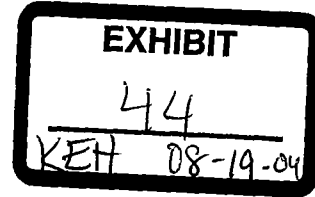


7 CFR Part 1030

Docket No. AO-313-A44; DA-01-07



Milk in the Upper Midwest Marketing Area

(Public Hearing August 2004)

I am Neil Gulden, Director of Fluid Marketing for Associated Milk Producers Inc. (AMPI). My office address is 315 North Broadway, New Ulm, Minnesota, 56073.

My testimony is in opposition to Proposal No. 6. I am joined in that opposition by Alto Dairy Cooperative, Bongards' Creameries, Ellsworth Cooperative Creamery, Family Dairies USA, First District Association, Davisco Foods, Valley Queen Cheese Company and Wisconsin Cheesemakers Association.

Milk should be allowed to associate with the order and become eligible for diversion if, as is currently the case, one days production is received at a pool plant during the first month the dairy farmer is a producer. If a producer's milk can't be diverted until after one days production is received at a pool plant, several days of pooled milk value could be lost due to weather problems, truck breakdowns or scheduling conflicts. The intent is obviously to pool the milk but getting it to a pool plant the first day eligible isn't always possible or practical. Reassociation also should not change if a producer loses producer status as a result of the handler of the dairy farmers milk failing to pool the milk under any order (most likely milk depooled because of inverted pricing using a minus PPD). Depooling was discussed in earlier testimony and we believe individual dairy farmer's milk should not be forced to reassociate after depooling due to inverted pricing in the order. Touch base in this

circumstance serves no useful purpose and causes undue expense because of the extra hauling required to get all the milk back into a pool plant. Sec. 1030.13 (d) 1 of the order should not be changed.

A two days' milk (or more) production touch base provision is unreasonable and uneconomical, especially in lower utilization orders like order 1030, which averages 15 to 20% Class I when all milk is pooled. Forcing more milk into pool plants, which for the most part would be supply plants, would add substantial freight costs and in some cases the additional expense of more storage tanks, which would all be passed on to dairy farmers and serve no practical or useful purpose.

In the upper midwest there is still enough B milk scattered throughout the milk routes to make picking it up separately very expensive. Proposals 3, 4 and 6, as published, would require touch base every month in varying degrees. We feel this would virtually require us to uncommingle all of our milk. Doing so would cost an average of \$2.50 per hundredweight additional hauling cost. Approximately 70% of AMPI's Grade A milk in the Upper Midwest is commingled with Grade B milk on farm pickup routes. Other members of our coalition regularly commingle half of their Grade A milk supply with some Grade B milk. On AMPI's B milk volume alone, this would add another \$300,000 per month (\$3.6 million annual) to our hauling expense. A combination of A & B milk producers would have to foot this cost. Some B's would convert to grade A but many would simply be forced out of business.

Whether or not a producer touches base once to associate with the order or every day of the month, they are still inspected by the states to receive a grade A permit, still inspected by FDA through the Interstate Milk Shippers program and are under no less scrutiny by their milk buyer. This milk is no less available or of no less quality just because it doesn't touch base with a pool plant during the month. For these reasons, plus the fact that there is B milk that should be economically commingled with grade A and the fact that 70 – 80% of the grade A milk isn't regularly shipped for Class I use, we believe the current order 30 provisions of establishing association with the order by delivering one day's production to a pool plant is entirely appropriate.

Order 30 requires shipments to distributing plants to be a minimum of 10% of grade A milk received from dairy farmers. The reciprocal or 90% of that milk may be diverted to nonpool plants. This is a very reasonable approach in any federal order and particularly order 30 with its high percentage of milk used in manufactured products. The 10% may be efficiently shipped directly from farms to the fluid milk plant. This not only saves transportation and handling costs, it preserves the highest milk quality. Efficiency, cost savings, quality and related public interest considerations have been the basis for direct ship performance rules in the federal order system for several decades. Some examples of these decisions are listed in Exhibit ___-A. We are, frankly, surprised that Dean Foods' modified Proposal No. 6 advocates a pooling requirement known to compromise fluid milk quality.

If the idea here is to somehow make more milk available to the fluid market, the order already has a provision to accomplish that. Sec. 1030 (g) gives the market administrator the ability to increase or decrease shipping percentages for all or part of the marketing area. This literally provides the flexibility needed to address any shortage of milk for Class I needs. There is no shortage of milk for Class I needs, but there is an increasing shortage of fluid milk handlers in the federal order system through which producers may gain pool access. Consolidation of fluid milk handlers over the past decade has resulted in fewer and fewer outlets through which producers may have pool access by sales to the Class I market. Market access for producers has been further limited by consolidation of milk suppliers and exclusive supply agreements between the largest buyers and the largest sellers. Although this problem is not (yet) as acute in the Upper Midwest as in markets to our south and east, over 70% of the market's Class I route disposition is in the hands of only 5 (of 23) distributing plant handlers. Table 1, Exhibit12 (Attached as ___-B) The Department should be very cautious in adopting rules that will limit producers' access or create new costs for access to the market pool.

Sec. 1030.13 (d) (2), (d) (3) and (d) (4) are effectively serving the market in the most efficient and economical manner and should not be changed or amended.

We must also oppose Dean's proposal to limit the ability of a degraded producer from reentering the pool. There are many reasons why a producer might be degraded, and many solutions to degrading that may take over 21 days during the course of a year to fix. The current system works. We are not aware of any problem with it. It does not need to be fixed.

That concludes my statement.

In order to encourage milk handling efficiency, avoid unnecessary costs, and maintain milk quality, USDA has frequently relaxed plant receipt requirements and provided for supply plants to ship milk directly from dairy farms to distributing plants for some or all of the required shipments. *E.g.* 46 Fed. Reg. 25626, 25632 (May 8, 1981) (Southern Michigan Decision); 49 Fed. Reg. 35101, 35104 – 7 (Sept. 6, 1984) (Ohio Valley milk market decision); 51 Fed. Reg. 27178, 27179 - 81 (July 30, 1986) (Eastern Ohio decision); 53 Fed. Reg. 24298, 24309 (June 28, 1988) (Chicago Regional decision); 54 Fed. Reg. 15170, 15171 (April 17, 1989) (Nebraska-Western Iowa decision); 47 Fed. Reg. 11679, 11683 (March 18, 1982) (Tennessee Valley Decision). When this authority is available, suppliers maximize transportation efficiency by shipment of milk from farms located closest to the distributing plant. 46 Fed. Reg. at 25832 (describing such efficient transportation practices for Michigan supply plants).

Table 1

**Upper Midwest Order
Pool Distributing Plants
December 2003**

<u>Size Range of Plants</u>		<u>Number of Plants or Units</u>	<u>Total Receipts of Bulk Fluid Milk Products</u> <i>(Pounds)</i>	<u>Class I Route Disposition</u> <i>(Pounds)</i>
<u>Equal to or more than</u> <i>(Million Pounds)</i>	<u>Less than</u>			
25		5	325,023,024	268,823,180
15	25	4	75,662,065	58,921,303
5	15	8	70,827,515	50,936,797
	5	6	5,280,793	4,054,256
Total		23	476,793,397	382,735,536

<p>Prepared by: Market Administrator's Office Minneapolis, Minnesota August 2004</p> <p>At the Request of: John H. Vetne</p>
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