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Presentation to Vermont Milk Commission

NODPA has a membership of eight hundred and thirty six organic dairy producers in the Eastern US. NODPA's mission is to **“enable organic dairy family farmers, situated across an extensive area, to have informed discussion about matters critical to the wellbeing of the organic dairy industry as a whole.”** NODPA is not aligned with any one processor or cooperative and therefore is able to represent the views and needs of many different farmers.

Ed Maltby, NODPA Executive Director, has been farming for the past 48 years, originally in the United Kingdom and for the past 29 years, in New England. He was primarily a dairy farmer but more recently moved into sheep and vegetables as a lifestyle change. Currently, he manages the largest slaughterhouse in New England as well as his work with organic dairy regionally and nationally. He served on the USDA Dairy Industry Advisory Committee under Secretary Vilsack.

National Overview

The organic dairy pay price, and subsequently family farm income, is collapsing under the strain of a surplus brought on by the inadequate supply management of milk buyers, poor implementation of existing regulation by the certifiers and accreditor of organic certification, USDA National Organic Program (NOP), and the failure of the NOP to pass regulations to uphold a consistent and fair organic standard. The increase in the number of large scale vertically integrated organic dairies that have economies of scale and economies of fraudulent practices has upset the balance of the supply relative to demand. The lack of consistent implementation of organic standards has allowed these dairies to respond quickly to a shortage of organic milk which adds to their ability to sell more cheaply into the private label/store brand market. Organic milk is estimated to have a 6 percent share of total milk supply nationally with approximately 2,200 producers. The challenge for Vermont and the Northeast organic dairy industry in the next few years will be to protect that unique certification process that has allowed approximately 25% of Vermont's dairy farms to be successful with a sustainable and stable pay price.

The following are the factors influencing the current situation in the Northeast

- **Determining Pay Price**

There are no federal regulations governing pay price and limited independent data on utilization of organic milk. There is very limited competition to purchase farmgate milk, especially in New England. The Justice Department determined it was a potential monopsony situation in their decision on the merger of Danone and Whitewave.

NODPA's Mission

To enable organic dairy family farmers, situated across an extensive area, to have informed discussion about matters critical to the well-being of the organic dairy industry as a whole.

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Pay price is set by the two national buyers of organic milk, based on their perceived estimates of availability of raw milk. Approximately 85% of organic milk is sold as Class one, fluid retail, so until recently, organic pay price was not based on utilization. Both of the brands are based in the Midwest - CROPP with their Organic Valley brand and DanoneWave with their Horizon brand. CROPP as a cooperative has greater flexibility in decisions around pay-price with cooperative agreements with each member-owner and pay price set by the Board. DanoneWave has individual contracts with each producer and these contracts are increasingly restricting the rights and opportunities of producers as they try to mimic the contractual power of cooperatives.

Similarly to the non-organic supply, organic milk is produced more cheaply in the Midwest and the West than in the Northeast, and the organic pay price differential reflects that with an approximate \$4 difference between the northeast and the West. Unfortunately, the same comparison with the non-organic supply is true in times of surplus, where a national surplus, mostly generated in the west, dictates a drop in pay price, nationally.

While there are some exports of organic dairy commodities and packaged product, exports do not play the same role of balancing domestic supply as they do in the non-organic market. Imports of some organic milk powder, butter and cheese increased during the years of organic shortage, 2012 to 2015, but there is no independent data to verify volumes.

New England and the Northeast are ideally located next to large populations of discriminating consumers that have high levels of discretionary spending, which should give regional organic producers an opportunity to market their milk at a higher pay price. The area is an organic milk deficit area and organic bulk milk is trucked into the area from Virginia, Michigan, Ohio and Pennsylvania. Packaged organic milk from the West is sold in the Northeast organic retail market. Again, this should be an opportunity for regional brands, especially into a market saturated with 'Buy Local' advertising.

Unfortunately, the Northeast lacks the organic processing and balancing infrastructure to support a regional brand. Those that have tried have failed because the profitable market area is also recognized by the national brands that can produce milk cheaper in the Midwest, package it cheaper and ship it into warehouses in the Northeast at comparable prices. The highly competitive organic section of the dairy case is difficult to break into and to compete with store brands and non-bovine vegetable juices.

- **Production costs**

The unfortunate truth is that it is more expensive to operate an organic dairy farm business in New England. This has been well documented by the ten plus-year study completed by Bob Parsons of Vermont Extension Service. While the cost of organic production will vary depending on the cost of inputs, Bob's work and feedback from producers, give a break-even pay price of \$35 per cwt in New England. Similar work in the west has a break-even pay price at \$31 per cwt.

- **Current retail demand**

Demand for organic fluid milk shows no signs of slowing down. The USDA AMS national data reports total organic milk products' sales for June 2017 were 208 million pounds, down 1.7% from the previous June 2016. Overall, the January-June 2017 sales are up 0.8% over the previous January-June 2016. Total organic whole milk products' sales for June 2017 were up 4% over June 2016. This resulted in 7.7% increase in sales of organic whole milk for the first half of 2017 over sales in the same period of 2016. Usually, a surplus on the supply side of dairy products and a drop in pay price is reflected in lower retail prices. Although there is mixed data from USDA AMS on retail prices of organic half-gallons and a wide difference across the country, there seems to be no rush to lower the retail price of organic milk, with the exception of Whole Foods which is under new ownership. Their new owner, Amazon, has targeted organic milk and butter for significant price reductions. Retail price cuts will almost certainly mean that the lower pay price will remain longer than the 18 months to two years it may take for the supply side to adjust to slower growth.

- **Current pay price**

CROPP cooperative recently announce that their pay price for organic milk produced in Vermont in December 2017 will be \$28.80 per cwt. In December 2016, that pay price was \$34.80, a drop in one year of \$6 per cwt. The average pay price for Vermont CROPP cooperative for 2016 was \$35.68; the average for 2017 is estimated at \$30.59. CROPP projects that the pay price will drop another \$2 in Spring, 2018. CROPP also has a quota based on initial purchases of preferred stock. Any organic milk produced over that quota will be penalized with a deduction of \$20 per cwt. All dairies that were in the process of transitioning have been told that they will not have a buyer. DanoneWave is not taking on any new producers and also lowered their pay price by \$4 per cwt.

Solutions

The unique process of organic certification continues to hold consumer confidence and allows organic producers to grow their market at a conservative rate in keeping with the requirements to transition livestock and land over a three year period. There is no other third party certification backed by Federal regulation on the market. The regulations just need to be enforced consistently and fairly.

Stonyfield and Ben and Jerry's

The processing and balancing of organic milk make it difficult for anyone company to establish an organic pool of milk for New England. These two companies are both mission based and base their marketing on their mission. These two companies working together could balance supply if they invested in their organic dairy farm families, that they proclaim to value and respect so much.

- Stonyfield is now owned by the French multinational Groupe Lactalis. It currently has a supply contract with CROPP plus its own small pool of milk. Under Danone Stonyfield was in the process of expanding its pool of milk by sourcing it regionally to its New Hampshire processing plant. Producers are waiting to see how the new management will want to source its supply for both its organic fluid brand and its yoghurt. If Stonyfield decided to expand its pool of milk and source its supply mostly from New England this would increase the competition for farmgate milk and eventually make a healthy supply market for producers in Vermont
- Ben and Jerrys have recently publicized their intention to have one organic label as a start to transforming their supply. There are also reports that they will source their organic components from an independent dairy in New York. In the face of this crisis for organic dairies in Vermont the company may see the benefits of working with Vermont producers who are contracted to supply Stonyfield. This may not be the cheapest and initially it may involve some capital investment but it would legitimize its claim of supporting Vermont family farms.

The following are congressional and administrative solutions that will create a level playing field for organic dairy producers nationally, and safeguard the future of Vermont organic dairies:

The Farm Bill

Congress can use the Farm Bill to direct the NOP to make the following changes:

- The establishment of a professional license for organic certification inspectors and certification staff to fully implement the requirements of 7 C.F.R. § 205.501(a)(6). This license would include all the provisions of NOP 2027, all the recommendations of the NOSB and reflect the required skill necessary to provide third party independent certification that is the basis of the integrity of the organic seal. The NOP should prioritize the licensing process immediately in the certification of organic dairies.
- A consistent interpretation and implementation of § 205.237 Livestock Feed and § 205.239 Livestock living conditions. There must be a consistent policy and calculation matrix for pasture dry matter intake and pasture consumption for the access to pasture regulation. NOP shall restrict the certification of organic dairy operations with over 500 cows to approved certifiers that use inspectors and certification staff who are certified/licensed in certifying organic dairies to NOP regulations.

- The immediate prioritization of the publication of the Final Rule for the Origin of Livestock. The USDA has reduced publication from a priority to not even being mentioned in their work plan. The Proposed Origin of Livestock was first published in 2008, nearly 10 years ago, and the publication and quick implementation of the Final Rule is necessary for the continued survival of the domestic organic milk supply.
- The immediate implementation of the Organic Livestock and Poultry Practices Regulation. The Organic Trade Association should recommend the court reverse the USDA decision to delay the implementation of the regulation while the court determines the validity of its lawsuit against the USDA. By making the final livestock rule effective immediately, as written, the integrity of the organic seal can be protected and the trust of millions of consumers maintained for all organic livestock products.

Dairy Margin Protection Program

- Extension of the Dairy Margin Protection Program to cover organic dairy operations by using the cost of organic dairy feed and inputs to calculate organic milk margin. This program is now under review during this upcoming Farm Bill process as Congress responds to criticism that small to mid-size dairy operations do not benefit from the program. With the current crises in organic dairy and with some organic dairies only receiving \$14 per cwt for their milk, this program could be an important factor as the pay price in organic dairy is starting to reflect the cyclical surplus/shortage of conventional dairy.

Organic Production Market and Data Initiatives (ODI)

The USDA's Organic Production Market and Data Initiatives (ODI) collects information vital to maintaining stable markets, creating risk management tools, tracking production trends, and increasing exports.

- Support for the reauthorization of the Organic Data Initiative to provide \$5 million per-year in mandatory funding for USDA organic data efforts, as well as a continuation of existing language authorizing additional funding through the annual appropriations process. Support the expansion of reporting of real time data on organic dairy and the cooperation between all agencies within USDA, principally the Federal Milk Marketing Orders, USDA ERS and USDA AMS, to provide producers with an accurate and independent assessment of the market. As there is no Federal Milk Pricing within Organic Dairy, producers have to sign individual contracts with milk buyers without the benefit of real time information on supply and utilization of organic milk.

Changes to the Organic Food and Production Act (OFPA) within the Farm Bill

Within OFPA there is a provision that allows a onetime transition of non-organic heifers and cows to organic over a one year period instead of a three year timeframe. This is now unnecessary. The organic dairy industry has matured to the point that it can supply all the animals needed to meet the projected growth of the organic dairy market. Those operations transitioning from conventional to organic can now purchase certified organic animals at prices equivalent to non-organic livestock rather than transition conventional herds. This would put organic dairy on the same level as all other commodities and stop the fraud and confusion existing within the organic dairy industry that allows large scale dairies to continuously transition non-organic heifers and expand their herd very rapidly in response to a shortage of organic milk. The change in the law would ensure all US based and international based certifiers are using the same standards. This position is supported by organic dairies nationally.

- This change can either be an addition to the recently introduced Organic Farmer and Consumer Protection Act or a separate amendment to OFPA that deletes the one time transition allowance which is under SEC. 2110. (7 U.S.C. 6509) ANIMAL PRODUCTION PRACTICES AND MATERIALS. (e) ADDITIONAL GUIDELINES (2) DAIRY LIVESTOCK.—