

## Dairy Consolidation and the Dairy Farmers of America (DFA) Threat

**Action Requested:** Florida Farm Bureau asks all members of our Congressional to contact the Department of Justice and the State Attorney General requesting them to:

1. Thoroughly investigate the proposed National Dairy Holdings (NDH) - H.P. Hood merger, especially DFA's role in this merger as it relates to milk supply. If the merger is approved, DFA through its relationship with Dean Foods and DMS could virtually control almost all access to fluid milk plants in the Northeast. If one cooperative is allowed to control the milk supply in one area of the country, it can easily happen in other areas, including Florida.
2. Investigate if DFA is violating the Agricultural Fair Practices Act of 1967. This Act contains language-prohibiting coercion.
3. Investigate if DFA is in violation of consent decrees regarding milk supply agreements.
4. Investigate DFA's milk supply agreement with Dean Foods. A Department of Justice news release on the Dean-Suiza merger stated, "The parties also agreed to modify Suiza's supply contract with DFA to ensure that dairies owned by the merged firm in the areas affected by the divestitures will be free to buy the milk from sources other than DFA." Is this agreement being followed?

**Background:** Southeast Milk, Inc. (SMI) is a Florida-based dairy marketing cooperative. SMI has 303 dairy farmer members (190 in FL, 110 in GA, 3 in AL). SMI markets approximately 2.92 billion pounds of milk annually. In terms of milk volume, SMI is the 12<sup>th</sup> largest dairy cooperative in the U.S. Total gross value of SMI milk marketed in 2002 was approximately \$535 million. Over 90% of SMI's fluid milk sales are in the state of Florida. SMI supplies fluid milk to all of Florida's dairy processors, which include T.G. Lee, McArthur, Velda, Gustafson, Publix, Winn-Dixie, and Sunbelt. Many of these processing plants bottle milk for other companies, including Wal-Mart and Albertsons.

**Consolidation Activities:** The nation's largest dairy cooperative is Dairy Farmers of America (DFA). DFA has over 15,000 members and markets 34.5 billion pounds of milk annually. In addition, DFA has marketing agreements with other cooperatives which result in DFA controlling the marketing of about 50 billion pounds of milk annually, or 30 % of the nation's raw milk supply. In addition, DFA helped formed and has ownership in National Dairy Holdings (NDH). NDH has 32 fluid processing plants, including two in Florida. As a result of its ownership, DFA has fully-supply-milk agreements with all NDH plants. The two NDH plants in Florida are the Velda plants in Winter Haven and Miami. SMI provides milk to these two plants, but does so through DFA. Velda pays DFA and DFA pays SMI for the milk delivered. A merger between NDH and the H.P. Hood, Inc. is underway. H.P. Hood has seven plants located primarily in the New England area. A merger between these two companies would bring the combined plant ownership to 39 plants.

Dean Foods, the nation's largest fluid milk processing company with 92 plants, including four in Florida, outsourced all of its approximately 3,000 independent producers to Dairy Marketing Service (DMS). DMS is a joint venture between Dairylea (the nation's fifth largest cooperative) and DFA. Dean Foods has no independent producers in Florida. SMI has agreements directly with Dean Foods to supply three of the four Dean Foods plants in Florida. The fourth plant is supplied through DFA, similar to the arrangement with Velda. DFA has agreements to supply the majority all of the Dean Foods plants in the Southeast, except for Florida, and many in most other parts of the U.S.



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During 2002-2003, DFA encouraged other cooperatives to join with DFA in marketing agencies in common and/or as members. Two recent examples are: 1) The Southern Marketing Agency (SMA). Most of the SMA member cooperatives joined SMA because the cooperatives had no Class I market for their milk. DFA controlled access to the markets either through NDH or Dean Foods. Unless the cooperatives joined SMA they would have no Class I market access. 2) Dairylea and St. Albans in Vermont, the last Vermont-based dairy cooperative, are cooperative members of DFA. In addition, the milk is collectively marketed and other services performed through DMS. In our opinion, St. Albans joined because without joining DFA they would have no Class I market access.

The Situation in Florida: SMI and DFA have a marketing agency in common for the Florida market. This is one of the longest running marketing agreements in the U.S. This agreement has allowed both SMI and DFA to work together for the good of producers, plants and consumers in the Florida market. Recently, the leverage of DFA, evident in other areas of the country, has become evident to SMI and Florida. Three examples:

1. DFA attempted to get Florida SMI producers to switch to DFA. We have no challenge with this if it is on a level playing field. However, DFA offered to pay SMI producers, if they would switch to DFA, significantly more money for their milk for one year. This offer was made even though both cooperatives receive the same price from Florida plants for milk sold.
2. In November 2002, DFA withheld payment to SMI for milk delivered to Velda because SMI would not agree to an adjustment in the pooling agreement. Later, SMI did receive payment but had to agree to make the adjustment and subsequent payment.
3. In January 2003, DFA sent a letter stating that if SMI did not agree to send additional funds to DFA, through SMA, DFA would no longer allow SMI to deliver milk to Velda and would have to go through DFA in order to supply the Florida Dean Foods plants. Presently SMI has agreed to send a payment to DFA through SMA. Not being able to deliver milk to Velda could lower SMI producer pay prices \$2.00 per cwt.



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