



October 17, 2007

Hearing Officer
The Dairy Marketing Branch
CDFA
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Dear Mr. Hearing Officer:

The following is a post-hearing brief from the October 10, 2007, CDFA hearing submitted by the California Dairy Campaign (CDC).

We reiterate our opposition to the proposals put forth by F&A Dairy, the Dairy Institute and other dairy processors to eliminate the whey value in the 4b formula and make changes to the 4a and 4b formulas that would result in lower producer prices.

Although the petitioners seeking to lower producer prices claim it is urgent that CDFA adjust the price formulas, dairy processors have not provided any evidence that they are losing money under the current formula. No audit of their books is available either to CDFA or the general public despite the fact that producers must disclose all milk income and expenses. We believe that dairy processors are banding together to give the false impression they are losing money, but no concrete evidence of their current financial situation is available.

Neither CDFA nor the general public has information about the current plant capacities of dairy processors throughout the state. Without this critical information it is impossible for CDFA to determine processing costs with any real accuracy. Certain plants could be reducing their capacity temporarily to lead CDFA and others to believe that there is a surplus of milk. Plants currently have the ability to eliminate premiums to producers and buy milk at below minimum prices.

During the October 10 hearing, Sue Taylor of Leprino Foods referenced CDC's testimony from the June 1, 2006, hearing relating to plant expansions. In response to CDC's testimony at the June 1, 2006 hearing, on June 2, 2006, Sue Taylor of Leprino Foods testified, "The current construction at the Lemoore West Facility referenced by the CDC witness at this hearing will increase our line flexibility and will not result in expanded milk throughput capacity." According to a draft Second Amendment to Owner

Participation Agreement Between Leprino Foods Company and the Lemoore Redevelopment Agency, dated August 3, 2007, "Leprino has decided to expand the production capacity of the Plant to permit an increase in the milk received on a daily basis from the current level of 6,000,000 pounds of milk per day to 10,000,000 pounds of milk per day."

During the 2006 hearing CDC distributed information about the ongoing and future expansions of dairy processing facilities in Lemoore and Hanford, CA to the CDFA panel. The ongoing plant expansions indicate that the current make allowance rate is sufficient to foster plant expansion throughout the state.

CDC strongly supports an industry meeting between producers and processors as proposed by members of the CDFA panel during the hearing. Such a meeting could potentially bring together interests that are currently diametrically opposed. The dairy processors want to pay as little to dairy producers as possible while maintaining large profit margins. Producers support producer prices that are above their cost of production which continues to increase due to rising input costs. We support a meeting of processors and producers so that the dairy pricing system can balance both of these opposing interests.

As CDFA works to make a decision that is fair and equitable to all parties it should fully consider the significant dollars of profit that are coming from the whey stream today. Whey is already used in a wide variety of foods and that list of foods continues to grow. The overseas market for whey will continue to expand in the future. New uses for whey are continually being discovered. Just a few days ago, the New York State Energy Research and Development Authority (NYSERDA) was awarded a \$400,000 grant to design, build and test a special energy-efficient bioreactor to produce ethanol from whey. The US Patent office recently awarded Kraft Foods Holdings, Inc. with a patent for shelf-stable shredded cheeses. Although the list of ingredients is not available to the public due to the patent, the notice of the patent indicated that the shelf-stable cheeses may contain whey, sweet whey and whey protein concentrate.

We appreciate the opportunity to submit a post hearing brief and look forward to working with CDFA on these and other issues affecting dairy producers throughout the state.

Sincerely,



Joe Augusto
President

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