

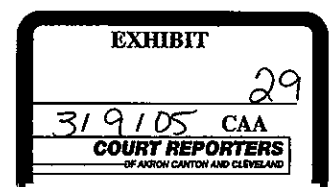
**Testimony of
Joseph W. Weis**

In Support of Proposal No. 9, as Modified

On behalf of the Proponents

**Foremost Farms USA Cooperative
Alto Dairy Cooperative**

**Mideast Federal Milk Order No. 33
Public Hearing
Docket No. AO-166-A72; DA-05-01
March 7, 2005
Wooster, OH**



My name is Joseph W. Weis. I am employed by Foremost Farms USA Cooperative (Foremost) as Vice President-Fluid Products Division. My business address is E10889A Penny Lane, P.O. Box 111, Baraboo, WI, 53913. This testimony is given on behalf of Foremost Farms USA Cooperative and Alto Dairy Cooperative.

Foremost Farms USA is dairy farmer-owned Capper-Volstead cooperative representing 3700 milk producers located in 7 states. In 2004, Foremost's member-owners located in Wisconsin, Minnesota, Iowa, Illinois, Indiana, Ohio and Michigan marketed 4.8 billion pounds of milk through their cooperative. Foremost owns and operates manufacturing facilities in Wisconsin, Minnesota and Iowa, along with two distributing plants in Wisconsin. In addition to supplying milk to our own facilities, we also supply distributing plants in Federal Orders 5, 30, 32 and 33.

Alto Dairy Cooperative (Alto) is a dairy farmer-owned Capper-Volstead cooperative representing 550 Grade A producers in Wisconsin and Michigan. In 2004, Alto Dairy Cooperative marketed 1.36 billion pounds of its member-owner's milk. Alto owns and operates two manufacturing facilities in Wisconsin. Alto supplies milk to distributing plants in Orders 30 and 33, as well as their own facilities.

Foremost Farms USA and the Morning Glory Farms Region of AMPI, which was acquired by Foremost in 1995 have supplied milk to meet the Class I needs of Mideast Order 33 and predecessor Order 49 for many years. AMPI-Morning Glory served as the agent for the Hoosier Superpool, a common marketing agency, since its inception in the

early 1970's. Foremost Farms USA assumed that responsibility in 1995 until Federal Order consolidation was implemented on January 1, 2000, when Foremost became the agent for the newly formed Mideast Milk Marketing Agency (MEMA) in Order 33. The membership of MEMA consists of Dairy Farmers of America, Foremost Farms USA, National Farmer's Organization and Land O' Lakes, Inc. Foremost Farms USA has 538 member-owner farms located in the Order 33 marketing area.

Foremost Farms USA and Alto Dairy support transportation credits on producer milk delivered to distributing plants for use in Class I products as requested by Dairy Farmers of America at this hearing, but we do believe that transportation credits should be also be given on pool supply plant milk. We ship to the meet the needs of the Order 33 Class I market from our supply plant located in Elkhorn, Wisconsin. The needs of the market are highest during the months from August through November. During the past three years we have supplied the following volumes from August through November:

2002 – 20,545,000 lbs.

2003 – 19,060,000 lbs.

2004 – 23,112,000 lbs.

In 2004, milk deliveries were made to Dean Foods at Rochester, IN; The Kroger Company at Indianapolis, IN; Eastside Dairy at Anderson, IN; Reiter Dairy at Springfield, OH and Tamarack Farms Dairy at Newark, OH.

During 2004, Alto supplied 8.1 million lbs to Order 33 distributing plants from August through November.

Exhibit _____ contains our proposed order language for a transportation credit on producer milk as well as supply plant milk. The transportation credit rate/cwt per mile and mileage determination provisions are identical to Dairy Farmers of America's proposal presented in Exhibit 14 at this hearing. The method of determining the quantity of milk eligible to receive the credit has been modified to include both pool supply plant milk and producer milk, using the same calculations applied in Upper Midwest Order 30 to determine the pounds of direct ship producer milk and pool supply plant milk Class I eligible to receive an assembly credit.

Our proposal is a not new concept in the Federal Milk Market Order System. Federal Order 30 has employed transportation credits for many years. Transportation credits on supplemental milk are also a part of Orders 5 and 7.

It is our belief that transportation credits should be allowed on all milk that is needed to serve the market, so that all of the producers who share the benefits of serving the Class I market also share more equitably in the costs involved in servicing the market.

Foremost Farms USA Modified Proposal 9

Add a new section 1033.55 as follows:

§ 1033.55 Transportation Credits.

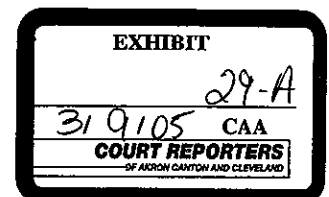
(a) Each handler operating a pool distributing plant described in § 1033.7(a) or (b) that receives milk from dairy farmers, and each handler described in § 1000.9(c) that delivers milk to a pool distributing plant, each handler operating a pool supply plant described in § 1033.7(c) or (f) that delivers milk to a pool distributing plant, and each handler operating a cooperative plant or a plant with cooperative marketing agreement described in § 1033.7(d) or (e) that delivers milk by transfer to a pool distributing plant, shall receive a transportation credit on the portion of such milk eligible for the credit pursuant to paragraph (b) of this section.

(1) Transportation credits paid pursuant to this section shall be subject to final verification by the market administrator pursuant to § 1000.77.

(2) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The quantity of milk eligible to receive transportation credits shall be determined as follows:

(1) At each pool distributing plant, determine the aggregate quantity of Class I milk, excluding beginning inventory of packaged fluid milk products;



(2) Subtract the quantity of packaged fluid milk products received at the pool distributing plant from other pool plants and nonpool plants if such receipts are assigned to Class I;

(3) Subtract the quantity of bulk milk shipped from the pool distributing plant to other plants to the extent that such milk is classified as Class I milk;

(4) Subtract the quantity of bulk milk received at the pool distributing plant from other order plants and unregulated supply plants that is assigned to Class I pursuant to §§ 1000.43(d) and 1000.44;

(5) If bulk milk was transferred or diverted from a pool distributing plant to a nonpool plant on the same calendar day that milk was received, then the pounds of transferred or diverted milk shall be subtracted from the most distant load of milk received, and then in sequence with the next most distant load of milk received until all of the transfers have been offset.

(6) Assign the remaining quantity pro rata to physical receipts during the month from:

- (i) Producers
- (ii) Handlers described in § 1000.9(c); and
- (iii) Other pool plants

(c) Transportation credits for eligible milk shall be computed as follows:

(1) Determine an origination point for each § 7(c), (d), (e) and (f) pool plant, or for the origination point of each load of producer milk locate the county seat of the closest producer's farm from which milk was picked up for delivery to the receiving pool plant;

(2) Determine the shortest hard-surface highway distance between the receiving pool plant and the origination point;

(3) Subtract 75 miles from the lesser of the mileage so determined in paragraph (c)(2) or 350 miles;

(4) Multiply the remaining miles so computed by 0.31 cents (\$.0031);

(5) Subtract the Class I differential specified in § 1000.52 applicable for the county in which the origination point is located from the Class I differential applicable at the receiving pool plant's location;

(6) Subtract any positive difference computed in paragraph (c)(5) of this section from the amount computed in paragraph (c)(4) of this section; and

(7) Multiply any positive remainder computed in paragraph (c)(6) by the hundredweight of milk described in paragraph (b)(6) of this section.

(d) The rate and mileage limits of paragraphs (c)(4) and (c)(3) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to better reflect actual conditions present in the marketplace. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator's own initiative or at the request of interested parties. If the investigation shows that an adjustment might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise either figure must be issued in writing at least one day before the effective date.

(e) For purposes of this section, the distances to be computed shall be determined by the market administrator using the shortest available state and/or Federal highway mileage. Mileage determinations are subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of such redetermination within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any periods prior to the redetermination by the market administrator.

Amend Section. 1033.60 by amending the introductory paragraph and adding a new paragraph (k), to read as follows:

§ 1033.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (i) of this section and subtracting from that total amount the value computed in paragraphs (j) and (k) of this section. Unless otherwise specified, the skim milk, butterfat, and the combined pounds of skim milk and butterfat referred to in this section shall result from the steps set forth in § 1000.44(a), (b), and (c), respectively, and the nonfat components of producer milk in each class shall be based upon the proportion of such components in producer skim milk. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under

§ 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

* * * * *

(k) Compute the amount of credits applicable pursuant to Sec. 1033.55.