

BEFORE THE UNITED STATES DEPARTMENT OF AGRICULTURE

In the Matter of:) **DOCKET NO. AO-368-A32;**
MILK IN THE PACIFIC NORTHWEST) **AO-271-A37; DA-03-04**
AND ARIZONA - LAS VEGAS)
MARKETING AREAS)

**INDIVIDUAL AND SUPPLEMENTAL
COMMENTS ON RECOMMENDED DECISION
SUBMITTED BY :**

**MALLORIE'S DAIRY, INC.
Silverton, OR**

June 13, 2005

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I. Introduction

Mallorie's Dairy, Inc., is a producer-handler located in Silverton, Oregon that has taken pride in providing high quality fluid milk and milk products to the consuming public for decades. Representatives of Mallorie's Dairy attended the rulemaking hearings, offered testimony, and otherwise participated in this hearing process. Mallorie's is one of four identified producer-handlers in the Pacific Northwest marketing order that would become subject to the pooling and pricing provisions of the order because it has route disposition of more than 3 million pounds per month.

Mallorie's customers have come to both expect and enjoy the quality and care that goes into the milk products of this "cow to carton" operation. Since its inception, Mallorie's has operated as a producer-handler. Mallorie's Dairy began after founder Robert ("Bob") Mallorie returned from Pearl Harbor, finished his education at The Ohio State University in Veterinary Science, and traveled to Oregon to work as a large animal veterinarian. He started with nothing and founded the dairy in 1954. He took good care of his cows, his family and his customers until his death in 1996.

The family has worked at the dairy for more than 50 years and three generations are now involved with the dairy in what has become a way of life. Bob Mallorie's daughter, Teri Mallorie Kilgus, began working on the dairy as a teen. Teri is currently responsible for the care of the cows. She is out in the barns with the veterinarians. She regularly works on good nutrition and care for the herd. Her brother, Richard Mallorie, is the current president of the corporation. He began working on the dairy with his dad when he was five years old. He has held virtually every job on the farm--from harvesting food for the herd to delivering milk to the stores. Rick oversees the entire dairy, the employees and the customers. He works hard to ensure that equipment works well, that employees have what they need, and that customers are happy.

The location of the dairy in Silverton, Oregon, approximately 11 miles northeast of Salem, has allowed Mallorie's to provide fresh and wholesome milk to the communities of Silverton, Salem, Keizer, Woodburn, Canby, McMinnville, Albany, Lebanon, Corvallis and Polk County.

II. Statement of Impact

If implemented, the proposed rule issued by USDA in the April 13, 2005 Federal Register, will have severe economic consequences for Mallorie's Dairy which reach far beyond the immediate family of Bob Mallorie. Its employees, suppliers, vendors, and the consuming public, including some consumers who have been customers of Mallorie's for decades, will be adversely affected. USDA's Recommended Decision will negatively impact this business and the consequences of USDA's actions should not be ignored. Among those consequences are the following:

- Mallorie's Dairy employs 86 people. If Mallorie's is not able to survive under the parameters of the Recommended Decision as is expected, some or all of those 86 people will lose their jobs.
- Mallorie's Dairy pays its employees a living wage and its payroll costs alone exceed \$2.4 million each year. Stable jobs that provide a living wage are difficult to replace in today's economy.
- More than 60 % of the employees of Mallorie's Dairy have been employed by the dairy for more than five years.
- More than 30 % of the employees of Mallorie's Dairy have been employed by the dairy for more than ten years.
- More than 70% of Mallorie's Dairy employees are the sole wage earners for their families. Thus, the impact of the loss of employment extends beyond the wage

earner to affect their spouses, children and other dependents.

- Mallorie's Dairy provides health insurance to its employees and their families and a retirement plan to its employees. In addition to the loss of income from wages, employees would also lose critical health insurance and retirement benefits. Even if jobs can be temporarily spared, Mallorie's will certainly be forced to reduce or eliminate these benefits which it has proudly provided to its employees in the past.
- Mallorie's Dairy helps its employees pay for higher education. Mallorie's commitment to increasing its employees level of education benefits not only the employee, but the employee's family, the dairy and the community at large.

Mallorie's currently produces about 580,000 gallons of milk only from its own cows each month and currently bottles for sale about 520,000 gallons of its milk each month. The proposed rule will limit Mallorie's to sell only 348,000 gallons of milk each month. If Mallorie's goes over the limit, Mallorie's will be required to pay the equivalent of a surcharge for all the milk it bottles, not just for those sales over 348,000 gallons of milk. The amount of the monthly surcharge would be more than \$83,000 per month if the production level remains the same. This results in the equivalent of a surcharge of close to one million dollars each year. Mallorie's will need to lay off employees, reduce employee benefits, and otherwise drastically cut costs in order to survive. Even then, there is no guarantee of survival. Mallorie's may also need to reduce its herd size by one-third which will result in negative financial consequences to other businesses in the community which provide products and services to Mallorie's.

In addition to cuts at the dairy, Mallorie's may need to increase the cost of their milk to retailers which will increase the cost of milk to consumers. If Mallorie's increases the cost to

retailers, Mallorie's could lose customers and the business could fail. Consumers of Mallorie's milk have also expressed a strong negative reaction to this action by USDA as expressed in part by the over 4,500 signatures on petitions which have been gathered by Mallorie's in the short time since the decision and as further evidenced by the tens of thousands of additional comments and petition signatures received from individuals, many of them consumers of Mallorie's and the other two producer-handler participants from the Pacific Northwest.

In today's world when consumers are so often apathetic, this kind of grassroots reaction is nearly unprecedented. The overwhelming response reflects the loyalty of Mallorie's customers, the fears of consumers worried about increased milk prices and loss of competition in the dairy industry, and their concern that they will lose a choice in purchasing milk that can be controlled from "cow to carton" by the manufacturer. Just a few of the more than 11,000 comments sent to USDA on this issue are included below. Those selected reflect the loyalty of Mallorie's customers and the frustration of consumers. Some even speak directly to the Recommended Decision's faulty finding that producer-handlers undercut retail prices from regulated handlers. (The typographical and spelling errors are from customer comments; these excerpts have not been edited or corrected.):

- We buy Mallorie's milk because it is free of growth-hormones and is great quality at good price. We feel good supporting our local dairy, as this strengthens the economy of Silverton. We CANNOT afford to purchase organic milk or soy milk. We WILL NOT PURCHASE milk from mega-producers (like Lucerne, for instance) because we don't trust their product. Please do the right thing and exempt Mallorie's and other producer-handlers from any change in regulations that would drive up the cost of their milk and possibly put them out of business. We DO NOT now support large

national and regional dairy cooperatives and milk and producers and will NOT support them in the future.

- This proposal will increase milk prices and devastate the small Silverton community with layoffs and possible closure of Mallories Dairy. We see this as a way of the larger companies to swallow up the small family owed businesses. Please do not allow this to happen.
- I have been drinking Mallories milk for as long as I can remember. I work at Roth's grocery store and it's our most popular brand. I don't see why you should limit the amount of milk they can produce each month, and or charge them extra for producing more than your "limit". It just looks like another case of the big businesses trying to put the small ones out of business. It's just wrong. They do so little amount compared to the big companies, I don't see why they should be squeezed out. Please be reasonable, let Mallorie's keep doing what they do best, I'll keep drinking it, and you guys quit "fixing" things that don't need to be fixed!!
- This regulation seems to go away from the president's employment goals, by enacting this, milk producers will be laid off, and some dairies might close all together. What net benefit is that, to the consumers, such as myself, the dairies, and to the economy as a whole?

My husband and I are regular milk drinkers, from one of the producer-handler groups that would be affected (Mallorie's), and while we only use about 2 gallons a week, that still adds up over a year. Please, don't add this unneeded regulation, we need these farmers!

- We've had Mallorie's Dairy in our town for more than 50 years. They have worked to build their herds to the optimum size over the years and have not increased their herd size in 20 years. We appreciate the fact that they do it all there -- from raising the calves to bottling and marketing the milk themselves and would like you not to impose added surcharges on them that would penalize this family business for diligently making their dairy the best it could be; producing top-quality milk, which we enjoy every day, and for being an important part of our community. To stay under the proposed cap, they'd have to cut their herd size drastically. If they don't, they could be looking at a million dollars a year in extra charges. Producer-handlers have their own set of challenges that those who just do one or the other don't have. Please don't listen to the "big guys" and put the squeeze on this decent, hard-working dairy that sponsors Little League teams, contributes to Young Life auctions and pays a living wage to many in our community. Allow free enterprise to exist in the milk industry. Thank you for hearing my opinion.
- Keep the mid-sized farmer in business. This legislation will hurt a major employer in our area, and raise prices for families in our area. Oregon already has a high unemployment rate and this would cut jobs and raise the price of milk for the families who can least afford it. Please do not penalize Mallorie's by limiting their production.
- I believe having a local milk producer-handler benefits my community and local economy. I buy Mallorie's Dairy milk regularly at my local grocery store and want to see their prices remain competitive. I strongly encourage the USDA to reconsider

its proposed rules, which would hurt local milk producer-handlers. Let Mallorie's and other western producer-handlers continue the way they are today, with no limits on production.

- My household drinks milk from Mallorie's Dairy located in Silverton, Oregon. We have our milk delivered to our home. The price we pay for our milk is RIGHT IN LINE with prices at the grocery store. We do NOT pay significantly less, rather, we pay about the same price with the added convenience of the milk being delivered to our doorstep. Being a mother of two young children, THIS saves me time and money. I also like the fact that I am supporting my LOCAL economy receiving milk from a local dairymen. Before the USDA brings down a regulation like this proposed one, the USDA should talk to LOCAL farmers and agriculture programs at universities (you could have a senior to his/her senior project on the long term effects of such a regulation) NOT just the big dairy corporations.
- We travel a lot to Western Oregon. In fact we lived over there for forty years. During that time we learned about Mallorie's Dairy and their products. They always provide good, reasonably priced dairy products. Why do you want to implement a decision which will, in all probability, increase the amount I have to pay for my milk products? This is a bad idea in that it penalizes these smaller independent dairies as well as consumers like us. This will also have a negative impact on the work force by forcing the affected dairies to either reduce their workforce or close their doors entirely. These producers control only a small portion of the overall market, but the consequences of your action could, and probably will, have definite negative effects

on the entire population of Oregon.

- I love milk! I moved to the country to enjoy all the benefits of the old country ways. I love knowing the cows and the people that are producing milk and other dairy products for me. I know who I can go to if there is a problem... best of all there are no problems! I know my dairymen are working to give me a healthy product... corporations really only care for themselves. Since they are controlling 96% already let them keep that. I need to keep my dairy. Mallorie's cares about ME!
- Why is it always the little guy that gets picked on the most? Why should these few farms who work so hard to put out great quality products have to suffer just to help the big wigs? My dad used to say "If its not broke why fix it?" Speaking of my dad, he helped put together Mallorie's dairy and make it the producer it is today. He would totally be apalled to think that the USDA which he was proud to be a part of would try to do this to the little farms who strive so hard to do what they can to make things work. My dad worked many years for All West Breeders/Select Sires and was a big part in creating great dairies through his inventive way of breeding the best bull to the right cow to help get great milk production. Mallories was something he worked extra hard at to do exactly that. He put together the best bulls and cow combo's to make things work the best. He showed alot of pride in what he did but was always on the dairies side to help them succeed. Mallories is a great family run dairy and my dad especially worked to help them and knew the family for many many years. Dr. Mallorie helped my dad get started in the dairy business and they became great friends. I don't know if any of you there knew Bill Williams but he was a great man

with super integrity and joy in the work and help he could do for the dairies he served, especially Mallories. Please reconsider this decision to put such tremendous pressure and costs onto the little dairies that work so hard to do the great job they are doing at serving there costumers. Don't cause them to have to make up the difference just because you can. They work hard to do the job they do and they should not have to pay millions a year extra to do the job they do. Please stop this ruling and you too can help keep milk prices low.

III. The Recommended Decision ignores the record evidence and the law.

Mallorie's Dairy has participated in the filing of joint comments in opposition to the Recommended Decision with two other producer handlers in the Pacific Northwest – Edaleen Dairy of Lynden, Washington and Smith Brothers Farms of Kent, Washington as well as one producer-handler located in the Arizona-Las Vegas marketing area, Sarah Farms. As such, Mallorie's incorporates and relies on the statements of fact and legal arguments raised in that joint submission as if they were fully rewritten herein.

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CERTIFICATE OF SERVICE

The foregoing Supplemental Comments were served upon the following parties on June 13, 2005, by electronic mail, FedEx Overnight Service, and /or first-class United States Mail service as indicated.

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