

Montana Board of Milk Control
Telephonic Meeting Minutes – Time Stamp Record to Accompany Meeting Recording

April 9, 2020 2:00 p.m.

Physical Location of Meeting: Milk Control Bureau Office, 1404 8th Avenue, Helena, Montana

PUBLIC MEETING

Call to Order

Chairperson Scott Mitchell called the telephonic meeting to order at 2:05 p.m.

Attendance

Board Members:

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

Montana Department of Livestock Staff:

Chad Lee, Bureau Chief, Department of Livestock Milk Control Bureau

Mike Honeycutt, Department of Livestock

Brian Simonson, Department of Livestock

Cinda Young-Eichenfels, Department of Livestock

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

Guests:

Rob Adamson, Meadow Gold

Wilmer Amstutz, producer delivering milk to Meadow Gold

Wes Almers, dairy nutrition consultant

John Brian, Cargill Animal Nutrition

Susan Brown, Montana Board of Livestock Dairy/Poultry representative

Krista Lee Evans, Montana Milk Producers Association (MMPA) representative

Scott Kiilsgaard, Meadow Gold

Joe Kleinsasser, Golden Valley Colony, producer delivering milk to Meadow Gold, MMPA member

Mark Kleinsasser, Mountain View Colony, producer delivering milk to Meadow Gold, MMPA member

David Lewis, producer delivering milk to Darigold, Northwest Dairy Association/Darigold board member

Marc Lindberg, Bozeman Plant Manager, Darigold

Dan McBride, Darigold

David Miller, Montana Correctional Enterprises Dairy

Pat Murdo, Economic Affairs Interim Committee

Ken Rowley, Rowley Trucking

Ed Waldner, producer delivering milk to Meadow Gold, MMPA member

John Waldner, Birch Creek Colony Dairy Boss, producer delivering milk to Meadow Gold, MMPA member

Peter Waldner, Pleasant Valley Colony, producer delivering milk to Meadow Gold, MMPA member

Elizabeth Williams, Darigold

David Wipf, producer delivering milk to Meadow Gold, MMPA member

Andy Wipf, Martinsdale Colony, producer delivering milk to Meadow Gold, MMPA member

John Wipf, producer delivering milk to Meadow Gold, MMPA member

Roger Witt, counsel for MMPA

Ike Wurz, Cascade Colony, producer delivering milk to Meadow Gold, MMPA member

Ned Wurz, Kingsbury Colony, producer delivering milk to Meadow Gold, MMPA member

AGENDA ITEM	TIME STAMP
ROLL CALL & INTRODUCTIONS	00:00 – 10:32
<p>I. CONSIDERATION OF EMERGENCY RULEMAKING ENABLING SURPLUS SALE ADJUSTMENTS FOR MILK DUMPING ATTRIBUTED TO COVID-19 CRISIS</p> <p>Explanation of meeting format and introduction to agenda item (Scott Mitchell)</p> <p>Staff and legal counsel comments (Chad Lee and Rob Stutz, with comments from Scott Mitchell)</p> <p>Comments from industry representatives, with questions from board</p> <p>Krista Lee Evans David Lewis Rob Adamson Dan McBride</p> <p>Public comment from other meeting participants and discussion (The following individuals spoke: David Lewis, Mark Lindberg, Chad Lee, Rob Adamson. There was discussion of written comments submitted by Mike Ragsdale of Darigold.)</p> <p>Board Discussion and Action</p> <p>Motion: Mr. Somerfeld moved and Mr. Weissman seconded a motion to initiate the rulemaking set forth in the draft MAR Notice 32-20-309 as presented, with changes that include the edits to paragraph J as recommended by Mike Ragsdale, allowing for nonsubstantive modifications.</p> <p>The motion carried. All members voted in favor.</p> <p>*Note: The recommendations from Mike Ragsdale referred to in the motion are documented in Written Comment 4.</p>	<p>I. 10:32 – 1:52:58</p> <p>10:32 – 18:50</p> <p>18:50 – 26:56</p> <p>26:56 – 1:03:05</p> <p>26:56 – 39:52 39:52 – 45:34 45:34 – 59:30 59:30 – 1:03:05</p> <p>1:03:05 – 1:13:32</p> <p>1:13:32 – 1:52:58</p> <p>Motion 1:45:05 – 1:46:46</p>
<p>II. CONSIDERATION OF SUPPORT FOR EMERGENCY GOVERNOR DIRECTIVE TO ENABLE SURPLUS SALE ADJUSTMENTS FOR MILK DUMPING ATTRIBUTED TO COVID-19 CRISIS</p>	<p>II. 1:52:58 – 1:53:18</p>

AGENDA ITEM	TIME STAMP
<p>III. MINUTES</p> <p>Motion: Jim Parker moved and Jerry Weissman seconded a motion to approve the time stamp document as written for the audio recorded minutes of the December 13, 2019 Board of Milk Control meeting.</p> <p>The motion carried. All members voted in favor.</p>	<p>III. 1:53:18 – 1:53:46</p> <p>1:53:24 – 1:53:46</p>
<p>IV. PUBLIC COMMENT</p>	<p>IV. Throughout</p>
<p>V. ADJOURNMENT</p> <p>Motion: Mr. Beerman moved and Mr. Parker seconded a motion to adjourn.</p> <p>The motion carried. All members voted in favor.</p> <p>Mr. Mitchell adjourned the meeting at 3:59 p.m.</p>	<p>V. 1:53:46 – 1:54:10</p> <p>1:53:48 – 1:54:10</p>

Time stamps were recorded during the meeting and reviewed and adjusted by bureau staff.

REVIEWED BY
(Initials):

CPL Chad Lee, Bureau Chief, Milk Control Bureau

Montana Board of Milk Control

Telephonic Meeting Agenda

April 9, 2020 2:00 p.m.

Physical Location of Meeting: Milk Control Bureau Office, 1404 8th Avenue, Helena, Montana

Latest version of agenda will be posted at <http://www.liv.mt.gov/mc/public.mcpv>

Due to COVID-19 considerations, please call into the meeting using the following directions

Conference Call Access:

Call-in Number: 1-406-444-9999 OR **1-646-558-8656 (toll-free)**

Meeting ID: 351-626-9899 and then **press #**

Zoom Meeting URL: <https://mt-gov.zoom.us/j/3516269899>

Meeting Participation Instructions:

Many participants are anticipated. To enable this meeting to run smoothly:

- Place your phone on mute
- Do not place your phone on hold.
- The board chair will manage the meeting. Do not speak until called upon by the chair. Opportunity for input will be provided.
- If you have a question during the meeting, you can email your question to livmilkcontrol@mt.gov, and staff will do its best to present the question to the board chair when called upon.

WELCOME

ROLL CALL & INTRODUCTIONS

W. Scott Mitchell, Chair

Jerrold A. Weissman, Vice-Chairperson

Brian Beerman

Jim Parker

Erik Somerfeld

Montana Department of Livestock Staff

Guests

- I. CONSIDERATION OF EMERGENCY RULEMAKING ENABLING SURPLUS SALE ADJUSTMENTS FOR MILK DUMPING ATTRIBUTED TO COVID-19 CRISIS**
- II. CONSIDERATION OF SUPPORT FOR EMERGENCY GOVERNOR DIRECTIVE TO ENABLE SURPLUS SALE ADJUSTMENTS FOR MILK DUMPING ATTRIBUTED TO COVID-19 CRISIS**
- III. MINUTES (DECEMBER 13, 2019 MEETING)**
- IV. PUBLIC COMMENT**
- V. ADJOURNMENT**

Lee, Chad

From: David and Polly Lewis <dplewis1188@msn.com>
Sent: Wednesday, April 8, 2020 6:50 PM
To: Lee, Chad
Subject: [EXTERNAL] Re: April 9, 2020 Board of Milk Control Meeting: unapproved emergency rule draft language

Chad, looking thru this I would really like the processor (or the milk truck driver) be responsible for taking the milk weight and sample as well as dumping the milk. This would validate the actual dump. The processor would report the milk, producer gets paid, surplus goes in as normal surplus. If and when the processor reports the dump to the government any returns would be put into the pool as value received. If no payment is made value is zero. As far as packaged milk donated I would not consider that dump milk, hopefully the processor will be reimbursed for donations. We all have advertising dollars we can use for this. It's a great idea but I'm afraid it would be awful hard to report this as a dump.

Thanks again. Dave

Sent from my iPad

On Apr 8, 2020, at 4:49 PM, Lee, Chad <chlee@mt.gov> wrote:

Everyone,

Please review the attached draft language for an emergency rule that will be considered by the Board of Milk Control at its **telephonic meeting at 2:00 p.m. on Thursday, April 9, 2020.**

If you have input that you would like to have provided to the board:

- You can email it to me and I will forward it to the board prior to the meeting so that they can consider it. Similar to any input you provide during a board meeting, this input is public information and will become part of the official record of the meeting.
- You will also be provided opportunity for public comment at the meeting on this issue prior to any action being taken by the board.

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[\[eur04.safelinks.protection.outlook.com\]](https://eur04.safelinks.protection.outlook.com)

Meeting agenda: <http://liv.mt.gov/Portals/146/MC/Meetings/2020-04-09%20Board%20of%20Milk%20Control%20Meeting%20Agenda.pdf?ver=2020-04-07-164419-380>
[\[eur04.safelinks.protection.outlook.com\]](https://eur04.safelinks.protection.outlook.com)

Chad Lee

Bureau Chief
Milk Control Bureau
Montana Department of Livestock
1404 8th Ave.
PO Box 202003
Helena, MT 59620-2003
406.444.4300
406.444.1432 (fax)
chlee@mt.gov

<MAR 32-20-309 temporary emergency rule (draft for meeting).pdf>

Lee, Chad

From: dairy.fh@colonymt.com
Sent: Thursday, April 9, 2020 6:29 AM
To: Lee, Chad
Subject: [EXTERNAL] fairhaven dairy

Chad, hope everything is well
I would like to lisen in,
I like to put this threw
to the milk board today,

this excess milk were dumping,

why don't we buy it back from the pool,

regarding the colonys, those with no
milk cows, they can use it for there
kitchen, so on unless the pool is not aloud
to sell row milk , in that case will take it from the
farm , and get reimburse later

Lee, Chad

From: Lindberg, Marc <Marc.Lindberg@darigold.com>
Sent: Thursday, April 9, 2020 8:22 AM
To: Lee, Chad; dplewis1188@msn.com
Subject: [EXTERNAL] RE: April 9, 2020 Board of Milk Control Meeting: unapproved emergency rule draft language

Chad- here some info on how many loads of milk the Darigold, Bozeman plant processed in addition to the MT NDA farmer milk we received. I've been in contact with Scott Kiilsgaard on a weekly basis and he sends me as much milk as I need if he has milk to spare.

Week of 2/16/2020- Took 2 loads from Meadow Gold
Week of 2/23/2020- Took 2 loads form Meadow Gold
Week of 3/1/2020- Took 3 loads from Meadow Gold and 4 loads from NDA Caldwell farmers
Week of 3/8/2020- Took 7 loads from NDA Jerome farmers and 4 loads from NDA Caldwell farmers
Week of 3/15/2020- Took 4 loads from NDA Jerome farmers and 7 loads from NDA Caldwell farmers
Week of 3/22/2020- Took 3 loads from NDA Jerome farmers and 5 loads from NDA Caldwell farmers
Week of 3/29/2020- Took 1 load from Meadow Gold and shipped out 2 loads from MT to Idaho via LTI
Week of 4/5/2020- Shipped out 2 loads from MT to Idaho via LTI
Week of 4/12/2020- Anticipate needing 1 load via Meadow Gold middle of the week

DARIGOLD : Marc Lindberg

Bozeman Plant Manager | 1001 N. 7th Ave | Bozeman, MT 59715 | m:206.550.9482



From: Lee, Chad <chlee@mt.gov>
Sent: Thursday, April 9, 2020 7:33 AM
To: Tony Denio (tony_denio@deanfoods.com) <tony_denio@deanfoods.com>; Scott Kiilsgaard <Scott_Kiilsgaard@deanfoods.com>; Doug_Wallace@deanfoods.com; scott_langford@deanfoods.com; Lindberg, Marc <Marc.Lindberg@darigold.com>
Subject: FW: April 9, 2020 Board of Milk Control Meeting: unapproved emergency rule draft language

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe. Please attach this email and send to phishing@darigold.com if you believe this email is suspicious.

Here is a communication that went out to pool producers last night. It was an oversight that I did not send it to you. Other representatives of your companies have received it.

Chad Lee
Bureau Chief
Milk Control Bureau
Montana Department of Livestock
1404 8th Ave.
PO Box 202003
Helena, MT 59620-2003
406.444.4300

406.444.1432 (fax)

chlee@mt.gov

From: Lee, Chad

Sent: Wednesday, April 8, 2020 5:38 PM

Subject: April 9, 2020 Board of Milk Control Meeting: unapproved emergency rule draft language

Milk Producers,

Please disregard this email if you already received an email with an attached file of the draft language of an emergency rule being considered by the Board of Milk Control at its meeting on April 9, 2020.

Please review the attached draft language for an emergency rule that will be considered by the Board of Milk Control at its **telephonic meeting at 2:00 p.m. on Thursday, April 9, 2020.**

If you have input that you would like to have provided to the board:

- You can email it to me and I will forward it to the board prior to the meeting so that they can consider it. Similar to any input you provide during a board meeting, this input is public information and will become part of the official record of the meeting.
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Meeting agenda: <http://liv.mt.gov/Portals/146/MC/Meetings/2020-04-09%20Board%20of%20Milk%20Control%20Meeting%20Agenda.pdf?ver=2020-04-07-164419-380> [nam05.safelinks.protection.outlook.com]

Chad Lee

Bureau Chief

Milk Control Bureau

Montana Department of Livestock

1404 8th Ave.

PO Box 202003

Helena, MT 59620-2003

406.444.4300

406.444.1432 (fax)

chlee@mt.gov

Lee, Chad

From: David and Polly Lewis <dplewis1188@msn.com>
Sent: Thursday, April 9, 2020 1:00 PM
To: Lee, Chad
Subject: [EXTERNAL] Fwd: J.docx Change in MCB Draft
Attachments: J.docx; ATT00001.htm

Sent from my iPad

Begin forwarded message:

From: "Ragsdale, Mike" <Mike.Ragsdale@darigold.com>
Date: April 9, 2020 at 11:31:00 AM MDT
To: "David Lewis (dplewis1188@msn.com)" <dplewis1188@msn.com>, "McBride, Dan" <Dan.McBride@darigold.com>
Subject: J.docx Change in MCB Draft

Hi Guys,
They was just some language in the draft that I did not like. Item "J".
Please see my recommendation.

The rest is "legalese" so I will leave that to the experts.
Thanks,
Mike

J. The closures of schools and limitations on restaurants and other institutional users of milk have caused a significant decrease in the demand for milk in Montana. The Montana Milk Producers Association estimates a decreased milk consumption in Montana of 1,500,000 gallons for the months of March, April, and May 2020 based on current demand compared to March, April, and May 2019. Montana's dairy farmers continue to produce milk. Absent demand, ~~some~~ processors ~~will~~ ~~may~~ not purchase ~~this~~ ~~their normal volumes of~~ milk and ~~it will~~ ~~the reduced demand may cause milk to~~ be dumped by dairy farms, which ~~may~~ results in no payment to ~~that~~ ~~those~~ dairy producers ~~for that dumped milk~~. Uniform payment is an objective of milk market regulation that will not be achieved under these pandemic-caused circumstances. The number of dairy producers in Montana has been in decline. With ~~no~~ ~~a~~ ~~reduced~~ market for their milk, more Montana dairy producers ~~likely will~~ ~~could~~ go out of business. A temporary emergency rule pertaining to the definition of "dumped milk" will help ensure that there are sufficient dairy producers still in business when demand returns after the COVID-19 pandemic. There is a reasonable necessity to immediately adopt temporary emergency rules to allow milk dumped because of the chaotic market conditions caused by the COVID-19 pandemic to be treated as surplus milk for the purpose of uniform payment to Montana pool producers.