

COMMONWEALTH OF PENNSYLVANIA

MILK MARKETING BOARD

* * * * *

IN RE: PENNSYLVANIA DAIRY MARKET
ISSUES

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

ALSO

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

LOCATION: PA Department of
Agriculture
2301 North Cameron Street
Room 309
Harrisburg, PA 17110

HEARING: May 2, 2018
9:01 a.m.

Reporter: Samantha Bruer

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WITNESSES: D. Brook Duer, Esquire;
Anthony Gigliotti; Andrea Karns; Allen
Warshaw, Esquire; Brad Rohrer; Troye
Cooper

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A P P E A R A N C E S

ANDREW L. SAYLOR, ESQUIRE

Pennsylvania Milk Marketing Board

2301 North Cameron Street

Harrisburg, PA 17110

COUNSEL FOR MILK MARKETING BOARD

1	I N D E X		
2			
3	DISCUSSION AMONG PARTIES	6 -	10
4	TESTIMONY		
5	By Attorney Duer	10 -	51
6	DISCUSSION AMONG PARTIES	51 -	61
7	TESTIMONY		
8	By Mr. Gigliotti	61 -	76
9	DISCUSSION AMONG PARTIES	76 -	81
10	TESTIMONY		
11	By Ms. Karns	81 -	95
12	DISCUSSION AMONG PARTIES	95 -	103
13	TESTIMONY		
14	By Mr. Warshaw	103 -	111
15	DISCUSSION AMONG PARTIES	111 -	118
16	TESTIMONY		
17	By Mr. Rohrer	119 -	129
18	DISCUSSION AMONG PARTIES	129 -	136
19	TESTIMONY		
20	By Mr. Cooper	136 -	146
21	DISCUSSION AMONG PARTIES	146 -	154
22			
23			
24			
25			

E X H I B I T S

1
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PAGE PAGE

NO. DESCRIPTION IDENTIFIED ADMITTED

NONE OFFERED

1 P R O C E E D I N G S

2 -----

3 CHAIRMAN:4 Thank you, everybody, for ---
5 thank you, everybody. Can you hear me
6 now?7 Thanks everybody, for coming
8 out today. This is a very special
9 hearing that we're going to have here.
10 I want to just make a couple of
11 comments.12 First I want to thank the
13 Department of Agriculture for filing
14 this petition, and to sort through a
15 process. And that's what we're going
16 to do today.17 Just a couple of comments that
18 I want to say is when the Board got
19 the petition, it wanted to act quickly
20 as possible, because the Board knows
21 the situation facing the dairy
22 farmers.23 We thought the best way to
24 start quickly would be to address the
25 four specific change suggestions that

1 the PDA petition says and that's what
2 we're going to do in this session
3 today.

4 We want to open up for a
5 listening session to get input and any
6 suggestions that maybe would need to
7 be necessary to change the law that
8 would help address current or future
9 conditions. And we're going to have
10 another session on May 16th.

11 And the Board will also compile
12 everybody's input and make available
13 on the website and to the legislature
14 --- legislation. There are listening
15 --- these are listening sessions for
16 the Board to gather input and ideas.

17 These are not town hall
18 sessions, where the Board will answer
19 questions. We want your ideas. And
20 if you have any questions, we'll take
21 these questions outside the session.

22 If you keep your readings to
23 about 20 minutes. I don't think we're
24 going to have any problem with that,
25 because we don't have that many

1 testimonies here this morning. So I
2 think everybody's going to have
3 adequate time to do what they need.

4 And again, I want to thank the
5 Department of Agriculture. This is
6 all about making something better for
7 dairy farmers and the dairy industry.
8 And if we can make something better,
9 we will. And if we can't, we don't
10 want to make any changes, so that's
11 what it's all about.

12 How is it going to help
13 somebody? How is it going to help the
14 industry to be better? And that's
15 what this is about.

16 And again, as I said, I thank
17 the Department of Agriculture, but I
18 also want to thank the Dairy
19 Excellence, because everybody's out
20 there trying to do something to help
21 farmers get back on their feet and
22 stay on their feet.

23 All right. I think we're ready
24 for the first witness. And that is
25 Chief Counsel Brook Duer. We're happy

1 to have you here and, of course, with
2 John Howard by your side. You have
3 plenty of support, so would you come
4 to the --- we'll call it the witness
5 chair today. And ---.

6 ATTORNEY DUER:

7 Is it all right if I just do it
8 from here?

9 CHAIRMAN:

10 Oh, yeah, you can if you ---.

11 ATTORNEY EBERLY:

12 As long as the court reporter
13 can hear you.

14 ATTORNEY DUER:

15 Okay.

16 I got a big mouth, so ---.

17 CHAIRMAN:

18 If you can't hear, Ms. Court
19 Reporter, I think then we'll have to
20 do something different.

21 ATTORNEY DUER:

22 Okay.

23 CHAIRMAN:

24 All right. Thank you.

25 ATTORNEY DUER:

1 Mic's on now.

2 Okay. Thank you. My name is
3 Brook Duer, Chief Counsel of the
4 Pennsylvania Department of
5 Agriculture.

6 I was the Chief Counsel for a
7 few years back in the late 2000s and
8 then again starting in 2018. I've
9 been in front of the Board one or two
10 prior occasions. Some of you know me,
11 some of you may not. I'm going to do
12 a couple of things. I'll just tell
13 you right off the bat the order of
14 what I'm going to do.

15 First of all, at the risk of
16 boring everybody, I will read the
17 Secretary's sort of introductory
18 comments, the factual material in
19 there, just simply sort of
20 introductory comments.

21 Just imagine somebody a lot
22 better looking than me reading them,
23 and 40 pounds lighter and has a full
24 head of hair.

25 So after I do that, then I'm

1 going to just do essentially a
2 walkthrough of our petition. And for
3 the most part, I just want to create a
4 good record.

5 And for the benefit of audience
6 members you may not have read it and
7 may not know what's in there, I just
8 wanted to walk through it, indicate
9 where some of the ideas came from.

10 I have one document that I do
11 want to make part of the record. And
12 I will ---. Mr. Eberly, would you
13 want to see that now or just wait
14 until the time and then I'll ---?

15 I have many, many copies, so I
16 have enough for anybody who'd like one
17 here.

18 ATTORNEY EBERLY:

19 Yeah, this isn't a formal
20 proceeding, where we're ---. I mean,
21 I think the process that's due here is
22 minimal at best, so ---.

23 ATTORNEY DUER:

24 Yeah. All right.

25 ATTORNEY EBERLY:

1 Thanks.

2 ATTORNEY DUER:

3 Go ahead.

4 CHAIRMAN:

5 Is that something you're going
6 to be talking about on your --- on the
7 document you have there?

8 ATTORNEY DUER:

9 I will eventually, yes. So how
10 about if I just give you a stack for
11 now?

12 CHAIRMAN:

13 Yeah, I think that'll be good
14 for us to have a ---

15 ATTORNEY DUER:

16 Yes.

17 CHAIRMAN:

18 --- copy, if you'd like to talk
19 about it.

20 ATTORNEY DUER:

21 Yeah.

22 CHAIRMAN:

23 Thank you.

24 ATTORNEY DUER:

25 Okay.

1 Then in addition to that ---
2 well, our presenter is really,
3 per se ---. We did receive
4 communication from Andrea Karns, from
5 Karns Quality Foods, who actually sits
6 on the Board of the Center for Dairy
7 Excellence, I believe, is correct.

8 And she ended up contacting ---
9 through Jane, contacting the
10 Department and we encouraged her to
11 come. And she has prepared some
12 testimony or some points to review
13 with you.

14 However, before --- and then
15 what happened was Andrea contacted
16 Anthony Gigliotti, from Boyer's Food
17 Markets. And he also agreed to come
18 and --- wanted to come.

19 And he prepared a short
20 PowerPoint. And, again, not really
21 our witness, per se, but a presenter
22 who contacted us and said that he
23 wanted to be involved.

24 And so we have been able to get
25 two retailers to come here today,

1 which is certainly a breath of fresh
2 air to have a retailer's perspective.
3 And then at that point ---.

4 So with that in mind, I will do
5 my best to not bore you to tears. The
6 Secretary could not be here due to
7 scheduling problems. I will read his
8 statement, as best I can.

9 Thank you, Chairman Brubaker
10 and Board Members Van Blarcom and
11 Bowman and staff of the Pennsylvania
12 Milk Marketing Board for the prompt
13 response to the Pennsylvania
14 Department of Agriculture's petition
15 requesting action and guidance on the
16 urgent need to address the depressed
17 farm income of our dairy farms.

18 As we consider the appropriate
19 next steps in support of the dairy
20 industry, it's critical that we
21 solicit input from all Pennsylvanians,
22 particularly those dairy farmers and
23 industry stakeholders whose occupation
24 and families are impacted daily by
25 poor market conditions. I look

1 forward to working with the PMMB
2 throughout this process.

3 Today we find ourselves in a
4 dairy market responding to a
5 convergence of forces, oversupply,
6 shifting consumer consumption trends,
7 global competition and supply change
8 realignments that all contribute to
9 the downward price pressure being
10 experienced by farms.

11 Just as there are multiple
12 components to the challenge, the
13 solutions will require an equally
14 diverse response.

15 As such, we must use every
16 ounce of authority at our disposal in
17 our state and from the Federal Milk
18 Marketing Laws to address the current
19 income crunch and best position our
20 dairy industry to remain a critical
21 part of our community and economy.
22 The Milk Marketing Law's statement of
23 legislative purpose notes that the
24 sale of milk is a business affected
25 with a public purpose. And the law's

1 preamble notes that milk producers do
2 not possess the freedom of contract
3 necessary for the procuring of cost of
4 production.

5 These may be old words, but as
6 current market conditions indicate,
7 their truth stubbornly persists. Milk
8 pricing from the farm gate to the
9 checkout line is an interconnected
10 chain with all pieces relying upon the
11 others.

12 Dairy farmer Rodney
13 Groff of Manheim, PA was recently
14 quoted in a Lancaster farming article
15 to have said, there are no simple
16 solutions, every problem has another
17 ten or more problems surrounding it.

18 It's going to take everyone
19 working together. And if everyone
20 doesn't work together, it doesn't
21 work. The farmer needs the processor
22 and the processors need the farmer.
23 There needs to be more dialogue and
24 communication.

25 No truer words could have been

1 spoken. While we all would rather not
2 be where we are today, this is the
3 moment.

4 This is dairy's moment to
5 examine how the State's own pricing
6 system can better match the current
7 times, the changing trade and the
8 transformations that are and will be
9 experienced in the barn and in the
10 dairy case of grocers, both small and
11 big box stores.

12 This is the chance, when
13 attention is on the PMMB, and the
14 Pennsylvania Milk Marketing Law, to
15 engage in a constructive dialogue
16 about what the future should look
17 like.

18 It is not just in dairy that
19 dated thinking and doing need to react
20 to changed production, processing and
21 marketing methods, but it is the most
22 pressing. The advent of ever-larger
23 retailers with national sourcing and
24 distribution chains engaging in the
25 movement of milk across time zones,

1 not just across state lines, has an
2 undeniable impact on every dairy
3 farmer in Pennsylvania.

4 It has an undeniable impact on
5 PMMB pricing and the models and
6 calculations upon which it is based.
7 Over the years there have been many
8 ideas suggested to help sustain the
9 vitality of Pennsylvania's dairy
10 Industry. And not all of them have
11 been sound, but not all of them should
12 be dismissed.

13 I'm sure that the
14 PMMB will hear many of these ideas
15 again during this and further
16 listening sessions. Now is the time
17 to examine, analyze and put ideas into
18 action, which can put Pennsylvania's
19 dairy industry on solid footing for
20 the future. All options must be
21 considered except for the status quo.

22 That's why the Pennsylvania
23 Department of Agriculture again asks
24 the PMMB to consider the actions and
25 ideas that are described today and

1 during future listening sessions. I
2 will return to a quote from President
3 Franklin D. Roosevelt and what he said
4 as the nation was searching for
5 solutions amid the depths of the Great
6 Depression. It is common sense to
7 take a method and try it. If it
8 fails, admit it frankly and try
9 another. But above all, try
10 something.

11 We're at this point because of
12 factors no one individual,
13 organization or government entity
14 could control alone. It's been a
15 confluence of factors over decades.
16 But now that we are here, one thing
17 that will not solve the problem is
18 standing still, hoping things might
19 change.

20 Hope is good, but it's not a
21 plan. Developing a plan will require
22 leadership and commitment from every
23 stakeholder. Over the past few weeks,
24 as the crisis reached an historic low
25 with the announcement by a processor

1 that 42 Pennsylvania farms would be
2 losing their fluid milk market ---. I
3 was reminded how much our dairy
4 industry is relying on strong
5 relationships, relationships with
6 farmers, processors, lenders,
7 cooperative extension, retailers,
8 consumers and all levels of
9 government.

10 Every conversation I've had on
11 dairy is heartfelt, constructive and
12 unprecedented. I've had phone calls
13 and meetings with farmers, feed mills,
14 dairy cooperatives, processors, public
15 officials and consumers. These types
16 of phone calls are certainly not
17 uncommon, but they were only possible
18 because of the respect for and the
19 recognition that the chain can only be
20 as good as the strength of its
21 individual links.

22 I've learned that there are
23 many ways of looking at a crisis, but
24 one thing universal throughout these
25 conversations is that every change

1 gives rise to the discovery of an
2 opportunity.

3 We've discovered many things,
4 that the balance between what's
5 produced and consumed matters a great
6 deal. That the fundamentals of
7 Pennsylvania's dairy industry afford
8 us competitive strengths, but we must
9 leverage them to our advantage. That
10 dairy is food and nutrition. That
11 consumers want to know who's feeding
12 them. And that the dairy industry is
13 amazingly resilient.

14 In this discovery we have also
15 been reminded that everyone has a role
16 and a responsibility to see that
17 Pennsylvania's dairy industry is
18 valued for its many contributions to
19 the health of our bodies, communities
20 and economy.

21 This is our moment. We didn't
22 ask for a crisis. We prefer not to
23 have it, but let's do something
24 positive with it.

25 We need productive input from

1 dairy farmers, cooperatives and
2 processors, retailers, allied industry
3 and consumers. We need new ways of
4 thinking, even stronger relationships,
5 new partnerships and productive input
6 from stakeholders.

7 The Department is fully
8 committed to working with all
9 stakeholders to help realize the
10 promising future we see for
11 Pennsylvania dairy. Thank you very
12 much.

13 And that didn't go too badly.
14 I don't see anybody asleep.

15 I did want to ---. Before
16 taking a walk through my petition and
17 --- and discussing some of the items
18 that are in the petition, I did want
19 to note one thing, which is there was
20 a piece in the Lancaster news, the
21 Sunday edition, the LPN, on Sunday and
22 many people probably have read it.

23 It was a front page story. And
24 on the jump, on page 87, there was a
25 quote that was attributed to the

1 petition that we filed, which is, in
2 fact, not correct. And wanted to make
3 sure that that was clear on the
4 record, that everyone understood.

5 And those who may not know
6 what's in our petition, very clearly
7 it said the milk dealers understand
8 that everyone else --- this was not
9 something that was in our petition.

10 However, it said --- there's a
11 paragraph called loopholes in law that
12 states, loopholes in existing law of
13 our milk processors did not disclose
14 certain costs of production in milk
15 marketing that are deducted from what
16 is paid to dairy farmers. The
17 petition said.

18 That is not what the petition
19 said. That is not the date of the
20 petition. That has nothing to be
21 alleged or included in our petition.

22 So I just want to point that
23 out that that was incorrect and should
24 not be attributable to the Department.

25 Now, having said that, as

1 everyone --- you know, Board members,
2 obviously, know, we divided up our
3 petition into a couple different
4 pieces. But for the benefit of those
5 who may not be totally aware of the
6 way it's structured --- it won't be
7 said. I'm just going to walk through
8 it.

9 We divided what we were
10 requesting into two things. One was
11 an examination of options that could
12 be pursued without the need for a
13 change to the Milk Marketing Law
14 itself. And the Board, of course, is
15 familiar with those.

16 And you have set those aside
17 essentially to be dealt with at a
18 subsequent --- you know, at --- at
19 subsequent listening sessions. And
20 that we should concentrate in this
21 listening session on the other portion
22 of our petition, which is those things
23 that we suggested might be considered
24 for changes in the Milk Marketing Law
25 itself.

1 So having said that, I know
2 that many of the --- of the usual
3 parties who are affirmative parties to
4 all petitions before you have chosen
5 to sort of hang back, not present
6 testimony and --- and, you know, wait
7 to --- wait to see how concrete and
8 what sort of proposals come forward,
9 which is fine.

10 I'm just noting this in order
11 to indicate that. We brought --- we
12 hooked up with these retailers and
13 they've come in.

14 What they have to say may very
15 well be much more directed towards the
16 portion of the petition that you're
17 not technically --- you know, you
18 didn't technically put in the order
19 that scheduled today's hearing.

20 So in other words, I think
21 you're going to hear --- and as you
22 know from the materials that were
23 submitted, you're going to hear a bit
24 of retail pricing, a bit of wholesale,
25 all things that are perhaps --- and

1 that's perhaps --- more within the
2 scope of what you've put off until
3 another listening session.

4 However, with that being said,
5 I wanted to make sure that we had
6 enough ideas on the table, enough
7 outside witnesses coming in to make
8 the best use of our time. So I'm
9 saying all this just to say, excuse
10 me, if I wander a little beyond the
11 --- the scope of what the order was
12 that was scheduled for today, it's
13 mostly so that we could take advantage
14 of the fact that we do have two
15 witnesses who were available to come
16 on a very short notice. So I really
17 want to thank them for that.

18 Obviously, I think all of us
19 who are normal parties of this,
20 including the Department, for John
21 Howard, intend to be presenting more
22 at subsequent sessions, particularly
23 in terms of presenting more outside
24 witnesses.

25 So with that being said, I just

1 want to explain that, and then hope
2 that everybody will be tolerant and
3 understand that I may wonder a bit
4 from the, you know, stated scope of
5 that order.

6 Now, in terms of the two
7 sections of the petition, the --- the
8 one piece of evidence, by the way,
9 that we would intend to introduce at a
10 later time that would be relevant
11 probably to both parts of the
12 petition ---. Those related to the
13 statute and those that are more
14 related to your administrative
15 procedures are the economic studies
16 that were performed through a joint
17 request of the Center for Dairy
18 Excellence and Department of
19 Agriculture.

20 And those are listed in
21 paragraph four. And for those who
22 have not been able to access them or
23 haven't seen them yet, you know, they
24 are all downloadable. And if you have
25 any problems, can't see right, the

1 Center for Dairy Excellence can help
2 you download them or get your hands on
3 them, if you want them.

4 The --- the one that obviously
5 is more interest or more intense
6 interest to the issues in these
7 listening sessions is the study that
8 is called Analysis of the Impacts of
9 the Pennsylvania Milk Marketing Board
10 on Fluid Milk Retail Prices and
11 Processing Volumes.

12 And whether you've read the
13 study or not, it engages in sort of a
14 thoughtful, you know, kind of
15 perspective on trying to determine if
16 pricing, as currently administered, is
17 having some effect on where milk is
18 going to get processed or retailed.
19 And what effect that the pricing
20 that's particularly in retail has on
21 milk prices for the consumer in
22 Pennsylvania versus surrounding
23 markets.

24 And so we certainly ask your
25 permission to just simply incorporate

1 that --- that particular award into
2 evidence here in these listening
3 sessions. And we have every intention
4 to bring in a live witness, one of the
5 authors --- or one or more of the
6 authors, I should say, of the study to
7 testify at a subsequent hearing.

8 So that it's on tap. And
9 again, short notice, I could not make
10 those arrangements for today or we
11 would have definitely done that.

12 ATTORNEY EBERLY:

13 Can I just say something real
14 quick? I don't think that we want
15 people thinking of --- of things as
16 being evidence that you need to ---

17 ATTORNEY DUER:

18 Okay.

19 ATTORNEY EBERLY:

20 --- request.

21 ATTORNEY DUER:

22 Sure.

23 ATTORNEY EBERLY:

24 The Board's trying to get as
25 much ---. And pardon me for speaking

1 for the Board, but it's kind of legal.
2 The Board wants as much as it can get.

3 And you know, the Rules of
4 Evidence don't apply. If you have
5 something that's helpful, you know,
6 the Board wants it.

7 ATTORNEY DUER:

8 Gotcha.

9 ATTORNEY EBERLY:

10 Thanks.

11 ATTORNEY DUER:

12 And being an attorney I'll
13 speak ---.

14 ATTORNEY EBERLY:

15 I understand. That's why I'm
16 trying to ---.

17 ATTORNEY DUER:

18 We're here --- not that he
19 wouldn't --- but he probably wouldn't
20 use words like, you know, admitted
21 into evidence, so ---.

22 ATTORNEY EBERLY:

23 I don't want anybody else if
24 there --- because there are people
25 here that aren't attorneys, that will

1 want to present something. And I just
2 don't want them to think ---.

3 ATTORNEY DUER:

4 Got it.

5 ATTORNEY EBERLY:

6 I don't want anybody being
7 uncomfortable about commenting, ---

8 ATTORNEY DUER:

9 Understood.

10 ATTORNEY EBERLY:

11 --- because they think it's a
12 legal thing and it's not.

13 ATTORNEY DUER:

14 Okay.

15 For the rest of our --- or the
16 --- beyond the economic reports, the
17 economic study reports, that we
18 incorporated in here ---. And I will
19 note that at least in my short history
20 of being a part of this Board, you
21 know, I've always, you know, noted and
22 it's been noted by Board members that
23 you don't have economists at your
24 disposal to analyze some of these
25 issues.

1 So while these efforts by the
2 Center for Dairy Excellence and the
3 Department to do this with it, do we
4 have this in mind at all, it's a happy
5 benefit to our collateral benefit of
6 the fact that we had commissioned
7 these studies that now they're at
8 their disposal. And all of them, of
9 course, not just the one about PMMB
10 pricing.

11 And we certainly are --- are
12 very happy that that coincidence, so
13 to speak, comes about here that you
14 have those at your disposal at this
15 point.

16 And at any point in this
17 process moving forward if, you know,
18 the Board wants to talk about
19 expanding the scope of any of those
20 studies to address particular issues,
21 we can certainly partner with you on
22 that.

23 And talking to these
24 researchers, I think that they
25 recognize that perhaps the work here

1 that they have been asked to do to
2 date is not yet done, and that there
3 may be more requests.

4 So I hate to speak for them,
5 but we are certainly open to the
6 Department, and I'm sure the Center,
7 to partnering with the Board itself to
8 retain their services on any number of
9 issues that you might think haven't
10 been addressed, but you want to have
11 addressed, if you so choose. But
12 we're open to that, for sure.

13 Now, the --- the --- the
14 specific paragraphs that are earmarked
15 as the ones to talk about in this
16 listening session today, again, just
17 for everybody's understanding are 15,
18 16, 17 and 18, as they're recited in
19 our petition.

20 And I'm just going to walk
21 through those a little bit, give a
22 little bit of history. And --- and
23 having, you know, been the primary
24 author of this, I'll tell you where I
25 got it from and what my approach is

1 and why they're included.

2 Okay. The first thing I'll
3 note for everybody's understanding is
4 what it is that I passed out
5 previously, which will then help us go
6 through this. And if --- and if
7 members of the audience want
8 additional copies of the document that
9 we passed around, here are additional
10 copies.

11 And I guess Natalie, one of our
12 employees, can distribute them as
13 needed. And what we have --- what ---
14 what this document is --- I think
15 everybody at the table has one.

16 This is just a compilation of
17 three different letters from 2009.
18 And some of you were on the Board at
19 the time, some were not.

20 Staff, I think, was all here
21 for the most part at that time. The
22 first is a letter from Chairman
23 Richard Kriebel, that went to the
24 Governor, at that time Governor
25 Rendell, on October 14th of 2009.

1 This was actually in response to an
2 earlier letter, which I did not
3 include just because I was trying to
4 save paper.

5 It doesn't have any real
6 substance to it. It simply asks a few
7 questions. And we can make that
8 available. It's a --- it's an earlier
9 letter and this was the response to
10 it.

11 And it is --- I think it's ---
12 what is it, five, eight --- five
13 pages. And it was addressing the
14 questions of, at that time in 2009,
15 very depressed prices and not quite as
16 sustained as --- as what we're
17 experiencing now, of course.

18 And there were some ideas
19 listed to consider anything that the
20 Board can do at that time to address
21 the dairy market conditions that
22 existed at that time. And then there
23 is a response I did include from the
24 Governor, at that time Rendell, dated
25 November 13th of 2009, back to

1 Secretary Keith Bierly at that time,
2 which was sort of focusing some of the
3 earlier things that --- in the earlier
4 matter to a few more targeted ideas.

5 And then lastly there is a
6 letter dated December 23 of 2009 that
7 is from --- again, from Chairman
8 Kriebel back to the Governor.

9 And the point of these are to
10 essentially help orientate where some
11 of these ideas came from. Because for
12 the most part the ideas came from
13 these letters and the staff from the
14 PMMB at that time.

15 Now, the first thing that I'll
16 talk about is the paragraph 15
17 licensing of retailers. That is
18 origin --- the origin of that is
19 paragraph number one of the
20 December 23, 2009 letter.

21 And I think Mr. Saylor pointed
22 out to me for staff that I'm using a
23 word in my petition, license
24 retailers, and there may be some
25 differences in terms of --- in

1 boarding retailers perhaps is a more
2 precise way to describe that or
3 importing distributors.

4 And again, I'll leave to you,
5 the experts, the difference between
6 distributor and retailer.

7 But I think you get the point,
8 which this was an idea that came about
9 in --- at that time in order to try to
10 better capture those quantities of
11 milk that were being sold to consumers
12 in Pennsylvania at all levels, at all
13 types of stores in order to see
14 exactly where they were --- where it
15 was coming from, how it would be
16 auditing process.

17 And also to do some very simple
18 things, such as understand how much
19 the minimum price is generating in
20 Board-ordered editions.

21 In other words, if you're doing
22 the price, the minimum price
23 calculations, and you may have an
24 amount of over-order premium in there,
25 for example, how much is --- are ---

1 is retail sales of milk generating
2 that is --- that is sort of earmarked
3 or at least captioned in that price as
4 over-order premium, were there because
5 of the over-order premium.

6 So that was the idea. And I
7 --- again, your --- your staff and the
8 Board are obviously much more
9 knowledgeable about it than --- than
10 we are, the Department of Agriculture.
11 You know what data can be generated
12 and how.

13 And of course I understand that
14 there was a time, prior to a change in
15 the law, which is noted in these
16 letters, that this was easier for you.

17 And that I believe that the
18 Board, at that time, believed that
19 since that 1984 change in the law,
20 that a statutory change would be
21 needed in order to gather this data.
22 And --- and that's fine. That's why
23 it's on the list.

24 The --- the one thing just to
25 point out, again, this is more for

1 people who haven't read the petition,
2 if you read the ---. On this report
3 that addresses the impact of PMMB
4 pricing, one of the points which they
5 couldn't go any further with their
6 analysis was this exact point of
7 determining what milk was coming into
8 the state from outside the state
9 particularly that would be generating
10 some degree of over-order premium or
11 some degree of ---.

12 I guess I should put it this
13 way. In order for them to determine
14 the impact of the minimum retail on
15 pricing and the flow of milk and where
16 milk is --- is going, they needed to
17 have this data. And they note that
18 right in their report.

19 So that's why it's here also.
20 Because it really fits well with where
21 they sort of had to say, well, we can
22 only go so far.

23 We can't go any further because
24 we don't have the staff. Now, also
25 wanted to point out that at the time,

1 in 2009, there was notations in here,
2 in the December 23 letter, about the
3 Board will request that the Milk
4 Marketing Law be amended to return to
5 the Board's authority to license and
6 require reports from importing
7 retailers.

8 So we're simply asking that
9 that be picked up again. That was
10 already something that was stated back
11 at that time. And again, up to you.
12 You're the experts in your field.

13 You know, if there's some
14 reason why that's no longer an
15 advisable thing to do, then we would
16 --- we --- we'd like to have that ---
17 that story told also. So that ---.

18 I think the Secretary's key
19 mission and objective in all of this
20 is to simply make sure the public
21 knows why you're doing something or
22 not doing a certain thing and the
23 justification for that. And so this
24 is one of those areas.

25 All right. Next --- and,

1 again, just in terms of comments, I'd
2 love to hear all the comments on how
3 this --- how this would be key, what
4 burden it places on the retailers.
5 It'd obviously be an administrative
6 burden for you. We're well-aware of
7 all those things.

8 We --- we deal with the same
9 things. And you know, somehow it's
10 got to get paid for, if you're going
11 to have that --- you know, have to do
12 that work to compile all this data.

13 So obviously all those things
14 are subjects of --- of discussion.
15 Now, paragraph 16, Title 2 milk.
16 Again, that comes from the
17 December 23, 2009 letter. And that is
18 --- that is actually number two,
19 paragraph number two in that letter.

20 And in that --- at that time it
21 was noted that it would help in the
22 auditing process to be able to better
23 track milk in your auditing process.
24 And also noted that the Milk Producer
25 Security Act was amended in 2004 that

1 provided for a very similar language
2 about title of milk with transfer from
3 producers and milk dealer at the farm
4 for that limited purpose only.

5 So as I understand it, there's
6 already one instance of that going on.
7 And so that was why the suggestion was
8 made at that time. So that's --- and
9 I know that there are, you know, many,
10 many implications of that.

11 So we're just hoping to
12 stimulate a dialogue about all those
13 implications and either dismiss this
14 idea and put this on the pile of, you
15 know, not a good idea or might be a
16 good idea if we did X, Y or Z, but ---
17 and so just interested in --- in
18 having that idea back on the table, as
19 it was in 2009.

20 Next, paragraph 17 is this
21 question which I just thought
22 reasonable return at this interface
23 that, you know, everybody's probably
24 to some degree familiar with probably
25 in different ways. Sometimes

1 misstated, you know, a lot of
2 misinformation out there sometimes.

3 So we just, again, wanted to
4 get on the table again this
5 interfacing between Section 801 and
6 Milk Marketing Law and 802.

7 And the idea would be that that
8 section of the law certainly seems to
9 have created a degree of questioning
10 and public --- or producer concern
11 that when it is boiled down a certain
12 way ---. And I'm not going to say
13 it's the only way to boil it down for
14 it. But if it's perceived in a
15 certain way, that the minimum
16 wholesale guarantees a certain profit
17 to the milk dealers, the minimum
18 retail guarantees a certain profit to
19 the retailers, but the farmer is
20 always the one who doesn't get that.

21 So that's the most stark way to
22 state that issue. You know, obviously
23 it is an issue that comes up over and
24 over again in different permutations.
25 And there are many other reasons for

1 that, which are, of course, all within
2 your bailiwick and you know them
3 better than I do.

4 And so obviously there was a
5 choice made at the time ---. Well, I
6 shouldn't even say that. The statute,
7 you know, does have that language
8 about the producer having a profit
9 margin built into the farm price or
10 the producer price. But of course
11 that has this exception language that
12 can be overwritten in order to
13 preserve markets.

14 And, again, you know that as
15 well as anybody. So I think our
16 objective ---. And I know our
17 objective is to simply put that on the
18 table and address it head on in a
19 public setting, so that producers,
20 legislators, who have questioned this,
21 anybody else who has questioned this
22 and not understood why that is the
23 case and why it works the way it works
24 can have an answer for why it works
25 this way, if, in fact, that should

1 stay that way.

2 Or perhaps we have reached a
3 point ---. With the law that was
4 enacted in 1937, maybe we've reached
5 that point where it's time to really
6 get right in there and do some surgery
7 on that section of the law for the
8 purpose of straightening out and
9 making it very clear what's going on.
10 So that everybody from the farm all
11 the way up to the retailer knows
12 exactly what's going on and why.

13 And I have to say that as
14 somebody that, you know --- 11 years
15 now I've been Chief Counsel --- excuse
16 me, I've been with the Department of
17 Agriculture, sorry, John. And you
18 know, seven years of that as Chief
19 Counsel.

20 I'm somewhat taken and struck
21 by the ingenuity that this Board and
22 all its prior members have had to use
23 the language in 801 and 802 and to
24 design these pricing systems that have
25 carried on all these decades. And

1 particularly since the current version
2 of the over-order premium in '89 and
3 use this language and made it work.
4 You made it work.

5 This Board made it work all
6 this time. And I think we just
7 reached somewhat of a --- of a
8 stumbling on the road here that this
9 language is causing more white noise,
10 static, you know, misinformation,
11 suspicion and everything else that
12 we've all seen and been exposed to.

13 And maybe it's time to get in
14 there and just lay it on the table and
15 straighten this language out.

16 Is there a way to transfer or
17 to equitably share the burden of
18 market fluctuations slightly
19 differently than the way 801 and 802
20 do it today? Yeah, there may be. And
21 that's all we're asking is, you know,
22 for consideration of those --- those
23 things or --- or the possibility that
24 there could be a better way.

25 I think that one of the Bills

1 that was introduced back around 2010
2 or so --- and it might have been
3 Senator Brubaker Bill, had a --- a ---
4 a little tweak on the way these two
5 sections worked together.

6 And so there --- there may be
7 residual ideas left over from that
8 time that are worth, you know, pulling
9 out and looking at again.

10 So that's the ---. That's the
11 paragraph 17 issue.

12 Paragraph 18 is similar, but
13 just on the --- perhaps on the ---
14 another piece of language, which is
15 the 805 --- Section 805 language,
16 about the benefits of the minimum
17 wholesale price being given to
18 producers.

19 And, again, I don't need to
20 repeat everything I said about the
21 other one, but this section has the
22 same white noise, static,
23 misinformation, suspicion, all those
24 things. And so the idea would be
25 perhaps it's time to take a look at

1 that section, too, and figure out if
2 there's a better way to state what
3 should go on or what authority you
4 should have, you know, in your pricing
5 structure.

6 And again, this has one of
7 those exceptions that a lot of
8 producers --- and, again, I don't need
9 to be stating the obvious. A lot of
10 producers have been very suspicious of
11 how this section has been --- has been
12 administered.

13 And, again, I think the
14 Secretary's objective here is
15 essentially to try to reduce the level
16 of emotion and suspicion and
17 misinformation and try to bring
18 perhaps a little bit better
19 transparency that's more into what
20 you're all used to seeing.

21 Because you are dealing with a
22 1937 law. And he didn't write it and,
23 you know, I'm well-aware of the
24 problems when you're dealing with very
25 old laws that don't quite work as well

1 today as they may have worked at one
2 time in the past.

3 So --- and, again, if the idea
4 is that it should stay the way it is,
5 that's fine. All we're asking for is
6 an examination of that.

7 And I think that the --- just
8 the dialogue itself, I think, is going
9 to be helpful for everybody to ---
10 particularly the producer level.

11 You know, we're all lawyers.
12 So we sit here and we understand how
13 things work or we try to. And we
14 advocate for different interpretations
15 of this or that. That's not what the
16 world is made up of unfortunately.

17 The world is made up of people
18 who don't sit around reading statutes
19 all day. And they aren't going to
20 understand or do they understand why
21 805 reads this way, and yet they
22 believe that the world is operating in
23 a different way. And it really is the
24 same thing with Section 801 and 802.

25 So you're hampered with an old

1 law, perhaps it is time to make it
2 match common expectations of
3 readability and understandability.
4 And again, I say once again, the
5 resiliency of all of your predecessors
6 and this Board to use this old
7 language and continue to make it work
8 over all these years is amazing.

9 And I think it's --- can't
10 stress enough the Secretary's
11 approach, which is that this Board has
12 been vital, constructive and --- and
13 it has exercised creativity and
14 ingenuity. And that's something that
15 we just want to continue.

16 And we certainly think that the
17 law is constructive. We certainly
18 think that the Board is constructive.

19 We certainly think that the
20 elements of it are constructive. A
21 bit of wholesale price, a bit of
22 retail price are things that you ---
23 great things for our dairy economy and
24 have done great things for our dairy
25 economy.

1 So having said that, that's
2 the walkthrough of the petition. I
3 don't think I have anything else that
4 I wanted to note.

5 I can go ahead and --- you
6 know, we can go ahead to the next
7 witnesses, unless there's any
8 questions. Yeah.

9 CHAIRMAN:

10 Okay. Thank you, Mr. Duer.
11 That was covered very, very well and
12 you left a lot of room for help or no
13 help, you know. I --- I like that a
14 lot.

15 Did you want to enter this into
16 the record?

17 ATTORNEY EBERLY:

18 It's --- there's no entering
19 into the record. He ---

20 CHAIRMAN:

21 Okay.

22 ATTORNEY EBERLY:

23 --- said he's giving it to us.

24 CHAIRMAN:

25 All right.

1 Just a couple of comments.
2 Going back to the start of what you
3 said, you know, in your --- in your
4 testimony there, it said about ---
5 about phone calls from --- from
6 farmers, feed mills, dairy co-ops and
7 who have you.

8 And --- and you know what ---.
9 And another thing is that that Sunday
10 paper that you just read there --- I
11 usually don't read the Sunday paper
12 before I go to church.

13 But you know, when I go to
14 church, I can find out what's in that
15 Sunday paper real quick, you know.
16 They can tell me and, you know, when I
17 went home and I read that paper, I
18 thought, did the Secretary really say
19 what he's saying there?

20 And thank you very much for
21 making that very clear. Because I was
22 --- it almost made my hairs stand up a
23 little bit, but I thank you very much
24 for clarifying what was said in there.
25 Because I wasn't sure if that was

1 words of a reporter. I'm not accusing
2 him, but thank you for pointing that
3 up.

4 ATTORNEY DUER:

5 You're welcome.

6 CHAIRMAN:

7 And again, back to the feed
8 mills. When I go to church and I ---
9 when we have some members in there
10 that all the feed mills or many feed
11 mills, when they tell me --- and
12 veterinarians also, they'll say it's
13 hard for them to get paid by --- by
14 everybody. With that said, there's
15 something going on out there, so that
16 was one comment.

17 And then also on --- on 17, you
18 know, it says in there --- and you
19 brought this up here. It says ---
20 line three on page six, it says cost
21 of production at a reasonable profit
22 to producer.

23 You know, that was easy to do
24 in --- in some of the past years. But
25 when we're looking at it today, that

1 language right there probably ---
2 probably disturbed some people.

3 And maybe --- maybe we need to
4 take a look at that language and say,
5 how can --- how can we, with today's
6 prices, guarantee or say the cost of
7 production was a reasonable profit to
8 a producer?

9 It's pretty hard for some
10 producers to make a profit today. So
11 maybe there's something that we --- we
12 need to take a look at. And I like
13 the way you put everything.

14 You said, let's take a look at
15 it. Maybe it's good, maybe it's not
16 good. And that's what --- that's what
17 this hearing is about. And I
18 think ---. I think you set the pace
19 for anybody to testify at the next
20 meeting, if it isn't at this meeting,
21 as to comments as to what you said.

22 And they can say whether I
23 think it was a good idea or a bad
24 idea. And that's what this is all
25 about.

1 All right. Mr. Van Blarcom,
2 did you have any thoughts?

3 MR. VAN BLARCOM:

4 Not at this time. Thanks.

5 CHAIRMAN:

6 How about Ms. Bowman?

7 MS. BOWMAN:

8 Yes, I do.

9 CHAIRMAN:

10 Okay.

11 MS. BOWMAN:

12 Just for the people who read
13 that article, if --- if it's the last
14 one that was in the paper on the first
15 page, it says the hearing will be held
16 on May 15th. Then if you go back,
17 there's a little block of schedules
18 and it's corrected.

19 ATTORNEY DUER:

20 I see that, yes.

21 MS. BOWMAN:

22 I just wanted to point that
23 out.

24 And the other thing I wanted to
25 comment on. Forty-two (42) producers

1 that have lost their processor, I do
2 think everybody in this room cares a
3 lot about the dairy industry. And I
4 think the dairy industry cares about
5 each other tremendously.

6 And many of those people have
7 to be picked up by new producers. I
8 mean --- excuse me, processors. I
9 know all of them have not, but many of
10 them have. And I think that it shows
11 how much everybody here loves the
12 dairy industry.

13 ATTORNEY DUER:

14 Thank you.

15 CHAIRMAN:

16 All right. Thank you, Ms.
17 Bowman.

18 Just along --- along that same
19 line a little bit. I was speaking
20 with a person the other day at a
21 store. And she asked me the question
22 about the dairy farmers losing the
23 market.

24 And she was basically --- if I
25 understood her correctly, was --- was

1 forfeiting buying from that company.
2 And so I cleared that up. And she ---
3 when she understood how --- how that
4 works, she said, well, that ---. She
5 was so happy to talk to somebody that
6 cleared that situation up, that she --
7 - she loved that milk and she would
8 like to go back to buying that milk
9 again.

10 But that's a perception of what
11 is out there. And I think it's the
12 job for all of us to change that
13 perception and --- and --- well, I can
14 go on and on.

15 Anyway, I thank you, Mr. Chief
16 Duer, for that testimony and --- and
17 that was very, very helpful.

18 ATTORNEY DUER:

19 Thank you, Chairman Brubaker.

20 One more point on that last ---

21 CHAIRMAN:

22 Yes.

23 ATTORNEY DUER:

24 --- point.

25 CHAIRMAN:

1 Okay.

2 ATTORNEY DUER:

3 We have seen a --- a real
4 interest and sort of --- not that it
5 was ever deemed to be reinvigorated,
6 but our PA Preferred Program for
7 actually labeling milk PA preferred is
8 really getting a lot of interest now.
9 And I think this --- this idea of
10 building consumer consciousness of
11 what they're buying in the store, I
12 think, is coming on very strongly in
13 the milk category.

14 And --- and so you've seen ---
15 we're already seeing the evidence in
16 that. More interest than it has.

17 CHAIRMAN:

18 I'm --- I'm hearing the
19 evidence as I talk with people out
20 there. I was going to say, they want
21 to buy Pennsylvania milk.

22 And I think it's our job ---.
23 Everybody's job here is to make sure
24 that even talking to stores, that
25 they're interested in Pennsylvania

1 milk, you know. I --- I think we got
2 a big job to do there and --- and
3 people want to know that. Thank you
4 for that comment.

5 ATTORNEY DUER:

6 Yes. As the Secretary would
7 say, consumers vote with the dollars.
8 And I think they're learning how to
9 vote.

10 CHAIRMAN:

11 Right.

12 And I think ---. I don't want
13 to call it noise, but maybe that's
14 what it is out there in the papers and
15 where have you, that the dairy farmers
16 are really hurting. I think maybe
17 that caught the attention of the
18 public and --- and they're saying,
19 hey, I want milk from a Pennsylvania
20 dairy farm. So I like that.

21 And another thing I was just
22 going to say, you know, even though
23 that law is 1937 or whatever it is,
24 the statistics say that in
25 Pennsylvania we have lost less dairy

1 farms than any of the major dairy
2 states in the United States. And I
3 said I think that says something good
4 about Pennsylvania.

5 So you keep that in mind. Mr.
6 Chief Counsel just gave me those
7 statistics here the other day, an
8 updated number. And we're still the
9 lowest number of dairy farmers exiting
10 the dairy business over the major
11 states.

12 Any other comments from Board
13 members?

14 All right. Thank you very
15 much. And I think then we are ready
16 for our next witness, which is Boyer's
17 Food Markets. Mr. Anthony --- and
18 help me with that name.

19 MR. GIGLIOTTI:

20 Gigliotti.

21 CHAIRMAN:

22 Say it again.

23 MR. GIGLIOTTI:

24 In Italian it's Gigliotti, but
25 in English it's Gigliotti (changes

1 pronunciation).

2 CHAIRMAN:

3 Oh, boy. I'm sure glad you
4 helped me with that.

5 Okay.

6 All right. Would you have a
7 chair? We don't have any swearing in
8 to do today, so ---.

9 ATTORNEY EBERLY:

10 We do have a PowerPoint behind
11 us.

12 CHAIRMAN:

13 Oh, is that a PowerPoint back
14 here?

15 Okay. Then we'll just swing
16 our chairs around here and ---.

17 MR. GIGLIOTTI:

18 Whichever you prefer.

19 CHAIRMAN:

20 And you can move forward with
21 your PowerPoint.

22 MR. GIGLIOTTI:

23 Thank you for having me today.
24 My name is Anthony Gigliotti. I'm
25 going to be just looking at a milk

1 distribution PA state minimum and then
2 an overview of the category.

3 My experience has been over 30
4 years in the retail industry. I
5 started off probably like some of you
6 doing groceries, bagging groceries,
7 being a stock clerk.

8 I've been associated --- I
9 worked for AWI Associated Wholesalers.
10 I worked for Fleming Foods. I worked
11 my way up through customer service
12 from stores all the way to
13 procurement, marketing, sales
14 management.

15 I worked for Rich Food, which
16 is in Harrisburg. And nice for you
17 guys that after 50 years of being away
18 from here, they're going to be
19 reopening up a Harrisburg facility.

20 Supervalu and 14-and-a-half
21 years I've been with Boyer's Food
22 Markets. We're an 18-store chain in
23 Central Pennsylvania, for those of you
24 who don't know that.

25 And honestly, you know, I just

1 listened to Brook over here and it was
2 very impressive. But I have to also
3 tell you, I'm probably going to give
4 you a completely different spin from a
5 retailer perspective.

6 I just wanted to come here, so
7 maybe, you know, as I deal with
8 obviously the vendors, the
9 manufacturers, the distributors I deal
10 with pretty much everything. I also
11 want to give you my own personal view
12 of how I think things will go if the
13 state minimum prices changed.

14 I've also --- in today's times
15 --- I have three young children. I
16 try to teach them that what they're
17 watching on the news today is
18 everything isn't black and white. It
19 isn't right or left --- or right and
20 left I should say.

21 So I'll give you a little bit
22 of maybe some other things that we can
23 do to help move milk along. So bear
24 with me.

25 So I'll just take you through

1 as much as I can here. I'm going to
2 start off very simple for the first
3 two slides. Let me see if I can get
4 this to work. Thank you, sir.

5 The farmers. The State of
6 Pennsylvania currently holds the most
7 milk-producing farms in the tri-state
8 region. Pennsylvania holds the number
9 six position in the milk production
10 for the entire United States.

11 This is due to protection of
12 the PMMB, state minimum pricing that
13 is currently in place.

14 How will the removal of the
15 state minimum affect our farmers?

16 Distributors. Local
17 distributors throughout the State of
18 Pennsylvania will no longer be able to
19 compete with the larger national milk
20 companies. It may become the reason
21 for the closure of many milk companies
22 throughout our state.

23 Little more of the nitty gritty
24 I guess you could say. Why we can't
25 allow minimum milk pricing to go away?

1 Again, these are my opinions
2 and hopefully you understand that, but
3 since I deal with many, many retailers
4 pretty much across the Board, I would
5 think I could speak for most of them.

6 This would lead the industry's
7 larger retailers dropping their
8 retailers in the milk category to lost
9 leaders.

10 I'm sure we're all grocery
11 shoppers here. Who hasn't seen a
12 \$1.99 ice cream ad or \$1.88 ice cream
13 ad or even today \$1.77, when the cost
14 of it is clearly over \$3. Regular
15 retail should be at \$5.99 and up.

16 I'm like everyone else. We
17 have compressed margins. We are going
18 back to the manufacturer demanding
19 more and more money to, you know, even
20 sell something at zero profit today.

21 Down south they don't allow
22 this. And that's why they're making a
23 little more money down there. Up here
24 the first guy --- and I think we all
25 know about the Walmarts and the

1 Wegmans of the world and such.

2 We'll all be living in that
3 world very quickly. We see .99 gallon
4 price points eventually in this
5 market. If you don't believe me, we
6 already seen this in other states,
7 like Maryland. There's a pricing war
8 going on. Ohio, there's a pricing war
9 going on, .99 milk.

10 Okay. Well, we might as well
11 just call it ice cream at that point.
12 So we'll have another lost leader.
13 And I would think another 300
14 independent groceries would go out,
15 because that's been the record the
16 last two years across the station.

17 Again, it's causes pricing
18 amongst --- amongst the retailers in
19 wars. The retailers, in fact, would
20 go back to distributors for better
21 pricing compression, in order to help
22 alleviate the margin compression and
23 dollars to our registers.

24 This would spiral right back to
25 the farmers for better everyday

1 pricing.

2 You know, I can sit here and
3 tell you that we won't do that. I
4 will guarantee you the first thing
5 we're going to have to do is go right
6 back to the guys sitting across that
7 room. And those guys will be going
8 right back to the guys sitting in the
9 back of that room.

10 Because I'm not sure what else
11 you would say. You have to compete in
12 this market today. You're already
13 seeing what Amazon's cost through ---.
14 You know, I just passed by one of the
15 local malls here and the Bon Tons went
16 away. Well, so has Babies"R"Us, so
17 has Toys"R"Us and we can go right down
18 the list. This is the start of it.

19 I think we all --- we all
20 understand. I just wanted to be very
21 clear on how this will go very
22 quickly.

23 Competition will go away as the
24 largest milk suppliers in the country
25 and state would be able to give the

1 largest retailers in the country and
2 the state the best everyday pricing in
3 order to push retails down.

4 This would in turn force out
5 the local retailers and local milk
6 companies. Again, I --- I would
7 challenge anybody to tell me ---. And
8 I can probably sit here and do a
9 pretty good back and forth with
10 anybody telling me why this would
11 work.

12 Well, I don't think it will.
13 Also --- and --- and it's been
14 interesting, because I've had a bunch
15 of people in my office in the last
16 month or so. And one of them has been
17 an organic milk grower, which I don't
18 even think we've been talking about.

19 So today the issue that I think
20 we're all seeing is that people that
21 want to buy organic are really
22 challenged, you know, a very high ---
23 it's a money maker. They're already
24 paying higher prices for these smaller
25 farms that are organic.

1 Well, if you take the milk
2 pricing today from \$3.69 today in
3 whatever area you may be, Reading,
4 Harrisburg or whatever, and you go
5 down to \$1.99 to .99 ---. How many
6 people do you think are going to stick
7 with that organic milk?

8 That's another farmer out the
9 door, you know. I'm all for
10 capitalism to a point, but I think
11 it's got to make sense. Again, my
12 opinion.

13 Before I get into this next
14 section, like I said to you a little
15 earlier, I don't believe everything
16 has to be black and white all the
17 time. I think a lot of them in 1937
18 may, you know, be able to have some
19 changes. Our Constitution has
20 changes. We have Amendments. That's
21 what they're for, when changes need to
22 be made.

23 I don't think you have to
24 always take a broad sword, though,
25 because I think a little more of a

1 scalpel approach.

2 So with all those things being
3 said, I'll also give you some of my
4 own personal opinions on why some of
5 the milk sales are also going away.

6 The next slide here was the
7 milk alternative category. We are
8 seeing substantial growth in the milk
9 alternative category.

10 Examples, almond milk, soy
11 milk, et cetera. We need to remove
12 the verbiage, quote, milk from these
13 labels and call them what they really
14 are, quote, plant-based drinks.

15 It's helped decrease milk sales
16 again. I am all for new category
17 growth, but not at the expense of
18 locally-produced items.

19 We are seeing something that
20 started with 20 cases a month, I can
21 tell you at, when I started putting
22 the first almond milk in. Just that
23 one brand, we did 758 cases this last
24 month on it.

25 We've seen, you know, a decline

1 in milk sales as it is. Again, I am
2 all for ---. Hey, you know, if that's
3 another category that people want to
4 buy, fantastic, I'm willing to sell
5 you that.

6 But it's really not milk. It's
7 sugar-based plant. I mean, that's
8 really what it is. So I think if ---
9 you know, if ---. If this Board can
10 take it upon itself and, you know,
11 have legislation done, get on board
12 with that, but I think that is one of
13 those things.

14 I don't really want to hurt
15 these guys, but it's really not what
16 --- what it says it is. And it's
17 definitely also another reason that
18 you're seeing milk sales decline.

19 Going forward. I would like to
20 see sales grow in the category versus
21 being down two to three percent every
22 year for the last five years.

23 I don't think there's any doubt
24 that in the next five years will be no
25 different.

1 Provide an allowance for up to
2 eight times a year, two per quarter,
3 where the milk companies are able to
4 reduce milk .50 a half gallon, a
5 dollar a gallon for each chain.
6 Retailers can only reduce penny for
7 penny.

8 What do I mean by that? I
9 think once again we live sometimes in
10 an all or nothing world that we watch
11 on TV every day with politics. Maybe
12 a way we could look at this ---. And
13 this is just a suggestion, again, that
14 you can look at 2019 and possibly put
15 something together.

16 You would get one year of data
17 and you'd have to let it run almost a
18 year and a half, but you get a full
19 year of data to see, did it grow milk
20 sales?

21 Did it help profits at all
22 because we were able to move more
23 milk, the farmers move more milk, the,
24 you know, the distributors move more
25 milk, retailers move more milk? And

1 shockingly maybe we can get consumers
2 to buy back into the milk.

3 I won't get political here. I
4 promised myself I wouldn't. But when
5 we saw a change from the highest
6 office to where, you know, school
7 children aren't allowed to have
8 anything but low-fat milk and they got
9 rid of the taste, ask yourselves.

10 I have the IRI data that says
11 it went plummeting down. I think we
12 change some of the --- you know, those
13 kinds of things.

14 Maybe you can get people
15 reinvested into regular milk again.

16 Again, that's my opinion, but I
17 thought maybe this was another way to
18 look at growing sales, but not
19 necessarily taking the statement on
20 down. But once again, having it where
21 you could, you know, track it through
22 distributors to say, everyone's
23 allowed two promotions per one week to
24 see if it would generate extra sales.
25 Penny for penny, no less than \$1 down

1 to \$3 --- excuse me, \$3.99 would go to
2 \$2.99. Again, a thought there.

3 Removal --- remove the approval
4 process that vendors and retailers
5 currently have to undertake to a buy X
6 and get free milk type of deal. The
7 vendors would continue to fund it, but
8 this would alleviate the red tape,
9 allow a maximum number of promotions
10 for this per year.

11 So what do I mean by that?
12 Obviously, we deal with a lot of
13 vendors. So today a gentleman, for
14 instance, wants to do \$3 off promotion
15 on milk, which helps with milk sales,
16 obviously, but they have to go back,
17 get approval. You know, one retailer
18 calls up the State to say, hey,
19 they're running milk below state
20 minimum, because of this a lot of
21 vendors have really backed away from
22 this.

23 I don't know if you guys
24 realize this. They don't want
25 anything to do with it. They don't

1 want another step to go and have to
2 get somebody to okay, you know, all
3 these changes to have that kind of
4 promotion.

5 Maybe another alternative would
6 be let us kind of manage it, along
7 with that vendor, to say, okay, you
8 can do this.

9 Every vendor's allowed maybe
10 six times a year, General Mills,
11 Kellogg's and whoever else. And let
12 that be another vehicle to push milk
13 sales again.

14 This rotate --- I can tell you
15 myself. And I was talking to my
16 fellow retailer back there and we both
17 have, you know, people coming up and
18 say, hey, can we do this with milk?
19 And when you tell what they need to
20 do, they're like, ice cream or chips.
21 Let's do chips instead, because
22 there's no red tape.

23 Again, these are just thoughts
24 coming from the retail industry, the
25 wholesale industry, of maybe things

1 that would help for those kind of
2 sales.

3 And with that, I told you I'd
4 be short and sweet, but hopefully very
5 direct. Thank you.

6 CHAIRMAN:

7 All right.

8 MR. GIGLIOTTI:

9 Anything for me?

10 CHAIRMAN:

11 Well, thank you. Thank you
12 very much, Mr. Anthony.

13 MR. GIGLIOTTI:

14 Thank you. I'll --- I'll ---
15 I'll live with that. I'll live with
16 that.

17 CHAIRMAN:

18 I struggle with that. Yeah,
19 that was very informative and
20 very ---. You gave us a lot of food
21 for thought there in talking about the
22 --- the retail price in stores. I
23 guess they --- people attacking me
24 sometimes as to why we don't have 99
25 cents milk in stores. And then they

1 say they would drink more and
2 sometimes I think that for some people
3 I know everything and for some people
4 I know nothing.

5 So I think it's somewhere in
6 between there. But I --- I have to
7 explain a lot to a lot of people,
8 situations. And I think you laid it
9 out very well there, gave some good
10 suggestions. And I appreciate that
11 very much.

12 Mr. Van Blarcom, do you have
13 any thoughts or comments?

14 MR. VAN BLARCOM:

15 Just a sincere thank you for
16 bringing those points to us.

17 MR. GIGLIOTTI:

18 Absolutely. My pleasure.

19 MS. BOWMAN:

20 I think Kellogg's would
21 appreciate that. I understand the
22 plant in Lancaster is not booming like
23 it used to be.

24 MR. GIGLIOTTI:

25 That is correct. People are

1 drinking --- people are actually
2 eating less cereal today. Obviously,
3 that is going to have an effect on
4 milk also.

5 CHAIRMAN:

6 And that's --- and that's the
7 reason that you --- less cereal.
8 People are thinking a lot about
9 drinking milk. And that's the reason
10 that we're having less consumption of
11 fluid milk.

12 But I think people are
13 forgetting about the cereal, that
14 people are not eating cereal like ---
15 like they used to.

16 I like --- I'd like to ask the
17 poll here. How many had cereal and
18 milk this morning? And I didn't, so
19 I'm going to keep my hand down, but
20 --- but here we had a couple of people
21 that ---. Look at that.

22 MR. GIGLIOTTI:

23 But the reality is this, sir,
24 is that cereal is now over \$4 a box,
25 \$5 a box, ---

1 CHAIRMAN:

2 Exactly.

3 MR. GIGLIOTTI:

4 --- which is also the same
5 thing. I can also point out that when
6 we promote it in the way we are
7 promoting it, which isn't 99 cents
8 cereal boxes, but a two for \$5 and two
9 for \$6s, we're showing the promotions
10 and the spikes are there again.

11 So we're growing our category
12 of sales, but nationwide millennials
13 don't really want to take a bowl and
14 put it into --- you know. They think
15 it's a lot of trouble.

16 So you're dealing with a lot of
17 aspects on why the cereal may be going
18 down.

19 CHAIRMAN:

20 Again, you just stated that
21 cereal is a pretty high price. And
22 milk, in my book, is very low. And so
23 even if you don't drink the high price
24 cereal, I'd be drinking the milk for
25 breakfast. Right?

1 But anyway that's --- that's
2 something we got to work on.

3 Any other questions, Mr. Van
4 Blarcom?

5 MR. VAN BLARCOM:

6 No.

7 CHAIRMAN:

8 Well, thank you very much for
9 your testimony there and we will
10 consider it.

11 MR. GIGLIOTTI:

12 Thank you.

13 CHAIRMAN:

14 All right.

15 Next we have a ---. Let me
16 see. Karns? Is that the way ---
17 where is ---. Oh, Karns. Is that the
18 way you say it?

19 MS. KARNS:

20 Yes, sir.

21 CHAIRMAN:

22 Okay.

23 Karns ---.

24 MS. KARNS:

25 Karns.

1 CHAIRMAN:

2 Say it again.

3 MS. KARNS:

4 Karns, K-A-R-N-S.

5 CHAIRMAN:

6 Karns Quality Foods. And this
7 is Ms. Andrea Karns.

8 MS. KARNS:

9 Andrea, yes.

10 CHAIRMAN:

11 Andrea. Okay.

12 Thank you very much for coming
13 here today to give testimony. And you
14 may start your testimony at this time.

15 MS. KARNS:

16 All right. Certainly.

17 So just a lot of what I'm going
18 to say is going to reiterate what ---
19 what Anthony spoke about. But I am
20 going to take not --- certainly not my
21 20 minutes that was allocated. It'll
22 be much shorter than that, but
23 just ---

24 CHAIRMAN:

25 Okay.

1 MS. KARNNS:

2 --- to repeat those items.
3 Before we --- I'll jump into just a
4 quick introduction of myself.

5 My name is Andrea Karns. I
6 work with my family's business. It
7 was started in 1959, Karns Foods.
8 Started in 1959. We have eight stores
9 in Perry, Cumberland and Dauphin
10 County. So we are a locally owned and
11 operated store.

12 We thrive in a number of
13 categories. We set ourselves apart
14 from big box stores. We're a center
15 of the plate store, so you come in and
16 you buy your proteins, your meats,
17 your seafoods, you know. You're
18 filling the center of the plate and
19 you fill in the rest of the meal
20 around that.

21 We privately work with a number
22 of local produce farms, a number of
23 local grocery providers, vendors. And
24 the fact that our milk is local milk
25 to Central Pennsylvania area.

1 In the looking at our --- our
2 dairy and our --- our traditional
3 liquid milk, we carry one --- one form
4 of liquid milk. And when I say liquid
5 milk, I'm talking about what we all
6 picture in our refrigerators at home.

7 I'm talking about ---. I'm not
8 talking about the plant-based, I'm not
9 talking about the specialty craft,
10 organic.

11 I'm talking about the whole
12 half gallon and quart milks through
13 --- through Swiss Premium. They are
14 --- we only provide ---. We only sell
15 one brand of milk. We don't go
16 private label. And we sell that every
17 day at state minimum pricing. So
18 that's nonflavored, whole, half ---
19 whole gallons, half gallons and quart
20 sizing.

21 So when given this opportunity
22 to talk today and --- and connect and,
23 you know, I --- I think that it's
24 great that we're examining all
25 opportunities and what we can do for

1 our local dairy farmers.

2 And you know, agriculture in
3 Pennsylvania is such a key part of our
4 commerce, and really the liquid of who
5 we are, you know. When you look at
6 Pennsylvania, we're a farming
7 industry. You know, you drive around,
8 you see the farms, you see the
9 beautiful scenery.

10 It's part of our history, it's
11 part of our culture. So to --- to
12 have an open conversation, say what
13 can we do to help that culture? You
14 know, I'm --- I'm excited to be here.
15 I'm excited to --- to hear the
16 different ideas.

17 But in talking about those
18 solutions and the opportunity. When a
19 conversation's brought up about state
20 minimum pricing and what eliminating
21 that would be, it --- it --- it scares
22 me, you know, for --- for ---.

23 It scares me for a number of
24 reasons. To start, you know, right
25 now we work with a --- a local

1 producer. They're --- they're owned
2 out of an out-of-state company. But
3 the producer is local, their --- the
4 processor is local. It's all in
5 Lebanon, Lancaster County.

6 And so we're able to really
7 focus in on our priority as a retailer
8 offering local milk. Our priority is
9 not to shop around to say, can we save
10 ten cents on a gallon if we go to
11 another processor?

12 So we're able to focus on the
13 locally source milk versus cheaper
14 milk option.

15 Additionally, you know, we're a
16 local grocery store. My grandfather
17 started it in 1959. We work with many
18 local vendors. And we're --- by
19 having a state minimum price in place,
20 we're able to stay competitive with
21 the box stores out there, you know.

22 When you look around, as
23 Anthony alluded, there's not a lot of
24 local retailers that are still in
25 existence, let alone local retailers

1 that are still in existence and able
2 to sustain and thrive and grow.

3 And that's because of the
4 virtue of margins, you know, very
5 similar to --- to the farming world,
6 you know. They're --- they're not
7 big, you know.

8 You're --- you're working off
9 of pennies and you're doing the best
10 you can. And state minimum pricing
11 allows us to stay competitive against
12 those national and international
13 retailers that are coming into our
14 marketplace every single day.

15 We also use as ---. We also
16 use the state minimum pricing as an
17 advertisement. It gives us the
18 competitive edge. I go into our
19 competitors, who sell the same brand
20 of milk that we sell, and they're
21 selling it for --- anywhere from 50 to
22 90 cents above the state minimum
23 pricing. They have their store brand
24 at a --- at the state minimum and then
25 they sell the premium brand at a

1 higher price.

2 So for us we're able to say,
3 hey, you know, come in, shop local,
4 support our local dairy and you're
5 still paying the state minimum
6 pricing. So we do utilize that as a
7 competitive edge.

8 In talking about removing the
9 state minimum pricing and what that
10 would result in. Anthony said it,
11 milk wars. 100 percent, we would see
12 that across the board.

13 We would see our --- our
14 competition just vasterize (sic) the
15 price of milk. You know, it would
16 take away the value. You know, a
17 price puts a value on a product and
18 that's what a consumer sees that value
19 for.

20 If some milk drops to \$1.99 or
21 .99 and the consumers --- that's what
22 that value of that gallon milk is
23 going to be. You know, so it --- it
24 might put a short term Band-Aid and
25 you see a quick spike, but that

1 long-term solution is not there.

2 Additionally that situation
3 would --- could result in Karns
4 looking at cheaper milk pricing, you
5 know. Is there a difference
6 processor? Is that processor ---
7 where is that processor located?

8 As Anthony said, it would
9 result in me talking to --- to my
10 sales rep and saying, you got to ---
11 you got to get it down, you know. I
12 need a better price, you need to
13 deliver on a better price.

14 And I know where he's going to
15 turn to, to make that better price
16 happen, you know. It's just going to
17 be pushed back, pushed back to the
18 producer.

19 Additionally, with margin
20 compression, if the state minimum
21 pricing were to be eliminated, we
22 would explore not only the sourcing of
23 the milk, but also how are we
24 marketing it? How are we
25 merchandising it?

1 You know, right now if you go
2 into most grocery stores, convenience
3 stores, the gas stations, and you see
4 beautiful casings filled with multiple
5 casings of milk. You know, you can
6 walk up and there's three casings of
7 whole gallons, three casings of half
8 gallons. You can go down the --- the
9 line.

10 And suddenly if it's a lost
11 leader --- you know, if we're losing
12 money on it every single day, we're
13 going to say, you know what, what do
14 we need to do? How can we make money
15 in this category?

16 So we would eliminate these
17 things, most likely. We eliminate
18 these things. We would put in those
19 categories that you're making margin
20 on, making profit on, able to pay your
21 bills on. That's what it gets down
22 to.

23 And you would eliminate those
24 casings. And you'd also take a look
25 at how are you presenting it to the

1 customer? Right now dairy --- the
2 dairy customer is essential to broker
3 retail.

4 That's not going to change.
5 They --- they come in, they shop.
6 It's on their list. We're talking
7 about a perishable product, so they're
8 not going to be keeping it in their
9 fridge, buying it in bulk and two
10 months later refilling. Let's hope
11 not at least.

12 But you know, they --- they
13 come and they shop. And so we would
14 take a look at what position does
15 dairy --- what position does milk
16 have?

17 Is there a better product? Is
18 there a better position put in as our
19 anchor that we can make money off of
20 in order to pay our bills?

21 And if we're losing money on
22 milk, we're losing money on a category
23 as a whole.

24 I can tell you we would look at
25 what we need to do to shrink that

1 down, minimize our losses and grow our
2 profitable categories. Which
3 unfortunately we see the sales in milk
4 dropping already.

5 You know, we see that
6 happening, organically, through ---
7 through consumer trend, through
8 misinformation about what is healthy,
9 you know, what consumers deem as a ---
10 as a healthy milk.

11 So we're --- we're already
12 seeing that. And I would hate to see
13 that continue to occur just because it
14 no longer is a value for us to be able
15 to maintain our --- our ability to be
16 successful. So in --- in addition to
17 the effect of removing the state
18 minimum pricing on milk category as a
19 whole, local companies would be hurt,
20 you know.

21 As I --- as I've said, we are a
22 local company. We operate here in
23 Central Pennsylvania. Boyer's, you
24 know, they have 18 stores in their
25 region.

1 We support the local vendors,
2 we're supporting the local retailer
3 --- the other local retailers,
4 producers that have PA Preferred
5 Products or just local products that
6 they bring in, you know.

7 And at the end of the day we're
8 able to be successful, and then in
9 turn support the --- the local
10 organizations, you know.

11 The list of organizations that
12 as a company we support and the money
13 that we raise for the Central
14 Pennsylvania community is pretty
15 crazy. And we're able to do that
16 because we're in the community. We're
17 based out of the community.

18 When you look at the big box
19 stores, which would be the individuals
20 who would most likely be able to
21 benefit from it, that support is not
22 necessarily in all cases being ---
23 being given back to the community.

24 So it would have a ripple
25 effect outside of just a single store.

1 That ripple effect would be felt to
2 other individuals, not to mention the
3 associates from the employment that
4 would --- that would be lost.

5 I did want to touch base,
6 though ---. You know, obviously we're
7 here because there was a --- a loss of
8 contracts, you know. And my --- my
9 heart breaks for those --- for those
10 dairy farmers that --- it truly does.

11 And I will say, I --- I never
12 have been inundated with so many phone
13 calls and e-mails and Facebook
14 messages from the --- the local
15 community that was saying, oh, my
16 gosh, what are you doing? I want to
17 buy Pennsylvania milk. How do I know,
18 you know?

19 And a lot of misinformation out
20 there, to your point, sir, about what
21 is local, or what happened or what is
22 occurring or how people can support a
23 local --- local milk and local dairy
24 farmers.

25 But when this did take place

1 and when --- when the contracts and
2 when the news hit, you know, I --- I
3 can tell you, I'm ---. I can tell
4 you, unfortunately, because I ---. I'm
5 the one who deals with those phone
6 calls and e-mails and --- and social
7 media questions, that it really
8 created an uproar, you know.

9 A fist, raising the hand
10 wanting to say, what can we do and
11 what are you doing? So if there's a
12 time for achievement, a time for
13 supporting Pennsylvania products ---.
14 And I know we're talking about
15 Pennsylvania milk. You know, right
16 now the --- the tide is with that, an
17 issue to that effort.

18 And I know that we're here
19 talking about milk today, but this
20 really is a larger conversation, you
21 know. As the local market becomes a
22 more global market, and we have more
23 and more retailers coming in from out
24 of the country --- out of the
25 country ---.

1 When you go into those stores
2 and you start flipping around their
3 canned beans, and their peas and their
4 corn, take a look at what country
5 that's sourced from.

6 You know, we're talking about
7 dairy farmers today, but the
8 conversation should be about farmers
9 in general, you know. Made in the USA
10 used to be a matter of t-shirts, or
11 towels or flashlights. And that
12 conversation needs to stretch into our
13 agriculture as well.

14 So I do hope this is a jumping
15 off point for a much broader
16 conversation in the future. And that
17 the Milk Board can --- can really
18 spearhead that conversation. So
19 that's all I have for now.

20 CHAIRMAN:

21 Thank you very much --- much,
22 Ms. Andrea. That was a very inspiring
23 and thoughtful testimony, which you
24 have just given there.

25 You know, I --- I pay attention

1 a lot to milk counters in our local
2 stores. And I asked this question to
3 the local store. What would you do if
4 you didn't have minimum prices?

5 And they just think a minute
6 and say almost, I don't know what I'd
7 do, you know. Because in that store
8 they're selling one brand of milk
9 which is very popular in this area at
10 minimum price. And they're selling
11 another brand of milk in that store
12 about maybe 30 --- 20 or 30 cents
13 above minimum pricing.

14 Then he says, I'm doing that
15 because some people like that brand of
16 milk and they're willing to pay it.
17 I sell half as much milk and I make
18 the same money as I do on minimum.
19 So let's not get the thought that a
20 cheap milk ---.

21 I want to give you another
22 example. I was down in Florida and I
23 --- and I pay a lot of attention to
24 the milk counters. And I was going
25 through --- I was looking at the milk

1 counter and the one milk was --- had a
2 nice brand on it, local brand.

3 It was --- I think it was \$4.99
4 a gallon. And then down here I saw a
5 gallon of milk with hardly a label on
6 it, but I'm sure it had a label on it,
7 for \$2.65. I was going through the
8 counter line. And the lady in front
9 of me or man, whichever it was, had a
10 --- had a gallon of the \$2.99 milk.

11 And I --- and I didn't tell her
12 what it was or what I --- what I was
13 thinking. But I just asked the cash
14 register lady. I said, why --- why
15 did that person buy a \$4.99 gallon of
16 milk when they could have got it for
17 \$2.65? And as I recall it would have
18 been both whole milk.

19 And this is the perception of
20 the cash register lady and I think
21 that's what she said, a lower price
22 milk is a lower quality milk.

23 She said that \$4.99 is high
24 quality milk. I just enjoyed the
25 conversation and that was it. But

1 that's --- that's perception of that,
2 just exactly what you said.

3 \$2.65, that must be a lower
4 quality milk than that \$4.99 gallon of
5 milk which she bought and she wanted.
6 And I'd go on with more conversation,
7 but this is your day, so --- anyway.

8 Mr. Van Blarcom, do you have
9 any comments?

10 MS. VAN BLARCOM:

11 Yeah, I'd just like to thank
12 you for bringing that information up
13 about your customers having real
14 concerns about where milk comes from.

15 MS. KARNS:

16 Oh, gosh. There's some fire,
17 so ---.

18 MR. VAN BLARCOM:

19 I can believe that. I'm not
20 technically up to speed. I go to my
21 next generation and I want to get
22 what's out there on the social media.

23 And I'm sure you're connected.
24 So that's why you have that, but thank
25 you.

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CHAIRMAN:

Ms. Bowman.

MS. BOWMAN:

I'd like to make one comment you made about other farms being lost. Agriculture remains, you know, the top industry in Pennsylvania. Almost equally important --- and the tourist industry is second in Pennsylvania.

Which made me think of this, because on Saturday when I was in a restaurant, a lady came up and said, are you local? I said, yes, I am, can't you tell? She started laughing and she said, well, we're from Boston. I can't even do an imitation. She says, we want to know where the Amish are and we can see cows and stuff.

I thought that was so --- that's what they wanted to see, not Dutch Wonderland, a lot of the other things, but, you know, think about it. As our farms disappear, that changes the landscape of Pennsylvania.

It affects more than just the

1 farmers. All the related industries.
2 And that will affect the tourism.
3 This is a very important problem that
4 we need to solve.

5 CHAIRMAN:

6 Thank you, Ms. Bowman.

7 And just to piggyback onto
8 that. The --- the economy of
9 Pennsylvania is --- we have the
10 largest economy of Pennsylvania the
11 dairy industry and --- and that's ---.
12 Keep that, because we got an
13 infrastructure here in Pennsylvania
14 that is I would say --- I want to say
15 almost next to none when you can ---.

16 Now, maybe we have it pretty
17 good in Lancaster County, Western
18 Pennsylvania a little bit more
19 difficult. But we have about
20 everything that you can name within
21 Lebanon, Lancaster and getting over
22 toward Maryland within a half-an-hour
23 drive. And that's pretty special.

24 Let's try to keep that. And
25 that's why I think we all got to be

1 talking about local. And if I didn't
2 --- I think --- I think if we didn't
3 hear ---.

4 We're hearing a lot of good
5 stuff today, but I think that's one
6 thing that we better get onto and get
7 that message out there.

8 Thank you very much for your
9 testimony.

10 MS. KARNS:

11 Thank you very much.

12 CHAIRMAN:

13 Does anybody want --- does
14 anybody need to take a break before
15 we've got any more witnesses?

16 Okay. We're going to keep on
17 going. If somebody needs to take a
18 break, why please let us know and
19 we'll take that break.

20 So we're going to go to the
21 next witness at this time, which is
22 Pennsylvania Food Merchants
23 Association. Mr. Allen Warshaw.

24 Would you come to the chair,
25 please?

1 MS. WARSHAW:

2 I will.

3 CHAIRMAN:

4 All right.

5 Well, it's good to have you
6 here today and ---.

7 MR. WARSHAW:

8 It's good to be here.

9 CHAIRMAN:

10 You have testimony that you
11 want to read or talk about or both?

12 MR. WARSHAW:

13 Well, I just pass up on reading
14 it, but I'm assuming that's what you
15 prefer.

16 ATTORNEY EBERLY:

17 You don't have to read it.
18 That's fine.

19 CHAIRMAN:

20 You can read whatever you want
21 to.

22 MR. WARSHAW:

23 Well, let me --- let me go
24 ahead and read it.

25 CHAIRMAN:

1 We don't want to miss that.

2 MS. WARSHAW:

3 I'm certainly not going to
4 threaten that 20 minute ---.

5 The Pennsylvania Food Merchants
6 Association, known as PFMA, for at
7 least --- I'll refer to it as PFMA, is
8 a statewide trade association
9 advocating the use of convenience
10 stores, supermarkets, independent
11 grocers, wholesalers and consumer
12 product vendors operating in
13 Pennsylvania. PFMA's membership
14 consists of national chain stores,
15 regional chains and locally owned
16 independent retailers of all sizes.

17 Our 800 corporate members
18 operate more than 3,500 retail food
19 stores in Pennsylvania and employ more
20 than 150,000 Pennsylvanians.

21 PFMA supports the Milk
22 Marketing Board and believes that
23 state regulation of milk pricing has
24 cultivated a positive business
25 environment for Pennsylvania

1 Producers, farmers --- producer,
2 farmers and processors, providing
3 consumers with quality locally-
4 produced and processed dairy products
5 at competitive market-driven prices.

6 As such, PFMA has fully
7 participated in the Milk Marketing
8 Board's price setting hearings. It
9 has also supported and cooperated with
10 the Board's other regulatory
11 activities. Notwithstanding the
12 efforts of the Board, producers,
13 processors and retailers, Pennsylvania
14 farmers are presently facing unusually
15 negative economic conditions.

16 Seeking to assist those
17 farmers, the Pennsylvania Department
18 of Agriculture recently filed a
19 petition for hearing before this
20 Board, in which it asks the Board to
21 consider in making several regulatory
22 changes.

23 PDA also asks the Board to seek
24 and to support statutory amendments.
25 One of the statutory changes suggested

1 by PDA would require the licensing of
2 retailers selling milk in
3 Pennsylvania.

4 PFMA strongly opposes that
5 change. PFMA agrees that Pennsylvania
6 farmers are under extreme pressure,
7 which may require additional
8 governmental action.

9 Accordingly, for example, PFMA
10 supports some of the changes requested
11 by PDA. For example, PFMA supports
12 changes in the federal school
13 nutrition programs to allow a full
14 range of milk products on cafeteria
15 members to satisfy student preferences
16 and, therefore, bringing Mr. Anthony
17 income.

18 Most, if not all, PFMA members
19 have supported the Pennsylvania's ---
20 supported Pennsylvania's dairy farmers
21 by promoting the sale of milk products
22 containing milk produced and processed
23 in Pennsylvania. They will continue
24 to do so despite the trend in
25 declining national and state fluid

1 milk sales.

2 However, further regulation of
3 the retailers, who are the ultimate
4 pathway for Pennsylvania dairy
5 products to the public, will endanger
6 that flow, not enhance it.

7 For years the Board has heard
8 and accepted evidence that
9 Pennsylvania retailers achieve a
10 minimal margin on dairy products
11 compared to other departments.

12 Additional costs imposed by the
13 costs of registration and reporting
14 sales will, for many retailers,
15 seriously reduce or even eliminate
16 that margin, reducing their incentive
17 to promote the sale of Pennsylvania
18 dairy products.

19 Moreover, further regulation
20 suggested by PDA could result in the
21 violation of interstate commerce laws,
22 which are always at issue with laws
23 regulating the production, processing,
24 retailing and marketing of milk.

25 Such challenges are always

1 costly for the industry and state.
2 PDA offers no real support for its
3 assertion that retailer registration
4 will assist the plight of farmer ---
5 excuse me, farmer producers.

6 The potential costs are clear.
7 Absent clear evidence in such
8 regulation will support a solution.
9 It should not be sought or imposed.

10 Let me add a couple of comments
11 of my own, although I believe they're
12 consistent with what we're saying.
13 First of all, this document is
14 intended to stake out a position, to
15 let people know where we stand.

16 It is not intended to be our
17 final word in support of that
18 position. But we thought it was
19 important early on to let people know
20 that there's an issue that's important
21 to us.

22 Let me --- let me add to the
23 issue of costs that the Board itself
24 will suffer increased cost, will ---
25 will --- will result in increased

1 costs. Because unless you audit the
2 information, submit it, it's really
3 worthless for use for any significant
4 purpose.

5 I don't mean to predict that,
6 you know, our members would be less
7 diligent in complying with any
8 requirement, but I don't have to
9 suggest it, I think. You know,
10 there'll be enough problems with the
11 data submitted, either because of
12 misunderstandings about what is
13 requested or simple inability to deal
14 with that --- that auditing by the
15 Board on some kind of basis would be
16 required.

17 And that's not cheap either
18 --- either for the retailers or for
19 the Board.

20 Finally, this is my comment as
21 somebody who's been involved in the
22 milk industry on --- on two levels,
23 wholesaler and --- I'm sorry,
24 processor and retail stores.

25 And most of the --- the rest of

1 my career was spent in the public
2 sector. So I have some idea how
3 legislation and how the public sector
4 works.

5 Legislation is always careless.
6 God knows what will come out of that
7 sausage-making process. If you get
8 outside the bubble, and this room is a
9 bubble ---. Almost every single
10 person in this room supports minimum
11 pricing for milk, I --- I think,
12 probably without exception.

13 Once you get outside the
14 bubble, you've got people who are
15 anti-regulation. You've got people
16 --- and how many people come up to you
17 and ask you this question? Why are
18 you fixing the price of milk? Why in
19 every other commodity we know of the
20 market sets the price, but here you're
21 fixing it?

22 There's a whole bunch of people
23 outside this bubble who don't start
24 out with an assumption you favor
25 minimum pricing. We start out to the

1 contrary, with an assumption that
2 minimum pricing is a bad thing.

3 Once you open up this law to
4 broad changes, to significant changes,
5 you open it up to those people as
6 well. And there's no guarantee that
7 you're going to walk away from that
8 process with anything.

9 It is, I would suggest,
10 significantly likely you walk away
11 with no law at all as it is that you
12 walk away with the changes that you
13 see.

14 So I strongly suggest that if
15 you want to get in the legislative
16 process, you do so knowing all the
17 possible consequences and being
18 prepared to address it.

19 That's --- again, that's me
20 speaking as somebody who's been in
21 this industry and who has also been in
22 the public sector. I think, again,
23 seeking legislative solutions carries
24 its own danger.

25 And in this particular case,

1 with a law that was passed in 1937,
2 going to our legislator as it exists
3 today, an anti-regulatory pro
4 competition body, you --- you need to
5 know what your risks are. Thank you.

6 CHAIRMAN:

7 Want --- you want to hang on,
8 Mr. Warshaw.

9 MR. WARSHAW:

10 Oh, sure, sure, sure.

11 CHAIRMAN:

12 Don't run away yet. Thank you
13 for that testimony.

14 MR. WARSHAW:

15 Seemed too easy.

16 CHAIRMAN:

17 We know you're very excited
18 about what you just said, and believe
19 in what you just said. I believe
20 whether it's personal or whether it's
21 for your organization, you said it and
22 we heard it.

23 You've been around the business
24 for a long time. These are the
25 thoughts that you've put together for

1 today and we appreciate that.

2 I guess the question would be,
3 you were talking about ---. And I
4 think this is something here that we
5 can talk about this here, that --- you
6 know, and decide what shouldn't,
7 what's not good is as --- as Mr. Duer
8 said --- Duer (changes pronunciation)
9 said.

10 You know, down to the fact, is
11 that going to put more money in the
12 farmer's pocket by doing --- making
13 more regulations. That's the question
14 we got to deal with.

15 MR. WARSHAW:

16 Well, I would also distinguish
17 between regulations on one hand, and
18 going to the legislator with the law
19 on the other hand.

20 CHAIRMAN:

21 Yeah. And that --- and I think
22 if we start making changes in
23 Pennsylvania, we have as many or more
24 farmers about as any state there is.
25 I think if we ---.

1 My personal opinion, and I
2 think I've heard some of that coming
3 out today, that we will lose a lot of
4 the small farms if we make some
5 changes that ---. If we make the
6 wrong changes, we will lose a lot of
7 small farmers and --- and --- and
8 processors.

9 So Mr. Van Blarcom, is there
10 anything you would like to say?

11 MR. VAN BLARCOM:

12 Yes. As a Board member, I've
13 been always concerned about our
14 inflexibility of our rules that we
15 have to operate under. So I'm just
16 going to put you on the spot a little
17 bit.

18 MR. WARSHAW:

19 Sure.

20 MR. VAN BLARCOM:

21 What's your thoughts on Mr.
22 Anthony from Boyer Foods on having a
23 little flexibility and eight times a
24 year sale price or any of --- any of
25 that?

1 I like what I heard from him
2 and I ---.

3 MR. WARSHAW:

4 I'm not in a position to take a
5 position on behalf of the
6 organization. But I will say that
7 everything he said --- most --- almost
8 everything he said made sense to me.
9 And I suspect he is representative of
10 our members. But I can't --- I can't
11 make a statement on behalf of the
12 organization.

13 MR. VAN BLARCOM:

14 I understand that. Thank you.

15 CHAIRMAN:

16 All right. Thank you, Mr. Van
17 Blarcom.

18 Ms. Bowman?

19 MS. BOWMAN:

20 Thank you.

21 MR. WARSHAW:

22 Can I add one ---

23 CHAIRMAN:

24 Yes, you may.

25 MR. WARSHAW:

1 --- recommendation? One thing
2 that --- that maybe got --- gets
3 forgotten here, when you talk about
4 minimum milk pricing, is a trial we
5 had about 12 years ago.

6 I actually looked at it, at the
7 opinion briefly, in preparing my
8 comments for today. Where we --- we
9 presented a witness and I think maybe
10 several witnesses, to the effect that
11 Pennsylvania tends to have lower milk
12 prices than surrounding states because
13 the price always gravitates to the
14 minimum.

15 Whereas there is a tendency in
16 other states to have the big --- big
17 sellers drive the price down, kill
18 some competition and then take it
19 right back up again, which they can
20 do, is --- oli --- oligarchic,
21 whatever.

22 CHAIRMAN:

23 Oligarchcystic.

24 MR. WARSHAW:

25 You know, they --- they can do

1 as a matter of their market value. So
2 there is evidence out there that not
3 only does the minimum price benefit
4 the three --- as we always call them,
5 the three ---

6 MS. BOWMAN:

7 Legs.

8 MR. WARSHAW:

9 --- legs of the stool, but also
10 the consumers. That they are getting
11 a pretty darn good deal. So I think
12 you --- you really have to think about
13 the risks for the system. Because it
14 is one that benefits everybody
15 involved. Thank you.

16 Are my 20 minutes in?

17 CHAIRMAN:

18 I want you to ---. I would
19 like you to --- to say what you say in
20 testimony at hearings on cost
21 replacement about the --- the profit
22 center of the dairy case.

23 MR. WARSHAW:

24 The profit center of the dairy
25 cases is the lowest one in the --- in

1 the store. Year after year after year
2 --- and I've always wondered a little
3 bit why, but we --- we present
4 information from the National
5 Association of Grocers, I believe
6 that's the source, which clearly
7 demonstrates, if you've got some areas
8 where the margin's up here
9 consistently year after year, area ---
10 you know ---. The margin for milk is
11 the lowest one in the store.

12 And if you start piling
13 regulations on top of that or
14 disturbing the --- the structure in a
15 way that --- that adds costs, it's
16 going to make milk a lot less
17 attractive to promote or to sell.

18 CHAIRMAN:

19 All right.

20 Do the Board members have any
21 questions?

22 So with that, if not, thank you
23 very much, Mr. Warshaw, for ---

24 MR. WARSHAW:

25 Thank you.

1 CHAIRMAN:

2 --- that testimony. And it was
3 great.

4 MR. WARSHAW:

5 Great. I'll get you a copy.

6 COURT REPORTER:

7 Sure.

8 CHAIRMAN:

9 All right.

10 Next we have a dairy farmer.
11 Mr. Brad Rohrer. Would you come and
12 take the chair, Mr. Rohrer?

13 Mr. Rohrer here is a Lancaster
14 County dairy farmer. Not only a
15 friend, but a fellow dairy farmer and
16 a good dairy farmer. So I want --- I
17 want to say that he is --- he knows
18 what he's doing in the dairy business.

19 And it's good to have you here
20 today, Brad, to ---

21 MR. ROHRER:

22 Thanks for having me.

23 CHAIRMAN:

24 --- give testimony. So with
25 that said, you can move forward.

1 MR. ROHRER:

2 All right.

3 Good morning, everybody. I'd
4 just like to give a short introduction
5 of who I am and where I'm from.

6 I am a dairy farmer right
7 outside of Lancaster City. I farm
8 with my father and brother. We farm
9 around a thousand acres and have 600
10 cows. I'm glad we had --- are having
11 this opportunity to have this meeting
12 to talk about this law.

13 The timing of this meeting is a
14 little challenging. If you look
15 around the room here, there's not a
16 ton of farmers sitting in here,
17 because currently at our farm right
18 now we're trying to harvest 400 acres
19 of rye and get corn planted, since the
20 late spring.

21 So --- but this meeting, that
22 being said, had to be done now. It's
23 important that you guys are showing
24 that the --- it's --- it's an issue
25 that needs to be dealt with.

1 So now forgive me, I'm not a
2 lawyer, so I'm not going to sound
3 professional in --- in all of my
4 readings here. So I put this together
5 while I was milking cows in our barn
6 and scribbled some stuff down. And
7 just want to try to show that, you
8 know, our farm and hopefully represent
9 some other farms around our area
10 input.

11 I --- I didn't even send one.
12 Honestly I finished this thing up this
13 morning after I was done working,
14 so ---.

15 CHAIRMAN:

16 Right.

17 Because I didn't --- I didn't
18 --- I didn't read it and that's
19 why ---

20 MR. ROHRER:

21 Yeah.

22 CHAIRMAN:

23 --- I opened my book here to
24 see ---.

25 MR. ROHRER:

1 Sorry. I can kind of give you
2 a summary after I'm done, but yes ---.

3 CHAIRMAN:

4 Again, Mr. Brad, this has been
5 a busy time of the year, but --- but
6 on the other hand we want to react as
7 quickly as ---

8 MR. ROHRER:

9 Exactly.

10 CHAIRMAN:

11 --- and give opportunities. So
12 here's your chance.

13 MR. ROHRER:

14 Yeah. So let me get my papers
15 straight here. So the main thing that
16 I would like to --- to go over is the
17 fact that this Board has listened to
18 many, many times hearings that had a
19 lot of the same topics we're talking
20 about today in them.

21 A lot of these things have been
22 gone over in the past and --- and
23 nothing has really changed in the last
24 years that I knew what this law does.

25 Simply letting this law the way

1 it is, is not going to help the
2 Pennsylvania dairy farmer. As you're
3 aware, the industry is more
4 challenging now than it has been.

5 And the last time we were
6 talking about this was 2009. And it
7 seems like we get all this excitement
8 around it. And then as soon as the
9 price starts inching back up it all
10 goes away and we forget about the
11 Pennsylvania Milk Marketing Board.

12 But then when the price dive
13 bombs again, here we are. The thing
14 that --- that we need to understand,
15 though, is Pennsylvania Milk Marketing
16 Board is not going to fix the
17 Pennsylvania dairy farmer's price by
18 itself. This is a global and national
19 problem.

20 We have too much milk. There's
21 too much milk. And when you have too
22 much milk and not enough demand, you
23 have problems.

24 So the main thing that I would
25 like to say --- I keep saying that

1 because I ---. I just have a lot of
2 things that I'd like to say, but at
3 the same time we got to stay within
4 this petition that you have and ---
5 and what we're going to talk about.

6 But I want to read a thing from
7 the website. After I was trying to
8 figure out what I was going to talk
9 about today, I went to the PMMB's
10 website and read some things.

11 And one of --- the thing in
12 their introductory page that tells
13 about how this law works, it --- it
14 says, quote, the Milk Marketing Law
15 allows farmers and milk dealers a
16 reasonable profit, while ensuring PA
17 consumers adequate supplies of milk at
18 reasonable prices.

19 Now, after reading that quote
20 and --- on your website, it --- it ---
21 that quote itself, it just makes ---.
22 As a dairy farmer, you read that and,
23 you know, really?

24 It obviously right now today,
25 it can't work with the way ---. We

1 have too much milk and there's not
2 enough --- enough demand.

3 But after hearing testimony
4 from Andrea, Anthony and Allen, it
5 sounds like it's working pretty good
6 for the retail end of it. They don't
7 want it to go away.

8 And it sounds like even after
9 hearing Allen, they don't even want
10 change to it. And if we do change it,
11 he said, get --- get --- get rid of it
12 altogether.

13 So that being said, I'm here as
14 a dairy farmer to tell you that this
15 premium that we're collecting off of
16 this gallon of milk in the store is
17 not coming back to all dairy farmers
18 fairly.

19 Luke, you assist a co-op very
20 similar to mine. We don't get that
21 Class I allocation utilization in our
22 milk check. My farm, for instance, we
23 get about four cents a hundred. Out
24 of every --- every hundred pounds we
25 ship, we get about four cents.

1 That adds up to be about \$700 a
2 month from this law to my dairy. \$700
3 doesn't even cover the cost of 15 cows
4 in my herd's feed consumption in that
5 month.

6 So we're sitting here talking
7 about how much this benefits the
8 Pennsylvania dairy farmer. And Luke,
9 you've been in this --- this business
10 longer than I have, but I have been in
11 it to see two of the worst declines in
12 your lifetime and in mine.

13 We know --- I know, at least,
14 that my farm can survive without this
15 law being in place. Four cents isn't
16 going to break my business and it
17 wouldn't break yours.

18 And we have ---. If we're
19 going to keep this law going and take
20 money from the consumers, we need to
21 get that money back into the hands
22 that it's supposed to be helping. We
23 are not doing that fairly.

24 There's money going back to
25 certain select farms that have all

1 their milk going to bottling plants.
2 But is it fair to give that money just
3 to those select few and say that we're
4 helping all of Pennsylvania dairy?

5 I don't think it is. And I
6 think it's time to change something.
7 We need to look at this law. We need
8 to sit back and think, is it even
9 worth fixing? Like Allen said, it's
10 1937. The dairy industry has changed
11 so much since then. The way the
12 globalization of our industry has
13 happened.

14 We're not competing against our
15 neighbors, we're competing against the
16 world. That is the thing that we have
17 to realize.

18 And having this law in place,
19 taking that return from a consumer, I
20 don't think it's fair to them. And
21 it's definitely not fair to all the
22 dairy farmers in this state that don't
23 even receive that much bonus from it.

24 I know that the grocery guys
25 are saying how this --- the store

1 prices, if we lower them ---. I
2 understand that, yeah, that --- that
3 does show that there's not value in
4 that.

5 But it's hard for me to walk
6 into a grocery store as a dairy farmer
7 and look on that shelf and see milk
8 for \$4 or \$3.75, when I'm getting paid
9 peanuts for my milk.

10 It's not fair to the consumer
11 either to have them thinking that I'm
12 helping the PA dairy farmer, when
13 really a \$700 bonus in my milk check
14 it's --- it's not really helping me.

15 And there's also a quote in the
16 website that says the Pennsylvania
17 Milk Marketing Board is as necessary
18 now as it was in the 1930s. I totally
19 disagree with that.

20 I bet it was amazing all back
21 when the depression and all that
22 happened and it helped a lot of guys
23 out. But currently, as it stands
24 right now, it is not helping all dairy
25 farmers.

1 And it obviously sounds like
2 it's helping a lot with the retailers.
3 Because I sat here today and listened
4 to them say that if you take this
5 away, we're going to go out of
6 business.

7 Ladies and gentlemen, there are
8 dairy farmers all across this state
9 going out of business and we don't
10 have a help and an aid allowance
11 coming from a law like this to help us
12 out. Pretty much what I've heard is,
13 if you take this away, it levels the
14 playing field and everybody has to
15 tighten their belts.

16 Right now the way this sits,
17 the dairy farmer is the only one that
18 has to tighten his belt. We always
19 foot the bill. That's how it is.

20 When the price goes down, we're
21 the ones suffering. And frankly, I'm
22 tired of it. And I think that we need
23 to step back and just look at this
24 law. If there's some way we can fix
25 it, let's get it done.

1 If there's no way that we can
2 agree upon it, to make both parties
3 happy, let's dissolve it and get rid
4 of it. And agri business is the
5 number one industry in PA and dairy is
6 the biggest contributor to that.

7 And if we do want to make it
8 this way and keep it this way, this
9 law cannot stay the way it is and have
10 a big influence on helping dairy
11 farmers out.

12 At that that's all I have to
13 say. And I thank you for your time.

14 CHAIRMAN:

15 All right. Thank you, Mr.
16 Brad, for those comments.

17 That was taking another slant,
18 but I think you said something there
19 that was spoken about earlier about
20 the --- giving the farmers a cost of
21 production, which I think that that
22 was stated that we need to take a look
23 at. That kind of scares you, doesn't
24 it?

25 When it --- when you read that

1 paragraph and --- and it says
2 guarantee or something ---?

3 MR. ROHRER:

4 Yeah. And I --- I agree that
5 if you would reword that, it would
6 make a whole lot more sense to people.
7 But as a dairy farmer reading those
8 lines and seeing that, it's almost
9 laughable.

10 CHAIRMAN:

11 Yeah. Well, okay. Well, we
12 heard that. We heard that comment and
13 I think we will pay attention to what
14 needs to be the right thing there.

15 The other thing was, Mr. Brad,
16 you said about no --- no ---. Well, I
17 guess you were considering no order
18 --- over-order premium. And we know
19 how that over-order premium comes to
20 be.

21 It comes to be a hearing where
22 the co-ops, the farmer, milk dealers
23 if they have any comment about it, any
24 farmers have any comment, that's how
25 the over-order premium is set.

1 Now, you talk about having it
2 equal for everybody or not at all.
3 Whether you realize or not, over the
4 past it has been probably --- help me
5 with that number, Mr. Secretary.
6 What's the number of that, the
7 over-order premium for a month or for
8 a year?

9 MR. MOYER:

10 Currently it's about a million
11 dollars a month. Has been two and a
12 half million ---.

13 CHAIRMAN:

14 About a million dollars a
15 month. Now, we can say we want to
16 take that away from everybody, because
17 not everybody is getting it equally.

18 And you know, probably who
19 you're shipping to, Mr. Van Blarcom is
20 shipping to, you're not probably going
21 to have the same prices. It's going
22 to be very hard to make up ---
23 everybody has an equal price, unless
24 we have a price that's ---.

25 MR. ROHRER:

1 Well, the thing that is ---
2 when --- when you hear that number,
3 like you said, it is, again,
4 distributed equally. And then to hear
5 people spout off how the Pennsylvania
6 Milk Marketing Board is helping so
7 many people, it's --- it's not ---
8 it's not really helping the majority
9 of the Pennsylvania dairy farmers.

10 I don't have the numbers or the
11 statistics, and maybe some of my co-op
12 guys would have it, but the majority
13 of the farmers in this state are
14 shipping to a co-op that don't receive
15 the benefits of this.

16 CHAIRMAN:

17 Well, we don't have those
18 statistics here today, so --- but I
19 think that that's --- that's a
20 question would have to be answered by
21 the expert and that, to know exactly
22 who gets what.

23 But my point is that whether
24 we're getting a million dollars out
25 there a month, we can take that

1 million dollars away and then we'll
2 have less money at the farm. So I
3 don't dispute what you're saying ---.

4 MR. ROHRER:

5 We have --- we have less money
6 for the farmers, but is this law
7 hurting the sale of our milk in this
8 state? We don't know.

9 CHAIRMAN:

10 Well, that's why we have a
11 hearing. And that's why we ask the
12 co-ops --- the co-ops, the milk
13 dealers, whoever can come in.

14 That's why it was reduced the
15 last time at our hearing, because they
16 thought it was too high.

17 And who, for us, as farmers,
18 want to see the over-order premium
19 reduced? But if we can see that
20 premium reduced to make more sell in
21 Pennsylvania milk, that's why we have
22 a hearing.

23 MR. ROHRER:

24 Yes.

25 CHAIRMAN:

1 And ---

2 CHAIRMAN:

3 That's ---.

4 MR. ROHRER:

5 --- I'm glad you guys are
6 trying to take on this very
7 challenging subject.

8 CHAIRMAN:

9 Yeah. And so it's open for ---
10 for the next hearing. Just come in
11 and say, no premium, if that's what
12 they would like to say, but ---.

13 But thank you so much for ---
14 for taking your time out of your day
15 and coming here and giving your
16 thoughts.

17 MR. ROHRER:

18 Thank you for having me.

19 CHAIRMAN:

20 Thank you so much. Yeah. Now
21 you can go back to farming, if you
22 want to.

23 MR. ROHRER:

24 Yeah, what I enjoy doing, not
25 sitting in a meeting ---.

1 CHAIRMAN:

2 All right.

3 Okay. The next witness we have
4 here is the Pennsylvania Association
5 of Dairy Co-Ops. And that will be
6 Mr. Troye. Mr. Troye, ---.

7 MR. COOPER:

8 You can call me Todd, you can
9 call me Ted. You can call me Troye,
10 whatever.

11 CHAIRMAN:

12 All right. Whatever.

13 Mr. Troye, you may have a seat
14 there and we don't need to do no
15 swearing in.

16 MR. COOPER:

17 I was going to say, it's weird
18 to sit here without having to raise my
19 right hand and promise.

20 CHAIRMAN:

21 You can say whatever you want
22 to say. We hope it's the truth,
23 but ---

24 MR. COOPER:

25 Well, ---.

1 CHAIRMAN:

2 --- you're not under oath to
3 say it isn't true.

4 MR. COOPER:

5 It's always my intent anyhow.

6 CHAIRMAN:

7 Thank you very much for coming
8 here and representing --- you can say
9 who you represent.

10 MR. COOPER:

11 All right. Thanks.

12 And Brad, thanks for coming.

13 And I will let ---. Well,
14 there is no record, so I'm just going
15 to comment that there was no
16 preconceived anything here.

17 And hearing what he had to say
18 did a lot of head shaking, because he
19 does speak for the farmers that I
20 believe in our association,
21 Pennsylvania Association of Dairy
22 Cooperatives, represents.

23 CHAIRMAN:

24 And --- and just to --- before
25 you start. We have a court reporter

1 here, so anybody that wasn't at this
2 hearing can listen to what was said
3 here today. Because there was a lot
4 of valuable information said here. So
5 you can proceed.

6 MR. MOYER:

7 So there's a record. It's just
8 not ---

9 CHAIRMAN:

10 Yeah.

11 MR. MOYER:

12 --- we're not going by formal
13 rules of evidence.

14 CHAIRMAN:

15 Okay.

16 MR. COOPER:

17 Thanks for setting the record
18 straight. I'm not an attorney.

19 CHAIRMAN:

20 All right.

21 Go ahead. Proceed.

22 MR. COOPER:

23 All right. I will. Thank you.

24 I'm just going to go ahead and
25 read what I prepared and be prepared

1 to answer --- ask some questions ---
2 answer some questions the format I'm
3 used to, so ---.

4 Thank you for the opportunity
5 to speak today on behalf of the
6 Pennsylvania Association of Dairy
7 Cooperatives, and specifically on
8 behalf of approximately 3,500
9 producers in Pennsylvania who market
10 their milk through the PADC and its
11 members.

12 My name is Troye Cooper and I'm
13 providing some brief preliminary
14 comments on behalf of the Association,
15 regarding the specific recommendations
16 for statutory changes found in the
17 Pennsylvania Department of Agriculture
18 petition filed with the Board on
19 April 5th of this year.

20 We appreciate the concerns
21 raised by the Department regarding the
22 current state of the entire
23 Pennsylvania dairy industry.

24 We are faced with unprecedented
25 market conditions that the Department

1 has outlined quite well in its
2 petition. The recent studies of Drs.
3 Novakovic, Stephenson and Nicholson
4 have highlighted some of the dynamics
5 that the Pennsylvania dairy farmers
6 are facing and will be facing in the
7 years to --- to come. We agree that
8 it is going to take some creativity,
9 innovation and real changes to come
10 out --- to be able to come out the
11 other side.

12 An adjustment to the mandated
13 over-order premium is not going to
14 make the difference that is required
15 today. Adjustments to dealer and
16 retailer costs are not going to
17 correct the problems.

18 A holistic look at the current
19 law what is intended --- what it was
20 intended to do and what some of the
21 unintended consequences of its 80 plus
22 years in existence are, is --- is
23 appropriate.

24 Today the benefits of the
25 Board's programs and the burdens of

1 the marketplace are not equitably
2 shared by all in the industry. While
3 the virtually unchanged law itself is
4 not the sole reason for the current
5 market challenges that exist today,
6 the widely dynamic marketplace has
7 evolved significantly.

8 We agree that bigger changes to
9 the law will be necessary to level the
10 playing field for all facets of the
11 dairy supply chain, while providing
12 more transparency to dairy farmers,
13 dealers and distributors and retailers
14 and consumers. This will also
15 establish a more stable backdrop to
16 regulated milk pricing going forward.

17 Today my comments will
18 specifically pertain to paragraph 15
19 licensing of retailers; paragraph 16
20 Title 2 milk; paragraph 17, reasonable
21 return, and paragraph 18, returning to
22 producers the benefit of minimum
23 wholesale pricing of the PDA's recent
24 petition.

25 Pennsylvania Association of

1 Dairy Cooperatives may provide further
2 comments on these issues or others at
3 a later date when more detailed
4 information is available concerning
5 these topics.

6 Paragraph 15, licensing of
7 retailers. The PADC supports an
8 amendment to the current law, which
9 would enable the Board to require
10 licensing of milk retailers.

11 This regulation should include
12 mandatory reporting of volumes and
13 origins of fluid milk purchased and
14 volumes of fluid milk sold by
15 retailers in Pennsylvania.

16 This would allow the Milk
17 Marketing Board and staff to quantify
18 retail sales volume information and
19 close the gap in the data, which is
20 necessary to fully understand and
21 evaluate the effects of the PMMB
22 pricing programs in Pennsylvania.

23 Any additional costs in
24 administration of the licensing and
25 data collection should be supported by

1 associated fees to those licensees.

2 The lack of such ---. And I
3 guess I'll add to that, which in the
4 current system would be recovered
5 through --- through the minimum retail
6 price. The lack of such information
7 was noted by Drs. Novakovic,
8 Stephenson and Nicholson in their
9 recent study of the Board's impact.
10 And was a significant impediment to
11 their further analysis of the impact
12 of the PMMB and its current pricing
13 regulations.

14 Title 2 milk. The issue of
15 where Title 2 raw milk passes and to
16 whom is a complex and often
17 contentious topic. When a more
18 detailed proposal becomes available,
19 Pennsylvania Association of Dairy
20 Cooperatives will review it and
21 provide any comments which we may
22 have.

23 Paragraph 17, reasonable
24 return. Pennsylvania Association of
25 Dairy Cooperatives absolutely supports

1 a fair return for our members. And
2 supports the stated objective of the
3 Milk Marketing Law to further that
4 goal.

5 In addition, the Pennsylvania
6 Department of Agriculture observation,
7 that guaranteed percentage profit
8 margins to processors and retailers
9 without a guaranteed margin to dairy
10 farmers seems unfair and is hard to
11 --- hard to dispute.

12 We would further note that
13 current PMMB programs do not treat all
14 Pennsylvania dairy farmers the same
15 and do not treat the identical
16 marketing and balancing cost of milk
17 dealers and farmer cooperatives in the
18 same manner.

19 The number one objective for
20 all milk marketing cooperatives is to
21 return as many dollars that are
22 available from the market place back
23 to their respective members.

24 Recently net returns to many
25 cooperative member dairy farmers have

1 often been less than the federal order
2 minimum price. This is partially due
3 to market premiums virtually
4 disappearing while also absorbing
5 significant increases and balancing
6 costs, often --- often selling excess
7 milk and milk products at a discount
8 to the market, or even discarding milk
9 when there's not enough capacity to
10 process the excess production.

11 PADC members have been bearing
12 the cost burden of handling accounts
13 and surpluses to meet the emergency
14 requirements of normal variations and
15 fluid consumption and to meet seasonal
16 variations in production.

17 PADC is interested in
18 evaluating all proposals which might
19 provide the PMMB with additional tools
20 to enhance fair returns to producers
21 and equitable treatment among
22 producers and between dealers and
23 cooperatives, returning to producers
24 the benefit of minimum wholesale
25 pricing.

1 It's been observed that the
2 price of a gallon milk in a
3 Pennsylvania retailer shelf is often
4 higher than in stores and surrounding
5 states. And that unfortunately this
6 retail price is ostensibly earmarked
7 for dairy farmers via the PMMB
8 over-order premium. PA consumers are
9 paying the higher price, even if the
10 raw milk delivered to the processor is
11 from farms outside the --- the
12 Commonwealth.

13 When a retailer is paid the
14 minimum price for a gallon of milk by
15 the consumer, and the raw milk was
16 produced or processed outside of
17 Pennsylvania, the retailer or
18 processor has the ability to keep the
19 premium. This is commonly called
20 stranded premiums.

21 The PADC agrees that this
22 should be reviewed by the PMMB.
23 We believe the intent of the PMMB
24 minimum retail price is for the strand
25 premium to go back to producers. PADC

1 would support proposals to address
2 this issue legislatively or be it PMMB
3 regulations or orders.

4 On behalf of the approximately
5 3,500 dairy farmers that I represent
6 today, thank you for the opportunity
7 to provide comments on these important
8 issues to --- to the Milk Marketing
9 Board.

10 CHAIRMAN:

11 All right. Thank you, Mr.
12 Cooper, for those comments.

13 And Mr. Van Blarcom, do you
14 have any questions or comments?

15 MR. VAN BLARCOM:

16 Thank you.

17 MR. COOPER:

18 Thank you.

19 MR. VAN BLARCOM:

20 No comments today. Thank you.

21 CHAIRMAN:

22 All right.

23 Ms. Bowman?

24 MS. BOWMAN:

25 I just say thank you.

1 MR. COOPER:

2 Thank you.

3 CHAIRMAN:

4 Okay.

5 I think what you have covered
6 from that has already been covered.
7 And we've talked about it, and ---.
8 And I think we, the Department, will
9 be open to thoughts on how to maybe
10 make that happen, if that's the right
11 way to do it.

12 I think that's what this
13 conversation is all about. If there
14 can be a change to make something
15 better, that's what we're interested
16 in.

17 If it's not a change that's for
18 the good of, then we're not interested
19 in talking about it. I think that's
20 the thoughts of everybody here.

21 So we appreciate you coming
22 here and giving us thoughts.

23 MR. COOPER:

24 So sometimes I feel like a
25 football coach at halftime. Right?

1 And ---.

2 CHAIRMAN:

3 Well, you know, ---.

4 MR. COOPER:

5 Do we need to make adjustments?

6 And you know, are those adjustments
7 going to be effective in the second
8 half? And I think this is --- it's
9 halftime.

10 CHAIRMAN:

11 Yeah. And then we thank, you
12 know, co-ops for everything you're
13 doing. Some think the co-ops are ---
14 are not there, and others think
15 they're very there. So it's like ---
16 I think if we didn't have the co-ops,
17 we would be in big trouble. We need
18 the co-ops.

19 We need everybody. And then
20 that's what I say. And again, we got
21 to remember that some things that may
22 be --- maybe if you could follow a
23 conversation here.

24 If we didn't have minimum
25 prices and we didn't have the PMMB, we

1 would probably lose a lot of small
2 farmers and a lot of processors.

3 So we don't want that to
4 happen. And we want to make it right,
5 whatever we can do to make it right.
6 So thank you for your comments, Mr.
7 Cooper, and everybody else that's been
8 here today.

9 And just check my notes here to
10 see if I'm missed anything.

11 Mr. Chief Counsel, can you
12 think of anything that I missed here?

13 ATTORNEY EBERLY:

14 Well, something that maybe I
15 missed. I just want to mention that
16 all the documents that were sent to me
17 are on the website as of this morning,
18 with the exception of Secretary
19 Redding's comments that were read by
20 Mr. Duer.

21 They weren't posted yet, but
22 we're ---. And that's posted on our
23 public hearings page, which is getting
24 easier to find. And you should be
25 able to find it. If you can't find

1 it, call me.

2 And everything we get will be
3 posted there. And we're looking
4 forward to getting some more stuff up
5 on there.

6 CHAIRMAN:

7 All right. Thank you, Mr.
8 Chief Counsel.

9 Ms. Bowman, do you have any
10 final comments?

11 MS. BOWMAN:

12 No. I just thank everybody for
13 taking time to come here and share
14 with us.

15 CHAIRMAN:

16 And Mr. Van Blarcom, do you
17 have any final comments?

18 MR. VAN BLARCOM:

19 Just the same. Thank everyone
20 who has taken the time.

21 CHAIRMAN:

22 And again, I want to say ---.
23 And you know, we have that meeting on,
24 let's see, May 5th --- 16 over in the
25 Farm Show Building.

1 So this might give people a
2 thought as to what they want to talk
3 about. I think this was a very
4 productive session this morning.

5 It's not very often that we can
6 come to a session and kind of just
7 share --- share your thoughts. And
8 Mr. Duer has said, you know, let's
9 talk about it, you know. Let's talk
10 about it, you know.

11 And not that we're all going to
12 be right in what we think we said, but
13 let's talk about it, so that we can
14 get something right.

15 And I want to thank the --- the
16 Department of Ag again for being
17 represented here as well. I guess Mr.
18 Hostetter had left, but he was here a
19 while. I want to thank the Dairy
20 Excellence, Mr. Allen who's here. Mr.
21 Allen, are you paying attention back
22 there?

23 Mr. Allen has been very
24 aggressive in helping farmers to try
25 and learn about the systems that maybe

1 they can make some money one way or
2 another. So I want to thank the
3 Center for Dairy Excellence for doing
4 they're doing. And it's all about the
5 farmers making money.

6 And I think that's what Allen
7 is trying to help farmers to
8 accomplish in the role of Dairy
9 Excellence. And I want to thank the
10 legislators for being here. Ms. ---
11 let's see. Ms. Bowman and Ms.
12 Denise ---?

13 MS. SCHNEIDERS:

14 Schneiders.

15 CHAIRMAN:

16 Can't hear you.

17 MS. SCHNEIDERS:

18 Schneiders.

19 CHAIRMAN:

20 All right. Thank you very much
21 for coming.

22 And do we have any more from
23 the legislators?

24 Okay. Thank you very much for
25 being here, that you can hear this

1 firsthand, you know.

2 Does anybody --- Mr. ---?

3 ATTORNEY DUER:

4 Chairman?

5 CHAIRMAN:

6 Sure.

7 ATTORNEY DUER:

8 Thank you.

9 One thing I just want to add
10 is, the Department has a comment page
11 on our website for anybody to submit
12 comments on --- their thoughts on
13 dairy pricing and the issues raised in
14 this petition or any aspect of the
15 current marked petitions. If you go
16 to our home page and you go to hot
17 topics is the --- is the --- the
18 little button to push there and then
19 there's submission of comments.

20 And I believe that not only
21 does the Department receive those
22 comments, but we're also sharing them
23 with the Milk Marketing Board.

24 CHAIRMAN:

25 All right. Thank you very

1 much.

2 And I hope at the next hearing
3 that we can have as well-rounded
4 balanced comments as we had here
5 today. I think this was very, very
6 beneficial for us and I hope for
7 everybody. So thank you very much for
8 coming.

9 And we are going to close the
10 session and hope to see you May the
11 16th.

12 * * * * *

13 HEARING CONCLUDED AT 11:07 A.M.

14 * * * * *

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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chairman Brubaker was reported by me on 05/02/2018 and that I, Samantha Bruer, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.

Dated the 26th day of May 2018


Court Reporter

Samantha Bruer