

Testimony of Michael P. Sumners Before the United States Department  
of Agriculture; Hearing on the Appalachian and Southeast Milk  
Marketing Areas

My name is Mike Sumners, and I am a dairy farmer in Paris TN. My father was a dairy farmer and I have been involved in the dairy business from a very early age. I received a degree in Animal Science from the University of Tennessee in 1980, and soon after college in 1981 I began a longtime partnership with a dairy farmer in Franklin, TN. As a partner in Harlin & Sumners Dairy, I began by managing an 84-cow herd. The herd grew to 250 cows. In 2001, I bought out my partner and purchased a 450-acre farm in Paris, TN and increased the size of my herd to 500. I am here today to offer my testimony in support of Proposal Number Eight. I also oppose the various proposed regulations that would limit the size of producer-handler operations to 3,000,00 pounds of Class I sales per month, although my statement is directed primarily at Proposal Number Eight.

I have been an independent dairy producer since the early 1990's. In 2001 I signed an independent supply agreement with Dean Foods.

Since that agreement was entered into, the agreement has been assigned first to "New" Dean Foods and then to Dairy Marketing Services. While many dairy farmers have known that DMS was affiliated with Dairy Farmers of America, this week was the first time I was ever made aware that my milk was actually marketed by DFA. What that exactly means, I do not know.

My situation is not unique. The ability of the dairy farmer to independently market his or her milk, outside of the cooperative structure, is quickly disappearing. There are fewer and fewer cooperatives each year, fewer processing plants and processing companies today than even three years ago. Dean Foods has recently announced that it will be closing even more of its plants. The evidence presented at this hearing in support of the merger of Orders 5 and 7 established that two processing companies control over 40% of pool plants in these Orders and that Southern Marketing Agency is responsible for marketing a huge majority of the milk sold into the Appalachian and Southeast marketing areas. DFA controls the majority of this milk.

Even though I have increased my herd size and milk production,

milk production has been declining in the Southeast. The Southeast has been balancing milk plants by bringing milk in from other areas for many years now. Federal Orders 5 and 7 both recognized the importance of outside milk to balance when they allowed transportation credits.

All of this consolidation, which has even grabbed the attention of the Senate Judiciary Committee, limits the options available to dairy farmers. As it stands today, there are very few choices to dairy farmers to market their milk. The availability of being a producer-handler may be the only alternative that some dairy farmers have other than being associated with cooperatives who have a totally different agenda than independent producers. However, the current regulations in Orders 5 and 7 practically eliminate the producer-handler option as a realistic possibility for the dairy farmer.

It is obvious, based on the evidence submitted at this hearing, that the current regulations in the Appalachian and Southeast marketing areas are not conducive to the establishment and prosperity of producer-handler operations. While I am sure that this does not upset the cooperative representatives here, it should be troubling to the dairy farmers that these cooperatives claim to represent. The reason that

producer-handlers are a non-factor in Appalachia and the Southeast is because this is a deficit market and the current regulations do not permit the producer-handler to purchase a single ounce of milk in order to balance his supply. The Appalachian and Southeast Orders, along with the Florida Order, are the only federal orders that do not allow producer-handlers to purchase any milk for the purposes of balancing supply. In fact, each of Orders 1, 30, 32, 33, 124, 126, 131, and 135 (before DFA voted it out because they thought they were sharing too much of the Class I market), permit all producer-handlers to purchase up to 150,000 pounds of milk each month.

As has been mentioned repeatedly during this hearing, the Southeast is particularly prone to seasonal swings in production. Since a producer-handler would only be able to commit to customers based on the lowest production amount during the course of the year, this means that he would have a 35% to 40% surplus to deal with during the flush months. I based this figure on my own experience and by comparing the producer milk figures in Exhibit 43, Table 1. That surplus milk is still needed in the marketing area, but the absence of a purchase allowance means that it may not be available to service the local Class I market.

Allowing a producer-handler to purchase milk during the lean months (which would be accounted for at the Class I price) would make being a producer-handler a more viable alternative than it is today.

I selected a purchase allowance of 10% during the flush months, December through May. During the remaining months, the purchase allowance would increase to 30%, which would allow the producer-handler to service the majority of the customers serviced during the flush period. However, given the large swings in production experienced in this region of the country, even a thirty-percent purchase allowance might be insufficient to compensate for the seasonal drop in production. For the purpose of determining the purchase allowance, I suggest that the Market Administrator calculate the quantity of the purchase allowance based on the producer-handler's production in the immediately preceding month.

There are no producer-handlers of consequence in this market today, largely because they cannot balance supply economically. Producer-handlers would be a plus to the marketing area because they would directly service the Class I needs of the market, which are now served in large part by milk produced outside the area and shipped in at

the expense of local producers or consumers. Producer-handlers also provide fresh milk to the consuming public at a reasonable price. In addition, producer-handlers can serve niche markets and smaller clients, possibly ignored by larger processors. Also, producer-handlers provide competition to the marketplace, which is good for consumers and dairy farmers.

In conclusion, the Secretary should adopt Proposal Eight because:

1. It permits nominal milk purchases by Order 5 and 7 producer-handlers, thereby making their establishment and existence in the Southeast more realistic;
2. It provides dairy farmers an option to the "take it or leave it" situation that is now forced upon them by the shrinking number of purchasers of milk;
3. It brings the terms of the Section 1007.10(c) more in-line with the terms of the same subsection of the other federal orders;
4. It reflects the realities of milk production and balancing in the Southeast.

Thank you for your consideration of this testimony.