

August 10, 2026

BY EMAIL

Exploited Milk Producers (“EMP”)

Re: Update Regarding Anti-Quota Efforts

Dear Members of EMP:

Thank you for your continued support, it is what makes this fight possible and we are grateful to have you with us. This letter contains a summary of some of the work that we have been doing for you and related developments in the efforts of others to fight the QIP.

Last year, we filed a lawsuit on behalf of this organization (you) in which we argued that the statute authorizing the CDFA to administer the Quota Implementation Program (“QIP”) violated the California constitution. In short, our state government, like our federal government, is divided between the legislative, executive, and judicial branches. There is a doctrine in the law that says our state legislature has the power to make laws and that it cannot give this power over to a state agency in the executive branch, like the CDFA. In practice, this means that when the Legislature gives power to the CDFA, like the power to administer the QIP, it has to tell the CDFA what the purpose of that power is, what standards should guide the CDFA’s exercise of that power, and there should be safeguards to make sure the CDFA doesn’t abuse that power. This is especially true where that power is shared with an industry board that could use it to gain an advantage over its competitors (you).

In our lawsuit, we argued that the latest statute authorizing a quota program lacked a lawful purpose, adequate standards, or meaningful safeguards. On May 7, the court dismissed our case. In its key holdings, it found: “The policy and purposes behind said § 62757 to guide the adoption of administrative rules and regulations may be implied from the predecessor Gonsalves Pooling Act,” “adequate direction in the statute exists for implementation of the policy [QIP],” and that the producer referendum is an adequate safeguard. It also found that that any challenge to this statute had to be filed within a four-year statute of limitations of the QIP taking effect in 2018, so even if the Legislature didn’t have the power to enact this law, our 2025 suit was too late. Finally, the Court concluded that there was nothing further we could add to the allegations in our complaint that would save the case, so it denied us that opportunity.

We believe the court made several errors of law to reach these conclusions, and we have filed an appeal. In sum, the Gonsalves Act purpose cannot be the QIP's purpose. The Gonsalves Act is suspended. Even if it were not, its purpose for quota was to stabilize the industry through a pooling program, facilitated by a temporary subsidy to dairies who would lose income under the program when it was created in 1967--a subsidy that was supposed to be eliminated decades ago. The current QIP cannot be said to have been authorized to serve this purpose as it has been nearly 60 years and ownership of quota is no longer even tied to the quota holder's historical milk sales before 1967.

While the court said there was adequate direction in the statute to CDFA and the PRB as to how to administer the quota program, we see none. Is quota supposed to be administered in way to compensate dairies that lost money in 1967 due to the pooling program? Impossible. If the purpose of the QIP is to keep payments going to whoever holds quota just to give them a subsidy and advantage over their competitors? Where is that in the Gonsalves Act, which envisioned a temporary compensatory subsidy, and what public purpose would that serve? The referendum also cannot operate as a safeguard given the self-interest of quota holders and their numbers. A vote that depends on the support of the people abusing the program is no safeguard and the QIP leaves the Secretary herself at the mercy of the PRB and quota holders.

Finally, as to the conclusion that such lawsuits can only be filed within a few years of a new law, our view is that if the Legislature could not constitutionally give this power to the CDFA and PRB, it can't effectively gain that power just because nobody complained about it for a few years. In any event, the injury the statute causes happens every month, and was not just a problem 8 years ago, so under standard ways of analyzing statutes of limitations, the clock should be reset every month. While we believe we covered all of these points in our case, we could in fact have added further information to our complaint to satisfy the Court and should have been given that opportunity.

After we initiated the appeal but before we filed our brief, the court asked whether the parties thought mediation could work. Save QIP essentially said "no," the CDFA said maybe—but only if Save QIP participates—and we said we were willing to talk, though we were not optimistic given Save QIP's stance. The court of appeals decided against mediation.

In other news, in February the Producer Review Board indefinitely tabled several EMP member hardship requests on the advice of CDFA legal counsel, on the grounds that the

producers seeking hardship exemptions had filed lawsuits. We believe this is illegal, and on behalf of one producer, I sent the CDFA both a demand for numerous records about this decision (as well as other aspects of the QIP/PRB) and a notice that they will be sued if the hardship requests are not addressed.

In response, the CDFA has promised to produce some records within a month and continue to produce the rest. On July 29, it stated that it “acknowledged” the concerns I raised about the indefinite delay of the requests and would place them on the next PRB meeting agenda. I responded on July 30, demanding that they put the meeting on the calendar and that the meeting must be held by the end of August. Meanwhile, Craig Gordon let us know that a lawsuit he filed to force them to hear the hardships will be heard in September.

All counted, the CDFA and PRB members currently have three active cases against them (one of which is EMP’s lawsuit and I am also one of the attorneys in the separate federal antitrust case), a robust document request into their actions on the hardship requests and selection of PRB members that I submitted and will enforce in court if needed, and a threat of a lawsuit if the hardship requests are not heard soon.

What’s next? These cases, the document requests, and the hardship requests will continue to produce developments. In the next couple of months:

- In our appeal, we’ll file a brief arguing the superior court judge’s decision should be reversed;
- The producers who brought the antitrust case may get a decision on the defendants’ motion to dismiss it;
- The CDFA will start producing their internal records beginning with records of their handling of the hardship requests; and
- We should see a PRB meeting scheduled in August or September to answer the last round of hardship requests.

I will be looking at the records they produce and their future decisions on the hardship requests to ensure they did not violate the law.

If it would be helpful, I would be happy to have a call or zoom to discuss any of these topics with you. I also plan on attending the next PRB meeting and look forward to meeting many of you there.

Thanks again for your generous support of EMP. Our ability to bring the fight to the CDFA and the quota holders would not be possible without it.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Columbo', with a long horizontal flourish extending to the right.

Michael A. Columbo
Partner
COLUMBO DEOL LLP
Counsel to EMP