

FINDINGS AND CONCLUSIONS OF THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE UPON THE POOLING PLAN, AS AMENDED, AND THE STABILIZATION AND MARKETING PLANS, AS AMENDED, FOR MARKET MILK FOR THE CENTRAL COAST COUNTIES, DEL NORTE-HUMBOLDT, NORTH VALLEY, REDWOOD, SISKIYOU, SOUTH VALLEY, AND SOUTHERN CALIFORNIA MARKETING AREAS

WHEREAS, a consolidated public hearing for the purpose of considering amending the existing Stabilization and Marketing Plans for Market Milk for the Central Coast Counties, Del Norte-Humboldt, North Valley, Redwood, Siskiyou, South Valley, and Southern California Marketing Areas was duly and regularly called and held in Sacramento, California, on May 2, 1979 and continued and concluded on May 8, 1979; and

WHEREAS, a public hearing for the purpose of considering amending the existing Pooling Plan for Market Milk was also duly and regularly called and held concurrently with said public hearing on the Stabilization and Marketing Plans; and

WHEREAS, pursuant to the provisions of Chapter 2 and Chapter 3, Part 3, Division 21 of the Food and Agricultural Code, full and proper notice of said hearing was regularly given by mail in accordance with the provisions of Section 61994 of said Code, to all producers, producer-handlers, and handlers of record with the California Department of Food and Agriculture, who may be subject to the provisions of the Pooling Plan and the Stabilization and Marketing Plans for Market Milk for said Marketing Areas; and

WHEREAS, said hearing was called in response to a petition from representatives of dairy handlers; and

WHEREAS, at said hearing, all persons were afforded an opportunity to be heard, and testimony and evidence at said hearing, and as supplemented in the record thereafter, disclosed that, and it is hereby found and concluded that:

1. The current milk movement regulations for market milk are ineffective and economically unsound and shall be deleted;
2. New performance regulations governing the movement of bulk market milk between handlers are necessary;
3. There shall be four milk procurement regions which best follow the normal patterns of milk production and marketing;
4. The Director may implement a program requiring market milk handlers who do not use a sufficient amount of the quota milk which is under their control for Class 1 and mandatory Class 2 purposes to make such quota milk available upon call from a handler who needs such milk for Class 1 uses;
5. If the Director implements such a program, a reasonable service charge may be made against the call handler for such quota milk made available; and

WHEREAS, evidence was received and considered with respect to specific factors relating to the movement of bulk market milk between handlers; and

WHEREAS, the Director hereby adopts the concurrent Economic Basis for Findings and Conclusions on Material Issues;

NOW, THEREFORE, after due deliberation upon the full consideration of the facts and evidence adduced, the Director of the California Department of Food and Agriculture hereby finds that the Pooling Plan and the Stabilization and Marketing Plans now in effect in said Marketing Areas are no longer in conformity with the standards prescribed in said Chapter 2 and Chapter 3, and that the same will not tend to accomplish the purposes of said Chapter 2 and Chapter 3 without amending said Plans, and that amendments to said Pooling Plan and Stabilization and Marketing Plans for Market Milk for said Marketing Areas are proper and necessary in order that said Plans shall continue to conform with the standards prescribed therein, and shall continue to tend to effectuate the purposes of Chapter 2 and Chapter 3; and

The Director of the California Department of Food and Agriculture hereby further finds that amendments to the Pooling Plan for Market Milk and the Stabilization and Marketing Plans for Market Milk for said Marketing Areas, and each and every part of said amendments to said Plans, identified as Pooling Plan Order Number Twenty-Nine (29), Central Coast Counties Order Number Fifty-Six (56), Del Norte-Humboldt Order Number Eighty-Seven (87), North Valley Order Number Twelve (12), Redwood Order Number Sixty-Two (62), Siskiyou Order Number Ninety-Two (92), South Valley Order Number Twelve (12), Southern California Order Number Eleven (11) are necessary to accomplish the purposes of Chapter 2 and Chapter 3 and that said Plans, as Amended, will tend to accomplish the purposes of Chapter 2 and Chapter 3 within the standards therein prescribed.

All testimony and items of evidence submitted by all parties to these proceedings, whether or not specifically mentioned herein, have been considered in rendering these findings and conclusions.

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Director of Food and Agriculture

By *V. L. Shahbazian*

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Date 6/11/79

ECONOMIC BASIS FOR FINDINGS AND CONCLUSIONS ON MATERIAL ISSUES PRESENTED FOR
CONSIDERATION FOR AMENDMENT OF THE POOLING PLAN FOR MARKET MILK
AND OF THE STABILIZATION AND MARKETING PLANS FOR THE
CENTRAL COAST COUNTIES, DEL NORTE-HUMBOLDT, NORTH VALLEY, REDWOOD, SISKIYOU,
SOUTH VALLEY, AND SOUTHERN CALIFORNIA MARKETING AREAS

A public hearing was called on May 2, 1979, in response to a petition from representatives of milk handlers. The hearing was not concluded on May 2 but was continued to and concluded on May 8, 1979. The calling of the hearing was a culmination of concerted efforts of an industry Ad Hoc Milk Movement Committee which had been appointed by the Director and had been working on the milk movement problem since July 1978.

The element of milk movement to which the Committee had directed its efforts and for which the hearing was called was in the area of plant-to-plant movement. The issue was how best to facilitate the movement of bulk market milk from milk plants with basically low classified usage to plants with primarily Class 1 usage and Class 2 usage which mandatorily requires utilization of market milk. Such Class 2 usage is identified as "mandatory Class 2 usage."

There was little actual evidence of the lack of milk availability for Class 1 use. The major cooperatives who operate processing plants took the position that the current system of supply was adequate without further intrusion by the Department into the supply area. Proprietary plants were generally of the view that the Department should become more involved by promulgation of additional regulations with particular incentives to encourage the development of long term contracts.

The precipitant force behind the current agitation for additional Departmental involvement in the milk movement process was the decrease in overall production experienced during the 1978 production year and the addition of hard cheese manufacturing plants scheduled to come on line in the latter part of 1979. The anticipation of a shortage of market milk for all purposes is causing concern by those bottling plants which are dependent upon country plants and processing co-ops to balance their supply for bottling.

The pattern of milk movement in California is intricate, complex and diverse. This became increasingly evident during the deliberations of the Ad Hoc Milk Movement Committee. The intricacy and the diverse interests of milk handlers prevented the development of any comprehensive plan by the Committee. The divergence of opinion and interests continued to be evident throughout the testimony at the hearing.

The current provisions in the Pooling Plan which are intended to facilitate the movement of bulk milk have proven to be ineffective and to some degree disruptive to the market when invoked. They are currently in suspension. At the hearing the Department presented a proposal which would eliminate the current provisions dealing with the plant-to-plant milk movement requirements and which best reflects those areas of agreement of the Ad Hoc Milk Movement Committee. Industry testimony at the hearing became more diverse than had been developed in Committee and tended to become polarized in opposition viewpoints.

The complexity of the milk movement area requires that the Department not disrupt current contractual procedures or inter-handler agreements by substituting a Departmental system. On the other hand, to make no change would leave the status quo, which favors the cooperatives with plants and the country plants who tend to receive the returns from higher uses through the quota payout system but who may choose not to serve Class 1 and mandatory Class 2 needs.

The current regulations in the Pooling Plan for interplant market servicing should be dropped because of their ineffectuality. In place of the current regulations, a system of regional procurement areas should be adopted which can supply the needs of bottling plants within a natural milk flow area. For this purpose, the Southern California Marketing Area and the South Valley Marketing Area (exclusive of Merced County) should be combined. The North Valley Marketing Area, Redwood Marketing Area and the Central Coast Counties Marketing Area plus Merced County should be a separate procurement area. Del Norte-Humboldt Marketing Area and the Siskiyou Marketing Area should each be separate procurement areas in that the milk supply in these areas are more or less self-contained and should not be made a part of the milk sheds elsewhere. A review of current milk flow and creditable evidence at the hearing support the establishment of these four procurement regions.

Within each procurement area it is necessary to determine which handlers are not supplying a sufficient percentage of quota milk for Class 1 and mandatory Class 2 needs and which handlers have high Class 1 and mandatory Class 2 sales and who have difficulty in procuring bulk milk for high usage purposes.

There is considerable concern by handlers who potentially may be called upon to supply bulk milk that any handler calling for such milk use it for Class 1 and mandatory Class 2 uses. Proprietary handlers who maintain several plants might be able to maintain a manufacturing plant along with a separate bottling plant and without affecting their manufacturing plant, call on a supply plant for bulk milk for their bottling needs. It is of concern that a supply handler may be required to give up milk from his processing plant to a call handler's bottling needs while such call handler continues to supply and operate a manufacturing plant without first giving up some of the supply from his manufacturing facility for his bottling needs.

There are two concepts that must govern the regulation of milk movement through Departmental regulations. The first is that if the producers of quota milk are to receive the price benefits of Class 1 and mandatory Class 2 uses found within quota, then quota milk must be made available for these uses when needed. Secondly, there must be assurance that multi-plant handlers who have quota milk assigned to manufacturing products in one plant are not able to draw on another handler's milk supply without first utilizing their quota holdings going into manufactured products.

There should be three categories of handlers with respect to the movement of milk on a demand basis. There should be "supply handlers" who are the potential source of supply for bulk market milk. From these "supply handlers," there should be "designated supply handlers" who, when determined necessary, shall make bulk milk available on call. Finally, there should be "call handlers" who, by virtue of their high Class 1 and mandatory Class 2 uses should be eligible to receive bulk market milk on call when needed.

A call handler should be a handler whose total or derived solids-not-fat Class 1 usage equals or exceeds 80% of his total usage of milk solids-not-fat. Additionally a call handler should be allowed a maximum of 5% Class 4 solids-not-fat usage. This allows for normal Class 4 salvage which is attendant to bottling plant operations. In measuring performance standards, the solids-not-fat component must be the determining factor since it is the highest demand component.

The selection of 80% Class 1 usage as the qualifying level for a call plant was done after a review of the Pooling Bureau records which showed that most of the major bottling plants would be covered by this level of performance. The Director should have the option of increasing or decreasing the 80% performance level by 10 if it is necessary to assure that a sufficient number of bottling plants may secure an adequate supply of milk. Testimony by the representatives of major producer co-ops

avored a requirement of 97% Class 1 and mandatory Class 2 usage with a minimum of 70% Class 1 usage. This would effectively eliminate any Class 3 usage within a call plant. Representatives of potential call plants requested that a call plant be any handler whose solids-not-fat usage would exceed 95% in other than Class 4. The 80% solids-not-fat Class 1 usage level would be a level which would allow major bottling plants to qualify as call plants and would be a performance level between the opposing positions.

A supply handler would be any handler that did not qualify as a call handler. However, it is not practical to require all supply handlers to release milk, since many such handlers have relatively high usage of solids-not-fat in Class 1 and mandatory Class 2. Some such handlers are totally involved in Class 2 product manufacture (e.g. cottage cheese plants). It is therefore necessary to establish designated supply handlers within each procurement area. During any year that the Director determines that an ample supply of market milk solids-not-fat may not be available for Class 1 and mandatory Class 2 uses during the short production months of September through February, it would be necessary to implement milk movement requirements and to select designated supply plants upon which call handlers may call for needed supplies of milk. If after implementation the Director determines that the regulations are no longer necessary or do not perform a necessary function he may terminate the milk movement requirements.

Designated supply handlers should be selected upon historical performance records of the previous fall and winter period and should be required to perform when necessary based upon an equitable rotation system. No one designated supply handler should be required to perform continually because of plant location proximity to the city bottling plant concentration.

There should be an appropriate assessment or charge levied upon a designated supply plant who arbitrarily refuses to perform when called upon. Conversely an equal assessment should be levied on a call plant which makes a demand call for bulk milk when in fact the plant does not qualify as a call plant. It will be necessary, therefore, for suitable certification to be filed whenever a call is made so that subsequent audit can be made for proper compliance. An assessment of \$1.00 per hundredweight would be appropriate, as recommended by the Ad Hoc Milk Movement Committee and supported by testimony at the hearing.

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