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Testimony of Rob Vandenheuvel

General Manager, Milk Producers Council

Hearing on a California Federal Milk Marketing Order

Thank you for the opportunity to provide testimony today at this critical hearing impacting not only today's California dairy families, but the generations to come. My name is Rob Vandenheuvel and I am the General Manager of Milk Producers Council (MPC), a producer-funded nonprofit trade association that has been representing the interests of our member dairy families since 1949. Our membership is currently made up of approximately 120 dairies throughout California, accounting for about 10 percent of the State's milking herd. The positions I am testifying to today have been affirmed by our Board of Directors.

My experience in this industry goes back to my childhood, growing up on a dairy farm in Chino, California. I worked on my family's dairy as I attended college, obtaining my Bachelor's Degree in Business Administration from California State Polytechnic University in Pomona. Upon graduating from college, I moved to Washington, DC, where I worked from 2002-2007 in the U.S. House of Representatives Ways and Means Committee, most recently serving as Press Secretary. In 2007, I moved back to California and took over as General Manager of MPC, where I have been the past eight years.

In my role at MPC, I have been closely involved in the issues surrounding California's milk marketing order. I have testified on behalf of MPC in every one of the minimum price hearings held by the California Department of Food and Agriculture (CDFA) during my tenure, and have participated in either authoring or co-authoring multiple proposals and alternative proposals.

<u>Need for a Federal Milk Marketing Order</u>

In the notice of hearing, USDA identified the purpose of this hearing, including a determination of whether there is need for a marketing agreement or order regulating the handling of milk in the area. Mr. Elvin Hollon from Dairy Farmers of America has laid out the expansive data demonstrating a clear lack of orderly milk marketing in California. While USDA's "Preliminary Regulatory Impact Analysis of Proposals to Establish a California Federal Milk Marketing Order" is a forward-looking analysis, the figures represented in that report also speak volumes as to the financial impact on California milk producers of continuing to operate under the current State order compared to the proposed Federal Milk Marketing Order.

In additional to the lack of orderly milk marketing within the State of California, this hearing also has great importance to the orderly marketing of milk throughout the country. Contrary to the characterization Mr. English made in his opening that the "only reason" we are holding this hearing is related to a dry whey factor disparity in recent years, the market disrupting problems of operating a separate California State Order have long been identified.

Nearly thirty years ago, pursuant to the 1985 Farm Bill, USDA established the "National Commission on Dairy Policy." This Commission, which was made up of 18 dairy producers from around the United States – including two producers from California – was directed to "study and make recommendations concerning the future operation of the Federal program established to support the price of milk marketed by producers in the United States" (from the legislative language of the 1985 Farm Bill, Public Law 99-198). In its final report and recommendations submitted to then-Secretary Richard Lyng – which was unanimously endorsed by the participating producers – the Commission specifically noted the market-disrupting issues related to having a separate California state milk marketing order, going so far as to recommend that "Federal law should prohibit California or any other state from using a greater allowance to establish a grade A price for milk for manufacturing butter, nonfat dry milk and cheese."

My point in bringing this up is that the issue of operating a California State Marketing Order that discounts the regulated price of milk relative to comparable regulated prices used in Federal Milk Marketing Orders – whether due to make allowances, or any other feature of the various end-product pricing formulas – is a long-standing concern by dairy farmers in California and throughout the United States.

Having said that, it is true that California dairy producers – through their cooperatives and trade associations – have aggressively pursued remedies in recent years to address the significant deficiencies of the California State Marketing Order that have been outlined in testimony during this hearing. Included in those efforts were numerous administrative hearings before the California Department of Food and Agriculture. Below is a list of those hearings from the past five years:

Administrative Hearings Held in the Past Five Years

1. **June 30-July 1, 2011** – Hearing on Class 4a/4b Minimum Milk Pricing Formulas
2. **May 31-June 1, 2012** – Hearing on Class 4b Minimum Milk Pricing Formula
3. **December 21, 2012** – Hearing on Temporary Adjustments to Minimum Milk Pricing Formulas for All Classes
4. **April 4, 2013** – Hearing on Transportation Credits and Allowances
5. **May 20, 2013** – Hearing on Temporary Adjustments to Minimum Milk Pricing Formulas for All Classes
6. **September 12, 2013** – Hearing on Temporary Adjustments to Minimum Milk Pricing Formulas for All Classes, and Proposals on the Whey Component of the Class 4b Minimum Milk Pricing Formula
7. **June 3, 2015** – Hearing on Temporary Adjustments to Class 4b Minimum Milk Pricing Formula

Of the seven hearings listed above, six included significant testimony and discussion on minimum milk price formulas, with producer testimony focused on bringing closer alignment between California's monthly minimum prices and those announced in the Federal Milk Marketing Orders. This list does not include the six hearings that were requested and denied during that same period.

Despite the extensive time and effort invested over the years in aggressively pursuing meaningful change to the minimum price formulas, 2014 actually saw the widest gap in recent history between California's Class 4b minimum price (which accounts for the largest volume of milk among the five classes: approximately 45 percent of milk produced and sold within California) and the Federal Order Class III price – an average gap of $2.41 per hundredweight throughout the year. To put it bluntly, the efforts by producers and their representatives have failed, and after exhausting our options over the years to address this with CDFA, we are excited to have the opportunity to present testimony in support of a California Federal Milk Marketing Order.

MPC Supports Proposal #1 – Cooperative Proposal

The Board of Directors for Milk Producers Council, on behalf of the dairy families we represent, voted to fully support the Proposal for a California Federal Milk Marketing Order submitted by California Dairies, Inc., Dairy Farmers of America and Land O'Lakes – referred to as Proposal #1 in the hearing notice.

This endorsement came after analyzing the details of the proposal. My testimony today will outline some of the key components of that proposal that led MPC to take this strong position of support.

First, Proposal #1 establishes orderly milk marketing in California.

Proposal #1 would result in California handlers being required to pay regulated minimum prices in alignment with regulated minimum prices paid throughout the other ten Federal Milk Marketing Order areas. While the estimated impacts are indeed significant – such as the projection by USDA economists that California's All-Milk Price would increase by an average of $1.03 per hundredweight over the baseline from 2017-2024 under the Cooperative Proposal – that really merely highlights just how significant the California State Order has discounted the regulated minimum prices in California.

It is worth noting – as this will likely get lost in future testimony given in this hearing – that nothing in Proposal #1 suggests establishing California minimum prices *above* those regulated prices used in the other ten Federal Milk Marketing Orders, but rather that prices be established *equal* to those used in the other Federal Milk Marketing Orders.

In addition, Proposal #1 restores orderly milk marketing in California by using the Constitutionally-given authority to regulate interstate commerce. California's State Marketing Order is simply incapable of establishing regulations that apply to transactions outside of California, even if those transactions result in unequal raw product costs among handlers competing for markets within California. Proposal #1 directly addresses this shortcoming by establishing definitions of a "pool plant" that apply to any handler distributing dairy products in California markets, regardless of what state that plant is located.

Second, Proposal #1 respects and retains unique elements of California's dairy industry

California's dairy industry – like any dairy industry around the country – has certain unique characteristics. Proposal #1 prioritizes several of those items of importance to our producer members.

1. California's quota program

Since market-wide pooling was introduced in California in the 1960's, the California Department of Food and Agriculture has maintained a quota program. This program has undergone various modifications over the years, but in its current form – which has been stable since 1994 – the program provides a fixed premium payment for specific volumes of milk sold by producers who own this quota. Approximately $12 million of pooled revenues are devoted to paying the premiums associated with California's quota program.

It is important to note that the quota program is essentially an agreement amongst the family of California producers on how our monthly pooled revenues are distributed. It has no impact on the minimum prices paid for raw milk by California handlers. The quota holders receive the first roughly $12 million per month from the pooled revenues. After that, the monies needed to fund the transportation subsidy system – which I will discuss in more detail later – are accounted for. The remaining dollars are reblended across all milk in the pool. To put that $12 million into perspective, in the first seven months of 2015, the total pooled revenue in California has averaged a little more than $497 million per month.

While it is true that the quota program has no impact on the minimum prices paid by handlers, I would actually argue that the program has a positive impact on supporting a reliable, local milk supply for some of our handlers in areas that might otherwise be uncompetitive for a modern dairy. For instance, the historic milkshed of the Chino Valley – located approximately 40 miles east of Los Angeles – continues to be the home of a shrinking but significant milk supply. Those dairies, which were built decades ago, do not allow for expansions needed to capture economies of scale. They are also unable to produce much, if any, of their forage and grain needs locally. One way in which those dairies have coped with the competitive disadvantage that they might otherwise face is by purchasing and owning quota, thereby increasing revenues to their dairy without expanding their operation. This is just one example of how handlers in those regions that need milk are actually benefiting from the convenience and lower cost of a local milk supply due to a program that is producer-run and producer-funded.

Furthermore, the provisions of the 2014 Farm Bill specifically give USDA the "right to reblend and distribute order receipts to recognize quota value." MPC worked with our California Congressional Representatives to secure that opportunity, and are strongly supportive of its inclusion in Proposal #1.

2. Strong pooling regulations

California's State Marketing Order requires that handlers pay classified minimum prices for all Grade A milk that is purchased. This is not a requirement to buy all Grade A milk that is produced, but whatever Grade A milk a handler chooses to purchase must receive the minimum classified price, regardless of pool participation. MPC strongly supports the provisions of Proposal #1 that define California plants that purchase California Grade A milk as pool plants, in addition to the other categories of pool plants.

MPC recognizes that other Federal Milk Marketing Orders have varying requirements for handlers to be classified as pool plants, and we support the rights of the producers in those orders to vote in favor of that language. Milk Producers Council believes that the goal of orderly milk marketing in California is best served by a system of stable participation in the pool. Voluntary depooling on a month-to-month basis as is being proposed in Proposal #2 by the Dairy Institute of California is potentially destabilizing and threatens the comprehensive approach towards orderly marketing taken by the cooperatives in Proposal #1.

3. California's uniform blend prices for all producers

Earlier I spoke about the basic accounting of the monthly pooled revenues under the California State Marketing Order, with the monies needed to fund the quota and transportation subsidy programs accounted for, and the remaining dollars reblended across all pooled milk sold that month. The prices calculated after that reblending is called "base" and "overbase milk." Under the current regulations, both of these prices are identical, and they both apply equally to every producer selling pooled milk, regardless of where the dairy is located or where the milk is first delivered.

MPC supports a continuation of this policy, as outlined in the cooperatives' Proposal #1. We recognize that other Federal Milk Marketing Orders have elected to establish producer location differentials, which aid in facilitating the movement of milk to deficit areas through higher differentials. However, as I will discuss momentarily, Proposal #1 takes a much more direct approach in facilitating that movement of milk, in the form of a focused, producer-funded transportation subsidy program. In the interest of orderly milk marketing, MPC believes that is a much more efficient policy for a California Federal Milk Marketing Order.

4. Transportation subsidies to facilitate movement of milk into California's deficit markets

As California's milk production has shifted away from urban regions into the Central Valley, we've seen significant milk deficits in the areas of Los Angeles, San Diego and the Bay Area. In order to facilitate the movement of milk for Class 1, 2 and 3 use in these regions, California producers have historically supported a system of Transportation Allowances that provides pool-funded direct subsidies to producers and cooperatives who serve the qualifying Class 1, 2 and 3 plants in these areas. While MPC has advocated in recent CDFA hearings to have a surcharge added to the Class 1 minimum price in order to partially fund this transportation subsidy program, we nonetheless have supported its use as a focused and efficient method of facilitating the movement of milk into deficit regions, and agree with the cooperatives' decision to include a very similar system in Proposal #1.

5. California's enhanced standards for fluid milk products

California's enhanced standards for the fluid milk products sold in the State were established by the California Legislature and are protected by Section 144 of the 1996 Farm Bill (7 USC 7254). While the issue of California's authority to maintain these separate standards is outside the scope of this hearing, it is still a very relevant topic as the current State Marketing Order – as well as both the cooperatives' Proposal #1 and the Dairy Institute of California's Proposal #2 – include a "fortification credit" in the calculation of a fluid milk handler's pool obligation, providing a partial offset for the cost of purchasing the condensed skim or nonfat dry milk needed to meet the enhanced standard. MPC supports the inclusion of this credit in a California Federal Milk Marketing Order.

A comprehensive approach

In summarizing MPC's support for Proposal #1, I believe the five points above are a glimpse at what MPC would describe as a sound comprehensive approach for a California Federal Milk Marketing Order. The items do not stand on their own, but rather represent various interrelated pieces of an overall approach to achieve specific policy objectives. In the case of MPC, our policy objectives include (in no particular order):

- Integrity of the California marketwide pool;
- A level playing field for producers – minimum milk prices that are aligned with national prices for comparable milk;
- A level playing field for processors – equal raw product costs within classes, nationally competitive minimum prices, and support for producer-funded initiatives to assist processors in securing an adequate milk supply; and
- Protection of California's historical quota program.

MPC believes Proposal #1 put forth by California Dairies, Inc., Dairy Farmers of America and Land O'Lakes uniquely meets all these objectives, resulting in orderly marketing of milk in California.