UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. AO-166-A77
DA-08-06

In re:

HEARING ON PROPOSED AMENDMENTS TO THE MIDEAST FEDERAL MILK ORDER

ORDER

This matter is before the Administrative Law Judge upon the Motion to Reopen Hearing filed on behalf of Dean Foods Company and National Dairy Holdings LLC (NDH). The Motion states that reopening would be for the purpose of taking limited evidence to receive updated information regarding actual, rather than hypothetical, market impacts and to explore, explain, understand and, if possible resolve any discrepancies. Opposition to the Motion has been filed by Michigan Milk Producers Association, Inc., Foremost Farms USA Cooperative, Inc., Dairylea Cooperative, Inc., NFO Inc., Dairy Farmers of America, Inc., and the Secretary.

The basis for the Motion relates to the difference in data on Exhibit 5, Request 3-B, placed into the record by the Federal Milk Market Administrator for Order 33 and attachment 4 to Exhibit 12. Counsel for Dean Foods Company and NDH introduced Exhibit 12 without the attachments. The attachments to Exhibit 12 were added and made part of the record for completeness. As both the letter and the attachments had previously been posted on the USDA Website for a number of weeks prior to the hearing and accordingly had been available to all
participants in the hearing for use in any necessary examination, it would appear no useful purpose would be served in reopening at this time.

Accordingly, it is ORDERED that the Motion to Reopen Hearing is DENIED.

A copy of this Order will be served on the Parties.

Dated at Washington, D.C.
October 2, 2008

[Signature]

PETER M. DAVENPORT
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-2900
202-720-9443
Fax: 202-720-9776