BEFORE THE UNITED STATES DEPARTMENT

OF AGRICULTURE

AGRICULTURE MARKETING SERVICE

In the Matter of Milk in California Notice of Hearing on a Proposal to Establish a Federal Milk Marketing Order	7 CFR Part 1051 Docket No.: AO-15-0071 AMS-DA-14-0095

Clovis, California, November 2015

Testimony of Alan Zolin

Part 6

Introduction

My name is Alan Zolin. I have been retained by Hilmar Cheese Company (HCC) to work with Dairy Institute of California (DIC) to develop an alternative proposal to Cooperative Proposal 1. I have worked with a task force made up of a number of representatives from DIC member companies in order to develop and submit Proposal 2.

Description of Proposal 2 Handler Definition with an Addition of a New Paragraph 9(d)

DIC has included a new paragraph in the Handler definition. This new paragraph is 9(d). This paragraph has been in other FMMO's in the past. The original concept of this paragraph was created by USDA in a 1981 decision for a hearing held to determine pooling provisions for the Southwest Idaho Eastern Oregon FMMO 135. At the time, USDA was applauded for its innovative thinking and problem solving by the proponents of changing the way supply plant handlers could qualify as a handler. The new type of handler created is called a "proprietary bulk tank handler" (PBTH). The concept was to allow proprietary handlers to pool milk in a similar manner that cooperative handlers can pool milk under the 9(c) provision. The proprietary handler would not need to create a "physical" pool supply plant in order to meet the performance requirements of the Order. The requirements for a proprietary handler, in order to meet the definition of this section are:

1) The PBTH must operate a plant located in the marketing area and the milk is not processed into Class I at the facility.
2) Prior to operating as a PBTH the Marketing Administrator (MA) must receive a statement from the pool plant operator where the milk of the PBTH is to be received specifying that the PBTH will be the responsible handler for the milk.

Back in the 1980's, proprietary handlers did not have the ability to meet the performance standards via shipments directly from the farm. Proprietary handlers only had the option to meet performance requirements via the supply plant definition. This methodology would require a proprietary handler to accumulate Grade A milk at a supply plant and make shipments (transfers) to a pool distributing plant. The innovative decision recommended by USDA changed that paradigm and allowed a proprietary plant to meet the performance standards by moving milk directly from the farm to a pool distributing plant. This concept allowed for the more efficient movement of milk, by eliminating unnecessary transportation costs and the unloading and reloading milk to service the Class I market.

Since 1981, numerous recommended decisions from the USDA created a methodology for a supply plant to meet the performance standards with movements to pool distributing plants directly from the farm. In testimony of the pooling standards in FMMO Order 30, Mr. Henry Schaeffer described the practice of "wet the tank once a month" as a requirement to demonstrate

that a pool supply plant is capable and prepared to meet the performance standards. It is DIC intent that with the addition of the PBTH, that the only difference between the PBTH provision and normal supply plant handler status, is that the requirement to "wet the tank" will not be necessary. DIC believes that the same market conditions that are present in California were also present in the Western FMMO 135. Plus the interest of USDA in preventing uneconomic movements of milk is as important now as it was in the 1980's.

HCC is supportive of Proposal 2 that includes the PBTH provision. Any relief that can be provided on the operational efficiencies at the HCC milk intake is welcomed. By not having to "wet the tank" the HCC cheese plant can focus on milk receiving efficiencies. Currently HCC receives over 250 milk trucks a day and utilizes 5 receiving bays. The HCC smallest silo size is 1.6 million lbs of milk. Milk is received 24 hours per day and 7 days per week. There is little room and or time to "wet the tank" in order to meet the regulatory requirement. These metrics represented by the HCC plant are significantly greater than the milk receiving systems of cheese plants in the Upper Midwest. Without an intake modification, HCC could not dedicate a silo to be its "pool supply plant". Therefore the PBTH provision will allow HCC to pool milk in a manner similar to the 9(c) provision for cooperatives and operate its manufacturing plant without needing to meet additional FMMO restrictions on its milk receiving patterns.