## CHESE REPORTER

Vol. 127, No. 42 • Friday, April 25, 2003 • Madison, Wisconsin

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**Cream & Neufchatel** 

## **US Supreme Court Hears Arguments For, Against California Milk Pricing**

Washington—The US Supreme Court on Tuesday heard oral arguments on a case concerning whether the 1996 farm bill exempts California's milk pooling and pricing regulations from challenge under the Commerce Clause of the US Constitution.

A lawyer for Nevada dairy farmers told justices that California in effect "intercepts revenue intended for Nevada farmers at California's border and redistributes it to in-state interests." The lawyer, Roy Englert Jr., said the 9th US Circuit Court of Appeals in San Francisco wrongly dismissed the farmers' claims before a trial.

California Deputy Attorney General Mark Urban defended the state's plan as legal and necessary to preserve the state's higher compositional standards for milk. California agriculture officials said after Tuesday's court session that changes made in 1997 to California's pooling and pricing plans were necessary to prevent "round tripping" by California dairies that were taking their milk outside the state and bringing it back to qualify for an out-of-state allowance.

#### NMPF Finalizing Details Of Voluntary Program To Balance Milk Supply And Demand, Boost Prices

By Ray Mueller

Arlington, VA—The overall structure is in place and the details are quickly taking shape as the National Milk Producers Federation (NMPF) prepares to launch its self-funded Cooperatives Working Together (CWT) program that is designed to balance milk supply and demand and thereby boost milk prices.

CWT was first proposed to the NMPF board of directors by its national staff at a meeting on March 12. The final plan is scheduled for a board vote at the board's May 9 meeting and the first formal activities of CWT could take place as soon as July

NMFP envisions a 2.7 percent or 4.6 billion pound reduction in the domestic milk supply and a resulting net average increase of at least 72 cents per hundredweight during the 12-month first phase life of CWT

A ruling by the Supreme Court is expected sometime in June. If the Supreme Court agrees with the Nevada farmers, a federal district court would determine whether California's milk pricing plan is legal.

Nevada and Arizona dairy farmers sued after California implemented changes to its milk pricing plan in 1997. Six states — Nevada, Minnesota, Montana, Oregon, Washington and Wisconsin — have filed a brief in support of the farmers.

#### **Arguments By Out-Of-State Dairies**

In a brief submitted prior to Tuesday's Supreme Court session, the Nevada and Arizona dairies said the 1996 farm bill does not broadly protect California's economic regulation of raw milk from federal law, nor is the Commerce Clause part of the federal law from which the farm bill provides protection.

The farm bill gives California permission, free from certain constraints of federal law, to use direct or indirect means to "establish or continue to effect" requirements regarding two specified subjects that are a small subset of the subjects that have to do with packaged fluid milk.

"It is not even remotely plausible to say that the entire range of things covered by California's pricing and pooling plans has anything to do with percentage and labeling of milk solids and solids not fat, let alone that every provision is necessary 'to establish or continue to effect' fluid milk composition and labeling requirements," the dairies argued in their brief.

The 1996 farm bill "is obviously designed to provide some degree of protection from federal law for California's product composition and labeling requirements for packaged fluid milk," the dairies continued. But "it does not broadly protect California's economic regulation of raw milk from federal law, nor is the Commerce Clause part of the federal law" from which the farm bill provides protection.

"The universe of state laws and regulations that were given some form of protection from federal preemption is specified" in the 1996 farm bill, the dairies continued. That universe consists of requirements "regarding (1) the percentage of

• See CA Pricing Argued, p. 14

### Cream Cheese Sales Thriving, Despite Bagel's Decline, With Flavors And Packaging

Madison—Packaging innovations and a new lineup of flavors has helped buoy cream cheese sales, despite lagging consumer interest in the former darling of the retail food industry – the bagel.

Statistics provided by the US Department of Agriculture (USDA) show that US production of cream and Neufchatel cheese more than tripled between 1980 and 2000, rising from 228.6 million pounds to 687.4 million pounds over the course of those two decades.

Production in 2001 declined 6.2 percent to 645.1 million pounds, then posted an impressive 10-percent increase in 2002 to a record 709.55 million pounds.

Per capita consumption has also grown impressively, rising from one pound in 1980 to a record high of 2.43 pounds in 2000, before declining to 2.26 pounds in 2001. During its 20-year growth period, it surpassed Swiss cheese to become number four in per capita consumption

behind Cheddar, other American cheeses and Mozzarella.

The soft, unripened cheese is made from cow's milk and by law must contain at least 33 percent milk fat and not more than 55 percent moisture. Neufchatel cream cheese, also called "lite," is lower in fat, with only 23 percent butterfat, higher in moisture and softer in texture

The cheese sells in hard brick and soft spreadable formats. Brick is used primarily as an ingredient, especially in cheesecakes. Soft is mostly used for spreading on bagels, crackers and most recently, artisan breads.

The cream cheese market has changed considerably over the past five to 10 years, said Tom Hickey, corporate marketing manager, Level Valley Creamery, Inc. of West Bend, WI.

In the away-from-home market,

• See Cream Cheese Thrives, p. 8

#### KCCO Seeks To Buy 68.5 To 153 Million Pounds Of Cheese; CCC-Owned NDM Will Be Exchanged As Partial Payment

Kansas City, MO—USDA's Kansas City Commodity Office (KCCO) this week invited offers to sell to USDA a minimum of 68.52 million pounds and a maximum of 153.24 million pounds of Mozzarella, natural American and process cheese for delivery between July 2003 and June 2004.

At USDA's option, nonfat dry milk (NDM) owned by USDA's Commodity Credit Corporation (CCC) will be exchanged as a partial payment in addition to a cash payment.

NDM exchange rates are as follows: for each pound of Mozzarella delivered, USDA will release 1.79 pounds of NDM; and for each pound of natural American and process cheese delivered, USDA will release 1.15 pounds of NDM.

Specifics of the three invitations issued this week are as follows:

• Mozzarella: USDA intends to purchase a minimum of approximately 36.5 million and a maximum of 60.0 million pounds. That includes approximately 5.0 million to 9.0 million pounds of low moisture part skim (LMPS), frozen, shredded, 30-pound box; 8.0 million to 13.0 million pounds of LMPS, frozen, 8/6 pound loaves; 1.5 million to 3.5 million pounds of lite, frozen, shredded, 30-pound box; and 22.0 million to 34.5 million pounds of LMPS, unfrozen, processor packtotes (master bag).

The Mozzarella delivered to USDA under this invitation must have been manufactured from pasteurized milk that was produced in the US and not previously owned by CCC, and in plants that were inspected and approved by USDA. There is an exception: NDM previously owned by CCC that was released through the exchange of NDM for cheese under the long-term contracts may be used in the production of Mozzarella being

• See KCCO Seeks Cheese, p. 11

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#### Idaho Replaces California As Third-Leading Source Of Milk On Upper Midwest Order

Minnesota remain the two main sources of producer milk on the Upper Midwest milk marketing order, but Idaho has replaced California as the number three source of producer milk on the order, according to a report in the April 2003 "Upper Midwest Dairy News."

During December 2002, 57.5 percent of producer milk on the order was received from Wisconsin, with 27.3 percent from Minnesota and 8.6 percent from Idaho. The remaining producer milk, about 7 percent, was primarily received from Illinois and North and South Dakota. In addition, a small quantity of milk was pooled on the order from Iowa, Michigan, Nebraska, Ohio and

By comparison, during December 2001, 50.7 percent of producer milk was received from Wisconsin, with 26.0 percent from Minnesota, 11.9 percent from California, and 6.6 percent from Idaho. The remaining milk, about 5 percent, was received primarily from Illinois and North and South Dakota. A small quantity of milk was also pooled on the order from Iowa, Michigan, Montana, Nebraska and Utah.

Producer milk received on the Upper Midwest order in December 2002 totaled 1.8 billion pounds, down fractionally from a year earlier. Producer milk increased in each of the states in the procurement area in December 2002 except Nebraska and Utah.

The largest year-to-year change, however, resulted from California pooling 217 million pounds of milk in December 2001 and not pooling any milk in December 2002.

The report also showed the 15 top counties from which producer milk top 15 counties. •

Minneapolis, MN—Wisconsin and was received on the Upper Midwest order in December 2002. These 15 counties supplied 36 percent of the producer milk on the order in December 2002, and accounted for 33 percent of the producers.

> By comparison, in December of 2001, the top 15 counties accounted for 33 percent of the producers and 31 percent of the producer milk.

> Comparing the top 15 counties in December 2002 with a year earlier, there was no change in the top three counties, with Stearns county, MN, ranking first, followed by Clark and Marathon counties in Wisconsin.

> Ranking fourth this year was Jerome county, ID, which moved up from sixth last year. The county that had ranked fourth last year was Dane, WI, which moved down to eighth this year.

> Manitowoc county, WI, ranked fifth in December 2002, up from eighth last year. Ranking fifth in December 2001 had been Merced county, CA, which didn't pool any milk on the Upper Midwest order in December 2002.

> Counties ranking sixth through 11th, plus 13th, in deliveries of producer milk on the Upper Midwest order were all in Wisconsin, in the following order: Fond du Lac, Brown, Dane, Outagamie, Dodge, Sheboygan and Shawano.

> All of those counties had moved up at least one spot except for Dane and Dodge.

> Morrison county, MN, ranked 12th, the same as in December 2001, and Otter Tail county, MN, ranked 15th, up from 19th.

> The remaining county in the top 15 was Twin Falls, ID, which moved up from 28th in December 2001 and replaced Tulare county, CA, in the

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#### **Cream Cheese Thrives**

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there are several factors driving consumption, including Americans' fondness for bagels and the number of bagel chains that have opened new locations since 1993, Hickey noted.

"The second factor has been increases in travel and the associated growth of complimentary breakfast buffets at hotels where cream cheese is often featured," he said. "The third factor is a broader approach to nutrition and a re-emphasis in choosing foods that are great-tasting and wholesome."

"In the early to mid-1990s, there was a one-dimensional emphasis on choosing foods that were low in fat. Today, this focus has evolved to a more balanced approach to dieting," Hickey continued.

In the ingredient segment, there are also a few factors driving growth, Hickey said, the first being new uses for cream cheese.

"Cream cheese is being used in many innovative foods – as a filler for pretzels, jalapeno poppers, Danishes, etc.," Hickey said. "Ingredient use today is much broader than traditional cheese spreads and cheesecakes."

"Also, there is a growing need for custom formulations to meet the requirements of product developers for multiple food segments and applications," he said.

Traditionally, spreadable cheese was used almost exclusively for entertaining, said Faith Stevenson, assistant marketing manager, rondele Specialty Foods.

Located in Merrill, WI, rondele produces gourmet spreadable cheese products, merchandised nationally in the dairy, deli and bakery departments of supermarkets, mass merchandisers, drug chains foodservice operations. The company also does a strong private label business.

"Over the past few years, gourmet spreadable flavor profiles have changed and become more versatile. Consumers are now using them for cooking, snacking and baking, as well as entertaining," Stevenson said.

"New technology and packaging offers the consumer much more versatile and user-friendly products that applications," she continued.

introduced that address consumer lifestyle and usage changes, solidifying cream cheese products as

The 1990s were the apex of the bagel

and the low-carbohydrate diet back in fashion, a number of consumers are turning their backs on bagels.

One of the prime indicators of future bakery product sales are bakers' purchase plans for automated equipment, according to Bakery-Net of Naperville, IL.

During 1995-1996, when Bakery-Net went online and began its registration procedure, bagel equipment – by a wide margin – was the number one selection among those planning the purchase of automated production equipment.

Less than one year later, based upon the decline in bagel equipment selection by registrants, Bakery-Net predicted that not only had the bagel market matured, but that it had, in fact, exceeded a state of saturation, with established units closing faster than new ones were being opened.

> "Cream cheese is being used in many innovative foods - as a filler for pretzels, jalapeno poppers, Danishes, etc. Ingredient use today is much broader than traditional cheese spreads and cheesecakes."

—Tom Hickey, Level Valley Creamery, Inc

In 2000, the Colorado-based Einstein/Noah Bagel Company, one of the largest bagel chains in the US, filed for bankruptcy protection in 2000 and closed 74 underperforming

Flour consumption in the US has also plummeted to record lows. Domestic use of flour has dropped for two years running, something that hasn't happened since the 1950s, according to the US Department of Agriculture.

Fifty-six percent of US grocery shoppers said in a recent Gallup Organization survey they believe high-protein, low-carbohydrate diets help people lose weight, although three-quarters of those surveyed thought they were difficult to maintain in the long term.

That's the majority of shoppers cream cheese manufacturers are banking on. They attest that the overall sale of bagels is still chugging along.

"Consumers continue to demonstrate that they love bagels and that they love to top their bagels with cream cheese. So this development has been a terrific boost for our industry," Hickey said.

"The Atkins phenomenon is interesting in two respects. The first

can be used in several different "New flavor profiles have been

extremely versatile," she said.

#### 1990's Bagel Frenzy Wanes

trend. American bagel consumption doubled between 1995 and 1999, according to Business Trend Ana-

However, with one-third of the US population now clinically obese

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• See Cream Cheese Thrives, p. 17

#### **Cream Cheese Thrives**

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is that dairy products are a key component of this type of diet. On the flip side, many carriers for cream cheese – bagels, bread, crackers – are not part of the Atkins diet. We at Level Valley do not get too caught up in short-term shifts in consumer eating behavior," he said.

"Consumers often remember what they last read. We believe that the best nutrition program involves food in moderation along with exercise. In other words, a balanced approach to eating," Hickey continued.

"Obviously, since 49 percent of bagels are topped with cream cheese, the 'bagel craze' helped push the industry," said Alyssa R. Burns, senior manager of communications, Kraft Foods.

"Given cream cheese is often consumed with a carbohydrate 'carrier' like bagels or crackers, the Atkins diet has not been as big an influence on the cream cheese category," she continued.

"Bagels have now become a consumer 'comfort food' and part of the everyday American diet," Stevenson said. "This dynamic has afforded the cream cheese industry an additional venue to sell and merchandise bagel, cream cheese spreads."

rondele Bagel Temptations were launched during the bagel craze and are still experiencing significant growth, Stevenson said. These extended shelf-life products can be displayed without refrigeration, and are available in several varieties and sizes, thus affording the company numerous selling opportunities.

"Merchandising bagel spreads next to the bagels, out of refrigeration, represents a significant advantage and selling point for this product that traditionally was not available to the conventional supermarket industry," Stevenson said.

#### **Packaging Innovations Help**

The advent of the resealable tub helped change the face of the cream cheese industry, giving consumers an alternative to the sometimes cumbersome foiled brick package.

"As one might guess, the shift in form over the years has led to certain

"However, the need for various sizes and configurations in the club store arena has spurred the most packaging innovations," she contin-

"Since cream cheese is often a complement to another food or used as a spread that tops a cracker or bagel, there have not been many major packaging breakthroughs," Hickey countered. "There have been, however, significant advancements in packaging quality, sealing, oxygen barrier packaging, etc."

"These advancements, largely, are invisible to the consumer," he continued. "The good news is that in the long run, they improve the quality of the finished product to keep consumers in the category.'

According to Hickey, the biggest packaging change has been the availability of single-serve packages to serve the "grab and go" eating patterns of today's consumers.

Today's consumers demand convenience, variety and quality, Stevenson added. Packaging has become an important vehicle in selling and communicating the value and benefits of these prod-

Individual portions, as well as "snack packs," are directed specifically at the convenience foods arena, she continued.

"rondele has evolved its packaging be creating attractive photographs of our products in actual product usage, as well as providing recipes, serving suggestions and in-pack coupons, Stevenson said.

"Packaging needs to grab their attention, while also delivering a clear and consistent product message," she said.

Kraft is introducing in several cities a new product, Philadelphia Cream Cheese Spread and Bagel To Go. Each single-serve container contains one bagel, a one-ounce tub of soft Philadelphia Cream cheese Spread and one spreader. Three flavors are available: regular cream cheese spread, strawbery cream cheese spread and chive and onion cream cheese spread.

#### **New Sweet, Savory Flavors**

Strawberry, garden vegetable, smoked salmon - a host of new flavors introduced over the past decade has helped boost sales of cream cheese.

"The introduction of new flavors has been exciting for our industry," Hickey said.

"American appetites continue to change as people seek new flavors. This same scenario has made inroads into our industry and has allowed research and development to experiment with great-tasting new flavors which have introduced cream cheese to a brand new user group," he continued.

The favored flavors at Level Valpackaging innovations, such as the ley include Blue Cheese, Smokey now standard resealable tub," Burns Chipolte, Cinnamon, Horseradish, and Sun-Dried Southwestern Tomato. Garden Vegetable and Onion-Chive continue to be very popular, Hickey said.

> "Offering consumers variety has become an absolutely necessary and integral part of the cream cheese category," Burns said. "From sweet to savory, it's the flavor variety that keeps consumers interested and spurs purchase interest."

> We've seen strong growth over the years due to flavor innovations, Burns continued. Currently, Strawberry, Honey Nut, Chive 'N Onion

momentum with consumers.

Flavor profiles for different consumer usage has dictated new and exciting products, Stevenson added. The growth and demand for bagel spreads has grown in tandem with the bagel category itself.

"Bagel flavors are much different than traditional, gourmet spread entertaining flavors. Bagel flavors are sweet - rondele has addressed this category with the creation of Bagel Temptations," Stevenson said. "In addition to traditional bagel cream cheese flavors like Plain, Garden Vegetable, Onion, etc., rondele's sweet flavors consist of Mixed Berry, Apple Cinnamon and Strawberry."

The traditional "gourmet spread category" has traditionally offered savory flavors - Garden Vegetable, Garlic & Herb and Onion being among the top sellers, Stevenson said.

Her company has researched the cheese category and decided to incorporate "volume" flavors and varieties into its gourmet spreadable cheese line by creating new deli cup flavors, including Salsa, Toasted Onion, Tomato Basil Feta, Goat Cheese and Peppercorn Parmesan, she continued.

#### Many Hindered By Start-Up Costs

While the spreadable cheese category may be lucrative, start-up

and Salmon have shown the greatest costs and manufacturing expenses often deter many from breaking into the market. Which leaves just a few companies in command of the sector.

> "In our category – gourmet spreadable cream cheese - we don't see a proliferation of many new competitors," Stevenson said.

> "The category has been fairly stable over the past few years and is primarily dominated by three national manufacturers," she said.

> "In addition, the cost of entering this category, i.e. slotting allowances, ad costs, support materials, consumer programs, etc. are significant and have prevented new companies from entering this category," Stevenson continued.

> "Like many industries, there has been merger and acquisition activity which continues to evolve the competitive set and strengthen the industry," Hickey continued. "Additionally, we have seen more food companies acting as a converter or re-processor where they process bulk cream cheese along with other ingredients to create their own flavor profiles."

> "Obviously, we are very bullish on the cream cheese market and believe that our industry will continue to grow because we have a great-tasting product with many new and exciting applications,' Hickey continued. •

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