

Testimony of Representative John Lawrence
Before the Pennsylvania Milk Marketing Board
Over Order Premium Hearing – August 30, 2022
Surrebuttal

INTRODUCTION

My name is John Lawrence, and I serve as State Representative for the 13th Legislative District in the Pennsylvania House of Representatives. I serve on seven House committees and Chair a Select Committee. This session, I have the honor to serve as Vice-Chair of the House Agriculture and Rural Affairs Committee. I sincerely appreciate the continued service of Ms. Hardbarger and this Board, and your dedication to the dairy farmers and consumers of this Commonwealth.

I am testifying today as a member of the House of Representatives, and while my testimony is my own, I can say with confidence that these sentiments are shared by thousands of dairy farmers across this Commonwealth – many of whom have written, called, emailed, or spoken to me directly during the past 12 years in support of my efforts to move legislation to help the dairy farmers of this state.

I appreciate the opportunity to offer this surrebuttal before the Board today. The totality of my surrebuttal relates directly to the Board’s upcoming decision regarding the level and duration of the MMB over order premium, and previous rebuttals duly submitted to the Board.

SURREBUTTAL REGARDING MS. SARA DORLAND’S REBUTTAL

I appreciate the Pennsylvania Association of Milk Dealers’ (PAMD) favorable position towards continuance of the MMB OOP. However, I respectfully disagree with a statement made on page 1 of Ms. Sara Dorland’s rebuttal submitted August 12, 2022. Ms. Dorland states *“I see nothing about the OOP structure that suggests an unfairness or inequity among producers.”*

I humbly offer that many producers, many farmers, across the Commonwealth feel there is tremendous inequity and unfairness with the current OOP structure. In fact, the state’s leading voice on agriculture, the Pennsylvania Farm Bureau, has gone so far as to call for the abolishment of the OOP, as their membership is fed up with decades of

doubts as to whose pockets OOP dollars actually end up in. This anger is so palpable that the Farm Bureau came close to recommending the abolishment of the Milk Marketing Board entirely!

Ms. Dorland is correct on page 2 of her rebuttal in noting that Lancaster County has more cows than any other county east of the Mississippi River, and a higher density of small herds. However, this is not because of the OOP as Ms. Dorland insinuates. It is because of the unique nature of Lancaster County, namely the dedication of plain sect farmers to often money-losing dairy operations because of strong cultural, religious, and historical influences. These farmers are going to milk cows in small herds, even at a loss, until the bitter end, and Lancaster County's incredibly unique microcosm as the recognized worldwide epicenter of the Amish faith, and the devotion of many who hold that faith dear to agriculture and their traditions, is the reason for this distinction. I can say with confidence that the previous sentence is the sentiment of many Lancaster County farmers whose faith prevents them from speaking publicly at this hearing today, and I am sure many in this room today would concur with me on this point.

Ms. Dorland correctly states on page 2 of her testimony that the OOP is an identifiable source of revenue for 641 direct-ship producers in this state. She is also unfortunately correct that the OOP has *"the prospect of reaching thousands of cooperative producers."* The truth is, it is just that – a prospect. Four thousand cooperative producers across this state might receive the OOP – or they might not. Despite years of attempts and promises to change this reality, the truth is, for 85 percent of Pennsylvania's farmers, the distribution of the OOP is opaque at best.

I respectfully challenge Ms. Dorland's rebuttal testimony on page 3. She notes that at a previous MMB hearing, a farmer from Tioga noted that his milk is trucked to Maryland, bypassing other in-state processing plants along the way. According to Ms. Dorland, *"Proximity to a plant should not be confused with a guaranteed market for milk. Long hauls are becoming endemic throughout the US dairy industry – milk travels miles and may be subject to discounts to access available capacity and avoid dumping. That can change quickly as it did in Michigan with the commissioning of the St. John's cheese plant in 2021 – milk moving interstate remained in the state for processing."*

My thoughts here are two-fold. First, no one is confusing proximity to a plant with a guaranteed market for milk. I'm quite sure no farmer in Tioga County or the rest of Pennsylvania would assume the milk off their farm would always go to the closest processing plant. What's at issue is the game that is played far too often of taking Pennsylvania milk out-of-state for processing – in part to avoid accountability with the

MMB OOP. Second, I agree with Ms. Dorland that things can change quickly when additional in-state processing options develop. This very issue is addressed in House Bill 223, which passed the House unanimously earlier this year and is currently awaiting action in the Senate. This bill would incentivize the construction of potentially dozens of new processing plants in Pennsylvania for Pennsylvania farmers. I humbly ask my Senate colleagues to move this legislative this fall. Timely consideration of this bill would directly relate to the Board's policy surrounding the over-order premium.

SURREBUTTAL REGARDING MR. CHUCK TURNER'S REBUTTAL

I sincerely appreciate Mr. Chuck Turner's testimony and the dedication Turner's Dairy has for its farmers and its customers. Operations like his are a great blessing to the state and our dairy industry.

However, with great humility and respect, I respectfully take issue with Mr. Turner's testimony on page 6 of his rebuttal. In response to Secretary Redding's remarks on the MMB OOP, Mr. Turner states that *"Every dollar of premium that Turner Dairy collects is paid to our PA producers."* I assume that Mr. Turner here is referring to the MMB OOP, not other quality or quantity premiums that Turner Dairy may receive or pay. Mr. Turner's statement is correct because Turner Dairy is doing the right thing. It is also correct because the law requires Turner Dairy to pay the MMB OOP to producers – in other words, family dairy farmers.

However, Mr. Turner then states, speaking for the PAMD, *"our members processing Class I milk in Pennsylvania are paying out more in premiums than they recover in premiums from the wholesale prices."* That may be the case, but I humbly submit that is not the issue before the MMB today. Milk dealers can pay out quality, quantity, or other premiums however they see fit, and if they are paying out more in quality and quantity premiums than they recover, then, respectfully, that is their business. But the issue before the board is the level and duration of a government-mandated premium – the PA MMB OOP. The fact remains that the industry too often blends the MMB OOP in with other non-government-mandated premiums. This adds to the complexity of setting the level and duration of the MMB OOP. Too many in the industry see the MMB OOP as just one more premium that can be utilized in any way desired. This is not the intent of the MMB OOP, and this is, I humbly suggest, why Secretary Redding is calling for the absolutely transparency and accountability of all MMB OOP dollars that is contemplated in House Bill 224. I sincerely appreciate the Secretary's support for this legislation, which passed the House unanimously earlier this year, and I humbly ask my Senate colleagues to take this bill up in the fall. Moving this legislation into law

would have an immediate and direct impact on setting the level and duration of the OOP.

SURREBUTTAL REGARDING MS. CARISSA ITLE WESTRICK'S REBUTTAL

I sincerely appreciate the remarks of Ms. Itle Westrick and agree with nearly everything in her comments. I particularly agree with her statement:

"Unfortunately, the focus of the current conversation is that because the premium is not paid equally, no farm should receive the benefit. If the Over-Order Premium is eliminated some farms would lose a little, and some farms would lose a lot. There would be no winners. That is not a formula for anyone's success."

I agree that the premium should not be eliminated. She is absolutely correct in her assertion that elimination of the premium would hurt all farmers, some a little, and some a lot. She is correct that there would be no winners.

Where she and I may differ slightly is how the Board should move forward in setting the value and duration of the OOP, and indeed the policy surrounding the OOP in its entirety, given the reality that the largest organization of farmers in this state is so frustrated with the current system that it is calling for the abolishment of the premium altogether. I might add that I have heard the same thing from many, many farmers directly. I respectfully submit that accountability and transparency with every dime of the MMB OOP, which is a government mandated fee, is unquestionably the right thing to do, regardless of where it is collected, regardless of who's farm the milk came off, and regardless of who is benefitting and who is losing under the system as it exists today.

No other government fee, tax, premium, whatever you want to call it, no other that I know of exists without complete and total transparency and accountability. We know to the penny how much cigarette tax was collected in this state last year, and where it went. We know to the penny the dollars collected by the Marcellus Shale Impact fee, and we know where it went. Is there really any reason that we should not demand that same level of transparency and accountability with the MMB OOP? How can the MMB set the value and duration of the OOP without complete and transparent knowledge of how the OOP is collected and distributed in its totality?

SURREBUTTAL REGARDING MR. JED DAVIS' REBUTTAL

I appreciate Mr. Davis' thorough and data-driven rebuttal. This type of work is valuable and to be commended.

I respectfully point out that on page 2 of his rebuttal, he outlines the parameters of a study he conducted on behalf of the PAMD. He states: *“I analyzed the economic impact of the **Pennsylvania over order premium** paid to Pennsylvania producers by Pennsylvania milk dealers compared to the **over order premiums** in the wholesale price build up recovered by Pennsylvania Milk Dealers”* (emphasis added). Later, on page 3, he notes: *“The **premiums** paid to Pennsylvania producers...were \$8,479,876 while the **amount** [premiums] the dealers recovered through wholesale pricing was \$7,372,367 during this same time frame”* (emphasis added.)

Mr. Davis appears to be conflating the MMB OOP with other premiums his clients collect and distribute. Let us assume for a moment that Mr. Davis’ study dealt **ONLY** with the MMB OOP. It would be impossible for dealers to distribute more dollars than collected, since the MMB OOP is collected at a fixed rate determined by the MMB. Whatever is collected, that is what would be distributed.

It is apparent that Mr. Davis is including other market-driven premiums in his calculations. Apparently the operations included in his study have made promises to their producers – additional premium dollars for quality and quantity – but then have made different promises to their end customers – discounts for purchasing more milk. To be clear, the additional quality and quantity premiums, and the volume or other discounts negotiated by milk dealers or cooperatives operating in this state are exactly none of my business, and I would suggest none of the state’s business. Whatever is negotiated between farmer, dealer, customer, or other end user, that is up to the free market.

But what is very much in the public interest, and very much my concern as a legislator, and really of primary concern to the Board as it attempts to set the value and duration of the OOP, is what is happening to a government mandated milk premium. That milk premium is not negotiated by a farmer, dealer, customer, or anyone else. It is fixed by this Board at hearings such as this one.

With great respect and deep humility, I submit that it is unprofessional and frankly misleading to present a study to this Board that insinuates the MMB OOP is contributing in any way to the fact that farmers are apparently being paid premiums in excess of premiums collected. If that is indeed the case, it is because too many promises have been made to too many stakeholders by too many milk dealers with too many quality and quantity premiums that are not supported by customer payments. If anything, it could very well be that the MMP OOP is papering over the true impact of too many promises being made. I apologize for my directness, but if anything, in my

view, this study muddies the water as the Board attempts to set the value and duration of the OOP.

Again with deep respect and humility, I simply submit that the MMB OOP, like any other government fee, tax, premium, whatever you call it, should be collected and distributed with total transparency and accountability to the penny.

And I am grateful that many across the dairy industry agree in principle with this approach. Last session, HB 1224, legislation to bring transparency and accountability to the MMB OOP, garnered the support of the PAMD, the Farm Bureau, and the Cooperatives. It's a rare day indeed when all of those organizations agree on an issue, and I was very, very grateful for their support. That bill passed the House with broad bipartisan support, and this session, the similar HB224 also passed the House unanimously. Again, I humbly ask, as has Secretary Redding, that this legislation be taken up by the Senate upon their return this fall.

CONCLUSION

I appreciate the opportunity to address the Board with these thoughts today as you consider setting the value and duration of the state-mandated over order premium. Thank you.