

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Milk in the Northeast and Other Marketing
Areas

7 CFR Parts 1000 *et seq.*

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

REC'D - USDA/OALJ/HCO
2024 MAR 25 8:30 AM

**FMMO HEARING
PROPOSED TRANSCRIPT CORRECTIONS
SUBMITTED BY
MILK INNOVATION GROUP**

Chip M. English
Ashley L. Vulin
1301 K Street NW
Suite 500 East
Washington, D.C. 20005

Attorneys for Milk Innovation Group

March 22, 2024

Page	Line	Incorrect	Correct
DATE: August 23, 2023			
Cross-Examination: Chip English			
29	15	“Bulgur”	Delete “Bulgur” and replace with “Bulger”
34	28	“Milk”	Delete “Milk” and replace with “MIG”
36	21	“Lynn”	Delete “Lynn” and replace with “Lyng”
43	6	“Lynn”	Delete “Lynn” and replace with “Lyng”
49	1	“Jeff”	Delete “Jeff” and replace with “Jed”
101	14	“U.S. DSFS – U.S. DFS”	Delete “U.S. DSFS” and “U.S. DFS” and replace with “USDSS”
DATE: August 23, 2023			
Cross-Examination: Grace Bulger			
54	2	“Bugler”	Delete “Bugler” and replace with “Bulger”
55	5	“Bugler”	Delete “Bugler” and replace with “Bulger”
DATE: August 24, 2023			
Cross-Examination: Chip English			
285	16	“hire”	Delete “hire” and replace with “higher”
479	7	“packet”	Delete “packet” and replace with “pocket”
DATE: August 28, 2023			
Cross-Examination: Chip English			
765	28	“MIG allowance”	Delete “MIG allowance” and replace with “Make Allowance”
DATE: August 29, 2023			
Witness: Jed Ellis			
1178	18	“Beecher’s”	Delete “Beecher’s” and replace with “Beatrice”
1207	9	“level”	Delete “level” and replace with “expensive”
1208	6	“Dairy Farms”	Delete “Dairy Farms” and replace with “Dairy Farmers”
1208	7	“Dairy Gold”	Delete “Dairy Gold” and replace with “Darigold”
1208	16	“Dairy Gold”	Delete “Dairy Gold” and replace with “Darigold”

Page	Line	Incorrect	Correct
1210	17		Include comma after protein: “protein,”
1218	7	“12.2%”	Delete “12.2%” and replace with “2% and 1% both have to be 12.0%”
DATE: August 29, 2023			
Witness: Wendy Landry			
1147	9-10	A: If we were <u>garnering</u> fortification, yes.	Delete “garnering” and replace with “marketing.” A: If we were marketing fortification, yes.
DATE: August 30, 2023			
Witness: Sally Keefe			
1377	27	“select”	Delete “select”
1386	14	“formally”	Delete “formally” replace with “formerly”
1396	3	“cosign”	Delete “cosign” replace with “cosine”
1422	20	“chart”	Delete “chart” replace with “charge”
1428	18	“You have found. We have outed.”	Delete “You have found. We have outed.”
1441	23	“different”	Insert the word “prices” after the word “different”
1458	23	“subsequent”	Delete “subsequent” replace with “subsequently”
DATE: September 8, 2023			
Cross-Examination: Chip English			
2958	13	“better”	Delete “better” and replace with “butter”
DATE: September 11, 2023			
Cross-Examination: Ashley Vulin			
3042	27	“calling”	Delete “calling” and replace with “pulling”
DATE: September 12, 2023			
Witness: Mark Stephenson			
3440	7	“marketplace”	Delete “marketplace” and replace with “market price”
3469	21	“C&E”	Delete “C&E” and replace with “S&E”
3478	11	“gap”	Delete “gap” and replace with “GAP”

Page	Line	Incorrect	Correct
DATE: September 13, 2023			
Witness: Mark Stephenson			
3498	12	“significant and”	Delete “significant and” and replace with “insignificant or”
3503	2	“underallocated”	Delete “underallocated” and replace with “underallocated costs”
3557	4	“to get it there to move”	Delete “to get it there to move” and replace with “to get it there, but rather to move”
DATE: September 19, 2023			
Cross-Examination: Ashley Vulin			
4706	5	“Class I handler”	Delete “So the decision by a manufacturing Class I handler” and replace with “So the decision by a manufacturing class handler”
4712	16	“A. Generally. No.”	Delete “A. Generally. No.” and replace with “Generally, no.”
DATE: September 27, 2023			
Witness: Sally Keefe			
5687	2	“on”	Delete “on” replace with “of”
5693	3		Insert a comma “,” after “futures”
5701	17	“out”	Delete “out”
5726	6	“list”	Delete “list” replace with “less”
5734	10	“IDFA”	Delete “IDFA” replace with “MIG”
5767	8	“that”	Delete extra “that”
5769	5	“off”	Delete “off” replace with “of”
5777	22	“you”	Delete “you got to” replace with “you’ve got to”
DATE: September 28, 2023			
Witness: Jacob Schuelke			
5824	1	“2000”	Delete “2000” and replace with “2020”
5848	17	“\$1.76”	Delete “1.76” and replace with “\$0.176”
DATE: September 28, 2023			
Witness: Chuck Turner			
5953	24	“culture”	Delete “culture” and replace with “cultured”

Page	Line	Incorrect	Correct
5956	19	“bag and box”	Delete “bag and box” and replace with “bag-in-box”
5966	15	“quarter”	“quarter” meaning 25 cents Delete “quarter” and replace with “25 cents”
5971	3	“retail”	Delete “retail” and replace with “retailer”
5971	4		“they” refers to the retailer
DATE: September 28, 2023			
Witness: Mike Newell			
5900	15	“Borden”	Delete “Borden” and replace with “Wharton”
5913	10	“side”	Delete “side” and replace with “said”
DATE: September 28, 2023			
Cross-Examination by Vulin			
6079	25	“to”	Delete “and consumers as well, to totally” and replace with “and consumers as well, totally”
6082	20	“intoed”	Delete “intoed” and replace with “into the”
DATE: December 6, 2023			
Witness: Joe Shockey			
9932	24-25	Correction	The dairy business address is just across the road at 714 Crooked Run Road, Ravenswood, West Virginia
9944	23	“Lane County”	Delete “Lane County, Ohio” and replace with “Wayne County, Ohio”
9947	26	“invasion”	Delete “invasion” and replace with “innovation”
9975	28	“Herdsman”	Delete “Herdsman” and replace with “Hoards Dairyman”
9979	19	“Harpersburg”	Delete “Harpersburg” and replace with “Parkersburg”
DATE: December 6, 2023			
Witness: Joseph Carson			
9939	21	“now”	Delete “now” and replace with “knell”
9941	28	“those higher increased”	Delete “those higher increased” because they are extra words

Page	Line	Incorrect	Correct
DATE: December 6, 2023			
Witness: Michael Sumners			
10001	17	“Harris”	Delete “Harris” and replace with “Paris”
10003	12	“in”	Delete “in” and replace with “to”
DATE: December 7, 2023			
Witness: Mark Stephenson			
10191	16	“butterfat”	Delete “butterfat” and replace with “butterfat value”
10194	7	“street”	Delete “street” and replace with “straight”
10224	19	“on”	Strike the word “on”
DATE: December 7, 2023			
Witness: Jim Hau			
10034	1	“of this committee”	Delete “of this committee” and replace with “and this committee”
10035	5	“has the most”	Delete “has the most” and replace with “as the most”
10063	1	“I’ll take it”	Delete “I’ll take it” and replace with “they’ll take it”
10068	24	“can”	Delete “I can reduce” and replace with “I can’t reduce”
10071	24	“in the”	Delete “alternatives in the” and replace with “alternatives to the”
DATE: December 8, 2023			
Witness: Sally Keefe			
10403	18	“website”	Delete “website” replace with “websites”
10405	27	“where”	Delete “where”
10412	25	“core tiles”	Delete “core tiles” replace with “quartiles”
10415	5	“in”	Delete “in”
10431	14	“1”	Delete “1” replace with “I”
10431	22	“229”	Delete “229” replace with “29”
DATE: January 16, 2024			
Witness: Mark Stephenson			
10613	4	“care”	Delete “care” and replace with “careful”

Page	Line	Incorrect	Correct
10617	7	“convergence”	Delete “convergence” and replace with “conversion”
10635	27	“Cornell dairy markets and policy”	Delete “Cornell dairy markets and policy” and replace with “Cornell Program on Dairy Markets and Policy”
DATE: January 16, 2024			
Witness: Sally Keefe			
10452	8	“Row”	Delete “Row” replace with “Rows”
10458	17	“base”	Delete “base”
10466	24	“if”	Delete “if”
10481	7	“nuance”	Delete “nuance” replace with “nuanced”
10498	14	“differentials”	Delete “differentials” replace with “differential”
10499	27		Insert “ ‘ “ after consumer
10501	4	“makes”	Delete “makes” replace with “made”
10508	28		Insert “,” after butter
10533	4		Insert “--” between producer and from
10560	21	“fa!rlife”	Delete “fa!rlife” and replace with “fairlife”
10567	4	“covered needed done”	Delete “covered needed done” replace with “needed covered”
10580	5	“and if”	Delete “and if” replace with “end of”
10580	16	“class”	Delete “class” replace with “costs”
10592	11	“the fourth”	Delete “the fourth” replace with “a fourth”
DATE: January 17, 2024			
Witness: Mark Stephenson			
10653	11	“elevate”	Delete “elevate” and replace with “alleviate”
DATE: January 17, 2024			
Witness: Warren Erickson			
10731	26	“no milk in Central Order Iowa”	Delete “no milk in Central Order Iowa” and replace with “no milk in Central Iowa”

Page	Line	Incorrect	Correct
10736	26-27	“I was blessed with a lot”	Delete “I was blessed with a lot” and replace with “Iowa is blessed with a lot”
10772	20	“So if our cost is an advanced price,”	Delete “So if our cost is an advanced price,” and replace with “So if our cost is not an advanced price,”
DATE: January 17, 2024			
Witness: Michael Newell			
10782	26	“player”	Delete “player” replace with “way of”
10783	9	“separate”	Delete “separate” replace with “pasteurize”
10788	8	“categories”	Delete “categories” replace with “category”
10788	12	“merchandise”	Delete “merchandise” replace with “merchandisers”
10790	2	“not”	Delete “not”
10794	27		Insert “to” between “is” and “4.85”
10795	20	“this plant”	Delete “this plant” and replace with “on this slide I”
10795	21	“facility”	Delete “facility” and replace with “facilities”
10795	26	“so”	Delete “so” and replace with “to”
10799	5	“decrease demand for Class II stall --”	Delete “decrease demand for Class II stall --”
10802	24		Insert a “,” between “Hood” and “Crowley”
10816	4		Insert “half gallons” after “produce”
10816	21	“from”	Delete “from” replace with “for”
10817	1		Insert “which” after “label”
10817	13	“high”	Delete “high” and replace with “higher”
10820	15	“Class I”	Delete “Class I” and replace with “Class 1”
10820	16	“Class IV”	Delete “Class IV” and replace with “Class 4”
10824	24	“in”	Delete “in” replace with “and”
10828	4	“bins”	Delete “bins” replace with “pins”

Page	Line	Incorrect	Correct
10833	17	“and do”	Delete “and do” replace with “to”
DATE: January 18, 2024			
Witness: Chuck Turner			
10957	20	“cut”	Delete “cut” replace with “code”
10965	28	“Hood”	Delete “Hood” replace with “Hoedt”
10968	20	“in”	Delete “in” replace with “on”
10968	28	“farms”	Delete “farms” replace with “farmers”
10982	15	“\$2.40”	delete “\$2.40” replace with “\$4.20”
10983	14	“Armstrong County”	Armstrong is incorrect. I should have said Clarion County.
11005	18	“Hood”	Delete “Hood” replace with “Hoedt”
DATE: January 18, 2024			
Witness: Cammie Garofolo			
11124	28	“consumer”	Delete “consumer” and replace with “customer”
11128	11	“along”	Delete “along” and replace with “alone”
11134	17	“the organic”	Delete “the organic” and replace with “in organic”
11138	23	“hitting”	Delete “hitting” and replace with “shipping to”
11140	3	“propose”	Delete “propose” and replace with “oppose”
11140	14	“Class I”	Delete “Class I” and replace with “Class II”
11142	10		Insert “I” in between “class” and “milk”
11148	23	“and”	Delete “and”
11151	9 & 10	“that farmers face pay price pressure”	Delete “the farmers face pay price pressure” and replace with “that farmers face pay price pressure”
DATE: January 18, 2024			
Witness: Juan Velez			
11167	24	“agricultural”	Delete “agricultural” and replace with “Agricultural”

Page	Line	Incorrect	Correct
11167	25	“marketing system”	Delete “marketing system” and replace with “Marketing Service”
11169	3	“systems”	Delete “systems” and replace with “system”
11170	15	“prohibitive”	Delete “prohibitive” and replace with “prohibited”
11172	12	“time”	Delete “time” and replace with “timed”
11172	27		Insert “that” between “for” and “as well”
11176	10	“remove”	Delete “remove” and replace with “removed”
DATE: January 19, 2024			
Witness: Jed Ellis			
11198	13	“Reno”	Delete “Reno” and replace with “Fresno”
11208	6	“%”	Delete “%” and replace with “cent”
11219	14		Should say “Class I’s down around 12%”
DATE: January 19, 2024			
Witness: Jacob Schuelke			
11260	17	“humorously”	Delete “humorously” and replace with “humous”
11276	3	“80”	Delete “80” and replace with “20”
11281	9	“months”	Delete “months” and replace with “weeks”
11287	19	“day”	Delete “day” and replace with “load”
11301	13	“plant”	Delete “plant” and replace with “truck”
DATE: January 19, 2024			
Witness: Tim Doelman			
11314	8		Insert “it’s” before “done”
11314	11		Insert “and” before “are”
11315	3	“be”	Delete “be” and replace with “being”
11318	8	“competitors”	Delete “competitors” and replace with “cooperatives”
11323	3	“of”	Delete “of” and replace with “for”

Page	Line	Incorrect	Correct
11332	25	“mid”	Delete “mid” and replace with “min”
11337	3		Insert “load” before “you”
DATE: January 29, 2024			
Witness: Sally Keefe			
11591	11	“FMMO s”	Delete “FMMO s” and replace with “FMMOs”
11593	20	“c-weight”	Delete “c-weight” and replace with “cwt”
11596	17	“unconventional”	Delete “unconventional” and replace with “conventional”
11596	18	“not simply”	Delete “not simply” and replace with “are not simply”
11596	26	“replacement”	Delete “replacement” and replace with “replacements”
11598	6	“incentive”	Delete “incentive” and replace with “incentives”
DATE: January 29, 2024			
Witness: Mark Stephenson			
11395	20	“form”	Delete “form” and replace with “from”
11414	7	“meaning”	Delete “meaning” and replace with “mean” (as in average)

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below I served a copy of the foregoing **MILK INNOVATION GROUP'S PROPOSED TRANSCRIPT CORRECTIONS** on:

Hearing Clerk

United States Department of Agriculture
Stop 9203, South Building, Room 1031-S
1400 Independence Ave. SW
Washington, DC 20250-9203
Telephone: 1-202-720-4443
Fax: 1-844-325-6940
Email: SM.OHA.HearingClerks@usda.gov

AMS – FMMO HEARING

FMMOHearing@usda.gov

USDA OSEC

Katharine Ferguson
Katharine.Ferguson@usda.gov

USDA (OGC) – Electronic Mail

Brian Hill, OGC
brian.hill1@usda.gov
Michelle McMurtray, OGC
michelle.mcmurtray@usda.gov
Donna Erwin, OGC
donna.erwin@usda.gov
Carla Wagner, OGC
Carla.wagner@usda.gov

**USDA (AMS) Dairy Programs –
Electronic Mail**

Dana H. Coale, Deputy Administrator
dana.coale@usda.gov
Erin Taylor, Director Order Formulation and
Enforcement Division
erin.taylor@usda.gov

National All-Jersey, Inc.

Erick Metzger, General Manager
6486 East Main Street
Reynoldsburg, OH 43068
Email: emetzger@usjersey.com

Edge Dairy Farmer Coop

Marin Bozic
marin@bozic.io

Minnesota Milk Producers Association

Lucas S. Sjostrom, Executive Director
Email: lucas@mnmilk.org

National Farmers Union

Mike Stranz, Vice President of Advocacy
Email: mstranz@nfudc.org

Lamers Dairy, Inc.

Mark Lamers
N410 Speel School Road
Appleton, WI 54915
Email: mark.lamers@lamersdairyinc.com

American Farm Bureau Federation

Sam Kieffer
Email: sk@fb.org
Roger Cryan
Email: rogerc@fb.org
Danny Munch
dmunch@fb.org
Erin M. Anthony
Email: erin@fb.org
Mike Tomko
Email: miket@fb.org

Counsel for National All-Jersey, Inc.

John H. Vetne
Email: johnvetne@gmail.com
Wendy M. Yoviene
Baker, Donelson, Berman, Caldwell, &
Berkowitz PC
901 K Street, NW, Suite 900
Washington, DC 20001
Email: wyoviene@bakerdonelson.com

**Counsel for National Milk Producers
Federation**

Nicole C. Hancock
Bradley R. Prowant
Stoel Rives LLP
101 S. Capitol Blvd., Ste. 1900
Boise, ID 83702
Email: Bradley.prowant@stoel.com
Email: Nicole.hancock@stoel.com

Counsel for International Dairy Foods Association

Steven J. Rosenbaum
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
Email: srosenbauam@cov.com

Counsel for Select Milk Producers, Inc.

Ryan Miltner, Esq.
The Miltner Law Firm, LLC
100 North Main Street
PO Box 477
New Knoxville, OH 45871
Email: ryan@miltnerlawfirm.com

by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon;

by emailing a copy thereof to said attorneys' last-known email address as set forth above;

by emailing a copy thereof in Word format to said attorney's last-known email address as set forth above, pursuant to Oregon Local Rules.

by causing a copy thereof to be hand-delivered to said attorney's last-known address as shown above;

by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said attorney's last-known address; or

by faxing a copy thereof to said attorney's last-known facsimile number;

Dated this 22nd day of March, 2024.

DAVIS WRIGHT TREMAINE LLP

By /s/ Ashley Vulin

Chip M. English, D.C. Bar No. 386572

chipenglish@dwt.com

Ashley L. Vulin, Oregon Bar No. 145454

ashleyvulin@dwt.com

Attorneys for Fluid Milk Innovation Group

CERTIFICATE OF SERVICE

Milk in the Northeast and Other Marketing Areas

Docket No.: 23-J-0067

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct, and this is to certify that a copy of the FMMO HEARING PROPOSED TRANSCRIPT CORRECTIONS SUBMITTED BY MILK INNOVATION GROUP has been furnished and was served by electronic mail upon the following parties on March 25, 2024 by the following:

USDA (OGC)

Brian Hill, OGC

Brian.Hill1@usda.gov

Michelle McMurtray, OGC

Michelle.McMurtray@usda.gov

Donna Erwin, OGC

Donna.Erwin@usda.gov

Carla Wagner, OGC

Carla.Wagner@usda.gov

USDA (AMS) Dairy Programs

Dana H. Coale, Deputy Administrator

Dana.Coale@usda.gov

Erin Taylor, Director Order Formulation and Enforcement Division

Erin.Taylor@usda.gov

AMS - FMMO Hearing

FMMOHearing@usda.gov

USDA (OSEC)

Katharine Ferguson

Katharine.Ferguson@usda.gov

Lucas S. Sjostrom, Executive Director
Minnesota Milk Producers Association

P.O. Box 65

Brooten, MN 56316

E-mail: lucas@mnmilk.org

Mike Stranz, Vice President of Advocacy
National Farmers Union

20 F Street NW, Suite 300

Washington, DC 20001

E-mail: mstranz@nfudc.org

Erick Metzger, General Manager

National All-Jersey, Inc.

6486 East Main Street

Reynoldsburg, OH 43068

E-mail: emetzger@usjersey.com

Peter Vitaliano

National Milk Producers Federation

2107 Wilson Blvd., Suite 600

Arlington, VA 22201

E-mail: pvitaliano@nmpf.org

Counsel for National All-Jersey, Inc.

John H. Vetne

E-mail: johnvetne@gmail.com

Wendy M. Yoviene

Baker, Donelson, Berman, Caldwell,
& Berkowitz PC

901 K Street, NW, Suite 900

Washington, DC 20001

E-mail: wyoviene@bakerdonelson.com

Counsel for National Milk Producers Federation

Stoel Rives LLP

101 S. Capitol Blvd., Suite 1900

Boise, ID 83702

Bradley R. Prowant

E-mail: bradley.prowant@stoel.com

Nicole C. Hancock

E-mail: nicole.hancock@stoel.com

CERTIFICATE OF SERVICE (cont'd)
Milk in the Northeast and Other Marketing Areas
Docket No.: 23-J-0067

Mike Brown, Chief Economist
International Dairy Foods Association
1250 H Street, NW, Suite 900
Washington, DC 20005
E-mail: mbrown@idfa.org

Mark Lamers
Lamers Dairy, Inc.
N410 Speel School Rd.
Appleton, WI 54915
E-mail: mark.lamers@lamersdairyinc.com

Counsel for International Dairy Foods Association

Steven J. Rosenbaum
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
E-mail: srosenbaum@cov.com

Counsel for Select Milk Producers, Inc.

Ryan K. Miltner
The Miltner Law Firm, LLC
100 North Main Street
P.O. Box 477
New Knoxville, OH 45871
E-mail: ryan@miltnerlawfirm.com
ryan@miltner-reed.com

American Farm Bureau Federation
600 Maryland Avenue SW, Suite 1000W
Washington, DC 20024
Sam Kieffer
E-mail: sk@fb.org
Roger Cryan
E-mail: rogerc@fb.org
Danny Munch
E-mail: dmunch@fb.org
Erin M. Anthony
E-mail: erin@fb.org
Mike Tomko
E-mail: miket@fb.org

Counsel for Milk Innovations Group

Davis Wright Tremaine LLP
920 Fifth Avenue, Suite 3300
Seattle, WA 98104
Charles M. English, Jr.
E-mail: chipenglish@dwt.com
Ashley L. Vulin
E-mail: ashleyvulin@dwt.com
Grace Bulger
E-mail: gracebulger@dwt.com

Daniel Smith
E-mail: dsmith@gmavt.net
dsmith@dairycompact.org

Marin Bozic
Edge Dairy Farmer Coop
E-mail: marin@bozic.io

Jim Sleper
Sleper Consulting, LLC
E-mail: sleperjp@gmail.com

Respectfully Submitted,

WANDA Digitally signed by
MOSBY WANDA MOSBY
Date: 2024.03.25
09:36:08 -04'00'

Wanda Mosby, Legal Assistant
USDA/Office of Administrative Law Judges
Hearing Clerk's Office, Room 1031-S
1400 Independence Ave., SW
Washington, DC 20250-9203