

May 24, 2011

Ms. Candace Gates, Chief  
Dairy Marketing Branch  
California Department of Food and Agriculture  
1220 N Street Sacramento, CA 95814  
SENT BY FAX TO: Candace Gates, 916-341-6697

RE: Petition for Class 4b Hearing

Dear Ms. Gates:

We are writing on behalf of the producer-owners of Land O'Lakes, Inc. to submit this petition for public hearing to consider changes to the Class 4b pricing formula. This petition proposes changes to three components in the Class 4b formula:

1. Update the whey portion of the 4b formula, currently fixed at a 25-cent value;
2. Update the manufacturing cost allowance for cheese;
3. Update the f.o.b. price adjuster for cheese.

#### Updating the Whey Portion of the Class 4b Formula

As you know, the current Class 4b formula contains a whey factor that values whey at a fixed level of 25-cents per hundredweight no matter what price that whey is trading at in the Western whey markets. This fixed, 25-cent value stands in stark contrast to the Federal Order Class III formula (directly comparable to the California Class 4b formula) that contains a whey factor that has effectively returned values in excess of \$1.40 per hundredweight in recent months. In fact from January 2011 through April 2011 the Federal whey formula added an average of \$1.46 per cwt. to the pay prices of dairy producers in Federal Order markets.

Land O'Lakes' proposed changes would result in a more equitable sharing of whey's market value. Land O'Lakes proposes that the 25-cent fixed factor remain in place when whey's market value (as measured by the USDA's Dairy Market News Western Dry Whey Price) averages \$0.2449 or lower; when whey's market value averages \$0.2450 and above, the whey portion of Class 4b will increase in accordance with the following table:

Average Monthly Western Dry Whey	4b Value / cwt.
Up to \$0.2449	\$0.25
\$0.2450 to \$0.2549	\$0.30
\$0.2550 to \$0.2649	\$0.35
\$0.2650 to \$0.2749	\$0.40
\$0.2750 to \$0.2849	\$0.45
\$0.2850 to \$0.2949	\$0.50
\$0.2950 to \$0.3049	\$0.55
\$0.3050 to \$0.3149	\$0.60
\$0.3150 to \$0.3249	\$0.65
\$0.3250 to \$0.3349	\$0.70
\$0.3350 to \$0.3449	\$0.75
\$0.3450 to \$0.3549	\$0.80
\$0.3550 to \$0.3649	\$0.85
\$0.3650 to \$0.3749	\$0.90
\$0.3750 to \$0.3849	\$0.95
\$0.3850 and above	\$1.00

#### Updating the Manufacturing Cost Allowance for Cheese

Land O'Lakes proposes that the Class 4b formula be updated to reflect the most currently available manufacturing cost allowance for cheese. Land O'Lakes proposes that the Class 4b formula be amended to the most current weighted average cost for cheese published in the November 2010 Manufacturing Cost Exhibit for the period January through December 2009. The California Department of Food and Agriculture (Department) reported that the weighted average cheese manufacturing cost in 2009 was \$0.1966 per pound, a decrease of \$0.0022 per pound compared to the current manufacturing cost for cheese in the Class 4b formula. Land O'Lakes proposes that the Department consider reducing the cheese manufacturing costs to \$0.1966 in the Class 4b formula.

#### Updating the f.o.b. Adjuster for Cheese

Land O'Lakes proposes that the Department consider an adjustment to the f.o.b. price adjuster for cheese to be consistent with the most current data reported by the Department in November 2010. The Department reported that the difference between cheddar cheese prices from the Chicago Mercantile Exchange and prices from audited sales of California cheddar cheese for the 24 month period from July 2008 through June 2010 to be -\$0.0018 per pound. Land O'Lakes proposes that the Department consider reducing the f.o.b. cheese adjuster from \$.0252 to \$.0018 per pound in the Class 4b formula.

The formal language for our proposal appears below:

Section 300 (E) The minimum price 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 the formula using the Cheddar cheese price, less an f.o.b. California adjuster of **0 and 18** hundredths cents (**\$0.0018**), less a Cheddar cheese manufacturing cost allowance of **nineteen and sixty-six** hundredths cents (**\$0.1966**), all multiplied by a yield factor of ten and two-tenths (10.2).
  - b. The price per hundredweight computed by the formula using the butter price less a manufacturing cost allowance of fifteen and six tenths cents (\$0.156), less ten cents (\$0.10), all multiplied by a yield factor of twenty-seven-hundredths (0.27).
  - c. **Whey prices used to determine the whey factor per cwt.**

Average monthly Whey prices:	Whey factor per cwt.
Up to \$.2449	\$0.25
\$0.245 to \$0.2549	\$0.30
\$0.255 to \$0.2649	\$0.35
\$0.265 to \$0.2749	\$0.40
\$0.275 to \$0.2849	\$0.45
\$0.285 to \$0.2949	\$0.50
\$0.295 to \$0.3049	\$0.55
\$0.305 to \$0.3149	\$0.60
\$0.315 to \$0.3249	\$0.65
\$0.325 to \$0.3349	\$0.70
\$0.335 to \$0.3449	\$0.75
\$0.345 to \$0.3549	\$0.80
\$0.355 to \$0.3649	\$0.85
\$0.365 to \$0.3749	\$0.90
\$0.375 to \$0.3849	\$0.95
\$0.385 or above	\$1.00

- (2) For all milk fat, not less than the price per pound computed pursuant to Subparagraph (D)(1) of this Section
- (3) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Cheese hundredweight price established pursuant to Subparagraph (E)(1) less the product of three and seventy-two hundredths (3.72) multiplied by the Class 4b fat price established pursuant to Subparagraph (E)(2), all divided by eight and eighty hundredths (8.80).

- (4) The Cheddar cheese price used in calculations pursuant to this Paragraph shall be the simple average of the 40 pound block Cheddar price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period the 26<sup>th</sup> day of the previous month and concluding the 25<sup>th</sup> day of the current month.
- (5) The butter price used in calculations pursuant this Paragraph shall be the simple average of the Grade AA butter price quotation for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between 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.
- (6) **The dry whey prices used to determine per cwt. whey values used in calculations pursuant to this Paragraph shall be the simple average of the Dry Whey-West Mostly prices as published in Dairy Market News between 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.**
- (7) In the event the Chicago Mercantile Exchange 40 pound block Cheddar cheese price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the cheese price used in the prior month's calculation of the Cheese hundredweight price.
- (8) In the event the Chicago Mercantile Exchange Grade AA butter price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the Grade AA butter price used in the prior month's calculation of the Cheese hundredweight price.
- (9) **In the event that the Dry Whey-West Mostly price is not available to determine the per cwt. whey values to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the Dry Whey-West Mostly price used in the prior month's whey price to determine the per cwt. whey values to calculate the Cheese per hundredweight price.**

Thank you for your consideration.

Sincerely,



Thomas Wegner  
Director of Economics and Dairy Policy  
Land O'Lakes, Inc.

cc: Hyrum Eastman