

**NEBRASKA DAIRY INDUSTRY DEVELOPMENT  
BOARD**

**Annual Report**

**July 1, 2020 - June 30, 2021**



# **NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD**

## **Annual Report July 1, 2020 – June 30, 2021**

### Table of Contents

<b>Nebraska Milk Purchasers .....</b>	<b>5</b>
<b>Board Members.....</b>	<b>7</b>
<b>Financial Reports .....</b>	<b>9</b>
<b>Dairy Promotion Programs.....</b>	<b>14</b>
Organizations.....	14
Midwest Dairy Association – Nebraska Promotion Highlights..	15
Southwest Dairy Farmers Report of Activities .....	27
<b>Dairy Industry Development Act.....</b>	<b>31</b>
<b>Administrative Code .....</b>	<b>43</b>
<b>Contracts.....</b>	<b>47</b>
Enforcement Procedures.....	49
Dept. of Agriculture Contract.....	53
Midwest Dairy Association Agreement.....	65
7/1/20-6/30/21	
Southwest Dairy Farmers Agreement.....	71
7/1/20-6/30/21	





NEBRASKA MILK FIRST PURCHASERS  
April 26, 2021

<u>Company</u>	<u>Grade A</u>	<u>Manufacturing</u>	<u>Total</u>
Associated Milk Producers PO Box 430 Freeman, SD 57029	23	1	24
Countryside Dairy 56670 880 Road Hartington, NE 68739	1	0	1
Dairy Farmers of America PO Box 901546 Kansas City, MO 64190-1546	86	0	86
Wells Dairy Inc. #1 Blue Bunny Drive LeMars, IA 50131	2	0	2
Jisa Farm Inc. 2653 Q Road Brainard, NE 68626	1	0	1
Clear Creek Organic Farms 82228 499 <sup>th</sup> Ave Spalding, NE 68665	1	0	1
Wakefield Farms, LLP – Agropur 86051 588 <sup>th</sup> Ave Emerson, NE 68733	1	0	1
McCarty Farms Beaver City, LLC 42426 Road 713 Beaver City, NE 68926	1	0	1
Dutch Girl Creamery (GOAT) 2201 W. Denton Rd Lincoln, NE 68523	1	0	1
Specialties Global Milk 805 W. Omaha Ave. Norfolk, NE 68701	0	0	0
Beauty View Farm (Konecky)	1	0	0
<b>TOTALS</b>	<b>119</b>	<b>1</b>	<b>120</b>

S:BDF:Nebraska Milk Purchasers632015



# NDID Board - Directory

3/19/2021

## Mike Amen

Amen Dairy LLC  
54681 Half Mile Rd.  
Norfolk, NE 68701  
Home: (402) 675-1250  
Mobile: (402) 649-7589  
Work:  
Fax:  
Email: tmamen69@gmail.com  
Represents: At-Large  
Board Position Type: Director - Appointed  
Officer Position: None  
Ships Milk To: Deans Foods - Corporate  
Term End Date: 11/2/2022

## David Crook

Crook Dairy  
71109 635 Boulevard  
Humboldt, NE 68376  
Home: (402) 862-2180  
Mobile: (402) 862-5323  
Work: (402) 862-2834  
Fax:  
Email: davidnancycrook@hotmail.com  
Represents: At Large  
Board Position Type: Member  
Officer Position: None  
Ships Milk To: Dairy Farmers of America  
Term End Date: 11/2/2023

## Joyce Racicky

Elk Creek Dairy  
78074 Elk Creek Rd.  
Mason City, NE 68855  
Home:  
Mobile: (308) 212-0542  
Work: (308) 732-3263  
Fax: (308) 732-3263  
Email: racickygregjoyce@yahoo.com  
Represents: DFA  
Board Position Type: Member  
Officer Position: None  
Ships Milk To: Dairy Farmers of America  
Term End Date: 11/2/2023

## Amelia Breinig

Nebraska Department of Agriculture  
P.O. Box 94947  
Lincoln, NE 68509-  
Home:  
Mobile:  
Work: (402) 471-2341  
Fax:  
Email: amelia.breinig@nebraska.gov  
Represents: NE Dept of Ag  
Board Position Type: Ex Officio -  
Government  
Officer Position: None  
Ships Milk To:  
Term End Date: 1/2/2099

## Brent Davis

Nebraska Department of Agriculture  
P.O. Box 94947 301 Centennial Mall South  
Lincoln, NE 68509-4947  
Home:  
Mobile:  
Work: (402) 471-2341  
Fax:  
Email: brent.davis@nebraska.gov  
Represents: Nebraska Dept. of Agriculture  
Board Position Type: Ex Officio -  
Government  
Officer Position: None  
Ships Milk To:  
Term End Date: 11/2/2099

## Patty Richard

Nebraska Department of Agriculture  
P.O. Box 94947  
Lincoln, NE 68509-  
Home:  
Mobile:  
Work:  
Fax:  
Email: patty.richard@nebraska.gov  
Represents: Nebraska Dept. of Ag  
Board Position Type: Ex Officio -  
Government  
Officer Position: None  
Ships Milk To:  
Term End Date: 1/2/2099

## Jodi Cast

JCC Jerseys  
4011 A Street Rd  
Beaver Crossing, NE 68313  
Home:  
Mobile: (402) 641-3797  
Work:  
Fax:  
Email: jjcjerseys@gmail.com  
Represents: DFA  
Board Position Type: Member  
Officer Position: None  
Ships Milk To:  
Term End Date: 11/2/2023

## Kent Pulfer

MPM Farm  
811 Brooke Dr.  
Wayne, NE 68787-1248  
Home: (402) 375-2285  
Mobile: (402) 369-0918  
Work: (402) 375-2285  
Fax:  
Email: mpmfarm@gmail.com  
Represents: Other First Purchaser  
Board Position Type: Member  
Officer Position: Chair  
Ships Milk To: Wells Dairy, Inc. -  
Corporate  
Term End Date: 11/2/2022

## Doug Temme

Temme Agri-Business Inc.  
57618 858th Rd.  
Wayne, NE 68787  
Home:  
Mobile: (402) 375-0542  
Work: (402) 375-4191  
Fax:  
Email: temmdo@gmail.com  
Represents: AMPI  
Board Position Type: Member  
Officer Position: Secretary/Treasurer  
Ships Milk To: AMPI Inc. Corporate Office  
Term End Date: 11/2/2022



**NEBRASKA DAIRY INDUSTRY DEVELOPMENT  
BOARD**

**Financial  
Reports**



**Nebraska Dairy Industry Development Board**  
**Fiscal Report**  
**July 1, 2020 - June 30, 2021**

Category	FY 2020-21 BUDGET	June 2021	YTD Total	YTD %
<b>Beginning Cash Balance</b>	\$ 72,523	\$ 100,960.00	\$ 72,523.06	
<b>Revenue</b>				
Dairy Checkoff	\$ 1,500,000	\$ 136,355.98	\$ 1,522,984.68	
Penalty	100	0.00	188.31	
Other Revenue	25	0.00	25.00	
Investment Interest	2,900	108.06	1,660.85	
Dumped Milk Refund	0	0.00	(1,200.14)	
<b>Total Revenue</b>	\$ 1,503,025	\$ 136,464.04	\$ 1,523,658.70	101%
<b>Total Available Cash</b>	\$ 1,575,548	\$ 237,424.04	\$ 1,596,181.76	
<b>Expenditures</b>				
NDA Fee Collection Contract	\$ 8,000	\$ 579.60	\$ 7,041.46	
Midwest Dairy Association	1,394,611	96,123.84	1,353,756.10	
Southwest Dairy Association	82,731	8,208.09	95,222.23	
Board Expense	1,000	0.00	397.46	
DAS Assessments	1,850	0.00	1,845.00	
Annual Audit	6,500	0.00	5,407.00	
<b>Total Expenditures</b>	\$ 1,494,692	\$ 104,911.53	\$ 1,463,669.25	98%
Adjustment to Fund Balance	0	0.00	0.00	
<b>Ending Cash Balance</b>	\$ 80,856	\$ 132,512.51	\$ 132,512.51	

\* The ending cash balance is 100% invested in the short-term investment pool.

Percent of Fiscal Year Elapsed 100%

FY 19-20 Revenue to Date: \$ 1,364,247.01

FY 19-20 Expenditures to Date: \$ 1,390,900.99

**Midwest Dairy Association  
Nebraska Division  
July 1, 2020 to June 30, 2021**

**REVENUE:**

NDIDB Checkoff Revenue

**12 Months**

\$ 1,353,756

**EXPENSES:**

Innovation:

DMI Projects 346,012 (incl. UDIA Membership)

Dairy Experience:

DEX-Sales Demand 135,614

DEX-Sales Youth 130,267

DEX-Global Positioning 123,101

DEX-Trust Adult 126,284

DEX-Trust Youth 59,980

DEX-Strategic Initiative 10,154

DEX-Farmer Activation 101,068

Research 53,157

Agricultural Affairs 133,671

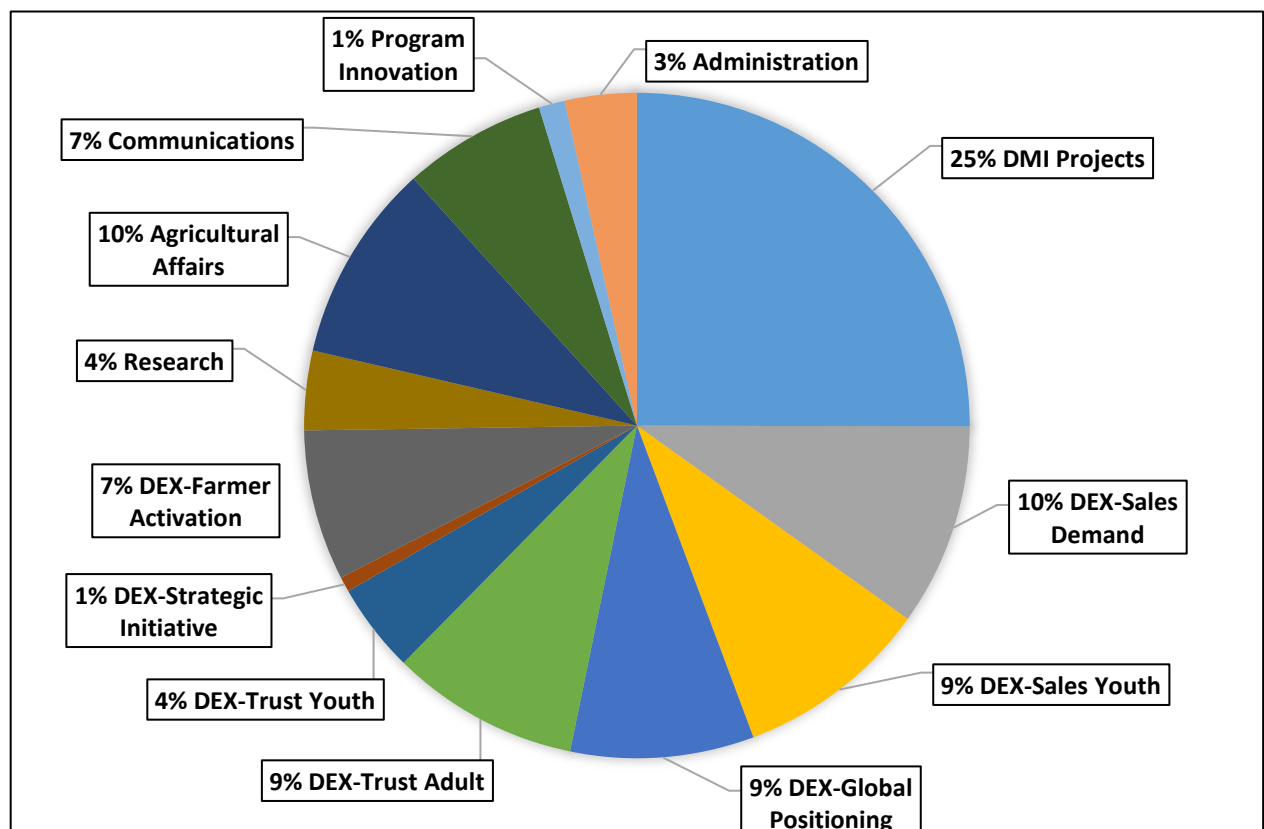
Communications 95,911

Program Innovation 17,567

Administration 48,149

**Total Expenses** **\$ 1,380,936**

**Excess of Revenue over Expenses** **\$ (27,180)**





**Southwest Dairy Museum, Inc.**  
**Receipts and Disbursements**  
**State of Nebraska**  
**July 1, 2020 - June 30, 2021**

Income		
From Nebraska Producers		<u>\$ 95,222.23</u>
<b>Total Income</b>		<b>\$ 95,222.23</b>
<b>Nebraska Direct Expenses</b>		
Travel (Includes Fuel)	\$ 1,012.31	
MDC Expenses (Includes Labor) 2/	\$ 1,695.06	
<b>TOTAL BASIC EXPENSES</b>		<b>\$ 2,707.37</b>
Special Education Programs	\$ 9,685.94	
College Athletic Programs 2/ 3/	\$ 3,792.70	
<b>TOTAL SPECIAL PROMO PROGRAMS</b>		<b>\$ 13,478.64</b>
<b>Nebraska Indirect Expenses 1/</b>		<b>\$ 46,060.83</b>
<b>Total Expenses</b>		<b>\$ 62,246.84</b>

1/ Indirect Expenses have been allocated to Nebraska at a pro-rata rate based on the percentage of Nebraska funds to our total receipts of dairy producer check-off funds. This percentage (2.638%) was applied to shared operational accounts (not reflected in the direct expenses) for the Southwest Dairy Museum's total operation. All direct expenses are the actual cost incurred at promotional and educational events performed in Nebraska.

2/ Scheduled Mobile Dairy Classroom and College Athletic (Creighton) events after March 16, 2020 cancelled due to COVID-19 pandemic.

3/ The Creighton Athletics Agreement for the 2020-21 school year was cancelled due to COVID-19. A new agreement has been signed for the 2021-22 school year.

# **NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD**

## **Dairy Promotion Organizations**

Nebraska dairy farmers pay checkoff of fifteen cents per hundred-weight of milk they produce. The checkoff is collected by the first purchaser of each producer's milk. Five cents is sent to the National Dairy Board which provides funds for the national Unified Marketing Plan (UMP) developed by Dairy Management, Inc. The other ten cents is paid to the Nebraska Dairy Industry Development Board (NDIDB). The NDIDB funds USDA qualified program organizations for dairy promotion activities. The NDIDB is itself a USDA qualified program organization.

During the period July 1, 2020 through June 30, 2021, NDIDB funded the following two qualified program organizations:

1. Midwest Dairy Association (Midwest Dairy). Under contract, Midwest Dairy implemented programs intended to contribute to the betterment of Nebraska's dairy farmers and the state's dairy industry, including 1) the local components of the UMP, 2) the national UMP funding commitment, and 3) other promotion programs in Nebraska consistent with the interests of Nebraska dairy producers. Programs funded during the period are further described in the Promotion Highlights.
2. Southwest Dairy Farmers (Southwest Dairy). Under contract, Southwest Dairy began implementing Mobile Dairy Classroom programs in Nebraska. Programs are further described in the Report of Activities.



## Nebraska Dairy Promotion HIGHLIGHTS

July 1, 2020–June 30, 2021

### Domestic and International Partnerships

National partnerships play a foundational role in the checkoff's work and its mission to drive dairy sales and trust by working with, and through, food and beverage industry leaders both domestically and internationally. These partnerships focus on immediate and long-term sales opportunities with a concentrated focus on product, menu, and packaging innovation along with advertising to help drive dairy trust and relevancy.

### **Domestic Foodservice Partnerships**

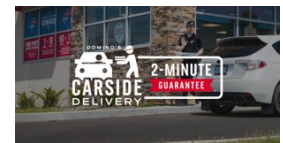
Checkoff has continued its partnerships with foodservice leaders **Domino's®**, **McDonald's®**, **Pizza Hut®\*** and **Taco Bell®**. Since the start of our first foodservice partnerships in 2009, checkoff has delivered +2.2B milk equivalent pounds of growth. The checkoff's foodservice partners have averaged 3 percent growth in milk equivalent pounds since the cumulative start of each partnership. In 2020, despite declines driven by Covid, our partners sales were four times the QSR industry average during that time. As of 2020, our partners had nearly 4,450 locations within the Midwest Dairy region, with over 210 in Nebraska alone. Additionally, our partners collectively invest ~\$1.5 billion in national advertising to help tell our farmer story.

Checkoff supports the partnerships with a team of experts including dairy food scientists and other subject matter experts in consumer insights, innovation, marketing and nutrition. This partnership team collaborates with their foodservice partner colleagues to advance dairy-focused product innovation, menu development, marketing, and technology efforts to drive dairy sales and trust. Efforts include leveraging dairy in new ways to meet evolving consumer needs, including new menu occasions such as snacking and beverages.

Our checkoff partners are category leaders capturing the attention of competitors nationally and locally. The competition often mirrors our partners' efforts, resulting in what we call "catalytic effect". This catalytic effect helps drive dairy sales and trust at other chains with no additional investment from the dairy checkoff.

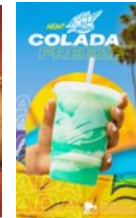
While Covid has affected our partners (e.g., product launches, sales, traffic, marketing investment), they continue to elevate and support dairy within their efforts.

- **Domino's** continues to deliver strong sales growth driving dairy sales. Most recently, they launched the 2-minute guarantee carside delivery to deliver against consumer needs and maintain a positive consumer experience. Additionally, they continue to invest in Smart Slice pizza which is now in more than 12,000 schools.
- **McDonald's** supported McCafé with a bakery mobile app promotion in Q4 which exceeded expectation. In May, they launched a caramel brownie alongside their popular crispy chicken sandwiches. This limited time offer included a mobile app promotion which resulted in significant media placement and record-breaking consumer redemption.
- **Pizza Hut** launched the Detroit Style pizza in January, a concept driven by our partnership team in H2 2020. This limited time menu item exceeded Pizza Hut's



expectations and promoted cheese front and center. For reference, the domestic partnership was not renewed for 2021, however we are continuing to partner with Pizza Hut internationally.

- **Taco Bell** relaunched the quesalupa earlier this year which features 5 times the dairy of a regular taco. Additionally, after the great success of last year's the Pineapple Whip Freeze which included dairy, Taco Bell launched the Mountain Dew Baja Blast Colada Freeze featuring delicious dairy cream in May.



### Domestic Fluid Milk Partners

Revitalizing the fluid milk category remains a checkoff priority. To accomplish this, we work with targeted fluid milk processors who share farmers' commitment to invest in innovation, packaging, and branded marketing efforts to address two core goals:

- Stabilizing the 40-plus year decline in fluid milk sales with a focus on growing "milk as milk" through new products.
- Growing milk-based beverages that lets milk "be the competition." This means milk serves as a primary ingredient in coffees, teas, smoothies and other ready-to-drink beverages.

Through this initiative, we partnered with four core dairy/food companies: **Dairy Farmers of America®**, **Darigold®**, **Kroger®** and **Shamrock Farms®**.

These efforts have led to sustainable change for the category through the partner making investments in infrastructure (e.g., new plant construction, upgraded facilities), advertising, staffing and product innovation.

Our partners launched new beverages in growth-driving segments below and continue to support them with marketing:

- DFA launched Siips Q4 2020 targeting youth in new, appealing aluminum packaging.
- Shamrock Farms launched Swirled which puts a new twist on chocolate milk by blending in creamy coconut and real almonds to help drive dairy relevancy and category loyalty.
- Kroger is readying a kid-focused product set to launch in July 2021.

Additionally, partners continue to invest in infrastructure, including Darigold which invested over \$65M in an aseptic line set to start production in Q3 2021 along with finalizing a location for a Greenfield plant set to be operational in 2023.

We continue to work with Amazon and kicked off a General Mills partnership to continue to explore new channels and partners to drive dairy sales and trust.

Finally, Checkoff has continued to invest in eCommerce creating relevant tools to educate the dairy value chain on eCommerce through eComm 101 and 201 training.

### International Partnerships

Checkoff has embarked on direct partnerships with companies who supply or purchase U.S. dairy to accelerate international sales. This effort builds on the successful domestic partnership model with foodservice companies and dairy cooperatives and processors by serving as expert consultants to provide marketing, packaging, insights, innovation, supply chain and social responsibility support to advance U.S. dairy.

Global foodservice partners include **Pizza Hut® Asia Pacific**, **KFC® Latin America and Caribbean** and **Domino's® Japan** which have delivered positive results for U.S. dairy exports:

- **Our Domino's Japan** partnership has already launched two new menu items since January featuring U.S. Cheese. The Ultra Jumbo Pizza, which is 4 times the size of a medium pizza, and the Pizza Rice Bowl which combines a familiar Japanese dish, butter rice, with pizza toppings. Since the beginning of the partnership in 2019, US cheese volume at the chain has doubled!



Additionally, due to the success of the Domino's Japan partnership, the Domino's international partnership expanded to include the Middle East in February. The Middle East represents a high growth opportunity for our partner leading to upside for U.S. dairy sales.

- **Our Pizza Hut Asia Pacific** partnership continues to create new menu items using US cheese. Most recently, the team held a workshop to continue U.S. cheese innovation to formulate a US dairy-centric product pipeline. Since the start of the partnership, U.S. volume at Pizza Hut Asia Pacific has grown over 85%. Additionally, as Pizza Hut international continues to grow, we expanded our partnership to include the Middle East as a growth opportunity for U.S. dairy sales.
- **KFC Latin America and Caribbean** has placed a hold on a few new innovations due to Covid impact, but looks to ramp up in H2 2021.



## MIDWEST DAIRY PROMOTION IN ACTION

Midwest Dairy focuses on dairy promotion plans developed at the national level, as well as a variety of state-specific initiatives developed for various local key audiences to drive demand and confidence of dairy foods nationally, regionally, and locally. Our goal is to bring dairy to life by giving consumers an excellent dairy experience. The impact of national programs such as partnerships with McDonald's, Domino's, Pizza Hut and Taco Bell help increase sales of dairy through new menu and product innovations, while strategies to work with and through thought leaders and partners help dairy farmers tell their stories to build overall consumer confidence and trust in dairy foods and farming practices.

Midwest Dairy has partnered with Nebraska schools to increase access and consumption of dairy foods and supported student activity through Fuel Up to Play 60, a program designed to help schools meet their wellness goals and encourage youth to consume nutrient-rich foods, including dairy, and achieve at least 60 minutes of physical activity each day. Midwest Dairy also worked with and through partners to increase demand for dairy and reached out to thought leaders, including health and wellness professionals, to help them better understand how dairy foods get from the farm to the store. Additionally, Midwest Dairy pursued research benefiting our product priorities, supported the national Undeniably Dairy campaign and worked to develop young dairy leaders.



Following are examples of Midwest Dairy's work in Nebraska representing both the implementation of the national plan and activities unique to the state and region.

## New Dairy Inspired Menu Offerings Result in Increased Dairy Sales Through School Partnerships

Midwest Dairy is partnering with North Platte Public Schools, Gretna Public Schools, and Lincoln Public Schools on projects that increase student demand for dairy throughout the 2020-2021 and upcoming 2021-2022 school year. All three districts are implementing a smoothie program which will impact students at the elementary, secondary, and high school level. The smoothies include both milk and yogurt in the recipe, which helps to fuel youth with dairy nutrients as well as helping to increase dairy sales. The school recognizes students as customers and provides them with appealing meal options that meet nutrient needs and taste great.

To build on the excitement of smoothies in school meals, Midwest Dairy partnered with Chef Sharon Schaefer, SNS to present on a webinar to over 250 school nutrition professionals across the US on the topic of smoothie and yogurt parfait programs to drive student meal participation. Schaefer, presenting alongside Nebraska dairy farmer Mary Temme, shared tips and recipes to encourage implementation, while promoting Midwest Dairy tools and recipes.



## Bringing Dairy to Unexpected Places to Engage Consumers



As part of the strategic plan, Midwest Dairy is committed to bringing dairy, and dairy farmers, to unexpected places to engage with consumers to showcase dairy's sustainable nutrition story from the farm to the table. Midwest Dairy teamed up with Summit Media and the Omaha Baseball Village in Omaha, Nebraska, to reach consumers through radio channels, social media, and an onsite experience during the college baseball championships in June reaching over 2,000,000 consumers through onsite, social, and traditional media. The theme for the month-long activation was called "Get Moo'd Up". The Omaha Baseball Village experience included an opportunity for fans to sample a new dairy innovation beverage called Good Sport, as well as locally donated Hiland chocolate milk. The onsite experience included live remote broadcasts with radio personalities, plenty of dairy giveaways, live calves, product sampling, the Nebraska Dairy Princess and Ambassadors, and local dairy farmers who shared their sustainable nutrition story of the benefits of dairy.

The National Dairy Month campaign, Get Moo'd Up, kicked off with radio Channel 94.1's radio personality and mom, Molly, Star 104.5's radio personality and foodie, Cheryl Kaye, and Nick Handley, sports radio personality on AM590 visiting a local dairy farm to learn more about dairy farming first hand. Midwest Dairy farms hosted these radio influencers for a farm tour and gave them a perspective of their operation, production methods, animal care, and food safety. Each radio personality then engaged listeners by sharing their experiences of how milk and dairy products are beneficial in their individual lives through customized digital opportunities and their first-hand experience from visiting a local dairy farm.



## Midwest Dairy Partnered with Children's Hospital and Medical Center to Equip Pediatricians with Tools to Educate Patients and Families

According to the Center for Food Integrity research, consumers look to family doctors as the number one most trusted source of information for food-related issues. Based on these insights, Midwest Dairy focused on working with Children's Hospital and Medical Center as a partner to equip pediatricians with science-based tools to educate and provide advice to patients and clients regarding dairy foods for optimal wellness. Midwest Dairy participated in a mailing to 225 pediatricians that work for Children's Hospital in Nebraska. The mailing included a MyPlate tear pad that encourages three servings of dairy each day, a MyPlate education tool and a tear pad with specific dairy recommendations and tips for children. Pediatricians can use these handouts to provide nutrition information to the families that they see as patients.



In addition to the educational resource mailing, Midwest Dairy partnered with Children's Hospital and Medical Center on a series of three webinars for pediatricians highlighting how to use the resources with patients and families, an expert presentation on the Dietary Guidelines for Americans, as well as connecting the pediatricians to local resources for families who struggle with food insecurity including experts in WIC, Nebraska Extension, the Department of Health, and Food Banks.

## Midwest Dairy Partners with Registered Dietitian to Promote Dairy's Role in the Diet to Professional Colleagues and Consumers

Amber Pankonin, a local dietitian who influences consumers, culinary staff, and dietitians on a national and local level, spoke on behalf of dairy farmers to 140 dietitians attending the virtual Nebraska Academy of Nutrition and Dietetics Conference on March 18, 2021. Pankonin addressed myths about dairy and why it's important to trust science.

Midwest Dairy is sponsoring Pankonin throughout 2021 as she highlights the importance of dairy nutrition, dairy sustainability, and her love for dairy farmers in her [blog](#), with a recipe and TV segment during each of our federation-wide power periods: April Earth Day, June National Dairy Month, and October National Farmers Day.



## Midwest Dairy Convenes Future Dietetic Professionals for Dairy Farm Tour

Midwest Dairy, in partnership with the Nebraska Beef Council, hosted a farm tour for sixteen dietetic interns from the University of Nebraska Lincoln and the University of Nebraska Medical Center during National Dairy Month in June, 2021. Sevastian Banuelos, the manager at Prairieland Dairy, lead the farm tour covering topics ranging from cow care and comfort, to sustainability, as well as animal nutrition. The dairy farm experience equips these young professionals with the tools and experience to answer consumer and client questions about dairy foods once they begin their dietetics career.



Heather Rasmussen, internship director from University of Nebraska-Lincoln provided the following feedback, "I met with the interns, and they had nothing but good things to say about the farm tours. It was an eye-opening experience for them. We have a fair number of interns from Lincoln and Omaha, and they expressed appreciation for this exposure and stated that they have a better understanding of where their beef and dairy come from." This is a great example of how Midwest Dairy is working through partners to bring dairy to life for consumers.

## Midwest Dairy partners with children's museums to reach Nebraska youth and families

Midwest Dairy's strategic plan includes a goal to grow trust in dairy with consumers, with a specific focus on reaching youth and their families. To help in accomplishing this goal, Midwest Dairy has partnered with local children's museums to help connect the dairy farm story to consumers in urban Nebraska cities.

The Lincoln Children's Museum has focused on the opportunity to reach their members and followers through onsite experiences in the museum, as well as through social media. Children and families who come to the museum can experience dairy while visiting the pretend play grocery store where they can shop for local dairy foods, as well as view a video that shares the journey of milk from farm to table in just 48 seconds. Midwest Dairy has partnered with Lincoln Children's Museum through a social media storybook series where Nebraska Dairy Ambassadors read a storybook specific to dairy farming that members and followers can participate in.

The [Lincoln Children's Museum's Facebook page](#) has over 14,600 followers, and their members fit the target market for conflicted health seekers: Moms that question where their food comes from and are likely to share on social media.



A new character, Karlie the Cow, was created to compliment LCM's mascot Kazoo and introduce followers to dairy farming. Two October social media posts reached over 1,400 followers with almost 50 interactions. Follow along on [Lincoln Children's Museum's Facebook page](#).

In addition, Midwest Dairy has also partnered with the Kearney Area Children's Museum to bring dairy to life for their members and guests. The Kearney Area Children's Museum (KACM) recently renovated one of its most beloved exhibits, the farm zone. In conjunction with a "Farm to Fork" layout throughout the museum, this new space includes a major focus on dairy production. The ribbon cutting was held on April 26 and included Nebraska dairy farmer, Steve Wolfe from Wolfden Dairy in Kearney, Nebraska. Museum members and guests began enjoying the space on April 27.







The KACM Ag Exhibit highlights the impact that agriculture has on the community and educates children about where food comes from and the occupations involved in agriculture. Imaginary play is critical in early child development, so components of the exhibit focused on sensory building and critical thinking. The dairy exhibit also includes a life-size, fiberglass cow that children can milk and audibly "moos" and shares fun facts.

This renovation project had a quick turnaround in under 9 months, starting with funds, grant writing and brainstorming for this exhibit. According to KACM, this zone renovation would not have been possible without the generous sponsors including Midwest Dairy and many others in the Kearney area.

### **Midwest Dairy Foods Research Center Provides Research Expertise to Dairy Industry**

The Midwest Dairy Foods Research Center (MDFRC) is a collaborative effort between dairy farmers and land-grant universities with a mission of delivering research and education that benefit consumers and fuel a strong market for Midwest Dairy. Mary Temme, 2020–2021 Nebraska Division chairwoman, is a member of the MDFRC Operational Advisory Committee, which is responsible for recommending overall policies, program goals, research plans and objectives.

Through the MDFRC, Midwest Dairy continues to invest in product and food safety research, as they are of critical importance to the dairy industry. The funds awarded to researchers are not only used to conduct research projects, but also to support graduate students who manage the research, as they are the future generation dairy leaders.

Expansion into any market beyond fluid milk has been possible because of science and research, and checkoff plays an important role by investing in quality research and developing future dairy ambassadors. MDFRC research projects have always focused on finding solution to the problems faces by the dairy processors. In the last several years, some notable projects include strategies for control of surface biofilms, non-thermal pasteurization, evaluation of farm interventions to reduce spore formers in fluid milk, understanding the functionality of dairy powders.

To achieve low microbial counts in dairy powders suitable for the export market, it is very important to control the microbial count in raw milk at the farm. Dr. Andreia Bianchini Huebner, part of the Food Engineering Specialist team at the University of Nebraska Lincoln, is evaluating different farm interventions to study their effect on the microbial counts in raw milk. Another study that the team worked on tested the transfer of *Listeria*, a food-borne pathogen from Personal Protective Equipment (PPE) in the manufacturing plant to food contact surfaces. The results of the study were used to develop resources and will be available as NebGuides which are short extension publications from the University of Nebraska-Lincoln and prospective publication will be found at [extension.unl.edu/publication](https://extension.unl.edu/publication).

## Dairy Ambassador Program Shapes Industry Advocates

Five students were selected this year to be dairy ambassadors for the state of Nebraska. Dairy ambassadors are selected given their interest in improving leadership and communication skills while advocating for the dairy industry. These college students have an interest in dairy production and engaged in conversations with consumers, school-age children and peers. Many of the conversations involved learning more about the dairy industry and practices used within the industry. While serving as a dairy ambassador, they will have the opportunity to network with dairy industry partners, visit dairy farms and tour agribusinesses in Nebraska.



The 2021 Nebraska dairy ambassadors are:

- Abigail Langdon of Clarkson, Nebraska, who is a sophomore agribusiness major with a banking and finance option at the University of Nebraska – Lincoln. This year marks Abigail's second year as an Ambassador.
- Whitney Hochstein of Wynot, Nebraska, who is a freshman graphic design and entrepreneurship major with a minor in foods and nutrition at Wayne State College.
- Faith Junck of Carroll, Nebraska, who is a freshman agricultural and environmental science communications major at the University of Nebraska – Lincoln.
- Claudia Leubner of Marietta, New York, who is a freshman at the University of Nebraska – Lincoln majoring in agribusiness.
- Jordan Wilburis of Kenesaw, Nebraska, who is a senior agriculture education major with a leadership option at University of Nebraska – Lincoln.

## Board Leadership Steers Midwest Dairy Nebraska Division



*Nebraska Division board officers for 2020–2021 are (left to right): Joyce Racicky, vice chairwoman; Mary Temme, chairwoman; and Jodi Cast, secretary/treasurer.*

The Nebraska Division board of Midwest Dairy elected its 2021-2022 officers during the annual division meeting that was held on April 7. The following dairy farmers were elected: Mary Temme, Wayne, was elected chairwoman; Joyce Racicky, Mason City, was elected vice chairwoman and Jodi Cast, Beaver Crossing, was elected secretary/treasurer.

Temme and Lowell Mueller, Hooper, were chosen to continue representing Nebraska on the Midwest Dairy Corporate board. Mueller went on to be re-elected secretary of the Midwest Dairy Corporate board.

## Midwest Dairy partners with Pizza Ranch to launch new take-and-bake breakfast pizzas

Midwest Dairy partnered with Pizza Ranch in December 2020 to launch a new take-and-bake breakfast pizza with a buy 1, get 1 free promotional offer.

The concept began when Midwest Dairy reviewed consumer insights and research data which revealed the size and growth of the breakfast pizza segment at retail. The insights were shared with Pizza Ranch, who then utilized this information to help persuade their franchisees to support this new product and move up a launch date.

Midwest Dairy worked with Pizza Ranch to build a December marketing event and a store sales competition to encourage stores to sell the new pizzas. The marketing program included:

- Digital advertising, including websites and social channels = 16 million impressions with overwhelmingly positive comments about the breakfast pizzas
- Email marketing - over 3 million emails sent
- Box-toppers on all orders
- In-door banner displayed at all Pizza Ranch stores highlighting the breakfast pizzas
- All activations included the Undeniably Dairy logo



The launch and promotional event exceeded all Pizza Ranch and Midwest Dairy expectations. Pizza Ranch sold well over 100K breakfast pizzas in December, which equated to over 8 times the expected volume for the month. Overall December 2020 sales of incremental pounds of milk exceeded 350K pounds.

## Hy-Vee celebrates National Farmers Day through partnership with Midwest Dairy to reach consumers

Hy-Vee and Midwest Dairy celebrated National Farmers Day with a week-long activation that took place October 9-16, 2020.

Hy-Vee sent an email to 200,000 Hy-Vee shoppers with a focus on those who have purchased plant-based alternatives as well as other dairy items, but not fluid milk.

The event celebrated the locality of dairy and asked them to support our local farmers by adding dairy to their carts. A "Shop Dairy" button led consumers to a Hy-Vee Aisles Online landing page that included milk, cheese, butter, yogurt, and ice cream.

The promotion resulted in over 150,000 incremental pounds of milk sold as part of this event.





## Midwest Dairy teams up with Discover Dairy to promote the Adopt-A-Cow program to students and schools across Nebraska.



Wanting to connect students with dairy farmers to learn more about where their food comes from and why it matters is one of the main reasons Midwest Dairy partners with the Discover Dairy Adopt a Cow program. This year, Midwest Dairy will reach more than 262,000 students, including students from 334 schools across Nebraska, growing participation by 1,558% over the previous school year. Our goal was to increase participation by 40% however we have exceeded that goal. One of the reasons for growth is that teachers are looking for more engaging virtual content for their classrooms during the pandemic. Another is that Midwest Dairy utilized our partners and digital channels to make sure as many teachers knew about the program as possible.

This year we have seven dairy farmers serving as hosts for the program, including Jodi Cast, Nebraska Dairy farmer near Beaver Crossing, NE. They will virtually provide a calf for the students to “adopt” for the year, watching it grow and learning more about the dairy farm family, animal care and environmental stewardship.

As a bonus for participating in the program, third-grade classrooms will also be receiving a Midwest Dairy Ag Literacy Kit. These kits will include the new My Family's Dairy Farm book from the Iowa Ag Literacy Center, lesson plans, posters and a fun TabMOO game for students to learn more about the farm.

## Undeniably Dairy National Campaign Builds Trust in Dairy

As part of its mission to protect and grow sales and trust in dairy, Dairy Management Inc. (DMI) and the Innovation Center for U.S. Dairy launched an industry-wide initiative in 2017, Undeniably Dairy. In its fourth year, Undeniably Dairy serves as the dairy community's industry-wide, multi-stakeholder campaign that helps consumers and other stakeholders recognize the important role dairy plays in their lives.

Undeniably Dairy does this by building on consumer insights that indicate people increasingly want to know more about where their foods come from. The campaign connects people with the farmers and the dairy community behind the real, nutrient-rich and responsibly produced milk and dairy foods they love, while also bringing a bit of dairy joy during culturally relevant moments.



Each year, Undeniably Dairy leverages an integrated multi-channel approach to expand reach, raise awareness, and build participation and ultimately, trust, through:

- Integrated communications—A comprehensive approach that includes media and other channel partnerships, digital (websites, search, and social strategies), earned and social media, and through events and experiences.
- Influencer outreach—Establishing and/or strengthening relationships with critical media, reputational (e.g., dietitians, health professional organizations, environmental and animal care leaders) and cultural influencers (e.g., food and lifestyle bloggers) that reach consumers.
- Community engagement—Rallying the dairy, food and other relevant communities to amplify, customize and create content around Undeniably Dairy and its pillars to further unify and strengthen dairy's voice, including engagement among farmers, processors and manufacturers, retailers, and agribusiness.

In 2020 and 2021, the longstanding campaign efforts focused on building trust and relevance around dairy as a sustainably nutritious food expanded to incorporate dairy's essential role in nourishing people. This was reinforced by content that celebrated dairy's nutrition profile, commitment to communities, and central role in family lives. In 2021, our partnerships with athletes, fitness and nutrition influencers, chefs and wellness influencers highlighted the unique nutritional make-up of dairy foods and the role they play in modern lifestyles.

In the first half of 2021, Undeniably Dairy's combination of integrated communication and marketing efforts garnered more than 150 million impressions, reaching our target audience with content that resonates across paid media, earned, social and partnerships.





# Southwest Dairy Farmers

2021 – 2022

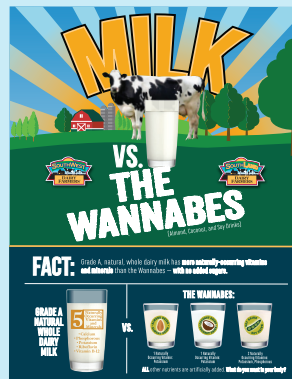
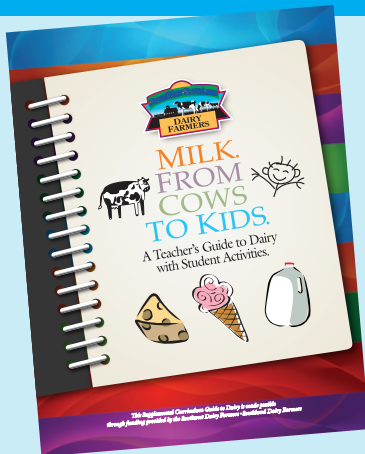
Proposed Promotional Activities in Nebraska

## MOBILE DAIRY CLASSROOM



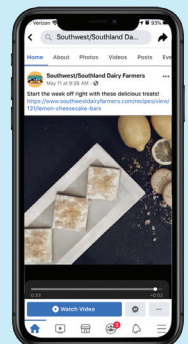
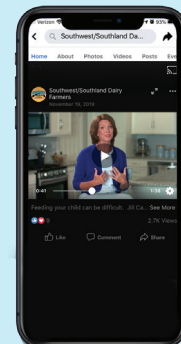
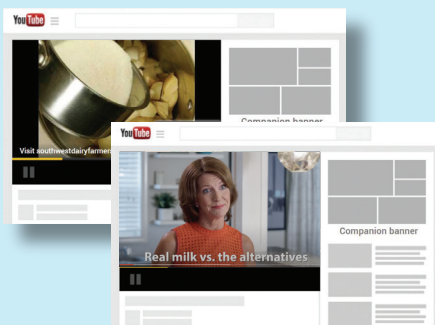
The Mobile Dairy Classroom is a traveling fully operational milking parlor, featuring a live cow. This educational initiative reaches over 700,000 children and consumers throughout our entire area each year. In 2021 – 2022, we will continue to schedule school programs in southern Nebraska as our local funds will allow.

## EDUCATIONAL MATERIALS AND PROGRAMS



Educational teaching tools (teacher's guides, nutritional charts and other educational information) are essential to our program. These give us the opportunity to leave materials that instructors can utilize in their curriculum.

## DIGITAL PROMOTION AND SOCIAL MEDIA



Using Facebook, Instagram, Google, and YouTube we are promoting a variety of dairy recipes with our short and entertaining Dairylicious videos. We also promote informative messages about the importance of dairy in our everyday lives, featuring childhood nutrition expert, Jill Castle.



## EDUCATIONAL EVENTS AND TRADE SHOWS



Taking our message on the road allows us to reach consumers in engaging settings. We hand out promotional bags and educational material, so our presence at State Fairs and Trade Shows is always noticed. We are scheduled to be at the Madison County Fair in July 2021.

## UNIVERSITY ATHLETICS PROMOTIONS



The COVID-19 pandemic postponed our dairy educational and promotional programs for Creighton University. Plans to return in the 2021 – 2022 season are currently being arranged and we look forward to returning in the Fall of 2021.


## NSAA



Southwest Dairy Farmers has begun the discussion for potential partnership with the Nebraska School Activities Association. Due to the COVID-19 pandemic, these discussions have been put on hold but discussions will continue soon to find potential partnership opportunities.




## CHOCOLATE MILK IN SCHOOLS PROGRAM



Southwest and Southland Dairy Farmers is offering your school a grant program to fuel up athletes with Chocolate Milk.

Chocolate Milk is the original energy drink. With nine essential vitamins and nutrients, it can restore energy and rebuild muscle. After workouts, Chocolate Milk is an excellent recovery drink for athletes, and now, your teams could win a grant for a FREE supply of Chocolate Milk for the season.



Get your school to **TEAM UP with Chocolate Milk**

**CHOCOLATE MILK IS THE ORIGINAL SPORTS DRINK.**


SouthWest Dairy Farmers logo.

**Here's How It Works:**

1. Go to [www.southwestdairyfarmers.com](http://www.southwestdairyfarmers.com) and click on the Chocolate Milk button. You'll find more information there and can apply electronically for your team's grant.
2. If your application is selected and a grant awarded, you will receive up to \$2,500 in two installments for your school (one sport for one semester), good for the purchase of Chocolate Milk through your Food Service Director or vendor.
3. Grants can be awarded for Boys and Girls sports.
4. Applications must be received by these dates:
  - September for Winter sports
  - January for Spring sports
  - Specific deadlines can be found on our website.
5. Our Team Up with Chocolate Milk in Schools grant will also include a visit to your school by our Mobile Dairy Classroom. This popular unit features a live cow and milking demonstration, along with an educational program taught by trained dairy instructors.\*

\* Date and time to be determined by your local availability of Mobile Dairy Classroom unit and instructors.

**Milk. A part of everything that's good.**



**A Few Things To Know Before Sending In Your Team's Application:**

- Grant funds will be awarded to provide Chocolate Milk only for the awarded school(s).
- Applications by a school for multiple sports are allowed but grants will be awarded based upon the total number of applications received by a single school, for one sport per school per semester.
- Teams are not eligible to win a grant for back-to-back sports seasons. Funding preference will be given to new teams.
- Grants will be awarded based upon a school's answer given to the application, i.e., the ability of your school to fulfill all grant requirements.
  - School must agree to hang "TEAM UP with CHOCOLATE MILK" banners awarded by Southwest/Southland Dairy Farmers at all home games.
  - Provide receipts for milk purchases during the course of the sports season.
  - Choose that your school will work with athletic trainers, PT/OTs and PTA's, or similar groups to continue the purchase of Chocolate Milk for the remainder of the sports season if awarded grant funds are received.
  - Allow Southwest/Southland Dairy Farmers to use your school's name, mascot, and participating sport in all media points on social platforms to promote the use of Chocolate Milk as a recovery drink for athletes.
  - Agree to use your school's social media platforms to posts to highlight your school's awarded team and the TEAM UP with CHOCOLATE MILK program.

We look forward to receiving your application! Contacted! Please contact Amanda at Southwest Dairy Farmers at (916) 362-1717 or email [amanda@southwestdairyfarmers.com](mailto:amanda@southwestdairyfarmers.com).

The Team Up With Chocolate Milk in Schools program is set to launch in Nebraska high schools in Fall 2021. This grant program allows high schools to nominate their boys and girls sports teams, with the goal of being awarded a one-semester supply of chocolate milk. Applications are currently available for submission and we look forward to the participation of Nebraska high schools.

## A DAIRY PROMOTION PARTNERSHIP



Southwest Dairy Farmers is committed to local consumer-driven marketing, advertising, and promotion of the dairy industry, and your dairy's role in it.



**NEBRASKA DAIRY INDUSTRY DEVELOPMENT  
BOARD**

**Dairy Industry  
Development  
Act**



## DAIRY INDUSTRY DEVELOPMENT ACT

- Administration:** This Act is administered by the Nebraska Dairy Industry Development Act Board. The Department of Agriculture is involved with some of these sections.
- Adoption:** This act was last revised during the 2013 session of the Nebraska Legislature.
- Rules:** The Nebraska Department of Agriculture has no authority to promulgate regulations under this Act. The Dairy Industry Development Board, however; has promulgated a regulation under this Act, known as Title 484, Chapter 1 – Dairy Industry Development Board Regulations.

### Index

<u>Section</u>	<u>Subject</u>
2-3948. ....	Act, how cited.
2-3949. ....	Terms, defined.
2-3950. ....	Legislative findings.
2-3951. ....	Nebraska Dairy Industry Development Board; created; members; qualifications.
2-3951.01. ....	Board members; appointment; terms; officers; expenses.
2-3951.02. ....	Board members; nomination and appointment.
2-3951.03. ....	Board members; vacancies.
2-3951.04. ....	Board members; nominations; notification; procedure.
2-3955. ....	Board; meetings; minutes.
2-3956. ....	Board; administration; limitation on expenses.
2-3957. ....	Board; powers and duties.
2-3958. ....	Mandatory assessment; board; duties.
2-3959. ....	Assessment; payment; procedures.
2-3960. ....	Nebraska Dairy Industry Development Fund; created; use; investment.
2-3961. ....	Use of funds; limitations.
2-3962. ....	Board; report; contents.
2-3963. ....	Violations; penalties; unpaid assessment; late payment fee.

## **2-3948. Act, how cited.**

Sections 2-3948 to 2-3963 shall be known and may be cited as the Dairy Industry Development Act.

**Source:** Laws 1992, LB 275, § 1; Laws 2001, LB 194, § 1; Laws 2004, LB 836, § 1.

## **2-3949. Terms, defined.**

For purposes of the Dairy Industry Development Act:

- (1) Board shall mean the Nebraska Dairy Industry Development Board;
- (2) Commercial use shall mean sale for retail consumption or sale for resale, for manufacture for resale, or for processing for resale;
- (3) First purchaser of milk shall mean a person who buys milk from a producer and resells to another person the milk or products manufactured or processed from the milk;
- (4) Milk shall mean any class of cow's milk produced in the State of Nebraska;
- (5) Milk production unit shall mean any producer licensed by the Department of Agriculture;
- (6) Producer shall mean any person engaged in the production of milk for commercial use;
- (7) Producer-processor shall mean a producer who processes and markets the producer's own milk; and
- (8) Qualified program shall mean any state or regional dairy product promotion, research, or nutrition education program which is certified pursuant to 7 C.F.R. 1150.153, as amended. Such program shall: (a) Conduct activities as defined in 7 C.F.R. 1150.114, 1150.115, and 1150.116 intended to increase consumption of milk and dairy products generally; (b) except for programs operated under the laws of the United States or any state, have been active and ongoing before November 29, 1983; (c) be financed primarily by producers, either individually or through cooperative associations; (d) not use any private brand or trade name in advertising and promotion of dairy products unless the National Dairy Promotion and Research Board established pursuant to 7 C.F.R. 1150.131 and the United States Secretary of Agriculture concur that such requirement should not apply; (e) certify to the United States Secretary of Agriculture that any request from a producer for a refund under the program will be honored by forwarding that portion of such refund equal to the amount of credit that otherwise would be applicable to the program pursuant to 7 C.F.R. 1150.152(c) to either the National Dairy Promotion and Research Board or a qualified program designated by the producer; and (f) not use program funds for the purpose of influencing governmental policy or action.

**Source:** Laws 1992, LB 275, § 2.

## **2-3950. Legislative findings.**

The Legislature declares it to be in the public interest that producers in Nebraska be permitted and encouraged to maintain and expand domestic sales of milk and dairy products, develop new products and new markets, improve methods and practices relating to marketing or processing of milk and dairy products, and inform and educate consumers of sound nutritional principles including the role of milk in a balanced diet. It is the purpose of the Dairy Industry Development Act to provide the authorization and to prescribe the necessary procedures by which the dairy industry in Nebraska may finance programs to achieve the purposes expressed in this section. The Nebraska Dairy Industry Development Board shall be the agency of the State of Nebraska for such purpose.

**Source:** Laws 1992, LB 275, § 3.

## **2-3951. Nebraska Dairy Industry Development Board; created; members; qualifications.**

The Nebraska Dairy Industry Development Board is hereby created. Members of the board shall (1) be residents of Nebraska, (2) be at least twenty-one years of age, (3) have been actually engaged in the production of milk in this state for at least five years, and (4) derive a substantial portion of their income from the production of milk in Nebraska. Board members shall be nominated and appointed as provided in sections 2-3951.01 to 2-3951.04.

**Source:** Laws 1992, LB 275, § 4; Laws 2004, LB 836, § 2; Laws 2013, LB70, § 1.

### **2-3951.01. Board members; appointment; terms; officers; expenses.**

(1) Members of the board shall, as nearly as possible, be representative of all first purchasers of milk and individual producer-processors in the state and, to the extent practicable, result in equitable representation of the various interests of milk producers both in terms of the manner in which milk is marketed and geographic distribution of milk production units in the state.

(2) The terms of the members of the board shall be three years, except that the first term of the initial and additional members of the board shall be staggered so that one-third of the members are appointed each year. The number of years for the first term of new and additional members shall be determined by the Governor. Once duly appointed and qualified, no member's term shall be shortened or terminated by any subsequent certification by the Department of Agriculture of milk production units from which a first purchaser of milk purchases milk.

(3) The Director of Agriculture or his or her designee shall be an ex officio member of the board but shall have no vote in board matters.

(4) Members of the board shall elect from among the members a chairperson, a vice-chairperson, and such other officers as they deem necessary and appropriate.

(5) Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

**Source:** Laws 2004, LB 836, § 3; Laws 2013, LB70, § 2.

#### **2-3951.02. Board members; nomination and appointment.**

(1) Members of the board shall be nominated and appointed as follows:

(a) Each first purchaser of milk which purchases milk from at least twenty-one milk producers may submit to the Governor the names of up to two nominees for each forty milk production units, or major portion thereof, from which the first purchaser purchases milk. The Governor shall appoint one member for each forty production units, or major portion thereof, from nominees submitted pursuant to this subdivision, except that if milk production units certified by the Department of Agriculture have decreased so that each board member appointed pursuant to this subdivision represents less than a major portion of forty production units, the Governor shall maintain representation of one member for each forty production units, or major portion thereof, by not filling a vacancy caused by a member's term expiring; and

(b) All other first purchasers of milk and individual producer-processors who are not included among milk production units claimed by a first purchaser of milk entitled to submit nominees under subdivision (1)(a) of this section shall be combined as a group for the purpose of submitting nominees, and each first purchaser and individual producer-processor of the group may nominate up to two nominees. The Governor shall appoint two members from nominees submitted pursuant to this subdivision.

(2) Whenever the number of members of the board as determined by subsection (1) of this section results in less than seven members, the Governor shall appoint a member or members from the state at large to maintain membership of the board at seven members. Whenever such appointment is required, the board shall call for and submit a list of two or more nominees for each additional member needed to the Governor, and the Governor shall appoint a member or members from the nominees submitted pursuant to this subsection.

(3) Nominations in the case of term expiration or new or at-large membership and for all other vacancies shall be provided according to the process prescribed in section 2-3951.04. The Governor may choose the members of the board from the nominees submitted or may reject all nominees. If the Governor rejects all nominees, names of nominees shall again be provided to the Governor until the appointment is filled.

**Source:** Laws 2004, LB 836, § 4; Laws 2013, LB70, § 3.

#### **2-3951.03. Board members; vacancies.**



(1) A vacancy on the board exists in the event of the death, incapacity, removal, or resignation of any member; when a member ceases to be a resident of Nebraska; when a member ceases to be a producer in Nebraska; or when the member's term expires. Members whose terms have expired shall continue to serve until their successors are appointed and qualified, except that if such a vacancy will not be filled, as determined by the Governor under section 2-3951.02, the member shall not serve after the expiration of his or her term.

(2) For purposes of filling vacancies on the board, the Governor shall appoint one member from up to two nominees submitted by the vacating member's nominator under section 2-3951.02. In the event of a vacancy, the board shall certify to the vacating member's nominator that such a vacancy exists and shall request nominations to fill the vacancy for the remainder of the unexpired term or for a new term, as the case may be.

**Source:** Laws 2004, LB 836, § 5; Laws 2013, LB70, § 4.

#### **2-3951.04. Board members; nominations; notification; procedure.**

(1) When nominations for board members are required, written notification shall be given to each producer represented or to be represented by such member, including an at-large member. The first purchaser or purchasers of milk shall notify each producer from whom the first purchaser buys milk that each producer may submit written nominations. If the group represented is a combination of first purchasers of milk and individual producer-processors or if the member is an at-large member, the individual producer-processors shall receive notification from the Department of Agriculture.

(2) Nominations shall be in writing and shall contain an acknowledgment and consent by the producer being nominated. The nomination shall be returned by the producer to the first purchaser of milk or to the department from whom the producer received notification within fifteen days after the receipt of the notification. For nominations to replace a member whose term is to expire or for a new member, the producers shall receive notification between August 1 and August 15 preceding the expiration of the term of the member or the beginning of the term of a new member. For all other vacancies, the producers shall receive notification within thirty days after the member vacates his or her position on the board or within thirty days after the board calls for an at-large member or members as provided in section 2-3951.02.

(3) The first purchasers of milk, the department, or the board shall submit nominations to the Governor by September 30, in the case of term expiration or new or at-large member, or forty-five days after the member vacates his or her position for all other vacancies. The Governor shall make the appointments within thirty days after receipt of the nominations.

(4) All nominees shall meet the qualifications provided in section 2-3951.

**Source:** Laws 2004, LB 836, § 6; Laws 2013, LB70, § 5.

**2-3952. Repealed. Laws 2004, LB 836, § 8.**

**2-3952.01. Repealed. Laws 2004, LB 836, § 8.**

**2-3953. Repealed. Laws 2004, LB 836, § 8.**

**2-3954. Repealed. Laws 2004, LB 836, § 8.**

**2-3955. Board; meetings; minutes.**

(1) The board shall meet at least once every six months at a time and place fixed by the board. Special meetings may be called by the chairperson and shall be called by the chairperson upon request of at least twenty-five percent of the members of the board. Written notice of the time and place of all meetings shall be mailed in advance to each member of the board. A majority of members of the board shall constitute a quorum for the transaction of business. The affirmative vote of a majority of all members of the board shall be necessary for the adoption of rules and regulations.

(2) The board shall at each regular meeting review all expenditures made since its last regular meeting.

(3) The board shall keep minutes of its meetings and other books and records which shall clearly reflect all of the acts and transactions of the board. Such records shall be open to examination during normal business hours.

**Source: Laws 1992, LB 275, § 8.**

**2-3956. Board; administration; limitation on expenses.**

The board may contract for the necessary office space, furniture, stationery, printing, and personnel services useful or necessary for the administration of the Dairy Industry Development Act. The total administrative costs and expenses of the board shall not exceed five percent of the annual assessments collected in accordance with section 2-3958.

**Source: Laws 1992, LB 275, § 9.**

**2-3957. Board; powers and duties.**

The board shall:

(1) Arrange or contract for administrative and audit services which are necessary for the proper operation of the Dairy Industry Development Act;

(2) Procure and evaluate data and information necessary for the appropriate distribution of funds collected;

- (3) Direct the distribution of funds collected;
- (4) Prepare and approve a yearly budget;
- (5) Adopt and promulgate rules and regulations to carry out the act;
- (6) Establish a means by which all producers are informed annually on board members, policy, expenditures, and programs for the preceding year;
- (7) Authorize the expenditure of funds to conduct activities provided for by the act;
- (8) Bond such persons as necessary to ensure adequate protection of funds;
- (9) Make refunds to other qualified programs in other states and disburse as directed by producers pursuant to subdivision (8)(e) of section 2-3949;
- (10) Require that all books and records which clearly reflect all the transactions of its funded qualified programs be made available for audit by the board;
- (11) Initiate appropriate enforcement of the act and the rules, regulations, and orders promulgated under the act;
- (12) Accept remittances or credits and apply for and accept advances, grants, contributions, and any other forms of assistance from the federal government, the state, or any public or private source for administering the act and execute contracts or agreements in connection therewith;
- (13) When necessary, appoint committees and advisory committees, the membership of which reflects the different funding regions of the United States and of the State of Nebraska in which milk is produced and delegate to such committees the authority reasonably necessary to administer the act under the direction of the board and within the policies determined by the board; and
- (14) Exercise all incidental powers useful or necessary to carry out the act.

**Source:** Laws 1992, LB 275, § 10.

**2-3958. Mandatory assessment; board; duties.**

- (1) There shall be paid to the board a mandatory assessment of ten cents per hundredweight on all milk produced in the State of Nebraska for commercial use.
- (2) The board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

(3) For purposes of the act, when milk is sold to an out-of-state purchaser, the sale shall be deemed to have occurred in Nebraska if the milk was otherwise produced within Nebraska immediately prior to such sale and such sale is the first purchase of the milk for commercial use.

(4) For purposes of the act, when milk is produced out-of-state but sold to a first purchaser of milk in Nebraska, the assessment provided for in this section may be assessed and retained in Nebraska only if the producer consents.

**Source:** Laws 1992, LB 275, § 11.

#### **2-3959. Assessment; payment; procedures.**

The assessment prescribed in section 2-3958 shall be paid by producers at the time of first sale or delivery of milk for commercial use and shall be collected by the first purchaser of milk except as provided in this section. The first purchaser of milk shall remit the assessment to the board when the first purchaser of milk issues the milk payroll to producers. When milk is sold by producers to nonresident first purchasers of milk, the nonresident first purchaser of milk shall remit the assessments to the board. Producer-processors shall remit the assessments to the board. All assessments shall be remitted to the board not later than the last day of the month following the month in which the milk was commercially used, and a report shall be filed by the person responsible for remitting the assessment at the time that the assessment is remitted. The board shall make proper refunds to producers pursuant to subdivision (8)(e) of section 2-3949 at least quarterly. The board shall promulgate rules and regulations concerning the payment, remittance, refunding, and reporting of assessments. All money collected by the board shall be remitted to the State Treasurer for credit to the Nebraska Dairy Industry Development Fund.

**Source:** Laws 1992, LB 275, § 12.

#### **2-3960. Nebraska Dairy Industry Development Fund; created; use; investment.**

The Nebraska Dairy Industry Development Fund is hereby created. Money in the fund shall be used for the administration of the Dairy Industry Development Act, including advertising and promotion, market research, nutrition and product research and development, and nutrition and educational programs. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1992, LB 275, § 13; Laws 1994, LB 1066, § 7.

#### **Cross References**

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

**2-3961. Use of funds; limitations.**

The board shall not set up programs or agencies of its own but shall fund active, ongoing, qualified programs as stated in section 114 of the Dairy Production Stabilization Act of 1983, Public Law 98-180, as amended, and the regulations promulgated pursuant thereto. Funds may be used by qualified programs to jointly sponsor projects with any private or public organization to meet the objectives of the Dairy Industry Development Act.

**Source:** Laws 1992, LB 275, § 14.

**2-3962. Board; report; contents.**

The board shall prepare a report on or before October 1 of each year setting forth the income received from the assessments collected in accordance with section 2-3958 for the preceding fiscal year, and the report shall include:

- (1) The expenditure of funds by the board during the year for the administration of the Dairy Industry Development Act;
- (2) A brief description of all contracts requiring the expenditure of funds by the board;
- (3) The action taken by the board on all such contracts;
- (4) An explanation of all programs relating to the discovery, promotion, and development of markets and industries for the utilization of dairy products and the direct expense associated with each program;
- (5) The name and address of each member of the board; and
- (6) A brief description of the rules, regulations, and orders adopted and promulgated by the board.

The board shall submit the report electronically to the Clerk of the Legislature and shall make the report available to the public upon request.

**Source:** Laws 1992, LB 275, § 15; Laws 2013, LB222, § 1.

**2-3963. Violations; penalties; unpaid assessment; late payment fee.**

- (1) Any person violating any of the provisions of the Dairy Industry Development Act shall be guilty of a Class III misdemeanor.
- (2) Any unpaid assessment shall be increased one and one-half percent each month beginning with the day following the date such assessment was due. Any remaining amount due, including any unpaid charges previously made pursuant to this section, shall be increased at the same rate on the corresponding day of each succeeding month until paid.

(3) For purposes of this section, any assessment that was determined at a date later than prescribed by section 2-3959 because of the failure to submit a report to the board when due shall be considered to have been payable on the date it would have been due if the report had been timely filed. The timeliness of a payment to the board shall be based on the applicable postmarked date or the date actually received by the board, whichever is earlier. Any assessments and late payment fees may be recovered by action commenced by the board.

(4) The remedies provided in this section shall be in addition to and not exclusive of other remedies that may be available by law or in equity.

**Source:** Laws 1992, LB 275, § 16.

NEBRASKA ADMINISTRATIVE CODE

TITLE 484, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

DAIRY INDUSTRY DEVELOPMENT BOARD REGULATIONS

December, 2015

MAY 16 2016

## NEBRASKA ADMINISTRATIVE CODE

### TITLE 484 – NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

#### CHAPTER 1 - DAIRY INDUSTRY DEVELOPMENT BOARD REGULATIONS

#### NUMERICAL TABLE OF CONTENTS

<u>Subject</u>	<u>Statutory Authority</u>	<u>Code Section</u>
Mandatory Assessments	§§2-3948 to 2-3963	001
Refunds	§§2-3948 to 2-3963	002
Annotation	§§2-3948 to 2-3963	003



APPROVED

MAY 16 2016

*Pete Ricketts*  
PETE RICKETTS  
GOVERNOR



APPROVED  
DOUGLAS J. PETERSON  
ATTORNEY GENERAL

APR 25 2016

BY *Emily Rose*  
ASSISTANT ATTORNEY GENERAL

NEBRASKA ADMINISTRATIVE CODE

TITLE 484 - NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

CHAPTER 1 - DAIRY INDUSTRY DEVELOPMENT BOARD REGULATIONS

001 Mandatory Assessments.

001.01 Payment. Payment of mandatory assessments shall be made to the Board as set forth in the Dairy Industry Development Act.

001.02 Remittance. The Board shall accept remittances or credits as set forth in the Act.

001.03 Reporting. The Board may audit records of first purchasers, producers and their agents pursuant to the Act.

002 Refunds.

002.01 Refund Request. Producers desiring the redirection of their mandatory checkoff assessment under Neb. Rev. Stat. §2-3958(1) shall make a refund request to the Nebraska Department of Agriculture, P.O. Box 94947, Lincoln, NE, 68509. Refund requests shall be received within sixty days of the date of assessment. A refund request shall contain the following:

002.01A Proof that an assessment has been deducted by a first purchaser, in the form of a copy of a settlement form or check stub, clearly indicating the nature, purpose and amount of the deducted assessment, and the date deducted.

002.01B A statement indicating whether the checkoff assessment is to be redirected to the National Dairy Board or a qualified program designated by the producer.

002.01C If the producer requests that the checkoff assessment be redirected to a qualified program, proof that such program is a "qualified program" as defined pursuant to Neb. Rev. Stat. §2-3949(8).

TITLE 484  
CHAPTER 1

002.02 If a producer designates a qualified program in a redirection request rather than the National Dairy Board, the Board shall verify whether the producer's designee is a qualified program as set forth under Neb. Rev. Stat. §2-3949(8).

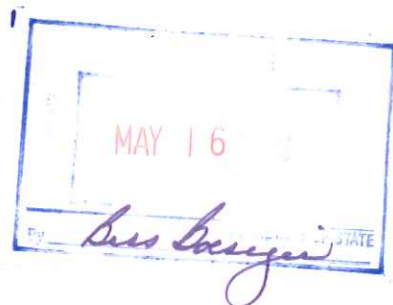
002.03 If the program designated by the producer is a qualified program under Neb. Rev. Stat. §2-3949(8), funding shall be disbursed after a contract is entered into between the Board and the qualified program.

003 Annotation. Neb. Rev. Stat. §§2-3948 to 2-3963.

APPROVED

MAY 16 2016

*Pete Ricketts*  
PETE RICKETTS  
GOVERNOR



APPROVED  
DOUGLAS J. PETERSON  
ATTORNEY GENERAL

APR 25 2016

BY *Emily Rose*  
ASSISTANT ATTORNEY GENERAL

**NEBRASKA DAIRY INDUSTRY DEVELOPMENT  
BOARD**

**Contracts**



NEBRASKA DEPARTMENT OF AGRICULTURE  
FEE COLLECTION PROGRAM

ENFORCEMENT PROCEDURES

FOR COLLECTION OF FEES AS PROVIDED FOR  
IN THE DAIRY INDUSTRY DEVELOPMENT ACT (SECTION 2-3948)

Requirement:

There shall be paid, to the Nebraska Dairy Industry Development Board, a mandatory assessment of ten cents (10¢) per hundredweight (cwt) on all milk produced in the state of Nebraska for commercial use. The assessment shall be paid by producers at the time of first sale or delivery of milk for commercial use and shall be collected by the first purchaser of milk. Producer/processors shall remit the assessments to the Board. The first purchaser shall maintain the necessary record of fees collected for each purchase of milk produced in the state of Nebraska. All assessments shall be remitted to the Board no later than the last day of month following the month in which the milk was commercially used, and a report shall be filed by the person responsible for remitting the assessment at the time the assessment is remitted.

Any request from a producer for a refund under the Program will be honored by forwarding that portion of such refund equal to the amount of credit, that otherwise would be applicable to the Program, to either the National Dairy Promotion and Research Board or a qualified program designated by the producer.

Definitions:

1. First purchaser of milk shall mean a person who buys milk from a producer and resells to another person the milk or products manufactured or processed from the milk.
2. Board shall mean the Nebraska Dairy Industry Development Board.
3. Commercial use shall mean sale for retail consumption or sale for resale, for manufacturing for resale, or for processing for resale.
4. Milk shall mean any class of cow's milk produced in the state of Nebraska.
5. Milk production units shall mean any producer licensed by the Department of Agriculture.
6. Producer shall mean any person engaged in the production of milk for commercial use.
7. Producer/processor shall mean a producer who processes and markets the producer's own milk.

8. Qualified program shall mean any state or regional dairy product promotion, research, or nutrition education program which is certified pursuant to 7 C.F.R. 1150.153.

**Confidentiality:**

The independent collection agency shall maintain all fee collection records in strict confidence in accordance with State statutes. Only agency total data will be released to the Board or the public upon request. The independent collection agency will release data related to the first purchaser only after written permission is received by the independent collection agency from the Board.

**Procedure for Determining First Purchaser:**

When a party or board member gives a name of an individual or firm to the Nebraska Dairy Industry Development Board which they believe is a first purchaser of milk and not assessing the checkoff, the Fee Collection Program will take the following action:

1. A letter is written to the individual or firm in question advising that the mailing list is being updated and asking whether or not they are a first purchaser.
2. If they respond they are a first purchaser of milk, they will be set up on the mailing list to receive a monthly notification. A copy of the Statute will be mailed out to them.
3. If they respond they are not a first purchaser of milk, the Fee Collection Program will inform the Dairy Industry Development Board of the response.
4. Board action will determine enforcement action and enforcement steps desired to garner compliance. This may include a request for a special audit or request the State Attorney General Office to initiate legal proceedings in accordance with the law.

**Procedure for Collecting the Assessment from First Purchasers:**

1. Monthly Notification will be mailed to those first purchasers on the mailing list.
2. Non-respondents will be mailed delinquent second notice letters with penalty due the first week following the month they were due.
  - If the form is received late (according to the postmark), the firm will receive a letter for payment on the penalty.
  - If, after the due date, we haven't received the fee form, a letter notifying the firm of being delinquent and having the penalty due will be sent.

- Penalty assessed shall be 1 ½% each month, beginning with the day following the date such assessment was due. Any remaining amount due, including any unpaid charges previously made pursuant to the act, shall be increased at the same rate on the corresponding day of each succeeding month until paid.
3. If no response, a third notice notification will be sent (for the appropriate situation in #2) the first week following the month in which the second notice was sent with the penalty added into the letter for each month delinquent. The letter will be jointly signed by the Chairman of the Board and Fee Collection Program.
  4. If, after two weeks, there is no response after the third notice, a call will be made to the firm and a delinquent list will be sent to the Board. Legal enforcement of the Nebraska Dairy Industry Development Board statutory requirements will be the Board's responsibility.
  5. Board action will determine enforcement action and enforcement steps desired to garner compliance. This may include a request for a special audit, or utilizing the State Attorney General's Office to initiate legal proceedings in accordance with the law.

#### Auditing Procedures:

##### Audit Authority:

Neb. Rev. Stat. §2-3958(2) R.R.S., 1997, states:

The Board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

##### Audit Scope:

Neb. Rev. Stat. §2-3958(1) R.R.S., 1997, states:

There shall be paid to the Board a mandatory assessment of ten cents (.10) per hundredweight on all milk produced in the State of Nebraska for commercial use.

The auditor will verify reports submitted to the Dairy Industry Development Board by examining records that may include, but are not limited to, the general ledger and its accounts, purchases journals or registers, check registers, producer accounts, and/or any other record or records which pertain to the assessment or compliance with the Act.

A primary contact person will be noted for use in follow up for making future contact, and will be presented with the results of the audit. The standard audit form presented will


serve as a notice of refund due in the case an overpayment, or as an invoice in the case of an underpayment. Payments are to be sent to the customary fee collection agency and not collected by the auditor. The audit results, less any proprietary information, will also be presented to the Board at its next regularly scheduled meeting.

The auditor conducts compliance reviews of first purchasers on a random sample basis. The audit covers a one-year review of the monthly forms that are received. Special audits may also be conducted at the specific request of the Board.

An internal review will be done on a quarterly basis to verify accuracy of the Dairy Industry Development Board fee form data. This review will include a comparison to data received from the National Dairy Promotion and Research Board. Total pounds of milk purchased from pooled and non-pooled sources are compared and a reconciliation is done. In addition, the Nebraska Department of Agriculture will verify Grade A milk purchased by an individual entity to data received by the Department of Agriculture Dairy Regulatory Division under the Nebraska Pasteurized Milk Law. A report of all findings will be discussed at each Nebraska Dairy Industry Development Board meeting. The Milk Market Administrator, not the Department of Agriculture, will be able to verify manufactured milk purchases made. These would be incorporated into first purchaser on-site audits conducted under agreement by the Department of Agriculture and the Board.

The Nebraska Dairy Industry Development Board contracts for fee collection, audit, and fiscal services with the Nebraska Department of Agriculture. The Memorandum of Agreement, entered into annually, details services performed by the Department of Agriculture for the Dairy Industry Development Board and the amount and method of reimbursing costs incurred.

6-6-18  
\_\_\_\_\_  
Date

*for*   
\_\_\_\_\_  
Steve Wellman, Director  
Department of Agriculture

6-5-18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Chairman  
Nebraska Dairy Industry Development Board



**AGREEMENT**  
**between the**  
**NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD**  
**and the**  
**NEBRASKA DEPARTMENT OF AGRICULTURE**  
**#18-01-176**

This Agreement is entered into by and between the Nebraska Dairy Industry Development Board, (hereafter "Board,") and the Nebraska Department of Agriculture, (hereafter "Department").

**PURPOSE:** The purpose of this Agreement is that the Board desires the Department to assist the Board in performing fee collection, budget, accounting, and auditing services, and the Department is desirous of providing such assistance.

**AUTHORITY:** This Agreement is being entered into pursuant to the Dairy Industry Development Act, Neb. Rev. Stat. §§2-3948 to 2-3963 (hereafter "Act") and Neb. Rev. Stat. §§81-201.03 and 81-201.04 authorizing the Department to provide management services.

**THEREFORE,** in consideration of the covenants herein contained, it is agreed by and between the parties hereto as follows:

**A. DESCRIPTION OF WORK**

1. The Department agrees to assist the Board from **July 1, 2020, to June 30, 2021**, by providing the following services on a cost reimbursement basis, but such services shall not exceed eight thousand dollars and no cents (\$8,000.00) in value.
  - a. Fee Collection Services:
    - (1) Distribution of monthly fee forms
    - (2) Processing and return of forms
    - (3) Follow-up on delinquent accounts in accordance with the agreed-upon enforcement procedures, attached as Attachment B and incorporated herein by this reference.
    - (4) Process refunds as requests are made.

- (5) Update enforcement procedures as needed for Board approval.
- (6) Maintain an updated mailing list of first purchasers.
- (7) Maintain records in accordance with State record retention schedule.

b. Fiscal Services:

- (1) Prepare and electronically submit Board approved budget.
- (2) Perform accounting functions to enable the Board to operate as a State agency.
- (3) Monitor fund investment.
- (4) Deposit revenue into Nebraska Dairy Industry Development Cash Fund.
- (5) Prepare revenue and expenditure documents.
- (6) Review expenditures for compliance with State guidelines.
- (7) Prepare a monthly summary of revenue and expenditure fiscal report.
- (8) Maintain records in accordance with State record retention schedule and LB 429 of 2013 related to State contracts.

c. Auditing Services:

- (1) Conduct field auditing of first purchaser accounts as authorized by Board action as set out in Attachment A.
- (2) Internal auditing of revenue and expenditures for compliance.

d. Miscellaneous Services:

- (1) Keep a Statewide inventory.

e. To provide the above services, the Department shall employ the necessary personnel and incur the necessary operating and travel expenditures. Each month a State Budget Status report shall be provided to the Board detailing the total budget, monthly expenditures, and fiscal year-to-date expenditures incurred, along with an Interagency Billing Transactions Document billing for the prior month's services performed.

2. The Department and the Board agree, that the Department will keep all producer and first purchaser fee collection data and audit information confidential to the extent possible under the State of Nebraska Public Records Laws, Neb. Rev. Stat. §§84-712 to 84-712.09. Due to a limited number of first purchasers and/or processors, it is the Board's desire that records and information generated pursuant to this Agreement not create a proprietary advantage for a first purchaser of milk. The Department shall report total dollars deposited and/or refunded to the Board and the Board's administrative office, but not disclose to Board members, the administrator, or others individual milk first purchaser data. It is agreed the Department shall not be liable nor responsible for an agency or employee of the State of Nebraska not part of, or employed by, the Department or for any other individual not employed by the Department relative to the confidentiality of this paragraph. Any dispute relative to this shall be the responsibility of the Board to seek legal guidance from the State Attorney General.

B. ALLOWABLE COSTS and PAYMENTS

1. The Board shall provide a sum not to exceed eight thousand dollars and no cents (\$8,000.00) under this Agreement on a cost-reimbursement basis. If services in excess of \$8,000.00 are requested by the Board, this Agreement shall be amended in writing, if both parties agree to such amendment;
2. The Department shall bill the Board monthly. A one-month advance payment shall be made by the Board to the Department upon receipt of an Interagency Billing Transaction Document from the Department. Final billing shall be received no later than July 30, 2021;
3. Payment for services under this Agreement is contingent upon the receipt of sufficient funding pursuant to the Act;
4. The Department agrees that funds provided under this Agreement shall be used only for the project and purpose enumerated herein; and
5. Any funds paid to the Department under this Agreement and not fully utilized and earned pursuant to this Agreement during the Agreement period shall be returned to the Board.

C. AGREEMENT PERIOD:

The term of this Agreement is from **July 1, 2020, to July 30, 2021**, unless sooner terminated or completed as provided for in Section D.

D. AGREEMENT PROVISIONS

1. Termination: This Agreement may be terminated, at any time, upon mutual written consent of the parties, or by either party, with or without cause, upon thirty (30) days written notice to the other party. In the event of termination, the Board shall pay the Department for the cost of services provided up to the date of termination.
2. Complete Understanding: This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
3. Relationship of Parties: It is understood by both the Department and the Board that neither is an employee of the other party and that neither party assumes any responsibility beyond those specifically stated in this Agreement.
4. Assignable: This Agreement is not assignable without the express written approval of the Board.
5. Governing Law: This Agreement shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the Department or Board regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by Nebraska State law.
6. Indemnification: To the extent allowable by Nebraska State Law, the Board and the Department, agree each party is responsible for its own costs, and shall indemnify the other party for such costs, arising from any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of its own employees, subcontractors, consultants, representatives, and agents. The obligation to indemnify shall survive the expiration or termination of this Agreement.

7. Authority to Enter Agreement: The Board and the Department warrant that the individual signing this Agreement has the legal power, right, and authority to enter into this Agreement and to bind itself accordingly.
8. Severability: If any term or condition of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision held to be invalid.
9. Penalty for Breach: In the event that either party fails to perform as specified under this Agreement, the party failing to perform shall pay any additional costs resulting from the failure to perform.

E. RECORDS AND WORK PRODUCT PROVISIONS

1. Records Available: The books of account, files, and other records which are applicable to this Agreement shall be made available in the State of Nebraska for inspection, review, copying, and audit by the other party and its representatives to determine the proper application and use of all funds used pursuant to the Agreement. All records involving transactions related to this Agreement are to be maintained for a period of five (5) years from the date the term of this Agreement begins or as long as is required by Nebraska law. If any litigation or audit is begun, or a claim is instituted involving the Agreement, records shall be retained beyond the five (5) year period until litigation, audit findings, or claim has been fully resolved.
2. Auditing Standard: The Board, under the Office of Management and Budget's Uniform Guidance, will utilize a risk-based approach to review federal and state contract dollars expended to subrecipients. This may include the Department providing recent audit reports to evaluate prior audit experiences and audit findings; Board review of subrecipient control environment; and the Department providing copies of invoices detailing how the funds were expended.

F. COMPLIANCE PROVISIONS

1. Nondiscrimination:
  - a. The Department and the Board, and any and all subcontractors, agree to comply with all applicable local,

state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §§48-1101 to 48-1125, prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensations, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin. Both parties guarantee compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of this Agreement.

2. ADA Compliance: All provisions under this Agreement are subject to the Americans with Disabilities Act.
3. Worker's Compensation: The Department and the Board, and any and all subcontractors agree to guarantee payment of compensation to injured workers according to the Nebraska Worker's Compensation Act.
4. Drug Free: The Department and the Board, and any and all subcontractors agree to have in force during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - a. A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the workplace;
  - b. The specific actions that will be taken against employees for violating the policy; and
  - c. A requirement that each employee receive a copy of the policy.
5. Immigration Verification:
  - a. The Department and any and all subcontractors shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronics verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as E-Verify Program, or an

equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of newly hired employees.

- b. If the Department uses a subcontractor who is an individual or sole proprietorship, the Department agrees to require the subcontractor to complete the United States Citizenship Attestation Form available in the DAS website at <http://das.nebraska.gov/materiel/purchasing.html/>. If the subcontractor indicates on such attestation from that he or she is a qualified alien, the subcontractor shall provide to the Department the U.S. Citizenship and Immigration Service documentation required to verify the subcontractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

IN WITNESS WHEREOF, the parties execute this Agreement.

6/1/20  
Date

  
Kent Puffer, Chairman  
Nebraska Dairy Industry Development Board

6/2/2020  
Date

  
for Steve Wellman, Director  
Department of Agriculture

## Attachment A

### Audit Authority of the Act:

Neb. Rev. Stat. §2-3958(2), states:

The Board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

### Audit Scope of the Act:

Neb. Rev. Stat. §2-3958(1), states:

There shall be paid to the Board a mandatory assessment of ten cents (.10) per hundredweight on all milk produced in the State of Nebraska for commercial use.

Under this Agreement, auditors of the Department will verify reports submitted to the Board by examining records that may include, but are not limited to, the general ledger and its accounts, purchases journals or registers, check registers, producer accounts, and/or any other record or records which pertain to the assessment or compliance with the Act. A primary contact person will be noted for use in follow up for making future contact, and will be presented with the results of the audit. The standard audit form presented will serve as a notice of refund due in the case an overpayment, or as an invoice in the case of an underpayment. Payments are to be sent to the customary fee collection agency and not collected by the auditor. The audit results, less any proprietary information, will also be presented to the Board at its next regularly scheduled meeting.



Attachment B

NEBRASKA DEPARTMENT OF AGRICULTURE  
FEE COLLECTION PROGRAM

ENFORCEMENT PROCEDURES

FOR COLLECTION OF FEES AS PROVIDED FOR  
IN THE DAIRY INDUSTRY DEVELOPMENT ACT (SECTION 2-3948)

Requirement:

There shall be paid, to the Nebraska Dairy Industry Development Board, a mandatory assessment of ten cents (10¢) per hundredweight (cwt) on all milk produced in the state of Nebraska for commercial use. The assessment shall be paid by producers at the time of first sale or delivery of milk for commercial use and shall be collected by the first purchaser of milk. Producer/processors shall remit the assessments to the Board. The first purchaser shall maintain the necessary record of fees collected for each purchase of milk produced in the state of Nebraska. All assessments shall be remitted to the Board no later than the last day of month following the month in which the milk was commercially used, and a report shall be filed by the person responsible for remitting the assessment at the time the assessment is remitted.

Any request from a producer for a refund under the Program will be honored by forwarding that portion of such refund equal to the amount of credit, that otherwise would be applicable to the Program, to either the National Dairy Promotion and Research Board or a qualified program designated by the producer.

Definitions:

1. First purchaser of milk shall mean a person who buys milk from a producer and resells to another person the milk or products manufactured or processed from the milk.
2. Board shall mean the Nebraska Dairy Industry Development Board.
3. Commercial use shall mean sale for retail consumption or sale for resale, for manufacturing for resale, or for processing for resale.
4. Milk shall mean any class of cow's milk produced in the state of Nebraska.
5. Milk production units shall mean any producer licensed by the Department of Agriculture.
6. Producer shall mean any person engaged in the production of milk for commercial use.

7. Producer/processor shall mean a producer who processes and markets the producer's own milk.
8. Qualified program shall mean any state or regional dairy product promotion, research, or nutrition education program which is certified pursuant to 7 C.F.R. 1150.153.

Confidentiality:

Fee collection records shall be kept in the strictest confidence allowed by Nebraska law. To the extent allowable by law, only agency total data will be released.

Procedure for Determining First Purchaser:

When a party or board member gives a name of an individual or firm to the Nebraska Dairy Industry Development Board which they believe is a first purchaser of milk and not assessing the checkoff, the Fee Collection Program will take the following action:

1. A letter is written to the individual or firm in question advising that the mailing list is being updated and asking whether or not they are a first purchaser.
2. If they respond they are a first purchaser of milk, they will be set up on the mailing list to receive a monthly notification. A copy of the Statute will be mailed out to them.
3. If they respond they are not a first purchaser of milk, the Fee Collection Program will inform the Dairy Industry Development Board of the response.
4. Board action will determine enforcement action and enforcement steps desired to garner compliance. This may include a request for a special audit or request the State Attorney General Office to initiate legal proceedings in accordance with the law.

Procedure for Collecting the Assessment from First Purchasers:

1. Monthly Notification will be mailed to those first purchasers on the mailing list.
2. Non-respondents will be mailed delinquent second notice letters with penalty due the first week following the month they were due.
  - If the form is received late (according to the postmark), the firm will receive a letter for payment on the penalty.

- If, after the due date, we haven't received the fee form, a letter notifying the firm of being delinquent and having the penalty due will be sent.
  - Penalty assessed shall be 1 ½% each month, beginning with the day following the date such assessment was due. Any remaining amount due, including any unpaid charges previously made pursuant to the act, shall be increased at the same rate on the corresponding day of each succeeding month until paid.
3. If no response, a third notice notification will be sent (for the appropriate situation in #2) the first week following the month in which the second notice was sent with the penalty added into the letter for each month delinquent. The letter will be jointly signed by the Chairman of the Board and Fee Collection Program.
  4. If, after two weeks, there is no response after the third notice, a call will be made to the firm and a delinquent list will be sent to the Board. Legal enforcement of the Nebraska Dairy Industry Development Board statutory requirements will be the Board's responsibility.
  5. Board action will determine enforcement action and enforcement steps desired to garner compliance. This may include a request for a special audit, or utilizing the State Attorney General's Office to initiate legal proceedings in accordance with the law.

#### Auditing Procedures:

##### Audit Authority:

Neb. Rev. Stat. §2-3958(2) R.R.S., 1997, states:

The Board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

##### Audit Scope:

Neb. Rev. Stat. §2-3958(1) R.R.S., 1997, states:

There shall be paid to the Board a mandatory assessment of ten cents (.10) per hundredweight on all milk produced in the State of Nebraska for commercial use.

The auditor will verify reports submitted to the Dairy Industry Development Board by examining records that may include, but are not limited to, the general ledger and its accounts, purchases

journals or registers, check registers, producer accounts, and/or any other record or records which pertain to the assessment or compliance with the Act.

A primary contact person will be noted for use in follow up for making future contact, and will be presented with the results of the audit. The standard audit form presented will serve as a notice of refund due in the case an overpayment, or as an invoice in the case of an underpayment. Payments are to be sent to the customary fee collection agency and not collected by the auditor. The audit results, less any proprietary information, will also be presented to the Board at its next regularly scheduled meeting.

The auditor conducts compliance reviews of first purchasers on a random sample basis. The audit covers a one-year review of the monthly forms that are received. Special audits may also be conducted at the specific request of the Board.

An internal review will be done on a quarterly basis to verify accuracy of the Dairy Industry Development Board fee form data. This review will include a comparison to data received from the National Dairy Promotion and Research Board. Total pounds of milk purchased from pooled and non-pooled sources are compared and a reconciliation is done. In addition, the Nebraska Department of Agriculture will verify Grade A milk purchased by an individual entity to data received by the Department of Agriculture Dairy Regulatory Division under the Nebraska Pasteurized Milk Law. A report of all findings will be discussed at each Nebraska Dairy Industry Development Board meeting. The Milk Market Administrator, not the Department of Agriculture, will be able to verify manufactured milk purchases made. These would be incorporated into first purchaser on-site audits conducted under agreement by the Department of Agriculture and the Board.

The Nebraska Dairy Industry Development Board contracts for fee collection, audit, and fiscal services with the Nebraska Department of Agriculture. The Memorandum of Agreement, entered into annually, details services performed by the Department of Agriculture for the Dairy Industry Development Board and the amount and method of reimbursing costs incurred.

# AGREEMENT

between

THE NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

and

MIDWEST DAIRY ASSOCIATION

This Agreement is made and entered into this 1<sup>st</sup> day of July, 2020, by and between Midwest Dairy Association, herein called "Midwest Dairy," and the Nebraska Dairy Industry Development Board, herein called "Board."

WHEREAS, the Legislature of the State of Nebraska has enacted the Dairy Industry Development Act (Neb. Rev. Stat. §2-3948 *et seq.*), which, by this reference, is hereby incorporated into this Agreement;

WHEREAS, the purpose of the Act is to maintain and expand domestic sales of milk and dairy products, develop new products and new markets, improve methods and practices relating to marketing or processing of milk and dairy products, and inform and educate consumers of sound nutritional principles including the role of dairy products in a balanced and healthful diet;

WHEREAS, Neb. Rev. Stat. § 2-3950 of the Act designates the Board as the agency of the State of Nebraska responsible for carrying out the purposes of the Act;

WHEREAS, Neb. Rev. Stat. § 2-3961 of the Act authorizes the Board to jointly sponsor projects with any private or public organization that is a qualified program (any state or regional dairy product promotion, research, or nutrition education program which is certified pursuant to 7 C.F.R. § 1150.153 as amended) to meet the objectives of the Act;

WHEREAS, the purposes of the Act will be effectively and meaningfully carried out if the Board cooperates with Midwest Dairy in carrying out said purposes; and

WHEREAS, both parties hereto desire to enter into this Agreement in order to carry out the purposes of the Act.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties that:

1. Midwest Dairy hereby certifies that it is a "qualified program" within the meaning of Neb. Rev. Stat. § 2-3949.
2. The term of the Agreement shall be from July 1, 2020, through June 30, 2021.
3. The relationship of the Board and Midwest Dairy under this Agreement shall be that of principal and independent contractor. It is understood by both the Board and Midwest Dairy that Midwest Dairy is not an employee or agent of the Board and it is understood that the Board assumes no responsibility beyond those specifically stated in this Agreement.

4. Midwest Dairy shall provide the following Administrative Services that will include and are not limited to:
- Coordinate meeting notices, records, and agenda with the Nebraska Department of Agriculture.
  - Provide minutes, information reports, and follow-up reports as requested by the Board and required by law.
  - Advance Board-approved expenses to the State for payment in accordance with the requirements of the Nebraska Department of Administrative Services ("DAS") and other applicable laws.
  - Obtain stationery and letterhead for the Board as needed and in accordance with DAS requirements and other applicable laws.
  - Maintain and update the roster of the Board.
  - Correspond with first purchasers with regard to nominations and appointments to the Board and the operative dates.
  - Follow-up with the Governor's office on appointments to the Board.
  - Remind first purchasers if a vacancy exists on the Board.
  - Assist the Nebraska Attorney General's office as needed with relation to Dairy Board contracts.
  - Obtain certified audits and proof of bonding from qualified programs contracted to the Board and forward to the Department of Agriculture to review for compliance.
  - Develop and publish an annual report on or before October 1 of each year, setting forth the income received from the assessments collected in accordance with Neb. Rev. Stat. § 2-3958, for the preceding fiscal year and the report shall include:
    - (1) The expenditure of funds by the Board during the year for the administration of the Dairy Industry Development Act;
    - (2) A brief description of all contracts requiring the expenditure of funds by the Board;
    - (3) The action taken by the Board on all such contracts;
    - (4) An explanation of all programs relating to the discovery, promotion, and development of markets and industries for the utilization of dairy products and the direct expense associated with each program;

- (5) The name and address of each member of the Board; and a brief description of the rules, regulations, and orders adopted and promulgated by the Board.
  - (6) Such report shall be reviewed by the Board Chair prior to filing, and shall be available to the public upon request.
5. In consideration of satisfactory and good faith performance of the Administrative Services described in Paragraph 4 by Midwest Dairy, the Board agrees to:
  - 1) Reimburse Midwest Dairy monthly an administrative fee in association with the redirection of checkoff dollars by a producer to a qualified program other than Midwest Dairy. This administrative fee shall be one percent (1.0%) of the revenue collected from producers who choose this redirection option. Payment of the administrative fee by the Board shall be made provided that sufficient funds, as budgeted under Neb. Rev. Stat. § 2-3960, are generated and legislative appropriation is made.
  - 2) The administrative fee shall be used to fund the Administrative Services provided by Midwest Dairy as described in Paragraph 4 of this Agreement.
  - 3) The amount of the administrative fee will be included in the monthly contractual payment of the unexpended fund balance as described in Paragraph 8 of this Agreement.
6. Midwest Dairy shall provide the Board a summary evaluation report within thirty (30) days after the end of the contract period, including a summarization of revenue received and a general categorization by type of expenditure, expenditures made.
7. In addition to the Administrative Services provided under Paragraph 4 above, Midwest Dairy shall provide the following services:

Implementation of the Nebraska components of Dairy Management, Inc.'s national Unified Marketing Plan programs (Exhibit A), including:

- Nutrition Affairs:
  - Build Champions for Dairy
  - Engage, Empower and Impact Youth
  - Translate, Align and Activate Science with Emotionally-Compelling Support for Dairy
  - Operations
  - Training
- Integrated Communications, including Farmer Relations and Consumer Confidence:
  - Consumer Communications and Support
  - Fuel Up to Play 60 Communications
  - General Communications Support
  - Farmer Relations
  - Local Farmer Relations

- Strategic Initiatives
  - Fuel Up to Play 60:
    - Program Delivery
    - School Dairy Optimization, School Incentives and Rewards
  - Dairy Product Research
    - Coordination of Research through National Research Plan/Midwest Dairy Foods Research Center/University of Nebraska
  - Administration necessary to conduct the above programs including accounting tracking and reporting to meet Dairy Management, Inc.'s Unified Marketing Plan requirements.
8. In consideration of satisfactory and good faith performance of the services described in Paragraph 7 by Midwest Dairy, the Board agrees to make monthly contractual payments in an amount equal to the unexpended fund balance of the Nebraska Dairy Industry Development Fund as reflected on the Nebraska Information System ("NIS") on the fifth working day each calendar month after Board, administrative, fee collection, accounting, and auditing expenses are calculated. This dollar amount shall be based upon the State's official NIS accounting system. The Board agrees to make payment provided sufficient funds, as budgeted under Neb. Rev. Stat. § 2-3960, are generated and legislative appropriation is made.
9. Midwest Dairy shall provide a final report within sixty (60) days after the completion of this Agreement. The Final Report shall include a description of activities undertaken a full accounting of all money spent under this agreement, and include materials produced under this Agreement.
- Midwest Dairy shall also prepare and submit a full accounting of all expenditures before each meeting of the Board so that expenditures can be reviewed in accordance with Neb. Rev. Stat. § 2-3955.
10. Midwest Dairy shall provide a copy of its annual report covering Midwest Dairy's prior fiscal year to the Board during the June board meeting.
11. Midwest Dairy shall:
- a. Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability or age; and
  - b. Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex or any other qualified disability. It is further understood that, if Midwest Dairy is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such act or action is unlikely.



- c. Have in force during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in Midwest Dairy's workplace;
  - (2) The actions that will be taken against employees for violating the policy; and
  - (3) The requirement that each employee receive a copy of the policy.
- 12. Midwest Dairy shall indemnify and hold harmless the Board from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of Midwest Dairy to perform such duties for the Board as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- 13. The provisions of this Agreement may be amended by mutual agreement of the parties hereto in writing, at any time.
- 14. This Agreement may be terminated by either party hereto at any time by ninety (90) day advance written notice to the other party. In the event of an actual or anticipated material breach of this Agreement, the Board may terminate this Agreement immediately. If the Agreement is terminated, Midwest Dairy shall not incur any additional obligations and shall repay unobligated funds in accordance with Paragraph 18, below.
- 15. This Agreement is not assignable without the express written approval of the Board.
- 16. Midwest Dairy agrees that the books of account, files, and other records of Midwest Dairy which are applicable to this Agreement shall, at all times, be available for inspection, review, and audit by the Board or its contract representatives to determine the proper application and use of all funds paid to or for the account or benefit of the Board or as otherwise required by the laws of the State of Nebraska.
- 17. Furthermore, Midwest Dairy agrees to maintain all books, documents, papers, or any other records involving transactions related to this Agreement for a period of five (5) years or as otherwise required by the laws of the State of Nebraska. If any litigation or audit is begun or a claim is instituted involving the Agreement, Midwest Dairy shall retain the records beyond the five (5) year period until litigation, audit findings, or claim has been fully resolved, and the Board has agreed that such records do not need to be retained.
- 18. Any funds paid to Midwest Dairy under this Agreement, and not fully utilized pursuant to the terms of this Agreement during the Agreement period or prior to termination shall be returned to the Board, unless otherwise agreed in writing by the parties. Furthermore, if Midwest Dairy fails to perform as outlined herein, Midwest Dairy may be required to repay funds received not utilized under this Agreement.

19. The funds expended pursuant to this Agreement shall be spent only on Midwest Dairy's performance pursuant to this Agreement and for no other purpose.
20. Midwest Dairy shall procure a policy or policies of insurance from an insurance company licensed to write such insurance in the state which policy or policies of insurance shall guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act if an employee of Midwest Dairy is subject to the Nebraska Workers Compensation Act.
21. All provisions of this Agreement are subject to the Americans with Disabilities Act.
22. Midwest Dairy is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
23. This Agreement shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by Nebraska State law.

IN WITNESS WHEREOF, the parties hereto do execute this Agreement.

MIDWEST DAIRY ASSOCIATION  
Federal ID Number, 41-0433125

6/2/2020  
Date

Molly Pelzer  
Molly Pelzer, CEO

NEBRASKA DAIRY INDUSTRY  
DEVELOPMENT BOARD

6/1/20  
Date

Kent Pulfer  
Kent Pulfer, Chairman

# AGREEMENT

Between

THE NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

And

SOUTHWEST DAIRY MUSEUM, INC

This Agreement is made and entered into this 1<sup>st</sup> day of June 2020, by and between Southwest Dairy Museum, Inc., herein called "Southwest," and the Nebraska Dairy Industry Development Board, herein called "Board."

WHEREAS, the Legislature of the State of Nebraska has enacted the Dairy Industry Development Act, (Neb. Rev. Stat. §2-3948, et seq.), which, by this reference, is hereby incorporated into this Agreement;

WHEREAS, the purpose of the Act is to maintain and expand domestic sales of milk and dairy products, develop new products and new markets, improve methods and practices relating to marketing or processing of milk and dairy products, and inform and educate consumers of sound nutritional principles including the role of dairy products in a balanced and healthful diet;

WHEREAS, pursuant to Neb. Rev. Stat. § 2-3949(8)(e), the Board has received a request from a producer that his promotion check-off funds be remitted to Southwest.

WHEREAS, Neb. Rev. Stat. § 2-3950 of the Act designates the Board as the agency of the State of Nebraska responsible for carrying out the purposes of the Act;

WHEREAS, Neb. Rev. Stat. §§ 2-3949(8)(e) and 2-3959 of the Act requires that the Board transfer the funding of producers who request to have their promotion check-off dollars directed to a Qualified Program certified pursuant to 7 C.F.R. 1150.153.

WHEREAS, the purposes of the Act will be effectively and meaningfully carried out if the Board cooperates with Southwest in carrying out said purposes; and

WHEREAS, both parties hereto desire to enter into this Agreement in order to carry out the purposes of the Act.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The term of the Agreement shall be from July 1, 2020, through June 30, 2021.
2. It is understood by both the Board and Southwest that Southwest is not an employee or agent of the Board, and it is understood that neither the Board nor Southwest assumes any responsibility beyond those specifically stated in this Agreement.
3. Southwest shall provide the following services:
  - a. Promotional and educational services that further the purpose of the Act, which may include, but not necessarily be limited to:
    - i. Mobile Dairy Classroom presentations, primarily in the southern tier of counties in Nebraska.
    - ii. Provided adequate funding is available, and it is mutually agreed by both parties, Mobile Dairy Classroom presentations in other designated areas of Nebraska.
    - iii. Subject to Board approval, other dairy educational and promotional programs in schools, fairs, and community events, provided adequate funding is available
4. Southwest shall submit to the Board documentation that they are a USDA-qualified program within thirty (30) calendar days upon execution of the Agreement.
5. In consideration of satisfactory and good faith performance hereunder by Southwest, the Board agrees to make monthly payments in an amount equal to producer requests to have their promotion check-off dollars directed to Southwest as reflected on the State's official Nebraska Information System (NIS) accounting system on the fifth working day of each calendar month less a 1% administrative fee. The Board agrees to make payment to Southwest provided that the appropriation is authorized by the Legislature, check off dollars were received from the Producer, and that Southwest continues to maintain its status as a Qualified Program.
6. Southwest shall provide a summary evaluation report within thirty (30) days after the end of the contract period, which includes a summary of revenue received and a general categorization by type of expenditure, expenditures made and a summary of all activities undertaken, including all materials produced under this Agreement.

Southwest shall also provide an accounting of all expenditures prior to each regular meeting of the Board to allow for review as required by Neb. Rev. Stat. § 2-3955.

7. Southwest shall:
  - a. Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability or age; and
  - b. Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex or any other qualified disability. It is further understood that, if Southwest is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such act or action is unlikely.
  - c. Have in force during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
    - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in Southwest's workplace;
    - (2) The actions that will be taken against employees for violating the policy; and
    - (3) The requirement that each employee receive a copy of the policy.
8. Southwest shall indemnify and hold harmless the Board from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of Southwest to perform such duties for the Board as herein specified. Southwest's obligation to indemnify the Board shall survive the expiration or termination of this Agreement. Such indemnification and assumption of liability found in this section is limited to the extent provided for by law.
9. The provisions of this Agreement may be amended by mutual agreement to the parties hereto in writing, at any time.
10. This Agreement may be terminated by either party hereto at any time by ninety (90) day advance written notice to the other party. Termination of the Agreement does not extinguish the Board's obligation under Neb. Rev. Stat. §§ 2-3949(8)(e) and 2-3959 of the Act to transfer the funding of producers who request to have their promotion check-off dollars directed to a Qualified Program certified pursuant to 7 C.F.R. 1150.153.
11. This Agreement is not assignable without the express written approval of the Board.

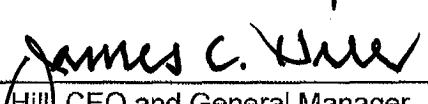
12. Southwest agrees to maintain all books, documents, papers, or any other records involving transactions related to this Agreement for a period of five (5) years or as otherwise required by law. If any litigation or audit is begun or a claim is instituted involving the Agreement, Southwest shall retain the records beyond the five (5) year period until litigation, audit findings, or claim has been fully resolved, and the Board has agreed that such records do not need to be retained.
13. The funds transferred to Southwest under this Agreement shall be utilized only for the purposes as set forth in Paragraph 3 of this Agreement and for no other purpose.
14. Southwest shall procure a policy or policies of insurance from an insurance company licensed to write such insurance in the state which policy or policies of insurance shall guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act if an employee of Southwest is subject to the Nebraska Workers Compensation Act.
15. All provisions of this Agreement are subject to the Americans with Disabilities Act.
16. Southwest is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
17. If any term or condition of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision held to be invalid.
18. This agreement shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the Board regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by Nebraska State law.

IN WITNESS WHEREOF, the parties hereto do execute this Agreement.

6/1/20  
Date

  
Kent Pulfer, Chairman  
Nebraska Dairy Industry Development Board

6-2-2020  
Date

  
Jim Hill CEO and General Manager  
Southwest Dairy Museum, Inc.  
Federal ID Number, 75-1899434