

**Testimony of  
Paul G. Christ  
On Behalf of  
The Dean Foods Company**

**Hearing to consider amendments to the Mideast  
Federal Milk Marketing Order  
Docket No. AO-166-A72; DA-05-01  
March 7 et seq. 2005**

My name is Paul G. Christ. I reside at 245 Indian Trail, So., Afton, Minnesota 55001. I have a long background in working with Federal milk orders. From 1961 to early 1974 I worked for the Dairy Division of the Agricultural Marketing Service of U.S.D.A., both in the Washington office, and in market administrators' offices in the field. Between 1974 and 2000 I worked for Land O'Lakes, Inc., and was responsible for marketing Land O'Lakes member milk under several Federal milk orders, and when necessary, for proposing changes to those orders. Thus, I have experience both inside and outside the government in the operation and effects of individual milk orders and of the entire Federal milk order system.

I appear here as an advocate for Dean Foods Company in support of proposals number 2, 3, 4, 6, 7 and 8. I will attempt to explain how each proposal would work, and how it would improve the supply of milk available for fluid use, and the well-being of producers whose milk is continuously pooled.

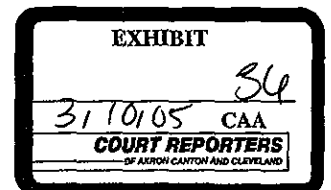
As was stated by Evan Kinser in his earlier testimony, Dean Foods Company is interested in improving two aspects of the Mideast milk order. The first is to improve the ability of the order to attract an adequate and reliable milk supply to the Federal order 33 pool, and the second is to improve the availability of milk for Class I use.

I will address each proposal in its order of priority for Dean Foods Company.

**Proposal No. 4**

Proposal No. 4 is the most important of all the proposals offered at this hearing. It would establish a "dairy farmer for other markets" provision that would require a greater commitment by handlers to either pool or not to pool milk on the order. I will attempt to explain how proposal number 4 would work. It would add a new subparagraph (b)(5) to the *producer definition*, section 1033.12.

Dean foods recommends one change in the language offered in the hearing notice by Ohio Dairy Producers and the Ohio Farmers Union. We would change the words "...the



pool plant operator or the cooperative association..." in the first sentence of the proposed subparagraph 1033.23(b)(5) to read "...any pool plant operator or any cooperative association...". This change would make the depooling of any dairy farmer's milk by any handler in any Federal order market subject to the repooling terms of the rest of the subparagraph.

The new subparagraph would exclude from the pool the milk of any dairy farmer whose milk was not continuously pooled under one or another Federal milk order during the last 12 months. The sole exception from this exclusion would be the case where the dairy farmer temporarily lost Grade A status, and whose production facility was reinstated as Grade A within 21 days. This exception can be achieved by adopting a conforming change, under Proposal No. 3, offered by Dean Foods Company, to the producer milk definition.

The idea behind requiring ten days' delivery of milk to a distributing plant is to provide a benefit to the pool while discouraging milk that was depooled for economic reasons from easily becoming repooled when it is economically favorable to do so. The benefit to the pool would be more milk being made readily available to the Class I market.

Dairy farmers for whom their milk is pooled when benefits exist, and is not pooled when costs exist, create a burden on producers whose milk is continuously pooled. When the blend price is higher than a particular class price, there is an incentive to pool all milk used in that class. This has the effect of averaging down the producer price differential and the blend price, reducing returns to continuously pooled producers. On the other hand, when the blend price is lower than a particular class price, there is an incentive to depool all milk used in that class. This also has the effect of averaging down the producer price differential and the blend price, resulting, again, in reduced returns to continuously pooled producers. The losers in this process are the producers whose milk is kept in the pool and continues to be available to serve the needs of the fluid market.

Under proposal number 4, milk that was depooled within the last 12 months could again become repooled, if the responsible handler demonstrates that it is, in fact, available for fluid use. This is accomplished by delivering 10 days production from that dairy farmer's facility to a pool distributing plant. This demonstration would insure that pool participation would be open to any dairy farmer for whom it is technically and economically feasible to supply milk for fluid use. In effect, the proposal would not prevent depooling. However, it would make it more difficult to return such a dairy farmer's milk to the pool after it is once depooled.

This demonstration of competence to supply milk for fluid use would continue for 12 months before such formerly depooled milk could be pooled under the more flexible provisions of the order that apply to continuously pooled milk.

This proposed change would not be economically burdensome if the milk were favorably located relative to a distributing plant. However, it would make it expensive for a distant or unfavorably located dairy farmer to again become a producer and participant in the

pool. It would also insure the milk for which it is not technically or economically feasible to serve the fluid market would not reenter the pool.

Dairy farmers whose milk is pooled continuously under the Mideast milk order would not be affected by this proposal. These dairy farmers shared in both the costs and the benefits of pool participation on a continuous basis.

Also, dairy farmers whose milk is pooled continuously under any other Federal milk order(s) during the preceding year would not be affected by this proposal. They could enter the Federal order 33 pool under the same flexible provisions as apply to Federal order 33 producers who were not depooled within the last year. In effect, these "other-order" producers were continuous participants in one or another Federal order pool, sharing both the costs and benefits of such participation on a continuous basis.

So, proposal number 4 would have three desirable effects:

1. Some milk in class II, III or IV would stay in the pool when the blend price was lower than the class price, in order to avoid the extra cost of returning to the pool. This would increase the producer price differential (making it less negative) and the blend price for all producers, especially those whose milk is delivered to distributing plants.
2. Some Class III milk that is depooled would never return to the pool because it is no longer technically or economically feasible to do so. This would have the effect of increasing the producer price differential whenever it is positive. Those producers whose milk is delivered to distributing plants would benefit.
3. Some Class II, III or IV milk that is depooled would return to the pool, but only through regular, significant deliveries to distributing plants. This would demonstrate that for the milk being repooled it is technically and economically feasible to serve the fluid market. It would also increase the supply of milk ready and willing to serve the needs of the fluid market.

For the above reasons Dean Foods Company urges the Secretary to adopt proposal number 4.

### **Proposal Number 8**

Dean Foods Company offers proposal number 8 for consideration by the Secretary. It is offered as a weaker, less desirable alternative to proposal number 4, in the event that proposal number 4 is rejected. Proposal number 8 reads as follows:

*"Section 1033.12 Producer*

\* \* \* \* \*

(b) \* \* \*

- (5) *For any month of February through June, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in Section 1000.9(c) if any pool plant operator or any cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the same month, any of the 3 preceding months, or during any of the preceding months of July through January, unless the equivalent of at least ten days' milk production has been physically received otherwise as producer milk at a pool distributing plant during the month; and*
- (6) *For any month of July through January, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in Section 1000.9(c) if any pool plant operator or any cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the same or the preceding month, unless the equivalent of at least ten days' milk production has been physically received otherwise as producer milk at a pool distributing plant during the month."*

The difference between proposal number 4 and proposal number 8 is that, in the event that a dairy farmer's milk is depooled, the number of months for which 10 days' milk production would have to be delivered to a pool distributing plant would be fewer.

In the first case, under subparagraph (5), if milk is depooled during the period of February through June, only four months of such deliveries would be required, compared to 12 months under proposal number 4.

In the second case, also under subparagraph (5), if milk is depooled in any month of July through January, then such deliveries would be required in each month of February through June. Dean Foods is more interested in discouraging depooling in the short season than during the rest of the year.

In the third case, under subparagraph (6), if milk is depooled during the period of July through January, only two months of such deliveries would be required, compared to 12 months under proposal number 4.

The same conforming change to the Producer Milk definition (Section 1033.13(d)(1)) needs to be made for this proposal as was offered for Proposal No. 4. That change is offered by Dean Foods Company as Proposal No. 3.

Proposal number 8 would have the same general effects and benefits as proposal number 4, except that the costs of repooling would be smaller. Thus, the beneficial effects on continuously pooled producers would be smaller, and there would be a less abundant and reliable supply of milk available for fluid use.

Therefore, we again recommend the adoption of proposal number 4. But, if for whatever reason the Secretary chooses not to adopt proposal number 4, then we recommend the adoption of proposal number 8.

### Proposal Number 7

Proposal number is supported by Dean Foods Company as a less desirable alternative to both proposals number 4 and 8. It offers a different type of mechanism for limiting the amount of depooled milk that can be repooled in any given month.

We recommend that Proposal No. 7 be modified by deleting the words "...and allocated to Class I use in excess of the prior month's volume allocated to Class I use..." from proposed subparagraph 1033.13(e)(1). This proposed subparagraph would not allow the repooling of milk delivered to a pool distributing plant unless there was growth in Class I use at the receiving plant. We believe this places too great a burden on a handler seeking to repool formerly depooled milk by servicing the Class I market. The supplying handler has no control over the Class I sales by the receiving plant, but is nevertheless willing and able to supply the needs of that plant. Such willingness and ability is the heart of an effectively functioning Federal milk order. It should not be discouraged in any way.

The mechanism for discouraging the depooling of milk under proposal number 7 is to restrict the amount of additional milk that can be pooled by a handler from one month to the next. That means that the volume of milk that is continuously pooled under Federal order 33, or any other Federal order, can be pooled without hinderance or restriction. However, milk that has been depooled under this or any other order can only be gradually repooled. This means that most of the milk for which the cost of pooling is avoided during periods of negative producer price differentials cannot immediately enjoy the benefits of pooling when the producer price differential is positive.

This increases the costs of repooling. The effect is a modest discouragement of depooling.

If depooling is discouraged to any degree, producers whose milk stays in the pool will enjoy a higher (less negative) producer price differential during months when it is negative.

However, proposal number 7 provides for instant repooling of any milk that is delivered directly to a pool distributing plant. This has the desirable effect of increasing the supply of milk that is readily available to the fluid market, following a period of depooling.

Proposal number 7 increases the costs of depooling with the greater percentage of a handler's milk that is depooled. The following table 1 illustrates the time it takes to repool all the milk of a handler if he depools between 10 and 90 percent of the milk under his control:

**Table 1. Effect of the percentage of milk depooled on the time it takes to repool all the milk of a handler at a rate of 115 percent per month under Proposal No. 7**

<u>Month</u>	<u>Percentage of milk pooled</u>								
	10	20	30	40	50	60	70	80	90
0									
1	11.5	23.0	34.5	46.0	57.5	69.0	80.5	92.0	100
2	13.2	26.4	39.7	52.9	66.1	79.4	92.6	100	
3	15.2	30.4	45.6	60.8	76.0	91.3	100		
4	17.5	35.0	52.5	70.0	87.5	100			
5	20.1	40.2	60.3	80.5	100				
6	23.1	46.2	69.4	92.5					
7	26.6	53.2	79.8	100					
8	30.6	61.2	91.8						
9	35.2	70.4	100						
10	40.5	80.9							
11	46.5	93.0							
12	53.5	100							
13	61.5								
14	70.8								
15	81.4								
16	93.6								
17	100								

The point of table 1 is that the greater the proportion of milk depooled, the longer the time needed to requalify the depooled milk. This is a desirable feature of proposal

number 7. Those handlers (and producers) who capture the greatest benefit from depooling, also incur the greatest loss of benefit from attempting to regain pool status.

### **Proposal Number 6**

Proposal No. 6 is very similar to Proposal No. 7. It attempts to achieve the same, limited, repooling of formerly depooled milk. We prefer the language of Proposal No. 7.

### **Proposal Number 2**

Proposal number 2 is supported by Dean Foods as a supplement to the other proposals that we support. It would increase the shipping percentage for supply plants and cooperative association plants, and would reduce the amount of milk that can be diverted.

By increasing the shipping percentage for supply plants and cooperative association plants, proposal number 2 promotes a more effective mechanism for assuring that an adequate and reliable supply of milk is available to distributing plants under the Mideast order. Higher shipping requirements will make it more difficult to pool as much milk on the order as in the past, but they will make a greater share of the pooled milk available to the fluid market. One effect will be to increase the blend price to all producers on the market.

The second part of proposal number 2, which reduces the amount of milk than can be diverted by a plant operator, does nothing more than insure that more producer milk is actively engaged in the process of serving the fluid market. This process starts with the production of Grade A milk, and then continues the next step of being received in a Grade A pool plant facility. If producer milk is diverted to a nonpool plant, then it is out of the Grade A marketing stream and is no longer available to the fluid market. The effect is to make more milk physically available for the fluid market.

Proposal number 2 would also insure that pool plant operators keep their Grade A facilities operating at a higher level of output than would be the case if more milk were diverted. In effect, more Grade A milk would be available for fluid use at all times.

### **Proposal Number 3**

Proposal No. 3 is offered by Dean Foods Company as a clarification and a limitation on how long a dairy farmer's milk can be degraded without losing pool status. It reads as follows"

#### ***"Section 1033.13 Producer Milk***

\* \* \* \* \*

(d) \* \* \*

*(1) If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval, not to exceed 21 days in a calendar year, unless it is determined by the market administrator to be due to unavoidable circumstances beyond the control of the dairy farmer, such as a natural disaster (ice storm, wind storm, flood or fire in which case the market administrator may determine the time of extension granted to the affected farm(s)), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;"*

Proposal No. 3 would prevent the use of phony "degrading" of producer milk to achieve depooling without incurring the proposed complications of repooling that milk. It closes one loophole to the effective application of Proposals No. 4, 8, and 7.

Dean Foods Company is no longer offering the second part of Proposal No. 3, dealing with "touch base" requirements. We do not intend to argue its merits either here or on brief.

This completes my testimony.