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October 16, 2009

The Honorable A.G. Kawamura, Secretary  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814

***Re: Petition for Emergency Hearing to Consider Uniform Increase to Class 1, 2, 3, 4a & 4b Prices on a Temporary Basis***

Dear Mr. Secretary:

Western United Dairymen respectfully requests the call of an emergency hearing to consider a uniform increase to Class 1, 2, 3, 4a and 4b prices for a period of six months, January 1, 2010 through June 30, 2010. Specifically, we propose a fifty cent per hundredweight increase on all classes of milk. Our proposed changes to the Northern and Southern California Stabilization and Marketing Plans are attached. While we support the efforts put forth by the Alliance of Western Milk Producers, we recognize more assistance is needed for California dairy families and therefore ask for this expanded scope.

As you are well aware, California dairy families have suffered severe economic hardship in 2009. As a result many have gone out of business or acquired massive debt on top of eroded equity. The significant negative margins witnessed over the past ten months have placed producers in a financial situation that will take years to repair. It was recognized that a pricing hearing over the past months could not have restored financial health as it would have been impossible to fill the \$5.00 to \$8.00 per hundredweight gap needed to cover production costs. However, now with a modest recovery in the markets, a temporary uniform price increase could be of significant assistance to "stop the bleeding." In addition, California milk production is off significantly, especially when compared to other areas of the nation where producers have continued to benefit from assistance through the MILC program. However, we understand California manufacturers are in need of additional milk for processing.

We thank you for immediate consideration of this petition and look forward to your quick response.

Very truly yours,

Michael L. H. Marsh, CPA  
Chief Executive Officer

cc: AJ Yates, Office of the Secretary  
Kevin Masuhara, Director, Marketing Services  
David Ikari, Dairy Marketing Branch Chief  
Board of Directors, Western United Dairymen

**Stabilization and Marketing Plan for Market Milk – Proposed Changes  
Northern California Marketing Area**

**(Same changes shall be applied to the Stabilization Plan for the Southern California marketing area)**

**Article III - Class Prices**

Section 300.0. The minimum class prices for the milk fat and skim milk components of market milk, market cream, and market skim milk f.o.b. the pool plant or nonpool plant located within this Marketing Area where the milk was first received from producers, shall be as follows:

- (A) The minimum monthly prices for components used for Class 1 shall be determined prior to the beginning of each month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:
- (1) For all milk fat, not less than the price per pound computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less a butter adjuster of thirteen and fifteen hundredths cents (\$0.1315), and the result multiplied by a yield factor of 1.2. **Fifty hundredths cents (\$0.0050) shall then be added for the period January 1, 2010 through June 30, 2010.**
  - (2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, minus twenty and three-tenths cents (\$0.203), less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.76 and divided by 8.7. **Four and twenty-two hundredths cents (\$0.0422) shall then be added for the period January 1, 2010 through June 30, 2010.**
  - (3) For all fluid carrier, not less than the price per pound computed by the formula using the Commodity Reference Price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, minus twenty and three-tenths cents (\$0.203), less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.24 and divided by 87.8, and then \$0.0031 per pound subtracted from the result. **Thirteen hundredths cents (\$0.0013) shall then be added for the period January 1, 2010 through June 30, 2010.**
  - (4) The Commodity Reference Price per hundredweight shall be the higher of either:
    - (a) The sum of the following three formulas:
      - (i) The price per hundredweight computed by the formula using the Cheddar cheese price determined pursuant to Subparagraph (A)(6) of this Section, multiplied by a Cheddar cheese yield factor of nine and eight-tenths (9.8).
      - (ii) The price per hundredweight computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less ten cents (\$0.10), all multiplied by a whey butter yield factor of twenty-seven hundredths (0.27).
      - (iii) The price per hundredweight computed by the formula using the dry whey price determined pursuant to Subparagraph (A)(7) of this Section multiplied by a dry whey yield of 5.8, all less a dry whey adjuster of eighty-five cents (\$0.85).
    - (b) The sum of the following two formulas:

- (i) The price per hundredweight computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, multiplied by a butter yield factor of 1.2, and the result multiplied by 3.5.
  - (ii) The price per hundredweight computed by the formula using the nonfat dry milk price determined pursuant to Subparagraph (A)(8) of this Section, multiplied by a nonfat dry milk yield factor of 0.99, and the result multiplied by 8.7.
- (5) The butter price used in calculations pursuant to Paragraph (A) shall be the simple average of the daily closing Grade AA butter prices at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the second previous month and concluding the 10th day of the previous month. In the event that Chicago Mercantile Exchange Grade AA butter prices are not available to calculate the butter price fifteen days prior to the effective date of the Class 1 pricing period concerned, then used in its place shall be the butter price used in the previous month's calculation.
- (6) The Cheddar cheese price used in calculations pursuant to Paragraph (A) shall be the simple average of the daily closing 40 pound block Cheddar cheese prices at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the second previous month and concluding the 10th day of the previous month. In the event that Chicago Mercantile Exchange 40 pound block Cheddar prices are not available to calculate the Cheddar cheese price fifteen days prior to the effective date of the Class 1 pricing period concerned, then used in its place shall be the Cheddar cheese price used in the previous month's calculation.
- (7) The dry whey prices used in calculations pursuant to Paragraph (A) shall be the two most recent weekly, simple average of the Dry Whey – West Mostly prices as published in Dairy Market News available on the 10th day of the previous month.
- (8) The nonfat dry milk price used in calculations pursuant to Paragraph (A) shall be the weighted average of the two most recent weekly price reports for nonfat dry milk f.o.b. California manufacturing plants available on the 10th day of the previous month. The weekly reports are used to calculate the weighted average price per pound for all Grade A and extra grade nonfat dry milk for human consumption sold f.o.b. California manufacturing plants for the seven day period ending on Friday as reported by the California Department of Food and Agriculture.
- (9) For any month in which the Secretary implements the collection of security charges provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code, the minimum Class 1 prices shall be increased by the following amounts:
  - (a) For milk fat, five and seven-tenths mils (\$0.0057) per pound.
  - (b) For milk solids-not-fat, two and three-tenths mils (\$0.0023) per pound.
  - (c) For fluid carrier, one-tenth mil (\$0.0001) per pound.
- (B) The minimum bimonthly prices for components used for Class 2 shall be determined at the beginning of each even month, using the following formulas and procedures:
  - (1) For all milk fat, not less than the Average Class 4a fat price.
  - (2) For all milk solids-not-fat, not less than the Average Class 4a solids-not-fat price plus four and ninety hundredths cents (\$0.0490) per pound.

- (3) For any month in which the Secretary implements the collection of security charges provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code, the minimum Class 2 prices shall be increased by the following amounts:
  - (a) For milk fat, seven and one-tenth mils (\$0.0071) per pound.
  - (b) For milk solids-not-fat, two and nine-tenths mils (\$0.0029) per pound.
- (4) The time periods for the Average Class 4a fat price used in Subparagraph (B)(1) and the Average Class 4a solids-not-fat price used in Subparagraph (B)(2) of this Section shall be those in Subparagraph (B)(5) of this Section.
- (5) For February-March Class 2 and 3 pricing period, the average of preceding December-January Class 4a component prices per pound.

For April-May Class 2 and 3 pricing period, the average of preceding February-March Class 4a component prices per pound.

For June-July Class 2 and 3 pricing period, average of preceding April-May Class 4a component prices per pound.

For August-September Class 2 and 3 pricing period, average of preceding June-July Class 4a component prices per pound.

For October-November Class 2 and 3 pricing period, average of preceding August-September Class 4a component prices per pound.

For December-January Class 2 and 3 pricing period, average of preceding October-November Class 4a component prices per pound.
- (C) The minimum bimonthly prices for components used for Class 3 shall be determined at the beginning of each even month, using the following formulas and procedures:
  - (1) For all milk fat, not less than the Average Class 4a fat price.
  - (2) For all milk solids-not-fat, not less than the Average Class 4a solids-not-fat price plus four and thirty-three hundredths cents (\$0.0433) per pound.
  - (3) For any month in which the Secretary implements the collection of security charges provided for in Chapter 2.5, Part 3, Division 21 of the Food and Agricultural Code, the minimum Class 3 prices shall be increased by the following amounts:
    - (a) For milk fat, seven and one-tenth mils (\$0.0071) per pound.
    - (b) For milk solids-not-fat, two and nine-tenths mils (\$0.0029) per pound.
  - (4) The time periods for the Average Class 4a fat price used in Subparagraph (C)(1) and the Average Class 4a solids-not-fat price used in Subparagraph (C)(2) of this Section shall be those in Subparagraph (B)(5) of this Section.
- (D) The minimum prices to be paid for components used for Class 4a shall be computed as follows:
  - (1) For all milk fat, not less than the price per pound computed by the formula using the butter price, less an f.o.b. California price adjuster of three and nine hundredths cents (\$0.0309), less a manufacturing cost allowance of fifteen and six tenths cents (\$0.156), and the result multiplied by a yield factor of one and two-tenths (1.2). ***Four and ten hundredths cents (\$0.0410) shall then be added for the period January 1, 2010 through June 30, 2010.***

- (2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the nonfat dry milk price, less a manufacturing cost allowance of sixteen and ninety-eight hundredths cents (\$0.1698), multiplied by a yield factor of one (1.0). ***Four and ten hundredths cents (\$0.0410) shall then be added for the period January 1, 2010 through June 30, 2010.***
  - (3) The butter prices used in calculations pursuant to this Paragraph shall be the simple average of the Grade AA butter price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.
  - (4) The nonfat dry milk prices used in calculations pursuant to this Paragraph shall be the weighted average price per pound for all Grade A and extra grade nonfat dry milk for human consumption sold f.o.b. California manufacturing plants for the period beginning the 26th day of the previous month and concluding the 25th day of the current month, as reported by the California Department of Food and Agriculture for the month.
  - (5) In the event that the Chicago Mercantile Exchange Grade AA butter price is not available to calculate the current Class 4a fat price, pursuant to Subparagraph (D)(1), then used in its place shall be the Chicago Mercantile Exchange Grade AA butter price used in the prior month's calculation of the Class 4a fat price. All other Paragraphs that use the Class 4a fat price shall operate as if the price had been established pursuant to Subparagraph (D)(1).
  - (6) In the event that the California weighted average nonfat dry milk price is not available to calculate the current Class 4a solids-not-fat component price, pursuant to Subparagraph (D)(2), then used in its place shall be the California weighted average nonfat dry milk price used in the prior month's calculation of the Class 4a solids-not-fat price. All other Paragraphs that use the Class 4a solids-not-fat price shall operate as if the solids-not-fat price had been established pursuant to Subparagraph (D)(2).
- (E) The minimum prices to be paid for components used for Class 4b shall be computed as follows:
- (1) The Cheese hundredweight price shall be the price per hundredweight computed by the sum of the following:
    - (a) The price per hundredweight computed by the formula using the Cheddar cheese price, less an f.o.b. California price adjuster of two and fifty-two hundredths cents (\$0.0252), less a Cheddar cheese manufacturing cost allowance of nineteen and eighty-eight hundredths cents (\$0.1988), all multiplied by a yield factor of ten and two-tenths (10.2).
    - (b) The price per hundredweight computed by the formula using the butter price, less a manufacturing cost allowance of fifteen and six tenths cents (\$0.156), less ten cents (\$0.10), all multiplied by a yield factor of twenty-seven-hundredths (0.27).
    - (c) The constant whey factor of twenty-five cents per hundredweight (\$0.25).
  - (2) For all milk fat, not less than the price per pound computed pursuant to Subparagraph (D)(1) of this Section.
  - (3) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Cheese hundredweight price established pursuant to Subparagraph (E)(1) less the product of three and seventy-two hundredths (3.72) multiplied by the Class 4b fat

price established pursuant to Subparagraph (E)(2), all divided by eight and eighty hundredths (8.80). **Five and eighty hundredths cents (\$0.0580) shall then be added for the period January 1, 2010 through June 30, 2010.**

- (4) The Cheddar cheese prices used in calculations pursuant this Paragraph shall be the simple average of the 40 pound block Cheddar cheese price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.
- (5) The butter prices used in calculations pursuant this Paragraph shall be the simple average of the Grade AA butter price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.
- (6) In the event the Chicago Mercantile Exchange 40 pound block Cheddar cheese price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the cheese price used in the prior month's calculation of the Cheese hundredweight price.
- (7) In the event that the Chicago Mercantile Exchange Grade AA butter price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the Grade AA butter price used in the prior month's calculation of the Cheese hundredweight price.
- (F) The minimum prices to be paid pursuant to Paragraph (A) of this section shall be computed by the Dairy Marketing Branch and furnished to handlers not less than ten days prior to the effective date of each price change.
- (G) The minimum prices to be paid pursuant to Paragraphs (B), (C), (D), and (E) of this section will be computed by the Dairy Marketing Branch and furnished to handlers each month.
- (H) The minimum price for components used for Class 1, as set forth in Paragraph (A) of this Section, shall be modified only for the period April and May, 1997 and shall be:
  - (1) The fat component price shall be \$1.0004 per pound.
  - (2) The solids-not-fat component prices shall be \$0.9575 per pound.
  - (3) The fluid carrier component price shall be \$0.0283 per pound.

Section 300.1. From the gross value of the minimum class prices [f.o.b. producer's dairy location for milk fat and skim milk components of market milk, market cream, and market skim first received direct from the producer's dairy at a pool plant or nonpool plant located within this Marketing Area as computed pursuant to Section 300.0, Paragraphs (A), (B), (C), (D), and (E)], the handler may deduct the gross transportation charge from the producer's dairy location to the first receiving plant computed from the lowest of the following:

- (A) A rate not in excess of the rate charged for actual or reasonably similar services by highway carriers, as the term "highway carriers" is defined in Section 3511 of the Public Utilities Code;
- (B) The actual amount paid by the handler for such transportation.