

3-18-18

FINDINGS AND CONCLUSIONS RELATIVE TO AMENDMENTS
TO THE POOLING PLAN FOR FLUID MILK

The following findings and conclusions are based on material issues raised at a public hearing held on July 11, 1972, in Los Angeles, and concluded on July 17, 1972, in Sacramento, California. This hearing (a concurrent pooling and producer price hearing) was for the purpose of giving consideration to nonsubstantive amendments to the Pooling Plan currently in effect.

Nature of Hearing

It was the purpose of the Department to respond to petitions from both producers and distributors requesting an opportunity to present testimony and evidence contingent to the amendment of the Pooling Plan. In addition, the Bureau of Milk Pooling put forth several proposals which would make minor changes in the existing Pooling Plan. The issues which were presented during the course of the hearing were as follows:

1. Pool plant modification proposals by the State.
2. Pool plant performance requirements.
3. Sale of quota in separate components.
4. Milk quota ratio assignment.
5. Location differential relief.
6. Establishment of a State milk dispatcher service.
7. Location differential changes.

FINDINGS

Pool Plan Modifications

Proposed amendments to the existing Pooling Plan were mailed to all persons who received a Notice of Hearing. The amendments proposed were technical in nature. They were changes for clarification which would be an aid in administering the pooling provisions. There were no substantive major changes proposed. At the hearing, all persons who testified to this point approved of amendments as presented. The amendments as proposed should be adopted.

Pool Plant Performance

In the Pooling Plan, pool plant performance requirements are based on a percentage of Class 1 sales to the total pool milk that the plant receives. The Plan provisions allow the Director to require that during the months of September, October, and November, a plant must have 40 percent of its pool milk utilized as Class 1. During the rest of the year, 20 percent of its pool milk must be used as Class 1. The Plan

further provides that the Director may increase or decrease these percentages by 20 percent if he feels such an adjustment is desirable to assure an adequate supply of fluid milk for any area. By issuing Pooling Plan Order Number 14, the Director has opted to establish, at the present time, percentage requirements of 20 percent in September, October, and November, and 0 percent during the remainder of the year.

The Director has an option of moving this requirement to a maximum of 60 percent in the three fall months and to 40 percent in the rest of the year and a minimum of 20 percent in the fall months and 0 percent the remainder of the year if he feels it is necessary to encourage the movement of milk from certain plants into the Class 1 market. With the current supply, the Director has opted to use the zero and 20 percent requirements. However, he may change the percentage requirements without hearings.

During the year 1971, a study was made of the plants which would have been penalized and would have lost their pool plant status if they had not been in a "system" pool. Most plants which did not qualify as individual plants were qualified through a system pool. Two plants did not have producers shipping directly to them and received their milk from other plants. One plant was a handler, as defined under Paragraph 105(c) of the Pooling Plan. Since the penalty for loss of pool plant status is applied against producers shipping to that plant, the two plants which received milk from other plants and the Paragraph 105(c) handler could have no penalties placed against them. The remainder of the plants which were in a system pool did not lose their pool plant status because they were tied to other plants that had high Class 1 usage.

One of the propositions at the hearing suggested that a minimal percent requirement be placed on each plant in a system pool in order to qualify that plant as a pool plant during the three fall months period. However, this again has the same basic penalty of loss of pool plant status for that plant which could then, in turn, pay the producers shipping to that plant only the overbase price for milk. This type of penalty is difficult to administer. One reason is that before a plant is discovered to be in violation, a time period has elapsed to the point that producers have not had the opportunity to seek other markets. If the percent requirements were too high, there would be an uneconomical movement of milk from one plant to another, each diverting their individual shippers in order to keep producers at all plants qualified and receiving payments for quota milk.

With the current large supply of milk and the impracticality of the imposition of nonpool plant status to a pool plant, the current Order with its current penalties should remain without change.

Sale of Separate Components

There was a request at the hearing that the Director allow the sale of separate milk components, providing the sale of such components would move each party, both the seller and the buyer, toward a more natural production flow ratio. There has been some controversy since the

inception of the assignment of base and quota under the Pooling Act in regard to the ratios of fat to solids-not-fat assigned to certain groups of producers. Production base was assigned ostensibly on the natural production flow of the individual dairy producer, whereas the quota assignment was on his solids-not-fat and fat usage in the market during the base-forming period. In the cases where the sales of solids-not-fat and fat were not in relationship to the natural flow, producers had assignment of fat and solids-not-fat quota in a different ratio than that of their base. In proposing that the sales of solids-not-fat and fat may be made separately, it was hoped that those who are out of natural production flow ratio on their quota may buy their way into a natural position. However, a review of the Code indicates that this cannot be accomplished, since the Code requires a proportionate share of base must move when a sale of quota is made.

Milk Quota Ratio Assignment

It was requested that, should any new quota be forthcoming as a result of an increase in Class 1 sales, such quota be assigned on a 1 to 2.5 ratio which will closely represent the state-wide natural-flow ratio between fat and solids-not-fat. The computation of new quota for assignment should be based on the largest growth component. An adjustment on the lesser growth component should be made accordingly which will, as closely as possible, result in a 1 to 2.5 ratio of fat to solids-not-fat available for assignment.

Location Differential Relief

It was again, as in previous hearings, requested that the location differential be removed from quota milk which moves from a zero location differential to a minus location differential when such milk is moved because of lack of Class 1 sales in the zero location differential area. This has been primarily a problem in Southern California when, on certain days, milk must move out of the Southern Metropolitan markets and into the Valley for processing. This proposal was made at former hearings and was not implemented at that time. The findings from those hearings continue to be valid.

Dispatcher

There was testimony relating to the difficulty of supplying sufficient milk for bottling purposes on certain days in some areas. On these days, there was insufficient quota milk available for Class 1 needs. However, on an average monthly basis, production reports show that there is more than enough quota milk available for all Class 1 needs. As a system for alleviating the spot shortages, it was suggested that the State develop a program by which any person, who processes milk and needs Class 1 milk and is unable to get it from normal sources, could contact the State and the State would act as a dispatcher to locate and supply the milk needed.

The State should not establish a dispatcher system. Arrangements between a producer or producer organization and a bottling or processing plant should be the concern of the two individuals involved. It is incumbent upon a processing distributor to make arrangements either through direct

contact with producers or through a supply plant operation to supply his needs. The State would have to have arbitrary authority to shift milk from one plant to another. Standards would have to be established for use in determining the areas where milk should be moved, who should be required to release milk, in what amounts, and in determining priorities. The cost impact of moving quota milk from one plant as compared to another is based on many factors. Reduction in plant volume, type of products being manufactured, storage capacity, and many other factors contribute to the variation in costs between plants. These cost variations become important factors for individual supply plants when negotiating with processing plants for supply. State-imposed movement would affect each supply plant differently.

Location Differential Changes

Testimony at the hearing suggested a number of differentials be changed, both for prices between marketing areas and location differentials. A number of the proposals made at this hearing would require individual hearings in the several marketing areas involved. Different price level changes cannot be made as a result of this consolidated hearing. However, as the result of the testimony and observance of the current market, it was necessary that the location differential in the Sacramento Area be reduced from minus 15 cents to minus 12 cents. This should be done immediately, without a change in price level for this Area. The Sacramento Area has become, and continues to grow as, a processing center for Northern California and it is necessary to make available an ample supply of fluid milk for this Area. Additional changes in location and price differentials for the Area should be considered at a subsequent hearing.

All other subjects and issues testified to were considered and acted on appropriately.

C. B. Christensen
Director of Agriculture

By



L. R. Walker, Chief
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R. A. Abbott, Senior Agricultural Economist
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Dated: August 21, 1972

FINDINGS OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF AGRICULTURE
UPON THE POOLING PLAN FOR FLUID MILK, AS AMENDED

A public hearing to consider amendments to the Pooling Plan for Fluid Milk, as Amended, was duly and regularly called and held in Los Angeles, California, on July 11, 1972, and in Sacramento, California, on July 17, 1972, under the provisions of Chapter 3, Part 3, Division 21 of the Agricultural Code, full and proper notice of this hearing was given to all producers, producer-distributors, and distributors of record with the California Department of Agriculture, who may be subject to the provisions of the Pooling Plan, by mail in accordance with the provisions of Section 62184 of said Code.

At said hearing, all persons were afforded an opportunity to be heard and testimony and evidence, both oral and documentary, were offered and received.

After due deliberation upon and full consideration of the facts and evidence adduced, the Director of the California Department of Agriculture hereby finds the following:

1. The Pooling Plan for Fluid Milk, as Amended, is no longer in conformity with the standards prescribed in Chapter 3, and will not tend to effectuate the purposes of Chapter 3 without amendment.
2. The amendments are necessary to effectuate the purposes of Chapter 3 and will accomplish the same within the standards prescribed in Chapter 3.
3. The Pooling Plan for Fluid Milk, as Amended, and identified as the Pooling Plan for Fluid Milk, as Amended, and made effective by Milk Pooling Order Number Eighteen (18) effective September 1, 1972, is necessary to accomplish the purposes of Chapter 3, and will accomplish the purposes of Chapter 3 within the standards therein prescribed.

C. B. Christensen
Director of Agriculture

By *R. A. Abbott*

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Dated: August 21, 1972