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## COMBINED NOTICE OF NONCOMPLIANCE AND NOTICE OF PROPOSED SUSPENSION OF CERTIFICATION

Date: March 14, 2024

Identification No: 9056-23-1

Client Name: Lone Star Organic Dairy  
Contact Name: Josh Hoffman  
Email Address: [REDACTED]

Dear Josh Hoffman,

Please read this letter very carefully. This letter concerns your USDA National Organic Program certification with Organic Certifiers and requires immediate action on your part.

Understand, Organic Certifiers has a responsibility to ensure the integrity of all organic products that we certify, and with that, also requires us to hold all operations accountable to the standards that they are certified to.

With that being said, this letter is to inform you that Lone Star Organic Dairy is hereby issued a Notice of Noncompliance and Notice of Proposed Suspension for the reasons detailed below as required by NOP Regulations Section 205.406(c) and Section 205.662(a) & (c).

### **Details & Evidence:**

Organic Certifiers has found the following noncompliance(s) to the USDA National Organic Program Regulations. The regulation that has been violated and facts upon which this Notice of Noncompliance and Proposed Suspension is based are all detailed below.

On November 16<sup>th</sup>, 2023, Organic Certifiers (OC) received a complaint from People for the Ethical Treatment of Animals (PETA) which stated that a whistleblower had provided testimony, along with photos and video, alleging numerous animal welfare violations witnessed at Lone Star Organic Dairy (LSOD) – see [Appendix I](#). On January 14<sup>th</sup>, 2024, OC received a request from the National Organic Program (NOP) to investigate a complaint they received alleging similar animal welfare violations as described in the PETA complaint (NOPC 9883-24).

To investigate the complaint, Organic Certifiers proceeded with the following course of action:

- November 21, 2023 – OC requested information from LSOD concerning the allegations specified in the complaints received by OC. See [Appendix II](#).
- November 26, 2023 – LSOD provided information requested by OC. See [Appendix III](#).
- December 1, 2023 – OC requested additional information from LSOD concerning the allegations specified in the complaints received by OC. See [Appendix IV](#).
- December 5, 2023 – LSOD provided information requested by OC. See [Appendix V](#).

- December 6<sup>th</sup>, 2023 – OC conducted an unannounced annual inspection of LSOD located in Willis Point, Texas.

OC has reviewed the documentation submitted by LSOD during the information requests in addition to the inspection report and attachments from the December 6<sup>th</sup>, 2023 unannounced inspection and has identified the following noncompliances:

### **Noncompliance #1**

**§ 205.238 Livestock health care practice standard** (c) *The producer of an organic livestock operation must not: (7) Withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail. Livestock treated with a prohibited substance must be clearly identified and shall not be sold, labeled, or represented as organically produced.*

One of the whistleblower's allegations described in the complaints received by OC stated:

- "The number of calves that died from scours and pneumonia had doubled in the last six months due to inadequate, or lack of, care."

OC has reviewed information submitted by your operation and the inspection report and has identified the following healthcare issues:

- a. The Heifer Mortality Report from June 1<sup>st</sup>, 2023 – November 22<sup>nd</sup>, 2023 shows that (b) (4) died in that time period from pneumonia, scours, bloat, diarrhea, sepsis and other illnesses. See [Appendix VI](#).
- b. The letter from LSOD indicated that veterinarian, (b) (4), (b) (6), (b) (7)(C) [REDACTED] See [Appendix VII](#) for letter from LSOD, and see [Appendix VIII](#) for the actual letter from (b) (6), (b) (7)(C)
- c. The Validus Animal Welfare Audit Findings Summary page 9 stated, (b) (4) [REDACTED] See [Appendix IX](#).
- d. A cross check of animal identification numbers listed on the Heifer Mortality Report from June 1<sup>st</sup>, 2023 – November 22<sup>nd</sup>, 2023 with the Healthcare Treatment Log from June 1<sup>st</sup>, 2023 – November 22<sup>nd</sup>, 2023 shows that numerous animals were never treated for their illnesses before they died. See [Appendix X](#) for the Health Care Treatment Log, see [Appendix VI](#) for the Heifer Mortality Report.
- e. The FARM Animal Care Program Audit Report (b) (4) [REDACTED] See [Appendix XI](#).
- f. The Inspector stated the following on #7,a of the attached Inspection Report: (b) (4) [REDACTED]

The documents submitted to OC support that LSOD has a high rate of mortality in its calves and heifers. The treatment records that LSOD provided to OC (referenced in d above) did not show that a majority of the animals that died on the Heifer Mortality Report (referenced above in a) were treated with any medications at all, allowed for use in organic production or not, prior to their death. LSOD

failed to administer appropriate medications to restore an animal to health when methods acceptable to organic production failed.

## **Noncompliance #2**

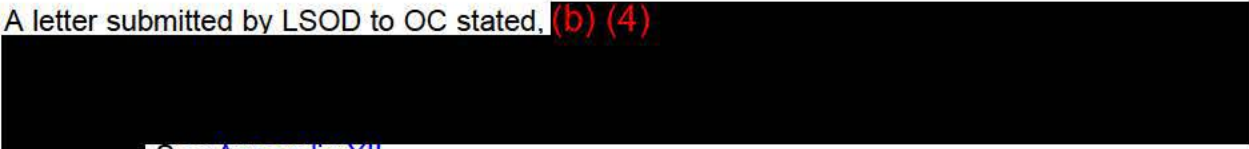
**§ 205.238 Livestock health care practice standard** (a) *The producer must establish and maintain preventive livestock health care practices, including: (3) Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites;*

**§ 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: 3) Appropriate clean, dry bedding. When roughages are used as bedding, they shall have been organically produced in accordance with this part by an operation certified under this part, except as provided in § 205.236(a)(2)(iii), and, if applicable, organically handled by operations certified under this part.*

The complaints received by OC contained the following allegations:

- Dead animals remained around the property, at times for days, before being buried.
- Some bedding and living areas were saturated with feces, urine, and leaking water troughs. Water troughs were not cleaned and filthy with floating debris.
- The number of calves that died from scours and pneumonia had doubled in the last six months due to inadequate, or lack of, care.
- Photos provided by the whistleblower show numerous dead dairy animals, some lying on the ground, some in open pits, some not completely buried, and some decaying carcasses not completely buried.
- Photographs provided show manure and other debris floating in water troughs and covered animal shelters with puddles of water and large piles of manure on the ground.

OC has reviewed information submitted by your operation, photos and videos provided by the whistleblower and the inspection report and has identified the following healthcare issues:

- a. A letter submitted by LSOD to OC stated, (b) (4)  
  
See [Appendix XII](#).
- b. The inspector has reported in the Inspection Report that:
  - #13: “accumulation of compost bedding had exceeded abnormal height in barns with former manager”
  - #15 c: “Bedding had been built up over quite a while and was starting to spill over side walls- it did not appear that former managers had been keeping up on routine clean out” and “cows appeared quite dirty due to lack of bedding management.”
  - See [Appendix XIII](#) for a photo showing cattle standing up on mounds of compost bedding.
- c. The Heifer Mortality Log shows that (b) (4) died from scours (b) (4) died from pneumonia between June 1<sup>st</sup>, 2023 – November 22<sup>nd</sup>, 2023, two illnesses, both of which can originate and/or be exacerbated by poor living conditions. See [Appendix VI](#).

Based on the information reviewed, LSOD has failed to maintain year-round livestock living conditions to accommodate the health and natural behavior of animals, provide appropriate clean, dry bedding or implement sanitation practices to minimize the occurrence and spread of diseases and parasites.

**Noncompliance #3**

**§ 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: (4) Shelter designed to allow for: (iii) Reduction of potential for livestock injury;*

The complaints received by OC contained the following allegations:

- Cows had access to the facility's concrete manure waste separating system. A cow fell into a deep pit filled with liquid manure, and when she was finally extracted, she could barely walk and was sold for slaughter.
  - A video provided by the complainant shows a live dairy animal submerged in a manure pit.
- Cows were injured by nails left in the bedding materials.
- Some animals escaped the pastures due to inadequate fencing and were struck and killed by cars.

OC has reviewed information submitted by your operation, photos and videos provided by the whistleblower and the inspection report and has identified that LSOD has not provided shelter and living conditions that reduce potential for livestock injury. Evidence supporting this is below:

- a. Cows had access to the facility's concrete manure waste separating system, which has the potential for livestock injury and LSOD has not implemented a permanent solution to this within a reasonable timeframe.
  - i. A letter submitted by LSOD to OC stated, (b) (4)  
[REDACTED]  
See [Appendix VII](#).
  - ii. During the on-site inspection on 12/6/23, when asked about cattle access to the manure waste separating system, the inspector stated on #26 of the Inspection Report:  
(b) (4)  
[REDACTED]
- b. Bedding material has contained items that would injure livestock (i.e. nails).
  - i. A letter submitted by LSOD to OC stated, (b) (4)  
[REDACTED]  
See [Appendix VII](#)
- c. Animals can escape from their pens/shelter, which can result in injuries.
  - i. The Heifer Mortality Log lists "hit by car" as the reason heifer ID 2543 died on 7/17/23. See [Appendix VI](#).
  - ii. A letter submitted by LSOD to OC stated, (b) (4)  
[REDACTED]

(b) (4)

See [Appendix VII](#).

Based on the information reviewed, LSOD has failed to maintain shelter designed to allow for the reduction of potential for livestock injury.

#### **Noncompliance # 4**

**§ 205.403 On-site inspections** (b) *Scheduling (2) All on-site inspections must be conducted when an authorized representative of the operation who is knowledgeable about the operation is present and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the applicable provisions of subpart C of this part can be observed, except that this requirement does not apply to unannounced on-site inspections.*

On November 27<sup>th</sup>, 2023, OC sent an email notification that the annual organic inspection of your operation would be conducted sometime between November 28<sup>th</sup>, 2023 and December 9<sup>th</sup>, 2023. The notification also explained that the inspector would make contact at least 24 hours prior to arrival and to ensure that an authorized representative would need to be present onsite who is knowledgeable about your operation and its organic practices. At the time of the inspection, only Josh Hoffman, LSOD Dairy Manager, was available. The former dairy manager Jamie Kulesa was not on site or available to answer questions regarding the events that took place during his management of the operation.

Upon review of the Inspection Report in conjunction to all records and information submitted beforehand (some from the previous manager, Jamie Kulesa, and some from Josh Hoffman), it appears that Josh Hoffman was not the most knowledgeable person regarding the operation and their practices. The following evidence supports this:

- Inspection Report #13 – there is no explanation of previous practices and management of calves, only future plans were described, which indicates that there may not have been knowledge of prior management activities during the period in question.
- Inspection Report #13 b – the inspector reported that there is no Banamine used on the operation, however the health care treatment log in [Appendix X](#), submitted by Jamie Kulesa indicates that Banamine was used at least 53 times between 6/1/23 and 11/22/23.
- Inspection Report #26 – the inspector reported that during the inspection, it was shared that “This was a false accusation. The picture was in the driveway on dirt road, any livestock that would have been out were on the private dirt road” however a letter submitted on by LSOD, confirms that a heifer escaped from their pen and was in-fact struck by a car and was killed. See [Appendix VII](#). The Heifer Mortality log also lists death reasons for two animals, death events associated with cars, on 11/6/21 and 9/30/23. See [Appendix VI](#).

#### **Summary:**

Due to the size, scope and severity of the issues outlined in the noncompliances above, Organic Certifiers has the assertion that LSOD has systemically failed to comply with the requirements of the National Organic Program Standards.

#### **Next Steps:**

Please note that this is a very serious matter and there are limited avenues that can be used to respond. If you would like to keep your certification, you can choose from one of the following actions:

1. **Right to Request Mediation:** Pursuant to NOP Section 205.663, you have the right to request mediation by **Monday, April 15, 2024**, within **30 days** of the date of this notice. Mediation shall be requested in writing directly to Organic Certifiers.

2. **Right to Appeal:** Pursuant to NOP Regulations Section 205.681, you have the right to appeal this Notice of Proposed Suspension of Certification to the AMS Administrator, except, that, when the operator is subject to an approved State organic program, the appeal must be made to the State organic program which will carry out the appeal pursuant to the State organic program's appeal procedures approved by the Secretary.

**Filing period:** An appeal of a noncompliance decision must be filed by **Monday, April 15, 2024**, within the **30 days** of the date of this Notice. The appeal will be considered "filed" on the date received by the Administrator or by the State organic program. A decision to deny, suspend, or revoke certification or accreditation will become final and nonappealable unless the decision is appealed by the date indicated.

Where and what to file:

(Operations outside of California) Appeals to the Administrator must be filed *in writing* either by email or mail to the following address:

EMAIL: [NOPAppeals@usda.gov](mailto:NOPAppeals@usda.gov)

MAIL: Administrator, USDA, AMS, c/o NOP Appeals Team  
1400 Independence Avenue SW, Room 2648-So, Stop 0268  
Washington, DC 20250-0268

(Operations in the state of California) Appeals to the CDFA must be filed *in writing* either by email or mail to the following address:

EMAIL: [CDFA.legaloffice@cdfa.ca.gov](mailto:CDFA.legaloffice@cdfa.ca.gov) (cc: [danny.lee@cdfa.ca.gov](mailto:danny.lee@cdfa.ca.gov))

MAIL: CDFA Legal Office, Office of Hearings and Appeals  
1220 N Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

The appeal must include a copy of the **Notice of Combined Noncompliance and Proposed Suspension** issued to you by Organic Certifiers, and a statement of your reason(s) for believing that the decision by Organic Certifiers was not proper or made in accordance with the applicable program regulations, policies, or procedures.

**Proposed Suspension:**

If Organic Certifiers does not receive a request for mediation or appeal within 30 days of your receipt of this letter, then your certification will be suspended for **1 year**. The effective date of such suspension shall be 45 days from the date of this Notice: **Monday, April 29, 2024**. Should this suspension become effective, you will be able to submit a request for reinstatement to the Secretary of Agriculture **1 year** after the date of final suspension notification.

**Impact of Suspension:**

If **Lone Star Organic Dairy LLC** is suspended, organic products cannot be produced for the purpose of labelling, representing or selling as organic, including those that were produced prior to suspension. Per 205.662(g), civil penalties and additional provisions could result from continued organic sales after suspension.

A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the USDA Secretary of Agriculture for reinstatement of its certification per 205.662(f). The request must be accompanied by

evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the NOP Regulations.

Please reach out to your Certification Specialist, Ryan Brouillard, ( [REDACTED] ) if you have any questions or concerns.

Sincerely,

ORGANIC CERTIFIERS

(b) (6)

By \_\_\_\_\_

Executive Director

cc: USDA, AMS Compliance  
CDFA, State Organic Program (if in CA)