



Alliance of Western Milk Producers

Representing California's dairy cooperatives and their producers since 1991

1225 H Street, Suite 102 • Sacramento, California 95814 • 916-447-9941

September 30, 2003

The Honorable Bill Lyons, Secretary
California Department of Food & Agriculture

1220 N Street
Sacramento, California, U.S.A. 95814

Subject: Petition for a Hearing to Amend the California Pooling Plan

Dear Secretary Lyons:

Due to the dramatic rise in cheese prices relative to the prices of butter and nonfat dry milk powder and the resulting inversion of the Class 4b price and the overbase price, the Board of Directors of the Alliance of Western Milk Producers requests that you convene a hearing on an emergency basis to prevent the depooling of plants processing market milk into dairy products for which pool participation is not mandatory. Further, the Alliance asks that you use your emergency powers to immediately require that those plants which were pool plants in June 2003 resume being pool plants until this issue can be resolved through the hearing process.

The need

In 1996, there was a string of several months when the Class 4b price was significantly higher than the overbase price. As a result, a number of producers holding Grade A permits and shipping to a pool cheese plant either gave up their Grade A permits temporarily or allowed the temperature on their milk to climb above 45 degrees Fahrenheit thus having it degraded and getting paid the Class 4b milk price. This cost producers and plants that remained in the pool hundreds of thousands of dollars. That situation had to be addressed by making changes to the code limiting producers to giving up their Grade A permits to once a year, for a year, from January 1 through December 31. A price treatment category was also created for Grade A milk that was degraded.

Starting in July of 2003, the Class 4b price is once again significantly higher than the overbase price. This time at least two large cheese manufacturing plants have left the pool. The Alliance estimates that this price inversion will likely continue through the rest of this year. Alliance analysis of CDFFA data indicates that between 17 million and 22 million fewer pounds of milk were pooled this year compared to July and August of 2002. The producers remaining in the pool have lost nearly \$700,000 in just two months. If this condition is allowed to continue, that cost could triple or more before the year is over.

What is being asked

The Alliance is petitioning the Secretary to do two things:

1. *To use his emergency powers to immediately require plants and producers whose milk was pooled immediately prior to June of 2003 to resume being pooled and remain pooled until a hearing is held and a decision rendered.*

Immediately and retroactively requiring that all plants and producers pooled immediately prior to June to resume being pooled until the hearing decision is issued puts all producers and all plants on an equal footing. All producers suffered significant financial trauma over the past 17 months and all Grade A producers shipping to pool plants benefited from what pooling had to offer. Now that milk prices have turned up, all producers who had been pooled to should continue to benefit equally.

Unfortunately, because of depooling, all producers do not benefit equally from the price upside. In August 2003, for example, the difference between the overbase price and the Class 4b price was \$1.77 per hundredweight (cwt). A plant that depooled its milk did not pay this difference into the pool. As a result that plant is able to pay its Grade A producers \$1.77 more per cwt. However, the producers remaining in the pool lost 1.1 cents per hundredweight. Put another way, a depooled producer milking 700 cows with production of 20,000 pounds of milk per cow per year made an additional \$20,000 in August while a similar-sized producer remaining in the pool lost \$128.00.

This must be curbed immediately and the action must be retroactive.

2. *The Alliance requests that the Secretary convene a hearing on an emergency basis to consider the following changes to the pooling plan:*

a. *Under Section 106 of the pooling plant add a new subsection (d):*

(d). Any pool plant which does not process Class 1 or mandatory Class 2 products shall be a pool plant for the entire calendar year unless it notifies the Department prior to January 1 of the coming calendar year that it intends to no longer be a pool plant. A non pool plant which had previously been a pool plant shall remain a nonpool plant unless it notifies the Department prior to January 1 of the coming calendar year that it intends to be a pool plant effective January 1.

b. *Under Section 114 (a) add a subsections (1) and (2):*

(1) Market milk pooled on January 1 of the calendar year shall remain pooled for the entire calendar year.

(2) Market milk being delivered to a nonpool plant may not be pooled by any other plant prior to January 1.

Summary

Pooling was put in place in 1969 to create equity between producers and between plants. The option of pooling and depooling at will has created imbalance in the system between producers and between plants. The Alliance members firmly believe that the Secretary must act immediately to correct this imbalance by taking the actions requested.

Sincerely,



James E. Tillison, CEO