UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

In re: Milk in the Northeast and Other Marketing Areas	7 CFR Parts 1000 *et seq.* Docket No. 23-J-0067; AMS-DA-23-0031

CARMEL, INDIANA
JANUARY 2024

TESTIMONY OF FAIRLIFE, LLC – PART III REGARDING NATIONAL HEARING ON FEDERAL MILK MARKETING ORDER PROPOSALS

January 18, 2024

I. BACKGROUND

A. PERSONAL BACKGROUND

My name is Tim Doelman, CEO of fairlife, llc. I am one of the founders of fairlife and its predecessor companies that started 25 years ago. I have a BS in Dairy Science from California Polytechnic State University in San Luis Obispo, CA. I grew up on a family dairy farm in Washington State and have been involved with most aspects of the dairy industry. I lead fairlife's mission to nourish the modern world through great tasting nutrition.

II. OPPOSITIONS TO OTHER PROPOSALS

A. Proposal 19 and 21 / increasing Class I and II differentials.

Under the FMMO system, cheese, butter, and powder are used as proxies for the underlying value of milk. The industry is considering increasing make allowances as the costs to convert have increased. Those same inflationary costs have increased the cost of producing and distributing the Class I and Class II we process at our facilities.

We all know through our economic classes that a free marketplace best determines the value for products and services. The market can get it right. If any market regulation is necessary, it should be kept to a *minimum* – indeed USDA regulation is designed for minimum pricing.

For Proposals 19 and 21, USDA should let the marketplace better determine the value of the goods and services by permitting over order premiums to continue to function above minimum prices. Do not increase the Class I and II differentials. There is ample milk supply for each region that we operate in. And we sell milk in all 50 states.

We should allow finished packaged milk to flow to underserved markets as guided by natural market forces. It is more efficient than mandating raw milk surface premiums to fill old fluid bottling facilities. There is no indication that more robust government intervention is needed in order to ensure the industry meets national fluid milk demands. The marketplace should determine the competitiveness of producing finished milk in low milk supply areas versus bringing in finished milk from further away high milk supply areas.

We pay for all kinds of goods and service elements beyond the base milk. We regularly pay over order premiums for:

- Even receiving of farm milk
- Fuel surcharges based on distance milk travels and fuel rates
- Receiving disruptions
- Quality attributes

Many of those listed services were/are used to justify the class differentials. We pay over order premiums directly to our suppliers. And we remain accountable to the pool for the class differentials as well.

Any increases in the class differentials will have a significant impact to our business. We have contracts lasting two to five years. The way Class I and II milk is purchased today, I don't think there is any merit in modifying those differentials because we are already able to obtain milk. Any differential change turns those negotiated contracts and rates upside down.

And to say this increase is done to ensure milk shows up at the plant is a false premise – that's why the market naturally developed over order premiums. Further, the differentials won't significantly move any milk because the decreasing Class I utilization means those differential dollars are spread out over other milk that does not and will not serve the Class I or II market. The government shouldn't regulate what the market is already doing. Either minimize or leave the differentials alone. Less government manipulation results in better functioning markets and ultimately healthier markets.

In addition, directing more money into the pool through higher differentials does not help facilitate those desired product attributes and services. Instead, it creates an extra cost on top of the over order payments necessary to drive the right product attributes and services. I understand that this is an underlying criticism of Class I differentials – the query being, if over order premiums are going to drive milk movement, why have Class I differentials at all? This is a valid question for USDA to ask itself at this juncture in our industry. We are in a different world than 100 years ago, than even 20 years ago. It is appropriate that USDA continue to question and scrutinize whether the tools used in the past are appropriate for today. Eliminating Class I and II differentials would give the marketplace the opportunity to negotiate the real value differences in the different uses of milk as well as solve distance to price factors.

Proposals 19 and 21 artificially disrupt plant locations by creating geographic winners and losers. The marketplace, not regulations, should be what dictates the location of plants. Trying to filter marketplace signals through a static government program creates significant opportunity misalignment with reality. Increases to differentials would force us to reevaluate our manufacturing footprint because we'd pushed towards the location where the government says the milk is cheaper (for the time being). It really does create winners and losers and who and how plants can be moved. It's not a recipe for instilling confidence for investments in processing technology for the industry.

If any change is contemplated to the Class I and II differential pooled system, I'd recommend directly paying the farms and coops that directly service the Class I and II customers. Incentivize the people performing the work.

B. Specific to Class II and Proposal 21.

My competitors are all using class IV powders for Class II like products. It's cheaper, more convenient, and easier to manage. USDA should reject Proposal 21, a proposal that will only incentivize and reward use of powder.

I already pay a significant premium for Class II given that fairlife uses fresh milk for its products. We believe using fresh milk results in a superior products because the milk doesn't undergo the extra processing and storage. We also think it makes a more attractive product for consumers, helping drive – or at least retain – consumers in the world of dairy. Higher Class II differentials would push us towards powder use.

It's not good for the dairy industry to push ourselves and other competitors to dry powders that can be purchased from around the world versus fresh milk produced here in the US. It is also not good for consumers or the environment. It is extra energy consumed, packaging wasted, and product aged and degraded. Ultimately, the higher costs will be passed onto the consumer who will look to alternative products or simply buy less milk. That is bad for everyone in the industry.

III. CONCLUSION

The method of using cheese, butter, and powder for determining underlying value of milk has served the industry well. Market surveys are an invaluable tool delivered by USDA for determining the underlying value of milk. There is a role for FMMOs to continue to play in the dairy industry.

But Class I and II continue to shrink in significance. Fifty years ago, fluid milk represented 50% of milk utilization. Today, it’s 18% and shrinking dramatically. I think it’s inappropriate for static regulations to determine the correct value for this declining class of milk. With shrinking significance, Class I and II have effectively competed with alternative uses of milk through varying over order premiums. I urge you to let the marketplace determine the value of Class I and II milk by using the price survey information for cheese, butter, and powder. It’s a good step towards modernizing the Federal Milk Marketing Order system. It will better facilitate demand-based pricing and unlock future innovations and uses for milk.

DATED this 18th day of January, 2024.

By *Tim Doelman*
TIM DOELMAN