

DAIRY INSTITUTE *of California*

October 11, 2006

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

Dear Secretary Kawamura:

The purpose of this letter is to respectfully request that you deny the petition submitted on October 3, 2006 by Milk Producers Council (MPC) for a hearing to consider changes to the Class 4b pricing formula. The Class 4b pricing formula was the subject of an exhaustive two-day hearing in early June of this year. Now, MPC is seeking to reverse the decision rendered by the Department on July 21, 2006, a decision which has yet to be implemented.

Milk Producers Council's justification for their hearing request is a vague reference to "new and meaningful data" about the cost of drying whey. Though the data referred to is not specified in their petition, based on MPC's prior correspondence with the Department, we can speculate that they are referring to the unaudited manufacturing cost survey of a small sample of plants located outside California conducted by Dr. Mark Stephenson of Cornell University.

In our previous letter to you dated September 19, 2006, we set forth in detail the reasons why we believe the Cornell study does not constitute a sufficient basis for a new hearing on any aspect of the Class 4b pricing formula. In his testimony at a recent federal hearing, Dr. Stephenson explained how he attempted to imitate, as closely as possible, the methodology used by CDFA in its annual cost surveys. However, he indicated that he did not have audit authority to verify the information that was self-reported by the plants, and he discussed at length the difficulties he had extrapolating his sample data to obtain cost figures that would be representative of the entire population of plants in the federal orders. Dr. Stephenson further noted that CDFA did not encounter such problems because its "sample" was virtually a census of the entire population of relevant plants in California. He indicated in his report that he did not include any California plants in his survey because they are already surveyed by CDFA. Dr. Stephenson's comments clearly reveal that his study has little to say about dairy product manufacturing costs in California and certainly should not be used in place of the cost information collected by the Department.

1127 11th Street, Suite 718
Sacramento, California 95814
Phone 916 441-6921
Fax 916 441-0802
www.dairyinstitute.org

Milk Producers Council's proposed formula changes would restore the dry whey make allowance to 20 cents per hundredweight, the level that existed at the time of the June hearing. Certainly, the status quo with respect to the dry whey factor in the Class 4b formula was an option for consideration at that hearing, but the Department rejected that option in favor of the decision rendered on July 21st. MPC is merely seeking to reverse the Department's decision and is proffering the Cornell study as a justification for doing so because no valid reason for holding a new hearing exists. Again, we refer you to our September 19th letter and ask that you deny MPC's request for a hearing.

Sincerely,



Rachel Kaldor
Executive Director

Cc A.J. Yates
Kelly Krug
David Ikari