

1 Moyer has brought some remarks that he  
2 wanted to read. I don't have copies  
3 because I didn't know what it was  
4 going to look like when he came.

5 DIRECT EXAMINATION

6 BY ATTORNEY YOVIENE:

7 Q. So at this time, I'd just ask  
8 Mr. Moyer to give your remarks.

9 MR. BRUBAKER:

10 You may proceed, Mr. Moyer.

11 A. I will try my best.

12 MR. BRUBAKER:

13 Okay. That's all that matters.

14 A. I propose that the co-op  
15 proposal to get rid of the price  
16 premium ---. I am an independent  
17 farmer who ships to Clover Farms. My  
18 family's been shipping to Clover since  
19 '74. I have two brothers, currently,  
20 that are still --- me and my two  
21 brothers are currently shipping to  
22 Clover at the moment.

23 I started farming on one of the  
24 other farms in 1980. Right now, I'm  
25 milking 75 to 80 cows with my wife and

1 daughter, son. I currently farm a  
2 little over 300 acres of beans, corn,  
3 barley. I help my other brothers do  
4 their cropping. My somatic cells run  
5 in between 120 and 140.

6 I have a mixed herd of  
7 Holsteins and Brown Swiss, which have  
8 a higher butterfat milk, resulting in  
9 the Brown Swiss herd. And I'm very  
10 concerned about the proposal to get  
11 rid of the over-order price premium.  
12 If getting rid of the Overprice  
13 Premium means Clover can't recover the  
14 voluntary premiums they are currently  
15 paying me in my sale price, I do not  
16 see how they will be able to keep  
17 paying me the voluntary premium that I  
18 currently get.

19 I am required to provide a  
20 quality --- high quality milk to keep  
21 Clover's products high quality. And  
22 the premium I earn are important to my  
23 business. Please don't let this  
24 happen. It reflects my bottom line.  
25 I also think it's a bad idea to create

1 a producer mandate that allows the co-  
2 ops --- that's only for the co-op.

3 I do not think the Board should  
4 treat co-ops differently. Like, they  
5 --- their milk check looks different  
6 than others because they agreed with  
7 their co-op. If they benefit --- if  
8 the benefits they got from being a co-  
9 op are reflected on their milk check,  
10 I think the difference would not be so  
11 great. Thank you. And I have nothing  
12 more.

13 MR. BRUBAKER:

14 Okay. Thank you, Mr. Moyer.  
15 That wasn't so painful, was it?

16 A. Yes, it was.

17 MR. BRUBAKER:

18 All right. Well, we've got to  
19 have a little --- to relax you a  
20 little bit there.

21 A. I mean, I usually run a  
22 steering wheel and a joystick.

23 MR. BRUBAKER:

24 Okay. Well, we'll try to ---.  
25 Okay. Ms. Yoviene, your witness is

1 available for questioning.

2 ATTORNEY YOVIENE:

3 I don't have any questions for  
4 Mr. Moyer. If there are questions for  
5 him, he's available.

6 MR. BRUBAKER:

7 Okay. Mr. Chip English?

8 ATTORNEY ENGLISH:

9 No questions.

10 MR. BRUBAKER:

11 Okay. Now, Mr. Bell?

12 ATTORNEY BELL:

13 I'll ask one question for Mr.  
14 Moyer.

15 MR. BRUBAKER:

16 Okay. Yeah.

17 CROSS EXAMINATION

18 BY ATTORNEY BELL:

19 Q. Mr. Moyer, first of all, thank  
20 you for your testimony. And believe  
21 me, I understand how uncomfortable it  
22 is to be sitting there instead of  
23 here. So it's just a general question  
24 that I would ask you. Do you think,  
25 as a farmer, that it is important for

1 the Milk Marketing Board to provide a  
2 way for whoever a farmer milks --- or  
3 sells his or her milk to to be able to  
4 recover the costs that are involved?

5 A. Who's going to recover the  
6 costs?

7 Q. No. I mean, you testified that  
8 you're concerned that if the Overprice  
9 Premium disappeared, that Clover Farms  
10 wouldn't be able to get the money that  
11 they should through the PMMB  
12 mechanisms to ensure you get paid your  
13 premiums.

14 ATTORNEY YOVIENE:

15 So I have to object. Because  
16 his testimony states that he thought  
17 it was important already.

18 ATTORNEY EBERLY:

19 It's overruled.

20 ATTORNEY YOVIENE:

21 And it mischaracterizes ---.

22 MR. BRUBAKER:

23 I'm going to overrule that.  
24 Continue asking the question, Mr.  
25 Bell.

1 BY ATTORNEY BELL:

2 Q. Well, do you think it's  
3 important for the Board to provide,  
4 through its pricing mechanism, the  
5 ability to --- for farmers --- to  
6 provide the monies for farmers to be  
7 paid their premium?

8 A. Well, I was under the  
9 impression that all comes from the  
10 consumer, the money for the premiums.

11 Q. Right. But the mandated price  
12 that consumers pay provide the monies  
13 to retailers, who provide the monies  
14 to wholesalers, who provide the money  
15 to farmers.

16 A. Yes.

17 Q. So is it important for the  
18 Board to provide, you know, a  
19 mechanism where costs of purchase that  
20 Clover Farms, for example, incurs in  
21 providing you with a premium, that  
22 that be provided for all farmers?

23 ATTORNEY LUTKINS:

24 We would object. I mean, is a  
25 question about the over-order premium

1 which is being ---?

2 MR. BRUBAKER:

3 Overruled. Overruled. If you  
4 can answer the question, do it. If  
5 you just don't know the answer, just  
6 say that. And if you're unsure.

7 A. I feel an independent --- I'm  
8 shipping to an independent. And I  
9 feel they have a higher quality  
10 product to sell if they have these  
11 premiums that we can follow to keep  
12 our milk at a quality ---.

13 MR. BRUBAKER:

14 We don't want you to get mixed  
15 up, Mr. Moyer, or not understand a  
16 question. Can we ---? Yeah. Do you  
17 want to make it just a little plainer  
18 or easier, Mr. Bell? And if he  
19 doesn't know the answer, just say, you  
20 know, I don't know the answer.

21 ATTORNEY BELL:

22 I don't think I'll ask it. It  
23 was a bad question.

24 MR. BRUBAKER:

25 Okay. All right. And if you

1 can just answer, I don't feel  
2 comfortable answering, I don't know  
3 the answer ---?

4 A. I won't go further.

5 ATTORNEY BELL:

6 Okay.

7 MR. BRUBAKER:

8 Okay. Thank you, Mr. Bell.  
9 Thank you. Okay. We were with Mr.  
10 Bell. And now, we will go to Mr. ---  
11 well, Mr. Beshore.

12 ATTORNEY BESHORE:

13 Thank you, Mr. Brubaker.

14 CROSS EXAMINATION

15 BY ATTORNEY BESHORE:

16 Q. Good afternoon, Mr. Moyer. My  
17 name is Marvin Beshore. And I'm  
18 representing the more than 3,000 dairy  
19 farmers in Pennsylvania who are  
20 members of the cooperatives that are  
21 grouped together as the Greater  
22 Northeast Milk Marketing Agency.

23 So I want to thank you for  
24 coming and being willing to come and  
25 testify here today, also. Let me ask



1 you. When did you first become aware  
2 that there was a hearing, that this  
3 hearing was taking place? And how did  
4 you become aware that it was taking  
5 place?

6 A. I was aware through my ---.  
7 Clover Farms called and asked if I  
8 could represent, help represent them.

9 Q. Okay. And ---.

10 A. But that was six weeks ago.

11 Q. Who from Clover Farms called  
12 you?

13 A. Dennis Whitcred (phonetic).  
14 Whitcred?

15 ATTORNEY YOVIENE:

16 Wissinger (phonetic)..

17 A. Wissinger.

18 BY ATTORNEY BESHORE:

19 Q. Okay. And what did Mr.  
20 Wissinger ---? Okay. At that time,  
21 you didn't know anything about the  
22 hearing; right?

23 A. No.

24 Q. Okay. What did he tell you it  
25 was about?

1 A. Over-order pricing.

2 Q. Over-order pricing? Okay.

3 What did ---?

4 A. Over-order premiums.

5 Q. Okay. So what did that mean to  
6 you, over-order premiums? What does  
7 that mean to you?

8 A. Well, I knew that we got  
9 premiums for quality and incentive  
10 bonuses for quantity. And I knew we  
11 were getting a premium. And I knew  
12 that came from the consumer, that  
13 money.

14 Q. Okay. And it was your ---?  
15 And what did you --- what were you  
16 told that the hearing might ---? How  
17 might it impact those premiums? What  
18 were you told about that?

19 A. Depends how it goes. I might  
20 lose half of that number.

21 Q. Half of your ---?

22 A. Half or some of it. Yes.

23 Q. Okay.

24 A. I don't know what the figures  
25 are.

1 Q. Do you know presently in your  
2 milk check what the ---? Is there a  
3 line item there for over-order premium  
4 on your milk check?

5 A. Yeah.

6 Q. Okay. And do you ---?

7 ATTORNEY YOVIENE:

8 Sorry. I didn't hear his  
9 answer.

10 A. Yes.

11 ATTORNEY YOVIENE:

12 I think I know it, but I didn't  
13 hear it. Okay. Thank you.

14 MR. BRUBAKER:

15 Yeah.

16 A. Oh, I've got to talk into this?

17 MR. BRUBAKER:

18 Yes.

19 A. Thank you.

20 BY ATTORNEY BESHORE:

21 Q. Okay. And do you know  
22 approximately what portion of your  
23 milk is eligible for that over-order  
24 premium?

25 A. Twenty (20) percent.

1 Q. Are you then paid other  
2 premiums besides the over-order  
3 premium?

4 A. Yes.

5 Q. Okay. And what are they?

6 A. Well, one's a Clover Farms  
7 premium. One's a quality premium.  
8 And the other one's quantity.

9 Q. So your operation is --- your  
10 farm is 75 to 80 cows?

11 A. Yeah. I'm only a little guy.

12 Q. Do you get a volume --- a  
13 quantity premium?

14 A. Sometimes. If I'm at that  
15 borderline, I --- yes. We get a  
16 volume.

17 Q. What's the rate point on that?

18 A. I think it's 15 cents.

19 Q. And which volume do you have to  
20 achieve to ---?

21 A. I'm thinking it's 180,000.

22 Q. Per month?

23 A. (Indicates yes).

24 Q. Okay.

25 MR. BRUBAKER:

1 That would have to be oral.

2 BRIEF INTERRUPTION

3 A. Yes.

4 BY ATTORNEY BESHORE:

5 Q. Do your two brothers have ---  
6 are they in the same farming operation  
7 with you? Or are there multiple  
8 operations in your family?

9 A. No. We're all separate. We  
10 all have our own separate dairies  
11 while having farm ground together,  
12 with equipment.

13 Q. I see. Okay. So there are  
14 three separate dairies?

15 A. Exactly.

16 Q. Do each of you --- each of  
17 those separate dairies supply Clover?

18 A. Oh, yes.

19 Q. Okay. How long have you been  
20 operating the farm? Your farm.

21 A. I started in '80, 1980, my  
22 farm.

23 Q. And you said it's been shipping  
24 to Clover since '74.

25 A. My parents started the home

1 farm in '74.

2 Q. I see.

3 A. We left another dairy and went  
4 into --- we got started with Clover.  
5 And then when it was time for me to  
6 start, they wanted my milk. And my  
7 one brother took over the home farm.  
8 And I have another brother took a  
9 neighboring farm over. Between the  
10 three of us, we're milking over 500  
11 cows.

12 Q. Do you know --- well, can you  
13 tell us, if you know, roughly, what  
14 the total amount of premiums ---?  
15 When you add them all together, about  
16 how much are you paid over the  
17 minimum? Now, I'm including the over-  
18 order that's some 20 percent of your  
19 milk, plus the other premiums.

20 A. I'm not sure which one it was  
21 --- which month it was, but 75 cents.

22 Q. Do you understand that, on the  
23 80 percent of your milk that's not  
24 eligible for the PMMB premium, that  
25 there's no requirement for premiums to

1 be paid on that milk?

2 A. Yes, I am.

3 Q. Okay. And do you understand  
4 that the products that are sold with  
5 that milk don't have any required  
6 markup or regulated minimum price?

7 A. Yes. I do know that.

8 Q. So that's all subject ---?  
9 What Clover gets out of its products  
10 is completely subject to the  
11 marketplace?

12 A. Right.

13 Q. Okay. And therefore, would  
14 that follow that what they pay for  
15 that milk ought to just be subject to  
16 the marketplace, too?

17 A. I don't know the answer.

18 ATTORNEY YOVIENE:

19 Objection. I'm not clear on  
20 what milk.

21 BY ATTORNEY BESHORE:

22 Q. The 80 percent that's  
23 unregulated by this point.

24 MR. BRUBAKER:

25 If you know the answer, Mr.

1 Moyer, just ---.

2 A. I don't know.

3 MR. BRUBAKER:

4 Or if you don't know the  
5 answer, just say you don't know.

6 A. I don't know. I don't know.

7 ATTORNEY BESHORE:

8 Thank you very much, Mr. Moyer.  
9 I don't have any other questions.

10 MR. BRUBAKER:

11 All right. Thank you, Mr.  
12 Beshore. Mr. Lutkins, do you have any  
13 questions?

14 ATTORNEY LUTKINS:

15 No questions. Thank you.

16 MR. BRUBAKER:

17 Okay. Mr. Saylor, do you have  
18 a question?

19 ATTORNEY SAYLOR:

20 No questions. Thank you.

21 MR. BRUBAKER:

22 Mr. Chief Counsel, would you  
23 have a question?

24 ATTORNEY EBERLY:

25 No, thank you.



1           MR. BRUBAKER:

2           All right. How about Ms.  
3 Bowman? Oh, she disappeared. And how  
4 about Mr. Van Blarcom. Do you have a  
5 question?

6           MR. VAN BLARCOM:

7           Not really a question, but a  
8 short comment to say thank you to Mr.  
9 Moyer for coming in. And this is also  
10 for the other three farmers that are  
11 here, that farmers are some of our  
12 most credible witnesses. And I've had  
13 an opportunity to sit in that seat and  
14 I understand how you feel. And I  
15 appreciate your taking the time to  
16 come here today.

17 A.       You're welcome.

18           MR. BRUBAKER:

19           All right. Thank you, Mr. Van  
20 Blarcom. Mr. Moyer, I have a  
21 question. And I think you came here  
22 to this hearing today --- or I'm going  
23 to ask a question. Did you come here  
24 to the hearing today to make sure that  
25 you don't have any less money that ---

1 for the decision that we make, that  
2 you don't have less money in your milk  
3 check?

4 A. That's right.

5 MR. BRUBAKER:

6 Is that why you're here today?

7 A. Yeah. I've got to have all I  
8 can get.

9 MR. BRUBAKER:

10 Okay. All right. We're going  
11 to start over again with Ms. Yoviene.

12 ATTORNEY YOVIENE:

13 Thanks.

14 REDIRECT EXAMINATION

15 BY ATTORNEY YOVIENE:

16 Q. I just wanted to go through the  
17 premiums that are on your milk check.  
18 Just you had said a number that didn't  
19 resonate with me. Your Clover  
20 premium, do you recall what that was  
21 for the milk check you were thinking  
22 about?

23 A. Well, it was 15 cents.

24 Q. Okay. And your quality  
25 premium, do you recall what that was

1 for the milk check you were thinking  
2 about?

3 A. Either 25 cents or 35 cents.  
4 It depends where I fall in.

5 Q. Okay. But those are two  
6 typical numbers you can get from your  
7 somatic cell count?

8 A. Yes.

9 Q. Okay. And your volume premium,  
10 do you recall from the check you were  
11 thinking about what that was?

12 A. That was ten cents.

13 Q. And you understand that those  
14 premiums, Clover ---? Well, those  
15 premiums are not part of the over-  
16 order premium; right?

17 A. Yes.

18 Q. And then just --- what is your  
19 Pennsylvania mandated premium that you  
20 see on your milk check?

21 A. Forty-three (43) cents.

22 ATTORNEY YOVIENE:

23 Okay. That's all. Thank you.

24 MR. BRUBAKER:

25 All right. Thank you, Ms.

1 Yoviene. Mr. Chip English, do you  
2 have any?

3 ATTORNEY ENGLISH:

4 No questions, Mr. Chairman.

5 MR. BRUBAKER:

6 All right. Mr. Bell?

7 ATTORNEY BELL:

8 Nothing. No.

9 MR. BRUBAKER:

10 All right. Mr. Beshore?

11 ATTORNEY BESHORE:

12 Just one follow-up.

13 RE CROSS EXAMINATION

14 BY ATTORNEY BESHORE:

15 Q. Are you required to sign an  
16 rBST-free affidavit?

17 A. Oh, yes.

18 Q. So that's part of the  
19 arrangement with Clover?

20 A. Yep.

21 ATTORNEY BESHORE:

22 Thank you.

23 MR. BRUBAKER:

24 All right. Mr. Lutkins?

25 ATTORNEY LUTKINS:

1 No questions. Thank you.

2 MR. BRUBAKER:

3 Mr. Saylor?

4 ATTORNEY SAYLOR:

5 No questions. Thank you.

6 MR. BRUBAKER:

7 Mr. Chief Counsel?

8 ATTORNEY EBERLY:

9 No, thank you.

10 MR. BRUBAKER:

11 Mr. Van Blarcom?

12 MR. VAN BLARCOM:

13 Nothing.

14 MR. BRUBAKER:

15 All right. I think we --- do

16 we need to go around again, since

17 you ---?

18 ATTORNEY YOVIENE:

19 No.

20 MR. BRUBAKER:

21 Okay, everybody. Okay. Well,

22 I just want to thank you, Mr. Moyer,

23 for coming here. And you did a good

24 job. And you can go back to milking

25 cows and driving tractor and feeling

1 comfortable in what you're doing.

2           And the other thing is, you're  
3 not a small farmer. You know, when  
4 you have 75 or 80 cows, you're a  
5 little bit above the average. So  
6 that's not a small farm. That's a  
7 strong average farmer of Pennsylvania.  
8 And we need every strong farmer,  
9 regardless of the size, in --- and  
10 that we have a dairy farmer in  
11 Pennsylvania. So look out for  
12 yourself.

13 A.       Dairy family farms. We need  
14 family farms.

15           MR. BRUBAKER:

16           And he's exactly right.

17 A.       And them are going by the  
18 wayside.

19           MR. BRUBAKER:

20           Well, thank you very much for  
21 coming. And you may be excused from  
22 the witness chair. And now, we'll  
23 bring the ---.

24 A.       Thank you.

25           MR. BRUBAKER:

1           You may be excused. And we  
2 will bring three more farmers to the  
3 witness chairs right now. And that  
4 will be Rodney Smyser, Terry Inch and  
5 Connie Troutman. If you'll come right  
6 here to the witness chairs? If you  
7 would just stand behind your chair,  
8 please, until we get you ---.

9           ATTORNEY EBERLY:

10           Andy, can they have your  
11 microphone? Andy, can they have your  
12 microphone?

13           ATTORNEY SAYLOR:

14           Yeah.

15           MR. SMYSER:

16           I think we have name cards.

17           ATTORNEY EBERLY:

18           Yes.

19           MR. BRUBAKER:

20           Oh, yeah. Please put the name  
21 card here, because if they ask  
22 questions, we'll know who's who except  
23 for Ms. Troutman.

24 BRIEF INTERRUPTION

25           MR. BRUBAKER:

1 All right. I'm going to swear  
2 or affirm you in one at a time. So  
3 Mr. Smyser, would you raise your right  
4 hand, please? Again, you're feeling  
5 out of your comfort zone. But that's  
6 okay. Raise your right hand.

7 -----  
8 RODNEY SMYSER, HAVING FIRST BEEN DULY  
9 SWORN, TESTIFIED AS FOLLOWS:

10 -----

11 MR. BRUBAKER:

12 You may have a seat. And then  
13 we will identify --- we will get your  
14 identification after you're all in  
15 your seats. All right. Mr. Inch,  
16 would you raise your right hand,  
17 please?

18 -----

19 TERRY INCH, HAVING FIRST BEEN DULY  
20 SWORN, TESTIFIED AS FOLLOWS:

21 -----

22 MR. BRUBAKER:

23 All right. You may have a  
24 seat. All right. Ms. Inch ---.

25 MS. TROUTMAN:



1 Troutman.

2 MR. BRUBAKER:

3 Oh, sorry about that.

4 ATTORNEY EBERLY:

5 Don't tell Mrs. Inch.

6 MR. BRUBAKER:

7 Oh, okay. I'm sorry.

8 -----

9 CONNIE TROUTMAN, HAVING FIRST BEEN  
10 DULY SWORN, TESTIFIED AS FOLLOWS:

11 -----

12 MR. BRUBAKER:

13 All right. You may have a  
14 seat, please. All right. Would you  
15 identify yourself by your name and  
16 your address and who you're  
17 representing here today? You can do  
18 one after the other. And then I won't  
19 speak again.

20 MR. SMYSER:

21 Okay. My name is Rodney  
22 Smyser. My address is 2790 East  
23 Berlin Road, York, PA 17408. And I'm  
24 representing Lanco.

25 MR. BRUBAKER:

1           Okay. Mr. Inch?

2           MR. INCH:

3           My name is Terry Inch. My  
4 address is 369 Bermudian Creek Road,  
5 East Berlin, PA. And I'm representing  
6 Lanco also.

7           MR. BRUBAKER:

8           Okay. And Ms. Troutman?

9           MS. TROUTMAN:

10          Connie Troutman, 590 Railroad  
11 Road, Mohrsville, PA 19541. And I'm  
12 representing my farm in Maryland  
13 Virginia.

14          MR. BRUBAKER:

15          All right. Well, thank you  
16 very much, farm friends, for coming  
17 out here. And as I said, relax and  
18 enjoy the moment. We'll try and be as  
19 easy on you as we can. And as I said  
20 before, if you don't know the answer,  
21 just say I don't know or I --- so ---.  
22 All right. I'm going to ---.

23          ATTORNEY EBERLY:

24          The ground rules.

25          MR. BRUBAKER: