Exhibit 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

ALICE H. ALLEN, et al.,	)	
Plaintiffs,	)	
v.	)	**Civil Action No. 5:09-CV-00230**
DAIRY FARMERS OF AMERICA, INC., DAIRY MARKETING SERVICES, LLC, and DEAN FOODS COMPANY,	)	**HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER**
Defendants.	)	

DECLARATION OF GREGORY WICKHAM/BRAD KEATING/SHARAD MATHUR

We, Gregory Wickham, Brad Keating, and Sharad Mathur, make the following declaration based upon personal knowledge of the matters set forth here.

1. Greg Wickham is currently the General Manager of Dairy Marketing Services, LLC ("DMS"), the common marketing agency that is one of the named Defendants in this case. He also serves as the Chief Executive Officer of Dairylea Cooperative, Inc. ("Dairylea"), one of the three cooperatives that are the member-owners of DMS, and as the President of Dairy Farmers of America, Inc.'s ("DFA") Farm Services operation. From 2002 until 2008, he served as the chief operating officer of DFA's Northeast Area Council, which serves an area that overlaps in part and differs in part from Federal Order 1 (it includes Maine, for example, which is outside the geographic boundary of Order 1). As a result of the various positions he has held, he is familiar with the day-to-day workings of DMS, Dairylea, and DFA in the marketing of milk in the Northeast.

2. Brad Keating is currently the Chief Operating Officer of DMS. He also serves as the Chief Operating Officer of Dairylea Cooperative Inc. and the Chief Operating Officer of the Northeast Area Council of DFA. He has held a variety of positions with DMS and Dairylea and is familiar with the day-to-day workings of DMS, Dairylea, and DFA.

3. Sharad Mathur is currently a Vice President of DMS, whose responsibilities include managing the relationships between DMS and certain of its member cooperatives, assisting management with premium and market analyses, and managing sales relationships with certain of DMS's customers.

4. DMS is an LLC that is also a common marketing agency that today markets milk for almost 8,000 dairy farmers in the Northeastern United States. DMS is owned by three cooperatives: Dairylea, DFA, and St. Albans Cooperative Creamery, Inc. ("St. Albans"). Although DMS does not directly have any farmer members, it is indirectly owned by the farmers who belong to and own Dairylea, DFA, and St. Albans, and DMS's operations are overseen by a Board of Directors made up of dairy farmers from each of its owner coops. These three coops have all designated DMS as their marketing agent for raw milk in the Northeastern United States. As of August 2010, there were about 1,441 Dairylea producers marketing milk through DMS in the Northeast, about 1,463 DFA producers and about 446 dairy farmers who were members of St. Albans. Land O'Lakes, Inc. ("Land O'Lakes" or "LOL"), a coop headquartered in Minnesota, is a partner of DMS with respect to milk marketing in the Northeast, and there are about 1,449 Land O'Lakes dairy farmers in the Northeast marketing through DMS as of 2010. A number of other coops are members or affiliates of one of the DMS owners or otherwise participate in marketing their milk through DMS. In addition, DMS in 2010 marketed the milk of hundreds of independent dairy farmers who are not members of any cooperative.

5. In 2010, DMS marketed approximately 16 billion pounds of milk, somewhat over half of which is produced by dairy farmers who are members of Dairylea, DFA, and St. Albans, and most of the rest of which is either produced by dairy farmers who are members of one of our affiliated cooperatives or who are independent dairy farmers who market through DMS. There is some milk that DMS acquires through swaps with other coops that enable both parties to the swap to save on hauling costs. Most but not all of the milk that DMS markets is delivered to plants in Federal Order 1 (although, as we note below, many of the dairy farmers whose milk DMS markets do not have their farms within the geographic boundaries of Order 1). In September 2010, for example, DMS marketed a total of 1.272 billion pounds of raw milk, 1.166 billion pounds of which was marketed to plants in Order 1. In September 2010, the total amount pooled in Order 1 was approximately 1.944 billion pounds. By way of comparison, data published regularly by the Market Administrator shows that there are in excess of 13,000 dairy farmers pooling an average of about 2 billion pounds of milk per month in Federal Order 1.

6. We have reviewed and are generally familiar with the allegations in the Revised Amended Complaint in this case.

7. We understand that the Plaintiffs in this case are focused on the area that falls within the boundaries of Federal Order 1, which they describe as the "Northeast." In our business, we refer to the Northeast to include not only the territory of Order 1, but also those portions of Pennsylvania, New York, and Maine that are not technically part of Order 1 but nevertheless are home to thousands of dairy farmers who market through DMS to plants regulated by Order 1. Within the Northeast, as we use that terminology, we generally view the area as containing four distinct sub-regions: (i) New England, (ii) Northern, Central and Eastern New York, (iii) Western New York and Western Pennsylvania, and (iv) the Southern region,

which includes Central and Eastern Pennsylvania, New Jersey, Delaware, Maryland, and parts of Virginia. Within DMS, each of these sub-regions has its own division manager in charge of membership matters, and there are multiple "regional managers" who have responsibilities for even smaller areas each of these four sub-regions.

8. Competitive conditions differ substantially across and within the four sub-regions of the Northeast, in terms of the type and number of customers, the ease of access to those customers, the active presence of other cooperatives, and the number of processors who rely in significant part on independent milk supplies. For example, and as discussed in more detail below:

a) In Western New York, there are very few Class I plants, and the primary market for farmers' raw milk are manufacturing plants, such as Sorrento Cheese located in Buffalo, NY; Empire Cheese located in Cuba, NY; Kraft (Pollio) located in Campbell, NY; Friendship Dairy located in Friendship, NY; and O-AT-KA Milk Products located in Batavia, NY. [redacted] Also, for some farmers in far Western New York, it is more economically advantageous for them to pool their milk on Federal Order 33 than it is to pool on Federal Order 1.

b) Pennsylvania, in contrast, has a significant number of Class I plants (which generally pay the highest handling charges), and also has its own system of regulation, which is overseen by the Pennsylvania Milk Marketing Board

("PMMB"). The plants in Pennsylvania include plants owned by Dean Foods Company (Tuscan-Lehigh Dairy in Schuylkill Haven; Tuscan-Lehigh located in Lansdale; and Swiss Premium Dairy located in Lebanon), and a host of independent processors such as Harrisburg Dairies located in Harrisburg, Clover farms located in Reading, Turner Dairy located in Penn Hills, and Galliker Dairy located in Johnstown. The PMMB sets its own premium, over the minimum price set by the Federal Market Administrator, for raw milk that is produced in Pennsylvania, processed for Class I (fluid) use in Pennsylvania, and then sold in Pennsylvania.

c) New England also has a number of Class I plants, as do Eastern and Central New York. As a result of their proximity to the Class I plants in New England and Eastern New York, there is often significant competition for raw milk produced by farmers in Central New York, whose milk can be shipped easily to Boston or New York City or can be sold locally. There are many plants and cooperatives to which farmers can sell their milk in Central New York. For example, they can choose to ship through DMS, or they can ship outside of DMS, for example, by joining Finger Lakes Cooperative (which sells its farmers' milk to Byrne Dairy in Syracuse, New York), or by joining Producers Coops (which sells its farmers' milk to Dean Foods' plant in East Greenbush, New York), or by selling directly to Queensboro Farms, Elmhurst Dairy, Byrne Dairy, or Midland Farms, all of which are independent processors that acquire milk from independent farmers in Central New York (and elsewhere).

d) There are fewer cooperatives and independent processors in New England than in New York. Agri-Mark—which has over 1,250 members and owns its own plants in Middlebury, Vermont; Cabot, Vermont; Springfield, MA; and Chateaugay, New York (the last of which it acquired when it merged with the Chateaugay Cooperative in Upstate New York)—is the major cooperative in New England that does not market its members' milk through DMS, although it is not the only non-DMS option for farmers in the region. Other farmers in New England sell their milk directly to processors, such as Oakhurst in Maine, HP Hood (Booth Brothers) in Vermont, Marcus Dairy in Connecticut, and Guida Seibert in Connecticut. The coop owners of DMS—St. Albans, Dairylea and DFA—also have members in New England.

9. Different cooperatives make different choices about how to price their milk to customers and how to pay their farmer owners. Pay price determination for the dairy farmers who market through DMS depends in the first instance upon their affiliation. We can speak knowledgeably about the determination of pay prices for the dairy farmers who are members of DFA and Dairylea, and the independents who market their milk through DMS. There are also many other coops who market through DMS—and this is at present a list that includes St. Albans, LOL, Cumberland Valley (part of LOL), National Farmers Organization ("NFO"), Schoharie County Cooperative Dairies, Konhokton Milk Producers Coop, Massachusetts Cooperative Milk Producers, Tioga Valley Cooperative Milk Producers, Liberty Valley Cooperative Milk Producers, South New Berlin Milk Cooperative, Port Allegheny Cooperative Milk Producers Association, Farmers Friendly Cooperative, and North Penn Bulk Milk Producers. This latter list also includes several coops that are members of Dairylea, including

Mount Joy Farmers Cooperative, Cortland Bulk Milk Producers, and Oneida-Madison Milk Producers Cooperative, as well as three other coops that are affiliates of Dairylea (Jefferson Bulk Milk Cooperative, United Dairy Cooperative Services and Lowville Producers Dairy Cooperative). We are familiar with how a portion of DMS's revenues is distributed to these coops each month. In some cases, explained in the next paragraph, DMS performs accounting services for the coops to help them administer payroll; in other cases, DMS is not involved in the organizations' distribution of their revenues among their member dairy farmers.

10. The relationship between each of these affiliated coops and DMS is not the same. DMS offers what amounts to a "menu" of services, and affiliated coops can in large measure pick and choose the services they want. [redacted] DMS does provide producer payroll services and accounting support for selected other member and affiliated cooperatives in the Northeast. [redacted]. For payroll services, DMS acts as a service provider, meaning the pay price decisions and changes are authorized and developed by the individual cooperatives, and communicated to DMS for implementation. Moreover, DMS provides additional accounting services to [redacted] including the preparation of monthly and yearly financial statements.

11. As set forth in more detail below, there are significant differences in pay prices depending on a dairy farmer's ability to qualify for various volume and quality premiums, the

local competitive conditions in the area where a dairy farm is located, and the incentives that we have offered from time-to-time for farmers that become new members of Dairylea and/or DFA. There are and have been significant changes in these programs over time, and the programs are not uniform across either Dairylea or DFA—[redacted] Milk volume premiums are paid to farms in order to reflect the reduction in cooperative service costs and the efficiency that is created in serving large farms with respect to such items as transportation, field services/inspection, and administration. Quality premiums are paid as an incentive for farms to produce better quality milk to help meet customer and market needs. Competitive premiums are paid to farms to reflect the market conditions created by the demand for milk in a given area. Other premiums are offered to reflect special market needs such as rbST-free (i.e., hormone free) milk, organic milk, kosher milk, etc. Sometimes, special competitive adjustments/premiums are utilized to retain members when competition offers higher payments.

12. [redacted]. [redacted]

[redacted]

13. [redacted]

[redacted]

14. Over the past several years, the number of farms in the Northeast producing organic raw milk has increased, and that is true within DMS as well. At present, there are approximately [redacted] organic farmers who are associated with DMS. [redacted] In the Northeast, the processors that purchase organic milk include Horizon (which is part of Dean Foods Company) and CROPP (a Wisconsin-based cooperative, also known as Organic Valley). H.P. Hood previously purchased organic raw milk, but no longer does so. [redacted]

15. For Dairylea members who do not produce organic milk, the dairy farmer's pay price depends on the volume of milk he or she markets, the quality parameters of that milk, the location of the farm, and the type of customer served by that farmer's milk. Dairylea generally tracks payroll to dairy farmers through groups known as BTUs. Each farmer receives a base

premium, which varies over time and across BTUs depending on the revenues received from customers in the area and the costs of marketing milk. Volume premiums generally range from [redacted] [redacted] most Dairylea members receive a volume premium that starts at [redacted] For the largest farms that belong to Dairylea, this [redacted] can result in additional revenues to the farm of approximately [redacted] This collection of premiums has changed over time in significant ways. For example, during April 2006, volume programs were adjusted to reflect more closely market conditions, which in general meant even higher premiums for the largest farms. At the time, we found that we needed to recognize the additional value that the larger farm operations were adding. This added value included efficiency (both cooperative and logistics) and greater marketing opportunities. In 2006, quality programs also were adjusted upward to help address the growing need for higher quality milk supplies for the fluid marketplace. On a monthly basis, the base premium may be adjusted to help reflect, on a more current basis, the competitive need for milk supplies in the area in which a dairy farm is located. There are also additional premiums for which a farmer can qualify, depending on the milk he or she produces—for example, in some areas (but not others) Dairylea offers a premium (currently [redacted]) for farmers who do not use rbST (a hormone), and in some areas farmers who produce milk with high protein content (a desirable trait for cheese manufacturers) can obtain an additional premium (as much as [redacted].).

16. Each of these premium components reflects Dairylea's evaluation of the competitive conditions affecting our members in the various locations of the Northeast. Local

competitive conditions can make a significant difference to the pay price received by farmers. For example:

a) Milk premiums in Eastern New York reflect payments received from fluid customers—of which there are many in that area, and which typically pay a higher handling charge for milk—as compared to manufacturing customers. [redacted] Farmers in Eastern New York also have a greater number of options for selling their milk than in some other parts of the Northeast—whether through other cooperatives, or directly to processors—particularly if they produce rbST-free milk. Agri-Mark has members in the area, and independent buyers such as Queensboro Farms, Elmhurst Dairy, Marcus Dairy, Stewart's Processing, and Midland Farms acquire milk directly from farmers.

b) In Pennsylvania premiums are impacted by PMMB-mandated prices for fluid milk (which, again, are over and above the federal minimum prices the plants have to pay for raw milk) and multiple small processors that buy milk from independent farms. At present, there are approximately 32 plants in Pennsylvania, 21 of which are Class I plants, including 7 Class I plants that acquire milk directly from independent farmers. The PMMB regulates plants located in Pennsylvania that buy raw milk from farmers in Pennsylvania and produce fluid milk products that are sold in Pennsylvania (if, for example, 50% of a plant's fluid milk products are sold within Pennsylvania, and 50% sold outside of the state, then the amount is prorated). The premium set by the PMMB is currently \$2.15 per cwt. Although coops like Dairylea, DFA, and Maryland/Virginia are not required to pay their members the PMMB premium (each coop blends returns on the sales of its members' milk, whether sold to fluid plants or manufacturing plants), the PMMB premium impacts what we pay our farmers— meaning, if the PMMB premium increases, we generally do the same.

c) DMS also has farmers who are part of what we call "Division 95," and these are farmers in the southernmost part of the Northeast who sell their milk into the Southeast (Order 5). In the 1990s, Dairylea and DFA's Northeast Area Council coordinated with DFA's Southeast Area Council ("SEAC") and determined that DFA's SEAC needed about [redacted] per month to meet its needs, and that the milk should come from large farms with high quality, located in the southern part of the Northeast, to make economic sense. Today, DMS coordinates with the Southern Marketing Agency ("SMA") concerning these sales. SMA determines the price that the Division 95 farmers receive for their milk, and DMS only handles the check writing and field work. The Division 95 farms have a standing offer to come back and pool their milk on Order 1, but as they are told, if they elect to leave Division 95, they may not be able to return since their milk will be replaced.

d) Western New York and Western Pennsylvania premiums are affected by the Mideast market conditions and the generally higher blend price available in

Federal Order 33, which is readily accessed by producers in the westernmost part of New York. There are certain producers in Western New York who are paid an Order 33 price and almost always deliver there. [redacted] Also, there are different cooperatives who have members in that area than, for example, in Eastern New York. One example is the Upstate/Niagara coop, which has members in Western New York. Upstate/Niagara is a vertically integrated cooperative—i.e., it owns its own processing plants. That cooperative generally pays lower premiums to farmers than do other cooperatives in the area, but depending on the profitability of its plant operations, it returns significant revenues to its farmer members at year's end. Last year, for example, based on information Dairylea received as an investor in Upstate,[1] we understand that Upstate paid [redacted]. in cash patronage refund on plant profits, which in conjunction with monthly premiums far exceeded market premiums we and others paid. Upstate has recently decided that it is no longer accepting any new farmer members, because its current membership does not want to dilute members' shares of the processing revenues and because it does not need any additional milk.

[1] Dairylea has [redacted] investment in Upstate and, in the 1990s (but no longer), used to have a seat on its board of directors.

e) Northern New York has a large manufacturing base with companies such as Kraft, Crowley, and Great Lakes Cheese that purchase most of the milk in the area. Premiums paid to farms in this area are reflective of revenues received from these cheese manufacturers, [redacted] When milk is short in Central New York, Queensboro will from time to time attempt to acquire milk from Northern New York farms (by offering access to a Class I premium, which will be higher than the blended, primarily Class III-based premium these farmers typically receive). When milk is long, Queensboro will stop buying from the farms. The major cooperatives in Northern New York today are Lowville, Jeff Bulk, Dairylea, DFA, and Agri-Mark. Approximately 60% of the milk in that area is produced by large farms.

17. For non-organic DFA members, the process of pay price determination is similar but not identical to that for Dairylea members. Both coops set and adjust their various premiums—base, volume, quality, hormone-free, etc.—based upon market dynamics and competitive factors, but DFA's producer premium programs are different in some significant aspects relative to Dairylea's. The volume program generally is incremental and has different parameters than the Dairylea program. [redacted]

Across the geography of the Northeast, base premiums for DFA members may be different than those of Dairylea members [redacted]

18. Another important difference is that DFA members also may receive special patronage payments from the earnings of the cooperative, and in particular its investments in various bottling and other processing ventures. DFA has historically chosen a strategy of vertical integration, which requires more capital investment by farms (currently $1.75 per cwt.).[2] Dairylea, in contrast, has chosen to be a seller of raw milk and minimize plant investments and therefore has had a much lower capital investment (currently small farms pay a maximum of $.50 per cwt., while large farms pay approximately $.10 per cwt. due to Dairylea's scaled equity program). As a result, Dairylea pays little if any patronage refund since it has no plant profits.[3] In our experience, some farms really want to sell their milk to their own plant, whereas other farms don't care and would prefer the extra investment money (due to lower equity requirements) to put into growth of their farm.

19. The non-organic independent dairy farmers who ship their milk through DMS receive premiums such as base, volume, quality, rbST-free, etc., similar to cooperative members. [redacted]

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[2] Upstate currently requires an investment of [redacted]., and has recently announced that it will increase its investment requirement to [redacted]

[3] Dairylea effectively pays farms a [redacted]. dividend from profits on the various service-related companies that it owns (such as Eagle Dairy Direct). In contrast to patronage payments, these dividends are paid in monthly premiums that are in addition to the premiums associated with our milk sales minus costs.

[redacted]

20. St. Albans, which is the other coop that owns DMS, is a Vermont-based cooperative with approximately 450 member farms producing 100,000,000 pounds per month. St. Albans owns a manufacturing facility located in St. Albans, Vermont that produces/manufactures cream, milk condenses, and milk powders. St. Albans has its own producer premium programs, hauling rates, dues, equity, and producer-related programs. After receiving its share of revenues from DMS, St. Albans is responsible for distributing those revenues, as it sees fit, to its farmer members. St. Albans has different premiums from Dairylea and DFA. For example, St. Albans quality programs max out a [redacted] , while the Dairylea and DFA quality programs max out at [redacted] Additionally, St. Albans pays out a [redacted] volume premium than the Dairylea and DFA plans.

21. Land O'Lakes, which is an affiliate but not an owner of DMS, is a national cooperative with a significant presence in the Northeast, although mostly in Southern portion of the region. In the Northeast, they have approximately 1,500 members producing 250,000,000 pounds per month. Land O'Lakes owns a manufacturing facility located in Carlisle, PA that produces/manufactures butter, milk condenses, and milk powders, and it also owns a number of plants in other areas. Like St. Albans, Land O'Lakes has its own producer premium programs, hauling rates, dues, equity, and producer-related programs and is responsible for distributing any revenues it receives from DMS to its farmer members.

22. For the dairy farmers that belong to the coops that are members of Dairylea, including Mount Joy Farmers Cooperative, Cortland Bulk Milk Producers, and Oneida-Madison

Milk Producers Cooperative, Dairylea purchases their members' milk at a price that is negotiated on a routine basis by the leadership of Dairylea, on the one hand, and leadership of the member coop (e.g., Cortland Bulk), on the other. In order words, Dairylea draws revenues from the DMS pool based on the shipments of this milk, and then distributes funds to these coops based on these negotiated prices, rather than the pay programs it uses for its own members. [redacted] Each member coop has its own premium and pay programs for its membership (as well as its own hauling rates, dues, equity, etc.), and it distributes the revenues it receives from the sales to Dairylea as it chooses. Some of these cooperatives (e.g., [redacted]) utilize larger base premiums, while others utilize a larger volume program (e.g., [redacted]), and some have no volume program at all (e.g., [redacted]). Some pay the premiums on a monthly basis (e.g., [redacted]), while some (e [redacted]) retain some of the milk premiums to pay out a year-end bonus.

23. For the dairy farmers that belong to a coop that is affiliated with DMS, payments differ depending on the area that they reside in and the customer(s) they deliver to. For example, a farm that belongs to Jefferson Bulk Milk Cooperative has a quality program that reflects the needs of Great Lakes Cheese plant, their primary customer. These affiliate coops have different arrangements with DMS relative to how their price is negotiated and set, and there

are significant differences in how they distribute the money they receive. [redacted]

24. As the discussion above of the various regions of the Northeast indicates, the nature and extent of competition varies across the Northeast depending on a number of factors, including the number, types and size of plants in the area, the number of different coops with members in the area, the applicability of state pricing regulations, and more. Some specific examples of the different types of, and different areas of, competition include:

a) [redacted]

[redacted]

b) [redacted]

c) Competition has over time been particularly fierce in Eastern New York. In recent years, over a dozen farmers—some independents, some Dairylea members, some DFA members—have left DMS to begin shipping as independents to Midland Farms, which during April 2002 opened a new processing plant in the area. In order to attract one large farm, [redacted], Midland offered to let them haul their own milk, and also gave them a tanker truck to use on the farm.

d) Similarly, Finger Lakes Cooperative, a coop with approximately 80 members located in Central New York, affiliated with DMS on April 1, 2006 (having previously been affiliated with Allied Cooperative, which merged into Agri-Mark). Finger Lakes left DMS on March 31, 2009, to begin selling their milk to Byrne Dairy, an independent Class I processor in Syracuse, New York. As these last two examples suggest, competition with the independent fluid processors such as Midland, Byrne Dairy, Elmhurst, and Oakhurst has often been particularly significant because those processors can at times offer higher premiums to the farmers who serve their plants because their business is almost entirely fluid milk, and handling charges for Class I always tend to be the highest. As discussed above, DFA and Dairylea members, on the other hand, receive what amounts to a blended premium that reflects a combination of DMS sales not only to fluid plants, but also to a variety of generally lower-paying manufacturing plants.

e) Another group in Central New York is the Cayuga Marketing Group, which is part of Dairylea. [redacted]

[redacted]

f) [redacted]

g) There also are areas in the Northeast that are always under some sort of constant competitive pressure. For example, areas such as Eastern New York, Northern New York, Northern Pennsylvania, and Lancaster County, Pennsylvania always have a competitive dynamic happening due in part to both Class I independent competition and cooperative competition in those areas.

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4 [redacted]

25. Because of its significance to our business, we continually track "members in/members out," both in terms of farms leaving the business and members or independents shipping through DMS who switch to other means of marketing their milk. Although many dairy farmers value long-term affiliations and stability, and thus show relatively little interest in switching how they market their milk, others are far more willing to explore new options on a regular basis, and often send in cancelation notices in many years simply to remind us that they have the ability to move elsewhere and to see what type of "better offer" we might be encouraged to make to them. These producers who are more willing to entertain shifting markets are important to us, especially when they are large farms, because in many of the regions within the Northeast the balance between supply and demand is very close, [redacted] Such movements often go in cycles in terms of which coops are doing better at attracting members and which are, from time to time, experiencing difficulties. [redacted]

26. Frequently, the way we learn of particular competitive activity in an area is from field representatives. DMS currently has a total of [redacted] field representatives across the Northeast. In general, their job is to assist the farms in any way they can, from ways to improve the quality of the milk produced, the efficiency of the farm's operations, helping to arrange insurance, helping to arrange loans to fund expansions or investments in new technology, etc. In

two states, Pennsylvania and New York, the field representatives are also licensed by the state and tasked with performing whatever inspections the state requires in order to qualify the farm to sell milk. In other states, such as Vermont, the state has its own inspectors who are responsible for inspecting the farms. Because the field representatives are the people from DMS who are most often in contact with farmers, they are often the first to learn, for example, that a particular coop is trying to sign up members in an area, or that another coop has adopted a new pay program that results in its members in the area receiving more than farmers who market through DMS, or that one or more DMS shippers are considering leaving the system to begin shipping to another processor or cooperative. In those circumstances, the field representatives will often inform their regional supervisors and often will recommend some modification in the base premium to help retain the farm(s). Ultimately, it is the responsibility of someone in the main office in Syracuse—usually Greg Wickham, Brad Keating, or Sharad Mathur—to review whether a particular adjustment in premiums is appropriate. A number of factors go into that decision, including DMS's need for milk in the particular area, and the availability of funds from which to pay any increased premium. The latter is a significant factor. Oftentimes, there is no short-term prospect raising the handling charges to DMS's customers to fund an increase in premiums for a particular farmer or group of farmers. In such circumstances, a decision may still be made to increase premiums for some group of farmers, recognizing that that decision will necessarily mean there is less revenue to be distributed to the other farmers in the system. At other times, we will decide that we simply do not have the revenues to match an offer that some of our members have received from another coop or a processor that has an independent supply of milk.

27. Our experience in dealing with our customers is that, in many situations, being able to market a significant block of milk through DMS is a significant benefit in obtaining greater handling charges for the dairy farmers we serve than would otherwise be the case. For example, in the beginning, when DMS was first started, DFA and Dairylea were charging different prices to the same customer. Within 20 months of DMS' inception, we were able to charge the higher of the two prices for the entire block of DFA and Dairylea milk. Notwithstanding our successes, negotiating premium increases is never easy, and our customers are constantly reminding us of their view of what marketplace conditions require, the difficulties they face with downstream competition, and the alternatives they see in the Northeast to procuring milk through DMS, whether it be from another coop or from an independent supply. Throughout the years, and in many negotiations, our ability to increase premiums has been dependent upon pricing factors that include prevailing competition and the cost of an independent milk supply. [redacted]

[redacted]

28. DMS's ultimate goal is to market farmers' milk collaboratively in such as way as to maximize the handling charge that farmers can charge for their milk, and minimize the costs associated with getting the farmers' milk from the farm to the plant. As noted above, the handling charges that DMS is able to charge its customers vary by the type of customer and the customer's location within the Northeast. Generally, fluid plants (also referred to as Class I plants) pay the highest handling charges, followed by Class II plants (which make products like yogurt, sour cream, and cottage cheese), and then Class III plants (which produce cheese products). Generally, but not exclusively, the Class I plants in the Northeast are located in the Easternmost portions of the area, close to Northeast's urban centers. In addition to paying higher handling charges, as a result of these plants' easterly location, farmers also receive the highest PPD for shipping to these plants. As you move West within the Northeast geography, the PPD diminishes. The cheese plants in Western New York thus not only pay lower handling charges, but also lower PPDs than plants close to the East coast.

29. [redacted]

[redacted]

30. DMS is the entity that is responsible for setting the handling charge on the milk that it markets. From reviewing the Plaintiffs' papers in this case, we understand that there is some confusion about the role of another entity—the Greater Northeast Milk Marketing Association ("GNEMMA"), which was created in September 2006. The members of GNEMMA are DFA, Dairylea, Land O'Lakes, St. Albans, Agri-Mark, Upstate/Niagara, and the Maryland/Virginia cooperative. The latter three do not market their milk through DMS. The Plaintiffs describe GNEMMA as a pricing agency through which all of its member cooperatives agree on the handling charge they will announce and charge their customers, or at least their fluid customers, in Order 1. The Plaintiffs are mistaken.

31. GNEMMA was created at the time when processors in the Northeast, in particular fluid milk plants, were insisting, based on their customers' requests, that farmers provide them with rbST-free milk. At that time, there were not enough farmers in the Northeast producing rbST-free milk to satisfy the processors' demand, and there are significant costs to farmers who decide to stop using rbST (which is a hormone that makes cows produce more milk). At the time, processors were resisting paying any additional premium to farmers who agreed to provide rbST-free milk, essentially forcing the farmers to incur all of the costs associated with making the change. To help protect their members, and place the cost of switching to rbST-free milk on the entities that requested the change (the processors), the major

cooperatives in the Northeast got together to form GNEMMA, which was organized as a common marketing agency under the Capper-Volstead Act. Through GNEMMA, the member cooperatives agreed that they would charge their customers who insisted on rbST-free raw milk a specific premium to compensate the farmers. Originally, when the market switched to rbST-free in 2007, the GNEMMA cooperatives agreed to charge the $.75 per cwt. premium. In 2007, DMS was selling rbST-free milk to eight facilities in the Northeast; today, DMS sells rbST-free milk to 44 facilities in the Northeast. [redacted]

32. The only premium that all members of GNEMMA have agreed to charge is the premium, described in the previous paragraph, for rbST-free milk. A subset of GNEMMA's members—Land O'Lakes, Maryland/Virginia, DFA and Dairylea, which are sometimes referred to within GNEMMA as "GNEMMA South"—have continued the practice of an older entity (the Northeast Milk Marketing Agency or "NEMMA"[5]) of announcing a common over-order premium for customers in the old NEMMA territory (which corresponds to the old Federal Order 4). However, at no point in time has GNEMMA announced—nor have the members of

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[5] The coops and agencies that belonged to NEMMA included Land O'Lakes, Maryland/Virginia, DFA, Dairylea, DMS, and Advantage Dairy Group.

GNEMMA otherwise agreed to charge—the same overall handling charge for the raw milk they market in the rest of Order 1. With respect to the rest of Order 1 (i.e., the area that is not within the old Federal Order 4), in addition to its role in rbST-free premiums, GNEMMA simply has served as a vehicle for its member dairy cooperatives to get together and discuss current conditions in the marketplace, such as fuel surcharges and receiving credits. GNEMMA's members also have agreed on what changes to seek in PMMB pricing, and GNEMMA has made submissions to the PMMB reflecting those views.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on this 5th day of April, 2011, in Syracuse, New York.

Gregory Wickham/Brad Keating/Sharad Mathur