



State of Wisconsin  
Jim Doyle, Governor

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**Department of Agriculture, Trade and Consumer Protection**  
Rod Nilsestuen, Secretary

June 11, 2009

Max Kane  
Belle's Lunchbox  
403 E. South Street  
Viroqua, WI 54665

RE: Public Records Request of May 20, 2009

Dear Mr. Kane:

You wrote to request public records involving any and all communications, from January 2005 to present, between DATCP and the federal FDA, with regards to yourself and/or Belle's Lunchbox. I am enclosing 9 pages of e-mails that referenced either yourself and/or Belle's Lunchbox that we found in our system. We do not have any references prior to the December 18, 2008 for either yourself or Belle's Lunchbox on any written communications with FDA.

The Department keeps no public records of any oral communications such as telephone calls. It may be possible that an employee may take personal notes of a conversation. However, unless that employee shares those notes with others, they are not a "public record", pursuant to s. 19.32(2), Stats. I have no evidence that any such notes have been shared.

As for the names of public servants, titles held, office phone numbers and addresses, the only ones the Department has are those of our own employees. In the records I am providing you, all the following employees are referenced and each has the same address: DATCP, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708-8911.

Robert G. Ehlenfeldt, Administrator  
Division of Animal Health  
608-224-4880

Paul J. McGraw, Asst State Veterinarian  
Division of Animal Health  
608-224-4884

Steven C. Ingham, Administrator  
Division of Food Safety  
608-224-4701

C. Thomas Leitzke, Director  
DFS Bureau of Food Safety and Inspection  
608-224-4711

Jacqueline C. Owens, Field Services Director  
DFS Bureau of Food Safety and Inspection  
608-224-4734

Cathy S. Anderson, Investigator  
DFS Bureau of Food Safety and Inspection  
608-224-4675

Michael Barnett, Chief, DFS Regulatory & Technical Services, 608-224-4716

*Agriculture generates \$51.5 billion for Wisconsin*


Letter to Max Kane

June 11, 2009

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If you have any questions, please contact me or I will be able to discuss the matter when we meet on June 18, 2009 in Viroqua.

Very truly yours,

A handwritten signature in cursive script that reads "Cheryl Furstace Daniels".

Cheryl Furstace Daniels

Assistant Legal Counsel

608-224-5026

[cheryl.daniels@wi.gov](mailto:cheryl.daniels@wi.gov)

cc: Steven C. Ingham, DFS  
Phillip Ferris, DOJ

----- Original Message -----

From: Stringer, Larry <larry.stringer@fda.hhs.gov>  
To: Nosari, Jayne  
Sent: Thu Dec 18 11:09:12 2008  
Subject: RE: Brucellosis

Thanks.

Larry

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From: Nosari, Jayne [mailto:Jayne.Nosari@Illinois.gov]  
Sent: Thursday, December 18, 2008 9:55 AM  
To: Stringer, Larry  
Cc: Beaty, Bill; Watkins, Elizabeth; Wilding, Don; Engebretson, Karen J.; Wilding, Don  
Subject: Re: Brucellosis

No word from CDC yet. I will contact you as soon as I hear anything.

-Jayne Nosari

Sent from Blackberry

----- Original Message -----

From: Stringer, Larry <larry.stringer@fda.hhs.gov>  
To: Nosari, Jayne  
Sent: Thu Dec 18 09:40:00 2008  
Subject: Brucellosis

Jayne,

I'm getting requests fro updates on the Brucellosis in Illinois with some frequency. I've told them that you were going to provide any info as soon as I get it. Can you make sure that I find out what the test results show when you get them?

Larry

## Daniels, Cheryl F - DATCP

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**From:** Ehlenfeldt, Robert G - DATCP  
**Sent:** Friday, December 19, 2008 11:39 AM  
**To:** Leitzke, C Thomas - DATCP; Ingham, Steven C - DATCP; Owens, Jacqueline C - DATCP; Barnett, Mike E - DATCP  
**Cc:** McGraw, Paul J - DATCP  
**Subject:** RE: Brucellosis

I hope I don't come to resent making this statement but the Brucellosis issue may have been the simplest part of this problem and could have been a pretty good lever to use to push the raw milk issue.

-----Original Message-----

**From:** Leitzke, C Thomas - DATCP  
**Sent:** Friday, December 19, 2008 8:38 AM  
**To:** Ingham, Steven C - DATCP; Ehlenfeldt, Robert G - DATCP; Owens, Jacqueline C - DATCP; Barnett, Mike E - DATCP  
**Subject:** FW: Brucellosis

-----Original Message-----

**From:** Susan Esser [mailto:EsserS@michigan.gov]  
**Sent:** Thursday, December 18, 2008 8:35 PM  
**To:** tphilibeck@boah.in.gov; Leitzke, C Thomas - DATCP; don.goldsmith@fda.hhs.gov; gerald.berg@fda.hhs.gov; larry.stringer@fda.hhs.gov; Lawrence.Terando@fda.hhs.gov; william.weissinger@fda.hhs.gov  
**Subject:** Re: Brucellosis

Larry,  
Thanks for forwarding the good news!  
Sue

-----Original Message-----

**From:** "Stringer, Larry" <larry.stringer@fda.hhs.gov>  
**To:** tphilibeck@boah.in.gov  
Tom.Leitzke@datcp.state.wi.us  
Goldsmith, Don <don.goldsmith@fda.hhs.gov> Berg, Gerald J <gerald.berg@fda.hhs.gov>  
Terando, Lawrence <Lawrence.Terando@fda.hhs.gov> Weissinger, William  
<william.weissinger@fda.hhs.gov> Esser, Susan <EsserS@michigan.gov> Creation Date: 12/18  
9:14 pm  
**Subject:** Fw: Brucellosis

Good news from IDPH. No Brucella!

Larry Stringer  
Sent by wireless.

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**From:** Nosari, Jayne  
**To:** Stringer, Larry; Wilding, Don ; Beaty, Bill ; sdivincenzo@idph.state.il.us ; Watkins, Elizabeth ; Engebretson, Karen J. ; MESTES@idph.state.il.us  
**Sent:** Thu Dec 18 16:21:08 2008  
**Subject:** Re: Brucellosis

CDC finished testing the two samples. They are both negative for Brucella. The report will be sent out tomorrow.

-Jayne Nosari  
Sent from Blackberry

## Daniels, Cheryl F - DATCP

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**From:** Leitzke, C Thomas - DATCP  
**Sent:** Wednesday, February 18, 2009 10:53 AM  
**To:** Ingham, Steven C - DATCP; Ehlenfeldt, Robert G - DATCP; Anderson, Cathy S - DATCP; Owens, Jacqueline C - DATCP  
**Subject:** FDA Raw Milk Conference Call

Trying for a brief summary of the conference call with FDA yesterday.

Bob and Cathy, please add or correct anything I missed. Thanks.

Tom Leitzke, Cathy Anderson and Bob Ehlenfeldt participated.

Others on the call were Larry Stringer, Scott McIntire, Bill Wiessinger, Keith Jasukaitis, Eric Joneson, Darlene Krieger, Pam, Cary Hoffman from FDA. Michelle Svonkin from FDA's Office of Chief Counsel, Terry Philabeck and Tom Ford from Indiana Board of Animal Health. Jane Nosari, Steve Divincenzo and Bill Beatty of IDPH. Gordon Robinson from Michigan Department of Agriculture. John Redman from FDA-OCI was invited but unable to participate.

Larry Stringer gave summary up to now.

Scott McIntire and Bill Wiessinger discussed FDA-CHI activities. They have done some internet searching and identified about 20 milk clubs in Illinois. They prefer to address one person or group at a time and want to start with Richard Hebron, Family Farm Coop, in Michigan who may be picking milk up at the Hochstettler Farm in Indiana for delivery in the Chicago area. Hebron has been prosecuted in Michigan for raw milk sales. Hochstettler was sent a warning letter by FDA Detroit for interstate delivery of raw milk.

There was some discussion on where to go from here.

Michelle Svonkin from FDA-OCC gave a short rundown on Organic Pastures prosecution in California.

Larry Stringer spoke with CFSAN about the raw milk issue. They indicated that raw milk sales are a high priority to them as a significant health risk.

FDA CHI-DO will continue its investigation and coordinate with FDA DET-DO.

Another conference call will be held in about 4 weeks.

## Daniels, Cheryl F - DATCP

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**From:** Ehlenfeldt, Robert G - DATCP  
**Sent:** Wednesday, February 18, 2009 1:45 PM  
**To:** Leitzke, C Thomas - DATCP; Ingham, Steven C - DATCP; Anderson, Cathy S - DATCP; Owens, Jacqueline C - DATCP  
**Subject:** RE: FDA Raw Milk Conference Call

Late in the call wasn't there an offer to help WI with Belle's Lunch Box investigation?

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## **Daniels, Cheryl F - DATCP**

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**From:** Anderson, Cathy S - DATCP  
**Sent:** Thursday, February 19, 2009 10:32 AM  
**To:** Ehlenfeldt, Robert G - DATCP; Leitzke, C Thomas - DATCP; Ingham, Steven C - DATCP; Owens, Jacqueline C - DATCP  
**Subject:** RE: FDA Raw Milk Conference Call

That's true Bob. The rest looks good Tom.

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**Sent:** Wednesday, February 18, 2009 1:45 PM  
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## Daniels, Cheryl F - DATCP

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**From:** Leitzke, C Thomas - DATCP  
**Sent:** Monday, May 04, 2009 10:56 AM  
**To:** Stringer, Larry  
**Cc:** Daniels, Cheryl F - DATCP; Owens, Jacqueline C - DATCP; Ingham, Steven C - DATCP  
**Subject:** Belle's Lunchbox

**Attachments:** Belle's Lunchbox Special Order to Produce.pdf; Belle's Lunchbox Reply.pdf



Belle's Lunchbox  
Reply.pdf (13...

Larry, here is the Belle's Lunchbox response to the Special Order to Produce Answers and Reports we had served on Max Kane in March 2009. I can't recall if I sent you a copy of the order, so I am attaching it also.

Please forward as you see fit. We should probably discuss this issue again.

Thanks. Tom

The message is ready to be sent with the following file or link attachments:

Belle's Lunchbox Reply.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

**Daniels, Cheryl F - DATCP**

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**From:** Leitzke, C Thomas - DATCP  
**Sent:** Friday, May 08, 2009 2:06 PM  
**To:** Owens, Jacqueline C - DATCP; Daniels, Cheryl F - DATCP; Ingham, Steven C - DATCP  
**Subject:** FW: Max Kane

Bill Weissinger works for the FDA in the Chicago district. It appears they are interested in pursuing Max Kane.

Jackie, please sent Bill the info he is requesting.

Thanks. Tom

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**From:** Weissinger, William [mailto:William.Weissinger@fda.hhs.gov]  
**Sent:** Friday, May 08, 2009 12:51 PM  
**To:** Tom.leitzke@wisconsin.gov  
**Subject:** Max Kane

Tom,

I had your e-mail from one of the raw milk calls we did a while back. We are still working on the issue here in Chicago and are ready to begin directly handling it. However, We need a little information on Max Kane. Do you know the address of the house he is operating out of? What farm is he using for a supply of raw milk? Is that farm(s) inspected? Do you have his full given name?

Bill Weissinger  
Chicago District Special Assistant

**Daniels, Cheryl F - DATCP**

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**From:** Owens, Jacqueline C - DATCP  
**Sent:** Friday, May 08, 2009 2:25 PM  
**To:** 'William.Weissinger@fda.hhs.gov'  
**Cc:** Leitzke, C Thomas - DATCP; Daniels, Cheryl F - DATCP; Ingham, Steven C - DATCP  
**Subject:** Belle's Lunch Box

Hi Bill,  
Tom Leitzke requested that I respond to your questions about Max Kane and Belle's Lunch Box.

This is the address we have on record for Mr. Kane:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

We know this is a valid address because we had him served successfully at his home in April 2009 by the local Sheriff's Office.

We do not know for certain what dairy farm(s) he is procuring milk from. So far, we have identified one possible farm. It is unlicensed. The contact information we have for the farm is:

[REDACTED]  
[REDACTED]  
[REDACTED]

They were licensed as a Grade B farm with us, but went Out of Business in February 2008. We sent an inspector to the farm and found them to be VERY uncooperative and evasive. After the inspector made his visit, we received a Notice of Trespass from Max Kane, written on behalf of the milk producer.

We are continuing our efforts to obtain additional information about Mr. Kane's business. So far, he is refusing to answer our questions and maintains his business is a private matter not under our jurisdiction.

Should you have any additional questions about our efforts, please contact either myself or Cheryl Daniels, our Assistant Legal Council. We will try and help in anyway we can.

Regards,  
Jackie Owens

*Jacqueline Owens, R.S.*  
Bureau of Food Safety & Inspection  
WI Dept. of Ag., Trade & Consumer Protection  
PO Box 8911  
Madison, WI 53708-8911  
Telephone: 608-224-4734  
Fax: 608-224-4710  
jacqueline.owens@wi.gov

**From:** Weissinger, William [mailto:William.Weissinger@fda.hhs.gov]  
**Sent:** Friday, May 08, 2009 12:51 PM

**To:** Tom.leitzke@wisconsin.gov

**Subject:** Max Kane

Tom,

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Bill Weissinger

Chicago District Special Assistant