



1400 Independence Avenue, SW.
Room 2648-S, STOP 0268
Washington, DC 20250-0268

NOTICE OF NONCOMPLIANCE

Mitch Yergert
Colorado Department of Agriculture
305 Interlocken Parkway
Broomfield, CO 80021

Dear Mr. Yergert:

On August 7, 2017, representatives of the United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), National Organic Program (NOP), completed an onsite audit of the Colorado Department of Agriculture (CDA) organic certification program as part of its USDA Renewal Accreditation Assessment. On August 21, 2017, the NOP reviewed the results of the onsite audit to determine CDA's compliance to the USDA organic regulations. A copy of the assessment report, NP7219PZA, is enclosed for your reference.

As the report indicates, that no noncompliances remain outstanding from a previous audit. Five new noncompliances (NP7219PZA.NC1 through NC5), were identified during the onsite audit. Please submit corrective actions for all noncompliances to the AIAInbox@ams.usda.gov within 30 days from the date of this Notice. All corrective actions must indicate how the noncompliances will be corrected and how the CDA management system will be modified to prevent a recurrence of the noncompliances. If you wish to rebut any noncompliances, please submit objective evidence that supports your argument to the AIAInbox@ams.usda.gov within 30 days from the date of this Notice.

Please refer to [NOP 2608 Responding to Noncompliances](#) for further instructions on how to respond to noncompliances. Failure to promptly resolve noncompliances may result in proposed suspension or revocation of CDA's USDA accreditation.

If you have questions regarding this notice, please contact, Rebecca Claypool, Accreditation Manager, at (202) 350-5706 or Rebecca.E.Claypool@ams.usda.gov.

Sincerely,

Cheri Courtney
Director, Accreditation and International Activities Division
National Organic Program

Enclosure: Noncompliance Report

cc: AIA Inbox



Documents for Reaccreditation audit

1 message

Yergert - CDA, Mitchell <mitchell.yergert@state.co.us>

Fri, Jul 14, 2017 at 11:30 AM

To: AIAinbox@ams.usda.gov, "Davis, Graham - AMS" <Graham.Davis@ams.usda.gov>, QAD.auditservice@ams.usda.gov

Cc: Duane Sinning - CDA <duane.sinning@state.co.us>, Alyssa Mack - CDA <alyssa.mack@state.co.us>, Barbara Rosenbach - CDA <barbara.rosenbach@state.co.us>

Attached are completed forms as required:

Estimate of AuditServices, QAD 1415
Application for Service, LPS-109
Application for Accreditation, TM-10CG

Mitch Yergert
Director, Division of Plant Industry



COLORADO
Department of Agriculture
Division of Plant Industry

P 303.869.9052 | F 303.466.2860 | C (b) (6)
305 Interlocken Parkway, Broomfield, CO 80021
mitchell.yergert@state.co.us | www.colorado.gov/ag/dpi

3 attachments

-  **Estimate of Audit Services QAD1415.pdf**
1215K
-  **LPS-109_AppForService_Completed.pdf**
627K
-  **TM 10CG Completed.pdf**
615K

Woldai, Yordanos (CTR) - AMS

From: Will Fantle <wfantle@cornucopia.org>
Sent: Tuesday, May 02, 2017 4:10 PM
To: AMS - NOPCompliance
Cc: Rakola, Betsy - AMS (OCIO)
Subject: Formal Complaints on Aurora and CO Dep't of Ag
Attachments: USDA Complaint - Colorado State Department of Ag - FINAL.pdf; USDA Complaint - Aurora High Plains dairy 2017 FINAL.pdf

Dear Ms. Rakola –

Please find the two attached formal complaints concerning alleged violations of organic regulations by the Aurora Dairy and its High Plains facility.

Should you have any questions, you may contact me at your convenience.

Sincerely

Will Fantle
[The Cornucopia Institute](#)
715-839-7731

[Twitter](#) | [Facebook](#) | [Instagram](#) | [Pinterest](#)



CORNUCOPIA
I N S T I T U T E

May 2, 2017

NOP Compliance and Enforcement Branch
Attn: Betsy Rakola
United States Department of Agriculture
1400 Independence Avenue, S.W.
Mail Stop 0268, Room 2648-S
Washington, D.C. 20250-0268

RE: Complaint concerning possible violation of the National Organic Program's regulatory standards by the Colorado State Department of Agriculture

Dear Ms. Rakola:

The Cornucopia Institute's review of NOP procedures has determined that complaints brought against accredited certifiers require a mandatory investigation by the NOP.

Accordingly, we respectfully request that the USDA's National Organic Program formally investigate the Colorado State Department of Agriculture based on our allegation that Aurora's High Plains dairy in Colorado is not complying with the organic standards. The Cornucopia Institute has also filed a complaint alleging violations of organic law and regulations at Aurora's High Plains dairy, certified by the Colorado State Department of Agriculture.

We are basing this complaint on new information contained in the May 2, 2017 article in *The Washington Post*, (*Why Your 'Organic' Milk May Not Be Organic*).

The photographic evidence, including a video, accompanying the story reinforces concerns we have expressed in past complaints concerning huge livestock dairies, including ones operated by Aurora. The dairy herd animals are not being pastured, as required by law, rather they are largely confined to feedlots that facilitate the management's preference for ease and frequency of milking.

At the end of this complaint, you will find the specific regulatory standards that are of concern in this case.

As you know, there are provisions for the "temporary" confinement of cattle, primarily due to health or environmental factors. However, confining cattle in order to increase milk production, or because the size of the herd requires walking too far to access fresh pasture in a timely manner, or because of the need to produce stored feed, are not be among the enumerated legal exemptions from requiring "access to the outdoors/access to pasture."

Furthermore, keeping the majority of cattle confined in feedlots, for the majority of their lives, does not meet the requirement in the standards to accommodate the health and natural instinctive behaviors of the animals.

The Washington Post article quotes Aurora officials as saying they have provided the minimum 120 days of pasture access for their herd. However, that is not what the regulations state. The regulations clearly reference that pasturing is expected for the length of the entire "grazing season." In the case of this facility, that season extends well beyond 120 days.

Of particular concern for this complaint is the question of the legality of the facility's certifier choosing to send its inspector to the Aurora High Plains facility in November, after the end of the growing and grazing seasons, as reported in *The Washington Post* article. An inspector should look closely at management practices during the time of year when the full range of those activities/practices are most in force. This was certainly not true in late November.

Aurora has been the subject of enforcement actions in the past for pasture deficiencies and what USDA investigators determined were "willful" violations of organic law. It is also worth noting that their certifier, the Colorado State Department of Agriculture, was similarly involved with these exact past breakdowns of organic regulatory requirements by Aurora. In fact, the Colorado State Department of Agriculture was recommended for loss of its accreditation, regarding livestock facilities, by USDA enforcement staff at that time.

We are uncertain whether it is incompetence, negligence or collusion that is contributing to the new and continued alleged failings on the part of this certifier. We respectfully request that NOP investigators thoroughly review all records and interview relevant personnel based on this and prior complaints to make its determination.

The Cornucopia Institute also requests that the NOP's Compliance and Enforcement Branch make a timely, full, and good faith effort in their investigation of these allegations. Failure to take such action will only encourage future scofflaws and corner cutting by organic operators, and will make a mockery of the federal organic regulations that are so diligently observed by the vast majority of participants in the nation's organic agriculture and food sector.

It should be noted that nothing in this formal complaint shall be interpreted as a waiver of our right to appeal under the Adverse Action Appeals Process.

You may contact us at your convenience.

Sincerely,



Will Fantle, Codirector

(b) (6)

§205.238 Livestock health care practice standard.

(a) The producer must establish and maintain preventive livestock health care practices, including:

(4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;

§205.239 Livestock living conditions.

(a) The producer of an organic livestock operation must establish and maintain year-round livestock living conditions which accommodate the health and **natural behavior** of animals, including [emphasis added]:

(1) Year-round access for all animals to the outdoors, shade, shelter, exercise areas, fresh air, clean water for drinking, and direct sunlight, suitable to the species, its stage of life, the climate, and the environment: Except, that, animals may be temporarily denied access to the outdoors in accordance with §§205.239(b) and (c). Yards, feeding pads, and feedlots may be used to provide ruminants with access to the outdoors during the non-grazing season and supplemental feeding during the grazing season. Yards, feeding pads, and feedlots shall be large enough to allow all ruminant livestock occupying the yard, feeding pad, or feedlot to feed simultaneously without crowding and without competition for food. Continuous total confinement of any animal indoors is prohibited. Continuous total confinement of ruminants in yards, feeding pads, and feedlots is prohibited.

(2) For all ruminants, management on pasture and **daily grazing throughout the grazing season(s)** to meet the requirements of §205.237, except as provided for in paragraphs (b), (c), and (d) of this section [emphasis added].

(b) The producer of an organic livestock operation may provide temporary confinement or shelter for an animal because of:

(1) Inclement weather;

(2) The animal's stage of life: Except, that lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this regulation;

(3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;

(4) Risk to soil or water quality;

(5) Preventive healthcare procedures or for the treatment of illness or injury (neither the various life stages nor lactation is an illness or injury);

(6) Sorting or shipping animals and livestock sales: *Provided*, that, the animals shall be maintained under continuous organic management, including organic feed, throughout the extent of their allowed confinement;

(7) Breeding: Except, that, bred animals shall not be denied access to the outdoors and, once bred, ruminants shall not be denied access to pasture during the grazing season; or

(8) 4-H, Future Farmers of America and other youth projects, for no more than one week prior to a fair or other demonstration, through the event and up to 24 hours after the animals have arrived home at the conclusion of the event. These animals must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event.

- (c) The producer of an organic livestock operation may, in addition to the times permitted under §205.239(b), temporarily deny a ruminant animal pasture or outdoor access under the following conditions:
- (1) One week at the end of a lactation for dry off (for denial of access to pasture only), three weeks prior to parturition (birthing), parturition, and up to one week after parturition;
 - (2) In the case of newborn dairy cattle for up to six months, after which they must be on pasture during the grazing season and may no longer be individually housed: *Provided*, That, an animal shall not be confined or tethered in a way that prevents the animal from lying down, standing up, fully extending its limbs, and moving about freely;
 - (4) In the case of dairy animals, for short periods daily for milking. Milking must be scheduled in a manner to ensure sufficient grazing time to provide each animal with an average of at least 30 percent DMI from grazing throughout the grazing season. Milking frequencies or duration practices cannot be used to deny dairy animals pasture.
- (d) Ruminant slaughter stock, typically grain finished, shall be maintained on pasture for each day that the finishing period corresponds with the grazing season for the geographical location: Except, that, yards, feeding pads, or feedlots may be used to provide finish feeding rations. During the finishing period, ruminant slaughter stock shall be exempt from the minimum 30 percent DMI requirement from grazing. Yards, feeding pads, or feedlots used to provide finish feeding rations shall be large enough to allow all ruminant slaughter stock occupying the yard, feeding pad, or feed lot to feed simultaneously without crowding and without competition for food. The finishing period shall not exceed one-fifth ($\frac{1}{5}$) of the animal's total life or 120 days, whichever is shorter.

§205.240 Pasture practice standard.

The producer of an organic livestock operation must, for all ruminant livestock on the operation, demonstrate through auditable records in the organic system plan, a functioning management plan for pasture.

- (a) Pasture must be managed as a crop in full compliance with §§205.202, 205.203(d) and (e), 205.204, and 205.206(b) through (f). Land used for the production of annual crops for ruminant grazing must be managed in full compliance with §§205.202 through 205.206. Irrigation shall be used, as needed, to promote pasture growth when the operation has irrigation available for use on pasture.
- (b) Producers must provide pasture in compliance with §205.239(a)(2) and manage pasture to comply with the requirements of: §205.237(c)(2), to annually provide a **minimum of 30 percent of a ruminant's dry matter intake (DMI), on average, over the course of the grazing season(s)** [emphasis added]; §205.238(a)(3), to minimize the occurrence and spread of diseases and parasites; and §205.239(e) to refrain from putting soil or water quality at risk.
- (c) A pasture plan must be included in the producer's organic system plan, and be updated annually in accordance with §205.406(a). The producer may resubmit the previous year's pasture plan when no change has occurred in the plan. The pasture plan may consist of a pasture/rangeland plan developed in cooperation with a Federal, State, or local conservation office: *Provided*, that, the submitted plan addresses all of the requirements of §205.240(c)(1) through (8). When a change to an approved pasture plan is contemplated, which may affect the operation's compliance with the Act or the regulations in this part, the

producer shall seek the certifying agent's agreement on the change prior to implementation. The pasture plan shall include a description of the:

- (1) Types of pasture provided to ensure that the feed requirements of §205.237 are being met.
- (2) Cultural and management practices to be used to ensure pasture of a sufficient quality and quantity is available to graze throughout the grazing season and to provide all ruminants under the organic system plan, except exempted classes identified in §205.239(c)(1) through (3), **with an average of not less than 30 percent of their dry matter intake from grazing throughout the grazing season** [emphasis added].
- (3) Grazing season for the livestock operation's regional location.
- (4) Location and size of pastures, including maps giving each pasture its own identification.
- (5) The types of grazing methods to be used in the pasture system.
- (6) Location and types of fences, except for temporary fences, and the location and source of shade and the location and source of water.
- (7) Soil fertility and seeding systems.
- (8) Erosion control and protection of natural wetlands and riparian areas practices.



CORNUCOPIA
I N S T I T U T E

May 2, 2017

NOP Compliance and Enforcement Branch
Attn: Betsy Rakola
United States Department of Agriculture
1400 Independence Avenue, S.W.
Mail Stop 0268, Room 2648-S
Washington, D.C. 20250-0268

Dear Ms. Rakola:

We respectfully request that your office thoroughly investigate the potential illegalities at the Aurora High Plains dairy in Colorado, located at 28520 WCR 72, Gill, CO 80624. This operation is certified by the Colorado Department of Agriculture.

We are basing this complaint on new information contained in the May 2, 2017 article in the *Washington Post*, (*Why Your 'Organic' Milk May Not Be Organic*).

The photographic evidence accompanying the story buttresses familiar concerns we have expressed in past complaints on huge livestock dairies. The dairy herd animals are not being pastured, as required by law, rather they are largely confined to feedlots that facilitate the management's preference for ease and frequency of milking.

At the end of this complaint, you will find the specific regulatory standards that are of concern in this case.

As you know, there are provisions for the "temporary" confinement of cattle, primarily due to health or environmental factors. However, confining cattle in order to increase milk production, or because the size of the herd requires walking too far to access fresh pasture, or because of the need to produce stored feed, would not be among the enumerated legal exemptions from requiring "access to the outdoors/access to pasture."

Furthermore, keeping the majority of cattle confined in feedlots, for the majority of their lives, does not meet the requirement in the standards to accommodate the health and natural instinctive behaviors of the animals.

The Washington Post article quotes Aurora officials as saying they have provided the minimum 120 days of pasture access for their herd. However, that is not what the regulations state. The regulations clearly reference that pasturing is additionally expected for the entire length of the "grazing season." In the case of this facility, that season extends well beyond 120 days.

We also question the legality of the facility's certifier choosing to send its inspector out to the Aurora High Plains facility in November after the end of the growing and grazing season. An inspector should look closely at management practices during the time of year when the full range of those activities/practices are most common.

This is particularly true for this operator, which has been the subject of enforcement actions in the past for pasture deficiencies and what USDA inspectors viewed as “willful” violations of organic law. It is also worth noting that the certifier, the Colorado State Department of Agriculture, was similarly involved with past breakdowns of organic regulatory requirements by Aurora and was previously recommended by NOP staff for suspension of privileges relating to certification of livestock facilities.

We respectfully request that NOP investigators thoroughly review all records and interview relevant personnel based on this and prior complaints.

The Cornucopia Institute requests that the NOP’s Compliance and Enforcement Branch make a timely, full, and good faith effort in their investigation of these allegations. In fact, failure to take such action will only encourage future scofflaws and corner cutting by organic operators, and will make a mockery of the federal organic regulations that are so diligently observed by the vast majority of participants in the nation’s organic agriculture and food sector.

It should be noted that nothing in this formal complaint shall be interpreted as a waiver of our right to appeal under the Adverse Action Appeals Process cited above.

You may contact us at your convenience.

Sincerely,



Will Fantle, Codirector
715-839-7731

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- (a) The producer must establish and maintain preventive livestock health care practices, including:
 - (4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;

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- (1) Inclement weather;
 - (2) The animal's stage of life: Except, that lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this regulation;
 - (3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;
 - (4) Risk to soil or water quality;
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finishing period, ruminant slaughter stock shall be exempt from the minimum 30 percent DMI requirement from grazing. Yards, feeding pads, or feedlots used to provide finish feeding rations shall be large enough to allow all ruminant slaughter stock occupying the yard, feeding pad, or feed lot to feed simultaneously without crowding and without competition for food. The finishing period shall not exceed one-fifth ($\frac{1}{5}$) of the animal's total life or 120 days, whichever is shorter.

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 - (3) Grazing season for the livestock operation's regional location.
 - (4) Location and size of pastures, including maps giving each pasture its own identification.
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 - (6) Location and types of fences, except for temporary fences, and the location and source of shade and the location and source of water.
 - (7) Soil fertility and seeding systems.
 - (8) Erosion control and protection of natural wetlands and riparian areas practices.

Woldai, Yordanos (CTR) - AMS

From: Rakola, Betsy - AMS
Sent: Wednesday, September 27, 2017 12:53 PM
To: ScottM@AODmilk.com
Subject: Complaint closure notice (Sent Registered)
Attachments: NOPC-253-17 CCN Aurora 9 27 17.pdf

Dear Mr. McGinty,

Please see the attached complaint closure notice from the USDA National Organic Program.

Sincerely,

Betsy Rakola

Director, Compliance and Enforcement
USDA Agricultural Marketing Service, National Organic Program
1400 Independence Ave, SW; Room 2959-S
Washington, DC 20250
202-720-3252
Betsy.Rakola@ams.usda.gov

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1400 Independence Avenue, S.W.
Room 2648-S, STOP 0268
Washington, D.C. 20250-0268

VIA EMAIL

September 27, 2017

Scott McGinty
President
Aurora Organic Dairy
1919 14th Street, Suite 300
Boulder, CO 80302-5328
ScottM@AODmilk.com

Re: NOPC-253-17, Aurora High Plains Dairy

Complaint Closure Notice

Dear Mr. McGinty:

The U.S. Department of Agriculture (USDA), National Organic Program (NOP) has concluded its investigation of a complaint against Aurora Organic Dairy. The complaint alleged that Aurora's High Plains dairy in Colorado is not complying with the USDA organic standards, based on information contained in the May 2, 2017 article in The Washington Post, *Why Your 'Organic' Milk May Not Be Organic*.

While NOP often refers complaints to accredited certifying agents for investigation, in this case, NOP directly investigated the complaint. NOP conducted an on-site audit of the Colorado Department of Agriculture (CDA), Aurora's certifying agent, in June of 2017. The audit included interviews with CDA staff that specifically addressed Aurora livestock and pasture management practices.

The NOP also completed an on-site audit at Aurora's facility, which included observing the dairy operation and practices and conducting a detailed review of Aurora records. This on-site visit and records review focused on the following requirements of the pasture practice standards of the USDA organic regulations at 7 CFR 205.240:

- Ruminant livestock must graze on certified organic pasture throughout the entire grazing season for the geographic region.
- Outside the grazing season, ruminants must have free access to the outdoors year-round except under specified conditions (e.g. inclement weather).
- During the grazing season, all livestock must obtain a significant amount of their feed and nutrition from grazing. Supplemental feeding is allowed but cannot exceed 70% of

the quantity of feed (measured as dry matter intake or DMI) that the livestock consume. At least 30% of the feed (measured as DMI) must be obtained from grazing on organic pasture.

NOP's investigation did not find violations of existing USDA organic regulations by Aurora. We found that Aurora was providing 30% DMI from grazing on pasture during the grazing season. Aurora was using and following an approved Organic System Plan. The dairy is certified organic and in good standing under the USDA organic regulations.

As with all complaints, NOP's evaluation was based on whether there was clear and substantive evidence that the existing organic regulations have been violated. The photographs and observations referenced in the news article, while reviewed as supporting information, did not provide sufficient evidence to substantiate such violations. Similarly, while residue testing for prohibited substances is an important part of the organic regulations, testing based on nutrient levels is not part of the existing organic standards, and therefore, cannot serve as a criteria for assessing compliance.

Based on NOP's investigation of the allegations, we determined that Aurora's livestock and pasture management practices comply with existing USDA organic regulations and NOP policies. Therefore, the case is hereby closed.

Sincerely,



Betsy Rakola
Director, Compliance and Enforcement
USDA Agricultural Marketing Service, National Organic Program

Woldai, Yordanos (CTR) - AMS

From: Rakola, Betsy - AMS
Sent: Wednesday, September 27, 2017 12:54 PM
To: mitchell.yergert@state.co.us
Cc: Courtney, Cheri - AMS (Cheri.Courtney@ams.usda.gov); janis.kieft@state.co.us
Subject: Complaint closure notice (Sent Registered)
Attachments: NOPC-253-17 CCN CDA 9 27 17.pdf

Dear Mr. Yergert,

Please see the attached complaint closure notice from the USDA National Organic Program.

Sincerely,

Betsy Rakola

Director, Compliance and Enforcement
USDA Agricultural Marketing Service, National Organic Program
1400 Independence Ave, SW; Room 2959-S
Washington, DC 20250
202-720-3252
Betsy.Rakola@ams.usda.gov

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1400 Independence Avenue, S.W.
Room 2646-S, STOP 0268
Washington, D.C. 20250-0268

VIA EMAIL

September 27, 2017

Mitchell Yergert
Director, Division of Plant Industry
Colorado Department of Agriculture
700 Kipling Street, Suite 4000
Lakewood, Colorado 80215

Re: NOPC-253-17 and Aurora High Plains Dairy

Dear Mr. Yergert:

The U.S. Department of Agriculture (USDA), National Organic Program (NOP) has concluded its investigation of a complaint against Aurora Organic Dairy, a Colorado Department of Agriculture (CDA) client for USDA organic certification. The complaint alleged that Aurora's High Plains dairy in Colorado is not complying with the USDA organic standards. It also alleged that CDA violated the USDA organic regulations through your failure to enforce the USDA organic regulations in your oversight of Aurora. The complaint was based on information contained in the May 2, 2017 article in The Washington Post, *Why You're 'Organic' Milk May Not Be Organic*.

While NOP often refers complaints to accredited certifying agents for investigation, in this case, NOP directly investigated the complaint. NOP conducted an on-site audit of your offices in June of 2017. The audit included interviews with your staff that specifically addressed Aurora livestock and pasture management practices.

The NOP also completed an on-site audit at Aurora's facility, which included observing the dairy operation and practices and conducting a detailed review of Aurora records. This on-site visit and records review focused on the following requirements of the pasture practice standards of the USDA organic regulations at 7 CFR 205.240:

- Ruminant livestock must graze on certified organic pasture throughout the entire grazing season for the geographic region.
- Outside the grazing season, ruminants must have free access to the outdoors year-round except under specified conditions (e.g. inclement weather).
- During the grazing season, all livestock must obtain a significant amount of their feed and nutrition from grazing. Supplemental feeding is allowed but cannot exceed 70% of the quantity of feed (measured as dry matter intake or DMI) that the livestock consume. At least 30% of the feed (measured as DMI) must be obtained from grazing on organic pasture.

NOP's investigation did not find violations of existing USDA organic regulations by Aurora. We found that Aurora was providing 30% DMI from grazing on pasture during the grazing season. Aurora was using and following an approved Organic System Plan. The dairy is certified organic and in good standing under the USDA organic regulations.

NOP's investigation further determined that your oversight of Aurora's livestock and pasture management practices is generally compliant with the USDA organic regulations and NOP policies. CDA has conducted annual inspections of Aurora's production facilities and ensured compliance with grazing season and other pasture requirements. As part of AMS' oversight of each USDA accredited certifying agent, final audit reports from on-site evaluations are published on the NOP's website.

As with all complaints, NOP's evaluation was based on whether there was clear and substantive evidence that the existing organic regulations have been violated. The photographs and observations referenced in the news article, while reviewed as supporting information, did not provide sufficient evidence to substantiate such violations. Similarly, while residue testing for prohibited substances is an important part of the organic regulations, testing based on nutrient levels is not part of the existing organic standards, and therefore, cannot serve as a criteria for assessing compliance.

Based on NOP's investigation of the allegations, we determined that Aurora's livestock and pasture management practices comply with existing USDA organic regulations and NOP policies. Our review further determined that your oversight of Aurora's practices is generally compliant with the USDA organic regulations and NOP policies. Therefore, the case is hereby closed.

Sincerely,



Betsy Rakola, Director
Compliance & Enforcement Division
National Organic Program

cc: Cheri Courtney, Director, AIA Division, National Organic Program

Woldai, Yordanos (CTR) - AMS

From: Rakola, Betsy - AMS
Sent: Wednesday, September 27, 2017 12:54 PM
To: wfantle@cornucopia.org
Subject: Complaint closure notice (Sent Registered)
Attachments: NOPC-253-17 CCN Cornucopia 9 17.pdf

Dear Mr. Fantle,

Please see the attached complaint closure notice from the USDA National Organic Program.

Sincerely,

Betsy Rakola

Director, Compliance and Enforcement
USDA Agricultural Marketing Service, National Organic Program
1400 Independence Ave, SW; Room 2959-S
Washington, DC 20250
202-720-3252
Betsy.Rakola@ams.usda.gov

Want to receive email updates? [Subscribe to the Organic Insider](#)



1400 Independence Avenue, S.W.
Room 2648-S, STOP 0268
Washington, D.C. 20250-0268

VIA EMAIL

September 27, 2017

Will Fantle
Codirector
The Cornucopia Institute
P.O. Box 126
Cornucopia, Wisconsin 54827
wfantle@cornucopia.org

Complaint Closure Notice

Re: NOPC-253/254-17, Aurora High Plains Dairy and Colorado Department of Agriculture

Dear Mr. Fantle:

We are writing to you today because the U.S. Department of Agriculture (USDA), National Organic Program (NOP) has concluded its investigation of the complaint you filed on May 2, 2017 against Aurora Organic Dairy (Aurora) and Colorado Department of Agriculture (CDA). Your complaint alleged that Aurora's High Plains dairy in Colorado is not complying with USDA organic standards. You also alleged that CDA violated the USDA organic regulations through failure to enforce the USDA organic regulations in its oversight of Aurora. You based this complaint on information contained in the May 2, 2017 article in *The Washington Post*, *Why Your 'Organic' Milk May Not Be Organic*.

While NOP often refers complaints to accredited certifying agents for investigation, in this case, NOP directly investigated the complaint. NOP conducted an on-site audit of CDA in June of 2017. The audit included interviews with CDA staff that specifically addressed Aurora livestock and pasture management practices.

The NOP also completed an on-site audit at Aurora's facility, which included observing the dairy operation and practices and conducting a detailed review of Aurora records. This on-site visit and records review focused on the following requirements of the pasture practice standards of the USDA organic regulations at 7 CFR 205.240:

- Ruminant livestock must graze on certified organic pasture throughout the entire grazing season for the geographic region.
- Outside the grazing season, ruminants must have free access to the outdoors year-round except under specified conditions (e.g. inclement weather).
- During the grazing season, all livestock must obtain a significant amount of their feed and nutrition from grazing. Supplemental feeding is allowed but cannot exceed 70% of the quantity of feed (measured as dry matter intake or DMI) that the livestock consume. At least 30% of the feed (measured as DMI) must be obtained from grazing on organic pasture.

NOP's investigation did not find violations of existing USDA organic regulations by Aurora. We found that Aurora was providing 30% DMI from grazing on pasture during the grazing season. Aurora was using and following an approved Organic System Plan. The dairy is certified organic and in good standing under the USDA organic regulations.

NOP's investigation further determined that CDA's oversight of Aurora's livestock and pasture management practices is generally compliant with the USDA organic regulations and NOP policies. CDA has conducted annual inspections of Aurora's production facilities and ensured compliance with grazing season and other pasture requirements. As part of AMS' oversight of each USDA accredited certifying agent, final audit reports from on-site evaluations are published on the NOP's website.

As with all complaints, NOP's evaluation was based on whether there was clear and substantive evidence that the existing organic regulations have been violated. The photographs and observations referenced in the news article, while reviewed as supporting information, did not provide sufficient evidence to substantiate such violations. Similarly, while residue testing for prohibited substances is an important part of the organic regulations, testing based on nutrient levels is not part of the existing organic standards, and therefore, cannot serve as a criteria for assessing compliance.

Our mission is to ensure the integrity of the USDA organic seal. We do this through a robust global organic control system that includes standards, accreditation, certification, and enforcement. The USDA organic regulations are developed through an open and public process. AMS implements a rigorous and well-documented accreditation process, and oversees the certification activities of certifiers around the world. We conduct objective investigations based on standards and evidence; we post information about our enforcement activities, and we provide due process rights provided for under U.S. law.

Based on NOP's investigation of the allegations, we determined that Aurora's livestock and pasture management practices comply with existing USDA organic regulations and NOP policies. Our review further determined that CDA's oversight of Aurora's practices is generally

compliant with the USDA organic regulations and NOP policies. Therefore, the case is hereby closed.

Sincerely,

A handwritten signature in blue ink that reads "Betsy Rakola". The signature is written in a cursive style with a large initial "B".

Betsy Rakola
Director, Compliance and Enforcement
USDA Agricultural Marketing Service, National Organic Program

Meeting Notes – Internal, Deliberative

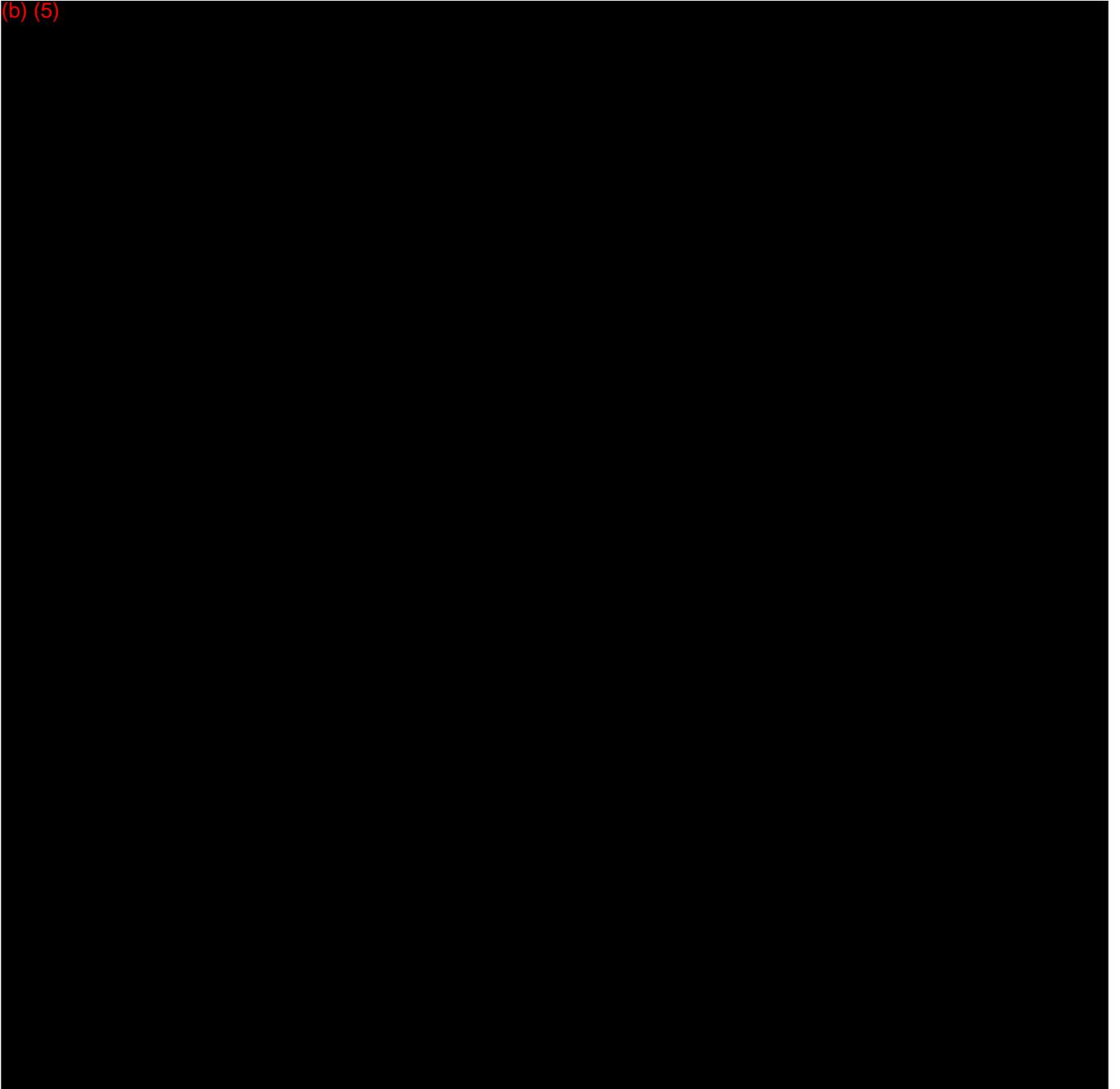
Date/Time: August 15, 2017, 9:30-10 AM

Attendees: Miles McEvoy, Jennifer Tucker, Cheri Courtney, Betsy Rakola, Devon Pattillo, Penny Zuck, Mark Bradley

Purpose: Summarize work to date on investigations involving Aurora and Colorado Department of Agriculture (CDA); (b) (5)

Summary of Meeting

(b) (5)



(b) (5)



- Next steps:

(b) (5)

