

PUBLIC HEARING

STATE OF CALIFORNIA

DEPARTMENT OF FOOD AND AGRICULTURE

IN THE MATTER OF:)
)
)
TO CONSIDER AMENDMENTS TO THE)
POOLING PLAN FOR MARKET MILK AND)
THE STABILIZATION AND MARKETING)
PLANS FOR MARKET MILK FOR THE)
NORTHERN CALIFORNIA AND SOUTHERN)
CALIFORNIA MARKETING AREAS)

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DEPARTMENT OF FOOD AND AGRICULTURE BUILDING

AUDITORIUM

1220 N STREET

SACRAMENTO, CA

TUESDAY, JULY 1, 2008

9:31 A.M.

LINDA KAY RIGEL, CSR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 13196

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 APPEARANCES

2

3 PANEL MEMBERS

4 Mr. Mike Cleary, Hearing Officer

5 Mr. Steven Donaldson, Research Analyst II, Milk Pooling  
Branch, Department of Food and Agriculture

6

7 Mr. Hyrum Eastman, Senior Agricultural Economist, Dairy  
Marketing Branch, Department of Food and Agriculture

8 Ms. Nancy Hartman, Audit Program Manager, Milk Pooling  
Branch, Department of Food and Agriculture

9

10 Mr. David K. Ikari, Chief, Dairy Marketing Branch,  
Department of Food and Agriculture

11 Mr. John Lee, Chief, Milk Pooling Branch, Department of  
Food and Agriculture

12

13 Ms. Annie Pelletier, Assistant Agricultural Economist,  
Dairy Marketing Branch, Department of Food and  
Agriculture

14

15

16 ALSO PRESENT

17

18 Mr. Thomas William Gossard, Senior Agricultural  
Economist, Dairy Marketing Branch

19 Mr. Donald Shippelhouse, Senior Agricultural  
Economist, Milk Pooling Branch

20

21 Mr. Rich Ghilarducci, Humboldt Creamery Association

22

23 Mr. Len Mayer, Humboldt Creamery Association

24

25 Dr. William Schiek, Dairy Institute of California

26

27 Mr. Gary Stueve, Dairy Farmers of America

28

29 Mr. Robert VandenHeuvel, Milk Producers Council

30

31 Mr. Dennis Brimhall, Super Store Industries

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APPEARANCES continued  
Mr. Bill Van Dam, Alliance of Western Milk Producers  
Mr. Michael Marsh, Western United Dairymen  
Mr. Kevin Abernathy, California Dairy Campaign

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1 P R O C E E D I N G S

2 --o0o--

3 HEARING OFFICER CLEARY: Okay. If everybody  
4 can take their seats, we'll get started.

5 If you all want to come up front, there's  
6 plenty of seats up here. I know the tendency is not  
7 to, but it's easier for hearing purposes, even though  
8 we are microphoned. All right.

9 Before every meeting, everything goes dead  
10 quiet. The French call that un ange passe where an  
11 angel passes through the room when there is that sudden  
12 silence. If you're having a conversation with dinners  
13 and stuff, you go to a dinner party and all of a sudden  
14 everything just stops. And that's the angel going  
15 through the room.

16 Just thought I'd share that with you in case  
17 you didn't know. Okay.

18 I'm going to read a script here, and we'll get  
19 started.

20 Good morning. The hearing will now come to  
21 order. California Department of Food and Agriculture  
22 has called this public hearing at the Department's  
23 auditorium, 1220 N Street, Sacramento, California on  
24 this day, Tuesday, July 1st, 2008 beginning at 9:30  
25 a.m.

1           My name is Mike Cleary, and I've been  
2   designated as a Hearing Officer for today's  
3   proceedings. I have no vested interest in the outcome  
4   of this hearing, nor am I a participant or have  
5   anything to do with the subject matter at hand.

6           On April 25th, 2008, the Department called a  
7   hearing on its own motion to consider technical  
8   amendments to the Pool Plan.

9           On May 2nd, 2008, the Department received a  
10  request to expand the Call of the Hearing from  
11  California Dairies, Inc.

12           The expanded scope of the hearing was  
13  announced May 9, 2008.

14           This hearing will consider the petitioner's  
15  proposed changes to mileage distance calculations  
16  transportation allowances as provided in the Pooling  
17  Plan for Market Milk Pooling Plan and the changes in  
18  the transportation credits as provided in the  
19  Stabilization and Marketing Plans for Market Milk, Stab  
20  Plan.

21           Further, this hearing will also consider any  
22  other aspect of the transportation allowances and  
23  credits that were raised by the alternative proposals  
24  received by the June 3rd, 2008 decline.

25           Finally, this hearing will also consider the

1 factual bases, evidence, and the legal authority upon  
2 which to make any and all of the proposed amendments to  
3 the plans.

4           The Department has received three alternative  
5 proposals in response to the Call of the Hearing. The  
6 alternative proposals are from Humboldt Creamery Dairy,  
7 Institute of California, and Dairy Farmers of America.

8           The Department in calling the hearing on its  
9 own motion and California Dairies, Inc., the  
10 petitioner, will each have up to 60 minutes to submit  
11 testimony and relative material to support their  
12 proposal which will then be followed by any questions  
13 from the panel.

14           Those submitting alternative proposals will  
15 each be provided 30 minutes to give testimony in  
16 evidence followed by any questions from the panel.

17           Anyone else wishing to testify must sign in on  
18 the hearing witness roster located in the back of the  
19 room and will be allowed 20 minutes to give testimony  
20 in evidence.

21           Witnesses will be called in the order in which  
22 they sign up. The time clock to my right has been  
23 established to assist you in testifying.

24           Please note that only those individuals who  
25 have testified under oath during the conduct of the

1 hearing may request a post-hearing brief period to  
2 amplify, explain, or withdraw testimony.

3           Only those individuals who have requested a  
4 post-hearing brief may file a post-hearing brief with  
5 the Department.

6           As a courtesy to the panel, the Department  
7 staff, and the public, please speak directly to the  
8 issues presented by petition and avoid personalizing  
9 disagreements. Such conduct does not assist the panel  
10 in any way whatsoever.

11           The Hearing Panel has been selected by the  
12 Department to hear testimony, receive evidence,  
13 question witnesses, and make recommendations to the  
14 Secretary. The questioning of witnesses by anyone  
15 other than members of the panel is not permitted.

16           The panel is composed of members of the  
17 Department's Dairy Marketing Branch and Milk Pooling  
18 Branch and include John Lee, Branch Chief; Steven  
19 Donaldson, Research Analyst; Nancy Hartman, Audit  
20 Program Manager; David Ikari, Branch Chief; Hyrum  
21 Eastman, Agricultural Economist -- I always have a  
22 problem with that word -- and Annie Pelletier,  
23 Agricultural Economist.

24           I am not a member of the panel, and that  
25 should be fairly obvious, and will not be taking part

1 in any of the discussions relative to the hearing.

2 The recording of the hearing will be handled  
3 by the firm of Peters Shorthand Reporting Corporation  
4 located in Sacramento. A transcript of today's hearing  
5 will be available for review at the Dairy Marketing  
6 Branch headquarters located in Sacramento at 560 J  
7 Street, Suite 150.

8 Testimony and evidence pertinent to the Call  
9 of the Hearing will now be received.

10 At this time Tom Gossard, agricultural  
11 economist with the Dairy Marketing Branch, will  
12 introduce the Department's exhibits. The audience may  
13 ask questions of Mr. Gossard only as it relates to the  
14 exhibits that will be presented.

15 Mr. Gossard, if you will begin by promise --  
16 state your name and spell your last name?

17 AGRICULTURAL ECONOMIST GOSSARD: My name is  
18 Thomas William Gossard G-o-s-s-a-r-d.

19 HEARING OFFICER CLEARY: And sir, do you swear  
20 or affirm to tell the truth and nothing but the truth  
21 today.

22 AGRICULTURAL ECONOMIST GOSSARD: I do.

23 HEARING OFFICER CLEARY: Then you may begin.

24 AGRICULTURAL ECONOMIST GOSSARD: Mr. Hearing  
25 Officer, my name is Thomas William Gossard. I'm a

1 Senior Agricultural Economist with the Dairy Marketing  
2 Branch of the California Department of Food and  
3 Agriculture.

4 My purpose here this morning is to introduce  
5 the Department's composite hearing Exhibits 1 through  
6 43. Relative to these exhibits, previous issues of  
7 Exhibits 9 through 43 are also hereby entered by  
8 reference.

9 The exhibits entered here today have been  
10 available for review at the Office of the Dairy  
11 Marketing Branch since the close of business on June  
12 24, 2008. An abridged copy of the exhibits is  
13 available for inspection at the back of the room. A  
14 copy of the exhibit list is also available at the back  
15 of the room.

16 I ask at this time that the composite exhibits  
17 be received.

18 HEARING OFFICER CLEARY: If you could bring  
19 them forward, I'll go ahead and mark them for the  
20 record.

21 (Exhibits 1-43 were entered into the  
22 record.)

23 HEARING OFFICER CLEARY: At this time, I'd  
24 like to enter into the record the exhibits as  
25 explained, numbered 1 through 43.

1           AGRICULTURAL ECONOMIST GOSSARD: Mr. Hearing  
2 Officer, the exhibit next in order is a letter from  
3 Land O'Lakes, Inc. dated June 15, 2008 and signed by  
4 James W. Gruebele, consultant.

5           Copies of this letter are available at the  
6 back of the room.

7           HEARING OFFICER CLEARY: Was it your intention  
8 to have the letter entered into the record as well?

9           AGRICULTURAL ECONOMIST GOSSARD: Yes,  
10 Mr. Hearing Officer.

11           HEARING OFFICER CLEARY: All right. This  
12 letter June 15, 2008 will be entered into the record as  
13 Exhibit number 44.

14           (Exhibit 44 was marked for  
15 identification.)

16           AGRICULTURAL ECONOMIST GOSSARD: Mr. Hearing  
17 Officer, I ask for a period of time in which to file a  
18 post-hearing brief.

19           HEARING OFFICER CLEARY: Thank you.

20           AGRICULTURAL ECONOMIST GOSSARD: Mr. Hearing  
21 Officer, this concludes my testimony.

22           HEARING OFFICER CLEARY: Thank you, sir.

23           Mr. Donald Shippelhoue for the Department.  
24 Do you intend to testify today?

25           MR. SHIPPELHOUTE: Yes, I do.

1 HEARING OFFICER CLEARY: Would you state your  
2 name and spell your last name for the record.

3 MR. SHIPPELHOUTE: MR hearing Officer, my name  
4 is Donald Shippelhoute. S-h-i-p-p-e-l-h-o-u-t-e. I'm  
5 a Senior Agricultural Economist with the Milk Pooling  
6 Branch, California Department of Food and Agriculture.  
7 My purpose here this morning is to present the CDFA  
8 proposals and answer questions regarding those  
9 proposals. The proposals --

10 HEARING OFFICER CLEARY: Before you do that,  
11 do you swear or affirm to tell the truth and nothing  
12 but the truth today.

13 MR. SHIPPELHOUTE: I do.

14 HEARING OFFICER CLEARY: Very well. You can  
15 proceed.

16 MR. SHIPPELHOUTE: My purpose this morning is  
17 to present CDFA proposals and answer questions  
18 regarding those proposals.

19 The proposals that we have submitted are a  
20 part of the composite hearing document that's already  
21 been submitted, specifically number 6C and 6D.

22 The first proposal the Department has before  
23 you today is the -- change the way that we calculate  
24 mileages that milk moves from ranches to plants. We  
25 are currently using the Public Utilities Commission

1 table, a system that's long outdated. Those tables  
2 have not been updated since the late '70s, and we are  
3 proposing we move to a GPS-based system.

4 The system we have turned to or are proposing  
5 to use is PC Miler. It's a software system that's  
6 developed for the trucking industry. It's a broadly  
7 used system by the majority of trucking companies in  
8 the country.

9 The second is the use of solids-not-fat --  
10 actual solids-not-fat pounds when computing a handler's  
11 pool obligation. By switching to the actual  
12 solids-not-fat rather than a computed solids-not-fat  
13 that we use today, we will get a more accurate  
14 computation of each handler's actual pool obligation  
15 and a more accurate computation of pool prices and pool  
16 value.

17 And finally we've proposed some changes to the  
18 pool plan to change a definition of the Pool Plan or  
19 add a definition for the Dairy Accounting System which  
20 is a new system that we are proposing to use to  
21 eliminate our current system that resides at Franchise  
22 Tax Board, an outdated COBOL-based program that is  
23 rapidly reaching the end of its lifespan.

24 And that concludes my testimony.

25 HEARING OFFICER CLEARY: Thank you very much.

1 Do you have anything you'd like to have entered into  
2 the record?

3 MR. SHIPPELHOUTE: We already have entered  
4 into the record in the composite exhibits the documents  
5 that I would speak to, and I'm also here today to  
6 answer any questions anybody in the audience may have  
7 regarding those systems we have proposed moving to.

8 HEARING OFFICER CLEARY: Thank you, sir.

9 At this time our -- were you finished, sir?

10 MR. SHIPPELHOUTE: Go ahead.

11 HEARING OFFICER CLEARY: I was just going to  
12 entertain questions from anyone with -- pertinent to  
13 the Department's testimony today. Anyone?

14 Thank you very much.

15 MR. SHIPPELHOUTE: Mr. Hearing Officer, I'd  
16 request an opportunity to file a post-hearing brief.

17 HEARING OFFICER CLEARY: Absolutely. Thank  
18 you very much.

19 Okay. At this time I'd like to call up  
20 California Dairies, Inc. for I believe a 60-minute  
21 opportunity to make a presentation.

22 Good morning. How are you today.

23 MR. KORSMEIER: Good morning thank you.

24 HEARING OFFICER CLEARY: Wonderful. Could you  
25 please state your name and spell your last name for the

1 record.

2 MR. KORSMEIER: Yes. My name is Gary  
3 Korsmeier, K-o-r-s-m-e-i-e-r.

4 HEARING OFFICER CLEARY: Thank you very much.  
5 And today do you swear or affirm to tell the truth and  
6 nothing but the truth?

7 MR. KORSMEIER: Yes, sir.

8 HEARING OFFICER CLEARY: And are you  
9 testifying today on behalf of an organization such as a  
10 grower, handler, cooperative or an association?

11 MR. KORSMEIER: A cooperative, sir.  
12 California Dairies, Inc.

13 HEARING OFFICER CLEARY: Thank you very much.  
14 You may begin.

15 MR. KORSMEIER: Mr. Hearing Officer, members  
16 of the panel, my name is Gary Korsmeier, special  
17 advisor to the board of directors of California  
18 Dairies, a milk marketing cooperative representing  
19 approximately 650 members marketing over 43 percent of  
20 the milk production in California.

21 We appreciate the granting by California  
22 Department of Food and Agriculture of our request and  
23 the opportunity to address milk movement incentives  
24 from ranch to plant which are the allowances.

25 Transportation allowances are important milk

1 movement incentives to ensure a more ordinarily  
2 marketing of milk to the Class 1 markets. Milk  
3 producers are responsible under the current California  
4 regulated system to absorb the transportation cost to  
5 provide milk to deficit Class 1 areas throughout the  
6 state.

7 Our recommended cost justified changes today  
8 to transportation allowances were approved by our board  
9 of directors. We are seeking increases in  
10 transportation allowances that are higher than those in  
11 our petition dated May 1, 2008 to reflect our current  
12 costs arising from further increases in diesel fuel.

13 In addition, we are also requesting changes in  
14 the mileage brackets in southern California to  
15 adequately compensate CDI for our milk movement due to  
16 the change to PC Miler distance measuring program  
17 recommended by the California Department of Food and  
18 Agriculture at this hearing today.

19 Since the last hearing on transportation  
20 issues almost two years ago, July 6, 2006, our  
21 transportation costs have increased across the board in  
22 all cost areas, but most impact has been in diesel  
23 fuel.

24 In July 2006, the diesel fuel cost paid by our  
25 largest milk hauler was \$2.90 per gallon which has

1 escalated to \$4.70 today. We have nine independent  
2 trucking companies hauling our members' milk, and only  
3 in southern California do members contract individually  
4 for their milk hauling.

5 Our testimony addresses the hauling costs to  
6 two fluid processors we supply in the Bay Area, in  
7 Alameda County, and the numerous fluid processors in  
8 the southern California marketing area where there is a  
9 greater need for milk movement incentives.

10 We remain consistent with our past underlying  
11 objective that producers should be responsible for  
12 local halls and transportation allowances should  
13 compensate those producers or organizations that  
14 service Class 1 markets from outside local areas.

15 These incentives should be from the closest  
16 available production area, thereby discouraging milk  
17 movement from distant locations and therefore  
18 minimizing the cost to the producer pool in California.

19 CDI carries the largest responsibility to  
20 supply and balance the southern California Class 1  
21 market, and we are very aware of the milk movement  
22 difficulties and cost to supply that market.

23 Our recommendations for changes only in  
24 transportation allowances pursuant to Section 921.2 of  
25 the Pooling Plan for Market Milk are as follows.

1           And they're listed there. I'm going to recite  
2 back to them in some of the further narrative, so --  
3 but those are the changes that we are recommending, and  
4 only changes. So if it's not listed here, we are, you  
5 know, agreeing with what's currently in the plan for  
6 all of the other areas unless, you know, others testify  
7 today of changes in those areas.

8           So these are the changes that we are  
9 recommending in the areas that we provide milk from our  
10 farms.

11           Going down to the bottom of the page:  
12 Justification and supporting documentation for the  
13 above changes are as follows:

14           Number one, we supply the Bay Area from Marin,  
15 Sonoma, Merced, Stanislaus, and San Joaquin Counties  
16 and are requesting to increase the allowance to \$0.36  
17 per hundredweight.

18           And as you can see up above, that is from 0 to  
19 99 miles. That is number A above. Increasing to  
20 \$0.36.

21           On Exhibit B of this testimony, the local haul  
22 rate is \$0.34 per hundredweight, and our cost to  
23 deliver to the Bay Area is \$0.70 with the resulting  
24 difference of \$0.36 which is our requested amount for 0  
25 through 99 miles.

1           And if you could please go to Exhibit B, on  
2 Exhibit B is the rate sheet from California Milk  
3 Transport who is an independent trucking company that  
4 hauls for us up in that area. These are the rates that  
5 were effective June 1, again updating from our original  
6 petition.

7           These are the rates for pickup local, which  
8 you can see from Los Banos to Turlock, \$0.34 a  
9 hundredweight. And then out-of-area deliveries if we  
10 have to deliver into the Bay Area is \$0.70. So again,  
11 that difference being \$0.36 is what we are requesting,  
12 and that's the supporting documentation for that  
13 adjustment based on the rates that we are paying.

14           Back to our narrative then down at the bottom:

15           We do not regularly supply the Bay Area from  
16 outside 99 miles but have made corresponding  
17 adjustments to the higher mileage brackets. Meaning  
18 over 99 through 199 and over 199 we made the same  
19 adjustment that we have asked for the 0 through 99, the  
20 difference from the previous transportation allowance.

21           So that's the Bay Area that we're recommending  
22 under Section 921.2(a).

23           Next page, number 2. In regards to southern  
24 California and as stated earlier, we balance -- that's  
25 not -- that is more current than it is a past context

1 there as far as balance, so that needs to be changed --  
2 the majority of the fluctuating needs of handlers in  
3 this area.

4           Currently, we are moving approximately 120  
5 loads of milk each day from Kern and Tulare Counties  
6 into southern California to supply our customer needs.

7           Our requested changes are twofold because we  
8 are not only seeking increases in allowances but also a  
9 change in the mileage brackets. We will address each  
10 one of those separately, and again reciting --  
11 referring back to the previous page, they are Section  
12 921.2 (e) and (f) that deal with southern California.

13           On Exhibit A, the hauling rates we are paying  
14 effective June 1st for the local and out-of-area  
15 deliveries, Kern and Tulare Counties, the rate for the  
16 Bakersfield area is a dollar and a half cent per  
17 hundredweight and minus the local rate of 3375 per  
18 hundredweight.

19           Our additional cost is 66 and three-quarter  
20 cents per hundredweight resulting in our request of  
21 \$0.67 per hundredweight for the milage bracket of 99  
22 through 119 miles.

23           Again, if you would now go to Exhibit A, this  
24 is the rate sheet that is currently in effect as of  
25 June 1 from King County Truck Lines who does the

1 majority of our hauling in that area. And again, up on  
2 top, you will notice that the local rate is 3375 as I  
3 just previously stated.

4 Then the area where most of the movement  
5 occurs as far as Bakersfield and southern California is  
6 in that Zone 1, a dollar and a half cents. And you  
7 will see the other zones and the particular areas that  
8 they come from into southern California.

9 We kind of have a blend when you get north of  
10 that Bakersfield area which I'm going to get to in --  
11 right now.

12 So go back onto my written text on page 4 of,  
13 again, A. In our other requested changes in rates we  
14 use similar logic along with our opinion consistent  
15 with past testimonies that disincentives should be  
16 applied to discourage milk from north of the southerly  
17 part of Tulare County into southern California. There  
18 is adequate milk in Kern and lower part of Tulare  
19 Counties to supply the southern California milk  
20 requirements. Our over 119 mile requested rate is a  
21 blend of the hauling rates in those area minus the  
22 local haul.

23 Any milk movement north of the lower part of  
24 Tulare County should have disincentives applied. CDI  
25 does not contract for members' milk in southern

1 California, so our 0 through 79 rate is an estimation  
2 of a \$0.04 increase that can be better determined by  
3 the Department data.

4           So again, if you go back to my third page, the  
5 previous page, you will notice under section 921.2 (e)  
6 for plants located in southern California, we have the  
7 mileage brackets from the California -- this would be  
8 number two under (e), from California's 56 other  
9 counties from 0 through 79 miles is \$0.15. That is a  
10 \$0.04 increase from southern California.

11           And then over 79 through 199 would be \$0.46 a  
12 hundredweight. Over 99 through 119 would be \$0.67 a  
13 hundredweight. And over 119 miles would be \$0.84 a  
14 hundredweight.

15           And the next section, San Diego, applies  
16 similarly to what we've done in the other 56 counties.

17           Under (e) 1, that deals with the high desert  
18 area which is -- we made consistent adjustments there  
19 as we've done in the other 56 counties.

20           Back on to page 4, (b). As previously stated,  
21 we are seeking changes in the mileage brackets in the  
22 southern California receiving area. One of the reasons  
23 for the original call of this hearing by the Department  
24 of Food and Agriculture was to recommend changing  
25 mileage calculations by replacing the aging Public

1 Utilities Commission mileage table with the PC Miler  
2 program.

3 We are supportive of this change, but only if  
4 mileage brackets are also changed in section 921.2 (e)  
5 and (f) of the Pooling Plan.

6 Again, off my written testimony, we have  
7 had -- I have had conversations with most of our  
8 trucking companies that haul milk, and most of them use  
9 the PC Miler program. So that particular change is  
10 very -- is a positive change for all of us. It's more  
11 accurate than the old PUC mileage table, so we  
12 certainly support that change by the Department today.

13 We have found from a report actually provided  
14 us by the Department of Food and Agriculture dated May  
15 28, 2008 on CDI and CDI only milk movement that a  
16 significant amount of our milk in Kern County would not  
17 have adequate allowances if the PC Miler program was in  
18 place.

19 Some of our lower Kern County milk is 100  
20 miles to a large fluid processor in the Los Angeles  
21 area. And therefore, we must have the over 99 miles  
22 through 119 mile bracket to cover our cost in moving  
23 milk from the southern end of Kern County which is the  
24 most cost-effective to the producer pool.

25 The other mileage brackets, in our opinion,

1 will not be disruptive to current milk movement  
2 patterns or cause hardships or windfalls to producers.

3 Continuing to segregate Riverside and San  
4 Bernardino Counties from the other 56 counties will  
5 protect adequate allowances minus local haul for  
6 dairies located in the high desert area in southern  
7 California.

8 Again, that would be section 921.2 (e) 1 which  
9 is from the counties of Riverside and San Bernardino  
10 County.

11 We would also like to address two of the  
12 alternate proposals at this hearing, one of them being  
13 Humboldt Creamery. CDI has a long-standing position  
14 that only the closest to the market should be  
15 adequately compensated for transportation credits --  
16 credits meaning plant-to-plant in this case, not  
17 ranch-to-plant or allowances which is a  
18 ranch-to-plant -- and disincentives should be  
19 incorporated.

20 This request addresses a small amount of  
21 organic milk and out-of-state competition but leaves  
22 wide open the opportunity for milk to be transported at  
23 producer expense from one of the most northern counties  
24 in California. And even though that might seem  
25 unlikely, it is not a request that we can support.

1           Number two, Dairy Institute. In regards to  
2 their request for increases in transportation credits,  
3 we are supportive of cost justified changes in credits  
4 but only to the extent of changes in allowances in  
5 similar areas.

6           We apply the same principal as allowances that  
7 credit should have disincentives as you move north up  
8 the state from southern California, and the maximum  
9 change in credit resulting from this hearing should not  
10 be more than the \$0.14 per hundredweight maximum that  
11 we are requesting in allowances over the 119 mile  
12 brackets.

13           Obviously, we've changed that bracket number,  
14 the 119, but the maximum rate into southern California  
15 used to be 70 -- or currently is 70, and we're  
16 recommending 84 from that 119, and there is the \$0.14  
17 difference that we would apply the same thing to  
18 credits.

19           CDI supplies one large fluid customer in  
20 Riverside County from our Artesia plant in Los Angeles  
21 County which qualifies for transportation credits. Our  
22 current rate as of June 1st is 53 and a half cents per  
23 hundredweight. It's on Exhibit C attached. I won't go  
24 there, because it clearly states 5350, which is just  
25 over \$0.05 a hundredweight lower than Dairy Institute's

1 request. So we are questioning the level of their  
2 request applicable to the actual cost of milk movement.  
3 In this case, we have one clear example that those  
4 rates are higher than that is actually experiencing --  
5 we are experiencing, I might say.

6 They certainly will have the opportunity to  
7 testify on the their rates and justification of their  
8 rates.

9 The alarming increase in diesel fuel is a  
10 concern to everyone, but even more so by those of us  
11 responsible to supply and balance the fluctuating  
12 requirements of the Class 1 customers.

13 One of our major concerns is the Department  
14 data being presented today is March 2008. And due to  
15 escalating fuel costs since March, this data is  
16 significantly below current hauling rates. The most  
17 recent data of June that we are presenting today, in  
18 our opinion, needs to be any -- for any adjustments as  
19 a result of this hearing.

20 Again, off the written testimony, fortunately  
21 fuel has somewhat stabilized the last couple weeks so  
22 we believe June is still the accurate number to use as  
23 far as considering at this hearing.

24 Back on the written: Transportation  
25 allowances need to be established based on milk

1 movement patterns in marketing area, and CDI  
2 understands those patterns in southern California as  
3 well as anyone.

4 Our approach has always been to service the  
5 fluid market as efficiently as possible at the least  
6 overall cost to the producer pool from within our  
7 contractual obligations.

8 We cannot stress enough that this Hearing  
9 Panel give serious consideration to our recommendations  
10 to avoid a less efficient and more costly milk movement  
11 system to the producers of this state.

12 Again off my written testimony, we are also --  
13 CDI is supportive of the other changes that are being  
14 brought forward by the Department of Food and  
15 Agriculture today and changing the definition of a new  
16 Dairy Accounting System and requiring actual  
17 solids-not-fat content as far as milk received and  
18 utilized by the handlers.

19 So all three of the recommendations, those two  
20 plus the PC Miler recommendation, we are in supportive  
21 of at this hearing today.

22 Thank you for granting our hearing request to  
23 consider changes to transportation allowances, and our  
24 statements of credits as far as Dairy Institute at this  
25 hearing, and we would like the opportunity to file a

1 post-hearing brief to answer or clarify any questions  
2 regarding this hearing.

3 Thank you.

4 HEARING OFFICER CLEARY: Thank you, sir. Was  
5 it your intention to have your presentation entered  
6 into the record, your printed copy?

7 MR. KORSMEIER: Yes, sir.

8 HEARING OFFICER CLEARY: All right, we will.  
9 It will be labeled Exhibit 45 the Pooling Plan For  
10 Market Milk and Stabilization and Marketing Plan For  
11 Market Milk Public Hearing Date July 1st, 2008, by  
12 California Dairies, Inc. and as I said, that will be  
13 Exhibit 45 including your exhibits labeled A, B, C  
14 inside.

15 MR. KORSMEIER: Thank you.

16 (Exhibit 45 was entered into the  
17 record.)

18 HEARING OFFICER CLEARY: At this time I'd like  
19 to ask if the panel has any questions.

20 PANEL MEMBER EASTMAN: I have one question.  
21 Mr. Korsmeier, you're fairly clear in your testimony  
22 that you feel producers should pay for the local haul  
23 and then any transportation allowances should be the  
24 haul minus the local haul.

25 Are there any areas or any milk movement in

1 the state that you feel that the local haul should not  
2 be required, or do you feel that all milk movement  
3 ranch-to-plant should have that local haul.

4 MR. KORSMEIER: We believe the producers in  
5 all areas of the state should be responsible for the  
6 local haul.

7 PANEL MEMBER EASTMAN: Thank you.

8 HEARING OFFICER CLEARY: Any other questions  
9 of the witness?

10 PANEL MEMBER IKARI: Mr. Korsmeier, thank you  
11 for providing the information on Exhibit C which  
12 includes the new rates through June.

13 My question is: How frequent or what's the  
14 policy in terms of getting competitive bids? Do you do  
15 that once a year or do you do that after a couple years  
16 from your hauling companies?

17 MR. KORSMEIER: Mr. Ikari, we do that even  
18 within a year. We are monitoring that, and there are a  
19 number of new companies that would like to be involved  
20 in milk hauling, and I'm in discussion with them almost  
21 a monthly basis. So we're looking at those rates a lot  
22 quicker than within a year.

23 PANEL MEMBER IKARI: So you're not -- your  
24 arrangements with them, your financial, you're not tied  
25 into a fixed contract?

1           MR. KORSMEIER: We have some fixed contracts,  
2 but most of those provide the opportunity for  
3 competitive bids, and we use that -- those discussions  
4 with other haulers. And even though we might not be  
5 able to change within a year period on that particular  
6 hauler, we certainly are utilizing what's going on in  
7 the marketplace and have received some adjustments even  
8 within those existing contracts.

9           PANEL MEMBER IKARI: And finally, just to --  
10 in reviewing your testimony, am I correct in my  
11 understanding that you're only testifying to one change  
12 in the mileage bracket, the Kern County milk going into  
13 Los Angeles?

14           MR. KORSMEIER: Actually, the mileage brackets  
15 are changed -- all the mileage brackets are changed  
16 throughout, and I used the increment or difference of  
17 20 miles which is what we have sort of utilized in the  
18 past.

19           So all those mileage brackets going into  
20 southern California have changed, but the most  
21 important one is that lower bracket of the 99 to 119 to  
22 include the Bakersfield which is sorely needed in  
23 California.

24           PANEL MEMBER IKARI: Okay. Thank you.

25           HEARING OFFICER CLEARY: Any other panel

1 questions? If not, I'd like to thank you very much for  
2 your testimony today, sir.

3 MR. KORSMEIER: Thank you, sir.

4 HEARING OFFICER CLEARY: Okay. At this time,  
5 the Department has received three alternative proposals  
6 in response to the Call For Hearing. And given that,  
7 each alternative proposal, each presenter, will have  
8 30 minutes to make their presentation.

9 I'd like to first call up Humboldt Creamery as  
10 the first alternative proposal.

11 While they're getting settled, I just had a  
12 flash memory. You know, we're talking about milk today  
13 and what's interesting is you get to a certain age and  
14 the short-term memory doesn't work too well but the  
15 long-term kicks in at the weirdest times. You guys  
16 have noticed that. No?

17 But, you know, I was thinking about, oh, God,  
18 what, 30-some-odd years ago, I was a young marine on  
19 ship, and after about three days out to sea, they break  
20 out the warm powdered milk. And what's really bad is  
21 they label the little dispensers Warm Powdered Milk.  
22 As if an insult of serving it isn't enough. You have  
23 to know what you're getting. I'm just real grateful I  
24 don't have to experience that anymore in my life.

25 You will both be testifying?

1 MR. GHILARDUCCI: Yes.

2 HEARING OFFICER CLEARY: If I could get you to  
3 both state your names and spell your last names for the  
4 record.

5 MR. GHILARDUCCI: Rich Ghilarducci, and that's  
6 spelled G-h-i-l-a-r-d-u-c-c-i.

7 HEARING OFFICER CLEARY: Thank you, sir.

8 MR. MAYER: My name's Len Mayer. Last name  
9 M-a-y-e-r.

10 HEARING OFFICER CLEARY: Thank you very much.  
11 And do you both swear or affirm to tell the truth and  
12 nothing but the truth today?

13 MR. MAYER: I do.

14 MR. GHILARDUCCI: I do.

15 HEARING OFFICER CLEARY: And are you  
16 testifying today on behalf of an organization such as a  
17 grower, handler, cooperative or an association?

18 MR. MAYER: Yes, Humboldt Creamery  
19 Association.

20 HEARING OFFICER CLEARY: Thank you very much.  
21 You may proceed.

22 MR. MAYER: Okay. Mr. Hearing Officer and  
23 members of the panel, my name is Len Mayer. I'm the  
24 Chief Operating Officer of Humboldt Creamery  
25 Association. Our membership consists of 50 dairymen

1 located in northern California. My appearance -- our  
2 appearance today is on behalf of the board of directors  
3 and the 50 families that own our cooperative.

4 Humboldt Creamery processes and markets  
5 powdered milk, ice cream, and fluid milk products. In  
6 addition, we divert organic milk to other facilities  
7 within the state of California and throughout the  
8 United States.

9 The goals for California Department of Food  
10 and Agriculture's transportation credit and allowance  
11 systems specifically include providing incentives to  
12 encourage sufficient milk supplies for Class 1 plants.

13 Our requests address this goal specifically  
14 for a federally recognized category of fluid milk,  
15 certified organic milk. The federal government  
16 recognized organic as a food category in its passage of  
17 the Organic Foods Production Act in 1990 and created  
18 the US National Organic Standards that exist today.

19 A review of the certified organic milk  
20 producers listed on CDFA's website in California as of  
21 June 2008 shows that nearly 70 percent of the organic  
22 milk in the state of California is produced in Humboldt  
23 and Del Norte Counties.

24 Based on the size of the market, the only way  
25 to supply the southern California area then with

1 California sourced USDA certified organic milk is to  
2 transport it from Humboldt and Del Norte Counties which  
3 is indeed what is happening at this time.

4 The alternative to our request is for bottlers  
5 and retailers in the southern part of the state to  
6 import organic milk from non-California sources.

7 Our cooperative is asking that CDFA increase  
8 the number of designated supply counties to include  
9 Humboldt County pursuant to section 300.2 of the  
10 Stabilization and Marketing Plan For Market Milk.

11 A customer of ours operates a Class 1 plant in  
12 Orange County which is already a designated deficit  
13 county. Under the plan, as a major supplier of organic  
14 milk to California, and indeed the entire United  
15 States, we are not currently being treated equitably  
16 due to the lack of designation by the CDFA as a supply  
17 county even though Orange County is designated as a  
18 deficit county.

19 We have a long-term commitment to supply  
20 organic milk to our customer in Orange County who needs  
21 our supply. It's imperative, however, to access this  
22 credit in order to be able to compete effectively with  
23 out-of-state milk.

24 We are therefore requesting that the maximum  
25 credit per hundredweight under the plan for milk

1 supplied from Humboldt and Del Norte Counties to  
2 Orange, Riverside, Los Angeles, San Bernardino and  
3 Ventura Counties be approved at \$3.50 per  
4 hundredweight.

5 And that is only a portion of our actual cost.  
6 We are not requesting the full amount.

7 As a minimum alternative, our cooperative  
8 requests that Humboldt and Del Norte Counties be  
9 designated supply counties along with Kings and Fresno  
10 and gain access to the same credits which are in place  
11 now or which will become current if there are changes  
12 made as a result of these hearings, same credits  
13 producers in those counties claim for milk delivered to  
14 their designated deficit counties.

15 Even though there is inadequate organic supply  
16 in Kings and Fresno Counties, we would request to be  
17 eligible for the same credits as a minimum to our  
18 original request.

19 Under allowances, Humboldt Creamery requests  
20 that Humboldt and Del Norte Counties be listed  
21 separately in section 921.2 of the Pooling Plan in  
22 regards to allowances and that the maximum allowance  
23 per hundredweight be designated at \$3.50.

24 Currently, our producers have access to an  
25 allowance of \$0.70 per hundredweight for milk

1 transported to designated southern California counties.  
2 According to CDFA's hauling survey conducted March of  
3 2008, the cost per hundredweight of transporting milk  
4 from areas 10, 11, and 12 to area 20 was \$2 and  
5 approximately \$0.40.

6 Fuel prices have risen approximately  
7 33 percent since that time according to analysis on the  
8 Energy Information Administration's website, and the  
9 distances from area 20 to areas 3, 4, and 5 are almost  
10 twice those which are associated with that cost at  
11 \$2.40.

12 In conclusion, these 50 family farms and the  
13 board of directors of Humboldt Creamery Association  
14 encourage the members of the panel to recommend and the  
15 Secretary of Agriculture to adopt this proposal  
16 submitted by Humboldt Creamery which addresses the  
17 inequities within the California Milk Stabilization  
18 Pooling Plans related to transportation credits and  
19 allowances.

20 This concludes our testimony on behalf of  
21 Humboldt Creamery Association. We appreciate the  
22 opportunity to testify today, and Rich and I will be  
23 happy to answer any questions.

24 I will also just add that there is a summary  
25 attached to the written testimony. It is only a

1 summary, not a complete -- it's not the complete  
2 request, but it is a summary.

3 HEARING OFFICER CLEARY: Thank you very much.  
4 Was it your intention to have this entered into the  
5 record as well.

6 MR. MAYER: Yes.

7 HEARING OFFICER CLEARY: All right, we'll  
8 enter into the record the presentation today with the  
9 example listed as Exhibit number 46.

10 (Exhibit 46 was entered into the  
11 record.)

12 HEARING OFFICER CLEARY: And at this time are  
13 there any questions from the panel?

14 PANEL MEMBER HARTMAN: I have a question, and  
15 you may have answered this somewhere in here.

16 You say that the 3.50 you're requesting is  
17 only a portion of the actual cost. What is the actual  
18 cost?

19 MR. GHILARDUCCI: 3.80 per hundredweight. And  
20 that's the same thing. We took the difference between  
21 the ranch, what our producer paid to the plant and  
22 subtracted that out.

23 PANEL MEMBER HARTMAN: Okay. Thank you.

24 PANEL MEMBER IKARI: Could you provide the  
25 documentation for that?

1 MR. GHILARDUCCI: Sure.

2 PANEL MEMBER IKARI: Is it Humboldt's position  
3 that they are not entitled to transportation allowance  
4 and transportation credit as the Stab Plans and the  
5 Pooling Plans provide?

6 MR. GHILARDUCCI: We are entitled to  
7 allowances under the 56 counties. Under that segment,  
8 we are at \$0.70. But we aren't under the credits.

9 MR. MAYER: Humboldt County is not designated  
10 as a supply county to the deficit counties in southern  
11 California. If it was, if Humboldt County was  
12 designated as a supply County, it is our understanding  
13 that we would be eligible for those credits, the  
14 plant-to-plant credit.

15 PANEL MEMBER IKARI: Mr. Korsmeier raised the  
16 question about possible abuse, of costing the producers  
17 more -- it being more expensive to move milk from  
18 further distances. Have you considered anything in  
19 your proposal to address that concern?

20 MR. GHILARDUCCI: No. Because one of the  
21 things we look at is there could be abuse within the  
22 existing system, of milk moving farther from Stanislaus  
23 County over Kern County existing with things. So we've  
24 looked at the system how it is and believe it works  
25 efficiently.

1           With us, I think what we're looking at, Dave,  
2 is you've got a block of milk that's certified. If  
3 that Class 1 processing plant in southern California  
4 cannot source that milk from Kern, Fresno, that volume  
5 of milk is not available in those counties.

6           So we are the nearest facility or milk shed to  
7 supply that Class 1 processing plant or market with  
8 things.

9           I can't say how you would address that. And I  
10 know that the pool in all of your plans there's no  
11 segregation for organic where it's recognized as a  
12 different class. But it is a different class of milk.  
13 And so I can't tell you, Dave, how you would address  
14 that to make it equitable.

15           PANEL MEMBER IKARI: Is Humboldt Creamery the  
16 only plant that receives organic milk in the state?

17           MR. GHILARDUCCI: No, no.

18           PANEL MEMBER IKARI: Are there plants in the  
19 state closer to southern California that receive  
20 organic milk?

21           MR. GHILARDUCCI: Than Humboldt?

22           PANEL MEMBER IKARI: Yes.

23           MR. GHILARDUCCI: That's a pretty broad area  
24 there. I know Petaluma receives milk, organic milk.  
25 And I believe the only other one that's receiving milk

1 possibly is Crystal. I'm not sure if they're still  
2 doing that.

3 PANEL MEMBER IKARI: Current policy  
4 reflects -- well, an -- how do I want to put it? It  
5 provides more of the cost, the hauling cost, for milk  
6 closer to the demand areas and provides a greater  
7 shortfall the further away the milk is located. Would  
8 you be supportive of that philosophy.

9 MR. GHILARDUCCI: Yes. Yes.

10 MR. MAYER: And we are just, as we pointed out  
11 earlier, we're asking for a portion. We're not asking  
12 for the full cost, the full cost of transporting that  
13 milk to southern California.

14 PANEL MEMBER IKARI: How did you determine the  
15 portion that you settled on?

16 MR. MAYER: We just calculated a ratio of our  
17 full cost. And originally when we did it, based it on  
18 what the -- what we believe the compensation was for  
19 nearer suppliers. So if it covered 70 percent of a  
20 more closely located supplier, that -- we used that  
21 same ratio to try and cover our actual cost.

22 Things have moved, obviously, significantly  
23 since we did the calculation, but that's how we started  
24 out.

25 PANEL MEMBER IKARI: Did you compare that

1 against a plant that could receive a credit for moving  
2 milk into southern California and looking at their  
3 ratio of what their local haul would have been versus  
4 the -- or I mean what their cost to transport the milk  
5 was versus what the credit from the pool was?

6 MR. MAYER: Yes.

7 PANEL MEMBER IKARI: You looked at that and  
8 compared that to your proposal?

9 MR. MAYER: That's how we came up with our  
10 number.

11 PANEL MEMBER IKARI: Could you provide that in  
12 a post-hearing brief?

13 MR. MAYER: Sure.

14 HEARING OFFICER CLEARY: Any other questions  
15 from the panel?

16 PANEL MEMBER LEE: Mr. Ghilarducci mentioned  
17 the issue regarding that in the Pricing and Pooling  
18 Plan currently that there is no recognition difference  
19 between organic and nonorganic milk.

20 Do you think that for -- as part of discussion  
21 that there's a broader issue that needs to be addressed  
22 in terms of beyond transportation?

23 Is the way how we value organic milk in terms  
24 of pooling and pricing, should that be considered as  
25 part of the total discussion regarding transportation

1 as well?

2 MR. GHILARDUCCI: I'm not sure this hearing --  
3 obviously, it wouldn't be part of this hearing with  
4 things but --

5 PANEL MEMBER LEE: I thought I'd bring it up  
6 since you had brought it up.

7 MR. GHILARDUCCI: Sure. I think the thing is,  
8 number one, we're supplying milk to a market, in the  
9 southern California market. There's -- that milk  
10 cannot be supplied through the California pooling  
11 system. It's not available. And we're the closest  
12 supply to that milk. That has to be recognized by the  
13 panel.

14 Now, how do you address that? Within the  
15 transportation credits? It's already addressed in the  
16 allowances partially, but it's not addressed at all in  
17 the credits with things.

18 That's what we're here today to testify about,  
19 is that the transportation cost to supply that Class 1  
20 plant is we're asking for a credit to cover that.

21 And if it could be moved from Kern County or  
22 closer, San Bernardino or any other county, then that  
23 would be fine. But that's not the case in the  
24 marketplace, and the panel has to recognize that.

25 PANEL MEMBER LEE: Are there any other sources

1 of organic milk that your customer could receive other  
2 than shipping --

3 MR. GHILARDUCCI: Not within the state of  
4 California in the volumes they require.

5 PANEL MEMBER LEE: Thank you.

6 HEARING OFFICER CLEARY: Any other questions?  
7 If not I'd like to thank you both for your testimony  
8 today, and you're excused.

9 MR. MAYER: Thank you. And we would like to  
10 request the opportunity to file a post-hearing brief.

11 HEARING OFFICER CLEARY: I'm getting the  
12 impression there will be one. Thank you.

13 All right. At this time, I'd like to call up  
14 the Dairy Institute of California. Thank you, sir.  
15 Good morning. You will have 30 minutes as well. If  
16 you could please state your name and spell your last  
17 name for the record.

18 DR. SCHIEK: Yes. My name is William Schiek  
19 S-c-h-i-e-k.

20 HEARING OFFICER CLEARY: Mr. Schiek, do you  
21 swear or affirm to tell the truth and nothing but the  
22 truth today?

23 DR. SCHIEK: I do.

24 HEARING OFFICER CLEARY: And are you  
25 testifying today on behalf of an organization?

1 DR. SCHIEK: Yes, I am.

2 HEARING OFFICER CLEARY: And what would that  
3 be?

4 DR. SCHIEK: That would be the Dairy Institute  
5 of California.

6 HEARING OFFICER CLEARY: Thank you very much.  
7 You may begin.

8 DR. SCHIEK: Thank you.

9 Mr. Hearing Officer and members of the panel.  
10 My name is William Schiek, and I am an economist for  
11 the Dairy Institute of California and I am testifying  
12 on the Institute's behalf.

13 The Dairy Institute is a trade association  
14 representing 37 dairy companies which process  
15 approximately 75 percent of the fluid milk, cultured  
16 and frozen dairy products, over 80 percent of the  
17 cheese products, and a small percentage of the butter  
18 and nonfat milk powder processed and manufactured in  
19 the state.

20 Member firms operate in both marketing areas  
21 in the state. The position presented at this hearing  
22 was unanimously adopted by the Dairy Institute board of  
23 directors.

24 Dairy Institute appreciates the opportunity to  
25 testify today in support of our proposal and to comment

1 on the proposals presented by California Dairies, Inc.  
2 Dairy Farmers of America, and Humboldt Creamery which  
3 are also under consideration at this hearing.

4 We'll also comment on the plan amendments  
5 proposed by the Department.

6 We commend the Secretary for his willingness  
7 to consider updating the regulatory framework in which  
8 our members operate to make it reflective of current  
9 market conditions. The Department has proposed three  
10 amendments to the Pooling Plan.

11 The first of these is the addition of a  
12 definition in the plan for the new Dairy Accounting  
13 System. The industry has been anticipating the new  
14 Dairy Accounting System for the past ten years.

15 We support the technical amendments that will  
16 enable adoption of the new system when it is ready.  
17 The current programs that are used to administer the  
18 plan have served the industry well, but we look forward  
19 to having a system that is more flexible and able to  
20 adapt more easily to the changing structure of the  
21 industry.

22 The Department has also proposed a change that  
23 would require using the actual solids-not-fat content  
24 in the milk received by plants rather than an estimate  
25 of the SNF contained in skim reported.

1           As the goal of this proposal is to ensure more  
2 accurate reporting of milk composition and more  
3 accurate valuation of milk components in the pool, we  
4 are supportive in concept, but we encourage the  
5 Department to work with handlers to smooth the  
6 transition should any large discrepancies occur between  
7 the old system and the new one.

8           Finally, the Department has proposed that the  
9 plan provide for the use of a new distance measuring  
10 application to determine the mileage between dairy  
11 farms and the plant of first receipt. The new  
12 application, PC Miler, will replace Public Utilities  
13 Commission mileage tables that have been employed for  
14 many years.

15           Again, we are supportive of making changes  
16 that will improve accuracy, but we recognize other  
17 changes such as changes to the transportation allowance  
18 mileage brackets might be necessary to accommodate  
19 adoption of the new system. We urge the Department to  
20 strongly consider any mileage bracket changes proposed  
21 by the cooperatives as a consequence of the change to  
22 the new distance measuring application.

23           Also at issue in this hearing are proposed  
24 changes to the transportation allowance and credits  
25 contained in the Pooling Plan and Stabilization and

1 Marketing Plans. The broad purposes of these milk  
2 movement programs have been identified as follows.  
3 First, to ensure an adequate supply of milk to plants  
4 which provide Class 1 and 2 usage products to  
5 consumers. Second, to assure that higher usages have a  
6 priority in terms of milk movement incentives to  
7 producers. And to encourage the most efficient  
8 movement of milk to fluid usage plant.

9           The enactment of milk pooling in 1969  
10 fundamentally altered the relationship between Class 1  
11 processors and suppliers. Prior to pooling, the higher  
12 plant blend price that was paid by Class 1 plants  
13 provided a positive incentive to attract milk to the  
14 highest use.

15           During the discussions leading up to the  
16 Gonsalves Milk Pooling Act, producer representatives,  
17 in exchange for processor support, made a commitment to  
18 ensure that Class 1 plants would be served. From the  
19 beginning, it was recognized that fluid plants by  
20 virtue of the higher minimum prices they pay should be  
21 able to procure necessary milk supplies without having  
22 to subsidize the haul cost to their plants.

23           The current system of transportation  
24 allowances and credits in California developed after a  
25 period where milk movement incentives were limited

1 primarily to area differentials and location  
2 differentials on quota milk, a system which is somewhat  
3 similar differentials employed in the federal orders.

4 Over time, the consolidation of marketing  
5 areas, the growth in milk production, and changing  
6 production and distinction patterns and unique  
7 California geography necessitated new milk movement  
8 mechanisms.

9 The transportation credits and allowances both  
10 came into being in the early 1980s. The general  
11 principal behind transportation allowances was that  
12 they should compensate dairymen for the difference  
13 between the local haul to a manufacturing plant and the  
14 longer haul to the more distant fluid milk plant in a  
15 metropolitan area.

16 In the absence of such incentives, producers  
17 have an incentive to ship their milk to a manufacturing  
18 plant and a disincentive to serve the fluid milk  
19 market. When the transportation allowance fully  
20 compensates producers for the difference between the  
21 local haul and the long haul to the fluid plant, they  
22 will be indifferent as to where they ship their milk.

23 With respect to transportation credits, the  
24 principle was to compensate the milk supplier for the  
25 cost of shipping milk from the supplying plant to the

1 deficit area plant after accounting for any difference  
2 in the marketing area Class 1 differentials.

3 Historically, transportation credits and  
4 allowances have been set at levels that do not fully  
5 compensate handlers for their shipment costs.

6 A shortfall in hauling compensation with  
7 respect to more distant milk was supported by Dairy  
8 Institute in the past based on the assumption that it  
9 would encourage more efficient milk movements. The  
10 extent of the shortfall needed to encourage orderly  
11 movement has been and continues to be subject of  
12 debate.

13 Given the necessity of moving milk longer  
14 distances to supply Class 1 markets today, we believe  
15 the application of the shortfall concept should be  
16 limited to the most distant milk supplies only.

17 We continue to believe that a milk movement  
18 incentive system is necessary in order to meet the  
19 statutory mandates and guidelines governing our  
20 industry. In recent years, the industry has continued  
21 to evolve and has undergone considerable structural  
22 change.

23 Consolidation of supplying cooperatives and  
24 fluid milk processors has changed milk production and  
25 distribution patterns. It is therefore appropriate to

1 review the existing system of transportation allowance  
2 and credits to determine if changes are necessary.

3           This usual review is made all the more  
4 critical when we consider the changes in milk supply  
5 structure which are taking place all across the state  
6 but nowhere more impressively than in southern  
7 California.

8           Given the rapid and ongoing contraction in the  
9 southern California milk supply, the implications are  
10 obvious. To supply the fluid processing plants in the  
11 LA Basin, rapidly increasing quantities of milk are  
12 going to be trucked in from outside the local area.

13           While the growing milk supply in Kern County  
14 is an obvious choice to supply the market, in the past  
15 not all of this milk has been available to serve the  
16 southern California fluid market. Milk has moved to  
17 southern California from Kings and Tulare Counties to  
18 meet Class 1 demand, and it may well be that milk from  
19 these areas will continue to be needed in the future.

20           We believe that it is consistent with purposes  
21 of milk stabilization and with the commitments made by  
22 producer leadership at the inception of milk pooling  
23 that milk should be attracted to Class 1 plants at  
24 order prices.

25           Unfortunately, some have held the incorrect

1 view that the sole purpose of the Class 1 price  
2 differential to enhance producer income instead of  
3 recognizing that in part the difference was designed to  
4 assure that Class 1 markets are served.

5 Another notion that has been troubling to  
6 Dairy Institute's membership has been the belief  
7 expressed by some that over-order premiums should be  
8 relied upon as a primary means to attract milk for  
9 fluid purposes.

10 We continue to maintain that the existing  
11 order prices paid by processors provide more than  
12 enough revenue to attract milk for Class 1 and  
13 mandatory Class 2 purposes and that the Marketing and  
14 Pooling Plans should provide the milk movement  
15 incentive mechanisms which are adequate to ensure that  
16 those uses are served.

17 When we consider the relatively high Class 1  
18 price differential in California relative to the  
19 state's very low Class 1 utilization, it is even more  
20 obvious that processors should not need to subsidize  
21 the haul to their plants.

22 In general, Dairy Institute supports proposals  
23 that seek to make cost-justified adjustments to the  
24 transportation allowances and credits. Costs for  
25 diesel fuel have increased significantly over the past

1 few years, and in recent months, they have soared to  
2 unprecedented levels as the graph below shows.

3 Dairy Institute has no access to specific  
4 hauling cost invoices that are reflective of current  
5 milk movement costs across the state. The March 2008  
6 hauling cost data assembled by the Department are quite  
7 useful, but the graph above suggests that current costs  
8 are likely to be higher than they were in March as a  
9 consequence of diesel prices that are now about a  
10 dollar per gallon higher than they were at that time.

11 We are relying on others presenting testimony  
12 here today to enter relevant information about more  
13 current hauling costs into the record. To the extent  
14 that they can justify higher transportation allowance  
15 rates than those indicated by the March data, we would  
16 support such cost-justified increases.

17 We continue to argue for the application of  
18 sound economic principles in setting allowance and  
19 credit rates, basing them on the most recent rate and  
20 fuel cost information.

21 And notwithstanding the uncertainty in fuel  
22 prices and hauling rates, Dairy Institute believes that  
23 transportation allowances and credits must be adequate  
24 to encourage milk to move to higher-use plants in  
25 deficit areas.

1           Inadequate rates lead to California Class 1  
2 processors being unable to compete favorably with  
3 manufacturing plants for milk supplies and put them at  
4 a competitive disadvantage with respect to out-of-state  
5 processors.

6           In order to secure the local Class 1 market  
7 for California producers, transportation allowance and  
8 credits must be adequate to draw milk without  
9 transportation subsidization by the buyer or supplying  
10 cooperative.

11           With regard to transportation allowances,  
12 Dairy Institute continues to support the principle that  
13 allowances rates should be set equal to the difference  
14 between the cost of the local haul and the cost of the  
15 haul to the higher use plants in metropolitan markets.

16           A slight shortfall should apply only to the  
17 most distant milk brackets to encourage milk that is  
18 located closer to the market to move first.

19           With regard to milk moving into southern  
20 California, there should be little shortfall on milk  
21 coming from as far away as Tulare and King Counties  
22 because volumes of milk may be necessary to supply the  
23 southern California market from those areas.

24           The transportation allowance system should  
25 address the narrow problem of how to attract milk to

1 fluid plants in metropolitan areas at order prices.  
2 However, when setting both allowances and credit rates,  
3 equity among competing Class 1 plants in attracting  
4 milk supplies is something that needs to be considered.

5 This is particularly true when the application  
6 of milk movement incentives confers advantages on some  
7 Class 1 plants over others. If these advantages would  
8 not have existed in the absence of milk movement  
9 incentives, then the incentives should be adjusted to  
10 both redress the inequitable impacts and to ensure that  
11 fluid milk plants are adequately served.

12 Dairy Institute's position is that fluid milk  
13 plants operating within a market should not be  
14 disadvantaged relative to each other in the procurement  
15 of nearby milk supplies.

16 With the foregoing in mind, we have amended  
17 our proposal in light of new information to be more  
18 reflective of current hauling -- ranch-to-plant hauling  
19 rates.

20 Our new proposed transportation allowances  
21 rates are a composite of those presented by DFA and CDI  
22 as of mid June 2008. And what follows is a list of the  
23 rate changes.

24 As you can see for the Bay Area receiving  
25 area, we're proposing an increase in the 0 to 99 miles

1 bracket from \$0.27 to \$0.37, increasing the 99 to 199  
2 bracket from 34 to 45, and in the over 199 bracket to  
3 47 from 36.

4 For the Sacramento receiving area, we are  
5 leaving it in the 0 to 59 mile bracket at \$0.15 per  
6 hundredweight. That's what it currently is. And  
7 suggesting an increase in the over 59 miles bracket  
8 from \$0.20 to \$0.25.

9 Leaving the Shasta receiving area unchanged.

10 For the North Bay, leaving the 0 to 44 mile  
11 bracket unchanged at \$0.19 a hundredweight, increasing  
12 the rate in the 44 to 99 mile brackets from \$0.29 to  
13 \$0.35, and increasing the over-99-mile bracket from  
14 \$0.34 to \$0.44 a hundredweight.

15 In southern California receiving area for  
16 shipments from the Barstow supply area, again proposing  
17 the same bracket changes that were advanced by CDI in  
18 terms of the actual mileage bracket definitions, and  
19 the rate increase in the 0 to 79-mile bracket now would  
20 be from \$0.11 to \$0.15 a hundredweight, and in the over  
21 79-mile bracket from \$0.37 to \$0.46 a hundredweight.

22 And then for shipments from all other  
23 counties, again the 0 to 79-mile bracket would be \$0.15  
24 a hundredweight. 79 to 99 would be \$0.46 a  
25 hundredweight. 99 to 119 would be \$0.67 a

1 hundredweight, and over 119, \$0.84 a hundredweight.  
2 And then for the San Diego receiving area, you can see  
3 the rates and the brackets would be similar.

4 Okay. Moving on to transportation credits,  
5 Dairy Institute support the principal that  
6 transportation credits should be set equal to the haul  
7 cost less any area Class 1 differential.

8 In the distant past we have advocated that a  
9 shortfall should apply to more distant milk to  
10 encourage more efficient milk movements. However, in  
11 recent years, we have advocated full compensation for  
12 all but the most distant milk to encourage competition  
13 in supplying the Class 1 market.

14 Transportation credits are currently available  
15 on shipments of milk and condensed skim to plants in  
16 southern California including Orange, LA, Ventura, San  
17 Bernardino, and San Diego Counties and to plants in the  
18 Sacramento and Bay Area receiving areas.

19 Credits are not available on shipments to  
20 plants in the North Bay receiving area although there  
21 appears to be no valid reason why plants in this area  
22 should not be eligible if their operations utilize  
23 plant-to-plant shipments of milk or condensed skim.

24 As we stated before, equity among Class 1  
25 plants competing for milk supplies needs to be

1 considered when setting transportation credit rates.

2 Based on these principals and the March 2008  
3 plant-to-plant hauling cost data, we are proposing the  
4 following transportation credit rates.

5 And I'll mention since the witness from CDI  
6 noted we were higher than them on the LA County  
7 transportation credit rate, well, now we're lower.  
8 Again, these -- this number, \$0.50, was based on  
9 March 2008. Obviously, Mr. Korsmeier has introduced  
10 June data so we would defer to him on that for that  
11 particular rate.

12 On the rates from Tulare County to LA, Orange,  
13 and Ventura, that would increase from \$0.73 currently  
14 to 94. From Tulare County to Riverside would go from  
15 81 to 102 per hundredweight.

16 And from Fresno and Kings County, those would  
17 be the same rates, identical to the Tulare County rate.

18 Sonoma County we're projecting leaving  
19 unchanged at this point. We don't have any data on  
20 that particular shipment from Sonoma County into the  
21 Bay Area.

22 We are also making a change on shipments,  
23 plant-to-plant shipments from the San Joaquin Valley  
24 into both the Bay Area and the Sacramento area.

25 We're removing the geographic designation that

1 splits Stanislaus County, just basically saying that  
2 the designated supply counties are all of Merced and  
3 Stanislaus County, and we're increasing those rates  
4 again based on the hauling costs that were reported for  
5 March 2008. Up to \$0.80 for shipments into the Bay  
6 Area, \$0.73 for shipments into Sacramento, which is  
7 actually a rate based on October.

8           There was a temporary interruption of  
9 plant-to-plant shipments that occurred during March,  
10 and therefore we're not showing any shipments from the  
11 northern San Joaquin to Sacramento in the Department's  
12 haul cost data from March on plant-to-plant. But my  
13 understanding is those shipments have now resumed, so  
14 the only data we have is from October, so we're  
15 plugging that October rate in there.

16           And then we're arguing that a new  
17 transportation credit rate be established on shipments  
18 from Merced and Stanislaus Counties to Solano and  
19 Sonoma Counties at \$0.79 a hundredweight.

20           The proposed increases in both northern  
21 California -- areas, that should say -- are expected to  
22 be utilized in plant-to-plant shipments of condensed  
23 skim for Class 1 purposes.

24           Many Class 1 processors have found it  
25 uneconomic to make condensed skim inhouse. Cooperative

1 plants which regularly condense skim as a part of  
2 nonfat dry milk manufacturing have scale economies that  
3 are not achievable by smaller fluid plants. There are  
4 therefore efficiencies to be gained for Class 1 plants  
5 by purchasing condensed skim from an outside supplier.

6           Given that the State requires fortification of  
7 Class 1 milk products to meet the mandated fluid milk  
8 standards, it is not unreasonable to expect that the  
9 Pool compensate coops for the cost of shipping  
10 condensed skim to Class 1 customers.

11           Otherwise, such costs would be passed on to  
12 the Class 1 plants and would likely be passed on  
13 through to the retail customer as well, further  
14 depressing Class 1 sales.

15           So we believe full compensation on the cost of  
16 these condensed skim milk shipments is justified.  
17 However, the Department should also be cognizant of the  
18 impact of its past policies on plant investment  
19 decisions when setting future direction for milk  
20 movement incentives.

21           Commenting on other proposals briefly, Dairy  
22 Institute -- with regard to the CDI proposal, Dairy  
23 Institute supports cost-justified allowances and  
24 credits.

25           CDI's proposals appear to be cost-justified

1 based on the hauling rate information they have  
2 supplied. We note that the CDI proposal does not  
3 address changes to transportation credits beyond the  
4 areas where it currently ships milk on a plant-to-plant  
5 basis.

6 As we noted earlier, we support keeping  
7 transportation rates reflective of current costs to  
8 encourage competition in supplying the Class 1 market  
9 and to keep the system responsive to changes in  
10 industry structure.

11 This concern is why we have proposed  
12 transportation credit increases, even for routes where  
13 milk may not currently be moving plant-to-plant.

14 Dairy Farmers of America. Dairy Institute  
15 generally supports DFA's proposal to increase  
16 transportation allowances in the Bay Area, Sacramento,  
17 and North Bay receiving areas as they appear to be  
18 based on current costs.

19 In the past, DFA has proposed indexing  
20 transportation allowance rates to changes in fuel  
21 prices. Dairy Institute believes this concept merits  
22 further study. Given the incredible price volatility  
23 we have been experiencing, indexing may be the only  
24 means to ensure that fluid plants will be adequately  
25 served in the future. We would like to see more

1 industry discussion of this issue in the near future.

2 Humboldt Creamery. We find it difficult to  
3 support Humboldt's request for a \$3.50 per  
4 hundredweight transportation credit on milk movements  
5 between Humboldt County and southern California.

6 Our pooling and pricing system has hitherto  
7 made no distinction between organic and conventional  
8 milk, and from a conventional point of view, there's no  
9 reason for the pool to subsidize milk movements from  
10 Humboldt County for the Los Angeles market because milk  
11 is already available from closer-in sources.

12 Now we understand that organic milk is a  
13 different product, and we are sensitive to the concern  
14 that organic milk from out of state may supplant  
15 California milk in the state's organic fluid milk  
16 market. But Humboldt's proposal would apply to all  
17 milk moving that long distance.

18 Some transportation credit rate might be  
19 justified, again from a conventional point of view, but  
20 it would be difficult to argue that it should be  
21 greater than the maximum credit rate that applies to  
22 plant-to-plant shipments from the south valley to  
23 southern California. Humboldt has proposed a much  
24 larger credit rate.

25 Then lastly, we just continue to support the

1 continuation of the call provisions as we have in the  
2 past, and that's pretty much all I have to say.

3 Thank you for the opportunity to testify, and  
4 I would like to request the opportunity to file a  
5 post-hearing brief. And I am willing to answer any  
6 questions you may have at this time.

7 HEARING OFFICER CLEARY: Thank you very much,  
8 sir. Mr. Schiek, was your intention to have the  
9 testimony today, the written testimony, entered into  
10 the record as an exhibit?

11 DR. SCHIEK: Yes, it is.

12 HEARING OFFICER CLEARY: Then we will enter  
13 that testimony into the record as Exhibit number 47.

14 (Exhibit 47 was entered into the  
15 record.)

16 HEARING OFFICER CLEARY: And at this time, I'd  
17 like to open it up to questions from the panel.

18 PANEL MEMBER HARTMAN: Yes, Mr. Schiek, I have  
19 some questions. In reading this, and coming from an  
20 audit standpoint, you'll understand where I'm coming  
21 from, you say here that -- okay -- you represent 37  
22 dairy companies, but you say here that you have no  
23 access to specific haul cost invoices that are  
24 reflective of current milk movement costs across the  
25 state.

1           Wouldn't your dairy companies have access to  
2 that and be able to give you that information?

3           DR. SCHIEK: Yes, some of them would if they  
4 contract for their own hauling. And there are a couple  
5 of them here today who will be testifying to their  
6 rates, about as such we don't have them. Mostly the  
7 cooperatives arrange for the hauling in a lot of cases.

8           PANEL MEMBER HARTMAN: Okay. And further, you  
9 also state you're relying on others presenting  
10 testimony. Who specifically? Because there are great  
11 differences between CDI and Humboldt. So whose  
12 specific testimony are you relying on, and do you feel  
13 comfortable with their analysis?

14          DR. SCHIEK: With regard to the transportation  
15 allowance proposed increases, we're supportive of what  
16 has been entered by CDI. And based on the DFA  
17 proposal, we're supportive of those rates as well.

18          PANEL MEMBER HARTMAN: Okay. And therefore  
19 you do feel comfortable with their analysis?

20          DR. SCHIEK: As far as it pertains to  
21 transportation allowances, yes.

22          PANEL MEMBER HARTMAN: Okay. Thank you.

23          HEARING OFFICER CLEARY: Any other questions  
24 from the panel?

25          PANEL MEMBER IKARI: Dr. Schiek, on page 2

1 you're talking about accurate reporting of milk  
2 composite and accurate validations components. You  
3 testified you are supportive, you encourage the  
4 Department to work with handlers for a smooth  
5 transition. And you mentioned large discrepancies.  
6 Are you aware of any information --

7 DR. SCHIEK: No, I guess what I need to  
8 disclose or say is that I'm not under any direction  
9 from our board to either support or oppose this  
10 particular proposed amendment by the Department.

11 And reason we didn't take a solid position on  
12 that is that there was some concern from a couple of  
13 our members that the new system may result in large  
14 differences. And I discussed this from a technical  
15 standpoint just what the impact of the decision would  
16 be. And --

17 PANEL MEMBER IKARI: I assume that those  
18 organizations, if they saw huge discrepancies, would  
19 contact the Department.

20 DR. SCHIEK: I'm assuming they would as well.

21 So we are supportive, as we always have been,  
22 of changes that would lead to more accurate and correct  
23 functioning of the pooling pricing system. But we  
24 didn't specifically come in and say we're supporting  
25 this particular proposal.

1           PANEL MEMBER IKARI: With respect to providing  
2 transportation credits, for distant areas outside of  
3 say the counties of Fresno that are included in the  
4 Stab Plans, would Dairy Institute have any objection to  
5 including the counties not listed as being qualified  
6 supply areas for transportation credits into southern  
7 California?

8           DR. SCHIEK: I don't know that we have a  
9 specific board position on that, but I will say that it  
10 would be reasonable, I think, and consistent with the  
11 allowances.

12           For example, the allowance -- transportation  
13 allowance is available on any shipment from a surplus  
14 to a deficit area. It's just that they don't continue  
15 increasing forever. As you get more distance, the  
16 allowance rate tops off at some level.

17           And I don't see that there would be any  
18 problem with a similar concept being applied to the  
19 credits. Currently, my understanding is the credits  
20 are only available on a defined point-to-point type  
21 shipment, and that is somewhat inconsistent with the  
22 way the allowances are authorized.

23           PANEL MEMBER IKARI: In listening to the  
24 Humboldt proposal and testimony, I wonder if you share  
25 the concern that if the Department implements the

1 request by Humboldt to lock in 3.50 that we might be  
2 precluding producers in the valley who may want to  
3 convert to organic, but then wouldn't have the same --  
4 I mean they would be at a disadvantage relative to the  
5 milk moving from Humboldt into southern California.

6 So that's one question that I have.

7 And second question is: If a plant in a major  
8 area decides they want to do organic, how much  
9 responsibility is it the producer's to incur the cost  
10 from the most furthest distance because that's where  
11 the current supply is? How much should the plant  
12 assume on something that's a new product?

13 DR. SCHIEK: Yeah. Mr. Ikari, I think these  
14 are really difficult questions. And I think one of the  
15 problems we're increasingly going to run into is that,  
16 you know, eight, ten years ago we could have treated  
17 organic -- or we treated organic as a pretty small part  
18 of the total, not something we really needed to make  
19 changes in regulatory structure to address.

20 If organic required additional moneys to make  
21 it move to where it needed to go, we basically relied  
22 on the price paid at the retail level to be high enough  
23 to provide enough money to move that milk.

24 I think one of the things that we're  
25 witnessing is that the organic market, organic milk is

1 taking a larger and larger share of the total fluid  
2 milk market. It's still small as a percentage of the  
3 total but it's growing rapidly.

4 And we see that in some of our members who  
5 used to not even touch organic or do very a small  
6 volume who are now doing substantial volumes in  
7 organic.

8 So I think in the future as a general concept  
9 we may need to revisit the notion about how we treat  
10 organic. You know. Right now, we don't recognize any  
11 distinction in our regulatory framework, and maybe in  
12 the future we'll need to do that.

13 But, you know, I do think that there's always  
14 a danger in, in -- anytime you provide a financial  
15 incentive, money moves milk and you could have the  
16 potential for uneconomic movements. You could have the  
17 potential for precluding other suppliers simply because  
18 of a rate, a transportation subsidy that exists on one  
19 route of shipment but not on others. So I do share  
20 those concerns.

21 With regard to our proposal on condensed skim,  
22 when we're asking for, you know, we're asking for  
23 increases in transportation credit rates. I suppose  
24 one could raise the question as to whether that's going  
25 to encourage an uneconomic plant-to-plant movement of

1 regular producer milk which might not be as efficient  
2 as ranch-to-plant movements with regard to the cost of  
3 the pool.

4 I guess I would address that by saying that we  
5 don't believe there's any plans on any parts of member  
6 companies to beginning using plant-to-plant shipments  
7 on regular milk. It's primarily for condensed skim.

8 But it would be fairly easy for the Department  
9 to in a hearing decision put everybody on notice that  
10 if we start seeing these things we're going to act --  
11 the Department will act pretty quickly to call another  
12 hearing to address the situation. So you could kind of  
13 remove some of the incentive for abuse that way with  
14 regard to our proposals.

15 HEARING OFFICER CLEARY: Any other questions.

16 PANEL MEMBER LEE: Yes. Dr. Schiek, on page 5  
17 of your testimony, under transportation allowances, you  
18 talked about equity among competing Class 1 plants and  
19 attracting supply is something that needs to be  
20 considered.

21 Are you saying we do have some issues  
22 currently, or is this just more of a general statement  
23 on your part?

24 DR. SCHIEK: I think it's a general statement.  
25 One of the difficulties we have with condensed skim,

1 and I'll just point it out and I don't necessarily have  
2 the solution for you, but -- is that in the past where  
3 transportation credit rates have not been  
4 necessarily -- Okay. Back up a minute.

5 First, we didn't have allowable transportation  
6 credits on condensed skim until, I believe, 2001. It  
7 was put in after a hearing in 2001. So it's relatively  
8 new that we've allowed transportation credits on  
9 condensed skim.

10 And we haven't adjusted those rates,  
11 particularly northern California, in quite some time;  
12 and it may be that some Class 1 processors have looked  
13 at those rates and looked at the cost of buying in  
14 condensed and said, well no, we'll be better off making  
15 our own and investing in equipment in the plant.

16 And now, you know, if you increase rates --  
17 which we think is justified -- you know, there could be  
18 someone who's made that investment to do their own  
19 in-house condensed may feel like the ground is shifting  
20 on them a little bit. I'm just saying that there needs  
21 to be a certain level of sensitivity there. But in the  
22 end, the costs are the costs. And that should guide, I  
23 think, the Department's decision.

24 PANEL MEMBER LEE: You address credits. You  
25 also say allowances as well. Is there any -- same

1 comments on the allowance side as well?

2 DR. SCHIEK: Not that I am -- I'm not aware of  
3 anything specific there. It's just a general principal  
4 we like to see applied.

5 PANEL MEMBER LEE: Thank you.

6 HEARING OFFICER CLEARY: Any other questions  
7 from the panel? If not, thank you very much for your  
8 testimony today, sir. You may be excused.

9 HEARING OFFICER CLEARY: The next organization  
10 to testified would be the Dairy Farmers of America.

11 And just another milk thought as long as I've  
12 got you all here and I've got the gavel and everything,  
13 so I can tell a story if I want.

14 I remember when I was kid growing up in  
15 Newark, New Jersey. We used to get milk delivered for  
16 a long time, and you'd have this little metal box out  
17 front. It was really pretty cool now, thinking about  
18 it, the way we sell milk nowadays, but, you know, the  
19 guy would deliver the milk and take your bottles, and  
20 you'd leave the empty bottles out, and they'd bring  
21 more milk and -- but I remember in my earliest days,  
22 there used to be in the city of Newark at most of the  
23 stores you'd have milk machines, and I remember one  
24 being next to Nick's Corner Market there was the milk  
25 machine, and if you ran out of milk, and it was after

1 hours, because they didn't have 24-hour stores, you  
2 know, kids got sent down to the milk machine with  
3 change in their pocket to buy the milk for the next  
4 day. It was kind of -- and you only had two kinds milk  
5 anyway. You had skim, like Weight Watchers for  
6 heavyweight people, and then regular milk and -- well  
7 anecdotally and parenthetically found out later that  
8 Nick's was actually the neighborhood bookie as well the  
9 neighborhood grocery store which is sort of  
10 interesting. But that's -- it's kind of a weird way  
11 that we transitioned into the way we provide milk to  
12 folks from those little machines on the corner to now  
13 you can go anywhere and buy milk on a 24-hour basis.  
14 It's fascinating but I get fascinated by simple things.

15 So with that, hello sir.

16 MR. STUEVE: Hi.

17 HEARING OFFICER CLEARY: Good morning. Could  
18 you please state your name and spell your last name for  
19 the record.

20 MR. STUEVE: My name is Gary Stueve,  
21 S-t-u-e-v-e.

22 HEARING OFFICER CLEARY: Thank you very much  
23 sir. Do you swear or affirm to tell the truth and  
24 nothing but the truth today?

25 MR. STUEVE: Yes.

1 HEARING OFFICER CLEARY: And are you  
2 representing an organization?

3 MR. STUEVE: Yes, I am representing Dairy  
4 Farmers of America.

5 HEARING OFFICER CLEARY: Wonderful. Thank you  
6 very much, sir. You may begin.

7 MR. STUEVE: Mr. Hearing Officer, members of  
8 the panel, thank you for the opportunity to testify  
9 here today. My name is Gary Stueve, I am vice  
10 president of fluid milk operations for the Western Area  
11 Council of Dairy Farmers of America. We currently  
12 market the milk of 300 member producers in California  
13 as well as the milk from 70 nonmembers.

14 Because nearly one-fourth of our milk enters  
15 non-Class 4 plants and qualifies for transportation  
16 allowances, we have submitted an alternative proposal  
17 dealing specifically with transportation allowances.

18 My testimony deals primarily with necessary  
19 adjustments due to changes in diesel fuel prices. We  
20 have also experienced some general freight rate  
21 increases on portions of our milk supply since the date  
22 of the last hearing and are currently expecting another  
23 significant general increase to go into effect  
24 August 1st, 2008.

25 The DFA Wester Area Council board of directors

1 in a meeting on June 26, 2008 approved this proposal  
2 and testimony and the resulting changes to the Pooling  
3 Plan. I appreciate the opportunity today to provide  
4 comments as well as an explanation of our alternative  
5 proposal.

6 The recent meteoric rise in fuel prices has  
7 been well-publicized and roundly felt by almost all  
8 members of industry and society.

9 Although diesel fuel prices have declined very  
10 modestly in the past two weeks, diesel fuel as listed  
11 on the Department of Energy website is now \$1.80.9 per  
12 gallon higher now than on July 2, 2008, the date of the  
13 last hearing. In early June, diesel fuel was \$1.90.8  
14 per gallon higher than it was on the date of the last  
15 hearing.

16 Obviously, this has had an enormous effect on  
17 milk transportation costs. Because the effects of  
18 these fuel price increases are drastic, far-reaching  
19 and felt by almost everyone, little more needs to be  
20 said to illustrate the need for some type of adjustment  
21 to transportation allowances.

22 Among other considerations our transportation  
23 costs are determined by two primary factors. The first  
24 is a fixed dollar rate per hundredweight of milk which  
25 changes relatively infrequently. The second is fuel

1 surcharges which are costs in addition to the  
2 hundredweight rate. These are usually formula driven  
3 and change frequently. In fact, some change weekly.

4 We have provided in our attachments the backup  
5 for the changes we feel are necessary and justified for  
6 four specific receiving areas.

7 With the exception of the first mileage  
8 bracket in Sacramento and North Bay receiving areas,  
9 our proposal calls for increases in transportation  
10 allowance level and correlates with the support  
11 documents we've provided.

12 In regard to the first mileage brackets for  
13 Sacramento at 0 to 59 miles and the North Bay at 0 to  
14 44 miles, it is our position that no change is  
15 necessary given the narrow range of miles and the level  
16 of the current allowance, especially when comparing  
17 both criteria against southern California.

18 In the Bay Area receiving area, we are asking  
19 for cost-related increases, but it is also our  
20 contention that the Bay Area has lagged behind other  
21 areas in recent years in terms of transportation  
22 allowances, at least partially due to the wide range of  
23 miles in each bracket. It is not uncommon for haul  
24 rates for the Bay Area up to 99 miles to run  
25 approximately \$0.70 to \$0.90 per hundredweight but

1 capture only a \$0.27 transportation allowance.

2 In southern California, our proposal calls for  
3 a combination of changes related to fuel cost and  
4 general increases as well as mileage bracket  
5 adjustments.

6 The increases we were asking for in southern  
7 California range from \$0.04 to \$0.14 and as indicated  
8 on our attachments reflect a portion of the additional  
9 cost increases dating back to the previous hearing.

10 The mileage brackets we've established for  
11 southern California in our proposal were determined by  
12 using the information provided by the Department on our  
13 actual February 2008 milk shipments under the new PC  
14 Miler protocol as well as additional point-to-point  
15 information provided by the Department.

16 Our intention was simply to maintain the  
17 existing mileage bracket relationships but do so with  
18 the new PC Miler mileage calculations. We do, however,  
19 recognize that these February shipments not necessarily  
20 represent all possible shipments and all possible haul  
21 scenarios.

22 Additionally, progress was made at the last  
23 transportation hearing adequately constructing supply  
24 areas and mileage brackets that properly address the  
25 inequity with the High Desert milk and the southern

1 Kern County milk. It is important that this balance be  
2 maintained.

3 We are opposed to the proposal by Humboldt  
4 Creamery to include Humboldt County as a supply county  
5 for transportation credits and to specifically identify  
6 Humboldt and Del Norte Counties for transportation  
7 allowances. This defeats the purpose for both credits  
8 and allowances, particularly when applied to a  
9 specialty milk at such a high rate as \$3.50 percent per  
10 hundredweight.

11 Regarding the proposal by Dairy Institute as  
12 it relates to changes in transportation credits, we  
13 have no specific objections at this point and in fact  
14 support the inclusion of Solano and Sonoma Counties as  
15 deficit counties as well the inclusion of all of  
16 Stanislaus County as a supply county.

17 Regarding the original purpose and call of the  
18 hearing, the changes to the accounting system  
19 accounting methods for solids-not-fat, and the adoption  
20 of PC Miler, we offer our support. We have included  
21 and provide to the panel as attachments several backup  
22 documents. I would like to very briefly explain what  
23 we have provided.

24 The documents numbered in the upper right  
25 corner 1A and 1B is a foul surcharge program that's

1 currently in place on about 15 percent of our milk. On  
2 the bottom of page 1B, I have added a box that  
3 summarizes just the changes from '06 to current in the  
4 right-hand column of that box in the red letters.

5 Documents 2A and 2B are another fuel surcharge  
6 program. This is in place on about 45 percent of our  
7 milk. Again the first page, 2A reflects back to July  
8 of '06, 2B reflects June's haul cost, and then in the  
9 right column is the difference between the two from the  
10 date of the last hearing to present, the increased cost  
11 on a hundredweight basis under this program.

12 And both of these are using fuel off the EIDOE  
13 website. 3A and B are another fuel surcharge program.  
14 On 3A, you can see on the bottom that -- which is not  
15 uncommon during these times -- the fuel discharge --  
16 has literally gone off the chart, and I've had to add  
17 the current rate at the bottom. And from '06 to '08 we  
18 have gone from 11 percent to a 29 percent surcharge.

19 The last three -- I'm sorry. 4A and 4B  
20 represent actual copies of invoices for deliveries to  
21 the Bay Area.

22 Then the final three, 5, 6, and 7, are merely  
23 copies of general freight increases other than fuel  
24 costs.

25 I'd like to thank you for the opportunity to

1 testify today. I do request the opportunity to submit  
2 a post-hearing brief, and I would be happy to answer  
3 questions.

4 HEARING OFFICER CLEARY: Thank you, sir. Was  
5 it your intention to have your presentation, the  
6 written portion presented into the record as an  
7 exhibit?

8 MR. STUEVE: Yes, it was.

9 HEARING OFFICER CLEARY: We will present  
10 that -- we will enter that as Exhibit 48 into the  
11 record.

12 (Exhibit 48 was entered into the  
13 record.)

14 HEARING OFFICER CLEARY: And with that, does  
15 the panel have any questions?

16 PANEL MEMBER EASTMAN: I have a question.

17 So it appears then with regard to the actual  
18 rate increases and mileage brackets you haven't really  
19 made any changes from your submitted alternative  
20 proposal; you're sticking with those rates and mileage  
21 brackets?

22 MR. STUEVE: That's correct. We have not made  
23 any changes.

24 PANEL MEMBER LEE: Mr. Stueve, as you heard in  
25 Mr. Korsmeier's testimony, they have changed some of

1 the -- proposed changes in the brackets for southern  
2 California, San Diego. Do you have any comments  
3 regarding their changes?

4 MR. STUEVE: The only thing I'd like to  
5 comment on, I did point out in my testimony that we  
6 used the February actual shipments. That again may not  
7 represent every possible shipment. We did our best to  
8 recognize where our members are.

9 We don't ship nearly the amount of milk from  
10 the south valley into southern California as CDI does.  
11 They may have, and I'm sure do have, additional  
12 information in a broader sense that we don't have  
13 available to us. Their -- if I recall, their mileage  
14 brackets are lower than ours which would not have an  
15 negative impact on us at those lower mileage rates.

16 PANEL MEMBER LEE: Thank you.

17 HEARING OFFICER CLEARY: Any other questions?

18 PANEL MEMBER IKARI: I just want to ask you  
19 the same question that I asked Mr. Korsmeier, and that  
20 is: What kind of actions do you take to ensure that  
21 the haul rates you are being charged in the various  
22 areas are competitive?

23 MR. STUEVE: Much similar to CDI. We're very  
24 active talking to different haulers. There are quite a  
25 few new entries into the hauling arena the last

1 18 months or so. We talk to all of them. We don't  
2 specifically have contracts with any of our haulers.  
3 We have about ten different haulers.

4 So we don't have contracts, but we do  
5 continually -- not on a set schedule, but we do  
6 continually talk to them about it and compare them to  
7 other haulers who are not hauling for us. So we really  
8 use the marketplace to keep our hauling competitive.

9 PANEL MEMBER IKARI: Thank you.

10 HEARING OFFICER CLEARY: Any other questions?

11 PANEL MEMBER DONALDSON: Yeah, addressing  
12 Dr. Schiek's testimony, he indicated that maybe there  
13 should be some further discussion of the indexing. Has  
14 DFA looked at this issue lately, and any thoughts on  
15 the industry getting together to talk about that?

16 MR. STUEVE: I would agree it's a good idea.  
17 We had a proposal in two years ago for that. I think  
18 the feedback from the Department was that the industry  
19 needs to come together and work on that. We would be  
20 open to working on something along that lines.

21 HEARING OFFICER CLEARY: Any other questions?

22 Seeing none, thank you very much for your testimony  
23 today, sir.

24 At this time, I'd like to take a 15-minute  
25 recess. So if we could have everyone take a break, and

1 we'll start up again at 25 minutes after 11:00.

2 (Recess)

3 HEARING OFFICER CLEARY: All right. If  
4 everybody will please start taking their seats, we'll  
5 start up again.

6 And it's my intention, to sort of gauge the  
7 flow this, we've got six people signed up to testify,  
8 and each individual will receive a 20-minute time frame  
9 to make their presentation.

10 So I'm trying to gauge how far or if we go  
11 through lunch, but I'd like to try to wrap it up if it  
12 looks like we're going to before we break for lunch.

13 With that having been said, the first person  
14 on the witness list to testify will be Robert  
15 VandenHeuvel. Thank you, sir.

16 And I don't know if you want to hear my bookie  
17 grandfather story, but I thought it was -- David just  
18 asked me about Nick's Market. I thought it was  
19 charming that my grandfather every Sunday afternoon  
20 would take me to Nick's, buy me comic books, and buy me  
21 a cherry Coke at the fountain.

22 And I remember talking to my mother about it  
23 years later after my grandfather passed away, how it  
24 was just a wonderful memory, my grandfather would take  
25 me down to the corner; and my mother responded in her

1 usual fashion by saying well, hell, he was just going  
2 down to place his bets on the numbers for that week.

3 (Laughter)

4 HEARING OFFICER CLEARY: That Hallmark card  
5 bubble burst for me at that point, so.

6 Good morning, sir.

7 MR. VANDENHEUVEL: Good morning.

8 HEARING OFFICER CLEARY: Could you please  
9 state your name and spell your last name for the  
10 record?

11 MR. VANDENHEUVEL: Robert VandenHeuvel,  
12 V-a-n-d-e-n-H-e-u-v-e-l.

13 HEARING OFFICER CLEARY: And do you swear or  
14 affirm today to tell the truth and nothing but the  
15 truth?

16 MR. VANDENHEUVEL: I do.

17 HEARING OFFICER CLEARY: And are you  
18 testifying on behalf of an organization?

19 MR. VANDENHEUVEL: Milk Producers Council.

20 HEARING OFFICER CLEARY: Wonderful. You may  
21 begin.

22 MR. VANDENHEUVEL: Good morning Mr. Hearing  
23 Officer, members of the panel. My name is Robert  
24 VandenHeuvel. I am general manager of Milk Producers  
25 Council, a producer trade association with

1 approximately 100 dairy members located primarily in  
2 southern and central California. My testimony today is  
3 based on positions adopted by the MPC board of  
4 directors.

5 This hearing process began with the Department  
6 calling a hearing to consider a very specific and  
7 technical issue of modernizations to the accounting  
8 system. Unfortunately, some in this industry have  
9 chosen to exploit this opportunity and attempt to get  
10 further into producers' pockets through increases in  
11 the transportation subsidies.

12 MPC is very concerned about the continued  
13 erosion of Class 1 revenues available to producers due  
14 to the credits and allowances that are deducted from  
15 the pool. Historically speaking, Class 1 raw milk  
16 sales yield a higher price for producers than  
17 manufactured milk products.

18 However, the announced Class 1 milk prices do  
19 not incorporate the transportation and fortification  
20 credits and allowances that are deducted from the Class  
21 1 producer revenues. These deductions from the pool  
22 have grown over the years and now represent a  
23 significant reduction in the pool revenues.

24 According to the Dairy Information Bulletin  
25 published by CDFA, there were 5,855,057,000 pounds of

1 raw milk sold to Class 1 plants in the 12 months  
2 between April 2007 and March 2008. According to CDFA,  
3 \$31,571,589 was taken out of the producer pool during  
4 those 12 months to fund the transportation credits and  
5 allowances.

6 In addition, handlers were given a credit for  
7 fortifying Class 1 milk. The best information  
8 available indicates that during the 12 months of 2006,  
9 \$2,399,720 was taken from the pool to pay for these  
10 fortification credits.

11 Using these figures, for every hundred pounds  
12 of raw milk bottled at Class 1 plants, approximately  
13 \$0.58 is removed from the producer revenues in the form  
14 of transportation and fortification credits and  
15 allowances.

16 These numbers are not reflected in the Class 1  
17 announced minimum price like a make allowance would be,  
18 but they are real reductions of producer receive. And  
19 with each adjustment to the transportation allowances  
20 and credits -- as several parties are advocating  
21 today -- dairy farmers receive a smaller share of Class  
22 1 revenue.

23 As you knew, MPC has proposed to recover these  
24 pool revenues by adding a transportation surcharge to  
25 the Class 1 formula. This would allow the

1 transportation subsidies to be adjusted to reflect the  
2 current fuel price levels but prevent further erosion  
3 of the Class 1 revenue available to producers.

4           The fact is that dairy producers are getting  
5 squeezed. Not only are producers paying a fuel  
6 surcharge on hay and other feed they purchase and haul  
7 to their dairy, they are also paying fuel surcharges on  
8 all the milk they haul off their dairy. And now on top  
9 of that, the Department is considering proposals which  
10 would confiscate even more money from some producers to  
11 be redistributed to others.

12           MPC's alternative proposal would have  
13 correctly placed the burden of increased fuel costs on  
14 the consumer.

15           The Department will do as it sees fit on the  
16 rate adjustments, and MPC takes no position on these  
17 details. However, MPC strongly opposes the proposal by  
18 Humboldt Creamery to dramatically increase the credits  
19 and allowances available on the organic milk they  
20 deliver to southern California.

21           Humboldt is selling a value-added product for  
22 which they are no doubt receiving a substantial premium  
23 and asking the rest of producers to help cover their  
24 freight cost without sharing in the premium. That  
25 takes chutzpah. This is an unfair and inappropriate

1 use of these subsidies, and MPC is strongly opposed to  
2 that proposal.

3 I request the opportunity to submit a  
4 post-hearing brief, and I'm available to answer any  
5 questions panel members may have.

6 HEARING OFFICER CLEARY: Thank you, sir. Was  
7 it your intention today to have your written testimony  
8 included in the record?

9 MR. VANDENHEUVEL: Yes.

10 HEARING OFFICER CLEARY: We'll include that as  
11 Exhibit 49, and it's labeled as such.

12 (Exhibit 49 was entered into the  
13 record.)

14 HEARING OFFICER CLEARY: With that, I'll open  
15 it up for panel questions.

16 PANEL MEMBER HARTMAN: I have a question.

17 You specifically state here: In addition, the  
18 handlers are given a credit for fortifying Class 1  
19 milk. Are you aware of them being charged at all for  
20 that?

21 MR. VANDENHEUVEL: I'm sorry?

22 PANEL MEMBER HARTMAN: Are you aware that  
23 through the pool there is a charge for that also?

24 MR. VANDENHEUVEL: No.

25 PANEL MEMBER HARTMAN: Okay. There is.

1 HEARING OFFICER CLEARY: Any other questions?

2 PANEL MEMBER IKARI: I have a question in  
3 terms of your -- MPC's position, is it fair to the  
4 producers who are serving the Class 1 market to incur  
5 the \$31 million that you talked about that  
6 transportation allowance cost? Is it fair for them to  
7 incur that cost?

8 MR. VANDENHEUVEL: They are not incurring  
9 those costs at this point. I'm addressing any  
10 additional -- what I'm saying is not different than the  
11 alternative proposal that I -- or that MPC proposed to  
12 this hearing. Is that --

13 PANEL MEMBER IKARI: Well --

14 MR. VANDENHEUVEL: We're not making a --  
15 taking a position on the rates. We're taking a  
16 position the money ought to come from consumers, not  
17 from the producers.

18 PANEL MEMBER IKARI: You seem to be upset  
19 about the transportation allowance and credits in your  
20 whole testimony.

21 In the first part at least, you're talking  
22 about how money is taken away from producers. But the  
23 money goes to producers for serving the Class 1 market.  
24 And without it, if all producers get the pool price and  
25 the cost to transport milk to the plant is borne by the

1 producer, isn't all the producer's going to want to  
2 serve the Class 4 market and no milk -- or little milk  
3 supplies go to Class 1, and therefore all producers  
4 will suffer. You don't follow that logic?

5 THE WITNESS: No, I -- I -- our point is  
6 clear, that these credits and allowances ought to be  
7 paid for by the consumer, not passed on to the  
8 producer. We have a difference of opinion on that.

9 PANEL MEMBER IKARI: Have you been told  
10 anything in terms of when pooling was put into effect  
11 that the producers promised the processors that they  
12 would be served -- at least the fluid processors would  
13 be served, and this concern was expressed by the  
14 processors at the time pooling was made effective?

15 MR. VANDENHEUVEL: No. I'm not aware of that.

16 PANEL MEMBER IKARI: Okay. Well, there is a  
17 historical reason for all those programs, and I suggest  
18 that you try to get that background before you testify.  
19 Thank you.

20 MR. VANDENHEUVEL: Noted.

21 HEARING OFFICER CLEARY: Any other questions  
22 from the panel?

23 PANEL MEMBER DONALDSON: On the Department's  
24 proposal to go to the Dairy Accounting System, are  
25 there any thoughts from your organization on going to

1 the PC Miler versus the PUC table?

2 MR. VANDENHEUVEL: No, no. We certainly  
3 admire the Department for the work they've done to have  
4 more accurate representation of the miles that are  
5 traveled. Our board did not take a specific position  
6 on that.

7 PANEL MEMBER DONALDSON: And any other issues  
8 your organization may have regarding going from the  
9 average solids-not-fat to the actual --

10 MR. VANDENHEUVEL: No.

11 PANEL MEMBER DONALDSON: Okay. Thank you.

12 HEARING OFFICER CLEARY: Thank you, Mr.  
13 VandenHeuvel. Appreciate your testimony today. Thank  
14 you for your time.

15 Next I'd like to call up Dennis Brimhall, from  
16 Super Store Industries.

17 Mr. Brimhall, is it?

18 MR. BRIMHALL: Yes.

19 HEARING OFFICER CLEARY: Thank you very much.  
20 Welcome. Could you please state your name and spell  
21 your last name for the record.

22 MR. BRIMHALL: Yes, Dennis Brimhall  
23 B-r-i-m-h-a-l-l.

24 HEARING OFFICER CLEARY: And do you swear or  
25 affirm to tell the truth and nothing but the truth

1 today?

2 MR. BRIMHALL: Yes.

3 HEARING OFFICER CLEARY: And are you  
4 testifying today on behalf of an organization today or  
5 yourself?

6 MR. BRIMHALL: On behalf Super Store  
7 Industries which is a processor.

8 HEARING OFFICER CLEARY: Thank you very much.  
9 You may begin.

10 MR. BRIMHALL: Mr. Hearing Officer and members  
11 of the Hearing Panel, my name is Dennis Brimhall,  
12 controller for Super Store Industries.

13 Our company has plants in Fairfield and  
14 Turlock. We process fluid milk products at our  
15 Fairfield plant and milk, cottage cheese, sour cream  
16 yogurt, and ice cream at our Mid Valley Dairy plant in  
17 Turlock. We supply dairy products primarily to the  
18 Raley's and Save Mart supermarket chains. SSI  
19 management has approved this testimony and the  
20 company's position at this hearing.

21 Super Store Industries is a Dairy Institute of  
22 California member, and we fully support Dairy  
23 Institute's alternative proposal and the testimony  
24 given by its witness Dr. Schiek.

25 Dairy Institute's proposal has a broad

1 prospective and encompasses all transportation  
2 allowances and credits throughout the state. This  
3 approach more is equitable than some of the piecemeal  
4 proposals that address only the interests of their  
5 proponents.

6 Dairy Institute's proposal also resolves an  
7 inequitable situation in northern California by  
8 proposing a transportation credit for plant-to-plant  
9 shipments from Merced and Stanislaus Counties to Solano  
10 and Sonoma counties.

11 I might add, Mr. Lee, you asked Dr. Schiek a  
12 question about if he was aware of any inequities. We  
13 feel there are inequities, and I'll address those as we  
14 go along here.

15 Credits are currently allowed from the supply  
16 counties -- that's Merced and Stanislaus -- to Alameda,  
17 San Francisco, Santa Clara, and Sacramento Counties  
18 which include many of our Class 1 competitors.  
19 However, credits not allowed for shipments to Solano  
20 and Sonoma Counties.

21 Movement of milk between these geographical  
22 areas is logical and reasonable and is a common  
23 practice of processing plants in counties that are in  
24 close proximity to Solano and Sonoma.

25 We believe that transportation credits should

1 be allowed for shipments to Solano and Sonoma counties  
2 to resolve the inequities that currently exist between  
3 various Class 1 processors.

4 We also agree with Dairy Institute's proposed  
5 changes to simplify the definition of the Merced County  
6 and Stanislaus County supply area. The geographical  
7 areas that are defined as marketing areas, haul  
8 regions, ranch-to-plant movement areas are complicated  
9 and inconsistent and divide up the state into various  
10 regions for specific purposes. However, the defined  
11 area for transportation credits appear to follow county  
12 lines with the exception of Stanislaus County.

13 We agree with eliminating the gerrymandered  
14 split and applaud the definition that is based on  
15 county lines and that includes the major processing  
16 plants.

17 The proposed credit will most likely be  
18 associated with shipments of bulk condensed skim that  
19 is used to fortify certain Class 1 products to meet the  
20 higher solids requirements mandated by California  
21 standards.

22 Dairy Institute's proposed changes are  
23 consistent with original intent of transportation  
24 allowances and credits to be used as a mechanism to  
25 encourage the movement of milk to Class 1 plants.

1 Their proposal also corrects inequities that exist in  
2 the current system.

3 Thank you for this opportunity to testify.  
4 I'll try to answer any questions that you have at this  
5 time, and I'd like the opportunity to file a  
6 post-hearing brief.

7 HEARING OFFICER CLEARY: Thank you very much,  
8 sir. And is it your intention to have your written  
9 testimony entered into the record today?

10 MR. BRIMHALL: Yes.

11 HEARING OFFICER CLEARY: I will have that  
12 entered in at this time as Exhibit number 50, and will  
13 be labeled as such.

14 (Exhibit 50 was entered into the  
15 record.)

16 HEARING OFFICER CLEARY: With that, any  
17 questions from the panel? Hearing none, thank you very  
18 much for your testimony today. Appreciate it.

19 The next witness is Mr. Bill Van Dam, Alliance  
20 of Western Milk Producers.

21 Good morning, sir.

22 MR. VAN DAM: Good morning.

23 HEARING OFFICER CLEARY: How are you today?

24 MR. VAN DAM: Fine.

25 HEARING OFFICER CLEARY: If you could state

1 your name and spell your last name for the record.

2 MR. VAN DAM: William C. Van Dam, V-a-n D-a-m.

3 HEARING OFFICER CLEARY: Do you swear or  
4 affirm to tell the truth and nothing but the truth  
5 today.

6 MR. VAN DAM: Yes, I do.

7 HEARING OFFICER CLEARY: And are you  
8 testifying on a behalf of an organization?

9 MR. VAN DAM: Yes, I am, the Alliance of  
10 Western Milk Producers.

11 HEARING OFFICER CLEARY: Thank you very much,  
12 and you may begin.

13 MR. VAN DAM: Mr. Hearing Officer and members  
14 of the panel, my name is William C. Van Dam, and I am  
15 here today representing the Alliance of Western Milk  
16 Producers of which I am the Chief Executive Officer.

17 The Alliance is an association of cooperatives  
18 ans has as its members California Dairies, Dairy  
19 Farmers of America, Western Council, and Humboldt  
20 Cooperative Creamery.

21 We are in support of the amendments proposed  
22 by the Milk Pooling Branch. The arrival of the new  
23 computer program is a welcome event. It clearly has  
24 been increasingly difficult to make updates to the old  
25 system, and the Alliance and its members have been very

1 supportive of the Department's efforts to get the new  
2 one installed.

3           Because of the new programs, it is now  
4 possible to use actual solids-not-fat data instead of  
5 using averages. While this change will cause only  
6 modest changes in the system, it is always better,  
7 especially in this age of powerful computers to deal  
8 with data on a more detailed basis.

9           The addition of PC Miler is also an excellent  
10 move forward. This program is a logical choice for  
11 determining distances between points. I, like many  
12 others, was quite surprised by some of the differences  
13 between the current system and the PC Miler results but  
14 agree that these differences are due more to the  
15 built-in extra considerations in the old PC mileage  
16 tables than to any problems with PC Miler.

17           Appropriate adjustments to the existing  
18 mileage groupings have been proposed that will account  
19 for this one time difference in results.

20           The member organizations will present their  
21 own testimony regarding suggested changes in the  
22 transportation credits and allowances. Thank you for  
23 the opportunity to present this testimony. We  
24 respectfully request the right to submit an  
25 post-hearing brief.

1 HEARING OFFICER CLEARY: Thank you, Mr. Van  
2 Dam. Was it your intention to have your written  
3 testimony included in the record?

4 MR. VAN DAM: Yes, it is.

5 HEARING OFFICER CLEARY: And we will include  
6 that as Exhibit number 51.

7 (Exhibit 51 was entered into the  
8 record.)

9 HEARING OFFICER CLEARY: With that, I'd like  
10 to open it up to questions from the panel.

11 Hearing none, thank you very much for your  
12 time.

13 MR. VAN DAM: Excellent. And I note on the  
14 little timer there that I used 0 time.

15 HEARING OFFICER CLEARY: So noted for the  
16 record.

17 PANEL MEMBER EASTMAN: Thanks for being brief.

18 (Laughter)

19 HEARING OFFICER CLEARY: Next we have a  
20 Mr. Britt, I believe it is, from Clover Stornetta  
21 Farms, Inc.

22 Good morning, sir.

23 MR. BRITT: Good morning.

24 HEARING OFFICER CLEARY: How are you?

25 MR. BRITT: Very good, thanks.

1 HEARING OFFICER CLEARY: Great. If you could  
2 state your name and spell your last name for the  
3 record.

4 MR. BRITT: Mkulima Britt B-r-i-t-t.

5 HEARING OFFICER CLEARY: Thank you, sir. And  
6 do you swear or affirm to tell the truth and nothing  
7 but the truth today?

8 MR. BRITT: I do.

9 HEARING OFFICER CLEARY: Are you testifying on  
10 behalf of an organization?

11 MR. BRITT: Yes, on behalf of Clover Stornetta  
12 Farms.

13 HEARING OFFICER CLEARY: Thank you. You may  
14 begin.

15 MR. BRITT: Thank you.

16 Mr. Hearing Officer and members of the Hearing  
17 Panel. My name is Mkulima Britt. I'm the vice  
18 president of finance for Clover Stornetta Farms, Inc.  
19 I have been an employee of Clover for 12 years and have  
20 been at my current position for the last four years.  
21 In addition to overseeing the finance department, my  
22 responsibilities include the IT, customer service  
23 department, and various aspects of operations.

24 Clover Stornetta is a fluid milk processor and  
25 distributor based in Petaluma, California. Clover

1 Stornetta currently distributes its products primarily  
2 throughout northern California but also on a smaller  
3 scale in parts of southern California and the  
4 neighboring states of Nevada and Arizona.

5           Clover Stornetta currently has 28 producers  
6 under contract who ship both conventional and organic  
7 milk to our plant. Our producers are located in  
8 Sonoma, Marin, Napa and Mendocino Counties. Clover  
9 sells a full line of both conventional and organic  
10 fluid by-products, butter and cheese throughout our  
11 distribution areas.

12           This testimony provides support in general for  
13 the Dairy Institute's proposed transportation allowance  
14 increases and transportation credit increases.

15           Specifically, I will provide evidence and  
16 comment on the need for the transportation allowance  
17 increase to the North Bay Area for 0 to 44 miles to be  
18 \$0.10 per hundredweight or at least as much as the  
19 increase for the 0 to 99 mile bracket for the Bay Area.

20           Clover Stornetta also supports the inclusion  
21 of Solano and Sonoma as designated deficit counties  
22 whereby they would receive a transportation credit for  
23 shipments from the designated supply counties of Merced  
24 and Stanislaus.

25           Clover Stornetta supports the Dairy Institute

1 proposal on transportation allowance and credit  
2 increases in general because of the need for the pool  
3 to continue to encourage the movement of milk to the  
4 nearest Class 1 facility.

5           Historically, the pooling of Class 1 price  
6 removed the incentive for producers to supply Class 1  
7 plants over their local manufacturing plant. In the  
8 absence of such milk movement mechanisms, Class 1  
9 plants would have to pay additional premiums that would  
10 have to be passed on to consumers and would further  
11 depress Class 1 sales.

12           Transportation credits by definition are  
13 reductions in the obligation handlers pay for Class 1  
14 milk that partially compensates for the cost of hauling  
15 milk and condensed skim assigned to Class 1 usage from  
16 plants in the designated supply counties to plants in  
17 the designated deficit counties.

18           Currently Clover Stornetta does not have the  
19 ability or physical space at our processing facility to  
20 make our own condensed skim. Thus, we have always  
21 purchased condensed skim from other processors. At one  
22 time, we were able to source condensed skim from within  
23 Sonoma county. However, that has not been the case for  
24 the last six years.

25           During the last six years, we have purchased

1 skim from several processors from as far away as  
2 Humboldt County, and over the last two years Clover  
3 Stornetta has been purchasing condensed skim from  
4 Stanislaus County which is, at this time, the closest  
5 and most efficient source.

6           While shipments from Merced and Stanislaus  
7 County to other plants in the Bay Area are eligible for  
8 transportation credits, shipments into the North Bay  
9 Area are not. We believe this is unequal treatment  
10 within the pool, and therefore Solano and Sonoma should  
11 be considered deficit counties and thus eligible for a  
12 transportation credit from the designated supply  
13 counties of Merced and Solano of \$0.79 per  
14 hundredweight.

15           Adjustments to the transportation allowance  
16 are necessary due to the recent and dramatic increase  
17 in hauling costs. Please see the attached spreadsheet  
18 of Clover Stornetta Farms history of hauling costs for  
19 reference which is attached to the back.

20           The North Bay Area, Marin, Sonoma, and Solano  
21 Counties have received a transportation allowance since  
22 November of 2004. The North Bay transportation  
23 allowance was created to bring equity to the producers  
24 in the North Bay shipping to both North Bay and Bay  
25 Area Class 1 processors as we all serve the greater Bay

1 Area market.

2           The current rate of this allowance is \$0.19  
3 per hundredweight and has been in effect since April of  
4 2006. In April 2006, the haul rate for our shippers  
5 was 39 and 3/4 cents per hundredweight. Incorporating  
6 the transportation allowance of \$0.19, the landed cost  
7 to our producers to our plant was \$0.21.

8           As of June 1, 2008, the producer haul rate was  
9 55 or almost \$0.56, an increase of 16 -- over \$0.16  
10 16.21 cents or over 40 percent from April 2006.

11           Even absent of fuel surcharges, the base rate  
12 for our producers has increased eight and a quarter  
13 cents or more than 22 percent since April 2008.

14           As of June 2008, the landed costs for our  
15 producers to our plant including the transportation  
16 allowance is now \$0.37. The \$0.16 increase to the  
17 producers' net cost is over 78 percent.

18           The Dairy Institute's proposal for the North  
19 Bay transportation allowance calls for an increase to  
20 be 44 to 99, and 99-plus mileage areas. Other  
21 proposals call for an increase of \$0.10 per  
22 hundredweight -- and also \$0.09 per hundredweight, I  
23 will add -- to the 0 to 99 mile bracket for the Bay  
24 Area.

25           Given the most recent data, I believe our

1 costs have increased as much or more than those of the  
2 other areas, and we believe that the transportation  
3 allowance increase for the North Bay area 0 to 44 mile  
4 bracket should be at least \$0.10 to maintain equity  
5 among the producers in the area.

6 Conclusion: We wholeheartedly support the  
7 Dairy Institute's proposal to include Solano and Sonoma  
8 Counties as deficit areas with respect to  
9 transportation credit of \$0.79 per hundredweight for  
10 shipments from Merced and Stanislaus Counties.

11 As a key supplier to the Bay Area market area,  
12 we believe this change is necessary to allow all Class  
13 1 processors supplying the Bay Area to be on a level  
14 playing field. We also support the Dairy Institute's  
15 proposal to increase transportation allowances in  
16 general; however, we contend the increase for the 0 to  
17 44 mile bracket in the North Bay Area should be \$0.10  
18 per hundredweight or at least as much as the increase  
19 for the 0 to 99 mile bracket of the Bay Area.

20 The overall costs to our producers have  
21 increased 40 percent gross and over 78 percent net with  
22 the current transportation allowance of \$0.19 factored  
23 in.

24 We believe that the March 2008 CDFA haul  
25 survey did not capture our most recent increases which,

1 including base rate and fuel surcharges, appear to be  
2 among the highest in the state.

3 Thank you for giving me this opportunity to  
4 testify. I do request an opportunity to submit a  
5 post-hearing brief. And at this time, I'd be happy to  
6 answer any questions.

7 HEARING OFFICER CLEARY: Thank you, Mr. Britt.  
8 Was it your intention to have your written testimony  
9 included in the record?

10 MR. BRITT: Yes, it is.

11 HEARING OFFICER CLEARY: Then we'll label that  
12 Exhibit number 52 and enter that into the record at  
13 this time.

14 (Exhibit 52 was marked for  
15 identification.)

16 HEARING OFFICER CLEARY: With that, does the  
17 panel have any questions?

18 PANEL MEMBER HARTMAN: I just have a  
19 clarification, and it could be right. I'm just looking  
20 at it. On page 2 of your testimony you say here that:  
21 From June 1, 2008 the producer haul rate was -- and  
22 then it goes on to say: Over 40 percent from  
23 April 2006. Even absent a fuel surcharge the base rate  
24 for our producers has increased eight and a quarter or  
25 more than since April 2008?

1           MR. BRITT: That's correct. We just recently  
2 went out to bid for our hauling. And we did select the  
3 lowest bidder, but that rate came in -- the base rate  
4 came in at eight and a quarter cents higher than our  
5 previous rate.

6           PANEL MEMBER HARTMAN: Previous from?

7           MR. BRITT: From 2006.

8           PANEL MEMBER HARTMAN: So --

9           MR. BRITT: So within the last two months, as  
10 the attachment shows on the back, within the last two  
11 months, the base rate has gone up eight and a quarter  
12 cents.

13          PANEL MEMBER HARTMAN: Okay, thank you.

14          HEARING OFFICER CLEARY: Any other questions?  
15 Hearing none, thank you very much for your time and  
16 testimony today, sir.

17          MR. BRITT: Thank you.

18          HEARING OFFICER CLEARY: I'd like to call  
19 Michael Marsh -- and I almost messed this up and said  
20 prairiemen but it's dairymen. A little late in the  
21 hearing. Good morning.

22          MR. MARSH: Good morning.

23          HEARING OFFICER CLEARY: Could you please  
24 state your name and spell your last name for our  
25 record.

1 MR. MARSH: Michael Marsh M-a-r-s-h.

2 HEARING OFFICER CLEARY: Thank you. And do  
3 you swear or affirm to tell the truth and nothing but  
4 the truth today?

5 MR. MARSH: Yes.

6 HEARING OFFICER CLEARY: Are you testifying on  
7 the behalf of an organization?

8 MR. MARSH: Yes. Western United Dairymen.

9 HEARING OFFICER CLEARY: Thank you very much.  
10 You may begin, sir.

11 MR. MARSH: Mr. Hearing Officer and members of  
12 the panel. My name is Michael Marsh and I'm the Chief  
13 Executive Officer of Western United Dairymen.

14 Our association is the largest dairy producer  
15 trade association in California representing  
16 approximately 100 of the state's dairy families. We  
17 are a grassroots organization headquartered in Modesto,  
18 California.

19 An elected board of directors governs our  
20 policy. The Western United Dairymen Dairy Programs  
21 Committee May 23, 2008 and the board of directors met  
22 June 20, 2008 to approve the position I will present  
23 here today.

24 When the pooling system was implemented in  
25 California, certain contractual arrangements between

1 producers and processors were eliminated and incentives  
2 to ship to a fluid plant likely a longer distance were  
3 removed.

4 Producers made the commitment to assure supply  
5 to the Class 1 market in exchange for the benefit of  
6 all producers sharing in the revenues from the higher  
7 value Class 1 sales. Many producers look at their own  
8 hauling and fuel costs and wonder why they should also  
9 be required to fund transportation incentives.

10 Transportations costs to the dairymen have  
11 increased in step with those of the processing plants,  
12 yet there is no way for producers to recoup the added  
13 expenses. This is a hard concern to address. Those  
14 producers in support of funding the transportation  
15 incentive system would like to offer the following  
16 points.

17 First, contrary to the belief of some,  
18 transportation allowances are paid to producers, not  
19 plants, supplying the Class 1 market. The added cost  
20 incurred to ship to a fluid plant is somewhat offset by  
21 the allowance and is returned to the producer either  
22 through their cooperative or directly in their milk  
23 statement if they are an independent shipper.

24 The revenues from the sales of those  
25 producers' milk to the Class 1 market is shared equally

1 by all producers through the pool. Allowances on  
2 ranch-to-plant shipments constitute the largest share  
3 or about 96 percent of the cost to the pool from the  
4 transportation system.

5 The use of transportation credits in the  
6 plant-to-plant shipments has declined rapidly.

7 The transportation system is not perfect.  
8 However, it serves the function of helping to maintain  
9 California's Class 1 markets in returning those dollars  
10 to the pool. Even though Class 1 utilization in the  
11 state has declined, it is still in a producer's best  
12 interest, at least financially, to protect the Class 1  
13 market.

14 California processors have been effective in  
15 recapturing Class 1 markets from out-of-state sources.  
16 Data provided by the Department shows that the  
17 percentage of California Class 1 served by imported  
18 bulk milk has declined from a high of nearly 17 percent  
19 in April 2006 to under 8 percent in January 2008.

20 In the same months, actual California pooled  
21 milk utilized as Class 1 grew from 401.3 million pounds  
22 in April 2006 to 531.5 million pounds in January 2008,  
23 an increase of 32 percent.

24 An effective transportation system should help  
25 maintain these positive trends by allowing California

1 producers and processors to competitively service the  
2 Class 1 market.

3           Producers who service the Class 1 market  
4 should be rewarded. Without incentive to ship to more  
5 distant fluid plants supplies available to the Class 1  
6 market would likely dwindle. Processors would be  
7 forced to pay larger over-order premiums to attract the  
8 milk or would likely opt to obtain milk from  
9 out-of-state sources or simply relocate outside of  
10 California.

11           Although there is support and rationale to  
12 maintain the current transportation system, upon review  
13 of materials released by the Department in preparation  
14 for this hearing our board of directors continues to  
15 raise concern over growing costs.

16           It is apparent there are -- excuse me. It is  
17 apparent that the current milk movement system has  
18 flaws that need to be addressed. However, it is also  
19 apparent that there are no easy solutions.

20           Dynamic changes continue to evolve within the  
21 state. While this hearing does not deal with major  
22 changes, it is becoming clear that at some point the  
23 industry may need to seriously consider how we adapt  
24 the system to meet current and impending challenges.

25           For instance, evidence shows that the southern

1 California milk supply continues to decline. The cost  
2 of the transportation incentive program has reached  
3 nearly \$2.5 million in recent months, a cost far in  
4 excess of what anyone would like to see.

5 As availability of milk in southern California  
6 deteriorates, how will we continue to address the need  
7 to supply the Class 1 market and minimize cost to the  
8 pool?

9 Our committee and board both agree with and  
10 continue to support guidelines set forth by the  
11 Department during the last hearing with respect to  
12 setting transportation incentives.

13 First, producers who serve the Class 1 market  
14 ought to be rewarded. Second, the closest milk to the  
15 market ought to move first. Third, a regulated system  
16 ought to attempt to minimize cost to the pool.

17 We strongly encourage the Department to stay  
18 committed to these basic tenets in their review of the  
19 proposals at hand as well as in the recommendations to  
20 the Secretary.

21 We agree with the basic guiding principle that  
22 has been historically used: Through transportation  
23 allowances, shippers should be made indifferent when  
24 choosing to ship milk locally or to the more distant  
25 and presumably higher usage plant.

1           We also agree with the Department that a  
2   shortfall should continue to exist in the structure of  
3   any area receiving a transportation allowance to  
4   encourage the closest milk to move first.

5           With regard to CDFA technical amendments,  
6   Western United Dairymen supports the technical  
7   amendments to the Pooling Program as proposed by the  
8   CDFA. All three amendments are improvements to current  
9   practice and will aid the Department in accuracy and  
10  efficiency.

11           California Dairies increase in transportation  
12  allowances. We support the transportation allowance  
13  increases requested by CDI. To the best of our  
14  knowledge, the requested increases are cost-justified  
15  and necessary to maintain an adequate supply of milk to  
16  Class 1 markets.

17           Unfortunately, we do not have access to  
18  hauling rates or milk movement data other than that  
19  provided by the Department. As we witnessed over the  
20  past years, the elements of hauling costs are in  
21  constant flux. According to CDI, the proposed rates  
22  are based on actual hauling rates with a shortfall  
23  maintained for farther out distances.

24           Increases in transportation credits for milk  
25  and condensed skim: We cannot support any requests for

1 increases in transportation credits for milk and  
2 condensed skim.

3 Other alternative proposals: Western United  
4 Dairymen does not support any alternative proposals.

5 We thank you very much for the opportunity to  
6 testify and request the opportunity to submit a  
7 post-hearing brief.

8 HEARING OFFICER CLEARY: Thank you, sir. Was  
9 it your intention to have your written testimony  
10 included in the record?

11 MR. MARSH: Yes, please. If you fix that  
12 typo.

13 HEARING OFFICER CLEARY: We'll fix whatever  
14 you'd like. We'll enter this into the record with the  
15 correction on the typo. Exhibit number 53.

16 (Exhibit 53 was marked for  
17 identification.)

18 HEARING OFFICER CLEARY: With that, does the  
19 panel have any questions? Seeing none, thank you very  
20 much for your testimony today, sir.

21 Lastly, Kevin Abernathy, California Dairy  
22 Campaign. I'm also going blind as I age, in addition  
23 to joint pain, which you don't want to hear about and  
24 all the other problems I have. Getting old is not --  
25 it's highly overrated.

1           PANEL MEMBER IKARI: Better than the  
2 alternative.

3           HEARING OFFICER CLEARY: Good morning.

4           MR. ABERNATHY: Good morning.

5           HEARING OFFICER CLEARY: I can't think of a  
6 better time to have you state your name and spell your  
7 last name for the record.

8           MR. ABERNATHY: Can you say that one more  
9 time? That one might stick with me. Kevin Abernathy  
10 A-b-e-r-n-a-t-h-y.

11          HEARING OFFICER CLEARY: Thank you, sir. Do  
12 you swear or affirm to tell the truth and nothing but  
13 the truth today?

14          MR. ABERNATHY: I do.

15          HEARING OFFICER CLEARY: Are you testifying  
16 today on behalf of an organization?

17          MR. ABERNATHY: Yes, the California Dairy  
18 Campaign and California Farmers Union.

19          HEARING OFFICER CLEARY: The you. You may  
20 begin.

21          MR. ABERNATHY: Thank you. Mr. Hearing  
22 Officer and members of the panel, my name is again  
23 Kevin Abernathy. I currently serve as Executive  
24 Director of the California Dairy Campaign. I'm  
25 testifying today behalf of CDC, and CDC also speaks

1 today on behalf of farmer-rancher members of the  
2 California Farmers Union.

3 The testimony that I am presenting today is  
4 based upon the positions adopted by the CDC board of  
5 directors during our June 25th board meeting.

6 California Dairy Campaign opposes the petition  
7 put forth by California Dairies Inc., and other  
8 alternative proposals that would increase the  
9 transportation allowances and credits paid by  
10 producers.

11 We support the alternative proposal but forth  
12 by Milk Producers Council that would require the  
13 inclusion of an equivalent transportation surcharge in  
14 the Class 1 formula to account for any increase in  
15 transportation allowances and credits.

16 The inclusion of a transportation surcharge in  
17 the Class 1 formula will capture the increased  
18 transportation cost from marketplace and establish a  
19 system -- and help to establish a system that is more  
20 balanced.

21 Increased energy prices have taken a toll on  
22 everyone across the state including the dairy farmers.  
23 The processors are most certainly not alone when it  
24 comes to higher input costs, but producers' costs have  
25 continually increased due to record fuel and feed

1 prices. Not only do procedures have to pay for the  
2 increased transportation costs associated with all of  
3 their inputs on farm, they must also pay to transport  
4 their products off the farm.

5           The best solution to covering the rising  
6 transportation costs to the processors is the  
7 establishment of a transportation surcharge that will  
8 increase the Class 1 minimum price in accordance with  
9 any increase in transportation allowances and credits.

10           The transportation surcharge called for in the  
11 MPC alternative proposal would ensure that any increase  
12 in energy costs would be recouped from the marketplace,  
13 again not by the dairy producers who are already paying  
14 record high fuel and feed prices.

15           When producers pay to subsidize processor  
16 transportation costs, it eliminates any incentives for  
17 plants to efficiently transport milk. Plants should  
18 incorporate in areas that enable them efficiently  
19 transport milk from producer to consumer.

20           The processor is responsible for delivering  
21 milk from the producer to the consumer, and they are  
22 well-paid to meet this responsibility. Any increases  
23 in transportation costs should be paid, again, by the  
24 buyer of the milk not the producer of the milk.

25           I'm going to go off my written testimony just

1 a second. We feel very strongly the Department has to  
2 look at the monopoly of transportation we have in  
3 California today. How you can get a competitive bid  
4 when there's virtually one competitive bidder out there  
5 is beyond me.

6           Number two, you must look at how these  
7 companies hedge and forward contract their fuel  
8 agreements along with the significant volume discounts  
9 that a large fleet in this state receives on a monthly  
10 basis based on total volume of fuel purchased.

11           And you also need look at the logistics of the  
12 movement of milk as it relates to the profitability of  
13 these companies.

14           I find it interesting knowing a lot of people  
15 in the transportation industry that continually laugh  
16 as they talk on the CB radio, one headed east and one  
17 headed west, when we have milk, in this case a lot of  
18 organic milk, that's coming from California dairies  
19 moving out of the state and organic milk coming from  
20 out of state coming into the state. Absolutely  
21 ludicrous, any way you shake it.

22           I will not deny the cost of increase for  
23 everybody in California, even us as consumers. But  
24 fuel surcharges have become a profit center rather than  
25 the ability to assist in the cost of transportation,

1 and I do have some examples.

2 One examples would be there is a current fuel  
3 surcharge of \$1,136 on a haul that the fuel cost at \$5  
4 a gallon is \$375. That's a profit of \$761 in a fuel  
5 surcharge that's being paid.

6 With that, the California Dairy Campaign would  
7 like to thank the Department for the opportunity to  
8 present our views today, and we would also like to  
9 request the opportunity to submit a post-hearing brief.

10 Thank you.

11 HEARING OFFICER CLEARY: Thank you, sir. Was  
12 it your intention to have your written testimony  
13 included in the record.

14 MR. ABERNATHY: Yes, sir.

15 HEARING OFFICER CLEARY: Then we'll include it  
16 in as Exhibit 54 into the record.

17 (Exhibit 54 was marked for  
18 identification.)

19 HEARING OFFICER CLEARY: And with that, any  
20 questions of the panel?

21 PANEL MEMBER IKARI: Was it your testimony  
22 there's only one hauler in the state?

23 MR. ABERNATHY: There is one significant  
24 hauler in the state, that is correct. There is  
25 numerous smaller companies that might have -- maybe 12,

1 15, 20-type power units. But in comparison to the  
2 virtually couple hundred power units of the large  
3 organization, it's pretty miniscule. And we all know  
4 the economies of scale, David.

5 PANEL MEMBER IKARI: Do you -- are you  
6 involved in competitive bids of hauling milk.

7 MR. ABERNATHY: I've been involved in  
8 transportation for a lot of years, and a lot of my  
9 friends and family are in the transportation of milk.

10 PANEL MEMBER IKARI: What you're telling me is  
11 that there's -- are you telling the panel there's no  
12 difference in the bids?

13 MR. ABERNATHY: No. It's very difficult to  
14 get a competitive bid. If I'm a small fleet, and  
15 you're a large fleet there's no way I'm going be able  
16 to compete with the volumes you are going to be able to  
17 competitively bid.

18 PANEL MEMBER IKARI: Okay.

19 MR. ABERNATHY: It's a captive market I think  
20 was the comment I made.

21 PANEL MEMBER IKARI: But there's no evidence  
22 to suggest that it could be hauled cheaper by coops,  
23 for example?

24 MR. ABERNATHY: I'll give you an example.  
25 There's a rate right now, it's 2.88 a mile in

1 comparison to the 3.50 a mile that Humboldt proposed.  
2 They're going to lose. So I know there are very  
3 competitive rates out there.

4 PANEL MEMBER IKARI: Okay.

5 MR. ABERNATHY: In the absence of knowing what  
6 those contracts are by the Department, it's very  
7 difficult to make a determination whether the current  
8 system is working and it's competitive and it's also,  
9 you know, allows companies to operate at a margin of  
10 profit. That's my point.

11 HEARING OFFICER CLEARY: Any other questions?

12 PANEL MEMBER LEE: In line with that  
13 questioning, thinking, do you have any alternatives,  
14 methods that -- how we should haul milk in terms of  
15 finding a means to do --

16 MR. ABERNATHY: It's not so much -- Mr. Lee,  
17 it's not so much alternatives as far as how to haul  
18 milk. I would say that the logistics aspect is  
19 something that definitely needs to be looked at by the  
20 Department. There is milk crossing paths that could go  
21 in a very short distance to the plant that's crossing  
22 milk going a longer distance to the plant. It happens  
23 every day.

24 And it's dispatch. It's logistics. When I  
25 worked for Safeway, that's exactly I mean. We were on

1 a very, very tight time frame and were monitored  
2 constantly by GPS, all our truck movements, and we  
3 simply got hammered if we did things improper.

4 So there are mechanisms out there to simplify  
5 and make more efficient movement of milk.

6 PANEL MEMBER LEE: Thank you.

7 HEARING OFFICER CLEARY: Any other comments?  
8 If not, thank you very much for your testimony today.  
9 Appreciate it.

10 MR. ABERNATHY: Thank you.

11 HEARING OFFICER CLEARY: With that, since  
12 there have been so many requests for post-hearing  
13 briefing period, I'm going to grant those requests and  
14 we'll hold the record open until July 8th close of  
15 business.

16 Information and responses to that can be  
17 mailed to the Department at 560 J Street, Suite 150,  
18 Sacramento, California 95814.

19 In addition, you can fax that information area  
20 code 916-341-6697.

21 And you can also utilize Mr. Ikari's e-mail  
22 address at dikari@cdfa.ca.gov.

23 Once again, that's close of business on July  
24 8. And with that, I thank you all very much for your  
25 time and putting up with my corny stories. And with

1 that, I declare the hearing closed.

2 \* \* \*

3 (Thereupon the DEPARTMENT OF FOOD AND  
4 AGRICULTURE meeting adjourned at 12:13  
5 p.m.)  
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1 CERTIFICATE OF REPORTER

2 I, LINDA KAY RIGEL, a Certified Shorthand  
3 Reporter of the State of California, do hereby certify:

4 That I am a disinterested person herein; that  
5 the foregoing DEPARTMENT OF FOOD AND AGRICULTURE  
6 meeting was reported in shorthand by me, Linda Kay  
7 Rigel, a Certified Shorthand Reporter of the State of  
8 California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said meeting nor in  
12 any way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my  
14 hand this July 7, 2008.

15  
16  
17  
18

19 LINDA KAY RIGEL, CSR  
20 Certified Shorthand Reporter  
License No. 13196

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