



August 31, 2007

Mr. Michael Cleary, Hearing Officer
 California Department of Food and Agriculture
 1220 N Street Room 409
 Sacramento, CA 95814

RE: Post Hearing Brief for the August 28, 2007 Hearing

Dear Mr. Cleary:

California Dairies, Inc. appreciates the opportunity to amplify and clarify points made at the August 28, 2007 public hearing to consider amendments to the Stabilization and Marketing Plans for Market Milk and revisions to the Weekly and Monthly Nonfat Dry Milk Sales reports.

Schedule of Nonfat Dry Milk Contracts

A member of the Panel asked me to provide, if possible, a schedule of nonfat dry milk contracts entered into by DairyAmerica that categorizes the contracts by the length of the contract. The table below demonstrates and verifies that a large percentage of DairyAmerica's contracts extend well beyond the 30-day limit as proposed by the Dairy Institute of California or even the 90-day limit as proposed by Western United Dairymen and Land O'Lakes. Bear in mind that contracts are established on a volume basis to be delivered during a time period. Depending on the availability of the product, the expected duration of the contract may or may not be realized, i.e., if less product is available for export than expected, the contract may take longer to fulfill than anticipated. Overall, 78% of the volume exported under contracts to which DairyAmerica was a party from January 2006 to July 2007 extended beyond the 90-day timeframe.

Table 1. Percent of Export Contract Volume by Length of Contract.

	<u>0 - 59 days</u>	<u>60 -89 days</u>	<u>90-119 days</u>	<u>120-149 days</u>	<u>150+ days</u>
Percent	10.4%	11.6%	16.6%	18.2%	43.2%

Data are taken from contracts that cover 362 million pounds or 60% of the export volume handled by DairyAmerica from January 2006 to July 2007 (DairyAmerica was unable to access the remaining 40% of export contracts due to time constraints as they were stored offsite). For those contracts that have not yet been fulfilled, the length of the contract represents the expected time needed to complete the contract.

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As I stated in my testimony, any company that wishes to be involved in the export market must be committed to that venture, and relationships with export customers take time to develop. Sellers who are new to the export market cannot simply assert their presence and claim the market. Whether the other witnesses recognize it or not, long-term contracts are the norm in export markets, and any company that wishes to be involved must be prepared to operate under those rules. California regulations should not restrict California's ability to serve these vital export markets, but rather should encourage development of these markets. Adopting rules that discourage manufacturers from committing to the export volumes needed to balance the growing milk production in California is not in the best interest of dairy producers or dairy processors.

Response to Citation of Previous Testimony

At the hearing on August 28 2007, the witness from Milk Producers Council quoted my testimony from a previous hearing. Unfortunately, this quote was taken completely out of the context in which it was intended and applied to the hearing regarding the reporting procedures for nonfat dry milk sales. That quote was entered as testimony at a hearing held in June 2006 and referred to a procedural issue concerning the calculation of the f.o.b. price adjuster as applied to butter. Sales of nonfat dry milk and butter operate under different business models, and, specifically, the products are not marketed using the same pricing mechanisms. The most obvious supporting argument for this is that butter is almost exclusively sold domestically and the sales price for nearly all butter is adjusted weekly. In contrast, approximately one-fourth of nonfat dry milk production is sold internationally using long-term fixed price contracts.

NASS Reporting Rules and Organic Nonfat Dry Milk

At the hearing on August 28 2007, there was some uncertainty among the witnesses and the Panel as to the inclusion of nonfat dry milk derived from organically produced milk in the sales reports submitted to NASS. California Dairies has been informed by NASS that organic nonfat dry milk sales should NOT be reported to NASS. If necessary, the Department can simply contact NASS directly and ask for verification of this reporting guideline.

Thank you for the opportunity to submit this post-hearing brief.

Sincerely,

CALIFORNIA DAIRIES, INC.



J. L. Heffington

Senior Vice President & CFO

cc: Richard Cotta, President and CEO