

**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
JEFFREY MOYER IN SUPPORT OF
PLAINTIFF'S SECOND AMENDED
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

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 employed as the Executive Director at Rodale Institute, where I am responsible for all programs for the Institute.
3. I am a past member of the National Organic Standards Board (“NOSB” or “board”). I began a term on the “NOSB” in January 2006 and was elected to the chair position for the 2010 term, and left my position on the board in January 2011.
4. Congress created the NOSB to “assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of OFPA,” 7 USC §6518(a), and directed the Secretary: “shall establish an organic certification program ... and shall consult with the NOSB.” 7 USC §6503(a)
5. To discharge these duties the Secretary and the NOSB use a formal procedure to identify and place policy matters before the board for consideration, including the use of an annual work plan.

6. Any matter placed before the NOSB may result in a final recommendation regarding the matter from the board. Each final recommendation of the board is considered, debated and voted on in public session and officially recorded.
7. A key role of the board, and particularly the Chair, is to ensure the organic policy recommendations forwarded to the Secretary increase and never degrade the public trust in the meaning and value of the USDA's organic seal. This trust has been developed and maintained by years of robust, collaborative, and transparently adduced administrative records. Such records include extensive public, academic, and industry input, spirited and informed debate among board members, and carefully vetted written recommendations upon which the Secretary has always based its rulemaking decisions.
8. I cannot recall that the Secretary initiated any rulemaking during my time on the board or as its chair, whether a proposed, interim or final rule, to create or amend existing organic standards except when based on receipt of a formal recommendation from the NOSB.
9. During my time on the NOSB, including my time as Chairperson the well-settled practice and common understanding was that the sections of the OFPA referenced above required collaboration between the Secretary and the NOSB on every policy question that might ultimately lead to rulemaking. In fact, every organic-related rulemaking of which I am familiar was based on the work and formal recommendations of the NOSB.
10. A failure to formally consult the NOSB before initiating organic-related rulemaking would be inconsistent with my experience of the process followed by past Secretaries, and the expectations of the organic community, and my understanding of the collaborative course of conduct that, so far as I am aware, has always guided organic policy development. It is imperative that a strong relationship exists between farmers, producers, ranchers and all members of the organic community and the Secretary of the USDA in order to fulfill the mandates of OFPA and to protect the integrity of the word organic in the marketplace .

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of May 2018.



Jeff Moyer
Former Chairman
National Organic Standards Board