

**From:** Lynne McBride <lmcb44@comcast.net>  
**Sent:** Friday, May 13, 2016 4:29 PM  
**To:** SM.OALJ.HearingClerks  
**Subject:** Reply brief for USDA Hearing on Federal Order for California  
**Attachments:** CDC reply brief USDA Hearing.pdf

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**Importance:** High

Attached please find a reply brief from the California Dairy Campaign (CDC) for the USDA Hearing on a Federal Milk Marketing Order for California.

Please do not hesitate to contact us for additional information in this regard. At your earliest convenience please confirm receipt of our reply brief.

Thank you,

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May 13, 2016

Office of the Hearing Clerk  
United States Department of Agriculture  
1400 Independence Ave., SW  
Stop 9203, Room 1031, South Building  
Washington, DC 20250-9203

RE: Reply Brief for USDA Hearing on a Proposed Federal Milk Marketing Order for California

The California Dairy Campaign appreciates the opportunity to submit a reply brief for the United States Department of Agriculture (USDA) hearing on a proposed federal milk marketing order for California. The California Dairy Campaign (CDC) is a grassroots organization of family dairy farmers and a member organization of the California Farmers Union (CFU), a state chapter of National Farmers Union, which represents more than 200,000 farmers nationwide. The California Dairy Campaign (CDC) strongly supports the federal order proposal put forward by the state's major dairy cooperatives including California Dairies, Inc., Dairy Farmers of America Inc., and Land O'Lakes, Inc.

Since the California Dairy Campaign was founded more than 20 years ago, we have called for California to join the federal milk marketing order system to bring California producer prices and the process for determining prices in line with the federal order system. Our organization firmly believes that the only way to restore equity to dairy producer pricing in our state is by joining the federal milk marketing order (FMMO) system. The federal order proposal put forward by the cooperatives will comprehensively address our state's unique marketing conditions, align dairy producer prices here with prices paid in the federal order system, restore orderly marketing conditions and sustain dairies across the state.

According to the California Department of Food and Agriculture (CDFA) "Annual Review," milk production in California was down 3.4 percent in 2015 compared to 2014 and the decline in milk production continues to this day. For many a decline in milk production is simply a number to consider, but for dairy farm families the decline in milk production is a grim reality that has a ripple effect on the local, regional and state economy. Our dairy producer members continue to question their future in California due to the fact that milk prices in our state are routinely some of the lowest of any major milk producing state in the nation. While milk production is in decline here, other states are increasing their milk production due largely to more favorable pricing conditions in other part of the country.

The California Department of Food and Agriculture (CDFA) "Annual Review" for 2015 indicated that there are 1438 dairies remaining in the state. Another 32 dairies went out of business in California last year. Over the last ten years more than 600 dairies in California went out of operation. We believe a significant reason for the decline in the number of dairies

in California is due to the fact that dairy producers in our state are paid less than dairy producers in the federal milk marketing order (FMMO) system.

According to the California Department of Food and Agriculture (CDFA) Cost of Milk Production 2015 Annual Report, the average cost to produce milk in California totaled \$19.30 per cwt on average last year. However, according to the same report, the average income received by dairy producers throughout the state totaled just \$15.94 per cwt on average. The report documents the sustained losses that dairy producers across California have endured throughout 2015.

According to the latest Statewide Cost Comparison Summary from the fourth quarter of 2015, the average cost to produce milk in California totaled \$19.74 per cwt while the income received per hundredweight according to that same report totaled \$16.73 per cwt. The situation has only deteriorated on the income side since then. According to the latest CDFA data, the Overbase price for March totaled just \$12.90 per cwt, well below average production costs. The last time the Overbase price was this low was in October 2009, a year when the average cost of production was \$16.86 per cwt, much lower than the average cost of production in our state today. That year 100 dairies went out of operation in California. Since late 2014, prices paid to dairy producers have been significantly below production costs leading to mounting losses for dairy producers throughout the state.

Since the USDA federal order hearing in Clovis, CA last fall, a number of our dairy producer members have closed their dairies across the state. Last year, one of our long-time board members decided to sell his dairy in California and leave to start a dairy operation in another state that is part of the federal milk marketing order system. He continues to believe that it was the best decision he ever made because his new dairy is far more prosperous than the one he left behind in California.

Again this year, another long-time board member in our organization made the decision to sell his cows earlier this year. His dairy was a 600-cow Holstein dairy that had been in operation for generations. He is yet another example of a dairy producer in California who was a leader in our organization and within the industry as a whole who decided it simply made more sense to sell his cows, than continue to incur losses on the dairy. He ran a highly efficient and modern dairy operation and had a real passion for dairy farming. However, he and his family could no longer justify the long hours and the financial risk required to keep their dairy in operation.

Another dairy that closed since the USDA hearing was a 500-cow dairy in the Turlock area. The owners of this dairy were leaders in the dairy industry both at the state and national level. Both husband and wife testified at the USDA hearing last fall in support of the federal order proposal put forward by the state's cooperatives calling for more equitable dairy producer prices in California. Their decision to sell their cows was due to the fact that although their entire lives were spent dedicated to their dairy operation, they decided not to continue given that dairy prices are again so far below production costs.

Dairy cows that went up for sale in April, were owned by a 900-cow dairy producer who wanted to stay in operation, but was forced out due to a change in ownership on his rented facility. Some other recent dairy sales included dairies with 1200 and 1000 cows who decided

that they were better off selling their cows because they could no longer justify the financial losses due to milk prices that do not come close to covering their production costs.

The stories continue to pile up of dairy producers who decided to sell out and each closure is a loss to the dairy industry in California and makes the future of milk production in our state all the more uncertain. The dairy farm families we represent work hard and make great sacrifices so that they can pass down the dairy to the next generation. However, given the chronically lower milk prices here and the high cost of production many sons and daughters simply don't want to take on the stress, uncertainty and tremendous sacrifice required to run a dairy in California today.

According to a recent report published by the United States Department of Agriculture (USDA) Economic Research Service, titled, "Changing Structure, Financial Risks and Government Policy for the U.S. Dairy Industry," dairy farming in the United States is "a highly specialized and very risky endeavor." We deem this description to be very apt, but consider dairy farming in California to involve much greater risk than dairy farming in the rest of the country. Our state is one of the most highly regulated states be it air, water, labor or other regulations that significantly increase the cost to produce milk here. In addition dairy producers in our state continue to confront unprecedented challenges due to the historic drought. Although precipitation was more plentiful this year, dairy producers will continue to face great uncertainty about water availability for the foreseeable future, yet another critical factor that will continue to affect the cost of milk production in our state. At the very least dairy producers in our state should be paid prices that are in line with the rest of the country. But for far too long we have been at a great disadvantage compared to other states, and the impacts are a decline in milk production in our state and the loss of dairy farm families due to disorderly marketing conditions. We believe adoption of the federal order proposal put forward by the cooperatives will help to sustain dairies in our state that are going out of business at an alarming rate.

According to the CDFA Annual review for 2015, the annual average price paid to dairy producers was just \$15.40 per cwt, the lowest annual average price since 2010 when milk production costs were far lower. The latest cost of production data available from CDFA is the fourth quarter of 2015 which reports the cost to produce milk in the state amounted to \$19.74 per cwt. The California Overbase price for March was \$12.90 per cwt, indicating that income that month was well below average production costs and prices paid to producers have continued to remain substantially below production costs.

We believe that the California State Order has failed to pay dairy producers prices that are equitable compared to prices paid in the federal order system. The fact that our state system underpays dairy producers compared to other states has caused California dairy farmers to be paid on average \$1.40 less per cwt or \$1399 less per cow compared to dairy farmers in the federal milk marketing order system based on California milk utilization. A dairy operation with 1000 cows in California has been paid \$1,399,574 less than the same sized dairy in the federal order system since January 2011.

Had our state dairy system paid California dairy producer prices that were in line with prices paid in other states, the losses dairies suffered would not have been as great and more California dairies would be in operation today. The closure of dairies causes irreparable harm

to the local and regional economy and the social fabric of the affected communities especially given that many of these dairies have been in operation for generations. Joining the federal order through the adoption of the cooperatives federal order proposal is the only viable way to restore equity to our dairy pricing system.

Despite the challenges faced by California dairy producers, California continues to be the nation's leading milk producing state, yet dairy producers are not able to find markets if they want to change to a new buyer. Due to the consolidation and concentration that exists and the lack of competition in the marketplace, the minimum prices are more critical in California than in other parts of the country where more buyers of milk exist. Minimum prices are more important than any other time in our state's history because of the number of dairies that have exited and those that are likely to exit unless our state producer prices are brought in alignment with prices paid in other states. A March 2016 United States Department of Food and Agriculture Economic Research Service Report titled, "Changing Structure, Financial Risks and Government Policy for the U.S. Dairy Industry," states, "Handlers usually offer farmers prices above FMMO minimums, with premiums for quality, volume, market demand, or other factors." The federal order proposal put forward by the three cooperatives would insure that the minimum prices paid to dairy producers in California are in line with minimum prices paid throughout the federal milk marketing order system.

In addition, the Dairy Margin Protection Program (DMPP) established in the last farm bill is based on the "All Milk" price which is significantly higher than the California mailbox price. According to analysis by UC Davis, California mailbox prices are on average approximately \$2.00 lower than the "All Milk" price used in the program. Now under the current farm bill, dairy producers in California are at a greater disadvantage due to the fact that prices in our state are significantly below prices paid in other states resulting in far less of an effective safety net for dairy producers here when margins decline. In 2016 just 38 dairies in California signed up for any additional buy-up coverage under the DMPP because the margins in that program have little relevance to the actual on farm margins here in California. Also the fact that dairy producers in California are paid significantly below prices in the rest of the country makes it more difficult for them to participate in risk management programs that dairy farmers in other states employ. Joining the federal order would bring California dairy producer prices in line with federal order prices better enabling California dairy farmers to participate in the DMPP and other risk management strategies.

Dairy operations cannot continue to sustain chronic losses while there is considerable profitability experienced further up the food chain. Minimum prices are put in place to ensure that dairy farmers are able to share in some minimal level of profitability. Joining the federal order system will establish equitable minimum prices, improve the outlook for dairies across the state and enable the next generation of dairy producers to have a brighter future than the one that exists today.

#### CDC Strongly Supports the Cooperatives Proposal

The California Dairy Campaign strongly supports the federal order proposal put forward by the cooperatives because it effectively addresses key issues important to the dairy producers we represent. The major issues that we consider paramount to a successful federal order proposal include: end-product pricing formulas currently used in other federal orders; continuation of

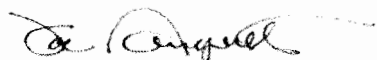
the state quota system; effective milk pooling regulation; similar treatment of out-of-state milk and producer-handler provisions as under other federal orders, fortification standards and other issues.

Our organization strongly believes that dairy producers should be paid uniform prices for manufacturing milk and the cooperatives proposal would ensure this pricing standard. Our dairy producer members support the continuation of the state quota program and the cooperatives proposal would achieve this important goal and ensure the investments made by dairy producers in the quota program remain intact. We strongly supported passage of the "California Federal Milk Marketing Order Act" to enable California to retain its quota program under the federal order system. The proposal put forward by the cooperatives would make certain that the quota program would continue to function as it has and will be administered by the California Department of Food and Agriculture. Given the significant value of the quota program and the investments that dairy producers have made in this program, we believe it is critical that it continue under the federal order system and the cooperatives proposal will ensure the value of the quota program is maintained.

One key characteristic of the California market is the amount of manufactured milk produced in California. The pooling provisions in the cooperatives proposal are essential to establish and maintain orderly marketing conditions in a California federal milk marketing order. We consider the federal order proposal put forward by the cooperatives to effectively address the distinct milk utilization in the California milk market while at the same time integrating the California federal order with the federal milk marketing order system as a whole.

In conclusion, for far too long California dairy producers have had to endure disorderly marketing conditions due to the fact that prices paid to dairy producers in our state were not equitable compared to prices paid in the federal order system. We urge the adoption of the cooperatives federal order proposal because it would establish orderly marketing conditions for California dairy producers. We thank the United States Department of Agriculture for the opportunity to submit a reply brief.

Sincerely,



Joe Augusto  
President  
California Dairy Campaign