

**UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
(Dairy Programs)**

**In Re:
Milk In the Western and
Pacific Northwest
Milk Marketing Areas**

Docket Nos. AO 380-A18, 368-A30
DA-01-08

Salt Lake City, Utah
April 16 – 18, 2002

**TESTIMONY OF JON DAVIS
ON BEHALF OF DAVISCO FOODS, INC
In Opposition to Proposals 3 through 7, 9, and 11-13**

Davisco Foods, International, is a 3rd generation family owned food processor. Founded in 1943, the company operates cheese plants in Le Sueur, Minnesota, and Jerome Cheese Company in Jerome, Idaho. It processes whey in both of these factories, and in other facilities in South Dakota. Davisco produces 185 million pounds of cheese per year, and makes a variety of whey and whey protein products.

Jerome Cheese is located in the middle of one of the fastest growing milk production regions in the country as a result of new farms and farm expansion. Conversion of farms from Grade B to Grade A is almost complete in this area. It is important, we feel, that equal opportunity pooling should apply to all Grade A milk produced in this area.

Pooling opportunities have been limited since the inception of regulation in this area for reasons which are unique to southern Idaho and

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Utah markets: there are few fluid milk plants, and most distributing plants either have their own supply or are committed to buy milk from a single supplier. The federal order reform process further limited pooling of Grade A milk willing and available to serve the small Class I market by adopting performance requirements that could not accommodate the milk supply.

A recent report by USDA entitled PRODUCER MILK MARKETED UNDER FEDERAL MILK ORDERS BY STATE OF ORIGIN (2000) revealed that only 36% of Idaho's Grade A milk production was pooled in the federal order system during 2000, and explains that this was so in significant part because: "the fluid milk (Class I) market may not be large enough to accommodate all the producer milk that would like to be associated with the order, given the order's pooling standards." By contrast, 90% to 92% of Grade A milk produced in Utah, Washington and Oregon was pooled, and in Minnesota and Wisconsin, pooled milk represented 87% and 91% of Grade A production, respectively. Some of Idaho's milk, unable to associate with a local pool, has associated with the Upper Midwest and the Central Market. Although DFA complained of this fact in prior hearings in Minneapolis and Kansas City, its proposals for this hearing would dramatically reduce local pooling opportunity for Idaho milk, increasing the pressure to find alternative markets in which to associate Idaho's milk supply.

We might, very reluctantly, agree with DFA that there is a potential problem if distant milk can associate with the pool and not reasonably serve local plants, if the milk is needed. However, apart from DFA's double-pooled California milk, this does not appear to be a problem in the Western

Market. The Western Market blend price (PPD) is not higher than prices in surrounding markets. Distant producers are not going to struggle to gain paper-pooling status in the Western Market only to receive a lower blend price. In any event, if a problem of this kind develops, or is revealed in the record, it is better to address it by reducing producer blend prices at locations distant from the primary market, reflecting lower location value to the market in which milk was pooled, rather than to allow pooling provisions to be abused as market barriers.

We have made every effort to permit our producer patrons to participate in the local federal order pool, like many of their neighbors. Since 1995, we have operated a Bulk Tank Unit. In Idaho, BTUs perform the same function as supply plants in Order 30, shipping qualifying milk directly from farms to distributing plants by divert-transfer, and allowing the supply plant to pool the rest of its supply for manufacturing purposes. We qualify our BTU by supplying milk to Stoker Wholesale, a small distributing plant located in Burley, Idaho. Prior to Federal Order reform, all of our Grade A milk could be pooled. By maximizing shipments to Stoker, and further maximizing allowable diversions, we are now able to pool less than half of the milk produced by 20 – 25 of our producer patrons. Most of our 67 Grade A patrons are never eligible to be pooled. If DFA's proposals are adopted, our pooling opportunity would be limited to less than 5% of our milk supply

Our milk is, and always has been, available for shipment to distributing plants, if it is needed. But, apart from the small volume we ship

to Stoker, no distributing plant or fluid milk supplier has ever asked for our milk.

Proposals 3, and 5 through 7, would directly, adversely and greatly affect Jerome Cheese and our Grade A producer patrons. They are part of an anti-competitive package designed to enlist USDA's help in building barriers to market entry and participation even by dairy farmers located inside of the Western Market milkshed.

Our producer patrons, whose local milk is available but not needed by Class I distributing plants, should have the same opportunity to pool as cooperative member producers located in southern Idaho, whose milk is delivered to manufacturing facilities day in and day out because it is not needed for Class I use. The record of this hearing *does* demonstrate that there is a problem of disorderly marketing in the Western market justifying government intervention. That problem is exemplified by the fact that we had to drop two-thirds of our producers from the pool after January 1, 2000, and by the fact that so much Idaho milk is unable to secure entry to any federal market. On the basis of this record, that problem should be addressed by increasing allowable diversions to 95%, or suspending diversion limits altogether.

DFA, several Utah producer witnesses, and Utah trade associations testified to the effect that they seek a level playing field in pooling provisions. This is exactly the same objective that drives our opposition to proposals 3 and 5 through 7. It would create, and has created, disorder and producer discontent for some Idaho producers to have access to Order 135

pool qualification while others do not. A level playing field can be achieved if all Idaho producers are treated the same. As an alternative to the DFA proposals, we would suggest that the Western Orders exclude all Idaho-produced milk from pool participation, somewhat like NDA wants (for good reason) to treat California milk. By this means, the market would at least not be composed of haves and have-nots; and the playing field, though a bit lower, would be level.

For all the reasons stated by Jeff Williams, whose testimony we endorse, the Secretary should reject proposals 3 and 5 through 7, as contrary to federal order pooling policy, contrary to principles of producer equity, and contrary to law.

Finally, we cannot support, at this time, Meadow Gold proposals 11-13 because they would regulate prices in one type of handler-to-handler transaction while leaving other similar transactions – bulk transfers, packaged milk transfers, custom bottling, tolling arrangements, pooling fees, and the like – untouched. It is also our understanding, because our lawyer told us so, that price regulation of handler to handler milk sales are not expressly authorized by the Act. We expect to review this issue after the record is developed and address it in our post-hearing brief.