

**TESTIMONY OF H. PAUL KYBURZ**

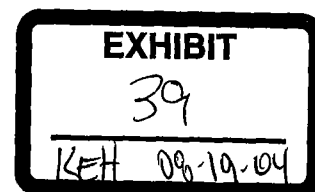
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**BLOOMINGTON, MINNESOTA**

**AUGUST 2004**

My name is H. Paul Kyburz and I am the market administrator for the Upper Midwest Order, Federal Milk Order No. 30. I have worked for the Federal milk order program for nearly 31 years, and have been market administrator for nearly 11 years. I have been market administrator for the current Upper Midwest Order, Federal Order No. 30, since its formation on January 1, 2000. I am here today to testify in support of Proposal 7.

Proposal 7 would increase the maximum administrative assessment rate for the Upper Midwest Order, provided for in §1030.85, from 5 cents per hundredweight to 8 cents per hundredweight. Currently, the administrative assessment for all Federal milk orders is provided for in §1000.85. The administrative assessment language in §1030.85 simply points to §1000.85 which applies to all orders. Proposal 7 would amend §1030.85 to provide all of the administrative assessment language pertinent to this order, and discontinue the reference to §1000.85. Under Proposal 7, the administrative assessment would continue to apply to the same milk as in the past.



It should be noted that, if Proposal 7 were adopted, the 8-cent per hundredweight rate would be the maximum rate allowable, not necessarily the actual rate charged. The actual rate charged would only be as high as needed, as determined by the market administrator with approval by the Deputy Administrator for Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture.

The increase in the maximum assessment rate is necessary to ensure the market administrator has sufficient funds to carry out the responsibilities for administration of the order. Administering order functions, including pooling, auditing, providing market information and marketing services requires staff and financial resources. The expenses involved are often fixed or mandated expenses beyond the short-term control of the market administrator, such as office leases and employee salaries and benefits. In addition, the market administrator is required to maintain a specified level of operating reserves. The level of the required operating reserve is determined by a formula set forth in regulation. The purpose of the reserve fund is to cover the necessary costs of closing out an order (completing pools and audits, paying severance pay to employees, terminating leases, etc.) in the event that the order is terminated.

The market administrator is primarily dependent on income from the administrative assessment to fund the operations of the order. This assessment, provided for in §1030.85 (through reference to §1000.85), is collected each

month on pooled producer milk. The assessment is also collected on certain types of other source receipts assigned to Class I and certain route disposition in the marketing area by partially regulated distributing plants. The vast majority of the administrative assessment income is from pooled producer milk.

In 2000, the first year of operation of the order, pooled producer milk averaged 1.95 billion pounds per month. Monthly producer milk averaged about 1.7 billion pounds in each of the years 2001 and 2002. During the first half of 2003, producer milk averaged 1.9 billion pounds monthly. For the entire 42-month period of January 2000 through June 2003, producer milk averaged about 1.8 billion pounds monthly. At the 4-cent per hundredweight assessment rate in effect throughout the period, these volumes of producer milk generated sufficient revenue to fund the Federal Order 30 operations and maintain the mandated reserve funds.

In mid-2003, unusual price relationships led to more dramatic depooling than had been expected. During July through November 2003, depooled milk totaled nearly 6.2 billion pounds. At the assessment rate of 4 cents per hundredweight, the depooling during these 5 months resulted in a loss of nearly \$2.5 million in potential revenue that would have been used to cover operational expenses and build reserves.

The loss of this income resulted in the need to use reserves to cover operational expenses, thereby dropping our reserve level below the mandated minimum. This situation made it necessary to increase the administrative assessment rate from 4 cents per hundredweight to 5 cents per hundredweight, the maximum allowed under the order. The increased rate eased the revenue situation but could not make up for the loss of producer milk from the market.

Heavy depooling occurred again during March through May 2004, with nearly 4.7 billion pounds of eligible milk held off the market during that three-month period. Depooling was not a major factor in June and July 2004, however, significant depooling could return in future months depending on price relationships. This situation of sharp fluctuations in monthly producer milk, and the difficulty in accurately predicting producer milk volumes in the future, threatens the market administrator's ability to carry out order operations while at the same time maintaining legally mandated operating reserves.

In effect, the market administrator must be able to service a more than two billion pound market when, in some months, the assessment is collected on only 600-700 million pounds of milk. As an example, producer milk in 2004 totaled 2.2 billion pounds in January and 1.9 billion pounds in February. In March through May, however, pooled producer milk dropped to 675 million, 608 million, and 663 million pounds, respectively. Producer milk during March through May averaged less than a third of the average for January and February. While the market

administrator's office strives to control costs and become more efficient in carrying out its work, the efficiency gains can't compensate for revenue derived from only a third or less of the market. While we watch expenses, and have reduced the size of the staff by more than 15% since January 2000, we still need about \$740,000 in administrative assessment income per month to cover basic operating expenses. At a 5-cent per hundredweight assessment rate, this equates to about 1.5 billion pounds of producer milk needed monthly to cover expenses.

An increase in the maximum assessment rate to 8 cents per hundredweight would assist the market administrator in administering order functions and maintaining required operating reserves in the face of sharply fluctuating producer milk volumes.

Again, it should be emphasized that the 8-cent per hundredweight rate would be the maximum rate allowable, not necessarily the rate charged. As always, the actual rate charged would only be as high as needed, as determined by the market administrator with approval by the Deputy Administrator for Dairy Programs, Agricultural Marketing Service, USDA.

It should also be noted that an amendment to §1030.85 could necessitate a conforming change by Dairy Programs to §1000.85 of the general provisions for Federal orders to delete references to Part 1030.

This concludes my testimony.

H. Paul Kyburz

Market Administrator for the Upper Midwest Order

August 2004