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To: L. Eugene Whitfield  
Hearing Clerk

From: Wendy M. Yoviene

Fax: (202) 720-9776

Pages: 7 (incl. fax coverpage)

File #: 054458.000020

Date: October 7, 2011

Re: Docket Nos. AO-11-0333; AMS-DA-0067; DA-11-04

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EXHIBIT 34

USDA  
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October 7, 2011

VIA FAX to (202)-720-9776 and HAND-DELIVERY

L. Eugene Whitfield, Hearing Clerk  
USDA, Office of Administrative Law Judges  
STOP 9200 - Room 1031, South Building  
1400 Independence Avenue, S.W.  
Washington, DC 20250-9200

Re: Docket Nos. AO-11-0333  
AMS-DA-0067; DA-11-04

Request for Official Notice of State Pricing Authority and Data

Dear Mr. Whitfield:

Attached by fax and hand-delivery, please find the above-referenced document for filing.

Thank you for your assistance.

Respectfully submitted,

*Wendy M. Yoviene*  
Wendy M. Yoviene

- cc: The Honorable Judge Bullard (via email only)  
Marvin Beshore, Esq. (via email only)  
Heather M. Pichelman, Esq. (via email only)  
John H. Vetne, Esq. (via email only)  
James D. Wilson, Esq. (via email only)  
Benjamin F. Yale, Esq. (via email only)

FAXED

USDA  
CALIFORNIA

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

10-7-11  
FILED

In re:	)	
Milk in the Mideast Marketing Area;	)	Docket Nos. AO-11-0333
Proposed Amendments to	)	AMS-DA-0067; DA-11-04
Tentative Marketing Agreement and	)	
Order	)	

Request for Official Notice of State Pricing Authority and Data

On behalf of Guers Dairy, Galliker Dairy Company, Schneider's Dairy, and Dean Foods and pursuant to the instruction of Judge Bullard at the close of the hearing, I am memorializing my request that official notice be taken pursuant to 7 CFR 900.8(d)(5) of certain state regulated pricing programs that result in regulated prices that are above Federal Milk Marketing Order minimum prices.

Pennsylvania: The authorizing statute is 7 Pa. Cons. Stat. §700j-801 (2011) and the relevant pricing information for which official notice is requested is:

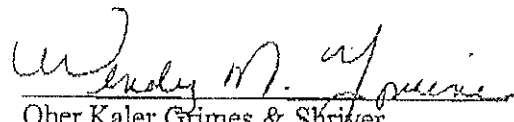
(1) PMMB Producer Price Announcements for the most recent 12 month period.(October 2010 through September 2011) available at <http://www.mmb.state.pa.us> (at the Home Page select Pricing, then select Producer Pricing, then select the pdf document that corresponds with the relevant month). The price announcement for the month of September 2011 is attached hereto at Attachment A for illustration;<sup>1</sup>

(2) Over Order Premium History, memorializing the Over Order Premium that has been in place from 1988 to 2011 available at <http://www.mmb.state.pa.us> (at the Home Page select General Information and then select Premium Effect). The document is attached hereto as Attachment B for convenience.

<sup>1</sup> These illustrative attachments are being included because PMMB's website has been acting finicky. If difficulty is experienced with the website, the website administrator is Dave Weldon who can be reached by calling the Milk Marketing Board at 717.787.4194.

Virginia: The authorizing statute and regulation are Va. Code Ann. § 3.2-3208 (2011) and 2 Va. Admin. Code § 15, Chp. 20 (2011) and the relevant pricing information that is available on the web site for which official notice is requested is the minimum price announcement for August, September and October 2011, available at <http://www.vdacs.virginia.gov/smc/pdf/classi.pdf>. The document that reflects the prices applicable for these three months is attached hereto as Attachment C for convenience.

Date: October 7, 2011

  
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Attorneys for Guers Dairy, Galliker Dairy  
Company, Schneider's Dairy, and Dean  
Foods



**Commonwealth of Pennsylvania**  
**Milk Marketing Board**  
 2301 North Cameron Street  
 Harrisburg, PA 17110-9408

**ATTACHMENT A**

Phone: (717) 787-4194

Fax: (717) 783-6492

E-mail: RA-PMMB@pa.gov

WEB SITE: www.mmb.state.pa.us

Tom Corbett - Governor  
 Tim Moyer - Acting Secretary

**Minimum Producer Price Data**  
 Official General Order A-903 Amended

For Milk Purchased From Producers in: **September 2011**

Luke F. Brubaker - Chairman  
 Lynda J. Bowman - Consumer Member  
 Richard Kriebel - Member

AREA-ZONE		CLASS I DIFF.	OVER-ORDER* PREM. (A927 & A971)	BUTTERFAT VALUE(per lb.)	SKIM VALUE(per cwt.)	CLASS I PRICE
1-0	Southeastern Pennsylvania Milk Marketing Area	\$3.05	\$2.95	\$2.3775	\$20.16	\$27.78
2-0	East Central Pennsylvania Milk Marketing Area	\$2.80	\$2.95	\$2.3750	\$19.91	\$27.53
3-0	Northeastern Pennsylvania Milk Marketing Area	\$2.80	\$2.95	\$2.3750	\$19.91	\$27.53
4-0	South Central Pennsylvania Milk Marketing Area	\$2.90	\$2.95	\$2.3760	\$20.01	\$27.63
5-0	Western Pennsylvania Milk Marketing Area	\$2.30	\$2.95	\$2.3700	\$19.41	\$27.03
6-0	West Central Pennsylvania Milk Marketing Area	\$2.50	\$2.95	\$2.3720	\$19.61	\$27.23

\* Includes Fuel Adjustment of \$0.80 Per Hundredweight

Advance Cheddar Price	\$2.1529
Advance Butter Price	\$2.0852
Advance Nonfat Dry Milk Price	\$1.5804
Advance Dry Whey Price	\$0.5839
Somatic Cell Rate	\$0.00093
Advance Class III Price	\$21.78
Advance Class IV Price	\$20.26

Cheddar Price	\$1.8592
AA Butter Price	\$1.9886
Nonfat Dry Milk Price	\$1.5439
Dry Whey Price	\$0.5926
<b>Producer Price Differential - August 2011</b>	
Federal Order 1	\$1.55
Federal Order 33	\$0.62

<b>Class I</b>	
Skim Price	\$14.16
Butterfat Price	\$2.3175
Base Price @3.5% Butterfat	\$21.7757
Butterfat Differential	\$0.2176

<b>Class II</b>	
Skim Price	\$13.29
Butterfat Price	\$2.2075
Price @ 3.5% Butterfat	\$20.5512
Butterfat Differential	\$0.2074
Class II Nonfat Solids Price	\$1.4767

<b>Class III</b>	
Skim Price	\$11.78
Butterfat Price	\$2.2005
Price @ 3.5% Butterfat	\$19.0695
Butterfat Differential	\$0.2083
Protein Price	\$3.0282
Other Solids Price	\$0.4053

<b>Class IV</b>	
Skim Price	\$12.26
Butterfat Price	\$2.2006
Price @ 3.5% Butterfat	\$19.5327
Butterfat Differential	\$0.2078
Nonfat Solids Price	\$1.3623

**Statistical Average Minimum Price for Pennsylvania Producer Selling Into Pennsylvania** **\$22.66**

Issued on September 30, 2011

**PENNSYLVANIA MILK MARKETING BOARD**  
**OVER-ORDER PREMIUM EFFECT**  
**SEPTEMBER 1988 THROUGH JULY 2011**

ATTACHMENT B

OGO	HEARING CALL	PERIOD	MONTHS	AVE. MONTHLY		
				RATE	POUNDS	AMOUNT
FOR SPECIFIC INFORMATION ON ORDERS PRIOR TO 2006, PLEASE CONTACT THE BOARD						\$362,546,269
FOR SPECIFIC INFORMATION ON A-927 PRIOR TO 2007, PLEASE CONTACT THE BOARD						\$14,306,632
A-927	INCREASED FUEL COSTS	12/01/06 THROUGH 01/31/07	2	\$0.36	162,169,129	\$1,232,465
A-927	INCREASED FUEL COSTS	02/01/07 THROUGH 02/28/07	1	\$0.41	148,036,866	\$606,951
A-927	INCREASED FUEL COSTS	03/01/07 THROUGH 04/30/07	2	\$0.35	154,382,401	\$1,080,677
A-927	INCREASED FUEL COSTS	05/01/07 THROUGH 05/31/07	1	\$0.41	152,810,161	\$626,522
A-927	INCREASED FUEL COSTS	06/01/07 THROUGH 06/30/07	3	\$0.44	142,998,626	\$1,886,262
A-927	INCREASED FUEL COSTS	09/01/07 THROUGH 10/31/07	2	\$0.47	155,808,173	\$1,464,597
A-927	INCREASED FUEL COSTS	11/01/07 THROUGH 11/30/07	1	\$0.50	181,530,918	\$807,655
A-927	INCREASED FUEL COSTS	12/01/07 THROUGH 12/31/07	1	\$0.53	159,114,895	\$843,309
A-927	INCREASED FUEL COSTS	01/01/08 THROUGH 02/29/08	2	\$0.65	155,971,394	\$2,027,628
A-927	INCREASED FUEL COSTS	03/01/08 THROUGH 03/31/08	1	\$0.62	156,505,816	\$964,136
A-927	INCREASED FUEL COSTS	04/01/08 THROUGH 04/30/08	1	\$0.65	149,787,255	\$973,617
A-927	INCREASED FUEL COSTS	05/01/08 THROUGH 05/31/08	1	\$0.80	157,243,648	\$1,257,949
A-927	INCREASED FUEL COSTS	06/01/08 THROUGH 06/30/08	1	\$0.86	132,523,981	\$1,139,706
A-927	INCREASED FUEL COSTS	07/01/08 THROUGH 07/31/08	1	\$0.98	144,159,173	\$1,412,760
A-927	INCREASED FUEL COSTS	08/01/08 THROUGH 09/30/08	2	\$1.04	151,335,998	\$3,147,789
A-927	INCREASED FUEL COSTS	10/01/08 THROUGH 10/31/08	1	\$0.95	162,492,826	\$1,643,682
A-927	INCREASED FUEL COSTS	11/01/08 THROUGH 11/30/08	1	\$0.83	150,795,723	\$1,251,605
A-927	INCREASED FUEL COSTS	12/01/08 THROUGH 12/31/08	1	\$0.71	165,629,171	\$1,175,967
A-927	INCREASED FUEL COSTS	01/01/09 THROUGH 01/31/09	1	\$0.53	156,890,809	\$831,521
A-927	INCREASED FUEL COSTS	02/01/09 THROUGH 02/28/09	1	\$0.38	143,424,012	\$545,011
A-927	INCREASED FUEL COSTS	03/01/09 THROUGH 03/31/09	1	\$0.35	158,247,149	\$553,865
A-927	INCREASED FUEL COSTS	04/01/09 THROUGH 04/30/09	1	\$0.32	149,175,040	\$477,360
A-927	INCREASED FUEL COSTS	05/01/09 THROUGH 07/31/09	3	\$0.29	141,311,567	\$1,229,411
A-927	INCREASED FUEL COSTS	08/01/09 THROUGH 09/30/09	2	\$0.38	146,558,192	\$1,119,842
A-927	INCREASED FUEL COSTS	10/01/09 THROUGH 12/31/09	3	\$0.41	158,679,065	\$1,951,752
A-927	INCREASED FUEL COSTS	01/01/10 THROUGH 01/31/10	1	\$0.47	147,532,513	\$693,403
A-927	INCREASED FUEL COSTS	02/01/10 THROUGH 02/28/10	1	\$0.44	144,857,848	\$637,419
A-927	INCREASED FUEL COSTS	03/01/10 THROUGH 04/30/10	2	\$0.47	152,150,751	\$1,430,217
A-927	INCREASED FUEL COSTS	05/01/10 THROUGH 05/31/10	1	\$0.50	143,689,146	\$718,446
A-927	INCREASED FUEL COSTS	06/01/10 THROUGH 06/30/10	1	\$0.53	131,190,387	\$694,891
A-927	INCREASED FUEL COSTS	07/01/10 THROUGH 07/31/10	1	\$0.56	139,173,186	\$779,370
A-927	INCREASED FUEL COSTS	08/01/10 THROUGH 11/30/10	4	\$0.50	146,182,122	\$2,923,642
A-927	INCREASED FUEL COSTS	12/01/10 THROUGH 12/31/10	1	\$0.63	157,509,628	\$834,501
A-927	INCREASED FUEL COSTS	01/01/11 THROUGH 01/31/11	1	\$0.56	151,737,068	\$849,728
A-927	INCREASED FUEL COSTS	02/01/11 THROUGH 02/28/11	1	\$0.59	134,589,042	\$794,076
A-927	INCREASED FUEL COSTS	03/01/11 THROUGH 03/31/11	1	\$0.65	152,473,189	\$991,076
A-927	INCREASED FUEL COSTS	04/01/11 THROUGH 04/30/11	1	\$0.71	144,601,368	\$1,026,670
A-927	INCREASED FUEL COSTS	05/01/11 THROUGH 05/31/11	1	\$0.80	140,658,232	\$1,125,266
A-927	INCREASED FUEL COSTS	06/01/11 THROUGH 07/31/11	2	\$0.83	127,569,684	\$2,117,657
A-935	MARKET CONDITIONS	01/01/06 THROUGH 06/30/06	6	\$1.55	153,068,955	\$14,235,413
A-941	MARKET CONDITIONS	07/01/06 THROUGH 12/31/06	6	\$1.60	154,783,370	\$14,858,203
A-944	MARKET CONDITIONS	01/01/07 THROUGH 06/30/07	6	\$1.85	152,089,338	\$16,879,698
A-947	MARKET CONDITIONS	07/01/07 THROUGH 11/30/07	5	\$1.60	152,745,220	\$12,219,618
A-950	MARKET CONDITIONS	12/01/07 THROUGH 03/31/08	4	\$1.35	156,840,875	\$8,458,607
A-959	MARKET CONDITIONS	04/01/08 THROUGH 12/31/08	9	\$2.15	151,700,419	\$29,354,031
A-964	MARKET CONDITIONS	01/01/09 THROUGH 06/30/09	6	\$2.15	148,271,012	\$19,126,961
A-966	MARKET CONDITIONS	07/01/09 THROUGH 10/31/09	4	\$2.15	148,971,622	\$12,811,560
A-966	MARKET CONDITIONS	11/01/09 THROUGH 12/31/09	2	\$2.65	157,656,364	\$8,355,787
A-967	MARKET CONDITIONS	01/01/10 THROUGH 06/30/10	6	\$2.65	145,253,566	\$23,095,317
A-969	MARKET CONDITIONS	07/01/10 THROUGH 12/31/10	6	\$2.65	146,901,884	\$23,357,400
A-970	MARKET CONDITIONS	01/01/11 THROUGH 06/30/11	6	\$2.15	141,759,365	\$18,288,958
A-971	MARKET CONDITIONS	07/01/11 THROUGH 07/31/11	1	\$2.15	128,642,074	\$2,765,805

## ATTACHMENT C

RODNEY L. PHILLIPS  
ADMINISTRATOR

COMMONWEALTH OF VIRGINIA  
VIRGINIA STATE MILK COMMISSION

V/TDD 804-786-2013

FAX 804-786-3779

WEB SITE: [www.vdacs.virginia.gov/smc](http://www.vdacs.virginia.gov/smc)

*Announcement of  
Producer Class Prices @ 3.5% Butterfat*

	<u>Aug-11</u>	<u>Sep-11</u>	<u>Oct-11</u>
<b>CLASS I MILK</b>			
<b>Eastern Market</b>			
Established Price	\$8.46	\$8.46	\$8.46
Add Adj: 2 VAC 15-20-81	<u>\$20.19</u>	<u>\$20.54</u>	<u>\$18.32</u>
Class I Price/cwt.	\$28.65	\$29.00	\$26.78
Skim Price/cwt.	\$21.2700	\$21.3800	\$19.5000
Butterfat Price/Lb.	\$2.3218	\$2.3897	\$2.2736
<b>Southwestern Market</b>			
Established Price	\$7.96	\$7.96	\$7.96
Add Adj: 2 VAC 15-20-81	<u>\$20.16</u>	<u>\$20.51</u>	<u>\$18.29</u>
Class I Price/cwt.	\$28.12	\$28.47	\$26.25
Skim Price/cwt.	\$20.7400	\$20.8500	\$18.9700
Butterfat Price/Lb.	\$2.3165	\$2.3844	\$2.2683
<b>Western Market</b>			
Established Price	\$8.16	\$8.16	\$8.16
Add Adj: 2 VAC 15-20-81	<u>\$20.29</u>	<u>\$20.64</u>	<u>\$18.42</u>
Class I Price/cwt.	\$28.45	\$28.80	\$26.58
Skim Price/cwt.	\$21.0700	\$21.1800	\$19.3000
Butterfat Price/Lb.	\$2.3198	\$2.3877	\$2.2716
<b>CLASS II Milk Price Announcement Date</b>			
Class II Price	2-Sep-11 \$21.55	30-Sep-11 \$0.00	4-Nov-11 \$0.00
Class II Advanced Skim Price/cwt.	\$13.9700	\$13.2900	\$12.9800
Class II Butterfat Price/Lb.	\$2.3055		
Bi-Monthly Index	367.4	370.2	368.6
Assessment Rate/cwt.	\$0.03750	\$0.03750	\$0.03750
Announcement Date	23-Sep-11		