

July 15, 2009

The Honorable Thomas J. Vilsack  
Secretary  
U.S. Department of Agriculture  
Jamie L. Whitten Federal Building  
1400 Independence Avenue, SW, Room 200-A  
Washington, D.C. 20250

Dear Secretary Vilsack:

I have long been committed to ensuring that America's dairy farmers receive fair prices for the products they produce and maintain a decent standard of living. The dairy industry is a major economic engine in my state and a central part of the fabric of our communities. The dairy industry is in crisis now, however, as record low milk prices force dairy farmers across the country into financial ruin. Since November 2008, the price of milk has bottomed out – plummeting 33% in eight months. This brings farm milk prices to the same levels as three decades ago, with many New England dairy farmers receiving just \$1.00 per gallon of milk in nominal dollars. This has all occurred while input costs have remained high. Continued low prices do not just injure dairy farmers; they also harm the thousands of American communities that rely on the dairy industry for economic support. An unstable dairy industry is also bad for consumers that depend on the availability of fresh dairy products in every region of the country.

I would like to present you with a number of immediate policy options that I believe would help dairy farmers. The first two of these options are of the highest priority.

1. **Make Adjustments to Prices Using the Federal Milk Marketing System:** As you know, 7 U.S.C. § 608c(18) gives the Secretary of the U.S. Department of Agriculture powers to raise regional milk prices based upon a number of factors including, but not limited to, the “price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk.” Given the price of feeds, the canola feed shortage, the cost of gasoline, monopoly conditions in the chain of distribution, and the depressed economy, we hope that you will use your authority to make adjustments to prices using the Federal Milk Marketing Ordering System after holding the required hearings. This policy change would be at no cost to taxpayers; it would, in fact, save taxpayers money on MILC payments. The change would come only at the expense of a small handful of processors who continue to make record profits even while dairy farmers are going out of business. Dean Foods, by far the largest of these, had profits of \$76.2 million in the first quarter of 2009, up 147.4% from

its \$30.8 million of profits in the first quarter of 2008. We suggest that given such extreme conditions, a blend price of \$18 per hundredweight would be appropriate.

2. **Increase the Dairy Product Price Support Program Levels:** Several offices have discussed the idea for you to use your authority in the Farm Bill (Section 1501) to move the support price for dairy products. We strongly support these proposals. We understand that the National Milk Producers Federation (NMPF) has put together a proposal requesting such increases, but we feel the particular increases NMPF requested are inadequate. We would request a six month or longer increase to the following levels: \$1.37 for cheese blocks; \$1.33 for barrels; \$1.27 for butter; and \$0.97 for non fat dry milk powder from the \$1.13, \$1.10, \$1.05, and \$.80 where they are currently. This could raise the blend price and additional \$1.50 to \$2.00. CBO estimates these increases would cost \$804 million.
3. **Set Standards for Quality of Milk:** As you know, your office has the authority to set standards for the quality of milk. We propose that you should use this authority to not allow Grade B milk to be processed for human consumption. Such a change would improve the quality of milk, reduce the supply, and directly impact prices. In addition, we ask that you change the regulations to reflect a higher quality of milk by establishing 450,000 SCC (somatic cell count) as a minimum standard for accepted milk quality by all dairy producers.
4. **Have USDA Purchase More Hamburger Meat for Nutrition Programs:** Because dairy prices are so low, farmers are bringing dairy animals to slaughter in large numbers. As you know, for farmers, the second largest income generator, besides the sale of milk, is the sale of calves and cull cows. If milk prices do not increase substantively, many dairy herds – particularly larger herds – will be liquidated in coming months. Can the USDA initiate an emergency program to purchase hamburger meat for domestic and international nutrition and hunger programs – to help floor prices for dairy culls? This would be an indirect way to help dairy farmers.
5. **Milk Protein Concentrates:** As you know, milk protein concentrates (MPCs) are powdered milk products containing between 40 and 90 percent complete milk protein. MPC and casein (another additive) were not subject to Section 22 restrictions of the Agricultural Adjustment Act of 1933 and therefore they were not subjected to WTO agreements. U.S importers are exploiting this to their advantage thereby pushing prices down by brining in this additional additive instead of using domestic product. A nearly 500 page 2004 report by the U.S. International Trade Commission found that low milk prices in 2000 and 2002 were a result of growth in U.S imports of milk protein products. These imported products compete primarily in the production of dairy products. What can we do to stop these MPC imports that are hurting our dairy prices? Our understanding is that without MPC imports, there would be very little milk surplus in the country and prices would be better. Would you support legislation to regulate MPCs like any other agricultural product?
6. **Canola meal:** The FDA has quarantined large quantities of canola meal, an important food for dairy cows, moving into the US from processing plants in Canada due to presence of salmonella. The meal was been stopped at border crossings in New York, Vermont and the Pacific Northwest. Two companies that process the bulk of canola meal used in the U.S. are

all taking steps to disinfect their Canadian plants. It appears that FDA will require a series of five "clean" tests before product is allowed across the border. The impact of the quarantine is being felt widely throughout Northeast grain manufacturers. The U.S. does not process enough canola seed to generate the meal needed to satisfy the demand currently in the market place. Can you work with the FDA to see if there is anything that can be done to expedite the resolution of this problem, while protecting public health, which is adding just another cost to dairy farmers?

- 7. Examine Spot Cheese Market and Reexamine the Use of the NASS Survey for Setting the Federal Milk Pricing Formula:** We will soon be sending a letter to the CFTC regarding my concerns that traders on the spot cheese market at the Chicago Mercantile Exchange (CME) are keeping the price of milk artificially low through manipulations in the interest of profits. This concern was raised in a 2007 GAO report. In fact, on December 16, 2008, the CFTC announced that Dairy Farmers of America, Inc. (DFA), its former chief executive officer Gary Hanman, and its former chief financial officer Gerald Bos, would pay a \$12 million civil penalty for attempting to manipulate the price of the June, July and August 2004 Class III milk futures contracts through purchases on the CME spot cheese market. In addition, Frank Otis, former President and CEO of a DFA subsidiary, and Glenn Millar, former Executive Vice President of the subsidiary, were fined \$150,000 for aiding and abetting DFA's speculative position limit violation. That same GAO report also had recommendations for USDA. Will you reexamine the GAO's recommendation to change how the minimum federal milk pricing formula is set? Can you share with us the audit of the National Agricultural Statistical Survey which USDA conducts? Would you consider switching away from the NASS and using the Consumer Price Index, the CME, and the cost of production as a way to set minimum milk pricing standards? Many farmers believe this mix would be a more realistic way to determine minimum prices.

This is only an initial list of ideas that I believe could help dairy farmers.

I greatly appreciate your consideration, and I look forward to working with you on them and any other ideas you have to help America's struggling dairy farmers.

Sincerely,



BERNARD SANDERS  
United States Senator