EXHIBIT
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California DAIRIES inc.

November 11, 2009

Mr. David Ikari, Chief
Dairy Marketing Branch
California Department of Food and Agriculture
560 J Street, Suite 150
Sacramento, CA 95814

RE: November 9th Class 1, 2, 3, 4a and 4b Hearing -- Post Hearing Brief

Dear Mr. Ikari and Members of the Hearing Panel:

California Dairies, Inc. appreciates the opportunity to submit the following post-hearing brief to amplify portions of our testimony presented in Sacramento on November 9, 2009. We will also attempt to address some of the questions brought up by members of the Hearing Panel and statements made by other hearing witnesses.

NASS vs. CWAP – In effect, this question has been asked and answered already. This matter was discussed and debated in 2007, both before and at the August hearing. In its deliberative process following the hearing, the Department considered individually and rejected most of the aspects and features embodied in the NASS NFDM price series. The result of the hearing was to make only two changes to the CWAP reporting procedures – excluding organic NFDM and limiting reportable fixed contract sales to 150 days. Substituting the NASS price series for the CWAP would institute a set of reporting requirements that are contradictory to the Department's findings just two years ago. The proposal to substitute the NASS NFDM price series for CWAP should be denied.

Why Not Increase Class 4a and 4b Prices? – One Panelist asked for an explanation as to why Class 4a and 4b prices should not be increased to give producers more revenue. Another question was asked as to why the Class 4a and 4b prices should not be raised to be equal to the federal class III and class IV prices. While the questions were not asked of me, I would like to amplify the explanation provided in my testimony. First, Class 4a and 4b are market–clearing classes of milk, and process 75% of the milk produced in California. The products from these plants compete in national and international markets where price is a dominant consideration for buyers. The California dairy industry is wholly dependent on the continued operation of its manufacturing facilities. To burden these plants with higher minimum prices that cannot be extracted from the market, even for a brief period, would have potentially devastating consequences. From our own perspective, higher minimum prices for Class 4a would put California Dairies at an immediate

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disadvantage in trying to sell products domestically and internationally, leaving us no option but to sell products at a loss. In addition, because nearly all butter and powder processing facilities are owned by producers, a Class 4a price increase only functions to redistribute money inequitably among different producer factions. Money would simply flow from the producers who have made investments in processing facilities to those producers who have not.

History of Emergency Hearing Results – Pages 9 and 10 of the Department's Background Material for the hearing summarizes past findings from hearings called on an emergency basis. There was no focus on the documents at the hearing, but closer scrutiny reveals some enlightening facts. First, since 1988 only six such hearings have been called. Second, in only two of the hearings were the minimum prices for the manufacturing classes of milk impacted at all, with the most recent being thirteen years ago. Third, the largest impact on minimum prices was an increase of $0.13 per cwt., much lower than what was proposed at the November 2009 hearing. Fourth, Class 4a and 4b accounted for 65% of the milk produced in the state in 1995-1996, which was the last time emergency action was taken. In 1989, the only other time emergency price relief action was taken, the combined utilization was just over 50% of the milk produced. Although not mentioned as part of the exhibit, proprietary ownership of butter-powder plants has faded dramatically in the last thirteen years, leaving only producer-owned butter-powder plants. Again, a Class 4a price increase only functions to redistribute money inequitably among different producer factions. Those producers with investments in plants will be penalized, and those with no investment will be rewarded.

Temporary vs. Permanent – While not clearly stated at the hearing, there seemed to be a notion that because this hearing was called on an emergency basis that no permanent change to the milk pricing formulas should be considered. For example, the proposal by the Alliance of Western Milk Producers, because it sought permanent changes, ought to be rejected on its face simply because it was not a temporary change. We simply point out that the call of the hearing does not place such limits on the matters to be considered at the hearing. The hearing notice clearly states that, "The hearing will…consider any other temporary or permanent changes to the Class 1, 2, 3, 4a and 4b pricing formulas to address emergency conditions…". It seems unfair and unjust to issue a hearing notice that contains few, if any, limitations on what will be considered and then frown upon proposals that are not temporary in nature. While we would tend to agree that some of the more complex matters brought forth might be better argued in a different setting, the Department needs to recognize that the call of the hearing dictated the breadth of proposals presented.

Thank you for allowing us the opportunity to submit this post-hearing brief.

Sincerely,

Dr. Eric M. Erba
Sr. VP Producer and Government Relations