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Exhibit No. ____________ Exhibit MDIA - 1

Docket No. 23-J-0067
AMS-DA-23-0031

Statement of Heath Miller, Treasurer
FMMO Pricing Hearing, January 17, 2024
Carmel, IN

I am Heath Miller. I am here today representing the Maine Dairy Industry Association – MDIA – to provide the Association's position regarding the proposals being considered in this hearing.

In summary, MDIA's position is that the Secretary should make changes to the FMMO regulated pricing series as a result of this hearing only if the Secretary concludes the changes will not result in a reduction of the Orders' uniform minimum producer prices.

MDIA's position is premised on the historic function of Market Order regulation to establish regulated uniform minimum producer pricing. It would be inconsistent with this essential function for a FMMO regulatory hearing to cause a reduction of the regulatory minimum producer price.

MDIA's position also stems from a concern about the consequences a reduction in regulated minimum producer would have for the Northeast region. First, and primarily, it would be particularly problematic to lower the regulated minimum price amidst the widespread and accelerating exit of Northeast dairy farmers over the past twenty-five years that is directly traceable to chronically inadequate producer pay prices.

MDIA's position is further premised on our members' collective experience with the contraction and resulting upheaval in the Northeast milkshed, which has been caused by this loss of farms. We are most concerned that a decrease in the regulated minimum price will likely cause more farm exit and thereby even greater contraction and upheaval in the milkshed.

Later in my testimony, I will present a letter from the Northeast Secretaries, Commissioners and Directors of Agriculture. This letter describes their collective belief that the loss of farms has "brought our region's fluid milk supply to a tipping point." My testimony echoes this alarming statement by our region's foremost agricultural leaders.

My day job is to operate Green Valle Farm in Newburgh, Maine, a dairy farm that has been operated by my family since the 1860s. With 3 employees and 4 family members, we manage a total of 500 animals, and farm 650 acres of hay and corn. Our milk mainly goes to the DFA-Oakhurst bottling plant in Portland, about 120 miles away. At times our milk is also trucked to the DFA Garelick bottling plant, outside Boston.

I am a member of Dairy Farmers of America Cooperative, and serve on the Cooperative's Resolutions Committee. I serve as the Chair of Maine's Dairy Promotion Board, as well as Chair of my district school board consisting of 4 towns and 2300 students.

MDIA is a producer association that includes all Maine dairy producers - cooperative members and independent producers; conventional as well as organic dairy farmers.

There are 145 MDIA member farms, at last count. About 80% of these have fewer than 130 cows and produce an average of 2.25 million pounds of milk a year per farm. I understand that a dairy farm is a "small business" for purposes of this hearing if it has an annual gross revenue of $3.75 million or less. According to this definition, all but ten to fifteen of Maine's 145-member dairy farms, including mine, qualify and are here represented as small businesses.

MDIA is a non-profit organization that does not market milk or engage in any other commercial enterprise. It is funded by producer contributions provided partly as required by law and in part voluntarily. MDIA's purpose is to represent the collective interest of its producer members, and also the public's interest, in maintaining sustainable Maine dairy farms and their continued ability to provide the raw milk supply for Maine's fluid milk production and consumption.

MDIA's main focus is to advocate for sustainable producer pay prices on behalf of its membership. We appear regularly before the Maine Milk Commission, which administers an over-order pricing program that has been in continuous operation for almost 100 years. We also engage in ongoing dialog with the Maine Legislature to promote the effective administration of the State's more recent and unique program of tiered producer payments. This payment program supplements federal Order minimum and State over-order regulated producer pricing.

The Legislature and we also recognize that improvements to federal dairy policy and regulatory operation should reduce the need for state action and expenditures. We have therefore been involved in Congressional Farm Bills over the past twenty years, and have also appeared in the two prior major federal Order hearings held since 2000. Additionally, we played an active role in the establishment of the Northeast Interstate Dairy Compact.

When developing our policy positions at both the state and federal levels, we take into account the interests and concerns of the cooperatives and bargaining agency - Agrimark, DFA, CROPP and NFO Cooperatives – which now operate in Maine. We account for their interests as collective marketers of producer milk and as operators of or co-packers with milk processing plants. We also account for the concerns of the proprietary milk plants that purchase Maine raw milk, and for the concerns and interests of consumers.

Our approach is thus premised on the so-called three-legged stool of dairy policy that includes producers, handlers and consumers. But MDIA's primary function is to advocate for the collective producer interest of MDIA's farmer membership, as producers.

A few final background notes for my testimony. First, I would like to explain how MDIA is taking a very different approach than we took in the two prior hearings in presenting only our summary position with regard to the outcome of the hearing.

Some here today may remember that MDIA has previously submitted and advocated for significant if not radical change to the FMMO program. The prior national make allowance hearing included AMS' formal review and consideration of MDIA's proposal to replace the Class III end product price formula with a competitive pay price calculation. For the hearing that established the California federal Order, we argued for inclusion of a supply management program as an alternative to de-pooling provisions.

For this hearing we concluded that the focus must be on National Milk's package of proposals to update FMMO pricing formulas, and on the related proposals submitted by direct market participants. MDIA recognizes there is pressing need for this update, and this should be the hearing's agenda, alone.

At the same time, MDIA determined that its collective voice advocating solely for producers, as producers, can still lend value to this hearing. While recognizing that MDIA's membership of mostly smaller-scale operations is not completely representative, we still believe that all producers share, to some measurable degree, an every-day reliance on their milk checks. All producers, therefore, share some measurable concern regarding this hearing's impact on the regulated minimum amount of their milk checks.

Finally, I would like to explain how my statement was developed. I have consulted with the MDIA Board throughout as the National Milk and IDFA proposals progressed and as this hearing was noticed and has been conducted. The Board and I have also consulted with our counsel, Dan Smith, during this time. At the Board's and my direction, he has helped me prepare this statement.

Turning to my testimony. MDIA brings to this hearing the history and experience of our long-standing involvement in both the local Maine milk market and the greater Boston regional milk marketplace. These local and regional markets were critical to the development of the nation's dairy industry, with Boston a key city and center of innovation. Being so involved from the start and at the epicenter of the dairy industry, we have continuous experience with the development and all the dramatic changes that have occurred over the past 100-plus years.

Most significantly for this hearing, our history and experience include continual involvement with the creation and development of the State and federal milk market regulation programs, which have accompanied the industry's evolution.

I will relate a bit of this market and regulatory history to illustrate the two key points of MDIA's position. The history first illustrates the critical interconnection between FMMO regulated minimum producer pricing and producer milk checks that has existed virtually from the industry's beginning. The history also provides context for our heightened concern about the potential impact a reduction in FMMO regulated minimum pricing will likely have for our region's producers and milk supply.

In putting my testimony together, I have realized that the history of the farm I grew up on tracks the history of Maine's dairy industry that I will be describing, so you will hear a bit of that, as well.

As I said earlier, my family's farm was established around the time of the mid 1800s
At its start the farm primarily provided for subsistence living. Our family kept a typical barnyard of animals, chickens for eggs, sheep for wool and meat, and cows for both meat and dairy. As the farm and family grew, it also began selling excess farm products to generate income. My family also recognized the value in diversification and raised squash to ship 230 miles away to the Boston market.

My grandfather was born in 1900. This era was the beginning and development of specialized New England dairy farming, prompted by the flourishing growth of the regional New England fluid milk industry. Capitalizing on the opportunity for additional farm income, my Grandfather and his brother saw shipping milk as another form of diversification for their farm. As best I can determine they sold their milk to a local creamery in our town of Newburgh. The milk was collected and trucked in milk cans to the plant, fifteen miles away.

Like our farm's local Newburgh customer, small milk plants and creameries were similarly being built across all of Maine, and all over New England. Also, like with our farm's local customer, these countless

Maine and New England fluid milk plants were served by the literally thousands of small-scale, milk can dairy farming operations that came to be established nearby the receiving plants.

The custom of the twice monthly “milk check” was developed as part of the early “kitchen table” contracts for this sale and delivery of raw milk to local milk plants. Dairy farmers were expected to continuously supply their perishable raw product to the plants. In return, they were to receive twice-monthly payments, per the “hundredweight” of milk shipped held in each can. The terms could also include additional incentives, such as to promote higher quality and greater volume.

Also in the earliest period of the industry’s development, Maine’s raw milk production began to be moved to the then-emerging Boston market for fluid milk. Milk’s bulkiness and perishability, of course, were big limiting factors. At the start, some southern Maine milk production, being on the coast and close to Boston, was transported to the new market by ocean ship.

Coinciding with urban growth, the roll out of the urban area railroad network around Boston changed everything. Coupled with the innovation of the refrigerated railroad car, the rail network made available the northern New England and New York milksheds. Transportation was again transformed when the interstate highway system displaced railroads, in the 1950s and 60s. All along, milk assembly and transport methods were also continuously refined.

As for all of the rural New England milkshed, these changes and improvements enabled Maine's supply to the Boston market to grow and become more regularized. By the end of the 20th century, Maine's raw was supplying close to ten percent of the old New England Order's fluid milk supply.[1]

For much of the mid and later twentieth century, Maine producers thus engaged in a two-part, local and regional, marketplace. For many years, this two-part market provided vibrancy and competition for Maine milk production, for both independent and cooperative producers, alike.

Today, the two-part local and regional supply pattern for Maine raw milk essentially still exists. Maine farmers and milk plants still combine to supply practically all of the beverage milk demand for Maine residents. And raw milk from Maine dairy farms also continues to provide a not insignificant portion of the raw product supply for the Boston market.

But we have also participated in most of the dramatic changes that have swept the industry since the start of this century. Our local and regional conventional fluid milk businesses have also gone through transforming consolidation. The in-state Maine dairy industry now has only two milk plants, located in Portland. Hood still operates one of these plants. The other, Oakhurst, is now owned and operated by DFA. Similarly, the urban Boston market now has one proprietary company,

[1] *New England Milk Market Statistics for the Year 1999*, Market Administrator, Federal Milk Market Order No. 1

Hood, and one cooperative, DFA, operating the very few plants still located in Boston.

Also paralleling the rest of the country, the industry's dairy farm sector in Maine and across New England has gone through dramatic consolidation. Almost all producers are now members of the two conventional cooperatives that operate in New England, Agrimark and DFA. Maine has some of the very few independent producers still negotiating kitchen table contracts directly with a local milk plant. They market their milk to Oakhurst, even though it is operated by DFA.

Also tracking national trends, the Boston fluid milk market has been absorbed into the much larger northeast regional dairy marketplace. The previous, New England Order 1 utilized 2.6 billion pounds of milk for Class I out of a total of around 6 billion pounds; the new Northeast Order 1 uses about 8 billion pounds of a total of about 27 billion pounds.[2]

This greater regional market thus also includes far more dairy products' manufacturing than the old Boston market. Many of the manufacturing plants are owned by cooperatives. This means that, as member owners, these dairy farmers now also participate in a marketplace much greater than only a local or regional fluid milk marketplace.

Maine dairy has also participated in the diversification that has accompanied the conventional market's consolidation. About one third

[2] *New England Milk Market Statistics for the Year 1999*, Market Administrator, Federal Milk Market Order No. 1; https://fmmone.com/Statistical_Report.htm

of MDIA members are organic producers. On-farm and smaller scale processing and manufacturing plants are also operating in Maine.

Our farm's experience tracks this evolution of the conventional fluid industry. In the early 1980s the Hood cottage cheese plant in nearby Newport that we had shipped to since the 1950s shut down. We then joined the Boston Milk Shippers and shipped to the West Lynn plant, near Boston. Then in the 1990s we started shipping through the DMS system that allowed our milk again to be shipped to a local plant in Bangor Maine – Grant's Dairy. After a few years, though, Grant's, which had been bought out by Dean Foods, was closed down. Seeing the writing on the wall, we had joined DFA a couple of years before that happened, anticipating the closure.

I know that I am telling history that most in the room are familiar with. The point is that, from the beginning of the industry's development and throughout all these transforming changes, the constant for New England producers has been their twice monthly milk checks.

Twice monthly pay checks have provided the steady income needed to cash flow the daily operation that kept the milk flowing and to service mortgages and loans. At least for some times in our history, the payments also provided sufficient return for establishment of all the beautiful farmsteads still standing across New England.

Dairy farmers shipping by wagon, sea, rail and highway all received payment in return in the form of the milk check. Dairy farmers who shipped close to the farm or to Boston all received a milk check. This has been the basic custom whether a farmer was an independent producer or member of a bargaining agency or cooperative; no matter, they all received, and continue to receive, their twice monthly milk checks.

Which brings us to the function of regulated uniform minimum pricing, as the uniquely controlling feature of dairy farmers' milk checks. Here is a bit of additional history to fill out the picture of Maine and New England dairy farmers' experience with regulated producer pricing and their milk checks.

The dairy industry's early years in the 1920s and into the 1930s coincided with the onset and the depth of the Great Depression. The times included turmoil for the Boston, and Maine, fluid milk markets. I grew up with stories of milk bandits, milk wars and milk strikes.

While an oversimplification, the turmoil was mostly caused by the unequal market power of the many milk sellers as compared to the number of milk buyers. The perishability of raw milk and its different values when used for fluid and manufactured uses increased this market power imbalance.

Cooperatives and other bargaining agencies were organized early on in response, to enable collective and enhanced producer bargaining power. In Maine, these included the Hood Milk Shippers Association, and also at some point the Boston Milk Shippers Association that supplied West Lynn Creamery.

The cooperatives and other collective producer groups innovated minimum classified pricing by milk handlers and uniform blended pricing for producers, in the 1920s.

But market-based efforts proved unsuccessful against the Depression. Individual State legislatures, including across New England, responded with the enactment of State Market Orders. And, in the 1930s, Congress acted to establish the federal Milk Market Order program.

The Maine Milk Control Board was created in 1935. It set up a series of Marketing Orders that established marketing areas for the state's cities and regulation of the plants and producers that served them. The Orders adopted minimum classified and uniform producer pricing to provide marketing stability for these local markets and their producers, plants and customers.

Federal Order 1, for the Boston market, was established right around the same time as the Maine Order. The Federal Order program also adopted minimum classified and uniform producer pricing, to provide similar market-wide stability for the nation's cities and their marketing areas, as also intended by the Congressional law.

Maine dairy farmers have thus participated in regulated pricing programs from their beginning. In the beginning, most Maine farmers were pooled under the state Orders, while the southern Maine farmers who supplied milk to Boston plants, as described above, were some of the first pooled producers under the first FMMO 1.

For this hearing, the key point is that both Order programs linked the regulated pricing with producer payments and their milk checks. Most significantly, an Order's uniform blend price became the regulated minimum price that pooled producers were to receive in their milk checks. All milk handlers pooled under an Order became subject to an audit of their milk payments to producers to ensure they paid their supplying producers the Order's regulated minimum blend price.

Procedurally, the Market Order programs also eventually adopted the twice monthly payment custom as the basic process for pooling payments. Class I handlers paid twice monthly into the pool, and the equalizing disbursements out of the pool were also paid out twice-monthly to provide for all handlers' uniform, blended, minimum price payments to producers.

This new regulatory commercial practice of required minimum producer pricing completely altered kitchen table contracts and negotiations between plant and producers. For all contracts, again, the regulated uniform minimum amount was just that, and that was a major change.

The regulated minimum was also most of the contract amount, but producers could still bargain for prices above the minimum. A new negotiation developed with buyers, about "over-order" pricing terms. Along with over-order procurement premiums, incentive payments for quality and higher volume production continued, now also as "over-order" premiums. These over-order procurement and other incentive premiums became a market fixture, and also became the basis of competition among handlers for producer milk.

As with industry change, Maine's experience with milk market regulation has also gone through constant evolution since Market Order regulation was first adopted in the 1930s. The Maine State and Boston Order operated side by side for many years. But that regulatory pattern is now long gone. Maine's State Order has been converted to a regulated over-order premium program.

The federal program itself was of course dramatically consolidated in 2000 to include only a very few regional Orders, and the pricing series was also then changed significantly. Uniform regulated minimum producer pricing for Order 1 and many others now reflects the minimum regulated value of each producer's component production plus the PPD, instead of a pooled uniform minimum blended producer price. The support price has come and gone, and Dairy Margin Coverage Program payments are a new and key source of direct supplemental income provided by the federal government, at least for smaller-scale farmers.

Yet, again, through all these regulatory twists and turns over the past 90 years, the interconnection between the producer milk check and regulated producer pricing has also endured and remained the constant. The fundamental milk market regulatory principle, establishing a regulated uniform minimum payment amount to be provided in the milk checks received by pooled producers that serve an Order's marketing area, remains.

If anything, the interconnection between FMMO regulated pricing and producer milk checks is even tighter in today's market, at least in Order 1. In the northeast, over-order pricing has become at best, marginal. There are virtually no more procurement premiums, and quality and volume premiums are limited. This means the Order's regulated minimum price now more establishes the actual producer pay price. In other words, with only marginal over-order pricing, pay prices for FMMO 1 pooled producers now virtually start and end with calculation of the producer's regulated FMMO component value pricing, plus the PPD.

This recent development is most important for the hearing, because it means that a decision by the Secretary resulting in a reduction of FMMO regulated minimum producer prices will do more than simply be inconsistent with the historic function of regulated minimum pricing. Of greater concern, this recent development means that a price reduction will likely translate directly into a reduction in producer milk checks.

This brings me to our concerns about the consequences of a such a decision for the Northeast. The first and basic concern is that there is a direct line between the steep and accelerating exit of Northeast producers and inadequate pay prices. A reduction in producer milk checks resulting from this hearing will therefore cause, if not further accelerate, the additional exit of Northeast producers.

In the Northeast, the number of pooled producers has declined by over half between 2000 and 2022. We have gone from 17,280 producers pooled on Order 1 in 2000 to 8,319 pool producers in 2022. The number of New England pool producers has declined even more during this period, by two-thirds, from 2,588 to 851.[3]

Many factors have contributed to this decline, including labor difficulties and milk transport challenges to name just a few. But we producers know that the plain, driving cause is inadequate pay pricing. Without at least adequate pay, it is at bottom hard to rationalize keeping the farm going. Plus, if we had sufficient revenue, we could hire and keep workers, and we could improve the efficiency of milk pick up and transport.

Inadequate pay pricing has become a chronic problem following the market's consolidation. Constantly confronting inadequate revenue and income over this long period of time has made it truly hard to rationalize keeping the cows milking and the land producing. This is why so many of our neighbors have gone out and will continue to go out.

There is no tolerance for a further price decline, and this is why we have our basic concern for the outcome of this hearing. Again, a decision by the Secretary that results in a reduction of the Order's regulated minimum producer prices will likely translate directly into a reduction in producer milk checks. Amidst the current pricing

[3] https://fmmone.com/Statistical_Report.htm Table A37.

environment this will cause, if not further accelerate, the additional exit of Northeast producers.

The potential for this exit of producers leads to our second concern. This concern is the further contraction of the Northeast milkshed, and the upheaval for the milkshed's infrastructure, which would accompany the loss of additional farming operations.

Like in so many other states, the Maine dairy industry is an anchor of the agricultural and rural economy, and has an integral role in the State's overall economy and culture. Dairying is a very close second to the largest segment of the State's diversified agricultural economy

What distinguishes dairy farming is its dispersal around the State, rather than being concentrated in one area like our potatoes. This means that dairy farms have an unusually important impact across Maine's rural economy, both directly and by operation of the agricultural, economic multiplier effect. The historic state-wide significance of dairy farming can also be seen across New England and New York, and particularly in Vermont and New York.

The really unimaginable loss of dairy farms identified above have already significantly degraded the historic presence of dairy farms across New England and New York. This contraction and upheaval in the region's milkshed has caused tremendous social and economic cost for the Northeast's rural communities. I salute the Maine legislature for their adoption of our Maine Tier Payment program, which confronts these costs directly in our State.

More particularly, for dairy farmers, this upheaval has first meant the loss of our community's varied farm operation, size, type and management style, which is really the historic basis of our region's diverse and flourishing dairy industry.

Of equal and more recent concern, the contraction is eroding the infrastructure vital for the support and long-term sustainability of all farms, no matter the size. The infrastructure's upheaval, unpredictability and unreliability for dairy farmers cannot be overstated.

This upheaval and unreliability are best demonstrated by the diminishment of feed and tractor dealers, milk haulers, seed and fertilizer dealers, let alone the milk equipment repair folks. As I can recall as a young man, there were many nearby small mom and pop feed dealers available to me. Today there are only two mills in the entire State, owned by out of state companies, plus a few others that haul in grain from mills in other New England states.

The same can be said for milk haulers; many milk haulers who used to be available to haul milk from a neighbor to the plant, now drive hours just to get to their first farm, and then, after getting loaded drive hundreds of miles to the receiving plant, many times also to wait in lines to be unloaded at the plant.

I understand of course that there has been substantial expansion and consolidation of farming operations over the past few years, and that milk production from the bigger farms has offset the loss of milk volume associated with the wide-spread exit of smaller farms. But I don't think this really offers much assurance about milkshed stability for the longer-term. I just don't see how the infrastructure for the Northeast milkshed can support itself without a critical mass of dairy farm, regardless of size.

In sum, my point for the Secretary is this: The industry cannot support more milkshed contraction and loss of infrastructure. A diversity of northeast dairy producers is the infrastructure's anchor. The demise of a diverse dairy industry will be the beginning of the end for all the small scale agriculture that make up our rural communities in New England.

I would now like to read the letter from the Northeast Secretaries, Commissioners and Directors of Agriculture, referenced earlier. This letter identifies their collective belief that we in the Northeast are in fact at the tipping point for the stability of our region's milk supply.

READ LETTER

I would like to conclude with a few additional thoughts about MDIA's position for this hearing.

First, it follows from MDIA's position that the outcome of the hearing cannot be an increased adjustment, alone, of make allowances. An increased adjustment of make allowances, alone, would by definition reduce regulated minimum producer prices.

If make allowances are to be “updated” and increased, there must be corresponding updating changes to other Order provisions, such as increase also to the Class I differentials, which ensure the outcome of the process is at worst a net neutral impact on producer pricing.

I am not advocating for some kind of tit for tat processor and producer pricing numbers calculation. Nor am I suggesting that any changes should be adopted that are not supported by the record, in order to equal out the math. What I am simply saying is that the Secretary should only act if the system’s collective “update” and “modernization” has the net result of not decreasing regulated minimum producer prices.

I would also like to note that MDIA’s position reflects our awareness that risk management tools are increasingly being used to relieve the cash flow pressure associated with reliance on milk check-to-check payments. Unfortunately, I can say with great confidence that very few MDIA members rely on hedging strategies to alter their basic reliance on their milk checks.

At most, I believe ten out of our 145 members employ these tools. I do not use them, and will explain why if folks are interested.

I also believe that MDIA’s experience in this regard is mostly representative of producers’ experience across the northeast. As in Maine, the big majority of Northeast producers are still mostly smaller-scale. Certainly, in absolute terms there are a lot of larger-scale farms in the region that are more likely to employ hedging and risk management.   But for the vast majority of the still smaller-scale northeast producers, these strategies do not yet provide a viable alternative to their basic reliance on their milk checks.

More broadly, as I said at the beginning, I also recognize that the smaller-scale MDIA membership is less representative of the national experience. Nationally, and obviously in western and southwestern regions, there are surely many more larger-scale producers that employ hedging and risk management strategies. As I also said, however, we believe that all producers still share to some measurable degree a reliance on their milk checks. This means that minimum producer pricing continues to serve its historic function, at least to some degree, across all Orders.

In conclusion, we ask the Secretary to make specific findings about the impact the decision will have on FMMO regulated minimum producer pricing, in the shorter and longer-term. The Secretary's decision should also be supported by stated conclusions that the decision will not result in a reduction of FMMO regulated minimum producer pricing, for either the shorter or longer-term.

This concludes my testimony. Thank you for your consideration.