

**Pennsylvania Milk Marketing Board Hearing Testimony**

**J. Michael Eby**

**On behalf of the National Dairy Producers Organization**

**Pennsylvania Department of Agriculture Building**

**February 28, 2017**

To the members of the Board:

My name is Mike Eby. I am a retired seventh-generation dairy farmer from Lancaster County, having sold my cows in March 2016. I currently serve as Chairman of the National Dairy Producers Organization (NDPO). The goal of NDPO is dairy producer profitability for sustainability.

The biggest single threat to producer profitability is depressed milk prices due production in excess of profitable demand (See Exhibit A). We have long advocated that cooperatives take control of this situation by instituting an across-the-board reduction in the amount of milk accepted from each producer (See Exhibit B). We commend Land-o-Lakes for recently instituting a base program in the Northeast, which allows them to discourage excess milk production when an oversupply situation exists. (See Exhibit C). Under this program, individual producers have the opportunity to avoid steep losses in their pay price by keeping their production at prescribed levels.

In contrast, Dairy Farmers of America (DFA) and Dairy Marketing Services (DMS), their marketing arm handling much of the milk in the Northeast (See Exhibit D), have chosen a different route. Instead, they are reaching out to government agencies for special permissions and interpretations which would allow them to bypass programs that were intended to provide stability and fairness in milk pricing to dairy farmers. In particular, DFA/DMS is seeking a relaxation of restraint in de-pooling provisions in Federal Order 1 (See Exhibit E). NDPO strongly OPPOSES such a change in the implementation of de-pooling provisions (See Exhibit F). DFA/DMS has threatened that without this de-pooling, many smaller dairy producers will lose their markets (See Exhibit G). We view this as a continued refusal to responsibly manage their raw milk supply, simply shifting their strategy from dumping milk to dumping dairy farmers

De-pooling of milk is destructive and destabilizing to producer pay price. Interestingly, DFA's own employee, Elvin Hollon stated in 2012, "I am not aware of any de-pooling decisions that were made to clear the market. They were made for income enhancing reasons, not to clear a market of distressed milk." (See Exhibit H). This "income enhancement" is not returned to producers in the area in which the de-pooling occurs in an amount that compensates for the resulting suppression of pay price. Hollon has reported the negative effects of de-pooling at multiple Federal Order hearings...most recently on September 22, 2015 in Clovis, CA (See Exhibit I). On page 10 he states, "While the pooling terms of each Order stand on their own and are developed to meet the needs of the particular Order, there is consensus in the industry that completely unrestrained de-pooling destabilizes the marketplace, is not orderly and should not be allowed." In our view, this destabilization of the marketplace resulting from increased de-pooling goes directly against the function of the PMMB stated on their website page <http://www.mmb.pa.gov/Pages/History.aspx> which states, "Today, the MMB is an independent administrative agency designated to create stability in the marketing of milk by giving dairy farmers a fair and equal opportunity to market their milk."

DFA/DMS has a history of pursuing anticompetitive practices, which have led them to become a defendant in multiple lawsuits (See Exhibit J). While they have settled some, others are still active or are under appeal. By allowing special provisions for them to engage in de-pooling, we believe PMMB would be aiding and abetting this anticompetitive behavior. Does PMMB want to risk the liability of being held accountable for such a choice?

NDPO believes that gaming government programs is not the answer to achieving profitability for dairy farmers or their cooperatives. Preservation of our existing dairy farmers and infrastructure should be the priority, and this can only be achieved by producing to profitable demand. Please deny DFA/DMS request regarding classification and marketing of milk.