

Nevada State Dairy Commission Public Meeting  
12/18/2013

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STATE OF NEVADA

DEPARTMENT OF AGRICULTURE

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NOTICE OF PUBLIC MEETING  
OF THE NEVADA DAIRY COMMISSION

TRANSCRIPT OF PROCEEDINGS

December 18, 2013

Sparks, Nevada

Reported by: Karen Bryson  
Certified Court Reporter #120

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APPEARANCES

CHRISTOPHER COOK, Chairman  
JOHN COLLIER, Commission Member  
TROY CROWTHER, Commission Member  
THOMAS ORZECH, Commission Secretary

ALSO PRESENT:

DENNIS L. BELCOURT, Deputy Attorney General  
KATHY EASLY  
DONNELL BARTON  
KIMBERLY WHITFIELD (via videoconference)  
DAVE COON (via videoconference)  
ANNA VICKERY  
GARY RECK

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1 MR. COOK: Thank you.

2 Would you proceed to agenda item number one,  
3 please.

4 MR. ORZECH: Agenda item number one is public  
5 comments and discussions.

6 MR. COOK: Seeing as we have really only two  
7 members of the public, any comments or discussions, Dave?

8 MR. COON: No, thank you.

9 MR. COOK: Gary?

10 MR. RECK: No comments.

11 MR. COOK: Okay. Let's move to number two,  
12 please.

13 MR. ORZECH: Agenda item number two for  
14 possible action is the hearing of complaint, Nevada Dairy  
15 Commission versus Legacy Ice Cream and Candy, license  
16 number 257, 2649 West First Street, Santa Ana, California,  
17 92703.

18 A complaint has been issued by the Nevada Dairy  
19 Commission against the above distributor for violation of  
20 Nevada Revised Statutes 584.648 and 584.649 for failure to  
21 remit the required assessments on dairy products, and  
22 Nevada Administrative Code (NAC) 584.5792, for failure to  
23 submit the required monthly Dairy Products Remittance  
24 Report.

25 What I can do, Mr. Chairman, is I can go ahead

1 and give you a summary of where we're at with --

2 MR. COOK: Okay. If you would, please.

3 MR. ORZECH: In the matter of the complaint  
4 against Legacy Ice Cream and Candy, a complaint was issued  
5 on November 18th, 2013, by the Nevada State Dairy  
6 Commission against Legacy Ice Cream and Candy. The  
7 complaint cited violations of NRS 584.648, 584.649, and  
8 NAC 584.5792 for failure to file required monthly Dairy  
9 Products Remittance Reports and to pay the required  
10 assessments. Legacy Ice Cream had failed to file any  
11 payments since June of 2012.

12 Statutes establishing jurisdiction and  
13 specifics of the complaint are detailed in the official  
14 complaint documents which you have in your packet.

15 In summary, Legacy Ice Cream and Candy has been  
16 licensed with the Nevada Dairy Commission since 1994 as a  
17 peddler distributor distributing novelties in the southern  
18 Nevada marketing area.

19 On May 24th, 2007, the license was transferred  
20 to the present owner after the sale of the company.

21 On February 9, 2011, Legacy Ice Cream was  
22 noticed that they needed to file reports and pay  
23 assessments for the period of August through December of  
24 2010.

25 On August twenty -- on April 21st, 2011,

1 another letter was sent to Legacy Ice Cream warning them  
2 that they needed to file the missing reports and pay any  
3 assessments. At that time the account was brought up to  
4 date.

5 On April 17th, 2013, Legacy Ice Cream again was  
6 informed that they were delinquent in filing and paying  
7 once more. No reports or payments had been received at  
8 that time since June of 2012.

9 From April 2013 through August of 2013 numerous  
10 calls, emails, and messages were left with Legacy Ice  
11 Cream to correct the situation. Calls were not returned  
12 and no reports or payments were made.

13 On July 22 of 2013, a final letter was sent to  
14 Legacy Ice Cream by the Dairy Commission warning them that  
15 if the reports and payments were not made to the  
16 commission by August 5 of 2013, a violation complaint  
17 would be brought before the Dairy Commission for action.  
18 No reply was received to the letter.

19 On November 18th, 2013, a formal complaint  
20 against Legacy Ice Cream and Candy was issued.

21 On December 10th, 2013, fax copies of the  
22 remittance forms were received for the period of June 2012  
23 through June 2013.

24 On December 16th a check in the amount of  
25 \$320.33 was received as payment for the remittances from

1 June 2012 through June 2013.

2 On December 17th, 2013, fax copies of the  
3 remittance forms received for the period of July 2013  
4 through December 2013. As of this date payments for July  
5 2013 to the present are still missing.

6 The conclusions regarding this complaint is  
7 that Legacy Ice Cream understood the requirements to file  
8 a monthly remittance report and provide payment as  
9 required. Legacy Ice Cream has been a frequent delinquent  
10 filer as shown from their past history since taking over  
11 the company.

12 Legacy Ice Cream had intentionally and  
13 willfully failed to comply with the statutes and  
14 regulations of the Nevada Dairy Commission concerning the  
15 filing and payments of monthly remittance reports.

16 Legacy Ice Cream and Candy had not filed the  
17 required monthly dairy remittance reports and payments  
18 since June of 2012 until a formal complaint was issued.

19 And that -- that brings you up to date,  
20 Mr. Chairman. If you want me to go into the -- what I  
21 recommend as sanctions on it, or --

22 MR. COOK: The second part of that where they  
23 responded? Was not included in this packet apparently.  
24 So these were all actions that took place after the packet  
25 was --



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1           MR. ORZECH: Right, right. That's not --  
2 that's not in yours because, like I said, I had to update  
3 it.

4           MR. COOK: Would you mind repeating that?

5           MR. ORZECH: Sure.

6           MR. COOK: Those things since --

7           MR. ORZECH: Yep. Let's see, I'll start  
8 with -- you know, the dates? Is it the dates that you --

9           MR. COOK: Well, the dates and the actions  
10 that --

11          MR. ORZECH: Okay. I'll start -- then I'll go  
12 back to -- I think I've got in there in July --

13          MR. COOK: Well, basically your action in the  
14 report here that you -- that the packet says July 22, the  
15 final letter was sent.

16          MR. ORZECH: Okay. I'll pick it up from there.

17                 Then on November 18th a formal complaint  
18 against Legacy Ice Cream and Candy was issued.

19                 On December 10th, 2013, fax copies of  
20 remittance forms were received for the period of June 2012  
21 through June of 2013.

22                 And on December 16th, 2013, a check in the  
23 amount of \$320.33 was received as the payment for the  
24 remittances from June 2012 through June 2013.

25                 On December 17th, yesterday, fax copies of the

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1 remittance forms were received for the period of July of  
2 2013 through December 2013.

3 As of this date, today, payments for July 2013  
4 to the present are still missing.

5 MR. COOK: Could be in the mail though,  
6 correct?

7 MR. ORZECH: That's an assumption. I --

8 MR. COOK: Okay. But, I mean, that's --  
9 that's -- since the reports are coming separately from the  
10 checks, then they could --

11 MR. ORZECH: Yeah.

12 MR. CROWTHER: Obviously you can't -- he faxed  
13 the reports. He can't fax a check. We can request a copy  
14 of the check that they sent if they have in fact sent one.

15 MR. ORZECH: I would get into that under the --  
16 that's hypothetical. I'm going on what we actually have.

17 MR. CROWTHER: Right.

18 MR. ORZECH: We do not have payment for the --

19 MR. CROWTHER: But given what they did in the  
20 past, they've -- they sent in the remittance and then  
21 shortly thereafter the check on the -- is that correct on  
22 the --

23 MR. ORZECH: They did.

24 MR. CROWTHER: -- prior?

25 MR. COOK: Counsel wants to --

1 MR. BELCOURT: Oh, Mr. Orzech, could you  
2 complete the record, how was this complaint served on  
3 Mr. -- or, on the Legacy Ice Cream? And when was it  
4 served, and --

5 MR. ORZECH: Right.

6 MR. BELCOURT: And also we haven't had an  
7 answer, and I'm guessing that -- we can have the record  
8 reflect that nobody has appeared on behalf of Legacy at  
9 today's hearing. Correct?

10 MR. ORZECH: That's correct.

11 MR. BELCOURT: Okay.

12 MR. ORZECH: Service of the complaint was on  
13 November 18th, 2013. A certified copy of the complaint  
14 and a notice of hearing was mailed certified mail to  
15 Mr. Jay Sarin of Legacy Ice Cream and Candy. Their parent  
16 company is Melody Ice Cream out of Santa Ana, California,  
17 and an additional service was served upon Mr. Richard  
18 Young of -- who's the resident agent for Legacy Ice Cream  
19 and Candy down in -- on Meadows Lane in Las Vegas.

20 MR. BELCOURT: And when was that done?

21 MR. ORZECH: That was also done on November  
22 18th.

23 MR. BELCOURT: Okay.

24 MR. ORZECH: Or, whoa, whoa, let me back up on  
25 that. Let me check the -- it was November 18th.

1 MR. COOK: So the fact that they have complied  
2 with bringing things current indicates they're still in  
3 business.

4 Do we have any idea what the total dollar  
5 volume of their sales are in the state? Is it -- can you  
6 impute that from that 350 some odd dollar --

7 MR. ORZECH: The best that -- the best I could  
8 come up with was that they're averaging -- from their  
9 past -- approximately \$26 a month of assessments.

10 Of that \$26 that also would include a \$10 -- a  
11 lot -- a lot -- they're consistently late filers. And so  
12 the \$26, it would actually include late fees. So that  
13 their amount is -- like I said, it averages to \$26, is the  
14 total.

15 MR. COOK: But that --

16 MR. ORZECH: Includes --

17 MR. COOK: Almost a third of that is late fees.

18 MR. ORZECH: At least a third to a half at  
19 times, can be.

20 MR. CROWTHER: When they sent payment  
21 previously, did -- did it include payment on the late  
22 fees --

23 MR. ORZECH: It did.

24 MR. CROWTHER: -- as well as the assessment?

25 MR. ORZECH: Oh, yes.

1 MR. COOK: And have they offered any excuse?  
2 Any explanation? Any, gosh, we're sorry, we just --

3 MR. ORZECH: No.

4 MR. COOK: -- fell asleep at the wheel here?

5 MR. ORZECH: Nothing. No, this -- what you  
6 should be aware of is that this company -- in fact,  
7 Mr. Sarin who this was served upon, they had been  
8 issuing -- they had been doing the -- his name appears --  
9 he -- my point is that I think they understand the  
10 assessment process of doing this.

11 I have assessments going -- I mean, remittance  
12 reports going back to September of 2010 when they knew it  
13 was a monthly requirement. This -- this -- this case  
14 clearly comes out to being that they're -- they just  
15 decided not to cooperate with us.

16 We had -- we opened an audit on them in the  
17 summertime and that's -- they wouldn't respond -- wouldn't  
18 respond to any of our calls, like I said, emails, faxes.  
19 Kathy, in fact, attempted to work with their secretary to  
20 get things going to get them to understand.

21 There was nothing. It was no -- no action.  
22 They just -- it wasn't until the complaint was issued that  
23 we finally saw some kind of movement. And I'll be honest  
24 with you, in my opinion, this is -- this is not over. I  
25 don't believe that this is now going to change them.

1 MR. CROWTHER: Tom, when you say there was no  
2 action, does that mean there was no communication --

3 MR. ORZECH: Yes.

4 MR. CROWTHER: -- or --

5 MR. ORZECH: Yes. Yes.

6 MR. CROWTHER: Okay.

7 MR. ORZECH: Yes. And that they did -- he did  
8 send one email in the summertime to an auditor who -- that  
9 was working the audit on this and said that, well, did you  
10 get the things I sent you?

11 And I called her, and -- because she no longer  
12 worked for the Dairy Commission -- and her statement -- I  
13 realize this is hearsay -- but her statement to me was  
14 that we never received anything. I didn't receive  
15 anything from him.

16 So it's been a game that this -- that this  
17 company's been playing with us for a long time. And we've  
18 done everything possible to bring them into compliance.

19 Like, you know, we've had -- we've had very  
20 good results on -- on our auditors working with the  
21 licensees and bringing them into compliance. It's very,  
22 very seldom that we come to this point. But this is --  
23 this is what needs to be done.

24 MR. COOK: Do you have any idea how big Legacy  
25 is? Are they an offshoot of Melody Ice Cream you said?

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1           MR. ORZECH: Yes. Yes. Melody Ice Cream is  
2 their parent company in Vegas -- I mean, in Santa Ana.

3           MR. COOK: Any idea in terms of sales volume  
4 how big this company -- are we dealing with --

5           MR. ORZECH: I did an --

6           MR. COOK: -- a little mom and pop operation?  
7 Or is this a --

8           MR. ORZECH: I did an Internet search and  
9 really couldn't come up with a definitive deal. I could  
10 give you what their -- what that company actually is --  
11 it's -- no. No.

12          MR. COOK: Well, what are your recommendations  
13 for how we should proceed with this?

14          MR. ORZECH: Okay. I'll get to that.

15                 In the matter of Legacy Ice Cream and Candy,  
16 these are the recommended sanctions.

17                 The following sanctions are recommended in  
18 compliance -- in the complaint filed November 18th, 2013.

19                 Number one, that since service of this  
20 complaint upon Legacy Ice Cream and Candy remittance  
21 reports for the period of June 2012, 2013, to June 2013  
22 have been submitted with payment, including late fees.  
23 Remittance reports from July 2013 to present were filed  
24 with no payment.

25                 It is recommended that an order requiring all

1 due assessments and late fees from July 2013 to the  
2 present be paid in full, and that this be completed no  
3 later than 14 days from the date determined by the Dairy  
4 Commission.

5 Number two: That a civil penalty in the amount  
6 of \$15,000 be assessed in accordance with NRS 584.670.  
7 This penalty -- the penalty is to be paid in full no later  
8 than 90 days from the date determined by the Dairy  
9 Commission.

10 And number three: That the dairy distributor  
11 license issued to Legacy Ice Cream and Candy be revoked.  
12 This action will be suspended pending the completion of  
13 sanctions one and two listed above.

14 If either of these items, one and two, are not  
15 completed within the time frames as described, the dairy  
16 distributor license issued to Legacy Ice Cream and Candy  
17 will be revoked immediately.

18 And that's my recommendation.

19 MR. COOK: Well, I'm just wondering, if these  
20 people are reluctant to pay \$26 a month assessments and we  
21 hit them with a \$15,000 penalty, I'm sure we're probably  
22 going to get the friendly extended middle finger from  
23 them. So I'm wondering if we just bypass all that and  
24 just go ahead and revoke the license and tell them you're  
25 done.



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1 MR. ORZECH: That is -- that is also the option  
2 of the commission. That is --

3 MR. COLLIER: Can I ask a question?

4 They're paying \$26 a month in fees to the Dairy  
5 Commission? Is that what they're paying?

6 MR. COOK: Yes.

7 MR. ORZECH: Yes.

8 MR. COLLIER: How much ice cream are they  
9 selling? How -- what does that represent in terms of  
10 gallons of ice cream?

11 MR. ORZECH: Yeah, in total it would --

12 MR. CROWTHER: Revenue for ice cream, yeah.

13 MR. ORZECH: On an average month -- let me give  
14 you one that's probably -- about a thousand gallons.

15 MR. COLLIER: So they're really not a big  
16 player or mover or shaker, or, I mean, that's not a lot of  
17 ice cream really, is it?

18 MR. ORZECH: It's -- it's -- and it's all --  
19 it's novelties.

20 MR. COLLIER: What does that mean?

21 MR. ORZECH: It basically means that they're --  
22 they're -- it's -- my understanding is that they're  
23 providing, you know, the cones, and that type of thing  
24 that go into the trucks that do the -- you know, like the  
25 old Good Humor days --

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1 MR. COLLIER: Oh.

2 MR. ORZECH: -- that do -- that they don't --

3 MR. COOK: Ice cream bars --

4 MR. ORZECH: -- own the cars.

5 MR. COOK: -- ice cream sandwiches.

6 MR. COLLIER: So they'd have like a truck  
7 going around --

8 MR. ORZECH: They don't -- they don't own the  
9 trucks. Those are independently owned.

10 MR. COLLIER: So they're selling the ice cream  
11 that goes into those trucks?

12 MR. ORZECH: Yes, sir.

13 MR. COLLIER: Wow.

14 MR. ORZECH: Yeah. Yeah.

15 MR. COLLIER: And their assessments are \$26 a  
16 month --

17 MR. ORZECH: Uh-huh.

18 MR. COLLIER: -- for all these months that they  
19 haven't --

20 MR. COOK: Remember that includes penalties,  
21 too, so that's not --

22 MR. COLLIER: The \$26?

23 MR. ORZECH: Yes.

24 MR. COOK: -- truly reflective of what --

25 MR. COLLIER: So what are we talking about in

1 fees that they should be paying? Ten dollars? Five  
2 dollars?

3 MR. ORZECH: Yeah, it would probably average  
4 between seven and 15 dollars, seven and 20 dollars. Ten  
5 to twenty dollars a month would be a good -- and that --  
6 that is probably one of the reasons why we tried to work  
7 with them as best we can to not reach this point.

8 That this -- it doesn't make -- as you're  
9 alluding to the dollar amount, doesn't make a lot of sense  
10 that they just wouldn't have been in compliance.

11 MR. CROWTHER: Other than it cost -- probably  
12 costs them more to prepare the reports than they actually  
13 pay on it, which I understand is not relevant as far as  
14 their compliance.

15 But I -- I'm leaning more toward, Chairman  
16 Cook, as far as, I don't see assessing a \$15,000 penalty.  
17 That seems excessive for the amount of money they're  
18 paying now. I --

19 MR. ORZECH: I would back up this that you are  
20 also within your rights to -- as the statutes allow,  
21 you're allowed a thousand dollars per violation.

22 Calculating that out, that pretty much comes  
23 out to you could actually -- based on 17 months with two  
24 violations, a thousand dollars, we're looking at \$34,000  
25 as a maximum. Fifteen thousand dollars is basically half

1 that.

2           You can also ask for the full amount. In this  
3 case, with a willful violation of the regulations -- if  
4 you'll check that section of the regulations of the -- of  
5 the NACs that I gave you as far as the things that -- to  
6 consider when assigning a penalty, one of the items in  
7 there is, is the willful violation.

8           There's no doubt in my mind that that's -- this  
9 is not -- this is not ignorance. This is not he failed to  
10 do it. He just forgot about it. This is -- this is --  
11 this is blatantly a willful violation of our regulation.

12           And I strongly, I strongly recommend the  
13 penalty be assessed in this case.

14           MR. COOK: What happens if we go through all  
15 this process and the license is revoked and they still  
16 don't pay?

17           MR. ORZECH: At that point --

18           MR. COOK: What's the next step to try to  
19 collect?

20           MR. ORZECH: We would turn that over to the  
21 controller's office. And as long as it's an amount that  
22 they feel they would go after, they will then send  
23 credit -- they will send a credit agency to get the money,  
24 to collect the money.

25           MR. COOK: So from that standpoint the argument

1 for making it a high penalty makes sense because a greater  
2 likelihood the controller -- the controller's office is  
3 going to go after them then.

4 MR. ORZECH: A small enough amount they will  
5 just tell us to write it off as they've told us to write  
6 off things in the past.

7 MR. COOK: Well, and the other consideration is  
8 how much commission staff time, how much AG's staff time,  
9 how much controller's staff time is going to be spent on  
10 something that, for what? Net of penalties, 15, \$16 a  
11 month, I mean, it just seems to me like there's a cost  
12 benefit analysis here that -- now I understand the  
13 rationale of hit them and hit them hard just to make sure  
14 they understand and that we're -- we're not here just  
15 wasting our time.

16 But the other side of it is, how much time do  
17 you put in and effort and money do you put in to try to  
18 collect on something that I would guess is probably almost  
19 uncollectible.

20 MR. ORZECH: That's --

21 MR. COOK: They thumb their noses at us for \$26  
22 a month, they're going to do the same thing for 15 or 30  
23 or 34,000, or whatever we end up making that. And they've  
24 lost their license anyway, so --

25 MR. COLLIER: Were you able to find the parent

1 company in Santa Ana, California, on the Internet  
2 anywhere?

3 MR. ORZECH: You can find them, but there's  
4 really no clear --

5 MR. COLLIER: What do they do? What does the  
6 parent company do?

7 MR. ORZECH: Same thing.

8 MR. COLLIER: Same thing?

9 MR. ORZECH: Same thing.

10 MR. COLLIER: In California.

11 MR. ORZECH: Uh-huh.

12 MR. CROWTHER: When you say parent company, is  
13 it a hundred percent ownership, or --

14 MR. ORZECH: I don't know.

15 MR. CROWTHER: What do you mean parent company?

16 MR. ORZECH: They own this -- they own this  
17 Legacy Ice Cream.

18 MR. COLLIER: So they're just basically in the  
19 Las Vegas market with this -- just this little operation.  
20 I mean, to me that's --

21 MR. ORZECH: Yes.

22 MR. COLLIER: -- a little operation.

23 MR. CROWTHER: If I recall, in the past we have  
24 assessed a penalty that then could be reduced pending  
25 future compliance of that licensee. Is that --

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1           MR. ORZECH: That was done. We did that for  
2 Western Dairy. That was a unique case. I do not  
3 recommend that any of it be suspended.

4           This whole period -- we've gone for -- we've  
5 gone for over a year and a half of this company thumbing  
6 their nose at us in plain English. This requires a  
7 penalty. This requires action by this commission. I  
8 mean, that this --

9           MR. CROWTHER: Well, it allows a penalty. It  
10 doesn't require a penalty.

11          MR. ORZECH: It doesn't require it. But --

12          MR. CROWTHER: Just want to be clear --

13          MR. ORZECH: But like --

14          MR. CROWTHER: -- on the record.

15          MR. ORZECH: -- you will need to do something  
16 to him that -- because I can guarantee you, this is not  
17 going to end. If it's just -- if he's just let go and  
18 goes about his business, we're going to be dealing with  
19 this again in the future. It's clear -- it's clear from  
20 his --

21          MR. CROWTHER: Not if you're suspended, if it's  
22 revoked.

23          MR. ORZECH: Not if you revoke his license.  
24 I -- I -- my read on that is if you revoke the license,  
25 you're putting him totally out of business. And I

1 would -- and that's why I recommended a penalty, and give  
2 him the option of 90 days to pay it. And if he -- if he  
3 doesn't want to pay it, it's up to him. I don't  
4 necessarily recommend putting him out of business. That's  
5 not what --

6 MR. CROWTHER: It seems to me that \$15,000  
7 penalty on what he's selling in the state would  
8 effectively put him out of business at least in the state.

9 MR. ORZECH: That's an assumption. I do not  
10 know that.

11 MR. COOK: Take decades for them to recover  
12 that --

13 MR. CROWTHER: Yeah.

14 MR. COOK: -- penalty from sales.

15 Well, my sense is that something needs to be  
16 done to reaffirm the authority of the commission. The  
17 question is, do we make it so onerous that the response is  
18 the same that we've been getting to the assessments all  
19 along? And we end up revoking the guy's license that he's  
20 done anyway?

21 Or do we do some sort of a compromise on the  
22 penalty, make it something that's going to get his  
23 attention, and hopefully get him to sit down and make a  
24 decision whether or not he wants to keep his license.

25 So maybe we can craft some kind of a



1 compromise, that, you know, okay, here it is, \$15,000;  
2 however, if you comply with these requirements in the next  
3 90 days, that will be reduced to -- I -- I don't know.

4 MR. ORZECH: Again, I don't recommend that --  
5 if you want to reduce the amount, but I do -- I do highly  
6 recommend that a solid penalty be assessed, not be given  
7 any conditions on him being allowed to --

8 MR. COOK: Okay. No escape hatch.

9 MR. ORZECH: No. No. He's had the chance. He  
10 has had the chance to come and work with us. And this has  
11 not -- we -- we -- I can't tell you how much time was  
12 spent trying to get this guy by -- by numerous people  
13 trying to get this guy to just cooperate with us and work  
14 with us. And he has failed all along the line.

15 I mean, it's -- it's -- you know, a reduction  
16 in the penalty would -- would be okay, but I highly  
17 recommend that he be assessed a penalty. If he doesn't  
18 pay it and doesn't want to, then, like I said, you know,  
19 we can -- we can have the order that would revoke his  
20 license at that point. It's his choice. If -- if the  
21 market to him in Vegas is not worth keeping anymore,  
22 that's his choice.

23 MR. COOK: Kathy, you had something to add?

24 MS. EASLY: I think the fact that I -- the  
25 letter I sent him stated very -- in bold, it was required

1 that you attend at either location, and the fact that no  
2 one has showed up representing his company is a good  
3 indication of what he feels about this.

4 MR. COOK: Yes, I think that's -- thank you for  
5 pointing that out. That's a good -- good point.

6 So, Commissioners, you have thoughts or  
7 comments, or --

8 MR. CROWTHER: I -- again, I understand the  
9 need to enforce what we have on the books and the fact  
10 that somebody is blatantly ignoring what the laws are,  
11 what the requirements are as a licensee is -- requires  
12 some action.

13 I am concerned -- I mean, we're trying to --  
14 we're trying to promote Nevada as a business-friendly  
15 state, and I don't want to send a message through a --  
16 through an assessment that is so large that it -- compared  
17 to what, you know, the actual fee is, that -- that it  
18 sends a poor message to those looking to locate in Nevada,  
19 that we're not a business-friendly state.

20 MR. ORZECH: I --

21 MR. CROWTHER: That's one of the concerns that  
22 I have.

23 MR. ORZECH: I would add one thing though.  
24 Then be careful of the message that you send to the other  
25 233 licensees that pay their assessments every month.

1 That would be --

2 MR. CROWTHER: Understood.

3 MR. ORZECH: That would be the only thing I  
4 would say.

5 MR. CROWTHER: That's why I think something  
6 needs to be done.

7 MR. COLLIER: Yeah, I'm in agreement with,  
8 Troy, what you're saying. I'm thinking though maybe  
9 75 thou -- \$7500, and if you don't pay it in 90 days then  
10 you can't do business in the State of Nevada anymore.

11 You know, and that to me, I mean, is in line  
12 with more -- it's more reasonable to me than a 15,000  
13 chunk. I mean, that's a lot of money.

14 MR. COOK: It's already a huge cut from the  
15 potential 34,000 penalty.

16 MR. ORZECH: Bear in mind -- bear in mind the  
17 max penalty on this. Bear in mind that that thousand  
18 dollars in that -- in that -- the thousand dollars has  
19 been on there a lot of years. We actually tried to  
20 increase that several years ago, and then we were -- at  
21 the time we weren't allowed to increase that penalty.

22 MR. COLLIER: Who wouldn't let you -- allow you  
23 to do that?

24 MR. ORZECH: That was when they said no  
25 increases in fees, no increases in --

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1 MR. COLLIER: Who was that?

2 MR. ORZECH: Through the legislature. That's  
3 when we were going to bring things to the legislature, and  
4 there was no -- there was no -- no increases.

5 MR. CROWTHER: Has the Dairy Commission every  
6 imposed that penalty --

7 MR. ORZECH: Yes.

8 MR. CROWTHER: -- to that extent?

9 MR. ORZECH: Yes. In fact, the last one that I  
10 know of was, was actually Model Dairy.

11 MR. COLLIER: Oh, really. Oh, really. So did  
12 they have to pay the max --

13 MR. ORZECH: Yes.

14 MR. COLLIER: -- penalty?

15 MR. ORZECH: No, no, not the max. It was  
16 reduced, I believe -- I believe it was reduced to 10,000.

17 MR. COLLIER: Oh.

18 MR. ORZECH: And they did -- and it was paid.

19 MR. COOK: Well, I think using that as a  
20 precedence, we've got to do something on the penalty side.

21 It's just a matter of how much. You know, I recognize --

22 MR. ORZECH: And I'll be -- I'll be honest with  
23 you. Even that case, as I reviewed that case with Model  
24 Dairy, it was not a blatant violation.

25 This is a blatant violation. I mean, this is a

1 choice by a company to not comply with our laws. That was  
2 not the case on Model. That was not the --

3 MR. COOK: Let's -- let's take this out 90 days  
4 plus and give me a -- this is going to be a hypothetical,  
5 so I'm not sure if you can answer it. But assume that  
6 they then choose to surrender their license and they  
7 continue to operate in the state.

8 Then what recourse do we have?

9 MR. ORZECH: Then I think we would have to talk  
10 to the's AG office about something -- doing something in  
11 the -- the last time something like that was done was a  
12 company out in Ely that said I'm not going to be licensed  
13 by you. And they were actually -- I think they were in  
14 Utah, and they were selling into Nevada.

15 And we actually had to go to a district court  
16 and had to go to a court action. We had to file a  
17 complaint in -- with -- in court. And it was -- that I  
18 believe was -- that was the way that was handled.

19 MR. COLLIER: So the court issued a cease and  
20 desist and you can't sell period of time in the State of  
21 Nevada.

22 MR. ORZECH: It -- it still -- all it did was  
23 stop the guy. We still never collected any money on it or  
24 anything. It stopped him from doing his business in  
25 Nevada, but --

1 MR. CROWTHER: Well, and that's -- that's  
2 important, too, because if -- if there are competitors  
3 with those who are complying, then, you know, if it stops  
4 them from doing business, then that's a --

5 MR. COOK: Yeah, they're at a natural advantage  
6 because they're not paying the assessments and they're not  
7 cooperating with the regulatory body. So that puts those  
8 that are at a disadvantage in the marketplace price-wise  
9 and all the other things even though it's probably not  
10 noticeable at the retail level, it's --

11 MR. ORZECH: One of the things to remember,  
12 too, is that several of the -- in fact, Clark County is  
13 the major player in this, that they -- we would then be  
14 notifying other entities that they are no longer allowed  
15 to do business in the state, other -- other government  
16 entities that issue --

17 MR. COOK: That have the enforcement  
18 capability?

19 MR. ORZECH: Yes. Yes.

20 MR. COLLIER: Are there other competitors of  
21 his that sell this type of product in Las Vegas?

22 MR. ORZECH: That, I don't know.

23 MR. COOK: Yes, there are. There's one of them  
24 sitting right there. On the screen.

25 MR. ORZECH: Yeah, that's true, because he's

1 got the -- yeah.

2 MR. COLLIER: I mean novelties.

3 MR. COOK: Yes, through the ice cream trucks.

4 MR. COLLIER: Well, then, maybe the \$15,000 is  
5 warranted. Maybe the \$34,000. That would get his  
6 attention. That would dog-gone sure get his attention.  
7 And if -- and if he doesn't pay it, which he probably  
8 wouldn't, then he's out of business.

9 And -- and he's been, as you say, blatant about  
10 this. I mean, that's -- that's an indication that he's  
11 not willing to work with the commission and not willing to  
12 obey the law, which is -- I mean, I as a citizen have to  
13 obey the law, so why shouldn't he have to obey the law?

14 MR. COOK: Tom, do you know any of the details  
15 of the -- of the distribution of those novelties down in  
16 Vegas that this guy is -- this company is involved? Do  
17 they have their own facility? Do they have trucks pull up  
18 and load up cases of --

19 MR. ORZECH: Kimberly?

20 MS. WHITFIELD: Yes?

21 MR. ORZECH: And correct me if I'm wrong,  
22 because they have -- that Legacy Ice Cream has a facility  
23 down there, and the trucks that come in there, they're  
24 independently owned and they just come up and they buy the  
25 product from -- from Legacy? Is that --

1 MS. WHITFIELD: Yes, that's correct, they're  
2 ice cream trucks so they're independently owned and  
3 operated.

4 MR. COOK: But what about the facility that  
5 they're vending out of? Is that a Legacy facility?

6 MR. ORZECH: I believe it is. Because they --  
7 there is actually on the checks that we get from them,  
8 there is actually a physical address. So that there is  
9 a -- an actual location. I think it's on Charleston, if  
10 I'm not mistaken. Yeah.

11 MR. COOK: Dave, do you know this company at  
12 all?

13 MR. COON: Yes. Yes.

14 MR. COOK: Do you have any idea what --  
15 ballpark what share of the market they have down there?

16 MR. COON: I don't know. I don't know how that  
17 would be divided.

18 MR. COOK: Well, the more we talk this out, the  
19 more I'm coming around to your recommendation as a -- I  
20 mean, if we have the potential to go to 34,000, 15,000  
21 sounds like an equitable compromise, business friendly, I  
22 guess you could say, if -- if, you know, you look at what  
23 the max penalty is, with the proviso if they don't pay it  
24 in 90 days the license is suspended, they're done doing --  
25 or revoked, or they're done doing business.



1 Kathy?

2 MS. EASLY: I'm in the middle of renewals right  
3 now? And if I don't have -- they have until December 31st  
4 to renew. We give them one month extension, and if I  
5 don't have it by the end of January, February 1st their  
6 license is automatically revoked if they haven't renewed.

7 So how would you like me to handle that?  
8 Because I have a feeling that he won't bother with his  
9 license renewal, either.

10 Do you want me to hold off on his license  
11 suspension for the full 90 days then if that's your  
12 recommendation? Or do you want me to go ahead and do the  
13 normal process?

14 MR. COLLIER: Has he renewed his license?

15 MS. EASLY: Not yet.

16 MR. COLLIER: Now, has he renewed his license  
17 previously in previous years?

18 MR. ORZECH: No, he's -- this -- again --

19 MS. EASLY: Yes, he did last year. It was -- I  
20 believe it was late, but --

21 MR. ORZECH: He's always late. It's always --  
22 it's always within the period --

23 MR. COLLIER: But he's renewed his license?

24 MR. ORZECH: He has. He has. And one of the  
25 reasons why, when I met with Dennis while we were

1 getting -- I needed to get this complaint in before the  
2 end of the year, because his license is valid right now so  
3 we do have the jurisdiction on his license.

4 As of 1 January, if he doesn't renew, two and a  
5 half weeks from now, I lose that. I don't have that -- I  
6 still have -- you know, we still have the ability about  
7 him doing business in the state, but it won't be against  
8 his license if he doesn't have a license. If that --  
9 but --

10 MR. COOK: But you can't revoke a license that  
11 doesn't exist.

12 MR. ORZECH: Exactly. Exactly. That's the --

13 MR. COLLIER: But isn't he in his grace period  
14 after January 1?

15 MR. ORZECH: Technically, according to the law,  
16 there is no grace period. As a convenience to those  
17 that -- because of the end of the year everything that  
18 comes in place, we've been allowing it, but there is no  
19 provision for a grace period in our statute.

20 MR. COLLIER: So as of January 1 he's out of  
21 business.

22 MR. ORZECH: As of January 1 if your license is  
23 not renewed, you are -- you are operating illegally.

24 MR. COOK: Well?

25 MR. BELCOURT: My recommendation with regard to

1 renewals is to handle that separately. Don't --

2 MR. ORZECH: Yes.

3 MR. BELCOURT: I mean, if he doesn't renew, he  
4 doesn't renew. And then -- but as far as -- you know,  
5 with the revocation, or, fine, you know, I guess, proceed  
6 with that and give him what time period you need to give  
7 him.

8 MR. COLLIER: Is that our counsel -- is that  
9 your recommendation?

10 MR. BELCOURT: That's my recommendation.  
11 You -- I'm not -- the recommendation came from the  
12 commission -- came from the staff as to what the fine is.  
13 And then if the staff is most, you know, conversant with  
14 this particular licensee and their situation, then I'm not  
15 making a recommendation on that.

16 But with respect to renewal, I would just think  
17 don't -- don't wrap that up into this. If he doesn't  
18 renew, he doesn't renew.

19 MS. EASLY: Okay.

20 MR. COOK: If this check that you've got the  
21 remittance form but you don't have the check for -- what  
22 is it, the last month?

23 MR. ORZECH: Six months.

24 MR. COOK: Six months. If that check shows up,  
25 does that change your recommendation?

1 MR. ORZECH: That just allows him to meet --  
2 he's met the first part of -- he's met line one. He's now  
3 up to date with -- the second would be that he would then  
4 pay the fine within 90 days. As long as both of those are  
5 met, then we would not revoke his license.

6 MR. COOK: Okay. Well, I'm actually inclined  
7 to follow your recommendation in this case because I think  
8 we have to -- we've got to hit him with a two-by-four up  
9 side the head to get his attention, and that \$15,000 would  
10 certainly get his attention.

11 MR. ORZECH: And as noted, his failure to  
12 appear does send a signal to me.

13 MR. COOK: It does indeed.

14 MR. ORZECH: I mean, it --

15 MR. COOK: It -- it sends the signal to me that  
16 he is not that concerned about his business in Nevada,  
17 about his maintaining that operation. If he's not willing  
18 to appear and argue his case, or, you know, plead mea  
19 culpa or whatever, he's -- he's certainly sending a  
20 non-verbal message to us, that -- so my sense is -- and  
21 I'll entertain a motion if one of the two of you wants to  
22 make it, or if you want to offer a modification to it,  
23 that we pursue Tom's recommendation.

24 MR. COLLIER: Well, Mr. Chairman, I'll make  
25 that motion.

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1           MR. CROWTHER: I -- I -- can I just throw out  
2 another idea?

3           MR. COLLIER: Absolutely.

4           MR. COOK: Absolutely.

5           MR. CROWTHER: I'm -- I'm still thinking about  
6 the possibility of making that the -- the -- of somehow  
7 making that the assessment, that the penalty -- or, the  
8 fine, I guess, but then seeing if he can get on track to  
9 become compliant continuously.

10           And, say if he does, to then reduce that to,  
11 you know, 10,000 or 7500, to see if that'll happen. If he  
12 doesn't, it stays at 15,000.

13           MR. COOK: So you want --

14           MR. CROWTHER: I'd throw that out as another  
15 option.

16           MR. COOK: Carrot and the stick routine.

17           MR. CROWTHER: Well, given -- given his -- if  
18 what Tom is saying is he thinks he's just going to  
19 continue to thumb his nose at us, it'll stay at 15,000  
20 just as we've talked about.

21           MR. ORZECH: And, again -- and, again, I would  
22 recommend against that. We've gone on for 17 months.

23 That is 17 months of noncompliance. That's 17 months of  
24 us trying to get him to work with us. And it has failed.

25           I -- I highly recommend the penalty be

1 assessed, whatever dollar amount that it's decided upon,  
2 but it be a solid penalty due now in 90 days. No carrot.  
3 You pay the money or you lose your license. It's as  
4 simple as that.

5 It's -- and I think again of the -- of the --  
6 we're under audit right now with him. I don't see him  
7 complying if he does not have some -- if he doesn't see  
8 the force behind the regulations. And as far as putting  
9 us into a position of trying to figure out if he's going  
10 to then come into compliance, again, he's had 17 months.

11 MR. COOK: Yeah, what if you did it for one or  
12 two months? Lull us into a sense that we've got through  
13 to him, and slips right back to his --

14 MR. CROWTHER: I think -- I think it would have  
15 to be for at least a year, continual compliance, in  
16 order --

17 MR. COOK: So, what, we hold the 15,000 in  
18 abeyance over his head?

19 MR. CROWTHER: That's -- that's --

20 MR. COOK: Until --

21 MR. CROWTHER: That's what I'm not sure about,  
22 how -- how you would go about doing something like that,  
23 but it seems like they're -- they're -- if -- we've done  
24 it before.

25 MR. COOK: Dennis, you have some thoughts?

1 MR. BELCOURT: Well, you have that option. I  
2 think -- I mean, of conditioning the penalty on a year's  
3 passage of time that you know in the event that -- that he  
4 satisfies the commission's conditions that the commission  
5 would relieve him of the penalty. I think that's --  
6 although not spelled out in the statute and regs, I think  
7 that's a discretionary item.

8 But, I mean, that's -- I'm not as -- again,  
9 it's -- it's something you could put in the order and  
10 then -- but then the question would be you're not going to  
11 actually collect on the fine until after that --

12 MR. CROWTHER: Yeah, I would say he would have  
13 to pay the 30 or the \$15,000 up front, and then upon  
14 compliance, then we abate a portion of it, and he would  
15 get it back.

16 MR. ORZECH: But, see, then you're rewarding  
17 him. You're giving him a reward and you're not penalizing  
18 him for the time that he -- that he's not -- it's --  
19 it's -- there's 17 months he did not comply with our  
20 regulation, with our -- with several of our regulations.  
21 I mean, that's --

22 MR. COOK: Is there an appeal process once --  
23 if we were to hit him with your recommendation, and maybe  
24 that's -- wakes him up and, oh, shoot, I should have gone  
25 to that meeting, kind of thing, is there a next step for

1 him to appeal it? And maybe come before the commission  
2 and ask for a reduction or ask for --

3 MR. BELCOURT: The next step would be, you  
4 know, once there's that final decision of the commission,  
5 is that a petition for judicial review, which would go to  
6 district court.

7 Because I don't see that you have anything  
8 built into your proceedings -- procedures that allows for  
9 a step to appeal to say the -- well, now, it's under ag --  
10 it's under Department of Agriculture, so there's nothing  
11 in the regs or statute that provides for an appeal to  
12 director of the department of ag.

13 So the next step would be judicial review. As  
14 far as, you know, a petition for reconsideration, you  
15 know, that's -- that would -- I mean, that would be coming  
16 before the commission to ask that the commission  
17 reconsider its decision.

18 There's -- there's nothing specific in your  
19 regs that I'm aware of that provides for that; however,  
20 you know, there's case law that says that's an inherent  
21 power of an agency to reconsider its decision.

22 So that -- there's -- that's basically the  
23 options that would be available if you entered an order  
24 would be either petition for judicial review, or asking  
25 you to reconsider your decision that -- at a subsequent



1 meeting.

2 MR. COOK: Okay. Well, any other thoughts?

3 MR. COLLIER: Mr. Chairman, I'll make a motion  
4 that we follow the staff's recommendation and assess a  
5 \$15,000 fine. And he has 90 days to come into compliance  
6 with this thing or pay the fine. And if he doesn't, then  
7 his license is revoked.

8 MR. COOK: So in terms of the mechanics of the  
9 order of things, we're going to assess him a \$15,000  
10 penalty. He has 90 days to pay the penalty. If he does  
11 not pay the penalty, his license is revoked, and he's done  
12 in the state.

13 MR. ORZECH: It's -- it's the first -- the  
14 first -- the first part would be that -- again, like I  
15 said, it would be a three-part sanction.

16 The first -- the first section would be that he  
17 pay all due assessments and late fees from July '13 to the  
18 present within 14 days from the date that the commission  
19 decides upon.

20 The second part would be that the civil penalty  
21 of \$15,000 be paid within 90 days from -- again from a  
22 date determined by the Dairy Commission.

23 And the third part that wraps it together would  
24 be that if one or two are not met within those time  
25 frames, that his license would be revoked immediately.

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1 MR. COOK: One or two? Or one and two?

2 MR. ORZECH: One or two. If either one is  
3 not -- if they're both not met, one and two -- you're  
4 right. You're right. And. And. It should be and.  
5 Yeah. That, if either of the items are not complied with.

6 MR. COOK: Okay. Do we need that spelled out  
7 in a motion, Dennis? Or can we just make a motion that  
8 says to follow the staff recommendation?

9 MR. BELCOURT: I think if you're just going to  
10 incorporate what he stated, that becomes part of the  
11 motion, and that would be fine.

12 MR. COOK: Okay.

13 MR. COLLIER: And I'll make that motion, and  
14 I'll incorporated that in there. And I would have that  
15 date start as of today, that 14 days start as of today.

16 MR. ORZECH: This -- this I may ask, should it  
17 be the date that we sent it? In other words, I've got to  
18 type this up and get this sent out certified. Should the  
19 date be --

20 MR. BELCOURT: My recommendation would be to  
21 have it -- you know, give him an opportunity to get notice  
22 of the order before you trigger any events that you're  
23 placing in the order. That would be my recommendation.

24 MR. ORZECH: So maybe -- if -- if -- would it  
25 suffice to say from 30 December, 31 December? If we use

1 the end of the month? Use that as the date?

2 MR. BELCOURT: I think you can do that.

3 MR. COOK: Yeah, because that gives you time to  
4 get it written up and --

5 MR. ORZECH: It does. It does.

6 MR. COOK: -- make sure it gets delivered  
7 and --

8 MR. ORZECH: I'll probably want to run it  
9 through --

10 MR. COOK: Okay. All right. So we have a  
11 motion to follow staff recommendations with an operative  
12 date of December 31, a trigger date, or start the clock  
13 effectively December 31.

14 MR. COLLIER: I'm agreeable to that.

15 MR. COOK: Is there a second?

16 Seeing no second, the motion dies.

17 MR. COLLIER: Can you second it?

18 MR. COOK: I don't know. Can I?

19 MR. BELCOURT: That's a parliamentary question,  
20 and if there's -- I mean, I know typically chair don't do  
21 that but I don't think it's forbidden. So you could.

22 MR. COOK: Well, then, the motion is seconded.

23 Let's call for the -- roll call of the vote,  
24 Mr. Orzech. We haven't done that in a long time.

25 MR. ORZECH: No, it's been a long time since

1 we've --

2 Mr. Chairman?

3 MR. COOK: Aye.

4 MR. ORZECH: Mr. Collier?

5 MR. COLLIER: Aye.

6 MR. ORZECH: Mr. Crowther?

7 MR. CROWTHER: Nay.

8 MR. COOK: Motion passes three to two -- or,  
9 three to one -- two to one. It's the drugs. It's the  
10 drugs.

11 MR. CROWTHER: You need my calculator.

12 MR. COOK: Yeah.

13 Okay. Well, let's proceed on to the next  
14 agenda item, if you would, please.

15 MR. ORZECH: Agenda item number three, for  
16 possible action, the license application for processing  
17 distributor license from Sand Hill Dairy, 3500 Trento  
18 Lane, Fallon, Nevada, 89406, Isidro Alves, owner.

19 The applicant seeks a license to distribute  
20 fluid milk and fluid cream in a northern Nevada marketing  
21 area. The fluid milk label will be Sand Hill Dairy.

22 The applicant's prices and cost have been  
23 reviewed by members of the Dairy Commission staff and are  
24 in compliance with this agency's laws and regulations.  
25 The applicant will be responsible for the assessments.

1 MR. COOK: Okay. Obviously nobody's here  
2 representing this applicant, unless that's what you're  
3 here for, Gary?

4 MR. RECK: No.

5 MR. COOK: Okay. I didn't think so.

6 Can you tell us something about the processing  
7 distributor?

8 MR. ORZECH: Actually I have Anna Vickery here  
9 today to go ahead and give you a rundown. Because this is  
10 a really unique -- really unique case.

11 MS. VICKERY: For the record, Anna Vickery.

12 He's basically a small farmstead cheese  
13 processor currently. He's also a grade A dairyman who's  
14 part of DFA. So he uses part of his milk currently to  
15 make cheese. Now he's extending to bottling fluid milk.  
16 He's not going to be homogenizing or separating. It's  
17 just whatever came out of the cow, he's putting in a jug  
18 and selling it.

19 MR. COOK: I'm assuming he's pasteurizing it?

20 MS. VICKERY: Oh, yes, absolutely. You bet.

21 MR. COOK: Thank you.

22 MS. VICKERY: No raw milk, thank you.

23 Yes, he's -- and he's looking I think kind of  
24 the same market for the cheese. A lot of Hispanic markets  
25 up here purchases his cheese and he also goes out to a lot

1 of the farmers markets.

2 MR. COOK: Okay. Any other comments from  
3 staff?

4 MR. CROWTHER: Do you know what the -- what's  
5 the size of his herd?

6 MS. VICKERY: I believe around a thousand cows.

7 MR. CROWTHER: Oh.

8 MS. VICKERY: Yeah. He's not real large.

9 MR. COOK: So is he going to be sending milk to  
10 the powder plant at all or is he going to supply all of  
11 his own?

12 MS. VICKERY: He's still part of DFA, so part  
13 of that milk -- most of his milk will actually still be  
14 going for powder.

15 MR. COOK: And his cheese is all pasturized  
16 and it's all -- it's not bathtub cheese?

17 MS. VICKERY: Correct. Correct.

18 MR. COLLIER: Washing machine cheese.

19 MR. COOK: Yeah.

20 MS. VICKERY: He's mostly processing queso  
21 fresco, so it's a -- it's good cheese. We've had -- he's  
22 brought it in a couple of times for us to taste.

23 MR. COLLIER: Oh, cool. Bribing us.

24 MR. COOK: Okay. Any other questions?

25 John, do you have any questions?

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1 MR. COLLIER: I have none.

2 MR. COOK: Any other questions, Troy?

3 MR. CROWTHER: None, no.

4 MR. COOK: Okay. Staff have any other  
5 questions?

6 Public?

7 That would be you, Gary. No questions?

8 MR. RECK: No questions.

9 MR. COOK: Seeing none, I will entertain a  
10 motion.

11 MR. CROWTHER: I will make a motion to approve  
12 the processing distributor license application by Sand  
13 Hill Dairy, Fallon, Nevada, to distribute fluid milk and  
14 fluid cream in the northern Nevada marketing area. Fluid  
15 milk label will be Sand Hill Dairy.

16 MR. COLLIER: Mr. Chairman, I'll second that  
17 motion.

18 MR. COOK: Okay. Having a motion and a second,  
19 no dissenting votes, the motion carries. And the license  
20 is granted.

21 MR. ORZECH: Agenda item number four, for  
22 possible action is approval of the minutes from November  
23 13th, 2013, Dairy Commission meeting. And the  
24 commissioners have copies of those changes in the packets.

25 MR. COLLIER: Mr. Chairman, I move that the

**Nevada State Dairy Commission Public Meeting**  
**12/18/2013**

1 minutes of the November 13th Dairy Commission meeting be  
2 accepted as presented.

3 MR. CROWTHER: Second.

4 MR. COOK: We have a motion and a second and no  
5 dissenting votes, the minutes are approved.

6 MR. ORZECH: Agenda item number five is staff  
7 report.

8 Dairy Commission staff report for December of  
9 2013. In November, Anna, Lisa, and Kathy completed  
10 brucellosis testing on 80 sheep in Fallon. All the test  
11 results were negative.

12 The agency current reserve is \$494,371. And in  
13 regards to that, I don't have it in here, at next month's  
14 meeting I'm going to place on the agenda an item for  
15 discussion and for possible action by the commissioners.  
16 We've had a request from one of our dairy farmers for --  
17 for us, us the Dairy Commission, to help fund the bird  
18 abatement program that they have for the farms.

19 And this program -- I did -- I did -- I plan on  
20 having somebody here that can discuss the program a little  
21 bit more in detail. I did some checking on it, and it's a  
22 combined program with the state and the feds and they go  
23 out and they take care of the starling problems that are  
24 really horrible amounts.

25 I mean, one of the reports I read, they did one



1 of the dairies here in Nevada, it was something like  
2 40,000 birds that they ended up knocking down like 39,000  
3 of them, I mean, to help -- the losses are -- are  
4 significant that the dairy farmers do suffer with this.

5 So this will be something on the agenda item to  
6 see as possibly using our reserve money, some of our  
7 reserve.

8 MR. COOK: Losses are disease-related, correct?

9 MR. ORZECH: Feed.

10 MR. COOK: Feed?

11 MR. ORZECH: They steal the feed. And also one  
12 of the dairymen -- he actually said that because of the  
13 amount of feed that the birds steal from the -- from the  
14 herd themselves as they're feeding, that he could actually  
15 see a one to two-pound per day reduction in his production  
16 off of his herd.

17 Now, that's what -- that's what he told the --  
18 the fellows that came out. He said he could actually see  
19 a reduction in the amount of food that's being stolen by  
20 these flocks of starlings. So it's a significant problem.  
21 And this -- this is --

22 MR. COOK: Must be some well-fed starlings out  
23 there.

24 MR. COLLIER: Been a problem out there for a  
25 long time.

1 MR. ORZECH: They've been doing it but the  
2 funding's drying up, and the funding will actually be  
3 gone. And that's why we've been asked if there's anything  
4 we could do to help with this. And -- there wasn't time  
5 to get it on this agenda this month.

6 MR. COOK: Go buy a bunch of 4-H kids some  
7 shotguns and boxes of shells and pay them a quarter a  
8 bird.

9 MR. COLLIER: I think that's a great idea.

10 MR. COOK: PETA might have a problem.

11 MR. CROWTHER: I'm not going to go on the  
12 record with that.

13 MR. COOK: I can see Dennis over there going,  
14 oh, my God.

15 MR. ORZECH: We'll have that for next month and  
16 that'll --

17 MR. COOK: Okay.

18 MR. ORZECH: And hopefully by then what --  
19 what -- I'm trying to see about if we can get together is  
20 the -- exactly what the cost will be, what our -- how much  
21 they're looking, and a little bit more on how the -- but  
22 it is a combined state and federal program. It has  
23 been -- has been very effective. I mean, it's -- it's  
24 a -- so that's --

25 MR. CROWTHER: I -- I mean, and in looking at

1 our reserve there, that's built up again, and I think that  
2 sounds like a good use for those funds.

3 MR. ORZECH: The number that's here does not  
4 reflect -- also, just recently at the interfinance  
5 committee meeting we did get approval to go ahead and fund  
6 establishment of a dairy lab here that will -- that Anna  
7 will be heading up to eliminate the testing that's done at  
8 UNR. The testing will be done here. So that's -- that's  
9 going to be several hundred thou -- I think it's several  
10 hundred thousand to a hundred and --

11 MS. VICKERY: Around 100,000.

12 MR. ORZECH: That will reduce that number. So  
13 that's -- that's not reflected in here yet. Until the  
14 money's spent they won't reflect on that -- on that  
15 reserve. So it will -- this number will be changing. But  
16 there's still -- there still will be room -- I've been  
17 told just as a ballpark figure around \$50,000 a year is  
18 what they're looking for for the bird abatement. It may  
19 be more. It may be less. But that -- we'll have that  
20 worked up in some type of presentation.

21 MR. COOK: We won't have to buy lab suits  
22 because we've got Moolissa that we can use.

23 MR. ORZECH: The nice things about this -- the  
24 way it was explained to me -- is that -- I don't know if  
25 you remember, but this was brought up once before when --

1 when Mike Comston was commissioner?

2 And -- but at that time the reason it was  
3 decided not to do it was that it was going to become that  
4 the Dairy Commission themselves would be the ones out  
5 there doing the poisoning and the cleanup and all that  
6 stuff.

7 And that -- and that -- that we did not have  
8 the staff nor the expertise nor the training, do we want  
9 to get into that. The way I understand it's done now,  
10 it's done by contract. So, I mean, it's -- it's --

11 MR. COOK: Oh, they don't have --

12 MS. VICKERY: Yes.

13 MR. COOK: -- people on staff that --

14 MR. ORZECH: They do. The -- the --

15 MR. COOK: They just supervise it.

16 MR. ORZECH: The federal government does. And  
17 they oversee it so that the -- and I'm not sure how much  
18 the Department of Agriculture actually goes out and looks  
19 on the farms, I don't know. That's -- that's something  
20 that we'll see.

21 But from what I understand, this is strictly  
22 going to be a funding deal, that we won't be supplying  
23 people to oversee the -- or bird counts or -- or -- so  
24 that's -- that's the difference between this and, say, you  
25 know, eight or nine years ago when we addressed this

1 before.

2 MR. COOK: Okay.

3 Milk prices holding up reasonably well?

4 MR. ORZECH: Steady. It's steady. Not great,  
5 but steady.

6 MR. COOK: Margins are holding in?

7 MR. ORZECH: It depends how you read the feed  
8 cost again.

9 MR. COOK: And how many tons of grain you're  
10 losing to the starlings.

11 MR. ORZECH: That's true, too. That's exactly  
12 right.

13 MR. COOK: All right.

14 Is there anything else that needs to be added  
15 to that?

16 MR. ORZECH: No, that's it.

17 MR. COOK: Nothing?

18 Let's move on to the next item.

19 MR. ORZECH: Agenda item number six is  
20 consideration of any other matters relating to the dairy  
21 industry.

22 MR. COOK: Okay. Anybody have anything they  
23 want to throw on the table?

24 Seeing none, let's move to the final public  
25 comment.

**Nevada State Dairy Commission Public Meeting  
12/18/2013**

1                   MR. ORZECH: Agenda item number seven is public  
2 comment and discussion.

3                   MR. COOK: Well, there's only two of you.

4                   Anybody want to say anything, other than Merry  
5 Christmas, Dave?

6                   MR. COON: Same to you. And all of you up  
7 there. Thank you.

8                   MS. VICKERY: Thank you.

9                   MR. RECK: Merry Christmas to you, Dave.

10                  MR. COOK: Anything else?

11                  Okay. There being nothing else for the good of  
12 the order, let's go ahead and close this meeting.

13                                 (Exhibit 1 marked.)

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15                                 (9:57 a.m. proceedings concluded.)

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BOARD SIGNATURE PAGE

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CHRISTOPHER COOK, CHAIRMAN

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TROY CROWTHER, COMMISSION MEMBER

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JOHN COLLIER, COMMISSION MEMBER

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TOM ORZECH, COMMISSION SECRETARY

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STATE OF NEVADA,            )  
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COUNTY OF WASHOE.        )

I, Karen Bryson, a Certified Court Reporter  
in and for the County of Washoe, State of Nevada, do  
hereby certify:

That on December 18, 2013, I reported the  
proceedings entitled herein;

That the foregoing transcript is a true and  
correct transcript of the stenographic notes of the  
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Karen Bryson, CCR #120