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April 26, 2010

Via Electronic Mail Only: al.murray@ag.state.nj.us

Mr. Alfred Murray
Director - Division of Marketing and Development
Department of Agriculture
State of New Jersey, P.O. Box 330
Trenton, NJ 08625-0330

RE: Hearings by Department of Agriculture Concerning Milk Pricing Hearing Dates November 19, December 17, 2009 January 28, January 29, February 22, 2010

Dear Mr. Murray:

This letter is submitted on behalf of the New Jersey Farm Bureau which represents over 11,700 members including a majority of the dairy farmers in the State. We wish to thank the Department of Agriculture for holding this hearing which is a necessary step to provide the relief which is so obviously necessary to preserve the dairy industry in our state.

The New Jersey Farm Bureau believes the brief submitted by the Greater Northeast Milk Marketing Agency ("GNEMMA") adequately summarizes the relevant testimony and exhibits presented at the hearing and provides a cogent analysis of certain actions that are not only possible, but necessary in light of the present circumstances of the industry. NJFB will not submit a separate brief but wishes to express NJFB's support for certain of the positions set forth by GNEMMA. In doing so, NJFB would like to highlight certain aspects of the GNEMMA brief which we believe are particularly significant.

First, the decline of milk production and dairy farms as well as other conditions affecting the dairy industry of New Jersey are not merely reflective of industry weakness or difficult times. As expressed in the testimony and summarized by GNEMMA, there are marketing practices currently in use which are <u>destructive</u> to the dairy industry in this State. Examples of these destructive conditions and pricing practices outlined on pages 9 and 10 of the GNEMMA brief can be addressed by more vigorous enforcement of existing rules which should be undertaken immediately by the Department. The "variable cost" regulations may not be sufficient, but they

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should be aggressively enforced to achieve compliance where possible. These actions should be given special, priority consideration. The difficulties experienced by New Jersey dairy farmers should not be exacerbated by lack of enforcement of regulations already in place.

NJFB also supports the comprehensive restructuring of dairy pricing in New Jersey with a "PMMB-like system". (GNEMMA brief pages 15-17). Such a system, once in place, would not necessarily mandate an over-federal order premium, but would enable the establishment of such premiums when necessary and would do so in a way which is not disruptive of the industry by allowing the cost of any such premiums to be passed through in the minimum prices established at the wholesale and retail levels.

The aim of such system is to restore equity and economic fairness to producers during periods when market forces drive farm prices to unreasonably low levels. The goal of the system is price stability for the New Jersey producer which will also be reflected in more stable prices in the wholesale and retail markets. The adoption of such regulations would go a long way to eliminating the disparity of regulatory systems which allows Pennsylvania handlers to use the margins achieved in that state to beat down prices of dairy products in New Jersey.

Any such "Pennsylvania" system does not require the collection and disbursement of monies by the State of New Jersey, but limits the role of the state to oversight in monitoring at the farm, wholesale and retails levels to assure payment of the minimum prices that may be established by NJDOA.

NJFB rejects the contentions of the Pennsylvania Association of Milk Dealers which suggest that the permanent injunction in <u>Byers Farms, Inc. v. Brown</u>, Civil Action No. 87-3017 (D.N.J. 1990) may prohibit the establishment of such a PMMB-like system or that such proposals are "simply bad policy for New Jersey". The enjoined regulatory scheme was one which established a minimum price for each handler based upon that handler's own total cost of product resulting in different price floors for different handlers¹. The essence of the Pennsylvania system is uniform minimum prices for similar products, something highly different from the pricing regulations enjoined in the <u>Byer</u> case. The fact that there are less than 100 dairy farmers in New Jersey does not argue against the establishment of a Pennsylvania type system. The effectiveness of such pricing structure and the protection it has provided to Pennsylvania dairy industry has been summarized in the GNEMMA brief. The establishment of such a system in New Jersey would, in the words of witness Ross, provide a "level playing field".

The New Jersey Farm Bureau, however, cannot support the taxes and fees or other assessments proposed by GNEMMA and some other witnesses to be imposed at the retail level of milk nor does it believe it is feasible to seek such a revenue source as a pool for distribution among New Jersey dairy producers during periods of low milk prices.

¹ The potentially extreme effects of such a pricing system on different handlers was shown from the testimony of Eric Rasmussen in Transcripts from that proceeding. See Transcript of April 5, 1990, pp 36-38.

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The NJFB appreciates your consideration of these comments.

JJE,III/dm

cc:

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Mr. Peter Furey

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Sincerely,

J. JACKSON EATON, III

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of April, 2010 served a true and correct copy of this letter tendered on behalf of the New Jersey Farm Bureau by electronic mail, to the following persons:

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