

## FMMO Final November 20, 2015

After 40 days (and nights for many), the California FMMO hearing finally came to an end. Will things ever be the same again? While USDA said farewell to Fresno, it still seems like we're light years away from a producer vote. We're not in the final countdown, but we're headed that way as the next steps will be drawn out over the next plus year. Some of the timeline is a bit uncertain, but some of the upcoming deadlines were outlined relatively clearly by Judge Clifton (the Administrative Law Judge who presided over the entire procedure).

Assuming the transcripts and exhibits are all made available to the public by December 31, 2015, she set January 15, 2016 as the first deadline for submitting corrections to the transcript. A second deadline for final changes was set for February 5. While these deadlines will not affect many people, it will certainly be of great impact to the attorneys who are expected to look at the entire transcript. The next meaningful deadline will be for opening briefs (March 31, 2016), which anybody can submit. Finally, she set out May 16, 2016 as the deadline for reply briefs. For the proponents of any proposal, they must file an opening brief to be able to submit a reply brief. After that, USDA will finalize its deliberations and release a tentative decision. Anybody's guess is as good as mine for that timeline because there is no set deadline, but I will risk an estimate around September 2016.

The last week of the hearing was a shorter one, as things wrapped up at noon on Wednesday under the applause of everybody still present. Monday was focused on proposal 1 as Mr. Hollon (DFA) and Mr. Schad (LOL) introduced their rebuttal statements, focusing on technical aspects that needed clarifications. Four producers also testified: Mr. Airosa, Mr. Van Steyn, Mr. Oosten and Mr. Barcellos. They provided great insight on their operation and supported proposal 1.

Three main topics were covered on Tuesday. The first was Mr. Hatamiya – an economics expert who testified earlier for the coops. He added information to debunk what the cheese processors had argued: the cost of doing business for manufacturing is not higher in the Central Valley. The second presentation of interest was another rebuttal from Mr. Garbani (LOL). His statement hit harder than Holly Holm as he was not shy to point out flaws in Mr. Dejong's (HCC) and Dr. Schiek's (DI) testimonies. As an example, he pointed out how Dr. Schiek had used sneakily chosen data to show how the California dairy industry is losing dairies at a slower rate than other areas. By changing the time period analyzed, Mr. Garbani showed Dr. Schiek's story was not the full picture.

The last presentation was from Dr. Schiek. He was coming up on the stand based on the questions Judge Clifton had asked him last week regarding quota. Those questions were: 1) how can we work toward uniform pricing? 2) how does USDA deal with the fact that it has no control over who owns quota or over what California could do with quota? 3) how do you compensate quota holders for the full value of their holding? 4) if quota was to be paid down on a percentage basis what should the percentage be? He looked at different scenarios to answer these questions. Interestingly, he used an interest rate of 5.5% to calculate a quota payout. Mr. Vlahos was quick to point out that seemed substantially lower than the 10-15% return on investment that is generally accepted when it comes to quota. Mr. Vlahos also pointed out Dr. Schiek's example of quota payout means that producers with quota would be paying themselves out with their own money. Not likely a popular situation.

Dr. Erba (CDI) was last but not least to present a rebuttal on Friday. His statement included some pricing impact of proposal 2, which he labeled as a "new California discount". His analysis of the difference

between Federal Order prices and proposal 2 prices in 2014 would have resulted in a loss of \$521.73 million for California. Hopefully USDA sees that this is not the level playing field that California dairy producers asked for during the past nine weeks.