

COMMONWEALTH OF PENNSYLVANIA

MILK MARKETING BOARD

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IN RE: PENNSYLVANIA DAIRY MARKET
ISSUES LISTENING SESSION

BEFORE: Luke Brubaker, Chairman
Lynda J. Bowman, Member
James Van Blarcom, Member

ALSO

PRESENT: Douglas Eberly, Esquire
Chief Counsel
Timothy Moyer, Secretary

LOCATION: PA Farm Show Complex
2300 North Cameron Street
Harrisburg, PA 17110

HEARING: May 16, 2018
9:09 a.m.

WITNESSES: Matt Espenshade, Melissa
Bravo, Earl Fink, Mike Eby, Sherry,
Bunting, Arden Tewksbury, Abner
Stoltzfus

Reporter: Brian D. O'Hare

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P R O C E E D I N G S

1
2 -----
3 CHAIRMAN: Welcome everybody to
4 the hearing here today. I'm glad that
5 everybody could --- I'm glad everybody
6 could come out here today for --- to
7 get some good discussion here on how
8 we can make the dairy industry better,
9 whether it's the farmers, whether it's
10 processors, whether it's the
11 consumers.

12 Whatever we do here today let's
13 think about how we can make it better
14 and that's what this is all about. So
15 I want to thank everybody for --- for
16 attending here today. First of all, I
17 want to thank the Department of
18 Agriculture for filing a petition and
19 starting the process.

20 And the details about this
21 process are when the Board got the
22 petition, we wanted to act as quickly
23 as possible because the Board knows
24 the situation facing dairy farmers.
25 We thought the best way to start ---

1 start quickly would be to address the
2 Board specific statutory change
3 suggestions in the PDA petition. That
4 means the Department of Agriculture.
5 And that's what we are doing at this
6 session today.

7 We want to be open to --- and
8 listening --- to listening to whatever
9 you have to say, to get your input, or
10 suggestions or whether there's a
11 change to the law, whether there's
12 not. And that will help us to address
13 the current and future conditions.

14 The Board will compile
15 everybody's input and we will make
16 that available in the website and to
17 the legislation --- Legislator. These
18 are listening sessions for the Board
19 to gather input and ideas. These are
20 not town hall sessions where the Board
21 will --- will answer questions. We
22 want your ideas and if you have
23 questions we will take these outside
24 the session.

25 We would like about --- we

1 would like about 20 minutes per
2 presenter if you can hold it to that.
3 There's some won't be that long and
4 there's others might be a little
5 longer. So we got a lot of presenters
6 here today and so we want to make this
7 very --- move forward very smoothly.

8 So the first presenter that we
9 have today will be Mr. Duer, Brook,
10 from the Department of Agriculture.
11 Would you come to the witness stand,
12 Mr. Duer, and ---?

13 ATTORNEY DUER: We'll have
14 Laura England also.

15 CHAIRMAN: Oh, okay.

16 Do you want her up there with
17 you ---

18 ATTORNEY DUER: Yes.

19 CHAIRMAN: --- or ---? Okay.

20 Laura, would you --- Ms.
21 England, would you come to the chair,
22 please? And when you're ready to
23 start, Mr. Duer, you may do so.

24 ATTORNEY DUER: Okay.

25 Thank you, Chairman.

1 CHAIRMAN: That's not --- you
2 have to press the button two seconds.

3 ATTORNEY DUER: Thank you,
4 Chairman Brubaker. My name is Brook
5 Duer. I'm the Chief Legal Counsel for
6 the Pennsylvania Department of
7 Agriculture. This is the second ---.

8 CHAIRMAN: Mr. Duer, would
9 you ---

10 ATTORNEY MILLER: Yes.

11 CHAIRMAN: --- get close to
12 that mic?

13 ATTORNEY MILLER: You want me
14 to do it? Okay.

15 My name is Brook Duer. I'm
16 Chief Legal Counsel for the Department
17 of Agriculture. Is it even on?

18 CHAIRMAN: It seems not to be
19 on.

20 ATTORNEY DUER: Yeah, it seems
21 like it's turned off.

22 CHAIRMAN: Can you hear back
23 there?

24 ATTORNEY DUER: It looks like
25 there's no battery.

1 CHAIRMAN: Could you hear him
2 back there?

3 ATTORNEY DUER: All right.
4 Okay.

5 CHAIRMAN: All right. Try
6 that.

7 ATTORNEY DUER: Okay.

8 My name is Brook Duer. I'm the
9 Chief Legal Counsel at the
10 Pennsylvania Department of
11 Agriculture. I want to thank the
12 Board for having us back again for the
13 second listening session that was
14 generated by the petition that we
15 filed with the Board.

16 There may be many of you in the
17 audience who are unaware of what
18 happened at the first listening
19 session or what's in our petition.
20 I'm not going to go through what we
21 went through the first time. The
22 first listening session we went
23 through the petition and gave a
24 summary so that everybody knew the
25 context of it.

1 The Board has already heard all
2 that, so I'm not going to do that
3 again. However, the Secretary
4 couldn't be here the first time or at
5 today's session. We do have a
6 statement from the Secretary at the
7 first session.

8 I'm not going to read that,
9 however, I'm just going to give you
10 some brief highlights and some very
11 preliminary sort of statements about
12 the --- the purpose of this and what
13 we were thinking when we filed it.
14 And then I'll turn it over to Laura
15 England, who's our Director of our
16 Bureau of Market Development.

17 The reason that Ms. England is
18 here is to pick up on the discussion
19 after the first listening session with
20 regard to the idea of the branding and
21 identity of Pennsylvania milk. And so
22 there was retailers here. For those
23 of you who weren't here, the first
24 session we had two retailers, one from
25 Karns and one from Boyer Food Markets

1 who talked about what goes on in their
2 retail environment and how the PMMB
3 pricing, particularly the minimum
4 pricing impacts them and their
5 feelings about it.

6 And part of that discussion
7 then led to a very brief discussion of
8 the branding and identity of
9 Pennsylvania milk. And so that led to
10 our PA Preferred program as well as a
11 new program that we're just getting
12 started with, which Laura can discuss,
13 and she has a brief PowerPoint.

14 And then we also brought with
15 us Dr. Andrew Novakovic from Cornell
16 who's seated here, and he will come up
17 and take over and give a presentation
18 on his report, and I will --- I ---
19 the subject matter is the impact of
20 PMMB pricing on several issues that he
21 attempted to study.

22 For those in the audience, on
23 the table right up here there are
24 three handouts, so to speak.

25 One is a document prepared by

1 Dr. Novakovic and that's the larger
2 stack on the far right there. And
3 then there are two documents which Ms.
4 England brought.

5 One is a summary of sort of
6 testimony and then another is the
7 guidelines for --- for milk
8 participating in the Pennsylvania
9 Preferred program that the Department
10 operates, which Laura can give a
11 little more detail about. So trying
12 to look both ways with the audience
13 and for here.

14 So just briefly, we filed our
15 petition because, obviously, the
16 severe market conditions right now
17 have been suffered for, you know,
18 going on multiple years at this point.

19 Our Secretary thought it was
20 appropriate to work with the Milk
21 Marketing Board to try to open up a --
22 - a civil and a thoughtful discussion
23 of changes that could be made and
24 alterations that could be explored,
25 and discussed and potentially

1 implemented to the methodology and the
2 process for this Board's pricing
3 activity as well as either --- your
4 other activities in addition to
5 pricing, if --- if applicable.

6 The purpose was also to explore
7 the idea of changes to the actual milk
8 marketing law itself, and we'd like to
9 also have a very courteous, respectful
10 discussion of what might be
11 appropriate alterations in the milk
12 marketing law itself to be explored
13 with the Pennsylvania General
14 Assembly.

15 Obviously, that's a player
16 who's not here to discuss it and we
17 will need to have a coming together of
18 all sectors of the industry if, in
19 fact, there would be any success of
20 presenting something to the General
21 Assembly that would amend the milk
22 marketing law for the benefit of the
23 industry.

24 So I think the key, once again,
25 is that we want to hear all --- all

1 ideas and that was the Secretary's
2 concept here. Discuss them, raise
3 them. There's no idea that is not
4 worth talking about or considering in
5 the Secretary's eyes except the idea
6 of standing still.

7 You know, no action is not, you
8 know, a --- an appropriate response to
9 what we're going through at this point
10 in time. All of you know that way
11 better than I do.

12 The --- the thing that I've
13 learned in trying to explain this
14 issue and what the --- what dairy
15 farmers are going through and the
16 relationship of the PMMB to their ---
17 to their --- the market right now is
18 that I always start by explaining to
19 people that there's really three parts
20 to the pricing mechanism that this
21 Board performs.

22 And, again, all of you know so
23 much more about this than I do, but I
24 have done enough explaining to
25 laypersons that I think I have a

1 little bit of a way to explain it that
2 is hopefully helpful. Three parts of
3 the pricing mechanisms that this Board
4 engages in really have independent
5 reasons for existing.

6 They have independent ways that
7 they work. They have some
8 interrelatedness, but they also have
9 independence and they also --- and
10 they have their own reasons for
11 existing. It's important to
12 understand that because as time has
13 gone on, even though we've only had
14 the over order premium as we know it
15 today, you know, since approximately
16 1989 or so, you know, there was
17 decades of existence of this Board
18 operating under the same law all the
19 way back to the 1940s and even into
20 late '30s.

21 And the three parts that have
22 been part of their pricing mechanism
23 since the very beginning is the farm
24 price, the wholesale minimum price and
25 the retail minimum price. These

1 things all have their own independent
2 existence. And to understand how we
3 --- where we are today, it's important
4 to understand that they're all
5 independent.

6 They're interrelated and they
7 all have reasons for existing. The
8 farm price, which was --- which would
9 be now including the over order
10 premium which, again, has not been a
11 permanent thing, has not been
12 something that existed in the '50s,
13 '60s, '70s and most of the '80s, is
14 part of the farm price.

15 However, it's not all of the
16 farm price. The farm price has its
17 own reason for existing apart from an
18 over order premium. We've seen the
19 fluctuations in the over order premium
20 and we've seen it at a, you know,
21 record low at least from my memory.
22 And my memory is shorter than many who
23 would be here today. But in any
24 event, the farm price has its own
25 reason for existing.

1 And, you know, that is to
2 create a, first of all, consistency
3 and uniformity across the entire
4 Commonwealth of Pennsylvania, even
5 where there is no federal order
6 applicable.

7 So a --- a fundamental purpose
8 is just to create parity between all
9 of dairy farmers no matter what county
10 you were in and no matter whether you
11 were in a federal order or not in a
12 federal order. Then when the drought
13 conditions that precipitated the
14 institution of the over order premium
15 in approximately '88, '89 we then had
16 this extra kicker on top of the basic
17 farm price.

18 And --- and then the
19 administration of that over order
20 premium became a challenge and enabled
21 market conditions in the late '80s and
22 through the '90s and even the 2000s,
23 you know, the administration of the
24 over order premium was a --- was a
25 system that, depending on your point

1 of view, worked well or began to not
2 work well as time wore on.

3 Obviously, that entire concept
4 of adding an over order premium to the
5 farm price was strictly based upon
6 Class I fluid milk utilization.

7 Now, as Class I fluid milk
8 utilization of Pennsylvania producers'
9 milk continues to decline steadily the
10 question is obviously sitting right in
11 front of us, as to whether that way of
12 approaching farm pricing is the best
13 way. And what about everybody for all
14 the milk that is not Class I fluid
15 utilized.

16 So that becomes a fundamental
17 issue just with the farm price itself.
18 The minimum wholesale and the minimum
19 retail obviously have a much closer
20 relationship to each other, and excuse
21 me, but I just do --- I've done this
22 enough times that I'm trying to bring
23 the audience into the dialogue that we
24 started the last time.

25 The wholesale minimum and the -

1 -- and the minimum retail both have
2 their reasons for existing and existed
3 well before the over order premium
4 ever existed. Those two pricing
5 mechanisms for processors/dealers and
6 for --- and at the retail level create
7 a stabilized market that ensures that
8 producers will have plenty of places
9 to sell their milk in Pennsylvania or
10 to --- if they are farming in
11 Pennsylvania.

12 The minimum wholesale is ---
13 and I think it's, you know, the
14 Secretary's firm belief the reason why
15 we still have many Pennsylvania
16 operated milk processors to whom you
17 can sell your milk. We would not have
18 the Harrisburg Dairies, the Clovers,
19 the Marburgers, the --- you know,
20 Schneiders, the Turners if not for the
21 minimum wholesale price.

22 And every time you make an
23 alteration you may be costing yourself
24 a market or you may be --- you're
25 certainly altering the market. So

1 that's another component that is
2 interrelated, but has its own reason
3 for existing.

4 Then you have the minimum
5 retail, which is yet another component
6 that has another independent reason
7 for existing, which is to stop the
8 price wars that only hurt dairy
9 farmers.

10 And once you start moving into
11 the --- the --- the --- a market that
12 features things like dollar a gallon
13 of milk sales, you then create the
14 backwards pressure that wholesalers
15 start to get squeezed by retailers to
16 provide cheaper milk, which then
17 causes the wholesalers to squeeze the
18 producers to give them a cheaper
19 price.

20 So the minute you alter the
21 retail minimum, you then start a
22 process of dominoes that impact the
23 producer. And the Milk Marketing
24 Board has juggled these balls for all
25 these decades.

1 And as I said the first time,
2 it was for --- I --- I feel it's quite
3 amazing that with as unsophisticated
4 perhaps law as the milk marketing law
5 is in today's world in terms of the
6 language that's used, that that law
7 has been made to work all these
8 decades.

9 And that this Board has juggled
10 those balls and the --- the farm
11 price, the minimum wholesale price and
12 minimum retail price in a way that has
13 ensured markets much more than in
14 other comparative states and has
15 provided places for dairy farmers who
16 in other environments may not still be
17 farming. And that could have been
18 decades ago that they would have been
19 squeezed out of the market and we have
20 not experienced that.

21 So there is a place for all
22 these mechanisms. The Secretary
23 firmly believes that the milk
24 marketing law has been and can
25 continue to be a very appropriate tool

1 to preserve markets for Pennsylvania
2 dairy farmers. And I think we just
3 want to get here to have a discussion
4 of whether market conditions have made
5 certain portions of the milk marketing
6 law, A, in need of amendment or, B, at
7 least the --- the way in which this
8 Board uses those tools that are
9 available in the milk marketing law
10 can be done in a different way.

11 Obviously, the market
12 conditions that have made the ---
13 particularly the farm price that once
14 worked probably better than it does
15 today, particularly the --- the way in
16 which the over order premium would
17 directly benefit a Pennsylvania
18 producer. Obviously market conditions
19 have changed and what worked in 1989,
20 or 1999 or 2009 may not work today.
21 Market conditions such as we are not
22 talking any longer about milk crossing
23 state lines.

24 We're talking about milk
25 crossing time zones and we are talking

1 about Arizona milk being sold on a
2 shelf in Pennsylvania. We are talking
3 about vertical integration of
4 retailers who own their own milk
5 processing plant. We are talking
6 about the decrease in consumption of
7 fluid milk at a record --- I don't
8 know. Record low level I believe.

9 Maybe somebody in this --- in
10 this room knows --- knows the
11 statistics better than I do, but I
12 assume that we're dealing with record
13 low levels of fluid milk consumption.
14 We're dealing with alterations in
15 school lunch programs that have had an
16 impact for sure.

17 All those things need to be
18 accounted for in the way in which
19 these three pricing mechanisms are
20 being administered, and we're here
21 again and asking this Board to have a
22 respectful, civil and analytical
23 discussion of how to better juggle
24 those three balls if we can based upon
25 the way the market is going.

1 Big box stores who import milk
2 across time zones are not going to go
3 away. Venture to say that certainly
4 at the time of the institution of the
5 milk marketing --- or the over premium
6 as we know it today there was no such
7 thing as a big box store, which
8 imported milk across time zone.

9 So we have new players and
10 changed and realigned distribution
11 channels that have to be accounted for
12 in some way.

13 So with that being said I will
14 go ahead and turn it over to Laura to
15 talk about ---.

16 CHAIRMAN: Can we --- can we
17 comment on your little talk here
18 before we go into Laura?

19 ATTORNEY DUER: Sure. Yeah.

20 CHAIRMAN: Okay.

21 Thank --- thank you very much
22 for those --- for those comments there
23 and I think it was very appropriate
24 exactly what you said. And just add
25 on to --- just add to that, you know,

1 farmers have a tendency when prices
2 are low to make more milk. When
3 prices are high we make more milk
4 because prices are high, so it's
5 really a tough situation.

6 I always say sometimes high
7 prices make low price and the low
8 prices make high prices and we know
9 that we have gone through that over
10 the years. Hopefully, we're at the
11 bottom, but it seems like we're in a
12 little different territory now than we
13 were in the past.

14 It seems like it's going a long
15 time to get back to these high prices
16 again, but that's what we're working
17 on here today. And another thing that
18 I'm glad you brought up about we have
19 processors in Pennsylvania, maybe more
20 processors many processors of any ---
21 any state has.

22 And we like to credit it to
23 some of the things that --- that has
24 been published in Pennsylvania. And
25 the other thing that he did mention is

1 statistics say that Pennsylvania has
2 lost less dairy farmers than any of
3 the major states and does that say
4 anything?

5 Now, maybe some don't care if -
6 -- if we lose more dairy farmers, but
7 --- but that's not my thought. So
8 thank you very much. Mr. Van Blarcom,
9 do you have any comments?

10 MR. VAN BLARCOM: Just thank
11 you for your testimony.

12 CHAIRMAN: And Ms. Bowman?

13 MS. BOWMAN: Like the way he
14 says, to safely put it out there for
15 people that understand it.

16 CHAIRMAN: All right.

17 Thank --- thank you, Mr. Duer.
18 Now Ms. England.

19 MS. ENGLAND: Good morning. On
20 behalf of the Pennsylvania Department
21 of Agriculture, Bureau of Marketing
22 Development. I'm pleased to be here
23 today to talk about the Pennsylvania
24 Preferred Program and its impact on
25 the marketing of Pennsylvania grown

1 and produced products including milk.

2 I also will talk briefly about
3 the Pennsylvania Dairy Commission
4 program called PDPP regarding its
5 working dairy promotion and will
6 provide overview and upcoming ---.

7 CHAIRMAN: Ms. England, could
8 you get --- pull out the mic closer to
9 you, please? Could you hear her back
10 there in the back?

11 MS. ENGLAND: Is this better?

12 CHAIRMAN: Is that better?

13 MR. ENGLAND: Okay.

14 And I also will provide an
15 overview of upcoming industry wide
16 promotional campaign focusing on the
17 goodness of Pennsylvania produced
18 milk.

19 The Pennsylvania Department of
20 Agriculture launched a Pennsylvania
21 preferred program in January of 2004
22 to identify and promote food and
23 agricultural products grown, produced
24 or processed in Pennsylvania. In
25 2011, it became statewide branding

1 program for local food and farms
2 through the PA Preferred Act.

3 The program's members are
4 licensees meaning that they are
5 licensed to use a PA Preferred
6 registered logo. More and more
7 consumers want to buy and consume
8 local products and the PA Preferred
9 logo helps them identify the locally
10 grown harvested and processed products
11 they want.

12 When consumers buy local,
13 they're helping to support
14 Pennsylvania's more than 57,000 farms
15 and the families who run them
16 including our state's more than 5,500
17 dairy farmers.

18 PA Preferred currently has more
19 than 2,000 members representing
20 products from milk to mushrooms, pork
21 to pickles, beef to beer, eggs to
22 aquaculture, artisan cheese to farm
23 stand ice cream, wool to alpaca fiber
24 and everything in between.

25 In addition to farms, members

1 also include restaurants, retailers
2 and food service operation to give
3 priority to Pennsylvania sourced
4 products.

5 The grandest games come in over
6 the past five years and we are proud
7 that many consumers recognize the logo
8 and understand what it means. It's
9 their assurance that the agreeance in
10 the products they buy are grown and
11 processed in Pennsylvania. Processors
12 are also an important part of PA
13 Preferred Program and the program
14 accounts for nearly 40 producers and
15 dairy processors among these members.

16 Members include large
17 processors such as Harrisburg Dairy,
18 which purchases its milk from multiple
19 Pennsylvania dairy farmers, to family
20 owned businesses such as Oregon Dairy,
21 which sources milk from its own cows.
22 Dairy products produced by PA
23 Preferred members include milk in all
24 varieties of flavors, ice cream,
25 butter, cheeses and yogurt.

1 While many of our dairy members
2 use the PA Preferred logo on their
3 product labels, we would like to see
4 that number increase. With growing
5 consumer interest in purchasing local
6 milk, now is an opportune time for PA
7 Preferred dairy processors to feature
8 the PA Preferred logo on their
9 packaging and at retail where
10 possible.

11 To qualify for the PA Preferred
12 programs --- program, dairies must
13 meet the criteria included in the
14 interim guidelines for the
15 Pennsylvania Preferred trademark
16 licensure program with respect to
17 fluid milk. The guidelines were
18 issued by the Pennsylvania Department
19 of Agriculture on May 19th, 2012.

20 Pennsylvania produced fluid
21 milk is fluid milk that is entirely
22 produced within the Commonwealth. To
23 feature the PA Preferred logo, the
24 milk use and dairy processing for
25 value added products must be entirely

1 produced within Pennsylvania.

2 The interim guidelines further
3 state that fluid milk marketed under
4 the Pennsylvania Preferred trademark
5 shall not be commingled with fluid
6 milk outside this Commonwealth. An
7 exemption except --- an exception is
8 provided should there be a short term
9 statewide shortage of milk, however,
10 the Department has not exercised this
11 exception to date.

12 A copy of the interim
13 guidelines, as Brook pointed out
14 earlier, is included with the
15 statement and is on the table for your
16 --- for your perusal.

17 Why become a Pennsylvania
18 Preferred member? PA Preferred
19 license members receive many benefits
20 including free use of PA Preferred
21 logo on all marketing, promotional and
22 packaging material. Their company and
23 products are listed in the map and
24 database on the PA Preferred website
25 where other business owners and

1 consumers can easily find them.

2 PA Preferred members become
3 part of a well---connected network of
4 businesses. We help connect
5 transactions of processed product to
6 distributors, retailers, chefs and
7 food service professionals.

8 Thanks to the program's
9 extensive network of resources and
10 contacts, we also help processors
11 source raw products and Preferred
12 co---packing and private label
13 opportunities.

14 Members also have access to
15 seminars and classes at a variety of
16 annual programs including buyer/vendor
17 shows and trade shows such as the Food
18 Service Expo in Pittsburgh, and the
19 Pennsylvania Preferred Marketplace at
20 the annual Pennsylvania farm show.

21 And speaking of the farm show,
22 the PA Preferred culinary connection
23 promotes Pennsylvania grown and
24 produced products through eight days
25 of cooking demonstrations and

1 educational activities. The dairy
2 industry gets its own day with special
3 programming to promote the goodness of
4 milk and dairy products.

5 We look forward to still
6 launching our revised PA Preferred
7 website, which will include a new and
8 improved search function, compelling
9 photos and graphics, recipe ideas and
10 much more. All are designed to better
11 connect consumers and businesses with
12 PA Preferred products.

13 Another way in which the
14 Pennsylvania Department of Agriculture
15 works to support the dairy industry is
16 through the Pennsylvania dairy
17 promotion program. Established in
18 1988, PDPP is part of the larger
19 American Dairy Association Northeast
20 also known as ADA Northeast, which
21 develops local promotion programs
22 throughout the Mid---Atlantic region.

23

24 Working under the national
25 dairy checkoff program, ADA Northeast

1 represents nearly 12,000 dairy farm
2 families in Pennsylvania, Maryland,
3 Delaware, New York, New Jersey and
4 Northern Virginia. The PDPP Board of
5 Directors is comprised of 19
6 Pennsylvania dairy farmers who help
7 oversee dairy farmers' investment in
8 the overall dairy checkoff program.

9 The Pennsylvania Secretary of
10 Agriculture or a designee who --- that
11 happens to be me at this point ---
12 also serves on the Board.

13 Additionally, PDPP is represented on
14 the ADA Northeast corporate Board.
15 ADA Northeast develops and implements
16 local programs to drive milk and dairy
17 sales at retail outlets and in
18 schools.

19 Retail programs are focused on
20 the dairy case with marketing and
21 merchandising support to entice
22 consumers to purchase milk. In
23 schools, these efforts include
24 breakfast programs, summer meals
25 outreach and fuel up to play 60. ADA

1 Northeast also works with local food
2 banks to provide milk for families in
3 need.

4 Other promotion efforts include
5 consumer education about dairy through
6 events, traditional and social media
7 and in collaboration with health
8 professionals through National Dairy
9 Council. These programs help to build
10 consumer confidence and trust in dairy
11 foods and dairy farmers, and they
12 encourage adults and children alike to
13 choose milk as part of a healthy
14 lifestyle.

15 Taking this theme a step
16 further, the Pennsylvania Department
17 of Agriculture has collaborated with
18 other partners in developing a
19 statewide campaign to promote
20 Pennsylvania milk.

21 The Choose PA Dairy Goodness
22 that Matters campaign is focused on
23 educating consumers about
24 Pennsylvania's dairy industry and
25 encouragement to choose Pennsylvania

1 milk when shopping. A key component
2 of the campaign will be a web---based
3 interactive map showing consumers
4 where they can purchase Pennsylvania
5 produced milk.

6 PA Preferred dairies will be
7 featured on the map and all
8 Pennsylvania milk processors or those
9 participating will be recognized
10 through plant code 42, which shows
11 consumers that the milk likely came
12 from a Pennsylvania dairy farm.

13 Partners in the Choose PA Dairy
14 campaign include the Center for Dairy
15 Excellence, Pennsylvania Dairymen's
16 Association, American Dairy
17 Association Northeast, Professional
18 Dairy Managers of Pennsylvania and the
19 Pennsylvania Farm Bureau. The
20 campaign will kick off this Friday,
21 May 18th, with a press conference at
22 the Martin's store in Altoona,
23 Pennsylvania.

24 In addition to the interactive
25 map, the campaign will be supported by

1 traditional and social media, radio
2 commercials, TV ads, billboard
3 advertising and special events. The
4 program's messages focus on good
5 nutrition, better health, stronger
6 farm families and healthier
7 communities.

8 It's a true collaborative
9 effort with each partner bringing
10 expertise and resources to the table.

11 In closing, we recognize the
12 importance of Pennsylvania's dairy
13 industry and stand ready to promote
14 and support the Commonwealth's dairy
15 farmers through our work and that of
16 our partners.

17 Choose PA Dairy, It's Goodness
18 That Matters for both farmers and
19 consumers, and if you look at the
20 industry in a broader context it's all
21 that integrated part of --- of the
22 processing and development chain.
23 It's the --- it's the feed
24 manufacturers who service the farms.
25 It's those that are involved in the

1 processing, the marketing, the
2 merchandising.

3 There are many, many people in
4 the whole dairy industry chain that
5 benefit from us having a strong dairy
6 industry. It's all of those groups
7 that we look to support through our PA
8 Preferred program and other
9 promotional efforts through Department
10 of Agriculture.

11 CHAIRMAN: All right.

12 Thank you, Ms. England, for
13 those comments and those were very
14 good comments. As I said at the last
15 meeting that we had, the last hearing
16 that we had, I think that all of us
17 have a job here in Pennsylvania, that
18 we should be talking to our stores.

19 And I don't care what store it
20 is, that we should be using
21 Pennsylvania milk in those stores. We
22 cannot --- we cannot stop milk from
23 coming in, but we can do our part of
24 advertising or saying why don't you
25 use Pennsylvania milk? And --- and I

1 think that's a job for all of us to do
2 here.

3 If we go to a store and we see
4 it's not Pennsylvania milk, I think we
5 have a job to do and I think you said
6 it very well. We need to get that
7 Pennsylvania Preferred, more milk in
8 Pennsylvania. Thank you very much.

9 ATTORNEY DUER: Chairman
10 Brubaker, one thing.

11 CHAIRMAN: Yes.

12 ATTORNEY DUER: Before we turn
13 it over to Dr. Novakovic, I did want a
14 little preliminary if you're okay with
15 that?

16 CHAIRMAN: Yes.

17 ATTORNEY DUER: Okay.

18 CHAIRMAN: Oh, maybe before we
19 do that ---

20 ATTORNEY DUER: Oh, yeah.

21 Sorry.

22 CHAIRMAN: --- does our Board
23 have any comments? Mr. Van Blarcom?

24 MR. VAN BLARCOM: Yes. Thank
25 you for your hard work in PA Preferred

1 and I --- I think it has good
2 potential to be of help in the future
3 and now, but right now, my
4 granddaughters last year at the Troy
5 fair were unable to acquire
6 ingredients to participate in a cook
7 off simply because they could not buy
8 PA Preferred products in Troy,
9 Pennsylvania, so --- but hopefully
10 that'll change in the future.

11 MS. ENGLAND: I have good news
12 for you. We did alter the program
13 requirements for the junior/baby
14 contest and to make it a little easier
15 for our youth to participate at the
16 fairs and also to be working more
17 closely with them to source find
18 Pennsylvania products for their
19 recipes. So thanks for bringing it
20 up.

21 CHAIRMAN: Ms. Bowman, do you
22 have anything?

23 MS. BOWMAN: I just wanted to
24 thank you for including so many
25 different sections of the dairy

1 industry to make it successful, and I
2 --- I see it in the store where I
3 shop, and it does make a difference in
4 Pennsylvania. So thank you very much.

5 CHAIRMAN: Okay.

6 Are we --- Mr. Duer, did you
7 want ---

8 ATTORNEY DUER: Yes.

9 CHAIRMAN: --- to make some
10 comments?

11 ATTORNEY DUER: Yes, just one
12 or two. Introduce a little bit --- a
13 little bit of information with regard
14 to Dr. Novakovic's role and what he's
15 done at this point. Together with the
16 Center for Dairy Excellence, the
17 Department of Ag commissioned a series
18 of studies by Dr. Novakovic and two
19 other associates.

20 And they're available on the
21 Center for Dairy Excellence's website.
22 There are six reports at this point in
23 time and there may be plans for some
24 supplements to those. We offer those
25 to the Board as part of our petition

1 just as --- to the extent that they're
2 helpful.

3 Some of the issues involved in
4 there aren't necessarily in your
5 jurisdiction, but one of the reports,
6 of course, was, which was a study
7 which Dr. Novakovic can go into detail
8 on with regard to PMMB pricing.

9 So --- and I just wanted to say
10 that as we said on the first session
11 we're available to discuss with the
12 Board, if it would so desire, to
13 partner on more studies on specific
14 topics that you might desire to look
15 into, you know, to assist you.

16 I also had a conversation with
17 Dean Roush from the College of Ag
18 Science of Penn State yesterday about
19 the same topic in terms of operating
20 economy services to the Board. And we
21 can facilitate that and help that work
22 if, in fact, it were desired.

23 There is a --- what's called
24 the Penn State master agreement with
25 the Commonwealth of Pennsylvania,

1 which any agency can utilize to
2 request particular research from Penn
3 State, for example. And then --- and
4 then there's a process for essentially
5 --- it's already a statewide contract
6 that exists.

7 You can get their economists
8 working on topics through the issuance
9 of a purchase order in a very
10 expedient way, and so that is
11 available to the Board since, you
12 know, you obviously have budgetary
13 constraints and don't have a staff
14 economist.

15 There are, you know, people out
16 there to assist and we're certainly
17 here to help with that, too, if --- if
18 it would help --- help, you know, you
19 analyze anything that comes up in your
20 --- in your discussions.

21 So without further ado, I will
22 go ahead and turn it over to Dr.
23 Novakovic and, again, he --- there is
24 a handout from him and as well as his
25 report that was incorporated into the

1 petition itself. Dr. Novakovic, we'll
2 switch chairs here.

3 CHAIRMAN: All right, Doctor.
4 Would you come forward, please,
5 and we look forward to your talk.

6 DR. NOVAKOVIC: Okay.

7 Well, thank you very much for
8 giving me the opportunity to visit
9 with you today.

10 As was mentioned, I and my ---
11 my two colleagues, Mark Stephenson and
12 Chuck Nicholson have been working with
13 the Department of Agriculture
14 Secretary Redding and you folks at
15 Center for Dairy Excellence for about
16 a year now and --- and if nothing
17 else, produced a pile of paper.

18 Hopefully these reports have
19 helped to establish some historical
20 background, take a look at some
21 historical trends, take a look at some
22 current situation and begin to help
23 folks in Pennsylvania explore
24 strategies for moving the dairy
25 industry forward.

1 Whenever I'm invited to come to
2 meetings like this I --- I always have
3 a little bit of trepidation about kind
4 of swooping in as if I were the, you
5 know, out of state expert who in a
6 short period of time knows more about
7 your industry than you do and has all
8 the answers. And I just want to come
9 out at the very beginning and say that
10 is not how I view my capabilities or
11 my role in the least. I have been a
12 student of this industry I suppose in
13 a formal way for about 40 years.

14 That's how long I've been at
15 Cornell. And I was more intimately
16 involved with this industry as a
17 youth, so I --- this is something that
18 I feel very passionately about and
19 have spent a lot of time studying. If
20 any of that can be helpful to you as
21 you think about where you are and
22 where you'd like to be, I'm happy to
23 contribute what I can.

24 The reports talk about a lot of
25 different things and I can certainly

1 respond to a variety of things, but I
2 think the focus of today's meeting is
3 to really think about the tools
4 specifically available to the
5 Pennsylvania Milk Marketing Board or
6 perhaps potentially available. So I'm
7 going to try and focus my comments in
8 that regard.

9 And --- and to begin with, I
10 guess I'd say a general thing and then
11 perhaps maybe a more specific thing.
12 I recently had the opportunity to go
13 to a meeting in Santiago, Chile which
14 has a small, but vibrant dairy
15 industry about which those folks are
16 very proud as you would expect they
17 would be.

18 And I was asked if I would be
19 willing to speak to some media, and I
20 ended up speaking to the country's
21 largest newspaper and major --- major
22 radio station. And as the reporters
23 from both spoke to me separately,
24 basically the question was, why is
25 there so much pain and when is it

1 going to stop?

2 And I thought, gosh, I could be
3 in Harrisburg, or Albany or, you know,
4 Fresno. You pick the state. And so
5 every local area has a certain
6 texture, certain thing that is a
7 little bit different, but let me
8 assure you that the current market
9 environment is indeed an international
10 one. And it's a challenge for folks
11 well outside the Commonwealth and,
12 indeed, well outside the United States
13 of America.

14 In saying this, I'm also --- my
15 40 years of working at Cornell also
16 gives me some sobering perspective
17 that answers to solve all this are
18 usually elusive. Trust me, if I had
19 the winning answer, the easy winning
20 answer, I wouldn't have waited until
21 today to trot it out. There are
22 answers. They all have tradeoffs.

23 There's things that work to one
24 degree better than another, but always
25 have some other kind of effect. Then

1 there are issues of whether or not
2 something is economically a good idea.
3 There's also issues of whether or not
4 something is politically a good idea.
5 I'm not going to try to censor my
6 comments about what's good or bad.

7 I think we have to recognize
8 when we're talking about policy we're
9 never dealing with perfect.

10 The other thing that I want to
11 start with is I --- I am frequently
12 asked or talked to about policy with
13 comments that are, you know, why do we
14 do this or do we do this and it
15 doesn't work well?

16 And I'm often struck that it's
17 helpful to go back and remember why
18 we're doing the things we're doing in
19 the first place, and in particular
20 what problem we were trying to solve
21 in the first place. And then ask
22 ourselves does this basic fundamental
23 problem actually still exist?

24 Are we trying to solve a
25 hundred year old problem and not

1 really coming anywhere near hitting
2 the nail on the head? Or is, in fact,
3 you know, basically the problem,
4 fundamental economic problem, still
5 pretty much the same and --- and the
6 issue isn't really changing the ---
7 the nature of the regulation. It may
8 be something a little bit more in a
9 technical update.

10 Price regulation by a
11 government agency, federal or state,
12 did not exist until the 1930s. Not
13 only did it not exist, it wasn't even
14 imaginable until the 1930s.

15 There following the collapse of
16 the economy in 1929, we began to think
17 about what could the government do,
18 but the notion of jumping into the
19 kind of price regulation we have today
20 was absolutely not the starting point.

21 It took a very dramatic
22 economic climate to embolden the
23 Congress and a few state legislators
24 to get involved in the economic
25 regulation of agricultural markets in

1 a way that previously was literally
2 unimaginable. The system that was
3 widely adopted certainly at the
4 federal level, but also in many states
5 --- and we see it to some degree in --
6 - in Pennsylvania --- is classified
7 pricing and pooling.

8 Classified pricing and pooling
9 was not an idea picked up by a bunch
10 of Congressmen in the 1930s.
11 Classified pricing and pooling was
12 developed by milk marketing
13 cooperatives operating in New England,
14 particularly the Boston market, in the
15 late 1800s.

16 Classified pricing and pooling
17 was used in 60 city markets as a
18 private pricing mechanism by
19 cooperatives. At the time, Roosevelt
20 was elected President in the 1930s.
21 It was in existence for 40 years, two
22 generations before it became a topic
23 of discussion as something to enshrine
24 in government regulation.

25 The reason why that we sought

1 to put it into regulatory environment
2 was to increase the ability of farmers
3 to enforce this pricing system that
4 they thought was of a good design, of
5 a useful design, but which was
6 difficult for cooperatives as a
7 private entity to implement and
8 enforce entirely on their own.

9 And, of course, the economic
10 calamity of the Great Depression
11 overwhelmed all kinds of private
12 institutions regardless of how
13 innovative we might have been in terms
14 of pricing. This type of regulation
15 and the degree of regulation, I think,
16 probably qualifies for the label of
17 unique among industries in U.S.
18 economy.

19 Certainly, we have some other
20 sectors that have price regulation.
21 Utilities, labor, interest rates,
22 local transportation systems, some
23 other specialty crops and agriculture
24 certainly have some form of price
25 regulation, but I don't think I'm on

1 too thin of ice to say that dairy as
2 an industry, that is the pinnacle
3 being both thoroughly regulated and
4 regulated in the way that it is.

5 This is not to say that it all
6 satisfies everybody's objectives, but
7 it is a --- an unusual and large
8 effort on the part of the federal
9 government and to some degree state
10 governments. It begs the question why
11 did we choose this particular system
12 and there's a number of political as
13 well as economic reasons for doing so.
14 But it's also well to recognize that
15 there was a lot of exploration
16 occurring early on that led up to the
17 system we have.

18 And, indeed, the system really
19 continues to evolve. The marketing
20 order system at the federal level
21 that's in place today is different
22 than it was in the 1990s, different
23 than it was in the 1960s, different
24 than it was in the 1940s, although the
25 basic architecture is not so

1 different.

2 It's also, I think, helpful to
3 remember that this pricing system is
4 voluntary. The law is permissive. It
5 does not require the establishment of
6 price regulation. It allows farmers
7 to request price regulation and it
8 requires the USDA to conduct very
9 formal, very rigorous hearings to
10 determine whether or not this price
11 regulation is not only in the
12 producer's interest, but actually in
13 the public interest.

14 It wasn't until the 1960s that
15 the federal system actually
16 encompassed more than half of the U.S.
17 milk supply. At the same time, this
18 federal system was developing
19 producers, as they are want to do, as
20 we all are want to do as citizens.
21 We're also seeking help from state
22 capitals and that certainly occurred
23 here in Harrisburg, but also elsewhere
24 around the U.S.

25 The first state that created a

1 milk price regulation was the State of
2 Wisconsin in 1932, which actually was
3 before the very first Farm Bill there
4 called the Adjustment Act of '33.
5 Wisconsin found that this state
6 regulation was not satisfactory and
7 terminated that law in 1941.

8 The second state to regulate
9 farm milk prices was New York, a
10 neighbor to the north, and that 1933
11 milk control law, which was passed
12 months after the Agriculture
13 Adjustment Act, remains in effect
14 today and still actively regulates
15 about a million pounds of milk
16 annually in Western New York, the
17 markets for Buffalo and Rochester.

18 In total, 29 states had some
19 form of milk price regulation at some
20 point in time. Today, there are nine,
21 soon to be eight, as California
22 transitions to a federal milk
23 marketing order. The states that
24 opted out did for --- did so for one
25 or more of three reasons generally.

1 One was the issue of interstate
2 trade and to defer to a federal
3 authority that could regulate
4 interstate commerce in a way that
5 states simply do not have the legal
6 authority to do. And that was a major
7 reason for --- for many states and
8 Wisconsin would be a particularly
9 obvious example.

10 Another reason was that the
11 programs that the states came up with
12 were simply not satisfactory to the
13 industry or folks that were regulated
14 or citizens, and they decided, well,
15 if we can't do it any better than this
16 than let's not do it at all.

17 Kind of the third reason was
18 some states, and New York is an
19 example of this, chose to try to
20 cooperate and work with the federal
21 government in partnership. And for
22 many years, federal order two, which
23 encompassed New York as well as parts
24 of Pennsylvania was actually a joint
25 federal and state order where the

1 state sought some formal role as a
2 partner with the federal government.

3 And this, of course, also kind
4 of recognized that regulating
5 interstate commerce was difficult for
6 the State of New York. The form of
7 regulation that exists in Pennsylvania
8 has counterparts in other states
9 either currently or historically, but
10 no state has put together the
11 combination of regulation that
12 presently exists in the Commonwealth.
13 Again, let me return to the question
14 of why did we do what we do?

15 Why did we establish a system
16 of classified pricing and pooling?
17 And clearly, the problem with the
18 Great Depression was prices were low.
19 They were brutally low for all of
20 agriculture, for a laborer, for the
21 manufacturers of the economy.

22 If we had thought that these
23 low prices were simply some
24 unforeseen, some remarkable, some
25 stuff happens kind of economic event,

1 we might have taken more of an
2 insurance type approach to helping out
3 the dairy industry, but we didn't.
4 Although we have those kind of
5 programs in place today, that was not
6 our instinct in the '30s.

7 Rather, our concern really
8 stemmed from the belief that dairy
9 farmers could not get a good deal, a
10 fair deal, a reasonable deal, in
11 bargaining for milk in the marketplace
12 without some kind of help.

13 For a period of time we thought
14 that cooperatives, farmers working
15 together to collectively market the
16 milk, was a sufficient answer to this
17 issue that an economist would refer to
18 as market power.

19 The Depression overwhelmed that
20 strategy and gave justification for
21 government intervention. This notion
22 of farmers not being able to
23 effectively represent themselves in
24 the marketplace and achieve a fair
25 price had counterparts elsewhere in

1 the U.S. economy.

2 We saw it with laborers, we saw
3 laborers --- we saw it with other
4 farmers, to some degree with
5 consumers. We saw forms of
6 cooperatives, credit unions and
7 consumer credit unions, labor unions
8 to represent labor and, of course,
9 agricultural marketing cooperatives as
10 one way to deal with that.

11 This was not a --- a wild and
12 unusual concern restricted only to
13 milk, but milk had the added burden of
14 being a product that could not afford
15 to sit around and wait for a price
16 change before you marketed the
17 product.

18 It's the condition I refer to
19 as rigid marketing, and any dairy
20 farmer knows full well you don't have
21 a lot of time to sit around and bicker
22 with your buyer when you've got milk
23 cooling in the tank and cows standing
24 in line.

25 The nature of price regulation

1 in states, or for that matter the
2 federal government, took some
3 different forms.

4 The original legislation and
5 federal legislation actually included
6 provisions for wholesale and/or retail
7 price regulation, but the federal
8 government never seriously explored
9 that. Some states have wholesale
10 pricing laws without retail, some have
11 retail pricing laws without wholesale,
12 some have like --- Pennsylvania had
13 both.

14 These rules were basically
15 established beyond the barn gate as a
16 way to moderate competition across the
17 supply chain, so between farmers and
18 processors or between processors and -
19 -- and retailers, but also within a
20 market level between wholesalers
21 competing with one another, between
22 retailers competing with one another.

23 And the process --- the
24 situation that we were concerned about
25 with no small justification in history

1 was that the competitive nature of the
2 market for packaged milk, competition
3 among processors, competition among
4 retailers, was sufficiently intense
5 that without some sort of governor
6 there could be a race to the bottom
7 ultimately would be detrimental for
8 farmers.

9 And so the notion of
10 establishing minimum prices was to
11 simply put a brake on that competitive
12 instinct that does not require some,
13 you know, ill motivation, but simply
14 requires processors and --- and
15 retailers to operate in a market where
16 they are competitive with one another.

17 Currently, state milk price
18 regulation has diminished
19 considerably. As I mentioned, with
20 California on the brink of terminating
21 its extensive system of classified
22 pricing and pooling and joining the
23 federal order system later this fall,
24 Pennsylvania would become the largest
25 pool of state regulated milk in the

1 country with somewhere around 1 to
2 maybe 1 and a half billion pounds of
3 milk per year regulated under state
4 authority.

5 New York would come in second
6 with about half a billion pounds and
7 the other states would be --- are
8 minor contributors to the U.S. milk
9 supply. These include Nevada, Montana,
10 North Dakota, Virginia and Maine.
11 There are a couple of states that have
12 some kind of systems for assisting
13 farmers that are more sporadic or fall
14 short of price regulation.

15 One in particular is the State
16 of Massachusetts, which provides
17 farmers under certain economic
18 conditions with assistance in the form
19 of tax relief, not price regulation.

20 New York also has a retail
21 pricing law, but its pricing law is to
22 establish maximum prices, not minimum
23 prices, and that law primarily was
24 justified to eliminate the possibility
25 of price gouging for consumers,

1 although it did also try to maintain a
2 reasonable share of retail prices for
3 producers.

4 That law is --- let me see,
5 lightly enforced today in the State of
6 New York. State milk price control
7 comes with some issues, and as I
8 mentioned before even with the best of
9 motives every policy we have falls
10 short of perfection, and there are
11 always ample opportunities to think of
12 things that you wish worked better.
13 One of the things, of course, that, as
14 Doc states, is this issue of
15 interstate commerce.

16 To some degree, interstate
17 commerce is simply just business
18 practice, economic markets where
19 people buy milk, where they shop,
20 isn't really particularly bounded by
21 state or political boundaries. If you
22 live in Southern New Jersey and you
23 work in Philadelphia, you got a couple
24 of choices on where to buy milk and,
25 you know, you really don't care where

1 the river is so much.

2 In states that have maintained
3 price controls of some type, there's
4 always some form of some kind of
5 economic isolation. This is clearly
6 the case in Nevada, Montana, Western
7 North Dakota and Maine, but it also
8 applies in Central Virginia, Central
9 Pennsylvania and Western New York
10 either due to topography or a small
11 population that doesn't attract a lot
12 of out of state commerce.

13 Or in the case of Western New
14 York, a political boundary that's with
15 a foreign country, now with another
16 state. Even in --- in those cases
17 interstate competition can be an issue
18 and I'll share with you the example of
19 Western New York.

20 The state order that covers
21 milk in Rochester and Buffalo had
22 established a rather favorable Class I
23 price for producers in that area, and
24 resulted in a relatively favorable
25 blend price. Not usually different

1 from the federally regulated area, but
2 favorable nonetheless.

3 A national dairy company bought
4 a local processor in Erie,
5 Pennsylvania and chose to aggressively
6 market milk in the Buffalo area that
7 previously the Erie processor had not
8 done. They had a Class I price
9 advantage that allowed them to put
10 milk into those stores at somewhat of
11 a discount.

12 Ultimately, the state order was
13 changed to equalize the Class I price
14 and to return Class I processors in
15 Western New York to a more level
16 playing field, but that had a blend
17 price effect, and as a result after
18 the milk New York State order moved
19 off of state regulation and onto the
20 federal order to re---equate blend
21 prices.

22 This is a pretty dramatic
23 change. It allowed the state order to
24 continue, but it was --- it was a
25 pretty big adjustment simply because

1 of this price competition that hadn't
2 previously existed.

3 What are some of the issues
4 which were generically referred to as
5 resale price controls meaning
6 wholesale and/or retail? Again, the
7 notion of this price protection, which
8 --- which Brook referred to in his
9 comments, is really to try to minimize
10 the possibility of a race to a bottom
11 that would come about by these folks
12 really competing with one another and
13 passing that price down to farmers who
14 are not able to defend a higher price.

15 This notion exists really to
16 complement the desire to give farmers
17 a fairer price. We decided not to do
18 that in federal orders and I think we
19 can conclude that the federal order
20 system decided that minimum price
21 regulation at the farm level was
22 sufficient, but the State of
23 Pennsylvania and other states have
24 taken it to another level and --- and
25 have a justification for so doing.

1 The fact that you regulated the
2 wholesale and retail levels invites
3 some other questions about whether you
4 need to and whether or not maybe this
5 has some deleterious effect. I don't
6 know that I'm going to get into a
7 large analysis of this at this point,
8 but I will offer two comments.

9 One is related to the nature
10 and intensity of retail competition
11 for packaged milk sales, and one is an
12 example from a foreign country that
13 abandoned its price regulation and saw
14 exactly this race at the bottom
15 effect.

16 Milk is one of a small number,
17 literally a handful of products sold
18 in grocery stores that retailers
19 believe consumers pay attention to
20 when they make decisions about where
21 they're going to buy their groceries,
22 either on an ongoing basis or on a ---
23 on a week to week basis. Milk is
24 frequently, if not always, included in
25 the weekly fliers that brag about

1 what's on sale.

2 It's not always the same milk.
3 In fact, it's almost always something
4 different. This week it's two percent
5 and a gallon. Next week it's whole
6 milk in a quart. Maybe next week it's
7 chocolate milk, but always something
8 to attract the consumer's eye. In
9 fact, there are studies that --- that
10 indicate that some consumers will buy
11 milk in different packaged size ---
12 packaged sizes simply to take
13 advantage of whatever is on discount.

14 That's not me, but we know that
15 that occurs. This does not mean that
16 milk is sold at a loss, even the milk
17 that's special, but what it means is
18 that retailers have a sense that
19 getting the price right is important.
20 and that competition between stores is
21 alive and well.

22 This creates an environment and
23 an opportunity where retailers could
24 conceivably push prices down in
25 competing with one another for

1 customer sales in a way that would be
2 detrimental to suppliers including the
3 wholesale processors that sit in
4 between those stores and the farmers.

5 Is there any reason to think
6 this could occur besides just some
7 hypothetical economic logic? Well,
8 this is precisely what happened in the
9 United Kingdom about 20 years ago when
10 it abandoned its price regulation.
11 And today, dairy farmers there will
12 tell you that they pretty much are at
13 the mercy of retailers who dictate not
14 only the price that processors give,
15 but the price that farmers give.

16 And the processors will tell
17 you that they basically serve as the
18 tolling agency to package milk on the
19 behest of retailers who, in fact,
20 actually have contracts directly with
21 the farmers. Could this happen in the
22 U.S.? I don't think that's entirely
23 farfetched.

24 Any time a government agency or
25 --- or a quasi---government agency has

1 some authority to announce a price,
2 there's always questions about was the
3 price too high or too low? In other
4 words, the Goldilocks question. But
5 the question farmers always ask, and -
6 -- and understandably so, is why
7 couldn't it be higher especially when
8 prices are poor as they certainly are
9 today and have been for the last three
10 years?

11 And it's often the case that
12 someone will remind us that there is a
13 founding legislation that has some
14 sort of language involving cost of
15 production as a goal for a pricing
16 rule relative to farmers.

17 It is indeed true that federal
18 legislation in most states did include
19 this kind of language, but it's also
20 important to remember that those
21 pieces of law either originally or
22 later also have some moderating
23 language.

24 The Agricultural Act of 1948
25 actually formally amended federal law

1 to specifically say USDA had to take
2 into account the balance of market
3 supply and demand.

4 Well, prior to that in the
5 founding legislation, federal law said
6 that milk prices has to be fair to
7 consumers as well as fair to farmers.
8 And as was noted in discussions before
9 the Pennsylvania Milk Marketing Board
10 in 2009, there is a concern that if
11 you establish prices too high, you
12 would simply throw the welcome mat out
13 to out of state milk coming in and
14 undercutting that price.

15 And let me tell you, New
16 Yorkers aren't evil, but they would
17 pay close attention to that
18 opportunity if you give --- gave them
19 --- gave it to them.

20 Another factor that intervenes
21 in here, which I think we're all well
22 aware of, is not only do we now have
23 the issue of interstate trade, but we
24 have the issue of international trade.

25 In the 1990s we opened up the

1 door of the United States to allow
2 dairy products to both go out and come
3 in and we have been doing that with
4 considerable gusto. Initially, we
5 started importing a little bit more
6 than we were exporting and we got our
7 legs underneath us and now we're
8 rather a substantial power as a world
9 exporter.

10 This is good news in the sense
11 that it allows the dairy industry to
12 serve a larger market, but it also
13 means that we are, to no small degree,
14 subject to competition as it exists on
15 a global stage, not only on a national
16 stage.

17 And this has certainly created
18 the environment that we have today
19 where prices, especially for milk
20 protein and whey proteins, are largely
21 determined outside of any particular
22 U.S. influence and come to us from the
23 international world supply and demand.

24 Is it possible to establish
25 prices too high? And particularly

1 when you think of the retail level,
2 I've got to tell I was actually a
3 little surprised as I began to visit
4 with folks in Pennsylvania over the
5 last year that there were farmers who
6 were critical of minimum retail prices
7 that they argued were too high and
8 were constraining the opportunity to
9 market milk.

10 I found this interesting
11 because the whole logic historically
12 of having minimum retail prices was to
13 protect farmers from this race to the
14 bottom, excessive lowering of milk
15 prices. But the concern that was
16 expressed was more about the volume of
17 sales. This had to do with two
18 aspects.

19 One, buy milk at a store that
20 was maybe just on the other side of a
21 state boundary, so shopping somewhere
22 else, but also the notion that I heard
23 a few people talk about was, well, if
24 prices were lower, we'd sell more
25 milk. Well, that's kind of economics

1 101, but it actually runs headlong
2 into two generally accepted beliefs
3 relative to theory.

4 One is that the consumer demand
5 for packaged milk, beverage milk is
6 relatively inelastic. Inelastic
7 doesn't mean consumers don't care, but
8 inelastic means they don't care that
9 much. That if the price goes up it'll
10 probably deter consumption a little
11 bit, but not really a lot. If prices
12 go down, it'll maybe incentivize
13 consumption a little bit, but actually
14 not a lot.

15 That the reason why people
16 drink milk is not primarily or even
17 too significant degree influenced by
18 the price of milk. That is a commonly
19 held belief and I --- I think there's
20 lots of justification for that.

21 If we look at changes in Class
22 I sales, packaged milk sales across
23 the U.S., they're declining everywhere
24 and this is the only state that
25 enforces resale pricing rules.

1 The second assumption about a
2 price that may be too high runs
3 headlong into this notion of market
4 power and whether or not an
5 unregulated retail price would give
6 retailers a greater opportunity for
7 this race to the bottom.

8 I am not going to make opinions
9 about retail power, market power. I
10 would observe that there are a lot of
11 states, 49 of them, that don't have
12 this kind of price regulation and
13 manage to stumble along, but they
14 almost all have farm price regulation.

15 So the notion of giving a free
16 check to the market chain is not quite
17 exactly what other folks do even
18 though they don't have this particular
19 form of retail price regulation.

20 There are a couple of other
21 issues besides what level the price
22 should be at. One is the issue of
23 stranded premiums. The fact that only
24 about 10 or 15 percent of Pennsylvania
25 milk production directly receives

1 Pennsylvania Milk Marketing Board
2 premiums, but a hundred percent of its
3 retail store's sales are covered by
4 the minimum price requirement, is
5 obviously at the root of this concern,
6 that there's money somehow stranded at
7 the retail level that can't find its
8 way back to farmers.

9 I don't think we know enough to
10 really put a magnitude to this. I
11 think it would be beneficial to be
12 able to do that. I think it is ---
13 needs to be recognized that most of
14 the industry outside of Pennsylvania
15 has long argued that --- that
16 Pennsylvania premium traded an anchor
17 point that gave them the ability to
18 negotiate competitive premiums at a
19 level consistent with the Pennsylvania
20 premium.

21 Maybe not exactly the same as,
22 but it certainly became a starting
23 point for discussion. If you're
24 prepared to pay this in Pennsylvania,
25 you should be prepared to pay this in

1 New York, New Jersey, Maryland and so
2 on. I have no data to confirm that
3 this condition exists, but I've got a
4 lot of anecdotal evidence that I find
5 to be persuasive.

6 Today premiums have collapsed
7 almost around the country, and so for
8 the last three years I'm not sure this
9 is as good an argument as it once was,
10 but I think it was --- it was a
11 reasonable argument in times past and
12 could be in the future. I also think
13 --- which was --- is to say if those
14 premiums exist, then the cost of milk
15 from out of state processors may not
16 be quite the bargain we --- we would
17 imagine.

18 Premiums are not --- I also
19 think every --- every wholesaler
20 outside of Pennsylvania knows full
21 well what the retail minimums are and
22 what the wholesale minimums are and
23 aren't likely as a business strategy
24 to give it away any more than they
25 have to if they want to earn the sale.

1
2 Another aspect of this that I
3 think is really important one is
4 pooling and the distribution benefits.
5 Federal orders are organized around a
6 system called market wide pooling,
7 which simply means any farmer
8 regardless of where his or her milk is
9 sold participates equally in the
10 market wide returns of all processors
11 regulated in the marketplace.

12 It's as if all of Class I
13 processors, II, III, IV, put their
14 milk into a bucket and farmers were
15 able to draw out more or less equally.
16 Little adjustment for milk
17 composition maybe a location, but more
18 or less, the price that you get in the
19 marketplace is determined by market --
20 - market wide sales, not by some
21 individual circumstance where your
22 milk happens to go. And this, of
23 course, is true whether you're a
24 direct ship farmer or a cooperative
25 farmer.

1 The alternative to this is
2 called plant based pooling and federal
3 orders at one point did have some
4 areas that used plant based pooling.
5 States more commonly used plant based
6 pooling. This is done in Montana and
7 North Dakota, for example. It is done
8 in Pennsylvania.

9 What this simply means is if
10 you're a direct shipper to a regulated
11 Class I plant in Pennsylvania you will
12 get a blended price based on the
13 blended value of the milk for that
14 particular plant out to the market.

15 If you are a member of a large
16 cooperative that has some sales to a
17 regulated plant and receives some
18 premium, you are undoubtedly receiving
19 a blended value of that premium along
20 with whatever other premiums that
21 cooperative may be getting from other
22 customers, and thus see a much smaller
23 and much more diluted of Pennsylvania
24 value.

25 This is simply the consequence

1 of plant based pooling. Whether or
2 not plant based pooling is a good idea
3 or a bad idea is not something that an
4 economist can analyze and make a
5 strong conclusion about. This is
6 primarily a political or a social
7 question, not an economic question,
8 but the arithmetic is pretty
9 straightforward.

10 This hearing was invited to
11 consider legislative options and I'll
12 mention three. One certainly could be
13 to switch to a market wide pooling
14 system and that could happen a number
15 of ways. Another that I'd like to
16 talk about is getting more data about
17 what's going on in your marketplace to
18 help you improve policy analysis and
19 precision.

20 And the third is, is there a
21 possibility to look at other methods
22 to support Pennsylvania farmers
23 perhaps in addition to your current
24 system? I just got done talking about
25 market wide pooling. I ---I won't

1 belabor that point.

2 There's many ways in which this
3 could occur including having the
4 Pennsylvania Milk Marketing Board
5 collect funding and distribute it
6 directly to Pennsylvania farmers and
7 not unnecessarily go through the hands
8 of cooperatives.

9 This would not be unlike the
10 way pool quota is handled in the State
11 of California, which is quite a
12 different system, but nevertheless
13 involves collecting money from
14 processors and redistributing it to
15 California producers.

16 Data collection. You have a
17 proposal from the Pennsylvania
18 Department of Agriculture, and I ---
19 I'd like to expand and piggyback on
20 that. I'm an empirical economist. I
21 like to look at numbers. I like to
22 think about what the numbers are
23 saying and see if it informs my
24 economic instincts about what's going
25 on and what might be a reasonable

1 answer.

2 I kind of live or die with the
3 availability of data. I'll tell you a
4 little --- share a little story with
5 you. I first became aware of the
6 Pennsylvania Milk Marketing Board in
7 1976 when I was working on my Ph.D.
8 dissertation, and I was looking at
9 state regulation of milk prices.

10 Pennsylvania Milk Marketing
11 Board at that time included a
12 gentleman by the name of Reed Miller
13 who some of you remember. He was your
14 economist, and I wrote to him and I
15 asked him if it would be possible to
16 share information about the amount of
17 milk regulated under the Pennsylvania
18 Milk Marketing Board, what were his
19 prices, what were the volumes in Class
20 I and so on.

21 And I don't recall that being a
22 particularly difficult discussion, and
23 after a while I was blessed with wide
24 sheets of accounting paper filled with
25 Reed's handwritten scribblings, no

1 doubt taken from other wide sheets of
2 paper, which I faithfully entered into
3 my main frame computer and chugged
4 away with all the computing power that
5 we probably now have on our phone.

6 Actually, I think there was
7 more data available then than we have
8 now. You provide all kinds of data
9 and prices, but the quantity data are
10 not so easy. I think it would be
11 incredibly useful to find a way to
12 document more routinely data about
13 milk volumes regulated and Class I
14 volumes and other volumes of milk in
15 other classes. You discuss this in --
16 - in 2009.

17 Secretary Redding has
18 resurfaced this discussion. It comes
19 with a question of what was our
20 authority to do that and --- and the
21 notion of licensing has come up.
22 Licensing is a common state tool.

23 The New York City Department of
24 Agriculture markets has a processor
25 licensing rule that allows it to

1 collect all sorts of data that's
2 relatively unique to the State of New
3 York. And which I would say is
4 awfully darn useful.

5 You have --- you expressed a
6 concern about a regulatory burden and
7 this is a sensible thing. I wouldn't
8 be at all surprised if the
9 Commonwealth has laws that require you
10 to think about regulatory burden. Is
11 it a reasonable request of a private
12 business to supply you with data?
13 This exists at the federal level and -
14 -- and many states.

15 My feeling is that the
16 regulatory burden today is not as high
17 as it was when Reed Miller was sending
18 me green sheets of paper with a number
19 two pencil. With scanning largely
20 available in every grocery store this
21 is more a question of programming than
22 a question of writing down numbers.

23 I don't want to minimize this
24 too much, but I don't think the
25 regulatory burden is particularly

1 high. I also think it would be
2 reasonable to consider what's often
3 thought of as the de minimis rule.

4 You're too small to report and
5 certainly there would be examples of
6 people who sell packaged milk that we
7 might say what --- we don't need to
8 bug these people. The amount of milk
9 involved is not big enough to make
10 that much of a difference, and the
11 only thing we'll ask you to do is
12 maybe once a year prove to us that
13 you, in fact, are below some
14 threshold.

15 You had some discussion about
16 maybe only asking importing retailers
17 to file reports. I'm not very sure
18 how you identify those folks, but I
19 would encourage you to consider
20 universal reporting and not try to
21 pre---identify some subset.

22 I think it would be incredibly
23 useful to have this information on all
24 retailers, that this could allow you
25 to look at trends, to understand not

1 only the magnitude of what's set, but
2 its share within a larger marketplace
3 as well as the direction in which it's
4 moving.

5 I think you can also logically
6 restrict the regulatory burden by
7 focusing on a subset of all class one
8 products. You know, milk in --- two
9 percent milk in gallons? Of course.
10 Lactose free milk? You'd find that
11 most of your lactose free milk, if not
12 all, comes from out of state
13 processors and frankly, that would be
14 no great insight and simply just
15 reflects the supply change of that
16 particular product.

17 Lastly, if there is a serious
18 concern about regulatory burden, you
19 could consider passing this on --- on
20 a trial or sunset basis and allow for
21 the collection of data to occur over
22 two or three years with a sunset
23 provision that we require some more
24 explicit action to continue.

25 This, I would say, would be

1 useful to do more than one year to be
2 able to get a little bit more of a
3 track record and also to see if you
4 were learning something about data
5 collection that might reduce the
6 regulatory burden in year two or
7 three.

8 Lastly, I'll conclude by saying
9 it may be that you ought to or would
10 like to consider other things that
11 could be done in the Commonwealth
12 either through the Pennsylvania Milk
13 Marketing Board or otherwise. And
14 here the mind certainly can wander to
15 a variety of things.

16 We have to be sober about what
17 states can do. Interstate competition
18 is certainly an issue. Political will
19 is an issue.

20 The State of Massachusetts
21 generates money through taxes and
22 creates benefits for farmers when
23 times are bad through a tax system.
24 That works in a system that's long on
25 people and short on farms.

1 Pennsylvania has got a lot of
2 farms, but it also has a lot of
3 people. Whether or not you can do
4 something through a tax system remains
5 for you to determine whether that's
6 feasible or whether or not it's a
7 direction you want to go. But there
8 are perhaps other --- other
9 opportunities you could support. And
10 I talk about them a little bit more in
11 the final page of my paper.

12 With that, I conclude. Thank
13 you for the opportunity to visit with
14 you. I look forward to any questions
15 you might have now or in the future.

16 CHAIRMAN: All right.

17 Thank you, Doctor, for that
18 very informative talk that you had
19 here, and --- and I think I would have
20 a lot of questions, but I'm going to
21 refer to my members here and maybe
22 I'll come back to me. So, Mr. Van
23 Blarcom, do you have a question?

24 MR. VAN BLARCOM: Yes, I do. I
25 understand you do --- one of your

1 suggestions was possibly have more
2 data?

3 DR. NOVAKOVIC: Yes.

4 MR. VAN BLARCOM: Did your
5 conclusion of that include consulting
6 bottlers, dealers on how difficult
7 that collection may or may not be for
8 emergency?

9 DR. VAN BLARCOM: Yeah, well,
10 again, I --- I suspect the
11 Commonwealth has laws that will
12 require you to do that and that would
13 be a good practice. My --- my feeling
14 is that this will not be an
15 unreasonable burden, but you should be
16 all means explore just what that would
17 require and whether or not you believe
18 it's justified.

19 I would argue that having
20 better data even if it were just for a
21 short period of time as part of a
22 research project than an ongoing
23 reporting requirement would provide
24 insights that currently aren't
25 available and could perhaps lay to

1 rest some concerns that we decide may
2 not be so valid, but might also
3 illuminate some policy choices that
4 are worth pursuing, but which are hard
5 to validate or verify in the absence
6 of that data.

7 MR. VAN BLARCOM: Thank you.

8 MS. BOWMAN: No questions.

9 CHAIRMAN: Doctor, I was --- I
10 was thinking here as you were talking
11 about a tax. I sure don't like that
12 word tax, but we've talked about this.

13 If we didn't have an over order
14 premium and we had a --- I'm going to
15 call it a five cent --- five cent a
16 gallon, just using that for an
17 example, that we would distribute to
18 all Pennsylvania farmers that were
19 sold in Pennsylvania.

20 Now, talking with Counsel he
21 said, oh, I don't think we can do that
22 because if we have milk coming in from
23 Ohio, or New York or somewhere, that
24 money would have to go back to those
25 farmers. What's your thought?

1 DR. NOVAKOVIC: Well, I'm not a
2 lawyer and lawyers love to argue with
3 one another, so I'll let them do that.

4 All right. I'm not so sure
5 that's true. I don't know why that
6 would be true. The tax model that I
7 would offer is the value added tax.
8 We don't have a value added tax in the
9 United States, but it's very common
10 elsewhere, and it allows a taxation
11 system along the supply chain, which
12 certainly is --- the Commonwealth
13 could enforce among companies that are
14 located in the Commonwealth.

15 That money could be collected
16 to create a pool. Doing so would, I
17 think, arguably have the economic
18 benefit of allowing the Commonwealth
19 to target the usage of that funding in
20 a --- in a --- perhaps a more
21 directive way than it does now. It
22 could save that money and only use it
23 in times of economic distress, and say
24 when times are good we're not just
25 going to pass it along, we're going to

1 kind of hold it back for when we go
2 below some threshold. It could be
3 used to incentivize strict farm
4 behavior, increasing milk quality. It
5 could be a variety of things that you
6 really can't do when you have a
7 premium program.

8 So, again, I'm not a lawyer.
9 My --- my instinct is that you
10 wouldn't have to remunerate Ohio.
11 They certainly didn't do that in New
12 England when Vermont and Massachusetts
13 and Maine had its various programs.
14 And I do think it would provide an
15 opportunity to --- to think
16 differently about how those benefits
17 were distributed.

18 CHAIRMAN: Thank you, Doctor.
19 And I --- I think we have talked a
20 little bit about that, but I'm --- I'm
21 not a lawyer.

22 We've got a lawyer here beside
23 --- and we've got other lawyers here
24 and they're the men that know the
25 questions or the answers better about

1 that was to whether that money could
2 stay in Pennsylvania even though the
3 milk came from another state. So
4 thank you very much, Doctor, for your
5 talk and put a lot of questions in our
6 mind.

7 And I hope we can really
8 receive some good benefits from your
9 investigation. Thank you very much.

10 All right. The next topic we
11 have on the subject here is our Chief
12 Counsel, Mr. Doug Eberly. And Mr.
13 Eberly is going to talk about some
14 maybe changes to an existing laws, or
15 definitions or construction. So, Mr.
16 Eberly.

17 ATTORNEY EBERLY: I actually
18 have two things briefly to follow on
19 from --- from Brook and from Dr.
20 Novakovic regarding statutory changes
21 and --- and to emphasize maybe
22 something that Brook had said in both
23 sessions now about the old language in
24 the law.

25 If you saw it on the website or

1 if you picked it up outside, back in
2 2009 or 2011 whenever we were working
3 on this and the idea of licensing milk
4 distributors came up, I wrote some
5 language which we sent down to the
6 legislature.

7 And I modeled that off of the
8 language that was already in the law.
9 and that's the first couple of pages
10 of --- of what I prepared and what's
11 on the website. I think it's under --
12 - I think it's called milk distributor
13 amendment.

14 And what actually got into the
15 law was written by the people that
16 write laws, and it was written a lot
17 more modern and in a better way, I
18 think. And that's the --- it's
19 Article 4A milk distributors and
20 that's --- it's the third page. It
21 says page seven on the items that I
22 posted on the website that there were
23 copies of that in the lobby. But the
24 point is that, you know, we --- we
25 have this language ready to go and the

1 legislature has it ready to go.

2 And, you know, we have helped
3 with ideas before, and one example of
4 that would be the Milk Producer
5 Security Act in 2004. When that was
6 amended, we wrote a lot of that
7 language and then Vince DeLiberato
8 down at the Legislative Reference
9 Bureau kind of fixed that up and made
10 it sound better, but we worked with
11 the legislature before.

12 And, you know, we want to do
13 that when --- when they want to change
14 something so that we can help to fit
15 it in to --- to what the law is now
16 and what's going on.

17 And --- and just to mention
18 something that Dr. Novakovic said
19 about getting the information from
20 everybody I --- I believe that the
21 idea back in 2009 or 2011 was if
22 you're a Pennsylvania licensed dealer
23 and you're selling packaged milk to a
24 retailer in Pennsylvania we know how
25 much you're selling.

1 And I'm going to look at Tim
2 and just get a nod if what I just said
3 was correct, and he did nod. So we
4 already have some of the information.
5 We just don't have it for people that
6 aren't licensed already, and you can
7 think of people that have distribution
8 centers outside Pennsylvania and those
9 are the people.

10 And I --- if you go into Costco
11 and you buy a carton of milk, you're
12 going to get a 39, or a 33 or whatever
13 the number is, and you're going to see
14 that that milk was processed in Ohio.
15 I think it's 39. So that's why we
16 just wanted to --- to target a subset
17 and that's, you know, always open for
18 change or discussion.

19 And then the other thing that I
20 have is John and Alisha Risser sent in
21 some testimony and I spoke to Mrs.
22 Risser on Monday. She called and ---
23 and they're busy. They're farmers.

24 They don't --- you know, she
25 didn't want to have to come in here to

1 read this, but she did ask that it be
2 read and I offered to read it. And
3 after I offered to read it --- and ---
4 and this brings up some other things
5 that, you know, we've talked about,
6 about buying local and things like
7 that.

8 And I've been buying two or
9 three gallons of Wengert's milk at
10 Karns for probably 20 years, so that
11 means I probably had the Risser's
12 milk. You know, my kids have probably
13 had it. So, you know, this is a buy -
14 -- it's important to everybody. So
15 I'm --- I'm going to read what Mrs.
16 Risser wrote or Mr. Risser.

17 I'm not sure who wrote it, and
18 I'm, you know, not qualified to do it,
19 but I hope I can do it some justice.
20 And she did ask that it be in the
21 record and read. So --- and there's
22 copies of this out on the --- outside,
23 too.

24 We support all of the
25 recommended amendments listed to the

1 PMMB. They are a good start in the
2 changes that are necessary to ensure
3 the future of dairy farms in
4 Pennsylvania. The situation that
5 Pennsylvania dairy farms have found
6 themselves has been catastrophic over
7 the past few months. A fellow dairy
8 farmer stated in the first hearing
9 that we are all relying on each other.

10 The processors and the
11 retailers rely on the farmers and the
12 farmers rely on them. This statement
13 is only half true. Processors and
14 retailers have unlimited options of
15 who they use to supply milk.
16 Producers have very limited options
17 due to the cost of hauling, contracts
18 and who is willing to accept our milk.

19 When an over order premium is
20 allowed to give advantages to
21 processors and retailers to bring out
22 of state milk into Pennsylvania, our
23 milk became an undesirable commodity.

24 Our farm was one of the 26
25 farms in the Lancaster/Lebanon area

1 that received termination notices from
2 Dean's Foods.

3 Whether this situation was
4 caused by out of state milk coming
5 into Pennsylvania or not, the reality
6 of who has been able to receive the
7 over order premium is a topic that
8 should be priority. The transparency
9 of what milk is on the shelves and how
10 much is being sold is monumental as
11 well in the evaluation of the future
12 of Pennsylvania dairy farming.

13 Our recommendation for changes
14 to the over order premium is to have
15 only the possibility of this premium
16 going to only Pennsylvania dairy
17 farms, with no exceptions.

18 If a Pennsylvania farm is not
19 involved with the premium earned, that
20 premium should be divided between all
21 Pennsylvania dairy farms. The premium
22 as well should be earned on all dairy
23 products sold in Pennsylvania. We
24 question the integrity of those
25 parties allowing this premium meant

1 for the actual farms producing milk
2 going to another party.

3 We strongly support as well the
4 transparent reporting of loads of milk
5 allowed to enter the state and how
6 much is being sold as stated by the
7 proposed amendment. This is crucial
8 to truly understand where our state's
9 supply and demand is. What we have
10 learned through our public request of
11 an extension, consumers want a
12 connection to what they eat and drink.

13 They want to see who's making
14 the milk they're purchasing. This is
15 evident in the recent increase in milk
16 labeled PA Preferred. If anything
17 will add security to Pennsylvania
18 milk, demand for this is a good and
19 honest step in what consumers truly
20 want.

21 The planning of a processing
22 plant to add processing in
23 Pennsylvania is a great step in
24 support of our industry. We encourage
25 it to be a PA Preferred plant. We

1 would like to thank all the effort and
2 energy put forth from everyone
3 contributing to the recommended
4 amendments by Secretary of Agriculture
5 Russell Redding.

6 The situation we
7 faced with our termination notice was
8 unthinkable with the atmosphere at
9 that time within the industry. These
10 beginning steps to change milk
11 marketing in Pennsylvania are a great
12 testimony to the concern of the PDA.
13 We do not ask for a handout or
14 guarantee of our farm's success.

15 We're all independent farms in
16 this industry with different
17 challenges and situations. We simply
18 are asking for a level playing field
19 free from policy that makes our milk a
20 target for termination. Sincerely
21 John and Alisha Risser. And thanks.

22 CHAIRMAN: All right.

23 Thank you, Mr. Chief Counsel.
24 Just on your first page there in the
25 last paragraph Alisha and John

1 Risser's topic here down in the bottom
2 is the third to last line. It says
3 the premium as well should be earned
4 on all dairy products sold in
5 Pennsylvania. Now, she probably
6 didn't explain that to you or not,
7 so ---.

8 ATTORNEY EBERLY: No, she
9 didn't.

10 CHAIRMAN: We'll just take that
11 as said. It says premium and all ---
12 premium as well should be earned on
13 all dairy products sold in
14 Pennsylvania. And I assume --- I
15 don't know if she was thinking cheese,
16 yogurt, everything, but we'll have to
17 take that as it's read because we do
18 not know what her thoughts were.

19 All right. At this time we are
20 going to take about a five---minute
21 break and I think Mr. Mike Eby has
22 some milk back there. I don't know if
23 there's a charge. I don't know what
24 the situation --- oh, it's free to you
25 guys.

1 So you go over there and see
2 Mr. Mike Eby and you can get some of
3 his delicious milk. And also Mr. Duly
4 brought --- Duer brought some water in
5 over here. So help yourself to that.
6 So let's try and convene here in no
7 more than ten minutes.

8 So I will --- what I --- we
9 will convene. So let's take a break
10 for now.

11 -----
12 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

13 -----
14 CHAIRMAN: Let's everybody find
15 their --- find their seats here as
16 quickly as possible. We're going to
17 have a little bit of change of order
18 here.

19 Matt Espenshade was next in
20 order, but we do have a farmer here
21 that wanted to speak. He has spoken
22 to me a number of times on the phone.
23 And --- and he did not register to
24 speak, but we're going to let him
25 speak here anyway.

1 And it is Mr. Abner Stoltzfus.
2 Mr. Abner Stoltzfus, will you come to
3 the witness chair there. And Mr. Tim
4 will direct you. And try to keep it
5 to about ten minutes, if you can, Mr.
6 Stoltzfus.

7 MR. STOLTZFUS: Okay.

8 I'm a farmer, Abner Stoltzfus.
9 And I thank you for the opportunity
10 for this. I'm not, I guess, much of a
11 speaker, but I'm trying to help
12 farmers. I am a farmer and there's a
13 lot of questions. So again, I thank
14 you for the opportunity.

15 Looking over the room, there
16 are familiar faces. But this is ---
17 there's a lot of things going on in
18 the industry, which bears question.

19 But this is a Pennsylvania Milk
20 Market Board hearing, so we'll try to
21 keep it at that. But the point has
22 been brought forward, the question,
23 where --- where does this money go to
24 that is collected from consumers?

25 And I guess to me there's no

1 reason for it not to go to the
2 farmers. And I guess my understanding
3 is, there's a lack of that. So I
4 thank you in your efforts to fix this
5 problem. They --- they --- they say
6 the co---ops are the producers, but
7 the
8 co---op management is not the farmer.

9

10 So I guess to fix the problem
11 to me would be to get the money to
12 farmers. And with --- with all the
13 technology, there's no reason we can't
14 go through the co---ops, members, and
15 to get the information we need to get
16 it back to the farmers. It --- it
17 should not be a burden to do that.
18 And it has been spoken ---.

19 As far as the minimum retail,
20 I'm sure it does attract more milk in
21 the area, but --- and that --- that's
22 something to consider. They talk of
23 the stranded premium. There --- there
24 should be a way to fix that problem.
25 Milk is being taken out, being brought

1 back in. Milk is hauled from
2 Michigan, wherever, across the nation
3 into Pennsylvania.

4 And we have, of course, this
5 issue in Western Pennsylvania. Now,
6 here another thing I didn't hear that
7 they were getting milk from elsewhere,
8 but out in Sharpsburg, was it? I
9 think they were getting milk from Ohio
10 and Michigan. And they were cutting
11 their liquid farmers off.

12 So I --- you know, I get right
13 to the --- cut to the chase, so to
14 speak. And hopefully we can resolve
15 the issues to save local, because the
16 consumers want local, fresh.

17 There's certain parties that
18 control a lot of milk. And like I
19 said, with entities like these, the
20 problem could be fixed very easily if
21 we would work together to fix the farm
22 --- or the --- to fix the price
23 farmers get for their milk.

24 If --- if we don't sustain the
25 farmers, I guess ---. All of us in

1 this room we all eat and we all like
2 good products, not adulterated
3 products, but good products.

4 So I encourage everyone to work
5 together to make sure the farmer gets
6 paid for his milk, to produce food for
7 everybody and the rest of the world
8 also. I think there's enough ---
9 enough money that everybody gets their
10 share, and I think the farmers could
11 be paid a fair price.

12 So I thank you all for trying
13 to fix this problem. And hopefully we
14 can move forward and --- to sustain --
15 -. I understand dairy is a big part
16 of Pennsylvania economy. It is a
17 local economy.

18 The farmer is a big part of the
19 economy, period. Because the dairy
20 farmers, especially the small ones,
21 they have hundreds of people that
22 depend on them for a living, including
23 probably everyone in this room.

24 And to cut the farmer out to
25 eliminate the farmer, I guess we got

1 to question, what are we doing? We
2 need the farmers not because I'm a
3 farmer, but because we all need to be
4 eating.

5 We all need to take care of the
6 land, take care of our animals. And
7 there's nobody like a small farmer to
8 take care of his land and animals.
9 It's his joy, his pride, his thing.

10 So I hope you all support small
11 family farms and try to keep it going,
12 and whatever it takes to do that.

13 So I guess it's short, but I
14 think --- at some point I think it's
15 common sense to do that. So I thank
16 you for listening and hopefully all
17 goes well.

18 CHAIRMAN: Well, thank you, Mr.
19 Stoltzfus. I think I know that I and
20 our Board have supported small farmers
21 and we want to continue to do that.
22 We need the whole dairy industry in
23 Pennsylvania.

24 And we all like to be
25 profitable. And I think that's what

1 we're working on here at these
2 hearings, to see how we can make that
3 better happen.

4 We can't change big supply of
5 milk in the world, but we can maybe do
6 a little bit that might put more cents
7 in your pocket. And that is better
8 than less cents.

9 Isn't that right?

10 MR. STOLTZFUS: Common sense
11 goes a long way.

12 CHAIRMAN: That's right.

13 And thank you very much, Mr.
14 Stoltzfus, for coming and talking to
15 us. I talked to you a number of times
16 on the phone. And now I have the
17 privilege of meeting you face to face
18 today. So thank you very much.

19 And we will work on this
20 situation to try and make it better.
21 Thank you very much for coming.

22 MR. STOLTZFUS: Thank you.

23 CHAIRMAN: All right.

24 Our next speaker today will be
25 Mr. --- from the Pennsylvania State

1 Grange, Mr. Matt Espenshade.

2 Would you come to the witness
3 chair, please?

4 Usually, Mr. Espenshade, I'm
5 telling you to raise your right hand.
6 Now today I'm just counting on you
7 telling the truth. So you don't need
8 to raise your right hand. And will
9 you give us your information that you
10 would like to share with us today?

11 MR. ESPENSHADE: Certainly.

12 First of all, thank you for
13 rearranging and letting me speak a
14 little bit later.

15 CHAIRMAN: Quite welcome.

16 MR. ESPENSHADE: To the members
17 of the Board, thank you very much for
18 convening this hearing and allowing
19 the Pennsylvania State Grange to
20 testify. Today I would like to do two
21 things.

22 First, I want to tell you about
23 my family farm and our dairy
24 operation. This is to emphasize the
25 point that you already know.

1 Whatever the Pennsylvania Milk
2 Marketing Board concludes will have a
3 real---world impact on family farms
4 such as mine.

5 The second thing in my
6 testimony is to discuss a tax credit
7 idea from the Commonwealth of
8 Massachusetts that may have some
9 bearing on what we could do here in
10 Pennsylvania.

11 My name is Matt Espenshade. I
12 am a seventh generation dairy farmer
13 from Lancaster County. The farm has
14 been owned and operated by my family
15 since 1867. I am married with two
16 sons, ages 12 and 9. My father and I
17 have no hired help in the day---to---
18 day activities on the farm. We milk
19 75

20 cows and farm 260 acres, raising our
21 own forages and replacement heifers.

22 In addition, I serve as the
23 master of Elizabethtown Area Grange
24 number 2076, one of more than 240
25 local granges located across

1 Pennsylvania. The Pennsylvania State
2 Grange, whom I represent today, has
3 been an advocate for farmers and rural
4 --- rural families since 1873.

5 For more than 25 years our farm
6 has been a member of Mount Joy
7 Farmers' Co---op. During that time
8 I've grown to appreciate the benefits
9 of being part of a cooperative.

10 Our Board of Directors is
11 elected by the membership and
12 comprised of member producers. They
13 have a tremendous responsibility in
14 managing the milk markets of more than
15 300 member farms. In challenging ---
16 in challenging times, our co---op has
17 the flexibility to move milk into
18 non---bottling facilities, yielding
19 products with an extended shelf life.

20 While this may prevent our farm
21 from receiving the full value of the
22 over---order premium, I am willing to
23 trade that for the overall stability
24 that this option ensures us. By
25 banding together, we have the

1 opportunity to share the premium in
2 the form of bonuses for volume or low
3 somatic cell counts, which are
4 significant incentives.

5 Dairy farms are as unique as
6 their owners. In the marketing of our
7 milk each of us is faced with our own
8 challenges and opportunities, our
9 own risks and rewards. Dairy farms
10 across the country have been feeling
11 the cumulative financial strain of
12 years of low milk prices and declining
13 sales of Class I product.

14 Many producers are in the same
15 position as our century farm,
16 borrowing against the equity of their
17 farms just to get by. Trying to find
18 an all---inclusive --- an all---
19 encompassing universal solution is
20 impossible, so states have been left
21 trying to find new ways to save their
22 financially
23 stressed dairy farmers.

24 Of course, the, quote, unquote,
25 magic wand would be greater

1 consumption of fluid milk. And some,
2 like the Pennsylvania State Grange and
3 U.S. Rep. Glenn G.T. Thompson, wants
4 to see nutritious whole milk offered
5 to students in schools. This daily
6 exposure would remind young people of
7 the important benefits milk brings to
8 health and vitality.

9 The state of the dairy industry
10 for the past few years has been
11 discouraging. And at recent times,
12 news has been disheartening. I
13 believe real change won't happen until
14 consumers rediscover the dairy aisle,
15 and just how satisfying dairy treats
16 or a glass of milk with dinner can be.

17 However, until we get there, we
18 need to look at more immediate
19 solutions.

20 The Massachusetts tax credit.
21 Discussions with Grange members from
22 across the country about the dairy
23 crisis led me to an interesting
24 measure adopted by the State of
25 Massachusetts, which the Massachusetts

1 State Grange supported.

2 Respectfully, I would like to
3 share a few points found in the state
4 regulation. Instituted in 2008 as a
5 component of the Dairy Farm
6 Preservation Act, the Dairy Farmer Tax
7 Credit Program was designed to offer
8 emergency relief during cyclical
9 downturns. With \$44 million in sales
10 in 2012, the dairy industry is
11 responsible for nine percent of the
12 state's agricultural output.

13 The purpose of this measure is
14 to provide an additional safety net
15 that supports Massachusetts dairy
16 farms. Through this Act, the State
17 helps to offset declining profit
18 margins by providing a refundable tax
19 credit to eligible dairy farms. This
20 state tax credit is based on the
21 volume of milk sold by the farm,
22 regardless of its class or final
23 destination.

24 All farms are reimbursed ---
25 are reimbursed on a percentage basis.

1 And total expenditure by the State
2 has an annual cap. For their program,
3 the, quote, unquote, trigger price is
4 calculated monthly by the University
5 of Massachusetts. It takes into
6 consideration factors such as total
7 operating costs, which would include
8 all feed costs, interest and other
9 operating costs, the cost of hired
10 labor and opportunity cost of unpaid
11 labor.

12 If the price dairy farmers are
13 paid falls below the established
14 trigger price, the farm --- the farm
15 may receive a tax credit.

16 In Massachusetts dairy farmers
17 sign up for the program, authorizing a
18 third party that purchased the milk to
19 release production data or monthly
20 production reports to the State.

21 These figures can be verified
22 through audits of milk production
23 revenues or by records released by,
24 but not limited to, milk marketing
25 cooperatives.

1 Participation is not mandatory
2 if a farmer feels it's not worth their
3 time or they have other objections.

4 In late January the State
5 Department of Revenue was provided a
6 list of taxpayers that may claim the
7 tax credit for the previous year, and
8 the amount they're entitled --- of
9 credit entitled. The names have been
10 certified that they meet all the
11 eligibility requirements.

12 There is another level of depth
13 where the plan explains required
14 calculations, such as trigger
15 percentage and dairy farmer tax credit
16 rate, but I won't get into that right
17 now. The regulation is attached at
18 the end of my written statement for
19 your consideration at a later time.

20 An interesting point from the
21 Massachusetts regulation is that if
22 the tax liability is greater than the
23 tax credit, the amount the farmer owes
24 in taxes is reduced by the amount of
25 the tax credit. If the tax liability

1 is less than the tax credit, the
2 amount the farmer owes is reduced to
3 zero and the remaining difference is
4 refunded to the farmer. If the tax
5 liability is zero to start, the entire
6 tax credit is refunded directly to the
7 farmer.

8 If Pennsylvania were to
9 consider a similar resolution, it is
10 important to remember several points.
11 First of all, this legislative measure
12 would not be continually paying out
13 credits. It would be in place for the
14 tough times, like we are experiencing
15 now.

16 Nor would any farmer have to
17 pay a premium for this coverage or
18 involvement in the program.

19 In challenging times this tax
20 credit would not be a financial
21 windfall. This will not solve all the
22 problems. However, if it could cover
23 just one outstanding bill, a couple
24 tons of purchased feed or an
25 unexpected repair bill, that could

1 make a significant impact on a
2 particular --- on a particular month's
3 bottom line for each Pennsylvania
4 dairy farm.

5 I understand the action
6 required to implement a Pennsylvania
7 tax code change such as this would be
8 beyond the powers of the Pennsylvania
9 Milk Marketing Board and would need
10 action by the General Assembly.
11 However, in a forum such as this, what
12 we have here today, it's an idea, and
13 ideas tend to lead to even better
14 ideas.

15 Perhaps the Pennsylvania Milk
16 Marketing Board could recommend that
17 the Center for Rural Pennsylvania or
18 the Pennsylvania Budget & Finance
19 Committee do a study of other such
20 innovative programs being utilized by
21 other states to help struggling dairy
22 farms like those in Pennsylvania.

23 It is my hope that somewhere
24 within this submission by the
25 Pennsylvania State Grange and the

1 other presenters today that we can
2 find some hope to build on.

3 Respectfully submitted, Matthew
4 D. Espenshade.

5 CHAIRMAN: Thank you, Mr.
6 Espenshade. This gives us another
7 view of another thought of maybe how
8 we could get some money into the dairy
9 farmer's pocket. And we do appreciate
10 that a lot.

11 Do you know, is all milk --- is
12 most of the milk or all milk in
13 Massachusetts from Massachusetts'
14 farmers, farms or not? Or is there
15 imported milk into Massachusetts that
16 would affect that in any way? Or is
17 it just upon credit and they
18 receive ---?

19 MR. ESPENSHADE: Specifically
20 for the Massachusetts dairy farms.

21 CHAIRMAN: Okay.

22 And that would be back to them,
23 according to their amount of milk that
24 they sold?

25 MR. ESPENSHADE: Correct.

1 CHAIRMAN: Okay.

2 At the beginning of your
3 testimony you said you are a part of
4 Mount Joy Farmer's Co---op?

5 MR. ESPENSHADE: Yes, sir.

6 CHAIRMAN: Do you know how long
7 Mount --- oh, yeah. You said here
8 you've been more than 25 years with
9 Mount Joy Farmers Co---op?

10 MR. ESPENSHADE: Yes.

11 CHAIRMAN: Do you know how long
12 Mount Joy Farmers Co---op has been in
13 operation?

14 MR. ESPENSHADE: I believe it
15 was started in the 1920s.

16 CHAIRMAN: I think you're
17 close. You know, whether it was '20s
18 or '30s ---.

19 MR. ESPENSHADE: Late '30s.

20 CHAIRMAN: And it's in
21 operation today?

22 MR. ESPENSHADE: Yes.

23 CHAIRMAN: So do you feel like
24 you have a pretty solid co---op?

25 MR. ESPENSHADE: Yes, I do.

1 CHAIRMAN: And I think we heard
2 in some of our hearings that there's a
3 line item on Year Tech, is there, for
4 the over---order premium?

5 MR. ESPENSHADE: Yes, it's
6 labeled special premium.

7 CHAIRMAN: And do you know how
8 much that is labeled as?

9 MR. ESPENSHADE: Four---and---
10 a--- half cents.

11 CHAIRMAN: And is that maybe
12 all you get or do you think there's
13 more than that or don't you know?

14 MR. ESPENSHADE: Well, the
15 four---and---a---half cents goes to
16 all of our members, whether they
17 qualify for the over---order premium
18 or not.

19 CHAIRMAN: Okay.

20 And I think ---.

21 MR. ESPENSHADE: And then
22 there's the indemnity thing above and
23 beyond that and it also goes to the
24 co---op.

25 CHAIRMAN: Do you --- if you

1 figured that out on about a
2 hundred---cow herd, we've heard that
3 the premium doesn't mean anything to
4 maybe a farmer or some farmers.

5 So would that premium mean
6 anything to you? And how much would
7 it be about for a hundred cows per
8 month at four---and---a---half cents?

9 MR. ESPENSHADE: Well, for our
10 farm with our 75 cows, we ship about
11 130,000 pounds of milk a month. And
12 so that works out to \$58, \$60 every
13 month.

14 So --- and we don't have
15 top---notch production like some of
16 the others. So find a herd within our
17 cooperative that has a hundred cows
18 and slightly better production than
19 what we have in our farm, I'm pretty
20 sure they can see between \$90 and a
21 hundred dollars a month just from this
22 one line item.

23 CHAIRMAN: So you do appreciate
24 the little bit of money that you do
25 get?

1 MR. ESPENSHADE: I --- I don't
2 even consider it a little bit of
3 money. I'm very --- I consider it a
4 very important part of our ---.

5 CHAIRMAN: And if we would ---?
6 As you read here about the
7 Massachusetts tax credit, if we would
8 have another plan in Pennsylvania,
9 maybe like instead of the over---order
10 premium like --- I hate to call it tax
11 on a gallon --- a gallon of milk, but
12 some kind of revenue that we can ---
13 that we could collect from a gallon of
14 milk and share with all Pennsylvania
15 farmers ---? How would you feel about
16 that?

17 MR. ESPENSHADE: I know there's
18 a lot of legal details about that.
19 And if there's a way to do it legally,
20 I'm sure it would be fine.

21 But the Massachusetts program
22 is designed to be another safety net.
23 And it's one thing I discovered from
24 being in the dairy industry, is that
25 you can't have too many safety nets.

1 And that one line item doesn't
2 cover all the money that the co---op
3 receives from the over---order premium
4 as well, so ---.

5 CHAIRMAN: Where --- where does
6 that money go?

7 MR. ESPENSHADE: I would offer
8 that it actually gets used to
9 subsidize the quality bonuses on new
10 premiums. From our co---op only 27
11 percent of the milk produced by our
12 co---op actually receives the over---
13 order premium. And it's produced,
14 processed and sold to the
15 Pennsylvania.

16 And from the money that's taken
17 in, it goes to that line item. Then
18 the rest of it is subsidized as our
19 quality --- quality bonuses.

20 But that money that we receive
21 doesn't cover all the quality bonuses.
22 So that's where it goes.

23 And if --- in theory if over---
24 order premium would go away, we'd
25 either have to do away with our

1 incentive programs or find another way
2 to cover that money, which I'm not
3 sure how they would do ---.

4 CHAIRMAN: All right.

5 Mr. Espenshade, I said we would
6 have to have somebody else figure this
7 out.

8 So our --- our ladies and
9 gentlemen attorneys would need to
10 figure this out, if this would --- we
11 could make something like we work in
12 Pennsylvania for a nickel or whatever
13 it would be to share with the
14 Pennsylvania farmers. Yeah.

15 MR. ESPENSHADE: All right.

16 CHAIRMAN: Are you satisfied
17 with that, Ms. Yovienne?

18 MS. YOVIENNE: Thank you for
19 mentioning the ladies.

20 CHAIRMAN: Do my fellow members
21 have something to say here?

22 MR. VAN BLARCOM: Matt, the tax
23 that you're talking about in
24 Massachusetts, ---

25 MR. ESPENSHADE: Yes.

1 MR. VAN BLARCOM: --- is that a
2 real estate tax, an income tax?

3 MR. ESPENSHADE: That's ---
4 it's just taking off of their income
5 tax or the farm's corporate tax or
6 whatever that --- whatever would be
7 levied against ---.

8 It's just a --- they're not
9 making as much money as they would
10 normally ---.

11 MR. VAN BLARCOM: Okay.

12 And one other one. There's
13 Mount Joy, some of your members from
14 out of state?

15 MR. ESPENSHADE: There's a
16 couple of them, yes. Less than five
17 and we have 314 members.

18 MR. VAN BLARCOM: Thanks.

19 CHAIRMAN: Ms. Bowman?

20 MS. BOWMAN: Is this working?

21 It is? Okay. I'll try to talk
22 loud. I just want to clarify between
23 the two different things you were
24 talking about. There's a difference
25 between a tax credit and a tax and ---

1 .

2 And your --- and your
3 presentation is talking about a tax
4 credit.

5 MR. ESPENSHADE: Correct.

6 MS. BOWMAN: So we're not
7 adding ---

8 MR. ESPENSHADE: No.

9 MS. BOWMAN: --- another tax to
10 the consumer?

11 MR. ESPENSHADE: No. It's ---
12 it's just getting a reduction in the
13 farms' tax liabilities.

14 MS. BOWMAN: Okay. Thank you.

15 MR. ESPENSHADE: We're not ---
16 we're not adding any additional taxes.

17 MS. BOWMAN: All right. Thank
18 you.

19 CHAIRMAN: All right. Thank
20 you, Ms. Espenshade.

21 And do you have something that
22 you would like to add into the record
23 that you did not read today?

24 MR. ESPENSHADE: Yes. In my
25 submission that's on the Milk

1 Marketing Board website, I attached
2 the --- the actual resolution with the
3 State of Massachusetts.

4 It's three to four pages in
5 length, depending on the font size.
6 And if we could, I'd like to enter
7 that in for your consideration.

8 CHAIRMAN: Okay.

9 That will be added into the
10 record.

11 Does the court reporter --- Mr.
12 Chief Counsel, does he have a copy of
13 this? That's not the right one.

14 ATTORNEY DUER: We --- we have
15 a copy.

16 CHAIRMAN: Okay.

17 We will see that the court
18 reporter gets a copy of this here.

19 Thank you very much, Mr.
20 Espenshade, for coming and sharing
21 today. And keep up the good work.

22 MR. ESPENSHADE: Thank you.

23 CHAIRMAN: Mr. Espenshade, by
24 the way, is --- works very hard. We
25 have a Grange in Pennsylvania and the

1 Elizabethtown Grange that Mr. Matt
2 Espenshade is head of he is --- does a
3 tremendous job and works hard at it.

4 And I want to say thank you
5 very much, Mr. Espenshade for --- for
6 your --- your good work in your --- in
7 your Grange.

8 MR. ESPENSHADE: Thank you,
9 sir.

10 CHAIRMAN: All right.

11 The next --- I lost my --- but
12 I believe the next person we have here
13 is Mr. John Bell, from Farm Bureau.

14 So would you come to the
15 witness chair, please?

16 All right. Mr. Bell, would you
17 have a seat? And do you have
18 testimony to read here today or ---?

19 ATTORNEY BELL: I do.

20 CHAIRMAN: All right.

21 ATTORNEY BELL: I --- I believe
22 --- and good --- first of all, good
23 morning, Chairman Brubaker, members of
24 the Board. And I believe you do have
25 a copy of the prepared statement ---

1 CHAIRMAN: Yes, we do.

2 ATTORNEY BELL: --- I'm going
3 to offer on behalf of Farm Bureau.

4 I am John Bell and I am Senior
5 Government Affairs Counsel for
6 Pennsylvania Farm Bureau. And I am
7 offering this testimony on behalf of
8 Farm Bureau and the more than 62,000
9 farm and rural families who comprise
10 our membership.

11 We do appreciate the
12 opportunity to offer comments in
13 response to Pennsylvania Department of
14 Agriculture's April 5th petition that
15 requested the opportunity for public
16 input on policy matters pertaining to
17 dairy marketing, and what would or
18 should be the rule of the Board
19 relative to the current dairy
20 marketing situation that many have
21 aptly characterized as the dairy
22 crisis.

23 I --- I don't think I'm telling
24 you too much differently, but the
25 displacement of dairy farmers from

1 their normal source of marketing milk
2 is a serious human, as well as
3 economic, problem for affected farm
4 families.

5 The potential consequences to
6 those farm families affected go well
7 beyond what most folks who don't have
8 farms who just have jobs experience by
9 just losing that job. Notwithstanding
10 that loss of market, the family must
11 continue to incur significant daily
12 costs just in trying to maintain the
13 existing livestock, crops, equipment
14 and land quality that provide value to
15 the farm's equity.

16 They run the risk of losing
17 that farm and their home if they have
18 taken on significant debt in managing
19 recent losses from their dairy
20 operations. And they must do so under
21 a heavy mental and emotional cloud of
22 determining which farm and business
23 management strategy moving forward
24 will provide the best, quote, unquote,
25 short---term and long---term outcome

1 among options that may not be very
2 promising financially.

3 Today's hearing is not the
4 first forum that has been held on the
5 issue of Pennsylvania's current dairy
6 situation. On March 23rd of this
7 year, Pennsylvania Farm Bureau
8 representatives testified before a
9 committee of concerned House members
10 shared by Representative Frank Ryan to
11 consider the current problems and
12 potential solutions for Pennsylvania's
13 dairy industry in the wake of recent
14 circumstances, including displacement
15 of dairy farmers.

16 I won't go through the entire
17 testimony that was presented at the
18 hearing. I would encourage you and
19 others to watch the video. And you
20 know, by today's technology it's easy
21 to scroll through and pick out the
22 segments on testimony that particular
23 witnesses provided.

24 But several major themes emerge
25 from the testimony we presented.

1 One, the current situation for
2 Pennsylvania's dairy industry is
3 critical and threatens to cause
4 widespread and extensive economic
5 consequences, including extensive
6 exodus of dairy farmers from milk
7 production.

8 Two, those factors contributing
9 to the problems that Pennsylvania
10 dairy farmers face go well beyond
11 Pennsylvania's ability to exclusively
12 control and manage, but include major
13 regional, national and even
14 international contributors, as Dr.
15 Novakovic covered pretty well.

16 Short of direct financial
17 assistance to each individual dairy
18 farmer to make up for the extensive
19 losses that he or she incurred over
20 these past three years, Pennsylvania
21 has little meaningful ability on its
22 own to reverse those contributors to
23 the dairy crisis, whether by
24 legislative means or by means of
25 agencies such as the Board or the

1 Department of Agriculture.

2 We all can contribute, but I
3 think most people understand that
4 there's no silver bullet here.

5 Three, state regulation of milk
6 --- minimum milk pricing alone will
7 not inhibit the substantial pressure
8 that large volume regional or national
9 purchases of milk continue to place on
10 dairy profitability.

11 These purchasers expect their
12 sellers to make serious concessions in
13 price. And regardless --- regardless
14 of the type of state milk price
15 regulation in place, they will
16 continue to use market forces to
17 command low prices for purchased milk.

18 Four, the strategy
19 traditionally employed by farmers
20 during periods of low producer price
21 to just produce more milk to cash flow
22 their farms, no --- no longer seems
23 economically palatable. Such a
24 strategy seems to aggravate an already
25 serious supply---demand imbalance.

1 In its petition, the Department
2 of Agriculture offered several
3 recommendations for change in
4 statutory or regulatory policy
5 including.

6 Increasing the period of notice
7 that purchasing dealers with raw milk
8 must give producers before
9 discontinuation of milk purchases.

10 Increased licensing and
11 regulation of retailers of fluid milk
12 to ensure more accurate, detailed and
13 transparent accounting where milk is
14 being sold to Pennsylvania --- where
15 the milk is being sold to Pennsylvania
16 consumers by each retailer is being
17 sourced and how much is being obtained
18 from the various sources.

19 Changes in laws governing where
20 title is obtained for purposes by
21 determining minimum producer prices to
22 discourage recognition of artificial
23 handling practices recently
24 established primarily to avoid payment
25 of over---order premiums to

1 Pennsylvania producer.

2 All are positive change ---
3 changes and I believe would be
4 supported in Farm Bureau policy, but
5 they will likely do little to address
6 the broader and more influential
7 regional, national and international
8 factors causing the acute economic
9 problems that Pennsylvania dairy
10 farmers currently face.

11 Let me offer two comments about
12 Pennsylvania's over---order premium.

13 The first pertains to the
14 Board's action last December to
15 substantially reduce the level of
16 over---order premium to 75 cents per
17 hundredweight.

18 It is never easy to look at a
19 reduction in producer price as a
20 positive action for dairy farmers.
21 But it was readily apparent from the
22 economic forces at work in markets
23 surrounding Pennsylvania that the
24 premium level was drastically out of
25 balance with premiums being paid

1 voluntarily in surrounding markets and
2 the level of premium and balance was
3 putting Pennsylvania's producer milk
4 at serious risk of being displaced
5 with milk produced out of state.

6 The Board made the humanly
7 difficult but economically prudent
8 decision to bring the premium level
9 back to levels that would help sustain
10 the use and procurement of
11 Pennsylvania milk in local markets.

12 The second comment pertains to
13 the stranded premium, that portion of
14 consumers' producer milk premium
15 payment that does not get returned
16 back to the producer.

17 This is the feature of
18 Pennsylvania's minimum pricing system
19 that seems to incense the producers
20 the most.

21 Producers generally feel there
22 has not been sufficient transparency
23 in tracing or accounting of dollars
24 that result from the stranded premium
25 identifying the primary beneficiaries

1 of the stranded premiums being paid by
2 consumers. And the relative amounts
3 each beneficiary is receiving or
4 identification of the particular
5 methods employed by the stranded
6 premium beneficiaries to prevent those
7 consumer dollars to flow back to the
8 producers.

9 We would encourage the Board
10 and Board staff to put in place
11 protocols that would provide greater
12 transparency of who has benefited and
13 what are the proportionate shares of
14 stranded premium revenues received
15 among beneficiaries. And would
16 discourage creation of stranded
17 premiums of Pennsylvania---produced
18 ultimately marketed to Pennsylvania
19 through milk --- artificial milk
20 handling measures by wholesalers and
21 retailers.

22 There is certainly a heck of a
23 lot more that can be discussed than
24 what I've stated so far, but I will
25 stop here.

1 And I thank you for --- again
2 for the opportunity. And I'll try to
3 answer any questions you may have.

4 CHAIRMAN: All right.

5 Thank you, Mr. Bell, for that
6 testimony.

7 And I think in, let's see,
8 paragraph two on page five you said
9 that we have international factors
10 causing acute epidemic problems that
11 Pennsylvania farmers currently face.

12 And that is very, very true as
13 you have stated. Do you have any
14 recommendations as to how we could
15 figure out that stranded premium, at
16 this time?

17 MR. BELL: Well, ---.

18 CHAIRMAN: If not, you can
19 write it down and get it to us.

20 MR. BELL: Well, certainly one
21 of the recommendations that the
22 Department of Agriculture has
23 offered ---. And I think it's been at
24 least proposed in legislation and it's
25 actually being --- had been considered

1 by the Board is to expand the scope of
2 licensed retailers. And I think Dr.
3 Novakovic at least stated, and I
4 concur ---.

5 And believe me, I --- I thought
6 it very interesting that Dr. Novakovic
7 referred to himself as a student of
8 the milk industry. And I think in
9 many respects we're all students,
10 we're continually learning.

11 But I --- I think Dr. Novakovic
12 aptly said this information, while
13 we're not exactly sure whether it will
14 help, can't hurt and potentially can
15 help. And those who benefit --- and I
16 think producers do benefit from state
17 milk price regulation, but also
18 wholesalers and retailers benefit.

19 And I think part of the --- the
20 responsibility, I'll say, of being
21 benefited through milk price
22 regulation is the willingness to share
23 information of what the benefit is and
24 what it does provide to you.

25 CHAIRMAN: All right.

1 Thank you, Mr. Bell.

2 Mr. Van Blarcom, do you have
3 any questions for Mr. Bell?

4 MR. VAN BLARCOM: On your
5 greater transparency mentioning there,
6 do you think that the technology today
7 makes it quite simple to collect all
8 this data that we would need in order
9 to cover that?

10 MR. BELL: I think technology
11 has made a lot of things much easier
12 and much more instantaneous to
13 collect. I think the more problematic
14 issue for the Board might be --- is
15 the verification of the data that's
16 reported.

17 And, you know, I recognize
18 somebody has to ---. And believe me,
19 there are accountants and regulating
20 accountants who are much more
21 qualified than I to speak on this. But
22 there may well be ways that technology
23 can be utilized in that verification
24 of --- of data.

25 So a simple answer to your

1 question is yes.

2 MS. BOWMAN: John, can you hear
3 me?

4 MR. BELL: Yes.

5 MS. BOWMAN: Okay.

6 I was listening, too. And it
7 would be wonderful to collect the data
8 from retailers. However, that would
9 not still give us the information
10 needed to see if that out---of---state
11 milk are from out---of---state sales,
12 if that money was going back to the
13 producer.

14 Where if we would license
15 distributors around the state, we
16 would be able to go in and look at
17 their books to see how it is being
18 distributed back to the producer.

19 Is that a correct statement,
20 sir?

21 MR. MOYER: It's debatable as
22 to whether we can trace producer
23 payments back to the out---of---state
24 manufacturers ---

25 MS. BOWMAN: So either way ---?

1 MR. MOYER: --- it'd be an
2 illegal profit.

3 MR. BELL: Well ---. And,
4 again, I mean, you know, the law is
5 dependent on who's advocating or who's
6 deciding it.

7 There --- there are very hard
8 line legal concerns with several
9 aspects of the over---order premium.
10 There may or may not be as hard line
11 of legal concerns with respect to the
12 accounting of stranded premiums.

13 I'm not sure I'm to the point
14 where I'm willing to buy the idea that
15 just because something crosses the
16 border, it can't be captured in some
17 form. I don't know enough about the
18 particulars of what is going on
19 relative to Pennsylvania---produced
20 and processed milk moves to a
21 distributing area and moves back in to
22 Pennsylvania.

23 Whether just the mere crossing
24 of that milk automatically kicks the
25 Pennsylvania Milk Marketing Board out

1 of regulation of that price ---. We -
2 -- we don't know and I don't think the
3 Court ---.

4 I mean, you know, there have
5 been some U.S. Supreme Court cases
6 that have made pretty clear lines on,
7 you know, what states can do.

8 Is it just a mere transport of
9 milk out and then back? Is it ---
10 does that mean it --- it --- it has
11 become interstate milk?

12 I'm not sure. And I'm not sure
13 there's a bright---line court decision
14 that has made that determination.

15 Stranded premiums are a very
16 unique situation. It's unique to
17 Pennsylvania.

18 I --- I won't say there aren't
19 legal problems, but I'm not convinced
20 that --- that there are definite legal
21 problems.

22 MS. BOWMAN: And we're just
23 assuming that the stranded premium
24 that goes out of state is not going
25 back to the producer. But it seems to

1 be the general feeling. And we don't
2 know that.

3 MR. BELL: Well --- and I
4 think ---.

5 MS. BOWMAN: Hopefully some of
6 it is, if not all of it.

7 MR. BELL: And --- and I think
8 ---. I'll make the point that I think
9 you're trying to make.

10 Just because the producer is
11 not receiving consumer payment of a
12 mandated premium doesn't necessarily
13 mean that that same producer isn't
14 receiving a --- a premium voluntarily.

15 CHAIRMAN: All right.

16 Thank you, Mr. Bell, for
17 bringing your testimony here today.

18 And we ---

19 MR. BELL: Thank you.

20 CHAIRMAN: --- always
21 appreciate farmers input into what we
22 are doing.

23 One thing about the regulation,
24 if we can track this milk coming into
25 Pennsylvania, is that just an added

1 cost and it --- and what is it going
2 to prove to us that it's going to put
3 more money in the farmer's pocket in
4 the long run?

5 And that we don't know until we
6 investigate a little bit more. So
7 thank you very much, Mr. Bell.

8 And we're going to do one more
9 testimony here before we break for
10 lunch. Hopefully we'll just make the
11 lunch hour where it is when his
12 testimony is finished.

13 So do we have Melissa Bravo
14 here?

15 MS. BRAVO: We do.

16 CHAIRMAN: Would you come to
17 the witness chair, please?

18 MS. BRAVO: How many minutes do
19 I have before ---?

20 CHAIRMAN: Well, how many
21 minutes do you think you need, Ms.
22 Bravo?

23 MS. BRAVO: Oh, I can talk all
24 day.

25 CHAIRMAN: Well, I'm going to

1 cut you off if you're going to talk
2 all day.

3 MS. BRAVO: Ten minutes, 20
4 minutes?

5 CHAIRMAN: Ten --- ten minutes
6 would be really good, ---

7 MS. BRAVO: Okay.

8 CHAIRMAN: --- 15 will be okay.
9 If it gets beyond that, we may have
10 to stop, because we're going to not
11 keep on going.

12 So I'll give you 10, 15 at the
13 most. And if you start --- got to go
14 longer than that, we're going to take
15 a break.

16 MS. BRAVO: All right.

17 CHAIRMAN: Thank you, Ms.
18 Bravo, for coming here. And you may
19 proceed with your testimony.

20 MS. BRAVO: And thank you for
21 having me.

22 I just want to give a little
23 preamble and pretext as to why I am
24 here. Because I do wear many hats.

25 I started out with the

1 Department of Agriculture in 2005.

2 And I was hired to rewrite the state

3 Not Just We Control law.

4 And so I have quite the history

5 with understanding how to look at a

6 law, research a law, look at what

7 other states are doing.

8 And it took eight years for

9 that law to come to fruition, but when

10 it goes through the process and makes

11 it with all the comments that come

12 through and then the legislator passes

13 it, it's not necessarily in the same

14 form that it started out in.

15 And when I left in 2012 ---

16 I've been a certified crop advisor

17 since 1997, in Tioga County. And I

18 probably had 300, 400 producers then,

19 from McKean County down through Tioga,

20 Potter, all the way through

21 Northcentral, Pennsylvania.

22 When I went back in 2012, the

23 producers asked me to come back

24 because of the Marcellus Shale

25 industry. Money was high. They

1 needed help with --- helping them with
2 their leases.

3 And I started writing for
4 Lancaster Farming, Williamsport and
5 Wellsboro Gazette as an agricultural
6 columnist and feature writer.

7 And so you can follow my
8 writing interest in this, that I've
9 been following the dairy industry
10 highs. And I have watched the
11 collapse over the last four years.

12 And it's impacted me greatly.
13 It was a huge source of my income to
14 work with these producers, but it has
15 gotten increasingly worse the last
16 couple of years. And I'm seeing it
17 from all aspects.

18 So when I looked at ---. I was
19 very pleased to see the Department of
20 Agriculture ask you for a hearing.
21 And I fully support the
22 recommendations and suggestions from
23 Secretary Redding.

24 The reasons I commented are ---
25 the other hat that I wear, I'm a

1 substitute teacher. I work in the
2 school district for \$10 an hour,
3 despite the fact that I have two
4 degrees in agriculture.

5 And what I see is marketing,
6 marketing, marketing, a very
7 successful marketing program of
8 caffeinated beverages. And yet I
9 cannot get these kids to drink milk.

10 They only drink caffeinated
11 beverages. They do not like the taste
12 of the milk in the schools.

13 And so when the farmers are
14 talking to me about how can you help
15 me? I commented on that in the first
16 hearing, which is, can we create a
17 milk market order directed at the
18 schools, so that we can sell
19 Pennsylvania---branded milk?

20 And I want to draw attention to
21 this, because this is the second
22 reason I came today.

23 I broadcast and write feature
24 stories for farmers. And I work
25 directly with the consumer and I

1 cannot sell my producers' product to
2 the consumer. When I do an ag tourism
3 broadcast, I'm also looking for
4 advertising dollars for the company.
5 And I cannot say at the end of the
6 broadcast well, I want you to buy this
7 producer's milk.

8 So when this crisis started and
9 people are asking me how can I help,
10 where can I buy one of the 86 dairies
11 left in Tioga County milk? I went to
12 my producers and said, where can I
13 tell them to buy your milk? And they
14 can't.

15 We --- we think that we have
16 this mechanism, but we don't. So I'm
17 looking for options.

18 And the simplest way is looking
19 at what the statutory law says. It
20 says you are the milk marketing law.
21 And so I inserted the word marketing
22 throughout the preamble with the
23 assumption that it existed there.

24 Because when I looked at the
25 Not Just We Control law, which we then

1 amended to be the Not Just We Control
2 and Restricted Plant Act, the wording
3 and the way that those words in 1937
4 still apply today.

5 And I think as a regulatory
6 agency we are programmed to look at it
7 as regulating the market. But I think
8 the very simplest thing you can do for
9 the producers that are left in
10 Pennsylvania ---. And what is that
11 critical mass?

12 Will we still be having this
13 conversation in a hearing if there's
14 only 2,000 producers left in
15 Pennsylvania? Because I've lost that
16 critical mass in Tioga County. I ---
17 we're at --- we're at 86 or less
18 producers in the county, from what
19 I've been able to infer. And I'm very
20 concerned that we will only have half
21 that number by next year.

22 So what I would like to see is,
23 can we use the existing wording of the
24 law to change this label, so it
25 actually says, made in Tioga County?

1 So that the --- and can I get this
2 into the schools, so that I can buy
3 and the kids can buy it? Because the
4 empathy is there.

5 And that's the third hat that I
6 wear. I'm not sure if I'm wearing it
7 today. I --- my farmers are hurting
8 so bad, I've had suicides in my
9 district. I'm going broke right along
10 with them, so I asked them how I could
11 help. And they said, just do
12 something.

13 Matt Baker resigned from his
14 position as House of Representatives.
15 And I said, well, I will do something,
16 because we were trying to get our
17 Representative to help us in marketing
18 and we couldn't.

19 So I put my hat in the ring and
20 I ran for the primary and the special
21 election as the House of
22 Representative candidate on the dairy
23 platform.

24 And I honestly don't know the
25 results, because I got up at four

1 o'clock this morning, went to the barn
2 and then came down here.

3 But the point is, is that I put
4 my name out there. And I took no
5 donations, because I wanted the
6 donations to go to the farmers.

7 And people called me and
8 actually said, we don't know how to
9 donate to the farmer.

10 So there's simple things that
11 we can do to create a fund where the
12 consumer wants to help. Recycling,
13 can we give the five cents on
14 recycling directly back to the
15 producer in Pennsylvania if their
16 label's on it?

17 There's a lot of small ways I
18 think we can get money back to the
19 producers.

20 Cost of production, I live
21 right on the New York line. Gas is
22 \$2.91 at the Langley gas station.
23 It's \$3.15 right across the street.
24 So you know where I get my gas.

25 So I'm buying New York milk

1 because that's where I buy my milk. I
2 had to buy a bag of milk replacer last
3 week, because I had a calf born that
4 needed supplemented for the day.

5 I had to go buy milk from the
6 dairy farm, so I had colostrum. I had
7 to go buy a bag of milk replacer. And
8 I couldn't get over the price of the
9 milk replacer.

10 And I got to wondering, well,
11 can that be PA---Preferred? Can I at
12 least say that the milk replacer I
13 bought came from Pennsylvania? And I
14 know it did not, because I can tell by
15 the branding. So branding is very
16 important.

17 But getting back to the end of
18 my story, which is looking at the law.
19 Today's hearing was to --- can we use
20 the law we have or make statutory
21 changes? And I just went down through
22 the way it's broken down.

23 There are --- if you take a
24 triangle, I see everybody trying to
25 jam the four parts of this into the

1 same triangle or square. If you pull
2 that triangle out for part one, which
3 is the producer, and look at their
4 cost of production and what they may
5 need to make to be marketable ---.

6 Then pull that out for the
7 wholesaler, the retailer and the
8 distributor. And then add in how the
9 cost of production weighs in.

10 I think you would clearly see
11 some of the data that you want.

12 And I do agree with Farm Bureau
13 on many other points. I agree with a
14 lot of the points today.

15 I'm glad to see this much
16 comment. But it's that verification.
17 Who said something about we need data
18 verification?

19 Because that's what I'm
20 referring to. I collect data all the
21 time. And I --- I get paid right now
22 to mediate over how data is used and
23 how regulations are enforced.

24 And we could do a much more
25 transparent and correct way to verify

1 that data is accurate, instead of
2 looking at just percentages and not
3 clearly understanding what that cost
4 of production is costing these
5 producers.

6 So thank you for having me
7 today. My comments are here. And if
8 we move forward with using the law, I
9 would like to help.

10 But if you move forward with
11 changing the law, the thing I'd like
12 to leave you with is, I have to
13 explain this law to producers. And I
14 can't explain it to them.

15 And so the language in this is
16 too archaic for the producers that we
17 have now who don't understand how this
18 law benefits them.

19 And isn't that our role that
20 we're marketing Pennsylvania milk?
21 Thank you.

22 CHAIRMAN: Thank you, Ms.
23 Bravo. You brought up some very good
24 comments there.

25 And I'm going to have a

1 question for you. Should we change --
2 -? You said it says we're the Milk
3 Marketing Board. Should we change the
4 words, so that it doesn't say we're
5 marketing or shall we change something
6 that we do some marketing, like you
7 talked about the milk there?

8 MS. BRAVO: Well, from what I
9 have read and listened to, the
10 regulatory emphasis of this law has
11 been to regulate the market.

12 Can you exist without the
13 regulatory authority granted to you to
14 regulate the market? There's less
15 than 7,000 producers left in the
16 state. Correct?

17 But are you regulating
18 Pennsylvania---produced milk or are
19 you having a headache from out---of---
20 state milk?

21 And so I look at your law that
22 if you only look at how it applies to
23 Pennsylvania milk, regulate and
24 promote, I see great benefit there.

25 But the fact is that we ---

1 Tioga County is becoming a pork---
2 producing county.

3 As the dairies are being
4 displaced, something else is going to
5 come in. Are you going to become the
6 pork market law? Are you going to
7 become the beef market law?

8 It just seems to me that we're
9 --- we're --- we put a lot of emphasis
10 on the necessity of this as being a
11 Pennsylvania's number one agriculture
12 product and we've let it go by the
13 wayside.

14 But another product is moving
15 in and we're doing the exact same
16 thing. There's going to be a crisis.

17 There's --- there's a huge
18 crisis now with this much product
19 going out in terms of production. And
20 they're jumping right into another
21 market, but there's no protection for
22 them in that market either.

23 So I think that you have ---
24 there's two needs here and if you
25 can't perform both, maybe we need to

1 split.

2 And I certainly don't think you
3 have enough help. The amount of
4 research it would take to rewrite this
5 and to support each one of those tiers
6 demands that you have some support
7 staff.

8 And I --- I can clearly see
9 that you don't. And I'm surprised
10 that you haven't been able to request
11 that.

12 CHAIRMAN: Thank you, Ms.
13 Bravo, for those comments. And we'll
14 be working at everything we can.

15 So I'm going to --- Mr. Van
16 Blarcom, do you have a comment?

17 MR. VAN BLARCOM: Just thank
18 you, Ms. Bravo, for driving that far
19 because I know how far you drive. You
20 drove further than I did.

21 MS. BRAVO: Yes, I drive a lot.
22 I drove 200 miles yesterday and ---
23 but I've run this --- I've run down to
24 Harrisburg --- it was part of my
25 routine when I was down here.

1 And I'm glad to be back. It's
2 nice to be back in town.

3 MR. VAN BLARCOM: Thank you
4 again.

5 MS. BOWMAN: You're very
6 interesting. Thank you very much.

7 MS. BRAVO: You're welcome.
8 Thank you.

9 CHAIRMAN: All right.
10 Thank you very --- very much,
11 Ms. Bravo, for giving us that valuable
12 information.

13 Right now we are going to break
14 for lunch. And we will be back here
15 at like one o'clock. The next topic
16 that we have --- the next testimony
17 will be with ---.

18 The Pennsylvania Milk Dealers
19 will be the next --- will be the next
20 person on when we get back from lunch.

21 So enjoy your lunch.

22 Mr. Mike, is there any more
23 milk for anybody to take yet?

24 Okay. If you need some milk
25 with your lunch, Mr. Mike Eby is over

1 there and he has some yet. So I'm
2 sure he'll be glad to share it with
3 you. We'll see you back in an hour.

4

5 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

6

7 CHAIRMAN: We will reconvene
8 now. Thank you everybody for coming
9 back and I hope you had a good lunch.
10 Our first witness here after lunch
11 here will be Mr. Earl Fink. And he is
12 speaking for the Pennsylvania
13 Association of Milk Dealers. Mr.
14 Fink, will you have a chair there,
15 please? And the floor is yours.
16 Thank you very much ---

17 MR. FINK: Thank you, Mr.
18 Chairman.

19 CHAIRMAN: --- for testifying.

20 MR. FINK: Chairman Brubaker
21 and members of the Board, good
22 afternoon. My name is Earl Fink. I
23 am the Executive Vice President of the
24 Pennsylvania Association of Milk
25 Dealers, an association of fluid milk

1 processors who process the majority of
2 milk sold in the Commonwealth. We
3 currently have 22 members with 19
4 fluid milk plants in the state.

5 I have been involved in the
6 state's dairy industry since 1971 when
7 I started working for the Milk
8 Marketing Board as an auditor and
9 later as Executive Secretary. The
10 conditions we see --- are seeing today
11 are unprecedented. Milk production
12 has exceeded market demand by a huge
13 amount. In the past few years we have
14 seen milk, often skim, being
15 underutilized and at times dumped in
16 this region because supply is
17 exceeding demand in the face of
18 declining fluid milk sales and there
19 is not sufficient manufacturing
20 capacity to handle the milk.

21 In addition, the milk price has
22 demonstrated significant swings from
23 over \$24 per hundredweight in 2014 to
24 just over \$15 in the past two months.
25 For the first time in my experience

1 cooperatives are not taking on farmers
2 who have lost their market. One thing
3 that is different about the current
4 situation is the lack of federal
5 intervention.

6 In the past when there have
7 been major supply and demand
8 imbalances, the federal government had
9 more direct involvement with the price
10 support program and the whole herd
11 dairy buyout among others. This is
12 not a Pennsylvania problem, it is a
13 national and even an international
14 problem.

15 In my opinion it cannot be
16 solved by Pennsylvania or any other
17 state both due to the scope
18 of the problem and due to the
19 limitations of the U.S. Constitution -
20 -- due to the limitations of the U.S.
21 Constitution imposes on states in
22 their ability to regulate interstate
23 commerce.

24 Having said that, Pennsylvania
25 Milk Marketing Board, PMMB, is clearly

1 a benefit to the Pennsylvania dairy
2 industry, Pennsylvania's farm numbers,
3 plant numbers and diversity of
4 retailers reinforce that the Milk
5 Marketing Board helps the Pennsylvania
6 dairy industry.

7 For instance, as of 2017 the
8 most recent year for which annual data
9 is available Pennsylvania has the
10 second highest number of dairy farms
11 in the United States, second only to
12 Wisconsin. Between 2010 and 2017
13 Pennsylvania saw the smallest decrease
14 in the number of dairy farms in the
15 United States.

16 And in the same time period,
17 Pennsylvania with an average farm size
18 of 80 versus the next smallest average
19 of 139 in New York and 141 in
20 Wisconsin, saw a modest increase in
21 production per cow of 5 percent. See
22 attachment A. This is clearly an
23 indication that the Pennsylvania Milk
24 Marketing Board is doing something
25 that is helpful.

1 I am a firm believer that the
2 Pennsylvania Milk Marketing Board has
3 and will continue to help all segments
4 of Pennsylvania's dairy industry and
5 that major policy changes to the milk
6 marketing law pursued as a result of
7 this crisis will not stand the test of
8 time and will likely create unintended
9 consequences, especially given the
10 complexities of the economic
11 regulation of the dairy and the fact
12 that raw milk and packaged milk
13 continues to move to greater distances
14 all the time.

15 It was recognized long ago by a
16 Federal Court of Appeals and still
17 holds true today as a caution against
18 change without serious consideration
19 of the unintended consequences, that
20 the problem is so vast that fully to
21 comprehend it would require an almost
22 universal knowledge ranging from
23 geology, biology, chemistry and
24 medicine to the niceties of the
25 legislative judicial and

1 administrative process of government.
2 That was in an opinion, Queensboro
3 Farms versus Wickard in 1943.

4 I would like to add that it
5 also requires major knowledge of
6 accounting and economics. I think it
7 is important to outline for those that
8 criticize the milk marketing law some
9 of the ways in which the resultant
10 actions of the PMMB positively reach
11 the varying segments of the dairy
12 industry. I'm attaching bullet points
13 that I believe are important to a
14 proper understanding of the ways in
15 which the PMMB works.

16 And I wish to highlight
17 separately a few points in these
18 remarks, see attachment A. I would
19 also say that our statement is on the
20 table here, 40 copies of it. For our
21 membership despite the misconception,
22 the PMMB system does not guarantee a
23 profit to all plants, but it provides
24 some benefits that in many cases are
25 indirect in nature.

1 Like dairy farmers, fluid milk
2 plants have needed to engage in other
3 lines of business to cover their
4 overhead. Among other reasons, the
5 Pennsylvania Milk Marketing Board
6 through its staff when auditing cross
7 section milk plants for the cost of
8 buildup that is used to set the
9 wholesale minimum price, endeavors to
10 strike a balance between helping milk
11 plants cover their costs and keep the
12 milk price competitive by excluding
13 some costs from the cross section
14 build up.

15 As a result wholesale minimum
16 prices do not cover all of the costs
17 in the cross section buildup. Also,
18 the cost build up is generally at
19 least a year old and in some cases
20 even older. This means milk plants
21 operating today are selling at
22 wholesale prices that are based on
23 costs that are at least a year or more
24 stale.

25 Moreover even if wholesale

1 prices were not based on older costs
2 it would only be the perfectly
3 averagely, efficient milk dealer that
4 could achieve the intended rate of
5 return, but many milk dealers,
6 including those higher cost milk
7 dealers in the cross section and out
8 of cross section do not even receive
9 the established rate of return.

10 This means that the wholesale
11 minimum prices are not set so that
12 every milk dealer is profitable.
13 Thus, in order to address these
14 limitations of the system, milk
15 dealers have, not unlike dairy
16 farmers, had to develop other revenue
17 streams including sales outside of
18 Pennsylvania and the sale of non--
19 dairy drinks.

20 Based on the most recently
21 available audit annual reports
22 submitted by milk dealers from 2016
23 cross section milk dealers showed a
24 wide --- wide range of profitability.
25 Many were negative and some were

1 positive, but the vast majority were
2 well below the 2.5 percent to 3.5
3 percent that onlookers erroneously
4 believe is guaranteed.

5 I therefore wish to dispel the
6 myth that milk dealers are guaranteed
7 a profit. If that were true, the 54
8 milk plant members of PAMD that were
9 in business when I had --- when I
10 joined PAMD in 1983 would still be in
11 business, but instead today we are
12 down to 19 fluid milk plant members.

13 Having outlined the limitations
14 of the milk marketing law for fluid
15 plants, PAMD takes a broader view and
16 concludes that wholesale minimum price
17 at least helps our fluid plants to
18 recover the over order premium in our
19 dealings with Pennsylvania retailers,
20 helps retailers to avoid selling milk
21 as a loss leader.

22 And therefore discourages
23 retailers from forcing milk plants to
24 sell at bottom of the barrel pricing
25 such that our milk dealers have a

1 fighting chance to stay afloat by
2 increasing volume and adding
3 additional product lines.

4 Like farmers, the benefits of
5 the PMMB system for fluid milk plants
6 are not necessarily direct in all
7 cases, but given where milk pricing is
8 in other states, for example \$.98 per
9 gallon, PAMD believes that the PMMB
10 system is still better than the
11 alternative.

12 We think that those that
13 criticize the current system and want
14 change because we are experiencing a
15 crisis should step back and consider
16 the broader picture because there are
17 similar stabilizing benefits for
18 retailers and farmers that should not
19 be ignored.

20 At the last session on May 2nd,
21 2018 retailers testified that they
22 wish to retain the retail minimum
23 prices in order to avoid having to
24 sell milk as loss leaders and one
25 farmer representative turned that on

1 its head with a criticism that the
2 Milk Marketing Law is benefiting
3 someone, the retailers, but not him.

4 He is not alone in his views,
5 but I feel strongly that there are so
6 much more to the story than he and his
7 fellow dairy farmers are not
8 recognizing. If stores have to sell
9 milk as a loss leader that means they
10 will sell the milk below cost and
11 actually lose money on that milk.
12 They will have to charge higher prices
13 on other grocery items to make up the
14 loss and/or they, like large
15 retailers, will be forced to also
16 reduce the size of the loss on the
17 milk by seeking the cheapest milk.

18 That may mean out of
19 state milk or milk with no over order
20 premium. Worse still, smaller
21 retailers may not be able to absorb
22 the losses on milk sales due to their
23 smaller size and we believe eventually
24 will follow trends elsewhere and
25 succumb to large national retailers.

1 No Pennsylvania dairy farmer,
2 whether shipping to a manufacturing
3 plant, or a fluid milk plant or to a
4 cooperative would benefit from either
5 of those results because cheaper milk
6 means lower or no over order premium,
7 which has historically served as a
8 competitive benchmark for buyers of
9 other classes or milk from nearby
10 states.

11 Stores buying milk --- out of
12 state milk means PA plants have lower
13 volume, cannot cover their costs and
14 may go out of business.

15 Notwithstanding PMMB's wholesale
16 minimum prices and that means fewer
17 nearby Class I outlets for
18 Pennsylvania dairy farmers and less
19 competition forcing nearby
20 manufacturing plants to pay premiums.

21 Fewer fluid milk plants in
22 Pennsylvania means fewer potential
23 Class I paying customers and less
24 competition for raw milk supplies.
25 Fewer fluid milk plants means farmers

1 or their cooperatives competing to
2 ship longer distances with higher
3 logistics costs or fewer Class I
4 outlets for Pennsylvania farmers.

5 Fewer Class I outlets for dairy
6 farmers in federal milk marketing
7 order 1, the Northeast order, means
8 lower blend prices for all. We urge
9 the PDA, the Milk Marketing Board,
10 industry and the Legislature to be
11 cautious. Despite some painful times,
12 Pennsylvania farmers and plants seem
13 to have been able to weather the
14 volatility over the years better than
15 farmers and plants in a number of
16 other states from a statistical
17 standpoint.

18 Changing the current system
19 during a time of crisis would in our
20 view lead to unintended consequences
21 since the dairy industry is one of the
22 most complex, interrelated and
23 somewhat delicate industries to
24 regulate. PAMD believes that instead
25 of asking what more can the milk

1 marketing Board do, the PDA should
2 work on ideas that can be achieved
3 without disrupting what positive ---
4 positives the industry derives from
5 the Milk Marketing Board.

6 For instance, we think it is
7 important to keep pushing for whole
8 milk or at least milk with more fat --
9 - more milk fat in schools and PAMD
10 intends to advocate for this. If we
11 lose school children consumption will
12 continue to decline, a net bad for our
13 industry and the health of
14 Pennsylvania school children. The
15 legislature could also help farm
16 families have more resources to invest
17 in farm management or the physical
18 farm with various tax changes.

19 For instance, if the farm has a
20 loss and they have income off the farm
21 they cannot presently, but should be
22 allowed to offset the off farm income.
23 Also Pennsylvania could help dairy
24 farmer taxpayers by allowing the
25 expensing of equipment purchased

1 instead of using the state
2 depreciation method and in turn
3 accelerate the ability to benefit from
4 such write offs.

5 PAMD thinks that PDA's petition
6 is too narrowly focused on the Milk
7 Marketing Board and would in some
8 cases unnecessarily expose the Milk
9 Marketing Board to potential
10 litigation. Thank you for the
11 opportunity to contribute to this
12 discussion on behalf of the
13 Pennsylvania Association of Milk
14 Dealers.

15 CHAIRMAN: Thank you, Mr. Fink.
16 Well said. On your first page down
17 about the --- about fifth paragraph,
18 Mr. Fink, you said that in --- let's
19 see here. I believe you said we have
20 ---.

21 Okay.

22 We have one of the smallest ---
23 that we have second to the smallest
24 area. Was it the smallest area in
25 United States besides Wisconsin? What

1 did you say there?

2 MR. FINK: We have the second
3 highest number of dairy farmers in the
4 --- in the United States, second only
5 to Wisconsin. And they have I think
6 9,100. We have 6,500 and New York I
7 think has 4,400.

8 CHAIRMAN: Okay.

9 And then up in your first
10 paragraph you said we have 19 fluid
11 milk plants in Pennsylvania. Is there
12 any other ---?

13 MR. FINK: That are members of
14 our association.

15 CHAIRMAN: That are members of
16 your --- there's more than that?

17 MR. FINK: There are more than
18 that.

19 CHAIRMAN: Right.

20 MR. FINK: The Weis Markets ---

21 CHAIRMAN: Oh, okay.

22 MR. FINK: --- retail chain has
23 a plant, Turkey Hill has a fluid plant
24 and there are many smaller so called
25 juggers or --- and even raw milk

1 dealers .

2 CHAIRMAN: So is there any
3 other states that would compare to
4 Pennsylvania with as many plants as we
5 have?

6 MR. FINK: We have --- and
7 Pennsylvania is contiguous to six
8 other states. We have more fluid
9 plants than those six other states
10 combined.

11 CHAIRMAN: And I think that's
12 something that not everybody knows.
13 That --- that we have a lot of fluid
14 plants in Pennsylvania.

15 MR. FINK: Yes.

16 CHAIRMAN: That was good
17 information. And 19 --- what'd you
18 say? In 1983 we had 54 fluid plants
19 and today we have less than that and
20 that ---

21 MR. FINK: Yes.

22 CHAIRMAN: --- means that
23 there's plants probably consolidated
24 or ---?

25 MR. FINK: I can name a few

1 that went out of business.

2 CHAIRMAN: Go ahead.

3 MR. FINK: In 1983 Abbotts
4 Dairy in Philadelphia was the biggest
5 dairy in Pennsylvania at that time
6 went out of business. Johnstown Sani
7 Dairy, big dairy in Johnstown, which
8 was owned by a retail food chain went
9 out of business. Taylor Milk Company
10 in Pittsburgh and there were several
11 other smaller dairies throughout the
12 state. Cloyster in Ephrata. It was a
13 dairy --- Meadowbrook Dairy in
14 Pottsville --- Pottstown, Pennsylvania
15 to name a few others.

16 CHAIRMAN: Is there --- is
17 there a reason for those going out of
18 business?

19 MR. FINK: They weren't
20 covering the costs.

21 CHAIRMAN: Okay. All right.

22 I'm going to turn the mic over
23 there to Mr. Van Blarcom. Do you have
24 any questions?

25 MR. VAN BLARCOM: Yeah. Thank

1 you, Mr. Fink, for being here. First
2 thing is I wholly agree with what you
3 commented about on the whole milk back
4 in our school. I have grandchildren
5 who do not drink the milk because it's
6 not --- it doesn't taste good. And
7 there are some efforts and I think all
8 of us in the room can work harder to
9 try to get whole milk.

10 And they've determined that the
11 fat is not bad for you. In fact, in
12 many ways it's better for you,
13 especially young people to grow.

14 MR. FINK: One of my members
15 said when they were serving the ---
16 the skim chocolate milk kids were
17 throwing 25 percent of it away.
18 Unfortunately we have a Congressman
19 from Centre County, G.T. Thompson, who
20 sponsored a bill to require whole milk
21 in schools. And we're going to push
22 for that.

23 MR. VAN BLARCOM: I hope we can
24 make it happen. And the other quick
25 question is, you didn't mention

1 anything about data collection, but
2 I've heard a lot of it today. More
3 data would --- collecting more data
4 from our dealers and sub---dealers
5 would be a problem from them?

6 MR. FINK: Well, our books are
7 open to the Milk Board and always have
8 been. If --- if you need more
9 information just --- just ask for it
10 and we'll try to provide it. But you
11 have access to all the information
12 that we have right now.

13 MR. VAN BLARCOM: With the
14 computer and so forth it would be
15 pretty easy to get it to us?

16 MR. FINK: Yes.

17 MR. VAN BLARCOM: Thank you.

18 MS. BOWMAN: Back to school
19 milk. I think we need to urge
20 everyone to talk to their Congressman
21 because the biggest part of the
22 problem is the requirement for the
23 national school breakfast, lunch and
24 after school programs, but they do not
25 allow anything higher than one percent

1 milk.

2 And in the Ala Carte program
3 they allow two percent milk, but it
4 can only be no more than 150 calories.
5 So that limits the size also. The
6 other thing I wanted to address was
7 your comment on potential litigation.
8 I --- I think we all need to be
9 careful there because when I was back
10 on the Board --- I don't remember what
11 year it was. 2001, '02.

12 That court case cost millions
13 of dollars for everyone involved, so,
14 you know, you're diverting that money
15 into a court case that hopefully, you
16 know, should be going someplace else.
17 So I just caution over the over
18 litigation procedures.

19 MR. FINK: I'd also like to
20 point about the school milk situation.
21 Congress can pass a new law requiring
22 higher fat milk, but it has to go
23 through the USDA and then the State
24 Department of Education.

25 I noticed last year when they

1 passed the bill allowing one percent
2 chocolate some of the states --- I
3 guess the USDA said, well, first of
4 all, you have to complete a survey
5 form and send it in. And so all these
6 questions like, how much milk was
7 thrown away, how much less milk did
8 you save?

9 The schools are afraid of this
10 because if --- if they make the wrong
11 answer and they're audited they could
12 lose their subsidy. So it's almost
13 like we're trying to feed the kids rat
14 poison instead of low fat --- low fat
15 chocolate milk. It's really crazy.

16 MS. BOWMAN: A school lunch,
17 isn't it done every five years or ten
18 years? That would be I think ---.

19 MR. FINK: Well, they're ---
20 they changed the law last --- last
21 spring and we tried to implement it
22 for the fall school session so they
23 could serve the one percent chocolate,
24 you know, which is no big deal. But
25 we had a lot of trouble implementing

1 that.

2 The State Department of
3 Education here and Secretary Redding
4 were cooperative. They both --- they
5 sent a joint letter to all the schools
6 encouraging them to use the --- the
7 one percent chocolate product, so ---.

8 CHAIRMAN: All right.

9 Thank you, Ms. Bowman and Mr.
10 Van Blarcom and lastly, but not least
11 we want to thank you, Mr. Fink, for
12 that good testimony.

13 MR. FINK: Okay.

14 Thank you.

15 CHAIRMAN: All right.

16 Our next testimony today is
17 going to be with Mr. Mike Eby. Mike
18 Eby is with the National Dairy
19 Producers Association. Mr. Mike, will
20 you please come to the witness chair?
21 And you can have a seat, Mr. Eby, and
22 you can read your testimony or tell us
23 or whatever you would like to do.

24 MR. EBY: Thank you.

25 CHAIRMAN: Thanks for coming.

1 MR. EBY: I appreciate it.
2 Thanks for the opportunity to be here.

3 Like you said, I am Mike Eby.
4 I'm Chairman of the National Dairy
5 Producers Organization and several
6 generation dairy farmers, 17 years
7 milking cows. Sold it two years ago,
8 so I can testify to the fact that it
9 has been difficult and I'm sure
10 listening to farmers even since the
11 two years since I've sold out how
12 difficult it's only gotten since then.

13 The The National Dairy
14 Producers Organization first took
15 notice of the Pennsylvania Milk
16 Marketing Board while House Bill 1265
17 was a point of contention amongst
18 dairy farmers across the state.

19 It was obvious to many that the
20 real reason House Bill 1265 was not
21 taken seriously was simply because it
22 would have given the power back to the
23 one who produced the milk, defining
24 them as the farmer. The word that is
25 currently used, producer, is such a

1 broad term that it also includes the
2 cooperatives.

3 The co---ops have the ability
4 to spread the premium across its
5 membership base as they see fit. It's
6 National Dairy's interpretation
7 that House Bill 1265's intent of
8 disclosing the amount of the over
9 order premium paid to individual
10 farmers was secondary to the primary
11 effect of removing the cooperative as
12 the middleman.

13 This discloser of premium on
14 each farmer's milk check would have
15 gone a long way in being able to work
16 the math equation backwards. It would
17 have also allowed everyone to have an
18 honest conversation with more relevant
19 information.

20 All that being said, we are now
21 on this side of House Bill 1265 known
22 as the milk transparency bill, which
23 had expired at the end of 2014 and
24 2016 sessions. So what can we learn
25 about having honest conversations? I

1 think today is a start in that
2 process. The best way to be able to
3 have honest conversations is to first
4 be able to have access to information.

5 It's no secret that the
6 Pennsylvania Milk Marketing Board was
7 not designed only to benefit farmers,
8 but to also have processors, dealers,
9 retailers and Pennsylvania jobs to be
10 the beneficiary. The question remains
11 to what level of each? Once again,
12 before that question can even be
13 answered we need to be able to give --
14 - to be able to be given to see who
15 currently benefits the most.

16 I have witnessed in previous
17 hearings that the Pennsylvania Milk
18 Marketing Board currently has no
19 authority to seek information in
20 regards to the amount of milk sold in
21 retail in the State of Pennsylvania.

22 Therefore it is the
23 recommendation of the National Dairy
24 Producers Organization that the state
25 give the authority to the PMMB to do

1 so or create an entity that has such
2 authority.

3 This I can tell you, someone
4 must take action very soon or dairy
5 farmers in this state will have no
6 other choice but to draw conclusions
7 that the state legislators, the
8 Department of Agriculture and the
9 Pennsylvania Milk Marketing Board have
10 no intention of being transparent or
11 worse yet, have something to hide.
12 The farmers feel as if they are on the
13 short end of the stick and no one
14 cares.

15 What a shame it would be to
16 have farmers seek the removal of the
17 entire program not knowing to the
18 level that it may be currently
19 benefiting them? So let's get the
20 information out there whatever it
21 takes. Let's discuss the amount that
22 it cost the co---ops to balance
23 processing plants.

24 Let's find out how much that
25 milk comes across state lines seeking

1 higher retail prices. Let's talk
2 about royalties that have been
3 grandfathered into the equation. And
4 first, this all starts by knowing the
5 volume of milk and the price of that
6 milk sold in retail.

7 I repeat, that the priority
8 must at be --- I repeat that the
9 priority must be access to retail
10 information. Thank you.

11 CHAIRMAN: Thank you, Mr. Eby,
12 for your testimony here today and some
13 of those things that you have talked
14 about, we have all talked about
15 before. And I think that's what we're
16 gathering ideas to see if there's
17 something even better out there that
18 we can do.

19 And we've already talked about
20 some ideas here today and not on the
21 floor, but out of --- out of the
22 session. Just talking with people
23 here we have talked about some ideas
24 that might be good. So I think we are
25 taking this seriously and see if we

1 can do something good for the farmers
2 to get that money to them. Mr. Jim
3 Van Blarcom, do you have any comments?

4 MR. VAN BLARCOM: Just thank
5 you for being here and thank everyone
6 else for being here. This --- this
7 gives me an opportunity to comment on
8 the fact that the Pennsylvania Milk
9 Marketing Board --- I've been here
10 almost four years and I've seen a lot
11 of the same faces each time, which is
12 great because they're the --- they're
13 the ones that really understand it.

14 But I'd like to see more people
15 like you and the farmers that spoke
16 today and others who are affected one
17 way or another because it's so
18 important. I just am glad to have
19 more people and in the future I'd like
20 to have more people be part of the
21 testifying in the future.

22 MS. BOWMAN: I'll just make it
23 a little bit more specific. I think
24 if a lot of you people were attend our
25 cost replacement hearings things

1 become much more transparent by
2 hearing the information and starting
3 to learn how all the costs goes off
4 and --- and how that affects your
5 wholesale pricing.

6 But it also shows that not all
7 the processing plants make a lot of
8 money because we do an average when we
9 do these cost replacement hearings.
10 So I encourage all of you to come at
11 least once to hear the procedure and
12 it is transparent when you understand
13 it, but until you understand it it is
14 very confusing. But I invite you to
15 come.

16 CHAIRMAN: Thank you, Ms.
17 Bowman, and thank you, Mr. Jim Van
18 Blarcom, for those comments. Yes, you
19 can learn a lot by listening to a
20 hearing and some say let's get rid of
21 that premium. Well, it's not
22 necessarily that we just take the
23 premium away.

24 We listen to you folks out
25 there and that's what makes the

1 premium. That's what we vote on when
2 --- when one says that we want a
3 dollar and another says we want \$.50
4 and you give your reasons then we try
5 and decide what is the right premium
6 from what you said.

7 We as a Board don't just sit
8 here --- sit here and say, we're going
9 to make the premium \$.50 today or
10 we're going to make it \$1.50 today.
11 That's not the way it works, so as ---
12 as my fellow Board members said here
13 you're the people that helped to make
14 the decision as to what that premium
15 is going to be.

16 All right. Our next Ms. Sherry
17 Bunting. I guess you're considered a
18 consumer member.

19 Is that right, Ms. ---?

20 MS. BUNTING: Yes.

21 CHAIRMAN: All right.

22 Well, Ms. Sherry, you have the
23 floor right now. You may have a seat
24 there and you may share your testimony
25 with us.

1 MS. BUNTING: Can you hear me?

2 Okay. Before I introduce
3 myself and present my testimony I'm
4 just going to ask you to imagine that
5 I'm Nelson Troutman because I'm going
6 to read the testimony that he was
7 unable to present here, but did send
8 in and is also online. Nelson
9 Troutman, for those who don't know, is
10 a dairy farmer in the Lebanon/Berks
11 area and he's been coming to these
12 hearings for eight to ten years.

13 This is from Nelson. I talked
14 to Doug Eberly, Chief counsel for the
15 PMMB, over the past few weeks. He
16 said every year we lose a certain
17 percentage of farms in Pennsylvania.
18 I agreed, but I also noted that these
19 farms that got termination notices
20 from Deans really were not planning on
21 exiting the dairy business.

22 When I testified at the
23 December 6th, 2017 PMMB hearing I told
24 the Board and the seven lawyers
25 present that this Milk Marketing Board

1 is costly and corrupt. The
2 Pennsylvania dairy farmer has no idea
3 what the over order premium, whether
4 it is at \$1.60 or \$.75, is costing the
5 industry and especially the dairy
6 farmers.

7 There is absolutely no
8 transparency in this system. When I
9 was asked at the hearing what level I
10 think the over order premium should
11 be, I said zero. Remember, I said the
12 premium system is corrupt. Way too
13 much milk is moved back and forth
14 across our four milk producing borders
15 by processers to get around paying the
16 premium to the Pennsylvania dairy
17 farmers. Keep in your mind that the
18 PA dairy farmer is paying all the
19 transportation cost of raw fluid milk
20 and processed milk.

21 At a meeting I told Brad
22 Keating of DFA that they pick up milk
23 in Lancaster County, truck it to Ohio,
24 process the milk, truck it back to our
25 area, sell the milk at the PA state

1 minimum price, or higher, never
2 lower. Keep the over order premium
3 and the Pennsylvania farmers pay the
4 trucking both ways.

5 The PMMB has sold 20 plus
6 licenses to sell milk in Pennsylvania
7 among companies that bring in lots of
8 out of state milk, and our
9 Pennsylvania dairymen are getting
10 termination notices. We need to
11 replace the two members of the
12 Pennsylvania Milk Marketing Board
13 whose terms are up. In the eight
14 years of attending PMMB meetings I
15 have seen some very disturbing
16 actions, but no action on farmer
17 requests for transparency. Sincerely,
18 Nelson Troutman, dairy farmer.

19 And I will on Nelson's behalf
20 say that he truly has attended
21 multiple, multiple hearings and
22 meetings over the years. So I don't
23 know if you have questions regarding
24 that. Try to maybe can answer before
25 I become myself again.

1 CHAIRMAN: Well, thank you for
2 the testimony, Mr. Troutman, and I'm
3 not going to make any apologies for
4 anybody. So I --- that's all the
5 comments I have. Mr. Van Blarcom.

6 MR. VAN BLARCOM: No thanks.

7 CHAIRMAN: Ms. Bowman?

8 MS. BOWMAN: No, since he's not
9 here.

10 MS. BUNTING: That's right.

11 CHAIRMAN: All right.

12 MS. BUNTING: Okay.

13 CHAIRMAN: Ms. Sherry, you may
14 move forward with your testimony.

15 MS. BUNTING: Okay.

16 My name is Sherry Bunting and
17 I've been involved in agriculture
18 since joining 4H as a youth. I was
19 not raised on farm. I spent ten years
20 milking and managing dairy cows during
21 high school and college on a part ---
22 and on a part time basis after getting
23 my job with the livestock newspaper.

24 I've been covering the dairy
25 and livestock industries for over 30

1 years as a journalist and for 15 years
2 as author of the Weekly Milk Market
3 News in Farm Shine. I would normally
4 be here only to report on the
5 proceedings, giving testimony at a
6 hearing is not something I normally
7 do. Today I make an exception.

8 Good morning --- good
9 afternoon, Mr. Chairman, Board
10 members, ladies and gentlemen. Stop,
11 drop and roll. The family dairy farm
12 is on fire, a blaze that is burning
13 while the industry collectively turns
14 its head to look overseas for markets
15 when neglecting the one product that
16 keeps family owned dairy farms
17 existing throughout our communities.

18 Young people are running back
19 in with the same instinct we see in
20 cattle when driven from a burning
21 barn. They want to go back. This is
22 where they want to be. This is who
23 they are, these are the gifts they
24 have to share.

25 I've been meeting with young

1 dairy farmers and next generation
2 dairy farm owners with young families
3 in person and by phone for the past
4 four months in Pennsylvania and
5 beyond. I see a quality of character
6 that is in danger of being
7 extinguished as this fire rages on.

8 The dairy's next generation is
9 the crop we are going to lose, which
10 society cannot afford to lose. They
11 love working with the cows, they love
12 the challenge of dairy farming and
13 whether they have a university degree
14 or just a degree from the school of
15 hard knocks or both they are not
16 making a living wage.

17 Many watch as their college
18 mates if they do have that university
19 degree at this point in their careers
20 could be making six figured salaries
21 and industry support aspects of dairy.
22 But on the farm these young, next
23 generation producers are fueling
24 everyone else's income throughout the
25 industry.

1 They are taking care of the
2 cows that produce \$24,000 in economic
3 revenue per head through the
4 multiplier effect. These cows can
5 divide the dairy farmers who are not
6 making a living wage also provide one
7 job in the greater community for every
8 ten cows. This is simply because
9 these young dairy farmers and
10 generations before them can produce
11 milk on their family dairy farms.

12 Without a restoration and
13 revitalization of fresh fluid milk
14 market many of these people, young
15 people, see little future in the dairy
16 for the multi---generational family
17 farms in the Eastern United States.

18 They don't understand why
19 they're superior product is treated so
20 poorly by the food elites that rule
21 the day or why it is regulated the way
22 that it is. These young people have
23 so much pride and passion for what
24 they do it nearly breaks some of them
25 emotionally to think that they could

1 be the generation to say good bye to
2 the cows and watch the legacy go.

3 It's not their fault and they
4 need to know that. It's not their
5 fault we have given them ancient and
6 tightly guarded pricing systems that
7 the industry waves off as only to be
8 understood by lawyers, accountants and
9 economists. This is why I'm here
10 today.

11 After the December Pennsylvania
12 Milk Marketing Board hearing the
13 producer over order premium was
14 dropped from \$1.60 per hundredweight
15 to \$.75 due to the increased pressure
16 of out of state milk.

17 Dean Foods and the Pennsylvania
18 Association of Milk Dealers testified
19 about potential loss of contracts or
20 changes to plant mixes of in and out
21 of state milk to secure retail
22 contracts as retailers grow accustomed
23 to waging price milk wars --- milk
24 price wars elsewhere.

25 They testified to prices as low

1 as \$.87 per gallon in other states.
2 I, myself, have seen it as low as \$.67
3 in Walmart stores in Kentucky, Indiana
4 and Illinois. These are states, like
5 most of the nation, that have no loss
6 leader protection. In fact, when the
7 new Walmart plant in Fort Wayne,
8 Indiana was being planned supermarket
9 industry analysts and trade journals
10 talked about retailer vertical
11 integration in the milk bottling space
12 because fresh fluid milk is still
13 a ubiquitous item found in nearly
14 every shopping basket passing through
15 their checkout scanners.

16 The stores know this. The
17 discount stores, big buck stores,
18 chain supermarkets have identified
19 milk for price discounting as a method
20 of loyal customer acquisition. Those
21 analysts actually in articles referred
22 to the dairy case as one of the most
23 lucrative and important.

24 People pick up milk where they
25 shop and they may decide where to shop

1 based on the milk they can pick up.
2 The question is, what guides them?
3 Price only, local source, animal care,
4 quality? Milk is milk. Right?

5 Wrong. The days of
6 commoditizing milk are over. To
7 succeed and grow sales in this space
8 requires branding. Who does that?
9 The plant folks plagiarizing the good
10 name of milk. Those milks have
11 cheaper costs, wider profit margins
12 and attract investor capital. They
13 are not regulated, they compete
14 directly with dairy milk.

15 This is another wrinkle for the
16 milk price regulation to deal with as
17 the plant based frauds get to do their
18 own thing. No regulation, no pricing
19 controls, no FDA standards of identity
20 and yet they are priced higher than
21 dairy milk. As their rate of growth
22 slows, the imposters are featuring
23 lower prices and supermarket
24 advertising.

25 We're seeing that now. Within

1 the regulated dairy industry, however,
2 milk source consolidation is underway
3 to compress margins and fund retail
4 milk price wars to win loyal customers
5 and category market share. In the
6 changing dairy landscape, the current
7 milk marketing law in Pennsylvania
8 feathers some nests in the supply
9 chain while leaving others bare.

10 Increasing numbers of reports
11 have surfaced among industry sources
12 that we will see Walmart's food ---
13 milk sourcing strategies with the
14 Midwest and Mideast supply chain
15 making its way to Pennsylvania where
16 Dean Foods' plants can stamp it with a
17 Pennsylvania plant code. How
18 pervasive will this be?

19 That may depend on regulatory
20 premiums to offset what those
21 producers will pay to transport the
22 milk here. Remember, farmers pay the
23 milk transport costs. Pennsylvania
24 Milk Marketing Board approved a milk
25 dealer license for Walmart in 2013.

1 On the PMMB website the list
2 breaks Walmart's license into six
3 locations, each associated with a Dean
4 Foods plant, five in Pennsylvania
5 including Lebanon and Sharpsville
6 where 42 dairy farms were terminated
7 as of May 31 and a sixth location in
8 New Jersey. The PMMB says milk dealer
9 licenses are needed to buy and process
10 milk in Pennsylvania.

11 They're not needed to bring
12 packaged milk into its store from
13 where it's bottled out of state. That
14 I did not --- I mean, that just makes
15 the point even more why we need retail
16 information. Walmart's milk dealer
17 license is ambiguous, suggesting it
18 may procure the milk and pay Dean
19 Foods for the bottling, but the dealer
20 to dealer relationship is unclear.

21 Meanwhile in an interview with
22 Walmart a spokesperson says, the
23 sourcing strategy in Pennsylvania
24 remains unchanged since the Fort Wayne
25 plant is not supplying any of our

1 stores in Pennsylvania. She declined
2 to address questions about this milk
3 sourcing strategy further east.

4 What is clear is that Walmart
5 desires a more direct relationship
6 with Midwest supply chain and the Fort
7 Wayne plant is sourcing a combination
8 of co---op and farm level milk in
9 single source loads from farms that
10 meet their quality and animal care
11 requirements. In addition a New York
12 milk cooperative purchased a
13 Pennsylvania bottling plant in 2015
14 and is supplying it as you would
15 expect with its own milk.

16 You have to ask the question,
17 is the Valley Farms brand still
18 bottled from milk produced in
19 Pennsylvania Susquehanna Valley? Does
20 Turkey Hill still import from
21 Lancaster County? What business
22 decisions will be made differently in
23 the future without a producer over
24 order premium to collect and
25 appropriate?

1 Much of Pennsylvania's milk
2 does go out of state. Some say those
3 markets will diminish if there are no
4 incentives from milk to come into the
5 state, but would more Pennsylvania
6 milk then stay home?

7 This leads me to three main
8 points. I agree with the idea of
9 being able to know the retail volumes,
10 but if that doesn't happen at least a
11 distributor license and seeing the
12 pass through at that level would be
13 helpful.

14 But it's really important to
15 gather as much information as possible
16 because if we're going to have a state
17 minimum price at the retail level we
18 should at least know what our total
19 retail sales are. Probably some math
20 calculations could be done from even
21 just that. Improved transparency.

22 See the system and its effects
23 on the entire supply chain including
24 farms. Address the unlevel playing
25 field with a loss leader protection at

1 the national level so Pennsylvania no
2 longer sticks out like a sore thumb, a
3 magnet for out of state milk in
4 tankers and packages.

5 We are seeing economic warfare.
6 Milk sourcing is consolidating from
7 wider distribution channels and
8 Walmart has fired a shot of cost
9 across the bow with its first plant in
10 Fort Wayne, Indiana. Once it's at
11 full capacity, which now will be later
12 this year, it'll be one of the largest
13 in the country.

14 What if we could just have a
15 simple low level line in the sand on
16 milk loss leading at the retail level,
17 at the federal level coupled with
18 ending the Pennsylvania state mandated
19 minimum retail and wholesale price?
20 Nothing complicated, not meant to
21 pretend to cover everyone's costs in
22 the supply chain.

23 Just a threshold under which
24 the retail milk price could not fall,
25 a way to stop the extreme price wars

1 that give more market power to the ---
2 to those in the market that already
3 have the most power. Maine has an
4 enforced minimum price that works for
5 their dairy farms because Maine is
6 more naturally isolated from national
7 consolidation by virtue of its
8 geography.

9 But for Pennsylvania, our
10 minimum retail price is a liability to
11 our farms in the modern age of
12 transport and logistics. It's hard to
13 argue that warnings that have been
14 given over the past decade are coming
15 true today.

16 Despite what Dr. Andrew
17 Novakovic said in the Pennsylvania
18 House Ag hearing just days before the
19 termination letters, there are literal
20 losers and they --- they were
21 Pennsylvania farms. Pennsylvania
22 farms, however, are winners when the
23 PA Preferred seal is used.

24 Yes, the PMMB system allows
25 small bottlers and small retailers to

1 avoid these price wars, but the
2 paradigm is shifting at the milk---
3 sourcing level and it is difficult to
4 imagine a future where Pennsylvania
5 can be an island not flooded by the
6 storm around it. My thought for the
7 national loss leader protection is set
8 a \$1.25, \$1.50, \$1.75 or \$2 a gallon.

9 Set a level across the board, a
10 minimum on milk at a low level that
11 would at least be an arbitrary level
12 to prevent extreme price wars and at
13 the same time end the separate
14 Pennsylvania minimum price. I feel
15 that with the leverage that
16 Pennsylvania Milk Marketing Board has
17 is obviously important in the national
18 speed as a pricing benchmark.

19 Maybe that leverage could be
20 used and looking at addressing the
21 price wars from a national level. I
22 know it's not something that you as a
23 Board can --- can do at the national
24 level, but certainly as you, you know,
25 perhaps meet with, you know,

1 legislators or others it's something
2 that, you know, could be put forward
3 if you could get behind it.

4 It would prevent large players
5 from extracting dollars from
6 Pennsylvania and other randomly---
7 placed states that have loss leader
8 protection. These entities would then
9 be unable to use the money found there
10 to fund these ultralow pricing wars.
11 At the very least, the State of
12 Pennsylvania needs to re---evaluate
13 its Pennsylvania Milk Marketing Board
14 because it is indeed becoming a
15 liability.

16 To be good for Pennsylvania it
17 needs to work for all segments of the
18 supply chain. A new milk flow
19 structure is emerging and it's
20 changing the game. Are we going to be
21 ready? It's time to end extreme loss
22 leading and to end state minimum
23 retail pricing so that we don't become
24 a magnet.

25 At least let's meet in the

1 middle while we still can. So those
2 are my comments. I --- I just feel
3 strongly that we have an unlevel
4 playing field right now and that it
5 does create a liability situation for
6 our farms and their future markets.

7 CHAIRMAN: All right.

8 Thank --- thank you, Ms.
9 Bunting. I got a question for you.

10 MS. BUNTING: Okay.

11 CHAIRMAN: Mr. Troutman, I
12 believe, said no --- no over order
13 premium. I think that's what I heard
14 him say or remember.

15 MS. BUNTING: Uh---huh (yes).

16 CHAIRMAN: And then I heard you
17 say minimum prices are, what, dollar
18 and a quarter, a dollar and a quarter,
19 \$1.50, \$2. How is that going to ---
20 tell me how it's going to put more
21 money in the Pennsylvania farmer's
22 pocket. That's what I'm trying to
23 figure out.

24 MS. BUNTING: I'm looking at it
25 from what's happening structurally to

1 the dairy industry and what the
2 liabilities are for our producers to
3 have future markets. And right now
4 our system stands out like a sore
5 thumb.

6 Okay. There are literal price
7 wars going on all around us. Now,
8 Tennessee has lost leader protection,
9 but it is loosely enforced and you'll
10 see that their prices are --- are
11 somewhat close to ours, but still
12 less.

13 And you can find milk at \$2
14 there. There's a few other states
15 that have loss leader protection, but
16 there's nobody with this kind of
17 program that we have where you
18 actually figure out the costs and
19 figure out averages.

20 And it's very detailed and it -
21 -- it's meant to at least cover
22 average cost of production for each
23 segment except that there are
24 moderating effects then for the
25 producer portion.

1 So what I'm saying is somehow
2 we have to have a level playing field
3 or eventually our producers are going
4 to have a hard time being able to
5 secure their market here. There's
6 interstate Commerce and yet we have
7 this high minimum price and elsewhere
8 the price wars continue.

9 So what I'm suggesting is if we
10 went to like a \$2, \$1.75, \$1.50,
11 whatever it is, minimum price
12 federally if --- you know, if there
13 are important players here who want
14 this system here to continue and if
15 they're ---.

16 If the retailers and the ---
17 and the processors want to see it
18 continue here maybe the better
19 solution would be to get them behind
20 having something at the federal level
21 that is at least a threshold that you
22 can't go below that in your price war.

23 So you still have that ability
24 to feature milk and to, you know, sell
25 it below cost, but you don't have ---

1 it's not so --- it's not \$.67, it's
2 not \$.99, it's \$1.50, \$1.75, \$2. So
3 that --- to me it's a --- it's a
4 compromise and it levels the playing
5 field so that we then don't have, you
6 know, a magnet effect here in our
7 state for out of state milk.

8 I mean, any of the milk coming
9 here that is packaged elsewhere
10 there's no --- it's not being tracked
11 at all. There's no license required,
12 so I mean, that could just continue to
13 an even greater degree as well as milk
14 from out of state coming to plants
15 here.

16 So if you see what's happening
17 in the industry and you look also at
18 the decline of fluid milk I just feel
19 like, you know, we have too much
20 regulation where other competing milks
21 that are not really milk do not have
22 these written. Why are we on the
23 decline?

24 There's too much regulation.
25 They shouldn't be regulating what the

1 kids drink in school to the level that
2 they are. That's a whole other soap
3 box and I can give you bill numbers if
4 you want to talk to your legislators
5 on the whole milk.

6 G.T. Thompson's bill is for one
7 percent chocolate milk and that one is
8 House Bill 4401 and then you have Tom
9 Marino's bill, which is for whole milk
10 unflavored. That one is 5640, but
11 that's --- there's just --- it ---
12 it's almost like fluid milk is being
13 regulated into a box that it can't
14 find its way out of. And I don't
15 know. I'm looking at it that way more
16 as a level playing field.

17 CHAIRMAN: Well, thank you, Ms.
18 Bunting. I have some different
19 opinions on --- if I would see as a
20 loss leader here in Pennsylvania I
21 think we would see, you know, possibly
22 like flowing into Pennsylvania right
23 and left 'til they get rid of milk in
24 other states at a low price.

25 And I'm --- I'm not sure if you

1 answered my question. Is it going to
2 put more money in the dairy farmer's
3 pocket by doing what you said? And I
4 have --- I understood that --- yeah.

5 MS. BUNTING: It's the
6 accumulative effect would be, you
7 know, more market potential looking
8 forward, yeah, and accumulative effect
9 would be better. I mean, it's not
10 like you're going to draw a straight
11 line and say if we do this we're going
12 to put X number of dollars in a
13 producer's pocket, but you can't do
14 that with the current system.

15 CHAIRMAN: I --- I see that may
16 be we would lose a lot of farmers and
17 maybe we would have less milk here in
18 Pennsylvania. And if that would bring
19 the price up a little for Pennsylvania
20 farmers if we lose a third of our
21 farmers because I can't see ---

22 MS. BUNTING: Well, ---.

23 CHAIRMAN: --- are people going
24 to drink twice as much milk because
25 the price of milk is \$2?

1 MS. BUNTING: Well, I don't
2 know that they're going to drink twice
3 as much milk and that's not my ---
4 that's not the point that I'm making.
5 First of all, for the milk to come
6 here from out of state the farms, you
7 know, that are responsible for paying
8 the trucking have to pay the trucking.

9 And without the premium and
10 without the funds here to do that
11 who's going to cover it? I mean,
12 there's --- we're looking at what the
13 premium does, but we're not looking at
14 what it costs. And we don't have all
15 of the data to be able to even make a
16 guess at that.

17 And so one of the reasons I'm
18 putting this forward is it's a forum
19 to get an idea out there. You can
20 tweak it, you can change it, but I ---
21 what I'm after is the thought that we
22 have a level playing field for our
23 farmers here and right now we don't.

24 Right now my feeling and how
25 I'm looking at the structure of the

1 industry changing is that this is a --
2 - this is a place to, you know,
3 basically be able to fund some of the
4 price wars that are going on
5 elsewhere.

6 There's money that can be
7 picked up in this market here that
8 maybe some of the extreme price wars
9 would be moderated to some degree if
10 we had that level playing field. You
11 know, it's --- it spoke volumes to me
12 this morning when Dr. Novakovic
13 explained all of the other state
14 programs that have come and gone and
15 the reasons.

16 And when he talked about the
17 western New York when they had that
18 big difference in their price versus
19 around them and how it affected --- we
20 don't even --- we can't say with
21 assurance how --- how badly that's
22 affecting us right now because we
23 don't have the data.

24 We have information that
25 suggests that it --- that it is, but

1 we don't have hard numbers and if
2 we're going to regulate it, we should.
3 And until that happens, which my
4 history with this has been ten years
5 of ideas, bills being floated, things
6 being put out there and nothing
7 happening I'm --- that's why I'm
8 suggesting this, you know, national
9 idea.

10 And I'm floating it wherever I
11 can because I feel like, you know,
12 there needs to be --- the price wars
13 need to be addressed, but we should
14 not be the only state addressing it
15 and not to this level if nobody else
16 is. That's --- that's the point.

17 CHAIRMAN: Well, thank you and
18 thank you very much for your coming.
19 Don't go away yet here.

20 MS. BUNTING: Okay.

21 I'm not going anywhere.

22 CHAIRMAN: But I'm still
23 struggling with that question of
24 somebody show me the money for the
25 dairy farmer in --- in what you were

1 talking about then. But I --- I think
2 we have some good ideas here today
3 that we've tossed around.

4 Might not be that idea, but ---
5 but maybe your ideas are good ideas if
6 somebody shows me the money. So, Mr.
7 Van Blarcom?

8 MR. VAN BLARCOM: Ms. Bunting,
9 I'm sure you put a lot of thought into
10 your testimony and I appreciate that,
11 and I --- I like some of your ideas
12 and especially when you want to make
13 it regional or national.
14 Unfortunately back 10, 15 years ago we
15 tried the northeast area compact.

16 That failed and I think that
17 could have been beneficial and you're
18 right when you say we're kind of like
19 an island in the middle of a lake
20 and ---.

21 MS. BUNTING: Without a boat.

22 MR. VAN BLARCOM: Yeah. So
23 anyway, I wish we could find a way to
24 do that nationally, but it's been
25 tried and it may be time to try

1 something again. So --- but I do
2 appreciate your input and hopefully
3 something will come of this.

4 MS. BUNTING: If I can just
5 respond. I think part of the reason
6 that the northeast compact failed, so
7 to speak, is it was working fine.
8 It's just that it was opposed by the
9 folks in the Midwest and replaced with
10 the MILC program in the same year.
11 There were --- it was also challenged
12 I think in the courts because in much
13 the same way as the PMMB it was the
14 west region.

15 And what I --- what I am
16 suggesting is that, you know, there be
17 a limit to how low you can make milk
18 go at the consumer level. Not
19 suggesting a minimum price as high as
20 ours, but just something and maybe
21 look at these other states that have
22 loss leader protection and either get
23 in line with them or do it, you know,
24 at the national level.

25 So I think the reasons that the

1 northeast compact failed would not
2 apply to my suggestion, but thank you.

3 MS. BOWMAN: I --- I still have
4 not been able to get my mind wrapped
5 around your suggested store prices.
6 And who loses money in those sales?

7 MS. BUNTING: Well, I put out a
8 range all the way up to \$2. Okay?

9 So right now it is --- it is --
10 - and I'm just throwing those numbers
11 out there. Somebody far smarter than
12 me would have to decide what it could
13 be and what would be agreeable as a
14 national, you know, --- it's not
15 intended to put money into anybody's
16 pocket.

17 It's intended to stop the
18 extreme aggressive milk price wars
19 that are going on out there. If we
20 even had this elsewhere it would make
21 us less of a magnet. Okay?

22 Because with the prices
23 elsewhere we got to look closer to
24 where we are. So I'm looking at this
25 from a marketing standpoint. I'm

1 looking at this as the future of the -
2 -- you know, the dairy producers in
3 the east and the future of the fresh
4 fluid milk category.

5 And I'm not looking at this as
6 let's make sure we put X number of
7 dollars, you know, in, you know,
8 anybody's particular pocket because
9 right now I don't think that we can
10 really even say that with certainty on
11 the system that we have here in
12 Pennsylvania. Because we don't know
13 on the other side what --- what it's
14 costing to move milk.

15 That may be a consequence of us
16 having what we have while everybody
17 else has nothing. You see what I
18 mean? I mean, it's ---.

19 MS. BOWMAN: There's several
20 problems. It's something that we as a
21 Board ---.

22 MS. BUNTING: No, it's --- it's
23 a suggested replacement for us having
24 something that the states around us
25 and through --- you know, that are

1 marketing milk to us do not have. We
2 are a magnet. Okay?

3 We're --- I view our system as
4 becoming an increasing magnet for out
5 of state milk whether it comes in
6 tankers or packages. So my suggestion
7 is merely on the basis of how do we
8 decrease our magnetic pool, you know,
9 the pool of milk to this magnet?

10 MS. BOWMAN: But we don't know
11 if that's a true statement or not.

12 MS. BUNTING: Well, we ---
13 well, I think ---.

14 MS. BOWMAN: That's an
15 assumption.

16 MS. BUNTING: The December 6th
17 hearing pretty much --- pretty much
18 indicated ---.

19 MS. BOWMAN: But we don't have
20 the data.

21 MS. BUNTING: Okay.

22 But the December 6th hearing it
23 was reduced from \$1.60 to 75 because
24 of exactly what I'm saying.

25 MS. BOWMAN: I thought it was -

1 -- I thought that was because of the
2 abundance of milk, not just of milk
3 coming into Pennsylvania. It's an
4 abundance of milk being produced in
5 the entirety.

6 MS. BUNTING: Well, the
7 testimony that was presented
8 specifically mentioned the price of
9 milk at the retail level in other
10 states and how retailers are getting
11 accustomed to being able to acquire
12 their milk at cheaper and cheaper
13 prices so that they can wage these
14 price wars. Okay?

15 And basically a contract, I
16 think, was in jeopardy and the mix of
17 in state and out of state milk at Dean
18 plants was actually referenced. So I
19 mean, if you put one, two and three
20 together what is that up to? Six. So
21 I mean, that was --- that was all part
22 of that hearing.

23 MS. BOWMAN: I'm not
24 challenging you. I just think that's
25 just an assumption that we don't

1 really know how much milk is coming
2 in.

3 MS. BUNTING: Okay.

4 But we know from the December
5 6th hearing that there was --- that
6 was the reason the over order premium
7 was reduced. And up --- leading up to
8 that we know that we have more out of
9 state milk coming in. I mean, there
10 are industry sourced information
11 available to show that that is on the
12 rise as well as the increased number
13 of out of state milk dealer licenses
14 and other types of things.

15 What we don't have any idea
16 about is the amount of out of state
17 milk coming here in packages and that
18 was referenced in the December 6th
19 hearing as one of the issues, but
20 because we don't license our retailers
21 we have no clue about that.

22 I'm pointing to the December
23 6th hearing as evidence that what
24 people have speculated about with
25 certain industry information is true.

1 MS. BOWMAN: I mean to doubt
2 your word. I don't remember that ---
3 that part being in it and I'd have to
4 go back and look, but as a consumer
5 member one thing I --- I --- and I
6 always ask people this. When you go
7 out and buy milk what do you --- what
8 do you look for? You know, some
9 people say, oh, I want two percent
10 milk or --- you know. The majority of
11 people want their local ---

12 MS. BUNTING: Absolutely.

13 MS. BOWMAN: --- milk and I
14 think what Pennsylvania offers is
15 something that is not offered around
16 this country. And I --- I think the
17 Board has had something to do with
18 that.

19 MS. BUNTING: I totally ---.

20 MS. BOWMAN: And --- and I
21 think the majority of Pennsylvanians
22 like buying Pennsylvania milk.

23 MS. BUNTING: I totally agree
24 with you, however, I think if we just
25 go by the plant code we really don't

1 know in some cases. Okay?

2 And --- and that was my point
3 and I went through and laid it out as
4 to all of the different information
5 that is known and even information
6 from the hearing record. So I guess
7 my --- my point is, you know,
8 consumers want local and we have a PA
9 Preferred way of showing them that and
10 we also have plant codes that we can
11 tell them to look for.

12 That at least shows that
13 there's a market for the milk, that
14 the bottling plant is in Pennsylvania,
15 so, you know, to support it, but what
16 we don't have is --- we --- we get
17 into these discussions about maybe do
18 this, maybe do that and it always
19 comes down to we don't know because we
20 don't have the data.

21 And I guess I reach back to the
22 December 6th hearing because I felt
23 like it at least showed and
24 illustrated an exact situation that
25 we've all kind of seen happening and

1 just are burying our heads in the sand
2 and pretending that it's not. And
3 that --- that was my point.

4 I tried to come up with
5 something that could replace what
6 we're doing on a state level and give
7 us a level playing field, so ---.

8 MS. BOWMAN: Okay.

9 I didn't mean to challenge you.
10 I just didn't know ---

11 MS. BUNTING: No, that's fine.

12 MS. BOWMAN: --- the verbiage.

13 MS. BUNTING: That's fine.

14 Thank you.

15 CHAIRMAN: Thank you, Ms.
16 Bowman and --- and Mr. Van Blarcom for
17 those comments. I'm still struggling,
18 Ms. Bunting, here ---

19 MS. BUNTING: I'm sure you are.

20 CHAIRMAN: --- with getting
21 money into the farmer's pocket. I
22 heard you talking about the over order
23 premium that --- that we had here and
24 it was a co---ops and everybody came
25 in and they asked to reduce it,

1 whatever it was. \$.75.

2 Somebody asked for a dollar and
3 we heard the testimony and we thought
4 that the low price was the right way
5 to go. Now, I think I'm still hearing
6 you say your co---friend there has
7 asked for no premium. So are you
8 saying if we lower the premium to
9 nothing that we're going to sell more
10 milk in Pennsylvania?

11 MS. BUNTING: I'm not ---
12 that's not what I'm saying at all. I
13 think if you --- if you --- I'm
14 talking about structurally what's
15 happening in the industry. Okay?

16 And I'm talking about where ---
17 where we're headed in terms of having
18 a market. Basically I'm asking --- my
19 last line was let's meet in the middle
20 while we still can.

21 I threw this idea of a loss
22 leader at the national level and I
23 quoted those prices of \$1.25, \$1.50,
24 \$1.75, \$2, whatever out there as here
25 just a way of looking at something

1 that might be palatable to the
2 Walmarts of the world and the little
3 guys. Okay?

4 Everybody --- there's a ---
5 there's --- we have retailers here
6 that don't want to be doing the
7 recordkeeping to give us data that's
8 needed, but I want the system so that
9 they don't get price warred with the
10 big guys. You got the price wars
11 happening everywhere else.

12 You have our price up here, you
13 have a price down there elsewhere. We
14 have milk moving in ways it's never
15 moved before. We're sticking out like
16 a sore thumb. That's my point.

17 CHAIRMAN: But I'm still
18 hearing that if we would have a
19 premium that the premium is sucking
20 milk into Pennsylvania.

21 MS. BUNTING: That's part of
22 it, yeah.

23 CHAIRMAN: Okay.

24 So what's the other part
25 sucking milk into Pennsylvania?

1 MS. BUNTING: Basically if we
2 have a minimum --- if we have a
3 minimum price set as high as it is.
4 No, I'm saying let's look at this as
5 these to --- to reduce the effect of
6 having, you know, the ability to move
7 the milk in here to collect a higher
8 price that ends up helping to offset
9 the transportation, which is basically
10 then paid for by the --- the producers
11 anyway.

12 So I mean, I guess if --- if
13 you look at it the over order premium,
14 just removing that, that might do it
15 because that's moving raw milk. But
16 when you talk about packaged milk it's
17 a little different, you know,
18 situation.

19 There's --- there's a higher
20 price here so there's a little more
21 incentive to bring --- bring the milk
22 in.

23 CHAIRMAN: Well, Ms. Bunting,
24 we had a --- I think we had a good
25 discussion here. I think I discussed

1 that more with you than I ever had and
2 if something like that would put more
3 money into the --- into the farmer's
4 pocket and make it better for the
5 industry of Pennsylvania that might be
6 something to look at, but I'm still
7 struggling with that and somebody has
8 to show me the money.

9 MS. BUNTING: Yeah, it --- I
10 guess it's difficult because we don't
11 have information that we need and ---

12 CHAIRMAN: Okay.

13 MS. BUNTING: --- and we'll
14 just continue I guess the way we are.

15 CHAIRMAN: Thank you very
16 much ---

17 MS. BUNTING: Thank you very
18 much.

19 CHAIRMAN: --- for sharing your
20 testimony and ---.

21 MS. BUNTING: Thank you.

22 CHAIRMAN: Yep. All right.

23 We have --- we have one other
24 testimony here today. We have
25 Progressive Agriculture Organization.

1 Mr. Arden Tewksbury. Would you come
2 to the witness chair, please? Thank
3 you for coming, Arden, and you may
4 have a chair there. And you can give
5 your testimony today.

6 MR. TEWKSBURY: I see I'm the
7 last one on the agenda.

8 CHAIRMAN: You are.

9 MR. TEWKSBURY: Does that mean
10 I can talk all afternoon or ---?

11 CHAIRMAN: Well, I'll give you
12 about 20 minutes or more and we'll say
13 something.

14 MR. TEWKSBURY: I would like to
15 make a comment before I refer to my
16 testimony, Mr. Chairman. Number one,
17 I think the first Marketing Board
18 hearing I ever testified at was 1968
19 in Scranton. That had to be 50 years
20 ago from this one.

21 I talked to some people here
22 who were not even born yet, so --- but
23 I remember Peter Sandra being there
24 from Obenderry Garden State Farm and
25 so on, so forth. But the main thing I

1 want to say right now is I do not
2 agree with anyone who has the audacity
3 to say that this Marketing Board is
4 corrupt. Okay?

5 And I want to commend you
6 people for the job you have done
7 because I've been here years, I was
8 President of a co---op, went through
9 bankruptcies because of bonding laws
10 in Pennsylvania were not anywhere near
11 enough to cover losses experienced by
12 dairy farmers.

13 Bonding laws that the bond
14 would expire 20 years from the time
15 the losses were --- were done, came
16 around. I know of at least two or
17 three times when the legislature in
18 Pennsylvania had to subsidize the ---
19 the bond say the lack of bond to pay
20 the dairy farmers as the funds for the
21 money they lost in familial dairies
22 and some of these people.

23 We went through Grandville
24 Dairy, went through Garden State, went
25 through Aldobin, we went through all

1 the others. You know what? And most
2 of that milk came from Pennsylvania,
3 not other states. In Pennsylvania.
4 It was a hard day to come up with the
5 money to pay your producers when we
6 didn't have adequate bonds not only in
7 Pennsylvania, but in the Garden State.

8 And once I'm in New York for
9 years the co---ops were allowed to
10 waive bonds on --- on milk handlers.
11 So the co---ops got into a contest.
12 Well, John Doe says he'll --- he'll
13 buy my milk if I waive his bond.
14 Well, we don't want to waive his bond,
15 but if we're in that contest we'll
16 have to waive the bonds if we're going
17 to get that contract.

18 So we've come a long way from
19 those days and we got a long way to go
20 yet. I understand that. The other
21 thing is that at noon hour I called
22 the dairy division in Washington and
23 I've been very concerned because the
24 California referendum has been held.
25 It looks like it will pass, you know,

1 and they will come in the federal
2 order.

3 For many years our processors
4 that manufactured dairy products, our
5 milk and our federal orders had to
6 compete with California products,
7 which had a lower cost because they
8 did not follow the guidelines of the
9 federal order. They filed their own
10 guidelines until they had a much
11 cheaper cost to make the cheeses, the
12 butter and everything.

13 I --- I checked today to be
14 sure with the new order in California.
15 They both have to pay the same price
16 for manufactured milk as the rest of
17 our manufacturing companies across the
18 country and that is very, very
19 important.

20 So there's a lot of other
21 things that are going on and you got
22 to remember, California produces about
23 40 billion pounds a year from about
24 1,350 producers and they have about 15
25 percent Class I utilization. Do you

1 folks now that? California has about
2 15 percent Class I utilization.

3 All the rest of that 40 billion
4 pounds of milk is manufactured and
5 you've seen some of the --- some of
6 the advertisements here that
7 California milk ought to be using
8 that. Okay?

9 And --- and I don't have in my
10 testimony on --- on the --- on the
11 school lunch program, but you
12 certainly know from the time they been
13 there before. I think your
14 organization has been one of the
15 leading organizations for five or six
16 years working with --- and Sherry, I
17 appreciate what you're doing now.

18 Whether or not --- and others.
19 We have contacted scars and scars and
20 --- of thousands of consumers. And,
21 Ms. Lynda, you know. You witness how
22 I work in Waymart a couple, three
23 times when you've been up in there.
24 We have had fliers, Facebook, people
25 that send all across the United States

1 and say what can we do?

2 Remember we told you we funded
3 the school and whole chocolate milk
4 and --- and met with the kids and how
5 --- how they enjoyed that whole milk?

6 And, yes, we do have two bills now.

7 I don't know how far they're
8 going to go, but it's very important
9 that we get the whole milk back in our
10 school because we are going to lose a
11 whole generation of milk drinkers if
12 something isn't done.

13 And the other --- the other
14 thing I have to say is when I ran for
15 Director of eastern milk producers in
16 1971 I warned everybody the biggest
17 problem we had ahead of us was
18 vertical integration. And you're
19 seeing it to the fullest scale now
20 that I was talking back --- about back
21 in 1971.

22 And that is what --- that's
23 what's going on with the Walmart
24 stores, which is in my testimony a
25 little bit later on. And I probably

1 some of my 20 minutes already, so ---.

2 CHAIRMAN: No, you didn't get
3 there yet.

4 MR. TEWKSBURY: Okay.

5 My testimony which I think you
6 gentlemen have skip over first three
7 pages and go to --- go --- and I know
8 all about the compact. I know --- I
9 know how it was destroyed. I had a
10 hearing in New York City --- in New
11 York City when they --- it wasn't
12 destroyed by the court.

13 It was destroyed by United
14 States Congress because they did not
15 reauthorize the compact. That's why
16 it was destroyed.

17 And the opposition was cleared
18 by Senator Finegold from Wisconsin I
19 think he's from and we couldn't
20 convince anybody that we could have --
21 - that's why I am one probably the
22 only person in this room that ever got
23 them compact money because Grange
24 Farms in New Jersey shipped milk into
25 New England and they collected a

1 little bit of the money on compact,
2 brought it back into Jersey and put it
3 to the dairy farmers in Pennsylvania.

4

5 It did work, but Congress did
6 not --- did not reauthorize it.
7 There's a whole lot of things that
8 have happened. I guess I better get
9 on the page for myself. The other
10 pages is just some malarkey, some
11 things that I've done a couple times
12 in my life.

13 Mr. Chairman, today in addition
14 to representing the Progressive
15 Agriculture Organization, I am also
16 representing the Dairy Subcommittee of
17 the National Family Farm Coalition of
18 Washington, D.C. And I serve as
19 Chairman of this committee.

20 The Coalition has other members
21 in Pennsylvania in addition to Pro---
22 Ag and members of the Coalition come
23 from at least 20 other states. Mr.
24 Chairman, Board members of PMMB, along
25 with the staff of the Board, I wish to

1 thank you for allowing me to address
2 this listening session today.

3 As usual, I'm submitting my
4 credentials, but I'm not going to read
5 them, because you've seen them many
6 times. Most my thoughts, but not all
7 of them, will be concerning the
8 welfare of all dairy farmers in
9 Pennsylvania as well as all dairy
10 farmers across the United States.

11 Mr. Chairman, in all of my
12 years that I have worked for the
13 benefit of all dairy farmers, I have
14 never seen the financial stress being
15 experienced by all dairy farmers as
16 bad as it is today. Many times I have
17 referenced the financial problems that
18 dairy farmers and some dairy
19 cooperatives experienced during the
20 time around 1976, 1977.

21 At least --- and here's the
22 difference between '76 and '77 today.
23 At least in those years the
24 relationship between the price of milk
25 and the cost of production was more in

1 line than what it is today. Why we
2 are experiencing so many problems
3 today?

4 We're losing markets, yes,
5 100---some have lost their market and
6 many have got the markets back. But
7 today the dairy farmers in this state
8 are producing milk between \$5 and \$6
9 hundredweight below the national
10 average cost of producing milk as
11 determined by ERS. The new figure is
12 out now for 2017 cost and it came in
13 at \$2,159.

14 It dropped off \$.30 from the --
15 - from 2016. So all you got to do is
16 take that \$2,159, subtract the payment
17 dairy farmers actually have been
18 getting and you'll come up and you'll
19 find out that the dairy farmers in
20 Pennsylvania at least in the last two
21 years and this year are losing
22 collectively between \$500 and \$600
23 million of revenue that they need.

24 And they don't need it two
25 years from now. They don't need it

1 under some fictitious program. They
2 need it in their pocket and that's why
3 we have --- at Pro---Ag we have sent a
4 letter to every Governor in the United
5 States urging them to prepare their
6 state of emergency because of what's
7 going on.

8 And I just wrote what would
9 happen if there's a leak in the dam, a
10 big dam someplace, you would have all
11 the Army Corp and engineers out there.
12 They'd have all the federal officials
13 out there trying to plug that dam up.
14 I know that the dam that dairy farmers
15 are experiencing is not a crack in the
16 dam.

17 The damn dam is broke and
18 they're being flooded and something's
19 got to be done and done relatively
20 soon. Okay.

21 It's here someplace. I'm
22 trying to explain --- I want to
23 explain again the difference between
24 '76 and '77 because that was terrible
25 if you was running the co---ops then

1 with the milk being taken away from
2 you. It would have gone to
3 independent handlers, but, again, the
4 fact that the cost of production today
5 paired with --- with the price that
6 dairy farmers are receiving is far
7 worse than it was back in '76 and '77.

8
9 So consequently maybe only 100
10 dairy farmers go out to the market,
11 but anybody --- one of those dairy
12 farmers is a catastrophe. Back in '76
13 and '77 we had a cooperative payment
14 provision in order two with the co---
15 op that qualified were mandated by the
16 federal order to go out and market
17 that milk.

18 Now, if we had had that in the
19 order when we consolidated the order
20 like we tried to you wouldn't have the
21 problem you have today because the
22 co---op even though they're very
23 bashful about going out and picking up
24 this milk today --- and Mr. Fink said
25 and I agree with him, they would have

1 had to go out and pick up that milk
2 and market it at a cost.

3 So there's a lot of things we
4 lost when we --- when we consolidated
5 the order including the farm point
6 pricing in order two and now you're
7 paying \$1.30 and \$1.40 for hauling.
8 Before you only had to pay \$.10 at one
9 time.

10 Okay. We've had several
11 bankruptcies that created more
12 marketing problems for some dairy co--
13 -op. We had bankrupted Grandville
14 Dairy, Garden State Farms along with
15 some others. And as I said, most of
16 that milk came from the State of
17 Pennsylvania.

18 Okay. I want to skip over, Mr.
19 Chairman. I know I got carried away,
20 but these things are very precious to
21 our --- to our heart and --- let's
22 flip this page to see what I got to
23 say on the next page.

24 CHAIRMAN: Which page are you
25 on there?

1 MR. TEWKSBURY: I'm on page
2 seven. Maybe I should be on page ---
3 I don't want to lose you guys because
4 ---.

5 Okay. On the bottom of page
6 six. I want to very clearly list the
7 position we have on certain items.
8 Number one, we strongly, as I said
9 before, support the PMMB. We support
10 the continuation of minimum pricing
11 for in store and out of store pricing.
12 Number three, we strongly support the
13 need of an over order premium.

14 We support the bonding laws in
15 Pennsylvania controlled by the Board
16 and I certainly appreciate the fact
17 that these bonding laws now are very
18 adequate in case a milk handler goes
19 bankrupt. Not that we want --- want
20 anybody to go bankrupt.

21 And number five, while it's not
22 in the Board's jurisdiction I wish
23 someone would develop the intestinal
24 fortitude to declare imitation milk,
25 almond, soy, so on, as almond and soy

1 drink, but not milk. It's an insult
2 to our dairy farmers to think they go
3 in the store and see this stuff laying
4 on the stand or sitting, however they
5 put it in the stores, on the --- on
6 the benches there and call it milk.

7 As everybody knows, Webster's
8 Dictionary is clear. Milk comes from
9 mammals and I never seen an almond
10 tree have a cow sitting on it. Maybe
11 some of you have. Refer you to number
12 one. There are many people who don't
13 realize the importance of the role the
14 Board plays besides pricing milk.

15 And I think today there's been
16 some things stated that substantiate
17 that we are learning more things.
18 Number two, some people feel minimum
19 pricing should be eliminated and the
20 milk in the stores sell for whatever
21 price. And I know some people who had
22 some other ideas on what to do and
23 they may work.

24 And dairy farmers will see the
25 better price of milk which I don't

1 think it's true. Recently I made it -
2 -- my usual stop in the Walmart in
3 Norwich, New York. I like to stop in
4 New York and compare prices. They ---
5 and they were selling a gallon of
6 whole milk for only \$1.76 a gallon,
7 but three feet away they had Burns
8 Dairy and they sell them for about
9 \$3.90 a gallon. And if you go into
10 Walmart and buy milk anybody, you're
11 insane. Okay?

12 As far as I'm concerned. What
13 they're doing to this dairy industry
14 is just --- I can't think of the word
15 I want to say. And I don't believe we
16 need the buyers and sellers of milk in
17 stores to have prices like what I
18 witnessed in New York.

19 It'll only make it more
20 difficult in the long run to add
21 stability to the marketing of milk we
22 have in Pennsylvania. I have been ---
23 I have personally been involved since
24 day one in obtaining over order
25 premiums that are being established by

1 the --- by the Board. And 12:30 this
2 morning I stapled this copy and put
3 the staples in the wrong place.

4 But anyway, we talk about
5 premiums. You got to go back to the
6 time when we --- when we started the
7 over order premium idea. At that time
8 we were running the RCMA program.
9 Jim, you may remember some of those
10 days and --- and we thought that was
11 going to take care of the problem.
12 No.

13 Some people got in trouble with
14 that and --- and that was --- finally
15 was --- went by the wayside. We
16 brought economists from RCMA down to
17 Milk Board hearing to describe what
18 was going on with RCMA and how
19 important it was for Pennsylvania to
20 have a premium that might parallel
21 what we had in RCMA because we all
22 know that when you have premiums in
23 one state, and it's been talked about
24 here, you --- you have the threat of
25 outside milk coming in there. And how

1 do you protect those premiums? Okay?

2 And when that went by the
3 wayside we got interested with the
4 idea that people in New England about
5 the northeast dairy compact, which
6 we've discussed a little bit. And
7 that was going in the right direction.
8 The one who headed running midwest,
9 going into the upper northwest and we
10 had --- we had states like Washington,
11 and Oregon, and Wisconsin and
12 Minnesota.

13 The farmers were interested
14 until Senator Finegold was done, but
15 at the same time you've heard me say
16 it and I'm going to say it now that by
17 having these premiums made it easier
18 for us to negotiate voluntary premiums
19 from milk handlers. And believe me,
20 premiums is not the answer to dairy
21 farmer's problem.

22 We need a fair price out of the
23 marketplace, so that's why we have
24 been able to continue the premium with
25 Readington Farms in New Jersey. And I

1 do want to say we've been talking
2 about dropping premiums. Readington
3 Farms has now submitted a letter to
4 their producer.

5 They are reinstating the \$1.50
6 per hundredweight premium to all their
7 producers and 99 percent of those
8 folks, know what state they live in?
9 Pennsylvania. So the fact that that
10 is there should help somewhat maybe
11 level the field a little bit on your
12 premiums here --- here in
13 Pennsylvania.

14 Regarding number four, as I
15 said, I believe we have the bonding
16 laws of milk handlers in Pennsylvania
17 in a favorable position. I can tell
18 you there were different times in
19 Pennsylvania when the Commonwealth had
20 to subsidize what the farmers got
21 because the --- the state allowed
22 bonds to come in at the maturity date
23 20 years down the road. Can you
24 imagine that, what you were facing
25 with? Okay.

1 Now, the last thing maybe I
2 want to address. I lived through the
3 times in '76, '77 and '78 when
4 thousands of dairy farmers was
5 shipping to bankrupt handlers or loss
6 of market. And at that time we only
7 had a 21---day notice in Pennsylvania
8 and New York and we got it raised up
9 to 28, maybe 30 in New York.

10 But those days --- those days
11 are --- those days are gone now. I
12 think that it's fair time that we have
13 the law amended either, number one,
14 develop marketing contracts between
15 private handlers and their producers,
16 which is legal.

17 It's been done before. Or go
18 to a one year termination at a time.
19 Not 30 days. I know that Dean's was
20 nice. They gave them 90---day notice,
21 but they still let them go after 90
22 days they will. Now, you got to
23 realize that we are down to --- we're
24 down an order one. We're down under
25 10,000 dairy farmers.

1 We've lost 40 percent of our
2 dairy farmers since order was
3 consolidated in 19 --- in the year
4 2000. Forty (40) percent of the dairy
5 farmers in order two are gone. Most
6 out of order one. But we're producing
7 3 and a half billion pounds more milk
8 today than we did back in 2000, but 40
9 percent less as a producer. Now, you
10 see what's happened?

11 Exactly what we said would
12 happen if we continue not --- stop or
13 something on this expansion of the big
14 dairies, that is helping to cause a
15 lot of these problems. And these
16 figures show it. Forty (40) percent
17 less dairy farmers are producing over
18 3 billion pounds more milk a year.
19 Okay.

20 Mr. Chairman, I --- and I'm
21 laughing when I say about plants. My
22 Lord when President Obama was seeking
23 information about how we could restore
24 --- grow America, why we sent
25 suggestions to him and we asked about

1 building a plant and we need --- if we
2 need two milk plants built in
3 Pennsylvania it's a shame that we
4 don't get it done. And I think we
5 must go ahead and --- and really push
6 the idea.

7 And I think that's one part
8 where the state might be able to be
9 helpful if we can justify having one
10 or two more milk plants in
11 Pennsylvania, but we got to have a
12 different pricing formula for our
13 dairy farmers that's going to allow
14 them to cover their average cost of
15 production.

16 And if we don't get that no
17 matter what else we try you're going
18 to see this maybe go down prices for
19 our dairy farmers. And I don't know
20 if anybody agrees with me at all and I
21 really don't care if they do or not on
22 this one.

23 We have some problems with the
24 protein being extracted for milk
25 whether it's whey protein,

1 concentrated milk, protein
2 concentrated and making cheese and
3 everything else, and --- and we're
4 getting a big buildup of powder in
5 this country and some of that is
6 because the new ways of getting the
7 protein out of the milk and then
8 putting fillers in with protein, into
9 your cheese.

10 You're helping some of the
11 overproduction that our dairy farmers
12 are being accused of and it's not all
13 their fault. This is the way the
14 industry is doing on these --- on
15 these proteins.

16 I know they're coming from
17 across the border, they're coming
18 across the sea, but these are just
19 some of the thoughts and if no one
20 wants to talk about it, I will.

21 Because I think it's affecting
22 the price our dairy farmers are
23 getting. I talked to the University
24 of Wisconsin about this. They kind of
25 went around and --- and on the road,

1 you know. He said you got to
2 understand this is Arden, what we're
3 doing we're extracting these proteins
4 out. We're just coming up with a new
5 way of making the product. So why the
6 hell leave it alone the way it is and
7 make use of powder milk? Why do you
8 need new ways to make cheese?

9 And how many of you consumers
10 go in --- you go into the stores and
11 find a lot of your cheeses are slimy
12 anymore? I've had all kinds of
13 consumers come up to me and said why
14 are the cheese in these packages so
15 slimy? I said I can tell you why. Do
16 you want real cheese? I'll take you
17 back to the --- to the --- to the
18 cheese counter, the deli back there.

19 If you want real cheese without
20 the slimy into it, then get the deli
21 cheese because you'll see that's the
22 real standard cheese. Thank you, Mr.
23 Chairman. There's no questions
24 anyway, so I --- it's time to go home.

25 CHAIRMAN: No, no, no. Don't

1 run away, Mr. Tewksbury. You know, I
2 --- I --- you covered a lot of ground
3 there and I think now all of us would
4 love \$20 for milk. I can remember
5 back there when --- and it makes me
6 sound really old, but we were getting
7 \$7 per milk and we're here today.

8 MR. TEWKSBURY: We were doing
9 good.

10 CHAIRMAN: And I --- you know,
11 once the relationship is to the
12 dollar, that's another story, but ---
13 but anyway we survived it and we're
14 here today and we're still --- the
15 farmers are still making milk.

16 But to your comments about soy
17 bean milk, or almond milk or something
18 like that, you know, the interesting
19 thing about it is, you know, we're
20 fussing about --- we're fussing about
21 price of milk being too high and ---
22 and what have you. I go into the
23 store and I see almond milk, and soy
24 bean milk at \$3 ---

25 MR. TEWKSBURY: Half gallon.

1 CHAIRMAN: --- for a half
2 gallon. I'm sorry. Yeah. \$3.29 on
3 sale.

4 Usually \$3.59 and --- and the
5 consumers are buying it and then I see
6 --- then I go into another store. I
7 was going into a store in Florida
8 where they sell milk as a loss leader
9 and I said this about it the last
10 hearing.

11 There was a consumer there in -
12 -- in front of the line that was going
13 to the cash register and back at the
14 milk counter I saw that label of ---
15 of a nice lady on a gallon of milk.
16 And I think it was like \$4.99. And
17 then I saw a gallon of milk that
18 didn't hardly --- I couldn't even say
19 what kind it was.

20 It looked just like a white jug
21 of milk, but I didn't go down to look
22 at it. But it was \$2.65. So I was
23 going to the counter there --- through
24 the cash register line and I said to
25 the --- I said to the lady that was

1 checking out the food --- after that
2 lady went through I said --- and ---
3 and she had the \$4.99 milk.

4 And I said why --- why would
5 you buy that \$4.99 milk when you can
6 get it back there for \$2.65? And she
7 said, that's better quality milk. So,
8 you know, we got to --- we got to get
9 the perception right of what we're
10 doing here that our product is good.
11 It's not how cheap we can sell it.

12 We need a --- we need to
13 promote our Pennsylvania milk and we
14 need to do some things that we heard
15 today, but I'm --- I'm --- I'm really
16 excited about some of the things we
17 can do. But it's not going to make us
18 ---.

19 MR. TEWKSBURY: We got to get
20 some stuff back in our ---.

21 CHAIRMAN: And that's what I'm
22 saying. Is it going to put the money
23 in the farmer's pocket? That's what
24 is --- what we're looking at here
25 today. We can talk around in circles,

1 but if it isn't going to put money in
2 the farmer's pocket we're just talking
3 in circles.

4 And so I'm going to give this
5 over to Mr. Jim here for any comments.

6 MR. VAN BLARCOM: Thank you.
7 Arden, I've heard you speak a lot of
8 things over a lot of years and I can
9 tell how passionate you are because
10 today you ran out of words.

11 MR. TEWKSBURY: Well, I seen
12 him winking at me. I thought he was
13 cutting me off.

14 MR. VAN BLARCOM: That doesn't
15 happen very often for you to run out
16 of words. But I'd like to commend you
17 on your excellent testimony.

18 And --- and in your very last
19 paragraph about the ingredients being
20 extracted, I don't know to any extent
21 that that's happening for sure myself,
22 but I'm glad you brought it up because
23 that gives me an opportunity to
24 comment on this bottled milk that I
25 bought. And it says grade A whole

1 milk and non---fat solids, and that --
2 - and I'm not promoting anyone's milk.

3

4 And so I'd like to encourage
5 bottlers to use more solids. This is
6 apparently California standard
7 somebody told me that.

8 MR. FINK: That's right.

9 MR. VAN BLARCOM: California
10 has solids added to their milk.

11 MR. FIK: 35 fat, 875 solids.

12 MR. VAN BLARCOM: Again, about
13 the ingredients. Several farmers got
14 together up around Skaneateles, New
15 York and they built that plant up
16 there. And that plant only makes ---
17 extracts the ingredients out of the
18 milk and make --- of the product I'm
19 talking about.

20 And this is where the big
21 battle came in Wisconsin with --- when
22 the President went out there to try to
23 make Mr. Ryan look good I guess and
24 attack --- have another class of milk
25 and so on. And not taking some of the

1 products from Skaneateles. That plant
2 there is only there for the purpose of
3 making the whey and milk protein
4 concentrate.

5 So I can't say they're unsafe.
6 I can tell you one thing. I can tell
7 you a lot of consumers will think
8 they're being exposed to some slimy
9 cheese that they don't like and that's
10 what I think is the problem.

11 MR. VAN BLARCOM: Anyway, Thank
12 you very much for your efforts and I
13 know that --- I'm pretty sure that you
14 don't gain much in your pocket for
15 what you do but you do it out of ---
16 out of your love for the dairy
17 industry. And we appreciate ---.

18 MR. TEWKSBURY: Wouldn't do any
19 good because I got holes in my pockets
20 anyway. So it wouldn't ---.

21 MS. BOWMAN: Thank you very
22 much. And I got to tell you, I go on
23 vacation up at Keen Lake. Every
24 Saturday he was sitting there selling
25 chances or whatever you were selling

1 to raise money for his dairy farmers.
2 I've always admired that. Thank you.

3 MR. TEWKSBURY: Thank you. I'm
4 sorry to hear about the little storm
5 in Keen Lake yesterday too. Okay.

6 Can I go now?

7 CHAIRMAN: All right.

8 Thank you, Mr. Tewksbury, for
9 coming here and sharing your testimony
10 with us. And I want to first of all
11 thank everybody for coming out here
12 today, taking your time. I hope you
13 learned something.

14 If you didn't then you weren't
15 listening because there was a lot said
16 here today and we as a Board are going
17 to take these facts that we've heard -
18 -- this wasn't under oath, but you
19 gave what you thought was your words
20 of wisdom.

21 So we will take these words of
22 wisdom that you've given us and we
23 will consider what we want to do with
24 them and how we will handle them.
25 Would that be a correct statement, Mr.

1 Chief Counsel?

2 ATTORNEY EBERLY: You're the
3 Board, so ---.

4 CHAIRMAN: Okay. All right.
5 Well, we'll --- we'll make
6 happen things the way we believe they
7 should happen. And do you have any
8 closing comment, Mr. Jim Van Blarcom?

9 MR. VAN BLARCOM: Just a quick
10 thank you and appreciation for your
11 time. A lot of time for all of you
12 today.

13 MS. BOWMAN: I just want to say
14 thank you.

15 CHAIRMAN: All right.

16 With all that said and if you
17 have any questions that you want the
18 Board to take a look at we write them
19 down. You send them to us, get them
20 to --- get them to Doug, the Chief
21 Counsel and we will take them into
22 consideration.

23 Thank you for coming out today
24 and we hope that we as farmers have
25 some sunshine that we can get on with

1 the corn plant and all the work out
2 there. So thank you very much for
3 coming and this hearing is closed.

4 * * * * *

5 HEARING CONCLUDED AT 2:45 P.M.

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CERTIFICATE

I hereby certify that the foregoing proceedings, a hearing held before Chairman Brubaker, was reported by me on 5/16/18 and that I, Brian D. O'Hare, read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.

Dated the 11th day of June, 2018.



Brian D. O'Hare

Court Reporter