

BEFORE THE UNITED STATES DEPARTMENT OF AGRICULTURE

In the Matter of:) **DOCKET NO. AO-368-A32;**
MILK IN THE PACIFIC NORTHWEST) **AO-271-A37; DA-03-04**
AND ARIZONA - LAS VEGAS)
MARKETING AREAS)

**INDIVIDUAL AND SUPPLEMENTAL
COMMENTS ON RECOMMENDED DECISION
SUBMITTED BY :**

**SMITH BROTHERS FARMS, INC.
Kent, WA**

June 13, 2005

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I. Introduction

Smith Brothers Farms, Inc., is a producer-handler located in Kent, Washington that has occupied a unique position in the Seattle area for generations. Smith Brothers remains one of the few home dairy delivery outlets in the United States. Smith Brothers representatives testified before the Department in this proceeding and otherwise participated in this process. Smith Brothers is one of four identified producer handlers in the Pacific Northwest marketing order that would become subject to the pooling and pricing provisions of the order because it has route disposition of more than 3 million pounds per month.

Smith Brothers is a Seattle icon. Benjamin Smith began Smith Brothers in 1920, and home delivery has been part of the business for most of the dairy's 85 year history. Their distributors' white delivery vans have been canvassing the city and its suburbs, delivering milk direct to the home--sometimes the same home--for decades. In addition to home delivery, Smith Brothers sells to espresso stands, schools, restaurants, and other underserved customers.

II. Statement of Impact

If implemented, the proposed rule issued by USDA in the April 13, 2005 Federal Register, will have severe economic consequences for Smith Brothers and the people and businesses directly affected by the success of the dairy. Its employees, suppliers, vendors, and 40,000 home delivery households will be harmed. The consequences of USDA's actions should not be ignored. Those consequences are the following:

- Smith Brothers employs 110 people. If Smith Brothers is not able to survive under the parameters of the Recommended Decision as is expected, some or all of those people will lose their jobs.

- Smith Brothers employs union labor and pays its employees a living wage. Stable jobs that provide a living wage with good benefits are difficult to replace in today's economy.
- Smith Brothers distributes to homes through 60 independent "milkmen." These jobs are equally at risk as a result of this decision.

Smith Brothers currently produces about 5 million pounds of milk each month only from its own cows. The proposed rule will limit Smith Brothers' current output. A pool obligation, will result in the equivalent of a surcharge of close to one million dollars each year. Smith Brothers will need to lay off employees, reduce employee benefits and otherwise drastically cut costs to survive and even then, there is no guarantee of survival.

In addition to cuts at the dairy, Smith Brothers may need to increase the cost of their milk to distributors which will increase the cost of milk to consumers. If the market cannot bear such an increase, Smith Brothers will lose customers and the business could fail. Consumers of Smith Brothers milk have also expressed a strong negative reaction to this action by USDA as expressed in by the thousands of comments received from customers of Smith Brothers and the other two producer-handler participants from the Pacific Northwest.

In today's world, when consumers are so often apathetic, this kind of grassroots reaction is nearly unprecedented. The overwhelming response reflects the loyalty of Smith Brothers' customers, the fears of consumers worried about increased milk prices and loss of competition in the dairy industry, and their concern that they will lose a choice in purchasing milk that can be controlled from "moo to you" by Smith Brothers. Just a few of the more than 11,000 comments sent to USDA on this issue are included below. (The typographical and spelling errors are from the customer

comments, these excerpts have not been edited or corrected):

- I have carefully chosen Smith Brothers Dairy to deliver milk for my family specifically because the dairy does not use any growth hormones on its cows. Since my family started drinking Smith Brothers milk, we have been much healthier. In addition, rather than purchasing milk in a store that has been trucked from a great distance, the milk that is delivered to our door comes from cows that are raised a short distance away. This is much more efficient! It greatly disturbs me that your proposed regulations will limit my choices as a consumer and force me to purchase milk from large agribusiness corporations who do not have my family's best interests in mind. I do not want to see the end of independent family farms such as the Smith Brothers Farm. I urge you to act in a manner that will be fair and just to all and eliminate this punitive regulation. Thanks for listening!
- The family owned and operated Smith Brothers farm dairy has delivered FRESH and reasonably priced milk to my family's door for the past 19 years. Both of my parents were raised in farming country in Kansas. They always found ways to find farm fresh milk for the family. I have memories when I was 9 of going to a local farm in Haysville, Kansas to get fresh milk (straight from the morning milking to the pasteurization vats to bottles we brought from home in the afternoon). When we moved to Kent, Wa in 1962 my parents found Smith Brothers farms and raised their family of eight children on this milk. I have since raised my 4 children on Smith Brothers milk. The kids don't know how good and fresh the milk is until they leave home for college. Trips home they would always be sure to have their "fix" of Smith

Brothers farms milk - there isn't anything quite as good as farm fresh milk. I believe the USDA should be taking steps to allow, enable and encourage these small farms to stay in business change which risks their ability to stay profitable.

- I chose Smith Brothers because they have a quality product that I feel confident in feeding to my family. This is not true of the larger dairy producers. This proposed regulation does not in any way benefit the general tax-paying public either from a health standpoint or economically.
- This family owned farm is the only one delivering milk in our area. It is convenient and we know we are receiving a quality product. After "7" years of delivery, our "milkman" has become a friend of the family. We would hate to see him lose his job.
- We began milk delivery by Smith Bros. Dairy soon after our 1st child was born in 1978. We wanted the best, freshest product we could get. I had a Home Child Care business for 18+ years and felt good about serving the children this product. My parents also had home delivery from Smith Bros. from the 1950's. I would be very disheartened if this decision forced our local Smith Bros. Dairy to go out of business.
- My Daughter is Autistic and is on a very strict diet. She cannot eat regular store bought produce packed with Hormones and antibiotics. It is also very hard for us to get to the store since she has issues with the stores. Smith Brothers has been a real blessing to our family and we would be very upset to have our current delivery stopped. We cannot understand how the USDA could even consider this proposal.
- I am the Executive Food Service Director for a public school district. We have did

business with Smith Brothers Farms for the last 7 years. Their milk is fresh and nutritious for our students. Because of the great quality of their milk, we have seen a steady increase in the consumption of milk products. So, to force Smith Brothers Farms and others like them to pay into a coop that will destroy their ability to continue as a small business is going to hurt this county, our school district, and the wonderful students that enjoy the taste and freshness of the Smith Farms Dairy milk. Do not make this happen.

- This decision hurts me because Smith Brothers is our biggest account. I work for the insurance agency that provides insurance for this business. If Smith Brother's goes under, I could lose my job along with some of my co-workers. Also this would effect the medical coverage still being provided to my father who gave 30 years of his life to the dairy. Part of his retirement settlement is the medical coverage. Smith Brothers Farms has been around since the 1920 providing fresh milk to the greater Puget Sound area. They employ many employees not to mention the independent jobbers who distribute their milk. By putting these regulations on the small family businesses it is giving the message that the only survivors in business are the Costcos, Walmarts and big businesses of the world. It does not give the small businessman a chance. Another concern is my freedom to choose. By making the dairy join the co-op I lose my right to buy fresh milk without the hormones. The only people who are being hurt by the dairy not being part of the co-op are the big grocery chains.
- I am the fourth generation working at Smith Brothers Farms. I have worked at Smith Brothers all of my working life and have been around the farm all of my life. I have

seen many aspects of the business and worked in many different areas of the farm. I am currently the distribution manager for the dairy. When I first heard about this proposed ruling, I could not believe what I was hearing, "We have a price advantage over the processors that purchase from the pool"? That is absurd. We have many costs of running the farm that the processors that just purchase from the pool do not have, such as cow costs that include feed, medicine, vet bills, waste disposal and all the rest that goes along with running a farm.

One of my duties is to bid on school business. Year after year we are bidding against processors from the pool and year after year the prices that they quote are one and a half to two cents lower on school milk than we are. If we have a price advantage over them I sure have not seen it. The advantage I see that we do have over them is that we can control our own cows and give them the best treatment possible without adding any growth hormones or have our milk mixed with other farms milk. We can give our customers a better quality product.

- I own a coffee business that purchases Smith Brothers Dairy products thru an independent distributor. Larger Dairy suppliers do not serve this type of market. If producer-handlers are subject to pooling and pricing provisions based upon maximum monthly processing quantities, they may not be able to keep per unit costs competitive. This can cause a significant NEGATIVE impact to my business and six employees!
- I already pay a bit more for home delivery of Smith Brother's milk. I am happy to pay that so I can be confident it came from hormone free cows, and I am sure of how it

has been handled and processed. The proposed regulations would not provide benefit to the business asked to pay the fee, or to thier consumers. Instead it would increase the cost to consumers, or put them out of business either of which would make it harder for consumers to get the high quality product these dairies produce.

III. The Recommended Decision ignores the record evidence and the law.

Smith Brothers has participated in the filing of joint comments in opposition to the Recommended Decision with two other producer handlers in the Pacific Northwest – Mallorie’s Dairy of Silverton, Oregon and Edaleen Dairy of Lynden, Washington as well as one producer-handler from the Arizona-Las Vegas marketing area, Sarah Farms. As such, Smith Brothers incorporates and relies on the statements of fact and legal arguments raised in that joint submission as if they were fully rewritten herein.

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CERTIFICATE OF SERVICE

The foregoing Supplemental Comments were served upon the following parties on June 13, 2005, by electronic mail, FedEx Overnight Service, and /or first-class United States Mail service as indicated.

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