# **EXHIBIT D**

## DECLARATIONS SIGNED BY FORMER CHAIRS OF THE NATIONAL ORGANIC STANDARDS BOARD

#### **ORGANIC TRADE ASSOCIATION,**

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

Plaintiff,

v.

UNITED STATES DEPARTMENT OF AGRICULTURE, et al.,

Defendants.

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

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

- 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.
- 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").
- I am aware that USDA rescinded the Organic Livestock and Poultry Practices Final Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices; Withdrawal.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")
- 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.

DECLARATION OF ROBERT ANDERSON - 1

- 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.

RohnB Andre

Robert B Anderson Former Chairman National Organic Standards Board

#### DECLARATION OF ROBERT ANDERSON - 2

### ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

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

Defendants.

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

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

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

- 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.
- I am currently a member of the National Organic Standards Board ("NOSB" or "board").
   I have served during year(s) <u>Jan. 2016-Jan. 2020</u> and currently serve as the board chair. 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")
- 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.

DECLARATION OF HARRIET BEHAR - 1

#### Case 1:17-cv-01875-RMC Document 98-6 Filed 10/31/19 Page 5 of 25

- 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 <u>17</u> day of October 2019.

Haw Behar

Harriet Behar Chair National Organic Standards Board

DECLARATION OF HARRIET BEHAR - 2

### ORGANIC TRADE ASSOCIATION,

Plaintiff,

v.

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

Defendants.

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

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

Pursuant to 28 U.S.C. § 1746 I, Dave Carter, 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)2001-2006and served as the board chair in 2003. 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")

 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.

DECLARATION OF DAVE CARTER - 1

### Case 1:17-cv-01875-RMC Document 98-6 Filed 10/31/19 Page 7 of 25

- 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 16th day of October 2019.

Wand Etach

Dave Carter Former Chairman National Organic Standards Board

DECLARATION OF DAVE CARTER - 2

<ul> <li>"board"). I have served during year(s) <sup>2015-2020</sup>/<sub>2015-2020</sub> and served as the board chair i <sup>2016-2018</sup>/<sub>2016-2018</sub>. I have continued to follow the development of organic policy and th work of the National Organic Program ("NOP").</li> <li>I am aware that USDA rescinded the <i>Organic Livestock and Poultry Practices Fina Rule</i> ("OLPP") on March 13, 2018 when it published <i>Organic Livestock and Poultry Practices; Withdrawal</i>. ("Rescission")</li> <li>I am also aware that the Rescission states "[T]he OFPA does not require the NOP t consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP fina rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>The quoted statement is inconsistent with my experience and knowledge of th USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I my experience any action by the NOP or Secretary that required public notice an</li> </ul>	 Sign Envelope ID	<sup>2: 82511</sup> 824-9649-4336-9C34-9FE986215093 Case 1:17-cv-01875-RMC Docume	ent 98-6 Filed 10/31/19 Page 8 of 25		
WRGARTE TRADE ASSOCIATION,       Plaintiff,         Plaintiff,       N.         UNITED STATES DEPARTMENT OF       AGRICULTURE, et al.,         Defendants.       Defendants.         Pursuant to 28 U.S.C. § 1746 I, Tom Chapman, declare:       I. 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 awar of this litigation because of its importance to the organic community. I have n financial interest in this litigation.         Interest of the National Organic Standards Board ("NOSB" of "board"). I have served during year(s) 2015-2020 and served as the board chair i 2016-2018 I have continued to follow the development of organic policy and th work of the National Organic Program ("NOP").         I am aware that USDA rescinded the Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices Fina Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices, Withdrawal. ("Rescission") </th <th></th> <th colspan="4"></th>					
<ul> <li>Plaintiff,</li> <li>v.</li> <li>UNITED STATES DEPARTMENT OF AGRICULTURE, et al.,</li> <li>Defendants.</li> <li>Pursuant to 28 U.S.C. § 1746 I, Tom Chapman, declare:</li> <li>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 awar of this litigation because of its importance to the organic community. I have n financial interest in this litigation.</li> <li>I am a currently a member of the National Organic Standards Board ("NOSB" of "board"). I have served during year(s) <sup>2015-2020</sup> and served as the board chair i <sup>2016-2018</sup>. I have continued to follow the development of organic policy and th work of the National Organic Program ("NOP").</li> <li>I am aware that USDA rescinded the Organic Livestock and Poultry Practices Find Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices; Withdrawal. ("Rescission")</li> <li>I am also aware that the Rescission states "[T]he OFPA does not require the NOP t consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP fina rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>The quoted statement is inconsistent with my experience and knowledge of th USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I my experience any action by the NOP or Secretary that required public notice an</li> </ul>	$3   _{ORG}$	GANIC TRADE ASSOCIATION.	Civil Case No. 1:17-cv-01875-RMC		
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<ul> <li>I have continued to follow the development of organic policy and th work of the National Organic Program ("NOP").</li> <li>I am aware that USDA rescinded the <i>Organic Livestock and Poultry Practices Fina</i> <i>Rule</i> ("OLPP") on March 13, 2018 when it published <i>Organic Livestock and Poultry</i> <i>Practices; Withdrawal.</i> ("Rescission")</li> <li>I am also aware that the Rescission states "[T]he OFPA does not require the NOP t consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP fina rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>The quoted statement is inconsistent with my experience and knowledge of th USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I my experience any action by the NOP or Secretary that required public notice an</li> </ul>		"board"). I have served during year(s) $\frac{2015-2020}{2015-2020}$ and served as the board chair in			
<ul> <li>work of the National Organic Program ("NOP").</li> <li>I am aware that USDA rescinded the <i>Organic Livestock and Poultry Practices Final</i> <i>Rule</i> ("OLPP") on March 13, 2018 when it published <i>Organic Livestock and Poultry</i> <i>Practices; Withdrawal.</i> ("Rescission")</li> <li>I am also aware that the Rescission states "[T]he OFPA does not require the NOP t consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP fina rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>The quoted statement is inconsistent with my experience and knowledge of th USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I my experience any action by the NOP or Secretary that required public notice an</li> </ul>					
<ol> <li>I am aware that USDA rescinded the Organic Livestock and Poultry Practices Find Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry Practices; Withdrawal. ("Rescission")</li> <li>I am also aware that the Rescission states "[T]he OFPA does not require the NOP t consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP fina rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>The quoted statement is inconsistent with my experience and knowledge of th USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I my experience any action by the NOP or Secretary that required public notice an</li> </ol>		work of the National Organic Program ("NOP").			
<ul> <li><i>Rule</i> (OLPP) on March 13, 2018 when it published <i>Organic Livestock and Poultry</i></li> <li><i>Practices; Withdrawal.</i> ("Rescission")</li> <li>4. I am also aware that the Rescission states "[T]he OFPA does not require the NOP t</li> <li>consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP fina</li> <li>rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>5. The quoted statement is inconsistent with my experience and knowledge of th</li> <li>USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I</li> <li>my experience any action by the NOP or Secretary that required public notice an</li> </ul>	3.	3. I am aware that USDA rescinded the Organic Livestock and Poultry Practices Final			
<ul> <li>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)</li> <li>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. If my experience any action by the NOP or Secretary that required public notice and statement is inconsistent.</li> </ul>		Rule ("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry			
<ul> <li>consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP fina</li> <li>rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>5. The quoted statement is inconsistent with my experience and knowledge of th</li> <li>USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I</li> <li>my experience any action by the NOP or Secretary that required public notice an</li> </ul>					
<ul> <li>rule." 83 Fed. Reg. at 10778 (March 13, 2018)</li> <li>5. The quoted statement is inconsistent with my experience and knowledge of th USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I my experience any action by the NOP or Secretary that required public notice an</li> </ul>		4. I am also aware that the Rescission states "[T]he OFPA does not require the NOP to			
<ul> <li>5. The quoted statement is inconsistent with my experience and knowledge of th</li> <li>USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I</li> <li>my experience any action by the NOP or Secretary that required public notice an</li> </ul>		consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final			
USDA's past practices, with regard to pre-rulemaking consultation with the NOSB. I my experience any action by the NOP or Secretary that required public notice an					
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ing experience any action by the right of beeretary that required public notice an	25				
comment, whether guidance or legislative rulemakings, was conducted solely in th	26				
aftermath of consultation with the NOSB.	27				
28					
DECLARATION OF TOM CHAPMAN - 1	DECL				

- 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  $\frac{17 \text{ th}}{1000 \text{ th}}$  day of October 2019.

DocuSigned by CC092F88A6645F

Tom Chapman Former Chairman National Organic Standards Board

DECLARATION OF TOM CHAPMAN - 2

Case 1:17-cv-01875-RMC	Document 98-6	Filed 10/31/19	Page 10 of 25
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ORGANIC	TRADE	ASSOCIATION,
011011112		120000011110119

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:

 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")

 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.

DECLARATION OF TRACY FAVRE - 1

- 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 15<sup>th</sup> day of October 2019.

church trauno

Tracy Favre Former Chairman National Organic Standards Board

DECLARATION OF TRACY FAVRE - 2

Case 1:17-cv-01875-RMC	Document 98-6	Filed 10/31/19	Page 12 of 25
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### 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:

- 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.
- 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")

 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.

DECLARATION OF BARRY FLAMM - 1

### Case 1:17-cv-01875-RMC Document 98-6 Filed 10/31/19 Page 13 of 25

- 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 18th day of October 2019.

Signed by electronic confirmation Barry Flamm Former Chairman National Organic Standards Board

DECLARATION OF BARRY FLAMM - 2

Case 1:17-cv-01875-RMC	Document 98-6	Filed 10/31/19	Page 14 of 25
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### 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:

- 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.
- 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")

 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.

DECLARATION OF DAN GIACOMINI - 1

#### Case 1:17-cv-01875-RMC Document 98-6 Filed 10/31/19 Page 15 of 25

- 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 18th day of October 2019.

Appli-

Daniel G. Giacomini Former Chairperson National Organic Standards Board

DECLARATION OF DAN GIACOMINI - 2

	<sup>D: 466E4799-6E06-4310-B803-5140E76D0A93</sup> Case 1.17-CV-01875-RMC Documen	t 98-6 Filed 10/31/19 Page 16 of 25
1 2		DISTRICT COURT CT OF COLUMBIA
3    OR	GANIC TRADE ASSOCIATION,	Civil Case No. 1:17-cv-01875-RMC
4	Plaintiff,	
5	v.	DECLARATION OF TRACY
	v. ITED STATES DEPARTMENT OF RICULTURE, <i>et al.</i> ,	MIEDEMA, IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
8	Defendants.	
9		
10	Pursuant to 28 U.S.C. § 1746 I, Tracy Mi	edema declare
11    1		
12	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	
3	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	
4	in this litigation.	
	2. I am a past member of the National Organic Standards Board ("NOSB" or "board"). I	
5	served during year(s) and served as the board chair in $\frac{2011}{2}$ . I have	
		organic policy and the work of the National
	Organic Program ("NOP").	
3	. I am aware that USDA rescinded the Orga	anic Livestock and Poultry Practices Final Rule
	("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry	
	Practices; Withdrawal. ("Rescission")	
4	4. I am also aware that the Rescission states "[T]he OFPA does not require the NOP to	
2	consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final	
;	rule." 83 Fed. Reg. at 10778 (March 13, 2018)	
4    5	. The quoted statement is inconsistent with	my experience and knowledge of the USDA's
5	past practices, with regard to pre-rulen	naking consultation with the NOSB. In my
6	experience any action by the NOP or Sect	retary that required public notice and comment,
7		ings, was conducted solely in the aftermath of
8	consultation with the NOSB.	
°	ARATION OF TRACY MIEDEMA- 1	

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  $\frac{15 \text{th}}{2000}$  day of October 2019.

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

DECLARATION OF TRACY MIEDEMA-2

### 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")

 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.

DECLARATION OF JEFF MOYER - 1

#### Case 1:17-cv-01875-RMC Document 98-6 Filed 10/31/19 Page 19 of 25

- 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.

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Jeff Moyer Former Chairman National Organic Standards Board

DECLARATION OF JEFF MOYER - 2

### 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:

 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")

 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.

DECLARATION OF JIM RIDDLE - 1

#### Case 1:17-cv-01875-RMC Document 98-6 Filed 10/31/19 Page 21 of 25

- 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.

(Jin Battle

Jim Riddle Former Chairman National Organic Standards Board

DECLARATION OF JIM RIDDLE - 2

	DISTRICT COURT CT OF COLUMBIA	
FOR THE DISTRIC		
ORGANIC TRADE ASSOCIATION,	Civil Case No. 1:17-cv-01875-RMC	
Plaintiff,		
v. UNITED STATES DEPARTMENT OF AGRICULTURE, <i>et al.</i> ,	DECLARATION OF J. MICHAEL SLIGH, IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT	
Defendants.		
Pursuant to 28 U.S.C. § 1746 I, J. Michae	el Sligh, declare:	
1. I am over 18 and under no disability that p	prevents me from making this declaration. Each	
statement is based on my personal knowle	statement is based on my personal knowledge unless otherwise stated. I am aware of thi	
litigation because of its importance to the	organic community. I have no financial interes	
in this litigation.	in this litigation.	
1002 - 1007	I am a past member of the National Organic Standards Board ("NOSB" or "board"). served during year(s) and served as the board chair in I have	
continued to follow the development of Organic Program ("NOP").	organic policy and the work of the National	
3. I am aware that USDA rescinded the Orga	anic 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  $\frac{18}{18}$  day of October 2019.

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

DECLARATION OF J. MICHAEL SLIGH - 2

)ocuSign Env	 <sup>velope ID:</sup> 42B849E6_A285-4CBB_B3DE_4105957E93D1          	t 98-6 Filed 10/31/19 Page 24 of 25	
1 2	UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA		
3	ORGANIC TRADE ASSOCIATION,	Civil Case No. 1:17-cv-01875-RMC	
4	Plaintiff,		
5	v.	DECLARATION OF MAC STONE, IN SUPPORT OF PLAINTIFF'S	
6 7	UNITED STATES DEPARTMENT OF AGRICULTURE, <i>et al.</i> ,		
8	Defendants.		
9			
10	Pursuant to 28 U.S.C. § 1746 I, Mac Stor	ne, declare:	
11	1. I am over 18 and under no disability that p	prevents me from making this declaration. Each	
12		edge unless otherwise stated. I am aware of this	
13	litigation because of its importance to the	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) an	2011-2016	
	continued to follow the development of	continued to follow the development of organic policy and the work of the National	
17	Organic Program ("NOP").		
18	3. I am aware that USDA rescinded the Orga	3. I am aware that USDA rescinded the Organic Livestock and Poultry Practices Final Rule	
19	("OLPP") on March 13, 2018 when	("OLPP") on March 13, 2018 when it published Organic Livestock and Poultry	
20	Practices; Withdrawal. ("Rescission")		
21	4. I am also aware that the Rescission states "[T]he OFPA does not require the NOP to		
22	consult with the NOSB prior to undertaking a rulemaking to withdraw the OLPP final		
23	rule." 83 Fed. Reg. at 10778 (March 13, 2018)		
24	5. The quoted statement is inconsistent with my experience and knowledge of the USDA's		
25	past practices, with regard to pre-rulemaking consultation with the NOSB. In my		
26	experience any action by the NOP or Secretary that required public notice and comment,		
20	whether guidance or legislative rulemakings, was conducted solely in the aftermath of		
	consultation with the NOSB.		
28	DECLARATION OF MAC STONE - 1		

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  $\frac{16}{16}$  day of October 2019.

Mac Store Mac Stone Former Chairman National Organic Standards Board

DECLARATION OF MAC STONE - 2