



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

August 21, 2019

NOP Compliance and Enforcement Branch
Agricultural Marketing Service
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 Natural Prairie Dairy and the Texas Department of Agriculture

The Cornucopia Institute is filing this formal complaint with your office concerning possible violations of National Organic Program (NOP) regulatory standards by the Natural Prairie Dairy, based near Dalhart, Texas and their organic certifier, Texas Department of Agriculture (TDA).

Specifically, we formally request that the NOP Compliance and Enforcement Branch thoroughly investigate TDAs apparent complacence toward Natural Prairie Dairy's historic and current alleged violations of the organic standards.

History of Complaints Against Natural Prairie Dairies and Texas Department of Agriculture

Cornucopia has asked the NOP multiple times over the past ten years to investigate both Natural Prairie Dairy and their certifier, TDA, due to various allegations of organic violations.

In 2010, Cornucopia filed a complaint against Natural Prairie Dairy, alleging that the producer was violating the standards laid out in § 205.236 (Origin of Livestock).

Cornucopia conducted fly-over investigations of Natural Prairie Dairies in 2014 (copies of these photographs are still available on Cornucopia's website).¹ These fly-over investigations brought forward evidence that Natural Prairie was not pasturing their cattle according to the minimum standards set by organic standards. Cornucopia again filed a complaint, alleging violations to requirements found in §205.238 and §205.239 requiring "access to the outdoors" and "access to pasture."²

¹ The Cornucopia Institute. 2019. "Photo Gallery: Natural Prairie." Accessed August 19, 2019. <https://www.cornucopia.org/organic-factory-farm-investigation/photo-gallery-natural-prairie/>

² The Cornucopia Institute. December 15, 2014. "Complaint: Natural Prairie Dairy." <https://www.cornucopia.org/USDA/USDA-Complaint-NaturalPrairie%202014FINAL.pdf>

In 2015, Cornucopia submitted formal complaints against TDA, asking that USDA's National Organic Program investigate the certifier based on Cornucopia's allegation that Natural Prairie is not complying with the organic standards.³ This complaint included further information about Natural Prairie's alleged violations of the organic standards and TDA's apparent lack of care or concern with respect to Natural Prairie Dairies.

There is an apparent pattern of violations of the organic standards from both Natural Prairie Dairy and their certifier. While possible that TDA has been deceived in the past by Natural Prairie Dairy, the dairies' long running history of questionable activity has never amounted to them losing their organic certification or apparent noncompliance actions against the dairies in question.

Current Alleged Violations of the Organic Standards

Natural Prairie Dairies house over 25,000 cows over four locations near Dalhart, Texas. According to Organic Integrity database and other sources, Natural Prairie Dairy is certified by TDA.

On July 23, 2019, the group Animal Recovery Mission (ARM) released a report of their undercover activities in Natural Prairie Dairy.⁴ ARM's investigations found blatant and apparent animal abuse and mistreatment occurring on Natural Prairie Dairy.

ARMs full report and evidence (including video and photographs) includes, but is not limited to, evidence of the following:

- Mistreatment and outright abuse of dairy cows, including cattle being kicked, hit, stabbed with screwdrivers, tied and/or restrained in an inhumane manner, being forcibly moved with forklifts and other heavy equipment.
- Neglect of sick and injured dairy cows, including open wounds, active infections, lameness, mastitis, and clear evidence of downer and even dead cattle on the premises. There was no apparent treatment occurring for sick animals (other than for those animals whose ailments would affect reproductive health or milk production).
- A lack of outdoor access and grazing among the milking herd.

In order to be eligible for organic certification, farms must be in compliance with the organic standards. Accredited Organic Certifiers are required to determine whether a producer is meeting the requirements of the organic standards. ARMs investigative work, which includes video, photographs,

³ The Cornucopia Institute. October 15, 2015. "RE: Complaint concerning possible violation of the National Organic Program's regulatory standards by the Texas Department of Agriculture. "

<https://www.cornucopia.org/USDA/USDA%20Complaint-TXDeptAg-NaturalPrairie-2015.pdf>

⁴ Animal Recovery Mission. July 23, 2019. "Operation Natural Prairie." Accessed August 19, 2019.

<https://animalrecoverymission.org/operation-natural-prairie/>

and first-person visual confirmation of the data they present, shows that Natural Prairie Dairy is in violation of the organic standards in *several* areas.

Specifically, Cornucopia believes that Natural Prairie Dairy is in violation of the following standards:

- Livestock Healthcare Practices (§205.238);
- Livestock Living Conditions (§205.239); and
- The Pasture Practice Standard (§ 205.240).

Cornucopia further alleges that TDA is in violation of their duties as an accredited certifier by allowing these open and notorious violations of organic law to continue unabated.

ARMs evidence shows Natural Prairie Dairy's actions constitute reckless disregard for the organic standards, in a similar vein to evidence Cornucopia presented in previous complaints.

First, the USDA's Guidelines for Organic Certification of Dairy Livestock, the regulations for Livestock Healthcare Practices (§205.238) are summarized as requiring:

“Animal health is the result of preventative and on-going management efforts to create living soils, provide nourishing forage and feeds, and improve the quality of livestock life. Animals must be kept in healthy, low stress environments. Producers must use preventative health care practices and may only use approved treatments.”⁵

ARMs evidence makes it clear that these cattle are not being kept in accordance with organic standards. The cattle are clearly stressed by both the abuse and living conditions, and many are unhealthy and sickly to the point of death.

Organic regulations also *require* that medical treatment, including the administration of antibiotics or other medications, cannot be withheld if a sick animal needs those medications to promote their welfare (even if the animal will lose organic status if antibiotics are used) (§205.238(c)(7)). It seems clear that Natural Prairie Dairy is failing to act in the best interest of their cattle in this regard.

ARMs investigation also found that “cows are removed from their holding barns every eight hours to be milked, day and night.”⁶ Given that ARMs investigation took place between March and July, 2019, the cattle *should* have been out on pasture during this period. Instead, undercover investigators saw no evidence of grazing among the milking herd.

⁵ United States Department of Agriculture. “Guidelines for Organic Certification of Dairy Livestock.”

⁶ Animal Recover Mission. July 23, 2019. “Report: Natural Prairie Dairy.” <https://animalrecoverymission.org/wp-content/uploads/2019/07/NPD-Report.pdf>

If this allegation and evidence is accurate, it is a clear violation of the organic standards that require both 30% dry matter intake pasture grazing stipulations of no less than 120 days per year during grazing season (§205.240).

It is also a violation of the standards on Livestock Living Conditions (§205.239), which require that cattle not be continuously confined and that they be afforded access to conditions that promote their health and natural behavior. Specifically, the guidelines state that the regulations on Livestock Living Conditions require that:

“Housing must provide access to the outdoors, shade, shelter, exercise areas, fresh air and direct sunlight year round. Living conditions must accommodate the health and natural behavior of animals. Continuous total confinement of any ruminant animal over 6 months of age indoors is prohibited.”

These dairy cattle are apparently being confined in squalid, overcrowded conditions that mimic the worst practices in conventional agriculture. The natural behavior of cattle is not being exhibited in these conditions, and the animals were not receiving outdoor access. These findings, coupled with Cornucopia’s previous complaints alleging violations of the Pasture Practice Standard (§205.240), suggest these conditions constitute a pattern of abuse.

The overall egregiousness and prevalence of these violations represents patterns of practice that must have been in place long before ARMs investigation between March and July, 2019.

It seems impossible TDA could be hoodwinked given the prevalence of animal neglect and apparent violations of the organic standards going on at Natural Prairie Dairy. However, the NOP is better equipped to investigate the appropriateness of an accredited certifiers practices.

Conclusion

The NOP should be able to determine whether the certifier acted improperly in granting a certificate to an operation that is not properly providing for livestock care, including but not limited to accommodating the health and natural behavior of animals, pasture and/or outdoor access, sunshine, and fresh air and the opportunity for livestock to exhibit their natural instinctive behaviors (in addition to other organic management requirements). An investigation could also determine if the certifier was properly overseeing the operation but was intentionally deceived through an inaccurate Organic System Plan and/or blatant duplicity on the part of the operator.

We should emphasize that the practices outlined in this complaint, which we believe constitute a violation of the standards, have also been in widespread use at other large-scale dairies in the United States. We request that the NOP acts swiftly to investigate the certification practices of TDA and their client, Natural Prairie Dairy.

In addition, this complaint warrants a comprehensive review and investigation by the NOP to verify that other dairies and their certifiers are not similarly violating and averting the law with respect to the requirements of Livestock Healthcare Practices (§205.238) and Livestock Living conditions (§205.239) and the Pasture Practice Standard (§ 205.240).

Please keep The Cornucopia Institute apprised of the status and progress of your investigation into this complaint.

Sincerely,

Marie Burcham



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cc. Jennifer Tucker, Ph.D., Deputy Administrator of the Agricultural Marketing Service National Organic Program