

Federal Order Hearing, Week of May 18th, 2009

Docket Number AO-14-A78 et.al.

Testimony of Dr. Carolyn Orr, Northeast States Association for Agriculture Stewardship,
of the Eastern Regional Conference of the Council of State Governments

My name is Carolyn Orr. I serve as agriculture liaison for state legislators with an interest in agriculture and rural communities, and today testify on behalf of the Northeast legislators of the Eastern Regional Conference of the Council of State Governments as the Northeast States Association for Agriculture Stewardship.

The northeastern legislatures have a history of commitment of efforts to assist dairy farmers, what many consider the keystone industry for agriculture in the Northeast. Legislatures in the Northeast have provided subsidies, tax credits and price adjustment mechanisms for dairy producers. The Northeastern states have taken steps to support the dairy industry because the system for setting milk prices does not take into account the cost of milk production and consequently makes milk production unprofitable. It is why the NE Interstate Compact was developed. During the time of the compact 1996-2001, farmers were subsidized when prices fell below target. Since the Compact elapsed, states have resorted to a variety of efforts to support the industry.

States have created Milk Promotion Boards or Milk Commissions, held hearings and hired experts that have proposed changes and several of the proposals have been implemented.

The Maine legislature has a state funded "over order premium" and proposed a tax on large retailers, with the proceeds to go to dairy farmers, they also proposed a property tax rebate for dairy farm real estate. Vermont is still deliberating on an over order premium. Pennsylvania has had one for years.

Massachusetts General Court instituted a tax credit for based on a trigger price, a linked loan program and policies to increase consumption of locally produced dairy products. Massachusetts lawmakers also proposed a retail milk dealers fee, varying depending on the price of milk.

Vermont, New York, New Hampshire and Massachusetts have used state general funds for dairy assistance programs, New York alone spent \$30 million in cash subsidies for their dairy assistance program in 2007.

New Hampshire, Vermont and New York have focused on hauling and stop charges and identifying when ownership transfers for milk so that farmers are not charged for these stranded costs. It is interesting to note that in many state legislatures, NMPF and IDFA have testified against the efforts of state legislators to address NE milk producer profitability.

Almost all of the NE states have value added programs and even the USDA has value added producer programs to encourage further processing, to support the entrepreneur, the farmer that takes the risk and shortens the distance to the consumer, yet it appears that many of these proposal seek to punish the entrepreneur for being successful.

All of these efforts are by states, when the real issue is that the federal Milk Marketing order often leaves NE dairy farmers without enough income to cover their expenses, compounded by reporting errors in nonfat dry milk prices that USDA has failed to redress.

Section 1509 of Federal Public Law 110-246 provided for the continuation of Agriculture and Other Programs of the Department of Agriculture and established a Federal Milk Marketing Review Commission which was to conduct a review of the MMO system including consideration of the competitiveness and transparency in dairy pricing and simplifying the MMO. We are told there has been no funding to accomplish this.

All of this is a prelude to the Northeast States Association for Agriculture Stewardship response to the producer handling proposals being considered in this hearing. Many NE state legislators are concerned about the funds and time spent on these proposals while the real issue is Federal MMO. The national impact of the producer handler dairy operations is very small, their impact in comparison to the companies requesting this hearing is minor. In fact, state legislators have significant concerns about the consolidation and concentration among the largest cooperatives and handlers and its impact on the marketplace. Producer-handlers bear the true costs of production and delivery, they produce a product that meets the demand of their consumers or they do not stay in business, their method is actually more transparent and a more accurate estimate of the consumer and economic demands than the Federal MMOs. The problems in the dairy industry can not be blamed on the small number of producer handlers, no matter how big they get.

Congress addressed NMPF and IDFA's concerns when it enacted the Milk Regulatory Equity Act of 2005 and decided not to further regulate producer handlers nationwide. We hope that the USDA follows Congress's lead and declines to make any changes as a result of these proposals until it takes on a more comprehensive review of the challenges facing the dairy industry.

We question whether this is a sensible way to spend scarce federal dollars and believe that the current economic crisis that dairy producers now face should preclude any changes to the system until the Federal Milk Marketing Review Commission is established and reviews the entire MMO program. The entire system must become more transparent and in line with consumer demands so that producers do not have to endure the roller coaster price ride that has occurred since the NE compact elapsed. It is important that we retain successful business, promote innovation and the jobs and communities they support, the timing is not right to isolate the producer-handler exemption and make changes in any aspect of the dairy marketing process until this has happened.

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May 12, 2009

Re: Petitions by NMPF and IDFA to eliminate the Producer-Handler Status

I write in support of Dr. Carolyn Orr's testimony on behalf of handler-producers. As the former Chair of *Northeast States Association for Agricultural Stewardship (NSAAS)*, the former Chair, *New Hampshire House Committee on Environment and Agriculture*, and having worked on legislation designed to support and encourage local production in all its aspects, it is my hope that strict quotas for handler-producers, as proposed by *National Milk Producers* and *International Dairy Foods Association*, will not be adopted.

Were these restrictions to be adopted, it would have a chilling effect on northeastern dairy production. It is, moreover, contrary to efforts by *NSAAS*, which has been working on developing a dairy policy, not only to preserve the existing number of dairy producers in the northeastern states but, hopefully, encourage new producers in all aspects of production, including handler-producers.

The reasoning behind this effort is two-fold. It is often remarked that dairy farmers are referred to as the "anchor tenant" for agriculture; therefore, maintenance of all current dairy farms is necessary for an healthy, local agricultural economy. There are obvious tangential benefits, which include land preservation, open space, wildlife habitat, and tourism. As is the case for the northeastern states, which comprise *NSAAS*, these benefits are particularly important to New Hampshire's economy and agricultural well-being. Equally important is the assurance of a local, fresh supply of milk, which can only be guaranteed through not losing any more production capability.

The Northeast utilizes a significant proportion of its fluid milk for direct consumption by the public. New Hampshire's two producer-handlers, McNamara and Hatchland, together with other northeastern producer-handlers, are a necessary component of this direct supply. Accordingly, the proposed changes would undercut their hard work and risk they have undertaken, perhaps even interrupt a suitable flow of local fluid milk. In addition, it would jeopardize local economic and environmental benefit.

While it may be argued by some that several large "producer-handlers" have had a negative effect on certain other "federal orders", this is not the case in the Northeast. In addition, when looking for actions that create "disorderly marketing conditions" for milk, one

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need look no further than the consolidation of processors, the reporting errors for nonfat dry milk and the major culprit, the Federal Milk Marketing Orders themselves.

Production limitations, as proposed by *NPMF and IDFA*, compromise any notion of true competition and free enterprise; such limitations place an added burden on those who have already taken on such a risk by producing, bottling, and marketing their own milk. The cost of production in the Northeast is already too high. These additional economic sanctions would create an unnecessary, additional hardship.

The McNamara and Hatch Farms have shown effort and enterprise and are a significant part of New Hampshire's small but highly productive, high quality dairy industry. Cognizant of this fact, my House committee has worked very hard over the last several years to preserve and grow dairy in New Hampshire. Placing artificial limitations upon these two entrepreneurs not only would be contrary to their best interests but the time, effort and money my committee and the General Court has invested in an industry which generates \$125,000,000 in economic benefit for New Hampshire.

Should limitations be made through rulemaking, which I hope will not be the case, I would suggest the following proposals be considered, specifically that:

1) Any production limitations on producer-handlers be applied per each federal order on a case by case basis and that only after such an examination of production costs it may be determined whether or not that order's producer-handlers are having a significant, detrimental impact on the local market. It is my belief that such an examination will find that the northeastern independent producer-handlers do not have a deleterious effect on the northeastern market but actually augment the local supply in a necessary, positive way.

2) Should limitations be imposed through rules, any limitation should not be a fixed ceiling but be subject to a growth factor consistent with, at least inflation. This flexibility would allow the local producer-handler to grow with the market area.

3) Any limitation be not less than 3 million pounds and that it be adjusted to reflect family participation. This factor would allow the next generation of dairy farmers who opt to be producer-handlers to be integrated in a positive manner.

Thank you for any consideration you may give this letter, which is in support of Dr. Orr's testimony; it is my hope that you will make this letter part of her testimony. I do agree with her; production limitations at this time will do greater harm than good.

Should you have any questions, please do not hesitate to contact me. I remain

Sincerely


James Phinizy

cc: Commissioner Lorraine Merrill,
New Hampshire Department of Agriculture

Aspiring VT dairy farmers fret about future

Johnathon Mason's family had to sell its 60-cow dairy farm last year. He misses the animals.

"I understand what it means and feels like to no longer have a herd of cows that I grew up with in the barn," said Mason, 17, of Enosburg Falls, his voice choking. "I understand what it means to go out with the family and milk cows every night, and to do all the chores."

Reynolds, 15, understands, too. Her family still has its Alburgh dairy farm, but she worries about its future - and hers.

"During this economic hardship, my family had to let go three people," she said Thursday. "As of right now, I work the night shift with my three sisters, to take care of the barn full of cows. While most kids make plans to hang out with their friends, we plan out how to do the chores and what time. Since milk prices have been down, finances have been tight."

The two were among the speakers at a Statehouse rally aimed at putting a face on the economic crisis facing Vermont dairy farms, many of which have gone under because of plunging prices paid to farmers for milk and rising costs for feed, fuel and labor.

Prices paid to Vermont farmers, which peaked at about \$20 per hundred pounds of milk last summer, have dropped to about half that since, sending many into the red. According to the state Agency of Agriculture, the state now has 1,057 dairy farms, down from 1,195 three years ago.

Gov. Jim Douglas, who spoke to the group, said the remedy for fluctuating milk prices must come from Washington, not Montpelier.

Until it does, farmers will be subject to price swings.

"Farms are the economic engine of rural Vermont. And right now, the economic engine of rural Vermont is sputtering and it's not running on all the cylinders," said Lt. Gov. Brian Dubie, who also spoke to the group as it gathered with handmade signs saying "Wanted: Stable Milk Prices" and "Step Up and Stand Out: Save Vt. Farms" under a white tent on the Statehouse lawn.

In addition to Mason and Reynolds, 12-year-old Shelby Biasini, of Morrisville, brought her Holstein calf, Sprite, for the event.

Nearby, a mini-motorcade of farm vehicles - a manure truck, a fertilizer sprayer, a cattle truck and a pair of tractors - idled on State Street.

"They don't want bailouts," said dairy farmer Dean Wright. "They want a system that works for the farmers."

<http://www.forbes.com/feeds/ap/2009/05/07/ap6393977.html>

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