

producers pooled on the order would benefit financially and enhance their ability to stay in business.

A witness representing River Valley Milk Producers Inc. (River Valley), a dairy farmer cooperative located in Southwestern Idaho, testified in support of eliminating double dipping. The witness was of the opinion that producers from outside of the marketing area should meet pooling standards by demonstrating actual performance in supplying the Western marketing area as a condition for pooling their milk and receiving the blend price. However, the witness stressed that producer milk which already participates in a State marketwide pool should be prohibited from participating in a Federal order pool.

The Commissioner of the Utah Department of Agriculture and Food testified in support of eliminating double dipping on the Western milk order. The witness testified that increasing volumes of California milk are diluting the Class I utilization of the market and lowering the blend price paid to producers. The witness found this to be patently unfair and stressed that double dipping lowers the income of Utah dairy farmers.

Three dairy farmers from Utah testified in support of prohibiting double dipping. These witnesses stated that double dipping on the Western order has had a significant negative impact on their pay prices. They maintained that it is unfair and wrong for dairy farmers to have their milk price reduced as a result of California milk being pooled on the order. One dairy farmer witness also added that the loose pooling provisions of the Western Order have resulted in unwarranted financial gain to those who do not supply the Class I milk market of the Western marketing area. This witness indicated that this contributed to the financial ruin of a quarter of Western Order dairy farmers over the past four years.

There was no direct opposition to eliminating or preventing double dipping. However, a witness testifying on behalf of the Dairy Farmers of America (DFA), a dairy farmer cooperative that markets the milk of their members in both orders and in most other Federal milk orders offered their own proposals. These proposals were published in the hearing notice as Proposals 2, 3, 4, 5, 6, 7, 8, and 9, and are offered, said the witness, to address broader pooling standards and concerns rather than focusing on the single pooling issue of double dipping. These proposals are discussed later in this decision.

For nearly 70 years, the Federal government has operated the milk marketing order program. The law authorizing the use of milk marketing orders, the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended, provides authority for milk marketing orders as an instrument which dairy farmers may voluntarily opt to use to achieve objectives consistent with the AMAA and that are in the public interest. An objective of the AMAA, as it relates to milk, was the stabilization of market conditions in the dairy industry. The declaration of the AMAA is specific: "the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce."

The AMAA provides authority for employing several methods to achieve more stable marketing conditions. Among these is classified pricing which entails pricing milk according to its use by charging processors differing prices on the basis of form and use. In addition, the AMAA provides for specifying when and how processors are to account for and make payments to dairy farmers. Plus, the AMAA requires that milk prices established by an order be uniform to all processors and that the price charged can be adjusted by, among other things, the location at which milk is delivered by producers (Section 608c(5)).

As these features and constraints provided for in the AMAA were employed in establishing prices under Federal milk orders, some important market stabilization goals were achieved. The most often recognized goal was the near elimination of ruinous pricing practices of handlers competing with each other on the basis of the price they paid dairy farmers for milk and in price concessions made by dairy farmers. The need for processors to compete with each other on the price they paid for milk was significantly reduced because all processors are charged the same minimum amount for milk, and processors had assurance that their competitors were paying the same value-adjusted minimum price.

The AMAA also authorizes the establishment of uniform prices to producers as a method to achieve stable marketing conditions. Marketwide pooling has been adopted in all Federal orders because of its superior features of

providing equity to both processors and producers, thereby helping to prevent disorderly marketing conditions. A marketwide pool, using the mechanism of a producer settlement fund to equalize on the use-value of milk pooled on an order, meets that objective of the AMAA of ensuring uniform prices to producers supplying a market.

The California State milk order program clearly has objectives similar to those of the AMAA. Exhibits presented at the hearing indicate that the California State order program has a long history in the development and evolution of a classified pricing plan and in providing equity in pricing to handlers and producers. Important as classified pricing has been in setting minimum prices, the issue of equitable returns to producers for milk could not be satisfied by only the use of a classified pricing plan. Some California plants had higher Class I fluid milk use than did others and some plants processed little or no fluid milk products. As with the Federal order system, producers who were fortunate enough to be located nearer Class I processors had been receiving a much larger return for their milk than producers shipping to plants with lower Class I use or to plants whose main business was the manufacturing of dairy products. Over time, disparate price differences grew between producers located in the same production area of the state which, in turn, led to disorderly marketing conditions and practices. These included producers who became increasingly willing to make price concessions with handlers by accepting lower prices and in paying higher charges for services such as hauling. Contracts between producers and handlers were the norm, but the contracts were not long-term (rarely more than a single month) and could not provide a stable marketing relationship from which the dairy farmers could plan their operations.

In 1967, the California State legislature passed and enacted the Gonsalves Milk Pooling Act. The law provided the authority for the California Agriculture Secretary to develop and implement a pooling plan, which was implemented in 1968. The California pooling plan provides for the operation of a State-wide pool for all milk that is produced in the State and delivered to California pool plants. It uses an equalization fund that equalizes prices among all handlers and sets minimum prices to be paid to all producers pooled on the State order. While the pooling plan details vary somewhat from pooling details under the Federal order program, the California pooling