Imperial Valley Cheese
of California

Post Hearing Brief
For
Imperial Valley Cheese of California LLC
In response to testimony provided October 10th & 11th 2007

October 16, 2007

Mr. David Ikari, Chief
Dairy Marketing Branch
California Department of Food and Agriculture
560 J Street, Suite 150
Sacramento, CA 95814

RE: October 10th-11th 4a and 4b Hearing -- Post Hearing Brief

Ms. Hearing Officer and Members of the Panel:

After hearing all of the testimony provided at the hearing dated October 10th and 11th it became clear we needed to define "by-product". Cheese makers and dairy farmers both have by-products. The by-product for a cheese maker is the whey that is left over after cheese is made. Some plants pay to have the by-product disposed of while others process the by-product into whey powder, wpc, isolates, lactose, etc and sell the "by-product" for additional revenue.

Dairy farmers in turn have manure as a by-product after the cow produces the desired product, milk. Some dairy farmers pay to have the by-product disposed of while others use the by-product as fertilizer, process it into compost, or install methane digesters and sell the gas or power produced from the by-product for additional revenue.

Whey is definitely a by-product for cheese makers just as manure is a by-product for dairy farmers. Some cheese plants have chosen to invest millions of dollars to process whey and have developed innovative techniques and products. Some dairy farmers have invested millions of dollars and developed innovative techniques to dispose of their manure. If a dairy plant or dairy farmer chooses to invest money to turn a by-product into a profitable product they should be commended. We should applaud both dairy plants and dairy farms for the exceptional jobs they have done to develop techniques to turn by-products into environmental friendly revenue streams.

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Now that we have defined the by-product for a cheese plant it should be clear that a whey component has no place in determining the "minimum" price a cheese maker should pay for milk to make cheese. Minimum prices should be just that –a minimum price. If the minimum price includes a component that merely covers the make cost for the component and 100% of the additional revenue is returned to the supplier of the raw material, there is no incentive for the purchaser to invest the capital and expand by-product revenue.

Imperial Valley Cheese of California LLC is in the business to make cheese. Cheese and cream are the only revenue sources our plant has. We purchase milk for the sole purpose of making cheese and the whey that is left over is disposed of at a cost.

Ed Gossner the founder of Gossner Foods was quoted as saying "You can't make cheese out of water". This idea is still something that we firmly believe in and realize that we would not be in business without the hard work and effort from our loyal dairy farmers. We also realize our business sits on a three legged stool. One leg is the dairy farmers, one leg is the employees, and the other leg is the customers. If you remove any of these three legs, you are left with a stool that is no longer able to stand on its own.

Imperial Valley Cheese of California is operating at the lowest minimum milk volumes our milk contract will allow and will remain that way until price relief is in site. Do we have additional processing capacity? Yes we have some, but the current prices are prohibitive for us to make a profit. Unfortunately that means milk will be leaving the area and additional transportation costs will be incurred by our milk supplier or dairy farmer. The only one who wins in this scenario is the transportation company.

<u>Other Proposals</u>

The proposal by the Alliance, Western United and Milk Producers Council to provide relief to small plants through a whey credit should not be considered. The proposal would require a plant to be a pool plant to receive the credit and assumes that non-pool plants can pay any price for their milk. That assumption holds no merit because all milk contracts that we have been associated with use plant utilization or 4-b as a base starting point for milk purchases. To assume that a non-pool plant can pay any price for a long term milk contract is not valid.

The new plant credit proposed by CDI is intriguing but lacks information necessary to fully evaluate the impact it may have on the California dairy industry. The fact that CDI focused primarily on changes to the class 4-a formula clearly indicates the direction of investment they intent to make. California dairymen have spent millions of dollars to promote high quality cheese products. Unfortunately we are seeing a shift from cheese production to butter and powder production. In the future we may hear television and radio commercials that say "Happy cows make happy butter and powder".

We oppose the proposals by Land O Lakes and Humbolt Creamery for the fact the whey component is left in the class 4-b pricing formula.

We support the proposal by F&A Dairy and the alternative proposal submitted by the Dairy Institute with the most recent make allowances.

We thank you for the opportunity to submit a post hearing brief and hope you will consider our comments.

Sincerely,

Dolores Wheeler
President/CEO
Imperial Valley Cheese of California LLC