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March 28, 2019

Victor J. Halverson
Market Administrator
Upper Midwest Milk Marketing Order No. 30
1600 West 82nd Street, Suite 200
Minneapolis, MN 55431

Re: Request to Reduce Shipping Requirements and Increase Diversion Limits

Dear Mr. Halverson:

This letter is in response to your request for comment on the request pursuant to §1030.7(g) to reduce the shipping requirements in the Upper Midwest Order found in §1030.7(c) and §1030.7(f) as well as the proposed increase in the diversion limits found in §1013(d)(2) and §1030.13(d)(3). Dean Foods owns and operates three pool distributing plants regulated by the Upper Midwest Milk Marketing Order. Dean Foods opposes the request submitted by the Upper Midwest Marketing Agency (UMMA) and the Central Milk Producers Cooperative (CMPC) to reduce the shipping percentage from 7.5% to 6.0%, and the complementary increase in the diversion limits. While it is within the Market Administrator's discretion to adjust the supply plant shipping percentage, the data presented by the proponents does not support a 20% decrease in the supply plant shipping percentage. The proposal, which would effectively allow for an increase in the size of the Order 30 pool, would lead to lower blend prices as Class I would represent an even smaller percentage of the total Order 30 pool pounds. The diminishing value of the Order 30 pool could in turn lead to an increase in the amount of milk electing not to pool in lower differential zones, which has the potential to lead to disorderly marketing conditions.

The Federal Order system remains predicated around the regulation of Class I fluid milk plants and the dollars that it generates to an individual pool. In return for being 1) charged the highest price (in most months); 2) the only class of milk that is not able to elect not to pool when there is an economic incentive to do so; and 3) prohibited from forward contracting with its milk suppliers, Class I

handlers are ensured an adequate supply of milk through supply plant shipping percentages. These supply plant shipping percentages allow for distributing plants to have access to an adequate milk supply while also allowing for a reserve supply of milk to be able to serve the needs of the Class I market. In return for supplying milk to Class I plants, supply plants are eligible to share in the Order's Class I revenues.

This request would once again increase the reserve supply of milk in Federal Order 30 at a time when the amount of milk needed for Class I purposes is declining. While we understand it may be the goal of an individual Federal Milk Marketing Order to ensure that every cwt of milk that wants to be pooled, can be pooled – it is not a sustainable proposition to bandage up long term issues in the system with short run solutions, such as reducing the shipping percentage. From a uniform pricing perspective, a Federal Order cannot be effective with only a 6% supply plant shipping percentage.

Another Band-Aid fix to a long-term industry problem

While it is not a trend we as a Class I bottler like to see, the amount of Class I pounds pooled both nationally and on Federal Order 30 have declined dramatically over the past decade. Annual Class I receipts on Order 30 declined by 32.4% between 2009 and 2018, going from 4.42 billion pounds in 2009 to only 2.99 billion pounds in 2018. The monthly Class I pool pounds, as shown in Exhibit 1, provide a stark picture of the problem before us today.

While Class I volumes have declined on Federal Order 30, the same cannot be said with the amount of milk produced. Over the same time period as discussed previously, the total amount of non-Class I pounds pooled and the estimated pounds of milk electing not to pool on Order 30 have increased from approximately 30 billion pounds to 38 billion pounds, or 26.4%. The total annual amount of milk pounds (both pooled and estimated not pooled) for 2009 - 2018 in Federal Order 30 can be found on Exhibit 2.

Given the trends experienced over the past decade with respect to Class I pool volumes and the amount of milk produced in Federal Order 30, it is hard to view the request before the Market Administrator today as anything but a short-term band-aid solution to a long-term issue in the Federal Order system. As we stated back in March 2017 in our response to the previous request for a reduction in the supply plant shipping percentage, "By not addressing the root cause of this issue which is the decline in fluid milk consumption, we will continue to face this exact issue in the years ahead." Little did we know that in only 17 months, handlers in Federal Order 30 would find themselves in the exact

same spot. At some point, the dairy industry must stop focusing on short-term fixes and instead create long-term sustainable solutions which can benefit all participants up-and-down the supply chain.

Unequal sharing of pool revenues

The Federal Order 30 pool has been, and continues to be, dominated by the Class III market. Federal Order provisions allow for Class III handlers (as well as Class II and IV handlers) to elect not to pool their milk when there is an economic incentive for them to do so. The economic incentive to pool is based upon the level of dollars generated in an individual Federal Order above the Class III value. The additional value beyond the Class III value in a Federal Order pool are paid out in what is known as the producer price differential. While Federal Order 30 does limit the amount of milk that can elect not to pool and subsequently elect to pool the following month, there can still be significant swings in the amount of milk that elects to pool in any given month. Using data published monthly by Federal Order 30, you can see how many pounds have elected not to pool in any given month in both 2017 and 2018 as well as the announced PPD at the base zone for the Order. As Exhibit 3 shows, the pounds of milk electing not to pool in any given month on Federal Order 30 rise when the PPD is low or negative while the level of milk electing not to pool declines when the PPD rises to a high enough level.

The proponents state on page 2 of their request that, “We anticipate during 2019 that Class IV prices may well be greater than Class III prices. If so and given the pooling strategies of rational handlers, the size of the 2019 Order 30 pools will be generally larger than those of the past few years as more Class III utilized milk will seek to pool. If the market cannot accommodate all the milk that chooses to pool, disorderly marketing conditions will occur.” Let us be clear in what the proponents are stating – that milk which can seemingly elect to pool or not pool when it is economically incented to do so, and subsequently not have to share in the costs of continually serving the Class I market, will automatically cause disorderly marketing conditions should it not be able to pool. The old adage that “I can’t define disorderly marketing conditions but I’ll know it when I see them” certainly applies here.

From a Dean Foods perspective, we would view the ability of handlers to elect not to pool portions of their milk when they have an economic incentive to do so as being disorderly; not when milk that seemingly makes the decision to pool or not pool on a monthly basis (and likely is not shipping milk to a Class I plant) cannot pool every cwt of milk when the PPD incents them to. The milk that may not be allowed to pool could in fact be merely “pooling riding.” Pool riding occurs when milk is allowed to attach itself to a Federal Order without ever actually performing. Non-performing

supply plants are allowed to enjoy the same privileges as those plants which are serving the Class I market, and in most instances at the higher blend price.

In their request the proponents state, “Of importance is that Order provisions have a role well beyond only assuring an adequate supply of Class I milk including and of no less importance provide for equitable sharing of Order revenues.” While Dean Foods agrees with UMMA and CMPC that Order provisions have a role beyond only assuring an adequate supply of Class I milk, we do not share in their viewpoint that lowering the supply plant shipping percentage would lead to a more equitable sharing of order revenues. It is certainly not more equitable to those producers who consistently ship milk to Class I plants to see their blend prices diminished as additional milk is added to the pool, the vast majority of which is unlikely to ever actually ship to a Class I facility, and which will elect not to pool every time there is an economic incentive to do so.

The UMMA/CMPC shipping percentage reduction request goes well beyond what the data supports

In using the **largest** monthly Federal Order 30 pool volume in 2018 (July) to compare against the **smallest** qualifying shipments after the closure of Huntley and Thief River Falls, UMMA and CMPC are using what could be considered the “worst case” scenario as the baseline for their data analysis. It should also be noted that July 2018 also experienced the lowest monthly total of pounds electing not to pool in 2018 and the lowest monthly total since September 2017. The magnitude of the UMMA and CMPC request to reduce the supply plant shipping percentage goes well beyond what even their own data would support even when one uses the worst-case scenario as the starting point of the analysis. In UMMA/CMPC Exhibit 4, for example, even if one assumes that the largest amount of milk pooled in any given month in 2019 increases 5% (to 3,415,034,959 pounds) from its 2018 peak, it would take a 20% reduction in the monthly base Class I qualifying sales to only 204,319,613 pounds, for the total qualifying shipments to fall below the 6% threshold level being requested. Even the most draconian Class I pool pound forecasts over the next year or two would not support the level of decline being requested. To put it into perspective, the qualifying Class I shipment of 204,319,613 pounds would represent a 42,347,204-pound decline from even the **lowest** monthly qualifying shipment for January 2018 – January 2019 as shown in CMPC/UMMA Exhibit 4.

The proponents themselves seem to note that the reduction in the supply plant shipping percentage they are requesting goes well beyond what the data would suggest through at least 2019 when they state, “Hence our request is forward looking.” Setting the supply plant shipping percentage

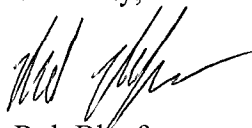
at such an unjustifiably low level as the proponents have requested will significantly impact a Class I bottlers ability to procure an adequate milk supply in both the near and likely medium term. Dean agrees that §1030.7(g) provides the Market Administrator the discretion to reduce the supply plant shipping percentage. That decision, however, needs to be justified by data. Even using the most extreme examples, a qualifying shipment of 6% is highly unlikely to happen over the next 12 months. Class I handlers should not be mandated to suffer as a result of an unjustifiably low supply plant shipping level today in order to allow for changes in the supply plant shipping level that may or may not happen until years down the road.

Conclusion

The UMMA and CMPC request to reduce the supply plant shipping percentage is yet another short-term band-aid fix to a what is a significant long-term issue in the Federal Order system. Adoption of this significant decrease in the supply plant shipping percentage would result in a lower blend price and potentially force Class I plants to increase their over-order premiums in order to attract an adequate milk supply. A lot can happen in the months and years ahead with respect to milk production and Class I consumption – there will surely be many events that unfold in the months and years ahead which are unknown to us today. The magnitude of the requested reduction to the supply plant shipping percentage is simply not warranted nor justified even using unlikely changes in the marketplace. Any reduction in the supply plant shipping percentage must be justified by the data and not put Class I handlers at a competitive disadvantage. An unjustifiably low shipping percentage and a slow down or outright decline in the Federal Order 30 milk supply could make it difficult for Class I handlers to attract a milk supply and could lead to disorderly marketing conditions.

Thank you for your consideration,

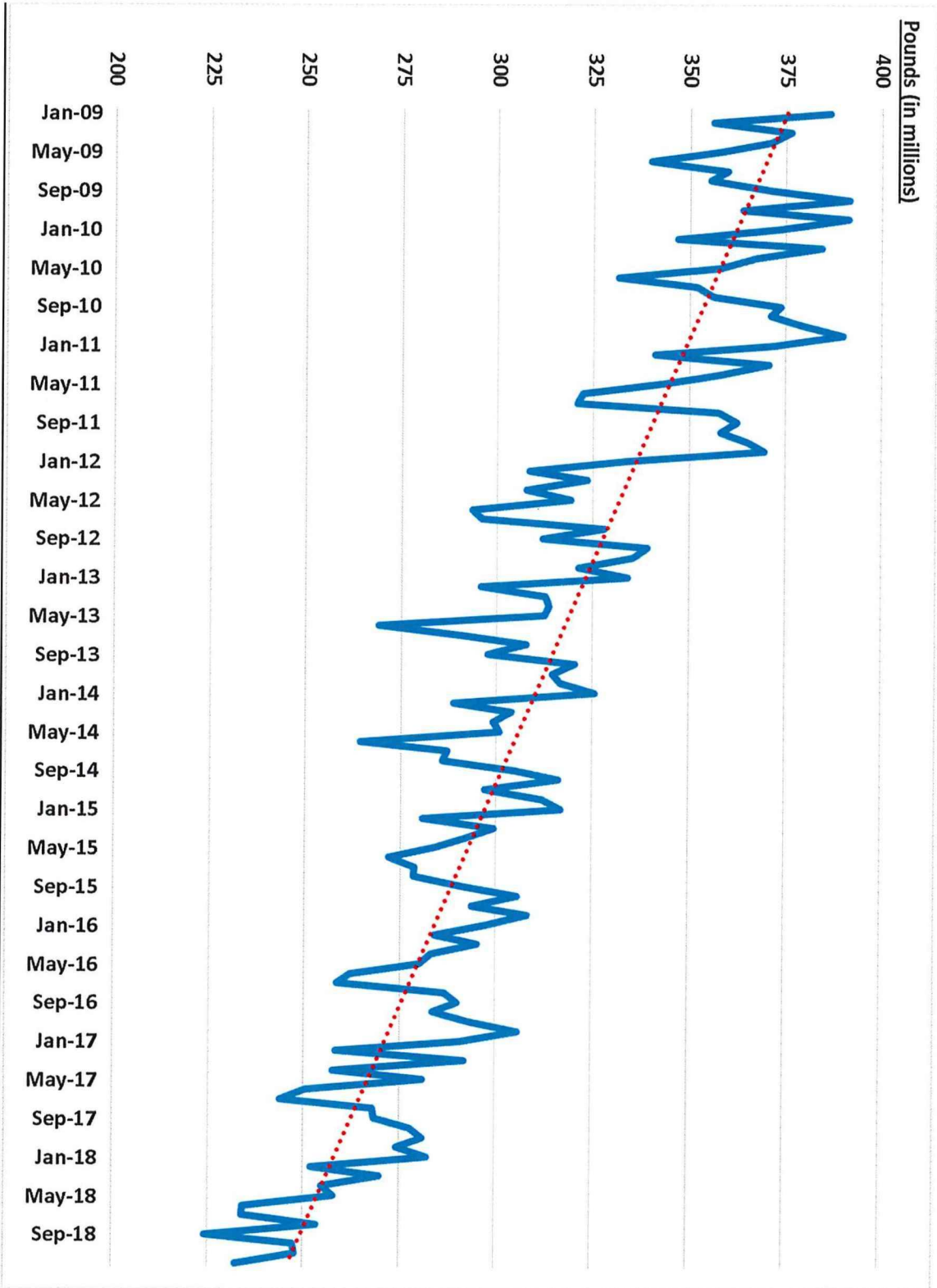
Sincerely,

A handwritten signature in black ink, appearing to read "Rob Blaufuss", written over a white background.

Rob Blaufuss

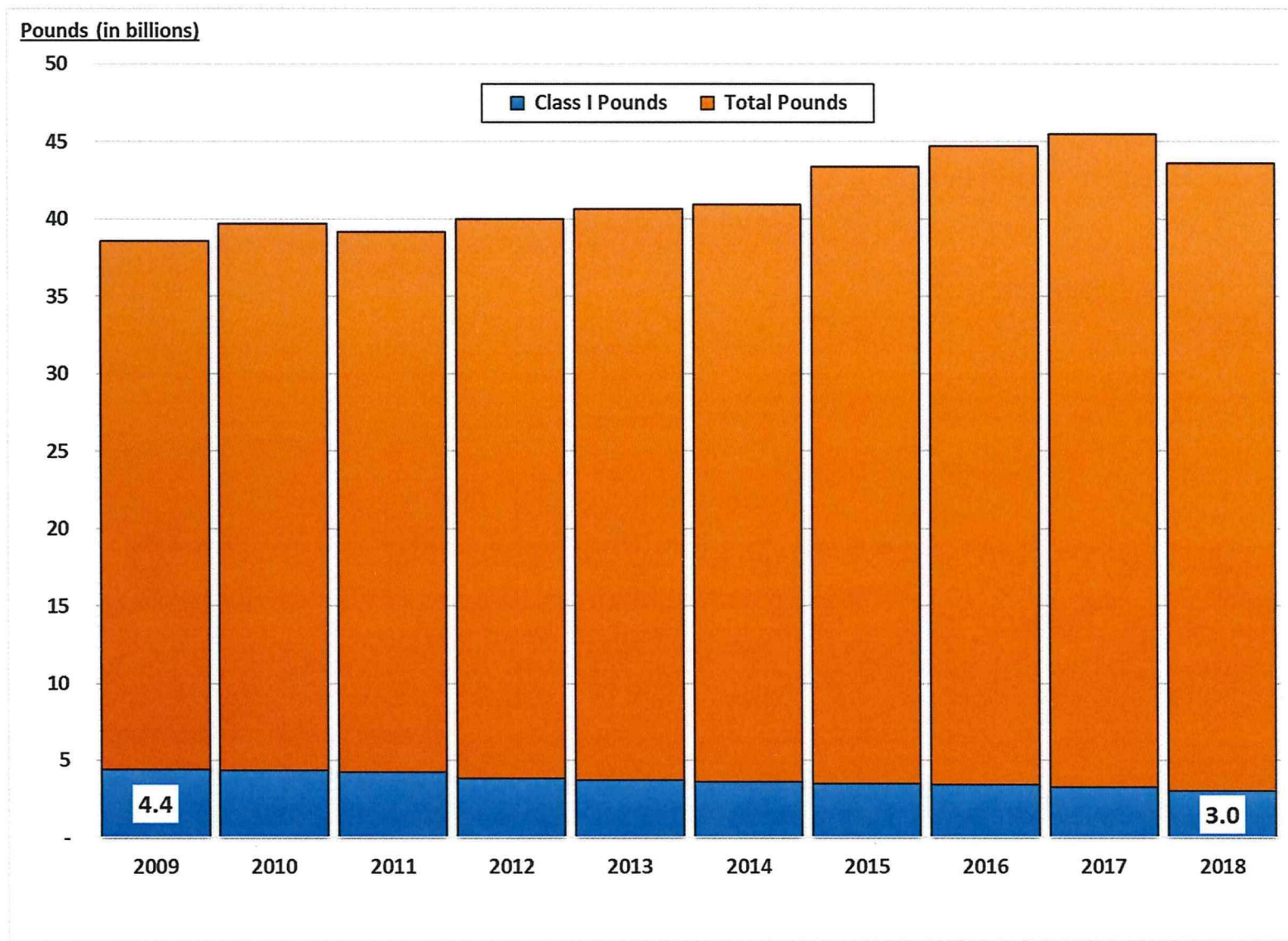
Director, Dairy Procurement and Risk Management

Exhibit 1: Monthly Federal Order 30 Class I receipts: Jan 2009 – Dec 2018



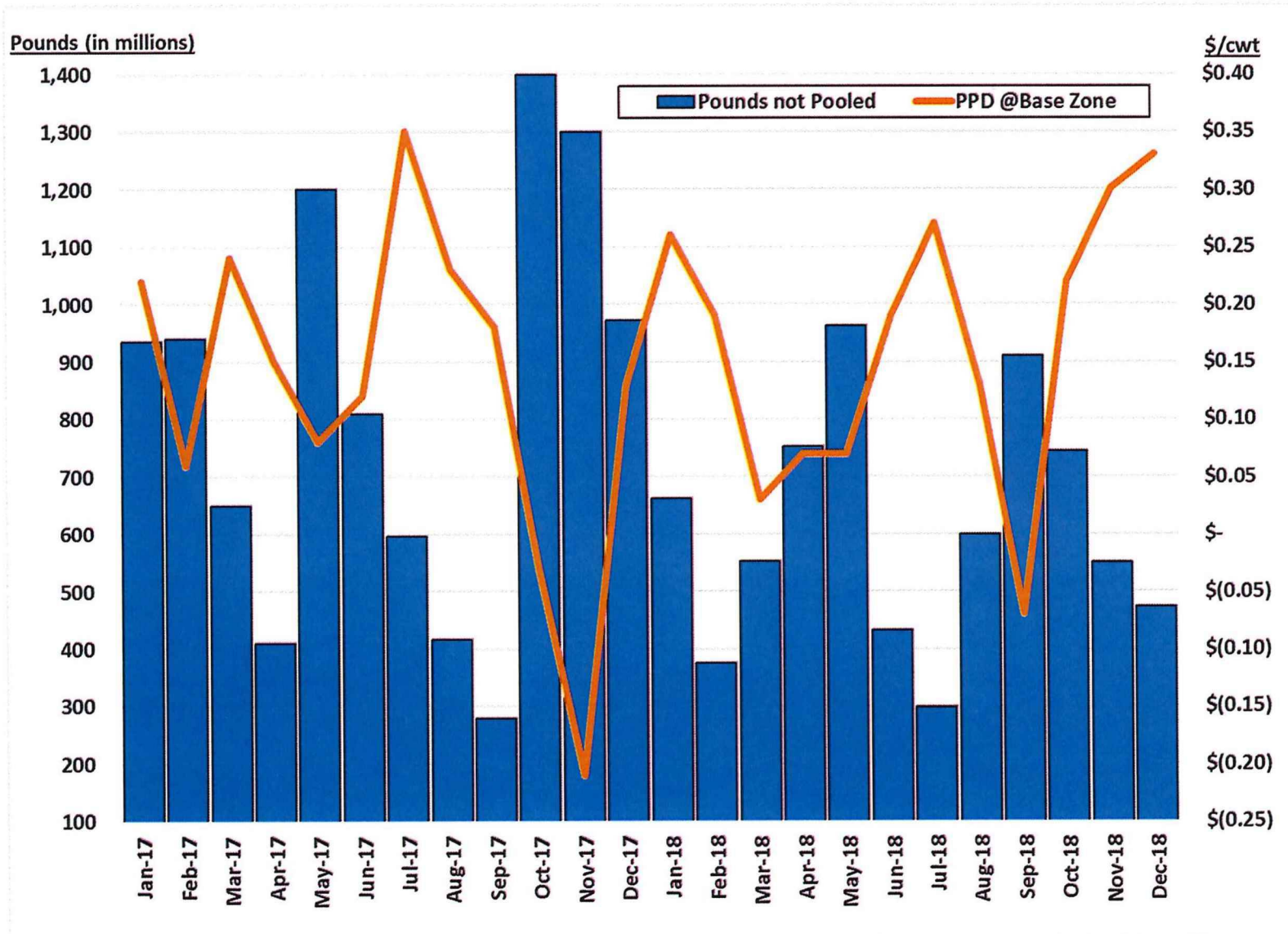
Source: Federal Order 30

Exhibit 2: Annual Class I receipts and total milk pounds (both pooled and estimated not pooled) in Federal Order 30



Source: Federal Order 30 and Dean Calculations

Exhibit 3: Monthly pounds not pooled on Federal Order 30 and the PPD at base zone



Source: Federal Order 30 and Dean Calculations