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PUBLIC MEETING OF THE

6

NEVADA DAIRY COMMISSION

7

TRANSCRIPT OF PROCEEDINGS

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9

Wednesday, April 16, 2014

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Sparks, NV

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Reported By:

SUSAN E. BELINGHERI, CCR #655

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APPEARANCES

COMMISSION MEMBERS

Christopher Cook - Chairman  
John Collier, Commissioner  
Troy G. Crowther, Commissioner - Via Videoconference

Tom Orzech - Operations Manager  
Kathy Easley - AA3

Dennis Belcourt, Deputy Attorney General  
Gary Reck, Model Dairy  
Jay Sarin - Via Videoconference  
Wes Hurley, Anderson Dairy - Via Videoconference

**Public Meeting - 4/16/2014  
Nevada State Dairy Commission**

1 SPARKS, NEVADA; WEDNESDAY, APRIL 16, 2014; 9:00 A.M.

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4 CHAIRMAN COOK: Let us convene the April  
5 meeting of the Nevada State Dairy Commission.

6 Mr. Orzech, would you formally open the  
7 meeting, please.

8 MR. ORZECH: Thank you, Mr. Chairman.

9 This is the time and place set for the  
10 regularly scheduled meeting of the Nevada State Dairy  
11 Commission for the month of April, 2014. This meeting  
12 has been scheduled and noticed in compliance with  
13 pertinent statutes, including the Open Meeting Law. A  
14 copy of the agenda has been handed to the court reporter  
15 with the request that it be part of the official  
16 transcript of these proceedings.

17 My name is Tom Orzech. I'm the operations  
18 manager for the Nevada State Dairy Commission. Present  
19 today are Mr. Christopher Cook, chairman; Mr. Troy G.  
20 Crowther, member of the commission; Mr. John Collier,  
21 member of the commission.

22 Those who present statements or evidence to  
23 the commission during this meeting are requested to  
24 first be acknowledge by the chairman and to identify  
25 themselves for the record.

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1                   CHAIRMAN COOK: Okay. Would you proceed to  
2 the first agenda item, please.

3                   MR. ORZECH: Agenda item number one is  
4 public comments and discussion.

5                   CHAIRMAN COOK: Anybody here representing  
6 the public that would care to make any comments at this  
7 point?

8                   Seeing none, let's move on to the second  
9 item, please.

10                  MR. ORZECH: Agenda item number two for  
11 possible action is a license application as a peddler  
12 distributor for Legacy Ice Cream & Candy, 2649 West  
13 First Street, Santa Ana, California, 92703. Jay Sarin,  
14 president. The applicant seeks a license to distribute  
15 ice cream, sherbet, novelties and frozen yogurt in the  
16 Southern Nevada Marketing Area. This application is for  
17 reinstatement of a previous license that was not renewed  
18 at the end of 2013. Temporary approval was granted on  
19 March 25th, 2014.

20                  The applicant's prices and costs have been  
21 reviewed by members of the Dairy Commission staff and  
22 are in compliance with this agency's laws and  
23 regulations.

24                  The applicant will be responsible for the  
25 assessments.

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1                   CHAIRMAN COOK: Do we have anybody here  
2 representing this application?

3                   MR. SARIN: Yes. This is Jay Sarin.

4                   CHAIRMAN COOK: Okay. Would you spell your  
5 name for the benefit of the court reporter, please.

6                   MR. SARIN: Sure. First name, J-a-y. Last  
7 name, S-a-r-i-n.

8                   CHAIRMAN COOK: Okay. And it's pronounced  
9 Sarin, you said?

10                  MR. SARIN: Yes, sir.

11                  CHAIRMAN COOK: Thank you, Mr. Sarin. Thank  
12 you for being here. Are there any changes that need to  
13 be made to this application, any updates, any  
14 amendments?

15                  MR. SARIN: No. Everything is as-is.

16                  CHAIRMAN COOK: Okay. Well, first of all,  
17 we're glad to see that we've finally gotten your  
18 attention and that you're here to get your license  
19 renewed, and we appreciate the fact that you're willing  
20 to continue to do business in the state of Nevada.

21                  MR. SARIN: Thank you for having me.

22                  CHAIRMAN COOK: I don't have any further  
23 questions. I think it's pretty self-explanatory what's  
24 trying to be accomplished here. Either of the  
25 commissioners have any questions?

1 MR. CROWTHER: I have questions. As you  
2 recall when we had the hearing, this had been several  
3 months that had gone delinquent without responses to  
4 correspondence from the Commission, and that, that was  
5 what led to the, the hearing and to the fines and the  
6 potential revocation of the license. I'm curious, what  
7 has changed so that this doesn't happen again?

8 MR. SARIN: Okay. Fair point. You know,  
9 obviously we, we only paid \$12 a month in fees, so that  
10 fine was a very, very heavy fine. What's, what's really  
11 changed is, you know, when this started to happen,  
12 obviously there was a change, there was the death of the  
13 owner. So I inherited this business at the time, about  
14 a year and a half ago. And that's when we, the  
15 remittance stopped in terms of the reporting.

16 We had a lot of in-house matters to take  
17 care of, not only here in the, in our Las Vegas  
18 location, but also back in California. So we obviously  
19 lost a lot of the people that were doing this. There  
20 was an entire reshuffling of our organization in  
21 general, as, you know, the owner did pass away  
22 unexpectedly.

23 So therefore we weren't entirely prepared or  
24 ready to do everything that we needed to do. We didn't  
25 even know about all of the things we needed to do. Now,

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1 obviously, we are aware of the processes and how things  
2 work and we've put people in place to make sure we get  
3 all these, you know, documents in time.

4 MR. CROWTHER: Okay.

5 CHAIRMAN COOK: John, any questions?

6 MR. COLLIER: I have none.

7 CHAIRMAN COOK: All right. Any questions or  
8 comments from staff? Questions or comments from any  
9 members of the public? Kathy?

10 MS. EASLY: I just wanted to let you know  
11 that -- Kathy Easley -- that Mr. Sarin -- did I  
12 pronounce -- is up-to-date in all his filings up until  
13 March, and he has taken care of everything that he was  
14 requested of. So he is current.

15 CHAIRMAN COOK: Okay. Appreciate that.  
16 Okay. Any other questions? Comments?

17 Seeing none, I will entertain a motion.

18 MR. COLLIER: Mr. Chairman, I move that we  
19 accept the peddler distributor application for Legacy  
20 Ice Cream, which is located in Santa Ana, California, to  
21 distribute the ice cream, sherbert, novelties, frozen  
22 yogurt, in the Southern Nevada Marketing Area.

23 MR. CROWTHER: Second. With the  
24 understanding it's a reinstatement of the previous  
25 license.

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1 MS. EASLY: Correct.

2 CHAIRMAN COOK: Okay. Having a second and  
3 a, a motion and a second and no dissenting votes, the  
4 license is granted. And welcome back, Mr. Sarin. We  
5 appreciate your business in the state.

6 MR. CROWTHER: I have one more, just real  
7 quick. And I, it has nothing to do, it doesn't affect  
8 the license. I'm just wondering, when the owner died,  
9 did that change the ownership of the company, which  
10 could impact the license?

11 MR. SARIN: The ownership is still current,  
12 because it's going through probate court.

13 MR. CROWTHER: Okay.

14 MR. SARIN: So the ownership has not  
15 changed.

16 MR. CROWTHER: Okay. Okay. That's all.

17 CHAIRMAN COOK: Okay. Thank you, Mr. Sarin.  
18 You can, you're excused if you care to go. You can stay  
19 if you like. But if you have a plane to catch, you're  
20 more than welcome to leave.

21 MR. SARIN: Thank you. I'll stay for a  
22 little bit.

23 CHAIRMAN COOK: Okay, would you proceed to  
24 the second agenda item, please. Or third. Excuse me.  
25 The third agenda item.



1 MR. ORZECH: Third or second. Agenda item  
2 2b for possible action is a license application. This  
3 would also be a peddler distributor, and it's for  
4 Nicholas & Company Foodservice, LLC, 5670 Linn Lane,  
5 North Las Vegas, 89115. Angela LeFevre, staff  
6 accountant.

7 The applicant seeks a license to distribute  
8 a full line of dairy products in the Northern and  
9 Southern Nevada Marketing Areas. Fluid milk labels will  
10 be Morningstar.

11 The applicant's prices and costs have been  
12 reviewed by members of the Dairy Commission staff and  
13 are in compliance with this agency's laws and  
14 regulations.

15 The applicant will be responsible for the  
16 assessment.

17 CHAIRMAN COOK: Do we have anybody  
18 representing this applicant present?

19 Okay. Seeing none, is there anything the  
20 staff can add to this?

21 MR. ORZECH: I can add that Nicholas &  
22 Company is presently licensed with us out of Salt Lake  
23 City, and what they're doing is they're opening a  
24 distribution spot in Las Vegas. In my conversations  
25 with them, I tried to let them know that what the Dairy

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1 Commission is trying to do is to not have separate  
2 licenses like we did for each distribution site. They  
3 were strong in the fact that they wanted two licenses.  
4 It's going to be run totally separate from the other  
5 business as far as their accounting and everything, and  
6 they really wanted it to be two separate licenses. So  
7 that's why we've got a, this here. But they have been  
8 with us quite awhile out of Salt Lake, and so this will  
9 be just an additional distribution center.

10 CHAIRMAN COOK: The Morningstar label is  
11 sourced from where?

12 MR. ORZECH: I don't know that. I don't  
13 know if I have that on --

14 CHAIRMAN COOK: That's not a local --

15 MR. ORZECH: No.

16 CHAIRMAN COOK: -- label, is it?

17 MR. ORZECH: No. No.

18 CHAIRMAN COOK: Okay. So this is a brand  
19 new, coming up out of the ground distribution center?

20 MR. ORZECH: New location, yes.

21 CHAIRMAN COOK: For a company that's already  
22 been doing business in the state.

23 MR. ORZECH: Exactly. Yes. Yes.

24 CHAIRMAN COOK: All right. I have no  
25 further questions. Troy, any questions?

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1 MR. CROWTHER: No questions.

2 CHAIRMAN COOK: John, questions?

3 MR. COLLIER: Is this company up to speed on  
4 all of their fees and assessments?

5 MR. ORZECH: They are.

6 CHAIRMAN COOK: Okay. Questions or comments  
7 from staff? Questions or comments from members of the  
8 public? Seeing none, I'll entertain a motion on this  
9 application.

10 MR. CROWTHER: I will make a motion to  
11 approve the peddler distributor license application by  
12 Nicholas & Company Foodservice, LLC, North Las Vegas, to  
13 distribute a full line of dairy products in the Northern  
14 and Southern Nevada Marketing Areas. Fluid milk label  
15 to be Morningstar.

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

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

21 MR. ORZECH: Agenda item 2c for possible  
22 action is a peddler distributor license application by  
23 Whey Runners, LLC, 2736 Moliere Court, Henderson,  
24 Nevada, 89044. Mary Lynn Palenik, CEO.

25 The applicant seeks a license to distribute

1 fluid milk, fluid cream in the Northern and Southern  
2 Nevada Marketing Areas. The fluid milk label will be  
3 Phase III. Temporary approval was granted on March 27,  
4 2014.

5 The applicant's prices and costs have been  
6 reviewed by members of the Dairy Commission staff and  
7 are in compliance with this agency's laws and  
8 regulations.

9 The applicant will be responsible for the  
10 assessments.

11 CHAIRMAN COOK: Do we have anybody present  
12 representing this applicant?

13 Okay. Seeing none, anything else that the  
14 staff would care to add to this?

15 MR. ORZECH: I can add, this is a new  
16 company. It's basically a husband and wife team. And  
17 what they're trying to do with this product is this,  
18 it's, it's basically a chocolate milk sports drink  
19 that's packaged, it's primarily chocolate milk with  
20 ingredients added to it as a sports supplement.

21 And I did some checking on it before we  
22 licensed them to be sure that this would be a product  
23 that we would license, and there's a very similar  
24 product that's put out by Shamrock Farms in Arizona  
25 that's almost identical, and we do license that.

1                   This is a, it's a chocolate milk.  
2   Apparently there's been, in the research I was doing,  
3   there's been a lot of research done on chocolate milk as  
4   a supplement after working out, and they're finding it  
5   has a lot of good, good qualities to it. This one is  
6   just, it's just a take-off on chocolate milk. That's  
7   all it is. So that's the only thing that they're  
8   distributing.

9                   And their hopes is that -- it's coming out  
10   of Florida. It's a UHT product. It's packaged in a can  
11   as opposed to a plastic bottle. What they're trying to  
12   do, if it takes off down there, is she's hoping to  
13   become a west coast distributor for this product. And  
14   that would be the whole operation.

15                  CHAIRMAN COOK: Okay. So everything they're  
16   bringing in is coming in from Florida?

17                  MR. ORZECH: Yes, it is. Yes.

18                  CHAIRMAN COOK: Pretty steep transportation  
19   costs. Okay. Troy, any questions?

20                  MR. CROWTHER: None.

21                  CHAIRMAN COOK: John?

22                  MR. COLLIER: I have none.

23                  CHAIRMAN COOK: Any more questions or  
24   comments from staff? Public, any questions or comments?  
25   Gary, do you want to throw anything on the table?

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1 MR. RECK: No.

2 CHAIRMAN COOK: No? Okay.

3 MR. RECK: Totally understand it.

4 CHAIRMAN COOK: All right. Seeing none, I  
5 will entertain a motion on the Whey Runners application.

6 MR. COLLIER: Mr. Chairman, I move that we  
7 accept the Whey Runners application of Henderson, Nevada  
8 to distribute fluid milk and fluid cream products in the  
9 Northern and Southern Nevada Marketing Areas.

10 MR. CROWTHER: Second.

11 CHAIRMAN COOK: Okay. Having a motion and a  
12 second and no dissenting votes, the motion carries and  
13 the license is granted.

14 Can we proceed to the next agenda item?

15 MR. ORZECH: Next agenda item is, item  
16 number three for possible action is approval of the  
17 minutes for the March 19th Dairy Commission meeting.  
18 And copies of the proposed corrections have been  
19 distributed to the members.

20 CHAIRMAN COOK: Okay. Would either of you  
21 two care to make a motion on accepting of the minutes?

22 MR. CROWTHER: Mr. Chairman, I move that we  
23 accept the minutes of the March 19th, 2014 Dairy  
24 Commission meeting, with the indicated corrections.

25 MR. COLLIER: I'll second that, Mr.

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1 Chairman.

2 CHAIRMAN COOK: Okay. Having a motion and a  
3 second and no dissenting votes, the minutes of the  
4 March 19th meeting are adopted, as corrected.

5 MR. ORZECH: Agenda item number four is  
6 staff report. The Dairy Commission report for April,  
7 2014. The Fallon dry milk powder plant has begun  
8 operation. The current Agency reserve is \$322,428, and  
9 this is a reduction of almost \$200,000 since last  
10 August.

11 And that concludes the report.

12 CHAIRMAN COOK: Okay. Thank you. Any  
13 comments on what's happening with the Class 1 prices?

14 MR. ORZECH: Class 1 prices are very high.  
15 I mean, they're actually the highest they've been in  
16 several years. And then in looking at the milk/feed  
17 price ratio, that's also up. It's been presently, this  
18 is nation wide again, it's, January it was 2.46,  
19 February was 2.6, March it dropped a little bit to 2.58.  
20 And if you remember, the confines of that ratio being  
21 that anything below two is considered not profitable for  
22 production of the milk. Anything above three is  
23 considered very profitable as far as time to expand your  
24 herd. So we're right at the higher end right now, and  
25 that, it's been up there and we just have to see if it

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1 holds.

2 CHAIRMAN COOK: Have you seen any  
3 discussions or comments from the industry producers with  
4 regards to herd reduction simply due to the beef  
5 price --

6 MR. ORZECH: None.

7 CHAIRMAN COOK: -- situation?

8 MR. ORZECH: No.

9 CHAIRMAN COOK: I would think now would be a  
10 great time to be calling your herds. If, if you were  
11 going to try to downsize, this would be the time to do  
12 it.

13 MR. ORZECH: It's an interesting comment  
14 that you make that, because that's, if, if it was below  
15 two, it would be. But now we're hitting almost three,  
16 where they want to expand. So it's really, it's  
17 interesting, the parallel in that, in that analogy.

18 CHAIRMAN COOK: Probably no better time than  
19 right now to be selling your, your bull calfs.

20 MR. ORZECH: The bull calfs, yeah. Yup.

21 CHAIRMAN COOK: Okay. Any questions,  
22 comments, Troy?

23 MR. CROWTHER: Just a couple things. I'm  
24 just curious, the reserve that's now 322, is this, is  
25 this current level going to be sustainable, do you



1 think?

2 MR. ORZECH: That's going to be tough to  
3 predict. This does not include any, this does not  
4 include the bird abatement program. That hasn't kicked  
5 in yet. So that would be the \$50,000 hit right off of  
6 that. But what this also doesn't take into effect is  
7 that the, the rent reductions that will take place from  
8 us having moved over here. So there will be money  
9 there.

10 So it's just something that I've got to keep  
11 an eye on and watch, and watch the, watch our revenue  
12 chain to be sure that we're still, we're still okay.  
13 This is still higher than what was recommended by, by  
14 the legislature. It's just a little bit higher, not  
15 much. So we're still, we're still pretty good.

16 Anna has been buying a lot of equipment for  
17 the new dairy lab, so that's knocked this down quite a  
18 bit. And like I said, also the butter assessment hasn't  
19 really hit full yet since we just started that last  
20 month. So that it probably, I would say in another two  
21 or three months, once the fiscal year, the state fiscal  
22 year kicks in, I should be able to see how it's, how  
23 it's leveling off. But right now we're still pretty  
24 good.

25 MR. CROWTHER: Is the major reason, then,

1 the \$200,000 reduction, is that, you mentioned the lab,  
2 is that the big hit that we've taken?

3 MR. ORZECH: It's equivalent to, because we  
4 did, we did a tax holiday too. If you remember, several  
5 months back we did the tax holiday, which would have  
6 been over a hundred grand. The dairy lab equipment, I  
7 think, is probably about 80 to 90 thousand at this  
8 point. And that, that's just the equipment. So there  
9 will actually be, and there's going to have to be a lot  
10 for taking care of, maintenance on that equipment, and  
11 supplies. So that there will be a steady amount that  
12 has to go, but it won't be as much as the initial outlay  
13 for the equipment.

14 CHAIRMAN COOK: How long before we expect to  
15 see the bird abatement program get final approval?

16 MR. ORZECH: As far as I know, that's  
17 stalled in contract right now. So no idea.

18 CHAIRMAN COOK: Indefinitely. There's no --

19 MR. ORZECH: Apparently they missed the  
20 window. If you remember, they talked about the window  
21 of when it was really effective. That window has now  
22 been missed. But it's still something that needs to be  
23 done.

24 CHAIRMAN COOK: Uh-huh.

25 MR. ORZECH: It's definitely -- but

1     apparently there's some contractual problems between the  
2     U.S. Government and the State, so that's kind of held  
3     up.

4                   CHAIRMAN COOK:   All right.

5                   MR. COLLIER:   At what level should this  
6     level out, Tom?

7                   MR. ORZECH:   The State was, or the  
8     legislature was recommending somewhere in the high two  
9     hundred thousands, is what they were recommending.  So  
10    that, that -- I forget the exact range.  I will have to  
11    pull that sheet out.  There was a range that they gave  
12    us.  We're really close to being at that.  Going to the  
13    legislature with this amount, that wouldn't even raise  
14    an eyebrow to them.

15                   The last time we went in projected revenues  
16    would have been six to seven hundred thousand, and  
17    that's when they really got concerned.  And that was  
18    actually not this last session, the previous session.  
19    This last session we were high, we were close to  
20    \$500,000 the last session, and they didn't say anything  
21    on that.

22                   But I, I think with the, with the butter,  
23    the butter reduction and with the bird abatement, I  
24    think we'll see, we'll be -- I'm going to have to watch  
25    it, because it may climb again.  I don't know how that

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1 rent's going to kick in. How that's going to affect.  
2 And then I don't know if, when -- because now is the  
3 time to prepare the budgets for the next session, and I  
4 don't know if the Department of Agriculture is looking  
5 to increase our assessment to them. So that would also  
6 be a hit on that. So it's going to have to stabilize,  
7 but it's not bad.

8 CHAIRMAN COOK: Okay. Any other questions?

9 MR. COLLIER: I have none.

10 CHAIRMAN COOK: Troy --

11 MR. CROWTHER: No.

12 CHAIRMAN COOK: -- comments? Comments from  
13 staff? Questions, comments from public?

14 Okay. Let's move on to the next.

15 MR. ORZECH: Agenda item number five is  
16 discussion regarding dairy license renewal process. And  
17 I think Dennis had some comments.

18 MR. BELCOURT: Yes. Dennis Belcourt, deputy  
19 attorney general. Chair and members, this came up in  
20 the last meeting, and it wasn't on the agenda as such,  
21 and so I indicated I'd be happy to talk to the board  
22 about this, the renewal process under an agenda item,  
23 and that's why it's on today's agenda.

24 The, basically the, every agency has  
25 different rules in the statutes, in the NRS, and, or the

1 Administrative Code. The Dairy Commission's rules are  
2 that you have a license that lasts a year, from  
3 January 1 to December 31. Renewal is required, if  
4 you're going to renew, you're supposed to do that before  
5 the 31st of December. If you do, you can renew after  
6 the 31st of December, but you pay double. You pay,  
7 instead of one application fee, you pay twice that. So,  
8 you know, you still can renew after January 1st.

9 I mean, in terms of the discussion that was,  
10 you know, you know, that the Commission wanted to go  
11 into last time, the issue of what happens if somebody  
12 continues to do business without, without renewing. And  
13 there, you know, there's no grace period in the law, so  
14 technically they're in violation of the law if they act  
15 as distributors after January 1st and haven't renewed  
16 their license. And if they come in on January 15th,  
17 say, for a renewal, again, they pay double the amount  
18 and get a renewal.

19 Denial of a renewal would require that the  
20 commission hold a hearing on ten days' notice. So if  
21 somebody is in violation of the provision regarding  
22 distributors, licensing distributors, the Commission  
23 could deny renewal, but it would have to give notice and  
24 an opportunity to, to the, for the person to be heard.

25 So that's kind of how the procedure is laid

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1 out in the statute. And if there's any questions, I  
2 would be happy to try to answer them, with Tom's help,  
3 of course.

4 CHAIRMAN COOK: I'm curious if we shouldn't  
5 consider maybe building a grace period, formalizing the  
6 informal grace period.

7 MR. ORZECH: There really isn't a need.  
8 It's been, like I said, between Kathy and myself, we'll  
9 get them back in on the -- there just hasn't been a need  
10 for that.

11 CHAIRMAN COOK: Okay.

12 MR. CROWTHER: Tom?

13 MR. ORZECH: Yeah.

14 MR. CROWTHER: I seem to remember from our  
15 last meeting that, that there are several that come in  
16 late, that that's actually fairly common. Is that  
17 correct?

18 MR. ORZECH: That's correct.

19 MR. CROWTHER: So why wouldn't there be,  
20 when you say there's no need for a grace period, why  
21 wouldn't there be?

22 MR. ORZECH: What Chris said was formally.

23 MR. CROWTHER: Okay.

24 MR. ORZECH: And we allow, we allow until  
25 the 30th. We send a letter out the 1st of January --

1 actually, we wait a few days after the 1st of January,  
2 because a lot of companies will not close their books  
3 out until the 31st, and that's when they'll, they'll  
4 send that check, on the 31st. So we wait. And then  
5 we'll send them a letter probably the second week of  
6 January saying that you have until the end of the month.  
7 And then that's, that's how we've worked with that.

8 And that, the problem also with the grace  
9 period is if you formalize it, it's going to tie our  
10 hands as far as what we can do as far as working with  
11 the companies. Some of these companies are real small  
12 and they, getting ahold of them can be tough. So if I  
13 only give them something that's hard on a regulation,  
14 then I can't go past that.

15 So this, it's worked, it's worked quite  
16 well, the way we've been doing it.

17 MR. CROWTHER: Okay. Is that, from a legal  
18 standpoint, does that, does that hurt us in any way or  
19 give us less authority to collect that, or to collect  
20 any -- when you say it's, you mentioned that it's  
21 double, according to the statute, it's double the price  
22 after the first of the year. Having an informal type of  
23 set-up, does that tie our hands in any way of not being  
24 able to collect it?

25 MR. BELCOURT: They should be required to

1 pay the, double the amount, whether or not -- I mean, if  
2 they come up for renewal after the 1st, they should, the  
3 statute requires that they be charged another \$25. I  
4 don't think our commission can waive that.

5           What it -- you know, I think the issue is  
6 does the Commission want to deny renewal based on, you  
7 know, possibility or probability that these people were  
8 doing unlicensed activity after the 1st. And when that,  
9 if that issue were to come up, I mean, I guess you want  
10 to be consistent about it, because otherwise you're  
11 going to get -- if you don't, I mean, you don't have to  
12 not, you know, deny the renewal, but if you're going to  
13 choose to not to deny a renewal in some instances and  
14 deny renewal in others, you want to have some guidance  
15 on that to make sure you're being consistent so that,  
16 you know, people don't, I mean, they could take that up  
17 on judicial review if you deny one and don't deny  
18 another.

19           So I think criteria for denial, I mean, for  
20 whether you go to hearing, you know, might be in order.  
21 But, you know, that's something -- there's always that  
22 possibility, that somebody will say inconsistent  
23 enforcement.

24           MR. COLLIER: Dennis, do we have, as a  
25 board, do we have the legal authority to establish a



1 grace period?

2 MR. BELCOURT: I, I think -- well, no. The  
3 statute doesn't give a grace period. I mean, let's put  
4 it this way, it's not clear on any grace period. It  
5 says the license lasts for 12 months, but then you can  
6 renew, you know, by paying double the fee.

7 It's not, you know, one could possibly find  
8 an ambiguity in that that would allow you to do regs to  
9 say, you know, here's, you know, we're going to treat,  
10 there will be a grace period. I mean, any reg will have  
11 to go through the Legislative Counsel Bureau. The  
12 Legislative Counsel Bureau will say aye or nay in terms  
13 of whether they feel the statute has that ambiguity that  
14 allows you to establish a grace period by regulation.

15 I think, you know, I, it doesn't expressly  
16 say no grace period, but, you know. So you could  
17 possibly try a reg to establish that. But what you  
18 could also do is establish it by regulation, you know,  
19 when you're going to go to, when you're going to deny  
20 renewal. I don't know that -- you know, it's kind of  
21 hard to do. I mean, I sense what Tom is concerned about  
22 is you have a very broad statement in the regs, but  
23 then, you know -- yeah, you could do that. You could do  
24 that.

25 CHAIRMAN COOK: Basically as it stands now,

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1 anybody who doesn't renew by the deadline just  
2 doubles --

3 MR. ORZECH: That's correct.

4 CHAIRMAN COOK: Now, how many people go  
5 beyond the 30 days? How many applicants go beyond the  
6 30 days?

7 MS. EASLY: Very few.

8 MR. ORZECH: Yeah. Because either Kathy,  
9 we'll get right on the phone to them when we get that.  
10 Because that's, it's been able to be tracked real well.  
11 She's set up a pretty good database to track all the  
12 ones that we've had. And that, anything that comes in  
13 postmarked after the 1st, it's going to be, well, the  
14 check, it's going to get the \$25 fine.

15 MS. EASLY: And we send them, we'll send  
16 them an invoice, if they haven't already included it, we  
17 send them an invoice for the additional \$25 late fee.  
18 And I'm on the phone with them before the end of  
19 January. And very few have gone after that.

20 CHAIRMAN COOK: Okay. All licenses are  
21 calendar year?

22 MS. EASLY: Calendar year, yeah.

23 CHAIRMAN COOK: Regardless of what time of  
24 year they apply and are granted the license?

25 MR. ORZECH: That's correct, yeah. Now,

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1 what we will do -- yeah, it has to be renewed.

2 CHAIRMAN COOK: There's no pro rata, you  
3 know, nothing --

4 MR. ORZECH: No.

5 CHAIRMAN COOK: Okay.

6 MR. COLLIER: Is our vendor base growing?

7 MS. EASLY: Yes.

8 MR. COLLIER: How much is it growing, per  
9 year, do you know?

10 MS. EASLY: Oh, per year. I couldn't --

11 MR. ORZECH: It's more.

12 MS. EASLY: We're up to 232 right now, and  
13 we were under 200 when I started five years ago.

14 CHAIRMAN COOK: Sounds like a couple of  
15 percent a year.

16 MR. ORZECH: Yeah.

17 CHAIRMAN COOK: Well, it sounds to me like  
18 you've got a system pretty well in place, the informal.

19 MR. ORZECH: And rest assured, if there is a  
20 problem, it's coming before the board. I mean, you will  
21 get the --

22 CHAIRMAN COOK: Yeah, it doesn't sound like  
23 we have many people that are recalcitrant and dragging  
24 it out.

25 MR. ORZECH: No.

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1                   CHAIRMAN COOK:  You've got a process in  
2 place, so I don't think we need to formalize a grace  
3 period.

4                   MS. EASLY:  And the majority of our  
5 licensees that I've been working with over the last five  
6 years, they all, when they get my call, they go:  Oh, I  
7 forgot again.  You know, or something like that.

8                   CHAIRMAN COOK:  And do we send any kind of  
9 reminder out in December?

10                  MS. EASLY:  Oh, yes.  Oh, yes.  The original  
11 renewal letter goes out in October, and then, as Tom was  
12 stating, about the second week of January goes out the  
13 late notices, and then the second week of February goes  
14 out the closure notices, that they haven't renewed and  
15 their license has been closed.

16                  MR. COLLIER:  So there is a system.

17                  MS. EASLY:  Yes.

18                  MR. COLLIER:  Obviously.

19                  MS. EASLY:  And it does seem to work quite  
20 well, so --

21                  MR. COLLIER:  Okay.

22                  CHAIRMAN COOK:  Okay.  Well --

23                  MS. EASLY:  You always get one or two  
24 holdouts, but the majority of it works quite well.

25                  CHAIRMAN COOK:  Doesn't sound like it's an

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1     overwhelming issue, that, that you've got it pretty well  
2     under control.

3                   MR. CROWTHER:   My, and I think it was  
4     answered, but my only concern was that we're, by doing  
5     this we're in, we're not violating some statute or NAC  
6     that will cause us a problem.  Sounds like we're not, so  
7     I'm fine with it the way it is.

8                   CHAIRMAN COOK:   Okay.  Any further questions  
9     or comments on this topic?

10                  MR. COLLIER:    I have none.

11                  CHAIRMAN COOK:   Well, let's move on --

12                  MR. CROWTHER:   No more.

13                  CHAIRMAN COOK:   -- to the next item, please.

14                  MR. ORZECH:    Agenda item number six is  
15     consideration of any other matters relating to the dairy  
16     industry.

17                  CHAIRMAN COOK:   Okay.  Anybody have any  
18     other matters they want to bring up?

19                         Then let's move on to the final items.

20                  MR. ORZECH:    Agenda item number seven is,  
21     again, public comment and discussion.

22                  CHAIRMAN COOK:   Well, we have two members of  
23     the public, and neither one of them seem to be  
24     commenting much, so --

25                  MR. RECK:       Just listening.

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1 CHAIRMAN COOK: I guess we have --

2 MR. RECK: I have, I do have one little  
3 question.

4 CHAIRMAN COOK: Please.

5 MR. RECK: The --

6 CHAIRMAN COOK: Would you identify yourself?

7 MR. RECK: My name is Gary Reck, Model  
8 Dairy. The powder plant in Fallon, do they pay  
9 assessment the same as they would, like Model Dairy  
10 would pay?

11 MR. ORZECH: There's no assessment on their  
12 product. We don't regulate any of the dry powder.

13 MR. RECK: Okay.

14 MR. ORZECH: Except for the inspection site.  
15 That's all the same. But no, there's no --

16 MR. RECK: No fees.

17 CHAIRMAN COOK: And those are mostly all  
18 contractual arrangements between the plant and the  
19 producers.

20 MR. ORZECH: Yes.

21 CHAIRMAN COOK: So we don't even regulate  
22 the price.

23 MR. COLLIER: Is that because the dry powder  
24 doesn't fall under our regulations?

25 MR. ORZECH: Exactly. It's not a regulated

1 product in the State of Nevada.

2 MR. COLLIER: Oh.

3 MR. CROWTHER: What's the, do we know what  
4 the capacity they're operating at now is, now that  
5 they're up and running?

6 MR. ORZECH: I don't know. Like, you know,  
7 it's a 2 million pound a day plant, and they were  
8 looking for 1.2 extra that they weren't going to get.  
9 So I don't know exactly how much they're getting.

10 MR. CROWTHER: I'm just, I mean, as a  
11 percentage. Seemed like they had to be at, I can't  
12 remember the percent, 50 percent or 80 percent to even  
13 be sustainable.

14 MS. EASLY: Well, they've been having some  
15 problems with their equipment, so they really aren't  
16 producing yet.

17 MR. CROWTHER: Oh.

18 CHAIRMAN COOK: So they're still in the  
19 shake-out phase?

20 MS. EASLY: Yeah. They're having seals that  
21 are breaking.

22 MR. ORZECH: They're actually packaging the  
23 product and they're taking the product and they're  
24 putting it in the warehouse. And they're waiting to  
25 have that product tested before it's shipped out. So

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1     there is product that's being --

2                   CHAIRMAN COOK:   So they are producing some.

3                   MR. ORZECH:   They are.   They are.

4                   CHAIRMAN COOK:   Do you know how much milk  
5 they're taking in?

6                   MR. ORZECH:   What I heard, and again, this  
7 is, this is, is that as of now there is no milk going  
8 over the hill anymore.   So that all the milk that  
9 they're producing out of, which would have been that  
10 800,000 pounds a day, should be going right into --  
11 well, with the exception of what's going naturally into  
12 the model, will be going into the plant now.   But  
13 there's nothing going over the hill.   But that's what  
14 I've heard.   I can't tell you that that's an exact.

15                   CHAIRMAN COOK:   Okay.   Maybe that's why I'm  
16 not seeing any of the RuAnn trucks on the road anymore.

17                   MR. ORZECH:   RuAnn actually doesn't have the  
18 contract anymore.   It was actually changed also.

19                   CHAIRMAN COOK:   That could be another reason  
20 why.

21                   MR. ORZECH:   That's the other reason, their  
22 contract was changed.

23                   CHAIRMAN COOK:   That's interesting.   Okay.

24 All right.   Any other comments?   Observations?

25 Questions?   Insights?   Jokes?



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1                   MR. ORZECH: One question I did have in  
2 regards to that, which I can't get an answer for yet, is  
3 how much milk is coming in now to that plant out of  
4 state. I don't know that yet, that number.

5                   THE CHAIRMAN: Well, are they bringing in  
6 out-of-state milk?

7                   MR. ORZECH: I don't even know that.

8                   CHAIRMAN COOK: There's a possibility, but  
9 you don't know?

10                  MR. ORZECH: Since originally, like I said,  
11 there was only, since their full capacity being 2  
12 million a day, and it was only 800,000 here, and they  
13 were supposed, one dairy was supposed to open, the old  
14 dairy re-open, and then the other fellow that's building  
15 the dairy down in Smith valley, he's not online yet. So  
16 how much they're bringing in right now, I don't know.  
17 If any.

18                  CHAIRMAN COOK: But they are producing  
19 product --

20                  MR. ORZECH: Yes.

21                  CHAIRMAN COOK: -- it's being warehoused,  
22 pending testing.

23                  MR. ORZECH: Yes.

24                  CHAIRMAN COOK: But nothing is being  
25 exported yet.

1 MR. ORZECH: As of what I found out this  
2 week, no. It is still just being warehoused until the  
3 final testing. They've got to be sure they've got that  
4 product exactly the way they want it.

5 MR. COLLIER: Is there, and I don't mean to  
6 drag this out, but is there a reason why they don't fall  
7 under the purview of the Dairy Commission in the State  
8 of Nevada?

9 MR. ORZECH: Well, they do, it's just the  
10 product that they export, or that they produce, is not.  
11 Dry powder is just not something that assessments are  
12 collected on. It wasn't regulated.

13 MR. COLLIER: Is that because the State  
14 legislature has not passed a regulation regarding that,  
15 or is that, is that, is that a -- I mean, why, why  
16 wasn't that done?

17 MR. ORZECH: That, I can't answer that. But  
18 it's not -- we regulate, the plant is regulated, the  
19 plant is fully regulated, but we, we don't collect  
20 assessments on the product that they produce. That's  
21 the only difference in that.

22 CHAIRMAN COOK: Regulate it from a health  
23 and safety standard.

24 MR. ORZECH: Right. And likewise --

25 CHAIRMAN COOK: Which we have authority to.

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1 MR. COLLIER: Right.

2 MR. ORZECH: Likewise, the product isn't  
3 even being distributed in the State of Nevada. I mean,  
4 even if it was a fluid milk plant and he's shipping  
5 fully out of the state, we wouldn't regulate it. We  
6 wouldn't collect assessments on it. It's what,  
7 distributing in the State of Nevada.

8 MR. COLLIER: That's what our regulations --

9 MR. ORZECH: That's what our regulations do.  
10 If you just --

11 MR. COLLIER: So if they're processing milk  
12 and selling it here in the State of Nevada --

13 MR. ORZECH: Yes.

14 MR. COLLIER: -- then that's the scope of  
15 the --

16 MR. ORZECH: Fluid.

17 MR. COLLIER: Oh, only fluid.

18 MR. ORZECH: If the dry powder was hitting  
19 the stores, we wouldn't be regulating that either. Only  
20 fluid milk and products from fluid milk, you know, the  
21 ice creams and that type of, yogurt.

22 MR. COLLIER: Oh.

23 MR. CROWTHER: Tom?

24 MR. ORZECH: Yeah.

25 MR. CROWTHER: The testing services that we

1 do, the regulations and that, are there, you say there's  
2 no assessments, but are there fees that are --

3 MR. ORZECH: Yes, there are. Like I said,  
4 that's the only difference between, say, a full fluid  
5 plant and what DFA has, is that there's no assessment on  
6 the product they're producing. Everything else, they're  
7 fully inspected by us, they're fully permitted by us.  
8 And as Kathy said, we've had Anna and their inspectors  
9 have been in there almost every day since the beginning  
10 of the month to help with --

11 MR. CROWTHER: But we charge for those  
12 inspections; is that correct?

13 MR. ORZECH: We do. Yes. Yes.

14 MR. CROWTHER: So we're not, I guess my  
15 overall concern, we're not coming out-of-pocket to  
16 regulate them.

17 MR. ORZECH: Oh, no.

18 MR. CROWTHER: And getting no reimbursement.

19 MR. ORZECH: No, no, no. No.

20 MR. CROWTHER: Okay.

21 CHAIRMAN COOK: Okay. Any other comments?

22 Questions? Observations? Nothing? We're done.

23 (Meeting adjourns at 9:39 a.m.)

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Chairman Christopher Cook

Commissioner John Collier

Commissioner Troy G. Crowther

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1 STATE OF NEVADA )  
COUNTY OF WASHOE ) ss.

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3

4 I, SUSAN E. BELINGHERI, a Certified Court  
5 Reporter and Notary Public for the County of Washoe,  
6 State of Nevada, do hereby certify that on Wednesday,  
7 the 16th day of April, 2014, I reported the Nevada Dairy  
8 Commission meeting;

9 That the foregoing transcript is a true and  
10 correct transcript of the stenographic notes of  
11 testimony taken by me in the above-captioned matter to  
12 the best of my knowledge, skill and ability.

13

14

Susan E. Belingheri, CCR #655

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