



February 17, 2006

VIA EMAIL  
ORIGINALS VIA EXPRESS MAIL

Ms. Joyce Dawson  
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RE: Hearing Brief on behalf of Northwest Dairy Association (NDA)  
Docket No. AO-14-A74, et al.; DA-06-01

Dear Ms. Dawson:

Please find enclosed an original plus five copies of NDA's hearing brief regarding the Hearing on Class III and IV Manufacturing, held on January 24-27, 2006 in Alexandria, Virginia.

Sincerely,

Mike Brown  
Director, Producer Relations

Enclosure

**UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE**

**IN RE:**

**MILK IN THE NORTHEAST AND  
OTHER MARKETING AREAS;  
Class III/IV MAKE ALLOWANCES**  
71 Fed. Reg. 545 (January 5, 2006)

**Dockets: AO-14-A74  
DA-06-01**

**POST-HEARING BRIEF OF NORTHWEST DAIRY ASSOCIATION**

This post-hearing brief is submitted on behalf of Northwest Dairy Association (NDA). NDA is a dairy marketing cooperative representing dairy producers with farms in Idaho, Oregon, Washington and northern California.

John Vetne has filed a post-hearing brief on behalf of five cooperatives including NDA, Agri-Mark, Inc., Foremost Farms USA Cooperative, Associated Milk Producers, Inc., and Land O'Lakes, Inc. We fully support Vetne's comments, which are filed, in part, on our behalf.

NDA urges USDA use the emergency procedures available to them and release of a tentative final decision to address these cost needs. Vetne thoroughly addresses this need in his aforementioned brief. The current rapid growth of milk production is putting additional pressure on product sales and adding to product inventory and make the need for immediate relief from the current outdated manufacturing allowances even more crucial.

The remainder of this brief will focus on several important issues relating to whey manufacturing costs included in the testimony of Dan McBride, Director of Milk Pricing for Northwest Dairy Association and Scott Burleson, Director of Ingredient Plants for NDA's manufacturing subsidiary, WestFarm Foods.

The whey cost survey information included in the hearing showed California's whey processing costs were over twice as high as the costs reported in the RBCS survey. The RBCS indicated dry whey processing costs averaged 11.54¢ per lb, not including administrative, ROI and marketing costs. The CDFA survey cost was 26.7¢ per lb. dried whey. While the RCBS and CDFA cost surveys for nonfat dry milk, butter and cheese delivered more comparable results, the very wide difference in processing costs for whey indicate problems with one or both sets of survey data. Because of these concerns with some of the whey drying cost data, NDA

supports the use of a process to determine whey drying costs based on the estimates of process cost difference for the two products, as outlined in detail by Scott Burleson at the hearing.

Witness Daniel McBride (Tr III 334-55, 384-85, Exhibit 52) indicated that NDA failed to include the costs to condense whey to 20% solids in an outside plant (later identified as Tillamook Creamery in Boardman, OR) before the condensed whey was transported to a West Farm whey drying plant. McBride did not know Tillamook's whey condensing costs, so the average cost from the RCBS survey was used to estimate this cost. When this condensing and transportation costs was included in the WestFarm whey drying cost, it increased the average whey drying cost by 1.96 cents for the WestFarm Sunnyside plant.

Witness Sue Taylor (Tr IV 291-292) noted that the average plant size in the RBCS whey cost survey was more than double the size of the average Sweet Whey Plant, as reported by NASS. Sue noted that "Economies of scale are very important on whey because of the significant capital costs associated with whey processing. The significantly larger plant size in the RBCS study is likely contributing to a lowering of the survey results below the levels achievable by many sweet whey plants."

Witness Charles Ling, (Tr. I 135-36) also acknowledged that the RCBS whey cost survey did not include transportation costs for whey from condensing to drying plants. His comments did indicate other plants had moved condensed whey to drying plants at another location complete the drying of the whey.

Witness Brian Scott Burleson (Tr . III 140 - 172; Exhibits. 47-48) provided testimony that outlined the differences in costs between drying whey and nonfat dry milk, based on additional equipment, building and operating costs. Burleson reviewed a whey drying process outlined by C.K. Venkatachalam ("VenKat") as part of his testimony at the May 2000 hearing on Class III and IV price formulas. When VenKat's cost estimates were updated to reflect 2004 energy costs, Burleson calculated that whey drying costs using VenKat's method would be 2.905 cents per pound higher than for NFDM. Burleson then outlined the whey processing procedure used by WestFarm Foods and estimated that whey costs under the WFF system would be 2.715 cents higher than for NFDM.

Burleson found the current difference between whey and NFDM manufacturing costs exceeds the 1.9 cents difference used in the current USDA make formulas. His testimony supports expanding the difference between whey and NFDM drying costs to at least 2.5 cents.

Burleson acknowledged in his testimony that about 55 percent more water is removed in the drying of pound of whey powder when compared to one pound of NFDM powder. The fact remains that unprocessed raw whey contains about 50% more water than skim milk and thus processing costs for whey will be higher, if for no other reason than the removal of the additional water.

Testimony by Witness Mike McCully (Tr. III 435-36) noted that Kraft reported a similar cost difference of 2.6 cents higher for whey compared to nonfat dry milk in their Tulare, California plant at the May 2000 hearing on Federal Order Class III-IV Prices.

The hearing record clearly supports the adjustment of manufacturing allowances to reflect current costs. Vetne's brief on behalf of NDA and other cooperatives outlines the reasons to do so. The hearing record also supports the adoption of a whey make allowance based on the calculated manufacturing cost differences between whey and nonfat dry milk. Witness Brian Scott Burleson's testimony provides support for adjusting whey processing costs based on the equipment and costs differences in drying whey compared to nonfat dry milk.

RCBS whey cost data problems severely limit its value in determining dry whey manufacturing costs. Witness Dan McBride outlined the problem with one cooperative's data in the RCBS cost survey. Witness Charles Ling acknowledged that condensed whey transportation costs were not included in RCBS cost estimates for drying whey. Witness Sue Taylor noted that the average size of the whey processing plant in the RCBS cost survey was over twice as large as the average whey plant output in the 2004 Dairy Products Annual Report, indicating a like under-estimation of whey processing costs in the RCBS survey when compared to average size whey plants.

Respectfully submitted,

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