<u>Testimony In Opposition to the Prairie Farms & Dean Foods Proposal</u>

<u>Promulgating a "Mississippi Valley" Order</u>

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This testimony is presented in opposition to the Prairie Farms and Dean Foods proposal promulgating a "Mississippi Valley" Order, and is offered on behalf of Arkansas Dairy Cooperative Association; Dairy Farmers of America, Inc.; Dairymen's Marketing Cooperative, Inc.; Lone Star Milk Producers, Inc.; Maryland & Virginia Milk Producers Cooperative Association, Inc.; and Southeast Milk, Inc.

The promulgation of a new Mississippi Valley Federal Milk Marketing Order (designated as potential Order No. 94; Proposal No. 5 in the Notice of Hearing) from the Arkansas, Louisiana, Mississippi, Missouri and western Tennessee portions of the current Southeast Federal Milk Marketing Order No. 7, and the resulting decrease in the size of the Southeast Order would not lead to greater logistical efficiencies in milk marketing, would worsen problems associated with the current Order No. 5 and 7 transportation credit balancing funds, would worsen problems of disruptive blend price differences in the area, would not increase incentives to attract milk to the southeast, and would be in conflict with the consolidation history and Order consolidation measures set forth by numerous of the previous decisions issued by the Secretary consolidating Orders in the southeastern United States.

Logistical Milk Marketing Issues

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order would make efficient movement of milk supplies within the southeast more difficult, not less difficult. The splitting of the current Southeast Order would require further segregation of milk supply within the southeast by requiring milk to be assigned to smaller geographic areas. As has been previously demonstrated, substantial volumes of milk both inside and outside the current Order 7 marketing area are delivered to and capable of being delivered to multiple plant locations with the current Order 5 and Order 7 areas. The requirement that these milk supplies used in common among the Southeast and Appalachian Order be even further segregated to meet the separate producer qualification requirements of another Order would negate, or worse reverse, the logistical efficiency gains cooperatives have made since consolidating their supply of milk to the southeast.

Milk supplies, both within and outside the marketing area, which can serve both Orders 5 & 7 currently suffer the need to meet producer qualification requirements on both Orders (in the fall-16 days {ten days on Order No. 7 plus six days on Order No. 5}). The promulgation of yet another order would result in another layer of producer qualification requirements bringing the real touch-base requirement for producers that can serve all three Orders to an unfathomable 26 days in the short supply season {ten days on Order No. 7 plus six days on Order No.5 plus ten days on Order No. 94}. This 26 day touch base requirement would mean that milk which supplies all three Orders could not be diverted more than four days in a 30 day month, meaning the milk must be delivered to pool plants even during half the weekends during the month.

The effective increase in the producer qualification requirements would increase the cost of supplemental milk supplies to the cooperatives procuring the reserve supply of milk by effectively limiting the milk that could be pooled on the Orders. Any increase in cost of the supplemental milk supplies would not necessarily be borne proportionately by all market suppliers.

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order would not provide any additional economic incentive to move milk into the southeast from reserve supply areas. While the theoretical increase in Class I utilization percentage which might occur in the remaining Southeast Order area may well generate a higher blend price than may be generated under a consolidated Order environment, this increase in blend price to producers delivering producer milk to pool plants located in Alabama, Georgia and middle Tennessee (the remaining Southeast Order area) would come at the direct cost to producers delivering producer milk to pool plants located in the new Mississippi Valley Order. The proponents of the new

Mississippi Valley Order have indicated that they expect no new pool plants to be regulated as a result of their proposal, therefore, no additional Class I milk would be attached to the remaining Southeast Order and the new Mississippi Valley Order than currently exists in the Southeast Order, nor would any Class II, Class III or Class IV milk currently associated with the Southeast Order not be associated either with the new Mississippi Valley Order or the current Southeast Order. The proposed diversion limits and expected pool plants under the remaining Southeast Order would suggest a higher Class I utilization percentage than a new Mississippi Valley Order. Thus, any division of the current Order's Class I milk among two Orders, with the same milk attached to the two Orders as was attached to the single current Southeast order will create a direct income transfer through blend price increases to producers delivering producer milk to pool plants regulated under the remaining Southeast Order area, at the expense of producers delivering to plants regulated by the proposed Mississippi Valley Order. In short, this would be robbing Peter, that is the producers supplying plants regulated under the proposed Mississippi Valley Order, to pay Paul, that is the remaining Southeast Order.

While an increase in the blend price to producers delivering producer milk to pool plants located in Alabama, Georgia and middle Tennessee may appear to offer an additional incentive to deliver producer milk to these plants, at the same time there is created the counter disincentive to deliver milk to plants regulated by the new

Mississippi Valley Order. As we have demonstrated, all of the territory covered by the current Appalachian and Southeast Orders is deficit of milk for Class I use. The establishment of economic incentives to move of milk between two deficit areas is completely without merit, both areas need milk from outside the area. Further, the establishment of an Order of higher Class I utilization and thus higher blend price in the remaining Southeast Order does not increase blend prices enough to encourage milk supplies to move into the southeast without the aid of over order values to provide the necessary economic incentives to get milk to the southeast.

Exhibit number 67 demonstrates that even at 100 percent Class I utilization in the proposed Southeast Order, over order prices are necessary to attract milk to the southeast.

Transportation Credit Balancing Fund.

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order would fail to address the need to establish a consolidated transportation credit fund for the southeast which would equalize handler Class I cost across the region, and would equalize supplemental milk costs through a common payout from the Transportation Credit Balancing Fund. In addition, increasing the number of Orders and thereby the number of Transportation Credit Balancing Funds will increase incentives to move milk in uneconomic ways to maximize collections from the multiple transportation credit funds.

Prior Federal Order Hearings and Decisions

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order does not address the Order consolidation factors enumerated by the Secretary in the Order reform decision. Separate Appalachian, Mississippi Valley, and Southeast Orders do not address the substantial and increasing producer milk overlap amongst the areas, nor does the proposal recognize the substantial and increasing Class I sales overlap amongst the areas as detailed earlier in this hearing record. Further, the proposal does not reflect the significant and substantial increases in the consolidation and coordination of the milk supply for the southeast, nor the substantial consolidation which has occurred in the processing sector.

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order would not recognize the importance of the development of new large dairy farms outside the marketing area which have become an important source of supply for the southeast. As was demonstrated previously this milk supplies many plants located within the current Appalachian Order and plants which would likely be pooled on both the proposed Mississippi Valley Order and the proposed remaining Southeast Order.

The proponents of the establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order state that more Orders are needed, not fewer. The marketing goals and Order objectives that would be satisfied from the promulgation of the Mississippi Valley Order seems to be predicated on the supposed need for a greater number of Orders in parts of the country outside the southeast. Even if there is evidence of the need for smaller and more numerous orders outside the southeast, this does not provide any evidence that more Orders are needed in the southeast. The Secretary has throughout the history of Federal Orders in the southeast recognized the increasing interplay of milk supplies amongst the southeastern states, as well as Class I sales competition between handlers in the region. The Secretary rejected a similar proposal for a southeastern Order structure which was submitted in the Order reform.

The proponents of the establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order do not address or answer the market overlap which existed when the then Central Arkansas and Memphis, Tennessee market areas were included in the Southeast Order. This market overlap continues to exist. Likewise, the overlap that existed when the southern-Missouri portion of the then Southwest Plains market area was included in the reformed Southeast Order (2000) continues to exist.

Market Structure Issues

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order would not recognize that the area currently covered by the Southeast and Appalachian Orders is a single fluid milk market, supplied as a single market, with many plants serving common customers and geography.

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order would increase the number of Federal Order blend prices generated for the southeast, and therefore, the disorderly blend price differences and the concurrent market disruptions would increase.

The proponents of the Mississippi Valley Order and a reduced size Southeast Order recognize in their proposal the interplay of supply between the current Orders 1005 & 1007, and subsequently Orders 1005, 1007 and 1094 by limiting the producers eligible for transportation credit payments to those not located within any of the three proposed Orders. If the proponents of the Mississippi Valley Order and a reduced size Southeast Order area believed that the Mississippi Valley was truly separate and distinct from, and a reserve supply area for, the Southeast and the Appalachian Order areas, then producers located within the Mississippi Valley Order area should be eligible to receive transportation credits when their milk moves into either the Southeast or the Appalachian Orders.

The proponents of the Mississippi Valley Order and a reduced size Southeast Order recognize in their proposal the similarity of the proposed Mississippi Valley Order to the Southeast Order by proposing pool plant qualification provisions and producer qualification requirements identical to the current Southeast Order. If the Mississippi Valley Order area was truly separate and distinct from, and a reserve supply area for, the Southeast and the Appalachian Order areas, then the pool plant qualification provisions and producer qualification requirements for such an Order should be less restrictive than either the Southeast Order or the Appalachian Order.

If it is true that the proposed Mississippi Valley Order is not truly separate and distinct from, and a reserve supply area for, the Southeast and the Appalachian Order areas then no justification exists for a different producer blend price in the Mississippi Valley Order versus either the Southeast or the Appalachian Orders.

Administrative Issues

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order would increase the number of Federal Order reports of receipts and utilization as well as payroll reports that cooperatives and processors must file with market administrator(s), which would increase cooperative and handler administration costs. Likewise an increase in the number of blend prices announced by the market administrator(s) would increase Order administration costs.

Lack of Support For The Proposal

The establishment of a Mississippi Valley Order and the reduction in the size of the Southeast Order is not supported by a majority of the producers supplying the market, much less supported by two-thirds of the producers supplying the Order.

Cooperative Service Areas

The cooperative members serving the current Southeast and Appalachian Order areas would continue to serve the plants pooled under the proposed Mississippi Valley Order and the proposed remaining Southeast Order area. The common supply for the two marketing areas proposed by Prairie Farms and Dean Foods would have to be split in order to accommodate the separate Orders' producer qualification requirements, despite the cooperative suppliers to the area considering the entire area to be a single fluid milk market and the cooperative suppliers to the area serving the market in just that way. This represents a case where cooperative service area must be considered as a significant Order consolidation factor.

Summary

Dividing the current Southeast marketing area into a new Mississippi Valley Order and a smaller Southeast Order would:

1. Impose substantial challenges to the ability for marketers of milk to efficiently supply the southeast with milk;

2. Would establish multiple producer blend prices to producers supplying a single fluid milk market;

3. Would increase handler and Order administration costs;

4. Would perpetuate and likely worsen equity issues in the operation of the Transportation Credit Balancing Fund system; and

5. Would not create any true new incentives to move milk into the southeast.

Thank you.