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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. AO-166-A77

DA-08-06

In re:

HEARING ON PROPOSED AMENDMENTS TO THE
MIDEAST FEDERAL MILK ORDER

ORDER

This matter is before the Administrative Law Judge upon the Motion to Reopen Hearing filed on behalf of Dean Foods Company and National Dairy Holdings LLC (NDH). The Motion states that reopening would be for the purpose of taking limited evidence to receive updated information regarding actual, rather than hypothetical, market impacts and to explore, explain, understand and, if possible resolve any discrepancies. Opposition to the Motion has been filed by Michigan Milk Producers Association, Inc., Foremost Farms USA Cooperative, Inc., Dairyalea Cooperative, Inc., NFO Inc., Dairy Farmers of America, Inc., and the Secretary.

The basis for the Motion relates to the difference in data on Exhibit 5, Request 3-B, placed into the record by the Federal Milk Market Administrator for Order 33 and attachment 4 to Exhibit 12. Counsel for Dean Foods Company and NDH introduced Exhibit 12 without the attachments. The attachments to Exhibit 12 were added and made part of the record for completeness. As both the letter and the attachments had previously been posted on the USDA Website for a number of weeks prior to the hearing and accordingly had been available to all

participants in the hearing for use in any necessary examination, it would appear no useful purpose would be served in reopening at this time.

Accordingly, it is **ORDERED** that the Motion to Reopen Hearing is **DENIED**.

A copy of this Order will be served on the Parties.

Dated at Washington, D.C.
October 2, 2008



PETER M. DAVENPORT
Administrative Law Judge

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