

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)
Milk in the Mideast Marketing Area) Docket No.
) AO-11-0333; AMS-DA-11-0067; DA-11-04
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) Statement for the Record
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On October 28, 2011, Administrative Law Judge Bullard filed an order directing AMS to make inquiries of its personnel to identify whether any *ex parte* communications occurred prior to the issuance of the notice of hearing. On November 8, 2011, Judge Bullard certified the record. The rules of practice provide that *ex parte* communications are restricted following the issuance of a notice of hearing, 7 C.F.R. § 900.16. This document is placed into the record in abundance of caution and in accordance with the order.

Based on the fact that the AMS Administrator is the communicator of the notice of hearing for rulemaking proceedings, it is only his knowledge that would trigger *ex parte* communication restrictions prior to the actual issuance of the notice. The notice of hearing for these rulemaking proceedings has an issuance date of September 2, 2011. Upon review of the procedural steps taken to issue the notice of hearing, it was determined that the AMS Administrator received clearance from the office of the Under Secretary for Marketing and Regulatory Programs and signed the hearing notice in the late afternoon of September 1, 2011. The following day, AMS processed the notice for publication in the Federal Register and dated it September 2, 2011.

Inquiries were made of AMS personnel to identify any *ex parte* communications that occurred September 1-2, 2011. Based on these inquiries, no *ex parte* communications are believed to have occurred.

Respectfully submitted,

A handwritten signature in black ink that reads "Heather M. Pichelman". The signature is written in a cursive style with a large initial 'H' and a long, sweeping tail.

Heather M. Pichelman
Office of the General Counsel, USDA

DATED: November 15, 2011