Farmdale Creamery, Inc. – Post Hearing Brief
May 31 & June 1, 2012
California Department of Food and Agriculture
Consolidated Public Hearing on Amendments to the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas & Amendments to the Pooling Plan for Market Milk

June 8, 2012

Candace Gates, Chief
Dairy Marketing Branch, CDFA
560 J Street, Suite 150
Sacramento, CA 95814

RE: May 31 – June 1, 2012 Class 4b Hearing -- Post Hearing Brief

To The Hearing Panel:

Farmdale Creamery, Inc. appreciates the opportunity to submit the following post-hearing brief to respond to question(s) from the hearing panel on issues presented in Sacramento on June 30, 2011 and to clarify our position relating to the matters before the panel.

We wish to amplify our testimony with respect to the following:

A. On page 5 we discuss the general topic: "Disincentive". We are adding the following:

A 4-year window is not sufficient to take a whey-processing project from idea, through development into production and achieve operational stability and profitability. Otherwise it would have happened, considering the supposed opportunity presented in the $0.25/cwt world.

If such an opportunity was so obviously present, why hasn't LOL un-idled their plant? Instead, the alleged lucrative cheese business has seen multiple co-op cheese plants exit the business during the years of inclusion of a whey factor. Also, if the LOL plant is merely "idled", why are substantial assets up for auction (see Exhibit 7 attached); fascinating.

B. On page 6 we discuss the lack of adequate profitability revealed in the analysis of our proposed expansion and development of a WPC-80 processing facility under the petitioned-for cost of 4b milk. We are adding:

We are not "threatening" to exit the business to create leverage in our position with the panel. We are here, under oath, to relate our reality. If that presents an inconvenient truth to some, we hope the information presented at this hearing can lead to a full and true understanding of the root cause of the problems in our industry in its current condition – there is too much milk being produced to cause prices to rise. And if one believes we are speaking only of the "spring flush", they have missed the point.

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C. On page 8 we state "All costs of R&D, plant and equipment, production, market development and maintenance have been borne by the cheese-makers." We are adding:

Webster's Dictionary defines a "windfall" as "An unexpected, unearned or sudden gain or advantage." There is no part of the outcome from a whey plant project that could be characterized as a "windfall" given all of the costs and risk that are borne by the plant owner-operators.

D. We wish to include into the Hearing Record an editorial published in the Cheese Market News on June 1, 2012 (see Exhibit 8 attached) which supports the fundamental economic concept of our testimony; the regulatory system should set prices at bare minimal levels and allow other market mechanisms (such as service charges, a.k.a. premiums) to serve to find the true value of milk in the end products.

E. We wish to emphasize those portions of our testimony relating to the failure to incent 4b expansion by the current pricing mechanisms in light of the testimony of Caseus Energy. The impact on the broader processing landscape (beyond cheese and whey) of the petitioners' call for a transfer of whey "windfall profits" to their coffers can only further hurt California's posturing for future growth and stability in the 4b segment of the dairy industry. The kind of investments that will build value to the benefit of all in the industry will be less likely to happen if cheese-makers do not have adequate profit incentive to take the risk and make the capital outlays required for whey processing.

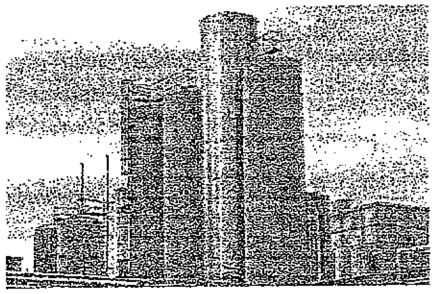
Respectfully submitted,

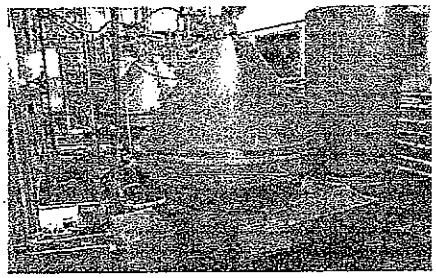
Farmdale Creamery, Inc.
By
Michael Shotts, President
Scott Hofferber, Controller

Land O'Lakes - Cheese & Whey

Oct. 10-11 - Surplus to Tulare, CA operations

- ***Largest Cheese & Whey Auction of the Year!***
- S/S Silos to 60,000 Gal.
- Separators & Clarifiers
- (2) Spray Dryers
- Vats & Finishing Tables
- S/S Processors & Tanks
- U/F and R/O Systems
- (4) Vacuum Chambers





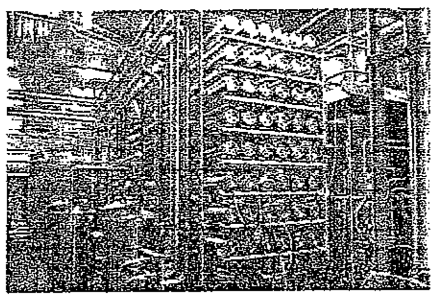


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Exhibit 7

Volume 32 June 1, 2012 Number 19

CHEESE MARKET NEWS®

The Weekly Newspaper Of The Nation's Cheese And Dairy/Deli Business

LETTER TO THE EDITOR

Letter to the Editor: America's independent dairy farmers need not fear the free market

To the editor:

We can all find common ground and consensus in knowing that dairy farmers are being disadvantaged by the present milk pricing system. There are several options in front of us, some more popular than others. However, it is my opinion that the government's role should be minimized to providing accurate and timely market information and to protect and enforce equal competition between all milk buyers. Any further milk pricing involvement by state or federal government only interferes with and slows down market responses, distorts market price signals and requires economic and social transfers and costs that we can no longer afford.

By equal competition, I mean that no milk purchasers or group of purchasers should be granted by government-enforced policy, to have any price advantage, price disadvantage, or price restriction that is not common to any other milk purchaser regardless of location, size or what final product[s] are made from all raw milk that meets a like quality standard. Good healthy competition between milk buyers maximizes producer milk prices, minimizes consumer prices and maximizes market efficiencies and resource allocations in all locations and circumstances.

Our present system shifts benefits and burdens upon specific milk purchasers and groups of milk purchasers and severely restricts and reduces healthy competition. Our present system also benefits some regional milk producers at the expense of milk producers in other regions and encourages an excessive milk supply in high-cost milk production areas while penalizing and unfairly burdening milk producers in low-cost milk production areas. Ultimately, in my opinion, this artificial transfer of benefits, burdens and responsibility is the root cause of our milk-pricing dilemma.

Many tend to be focusing on margins and covering the cost of production but costs of production and margins vary considerably over time, by location and by any number of constantly changing and illusive circumstances. Trying to lock in any given price or even a price margin based upon some kind of cost index is not fast enough or flexible enough to change with dynamic market circumstances and tend to always eventually become too late and after the fact. We have already tried this experiment with "parity" and most recently with illusive "make-allowances."

Tying feed costs and margins to

EXHIBIT 8.1

national indexes still benefits some at the expense of others who are above or below the national average. Indexes also must be tied to specific commodities that, by policy-induced default, benefit and protect some while burdening or increasing the market risk to others. For example, our present system benefits those milk buyers who are large enough to justify whey-drying equipment and penalize those smaller-scale milk buyers who cannot justify whey-drying equipment. Feed cost indexes like those used in the Dairy Security Act — corn, soybean meal and alfalfa hay — benefit those producers who utilize these three feed commodities but puts milk producers who utilize other alternative feeds such as barley, cottonseed, silage or pasture at risk. These schemes also tend to shift advantages and disadvantages to certain regions where consumer demands and feed costs are different than the national average. This fact is already evident by our present state and national systems with fixed and illusive make allowances, classified pricing and mandatory pooling where actual marketing circumstances and utilizations vary considerably from the national average.

It is an economic fact that artificial price support to a portion of a homogeneous commodity simultaneously artificially depresses market-clearing prices as the true market naturally seeks out an overall equilibrium price. Lower Class I utilization areas with manufacturing milk processing capabilities become, by policy induced default, the market-clearing locations for the nation. These

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LETTER

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locations are therefore burdened with artificially low and artificially depressed market clearing prices.

In addition, non-fluid milk products are more storable compared to fluid milk products. Therefore, whenever supply begins to exceed demand, non-fluid milk product inventories tend to build, sometimes very quickly. These inventories then tend to exacerbate the boom and bust cycle as these stored up inventories clear out and seek to clear the market. Thus we see increased national volatility and increasingly severe price depressions that extend over longer and longer periods of time (such as 2009) and the increasingly evident boom and bust cycle that plagues our entire nation. Present cold storage inventories are already again reaching record levels. These boom and bust cycles will continue to become more severe and last longer and longer until we correct the root of the problem.

What is the root problem? Policy-induced benefits to some at the expense of others rather than allowing the market to self-regulate, self-balance and provide equal opportunities and equal justice for all. America's independent dairymen need not fear the free market. The market is the most just, sustainable, impartial, responsive and profitable way to produce and market all our wonderful dairy products.

If classified pricing and mandatory revenue pooling were to be gradually phased out over time, milk prices in all locations and circumstances would gravitate and self-adjust to true market equilibrium. Governments can and should collect, aggregate and disseminate local, regional and national market information without collecting or redistributing wealth. In this way, maximum market revenues remain in the marketing chain and are allocated in a more direct, responsive, efficient way that rewards innovation and creativity and maximizes the freedoms and opportunities to all those who truly serve the market's true and dynamic demand however unique or common each marketing niche may be.

(USDA Dairy Marketing Specialist) *Randal Stoker*
Woodbridge, Va.

EXHIBIT 8.2

DATE: 6/8/2012

NO. OF PAGES TO FOLLOW: ~~6~~ 5

POST-~~HEARING~~ BRIEF

TO: 916-900-5341

FROM: Scott Hofferber, Controller

Farmdale CREAMERY

Re: POST-~~HEARING~~ BRIEF submittal

Thank You!

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