

producers and handlers. According to MDC, classified pricing contributes to equity among handlers, and the marketwide pooling of revenue generated from classified pricing provides for equity among producers. Specifically noted by the MDC witness was the purposeful elimination of individual handler pooling as milk marketing orders have consolidated into larger geographic areas.

Federal orders prohibit the pooling of the same milk of a producer on more than one Federal order, noted the MDC witness. Drawing money from one Federal order pool equitably shares revenue with those producers who supply the market, but drawing additional revenue from a second Federal order pool destroys the goal of equity among producers, a reason why the Federal order program prohibits double pooling, maintained MDC. As evidence of the impact of double dipping, MDC presented analysis showing that from January 2000 through April 2001, the Order 30 statistical uniform price per hundredweight averaged \$10.8850, with a pool draw of 84.5 cents. Over the same 16-month period, said MDC, the California overbase price averaged about 21.5 cents higher than the blend price in Order 30. Not only is the California overbase price higher than in Order 30, noted MDC, but a California dairyman pooled on Order 30 will also draw the 84.5 cents by being able to simultaneously pool the same milk on Order 30.

The MDC witness testified that the California milk pooling plan places high importance on providing equity to producers and to handlers regulated by the state. The witness noted that establishing producer equity is a basic cornerstone of both the California and Federal milk order programs and that both accomplish this through marketwide pooling. If the Federal order program does not eliminate double dipping, there cannot be equity in prices received by producers in the Midwest or California, said the witness. Eliminating double dipping is desirable, said MDC, because it would not change the movement or the marketing of milk in any significant fashion. Milk would continue to be picked up at the farm and taken to the same plants as is currently done. According to the MDC witness, the only difference would be that no financial benefit would accrue to some producers who currently are able to double dip.

A dairy farmer from Minnesota, who is also the Chairman of the First District Association, President of the Nelson Creamery Association, and serves on the board of the Minnesota Milk Producer's

Association (First District), testified in support of amending the Upper Midwest order to prohibit double dipping. The First District witness testified that it is unfair and wrong for dairy farmers pooled on Order 30 to have their milk price intentionally diluted as a result of California milk being pooled on the order. This witness estimated that the impact on the price received by dairy farmers in the Upper Midwest was about 15 to 17 cents per hundredweight. The First District witness also thought it important to indicate that California, with its Statewide milk regulatory system, had chosen not to be a part of the Federal milk order system.

A consultant witness with extensive experience in milk marketing regulations appeared on behalf of the supporters of Proposal 1. The witness provided detailed analysis regarding California milk movements and offered modified wording from that published in the hearing notice to end double dipping. This witness testified that Federal order provisions have always been tailored to prevent producers from pooling the same milk twice and enjoying the benefits of marketwide pooling from more than one order. To this end, according to the witness, a handler regulated on the Upper Midwest order should not be permitted to pool diverted milk if that milk is pooled and priced under either a Federal order or State order that provides for marketwide pooling.

Important to the new consolidated orders was the rejection of "open pooling" where milk from anywhere can be pooled on any marketing order, said the witness. The witness indicated that, in his opinion, the Department rejected open pooling because it did not provide an assurance of milk being made available for the fluid market. The witness also expressed the opinion that in markets with 20 percent or less milk used for fluid purposes, the notion of assuring an adequate supply of milk for fluid use becomes of questionable importance.

The witness testified that the statutory requirements for milk marketing orders specify the uniform treatment of producers and that uniform treatment is fundamentally the same as the equitable treatment of producers. The witness said that equitable treatment includes the equal sharing of the proceeds of the pool among all producers pooled on the order. However, the witness thought the notion of equitable treatment would not include producers who are sharing in the proceeds of other marketwide pools on the same milk. To this end, the witness maintained that pooling milk on

both the California and Order 30 marketwide pools has resulted in the non-uniform distribution of proceeds to those producers who pool the same milk twice.

The witness also presented an analysis of data from the California Department of Food and Agriculture as well as relied on his knowledge of milk receipts at plants located in the western States of Oregon, Nevada, and Arizona. This analysis shows, said the witness, that almost all of the California milk pooled on the Upper Midwest order is not physically received within the Order 30 area, but is instead being received at California plants. Because the milk is received at California plants, it is pooled under the California marketwide system.

The Secretary of the Wisconsin Department of Agriculture, Trade, and Consumer Protection (WDATCP), accompanied by the Director of Value Added Agricultural Development of the WDATCP, testified in support of amending the Upper Midwest order to stop and prevent the double dipping of milk. The witnesses testified that increasing volumes of California milk was diluting the Class I utilization of the market and was also lowering the benefit to dairy farmers in Minnesota and Wisconsin who are pooled on Order 30.

These Wisconsin officials were of the opinion that artificial regulations, not market forces, allow California milk to simultaneously pool under California's State order program and Order 30. The witnesses found this to be patently unfair and noted that it only serves to lower the income to Wisconsin and Minnesota dairy farmers.

With regard to milk produced far from the order and pooled on Order 30, these witnesses expressed minimal concern about such milk being able to pool on the order provided the same milk could not and would not enjoy the benefit of two marketwide pools. While the impact of pooling distant milk that cannot double dip was acknowledged to have the same impact in lowering returns to Minnesota and Wisconsin dairy farmers, these witnesses took no issue with such distant milk being able to pool on the Upper Midwest order. They expressed the view that adopting more restrictive pooling standards for the purpose of preventing double dipping would interfere with and supplant market forces, such as the economics of transportation and distribution, with artificial regulations.

The President and Chief Executive Officer of Hilmar Cheese, located in Hilmar, California, also testified in favor of preventing California milk from being