

To Whom It May Concern:

Gossner Foods is a small business as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and as such stands to be seriously impacted by several of the proposed regulatory changes to the Western Federal Milk Order. It is the purpose of these written comments to define the impact that each of the proposed changes would have upon the operation of our business and state our position regarding their implementation.

Proposals 3 & 7

We strongly oppose both proposal 3 and proposal 7. These two proposals seek to eliminate the option of receiving milk at a pool plant and then transferring it to a non-pool plant. We are greatly concerned with the potential negative impact of this proposal upon our business operation. A large percentage of our fluid milk business consists of contracts with governmental agencies. These contracts are bid on a yearly basis, sometimes with an extension or rollover option that can extend the contract. These contracts represent a large proportion of our Class 1 sales. The bidding process is very competitive and should we ever lose a contract then the proposed pooling requirements could become very difficult to meet until new business is developed.

The effect of not allowing transfers is to effectively reduce the amount of milk that we could potentially pool by a significant amount. This reduction in pooling potential could, under certain conditions, become far more burdensome than the proposed diversion percentage changes. We do not currently transfer milk, nor do we intend to do so in the future, but having the ability to transfer in the event that a major contract is lost is critical for the orderly operation of our business. Approval of this proposal would greatly reduce our ability to provide an alternate market for milk producers in this region. Market alternatives for milk producers in this region are already very limited and this provision could eliminate them altogether. We strongly oppose this extreme change in pooling regulations.

Proposal 4

While this proposal applies to only cooperative associations we feel that its intent is to reduce the potential for additional cooperatives to either be formed or market milk in this order. Again our position is that producers should have several options relative to marketing their milk. Competition provides the basis for better milk prices.

Proposal 6

This proposal also has the potential to greatly disrupt our current business operations and we strongly oppose its implementation. Our opposition to this proposal is founded on the same concerns set forth in our opposition to proposals #3 and #7. We are trying to provide producers within this market order with access to the Grade A market through some other channel than DFA. DFA already holds a virtual monopoly on the Grade A market in Utah and Southern Idaho. They provide all milk to Dean Foods, Meadow Gold and Kroger [Smiths]. All school contracts are currently filled with milk provided by DFA. The market dominance enjoyed by DFA has come about as the result of various mergers and acquisitions. Our perception is that they are using this hearing to try and modify pooling requirements in a fashion that will greatly enhance their ability to retain that position.

We do not believe that the interests of the dairy farmers in this order are best served by having a single buyer for their products. Modifying diversion limits would have a negative impact on all other Grade A handlers in the order.

Since a large portion of our Grade A producer milk is sold outside of this federal orders, and in many cases outside of the United States we feel that producers within the order will benefit by leaving us the flexibility to add producers as we need them and still react to changes in milk contracts without completely disrupting the orderly marketing of milk.

Proposal 8

It appears that this proposal is an attempt to allow the dominant cooperative in the area to transport milk from distant locations such as Boise, Idaho into the Salt Lake City Market. If our calculations are correct between the transportation credit and the assembly credit milk could be brought from distant locations into the Salt Lake City market at the same cost to the cooperative as local milk. The costs of transportation and assembly would be born by the pool. It seems very inappropriate that local producers would be funding the transportation of distant producers milk into the local market. What makes it even more inappropriate is that other organizations are ready and willing to supply milk into this market without being subsidized.

Proposals 11-13

We have no position on these proposals except a brief comment. Under previous regulations milk payments to our producers were due on the 15th and 30th of the month. Under new regulations milk payments to producers are now due on the 17th and 25th of the month. Cash flow disruptions are a very real impact of the new payment dates and we would request that serious consideration be given to returning to the old payment dates.

Summary

It seems appropriate to make adjustments to some order regulations, particularly with regards to 'double dipping'. However many of the changes proposed clearly favor the dominant milk marketer in this order. We support the elimination of double pooling and would then like to wait and see what impact it has on the order price.

The elimination of transfers is a very radical move that removes an important 'safety valve' that can be used during periods of market disruptions. Diversion allowances need to remain at their current levels so that we can remain competitive as we bid for business and so that we can continue to offer an alternate market to producers in this area for their Grade A milk. Transportation and assemble credits would be an unnecessary cost to the pool since other organizations are willing to provide Class 1 milk into the market without subsidies.

The absence of competition generally has a negative impact upon both producer prices and the level of service and attention that the producer receives from those who market his milk. Given the dominate position that DFA currently enjoys in this order we ask that each of the proposals be evaluated on whether or not they give them an unfair advantage in retaining or increasing that position. The interests of all producers in this market, whether cooperative members or not, are best served by allowing competition for producers to remain viable under new or modified regulations. Make the changes that are clearly needed, evaluate their impact, and decide if further changes are appropriate.