

Testimony of Dennis Brimhall
Representing Super Store Industries
at the
Stabilization and Marketing Plan Hearing
Sacramento, California
May 3, 2005

Mr. Hearing Officer and Members of the Hearing Panel:

My name is Dennis Brimhall and I am the Controller for Super Store Industries. Our company has plants in Fairfield and Turlock. We process fluid milk products at our Fairfield plant and milk, cottage cheese, sour cream, yogurt and ice cream at our Mid Valley Dairy plant in Turlock. We supply dairy products primarily to the Raley's and Save Mart supermarket chains. I was directed by our company management to testify as to our company's position at this hearing.

Super Store Industries is a member of Dairy Institute of California and we fully support the proposal contained in Dairy Institute's petition and with the testimony given by Dairy Institute's witness, Dr. Schiek, at this hearing. We agree with Dairy Institute, that the current Class 1 prices in California are too high given the structure of the California market, namely its low Class 1 utilization, stagnant Class 1 usage, low cost of milk production relative to other areas, and high Class 1 price relative to the price of manufacturing milk classes. The foregoing provides enough justification for a reduction in California's regulated Class 1 prices; however, we want the Department to be aware of developments in the marketplace that also suggest that reductions in Class 1 prices are necessary.

The dairy industry in California and throughout most of the country has been heavily regulated to protect the producers, processors and consumers and to protect the public interest by providing an adequate supply of healthy dairy products. For the most part, this regulation has accomplished its objective. The regulatory process has provided a set of rules in which all stake holders can operate and compete fairly and openly.

However, through loopholes in the law and the intentional deregulation of the Western FMMO, the old rules no longer apply. An equitable market place cannot exist when some of the players are regulated and some are not. Low cost, unregulated milk has been entering southern California for some time and more recently, low cost unregulated milk is now at the northern California doorstep in the Reno, NV market. The Nevada State Dairy Commission Retail Milk Price survey for the month of March shows that Smith's was selling milk at \$2.00 per gallon. This product is shipped in from their Layton, Utah processing plant. This price is considerably lower than other milk in the Reno - Sparks survey, even lower than the prices at Sam's Club, Super Wal-Mart and WinCo, stores who have a well deserved reputation for having the lowest legal prices.

Along with California, the Nevada Dairy Commission is also grappling with the issue of low cost imported milk. By paying lower unregulated prices for their raw milk and by creative cost allocations, Smith's has undercut everyone else in the Reno market. The Executive Director at the Dairy Commission is holding a series of forums to find a resolution to this problem.

In many of the proposals filed with CDFA relating to this hearing, there is a comparison of California Class 1 prices to those in surrounding areas. Adjacent regulated Class 1 prices are no longer the appropriate measuring stick to determine whether California Class 1 prices are adequate to allow California processors to be competitive. We agree with Dairy Institute that what constitutes a "reasonable relationship" is not necessarily an equality of Class 1 prices with surrounding states. The issue of critical importance is the California dairy industry's ability to compete with lower-priced, unregulated milk.

Dairy Institute's proposal reduces the cost of raw milk by about \$.88/cwt. I have reviewed an independent estimate of the cost advantage of out of state bulk milk which shows the difference of \$.82/cwt. lower for 2004. These are both consistent with the lower price of whole milk in the March Reno - Sparks price survey when compared to the lowest lawful price allowed in northern California during the same period (after adjustment for the difference in standards).

It seems clear that in the surrounding unregulated areas, effective Class 1 prices are lower. We certainly can see that in the southern California situation and in milk coming into the Reno area from the former Western FMMO. I suspect that the majority of the California producers are not prepared to eliminate the regulatory provisions, so I believe that the Dairy Institute of California's proposal is an effective way of working within the system to address both the economic fundamentals of our Class 1 market structure in California and the growing influence of unregulated milk.

Thank you very much for the opportunity to testify and I am willing to answer any questions you have at this time. I would also like the opportunity to file a post-hearing brief.

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Nevada State Dairy Commission

Retail Milk Price Survey March 2005

Reno - Sparks Out-of-Store Price for One Gallon of Milk

The March survey is based on unaudited data collected between March 7-8, 2005.

| Store Name and Location | Milk Label | Whole | 2 Percent | 1 Percent | Non-Fat |
|--|-------------|--------|-----------|-----------|---------|
| Albertson's 2150 Oddie Blvd. Sparks | Albertson's | 3.39 | \$3.25 | \$3.25 | \$3.19 |
| | Good Day | \$2.79 | \$3.19 | \$3.25 | \$3.19 |
| | Model Dairy | \$3.79 | \$3.65 | \$3.65 | \$3.59 |
| Raley's 4047 S Virginia St. Reno | Bayview | n/a | n/a | n/a | n/a |
| | Sunnyside | \$2.79 | \$2.59 | \$2.59 | \$2.39 |
| Safeway 4823 Kietzke Lane Reno | Dairy Glen | \$2.79 | \$2.59 | \$2.59 | \$2.39 |
| | Lucerne | \$2.99 | \$2.99 | \$2.99 | \$2.79 |
| | Model Dairy | \$3.89 | \$3.69 | \$3.69 | \$3.49 |
| Sak'n'Save 1000 E Plumb Lane Reno | Bayview | \$2.68 | \$2.45 | \$2.38 | n/a |
| | Model | \$3.25 | \$3.18 | \$3.07 | \$2.98 |
| | Sunnyside | \$2.79 | \$2.59 | \$2.49 | n/a |
| Sam's Club * 4835 Kietzke Lane Reno | Creamland | \$2.35 | \$2.24 | \$2.11 | \$2.11 |
| | Model | n/a | n/a | n/a | n/a |
| Scolari's 8165 S Virginia Street Reno | Bayview | \$2.79 | \$2.59 | \$2.59 | \$2.39 |
| | Model | \$3.49 | \$3.29 | n/a | \$2.69 |
| | Sunnyside | \$2.99 | \$2.79 | \$2.79 | \$2.59 |

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|-------------------------------|----------------|--------|--------|--------|--------|
| Smith's * | Model Dairy | \$3.39 | \$3.39 | \$3.29 | \$3.19 |
| 175 Lemmon Dr | Mountain Dairy | \$2.79 | \$2.00 | \$2.00 | \$2.00 |
| Reno | Smith's | \$2.89 | \$2.69 | \$2.69 | \$2.49 |
| Super Wal-Mart | Great Value | \$2.84 | \$2.72 | \$2.55 | \$2.27 |
| W McCarran Blvd. | Model Dairy | \$3.28 | \$3.07 | \$2.97 | \$2.67 |
| Reno | | | | | |
| WinCo | Flavorite | \$2.58 | \$2.38 | \$2.28 | \$2.18 |
| 9750 S Virginia Street | Model Dairy | \$2.73 | \$2.53 | \$2.43 | \$2.58 |
| Reno | | | | | |

*Requires a club card for this purchase price.

Average price for Reno/Sparks: **Whole** \$3.01 per gallon, down 10 cents from March.
 Average price for Reno/Sparks: **2 percent** \$2.85 per gallon, down 4 cents from March.
 Average price for Reno/Sparks: **1 percent** \$2.78 per gallon, down 9 cents from March.
 Average price for Reno/Sparks: **Non-Fat** \$2.71 per gallon, up 1 cent from March.

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|-----------------|------|-----------|---------------|------------|
| Battle Mountain | Elko | Las Vegas | Reno & Sparks | Winnemucca |
|-----------------|------|-----------|---------------|------------|

Mike Compston, Executive Director

RENO

Nevada State Dairy Commission
 4600 Kietzke Lane, Suite A107
 Reno, Nevada 89502
 775.688.1211
 Fax: 775.688.1218

LAS VEGAS

Nevada State Dairy Commission
 1830 E. Sahara Avenue, Suite 112
 Las Vegas, Nevada 89104
 702.486.8212
 Fax: 702.486.8215

dairycom@dairy.state.nv.us