EXHIBIT

179

Testimony of Walter E. Whitcomb
Commissioner of Maine Department of Agriculture,
Conservation and Forestry
Hearing In the Matter of Milk in California
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My name is Walter E. Whitcomb. I am testifying in my official capacity as the Commissioner of the Department of Agriculture, Conservation and Forestry for the State of Maine. I also serve as the Chair of the Northeast Association of State Departments of Agriculture, which includes Pennsylvania, New York, New Jersey, Delaware and the six New England states. The State of Maine and the state agency that I have as a responsibility are very involved with dairy policy, particularly, as it impacts the producers in the predominately Class I markets in Maine and New England.

I am also testifying as a farmer. My daughters having returned to the family farm following their studies at Cornell are, at least, the fifth generation to farm the land and milk cows in our town of Waldo, Maine. I am also testifying as a farmer greatly concerned about my daughters' capability to keep the farm they are now operating. My family's multi-generational experience is representative of families that continue to make investments in dairy farming across New England and the Northeast.

My testimony also reflects my 10-year experience, both as a farmer and as Commissioner, working to promote an amendment to the federal Order system's Class III pricing series. This effort was started in 2006 by our state's producer group, the Maine Dairy Industry Association, which is similar to both the Kentucky Dairy Development Council and Georgia Milk, which you heard about yesterday. At that time I was a Board Member and the designated point person for the effort. As part of this effort, we formally proposed an alternative Class III pricing series. I testified in favor of this proposal during the Department's Make Allowance hearing, in 2007, and continued to aggressively pursue our proposed change right up through the 2014 Farm Bill. This experience taught me a number of lessons, including just how hard it is to make needed changes to federal Orders.

I support the inclusion of California in the federal order system, but only if such inclusion can be achieved without any detrimental impact on the Northeast dairy industry. As a policy maker, I support this effort by the three cooperatives to join the federal Order system. Federal dairy policy should be greatly strengthened by having California dairy an integral part of the federal system, subject to uniform regulatory provisions, rather than operating on its own regulatory island. In particular, the inclusion of California would make it easier for the U.S. Department of Agriculture (the "Department") to proceed without further delay and hold a hearing to rationalize the Class III pricing series. Further, as a dairy farmer, I certainly understand the need for producers to obtain more orderly marketing conditions and improved producer prices.

However, I am here testifying because of the potential negative impact the Department's preliminary analysis indicates the cooperative proposal, as well as the Institute's, will have on the Northeast dairy industry. The Department's analysis indicates both proposals will lower producer prices in the Northeast. The amount of this reduction is predicted to be relatively small, but so are dairy profit margins most years. California producers should understand that no dairy farmers should be asked, nor can they afford, to absorb even a minimal reduction if a reduction may be avoided.

I appreciate that the Department has included analysis of the proposals' impact on regions outside of California as part of the hearing record. As it weighs the many nationwide impacts, the Department must account for this evidence as an essential consideration in deciding whether to promulgate the California Order as proposed. The Department should only establish the Order if it concludes the preliminary evidence has been overcome and determines that the Order will not reduce producer pay prices in other regions. If it cannot be so determined, then the Department should not promulgate the Order.

As indicated at the outset, the first basis for my testimony is to officially represent the interests of the State of Maine. My testimony in this section is primarily intended to express concern for the potentially adverse impact the proposed Order would have on dairy farm interests in my state and the state's support programs that serve to maintain Maine dairy farm pay prices at a marginally sustainable level. The public policy importance of the presence of local milk production in all regions of the country should, I hope, be a given in all of this discussion.

There are other states in the east and south that, because of the federal price volatility, also try to stabilize local producer prices. In our state these programs are a lifeline for modern Maine family farms that now operate subject to an increasingly unresponsive federal pricing policy and in an almost completely consolidated marketing environment, neither of which provides the consistent cash flows required for sustainable operation. These are farmers who have traditionally lived with self-discipline, adjusting to meet local market demands.

Despite my concerns, I hope the Department will find that the evidence will in the end support adoption of a California Order. My testimony as Commissioner serves further to propose some provisions the Department can take to allow the Order to be more easily amended than has recently proven possible for existing federal Orders. This testimony draws from the recent concerted efforts with my fellow Northeast Commissioners, in a region that includes Pennsylvania and New York as well as smaller milk production states, to make the federal Order amendment process more dynamic in response to our now more dynamic dairy marketplace. The Department has held only two hearings since the comprehensive federal Order reform occurred more than 15 years ago, even though Secretary Vilsack's review committee strongly highlighted the need for corrective change to the basic Class III cheese price. It is cause for concern that the Department might prove equally unable to amend the California Order over time, given that this new Order will introduce more than 20% of the nation's milk supply into the federal system.

As noted at the beginning, my testimony is further derived from my family's mutli-generational experience in dairy farming. The family's dairy farm is the basis of both my personal testimony and the background for the broader, public interest-based discussion.

Like most New England farms up to the World War II era, my grandparents operated a diversified, multi-purpose farm. The farm had other animals beside cows, and my grandfather worked his team in the woods, sold butter and produce that went on the boat to Boston's Faneuil Hall and sold small amounts of gravel during the Depression for local road building. This form of farming provided a way of life that was not nearly as dependent on money, or "cash flow", to be sustainable. Family members and neighbors provided a "labor force" not requiring much cash for wages and benefits. Family and neighbors worked together to enable the farm to operate without reliance on the most modern machinery and all the accompanying operating expenses.

As occurred everywhere else, accumulated technological and productivity changes, accelerating in the 1950s, significantly altered the long-standing working equation on our farm and all around us. This tale of cement floors, bulk tanks, manure pits and milking parlors has been often told. With the associated increased demand for capital prompted by these changes, decision-making on the farm more and more became dependent on the price of milk. Farmers who chose to remain in production had to find a return from the milk price sufficient to cover their increased capital costs for the improvements in their dairying operation and improvements in the quality of the resulting consumer products. This greater reliance on the milk price as a source of stable income for the farm has accompanied the dairy specialization trend as most of us have grown from smaller multi-purpose farming.

In our particular case, my father and mother responded to this greater cash flow need by developing our dairy farm to include the sale of breeding stock as well as a milking operation. This combination allowed the farm to operate profitably and over time reduce the need to borrow capital for land and buildings. As I took over managing the farm, my parents equity investment had been paid down to the point where some business owners could have realized retirement. As a note of caution, please don't suggest to my Mother, now well over 90 years old, that she is really retired.

Until my current re-entry into this public policy work, I had been able to operate the farm and make necessary improvements, but could see the constant uptick of annual operating expenses. The farm's stability and profitability has largely been the result of continuing the combined dairy and breeding cattle sales operation. Our particular form of specialization was a workable response to the changes in the dairy marketplace over the life of our farm.

As Commissioner, I can confidently represent that, across the industry, Maine's dairy farmers have similarly adapted and improvised. Structured around the in-state, high-valued fluid demands, ours has been a long-time, stable and self-supporting industry. Although many know Maine for our unique blueberries, potatoes, or maybe lobsters, dairying has the first or second largest farm gate value in Maine's diverse agricultural economy.

While I am proud of our ability to evolve and adapt, I am increasingly concerned for my farm's future, and for all our dairy farms across the state and the region. Well known to everyone here, there is a persistent, chronic discrepancy between cost of production and the combined federally regulated minimum and market-based over-order pay prices. With dairy farming now so cash flow dependent, this recurring discrepancy has for too long now required my family, and my neighbors, to perpetually confront incurring more operating debt or dissipating our property's equity to cash flow our operations.

Following expiration of the Northeast Dairy Compact, largely at the initiative of Maine Dairy Industry Association, the State of Maine adopted two programs to respond to the increasing threat this distress poses for our local milk supply. These two programs operate to boost Maine dairy farm pay prices and cash flows to a short-run, break even, sustainable, albeit minimal level. Maine farms receive a pooled, over-order price payment through operation of the Maine Milk Commission and a variable market driven subsidy payment from the state general fund through the state's "Tier Program". In combination, these payments have for a decade enabled Maine dairy farm pay prices to approach breakeven levels

For purposes of brevity, I will note that information on these state programs can be easily accessed on the State of Maine public record to provide greater description. Given its significance for this hearing, I will summarize and highlight the operation and outcome of the Tier Program.

Since 2012, the State's "Tier Program" has paid out $15.5 million in direct support payments to Maine's 300 dairy farmers, covering about 600 million pounds of milk production, annually. Last year, alone, the State paid $10.6 million. These payment levels may not seem like much here in California, given that our production is so miniscule compared to the volume of production in California. For comparison, California would have had to pay its producers, since 2012, over $1 billion to approach the level of support provided by the Maine state government for its dairy industry. From this perspective, the fiscal and political challenges may be better understood. The total size of Northeast milk production could not be viewed as a marketing threat to California. However, the positive benefits of local dairy in my region and every other are immeasurable.

Most significantly, the two Maine support programs have had their impact. I certainly don't wish to dwell on the misery of my neighbors. But if one compares the attrition of dairy farms and milk production across New England and the Northeast, one will see that the attrition rate is substantially less in Maine than in the region's other states.

Maine's dairy industry has no capability to absorb any long-term reduction from a new source in market derived producer pay prices. The state's dairy aid programs are under severe budget stress just to respond to the negative conditions created by the combined circumstance of inadequate federal Order minimum and market-based over-order pricing. The level of supplemental support currently provided is only break even. Any reduction in pay prices from another source will threaten the viability of our programs and hence the sustainability of our industry. And we are not unique as a state.

As indicated at the outset, I do hope that the evidence presented at the hearing will demonstrate that a California Order may be crafted that does not adversely harm other regions of the country in this manner. If so, I support its promulgation. If, however, the evidence is not convincing on this key point, the Department should conclude that such a California Order is contrary to the greater interest of the rest of the industry's producers, and reject it.

With the hope that a California Order may be adopted, I provide some brief additional thoughts to encourage the new Order be crafted to enable its amendment in a more timely manner. The amendment process for the California Order must be more responsive than the present federal Order amendment process, to ensure it may account for the substantial regional and national market changes that will inevitably occur with the new inclusion in the federal Order system of over 20% of the nation's milk supply.

Based on my combined experience with the formal federal hearing process and the Maine Milk Commission's more informal but flexible hearing process, I believe the Department could establish conditions allowing for the Order's adjustment by informal rulemaking. Clearly the Department is bound by the law's requirement of a producer referendum. The referendum approval process, however, may itself be used to approve the conditions, and thereby allow for more flexible rulemaking.

Once the California Order is adopted, the Department should also aggressively employ informal notice and comment rulemaking to respond to its impacts on the other federal Orders. Notice and comment rulemaking would provide a regulatory dialog that is more formal than a simple discussion between industry and Department representatives but far less rigid than the formal, contested case rulemaking process. This revised form of rulemaking would enable producers more immediately and effectively to raise issues of concern and to begin to develop with the Department a formal record that could be used to initiate the more formal rulemaking procedure, if the process reveals such a hearing is needed.

It does not serve the public or dairy interests for the USDA hearing process to take years to advance. The Department needs to respond to situations like the volatility in Class III pricing that has caused so much damage to our industry. The Department should take care to craft the California Order to enable it to be amended in a more dynamic fashion, in response to the profound changes that will inevitably result from imposition of the California Order.

This concludes my testimony. Thank you for your consideration.