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June 13, 2005

Joyce Dawson
Hearing Clerk, OALJ
Stop 9200-Room 1083
US Dept. of Agriculture
14th & Independence SW
Washington, DC 20250-9200

Re: Milk in the Upper Midwest Marketing Area, Dkt. AO-361-A39; DA 04-03A. Comments and Exceptions to Tentative Decision.

Dear Ms. Dawson:

Grande Cheese Company (“Grande”) submits the following comments and exceptions to the Tentative Partial Decision of the Acting Administrator, Agricultural Marketing Service, published at 70 Fed. Reg. 19709 (April 14, 2005).

Grande operates four Italian cheese-manufacturing plants in southeastern Wisconsin. The plants are supplied by cooperative association member producers from farms located primarily in Wisconsin, Iowa, and Illinois. Some farms that have regularly supplied Grande plants are also located in Indiana. Grade A milk delivered by diversion to Grande plants is primarily pooled in the Upper Midwest Order, the Central Order and the Mideast Order. Grande’s costs for milk includes fees to pooling handlers, such as DFA, to accommodate our milk supply in a federal market pool and to arrange for shipments from our milk supply when needed by distributing plants and for pool qualification.

Dairy markets are expanding globally, nationally, and regionally, due to product innovation, technological advancements in transportation, milk processing, and milk production. The Tentative Decision follows an unfortunate regulatory trend to limit producer access to federal milk order pools where producer marketing choices have already been greatly eroded over the past decade due to consolidation of distributing plant ownership, consolidation of cooperative associations, and far fewer suppliers with pooling base through which producers may share in a blend price with their neighbors.

Grande is greatly concerned with elements of the Tentative Decision that would create geographical barriers to dairy farmers seeking to sell milk to Upper Midwest plants. In particular, Grande excepts to provisions of amended Section 1030.13(d) that would prohibit pooled milk from being diverted directly from Order 30 farms to plants located in Indiana and Michigan’s Southern Peninsula.

The Tentative Decision opines that only milk within the defined 7-state milkshed is located close enough to the market so as to be part of the “legitimate reserve supply of the diverting handler,” and that 400 miles is “a reasonable proxy for describing the common procurement area of the order’s distributing plants.” 70 Fed. Reg. at 19716. By this description, the States of Indiana, Michigan (Southern Peninsula) and Ohio, at a minimum, should be added to the list of states to which pooled milk may be diverted.

(Continued)

The distance from Chicago is 281 miles to Detroit, 304 miles to Saginaw, and 190 miles to Grand Rapids. From Chicago to Fort Wayne is 160 miles, to Goshen is 121 miles, and to Valparaiso is 55 miles. From Chicago to Columbus (central Ohio) is 355 miles.

Market statistics showing sources of milk by state of origin, including periodic publications as special features in Federal Milk Order Market Statistics (FMOS), reveal an ebb and flow of milk to Upper Midwest plants from farms in Indiana, Southern Michigan and Ohio. E.g., Exhibits 8 and 5 (Tables 14, 17, and 18); FMOS July and Aug 1999 (FMOS-433), p. 57. Although quantities are not large, these supplies are well within the reasonable supply area of 400 miles from many Upper Midwest plants. Milk delivered to Grande and other plants in the Upper Midwest from farms in Indiana and Michigan, though currently pooled predominately in Order 33, may need to be pooled in Order 30 in the future, particularly if access to the local Order 33 pool is further limited, as requested in hearing proposals pending before the Secretary.

Regular supplies of milk from any farm location to Upper Midwest plants could occasionally be diverted to nonpool and other order plants close to the location of the supplying farms. Diversions to Mideast-area plants may occur because there is a need at an Order 33 pool plant, because of seasonality of production, because of variability in plant needs, or for a number of other reasons. The Tentative Decision would require that, to maintain Order 30 pool status, milk sold to plants in the Order 33 market would have to be hauled from Indiana, Michigan or Ohio farms to an Order 30 plant in Illinois, Wisconsin (or elsewhere in the 7-state area), unloaded, reloaded, and then shipped to the receiving plant in Order 33. The cost of such inefficient transportation and handling erects an effective geographic barrier to the development of regular milk supplies to Order 30 plants from farms within a reasonable procurement distance located in Indiana, Southern Michigan and Ohio.

We believe that concerns about “distant milk” pooling in Order 30, or similar “pooling discipline” in any federal milk order, should be addressed by location adjustments on producer milk, as explained by the witness for DFA. 70 Fed. Reg. at 19713. Location adjustments on producer milk are specifically authorized by the Act and provide a natural economic constraint on opportunistic pooling of distant milk. Geographic barriers are, such as adopted in the Tentative Decision, are not authorized.

For the foregoing reason, we urge the Secretary to modify Section 1030.13(d) in a final decision and, at a minimum, add the states of Indiana, Michigan, and Ohio as locations to which Order 30 pool milk may be diverted.

Respectfully submitted,

John Fridirici
Vice President
Milk Marketing and Procurement

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