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Milk in the Appalachian and Southeast Marketing Areas

Docket No. AO-388-A15 and AO-366-A44; DA-03-11

Comments on Partial Recommended Decision

Dairy Farmers of America, Inc.

Dairy Farmers of America, Inc (DFA) offers the following comments regarding the Partial Recommended Decision - Milk in the Appalachian and Southeast Marketing Areas.

Disappointment Over the Failure to Merge the Orders

DFA is disappointed, and troubled, that the Secretary has recommended against merger of Orders 5 and 7 as proposed. Proponents presented a substantial body of evidence, notable both for its quality and quantity, in support of the merger proposal. A primary concern of ours are the additional costs associated with serving the market in two Orders which could be reduced, if not eliminated, if only one set of pooling requirements (the result of a merged Order) were applicable. We support the brief as filed by the Southern Marketing Agency on this issue and urge the Secretary to reconsider the denial.

The merger issue is most critical because milk supply relative to demand in the Southeast grows more deficit each month. Servicing deficit milk markets is an extremely expensive proposition. In this context, we respectfully suggest that any and all efforts to reduce marketing costs must be given the most serious consideration. This order merger proposal would aid the market's suppliers in returning more dollars to dairy farmers.

The recommended rejection of the order merger is most difficult to understand, and accept, when there is no objective standard (or standards) identified which we can objectively evaluate in order to understand the Secretary's position, past, present, and future. The iterated and reiterated references to the 1999 merger decision do not elucidate the objective basis for that decision; they simply invoke the decision. There are numerous references to "major" versus "minor" overlap in sales and procurement areas, but there is no explanation of either the objective (%) or subjective (quality) standards which differentiate major and minor market interfaces. We believe that the industry, and the Department, would be well served by more transparent decision-making criteria.

There is some irony in the decision's analysis of marketing conditions, which are found not to be disorderly. The proponents, who described in great detail how they necessarily supply the two orders on a consolidated, systemwide basis, have apparently "shot

themselves in the foot" by limiting the blend price differences among their producers, and between the orders (thus allowing the Secretary to observe that the orders' blend price differences have lessened). Likewise, by rationalizing as much as possible the integrated system of supplemental supplies to the orders, the proponents have allowed the Secretary to comment that the supplemental sources of supply for the two orders are not greatly overlapping. But all this has come at great cost to the dairy farmer members of DFA, and the other proponents, and the continuing costs of the marketing inefficiencies of two orders, which these cooperatives continue to bear, have been essentially ignored in the decision.

Finally, we must note that there was miniscule opposition to the proposal. The overwhelming majority of producer interests supported the merger as well as some handlers. No handler opposed the merger on a merit basis. Opposition that was offered was from the standpoint of support for subdividing the current Order structure and not in opposition to the merger. We suggest that this industry position speaks to the desirability of the merger proposal.

Disappointment that the Decision Did Not Deal With Producer Handler Proposals

We were also disappointed in the lack of a decision dealing with the producer handler provisions. This issue is very important to DFA membership in both the Southeastern Orders and the entire US. We were hopeful that a Recommended Decision would shed light on several key questions that remained unanswered by the recommended Decision in the Western Orders. We can only hope that this portion of the Decision will be forthcoming soon. That said we concur with "splitting this issue from the remainder of the Decision making process" as done in this Decision. The remaining issues, we hope, will be moved forward to a final decision on an expedited basis.

Support the Decision Not to Subdivide the Orders

We support the decision of the Secretary to turn down the proposal to further sub-divide the Orders. Doing so would have made all of our supply issues even more difficult and more expensive to deal with and no corresponding benefit to suppliers. Finding for this proposal would have required negating all the reasons we offered for support of the merger (common and overlapping class I sales territory, common supply regions, common suppliers, common sources of supplemental milk supplies and common areas of milk balancing, common milk buyers).

Support for the Transportation Proposal

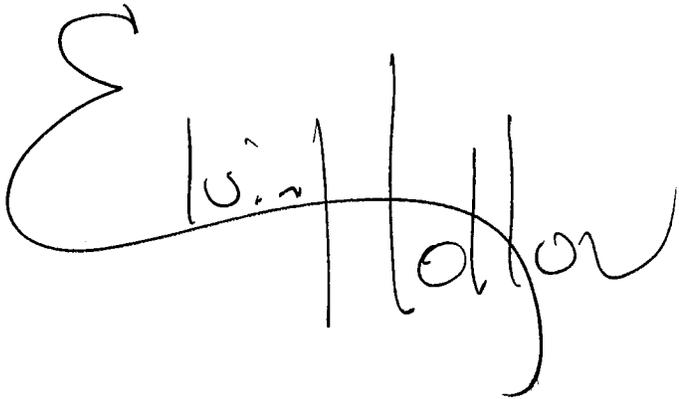
We support the decision to increase the assessment to fund the existing transportation credit fund by three cents per hundredweight in each Order. The data as provided in the record indicates a deteriorating position for the payment relative to cost of the credit. Due to declining milk production in the region and increasing costs of procuring and transporting supplemental milk supplies, the costs are exceeding the reimbursement as provided by the credit. An increase in the assessment rate will provide more dollars to offset costs and allow processors and consumers to bear an increased share of the market supply cost.

Support for the Expansion of the Marketing Area

We support the finding to expand the marketing area into unregulated counties in Virginia. Under the current order configuration the actuality or potential of plants becoming regulated or unregulated from month to month makes it difficult to establish supply patterns and pricing terms. The expansion that will all but assure full and regular pool plant status for the affected bottling plants is beneficial.

Support for the Elimination of the Ability to Dual Pool

We support the finding to eliminate the simultaneous pooling of the same milk on the Appalachian or Southeast milk marketing orders and on a State-operated order that provides for the marketwide pooling of milk. Our position on all hearings where this has been a proposal is to support the elimination of this possibility. We concur here also.

3
A handwritten signature in black ink, appearing to read "E. J. Hoffer". The signature is written in a cursive style with a large initial "E" and a long horizontal stroke.