

EXHIBIT D

DECLARATIONS SIGNED BY FORMER CHAIRS OF THE NATIONAL ORGANIC STANDARDS BOARD

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, *et al.*,

Defendants.

Civil Case No. 1:17-cv-01875-RMC

DECLARATION OF
ROBERT ANDERSON, IN
SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

Pursuant to 28 U.S.C. § 1746 I, Robert Anderson, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board ("NOSB" or "board"). I served during year(s) 1996 - 2001 and served as the board chair from 1997 - 2000. I have continued to follow the development of organic policy and the work of the National Organic Program ("NOP").
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* ("OLPP") on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. ("Rescission")
4. I am also aware that the Rescission states "[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule." 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

6. During the time I was on the NOSB, the organic community of stakeholders and the NOP agreed that Congress intended organic livestock production practices to reduce or eliminate the need for synthetic medicines and production aids by development of organic standards that required livestock be managed as part of the whole system of the organic farming and handling created by the OFPA. For livestock, an organic livestock system plan is required that emphasizes preventive care and includes among other requirements, space for the fullest expression of an animal's natural behavior, reduced stress, and access to the outdoors consistent with that animal's well being.
7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken the position that Congress intended the NOSB recommend standards to the Secretary regarding organic livestock care only if the recommendation was directly related to the list of three prohibited livestock healthcare practices appearing in the OFPA.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of October 2019.



Robert B Anderson
Former Chairman
National Organic Standards Board

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 ORGANIC TRADE ASSOCIATION,

4 Plaintiff,

5 v.

6 UNITED STATES DEPARTMENT OF
7 AGRICULTURE, *et al.*,

8 Defendants.

Civil Case No. 1:17-cv-01875-RMC

DECLARATION OF HARRIET
BEHAR, IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

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10 Pursuant to 28 U.S.C. § 1746 I, Harriet Behar, declare:

- 11 1. I am over 18 and under no disability that prevents me from making this declaration. Each
12 statement is based on my personal knowledge unless otherwise stated. I am aware of this
13 litigation because of its importance to the organic community. I have no financial interest
14 in this litigation.
- 15 2. I am currently a member of the National Organic Standards Board (“NOSB” or “board”).
16 I have served during year(s) Jan. 2016-Jan. 2020 and currently serve as the board
17 chair. I have continued to follow the development of organic policy and the work of the
18 National Organic Program (“NOP”).
- 19 3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule*
20 (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry*
21 *Practices; Withdrawal*. (“Rescission”)
- 22 4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to
23 consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final
24 rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
- 25 5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s
26 past practices, with regard to pre-rulemaking consultation with the NOSB. In my
27 experience any action by the NOP or Secretary that required public notice and comment,
28 whether guidance or legislative rulemakings, was conducted solely in the aftermath of
consultation with the NOSB.

- 1 6. During the time I have served on the NOSB, the organic community of stakeholders and
2 the NOP agreed that Congress intended organic livestock production practices to reduce
3 or eliminate the need for synthetic medicines and production aids by development of
4 organic standards that required livestock be managed as part of the whole system of the
5 organic farming and handling created by the OFPA. For livestock, an organic livestock
6 system plan is required that emphasizes preventive care and includes among other
7 requirements, space for the fullest expression of an animal's natural behavior, reduced
8 stress, and access to the outdoors consistent with that animal's well being.
- 9 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken
10 the position that Congress intended the NOSB recommend standards to the Secretary
11 regarding organic livestock care only if the recommendation was directly related to the
12 list of three prohibited livestock healthcare practices appearing in the OFPA.
- 13 8. I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 17 day of October 2019.

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17
18 Harriet Behar
19 Chair
20 National Organic Standards Board

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 ORGANIC TRADE ASSOCIATION,

4 Plaintiff,

5 v.

6 UNITED STATES DEPARTMENT OF
7 AGRICULTURE, *et al.*,

8 Defendants.

Civil Case No. 1:17-cv-01875-RMC

DECLARATION OF DAVE
CARTER, IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

9
10 Pursuant to 28 U.S.C. § 1746 I, Dave Carter, declare:

- 11 1. I am over 18 and under no disability that prevents me from making this declaration. Each
12 statement is based on my personal knowledge unless otherwise stated. I am aware of this
13 litigation because of its importance to the organic community. I have no financial interest
14 in this litigation.
- 15 2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I
16 served during year(s)2001-2006and served as the board chair in 2003. I have continued
17 to follow the development of organic policy and the work of the National Organic
18 Program (“NOP”).
- 19 3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule*
20 (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry*
21 *Practices; Withdrawal*. (“Rescission”)
- 22 4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to
23 consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final
24 rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
- 25 5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s
26 past practices, with regard to pre-rulemaking consultation with the NOSB. In my
27 experience any action by the NOP or Secretary that required public notice and comment,
28 whether guidance or legislative rulemakings, was conducted solely in the aftermath of
consultation with the NOSB.

- 1 6. During the time I was on the NOSB, the organic community of stakeholders and the NOP
2 agreed that Congress intended organic livestock production practices to reduce or
3 eliminate the need for synthetic medicines and production aids by development of
4 organic standards that required livestock be managed as part of the whole system of the
5 organic farming and handling created by the OFPA. For livestock, an organic livestock
6 system plan is required that emphasizes preventive care and includes among other
7 requirements, space for the fullest expression of an animal's natural behavior, reduced
8 stress, and access to the outdoors consistent with that animal's well being.
- 9 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken
10 the position that Congress intended the NOSB recommend standards to the Secretary
11 regarding organic livestock care only if the recommendation was directly related to the
12 list of three prohibited livestock healthcare practices appearing in the OFPA.
- 13 8. I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 16th day of October 2019.

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16
17 Dave Carter
18 Former Chairman
19 National Organic Standards Board
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,**

Defendants.

Civil Case No. 1:17-cv-01875-RMC

**DECLARATION OF TOM
CHAPMAN, IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746 I, Tom Chapman, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a currently a member of the National Organic Standards Board (“NOSB” or “board”). I have served during year(s) 2015-2020 and served as the board chair in 2016-2018. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

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6. During the time I have served on the NOSB, the organic community of stakeholders and the NOP agreed that Congress intended organic livestock production practices to reduce or eliminate the need for synthetic medicines and production aids by development of organic standards that required livestock be managed as part of the whole system of the organic farming and handling created by the OFPA. For livestock, an organic livestock system plan is required that emphasizes preventive care and includes among other requirements, space for the fullest expression of an animal’s natural behavior, reduced stress, and access to the outdoors consistent with that animal’s well being.
7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken the position that Congress intended the NOSB recommend standards to the Secretary regarding organic livestock care only if the recommendation was directly related to the list of three prohibited livestock healthcare practices appearing in the OFPA.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17th day of October 2019.

DocuSigned by:

FCC092F88A6645F...
Tom Chapman
Former Chairman
National Organic Standards Board

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,**

Defendants.

Civil Case No. 1:17-cv-01875-RMC

**DECLARATION OF TRACY
FAVRE, IN SUPPORT OF
PLAINTIFF’S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746 I, Tracy Favre, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I served during year(s) 2012 - 2017 and served as the board chair in 2016-2017. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

- 1 6. During the time I was on the NOSB, the organic community of stakeholders and the
2 NOP agreed that Congress intended organic livestock production practices to reduce or
3 eliminate the need for synthetic medicines and production aids by development of
4 organic standards that required livestock be managed as part of the whole system of the
5 organic farming and handling created by the OFPA. For livestock, an organic livestock
6 system plan is required that emphasizes preventive care and includes among other
7 requirements, space for the fullest expression of an animal's natural behavior, reduced
8 stress, and access to the outdoors consistent with that animal's well being.
- 9 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken
10 the position that Congress intended the NOSB recommend standards to the Secretary
11 regarding organic livestock care only if the recommendation was directly related to the
12 list of three prohibited livestock healthcare practices appearing in the OFPA.
- 13 8. I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 15th day of October 2019.

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16
17 Tracy Favre
18 Former Chairman
19 National Organic Standards Board
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,**

Defendants.

Civil Case No. 1:17-cv-01875-RMC

**DECLARATION OF BARRY
FLAMM, IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746 I, Barry Flamm, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I served during year(s) _____ and served as the board chair in 2012. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

- 1 6. During the time I was on the NOSB, the organic community of stakeholders and the
2 NOP agreed that Congress intended organic livestock production practices to reduce or
3 eliminate the need for synthetic medicines and production aids by development of
4 organic standards that required livestock be managed as part of the whole system of the
5 organic farming and handling created by the OFPA. For livestock, an organic livestock
6 system plan is required that emphasizes preventive care and includes among other
7 requirements, space for the fullest expression of an animal's natural behavior, reduced
8 stress, and access to the outdoors consistent with that animal's well being.
- 9 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken
10 the position that Congress intended the NOSB recommend standards to the Secretary
11 regarding organic livestock care only if the recommendation was directly related to the
12 list of three prohibited livestock healthcare practices appearing in the OFPA.
- 13 8. I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 18th day of October 2019.

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16 Signed by electronic confirmation

17 Barry Flamm
18 Former Chairman
19 National Organic Standards Board
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,

Defendants.

Civil Case No. 1:17-cv-01875-RMC

DECLARATION OF DANIEL G.
GIACOMINI, IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

Pursuant to 28 U.S.C. § 1746 I, Daniel G. Giacomini, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board ("NOSB" or "board"). I served during year(s) (Jan) 2006 – (Jan) 2011 and served as the board chairperson in 2010. I have continued to follow the development of organic policy and the work of the National Organic Program ("NOP").
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* ("OLPP") on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. ("Rescission")
4. I am also aware that the Rescission states "[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule." 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

- 1 6. During the time I was on the NOSB, the organic community of stakeholders and the NOP
2 agreed that Congress intended organic livestock production practices to reduce or
3 eliminate the need for synthetic medicines and production aids by development of
4 organic standards that required livestock be managed as part of the whole system of the
5 organic farming and handling created by the OFPA. For livestock, an organic livestock
6 system plan is required that emphasizes preventive care and includes among other
7 requirements, space for the fullest expression of an animal's natural behavior, reduced
8 stress, and access to the outdoors consistent with that animal's well being.
- 9 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken
10 the position that Congress intended the NOSB recommend standards to the Secretary
11 regarding organic livestock care only if the recommendation was directly related to the
12 list of three prohibited livestock healthcare practices appearing in the OFPA.
- 13 8. I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 18th day of October 2019.

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17 Daniel G. Giacomini
18 Former Chairperson
19 National Organic Standards Board
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,**

Defendants.

Civil Case No. 1:17-cv-01875-RMC

**DECLARATION OF TRACY
MIEDEMA, IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746 I, Tracy Miedema, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I served during year(s) 2007 -2012 and served as the board chair in 2011. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

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6. During the time I was on the NOSB, the organic community of stakeholders and the NOP agreed that Congress intended organic livestock production practices to reduce or eliminate the need for synthetic medicines and production aids by development of organic standards that required livestock be managed as part of the whole system of the organic farming and handling created by the OFPA. For livestock, an organic livestock system plan is required that emphasizes preventive care and includes among other requirements, space for the fullest expression of an animal’s natural behavior, reduced stress, and access to the outdoors consistent with that animal’s well being.
7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken the position that Congress intended the NOSB recommend standards to the Secretary regarding organic livestock care only if the recommendation was directly related to the list of three prohibited livestock healthcare practices appearing in the OFPA.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of October 2019.

DocuSigned by:

689F892185A9482...
Tracy Miedema
Former Chairman
National Organic Standards Board

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, *et al.*,

Defendants.

Civil Case No. 1:17-cv-01875-RMC

DECLARATION OF JEFF MOYER,
IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

Pursuant to 28 U.S.C. § 1746 I, Jeff Moyer, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I served during year(s) _2006 till 2011 and served as the board chair in _2010_. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

- 1 6. During the time I was on the NOSB, the organic community of stakeholders and the NOP
2 agreed that Congress intended organic livestock production practices to reduce or
3 eliminate the need for synthetic medicines and production aids by development of
4 organic standards that required livestock be managed as part of the whole system of the
5 organic farming and handling created by the OFPA. For livestock, an organic livestock
6 system plan is required that emphasizes preventive care and includes among other
7 requirements, space for the fullest expression of an animal's natural behavior, reduced
8 stress, and access to the outdoors consistent with that animal's well being.
- 9 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken
10 the position that Congress intended the NOSB recommend standards to the Secretary
11 regarding organic livestock care only if the recommendation was directly related to the
12 list of three prohibited livestock healthcare practices appearing in the OFPA.
- 13 8. I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 18 day of October 2019.

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19 Jeff Moyer
20 Former Chairman
21 National Organic Standards Board
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, *et al.*,

Defendants.

Civil Case No. 1:17-cv-01875-RMC

DECLARATION OF JIM RIDDLE,
IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

Pursuant to 28 U.S.C. § 1746 I, Jim Riddle, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I served during year(s) 2001-2006 and served as the board chair in 2005. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

- 1 6. During the time I was on the NOSB, the organic community of stakeholders and the NOP
2 agreed that Congress intended organic livestock production practices to reduce or
3 eliminate the need for synthetic medicines and production aids by development of
4 organic standards that required livestock be managed as part of the whole system of the
5 organic farming and handling created by the OFPA. For livestock, an organic livestock
6 system plan is required that emphasizes preventive care and includes among other
7 requirements, space for the fullest expression of an animal's natural behavior, reduced
8 stress, and access to the outdoors consistent with that animal's well being.
- 9 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken
10 the position that Congress intended the NOSB recommend standards to the Secretary
11 regarding organic livestock care only if the recommendation was directly related to the
12 list of three prohibited livestock healthcare practices appearing in the OFPA.
- 13 8. I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 15th day of October 2019.

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17 Jim Riddle
18 Former Chairman
19 National Organic Standards Board
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,**

Defendants.

Civil Case No. 1:17-cv-01875-RMC

**DECLARATION OF J. MICHAEL
SLIGH, IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

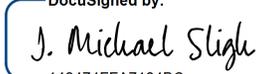
Pursuant to 28 U.S.C. § 1746 I, J. Michael Sligh, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I served during year(s) 1992 - 1997 and served as the board chair in 1992-1995. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
5. The quoted statement is inconsistent with my experience and knowledge of the USDA’s past practices, with regard to pre-rulemaking consultation with the NOSB. In my experience any action by the NOP or Secretary that required public notice and comment, whether guidance or legislative rulemakings, was conducted solely in the aftermath of consultation with the NOSB.

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- 6. During the time I was on the NOSB, the organic community of stakeholders and the NOP agreed that Congress intended organic livestock production practices to reduce or eliminate the need for synthetic medicines and production aids by development of organic standards that required livestock be managed as part of the whole system of the organic farming and handling created by the OFPA. For livestock, an organic livestock system plan is required that emphasizes preventive care and includes among other requirements, space for the fullest expression of an animal’s natural behavior, reduced stress, and access to the outdoors consistent with that animal’s well being.
- 7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken the position that Congress intended the NOSB recommend standards to the Secretary regarding organic livestock care only if the recommendation was directly related to the list of three prohibited livestock healthcare practices appearing in the OFPA.
- 8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18 day of October 2019.

DocuSigned by:

142474FFA7124BC...
J. Michael Sligh
 Former Chairman
 National Organic Standards Board

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,**

Defendants.

Civil Case No. 1:17-cv-01875-RMC

**DECLARATION OF MAC STONE,
IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

Pursuant to 28 U.S.C. § 1746 I, Mac Stone, declare:

1. I am over 18 and under no disability that prevents me from making this declaration. Each statement is based on my personal knowledge unless otherwise stated. I am aware of this litigation because of its importance to the organic community. I have no financial interest in this litigation.
2. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I served during year(s) 2011-2016 and served as the board chair in 2014. I have continued to follow the development of organic policy and the work of the National Organic Program (“NOP”).
3. I am aware that USDA rescinded the *Organic Livestock and Poultry Practices Final Rule* (“OLPP”) on March 13, 2018 when it published *Organic Livestock and Poultry Practices; Withdrawal*. (“Rescission”)
4. I am also aware that the Rescission states “[T]he OFPA does not require the NOP to consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final rule.” 83 Fed. Reg. at 10778 (March 13, 2018)
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7. Neither I, nor any other board member that I can recall, nor any USDA staff, has taken the position that Congress intended the NOSB recommend standards to the Secretary regarding organic livestock care only if the recommendation was directly related to the list of three prohibited livestock healthcare practices appearing in the OFPA.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16 day of October 2019.

DocuSigned by:

50E89002B608431...
Mac Stone
Former Chairman
National Organic Standards Board