Prepared Testimony of
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Northwest Dairy Association

Re: Proposal No. 6, "Diversion Limitations"

Federal Milk Market Order Hearing
Docket Nos. AO-368-A30; AO-380-A18; DA-01-08
April 16, 2002

My name is Daniel S. McBride. I am testifying today on behalf of Northwest Dairy Association, which is usually referred to as "NDA". In earlier testimony I have introduced myself, as well as NDA and WestFarm Foods.

<u>NDA Strongly Opposes Proposal No. 6.</u> As we understand this proposal, the Western Order (Order 135) would be amended to reduce the amount of milk eligible for diversion from the present 90% to 70%.

The impact of this is extremely significant. Under today's 90% rule, for every 10 lbs that are delivered to a pool plant, another 90 can be diverted. If the diversion limitation were tightened to 70%, for every 30 lbs that are delivered, only 70 can be diverted. The ratio would shift from 9-1 to 7-3 (or 2.33 to 1). For every 9 lbs that can be pooled today, only 2.33 could be pooled in the future. The intended effect is to force NDA and others to pool <u>only one-third</u> of the milk we presently pool.

On top of that, it should be noted that the Western order pools far less than the total milk production within the marketing area. *We ask that Official Notice be taken of the publication entitled "Milk Production", which is published monthly by the National Agricultural Statistics Service.*

That publication indicates that during December of 2001, some 656 Million lbs were produced in Idaho. The Market Administrator's Exhibit indicates that only 277 Million lbs of Idaho milk was pooled on the Western Order during that month. So it is clear that <u>more than half</u> of the Idaho's milk is either pooled elsewhere, or not at all. That is a huge pool of milk.

Proposal 6 would remove from the Western order pool some 150,000,000 million lbs, which is approximately 38% of the average volume of milk pooled last year in the Western Order. This is shown in the material which was prepared for John

Vetne by the Market Administrator's office (which we will introduce into evidence if he does not).

The immediate effect of this would be to tremendously shift the balance of economic power within the Western order region. The secondary impact would be for disorderly marketing conditions to break out in many different ways. That may take on any number of forms:

- The classic use of "price incentives" to undercut the raw milk price to Class I handlers. This may provide an incentive for various types of mechanisms which effectively undercut the published Class I price.
- The construction of new or expanded bottling operations, to "raid" the retail milk market.
- Milk now pooled on the Western order may find other orders to pool milk, through artificial mechanisms.
- Some milk now pooled on the Western order may pay a "pooling fee" to be pooled on this or some other Federal order market.

The combination of these forces would have an additional result, and that would be political reaction and Congressional review. An action which kicks Idaho milk out of the very market in which it is located, so that it moves to Order 30 and dilutes that market, will make even the most supportive of public officials question what is going on – even before they turn to the subject of creating an artificial market value for pooling privileges. The proponents should not be jeopardizing the Federal order system's political support, by suggesting proposals which would lead to such unsupportable conditions.

In analyzing the foregoing, NDA submits that the more and more widespread practice of buying and selling pooling rights is not only a reflection of disorderly marketing conditions, it is also a cause of disorderly market conditions. That is because the seller can use the funds received to achieve competitive advantages not available to others, and the result would be even more disruption of the market.

There is simply no justification for reducing the diversion percentage limitations of this order. If anything, they should be increased rather than reduced. While NDA is not formally proposing a change in the diversion limitations from 90% to 95%, we suspect that the evidence being introduced at this hearing may well justify such a change. However, it is sufficient that the current provisions of the Western Order permit any party to petition the Market Administrator to change the diversion limitations of the order. That is the appropriate mechanism for change.

For all of the reasons set forth above, there is no need to adopt Proposal No. 6.

I would be happy to answer any questions.

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