

## PROPOSAL # 5

Provisions that identify standards for organizations, plants and producers to meet in order to participate in the federal order pool are necessary to prevent abuses of the system. Many manufacturing plants would prefer not to ship part of their milk supply to fluid milk processing plants if they did not have to. Many manufacturing plants and organizations try to find loopholes in provisions in order that they can maintain their milk supply and still draw the blend price from the pool. This abuse leads to certain handlers gaining a financial advantage over their competitors and obviously a competitive advantage. Competitive advantages gained as a result of federal regulations certainly cannot be described as "contributing to orderly marketing conditions". Adoption of proposal number, 5 will be a major step toward eliminating loopholes that groups have used to qualify milk without making any milk available for the class I market, gaining competitive advantages and contributing to disorderly marketing conditions.

The "bulk tank handler" provision is a provision easily abused. The provision can be used to qualify large volumes of milk without actually using milk associated with the manufacturing plant to serve the class I market. This type of provision has led to disorderly marketing situations in certain markets. Handlers have solicited producers located near a bottling plant, given those producers financial incentives to become a patron, then used these "new producers" to qualify milk associated with a manufacturing plant. The milk of the acquired producers may have already been servicing the fluid milk processing plant in question. In this case, no new milk is being used to serve the fluid market. The milk is now being used to qualify additional volumes of milk that is not intended to serve the fluid market. The provision in question is not present in most markets throughout the country. It is an easily abused provision. It does not contribute to "orderly marketing", in fact it in most cases the provision is more likely to contribute to conditions described in the industry as disorderly marketing. The provision should be eliminated.

PROPOSAL # 6

River Valley supports reducing the amount of milk that can be diverted to nonpool plants. While we understand that there is a great deal more milk produced in the area than what is needed for the class I market. We believe the 90 percent provision is an overly generous diversion allowance. It bothers us that additional volumes of milk can so easily be added to the pool and “water down” the blend price as evidenced by the significant variation of producer milk pooled on the market from one month to the next. For example, the amount of producer milk associated with the pool on a daily basis increased by more than five and a half million pounds from October 2001 to November 2001. That was an increase of 58 percent from one month to the next! We think that is just one indication of an overly generous diversion allowance. Proposal #6 would allow handlers the opportunity to divert 70 percent of all milk they associate with the market – including milk diverted. In other words handlers could divert 233 percent more milk to nonpool plants than they deliver to pool plants. This is a significant change to the present rule that allows handlers to divert 900 percent of the milk they cause to be delivered to pool plants. River Valley supports a reduction in the amount of milk that can be diverted to nonpool plants to 80 percent. An 80 percent diversion allowance allows handlers the opportunity to divert 400 percent as much milk to nonpool plants as they cause to be delivered to pool plants. We believe a smaller change in the existing rule is more appropriate in this market, will allow a smoother transition for regulated handlers and will not result in inefficient movements of milk.

We further propose that section 1135.13 (d) (1) be amended to identify that “*milk of a dairy farmer shall not be eligible for diversion unless the equivalent of at least one day’s milk production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time*”. There are a large number of producers in this market that market more than one load of milk per day. Milk from the same day’s production may delivered to more than one plant. Since milk from the same day’s production can be received at a pool plant and also be diverted to a nonpool plant, inserting the words “the equivalent of” will clarify how milk of an individual producer can meet the requirements of this section. We ask that this proposal be added as an acceptable addition to the proposal noted in the notice of hearing.

PROPOSAL # 8

Proposal #8 would provide transportation credits and assembly credits to handlers meeting certain requirements and supplying milk to the class I market. We understand that there are situations where handlers supplying milk to the class I market do incur expenses that are not covered by "handling charges" or "over-order" charges. Our first preference is that the class I handlers benefiting from the expenses being incurred pay the cost involved. We do not wish to see the blend price reduced to have such costs covered. However, we also realize that in a market such as this, competition for qualifying sales can severely limit the ability to apply over-order charges.

River Valley Milk Producers proposes that proposal # 8 be modified so fluid milk processing plants that receive milk qualified to receive the proposed transportation credit would pay a "direct delivery differential" to the producer or supplying handler that delivers the qualified milk.

River Valley is aware that some fluid milk processors require suppliers to incur expenses in order to supply milk to their plant. Some processors have inadequate receiving facilities or raw milk storage capacity. Some processors do not operate seven days a week and require weekly balancing. I expect there are other reasons that suppliers may incur costs in supplying a fluid milk processor. Again, we prefer that recovery of such costs be handled outside the auspices of the federal order program. We understand that competitive conditions can make this difficult. Not all processors require costly services. Some processors have adequate receiving facilities and storage capacity. Some operate seven days a week or at least receive milk seven days a week and do not require weekly balancing services. Allowing assembly credits under the order could result in suppliers being paid for servicing those processors requiring additional services. Processors not requiring such services could pocket the assembly credit. In either case, we do not believe dairy farmers should subsidize the assembly credit. If an assembly credit is to be provided, the class I differential should be increased accordingly to fund the assembly credit. We are aware that the class I differential is not an issue at this hearing. We therefore suggest that the adoption of an assembly credit be postponed until such time as the level of the class I differential can be addressed to fund the assembly credit.