



November 4, 2008

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

RE: October 30th – 31st Class 1, 2 and 3 Hearing -- Post Hearing Brief

Mr. Hearing Officer and Members of the Hearing Panel:

California Dairies, Inc. appreciates the opportunity to submit the following post-hearing brief to amplify portions of our testimony presented in Sacramento on October 30, 2008. We will also attempt to address some of the matters brought up by members of the Hearing Panel and by other hearing witnesses.

Producer Situation

The impetus for filing the petition for the hearing followed an extensive review of cost and price data. Any of the most basic data collected by the Department from California producers would suggest a simple tenet: input prices and, thus, production costs, have reached levels never experienced before. At the same time, milk prices as measured by class prices, pool prices or mailbox prices have not been high enough to offset these cost increases. The supporting evidence for this assertion can be found in the Department's document entitled, *Background Material for Class 1, 2 and 3 Hearing*. The facts on the matter of cost of production increases are clear and undisputable.

It is unfortunate that some hearing witnesses missed this elementary point and wanted instead to debate the usefulness of the milk-feed ratio as a measure of dairy producer profitability. Just as the Baltic Dry Index is regarded as a good barometer of global economic health, we suggest similarly that the milk-feed ratio is a good barometer of the health of the production side of the dairy industry – nothing more. Our point of showcasing the most recent milk-feed ratios at the hearing was only to suggest that there is a widely recognized measure available to assess the status of the dairy industry that was not discussed at the Department's Pre-hearing Workshop. Whether or not 2006 was more profitable for dairy producers than 2008, as suggested by one

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hearing witness, is immaterial. Neither year would be considered favorable from a producer perspective. The inclusion of the discussion on the milk-feed ratio at the hearing was merely to reinforce the point that while milk prices have been good to very good recently, the extraordinarily high feed prices have more than offset those milk price gains. Again, the facts on this matter are clear and were not contested at the hearing.

On Future Events and Expected Outcomes

CDI and other producer representatives made compelling cases in support of the petition in light of the real, verifiable and quantifiable input cost increases already realized by California dairy producers. These are not future events or expected outcomes, but are here upon producers right now. We again urge the Department to use the information and data included in the hearing record, rather than attempting to forecast how markets may perform in the future. We also urge the Department to disregard conjectures put forth by other hearing witnesses on how sales of dairy products may change in the future. Again, without proper authentication and documentation (none of which was provided at the hearing), these thoughts vocalized by hearing participants remain simply potential future events and possible outcomes.

Effect of Proposals

Several hearing witnesses were asked by the Panel to provide some assurances that implementation of the proposal that they supported would provide a favorable outcome for a select group of producers who have received or will be receiving contract termination notices. This situation is a grave matter and no one in the dairy industry, whether the person be a producer representative or a processor representative, would wish this outcome on any producer. However, we must point out that the situation that led to the issuance of contract termination notices was in motion long before this hearing was called. In other words, nothing the Department has done encouraged or prevented the contract termination notices from being issued. There are, however, more than 1,800 other California dairy producers who have an immediate need for short-term financial assistance because of their documented and demonstrated escalations in input costs. The Department has not only the authority but the evidence necessary to substantiate a decision for a temporary price increase in Classes 1, 2 and 3 to relieve some of the financial burden being faced by all California dairy producers. We reiterate our support of the petition filed jointly by the Alliance of Western Milk Producers, Western United Dairymen and the California Dairy Women's Association.

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

Sincerely,



Dr. Eric M. Erba
Sr. VP Producer and Government Relations