

California Walnut Board

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MARKETING ORDER REVISION COMMITTEE MEETING MINUTES

Wednesday, June 6, 2012

The California Walnut Board Marketing Order Revision Committee (MORC) met on Wednesday, June 6, 2012 at the Marriott Hotel in Rancho Cordova, California. Committee Chairperson Jerry Siebert called the meeting to order at 3:05 p.m. Ms. Steindorf called the roll and established a quorum. The following Committee members were present:

Jerry Siebert, Chairperson
Jack Gilbert, Vice-Chairperson
Bill Carriere
Chuck Crain
Bob Lea
Jack Mariani
Donald Norene
Bill Tos

Also in attendance were Jeff Smutny, Martin Engeler and Andrea Ricci of USDA; industry members Lisa Warner and Kiran Black; and CWB staff members Dennis Balint, Heather Donoho and Dana Steindorf.

The first order of business was the approval of the minutes from the last MORC meeting held on May 5, 2010. Mr. Gilbert made motion to approve the minutes as mailed, Mr. Lea seconded the motion and it carried unanimously.

Chairperson Siebert asked Mr. Balint to address the next agenda item, Industry Reporting Requirements. Mr. Balint stated that a packet of current CWB reporting forms has been distributed to each Committee member. These are the forms that staff uses to collect information from handlers on shipments, inventories, interhandler transfers and substandard receipts and deliveries. One purpose of this meeting is to review the reporting procedures and to discuss some of the things that are happening in the industry that may cause the Committee to consider additional reporting.

Mr. Balint stated that a cause for concern is that a number of growers are holding product beyond the first of January; some of the product is still inshell and some is processed and inspected. The product is not being reported anywhere until the grower sells the product to a handler. This distorts the CWB inventory and crop numbers that are reported based on acquisitions by handlers and inventory held by handlers as of December 31. Mr. Balint presented a list of issues the CWB would like to address, including reporting of inventory held by growers as of December 31, in what form (inshell or shelled, certified or uncertified), and possibly what hullers they deliver to and what services those hullers perform (agent, broker). For handler reporting, Mr. Balint would like to see sources of product (other than growers) and

class of trade shipments. Another issue for discussion is marketing order definitions, including refining the definition of a handler, adding a definition for accumulator, and expanding on the definition for exemptions.

Mr. Engeler stated that it would be very difficult to require grower reporting through the marketing order. He commented that the CWB would have to figure out a way to obtain the needed information they need through handler reporting.

Mr. Tos asked what an accumulator does; Mr. Balint explained that an accumulator acquires product from growers, sometimes in small lots from many growers, and sells to a handler as one large lot. Mr. Mariani stated that if an accumulator is taking title of the nuts from the grower, he needs a buyer's license from the state of California.

Mr. Carriere stated that our concern seems to be that the grower is having product custom processed, without being registered as a handler, and then selling the product. Having a handler report how much product he custom processes and for whom would solve that problem. Mr. Engeler stated that he believes that is something that the CWB could ask handlers to report. Mr. Smutny commented that a big concern for the industry is food safety and traceability. Mr. Mariani asked if the custom processing report would fall under informal rulemaking and Mr. Engeler stated that it would.

Mr. Carriere said that he sees three problems: 1) knowing the inventory; 2) people circumventing the assessment by selling it without any record and; 3) confusion of the definition of a handler. He believes the most important issue is the non-payment of assessments when they are due.

A discussion ensued about the definition of a handler and whether we need a separate definition for processor (a company that processes but does not put product into the channels of commerce). Mr. Balint stated that the definition of a handler in our marketing order is confusing. Simplifying the definition would help eliminate some of the confusion among the industry. Mr. Balint read the definitions of "to handle" and "handler" from the marketing order.

Mr. Tos asked about inspections at hullers; CWB staff confirmed that DFA will only conduct inspections at a handler facility. Mr. Carriere asked how staff would reconcile inventory if a handler processed outside product and it is not sold (still being held by grower). Mr. Balint stated that asking for the additional report of who the handler has packed for, how much and in what form will certainly help with the reconciliation of inventory. Ms. Donoho stated that there is also an issue when it comes to the acquisition reports because if a grower is still holding product as of December 31, it is not reported in the acquisition number.

The Committee discussed the definition of a custom packer; Mr. Balint stated that the vast majority of custom packers are handlers who by definition are putting product into commerce. Dr. Siebert asked if Mr. Balint is more concerned about direct sales in the domestic or export market. Mr. Balint stated that his concern is that a lot of the product that is going overseas to places such as China is leaving without a phyto-sanitary certificate. The seller has a contact at the other end – the product comes into the country with no phyto and no DFA inspection.

Mr. Balint also stated that the Board has money in the budget to contract with individuals to have a presence in the field to help put a stop to direct sales – the problem is finding qualified people. Without the ability in the marketing order to require any kind of reporting from growers, we really lose the opportunity to focus on direct sales.

The Committee discussed who is responsible for paying the assessment in the case of a handler custom packing product for a grower. DFA will only inspect at a handler facility and

CWB can only collect assessments from the handler. It is up to the handler to collect the assessment from the grower if the product is inspected at the handler facility before the product is returned to the grower.

Mr. Norene made a motion to recommend to the Board to direct staff to expand the inventory report (three times per year) to request handler custom processing. The form would include for whom the handler processed, how much product processed, the amount of product being held but not designated for processing and the type of product (shelled/inshell, certified/uncertified).

Mr. Smutny suggested that this Committee meet again to review the expanded form and the draft of the ten-points document for informal rulemaking. After the Board approves the ten-points, the form can go to OMB for approval. The Committee agreed to meet again before the September Board meeting.

Mr. Carriere seconded the motion and it carried unanimously.

The Committee then discussed the addition of the Walnut Receipts number that is new to the shipment report for the 2011/2012 crop year. Staff asked if the Committee wants to continue to ask for the walnut receipts monthly on the shipment reports from handlers. There has been some confusion as to what the number represents since it does not tie to the crop number that the CWB releases after the December 31 crop acquisition reports are in from handlers. Mr. Balint stated that in ten years there may be a pattern to that number and how it relates to the final crop number, but in the meantime, it has created some confusion. The Committee suggested that the walnut receipts number continue to be reported for another year, after which time they will review the issue again.

The time and place of the next meeting will be determined by the Chairperson and staff. There was no need for Executive Session. Hearing no further business, Chairperson Siebert adjourned the meeting at 4:54 p.m.