Before the United States Department of Agriculture
Agricultural Marketing Service

In the Matter of	:	: **Docket** Numbers
	:	
Milk in the Appalachian and	:	: **AO-388-A17 and**
	:	
Southeast Marketing **Areas**	:	: **AO-366-A46**

Testimony of Dennis J Schad
On Behalf of Land O'Lakes, Inc
Regarding Proposals One through Four

January 10,2006

Exhibit ____

Date 1/12/06 Exhibit # 40
Case US Dept of Agriculture
Deponent
Reporter Danyiel Carpenter CRS File # 8916
Court Reporting Services, Inc.
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My name is Dennis Schad and I am here to testify on behalf of Land O'Lakes, Inc. I hold a bachelors degree in History from the College of William and Mary and a Masters in Business Administration from Virginia Tech. I have worked for Land O'Lakes and its predecessor cooperatives for twenty-five years and my current title is Director of Regulatory Affairs. Prior to this assignment, I have held positions in cooperatives' marketing and transportation departments. I have testified at numerous Federal and state milk marketing order hearings and before the agriculture committees of several state legislatures.

Land O'Lakes (LOL) is a dairy cooperative with over 4,000 dairy farmer member-owners. The cooperative has a national membership base, whose members are pooled on six different Federal orders. For over ten years Land O'Lakes and its processor cooperatives has provided a supplemental supply of milk to the Southeast. From that time Land O'Lakes' members have been continuously pooled on the Southeast orders.

I testify today in support of Proposals 1 and **3;** in opposition to Proposal 4 and with no position on Proposal 2.

Land O'Lakes Supports Proposal 1

Land O'Lakes is a supplemental supplier to the Southeast orders. In this role the cooperative supplies seasonally needed milk from its Northeast and the Midwest milk sheds. Testimony has already been given by the proposal's proponents that show that claims against the Transportation Credit Fund exceeded the fund's resources. When claims exceed the fund's resources, payments to handlers who provide the supplemental deliveries are prorated. Proponents point out that only 39 percent of the claims were paid in Order 7during 2004, while 54 percent of claims were reimbursed in Appalachian Order.

Land O'Lakes appreciates the change in the Southeast orders in November of 2005 that increased the Class I assessment in the two orders by three cents per hundredweight. We also agree with the proponents' analysis which states that the November increase is insufficient to fully reimburse future claims against the Fund.

Land O'Lakes agrees with the analysis provided by the proponents and supports Proposal 1, which will increase the Class I Transportation Fund assessment by five cents in Order 5 and by ten cents in Order 7.

Land O'Lakes Has No Position on Proposal 2

Having no members residing in the marketing areas of the two Federal orders, Land O'Lakes takes no position on Proposal 2.

Land O'Lakes Supports Proposal 3

Land O'Lakes is a supplemental supplier of milk to the Southeast from its milk sheds in the Northeast and Midwest. We have read the testimony of the proponents and agree with their evidence and analysis. In transporting milk to the Southeast markets for over ten years, Land O'Lakes has seen its costs increase. We have experienced increases in all cost categories including, but not limited to, labor, insurance, fuel and truck costs.

Land O'Lakes also supports a variable cost per mile transportation credit reimbursement rate as presented by the proponents. Basing the reimbursement rate on diesel fuel cost will be more responsive to the costs actually experienced by the handlers who move milk into the deficit markets.

Land O'Lakes Opposes Proposal 4

Previous testimony has stated the obvious: The on going trend in the Southeast has been a decline in milk production and an increase in population in the region. These supply and demand conditions have resulted in the need to source supplemental milk further from the marketing area. The Transportation Credit provisions of Orders 5 and 7 are designed to provide credits to handlers who import supplemental milk into the Appalachian and Southeast orders during the short production months of July through December.

In order to qualify for transportation credits, certain requirements must be met. Payments are limited to producers that reside outside of the Order's marketing area and such producers are required to be off-market at least two months during the preceding February through May period. Payments are made only for Class I movements and no transportation payments to producers are made for the first 85-miles of travel. Additionally, transportation payments are decreased by the positive difference between the farm and the receiving plant's Class I zone.

This program reimburses handlers for some of the costs of importing supplemental milk on a transactional basis. Milk is moved to the deficit market and a partial payment is made, based on a set of stringent contingencies. The intent of Proposal 4 is to add another set of requirements to the Order's Transportation Credit provisions for making needed July through December shipments of Class I milk to the Southeast. These new requirements would do nothing to encourage needed milk imports into the Southeast during the short production months, July through December.

Proposal 4 would require a comparison between Z% (30%?) and the percentage of milk delivered to plants other than 1005.7 (a) and (b) and 1007.7 (a) and (b) plants. If the proponent-defined delivery relationship is greater than Z%, then transportation credit payments to the importing handler will be so prorated.

Section 1005.13 already defines the necessary shipments required for Pooled Producer status at a handler and individual producer level. Diversions by cooperative associations and by operators of pool plants may not exceed 25 percent between July and November and 40 percent during December. Additionally both orders require that all pooled producers "touch base" at a pool plant during each month. In order to facilitate movements during the short months, which coincide with months in which handlers may draw Transportation funds, "touch base" requirements are increased.

Under the Orders' definition, a diversion is a delivery to a non-pool plant. Deliveries to other-order S. 100_. 7 (a) plants are down classified and counted as diversions. Proponents offer a new diversion definition in order to qualify for full payment of Transportation Credits, where a diversion is a delivery to plant other than 1005.7 (a), (b) or 1007.7 (a), (b) plant. While pooled Order 5 milk is ineligible to collect Transportation Credits at an Order 7 distributing plant, proponents would include such deliveries in the numerator of their Transportation Credit relationship. Likewise the Order would include deliveries to 7(c) and (d) supply plants and deliveries to a 7(e) Class I/Class II system of plants in the numerator of the diversion relationship, while proponents would exclude these deliveries from their calculation for full Transportation Credit reimbursement.

It is actually unclear what milk would be included in the denominator of the proponent's relationship. Do they wish that the relationship be computed for each single producer or do they mean that all of a handler's deliveries be include in the ratio? If so do they mean that all of handler's deliveries be included or just deliveries by producers located outside of the marketing area. Do they mean all of the producers located outside of the marketing area, or just those requesting Transportation Credits?

Section 1005.82 (d) (2) sets the requirements for distribution of Transportation Credits between an other-order plant shipping plant and an Order 5 distributing plant. It is completely unclear what milk is to be included in the proponent's relationship for this provision of their proposal. On the basis of an undefined relationship, proponents recommend limiting the payment of Class I transfers from out-of-order pool plants

Proposal 5 is vague and defective. However, the Secretary should not reject this proposal for these reasons. He should reject these changes to the Transportation Credit provisions because these proposals do nothing to better effectuate the movement of milk into the deficit market. The current provisions define a transactional relationship: supplemental Class I milk is needed in these markets during a specific period and the Transportation Credits provide moneys to partially effectuate the movement. The current order producer qualification and Transportation Credit criteria provide adequate safeguards to this program and no more are required.

Land O'Lakes requests that the Secretary reject Proposal 4.