

Meeting - 1/15/2015  
Nevada State Dairy Commission

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

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TRANSCRIPT OF PROCEEDINGS  
PUBLIC MEETING  
VIDEO CONFERENCE

1:00 P.M. THURSDAY, JANUARY 15, 2015  
BEING HELD AT DEPARTMENT OF AGRICULTURE  
405 SOUTH 21ST STREET  
SPARKS, NEVADA

APPEARANCES - COMMISSIONERS PRESENT:

CHRISTOPHER COOK, Chairman  
JOHN COLLIER, Commissioner  
HARRY B. WARD, Counsel  
TROY CROWTHER, Commissioner (appeared via  
videoconference)  
STEVE JENSEN, Jensen Precast - for Agriculture Division  
LYNN HETTRICK, Deputy Director for the Department of  
Agriculture  
ANNA VICKREY  
ERICA RYAN (Appeared via videoconference)  
GARY RECK, Model Dairy  
KIMBERLY WHITFIELD (appeared via videoconference)  
RON MARTIN, Anderson Dairy  
DAMAN HERNANDEZ, Department of Agriculture  
STEVE WEYLAND, Meadow Gold Dairy  
KATHY EASLY, Staff Secretary

Reported By: Leslie R. Rosenthal, CCR #819

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RENO, NEVADA, THURSDAY, JANUARY 15, 2015 1:00 P.M.

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(This meeting is held concurrently in Reno  
and Las Vegas via videoconferencing.)

8

MR. COOK: It is now 1:00 on Thursday,  
January 15th, time for the Dairy Commission meeting to  
begin.

10

11

Mr. Hettrick, would you open the proceedings,  
please?

12

13

MR. HETTRICK: Yes, Mr. Chairman.

14

This is the time and place set for the  
regularly scheduled meeting of the Nevada State Dairy  
Commission, for the month of January 2015.

16

17

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

20

22

(Meeting agenda attached to transcript).

23

MR. HETTRICK: My name is Lynn Hettrick,  
deputy director for the Department of Agriculture.

24

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1 Present today are Mr. Christopher Cook,  
2 chairman, Mr. Troy Crowther, member of the commission,  
3 Mr. John Collier, member of the commission.

4 Those who present statements or evidence to  
5 the commission during this meeting are requested to first  
6 be acknowledged by the chairman, and to identify  
7 themselves for the record.

8 MR. COOK: Thank you.

9 Would you proceed to the first agenda item,  
10 please?

11 MR. HETTRICK: First item on the agenda is  
12 public comment and discussions.

13 MR. COOK: Okay. Anybody from the public  
14 here to make any comments?

15 Anything on the table for discussion?

16 Seeing nothing, let's move on to the next  
17 one.

18 MR. HETTRICK: The second item on the agenda,  
19 Mr. Chairman, for possible action, a licensed application  
20 for a peddler-distributor license. The Coca-Cola  
21 company, 2150 Town Square Place, Suite 400, Sugar Land,  
22 Texas. The applicant seeks a license to distribute fluid  
23 milk and fluid cream in the Northern and Southern Nevada  
24 marketing areas. Temporary approval was granted by staff

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1 management on December 9, 2014, pending approval of the  
2 application by the Board.

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

6 The applicant will be responsible for the  
7 assessments.

8 MR. COOK: Do we have anybody present  
9 representing this applicant?

10 MR. HETTRICK: I don't think so.

11 MR. COOK: Not seeing any -- I have a few  
12 questions, I'm a little curious as to -- is this the  
13 Coca-Cola Company -- the national Coca-Cola Company?

14 MR. HETTRICK: Yep.

15 MR. COOK: And they are applying for a  
16 license to distribute dairy products?

17 MR. HETTRICK: Specific kinds of dairy  
18 products -- it's called Fairlife. Chocolate two percent,  
19 a whole white milk, both in 52 ounce cartons, a two  
20 percent milk, 52 ounce skim white milk, 52 ounce, a  
21 chocolate, two -- or two percent, an eleven and half  
22 ounce, and a two percent white milk, eleven and a half  
23 ounce.

24 MR. COOK: And where are they sourcing the

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1 milk from, do we know any of that?

2 MR. HETTRICK: The application -- what is the  
3 source of the products -- to sale, it's called  
4 Fairlife, LLC., in Coopersville, Michigan.

5 MR. COOK: Is it a UHT product?

6 MR. HETTRICK: Anna can answer that question.

7 MR. COOK: I'm a little curious as to why  
8 Coke from Texas are bringing milk from Michigan to  
9 Nevada. And --

10 MR. HETTRICK: You'll need to identify  
11 yourself for the record.

12 MS. VICKREY: For the record, Anna Vickrey.

13 It is both a UHT product, and a UP product.  
14 And it is coming from a grade A listed facility, and the  
15 name of that is Fairlife.

16 MR. COOK: Is this a national marketing  
17 effort of theirs, or are we just being picked out for  
18 tests? Or --

19 MS. VICKREY: No. It's national.

20 MR. COOK: So they're rolling this out across  
21 the county?

22 MS. VICKREY: Yes.

23 MR. COOK: It's interesting.

24 Okay. Troy, any questions?

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1                   MR. CROWTHER: No. I think they just  
2 answered the ones that I had.

3                   MR. COOK: Okay. John?

4                   MR. COLLIER: They answered the questions  
5 that I had also. I was curious though, I thought  
6 Coca-Cola was out of Alabama.

7                   MR. HETTRICK: Or Atlanta, Georgia --

8                   MR. COLLIER: Or Atlanta, Georgia is where  
9 their headquarters were.

10                   This is a distributor out of Texas that's  
11 doing this?

12                   MR. HETTRICK: It may be the subsidiary that  
13 is somehow handling this product.

14                   MR. COLLIER: Or a --

15                   MR. HETTRICK: It says corporate name, and it  
16 lists Atlanta, Georgia. But then the mailing address for  
17 this is Sugar Land, Texas.

18                   MR. COLLIER: So this might be one of their  
19 divisions of the Coca-Cola --

20                   MR. HETTRICK: Yes. That would be my guess.

21                   MR. COLLIER: Okay. That's all I have.

22                   MR. COOK: Gary, I'm curious, do you have any  
23 knowledge of this?

24                   MR. RECK: The only deal we've, of course,

1 done are our background on it. And we have some  
2 information, of course, it's going to be competitive to  
3 our products, fresh products.

4 The -- our understanding there's two plants  
5 across the nation it's making in. It's an aseptic  
6 product, meaning from our point of view that can be a  
7 shelf staple, versus no refrigeration, so huge advantage  
8 there.

9 And, of course, I assume it'll be tied in  
10 with all their other soft drink products, where they pay  
11 sizeable amounts of slotting fees, and those kinds of  
12 things. And my question and concern is how does that  
13 actually fit into the dairy business? If indeed they do  
14 that, and that's an if, I don't know that.

15 MR. COOK: It's a very good question.

16 MR. RECK: And I know we don't like to do  
17 that in the dairy business.

18 So actually I have a lot of questions, and I  
19 should have brought my notes, and I could speak a little  
20 better to it.

21 I would throw out on the table that again,  
22 since a representative from Coke is not here to discuss  
23 and fill in on information that we -- or that the counsel  
24 would hold off until they have opportunity to come in

1 front and present, would be my thought.

2 MR. COOK: That's a very good point.

3 Are they going to pay the usual slotting fees  
4 that they pay on the soft drinks.

5 MR. HETTRICK: Although it doesn't list --  
6 and of course, the information is right in the  
7 application, I can't share with you, but -- because it's  
8 not part of the public record, and it's actually  
9 protected by law. But it doesn't indicate that. They  
10 don't show that.

11 They show all the same costs that everybody  
12 else shows, and they don't show any costs for that, which  
13 I think is a valid question. Whether or not that would  
14 be included in the cost of their product, or it's  
15 considered by them to be marketing, and they don't  
16 include it.

17 And that's one of the issues that we have  
18 that's very difficult, and Gary, you, I know, understand  
19 this. One of our problems is it depends on how people  
20 choose to categorize their expenses. Because we have  
21 companies like U.S. Foods who mix dairy products with  
22 other products, and can distribute the cost of the  
23 freight where they choose to distribute the cost of the  
24 freight. And you have -- and it varies from load to

1 load to load, because it varies in quantity from load to  
2 load.

3 So you have a difficult situation in what do  
4 you attribute to cost, and fully understand the below  
5 cost competitive pricing that we are responsible for.

6 But I'm, you know -- and I don't know what  
7 they will be comfortable with in terms of disclosing,  
8 given the fact that the law says they don't have to  
9 disclose their prices.

10 So we get it, we look at it so we have a  
11 number, and we don't -- we have no way of knowing what  
12 their price is relative to any other price, because we  
13 don't know how they justify their cost.

14 What we look at is if they say it costs a  
15 dollar, and we find that they're selling it for 0.90,  
16 then they're below cost. But how they come up with the  
17 dollar, we don't know. And whether or not they would  
18 disclose that or tell us that, I have no idea.

19 MR. COOK: Well, if this is a UHT shelf  
20 staple product, is it necessarily going to be in the  
21 dairy case in the dairy section? Or is it going to be --

22 MR. HETTRICK: That's a very good question.

23 MR. COOK: -- in the beverage section?

24 MR. RECK: Well, it's been presented to many,

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1 many national customers that I know of. I know of some  
2 who have already authorized product, and it's -- it's  
3 drawn up in their next schematic -- changes. One would  
4 be 7-Eleven, and I know for certain that it's in the  
5 dairy door, and space is coming out of fresh dairy, I do  
6 know that.

7 MR. WARD: Identify yourself for the record,  
8 please, sir.

9 MR. RECK: Oh, my name is Gary Reck, Model  
10 Dairy.

11 MR. COOK: Well, I think it might not be a  
12 bad idea to have one of the representatives from the  
13 company here to clarify some of this, before we approve  
14 the --

15 MR. HETTRICK: We can invite them to attend  
16 the next meeting, and answer questions in regard to --  
17 you know, I think the only question we can justifiably  
18 ask them is how are you going to handle the marketing of  
19 this? And is it included in your cost sheets that you  
20 have prepared for us? Or is it outside of the cost sheet  
21 that you prepared, and submitted to the Commission?

22 That, I think, is a fair question, because we  
23 need to know how to be able to compare for cost  
24 competitive pricing, below cost pricing. And again, I,

1 you know, I would say to you that if they told us it cost  
2 a dollar, and they put it on the shelf, but then paid the  
3 retailer 0.20 to put it on the shelf, then they're  
4 probably below cost. Because they're actually --

5 MR. CROWTHER: I've had this question before  
6 that I've asked and never really had a complete answer.  
7 That is, you know, we're not -- not just marketing, but  
8 overhead. How does, you know, particularly a company  
9 like Coca-Cola, or any other national company, or  
10 something that has several branches, how do they allocate  
11 the overhead as far allocating the cost of their milk?  
12 And I've never understood the requirement for that, or  
13 how we audit that.

14 MR. HETTRICK: And, Troy, the answer is that  
15 we actually changed the statute in 2013 because it's  
16 physically impossible to go out and tell them how to  
17 allocate. They can tell us whatever they want in terms  
18 of allocation, because we have no control over how they  
19 assign their cost to various parts of their functions.  
20 And, for instance, you have some companies that price a  
21 product, and they say the product includes the cost of  
22 the product and the processing, and that's it. As far as  
23 delivery and overhead cost, administrative cost, we  
24 consider that all administrative, overhead, because we

1 sell that product and other products. And we don't  
2 assign a specific cost to that product. We consider it  
3 part of our bargaining package, and that's the way it is.  
4 There's no way we can tell a company how they have to do  
5 their books. So, you know, but as long as it's local in  
6 the tax -- they can do it.

7 MR. CROWTHER: So if a company only sells  
8 dairy products, are they required then to allocate all of  
9 their overhead to -- to those dairy products?

10 MR. WARD: Mr. Chairman, just for the record,  
11 would you identify yourself? My name's Harry Ward,  
12 deputy attorney general, and we have a young lady here  
13 taking down everything, and you're in Vegas. Would you  
14 identify yourself for the record, so she can have a clear  
15 record? Thank you.

16 MR. CROWTHER: Sure. I'm Troy Crowther,  
17 member of the commission.

18 MR. HETTRICK: Yeah. I would say in terms of  
19 a hundred percent dairy, that they would have to allocate  
20 a hundred percent. But how to dairy -- but how they  
21 allocate it within the product, I think they can do  
22 whatever they want. They may say, yeah, we allocate a  
23 hundred percent of our advertising to dairy, but we only  
24 allocate 20 percent yogurt, and we allocate 40 percent to

1 fluid milk, despite the fact that yogurt is 80 percent of  
2 the our sales, we don't market at that rate.

3 So we can't tell them how they do that.

4 MR. CROWTHER: That just inherently seems  
5 like a competitive disadvantage for them.

6 MR. COOK: My concern, Mr. Hettrick, is just  
7 as we confronted the issue several years ago of the  
8 retailers demanding the distributors provide bunkers.

9 MR. HETTRICK: Uh-huh.

10 MR. COOK: And we basically outlawed that.  
11 This is somewhat of a similar circumstance, that if  
12 Coca-Cola wants to buy shelf space, and pay the  
13 fronting -- the slotting fees, it seems to me that it's  
14 pretty much the same sort of a circumstance.

15 MR. HETTRICK: And all I would -- I don't --  
16 I'm certainly not an attorney, and I'm not going to opine  
17 as to whether or not it's the same, and that may be a  
18 question that arises, is whether or not we have to go to  
19 the attorney general and ask an opinion, that whether or  
20 not that amounts to somehow a competitive advantage or  
21 disadvantage in regard to pricing.

22 MR. COOK: I mean, effectively what we're  
23 doing here is we're seeing in an industry that's crossing  
24 over, the sugar and soft drink industry crossing over

1 into the dairy industry. And if they bring some of the  
2 marketing practices that were maybe acceptable and  
3 allowable in that industry into dairy, now it becomes one  
4 of our concerns. And I, you know, I think that's  
5 something we need to get clarified. If they're going to  
6 bring over the same marketing practices then they may be  
7 possibly violating some of our codes and laws if they're  
8 doing that. So --

9 MR. HETTRICK: I think it's a valid question.  
10 I think Gary's already pointed out that their marking --  
11 in how many states did you say already?

12 MR. RECK: They did their test markets in  
13 Colorado, now there's been -- they've been granted  
14 authorization in some national accounts that I know of.

15 MR. HETTRICK: There will in virtually across  
16 the United States.

17 MR. RECK: Yes. National -- example is  
18 7-Eleven. Gary Reck, with Model Dairy, by the way.  
19 Sorry.

20 MR. HETTRICK: So I think we're probably  
21 delving into the territory where we have to go to the  
22 attorney general's office and get an opinion.

23 MR. COOK: And I understand Harry is probably  
24 not prepared to render an opinion on that at this point.

1 So I think it's probably best that we maybe table this  
2 application, and have a representative from the Coca-Cola  
3 Company come the next time, you know, and then we can ask  
4 these questions. And in the interim, maybe we can apply  
5 to the attorney general's office for some sort of a  
6 ruling or guidance on whether or not that's going to  
7 become an issue potentially.

8 MR. HETTRICK: I think that question when it  
9 comes will be one we'll have to craft very carefully,  
10 because I'm concerned with the fact that they're into  
11 national retailers, and we are now entering into  
12 interstate commerce that's regulated by the federal  
13 government, not by us. And I think that would have to be  
14 a part of our question that would be addressed to the  
15 attorney general's office. Because once they get into  
16 national accounts, it's interstate commerce, it's not  
17 strictly what our law says. And -- so we may or may not  
18 be able to regulate that.

19 MR. CROWTHER: I don't see that we're  
20 regulating. I see that we're making sure that they  
21 understand our regulations, as far as not selling below  
22 cost. I think that's the overall issue.

23 MR. HETTRICK: Yeah. I understand, I mean,  
24 that's the only part of the law we actually can control

1 is whether or not they sell below cost.

2           Again, I would, you know, and I can only tell  
3 you if I were in their position I'd come in here and  
4 argue that I don't consider buying shelf space marketing  
5 below cost. I sold them milk for X dollars, and if I  
6 want to pay to advertise, and my advertising budget is  
7 going to be buy shelf space, then I'm entitled to do  
8 that. Everybody else advertises, as well. If you don't  
9 choose to buy shelf space that's your problem, that's not  
10 my problem. I think that would be what I would tell you  
11 is Coca-Cola is -- you can spend your marketing dollar  
12 any way you want, I choose, to spend mine buying shelf  
13 space. And I don't see that going to regulate that quite  
14 frankly, but we're certainly open to obtaining the  
15 opinion if you want to do it.

16           MR. CROWTHER: But the question is doesn't  
17 that cost have to be included in the cost of the milk  
18 when they submit their reports?

19           MR. HETTRICK: And, Troy, I go back to what I  
20 said before. They can attribute and maybe they take  
21 their cost dollars, I don't know this, but they submit to  
22 us, and again, maybe they say to us it costs a dollar,  
23 that's what I'm going to sell it to the retailer for.  
24 Built into that I have 0.20 that I can spend for

1 marketing any way I want. I choose to give that 0.20  
2 back to the retailer, it's my money now, I'm buying  
3 advertising. I'm going to do whatever I want with it,  
4 and I choose to buy shelf space. And I don't know that  
5 you're going to regulate that, and I don't know that that  
6 falls below -- but I'm certainly willing to obtain the  
7 opinion. I'm just telling you that that would be the  
8 argument I'd make if I were Coca-Cola, is it's my  
9 advertising dollar, and I choose to spend it this way.  
10 Model Dairy chooses to buy signs at the baseball diamond,  
11 and help out the local kids, I applaud them for that.

12 MR. CROWTHER: I understand that. All I'm  
13 saying is I want make true that that \$0.20 is included in  
14 that dollar that's the recording's of the cost of milk?

15 MR. HETTRICK: And I think we can try to ask  
16 that question and see how much they are comfortable  
17 disclosing.

18 MR. COOK: You can argue that that \$0.20 was  
19 rebating.

20 MR. HETTRICK: And you could.

21 MR. COOK: And not advertising.

22 MR. HETTRICK: And you could.

23 MR. COOK: And, you know, and if Coke can do  
24 it, then why can't Model Dairy do it? And if you slapped

1 a vendor sign on the bunker, and they could just hey,  
2 that's an advertising expense.

3 I mean, I agree, I understand where you're  
4 going with this, and it is -- it's periodically we get  
5 into these situations where we have a can of worms, and  
6 we've got to sort things through.

7 MR. HETTRICK: It becomes very gray, and  
8 that's the issue.

9 MR. COOK: And that's where I think we  
10 should --

11 MR. HETTRICK: And again, we maybe -- you  
12 know, maybe we want to ask for that opinion, I am not  
13 opposed to that, I think that's fine. I'm simply trying  
14 to play the devil's advocate a little bit here, and make  
15 sure we explore the whole thing before we just dive in  
16 and, you know -- given your example, I would tell you  
17 again, if I were Coca-Cola, I'd sit here and say well,  
18 Model Dairy chooses to buy a sign at the ball diamond, I  
19 think that's advertising, I think that that applies  
20 against their cost, as well.

21 So I would argue, if I were Coca-Cola, that  
22 it may be different, I agree with you, it's different, I  
23 think buying shelf space is indeed different. And it's  
24 not been done here. However, if they consider to be

1 advertising, and we can't tell them how they categorize  
2 their marketing calendars.

3 MR. COLLIER: Well, is marketing dollars and  
4 advertising part of the expense of producing milk, isn't  
5 it? I mean, isn't that one of the costs of putting milk  
6 on the shelf?

7 MR. HETTRICK: It can be categorized that  
8 way.

9 MR. COLLIER: Because is that's what's at  
10 issue here?

11 MR. HETTRICK: John, it can be categorized  
12 that way, or we have other companies, like I pointed out,  
13 like US Foods, who handle other products. And they can  
14 say we market U.S. Foods, we only attribute ten percent  
15 of that cost to dairy. We consider the rest of our  
16 advertising costs to be attributed to all the rest of the  
17 products we sell. And we don't care if dairy's 20  
18 percent of our business, or not, we're advertising you as  
19 foods, and we consider ten percent to be dairy.

20 MR. COLLIER: Well, I guess where I'm having  
21 a problem here is if the milk costs -- if they're  
22 charging a dollar for their milk, and in our law that --  
23 if I'm correct in this, says that they can't be less than  
24 whatever that base cost is, is that's what the deal is?

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1 MR. HETTRICK: Can't sell below cost.

2 MR. COLLIER: Can't sell below cost. Okay.

3 Below -- who establishes that cost? Does the milk  
4 producer establish that cost, or does the state establish  
5 that cost?

6 MR. HETTRICK: The producer -- the processor.

7 MR. COLLIER: The processor? So if I'm a  
8 processor, and it cost me X number of dollars to market  
9 my milk that's part of my cost of doing business.

10 MR. HETTRICK: And, again, I understand  
11 perfectly what you're saying, and I agree, and in case we  
12 already kind of had this, in the case where you're a  
13 hundred percent dairy, that's true, Coca-Cola is not.  
14 Coca-Cola is not a hundred percent dairy.

15 MR. COLLIER: Is this permit that they're  
16 requesting, is it for the same products that any other  
17 producer's selling here in the State of Nevada?

18 MR. HETTRICK: It's what -- it's how you're  
19 going to define the same. Is it milk? Yes.

20 MR. COLLIER: Is it milk? Are they going to  
21 add Coca-Cola to the milk? Are they going to call it  
22 Coca-Cola milk?

23 MR. HETTRICK: It's processed differently,  
24 and it's got an extended shelf life, it's not the same as

1 the milk that's being marketed elsewhere. It's not a  
2 identical product.

3 MR. COOK: And that's why I asked the  
4 question of where it was going to be sold out of, whether  
5 it's coming out of the diary case, or --

6 MR. COLLIER: Oh. So there -- that's really  
7 what's the root of the problem here.

8 MR. HETTRICK: The issue is because they can  
9 do this milk, as Gary said, it's the aseptic processing,  
10 it has a shelf life that is long enough that allows them  
11 in two plants in the United States to ship it all over  
12 the United States, and have enough shelf life to still be  
13 able to market this product economically. And --

14 MR. COLLIER: And be competitive with local  
15 producers --

16 MR. HETTRICK: Sure. Because you don't --  
17 you have far less throw away, you have far less waste.

18 So again, I mean, this is -- and that's the  
19 issue, I mean this is a different product. And is it  
20 milk? Yes. It is milk, but it is processed differently,  
21 and it is -- has a different shelf life, different  
22 characteristics.

23 MR. COLLIER: Is there anything in our  
24 statutes, or laws that says that there's anything against

1 doing that?

2 MR. HETTRICK: No. And it's federally  
3 approved. Anna went and checked on it.

4 MR. COLLIER: I mean, if it's federally  
5 approved then, I mean, I frankly don't see what the  
6 problem is.

7 MR. HETTRICK: I mean, the issue comes back  
8 to what has been brought up. And that is how do we  
9 characterize advertising or buying shelf space? Is that  
10 considered to be advertising? And that's done by  
11 Coca-Cola Company, and they call that a part of their  
12 entire advertising package, and they attribute some tiny  
13 percentage to advertising this product by buying shelf  
14 life -- or shelf space? Or do we attribute some  
15 percentage of all their entire advertising budget to  
16 milk, and say it's a part of the cost, and therefore  
17 you're below cost. And I think it's very complex as to  
18 how you are going to do that.

19 MR. CROWTHER: Lynn, I think the bottom line  
20 is we don't have any statutes or regulations --

21 MR. COLLIER: No, we don't.

22 MR. CROWTHER: -- that tell one way or the  
23 other how it has to be done. So we can -- we can say all  
24 we want, you need to allocate this cost this way, but the

1 truth is we have nothing to base that on.

2 MR. COLLIER: That's right.

3 MR. COOK: I think -- the way I'm looking at  
4 this, the question I have, and that's why I asked about  
5 where it's going to be sold. If they're buying shelf  
6 space, and they're buying shelf space in the dairy case,  
7 and they're pushing somebody else out, then that's not  
8 fair to that processor.

9 If they buy shelf space at the Raley's, and  
10 they push out Model Dairy, and Model is -- well, we  
11 either have to buy shelf space, up the anti and pay more  
12 to get our shelf space back it starts, you know, down a  
13 path that we don't -- I don't think we want to go down,  
14 then that's where, you know -- if it's in the soda pop  
15 isle, and they want to buy shelf space, and they want to  
16 sell it right next to their 12 packs of Coke, you know, I  
17 don't have problem with that. But if they're going to  
18 try to put this in the dairy case, and they're going  
19 dislocate somebody who was already there because they're  
20 buy that space, then I think we have a problem.

21 MR. HETTRICK: I would respectfully disagree.  
22 Because I can walk in as a marketer of milk and Gary's  
23 got his gallon of milk on the shelf at three bucks, and I  
24 walk in and say I'm going to give it to you for 2.90, I

1 just bought the shelf space. I would argue with you that  
2 I'm buying the shelf space by the price I give them.

3 And I just don't see how we can control that.  
4 They can attribute cost any way they wish, and as long as  
5 the 2.90 was not below my cost that I submitted to the  
6 Dairy Commission of the State of Nevada, I'm legal. I  
7 can do it any way I want. And I can call it advertising  
8 and buying the space, or I can call it lower price and I  
9 get the space.

10 I don't see how you differentiate between  
11 those two.

12 MR. COOK: Well, I think just out of respect  
13 for our licensees who has raised the question, we need to  
14 table this application, and have a representative from  
15 Coca-Cola come in and answer some of these questions to  
16 the extent that they can, to the extent that we can  
17 expect the answers, obviously, with the, you know,  
18 business confidentiality issues.

19 MR. HETTRICK: I would agree with that.

20 MR. COOK: And based on those answers I think  
21 we then need to make a decision whether we ask for an  
22 opinion from the AG's office.

23 MR. CROWTHER: Yeah. I would like to see if  
24 there's some clarification that we can get from the AG's

1 office as far as this -- how we allocate cost, and how  
2 cost is determined. Because it seems like just a  
3 complete -- just totally money water here. I don't --  
4 the people could just do whatever they want as far as  
5 allocations.

6 MR. COOK: But if we peel it right back down  
7 to the bottom layer of this issue, when we went to this  
8 system where we did not require the licensees to appear,  
9 caveat was that unless there was some sort of a question  
10 or objection by somebody who would likely be impacted by  
11 it. And there's apparently some sort of a question or  
12 objection, which I think is valid. So I think in the  
13 interest of sticking with our --

14 MR. HETTRICK: Absolutely, I have no problem  
15 with that. I think you're --

16 MR. COOK: -- administrative rules, and  
17 everything, I think we should table this application and  
18 bring it back when we can have somebody from Coca-Cola  
19 here to represent the company.

20 MR. CROWTHER: I agree. Do we need to motion  
21 the table?

22 MR. COOK: Yes, please.

23 MR. CROWTHER: We'll make the motion that we  
24 table the peddler distributor license application by

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1 Coca-Cola Company, until the February Dairy Commission  
2 meeting, or when a Coca-Cola representative can appear in  
3 person.

4 MR. HETTRICK: I'm sure they will appear.  
5 We need a second on that.

6 MR. COLLIER: I'll second that.

7 MR. COOK: Okay. Having a motion and a  
8 second, and no dissenting votes, this application is  
9 temporarily held in abeyance, and we'll revisit it at the  
10 next meeting.

11 MR. HETTRICK: In the meantime, Mr. Chairman,  
12 we'll write Coca-Cola a letter and indicate to them that  
13 we'd like them to attend. And we'll give them an idea of  
14 what the question is, so they have some idea what they  
15 need to be able to respond to.

16 MR. COOK: Now, would it premature of us to  
17 ask for an opinion from the AG until --

18 MR. HETTRICK: You won't get it in 30 days, I  
19 can assure you. It will take far longer than that to get  
20 an opinion from the AG's office, and that's not saying  
21 anything negative about the AG's office, it's simply a  
22 far more complex issue than a 30 day --

23 MR. WARD: If I please, Mr. Chairman, Harry  
24 Ward, Deputy Attorney General, you are correct, sir, when

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1 you ask for a formal AG's opinion it goes through a lot  
2 of hoops, has to be approved by supervised -- going back  
3 up and down bedded, so it's almost impossible to get a  
4 formal written AG's opinion.

5           However, you can contact Mr. Dennis Belcourt,  
6 and put him on notice what the issues might be, let him  
7 do some research, and that way he might be able to make  
8 some informal suggestions to the commission.

9           MR. HETTRICK: We'll contact Dennis. And  
10 then in the meantime this is held for now.

11           MR. COOK: Okay. All right.

12           Let's move onto the next item, please.

13           MR. HETTRICK: Next item for possible action  
14 approval of the minutes for the December 18, 2014, Dairy  
15 Commission meeting.

16           I have a minor change of capitalization, and  
17 would request that the commissioners make a motion to  
18 approve with the minor changes suggested.

19           MR. COOK: Mr. Chairman, I'll make the motion  
20 that we approve the minutes of our last meeting  
21 December the 18th, with the so noted corrections that  
22 have been brought forth in our minutes here. So --

23           MR. CROWTHER: Second.

24           MR. COOK: Okay. Having a motion and a

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1 second, no descending votes, the adoption of the minutes  
2 is approved with the noted correction.

3 MR. HETTRICK: All right. Thank you,  
4 Mr. Chairman.

5 Next possible action approval was dairy  
6 requests for pest abatement program matching funds. I  
7 don't think we have anyone from a dairy here in either  
8 locations.

9 So I think we can go on from there,  
10 Mr. Chairman.

11 MR. COOK: Okay. And what was the -- we've  
12 come upon a deadline for that, haven't we --

13 MR. HETTRICK: There really is no deadline.  
14 We've given them three meetings, we'd like them to come  
15 to, the idea of being that we would do it in advance of  
16 what we perceive to be the starling season, and we  
17 thought it would be best if they came and got approval,  
18 so we could go ahead and move forward, and we knew what  
19 we were obligating ourselves to.

20 We've apparently seen everybody who's  
21 concerned at this point at least.

22 MR. COOK: What are we up to seven now?

23 MR. HETTRICK: I think nine was the last  
24 number.

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1 MS. VICKREY: Nine.

2 MR. HETTRICK: So we have nine possible  
3 dairies, and then they could apply for a second treatment  
4 if they wanted to, given the fact that what'll happen  
5 is -- the authorization to expend that amount of money.

6 MR. COOK: Okay.

7 MR. HETTRICK: Based on our current list of  
8 applicants.

9 MR. COOK: All right. Very good. Thank you.

10 MR. HETTRICK: All right. Staff report next,  
11 Mr. Chairman. And you have price -- price cost sheets  
12 for current in your packets, I believe that's at both  
13 locations.

14 Just a couple of very quick comments from me.

15 Obviously the legislative session is about to  
16 begin. Our first actual hearing will be in about a week.  
17 We will be doing our first legislative briefing prior to  
18 the start of the legislature actually. The money  
19 committee meets -- starts meeting prior to and will do a  
20 first presentation.

21 It'll also be our first formal presentation  
22 to the actual joint committees on natural resources, will  
23 be the 5th of February, the session starts on the 2nd.

24 So we're actually very early ongoing to be

1 formerly presenting our programs, budgets, the like.

2 So it's moving very quickly.

3 In terms of Chapter 584 the Dairy Commission,  
4 we have no specific request to alter the statutes. And  
5 so the biggest thing for us would be to push for the 584  
6 budget changes that we have, and in particular a  
7 microbiologist, that we're hoping would fund, and get  
8 in -- move into the laboratory.

9 So that's kind of where we are in what's  
10 going on with the legislature.

11 There is a new proposal to approve raw milk  
12 in Clark County, and they're bringing it forward as a  
13 goat milk, dairy. But, of course, the statutes that we  
14 operate under 584, no one specifies they approve a raw  
15 milk Dairy Commission in Clark County, it will be  
16 approved for all forms of milk. And -- which means, in  
17 my opinion, that there won't be a goat dairy, there will  
18 be a dairy -- and I think they're -- candidly playing  
19 games trying to get it through the commission down there,  
20 and we'll see.

21 There's clear opposition to it. We're  
22 opposed to it, Clark County's opposed to it. The health  
23 department down there's opposed -- the state health  
24 department is opposed -- most everybody is opposed.

1                   But as you know we got through the  
2 legislature last time. I heard a radio program with one  
3 of the county commissioners who was very vocal and  
4 aggressive, and she is supporting the raw milk proposal  
5 for Clark County.

6                   So whether or not that was for -- we'll see.  
7 I think the first hearing is about 60 days, as I recall,  
8 something like that.

9                   Anyway, we'll be monitoring that, and we'll  
10 be testifying against it, because we think it's a health  
11 hazard, and so does everybody else.

12                  MR. COOK: Are there any instances, or  
13 circumstances you're aware of where goat milk has led to  
14 human illness?

15                  MS. VICKREY: Yes. There is some on the  
16 record. Obviously not as many, because you don't get as  
17 much goat milk as you do cow milk. We see a lot of it in  
18 cheese processes, where they're using raw milk for  
19 processing. Same health hazards.

20                  MR. COOK: Does the temperature, when they're  
21 processing their cheese, it doesn't kill bacteria?

22                  MS. VICKREY: Correct. It's processed in the  
23 raw form.

24                  MR. COOK: Okay. Pasturize the milk --

1 MR. HETTRICK: There's some contention that  
2 if you let cheese sit long enough it cures -- or kills  
3 the bacteria. But we see incidences of disease coming  
4 from raw goat cheese. So --

5 MR. COOK: Okay.

6 MR. HETTRICK: Next, a lawsuit's been filed  
7 in, I guess, Lyon County, opposing the Vlodt Smith  
8 Valley, I guess six land owners filed a lawsuit. They  
9 did a recent EPA hearing over there in terms of air  
10 pollution, and I spoke to people after the fact. They  
11 said that five or six people were vocally very adamantly  
12 opposed, and five or six people spoke for the dairy, and  
13 that of about 150 people there they felt two thirds were  
14 in support of the dairy. But the lawsuit is going on  
15 anyway. So it doesn't stop the lawsuit.

16 MR. COOK: The suit has been filed in the  
17 district court?

18 MR. HETTRICK: My understanding the suit is  
19 filed, yes.

20 We talked already about the starlings, and  
21 unaware of any request of treatment at this time.

22 You have also in your packet a tentative  
23 schedule for the 2015 meetings.

24 MS. EASLY: Oh, no, they don't.

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1 MR. HETTRICK: No, they don't?

2 MR. COOK: What's this? Right there.

3 MS. EASLY: Oh, I did do it.

4 MR. HETTRICK: Yeah. It's in there.

5 And you'll note that we've got the April  
6 meeting marked to go back to Fallon. And we can mark  
7 others, but we're just basically marking the dates. So  
8 you have an idea what we're doing, you can look at it.

9 I don't think we need to approve this, our  
10 dates are, you know, we approved last time that we're  
11 going to meet on Thursdays at 1:00, every third Thursday.  
12 So just for your information, that's --

13 MR. CROWTHER: I'd like to maybe look at that  
14 October 15th date.

15 MR. HETTRICK: Okay.

16 MR. CROWTHER: See if we can push that back a  
17 week, at least, if it's okay with everybody else. That's  
18 one of the busiest days of my year.

19 MR. HETTRICK: We don't have a problem with  
20 that at all.

21 MR. COOK: The extensions, Troy --

22 MR. CROWTHER: That's the due date for the  
23 extensions.

24 MR. HETTRICK: Yeah. Busy time. We

1 understand that. And I don't think we have any problem  
2 doing that at all.

3 Tentatively let's put that on the calendar  
4 then, Kathy, for October 22nd, and the only thing is we  
5 need to make sure that we notice, because as you pointed  
6 out earlier we had somebody show up yesterday, on  
7 Wednesday, and it has always been our day in the past,  
8 and we don't want to do that again if we can help it.

9 MR. COOK: They didn't drive in from Fallon,  
10 did they?

11 MR. HETTRICK: No, it was Gary. We applaud  
12 him for coming in two days in a row. So it's not a  
13 negative, it's a positive.

14 And we just want to make sure everybody's  
15 aware of it, and not have any of that, if we can help it.

16 Okay. We're done with that.

17 And then finally I'm going to turn it over to  
18 Daman, just to give you the information on where we stand  
19 on the financial information for this month.

20 MR. HERNANDEZ: Yeah. This week our M drive  
21 went down, that's the hard drive that we store a lot of  
22 shared information on there. And some files were missing  
23 after it came back. This is one of the files, so I'll  
24 need to recreate that, and report on that next week. I

1 did check -- and I did not find any significant changes  
2 from one month to the next.

3 Reserves are still in tact, but I'll go ahead  
4 and recreate that for that next monthly meeting.

5 MR. COOK: The reserves still --

6 MR. HETTRICK: Yeah. They're still -- they  
7 haven't changed.

8 MR. COOK: They're growing.

9 MR. HETTRICK: Yeah. They'll be growing, if  
10 anything.

11 MR. COOK: Until we get our microbiologist.

12 MR. HETTRICK: They'll project to grow at  
13 least. Because it's just a cash flow issue back and  
14 forth, but yes, they're projected to continue to grow.

15 MR. COOK: And then the lab is all set up  
16 ready to go, you've got everything you need?

17 MS. VICKREY: Needs changed. You know, we  
18 find that we need a little more equipment this month, and  
19 that will continue to grow, and we -- we're not doing all  
20 the testing that we wanted to yet, so we're just kind of  
21 starting off, and what we have to do, and then moving  
22 forward from there. So the cost will continue to  
23 increase in operating.

24 MR. COOK: And then but what you can't do is

1 still being sent up to the university?

2 MS. VICKREY: Yes. Party. Mostly just  
3 cheese. Because we haven't kind of found the time to do  
4 that yet. And that will change with microbiologists.  
5 Once they -- we get them on board we can do the initial  
6 testing we want to do.

7 MR. COOK: How many cheese manufacturers do  
8 we have here in the state?

9 MS. VICKREY: We have two that actually  
10 process cheese --

11 MR. COOK: Uh-huh.

12 MS. VICKREY: But we have two big ones that  
13 actually bring in cheese, and then they cut it up --

14 MR. COOK: So we have four?

15 MS. VICKREY: Yeah. Four. They don't make  
16 the cheese, they just bring in the cheese that's already  
17 been made, and then they chop it, and slice it, and do  
18 whatever they want.

19 MR. COOK: Processed -- government cheese.

20 MS. VICKREY: Yes.

21 MR. COOK: USDA.

22 MS. VICKREY: They process it, yes.

23 Lots of cheese for pizza up here in Northern  
24 Nevada.

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1 MR. COOK: Yeah. Oh, yeah. Yeah. No  
2 kidding?

3 MS. VICKREY: Yeah.

4 MR. HETTRICK: Keep eating that pizza --

5 MS. VICKREY: Yeah.

6 MR. HETTRICK: All right. That's all I have.  
7 Unless there are other questions?

8 MR. COOK: Okay. No. Let's move on to  
9 Number 6.

10 MR. HETTRICK: Number 6 --

11 MR. CROWTHER: This seems to be a historical  
12 month, from what I can recall. I've never seen Class II  
13 milk higher than Class I. Is this -- have you ever seen  
14 that?

15 MR. HETTRICK: Probably not. I'm not aware  
16 of it.

17 MR. RECK: Or as far as I know.

18 MR. HETTRICK: Gary Reck says no too,  
19 meaning he's not aware of it being -- occurring before  
20 ether. So --

21 MR. CROWTHER: Any idea why this -- why this  
22 is?

23 MR. COOK: Your government.

24 MR. HETTRICK: All I can tell you --

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1 MR. CROWTHER: It just seems strange --

2 MR. HETTRICK: I bet they wish they knew,  
3 because they'd love to keep it going.

4 MR. CROWTHER: I don't have any idea.

5 MR. HETTRICK: Okay. So that's Number 6, if  
6 we're done.

7 And Number 7, again, is public comment board  
8 or discussion.

9 MR. COOK: Okay. Anybody from the public?  
10 Comments? Questions? Discussions?

11 MR. RECK: Just a comment. I do have a  
12 comment.

13 MR. HETTRICK: Just identify again who you  
14 are.

15 MR. RECK: Gary with Model Dairy, Gary Reck.  
16 Just another concern back again to the  
17 Coca-Cola.

18 This is regarding the 60-day past due  
19 regulations -- law -- whatever we could call that.

20 MR. HETTRICK: Yeah.

21 MR. RECK: Indeed they are licensed, they  
22 start selling dairy products to the public, they have an  
23 account that gets past 60 days are they required to go  
24 COD, as well?

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1                   MR. HETTRICK: Sure. Absolutely. The law  
2                   pertains to everything.

3                   MR. RECK: And would that pertain to  
4                   everything they sell that account, or just to the portion  
5                   that's dairy related?

6                   MR. HETTRICK: Dairy related. We only  
7                   regulate dairy. So we don't have any impact on the rest  
8                   of what they sell or what their account is.

9                   MR. RECK: Thank you.

10                  MR. COOK: Anything else? Comments from any  
11                  staff members?

12                  MR. CROWTHER: None here.

13                  MR. COOK: Okay. Well, we'll thank Mr. Ward  
14                  for being here.

15                  MR. WARD: My pleasure.

16                  MR. COOK: His input is appreciated.

17                  And with that we will adjourn this meeting.

18                  MR. HETTRICK: Thank you all.

19

20                  (Meeting adjourned 1:45 p.m.)

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BOARD SIGNATURE PAGE

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CHRISTOPHER COOK, CHAIRMAN

---

JOHN COLLIER, MEMBER

---

TROY CROWTHER, MEMBER

1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )  
4

5 I, LESLIE R. ROSENTHAL, Certified Court  
6 Reporter in and for the State of Nevada, do hereby  
7 certify:

8 That the foregoing proceedings were taken by  
9 me at the time and place therein set forth; that the  
10 proceedings were recorded stenographically by me and  
11 thereafter transcribed via computer under my supervision;  
12 that the foregoing is a full, true and correct  
13 transcription of the proceedings to the best of my  
14 knowledge, skill and ability.

15 I further certify that I am not a relative  
16 nor an employee of any attorney or any of the parties,  
17 nor am I financially or otherwise interested in this  
18 action.

19 I declare under penalty of perjury under the  
20 laws of the State of Nevada that the foregoing statements  
21 are true and correct.

22 Dated this 27th day of January, 2015.

23 /s/ Leslie R. Rosenthal  
24 Leslie R. Rosenthal, CCR #819