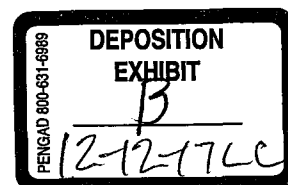


Exhibit No. _____

COOPERATIVE ASSOCIATION PROPONENTS
HURRICANE COST EMERGENCY HEARING TESTIMONY
FLORIDA FEDERAL MILK MARKETING ORDER NUMBER 1006
(7 CFR Part 1006)
DECEMBER 12, 2017
Tampa, Florida
[AMS-DA-17-0068; AO-18-0008]

My name is Jeffrey Sims, I am consultant in the dairy industry. My business address is 6680 North Alvernon Way, Tucson, Arizona, 85718. I am here first today representing the cooperative associations who are noticed proponents of Proposal Number 1. Later I will provide testimony in regard to the particular impacts of the hurricane on one of the proponent cooperatives.

On behalf of all of the proponents, I will review the proposed Order language, and describe the intent of each segment of the provisions, and offer commentary on how the proponents envision each provision to work.



All of the amendments proposed today deal with section zero point sixty, Handler's Value of Milk, and simply update, modify, and expand language already existing in the Florida Order related to reimbursement of certain milk marketing losses occurring during the hurricane emergency which occurred in 2003.

In general, the Order language and the intent of the language is fairly straightforward. The basic effect of the proposed provisions is for the market administrator of the Florida Order to establish, or perhaps more correctly, to re-establish, a process by which handlers are reimbursed for certain defined marketing losses directly attributable to extraordinary milk movements and milk dispositions which were caused by hurricane Irma in September 2017. These special short term hurricane cost reimbursements are funded through a temporary increase in the minimum Class I prices as announced under the Order. Once all the extraordinary costs as defined in the Order language are paid, the increase in the Class I price goes away.

I will now go through each subsection of the Order language in the sequence listed in the Notification of Hearing, which is the outline sequence the Order language appears in Section zero point sixty.

The Order's current section point sixty (a) is proposed to be amended first by updating the months during which the temporary increase in Class I prices is to be effective, presumably some range of sequential months in calendar year 2018. Proponents are not offering any modifications to this proposal, save filling in the blank regarding the adjustment to the butterfat price with the value \$0.0009 per pound. The particular beginning and ending months of the temporary increase in Class I prices have

been left blank in the submitted and noticed Order language because the proponents could not foretell either how quickly these amendments could be put in place and made effective, nor could they foretell the dollar total of extraordinary marketing costs which would be eligible to be paid from the hurricane emergency Class I price increase, nor could they foretell the actual monthly volume of Class I milk pooled on Order 6 subject to the temporary increase in Class I prices.

As was the case in the 2004 hurricane emergency provisions, the rate of increase in the Class I price is proposed to be limited to nine cents per hundredweight per month. It should be noted that an increase in the minimum Class I price of nine cents per hundredweight translates to less than one cent per gallon on finished Class I products. Also akin to the 2004 provisions, the nine cents per hundredweight monthly limit is applied in the form of a nine cent per hundredweight increase in the Order's announced Class I skim milk price, and an increase of \$0.0009 per pound to the announced Class I butterfat price. Further, as was applied in 2004, we would expect that the market administrator will show a separate line item on the monthly Announcement of Advanced Class Prices and monthly Announcement of Class Prices detailing the exact amount of the monthly hurricane add-on to the Class I skim milk and butterfat prices.

While the Secretary may very well be better than the proponents at forecasting the total dollars of extraordinary milk marketing losses which would be reimbursable under the proposed hurricane emergency language, and certainly may be better at forecasting the monthly volume of Class I producer milk regulated under the Order, some educated guessing of the total dollars which will need to be generated under the

temporary increase in the Class I prices is necessary. Consequently, the proposed Order language leaves two ways for the market administrator to balance the amount funds available for payment of hurricane costs with the actual final amount of those costs.

After the Secretary has determined which months during which the temporary increase in Class I prices will apply, the market administrator will begin announcing the temporary Class I price increase for the first such month. Presumably, the first, and some number of subsequent months thereafter, the Class I price will be announced including the maximum increase of nine cents per hundredweight. Each of those initial months the market administrator will then pay out to eligible handlers verified and accumulated hurricane-reimbursable costs up to the amount of funds collected under the temporary Class I price increase for that month. For example, had the temporary Class I price increase been in effect in October 2017, the market administrator would have had funds available to pay hurricane cost reimbursements totaling \$165,299.93, which was the total volume of Class I producer milk in the Order 6 pool for the month October of 183,665,952 pounds, multiplied by the maximum Class I price adjustment rate of nine cents per hundredweight. The market administrator would then make reimbursements of hurricane milk marketing costs verified to date up to that monthly limit of dollars available, uniformly prorating reimbursements if the accumulated verified costs exceeded the funds available to pay in that month. This process would proceed each month through the period the Secretary defined for the temporary increase in the Class I price. Presuming the total dollars which could be collected under the temporary increase in Class I prices across all the months applicable exceeds the total dollars of reimbursable hurricane costs, the

market administrator could reduce the nine cents per hundredweight increase in the final month down to an amount equal to the expected yet unreimbursed costs.

Proponents recognize that due the advanced nature of announcing the Class I prices, there exist in the last month of operation of the hurricane provisions the possibility that there could be some difference in the amount of money available generated from the Class I price increase and the final reimbursements of hurricane costs. If the additional Class I funds exceed the final hurricane costs to be paid, the extra funds will fall into the Order's monthly blend price. Proponents have absolutely no interest in seeing the Order blend price enhanced as a result of these provisions, and hope the market administrator can match the expected Class I revenues with the reimbursable marketing costs, and if an enhancement to the blend occurs, it is at most negligible, and by negligible, we hope less than a one cent per hundredweight increase in the Order uniform price. The alternate could also be true, the market administrator collects in temporary Class I price increases less than the total due to handlers to reimburse hurricane marketing costs. In this case, the market administrator would prorate available funds to reimbursable handlers prorata to the total dollars of reimbursable claims by such handlers.

Proponents have every confidence that the market administrator will attempt to collect funds under the temporary Class I price increase as nearly equal to the total reimbursable costs as possible. However, there exists a real possibility that despite the best efforts for forecast revenues and costs, differences in the end may exist, and the

proposed Order language gives the market administrator the tools necessary to balance any remaining differences.

We have defined how the money to reimburse handlers for the extraordinary marketing costs is generated under Proposal Number 1. Now we will describe the extraordinary marketing costs proposed to be reimbursed. But first, a general comment on how these extraordinary marketing costs came into being. Witnesses to follow will describe in harrowing detail the impact of the hurricane on people, commerce and logistics, and the chaotic marketing conditions that resulted. To sum up the problem in the simplest of terms, we can make these two overarching observations - people can move to get out of the way of the storm, while milk cows cannot move; and milk processing plants can shut down their receiving of raw milk and production of finished dairy products in anticipation of severe weather, but cows don't stop giving milk.

The extraordinary milk marketing costs experienced by handlers of milk for which the proponents seek reimbursement during hurricane Irma fall into four general categories. These losses are for extra transportation costs; revenue lost due to the location of plants to which rerouted milk was delivered, as opposed to the location of the Florida Order plants to which it would have been delivered; costs on milk which had to be dumped due to the lack of available plants or because of logistical delays; and revenue losses due to sales to unregulated manufacturing plants at less than the announced Class prices. For clarity, the losses due to dumping milk are separated into three subcategories.

After a review of the records and information regarding the ways milk moved and was disposed of during the hurricane Irma emergency, proponents are offering a few

clarifying modifications to the noticed language in Proposal Number 1. These small modifications are made in order to make the proposed reimbursements fit with the reality of milk movements and dispositions, as well as adapting the proposal to the regulatory impact on the pricing and pooling of the milk due to certain Order 6 provisions.

Section zero point sixty (g)(1) provides the proposed reimbursement for extraordinary transportation cost on milk moved during the hurricane Irma emergency. Proponents offer three modifications to the noticed language. The proposed modifications are: the insertion of the word "additional" between the first and second words of the subsection; delete the word "producer" in the only place it appears; and insert the phrase "and the additional cost of transportation on loads of milk moved and then dumped" at the end of the introductory sentence.

The proposed language is now modified to read:

(g) (1) The additional cost of transportation on loads of milk rerouted from pool distributing plants to plants outside the state of Florida which were rerouted as a result of Hurricane Irma, and the additional cost of transportation on loads of milk moved and then dumped. The reimbursement of transportation costs pursuant to this section shall be the actual demonstrated cost of such transportation of bulk milk or the miles of transportation on such loads of bulk milk multiplied by \$3.75 per loaded mile, whichever is less.

The basic intent of the (g)(1) language is to reimburse handlers who incurred extra costs of hauling milk resulting for the hurricane when milk was delivered to plants located outside the state of Florida, or moved from farms, or from milk plants, and then dumped.

The insertion of the word "additional" is to make clear that the proponents wish reimbursement only when their total cost of moving milk during hurricane Irma exceeded what the handler would have paid in hauling costs had there been no hurricane disrupting the normal flow of milk.

After reviewing the data on milk movements it became clear that some milk was delivered to pool plants fully regulated on other orders. Much of this milk was pooled as producer milk on such other Orders, and consequently would have been excluded from receiving any reimbursement for additional transportation because the milk was not producer milk on Order 6. Due to reduced deliveries of milk to Order 6 pool distributing plants, since all of the Order 6 plants were closed at some point during the hurricane emergency, allowable diversions to nonpool plants became limited, and handlers were unable to qualify milk by diversion off of Order 6. The deletion of the word "producer" makes clear that milk which was rerouted to plants outside of Florida can be eligible for additional hauling cost reimbursement, even if the milk was not producer milk on the Florida Order in September.

Further review of the hurricane-induced milk movements revealed that there were substantial volumes of milk which were picked up at farms and moved to some point and then dumped, or were picked up at farms, delivered to a plant or plants, the cream skimmed off, and then the skim milk was dumped. The inclusion of the final phrase in the opening sentence makes clear that any additional hauling costs associated with the eventual dumping of milk are eligible for transportation cost reimbursement.

The (g)(1) language directs the market administrator to use each handler's actual costs of transportation when determining the additional cost of transportation, if any, for reimbursement. However, an upper limit of \$3.75 per loaded mile is imposed. Based on the proponents' industry knowledge, \$3.75 per loaded mile should provide a reasonable limit to the cost of transportation which could be reimbursed.

There is one proposed modification to the noticed language in point sixty (g)(2), and that is the deletion of the word "producer". Just as was the case described in regard to subsection (g)(1), this modification makes clear that losses on milk rerouted to plants outside of Florida are eligible for location loss reimbursement, even if the milk was pooled on an other Order.

As the plants located in Florida closed or slowed their milk receiving in anticipation of the hurricane, handlers of milk began seeking alternate plant outlets for milk outside the state which were up and operating. A number of the proponents moved milk to plants outside the state during the hurricane period. Any plant outside of the state of Florida has an effective Class I differential which is less than the Class I differential applicable to any of the plants within Florida. Consequently, handlers delivering to plants located outside of Florida experienced a loss in revenue versus a delivery to a plant located within the state, whether the outside plants were fully regulated on an other Order, or were unregulated. These location value losses represent a significant loss to the handlers of milk making such dispositions.

After additional review of the marketing data, it became apparent that some marketers of milk did not experience increases in the cost of hauling, but did experience

location value losses. It is the desire of the proponents that in such a case the market administrator would offset any losses in location value by any achieved savings on transportation costs. The administrative result of this would be that on a load by load basis, the market administrator should ascertain whether there was a hauling cost increase, a location loss, or both, or neither. If a handler on a load experienced a gain or savings under one of these two cost reimbursement items, the losses on the other item should be reduced by the gain on the other. This avoids any unwarranted payments and in effect, double dipping.

The third kind of losses which occurred during hurricane Irma was dumped milk. Witnesses to follow will describe the conditions which led to milk having to be dumped. It should be noted that dumping milk is, on a per hundredweight basis, the most costly of the items proposed to be reimbursed.

For clarity, proponents are asking for three distinct types of dumped milk dispositions to be eligible for reimbursement under Proposal Number 1, and these are contained in subsections (g)(3), (g)(4), and (g)(5). Proponents offer no modifications to the noticed language in this subsection.

Dumped milk which is pooled on a handler's Report of Receipts and Utilization is classified in the lowest price class for the month, and in September 2017, that was Class IV. Dumped milk which is pooled would be accounted for to the pool at the Class IV skim milk and butterfat prices, and the handler pooling the milk would receive payment from the producer-settlement fund at the difference between the announced uniform skim milk and butterfat prices and the Class IV skim milk and butterfat prices, on the respective

pounds of each component dumped. However, dumped milk is by definition milk which was not sold in commercial channels, and therefore handlers having to dump milk lost the Class IV value of all of the skim milk and/or butterfat they had to dump. Dumping milk is always a last resort disposition of milk, and proponents seek reimbursement for these losses in milk which had to be dumped due to hurricane Irma. Additional transportation costs associated with dumped milk would be reimbursable as provided in (g)(1), as previously discussed.

As an after effect of the hurricane, a number of handlers have discovered that they dumped loads of milk which did not at the time get included on their September 2017 Report of Receipts and Utilization. We ask the market administrators indulgence in allowing such handlers to revise their Report of Receipts and Utilization so that these handlers can receive settlement with the Order 6 pool.

The final marketing cost which is proposed to be reimbursable as an extraordinary marketing cost caused by hurricane Irma is revenue lost when milk was sold to unregulated manufacturing plants at less than the announced Class prices. Reimbursement for these losses are provided in subsection point sixty (g)(6).

Unlike Federal Order-regulated pool plants who must pay the minimum Order announced class and uniform prices, unregulated plants are free to pay whatever the market will bear. More correctly, they pay as little as the market will bear. In times of extreme shortages of available processing capacity, like during a hurricane, handlers desperate for a place to sell their milk can be forced to accept a very deeply discounted price for distressed milk. These price discounts on milk sold to unregulated

manufacturing plants during hurricane Irma were substantial, and represent a major portion of the marketing losses experienced by handlers during hurricane Irma.

Proponents offer two modifications to the noticed language in (g)(6), and these are: replace the word "lowest" with the word "announced", and insert the phrase "applicable to the milk as classified by the market administrator" after the words "class price". The proposed (g)(6) language is now proposed to read:

"(6) The difference between the announced class price applicable to the milk as classified by the market administrator for the month of September 2017 and the actual price received for distress milk moved to nonpool plants as a result of Hurricane Irma;"

The purpose of this modification is to direct the market administrator to calculate losses on distressed sales of milk to unregulated plants at the true classification of the milk, rather than presuming that all milk sold at distressed prices was Class IV use.

It should be noted that the (g)(6) language as noticed does not include any requirement that the costs for potential reimbursement be limited to producer milk. The modifications deleting the word producer as previously discussed for (g)(1) and (g)(2) harmonizes those provisions with the noticed language in (g)(6).

The final subsections, zero point sixty (h) and (i) provide the market administrator with the processes for monthly payment of reimbursable costs, and the proration of payments if a month's funds available generated from the temporary increase in the Class I price are insufficient to cover the accumulated monthly claims, as we previously discussed.

This concludes our review of the Order language on behalf of all the noticed proponents. The entire Order language as proposed to be modified is included in Exhibit

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