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January 25, 2001

The Honorable Ann Veneman
Secretary of Agriculture
1400 Independence Ave, SW
Room 200A
Washington, DC 20250

03-4169704
ams

Dear Secretary Veneman:

The Tentative Final Decision addressing Class III and IV milk pricing under Federal orders reallocated the fat and skim values for milk used in Class III products. This imposes an enormous cost increase on our businesses. We urge you to immediately review this action, which we believe was taken completely without justification, and make immediate corrections.

The impacts of this reallocation also are being felt on other sectors of the dairy industry. In fact, we know of no dairy industry firms or groups which support the change made by USDA in the Tentative Final Decision to reallocate the value of butterfat and skim in the Class III Federal order minimum price.

Federal order regulation is not a new concept to any of us, and in fact we have lived through numerous changes in both individual marketing area and system-wide milk price regulations. However, the magnitude and the circumstances of the changes in the Tentative Final Decision are far different than we have ever experienced with any previous Federal order decision.

The changes implemented by the Tentative Final Decision disrupted our businesses greatly with very little notice. The actions of USDA were totally unexpected and were not properly included in the notice of hearing. In addition, we did not address this issue in our comments either during the hearing or post hearing briefs since there was no testimony regarding it which was ruled admissible at the hearing. Therefore, we believe this option was not even before USDA to consider as a change to Federal order minimum price regulation.

As Secretary of Agriculture, you have the authority to change this decision, and we urge you to make this a very high priority for correction as soon as possible. This was a Tentative Final Decision and USDA has requested additional comments from the dairy industry by February 5, 2001. This provides USDA the opportunity to correct this action.

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The magnitude of the cost increase resulting from the reallocation of the fat and skim values for Class III products is the greatest for Class III products with relatively high levels of butterfat such as cream cheese and processed cheese. A key milk ingredient in the manufacture of both cream cheese and processed cheese is bulk cream, with, on average, 40% butterfat. Had our milk inputs been priced under the provisions of this decision during the 27-month period from October 1998 through December 2000, our costs for bulk cream would have been 22% higher than they were under the Federal order pricing provisions in effect at that time. We have no reason to expect that the price patterns in the near future will be different from that of the recent past, and therefore we actually expect this more than 20% increase in our costs to continue in the foreseeable future.

Prior to the Tentative Final Decision, the value of butterfat in Class III products was based on the wholesale price of butter. This decision changed this valuation to one based on the wholesale price of cheese. Not only does this provision increase the cost of milk inputs to manufacturers of high-butterfat Class III products like cream cheese and processed cheese, it substantially lowers the price to dairy farmers for the other primary component in milk, protein.

This Tentative Final Decision was part of a formal rule-making process based on a hearing notice issued by USDA and published in the Federal Register on April 14, 2000, and the subsequent hearing conducted by a USDA Administrative Law Judge during May 8-12, 2000. The only testimony at the hearing which even hinted at changes to the provisions such as were adopted by USDA was given by a public witness. The proposal made by this witness was ruled by the presiding Administrative Law Judge to be outside the scope of the hearing notice, in that no proposal outlined in the hearing notice suggested this level of change to the Class III milk price formulas. Therefore, neither we nor any other interested party spent any effort either at the hearing or in post-hearing briefs commenting on the many reasons USDA should not have adopted that proposal.

Not only did the magnitude of this change in our input costs have dire consequences for our businesses, but the circumstances of how the decision came about left us little time to adjust our many business relationships with both suppliers and customers. The decision was announced by USDA on December 1, 2000 (although we would like to note that the decision was not published in the Federal Register until nearly one week later on December 7, 2000) and implemented on January 1, 2001. This was a period which included two major national holidays (Christmas and New Year's Day). In addition, this is a period when dairy markets typically experience some uncertainty with factors like holiday plant closings, school closings and weather events.

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We reiterate that this decision has severe consequences and that we know of no support in the industry for this change. We urge you to focus attention on this matter as soon as possible in order to correct this wrong as quickly as possible.


Sincerely,



Al Costigan, President/CEO
Level Valley Creamery, Inc.
West Bend, IN



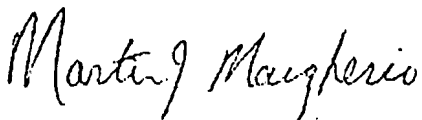
Mary Kay Haben, Group Vice President
& President, Kraft Cheese & Mexico
Kraft Foods N.A., Inc.
Glenview, IL



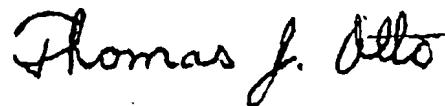
John Jeter, President/CEO
Hilmar Cheese Company, Inc.
Hilmar, CA



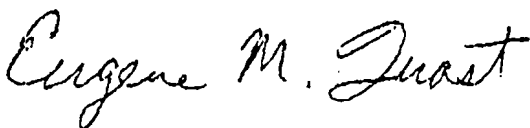
Howard Kravitz, President
Emkay Trading Corporation
Elmsford, NY



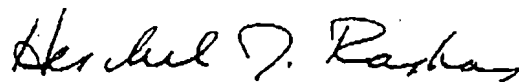
Martin J. Margherio, President/CEO
Crowley Foods, Inc.
Binghamton, NY



Thomas J. Otto, General Manager
Bongard's Creameries
Bongards, MN



Eugene M. Quast, CEO
Swiss Valley Farms, Co.
Davenport, IA

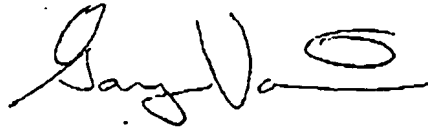


Heschel J. Raskas, President
Raskas Foods, Inc.
St. Louis, MO

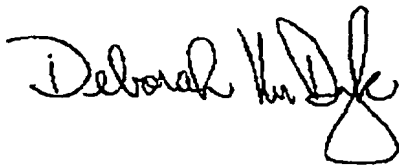
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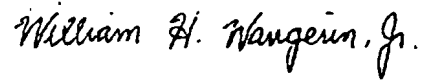
Richard Scalise, President/COO
Beatrice Group, Inc.
Downer's Grove, IN



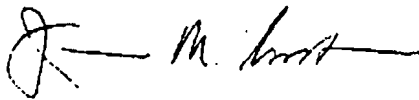
Gary Vanic, President/CEO
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Hiram, OH



Deborah Van Dyk, Vice President,
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William H. Wangerin, Jr., Vice President
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