

# Organic Pastures Dairy Company and Claravale Dairy Join Forces to Fight AB 1735

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***Claravale Ron Garthwaite PhD Open Letter AB 1735, November 7<sup>th</sup> 2007***

From:

Dr. Ron Garthwaite  
Owner Claravale Dairy, Est 1927,

To:

Dear Customers and Concerned Citizens:

There is a rumor circulating that we, the owners of Claravale Farm, are in favor of AB1735. That rumor couldn't be further from the truth. We have just been trying to figure out what we are going to do to survive. We are still in the process of moving to a new place which is the culmination of 12 years of hard work to create a 1930s style dairy. Well, we're not in the 1930s anymore and as Dorothy said to Toto, I don't think we're in Kansas anymore. That said, we strongly encourage everyone who wants to continue your God given and constitutional right to eat whatever food you want, to exercise your liberties in righting this wrong. Please read the attached letter which clarifies our position.

As the owner of Claravale Farm, I would like to weigh in on the recently passed AB 1735. We have been getting a number of questions from our customers to which I would like to respond as well as the press release from the California Department of Food and Agriculture (CDFA) and a letter from Nicole Parra (chair of the assembly committee on agriculture) that was sent to our customers.

Many of you want to know where we stand on this new regulation so let me give you our position up front: This new regulation and the method with which it was implemented stink. If you want to continue to be able to get Claravale milk or any raw milk in California you need to fight this law with everything you have.

For many years now we have been telling our customers that there is no conspiracy within the CDFA to eliminate raw milk; that the state was actually very supportive of the product. We were dead wrong. I'm sorry for having misled you. They are simply much more devious, two-faced, and sinister than I could ever have imagined. The reasons that they state for incorporating this new regulation are so transparently false and the highly secretive method of its introduction so obviously inappropriate that I think that there can be no doubt that the CDFA is on a mission to hobble the raw milk industry in California. Once again, our government is using secrecy, lies, and half truths to advance their own agenda without having to put up with the inconvenience of having to deal with the people who they supposedly serve.

We already have an excellent and well constructed raw milk testing protocol in California which includes bacterial counts and tests for all of the pertinent pathogens. The state has not been able to shut us down with these regulations not because the regulations are insufficient but because

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our product is clean and safe. So now they come up with a new regulation that contributes not at all to product safety nor, at the bacterial levels we are talking about, to product quality. Rather, the regulation seems to be solely for the purpose of limiting the raw milk industry in the state to an insignificant level that would be entirely inadequate to meet the demands of the people of California for raw milk.

Our customers tell us that the CDFA has told them that we are in favor of this law. In some weird-bureaucratic-alien-space logic they say that since we didn't say anything against it we must be for it. Of course we didn't say anything against it because we, like everyone else, knew nothing about it. We didn't inform them that we were against it because they never informed us of its existence. Let me be clear: we are not in favor of this law.

According to our customers the CDFA has also told them that we are already in compliance with the new regulation. As I understand the regulation this is not true. While the milk in our bulk tank (where the milk is held after it comes out of the cow but before it goes into the bottle) consistently meets the new requirement, the milk in our bottles does not.

The CDFA's main argument in advancing this bill is a public safety argument. They state that coliform bacteria are a fecal contaminant, that it is a danger to the public, and that they need this new law in order to protect the public. This statement is patently false on a number of levels as discussed below.

1. The coliform bacteria in our milk do not come from manure contamination. I am so sick and tired of the CDFA telling people that our milk is contaminated with feces. It is not true. Our milk is not contaminated with feces. They seem to think that if they say it enough people will believe it. It doesn't matter how many times they say it, it is not true. I repeat: Our milk is not contaminated with feces. The fact that the milk in our bulk tank meets the coliform limits for sterilized (i.e. pasteurized) milk demonstrates this fact absolutely and conclusively. At Claravale farm we have been producing high quality, clean, safe, raw milk for over 80 years. We know how to milk cows. I would take exception to the CDFA's statement that most coliform bacteria come from feces but whether they do or not, it is an irrelevant, inflammatory statement. Coliform bacteria exist and thrive without contact with warm blooded animals either inside or out. It doesn't matter where most of them come from. The coliform bacteria in our milk are not from this source.

The reason why it is so important to the CDFA that you think that there is cow manure in our milk is that they are trying to play off of the recent hysteria over produce and beef illnesses due to pathenogenic coliform. They are trying to create a raw milk hysteria that will get people to support their bill. In other words, they think you're not very smart.

2. Coliform bacteria are not a health threat. I know it's been said before but apparently it bears repeating: Coliform bacteria are everywhere in vast uncountably huge numbers. They are on every surface of everything you touch every day. They are on the top of Steven Bean's desk (I doubt that even he would argue a cow manure source for those particular coliform). Every day we all (even non raw milk drinkers) consume uncountably huge numbers of coliform bacteria. Right now, sitting there, you are composed of more bacterial cells, living on and in you, than human cells. The vast majority of these bacteria are coliform. It is a sign of the times we live in that most people consider what are probably the most numerous and ubiquitous life forms on the planet to be some bizarre, dangerous, anomaly. If coliform bacteria were dangerous we would all be dead before we even got out of bed.

All of this is not to say that very high levels of coliform bacteria in raw milk are good. They are not necessarily (see below) but the assertion that coliform bacteria are a health threat is illogical and untenable and demonstrates a disturbing ignorance of basic bacteriology. The CDFA knows that this assertion is false but again, they think that if they can generate hysteria by calling it a health threat they can gain public support for a law which has nothing whatsoever to do with public

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safety but which has much more sinister objectives.

3. Yes, there are very, very, very rare pathenogenic forms of coliform bacteria but because they are very, very, very rare this new regulation does nothing whatsoever to aid in the detection of these pathogens. There already exists in California an excellent testing protocol for raw milk designed to ensure public safety. Among many other things, these protocols include limits on the number of bacteria which are allowed in the milk and specific tests for all of the pertinent pathogens including pathenogenic coliform. Even in the absence of tests for specific pathogens a coliform plate count tells you absolutely nothing about the presence or absence of pathogens. To try to argue that the new regulation is necessary for the detection of pathogens given the already existing specific pathogen tests is just stupid. It is as if the CDFA doesn't even know why they do the tests they do. Under the new law the coliform counts will be taken on exactly the same milk samples as the specific pathogen tests. These specific tests tell the CDFA absolutely whether pathenogenic coliform are present or not. The overall coliform count is simply meaningless in this context. Again, the fact that this new regulation cannot be used to ensure public safety since it gives no additional data pertinent to public safety argues for an alternate objective for the bill's originators.

The whole thing seems doubly absurd given the fact that, to my knowledge, there has not been a case of pathenogenic coliform bacteria found in raw milk (there have, however, been cases of government agencies trying to pin pathenogenic coliform outbreaks on raw milk dairies unjustly). The pathogens which are more likely to be found in raw milk (salmonella and lysteria) won't even show up on a coliform count because they are not coliform bacteria. But again, it doesn't matter because there are specific tests for these pathogens which are routinely performed by the CDFA.

The whole thing seems triply absurd given the very real food safety issues in California. To put this much time and money and energy into trying to outlaw a food which is demonstrably safe when there are other food industries out there which are demonstrably not safe seems to me to be criminal.

On one of the "fact" sheets given out by the CDFA there is a statement about how high levels of coliform bacteria can affect milk quality by causing off flavors and shortening shelf life. This is, strangely enough, actually a true statement. This is why milk processors pasteurize; not for public safety but to get an absurdly long shelf life. At Claravale we take a different tack. Rather than sterilizing our milk to preserve it so that we can warehouse it before we finally get around to taking it to the store, we take the effort and expense to get it to our customers quickly. Some of our milk gets to the store within hours of coming out of the cow and it is never more than a couple of days old. This is nowhere near enough time for bacterial levels to come anywhere near reaching levels which would cause the milk to be noticeably bad. The coliform levels necessary to create noticeably bad milk are orders of magnitude larger than the less than 10/ml level. Our levels are higher than 10/ml but our milk lasts a long time; certainly longer than the purchase by date that we put on the bottle. Even though our levels are higher than 10/ml we daily get calls from our customers telling us how delicious and wonderful our product is.

With respect to the discussion here, there are three factors which influence the growth of bacteria in milk: initial bacterial count, temperature, and time. As I remember from my bacteriology courses, because bacteria grow exponentially, temperature and time are vastly much more important factors in determining final bacterial count than initial number. Within the narrow range of bacterial levels we are dealing with here, initial bacterial count is irrelevant. Whether we begin with 10/ml or 20/ml the results will be essentially the same. Time and temperature, however, have a large effect. As I have already stated we go to great effort to cut down the time component. We also minimize the effect of temperature. While the CDFA regulation on temperature is that the milk must be kept at 45F or below, we keep our milk tank and cold room at 34F. This is why our milk lasts so long. We start out at a low bacterial count (although not as low as 10/ml) and then we keep the milk very cold and get it to our customers very fast. Under the new regulation we

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could actually legally produce milk that has a higher bacterial count when it got to the customer than it does now by keeping it warmer and using a longer purchase by date.

At any rate, with respect to product quality, this new law is unnecessary and irrelevant. We already have laws pertaining to product quality. Specifically, the product must be good within the purchase by date which must be on the package. It is irrelevant how the producer manipulates the above three parameters to get that result. As long as the purchase by date law is enforced the customer is assured of getting a good product.

In the CDFA "fact" sheet it states that the 10/ml level is the same level used in several states including Nevada, Arizona, Utah, Idaho, and Washington. If nothing else does, this statement alone makes their goal very clear. There are no raw milk industries in these states. The regulations in these states were designed to hobble the raw milk industry not support it. When the CDFA takes a law designed to severely restrict raw milk production in one state and incorporates it into California's codes obviously their goal is to severely restrict raw milk production in California. In a classic and blatantly obvious lie of omission, the CDFA does not tell you in their "fact" sheet that the states of Connecticut, Idaho, and New Mexico allow 50/ml in raw milk for direct human consumption and that the state of Missouri allows 100/ml. These states have taken the time to look at the science and develop rational, intelligent regulations. They understand that using coliform levels to test the functioning of a piece of machinery is different than setting coliform level allowable in raw milk for direct consumption.

Several times in the literature put out by the CDFA they state that they will be there to help us producers meet the new regulations. Bull. It would have been helpful to have had some input into this bill particularly concerning the specific allowable level of coliform bacteria. It would have been very helpful to have had enough advance notice to possibly be able to make changes to conform to the bill. The fact that this bill was kept secret until there is not nearly enough time to adapt (less than 2 months) demonstrates that the State, in fact, wants us to fail. We recently completed a new dairy facility at the cost of a million dollars. The CDFA was entirely aware of this since we have to submit plans to them and let them inspect the facility during construction. Had they informed us of this new regulation we could have made changes to the facilities in order to have a better chance of meeting the new regulation. Or we may have decided not to build at all. Or we may have decided to construct it to produce products other than raw milk. The fact that they went ahead and let us sell our house and go into significant debt to build a facility that they knew they were going to shut down within a couple months of its completion indicates that they are anything but helpful. Not only do they appear to want our dairy to fail but they seem to want to totally destroy us personally.

Much has been said on the internet about the situation in Washington. Washington may have about 20 producers on the books but I don't see the state as having a significant raw milk industry. I haven't researched the raw milk dairies of Washington but some have called me for advice and I've heard about others. They seem generally to be small goat operations that sell largely to their neighbors. The packaging laws are also different in Washington where they are required to bottle by hand, which means that they typically pass the milk from the bulk tank through a couple feet of disposable plastic hose into a sterile single use container. Contrary to what it says on the CDFA "fact" sheet this is actually a much cleaner process than using automatic fillers and cappers. (In fact, California's machine capping law was not implemented for cleanliness or public safety reasons directly but to prevent dairies from putting milk in the customers own containers, which is illegal in California.) Coliform contamination is a surface area phenomenon. No surface is 100% cleanable. The more surface area the milk is required to come in contact with, the more coliform will be in the final product. The largest raw milk dairy in Washington that I know about is about our size, however I don't know what percentage of his milk he markets as raw. At any rate, both the coliform count law and the hand capping law are used in Washington to limit the industry, to keep raw milk production in the state small and insignificant. Obviously you're not going to be producing milk for 50,000 customers if you're standing at the

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bulk tank with a plastic hose filling each bottle individually by hand. If we were to transfer that small goat dairy model to California it would literally take thousands of new dairies to fill the existing demand for raw milk. We just finished building a new dairy in California. It took us 11 years and a million dollars. No small goat operation is going to recoup that kind of investment. Anyway, if you were to move these wonderful, clean Washington raw milk producers down to California the CDFA would shut them down because they don't conform to California's bottling laws.

We are opposed to a coliform level regulation in raw milk because it is unnecessary and ineffective in assuring a safe, high quality product for consumers. All of the laws exist already which are necessary to accomplish this end. That is why there isn't already a coliform regulation for raw milk. It is irrelevant and unnecessary. It wasn't an oversight on the part of anyone. A maximum coliform level regulation for raw milk was purposely not included in the code. For pasteurized milk the milk is pasteurized and then not tested for pathogens. In raw milk the milk is not pasteurized but it is tested for pathogens. Neither the coliform test on pasteurized milk nor the level of 10/ml were developed to directly deal with public safety issues. Both are used simply to see if the sterilizer (i.e. pasteurizer) is working properly. That is why the regulation has historically not been applied to raw milk. Raw milk is not pasteurized therefore there is no pasteurizer to test therefore there is no reason for the regulation. Once again, the CDFA does not seem to know why it is performing the test it does.

While we think it is unnecessary, Claravale Farm would not be opposed to a coliform regulation that was developed specifically with product quality in mind. We think that a level of, perhaps, 100 cells/ml would be more than sufficient to assure product quality, could be obtained in farmstead settings with the application of good dairy practice, and would allow for the continued production of raw milk at current levels and above.

A couple of quick comments on some of the numbers on the CDFA fact sheet and news release: The CDFA says that 25% of bulk tank samples meet the 10/ml level suggesting that 25% of the milk could be sold as raw. This is how that works out mathematically: 25% means that three out of four samples are bad. The state condemns milk if three out of five samples are bad. Three out of four is higher than three out of five. At a 25% rate of good samples not a single drop of raw milk will ever be bottled. The CDFA also states that 75% of the bulk milk samples from the two raw milk dairies meet the new standards. This may be true but it is irrelevant and intentionally misleading. It suggests that, with the 3 out of 5 protocol, all of the milk from these dairies could have been bottled as raw even under the new regulation. As I understand the new regulation after talking with the state, testing will be done in the final package, meaning that bulk tank levels are irrelevant. With testing done in the bottle virtually none of the milk from our dairy will be able to be bottled as raw.

And yet Nicole Parra tells you in her happy letter that the availability of raw milk in California will not be affected. Hmmmm. While the State of California would very much like to ban the sale of raw milk outright it knows that this would be difficult to accomplish. The tack that it has taken instead is to create a false hysteria around the product concerning public health and then to hobble the industry with unnecessary regulations designed to keep raw milk production at a low and insignificant level. While the State will then be able to say that raw milk is legal, because technically it will be, it will not be possible to legally produce it on a scale that will come near to fulfilling the demand for raw milk in California. Believe me, this new bill will absolutely affect the availability of raw milk in California and, regardless of what Nicole Parra says, you will not be pleased.

If you want to continue to be able to obtain raw milk in California you should fight this law with everything you have. Even if you are not a raw milk drinker but want to be able to get fresh, unadulterated produce or meat or, in fact any fresh food in the future you should be fighting this law. This is only one additional step in the State's campaign to pasteurize or sterilize everything.

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**In order to present a united front and not duplicate effort, or work at cross purposes, we would suggest that our customers go to the Organic Pastures website ([www.organicpastures.com](http://www.organicpastures.com)) or [www.thecompletepatient.com](http://www.thecompletepatient.com) to find out what they can do to try to get this law reversed.**

Sincerely,  
Ronald L. Garthwaite, BA, MA, PhD  
Owner, Claravale Farm  
November 7, 2007 | 