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Public Meeting**

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THE STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
BEFORE THE NEVADA STATE DAIRY COMMISSION

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TRANSCRIPT OF PROCEEDINGS
PUBLIC MEETING
VIDEO CONFERENCE

9:00 A.M., WEDNESDAY, FEBRUARY 15, 2012

NEVADA STATE DAIRY COMMISSION

KIETZKE PLAZA

4600 KIETZKE LANE, A-107

RENO, NEVADA

APPEARANCES:

COMMISSIONERS PRESENT:

CHRISTOPHER COOK, Chairman

ROBERT R. FLETCHER, Commissioner

TROY CROWTHER, Commissioner

LYNN HETTRICK, Executive Director

WARREN GOEDERT, Attorney

REPORTED BY:

SUZANNE KUES ROWE, CCR, RPR

Nevada CCR #127

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1 WEDNESDAY, FEBRUARY 15, 2012, RENO, NEVADA, 9:00 A.M.

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3 (This meeting is held concurrently in Reno and Las
4 Vegas via video conferencing.)

5 CHAIRMAN COOK: Well, it's 8:57 on the TV screen, so
6 maybe we wait our three minutes.

7 It's nine o'clock. Let's go ahead and convene the
8 February 15th meeting of the Nevada State Dairy Commission.

9 Mr. Hettrick, with you open the meeting, please?

10 MR. HETTRICK: Yes, sir, Mr. Chairman.

11 This is the time and place set for the regularly
12 scheduled meeting of the Nevada State Dairy Commission for the
13 month of February, 2012.

14 This meeting has been scheduled and noticed in
15 compliance with the pertinent statutes, including the open
16 meeting law. A copy of the agenda has been handed to the court
17 reporter, with a request that it be part of the official
18 transcript of these proceedings.

19 My name is Lynn Hettrick. I'm director of the Nevada
20 State Dairy Commission.

21 Present today are Mr. Christopher Cook, chairman,
22 Mr. Troy Crowther, member of the commission, Mr. Robert Fletcher,
23 member of the commission. I expect Mr. Goedert, our counsel for
24 the commission, shortly. And certain members of the Dairy
25 Commission staff are present as well.

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1 Those who present statements or evidence to the
2 commission during the meeting are requested to first be
3 acknowledged by the chairman, and to identify themselves for the
4 record.

5 MR. GOEDERT: Sorry. I'm running a little late.

6 CHAIRMAN COOK: Only a minute off.

7 MR. GOEDERT: Is that it?

8 CHAIRMAN COOK: That's it.

9 MR. GOEDERT: I'll come back in two minutes.

10 CHAIRMAN COOK: Next on the agenda, Mr. Chairman, is
11 public comment.

12 Is there any public?

13 MR. HETTRICK: I don't see any public, so I don't think
14 we can have any of that.

15 And then number two, first item for possible action,
16 license applications, Peddler Distributor License for La Indita
17 Michoacana Distributing, Carson City, Nevada, Santiago Gonzalez,
18 owner.

19 The applicant seeks license to distribute ice cream,
20 sherbert, novelties and frozen yogurt in the Northern and
21 Southern Nevada Marketing Areas. The ice cream labels will be La
22 Indita Michoacana and La Michoacana.

23 The applicant's prices and costs have been reviewed by
24 members of the commission staff, and are in compliance with this
25 agency's laws and regs.

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1 The applicant will be responsible for the assessments.

2 CHAIRMAN COOK: Okay. This is a name that keeps
3 resurfacing. Over the last several years, as I recall.

4 Did we ever get all the licensing issues ironed out
5 with the previous licensees?

6 MR. ORZECH: The answer is yes.

7 CHAIRMAN COOK: Okay. And this applicant understands
8 that we're not anxious go back down that road again with those
9 issues?

10 MR. ORZECH: I cannot speak for him on that one.

11 CHAIRMAN COOK: All right. I have no further
12 questions.

13 COMMISSIONER FLETCHER: No questions.

14 CHAIRMAN COOK: Troy, any questions?

15 COMMISSIONER CROWTHER: No questions.

16 CHAIRMAN COOK: Okay. Having no more questions,
17 anybody in the audience or any staff members have any questions,
18 observations, comments?

19 Nothing to add?

20 Seeing nothing, I'll entertain a motion.

21 COMMISSIONER CROWTHER: Okay. I will make a motion to
22 approve the peddler license or peddler distributor license
23 application by La Indita Michoacana Distributing, Santiago
24 Gonzalez, owner, to distribute ice cream, sherbert, novelties and
25 frozen yogurt in the Northern and Southern Nevada Marketing

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1 Areas. Ice cream labels will be La Indita Michoacana and La
2 Michoacana.

3 COMMISSIONER FLETCHER: Second.

4 CHAIRMAN COOK: Okay. Having a motion and second and
5 no dissenting voices being heard, the motion carries and it is
6 passed.

7 MR. HETTRICK: Next item on the agenda, Mr. Chairman,
8 Worldwide Produce, Las Vegas, Nevada, Ghulam Abbas is the
9 president.

10 The applicant seeks a license to distribute fluid milk,
11 fluid cream, yogurt, cottage cheese, butter, ice cream, sherbert,
12 novelties and frozen yogurt in the Northern and Southern Nevada
13 Marketing Areas. The fluid label will be Meadow Gold.

14 Temporary approval was granted by the director February
15 7th, 2012.

16 The prices and costs have been reviewed by the Dairy
17 Commission staff and are in compliance with the agency's laws and
18 regulations.

19 And the applicant will be responsible for the
20 assessments.

21 CHAIRMAN COOK: Okay. Is there anyone representing
22 this applicant present?

23 I don't see anybody.

24 Is there anything the staff can add to this? Any
25 concerns or questions we have?

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1 MR. HETTRICK: No. Pretty straightforward.

2 CHAIRMAN COOK: I have no questions. Troy, any
3 questions?

4 COMMISSIONER CROWTHER: No. It says the label will be
5 Meadow Gold. Is this being processed here in Las Vegas in the
6 plant?

7 MR. HETTRICK: James probably knows better, but I
8 believe it is. That's where Meadow Gold is processed.

9 MR. BENTLEY: I talked to the owner of the previous
10 business when they were starting to prepare the license, and
11 they're buying all of their products from Meadow Gold here in
12 town, to redistribute.

13 MR. HETTRICK: Okay. So, the answer would be yes.

14 COMMISSIONER CROWTHER: Okay. No further questions.

15 CHAIRMAN COOK: Okay. Any questions or comments from
16 any members of the nonexistent audience?

17 Any questions or comments from staff? Seeing none,
18 I'll entertain a motion.

19 COMMISSIONER FLETCHER: I move the commission approve
20 the Worldwide Produce Peddler Distributor License application as
21 submitted after review by the staff for compliance with all
22 applicable rules and regulations.

23 COMMISSIONER CROWTHER: Second.

24 CHAIRMAN COOK: Okay. Having a motion and a second, no
25 dissenting votes, motion carries. The license is granted.

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1 MR. HETTRICK: Next, Mr. Chairman, is retail store
2 importing from out-of-state, it's the Euro Market and Deli, Las
3 Vegas, Nevada, Zoran Drasko is the manager.

4 The applicant seeks a license to distribute fluid milk,
5 fluid cream, butter, yogurt, cottage cheese, ice cream, sherbert
6 novelties and frozen yogurt in the Southern Nevada Marketing
7 Area. No labels for fluid milk or ice cream are listed as being
8 imported at this time.

9 The applicant's prices and costs have been reviewed by
10 members of the Dairy Commission staff, and are in compliance with
11 the agency's laws and regulations.

12 And the applicant will be responsible for the
13 assessments.

14 CHAIRMAN COOK: So, if they're not identifying any
15 labels that they're going to be importing, does that mean they
16 are selling product produced?

17 MR. HETTRICK: That would be the way I would read it.

18 MR. ORZECH: It just means that they asked for that.

19 MR. HETTRICK: They are not marketing anything.

20 CHAIRMAN COOK: Oh, okay.

21 MR. HETTRICK: They want approval for it, but then they
22 have to --

23 CHAIRMAN COOK: Then they have to come in and modify
24 the application?

25 MR. HETTRICK: Yes.

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1 CHAIRMAN COOK: All right. Questions, Troy?
2 Questions, Bob?

3 COMMISSIONER FLETCHER: No questions.

4 COMMISSIONER CROWTHER: No.

5 CHAIRMAN COOK: Okay. Questions or comments from
6 staff? Seeing none, I'll entertain a motion.

7 COMMISSIONER CROWTHER: I will make a motion to approve
8 the retail store importing from out of state by Euro Market and
9 Deli, Las Vegas, Nevada, to distribute fluid milk, fluid cream,
10 butter yogurt, cottage cheese, ice cream, sherbert, novelties and
11 frozen yogurt in the Southern Nevada Marketing Area.

12 COMMISSIONER FLETCHER: Second.

13 COMMISSIONER CROWTHER: I'm sorry. Do we not need
14 names? It says we don't have the names of the ice cream or the
15 brand names.

16 CHAIRMAN COOK: Go ahead, James.

17 MR. BENTLEY: They said it's just a start-up. The
18 emphasis for them is on the deli, is their primary focus and they
19 are not having milk and ice cream at this time, but as their
20 business expands, they are looking to bring those other products
21 in.

22 MR. HETTRICK: And then they will bring in the labeled
23 ice cream and so on. They will have to amend to give us the
24 label?

25 MR. BENTLEY: Yes.

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1 MR. HETTRICK: Okay.

2 COMMISSIONER CROWTHER: Okay. Then I keep the motion
3 as stated.

4 CHAIRMAN COOK: Okay. And is there a second?

5 COMMISSIONER FLETCHER: Second.

6 CHAIRMAN COOK: Motion and second being made, no
7 dissenting votes, the motion is approved and the application is
8 granted.

9 MR. HETTRICK: Number three for possible action,
10 license amendment applications, retail store importing from
11 out-of-state, Mediterranean Market, Las Vegas, Nevada, Rose
12 Misherfi is the manager.

13 The applicant seeks a license amendment to add fluid
14 cream to their license in the Southern Nevada Marketing Area.

15 The applicant's prices and costs have been reviewed by
16 the Dairy Commission staff, and are in compliance with the
17 agency's laws and regulations.

18 The applicant will be responsible for the assessments.

19 CHAIRMAN COOK: Okay. This one seems pretty straight
20 forward. Is that another one of those situations where they're
21 just anticipating adding product line in the future?

22 MR. HETTRICK: Yeah. I don't see a label. Do we have
23 a label?

24 MR. ORZECH: Again, this is for fluid cream. You don't
25 need a label on fluid cream.

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1 CHAIRMAN COOK: Okay.

2 MR. ORZECH: And they are selling fluid cream.

3 CHAIRMAN COOK: Okay. Well, I see nobody from this
4 applicant.

5 Are there any questions from any of the other
6 commissioners?

7 COMMISSIONER FLETCHER: None.

8 COMMISSIONER CROWTHER: No.

9 CHAIRMAN COOK: Questions or comments from staff?
10 Seeing none, I will entertain a motion.

11 COMMISSIONER FLETCHER: I move to approve the
12 Mediterranean Market license application as submitted, after
13 review by the staff for compliance, with the appropriate rules
14 and regulations.

15 COMMISSIONER CROWTHER: Second.

16 CHAIRMAN COOK: Okay. Motion and second, no dissenting
17 votes. Motion carries. Application granted.

18 MR. HETTRICK: Next, Mr. Chairman, is a license
19 amendment application for WinCo Foods, LLC, Woodburn, Oregon,
20 Gary Kints, VP merchandising and retail pricing.

21 The applicant seeks to amend their license to add the
22 Southern Nevada Marketing Area.

23 The applicant's prices and costs have been reviewed by
24 Dairy Commission staff, and are in compliance with the agency's
25 laws and regulations.

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1 And the applicant will be responsible for the
2 assessments.

3 CHAIRMAN COOK: Okay. No one representing this
4 applicant present. Are they just expanding new stores down in
5 the south?

6 MR. HETTRICK: Yes. They are going to add stores in
7 Vegas is what we understand.

8 CHAIRMAN COOK: Okay.

9 COMMISSIONER CROWTHER: Do we know where they're
10 getting their dairy products from? Where they're getting their
11 milk products?

12 MR. ORZECH: Yes, we do. In fact, next month you will
13 have a, an amendment on here from Meadow Gold of Las Vegas,
14 because they are going to now carry the Hightop label, which is a
15 store label for WinCo.

16 WinCo is going to get their fluid product from Meadow
17 Gold, and they are going to do all their distribution that they
18 are doing up here. They are just going to ship down further
19 south. So, that will remain the same, but the fluid product will
20 be from Meadow Gold.

21 COMMISSIONER CROWTHER: Great. Okay.

22 CHAIRMAN COOK: But, they are bottling under their
23 house label?

24 MR. ORZECH: Yes.

25 CHAIRMAN COOK: Okay. Any other questions?

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1 COMMISSIONER FLETCHER: No questions.

2 CHAIRMAN COOK: Questions or comments from staff?

3 Seeing none, I will entertain a motion.

4 COMMISSIONER CROWTHER: I will make a motion to approve
5 the retail store importing from out-of-state license amendment
6 application by WinCo Foods, LLC, Woodburn, Oregon, to amend their
7 license to add the Southern Nevada Marketing Area. Bob?

8 COMMISSIONER FLETCHER: Second.

9 CHAIRMAN COOK: Motion and second, no dissenting votes.
10 Motion carries and license is granted.

11 MR. HETTRICK: Next, Mr. Chairman, item number four on
12 the agenda, action on the minutes. The minutes have no
13 corrections, and so we just need a motion and approval of the
14 minutes for the January 11th Dairy Commission meeting.

15 COMMISSIONER FLETCHER: Are you ready for a motion?

16 CHAIRMAN COOK: I will entertain such a motion.

17 COMMISSIONER FLETCHER: I move the commission approve
18 the January 11th, 2012 minutes of the Nevada State Dairy
19 Commission meeting, held in -- I'll just Nevada State Dairy
20 Commission, period.

21 COMMISSIONER CROWTHER: Second.

22 CHAIRMAN COOK: Okay. Having a motion and a second on
23 the approval of the January 11th meeting minutes, there being no
24 dissenting votes, the motion carries and the minutes are
25 approved.

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1 MR. HETTRICK: Next on the agenda, Mr. Chairman, item
2 number five, staff report. Our balance carried forward at the
3 end of January was 482,000 -- I'm sorry. 482,568.12. It's a
4 decrease of \$63,385.78 from December.

5 As you know, the tax holiday credits were issued for
6 the month of December, and they would appear in the month of
7 January as people are paying.

8 We issued \$115,000, approximately, in credits, and so
9 we're going to see some additional reserve reduction next month,
10 most likely.

11 We do know that some people missed the credit, and we
12 have heard from folks saying, ooh, we forgot to take it. Can we
13 take it next month? So, obviously they can, so we have no issues
14 there.

15 So, this was what we anticipated, and we'll just see a
16 flow through, and then we'll see where we stand after all the
17 credits are taken against the assessments.

18 The milk price report was printed and distributed.
19 Prices going down slowly. You can see the pricing over the last
20 couple of months there. Apparently that trend will continue.

21 We see that there seems to be a significant surplus of
22 dairy products available in the market right now, so prices are
23 likely to continue to go down slowly.

24 Commonwealth Dairy is an update. It appears that the
25 land issues are at least to a point that they are negotiable, and

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1 that there's an opportunity for that to not be an impediment.

2 We can't guarantee that it isn't, but we understand
3 that at least that's negotiable, and people are willing to talk
4 about dealing with the land issues.

5 Right now sewage is an issue. There have been meetings
6 with the governor and multiple meetings and phone calls to NDEP,
7 and right now, it appears that there's some flexibility, but the
8 end result in costs are going to be determined before I believe
9 Commonwealth would commit.

10 However, they had their chairman here, they had a long
11 meeting, over two hours with the governor on February 8th. I
12 think that was very successful. They seemed to be very
13 interested. I attended that meeting, and you know, it seemed to
14 be a very successful meeting.

15 I think they clearly got the message from the governor
16 that he wants them here and he's working hard to do whatever he
17 can do to facilitate their coming here. So, that still looks
18 good, still on the horizon.

19 They have eliminated New Mexico, according to what they
20 told us at that meeting. They determined that in New Mexico,
21 the, all of the milk was absolutely controlled buy four co-ops,
22 and apparently they couldn't negotiate a price that they were
23 happy with in terms of milk supply, even though they could buy a
24 very inexpensive plant that was -- relatively inexpensive
25 plant -- that was available. They determined that that wasn't a

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1 market that they wanted to work out of, so they have eliminated
2 that.

3 They indicated to us that if they can't do something in
4 Nevada, they are going to look at Arizona. But, we don't know
5 whether they went to Arizona after they were here or not, or
6 they're just indicating that's their next option.

7 So, anyway we are still very, very high on that, very
8 hopeful on that, and, you know, we'll see how it goes.

9 And then finally -- well, two things, I guess. Our,
10 two members of our staff, Cathy and Lisa, are down at the Tulare
11 Ag Show as we speak. They were there working the show yesterday.

12 We got a phone call from them and DFA is at that show
13 as well. DFA announced to us at the show, and they called us to
14 tell us, that the groundbreaking on the powder plant is scheduled
15 for April 11th, 2012, and they invited all of us to attend.

16 I'm hopeful we will get the governor to attend. I
17 don't know who is going to be working on that, but I think
18 definitely we will try to get the governor there. We think it's
19 a big deal, and we want that kind of dairy publicity.

20 CHAIRMAN COOK: What day of the week is that?

21 MR. ORZECH: It's a Wednesday.

22 CHAIRMAN COOK: I wonder if we could schedule --

23 MR. HETTRICK: We could, but the video conferencing
24 wouldn't allow us to, we could do it at the community college; we
25 would have to do Southern Nevada market license apps. So, I

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1 would suggest that we probably, I mean if our meeting is on that
2 day, is it?

3 COMMISSIONER CROWTHER: Our meeting is the next week,
4 is the 18th.

5 CHAIRMAN COOK: Okay.

6 MR. HETTRICK: So, we don't have to worry about that.
7 You know, we can attend or not attend. I think, frankly, the
8 person that we need to have attend is the governor, and if we can
9 get the governor out there and get the publicity, that's what we
10 need.

11 CHAIRMAN COOK: No question. But, I think there needs
12 to be some representation.

13 MR. HETTRICK: We are not going to be in the photos or
14 anything. That's my only point. To get the thing published in
15 the paper, we need the governor. And that's where we, what we
16 need to be doing. So, we're going to work on that.

17 CHAIRMAN COOK: How many employees is that plant going
18 to have?

19 MR. HETTRICK: We heard as many as 50. And I've heard,
20 the number I heard on the value of the plant was 85 million, so I
21 don't know what it is.

22 I mean that's the number I heard, but that was -- I
23 don't want to, that was the number I heard. And I think they are
24 going to have to have more cows ultimately than what they have
25 right know. So, that means we should see some expansion of the

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1 dairy shed as well.

2 So, very positive, good thing, Acedcro Alves, one of
3 the dairymen from Fallon, yesterday was here taking a test for
4 one of the things that he wants to do, and I spoke to him for a
5 few minutes.

6 They're pleased. They are glad it's going in. They
7 think it's positive. They have some concerns, as anyone, with
8 about how it's going to work out in the end, but they are quite
9 pleased, and they're still very excited about the opportunity to
10 have Commonwealth come here.

11 So, good things. If we can just have a couple more of
12 them happen, it would be wonderful.

13 CHAIRMAN COOK: Well, keep doing whatever it is you're
14 doing to push this along.

15 MR. HETTRICK: We're participating every way we can
16 participate, but certainly we're not making this, we're not
17 driving the wagon, but we are trying to help if we can be
18 helpful.

19 CHAIRMAN COOK: Yeah. Smooth the way.

20 MR. HETTRICK: Yeah. Doing what we can.

21 All right. The next thing on the agenda, Mr. Chairman?

22 COMMISSIONER CROWTHER: I'm sorry. Is there any more
23 word on Chobani?

24 MR. HETTRICK: Chobani is in Idaho. They got 20-plus
25 million dollars from either the state of Idaho and/or the Idaho

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1 Dairy Farmer's organization to build there. They have already
2 broken ground, and they are definitely not going to be in Nevada.

3 CHAIRMAN COOK: Troy, do a Google search on Chobani in
4 Idaho, and you will see tons of publicity in the local papers up
5 there.

6 MR. GOEDERT: Idaho isn't in a recession like us?

7 MR. HETTRICK: Not in the dairy industry. Idaho has a
8 very large dairy shed, and a lot of people who promise to provide
9 milk and other things. A lot more than we could provide.

10 You know, I think in many ways now that we have dealt
11 with two companies, Troy, two yogurt companies, I think what we
12 see is Commonwealth is truly interested in Nevada. They're
13 asking very detailed questions, they're really down digging, you
14 know, right down to the minutia to make sure that they're not
15 missing anything.

16 And in looking back now at the way it went when Chobani
17 was here, they were much higher level, you know, well, how are
18 you going to do this? What are you going to do about that? It
19 was never in minutia.

20 Hindsight, I would say they were using us to negotiate
21 for something they got from Idaho.

22 COMMISSIONER CROWTHER: Right. What is Commonwealth's
23 overall, what is their product line? Is it pretty broad?

24 MR. HETTRICK: Commonwealth is a private label
25 manufacturer that creates product for other companies under

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1 private label.

2 The bulk of their sales is Kirkland. They are, and
3 that's why they are pushing. Commonwealth opened their service
4 fist plant in Bradleboro, Vermont about six months ago. It was
5 about a year in construction and initial phase, and they opened
6 about six months ago. They've already doubled the production.

7 They are now unable to buy enough milk. The
8 legislature, and the governor changed since they got their permit
9 to build there, and they got, they initially were able to dump
10 their waste water on to the ground, but they have now been told
11 they can no longer do that.

12 And apparently there's a 30 million dollar renovation
13 going on in the Bradleboro, Vermont sewage plant to handle their
14 waste.

15 Their whey, to get rid of the whey for making Greek
16 yogurt because the whey is removed from Greek yogurt, they are
17 having to deliver that back to farmers to feed it to cows, which
18 is quite good, except that the average dairy farm there is about
19 200 cows. So, the truck makes a hundred stops to get rid of a
20 truckload of whey.

21 They are excited about moving, if they can come here,
22 they are excited about moving the Greek yogurt production to
23 Nevada, because they could deliver single truck loads to one
24 dairy.

25 They are big enough here, we could take truck loads,

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1 and it would make it a lot cheaper, faster, more convenient in
2 terms of getting rid of their whey.

3 CHAIRMAN COOK: Is it their intent to service a
4 national market?

5 MR. HETTRICK: Apparently they are going to service the
6 international market from here with Greek yogurt.

7 CHAIRMAN COOK: Likewise they are doing the same thing
8 out of Vermont at the moment.

9 MR. HETTRICK: At the moment, what they can service.
10 They are totally used up. Their production in Vermont is totally
11 used up for Kirkland on the east coast. It's gone.

12 And they've done, they told us in the meeting that we
13 had with the governor, they told us they run taste tests, when
14 they open a new outlet, Costco outlet, they go in and they run
15 blind taste tests for the managers, and all the staff and
16 everything. And they put out Fage, Chobani and Kirkland's
17 product side by side, but they do it blind. And they said they
18 invariably win the taste test. That the yogurt is considered to
19 be superior.

20 And Costco wants their yogurt, but is telling them
21 you've got nine months to produce yogurt or we're going to find
22 another supplier, because the market is growing so rapidly they
23 have to have more product.

24 So, this is a very fast push. If they do this, one of
25 the reasons they are interested in this plant up here is that the

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1 building exists, and they could install equipment and be in
2 production, they believe, within that nine month window.

3 So, it's very exciting. I mean it's close. There are
4 hang ups and there are big hang ups. I mean we are talking
5 multi-million dollar sewage issues. But, you know, they're not
6 going to get much, certainly not as much speed or cooperation in
7 other states.

8 And no matter where they go, they are going to have the
9 same issues. So, I think we're clearly at the top of the list,
10 and we just got to hopefully this stuff can all be resolved and
11 move forward.

12 COMMISSIONER CROWTHER: You know, it was interesting
13 that it looks like of the five items, you know, action items on
14 the agenda, probably four of them were ethnic in nature. They
15 are ethnic products. And I'm just curious if they or if anybody
16 else looking, you know, is considering that type of a plant, or
17 producing those type of products over here.

18 MR. HETTRICK: We are not aware of anybody. We have
19 talked about that. It appears with the growth of the Hispanic
20 type markets in particular, that there is a place for some of the
21 La Crema and some of those things that might be produced
22 somewhere near here and save some freight cost and so on. But,
23 we have not heard of anybody doing that yet.

24 COMMISSIONER CROWTHER: Okay.

25 CHAIRMAN COOK: All right.

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1 MR. HETTERICK: If there are no more questions,
2 Mr. Chairman, I will move to the next item, and that is the legal
3 report presented by Mr. Goedert.

4 CHAIRMAN COOK: Okay.

5 MR. GOEDERT: Well, I finally have something to talk
6 about. Unfortunately or fortunately.

7 B and I would like to take over the budgeting and
8 accounting of the Dairy Commission.

9 We've done a considerable amount of looking at our
10 statutes and their statutes.

11 What brought this up is a memorandum that counsel for B
12 and I produced for the director, and unfortune -- fortunately or
13 unfortunately, Counsel is wrong.

14 We have specific statutes that require us to do the
15 accounting and budgeting, and we handle money that's part of the
16 or is the assessments that are provided to us that run our entire
17 operation.

18 And our statutes require us to do the accounting and
19 account for it. On a biannual basis. We have to provide that
20 information to the governor 30 days before the legislature.

21 And then it becomes a matter of public record.

22 I don't know what's behind it, particularly. All I
23 know is that we would be in serious problems if we abandon or we
24 relinquish, relinquish is probably a better word, our statutory
25 authority.

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1 One, we don't have the power to do that.

2 And two, that statutory authority has been given to us.
3 And absent legislative change of some sort, we're required to
4 comply.

5 That's my analysis of it. I think they are clearly
6 wrong, because our statutes are so clear.

7 Their memorandum recognizes that if we have a specific
8 statute that they don't get to take it over. But, nevertheless,
9 they come out with a conclusion that says that it can centralize
10 our accounting and distribution functions.

11 I don't see how he can do that. As a legal matter.
12 And I don't see why we would put our board at risk by letting
13 them do that.

14 CHAIRMAN COOK: If we were to do something like that,
15 what would the penalties be?

16 What would the recourse be against the Dairy Commission
17 if we were violating statutes?

18 MR. GOEDERT: The dairy industry can bring an action
19 against us, for failing to do our job. And if B and I messed up
20 the accounting and distribution, they could bring an action
21 against them.

22 But, we're not there. I mean right now we're just
23 trying to get a handle on asserting our statutes, and go from
24 there.

25 We are not trying to make a federal case out of this.

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1 We're just trying to convince them, show them, that they
2 shouldn't.

3 When I read the memo, it seemed to me that this
4 attorney was trying to give an answer to the director, to B and
5 I, that they wanted to hear.

6 Not, that's not, in my opinion, good legal work. Our
7 job as a lawyer is to tell your client what the options are and
8 what the consequences are. Totally.

9 And in my view they didn't do that.

10 CHAIRMAN COOK: Okay. Well, we can't really take any
11 action on it, because it's not an agendized item at this point.

12 MR. GOEDERT: No, it's not.

13 MR. HETTRICK: No. So, I think, Mr. Chairman, where we
14 would go is leave the Commissioners have the opportunity to
15 review the information provided and consider agendaing this for a
16 future meeting.

17 We can't take any action, obviously, by law. It would
18 be a violation of law if we tried to take any action on this now
19 because it wasn't agendized. So, to comply with the open meeting
20 law and state law, we would obviously have to agendize some time
21 in the future.

22 CHAIRMAN COOK: Okay.

23 MR. GOEDERT: Our statutes are so clear about what our
24 responsibilities are, it's just my view --

25 COMMISSIONER CROWTHER: Is it something that just,

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1 communication between the two attorneys can resolve this, or is
2 this going to need to go further?

3 MR. GOEDERT: Well, there's actually an Attorney
4 General opinion that I think is in our favor, at least in terms
5 of us having to comply with our own statutes. That's very clear.
6 They recognize that Attorney General's opinion, and yet they seem
7 to ignore it.

8 So, I don't think that that answers your question, but.

9 MR. HETTRICK: We have had multiple conversations with
10 them in regard to this already, and it seems that they are
11 committed to having one system, no matter what, for everybody
12 that's in B and I.

13 And despite the fact that our statutes are pretty
14 clear, and the other entities within B and I don't have the same
15 statutes, they conclude, their attorney concludes that the
16 director can pretty much do whatever he wants.

17 And we don't, obviously, we don't believe that. We
18 think it's a violation of the law.

19 MR. GOEDERT: Well, what's interesting is that the
20 Attorney General's opinion involves B and I trying to, or
21 attempting to , I wouldn't say take over, but do the accounting
22 and distributions and such for the Injured Worker's division.

23 And the attorney general issued an opinion, saying you
24 can't do that. Those, part of it is that when you represent
25 injured workers, you have an attorney-client relationship, and

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1 that, you can't disclose some of that information.

2 And you have a duty to that person. And so they
3 wouldn't allow that to take place. That was the Attorney
4 General's opinion.

5 They cite that Attorney General's opinion in their own
6 memorandum, and yet they don't seem to follow, they don't follow
7 through with analyzing it properly.

8 CHAIRMAN COOK: Now, is that particular state agency
9 that you reference there with the injured workers, are they now
10 subject to consolidation under B and I?

11 MR. GOEDERT: I believe they are, if I am not mistaken.

12 MR. HETTRICK: The difference is, as Warren pointed
13 out, when the question was asked by the Nevada Attorney for
14 Injured Workers whether or not they could be forced to do
15 something, the Attorney General came back and said, yes, the
16 director has very significant powers when it comes to certain
17 aspects of operation.

18 But, you have specific statutes that say you must do
19 this, this and this, and they can't take that over. And that's
20 exactly what we are talking about. We have specific statutes
21 that say we must do certain tasks, and the Attorney General's
22 already ruled they can't take that over if you have a specific
23 statute.

24 Now, in the case of the Nevada Attorney for Injured
25 Workers, they don't have specific statutes saying that they do

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1 their own accounting, their own budgeting and so on. And they
2 are created, literally, within chapter 232 of the NRS, which is B
3 and I.

4 So, they are subject to the rules in terms of
5 accounting, payables, receivables anything you are talking about
6 they are subject to all those. But, the director couldn't go in
7 and say I'm taking over that statutory authority, because they've
8 already ruled. You can't do that.

9 Well, in our case, as I said, repeating myself, but
10 I'll do it anyway because I think it's important. We have
11 statutes that say we must do the accounting. It must be a
12 separate record.

13 It doesn't say we can relinquish any of this or allow
14 it to be combined with anything else. It's clear.

15 And yet they looked at the Attorney General opinion,
16 and pulled out the part that says the director has significant
17 power, put that in and said, yep. Director can do what he wants,
18 because he has significant power. See the Attorney General
19 opinion. And that's kind of what they did. And we, we just
20 don't think it's right, and we think they're telling us to
21 violate the law, and we can't do that.

22 CHAIRMAN COOK: Has anybody from the industry weighed
23 in on this issue at all, or are they even aware that it's going
24 on?

25 MR. HETTRICK: I don't think they are aware that it's

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1 going on.

2 CHAIRMAN COOK: So, it sounds like what we need to do
3 is put it on the agenda at some future meeting and establish what
4 the official position of the commission will be.

5 MR. HETTRICK: I think it's important that you
6 commissioners look through the information and see if you have
7 any other questions or concerns or ideas about it. Ask those
8 questions and so on, so we can, you know, decide on what's an
9 appropriate course of action, whatever we think that is.
10 Whatever you will end up deciding, that is.

11 CHAIRMAN COOK: Okay.

12 COMMISSIONER CROWTHER: Okay.

13 CHAIRMAN COOK: This isn't anything that requires a
14 motion, it's just a discussion.

15 MR. HETTRICK: Right.

16 CHAIRMAN COOK: All right. Well, let's throw that out
17 there in the future.

18 MR. HETTRICK: All right. Number seven then on the
19 agenda, Mr. Chairman -- thank you, Mr. Goedert.

20 Consideration of any other matters relating to the
21 dairy industry.

22 Seeing none of that, number eight, public comment
23 again. Again, discussion.

24 CHAIRMAN COOK: No public, no discussion.

25 MR. HETTRICK: That terminates the agenda,

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1 Mr. Chairman.

2 CHAIRMAN COOK: Okay. Anybody else has anything to
3 say, speak now.

4 If not, we will adjourn this meeting.

5

6 (Whereupon proceedings concluded at 9:43 a.m.)

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BOARD SIGNATURE PAGE

CHRISTOPHER COOK, CHAIRMAN

BOB FLETCHER, MEMBER

TROY CROWTHER, MEMBER

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1 STATE OF NEVADA)
) Ss.

2 COUNTY OF DOUGLAS)
3

4 I, SUZANNE KUES ROWE, Certified Court Reporter,
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6 Public in and for the State of Nevada, County of Douglas, do
7 hereby certify that the foregoing proceeding was reported by me
8 and was thereafter transcribed under my direction into
9 typewriting; that the foregoing is a full, complete and true
10 record of said proceedings.

11 I further certify that I am not of counsel or attorney
12 for either or any of the parties in the foregoing proceeding and
13 caption named, or in any way interested in the outcome of the
14 cause named in said caption.
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18 Date: February 21, 2012
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