



United States
Department of
Agriculture

Agricultural
Marketing
Service

RECEIVED MAR 14 2005

1400 Independence Avenue, SW
Washington, DC
20250

March 8, 2005

Benjamin Yale, Esq.
Yale Law Office, LP
Post Office Box 100
Waynesfield, Ohio 45896-0100

Dear Mr. Yale:

Thank you for your letter of February 16, 2005, to Secretary Johanns, on behalf of Mallorie's Dairy, Smith Brothers Farms, Edaleen Dairy, and Sarah Farms, regarding the integrity of the Federal milk marketing order hearing process. You expressed concern over certain persons claiming to know the result of the series of hearings held regarding producer-handlers in the Arizona Las-Vegas and Pacific Northwest marketing areas. The Secretary has asked me to respond on his behalf.

Since your allegation of *ex parte* communications does not cite specific occurrences, we do not believe it provides a sufficient basis to warrant an investigation of *ex parte* violations. In addition, a review of records responsive to your Freedom of Information Act (FOIA) request, regarding Department of Agriculture (USDA) communications about the producer-handler hearing, revealed one letter which is being filed with the Office of the Hearing Clerk. This letter will be provided to you as part of the FOIA response.

As you know, USDA employees involved in the decision process are prohibited under the rules of *ex parte* communications from discussing the merits of any issues addressed at the hearing. Only after the issuance of a final decision may a USDA employee discuss any issues addressed at the hearing with the public.

Maintaining the integrity of the hearing process is of utmost importance to USDA and we will continue to ensure that *ex parte* communication prohibitions are not violated in any Federal milk order decisional process.

Thank you for your interest in the Federal milk marketing order program.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth C. Clayton".

Kenneth C. Clayton
Acting Administrator