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June 21, 2002

The Honorable Bill Lyons, Secretary  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814

***Re: Petition for a Class 4a and 4b Hearing***

Dear Mr. Secretary:

As you are aware, effective January 1, 2002 manufacturing cost allowances in the California Class 4a (milk used in butter and nonfat dry milk) and 4b (milk used in cheese) pricing formulas were increased as a result of a public hearing held November 2001. Utility costs, which were updated for the month of September 2001, indicated increased natural gas and electricity costs for butter, powder and cheese manufacturers. The increases in the manufacturing cost allowances were based solely on these utility updates, not on fully updated manufacturing cost audits. At the time of the hearing, Western United Dairymen argued that any changes to the manufacturing cost allowances should be based on audited **total** manufacturing cost data, not just updated utility costs. Unfortunately, the department was unable to provide total cost updates and the hearing proceeded with only updated utility figures available.

Over the past several months, Western United Dairymen has tried repeatedly to acquire updated manufacturing cost data from the department. Unfortunately, the department has not been forthcoming with the requested data. At the recent Dairy Advisory Committee meeting, we were informed that updated total manufacturing cost data would not be available until November 2002.

While we continue to feel it is advantageous to provide **total** updated cost data, we are also aware that the energy crisis which processing plants faced early in 2001 has eased substantially. Furthermore, we cannot ignore that it has been over six months since the department has released updated manufacturing utility cost data. Currently, it seems as if our only means to discover the data needed to set the appropriate manufacturing cost allowance is to file a petition with the department. We simply cannot afford to allow producers, whom are currently faced with falling prices with no reprieve in the near future, to cover higher make allowances that do not accurately reflect current costs.

Therefore, we respectfully petition the department to hold a Class 4a and 4b public hearing. Because current data is not yet available, we ask the department to consider rolling back the manufacturing cost allowances to the pre-January level. Attached are proposed changes to the Stabilization and Marketing Plan. These proposed changes are subject to revision when updated data is made available.

The Honorable Bill Lyons

June 21, 2002

Page 2

We would also like to extend this hearing beyond manufacturing cost allowances to consider a few additional components in the Class 4a and 4b formulas. Specifically, for Class 4a, we would like to take a look at the butter and powder yields and the transportation adjustment. These components are currently based on outdated data and must be reviewed for accuracy. The department has indicated that studies addressing both of these items will be made available in August. A study released by CDFA in 1998 indicates that the powder yield, at the low end, should be closer to 1.0111, not the 0.99 that is currently used. The weighted average powder yield indicated in the study is 1.0252. Furthermore, the transportation adjustment currently used in the 4a formula (4.5 cents) is based on outdated butter sales data. Data gathered from Dairy Market News Western butter reports indicate that, on average, since January 2001, bulk butter has ranged from 2.0 to 4.2 cents under market, based on the CME with various time frames and averages. Attached are proposed changes to the Stabilization and Marketing Plan. Again, these proposed changes are subject to revision when updated data is made available.

For Class 4b, we would like to review the yield factor for cheddar cheese and the inclusion of a whey solids component. Phil Tong, professor at Cal Poly, has recently released data on California milk composition. Data of this nature has never before been available in California. A preliminary review of the data shows composition levels that, when passed through the Van Slyke cheese yield formula, indicate a cheese yield closer to 10.20, rather than the yield of 10 that is currently used. We would like to work with the department and other organizations to ascertain the appropriate cheese yield that should be used. Attached are proposed changes to the Stabilization and Marketing Plan. Again, these proposed changes are subject to revision when updated data is made available.

We look forward to your response and thank you for your careful consideration of this very important request.

Very truly yours,

*Signed by Michael L.H. Marsh*

Michael L. H. Marsh, CPA  
Chief Executive Officer

cc: David Ikari, Chief  
Board of Directors, Western United Dairymen

Section 300.0

(D) The minimum prices to be paid for components used for Class 4a shall be computed as follows:

- (1) For all milk fat, not less than the price per pound computed by the formula using the simple average of the Grade AA butter price quotations for the last significant trading action for the sale, offer or bid of butter at the Chicago Mercantile Exchange, less freight adjustment of ~~four and five-tenths cents (\$0.045)~~ three cents (\$0.03), less a manufacturing cost allowance of ~~ten and two-tenths cents (\$0.102)~~ nine and seven-tenths cents (\$0.097), and the result multiplied by a yield factor of 1.2.
- (2) For all milk solids-not-fat, not less than the weighted average price per pound for all Grade A and extra grade nonfat dry milk for human consumption sold f.o.b. California manufacturing plants for the period beginning the 26<sup>th</sup> day of the previous month and concluding the 25<sup>th</sup> day of the current month, as reported by the California Department of Food and Agriculture for the month, less a manufacturing cost allowance of ~~sixteen and one-tenth cents (\$0.161)~~, fourteen cents (\$0.14) multiplied by a yield factor of ~~ninety-nine hundredths (0.99)~~ one and one hundredths (1.01).

(E) The minimum prices to be paid for components used for Class 4b shall be computed as follows:

- (1) The Cheese hundredweight price shall be the price per hundredweight computed by the sum of the following:
  - a) The price per hundredweight computed by using the simple average of the 40 pound block price quotations for the last significant transaction for Cheddar cheese at the Chicago Mercantile Exchange, less a marketing adjustment of one and two-tenths cent (\$0.012), less a Cheddar cheese manufacturing cost allowance of ~~seventeen and six-tenths cents (\$0.176)~~ of sixteen and nine tenths cents (\$0.169), all multiplied by a yield factor of ~~ten (10)~~ of ten and 20 hundredths (10.20).
  - b) The price per hundredweight computed by the formula using the simple average of the Grade AA butter price quotations for the last significant trading action for the sale, offer or bid of butter at the Chicago Mercantile Exchange, less a manufacturing cost allowance of ~~ten and two-tenths cents (\$0.102)~~ nine and seven-tenths cents (\$0.097), less ten cents (\$0.10), all multiplied by a yield factor of twenty-seven-hundredths (0.27).
  - c) The price per hundredweight computed by the formula using the simple average of the Western Mostly dry whey prices as published in the United States Department of Agriculture's Dairy Market News,

The Honorable Bill Lyons

June 21, 2002

Page 4

less a manufacturing cost allowance of 14 cents (\$0.14), all multiplied by a yield factor of five and seventy-five hundredths (5.75).