will make the Board aware of your comments and my response at their next Meeting on March 26/27, 2008 and if they decide they would like to meet with you, I will so advise.

John Karn

John W. Karn
Secretary to the Board
Dairy Farmers of Ontario
Phone 905-821-8970
FAX 905-821-3160
jkarn@milk.org

----- Original Message -----

From: James McLaren
Sent: Monday, February 25, 2008 7:56 PM
To: John Karn
Cc: dave.hope@ontario.ca
Subject: Request to meet with the DFO Board re: raw drinking milk
Dear Mr. Karn,

Thank you for your response [of November 1, 2007, contained in Exhibit "C" above] and for taking the time to present my request to the Board.

As I presume you are aware, the issue of having safe raw drinking milk is simply a matter of establishing a second level of higher production and testing standards, as in England, France, Germany, Austria, Switzerland, California, etc.

The negative response of the Board, however, places the DFO in violation of the Milk Act, the Competition Act and the opinion of your previous Chairman, Mr. Gord Coukell.

The Milk Act grants the DFO a monopoly on the distribution of milk within Ontario and in return expects the DFO, "to stimulate, increase and improve the producing of milk within Ontario." By refusing to market raw drinking milk, the DFO is in clear violation of this public trust. Dairy farmers that want to provide this niche market product are prohibited and driven out of business and overall milk production and consumption are reduced.

The Competition Act declares your Board's position to be an "anti-competitive act" under section 78(1)g, i.e., "adoption of product specifications that are incompatible with products produced by any other person and are designed to prevent his entry into, or to eliminate him from, a market." Such is the case most assuredly with respect to Michael Schmidt, and toward all raw drinking milk producers.

The Board's position is also at variance with the opinion of its prior Chairman, Mr. Gord Coukell, who agreed with me in a telephone conversation that raw drinking milk was feasible at a cost of about 50% more than conventional milk and that it could be brought in under the existing quota system. I would like to understand why it is that the current Board is unable to arrive at such an elementary conclusion.

Therefore I request to meet in person with the Board to discuss these issues and try to reach a mutually agreeable resolution.

I look forward to your response.

I have also copied Mr. Dave Hope, Chair of the Ontario Farm Products Marketing Commission, with my request.

Best regards,

James McLaren

EXHIBIT "E"

This is Exhibit "E" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

From: Jeff Farber<Jeff_Farber@hc-sc.gc.ca>
To: James McLaren
Sent: Friday, May 02, 2008 3:36 PM
Subject: Re: Contact with Dairy Farmers of Ontario

Thank you very much for your email.

As you are aware, the Food and Drug Regulations require that all milk available for sale in Canada be pasteurized. We realize that it was your understanding that raw milk could be considered as a novel food. However, due to it's history of use in the food supply, raw milk would NOT be considered a novel food as defined under Division 28 of the Food and Drug Regulations. However, the criteria used to assess the safety of a novel food could be used to assist you in preparing a submission on the safety of raw milk, when requesting a letter of opinion from the Food Directorate. A letter of opinion is a document which provides an opinion and/or comments on the information which is provided in a submission.

Please refer to the Guidelines for the Safety Assessment of Novel Foods for further information on preparing an appropriate data package for raw milk (http://www.hc-sc.gc.ca/fn-an/legislation/guide-ld/nf-an/guidelines-lignesdirectrices_e.html).

Please also note that a letter of opinion does not necessarily imply that any action will necessarily be undertaken by the government, and may not lead to a change in regulation.

Best regards,

Dr. Farber

----- Original Message -----

From: James McLaren
To: Jeff Farber
Sent: Monday, April 21, 2008 6:28 PM
Subject: Contact with Dairy Farmers of Ontario

Thank you for our telephone conversation last Friday about an email I received from John Karn, Secretary to the Board of the Dairy Farmers of Ontario wherein he said, "DFO relies on health officials who have the expertise to decide whether or not drinking raw milk poses a health risk. DFO will not consider any raw milk marketing initiatives as long as there is provincial legislation in place that prevents its sale. Further, DFO does not have any intention to lobby to have health legislation changed because we do not have the expertise to say whether or not raw milk poses a health risk."

I need them to understand that the current legislative ban on the sale of raw milk in no way prevents them from making an application under "novel foods" for raw drinking milk. I requested

to meet with the Board to explain this but the Board refused. I am therefore asking you to make this point clear to them.

John Karn's email is jkarn@milk.org and the DFO's phone number is 905-821-8970. In our correspondence, we also cc'd Bruce Saunders, Chair of DFO (email bsaunder@milk.org), Peter Gould, General Manager and CEO of DFO (email pgould@milk.org), and Dave Hope, Chair of Ontario Farm Products Marketing Commission (email dave.hope@ontario.ca phone 519-826-3406).

Thank you for taking the time to look into this matter and I look forward to hearing of your results.

Best regards,

James McLaren

EXHIBIT "F"

This is Exhibit "F" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

From: James McLaren
Sent: Monday, May 19, 2008 2:39 PM
To: Hope, Dave (OMAFRA)
Cc: John Karn; info@ombudsman.on.ca; bruce.archibald@ontario.ca
Subject: Re: Correspondence from James McLaren

Dear Mr. Hope,

If, as you say, the consumption of raw milk has such serious associated health risks then why do both the federal and provincial health laws permit dairy farm families to freely consume it? The answer is that under certain conditions raw milk can be safe to drink and many dairy farmers know full well what these are, which is why they drink it and confidently and legally distribute it to their families. As consumers, we want that same milk and that same privilege but under a proper regulatory regime. The proper approach has already been defined and codified in all European countries except Scotland and in more than half of the US states.

In my discussions with health department experts at both the federal and provincial level, they recognize that raw drinking milk could be made safely for off-farm consumption, but not with the current rules which require pasteurization. So change the rules to also permit the production of raw drinking milk and let consumers decide. The pioneering work has already been done a long time ago.

You do realize that your response implicates the government in any future legal or quasi-legal undertakings that would otherwise have been directed against the DFO. These could include liability for damages to any Ontario consumer who requires raw milk for health purposes and to any Ontario raw milk producer who was been raided. I ask that you reconsider your position and inform me within two weeks. Otherwise, it would be appropriate to proceed with the Ontario Ombudsman and the Competition Bureau.

Best regards,

James McLaren

----- Original Message -----

From: McLean, Laura (OMAFRA) [Laura.McLean2@ontario.ca] on behalf of Hope, Dave (OMAFRA) [Dave.Hope@ontario.ca]
Sent: Friday, May 16, 2008 12:47 PM
To: James McLaren
Cc: jkarn@milk.org; info@ombudsman.on.ca; Archibald, Bruce (OMAFRA)
Subject: Re: Correspondence from James McLaren

Dear Mr. McLaren:

I am writing in response to your e-mail dated May 7, 2008 regarding your request that the Dairy Farmers of Ontario meet with you to discuss your proposal.

Under Ontario's Health Protection and Promotion Act, it is illegal to deliver, distribute, sell or offer for sale milk that has not been pasteurized or sterilized except to a processor licensed under the Milk Act. In addition, the federal Food and Drug Regulations require that all milk available for sale in Canada be pasteurized. These pieces of legislation have been enacted due to the serious health risks associated with the consumption of raw milk.

The Dairy Farmers of Ontario may not market raw milk directly to the consumer and is under no obligation to lobby for changes to the legislation. The Ontario Farm Products Marketing Commission will not intervene in this matter.

Dave Hope,
Chair

----- Original Message -----

From: James McLaren

Sent: May 7, 2008 2:37 PM

To: Hope, Dave (OMAFRA)

Cc: John Karn; info@ombudsman.on.ca; Archibald, Bruce (OMAFRA)

Subject: Failure of DFO to follow Milk Act

Dear Mr. Hope,

You have been copied on my recent correspondence with the DFO [i.e. in Exhibit "B"]. I am now asking for your assistance in the matter of the DFO's abrogation of its obligations under the Milk Act.

In exchange for their monopoly status, the Milk Act requires the DFO to maximize Ontario's milk production consistent with consumer demand. And as well, the current health legislation ensures the safety of drinking milk for consumers by including pasteurization as a step in the production process and it bans the distribution of raw milk to consumers.

There is, however, consumer demand for raw drinking milk and understandably many consumers have become infected from consuming the raw milk currently produced in Ontario. There are, however, milk production procedures that are different from the ones currently used in Ontario, which can render milk safe for consumers without the need for pasteurization. These have been in place and documented since the 1890's. They are presently used, among other places in England, France, Germany, Austria, Switzerland, California, which have a combined population of 22 times that of Ontario. If there was any safety problem with having a separate set of procedures for raw drinking milk, I think it would have been discovered by now.

I have asked the DFO to initiate the process to make raw drinking milk available in Ontario. They have refused by saying that it is against the law to sell raw milk and they do not have the expertise to know how to make raw milk safe. These reasons are invalid. There is no law which restricts the DFO from developing a second set of production practices to bring raw drinking milk to market and in fact the current law obligates them to do so. As for expertise, they can hire consultants and start with the published procedures of the above named jurisdictions.

Their refusal contravenes section 2(a) of the Milk Act.

Your commission represents the interests of all stakeholders, producers, processors and consumers. As a consumer, I am asking for your intervention in this matter.

Best regards,

James McLaren

EXHIBIT "G"

This is Exhibit "G" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

From: James McLaren
Sent: Friday, August 29, 2008 5:51 PM
To: John Karn
Cc: Michael Schmidt; George Salverda
Subject: Re: Research Program for Raw Drinking Milk

Dear Mr. Karn,

Thank you for presenting my request to the Board. As for posting your article on my website, there is no real need because we agree with you that drinking Raw Pasteurizing Milk can be hazardous. As a matter of fact, we stated this in Section 8 of our Health Canada Submission, which can be seen on our website, www.NaturalMilk.org. This is why we want a differentiated product, Raw Drinking Milk, to be introduced to the Ontario marketplace, as it is in every European country except Scotland and in many US states.

Also please be advised that on July 30, 2008, Quebec introduced just such a separate class of safe raw milk to be used in making raw milk cheeses aged for less than 60 days. See Division 11.6 at:
http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/P_29/P29R1_A.HTM

I am reviewing all my options including taking legal action as a result of the Board's position.

James McLaren

----- Original Message -----

From: John Karn [mailto:jkarn@milk.org]
Sent: Friday, August 01, 2008 10:46 AM
To: 'James McLaren'
Subject: RE: Research Program for Raw Drinking Milk

Dear Mr. McLaren,

In response to your question, your comments were presented to the Board at a Meeting on July 28/29, 2008. There has been no change in DFO's position.

Regarding your comments, please be aware that the same quality standards apply to all milk whether it is destined for the fluid milk market or the market for processing milk products.

The attached article on drinking raw milk should be of interest to you - you may wish to post it on your web site.

John Karn

John W. Karn
Secretary to the Board
Dairy Farmers of Ontario
Phone 905-821-8970
FAX 905-821-3160
jkarn@milk.org

----- Original Message -----

From: James McLaren
Sent: Friday, July 18, 2008 12:24 PM
To: John Karn
Cc: info@ombudsman.on.ca
Subject: Re: Research Program for Raw Drinking Milk

Dear Mr. Karn,

Thank you for your response. What I am asking the Board to do is acknowledge a difference between raw milk and Raw Drinking Milk. Raw Drinking Milk is milk produced at a higher standard than for raw milk such that pasteurization is not necessary. Examples can be found in all European countries except Scotland and in many US states.

I am not asking the Board to change its position on raw milk, but I am asking the Board to approve a research project to evaluate the safety of Raw Drinking Milk, using as a starting point any of the above noted standards.

When will you present my comments and my request to the Board and when will I hear of their response?

Thank you.

James McLaren, CA

----- Original Message -----

From: John Karn [mailto:jkarn@milk.org]
Sent: Tuesday, July 15, 2008 9:50 AM
To: 'James McLaren'
Subject: RE: Research Program for Raw Drinking Milk

Dear Mr. McLaren,

DFO's position on raw milk has not changed. However, thank-you for your comments which I will share with our Board.

John W. Karn
Secretary to the Board
Dairy Farmers of Ontario
Phone 905-821-8970
FAX 905-821-3160
jkarn@milk.org

----- Original Message -----

From: James McLaren
Sent: Wednesday, July 09, 2008 5:28 PM
To: John Karn
Cc: Jeff Farber; info@ombudsman.on.ca
Subject: Research Program for Raw Drinking Milk

Dear Mr. Karn,

I apologize for not bringing this up before, but Section 3(1)(c) of the Milk Act requires the DFO, "to select, develop and maintain research programs required for policy development and formulation". Raw Drinking Milk would make an excellent selection, given that it is sold in all European countries except Scotland and in many US states. You therefore have a large number of existing regulations to choose from, to see whether any would meet Canadian safety standards. And this research could all be done without any sale or distribution of raw milk, which is a big concern of yours. And furthermore, a positive outcome would open the way for a new niche market - raw dairy products!

I recently spoke to Dr. Jeff Farber (see attached) who is the Director, Bureau of Microbial Hazards at Health Canada. He would be more than happy to provide a Safety Assessment on any Raw Drinking Milk research you undertake. Perhaps you should speak with him (613-957-0880) and clear up this misconception you have that health officials are against Raw Drinking Milk. What they are all against is drinking the raw milk currently produced in Ontario right now, but they are open to evaluating the safety of milk produced under higher standards that would eliminate the need for pasteurization.

Could you please tell me what the Board's position is with respect to selecting Raw Drinking Milk for research under Section 3(1)(c) of the Milk Act?

Thank you.

James McLaren

EXHIBIT "H"

This is Exhibit "G" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

ACTIONS TAKEN TO DATE
From the website www.naturalmilk.org
Last updated: October 19, 2014

We originally began our initiative hoping to legalize the retail sale of raw milk just in Ontario, and on November 2, 2001 met with Bob Bishop (then General Manager) and Peter Gould (now General Manager) of the Dairy Farmers of Ontario, our provincial dairy regulator. Raw drinking milk for them was what they call a "niche market product" (like Kosher, Organic or Omega-3, etc.), which they were in fact willing to consider for introduction to the provincial market. However, in order to do this, the prevailing health laws, both federal and provincial would have to be changed, since both sets of laws prohibit the sale of unpasteurized milk, unless it is to someone who will ultimately pasteurize it. They said if we got the health laws changed, they would consider raw milk as a niche market product.

This led us to discussions with the federal and provincial departments of health. We learned that dairy laws are administered in a joint federal-provincial manner, and that at the federal level, there are also inter-departmental consultations required as well. We also learned the federal health laws establish a national minimum safety standard which all provinces must adopt (or agree to in advance prior to consenting to a change), although any province is free to establish a higher standard if they so choose.

In order to better represent our cause at a national level, we decided to form a citizen's coalition called the Natural Milk Coalition of Canada. We have two executive members already very well experienced in dealing with federal health laws, as they formed in 1979 the original Ottawa opposition to the school-yard spraying of 2-4D. And look how far this opposition movement has developed since then!

We have learned that there is a regulatory procedure to follow in order to make the kind of change we require to the law. Our federal department of health, Health Canada, requested we make a submission explaining why we believe unpasteurized milk is healthier than pasteurized milk, and how can you make unpasteurized milk safe for consumers. On March 19, 2003 we filed our [Health Canada submission](#) and later its 1-page internal [Briefing Summary](#). And on April 24, 2003, we filed an [Addendum](#). We await the government's response once they evaluate them.

Subsequently, we communicated verbally and by email with Health Canada on three important inconsistencies in the law and in their policy. These are:

- How is it that raw foods of animal origin and liquor are sold in violation of Section 4, since they are all acknowledged as harmful.
- What is the rationale for singling out milk from all other raw foods of animal origin and preventing consumers from sterilizing it themselves.
- What is Health Canada's position on health warning labels given that any food which bears one directly violates Section 4, because it is then identified as harmful and cannot be sold.

As yet we have not received adequate responses to these inquiries. We will post further updates here as they develop.

The National Post ran a newspaper story on October 25, 2003 about raw milk that mentions James McLaren and this website. [Click here](#) to read it.

On September 29, 2003, I telephoned our contact in Health Canada to ask about the progress. She said that the required organizational sections were studying our request. She could not estimate a time frame for completion of their study and their formulation of a response. She did say that my legal observations had been forwarded to their lawyers. I said I would call in a few months to inquire again.

In January 2004, we received verbal confirmation from an Ontario government official that it was legal to sell raw milk for animal consumption. She explained that an underlying assumption with all government milk legislation in all jurisdictions was that it was for human consumption and that therefore raw milk sold for animal consumption was outside the scope of milk legislation. When we asked her by email for a written confirmation of this, she declined ([click here](#)).

Further research indicated it would be best to avoid the word "animal" and instead use the word "pet" since "animal" includes livestock, which is covered by federal feed laws. Therefore, a seller of raw milk for pet consumption can protect himself by labeling his jars with, "For Pet Consumption Only, Unpasteurized" or alternatively, "For Animal, Non-Livestock Use Only, Unpasteurized".

In March 2004, we attended Health Canada's public workshop on Legislative Renewal ([click here](#)). They were seeking public participation in their amalgamation of several pieces of legislation into a new Canada Health Protection Act. It has a modernized definition for food but has retained the old definition for a food hazard. We have objected to this because the old definition of food hazard allows Health Canada to declare any food to be a hazard and to ban it, as they have done with raw milk. A modernized definition would prevent this. Later, in September 2004, a Legislative Renewal coordinator verbally agreed to amend the wording accordingly.

At this workshop, we were fortunately seated at the activists' table and made several excellent contacts. One was the Friends of Freedom ([click here](#)) which is attacking Health Canada on their classification of food supplements as drugs. We decided to join forces and align ourselves under this umbrella group, thus benefiting from their knowledge and experience.

In July, 2004 we contacted Health Canada regarding our submission and were advised they are nearing completion of a formal response, and mainly require the approval of higher-ups prior to release.

We also prepared a draft court claim embodying all the Charter arguments from our submission. However, when our new associate, the Friends of Freedom, reviewed it, they advised of an

entirely new line of legal argument available – federal jurisdiction of raw milk is unconstitutional. This must now be researched prior to release of our draft court claim.

On October 17, 2004, Health Canada issued their response to our submission and rejected our request. On December 14, 2004, we countered back, proposing a joint study of a sizeable Canadian raw dairy farming operation and requesting a meeting with them. We cc'd the Minister's office in our reply. ([Click here](#))

We met with Health Canada April 4, 2005. [Sally Fallon](#), President of the [Weston A. Price Foundation](#), attended and made the main presentation. Marcus Koenig presented the status of raw milk in Switzerland. John Sorchen presented a \$30 home pasteurizing pot he uses because he dislikes the taste of commercially pasteurized milk. James McLaren presented a one-page summary of all the issues from a Canadian context. [Click here](#) for a meeting summary.

The discussion which followed showed that we had been approaching Health Canada in the wrong manner. Health Canada is divided between the food side and the drug side, but they appear to look at things in a similar manner. Applying to legalize the sale of raw milk needs to be viewed as if one were applying to have a new drug introduced into the market. You need things like microbial laboratory tests, detailed production procedures, draft regulations, etc. but not epidemiological data, i.e. rates of infection in the general population.

We now feel confident that we can make an application to Health Canada that stands a good chance of success. If not, then the work that we would do, would provide even stronger court evidence because we already have sufficient epidemiological data to counter Health Canada's belief in exclusive mandatory commercial pasteurization. Sally Fallon has kindly offered her support going forward. We will now prepare a framework document for iteration with Health Canada prior to writing another submission and spending any money on lab work.

We engaged Health Canada in a series of e-mails and on May 13, 2005, they provided us with a framework for resubmission including references to current standards for such submissions. We are now coordinating our efforts with the Weston A. Price foundation to develop a resubmission document which will be iterated with Health Canada as we progress. As yet we have no estimated timeframe for completion.

On September 13, 2005, I met for a second time with Health Canada to discuss in more detail the key elements of our resubmission, including what will be the most expensive element, the lab tests. I was given good general information appropriate for where we are. They again reinforced their open door policy and as before, graciously extended their offer to discuss and iterate at anytime our proposed framework prior to us spending any money or resubmitting. [Click here](#) for a summary.

Next, I contacted the Dairy Farmers of Ontario (DFO) to tell them they had ill advised me four years ago when I met with them on November 2, 2001. They had advised me they would consider raw milk as a niche market product if I would go and get the health laws changed. As a result of

my recent meetings with Health Canada, I now know this is the DFO's responsibility, not mine and I so advised them. I will follow up with them in the near future.

As a result of the second Health Canada meeting above on September 13, 2005, I realized that our resubmission framework could include process control elements as well as lab tests of finished raw milk products. This being the case, then it is quite conceivable that separate raw milk applications would have to be made based on the type of farm animal, i.e. sheep, goats or cows.

This being the case, I contacted Larry Kupecz, president of the Ontario Dairy Sheep Association. Larry was very pleased with the excellent progress I had made since we last spoke and immediately we agreed to join forces to prepare a resubmission specifically for raw sheep milk and if it happens to cover other animals that will be a bonus. Larry says that the dairy sheep community is small in numbers and well organized in Canada. He also has access to possible funding groups and to key people that would help make a dairy sheep application a success.

In November, I was interviewed by the Ontario Farmer newspaper, which reported on our progress in their November 22, 2005 edition. In their December 5, 2005 edition, they also reported the details of a meeting I attended with dairy sheep and goat producers to further our raw milk initiative. [Click here](#) and [click here](#) to read the article

The Ontario Farmer ran a newspaper story on December 27, 2005 about raw milk in Britain. [Click here](#)

Larry Kupecz undertook initial steps towards a novel foods application, but after some months decided it would be too difficult for him to proceed at this time.

Following Larry's decision, I decided in August, 2006 to again approach the Dairy Farmers of Ontario. I spoke to Peter Gould, now the General Manager, and reminded him of the statement made to me in our prior meeting of November 2, 2001, that the DFO would be willing to consider raw milk as a niche market product if I were to change the health laws to permit the sale of raw milk. I told him that it took me four years to find out that it was not up to me to change the health laws, but it was up to them. All they had to do was file a novel foods application with Health Canada demonstrating the safety of raw milk and the application would go forward. The federal government would take the lead in changing provincial health laws. Peter asked for some documents to pass along to their research group who would look at the issue.

On November 21, 2006, Michael Schmidt's farm was raided and Michael was charged with distributing raw milk and operating a milk plant without a licence. Michael had a cow sharing program which legally turned consumers into producers, thereby permitting them to consumer their own raw milk. [Click here](#) and [click here](#) to read the summons. Note: (1) Michael is charged with operating a milk plant without a licence, not for producing and selling raw milk; (2) the case is Regina vs Schmidt - Regina (Queen Elizabeth) not only drinks raw milk, she sells it to the public at her **Windsor Farms**; (its sold only direct to walk-in customers so its not advertised over the

internet - call them at 011-44-1753-623-800 to confirm); (3) the emblem for Grey County where the court is, says, "Beautiful...Naturally" yet they want to ban "natural" milk and force us to drink an adulterated and artificially vitaminized version.

It'll be very interesting what the courts have to say about Michael's private contracts extending to cover the bottling of an owner's unprocessed raw milk. If they decide against Michael, this could mean that any farmer who puts his own raw milk into any container for personal consumption, could be charged with operating a milk plant without a licence.

One of the more interesting comments I noticed was why hasn't the government shut down all the Mennonite raw milk operations in Ontario? Looks discriminatory to me. The Mennonite's have been processing raw milk for themselves and others for a lot longer than Michael Schmidt. I know of one person who sold such products from a retail store in the early 1980's.

On November 28, 2006, I spoke to Peter Gould, General Manager of the DFO, to get an update on the DFO's position. Peter advised me that their Board had decided not to pursue raw milk because they felt they could not make it safe enough. His response indicates the Board is the real decision maker. I am therefore considering making a request to speak to the Board.

On November 29, 2006, Michael Schmidt held a press conference in Toronto at Jamie Kennedy's restaurant. I attended at his invitation. He had wanted me to speak but we had never met in person and due to a mix-up he was not advised that I had made it in.

On December 1, 2006, I was interviewed on CBC radio. [Click here](#)

On December 6, 2006, the Green Party of Ontario issued a press release supporting the creation of a safe raw milk distribution system. [Click here](#)

On December 7, 2006, Premier McGuinty's government turned down Bill Murdoch's private members bill to examine and debate the raw milk issue. For a "liberal" government to turn down the examination and debate of such an issue is unbelievable. As was pointed out in the debate over the proposed bill, people are already consuming raw milk and some are going to get sick who would otherwise not under a regulated system and the government would be responsible.

On December 11, 2006, I contacted Dave Hope, the chair of the Ontario Farm Products Marketing Commission whose website says they represent all the stakeholders in dealing with marketing boards. However, Dave advised me they are accountable to the government and must conform to their policy, which is anti-raw milk.

In January, 2007, I contacted the food safety unit of the Ontario Dept. of Health and spoke about setting up a second milk supply system for safe raw milk. Their main concern was how to handle this from a food safety perspective given the number of raw milk infections they have on file. They are open to receiving a proposal showing how raw milk could be produced and sold in a safe manner. We are preparing this now. Our idea is to propose a self-regulating industry body

called Natural Milk (Ontario) which would oversee its members who would sell directly to consumers and cannot advertise. However, before doing so we must lobby the Dept. of Agriculture to obtain a quota exemption for the cow producers in our organization.

I spoke to the **RPA** in England about their milk quota system. They have two quotas - wholesale and direct sales. Wholesale quota is like what's here in Canada where a producer sells to a processor, but unlike Canada, they also permit dairy farmers to sell directly to consumers (this is what we want) provided they have direct sales quota. They sell 14 billion litres of milk annually and of that direct sales are 172 million litres, about 1.2% of the total. I asked the gentleman how much of the 1.2% would be unpasteurized versus pasteurized. He said they don't have statistics on that. I asked him to take a guess. He said maybe 1 or 2% was unpasteurized. So raw milk sales in England amount to a miniscule 1 or 2 one-hundredths of one percent of the total market. The RPA also publicly confirms this on their website that raw milk sales are one one-hundredth of one percent of all milk sold ([click here](#)) and its towards the bottom of the 3rd paragraph. I think we can safely go forward in Canada with a direct sales model and rightfully request a quota exemption due to the volume.

In March 2007, the raw milk portfolio was shifted to a new manager in the Ontario government who pointed out that the Ontario mandatory pasteurization law is contained in a statute (rather than a regulation) and it would require a motion of the Ontario legislature to change. We agreed nothing politically was likely to change before the next election because the Ontario legislature recently voted down Bill Murdoch's private members bill to examine raw milk. This brings to a dead end all our efforts to seek a change through the bureaucracy because any initiative would simply be voted down by the government. This signaled the need for us to shift and become activists.

In April 2007, I was invited to attend the second meeting of the Food Rights Alliance, a group of individuals dedicated to legalizing the sale of raw milk and in assisting Michael Schmidt with his legal defence. Plans were developed to move forward on both of these fronts.

For years my partner has been saying that drinking raw goat milk makes her breasts larger and firmer and when she stops they go droopier. She used to take a breast supplement which had the same effect but she stopped because of the cost. Shortly after, she started drinking raw milk and found it worked just as well. In June 2007 we met with another lady who recently started drinking raw cow milk who confirmed the breast enlargement. The implications could be quite significant for the success of our initiative. Michael Schmidt has agreed to open up his network for a larger study to be undertaken.

November 21, 2007 was the first anniversary of the raid on Michael Schmidt's farm. A press conference and demonstration was held at Queen's Park. I spoke at the press conference as the consumer advocate along side Michael, Randy Hillier, MPP and Judith McGill, a cow share owner.

Before the press conference, I requested the DFO's support for the right of individuals to purchase raw milk directly from a dairy farmer, provided appropriate health controls are

implemented. Instead, the DFO Board said they support the mandatory pasteurization of raw milk. [Click here](#) for their email of November 1, 2007. By making such a statement, they are clearly stepping outside their mandate, and shirking their responsibility under the Milk Act, "to stimulate, increase and improve the producing of milk within Ontario." It also identifies the DFO as the key central figure in opposition to raw drinking milk.

At the press conference, I asked Bill Murdoch, MPP why it was that his private member's resolution of last December to form an all-party committee to examine the issue of raw milk was defeated. He said it was a whipped vote, meaning it was not a free vote but Premier McGuinty ordered his party members to defeat it. He said in all his 17 years in office he had never seen a whipped vote on a private member's bill or resolution (the difference being that a bill requires 3 readings whereas a resolution passes on 1 vote). Bill said McGuinty was trying to gain the dairy farmer vote in his riding and hopefully displace Bill from office since dairy farmers hate Michael Schmidt because he's selling milk without quota. As well, McGuinty was trying to cause friction between Bill and the Women's Institute. Bill explained that the Women's Institute was responsible for championing Ontario's 1938 mandatory pasteurization law after their leader's son died from a milk borne pathogen. Bill said he had to do damage control by visiting all the chapters of the Institute in his riding and assure them he was not trying to eliminate the existing system.

After the press conference, Premier McGuinty said the best advice he's received is that unpasteurized milk is unsafe. However, his own senior bureaucrats have told me the only impediments to implementing a raw milk regime are funding and the optics of now allowing something you once said was harmful. As explained above, it's obvious McGuinty is listening to the DFO's self-serving rhetoric and trying to grab dairy farmer's votes, rather than serving the needs of the people. If it's a question of votes, the number of dairy farmers in Ontario is in steady decline while consumers demanding raw milk is on the rise.

In their email of November 1, 2007 noted above, the DFO refers to the Dairy Farmers of Canada (DFC). It was pointed out to us that sometimes the DFC acts as a "good cop" to the DFO when it's been acting as a "bad cop". We thought it was worth a shot and fired off a couple of emails. [Click here](#). On January 4, 2008, we wound up speaking with Rejean Bouchard, a policy director, who had no real sympathy for our position on raw drinking milk and felt that a complaint to the Competition Bureau had only a minimal chance of success.

Two people die in Massachusetts from listeria in milk that was properly pasteurized. [Click here](#). So much for the process of pasteurization which is supposed to eradicate listeria and which is the only process approved in Ontario to make milk safe.

There was an online petition that was organized but it was taken down sometime early in 2008. [Click here](#)

We began the documentation to escalate the issue by formally asking the DFO to initiate the process for a second set of dairy production practices for Raw Drinking Milk. They refused to

meet with us, so we escalated to their governing body, the Ontario Farm Products Marketing Commission, who also refused to help out. Alerted the Ontario Ombudsman. [Click here](#).

We reconnected with the Federal Department of Health and the way is still open for a safety assessment of raw milk, provided somebody gives them something to look at. [Click here](#).

At Michael Schmidt's pre-trial hearing, James McLaren had prepared a draft [Petition for Intervener Status](#) and presented it to the prosecuting lawyers and the media. A final version is being prepared for submission at a later date.

On July 30, 2008, Quebec announced a new category of raw milk - safe enough for the production of all raw milk cheeses, not just those aged for at least 60 days. This ends the Canadian debate on the safety of raw milk for direct human consumption. [Click here](#) to see the new regulations and go to Division 11.6.

I called Health Canada about this Quebec initiative and they said they were preparing to amend the Food and Drugs Act to include the new Quebec regulations on raw milk cheeses. This would allow other provinces to also make the new raw cheeses. I suspect the real reason is to permit Quebec to export their new cheeses to the rest of Canada. I then asked about the new category of safe raw milk but they did want to admit that it was safe enough to drink raw, which it has to be. I then did some basic research and formally challenged them. [Click here](#) for the details.

Prior to engaging either the ombudsman or taking action against the DFO, an email was sent to the Premier of Ontario to clarify government policy. [Click here](#).

On November 26, 2008, I petitioned the court to intervene in the upcoming trial of Michael Schmidt, to argue the Charter issues for Michael and to bring a counter-claim against the DFO. The court refused and directed that separate legal actions were proper.

On January 26, 2009, Michael Schmidt's trial commenced, testing the legality of cow sharing and the Charter rights of producers (not consumers) of raw drinking milk.

On August 31, 2009, Michael Schmidt's trial judge announced that he would release his decision on January 21, 2010. He would first rule on the legality of cow sharing and if Michael wins this, he would not then rule on the Charter issues.

In Fall 2009, we researched filing an "information" under the Provincial Offences Act against the DFO for violating its own charter to supply consumers with every dairy product they would otherwise have in a free market, and against the Ontario Farm Products Marketing Commission, the DFO's regulator. This research is still pending.

On October 30, 2009, we activated an online petition for Ontario residents, since we are working with a lawyer to ensure that if the petition is ignored by the Ontario authorities, legal proceedings can be started to compel them to perform their statutory duty. [Click here](#).

On November 17, 2009, the litigation director of the Canadian Constitution Foundation, Karen Selick, LL.B., announced their support and representation for our cause. [Click here](#). She was speaking at a press conference held at Queen's Park for the third anniversary protest of the raid on Michael Schmidt's farm. The Foundation will represent both Michael Schmidt as a producer and James McLaren as a consumer of raw drinking milk.

On December 2, 2009, we launched the paper version of our Ontario Raw Milk petition. For a Word version [click here](#) and for a .pdf version [click here](#). If you live in Ontario, make copies and spread it around - YOU CAN HELP! This petition conforms to the rules set out by the Ontario Legislature ([click here](#)) and consequently the Legislature will be required to file a response to the petition within 24 sitting days.

On December 9, 2009, Leona Dombrowsky, Minister of Agriculture, Food and Rural Affairs, refused to meet with our lawyer to discuss the issue of raw milk for consumers. [Click here](#).

On January 21, 2010, Michael Schmidt won at court. He was acquitted of 20 charges of selling and distributing raw milk. His cow-share program was found to be a legal way for consumers to obtain a legal product, specifically raw milk. [Click here](#) for the judge's decision.

On February 8, 2010 our lawyer sent a request to meet with the new Minister of Agriculture, Food and Rural Affairs, Carol Mitchell. She didn't even respond. [Click here](#).

On February 11, 2010, the government appealed Michael Schmidt's acquittal. [Click here](#) for the text. The trial date for the appeal was set on a later date for February 8, 2011.

On June 24, 2010, our lawyer was in the Ontario Court of Justice to argue a motion regarding Michael Schmidt's appeal to include Charter arguments for consumers. The judge set a future date of October 21, 2010 to try this motion. The judge also set a future date of August 30, 2010 for other housekeeping matters, one of which was to seek a consensus whether the appeal could be split between cow-sharing and charter issues, as was done in the lower court.

On August 30, 2010, our lawyer was in the Ontario Court of Justice for pre-trial planning. A trial date for Michael Schmidt's appeal was set for February 8, 2011. Regarding the October 21, 2010 hearing to include charter arguments for consumers, a date of December 2, 2010 was set for the judge to deliver his ruling thereon. There was no resolution on the issue of splitting the appeal between cow-sharing and charter issues.

On October 14, 2010, we formally requested the assistance of the Ontario Ombudsman to compel the Ontario Farm Products Marketing Commission to perform their statutory duty of conducting research into dairy production procedures that would produce raw milk of sufficiently high quality that it could be safely consumed raw without pasteurization, unlike the current procedures which require pasteurization for milk to be consumed safely. [Click here](#) and [click here](#).

On October 21, 2010, we attended the Ontario Court of Justice for pre-trial planning for Michael Schmidt's appeal. The judge decided he would try both the cow-sharing and the charter issues together in the appeal. He also heard arguments for and against the expansion of the number of charter arguments to be considered at the appeal, including charter arguments for consumers. He will release his summary decision on this by mid-November and his full ruling on December 2, 2010.

On December 17, 2010, the appeal court judge gave his permission to include the charter arguments of two consumers in the appeal of Michael Schmidt, one for health reasons and one for religious reasons. Because the judge was late with this decision and because the prosecution wishes to cross-examine the new witnesses, the date for the appeal hearing was delayed.

On January 21, 2011, the author of this website, James McLaren, appeared for cross-examination in the appeal proceedings of Michael Schmidt. Mr. McLaren represented consumers and their Charter right to consume raw milk for health purposes.

On April 13, 2011 the appeal hearing of Michael Schmidt's successful lower court decision took place. Arguments were permitted for Charter rights. One important item was the confirmation of the right of ordinary Canadians to consume raw milk but no practical way for them to obtain it. The decision of the appeal court judge will be made on July 8, 2011. For an excellent summary of the proceedings and for copies of the court documents, [click here](#).

On June 16, 2011, the judge for Michael Schmidt's appeal announced a delay of his decision until September 16, 2011. He also mentioned that his decision would be forwarded to the lawyers and no one needs to come to court.

On September 28, 2011, the judge for Michael Schmidt's appeal reversed Michael's earlier acquittal and found him guilty on 15 out of 19 charges. [Click here](#) for the text of his decision. Michael's lawyer announced her intention to appeal this verdict.

On September 29, 2011, Michael Schmidt began a hunger strike which will end if Premier Dalton meets with him to discuss the type of raw milk that is fit for human consumption without commercial processing.

On October 6, 2011, Dalton McGuinty was re-elected as the Premier of Ontario with a minority government, losing his former majority. This creates an opportunity to bring additional political pressure on the Premier because the opposition parties have enough power to overturn any government position.

On October 28, 2011, on day 30 of Michael Schmidt's hunger strike, Conservative MPP Randy Hillier and Liberal MPP Greg Sorbara formed a bipartisan group to pressure Premier Dalton McGuinty into meeting with Michael.

On November 4, 2011, Michael Schmidt ended his 37 day hunger strike after meeting with the Premier of Ontario, Dalton McGuinty. Michael feels there is now a real prospect for change.

On November 25, 2011, the judge for Michael Schmidt's appeal issued his sentence - a fine of \$9,150 and 1 year probation for Michael. [Click here](#) for the text of the judge's Reasons For Sentence.

On December 19, 2011, Michael Schmidt's lawyer filed a motion to appeal the conviction of Justice Peter Tetley, an appeals court judge of the Ontario Provincial Offences Court who overturned Michael's earlier acquittal from Justice Paul Kowarsky. [Click here](#) for the text of the motion to appeal.

On February 10, 2012, a hearing was granted in the Ontario Court of Appeal for Michael Schmidt to ask for leave to appeal his conviction by Justice Peter Tetley. The date was originally set for April 25, 2012 but was later delayed until July 26, 2012.

On July 26, 2012, the Ontario Court of Appeal granted Michael Schmidt leave to appeal his conviction made by the appeals court of the Ontario Provincial Offences Court. The date will be set later, likely in a few months. Michael's lawyer also introduced fresh evidence that pasteurization may not neutralize the harmful effects of toxins produced by the E.Coli bacteria in raw milk, even though it does neutralize E.Coli. [Click here](#) for the new evidence motion. [Click here](#) for the lawyers' affidavits.

On December 16, 2013, Michael Schmidt announced to the media that his court date with the Ontario Court of Appeal will be February 5, 2014. He explained this date was later than expected because he had requested new evidence be considered.

On February 5, 2014, Michael Schmidt made his appeal to the Ontario Court of Appeal. The decision of the court will be released at a later date, possibly in a few weeks time.

On March 11, 2014 the Ontario Court of Appeal released its decision and dismissed Michael Schmidt's appeal. [Click here](#) for the court's decision. Michael intends to appeal to the Supreme Court of Canada.

On August 14, 2014, without giving any reasons, the Supreme Court of Canada decided it will not hear an appeal from Michael Schmidt of his lower court convictions. For Michael, it's business as usual.

EXHIBIT "I"

This is Exhibit "H" to the Affidavit of
James McLaren sworn before me
on the ____ day of _____ 2017

Commissioner of Oaths

From: James McLaren
Sent: Monday, November 01, 2010 12:37 PM
To: yheggie@ombudsman.on.ca
Cc: george.mccaw@ontario.ca
Subject: Additional information re OFPMC investigation

Dear Ms. Heggie,

Further to your investigation of the Ontario Farm Products Marketing Commission regarding their statutory duty to conduct research into dairy production procedures which would produce raw milk of sufficiently high quality that it can be safely consumed raw without pasteurization, I would like to direct your attention to just six pages of testimony of Dr. Theodore Beals, MD, who was an expert witness at the trial of Michael Schmidt. Details of his credentials and experience are attached.

Please read pages 82 to 84 of the attached court transcript, which confirms the existence of two different dairy production systems yielding two types of raw milk, one of which is destined for pasteurization while the other will never be pasteurized prior to safe consumption by consumers. Dr. Beals also explains the confusion that arises because both types of raw milk are called by the same label, "raw milk."

Then on pages 111 to 113, Dr. Beals explains why no research has been undertaken on the dairy production system which produces raw milk that is safe enough to consume raw without pasteurization - because of funding constraints on academic research institutions and the exclusivity of the peer review process. And because there is no such research, it gives government the opportunity to say that all of the existing research tells us that raw milk is a health hazard which is why we require the mandatory pasteurization of all raw milk. Please watch a short CTV News video of Premier Dalton McGuinty using this same deceptive reasoning to justify launching the government's appeal against Michael Schmidt. The video is the one on the right at:

http://toronto.ctv.ca/servlet/an/local/CTVNews/20100216/raw_milk_100216/20100216/?hub=TorontoNewHome

Uninformed consumers may believe the government is right but only because OFPMC refuses to undertake any research on the dairy production system which produces raw milk that is safe enough to consume raw without pasteurization, which is available in every other G8 country except Canada.

With this email, I hope to have shown you more of the short sighted thinking we have had to face, and given you the necessary information to enhance your ability to remedy this situation.

I thank you in advance for your kind attention to this matter. Should you wish to have the other trial transcripts, I would be pleased to forward them to you.

Best regards,

James McLaren, CA

--- Original Message ---

From: James McLaren
Sent: Thursday, October 14, 2010 6:43 PM
To: yheggie@ombudsman.on.ca
Cc: george.mccaw@ontario.ca
Subject: Request for the Assistance of the Ombudsman

Dear Ms. Heggie,

Further to our earlier telephone conversations I am now formally requesting the assistance of the Ontario Ombudsman with respect to the Ontario Farm Products Marketing Commission (OFPMC). This concerns their obligations under the Milk Act to stimulate and improve the marketing of milk and milk products and to select, develop and maintain research programs thereto.

In my emails below, I have asked OFPMC about researching into dairy production procedures which would produce raw milk of sufficiently high quality that it could be safely consumed raw without pasteurization, unlike the current procedures which require pasteurization for milk to be consumed safely. In my last email I asked OFPMC to respond within two weeks with respect to their intention to carry out said research but they failed to respond.

Therefore, could you please intervene with OFPMC on my behalf to convince them to undertake said research.

Best regards,

James McLaren, CA.

--- Original Message ---

From: James McLaren
Sent: Tuesday, September 28, 2010 3:09 PM
To: arva.machan@ontario.ca
Subject: Fw: Correspondence from James McLaren

Since you are acting director until October 1, 2010, I am forwarding you my correspondence below which was sent to Mr. McCaw on September 27, 2010.

Regards,

.

James McLaren, CA

-----Original Message-----

From: McCaw, George (OMAFRA) [mailto:george.mccaw@ontario.ca]

Sent: Monday, September 27, 2010 3:54 PM

To: James McLaren

Subject: Out of Office AutoReply: Correspondence from James McLaren

I am out of the office on vacation from Friday September 24th to Friday October 1st. While I am away, Arva Machan is acting director.

----- Original Message -----

From: James McLaren

Sent: Monday, September 27, 2010 3:53 PM

To: McCaw, George (OMAFRA)

Cc: geri.kamenz@ontario.ca; john.burke@ontario.ca; yheggie@ombudsman.on.ca

Subject: Re: Correspondence from James McLaren

Dear Mr. McCaw,

Thank you for acknowledging you read my email. However, you must have some misunderstanding as to why I wrote it. Therefore, to be clear, could you please answer the following question with a simple yes or no.

Does OFPMC intend to conduct or oversee any formal research on production procedures as noted in my previous email of September 16, 2010 that will produce raw milk of sufficiently high quality so that it can be safely consumed raw without pasteurization?

If the answer is yes, please provide an overview with timeframes.

If the answer is no, please explain your position because there is an apparent contravention of the obligatory research provisions of the Milk Act.

I would appreciate your response within two weeks, by October 11, 2010. If I do not hear from you by then, I will involve the Ontario Ombudsman.

Regards,

James McLaren, CA

----- Original Message -----

From: McCaw, George (OMAFRA) [mailto:george.mccaw@ontario.ca]
Sent: Wednesday, September 22, 2010 2:49 PM
To: James McLaren
Subject: Re: Correspondence from James McLaren

Mr. McLaren

Gerri Kamenz has asked me to reply to your e-mail to him of September 16, 2010. I would like to thank you for sharing this information and your views on this issue.

George McCaw
Director, Commission Secretariat
Farm Products Marketing Commission Secretariat
1 Stone Road West, 5th Floor
Guelph, Ontario
Tel: 519 826 3394
E-mail george.mccaw@ontario.ca

— Original Message —

From: James McLaren
Sent: Thursday, September 16, 2010 3:11 PM
To: geri.kamenz@ontario.ca
Cc: yheggie@ombudsman.on.ca; john.burke@ontario.ca
Subject: Re: Correspondence from James McLaren

Dear Mr. Kamenz,

Further to OFPMC's last email below, I am not asking you to change the current legislation and sell today's raw milk to the public. What I am asking you to do is to undertake research and to evaluate alternative dairy production protocols that are already found in other countries that provide raw milk which is safe enough to consume without pasteurization. Safe raw drinking milk is sold directly to the public in every G-8 country except Canada. Statistics on the safety of ready-to-eat foods were presented at Michael Schmidt's trial by Dr. Theodore Beals, MD who was accredited by the Ontario Court Of Justice as an expert witness. Details of his credentials and experience are in the attached court affidavit. A major US study ranked the safety of 14 ready-to-eat foods. On a per annum basis, pasteurized milk was the second most hazardous public health risk, while raw milk was fourth. As a matter of interest, deli meats were the most hazardous.

Furthermore a precedent has already been set in Canada for the sale of safe raw dairy products. In Quebec, a new raw dairy production protocol was enacted for the sale of raw cheeses ripened for a period of less than 60 days. This was to benefit producers and consumers in that province. Surely Ontario could undertake a similar initiative.

You have both the authority and the responsibility to research whether an alternative dairy production protocol could produce a raw milk which would meet Canadian safety standards without the need for pasteurization. (Please refer to Milk Act sections 2(a), 3(1)b, 3(1)c). If you or the DFO don't have the expertise for this, then you can hire the expertise. As far as I understand, this would involve a formal submission to Health Canada for a safety assessment and in the interests of economy, you could simply package Michael Schmidt's dairy procedures for this purpose. He has already agreed to this.

Also, any lobbying for legislative changes should only take place once the appropriate research has been conducted and a safety assessment has been obtained.

Thank you in advance for your kind attention to this matter and I look forward to your response.

Best regards,

James McLaren, CA

From: James McLaren

Sent: Thursday, August 26, 2010 11:28 AM

To: yheggie@ombudsman.on.ca

Subject: Fw: Research Program for Raw Drinking Milk

Hi Yvonne,

Thank you for our conversation earlier today about raw drinking milk. Below is an exchange of emails which includes my last direct correspondence and response from the Ontario Farm Products Marketing Commission.

I look forward to your comments.

Thank you again,

James McLaren

From: James McLaren
Sent: Wednesday, March 24, 2010 12:20 PM
To: dphillips@ombudsman.on.ca
Subject: Re-opening of Raw Milk file

Hi Dahlia,

Thank you for our telephone conversation yesterday about re-opening our raw milk case file. Today, as I was preparing to send you an information package to bring my file up to date, I realized that I had overlooked a key element. In addition to asking the government to direct the DFO to implement a second quota system for raw milk, there is also the thorny issue of approaching Health Canada for a safety assessment thereon. I am sorry but I did not think through this part of the overall issue when I called you yesterday. And in view of this I feel that your intervention would likely be a waste of time and resources. It'd be easier for the government to let the courts make a ruling and deal with it then.

So thank you for your patient listening to our issue and for being as helpful as you were in trying to find a solution, but I don't really think it's going to be possible to find a win-win solution without a court decision.

Regards,

James McLaren
www.NaturalMilk.org

From: James McLaren
Sent: Monday, October 06, 2008 2:56 PM
To: dalton.mcguinty@premier.gov.on.ca
Cc: info@ombudsman.on.ca
Subject: Information request

On November 21, 2006, the government arrested Michael Schmidt for distributing raw milk to cow owners. Through a process called agistment, legally acceptable since the 1300's, he was in reality taking care of their cows and returning them their raw milk. He was arrested because Ontario refuses to acknowledge in law that raw milk can be produced in such a way that it is safe for human consumption, as it is in every European country (except for Scotland) and in many US states.

Currently, Ontario law curiously permits dairy farmers and cow owners to legally consume their own raw milk but prohibits them from distributing it to others without pasteurization. It was on this basis that the government arrested Michael Schmidt and interfered with this right of cow owners to their own private property under agistment.

On November 29, 2006, Premier McGuinty publicly addressed the arrest which destroyed a livelihood and violated the private property rights of many Ontarians. "If you want to engage in the mass distribution of milk to millions of children and Ontario families on a daily basis, the very best and safest way to do that is to ensure that it's pasteurized. That's been the best advice we've received for a long time and I would see no reason why we would move away from that."

Therefore, I request the Premier to provide all the information that he or any government department or agency had in support of his conclusion that the current dairy system in Ontario is the best and the safest, and because these words are superlatives, what it was the Ontario system was compared to, and on what basis.

James McLaren, C.A.

www.NaturalMilk.org

From: James McLaren

Sent: Monday, September 29, 2008 9:56 AM

To: info@ombudsman.on.ca

Subject: Fw: Research Program for Raw Drinking Milk

To the Ombudsman,

The emails below conclude my inquiries with the Dairy Farmers of Ontario. Please add them to my file.

Next, I am preparing an investigative email to help clarify government policy on Raw Drinking Milk, and once I send it out, I will email you a copy for my file.

Thank you.

James McLaren

From: Philippe Laroche [mailto:philippe.laroche@hc-sc.gc.ca]
Sent: Tuesday, April 13, 2010 1:34 PM
To: James McLaren
Subject: Health Canada

Hi James,

As requested:

1) Briefly, what is the status of your initiative whereby Health Canada wishes to take Quebec's new raw milk legislation which was enacted on July 30, 2008 and make it federal?

Health Canada is in the process of modernizing federal regulations to permit the marketing of soft and semi-soft raw milk cheeses while ensuring the continued effectiveness of risk management approaches to protect the health of consumers.

2) Under "Legislative Renewal" the definition of food in section B7.2.1 contains a new phrase, "when used according to instructions or under such conditions as are customary or usual." However, the definition of a food hazard in section B9.4 does not. I objected to this omission and received verbal confirmation that B9.4 would be changed to also include this phrase. My question is what is the status of amending section B9.4 to properly match the wording of B7.2.1 by including the above-noted phrase?

In order to meet the challenges of the evolving food environment, Health Canada and its partners at the Canadian Food Inspection Agency have been reviewing its current legislative authorities set out in the *Food and Drugs Act*, and Legislative Renewal has been one component. The legislative changes that were proposed in the Legislative Renewal initiative will help inform the ongoing review, along with other information and considerations.

Regards,

Philippe Laroche
Media Relations Officer/Relationniste de presse
Health Canada/Santé Canada
Tel.: (613) 946-4250
Fax.: (613) 952-7747
philippe.laroche@hc-sc.gc.ca
www.healthcanada.gc.ca/www.santecanada.gc.ca
Government of Canada/Gouvernement du Canada

----- Original Message -----

From: James McLaren
Sent: Wednesday, March 24, 2010 11:12 AM

To: Philippe Laroche
Subject: Re: Health Canada

Hi Philippe,

The Quebec legislation states that it applies to both the raw milk cheese and to the raw milk.
Please go to Section 11.6.1 in:

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/P_29/P29R1_A.HTM

James

----- Original Message -----

From: Philippe Laroche [mailto:philippe.laroche@hc-sc.gc.ca]
Sent: Tuesday, March 23, 2010 10:57 AM
To: James McLaren
Subject: Re: Health Canada

Hi James,

I need some clarifications:

Is the "Quebec's new raw milk legislation" referred to in the question a legislation specifically relating to raw milk cheese, or does the legislation refer strictly to raw milk?

Thanks,

Philippe Laroche
Media Relations Officer/Relationniste de presse
Health Canada/Santé Canada

From: James McLaren
Sent: Thursday, March 18, 2010 8:02 AM
To: Philippe Laroche
Subject: Re: Health Canada

Hello again Mr. Laroche,

I am following up with you firstly on the item we discussed below and also on another item we spoke about in a subsequent conversation. I have two questions.

1) Briefly, what is the status of your initiative whereby Health Canada wishes take Quebec's new raw milk legislation which was enacted on July 30, 2008 and make it federal?

2) Under "Legislative Renewal" the definition of food in section B7.2.1 contains a new phrase, "when used according to instructions or under such conditions as are customary or usual." However, the definition of a food hazard in section B9.4 does not. I objected to this omission and received verbal confirmation that B9.4 would be changed to also include this phrase. My question is what is the status of amending section B9.4 to properly match the wording of B7.2.1 by including the above-noted phrase?

Thank you for your attention to these matters and I look forward to your response.

James McLaren
www.NaturalMilk.org

From: Philippe Laroche [mailto:philippe_laroche@hc-sc.gc.ca]
Sent: Thursday, November 27, 2008 5:19 PM
To: James McLaren
Subject: Health Canada

Dear Mr. McLaren,

All proposed/requested changes to the Food and Drug Regulations require the same level of data to demonstrate the safety and nutritional quality of a food or process in question to ensure all risks have been addressed. Only once Health Canada scientists are satisfied with the data provided can regulatory changes be initiated. In addition, the regulatory process requires that consultations be held with stakeholders and the public to allow for feedback on any regulatory change being proposed.

As no official decision has been made on bringing forward regulatory changes related to the regulations on raw milk cheese, the Department cannot comment on what changes would make up any potential regulatory amendments.

Best regards,

Philippe Laroche
Media Relations Officer/Relationniste de presse
Health Canada/Santé Canada
Tel.: (613) 946-4250

Fax.: (613) 952-7747
philippe_laroche@hc-sc.gc.ca
www.healthcanada.gc.ca/www.santecanada.gc.ca
Gouvernement of Canada/Gouvernement du Canada

----- Original Message -----

From: Philippe Laroche [mailto:philippe_laroche@hc-sc.gc.ca]
Sent: Friday, October 31, 2008 4:25 PM
To: James McLaren
Subject: Re: Quebec's new raw milk cheese regulations and Raw Drinking Milk

Hi James,

I'll follow-up.

Thanks,

Philippe Laroche
Media Relations Officer/Relationniste de presse
Health Canada/Santé Canada
Tel.: (613) 946-4250
Fax.: (613) 952-7747
philippe_laroche@hc-sc.gc.ca
www.healthcanada.gc.ca/www.santecanada.gc.ca
Gouvernement of Canada/Gouvernement du Canada

----- Original Message -----

From: James McLaren
Sent: Friday, October 31, 2008 4:19 PM
To: Philippe Laroche
Subject: Re: Quebec's new raw milk cheese regulations and Raw Drinking Milk

Hi Philippe,

About 5 weeks ago I sent you the email below, and as yet I haven't heard from you. Could you please give me an update?

Thank you. James

From: James McLaren
Sent: Monday, September 22, 2008 10:11 PM

To: Philippe Laroche

Subject: Quebec's new raw milk cheese regulations and Raw Drinking Milk

Thank you for our telephone conversation about my inquiry with Andre Jean regarding the new Quebec raw milk cheese regulations and Raw Drinking Milk.

I am a consumer with a mission to see Raw Drinking Milk re-introduced into either the Canadian or the Ontario marketplace. I have been working on this since 2000 and the full history of our activities is documented at www.NaturalMilk.org.

There are two approaches to achieving this goal. One approach is called "cow-sharing" whereby consumers buy a share of a cow and pay someone else to look after it for them. Cow owners may then consume their own raw milk. The legality of this method is now before the courts with the trial of Michael Schmidt in New Market, Ontario.

However, I am arguing for a second method, "official recognition and regulation" because outbreaks will then be attributed to the failure of dairy farmers to follow prescribed procedures rather than sanctioning the whole idea of drinking raw milk, as is the case now. The recent Maple Leaf listeria outbreak closed the Maple Leaf plant but did not shut down the sale of all cold cuts.

We filed a proposal for Raw Drinking Milk with Health Canada in 2003 but it was rejected. We then met with Health Canada to find out why and it was explained to us that Health Canada would only change the law if we filed an application in a particular manner, i.e. with lab tests and production procedures defined in a prescribed manner that would permit Health Canada to assess the safety of a specific method of producing Raw Drinking Milk. This was outlined more fully in another meeting on September 13, 2005, a summary of which is attached.

On July 30, 2008, Quebec introduced new regulations to permit the sale of all raw milk cheeses, not just those that were aged for at least 60 days. The 60-day rule ensured a kill-off of all harmful bacteria.

On August 2, 2008, an article in The Gazette explained that a new category of safe raw milk was created for the new raw milk cheeses. I thought that this milk would also have to be safe enough to drink raw and I wanted to find out if this was true. From my earlier discussions with Health Canada, I assumed that Health Canada had signed-off on the new Quebec regulations, so I called Blossom Leung in your group to find out who to speak with. She told me that Andre had been closely involved.

In my first conversation with Andre he explained that Quebec went ahead on its own with the new regulations with the proviso that sales would be limited to Quebec only. He said that he was in touch with Quebec on their initiative and that Health Canada was now working to amend the Food and Drugs Act to include the Quebec initiative and thus make it available for the rest of Canada.

I then asked Andre about the new category of safe raw milk required by the new regulations and whether or not it was safe to drink raw. He said no because in cheese making, lactic acid is introduced which competes with any harmful bacteria and kills them off.

I decided to research his statement and found out that it is wrong, which thereby proves that this new category of safe raw milk is safe enough to consume raw.

I first spoke to Margaret Morris, a well known cheese maker who also teaches it in Eastern Ontario. She said that you introduce lactic bacteria which make lactic acid which does compete with any harmful bacteria. But she also said that her target ph is 5. I then spoke to a dairy goat farmer who acidifies cows' milk to feed the baby goats. His veterinarian cautioned him on this procedure because harmful bacteria can survive to ph 3.

What this means is that the process of acidification in cheese making is insufficient to ensure a kill-off of all harmful bacteria. Therefore the raw milk which goes into making the cheese in the first place has to be safe enough on its own for direct human consumption, i.e. it is also Raw Drinking Milk.

I called Andre back to discuss this and when I challenged his original statement he directed me to speak with your group.

At this point I would draw your attention to the attachment and the thorough testing that Health Canada said I would have to go through to begin the process for legalizing Raw Drinking Milk. I therefore ask if Health Canada is going to go through these same detailed procedures itself in its approval of the new Quebec regulations for inclusion in the Food and Drugs Act? And if not, why not. And if it does, then will it also declare that this new category of safe raw milk is safe enough for direct human consumption, i.e. Raw Drinking Milk? And if not, why not.

Thank you.

James McLaren

From: James McLaren
Sent: Tuesday, January 08, 2008 12:43 PM
To: Tracy Paterson [paterson.tracy@cb-bc.gc.ca]
Subject: DFO and the Competition Act

Hi Tracy,

Thank you for our telephone conversation earlier today regarding the refusal of the Dairy Farmers of Ontario (DFO) to advocate the sale of raw drinking milk. I mentioned that the safety of raw milk is simply a matter of having high enough production standards so that the milk is safe enough to drink raw without having to pasteurize it. The health departments at both the federal and provincial levels say the same thing. But the DFO refuses to consider a second tier of higher production standards and shuts down producers of raw drinking milk with legal actions. This appears to me to be a clear violation of section 78(1)g of the Competition Act,

I have attached new material below which shows they are violating the aims and intentions of their enabling legislation, section 2(a) of the Milk Act, R.S.O. 1990, Chapter M.12, by refusing to support the re-introduction of an old dairy product that would "stimulate, increase and improve the producing of milk within Ontario."

Thank you. James

From: James McLaren
Sent: Tuesday, January 01, 2008 6:08 PM
To: eciccolella@dfc-plc.ca
Subject: Addendum to: Raw milk request

Dear Ersie,
M. Bouchard has not yet called me back but before he does could you please advise him that the DFO's statement below, and by extension the DFC, violates section 78(1)g of the Competition Act, Abuse of Dominant Position. I would like to discuss this particular item with him.
Thank you. James

----- Original Message -----

From: James McLaren
Sent: Wednesday, December 12, 2007 3:02 PM
To: eciccolella@dfc-plc.ca
Subject: Fw: Raw milk request

Dear Ersie,
Attached is the email we spoke about for forwarding to Mssrs. Philipps and Bouchard.
My phone number is XXX-XXX-XXXX.
Thank you.
James

----- Original Message -----

From: John Karn
To: 'James McLaren'
Sent: Thursday, November 01, 2007 3:06 PM
Subject: RE: Raw milk request

Dear Mr. McLaren,

The Board considered your correspondence at their meeting on October 29 and 30, 2007 and simply wishes to respond by stating that it supports the current position of Dairy Farmers of Canada (DFC) on pasteurization / raw milk, which is as follows, "With the exception of certain raw milk cheeses, DFC supports the legislation in place in all provinces and at the federal level that requires the pasteurization of raw milk".

Thank-you for corresponding with the Board.

John Karn

John W. Karn

Secretary to the Board
Dairy Farmers of Ontario
Phone 905-821-8970
FAX 905-821-3160
jkarn@milk.org

— Original Message —

From: James McLaren
Sent: Tuesday, October 23, 2007 3:48 PM
To: jkarn@milk.org
Subject: Raw milk request

Thank you for our telephone conversation today and for offering to present the following to the Board.

I represent consumers interested in legalizing the sale of raw milk directly from farmers to consumers. November 26 will be the first anniversary of the raid on Michael Schmidt's farm and we are planning a number of visible activities and events including a press conference to further our goal. We are asking the Board for a letter of support for our initiative along the lines of, "Provided the government puts in place a system that effectively monitors and controls the microbial safety of raw milk for human consumption, we support the right of individual consumers to purchase raw milk directly from farmers." If you are not willing to provide this, then on November 26, raw milk advocates will be publicly adding their voices to those who want an end to the quota system, and/or to bring about a combines investigation into the pricing practices of the DFO as they did in England which resulted in wiping out quota values, and we will look for any and every opportunity to bring negative publicity to the DFO and their practices.

I look forward to your response.

James McLaren

www.naturalmilk.org

From: James McLaren
Sent: Wednesday, July 04, 2007 6:30 PM
To: Joerg Seifert [Jseifert@fil-idf.org]
Subject: Re: Inclusion of raw milk in Codex

Dear Joerg:

Thank you for your response. However I am quite surprised by your comments and I would like to respond.

Regarding the first sentence of your response, people who drink raw milk are at risk if the raw milk is from a farmer who is not certified or compliant with the regulatory testing programs that are put in place to ensure the safety of the public.

Regarding your second sentence, you indicate you are not aware of any single country that allows for it. Please be advised that when I was in Canterbury England a few years ago, I saw raw goats milk for retail sale at a market and bought some. Please see the attachments. Also, up until just a few months ago, the Queen was retailing raw drinking milk to the general public from her Windsor Farm Shop. The British regulations for selling raw milk can be found at:
http://www.hmso.gov.uk/si/si1995/Uksi_19951086_en_6.htm
http://www.hmso.gov.uk/si/si1995/Uksi_19951086_en_14.htm#sdiv4

Secondly, I visited the French embassy in Ottawa several years ago and they provided me with a copy of their dairy regulations and highlighted the relevant sections pertaining to the sale of raw drinking milk. The embassy staff assured me it is sold to the public in France.

Thirdly, I have two researchers who have contacted Germany, Austria and Switzerland and they report that raw drinking milk is available for sale in these countries. So I believe you should confirm for yourself these facts that I have brought to your attention. I am prepared to assist you in seeing that these countries do in fact permit the sale of raw drinking milk or conversely to be shown by you that my understanding is incorrect.

Regarding your third sentence, I agree that harmful pathogens need to be removed from raw milk, which can be done either by pasteurization or by adopting superior hygienic practices in the production of raw milk and by testing it.

Surely if these countries allow the sale of raw drinking milk, then they must have developed adequate public safety procedures including testing and monitoring.

I assume that the position you are taking is based on the shipment of raw milk to other countries and not for domestic use.

Therefore, if my position is correct, I believe you could and should go forward with a Codex procedure for raw drinking milk.

I look forward to your comments.

James McLaren, Chartered Accountant

----- Original Message -----

From: Joerg Seifert [Jseifert@fil-idf.org]
To: James McLaren
Sent: Wednesday, July 04, 2007 1:31 PM
Subject: RE: Inclusion of raw milk in Codex

Dear James,

I am aware that many people drink raw milk for various reasons and they do this at their own risk from a food safety point of view. However, in all the countries that you have quoted and in many others (actually I am not aware of any single country that allows for it) it is a legal requirement to heat treat (at least pasteurize) the milk prior to bringing it into retail sale. When you look at the prevalence of some zoonoses in some countries you will understand why governments have a duty to protect the public by putting-up legislation.

Kind regards

Joerg Seifert
IDF Technical Director

----- Original Message -----

From: James McLaren
Sent: Wednesday, July 04, 2007 12:10 PM
To: Jseifert@fil-idf.org
Subject: Inclusion of raw milk in Codex

Hello:

I was given your organization to contact by Gail Daniels in the Canadian Food Inspection Agency. My interest is in legalizing the sale of raw drinking milk in Ontario and my website is www.naturalmilk.org.

Codex does not address procedures for raw drinking milk but it would help our cause if it did. Raw drinking milk is currently available in England, France, Germany, Austria and Switzerland and Codex procedures could easily be drawn up from their existing procedures.

Could you please advise how we could begin such an initiative?

Thank you.
James McLaren, CA

From: Ronald Burke [mailto:Ronald_Burke@hc-sc.gc.ca]
Sent: Friday, July 27, 2007 2:35 PM
To: James McLaren
Cc: Codex_Canada
Subject: Inclusion of raw milk in Codex

Dear Mr. McLaren;

In response to your query regarding the inclusion of procedures for raw milk in the Codex Alimentarius, the following outlines the process for the initiation of new work in the Codex Alimentarius Commission.

In order for new work to be approved by the Codex Alimentarius Commission, including revisions to existing Codex Standards, the proposed work must satisfy the Criteria for the Establishment of Work Priorities which are on page 66 of the 16th Edition of the Codex Procedural Manual. In addition, a project document supporting the new work must be prepared by one or more Member Nations and submitted through the relevant Codex subsidiary body to the Commission. The information included in the project document must demonstrate that the proposed work satisfies the Criteria for the Establishment of Work Priorities and must detail the purpose and scope of the work, the main aspects to be covered, relevance to the Codex Strategic Objectives, requirements for expert scientific advice, technical input and a time frame for completion of the work.

In the case of the commodity "raw milk", one of the applicable criteria is the "volume and pattern of trade between countries". Products that have little or no international trade would not normally satisfy the Criteria for the Establishment of Work Priorities. As indicated above, one or more Member Nations would need to develop a project document for the work and promote its advancement through the relevant Committee for approval at the Commission. As Canada does not permit the sale of raw milk, it would not be appropriate for this country to develop and promote this document.

Additional material on the Codex Alimentarius Commission can be found on-line at www.codexalimentarius.net.

I trust that this information is helpful. Regards, Ron Burke

Ron Burke
Codex Contact Point for Canada and
Director, Bureau of Food Regulatory, International
and Interagency Affairs

Food Directorate, Health Canada
Tel.: (613) 957-1748 Fax: (613) 941-3537
E-mail: Ronald_Burke@hc-sc.gc.ca

From: James McLaren
Sent: Wednesday, July 04, 2007 11:31 AM
To: codex_canada@hc-sc.gc.ca
Subject: Inclusion of raw milk in Codex

Hello:

I was given this email contact by Gail Daniels in the CFIA. My interest is in legalizing the sale of raw milk in Ontario and my website is www.naturalmilk.org. Gail said that Codex doesn't have procedures for raw milk and it would help our cause to have them included.

Could you please contact me to discuss this?

Thank you.

James McLaren

From: James McLaren
Sent: Monday, August 14, 2006 6:55 PM
To: Peter Gould [pgould@milk.org]
Subject: AAMMC raw milk production procedures

Hi Peter:

Below is the link to the AAMMC raw milk procedures that we talked about in our telephone conversation as a possible example to Health Canada of procedures that are now in place and are working.

<http://www.magma.ca/~ca/rawmilk/aammc.htm>

When we had our last meeting at your offices on Nov 2, 2001, I recall that Bob Bishop appeared to like the regulations from Massachusetts which are at:

http://www.state.ma.us/dfa/legal/regs/dairy_2700~1_milk_raw_standards.pdf

Or there are links to regs from several other jurisdictions that sell raw milk at:

<http://www.magma.ca/~ca/rawmilk/methods.htm>

Thanks again. James

From: James McLaren
Sent: Monday, August 14, 2006 6:32 PM
To: Peter Gould [pgould@milk.org]
Subject: Health Canada "Novel foods" application requirements for raw milk

Hi Peter:
Below Health Canada outlined the relevant sections for raw milk under a novel foods application.
James

----- Original Message -----

From: "Louise St-James" <Louise_St-James@hc-sc.gc.ca>
To: James McLaren
Sent: Friday, May 13, 2005 7:43 AM
Subject: Mr. James McLaren's E-mail

> Hope this is helpful, Louise
> _____
> Louise St.James
> Executive Assistant
> Food Directorate
> Health Products and Food Branch
> Health Canada
> Tel: (613) 957-1821
> Fax: (613) 957-1784
> ----- Forwarded by Louise St-James/HC-SC/GC/CA on 13/05/2005 08:41AM -----

From: Jeff Farber
To: Louise St-James/HC-SC/GC/CA@HWC
Sent: 12/05/2005 04:03 PM
cc: HeleneCouture@HWC
Subject: Mr. James McLaren's E-mail

>
> Bonjour Louise,
>
> Please note that the version of the Guidelines for the Safety Assessment of
> Novel Foods Derived from Plants and Microorganisms that Mr. McLaren is
> referring to is an older version.
>
> The revised version of the guidelines for the safety assessment of novel
> foods should be used as a guide for the development of a data package for
> Health Canada's assessment of the safety of the introduction of raw milk
> for consumer sale.

> However, not all subsections would apply. In addition, a section on
> microbiological considerations would need to be added.

>

> 4. Information Requirements for Safety Assessment

> 4.1 Novel Foods Derived From Plants

> 4.1.1 Substance with No History of Safe Use

> 4.1.1.1 History of Use

> 4.1.1.2 Dietary Exposure

> 4.1.1.3 Nutritional Considerations

> 4.1.1.4 Toxicology Considerations

> 4.1.1.5 Allergenicity Considerations

> 4.1.1.6 Chemical Considerations

>

> The link to the revised version is as follows:

>

http://www.hc-sc.gc.ca/food-aliment/mh-dm/ofb-bba/nfi-ani/e_consultation_guidelines01.html

>

> Thank you.

>

> Jeff

> --- Forwarded by Louise St-James/HC-SC/GC/CA on 10/05/2005 04:19PM

From: "James McLaren"

To: "Louise St-James" <Louise_St-James@hc-sc.gc.ca>

Sent: 10/05/2005 05:18 PM

Subject: Re: Changes to the Raw milk meeting summary

>

> Hi Louise:

> I was able to find the reference below for Guidelines for the Safety

> Assessment of Novel Foods of Derived from Plants and Microorganisms. It's at

> http://www.hc-sc.gc.ca/food-aliment/mh-dm/ofb-bba/nfi-ani/e_nvvlie.html.

> But in its Safety Assessment section there is a reference to another important

> document called: Risk Management in the Health Protection Branch (Health

> Canada, 1990).

>

> I can't find this latter document. Could you please tell me where it is on

> the internet or how to obtain a copy?

>

> Thank you. James

From: James McLaren
Sent: Monday, August 14, 2006 6:31 PM
To: Peter Gould [pgould@milk.org]
Subject: Summary of Health Canada meeting re raw milk

Hi Peter:

Thank you for the interesting conversation we had last week regarding raw milk. As you requested, I'll send you in a series of emails, the relevant Health Canada information I have. Below is a summary of a meeting I had on Sep 13/05 regarding lab test procedures and requirements.

Thank you. James

I met with Dr. Farber at Health Canada on September 13, 2005 for an hour and in attendance were also Helene Couture and Dr. William Yan. We discussed the format of the lab tests that would be acceptable in our resubmission.

They said they were interested in 3 specific pathogens and our lab tests would have to cover salmonella, listeria monocytogenes and e-coli O-157. They also said that the number of samples per batch would have to conform to current sampling principles which under the circumstances would be 60 per batch and all 60 would have to test positive. They gave me the reference and a photocopy from Micro-Organisms in Foods 2 by A.N. Sharpe.

They would like to see 4 seasons testing because pathogen levels vary by season. And they would prefer Canadian samples to assure the results in a Canadian context. They said they would not rule out US sources but Canadian would be preferred.

We would also have to address in our resubmission how the herd is free of tuberculosis and brucellosis and any other disease. But since these are covered by other existing procedures, we need only make reference to these procedures. The same would be true for anti-biotic residues.

The accepted lab test methodology is on their website and they would forward me the URL.

I mentioned that we initially wanted direct sales only but that I had spoken to the DFO (Dairy Farmers of Ontario) and that they might consider joining in our reapplication. I asked how much more difficult would the lab testing be if we also included retail sales. They said that once the milk was tested safe by a producer they did not think it would add much complexity whether the raw milk was then sold directly to consumers or went through the existing dairy processing and retail distribution system. This was provided that again the safety issues are already known and addressed by the existing retail processing procedures which could be referred to and discussed in our resubmission.

They emphasized that our resubmission has to demonstrate that raw milk is safe and that that is their primary concern. They also said that whatever procedures we put down will have to be followed 100%. If we want to deviate in any way whatsoever, we would have to refile.

They also mentioned some consideration should be given to shelf life both in terms of safety and quality. They said pasteurized milk has a shelf life of six weeks. I said I have kept raw milk for up to three weeks but that shelf life doesn't matter to consumers who want raw milk, even if its only 2 days, like on the carton I brought from England and presented at our last meeting.

I asked if we couldn't simply adopt the English system since they never banned the sale of raw milk. They said the English environment is different and raw milk safety must be evaluated in a Canadian context.

I also mentioned that we eventually would want a small producer exemption. They said that if I included it now, it would likely complicate the filing and take more time to have it approved.

They also mentioned that there is transparency for any filing such as ours and that our resubmission would be reviewed by a number of interested stakeholders who would be free to comment and whose comments would be considered from a standpoint of science and safety.

From: James McLaren
Sent: Friday, August 05, 2005 5:07 PM
To: Sally Fallon
Cc: Marcus Koenig
Subject: Raw milk lab tests and 1945 US data research

Hi Sally:

I met with Paul Mayers to advise him of your initiative to revoke the ban on interstate shipment of raw milk. I told him that you need to conduct lab tests along the same lines as what is needed for Canada. I asked if we could kill two birds with one stone and use your lab tests for Canada.

He basically said yes - data is data. He expects the context of US milk production is similar to Canada and he could accept your US work provided there is consideration given to the "relevance" for Canada. This means that you can go ahead and design your lab tests but before you execute them, we need to pass your plan by Jeff Farber, who was present at our Health Canada meeting. He can then comment on the "relevance" to Canada and make any suggestions he feels are warranted.

I then got into a discussion with Paul about the relative safety of raw milk versus pasteurized. I said raw was safer. He said that if only 1% of the population is drinking raw milk and 99% is drinking pasteurized then you cannot say that raw is safer, no matter what the epidemiological statistics. I said let's go back to the 1940's when raw and pasteurized milk were both being sold in large quantities. The US government issued a statement about the relative rates of infection - raw milk was one infection in 18,000,000 gallons and pasteurized milk was one infection in 12,000,000 gallons - a 50% safety margin for raw milk. He asked if these were anecdotal cases or proven cases. I said I didn't know but the reference was in my study. He said he needs data like this in our re-submission.

SOOOOOOOO, I got this statistic from your website Sally and I need to be able to research into it further. Can you help. It's at www.realmilk.com/prop2.html

What I said in my study was:

The safety of raw milk and the methods necessary to achieve it have been understood for a long time. As an example, we quote statistics and methods published in 1947 in "The Harvest is a Barren One" (www.realmilk.com/prop2.html).

"According to U.S. Department of Agriculture milk statistics for 1945, there were over 27 billion quarts of milk consumed in fluid form, of which approximately 18½ billion quarts were pasteurized and 8½ billion were consumed raw (this includes fluid milk consumed on farms where produced.).

"On the basis of these figures, the relative frequency of milk-borne disease can be easily determined by dividing the number of raw and pasteurized quarts consumed by the number of diseases traced to raw and pasteurized milk respectively. We find that there was one case of disease for every 12,400,000 quarts of pasteurized milk consumed and one case of disease for every 18,900,000 quarts of raw milk consumed."

Thanks, James

From: James McLaren
Sent: Thursday, April 14, 2005 1:09 PM
To: Paul Mayers
Subject: April 4 meeting - Powerpoint presentation

Dear Paul:

As we agreed, attached please find Sally Fallon's PowerPoint presentation from our meeting of April 4.

Thank you again. James

From: James McLaren [mailto:ca@magma.ca]
Sent: Tuesday, April 12, 2005 5:28 PM
To: Paul Mayers
Subject: Amendment to meeting summary

Dear Paul:

Yesterday I emailed you a draft summary of our meeting on April 4. Today I recalled a discussion point that I feel should be included as follows:

"At one point, Ms. Fallon inquired how Health Canada ensured the public safety of raw oysters. Mr. Mayers responded that it was through public education. Mr. McLaren inquired how effective that was and Mr. Mayers said that public education was an effective risk management tool."

Attached please find a revised draft summary updated for this one item.

Thank you. James

From: James McLaren
Sent: Thursday, March 31, 2005 6:52 PM
To: Paul Mayers
Subject: Raw Milk Presentation

Dear Louise and Diane:

Attached is Sally Fallon's PowerPoint presentation for our meeting at 2:30p on Monday April 4. She's bringing her own laptop to make her presentation and also some printed-out copies. Please feel free to forward it to your meeting participants. Also attached is the meeting agenda which was emailed to you earlier.

And could you also please email me the building address for our meeting?

Our list of attendees for the meeting are:

Sally Fallon - President, Weston A. Price Foundation
Marcus Koenig - Dashwood, Ontario Chapter President, Weston A. Price Foundation
John Sorschen - Interested citizen - raw milk for personal pasteurization
Martin Snyder, CA - Assistant to President, Natural Milk Coalition of Canada
James McLaren, CA - President, Natural Milk Coalition of Canada

Thank you. James

-----Original Message-----

From: James McLaren
Sent: Tuesday, March 29, 2005 5:36 PM
To: Paul Mayers
Subject: Agenda for April 4 meeting

Hello Diane and Louise:

Attached please find an agenda which we have prepared for our meeting on April 4. If you have any comments or questions, please feel free to contact me.

I had promised to send you in advance Sally Fallon's PowerPoint presentation but unfortunately she is still fine tuning it and has yet to send it to me. However, once I receive it, I will forward it to you immediately.

Thank you. James

-----Original Message-----

From: James McLaren
Sent: Friday, February 11, 2005 4:52 PM

To: Paul Mayers

Subject: Confirmation of change of meeting date

Dear Diane:

Thank you for changing the date of our meeting from March 2 to April 4 at 2:30p. I look forward to meeting Mr. Mayers and the other Food Directorate officials.

As we discussed, when I receive Sally Fallon's PowerPoint presentation, I will forward it to you and I will also prepare a draft meeting agenda for your review.

Thank you again.

James

-----Original Message-----

From: James McLaren

Sent: Friday, January 14, 2005 6:14 PM

To: Paul Mayers

Subject: Re: Restoring raw drinking milk & consumer preparation of raw milk

Dear Louise:

Please thank Mr. Mayers for giving me this opportunity to meet with him and other Food Directorate officials.

As you requested, my phone number in Ottawa is XXX-XXXX.

The proposed date and time for the meeting is fine.

James McLaren

From: Louise St-James [mailto:Louise_St-James@hc-sc.gc.ca] On Behalf Of Paul Mayers
Sent: Thursday, January 13, 2005 9:45 AM
To: James McLaren
Cc: Jeanne Pedersen
Subject: Re: Restoring raw drinking milk & consumer preparation of raw milk

Mr. McLaren: Mr. Mayers and other Food Directorate officials would be available to meet with you on Wednesday March 2, 1-2:00 at the HPB Building, Tunney's Pasture. Can you please forward me your telephone number so that we can make arrangements to set up the meeting?

Thanks,
Louise 957-1821

-----Original Message-----

From: James McLaren
Sent: Tuesday, December 14, 2004 5:47 PM
To: Paul Mayers
Cc: Brian Klunder
Subject: Restoring raw drinking milk & consumer preparation of raw milk

We would like to thank you and your team for taking the time to study our proposal and to respond to our request. Curiously we received your email when I was in England, where anyone can buy raw drinking milk as a ready-to-eat food. Please see the attached jpeg's.

As you know, we are interested in restoring raw milk as a ready-to-eat food here in Canada and it sounds like it would actually be pretty easy based on the conversation I had with the English goat milk producer. If this option doesn't interest you, then we want the consumer preparation of raw milk restored instead, which does not appear to be discussed in your reply. Just because milk is sold raw doesn't mean it will necessarily be consumed raw any more than raw hamburger will be eaten raw, except by the Lebanese in their kibbeh. Dairy farmers aside, consumers can now prepare any other raw food of animal origin except raw milk. This sort of discrimination is unacceptable to us and you have given us no compelling reasons in your response to think otherwise. All we want is what any dairy farmer and their family has and does - access to their own raw milk and the right to decide how to prepare it, or not, as we can now do with any other raw food of animal origin.

To encourage you to be part of the solution rather than part of the problem, I propose that we conduct a joint field study. Our website refers to a Canadian dairy farmer who annually distributes 70,000 litres of raw dairy products for raw consumption to over 100 customers and their families. To dispel the myths that have been falsely created about the hazards of certified raw milk production and consumption, he has kindly volunteered to have his operations studied. Since 2000 the farmer has done comparative testing through an independent consultant and an

accredited lab. The tests have been randomly conducted with comparative testing of store-bought milk of any make (to study the claims made by health officials) and raw milk.

Another reason to conduct this particular study has to do with the raw milk infections you cite in your response. If someone becomes infected from drinking raw milk then that raw milk by definition needed to be pasteurized for safety. Therefore, all the infections you cite were caused by raw milk that was unsafe to begin with and unless the producers followed superior hygienic production practices designed specifically for raw drinking milk, I would say that your study procedure was unscientific and that your results and conclusions are therefore invalid. By conducting our proposed study, we can establish a level playing field by using raw milk produced specifically for raw drinking, rather than raw milk that was infectious to begin with.

We were also surprised by your comments on nutrition. For one thing, your own test for successful pasteurization, if we understand it correctly, is the complete cessation of enzyme activity as measured by one in particular, alkaline phosphatase. Firstly, a simple Google search shows that this particular enzyme is used in bone calcification, and we consider this a nutritional advantage. Secondly, why would the dairy industry produce a type of milk that is enzyme-enhanced, if enzymes have no nutritional value? I am referring of course to the lactase-enhanced milk for consumers with lactose intolerance. For these reasons alone, and we have many more examples to offer, we cannot accept your conclusion that heat-treated milk is nutritionally equivalent to natural milk. Furthermore, consumers should be the ones to choose which form of milk is best for them, not you.

I would like to arrange a meeting with you to discuss these points and to see if we can reach a mutually agreeable course of action with respect to the above. I will be contacting your office to see if a date and time can be set.

James McLaren, B.Com. C.A.
President, Natural Milk Coalition of Canada

— Original Message —

From: Paul Mayers [mailto:Paul_Mayers@hc-sc.gc.ca]
Sent: Sunday, October 17, 2004 12:32 PM
To: James McLaren
Subject: Raw Milk for Drinking

Dear Mr. McLaren:

Subject: Submission on Raw Milk for Drinking

This is in response to the submission you provided to Health Canada on March 19, 2003 requesting an amendment of the Food and Drug Regulations to allow for the sale of unpasteurized milk to consumers in Canada. The submitted information has been reviewed by a

multi-disciplinary team. The following comments outline the results of this evaluation with specific reference to the two major issues you raised in the submission, i.e., i) safety and ii) nutritional quality of raw milk versus pasteurized milk.

i) Safety

Health Canada's mandate is to help Canadians to maintain and improve their health. Our role in this regard is to develop policies and standards regarding the safety and nutritional quality of food sold in Canada such as milk.

The availability of safe milk is important to maintaining a healthy diet, especially for children. Unfortunately, the practice of drinking raw milk presents risks of acquiring diseases including: campylobacteriosis, salmonellosis, yersiniosis, listeriosis, tuberculosis, etc. At present, the most serious threat may come from *Listeria monocytogenes*. This organism can cause septicemia, meningitis and may even result in death in immunocompromised persons and infants. It can also result in stillbirth, or miscarriage if pregnant women become infected. *Listeria monocytogenes* may contaminate between 1 and 10% of the raw milk supply.

While raw milk is not available on the Canadian market, occasional exposures continue to result in illnesses. In 2000, *Campylobacter* in farm milk caused illness in 5 individuals in Edmonton. In August 2001, *Escherichia coli* O157:H7 in raw goat's milk was implicated in a central Vancouver outbreak. In 2002, 5 members of a family became ill with *Salmonella* from raw goat's milk in Chilliwack. On Central Vancouver Island, 9 out of 13 kindergarten children became ill with *Campylobacter* after drinking raw milk while on a school visit to a local farm. On Vancouver Island, five children from different families were diagnosed with an infection of *E. coli* O157:H7 after drinking raw goat's milk. Two of the children had to be hospitalized. In Vernon, a number of cases of *Campylobacter* were traced to the consumption of raw milk. In the Kootenays, a 35 year old woman needed surgery due to a *Brucella* infection which developed after she drank raw milk. On the Queen Charlotte Islands, two people developed toxoplasmosis after drinking raw goat's milk (2). In Quebec, illnesses linked to raw milk consumption have continued to occur each year since 1998 with *Campylobacter*, *E. coli* O157:H7, *Listeria* and *Salmonella*, all having been involved at various times in the outbreaks.

Prior to 1991, the sale of raw milk in Canada had traditionally been a provincially regulated matter. Health Canada, with the support of the National Federation of Milk Producers (the Dairy Farmers of Canada), recognizing the risks to human health, consulted with the provinces regarding prohibiting the sale of unpasteurized milk for human consumption. After consultation, a regulatory amendment was brought into force in 1991 to Division 8 of the Food and Drug Regulations, to prohibit the sale of raw or unpasteurized milk (cow's, goat's, etc.) to the consumer (B.08.002.2[1]). This regulation provides a regulatory safeguard against milk-borne illness by implementing a uniform control measure across Canada.

The dairy industry is well regulated and the Canadian Food Inspection Agency (CFIA) and the provinces have controls in place to ensure the safe production of pasteurized milk. Documents such as the National Dairy Code, the Dairy Plant Registration & Inspection System (DPRIS) guidelines and the Food Safety Enhancement Program (FSEP), outline the steps taken by these organizations to ensure that industry produces a safe product.

In summary, the microbiological and epidemiological evidence available continue to demonstrate a clear association between raw milk, disease-causing organisms and cases of human illness. The consumption of raw milk is considered to represent an unacceptable risk to human health.

ii) Nutritional quality

High-temperature short-time (HTST) pasteurization has a minimal and dietarily insignificant impact on the nutrient content of milk. Mineral nutrients, carbohydrates and fats are heat stable. While some milk protein is denatured by heat, this does not affect the quality of the protein and in fact makes it more digestible. Vitamins, including the fat soluble vitamins A, D and E, and water soluble vitamins such as riboflavin (Vitamin B2), niacin, pantothenic acid and biotin are relatively heat-stable.

Other water soluble vitamins such as thiamine (vitamin B1), folic acid, vitamin B6, vitamin B12, and vitamin C are less heat-stable but their losses due to HTST are less than 10 %, and would not be considered significant in the context of the Canadian diet.

There may also be effects resulting from handling, types of packaging, length of storage and storage temperatures, but these have not been systematically studied, particularly with modern analytical techniques.

Other effects on the nutritional quality of milk resulting from pasteurization are not supported in your submission. For example, while lipase and lysozyme are enzymes that can remain active at high pH and therefore may be active within the gastrointestinal system, the references to a positive effect of lipase on fat absorption and related health benefits are either very old (dating to 1926 and 1941) or their validity is questionable because they are not in the peer-reviewed, recognized scientific literature. Unfortunately, the reference to Renner is untraceable (German publication), and several other publications are not truly peer reviewed. In addition, your references to refereed journals all point out facts that do not relate back to a health influence.

In summary, from a nutritional point of view, the information provided in the submission and our further review of the literature does not support a conclusion that raw milk is better nutritionally than pasteurized milk.

Having reviewed the information presented in your submission and in further consideration of the scientific literature, Health Canada has concluded that this submission is not supportable. We are therefore not in a position to agree to your request to seek an amendment to the Food and Drug Regulations to permit the sale of unpasteurized milk to consumers in Canada.

Yours truly,

Paul Mayers
A/Director General
Food Directorate

REFERENCES

1. British Columbia Ministry of Health, Health File #03, January 2002.
2. Journal Canadian Medical Association. June, 1989.
3. Renner E., Schaafsma G.,and Scott K.J. (1989). Micronutrients in Milk. In "Micronutrients in Milk and Milk-Based Products" (E. Renner, ed.), pp. 1-70.

From: James McLaren
Sent: Tuesday, March 09, 2004 7:36 PM
To: Leanne Moussa [leanne_moussa@hc-sc.gc.ca]
Subject: Section 4(a) revision request

Hi Leanne:

Thank you for our conversation last Friday. As we discussed, I am seeking a revision to Section 4(a) of the Food and Drugs Act, which defines a "food hazard". There presently exists a material legal exposure for the federal government, which can easily be fixed now or under Legislative Renewal. In addition, my interest stems from a desire to re-legalize, with adequate warning labels and instructions for consumer pasteurization, the direct sale of raw milk (farmer to consumer), since I am a health-conscious vegetarian.

Section 4(a) says, "No person shall sell an article of food that has in or on it any poisonous or harmful substance".

The problem here is with the wording, which is silent concerning the need for proper consumer usage. Therefore, Section 4(a) is ambiguous and could be interpreted to prohibit the sale of harmful foods such as raw meat or alcohol because these items are patently harmful if used incorrectly. Yet these products are being sold.

One might think it is absurd to ban the sale of raw meat and alcohol, but in fact, Health Canada used the narrow meaning of these words, i.e. without acknowledging the need for proper consumer usage, to justify the 1991 federal ban on the sale of raw milk (p.59 of Access Request A-2002-01158/hs). To me, this interpretation sets an explicit precedent that could lead to potential lawsuits against Health Canada, e.g. from the 30,000 Canadians infected each year from raw foods of animal origin (http://www.hc-sc.gc.ca/food-aliment/mh-dm/mhe-dme/rfao-aoca/e_rfao.html) or the 3,000 Canadians that die from alcohol each year (http://www.ccsa.ca/ccendu/pdf/mortality_canada_1999.pdf).

Although the definition of "food hazard" has been used to ban the sale of raw milk, it has not been consistently applied to other foods such as raw meat and alcohol. We therefore seek a clear and concise definition of "food hazard" as well as its consistent application.

This lack of clarity is simple to fix by just adding a few words to Section 4(a) about proper consumer usage. Clarification would lead to a consistent application of the law. In fact, a similar ambiguity for the definition of "food" has already been clarified under Legislative Renewal, so why not for "food hazard"? I have made this proposal to a number of people in the department, but they seem rather attached to the present wording and do not take the threat of a major lawsuit seriously.

If we therefore define "food hazard" to parallel the new definition of "food" (Section B7.2.1, Health Protection Legislative Renewal) and make it the proper inverse thereof, as it should be, then

Section 4(a) would read, "No person shall sell an article of food that has in or on it any poisonous or harmful substance when used according to instructions or except under such conditions as are customary or usual".

From a personal perspective and concerning the re-legalization of the direct sale of raw milk (farmer to consumer), we presented a 42-page submission to Health Canada, which is now under consideration by the department and can be viewed at www.naturalmilk.org. Success with eliminating the definitional ambiguity of "food hazard" will not only help us in this endeavor but also help Health Canada in reducing the risk of lawsuits.

I would like to leave you with an example. H  l  ne Couture of Microbial Hazards recently advised me that the department is developing mandatory labeling instructions for raw hamburger with cooking instructions. Why not the same for the direct sale of raw milk? Why did Health Canada remove raw milk from the hands of consumers who could easily sterilize it and not raw hamburger? Because Section 4(a) is read one way for raw hamburger and another way for raw milk.

Correcting this definitional ambiguity will spare Health Canada from unnecessary lawsuits and also help us in our efforts to have raw milk viewed in the same way as raw meat, as it once was. I want the direct sale of raw milk to be reinstated so that I can know the conditions under which the cow/herd that provides my milk is kept (organic feed, free-range, un-crowded pens, etc.) and also to reduce the consumer risk of exposure to mad cow disease by buying the milk from a single cow/herd, rather than have it pooled with thousands of other cows.

Regards,

James McLaren, B.Com., C.A.

From: James McLaren

Sent: Thursday, February 26, 2004 6:42 PM

To: Ron Burke; Helene Couture

Subject: Access Request supports proposed change to Section 4, Food and Drugs Act

Hi Ron:

I'm still awaiting your response to my proposal to change Section 4 of the Food And Drugs Act. But I thought you might also be interested in some additional material supporting the need for this change on page 59 of Access Request A-2002-01158/hs. Here, Dr. Harwig prepared an updated list of questions and answers regarding raw milk.

Question 11: What regulatory action can be taken against persons selling raw milk in areas where a ban on the direct sale of raw milk to the consumer has been instituted?

Answer 11: These persons can be charged with violation of the specific regulation promulgated under the relevant provincial Public Health Act. In addition, where evidence can be generated linking the presence of a pathogen such as *Listeria monocytogenes* in raw milk and illness developing in a consumer, the seller could be charged with violation of Section 4(a) of the Food and Drugs Act, even if there is no specific ban. Section 4(a) states: "No person shall sell an article of food that has in or upon it any poisonous or harmful substance." *Listeria monocytogenes* or other pathogens would be considered a harmful substance.

But raw pork and liquor are just as hazardous as raw milk when they are sold. Therefore, Dr. Harwig's own words in speaking out against raw milk could be used verbatim in a law suit against Health Canada by anyone who developed an illness or who died from either the pathogens in raw pork or from alcohol poisoning.

The obvious legal defense is that when raw pork and liquor are *used according to instructions or under such conditions as are customary or usual*, then they are safe. But since the law does not say this, the government therefore faces unnecessary legal exposure and possible negative publicity.

So without in any way trying to change the intent of the law, the inclusion of a few phrases to clarify the intent would significantly limit the government's present exposure to huge public liability. Why take a chance?

Thank you. James

----- Original Message -----

From: James McLaren

To: Ron Burke ; Helene Couture

Sent: Tuesday, February 17, 2004 6:17 PM

Subject: Simplification to proposed change to Section 4, Food and Drugs Act

Please note that my proposal for Section 4 of The Food And Drugs Act in my email of Feb 13/04 can be shortened and made easier to read by dropping the "or later used" from it. It would therefore read as:

4. No person shall sell an article of food that

(a) has in or on it any poisonous or harmful substances when used according to instructions or except under such conditions as are customary or usual;

Thank you. James

----- Original Message -----

From: James McLaren

To: Ron Burke

Cc: Helene Couture

Sent: Friday, February 13, 2004 6:02 PM

Subject: Proposed change to Section 4, Food and Drugs Act

Hi Ron:

A while ago I was speaking to Helene Couture about a legal concern I had with the wording of Section 4 of the Food and Drugs Act. She said I should contact you.

Section 4 is written as:

4. No person shall sell an article of food that

(a) has in or on it any poisonous or harmful substance;

I agree with what is trying to be said, but in my opinion the wording is incomplete and unnecessarily exposes the government to law suits. Under the strict wording, it would be illegal to sell raw meat and liquor. In fact, the way Section 4 is worded, the 30,000 people per year who are infected by foodborne illness could file a class action law suit against the government (See http://www.hc-sc.gc.ca/food-aliment/mh-dm/mhe-dme/rfao-aoca/e_rfao.html). My daughter almost died of alcohol poisoning when she first consumed hard liquor, a tumbler full, on an empty stomach. We could sue the government for damages resulting from the allowance for sale of a poisonous substance in contravention of the Act.

Do you see my point?

I made a proposal under Legislative Renewal for correction, making it consistent with the new definition for food, which would read:

4. No person shall sell an article of food that

(a) has in or on it any poisonous or harmful substances when used, or later used according to instructions or except under such conditions as are customary or usual;

In my opinion, the government has a very large legal exposure. I believe the present Act should be changed on a priority basis to protect the government from any law suits based on the inadequate technical wording of the present law.

I would appreciate your comments.

Thank you. James

From: James McLaren
Sent: Tuesday, March 02, 2004 7:09 PM
To: Tom Baker
Cc: Rena Hubers; George MacNaughton
Subject: Re-sending request for clarification - raw milk for animal consumption

Dear Mr. Baker:

Since Rena has not responded, this may be due to the fact that she doesnot have the authority to answer the question which I posed, "Is raw milk sold for animal consumption covered under the Milk Act?"

I am emailing you for two reasons. I assume that at your level, you are in a position to respond, and Rena cc'd you in her email to me of Feb 4/04.

Therefore, could you please answer the above question with a simple "yes" or a simple "no". I would appreciate your response by March 12, 2004.

I would like to reiterate that I am not looking for a change in the application of the Milk Act and its regulation regarding the sale of raw milk in Ontario, only a clarification of the existing law. It is my understanding that there is a difference between the sale of raw milk for human consumption and the sale of raw milk for animal consumption. This difference naturally begs the question whether the sale of raw milk for animal consumption is covered under the Milk Act.

Thank you.

James McLaren, B.Com., C.A.

-----Original Message-----

From: James McLaren
Sent: Friday, February 20, 2004 3:38 PM
To: Rena Hubers
Cc: gmacnaug@milk.org; Tom Baker
Subject: Re: Re-sending request for clarification - raw milk for animalconsumption

Hello Rena:

Thank you for responding and again, I understand and agree with what you say below and in your earlier emails. It is quite clear to me that, "there is no change in the application of the Milk Act and its regulation regarding the sale of raw milk in Ontario." But as we discussed in our telephone conversation, there is a difference between raw milk for human consumption and raw milk for animal consumption. And this difference naturally begs the question whether raw milk for animal consumption is covered under the Milk Act.

So to clarify your statement about the application of the Milk Act in light of our telephone conversation, could you please answer the following question with a simple "yes" or a simple "no".

"Is raw milk sold for animal consumption covered under the Milk Act?"

Thank you. James

-----Original Message-----

From: Rena Hubers [mailto:rena.hubers@omaf.gov.on.ca]

Sent: Thursday, February 19, 2004 5:19 PM

To: James McLaren

Cc: gmacnaug@milk.org; Tom Baker

Subject: Re: Re-sending request for clarification - raw milk for animal consumption

Hello James, thanks for the email and I will take this opportunity to restate the clarification from my earlier email.

" There is no change in the application of the Milk Act and its regulation regarding the sale of raw milk in Ontario. Food Inspection Branch will not be providing the letter you have requested."

Rena

-----Original Message-----

From: James McLaren

Sent: Tuesday, February 17, 2004 6:55 PM

To: Rena Hubers

Cc: George MacNaughton; Tom Baker

Subject: Re-sending request for clarification - raw milk for animal consumption

Hello Rena:

I have not yet received your response to my request for clarification that the sale of raw milk for animal consumption is not covered under the Milk Act. Knowing that you would naturally respond, I assume it got lost in cyberspace. Consequently I am re-sending the email.

I look forward to your reply.

James

-----Original Message-----

From: James McLaren [mailto:ca@magma.ca]

Sent: Friday, February 06, 2004 7:51 PM
To: Rena Hubers
Cc: George MacNaughton; Rena Hubers; Tom Baker
Subject: Re: Raw milk for animal consumption

Hello Rena:

I fully agree with your statement, "There is no change in the application of the Milk Act and its regulation regarding the sale of raw milk in Ontario." However, what I understood from our conversation was that the sale of raw milk which is strictly for animal consumption is not covered under the Milk Act.

Am I wrong on this? Please advise.

Thank you. James

----- Original Message -----

From: Rena Hubers [mailto:rena.hubers@omaf.gov.on.ca]
Sent: Friday, February 06, 2004 10:20 AM
To: James McLaren
Cc: gmacnaug@milk.org; Rena Hubers; Tom Baker
Subject: Re: Raw milk for animal consumption

Hello James, thanks for the email and I will take this opportunity to clarify what appears to be your conclusion from our conversation on February 3, 2004. There is no change in the application of the Milk Act and its regulation regarding the sale of raw milk in Ontario. Food Inspection Branch will not be providing the letter you have requested.

I apologize if our conversation lead you to the conclusion that I was in some way "authorizing" the sale of raw milk in Ontario in any manner. Clearly that was not my intention and I have no authority or ability to effect such a decision.

Rena

-----Original Message-----

From: James McLaren [mailto:ca@magma.ca]
Sent: Thursday, February 05, 2004 11:13 PM
To: Rena Hubers
Subject: Correction to raw milk letter
Importance: High

Hi Rena:

I spoke to George MacNaughton at DFO and we talked about the letter I asked you for. For the DFO to accept the legality of selling raw milk for animal purposes, the DFO's enacting legislation would require a letter from Dr. Tom Baker. Therefore to satisfy both of our requirements, could you please ask Dr. Baker to sign my letter?

I also spoke to Ray Perrot at CFIA regarding the Feed Act. He said that so long as the raw milk is not intended for livestock, then there is no law governing it. He therefore suggested the wording of the label should be, "For Animal, Non-Livestock Use Only, Unpasteurized".

I thank you in advance for your assistance. Could you please advise me when I might receive the letter?

Thank you.

James McLaren

----- Original Message -----

From: James McLaren

Sent: Wednesday, February 04, 2004 3:41 PM

To: Rena Hubers

Subject: Raw milk for animal consumption

Hello Rena:

I would really appreciate a letter from you saying that it is legal in Ontario to sell raw milk for animal consumption, provided it is labeled, "For Animal Consumption Only, Unpasteurized". If you are too busy to send a letter right now, could you please reply by email that this is legal.

Thank you.

James McLaren

From: James McLaren

Sent: Friday, November 07, 2003 7:17 PM

To: Helene Couture

Subject: Support for raw milk

Hi Helene:

As you know, I have a website promoting the legalization of raw milk sales, www.naturalmilk.org. I received an email from a reader who wants me to post a list of government contacts on my website so that readers could voice their support. Would you be the appropriate contact person at the federal level?

James

From: NaturalMilk.org [mailto:info@naturalmilk.org]
Sent: Friday, November 07, 2003 5:16 PM
To: Dr. Chuck Le Ber [chuck.leber@moh.gov.on.ca]
Subject: Raw milk complaints

Hi Chuck:

As you know, I have a website promoting the legalization of raw milk sales, www.naturalmilk.org. I received an email from a reader who wants me to post a list of government contacts on my website so that readers could voice their support. Would you be the appropriate contact person for Ontario?

James

From: NaturalMilk.org [mailto:info@naturalmilk.org]

Sent: Tuesday, September 02, 2003 3:15 PM

To: Gord Coukell; Bob Bishop; Peter Gould; George MacNaughton; Susan Senchyna; Bill Mitchell; Wes Lane; Jeff Farber; William Yan; Helene Couture; Ron Burke; Rena Hubers; Rick Bond; Dr. Chuck Le Ber; Dr. Virginia Salares

Subject: www.raw-milk.com is now www.naturalmilk.org

To better align with our goal of legalizing the sale of raw milk in Ontario, we renamed and reformatted our website www.raw-milk.com to www.naturalmilk.org.

Thank you.

James McLaren, CA
Chairman, Natural Milk Coalition of Canada
www.naturalmilk.org

From: James McLaren [mailto:ca@magma.ca]
Sent: Monday, August 25, 2003 2:53 PM
To: Helene Couture
Cc: William Yan; Jeff Farber
Subject: Inquiry re health warning labels

Hi Helene:

I have another question for you regarding health warning labels. Section 4 says no food shall be sold which is harmful, yet health warning labels do just that, they identify harmful foods. Health warning labels are beginning to appear on consumer products. A friend of mine says he saw them on ground hamburger for sale in Loblaws.

What is Health Canada's position on health warning labels given that any food which bears one directly violates section 4?

Thank you.

James

P.S. I have not yet received a reply to my earlier inquiries about how RFAO's are sold in violation of section 4, who to speak to about how liquor is exempt from section 4, and what is Health Canada's rationale for singling out milk from all other RFAO's by preventing consumers from sterilizing it themselves.

From: James McLaren

Sent: Thursday, August 07, 2003 6:00 PM

To: Helene Couture

Cc: William Yan; Jeff Farber

Subject: Raw milk question

Hi Helene:

I have another question for you. Although I understand the government's rationale for pasteurization, what I don't understand is why consumers are prevented from doing it themselves. I can think of no other food requiring sterilization where consumers are prevented from buying it raw and sterilizing it themselves. Can you please explain the rationale for your policy as to why milk is treated differently in this regard?

By adopting this policy, whatever the rationale, milk became a ready-to-eat food, so it's important to understand why.

Thank you.

James

From: James McLaren [mailto:ca@magma.ca]
Sent: Wednesday, June 25, 2003 4:11 PM
To: Helene Couture
Cc: Jeff Farber; William Yan
Subject: Re: Legality of liquor and raw meat sales

Thank you for your response Helene, and I know from your earlier email it is your understanding that these foods ought to be cooked but I am not looking for your personal understanding in this matter. Now I am looking for the matter as defined by law, because these foods are a public health risk under Section 4, and without a defined exemption for their sale in law, then you have a duty, in law, to halt their sale. So please either tell me where it is permitted in law that these hazardous foods can be sold notwithstanding Section 4, or halt their sale. If this issue is outside the scope of your section, as it appears it might be, and as you have so indicated for liquor, could you please direct me to the appropriate person in Health Canada?

As for your argument it is understood raw meat, fish, poultry and eggs are to be cooked, you could say the same thing for raw milk, as it once was, and let today's consumers decide whether they want a dairy to pasteurize it or do it themselves, as with the irradiation of raw meat.

Thank you.
James

----- Original Message -----

From: Helene Couture [mailto:Helene_Couture@hc-sc.gc.ca]
Sent: Wednesday, June 25, 2003 10:11 AM
To: James McLaren
Cc: Jeff Farber; William Yan
Subject: Re: Legality of liquor and raw meat sales

Being in the Food Directorate, Bureau of Microbial Hazards, I cannot comment on the issue of liquor. Regarding raw meat, fish, poultry and eggs, as I indicated in a previous message, the understanding is that these foods will be cooked before eating in order to make them safe.

-----Original Message-----

From: James McLaren [mailto:ca@magma.ca]
Sent: Tuesday, June 24, 2003 4:11 PM
To: Helene Couture
Subject: Legality of liquor and raw meat sales

Hi Helene:

I hope that you and your colleagues are doing well with our raw milk submission. But there is a related point we wish to pursue.

Section 4 of the Food and Drugs Act prohibits the sale of food that has in or on it any poisonous or harmful substance, or is unfit for human consumption.

Since liquor and raw meat, fish, poultry and eggs all violate these requirements, could you please explain how their sale is permitted under Section 4?

Thank you.
James

From: James McLaren

Sent: Thursday, April 24, 2003 4:57 PM

To: Helene Couture

Cc: Bob Bishop; George MacNaughton; Dr. Jeff Farber; Peter Gould; Rick Bond; Rena Hubers; William Yan

Subject: Addendum to Health Canada raw drinking milk submission

Attached please find a one page addendum to our March 19, 2003 submission for raw drinking milk, about an important consideration we overlooked regarding retail sales of certified raw dairy products.

Thank you.

James McLaren for

The Natural Milk Coalition of Canada

From: James McLaren
Sent: Wednesday, April 09, 2003 12:56 PM
To: Hank Schriel
Subject: Re: Copy of Access request

Thank you for your reply. And could you please advise the payee on the cheque - would it be yourself or the Receiver General?
James

-----Original Message-----

From: Hank Schriel [mailto:Hank_Schriel@hc-sc.gc.ca]
Sent: Wednesday, April 09, 2003 8:44 AM
To: James McLaren
Subject: Re: Copy of Access request

Sure. You can get these records by sending \$13.40 for photocopying to me at:

Access to Information
Health Canada
Address Locator 1912C1
Ottawa, Ontario
K1A 0K9

-----Original Message-----

From: James McLaren
Sent: Tuesday, April 08, 2003 5:15 PM
To: hank_schriel@hc-sc.gc.ca
Subject: Copy of Access request

Hello:

I was given your name by Ann Lang for whom you completed an access to information request A-2002-01158 / hs.

Since I am trying to legalize the sale of raw milk in Canada (see www.raw-milk.com), she advised me I could obtain a copy of what you released to her. Would this be possible?

Thank you. James McLaren

From: Helene Couture [mailto:Helene_Couture@hc-sc.gc.ca]
Sent: Monday, April 07, 2003 2:40 PM
To: James McLaren
Cc: Bob Bishop; George MacNaughton; Dr. Jeff Farber; Peter Gould; Rick Bond; Rena Hubers; William Yan
Subject: Re: One page summary of Health Canada raw drinking milk submission

thank you for the information, I will forward it to the appropriate individuals

-----Original Message-----

From: James McLaren
Sent: Monday, April 07, 2003 3:27 PM
To: Helene Couture
Cc: Bob Bishop; George MacNaughton; Dr. Jeff Farber; Peter Gould; Rick Bond; Rena Hubers; William Yan
Subject: One page summary of Health Canada raw drinking milk submission

Further to our raw drinking milk submission of March 19, we thought you might need a one page summary, for briefing others on the issues. Please see the attached, which you are free to modify to suit your own purposes.

Thank you. James

From: Helene Couture [mailto:Helene_Couture@hc-sc.gc.ca]
Sent: Thursday, March 20, 2003 1:21 PM
To: James McLaren
Cc: Bob Bishop; George MacNaughton; Dr. Jeff Farber; Peter Gould; Rick Bond; Rena Hubers; William Yan
Subject: Re: Health Canada raw drinking milk submission

We acknowledge reception of your submission. It will be submitted to the appropriate groups of the Food Directorate for evaluation.

Hélène Couture

-----Original Message-----

From: James McLaren
Sent: Wednesday, March 19, 2003 5:30 PM
To: Helene Couture
Cc: Dr. Jeff Farber; Bob Bishop; Peter Gould; George MacNaughton; Rena Hubers; Rick Bond
Subject: Health Canada raw drinking milk submission

As you requested, attached please find our submission to Health Canada requesting the sale of raw drinking milk.

To protect uneducated raw milk consumers, we request a certified system for raw drinking milk. And to respect the rights of educated raw milk consumers, we request a legislative exemption to permit direct purchases of raw milk by individual consumers from a producer.

Should you have any comments or questions, please feel free to contact me.

James McLaren for
The Natural Milk Coalition of Canada

From: James McLaren
Sent: Wednesday, February 19, 2003 10:56 AM
To: Helene Couture
Subject: Re: Food irradiation

Thank you Helene. I was not aware of those consultation processes taking place, which is good.
James

----- Original Message -----

From: "Helene Couture" <Helene_Couture@hc-sc.gc.ca>
To: "James McLaren" >
Sent: Tuesday, February 18, 2003 12:18 PM
Subject: Re: Food irradiation

> There has been consultation across Canada on the issue of irradiation
> the last one being held at the university of Ottawa on Friday January
> 24 and the invitation to all interested parties was published in the
> Ottawa Citizen. There was consultation on the mandatory pasteurization of milk as
> part of publication in part I of the Canada Gazette. Comments were
> evaluated and taken into consideration before finalizing the regulation and
> its publication in part II of the Canada Gazette.

-----Original Message-----

From: James McLaren [mailto:james@grvc.com]
Sent: Tuesday, February 18, 2003 11:27 AM
To: Helene Couture
Subject: Food irradiation

Hi Helene:

The other day when I pointed out that the sale of raw meat violates the Food And Drugs Act because raw meat is hazardous in its state of sale, you mentioned irradiation as a possible solution. Below are the counter-arguments to irradiation, which you might want to prepare yourself for if you try to force irradiation on the citizenry like pasteurization. Before mandatory irradiation is legislated, I hope there would be a public consultation process, as there should have been before mandatory pasteurization was implemented.

We sent out our completed raw milk submission to some other people for their comments prior to submitting it to you, which should be in a couple of days.

Thanks. James

> > *****

> > from: HSIResearch@agora-inc.com

> >

> > Tuesday, February 4, 2003

> > DON'T BEAM ME UP

> > Irradiation is a process that uses gamma rays or electrons to kill
> > bacteria in meat. This process does not make the meat radioactive,
> > but it does kill salmonella and the type of bacteria that cause food
> > poisoning. So are there any drawbacks? Absolutely - more than enough
> > to create serious concerns, primarily from studies that show how
> > irradiation may form cancer-causing agents in meat fat. And when you
> > hear what irradiation also does to nutritional values, you'll wonder
> > what Congress was thinking when it passed a law that may put
> > irradiated beef on the daily lunch menus of as many as 27 million
> > school children throughout the U.S.

> > http://www.hsibaltimore.com/ea2003/ea_030204.shtml

> >

> > *****

> > RADIATION NATION

> > Health Sciences Institute e-Alert

> > February 10, 2003

> >

> > Dear Reader,

> >

> > After sending you the e-Alert last week about irradiated beef
> > ("Don't Beam Me Up" 2/4/03), I came across a news item announcing
> > that a popular supermarket chain began selling irradiated ground
> > beef on February 2nd in six mid-Atlantic states, including Maryland,
> > where I live. These stores are among some 4,000 nationwide that
> > currently sell irradiated beef.

> >

> > This alone would be unsettling enough. But in response to that
> > e-Alert, I received a reply from HSI Panelist Jon Barron with
> > additional information about the irradiation process that I
> > guarantee will make you think twice the next time you stop off at
> > your grocery to buy meat products.

> >

> > _____

> > Who let the nutrients out?

> > _____

> >

> > To briefly recap: Irradiation is a process by which a food product
> > is exposed to extremely high doses of radiation to kill bacteria,
> > parasites and funguses that may cause spoilage or disease. And if
> > that were all irradiation did, that would be fine. But as we'll see,

> > there's much more to it than that.

> >

> > Jon begins by describing the process in more detail: "Food is exposed to 'hard' irradiation, usually gamma rays from a source like cobalt-80, in doses of 100,000 to 3,000,000 rads.

> > To give you a sense of how high a dose this is, understand that a dose of just 10,000 rads will totally destroy any living tissue."

> >

> > As HSI Panelist Allan Spreen, M.D., made clear last week, an abundance of nutrients are also eliminated by this process. Jon agrees, and says, "as much as 70% of the Vitamin A, B1 and B2 in irradiated milk is destroyed, and about 30% of Vitamin C." Unfortunately, irradiation also accelerates the growth of aspergillus mold, "which produces the most potent natural carcinogens known to man, called aflatoxins."

> >

> > I wish I could say that's the worst of it - but we're just getting started.

> >

> > _____

> > A radiotoxin by any other name...

> > _____

> >

> > Processing food with the extremely high levels of gamma rays described above results in the creation of some very dangerous molecules, about which Jon gives this interesting but frightening background: "They were originally called 'radiotoxins' by Russian researchers. Since that word would be frightening to American consumers, the FDA came up with a couple of 'softer' terms. They call them 'known radiolytic products' to describe the molecules that are created such as formaldehyde and benzene (known carcinogens), and as for those chemical molecules created by irradiation and that have never before been seen by man, the FDA came up with the equally soft 'unique radiolytic products.'"

> >

> > Long before the FDA started assigning more palatable terms for these very unappetizing results, it had already reviewed more than 400 studies about the irradiation process. But Jon tells us where that review process fell woefully short: "They accepted 226 studies for further review. They then narrowed their criteria and selected only 69 for in-depth review. Of these, the FDA itself reported that 32 of the 69 showed adverse effects, and 37 showed safety problems. Then without explanation, they eliminated all but 5 of the 69 (including every negative study) and said they would base their decision on

> > those 5 alone.

> >

> > "In the FDA's final report approving food radiation, they wrote that
> > when up to 35% of the lab-animal diet was radiated, feeding studies
> > had to be terminated because of premature mortality or morbidity."

> > And in one test at the Medical College of Virginia, rats fed
> > irradiated beef "died of hemorrhagic syndrome in 34 days."

> >

> > -----

> > Running from the radura

> > -----

> >

> > According to Jon, "Foods already approved for irradiation
> > include: fruits, vegetables, wheat, flour, herbs, spices, nuts,
> > seeds, peas, pork, and chicken." And to that we can add ground beef
> > - now in a supermarket in my neighborhood, and very likely in yours
> > as well.

> >

> > If you don't like the idea of irradiated food (and at this point I
> > can't imagine how anyone possibly could), you can look for a symbol
> > called the "radura" which is required on the packaging of irradiated
> > foods. The radura is a green circle (broken into four segments at
> > the top of the circle), enclosing a flower image represented by a
> > large green dot with two petals below the dot.

> >

> > But even if you avoid products marked with the radura, you're still
> > not in the clear. As Jon explains, "The FDA requires a label stating
> > a food has been radiated if, and only if, it was radiated as a
> > 'whole food' and then is sold unchanged.

> > But, if you process it in any way, if you add any other ingredients
> > to it, it no longer requires a label stating that it (or any of its
> > ingredients) were irradiated. To put it simply, an irradiated orange
> > would require a label; irradiated orange juice would not."

> >

> > -----

> > An uncomfortable level of comfort

> > -----

> >

> > But even if people see the radura on a package of ground beef, a bag
> > of Brazil nuts, or a sticker on an apple - do they know what its
> > significance is? And worse, do they have any idea of the risks? By
> > and large, my guess is "no." In a report from Reuters last December,
> > a survey conducted by the National Cattlemen's Beef Association
> > found that almost half of Americans say they would feel comfortable

> > purchasing irradiated meat. This response was 10 percent higher than
> > it had been to the same question on a similar nationwide survey
> > earlier in the year.

> >

> > In other words, people are apparently becoming comfortable with the
> > idea of irradiated food. And it seems they'll have ample opportunity
> > to buy it. SureBeam Corporation (the largest provider of irradiation
> > technology in the U.S.) plans to process more than 300 million
> > pounds of beef this year.

> > Last year they processed only 15 million pounds.

> >

> > Feel free to forward this e-Alert to friends and relatives.
> > Help us spread the word that this idea, whose time has apparently
> > come, is not a good idea, although it looks like it's probably here
> > to stay. So it may be the best that we can do to avoid irradiated
> > foods by looking for the odd green flower.

> >

> > My thanks to Jon Barron for his exhaustive profile of this subject.
> > Jon has researched and written extensively about alternative
> > medicine, nutrition, and herbal remedies for almost thirty years.
> > For more information about Jon and his work, visit his web site at
> > jonbarron.com.

> > *****

From: James McLaren

Sent: Thursday, February 06, 2003 12:33 PM

To: Jim Muir

Subject: Enforcement action re illegal sale of raw meat and liquor

Hello James:

I appeared with you on the CTV news story about raw milk a couple of months ago - I am the raw milk supporter. You stated that "We would never turn a blind eye to anything that would be against an act or a regulation." Well, I've got a big enforcement action for you.

The wording of the Food and Drugs Act makes the sale of all raw meat, fish, poultry, eggs and liquor illegal:

No person shall sell an article of food that:

- (a) has in or on it any poisonous or harmful substance;
- (b) is unfit for human consumption;

There is no exemptions stated in the act or the regulations for said items, so until there is, I am lodging a complaint and expect that you will take the appropriate enforcement action. My daughter almost died of alcohol poisoning at 15 years of age when she first consumed hard liquor being unaware of the hazards of a full glass on an empty stomach. And I know a man who is dieing of writers syndrome from having consumed tainted hamburger.

Thank you. James McLaren

Hi Helene:

Thank you for your reply, but the law clearly says it is illegal to sell a hazardous food item. Therefore, the sale of raw meat is technically illegal, is it not?

James

----- Original Message -----

From: "Helene Couture" <Helene_Couture@hc-sc.gc.ca>

To: "James McLaren"

Sent: Wednesday, February 05, 2003 12:59 PM

Subject: Re: Sale of raw meat illegal?

> It is generally understood that raw meat is not a ready-to-eat food
> and is cooked before consumption. The cooking process will destroy
> foodborne pathogens

----- Original Message -----

From: James McLaren

Sent: Wednesday, February 05, 2003 2:31 PM

To: Helene Couture

Subject: Sale of raw meat illegal?

Hi Helene:

We were doing a final review of our now completed raw milk submission to Health Canada and an interesting observation emerged. Since raw meat contains harmful pathogens and is unfit for raw human consumption, could you please advise where in the Food and Drugs Act the sale of raw meat is exempted from sections 4(a) and 4(b), which state:

No person shall sell an article of food that:

- (a) has in or on it any poisonous or harmful substance;
- (b) is unfit for human consumption;

Does this mean the sale of raw meat, fish, poultry and eggs is illegal in Canada, just the same as raw milk?

Division 14 of the regulations, "Meat, Its Preparations And Products", prohibits the sale of many types of meat. But it does not provide any exemption for the actual sale of raw meat, which is a hazardous food product.

Thank you. James

From: James McLaren

Sent: Wednesday, December 18, 2002 3:12 PM

To: Helene Couture; Dr. Jeff Farber; Tom Henter; Bob Bishop; Peter Gould; George MacNaughton; Rick Bond; Ron Burke; Merv Reynolds; Rena Hubers; Rena Hubers

Subject: CTV newscast - Raw Drinking Milk

Importance: High

I was just advised that CTV national news will be broadcasting a 2 minute story on raw drinking milk this evening. It will be aired at 11:00p on CTV and at 10:00p on CTV NewsNet. CTV affiliates will also have the option of airing it on the 6:00p news. I was told It can also be viewed *tomorrow* on www.ctv.ca - click the "News" tab at the top, then scroll down the left hand side and click on "CTV News with Lloyd Robertson", then click on the news story and/or the video.

I was interviewed for the story last week and was told that Canada AM also wants to interview me.

Our submission to Health Canada to formally request a change in the law to permit the sale of raw drinking milk be made by the end of January and will be published on our website www.raw-milk.com.

Thank you.

James McLaren

From: Helene Couture [mailto:Helene_Couture@hc-sc.gc.ca]
Sent: Tuesday, November 19, 2002 4:02 PM
To: James McLaren
Subject: Re: Having difficulty locating your reference

the site to get access to regulations is the following

<http://laws.justice.gc.ca./en/>

The definition of sale is under the Food and Drugs Act, Section 2 of the Act, under interpretation

-----Original Message-----

From: James McLaren
Sent: Friday, November 15, 2002 5:55 PM
To: Helene Couture
Subject: Having difficulty locating your reference

Hello Helene:

During our last phone conversation we spoke about the federal definition of "sales" as it pertains to the prohibition on the sale of raw milk. You mentioned the definition was in division 8 of the dairy regulations and the admin part in Section 1. I am very sorry, but I am unable to find either of these references on the internet. Would you be so kind as to send me the URL where I could find them?

I also mentioned that the Standing Senate Committee on Agriculture and Forestry received evidence on June 6, 1996 that "...even though raw milk consumption is very low in Canada. It constitutes about 1 per cent of all fluid milk consumed." You were interested in knowing the source of this evidence. It was Dr. Joost Harwig, Director, Bureau of Microbial Hazards.

The government's concern was that pathogens from raw milk would transfer into raw cheese. But this evidence suggests the government tacitly condones a 1% consumption rate for raw milk, and since no one objected, Section 14 of the Charter says everyone should therefore be permitted to consume raw milk. This will be very important evidence should we have to go to court.

I thank you again in advance for the URL's above which we need.

James

From: James McLaren
Sent: Monday, September 23, 2002 9:07 PM
To: Helene Couture
Cc: Dr. Jeff Farber
Subject: Inquiries for raw drinking milk

Hi Helene:

From my website and about once a month, I receive raw milk inquiries. The one below is typical. I was wondering if you, or perhaps Dr. Farber might like copies of them?

Also, I've finished my section of our Health Canada submission and my co-author should soon finish hers. Based on our research, it appears the prohibition on the consumer sale of raw milk violates the Charter. So you might start thinking about a regulated system for raw milk, to offer those who'll drink raw milk an alternative that's been tested and inspected.

Thank you. James

----- Original Message -----

From: "James McLaren" <info@raw-milk.com>
To: <said_rouhani@hotmail.com>
Sent: Monday, September 23, 2002 8:04 PM
Subject: Re: Raw milk in Toronto

> Hi Said:

> I'm sorry but I know of no sources of raw milk in Toronto. The present
> law requires that all milk sold or distributed in Ontario be pasteurized.
> The only legal way to obtain raw milk is to own your own cow, or own part of
> one, and go pick it up yourself. The possession and ownership of raw milk is
> perfectly legal, but its sale is prohibited.
> I am working to change the law as explained on my website. Until then,
> unless you hear of a dairy farmer who might sell it to you, you'll have to
> wait till the law gets changed.
> James

> > ----- Original Message -----

> > From: "Said Rouhani" <said_rouhani@hotmail.com>
> > To: <info@raw-milk.com>
> > Sent: Monday, September 23, 2002 5:31 PM
> > Subject: Raw milk in Toronto
> >
> > Hello,

> > >

> > > Do you know of any available sources of raw milk / raw milk products in
> > > Toronto? I want to taste some raw, pure, organic, unmessed milk :-)

> > >

> > > Sincerely,

> > >

> > > Said Rouhani

> > >

> > >

From: Helene Couture [Helene_Couture@hc-sc.gc.ca]
Sent: Wednesday, June 25, 2003 10:11 AM
To: James McLaren
Cc: Jeff Farber; William Yan
Subject: Re: Legality of liquor and raw meat sales

Being in the Food Directorate, Bureau of Microbial Hazards, I cannot comment on the issue of liquor. Regarding raw meat, fish, poultry and eggs, as I indicated in a previous message, the understanding is that these foods will be cooked before eating in order to make them safe.

----- Original Message -----

From: James McLaren
Sent: 06/24/2003 04:11
To: Helene Couture
Cc: Jeff Farber; William Yan
Subject: Legality of liquor and raw meat sales

Hi Helene:

I hope that you and your colleagues are doing well with our raw milk submission. But there is a related point we wish to pursue.

Section 4 of the Food and Drugs Act prohibits the sale of food that has in or on it any poisonous or harmful substance, or is unfit for human consumption.

Since liquor and raw meat, fish, poultry and eggs all violate these requirements, could you please explain how their sale is permitted under Section 4?

Thank you.
James

From: James McLaren

Sent: Monday, May 06, 2002 4:54 PM

To: Rena Hubers

Cc: Dr. Jeff Farber; Ron Burke; Helene Couture; Bob Bishop; Peter Gould; George MacNaughton; Rick Bond; Dr. Virginia Salares

Subject: Raw Milk Queries

To: Rena Hubers <rhubers@omafra.gov.on.ca>

Dear Rena:

When we spoke last spring, I mentioned that individuals can legally consume all the raw milk they want, provided it is from their own cows. As I recall, you agreed with me. You also said the Ontario government discourages this and recommends sterilization prior to consumption. I would like you to respond to the following 3 questions:

- 1) What is the precise wording of this recommendation;
- 2) Under what act or regulation does it fall; and
- 3) How do you notify prospective or current raw milk consumers of the recommendation?

Whereas the law permits individuals to produce and consume raw milk from cows under sole ownership, it is my understanding in speaking with the DFO that Ontario actively prosecutes individuals who produce and consume raw milk from cows under shared ownership. Could you please confirm this is the case, and if so, what federal and/or provincial laws are violated (including specific section references).

Thank you.

James McLaren

From: Helene_Couture@hc-sc.gc.ca
To: James McLaren
Cc: Jeff_Farber@hc-sc.gc.ca ; Ronald_Burke@hc-sc.gc.ca ; Bob Bishop ; Peter Gould ; George MacNaughton ; Rena Hubers ; Rick Bond ; Dr. Virginia Salares ; William_Yan@hc-sc.gc.ca
Sent: Monday, April 08, 2002 10:32 AM
Subject: Re: Query re Retail Sale of Raw Milk Submission

As I indicated a food is considered safe if it meets Section 4 and 7 of the Food and Drugs Act. A food cannot contain a contaminant, biological or chemical, foreign matter, or other substances not intentionally added to food which may compromise safety or suitability (Codex Alimentarius - General Principles of Food Hygiene). Food safety is the assurance that a food will not cause harm to the consumer. The food should also be suitable meaning that the food is acceptable for human consumption. For microbiological concerns, sampling plan used will have to demonstrate from a statistical point of view that the number of sample units analysed will be sufficient to demonstrate that any foodborne pathogens is absent from the food. I cannot be more specific than since you have to demonstrate to us that steps that could be taken will prove the safety of the food at all time.

When we receive your submission we will be looking for those specifics that will demonstrate that at all time each batch of milk would be tested in such a way to demonstrate its safety. I would suggest to you look for information from the Codex Alimentarius since many of those documents will outline the outcome expected. It is then up to you to demonstrate how those outcomes can be met.

Hélène Couture

----- Original Message -----

From: James McLaren
To: Helene_Couture@hc-sc.gc.ca
Cc: Jeff_Farber@hc-sc.gc.ca ; Ronald_Burke@hc-sc.gc.ca ; Bob Bishop ; Peter Gould ; George MacNaughton ; Rena Hubers ; Rick Bond ; Dr. Virginia Salares ; William_Yan@hc-sc.gc.ca
Sent: Sunday, April 07, 2002 9:11 PM
Subject: Re: Query re Retail Sale of Raw Milk Submission

Thank you for your response.

On the question of vitamin augmentation, you must understand that the whole reason behind our submission is to enable consumers to have an "all-natural" dairy product, i.e. what would be legally available to anyone who owns their own cow. This means no pasteurization, no homogenization, no filtration and no additives of any kind. We believe that these manufacturing processes alter the product and diminish its nutritional value. Our submission will elaborate on heat-induced changes in milk. Vitamins A and D are only two of several vitamins whose levels are reduced by pasteurization. Unpasteurized milk, however, retains its original

content not only of vitamins A and D, but also of other vitamins, enzymes and nutritional factors, and therefore, it requires no further augmentation.

In your response, however, you did not address what constitutes a safe product, specifically what are the criteria that would establish the safety of milk, raw or otherwise, for human consumption. The answer I am expecting is not pasteurization, but rather objective measures on which our submission would be based.

Your reference to pathogenic organisms in raw milk and the target audience deserve a lengthy response. For now, I would like to comment on the article you attached referring to raw milk outbreaks. For your information the largest number of deaths resulting from a single outbreak, was caused by pasteurized cheese. See www.cdc.gov/mmwr/preview/mmwrhtml/00000562.htm. Yet pasteurized cheese is still on the market. The outbreak was attributed to a breakdown in the manufacturing procedures. The same could hold true for raw milk. There are specific hygienic manufacturing processes already established and well-tested which can produce raw milk that can be safely consumed. The procedures of the American Association of Medical Milk Commissions have been followed by several dairies selling raw drinking milk without infection for decades. The Ontario raw milk outbreak cited in the article by Thomas and Powell was obviously from raw milk intended for pasteurization. Consumers who drink such milk are definitely at risk. For any outbreak involving raw milk, the conditions under which the raw milk was produced should be examined, just as you would for an outbreak involving pasteurized milk.

I look forward to your response as to what constitutes "safe". Thank you.

James McLaren

----- Original Message -----

From: Helene_Couture@hc-sc.gc.ca

To: James McLaren

Cc: Jeff_Farber@hc-sc.gc.ca ; Ronald_Burke@hc-sc.gc.ca ; Bob Bishop ; Peter Gould ; George MacNaughton ; Rena Hubers ; Rick Bond ; Dr. Virginia Salares ; William_Yan@hc-sc.gc.ca

Sent: Monday, March 25, 2002 4:38 PM

Subject: Re: Query re Retail Sale of Raw Milk Submission

Sorry for the delay in answering your request.

As per Section 4 of the Food and Drugs Act, all foods offered for sale must be safe. In addition to meet the Act specific regulations also apply as in the case of dairy products where specific requirements are listed under Division 8. As I indicated to you in our telephone conversation of February 2, requirements for vitamin addition, for example, also have to be met. Therefore, to answer

the question as to what Health Canada, as well as provincial authorities, are asking in the case of raw milk is that "raw milk must be safe for human consumption if it were to be offered for sale at the retail level". Fluid milk and milk products are considered ready-to-eat foods. That means that there is no further heat treatment expected by the consumers as could be the case for ground beef, for example. A lot of evidence has been provided by public health professionals that raw milk can harbour pathogenic (disease-causing) microorganisms. In addition, milk is largely consumed by a young population that may be more susceptible to bacterial infections.

I am taking the liberty to include a recent article published on this issue that reviews recent outbreaks implicating raw milk. I hope this answers your question.

Hélène Couture

RISKS OF RAW MILK

March 3, 2002

Commentary from the Food Safety Network

Krista Thomas and Douglas Powell

Summary of raw milk outbreaks at

<http://www.foodsafetynetwork.ca/food/rawmilk.htm>

Earlier this year in Nova Scotia, Canada, letters were exchanged between critics and proponents of unpasteurized milk, many recycling arguments as old as the history of pasteurization itself.

So perhaps a reminder.

According to data from the U.S. Centre for Disease Control (CDC), 1,733 Americans got sick between 1973 and 1992 from drinking raw milk. However the number of illnesses that went unreported, perhaps chocked up to 'stomach flu' was likely many times higher. Raw (unpasteurized) milk can harbor a variety of dangerous microorganisms including Campylobacter, Salmonella, Staphylococci, E. coli O157:H7, and even rabies. Symptoms of the illnesses caused by these bugs can range anywhere from stomach cramps to coma and death.

Raw milk drinkers often tout such benefits as better nutrition or better taste, but there is no scientific evidence to support these ideas. There is much evidence, however, of the risks of serious infection. These risks are often pooh-poohed by farmers who sell raw milk, who have been heard to state, "I've been drinking raw milk my whole life." In fact, when an outbreak is traced back to an individual farm, it is often found that the farm family has been drinking the unpasteurized milk without developing symptoms. This is because repeated exposure to microorganisms can lead to a level of immunity, generally following several, potentially life-threatening bouts of illness. But this farm-family immunity can be misleading. While it

may provide a level of protection, no one's immune system can protect against all microorganisms that could be found in raw milk. And people with weak immune systems such as children or the elderly, are particularly at risk.

Many of the outbreaks that have occurred over the last two decades have involved school children on field trips to visit a farm. A Kindergarten class trip to a typical Ontario farm illustrates this only too well. In April, 1986, 67 children and 12 adults visited the farm and were given unpasteurized milk, straight from the farmer's tank. Over the next two weeks, 42 children and four adults became sick with cramps and diarrhea. Three children ended up in the hospital with hemolytic uremic syndrome, and one fell into a coma. All eventually recovered. The public health investigators concluded verotoxin-producing *E. coli* in the unpasteurized milk caused the illnesses the guests had drunk. The farm family, who drank this milk every day, did not show any symptoms, and had no idea their milk would cause harm to their guests.

This example echoes other incidents in the United States. In May 1983, two groups of Pennsylvania schoolchildren and teachers visited dairy farms and contracted *Campylobacter jejuni*. Over 50 people became ill, and one child was hospitalized. In May 1984, 28 kindergarten children and seven adults visited a California certified raw milk bottling plant where they sampled the product. Nine children and three adults became ill. In Vancouver, in June 1984, 9 kindergarten children became sick with *Campylobacter jejuni* after visiting a raw milk dairy.

As early as 1982 there were warnings from the scientific community following several outbreaks of campylobacteriosis due to consumption of raw milk on school-sponsored trips, but problems did not stop in the 1980s. Fifty people became sick after eating raw milk at a church picnic in Minnesota in 1992, and thirteen students at a Washington school became sick in 1990 after sampling raw milk.

In August 2001 five children became ill, and two were hospitalized with hemolytic-uremic syndrome, caused by *E. coli* O157:H7 in raw goats milk obtained from a BC farm. Three months earlier the parents of two of the children had joined the co-operative farm located south of Nanaimo, on Vancouver Island.

There are several harmful microorganisms found in raw milk that are the usual culprits in an outbreak, however there is always a risk that new threats could arise. Even farm-family immunity will not protect against exposure to a new microorganism. In Massachusetts in 1996 and 1998 there were two reported incidents of mass public exposure to rabies. On these occasions the Massachusetts Department of Public Health found the disease in dairy cows located on farms that supply unpasteurized milk. Seventy people who had consumed raw milk from these dairies were found and treated with rabies postexposure prophylaxis (PEP).

Given the huge number of servings of milk consumer each day in North America, the risk may be low; but that risk is easily preventable and pasteurization is preferable.

Krista Thomas is a research assistant and Douglas Powell scientific director with the Food Safety network at the University of Guelph.

----- Original Message -----

From: James McLaren

Sent: Tuesday, February 19, 2002 12:53 AM

To: Helene Couture

Cc: Dr. Jeff Farber; Ron Burke; Bob Bishop; Peter Gould; George MacNaughton; Rena Hubers; Rick Bond; Dr. Virginia Salares

Subject: Query re Retail Sale of Raw Milk Submission

Dear Helene:

Last November 13 we spoke about preparing a submission to Health Canada to legalize the retail sale of raw milk, and you advised we should indicate why we feel raw milk is healthier than pasteurized milk and how can raw milk be made safe for retail sale. The first item is going well, but we have run into a conceptual problem with the second one.

The problem is whether you are asking us how to make raw milk safe for retail sale, or are you asking us how to make raw milk as safe *as possible* for retail sale. There is an important difference between the two because it is easy to advise how to make raw milk as safe as possible for retail sale. There are already many fine examples of regulations from other jurisdictions doing just this.

However, if you are asking us how to make raw milk safe for retail sale and not just as safe as possible, we would need from you what the government's own standards are for determining product safety, because we are not aware of said standards. Should they exist, we would be interested in relating them to other raw foods of animal origin (meat, poultry, fish and eggs), to alcohol, tobacco, firearms, pesticides and of course to pasteurized milk.

I thank you in advance for your kind attention to our inquiry.

James McLaren

From: James McLaren

Sent: Thursday, December 20, 2001 3:40 AM

To: Peter Gould

Subject: Our phone discussion

Hi Peter:

I'd like to thank you for the time you took the other day to point me in the right direction for quota regulations regarding a small producer exemption as part of our initiative to legalize raw milk for retail. Based on our discussion I decided to change what I am asking for and call it a family cow exemption. Anyone with only one or two lactating cows is definitely not in business and I would hope they could be granted a quota exemption. But your point about seeking a Health Canada exemption first is well noted and I will seek that out first.

Thanks again and all the best to you for the holiday season.

James McLaren.

From: James McLaren

Sent: Thursday, December 20, 2001 3:08 AM

To: Rena Hubers

Subject: Re: as fyi....there isn't a week go by that I don't get at least one of these! Decided to send along be

Hi Rena:

Thank you for your message. However, the problem with this report and the others you get every week is that no one seems to realize that you need to establish not one but two classes of raw milk - raw milk for retail and raw milk for pasteurization. Raw milk for retail can be made potable if you use superior production standards, whereas raw milk for pasteurization should be considered a hazardous product and should not be consumed raw.

The US state in your report is Wisconsin which permits "incidental sales of milk directly to consumers at the dairy farm where the milk is produced" - per Wisconsin statute S97.24(2)(d)2 at http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=89749&infobase=stats.nfo&j1=97.24&jump=97.24&softpage=Browse_Frame_Pg As far as I can see, they have no special guidelines to distinguish the production of raw milk for retail from raw milk for pasteurization, as does say the state of Massachusetts or Britain. If people consume raw milk for pasteurization, they are asking for nothing but trouble. I would hope that you would recognize this crucial difference and work with us to establish separate production guidelines for retail raw milk, which will serve to minimize the health risks.

I use the word minimize in the last sentence because there are risks with the delivery system for any food product, particularly milk. To take another US example, the FDA has an interesting report on their website at <http://vm.cfsan.fda.gov/~mow/salice.html> where they point out that, "Previous investigations have established the potential for large-scale outbreaks of foodborne salmonellosis; for example, in 1985, pasteurized milk produced at one dairy plant caused up to 197,000 Salmonella infections."

This sort of dwarfs the 50 cases pointed out below, which at the rate of one such report a week would take 75 years to equal the infections caused by the one 1985 pasteurized milk outbreak, or until the year 2060.

Sorry to have to take a shot back at you, but there is a larger picture we need to arrive at in order to make this work as safely as possible for everyone.

Thanks and all the best to you for the holiday season.

James

— Original Message —

From: "Rena Hubers" <rena.hubers@omafra.gov.on.ca>

To: James McLaren

Sent: Wednesday, December 19, 2001 11:00 AM

Subject: as fyi....there isn't a week go by that I don't get at least one of these! Decided to send along be

> as fyi....there isn't a week go by that I don't get at least one of these!

Decided to send along because this is a fairly large outbreak involving 50 or so people.

>

> Rena

>

>

> HEALTH ALERT UPDATE FOR NORTHWESTERN WISCONSIN Dec. 18/01 Division of

> Public Health Division of Food Safety MADISON - Sawyer County and

> state public health officials continue to investigate an outbreak of

> diarrheal illness caused by the bacteria *Campylobacter jejuni*. The

> investigators have linked the illness to the consumption of

> unpasteurized or "raw" milk and are warning area residents not to

> consume the product.

> Currently, 19 people have *Campylobacter* infections that were

> confirmed by laboratory tests. Seventeen of these people have

> indicated that they recently consumed unpasteurized milk. Laboratory

> tests are pending from eight people. Thirty-one other people who

> consumed unpasteurized milk in the Sawyer County area have symptoms

> consistent with the infection but were not tested for the bacteria.

> *Campylobacter jejuni* was detected by the Department of Agriculture

> Laboratory in unpasteurized milk samples obtained from a Sawyer County farm.

> Testing to compare bacteria found in the milk to bacteria isolated

> from infected people is underway at the Wisconsin State Laboratory of Hygiene.

> *Campylobacter jejuni* infections are frequently associated with the

> consumption of raw or undercooked poultry, exposure to farm animals,

> puppies or kittens with diarrheal illness, in addition to the

> consumption of unpasteurized milk or dairy products. The infection

> is characterized by nausea, diarrhea, abdominal cramping, fever, and

> occasionally vomiting. On

> rare occasions, the illness has more severe complications such as temporary

> arthritis or paralysis, generally after the initial symptoms have resolved.

> Consumption of unpasteurized milk is discouraged because of the health risk

> associated with it. People who have recently consumed unpasteurized

> milk and have symptoms of this illness should contact their healthcare provider

> for evaluation for this and other illnesses. People with additional

> questions are encouraged to contact their local health department.

> The Sawyer County Health Department, the Wisconsin Department of Health and

> Family Services and the Wisconsin Department of Agriculture, Trade and Consumer Protection

> are collaborating in this investigation.

From: James McLaren

Sent: Tuesday, November 27, 2001 9:44 PM

To: Helene Couture

Cc: Dr. Jeff Farber; Ron Burke; Bob Bishop; Peter Gould; George MacNaughton; Rena Hubers; Rick Bond; Dr. Virginia Salares

Subject: Submission - Unpasteurized Milk for Drinking

Dear Ms. Couture:

I would like to thank you for our conversation on November 13, where you explained Health Canada's requirements for considering our request to legalize the sale of unpasteurized milk for drinking. As I understood, we need to prepare a submission explaining how unpasteurized milk can be made potable, and why potable unpasteurized milk is healthier than pasteurized milk.

Subsequently, I spoke to Dr. Virginia Salares about your requirements and she is confident they can be scientifically established. She will prepare the submission and expects to complete it by the Spring of 2002, whereupon we will forward it to you.

I thank you again for your consideration of our request and I remain

Yours very truly,

James McLaren

From: James McLaren

Sent: Tuesday, November 13, 2001 11:48 PM

To: Helene Couture

Subject: Email that was sent

Dear Helene:

Thank you for asking about the email I forwarded to Dr. Farber, and I have forwarded it to you below. It is a different one than the one you sent me in your email.

In the future, I will most certainly include you in any distributions to government bodies regarding our raw milk initiative.

Thank you again.

James McLaren

From: James McLaren

Sent: Monday, November 12, 2001 9:42 PM

To: Bob Bishop; Peter Gould

Cc: George MacNaughton; Ron Burke; Dr. Jeff Farber; Rena Hubers; Rick Bond; Virginia Salares

Subject: Market size for retail sale of unpasteurized dairy

Dear Bob and Peter:

Further to our discussions at the offices of the DFO concerning the legalization of retail sales of unpasteurized dairy products, Peter raised the question of the size of the consumer demand. This is an important consideration for the DFO since it is primarily a marketing body. In response, I mentioned that I knew of one Ontario farm already selling 70,000 litres per year as one indication of the pent-up demand. However, I would also like to draw to your attention a more direct measure of the market size I was just made aware of.

There is study on the CDC (Center for Disease Control) website reproduced below which sampled 7,493 adults at random. It found that 1.5% consumed unpasteurized milk, which is approximately 112 people.

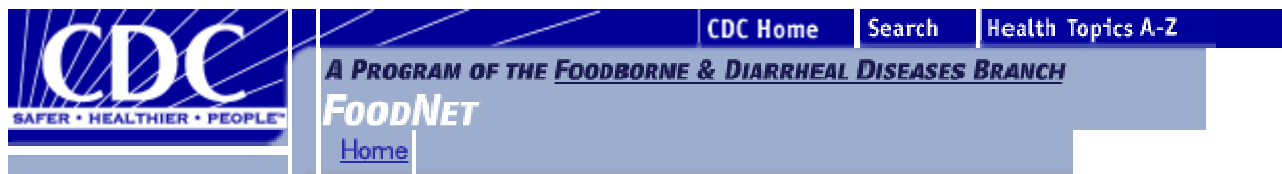
I apologize for not being aware of this statistic prior to our meeting. But it does provide some objective measure of the demand. I might comment though that the 1.5% is likely a low indicator of the true demand for two reasons. Firstly, it is likely that not all the adults in the study drink milk. If only half of them did, then the market share would actually be 3.0%. Secondly, if you look at the states where the study was conducted, only one of them allows the retail sale of unpasteurized milk, three allow farm gate sales, and one allows it to be sold only as animal feed. There is no telling how high the number might be if unpasteurized dairy were readily available on store shelves, and if it were also promoted as intensively as pasteurized dairy products now are.

The address for this study is:

http://www.cdc.gov/foodnet/pub/iceid/1998/ladd_wilson_s.htm

I thank you again for your consideration of this important issue.

James McLaren



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FoodNet Presentations

High-Risk Food Consumption, handling, and Preparation Practices of Adults in the FoodNet Sites, 1996-1997

Ladd-Wilson S, Yang S, Deneen V, Koehler J, Marcus R, Vugia D, Voetsch D, Angulo F, FoodNet

Various food consumption, handling and preparation practices have been linked with foodborne diseases. To determine the prevalence of these risk factors among adults, we conducted telephone interviews of persons in the FoodNet catchment area (CA, CT, GA, MN, and OR) between July 1996 and June 1997 using a random digit-dialing sampling method. Interviewees were asked about their consumption of certain foods in the five days before the interview, as well as their general knowledge, attitudes, and practices relative to food safety. Risk factors were analyzed by age group, education level, income level, race/ethnicity, and sex; significant differences were defined as <0.01 . Of the 7493 adults interviewed, 34% preferred pink hamburgers; 18% ate runny eggs, 2% ate raw shellfish, and **1.5% drank unpasteurized milk**. Almost always washing hands after handling raw ground beef, and raw chicken was affirmed by 89% and 92%, respectively, and 93% of the respondents claimed they washed their cutting board after cutting raw chicken on it; 51% read safe-handling labels on packages of raw ground beef. Men were more likely than women to prefer pink hamburgers (39% v 29%), and less likely to wash their hands after handling raw ground beef (83% v 94%). Adults 18-25 years old were less likely than older persons to read labels on packages of raw ground beef (40% v 53%). Blacks were less likely than others to prefer pink hamburgers (12% v 36%). Hispanics were more likely than others to have eaten raw shellfish (7.9% v 1.8%) and to have consumed raw milk (4.9% v 1.4%). Persons with annual household incomes \geq \$60,000 were more likely than those with lower incomes $<$ \$60,000) to prefer pink hamburgers (45% v 30%); those with at least some college education also preferred pink hamburgers more often than those with no college education (38% v 25%). Persons from California and Connecticut were more likely to have preferred pink hamburgers than those from other states (43% v 27%), and persons from Connecticut were more likely than others to have eaten raw shellfish (3.1% v 1.7%). Oregonians were more likely than others to have eaten eggs with runny yolks (23% v 16%). Although risky practices were apparent in all groups, in general, public health officials may consider focusing their food-safety educational campaigns on 18 to 25-yr-olds, men, Hispanics, and those from higher socioeconomic groups. Moreover, state-specific

differences in food preferences warrant home-grown messages.

Suggested citation:

Ladd-Wilson S, Yang S, Deneen V, Koehler J, Marcus R, Vugia D, Voetsch D, Angulo F, FoodNet. High-Risk Food Consumption, handling, and Preparation Practices of Adults in the FoodNet Sites, 1996-1997. 1st International Conference on Emerging Infectious Diseases. Atlanta, GA, March 1998.

From: James McLaren
Sent: Monday, November 12, 2001 1:13 AM
To: Bob Bishop; Peter Gould
Cc: Dr. Jeff Farber; Ron Burke; Rena Hubers; Rick Bond; George MacNaughton; Virginia Salares
Subject: URL's for jurisdictions permitting raw milk sales

Dear Bob and Peter:

Further to our meeting on November 2, I said I would send you the URL's of the jurisdictions where I was able to find their regulations on-line. Some US states permit the sale of unpasteurized milk by way of a simple exemption for consumer sales direct from the farm, while others have a complete set of state regulations for retail sales on store shelves, Massachusetts being one. I've also included the British regs.

Thank you again, and I hope the following will be useful in your examination of retail sales of unpasteurized dairy products.

James McLaren

Below are the Massachusetts regs which permit the retail sale of unpasteurized milk on store shelves. When you click on the link, you must first select 330 CMR 27.00, then see sections 27.06 and 27.08:

<http://www.massdfa.org/legal.htm>

Below are the Missouri regs, which provides a one sentence exemption: "An individual may purchase and have delivered to him for his own use raw milk or cream from a farm."

<http://www.moga.state.mo.us/statutes/c100-199/1960935.htm>

Below are the Wisconsin regs, which provides an exemption for on-farm retail sales. See 97.24(2)(d)2 which states: "This section does not prohibit incidental sales of milk directly to consumers at the dairy farm where the milk is produced."

http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=93795&hitsperheading=on&infobase=stats.nfo&record={10F09}&softpage=Document

Below are the Oregon regs, which permit the sale of unpasteurized milk if a farmer has no more than 3 cows or 9 goats. See section 621.012:

<http://www.leg.state.or.us/ors/621.html>

Below are the Kansas regs, which allow "on-farm retail sales of milk or milk products" in statutes no. 65-737(g) and 65-737a(a):

<http://www.accesskansas.org/legislative/statutes/index.cgi/65-737.html>
<http://www.accesskansas.org/legislative/statutes/index.cgi/65-737a.html>

Below are the Minnesota regs, which allow gate sales of unpasteurized milk:

<http://www.revisor.leg.state.mn.us/stats/32/393.html>

Below are the Nebraska regs, and then click on 2-3903, which states: "Milk and milk products produced by farmers exclusively for sale at the farm directly to customers for consumption and not for resale shall be exempt from the Nebraska Pasteurized Milk Law."

<http://www.agr.state.ne.us/regulate/daf/pastlaw.htm#3903>

Below are the British regs permitting the sale of unpasteurized dairy. See sections 9(2)(a) and 12 in the first URL. The second URL distinguishes between "Raw Milk For Drinking" and "Raw Milk For Heat Treatment" and provides bacteria counts for each.

http://www.hmso.gov.uk/si/si1995/Uksi_19951086_en_6.htm

http://www.hmso.gov.uk/si/si1995/Uksi_19951086_en_14.htm#sdiv4

From: James McLaren
Sent: Tuesday, November 06, 2001 12:09 AM
To: Bob Bishop; Peter Gould
Cc: Rena Hubers; Rick Bond; Ron Burke; Dr. Jeff Farber; George MacNaughton; Virginia Salares
Subject: Retail Sale of Unpasteurized Dairy

Dear Bob and Peter:

I would like to thank you again for meeting with me last Friday to discuss the legalization of unpasteurized dairy products for consumers. I thoroughly enjoyed our meeting and I hope I convinced you that sufficient consumer demand exists and that there are alternative methods to ensure unpasteurized dairy products are microbially safe.

As a follow up to our meeting, you requested contact information for some of the people I spoke to. They are as follows:

- 1) For the Massachusetts regulations providing complete state regulation of retail sales, call John Nunes at 617.626.1813.
- 2) For the AAMMC (American Association of Medical Milk Commissions), an independent certification body for retail sales predominantly in California, call Dr. Paul Fleiss at 323.664.1977.
- 3) For Stueve's Natural, a large California Dairy selling retail since 1945, call Boyd Clarke, president, at 909.399.3560.
- 4) At Health Canada, I spoke to Ron Burke at 613.957.1748 and Dr. Jeff Farber at 613.957.0881.
- 5) At OMAFRA, I spoke to Rena Hubers at 519.826.4378 and Rick Bond 519.826.4089.

I will send you another email listing the URL's of the regulations for various jurisdictions I found which permit the sale of unpasteurized dairy.

Thank you again, and I look forward to discussing the results of your research in this matter. If there is any way that I can be of further assistance to you, please do not hesitate to contact me.

James McLaren