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PUBLIC MEETING OF THE
NEVADA DAIRY COMMISSION

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TRANSCRIPT OF PROCEEDINGS
Thursday, March 17, 2016
Sparks, Nevada

REPORTED BY: Janet Menges, CCR #206

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APPEARANCES:

COMMISSIONERS:

Christopher Cook - Chairman

John Collier

Troy G. Crowther (Via Videoconference)

ALSO PRESENT:

Dennis Belcourt, Deputy Attorney General

Kathy Easley

Anna Vickrey

John Alvarado

Gary Reck

Kimberly Whitfield (Via Videoconference)

Erica Ryan (Via Videoconference)

Niels Pearson (Via Videoconference)

Dave Coon (Via Videoconference)

**Public Meeting - 3/17/2016
Nevada Dairy Commission**

1 SPARKS, NEVADA, THURSDAY, MARCH 17, 2016, 1:00 P.M.

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4 PURSUANT TO NOTICE, and on Thursday, the 17th
5 day of March 2016, at the hour of 1:00 p.m. of said day,
6 at the offices of State of Nevada Department of
7 Agriculture, Sparks, Nevada, before Janet Menges, a
8 Certified Court Reporter, the following proceedings were
9 had:

10

11 CHAIRMAN COOK: Time to start the meeting.
12 Anna, will you convene the March meeting of the Nevada
13 State Dairy Commission, please.

14 MS. VICKREY: This is the time and place set
15 for the regularly scheduled meeting of the Nevada State
16 Dairy Commission for the month of March 2016.

17 This meeting has been scheduled and noticed in
18 compliance with pertinent statutes, including the Open
19 Meeting Law.

20 A copy of the agenda has been handed to the
21 court reporter, with a request that it be part of the
22 official transcript of this proceeding.

23 My name is Anna Vickrey, Operations Manager,
24 Food Safety for the Department of Agriculture.

25 Present today are Mr. Christopher Cook,

1 chairman; Mr. Troy G. Crowther, member of the
2 Commission; Mr. John Collier, member of the Commission.

3 Those who present statements or evidence to the
4 Commission during this meeting are required to first be
5 acknowledged by the Chairman and to identify themselves
6 for the record.

7 CHAIRMAN COOK: Thank you.

8 We will proceed to the first agenda item,
9 please.

10 MS. VICKREY: Yes, public comments.

11 CHAIRMAN COOK: Now is the time for anybody
12 from the public to make a comment. There will be
13 another opportunity at the end of the meeting as well.

14 So if there are no public comments let's press
15 on to the next one.

16 MS. VICKREY: Agenda item number 2 for possible
17 action, license application for Peddler-Distributor,
18 Rock Island Refrigerated Distributions, 939 Transport
19 Way, Petaluma, California 94954, John Alvarado. The
20 applicant seeks a license to distribute fluid milk,
21 fluid cream, yogurt, cottage cheese and butter in the
22 Northern Nevada Marketing Area.

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

1 regulations.

2 The applicant will be responsible for the
3 assessments.

4 CHAIRMAN COOK: And we have, for the record,
5 Mr. Alvarado is here to represent this application.

6 Mr. Alvarado, is there anything else you can
7 add to this?

8 MR. ALVARADO: No.

9 We have been in business since 1971 and we have
10 always been in California, being Northern California,
11 and we have done business with Safeway, SaveMart,
12 Lucky's, Whole Foods, Raley's for quite a few years and
13 they keep asking us to come to Nevada.

14 So I came up here and got my permit with the
15 controller in Carson City. I did my license there and
16 then I went to the Bureau of Taxation, signed up there
17 and then my third was here.

18 CHAIRMAN COOK: Okay.

19 MR. ALVARADO: What we plan on doing is
20 servicing some products into Whole Foods and the other
21 chains, maybe the health food store here in town. We're
22 looking to maybe going down to south shore Tahoe and
23 that's pretty much it.

24 CHAIRMAN COOK: Is there anything special about
25 your product?

1 MR. ALVARADO: We're a natural food distributor
2 and what that means is we will be carrying Strauss milk.
3 I don't know if we will bring any Clover up here, I
4 doubt it. They have butter. There are some yogurts
5 that the health food stores will purchase.

6 There is one item that we made sure that we're
7 aware of is that you do not allow raw milk into the
8 state. I am a distributor for Organic Pastures and
9 we're very straightforward. We understand it, because
10 two counties in California do not allow it and we do not
11 do that. So we're very aware of the whole raw milk
12 issue and it will not be on our trucks. So I want to
13 assure you of that.

14 CHAIRMAN COOK: I guess we're glad to hear
15 that, aren't we?

16 MS. VICKREY: Yes.

17 When they gave us their cost price list it
18 included those raw dairy products.

19 CHAIRMAN COOK: We had that discussion already.

20 MR. ALVARADO: We switched it.

21 The interesting part is when I came here the
22 first day, I can't remember the gal that I talked to out
23 front. She goes no raw milk, and I said so do you know
24 the McAfees and she goes we know who they are. They are
25 very vocal. So we're very aware of that and I just want

1 to assure you that that will not happen.

2 CHAIRMAN COOK: Okay.

3 Most of this product now is going to be sourced
4 out of the Sonoma County area?

5 MR. ALVARADO: Yes, Petaluma. We have a 60,000
6 square foot warehouse and we own all our own trucks, all
7 our own drivers, and it will be serviced by our people.
8 So no drop shipment, nothing. It will be all off of our
9 trucks so we have full control.

10 CHAIRMAN COOK: I don't suppose you could throw
11 a few cases of wine on the back and bring that up?

12 MR. ALVARADO: That can be done. I'm building
13 a wine cellar right now at my home so wine's on my mind.

14 CHAIRMAN COOK: Okay.

15 I have no further questions. Troy, any
16 questions?

17 COMMISSIONER CROWTHER: No, I have none.

18 CHAIRMAN COOK: John?

19 COMMISSIONER COLLIER: Do you have any plans to
20 go to into the Southern Nevada market?

21 MR. ALVARADO: Not from Petaluma. No, we're
22 strictly going to go from here and probably end at the Y
23 right where Raley's is at the Y there.

24 COMMISSIONER COLLIER: In south shore?

25 MR. ALVARADO: Yes.

1 We already do Truckee, because it's California.
2 We won't go around 89. We will stay on the 395 here
3 into Carson City and south shore and that's pretty much
4 it.

5 COMMISSIONER COLLIER: So you're not going to
6 go east?

7 MR. ALVARADO: I won't go east unless I'm
8 pressed by Raley's, but I really don't know how far
9 Fallon is and those types of towns and is it worth --
10 They are kind of easier now to deal with buyers at big
11 chains when they know you can't drive 60 miles to a
12 store. So I will make sure that I can get by without
13 doing that.

14 I think they kind of know, because I have told
15 them. I mean Safeway wants me to go to Susanville. I'm
16 like I can't go there. Okay, all right. Quincy, okay.
17 So they are aware of it.

18 COMMISSIONER COLLIER: Okay.

19 MR. ALVARADO: That's the only area that we're
20 going to cover.

21 COMMISSIONER COLLIER: That's interesting.

22 CHAIRMAN COOK: Okay.

23 Well, if there are no further questions from
24 the Commissioners I will ask for any questions from the
25 audience, any comments?

1 Staff, any other comments to make?

2 Seeing none I will entertain a motion.

3 COMMISSIONER COLLIER: Mr. Chairman, I move
4 that we accept peddler-distributor application from Rock
5 Island Refrigerated Distribution located in Petaluma,
6 California. This applicant seeks a license to
7 distribute fluid milk, fluid cream, yogurt, cottage
8 cheese and butter in the Northern Nevada Marketing Area.

9 COMMISSIONER CROWTHER: Second.

10 CHAIRMAN COOK: Having a motion and a second
11 and no dissenting votes the motion carries and the
12 application is granted.

13 MR. ALVARADO: Thank you very much.

14 CHAIRMAN COOK: Thank you for coming in. We
15 don't see applicants very often any more.

16 COMMISSIONER COLLIER: It's pretty rare.

17 MR. ALVARADO: Well, I read it and it said if
18 there was questions you would have to come next month
19 and I'd have to tell the buyers at SaveMart and Lucky's,
20 by the way, we're delaying this and Raley's, we're
21 delaying this. So I said I will drive up and two times
22 I have been here it's been solid sunshine. So I brought
23 you some of that California Bay Area sun.

24 COMMISSIONER COLLIER: We don't know if that is
25 good or bad.

1 MR. ALVARADO: Now we want the water. We have
2 got plenty of that in the last couple of weeks.

3 CHAIRMAN COOK: Thank you for appearing.

4 MR. ALVARADO: Thank you.

5 CHAIRMAN COOK: Let's move on.

6 MS. VICKREY: The next application is for a
7 processing-distributor. It's Momenti Spirited Ice
8 Creams, 4061 Silvestri Lane, unit G-2, Las Vegas, Nevada
9 89120, Niels Pearson.

10 The applicant seeks a license to distribute ice
11 cream, sherbet, novelties and frozen yogurt in the
12 Northern and Southern Nevada Marketing Areas.

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

17 The applicant will be responsible for the
18 assessments.

19 CHAIRMAN COOK: Thank you.

20 Do we have anybody here representing this
21 applicant?

22 MR. PEARSON: Yes, Niels Pearson. The
23 applicant is here on behalf of Momenti Spirited Ice
24 Creams.

25 CHAIRMAN COOK: Thank you, Mr. Pearson, for

1 attending.

2 Is there anything you would like to add to
3 this?

4 MR. PEARSON: No, except that before we went on
5 the record I talked to Erica Ryan and because of our
6 unique position of being an alcohol infused product we
7 are already licensed by the state and the county with a
8 liquor license, but we are still a freeze-only ice cream
9 facility within your jurisdiction, and Ms. Ryan has
10 informed me that you are going to be doing a separate
11 inspection, which we invite, and I have actually brought
12 a panoramic picture of our plant.

13 It's a small continuous freeze, freeze-only
14 plant, and it's just a coincidental that sitting to my
15 right is Mr. Dave Coon of Anderson Dairy, which I'm
16 proud to say is supplying our white mix for our plant.

17 So we definitely are looking forward to doing
18 business in Nevada. My son, who is the principal, and
19 myself born and raised in Nevada, so I mean we're
20 looking to going forward, and we invite the Dairy
21 Commission to be part of the jurisdictional oversight of
22 what we're doing.

23 CHAIRMAN COOK: I'm curious, when do you expect
24 to get up north here? I would like to try your product.

25 MR. PEARSON: It's very interesting. I have a

1 lot of friends up north and one of them, the Scolari
2 Market people are interested possibly in carrying our
3 product. So it may be sooner rather than later.

4 CHAIRMAN COOK: Well, it's an interesting
5 concept, alcohol infused ice cream.

6 MR. PEARSON: Right, and we're making sherbets
7 and ice cream. The alcohol by volume content, just for
8 your information, and Ms. Ryan and I discussed this, is
9 between 2.5 and 5 percent. It's not excessive, but it's
10 just enough to give it a nice flavor.

11 CHAIRMAN COOK: I see a huge market for this in
12 trying to get two year olds to go to sleep. I have a
13 two year old grandson living with me right now.

14 MR. ALVARADO: You would be the first
15 purchaser.

16 CHAIRMAN COOK: It's a challenge trying to get
17 him to go to bed.

18 Okay, I have no further questions. Troy,
19 questions?

20 COMMISSIONER CROWTHER: Well, yes.

21 Where else are you located, where else do you
22 distribute this?

23 MR. PEARSON: We're only presently licensed in
24 California, and we will be -- we have a separate
25 warehouse in Fullerton and we have a wholesaler's

1 license in California right now. That's the only
2 places, and because of the Nevada retail laws we have an
3 exclusive distributor for the entire State of Nevada.

4 COMMISSIONER CROWTHER: Okay.

5 I have no further questions.

6 CHAIRMAN COOK: John?

7 COMMISSIONER COLLIER: Is this product
8 processed here in Nevada?

9 MR. PEARSON: It is. Our factory is located at
10 Sandhill and Patrick Lane in Las Vegas.

11 COMMISSIONER COLLIER: I have a second
12 question, when this is in a store is it marketed through
13 the liquor department or is it marketed through the
14 dairy and produce department?

15 MR. PEARSON: That's a very good question,
16 because we have expected it will be in the liquor
17 department in a stand-alone freezer.

18 However, in California there are some novelty
19 products in a market called Gelsons where they have it
20 mixed with the regular ice cream. From the people we
21 talk to, we think it should be marketed either at a
22 liquor only store, such as Total Wine, or in the liquor
23 department.

24 COMMISSIONER COLLIER: So this is a totally new
25 product on the market?

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Nevada Dairy Commission

1 MR. PEARSON: It is. There are some
2 predecessors, but some of them are already in various
3 other locations. The one that I'm thinking of most
4 readily in Nevada is at Lee's Liquor Store.

5 COMMISSIONER COLLIER: Thank you for coming
6 today.

7 MR. PEARSON: Thank you for having us.

8 CHAIRMAN COOK: Any questions from audience
9 members? Staff, questions or comments?

10 Seeing none I will entertain a motion.

11 COMMISSIONER CROWTHER: Mr. Chairman, I make a
12 motion to approve the processing-distributor license
13 application by Momenti Spirited Ice Creams, Las Vegas,
14 Nevada to distribute ice cream, sherbert, novelties and
15 frozen yogurt in the Northern and Southern Nevada
16 Marketing Areas.

17 COMMISSIONER COLLIER: I will second that, Mr.
18 Chairman.

19 CHAIRMAN COOK: Okay, having a motion and a
20 second, no dissenting votes, the license is granted.

21 Thank you, Mr. Pearson, appreciate you showing
22 up.

23 MR. PEARSON: Thank you.

24 CHAIRMAN COOK: On to number 3.

25 MS. VICKREY: For possible action, approval of

1 the minutes for the February 19th, 2016 Dairy Commission
2 meeting.

3 CHAIRMAN COOK: Do you want to recite the
4 changes or corrections or amendments or take them as
5 they are? Any others?

6 MS. VICKREY: We just have the five.

7 CHAIRMAN COOK: Okay.

8 MS. VICKREY: The five changes.
9 Do you want me to read them?

10 CHAIRMAN COOK: Yes, to put in the record.

11 MS. VICKREY: Page 8, line 25 change affection
12 to effects.

13 Page 9, line 24 change no where to nowhere.

14 Page 18, line 21 change assess to assessed.

15 Page 32, line 1 change Fegundes to Fagundas.

16 Page 32, line 22 change were to was.

17 CHAIRMAN COOK: Any other changes, corrections,
18 amendments need to be made?

19 MS. EASLY: No, I got them all right this time.

20 CHAIRMAN COOK: Seeing none I will entertain a
21 motion on this item.

22 COMMISSIONER COLLIER: Mr. Chairman, I move
23 that we accept the minutes of the Dairy Commission
24 meeting held between Sparks, Nevada and Las Vegas on
25 February 18th, approved with the following corrections

1 that were so stated by Anna.

2 COMMISSIONER CROWTHER: Second.

3 CHAIRMAN COOK: Having a motion and a second,
4 no dissenting votes, the minutes are adopted from the
5 last month's meeting.

6 Let's go on to the next one.

7 MS. VICKREY: Staff report.

8 Just to let you know, the move has been
9 completed into the new offices in Las Vegas. The only
10 thing that has not been completed is the dairy lab.
11 We're kind of holding off until after the first of the
12 fiscal year to put some cabinets and things in there and
13 get the test purchased and the refrigerator put in
14 place.

15 Dave, our microbiologist, was able to attend
16 the laboratory evaluation officer's training course so
17 that he could become a laboratory evaluation officer.
18 Hopefully we can get FDA out here. They are either
19 talking April or July to get those certifications for
20 him. What that person does is they go out to each of
21 the industry labs in all of our milk plants to certify
22 the people that do the antibiotic testing, they have to
23 make sure they use the proper methods and keep the
24 proper records.

25 Lisa is leaving for Sacramento to go to an

1 Advanced Milk Processing course next week and that
2 basically goes over more of the advanced equipment. We
3 have our regular pasteurizers in most of our plants, but
4 beyond that when we start talking condensing and dry
5 milk processing that covers a lot of that equipment. So
6 it's a good refresher course that FDA requires us to
7 take every three years.

8 CHAIRMAN COOK: Just Lisa is going to that?

9 MS. VICKREY: Just Lisa is going to that one.

10 Then Erica will be going to a special problems
11 course up in Washington in about three or four weeks and
12 that will get her started to become a rating officer so
13 that she will be able to come up north and do the IMS,
14 the Interstate Milk Shippers listing for all of Lisa's
15 facilities. She's looking forward to that, I'm sure. I
16 know she is thinking I'm evil.

17 Then next week I leave for Florida to go to a
18 FSMA training for the Food Safety Modernization Act.
19 This is the year that we have to start doing our
20 training and getting the regulations in place that we
21 need to do. I think we have about one year before a lot
22 of those regulations will be going into place and so we
23 will have to be working with a lot of our industry after
24 that. So we have to kind of get to know what FDA is
25 expecting of the states. So that will be good training.

1 CHAIRMAN COOK: Is that going to require any
2 NAC changes?

3 MS. VICKREY: I don't think so, because most of
4 that we were able to write into the Pasturized Milk
5 Ordinance at the last conference. So we have already
6 adopted those and any revisions to those. So we have
7 made it real easy to keep up on those. We just have to
8 get with our plants because it's going to be a lot more
9 record keeping as far as allergens and things like that.
10 We have already given that information, a lot of that
11 information out to the QA/QC managers.

12 Just a reminder, this is probably new, we just
13 got the hearing notice out today that we're going to
14 have the hearing for the NAC in Fallon next month on the
15 21st and that will start at 12:00 o'clock. So it will
16 be a little bit earlier. So we hope to have the hearing
17 and then go ahead and have our commission meeting.

18 CHAIRMAN COOK: Just for the sake of clarity
19 you might want to clarify what NAC is.

20 MS. VICKREY: Nevada Administrative Codes, code
21 changes that we have been working on.

22 Then the budget, Kimberly, do you want to go
23 over the budget that you sent out to everybody?

24 MS. WHITFIELD: Okay.

25 Just very briefly this is the Agency Budget

1 Summary for fiscal year 2016 and this is year-to-date as
2 of yesterday. It's rather unremarkable compared to last
3 month's, but basically speaking our net revenue
4 year-to-date, which ties to DAWN, is \$782,367.66, which
5 is a net revenue year-to-date, excluding our balance
6 forward of negative \$20,098.34.

7 So we project net revenue at fiscal year
8 ending, which includes balance forward -- excluding
9 balance forward, sorry, \$79,841.42, and then the
10 projected balance forward at fiscal year end is
11 \$882,307.42.

12 Our agency reserves on here are probably
13 reflecting, I think it was about \$1,500 less than last
14 month and we really only -- we don't even have 60 days
15 worth of the suspension on the fluids reflected on here.
16 So it will take a few months to see those numbers to
17 start to go down. I know Erica still needs some things
18 for her lab, equipment and other items that we haven't
19 had reflected in here, as well as the bird nuisance
20 control where we haven't had any reimbursements on that
21 yet. So that is where we stand right now.

22 MS. VICKREY: Thank you.

23 If I remember right, I think we have four
24 people that have requested reimbursement for the bird --
25 for the Avitrol program. We just haven't paid them yet.

1 COMMISSIONER COLLIER: Is that trailer, the new
2 trailer and the new cow, has that been taken care of?

3 MS. VICKREY: For the Vegas office?

4 COMMISSIONER COLLIER: Yes.

5 MS. VICKREY: No, that's one that has to go
6 through the legislature for approval. So that will be
7 the next fiscal budget.

8 COMMISSIONER COLLIER: Does that come out of
9 this budget?

10 MS. VICKREY: Yes, yes.

11 COMMISSIONER COLLIER: Okay.

12 COMMISSIONER CROWTHER: It comes out of this
13 budget, but not this year's budget.

14 COMMISSIONER COLLIER: It will come out of next
15 year's budget.

16 COMMISSIONER CROWTHER: Next year's.

17 CHAIRMAN COOK: But we don't have to wait for
18 the next legislative session?

19 MS. VICKREY: I believe they are building
20 budgets and that will be part of the budget approval
21 process.

22 So I think right here we are kind of waiting to
23 see what kind of requests we're having coming out of Las
24 Vegas for the cow. We haven't had any really that I
25 know of except for one to date.

1 COMMISSIONER CROWTHER: That brings up a
2 question. Is it coming down to the Clark County Fair,
3 which is next month?

4 MS. VICKREY: No, it's not, and the reason is
5 we share the booth with, I believe it's the Farm Bureau,
6 and they already have a cow. So we didn't want to set
7 up our cow next to theirs, especially since they're
8 funding the booth.

9 COMMISSIONER CROWTHER: Okay.

10 COMMISSIONER COLLIER: I think that would be
11 pretty neat to have a herd down there.

12 COMMISSIONER CROWTHER: Maybe that is how we
13 get our new cow down here, put the two together.

14 CHAIRMAN COOK: Troy, it doesn't work that way.
15 Two cows don't make a third cow.

16 COMMISSIONER COLLIER: They would have to buy
17 us some calves to go with it.

18 COMMISSIONER CROWTHER: Yeah, okay.

19 CHAIRMAN COOK: You never took biology, did
20 you?

21 MS. WHITFIELD: Erica is going to be there in
22 the Moolisa costume that we have down here.

23 CHAIRMAN COOK: I thought we retired Moolisa?

24 MS. VICKREY: No, we still have the costume.
25 We have a costume in the north and a costume in the

1 south. So when we have the opportunity to take those
2 out we will. So Erica is going to be taking it down
3 there.

4 CHAIRMAN COOK: Okay.

5 MS. RYAN: There are two other volunteers and
6 myself that will go, so that you know.

7 MS. VICKREY: We can't stay in the cow very
8 long, because even though it has fans and some air
9 circulation and cooling packs, you can only stay in
10 there maybe 15 or 20 minutes.

11 MS. EASLY: Well, without the cooling packs
12 it's about 15 to 20 minutes, but with the cooling packs
13 I was able to get it up to 45 minutes to an hour.

14 CHAIRMAN COOK: That's all we need is somebody
15 to pass out from heat prostration.

16 COMMISSIONER COLLIER: In the cow custom.

17 MS. EASLY: It's bad enough that the kids rush
18 you. You have to have somebody behind you like this
19 because the kids are coming.

20 COMMISSIONER COLLIER: So do we have to wait
21 two years to get the cow for Southern Nevada or what's
22 the deal here?

23 When we talk about next budget year, are we
24 talking about next January or when are we talking about
25 for the cow for Las Vegas?

1 MS. VICKREY: Well, the budget -- I think they
2 are preparing the FY18-19 budgets and that's probably
3 where it will go unless there is a special request and
4 they go through the LCB to get approval.

5 COMMISSIONER COLLIER: So we're going to be two
6 years away before we actually get a cow down in Las
7 Vegas?

8 MS. VICKREY: Possibly.

9 COMMISSIONER CROWTHER: I thought the only
10 thing we were waiting for was to find out if we had
11 facilities here at this new place?

12 COMMISSIONER COLLIER: That is what I thought.
13 That is what I thought was hanging up the whole deal was
14 waiting until they moved into this new office with that
15 beautiful new table that they need to do something about
16 the top of that thing.

17 MS. VICKREY: It is kind of bright.

18 COMMISSIONER COLLIER: Bright? Somebody
19 scribbled all over it.

20 MS. VICKREY: I'm not sure. Lynn is not here,
21 so he may have more ideas about how to get that into the
22 next budget. I just don't know.

23 I know we're preparing to go to the legislature
24 and so I assumed we would be putting it in there, but we
25 will get it with them next time.

1 CHAIRMAN COOK: We will swap you the cow for
2 the cannon.

3 COMMISSIONER CROWTHER: We're happy with the
4 cannon. We will keep it a few more years.

5 COMMISSIONER COLLIER: But if you send the
6 cannon back you have to paint it.

7 COMMISSIONER CROWTHER: We're not sending it
8 back.

9 COMMISSIONER COLLIER: Okay.

10 CHAIRMAN COOK: We have an intrastate rivalry
11 between the two colleges, the University of Nevada Reno
12 and then this other school called UNLV over the Fremont
13 Cannon, the football game between the two rivals.
14 Whoever wins gets to take the cannon home, and every
15 time UNLV wins it they deface it and paint it red.

16 MR. ALVARADO: Like Cal and Stanford.

17 CHAIRMAN COOK: Are we done with the staff
18 report?

19 MS. VICKREY: Yes.

20 CHAIRMAN COOK: Let's move on.

21 MS. VICKREY: Next is a discussion of the NAC
22 584 proposed changes.

23 CHAIRMAN COOK: Okay.

24 As I recall, the last time we had something
25 referred to counsel for an opinion --

1 MS. VICKREY: Yes.

2 CHAIRMAN COOK: -- on the issue of loans?

3 MR. BELCOURT: Dennis Belcourt, Deputy Attorney
4 General for the record.

5 You have a memo from me that was handed out to
6 you. The issue was, as I understood it, is there still
7 a legal basis for NAC 584.5971, which provides for
8 approval of lending by distributors to wholesale
9 vendors. It provides for regulation of that, and I
10 looked at the history of that.

11 There is a statute that authorizes this kind of
12 regulation. I researched it a bit and found that there
13 is some background in an Attorney's General Opinion
14 dating back to 1959 that described how the -- described
15 the reason for lending regulations, and the concern was
16 that there could be an unfair advantage for distributors
17 who could lend to wholesale vendors, if they were able
18 to tie in, you know, their loans to -- or working
19 through a distributor. So that was the basis back then.

20 In other words, the conclusion is there is a
21 legal basis in statute for this regulation. The
22 regulation was arrived at through investigation and
23 findings were made. Whether those factual findings
24 about how the market is structured and such still
25 persist is another question that I could not answer in

1 my research. That would be something that the
2 Commission would certainly look into and perhaps in
3 vetting the idea of repealing this regulation would get
4 input as to whether there is still a factual basis for
5 findings that the Commission should be regulating the
6 lending between distributors and wholesale distributors,
7 wholesale vendors.

8 So I don't know if there are any questions? I
9 would be happy to answer them, if I can.

10 CHAIRMAN COOK: Basically what you're saying is
11 we have the authority to regulate that, but whether we
12 want to repeal that regulation is --

13 MR. BELCOURT: Up to you.

14 CHAIRMAN COOK: -- up to whether or not
15 conditions have changed from 1959 when the law was --

16 MR. BELCOURT: Correct.

17 CHAIRMAN COOK: Okay.

18 MS. VICKREY: I would like to hear, we have a
19 representative from Dean Foods and we have Anderson
20 Dairy here, what their comments are, if you think this
21 law is still needed or --

22 MR. ANDERSON: We like the law. Can you
23 further explain, I haven't gone through the whole thing,
24 but in essence what it is saying is that as a
25 distributor of dairy products we cannot loan money to a

1 customer or a prospective customer; correct?

2 CHAIRMAN COOK: I think what it says is that we
3 have the authority to regulate.

4 MR. BELCOURT: The regulation says under
5 subsection 1 that except as otherwise provided in
6 subsection 2, a distributor cannot make or renew a loan
7 to a wholesale customer.

8 Subsection 2 lays out circumstances where a
9 distributor can lend to a wholesale customer and those
10 would be, you know, such as -- I mean, there is four
11 different requirements. The distributor advises the
12 Commission that he or she wishes to make or renew the
13 loan; the loan is appropriately secured and requires
14 payment of prevailing market rate of interest. In other
15 words, it's not a concessionary loan or a bargain loan.
16 The loan is not contingent upon the purchase of dairy
17 products. In other words, it's not tied to the
18 wholesaler customer purchasing dairy products, and then
19 the Commission approves the loan.

20 So I guess the question could be has the
21 Commission ever gotten an application from a distributor
22 for permission to make a loan or renew a loan in the
23 years recent?

24 CHAIRMAN COOK: Not in the 12 years that I have
25 been on this Commission that I can recall.

1 MR. BELCOURT: Is that because no such lending
2 is occurring or is that because there's no knowledge out
3 among distributors and there's no knowledge of this
4 requirement? So those are two questions that you can
5 answer one and the second one --

6 COMMISSIONER COLLIER: I have a question.

7 Is a loan the same as a distributor extending
8 credit? Is that what it is, is that what we're
9 referring to here? Say like his dairy or his processing
10 firm extends credit to somebody who is buying milk from
11 him, is that what this applies to?

12 CHAIRMAN COOK: It says right there the loan is
13 not contingent upon the purchase of dairy products.

14 MR. RECK: Gary Reck with Model Dairy.

15 Would that not violate the 60 day law or
16 regulation?

17 MS. EASLY: I think they are talking about
18 something other than your accounts receivable accounts,
19 which is your 60 day law.

20 MR. RECK: I understand that, but if we are
21 going to allow credit terms beyond that, one seems to be
22 in violation of the other, and this is my first real
23 look at this. So I don't know.

24 MS. VICKREY: Well, I guess just looking at
25 this we're saying do we need to be in the middle of your

1 business, the way you do business?

2 We have never had anybody in the 19 years I
3 have been in the program, you know, request this. So I
4 don't know.

5 CHAIRMAN COOK: Dave had some things to add.

6 MR. ANDERSON: I don't know if there is anyone
7 that can give us the background on this law that would
8 explain the purpose of it. Maybe in past years it was
9 to prevent a larger dairy distributor coming and putting
10 someone at a disadvantage in that position.

11 I know Anderson Dairy, we're not in a position
12 to loan money. We're trying to pay our dairy farmers
13 and get along with, you know, everyone as far as our
14 responsibilities, fiscal responsibilities, but I don't
15 know if that was the intent of the law, and I think as
16 far as the credit on the past due balances is concerned,
17 that is covered by the 60 day credit law, I would think.

18 MR. BELCOURT: I think if you look at -- I put
19 excerpts of the AGO, Attorney General's Opinion in here
20 and I will just read one paragraph.

21 It says the Stabilization and Marketing Plan
22 presently in effect was established after investigations
23 and public hearings as required by statute. As a part
24 of the Stabilization and Marketing Plan, the Dairy
25 Commission found that the unrestricted giving of credit

1 did, in many cases, amount to an unfair trade practice
2 by allowing some retailers to operate on the money of
3 the distributor. Those distributors -- We're talking
4 about retailers. The regulation actually refers to
5 wholesalers. Those distributors that could afford to
6 give unlimited credit, of course could use this means of
7 gaining business to the unfair advantage of those
8 distributors that could not do so.

9 So a distributor who has extra money can say
10 well, I will lend you money if you only buy -- if you
11 only deal with me, and that would be, I guess, the
12 concern that this was -- this Marketing and
13 Stabilization Plan contained these requirements was
14 intended to address.

15 CHAIRMAN COOK: But if you go back to that not
16 contingent on purchase of dairy products, so what's the
17 motivation, if you can't make the loan?

18 MR. BELCOURT: You can make it, if it's not
19 contingent. In other words, you can make the loan if
20 it's totally outside of buying dairy products.

21 CHAIRMAN COOK: We will pay to buy your trucks.

22 MR. BELCOURT: Well, that is certainly --

23 CHAIRMAN COOK: Or we will loan you the money
24 to buy your trucks.

25 MR. ANDERSON: I think, Mr. Chairman, it would

1 be more along the lines of perhaps the dairy saying we
2 will finance some other part of your business in
3 exchange for the dairy business.

4 CHAIRMAN COOK: Exactly.

5 MR. ANDERSON: So I can just speak on behalf of
6 Anderson Dairy where we would be a smaller, family owned
7 business and may not be in a position as others might
8 be. Is there a reason to remove the law, even though it
9 hasn't been used?

10 CHAIRMAN COOK: Why did we even go down this
11 path, just to streamline things or --

12 MS. VICKREY: We can -- This is just a request
13 to repeal it. If there is any heartburn we can just
14 leave it in there.

15 CHAIRMAN COOK: Where did the request come
16 from?

17 MS. VICKREY: This one?

18 CHAIRMAN COOK: Just cleaning up?

19 MS. VICKREY: Just looking at the regs and
20 saying do we need to be in this part of your business or
21 not? Is it helping anybody? If it is we can certainly
22 leave it in.

23 MR. BELCOURT: Every agency needs to review its
24 regulations once every ten years and is that why we're
25 going through all the regs and saying do we need this?

1 MS. VICKREY: A lot of it is we're trying to
2 help out, too. We have a lot of things that we do here
3 that are kind of a waste of time.

4 We make every single distributor, even if they
5 don't pay -- like say you have somebody that you pay the
6 assessments for. We still require that person to send
7 us in a report saying it's zero. So we have to track
8 that, we have to call these people, if they don't report
9 to us. So this was one part of what we wanted to clean
10 up.

11 Another one was the cost price filings. Every
12 year at the end of the year when everybody goes to get
13 re-licensed they have to file a cost price sheet. They
14 mean nothing. They are a waste of paper and time, but
15 we spend hours and hours calling everybody to get that
16 from them. So this is part of what we wanted to
17 eliminate. That is Kathy having to do that.

18 So as part of that we were going through and
19 looking at these regulations have not been updated for
20 many, many years and do we -- are they really necessary
21 or are they helping our industry any longer. So that is
22 kind of why we were looking at this, do we really need
23 to be part of this regulation right now, and if you
24 think it helps we will most certainly leave it in
25 because we haven't had our hearing yet. So we can add

1 or take out anything we want.

2 CHAIRMAN COOK: Troy had something to say.

3 COMMISSIONER CROWTHER: Yes, I think the
4 thought that this provision has not really been utilized
5 does not necessarily speak to the fact that it's
6 outdated. I think if it's -- if we don't hear anything
7 about it that might actually be an indication that it is
8 working.

9 If this is acting as a protection to our
10 producers, our processors, and if you hold this in front
11 of them and say you can't do this, then again that might
12 be an indication that it's working if we're not hearing
13 about these, and if you're not hearing about it then
14 what is the additional administrative burden?

15 MS. VICKREY: Well, this one there is not.
16 This is just a simple trying to clean up some of the
17 language and seeing if it's still needed in there and
18 that's why we're having these meetings is to find out if
19 we want to make these changes or not.

20 So I think we probably want to leave this one
21 in.

22 CHAIRMAN COOK: Okay.

23 MS. VICKREY: Correct?

24 COMMISSIONER CROWTHER: This will be part of
25 the hearing; is that correct, or --

1 MS. VICKREY: Well, this is -- Whatever we
2 decide once we go through all of these, we have already
3 looked at a lot of them and this is the one that we had
4 questioned. So we can take this one out and it will be
5 gone as part of the next hearing.

6 COMMISSIONER CROWTHER: Does that require a
7 motion?

8 MR. BELCOURT: It's not an action item.

9 MS. VICKREY: No, it's just simply when I
10 submit this to LCB and we have the final language on it
11 for our hearing, then this will be gone. We will just
12 leave this in the NAC, simple enough.

13 CHAIRMAN COOK: Okay.

14 Let's move on.

15 MS. VICKREY: I did send out a two page
16 document with some recommendations from LCB that we also
17 do some revisions on, and I know we're taking out all
18 the different types of processors, wholesale customers,
19 peddler distributors and just having one distributor.
20 So we found a few more of those and that's just a
21 cleaning up of the language.

22 One item, 6417, changed the reporting office
23 from Reno to Sparks.

24 Then there were three more items that they were
25 looking at possibly deleting. One is 584.5976,

1 satisfaction of debt of wholesale customer. So if a
2 wholesale customer satisfies a debt incurred for the
3 purchase of fresh dairy by-products by providing
4 evidence of indebtedness which is immediately payable to
5 the distributor to whom the debt is owed, the amount of
6 the evidence of indebtedness must not exceed the amount
7 owed to the distributor.

8 CHAIRMAN COOK: That almost sounded like a
9 circular firing squad.

10 MS. VICKREY: That is a mouthful. So I think
11 that is why we just wanted to take that out of the NAC.

12 CHAIRMAN COOK: Yes.

13 MS. VICKREY: I don't know if I quite
14 understand what it's trying to say.

15 The second one is 584.5986, prohibition against
16 requiring wholesale customer to purchase dairy products
17 customer is unable to sell at retail.

18 Now, this is one I really wanted to get some
19 input on. I think it would be up to your contract
20 whether or not you're going to bring back items that,
21 let's say, have expired, not us saying that, you know,
22 you're not required to do it or call it an unfair trade
23 practice.

24 COMMISSIONER COLLIER: Is this telling a
25 processor that they can't buy back product, even if it

1 doesn't sell or give them a rebate or -- How would that
2 affect you guys, Gary?

3 MR. RECK: Just maybe I'm reading this wrong,
4 and I would love our legal to look at this, but my
5 opinion is that for us to take back product once it
6 leaves our facility would go directly against the
7 Sarbanes-Oxley Act, is that the correct way to say it?
8 That is our policy once it leaves our control we aren't
9 going to take it back. It's their responsibility.

10 MS. VICKREY: Because you can't take it back
11 into the plant anyway.

12 MR. RECK: No.

13 MS. VICKREY: It would have to go in the
14 garbage or to pig farms.

15 CHAIRMAN COOK: Once it's sold, it's sold and
16 it's not your responsibility.

17 MR. RECK: That's right.

18 CHAIRMAN COOK: I don't have a problem pulling
19 that out.

20 COMMISSIONER COLLIER: How did these get there
21 to begin with?

22 MS. VICKREY: They have been there for years,
23 years, and you know the climate has changed. You're
24 talking some of these haven't been updated for, what,
25 '45, 1945 maybe.

1 COMMISSIONER COLLIER: I think some of these
2 things at the time they were put into place there was a
3 problem and they were put there to address that problem
4 and they just have never been -- the problem is now long
5 gone and that's what this loan thing is, I think.

6 I think that is -- at that time that that was
7 enacted or put into the law, then I think that is where
8 -- what happened there was that there may have been a
9 problem and so they wanted to regulate it somehow.

10 MS. VICKREY: Exactly.

11 The last one, 584.5991, a wholesale customer is
12 required to pay amount owed to distributor upon
13 discontinuing purchase of dairy products.

14 To me, I think, that they have to pay anyway;
15 right?

16 MR. RECK: Yeah.

17 MS. VICKREY: Unless they file some protection,
18 they still owe you the money.

19 CHAIRMAN COOK: It's a contractual thing. It's
20 a civil issue. It's not something that --

21 MS. VICKREY: Yes.

22 Any comments?

23 CHAIRMAN COOK: I don't have any trouble
24 pulling that out. That just seems to make --

25 MR. RECK: Is there any way that that could be

1 enforced by the Commission?

2 COMMISSIONER COLLIER: I don't know if we want
3 to get in the debt collection business.

4 CHAIRMAN COOK: It seems to me what it's saying
5 is, you know, you have got to pay -- when you
6 discontinue buying you have got to pay, okay. Well, you
7 have to pay. That's contract law. You still owe the
8 debt. Just because we have a regulation on it just
9 seems like it's piling on. It's just redundant.

10 Yes, I can see pulling that one out.

11 MS. VICKREY: That completes the review on
12 that. So I will update that in the NAC and Gary, I will
13 send a copy to you and Dave, I will send a copy to you
14 for sure so that you have it.

15 CHAIRMAN COOK: The process is there will be a
16 workshop next month an hour before or a hearing --

17 MS. VICKREY: A hearing.

18 CHAIRMAN COOK: A hearing an hour before the
19 normal meeting and we will adopt -- listen to any
20 testimony.

21 MS. VICKREY: Yes.

22 MS. EASLY: A reminder that next month's
23 meeting is in Fallon.

24 MR. BELCOURT: You're talking about an adoption
25 hearing then? Will we have the LCB approved version by

1 then?

2 MS. VICKREY: We should.

3 MR. BELCOURT: We have to have that 30 days in
4 advance, okay.

5 CHAIRMAN COOK: They have to have it 30 days --

6 MR. BELCOURT: The Commission has to have LCB
7 approved regs 30 days in advance of the adoption hearing
8 to get out to --

9 CHAIRMAN COOK: That would require them
10 basically to do that today or in the next couple of
11 days?

12 MS. VICKREY: We would have to have it done by
13 Tuesday.

14 MS. EASLY: Monday.

15 MS. VICKREY: I will e-mail him to make sure.
16 I know he is working on them, because he is the one that
17 sent over the changes and I provided him with the
18 language. He said he was almost done. I will knock on
19 his door.

20 CHAIRMAN COOK: He's not starting from scratch?

21 MS. VICKREY: No.

22 MS. EASLY: You're right Tuesday, because this
23 is a 31 day month.

24 CHAIRMAN COOK: Let's press on.

25 MS. VICKREY: Consideration of any other

1 matters relating to the Dairy Industry.

2 CHAIRMAN COOK: Anybody have anything they want
3 to throw out on the table, discussions, concerns?
4 Nothing?

5 Are you liking that suspension of the fluid
6 milk assessments?

7 MR. RECK: Absolutely.

8 MR. ANDERSON: Certainly do, thank you.

9 CHAIRMAN COOK: We will try to figure out how
10 to do more.

11 MS. VICKREY: Next up is public comment.

12 CHAIRMAN COOK: Last chance to go on the
13 record.

14 Nobody wants to go on the record so let's go
15 ahead and adjourn this meeting.

16 (Meeting adjourned at 1:48 p.m.)

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1 STATE OF NEVADA)
) SS.
2 COUNTY OF WASHOE)

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5 I, JANET MENGES, a Certified Court Reporter in
6 and for the County of Washoe, State of Nevada, do hereby
7 certify:

8

9 That I was personally present for the purpose
10 of acting as Certified Court Reporter at the Nevada
11 Dairy Commission Meeting

12

13 That said transcript which appears hereinbefore
14 was taken in verbatim stenotype notes by me and
15 thereafter transcribed into typewriting as herein
16 appears to the best of my knowledge, skill and ability
17 and is a true record thereof.

18

19

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21 JANET MENGES, CCR #206, RPR, CP

22 California CCR # 5785

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COMMISSIONER CHRISTOPHER COOK

COMMISSIONER JOHN COLLIER

COMMISSIONER TROY G. CROWTHER