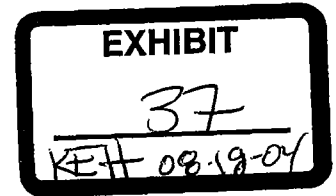


UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service – Dairy Programs

IN RE:) Docket No. AO-361-A39;
) DA-04-03
MILK IN THE UPPER)
MIDWEST MARKETING AREA)



TESTIMONY ON BEHALF OF NORTHWEST DAIRY ASSOCIATION

My name is Michael L. Brown. I am employed as Director of Industry Relations for Northwest Dairy Association, 635 Elliot Avenue, Seattle, Washington 98119.

Northwest Dairy Association (NDA) is a dairy cooperative with approximately 680 members in Washington, Oregon, Idaho and Northern California. NDA markets or processes about 7 billion pounds of milk annually to other milk processors or through NDA's marketing subsidiary, WestFarm Foods. We manufacture products included in all four product classes, as defined by the Federal Milk Marketing Order Program.

I am here today solely to testify regarding the depooling provisions contained within Proposal No. 2. The national implications of this require us to put these comments into the hearing record, so that we can separately propose what we feel will be a better approach to dealing with the issue. Specifically:

NDA urges USDA to reject consideration of any regulation of depooling in the Upper Midwest and other Federal Orders on a market-by-market basis, but instead do so as part of a national hearing which puts the issue in proper context with other issues related to the Class III and IV price formulas.

NDA's concerns over addressing depooling on an order by order basis, and without consideration of other Class III and IV issues, are outlined NDA's letter to USDA regarding their July 12, 2004 invitation to submit proposals for a public hearing to amend the pooling provisions of the Central Milk Marketing Order. In that letter, NDA urges USDA not to consider separate regulation of depooling in the Central Order, and outlines many reasons why depooling is best addressed nationally, along with other manufacturing milk issues. We ask that the letter be marked as an Exhibit, and included in the hearing record.

I also ask that the reasoning set forth in this exhibit be considered as my testimony here today.

We believe that taking a broader, system-wide approach to the depooling issue will provide consistent depooling rules across orders, but also allow the industry to simultaneously address other the other pricing issues that can also encourage depooling.

At the same time, we also recognize that there would be no harm to our cooperative if the Secretary were to proceed to consider how best to address depooling here in the Order 30 market. We recognize that this initial Order 30 proceeding may help both the industry and the Department develop a better understanding of how best to deal with the issue.

That said, I can also testify, based on my understanding of our operations in the Northwest and my general understanding of the economics of plant operations around the country, that if I were operating a manufacturing plant here in the Order 30 area, I would be very concerned about the future financial viability of my operation if I lost the ability to depool, unless and until the Class III and IV formulas are modified to reflect today's operating costs, especially energy and labor. Both energy and labor costs have risen significantly since the 1998-99 period, when the evidence was prepared upon which today's Class III and IV formulas are based. And together, these two factors represent roughly half of the cost of operating a manufacturing plant.

Like it or not, depooling is part of the financial picture of plant operations, and those operations are being squeezed with each upset in the international energy market (be it from Iraq, Russia, or Venezuela). Regardless of the plant's direct energy source, their energy costs will over time relate directly or indirectly to the price of oil, which is now at record levels.

The recent run-up in oil prices will continue to negatively impact dairy manufacturers, until the Class III and IV formulas are adjusted to reflect those cost increases. Yet we all know that the last hearing on that subject took three years to conclude. Closing down depooling before that problem is fixed could jeopardize plants, by locking them into an unprofitable economic posture.

Many producers without such plant investments may consider my testimony and respond that depooling is not fair and should be fixed immediately. I urge them to recognize that if rising energy and labor costs are not reflected in the pool calculation, then the plant operators are bearing costs that – under the system of end product pricing that we have had for more than four years – are supposed to be shared in the pool. Put another way, failure to address the energy and labor cost

issues in the manner intended by USDA brings a windfall subsidy to producers without plant investments through the Federal Order blend price, at the same time that depooling takes money away from them.

Depooling may not be fair, but neither is a system that overcharges for Class III and IV milk. The thrust of my testimony is that the two issues are related, and both must be considered together so that producers will have profitable plants to ship to.

Thanks you very much for considering my views. I would be happy to answer any questions about this testimony.