UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
(Dairy Programs)

In Re:
Milk In the Western and
Pacific Northwest
Milk Marketing Areas

Docket Nos. AO 380-A18, 368-A30
DA-01-08

Salt Lake City, Utah
April 16 – 18, 2002

TESTIMONY OF JEFF WILLIAMS
ON BEHALF OF GLANBIA FOODS, INC
In Opposition to Proposals 3 through 7, 9, and 11-13

Glanbia Foods, Inc. (formerly known as Avonmore West, Inc.), is a dairy food company headquartered in Twin Falls, Idaho. We operate two cheese plants in the Western federal order that together employ less than 500 people. The Twin Falls plant, which was formerly operated by WDCI (now DFA), converts about 2 million pounds of milk per day into Cheddar, Mozzarella, Monterey Jack, Colby, Colby Jack, and Pepper Jack cheeses. Our plant in Gooding Idaho is one of the largest producers of barrel cheese in the world. Every day the plant processes over 5 million pounds of milk into 500 pound barrels of cheese.

Glanbia also operates whey processing facilities at Gooding and in Richfield, Idaho, where a variety of whey, whey protein, lactose, and whey mineral products are produced. The whey is regularly supplied from six Idaho cheese plants.

Nearly 90% of the milk produced in Idaho goes into the manufacture of cheese products. There is little opportunity for producers of Grade A milk in Idaho, whose milk is available but rarely needed for fluid use, to market milk to distributing plants. Indeed, only about 5-10% of milk received by Idaho milk plants is used in Class I products.

The Idaho milk market is extremely competitive, with a half dozen major milk buyers operating in our milk procurement area. As a result, we must pay premiums to retain our quality milk supply. The market for finished cheese is also very competitive. Our primary competition is cheese manufactured in California, which enjoys a state-regulated price advantage over federal Class III milk of about $ .021 per finished product pound for class 4b milk used to produce cheese. American cheese production has increased 47% over the past four years in California while U.S. production and Idaho's production has increased only 6% and 7%, respectively, during the same time period. We have been able to make up most of the $.021/lb competitive disadvantage due to some cost advantages over California cheese plants in the areas of energy costs, labor costs and slightly lower transportation costs to Midwestern and Eastern markets. Our Eastern competitors, however, enjoy a transportation cost advantage over cheese plants in the Western, Pacific Northwest, and California markets by their proximity to population centers and major food processing facilities.

In order to remain competitive and viable in this environment, Glanbia has sought to improve its efficiency and maximize revenue for shareholders and producer patrons. In 2000, Glanbia completed a $33 million expansion and improvement project at its Gooding facilities.

Glanbia planned to invest an additional $5.6 million in 2002, but those plants were put on hold because of local regulations to discourage dairy farm expansion.

Raw farm milk is regularly supplied to Glanbia Foods by DFA, by Magic Valley Quality Milk Producers, Inc., both Section 9(c) handlers, by High Desert Cooperative, and by independent patrons. A small portion of this supply is Grade B. Glanbia received over 2.6 billion pounds of milk in 2001, representing over $320 million in revenue to Idaho dairy farmers.

Glanbia has pooled a portion of its Grade A milk supply since 1992 by supplying milk to Falconhurst Dairy or Smith's Dairy, both small plants located in Buhl, Idaho. Prior to federal order reform, we were able to pool virtually all of our Grade A producer patrons. Federal reform, unfortunately, adopted more "uniform" pool performance rules. The rules for the Western Market were not well suited for Southern Idaho, and we were therefore forced to exclude some of our milk supply from the Western Market pool. If DFA's proposals for reduced diversions and "net" shipments had been in place, we would have been forced to reduce our pooled milk on the Western Market by an additional 75% or more.

It appears we were not alone in being unable to accommodate available Grade A milk in the "reformed" Western Market pool. Data assembled at our request by the Market Administrator reveals that Western Market pooled milk delivered to Idaho plants was about 135 million pounds less during November 2001 than pooled milk to Idaho plants during November 1999 under the prior Order 135. Additional milk during 1999 pooled on the Great Basin Order was delivered to Idaho plants, but this data is restricted. We were, however, able to mitigate some of the loss of Western Market pooling opportunity by associating part of our milk supply with the Upper Midwest Order. This should not have been necessary, and illustrates the tendency of unrealistic current pooling rules to promote marketing inefficiency and foster producer inequity.

Proposals 3 and 5 through 7, advanced by DFA, are intended to further preclude many of Idaho's producers from participating in the federal order pool because their available Grade A milk is not needed for fluid use. These producers undoubtedly would be pooled under DFA's proposals if they elected to join a cooperative association under contract to supply the Western Market's few, major distributing plants; but this would not affect the need (or lack of need) for milk of these producers. It would only adversely affect the dairy farmer's freedom of choice to market their milk independently, or to choose membership in one cooperative over another. This result is contrary to principals of the federal Agricultural Fair Practices Act, as we understand it.

Proposals 3, and 5 through 7, would directly, adversely and greatly affect Glanbia and our Grade A producer patrons. Proposals 4 and 9 will not have an immediate adverse impact on Glanbia or its patrons. They are, however, part of the same package designed to build barriers to market entry and participation by dairy farmers inside and outside of the milkshed who may be attracted to the Western Market.

There are few fluid milk plants located in Southern Idaho or nearby Northern Utah. The larger distributing plants have a committed and adequate supply, so there is no genuine opportunity for Idaho's dairy farmers to find alternative means of pooling if these proposals are adopted. This is an extremely important issue, and an alarming prospect, for the Idaho dairy industry.

Our competitors located in the Midwest, as well as in California, are able to pool their milk with little difficulty. If adopted, DFA's proposals would aggravate the disadvantage we continue to suffer due to California's low class 4b price relative to the Federal Class III price, as well as the pooling opportunities lost to our plant and our producer patrons as a result of federal order reform. It is doubtful my company would have made a $33 million investment in Idaho manufacturing capacity had the additional regulatory constraints envisioned by DFA been in effect during the late 1990's.

We do not believe that there is a problem in this market securing an adequate and efficient supply of milk to distributing plants. When we first associated a milk supply with the pool, both Meadow Gold and Western Dairymen (now DFA) shunned our overtures to make milk available for distributing plant use so that our producers could enjoy the same benefits of pooling as many of their neighbors. Since that time, neither DFA, Meadow Gold, or any other major Class I handler has asked us to supply milk for distributing plant use. If the record reveals a problem securing an adequate supply for fluid use, or demonstrates that Class I suppliers are suffering a disproportionate cost that would not be incurred if the same milk were delivered for manufacturing use, payments or credits for performing Class I supply services would be appropriate, as Congress provided in the 1985 Farm Bill.

Net shipment restrictions are inappropriate for this market, whatever their merit may be elsewhere. Shipments that a distributor may return for manufacturing use at least represent the ability and willingness to supply the fluid market, even where there is no need at the moment. That, in this market, is sufficient association to permit a producer to share in the pool

According to data supplied by the Market Administrator, had DFA's diversion proposal been in effect during June 2001, over 150 million pounds of milk would have been ineligible for pooling as over-diversions. This represented 34% of the total pool for the month. Some of this milk may have been pooled if the handlers engaged in marketing inefficiency, but we doubt that inefficiency is a legitimate goal of federal milk order regulation. The only change that can rationally be justified in pool performance requirements, in our opinion, is a modification of diversion limits to 95%.

DFA, several Utah producer witnesses, and Utah trade associations testified to the effect that they seek a level playing field in pooling provisions. This is exactly the same objective that drives our opposition to proposals 3 and 5 through 7. It would create, and has created, disorder and producer discontent for some Idaho producers to have access to Order 135 pool qualification while others do not. A level playing field can be achieved if all Idaho producers are treated the same. As an alternative to the DFA proposals, we would suggest that the Western Orders exclude all

Idaho-produced milk from pool participation, somewhat like NDA wants (for good reason) to treat California milk. By this means, the market would not be composed of haves and have-nots; and the playing field, though a bit lower, would at least be level.

Meadow Gold's proposals, numbers 11-13 in the Notice of Hearing, ask the Secretary to regulate the price of milk sold by one type of handler (BTUs) to another (distributing plants) even though the pooling handler has accounted to the pool at class prices. The decision which created the Southwest Idaho-Eastern Oregon Order, and provided for BTU pooling, explained that the BTU is responsible for accounting to the pool, and that is all that is required or permitted by the Act. Apart from concerns of statutory authority, once the Secretary opens the door to price regulation of handler to handler transactions, there is no logical reason to exclude other transactions in the name of equal costs. The arguments advanced by Meadow Gold for price regulation of BTU sales to distributing plants would apply no less to sales between supply plants and distributing plants, between two distributing plants, contract bottling or "tolling" arrangements, packaged milk transfers between plants, and pooling fees charged by DFA, that have the effect of subtraction from minimum prices. We will study the record, and further address the merits of law and equity raised by Meadow Gold's proposals, in our post-hearing brief.