



CORNUCOPIA
I N S T I T U T E

May 31, 2012

Phyllis Fong
Inspector General
United States Department of Agriculture
PO Box 23399
Washington, DC 20026-3399

Dear Ms. Fong,

The Cornucopia Institute respectfully requests that your office conduct an investigation into the process at the recent meeting of the National Organic Standards Board (NOSB) in Albuquerque, May 22-25, 2012, that led to the approval of an inappropriate synthetic material on the USDA's National List of Approved Substances.

Specifically, The Cornucopia Institute asserts that a direct economic conflict of interest was improperly dismissed by leadership of the National Organic Program, allowing two individuals on the National Organic Standards Board (NOSB) to cast deciding votes in favor of the use of a synthetic material in organic food processing.

The vote concerned the relisting of the synthetic material *carrageenan*, and its approval for use for another five years on the federal National List of Approved Substances. During the vote on May 24, 2012, board members Wendy Fulwider and Joe Dickson each cast votes in favor of the relisting of carrageenan that Cornucopia alleges are tainted by a conflict of interest.

NOSB member Ms. Wendy Fulwider is a full-time employee of the CROPP Cooperative (Organic Valley), an organic food processor. Organic Valley submitted written comments to the NOSB in favor of retaining carrageenan on the National List. In addition, during oral public testimony presented to the board at the meeting, Organic Valley employee and representative Beth Unger described how Organic Valley uses carrageenan in its organic food products and told the NOSB that the company wanted the board to approve the continued use of the synthetic material.

Furthermore, we understand that Organic Valley CEO George Siemon called NOSB members by phone prior to the meeting and lobbied them, urging approval of the relisting of carrageenan to the federal National List.

NOSB member Wendy Fulwider disclosed to the board, prior to the vote, that she works full time for Organic Valley and noted their use of carrageenan in organic foods. She did not mention her employer's lobbying campaign of the NOSB for a positive vote.

NOP staff, immediately and without deliberation, ruled that she did not have a conflict of interest and determined that Ms. Fulwider would not have to recuse herself from voting. Ms. Fulwider voted yes to allow the continued use of carrageenan in organic foods – which proved to be the deciding vote (a two-thirds majority vote of the NOSB is required by law to add or remove materials from the National List and the carrageenan vote was 10 to 5 in favor).

NOSB member Mr. Joe Dickson is a full-time employee of the national retailer Whole Foods Market. Mr. Dickson, prior to the vote, disclosed that his employer sells foods processed with carrageenan. Undisclosed by Mr. Dickson, a serious breach of conduct required in the NOSB procedure manual, was the additional and more pertinent fact that his employer also manufactures its own private label products containing carrageenan.

NOP staff ruled that Mr. Dickson did not have a conflict of interest, based solely on his professional involvement as a retailer, not a manufacturer, and determined that he would not have to recuse himself from voting. Mr. Dickson also subsequently voted yes to allow the continued use of carrageenan in organic foods – which also could be viewed as a deciding vote, given the one vote margin, critical to the required two-thirds majority vote needed to add or remove materials from the National List.

Although most NOSB members are widely assumed to have economic interests in the industry, and some level of conflict of interest, these are two examples of a very direct conflict. In the case of Organic Valley there was both written and oral testimony concerning direct impacts to the company if carrageenan was not renewed (citing specific products that would be affected).

Finally, we ask that you also investigate the legality of individuals occupying seats on the NOSB who do not meet the criteria defined by Congress in the Organic Foods Production Act (OFPA).

The Cornucopia Institute alleges that one new appointment to the NOSB does not meet the qualifications defined in the law. OFPA states:

§6518 NATIONAL ORGANIC STANDARDS BOARD.

- (b) Composition of Board. The Board shall be composed of 15 members, of which
(1) four shall be individuals who own or operate an organic farming operation;

New board member Ms. Carmela Beck was appointed to one of the four positions reserved for organic farmers, as defined above. Ms. Beck neither owns nor operates an organic farm. Rather, she is a full-time employee of Driscoll's, a commercial fruit marketer, where she manages farmer contracts for the berry growers (actual farmers). Cornucopia contends that her appointment is illegal and raises questions about the legality of all votes cast by Ms. Beck at the recent (and her first) NOSB meeting in Albuquerque.

This is not the first time that OFPA has been violated with individuals appointed to represent the various constituencies composing the NOSB. The Cornucopia Institute contends that Ms. Wendy Fulwider, who began her term in 2010, and was appointed to one of the farmer slots, was neither an owner nor operator of an organic farming operation at the time of her appointment. She too was a full-time employee of an organic food processor (Organic Valley).

While we are aware of other illegal or inappropriate appointees in the past, we are asking that you investigate the current appointment of Ms. Beck. If it is found that she does not meet the legal criteria for that position, Cornucopia requests that she be removed from the position and a new appointment be made, and that her votes at this past meeting be disqualified.

Thank you for conducting an investigation into these allegations of conflict of interest and an ethical lapse at the recently concluded NOSB meeting in Albuquerque, NM that led to the approval of carrageenan for use in the processing of organic foods.

Sincerely,

A handwritten signature in cursive script that reads "Will Fantle".

Will Fantle
The Cornucopia Institute