

California Walnut Board

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MARKETING ORDER REVISION COMMITTEE MEETING MINUTES

Thursday, January 17, 2013

The California Walnut Board Marketing Order Revision Committee (MORC) met on Thursday, January 17, 2013 at the California Farm Bureau Federation in Sacramento, California. Committee Vice Chairperson Jack Gilbert called the meeting to order at 10:01 a.m. Ms. Steindorf called the roll and established a quorum. The following Committee members were present:

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

Committee Chairperson Jerry Siebert was absent. Also in attendance were Andrea Ricci of USDA; CWC legal representative, George Soares; 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 June 6, 2012. Mr. Tos made motion to approve the minutes as mailed, Mr. Crain seconded the motion and it carried unanimously.

Vice Chairperson Gilbert asked Mr. Balint to address the next agenda item, Rule Making Update. Mr. Balint stated that we had originally discussed with USDA/AMS new reporting that the CWB would like to collect on product that handlers are holding for third parties (not owned by the handler) and it was decided that it would need to be through informal rulemaking, though we did argue that it could simply be an approval of a new form through OMB. It appears now that AMS has agreed with us that the new reporting CWB would like to see could be a form change on the Inventory Report form that is collected three times per year. Ms. Steindorf stated that she would make the necessary changes to the Inventory Report form (CWB form # 4 & 5) and submit it to Ms. Ricci and the Committee for their review. Ms. Ricci will submit the form to OMB for approval for CWB use in the next crop season, 2013/2014.

Mr. Carriere made a motion for staff to use the avenue of a form change through OMB, rather than informal rule making, for the collection of the information from handlers. Mr. Norene seconded the motion and it carried unanimously.

Vice Chairperson Gilbert moved on to the next agenda item, Forms of Industry Engagement. Mr. Balint stated that over the next couple of years the Board and Commission

have some key issues on the table: first, the CWB and CWC elections will be conducted during the spring/summer of 2013; next, the CWB will conduct a continuation referendum in early 2014; the CWC will more than likely hold a re-run of the assessment cap referendum in late 2014 or early 2015; and the CWC will have a continuation hearing in 2017.

Mr. Balint stated that if the CWB continuation referendum in 2014 fails, it could take three to nine months to wind down the Board activities, during which the industry could consider other alternatives. A voluntary organization such as the pistachio industry has is one option if we wanted a third organization or if we wanted to replace, in part, one of the existing organizations in the event it is not continued. Mr. Balint asked Mr. Soares to comment on what the process is to set up a voluntary organization; Mr. Balint clarified that neither he nor Mr. Soares is recommending a voluntary organization, just presenting options to the Committee.

Mr. Soares stated that trade associations can never be characterized as a replacement for a marketing order or a commission. Trade associations are voluntary and can be formed rather quickly as a non-profit corporation through the Secretary of State's office. The ideal set-up for a commodity, in his experience, is to not only have a government program – a marketing order, commission or both – but to also have a trade association. Some commodities have an infrastructure that deals with the kind of things a trade association might handle. Usually when an association is formed, industry leadership has decided that there is something that needs to be addressed by the industry.

Mr. Mariani asked what the industry would lose if we did not have Federal marketing order; what is not available to us through the state commission? Mr. Balint stated that the industry would lose volume control, and potentially production research and grades and standards. Mr. Soares stated that commissions do conduct production research; when we look at the CWC law, there is some very broad language regarding production research. Grades and standards are allowed occasionally by the Secretary; the CWC law does not presently allow for grades and standards. The commission law could possibly be amended to allow, in effect, a marketing order to exist within the commission for the purpose of allowing grades and standards, including inspections.

Mr. Balint stated that one hindrance to adding all these activities to the Commission is that we have a cap on the assessment rate of \$.01 per inshell pound. If we had the funds, these activities could be done by the Commission. Mr. Soares commented that what we would do is try to transfer the Board activity to a now revised Commission with revised assessments.

Mr. Lea asked about the timing of making changes to the Commission; would we begin before we know what is going to happen with the Board, or after? Mr. Soares stated that doing anything too soon could convey the wrong message to the industry. Making the changes to the Commission will require an industry vote (referendum). The Committee discussed the feasibility of an industry approving major changes to the Commission after having just voted to eliminate the Board. The voting hurdles on the Commission are much higher than on the Board.

The Committee agreed that putting together a voluntary organization ahead of the Board continuation referendum that can communicate more effectively than the Board members and staff can might be a good option. The Committee also discussed issues of food safety if the Board ceased to exist.

Mr. Balint stated that he agrees with Mr. Soares, that taking any steps toward establishing a voluntary organization is a signal to the industry that we expect the Board referendum to fail. Mr. Soares commented that a trade association is not going to accommodate what the industry would lose if the Board ceased to exist; we would need to seriously look at how to modify the Commission to pick up the activities. He is not sure if

starting a trade association at this time would telegraph anything negative, but wonders what the industry would expect to accomplish by doing so.

Vice Chairperson Gilbert would like to see the Handler Coalition get behind a campaign to promote the Board referendum. Mr. Mariani agreed and does not anticipate a problem with getting handler and grower support.

After reviewing the marketing order language, Ms. Ricci commented that it appears that for the Board continuation referendum to fail, 2/3 of the voting tonnage would have to be against continuation. The exact language in Section 984.89 reads as: "Within six years of the effective date of this amendment the Secretary shall conduct a referendum to ascertain whether continuance of this part is favored by producers. Subsequent referenda to ascertain continuance shall be conducted every six years thereafter. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by a two-thirds (2/3) majority of voting producers, or a two-thirds (2/3) majority of volume represented thereby, who, during a representative period determined by the Secretary, have been engaged in the production for market of walnuts in the production area. Such termination shall be announced on or before the end of the production year." Ms. Ricci will get clarification on the threshold language and let Board staff know.

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, Vice Chairperson Gilbert adjourned the meeting at 11:07 a.m.