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FILED

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket Nos.
Milk in the Northeast, Appalachian,) AO-14-A78, AO-388-A23,
Florida, Southeast, Upper Midwest,) AO-356-A44, AO-366-A52, AO-361-A44,
Central, Mideast, Pacific Northwest,) AO-313-A53, AO-166-A73, AO-368-A40,
Southwest, and Arizona Marketing) AO-231-A72 and AO-271-A44,
Areas) DA-09-02, AMS-DA-09-0007
)
) **Certification of Transcript**

This certifies that the foregoing 3,984-page transcript, in 12 volumes,¹ to the best of my knowledge and belief, is a true transcript of the testimony given during the 12-day hearing on proposed amendments to all federal milk marketing orders, particularly producer-handler and exempt plant provisions, on May 4-8, 11-15, and 18-19, 2009, in Cincinnati, Ohio, except for obvious or immaterial typing, spelling, or grammatical errors, and except for the following corrections:

all corrections proposed in the June 23, 2009 filing by the U.S. Department of Agriculture, Agricultural Marketing Service (AMS), Dairy Programs, by John R. Mengel, Acting Deputy Administrator;

all corrections proposed in the June 29, 2009 filing by National Milk Producers Federation and Dairy Farmers of America, Inc., by Marvin Beshore, Esq.; EXCEPT that the correction for 400:10-11 is at 400:11-12; the correction for 514:12 is at 519:12; the correction for 606 is at 607; the correction for 1720:19 must be accompanied a preceding correction: beginning at 1720:17, the Hearing Clerk shall correct as follows: "which, considering the average per cow production for Oklahoma, would be 14.7 million pounds per month." and EXCEPT that the correction for 2667:6 is at 2967:6; the correction for 2818:8 is at 2818:11 and changes "Martin" to "Marvin" [and, on my own motion, every volume, probably on the 3rd page of that volume, at times between line 17 and line 18, requires "Martin" to be corrected to "Marvin"]; the correction for 3783:19 changes "cuss first" to consumers; and the proposed correction at 3979:9 shall NOT be made: the 104 is correct and refers to Exhibit 104, which

¹ Each volume contains one day's proceedings.

is Elvin Hollon's statement. [See Tr 3772:14, where Mr. Hollon, reading from Exhibit 104, refers to 10,500 farms.] and

all corrections proposed in the June 29, 2009 filing by Prairie Farms Dairy, Dairy Institute of California, Northeast Dairy Foods Association, Anderson Erickson Dairy Company, Pennsylvania Association of Milk Dealers, Dean Foods Company, National Dairy Holdings LP, Shamrock Foods Company, Shamrock Farms, and Parker Farms, by Charles M. English, Jr., EXCEPT that the correction on Tr. 2607:17 shall be delete " - -" replace with "at issue"; and the correction on Tr. 3500:11 shall be delete "administrative" replace with "administrator".

There were no other proposed corrections. The Hearing Clerk shall, in accordance with 7 C.F.R. § 900.10, make the foregoing corrections on the official record copy of the transcript. I am thankful for the excellent work by Ace-Merit, LLC, and all who, representing that firm, produced the verbatim transcript, especially Linda S. Mullen, RPR, RMR, CRR; S. Diane Farrell, RMR, CRR; and David W. Moxley, RMR, CRR, CMRS, each of whom coped beautifully with long hours, peculiar terms, and frequent changes of speaker. I am thankful for all the proposed corrections to the transcript, and I thank especially Mr. Beshore, who teased out the value in several otherwise puzzling and at times misleading phrases.

I further certify that the following exhibits were admitted into evidence: Exhibits 1-6, 6A, 7, 7A, 8-12, 12A, 13-34, redacted 35, 36-42, 45-74, 74A, 75, 75A, 76-84, 84A, 85-91, 94-106.

The redacted portions of Exhibit 35 were rejected; Exhibit 35 as presented, is part of the record, contained in a sealed envelope available upon review. A motion submitted on behalf of Aurora Dairy Corporation is likewise contained in a sealed envelope available upon review. Exhibits 92 and 93 were rejected and are part of the record, contained in a sealed envelope available upon review. (Exhibit Nos. 43 & 44 were not used.)

Fourteen briefs were timely filed:

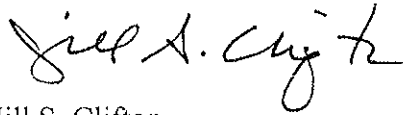
<u>Organization Filing Brief</u>	<u>Persons Submitting</u>
New England Producer Handlers Association, Inc. Monument Dairy Homestead Dairy	John Benjamin Carroll, Esq. Woodruff Lee Carroll, Esq.
Land O' Lakes, Inc.	Dennis J Schad Director of Regulatory Affairs
Mid-West Dairymen's Co. Lakeshore Federated Dairy Cooperative	Dennis Tonak

National All-Jersey, Inc.	Erick Metzger General Manager
Jerry Dakin Dairy	Jerry Dakin
International Dairy Foods Association (IDFA)	
Upstate Niagara Cooperative, Inc.	Timothy R. Harner, Esq. General Counsel
National Milk Producers Federation	Kevin Brosch, Esq. Marvin Beshore, Esq. Dr. Roger Cryan
Dairy Institute of California	Dr. William A. Schiek Charles M. English, Jr., Esq.
State Departments of Agriculture of: New York Pennsylvania New Hampshire Vermont Wisconsin	Patrick Hooker, Commissioner Dennis Wolff, Secretary Lorraine Merrill, Commissioner Roger Allbee Rod Nilsestuen
Pennsylvania Association of Milk Dealers Northeast Dairy Foods Association Anderson Erickson Dairy Company Prairie Farms Dairy Dean Foods Company National Dairy LLC Shamrock Foods Company Shamrock Farms Parker Farms ("The Handler Coalition")	Charles M. English, Jr., Esq. Wendy M. Yoviene, Esq.
Select Milk Producers, Inc. Continental Dairy Products, Inc.	Benjamin F. Yale, Esq.
Mallorie's Dairy Country Morning Farms Nature's Dairy	John H. Vetne, Esq.
American Independent Dairy Alliance ("AIDA") [AIDA includes members identified on next page]	Alfred W. Ricciardi, Esq. Ryan K. Miltner, Esq. Nancy S. Bryson, Esq.

Kreider Dairy of Pennsylvania
Snowville Creamery of Ohio
Heartland Dairy of Missouri
Braums Dairy of Oklahoma
GH Dairy-El Paso, Texas
Longmont Dairy of Colorado, and
Aurora Organic Dairy of Colorado]

The Hearing Clerk is requested to serve this Certification of Transcript, to include the parties that filed briefs; to include Dairy Programs, Agricultural Marketing Service, USDA; and to include Garrett Stevens, Esq., Office of the General Counsel (Marketing Division), USDA.

Done at Washington, D.C.
this 29th day of July 2009

A handwritten signature in black ink, appearing to read "Jill S. Clifton". The signature is fluid and cursive, with the first name "Jill" and last name "Clifton" clearly distinguishable.

Jill S. Clifton
Administrative Law Judge

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