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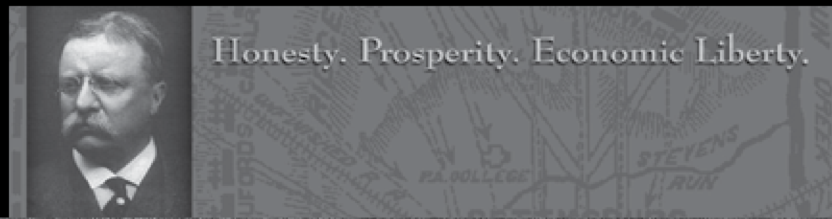

OCM NEWS | FEBRUARY 2012

ANOTHER MARKET REFORMER QUITS

THOMAS F. "FRED" STOKES
PRESIDENT

On January 26th, J. Dudley Butler resigned his position as the livestock industry's top cop. It was a sad day for independent livestock producers and poultry growers.

There was lots of excitement and enthusiasm as the Obama Administration's Department of Agriculture (USDA) and Department of Justice (DOJ) forged an historic joint effort to deal with the long-neglected concentration and market power abuse in agriculture. But after some three years and five workshops which hyped the unprecedented reform initiative, very little has happened. Butler's departure follows that of other key would-be market reformers; DOJ Antitrust Chief Christine Varney and her deputy Phil Weiser.

Dudley Butler was the first administrator of USDA's Grain Inspection and Packers and Stockyards Administration (GIPSA) in memory that actually made a serious effort to enforce the Packers and Stockyards Act of 1921 (PSA). GIPSA had a sorry record. The agency had been found deficient in performance by both the USDA Inspector General and the General Accountability Office. In 2006 there was a major scandal when Acting Administrator Jo Ann Waterfield was discovered to be actively blocking enforcement of PSA. Some fifty enforcement actions were found squirreled away in her desk, even as she instructed her subordinates to report any correspondence concerning enforcement as a separate enforcement action. The obvious intent was to avoid actual enforcement while creating an impression of vigorous enforcement activity.

It was against this backdrop that Butler assumed his duties and set about to restore performance and integrity to an agency of critical importance to livestock producers. He set about reinvigorating PSA, often called the producer protection act, by initiating a rulemaking. A proposed GIPSA Rule was published on the National Register in June of 2010. A veritable firestorm ensued!

Immediately after the proposed rule was published, he and others in USDA were hauled before a hearing of the House Agriculture Subcommittee on Livestock, Dairy and Poultry. Butler was subjected to a demeaning and bipartisan pummeling by congressmen who were mostly recipients of generous campaign contributions from big agribusiness interests who were opposed to the Rule.

Butler was painted as a not-too-successful former trial lawyer who had a habit of suing poultry integrators and was now intent on making it easier to bring suit under PSA. At the OCM Convention in St. Louis in August of 2009, Butler stated that PSA currently

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What's
INSIDE...

Farm Bill 2012: El Dorado in Recession?

ANITA ENDSLEY
EXECUTIVE DIRECTOR

In centuries past, Spanish Conquistadors searched for the famed city of El Dorado. El Dorado was rumored to be made of gold where riches abounded. El Dorado was never found, and may have never existed except in the minds of those hoping to satisfy their urges for financial security. Such is the quest for a farm bill in 2012. Agricultural producers are searching for an answer to secure their financial status through policy and government support – but they may not find – at least not this year.

Rumblings from political insiders in Washington suggest that passing a farm bill in 2012 amid the climate of partisanship will most likely not occur. However, negotiations for writing a farm bill are on-going. Senator Debbie Stabenow, the Senate Agricultural Committee Chair, is holding four hearings over the next couple of months. The hearings are as follows:

- February 15, 2012 – Energy and Economic Growth for Rural America
- February 28, 2012 – Strengthening Conservation through the 2012 Farm Bill
- March 14, 2012 – Healthy Food Initiatives, Local Production and Nutrition
- March 21, 2012 – Risk Management and Commodities in the 2012 Farm Bill

Witnesses, times and other specific hearing details will be announced, according to Chairwoman Stabenow's release. Senate Agriculture Committee hearings are available for viewing on the Committee website at http://ag.senate.gov.

It is disappointing that none of the hearings specifically address competition issues in the livestock industry. To ensure fair, open and competitive prices in the agricultural market place, Congress must address market manipulation, packer ownership and captive supply through policy that is created for the people and not for corporate financial interests!

OCM worked hard along with other groups to address market inequalities in the 2008 farm bill and made great strides only to see much of the advances paired back in the rule making process. The political machinations used undermine the process were ugly, subversive and the new "business as usual" in Washington. It is that same new "business as usual" that may prevent the passage of a farm bill in 2012. But, we can't let the past, nor the future political climate, temper our advocacy efforts to re-create truly competitive markets and a better future for agricultural producers.

Moving forward, we are still working with a coalition of organizations working on behalf of individual producers to advocate for fair farm policies.

We are resolved to work to restore competition to livestock markets by pushing for a packer ban on ownership of cattle more than two weeks before slaughter. We are asking for reforms on captive supply to require packers to buy in an open public manner. To ensure fairness in contracting, we are pushing for a requirement that all contracts have a firm base price rather than some sort of "system" by which corporations can decide later based on loose criteria what they will pay producers. Additionally, we will continue to ask the USDA to define unfair terms and undue

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MF Global Scandal Could Hasten Vertical Integration in Agriculture

By Eric Nelson

For grain and livestock producers without some kind of marketing agreement with a packer or end user,
the CME Group in Chicago offers alternatives for producers to hedge their production, without signing marketing agreements that give the power of supply control to the packer or end user. These agreements work as a relief valve in times of market supply shortages and allow end users to call in "contract commodities", versus having to bid in the open market for supply to fill their daily needs. These captive supplies, if pooled in large enough numbers, can allow processors to stay out of cash markets for several weeks in a row, causing sizeable breaks in underlying cash prices. Some producers are willing to enter into such agreements in return for price risk control which helps protect their bottom lines, without having to use futures and options markets directly. Futures and options are often seen by producers (and their bankers) as risky endeavors, with clearing firms sometimes managed by folks of less than sparkling character (as was seen with MF Global). Swashbuckling speculators have given bad names to these markets by their reckless use of them inattempts to make large sums of money quickly.

In practice, futures and options are a very effective means of protecting a producer from price risk, without giving up control of inventory and the negative price affects of captive supply. I (along with many other independent producers) use futures and options markets to protect prices or the cattle I raise and feed and until last fall MF Global was the clearing firm I used. Through acquisitions over the years, MF Global acquired many independent Midwestern livestock and grain producers and farmers as clients, and I was one of them. I was fortunate to have had only few hundred dollars in my account that was at risk, as I know others that had tens and hundreds thousands of dollars in harm's way. I couldn't believe the CFTC's initial response to the MF Global crisis, with them basically saying "they have nothing to do with such matters!" Furthermore, I couldn't believe the slow response time from our elected representatives to this whole situation, particularly with the negative impact on so many, especially many Midwestern farmers and livestock producers.

Commodity trading firms must be adequately regulated so that unsuspecting producers are protected from criminal acts by those running the trading firms.

After the financial meltdown in 2008, many of those affected were bailed out and the response was immediate. Contrast that with the MF Global melt down, where the response from government has been slow and muted, bordering on nonexistent. To many watching this whole MF Global situation, it might appear that the whole commodity futures industry is unregulated. That appearance has likely caused numerous producers (and their bankers), hurt by MF Global, to not only quit trading futures and options, but has also made them more likely to enter into price damaging marketing agreements. Although I don't believe the MF Global situation was hastened by any entity with its eyes on increasing its control over the markets for raw materials, I do believe the whole situation involving MF Global has likely driven more independent producers of agricultural products into the waiting arms of the integration minded end user (and their marketing agreements), at the expense of those independent producers remaining.

Commodity trading firms must be adequately regulated so that unsuspecting producers are protected from criminal acts by those running the trading firms. Penalties should be stiff and justice must be swift with regard to the MF Global case (and in the future)so that the commodities futures trading industry is not further marginalized and increasingly distrusted by those who depend on it most, independent producers.EN

OCCUPY LANGDON;
We Are Less Than One Percent

By Richard Oswald

The Occupy Wall Street Movement has been called "a potent political and cultural conversation". On the other hand Occupy movements in cities like Washington DC have been called over reported and under attended. That is definitely not the case here because Occupy Langdon has been completely off the radar screen, totally undiscussed, and one hundred percent unreported. Until now.

I'm breaking this thing wide open.

Here around Langdon and all across the USA, less than one percent (actually its 00.7333) of the entire US population are classified as actively engaged in farming. That makes us even fewer than the wealthiest 1% in America.

We're a very exclusive bunch.

Farmers can be rich or poor, but few real farmers ever come close to being considered part of the 1%. Just the same, farms are sometimes identified along with wealthy corporate "persons" as defined by the US Supreme Court.

Big corporations and their wealthy CEOs are economic gate keepers of access to markets, seeds, and fertilizer. They are expanding control of genetics in plants and animals, and even the land itself. While our government still sponsors public research on plants and animals used for food, corporations are taking profits from patents, copyrights, and knowledge built in part from open public work.

Just because you can steal a widows and orphans pension fund, market access, or plain old DNA doesn't mean you should unless carefully crafted statues say so.

Jail time is the one thing Corporate America doesn't want.

Clearly, in America, the secret to success lies with passage of the right laws. It's that way for agriculture too, as companies seek new ways to control expense and protect profits through legislation, rule-making, and lax enforcement.

In America we call that effective representation.

It must be heaven because when big bankers "accidentally lost" gazillions subsequently replaced by tax dollars, no one went to prison and corporate "persons" paid out billions in attaboy employee bonuses.

BUT-

When the police cleared Occupy Washington from McPherson Square, a public park just a few blocks from the White House, everyone lost their meager worldly possessions and 8 people were jailed.

Too bad for them.

That's the nice thing about being a rural protester rather than an urban one. Around here, disenfranchised down and outers can protest to their hearts content and no one cares.

Most of the time they won't even steal your tent.

Following a lengthy tweet to which no one responded, I occupied Langdon on Saturday. The only company I had was one Burlington Northern Santa Fe coal train with a three man crew and an unsuccessful flock of snow geese looking for food on the flood plain.

The geese agreed with me that the Missouri River dams are for flood control and greedy corporations are bad. The coal train didn't stop.

If we have learned nothing else, at least now we know that to be successful it is important to A) think big when planning floods or bank heists B) have friends in high places, and C) never camp on public land in the middle of cities where people will notice.

For family farm rights, laws are even more important. Land prices have risen dramatically along with the prices of things we grow. Farms are profitable again. Some rural bankers are complaining that farmers are paying off loans ahead of time while other farmers are buying and borrowing even more. Farm implements are selling like hotcakes, new pickup trucks are jumping off the shelves, and farmers who held onto their renewable energy investments through the market collapse a couple of years ago are collecting dividends again. Strange as it seems that's not always what big business in America likes to see. They want the big breakup, the cave-in, the chance to harvest assets below cost for the ultimate rebound. Thats the way they profited from buying out bankrupt farmer owned renewable fuel refineries.

When financially secure America seems trapped in an up cycle it becomes someones job to bring it down again. That's how fortunes are made, by buying weak companies, hyping, reselling, and waiting for the crash.

1% "Persons" get richer while the other 99 try to hold their own.

For farmers to do really well prices of what we sell go up faster than costs, or else the government must replace gazillions in profit losses with subsidies. The reason its that way is not because farmers are wimps but because

We're a very exclusive bunch.

100% of the world has to eat. If America gets hungry, parts of the world starve because corporations will take food from those hungry mouths to sell here.

That's the way it's been for decades until lately when demand for corn, soybeans, wheat, rice and cotton finally caught up with supplies.

The big exception is dairies where "persons" have been building corporate cluster dairies, overproducing, and knocking down milk prices. Its the boom and bust corporate model that robs from the poor while building market share for the rich. So far dairy subsidies haven't kept up with losses. For family farms including dairies, the best approach is limiting the amount of subsidies people or "persons" can collect and maintaining reasonable production while creating employment and investment through stable and profitable family farms.

If big corporate milk controls the whole system they can also control the price they charge while lobbying for the subsidy they want and gaining control of the market from udder to cash register. Then family farms will never be able to return. It's about being able to manipulate the system for profit because corporations don't care who or where strong-arm profits come from.

When family farmers or Mother Nature don't create over production someone is always happy to help. In Missouri "persons" are willing to spend big in order to gain a little legislative support. Big pig, big chicken, big turkey, big milk, big markets, it's all about big. But with little farms doing well these days big business needs to shake things up. They like the boom and bust that dislodges even more small producers from the land. Sometimes that means they lobby and make political contributions against grain producers to gain lower feed costs, sometimes it means they lobby against law enforcement or the environment to cut a few corners, and sometimes it means they lobby against fairness in order to change rules in their favor.

The same businesses that used to be seen as monopolies are now viewed as what it takes to keep America competitive. According to this new doctrine, agricultural industry must be exempt from liability, have access to cheap immigrant labor, low feed prices, captive markets, and non negotiable contract production.

And sometimes they need to access cheaper supplies of food from foreign countries to sell to unwary Americans. That's why big "persons" don't like country of origin labeling, because labeling gives consumers information they may not like and the opportunity to choose.

Big Food always wants their livestock and their consumers in close confinement, and ignorant.

Being big is no secret to success if you're not rich. Family farmers look a little bigger simply by occupying Rural America with a not-so-whopping 21% of the total population (3). But when we're combined with our neighbors, farmers also look a lot poorer, as median rural incomes are lower overall. According to the US Census of 2010, some of us live in towns with populations of 2500 or less, but most rural people (farmers) are classified as not in a place at all. In other words, the legal equivalent of nowhere.

That's just the way corporate America wants it to be.

According to Stephen Bloom, a transplanted Iowa professor writing for The Atlantic, rural America mostly just hunts and fishes in between looking for jobs we can't find; jobs that really don't exist. That's not exactly true, because unemployment in Iowa is actually far less than than the national average.

Professor Bloom said too, that the Iowa Caucuses are meaningless in picking a presidential candidate but don't hurt the winners chances of being elected. That's because either way, the nominee named in Iowa has a fifty-fifty chance of being elected. But is that still true when the winner isn't really the winner? Romney beat Santorum, but only because rural votes weren't counted and Romney was declared winner too soon.

Do rural Iowa votes count at all? Maybe only if someone remembers to count them.

Besides politics, hunting, and fishing, Professor Bloom mentions the epidemic of rural meth-heads. But unlike crime riddled cities where hitchhiking is suicidal, out here most of the time even the druggies are civil. Stated as a positive that probably sounds really bad, but we have to grab for wins wherever we can.

Here's something that sounds better. Farming's not so bad these days. Less than 1% doing the work of food production is a big change from when I was born and farmers were over 12% of the work force. But farm closure and consolidation has stabilized. Still, even with profits up and numbers down the smallest farmers survive only because of off farm jobs.

But they're still here.

One of our greatest national treasures are farm kids who grow up, get a job, and stay in rural America to raise a few calves and some kids. They symbolize retained knowledge of food production, something we really need as corporate America tries to consume the US food industry--one bite at a time.

Nationally though, young and beginning farmers who are mostly part time producers represent no more than a meager one tenth of all US farms.

The way I see it, they are one tenth of the one percent worth keeping.RO

For meat industry, anti-trust efforts in corporate control collapse

By David Andrews

In 2008 the Federal Farm Bill instructed the Department of Agriculture to write rules for competition in the meat industry. This directive was to complete the details lacking in the 80-plus-year-old legislation on competition in the meat industry from the Theodore Roosevelt era. That legislation was to be enhanced with detailed directions on contracts, anti-trust policies and mandates requiring greater justice in meat production, processing and distribution.

The rules were to be developed by a small administrative unit of the United States Department of Agriculture: The Grain Inspection Packers and Stockyard Administration. J. Dudley Butler, who had a career as a plaintiff's attorney challenging poultry companies' control of the poultry industry, was brought in to direct the effort. This was a conscious effort by the Obama administration to tame the meat industry and challenge its control by a few corporations.

The effort involved an historic collaboration between the Department of Justice and the Department of Agriculture on anti-trust issues in the meat industry. Department of Agriculture secretary Thomas Vilsack and Department of Justice director Eric Holder presided at every workshop - in Iowa, Wisconsin, Alabama, Colorado and the District of Columbia. New anti-trust staffing was brought in, as well: Christine Varney and Philip Weiser at the Justice Department, and John Ferrell and Butler at the Department of Agriculture.

A series of national and regional workshops on the theme of anti-trust in the meat industry was held across the country, with over 60,000 comments submitted by the public. I attended four out of five such meetings. He was a founding member of OCM and announced the program of the USDA at one of OCM's annual meetings in August of 2009 in Saint Louis, Mo., with Justice Department and USDA staff in attendance.

After an onslaught of attacks on the rules by corporate agribusiness, the rules announced by the USDA and supported by thousands of farmers and ranchers, the Administrations' leaders in the anti-trust effort gradually left the administration: Farrell, Varney, Weiser and now the director of the office Butler. There was weak pushback from the administration. It did not stand its ground and did not support the follow-through required in what it started.

The Obama administration lifted up hopes and dashed them to the dustbin of history, unlikely to be re-energized again, a terrible defeat at the hands of the corporate meat industry. Those of us seeking a just food system will have to work harder now that this effort to occupy the food system has collapsed.[DA]

STOKES (continued from page 1)

contained terms that were broad and subject to jury interpretation. He stated this situation to be a trial lawyer's dream. He explained that the proposed GIPSA Rule would clarify these terms, implying that such would lessen the probability of litigation. This statement was twisted and widely misquoted by packer-friendly publications and beholden-politicians to say the ***GIPSA Rule*** would be a trial lawyers dream. Even after this phony allegation was debunked by wide dissemination of a YouTube video clip of Butler's actual talk in St. Louis, the lies continued.

There were flimsy and biased studies by American Meat Institute and others which made claims that ridiculous harm and costs would result from the Rule. False claims against the proposed GIPSA Rule were rampant and ubiquitous.

During President Obama's bus trip through Iowa last fall, local newspaper advertisements were run depicting the Rule as a bane to the beef industry and being widely opposed by livestock producers. The President's campaign folks apparently came to believe the proposed Rule was a political liability and administration support soon evaporated.

I'm sure the bitterest pill for Butler was the malicious lies and personal attacks. They not only came from meat packer and their minions but from folks such as former U. S. Representative Bob Barr and Senator Pat Roberts. Barr had represented a client who had run afoul of GIPSA and Senator Roberts is well known to have strong ties to the Kansas Livestock Association and NCBA, both fervently opposed to the Rule.

The key livestock provisions of the GIPSA Rule were ultimately killed through a rider in an appropriations bill which precluded funding for specific provisions within the rule. This was a shocking and unprecedented tactic.

Dudley Butler has now returned to Mississippi. He says that he left GIPSA due to personal considerations. However, he is actively involved with reform minded groups who continue the effort to preserve the last vestiges of independent family agriculture by restoring competition and fairness to the marketplace.

Mr. Butler, we in OCM and our friends in other organizations offer our sincere thanks for your valiant efforts and welcome you as a part of our continuing fight.[FS]

ENDSLEY (continued from page 2)

preferences which is an unfulfilled directive from Congress to the Agency first in the 1921 Packers and Stockyards Act and then again in the 2008 farm bill.

OCM is working along with others to ensure fairness in contracting in all sectors of agriculture to prevent farmers from being forced to subject to unfair or abusive contract terms in order to secure a market for their crops or livestock. Those types of contracts are unconscionable but due to market concentration and dominance, entering into adhesion contracts is often the only avenue open to producers to continue farming. Requiring protections standards in contracts is an important tool to protect all producers at all levels of education and sophistication. Some of those standards include: requiring plain language contracts and disclosure of risks; the right to promptly review and withdraw from a contract; prohibition of confidentiality clauses, fair procedures for inspecting fields and farm products, a ban on binding mandatory arbitration clauses, and maintaining individuals' rights to trial by jury. Yes, my friends. Some corporate contracts also want to take away your Constitutional right to a trial by jury. Ensuring contract fairness includes protecting this and all of your constitutional rights.

OCM wants farmers to have access to a diversity of affordable seed options by increasing competition and closing loopholes in current antitrust and patent laws. Congress must address competition reducing practices by taking action on restrictive utility patents, cross-licensing agreements, limited access to public cultivars, and patenting genetics. Our administration in Washington must provide a fair framework for farmers to access generic seeds and define on-going responsibilities over expired plant patents.

On Country of Origin Labeling (COOL), which was passed in the 2008 farm bill to provide consumer information about where their food was produced and increase marketing tools for U.S. producers, was recently attacked by the World Trade Organization as violating international trade rules. OCM worked to help pass COOL in 2008, and firmly supports our nation's producer's right to identify from where their food products originated. Other nations exercise that right. OCM and the coalition are working to urge Congress to close the loopholes in the existing law and expand its application.

Other areas that OCM is addressing in the 2012 farm bill negotiations are equally important and will be the subject of future articles including unfair market manipulations in the spot or futures markets, the restoration of local food processing infrastructure, and a comprehensive examination of the impact of concentration in agriculture and food markets – particularly addressing antitrust violations.

Expectations are not high that the House and Senate will agree on major policy issues that should be addressed in our next farm bill. In the absence of an agreement and presidential signature prior to the end of the federal fiscal year (which is approximately one month before our national elections), Congress could extend existing farm bill provisions in a Continuing Resolution.

Nothing in the farm bill process is certain at this time, except that it will be subject to the new "business as usual" and El Dorado is as elusive as ever.[AE]

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