

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

|                                |   |                             |
|--------------------------------|---|-----------------------------|
| In re:                         | ) | Docket No. AO 313-A44       |
|                                | ) | [DA-01-07]                  |
|                                | ) |                             |
| Proposals to Amend Certain     | ) |                             |
| Provisions in the Central Milk | ) |                             |
| Marketing Order                | ) | Certification of Transcript |

An oral hearing was held in the above entitled cause on November 14 and 15, 2001, in Kansas City, Missouri. There were twenty-six Exhibits identified/admitted into evidence. Several of the participants submitted proposed corrections to the transcript which have been incorporated herein.

To the best of my knowledge and belief, except for obvious typographical errors and the following corrections, the foregoing 628 Pages are a true, correct and complete transcript of the testimony given at the hearing.

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u> | <u>Corrected</u>     |
|-------------|-------------|--------------------|----------------------|
| 6           | 9           | handler to         | handlers who         |
| 8           | 10          | 912(d)             | 900.12(d)            |
| 9           | 16          | The rules.         | This rule.           |
| 10          | 3           | Order              | order                |
| 14          | 10          | to Hearings of     | of Hearing to        |
| 16          | 9           | NTI                | AMPI                 |
| 16          | 15          | of                 | O'                   |
| 17          | 1           | Sweeza Foods       | Suiza Foods          |
| 23          | 14          | statistical.       | statistical summary. |
| 23          | 21          | have               | help                 |
| 24          | 7           | Performed          | per Farm             |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>                                                                | <u>Corrected</u>           |
|-------------|-------------|-----------------------------------------------------------------------------------|----------------------------|
| 24          | 15          | Class 1<br>(further occurrences of "Class 1" in transcript should be "Class I")   | Class I                    |
| 29          | 3           | Milk Shed                                                                         | Milkshed                   |
| 30          | 19          | far                                                                               | for                        |
| 30          | 23          | a producer of milk                                                                | of producer milk           |
| 32          | 2           | two                                                                               | to                         |
| 32          | 9           | Dispositions" are of                                                              | Dispositions are of        |
| 32          | 10          | Total Producer Receipts,                                                          | "Total Producer Receipts," |
| 35          | 9           | \$1.62.67 cents                                                                   | \$1.6267                   |
| 40          | 4           | or                                                                                | of                         |
| 42          | 25          | overtime                                                                          | over time                  |
| 48          | 7           | what                                                                              | with                       |
| 48          | 21          | Class 3<br>(Further occurrences of "Class 3" in transcript should be "Class III") | Class III                  |
| 52          | 4           | a                                                                                 | at                         |
| 56          | 23          | five                                                                              | supply                     |
| 63          | 2           | Tolare                                                                            | Tulare                     |
| 65          | 5           | Class 2<br>(Further occurrences of "Class 2" in transcript should be "Class II")  | Class II                   |
| 66          | 22          | 60                                                                                | 16                         |
| 81          | 3           | 62                                                                                | 16                         |
| 86          | 20          | full                                                                              | pool                       |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>                                                                                                                                                                                                                                                                                                                                                                                                                                      | <u>Corrected</u>    |
|-------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 97          | 14          | on                                                                                                                                                                                                                                                                                                                                                                                                                                                      | of                  |
| 111         | 7           | Nebraska and dairy                                                                                                                                                                                                                                                                                                                                                                                                                                      | Nebraska dairy      |
| 125         | 24          | the notice                                                                                                                                                                                                                                                                                                                                                                                                                                              | the notice going to |
| 127         | 8           | directly                                                                                                                                                                                                                                                                                                                                                                                                                                                | indirectly          |
| 130         | 12          | court                                                                                                                                                                                                                                                                                                                                                                                                                                                   | accord              |
| 141-<br>200 | 17<br>11    | According to Mr. Beshore on page 141, lines 9-13, Elvin Hollon's direct testimony, which begins on page 141, line 17, and concludes on page 200, line 11, is supposed to look exactly like Exhibit 8, even if he changed a word here or there and skipped entire portions. Exhibit 8 was to become a part of the transcript "as if it had been read in full" (Tr. 141). Accordingly, Exhibit 8 is attached hereto and incorporated herein by reference. |                     |
| 145         | 22          | service                                                                                                                                                                                                                                                                                                                                                                                                                                                 | surface             |
| 146         | 2           | reviewed                                                                                                                                                                                                                                                                                                                                                                                                                                                | review              |
| 146         | 23          | when                                                                                                                                                                                                                                                                                                                                                                                                                                                    | from                |
| 147         | 25          | Service                                                                                                                                                                                                                                                                                                                                                                                                                                                 | surface             |
| 148         | 4           | higher-up                                                                                                                                                                                                                                                                                                                                                                                                                                               | "higher of"         |
| 148         | 16          | service . . . this                                                                                                                                                                                                                                                                                                                                                                                                                                      | surface . . . its   |
| 159         | 15          | amass                                                                                                                                                                                                                                                                                                                                                                                                                                                   | mask                |
| 161         | 8           | within the                                                                                                                                                                                                                                                                                                                                                                                                                                              | with any            |
| 161         | 15          | taking                                                                                                                                                                                                                                                                                                                                                                                                                                                  | take in             |
| 163         | 3           | central dairy                                                                                                                                                                                                                                                                                                                                                                                                                                           | of Central Dairy    |
| 165         | 25          | this section                                                                                                                                                                                                                                                                                                                                                                                                                                            | the section         |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>                                                               | <u>Corrected</u>                                                        |
|-------------|-------------|----------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| 167         | 7           | handler. We                                                                      | handler, who                                                            |
| 168         | 16          | in                                                                               | and                                                                     |
| 170         | 19          | Area                                                                             | order                                                                   |
| 173         | 2           | drop will impact                                                                 | draw of blend price                                                     |
| 173         | 8           | services                                                                         | surfaces                                                                |
| 173         | 20          | service                                                                          | surface                                                                 |
| 174         | 5           | reloaded pumps.                                                                  | reload and pump over.                                                   |
| 174         | 10          | list                                                                             | grid                                                                    |
| 174         | 18-19       | underline the pricing service                                                    | underlie the pricing surface                                            |
| 175         | 14          | for                                                                              | from                                                                    |
| 177<br>pool | 19-20       | and nearby Federal Order 5,<br><br>pool distributing plant that<br>solicits from | a nearby Federal Order 5<br><br>distributing plant that solicits<br>for |
| 178         | 21          | Federal Order pooled                                                             | Federal Order 7 pool                                                    |
| 179         | 5-6         | plant. The only                                                                  | plant - the only                                                        |
| 179         | 18          | 2000                                                                             | 2001                                                                    |
| 179         | 23          | Order 30                                                                         | Order 32                                                                |
| 180         | 24          | 132                                                                              | 32                                                                      |
| 181         | 8           | 26                                                                               | 126                                                                     |
| 183         | 2           | problem over                                                                     | problem, over                                                           |
| 183         | 3           | above would                                                                      | above, would                                                            |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>          | <u>Corrected</u>                              |
|-------------|-------------|-----------------------------|-----------------------------------------------|
| 184         | 4, 8        | Exhibit 9                   | Exhibit 5                                     |
| 188         | 1           | MA Exhibit 12, MA Exhibit   | MA Exhibit 5,                                 |
| 188         | 5           | September and . . . in 2001 | September 2000 and . . . in<br>September 2001 |
| 189         | 2           | point shows and             | points chosen                                 |
| 189         | 8           | procurement assembly        | procurement, assembly                         |
| 194         | 9           | to                          | of                                            |
| 197         | 1           | As indicaed, the            | as in the case of the                         |
| 197         | 20          | on on the                   | on the                                        |
| 198         | 15          | pooled                      | pool                                          |
| 199         | 17          | service                     | surface                                       |
| 199         | 18          | have touched base           | of touch base                                 |
| 200         | 1           | 132.9(c)                    | 1032.9(c)                                     |
| 200         | 25          | surplus                     | surface                                       |
| 201         | 2           | surplus                     | surface                                       |
| 201         | 13          | Novockock                   | Novakovic                                     |
| 202         | 6           | distance                    | ?                                             |
| 246         | 8, 16       | 1327                        | § 1032.7                                      |
| 246         | 10          | pooled                      | pool                                          |
| 246         | 12          | pooled                      | pool                                          |
| 246         | 18          | pooled                      | pool                                          |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>                                                     | <u>Corrected</u>                           |
|-------------|-------------|------------------------------------------------------------------------|--------------------------------------------|
| 246         | 24          | pooled                                                                 | pool                                       |
| 251         | 19          | surplus                                                                | surface                                    |
| 254         | 10          | I                                                                      | it                                         |
| 254         | 11          | associate minimally                                                    | associate - minimally                      |
| 258         | 2-3         | the Trade Association of Dairy Farmers                                 | a state trade association of dairy farmers |
| 260         | 20          | informing                                                              | and forming                                |
| 261         | 19          | 1327(c)(4)                                                             | § 1032.7(c)(4)                             |
| 262         | 8           | 3213(e)                                                                | § 1032.13(e)                               |
| 282         | 18          | decisions                                                              | provisions                                 |
| 285         | 22          | Mr. Novockock                                                          | Dr. Novokovic                              |
| 295         | 19          | Swisse                                                                 | Suiza                                      |
| 296         | 12          | except                                                                 | accept                                     |
| 296         | 23          | except                                                                 | accept                                     |
| 300         | 4           | Swisse                                                                 | Suiza                                      |
| 303         | 13          | probably                                                               | problem                                    |
| 348         | 7           | GOLDEN                                                                 | GULDEN                                     |
|             |             | (Further occurrences of "GOLDEN" in the record should read "GULDEN")   |                                            |
| 357         | 1           | BANDER                                                                 | BANDEROB                                   |
|             |             | (Further occurrences of "BANDER" in the record should read "BANDEROB") |                                            |
| 364         | 10          | BFA                                                                    | DFA                                        |
| 367         | 9           | marketed                                                               | market in                                  |
| 369         | 8           | raising                                                                | grazing                                    |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>          | <u>Corrected</u>          |
|-------------|-------------|-----------------------------|---------------------------|
| 372         | 5           | our                         | are                       |
| 372         | 10          | paid                        | pay                       |
| 385         | 9           | Robertson . . . Land to Sun | Robinson . . . Land-O-Sun |
| 388         | 3           | Onley                       | Olney                     |
| 388         | 5           | Suez Falls . . . Highland   | Sioux Falls . . . Hiland  |
| 388         | 6           | Channel                     | Chandler                  |
| 388         | 7           | cost                        | caused                    |
| 388         | 14          | and                         | in                        |
| 388         | 14          | on                          | a                         |
| 390         | 5           | quality                     | qualify                   |
| 396         | 1           | schematic sell              | somatic cell              |
| 397         | 24          | 1535                        | \$ 15.35                  |
| 398         | 1           | 1369                        | \$ 13.69                  |
| 398         | 5           | 1127                        | \$ 11.27                  |
| 398         | 6           | 1119                        | \$ 11.19                  |
| 401         | 8-9         | t - here                    | there                     |
| 401         | 12, 22      | antidotally                 | anecdotaly                |
| 403         | 11, 22      | priority                    | proprietary               |
| 413         | 8           | priorities                  | proprietaries             |
| 416         | 12          | 1065 to 1070                | \$ 10.65 to \$ 10.70      |
| 416         | 14          | 1144                        | \$ 11.44                  |

| <u>Page</u> | <u>Line</u>   | <u>Uncorrected</u>       | <u>Corrected</u>                        |
|-------------|---------------|--------------------------|-----------------------------------------|
| 417         | 4             | deleting                 | diluting                                |
| 434         | 4             | paid                     | pay                                     |
| 434         | 7             | 1144                     | \$ 11.44                                |
| 436         | 16, 19        | paid                     | pay                                     |
| 441         | 13-14         | 1070 and 1065 . . . 1144 | \$ 10.70 and \$ 10.65 . . .<br>\$ 11.44 |
| 441         | 15            | hurt                     | herd                                    |
| 446         | 11            | Onley                    | Olney                                   |
| 446         | 12            | Onley                    | Olney                                   |
| 449         | 23            | mitigate                 | migrate                                 |
| 450         | 4             | mitigate                 | migrate                                 |
| 463         | 8             | for                      | force                                   |
| 463         | 15            | adjourning               | adjoining                               |
| 463         | 22            | bun                      | blend                                   |
| 464         | 5             | was                      | what's                                  |
| 467         | 11-12, 20     | priority (4 occurrences) | proprietary                             |
| 470         | 8             | priority                 | proprietary                             |
| 486         | 7             | preporting               | purporting                              |
| 489         | 14, 17-18, 25 | Food (4 occurrences)     | Fluid                                   |
| 520         | 7             | imposed                  | opposed                                 |
| 534         | 4             | to                       | two                                     |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>                | <u>Corrected</u>                |
|-------------|-------------|-----------------------------------|---------------------------------|
| 540         | 19          | DMPI                              | AMPI                            |
| 551         | 18          | dissemble                         | dissimilar                      |
| 564         | 6           | Talary                            | Tulare                          |
| 567         | 9           | 1656                              | \$ 16.56                        |
| 567         | 10          | 1506                              | \$ 15.06                        |
| 570         | 10          | Wholesale                         | Capper-Volstead                 |
| 581         | 17          | Agriculture                       | Agricultural                    |
| 581         | 24          | and                               | in                              |
| 582         | 2           | To spite                          | Despite                         |
| 582         | 20          | who                               | that                            |
| 582         | 22          | Dodge<br>Hardington<br>Ventura    | Dodge,<br>Hartington<br>Ravenna |
| 583         | 21          | is the                            | is that                         |
| 583         | 24          | a                                 | the                             |
| 583         | 25          | insert "minimum" before "pricing" |                                 |
| 584         | 2           | insert "in" after "results"       |                                 |
| 584         | 5           | delete "is"                       |                                 |
| 584         | 13          | captioned                         | captured                        |
| 585         | 17          | increase                          | increased                       |
| 585         | 25          | 100                               | hundred                         |

| <u>Page</u> | <u>Line</u> | <u>Uncorrected</u>              | <u>Corrected</u> |
|-------------|-------------|---------------------------------|------------------|
| 586         | 7           | 100                             | 110              |
| 586         | 16          | the                             | to               |
| 587         | 6           | fact                            | factor           |
| 587         | 7           | of those                        | that is          |
| 587         | 14          | the proposed, proposed          | that proposed    |
| 587         | 20          | in                              | and              |
| 588         | 2           | in                              | than             |
| 588         | 19          | preports                        | purports         |
| 589         | 3           | delete "just under"             |                  |
| 589         | 4           | delete "is"                     |                  |
| 589         | 6           | delete "the notice"             |                  |
| 589         | 12          | Central                         | Federal          |
| 589         | 19          | essential                       | essentially the  |
| 589         | 21          | 1                               | Blend            |
| 591         | 4           | market                          | markets          |
| 591         | 12          | insert "price" after "month"    |                  |
| 591         | 13          | following                       | falling          |
| 591         | 23          | following                       | falling          |
| 592         | 8           | insert "that" after "concerned" |                  |
| 592         | 11          | insert "since" after "that"     |                  |
|             |             | Central                         | Federal          |

|     |    |                               |                                   |
|-----|----|-------------------------------|-----------------------------------|
| 592 | 12 | lowered                       | lower                             |
| 593 | 11 | this<br>month                 | these<br>months                   |
| 593 | 16 | were                          | for                               |
| 593 | 25 | insert "classes" after "that" |                                   |
| 597 | 11 | 15                            | fifteenth                         |
| 598 | 3  | chewed                        | paid                              |
| 600 | 21 | marketing sales               | marketing and sales<br>department |
| 617 | 25 | but                           | and                               |

The Agency advised on December 20, 2001, that:

On the page of Exhibit #7 headed "Selected Counties With Milk Marketings On the Central Federal Order", the data for milk production from Colorado counties within the Order 32 marketing area (**CO #32**) and from Colorado counties outside the Order 32 marketing area (**CO Other**) is reversed. These lines should read as follows:

|               | December 1996 |             | December 1998 |             | December 2000 |             |       |
|---------------|---------------|-------------|---------------|-------------|---------------|-------------|-------|
|               | # of<br>Ctys  | Pounds      | #of<br>Ctys   | Pounds      | #of<br>Ctys   | Pounds      | %Chg  |
| CO #32        | 22            | 136,095,083 | 21            | 138,051,409 | 20            | 124,337,088 | - 10  |
| CO Other      | 3             | 693,401     | 3             | 624,679     | 4             | 1,911,188   | + 206 |
| 7-State #32   |               | 594,560,402 |               | 629,655,019 |               | 691,710,568 | + 10  |
| 7-State Other |               | 118,690,487 |               | 124,297,334 |               | 625,841,074 | + 404 |

Accordingly, such corrections are noted above.

Done at Washington, D.C.  
this    day of                      , 2001

---

Dorothea A. Baker  
Administrative Law Judge

Attachment  
Exhibit 8