Patrick S. Clark – Market Administrator

Florida Marketing Area – Federal Order 6
Southeast Marketing Area – Federal Order 7
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043
Fax: 770-822-1038

Dear Mr. Clark,

This letter is written in support of reducing the diversion limit percentage in the Southeast Order 7 as specified in section 1007.13(d)(3) and (4) from 25 percent to zero percent for the months of September, October and November, 2014.

It is a strong belief among dairy producers in the geographic Southeast region that the use of diversions and transportation credits has been extremely harmful to their businesses by lowering the value of locally produced milk and subsidizing the hauling of milk from dairy producers operating in distant locations. This hinders the stability and growth of the Southeast milk shed and results in the very outcomes we are seeing in the loss of local dairy farmers and milk supplies.

It is appreciated that this request is taken seriously and being considered by you.

Thank you,

Sam Collins

Southeast Federal Order 7 Dairy Farmers

From: Greg J Speck <gregs@selectmilk.com>
Sent: Monday, August 25, 2014 11:04 AM
To: FMMA6&7
Cc: Ryan Miltner
Subject: FW: Elimination of Diversions

Dear Mr. Clark,
One of the primary purposes of the Federal Milk Order System is to ensure equitable pay prices for all dairymen within a Federal Order. If diversions are eliminated it could put producers, located inside and outside Order boundaries, who deliver to non-pool plants, located inside and outside Order boundaries, at a price disadvantage. It also could result in disorderly and uneconomical movement of milk. Continental Dairy Products, Inc. requests that you do not eliminate or reduce the diversion limits.
Thank you,

Gregory J. Speck
Continental Dairy Products, Inc
V.P. Fluid Operations
(575) 746-6698

RECEIVED
AUG 15

Patrick S. Clark, Market Administrator, Southeast Marketing Area

1550 North Brown Rd. Suite 120

Lawrenceville, GA 30043

Dear Mr. Clark,

As a milk producer in the Southeast Marketing Area, I am responding to the invitation to comment on the recent letter submitted by Lee Robey addressing milk diversions in the Southeast Marketing Area. In reviewing the request by Mr. Robey concerning diversion limitations, I certainly concur with his request.

The problem of a deficit milk supply in the Southeast needs critical review. Serious consideration of this issue is long overdue. Milk should be delivered not diverted.

I am in total support of Mr. Robey's proposal.

Respectfully,

Tommy Roberson D & R, Farms

Tommy Roberson, D & R Farms

2394 Blackwell Road

Chapel Hill, TN 37034

August 11, 2014

VIA ELECTRONIC MAIL

Patrick S. Clark
Market Administrator
Southeast Milk Marketing Order No. 7
1550 North Brown Road
Lawrenceville, Georgia 30043

Dear Mr. Clark:

Dean Foods Company ("Dean Foods") through its subsidiaries owns and operates five pool distributing plants regulated by the Southeast Milk Marketing Order. We also source a significant milk supply for these plants from independent (non-member) milk producers. We appreciate Mr. Robey's interest in the amount of milk that is allowed to be diverted off the Southeast Federal Order and his initiative to request the Market Administrator to consider a change to the diversion limits for these months. Further, we fully recognize the Market Administrator's authority under Sec 1007.13(d)(7).

Dean Foods has long been concerned with the level of allowable milk diversions in the Federal Orders and has actively advocated for tighter pooling provisions in almost every Federal Order proceeding. Our stance has been consistent since Federal Order reform, and likely for years, if not decades, prior to Federal Order reform. However, we have never supported the idea of zero diversions. Therefore, we oppose Mr. Robey's request.

Dean Foods desires to compete on a level playing field. In our opinion, taking the diversion limits to zero will significantly disadvantage Dean Foods relative to our cooperative competitors. Under the Southeast Federal Order, Dean Foods must pay the minimum price for all milk included in the pool. As demonstrated in the daily receipt data produced by the Market Administrator's Office in response to a request from Dairy Farmers of America, Dean Foods' plants, like other plants in the Order, experience unpredictable daily fluctuations. If we are unable to take all of the independent producer milk into our plants each day we must find an alternative home for the remainder of the milk. In most instances, that alternative home will not be a Federal Order pool plant. And, with zero diversions, such milk would not be eligible to be included in the pool. Consequently, Dean Foods would be left with three principle choices: 1) Absorb the loss into the business, 2) Lower premiums, if they even exist, to producers, and/or 3) Pay the producer(s) whose milk went into the non-pool plant the same value we would collect from such plant. Each of these choices has its challenges and limitations. Dean Foods strongly believes moving diversions to zero would create an uneven competitive landscape and disorderly movements of milk and, therefore, should not be adopted.

The first choice delineated above is not practical because it is, effectively, a commodity price increase to our company. Our business just reported its second consecutive quarterly loss (see http://www.deanfoods.com/our-company/news-room/press-release.aspx?StoryID=1957351) based in large part on high commodity costs. We are not in a position to absorb additional commodity price increases.

With respect to the second choice, Dean Foods has premium programs that serve as incentives for dairy producers. And while the premiums change over time, the program is not meant to address fluctuations in milk markets. With the second choice, our belief is the incentives would be confused with temporary market conditions. It is my belief that if cooperatives were to face zero diversions they would simply reblend their pricing, allowing them to pay producers equitably and still maintain their premium programs, albeit at reduced base line. Further, the zero diversion market condition would likely drive the Dean Foods' producer premiums to zero. At such point, Dean Foods would be unable to lower its producer price to offset its higher costs brought on by the prohibition of diversions. This result would leave Dean Foods in a competitively disadvantaged position. At the same time, cooperative producers would be incentivized to sell their milk to Dean Foods at a higher price than they received from the cooperatives. But Dean Foods would not want such higher priced producer milk, which would add to the excess milk supply.

With respect to the last choice, the unfair consequence would be to place the entire financial burden on the small subset of our supply whose milk is not included in the pool. In such instances, those producers would likely move to the cooperative. However, if Dean Foods would lose certain producers for such action, we would pick producers for non-pool plants that we were less interested in keeping. This might not be the most logical milk supply to move to non-pool plants[1]. Accordingly, Dean Foods strongly believes moving diversions to zero would create an uneven competitive landscape and disorderly movements of milk and should not be adopted.

Dean Foods encourages the Market Administrator to evaluate whether market conditions warrant a change. The regulatory language authorizes the Market Administrator to make such a change "if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area." Sec 1007.13(d)(7). In our estimation, the question is whether supply and demand has sufficiently changed to jeopardize the orderly marketing and efficient handling of milk that exists today? Dean believes strongly that Market Administrators should take action when conditions shift in such a way that negatively impacts the adequate supply of fresh milk to distributing plants. Such conditions do not exist today. Dean Foods is efficiently procuring an adequate supply of milk, and none of our

[1] This likely results in uneconomic movements of milk.

cooperative suppliers have disclosed to us any supply challenges. Furthermore, presently Dean Foods has reserve milk for our Southeast Distributing plants that is not delivered to a distributing plant. We anticipate that our orders will increase as we move into the Fall and we will use such reserve milk to meet those orders.

In fact, the data demonstrates that milk in the marketing area is moving in an orderly and efficient manner. In looking at the data provided in response to Dairy Farmers of America's data request, there is no noticeable shift in the number of unused diversions in recent years. Further, the data evidences, both in Dean Foods' sales volume and in the Market Administrator's statistics, a decrease in Class I sales. Reduced Class I sales result in fewer pounds of reserve supply, making any diversion allowance change unnecessary. Accordingly, the Market Administrator should leave the current regulatory rules in place.

In the event the Market Administrator disagrees with Dean Foods' position, we ask that the Market Administrator only consider and adjust the diversion limits on a month-to-month basis as more data becomes available. We are particularly mindful of the fact that Thanksgiving Day is in November. This, and all holidays, creates operational challenges for plants, particularly short shelf life fluid milk plants. It is impossible to say today exactly what the market conditions will be over the next 90 days. To that end, we would ask that November's diversion requirement, at a minimum be considered, much closer to the time of its effect so it may reflect the latest market conditions.

Thank you for your consideration of our point of view.

Sincerely,

Evan Kinser

Evan Kinser
Vice President - Milk Supply

EK/st

cc: C. English

Dairy Farmers of America

August 11, 2014

Market Administrator – Patrick S. Clark
Florida Marketing Area – Federal Order 1006
Southeast Marketing Area – Federal Order 1007
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043

Dear Market Administrator:

Dairy Farmers of America, Inc. represents its member owners whose milk is pooled on Federal Order 1007. Milk from our members comprised almost 40 percent of the milk pooled on the Order in June. We supplied milk to more than 30 processors and provide necessary balancing services to the market every day of the week, the month and the year.

Your office recently received a request from a local dairy farmer, Lee Robey. His letter asked:

" ...Therefore we are requesting that you exercise your authority and reduce the diversion percentage to zero for the months of August, September, October and November 2014."

A diversion limitation of zero percent is unworkable for any market and we are not aware that any market in the Order system has for any monthly time period a zero diversion standard.

Oppose a Zero Limit

We oppose the establishment of a zero diversion standard. Because milk production and demand patterns are not uniform in a milk market supply never matches demand. There is always too much or not enough milk to meet demand. It is an accepted fact that milk demand exhibits daily, weekly and monthly variation in demand. For the period, requested one of the data sets provided by the Market Administrator serves to show several elements of variation that make a zero diversion limitation unworkable. Referring to the 08/04/2014 data request made by Dairy Farmers of America, Inc. and specifically to the third tab denoting delivery to pool distributing plants by day for the most recent period in question – September through November 2013 the following conclusions can be drawn about a zero diversion limit.

For discussion purposes the producer milk pounds in this table were converted to a loads basis using 48,500 pounds per load. For the months reviewed there were 92 days of deliveries. The average deliveries-per-day was 321 loads. The maximum loads delivery day was 363 loads on October 16th (Wednesday) and the minimum loads delivery day was 263 loads on November 28th (Thursday/ Thanksgiving). Since these are actual deliveries (ordered, delivered and paid for) it can be assumed the 363 loads were both needed and delivered on October 16th. In the extreme case, 100 loads would be excess to the market on Thanksgiving Day November 28th. While diversion limits are set for the entire month so a single day comparison such as this is the extreme case - but nonetheless, a reasonable

10220 N. Ambassador Drive • Kansa City, MO 64153 • p. 816-801-6455 • f. 816-801-6456 • www.dfamilk.com

comparison of why zero is not a workable setting of the diversion limit and would represent an actual occurrence.

If the data is sorted by days of the week and an average delivery computed for each day, Monday, Tuesday and Wednesday average 330 or more loads delivered per day. Thursday – Sunday average 327 or less with only 300 delivered on a typical Saturday. Again this is based on averaging over a period of days and the actual daily fluctuation will be different from these numbers.

A zero diversion limit would either eliminate some amount of needed milk (up to perhaps 100 loads from the peak day) from being pooled or cause marketers to find ways to get the milk pooled that would be nothing short of uneconomic shipments perhaps to and from a pool distributing plant on the same truck in order to share in the pool returns.

<u>Alternative Limit</u>

Based on current market conditions, we suggest that the limitation could be lowered to 15 percent for each month without causing disorderly market conditions.

Thank you for receiving our input. We look forward to your findings.

Elvin Hollon

Elvin Hollon
Director of Fluid Marketing and Economic Analysis

Table 1. Data Request Dairy Farmers of America 08/04/2014 Tab 3

Delilveries to Pool Distributing Plants by Day September - November 2013

Pool Period	Delivery Date	PM LBS	Bfat LBS	Loads	Date	Day	Ave / Day	Median / Day
1309	02	15,297,541	558,753	315	130902	1Mon		
1309	09	17,289,509	627,873	356	130909	1Mon		
1309	16	16,687,515	604,374	344	130916	1Mon		
1309	23	16,053,689	585,624	331	130923	1Mon		
1309	30	15,615,592	573,831	322	130930	1Mon		
1310	07	16,770,970	625,947	346	131007	1Mon		
1310	14	16,130,613	598,984	333	131014	1Mon		
1310	21	17,403,406	653,707	359	131021	1Mon		
1310	28	16,832,462	637,820	347	131028	1Mon		
1311	04	15,338,010	583,177	316	131104	1Mon		
1311	11	15,489,745	586,676	319	131111	1Mon		
1311	18	14,709,499	556,430	303	131118	1Mon		
1311	25	15,128,049	580,904	312	131125	1Mon	331	331
1309	03	16,342,631	594,200	337	130903	2Tue		
1309	10	15,587,904	561,511	321	130910	2Tue		
1309	17	16,207,795	582,552	334	130917	2Tue		
1309	24	16,681,793	606,249	344	130924	2Tue		
1310	01	17,284,733	634,853	356	131001	2Tue		
1310	08	16,056,013	596,697	331	131008	2Tue		
1310	15	16,349,993	605,748	337	131015	2Tue		
1310	22	16,599,864	621,857	342	131022	2Tue		
1310	29	16,628,558	623,406	343	131029	2Tue		
1311	05	15,787,177	599,318	326	131105	2Tue		
1311	12	15,125,315	569,181	312	131112	2Tue		
1311	19	14,900,813	566,600	307	131119	2Tue		
1311	26	15,291,776	590,749	315	131126	2Tue	331	334
1309	04	15,367,834	555,624	317	130904	3Wed		
1309	11	16,896,908	611,516	348	130911	3Wed		
1309	18	16,846,488	606,368	347	130918	3Wed		
1309	25	15,366,180	556,098	317	130925	3Wed		
1310	02	15,792,941	583,217	326	131002	3Wed		
1310	09	16,470,979	604,348	340	131009	3Wed		
1310	16	17,589,012	653,272	363	131016	3Wed		

1310	23	15,966,920	597,144	329	131023	3Wed		
1310	30	16,564,470	621,112	342	131030	3Wed		
1311	06	15,227,847	575,362	314	131106	3Wed		
1311	13	15,639,158	594,245	322	131113	3Wed		
1311	20	15,182,964	573,882	313	131120	3Wed		
1311	27	14,974,799	566,915	309	131127	3Wed	330	326
1309	05	15,820,810	571,659	326	130905	4Thu		
1309	12	16,578,030	597,501	342	130912	4Thu		
1309	19	17,077,602	616,196	352	130919	4Thu		
1309	26	16,280,468	595,846	336	130926	4Thu		
1310	03	16,556,120	605,839	341	131003	4Thu		
1310	10	15,695,453	577,432	324	131010	4Thu		
1310	17	16,204,590	602,692	334	131017	4Thu		
1310	24	17,358,173	652,126	358	131024	4Thu		
1310	31	16,577,424	625,946	342	131031	4Thu		
1311	07	14,774,335	555,760	305	131107	4Thu		
1311	14	15,254,148	582,855	315	131114	4Thu		
1311	21	15,271,453	585,103	315	131121	4Thu		
1311	28	12,760,374	473,201	263	131128	4Thu	327	334
1309	06	15,861,669	571,524	327	130906	5Fri		
1309	13	15,835,307	574,681	327	130913	5Fri		
1309	20	16,677,820	602,169	344	130920	5Fri		
1309	27	15,643,974	573,481	323	130927	5Fri		
1310	04	16,042,868	590,779	331	131004	5Fri		
1310	11	17,007,506	627,873	351	131011	5Fri		
1310	18	15,348,142	577,246	316	131018	5Fri		
1310	25	16,272,057	610,486	336	131025	5Fri		
1311	01	15,610,294	588,902	322	131101	5Fri		
1311	08	14,843,433	559,089	306	131108	5Fri		
1311	15	14,478,191	554,509	299	131115	5Fri		
1311	22	16,063,423	605,908	331	131122	5Fri		
1311	29	15,142,884	570,680	312	131129	5Fri	325	327
1309	07	15,042,971	542,008	310	130907	6Sat		
1309	14	13,929,721	506,856	287	130914	6Sat		
1309	21	15,430,259	563,778	318	130921	6Sat		
1309	28	15,819,256	576,746	326	130928	6Sat		

1310	05	14,757,110	542,925	304	131005	6Sat		
1310	12	14,005,903	517,176	289	131012	6Sat		
1310	19	14,040,131	524,663	289	131019	6Sat		
1310	26	15,081,262	570,378	311	131026	6Sat		
1311	02	13,969,377	523,790	288	131102	6Sat		
1311	09	14,350,466	548,097	296	131109	6Sat		
1311	16	14,795,014	564,365	305	131116	6Sat		
1311	23	14,302,936	543,944	295	131123	6Sat		
1311	30	13,899,893	528,012	287	131130	6Sat	300	296
1309	01	14,731,367	536,317	304	130901	7Sun		
1309	08	15,697,433	570,477	324	130908	7Sun		
1309	15	15,261,313	554,637	315	130915	7Sun		
1309	22	14,807,087	537,621	305	130922	7Sun		
1309	29	15,522,602	570,204	320	130929	7Sun		
1310	06	15,111,969	562,742	312	131006	7Sun		
1310	13	15,830,490	588,917	326	131013	7Sun		
1310	20	14,782,595	552,057	305	131020	7Sun		
1310	27	15,381,900	581,318	317	131027	7Sun		
1311	03	13,526,631	513,148	279	131103	7Sun		
1311	10	13,419,718	507,856	277	131110	7Sun		
1311	17	14,160,779	538,111	292	131117	7Sun		
1311	24	13,362,758	511,779	276	131124	7Sun	304	305

All days	Max	363
	Min	263
	Ave	321
	Med	322

Averaged by day	Max	331
	Min	300
	Ave	321
	Med	327

Federal Order 7 - Southeast Marketing Area Producer Milk Utilization

June 2014

YYMM	Utilization Class	Utilization In-Area 1/	Total Utilization
1406	2	48,282,245	50,414,241
1406	3	4,656,233	52,090,035
1406	4	23,507,072	31,390,628

1/ Requested sought "the distribution of Class II,III and IV milk that was pooled on Order 7 and used in Order 7."

8/8/14

Dear, Patrick S. Clark
Market Administrator S.E. F07

I am in favor of 0% milk devertions for the Southeast milk deficite areas from Aug to NOV 2014.

I was a producer in PA until 1996. In the fall of 1996 we moved the dairy to TN. to get higher milk prices in the milk dificite Southeast. Now because of new rules a producer in TN and PA have very similar mailbox milk prices. The F05 and F07 will always be milk deficite. Why would a producer move to F05 or F07 to produce milk in the hot and humid Southeast when they can get the same prices in the cow friendly cooler North.

A former F07 Producer
Now A F05 Producer
waiting to get back
in F07 with Deans Food

John H Fritz

Fritzglen Dairy
Springfield, TN

GEORGIA MILK PRODUCERS, INC.
1641 New High Shoals Road, Suite 5, Watkinsville, Georgia 30677
1-800-337-0555 or 1-706-310-0020, Fax 1-706-310-0025

August 11, 2014

Mr. Patrick Clark
Market Administrator
Florida and Southeast Marketing Area
1550 North Brown Road, Suite 120
Lawrenceville, GA 30043
FMMA6&7@fmmatlanta.com

Re: Comments on lowering diversion limits

Dear Mr. Clark:
Thank you for the opportunity to make comments on the investigation regarding diversion provisions for the Southeast orders. We fully support the action taken by your office, which was generated from the letter of Lee Robey. The milk movement and procurement plans for the months of September, October and November 2014 were finalized some time ago with the current rules in force. If the FMMA changed the diversion limits to zero, they would create winners and losers among milk suppliers instead of working for an efficient market. These costs would ultimately come from dairy producers' checks. Due to this negative impact on farm milk prices, we are against changing the diversion limits to zero.

Georgia Milk Producers would like to thank USDA for finalizing the amendments for the Appalachian, Florida and Southeast Milk Marketing Orders effective May 5, 2014. These rules were the result of hard work by many parties for market conditions in 2007.

Our organization's mission is to build a stronger, more sustainable dairy industry in the Southeast for dairymen and consumers. Currently our state's milk production is increasing; however fluid sales continue their decline. This decline is a major concern for the Southeast, due to our historic reliance on Class I sales.

On the AMS website it states:

> *"The mission of Dairy Programs is to facilitate the efficient marketing of milk and dairy products."*
>
> *"Dairy programs' vision is to be efficient, effective, and innovative in program service delivery in the <u>continually changing</u> industry and government environments and to provide excellence in customer serve and industry relations with highly-skilled and motivated employees."*

The dairy industry needs to work for the right combination of diversion limits, touch-base requirements, and transportation credits which will support local dairymen but still attract import milk when needed. Please continue to investigate marketing practices and needs for the Southeast orders and again thank you for the opportunity to submit comments.

Sincerely,

J Everett Williams

Everett Williams
President

KDDC
Kentucky Dairy Development Council

Richard Sparrow
President

Charles Townsend, DVM
Vice-President

Kentucky Dairy Development Council

176 Pasadena Drive · Lexington, KY 40503
Phone: 859-516-1129 · Email: kydairy.org

Tom Hastings
Sec/Treasurer

Maury Cox
Executive Director

Patrick S. Clark – Market Administrator

August 7, 2014

Florida Marketing Area – Federal Order 6
Southeast Marketing Area – Federal Order 7
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043

Dear Mr. Clark,

On behalf of the Kentucky Dairy Development Council, a 501 (c) 3, dairy farmer/allied industry organization, this letter is written in support of reducing diversion limit percentages in the Southeast Federal Marketing Order 7 for the months of September through November, 2014. The KDDC has dairy farmer membership in Federal Orders 7, 5, as well as 33.

It is well known the Southeast U.S. is a milk deficit region, especially in the months listed in the proposal. This deficit is exacerbated by the increased need for Class I fluid milk created by the opening of schools in August. Diverting milk at the upper percentage limits during this period from Class I fluid to other Classes would be unwarranted for market supply and balancing.

Although it is understood diversion limits allow additional flexibility for plants and cooperative associations to manage and balance their milk supplies, the rules language also permits Market Administrators to adjust those limits as specified in section 1007.13(d) (7). As with every aspect of the Federal Order rules language, it is believed they are written with intent and purpose to create a sufficient supply of milk and dairy products for consumers and provide an environment of orderly milk marketing.

When distant milk is pooled on the Southeast Order and then diverted to Class III and/or IV plants near those distant locations, it lowers the Class I utilization and therefore reduces the producer blend price. This hinders the stability and growth of the Southeast milk shed and results in the very outcomes we are seeing in the loss of local dairy farmers and milk supplies.

Respectively submitted:

Richard Sparrow, President
KY Dairy Development Council

Maury Cox, Executive Director
KY Dairy Development Council

RECEIVED
AUG 11

Patrick S. Clark, Market Administrator, Southeast Marketing Area

1550 North Brown Rd. Suite 120

Lawrenceville, GA 30043

Dear Mr. Clark,

As a milk producer in the Southeast Marketing Area, I am responding to the invitation to comment on the recent letter submitted by Lee Robey addressing milk diversions in the Southeast Marketing Area. In reviewing the request by Mr. Robey concerning diversion limitations, I certainly concur with his request.

The problem of a deficit milk supply in the Southeast needs critical review. Serious consideration of this issue is long overdue. Milk should be delivered not diverted.

I am in total support of Mr. Robey's proposal.

Respectfully,

Gary Martin

Gary Martin, Valley View Farms

5366 Spencer Road

Rock Island, TN 38581

Patrick S. Clark – Market Administrator

Florida Marketing Area – Federal Order 6
Southeast Marketing Area – Federal Order 7
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043
Fax: 770-822-1038

Dear Mr. Clark,

This letter is written in support of reducing the diversion limit percentage in the Southeast Order 7 as specified in section 1007.13(d)(3) and (4) from 25 percent to zero percent for the months of September, October and November, 2014.

It is a strong belief among dairy producers in the geographic Southeast region that the use of diversions and transportation credits has been extremely harmful to their businesses by lowering the value of locally produced milk and subsidizing the hauling of milk from dairy producers operating in distant locations. This hinders the stability and growth of the Southeast milk shed and results in the very outcomes we are seeing in the loss of local dairy farmers and milk supplies.

It is appreciated that this request is taken seriously and being considered by you.

Thank you,

Joni Miller

Southeast Federal Order 7 Dairy Farmers

Received Time Aug. 7. 2014 10:39PM No. 2667

Patrick S. Clark – Market Administrator
Florida Marketing Area - Federal Order 6
Southeast Marketing Area - Federal Order 7

1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043
Phone: 770-682-2501
Fax: 770-822-1038
Email: FMMA6&7@fmmatlanta.com

Dear, Mr. Clark

We very much appreciate the Market Administrator allowing the discussion and investigation on diversion limits in FMO 7 by all interested parties. The data provided by the market administrator shows that there is little need to divert milk away from Pool Distributing Plants September, October, and November. While the request was Zero diversions for September, October, and November it is understandable that others in the market place would see 10 percent diversion limit acceptable. We believe that 25 percent does not reflect the intent of FMO 7 by lowering minimum order value to balance a deficit milk supply and a lower diversion limit is appropriate as it is and should be in other deficit orders. We very much appreciate the discretion of the Market Administrator and the zero requests were not intended to be an all or nothing request.

Sincerely

Lee Robey

Robey Farms

From: Greg J. Speck <gregs@selectmilk.com>
Sent: Monday, August 25, 2014 11:02 AM
To: FMMA6&7
Cc: Ryan Miltner
Subject: Elimination of Diversions

Dear Patrick,

One of the primary purposes of the Federal Milk Order System is to ensure equitable pay prices for all dairymen within a Federal Order. If diversions are eliminated it could put producers, located inside and outside Order boundaries, who deliver to non-pool plants, located inside and outside Order boundaries, at a price disadvantage. It also could result in disorderly and uneconomical movement of milk. Select Milk Producers, Inc. requests that you do not eliminate or reduce the diversion limits.

Thank you,

Gregory J. Speck
Select Milk Producers, Inc.
V P Fluid Operations
(575) 746-6698

SOUTHERN MARKETING AGENCY, INC.

STREET ADDRESS:
13011 WEST HIGHWAY 42, SUITE 206
PROSPECT, KENTUCKY 40059

Phone: 502-292-2810
Fax: 502-292-2828

August 11, 2014

By email and fax

Mr. Patrick S. Clark
Market Administrator
Southeast Milk Marketing Order No. 7
1550 North Brown Road
Lawrenceville, Georgia 30043

Dear Mr. Clark,

Southern Marketing Agency, Inc., whose Members are: Dairymen's Marketing Cooperative, Inc.; LANCO-Pennland Quality Milk Producers, Inc.; Lone Star Milk Producers, Inc.; Maryland & Virginia Milk Producers Cooperative Association, Inc.; and Premier Milk, Inc., wholeheartedly supports the Federal Milk Marketing Order program, and supports the establishment and maintenance of Federal Order provisions which encourage the efficient and orderly marketing of milk. As a result of this support, SMA opposes a proposal to reduce diversion limits in §1007.13 (d) (3) and (4) for the months of September, October and November 2014 from 25 percent of pool plant deliveries, to zero percent of pool plant deliveries. All of the Members of SMA are Capper-Volstead cooperative associations that market milk on the Southeast Milk Marketing Order.

SMA supports the use of market administrator discretion in setting and adjusting temporarily certain limits and performance requirements in Federal Orders, and SMA respects marketing area participants' right to request an adjustment of these provisions. However, the July 23, 2014 request to adjust diversion limit percentages from 25 percent of pool plant deliveries, to zero percent of pool plant deliveries is: (1) a proposal whose negative impact would fall disproportionally on cooperative associations; and, (2) a subject which has very recently been definitively decided by the Secretary.

First. If the proposal were adopted and diversions are effectively eliminated, if a pool plant is served by both cooperative associations and nonmember producers, the plant would likely opt to receive as much of its nonmembers' milk into its pool plant as possible, leaving the cooperative association(s) to send a greater proportion of the reserve supplies to nonpool plants. This creates an inequitable sharing of the Order's proceeds -- the nonmember producers' milk can share in the marketwide pool, and a disproportionally high share of the cooperatives' milk cannot. A hallmark of Federal Milk Marketing Orders is their equitable treatment of all marketing order participants, and forcing cooperatives to deliver supplies with a lesser opportunity for sharing in the marketwide pool is not equitable treatment. This scenario is not just hypothetical, nor is it a purely academic argument. We believe that approximately one-half of the pool distributing plants regulated under Order 7 have recently been supplied jointly by nonmember producers and cooperative associations, meaning that there are real and ample opportunities for inequitable treatment of cooperative associations and their members under the proposal.

Second and most compelling. In May 2008 the Secretary installed numerous changes to the Appalachian, Florida and Southeast Marketing Orders, through issuance of an Interim Order {Milk in the Appalachian, Florida and Southeast Marketing Areas; Interim Order Amending the Orders, [AMS–DA–07–0059; AO–388–A22; AO–356–A43 and AO–366–A51; Docket No. DA–07–03–A]}. In his 2008 Interim Final Decision, along with increases in the effective Class I prices in all three Orders and improved transportation credit provisions in Orders 5 and 7, were substantial reductions in the percentage diversion limits in Orders 5 and 7. The amended provisions were the result of a lengthy public hearing at which extensive testimony was given - testimony which was subject to rigorous cross examination by opponents of the proposals; and at which numerous, thorough and expositive exhibits were introduced, likewise subject to rigorous cross examination. Based on the testimony received at that hearing the Secretary installed the new lower diversion limits in Orders 5 and 7 which were in place under the Interim Order until May 2014, when the Interim amendments were made permanent by the Secretary through the issuance of a Final Decision. The diversion limits that the Secretary put in place in May 2014 are those that the petition now seeks to reduce to zero.

For the better part of six years the Secretary has had the opportunity to observe the functioning of the Orders under the interim provisions, and determine whether those interim provisions were indeed functioning to bring about orderly marketing of milk, and insure a sufficient quantity of pure and wholesome milk and be in the public interest. After this six-year period, the Secretary issued a Final Decision with no changes to the Interim provisions, relying not on conjecture, but supported by witnessing the real-life functioning of the marketing areas. If it was truly common knowledge that the Orders (and in the subject case Order 7) were not functioning as intended, <u>and functioning as required by law</u>, the Secretary would have been obliged to reopen the hearing, take additional testimony and then issue new provisions that would function better than the interim provisions. This he did not do. Rather, after a six-year trial by fire, the interim provisions were permanently installed unaltered. Substantial deference must be afforded the Secretary's very recent affirmation of the current diversion percentage limits.

Summary. For the market administrator to approve the petition, the market administrator would have to find that:

(a) *The Secretary was misguided when finding that "Providing for the diversion of milk is a desirable and needed feature of an order because it facilitates the orderly marketing and the efficient disposition of milk when not needed for fluid use." {Milk in the Appalachian, Florida and Southeast Marketing Areas; [AMS–DA–07–0059; AO–388–A22; AO–356–A43 and AO–366–A51; Docket No. DA–07–03–A]}.*

(b) *The Secretary was misguided when finding that "When producer milk is not needed by the market for Class I use, some provisions should be made for that milk to be diverted to nonpool plants but remain pooled and priced under the order." {Milk in the Appalachian, Florida and Southeast Marketing Areas; [AMS–DA–07–0059; AO–388–A22; AO–356–A43 and AO–366–A51; Docket No. DA–07–03–A]}.*

(c) *Every condition which led to the Secretary's establishment of the current diversion limits in Milk in the Appalachian, Florida and Southeast Marketing Areas; [AMS–DA–07–0059; AO–388–A22; AO–356–A43 and AO–366–A51; Docket No. DA–07–03–A], is now unfounded.*

It is true that marketing conditions change, but they don't change enough in two or three months to completely turn marketing areas upside down with fundamental alterations in pooling processes and Order operation philosophy. Simply put, Marketing Order areas need reserve supplies to insure enough milk is available to meet demand. The Agricultural Marketing Agreement Act says it, the Secretary of Agriculture says it, and marketing practice over and over has proved it. Since we need the reserve supplies to meet milk demands, these reserve supplies deserve the right to share in the proceeds of the marketwide pool. The Secretary's Decision setting the current limits must be respected and the current rational and reasoned diversion limits preserved. The proposal to eliminate diversions would not foster orderly marketing conditions, it would create marketing area disorder of the highest form, even if the action was taken on a temporary basis.

For the reasons stated, the market administrator must deny the petition to reduce the diversion limits in §1007.13 (d) (3) and (4) for the months of September, October and November 2014 from 25 percent of pool plant deliveries, to zero percent of pool plant deliveries.

Please feel free to call on me if you have any questions.

Sincerely,

Jeffrey F. Sims

Jeffrey F. Sims

Assistant Secretary / Treasurer
Southern Marketing Agency, Inc.

SOUTHEAST MILK INC.

"The Cooperative Built on Trust"

August 22, 2014

Patrick S. Clark, Market Administrator
United States Department of Agriculture
Agricultural Marketing Service, Dairy Programs
Southeast Marketing Area – Federal Order 7
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043

Dear Mr. Clark,

Southeast Milk Inc. (SMI), a dairy cooperative, markets milk for dairy producers located in Florida, Georgia, Alabama, Louisiana, Mississippi, and South Carolina. Southeast Milk marketed 10% of the total monthly pounds of producer milk pooled in the Southeast Marketing Area in the past twelve months.

Southeast Milk opposes the request recently submitted to the Market Administrator to lower the diversion limitations to zero (0) percent.

Based on the local milk supply during these months, the marketing area has an inadequate supply for the demand, creating a limited amount of milk diverted. However, due to normal course of the business, milk is delivered to Non Pool plants during these months. Plant closings, weekend shutdowns, holidays, transportation issues, and/or rejections are multiple causes of milk being delivered to Non Pool plants. Lowering the diversion limitations to zero (0) would be detrimental to all dairy farmers.

SMI proposes the diversion limitations be lowered to 10% for the months of September, October, and November. This proposal would allow for normal activities within these months and normal local Non Pool deliveries.

In closing, SMI's proposal of lowering diversion limitations during the months of September, October, and November will not have a negative affect in supplying the market with milk or inhibit the ability to pool producers who routinely supply the Southeast market.

Sincerely,

Shana Wooten

Shana Wooten
Southeast Milk, Inc.
Milk Procurement Manager

P.O. Box 3790 - Belleview, Florida 34421-3790
Telephone (352) 245-2437 • FAX (352) 245-9434
www.southeastmilk.org

Patrick S. Clark - Market Administrator

Florida Marketing Area - Federal Order 6
Southeast Marketing Area - Federal Order 7
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043
Phone: 770-682-2501
Fax: 770-822-1038
Email: mailto:FMMA6&7@fmmatlanta.com

Dear Mr. **Clark**

1. For the months of Sep, Oct & Nov, producer milk production in the Southeast FMO area is insufficient to meet the needs of pool distributing plants within the Southeast FMO area.
   - Since in-area producer milk production is insufficient, FMO diversion percentages should be zero for months of Sep, Oct & Nov.

2. Southeast FMO diversions created by delivers of in-area producer milk creates a financial incentive to divert producer milk to non-pool plants resulting in disorderly marketing from a Southeast producer point of view.
   - This practice of disorderly marketing benefits pool-handlers at the expense of in-area producers.
   - The Southeast FMO does not require in-area producers to balance pool-handlers.
   - It is not the responsibility of in-area producers to balance pool-handlers and when FMO rules create this phenomenon it impedes the growth of in area milk production.
   - To correct this practice of disorderly marketing FMO diversion percentages should be zero for months of Sep, Oct & Nov.

Data Request:

1. producer milk production from farms located within FMO7 plus 85 miles
2. producer milk delivered to pool-distributing plants located within the FMO7 area
3. producer milk delivered to in-area non-pool plants by location zone
4. producer milk delivered to out-of-area non-pool plants by location zone
5. Class I utilization of in-area pool-distributing plants located within the FMO7 area

Michael P Sumners
Dairy Producer
Paris, TN
mps@wk.net
731-676-4624

Representing All
Tennessee Dairy Producers Association
Tennessee Dairymen

Tennessee Dairy Producers Association
3789 Old Port Royal Rd
Spring Hill, TN 37174
info@tennesseedairy.org
931-698-0243

August 21, 2014

Patrick S. Clark – Market Administrator
Florida Marketing Area –Federal Order 6
Southeast Marketing Area – Federal Order 7
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043

Dear Mr. Clark,

On behalf of the Tennessee Dairy Producers Association and the producers who support this organization in Federal Order 7 as well as FMMO 5, we are responding to the invitation to comment on the recent letter submitted by Robey Farms addressing milk diversions in Federal Order 7. This letter is written in support of Mr. Robey's request of reducing diversion limit percentages in the Southeast Federal Marketing Order 7 for the months of August through November, 2014.

It is well known that the Southeast is a milk deficit region, especially in the months listed in the proposal. This deficit is exacerbated by the increased need for Class I fluid milk created by the opening of schools in August. Diverting milk at the upper percentage limits during this period from Class I fluid milk to other Classes is unwarranted. Milk needs to be delivered not diverted

When distant milk is pooled on the Southeast Order and then diverted to Class III and/or IV plants near those distant locations, it lowers the Class I utilization and therefore reduces the producer blend price. This hinders the stability and growth of the Southeast milk shed and results in the very outcomes we are seeing in the loss of local dairy farmers and milk supplies. Serious consideration of this issue is long overdue.

Respectively,

John Bayless, President

Tennessee Dairy Producers Association

Stan Butt, Executive Director

Tennessee Dairy Producers Association

TENNESSEE FARM BUREAU FEDERATION

August 11, 2014

Mr. Patrick S. Clark
Market Administrator
1550 North Brown Rd., Suite 120
Lawrenceville, GA 30043

RE: Invitation for Written Data, Views, and Arguments Regarding Diversion Limit Percentages.

This letter is submitted on behalf of the Tennessee Farm Bureau Federation (TFBF). We appreciate the administrator providing the opportunity to comment. The TFBF is the state's largest farm organization, representing a wide range of producers including a number of dairy farm families. I write in support of the request to lower the diversion limit percentages of Southeast Marketing Order seven from 25% to zero percent for the months of September, October and November, 2014.

We believe milk diversion in the Southeast FMMO is antiquated and creates an unnecessary waste of a number of valuable resources, many of which are at the milk producer's expense. A handler who has the ability to pool milk from within the FMMO should do so before electing to use diversions. Continued decline of dairy farm numbers in Tennessee and other southern states is having a dramatic impact on Tennessee's economy, and we believe efficient management of this FMMO must be priority in order to maintain a true market for producers.

We realize Marketing Order Seven represents a deficit milk production area. Our members do not believe high diversion percentages are economically acceptable in this FMMO. If the request is granted, we encourage the administrator to closely monitor performance during the waiver period to analyze how well the zero percent diversion works. Additionally, we urge the administrator to make assessments which can strengthen the entire diversion program and make it most efficient.

We believe positive effects will be realized by granting the request of lowering the diversion percentages to zero percent for September, October and November.

Respectfully,

W. Lacy Upchurch

W. Lacy Upchurch
President,
Tennessee Farm Bureau Federation

147 Bear Creek Pike, Columbia, TN 38401 • P.O. Box 313, Columbia, TN 38402-0313 • Phone 931-388-7872 • Fax 931-388-5818

-----Original Message-----
From: andy woodall [mailto:woodallfarms@yahoo.com]
Sent: Monday, August 11, 2014 4:26 PM
To: FMMA6&7
Subject: Diversions

Dear Mr. Clark,

On behalf of myself as a dairy producer in the Southeast, I firmly believe that pooling milk in the Southeast is causing a lower mailbox price to me. The Southeast region is always in a deficit in supply verses demand. I have no problem bringing milk in from other regions for supply to meet demand. I do believe that producers in this area should have Class 1 utilization first then outside milk take whatever is left. Also, I believe that you need to act as of August 1st 2014 and reduce the diversion percentage to zero for the months of August, September, October and November 2014.

Sincerely,

Jimmy Woodall

Woodall Farms

Patrick S. Clark – Market Administrator

Florida Marketing Area – Federal Order 6
Southeast Marketing Area – Federal Order 7
1550 North Brown Road, Suite 120
Lawrenceville, Georgia 30043
Fax: 770-822-1038

Dear Mr. Clark,

This letter is written in support of reducing the diversion limit percentage in the Southeast Order 7 as specified in section 1007.13(d)(3) and (4) from 25 percent to zero percent for the months of September, October and November, 2014.

It is a strong belief among dairy producers in the geographic Southeast region that the use of diversions and transportation credits has been extremely harmful to their businesses by lowering the value of locally produced milk and subsidizing the hauling of milk from dairy producers operating in distant locations. This hinders the stability and growth of the Southeast milk shed and results in the very outcomes we are seeing in the loss of local dairy farmers and milk supplies.

It is appreciated that this request is taken seriously and being considered by you.

Thank you,

Simon S. Yoder

Southeast Federal Order 7 Dairy Farmers

Received Time Aug. 7. 2014 12:27PM No. 2645