# Free trade campaign moves beyond agriculture

By CAROL RYAN DUMAS
Capital Press

Efforts launched last year by Farmers for Free Trade to give farmers a voice and educate the public on the benefits of trade amid a growing sentiment of protectionism is broadening its reach.


Brian Kuehl

Growing concern among other industries over the negative impacts of the Trump administration's tariff war has united more than 80 leading trade associations — representing thousands of businesses and workers — to join FFT to form Americans for Free Trade.

The multi-industry coalition will focus its efforts in a multi-million-dollar campaign aimed at opposing tariffs and highlighting the benefits of international trade to the U.S. economy.

The Tariffs Hurt the Heartland campaign will build on the work FFT and the National Retail Federation have been doing for months on the tariff front, Brian Kuehl, FFT executive director, said, during a telephone conference with the media on Wednesday.

The campaign will shed light on the issue through town hall events in multiple states to highlight the impacts of tariffs on businesses, manufacturers, farmers and families. It will also expand FFT's media campaign and appeals to the administration and Congress, he said.

When Trump's tariff threats started, people thought it was a negotiating tactic that would soon subside, he said.

Instead, the administration's subsequent actions have drawn retaliatory tariffs that those speaking on the conference call said are having dire consequences on many U.S. business sectors and families.

"Trade is not a light switch; you can't just turn it off and turn it back on. You can't get it back overnight," Kuehl said.

Tariffs are causing real harm, he said.

"Congress needs to play a bigger role, and this president needs to be de-escalating the trade war and get us back to trading," he said.

"Without trade, there literally is no agriculture in America," he said.

The tariffs are certainly a priority for the retail industry, David French, senior vice president of government relations for the National Retail Federation, said.

"Tariffs are taxes paid for by Americans," he said.

Retailers are trying to figure out how to set prices in the face of tariffs. But retail is a very low-margin business, and prices to consumers are likely to rise, he said.

Tariffs are a huge problem for all affected businesses in planning ahead, acquiring foreign goods and increased costs — as well as the real threat of lost sales, lost market share and employee layoffs, those on the call said.

Some on the call said the tariffs affect 85 percent of their products with a 25 percent increase in costs.

The campaign will amplify the voices of American families, workers, farmers and businesses being hurt by the tariffs, beginning with where they have already caused great harm — at the grassroots level in the American heartland, coalition members said in a letter to the U.S. House and Senate.

It will kick off next week with events in Chicago, Nashville, Pennsylvania and Ohio to highlight the need to de-escalate the trade war.

The coalition represents U.S. manufacturers, farmers and agribusinesses, retailers, technology companies, service suppliers, natural gas and oil companies, importers, exporters and other supply-chain stakeholders.

For more information, visit: www.tariffshurt.com

## U.S. dairy exports, July

| Product | Exports (Metric tons) July 2017 | July 2018 | Percent change |
|---|---|---|---|
| NDM/SMP† | 41,873 | 54,343 | 30% |
| Whole milk powder* | 1,871 | 4,913 | 124 |
| Total cheese | 27,241 | 27,636 | 1 |
| Butterfat | 2,063 | 3,791 | 84 |
| Total whey | 42,603 | 39,273 | -8 |
| Lactose | 29,376 | 33,828 | 15 |
| Milk protein concentrate | 1,983 | 2,438 | 23 |
| Aggregate | 153,577 | 170,100 | 11 |
| Milk/cream (liters) | 8,470 | 9,657 | 14 |
| Total value** ($ millions) | $421.4 | $434 | 3 |

* USDA data adjusted to reflect shipments to Mexico misclassified as WMP.
† Nonfat dry milk/skim milk powder ** Total value does not include fluid milk.
Sources: USDEC; U.S. Census Bureau Capital Press graphics

# Dairy export numbers hint at tariff effects

By CAROL RYAN DUMAS
Capital Press

U.S. dairy exports in July were seasonably lower and the lowest since January, but they were still ahead of year-ago levels.

Suppliers shipped 170,100 tons of milk powders, cheese, butterfat, whey and lactose, up 11 percent over July 2017. Those exports were worth $434 million, a 3 percent increase over a year earlier, U.S. Dairy Export Council reported.

But the data also seem to show some effects from retaliatory tariffs on U.S. dairy by China and Mexico, with a big hit to whey and cheese exports to China and a slight drop in cheese exports to Mexico — the top market for U.S. cheese.

Alan Levitt, USDEC vice president of communications, said it's tough to draw firm conclusions on the effects of the tariffs based on a single month's data.

Those lower exports could be a function of the normal month-to-month fluctuations of tactical buying. For instance, buyers could have stocked up in previous months ahead of the new tariffs, he said.

It's also noteworthy that whey prices are up more than 50 percent since March, which could have given buyers pause, he said.

"But that said, just about all the product lines and markets affected by the new tariffs saw a decline in July, so we would theorize that the tariff effect is real," he said.

Whey, skim milk powder and cheese are the main products affected by China's tariffs. Whey and cheese exports to China in July were down 26 percent and 56 percent, respectively, while skim milk powder did OK, he said.

"Meanwhile, lactose, which is not hit with new tariffs, continued to flourish (up 53 percent)," he said.

The only product directly affected in Mexico is cheese, and cheese exports to Mexico — which were up 7 percent in 2017 — were down 1 percent in July.

Meanwhile, skim milk powder exports to Mexico were up 31 percent, butterfat was up 345 percent, lactose was up 42 percent, whole milk powder was up 105 percent and fluid milk was up 23 percent.

"So Mexico was still buying from us, just not as much cheese," he said.

That could have been because buyers bought ahead in June before the new tariffs were to go into effect. U.S. cheese exports to Mexico in June were up 43 percent, he said.

Aside from the data, USDEC has heard from numerous U.S. exporters stories of lost contracts, expected lost contracts when buyers can shift suppliers and efforts to adjust pricing to retain business given the importance of the market, he said.

"Going forward, I would expect the trend to continue," he said.

In China, that would mean a loss of sales on the affected products and still some whey exports, but much less than before, he said.

"There's a possibility China could add lactose to the tariff list. And if that's the case, I would expect a similar trend as whey — still moving some volume, but less than before," he said.

"On Mexico, we still have a competitive advantage, even with the retaliatory tariffs, and I would hope U.S. exporters would continue to maintain most, if not all, of their volumes there," he said.

# Farm victim of 'patent troll' lawsuit

By MATEUSZ PERKOWSKI
Capital Press


Capital Press File
David Stelzer, CEO of Azure Farms near Dufur, Ore. The farm, which sells organic foods and other goods online, has been targeted by a company that regularly accuses other companies of patent infringement.

The vaguely threatening letter over alleged patent infringement that Azure Farms received last year didn't make much of an impression on David Stelzer.

Stelzer, the company's founder and CEO, consulted with his information technology employees, who assumed the letter was a scam.

"I didn't give it a second thought," he said.

Now, the Oregon company is the defendant in a lawsuit that alleges its online website for selling organic food and other products has violated a patent for automated financial transactions owned by Landmark Technology LLC of San Diego, Calif.

Stelzer said his website isn't much different from multitudes of others that sell products online, making him think the plaintiff has filed a "nuisance lawsuit" aimed at a quick settlement.

Azure Farms, based in Dufur, Ore., doesn't have deep pockets to hire expensive attorneys, which is perhaps why the company was targeted, he said.

"I have no clue what they are after," said Stelzer, who farms nearly 2,000 acres. "They're basically saying because we have a working website, we have patent violations."

According to the complaint, Azure Farms' website contains numerous functions protected by a patent issued in 2001 that the company should be enjoined from further violating. Landmark Technology also seeks damages for past infringement in an amount to be proven at trial.

"It would be difficult to ascertain the amount of compensation that would afford Landmark adequate relief for such future and continuing acts, and a multiplicity of judicial proceedings would be required," the complaint said.

John Mansfield, attorney for Landmark Technology, referred questions to his boss, Bill Charters, who wasn't available for comment as of press time.

Azure Farms isn't alone in its quandary.

Landmark Technology has been involved in about 170 federal lawsuits — mostly as a plaintiff, but occasionally as a defendant against companies seeking a "declaratory judgment" that they haven't committed patent infringement, according to court records.

In one such case, the Fabletics online clothing company called Landmark Technology a "patent troll" whose "business model is sending letters threatening patent litigation and following through on that threat." The lawsuit has since settled for undisclosed terms.

Most such litigation settles fairly quickly due to cost pressures, rather than the merit of the allegations, said Daniel Nazer, senior staff attorney with the Electronic Frontier Foundation, a nonprofit that defends "civil liberties in the digital world."

Even the simplest patent lawsuit is rarely litigated through trial for less than $1 million, while bigger cases commonly cost more than $10 million, Nazer said.

"Patent litigation is sometimes called the sport of kings," he said. "They tend to be complicated cases with experts and a lot of document discovery."

While it's technically possible for companies that successfully defend themselves against such lawsuits to recover attorney fees, that outcome is rare enough that many defendants don't take the chance, Nazer said.

The problem would be mitigated if the U.S. Patent and Trademark Office declined to approve patents for overly broad claims, he said.

"Generally, we think the patent office needs to do a better job of policing obviousness and not giving patents to mundane business processes on a computer."

"Non-practicing entities" — the official name for companies that do nothing but sue over patents — have been dealt a couple legal setbacks in recent years, said David Donoghue, a patent trial attorney with the Holland & Knight law firm.

In 2014, the U.S. Supreme Court ruled that enshrining a conventional business transaction in computer code wasn't enough to make the method eligible for a patent in a case known as Alice Corp. v. CLS Bank.

In 2011, the America Invents Act was signed into law, allowing defendants in such cases to ask the U.S. Patent and Trademark Office to reconsider the validity of a disputed patent, said Donoghue.

# California utility proposes wildfire safety measures

The Associated Press

A California utility plans to replace 3,400 miles of overhead power lines with insulated wire to reduce the risk of them sparking when hit by tree limbs or other objects, the company announced this week.

Southern California Edison aims to replace the lines by 2025 to align itself with legislation that California lawmakers have sent to the governor to sign to prevent wildfires.

Sparking power lines are one of the leading causes of California's wildfires. The wildfires have killed dozens of people and destroyed thousands of homes in recent years.

The legislation sparked debate because it also will allow another utility company — Pacific Gas & Electric — to raise electric rates to cover the costs of lawsuits from last year's deadly wildfires amid fears it could go bankrupt otherwise.

The bill also requires investor-owned utilities to safeguard their equipment to reduce the risk of fires.

Southern California Edison said the insulated wire installation is part of a $582 million plan that would also be paid for in part by a rate increase. It includes removing trees and brush, installing cameras to help emergency crews assess a situation and respond quicker and adding weather stations so the utility can decide the safest way to operate if the risk of a fire is high.

Fire investigators have blamed PG&E equipment for 12 of last year's wildfires in Northern California's wine country, including two that killed 15 people combined. Authorities have not determined fault for the Tubbs Fire, the most destructive in state history, which destroyed thousands of homes in Santa Rosa.

PG&E is facing dozens of lawsuits from insurers, which have spent billions settling insurance claims from homeowners.

# Lamb perceptions improving, study finds

By MATEUSZ PERKOWSKI
Capital Press

Perceptions of lamb are improving among U.S. consumers, who report increased demand for the meat and fewer qualms about cooking it, according to new market research.

"There are strong indicators our messages are getting through to consumers," said Megan Wortman, executive director of the American Lamb Board, which directs research and promotions for the industry.

A survey of more than 2,000 people found that 43 percent said they would definitely or probably buy lamb in the next six months, up from 30 percent in 2011 and 20 percent in 2006.

Of those who already eat lamb, 35 percent said they liked everything about the meat, compared to 11 percent in 2011.

The percentage of people who report eating lamb in the past year has edged up to 24 percent, which "may sound low but we're excited that's actually up from 20 percent in 2011 and 21 percent in 2006," Wortman said during a recent presentation on the study.

Lamb producers should also be heartened that "the intimidation factor is going down" in terms of preparing the meat, with which many consumers have traditionally been less familiar, she said.

Only 15 percent of survey respondents said lamb was too difficult to prepare, down from 45 percent in 2011.

"We're really excited about this because we've been working hard to position lamb as more approachable and less intimidating and get consumers more comfortable with simple recipes," Wortman said.

Nearly 70 percent of respondents said they preferred U.S. lamb over that imported from overseas, up from 40 percent in 2011, primarily because they value its freshness, safety and domestic production, she said.

About 60 percent of the lamb consumed in the U.S. is imported, so it's reassuring that consumers are perceiving more of a difference between foreign and domestic sources of the meat, Wortman said.

Among consumers who eat lamb, 65 percent chose its flavor as the number one reason for enjoying the meat, she said.

The leading barrier preventing consumers from purchasing more lamb was its high price, cited by about 66 percent of people, followed by limited availability, cited by 23 percent of respondents.

Availability remains a "challenge" for the lamb industry, since the meat collectively represents less than 1 percent of the total U.S. meat case, she said.

However, the industry has made good progress in making lamb consistently available year-round at retailers in major markets, Wortman said.

More affordable cuts, such as ground lamb and sirloin chops, are also helping the perception of the meat as being expensive, she said.

"We often hear that consumers who eat lamb tend to have only one holiday recipe or one cut they're familiar with," she said. "As we're a premium-price product, consumers lack confidence to experiment with lamb."