

Producer Review Board
Meeting Minutes
August 2, 2017
(DRAFT)

The Producer Review Board, Board of Directors, held this meeting on August 2, 2017, at 9:00 a.m., at the Modesto Centre Plaza, 1000 K Street, in Modesto. In attendance were:

Members Present

Charles Ahlem
Jarrid Bordessa
Ted De Groot
Arie H De Jong
Fred Douma
Joey Fernandes
Craig Gordon
Rodney Kamper
Scott Magneson
John Moons
George te Velde
Case Van Steyn

CDFA Executive Office

Undersecretary Jim Houston
Michele Dias, General Counsel

CDFA Marketing Services Division Staff

Jeff Cesca, Director of Marketing Services
Candace Gates, FMMO Coordinator
Hyrum Eastman, Dairy Economic Advisor
Donald Shippelhoue, Chief of Dairy Marketing
Joe Monson, Senior Agricultural Economist
Steven Donaldson, Research Manager

Members Absent

Wes Bylsma
Mike Gallo
Ron Koetsier

Call to Order and Roll Call

At 9:05 am, Vice Chairperson te Velde welcomed everyone to the Producer Review Board (Board) meeting. Roll call was taken and ten (10) of fifteen (15) members were present, establishing a quorum. Note: Two members arrived later increasing attendance to twelve (12) members present.

Review and Approval of June 15, 2017 Meeting Minutes

Chairperson Kamper shifted to review of the June 15, 2017 meeting minutes. No edits or corrections were addressed and the following action was taken:

Board Action #2017-23 It was moved by Mr. Moons and seconded by Mr. Douma to approve the June 15, 2017 meeting minutes as presented with corrections.

Discussion and Public Comment: No other discussion by the Board and the public.

Vote on Board Action #2017-13: The motion passed unanimously with eleven (11) votes in favor and none in opposition. See attached Exhibit "A" for roll call vote.

Hardship Consideration Request

The Chair asked Mr. Donaldson to address the hardship consideration by Dominique and Jacqueline Mendivil. Mr. Donaldson explained that the request was for a waiver from Section 500(L) of the Pool Plan which prohibits a producer that transferred quota from purchasing quota within a two year period. Mr. Donaldson referenced that the members had received a summary of prior Board decisions related to waivers of Section 500(L).

Mr. Donaldson then introduced the Mendivils. James Betts, attorney for the Mendivils, was also present and provided an overview of a lawsuit brought on by the Mendivil's former partners on a dairy. Through a settlement, the Mendivils transferred their dairy and quota interest to their former partners in January 2017. Mr. and Mrs. Mendivil have since started a new dairy and would like the opportunity to purchase quota. The Mendivils indicated they have always purchased quota and never intended to sell or transfer. The Board inquired about who acquired the quota and it was clarified that the remaining partners at the former dairy now own the quota.

Board Action #2017-24: It was moved by Mr. Moons and seconded by Mr. De Jong to recommend that the Secretary waive Section 500(L) of the Pool Plan and allow Dominique and Jacqueline Mendivil to purchase quota within the two year prohibition period.

Discussion and Public Comment: There was no other discussion or public comments.

Vote on Board Action #2017-24: The motion passed unanimously with eleven (11) votes in favor and none in opposition. See attached Exhibit "A" for roll call vote.

Outline of Proposed Stand Alone Quota Program

The Chair introduced Undersecretary Houston. The Undersecretary described the process for review. Currently the proposal is open for public comment. A final recommendation to the Secretary will occur at the next meeting. Then a sixty day industry referendum would determine whether or not the stand alone program would operate in conjunction with an industry approved Federal Milk Market Order (FMMO). It was shared that the Secretary is trying to be responsible and would like the proposed stand-alone quota program to include a five year continuation review process. The program would be subject to a review, but would not necessarily go to a vote of the industry. The review would help determine if the program is effective or needs a change. A member wondered why a review would be needed if the industry could petition the Department under Section 1103 of the proposed plan. It was shared that Section 1103 is a more formal process, whereas the review is more of an evaluation or an opinion poll. General Counsel Dias stated that the review would also survey how the Department is managing the program and not be focused just on quota. Another member shared concern that the PRB would not have final say. However, another member indicated that the PRB make recommendations to the Secretary, so the PRB does not have final say. One member expressed that a review is healthy process that provides a good dialogue between the industry and the Department.

The Undersecretary also addressed a proposed assessment threshold. If the rate reached a certain point, it would trigger a referendum vote of the industry. Members asked if an assessment cap could be built into the program, rather than the proposed threshold method. Under the current pooling system there are deductions out of the pool and the difference with the proposed system, is the fact it is driven by an assessment. Mr. Shippelhouse provided an overview of the threshold. If the computed assessment rate

increases to certain threshold levels, the draft language stipulates that a producer referendum would be held to consider the continuation of the program. CDFR does not anticipate new threshold levels being reached frequently.

Staff indicated that the three month assessment rate change provision was proposed as a means to provide some stability and handle fluctuations. A question was raised whether a reserve is built into the program. Though not a part of the formal budget process, there are reserves in the current program.

Staff shared the following table with initial assessment and threshold levels:

Assessment Level	Per Pound (SNF) Rate	Per CWT Rate
Initial Level	\$0.05	\$0.39
Threshold Level #1	\$0.05	\$0.44
Threshold Level #2	\$0.06	\$0.48
Threshold Level #3	\$0.06	\$0.52
Threshold Level #4	\$0.07	\$0.57
Threshold Level #5	\$0.07	\$0.61

Concerns were expressed that the thresholds would affect the viability of the quota program. One member expressed that the program needed to be set up to pass, and such a threshold will mean the program goes away. It was indicated the assessment is too high and the assessment vote is not viable. Another member suggested that the rate review come back to the Board rather than conduct a referendum vote.

Review of Quota Implementation Plan

The meeting shifted to a review of the propose plan. Members of the Board and the public provided input throughout the review.

Staff shared that most definitions were carried over from the current Pool Plan. A definition for “Hardship” was added. Other general clarification edits were done to the definitions. The Board asked if a reference to quota currently owned by a producer would be brought over into the new program. Staff stated language to that affect could be added.

There were comments that some definitions may need to match the federal order language for consistency. Also questions arose regarding testing of milk for payment purposes. There are differences with protein and solids for payment under a Federal Order. References to production base should be taken out as this program will not utilize that as was the case for the current Pooling Program.

Article 2 regarding new quota allocation leaves out reference to Class of milk. Article 3 stays the same. Article 4 deals with quota ownership and transfers. Article 5 deals with the hardship consideration process and has been streamlined. Reports submitted under Article 6 have been set up to coincide with Federal Order reporting dates. Article 7 addresses how the assessment will be collected through the

handlers and deducted from monies owed to producers. Article 7 proposes to allow a cooperative to combine the quota assigned to members into one cooperative quota holding for accounting purposes.

A question was raised about how to wind down the current program should both the stand alone program and the FMMO be implemented and whether or not the equalization account would transfer to the new program. Staff indicated the pool plan does not address how to wind down the pool program.

The Regional Quota Adjusters (RQA) under Article 8 were left unchanged. A member indicated with the removal of Transportation Allowances, the RQA's should be eliminated as well. Based upon 62750 of the Food and Agricultural Code, the RQA's are not in conflict with the FMMO and therefore remains in the stand alone program. A member indicated that this issue had been discussed prior and there is no need to change it now.

The quota assessment under Article 9 was discussed and changed from a three month period to review to a twelve month period. Members felt this would handle fluctuations in the revenue. The initial assessment was changed from \$0.0450 to \$0.0436 per pound of solids. A member of the public commented that the plan has to be self-correcting in order to limit money coming from producers. The Board felt the twelve month average will work and thus eliminate the need for an industry vote every time the rate would exceed a \$0.05 threshold.

Article 10 dealing with reports and payments was discussed. A minor change regarding the fee due date was changed from the nineteenth of the month to the sixteenth of the month.

Article 11 entitled "Administration" was discussed. The Board questioned the five year review and still questioned the need. Concerns were reiterated regarding how the continuation process will devalue quota.

Meeting Conclusion

Based upon the work conducted at the meeting, staff will take the edits back to CDFA and incorporate with them with public comments yet to be received. Once CDFA has incorporated the comments and further edits, the Board will meet on September 12, 2017 to make a final draft recommendation to the Secretary.

Another member indicated the PH70's would be looking at a way to preserve the current exemption under the proposed stand-alone program. A member finally commented that going to a Federal Order puts quota in a vulnerable position compared to the current program. Comments from the public were shared. An industry representative shared that a number of producers are not in favor of the continuation process as proposed. There are too many opportunities for referendums to occur and would like to minimize the risk. A producer shared that quota was important part of a business plan. Quota allows a producer to diversify, especially in situation where there are land restrictions. The review and referendum process undermines the confidence of the asset.

There being no other business, the Chair adjourned the meeting at approximately 1:34 p.m.

EXHIBIT "A"
Board Motion and Roll Call Vote Tally:

Board Action #2017-23 It was moved by Mr. Alhem and seconded by Mr. Douma to approve the June 15, 2017 meeting minutes as presented. The motion passed unanimously with eleven (11) votes in favor and none in opposition.

YES Votes by: Charles Alhem, Jarrid Bordessa, Ted De Groot, Arie De Jong, Fred Douma, Joseph Fernandes, Rodney Kamper, Scott Magneson, John Moons, George te Velde and Case Van Steyn

NO Votes by: None

Board Action #2017-24 It was moved by Mr. Moons and seconded by Mr. De Jong to recommend that the Secretary waive Section 500(L) of the Pool Plan and allow Dominique and Jacqueline Mendivil to purchase quota within the two year prohibition period. The motion passed unanimously with eleven (11) votes in favor and none in opposition.

YES Votes by: Charles Alhem, Jarrid Bordessa, Ted De Groot, Arie De Jong, Fred Douma, Joseph Fernandes, Rodney Kamper, Scott Magneson, John Moons, George te Velde and Case Van Steyn

NO Votes by: None