

PFB EXHIBIT 1

**Testimony Offered for
Pennsylvania Farm Bureau
Before the Pennsylvania Milk Marketing Board
Regarding the Existence, Level, and Duration
of the Class I Over-Order Premium**

August 30, 2022

**Presented by David Graybill
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Chairman Barley and Members of the Board:

My name is Dave Graybill, and I offer this testimony on behalf of the Pennsylvania Farm Bureau (PFB)—the state’s largest general farm organization. PFB represents farmers of every commodity and size, including dairy farmers, which make up PFB’s largest producer segment. Farm Bureau would like to thank the Pennsylvania Milk Marketing Board (PMMB) for providing the opportunity to offer testimony regarding the existence, level, and duration of the over-order premium. The main objective of our testimony today is to offer support for a fundamentally fairer premium mechanism.

I currently serve on Pennsylvania Farm Bureau’s Executive Committee and Board of Directors, representing District 10, which is comprised of Huntingdon, Mifflin, Perry and Juniata Counties. In 2020, I was appointed to chair Farm Bureau’s State Dairy and Farm Policy Committee. With my wife Marie, I operate Red Sunset Farms in Juniata County where we produce corn, soybeans, hay and small grains on roughly 400 rented acres. We recently made the incredibly difficult decision to sell our cows, but for over 22 years, we proudly milked around 64 registered Holsteins, as well as raising 60 replacement heifers. We marketed our milk to Maryland & Virginia Milk Producers Cooperative Association. As Chair of PFB’s dairy committee, though, I remain highly involved with the dairy industry

through regular contact with dairy farmers across Pennsylvania and bring many of their collective concerns to bear in our testimony.

Premium Structure

Pennsylvania Farm Bureau supports the concept of a premium pricing mechanism that meets the three elements outlined by the Pennsylvania Department of Agriculture (PDA): (1) premium dollars must be uniformly distributed among all Pennsylvania dairy producers; (2) the amount charged to Pennsylvania consumers must not be substantially more than what is distributed back to Pennsylvania dairy farmers; and (3) the distribution system must not provide incentives for “shell games” by which payment of the premium to Pennsylvania dairy farmers can be avoided by purchasing or selling milk across state lines. Unfortunately, like PDA, we believe the present over-order premium structure falls short on these counts.

As a result, PFB’s official policy supports eliminating the over-order premium and replacing it with a surcharge per gallon of milk sold at retail with even distribution among all Pennsylvania dairy farmers. Yet, while the details matter, we believe it’s more critically important to provide context as to what led to Farm Bureau’s stance and why we view PDA’s approach as aligned with the spirit of our policy.

Last November, after years of frustration, Pennsylvania Farm Bureau delegates voted to support eliminating the over-order premium. Underlying this decision, our members felt that the over-order premium meaningfully helped only a small segment of Pennsylvania dairy farmers, created the potential for consumer confusion, encouraged logistical practices that undermined support for the premium among dairy farmers, that market forces and trends towards consolidation would continue regardless of the viability of the premium, and that federal milk market reform would play a much more meaningful role in economic change for dairy farmers. Nonetheless, we believe that a premium structure as outlined by PDA would get to the root of what led to our policy position and therefore fully support PDA's position.

Regarding the first element, in our view, even a conservative estimate of the limited data that's publicly available demonstrates the inequality of the current premium distribution. Per the PMMB's newsletter entitled "About OOP and Minimum Pricing," (<https://bit.ly/3d1mNL5>) during the first six months of 2021, \$2,918,482 was paid to 641 independent producers (out of a reported 1,047 independent farms), averaging \$4,553 per farm. In contrast, cooperatives received \$3,619,636 during the same time frame. For 2021, USDA estimates that there were 5,200 licensed dairy operations in Pennsylvania (<https://bit.ly/3SdovZQ>). So,

utilizing an estimate of 4,000 cooperative-member dairy farms would equate an average of \$904 per farm for the same term—a marked difference from \$4,553.

We understand the precise calculation is more complex and that multiple factors such as cooperatives increased use of non-Class I milk, actual production numbers of farms, and the inability of the PMMB to dictate how cooperatives distribute premium payments to their members are at play, but the simple and undeniable take away is this: there's a drastic discrepancy and inequity between premium payments received among Pennsylvania dairy farmers. This discrepancy ferments dissension within the dairy industry and consequently undermines support for the premium. The dairy farmers that receive meaningful premium dollars undoubtedly support the present system, but the dairy farmers that receive little to no support from the system range from indifferent to openly hostile toward the system. As such, regardless of what shape or mechanism is ultimately used, our essential recommendation is that premium dollars be pooled and uniformly distributed among Pennsylvania dairy farmers.

As to the second element, while we lack the expertise or data to offer an opinion as to what constitutes a “substantial discrepancy” between what consumers are actually charged and what gets distributed back to dairy farmers, we agree with the premise that any premium structure should instill a level of confidence in

Pennsylvania consumers that higher retail milk prices are meaningfully paid back to Pennsylvania dairy farmers. Fairness is a two-way street.

Relatedly, as to the last element, regardless of whether “logistical legal loopholes” or simply sound economic behaviors are the primary motivating factor, the undisputed result is that a portion of the premium that’s collected at retail is never actually distributed back to Pennsylvania dairy farmers. As alluded to, every gallon of milk purchased in Pennsylvania functionally includes the over-order premium by way of the Pennsylvania minimum milk retail price. So, although the cost is assessed for every retail purchase, merely buying milk from out-of-state or shipping Pennsylvania milk out-of-state to be processed avoids a requirement to distribute the already-collected premium back to Pennsylvania farmers.

Admittedly, the issue is complex and exacerbated by a lack of sales data, commerce clause limitations, and rational milk supply balancing, but irrespective of ultimate intent, the practical result that some of the premium does not actually make its way back to Pennsylvania dairy farmers further undermines support for the premium. *See* Pennsylvania Legislative Budget and Finance Committee Dairy Industry Study Report, at 108 (“This practice is perfectly legal, but it goes against the purpose of the OOP, which is to aid Pennsylvania dairy producers. By all accounts, we know that this occurrence does happen to some extent ...”),

<https://bit.ly/3vyyyyO>. Combined with the inequitable distribution nature

previously discussed, and it's evident why so many dairy farmers have lost faith in the premium's future viability.

Conclusion

Pennsylvania Farm Bureau supports PDA's criteria to enact a fairer premium structure for all stakeholders. While we may quibble on some of the details, the fundamental elements raised by PDA bear directly on remedying farmers' frustrations about the premium, and we therefore stand ready and willing to work with any party interested in developing a system aimed at accomplishing such ends. Finally, as noted by PDA, some amount of time will undoubtedly be needed to implement such central changes. While we do not offer a specific deadline for replacement, we agree that the premium cannot continue indefinitely in present form and request that the Board act as quickly as possible to implement and, if constrained, coordinate, the needed changes.