

**Re-establishing a Viable Vermont Dairy Industry:
Report and Call For BOLD State Policy Change and Action**

**CALL FOR: *Blue Ribbon*
Administration/Legislative
*Vermont Dairy Industry Task Force***

TASK FORCE CHARGE: HARNESS THE POWER!

**MODERNIZE AND REVISE THE STATE'S MARKET REGULATORY AUTHORITY
TO ENABLE IMPLEMENTATION OF A BOLD AND INNOVATIVE STATE PROGRAM OF
MILK MARKET REGULATION AND ECONOMIC DEVELOPMENT**

***Submitted to:* **Honorable Phil Scott, Governor**
Vermont Legislature**

Honorable Phil Scott, Governor

- Anson Tebbetts, Secretary, Agency of Agriculture, Food and Markets;
- Julie Moore, Secretary, Agency of Natural Resources;
- Lindsay Kurrle, Secretary, Agency of Commerce and Community Development

Vermont Legislature

- Tim Ashe, Senate President Pro Tempore;
- Mitzi Johnson, Speaker of the House
- Jane Kitchel, Chair, Senate Appropriations Committee;
- Kitty Toll, Chair, House Appropriations Committee;
- Robert A. Starr, Chair Senate Agriculture Committee;
- Carolyn Partridge, Chair, House Agriculture Committee;
- Christopher Bray, Chair, Senate Natural Resources and Energy Committee;
- Amy Sheldon, Chair, House Committee on Natural Resources, Fish and Wildlife;
- Michael Sirotkin, Chair, Senate Committee on Econ. Dev., Housing and Gen. Affairs;
- Michael Marcotte, Chair, House Committee on Commerce and Economic Development

We are completing a three-year assessment and report on the status and future of the Vermont dairy industry. We present a working Executive Summary of our Findings and Conclusions.

The Report finds the Vermont dairy industry and the working landscape it supports face the gravest crisis since the Great Depression.

- Chronically inadequate pay prices have caused the exit of over two-thirds of Vermont's conventional dairy farms since 2000. (2000: +/- 1500 farms; 2020: 425 farms)
 - A combination of market trends, beyond Vermont and unchecked by federal law or regulation, are causing the chronically inadequate pay prices that have led to this hemorrhaging loss of Vermont dairy farms.
- Increasing direct and indirect federal and state financial support has been provided in the effort to alleviate distressed farm operation, and to cover the "externality" costs of harmful farm impacts also associated with inadequate pay prices.
 - As indicated by the continued hemorrhaging loss of farms, governmental support is not sufficient to keep farms in operation and cover, long-term, externality costs.

The Report concludes this crisis is a pivotal turning point for the state's rural economy, along with Vermont's cultural and historic identity as a "dairy State".

- The greater dairy market forces beyond the Vermont marketplace are likely to continue, unchecked by federal law or regulation.
- Without BOLD governmental policy change and action, **by the State of Vermont**, to resolve the crisis, farm attrition and distressed operation are likely to persist, and the Vermont dairy industry and the rural economy and working landscape it supports will continue to confront a perilous future.

*We further find that additional, **positive**, changes have occurred, amidst the crisis.*

- The Vermont dairy industry has evolved into a multi-sector industry that now includes both a substantial new in-state processing and manufacturing sector along with the historic raw milk production sector.
 - The Vermont dairy industry has become a leader in the high margin, high-valued dairy products segment of the national dairy marketplace.
- **The newly developed in-state manufacture of a substantial volume of Vermont raw milk production has re-established the State's regulatory authority over its dairy marketplace.**

The report is one of optimism, because we conclude these positive changes can support the BOLD State policy action needed to renew the Vermont dairy industry's future.

- If harnessed, modernized and innovative exercise by the State of its revitalized regulatory authority over producer pricing, milk production and farm practices, together with a visionary economic development plan, can overcome the outside market and regulatory trends and renew a durable future for the uniquely branded Vermont dairy industry.
- Innovative State action can also reduce the public cost of supporting a viable Vermont dairy industry.

Summary Findings

Our three-year review has assessed the history and status of the Vermont and national dairy marketplaces, and the history and development of state and federal dairy support and milk market regulatory programs. We have also reviewed the Legislative Clean Water Act, the Treasurer's Clean Water Report, and the "Call to action" by the Vermont Dairy and Water Quality Collaborative Working Group. We have also evaluated the Vermont Milk Commission's proposed federal supply control program.

Our Report identifies three dislocating changes that are causing the pending crisis. At the same time, our report also identifies two additional, but positive, transforming changes. We believe these additional, if less apparent, changes provide the basis for the State to devise an effective response to the three disruptive challenges, and thereby to resolve the crisis and renew the industry's future.

We find first that the industry's historic anchor position as raw milk supplier for the Boston beverage milk market has all but been eliminated. Second, the regional and national dairy industries have been restructured by radical market consolidation and concentration, unchecked by application of federal antitrust enforcement. This unchecked and transforming change is the primary cause of depressed producer prices.

Third, the long-standing federal dairy regulatory program has not been adapted to the marketplace's reconfiguration to commodity manufactured dairy products and away from beverage milk. Most critically, the program has been unable to respond to the new national and international market patterns of inadequate and volatile producer pay prices, and the continual production of excess raw milk supply.

As a result, the Vermont dairy industry is now tied to volatile and inadequate commodity pricing, set by national and world market commodity price patterns having essentially no connection to the Vermont market and over which the Vermont industry has no control.

Many federal and state governmental support programs have been implemented over the years to respond to the chronic financial pressures on the farm. Among others, these have included direct subsidy payments, the purchase development rights, land use taxation reduction, loan interest reduction, business development assistance, and federal margin protection and insurance payments. As indicated by the continued, hemorrhaging loss of dairy farms, these programs, while certainly beneficial, have served only to partially alleviate the chronic operating loss.

Our study further finds that cash flow pressure caused by chronically inadequate pay prices is the primary cause of excess, distressed milk production by Vermont dairy farms. This is a critical finding regarding water pollution and other problematic dairy farming practices, which have intensified and complicated both the crisis facing the industry and its resolution.

Dairy farms receiving inadequate pay prices often cannot afford to incur the cost of employing farming practices needed to prevent water pollution and other problematic dairy farm impacts. As unpaid for “externalities”, these problematic impacts have then created need for public financing to correct.

Inadequate pay prices and resulting distressed milk production may thus also be understood as causing these associated problems and the substantial public financing cost required to pay for remediation.

This combination of transforming market change, legal and regulatory failure, and external financial pressure has had a severely negative impact on Vermont’s conventional dairy farms. Today, the hemorrhaging loss and consolidation of dairy farms leaves fewer than 450 conventional dairy farms in operation.

Unimaginably, St Albans Cooperative, the lead and enduring Vermont dairy cooperative, has merged with Dairy Farmers of America, the dominant national cooperative. This merger leaves conventional Vermont dairy farmers with but two remaining major cooperative outlets for the sale of their raw milk product. With the pending merger of DFA and Dean Foods, the two cooperatives operating in Vermont, in turn, could have but one other remaining large-scale beverage milk processor customer in the New England region.

We further find that there is no indication of likely change in these market, legal and regulatory trends at the national level. To the contrary, all evidence indicates the federal government will not alter course to reinstitute aggressive enforcement of the antitrust laws, and that, in the absence of cooperative initiative, USDA will not institute significant change to the federal milk market regulatory program.

To challenge this trend, the Vermont Milk Commission has recently called for institution of a national supply management program. We agree that a national supply management program would directly address the most fundamental defects in the current operation of the nation’s dairy industry, and could go far to resolve the pending crisis. Our review indicates, however, that implementation of this needed federal program is very unlikely to happen. Most significantly, the leadership group of the nation’s dairy cooperatives is formally opposed. There is no indication that the federal government will pursue such a policy in the absence of major cooperative support,

and every indication that no action will be taken without such support. In view of this industry position and lack of federal leadership, pursuit of a national supply management program, even if a viable option, cannot be relied upon to sustain the future viability of the Vermont dairy industry.

Finally, we find that the national cooperative leadership appears to be moving toward greater, entrenched support for the continued allowance of unchecked market-wide consolidation, which now also includes an accelerating trend toward greater scale and size of dairy farm operation. This latest development involves the establishment of mega-scaled dairy farm operations in other regions of the country that have greater capability to withstand volatile and low commodity pricing. This recent development is further problematic for the Vermont dairy industry because, even if desirable, both natural and market forces absolutely preclude the establishment of similarly scaled, competitive dairy farm operations in Vermont.

In sum, our study finds that Vermont dairy farming as we know it is being dismantled by market forces operating beyond the Vermont marketplace, unconstrained by federal law or regulation, which have left the operation of Vermont farms tied to chronically volatile and unsustainably low, commodity-based, pay prices.

We further find that **without change or dramatic response to this unchecked national and international market and federal regulatory pattern, by 2030, the Vermont dairy industry could have fewer than 100 conventional dairy farms and substantially reduced milk production, with associated loss of economic activity, rural infrastructure and working landscape.**

Fortunately, our review has disclosed that a positive reconfiguration of the Vermont dairy industry has also occurred, amidst all of the dislocating changes identified above. If less apparent, we find that this positive reconfiguration has resulted in two equally transforming changes that, together, hold great promise for resolving the current crisis.

First, we find that the Vermont dairy industry has been completely reconfigured into a multi-sector industry that now includes a substantial and diverse new in-state processing and manufacturing sector, along with the long-standing raw milk production sector. The leading manufacturing companies combine with Booth Brothers to establish a substantial base for this new manufacturing and processing sector. The sector's diversity includes the significant leadership position of Vermont dairy farms and companies in the development of USDA certified organic milk and dairy products. Vermont also leads in the development of innovative farmstead niche operations.

This evolving and diverse new in-state processing and manufacturing sector combines to utilize more than half of Vermont's 2.7 billion pounds of raw milk production. This amounts to a substantial volume of raw milk production, process and manufacture, able to continue to support substantial economic activity, along with the significant, related rural economic infrastructure.

Most importantly, the products of the State's newly configured industry are leading competitors within a strongly differentiated, high-end, segment of the dairy industry. Ben and Jerry's Homemade, Inc., Cabot Cheese, and Commonwealth Dairy make high value, high margin ice cream, cheese and yogurt products, and the same can also be said of Vermont organic milk and dairy products, and the niche farmstead products. The differentiated segment that includes these products is both very profitable and expanding in sales, in marked contrast to the remainder of the commodity manufactured dairy products sector, and indeed in contrast to the performance of the overall dairy industry, as a whole.

This new multi-sector reconfiguration of the Vermont dairy industry should thus present dynamic market opportunity for all industry participants. The industry uniquely combines high-valued dairy product offerings, brand strength, prime geographic location, and capacity for growth and expansion.

This high-value, high-margin industry positioning thereby may, and should, also provide strong potential for restoration and renewal of the long-term sustainability of the Vermont dairy farms that provide the critical raw milk supply, and also for significant improvement across their farming operations.

The second transforming change that has occurred with the multi-sector reconfiguration of the Vermont dairy industry is the re-establishment of the State's comprehensive regulatory oversight of the Vermont dairy marketplace. The new in-state utilization of in-state milk production equates legally to an in-state transaction between purchaser and seller, which establishes state regulatory jurisdiction and control over that transaction.

This is a most dramatic legal change. Before, when the industry was dominated by the single-sector production of raw milk, Vermont was unable to exercise legal control over the purchase pricing by out-of-state companies, stymied by operation of the Interstate Commerce Clause. This meant that the farms' need for, and public interest in, adequate and sustainable pricing was solely dependent on remote federal regulatory oversight.

Based on the new in-state legal authority, the State is no longer dependent on the exercise of remote, and now ineffectual, federal regulatory authority. Rather, the State has the regulatory

power to address the core financial pricing distress that now confronts Vermont dairy farmers when selling their milk product. The price paid for the substantial volume of milk sold and purchased in-state, along with price fluctuation, is now subject to direct state regulation. In addition, the amount of that supply and the production practices employed to produce that volume of milk are also now subject to direct state regulation.

Summary Conclusions

We conclude that the national market and regulatory pattern beyond the Vermont marketplace, which has tied Vermont raw milk pricing to unsustainable, inadequate and volatile, commodity dairy pricing, is not likely to be altered, and is in fact more likely to accelerate.

We further conclude, therefore, that Vermont must plot its own, new and BOLD, State-based course if there is to be a sustainable future for the Vermont's dairy industry and the working landscape it supports.

We also conclude that the multi-sector reconfiguration of the Vermont dairy industry presents a realizable opportunity for Vermont to so plot its own course and to overcome the destructive national market and regulatory pattern. With BOLD State action that first harnesses the State's revitalized regulatory power and then implements a combined program of innovative regulation and economic development, the industry's unique and dynamic market positioning can be fully unleashed so as restore a vibrant future that is consistent with its storied past.

We also conclude that this opportunity includes the potential for sustainable operation of Vermont dairy farms of all sizes, along with growing sales of high valued Vermont milk and dairy products. This opportunity can also result in resolution of problematic farm-based water pollution and farming practices caused by distressed farm operation, with reduced reliance on public funding.

Finally, we conclude that the proposed cross-government task force is the best means to achieve these objectives. *The power to do what is needed already exists.* What is now required is bold leadership by our governmental leaders, to harness that power.

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