

BEFORE THE UNITED STATES
DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

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In the Matter of: **Milk in the Mideast Marketing Area:**
Docket No.: AO-166-A68 DA-01-04

October 23 & 24, 2001
The Holiday Inn Express Motel
Galaxy Banquet Center
231 Park Centre Drive
Wadsworth, Ohio

BEFORE:
THE HONORABLE JILL CLIFTON
Administrative Law Judge

BRIEF AND PROPOSED FINDING OF FACTS:
Submitted on behalf of Scioto County Cooperative
Milk Producers Association

BEFORE THE UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

In the matter of:

Milk in the Mideast Milk Marketing Area: Docket No.: AO-166-A68; DA-01-04

Opening Comment

There can be little doubt of the need for amendments to the Order after the subject hearing. All of the witnesses called for change. Nearly all of the witnesses said the Order as currently written has led to disorderly marketing conditions (tr. P 133, 199, 215, 261, 479). The exhibits entered into the record further indicate the disorderly marketing conditions that have occurred since “order reform”. Most telling of the need for change is the fact that *no witnesses called for the status quo*. The hearing record has numerous witnesses testifying to the fact that large quantities of milk located far from the market have been added to the market yet have not contributed to meeting the needs of the market (tr. P 135, 215, 229, 231, 241, 479).

Based on the testimony and the disorderly marketing conditions that have occurred, pooling standards must be changed. The need to re-institute “zone-out provisions” is also evident based on the hearing record (tr. P 176, 480-481, 490). We believe the Secretary and the Department should take the initiative to establish zone-out pricing provisions for each of the orders where disorderly marketing conditions are occurring due to the lack of logical location pricing. The Secretary has the authority to correct, delete or add provisions that will contribute to the orderly marketing of milk. Putting zone-out provisions back into the order will obviously contribute to the orderly marketing of milk in the Mideast Milk Marketing Area.

Proposed findings:

Proposal No. 1 should be adopted as proposed. Distributing pool plants have contributed to the attachment of milk to the market that has drawn down the blend price and not contributed to meet the needs of the market (tr. P 277, 482). Adopting the proposal will not be harmful in any way to any of the distributing pool plants in the market.

Proposal No. 2 should not be adopted as proposed. The proposal to allow only “net” shipments of milk to distributing pool plants to be used for qualification purposes should be adopted. It is obvious that abuse of this provision has taken place in the past few months (tr. P 55, 59, 484). However, the current .7(c) (4) provision which allows for reserve supply plants that are not required to ship to the market 12 months of the year, should be retained. Witnesses testified to the need for market balancing features in the order (tr. P 226, 242, 261, 485). *Having provisions that require supply plants to ship milk when required by the market and to retain milk in local plants during the flush is only logical based on the needs of the Mideast market (tr. P 485, 494).*

Proposal No. 3 should be adopted. The record is replete with the need for tighter pooling standards. Adopting proposal number three will be very helpful in contributing to the orderly marketing of milk.

Proposal No. 4 should be adopted as proposed. While processors opposed this proposal, the record is clear that dairy farmers are already advancing processors several days of milk prior to being paid for the product. Increasing the partial payment is one way of reducing dairy farmer financial hardship.

Proposal No. 5 should not be adopted as proposed. While the proposal is well intentioned, it does not provide the solution proponents envisioned. **The alternative proposal presented by Scioto County Cooperative Milk Producers Association at the hearing (tr. P 488) should be adopted as a more logical and effective solution to the problem. This proposal would limit the amount of producer milk a reserve supply plant could attach to the market during the "free ride" months.**

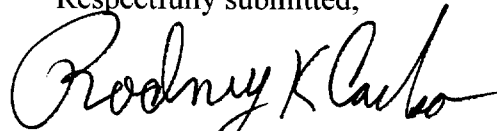
Proposal No. 6, 7 and 8 should not be adopted.

Proposal No. 9 should be adopted as proposed. Four different proposals were made to make diversion allowances more restrictive. Proposal number 9 limits diversions to a percentage of the milk *physically received* at a plant. The concept of allowing diversions based on milk physically received is very logical and preferred by most industry representatives (tr. P 102 266, 270,281,293, 302). Witnesses talked about the negative impact of the "multiplier effect" of allowing diversions to increase diversions. Proposal number 9 is the most effective proposal to restrict diversion allowances.

NEED FOR EMERGENCY ACTION:

Several witnesses testified for the need for emergency action (tr. P 73, 102, 108, 259.). *There is need for action to be taken as quickly as possible.* Recent decreases in dairy commodity prices leads to the inevitable decrease in milk prices. Local milk supplies in the Mideast Marketing Area are in jeopardy. The quicker the order amendments can be instituted to avoid the dilution of the market blend price, the better for all handlers, producers and the rural communities within the marketing area. Scioto County Milk Producers hope that amendments will become effective prior to the "free ride" and unlimited diversion months of 2002 in order to prevent major abuses to the Mideast Market and significant deterioration of local producer milk prices.

Respectfully submitted,



Rodney K. Carlson

On behalf of

Scioto County Cooperative
Milk Producers Association