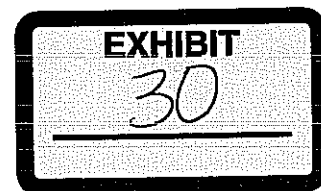


I am Jeffrey Sims; I am Assistant Secretary of Southern Marketing Agency, Inc., hereafter referred to as SMA, a Capper Volstead marketing agency in common operating in the southern United States. My business address is 13011 West Highway 42, Suite 206, Prospect, Kentucky 40059. I testify today on behalf of SMA, whose seven Capper Volstead cooperative members are: Arkansas Dairy Cooperative Association, headquartered in Damascus, Arkansas; Dairy Farmers of America, Inc., Southeast Council, headquartered in Knoxville, Tennessee; Dairymen's Marketing Cooperative, Inc. headquartered in Mt. Grove, Missouri; LANCO-Pennland Quality Milk Producers, Inc. headquartered in Hagerstown, Maryland; Lone Star Milk Producers, Inc. headquartered in Windthorst, Texas; Maryland & Virginia Milk Producers Cooperative Association, Inc.; headquartered in Reston, Virginia; and Premier Milk, Inc., headquartered in Ocala, Florida. SMA is a qualified cooperative federation under each of the Appalachian, Florida and Southeast Federal Milk Marketing Orders.

Each of the seven cooperative members of SMA marketed milk on one or more of the Appalachian, Florida and Southeast Federal Milk Marketing Orders during the years 2010 and 2011. In addition, two of these members, Dairy Farmers of America, Inc. and Maryland & Virginia Milk Producers Cooperative Association, Inc. have marketed milk on the Mideast Order. These two members had milk pooled on Order 33 as recently as August, 2011.



The seven cooperative association members of SMA are here today to testify in support of Proposal 1, as included in the Notice of Hearing. Proposal 1 would fully regulate on the Mideast Order a distributing plant located inside the Mideast Order marketing area which distributes more than 50% of its route distribution in Federal Order marketing areas but, however, does not have sufficient route disposition in any one Federal Order marketing area to qualify as a pool distributing plant.

Inasmuch as there is a distributing plant located inside the Mideast marketing area which currently does not meet the in-area route disposition criteria of any Federal Order, and is partially regulated on multiple Orders by virtue of its wide geographic distribution of packaged fluid milk products, the issue is timely for resolution. According to market administrator statistics, the plant in question, Superior Dairy, Canton, Ohio, is a partially regulated plant on the Northeast, Appalachian, Florida, Southeast, Central, and Mideast Orders, thus exhibiting a considerable geographic footprint to its Class I route distribution. Few bottling plants distributing traditional shelf-life products would have a larger geographic area of packaged fluid milk distribution than does Superior Dairy.

As a partially regulated plant on the above listed six Orders, Superior Dairy is in direct competition for Class I sales with handlers fully regulated by those listed Orders, and would be in direct competition with at least some of those regulated handlers for farm milk to supply their plants. Superior Dairy's

route disposition in the Appalachian, Florida, and Southeast Orders, and thus its Class I sales competition with plants regulated under those Orders gives rise to SMA's interest and participation in this proceeding.

Based on the following factors and principles, SMA supports Proposal 1.

(1) The irregular switching of a distributing plant between full regulation and partial regulation can be a source of marketing disorder. The uncertainty of the regulatory status of a plant can wreak havoc on the marketing plans of producers and cooperative associations. Planning and executing the procurement of and pooling of the necessary reserve supplies for the Class I sales of a plant prone to willy-nilly regulatory changes can be very challenging.

(2) The irregular switching of a distributing plant between regulation on multiple Orders can be a source of marketing disorder. The same challenges would exist in carrying and properly pooling reserve supplies for plants that switch between Orders as exists for plants switching between full and partial regulation.

Additionally, with regard to plants switching into and out of Order pools, as described in items (1) and (2) above, Order provisions which consider historical pooling relationships or historical pooled volumes in determining what milk constitutes the allowable, that is pool-able, reserves which may be associated

with an Order's Class I needs can make difficult the equitable assignment of those reserves to the Order producer pool which benefits from the plant's Class I revenues. These problems of the proper pooling of reserve supplies, in the case of a plant switching regulation, are exacerbated by the fact that often times the plant's regulatory change is not known until after the month is over.

Another source of disorder can be the regulation of a distributing plant in an Order distant from the plant's location, such that its raw milk procurement area does not necessarily fit well with the predominance of its Class I sales. In recognition of this issue and the problems it can create, the Secretary has used the distributing plant location lock-in provisions to great success in the Appalachian and Southeast Orders, as well as a number of their various predecessor Orders. The recognition that the location of a plant can be a more important determinant of what Order the plant should be regulated in than the plurality of the plant's Class I route disposition would eliminate exactly the kind of marketing disorder which evidently exists today in the Order 33 and neighboring marketing areas.

It now appears that plants can distribute traditional shelf-life packaged fluid milk products over wide areas, as wide or almost as wide as the distribution of long shelf-life products. In light of this new distribution distance reality, and I would note that it is approximately 840 miles from Canton, Ohio to Jacksonville, Florida, it is very logical and appropriate for the Mideast Order to extend the

distributing plant location lock-in provisions to include non-exempt distributing plants which do not meet the full-regulation Class I distribution percentage requirement in any Order, just as the current Order 33 locks in plants which distribute aseptically processed fluid milk products.

(3) It is our observation that partially regulated distributing plants, once they become partially regulated, seem to seek to remain partially regulated. This is evidence of a real or a perceived competitive advantage gained through the partially regulated plant status.

(4) Evidence has been presented in this hearing that suggests that the subject partially-regulated plant may be transferring packaged fluid milk products to a fully regulated plant, and the motivation for this activity is to allow the partially regulated plant to maintain its in-area route disposition percentages at levels which are less than required for full regulation on any Order in which the plant has Class I packaged fluid milk product sales. If the current Order provisions are allowing a distributing plant to avoid full regulation by virtue of the transfer of packaged fluid milk products to a pool plant, purely for the purpose of limiting the partially regulated plant's calculated in-area route disposition percentages, then the Order provisions are encouraging the uneconomic movement of milk.

For the above reasons, Southern Marketing Agency, Inc. supports Proposal 1 as a sound and practical method for correcting the disorderly marketing conditions which are occurring in the Mideast and neighboring marketing areas, resulting from the current partially regulated status, and perhaps the transitory Order to Order fully regulated status, of a distributing plant located inside the Mideast Order marketing area.