

**Montana Organic Commodity Advisory Council**  
**December 5 – 6, 2005**  
**Helena, Montana**

**MINUTES**

**MOCAC MEMBERS:**

1. Steve Baril
2. Laura Garber
3. Mikel Lund
4. Mark Bruckner
5. Nancy Matheson
6. John Hoffland
7. Andre Giles (by conference call)

**DEPARTMENT STAFF:**

1. Doug Crabtree
2. Gregory H. Ames
3. Donna Rise
4. Connie Smith
5. Sean Mulla
6. Tim Meloy
7. Candi Mullenbach

**ABSENT:**

1. Nancy K. Peterson

**Summary of Council Meeting Motions:**

**Motion to Approve Minutes of last Council Meeting:** Mikel Lund made a motion to approve the minutes, [as amended]. Motion seconded by John Hoffland. **Motion to approve the minutes carried unanimously.**

**Motion to Adjourn Council Meeting:** Steve Baril made a motion to adjourn the Organic Council meeting of December 5, 2005, until 8:00 a.m., December 6<sup>th</sup>. Motion seconded by Mark Bruckner. **Motion carried unanimously.** Meeting adjourned at 5:40pm.

**Motion to Adjourn Council Meeting:** Steve Baril made a motion to adjourn the Organic Council meeting of December 6, 2005. Motion seconded by John Hoffland. **Motion carried.** Meeting adjourned at 12:05 pm.

**December 5, 2005**

**Welcome and Introductions – Doug Crabtree and Greg Ames**

Montana Organic Commodity Advisory Council meeting called to order at 1:00 pm by Doug Crabtree, on behalf of MOCAC Chair and Department Director, Nancy K. Peterson. Doug turned the meeting over to Greg Ames for introductions. Greg thanked the Council members for serving on the Organic Advisory Council Committee. It is a great program within the Department of Agriculture and has strong support from the Governor and from the Director, Nancy K. Peterson, who could not be at the meeting today. Greg indicated she had asked Greg to welcome everybody and let everyone know that the department appreciates all the council's efforts. Greg welcomed the new members. He went on to say that there has been a lot of work going on in the Organic Program in the Department of Agriculture. He said the program is growing and has experienced some great successes; it has been wonderful for the department to be associated with the program. He said the program also has some challenges in front of it, and that the council would hear about those challenges in the course of the meeting. Greg stated that the Department was excited about successfully meeting those challenges. He indicated that this program is one of the Department's new programs. He went on to describe how Steve Baril, a new member of the advisory council, was very instrumental in getting the current program started. Steve completed and submitted the Department's application for organic certification to the national program. The certification process was successful and it was one of the best applications the National Organic Program ever received, so it is beneficial to have Steve's continued assistance. Greg acknowledged Steve's great desire to see the Montana State Organic Program succeed. Greg also said that he [Greg] was really encouraged to read that Mark Bruckner is also a North Eastern Montana hi-line person.

The council is co-chaired by Director, Nancy K. Peterson and Nancy Matheson. Nancy Matheson will chair this meeting in the Director's absence.

**Council Minutes of April 12, 2005 Meeting**

Minutes from the April 12, 2005 meeting were reviewed. Nancy Matheson said that a correction to the minutes was needed on page 3, 4<sup>th</sup> line from bottom of the page. The sentence should read "Nancy Matheson felt that the contract should not be mentioned in the report since it was not a part of the review process." There were no other corrections.

**MOTION:** Mikel Lund made a motion to approve the minutes, [as amended]. Motion seconded by John Hoffland. Motion to approve the minutes carried unanimously.

**Montana State Organic Program Overview:** see attached presentation.

**Organic Program Administrative Rules**

Doug Crabtree provided an overview of the Organic Program's Administrative Rules. Steve Baril asked if there have been any changes, since Dec. 21, 2002, to the National Organic Program (NOP) Rules, which are adopted as part of the State/Program rules. Doug answered that the NOP has been amended once, in regards to the national list, and

is in the process of being amended again. This will be discussed when considering the amended rules. The state rules need to be updated to reflect the federal rules amendments.

Mark Bruckner inquired about the process for changing NOP. Doug responded that it involves a rule of the USDA and a petition to the National Organic standards board is needed. Nancy Matheson asked if rule 4.17.102 needed to be changed every time there is an NOP rule change. Doug Crabtree indicated that it technically does need to be changed as long as there is a date listed in the rule; this could be avoided by replacing the date with a statement that the department has adopted the current version of rules. Doug will consult with the Department of Agriculture Legal Counsel, Tim Meloy, on this matter.

### **Council**

The Council had a discussion about creation of the council and appointment of council members. Council members are appointed by the Director and serve at the pleasure of the Governor, so members may be removed before the end of their term if so desired. Council members cannot serve more than two (2) consecutive years. Legal questions were directed to Tim Meloy, Department of Agriculture Legal Counsel.

### **Fees**

Application fees were amended last fall at the advice of this Council. Steve Baril asked whether assessment fees were amended through a petition. Per Doug Crabtree, letters were sent out to all clients requesting any comments. No comments were received. Laura Garber asked if the fees were intended to cover the entire cost of the program. Doug Crabtree affirmed that the fees are intended to fully fund the program's costs. This is in accordance with the legislative clause describing the Council; the clause directs the program to operate with no negative impact on the State Budget. Donna Rise suggested the Program might accept other revenue sources, such as gifts, grants, etc.

### **Organic Conversion Program**

Doug Crabtree stated that the Conversion Program, as allowed under administrative rule 4.17.109, has been a disappointment to him. There has been only one (1) applicant in four (4) years that has applied for conversion.

### **Sampling**

Nancy Matheson asked if the program is significantly disinclined to perform sampling due to the fact that the Department has to pay for sampling and sampling costs out of Department [organic program] revenues. Doug Crabtree affirmed that the initiation of sampling is accordingly impacted; there has been no sampling at this point and sampling would only be instigated if there were a suspicion of a program rules violation. There was further discussion on sampling for cause or as a result of a complaint. Doug Crabtree stated that if the certifier initiated sampling, the certifier would have to pay for it. It is possible to have written into this rule that if an investigation, which included sampling, found a violation, a Civil Penalty would be issued, at least sufficient to cover the cost of the sampling. Discussion continued, including whether inspectors could conduct sampling. Doug Crabtree and Donna Rise both expressed concerns about the qualifications and experience necessary to conduct sampling, the equipment and supplies

needed, and risk management concerns. Doug Crabtree stated that a complaint against a client certified by the department would be investigated. If the complaint is against a client not certified or certified by another agency, the complaint will be referred to the National Organic Program.

Doug Crabtree explained that the Department has both “Stop Sale” and “Civil Penalty” authority written into the administrative rule on compliance enforcement and penalties. It has not been used to date.

There was additional discussion to clarify procedure regarding complaints. If the complaint involves a department client, the program has “Stop Sale” and “Civil Penalty” authority. If the complaint were against another certifier’s client, the Department would evaluate and refer to NOP.

### **Statute and Administrative Rules Presentation - Tim Meloy**

Tim Meloy provided a general overview of the administrative rules. He explained that this Advisory Council serves at the pleasure of the Governor, and the Council is to advise the Director on Organic Program issues. As such, the Council is extremely valuable to the Organic Program staff and the Director. Council members were encouraged to remember that the Director of the Department makes final decisions.

Doug Crabtree asked, based on Mark Bruckner’s previous question about council members, if a council member could be removed once appointed, and if so, by whom. Tim Meloy stated that it is his understanding that council members serve at the pleasure of the Director and could be removed by the Director.

Nancy Matheson indicated the Council is still grappling with how many members, not certified by the Department, should be allowed on the Council given that they are advising the State’s program. Tim Meloy indicated there is nothing in the Statute that specifies a council member has to be certified as organic to serve on the Council. Mikel Lund wanted to know if this could lead to a conflict of interest situation. Nancy Matheson felt there could be a conflict of interest when setting fees! Tim Meloy suggested that an easy remedy to this situation would be to have the Council Members who are certified by another certifying body make that disclosure at the meetings so that when an issue, such as fees, comes up for a vote, it has been duly noted. Tim Meloy indicated he would give the matter further consideration.

### **Travel Reimbursements for Council Members – Candi Mullenbach**

Candi Mullenbach provided each council member with a Travel Expense Voucher, and explained how to complete the Travel Expense Voucher. She indicated that a reimbursement of \$25 per day is allowed for each Council Member who travels to attend a council meeting. She also stated that Council Members are eligible for mileage, lodging and meals reimbursements incurred [but must be within state per diem allowances].

### **Cost Share – Doug Crabtree**

Doug explained the relationship of the MDA and the NOP in terms of accreditation, reporting, enforcement, appeals, standards/substance lists, and exports. Doug Crabtree also discussed cost share funding: fees associated with organic certification may be reimbursed for up to 75% of actual costs, with a maximum of \$500 allowed per entity per year. Nancy Matheson asked whether the Department is managing the cost share program for all certified entities in Montana or just those certified by the Department, and if the federal cost share program provided funding to the Department to cover the costs of administering the funds for everyone, regardless of certifier? Doug Crabtree indicated that the USDA does not provide funding to cover Department expenses in administering the cost share program. However, the USDA does allow the Department to assess a 4% administrative fee. Doug Crabtree explained the eligibility of refunds for a total of four (4) years worth of fees. Reimbursements have been made to both eligible producers and handlers. At this time, the cost share funds allocated to the State have been exhausted and there are still requests from 29 applicants that have not received reimbursement.

Discussion followed on the cost share reimbursement, other revenue sources that may be available to fund the reimbursement of the remaining 29 applicants as well as the continuation of a cost-share program. The Council was consulted regarding possible actions in lieu of the federal cost-share for organic growers certified by the Department. Doug Crabtree discussed a proposal he submitted to the Director that would use a portion of the Specialty Crop grant, if received, to fund a cost share program, under the Department's administrative rules, to take the place of the Federal Cost-Share that is now exhausted.

Discussion followed on crops that are defined as "specialty crops," and use of this definition. The current Specialty Crop Fund definition is for fruits, vegetables and nuts.

### **ISO Accreditation – Doug Crabtree**

Doug Crabtree stated that ISO accreditation is problematic, although necessary for international market access. Once accreditation is obtained, it is still necessary to negotiate with the competent authorities in each country to be recognized as a certifier. Ongoing cost for accreditation is to be \$10,000 - \$15,000 per year. ISO accreditation will also require additional training for staff. It will be necessary to train or hire an internal auditor each year to conduct an internal audit of the Organic Program and program inspectors will need new training to meet procedural requirements. Doug Crabtree has estimated the total annual cost of maintaining an ISO accredited program to be \$20,000-\$25,000 per year. The USDA is the ISO accrediting agency in the United States. Additional discussion on ISO accreditation followed.

### **Non-Compliances**

There was discussion on the number and type of non-compliances issued, and the percent of these relative to the number of applicants received. Doug Crabtree will follow through on this with the USDA.

## **2005 Annual Program Review** (see also handout)

The annual review and corrective actions were discussed. All corrective actions were followed that had been requested. This will be discussed further during the December 6<sup>th</sup> meeting.

Enforcement Actions: Doug Crabtree stated the Department has issued, to date this year, one revocation of certification and three suspensions of certification, including one partial suspension. The revocation and two of the suspensions were issued based on a lack of responses to the issued non-compliances, as well as a lack of communication with the Program from the concerned clients, despite the Department's repeated attempts at contact.

Retail Surveillance: The Department is also involved in conducting retail surveillance. Further retail surveillance will be conducted under ISO accreditation, as is required. Doug Crabtree explained that retail surveillance entails going out to retailers, whether certified or not, and looking for label violations. Nancy Matheson asked if this included farmer's markets. Doug Crabtree affirmed that retail surveillance does include farmer's markets. He stated that the Program does respond to any and all complaints received.

Organic Program Staffing and Resources: The Organic Program continues to struggle with inadequate staff and resources. This struggle creates challenges in meeting the target date of 90 days for completion of certification processes. Doug Crabtree indicated that a solution to this problem is additional staff. Sean Mulla is working as an inspector and reviewer. Steve Baril, a contractor, has also been hired to help with inspection review and certification recommendations. Doug Crabtree stated that part of the problem is also getting inspectors to complete their reports within 30 days. He stated that, in order for this Program to be sustainable, the program must be able to ensure market access for certified organic producers and handlers and, in turn, attract and retain the larger grain growers and handlers. Doug feels that ISO accreditation is needed to provide this access. He indicated the program is being revised to meet the ISO accreditation standards and will be applying for that accreditation early this upcoming year. Expected time line for the ISO accreditation to be in place is June or July 2006.

Funding and Budget Concerns: The Organic Program needs to be self-supporting. Doug Crabtree indicated there are significant additional costs associated with the ISO accreditation, both initially and in order to maintain accreditation. Larger producers, who actually need the market access and can, therefore, justify paying the larger fees, are a necessity. Doug Crabtree expressed an interest in working with the Department's Marketing Bureau to promote the Organic Program and to promote organic agriculture as a value-added opportunity. He believes this will, in turn, attract more new producers who may also fit this category.

The Organic Program has previously received the Specialty block grant offered through the USDA; this grant was a substantial financial boon to the Organic Program. The Program has also received a Wheat and Barley Check-Off grant to help cover the costs of the ISO accreditation audit and application. The Organic Program has received two

allocations of \$40,000, or a total of \$80,000 from both grants. Greg Ames said the Program should not rely on receiving grants, as it is an unpredictable source of revenue. The Department has an obligation to keep the Program running and appropriately funded.

The Organic Program will continue to seek grant funds to support the education and out-reach activities.

The most recent budget problem is the exhaustion of the Cost-Share funds. The Montana allocation has been fully spent and approximately 29 applications remain un-reimbursed. Nancy Matheson inquired if those 29 applicants would lose their \$25 application fee. Doug Crabtree indicated that those applicants would not lose their application fee. He also said the Department would exhaust all options in seeking additional funds to cover those reimbursements before the \$25 application fee is reimbursed. Doug Crabtree indicated the cost-share funding at the beginning of this year was \$35,000, all of which has been spent; the remaining 29 applications represents an additional \$15,000 worth of outlay. He feels that if this or other sources of revenue aren't available to cover the reimbursement needs, there could be a decrease in participation by small growers. There have been no other sources of funding identified, to date.

Nancy Matheson asked how other states were funding respective organic programs. Doug Crabtree indicated a number of other state organic programs receive general fund allocations. For example, the Washington program, the largest and most successful, received a significant contribution from the Washington Apple Commission. Doug suggested a long-term arrangement with the Wheat and Barley Check-Off Program due to the extent of wheat exports.

Discussion followed after Nancy Matheson indicated the NOP is an agricultural marketing program. She asked if additional funds would be available if the Organic Program were moved to the Marketing Program in the Department. Greg Ames stated he and Doug Crabtree have discussed this with Joel Clairmont. Greg Ames also does not know if there would be any more revenues available to the Organic Program if it were in the Agricultural Science Division (ASD) or the Agricultural Development Division (ADD) since the revenue for the program is still fee for service. Greg stated that the Department is pursuing all known available sources of funding.

**MOTION:** Steve Baril made a motion to adjourn the Organic Council meeting until 8:00 a.m., December 6<sup>th</sup>. Motion seconded by Mark Bruckner. Motion was carried unanimously. The meeting adjourned at 5:40 pm.

### **December 6, 2005**

Nancy K. Peterson, absent – Andre Giles in attendance via conference phone. All other Council Members and Department staff present.

Nancy Matheson called meeting to order at 8:15 am.

### **Council Officers**

Nancy Matheson opened the floor for discussion regarding a Council vote for new officers. Steve Baril stated he thought the senior council members should continue in the same positions. Mikel Lund stated it would be best if someone close to the Helena area serve as Co-Chair. Steve Baril asked if Nancy K. Peterson would object to continuing to serve as Chairman. Greg Ames said she is comfortable with the position and would continue in the capacity. Nancy Matheson asked if there were objections to the status quo of the Council. It was agreed the council officers should remain the same. Doug Crabtree indicated he is very appreciative of having a Co-Chair.

### **Council Meeting Format**

It was decided that Council meetings would continue to operate under Robert's Rules of Order. Doug Crabtree and Nancy Matheson also stated there will be times when it will be necessary to conduct conference calls. An example of an agenda item that can be completed through conference call is a fee increase. Doug Crabtree indicated the Department or the Council could request council meetings. The Council discussed the schedule of meetings. Doug Crabtree, speaking for the Department, anticipated there would definitely be an annual meeting. He hoped the annual meeting would convene a little earlier than this [December] meeting, and gauged that a meeting sometime between the August appointments and Thanksgiving would be ideal. He indicated there could be other in-person meetings, either off site during the growing season, or based upon some other issue or function, perhaps the Montana Organic Association Conference. Mikel Lund stated that the number of meetings that are held might be, in part, dictated by budget limitations. However, Mikel Lund stated the Council could communicate through e-mail or phone calls as well.

Steve Baril asked for clarification regarding the issues on which the council is to advise and the individual(s) responsible for broaching said issues. Members felt it would be helpful to know the issues to be discussed beforehand. Members also felt that some type of background on issues would be helpful. For issues on the agenda, the council members felt it would be interesting to know whether the Department is asking for Council advice or whether it is something that a Council member has requested be placed on the agenda for discussion. The Council desires to place emphasis on what it can provide to the Department.

Steve Baril asked if there is a list of Advisory Council members on the Department's website, and whether proposed meetings are announced on the same website. Doug Crabtree answered that meetings are generally posted by Ron Zellar but hopes to have meetings announced on the website. Nancy Matheson indicated the Council would like to make sure that Council meetings are publicized, using readily accessible department tools such as the state calendar and Department website.

### **Nomination of Council Members**

Nancy Matheson asked if Council member nominations are solicited from farm organizations. The Council feels it is important to let the public, at large, participate in the nominating process. There was a general discussion about the re-creation of councils



and selection of council members. Based on this discussion, the Council indicated it would like to begin nominating Council Members in May for the August 2007 appointments. Three council seats will need to be selected in August 2007. Out-going members are Nancy Matheson, John Hoffland and Mikel Lund.

### **Program Review**

Doug Crabtree explained the need for formal program reviews is derived from the Administrative Rules. During the discussion, it was determined that there needs to be a minimum of 3 Council members involved in reviews. Doug Crabtree stated that a full report of the annual review needed to be submitted by the Council to the Department by March 30, 2006. Greg Ames said that February and March works best for the Department to have these files reviewed. Laura Garber asked if the review looks only at non-compliances issued. There was quite a bit of discussion regarding the number or percent of files that should be reviewed. Nancy Matheson asked Steve Baril how many files the Council would need to look at to see trends. Steve expressed a desire to see 10 files done in one day. He would also like the review to include handlers as well as producers. Nancy Matheson asked Steve Baril for his recommendation regarding the number or percent of files to be reviewed and, if he would suggest scaling back on the number of files reviewed. Steve said that key issues would arise from the file reviews; the program review should be completed in a timely manner. Doug Crabtree indicated that, prior to last year, the Council review had included 10% of the Department's certification decisions. If the Council wishes to use 10% of all files, this year's review would consist of at least 12 files. Doug Crabtree stated that he would prefer review of more files, but that reviews would not be so in-depth. He suggested the Council focus on key points and issues of concern in the inspection report. He went on to suggest the reviewers ought to prepare a draft report to be submitted to the full Council for review and approval. The final report needs to be submitted to the Department no later than the March 30<sup>th</sup> deadline, although earlier would be preferable since the Council's report must be included in the Department's annual NOP report, due at the end of April.

Nancy Matheson asked for council members interested in working on the review committee in early February, to be held in Helena. Doug Crabtree mentioned that Steve Baril might have some conflicts when reviewing files that contain his recommendations regarding certification. John Hoffland and Mark Bruckner volunteered to participate in the Council's annual review. Nancy Matheson stated that she would also help. Steve Baril volunteered to serve as committee lead. Laura Garber suggested that a checklist be developed from this year's review to be used by those conducting future reviews.

### **Forms Committee**

This committee could modify Department forms as necessary. Greg Ames would like the council to review forms and make recommendations. Review by the Council was postponed until ISO accreditation is completed.

### **Organic Program Budget**

Greg Ames passed out the budget report and explained that despite a fee increase enacted last year, revenues were still short of the projected amount. The Department received two

Specialty block grants in the amount of \$40,000 in each year, 2003 and 2004. The Department is asking for a \$100,000 Specialty block grant from the Agricultural Development Division (ADD). The grant would need to be modified to meet the specialty crop definition. The Produce Program revenue has been used to fund some of the Organic Program, because almost every grocery store in Montana has an organic produce section.

An additional \$20,000-\$25,000 will be needed per year to meet ISO requirements. Andre Giles asked whether the amount required for ISO accreditation was increasing. Doug Crabtree affirmed the costs were increasing. Nancy Matheson asked if the fee increase helped the program. Doug Crabtree indicated it was still unclear, as all the fees would not be seen until April 2006. It was projected that during the 2006 fiscal year the Organic Program was likely to run a deficit of about \$33,000. Greg Ames will consult with the Director and Department Attorney to ensure that it is legally defensible to use Produce Program fees to support the Organic Program. Mikel Lund asked about the amount of Produce Program money involved. Greg Ames estimated it to be \$15,000. Steve Baril asked if marketing funds could be used to fund those activities of the program that are more related to marketing and not strictly related to certification issues. Greg Ames believes it would be more appropriate to have the marketing people do the marketing aspect of the Organic Program, rather than transferring marketing funds to the Organic Program.

Council Ideas for items to be considered for Specialty block grant funding:

- Cost-Share.
- Success stories. Include wheat producers, specialty crops, and road show (glossy materials). Money to support other programs and a representative for farm property owners. (Laura Garber).
- Sponsoring internship programs.
- Start-up program to help producers.
- Seed money and start-up loans to farmers (revolving loan program). Some of the seed money could be available through the Growth Through Ag program.
- Showcasing marketing techniques for products at retail stores: faces on the label, pictures, ads, etc. Show potential new farmers that want to start organic farming (John Hoffland).

Doug Crabtree stated the Department does not have the time or staff available to write any proposals of funding for these programs. Laura Garber volunteered to write some of these proposals. Donna Rise inquired about the time frame needed for the individual(s) preparing proposals for the Director's consideration. It was indicated that at this time, there is no deadline. Laura Garber will e-mail the proposals to Doug Crabtree as soon as she is able. There will be no council vote needed. It was recommended that proposals be e-mailed to the Council before Christmas. A conference call will be scheduled in February or March.

Laura Garber asked about the certification of the seed potato growers program. Donna Rise said this certification has been proposed to the MPI Association but nothing has

been completed yet (to use certified seed). The burden for follow up lies with the potato producers, not the Department. It was decided this issue should be taken off the list (of concerns for further discussion at council meetings). Steve Baril will talk to Judy Owsowitz to see if this is still an issue before taking it off the agenda.

### **Next Council Meeting**

The next Council meeting, conducted via conference call, is tentatively scheduled for Wednesday, February 22, 2006, 3:00-5:00 p.m. Time to be confirmed by council members via e-mail by February 8 or 9<sup>th</sup>. Further scheduling should be done through e-mail.

**MOTION:** Steve Baril moved to adjourn the Council meeting. Motion seconded by John Hoffland. Motion carried. Meeting adjourned at 12:05 pm.

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### **Action Items**

1. Work with USDA-NOP to determine the number and type of non-compliances issued and the percent of non-compliances, relative to the number of certified operation for other certifiers. **Doug Crabtree.**
2. Consult Tim Meloy regarding the necessity of amending ARM to reflect changes in the NOP rule, which is adopted as the State/Program rule. **Doug Crabtree and Tim Meloy.**
3. Ensure that Council meetings are publicized, using readily accessible department tools such as the state calendar and Department website. **Doug Crabtree and Ron Zellar.**
4. Clarification on whether Produce Program fees can be used to support the Organic Program is needed. Greg will address this with the Director and Department Attorney to clarify and to ensure that use of the funds in this manner is legally defensible. **Greg Ames.**
5. Conduct program review in February. Develop a checklist (from this year's review) to be used by those conducting future reviews. **Council Committee.**
6. Next Council meeting, by conference call, tentatively scheduled for February 22, 2006, 3:00 pm to 5:00 pm. Time to be confirmed by council members via e-mail by February 8 or 9<sup>th</sup>. **Nancy Matheson, Co-Chair.**
7. Provide schedule for next Council meeting to Director. **Doug Crabtree.**