

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
AGRICULTURAL AND RURAL AFFAIRS COMMITTEE

* * * * *

PUBLIC HEARING IN RE: DAIRY

* * * * *

BEFORE: Mike Hanna, Chairman
David Kessler, Vice Chair, Mike Carroll,
Richard Mirabito, Joseph Preston, Tim
Solobay, Tim Mahoney, Nick Kotik, Deborah
Kula, Tim Harhai, Pete Daley, John Maher,
Michele Brooks, Gordon Denlinger, Members

HEARING: Monday, August 24, 2009
Commencing at 1:00 p.m.

LOCATION: Penn State Fayette - Eberly Campus
Maggie Hardy Magerko Auditorium
One University Drive
Uniontown, Pennsylvania

WITNESSES: Joseph Segilia, Rick Ebert, John Piwowar,
John Frey, Keith Bierly

Reporter: Kelly L. Bedor

Any reproduction of this transcript
is prohibited without authorization
by the certifying agency

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TESTIMONY

By Joseph Segilia	4 - 10
By Rick Ebert	10 - 20
By John Piwowar	20 - 50
By John Frey	50 - 77
By Keith Bierly	77 - 114

DISCUSSION AMONG PARTIES	114 - 118
--------------------------	-----------

P R O C E E D I N G S

CHAIRMAN HANNA:

1
2 -----
3
4 The hour of one o'clock having come and
5 gone, we are going to call this meeting of the House
6 Agriculture Committee to order. I'd like to start by
7 introducing myself. I am Representative Mike Hanna,
8 in the 76th District, which is all of Clinton County
9 and portions of Centre County in the north central
10 part of the state. I have the honor of chairing
11 committee along with John Maher. John just called a
12 few minutes ago, but he should be coming in the door
13 any moment. He urges us to go ahead and get started
14 and he will join us when he got here.

15 Let me call on our host, Representative
16 Deborah Kula, for some introductory comments.

REPRESENTATIVE KULA:

17
18 Thank you, Chairman. And I thank you for
19 convening this meeting here today. This public
20 hearing that is so important to this area. As Mike
21 indicated, I am Deborah Kula. I am the Representative
22 here in the 52nd District and it is my great honor to
23 have Penn State Fayette Eberly Campus here in my area
24 and to welcome all of you.

25 This meeting has come about from

1 constituents contacting me concerning the dairy
2 farmers in this area and Chairman Hanna was very kind
3 and gracious in scheduling this public hearing to
4 afford everyone an opportunity to hear the testimony
5 firsthand from the testifiers here today.

6 I thank all of you for being here today.
7 I especially have to thank this committee. A number
8 of the members have driven great distances to be here
9 today, but they also know the importance of the issue
10 that we're dealing with. But again, I thank you,
11 Chairman Hanna, for this opportunity.

12 CHAIRMAN HANNA:

13 Thank you. Next, I'd like to call on
14 Joseph Segilia, who is the Director of Outreach and
15 Continuing Education here at Penn State, Penn State
16 Fayette. Joe.

17 MR. SEGILIA:

18 Thank you. Good afternoon, everyone.
19 It's my pleasure to open today's program on behalf of
20 our Chancellor, Dr. Emmanuel Osagie, who unfortunately
21 is not able to join us today. So, on behalf of
22 Dr. Osagie and our Penn State Advisory Board, our
23 facility, our staff and our students, welcome to our
24 campus. Welcome to Penn State Fayette, the Eberly
25 Campus.

1 A lot of times when we do these events, I
2 like to see if we have any new people here. Is
3 anybody here for the first time, other than
4 legislators? Anybody here from the area? Well,
5 welcome. It's nice to see you and hope you come back
6 and visit us often.

7 Penn State Fayette is very fortunate to
8 have such a wonderful entity to exist as this facility
9 is in Fayette County we will appreciate our local
10 supporters who have helped us and our legislators who
11 have helped us build this wonderful theater. We
12 encourage all of you to consider coming here to use
13 this facility for your use in the future. One of the
14 important public service rules that Penn State
15 University plays in our Commonwealth is to provide a
16 pathway to our educational opportunities in
17 educational outreach. We do that in a number of ways.
18 Through our degrees, through our certificate
19 programming, through work place development
20 initiatives and especially for information on the
21 issue for which we're here today. Today, Pennsylvania
22 House of Representatives Agricultural and Normal
23 Affairs Committee is one example of that important
24 role that we play. Legislation and related issues
25 which impact the agricultural community are very

1 important to our area and we appreciate the
2 opportunity to work with state legislature and
3 Representative Hanna's office, who have been
4 wonderful, by the way, to help put this hearing
5 together.

6 I would also like to thank our
7 Representative Kula for considering this event and to
8 the other legislatures and elected officials who are
9 here today. Thank you for your continuing support on
10 our campus efforts. I hope today's event will provide
11 meaningful information for the legislature so that
12 those important issues facing rural Pennsylvania can
13 be addressed. And I'm really overwhelmed to see what
14 a great turn out of legislators and we really
15 appreciate you taking the time to come here and listen
16 to our meeting. Again, both welcome and please let me
17 know if we can do anything to make your stay in
18 Fayette much more meaningful. Thank you.

19 CHAIRMAN HANNA:

20 Thank you very much, Joe. And thank you
21 Penn State. We really appreciate the opportunity to
22 be here. Now, I'd like to let our panel introduce
23 themselves. So we'll start on my far right with
24 Representative Mirabito.

25 REPRESENTATIVE MIRABITO:

1 Representative Rick Mirabito, from the
2 83rd District Williamsport, Lycoming County.

3 REPRESENTATIVE KOTIK:

4 Representative Nick Kotik, 45th
5 Legislative District, Allegheny County.

6 REPRESENTATIVE SOLOBAY:

7 Tim Solobay. I'm from the 48th District
8 in Washington County.

9 REPRESENTATIVE KULA:

10 Debbie Kula, 52nd District, Fayette and
11 Westmoreland County.

12 REPRESENTATIVE BROOKS:

13 Michele Brooks. Representative from the
14 17th Legislative District, which represents a portion
15 of the Mercer, Crawford and Lawrence County, also a
16 very strong agricultural area. And I'd also like to
17 thank the Chairman and Representative Kula for
18 convening this meeting today.

19 MR. HOWES:

20 Jay Howes, policy.

21 MS. LAURET:

22 Alycia Lauret, research analyst.

23 REPRESENTATIVE PRESTON:

24 Representative Joe Preston, 24th
25 District, Allegheny County.

1 REPRESENTATIVE CARROLL:

2 Representative Mike Carroll, from Luzerne
3 and Monroe Counties.

4 REPRESENTATIVE KESSLER:

5 David Kessler, from the 130th District of
6 Berks County, where over the last ten years we have
7 felt enormous pressure from the Philadelphia area and
8 King of Prussia area, but Berks County is still a
9 thriving County for farming where we preserve
10 approximately 55,000 acres through the state program.

11 REPRESENTATIVE DALEY:

12 I don't think we have a microphone that
13 works. So I'll just --- Representative Pete Daley,
14 Fayette and Washington County, former Democrat Chair
15 of the Ag Committee and the current Democratic Chair,
16 Majority Chair of the House Commerce Committee.

17 REPRESENTATIVE MAHONEY:

18 Tim Mahoney, Fayette County,
19 51st District.

20 CHAIRMAN HANNA:

21 Thank you all for being here. I
22 appreciate the turn out from the members and I think
23 that reflects our tremendous interest in this. Before
24 we begin, I would like to take this opportunity to
25 again thank Penn State Fayette for hosting us today.

1 On behalf of the entire House Agricultural and Rural
2 Affairs Committee, I would like to thank you all for
3 being here to discuss an issue that is vital to our
4 state's economy. Agriculture is our state's largest
5 industry. It plays a major role in each and every
6 Pennsylvanian, whether they know it or not, because
7 the people in this industry produce much of what we
8 eat and drink every day.

9 A crucial member of the agricultural
10 family, Pennsylvania's dairy industry, supports more
11 than 40,000 jobs and contributes more than \$4 billion
12 annually to the state's economy. However, this
13 industry is not immune to the economic crisis that is
14 fighting much of our nation. Dairy farmers throughout
15 the state are dealing with historically low milk
16 prices. They are being paid approximately 40 percent
17 less for the product than they were just one year ago.
18 With the cost of heat and fuel continuing to rise,
19 dairy farmers throughout Pennsylvania are having a
20 hard time making ends meet.

21 Our dairy market in Pennsylvania is in
22 crisis. We risk losing our valuable dairy farmers
23 unless we provide support to help them maintain their
24 businesses and their trade. It is my sincere hope
25 that this public hearing will help us begin doing just

1 that. We have an excellent panel here today that will
2 bring light to many of the current issues facing dairy
3 farmers in Pennsylvania and I would like to begin by
4 introducing Rick Ebert, Vice President of the
5 Pennsylvania Farm Bill. And Rick will be our first
6 presenter. While Rick comes up to the podium, let me
7 remind everyone when we get to the questions it's
8 important that you identify yourself before you begin
9 the question. Of course, as always, this hearing is
10 being recorded. We have a stenographer over here and
11 she needs to know who is speaking when questions are
12 asked. So please, before you ask a question, identify
13 yourself so we can make a complete record of this
14 hearing. And with that, we'll turn to Rick for his
15 opening comments. Rick?

16 REPRESENTATIVE EBERT:

17 Thank you. Good afternoon. This
18 testimony is offered on behalf of the Pennsylvania
19 Farm Bureau, an organization representing nearly
20 47,000 farm and rural family members in 63 counties.
21 My name is Richard Ebert. My brother and I operate
22 Wil-Mar-Re Farms in Westmoreland County. We formed
23 our partnership in 1982, after I graduated from Penn
24 State with a BS in Dairy Production and a minor in Ag
25 Education. My brother has an Associate's Degree in Ag

1 Business Management.

2 Today, we milk approximately 80
3 Holsteins, and farm corn, alfalfa hay, and soybeans.
4 Seventy-five (75) percent of our income comes from our
5 dairy operation. In addition to our on-farm
6 activities, I am the Vice President for Pennsylvania
7 Farm Bureau and also serve as the Chairman for PMMB's
8 Dairy Committee. Farm Bureau would like to thank
9 Chairman Hanna, Minority Chairman John Maher and the
10 members of the House Ag and Rural Affairs Committee
11 for the opportunity to testify today. As you will
12 hear, dairy farmers are currently suffering through
13 one of the worst periods of dairy prices in memory.

14 Reduced demand for exports, excess milk
15 and dairy product supply and high feed and energy
16 costs have created a perfect storm within the dairy
17 industry driving prices so low that the very survival
18 of dairy farmers is threatened. And I think it is
19 important to give you a bit of perspective on how the
20 last few years have affected dairy farmers. In 2006,
21 milk prices were extremely low, straining dairy
22 farmers' budgets to the limit and forcing us to make
23 difficult decisions around the farm. For example, we
24 might consider how much we could reduce our fertilizer
25 usage without a significant reduction in our crop

1 output.

2 As milk prices climbed in 2007, and much
3 of 2008, we tried to get caught up on the bills and
4 where possible make improvements around the farm.
5 However, higher input costs quickly offset the gains
6 from strong milk prices and we are again facing hard
7 decisions. On my farm, I have seen an average
8 increase of 20 percent in prices of alfalfa hay, feed
9 concentrate and roasted soybeans per ton when
10 comparing prices between 2007 and 2009. During that
11 period, seed prices increased an average of 30
12 percent, fertilizer prices as much as 125 percent and
13 chemicals reduced in cost by an average of 126
14 percent.

15 Those increases are even more troubling
16 when considering that the gross value of my milk check
17 decreased by 41 percent, plummeting from \$21.63 per
18 hundredweight in July of last year to \$12.77 per
19 hundredweight in July of 2009. The margin between the
20 price received and input costs is critical. Milk
21 prices must be higher than input costs for farmers to
22 see positive returns. Now, as margins are seriously
23 in the red, we are seeing farmers selling off cows and
24 their farms and going out of business. This not only
25 has consequences on the farmer and their family, but

1 on the local economy and the agricultural
2 infrastructure as well.

3 Making this situation even worse is the
4 fact that we're in a global economic recession.
5 Credit is tighter, a grim prospect for farmers on the
6 bubble who may not be credit worthy enough for loans
7 from the bank. Today, my son Josh is starting his
8 junior year at Penn State as an animal science major.
9 Though he has always helped on the farm, this summer
10 he wanted to gain hands on experience in the complete
11 workings of our dairy operation. He started every
12 morning at 5:30 with the morning milking and worked
13 until we finished anywhere between 7:30 and 9:30 in
14 the evening.

15 During this summer he truly enjoyed the
16 work as he learned about cow management and the farm's
17 cropping program. Josh also gained some real serious
18 lessons on-farm finances and experienced the
19 frustration of having such low milk prices coupled
20 with high input costs. He saw that even though his
21 uncle and I have a low debt loan because we worked the
22 past 27 years to pay down debt, our farm's cash flow
23 has tightened dramatically.

24 I truly believe that the worst may be yet
25 come to the dairy industry, unless we see some relief

1 in either higher milk prices or government payments.
2 I've read estimates that say dairy farmers are losing
3 between \$100 and \$300 per cow per month. Based on
4 Pennsylvania's average sized herd of 68 cows, at \$100,
5 that's \$6,800 per yearly loss per cow or \$80,000. At
6 \$300 it's over \$228,000 a year loss. Farmers are
7 borrowing money against any equity that they have or
8 using revolving credit lines for their daily operating
9 expenses. And that's only if they have access to
10 additional credit. The situation is very serious for
11 dairy farmers.

12 We appreciate the House Ag Committee
13 drawing further attention to this issue, and we also
14 recognize the dairy policy is largely a federal issue.
15 At the same level, we've work closely with the
16 Pennsylvania Milk Marketing Board and Center for Dairy
17 Excellence in supporting measures which help
18 Pennsylvania's dairy industry. There has been much
19 discussion regarding what should be done to help dairy
20 farmers weather this economic downturn, and most in
21 the industry agree that there needs to be both short
22 and long term solutions in the dairy crisis.

23 For the short term it means putting more
24 money in the hands of the dairy farmers as soon as
25 possible through the increases in programs like the

1 Milk Income Loss program and raising payment levels in
2 the dairy price support program. In the long term,
3 Farm Bureau seeks a market oriented national dairy
4 program which is consistent with a worldwide fair and
5 open trade policy, modification in the federal order
6 to increase prices paid to dairy farmers, reduced
7 volatility in the market place and an expansion of
8 opportunities in both domestic and international
9 markets.

10 As a dairy farmer, I am very worried
11 about the future of the dairy industry in the United
12 States, in Pennsylvania and on my own farm. I
13 question how farmers many of whom have not
14 economically recovered from the effects of 2006's low
15 milk prices will make it through this severe economic
16 downturn. I wonder how my brother and I will manage
17 as depressed prices and increased costs continue.

18 And perhaps worst of all, I question if
19 my farm will survive long enough to be passed on to my
20 son, Josh, who, despite the challenges we are both
21 facing on the farm and industry, wants to become a
22 part of our family's dairy tradition. Josh and I both
23 know that the future is uncertain. Thanks again for
24 allowing me to testify today and I would welcome any
25 questions you have.

1 CHAIRMAN HANNA:

2 Thank you, Rick. We'll start with
3 questions and let me start. Could you tell us what
4 the single most important thing we could do on the
5 state level to support dairy farmers might be?

6 MR. EBERT:

7 Basically, I would think what you could
8 probably help us most would be to encourage federal
9 legislation out there. Right now, Senator Gillibrand
10 from New York has a Bill 1330 that would double MILC
11 payments. So we could get Pennsylvania's delegation
12 to write letters in support of the legislation and get
13 that passed. I think that would be a quick infusion
14 of cash back on the farm to keep the farm going.

15 REPRESENTATIVE HANNA:

16 Representative Brooks is next.

17 REPRESENTATIVE BROOKS:

18 Representative Hanna had touched upon the
19 Milk Income Loss Contract, but if you can elaborate on
20 that program and how you feel that that could balance
21 out the market and, you know, what your comments are
22 regarding that?

23 MR. EBERT:

24 Milk Income Loss, the MILC program, when
25 prices get to a certain point the trigger price is

1 \$15.94 and the feed adjustor in the farm bill. It
2 makes up the difference between those prices for us,
3 but part of the problem is there is a limit of
4 2.9 million pounds of milk. So when a farm reaches
5 that level they're excluded from any other payments.
6 So any farm that is over 125 cows, they will run out
7 of their MILC payment and they're left with nothing at
8 all right now. Senator Gillibrand's bill would double
9 that payment. And I think that would be, like I said,
10 just a nice infusion of money back into the dairy
11 economy to keep farmers going.

12 REPRESENTATIVE BROOKS:

13 Okay. Thank you. And just as a follow
14 up, I understand that we're talking about the federal
15 level, but specifically on a state level, what would
16 you like to see done other than talking with
17 delegation? What do you feel we can do?

18 MR. EBERT:

19 Well, support with the Milk Marketing
20 Board.

21 REPRESENTATIVE BROOKE:

22 Right, which is a federal program.

23 MR. EBERT:

24 No. The Milk Marketing Board, whatever
25 support they can give. Also, the Center of Dairy

1 Excellence is working, you know, with project teams to
2 try to help farmers, you know, look at their budget
3 and see what can be done. And unless you want to
4 bring money.

5 REPRESENTATIVE BROOKE:

6 That only happens on the federal level.
7 Thank you.

8 CHAIRMAN HANNA:

9 And before we can continue with
10 questions, we've had two additional Representatives
11 join us. Representative Harhai, would you like to
12 introduce yourself?

13 REPRESENTATIVE HARHAI:

14 Thank you. Representative Ted Harhai,
15 58th Legislative District, Fayette and Westmoreland
16 County.

17 CHAIRMAN HANNA:

18 Thank you.

19 REPRESENTATIVE DENLINGER:

20 Representative Gordon Denlinger, from
21 Eastern Lancaster County.

22 CHAIRMAN HANNA:

23 And I think our next question is going to
24 be from Representative Kessler.

25 REPRESENTATIVE KESSLER:

1 Thank you for your testimony. I just
2 want to go into a little more detail about 1330. I
3 think you said Senator Brown would have an effect upon
4 ---.

5 MR. EBERT:

6 Senator Gillibrand.

7 REPRESENTATIVE KESSLER:

8 Senator Gillibrand, out of New York.

9 Could you go into a little more detail?

10 MR. EBERT:

11 What it does, it doubles --- right now
12 the level is 45 percent of the milk that's eligible
13 for the MILC payments. It would double it to 90
14 percent and also it would be retroactive through this
15 past March.

16 REPRESENTATIVE KESSLER:

17 Thank you.

18 CHAIRMAN HANNA:

19 Next is Representative Carroll.

20 REPRESENTATIVE CARROLL:

21 Thank you for your testimony, as well. I
22 was a little interested in a little bit more
23 discussion about your contents on page four where you
24 talked about the farmers support in the worldwide fair
25 and local trade policy. My research on the subject

1 indicates that one of the biggest problems that we
2 have with respect to dairy farming is the imports and
3 the milk coming from concentrates with respect to the
4 last five years. Do the farmers see that as a
5 problem? Do you recognize the increase in imports and
6 its impact on the ---?

7 MR. EBERT:

8 Yes. We take a look at that. We've
9 asked Congress to put tariffs on that and they said
10 that it's up to customs to regulate that. We've asked
11 customs and they will tell you Congress has to do it.
12 We looked at --- it depends on what report you read.
13 The MPC imports have increased some, but we're also
14 producing some now in the U.S. and it take a little
15 bit for the industry to get caught up with what's
16 being asked for in the marketplace.

17 REPRESENTATIVE CARROLL:

18 So you're saying that Congress supports
19 the tariff on the MPC?

20 MR. EBERT:

21 Yes.

22 REPRESENTATIVE CARROLL:

23 Okay. Thank you.

24 CHAIRMAN HANNA:

25 Any additional questions on my left? How

1 about on my right? All right. Rick, we thank you and
2 we thank the farm bureau for your valuable input on
3 this subject and we appreciate you being here today.

4 MR. EBERT:

5 Thank you.

6 CHAIRMAN HANNA:

7 Next is John Piwowar, a retired dairyman.
8 John.

9 MR. PIWOWAR:

10 Good afternoon. I'd also like to add to
11 Joe Segilia's welcome for those of you who have not
12 been to Fayette County. I'd like you to go outside
13 today and take a good look it's a beautiful time of
14 the year to be in Fayette County. If you go outside
15 and you look straight ahead you'll see the first
16 bridge of the Appalachian Mountains, Chestnut Ridge.
17 For those of us who had geography in Pennsylvania as a
18 ninth grader, you'll know that's the mountain region
19 or the center region of Pennsylvania, that's the
20 beginning of it. Behind you, you will see the
21 Allegheny plateau. Those rolling hilltops will go
22 from here to the Erie coastal plain up north and it's
23 a wonderful area and I don't want you to miss an
24 opportunity to take a look at our wonderful county in
25 the summertime.

1 My name is John Piwowar. I'm a Fayette
2 County native and a retired dairy farmer. My
3 apologies, I didn't get a chance to hand up any more
4 biographical data, but I'm a Penn State graduate of
5 1968, and I received my Master's degree in dairy
6 science upon my return from Vietnam in 1972. I
7 continue to keep abreast of goings on in the dairy
8 industry very much as I did as a producer and a DFA
9 member.

10 I have tried to understand the complexity
11 of the milk pricing system over the years and now see
12 it as another --- from another perspective. I speak
13 here today for myself, but I sure hope I would speak
14 for fellow dairyman in Western Pennsylvania, as well
15 as my cooperative Dairy Farmers of America.

16 The dairy industry is in a state of
17 turmoil and frustration for milk producers now as they
18 experience farm gate prices far below the cost of
19 production. I am particularly disturbed because the
20 huge export markets we enjoyed in the past two years
21 because of the devalued dollar which drove our milk
22 prices has disappeared and no one can predict when
23 they will return. We've experienced ups and downs in
24 milk prices in the past, but this cycle is tearing
25 apart dairy farm families. I sense despair as well as

1 frustration when talking to dairymen today. I read
2 that \$16 Class III prices, that's \$16 per
3 hundredweight, which would be at the lower level of
4 producer economic recovery, are not likely to return
5 until mid-2010.

6 Costs of production for Pennsylvania
7 dairy producers are near or over \$20 per
8 hundredweight. And as you heard Mr. Ebert say, the
9 prices can vary around just over a little \$12. The
10 frustration is compounded by the fact that the milk
11 pricing process and the price of discovery mechanisms
12 are so complex that most dairymen don't even
13 understand them. We see discussions every low cycle
14 of supply management proposals and other measures,
15 some extreme, as well as the usual blame game played
16 by the usual pundits.

17 All this has made the struggling dairymen
18 weary and confused. I would like to speak to the
19 confusion created by the Pennsylvania Milk Marketing
20 Board. Most dairymen believe that PMMB is a state
21 agency set up primarily to help dairy farmers. To
22 read PMMB's statement one could even arrive at that
23 conclusion. PMMB is a state agency set up to benefit
24 the state's milk dealers and fluid milk processors.
25 They conduct periodic hearings to establish retail

1 milk prices assuring the milk dealers a reasonable
2 return based on their costs. Pennsylvania's milk
3 consuming public pays minimum prices set by PMMB.

4 To sell milk for less is a violation of
5 the law. It is no stroke of luck that Pennsylvania
6 has more milk dealers than the surrounding states.
7 They do a great job of protecting their own. Dealers
8 large and small benefit from this arrangement. In
9 1988 PMMB started paying premiums to dairy producers
10 based only on the fluid milk sales. While PMMB boasts
11 on the right side that they returned \$211 million to
12 dairymen in 1988 to 2000, it must be put into
13 perspective that during those years Pennsylvania
14 dairymen produced over 130 billion pounds of milk.

15 That is less than 17 cents per
16 hundredweight for all dairymen. Some got none at all
17 and even today no dairyman gets a full \$2.15 premium
18 that PMMB boasts. Pennsylvania's dairy producers are
19 all equal out there on the farm. They must produce
20 milk under the same regulatory rules. Why should they
21 not be treated equally in sharing extra money from a
22 state agency? Those of us whose milk goes into cheese
23 and butter production perform a valuable market
24 function of balancing the market. Are we less
25 valuable than those whose milk ends up in a jug on a

1 grocery shelf? Only 15 percent of milk producers in
2 Pennsylvania qualifies for the PMMB premiums.

3 Milk must be produced, processed and sold
4 in the Commonwealth to qualify. The dealers use
5 creative ways to avoid paying it when they can.
6 However, 100 percent of all fluid milk sold in
7 Pennsylvania is subject to the minimum pricing
8 provisions regardless of where it's produced or
9 processed.

10 The mission statement by PMMB is quote,
11 to ensure that Pennsylvania's dairy industry remains
12 vital, the Milk Marketing Board provides a regulatory
13 environment that facilitates a safe, adequate supply
14 of wholesome milk by providing security for its dairy
15 farmers and milk dealers, while providing an adequate
16 supply of dairy products to consumers, end quote.

17 The security for dairy farmers refers to
18 a security fund paid into by dealers which will pay
19 dairy farmers any lost revenues should the dealer
20 experience bankruptcy. I would submit to you that
21 providing an adequate supply of dairy products for
22 consumers, quote, by providing security for its milk
23 dealers is absurd. Milk comes from cows not
24 pasteurizing or bottling machines. There has never
25 been an inadequate supply of dairy products in

1 Pennsylvania, especially fluid milk. We are ranked
2 number five in milk production nationally and
3 historically the whole state has always had 50 percent
4 of that production sold as fluid milk and roughly 50
5 percent of other dairy products.

6 I would suggest that if PMMB is serious
7 in their efforts and conduct hearings into the costs
8 of production by dairymen and then establish a minimum
9 price to be paid for milk at the farm. This is a
10 concept long discussed by producers, especially in
11 hard times like these. Make it mandatory for dealers
12 to pay these prices to Pennsylvania dairymen. Of
13 course this wouldn't work because Pennsylvania milk
14 dealers will buy their milk elsewhere. Pennsylvania
15 milk dealers have --- my point is that fixing prices
16 based on input costs is a super deal if you can get
17 it. Pennsylvania milk dealers have such a deal. Do
18 dairy farmers deserve less?

19 The Pennsylvania Milk Marketing Board
20 will tell you that they accept minimum farm prices,
21 but this, again, is only for qualified milk dealers.
22 For July of 2009 --- this is from your website, quote,
23 statistical average minimum prices in Pennsylvania
24 producers selling in Pennsylvania, \$12.14
25 hundredweight. That's roughly what we've heard.

1 While whole milk costs the producer --- the consumer
2 in Pennsylvania \$3.04 a gallon. That's about \$35 a
3 hundredweight.

4 Now, if you go --- the following was some
5 data from the website regarding the producers price
6 retail set for this. I'll go to July 2008. That's
7 when we had high producer prices. Again, if you take
8 all the statistical average minimum prices in
9 Pennsylvania to producers selling to Pennsylvania,
10 \$21.38. I can tell you that's true because I got it.
11 \$1.83 a gallon --- in Pennsylvania milk sold for \$4.80
12 a gallon. Dairymen got \$1.83 a gallon. That's a
13 \$25.42 per hundredweight spread for the milk dealers.

14 Now, some of you may be confused, but I'd
15 like to remind you that one cent a quart is about
16 equal to 46 cents per hundredweight. Dairymen talk in
17 terms of hundredweights is the best way they can sell
18 their milk in quarts or gallons. Okay. So fast
19 forward to 2009, as I just went over. The minimum
20 price is \$3.09 a gallon. That's an average of six
21 areas, statistical average minimum price in
22 Pennsylvania for producing and selling in PA is \$12.14
23 or \$1.04 a gallon. A \$23.76 spread for the milk
24 dealer. So why would dairymen support PMMB.

25 There is no chance to ensure they will

1 make anything over their cost. So what should be
2 done? I believe there are several approaches. Number
3 one, PMMB needs to share its producer premiums with
4 all dairy producers in Pennsylvania equally. As an
5 agency authorized by the legislature, they cannot, in
6 all fairness, give more to some and less to others.
7 Number two, PMMB needs to be frank and forthright with
8 the legislature, dairy producers and the consuming
9 public as to what it does and for whom.

10 And number three, the legislature needs
11 to evaluate whether the state needs to be in the
12 business of fixing retail milk prices for milk dealers
13 and whether it is a good thing for consumers.

14 In summary, I would like to thank
15 Representative Hanna for organizing this forum and
16 affording me an opportunity to present my views. I
17 would also like to thank all those organizations and
18 individuals who are working towards finding a solution
19 for some economic security for the Pennsylvania dairy
20 industry, the Commonwealth's economic kingpin in the
21 Commonwealth's largest industry.

22 The key to resolving this crisis is that
23 some consensus be reached by all segments of the
24 business, a consensus which would result in solutions
25 which would help everyone prosper. Thank you.

1 CHAIRMAN HANNA:

2 Thank you, John, and you will get some
3 questions, as well, if you're open for questions.

4 MR. PIWOWAR:

5 Yes.

6 CHAIRMAN HANNA:

7 All right. Before we go to the
8 questions, I'd like to give Chairman Maher an
9 opportunity to introduce himself. John.

10 CHAIRMAN MAHER:

11 Thank you, Mr. Chairman. I'm very glad
12 we're having this hearing today and I hope we won't be
13 redundant or I won't be redundant in anything I say.
14 I do want to offer some --- there are many things in
15 the area that show what agriculture is all about. But
16 those who are here today appreciate that it's really
17 far more complicated. When you're doing things at
18 4:30 in the morning some of you realize you have to do
19 that seven days a week, 52 weeks a year. And last
20 year milk prices per hundredweight have fallen by
21 half. I don't know of any other area of the economy
22 that have seen prices that have gone that severe.

23 So as a result many farmers are working
24 every day, every time they feed their son, every time
25 --- every morning when the sun comes up and they lose

1 money for doing farming. There's got to be some
2 solution to this. And I told Chairman Hanna that I am
3 very glad you organized this hearing. Dairy cows have
4 got to be fed and milked every day. You can't just
5 say go away for a couple of weeks and then come back.

6 The national milk producer federation
7 retired 101,000 cows last month. And there will be
8 more this month. And that's above and beyond the
9 ordinary slaughter that would happen. And it's
10 significant and while that helped produce the supply
11 of milk, it really hasn't helped the farmers and it's
12 had a reverse effect of decreasing the price of feed.

13 So you're darned if you do and you're darned if you
14 don't. The number of dairy farms in Pennsylvania is
15 declining. Pennsylvania dairy farms, once they're
16 gone they won't come back.

17 I would like to see Pennsylvania continue
18 to be reinforced in the dairy industry and I hope that
19 through our testimony that we're going to hear about
20 this proposed law at the federal level that will
21 replace the current pricing and price support system
22 with one that's based on the national average cost of
23 production. Now, I'm not so sure that's a good idea
24 for Pennsylvania, but I'd like to hear those in
25 attendance talk about that. Thank you.

1 CHAIRMAN HANNA:

2 Thank you, John. And John, we'll return
3 to you and let me start with the first question. In
4 listening to your testimony, I came to the conclusion
5 that you would be more comfortable with the market
6 driven price rather than the Milk Marketing Board
7 pricing system. Did I draw the wrong conclusion or
8 was that fairly accurate?

9 MR. PIWOWAR:

10 I don't think you drew the wrong
11 conclusion. I think you're a little bit confused as
12 to what PMMB does. PMMB doesn't do anything for me as
13 a dairyman. They do a lot for milk dealers. Yeah,
14 I'd like to see market driven milk price on the farm,
15 but as the data I showed, what PMMB sells their milk
16 for has to do with dealer costs, in keeping dealers in
17 business and assuring them a good margin so they stay
18 in business and I assert to you that how can we assure
19 Pennsylvania consumers an adequate supply of milk if
20 there is nobody out there doing the same for our dairy
21 farmers?

22 Dairy farm numbers in Pennsylvania have
23 decreased at the same number as the states around us.
24 So I don't believe PMMB can claim any victory in
25 saying they slowed the exit of dairy farmers from the

1 business. Also, milk prices on the retail level in
2 the states around us are not that different. So why
3 do we need to set prices. And the answer is, try to
4 go to a Pennsylvania store today and see a special on
5 milk prices on milk. They can't do it. They have to
6 pay their prices.

7 I don't think that's fair to Pennsylvania
8 consumers, one, and having been served on a school
9 board for a number of years, think of all the millions
10 of dollars that could be saved if there was
11 competitive bidding for the milk contracts in school
12 districts. It's a joke now. It's the minimum price
13 set by PMMB. And these are large contracts for
14 processes in Pennsylvania, but I would address with
15 the dairy farmers, it's a real dilemma as to what is
16 the best way to price milk.

17 They're always in that problem where if
18 we raise the price, dairymen would respond by
19 producing more. It produces --- it floods the market
20 of milk and there is an over supply and prices go
21 down. But the unique thing in the dairy industry is
22 that an over supply can be one or two percent. That's
23 all. Usually milk is converted from bottle to other
24 manufacturing outlets, cheese or butter, the value of
25 that product as sold goes down because the primary

1 driver that we like to see in milk prices is through
2 the milk, but for the last few years actually it's
3 cheese that drove the milk prices. A higher price of
4 cheese and in the last two years the huge amount of
5 exports that we were able to have because our price,
6 the value of the dollar went down and our milk
7 products became attractive on the world market.

8 CHAIRMAN HANNA:

9 Thank you, John. Questions on the right?

10 UNIDENTIFIED SPEAKER:

11 The first thing you talked about is the
12 purpose of farming and one of the factors that you
13 mentioned was that there's a huge demand for products.
14 I know farmers in Lycoming County talk to me about the
15 MPC, milk protein concentration, and they have greater
16 concerns that it's contributing to the perfect storm
17 by requesting what you just described, the validity of
18 the market when it comes to milk conversion. What's
19 your opinion on the MPC? They also have concerns
20 about the health aspect of it.

21 MR. PIWOWAR:

22 Well, the health aspect I don't think is
23 a concern. There are a lot of funders out there are
24 going around saying a lot of reactive things that are
25 causing adverse public reaction to milk products in

1 general. I think that's wrong. The MPCs that are
2 imported today are regulated as far as safety is
3 concerned. So, again, that's not the issue. As far
4 as the amount of it being imported, I think that there
5 are certain amounts that are allowed and it simply has
6 to do with the value of the dollar and the decisions
7 that milk process --- or in the process of making
8 dairy products, whether it's cheaper to buy --- like
9 any other product in the world market. Whether it's
10 cheaper to buy it domestically or it's cheaper to buy
11 it imported.

12 There has also been federal legislation
13 that's in the workings now to close some of the loop
14 holes that allow some MPC to get into this country
15 through other routes, saying for manufacturing
16 purposes, et cetera. So the problem is being
17 addressed. I think that the problem with imports has
18 been greatly over exaggerated by some people that pass
19 blame rather than find a solution.

20 CHAIRMAN HANNA:

21 Next will be Representative Brooks.

22 REPRESENTATIVE BROOKS:

23 I want to thank you for your very
24 informative testimony. It was very interesting. I
25 have two questions. In your testimony you said that

1 dealers use creative ways to avoid paying it when they
2 can. What creative ways are you speaking of and how
3 then can we find a solution or what would you like us
4 to do to present that? And then my second question
5 would be, I know we've talked a lot about milk prices,
6 but I'd also like to talk about mandates on our local
7 farmers and what Pennsylvania mandates do you find are
8 even driving costs of our farmers even more and how
9 you would like to see those changed?

10 MR. PIWOWAR:

11 Let me make sure I get your question.
12 The first question, creative ways. You're in a good
13 location right here. We have a large processor. It
14 used to be a locally owned business. It's now part of
15 a multi-state business that processes milk. All they
16 have to do is get half of the milk supply from
17 Maryland, West Virginia and surrounding states and
18 they only have to pay half the premium to dairy
19 farmers so they do that and sell it all over the
20 state.

21 The fact that 15 percent of the milk ---
22 all the milk produced in Pennsylvania, and only 15
23 percent, qualifies for that premium tells you
24 something. They don't want to pay it. Obviously they
25 want to get their product at the cheapest possible

1 price. Mandates for dairy farmers. First of all, we
2 have to understand and consumers and the public has to
3 understand that milk is the most regulated food
4 product we probably deal with. The on-farm
5 regulations we have I believe are necessary to ensure
6 consumer confidence in our product and the
7 Pennsylvania Department of Agriculture and Sanitation
8 Division does a marvelous job in training our milk
9 inspectors and making sure that this is carried out
10 and there is continued confidence in our product. So
11 mandatory requirements as far as milk safety is
12 concerned, milk sanitation, I don't think there is
13 anything more --- we don't want to give a perception
14 that we're adding to it. Other farm mandates have
15 become controversial. Farmers are required to have
16 conservation lands on their farms. I think that's a
17 good thing.

18 Farmers are required to have management
19 plans on their farms, especially in the Susquehanna
20 basin. I think that's a good thing because we have
21 direct evidence that shows that sometimes we weren't
22 doing a good job and we were environmentally lagging
23 behind. So while all of these things, some of the ---
24 most of the farms in Pennsylvania are not covered
25 under the large animal and CAPO regulation because, by

1 and large, the size of our farms in Pennsylvania is a
2 lot smaller than say California and so we have a lot
3 of exceptions made in the law. Maybe some of the
4 fellow dairymen that are out there could speak to some
5 mandates they'd like to see lapse, but I certainly
6 wouldn't want to recommend anything that has to with
7 safety and sanitation.

8 REPRESENTATIVE BROOKS:

9 Thank you very much.

10 CHAIRMAN HANNA:

11 Next would be Representative Solobay.

12 REPRESENTATIVE SOLOBAY:

13 Thank you, Mr. Chairman. I guess in some
14 of this kind of playing off the initial questions to
15 you, something I heard in the past is that oftentimes
16 things could be a little discriminatory with dairy
17 operators as far as whether or not their milk is
18 designated for fluid use or for other dairy uses which
19 obviously would affect the prices, say, between per
20 hundredweight and whatever may be the case and that's
21 regardless if they are a sole operator that sells
22 their milk directly through a processor or if they're
23 part of a co-op that negotiates the price for their
24 milk. And then the percentage of what goes fluid and
25 what goes to other dairy products. Do you feel ---

1 from your experience and your years, do you see that
2 there is any type of discriminatory process other than
3 that the milk comes in from out of state? Would you
4 say, is there a challenge some producers have that
5 they see that they're not getting an opportunity for
6 the higher fluid rates and their milk always ends up
7 becoming ice cream, or cheese, or whatever?

8 MR. PIWOWAR:

9 No. I don't think that's a problem.
10 There are some --- there are some producers who are
11 large producers and I can think of a couple half of
12 dozen in Pennsylvania that milks over 1,000 cows.
13 They create for themselves their own investment of
14 economic advantage say hauling milk. By hauling your
15 own milk and owning their own tankers and delivering
16 it to whoever is buying it and needs it at the
17 economical price. Ultimately it's the handler who
18 decides what that milk is going to go into. In my
19 cooperative, my milk went wherever they needed it,
20 whether it was a bottling plant and some of it went
21 right into Uniontown, or whether it was a balancing
22 plant that is making cheese in New Wilmington. It's a
23 matter of where there is a home for milk a lot of
24 times. Some producers --- there are some in
25 Pennsylvania who are really quite content with the

1 arrangement of PMMB because they live close to a
2 handler who is going to bottle a lot of milk saving at
3 90 percent Class I utilization of bottled milk and
4 they can realize a lot of the portions are distributed
5 to other dairymen. My contention is, as a state
6 agency, that premium should go to all state dairymen.
7 In Western Pennsylvania we are getting a lot less and
8 in Central and Eastern Pennsylvania where the Class I
9 market is.

10 All Pennsylvania milk producers produce
11 under the same traditions and they produce in the
12 statewide market. If there were not the milk removal
13 into other products, we'd have a serious problem with
14 milk prices. If there is no home for the milk, then
15 the prices really plummet. I hope I at least ---.

16 REPRESENTATIVE SOLOBAY:

17 No, you did very well. And I guess
18 another thing tied to that, the challenges that
19 oftentimes are met with not just dairy producers
20 because of the side costs they also made, but just the
21 agricultural venues in the state itself mean a lot of
22 challenges because of our geology and the landscape.

23 MR. PIWOWAR:

24 That's a good point. Here, in Western
25 Pennsylvania, you're talking about the infrastructure.

1 REPRESENTATIVE SOLOBAY:

2 Sure.

3 MR. PIWOWAR:

4 I think all the farmers here would agree
5 that we have to drive a number of miles to get to some
6 dealerships. Some equipment that we buy we have to
7 maintain a stock for parts because there is just not a
8 dealer nearby. A lot of the supplies we get come from
9 far off places. The dairymen sometimes buy them in
10 bulk to save money, but the infrastructure is a real
11 problem. As equipment dealers disappear, as other
12 support entities disappear from the dairy scene, it
13 makes it more difficult for farmers to conduct their
14 business.

15 REPRESENTATIVE SOLOBAY:

16 And obviously you're referencing
17 California. The challenge you have in Pennsylvania is
18 because of the terrain itself. I mean, you're trying
19 to plant crops on a hillside versus on a nice flat
20 surface, that also brings challenges that affect your
21 bottom line.

22 MR. PIWOWAR:

23 Well, they do, but I think we're all here
24 because we want to be here and we choose where we want
25 to farm and we make the best of what we can. Yeah,

1 our corn dealers are not going to be consistent with
2 250. Maybe a little closer to 150

3 REPRESENTATIVE SOLOBAY:

4 Plus somebody has got to feed the deer.

5 MR. PIWOWAR:

6 Don't forget the raccoon.

7 CHAIRMAN HANNA:

8 Representative Kessler.

9 REPRESENTATIVE KESSLER:

10 Thank you for educating us. In your
11 testimony, you mentioned about having PMMB conduct
12 hearings with the dairy farmers and established
13 minimum prices and then went on to say of course this
14 wouldn't work setting a price because all product
15 could be bought elsewhere. And then you mentioned
16 about Maryland, where the dealers could buy at half
17 premium.

18 MR. PIWOWAR:

19 No. That's not what I said. I said
20 Pennsylvania dealers could go to Maryland or West
21 Virginia and buy half their raw milk. They still only
22 have to pay only half the premium because half of
23 their milk that they pull that they sell us comes from
24 out of state therefore it's not qualified for the
25 premium.

1 REPRESENTATIVE KESSLER:

2 So they're not --- in Maryland, they're
3 not actually producing the milk at a cheaper cost.

4 MR. PIWOWAR:

5 No. Not at all. Not at all. I should
6 also point out that none of the states around us have
7 set retail milk prices. They tried. Maryland tried
8 about ten years ago, but the consumers said no, we
9 don't want set prices. What's wrong with competition?
10 Us dairy farmers compete every day for various things
11 and look at the price we get. It sure would be a nice
12 deal if you were guaranteed to market it based on the
13 average. That's what I'm saying. But, again, milk
14 dealers are in business, too, to make a profit. So if
15 they were given the option to buy milk for \$16 a
16 hundredweight or go buy it in New York for \$12 a
17 hundredweight, where they going to buy it? It's all
18 the same milk. It's all the same quality.

19 REPRESENTATIVE KESSLER:

20 And the main reason why you just said
21 about \$16 versus \$12 in New York, what makes up that
22 difference?

23 MR. PIWOWAR:

24 Well, nobody in Pennsylvania is getting
25 \$16. I'm saying that if somebody said that, that base

1 \$16, their economist would tear that apart because
2 there would be all sorts of problems as far as milk
3 flow unless it was mandated that dealers were required
4 to buy Pennsylvania milk and then, at that point, I
5 don't think they'd ever support the Milk Marketing
6 Board.

7 REPRESENTATIVE KESSLER:

8 Thank you.

9 CHAIRMAN HANNA:

10 Any other questions on my left?

11 Representative Mahoney.

12 REPRESENTATIVE MAHONEY:

13 Thank you for appearing here today, John.
14 As usual, you're out in front of this issue. You and
15 I sat down with Representative Kula, in Harrisburg,
16 for two-and-a-half hours with the Milk Marketing Board
17 less than four months ago on April 28th, and I believe
18 I came away from that meeting and thought I was coming
19 away from a geometry class because the numbers --- I
20 just could not fathom the way the numbers are set up
21 with the cost and the pricing. In your opinion and
22 your opinion only, do you think PMMB can spare to the
23 supplier and the dealer? Do you believe or do you
24 think that the dealer is getting the better deal with
25 PMMB?

1 MR. PIWOWAR:

2 I should qualify my answer. PMMB is
3 doing exactly what the law allows them to do because
4 they have to. What I am saying is that the law that
5 enables them to do what they do discriminates against
6 producers.

7 REPRESENTATIVE MAHONEY:

8 So they discriminate against the small
9 dairy farmer in Pennsylvania?

10 MR. PIWOWAR:

11 Not necessarily the small one. Even the
12 large dairy farmer, whose milk goes to the cheese
13 farm. And it should be pointed out that they --- the
14 very prices of milk in most of the state has to be
15 competitive between dealers because they're competing
16 for milk, too, and the farmers --- I know farmers that
17 have dumped milk markets for a dime per a
18 hundredweight. Some dairymen look for other things in
19 the milk market. But my point is the dealers have to
20 be competitive, too, but, at this point, it's all
21 competitive for cheap milk, and as I pointed out, the
22 spread between \$1.04 a gallon that dairymen get now
23 for their milk is being sold for \$3.05 a gallon, well,
24 PMMB has data that says the milk dealers need that to
25 be, on the average, short of return. Now, I say

1 wouldn't it be nice if somebody would conduct a
2 hearing and said, all right, cheese is this much and
3 supplies are this much and fuel has gone up or down,
4 you need \$17.50 for your milk to break even. I'm sure
5 a lot of the guys here today would take \$17.50, but
6 nobody is doing that. Our milk price is set primarily
7 and the driver is the Federal Milk Marketing Board.
8 And not all Pennsylvania is covered by the Federal
9 Milk Marketing Board. They set the trend.

10 REPRESENTATIVE MAHONEY:

11 So, in your opinion, do you think the
12 PMMB should set up a hearing around the state for the
13 dairy farmers?

14 MR. PIWOWAR:

15 I'm not going to recommend that because I
16 know it won't work, unless you can find some
17 legislative way in the law to make it work. The milk
18 dealers don't want it to work. They don't want to pay
19 \$500 a shipment. That's the dilemma we're stuck in.
20 Milk dealers want cheap milk and they want a
21 guaranteed margin and they're getting it right now. A
22 year ago they were paying a lot more for their milk
23 because the margin wasn't as much. I would say that
24 some were probably losing money. But milk --- they
25 were --- the consumer would spend \$46 a hundred or

1 \$4.05 a gallon and the farmers were getting \$1.83,
2 which is a heck of a lot better than \$1.04 right now.
3 I know that some of the milk prices go up and you get
4 that deer in the headlight look because you shifted
5 from dollars per hundredweight to dollars per gallon
6 and that kind of stuff. We deal with milk on a
7 different scale.

8 REPRESENTATIVE MAHONEY:

9 So, legislatively, what should we look to
10 do to help our dairymen?

11 MR. PIWOWAR:

12 One thing is look at a number of years
13 ago. That is having them pull all their premiums.
14 Don't make some producers 60 cents and some producers
15 80 cents. Find a way to get all producers in
16 Pennsylvania whatever it is. And I suggest to you
17 that if 15 percent of the milk in Pennsylvania
18 qualifies and the premium is \$2.15, 15 percent of that
19 is going to be what about 35 cents? Sure 35 cents is
20 better than nothing, but 35 cents doesn't even help
21 pay the fuel bill. I mean, it's an insult to us.

22 So what I'm saying is, they're not doing it
23 equally. So what the legislators could do and what
24 the PMMB can do, which they refuse to do, there has to
25 be some organization on them now, too, is if they pull

1 these premiums. Now, why do I say that? Well, the
2 farm organizations, this issue is like tax reform. If
3 I give you a proposal, the first thing you do is
4 figure out, uh-huh, do I come out ahead or behind? So
5 half the Pennsylvania dairymen are coming out ahead
6 because they get a little bit of that premium and
7 those of us that come out behind were in favor of
8 pulling because we get a little more. So that's the
9 way it works. So the Farm Bureau even supported
10 pulling at one point about eight years ago. They
11 don't at the moment or it's a dead issue.

12 Have I clarified that point? Farm
13 organizations, my own cooperative, the northeast
14 division did that, plus the PMMB because they have a
15 large class on the market. The farmers in Western
16 Pennsylvania are taking it on the chin and we can't be
17 competitive with our own cooperative because they're
18 getting the premiums and we're not because our milk is
19 going primarily in manufacturing products.

20 REPRESENTATIVE MAHONEY:

21 Thank you, Mr. Chairman.

22 CHAIRMAN HANNA:

23 Chairman Maher.

24 CHAIRMAN MAHER:

25 Thank you. In the past, you mentioned

1 the current auditing that Pennsylvania dealers
2 actually are buying milk from other states to avoid
3 paying the premium.

4 MR. PIWOWAR:

5 Not necessarily to avoid it. They always
6 have. The dealer in Uniontown is much closer to the
7 Maryland dairy farmers and some West Virginia dairy
8 farmers than they are to Somerset County dairy
9 farmers. So it's a natural thing to do. I would say
10 that they're always going to look out for ways to ---
11 they're going to minimize their raw product prices.
12 They're in business to do that. So they're going to
13 take any advantage, any way they possibly can to pay
14 the least for their product.

15 CHAIRMAN MAHER:

16 Now, if these premiums were collected
17 from dealers based upon their now hundredweight to
18 process, regardless of whether or not --- where it
19 came from and if those premiums then were to be
20 distributed to producers based upon their
21 hundredweight produced regardless, would that iron out
22 the quality concern, the fairness concern that you're
23 expressing?

24 MR. PIWOWAR:

25 Well, where fairness is concerned, you

1 can pull those premiums, but keep in mind dealers can
2 buy their milk wherever they want, but to qualify for
3 that premium, according to Pennsylvania Milk Marketing
4 law, it has to be produced, processed and sold in
5 Pennsylvania. So if it's produced in Pennsylvania and
6 processed out of the state, it doesn't qualify. If
7 it's produced and processed in Pennsylvania and you
8 sell it in the Baltimore market, it doesn't qualify.

9 CHAIRMAN MAHER:

10 And that's out of the farmer's?

11 MR. PIWOWAR:

12 That's absolutely out of the farmer's.

13 CHAIRMAN MAHER:

14 The price the farmer gets then is set by
15 the factors that are out of his hands?

16 MR. PIWOWAR:

17 Absolutely. The dealers are audited all
18 the time for federal purposes, and also by the
19 Pennsylvania Milk Marketing Board so they can
20 determine how much jug milk gets sold. In the federal
21 market they determine --- the federal milk market pool
22 milk all the time. In fact, one could argue that
23 they're in contradiction with the Pennsylvania Milk
24 Marketing Board because if I get close to a bottling
25 plant, that's a more higher valued product. I could

1 seemingly get more money from that plant because it's
2 going to be jugs.

3 The federal market requires the dairy to
4 pool all those funds. So that if there are 50
5 percent --- if there is 70 percent Class I and 30
6 percent manufactured and the market averages 50/50,
7 will they pay into the pool to get to other dairy?
8 This is how --- I'm afraid I'm going to perpetrate the
9 hearing because this is really getting complicated,
10 but the pooling process of milk in federal orders
11 allows dairymen all over to benefit from Class I sales
12 by pooling Class I and allowing those monies to go
13 back to dairymen who live far away from the
14 manufacturing plants.

15 CHAIRMAN MAHER:

16 Would a similar pooling effect develop in
17 Pennsylvania?

18 MR. PIWOWAR:

19 If the Pennsylvania Milk Marketing Board
20 pulled their premium, I'm sure they can tell you how
21 many cents a hundredweight each dairymen in
22 Pennsylvania would get. Last year we produced 10.6
23 billion pounds of milk. If you divided the total
24 number of dollars they have into 10.6 billion pounds
25 of milk some are not going to be anywhere near \$2.15.

1 CHAIRMAN MAHER:

2 If we didn't have the system we have,
3 what system would you recommend to pay the premium?

4 MR. PIWOWAR:

5 My contention is that if we didn't have
6 PMMB premiums that dairy producers could negotiate for
7 their own premiums. It's being done all the time.
8 It's also, again, just my opinion --- I'm not speaking
9 for anyone but myself, but PMMB, over the years, has
10 used this tool, or at least handlers have used this
11 tool, to pit one dairymen against another. I didn't
12 pay the premium because I had 60 percent utilization.

13 So, in the federal pool, I can pay you more money
14 than somebody else who's taking it somewhere else. So
15 they ---- dairy dealers have used this to pit dairymen
16 against dairymen. Again, that's my opinion only, but
17 I think it's substantial.

18 CHAIRMAN HANNA:

19 Any other questions?

20 John, before you step down, I want to say
21 that I think I might have learned more today from you
22 than I have learned from anyone on milk pricing, but I
23 have to also confess that I am still a little bit
24 confused. I really do appreciate your testimony
25 though. I have to say that you seem to understand it

1 better than anyone I have ever listened to before and
2 we certainly thank you for taking the time to be part
3 of this hearing.

4 MR. PIWOWAR:

5 I'd like to make one final comment. The
6 reason why I met with Representative Kula and
7 Representative Mahoney was that I'm not going to get
8 anything on the farm organization, but I think as a
9 legislature and as a state agency, a state agency
10 authorized by the legislation sort of has to be fair.
11 Thank you.

12 CHAIRMAN HANNA:

13 John, can I urge you to stay in contact
14 with Representative Kula and Representative Mahoney?
15 I think this has been very, very helpful to all of us
16 and I think your continued input on the subject maybe
17 will help with those going forward.

18 MR. PIWOWAR:

19 Since I don't milk cows anymore, I have a
20 lot of time.

21 CHAIRMAN HANNA:

22 Thank you, John.

23 And our next presenter is John Frey,
24 Director of Center for Dairy Excellence. John.

25 MR. FREY:

1 Chairman Hanna, Minority Chairman Maher
2 and members of the House Ag and Rural Affairs
3 Committed, thank you for the opportunity to testify
4 today on the issue of dairy farm profitability here in
5 Pennsylvania. My name is John Frey, and I am the
6 Executive Director at the Center for Dairy Excellence.
7 A little background on the center. The center is a
8 501c6 non-profit created by Secretary of Agriculture
9 Dennis Wolff and Governor Edward Rendell. We have our
10 offices at the Pennsylvania Department of Agriculture
11 and provide ongoing consulting to the Department in
12 areas impacting the dairy industry.

13 Our mission is fairly straightforward.
14 It's to provide resources and programming which
15 enhance profitability, sustainability and the
16 viability of the dairy industry in the Commonwealth.
17 You have provided ongoing support of the Center for
18 Dairy Excellence and the work we are doing to help all
19 dairy farm families throughout Pennsylvania and we at
20 the center are very grateful for that.

21 A little background. In 1985, there were
22 21,000 dairy farms in Pennsylvania. By 1995 this
23 number had decreased to 11,800 and today this number
24 is 7,600 according to NASS, which is the National AG
25 Statistics Service.

1 Dairy represents over 42 percent of the
2 Ag economy in Pennsylvania. It also represents over
3 40,000 jobs from service providers to veterinarians to
4 accounting services and supply businesses like feed
5 and nutrition to equipment. The dairy farmers in
6 Pennsylvania and across the United States are in the
7 midst of an unprecedented economic crisis. The
8 foundation of this crisis has severely dropped in milk
9 prices which has all dairy farmers selling milk for
10 approximately \$12 per hundred pounds while
11 experiencing cost of production that is somewhere
12 between \$17.50 and \$24 per one hundred pounds.

13 These negative margins translate into net
14 losses of approximately \$1,000 per cow per calendar
15 year in 2009. For a 100 cow dairy, this translates
16 into lost equity of \$100,000. For larger dairy farms,
17 this figure escalates even higher. Those most
18 affected are young dairy producers new to the industry
19 and those who recently recapitalized and expanded to
20 accommodate additional family members joining the
21 business. Again, impacting the next generation of
22 dairy food producers. My heart goes out to these
23 young entrepreneurs impacted harshly by this current
24 economy.

25 Our office fields many, what should I do,

1 calls and questions on a daily basis. At the core of
2 these low prices is an imbalance of supply and demand
3 largely due to lost markets both internationally and
4 domestically. International sales alone for dairy
5 products has dropped 50 percent from one year ago.
6 The drop in demand is the result of lost competitive
7 advantages enjoyed by our currency, declining
8 restaurant sales domestically and other variables
9 impacting consumption around the world.

10 Previous to this severe down turn, our
11 industry experienced cyclical markets impacted by
12 supply and demand, all reasonably able to be weathered
13 by effective business management practices and
14 existing support programs. This current crisis is
15 impacting all farms and threatens to remove many farm
16 family businesses contributing to the food supply and
17 the rural economy. And one thing that we notice in
18 our office over and over again is even the most
19 efficient dairy businesses are not immune to this
20 massive equity erosion.

21 A few statistics we have gathered
22 include: the downturn could eliminate 25 percent of
23 Pennsylvania dairy farms or approximately 1,875 farms.
24 This would result in the loss of approximately 100,000
25 cows from the state herd. Every nine cows in this

1 robust industry creates or retains one job related to
2 dairy production. Losing 100,000 cows means over
3 losing over 11,000 jobs. Research done by the
4 University of Wisconsin shows each dairy cow
5 contributes at least \$13,700 to the regional economy.

6 100,000 fewer cows would have a negative
7 impact on rural economies to the tune of nearly \$1.4
8 billion. And my last statistic speaks to the future
9 opportunities we have to profit from this critical
10 dairy food industry here in the Commonwealth.

11 Pennsylvania dairy farms feed the Boston to DC
12 corridor. Statistically, we remain the number two
13 states for number of dairy farms and the five states
14 for milk production in the U.S. We live within a one-
15 day drive of a 50 percent of the U.S. population.

16 Dairy not only affects agriculture, it
17 affects all rural economic growth here in
18 Pennsylvania. It is often referred to as a renewable
19 resource as each dollar in milk sales is spent
20 numerous times over in the region it was generated.
21 While we know businesses must grow to survive, our
22 model for dairy production here in Pennsylvania is one
23 of sustainability. Relatively small family farms 80
24 percent of them and less than 100 cows where feed is
25 produced on land owned by the farm family.

1 So what can be done to ensure the
2 viability of our dairy industry? I believe that both
3 short term actions and long terms strategies are
4 needed for survival. The most recent Federal Farm
5 Bill or Food Act as it was originally called included
6 numerous things directed towards the dairy industry
7 and dairy policy. One vital thing the Farm Bill
8 included was the development and implementation of a
9 bi-partisan committee to evaluate the effectiveness
10 and relevance of our current federal order system and
11 federal dairy policy based on this system.

12 This current federal dairy order system
13 was developed in the 1940s. This committee was to be
14 developed when funding was available. To date funding
15 has not been made available in spite of numerous
16 generous allocations directed towards agriculture. I
17 believe this committee becoming a high priority, which
18 is to be compromised of industry experts from each
19 layer of the supply chain, is critical to the future
20 of dairy production, manufacturing, and store sales.
21 Currently, the USDA is considering calling an internal
22 committee to replace this extended version called for
23 in the Farm Bill.

24 The House of Ag and Rural Affairs
25 Committed could be instrumental in communicating to

1 the Pennsylvania Congressional delegation that the
2 original intent of the Farm Bill be implemented as
3 intended. Number two, an increase of the federal
4 dairy support price from its current level of \$9.90 to
5 \$12 to \$13. This actually recently has been approved
6 for August through October. Currently the U.S. Senate
7 has proposed another \$350 million for November through
8 January.

9 Encouragement by the Pennsylvania House
10 Ag and Rural Affairs Committed to the Pennsylvania
11 Congressional delegation in Washington to approve this
12 allocation of funding would be appropriate in our
13 opinion. This price support program represents the
14 point where dairy products are purchased by the
15 Commodity Credit Corporation of the Federal Government
16 and later placed back on the market when the market
17 price is higher and demand seems to be closer to
18 equilibrium with supply.

19 In some cases, these purchased products
20 are allocated to regional food banks and feeding and
21 nutrition programs for hungry people. Raising this
22 support price has a direct impact on supply and in
23 turn increases farmer pay price. Three, revise
24 Federal MILC payment program and you've heard of the
25 facility today by increasing the trigger price for

1 market loss payments. Currently, this program pays 45
2 percent of the difference between a trigger price of
3 \$16.94 and the current Class III price.

4 This has resulted in several months'
5 payment of nearly \$2 per hundred pounds of milk.
6 Again, allocated on the first 2.98 million pounds
7 produced per year. We have proposed to the U.S. House
8 and Senate Ag Committee an increase in 79 percent.
9 And you heard earlier today that we're proposed to get
10 that even higher. However, this would require an act
11 of Congress to reopen the Federal Farm Bill. It
12 should be noted that many Amish dairy farmers do not
13 participate in this federal payment program.

14 And four, support increased funding for
15 state, regional and federal nutritional programs
16 including WIC and the Senior Feeding Programs. And
17 five, the Pennsylvania Milk Marketing Board has
18 provided over order dairy premiums to dairy producers
19 and has maintained a minimum store price, which has
20 allowed processors and retailers to capture a
21 consistent margin. This is a result of the
22 consistently higher prices for dairy producers. In
23 fact, in the month of June according to NASS, the
24 Pennsylvania price paid at the farm was the third
25 highest in the U.S., surpassed only by Florida and

1 Virginia.

2 Historically, Pennsylvania dairy farmers
3 have received between 45 and 52 percent of the retail
4 price of fluid milk. Currently however, this ratio
5 has been closer to 33 percent. Recently the PMMB had
6 an opportunity to take action during this devastating
7 period and provide additional premiums for dairy
8 farmers and voted not to do so. Whether it would be
9 additional premiums for Pennsylvania produced milk or
10 lowering the current mandated margin for processors
11 and retailers, I believe that based on current margins
12 an opportunity exists to decrease both processor and
13 retail margins which would lower the PMMB minimum
14 retail price for consumers and potentially increase
15 sales thus decreasing overall supply and return to the
16 state program.

17 Today represents an unprecedented and
18 much needed opportunity for the PMMB to bring new
19 value to dairy producers in the Commonwealth. Support
20 a reallocation of First Industry Funds from tourism to
21 agriculture to encourage continued investment in
22 growth and investment on dairy farms. And initiate a
23 Pennsylvania Dairy Caucus here among the Pennsylvania
24 General Assembly, which would meet routinely
25 throughout the year to discuss dairy markets, economic

1 conditions on the farm and dairy food availability to
2 consumers throughout the Commonwealth.

3 And lastly, support the Ag Excellence
4 Line, which funds our organization Center for Dairy
5 Excellence. And just for a little overview as to who
6 we are, our organization provides ongoing leadership
7 to and communication with the vital industry. An
8 example of this is in July and August alone we will
9 have interacted with nearly 1,000 dairy farmers
10 through CDE events and initiatives. Also included in
11 our work is the facilitation of the NEDLT or Northeast
12 Dairy Leadership Team.

13 This small group of industry leaders
14 which includes Secretary of Agriculture Dennis Wolff
15 and his counterparts Secretary Allbee from Vermont and
16 Commissioner Hooker from New York meet routinely to
17 discuss the challenges facing our regional industry
18 and communicates routinely with the Northeast
19 Congressional delegation in Washington regarding
20 potential solutions. The dairy work of the Center for
21 Dairy Excellence includes surrounding dairy farmers
22 with resources from dairy professionals to business
23 professionals through our Dairy Profit Team program
24 which over 200 farms have or are using routinely.

25 We recently announced that the example of

1 these resources a partnership with the SCORE
2 organization which is the Service Core of Retired
3 Executives to bring new insights to these dairy teams.
4 We have an extensive list of tools for dairy farmers
5 to use including business planning templates for
6 dairy, risk management information and resources to
7 help them to understand and capture market
8 opportunities. We also place professionals on dairy
9 farms to help overcome performance bottlenecks and to
10 help in succession planning.

11 Last year we partnered with the Highmark
12 Foundation called the Healthy High Five Nutrition
13 Campaign to make available Discover Dairy, a state
14 education standard approved dairy educational lesson
15 series in over half of the school districts in the
16 Commonwealth. We've done this because consumers
17 remain far removed from their food sources and fewer
18 and fewer are consuming their national dietary
19 guideline of three a day of dairy. According to
20 industry sources, if every U.S. man, woman and child
21 were to consume their three a day, we'd have to
22 increase U.S. production by nearly 50 percent.

23 Thus, we are working to stimulate demand
24 domestically. Finally, our long-term strategies.
25 Number one, allocate funding to subsidize or buy down

1 costs associated with risk management options used to
2 mitigate price volatility. We believe very strongly
3 that any changes made to federal pricing mechanisms do
4 not remove all volatility from this commodity based
5 market. We also believe that an understanding of
6 fundamental risk management tools will become an
7 essential component of dairy business management.

8 Currently in the Midwest region of the
9 U.S. nearly one in two dairy farms have an open
10 application with a cooperative or trading company from
11 which to be able to purchase risk management options
12 at any time. In Pennsylvania, our estimate is that
13 only one in twenty dairy producers have such an
14 agreement in place. Allocating funds for a dairy
15 options pilot programs support our work at the center
16 which has maintained a strong focus in this area.
17 Currently, the USDA Risk Management Agency has a
18 unique program which is privately owned called
19 Livestock Gross Margin or LGM for Dairy which combines
20 the put option on milk prices and call options on feed
21 components.

22 This program needs ongoing encouragement
23 from the Pennsylvania House Ag Committee to the
24 Federal Crop Insurance Board to make this program more
25 user friendly. Increase low interest loan

1 availability through FSA programs. And lastly,
2 initiate statewide tax credits for dairy facility
3 modernization and renewable energy projects on dairy
4 farms. Last year, Representative Art Hershey
5 introduced DAIRY-MAX which was a tax credit based
6 program to modernize dairy production facilities on
7 farms in Pennsylvania.

8 Wisconsin, the only state with more dairy
9 farms in Pennsylvania invested over \$200 million in
10 tax credits for this purpose from 2003 to 2007. And
11 as a result, their dairy production has increased by
12 over ten percent in the past five years. The impact
13 on new construction and other infrastructure
14 enhancement has been nothing short of phenomenal. A
15 similar program in Pennsylvania would make great
16 strides in providing new vitality to rural communities
17 across the Commonwealth.

18 For us to compete with regions with vast
19 land resources like the Western and Midwestern states,
20 initiatives are similar to the DAIRY-MAX will be
21 important to preserve the next generation of dairy
22 farmers.

23 In summary, I would like to say thank you
24 to the House of Representatives for this opportunity
25 and for your past support of our work through the

1 Agriculture Excellence initiative. Pennsylvania has a
2 very sustainable model for dairy. We view your
3 investment in us as seed money directed to ensure a
4 healthy and growing rural dairy and agriculture
5 landscape across Pennsylvania. Thank you. You're
6 welcome to questions.

7 CHAIRMAN HANNA:

8 Thank you, John. Questions on my left?

9 MR. FREY:

10 And Chairman Hanna, in any support of
11 question, I also have this resource piece of multi-
12 colored sheet in front of me and I thought it might be
13 useful. I did some comments relative to that.

14 CHAIRMAN HANNA:

15 Okay.

16 MR. FREY:

17 If you start in the far left of that
18 sheet, column A, you will notice going down the rows
19 from top to bottom that they have 25 monthly data on
20 this sheet. We print this monthly. We call it the
21 Pennsylvania dairy score card. And you'll notice row
22 59, Column A, is July of '09 and goes to rows 47 and
23 July '08 back to row 35 divided by seven. So you've
24 got, again, approximately two years worth of data.

25 Column B is account numbers done in the

1 State of Pennsylvania. From July of '07, 550,000
2 cows; and July of '08, 546,000 cows. The most recent
3 month, 545,000 cows. So, at this point, cow numbers
4 are relative unchanged in the State of Pennsylvania.

5 I'm going to take you over to the middle
6 of the sheet, Column J, K and L, for information that
7 Penn State University prints on a monthly basis and
8 we've printed here in a unique way. And I believe
9 Column L is the most interesting to us. It's titled
10 milk margin. I'll take you down to the current month,
11 which is row 59. The current milk margin is \$6.72.
12 What that translates into is that for every 100 pounds
13 of milk that's produced after feed cost is paid for
14 there is \$6.72 cents on the average Pennsylvania farm
15 left to pay all other expenses. That would be
16 mortgage, other supplies, equipment, et cetera, et
17 cetera. What's interesting, if you look back just to
18 be in perspective on the prices that were entered,
19 last year, the same month. Milk margin per hundred
20 pounds of milk is \$12.59 and the July before that
21 \$17.22. So in the last year margins are all 46.6
22 percent row 61. Obviously, significantly more than
23 that if you look back to two years ago. This is
24 actually one of three pages we print monthly.

25 CHAIRMAN HANNA:

1 Thank you. Any questions?

2 Representative Denlinger.

3 REPRESENTATIVE DENLINGER:

4 Thank you, Mr. Chairman. Thank you,
5 John, for your testimony. I appreciate it. Two
6 things. First of all, since you raised the issue of
7 the DAIRY-MAX club for the same you ones produced with
8 some slight alteration in the current section amended
9 many fellowmen in house so we hope to see that move
10 forward and appreciate you mentioning it in your
11 testimony. Secondly, if I may, you mentioned risk
12 management tools. I'm wondering if you could
13 elaborate a little bit more on what kinds of tools you
14 provide for the farmers?

15 MR. FREY:

16 One of the things that we do is that we
17 print a very unique template on a weekly basis called
18 a market and management report, which, of course, only
19 features trading on a daily basis. We track it on a
20 daily basis, but we print them on a weekly basis. And
21 the thing that we're attempting to do within
22 Pennsylvania is print that information, albeit as
23 complex as it is, in a way that can be more easily
24 understood. And then there are a number of tools that
25 we're encouraging dairy producers in the Commonwealth

1 to use and one fundamental example is simply to
2 consider buying a put option on a future supply. For
3 example, it's August, today if you look into the
4 January and February, today you can protect a price
5 that is significantly higher than the price today.
6 Granted that price that we would protect in January
7 isn't anywhere close to where it was just 12 to 15
8 months ago, but the question remains that if current
9 prices would persist through January I'd much rather
10 pay 80 or 90 cents a hundredweight to preserve and
11 protect a \$4 or \$5 higher price or go the 80 to 90
12 cents per hundredweight and live with the same price
13 that we're receiving today in January.

14 One other thing I'll mention, this
15 livestock gross margin is, we believe, a very
16 interesting product. It essentially takes that
17 concept that I just explained buying a put option on
18 the milk. But even if I protect my milk price, if
19 corn goes from \$4.25 to \$8, as it did a couple of
20 years ago, I didn't protect my margin. Hence the tool
21 livestock gross margin. So it actually not only buys
22 the put option on the milk side, it buys the call
23 option on the corn and soybean side, so I can really
24 protect and ensure my margin over a period of time.

25 We have some success stories. It's only

1 been available for a year. It's a brand new product.
2 We have success stories that farms in Pennsylvania
3 who purchased that early last fall and obviously very,
4 very happy that they ensured their margins \$5 to \$6
5 per hundredweight higher. So this shows you that
6 about a \$7 milk margin they protected about \$13 or
7 even \$14 margins. Thank you.

8 CHAIRMAN HANNA:

9 Thank you. Representative Brooks.

10 REPRESENTATIVE BROOKS:

11 You had mentioned one of the tools, but
12 can you talk about some of the other programs and the
13 percentage that other farmers are utilizing these
14 tools that are available to them and also their
15 success rates as well as you had mentioned in your
16 testimony that you'd like to see a price introduced?
17 So I do want to let you know that Representative Karen
18 Novak and myself have formally formed an understanding
19 that there are many members that want to have their
20 voices heard and understand they are from all across
21 Pennsylvania earn more of a role and so we did form
22 that caucus to try and help preserve our agriculture
23 industry because, you know, often times we get
24 different industries and it's from urban to rural and
25 so we want to get a better understanding for all of

1 these legislative districts. So I am pleased that
2 it's very successful and that I did want to let you
3 know that we could check that off the list.

4 MR. FREY:

5 Thank you. The first part of your
6 question, again, was you said --- repeat that.
7 Programs released by the profits and programs?

8 REPRESENTATIVE BROOKS:

9 Right. You had talked about risk
10 management tools.

11 MR. FREY:

12 Right.

13 REPRESENTATIVE BROOKS:

14 Would you talk about the percentage of
15 farmers that are using these tools or utilizing them?

16 MR. FREY:

17 Yeah. The risk management --- again,
18 I'll go back to my statistics in Pennsylvania. One in
19 20 have some form of application to use a risk
20 management product. The profit team program is really
21 one of the foundational programs at the center and I
22 referenced in my testimony that we feel, what should I
23 do with phone calls? And sometimes they're from
24 producers, sometimes they're from lenders. One of the
25 first things that we do in those cases is recommend

1 the profit team, which is essentially a board of
2 directors that surround that farm family and there's a
3 lender looking at the account and its production
4 people, like veterinarian fees, nutrition
5 professionals, and that group strives to meet on a
6 monthly or every other month basis and better
7 understand what's happening on that farm and hopefully
8 put that farm back on the pathway to profitability.

9 Frankly, we have two groups of producers
10 that seek out that program. We had a very, what I
11 would call forward thinking progressive dairy
12 producers who knows the concept and was actually
13 fantastic. And not that I put a board around that to
14 help resources. We have that group that produces it
15 and then the other group produces it. It is really,
16 really difficult to shape and that program we believe
17 is just a tremendous resource to those farms.

18 We did some early work at Penn State.
19 The first year we participated in that type of a
20 program saw approximately 25 percent increase in
21 production. They saw that in one of two ways. Either
22 by adding cows or increasing pounds of milk per cow
23 per day. In most cases a combination of the two.
24 Well, we know businesses have to continually be in a
25 forward, downward and that helps them to be.

1 CHAIRMAN HANNA:

2 Any other questions on the right?
3 Representative Mirabito?

4 REPRESENTATIVE MIRABITO:

5 Just typically, what would be the cause
6 of the put option to farmers and how does that compare
7 to their ability to buy it? That's the first
8 question. The other question I have is on page three
9 that you said that most Amish farmers don't
10 participate in the MILC program. What is the impact
11 --- is the situation with them different? How do they
12 fair in this whole crisis? And I'm curious as to why
13 you wrote that, that they need that?

14 MR. FREY:

15 I'll do your first question first about
16 the cost of risk management. Obviously, the closer
17 that you are to attempting to purchase the commodity
18 the less expensive or protective commodity the less
19 expensive it is. If I learned to protect my September
20 and October milk price the cost of the put option
21 might be approximately 60 cents a hundredweight. If I
22 want to protect my February, or March, or April of '10
23 milk price, it's going to cost me \$1 to a \$1.10 per
24 hundredweight. The price is significantly higher at
25 this point in the future market than it is today.

1 Obviously, volatility in the marketplace stands to
2 reason why it's a lot more expensive out there. In
3 the same way the LGN were not only protecting the
4 milk, but also protecting the ceiling for the corn and
5 beans for a similar price just like a put option at
6 this point. Does that answer your question?

7 REPRESENTATIVE MIRABITO:

8 Yes.

9 MR. FREY:

10 Your second question was on MILC and you
11 asked why I noted that Amish area producers in many
12 cases do not participate. Because a week ago tonight
13 there was a producer meeting in Lancaster and there
14 was approximately 600 Amish dairy producers that came
15 out to that meeting at 7:30 on Monday evening and it
16 was that evening as we interacted with the Amish
17 dairymen and I knew this but I hadn't thought about it
18 for a while, but they simply did not want to hear any
19 --- their fear is that if they signed up for MILC at
20 their local FSA office that they will somehow tie them
21 to other federal programs that they prefer not to
22 participate in and that's unfortunate because they
23 could have been a great help on a federal level to the
24 dairy farmers.

25 The second part of your question is, how

1 are they fairing? I would say some are fairing
2 reasonably well and some are not fairing so well.

3 CHAIRMAN HANNA:

4 Representative Kessler.

5 REPRESENTATIVE KESSLER:

6 Thank you. If the public were today to
7 pay X amount of dollars for a gallon of milk and then
8 go tomorrow and the price went up ten cents, 20 cents,
9 whatever, and that would be guaranteed to go back to
10 the dairy farmer, what would that cents have be to
11 under you chart to get that number back up to the
12 price in July '08 when it was \$1.59?

13 MR. FREY:

14 I'm not able to do that.

15 REPRESENTATIVE KESSLER:

16 I would like to know that. So that way
17 we can somehow think of how to guarantee whether it
18 was ten cents or 15 cents and you also mentioned that
19 we're very close to 50 percent. So out in the
20 Midwest, are they able to produce milk cheaper than we
21 are regulated by federal prices? So, therefore,
22 shouldn't there be another set of prices for close to
23 the east coast or higher populations and possibly is
24 higher profits?

25 MR. FREY:

1 So is your first question, is the Midwest
2 able to produce milk cheaper than we are?

3 REPRESENTATIVE KESSLER:

4 Yes.

5 MR. FREY:

6 Our industry is not unlike all other
7 industries in production equals the lower cost of
8 production. So how do you deem efficiency? You need
9 efficiency to improve management, through improved
10 performance and in many case scale of business. And
11 we have one of the lowest average number of cows per
12 herd in the country. So if we go to California,
13 Idaho, and Arizona, where the average herd size is
14 probably close to 1,000 dairy cows, it is easy for
15 them to capture levels of efficiencies and lower cost
16 of production than what we're able to capture here.

17 REPRESENTATIVE KESSLER:

18 So then shouldn't we have the state or
19 the country broken up into regions to set milk prices?

20 MR. FREY:

21 To some extent it's already federal order
22 in regions across the country.

23 REPRESENTATIVE KESSLER:

24 Thank you.

25 CHAIRMAN HANNA:

1 Chairman Maher.

2 CHAIRMAN MAHER:

3 Thank you. We're pricing and developing
4 who they pay and what. And you want to be careful
5 about this because you might increase the ten cents or
6 whatever it is. What you might not consider is in the
7 crops. That was not your testimony that was
8 encouraging an increase in price, but that we increase
9 many. The first question is, has anybody done
10 research recently about the price demand for retail
11 milk?

12 MR. FREY:

13 I think the answer to that is yes.

14 CHAIRMAN MAHER:

15 And if you could make out and send along
16 the numbers. You also observed with the Pennsylvania
17 Marketing Milk Board pricing that historically
18 producers have received from anywhere 45, 50 percent
19 retail price and that ratio is 33 percent. So there
20 is a decline in terms of what the shelf price of milk
21 is, 12 to 20 percent difference percent in the price
22 of a gallon of milk less is going to the farmer than
23 it used to be. Where is that going in terms of where
24 the milk market board built up their prices?

25 MR. FREY:

1 I'm not sure I am able to answer to that.

2 CHAIRMAN MAHER:

3 Well, maybe our next testifier will be
4 able to help us with that. I didn't want to put you
5 on the spot. You have to understand by paid premium
6 for put option is high priced higher than the price of
7 milk now. However, the converse would have been true
8 as well, is whoever is going to be writing these set
9 of options in that the price would be higher than the
10 fair price then they are being executed. So while I
11 think it is certainly an interesting thing to study, I
12 think you've got to be careful about pushing too hard
13 on getting our producers into the options because it's
14 the people's plan in the markets on the other side of
15 the transaction aren't there to lose money and then
16 they're gathering information or whoever is looking at
17 it that is writing the option and some would have a
18 short sale. So I think you have to be very cautious
19 about pushing options too quickly because in the
20 falling market, if you fall on the price guarantee,
21 you may have paid for something that is worth nothing.
22 But the question I had for you on that is that the
23 producers are paying if they were to buy close. Has
24 the milk marketing board started factoring those in to
25 determine what their minimum --- what their pricing is

1 or the premium should be?

2 MR. FREY:

3 Not to my knowledge.

4 CHAIRMAN MAHER:

5 Have any conversations along those lines?

6 MR. FREY:

7 No, we have not.

8 CHAIRMAN MAHER:

9 Okay. Thank you.

10 CHAIRMAN HANNA:

11 Thank you, John. That wraps up our
12 questions for you. I think I'd be remiss if I didn't
13 mention to you that in conversations I've had with
14 dairy farmers your profits are praised. They are very
15 effective and I believe they're well utilized and I
16 think that was one of Representative Brooks' questions
17 and the answer you provided, can you give us an idea
18 of how long ---?

19 MR. FREY:

20 We've had somewhere between 200 and 230
21 farms. I think about 200 currently are using the
22 program. The other 30 or 40 that haven't used the
23 program.

24 CHAIRMAN HANNA:

25 And I'm sure you wouldn't object to

1 legislators putting that information out to dairy
2 farmers. This is a program that has been well
3 utilized by a number of dairy farmers successfully and
4 maybe useful to all of them.

5 MR. FREY:

6 No, sir. Thank you.

7 CHAIRMAN HANNA:

8 Again, thank you, John. And our final
9 testifier is Keith Bierly. Keith is the Secretary of
10 Pennsylvania Milk Marketing Board.

11 MR. BIERLY:

12 I want to thank you, Chairman Hanna, for
13 the opportunity for the Pennsylvania Milk Marketing
14 Board to be here today and testify. Since the milk
15 marketing board has been mentioned quite a bit earlier
16 in the process, I think I ought to explain our
17 structure a little bit so that everyone in the
18 auditorium understands. There are three members of
19 the milk marketing board who are appointed by the
20 Governor of Pennsylvania and who confer the
21 Pennsylvania State Senate.

22 In the five-and-a-half years that I've
23 been here there, there have been four different
24 members. Boyd Wolff, who was previously chairman of
25 the milk marketing board and is a long time

1 Westmoreland County dairy farmer, very successful and
2 Secretary of Agriculture. He is incredibly
3 knowledgeable about agriculture in Pennsylvania. He
4 was succeeded by Dave Kreidie, a farmer out of
5 Columbia County, who started farming at the age of 19,
6 that's in his 60s, and is still farming. He is
7 chairman now.

8 The other two members are Lou Brubaker, a
9 very, very successful Lancaster County farmer, and
10 Barbara Grumbine, who is a Realtor who is married to
11 Dennis Grumbine, who previously was the executive
12 director of the Pennsylvania Farm Show Complex. My
13 point in raising this is that the people that I work
14 for as Secretary of the Pennsylvania Milk Marketing
15 Board are incredibly knowledgeable. I've been in
16 government for 34 years and these people, with their
17 integrity, their judgment, their knowledge of
18 agriculture, in my opinion, is unparalleled.

19 The only the people who apply their
20 knowledge of agriculture in Pennsylvania, again, in my
21 opinion, are three members of my staff; Tim Moyer, who
22 is with us here today, who is a policy advisor for the
23 board, has been with the milk marketing board and has
24 some county background. Dave DeSantis, who is the
25 chief of our law enforcement at the county, who I

1 think knows more about milk pricing than anybody
2 alive. He is at the International Milk Control
3 Agency's conference today, as we speak. And Doug
4 Eberly, our legal counsel, who also is very
5 knowledgeable. Again, my point of bringing that out
6 is that I've heard words today about whether or not
7 the Pennsylvania Milk Marketing Board would be fair in
8 their policy. I've been in government for 34 years so
9 I wouldn't work for the Pennsylvania Milk Marketing
10 Board if I didn't think that they did a fair and
11 equitable job for everyone in the dairy industry. Not
12 just the producers and not just the processors, not
13 just the retailers, but the consumers, as well.

14 I'm going to read my testimony now, which
15 constitutes about five pages, and then I'll be glad to
16 try to answer your questions and also have Mr. Moyer
17 come up here, who, again, is chief and the policy
18 advisor to the board to also help address your
19 questions. I would also mention at the start that I
20 do agree with some of the previous testifiers and
21 representatives in that milk pricing is as --- excuse
22 me, as complex an area of government as I've ever
23 seen. In fact, I've never seen anything as complex as
24 milk pricing.

25 I question from time to time these

1 competitive --- it's a very complicated economy we
2 live in today --- so I think you always have to put
3 that in perspective as well as how much any of us know
4 about economic up turns and down turns. If we were
5 here 18 months ago, the Pennsylvania Milk Marketing
6 Board, I don't think, would be accused of having
7 prices at an all time record high if this hearing were
8 held then, but we are state employees and we hope to
9 respond to situations that, in this case, is a crisis
10 in the dairy industry.

11 In the decade following World War I, the
12 dairy industry enjoyed an era of prosperity, strong
13 foreign and domestic demand supported heavy production
14 and adequate prices. With the onset of the
15 depression, however, widespread unemployment and
16 reduced incomes severely eroded much of this demand
17 while production and supply continued at relatively
18 constant levels. Just as we are seeing today, the
19 usual result of such economic imbalance ensured then,
20 producer prices were forced to decline.

21 In the unregulated environment of the
22 depression era, destructive price wars accompanied and
23 contributed to the downward spiral in producer prices.
24 The middle of the supply chain the milk processor
25 naturally attempted to shift the effects to the

1 producer and the prevailing economic conditions and
2 characteristics of the industry made this a simple
3 task. The processors in a particular region were the
4 principal outlet for nearby producers. The high cost
5 of transporting fluid milk and the perishability of
6 the product eliminated more distant buyers from the
7 producer's market.

8 With the unfavorable economic climate of
9 weak demand combined with more than abundant supply,
10 it is not difficult to see that the farmer had little
11 choice but to accept the price dictated by the
12 available processor. The alternative was dumping or
13 spoilage of the dairy farmer's production. Fearful
14 that meager returns to the producer would result in
15 the elimination of costly sanitary practices and the
16 abandonment of many farms, both of which threatened
17 the adequacy of a wholesome milk supply Pennsylvania
18 joined 22 other states and the federal government in
19 enacting remedial legislation.

20 An emergency one year milk control
21 statute was passed in 1934 extended once and then
22 reenacted in permanent form in 1937. It is this law
23 this subsequent amendments that is implemented today
24 as the Pennsylvania Milk Marketing Law. Today, the
25 Pennsylvania Milk Marketing Board administers a

1 comprehensive milk pricing program that enhances the
2 farm milk price while at the same time providing a
3 fair and competitive price for consumers. The Board
4 establishes minimum producer, wholesale and retail
5 prices.

6 The minimum producer price includes a
7 Board mandated over order premium on Class I milk
8 produced, processed and sold in Pennsylvania. The
9 over order premium is adjusted periodically based on
10 evidence received at hearings held by the Board. By
11 maintaining minimum retail and wholesale prices,
12 destructive price wars at those levels are eliminated
13 and there is no pressure to reduce farm prices to meet
14 competition. The key to the program is that
15 Pennsylvania maintains the authority to regulate all
16 sales of milk where possession transfers within the
17 state's borders.

18 It is also important to keep in mind that
19 the only transactions the Board is allowed to regulate
20 are those that occur within our borders. To be more
21 specific regarding how the Board's actions affect
22 producer prices the over order premium directly
23 impacts 15 to 20 percent of the milk produced in
24 Pennsylvania. Since its inception in 1988 through the
25 end of June 2009, the direct impact of the over order

1 premium has resulted in Pennsylvania producers being
2 paid an additional \$476 million.

3 The over order premium also indirectly
4 impacts most of the milk produced in Pennsylvania that
5 it does not directly impact. This is because the over
6 order premium sets that bar that milk purchasers must
7 meet when buying producer milk. The market for
8 producer milk is competitive and purchasers or
9 producer milk must pay competitive prices to attract
10 milk to their plants. Without both the direct and
11 indirect impacts of the over order premium under
12 current conditions of relatively high raw milk supply
13 and relatively weak demand, the price received by all
14 Pennsylvania producers would be significantly lower.

15 The all-milk price reported by the United
16 States Department of Agriculture is illustrative.
17 During 2009, Pennsylvania producers have received a
18 higher all milk price than the national average and
19 have received a higher all milk price than producers
20 in Ohio and New York, the surrounding states for which
21 data were available. Many people ask why the Board
22 mandated over order premium is not payable on all milk
23 produced in Pennsylvania. There are several reasons.
24 First, Pennsylvania produces much more milk than our
25 citizens consume.

1 Pennsylvania per capita milk productions
2 in 2008 was approximately 850 pounds while per capita
3 fluid milk consumption was approximately 190 pounds.
4 The balance of the milk is sold for fluid consumption
5 outside Pennsylvania or to produce cheese, butter and
6 milk powder. Remember, the over order premium is
7 payable on milk sold as a fluid beverage that is
8 produced, processed, and sold in Pennsylvania. Since
9 most of the milk produced in Pennsylvania is used to
10 manufacture Class II, III, and IV products such as
11 cheese, butter, and milk powder, with some being used
12 as Class I beverage milk outside Pennsylvania.

13 It is not available directly impacted by
14 the Board mandated over order premium. So why does
15 the Board not mandate a premium on the other classes
16 of milk? The cheese, butter and powder markets are
17 national due to the less perishable nature of those
18 products. In a national market there are many more
19 opportunities to acquire milk at low prices.
20 Pennsylvania milk and the cheese, butter and powder
21 manufactured from it compete nationally with products
22 manufactured all over the country.

23 Mandating a premium in side Pennsylvania
24 for non-Class I milk could make that milk and the
25 products manufactured from it non-competitive in that

1 highly competitive national market. Similarly, the
2 Class I over order premium must be established with
3 the regional fluid milk in mind setting the over order
4 premium too high would at some point encourage milk
5 purchasers to seek a lower cost supply from non-
6 Pennsylvania producers or would encourage retailers to
7 seek a lower cost wholesale supply outside
8 Pennsylvania.

9 As a matter of fact, at the last over
10 order premium hearing held back in June, a group of
11 dairy cooperatives which included the Greater
12 Northeast Milk Marketing Agency, DairyLea Cooperative,
13 the Northeast and Mideast Area Councils of Dairy
14 Farmers of America, Land O'Lakes and Maryland and
15 Virginia Milk Producers testified that the over order
16 premium should not be increased because competitive
17 conditions did not allow for an increase. We know
18 that there is some concern and confusion regarding the
19 relationship between retail milk prices and the prices
20 paid to the producers.

21 In Pennsylvania, the Milk Marketing Board
22 establishes a minimum producer, wholesale and retail
23 prices based on the costs incurred by a cross section
24 of each of those industry segments. There are three
25 basic building blocks the Board uses to establish

1 minimum retail prices. The Class I price received by
2 the dairy farmer, the cost to process raw milk, put it
3 into consumer packages and deliver those packages to a
4 store and the cost to handle and sell milk to the
5 consumer in the store.

6 The processor and retailer costs are
7 determined once per year at a public hearing and
8 remain virtually unchanged throughout the remainder of
9 the year. Some of the processor and retailer costs
10 are subject to minor monthly updates based on
11 increases and decreases in certain input costs such as
12 diesel fuel, natural gas, plastic resin, and the
13 Consumer Price Index. The over order premium is also
14 updated monthly based on changes in diesel fuel costs.

15 Because the processor and retailer costs
16 used to determine minimum retail prices remain
17 essentially unchanged throughout the year, changes in
18 the retail price are driven almost exclusively by
19 changes in the Class I price including the changes in
20 the over order premium received by dairy farmers when
21 the Class I producers price goes up, retail prices
22 increase and when the Class I producer prices goes
23 down, retail prices decrease. Because prices at all
24 levels are based on the average costs of a cross
25 section, less efficient producers, processors and

1 retailers have an incentive to reduce costs and become
2 more efficient.

3 If they do not, they will either lose
4 business because they must sell at prices above the
5 minimum price or they will lose money by selling at
6 minimum prices, which are below their costs. Since
7 1999, Pennsylvania dairy farmers have received 44 to
8 57 percent of the retail price of a gallon of two
9 percent milk. During the same period, processors
10 received 28 percent to 37 percent of the retail price
11 while the percentage received by retailers has been 15
12 to 17 percent. The portion of the retail price of
13 milk received by each segment of the dairy industry in
14 Pennsylvania is fair, reasonable and based on market
15 forces and actual costs.

16 In addition to the direct economic
17 benefits that the Board provides for Pennsylvania
18 dairy farmers, the Board also provides other benefits.
19 The Board administers and enforces the Milk Producers'
20 Security Act which requires that purchasers of
21 Pennsylvania producer milk provide security to protect
22 against defaults in payment for that milk. The Board
23 also certifies milk weighers and samplers to ensure
24 that producer milk is measured and tested accurately
25 so that Pennsylvania producers receive accurate and

1 timely payment for their milk.

2 Thank you for the opportunity to testify
3 today. I do want to also say, while I prepared
4 remarks here, I, as Secretary of the Pennsylvania Milk
5 Marketing Board, day-to-day administrator of that
6 agency, I am not a policy person. I don't make the
7 decisions. There are people on that board much more
8 qualified and capable than I am because of their
9 background in agriculture, their years of experience,
10 their years of experience in decision-making
11 decisions. I am, however, in the room when those
12 decisions are being made and these are high level
13 discussions based upon economics, upon policy and upon
14 law. We hear a lot of discussion about what could
15 happen going out of state and in state. Well, some of
16 you on this committee are members of the bar
17 association and you realize there is a thing known as
18 the interstate commerce laws which impacts many of the
19 decisions in the Pennsylvania Milk Marketing Board.
20 You also realize that economics doesn't stop at the
21 state lines, that some of the cooperative owners are
22 national in nature and they are conducting their
23 business in a national framework.

24 At the Milk Marketing Board, we also are
25 obviously bound by what the federal government does,

1 as well as the state government. So there are many
2 restraints on what can do and what we would like to do
3 in the Pennsylvania Milk Marketing Board. As a lay
4 person in agriculture, I don't have any suggestions
5 here today as to how we come out of this crisis with
6 the dairy industry. I just want to say that I do not
7 in any way think that the Pennsylvania Milk Marketing
8 Board, a state agency that's had a 70 or 80 year
9 history in this Commonwealth, is somehow responsible
10 today for the kind of dairy prices that we see.

11 I work with people that are on that
12 board. I think they make good solid decisions. The
13 last decision they made relative to milk purchase ---
14 I'm sorry, process --- produced and processed in
15 Pennsylvania and is sold out of state was an
16 incredibly difficult decision. I mean, these people
17 should all have law degrees in addition to agriculture
18 based upon interstate commerce laws and all the
19 ramifications surrounding that decision.

20 Tim, do you want to comment?

21 Mr. Moyer has been with the Board three
22 times as long as I have. He is an accountant and is
23 much more converse with the milk pricing and policy
24 than I am, so one of us will try to answer your
25 questions. Thank you.

1 CHAIRMAN HANNA:

2 All right. And again, we have both Keith
3 Bierly, Secretary of Pennsylvania Milk Marketing
4 Board, and now we have Tim Moyer, who's the policy
5 advisor.

6 Let me start, if I could. We heard some
7 discussion earlier about potentially pulling the
8 premiums. I suspect that that is a policy decision
9 that would not be made by either of you. To what
10 extent has that been discussed by the Board and is
11 there any --- could you perhaps educate us a little
12 bit as to the ups and downs of ---.

13 MR. BIERLY:

14 I'll ask Tim address pulling. Pulling
15 started before my tenure there. There's a history of
16 it the Board maintains or is discussed.

17 MR. MOYER:

18 Yes. I think it was in the late '90s
19 when that issue was brought to the Board by a
20 cooperative at the time, as well. But in the late 90s
21 it was an issue that was very much brought and
22 discovered by the Board and there was multiple
23 meetings and public hearings to decide what these
24 groups, what it is that caused an issue and as John
25 has suggested, there was a lot of discrepancy even

1 among the farm groups. The EFA. But the Board
2 actually decided at one point they would pull 45
3 percent of this Class I premium and after that
4 decision then there was another hearing such as this
5 and I am not sure if it was the House or Senate
6 Committee that met up at Penn State and later on I
7 think different Board members of the decision was then
8 to retract those regulations and leave them in the
9 current status for handling the pulls. So that issue
10 hasn't been brought to the Board since then by any
11 group of farmers or the farm bureau and since that
12 time what you have is a lot of the larger co-ops
13 developing a position of dairy market services and
14 they collectively market and demonstrate as a team
15 among the groups and management, as well. So they, I
16 think, amongst themselves resolved that issue.

17 CHAIRMAN HANNA:

18 Thank you. Questions on my left?

19 UNIDENTIFIED SPEAKER:

20 With all due respect, out of the top five
21 in the state, how many do you know has a program?

22 MR. MOYER:

23 Well, California has a program outside of
24 the federal programming. And then Wisconsin doesn't
25 have anything similar to what we have.

1 UNIDENTIFIED SPEAKER:

2 Does Ohio and West Virginia or Maryland
3 or New York have any type of marketing?

4 MR. MOYER:

5 New York has a pulling probably in the
6 western part of the state. Again, they're not as
7 comprehensive as Pennsylvania is.

8 UNIDENTIFIED SPEAKER:

9 So who sets the dairy prices for their
10 dairy producers other than the federal?

11 MR. MOYER:

12 Well, by and large, most of the milk
13 produced in the country, like California, who has
14 class prices for all the products that are produced
15 from them, and then the federal order program
16 regulates new prices for most of the rest of the
17 country. There are products that our federal
18 government does not regulate prices on and there's
19 some of that here in Pennsylvania, but in New York the
20 majority of their production is regulated by federal
21 law.

22 UNIDENTIFIED SPEAKER:

23 Maryland, too, would be under federal?

24 MR. MOYER:

25 Correct.

1 UNIDENTIFIED SPEAKER:

2 Thank you, sir.

3 CHAIRMAN HANNA:

4 Other questions on the left? How about
5 on my right? Any questions on my right? Chairman
6 Maher.

7 CHAIRMAN MAHER:

8 Thank you. I was --- I guess I knew it,
9 but it was good to review it. It's been 75 years now
10 since the one-year emergency statute was passed to
11 regulate the price of milk. I was fascinated at the
12 final page of your testimony. When you were talking
13 about prices being established and that creates
14 incentive to be efficient and producers, processors or
15 daily milk produced costs are not efficient and lose
16 money and so forth. And it sort of sounded like you
17 were deriving incentive and consequences that were in
18 the early associated free market price. Did you
19 intend for it to sound like ---?

20 MR. MOYER:

21 I think there is consolidation of free
22 market and minimum prices involved in this.

23 CHAIRMAN MAHER:

24 Well, let me then ask you what would be
25 the consequences of us not having, in Pennsylvania, a

1 Milk Marketing Board? I'm not advocating that.

2 MR. MOYER:

3 Yeah. I won't, I won't ---.

4 CHAIRMAN MAHER:

5 It's so hard for people to understand why
6 in a sense of --- I would assure --- what would happen
7 if it didn't exist at all?

8 MR. BIERLY:

9 The first year I was at Pennsylvania Milk
10 Marketing Board, I went up and I said why am I here?

11 THE REPORTER:

12 Speak in the microphone.

13 MR. BIERLY:

14 What good will it do here in this milk
15 market? And they said a couple of things. They said,
16 number one, we keep the playing field fair with the
17 dairy farmers in Pennsylvania. Number two, we've got
18 more milk processors than other states around us,
19 which not only creates jobs there, but helps the
20 economy overall. I believe that we actually do reach
21 out for keeping everybody vibrant within the industry.

22 By setting the minimum price I think we guarantee
23 farmers, obviously, that minimum price. I mean, I
24 have talked to so many people since I've been on the
25 Milk Marketing Board, particularly retailers, that

1 said I give milk away just to get people in here. I
2 use it as a lost liter. You know, you can do that
3 with milk and eggs and bread. I mean, that's what
4 they would sell the milk.

5 CHAIRMAN MAHER:

6 The retailers still have to buy it in the
7 market course of current prices, right?

8 MR. BIERLY:

9 The retailers --- I'm sorry?

10 CHAIRMAN MAHER:

11 The retailer wants to give it away. They
12 still have to pay for it. It's still purchasing.

13 MR. BIERLY:

14 Okay. All right. Through the certain
15 government programs are subsidized in schools.

16 CHAIRMAN MAHER:

17 But whoever is giving away or selling it
18 at a retail level has to purchase it from someone?

19 MR. BIERLY:

20 That's correct.

21 CHAIRMAN MAHER:

22 And this minimum pricing in your
23 testimony says if somebody's selling it at minimum
24 price they're going to lose money. So the producers
25 selling it for minimum price, they're going to lose

1 money. What does that accomplish for the producer?

2 MR. BIERLY:

3 Where are you in my testimony?

4 CHAIRMAN MAHER:

5 Page five.

6 MR. BIERLY:

7 Where at? What paragraph?

8 CHAIRMAN MAHER:

9 The second paragraph. They'll lose money
10 by selling at minimum prices which are below their
11 costs. You have to understand, I don't have a point
12 of view. While I'm Chairman of the Agriculture
13 Committee, I'm very much into seeking education and
14 background. I'm just trying to understand this
15 process and it seems to me, from a producer's
16 standpoint, it's not clear to me that if there is
17 anything of use of the Pennsylvania Milk Marketing
18 Board at this point, especially if the minimum price
19 is something that is going to be impossible for them
20 to recover the cost of.

21 MR. MOYER:

22 I'd like to respond.

23 CHAIRMAN MAHER:

24 Yes.

25 MR. MOYER:

1 I think what that paragraph is intended
2 to illustrate was that, even though we do set the
3 prices based on the average cost and the most
4 sufficient processors, that there still is an
5 incentive for them to reduce their cost so they can be
6 more profitable. This isn't how we establish a price
7 for the industry. It tries to do their best to
8 continue to be the best company they can. They're ---
9 that's the benefit of their company and they're going
10 to continue to become more efficient and then the next
11 year, when it comes around for our costs, their costs
12 are going to be lower so then that in turn will lower
13 the cost of milk to the consumer.

14 CHAIRMAN MAHER:

15 Why does that have the same effect with
16 just market prices? What happens again --- what would
17 happen if the Pennsylvania Milk Marketing Board did
18 not exist?

19 MR. MOYER:

20 Okay. Currently the Board has a Class I
21 board allotted amount today is \$2.15 per
22 hundredweight.

23 CHAIRMAN MAHER:

24 What percentage do the farmers get?

25 MR. MOYER:

1 Directly?

2 CHAIRMAN MAHER:

3 Directly.

4 MR. MOYER:

5 That is between 15 and 20 percent.

6 CHAIRMAN MAHER:

7 So one in five or one in six farmers
8 would directly get that?

9 MR. MOYER:

10 No. It's 15 to 20 percent of the bill.

11 CHAIRMAN MAHER:

12 Okay. What percent of the farms?

13 MR. MOYER:

14 We haven't analyzed that recently.

15 CHAIRMAN MAHER:

16 Could you try to do something like that?

17 MR. MOYER:

18 It was done sometime ago. What happens
19 is a lot of this money is paid through the dealers and
20 cooperatives who market the milk and the members and
21 the cooperatives then, according to Pennsylvania law,
22 can distribute those monies to their members on
23 whatever basis they choose.

24 CHAIRMAN MAHER:

25 So the cooperatives have pulling, in

1 essence?

2 MR. MOYER:

3 Cooperatives can deal in proceeds,
4 correct. And that's a based on their director's
5 decisions.

6 CHAIRMAN MAHER:

7 So farmers are not a member of the farmer
8 --- if he doesn't have whatever procedure fits the
9 pulling profile, you got to be a member of the
10 cooperative and they get benefit from the premium?

11 MR. MOYER:

12 I believe that farmer that sells for
13 Class I processor in Pennsylvania will get the current
14 benefits of this Class I.

15 CHAIRMAN MAHER:

16 Including consumers in Pennsylvania?

17 MR. MOYER:

18 Correct.

19 CHAIRMAN MAHER:

20 For other people, nothing?

21 MR. MOYER:

22 Right. There is an opening in other
23 classes.

24 CHAIRMAN MAHER:

25 Is that a policy decision or is that a

1 statute?

2 MR. MOYER:

3 That is not a statute. We have had most
4 testimony about whether we should place people on
5 other classes and no one has afforded that.

6 CHAIRMAN MAHER:

7 When, John Piwowar testified I asked him
8 a question and maybe you heard it. That what if the
9 dealers had to pay X dollars or whatever that amount
10 would be per hundredweight for all the milk that they
11 processed, whatever the source, all milk processed in
12 Pennsylvania whatever the source And the amount
13 collected would be then paid to the Pennsylvania dairy
14 farmers pro rata per a hundredweight produced
15 ultimately liquid or balancing or whatever. Has
16 anybody studied that question to the Milk Marketing
17 Board?

18 MR. MOYER:

19 The testimony that we received is that if
20 manufactured plants in Pennsylvania had to pay more
21 for their raw milk product than in the surrounding
22 states what we're going to see would be these huge
23 manufacturing --- they would be looking to relocate
24 very quickly.

25 CHAIRMAN MAHER:

1 In a certain sense, if the county asked
2 what is Pennsylvania Milk Marketing Board doing and in
3 the testimony offered here I was surprised at the end
4 of it the self asked question was, what suggestions
5 does Pennsylvania Milk Marketing Board have to get
6 through this process? And the answer offered by the
7 Secretary of the Board was they had no suggestions.
8 And I would guess that if nobody has any suggestions.
9 There are no suggestions?

10 MR. MOYER:

11 Well, what the Pennsylvania Milk
12 Marketing does is regulate the economics of the
13 industry in Pennsylvania. How we had supported
14 revenue primarily is through this over order premium
15 and I think we suggested that we have these available
16 on emergency basis. We had testimony about that on
17 their own basis, but the Farmers Bureau and the
18 cooperatives all felt that the current rate was about
19 as high as it could go. So that's the level of the
20 overall it should be for the rest of this year.

21 MR. BIERLY:

22 If I could also interject. I see
23 Pennsylvania Milk Marketing Board more as a judicial
24 agency than it was a legislative agency. They make
25 decisions based on who brings information to them and

1 they try to make a fair and equitable decision at that
2 time based upon the evidence. In a previous life, I
3 was a magistrate for 12 years, so I think I understand
4 evidence and I think I understand their role. Their
5 role is like the legislators, to come up with
6 different laws or money to help Pennsylvania dairy
7 farmers. It's to decide those issues that come before
8 it. And so I see them, in that sense, as a passive
9 agency, the same way as Pennsylvania Supreme Court is.
10 If you ask the Pennsylvania Supreme Court, how would
11 you change the law here? Well, they don't tell you
12 how they change it. They decide the case as it comes
13 before them and that's how I see the Pennsylvania Milk
14 Marketing Board. I think they're the Supreme Court of
15 Pennsylvania and that they make decisions based upon
16 their best evidence that they have when the parties
17 bring the evidence to them. And the parties that are
18 affected are the ones that come in.

19 CHAIRMAN MAHER:

20 I appreciate your time.

21 CHAIRMAN HANNA:

22 Representative Brooks.

23 REPRESENTATIVE BROOKS:

24 Could you just go over, again, the date
25 or how many years have gone by since the last

1 comprehensive discussion on whether --- having it
2 pulled?

3 MR. MOYER:

4 I don't know the exact date they showed
5 me. I think it was either in 2000 or 2001 when that
6 was filed and dropped from discussion.

7 REPRESENTATIVE BROOKS:

8 My follow-up question --- you said it
9 could be in the late '90s?

10 MR. MOYER:

11 Yeah.

12 REPRESENTATIVE BROOKS:

13 My follow-up question then would be is,
14 since this concern has been brought up again, the
15 market has changed, situations change, do you feel
16 that it could be appropriate to have another candid
17 comprehensive discussion on whether premiums should be
18 pulled, just to have that dialogue again? And who
19 would request that? Would the co-ops need to request
20 that or ---?

21 MR. MOYER:

22 Anyone can petition the board to hold a
23 hearing. It doesn't always have them, but I think
24 almost --- but if they want a petition in order to
25 hold a hearing on the topic, we can do that.

1 REPRESENTATIVE BROOKS:

2 Thank you very much.

3 CHAIRMAN HANNA:

4 Representative Mirabito.

5 REPRESENTATIVE MIRABITO:

6 I just want to see if I understand this.

7 Isn't making policy decisions a form of negotiation

8 based upon opinion so it's not more of a ---.

9 MR. BIERLY:

10 It's all in the testimony.

11 REPRESENTATIVE MIRABITO:

12 It's all in the testimony?

13 MR. BIERLY:

14 Yes. Everything we do is essentially
15 following testimony unless you get into the
16 enforcement aspect where we go out and enforce the
17 milk marketing and the rules and regulations in regard
18 to the milk marketing board and what is on now, but
19 everything else is based upon testimony in our office.

20 REPRESENTATIVE MIRABITO:

21 The other quick question is, do you have
22 data on the size of the ---?

23 MR. BIERLY:

24 We'll try and get you that information.

25 I mean, you heard the testimony here today. John

1 tried to give you certain numbers, I gave you numbers,
2 and it was based upon when they were calculating and
3 so, but we'll try and get you that information.

4 CHAIRMAN HANNA:

5 Chairman Maher.

6 CHAIRMAN MAHER:

7 Thank you. Further follow up from the
8 testimony of John Frey. If you observed that the
9 Pennsylvania dairy farmers had received 45, 50 percent
10 of retail price for the milk and currently raised
11 yours closer to 33 percent and I asked him what
12 happens to the 12 to 18 percent that isn't going to
13 the pockets of producers anymore, where is it going?
14 And he graciously said, but given Pennsylvania Milk
15 Marketing Board looks up the price and the studies
16 issued --- if producers are getting a 45 to 50 percent
17 retail price of the milk as far as the current 33
18 percent, where is the rest of it going?

19 MR. MOYER:

20 Okay. I just would like to ---.

21 CHAIRMAN MAHER:

22 The rest of it, being the part they used
23 to get and are not getting?

24 MR. MOYER:

25 Let's take the opportunity to make sure

1 when people are comparing the retail price with what
2 the farmers are getting paid, it's not accurate retail
3 price. The current price and average that milk
4 farmers are getting paid for all classes of that ---
5 the real comparison is to compare the Class I for
6 retail price of the Class I price because that's the
7 value of the farmers is getting for that product.

8 CHAIRMAN MAHER:

9 So you would imagine that 45 to 50
10 percent is --- 33 percent is the permanent price?

11 MR. MOYER:

12 I don't know about that, but I know that
13 Mr. Piwowar was talking about our statistical average
14 number in comparing with the current retail price,
15 which isn't a true comparison because the value of
16 that Class I product retail, the Class I price is
17 associated with that. That is not that one that's a
18 higher price.

19 CHAIRMAN MAHER:

20 Is that 45 to 50 percent or 33 percent?

21 MR. FREY:

22 I assumed we were comparing apples to
23 apples.

24 CHAIRMAN MAHER:

25 You didn't try to ---?

1 MR. FREY:

2 Yes.

3 CHAIRMAN MAHER:

4 Could you research that and provide some
5 information on the Class I relationship, what has that
6 for a period and get that to him?

7 MR. MOYER:

8 I can respond without numbers. We do
9 have a cost process like Mr. Bierly suggested. As to
10 who offered that is a whole other question. Class I
11 on the milk price and then you have the processors
12 cost and retail cost and you add that all together and
13 you get the retail price. Well, the only thing that
14 changes, basically, between the hearings, which
15 happens annually with the processors and the
16 retailers, are the analysis prices in the U.S. today
17 and the board approving it. It has been pretty much
18 15 for last year. So what we're seeing is constant
19 cost associated with processing retailing. While the
20 first thing, farm price has been reduced, so you will
21 then see a reduction in that percentage of retail
22 price to the farmer, as well, because the other two
23 components are remaining the same, the retail prices
24 drop not as much as the milk price so that would
25 reduce it.

1 CHAIRMAN MAHER:

2 So the difference is the dealer profit?
3 Between minimum price and farm price in cost of
4 production? The dealer profits; is that correct? I'm
5 trying to follow up your arithmetic.

6 MR. MOYER:

7 I guess I'm not explaining it very well,
8 but there is three building blocks.

9 CHAIRMAN MAHER:

10 Well, rather than trying to do it with
11 words, you do have the spreadsheets and co-ops maybe
12 --- I'm sure you've been asked to do this already, but
13 to gather those and work this thing out.

14 CHAIRMAN HANNA:

15 Representative Brooks.

16 REPRESENTATIVE BROOKS:

17 If I understood you correctly, you have
18 annual meetings to discuss what's going on with the
19 distributors and retailers; is that correct? Is that
20 what you just said?

21 MR. MOYER:

22 Yeah. Only here in the public hearings.

23 REPRESENTATIVE BROOKS:

24 Okay. Could I ask then, is there a
25 possibility or ask what reason it is why you don't

1 hold annual meetings for the farmers, as well?

2 MR. MOYER:

3 Okay. We do hold them biannually. And
4 information that the Board is receiving at those
5 meetings by the farmers bureau and the co-ops is the
6 cost of production numbers. It is the conclusions
7 that are available in the surrounding states. This is
8 as much information as we could get. So the Board is
9 getting that information and that's typically co-ops
10 and the farm bureau asking the Board to set a premium
11 without any particular rate, and then resource is very
12 close.

13 REPRESENTATIVE BROOKS:

14 So it's my understanding then that
15 annually you hold meetings for the distributors and
16 retailers and biannually you hold meetings that
17 represent the producers as far as representation from
18 the farm bureau and other organizations; is that
19 correct?

20 MR. MOYER:

21 That's correct. At least that often,
22 sometimes more.

23 REPRESENTATIVE BROOKS:

24 Okay.

25 MR. MOYER:

1 At their request.

2 REPRESENTATIVE BROOKS:

3 All right. Thank you.

4 CHAIRMAN HANNA:

5 Representative Denlinger.

6 REPRESENTATIVE DENLINGER:

7 Yeah. I just wanted to understand. So
8 retail producers come in and they took the process and
9 say, look you had an increase in cost this and this in
10 production, you could take action to protect their
11 price. If the farmers come in and say, look, we had
12 the perfect storm, we had industry costs go up, we had
13 products go up, do you take action to protect their
14 price or do you simply adjust the premium?

15 MR. MOYER:

16 Well, again, the use to address prices is
17 the overall premium. We talked about premiums for
18 classes earlier and there has been no suggestion. In
19 fact, most of the old industry I am not opposed to
20 that. So that's a good idea and we would hear that
21 testimony and make a decision, but it's by and large
22 the overall premium rate which the Board used to reach
23 the average and they heard the testimony that farmers
24 are receiving less than the cost of production in the
25 last year, but the Board's decided that \$2.15 was

1 currently the limit that the Board would establish
2 without disturbing the market.

3 CHAIRMAN HANNA:

4 Representative Carroll has a question.
5 Before I go to him let me ask, I mean, this is the
6 federal components in pricing as well to reference to
7 that and you have the federal norm, as well.

8 MR. MOYER:

9 Yes. And that's by far the most
10 complicated and that's the federal government
11 established the base prices for the Class III and IV
12 and there is a Class III milk is used primarily and
13 Class IV is going higher and higher. And what it has
14 established is the National Ag Statistics Service who
15 surveys transactions, and determines buyers of those
16 products and those transactions very closely for all
17 the prices and important to watch for change. So what
18 you see is pretty much a free market mechanism to
19 establish those base prices. And that's across the
20 country. So that's how the base price for milk is
21 established, based upon the prices that these
22 commodities were traded.

23 CHAIRMAN HANNA:

24 Based retail price or based price in the
25 market?

1 MR. MOYER:

2 Base on the farm. We don't set any
3 retail prices for butter or powder or cheese or
4 anything like that. Another thing I'd like to make a
5 comment on, after they determine the price of these
6 commodities, cheese, butter and powder, the federal
7 government does something very similar to what the
8 milk marketing board does. So the price of cheese is
9 trading more. For example, they subtract from that
10 cost, which is the cost nationally --- in terms of
11 cost to manufacture cheese and then what's left is
12 what the farmer gets. So they're using a cost based
13 system as well. Just special commodity price.
14 Subtract out the cost based on the commodity price
15 less the system and they come out with producer price.
16 Very similar to what we do in terms of cost to the
17 dealers to provide Class I product.

18 AUDIENCE MEMBER:

19 Mr. Chairman, can I ask a question here?

20 CHAIRMAN HANNA:

21 Not at this point, sir. Well, I hope
22 you'll have an opportunity to.

23 AUDIENCE MEMBER:

24 Yeah. I just ask the Board ---.

25 CHAIRMAN HANNA:

1 All right. Well, let me turn to
2 Representative Carroll first for his question.

3 REPRESENTATIVE CARROLL:

4 Thank you, Mr. Chairman. Now, that we're
5 on the subject, it sounded like there is a balancing
6 act going on here between producers and processors.
7 Is Pennsylvania considered a state with --- processors
8 compared to New York, Ohio, West Virginia or Maryland?

9 MR. MOYER:

10 Yes. Pennsylvania has more processors
11 than those states and numerous others. And it's
12 interesting that if you follow the industry now there
13 is a lot of talk about too much concentration in the
14 industry, but if you --- by being a market, so to
15 speak, in certain areas because of lack of
16 competition. So the more buyers available in
17 Pennsylvania Milk Marketing I think need more
18 competition which price enhancement.

19 REPRESENTATIVE CARROLL:

20 So are there any processors in the other
21 states or are we just the processor of milk?

22 MR. MOYER:

23 No. There are processors in several
24 regions. There's several in New York.

25 REPRESENTATIVE CARROLL:

1 Southern states you mentioned.

2 MR. MOYER:

3 Yeah. They do all the processing.

4 REPRESENTATIVE CARROLL:

5 Does any Pennsylvania milk go to the
6 processors in the United States?

7 MR. MOYER:

8 Yes. Absolutely. New Jersey doesn't
9 produce much at all. So their supply comes from the
10 Pennsylvania market of process.

11 REPRESENTATIVE CARROLL:

12 Processing milk?

13 MR. MOYER:

14 Absolutely. That's what I meant to say.

15 REPRESENTATIVE CARROLL:

16 Okay. Thank you.

17 CHAIRMAN HANNA:

18 Any further questions from the members?
19 What we're going to have an opportunity to do --- we
20 cannot open this floor for questions, so what I would
21 like to do at this point is actually bring the formal
22 part of the hearing to a close. I really do want to
23 hear your questions and I'll encourage our panelists
24 to remain and address your questions individually with
25 you so we will have an opportunity to work through

1 those, but the hearing, in the way it's conducted is,
2 we're not allowed during the process to open the floor
3 to questions. So, at this point, I would like to
4 thank all of our audience for coming out today. I
5 want to thank our Representatives. I think it's been
6 very helpful and I know sometimes it's difficult, but
7 I think it's very helpful to add information that you
8 bring before us. I also want to take this opportunity
9 to thank the members who came out today. I am sure,
10 as our audience knows, we had as many as 14 members
11 today. That's an incredible turn out and that shows
12 you the level of interest that there is in the
13 legislature in this very complex and difficult
14 problem.

15 I want to particularly thank
16 Representative Kula for suggesting the idea for the
17 hearing, for bringing us to her district to discuss
18 this and for working very, very hard to put together
19 the agenda for today. I think it's been very, very
20 helpful to all of us. And I certainly want to thank
21 Penn State University for allowing us to use their
22 facilities here today. I think it's worked very well
23 and we certainly appreciate their cooperation.
24 Chairman Maher, any closing comments?

25 CHAIRMAN MAHER:

1 I just want to thank you, Mr. Chairman,
2 for enabling a very thorough open conversation. I
3 want to compliment the members and I want to thank you
4 for coming close to my home. It's so much nicer to
5 watch people drive six hours for a change. Thank you.

6 CHAIRMAN HANNA:

7 And again, I do want to encourage the
8 audience members to remain and we would be happy to
9 talk with you individually and try to address specific
10 questions. And I know some of you are certainly
11 closer and a lot of members may have six hours to get
12 back home so they may not want to stay, but I will
13 certainly be happy to stay. So with that, we'll call
14 the hearing to a close. And once again, thank you to
15 you all.

16 HEARING CONCLUDED AT 3:39 P.M.

17 * * * * *

18 CERTIFICATE

19 I hereby certify, as the stenographic
20 reporter, that the foregoing proceedings were taken
21 stenographically by me, and thereafter reduced to
22 typewriting by me or under my direction; and that this
23 transcript is a true and accurate record to the best
24 of my ability.

25


Court Reporter