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April 2008
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FRED STOKES
EXECUTIVE DIRECTOR

Bill Heffernan Honored

One of the rewards for being involved in an effort such as OCM, is getting to know some really fine people. Over the years, I have developed a long list of friends and allies in this effort to provide a fair and reliable marketplace for farmers and ranchers. At the very top of this list is University of Missouri, Professor Emeritus of Rural Sociology, William D. Heffernan.

Bill Heffernan first came to my notice in the mid-90s when I came across an article by him on market concentration. I had already come to the conclusion that the agricultural marketplace was rigged by big agribusiness concerns and that those who produced the nation's food and fiber were being systematically shortchanged. After reading the article, I understood that concentration and the resulting market power provided the big meat packers and grain companies the means for manipulating farm commodity prices. The level of concentration across the broad spectrum of farm commodities as revealed by Bill's study was shocking.

In July of 1997, a two-day meeting was held in Jackson, Mississippi to discuss concerns and possible solutions to the market manipulation situation. Some 50 people attended. The gathering included folks like Mike Callicrate, Derry Brownfield, Kathleen Kelly, Al Krebs, and a number of others who were known to be actively engaged in the debate over abuse of market power by agribusiness firms. Also attending were Clark Willingham, President of The National Cattlemen's Association and a high level representative of American Farm Bureau. Dr. Bill Heffernan presented his concentration study and provided the group with plenty of material to discuss and debate. The meeting ended after concluding that market concentration and market power abuse was a problem that warranted early and aggressive action. I contend that it was this meeting that provided the impetus for founding OCM.

Bill became a founding member of OCM and over the years, became a significant part of our many OCM conferences. He was there at every turn. As we undertake the new OCM Seed Concentration Project, he will undoubtedly play a major role.

On April 18th, the Missouri School of Corporate Concentration in Agriculture will host a Symposium and Reception honoring Bill for his teaching, research and service to this country. It will be my privilege to attend the event and present him with the OCM John Helmuth Award as a measure of our gratitude for his support of our effort.[FS]

OCM Seed Concentration Project

Prior to attending the Bill Heffernan Symposium and Reception, Keith Mudd, Michael Stumo and I will interview the three finalists who have applied for the job of OCM Seed Concentration Project Coordinator. There were nine outstanding applicants for the position and the three selected for interviews were particularly well suited for the task.

The Seed Concentration Project is a very exciting undertaking which will take a hard look at the very high level of concentration in the seed industry and its dangerous implications. A bright light will be brought to bear on Monsanto, who has managed to dominate the industry while demonstrating itself to be less than a good corporate citizen. There is good reason to expect that this worrisome threat will be brought to public and government attention and that OCM will be the prime mover in bringing about appropriate corrective action.

I will introduce the new Project Coordinator in our next newsletter.[FS]

WHAT'S
INSIDE

FROM OCM'S GENERAL COUNSEL

Michael Stumo

FARM BILL UPDATE

The 2008 Farm Bill has not yet been agreed to or passed by the Conference Committee. There is talk of one week, one month and one year extensions of the 2002 Farm Bill. Disagreement on the overall cost of the bill still has not been worked out. A permanent disaster relief program and payment limits are two sub-issues.

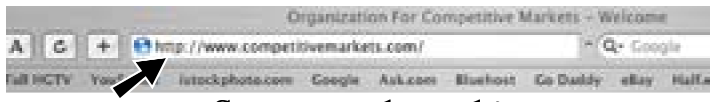
The House has not even named conference committee members yet, though the Senate has. Rumor has it that House leadership wants more agreement on terms of the bill in "pre-conference negotiations" before officially naming conference committee members.

A conference committee is a joint House-Senate committee appointed for a relatively short period of time to work out differences between the House and Senate version of a particular bill, in this case the Farm Bill. When the conferees resolve their differences, the resulting compromise bill is submitted for approval to the full House and Senate and, if successful, the President for signature.

OCM supports the competition and market fairness portions of this bill, at least those contained in the Senate version. In the scheme of things, these provisions are not the major roadblock to the bill progressing. Money must be worked out first. This is not to say that agreement on OCM priorities will come easy. Indeed, staff has been given little leeway to negotiate on these topics, as we are told resolution will come at the "member level." That means the Senators and Representatives themselves will be negotiating the competition provisions, not the staff.

These are OCM's priorities, all of which are contained in the Senate version of the Farm Bill. None are in the House version:

- Improving market competition by prohibiting packer-owned livestock;
- Preserving and improving Country of Origin Labeling;
- Protecting individual choice by prohibiting forced, mandatory arbitration clauses written by packer lawyers;
- Protecting producer rights by creating a three day right to review or cancel a contract after signing;
- Protecting cash flow and investments by preventing companies' from forcing contract producers to make expensive, mandatory equipment upgrades after a contract is signed;
- Protecting producer contract expectations by preventing premature contract terminations if producers have made a sizable capital investment;
- Improving enforcement of the law by granting USDA authority to bring enforcement actions against poultry dealers for violations of the Packers & Stockyards Act;
- Protecting producer rights by prohibiting company retaliation against growers who seek to bargain collectively.[MS]



See us on the web!

OCM BOARD MEMBERS & STAFF

BOARD MEMBERS:

Keith Mudd, President
Monroe City, MO • 573.735.2742
kmudd@rallstech.com

Randy Stevenson, Vice President
Wheatland, WY • 307.322.3373
double_s_livestock@lycos.com

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Richard Oswald
Langdon, Missouri

Fred Stokes
Porterville, MS

STAFF:

Fred Stokes, Executive Director
Porterville, MS • 662-476-5568
tfredstokes@bellsouth.net

Michael Stumo, General Counsel
Sheffield, MA • 413-854-2580
stumo@competitivemarkets.com

Pat Craycraft, Office Manager
Lincoln, NE • 402-817-4443
ocm@competitivemarkets.com

Colombia Free Trade Agreement

By Michael Stumo

OCM supports balanced trade that protects American sovereignty and democracy. We oppose the Colombia Free Trade Agreement because it would harm our economy and agriculture.

As of this writing, there is talk that the Administration will submit the Colombia Free Trade Agreement for Congress' approval. The agreement is based upon the NAFTA model. That model facilitates outsourcing of jobs, companies and food production. It transfers many legislative and rulemaking decisions to international tribunals, leaving our government powerless.

The U.S. enjoyed the position of large trade surpluses before the NAFTA style agreements, and we were the world's biggest creditor. Those positions have now been reversed. We are a rich country that must preserve the ability to carry out a national strategy on agriculture and industry. We should employ workers here, to producer here and for export.

OCM is not anti-trade any more than we are anti-market competition. We are pro-trade. A country can conduct trade policy to produce good economic results, or bad results. Our current trade policy produces bad results. Rejecting the Colombia deal is a first step to getting our trade policy corrected to benefit America.

For more trade information, see the websites of the Coalition for a Prosperous America, a coalition that OCM helps lead (www.prosperousamerica.org). Also subscribe to the blog www.tradereform.org written in large part by Michael Stumo. Fair competition in both the domestic and international markets is necessary for progress, democracy and prosperity.[MS]

OSWALD (continued from page 3)

The Packers and Stockyards Act, passed in 1921, regulated packers, livestock markets, and growers. Over the last 8 years, USDA enforcement of P&S has ground to a complete halt. Similarly, in the early 1930's after the second Roosevelt was elected president, the Glass-Steagall Act, later known officially as the Banking Act of 1935 was placed into effect. It mandated banking reforms preventing abuses like those we've seen take their toll on our financial system lately. Many of those controls were repealed more than 2 decades ago. Now, following a serious breakdown in our financial markets, our leadership proposes 'watchfulness' of financial institutions in place of the mandatory rules and oversight of Glass-Steagall. Such watchfulness is nothing new to US agriculture where oversight of packers, both in the way they buy as well as in the way they perform their tasks, has diminished fairness to the point of being non-existent.

Since the bank 'watchers' would have little in the way of authority to correct abuse under current proposals, there is a very clear connection from the past to current situations. Can we assume that financial enforcement will be modeled after USDA's meat inspection program as well as USDA's enforcement of the Packers and Stockyards Act?

Teddy Roosevelt once said, "Behind the ostensible government sits enthroned an invisible government owing no allegiance and acknowledging no responsibility to the people."

JP Morgan said, "Well, I don't know as I want a lawyer to tell me what I cannot do. I hire him to tell how to do what I want to do."

After years of zero enforcement and a deepening crisis of finance and national security, both men's words have an uncanny ring of familiarity.[RO]

Richard R. Oswald
15593 245th
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- Gifts of Life Insurance
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Captains of Industry by Richard Oswald

When Theodore Roosevelt earned his reputation as "Trustbuster", J Pierpont Morgan was livid at TR. Collier's Weekly had said of the railroad baron, "you can now ride from England to China without passing from the protective hollow of Mr. Morgan's hand." The so-called 'captains of industry' were more powerful than our government of the people. Roosevelt longed to discipline what he called "the great law-defying corps of immense wealth". Eventually he found a way.

Too bad Morgan couldn't be here to see the investment bank bearing his name repaid for Roosevelt's 'betrayal', many times over. A $30 billion non-recourse loan (in addition to $25 billion in direct loans) granted to JP Morgan Chase in it's buyout of Bear Stearns a few weeks ago is more than 22 times the total value of J Pierpont Morgan's holdings at the height of his career.

Proponents argue that the low price paid for Bear Stearns was justified by risk, combined with the fact that another $10 trillion in securities might have crashed without it. But when our government guaranteed Morgan against major loss, the low ball price seemed like insult on top of injury. Little known at the time, part of the Morgan acquisition of Bear Stearns was their 2 year old energy trading company, something that, after Enron, is highly regulated and difficult to establish in today's world. With energy tightening across the globe, "tolling" (the right to sell energy and buy it back as electricity) is a source of ready profit. Of course to some of us, it was nothing new from a government that regularly partners up with the wealthy, for the benefit of the privileged.

Maybe we should call the Bear Stearns buyout "J. Pierpont Morgan's Revenge"?

In addition to banking, steel, and railroad monopolies, Morgan profited from defense contracts during the Civil War by buying antiquated rifles for $3.50 and reselling them to the Union government for $22. His ruthless business practices came to be known as "Morganization".

Administration officials who are hard pressed to catch the error of selling top secret hardware to China or Iran, American computer chips used in Iraqi roadside bombs, or for that matter buying military goods from foreign manufacturers because we lack the ability to produce them ourselves, could understandably see nothing wrong with Morganization of something so small as a few meat packers. While the Department of Justice rule of three says that as long as there are more than 2 there is no unfair advantage, the JBS buyout of US packers seems to be another act of Morganization against competition, fairness, and common sense. We can only hope that reason will trump a rule of thumb.

A simple matter of supply and demand in a free market is one thing. But lately, in America, we've seen deficiencies in oversight by government agencies, such as USDA, when it comes to inspection and enforcement. Over the last few years USDA has redefined inspection so that a federal inspector's job is not the same as it once was. Americans are no longer assured beyond all doubt that the food they eat has actually been examined by an employee of an independent government agency even though a company operated stamp may state clearly that it was. These are not the acts of a free and fair market.

Are we prepared to allow a foreign processor to handle our food in the same way they might handle it at home in their own nation, or the way other corporations have handled high finance or sensitive technology crucial to the defense of this nation? Is the welfare and safety of an American family eating dinner in their sub-prime mortgaged home in places like Cleveland or Omaha at the crux of the matter, or totally unrelated to our food supply, our financial system, our government, and the world in general? In the day of Roosevelt and Morgan, it wasn't a foreign power that constantly infringed on legality, but Morgan's friends and business partners, lions of finance, a group referred to as the "Corsair Club".

The Corsair Club of today is made up of many nationalities from many different countries. And almost without exception they owe no allegiance to America or its people.

But our government seems to owe them quite a lot.

We have a long history in this nation, of our government's periodic love affairs with big business and the wealthy, politically connected. America at the turn of the 20th century was a model of consolidation and control. Everything from transportation to national defense, and food, was in the pocket of magnates to the point that even the US Treasury relied on them for its gold reserves. At the same time industrial expansion relied on a steady influx of citizens from rural America as well as immigrants to furnish it with a steady stream of cheap labor, subjected to extreme working conditions with little or no government oversight. Sound familiar?

In the crash of 1929, Americans began to repay a debt against the failings of their leadership. One that would linger until the strong hands of another Roosevelt took the helm.

Please see OSWALD on page 7

ocm

Mark your Calendar

OCM ANNUAL MEETING

When:

August 22-23

Where:

DoubleTree Inn, Omaha, Nebraska

Topics:

Farm Bill, Seed Industry Concentration
International Trade
Packing Industry Mergers

Further information to be announced

This will be an important annual meeting. OCM is considering opening up membership to agricultural producer cooperatives and other associations, rather than just individuals. We are at a new high in effectiveness and power, but need your input to make the right decisions for the future of American agriculture.

David Kruse

President, ComStock Investments

Somehow I was not surprised to see former NCBA lobbyist, Chandler Keyes working for JBS Swift, defending their bid to be the largest beef packer in the U.S through pending acquisitions of National Beef and Smithfield Foods Beef operations. It was my perception that Chandler set as much NCBA policy in Washington as NCBA members ever did and most of it favored packers. That's how many in Washington earn better paying jobs. They carry water for these special interests while serving in a capacity representing producers and then are later rewarded with employment from those special interests for a job well done.

There is potential future reward along these lines for all government regulatory officials, including USDA, from the company's that they regulate. Expect there are many at NCBA who see Chandler Keyes as their role model. Believe me, R-Calf CEO Bill Bullard will never be hired by a major packer.

Chandler Keyes essentially works for the Batiste Family who is putting their Brazilian family fortune ($3 billion) into their U.S. beef industry bid to become the No. 1 U.S. beef packer. Back in 2004, $3 billion converted to 9 billion Real, a 3 to 1 currency conversion. Today, from the subsequent weakness seen in the U.S. dollar the conversion is 1.7 to 1. It would take just 5.3 billion Real today to buy the same amount of dollars that it took 9 billion Real to buy in 2004.

In other words, the value of Swift, National Beef, and Smithfield Foods has plummeted to only 57% of what it was in 2004, priced in Brazilian currency. The plunge in the U.S. dollar is putting U.S. assets and industries on sale to foreign buyers and this pending purchase of the U.S. beef industry is only the beginning of a trend. The U.S. is on sale. JBS wants the U.S. beef industry because the weak U.S. dollar will give it a low cost export platform. They believe U.S. beef exports will improve. Brazilian packers are better schooled than the U.S. beef industry in exporting and they intend to benefit fully from the weak U.S. dollar.

I had it all wrong. I expected Excel, Tyson, or Smithfield Foods to invest in Brazilian livestock and meat processing and eventually fight to open the door wider to meat importers, exporting from foreign production platforms to the U.S. While that still may happen long term, what "is" happening now is that Brazilian meat companies are buying a platform in the U.S. beef industry purchasing packing plants and feedlots, beating U.S. integrators to the punch. They bought us before we bought them. The rest will likely eventually work out just about the same.

JBS-Swift says that they are optimistic on expanding Japan/Korean beef exports from the U.S. They expect "change" is coming to USDA next election that will produce a new attitude at USDA toward accommodating foreign customers. How did JBS get the jump on the U.S. beef industry?

It's all about the value of the U.S. dollar. Swift, National Beef, Smithfield Foods, were all on sale in terms of Brazilian currency. The really good part, however, (from their perspective) is that once they've bought into the U.S. with the strength of the Brazilian Real, they get to export beef priced in cheap dollars, making them globally competitive.

They are betting on the future. First, they buy the dollar discounted assets of Swift/National Beef/Smithfield Beef. Then they use those assets to produce and export dollar cheapened beef. I think the business logic and business plan is brilliant. Keyes says the Batiste family is fully committed, here to stay and will fight for this. No doubt, they want their dollar discount while it's offered to them.

In all likelihood JBS Swift/National Beef/and Smithfield Foods already received an unoffical green light from the Justice Dept on their prospective merger. They are pretty darn sure it will go through pretty darn close to how they have structured the deal or they would not have done it, announcing it to the world.

George W's economic policies debasing the value of the U.S. dollar made this purchase possible/lucrative for Brazilian buyers. It's possible that the packer group will have to make some accommodation or concession to window dress this deal, but they likely already know what that is and are ready to accept it.

That means all the investigation and inquiry will really be is fun and games with little likelihood of the deal being nixed. Politicians are calling for Justice Department oversight and they will get it for whatever it is worth.

The pending merger would concentrate the beef industry further and have a net negative impact on cattle prices. Yet, no one in government has ever shown any sign that they care.

Anybody wondering how the Justice Department will view the JBS Swift acquisitions should take a clue from their recent approval of the XM, Sirius Satellite Radio merger. The newly sanctioned satellite radio merger will compete with outmoded technology of broad ban radio, but no new entry into satellite radio will be able to compete with this newly created monopoly. They've got a window closing, needing to get these mergers done before George W. vacates the White House.

The next Justice Department, even if it's a McCain administration, may care more about mergers and market concentration than this one.[DK]

David Kruse is president of CommStock Investments, Inc. author and producer of The CommStock Report, an ag commentary and market analysis available daily by radio and by subscription on DTN/FarmDayta and the Internet. CommStock Investments is a registered CTA, as well as an introducing brokerage. (Futures Trading involves risk. Past performance is not indicative of future performance.) CommStock Investments, Inc., 207 Main St., Royal, IA, 712-933-9400, www.thecommstockreport.com, E-mail to: csreport@ncn.net.

JBS Acquisition a Watershed Moment

By Michael Stumo

JBS S.A. is the dominant Brazilian meatpacker. Brazil is a preeminent beef producing country in the world. JBS bought Swift & Company last year, the first time a foreign company has owned a major piece of the U.S. packing industry.

On March 4, JBS announced an agreement to acquire National Beef and Smithfield Beef. Swift, National and Smithfield are the number 3, 4, and 5 meat packers, respectively. OCM has met with the U.S. Department of Justice, is arranging cattle producer interviews with government investigators, and is encouraging producers to contact OCM with facts about how their market prospects will be damaged.

There are two overarching issues: (1) an anticompetitive U.S. beef industry; and (2) the international takeover. The beef packing industry currently suffers from lack of competition. The result has been artificially depressed prices for years, driving producers out of the business. The U.S. beef herd is counter-intuitively declining. I say "counter-intuitively" because the U.S. population is growing, with more stomachs demanding more food. We fill those stomachs with imports, not domestic production that would otherwise expand if packers did not push prices down.

This acquisition will push prices down further, and make market access more difficult. "Market access" is the ability of a producer to sell his/her livestock in a timely manner, before the cattle get too big. Three head buyers will make the pricing decision on 80% of U.S. cattle. Those head buyers collect information from the plant, the market, and from armies of their field buyers touring feedlots to inventory the number of cattle ready.

The head buyers can pull captive cattle early to fill the plant and kill any market rallies. At the end of March, for example, Texas plants had many captive cattle… more than Nebraska. Thus packers started bidding in Texas, with a substantial cut in price from the prior week. That bidding became the benchmark for negotiations in Kansas and Nebraska.

The increased buyer power of the packers is magnified for four reasons:

1. Captive supply/partial vertical integration: If packers had no captive supply and bid for all cattle, competition would be more vigorous. But captive supply allows packers to ration shackle space available to the open market. Negotiated cattle set the price for the country, and for most formula contract cattle (cattle priced not through negotiation that week, but in an agreement to pay a dollar more or less than a USDA reported price).
2. Buyer power is more dangerous than seller power: Eighty percent market share held by three sellers is a problem, but less so than 80% market share held by 3 buyers. Antitrust theory recognizes this… because the livelihood of the sellers depends upon buyers playing nice.
3. Perishability: Cattle must be sold within two weeks, or they are too big and fat and therefore discounted heavily. Cattlemen have tremendous pressure to accept the take-it-or-leave-it bids because they cannot store the cattle for several months until the market improves.
4. Disparity in market power: In another industry selling to three major buyers, there may be, let's say, 20 sellers, each of which has some individual market power. But in the cattle industry, there are thousands of sellers, each of whom have no market power. The difference between the market power of the three buyers is far larger and more damaging to the public welfare and market integrity.

Aside from the antitrust issues are the international trade and control issues. OCM believes the JBS acquisition could cause the decline of the U.S. as a major cattle producing country. Imports of cattle and beef already substantially exceed exports. We don't produce enough beef to feed our country. Packers import the rest to keep prices down here.

JBS is a Brazilian company. Its board includes former Brazilian government officials. The company's acquisition here is financed, in substantial part, by a government investment fund. The Brazilian government is reportedly planning a WTO challenge to U.S. laws keeping Brazilian beef out of our market because of their disease.

This looks like a foreign public-private plan to take over the U.S. industry from the inside and the outside. They control procurement, production and pricing here, while opening up the market for a flood of Brazilian beef. Win-win… or lose-lose… depending upon which side you are on.

Encourage your cattle producing colleagues to contact OCM about losing buyers or other market harm. We do need to get these facts to the Department of Justice.[MS]