

# THE CULTIVATOR

NEWS FROM THE CORNUCOPIA INSTITUTE

WINTER 2016

## The Cream Rises to the Top

The Truth Behind the Organic Dairy Label

BY MARIE BURCHAM, JD

**S**cheduled for release in early 2017, The Cornucopia Institute will publish an updated organic dairy report and associated organic brand scorecard.

These releases will provide valuable information for consumers and wholesale buyers looking for the best – and avoiding the worst – in organic dairy.

Corruption in the organic dairy sector was the first issue that Cornucopia focused on after industrial agriculture pushed its way into the business.

When Cornucopia found “organic” dairy cows living in factory-farm conditions, their lives shortened from being pushed into high production and without adequate time on pasture, we saw a clear need for action.

Determined to bring to light the economic injustice perpetuated by these industrialized dairies, Cornucopia jumped into the fight. Fourteen years later that fight continues.

Several distinct approaches to dairy production exist in the organic sector. Some dairy farmers embrace the use of pasture forage as a major, or even exclusive, part of their cows’ diet.

On the other end of the spectrum, producers favor practices almost identical to conventional, industrial-

**Highly rated dairy brands have made investments to both exceed the minimum legal bar for what the organic label represents and meet the evolving expectations of organic dairy customers.**



scale dairy production. These large-scale dairies often feed large amounts of grain and raise the cattle in confinement for most of their lives.

Despite these dramatic differences, all organic dairy producers and their certifiers claim to be following the same federal organic standards.

The reality is that administration of the regulations varies widely, based on differing interpretations, working definitions, and applications of the standards by certifiers.

The United States Department of Agriculture (USDA) continues to look the other way, condoning these illegalities.

The updated dairy report and scorecard expose these differences in production and guide consumers to the very best brands.

In the scorecard, Cornucopia showcases ethical dairy brands that are worthy of buyers’ support. The scorecard is based on responses to questionnaires Cornucopia collects

from brand managers, along with compliance investigations.

In this update, the scorecard will cover new brands and updated scoring criteria to highlight the best “beyond organic” practices.

The scorecard will also help consumers find products with the specific qualities they desire, such as 100% grass-fed dairy, or dairy from cows fed a soy-free ration. Please look

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# Cornucopia Calls for Investigation of NOP

## Asserts Will of Congress/Organic Law Is Being Violated

In a letter to the USDA's Office of Inspector General, The Cornucopia Institute has requested an independent audit of the National Organic Program (NOP), charging a multiplicity of illegal actions and inactions.

Cornucopia alleges that the NOP has failed to enforce the laws governing organic agriculture, thereby allowing multinational corporate agribusinesses to squeeze out family-scale farmers, compromising the integrity of the organic label.

If the independent Inspector General responds to Cornucopia, this will not be the first audit that they have performed at the request of the watchdog group. Past audits have been highly critical of the NOP's accreditation program overseeing organic certification.

"By failing to vigorously enforce the organic standards, USDA

political appointees and NOP management have betrayed ethical family farmers and businesses, along with consumer trust," stated Mark A. Kastel, Cornucopia's codirector. "The NOP has ceded control of organic rulemaking and enforcement to lobbyists from the nation's most powerful agribusinesses."

Cornucopia's letter cites a number of serious enforcement violations, including allowing soil-less hydroponic/container growing, which substitutes liquid fertilizers for careful stewardship of soil; allowing documented cases of "willful" violations on factory dairies, confining livestock instead of grazing; and allowing as many as 200,000 "organic" chickens to be kept in single buildings without outdoor access.

"We have filed a series of lawsuits this year concerning the NOP's abuse of the Freedom of Information Act

(FOIA). These have forced the USDA to turn over documents that illustrate how the NOP views some giant corporate farms and the largest organic certifiers as 'too big to fail,' even after investigators found them in 'willful' violation of the law," Kastel noted.

Cornucopia's letter to the Inspector General also accuses the USDA of undermining the carefully crafted rulemaking structure that Congress devised to insulate organic policymaking from undue influence by corporate lobbyists.

In addition to 10 FOIA lawsuits, the National Organic Program is embroiled in three other lawsuits, two of which pertain to undermining the authority of the National Organic Standards Board (NOSB), and one for

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failing to enforce the law pertaining to farm inputs contaminated with toxic pesticides.

In making their case that the USDA has systemically looked the other way when gross violations are apparent, Cornucopia cites a series of complaints they filed in 2014 against 14 giant dairies and egg production facilities.

Evidence supporting these complaints includes aerial photographs showing few, if any, cattle grazing and no chickens outdoors, in clear violation of the organic standards. The USDA initially refused to investigate these complaints, instead relying on certifiers' assurances, even though some of these certifiers have been proven to be co-conspirators or incompetent in past violation cases.

"We resubmitted these complaints, this time against the certifiers, 14 months ago," stated Marie Burcham, a livestock specialist and attorney on Cornucopia staff. "Based on the official guidance for adjudicating formal complaints, the USDA is obligated to investigate complaints against certifiers. So far, the USDA has failed in this obligation."

"When the organic farming movement was commercialized, in earnest, in the late 1980s and early 1990s, stakeholders petitioned Congress for strict regulations to maintain high integrity in organic agriculture," stated Kevin Engelbert, an organic dairy farmer from Nichols, New York.

"The exponential increase in 'organic' milk coming from CAFOs (concentrated animal feeding operations) in the desert west, many allegedly cheating, continues to push down pricing and jeopardize the livelihoods of hard-working farm families across the country."

Engelbert, a former member of the NOSB, is recognized as the first certified organic dairy farmer in the U.S.

Cornucopia's request to the Office of the Inspector General also asked them to look into financial mismanagement at the NOP. The group charges that the NOP has illegally withheld documents from the public and organic stakeholders that would allow them to evaluate the job performance of NOP management and staff.

"If the NOP was truly transparent and posted enforcement information on their website, none of these expenses would be necessary, and the public would be better informed," stated Jason Cole, a Cornucopia researcher who manages the organization's FOIA requests.

In addition to their letter to the Inspector General, Cornucopia has sent a request to the two primary authors of the Organic Foods Production Act of 1990, Senator Patrick Leahy of Vermont and Congressman Peter DeFazio of Oregon, asking the legislators to consider holding oversight hearings in the new Congress.

Former NOSB board chair, Dr. Barry Flamm, who also sits on Cornucopia's Board of Directors, articulated his disappointment in the program. "The best and brightest in the organic movement have volunteered their time over the past two decades to help craft a program that should assure farmers a level competitive playing field and consumers the highest quality food," says Flamm. "Instead, we have USDA management abdicating their legal responsibilities and listening to the lobbyists at the Organic Trade Association and their corporate members, as opposed to the public, who truly own the organic label."

- MARK KASTEL



Above (left): Petaluma Farms in California distributing "organic" eggs under their Judy's label. Organic Valley calls this supplier one of their co-op "members" and a "family farm." (Right): When we surveilled "factory" dairies from the air, most had 0-10% of their cows out on pasture — this California CAFO had most of their cows in a feedlot when we flew over.

# Congressional GMO Scorecard

## Who Compromised Your Right to Know?

BY JASON COLE

Since the beginning of 2015, there have been a number of key votes in Congress related to labeling products that contain genetically engineered ingredients.

Spurred by efforts to pass state-level labeling laws across the country, specifically in Vermont, where a labeling law was set to take effect in 2016 – the food industry and its agri-business allies succeeded in pushing a national labeling law through Congress in July of 2016.

Bill S764, known as the “Roberts/Stabenow Compromise,” for Pat Roberts (R-KS), chair of the Senate Agriculture Committee, and Debbie Stabenow (D-MI), the ranking member, short-circuits meaningful state-level GMO labeling efforts and includes no requirement for clear, on-package labeling of GE ingredients.

This law represents a setback for Americans and their right to know what is in the food they eat. According to Senator Roberts, the law’s passage represents “the most important vote on agriculture in the last 20 years.”

“Senator Roberts may well be right about the importance of the new GMO food labeling law,” said Cornucopia codirector Will Fantle. “But we, and many other public interest organizations, think it is a toothless bill, largely benefitting Monsanto and the biotech industry, and that it will continue to mask GMO food ingredients, while doing little to help consumers easily understand what is in the food they are eating and feeding their families.”

The law was the catalyst for one of the largest controversies in the history of the organic movement.



Almost 300 public interest groups and other organic stakeholders aggressively lobbied Congress to vote against the legislation.

It was revealed that the organic industry’s powerful lobby group, the Organic Trade Association (OTA), and some of its largest members, had worked behind the scenes in support of the (anti-) labeling law.

Given the importance of this law, The Cornucopia Institute created a congressional GMO voting scorecard to grade members of Congress on their willingness to fight for GE labeling. Every member of the U.S. Senate and House of Representatives received a grade based on their votes during the last session of Congress on issues concerning transparency and the labeling of GMO food ingredients.

“Public polling continues to indicate that consumers are very interested in the right to know what is in their food and want transparency in the use of GMO food ingredients,” said Jason Cole, a researcher for Cornucopia who gathered and analyzed the voting data. “We released our scorecard through traditional media and social media prior to the election, and we hope it had an impact.”

In addition to the Roberts/Stabenow compromise law of 2016, senators were graded on four additional votes, and representatives were graded on eight votes.

Cornucopia put this out before the election. But, you may still be interested in seeing how elected officials voted.

In the House, 88 members received an “A” or a “B” for their overall grade. Six representatives scored an “A+.”

In contrast, a whopping 196 representatives totaled zero points and received an “F” on Cornucopia’s report card.

In the Senate, 29 senators received an “A” or a “B” for their actions, on behalf of consumers, on the five legislative issues concerning GMOs. Nine senators obtained an “A+” in the GMO scorecard.

Forty-seven senators fell at the opposite end of the spectrum, receiving a failing grade for scoring zero points with their legislative actions.

View the entire scorecard:  
[www.cornucopia.org/  
gmo-voting-scorecard/](http://www.cornucopia.org/gmo-voting-scorecard/)



# Cornucopia Members Speak Up!

## Members Across the Country on Why They Support This Work

**C**ornucopia members are in good company. Family-scale farmers, co-op grocery owner-members, natural business leaders, and good food advocates from across the country make Cornucopia's work possible.

Here are just a few of the many comments submitted with recent donations. Members have many reasons for contributing, but the thread that brings us all together is Good Food!

"We strongly believe in knowing where our food comes from, in supporting small and medium-sized farms that respect the earth and animals by choosing organic, biodynamic, and sustainable methods. Maintaining the integrity, transparency, and quality of the foods we eat is vital to the health and well-being of people and the planet. Cornucopia Institute stands for everything we believe in."

- Danica, New Mexico

"I'm really proud to play a small part in Cornucopia's actions to protect and conserve consumer rights and Americans' health in general."

- Erin, Utah

"We are organic farmers. We support organics because of health benefits, and to bring back our rural communities with locally sourced, healthy, clean food. We thank you for all you do!"

- Tom, Illinois

"I support organics for the health of the planet and my family."

- Bobby, Texas



Dear Cornucopia Institute,  
We sold pumpkins (By the side of the road)  
I hope it helps something to you.  
17th

"I've been an organic consumer since the 1970's. As Jane Goodall wrote, "How could we ever have believed that it was a good idea to grow our food with poisons?"

- Liz, New York

"I am one of the organic farmers who goes far above and beyond the National Organic Program requirements. I fear the corporate takeover that is happening right now, and I hope that education will allow more people to understand the difference between the true organic grower and the merely certified one."

- Diane, New Jersey

"I absolutely believe my purchases are my vote and work hard to make sure I am supporting good practices with every purchase (food and other items). I share your information whenever possible. Thank you for all your hard work!!!!"

- Jeanne, California

"We are a certified organic farm. We support organics in our consumption and production. We appreciate your efforts to inform us, and the public, about issues regarding food. It is great to have a "go-to" resource when I want to tell others about an issue."

- Mary, South Carolina

"Because GMOs and chemical farming are destroying the earth and us. I buy 100% organic now, from small, local farms (except for tropical fruits, cocoa and coffee, which I can't get locally)."

- Karen, Pennsylvania

"I am passionate about organic food!! Real food! Just pure food! Eating food as it's made by nature! I have two little kids and I buy nothing but organic to hopefully reduce the amount of toxins they already get, just from the environment alone. I carry my own food with me every time I travel too. Health is the number 1 priority in my home."

- Berta, Illinois

"I am not against corporations, but I am against corporations buying their self-serving involvement in government at the expense of the American consumer."

- Beverley, Ohio

"We are certified organic vegetable growers. It's vital that organic quality and integrity be maintained. Thank you Cornucopia for doing such important work while we do our part growing clean, organic food. Your work is essential and admirable!"

- Justine, New York

# Organic is Soil

## Certifying Hydroponics is Against the Law

BY LINLEY DIXON, PHD

**O**rganic food is not solely defined by the inputs that farmers are (and are not) allowed to use. Rather, 'organic' is better defined by the natural systems that farmers must foster to create a nutritious product.

These natural systems include nutrient cycling when animals graze and fertilize pasture, attracting predators to control pests, planting a diversity of crops to control disease, and sequestering carbon in the soil to hold water and nutrients.

Why shouldn't soil-less operations such as hydroponic and containerized systems be considered eligible for organic certification, even if the operations utilize only approved inputs? Because the law says so!

The Organic Foods Production Act (OFPA) requires that certified operations properly manage soil health. In contrast, soil-less operations depend on the addition of approved inputs, in a solution, to produce a crop, rather than primarily relying on the natural processes in the soil to feed the plant.

Organic farming has always been defined by the complex biological systems that farmers are required to nurture, which ultimately produce healthier, more nutrient-dense products with minimal inputs.

For example, organic farmers can simply put a plant into healthy soil that is high in organic matter, water the crop as needed throughout the season, and then allow soil life (i.e., bacteria, fungi, protozoa, and



**The majority of organically certified soil-less hydroponic operations primarily rely on hydrolyzed, conventionally produced and, likely, GMO soybeans to achieve the fertility needed to produce a crop.**

arthropods) to make nutrients available to the crop plant.

Mycorrhizal fungi, for example, are particularly good at unlocking the essential macronutrient phosphorous from the mineral fractions of the soil.

In contrast, to produce a crop hydroponically, growers must continuously feed plants with liquid nutrients.

Alarmingly, for the last several years, the NOP has been allowing the organic certification of hydroponic operations, in direct violation of current law and a reinforcing recommendation made by the NOSB in 2010.

Adding insult to injury, for legitimate U.S. organic farmers, hydroponic operations cannot be certified in the EU, Mexico, or Canada — however, all these countries are exporting hydroponic

crops to the U.S., and the USDA is allowing the labeling of their products “organic.”

The majority of organically certified, soil-less hydroponic operations primarily rely on hydrolyzed soybeans to achieve the fertility needed to produce a crop.

This, too, Cornucopia contends, is illegal, since the soybeans used to produce the liquid fertilizer are conventionally produced and, therefore, most likely Roundup®-ready/GMO, also prohibited in organics.

The production of hydrolyzed soy fertilizer involves boiling conventional

soybeans in an acid, usually sulfuric acid, for several hours and then neutralizing the substance with a base, usually sodium hydroxide.

How this process is considered “natural,” and therefore not required for review by the NOSB, will also be legally challenged by Cornucopia.

Even if other approved materials are used for fertilization, hydroponic and containerized systems obtain the majority of their nutrients from these liquid fertilizers.

The idea that farmers can artificially add everything a plant needs in order to produce the same

For more information visit:  
<http://tinyurl.com/HydroponicOrganic>



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nutritious crop grown in soil is no doubt a sin of hubris.

For example, all a plant needs to grow is carbon, hydrogen, oxygen, nitrogen, potassium, phosphorous, calcium, magnesium, sulfur, iron, manganese, boron, zinc, copper, chlorine, cobalt, molybdenum, and nickel.

However, in the last few years scientists have begun to describe how silicon improves plant vigor and, in turn, prevents osteoporosis when consumed in the diet.

What other micronutrients might we be missing from our soil-less nutrient solutions that make our crops more flavorful and nutritious, while benefiting our health?

One teaspoon of soil contains literally billions of organisms, comprised of thousands of separate species. Crop root exudates feed this soil life which, in turn, make micronutrients and minerals available to the crop in complex pathways that we have not begun to describe.

Crops depend on soil microbial diversity much in the way that humans are a "superorganism," a residence for microbes with whom we have coevolved to perform critical functions for our health, as described by the National Institutes of Health's Human Microbiome Project.

Esteemed Maine soil-based farmer Eliot Coleman, a mentor to many organic farmers, hangs his hat on nurturing biological diversity in the soil.

Coleman is actively speaking out against the organic certification of containerized systems. He can remember the origins of the organic farming movement in this country.

Coleman notes, "The future of a rational agriculture, able to transform human and planetary health through its appreciation of

true soil fertility and the nutritional quality of properly grown plants, may be riding on the outcome of this struggle."

The 1980 USDA Report and Recommendation on Organic Farming states: "Soil is the Source of Life—Soil quality and balance (that is, soil with proper levels of organic matter, bacterial and biological activity, trace elements, and other nutrients) are essential to the long-term future of agriculture. Human and animal health are directly related to the health of the soil."

Soil is a central tenet to organic farming. No doubt, hydroponic systems can produce a crop. And producing food without soil, in urban areas, might be a nice option in the winter. But is that crop 'organic'?

Vermont certified organic soil-based greenhouse grower Dave Chapman warns, "Between hydroponics and animal welfare, we will have lost organic as a word describing our way of farming."

Hydroponic and other soil-less production may have a place in a sustainable future, but products should be labeled as "hydroponic," so consumers can make informed decisions, rather than piggy-backing on the organic label that, by law, clearly states that produce is a result of natural complex processes taking place in healthy soil.

It remains baffling that operations that depend on conventional soy production for fertility are considered 'organic.'

The NOSB continues to debate whether or not soilless container operations should be considered for organic certification. Keeping the door open to the certification of container operations provides a loophole for production methods that depend on liquid fertilization, rather than soil.

Keep an eye on Cornucopia's coverage of this fall's NOSB meeting, where a crucial decision will be made regarding whether or not to keep the soil in organic certification.

PHOTO COURTESY OF CLAUDIA HENRION



Above: At the end of October, the Northeast organic farmers organized the second "Rally in the Valley," a gathering of farmers, activists, and even a US Senator expressing resistance to the NOP's practice of certifying hydroponic and container-growing systems as "organic."

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for a sneak preview of the top brands this December.

Ratings are not solely based on answers to the questionnaire. Cornucopia also incorporated unannounced site inspections, aerial photography, satellite imagery, and extensive industry interviews into the scoring process.

Brands will achieve scores ranging from “one cow” through “five cows,” based on their milk production or procurement practices.

Transparency is valued in the scoring mechanism, because transparency is the hallmark of the organic movement.

The new scorecard will be mobile-friendly for those that like to analyze their choices and shop at the same time. As with the current version, the new scorecard will be updated on a continual basis.

In the past our scorecard has worked as a marketing tool for small, possibly unheard-of brands who produce ethical products. There is no charge for farmers and marketers to participate in our ratings program.

Apart from the web-based scorecard, the comprehensive report narrative gives a more in-depth look at the organic dairy industry today.

Cornucopia's first dairy report, “*Maintaining Integrity of Organic Milk*,” gave a scathing look into the industrial takeover in organic dairy.

Unfortunately, aided and abetted by industry-friendly USDA regulators, that takeover continues to evolve.

The new report discusses both the changing market and practices within the organic dairy sector – industrial organics pushing both the legal and ethical boundaries of the market.

In part, our research covers the USDA's poor enforcement of the organic standards. Cornucopia spearheaded the fight to get meaningful pasturing back into organic dairy around the time the first report was published in 2006.

The new report details the current, lax regulatory climate for pasturing, the allowance of conventional replacement animals, and other important issues in the industry.

Part of Cornucopia's goal with this research is to protect the livelihoods of ethical family-scale organic

farmers who are being placed at a competitive disadvantage. To preserve the integrity of the organic label, we need to change these trends.

The scorecard will assist with educating purchasers to reward the individual farms, cooperatives, and corporations that are doing good work.

The highly rated dairy brands have made the investments to both exceed the minimum legal bar for what the organic label represents and meet the evolving expectations of organic dairy customers.

Ultimately, both the report and scorecard highlight the most important facet of the organic dairy industry: consumer choice.

Cornucopia hopes that our research and work in dairy will empower informed buyers who are passionate about their food.

With many of the ethical organic dairy farmers facing downward pricing pressure from increased industrialization, it is more important now than ever to discourage practices that do not mesh with organic consumer expectations and the integrity of the organic label.

## Sneak Preview: The Best Dairy Brands in the Country

How do consumers find the very best milk, from family-scale farms, where cows often have names, not numbers? Where farmers promote the “natural instinctive behavior” of all animals, maximizing their quality of life and time spent living on pasture?

The USDA continues to refuse to enforce the law requiring legitimate grazing for organic livestock. Their own investigators have found Aurora and Shamrock factory dairies in “willful” violation of the organic standards — but both companies are still operating!

Cornucopia will help you choose the very best for your family, while voting in the marketplace to support the true heroes in the organic movement.

Here is a selection of some of the top-rated brands that will be featured in our newly updated dairy report and scorecard, to be published after the first of the year:



Berle Farm - Hoosick, NY  
Butterworks Farm - Westfield, VT  
Chase Hill farm - Warwick, MA  
Coonridge Goat Dairy - Pie Town, NM  
Crystal Ball Farm - Osceola, WI  
Englebert Farms - Nichols, NY  
Fresh Breeze Dairy - Lynden, WA  
Hawthorne Valley Farm - Ghent, NY  
Radiance Dairy - Fairfield, IA

Kimball Brook Farm - N. Ferrisburgh, VT  
Organic Pastures Dairy Co. - Fresno, CA  
Paradise Springs Farm - Victor, ID  
Pride and Joy Dairy - Granger, WA  
Seven Stars Farm - Pheonixville, PA  
SpringWood Organic Farm - Kinzers, PA  
Thistle Hill Farm - North Pomfret, VT  
Working Cows Dairy - Slocomb, AL



# Astroturf Groups

## What's In a Name?

BY LINLEY DIXON, PHD

Who wouldn't want to support organizations with names like "CropLife America," "Coalition for Sustainable Organics," or "Food Science Matters?" But, be careful! Just because something is stated in a title, doesn't make it so.

It turns out that industry trade/lobby groups, the progenitors of corporate propaganda, can be highly deceptive when naming themselves and it takes a bit more research to find out the true make-up and intent of an organization.

CropLife America actually represents the interests of pesticide manufacturers. And, right now, the "Coalition for Sustainable Organics" is squaring off with Cornucopia farmer-members. How could the farmers we work with be against "sustainable organics?"

However, this is actually a front group for industrial-scale hydroponic operations, substituting the term "container growing" for "hydroponics."

Similarly, a closer look at the organization "Food Science Matters" reveals that it has very little to do with communicating published food science. The "Coalition for Sustainable Organics" (CSO) is composed of major multinational, industrial hydroponic players, like Driscolls™, Wholesome Harvest™, and Nature Sweet™. In spite of their monikers, these operations are less sustainable than the majority of soil-based operations.

Hydroponics is a very high-input production method compared to the low-input, truly sustainable techniques used by many soil-based farmers. The corporations owning the major "organic" hydroponic operations are primarily conventional



**The voice of these industry groups is difficult to overcome when regulatory decisions are being made.**

businesses, with only a portion of their investments in organics.

These operations have thousands of acres of concrete-floor industrial buildings, use massive amounts of electricity for temperature control, artificial lighting, and water cycling, and rely on GMO soy production for liquid fertilization.

Contrast these hydroponic operations with soil-based, diversified vegetable farms that use high tunnels for season extension.

The high tunnels require minimal inputs because they are simply metal poles pounded into the ground and covered by clear plastic. They often have manual roll-up sides and require no concrete or electricity.

Slow-release, on-farm, or locally available organic matter is recycled into the soil, maintaining soil fertility and providing the nutrients required for healthy plant growth.

It's operations like these that the "Coalition for Sustainable Organics" is squeezing out of business, while claiming sustainability. Likewise, "Food Science Matters" is primarily a carrageenan industry lobby group,

not very well-disguised.

Members include entities that profit from carrageenan, including major carrageenan manufacturers FMC and Marinalg, the International Food Additives Council, the International Formula Council, and the Grocery Manufacturers Association (all lobby groups representing food additive manufacturers and other agribusinesses).

In spite of their name, "Food Science Matters" is attempting to discredit any independent, peer-reviewed science that may hurt the sale of the food additives in which they have a financial interest.

This group funds a team of scientists to provide research proclaiming the safety of these food additives. In many cases this research specifically contradicts the research from public institutions.

In the case of carrageenan, their tactics include accusing publicly funded researchers of poor methodologies, despite the fact that the studies they are denigrating are published in highly respected academic journals.

The voice of these industry groups is difficult to overcome when regulatory decisions are being made. In the case of both the hydroponics and carrageenan lobbies, member companies have money to lobby decision-makers and thousands of employees to submit form letters.

When Cornucopia scientists square off with these lobbyists, we are outgunned. But we have a potent weapon ..... the truth!

As informed eaters, we have a social responsibility to stand up to this misinformation. The tobacco and fracking lobbies have taught us that citizens cannot stay silent while self-interest prevails.

# Organic Farmer and Sunset Lawsuits Update

## Cornucopia Seeks Organic Justice

BY WILL FANTLE

The USDA is seeking to dismiss the lawsuit filed by Cornucopia challenging two of the agency's appointments to the 15-member National Organic Standards Board.

Cornucopia alleges that two of the board's four farmer seats are occupied by full-time agribusiness executives, rather than farmers. Congress explicitly reserved four seats on the board for individuals who "own or operate" organic farms.

As a result of one of our FOIA lawsuits, Cornucopia secured NOSB application documents. They revealed that neither Carmela Beck (a full-time Driscoll's employee) nor Ashley Swaffar (then a full-time employee of Arkansas Egg) provided any documentary evidence indicating that they owned or managed an organic farm.

Their appointments "fit a pattern of actions taken by the USDA to make the National Organic Program friendlier to the needs of agribusiness interests," observed Mark Kastel, Cornucopia's codirector.

The USDA argues that Cornucopia lacks "standing" to bring the matter to court. Professors, with assistance from law students at Georgetown University Law Center and the Institute for Public Representation, are representing Cornucopia and preparing the response to the USDA.

Two organic farmers who had applied for appointment to the NOSB during the years that Beck and Swaffar were appointed are also parties to Cornucopia's lawsuit. A decision on standing will occur late this year.

The USDA also sought to dismiss, on standing, the lawsuit challenging their arbitrary and unilateral changes

made in 2013 to the Sunset review process for synthetic materials allowed for temporary use in organic food and agriculture.

Cornucopia is one of 15 plaintiffs who filed the lawsuit in April of 2015 with the Center for Food Safety (CFS), providing the legal expertise to pursue the case.



**Sunset, and the subsequent removal of materials from the National List, was intended to drive innovation in organics.**

In September, Federal Judge Haywood S. Gilliam, Jr. rejected the USDA's motion. He determined that Cornucopia and the 14 other organic stakeholders had plausible claims of injury from the USDA's Sunset actions.

Interestingly, the judge encouraged the parties to seek an out-of-court settlement on the case. CFS then presented a proposal on behalf of the 15 stakeholders to the USDA.

The offer, in part, asked the USDA to reinstate the previous Sunset materials review process, require a formal rulemaking for any changes to it, and expedite review of the 25

materials that would have been removed from organics, but instead remain in use due to USDA's arbitrary new Sunset rules.

The USDA rejected the settlement offer. The case now moves to full legal arguments with a decision expected in the spring of 2017.

The changes to Sunset cut to the heart of the NOSB's ability to determine what materials can be used for growing and processing organic food.

Synthetic and nonorganics materials approved for use now, according to the USDA, are permanently on the National List of allowed substances, rather than approved for a temporary five-year period of usage.

Sunset, and the subsequent removal of materials from the National List, was intended by Congress to be an incentive for innovation in organics.

A supermajority of the NOSB always had the ability to renew the listing of a substance after it had sunset from the National List.

This meant that a broad majority of the various stakeholders represented on the board had to agree that the material was essential, did not harm human health, and did not harm the environment, after examining evidence presented to them in order to relist it for another five-year period.

The USDA's 2013 unilateral revision to the process now means that the sun never sets on a material unless a supermajority of the board thinks it should – that's an extremely high bar and an impediment to innovation.

Unless the court challenge rolls back the USDA's changes, a minority of six of the 15 NOSB members dictates materials policy.



## A Treasure in the Valley

### Purple Sage Farms' Quest for Success

BY RACHEL ZEGERIUS

**O**rganic farmers Tim Sommer and Tamara Sloviaczek are deeply connected to their family, their community, their customers, and to the many ecological systems with which they interact daily.

For many organic farmers, such connections are the lifeblood of a successful business. For Tim and Tamara, the founders of Purple Sage Farms, many of these connections did not exist in 1988, when the pair of corporate marketing professionals returned home to Idaho to pursue a love of farming.

At that time, there was no organic certification program in their state, there was no cooperative marketing infrastructure, and the local food movement had yet to take hold.

Since then, not only has this duo developed a successful herb farm, but through years of advocacy, organizing, and hard work, they have helped spark the good food movement in southwestern Idaho.

While embarking on their own organic farm venture, Tim and Tamara simultaneously collaborated to organize Idaho's existing organic farmers into the Idaho Organic Growers Association.

This collective then spearheaded the creation of the Idaho Department of Agriculture's Organic Certification Program, which now certifies over 230 operations throughout the state.

They also played a pivotal role in the development of Idaho's Bounty Co-op, a healthy and growing member-owned and -operated cooperative which provides web ordering, distribution, and marketing systems for local farmers who did not previously have access to an

PHOTO COURTESY OF ARLIE SOMMER



**They talk about and think about farming differently than their friends and neighbors in Treasure Valley.**

established food distribution system.

For Tim and Tamara, farming has uncovered a mycelium-like network of connections. Farming organically has called on their own skills as ecologists, economists, policy makers, and marketing professionals. And the apples have not fallen far from the tree.

All three of the Sommer children are now college educated, effective problem solvers, and...farmers. Tim jokes about his sons and daughter, "They grew up on the farm and worked for free, in essence. I guess the tradeoff is that they each received a bachelor's degree."

"The kids bring enthusiasm for diversity of new and different crops," he adds. They have helped develop the farm into what it is today. Purple Sage Farm now has 150 crops in rotation; ten of their 50 acres are freckled with

greenhouses, hoop houses, low tunnels, and other season-extending structures. Since their inception, the focus has been on high-value, low-volume specialty crops.

What started with traditional fresh herbs, has evolved to include the production of value-added products, like dried herbs, kombucha tea, and medicinal plants. The farm's value per acre is high.

Tim observes that they talk about and think about farming differently than their friends and neighbors in Treasure Valley, many of whom are farming only four to six crops but on thousands of acres.

Some conventional farms are moving into organics, because large food processors, needing organic ingredients, have located new facilities in Idaho. It remains an uphill battle for the true organic pioneers, who have developed the market, to compete under the price pressures resulting from the ongoing commodification of organics.

When asked what he looks forward to for Idaho's local food movement, Tim says, "Growing the army of people who know the difference. All we can do is relate to people on a one-to-one basis."

"Sometimes when you're working in your own state or your own backyard," says Tim, "You don't sense the power of us all moving in one direction." That is, until you remember that we are all connected.



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**C O R N U C O P I A**  
I N S T I T U T E

## Cornucopia is GuideStar Gold

For a decade-and-a-half, Cornucopia has been at the forefront of the fight to uphold the integrity of local and organic food and agriculture. As a tax-exempt public charity, we rely on the passionate moral and financial support of organic advocates across the country. Cornucopia is excited to report that we are now able to share more about what we do, and how we do it, with a wider audience. GuideStar is the world's largest online source of nonprofit information and a leader in advancing transparency in the nonprofit sector. The Gold level demonstrates our commitment to nonprofit transparency and accountability, so that all good food advocates can feel confident about their contributions supporting this work.



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## FOIA Reading Room

Let the Sun Shine



**C**ornucopia has made a number of Freedom of Information Act (FOIA) requests to the USDA over the years to learn more about organic fraud enforcement and better understand enforcement and decision-making on organic issues.

The Freedom of Information Act pushes the federal government towards transparency.

Yet the USDA's National Organic Program has become more secretive.

Cornucopia's FOIA requests meet long delays in response time (sometimes years), although the government is legally bound to reply within 20 days.

The USDA has abused legally allowed exceptions to essentially "black out" vast amounts of text they did release, failing to fully provide requested documents. This is changing, but not without legal action. In the last six months, Cornucopia has filed nine FOIA lawsuits in federal court.

One lawsuit concerns a 2012 FOIA. In 2008 Cornucopia sent the USDA a formal legal complaint, alleging organic violations at Shamrock, a factory farm dairy, based on our own investigation. We know that the USDA found the complaint meritorious and proposed a revocation of Shamrock's organic certification in 2012. What we sought was the agency's reasoning for the revocation, or why it never happened; Shamrock is still in business today.

"We have repeatedly recommended to the USDA's Miles McEvoy that it would better serve the public interest if they invested in a policy of openness," observes Cornucopia's Jason Cole. "Private citizens and public interest groups should not have to hire lawyers to enforce their rights to documents that, by law, they are entitled to."

Cornucopia has established a public reading room on our webpage (under the "Projects" tab), for viewing the USDA's responses to our FOIAs.

- WILL FANTLE