

**Montana Board of Milk Control – Meeting Minutes
January 15, 2015**

Call to Order

Chairperson Scott Mitchell called the meeting to order at 12:07 p.m. at the Livestock Loss Board Office, 1404 ½ 8th Avenue, Helena, Montana.

Attendance

Board Members:

	Present	Absent
W. Scott Mitchell, Chair	X	
Jerry A. Weissman, Vice Chair	X	
R. James Parker	X	
Erik Somerfeld	X	

Montana Department of Livestock Staff:

Chad Lee, Bureau Chief, Milk Control Bureau

Mark Curtis, Dairy Accountant, Milk Control Bureau

Rob Stutz, Montana Department of Justice, Agency Legal Services (attorney representing the Montana Department of Livestock)

Guests:

Rob Adamson, Meadow Gold

Jock Anderson, attorney representing Meadow Gold

David Miller, Montana Correctional Enterprises Dairy / Producer Committee

I. MINUTES

Motion:

Erik Somerfeld moved and Jim Parker seconded the motion to approve the minutes as presented. The motion carried. All members voted in favor.

II. UNFINISHED BUSINESS & GENERAL ORDERS

A. Administrative Assessment Rates

Mr. Mitchell stated that the Board of Milk Control is instructed by law to adjust assessment rates on an annual basis to provide for sufficient funds to administer and enforce the Milk Control Act.

Chad Lee presented information comparing the existing assessment rates with rates recommended to the board by Milk Control Bureau staff and provided historical perspective of assessment rates. Mr. Lee made the following recommendations:

- for producers and in-state distributors: increase assessment rate from \$0.025/cwt to \$0.04/cwt
- for producer-distributors and out-of-state distributors: increase assessment rate from \$0.06/cwt to \$0.08/cwt
- no assessment be charged for fees less than five dollars per month.

Mr. Lee provided information about the budget anticipated for Fiscal Year 2016 (pending approval by the Legislature and the Governor) and presented projections for Fiscal Year 2016 revenue, expenditures, and ending cash balance. The bureau projects an ending cash balance of \$76,163 on June 30, 2016 with the proposed rate and a negative balance of -\$31,110 if the existing rates are not changed. Significant measures will need to be taken to keep the Milk Control Bureau solvent in FY2016 if assessment rates are not

Montana Board of Milk Control – Meeting Minutes
January 15, 2015

changed. Since FY2010, ending cash balances ranged from a low of \$15,534 in FY2012 to a high of \$192,222 in FY2013. Mr. Lee illustrated the annual and monthly impact of the rate increases at the individual business level for each class of licensed business. Mr. Lee provided a handout of draft language for a notice of proposed amendment of ARM 32.23.301 to be submitted to the Office of the Secretary of State, pending approval by the board.

The board discussed the bureau's recommended changes to ARM 32.23.301 and the bureau's projections for revenue and expenditures.

Mr. Mitchell requested public comment specific to administrative assessment rates.

Rob Adamson (representing Meadow Gold)

Addressing Agenda Item IIA, Mr. Adamson asked whether receipts of assessments from out-of-state distributors were audited. Mr. Lee responded that currently no audit procedures are conducted with regard to assessments remitted by out-of-state distributors. Mr. Adamson suggested that bureau audit a sample of out-of-state distributor reports. Mr. Adamson suggested the bureau compare Core-Mark distributor reports to the imports reported in the depositions Core-Mark made for the 12-day rule court case. Mr. Adamson asked questions regarding the history and purpose of administrative assessments, noting that before Montana deregulated the retail and wholesale milk market, profit margins were distributed equally between producers, processor-distributors, and retailers. Mr. Adamson stated that from a processor standpoint, the program is producer-benefit oriented. In discussion that followed, Rob Stutz provided a historic legal perspective and stated that administrative assessment rates were provided for by statute from at least 1963 to 1977, and that by 1981 the rates were prescribed by rule instead of statute. Mr. Weissman stated that when the wholesale and retail milk markets were deregulated, assessment rates were reduced since the costs of milk market regulation decreased.

Jock Anderson (attorney representing Meadow Gold)

Addressing Agenda Item IIA, Mr. Anderson asked if information could be gathered about assessment rates for other states.

Following additional discussion by the board, Mr. Parker moved and Jerry Weissman seconded a motion to initiate rulemaking as set forth in the notice of proposed amendment drafted by the Department of Livestock. The motion carried. All members voted in favor.

III. NEW BUSINESS

A. Milk Control Bureau Report

Mr. Lee provided a legislative update and showed a list of bills the bureau is monitoring. Mr. Lee discussed a bill drafted by Senator Taylor Brown (LC1209) to amend 81-23-202, MCA to fix problems discussed at the Board of Milk Control's December 18, 2014 meeting. Language for the bill was developed by the Milk Control Bureau jointly with Darigold and Meadow Gold and in consultation with the Montana Milk Producers Association, which assisted by finding a legislator to draft the bill. The board discussed LC1209. Mr. Lee showed the board an update the bureau made to its "Producer Pooling Report" that incorporated changes requested by the board to provide more detail on out-of-state surplus milk sales. Mr. Lee demonstrated a spreadsheet developed by the bureau to estimate quota prices and dairy revenue in advance of pooling so that major changes in the quota price, like the drop that occurred for November 2014, are less of a surprise to producers. The board instructed Mr. Lee that before the spreadsheet is released for

Montana Board of Milk Control – Meeting Minutes
January 15, 2015

public use, the bureau needs to address several issues and receive approval from the board. The issues of concern include the level of bureau time resources required to support the tool, development of controls, and legal review of a disclaimer to be included with the spreadsheet to protect the board and the bureau from potential liability. The board recommended additional beta testing be performed to get feedback.

IV. OTHER NEW BUSINESS

Mr. Mitchell asked Mr. Stutz to provide board members and the bureau with guidance regarding participation in legislative processes. Mr. Stutz stated that the purpose of the board and bureau is regulatory and they should provide neutral and unbiased information to the legislature. Board members and bureau employees should not speak on behalf of the board if they are participating in the legislative process in an individual capacity.

V. PUBLIC COMMENT

Rob Adamson (representing Meadow Gold)

Mr. Adamson discussed the classification of whipping cream and half & half products. These products are now classified as a Class II product by the Board of Milk Control but used to be classified as a Class I product before Montana switched to follow Federal Order milk classification. The Milk & Egg Bureau did not change how it classifies these products.

Next Meeting

Meeting in March to Review Responses to Public Comment on Notice of Proposed Amendment of ARM 32.23.301

The board discussed possible dates to schedule a telephonic board meeting after the public comment period ends for the notice of proposed amendment of ARM 32.23.301. The purpose of the meeting will be to review public comments to the notice, approve the bureau's response, and vote on adoption of the proposed amendment. March 6th and March 9th were discussed as possible dates. The date chosen for the meeting will have to allow for the adoption of the proposed rule amendment to be published by the Secretary of State before April 1, 2015.

Regular Meeting – Spring 2015

The board and staff discussed scheduling a meeting after the 2015 Legislature adjourns. The board decided to delay setting a date until the March meeting so that board members could further examine their schedules.

Regular Meeting – Fall 2015

The board and staff discussed scheduling a meeting in Whitefish on September 17, 2015 following the International Association of Milk Control Agencies Annual Convention.

Montana Board of Milk Control – Meeting Minutes
January 15, 2015

VI. ADJOURNMENT

Mr. Parker moved and Mr. Somerfeld seconded the motion to adjourn. The motion carried. All members voted in favor.

Mr. Mitchell adjourned the meeting at 2:30 p.m.



_____ **W. Scott Mitchell, Chair**

Date: 5/21/2015