EXHIBIT 4
DATE 3/24/09
SB 286

**SB 286**
**Testimony of Montana Milk Producers Association**
**(In Support)**

1. The Montana Milk Producers Association represents forty milk producers in the State of Montana.

2. Historically, the Montana milk industry operated under the presumption that the Board of Milk Control had jurisdiction over the industry to enact rules and enforce those rules (with the narrow exception of public health and quality control -- which historically have been handled by the Department of Livestock).

3. Currently, there is confusion in the statutes (and the milk industry) regarding the respective jurisdictions of the Board of Milk Control and the Board of Livestock as they pertain to the milk industry. That confusion ultimately resulted in the litigation in state district court. While the state court litigation has been dismissed, there is nothing to preclude the jurisdictional issue from being raised in the future. SB 286 would eliminate that confusion and clarify that jurisdiction is vested in the Board of Milk Control.

4. In October, 2008, the Montana Milk Producers Association sent a letter to every milk producer in the state, along with a petition requesting legislation be enacted to clarify that the Board of Milk Control, and not the Board of Livestock, has authority over the Montana milk industry (with the exception of those quality issues which have historically resided in the Board of Livestock). All forty members of the Montana Milk Producers Association signed and returned the petition. In total, 44 out of the 79 producers in the state returned the petitions supporting the Milk Control Board.

5. The Milk Control Board is the proper board to exercise primary jurisdiction over the milk industry because the board has a wealth of institutional knowledge – it enacted the rules and is aware of the historical evolution of those rules, as well as the current issues in the milk industry. The Board of Livestock has never dealt with milk issues and, given its current duties and responsibilities, would not be able to provide the level of attention and service to the industry that has been, and will be, provided by the independent Board of Milk Control. The Milk Control Board, by statute, cannot have a member that has an interest in any segment of the industry, so there cannot be any conflicts of interest.

6. The Montana milk producers pay the expenses of the Board of Milk Control through assessments. If the milk industry is willing to pay for it, it should have its own functioning board to regulate its affairs.

The Montana Milk Producers Association urges support of SB 286. Thank you.

EXHIBIT 4
DATE 3/24/09
SB 286

October 21, 2008

**[Montana Milk Producer]**

Dear Montana Milk Producer:

We write to seek your support by asking you to sign and return the enclosed Petition. Assuming we have the support of the majority of the milk producers in Montana, we intend to have legislation introduced this session to re-establish that the Milk Control Board, rather than the Board of Livestock, has primary jurisdiction over the milk industry.

A little background. Historically, this industry has presumed that the Milk Control Board has jurisdiction over the milk industry with respect to enacting rules and enforcing those rules except for the narrow area of public health and quality control which has historically been handled by the Department of Livestock. Recently, the jurisdiction of the Milk Control Board has been challenged and is being litigated in district court in Bozeman at this time. The question of jurisdiction has arisen because of apparent conflicts between the statutes relating to the powers of the Milk Control Board and the powers of the Board of Livestock. These conflicts largely arose in 1995 when the Milk Control Board was transferred from the Department of Commerce to the Department of Livestock. We do not believe there was any intent by the legislature at that time to diminish the traditional powers of the Milk Control Board, but the fact remains that the transfer created conflict issues that need to be addressed. We would rather have the issues settled in favor of the Milk Control Board by the legislature rather than have it resolved by litigation.

We think the Milk Control Board is the proper board to exercise primary jurisdiction over the milk industry because:

1. Our industry is better served by a board that is devoted exclusively to the milk industry. The Board of Livestock already has a full plate.

2. By statute, the Milk Control Board cannot have a member that has an interest in any segment of the industry, so there cannot be any conflicts of interest.

3. The Milk Control Board is already knowledgeable regarding our industry whereas the Board of Livestock has never dealt with our issues.

We think the Milk Control Board deserves our support. If you agree, please sign the enclosed Petition and return it in the enclosed self-addressed stamped envelope.

Thank you.

Sincerely Yours

Peter Wipf
President, Montana Milk Producers Association
Peter Wipf

Ed Waldner
Vice President, Montana Milk Producers Association
Ed. Waldner.

Enclosure

# PETITION

The undersigned Montana milk producer petitions that legislation be enacted to clarify that the Board of Milk Control, and not the Board of Livestock, has all authority over the Montana milk industry except for those quality issues which have historically resided in the Board of Livestock.

_____
Print Name

_____
Signature

_____