

**Docket No. AO-11-0333; AMS-DA-11-0067; DA-11-04;**

**Milk in the Mideast Marketing Area**

**Testimony on behalf of Continental Dairy Products, Inc., Dairy Farmers of America, Inc., Dairylea Cooperative Inc., Erie Cooperative Association, Foremost Farms USA Cooperative, Inc., Michigan Milk Producers Association, Inc., NFO Inc., Prairie Farms Dairy, Inc., White Eagle Cooperative Association.**

My name is Joseph W. Weis. I employed by Foremost Farms USA Cooperative (Foremost) as Vice President of Member Services and Milk Marketing. My business address is E10889 Penny Lane, Baraboo, Wisconsin, 53913. I have been employed by Foremost for 22 years. I have worked in the dairy industry for 38 years. My educational background is B.S. Food Science & Industries, University of Minnesota, 1973. My duties at Foremost over the years have included plant management of cheddar cheese and fluid milk packaging plants, CEO of Foremost predecessor cooperative Golden Guernsey Dairy Cooperative of Milwaukee, WI, and Vice President – Consumer Products Division at Foremost prior to the sale of our fluid milk plants in 2009 . I have served as the president of Central Milk Producers Cooperative (CMPC) since 2005. I have been co-chair of the marketing committee of the Mideast Milk Marketing Agency (MEMA) since 2007 and chairman of the administrative committee of the Regional Milk Marketing Agency since 2004.



Foremost Farms USA is a dairy farmer-owned Capper-Volstead cooperative of 1918 farms which are located in seven states. In 2010, Foremost's member-owners marketed 5.6 billion pounds of milk through their cooperative.

Foremost owns and operates eleven manufacturing plants in Wisconsin and one in Minnesota, and also supplies Grade A raw milk to distributing plants located in Federal Orders 5,30,32 and 33.

Foremost Farms markets and pools milk for its member-owners in Order 33.

Foremost was a requester of this hearing and supports the proposed amendments to Orders 33. I offer this testimony in supplement to the testimony which Elvin Hollon has presented. I want to address in particular the comments to the disorderly impact which a partially regulated plant may have where it procures raw milk and distributes fluid milk products.

Unless someone can convince me otherwise, I believe Elvin Hollon's explanation of the logistical and accounting mechanisms used by Superior Dairy to maneuver Order 1 sales of milk packaged at their Canton plant through their Wauseon facility in order to avoid regulation of their Canton plant on Order 1 to be correct. Based upon descriptions I have heard regarding the Wauseon site and facilities, and my experience in managing packaged fluid milk businesses, it is highly unlikely that the Wauseon facility could be upgraded into an economically viable,

state-of-the-art plant, given its limited space and the high cost of capital equipment required to compete in today's marketplace. However, it seems to be a successful investment in its current role.

Competition in Federal Order markets for sales of fluid milk products is premised upon the fact that all competitors have a minimum base price for their raw milk which has been set by the Federal Milk Market Administrator. In addition, the marketwide pool assures that all competing processors have the same minimum cost for raw milk when they go to the country to acquire producer milk supplies for their plants. If only some of the plants involved are participants in the marketwide pool, while others are operating on an individual handler pool basis, the fundamental baseline for orderly marketing is lost. That is what happens if it is possible for a major processor to compete for producer milk supplies and for major sales accounts in a marketing Order without being part of the marketwide pool. If allowed to go on over a period of time this creates an inherently unstable competitive situation for all of the pool handlers in the marketplace.

When I look at the estimates which Elvin Hollon has provided with his testimony which involve the difference between the individual plant blend value and the market-wide pool blend value, it is apparent that a partially regulated plant will have a competitive advantage versus pool handlers.

The disorderliness which a major plant operating on an individual handler pool basis can bring to what is otherwise a marketwide pool in terms of the sale of packaged fluid milk products is in addition to the impact which such a plant can have on producer milk procurement. The packaged fluid milk business is highly competitive, to the point where tenths of a cent differences in price per gallon can cause business to change hands. A partially regulated plant in Ohio which procures milk in Ohio will have impacts in the Order 33 market. However, when the plant has sales not only in its home Order but in adjacent Orders and it is not subject to marketwide pooling, the impacts which it has can lead to disorderly conditions in other Orders as well.

The USDA has quite properly acted to correct regulatory terms in milk Orders which have led or can lead to fully regulated pool plants becoming partially regulated. In Order 30 we have had experience with a bottler obtaining partially regulated status by associating diverted milk volumes with their distributing plant. The extent of these associations on paper brought the percentage of Class 1 utilization at the distributing plant below the minimum level established in the plant definitions. This was an unintended result of regulatory accounting which was corrected by language in the Federal Order reform decision which removes diverted milk volumes from the calculation in the determination of whether a plant's utilization will make it a regulated distributing plant. We have experienced how language which existed prior to the Federal Order reform in 2000 for the manner in which bulk transfers to other distributing

plants were treated was used to control in which Order a distributing plant was pooled, even though the majority of its route distribution was in an adjacent order. We see these as examples of situations where the Secretary has consistently found that plants located in Federal Order marketing areas that have marketwide milk procurement and distribution should be pooled on a market wide basis and there should not be regulatory and accounting loopholes which allow these plants to manipulate where they are regulated or as a means to achieve partially regulated status and thereby operate as individual handler pools.