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UNITED STATES DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C.

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NATIONAL ORGANIC STANDARDS :  
BOARD MEETING :  
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A meeting in the above-entitled matter was held on  
March 28, 2007, commencing at 7:34 a.m. in the Washington  
Plaza Hotel, Ten Thomas Circle, N.W., Washington, D.C.  
20000.

Andrea Caroe, Chairperson

## APPEARANCES

### BOARD MEMBERS:

Andrea Caroe, Chairperson	
Bea E. James, Secretary	116
Daniel G. Giacomini, Chairperson, Materials Committee	
Gerald A. Davis, Crops Committee	130
Jennifer M. Hall	
Jeffrey W. Moyer	
Joseph Smillie, Compliance Committee	127
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Steve Demure	
Tracy Miedema	
Mark Bradley, Associate Deputy Administrator	

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MS. CAROE: We're going to start off this morning with public comments, so I'm going to reread from the Board policy manual the restrictions on public comment. Please just hold with us for one moment.

Okay. From the Board policy manual, NOSB policy for public comment at NOSB meetings. One, all persons wishing to comment at NOSB meetings during public comment period must sign up in advance. Today's morning session is full up, and I do have those received listings.

Two, persons will be called upon to speak in the order in which they signed up.

Three, unless otherwise indicated by the Chair, each person will be given five minutes to speak.

Four, persons must give their name and affiliation for the record.

Five, persons may submit a written proxy to the NOSB, NOP or NOSB requesting that another person speak on his or her behalf.

Six, no person will be allowed to speak during the public comment period for more than 10 minutes.

And seven, individuals providing public comment will refrain from personal attacks and from remarks that otherwise impune the character of any individual.

All right. So, starting off this morning, we have

1 Don Ripta. Don, are you in the room? Okay. Moving on.

2 Gary Robertson. Gary, are you here?

3 MR. ROBERTSON: I am here.

4 MS. CAROE: Okay. On deck we have Katy Highland,  
5 which Nancy are you taking Katy's spot?

6 MS. HIRSHBERG: Yes.

7 MS. CAROE: Do you want to check in with Valerie,  
8 please. You can start whenever you want.

9 MR. ROBERTSON: Great. Good morning, everyone, and  
10 thank you for the opportunity to address you this morning.  
11 My name is Gary Robertson. I'm the vice president of sales  
12 and marketing for American Gold Seafood and Smoki Foods out  
13 of Seattle, Washington.

14 And for those of you that aren't aware, American  
15 Gold -- there we go -- American Gold is the only U.S. owned  
16 and operated open net pen salmon farm in the United States.  
17 So as I've been told this morning, I think I am the devil.  
18 But I would like to take some opportunity to explain a little  
19 bit about who we are, what we do, and move forward from  
20 there.

21 Smoki Foods is a 22 year old company owned by Roger  
22 and Lisa May. We employ approximately 250 people. We are  
23 one of the nation's largest processors of wild salmon. We  
24 produce approximately 25 million pounds of wild salmon every  
25 year. We are the only, again, salmon farm that's

1 domestically owned and operated. We principally process  
2 halibut, wild and farmed salmon, black cod and king crab.

3           And our business is in a crossroads. We can either  
4 stay at the status quo and put our, essentially, our business  
5 and employees at risk, or we can become politically active  
6 and position ourselves for future growth. And it is with  
7 that intention that I address you today, and the future of  
8 our 250 employees, quite honestly, lays in your hands.

9           We consistently do swat analysis to identify our  
10 business, as most business do. And our weaknesses are, quite  
11 honestly, public opinion, because far too much bad science  
12 has actually received far too much publicity. And  
13 regrettably, that hasn't just impacted farms, that also  
14 impact salmon, and we've seen that in our numbers.

15           I think it's important to recognize the fact that  
16 we will not, and you will not hear a farm, a salmon farmer,  
17 excuse me, take shots at wild salmon. We won't do it. This  
18 is a salmon issue, and we want to make sure we address it as  
19 a salmon issue.

20           Also, headlines are made by tragedy, so stories  
21 about sustainable, safe, healthy food has a tendency not to  
22 be a very sexy story, so it's not something you hear on a  
23 regular basis.

24           And quite honestly, voice. This is the first time  
25 I'm addressing this Board, and it's my understanding that no

1 one from our company has had an opportunity to address this  
2 Board in the past. And so as a result we are playing catch  
3 up.

4           When we look at the threats to our business, there  
5 are obviously several. Competition is a big one. There are  
6 countries out there that are producing salmon at remarkably  
7 low prices for a myriad of reasons which I won't discuss  
8 today.

9           There are products being marketed as certified  
10 organic, and that comprise the integrity of the products that  
11 we produce. Although we conform to the same standards, we  
12 can't and won't use the term organic until this body approves  
13 use of that term. And to the above point, consumers are  
14 obviously having a trend towards organic.

15           The cost to produce natural products, which is the  
16 product that we produce that would be certified, and that we  
17 would offer to be certified as organic, obviously is very  
18 expensive. And it would be certified as organic in most  
19 places in the world. And obviously, there is also a tariff  
20 aversion, something that we have to address as a company, is  
21 also in the industry.

22           And also, obviously, there's biological. An algae  
23 bloom can have a devastating effect in what's going on with a  
24 pen salmon system.

25           The strength and opportunities we have, obviously

1 with what's going on with the U.S. government right today.  
2 You have the U.S. Commerce Secretary, Carlos Gutierrez  
3 promoting legislation to expand aquaculture. The numbers he  
4 recently shared, that seafood is a \$7 billion dollar industry  
5 globally, only a billion dollars in the U.S. Obviously, a  
6 huge opportunity for growth.

7           80 percent of the seafood that's consumed in the  
8 United States is imported, and that's a trade deficit of  
9 approximately \$9 billion dollars, and 40 percent of that is  
10 farmed.

11           We, obviously, as a company, have a nice balance  
12 between what's going on with wild salmon and farmed salmon.  
13 And we also have history. Some of the sites that we have in  
14 operation have been in operation for over 30 years, and  
15 actually two of our sites are located on preserves.

16           And we also have a very strong advocate in NOAA.  
17 The Manchester NOAA site is actually about 200 yards off of  
18 one of our net pen sites, and one of the biggest advocates I  
19 have are the people from that Manchester site.

20           Some of the things we're working on with NOAA is to  
21 produce products, actually salmon feed from byproducts of  
22 bioenergy production, using waste as feed for farmed salmon.  
23 Use of invasive, the invasive carp that you see in the  
24 Mississippi, for example, us that silage as feed for wild  
25 salmon. NOAA, they're helping us address that issue.



1           Development of a demonstration farm, potential for  
2   the use of recirculation of water, and development of  
3   alternative crops like sable fish and Maine cod, and also  
4   black cod, if you will.

5           So I will leave you with this. Organics is a  
6   belief system. It is not a science. Best practices is what  
7   we hope to attain with this group. And that's why we're  
8   working with NOAA. And I think I'm out of time.

9           MS. CAROE: Thank you. Any comments from the  
10   Board. Questions?

11          MR. SMILLIE: Did you have a chance to look at the  
12   recommendation that's currently in front of this Board?

13          MR. ROBERTSON: I have. And one of the concerns  
14   that I have is the elimination of net pens. I wanted to make  
15   sure that, again, that was addressed.

16          MR. SMILLIE: Well, again, as I said yesterday, it's  
17   not in this draft, but we will take it up at future meetings,  
18   hopefully some sort of symposium or some sort of more, larger  
19   discussion because it is, you know, so controversial. But  
20   any comments on the current draft that -- have you had a  
21   chance to look at it and see how it would affect your  
22   operation?

23          MR. ROBERTSON: I have, and at least I applaud the  
24   direction that we are moving, and the fact that we are  
25   moving, again, addressing, getting some organic standards put

1 in place. The feed conversions, as we were discussing  
2 earlier this morning, they are within the realm.

3 I think there is, again, there is some, there is  
4 some very faulty science out there regarding what is actually  
5 happening in the wild versus what's happening in a farm  
6 system that we could get into today, but I'm sure that you've  
7 got plenty of information in front of you that addresses that  
8 issue. But I just want to make sure that, again, we are  
9 clear about the need to keep things on the table. Thank you.

10 MS. CAROE: Next up, for Katy Highland. On deck we  
11 have Grace Marroquin. Grace, can you check in with Valerie?

12 MS. HIRSHBERG: Good morning. Just some other  
13 ingredients we want to mention today. We want, regarding  
14 specifically rice starch, we support the Handling Committee's  
15 recommendation to list rice starch at 606, although it has  
16 been proposed to list it only for two years.

17 As noted in our petition, we find that rice starch  
18 has certain qualities that cannot be duplicated by other  
19 substances, especially it's ability under freezing, thawing,  
20 and high water binding capacity.

21 We continue to work with a manufacturer to try and  
22 source organic versions of this type of waxy rice, that's  
23 specific to this product, that is needed. Two years may be a  
24 bit too short to accomplish this, but we will certainly try.

25 Please note, also, that both rice and corn starch

1 are permitted in the EU standards without qualification. And  
2 we think that rice starch merits inclusion in the U.S.  
3 standards as well.

4 Natural colors, Stony Field Farm uses a number of  
5 natural colors in our products, and we are pleased that the  
6 committee has recommended quite a few colors for inclusion on  
7 the list. We do use cherry juice color in some products, and  
8 have not found organic sources for this.

9 I should also qualify this by saying, there are  
10 many, many ingredients that Stony Field has brought to  
11 commercial availability, and so we're often leading the way  
12 for other smaller companies who don't have those R and D or  
13 sourcing capabilities.

14 We also currently have not found appropriate  
15 supplies of organic carrot juice color. And I'm sure you've  
16 heard from many people that it's not just about the carrot,  
17 but there is a lot of science behind the actual colors, and  
18 so forth. So there are many carrots available, but that  
19 doesn't necessarily equivocate to the same, to the quality of  
20 the color that we need, which also merits consideration for  
21 the national list.

22 If annatto is approved, this may be an alternative  
23 to carrot juice, so we're fine with that. But we believe  
24 that a listing for these colors on 606 would provide more  
25 flexibility for product formulation as a supply of organic

1 colors gradually increases.

2           Whey protein concentrates. We have petitioned for  
3 the addition of whey protein concentrate at 35 percent and 80  
4 percent strengths. The recommendation by the committee was  
5 to list WPC 35, but not 80. We have provided further  
6 information to show that these two types of whey protein  
7 concentrate are manufactured in the identical fashion, and  
8 are concentrated by using ultra-filtration, a membrane  
9 filtration technique that is a mechanical process without the  
10 use of any chemicals.

11           There is subsequent use of processing aides for the  
12 purpose of ph adjustment that appear on the national list,  
13 such as citric acid and potassium and sodium hydroxide. We  
14 believe both concentrations should be listed similarly.

15           And the final ingredient is annatto. And to your  
16 question yesterday, Julie, I think the appropriate, and again  
17 I'm not a scientist, but the appropriate term is water  
18 extracted or oil extracted annatto.

19           Stony Field Farms supports the addition of annatto  
20 to 606. At present, we cannot find organic annatto in the  
21 quantity or quality needed for our purposes. The committee  
22 recommendation appears to reject annatto based on a  
23 disagreement about the annotation. While we agree there is  
24 no reason to require an organic oil be used to extract a  
25 nonorganic ingredient, we do support the listing as annatto,

1 water or oil extracted.

2           This restriction is important because nonorganic  
3 annatto is also legally permitted to be extracted with  
4 solvents such as acetone, ethylene dichloride, hexane, et  
5 cetera. If annatto is listed in 606 without restrictions,  
6 these toxic solvents could be considered permitted for  
7 purposes of extraction.

8           Currently there is natural annatto available that  
9 is extracted without these harsh solvents, and this should be  
10 the form which is what we currently use, and this should be  
11 the form specified as acceptable until adequate supplies of  
12 truly organic sources are available.

13           And finally, what I would like to really, is really  
14 more for the NOP. And believe me, I am the first person to  
15 be lobbying for more funds for NOP, because I know you are  
16 over-taxed and have many priorities. But I will say that  
17 there is an absolutely urgent, dire need for NOP to develop  
18 emergency procedures for designating agricultural products  
19 that are commercially unavailable in organic form.

20           As soon as Jim, was it seventh or ninth? And I'll  
21 give you some examples. Thank you. Supplies disappear.  
22 We're one of the larger buyers of organic ingredients. A few  
23 years ago we had developed a lot of strawberry projects, et  
24 cetera. Two companies came in, started a cereal with  
25 strawberries, organic strawberries. Pouf, the supply

1 disappeared.

2           It's not that it disadvantaged companies like us so  
3 much, as the smaller companies who are going to be hurt by  
4 this, because they don't have the buying power to lock in  
5 long term supplies.

6           And finally, as an example, Stony Field Farm buys  
7 approximately 200 million pounds of organic ingredients a  
8 year. We're growing, this year we'll buy 55 percent more  
9 organic milk that we did, or next year -- no, this year than  
10 we did last year. Some of these ingredients, we might use  
11 10,000 pounds a year of, these minor ingredients.

12           We don't have the buying power to have someone  
13 develop an organic supply. They just won't even talk to us.  
14 And we're one of the larger buyers. So it's really -- the  
15 emergency procedures, I think, for supplies disappearing can  
16 be critical. Thank you.

17           MS. CAROE: Thank you, Nancy. Any question for  
18 Nancy?

19           MR. DEMURE: Hi, Nancy, Thank you.

20           MS. HIRSHBERG: Hi, yes.

21           MR. DEMURE: You had mentioned a problem with  
22 carrots.

23           MS. HIRSHBERG: Yes.

24           MR. DEMURE: Is it a processing problem, because  
25 there seem to be a lot of organic carrots out there?

1 MS. HIRSHBERG: There are a lot. And when I've  
2 talked to them, again, this is a volume issue where, you  
3 know, especially for a concentrate, because they have to shut  
4 things down, develop them. In fact, I remember talking to  
5 Stallbush, specifically, on one. And they just weren't  
6 willing, for the volumes that we were able to use, to develop  
7 the product for us, to do the R and D time, and the  
8 quantities that we're talking about. If we're talking tens  
9 of thousands of pounds, they just wouldn't do it.

10 MS. CAROE: Bea.

11 MS. JAMES: Hi, I was wondering if you were going  
12 to address the question regarding inulin or --

13 MS. HIRSHBERG: Yesterday. And, in fact, I just  
14 got on line and the person who emailed yesterday didn't  
15 respond yet, so I'm going to go and call her.

16 MS. JAMES: Thank you.

17 MS. HIRSHBERG: Yes.

18 MS. CAROE: Tracy.

19 MS. MIEDEMA: Was that question just documenting  
20 availability? Is that what Bea was asking about?

21 MS. HIRSHBERG: No, this is inulin about whether it  
22 was, we went to it because of the marketing ability or the  
23 structure function claims.

24 MS. MIEDEMA: Okay. Yesterday, Dan explained our  
25 subcommittee is within Handling Committee. And I recall your

1 petition for cherry, in particular, was very compelling, but  
2 it just lacked documentation that due diligence had been done  
3 on the search. And it didn't seem to carry the burden of  
4 proof there. Do you have further documentation?

5 MS. HIRSHBERG: I don't have anything right here.  
6 I certainly can provide it. But this is my question, which  
7 Jim raised yesterday, which is, that burden of proof is on  
8 the certifier. And this is where I get confused about where  
9 I'm listing versus the certifier's role. Because every time  
10 we get certified, or reinspected, we have to provide that  
11 documentation on everything we've done to find it.

12 So even your listing it just shows that there is  
13 the potential that it could not be available, which I hope  
14 we've provided that much information. So, and maybe you can  
15 provide some clarification on that.

16 MS. CAROE: Julie.

17 MS. WEISMAN: Yes. I think, I think the way I  
18 heard Tracy ask the question, I think that you were assuming  
19 that Nancy is the petitioner on the cherry, and she's not.  
20 The supplier is the petitioner, who I believe is going to be  
21 presenting separately later. I'm not sure. No, we don't.  
22 Okay, we don't. Okay. Rumor control.

23 MS. HIRSHBERG: Yeah.

24 MS. WEISMAN: But anyway, she's not the petitioner.  
25 She's the end user. And what she's telling us is that we,



1 you know, we have looked for organic cherry juice for this  
2 purpose, and we can't find it.

3 MS. HIRSHBERG: And we've documented that for our  
4 certifier.

5 MS. WEISMAN: Right. And you're -- what was  
6 discussed at our subcommittee meetings, was the fact that the  
7 petitioner who is petitioning that the nonorganic form be  
8 used, that that's where, who our beef is with. That, you  
9 know, it may be true that there is not organic out there, but  
10 we can't act with no information. So we're going to ask  
11 anybody up here that has any experience with colors today,  
12 we're going to pound you for any information you can give us  
13 about availability of the colors that are currently listed to  
14 be rejected.

15 MS. HIRSHBERG: But this my question for you, which  
16 I'm a little unclear of, which is that we provide that  
17 documentation to our certifiers.

18 MS. WEISMAN: Right.

19 MS. HIRSHBERG: And so that's going, that's a given  
20 that that has to happen.

21 MS. WEISMAN: Right. And I think this is where, I  
22 think, there are two -- I think Jim divided people into  
23 lumpers and splitters. Well, on this issue we also have,  
24 there are two camps in the industry. There are two camps of  
25 stakeholders. There are those that think that item -- those

1 that have already argued that items should not be listed  
2 unless they have been demonstrated at this level to be, to be  
3 not available.

4           And then there are, you know, for industry, I know  
5 that the need is to have it be, this is the universe from  
6 which the certifier, you know, can decide that either, yes,  
7 this, it can be used, nonorganic can be used for this purpose  
8 or not. Am I being clear? Am I too -- have I had enough  
9 coffee this morning?

10           MS. CAROE: Let me just address this really  
11 quickly. You are right. The certifier is going to, at the  
12 moment that you provide an organic systems plan, your  
13 certifier is going to verify that you've done due diligence.  
14 However, our criteria for listing on 606 requires the  
15 petitioner to provide compelling evidence that there is some  
16 fragility of supply.

17           So in doing that, we are looking for any  
18 information about historic shortages. So most, a lot of  
19 these petitions that were rejected were because we got, you  
20 know, we got all the wonderful benefits, and the reasons why  
21 this product is needed for organic, but we didn't get that  
22 information and that data about the supply issue.

23           And yes, that's duplicative information that you  
24 give to your certifier, but it didn't get through.

25           MS. HIRSHFIELD: Get to you. Can I just make one

1 statement which is that I hope in your deliberations, you  
2 realize that June is coming, and I'm sure you all know, we  
3 certainly are well aware of it, so therefore, I hope you err  
4 on the side of caution in that you have to understand that  
5 our certifiers have that information, and if we didn't get it  
6 to you, that was a miss on our part.

7 But I hope that you will keep that in mind in your  
8 deliberations, even if you give a one year or two year  
9 extension, or whatever, so that we can provide that  
10 documentation for you, because, clearly, it's out there.

11 MS. CAROE: Joe.

12 MR. SMILLIE: Not so much a question for Nancy, but  
13 a comment on what Steve alluded to, and that is, there are  
14 organic carrots out there. There are organic cherries out  
15 there. There is no organic cherry juice that satisfies the  
16 color needs of Nancy, but that is more an issue of cost than  
17 availability.

18 MS. HIRSHBERG: No, it's not.

19 MR. SMILLIE: Are you telling me that if you spent,  
20 if you were willing to pay whatever you wanted for organic  
21 carrot juice, you couldn't get it at any cost?

22 MS. CAROE: Julie.

23 MS. WEISMAN: No. The problem is, is that people  
24 who have the equipment that can process this, who are  
25 currently using it to use, to process carrots for color for

1 the conventional industry, which are enormous volumes. I  
2 don't know the numbers. If somebody else does, that would be  
3 great. But they, it is not -- they cannot afford to turn  
4 their machines on for less than say 20 metric tons a year.

5 I mean, I'm not saying that -- there is a cost  
6 issue there, but the cost issue lives with someone who is not  
7 primarily an organic processor. And that's not how they make  
8 their living. So at the moment, in the industry, we're  
9 dealing with infrastructure that we're borrowing from the  
10 conventional. And they have a different set of criteria.

11 They're not necessarily, it's not necessarily  
12 attractive for them to turn their equipment on for 10,000  
13 pounds a year. So it's not that anybody who is making an  
14 organic product is avoiding the cost issue. It's that the  
15 nonorganic processors upon whom we currently depend, it's not  
16 worth their while.

17 MR. SMILLIE: Well, just to followup --

18 MS. CAROE: We're just going to have to make this a  
19 little bit shorter, because we do have a lot of other  
20 commentators this morning. But Jeff, go ahead.

21 MR. MOYER: I understand that Andrea, but I think  
22 it's key to the whole crux of the issue that we're talking  
23 about, so I think it's worth spending just a few minutes to  
24 talk about.

25 I understand what you are saying, Julie, but in the

1 context of most of the organic industry, that has always been  
2 true. It's true in the dairy industry. In the beginning, we  
3 borrowed processing equipment to process milk, and many of  
4 the other products. And I think it always has been an issue  
5 of cost.

6 Most companies are willing to do whatever it takes  
7 to get the product out the door, if you are willing to pay  
8 for it. You can't get it at the same price that you'll get  
9 the other juice at.

10 MS. HIRSHBERG: Well, I will just speak from  
11 personal experience, that we can't even get a foot in the  
12 door to talk to them. And they'll just say, we're not  
13 interested. Don't even -- you know, the capacity concerns,  
14 whatever. But I also want, well, just to let Emily, because  
15 this will really clarify it.

16 MS. ROSEN: Just very briefly, one other point  
17 about colors is that I think the gentleman from GTC was here  
18 last time. Hopefully they will be here later. But it's a  
19 different production process to develop vegetables for color.  
20 It's not like growing vegetables for vegetables. They grow  
21 specific varieties. They grow them closely spaced. They  
22 harvest them at a different maturity, so that they are fully  
23 advanced, you know, whatever the color pigments are. And  
24 they have to be harvested at the plant right away. So they  
25 generally grow them very close to these processing plants.

1 So they just haven't developed to the supply yet is the  
2 problem. And it can be done, but it's not there.

3 MS. CAROE: Joe, do you have a comment?

4 MR. SMILLIE: Well, actually, Emily said what I was  
5 going to say. Carrots are not always carrots.

6 MR. MOYER: Oh, I understand.

7 MR. SMILLIE: I mean, the carrots that you grow for  
8 color are different, not in every case. And we've got a long  
9 list. And one of the problems this committee had, was that  
10 we've got a long list of colors. Some of them, you know, a  
11 cherry might be a color cherry. But a carrot is not a color  
12 carrot. So we have to go through.

13 And again, to back up what Julie said is that, we  
14 had a lot of color petitions that did nail down that  
15 insufficient data thing. We went and we talk to these  
16 different grower groups, and this is the report on what we  
17 could get grown. We said, bingo, done, well, you got it.

18 Other color petitions just didn't have that  
19 information. I'm sure they're in the same case, but we can't  
20 rule on something that isn't in front of us.

21 So what our plea was, in rejecting that list of  
22 color is that please, those people who petitioned it, not the  
23 end users, but the people who petitioned it, have to come  
24 forward and say, this is the data that we can present, that  
25 we present to you to resolve that issue of the due diligence

1 of their search for growers of these particular varieties.

2 MS. HIRSHBERG: And I'll give you an example of  
3 carrots. In addition to talking to many other potential  
4 suppliers, our existing supplier, they grow all of the  
5 ingredients for their colors. They wouldn't even consider  
6 buying it, because they can't, for the reasons we said, they  
7 can't control it.

8 They are in the process of developing an organic  
9 carrot supply, but it's, you know, we don't have it now. So  
10 they can't really go out -- they can say that, and I think  
11 they did say that in their petition, but they don't go out  
12 and source from other places. That's just not colors are,  
13 manufacturers work.

14 MS. CAROE: Is the Board satisfied with the  
15 questions. Rigo?

16 MR. DELGATO: Nancy, I just have a question. What  
17 kind of actions are you taking to encourage producers to come  
18 out with the colors that you need or the raw material that  
19 you need and so forth? Are you content to --

20 MS. HIRSHBERG: Oh no. We are actively out there  
21 working with our suppliers. So for instance, in this case,  
22 we talked to them years ago, just and frankly like the  
23 inulin, saying, you know, what is the process? How are we  
24 going to get from here to there?

25 So, and our -- in the case of a lot of colors, it's

1 frankly testing everything out there that we can find  
2 organically, so not just working with our existing suppliers,  
3 but also working with the existing suppliers to develop a  
4 process or a plan.

5           So we've come really far in colors, and frankly,  
6 flavors, too, in developing the organic. We've really  
7 increased so that we don't have that many more right now.  
8 But we're just on the final ones.

9           MR. DELGATO: How much time do you think it's going  
10 to take for you to bring, say, carrot color?

11           MS. HIRSHBERG: Carrot? Well, I know there are  
12 going to be some next year, but is it enough to cover our  
13 needs and others? I don't know that. So I can't answer that  
14 very technically right now to say, this much in '08 or  
15 whatever. So, but certainly, I would say within five years,  
16 I would think everything, maybe even sooner, that we use  
17 would be organic.

18           MS. CAROE: Any other comments, questions? Thank  
19 you, Nancy.

20           MS. HIRSHBERG: Thanks.

21           MS. CAROE: Next up is Grace Marroquin, and on deck  
22 we have Dom Repta.

23           MS. MARROQUIN: Good morning, everybody. My name  
24 is Grace Marroquin, and I'm president of Marroquin  
25 International Organic Commodities Services, Inc. My company



1 is based in Santa Cruz, California, and we import  
2 ingredients, and distribute ingredients for the natural  
3 products industry. We've been in business since 1991 in the  
4 organic industry.

5 I am here once again to support the classification  
6 of yeast on the national list as an agricultural product.  
7 This change would raise organic standards in a variety of  
8 processed foods. It would make it a requirement that these  
9 foods use organic yeast instead of conventional yeast.

10 As long as yeast is a nonagricultural product under  
11 section 205.605 A, manufacturers have the right to use  
12 traditional conventional yeast and still label their product  
13 organic. Certifiers have no way to require them to use  
14 organic yeast alternatives.

15 Organic yeast is far superior to conventional yeast  
16 for organic products. Organic yeast is grown on organically  
17 produced grains. Furthermore, there are no chemicals, like  
18 the ones that are being used in conventional yeast right now.  
19 There is no ammonia. There is no sulfuric acid. There is no  
20 caustic soda lye. There is no synthetic vitamins, and there  
21 are no synthetic anti-foaming agents.

22 In conventional yeast production, the waste water  
23 must be treated before disposal to avoid pollution, and I  
24 believe there are even special licenses required to handle  
25 it. In organic yeast, the waste water is a raw material

1 available for further production of other organic products.  
2 And that says a lot.

3           Because of the chemicals used making conventional  
4 yeast, the view developed in Europe that conventional yeast  
5 was not -- the view developed in Europe was that conventional  
6 yeast was not compatible with organic farming or food  
7 processing.

8           In 1980, a German Company, Agrono GMBH based in  
9 Riegel, Germany, began to develop an organic production  
10 method for yeast. In 1995, Agrono began marketing bio-real  
11 organically produced yeast. Our firm began importing it  
12 from, in 2002, and we are their North American agent.

13           The reason I am here is to request to move yeast  
14 from nonagricultural to the agricultural column, so that  
15 organic yeast can be a preferred organic ingredient subject  
16 to commercial availability.

17           Why has it taken so long, so very, very long, two  
18 and a half years? The Board first wants to have an overall  
19 policy to decide which materials should be agricultural as  
20 opposed to nonagricultural.

21           At the last meeting of the Board, last October, the  
22 Handling and Materials Committee offered a joint proposal.  
23 It would settle the ag/nonag questions as part of this  
24 proposal. Both committees agreed that yeast was an  
25 agricultural product, and thus should be listed in sections

1 205.606.

2           This drew a lot of public comment, urging the Board  
3 to go slow. The Board voted to postpone further action, so  
4 that it could study the points raised. As we heard yesterday  
5 at the upcoming fall meeting, the Handling and Materials  
6 Committee plans to take this up and present a new proposal.

7           Let me try to sort this out where the matter  
8 stands. The proposal of the two committees, the one you have  
9 heard, the one you have in your Board books is basically  
10 sound, however, the public comment raised is some valid  
11 questions. Some of the commented, some of the comments  
12 objected to, including dairy cultures as agricultural.  
13 Yeasts are not bacteria, but dairy cultures are bacteria.

14           These were concerns about what it would mean to  
15 classify bacteria as agricultural, both for food and  
16 livestock feed. If bacteria would be designated as  
17 agricultural, then all bacteria and other microorganisms fed  
18 to livestock would also have to be organic.

19           Yeast is the only microorganism that is being  
20 produced organically. It would be premature to address the  
21 agricultural status of other microorganisms at this time.  
22 There were other questions, though, that came up specifically  
23 about yeast.

24           To respond to these questions we have filed a full  
25 length, our full length comments are on the new [www.regs-](http://www.regs-)

1 [regulation.gov](http://www.regulation.gov) website, and these are comments 0090 and  
2 0090.1. I have two main questions to address.

3           Yeast in livestock. There would not be a problem  
4 for organic livestock operators if they were to be required  
5 to use the yeast. I spoke with Midwest Bio Ag, a firm that  
6 in 2002 had developed an organic yeast for supplements.  
7 Because there were no rules requiring this, they ended up  
8 having to fold. Basically, they let their certification  
9 lapse. The equipment got sold. And it's sitting now in some  
10 empty warehouse, and they lost a lot of money. The product  
11 they produced was Rye Gain.

12           And I've spoken to them, and they said that they  
13 had enough yeast to be able to produce for the needs of the  
14 Livestock Committee. I've made it my business before the  
15 fall meeting to speak to other yeast producers to be able to  
16 see if the other ones can come on board with the yeast. I  
17 don't think there's a problem, from my initial conversations.

18           I'm going to cut to the chase here, but jump to  
19 another point, which is the EU will be adopting new organic  
20 standards later this year. The new EU regulations separates  
21 yeast from other microorganisms.

22           Unfortunately, I can't finish this, but what I'm  
23 here to do is to ask you to defer the yeast petition, meaning  
24 that you have so many other ones on your plate right now, and  
25 re-evaluate it again in fall.

1 MS. CAROE: Any questions from the Board? Joe?

2 MR. SMILLIE: I take it that that's what you want  
3 us to do, because you want us to come up with the finalized  
4 recommendations?

5 MS. MARROQUIN: Yes, exactly. I think you can't  
6 make a real decision on this until you decide what's ag or  
7 nonag. I mean, that's really the crux of it. And one of the  
8 things I'm concerned about is given what the status is, how  
9 the EU is handling this is, they are separating it out.  
10 They're not, they're separating yeast out from other  
11 microorganisms.

12 And if their draft passes with yeast in it, they're  
13 going to require yeast for food and feed. So then not only  
14 do we have our own issues here, but we, now we are creating  
15 another trade barrier because yeast is used a lot in various  
16 kinds of crackers and snacks. And any kind of snack going  
17 overseas will not be able to be used because now we've  
18 created this disharmony with the regs.

19 It's not final yet, but that's what's being  
20 proposed, and it's gone through the first acceptance. And  
21 yes, I'm asking for you to look at the ag part of this before  
22 you make a decision.

23 MS. CAROE: Okay. Joe.

24 MR. SMILLIE: Right now there is a debate in the  
25 certifier community over the certification of organic yeast.

1 There is actually USDA accredited certification organizations  
2 that are certifying yeast. I don't see people here. And I'm  
3 just wondering what the NOP, how the NOP views that?

4 MS. CAROE: Mark.

5 MR. SMILLIE: Is it within the realm of ACA to  
6 certify organic yeast, if they believe it meets the USDA NOP  
7 regulations?

8 MR. BRADLEY: Mark Bradley, National Organic  
9 Program. The first certified yeast that I was aware of I saw  
10 listed is ingredients yesterday. And certification is for  
11 agricultural products.

12 MR. SMILLIE: Right.

13 MR. BRADLEY: So it would be difficult to certify  
14 something that is listed as a nonagricultural product. But  
15 there are inconsistencies in the way that the regulations are  
16 being applied, between certifiers. And it brings in the  
17 issue of flavors as well. So this is something the program  
18 is looking into.

19 MR. SMILLIE: So once again, the program would look  
20 to the NOSB to create that definition and give you a  
21 recommendation?

22 MR. BRADLEY: Yes, we would really like that.

23 MS. MARROQUIN: So, and Joe, I would like to add  
24 that right now the way the NOP is dealing with some other  
25 nontraditional production systems, in that they don't have

1 specific standards for mushrooms, and they don't have  
2 specific standards for bee keeping and greenhouse production,  
3 and yet these have been treated separately, and they're being  
4 certified presently. And we're asking for yeast. Until you  
5 have those standards, that you just treat it the same way as  
6 you have been with mushrooms and bee keeping and greenhouse  
7 production.

8 MS. CAROE: Grace, as the petitioner, you have the  
9 right to take your petition off the table. Is that what you  
10 are requesting to do?

11 MS. MARROQUIN: Until the fall meeting.

12 MS. CAROE: Okay. We will not take it up at this  
13 meeting, then. We will not discuss it today. The petitioner  
14 has a right to take this off the table, and she has done so.

15 MS. MARROQUIN: Until fall, though. No longer.

16 MS. CAROE: Thank you, Grace. Anymore questions  
17 for Grace? Okay, thank you. So we have Dom Repta, followed  
18 by Kelly Shea. You're on deck.

19 MR. REPTA: All right. Thank you. This is my  
20 second time here. I am from British Columbia. I was here  
21 the last time, and I'm here to talk about the aquaculture  
22 standards.

23 My name is Dom Repta. I'm here from the Coastal  
24 Alliance for Aquaculture Reform, and more specifically, the  
25 Friends of Clockwood Sound, which is one of the hubs of

1 salmon farming in British Columbia. And I am here presenting  
2 various ENGO's, scientists, and first nation groups who have  
3 been in British Columbia for thousands of years. I think it  
4 was said yesterday hundreds of years, but it actually is  
5 thousands of years.

6 I would, I am here to -- I only have five minutes,  
7 but I'm here to say we do support the Livestock's  
8 recommendation that species that require wild fish food be  
9 excluded from the aquaculture standards, and of course, any  
10 standards that would -- we're here also to support  
11 recommendations to exclude the open net pens from the  
12 aquaculture standards as well.

13 I do understand that this will probably be taken up  
14 at a later time, but I will give a few comments on that, and  
15 then progress onward from there. So a couple of new things  
16 since the last time I was here in British Columbia.

17 Of course, we do rely on peer review science for  
18 kind of the basis of our work. A new submission and a new  
19 peer review paper came out just a month ago that was showing  
20 that open net aquaculture, as far as sea lice, which is a  
21 major problem in British Columbia. We have vast amounts of  
22 wild salmon, and the interaction between farmed salmon and  
23 wild salmon just isn't proving to be sustainable.

24 A new paper which we have, we have a collaboration  
25 with another, the largest salmon farming company in the



1 world, and we have our on farm data showed that 12 salmon  
2 farms, which is more that in British Columbia, produced  
3 billions, not millions, they produce billions of sea lice  
4 eggs, which, of course, in turn, creates billions of sea  
5 lice.

6           And as our last submission showed, and my last  
7 talk which really did weigh a lot on sea lice showed that sea  
8 lice are impacting migrating juvenile salmon in British  
9 Columbia. We've seen drastic population declines in some of  
10 the rivers and some of the populations in the archipelago.  
11 And one can assume, as global trends show this happens  
12 elsewhere in British Columbia. The problem is, we don't have  
13 the science. We don't have the money to do the studies. And  
14 industry might have the data, but the data is not shared.

15           So again, so we're talking about billions of sea  
16 lice impacting wild salmon. So we are really, really pleased  
17 that the recommendation is to exclude open net aquaculture.

18           Also, there is one salmon farm in British Columbia  
19 who is claiming to operate under organic principals, and in  
20 personal communications with this salmon farm, we have found  
21 out that in 2006, they have had at least 46 sea lion deaths  
22 in their farms.

23           And again, this is just one of the inherent  
24 problems with open net aquaculture. You can't control the  
25 inputs and you can't control the outputs. And this farm is

1 probably as sustainable as you can get in British Columbia,  
2 yet we still have 46 sea lions, major keystone species in  
3 Clockwood Sound, and we have 46 sea lions dying.

4           Yesterday, I heard there was a chef here talking  
5 kind of on behalf of our groups. And he had mentioned that  
6 organic salmon farming can never happen. Then he was  
7 questioned about it.

8           And I am here to say, organic salmon farming can  
9 never happen. And I would appreciate some questions about  
10 that. I understood you did have some questions. Can it  
11 ever, ever, ever be organic? It can never ever, ever, ever  
12 be organic. And that's just the way it is.

13           Organic salmon farming can be less unsustainable.  
14 For sure. And there are some global initiatives doing this.  
15 There is closed containment initiatives. We work in  
16 collaboration with something called a salmon aquaculture  
17 dialogue, which works with WWF, probably about four other  
18 ENGO's, a couple of the main producers globally, some  
19 scientists, some first nations. And we work on moving the  
20 industry to closed containment.

21           However, closed containment still is not organic.  
22 It's probably less organic than open net pens, but it is more  
23 sustainable. So trying to fit salmon farming in to organic  
24 framework just doesn't work. If it's closed containment,  
25 yes, it's way more sustainable. But at the same time, it's

1 more industrial. It's more intensive. It's, you have more  
2 fish in one pen. The feed conversion ratio is probably  
3 better, but at the same time, in organic farming, you can't  
4 alter the feed of 80 percent of a species and call it  
5 organic. It's just not possible.

6 So I would appreciate questions, the same questions  
7 you gave the chef, I would love. Wow, five minutes goes  
8 fast. It's a long flight for five minutes. I'm shocked all  
9 the time. Gee it was quick.

10 MS. CAROE: Do we have questions from the Board?

11 MR. REPTA: I would love some questions. I'll just  
12 say, organic and salmon farming can happen. It can be more  
13 sustainable. I know there are some organic producers here of  
14 aquaculture. It can be more sustainable. We've worked for  
15 10 years with the industry to make it more sustainable.  
16 We're not trying to shut it down. Organic is not salmon  
17 farming.

18 MS. CAROE: Okay. Members, any questions?

19 MR. REPTA: Remember, it cannot be organic.

20 MS. CAROE: Bea. Bea.

21 MS. JAMES: So if I hear you correctly, you are  
22 saying that you really don't think that organic aquaculture  
23 is a reality?

24 MR. REPTA: I'm not saying organic aquaculture.  
25 I'm saying carnivorous, open net pen aquaculture, whether

1 it's salmon farming, because that's what we're dealing with  
2 now. But the industry could change to single fish in British  
3 Columbia tomorrow. There's 56 licenses of the 120. That  
4 cannot be organic either. But, you know, catfish on land  
5 could be organic. Tilapia could be organic. It's a  
6 controlled, closed system.

7           But even if you are altering 80 percent of a  
8 carnivor's diet, is that really organic? Not really. I  
9 mean, you're supposed to adhere to the natural diet as  
10 closely as possible. And to me, altering 70, 80, 60, 50  
11 percent of a diet isn't under those principals.

12           And I come from a long organic background, too.  
13 And the one thing, we have -- I'm here on nine groups. Many  
14 of us were organic farmers, are organic farmers. I don't  
15 recall a time when nine groups would fly to Washington to  
16 oppose anything organic. It just doesn't happen. So this is  
17 really, I think, I think should be notice that the  
18 environmental groups, the ENG groups, the scientists, first  
19 nations are saying, hey, you can make it better, but come on,  
20 we've got to protect the organic name here.

21           MS. CAROE: Joe.

22           MR. REPTA: In my history of organics, it just has  
23 never happened before.

24           MS. CAROE: Joe Smillie and then Kevin Engelbert.

25           MR. SMILLIE: Just to make your flight worth while.

1           MR. REPTA: Okay, thank you. Yes, yes. 20 minutes  
2 would be great.

3           MS. CAROE: It's not going to happen.

4           MR. SMILLIE: The chair would take my head off.  
5 But do you have or does your group have any comments on our  
6 current recommendation? We are going to go back to net pens,  
7 and we will talk again. And we will explore that deeper.

8           MR. REPTA: Well, I think --

9           MR. SMILLIE: But we have a recommendation on the  
10 table, and have you guys and ladies taken time to look at  
11 that recommendation and make some comments about what is the  
12 current recommendations?

13           MR. REPTA: You might update me, but the  
14 recommendation that I am talking about is to exclude it right  
15 now. We made recommendations, we made a 30-page submission  
16 the last time I came here in October.

17           MR. SMILLIE: Right. Yes. We agree. For now,  
18 we're excluding the fish meal issue and the net pen issue.  
19 But all the other issues are steps towards an organic  
20 aquaculture recommendation are there, and I'm just wondering  
21 if you have any comments on those?

22           MR. REPTA: Well, I mean, the bar is set pretty  
23 high, although we, you know, I've looked at the standards and  
24 we've talked about them quite a lot, and we've tried to fit  
25 salmon farming, because that's the ideal one, into these

1 standards. And we just don't see it. We just can't, we  
2 can't fit it in. We can shove it in, but it's like shoving a  
3 square into a round peg.

4 MS. CAROE: Kevin, do you have questions?

5 MR. ENGELBERT: Joe alluded to a lot of it, but  
6 also, sometime, I'd like to know, did you submit written  
7 comments for this meeting?

8 MR. REPTA: I have them right here, yes.

9 MR. ENGELBERT: But not before this time?

10 MR. REPTA: No, not before the meeting.

11 MR. ENGELBERT: Okay.

12 MR. REPTA: I was, sorry, I was surfing in Mexico  
13 and skiing in Banff.

14 MR. ENGELBERT: Well, as everyone said, we are  
15 going to deal with this afterwards.

16 MR. REPTA: I know. I know. I understand.  
17 Yesterday I heard that you were going to, so I was like, what  
18 am I going to talk about today? I could talk about surfing  
19 in Mexico and skiing in Banff, but --

20 MR. ENGELBERT: But when you submit your comments,  
21 what I'm leaning to is, we need specifics. We can't, you  
22 know, we can't go by it can never be done, because we have a  
23 certain obligation to try to make it happen. And until we  
24 can be convinced that it can't, we have to proceed.

25 MR. REPTA: Well, I think, if you --

1           MR. ENGELBERT: So when you make comments, we need  
2 sound backing, not --

3           MR. REPTA: Your obligation to make it be done, to  
4 me, I don't think you have an obligation to make it be done.  
5 You have an obligation to uphold organic production.

6           MR. ENGELBERT: That's right. Yes, and that's what  
7 I --

8           MR. REPTA: Whether salmon farming fits into that  
9 or open net -- it just doesn't fit into it. And I think if  
10 you look at the wealth of scientific publications, which I  
11 did submit last time, a long list of scientific publications  
12 showing impacts of open net aquaculture, it just can't.

13           I'm not saying that it can't be done better, and it  
14 can't be done more sustainable. It can. But if it is done  
15 more sustainable, it's still not organic.

16           MR. ENGLEBERT: Yeah.

17           MR. REPTA: I mean, it can be done way more  
18 sustainable, and it will be done. And that's what we look  
19 for. But at the same time, more sustainable doesn't mean  
20 organic.

21           MR. ENGLEBERT: Right. The thing is, we've had, on  
22 conference calls, I've heard experts in this field looking at  
23 all this information and come away with exactly the opposite  
24 opinion.

25           MR. REPTA: Well, I would like to see your experts.

1 I would like to talk to them. And I would say, show me some  
2 peer review science that says the opposite, and I would  
3 gladly like to see that.

4 I mean, you might see some industry scientists, you  
5 might hear some industry folks say, it can be done. But  
6 where is the science? It's not published. It's not done.  
7 If you look at published science, the opposite.

8 MS. CAROE: Okay.

9 MR. REPTA: I think there's been 30 peer review  
10 published science saying the impacts in the last couple of  
11 years. Has there been one for the industry? It's just, it's  
12 not there.

13 MS. CAROE: One question from Bea James.

14 MS. JAMES: I was wondering if you might be able to  
15 comment, in your experience, if you have any views on the  
16 water quality maintenance and off-puts from land locked  
17 operations?

18 MR. REPTA: Actually, I was at a land-based salmon  
19 farm before the surfing and skiing tour about a month ago.  
20 And it was probably the most sustainable system I've ever  
21 seen.

22 It was raising sockeye salmon. Not a huge, not a  
23 commercial scale, but an open net aquaculture. They raise  
24 maybe 100,000 sockeye salmon, and they have a nature aquifer  
25 running through. Their off-puts, it went through a pond, it



1 went through a marsh, and the water output was really, really  
2 clean. It was super-sustainable. But it still wasn't  
3 organic. And the prof, he's a prof out of University in  
4 British Columbia, would agree. This was probably the most  
5 sustainable system I've ever seen. I'm actually working with  
6 this farmer to find a market for him to sell his fish,  
7 because it was probably the highest level of salmon farming  
8 I've ever seen.

9           People say, it couldn't be done. You can't do it  
10 on land. There's some issues with land-based salmon farming,  
11 but it was miles ahead of anything I've ever seen. The water  
12 was clean coming in. The water was clean going out.  
13 Amazing, you know, wildlife bio-indicators around the farm,  
14 raising 100,000 fish. It was great. It was phenomenal.

15           You can't have that everywhere, of course. The  
16 conditions where this farm were, were precisely what this  
17 farmer needed, cold water, sockeye salmon. I think he had  
18 nine or 10 pens.

19           At the same time, though, it was closed  
20 containment. It was relying on its carnivores, relying on  
21 altering the diet of the fish. It was super-sustainable, and  
22 the groups that I'm involved with are trying to find a market  
23 and say, yeah, this is a green, you know, a sustainable  
24 product. But it's still not organic. It's just not.  
25 Because we all understand what organic is.

1 MS. CAROE: Okay.

2 MR. REPTA: But we want to help this fellow,  
3 because he is the highest level that we've ever seen. It was  
4 a phenomenal farm. And there's two or three of them now  
5 operating in British Columbia. Even if we go to sustainable  
6 farms, closed pens and in the ocean, which we are trying to  
7 raise funds for from the government, from ministry, it still  
8 won't be organic.

9 MS. CAROE: Okay.

10 MR. REPTA: It might be less organic.

11 MS. CAROE: I think we got your message.

12 MR. REPTA: You got my message. Okay. I  
13 appreciate the time.

14 MS. CAROE: Is there any other comments from the  
15 Board?

16 MR. REPTA: For sure.

17 MS. CAROE: Okay. Thank you.

18 MR. REPTA: Actually, I appreciate the time. Thank  
19 you very much.

20 MS. CAROE: All right, Kelly Shea, you are up next.  
21 On deck is Harriet Behar. Harriet, are you in here? Great.

22 MS. SHEA: Good morning, you guys. How are you?  
23 Just in the interest of time I'll sort of skip the opening  
24 remarks to thank you all so much for all your hard work, et  
25 cetera, et cetera.

1           But I think it is important to note that it was  
2 crucial for the Board to do the in person working session  
3 that you did in February. Yet, I think that maybe some kind  
4 of public input at that time, and I don't know the best way  
5 for it to have been done, but it could have led to some more  
6 correct conclusions by some of the committees and  
7 subcommittees, and consequently really taken some burden off  
8 the Board.

9           As my friend Jim Pierce noted earlier, I like to  
10 refer to 205.606 of the national list as the entrepreneur's  
11 list of business opportunities. 606 items are those that can  
12 be made organically if the proper ingredients are  
13 sufficiently available.

14           I think it's important to keep in mind that the  
15 overarching premise of the 606 list is that the items cannot  
16 automatically be used. A certified entity must justify  
17 commercial unavailability, and their certifier must grant  
18 permission to use the item.

19           I hope you all received the document I sent into  
20 the Board on February 16th. I also sent it to the NOP asking  
21 for clarification. OFPA sets forth two different methods for  
22 allowing the use of nonagricultural, nonorganic agricultural  
23 substance. And did you all receive that letter? Are you  
24 going to address it at today's Board meeting? Okay. Never  
25 mind. Let's go on. I'll get it to you again. It's really

1 important.

2           The secretary has not yet promulgated the emergency  
3 decision making procedures. And so as we go forward, if the  
4 Board is going to hold as a strict criteria proof that the  
5 item is absolutely commercially unavailable at the meeting  
6 when you are looking at it, what happens down the road when  
7 there's an emergency. There's a hurricane. There's a  
8 typhoon. There's a crop failure. And if the Board is only  
9 meeting three times a year, there has to be procedures in  
10 place for reviewing these items. Okay. So I sucked up some  
11 time doing that.

12           606 items, White Wave Foods, my company produces  
13 the organic brands Horizon Organic Dairy, Silk Soy Milk and  
14 Tofu Town. And we want to address a couple different items  
15 today. Under colors, I want to talk about annatto, turmeric,  
16 purple black carrot juice, red cabbage juice, and then  
17 fructose, the short chain FOS.

18           Adding annatto to 606 is really critical. We have  
19 been researching and testing organic annatto colorings for  
20 the last three years, and we have yet to find a reliable  
21 source in the amounts necessary or the proper functionality.

22           One source couldn't provide the product year round,  
23 and another source turned our cheeses pink, which my kids  
24 thought was cool, but I don't think the average consumer  
25 wants pink cheese. So though we're going to continue to

1 search for an organic source, annatto must be added to 606.

2 We also support the addition of turmeric as a color  
3 on the national list. The Handling Committee noted that more  
4 information was needed on the lack of availability of an  
5 organic supply. We have been pleased to see a few  
6 entrepreneurial companies beginning to provide organic  
7 turmeric color.

8 Horizon Organic and Silk Brands do use organic  
9 turmeric color in a couple of our seasonable products, like  
10 the eggnog. But we are not able to source enough for some of  
11 our product lines that are produced year round. The demand  
12 for organic turmeric far outweighs the supply today. So  
13 until this market matures, we need you to add that to the  
14 national list.

15 Also, purple black carrot juice and red cabbage  
16 juice, they are colors that are needed to provide the red and  
17 pink hue lost in the processing of red berry products. Now,  
18 in our Horizon Organic Strawberry Single Serve Milk, it comes  
19 in little acentric tetra pack. And you can't see it. So we  
20 don't put any color in it at all. It's white. Oh, one  
21 minute. Okay.

22 I'll just -- I have all the information showing all  
23 the suppliers we've contacted and the unavailability of all  
24 these. So we can supply that to you. Okay.

25 And short chain FOS, it's very crucial that the

1 Board realize this is a nonsynthetic agricultural product,  
2 and it has been used by our company for over four years in  
3 our products.

4           These fructins, inulins, OFS's, FOS that you are  
5 going to hear about, they are used today on the market in  
6 organic bakery products, organic energy bars, organic cereal,  
7 organic yogurt, organic soy milk, and organic kafir. And a  
8 number of cert agencies, including QAI, MOSA, Organtile, have  
9 all certified these fructins as appropriate for inclusion in  
10 organic products. They've allowed their use as agricultural  
11 ingredients not commercially available.

12           And these items are on your plate today because of  
13 the Harvey lawsuit, and because of the changes to 606. And I  
14 really want you to keep that in mind when you are looking at  
15 these, that they have been used in the industry for a long  
16 time, and certifiers have found them to be appropriate.

17           MS. CAROE: Okay. Questions from the Board? Joe.

18           MR. SMILLIE: Thanks, Kelly, especially for the  
19 turmeric. Do you have any information on saffron, grape  
20 juice extract, grape skin extract, blueberry juice, cherry  
21 juice, hibiscus juice, carrot juice, pumpkin juice, tomato  
22 juice extract, purple potato juice, lycopene or beta carotin.

23           MS. SHEA: I have to admit I'm pretty much here for  
24 self-serving purposes, talking about the items that we use in  
25 our products. I am not a trade association nor a blah, blah,

1    blah.  So I'm sorry.  I don't.

2               MR. SMILLIE:  But I need --

3               MS. SHEA:  The only ones that we use --

4               MR. SMILLIE:  I needed that opportunity --

5               MS. SHEA:  Yes.

6               MR. SMILLIE:  -- what we need back from the  
7   community.

8               MS. SHEA:  I agree.  And you know what, I think  
9   that the people that use these --

10              MR. SMILLIE:  Great.

11              MS. SHEA:  -- and they have vested interest in  
12   these should be talking about them.  For me it's annatto,  
13   turmeric, purple black carrot juice, red cabbage juice, and  
14   the short chain FOS.

15              MR. SMILLIE:  We appreciate your input.

16              MS. SHEA:  Okay.

17              MS. CAROE:  Katrina.

18              MS. HEINEZ:  Hi, Kelly.  Thank you for your  
19   comments.  There was a question earlier about being willing  
20   to pay a higher price for some of these ingredients, and  
21   would that create the economic incentive.  Could you provide  
22   some perspective on that?

23              MS. SHEA:  Yes.  The cost of a product is  
24   absolutely irrelevant in determining commercial availability  
25   or unavailability.  And I think that's really important,

1 because I've heard it mentioned a couple of times by the  
2 Board.

3           When a certifying agent asks a certified entity  
4 about commercial availability or unavailability of a product,  
5 we're not discussing cost. We're discussing availability.  
6 And we've submitted comments on a definition of commercial  
7 availability and unavailability a number of years ago. And  
8 economics was not part of the discussion.

9           MS. HEINEZ: I guess the question is, if you were  
10 willing to pay more, could you make it commercially  
11 available?

12           MS. SHEA: I thought that's what I just answered.  
13 No. I mean, here is an example. In the case of the purple  
14 black carrot juice, okay, so we contacted every supplier out  
15 there, domestically and internationally. We could not locate  
16 a single source for organic red cabbage color.

17           In our search for a purple black carrot juice  
18 color, only one supplier had organic purple black carrot  
19 juice, and that was the juice, not the color form. And they  
20 are different. That particular supplier could not have been  
21 able to supply us with even the juice.

22           If we could buy the juice and go find a company  
23 that could turn it into a color for us, if that's even  
24 possible, due to their own juice needs, they couldn't have  
25 sold it to us. So it's not -- for love or money, these



1 things are not yet available.

2

3 MS. HEINEZ: Thank you.

4 MS. CAROE: Other comments from the Board? I have  
5 a couple.

6 MR. DELGATO: Yes, I do.

7 MS. CAROE: Okay. Rigo.

8 MR. DELGATO: So what do you do after that? You  
9 can't find it. Nobody is producing it. What's the next step  
10 you take?

11 MS. SHEA: Well, what we've done, you know, we've  
12 been doing this for over 15 years, is part of the  
13 development, and the reason a lot of things are available  
14 organically now is it's education and information. That's  
15 going to your suppliers and saying, this is what we want.

16 And really, there is an incentive for a  
17 manufacturer to do this. We don't really want to sit back on  
18 our haunches and not be able to list things as certified  
19 organic on our ingredient declaration. We want them  
20 certified organic.

21 So we actually, our company puts funds into doing  
22 the research. We're constantly testing products. And that's  
23 at our cost. And it's also encouraging farmers to convert to  
24 organic, helping our suppliers find organic products.

25 Some of, for example, with the turmeric, that's

1 coming from India. And so it's a matter of educating some of  
2 the farmers over there about why they actually want to get  
3 NOP accredited, because that's another issue. Some of these  
4 spices are grown overseas, and the certification agency might  
5 not be NOP accredited. There's just a lot of layers to it.

6 But we're not going to sit back, just because you  
7 put it on the list, we don't, you know, go -- and go home and  
8 not do anything. And as soon as it's available, you'll find  
9 me back up here petitioning to have it removed from 606.

10 MS. CAROE: Do we have other comments from the  
11 Board? Okay. I have a couple. I really have to defend the  
12 Handling meeting in February. As far as public input at that  
13 meeting, we do. It's called a petition. We got the  
14 petition, the petitions. There was numerous contact between  
15 the program and the petitions trying to get more information.

16 At that time, which was the last minute possible to  
17 make it for this meeting, we considered what was available to  
18 us. We had two options, as I mentioned earlier. Our options  
19 were to proceed with a novo an elicit more public comment, or  
20 to defer, defer until the October meeting. If we did that,  
21 you know, we stop commerce.

22 MS. SHEA: Agreed.

23 MS. CAROE: We are acutely aware of the June 9th  
24 deadline in getting these things. This is an atypical  
25 situation. This situation, I don't foresee in the near

1 future that we'll have another court order pushing us the way  
2 we are.

3           So, yes, maybe unconventional in our approach, but  
4 this meeting and these notices sent out were to elicit public  
5 comment. And I really appreciate you bringing to the table  
6 what you brought today. That's what we were hoping to get,  
7 the names of suppliers and the logistical battles that you  
8 have in getting these.

9           And we agree that these things have been on the  
10 market, and we want to keep them on the market if the organic  
11 consumer has accepted these as organic products. So really  
12 more of a comment than a question to you, but I did feel I  
13 needed to respond to that.

14           MS. SHEA: Yeah, and in light of that, I probably  
15 should have read my opening paragraphs about how grateful I  
16 was to all of you. But it just, I agree that it's a really  
17 unconventional time. And we know in the past, when we're  
18 looking at material petitions, that the processes always  
19 worked.

20           But I think just due to the nature of the  
21 situation, we could have maybe helped, is all I'm saying.  
22 You've had a huge burden getting through this. We always  
23 just want to help, right, be involved. It's our life, right?  
24    So --

25           MS. CAROE: Thank you for your comments.

1           MS. SHEA: But just, I want to be on record as  
2 saying, I had no issue that there was a lack of transparency  
3 about the February meeting. That is not my issue. I think  
4 the Board absolutely has the responsibility and the ability  
5 to meet whenever they want. I trust you guys. I just wanted  
6 to be able to help. That's all.

7           MS. CAROE: Thank you, Kelly. Harriet, you're up,  
8 and next on deck is Nadine Bartholomew. Nadine, are you  
9 here? Nadine? Going once -- there you go, Nadine. Check in  
10 with Valerie, please.

11           MS. BEHAR: Hello. I'm Harriet Behar, an organic  
12 farmer, an organic inspector, an organic educator. Thank you  
13 for the opportunity to speak and welcome to the new members  
14 of NOSB. While I can see that the NOP has made progress in  
15 giving direction to certifiers concerning implementation of  
16 the organic regulations, there's still a lot of work to be  
17 done.

18           Various directives, guidance, and interpretations  
19 are given either to only one certifier at a time, or to  
20 groups of certifiers at trainings. This information is not  
21 available to all certifiers, nor is it available to the  
22 public. It has been over five years since the OFPA was  
23 implemented with the organic rule, and the National Organic  
24 Program does not yet have a program manual, one that is  
25 transparent, clear and effective.

1           Certification agencies need to have this type of  
2 manual in order to become accredited, and it is time for the  
3 NOP to put this in place for themselves as well.

4           In addition, the OPFA voted the appointment of a  
5 peer review panel which has not yet materialized. The  
6 maturation of the NOP cannot occur, and trust in the organic  
7 integrity is lessened without these two critical pieces  
8 necessary in the day to day administration of the NOP, as  
9 well as peer review of the accreditation process.

10           I'm concerned that the NOSB recommendation on  
11 commercial availability, which directs certification agencies  
12 to continually review items on 606 as not currently available  
13 as organic will not be consistently implemented by all  
14 certification agencies without clear directive from the NOP.

15           Many other NOSB recommendations have not either  
16 become regulation or directives, and to certifying agencies  
17 and to their producers. Again, a program manual would  
18 hopefully have a process for incorporating these NOSB  
19 recommendations into the implementation of the law, or offer  
20 a framework for a continued dialogue if those recommendations  
21 are not acceptable to the NOP.

22           The hard work of previous NOSB's as well as your  
23 hard work and all of the public comment received represent a  
24 strong foundation for retaining the excellent representation  
25 of the word, organic, which it currently has in the

1 marketplace.

2           The NOP should work closely with the NOSB and not  
3 ignore the recommendations. Get them someplace where people  
4 can find them and use them.

5           Another example of this is the recent NOP statement  
6 at a certifier training disallowing community growing groups  
7 with internal control systems, due to concerns over conflict  
8 of interest. A 2002 NOSB recommendation on this type of  
9 organic certification system was never implemented by the  
10 NOP, and addresses many of these core concerns.

11           I believe the legitimate NOP concerns of conflict  
12 of interest can be dealt with, and I do not see anyplace in  
13 the AFPA or the regulation that formally denies this type of  
14 certification. Other recommendations have also not been  
15 acted upon, such as pasture, mushroom, or aquaculture  
16 standards, resulting in inconsistent organic certification.

17           Organic products command a significant premium in  
18 the marketplace due to consumer confidence in organic  
19 integrity. Inconsistent definitions of any organically  
20 labeled product in the marketplace is damaging to all  
21 organically labeled products.

22           I would like to voice support for clarity on the  
23 issue of cloning. Although tracking the progeny of cloned  
24 animals may not be an easy job, I believe the organic  
25 community should take a strong stance on this issue, and make

1 it clear that this method, not just for the first, but all  
2 subsequent generations, if not compatible with organic  
3 production.

4           The use of GMO crops such as fertilizers, dry  
5 soybean meal, mulches like GMO corn stalks and vitamins are  
6 currently allowed in organic agriculture, since the specific  
7 GMO traits are not being exploited in the foreign system.  
8 The presence of these GMO's on organic farms or in organic  
9 food can be seen as lessening the integrity of the organic  
10 product. And perhaps it is time for the NOSB to look at this  
11 issue and openly discuss it, rather than choosing to ignore  
12 it and allowing there to be various interpretations of what  
13 is and what is not allowed.

14           I believe the aquaculture standards still need a  
15 lot more work, and perhaps the scope to be considered should  
16 be narrowed down to the systems that we feel comfortable can  
17 meet the current NOP requirements. This would include pond  
18 or raceway raised fish, rather than fish in open waters.

19           Organic fish should be held to the same high  
20 standards as all other organic livestock, with 100 percent  
21 organic feed and health care. The organic consumer demands  
22 no less.

23           In the NOSB manual it states that annotations  
24 should not be changed when materials are offered for the  
25 sunset review. This prohibition takes away an important tool

1 which would allow for modification to better meet the needs  
2 of our dairy producers and safeguard organic integrity.

3 MS. CAROE: You timed that pretty close. Comments  
4 from the Board. Joe.

5 MR. SMILLIE: A couple things, Harriet. We will  
6 have a discussion on peer review. Our committee is looking  
7 at it and --

8 MS. BEHAR: Thank you. And thank you from --

9 MR. SMILLIE: Right. And we do, we do expect to  
10 have a recommendation for the October Board meeting, and we  
11 are looking for input at this point in time. Also, again,  
12 the group certification issue has just come up. It's not on  
13 our agenda, but our committee will be taking that up, and we  
14 will be looking for comments on the current NOSB  
15 recommendation of 2002.

16 If there is any update, updating needed on that  
17 document, or any input from the community on that document,  
18 we are looking for input on that document, because that's  
19 basically what we're going to lead with as far as our  
20 committee work. And I'm fairly certain we'll have a  
21 recommendation on that issue for the October meeting, which  
22 is our next meeting.

23 The only thing I would disagree with you on is, I  
24 believe that the current aquaculture recommendations do  
25 exactly what you're saying here. We did narrow the scope --



1 MS. BEHAR: Yes. Yes.

2 MR. SMILLIE: -- to what we felt was, you know,  
3 herbivorous fish without net pens and all.

4 MS. BEHAR: So there is my support.

5 MR. SMILLIE: Okay. Great.

6 MS. BEHAR: But one of my points was, is that your  
7 recommendations don't always become a strong directive to  
8 certifiers, and so some, and it's actually very clear from  
9 the NOP that an NOSB recommendation is not the reg. And so  
10 my concern is, there isn't a clear process for turning those  
11 recommendations into something that is publicly known and  
12 used by all, because some do follow the recommendations, some  
13 do not.

14 I just mostly know the upper midwest, and I know  
15 maybe eight or 10 certifiers active in that area who are  
16 using different interpretations. And it's really hurting  
17 farmers and consumers by not having consistent definition.  
18 And I think a program manual would help.

19 MR. SMILLIE: It's very clear the NOSB has  
20 outstanding statutory powers compared to other factor groups,  
21 and we do have, do have statutory powers as far as the list  
22 goes. Anything else that the NOSB recommends is at the  
23 pleasure of the Secretary of Agriculture to accept or not  
24 accept. They do not have to, nor are they bound to respond  
25 to our recommendations if they don't want to.

1           So all we can do is put them out there, and they do  
2 not have any force whatsoever unless it, unless the  
3 collaboration, unless they need to utilize it.

4           MS. BEHAR: And I'm concerned that the commercial  
5 availability recommendation that you are making that  
6 certifiers need to do on 606 will also not be consistently  
7 implemented, because it's not in the reg.

8           MS. CAROE: Well, let me --

9           MR. SMILLIE: Okay.

10          MS. CAROE: There's a couple of things. Valeria  
11 Frances wants to talk, but I also want to explain really  
12 quickly that, you know, we're developing a collaboration with  
13 the program.

14          MS. BEHAR: Yes, I know that.

15          MS. CAROE: And it's just gaining leaps and bounds.  
16 It really is. So some of the old recommendations back when,  
17 you know, the Board was doing a lot of work kind of without,  
18 without better communication with the program.

19                 Some of those things stopped because of logistical  
20 problems with government. And so they are kind of in limbo  
21 land. And I think Valerie is going to speak on that, you  
22 know. She has been tasked with looked at all those  
23 recommendations, finding out where they are, and seeing  
24 what's salvageable and how we can work together on it.

25                 Moving forward, our new recommendations, involve

1 the program a lot more heavily, so that we can come up not  
2 only with a good recommendation, but a method for  
3 implementing it. And we've had discussions with Mark Bradley  
4 and with the program about certifier training, accreditation,  
5 where can we instill this consistency. So we are acutely  
6 aware of what you've spoken of.

7 MS BEHAR: Thank you.

8 MS. CAROE: This are growing pains, and this is  
9 areas where we are learning, you know, until we get it out  
10 there and running, we really don't identify all the hitches.  
11 And I think you're going to be seeing some improvements, but  
12 I do appreciate you keeping us updated on what's happening  
13 there. Valerie, do you have comments?

14 MS. FRANCES: Yes, Harriet, I just wanted to  
15 address what you said for the record. I mean, I've been, one  
16 of the things I've been tucking in, along with everything  
17 else, is cataloging ever recommendation ever made, and going  
18 back and reading minutes from like 1992 all the way forward.  
19 And I think I must have 10 or 15 pages of spread sheet of  
20 every recommendation and what's happened. I'm working on  
21 that.

22 With everything else, you just sort of work real  
23 hard on something, then you have to put it aside and do  
24 something else, and then come back to it. So we will be  
25 getting through these things. It just --

1 MS. BEHAR: Well, I look forward to seeing the  
2 process where some of these recommendations can come into  
3 place, and they're open to the public and all certifiers, so  
4 there is consistency. Thank you.

5 MS. CAROE: Okay. We have Nadine up, and then  
6 followed by Luke Kazmierski. I hope I didn't hurt that too  
7 badly.

8 MS. BARTHOLOMEW: Good morning Committee members,  
9 and attendees of this meeting. I'd like to thank you for the  
10 opportunity to comment today. I make these comments on  
11 behalf of the Sustainable Seafood Initiative of the Monterey  
12 Bay Aquarium, so at the end, I'm not prepared to answer  
13 comments outside of what's outlined in this paper.

14 Since it's inception in 1984, the mission of the  
15 Monterey Bay Aquarium has been to inspire conservation of the  
16 oceans. For the last six years, the Sustainable Seafood  
17 Initiative has been working to foster consumer and business  
18 awareness and action for sustainable seafood.

19 Over this time, we have distributed over 20 million  
20 easy to use pocket guides to consumers throughout the United  
21 States. We have previously submitted comments during this  
22 process, and contribute further to the discussion here today.

23 First, we would like to thank you for your careful  
24 attention to the development of organic aquaculture  
25 standards. We applaud your decision to prohibit the use of

1 open water net pens, and to prohibit the use of fish meal and  
2 fish oil in organic production at this time, given the  
3 opposition by NJO and the uncertainty of compliance of open  
4 water net pens, and wild fish input with organic principals.

5           We are in support of organic aquaculture in systems  
6 where inputs and outputs can be carefully controlled and for  
7 the species that are compatible with available organic feed  
8 inputs. At this point, it is unclear whether production of  
9 high feed input species like salmon grown in open water net  
10 pens can ever be consistent with organic production  
11 principals.

12           The inconsistencies with organic production  
13 surround the high use of marine resources for feed, the  
14 effects of escaped fish on adjacent wild stocks, the affects  
15 of disease and parasite transfer from farmed fish to wild  
16 fish, the release of chemicals for health management into the  
17 environment, the disturbance of local predator communities.  
18 Additionally, the nature of open net systems means lack of  
19 control over these inputs and outputs which is inconsistent  
20 with the idea that organic equals control.

21           All of these scientifically documented impacts, and  
22 the lack of control over inputs must be addressed if  
23 production in open systems can be considered organic.

24           With respect to the use of fish meal and fish oil  
25 we suggest that certifying the use of wild fish as an organic

1 feed input is a direct contradiction of organic principals,  
2 and the requirements of controls at all levels of production.

3 In addition, the reduction and complete elimination  
4 of fish meal and fish oil is also not consistent with organic  
5 principals which state that species must be fed a diet  
6 consistent with their natural diet. This suggests that fish  
7 meal and fish oil will have to be derived from organic  
8 seafood byproducts, for example, Tilapia, if carnivorous  
9 species are to be certified organic.

10 Furthermore, although it has been argued that some  
11 reduction fisheries are sustainable, present fishery science  
12 models give little consideration to the importance of small  
13 pelagic fish in the wider ecosystem.

14 The ecosystem's sustainability of reduction  
15 fisheries must be resolved before species heavily dependent  
16 on these feed inputs can be certified as either sustainable  
17 or organic.

18 While it is likely that alternatives to fish meal  
19 and fish oils will be developed, it is unclear whether the  
20 ecological sustainability concerns, and by this we mean both  
21 the sustainability of catches and ecosystem effects, needs of  
22 sustainability of -- the needs of, sorry, the fish physiology  
23 and the tolerance of the human palette can be adequately  
24 aligned in a way that is organic.

25 In closing, the USDA organic label is an

1 established and trusted name to consumers, and organic  
2 production principals were never designed to be all  
3 inclusive. We would like to emphasize the importance of  
4 ensuring that the aquaculture industry adapts its production  
5 practices to meet the principals of organic production, and  
6 not vice-versa.

7           Given the numerous ways that the production of  
8 carnivorous fin fish in open systems are incongruent with  
9 organic production principals, we conclude that trying to  
10 certify these species produced in open systems at this time  
11 could erode the high standing that the USDA organic label has  
12 for consumers and business.

13           I'd like to thank you again for the opportunity to  
14 comment on behalf of the sustainable seafood initiative of  
15 the Monterey Bay Aquarium.

16           MS. CAROE: Thank you, Nadine. Questions from the  
17 Board? Thank you. Thank you. Up next is Luke Kazmierski.  
18 On deck, Coni Francis.

19           MR. KAZMIERSKI: Hi, good morning. Coni Francis  
20 that's scheduled to speak after myself, is also from GTC  
21 Nutrition. We have a Powerpoint presentation that we put  
22 together, and I'm planning on doing the first half of the  
23 presentation, and Coni Francis was going to do the second  
24 half of the presentation, if that's okay with the Board.

25           MS. CAROE: Board members, can you see the screen?

1 You might want to scoot around.

2 MR. KAZMIERSKI: The presentation is being passed  
3 around. A note with the screen that's up right now, and the  
4 presentation that's being handed out, we did reference our  
5 comment that was sent in for the initial recommendation that  
6 was done in February. It's on the slide that's up there now,  
7 but not on the presentation that's being distributed.

8 All right. First of all, Coni and I would like to  
9 thank you for letting us speak today on short chain  
10 fructoligo saccharides, or short chain FOS. And we're here  
11 to answer any questions that the Board has with short chain  
12 FOS.

13 Can you go to the next slide? Short chain FOS is  
14 found in nature at very low levels in a variety of fruits,  
15 vegetables, and grains. In order to obtain the same amount  
16 of short chain FOS as found in our product, you can see by  
17 the slide, one would have to consume 22 bananas, 15 onions,  
18 and 383 garlic cloves. Next.

19 Processing of short chain FOS begins with sugar  
20 beet and sugar cane plants. The beet or cane sugar is  
21 fermented using a naturally occurring enzyme to make the  
22 short chain FOS. I'd like to note that the short chain FOS  
23 that's created is the same form as short chain FOS that is  
24 found in nature. Clearly, by this, it is an agricultural  
25 product.



1           Short chain FOS is currently used in organic  
2 products, which means it has been approved by a USDA  
3 accredited certifying agent.

4           Short chain FOS is made by the fermentation of  
5 sugar. As defined by law in the NOSB recommendations,  
6 fermentation is an approved processing method for  
7 nonsynthetic substances, and therefore short chain FOS should  
8 be considered nonsynthetic.

9           When utilizing the NOSB's decision treaty to  
10 determine whether or not a substance is agricultural versus  
11 nonagricultural, there are several questions that are posed.  
12 First, is the substance in question derived from an  
13 agricultural product? And in regard to short chain FOS, the  
14 answer to that would be yes. The substance is derived from a  
15 sugar cane or sugar beat plant.

16           Has the substance been processed to the extent that  
17 it's chemical structure has been changed? The answer to that  
18 question is yes. The sugar is fermented to make short chain  
19 FOS.

20           Is the change in the chemical structure a result of  
21 a natural occurring biological process such as fermentation?  
22 Again, the answer would be yes. The sugar is fermented to  
23 make short chain FOS, the result of a natural occurring  
24 biological process which is fermentation.

25           Again, I guess I would want to reiterate with that

1 slide that the product would be considered agricultural, and  
2 would be properly classified under 205.606.

3 All right. In the initial Handling Committee  
4 recommendation for short chain FOS, there was some confusion  
5 in regard to the status of the substance. And I just wanted  
6 to note, in November of 2000, the FDA did affirm that short  
7 chain FOS is indeed generally recognized as safe.

8 Next line. Short chain FOS is agricultural and  
9 nonsynthetic, and the question of essentialness does not --  
10 and therefore the question of essentialness does not apply.  
11 However, short chain FOS is essential to organic handling  
12 because it's a prebiotic fiber source. It enhances mineral  
13 absorption. It improves the digestive function and  
14 regularity, and also inhibits pathogen growth.

15 Coni Francis is now going to talk in regard, more  
16 to you about the essentialness of the product.

17 MS. FRANCIS: Good morning, and thank you for  
18 letting us come and help to clarify some of the things that  
19 were not clear to the Board. And we do apologize that our  
20 petition wasn't clear enough for you to understand.

21 I'd like to go forward and talk about each of these  
22 things, the fiber source, and the prebiotic function of it,  
23 and talk about the essentiality of it.

24 If you look at the definition that the American  
25 Association of Cereal Chemists has for fiber, you'll see that

1 oligo saccharides is, in fact, highlighted as part of that  
2 definition. So this definitely is a fiber.

3 In terms of the prebiotics of this particular thing  
4 -- in terms of fiber, let's go back and talk about that, one  
5 of the problems that we have in this country is that there is  
6 definitely a gap in the amount of fiber that's recommended,  
7 which is about 28 to 35 grams per day, and the amount that's  
8 actually consumed, which is about half of that.

9 And so we are not consuming enough fiber, and  
10 therefore we are having issues that are coming up, you know,  
11 that are health issues. And certainly we want to be able to  
12 provide fiber to individuals in the food stuffs that they are  
13 eating.

14 In terms of this being a prebiotic fiber, if we  
15 look at the definition of a prebiotic fiber, it is a  
16 substance that, in fact, helps the good bacteria in your gut  
17 to grow. And this is a positive thing, because, in fact, if  
18 we nourish the gut, then we improve digestion, and we improve  
19 a lot of other things. And most of the prebiotics are oligo  
20 saccharides that are used to nourish these prebiotics.

21 I also want to speak to the calcium, magnesium and  
22 other minerals absorption, just by giving you a few  
23 statistics about bone health in this country. Right now  
24 about 90 percent of girls and about 75 percent of boys  
25 between the ages of nine and 13 are not getting enough

1 calcium to achieve peak bone mass.

2           Now, if we think that those of us who are in our  
3 fifties and sixties are looking at an issue with  
4 osteoporosis, I am very frightened about what's going to  
5 happen when these children reach their thirties and forties,  
6 because they are not getting enough calcium from their diet.

7           In addition, 10 percent of Americans overall have  
8 low bone mass, and an additional statistic is that about 50  
9 percent of women and 25 percent of men over the age of 50  
10 will likely suffer an osteoporotic fracture in his or her  
11 remaining lifetime. And so our intention is to be able to  
12 utilize more of the calcium that's found naturally in foods.

13           Again, we have a gap of calcium between what's  
14 recommended, which is about one to 1.2 grams per day, and  
15 what we're taking in, which is about half to three-quarters  
16 of what's required. And considering the fact that we only  
17 absorb about 30 percent of the calcium that we take in, if  
18 there is a substance that would allow us to achieve more  
19 calcium absorption, it makes sense to do that when it's also  
20 providing other benefits in terms of fiber and the prebiotic  
21 effect of that.

22           In terms of digestive health, about 20 percent of  
23 Americans are suffering from some kind of digestive disease.  
24 And those of you that have had the occasional heartburn or a  
25 little bit of stomach upset, you know how annoying that can

1 be, and how difficult that is for an individual to live with  
2 on a regular basis. And so if there is something that we can  
3 naturally eat in our diet that, in fact, will allow us to  
4 have better digestive health, that's certainly a positive in  
5 terms of where we would go.

6           This particular graph is just to show that with  
7 short chain fructoligo saccharides, in fact, it doesn't  
8 matter whether it's at the beginning of the large intestine  
9 or the end of the large intestine. You can see that when  
10 short chain FOS is added to the diet, there is definitely an  
11 increase in the number of intestinal cells per crypt, which  
12 means that you've increased the absorptive area, and in fact,  
13 you are improving digestion because you have more surface  
14 area for nutrients to be digested upon.

15           Also, one of the things that these fructoligo  
16 saccharides do when they are fermented in the intestine, the  
17 bacteria there creates something called short chain fatty  
18 acids. These short chain fatty acids reduce the ph in the  
19 gut, and therefore they increase the ability of the  
20 bifidobacteria to live, but it decreases the amount of  
21 pathogens.

22           So this is showing that as we have average counts  
23 of bifidobacteria increasing, in fact, clostridium  
24 profringins, which is a known born food borne pathogen  
25 actually decreases. So, you know, we don't change the number

1 of bacteria in the gut, but we can modulate them to be better  
2 bacteria for us in terms of health.

3           So just to reiterate, short chain fructoligo  
4 saccharides or short chain FOS, is consistent with organic  
5 principals. In fact, it is found in nature in very small  
6 amounts, but the product that is produced is exactly that,  
7 that is in nature. And it is created by fermentation, which  
8 is a naturally occurring process.

9           And therefore, we would respectfully request that  
10 you add it to the national list as a 606 category.

11           MS. CAROE: Thank you. What timing.

12           MS. FRANCIS: Right on.

13           MS. CAROE: Board members, questions? Comments?

14           MS. FRANCIS: We can both answer questions.

15           MS. CAROE: Questions or comments? Bea.

16           MS. JAMES: Well, first of all, you didn't mention  
17 anything about the possible side effects of FOS, and I know  
18 that some people do have a negative reaction in their  
19 digestion.

20           Secondly, I, you know, I don't, I don't understand  
21 if this is an added value ingredient into products, or if it  
22 is something that is necessary and has to be in the products  
23 for it to be proper form, function, quality, texture.

24           And I think that the side effects of a poor diet  
25 are not necessarily the responsibility of organic agriculture

1 or products. If it were, there would be a lot of other added  
2 value ingredients that we would be considering because, as  
3 you know, most people do have struggles with having good  
4 diet.

5           So I was just wondering if you could make comment  
6 on the essential importance of FOS being in an organic  
7 product?

8           MS. FRANCIS: I think part of that is the fact that  
9 if we look at what the consistent values, you know, people  
10 think of organic as being healthier for you, and these  
11 products are being used, these oligo saccharides and  
12 prebiotics are being used in all sorts of conventional  
13 products.

14           And so what I would hate to see is for a consumer  
15 to have to make a choice between eating the organic version,  
16 or the regular version, because one of them is going to  
17 provide me with this benefit of having additional calcium  
18 absorption, better digestion, et cetera.

19           We have provided a disk with a lot of the research  
20 to the Board. We gave it to Valerie so that you all would  
21 have that available. Our grant status shows that you can get  
22 up close to around 30 grams a day of this product, and you  
23 will have mild gas and bloating from this.

24           Typically, our recommendations are that people  
25 don't need to consume any more than three grams a day in

1 order to receive these benefits. And we have studies that  
2 show that at that level that they can achieve this benefit.

3 MS. CAROE: Tracy.

4 MS. MIEDEMA: If, for the sake of argument, we call  
5 this product agricultural and we call it essential, can you  
6 comment on availability of an organic version on the horizon?

7 MR. KAZMIERSKI: Yes. GTC has been looking into  
8 producing organic short chain FOS. We've run into some  
9 hurdles in regard to sourcing raw materials that would fit  
10 with organic principals, but it is something that we are  
11 pursuing.

12 MS. MIEDEMA: What are those materials, and what  
13 are the problems?

14 MR. KAZMIERSKI: The main ingredient is liquid  
15 sucrose that's used in production. We, in the United States,  
16 we're finding or having difficulty sourcing that, the  
17 availability of the liquid sucrose in organic form.

18 MS. MIEDEMA: What are the options? What are you  
19 thinking? Is it a number of years?

20 MR. KAZMIERSKI: We're actually, depending on what  
21 we find, we're looking at about a year from now, if we can  
22 find either a liquid organic sucrose or a means of converting  
23 a granular form of organic sucrose to liquid for the  
24 manufacturing.

25 MS. FRANCIS: Part of the problem when we do find



1 the liquid organic sugar is that it has a very short shelf  
2 life. And getting it transported to where we do the  
3 manufacturing can be problematic. So we start with a liquid  
4 product, and then we actually dry it so that it becomes a  
5 powder.

6 MS. CAROE: Kevin, you had a question?

7 MR. ENGELBERT: So the liquid sucrose you are  
8 referring to that you need to grow organic, are you saying  
9 there is no source of organic beets, or there is no source of  
10 a processing for that? I'm not sure what --

11 MS. FRANCIS: It's just, all of the organic product  
12 is made into granular sugar. And so up to this point in  
13 time, we have not found a source that is liquid that we are  
14 able to get in large enough quantities to supply for the  
15 organic market. And so we are looking into how we get that  
16 into the liquid form such that we can then make it.

17 MS. CAROE: Joe, did you have a question?

18 MR. SMILLIE: Yeah. Saying basically what Kevin  
19 said again is, if cane is included, I'm not an expert in the  
20 subject, but as far as I know, there is liquid organic sugar  
21 available. Again, quantities, quantities, I'm not sure of.

22 Once again, though, reminding everyone that it's a  
23 two-step process, putting it on 606 doesn't necessarily allow  
24 its use, if organic is available, and it would serve, you  
25 know, the industry well that the connection between the

1 organic liquid sugar and your manufacturing process get  
2 connected so that it can become available organically.

3 MS. FRANCIS: And currently, we are the only  
4 manufacturer that makes this particular product, and so  
5 therefore there isn't any other availability. It's not like  
6 some other prebiotics that there are a number of  
7 manufacturers.

8 MS. CAROE: I just, really quickly, want to remind  
9 the Board that the criteria for essential in organic is a  
10 criteria under 600, 205.600 B, which is for processing aides.

11 So under B for processing aides -- yes. It's 606 B(6) is  
12 the criteria for being essential for organic. This is an  
13 ingredient, not a processing aide as we're hearing.

14 MS. WEISMAN: I also wanted to add further to that,  
15 that these criteria in 600, these, in terms of what's  
16 essential, these have to do with synthetic and nonsynthetic  
17 substances only. They do not refer --

18 MS. FRANCIS: Right. And we are saying to the Board  
19 that we believe that we are a nonsynthetic. But we're  
20 saying, even if you consider us as synthetic, we still are  
21 showing that, you know, there is a reason to include these  
22 products.

23 MS. CAROE: Just, okay. I think we are clear. I  
24 just want to point out that the criteria is to establish for  
25 processing aides, and we are talking about a petition for an

1 ingredient. Okay. So thank you for your comments. Thank  
2 you for the Powerpoint presentation.

3 MS. FRANCIS: Thank you.

4 MS. CAROE: I have nobody on deck right now,  
5 because I was confused. But is Bob Hutkins in the room?

6 MS. FRANCIS: Actually, I have his proxy.

7 MS. CAROE: You have his proxy.

8 MS. FRANCIS: Yes.

9 MS. CAROE: So are you speaking now again, or are  
10 you --

11 MS. FRANCIS: Yes, I can do that, if that's okay  
12 with the Board.

13 MS. CAROE: Well, you are signed up.

14 MS. FRANCIS: Yes. I have his proxy.

15 MS. CAROE: Okay. On deck then is Kimberly  
16 Gilbert. Kimberly, are you in the room? Okay, great. Thank  
17 you.

18 MS. FRANCIS: This is a letter actually written to  
19 Valeria Frances, the Executive Board, and this is from Bob  
20 Hutkins who is a professor at the University of Nebraska,  
21 Lincoln.

22 Dear Ms. Frances, I am writing in regard to the  
23 status of short chain fructoligo saccharides. I am a  
24 professor of food microbiology at the University of Nebraska  
25 and have conducted research on prebiotic oligo saccharides

1 for nearly 10 years.

2 I publish numerous peer review papers in leading  
3 scientific journals on prebiotics and am considered an  
4 authority on the metabolism of prebiotic oligo saccharides by  
5 intestinal bacteria. In 2005 I was named the kem sahani  
6 professor of food microbiology for my research on prebiotics  
7 and probiotics. I am a charter member of the International  
8 Scientific Association for probiotics and prebiotics, and am  
9 currently on the Scientific Advisory Board of the  
10 International Probiotics Association and the GTC Nutrition  
11 Scientific Advisory Board.

12 I belong to the American Society for Microbiology  
13 and the Institute of Food Technology. I have also served on  
14 the board of directors of local food cooperatives, and I was  
15 recently an instructor during a recently held training  
16 workshop for organic food certification.

17 Fructoligo saccharides or FOS and other prebiotic  
18 oligo saccharides have gained significant attention among  
19 scientists, public health practitioners, and consumers, due  
20 to their ability to promote gastrointestinal health in humans  
21 and other animals. The prebiotic concept is actually based  
22 on rather simple, ecological principals.

23 Briefly, dietary FOS or FOS and other prebiotics  
24 escape digestion in the hydrolysis in the stomach and small  
25 intestine, and pass in tact into the colon. The most, most

1 intestinal bacteria lack the metabolic wherewithal to ferment  
2 these carbohydrates, and cannot use them as a growth  
3 substraight or energy source.

4 In contrast, other intestinal bacteria, in  
5 particular strains of lactobacilli and bifido bacteria do  
6 have the ability to ferment FOS. This gives these latter  
7 bacteria a decided competitive advantage in the intestinal  
8 environment.

9 Importantly, greater proportions of lactobacilli  
10 and bifido bacteria in the GI tract are positively correlated  
11 with improved gastrointestinal health. Thus, diets  
12 containing prebiotic FOS enrich for desirable bacteria at the  
13 expense of less desirable bacteria.

14 There is now substantial and convincing evidence in  
15 the biomedical and health sciences literature that prebiotic  
16 FOS stimulates and enhances growth of beneficial bacteria in  
17 the GI tract. The overall positive health effects of FOS are  
18 also well-established.

19 These ingredients have grass status, behave and are  
20 considered as dietary fiber, and pose no safety risk to  
21 consumers. They are widely used in Europe and Japan and  
22 throughout the world. They are produced naturally via  
23 fermentation with fruit grade microorganisms and are  
24 indistinguishable from the FOS that are already present in  
25 onions, garlic, and a variety of other foods.

1           Based on the collective scientific research from my  
2 lab and others, I conclude that FOS and other prebiotic oligo  
3 saccharides are safe and natural, and have the potential to  
4 improve human health significantly. Sincerely, Robert  
5 Hutkins.

6           MS. CAROE: Thank you. I don't know, can you  
7 answer any questions for --

8           MS. FRANCIS: I certainly could.

9           MS. CAROE: Questions from the Board? We don't  
10 have any anyways.

11          MS. FRANCIS: Okay.

12          MS. CAROE: Thank you.

13          MS. FRANCIS: Thank you.

14          MS. CAROE: Up next is Kimberly Gilbert, and on  
15 deck is Steve Fennimore. Steve, are you there? Just before  
16 you get started, I just want to ask the Board, we have six  
17 more speakers, seven more speakers including Kimberly. Can  
18 we hold out for a break? Is everybody okay? All right.  
19 Thank you, Kimberly.

20          MS. GILBERT: Okay. Thank you. I'm Kimberly  
21 Gilbert from Dow AgroSciences. Thank you for letting me  
22 respond to your comments on pelargonic acid. Dow  
23 AgroSciences is a petitioner for pelargonic acid to be  
24 listed, to be listed on the organics products list.

25                 We are petitioning for use in farmstead

1 maintenance, roadways, ditches, as well as on ornamental  
2 crops. We have rendered our petition for that.

3 Pelargonic acid, as you know, is a naturally  
4 occurring fatty acid. It is contained already in a variety  
5 of plant and animal foods, and nonfood products. It's even a  
6 food additive and is used in processing programs right now.  
7 It is currently registered with the EPA as a broad spectrum  
8 herbicide and it is a nonsystemic contact herbicide.

9 Next slide, please. In your comments, there was a  
10 question in regards to is pelargonic acid a soap? What is a  
11 soap? It is a cleansing agent made from the salts of  
12 vegetables or fatty acids, or animals fats. Natural soaps  
13 can be sodium or potassium salts of those fatty acids.  
14 Originally, soaps were made from boiling lard or other animal  
15 fat together with lye or potash.

16 The term soap refers to the metallic salts of long  
17 chain carboxylic acids. And that carboxylic acid is marked  
18 by the presence of the carboxyl group, or the CO<sub>2</sub>H. And on  
19 the next slide you can see that pelargonic acid does contain  
20 that carboxylic acid piece of its molecule, the nine carbon  
21 chain. Okay.

22 In addition to having the chemical structure of a  
23 soap, it also has the mode of action of a herbicidal soap.  
24 As you can see here, the free acids accumulate in cells  
25 causing intracellular pH changes that lead to loss of cell

1 membrane integrity, cell leakage, and cell collapse,  
2 resulting in death of the plant tissue.

3           And in addition, per the TAP report, the references  
4 that went into the creation of the TAP report did refer to  
5 pelargonic acid as an example of a herbicide, often referred  
6 to as a herbicidal soap. Therefore, pelargonic acid is a  
7 herbicidal soap, based on its chemical structure, its mode of  
8 action, as well as it's already recognized by university and  
9 growers out in the community right now as a soap.

10           We do agree, there are other organic alternatives  
11 to this that are on the market right now, corn gluten,  
12 vinegar, clove. However, it's our understanding from  
13 university researchers and growers that some of those do not  
14 give consistent and adequate performance, as opposed to what  
15 pelargonic acid may provide.

16           In addition, yes, there are other cultural  
17 practices that could be used versus this herbicide, manual  
18 removal. However, that is time consuming, expensive.  
19 Pulling the weeds could disturb the roots of your ornamental  
20 plants, also contributes to soil erosion, and as well as  
21 disturbing the soil often creates more germination of the  
22 weed seeds.

23           Why we are petitioning for this is our end use  
24 product site, it has been requested numerous times from  
25 growers for another tool for the organic tool box, and we



1 hope that pelargonic acid would provide a sustainable natural  
2 product that's more efficacious and easier to use than some  
3 of the current alternatives. Yes.

4 MS. CAROE: Thank you for your presentation. Board  
5 members, do you have questions? Gerry.

6 MR. DAVIS: In your presentation you make a  
7 statement about carboxylic acid being considered a soap. Do  
8 you have any specific references that can verify your  
9 statement? You mentioned that --

10 MS. GILBERT: Well, actually, where I got that one  
11 statement was about chemistry.com. I took that from that.  
12 We do have other publications, I'm happy to provide for you,  
13 as well as Wicopedia online, and --

14 MR. DAVIS: But we looked up some of that  
15 information as part of the committee's deliberations, and  
16 they mentioned the carboxylic acid part that they don't make,  
17 they didn't make the direct statement that that is a soap.

18 And that's what we were -- we did not have the  
19 information needed to -- we're not chemistry experts, and we  
20 were waiting to hear from someone to say nine chain  
21 carboxylic acid in the form that your material is, is a soap,  
22 by something, some documentation that that is true. All we  
23 had was just the statements by people that aren't backed up.

24 MS. GILBERT: Okay. We can definitely provide hard  
25 and fast publications or data to back that up.

1 MR. DAVIS: That's what was needed.

2 MS. CAROE: Just before we take anymore questions,  
3 herbicidal soaps are on the national list and allowed. So  
4 I'm wondering, if you are saying that this is a soap, and  
5 it's a herbicidal soap, why are you petitioning anything if  
6 it is already on the list?

7 MS. GILBERT: I don't believe pelargonic acid is on  
8 the list.

9 MS. CAROE: But if it's a herbicidal soap, it fits  
10 into the category that is on the list.

11 MR. DAVIS: But that's the question. That's what  
12 we're getting at right now. It is truly recognized as a  
13 soap.

14 MS. CAROE: Got it. Other questions from the  
15 Board? Statements? All right. Thank you so much.

16 MS. GILBERT: Thank you.

17 MS. CAROE: Next up, Steve Fennimore. I hope I  
18 didn't hurt your name. Steve, you have a proxy as well?

19 MR. FENNIMORE: Yes, I'm speaking for Richard  
20 Smith. I'm Steve Fennimore. I'm --

21 MS. CAROE: Okay, hold on one second. I've just  
22 got to get somebody else on deck. Mike Thorp, are you in the  
23 room? Mike, you'll be up after Steve. Thank you. I'm  
24 sorry. You can start.

25 MR. FENNIMORE: I'm an extension weed science

1 specialist with the University of California Davis. I'm  
2 based on Selenus. I primarily work on cool season vegetables  
3 such as lettuce, broccoli, spinach, celery.

4 I have a lifetime of experience in agriculture from  
5 Oregon's Willamette Valley, where I grew up. I worked in  
6 industry in Mississippi. I also worked a number of years in  
7 the midwest, and now I am back in California again.

8 I appreciate the complexity that this Board deals  
9 with, with all of agriculture in the U.S. I have just seen  
10 part of it, and I am by no means unique with that cross-  
11 section of agricultural experience.

12 The one thing I want to impress with you, after  
13 reading the comments, I'm not sure that the comments of the  
14 Board necessarily appreciate the complexity of managing weeds  
15 in organic or in any agricultural system. And so that's what  
16 I want to emphasize.

17 I was on the organic research panel with USDA CSRES  
18 two years. And projects which were proposed which did not  
19 deal with organic systems in a systematic manner were soundly  
20 rejected.

21 Some of the comments that you made in the rejection  
22 of pelargonic acid imply to me that a lack of appreciation of  
23 the complexity and the need for tools in the system. And so  
24 my comments are going to be made to, speaking to the comments  
25 made in the rejection.

1           I have tested pelargonic acid several times. I've  
2 tested a number of organic products, including corn gluten  
3 meal, acetic acid, various vinegar formulations. And one  
4 thing I will say about pelargonic acid is that the  
5 formulation is actually a commercially viable formulation.  
6 It is on the market. It is making it as a conventional  
7 herbicide. And it's got some pretty good competition there.

8           I think that speaks to the quality of the product.  
9 But what I get are consistent results. And I guess I'll  
10 challenge you all to, other than with a disk blade, which  
11 tillage does work every time, or generally every time, to get  
12 the consistency from some of the other products, because we  
13 have tested them.

14           There is no such thing as a weed. There are over  
15 300 species of weeds recognized in the world. Some of them  
16 are perennial weeds, field bind weed is extremely difficult  
17 to manage. And so to make simplistic generalizations, the  
18 fact that a product should or should not be considered  
19 organic, I think one needs to appreciate the complexity.

20           So one, I do know the product works. I have tested  
21 it conventionally. But what my point is, is integrated wheat  
22 management requires many different tools, because there are  
23 many, many different situations. And weeds are very  
24 effective at going from seed to seed in a very short period  
25 of time.

1           For example, shepard's purse. I have documented it  
2 going from seed, from emergents, to setting a viable seed in  
3 40 days or less. In our climate it can do that.

4           I will cite the research of Andrea Grundy in  
5 England. She documented transitions from organic to  
6 conventional in England. And what, and consistently what  
7 researchers find is that there are increases in the weed seed  
8 bank, thereafter, during the transition. After several  
9 years, there seems to be some stability. But generally,  
10 organic growers are dealing with a higher weed population.

11           The reason is, this is recognizing weed science,  
12 whether it's right or not, it's sort of the consensus of the  
13 time, is that when you remove tools from, weed control tools,  
14 that you increase your weed control problems. So if you do  
15 not, for example, in an organic system, you do not have a  
16 residual herbicide, pre-emergent herbicide, and some would  
17 claim that corn gluten meal fits this. I would strongly  
18 challenge that.

19           You do not have residual weed control. You have  
20 post-emergents weed control. You can only control emerged  
21 weeds. And emerge weeds are only a very small fraction of  
22 the total weed population. Most of the weeds are seeds in  
23 the soil, seed bed. And so you need multiple tools. I will  
24 say that again and again.

25           One thing that you did not comment on here, you did

1 not recognize, apparently, is the use of propane flaming.  
2 Because some of the comments in here imply that herbicides  
3 are not necessary if we do, if we farm properly, we use cover  
4 crops, we do crop rotation, that we simply don't need these  
5 herbicides. And I guess I would really challenge that,  
6 because I'll give you an example, and this is a real guy.

7           His name is Phil Foster. He raises organic onions  
8 in Holister, California. And what he does is, he prepares a  
9 stale seed bed. He has a raised bed. He plants -- he pre-  
10 irrigates, that is irrigation prior to the planting, and he  
11 removes the weeds with a Littleton cultivator. He comes in,  
12 if he has time, pre-irrigates again, and removes them with  
13 propane. The trick is to try to not disturb the soil.

14           My point about the propane is, this is a real guy  
15 in a real production system, and it really works. The thing  
16 is, going over it with propane is basically a substitute a  
17 conventional grower might use Roundup or some other product  
18 in that instance. He's using what he can. He's compliant.  
19 He's a good farmer. He's highly skilled.

20           But what that means is there is a need for a  
21 product that goes quickly over a field and removes weeds.  
22 The trouble with propane, propane is subject to the world  
23 price of energy, creates CO2, and we now have, we are trying  
24 to be compliant with the Kyoto Treaty in California, and  
25 perhaps the rest of the country will finally follow.

1                   But I think we need to be conscious of this,  
2 because the world is absolutely taking it seriously. So, and  
3 also, it's a hazard. Propane is explosive. It's also very  
4 hot, and there are some worker safety issues.

5                   So, and the other issue, shallow tillage is used to  
6 remove weeds from parastial seed beds, but you can't always  
7 do that. Rainy weather often interferes with that.  
8 Hillsides and such, you've got erosion issues. You just  
9 can't always put the tractor in the field.

10                  And there are a lot of places where you can't use  
11 tillage. You can't use it everywhere in an orchard, in a  
12 vineyard. You can't use it that close to an irrigation  
13 valve. And so those are all places where something like  
14 propane, if you can use it, if it is a dry part of the  
15 season, you might not be able to use it because of a fire  
16 hazard. I would argue that something like Sife would be an  
17 excellent product to be able to use in an organic farmstead  
18 around irrigation valves, for example.

19                  Okay. Vinegar. There's a comment in here that  
20 vinegar or acetic acid is a potential substitute for this  
21 pelargonic acid. And I guess, you know, the comment is made,  
22 up to a 20 percent solution. Has anybody here tried a 20  
23 percent solution fo acetic acid? It's very caustic. You do  
24 not want to get it in your eyes. You do not want to get it  
25 on your skin.

1           Also, it's very caustic to equipment, to nozzles.  
2 Those of you who may have used sulfuric acid will know,  
3 because it was used in onions, and it still is in some  
4 places, is extremely corrosive. And so this is, I'll just  
5 tell you straight out, it ain't easy. Maybe on paper it's  
6 there, available, but I'll tell you, just try it. It's not  
7 easy. And it's not fun. And it's not very nice.

8           Corn gluten meal. Yes, corn gluten meal is listed  
9 as an alternative. You quote Penn State. But you know, you  
10 say that Penn State lists it as a less toxic product. But  
11 what you didn't say, does Penn State say it works? I didn't  
12 see that comment in here.

13           I have tried it, and I have submitted to you a test  
14 we did a number of years ago, and it isn't just me. There's  
15 a number of colleagues who have tried it. We've tried to  
16 duplicate some of the work that's come out of Ohio State, or  
17 Iowa State, sorry, and have not been successful in  
18 replicating that work.

19           And I will close with just salt, which is listed as  
20 an alternative. Nobody would put sodium on their field.  
21 It's toxic to plants.

22           Cover crops and rotational crops were listed as an  
23 alternative. As a substitute for herbicide, I would say  
24 cover crops are in the field for a few months, perhaps. We  
25 grow crops year round in California. And also crop rotation



1 is listed as an alternative. Crop rotation and cover crops  
2 are extremely important, but they are integral tools, and  
3 they need to be utilized with a whole systems approach that  
4 includes an herbicide.

5 I would argue that the growers already using  
6 compounds like herbicides in their system, and I'm talking  
7 about propane, this offers another alternative. I'm done.

8 MS. CAROE: Hold on. Let's see if we have  
9 questions. Kevin.

10 MR. ENGELBERT: I know we're running short of time,  
11 and I'll make it brief, but I want you to understand some of  
12 our perspective. We don't look at weeds, I'm an organic  
13 farmer, as a necessary evil. We use them to gauge the health  
14 of our fields. And we don't want the mentality to have  
15 farmers to go out and see a weed and spray it. Weeds are  
16 trying to tell farmers something is wrong with their soil.

17 We use, you mentioned Shepard's purse. We used to  
18 have severe problems with Shepard's purse on our farm 30  
19 years ago, when we were farming chemically. We don't have it  
20 on our farm anymore, and we didn't use any herbicide to get  
21 rid of it. We took care of our soils properly, let the  
22 rejuvenate and become healthy, and that has taken care of the  
23 problem.

24 So I just want you to understand a little bit.  
25 It's not a case of not understanding the complexities of the

1 situation, but that's where we're coming from as we look at  
2 these things and, you know, make our decisions.

3 MR. FENNIMORE: What do you raise? What are your  
4 crops?

5 MR. ENGELBERT: Field crops, mainly.

6 MR. FENNIMORE: Okay.

7 MR. ENGELBERT: Some vegetables, but mainly field  
8 crops.

9 MR. FENNIMORE: Okay. I guess I realize the  
10 difficulty of establishing a seed bed for lettuce or for  
11 spinach or other small seeded crops. It's difficult to do  
12 with weeds. And given the food safety issues, and the  
13 disease issues, we don't have all of the genetic resistance  
14 to diseases that many of the field crops do.

15 I understand what you are saying about the soil  
16 health, but I guess I would also contend that organic  
17 agriculture has a longer history than conventional  
18 agriculture. And I'm talking about the 7,000 years of  
19 history. And weeds have been friends, companions throughout.  
20 They are a cost.

21 I appreciate your position, but I don't know that  
22 it necessarily applies across the country in all situations.

23 MS. CAROE: Jeff.

24 MR. MOYER: Yes, my understanding is that this  
25 petition is not for crop land.

1           MR. FENNIMORE: That's my understanding, too, that  
2 it's for farmstead and ornamental use. Yes.

3           MR. MOYER: So in that case, it wouldn't help your  
4 producers with onions?

5           MR. FENNIMORE: Not yet, I guess. Not at this  
6 point. We need products like this, and I'm responding to the  
7 comments in here which implied that herbicide-like products  
8 are not needed. And I guess, personally, I don't think you  
9 guys should be dictating what a farmer should do. I think  
10 that should be, the decision would be left up to the  
11 marketplace. That's my opinion. I'm exercising my academic  
12 freedom to say that.

13           MS. CAROE: Joe.

14           MR. SMILLIE: Probably Julie is going to ask this,  
15 is it a soap?

16           MR. FENNIMORE: I'm not a chemist.

17           MR. SMILLIE: Right.

18           MR. FENNIMORE: I think that that question needs to  
19 be issued. From what I know of organic chemistry, it looks  
20 like a soap to me, but that's my opinion.

21           MS. CAROE: Gerry.

22           MR. DAVIS: We're short of time so I'll shorten my  
23 comments to only one. One of the primary natural materials  
24 or types of materials that we mentioned as an alternative was  
25 clove oil, things like that. And I noticed a curious lack of

1 mention from your presentation, there are products being sold  
2 in California that are clove oil, cinnamon oil materials,  
3 that I have personally looked at, and they are quite active  
4 as herbicides. And I wondered what experience you had with  
5 them?

6 MR. FENNIMORE: Well, I couldn't say everything in  
7 10 minutes, but I did submit these written comments to you.  
8 I submitted a paper, a peer review paper from Weed  
9 Technology. And here is my comment. I'm quoting from our  
10 paper.

11 Percentage weed control with clove oil. I'll go  
12 with a number of weeds, it actually provided fairly poor  
13 control of purslane, provides poor control of grasses. The  
14 cost was quite high for effective weed control. The problem  
15 that we had is that the labeled weed control rates for clove  
16 oil, for example, were too low. And we tested effective  
17 rates, and came out with a cost of over \$500 an acre. So  
18 yeah, I see --

19 MR. DAVIS: Was that a commercial formulated  
20 material?

21 MR. FENNIMORE: Yes.

22 MR. DAVIS: Or was that a straight clove oil?

23 MR. FENNIMORE: Yes, it was. It was. I don't  
24 remember off the top of my head.

25 MR. DAVIS: All right. You submitted those

1 comments in writing to us?

2 MR. FENNIMORE: Yes, I can give you another copy,  
3 right here.

4 MR. DAVIS: All right, great. Thank you.

5 MS. CAROE: The Crops Committee can take that up  
6 then in reviewing those comments. Thank you. Do we have any  
7 other comments from the Board? Okay. Thank you so much.  
8 We have Mike Thorp now and MJ Marshall, you are on deck. MJ,  
9 are you here? Is MJ Marshall in the room?

10 Before you get started, there has been a request  
11 that the conversations in the back of the room be taken  
12 outside. It's a little distracting to some of the people  
13 that are trying to listen to the commentators.

14 MR. THORP: Good morning. My name is Mike Thorp,  
15 organic manager for Tanimura and Antle based out of Selenus,  
16 California.

17 I've farmed organically for 20 years in the central  
18 California area, and have tried many of the approved  
19 materials. I will not say that some of them, of the other  
20 approved materials don't work. I just believe that Sif could  
21 be a good companion to some of those, and would work well on  
22 hard to kill weeds.

23 We have tried vinegar. We have tried corn gluten  
24 with very little success. We've also worked quite a bit with  
25 propane burners, but my main concern there is worker safety,

1 like was mentioned before.

2           The other issue that has come about most recently  
3 is with the food safety for leafy greens being put into  
4 effect after the e coli outbreak of September 14th of last  
5 year. I think we do need more materials to clean up borders  
6 and ditch banks and roads, because those are going to be  
7 really looked at for mitigating road, unswept tiles, and  
8 other wildlife, just to keep the food safety issue at its  
9 best. So that is all I have.

10           MS. CAROE: Thank you. Hold on. Any comments?  
11 Thank you so much for your comments. MJ?

12           MS. FRANCES: She just stepped out.

13           MS. CAROE: MJ stepped out. We'll give her a  
14 relief. Kim Eason, are you here? Kim. Okay. How about  
15 Rich Theuer. Are you ready, Rich?

16           MR. THEUER: I'm ready. Start the clock when I get  
17 everything organized. Thank you. My name is Rich Theuer.  
18 I'm from North Carolina. And I'm a consultant to industry.  
19 I've done a few other things, but I'm representing today,  
20 George Westin Bakers, who petitioned the committee, the NOSB,  
21 to allow and add natamycin to the national list at 605 A.

22           Now, I'd like to thank the committee for, the  
23 Materials Committee for its report as a checklist of things  
24 that we either did not give you enough information or we were  
25 not specifically precise enough to allow you to make a

1 decision. So as a boss once said, no is a request for more  
2 information, and that's why I'm here.

3 The committee report, as I synthesize it has said  
4 that natamycin was nonagricultural, synthetic, preservative,  
5 not needed for bread. Can I have the next?

6 Well, the position is, we agree with you, it's not  
7 agricultural. We disagree on nonsynthetic because by law and  
8 by the operation of the definition in the OFPA it is  
9 nonsynthetic. We agree it's a preservative. And believe it  
10 or not, we agree that it's not needed for bread. Could I  
11 have the next one?

12 It may not be needed for bread, but it's  
13 desperately needed for fresh English muffins. Now, I'm glad  
14 you are laughing. Can I have the next one, please?

15 This is an English muffin. It comes from the  
16 bakery. We're talking about fresh English muffins. Never  
17 frozen. In about two days or three days after it's baked, it  
18 shows up in the store. It has a shelf life label of 13 days.

19 It's good for about 16 or 17 days before it turns moldy.  
20 Could I have the next?

21 That's a moldy English muffin. Now, you say, well,  
22 that green stuff is mold. It's *Penicillium* species,  
23 *Aspergillus*. I learned on the weather channel the other day  
24 that 22 percent of the American population, and I'm one of  
25 them, has allergies. Mold allergy is real, and moldy food, I

1 found on Medline, can actually produce death and anaphylaxis  
2 if you're sensitive and the mold count is high enough. Moldy  
3 is bad. Can I have the next slide, please?

4           So, why is it not necessary for bread, and why is  
5 it necessary for English muffins? And it's a very obvious  
6 answer. One is moister than the other one. The water  
7 activity of an English muffin is much higher than of bread.

8           English muffins contain more and 40 percent  
9 moisture. Breads, rolls, buns, must contain less than 38  
10 percent moisture per FDA regulation. Can I have the next,  
11 please?

12           These are data taken from the ARS nutrient data  
13 laboratory database on the web, and it shows the moisture  
14 content of various baked goods. You'll see on the bottom,  
15 break, French or Vienna bread, they're about 28 percent  
16 moisture. Old bran muffins, 35; bread, whole wheat,  
17 commercially prepared, 38, against a 38 max in the  
18 regulation. English muffins are up above 40, 42-45 for whole  
19 wheat ones. Could I have the next one?

20           These are the data taking it one step further,  
21 showing the standard error and the number of samples of  
22 English muffins we tested by the USDA and English muffins  
23 plain. And it's pretty clear that that 42.1 percent level  
24 has an end of 140, standard error of 0.2, standard deviation  
25 would be about 2 or a little bit. So 40 percent seems to be



1 the big line. Could I have the next? The next, yes.

2 So, what did the petitioner do? It said, are there  
3 any other nonsynthetic preservatives on the national list?  
4 And the answer is yes. Citric acid, lactic acid. Could I  
5 have next?

6 We tried those. We tried citric acid, lactic acid.  
7 They were too tart, too sour. So tried again. Could I have  
8 the next one? Tried citric acid and organic vinegar, source  
9 of acetic acid, another antimicrobial, antimycotic. That one  
10 was tried. The commercial shelf life was 10 days, which is  
11 not adequate. Can I have the next?

12 Tried to sell them? It didn't work. They failed.  
13 The taste was too sour. And so you have a chance to have  
14 something to eat. We have -- let me get these out very  
15 quickly. My time is running out. You have a chance to taste  
16 them. Could I have the next one, please?

17 Now, this is what our -- well, they'll be here, and  
18 I'll give them to you in a minute. Our petition was to say,  
19 packaged back goods, yeast leaven, yeast leavened backed  
20 goods. Could I have the next one, please?

21 That was really too broad. And the really precise  
22 requirement is something containing more than 40 percent  
23 moisture, and for the treatment of English muffins, nothing  
24 else.

25 MS. CAROE: Thanks Rich. We do have the rest of

1 your slides in hard copy. And we'll accept those as comments  
2 as we look at these materials.

3 MR. THEUER: Okay.

4 MS. CAROE: Do we have any comments from the Board?  
5 Questions? Hearing none -- Jeff.

6 MR. THEUER: Yes.

7 MR. MOYER: Rich, what is the difference in shelf  
8 life when you use the product versus when you don't use it?

9 MR. THEUER: If you have a --

10 MR. MOYER: I mean, that's really what you are  
11 talking about, shelf life.

12 MR. THEUER: Yes, exactly. And I'd like to get one  
13 other thing in, so you have a full deck to answer that  
14 question. If you do not use a mechanism for controlling the  
15 mold, they go moldy in about five days, four to five days.

16 And if you do use the natamycin at a level of  
17 actually half of what we are requesting, 20 parts per  
18 million, what the FDA allows, you can get up to 16 days, and  
19 you have a labeled shelf life of 13.

20 Now, I'm talking about fresh English muffins, the  
21 ones that are never frozen. There are other brands that  
22 freeze them, deliver them to the store, so that that  
23 distribution time can be controlled. And so you can find  
24 English muffins that have been previously frozen that, in one  
25 case, which I found in a store last night, Whole Foods, an

1 organic English muffin, apparently they thaw it out in the  
2 back room and they put it on the shelf. They also have these  
3 two agents in there now, vinegar and citric acid, and I would  
4 think at about the same level. And as I said, they go.

5 In the Whole Foods in Raleigh, where I am, there  
6 was a -- they did not have any kind of preservative. Those  
7 were frozen probably to get to the store, and then are in a  
8 refrigerator case. But they're not that many places where  
9 you have a refrigerator case in a bakery isle. And so for  
10 practically 100 percent of the stores in the United States,  
11 fresh is the only way to go.

12 MS. CAROE: Bea James.

13 MR. THEUER: Yes.

14 MS. JAMES: Pharmaceutically, is natamycin used as  
15 an antifungal and an antibiotic?

16 MR. THEUER: In the petition, we had information  
17 that natamycin has been used in some eye preparations for  
18 mold infections of the eye. It's also been used in some  
19 livestock uses as a, to fight mold, mold infection. Was that  
20 your question?

21 MS. JAMES: Yes. So do you know if it's also used  
22 as an antibiotic?

23 MR. THEUER: Oh, not too much anymore.

24 MS. JAMES: Systemic, yes.

25 MR. THEUER: No, no, not too much anymore. See,

1 natamycins are extremely insoluble. And the way they put  
2 this on is, let me throw one more, is they spray the outside  
3 of the muffin after baking. So it's only on the outside,  
4 which is where the mold grows.

5 MS. JAMES: Why not just sell the English muffins  
6 frozen?

7 MR. THEUER: Well, I looked in the frozen section  
8 of the grocery stores within a gallon of gas drive from my  
9 house, and I didn't see any in the frozen section.

10 MS. JAMES: Do you think a consumer would rather  
11 have a frozen without that ingredient, or a fresh with the  
12 ingredient?

13 MR. THEUER: I can't answer that question.

14 MS. CAROE: Kevin.

15 MR. ENGELBERT: I think I know the answer, Rich,  
16 but just to be sure, you can't make an English muffin at a  
17 lower moisture?

18 MR. THEUER: My understanding, based on the data  
19 is, I don't think so. I'm not really technically competent  
20 to answer that. But I --

21 MS. CAROE: Tracy.

22 MS. MIEDEMA: I guess this is a little more of a  
23 comment than a question. If this were added to 606, that's  
24 what this petition is, or --

25 MR. THEUER: No, 605.

1 MS. MIEDEMA: -- this is 605. Okay.

2 MS. CAROE: 605.

3 MS. MIEDEMA: It's not specifically to be used just  
4 as an English muffin spray, right? This would be something  
5 that anybody from here on in food production could use in  
6 unlimited quantities?

7 MR. THEUER: Can I suggest that we, our petition  
8 was amended, strictly for English muffins.

9 MS. MIEDEMA: Okay.

10 MR. THEUER: We suggested 40 parts per million in  
11 our petition. FDA allows 20 to 22, and the bakery uses 20.  
12 So it would be a specific requirement on the level and the  
13 surface application only, and only for English muffins.

14 MS. MIEDEMA: Okay.

15 MS. CAROE: Any other questions from the Board?  
16 Comments? Thanks, Rich. Are you going to be around for a  
17 while if the committee has any questions?

18 MR. THEUER: Yes, yes. Can I offer you some --

19 MS. CAROE: We have a break coming up in just a  
20 little bit.

21 MR. THEUER: -- sprayed or unsprayed. It has  
22 citric acid sprayed on it.

23 MS. CAROE: MJ Marshall, are you in the room again?  
24 Okay. And then do we have Kim Eason in the room?

25 MS. EASON: Yes, I'm here.

1 MS. CAROE: Kim, you're on deck.

2 MS. MARSHALL: I have some slides, Valerie. Are  
3 you going to get those up?

4 MS. FRANCES: Yes.

5 MS. MARSHALL: Okay. Great. Good morning. I'm MJ  
6 Marshall. I'm the director of government relations for the  
7 Flavor and Extract Manufacturer's Association. I appreciate  
8 the opportunity to comment before you today.

9 FEMA represents the manufacturers and end users of  
10 flavoring substances that are used in foods, including foods  
11 labeled as organic, or made with organic. Our members vary  
12 from large international corporations to small family owned  
13 operations. And many of those companies are just beginning  
14 to investigate the potential of supplying their nonsynthetic  
15 flavors to the organic industry.

16 What I'd like to do is provide a summary of our  
17 written comments that we've supplied to you today, and  
18 comment on the current listing of flavors on the national  
19 list, section 205.605 A, whether most flavors could be  
20 considered as agricultural, and finally on some of the  
21 challenges that lie ahead, should individual flavor  
22 substances require petitioning onto the national list.

23 In late February, the NOP stated in a guidance  
24 document that quote, flavors, nonsynthetic and nature,  
25 nonagricultural were on the national list and do not need to

1 be petitioned for as long as they meet the existing  
2 definitions. FEMA strongly agrees with that statement. But  
3 we also recognize the conflict between listing of flavors on  
4 205.605 A and the existing situation where some flavorings  
5 have been certified as organic. We believe this discrepancy  
6 can be resolved in a manner that would provide for the  
7 continued development of certified organic flavors without  
8 compromising the necessary listing of flavors under 205.605  
9 A.

10           Second, with regards to agricultural and  
11 nonagricultural determinations and how they apply to flavors,  
12 while a decision treaty to delineate between agricultural and  
13 nonagricultural has been proposed, we would suggest that  
14 there are necessary and critical modifications that are  
15 essential in the language of this treaty prior to its  
16 adoption so it can apply to complex materials such as  
17 flavors.

18           Finally, in the remainder of our comments, we'd  
19 like to highlight some of the challenges that lie ahead, in  
20 attempting to place individual flavors on the national list  
21 without careful consideration and planning. And I have some  
22 slides, as I said, to illustrate that. Can you get that?  
23 Yes.

24           First, an orange tree classified as citrus sinensis  
25 produces the standard sweet orange, as we have there. This

1 orange can be squeezed to produce orange juice. We think we  
2 all would agree that this is an agricultural product, that  
3 the three things, excuse me, the orange tree, the orange and  
4 the orange juice will be classified as agricultural.

5 But now let's consider one possible flavoring  
6 preparation from an orange. Orange oil provides flavor to  
7 many foods, including beverages, flavored yogurts, and candy.

8 It's produced by extraction or fractional distillation from  
9 orange rinds and pulp followed by further fractionation,  
10 blending, and standardization.

11 A flavor company makes its living by making every  
12 batch of orange oil that it produces exactly the same as the  
13 last. While orange oil may have begun its life as an  
14 agriculturally derived product, the process of purification,  
15 blending, and standardization removes it sufficiently from  
16 its origins so that it no longer has the same chemical  
17 composition as freshly distilled nonblended orange oil. Next  
18 slide.

19 To further add complexity, orange oil is, in fact,  
20 a natural flavoring material that's composed of many  
21 individual flavoring substances. At last count, roughly 60  
22 substances have been identified that contribute to the orange  
23 oil flavoring affect. And we question whether or not,  
24 because these are individual substances, would each of them  
25 require a petition to be added to the national list? Next



1 slide.

2 In fact, if we were to look at more than the 200,  
3 more than 200 different flavorings of unique natural origin,  
4 we would find that there are more than 2000 different  
5 flavoring substances that are present in varying amounts, and  
6 almost 400 different natural flavoring preparations.

7 If each of these were considered agricultural and  
8 require a petition, we all have our work cut out for us, and  
9 while we recognize that NOSB is very hard working, we think  
10 -- and NOP as well, we think that they want time to see their  
11 families. Given the complex characteristics of flavoring  
12 materials, the large number of naturally derived flavoring  
13 substances and remaining ambiguities regarding NOSB  
14 definitions of substance and agricultural, we believe this  
15 issue requires careful contemplation.

16 While we'd like to say that we have a great  
17 proposal, that we feel NOSB should adopt today, we simply  
18 don't. However, we would like to work with NOSB and NOP on  
19 this endeavor.

20 MS. CAROE: Thank you, MJ. Joe.

21 MR. SMILLIE: Yes. Thanks. Good presentation, and  
22 obviously we need to work on our ag/nonag document to start  
23 to make it work for industry and the community.

24 MS. MARSHALL: Right.

25 MR. SMILLIE: You said that you felt that the

1 discrepancy between the certification of organic flavors  
2 which is currently happening and many members of your trade  
3 association are producing organic flavors.

4 MS. MARSHALL: Well, I'd say that just a very  
5 limited number of them.

6 MR. SMILLIE: It's growing.

7 MS. MARSHALL: Yes.

8 MR. SMILLIE: And you say that the discrepancy can  
9 be resolved in a manner that would allow for the continued  
10 development of certified organic flavors without compromising  
11 the listing under 605 A. I wonder if you would just  
12 elucidate on that a bit?

13 MS. MARSHALL: Well, to be honest, Joe, that's one  
14 thing that we are still working on internally, and that's why  
15 I said that we really don't have something that we can  
16 propose to you today. But we are talking about it a great  
17 deal within FEMA.

18 And as I said, we would appreciate the opportunity  
19 to work with NOSB and NOP on that particular issue. And  
20 we've had some discussions with Mark Bradley and others about  
21 that very thing. So we look forward to trying to resolve  
22 this as quickly and as reasonably as we possibly can.

23 MR. SMILLIE: Okay.

24 MS. CAROE: Julie.

25 MS. WEISMAN: Yes, I also wanted to thank you for

1 your very short but rich presentation about what the  
2 challenges are. I had one question and one comment of  
3 encouragement.

4           The question was, when you had that schematic on  
5 the board, you said that after the orange goes through all of  
6 these various stages, to be distilled and standardized and  
7 blended, that it is, that it -- what, in those processes, do  
8 you believe makes it likely that it's no longer considered an  
9 agricultural product?

10           MS. MARSHALL: Well, I think as I said, all the  
11 different distillations.

12           MS. WEISMAN: Okay. Distillation is an allowed  
13 process in organic preparations.

14           MS. MARSHALL: Right, right. I know. I understand  
15 that. And fractionization, things of that nature. But I  
16 think that as I said, all of those processes, while they can  
17 still be, as you said, organic compliant, and the end product  
18 can still be considered natural, we just don't believe that  
19 it's any longer recognizable as an agricultural product like  
20 you have with orange juice and things like that, that are  
21 freshly squeezed, that just come immediately from the orange  
22 itself.

23           MS. WEISMAN: Okay. Well, I guess that's a nice  
24 segway into the comment that, of encouragement that I wanted  
25 to make, is that I -- it will be certainly discussed further,

1 I mean, this has obviously become a very important issue in  
2 the flavor industry, and in the organic industry. And I  
3 think that we are going to be discussing what kind of  
4 opportunities we can create at this point to engage your  
5 expertise, the expertise of the rest of your members, and  
6 bring them, you know, into -- you know, bring them to this  
7 table and the discussion.

8 MS. MARSHALL: Right. Obviously, we think the  
9 flavors are very essentially to organic products. And we  
10 don't want to lose any flavors, because as I said in the  
11 presentation, there are, you know, more than 2000 --

12 MS. WEISMAN: Right.

13 MS. MARSHALL: -- different flavors. And you can  
14 have 2000 different strawberry flavors alone.

15 MS. WEISMAN: That's right.

16 MS. CAROE: Any other questions? Comments? All  
17 right. One more petitioner, commentor left. Thank you, MJ.  
18 I have Kim Eason, and then we are going to take a small  
19 break. We are about, just a little over an hour behind  
20 schedule already. So, but Kim.

21 MS. EASON: Good morning. Thanks for holding out  
22 for the last but hopefully not least of all the presentations  
23 this morning. My name is Kimberly Eason. I'm the director of  
24 strategic relations for Trans Fair USA. We do fair trade  
25 certification for agricultural products coming from the

1 developed world into the U.S. market.

2           We work with over 1 million farmers and farming  
3 families, workers around the world that sell products under  
4 the fair trade certified label. And that's coffee, cocoa,  
5 tea, fresh food, and a number of other products. Over 80  
6 percent of these products brought into the U.S. market are  
7 also organic certified.

8           In 2006 alone, we had over 50 million pounds of  
9 dual certified coffee, Fair Trade and organic certified  
10 coffee imported into the U.S. And the estimated retail value  
11 of that product was over \$605 million dollars. Producer  
12 impact for farmers producing that product is over \$85 million  
13 dollars in above market additional revenue back to small  
14 family farmers.

15           We work with 600 businesses that distribute these  
16 products into 40,000 retail chains across the country, retail  
17 outlets.

18           I'm here to comment on the possible change and  
19 possible ban of the internal control system for grower group  
20 certification which came to light very recently in meetings  
21 in Germany and in California, NOP certifiers training  
22 sessions.

23           I make my comments based on my understanding that  
24 the NOP will begin to require that 100 percent of all farms  
25 within a small farmer coop be inspected annually by

1 independent certification agencies. That's actually a new  
2 application of the existing law, 205.403.

3 I recognize that this is not on your agenda for  
4 this meeting. But I want to call caution in moving forward  
5 with this. As an organic consumer, a business person, an  
6 advocate for small scale farmers in the developing world, I'm  
7 alarmed about the devastating impact that this change in  
8 procedure could have on farmers and the organic market in  
9 particular here in the U.S.

10 The unintended consequence of this action will be  
11 the exclusion of vast numbers of small farmers worldwide from  
12 the U.S. market, and will also leave businesses and consumers  
13 without access to these quality organic products. For  
14 coffee, it could essentially wipe out the organic coffee  
15 market in the United States, because the small farmers are  
16 the ones that supply that coffee.

17 The organic certification community has recognized  
18 the need to adapt certification procedures to the socio-  
19 economic reality of organized small growers in developing  
20 countries, at the same time recognizing the need to protect  
21 the integrity of the system and the label.

22 For many years now, community grower groups have  
23 been inspected and certified based on an internal control  
24 system evaluation. The ICS system is not unlike other  
25 quality system based audits and even fair trade certification

1 uses a form of ICS for grower groups with a high degree of  
2 success. The EU and Japan are not, are not seeking to change  
3 the way they certify organic.

4 I did speak with one of the grower groups that we  
5 work with out of Nicaragua. They, it's about a 2000 member  
6 coffee cooperative. They say that their costs under this new  
7 kind of rule would be \$50,000, and those are for farmers that  
8 maybe earn an income of \$1000 to \$2000 a year. So you can  
9 see that that would just not be possible for them to pay that  
10 high cost.

11 As you all know, there are many benefits of organic  
12 farming, far beyond the environment and social benefits. I  
13 don't have time to go into that here. I'm an active business  
14 member and a past board member of the Specialty Coffee  
15 Association. I'm currently on their sustainability  
16 committee, so I understand all the volunteer work that you  
17 all do, how important it is.

18 I have been made aware by many of the member  
19 business of the Specialty Coffee Association that this is an  
20 issue on the radar screen, and people are very concerned  
21 about it and urging caution and moving forward.

22 I guess the request is just to take some time here  
23 before pushing this issue forward. I believe that there is  
24 another solution. We need some time as the organic community  
25 and working with the certifiers to understand what we can do

1 to assure the integrity of the system, and at the same time,  
2 not totally disallow ICS's for grower group certification.

3 Trans Fair USA and the whole, our business network  
4 and grower network, and all the Specialty Coffee Association,  
5 all of those members, we are interested and willing to help  
6 put forth a solution, if we have time to do so. So thank you  
7 very much for your consideration.

8 MS. CAROE: Comments, questions? Joe?

9 MR. SMILLIE: Yes, again, I would, from the NOSB's  
10 point of view on this issue, it's new, and it will be put  
11 into the work plan for the Certification, Accreditation and  
12 Compliance Committee and where we will start is with the NOSB  
13 2002 recommendation.

14 So all of your people should get a hold of that  
15 document. See what you think of that document, and get input  
16 back to us. And then hopefully we will move forward and  
17 create some sort of recommendation which we can then  
18 reinforce the recommendation that we already made in 2002 to  
19 the NOP.

20 MS. EASON: Okay.

21 MS. CAROE: Any other comments? Questions? Rigo.

22 MR. DELGATO: Can you describe for us what kind of  
23 process your farmers in Nicaragua follow to get their  
24 certificate?

25 MS. EASON: Yes. There is, the internal control



1 system there is a person or group of persons that are  
2 responsible for training the farmers for organic  
3 certification, and then overseeing the control, quality  
4 control of that system. When the organic inspector comes,  
5 they are allowed to inspect the internal control system, and  
6 a number, 20 percent of the members, to have actually the  
7 inspection visit on site. So the idea is that this is a  
8 system that's been used, and that has worked with a degree of  
9 success.

10 MS. CAROE: Any other questions? Comments? Thank  
11 you for your comments.

12 MS. EASON: Thank you.

13 MS. CAROE: Is Nancy Hirshberg in the room? She  
14 just left. Do you know what? We'll get her after break. I  
15 understand she has some answers to some questions the Board  
16 had. Nancy. She's right here.

17 MS. HIRSHBERG: I was just standing there waiting  
18 for you.

19 MS. CAROE: Nancy. Sorry to put you on the spot,  
20 but I understand you do have some answers for us. So I'll  
21 give you an opportunity before we break.

22 MS. HIRSHBERG: Yes. The question that Bea had  
23 asked was, did we start using this product because of the  
24 calcium marketing claim or because of the functional  
25 properties. And we started using this product back in '99-

1 2000 in our YoSelf, which is a product geared for women. And  
2 it had, so we were able to talk about calcium, fiber, and the  
3 prebiotic.

4           And what happened was, when we started using it, we  
5 found it had all these wonderful, in addition to the  
6 nutritional benefits, it had all these wonderful functional  
7 properties. And I got some more detail on those. Sorry.

8           That it improved the mouth feel and the texture.  
9 It decreased that syneresis, which is the separation. And it  
10 improved our shelf life. Because what happens over time, in  
11 yogurt, as you know, it gets more tart. The ph drops as you  
12 get towards the end of shelf life. And you get curds in it,  
13 lumps. And so this decreased that as well. So at that point  
14 we decided to move it into all of our products because of  
15 that.

16           MS. CAROE: Thank you, Nancy.

17           MS. HIRSHBERG: Sure.

18           MS. CAROE: Okay. Joe.

19           MR. SMILLIE: So it's a lumper -- it's a splitter  
20 not a lumper, right.

21           MS. CAROE: You needed to do that. Okay. We're  
22 going to take a short break. 10 minutes, no more. We are so  
23 far behind schedule. The Board back in your seats in 10  
24 minutes, please.

25           (Break.)

1           MS. CAROE: All right. We're back in session and  
2 we're moving onto discussions on the Policy Committee  
3 recommendations. So I'm turning it over to Rigo Delgato.

4           MR. DELGATO: Madam Chair, thank you very much. We  
5 have two items to recommend. The first one is six changes to  
6 the policy and procedures manual. I'll review those very  
7 quickly. And first of all is a clarification on procedures  
8 for counting abstentions. That's on page 12, section 2.

9           On section 3 we have a flow chart that we included  
10 in there to clarify the role of the NOSB executive director.  
11 That's on section 3.

12           On section 4, 5, I'm sorry, we have added the  
13 description on the committee chair's role in facilitating  
14 transition for committee chairs. As you'll recall from our  
15 last meeting, that was an important topic that was  
16 recommended from the floor. We also have included procedures  
17 to present committee recommendations in section 5.

18           And finally, we have included a comment on the  
19 exclusion of annotations during sunset review. That's on  
20 page 52, section 8. So far we received comments on that last  
21 addition asking us to not go forth with that addition on  
22 exclusion of annotations. And we have not received any other  
23 comments on the other points.

24           The second recommendation is the official  
25 presentation of the new member guide, which is a document

1 that we think will help in the transitioning of new members,  
2 but I'm going to ask my vice-chair Bea James to give us a  
3 general description of the document.

4

5 MS. JAMES: The new member, the purpose of the new  
6 member guide is to introduce and not scare away any newly  
7 appointed members. The document is intended to be an  
8 accompaniment to the policy and procedure manual. The  
9 background is, we realize that no one should come into a  
10 five-year NOSB commitment without fully understanding the  
11 level of time and energy that it takes to contribute to the  
12 mission of the Board.

13 The new member guide is intended to be an  
14 educational, informational support reference for the NOSB, as  
15 well as any potential interested members in the public. The  
16 recommendation will be to accept the NOSB new member guide as  
17 an official document and post it on the website for all to  
18 use.

19 MR. DELGATO: And that are the two recommendations  
20 we have, Madam Chair. Thank you.

21 MS. CAROE: Okay. Do you want to take questions  
22 and comments, discussion on these one at a time?

23 MR. DELGATO: Yes, please.

24 MS. CAROE: Okay. And shall we start with the  
25 policy manual changes?

1 MR. DELGATO: Yes.

2 MS. CAROE: Does any of the, do the Board members  
3 have any questions or comments on any of the changes proposed  
4 to the policy and procedures manual? None. Any discussion  
5 on the last item, regarding, which we've heard comment on,  
6 regarding the sunset process, that actually sunset process  
7 was written in 2004, I believe, 2004-2005, as far as allowing  
8 changes to annotations. Jeff.

9 MR. MOYER: My understanding, when I first started  
10 on the Board in talking with Arthur Neal at the program  
11 level, was that we were not allowed to make changes to  
12 annotations. Was Arthur mistaken at that point in time or is  
13 that an accurate statement? Because we were always  
14 instructed that we could not. Many of us felt that changes  
15 to annotations were warranted, but that we could not do that.

16 MS. CAROE: I have an answer, but I'll let the  
17 program answer that question.

18 MS. DELGATO: Go ahead and answer.

19 MS. CAROE: Sunset is by definition, and not  
20 definition in OFPA, not definition in our regulation, but  
21 definition within government --

22 MR. MOYER: Right.

23 MS. CAROE: -- to mean the, an opportunity to look  
24 at regulations that have been in place for a length of time  
25 for their continued viability. And it is regulations as they

1 exist. Therefore, when the Sunset procedures were written  
2 and we looked at this, a material being listed on a list  
3 with particular restriction, in whole, is the regulation. So  
4 those restrictions of an annotation are, indeed, part of that  
5 listing. And we felt it was inappropriate to consider any  
6 changes to that, or further restrictions, which would be new  
7 legislation, new regulation. Sorry. So that was where we  
8 were with that. Is that consistent with what the program's  
9 view of sunset is?

10 MR. BRADLEY: Mark Bradley, National Organic  
11 Program. That is the way we have been dealing with this, and  
12 part of that was to expedite the sunset review process, so  
13 that we're not getting into the -- you can petition a change  
14 in annotation, or you can petition to have something removed  
15 from the national list as a separate function.

16 But in working with the Board, I think what we  
17 agreed was that it was more functional to go ahead and just  
18 consider the material and the annotation together with, for  
19 sunset, just to make a decision whether it was going to be  
20 renewed as written, or to go ahead and just let it go off the  
21 list. And it would go off completely with the annotation.

22 MS. CAROE: Does that answer your question, Jeff?

23 MR. MOYER: Well it does, but then my question to  
24 you is, what exactly are we talking about here, changing that  
25 policy?

1 MS. CAROE: We are considering the public comment,  
2 which is suggesting that we change that policy.

3 MR. DELGATO: Yes. Just to clarify the addition to  
4 the policy manual is, states as follows. The annotations  
5 cannot be included in a recommendation during sunset review.  
6 That's what we're looking at. So there is no question, no  
7 doubt that was the intent of this. Bea.

8 MS. JAMES: So I guess I would like some discussion  
9 around the idea that the comments that we heard from the  
10 public were that we potentially might be limiting ourselves  
11 by having that documented in the policy and procedure manual.  
12 And I wanted to know what your thoughts were on that, Mark.

13 MR. BRADLEY: I'm sorry. I couldn't hear.

14 MS. JAMES: The comments that we received from the  
15 public were that we are limiting ourselves by, potentially  
16 limiting ourselves by putting that change into the policy and  
17 procedure manual, that annotations are not allowed and not a  
18 part of sunset. And I wanted to know what your thoughts were  
19 on that?

20 MR. BRADLEY: You mean the recommendation or the  
21 comments that Jim was making yesterday about, about having  
22 the material and the annotations be subject for review at the  
23 end of it?

24 MS. JAMES: Yes, and Emily Brown Rosen as well as  
25 Harriet Behar also made that comment.

1           MR. BRADLEY: I can't really comment on that at  
2 this time, because we would want to consult the attorneys.  
3 And anything that we have developed as far as policy, you  
4 know, for the sunset process, has gone through our legal  
5 counsel. So that we can certainly discuss this, but I  
6 wouldn't want to do it just, you know, at the spur of the  
7 moment.

8           MR. DELGATO: Julie.

9           MS. WEISMAN: Yes, we certainly need to hear like  
10 the legal perspective, but I just wanted to, you know, say  
11 from a practical perspective, Bea, Rigo, we are all veterans  
12 of the first big sunset process. And I just want you to try  
13 and remember what we were doing at that time, and what that  
14 would have been like if we had been considering annotations  
15 and having to require and wait for TAP reviews on those  
16 materials.

17           The way I look at it, there's four other years  
18 during a listing when those changes and annotations can be  
19 considered. And that's a much better and more fruitful time  
20 to look at those things, I think.

21           MR. DELGATO: Andrea.

22           MS. CAROE: And again, this was stated before, but  
23 it needs to be restated. At any time somebody can petition  
24 for an annotation change. Sunset, sunset, we use as just,  
25 like I said, the continuation of that regulation. If the



1 annotation is inappropriate, then a petition is, can be  
2 filed, and we can look at it. It's not never looking at  
3 annotations, it's just not looking at them during sunset.

4 MR. DELGATO: Just to comment on that, one of the  
5 suggestions was, or comments from the public was that given  
6 the fact that the urgency of sunset has passed, and the need  
7 to have that efficient process in place is probably no longer  
8 necessary. It would probably more convenient to be able to  
9 make changes to annotations. I wonder what you guys think  
10 about that. Andrea.

11 MS. CAROE: Every five years we're going to look at  
12 that bulk of materials. Every five years we're going to be  
13 under that urgency. Trust me, five years flies by.

14 MS. WEISMAN: And every five years from now, given  
15 the bulk of what we are doing today.

16 MR. DELGATO: Thanks, Julie. Can we have Bob and  
17 then -- yes, Bob.

18 MR. POOLER: This is Bob Pooler. We understand the  
19 sunset process is to review the regulation as is. And that's  
20 what the listing in the national list, as is. And either you  
21 accept it and review it, as is, or you do not. A change of  
22 the annotation is basically changing the regulation. And  
23 that, as Mark has indicated, is a separate, and Andrea, is a  
24 separate process. That's not part of the sunset process.

25 Now, that is our understanding of the sunset

1 process. Perhaps we need to go back and take a look at what  
2 the sunset process is to see if we can accommodate these  
3 other changes. But our understanding at this point is to  
4 either renew it, as is, or take it off the list.

5 MR. DELGATO: There was someone else that wanted to  
6 participate? Okay. That's it. Table back to you. Any  
7 discussions on items 1 through 5 of the additions to the  
8 policy and procedures manual?

9 MS. CAROE: I just have one question.

10 MR. DELGATO: Yes.

11 MS. CAROE: And you said that no new member should  
12 be given, thrown to the Board without knowing what they're  
13 into, or would be? Because I don't think, I think we may  
14 scare people off from ever applying to the Board.

15 But no, this is a fabulous piece of work that I  
16 really want to commend both Bea and Rigo on, putting this  
17 together. Bea, you know, when she first came in, noticed  
18 that you were thrown into the fire, and we were inventing  
19 things. And at this point in our maturity as a board, this  
20 is an appropriate action to take in order to maximize our  
21 efficiency with our Board members and our resources.

22 So my operations hat on there. So I just want to  
23 say, I appreciate the effort, and I think it's a very good  
24 work.

25 MR. DELGATO: Bea.

1           MS. JAMES: Thank you, and I think we are all  
2 excited to actually have a noncontroversial issue on the  
3 agenda.

4           MR. DELGATO: I also want to appreciate the help  
5 that we got from our executive director in completing that  
6 document. It was really a team effort, and thank you, Bea,  
7 for your always pointed comments on developing that document.  
8 And I hope that it helps the new members, and all those  
9 coming members in the future. On that note, back to you,  
10 Madam Chair.

11           MS. CAROE: All right. Moving along, we're going  
12 to move to Crops Committee. Gerry, if you are ready to  
13 present your recommendations.

14           MR. DAVIS: We have two materials ready to be  
15 presented for this meeting. One was ammonium salts or fatty  
16 acids, and that was petitioned to be allowed for general  
17 organic crop production use.

18           As it stands now, being that it is a soap salt of  
19 fatty acids, it could be used, technically, in compliance  
20 with the regulations as it already exists for noncrop use.  
21 But they specifically were requesting within crop use.

22           And the committee felt that it failed the --

23           MS. CAROE: I'm sorry, Gerry.

24           MR. DAVIS: What are we doing now?

25           MS. CAROE: Gerry, I'm sorry. I messed up the

1 order. You're not on quite yet. So if you could hold your  
2 thoughts, I apologize.

3 MS. FRANCES: He said, excellent.

4 MS. CAROE: Excellent. Well, that's good.

5 Actually, we have some discussion items from the Joint Policy  
6 Crops Livestock Committee in regards to research guidance.  
7 So with that presentation, I'm not sure who's making that  
8 presentation.

9 MR. DELGATO: I think I am.

10 MS. CAROE: Okay, Rigo.

11 MR. DELGATO: I'll give Gerry a break here. But  
12 just, we are presenting for discussion a document called,  
13 Guidance for Certification of Operations Participating in  
14 Crop Production Research. We came out with this document to  
15 simply provide clarification to those operations doing crop  
16 research. I'm going to discuss the essence of the  
17 recommendation.

18 It's split into three parts. And it mainly is  
19 focused on those products, prohibited materials involved in  
20 research, and addresses the need for buffer zones, or the  
21 requirements for buffer zones when carrying out different  
22 experimental analysis.

23 And it also recognizes the use of distinct plots  
24 throughout the operation that will isolate the use of  
25 prohibited materials for experimental purposes.

1           In the second section, (b) -- can you scroll down,  
2 please -- the second component of the recommendation is a  
3 list of requirements that include, among others, a valid  
4 research plan, definition for description of the specific  
5 location of the experimental plot; the listing of prevented  
6 materials, and time frame devoted to the specific study as  
7 well as justification of the use of prohibited materials, and  
8 so forth.

9           In conclusion, we are hoping that this document  
10 will provide the clarification that researchers need to  
11 promote, as well, the development of new techniques, new  
12 knowledge, and at the same time, maintain the purity of the  
13 organic production.

14           On that note, I would like to ask for comments,  
15 discussion from the members. Andrea.

16           MS. CAROE: I just wanted to make very clear that  
17 this is not, this is not research variances, that variances  
18 are granted only by the secretary, and the Board has no  
19 authority in the granting of variances. That this is about  
20 guidance for those unique operations that participate in  
21 research efforts that are atypical of organic production for  
22 commerce purposes.

23           MR. DELGATO: That is correct, and when we're  
24 dealing with prohibited materials, we can't talk about  
25 variances. It's now allowed, simply. But what we did try to

1 do is create a framework where we can be able, are able to  
2 use prohibited materials with the purpose of doing research,  
3 comparative research, but at the same time, protecting the  
4 integrity of the organic operation. We have a comment  
5 from --

6 MR. MOYER: Yes, Andrea, it is also not geared  
7 specifically to those organizations that might be doing  
8 research, but even on farm research, so that farmers can fit  
9 into the context of this without jeopardizing their  
10 operation, those guidelines, as well.

11 MR. DELGATO: Dan.

12 MR. GIACOMINI: In an earlier version of this, it  
13 included livestock coverage. I'm seeing this as exclusively  
14 a Crops, from Crops and Policy Committee, Development  
15 Committee, is there -- I know you still have Hugh as a  
16 committee member on the Joint Committee. Is there a plan to  
17 include a livestock similar document in the future, or --

18 MR. DELGATO: Yes, that's correct. And livestock  
19 did participate in the development of this document. The  
20 next step will be to come up, and we're working on the  
21 document, is to come out with a document that does talk about  
22 variances in both livestock and other types of areas.

23 So we should be having, hopefully, a version of  
24 that mid-summer, and definitely for our next meeting. No  
25 questions? Andrea.

1 MS. CAROE: Very good. Thank you so much. And so  
2 I'll look forward to an actual vote item on that at the fall  
3 meeting.

4 MR. DELGATO: That's correct. Thank you.

5

6 MS. CAROE: Okay. All right. Now looking at the  
7 correct schedule, I see that we are going to Compliance,  
8 Accreditation and Certification for two items of discussion.

9 MR. SMILLIE: Right. At the last meeting, we  
10 deferred our recommendation on standardized certificates. We  
11 had some good public input. There was, in general, the  
12 document was well received. People do feel a need for this.  
13 They thought that our recommendations was a little too  
14 prescriptive. And we've taken that under advisement.

15 There was also some debate in the community as to  
16 the level of detail we would go into in describing, you know,  
17 the products that would have to be on a certificate.

18 And we went back and asked for input, and we  
19 receive a very good input from the accredited certifiers  
20 association, and from NASOA, the National Association of  
21 State Organic Programs who both submitted documents to us.  
22 And we will take those under advisement and move forward to  
23 come out with a recommendation at the October meeting.

24 And I would like to -- and Jennifer is actually  
25 leading that document writing, so I'll defer to her for any

1 comments she would like to make on the development.

2 MS. HALL: I'll just add that definitely we got  
3 feedback, and agree that the prescriptive detail of the  
4 formatting is something we will minimize, but still require  
5 English or a translation thereof.

6 As well, there was some good input around adding  
7 that the category of certification be added to the  
8 requirements, and that was not something we had. So that was  
9 quite valuable. And we are just still deliberating over the  
10 level of detail of listing crops and what's too much and  
11 what's required to be sufficient at the job and  
12 certification.

13 MR. SMILLIE: And we're also hoping to get this  
14 passed at the next meeting to that the NOP can take advantage  
15 of this input and combine it with the already approved NOSB  
16 document on certificate expiration dates, not certification  
17 expiration dates. And we've got that clarified, and we think  
18 that this will move a lot forward in the community, so that  
19 we've solved the problem of some of these floating  
20 certificates of ill repute.

21 The second item that we will be coming out with a  
22 recommendation on in October is the peer review. And  
23 basically, we don't have that document, right, Val?

24 MS. FRANCES: No.

25 MR. SMILLIE: Okay. It's very brief. Let me just



1 bring it to everyone's attention. Harriet Behar has already  
2 commented on it. There may be other comments, too. But our  
3 committee is working in collaboration with the NOP to  
4 actually get this longstanding directive implemented.

5           As you know, peer review is a panel of industry  
6 peers that will participate formally in the review and  
7 auditing of the NOP accreditation system. It's mandated  
8 OFPA, the law, 1990 law, section 2117. It's also part of the  
9 regulation, 7 CFR part 205.509. And quite frankly, the  
10 program is under compliance, because we don't have a peer  
11 review panel. But we're working with them to put one in  
12 place, and we're looking for input from the community on  
13 this.

14           Basically, I think our role is just to recommend  
15 that NOP, you know, move forward on this. After that, we're  
16 not sure, at this point in time, how much role NOSB will have  
17 in that committee. There's some structural questions, I  
18 guess, to answer, which perhaps might need legal counsel,  
19 whether it would be a part or some sort of, how it would be  
20 joined with NOSB, or whether it would be at all, whether it  
21 would be a stand alone group.

22           So as we explore those options, we're hoping to  
23 have our fleshed out recommendation again for October. I  
24 would like to give Mark any opportunity to comment.

25           MR. BRADLEY: No, we've been very pleased with the

1 collaboration with the Board on this. We've had some  
2 meetings and discussions on conference calls to talk about,  
3 you know, their ideas and our ideas, and how we can reduce  
4 duplications of effort and expense. So we're looking forward  
5 to having something come out of this.

6 MR. SMILLIE: And I'm not sure if I'm out of order,  
7 Andrea, but should I discuss new items on the work plan? Is  
8 that for Thursday or --

9 MS. CAROE: That's Thursday --

10 MR. SMILLIE: That's Thursday.

11 MS. CAROE: -- when we'll talk about work items.

12 MR. SMILLIE: Okay. So that's the current  
13 situation of the CAC Committee.

14 MS. CAROE: Any questions for Joe on these items?  
15 Very good. Okay. Okay. Now, this is the real time for  
16 Gerry.

17 MR. DAVIS: Okay. The first Crops Committee  
18 recommendation that we have is for ammonium salts or fatty  
19 acids for use as allowed for general organic crop production  
20 as an herbicide. And the Committee looked at the information  
21 and the evaluation criteria of what, whether we should  
22 approve this petition.

23 And on the impact on humans and the environment, we  
24 basically concluded that the material was reasonably benign,  
25 as far as its impact on humans and environment. So

1 determined that it met that criteria, that gave that a yes.

2           On the category, the criteria of is it essential  
3 for organic crop production, we voted that it did not satisfy  
4 that criteria, mainly because there are alternative weed  
5 management and practices, as well as some natural materials,  
6 herbicidal materials that could be used if a grower wanted to  
7 go that direction.

8           And also on the third criteria, is it compatible  
9 and consistent with organic farming? We looked at the  
10 regulation that states the herbicidal soaps are to be used  
11 only for farmstead, you know, ditch banks, right-of-ways, and  
12 so forth, and not -- or ornamental crops, but not in general  
13 organic crop production.

14           So we felt that the petitioner's specific request  
15 that it be approved for organic crop production for use in  
16 crops, that our hands were basically tied, and we could not  
17 approve that, because it directly violates the regulation at  
18 this point.

19           So based on the, it -- on that, those  
20 determinations, we felt it failed the criteria in category  
21 two and three. And so we voted to reject the petition to  
22 allow the use of soap salts, ammonium salts or fatty acids as  
23 herbicides in organic crop production. The vote was five to  
24 zero with one member absent. There was no minority opinion.  
25 Questions?

1 MS. CAROE: Isn't this a herbicidal soap? I guess  
2 I don't understand because herbicidal soaps are on the list.

3 MR. DAVIS: For use in general farmstead --

4 MS. CAROE: In farmstead. So --

5 MR. DAVIS: ditch banks and right-of-ways.

6 MS. CAROE: So this, that is the gist of it, is  
7 that it would be used on the crop? That's the big  
8 difference?

9 MR. DAVIS: The petition was for it to allow it to  
10 be used in crops, food crops.

11 MS. CAROE: Okay.

12 MR. DAVIS: And that's what we rejected, not the  
13 fact that it could already be used in general right-of-way  
14 and farmstead applications, because it already fits the  
15 regulation.

16 MS. CAROE: Okay.

17 MR. DAVIS: Joe. Joe.

18 MR. GIACOMINI: Is that just in -- I must have been  
19 sleeping for a bit. Is that just in the regulation, or is  
20 that restriction in OFPA also?

21 MR. DAVIS: The regulation is based on the  
22 statement in OFPA that the categories of synthetic materials  
23 that the legislation allowed were, soaps were mentioned as  
24 one of the synthetic materials that are up for grabs, in  
25 other words, as far as something that can be used. So the

1 regulation was built from that.

2 But the original OFPA does not state on how soaps  
3 can be used, or whether they can be used as herbicides in  
4 crops. That was determined by a previous board, and then  
5 enacted as rules originally.

6 MR. GIACOMINI: So the mechanism to allow -- there  
7 is nothing in OFPA that absolutely prohibits this. So would  
8 the mechanism to allow this in crop production to be  
9 petitioned to change the annotation?

10 MR. DAVIS: Right. You would need a petition for  
11 rule change on eliminating that annotation that says  
12 farmstead, right-of-way, ditch bank use only. Any other  
13 questions?

14 The next petition and recommendation is for  
15 pelargonic acid, again, another herbicide. The specific  
16 petition was for pelargonic acid for use as an herbicide in  
17 farmstead maintenance, roadways, ditches, right-of-ways,  
18 building perimeters, et cetera, and ornamental crops.

19 So the background on that is, you know, soap type,  
20 soap-based herbicides are already allowed for this use. The  
21 question with the pelargonic acid is, is this a soap. And  
22 that's what we're grappling with, is the crux of the whole  
23 issue is, can the material be classified as a soap. And we  
24 were looking for information in various sources to try to  
25 determine that.

1           Again, in going over the evaluation criteria,  
2    impact on humans and the environment, we felt that it was  
3    reasonably benign material and not a huge impact on, and  
4    causing problems in that way. So the committee said it did  
5    satisfy the humans and environment criteria, as far as being  
6    safe enough.

7           Is it essential? We voted no on that one, because  
8    we felt that there were alternative materials, as well as  
9    mainly a lot of alternative practices, cultural practices,  
10   and so forth, that made it not essential. Helpful, maybe, in  
11   some circumstances, but we were trying to determine if it was  
12   essential or not.

13           The last category was, is it compatible and  
14   consistent with organic farming and the regulations? We also  
15   voted no on that criteria because mainly the soap issue. We  
16   could not find information from the EPA on, looking on an  
17   internet search and so forth.

18           The EPA information, various chemical websites that  
19   talk about, you know, from Wikipedia and everything else that  
20   we checked, they were willing to state that it was a  
21   carboxylic acid, but not one place mentioned this particular  
22   material was classified as a soap that we could find.

23           As a committee, we would be totally -- we would  
24   welcome that information to support the verbal claims that  
25   the petitioner made in their public comment today, that it

1 should be considered a soap, that we're looking for  
2 justification for that statement.

3           So we felt that it was not consistent with what the  
4 current regulation says, because we can't call it a soap  
5 without further documentation.

6           So the recommended action from the Committee was to  
7 reject adding pelargonic acid to the national list of  
8 synthetic substances allowed in organic crop production as an  
9 herbicide for use in farmstead and ornamental crop use. The  
10 vote was zero yes to add it, four no to add it to the list.  
11 Two were absent and there was no minority opinion.

12 Questions?

13           MS. HEINEZ: Trying to live up to my scientist  
14 label here, so speaking to the herbicidal soap, I guess two  
15 comments. One, that TAP on line 58 says that pelargonic acid  
16 is an example of herbicides often referred to as herbicidal  
17 soaps.

18           And then referring to its manufacturing process, it  
19 is consistent with how you would produce other soaps. So  
20 while you may not be able to find a reference that say it is  
21 soap, it's manufacturing process of combining a fat with an  
22 alkaline to convert it to something with a carbocyclic  
23 subgroup is consistent.

24           I'm not sure if that addresses your concerns.

25           MR. DAVIS: We considered that.

1 MS. HEINEZ: Sorry.

2 MR. DAVIS: The main sticking point, that you know,  
3 all the herbicidal soaps seem to be an alkaline base combined  
4 with a fatty acid to make this salt of a fatty acid. The  
5 pelargonic was specific in that it was an ozone type process  
6 to produce this fatty acid that had this. It did not have a  
7 metal salt associated with it. And we thought that the  
8 literature made it specific that that is what a soap is, is a  
9 metal salt plus the fatty acid in combination. And it seems  
10 like a minute point, maybe, but that's where we went with it.

11 And we kind of did that to see what kind of  
12 response we would get from the public in their public  
13 comments, to see if we could get a little more light shown on  
14 it to support a decision. Julie.

15 MS. WEISMAN: Not to sabotage the excellent work  
16 that Andrea just did getting us, that is getting us back on  
17 schedule, because we were an hour late before the break, but  
18 I think there are some organic chemists in the room, I think.

19 And I was wondering if they would be willing to be called  
20 upon by us at this moment, or if the Board, if that might be  
21 an appropriate thing to do, is to ask an organic chemist to  
22 address the question of whether this pelargonic acid, in  
23 fact, is a byproduct of saponification.

24 MS. CAROE: Well, Katrina is a chemist.

25 MS. WEISMAN: Right. Okay.



1           MS. CAROE: Which we recognize her. Also, just  
2 outside of this, did anybody go back to the TAP reviewers  
3 which we hired to do this sort of work.

4           MR. DAVIS: We looked at the TAP and it's --

5           MS. CAROE: No, no, no, go back to the TAP  
6 reviewer.

7           MR. DAVIS: -- in that line, as we mentioned. Oh.  
8 That line that Katrina mentioned that is in the TAP, it is  
9 documented in our recommendation that we noted that, that the  
10 TAP reviewer made that mention. But there is no support for  
11 that statement given by the TAP reviewer. They just state it  
12 as a general thing.

13           And then I heard in the petitioner's public comment  
14 today another general statement that they had on their  
15 Powerpoint. But we're looking for scientific backup for  
16 those statements. And that's what we haven't had anyone show  
17 us yet.

18           MS. CAROE: Well, I know we've been dealing with a  
19 lot of 606 materials where we're getting just information  
20 from a petitioner, and we question that, or we look for some  
21 evidence to validate that.

22           However, when we have a TAP, that is a credible  
23 reference. That is a scientific reference. Those folks are  
24 under contract and they've been reviewed. And you can accept  
25 that information from the TAP reviewers as credible.

1           So I don't know that I feel that we really have to  
2 get validation of our TAP reviewers because that will go on  
3 forever if we continue to do that.

4           MR. DAVIS: Well, the basic -- we noted that  
5 comment in the TAP. It was a single sentence. But we also  
6 noted that the EPA does not class pelargonic acid as a soap.  
7 It is, at this point, it is unclassified by EPA. So that's  
8 where we stopped. We just -- go ahead.

9           MS. JAMES: I just want to recognize that we did  
10 have a discussion yesterday with the NOP where they pointed  
11 out that they were interested in having TAP reviews and  
12 seeking information in TAP reviews where there was more  
13 documented, specific information that could be referenced.  
14 So I'm just making that point. I don't know if Mr. Pooler  
15 would like to comment on that or not.

16           MR. DAVIS: Julie.

17           MS. WEISMAN: Yes, I also, I definite, looking at  
18 the, you know, how other agencies treat a material is, that's  
19 part of what we need to do in this process. That there is a  
20 difference between, part of what we were discussing was  
21 chemistry, what is the chemistry involved in making a soap  
22 and its byproducts. And that is quite a separate issue from  
23 how the EPA, from federal regulations classifying things.

24           Now, if EPA specifically said that this is not  
25 appropriate to consider as a soap, that we would have to

1   abide by. But their absence of saying positively that it is,  
2   does not mean that according to, you know, standard,  
3   according to standard chemistry, chemical understanding, that  
4   it is a soap. That's a thought.

5           MR. DAVIS: Again, not to belabor the point, just  
6   we as a Committee thought that the classification of what is  
7   a soap, I mean, not necessarily what EPA says about it, that  
8   a soap is, and several committee members pointed this out in  
9   our discussion was a soap is a metal salt of a fatty acid.  
10  And I, the committee would be interested in, if there are any  
11  organic chemists in the audience that want to give us some  
12  help on that, to see if this material, you know, how close it  
13  is.

14           MS. CAROE: Rich, I know you're a --

15           MR. THEUER: Hi, I'm Rich Theuer. I'm a BS chemist  
16  and Ph.D. and Masters in biochemistry. A chemistry says  
17  exactly what you said, a soap is a metal salt of a fatty  
18  acid. That's the standard definition.

19           MR. DAVIS: There's another gentleman that raised  
20  his hand, also.

21           MS. CAROE: The chair recognizes the gentleman in  
22  the third row. I don't know who you are.

23           MR. B. SMILLIE: I'm an organic chemist of nearly  
24  60 years. I agree. A soap -- my name is Bob Smillie.

25           MR. SMILLIE: He's right.

1 MS. CAROE: And your affiliation, sir?

2 MR. B. SMILLIE: Pelican Lab. We were the  
3 petitioners to allow ammonium pelargonic to be used as an  
4 herbicide. Ammonium pelargonic has been registered by the  
5 EPA for organic production, but that fits into the rule of  
6 not being used on food. We have a nonfood use registration.  
7 We have petitioned the EPA, of course, for a food  
8 registration, and that's now under review.

9 But going back to soap, a soap is a salt of a fatty  
10 acid. It has to be a salt. We all know what soaps are.  
11 What do we think of when we think of soap? We think of soap  
12 as a cleaning material, something to clean something.

13 The reason it cleans is because one end of the  
14 molecule has a tendency to get into water. The other end of  
15 the molecule is oil or tends to get into organic materials.  
16 So it basically emulsifies the oil dirt or whatever it is  
17 that we are cleaning, and you then get rid of the dirt by  
18 emulsifying it into the water. It works because one end of  
19 the molecule has this water attraction.

20 Pelargonic acid is water insoluble. There is, it  
21 has no, it has no tendency to do what a soap does. I'm very  
22 familiar with pelargonic acid. And I'll tell you, I would  
23 not wash my hands with it. I would wash my hands with soap  
24 with salts of pelargonic acid, and have done so. A soap, by  
25 definition, is a salt of a fatty acid. It has to be a salt.

1 Thank you.

2 MR. DAVIS: Thank you very much. So, I'm not sure  
3 where we left off here, but I guess we did finish the  
4 statement of what the Committee action was and how we came up  
5 with that vote to reject the petition to classify pelargonic  
6 acid from the petitioner as a soap-based herbicide.

7 MS. CAROE: So at this time, at this time, the  
8 Committee's recommendations stand? You don't, you're not  
9 going to reconvene or look at this material based on public  
10 comment? The Committee recommendation, as is, will be voted  
11 on tomorrow?

12 MR. DAVIS: No, I mean, I think based on public  
13 comment, and maybe some more that we may get in the, you  
14 know, later, during the next comment period, it's possible  
15 that this is something that people could change their mind on  
16 within the Committee's vote, or the overall Board could do  
17 that also.

18 But we just, we took just an interpretive look at  
19 what the rule says, and what is allowed, and we're not  
20 willing to, you know, call pelargonic acid a soap, against  
21 nothing in the EPA or from the science information available  
22 to us. We didn't want to classify it as a soap when no one  
23 else is.

24 MS. CAROE: I'm not suggesting that you do change  
25 your mind. I'm just trying to determine whether this is

1 going to be the recommendation we vote on tomorrow, or are we  
2 expecting some changes to that recommendation?

3 MR. DAVIS: I would not expect changes at this  
4 point.

5 MS. CAROE: Okay. Very good. Is there any further  
6 questions for Gerry on those items? Okay. Well, we're  
7 scheduled for a break right now, but I would ask the Board if  
8 you would be willing to forego the break, since we had one  
9 fairly recently, to try to gain back some of our time? Okay.

10 Moving forward then, I think we have some  
11 discussion on our next items in livestock. So I will turn  
12 the, turn it over to Kevin, who is vice-chair of the  
13 Livestock Committee, and start the discussions for  
14 aquaculture and cloning.

15 MR. ENGELBERT: Thank you, Andrea. For the good of  
16 the cause, I will be brief. But before we start on Livestock  
17 Committee business, Hugh asked me to pass along his  
18 sentiments that he deeply regrets missing the first two days  
19 of this meeting, but he hopes to be here tomorrow morning.  
20 He had commitments that he simply had to honor.

21 I'd also like to thank Mark for the update  
22 yesterday on the issues relating to the Livestock Committee.  
23 I guess it goes without saying that organic dairy farmers  
24 across the country are very anxious for the pasture rule to  
25 be released, and for the ANPR on origin of livestock.

1           The Livestock Committee remains optimistic that  
2 their time is near, and we stand, you know, ready to help in  
3 any way we can to continue to facilitate that process. Okay.

4           And as I am sure everyone is aware, the two items  
5 that we have spent most of our time on since the last NOSB  
6 meeting, are aquaculture and cloning, the first, having been  
7 on the LC work plan for a number of years, and the latter  
8 just recently appearing on our radar screen.

9           Given the amount of work that we have to do and the  
10 amount of time we have to do it in, I know I should just go  
11 directly to that word, but I must take a minute to talk about  
12 aquaculture and how we got to where we are today.

13           The standards were first discussed in 1998 with the  
14 first attempt at writing them taken in 1999. That led to the  
15 Wittenberg report in 2001, which in turn led to the Aquatic  
16 Animal Task Force and the publication of the Anderson report.

17           A group of 85 people calling themselves the  
18 National Organic Aquaculture Working Group used the livestock  
19 standards, the Wittenberg report, the Anderson report, and 12  
20 international standards to write a white paper that was  
21 published on the NOP website.

22           Finally, and most recently, there were 12 members  
23 appointed to the current aquaculture working group who  
24 presented the current report to the Livestock Committee. So  
25 as I'm sure everyone is aware, there are many, many, many

1 people who have devoted countless hours and effort to get to  
2 where we are today.

3 As a relatively recent participant in this  
4 aquaculture process, I hesitate to attempt to name everyone  
5 that deserves special attention, because there are so many,  
6 and I don't want to leave anybody out. But I think everybody  
7 knows, you know, if you have been paying attention to this,  
8 who these people are throughout the years, and right up until  
9 today.

10 Many people from the NOSB, the NOP, from the  
11 organic community, and from the aquaculture industry have  
12 contributed a great deal of valuable input to the proposed  
13 standards. They deserve our deepest appreciation, and  
14 everyone should be proud of the work that has been  
15 accomplished.

16 And on a personal note, it's been a privilege to  
17 work with the AWG and everybody else who has been involved in  
18 it presently.

19 Now, with respect to the Committee's  
20 recommendation, we owe a thank you to Andrea, senior member  
21 of the NOSB and long time AWG member, for guiding the  
22 Livestock Committee through the process of issuing this  
23 recommendation. There have been many worthwhile public  
24 comments posted and presented. So it remains a work in  
25 progress.



1           Given the controversy that surrounds the feeding of  
2 wild caught fish meal and fish oil and open cage net pens,  
3 the Livestock Committee decided to remove these sections from  
4 the AWG's report.

5           Those two issues, which remain the most contentious  
6 of the six the Livestock Committee had previously asked for  
7 comment upon, along with the shellfish and bivalves, which  
8 will continue to be worked on, we hope to have a  
9 recommendation for them for the fall meeting. That's one of  
10 our goals. But we will focus today on the recommendation as  
11 we have presented it.

12           The AWG's report was extremely thorough, very  
13 professional, and we believe very close to a standard that's  
14 necessary to protect organic integrity. One footnote on that  
15 report, there is a typo on the Committee vote. There were  
16 actually six votes in favor and one absent vote. There  
17 wasn't a no vote on that, on the Livestock Committee's vote.

18           At this time, I would like Andrea, I ask Andrea to  
19 recognize George Lockwood.

20           MS. CAROE: If George Lockwood, would you come to  
21 the podium as we discuss this. Special thanks to George who  
22 has done --

23           MR. ENGELBERT: Yes.

24           MS. CAROE: -- well above and beyond, meetings  
25 twice a week and a lot of documents. And it is greatly

1 appreciate, all your hard work and effort towards this.

2 MR. LOCKWOOD: Thank you, Madam Chairman.

3 MR. ENGELBERT: Exactly what I was going to say  
4 when I got you up there, George. Thank you very much for all  
5 your -- you know, you've just gone above and beyond what  
6 anybody should expect from somebody that's volunteering in a  
7 position like that. And with that, we'll just turn this  
8 discussion over for questions and comments from the Board and  
9 see if we can work through this report.

10 MR. LOCKWOOD: Most of the comments we've received  
11 so far during these hearings have pertained to the fish meal,  
12 fish oil and net pen issues. And since those are not on the  
13 table at this time, there were some comments received  
14 yesterday that I do believe need to be attended to, in a  
15 letter from Emily Rosen, Emily Brown Rosen.

16 If you have that document, and unfortunately the  
17 audience doesn't have it, but if you do have that document, I  
18 would like -- I think we can go through these questions or  
19 these issues very quickly.

20 Item number one is a fish meal and fish oil matter,  
21 and I think it probably needs to be deferred. That's  
22 aquaculture feed, paragraph E.

23 Also at the very end, contaminate levels is a fish  
24 meal and fish oil issue, and it should be properly deferred  
25 until we deal --

1 MS. CAROE: Hold on, George. Let's take them one  
2 at a time, and slowly enough that Valerie can do some  
3 changes, as -- oh, you want to bring up Emily's --

4 MR. ENGELBERT: Whatever is the best way to do it.  
5 You two can decide how to do it.

6 MS. FRANCES: I don't have Emily's comments in the  
7 system.

8 MS. CAROE: Okay. Then let's take the comments one  
9 at a time. Let George address, and then the Committee can  
10 discuss --

11 MS. FRANCES: Emily does.

12 MS. CAROE: So you do have them.

13 MR. ENGELBERT: I don't think we need them.

14 MS. CAROE: Okay.

15 MR. ENGELBERT: I think George is going to make the  
16 changes. I think George is going to make the changes to the  
17 document. I think this will be fairly quick. We won't take  
18 up much time, Madam Chair.

19 MR. LOCKWOOD: Well, as I indicated, the first  
20 comment has to do with paragraph E of section 252, and I  
21 believe that properly belongs in our future discussion, since  
22 it deals with fish meal.

23 And also, her last comment, her last paragraph has  
24 to do with contaminant levels, and again, I suggest that be  
25 deferred until fish meal and fish oil is discussed.

1           Going back to page two of her comments, paragraph G  
2 deals with silage. And there is a misquote or a missed  
3 citation. The citation should be section 205.601. We  
4 believe that the, one of the frontiers of aquaculture is  
5 indeed recycling fish carcasses after the filets have been  
6 removed, so that the nutrients that are in the fish carcasses  
7 can be recovered. This will allow that. It references  
8 silage to fish enzymes, emulsions and so forth, which are  
9 allowed. And that's the section that we are citing.

10           Paragraph H, we believe it is essential. It has to  
11 do with organic aquaculture feeds may include meals and oils  
12 containing essential fatty acid produced by processes allowed  
13 in organic production. Again, if we are going to have  
14 limitations on oil and lipids from natural sources, this will  
15 allow us to have an alternate source of oils. And we think  
16 it's very important to be stated here in the affirmative.

17           The next comment has to do with paragraph I,  
18 nutritional pigmented compounds that have been produced and  
19 handled in accordance with organic requirements appear on the  
20 national list, that's 205.603, are allowed in the US, and  
21 allowed by the US Food and Drug Administration for inclusion  
22 in aquaculture feeds, may be used. She has offered some  
23 suggestions, word changes which we concur with. So paragraph  
24 I we would concur with.

25           Paragraph 6 has to do with composted manure. And I

1 think there is a bit of confusion here. The indication is  
2 that we should be consistent with crops, and we are. Under  
3 the crop standards, there is a method for the composting of  
4 manure. There is no time limit. We have in our using of  
5 composted manure for fertilizing ponds a 30-day withdrawal  
6 prior to human consumption. And we believe that is adequate.

7 Let me say that this is now being practiced in the  
8 growing of shrimp. Shrimp crops are generally fairly short  
9 crops, 120 days. And if the period of withdrawal were to be  
10 significantly greater than what is proposed here, it would  
11 preclude the use.

12 What happens here is an instant ecological  
13 development in that the carbon and nitrogen source for micro-  
14 algae comes from the compost. Micro-algae is grown as a  
15 primary producer. Then cocoa pods and ether, small  
16 crustaceans eat that algae, which is then eaten by the  
17 shrimp. This greatly reduces the off-farm inputs into a  
18 shrimp growing operations. And we believe this is one of the  
19 frontiers.

20 MR. ENGELBERT: George, how many more separate  
21 items do you have that you want to go through while --

22 MR. LOCKWOOD: About three.

23 MR. ENGELBERT: Three?

24 MR. LOCKWOOD: Three.

25 MR. ENGELBERT: Okay. Let's go through all those

1 three, so we can get a brief overview, and then let's go back  
2 one at a time to give Valerie a chance to incorporate these  
3 changes into the proposed recommendation, and to give the  
4 Board a chance to talk about each one of these changes.

5 MR. LOCKWOOD: Okay.

6 MR. ENGELBERT: Okay.

7 MR. LOCKWOOD: The next proposal has to do with  
8 aquaculture facilities, and it has to do with the conversion  
9 period. We have proposed one year, and she is suggesting we  
10 go to 36 months, which is the time period for land  
11 conversion.

12 Aquatic systems are dramatically different than  
13 terrestrial systems. And this is one area. We believe that  
14 there is substantial science to indicate that the, any  
15 prohibited substances that would be in a pond would be dealt  
16 with within a 12-month period of time. This is a substantial  
17 difference than terrestrial, but the aquatic system is  
18 substantially different in this respect.

19 The next item has to do with farmed aquatic plants.

20 Farmed aquatic plants are essential for many aquaculture  
21 systems, particularly in those that rely on lower tropic  
22 level feed inputs. The objection is, we believe that we are  
23 also allowing aquatic plants may be grown in organic systems  
24 for human consumption. We certainly would be willing to  
25 postpone that section of farmed aquatic plants, if we could

1 go ahead with the allowance for the use of farmed aquatic  
2 plants as aquaculture feeds.

3 So that's, those are our comments here.

4 MR. ENGELBERT: Okay. Now, can we go right back to  
5 the top and talk about the first recommendation or the first  
6 change that the AWG agrees to, and we can talk about that.

7 MR. MOYER: Item A was the table --

8 MR. ENGELBERT: Okay, yes, that, we're just going  
9 to table that, the things that we are just going to talk  
10 about changing, so that we can get a recommendation ready for  
11 vote tomorrow. The first one is --

12 MR. MOYER: You have to change the citation for 605  
13 and 601.

14 MR. ENGELBERT: Okay. Valerie, the first change is  
15 in G. There is a typo there. We need to change that to  
16 read, from reading -- it's in 252 section --

17 MS. FRANCES: What page?

18 MR. MOYER: 205.

19 MR. ENGELBERT: Section G.

20 MS. CAROE: It's all the way at the end of the  
21 document where the actual rules are, because the first part  
22 is all public comment.

23 MR. ENGELBERT: It's on page eight.

24 MS. FRANCES: Page eight. Page eight of the rules,  
25 or page eight of where the public comment discussion. In

1 your actually recommendation. Okay.

2 MR. ENGELBERT: In the proposed recommendation,  
3 under 205.252 letter G.

4 MS. FRANCES: The silage?

5 MR. ENGELBERT: Yes. Yes. We need to change that  
6 205.605 to 205.601.

7 MS. FRANCES: Okay, that's a typo.

8 MR. ENGELBERT: Yes, Dan.

9 MR. GIACOMINI: 601, this is aquaculture feed  
10 section. This is the section that's looking at what is going  
11 to be allowed as the use in feeding these animals. 601 is  
12 the crop section. I understand that it may have been  
13 convenient to go there as a source of where it is in the  
14 existing rule, but I'm totally opposed with the fact that I  
15 don't believe that's the appropriate place to go.

16 This needs to be 603, which is where we deal with  
17 livestock issues. And if we then need to add substances on  
18 603 to make this work, I think that would be the appropriate  
19 way to do it. But I don't think it's appropriate to go to  
20 the crop section for livestock feed, livestock aquatic feed  
21 issues.

22 MR. ENGELBERT: All we're saying, Dan, is you've  
23 already provided for silage for fish emulsion, and we simply  
24 want to make sure that silage is included within the  
25 aquaculture section. That's the only citation we have. It



1 has nothing to do with soil amendment. We're obviously not  
2 amending soil.

3 MR. GIACOMINI: Joe.

4 MR. SMILLIE: Yes, it's what -- I think you are  
5 right, Dan. I -- it's dealt with in our current terrestrial  
6 systems, if 601 is a fish emulsion product. And what you're  
7 talking about is a fish feed, but done through the exact same  
8 process. So I think Dan is right. I think 603 is the proper  
9 place for it.

10 MR. ENGELBERT: Well, then, that would have to be  
11 an amendment you would carry.

12 MS. CAROE: It's not a motion. It's not an  
13 amendment. It's a change.

14 MR. SMILLIE: Yes. I think we can --

15 MS. CAROE: Kevin --

16 MR. SMILLIE: We can make that change.

17 MR. ENGELBERT: I'm not sure. I don't know.

18 Andrea.

19 MS. CAROE: I think the issue is, you're looking to  
20 get a particular material available to you, and it happens to  
21 be on a list, but it's not the appropriate list. So to Dan's  
22 point, 603 is the appropriate list, unless we even build a  
23 new list out of the reserved sections, which we could do. I  
24 don't think it's necessary. I think we can go to 603.

25 However, a follow on action, and perhaps an action

1 for the fall meeting is looking at materials that need to be  
2 added to 603 to accommodate this new production technique, in  
3 which case that material that you are citing off of, a crops  
4 list may be one that needs to be petitioned and looked at.  
5 But, you know, the tail is wagging the dog if we cite 601.  
6 We need to, I think Dan is correct. 603 is appropriate, but  
7 your material that you want is not necessarily there. So  
8 there is further action in order to do this the right way.

9 MR. ENGELBERT: So then you are saying, this should  
10 be 603, and that's what we should probably go with right now.

11 Is that what I'm understanding?

12 MS. CAROE: It's my opinion, yes.

13 MR. ENGELBERT: Okay.

14 MR. SMILLIE: One clarification. 603 is synthetic  
15 substances.

16 MR. LOCKWOOD: Well, that's what's -- so what's  
17 required here is the use of acid, synthetic mineral acids  
18 that are allowed for fish emulsion. It's the same process as  
19 silage.

20 MR. SMILLIE: Okay. Okay.

21 MR. LOCKWOOD: If you are going to rewrite that and  
22 put it in 603, there is a ph limit of 3.5 for the fish  
23 emulsion. I would suggest that we go a little bit lower to  
24 2.5 perhaps.

25 MR. SMILLIE: Andrea?

1           MS. CAROE: Again, that would be the section  
2 action. That would be looking at, petitioning, and putting  
3 appropriate materials on the list for this particular  
4 production practice. So I think that can be, you know,  
5 evaluated.

6           But it's not, the material that is listed there is  
7 listed under a crop section. The regulation allows it in the  
8 crop use. It's inappropriate for us to apply that to  
9 production system, which was not looked at by original Board  
10 that put that on the list, nor the TAP reviewers that  
11 evaluated it for that purpose.

12           So, again, the after action is to look at, or  
13 listing appropriate materials on the appropriate list.

14           MR. LOCKWOOD: That takes a whole new petition  
15 process, then?

16           MS. CAROE: It would take a petition. And, I know,  
17 I know. But this is the pain of putting in a new production  
18 system into a standard that exists. There are things that  
19 are not considered and that need to be started from scratch.

20           MR. LOCKWOOD: Okay.

21           MR. ENGELBERT: Okay. Now, the next item you  
22 brought up is under H on 205.252. And you disagree with  
23 Emily Brown Rosen's suggestion?

24           MR. LOCKWOOD: She uses the word implies, I guess,  
25 the proper word being first. We're not implying anything.

1 We're very clearly stating that organic aquaculture feeds may  
2 include meals and oils containing essential fatty acid  
3 produced by processes allowed in organic production. And  
4 that is new technology is coming on line that will allow as  
5 an alternate source of fish oils.

6 MR. ENGELBERT: Bea.

7 MS. JAMES: I just have a question on point of  
8 order here. We're changing this recommendation, and I'm  
9 assuming that after that, then we are going to get into  
10 discussion about the recommendation in general? Okay.

11 MR. ENGELBERT: Yes. Any other comments on H, what  
12 we need to do there? Dan.

13 MR. GIACOMINI: Yeah, George, I think this would  
14 also be a place where you might want to address, there were a  
15 number of public comments that addressed the allowance of  
16 fish and fish meal, fish oil, fish meal in particular through  
17 the additives section. And that this was considered a  
18 loophole in getting into aquaculture, and how much would then  
19 be allowed going, jumping from an additive to a feed. Do you  
20 have anything to address on those issues?

21 MR. LOCKWOOD: Dan, all during this conference  
22 we've been saying these issues are going to be postponed, and  
23 we think it's proper to address them when you are addressing  
24 them later on. And I seem to notice here that this  
25 apparently is an issue in livestock also, the wording of this

1 particular clause.

2           The clause you're talking about was picked directly  
3 from the livestock standard. At present, we would not want  
4 to deviate from what you are doing in livestock.

5           MR. ENGELBERT: Joe.

6           MR. SMILLIE: Yes, I just wanted to clarify what  
7 George has said, that the H is not referring to fish meal or  
8 fish oil, right? It's a new algal process for omega 3's that  
9 looks to be a promising alternative to fish meal and fish  
10 oil.

11           MR. LOCKWOOD: And Bob Bolus, one of our Committee  
12 members is where, and he will be giving public comments  
13 later.

14           MR. SMILLIE: So my recommendation is to leave it  
15 as is.

16           MR. ENGELBERT: Leave it as is. Okay. Okay.  
17 Anybody else? Okay. Next, George was, under J, maybe you  
18 could explain your position a little bit.

19           MR. LOCKWOOD: I think it's I, isn't it?

20           MR. ENGELBERT: Okay. Pigments. Okay. Yes.

21           MR. LOCKWOOD: We find the change that is being  
22 proposed here probably clarifies matters.

23           MR. ENGELBERT: Okay.

24           MR. LOCKWOOD: It's acceptable.

25           MR. ENGELBERT: So on I, Valerie, it starts out,

1 nutritional pigment compounds, and then we want to delete,  
2 that have been produced and handled in accordance with  
3 organic requirements. And then pickup again with, appear on  
4 the national list at 205.603.

5 MR. LOCKWOOD: I think it's --

6 MR. ENGELBERT: And then add in, or are organically  
7 produced. And the pick up with the rest of the wording, and  
8 allowed by the U.S. Food and Drug Administration for  
9 inclusion in aquaculture feeds may be used.

10 I'll read straight through the whole thing.  
11 Nutritional pigment compounds -- pardon me -- that appear --  
12 no. Nutritional pigment compounds that appear on the  
13 national list at 205.603 or are organically produced and  
14 allowed by the U.S. Food and Drug Administration for  
15 inclusion in aquaculture feeds may be used.

16 MS. FRANCES: Did I get that?

17 MR. ENGELBERT: I can't see it from here.

18 MR. LOCKWOOD: There should be the word that in  
19 there, nutritional pigment compounds that appear, no comma.

20 MR. ENGELBERT: Okay. Valerie, would you re-read  
21 that, please?

22 MS. FRANCES: Nutritional compounds that appear on  
23 205.603 or are organically produced and allowed by U.S. Food  
24 and Drug Administration for inclusion in aquaculture feeds  
25 may be used.

1           MR. ENGELBERT: Is that it? Thank you. Okay.  
2 Does anybody have any other comments on that wording? Okay.  
3 Next is J then. The question is, why is that under feed when  
4 you are using composted manure to fertilize the pond?

5           MR. LOCKWOOD: Where else would we have put it?  
6 I'm at a loss right now. Would you want it under living  
7 conditions?

8           MR. ENGELBERT: Yeah --

9           (Discussion off the record.)

10          MR. ENGELBERT: Is there any discussion on this  
11 from any other members of the Board? Does anybody want to  
12 try to help us out here? Andrea.

13          MS. CAROE: We're talking about these manures in  
14 the ponds?

15          MR. ENGELBERT: Yes.

16          MS. CAROE: I think living conditions may be a  
17 place that you can do it, because it becomes an environmental  
18 control, right? Is that not correct?

19          MR. MOYER: I think what they're trying to do is  
20 fertilize the pond to grow the algae and micro-algae. And  
21 micro-algae is a feed, and I think that's why they stuck it  
22 in here under feed. But you are really not feeding fish with  
23 the compost, so it doesn't really belong there.

24          MS. CAROE: Kevin?

25          MR. ENGELBERT: Yes, Andrea.

1           MS. CAROE: Okay, so ultimately, what you just  
2 said, it could be put into the aquatic plant section, because  
3 that's what you are doing is growing aquatic plants. You're  
4 fertilizing aquatic plants.

5           However, in this situation, I think the reason that  
6 it's here is because you're trying to restrict the proper use  
7 of these so that you don't have an environmental issue. It  
8 becomes living condition.

9           MR. ENGELBERT: Right.

10          MS. CAROE: That's why I was suggesting, it becomes  
11 living condition. It's not a feed issue. Hopefully, they  
12 are not eating it, but I don't know. But anyways, but it  
13 might be an environmental issue with the place that they are  
14 swimming around.

15          MR. ENGELBERT: Yeah, I'm trying to think of a  
16 comparison with terrestrial agriculture. I'm not sure that  
17 -- I still think maybe in plants is the better place, you  
18 know what I mean. Applying a fertilizer to a field to try to  
19 grow the crop is analogous to what I think is trying to be  
20 accomplished here.

21          MR. SMILLIE: Well, I want to point out that it  
22 also does appear, much the same language in 258, farmed  
23 aquatic plants, which we'll be dealing with. So it's there.  
24 I don't know, do you need it in both places, George?

25          MR. LOCKWOOD: Well, we're doing something more



1 than just growing plants here. We're establishing an  
2 ecosystem that supports the growth of shrimp.

3 MR. SMILLIE: Yes, so living.

4 MR. LOCKWOOD: It doesn't make a lot of difference  
5 to us where it appears.

6 MR. SMILLIE: Okay.

7 MR. LOCKWOOD: We just want to make sure it's in  
8 there.

9 MR. SMILLIE: Okay.

10 MR. ENGELBERT: Yes. Okay. We'll have to work on  
11 that.

12 MR. SMILLIE: Yes.

13 MS. CAROE: Kevin.

14 MR. ENGELBERT: Yes, Andrea.

15 MS. CAROE: Really quickly, it is now after 12:00.

16 Actually, is it 1:00? Am I reading it -- it's 12:00. 10

17 after 12:00. How much longer do you want to debate this?

18 I'm wondering if we should cut this at some point so that we

19 can break for lunch, take a shorter lunch, come back.

20 Shorter lunch.

21 MR. ENGELBERT: Jennifer.

22 MS. HALL: Can I suggest we get through the changes  
23 and then maybe break and come back for discussion?

24 MR. ENGELBERT: Okay. We can do that. Okay.

25 What's --

1 MR. MOYER: Next is 205.255.

2 MR. ENGELBERT: Next is 205.255, page 13, item K,  
3 related to the one-year period. Go ahead George and tell us.

4 MR. LOCKWOOD: The reason we have opted for one  
5 year here is that with aquatic systems, a pond that's filled  
6 with water, the prohibited systems would be dealt with due to  
7 not only the biology but the simple fact that water is there  
8 and the pond will be drained, and so forth, before it is  
9 used. That being said, this isn't a deal killer with us.

10 MR. ENGELBERT: Right.

11 MR. LOCKWOOD: If you really think in your judgment  
12 that a three-year period is necessary in order to be  
13 consistent throughout the standards, that's fine.

14 MR. ENGELBERT: Yes. That's always been my  
15 opinion, but again, that's why we're here trying to work this  
16 out.

17 MR. LOCKWOOD: We would prefer one year. We think  
18 the science supports it. But like I say, if three years is  
19 what you want, we can live with it.

20 MR. ENGELBERT: Okay.

21 MR. LOCKWOOD: And the prohibited substances that  
22 are in 602, I guess it is, we don't use any of them. There  
23 is very little use of chemicals in aquaculture.

24 MR. ENGELBERT: But if there are any, that's the  
25 distinction we have to make. We have to --

1 MR. LOCKWOOD: The list you have, we don't use.

2 MR. ENGELBERT: Well, maybe in the future, they  
3 will be, and we're trying to write, you know, trying to write  
4 a long lasting recommendation here. So I think to have a  
5 good chance of getting this to go through, we need to change  
6 that to 36 months, three years. Any other discussion,  
7 comments? Steve.

8 MR. DEMURE: Are there any testing, any scientific  
9 evidence on whether one year versus three years is better?

10 MR. ENGELBERT: It's, again, this is part of the  
11 subjectiveness of writing a rule. Three years was a  
12 compromise with land, you know, with land, terrestrial-based  
13 system. And it -- tests are expensive. They can be done,  
14 but it's, yes, Jeff.

15 MR. MOYER: Steve, to answer, I mean, I have  
16 scientists that work in my own organization that will say  
17 that they can scientifically show that they can transition  
18 land in under a year and have it be organic. I mean, that's  
19 not what this is all about. It's not about testing. It's  
20 about the process.

21 I mean, you test a lot of land, and you will find  
22 residuals, but if they went through the three-year process.  
23 So it's not about testing, it's about the time. And it's not  
24 trying, we're not trying to short cycle things here. I agree  
25 with Kevin, that if you have three years for land, it's hard

1 to not say you have three years for water, and justify that.

2 If we get into some sort of testing thing, we're in  
3 deep unchartered waters there. We don't want to go there.  
4 You don't want to go there.

5 MR. LOCKWOOD: Jeff, let me point out that IFOM has  
6 one year or one crop, whichever is less. So the  
7 international standards are going for one year, and we  
8 thought that was reasonable. But again, Kevin, this is not  
9 the deal killer.

10 MR. ENGELBERT: Okay. Okay, let's -- yes, we can  
11 change that. Valerie on 205.255, aquaculture facilities  
12 under K, we want to strike one year, and put in three years  
13 or 36 months from the date of the last prohibited substance.  
14 Joe.

15 MR. SMILLIE: George, do you understand that from  
16 the date of the last prohibited substance. So if you are  
17 claiming that most, in most cases these particular substances  
18 are not used, then you shouldn't have a problem with it.

19 MR. ENGELBERT: Right. That's, you know --

20 MR. LOCKWOOD: We understand that.

21 MR. ENGELBERT: If they can document --

22 MR. LOCKWOOD: That's why we can live with it.

23 MR. SMILLIE: Okay.

24 MR. LOCKWOOD: These prohibited substances aren't  
25 used in aquaculture anyway.

1           MR. SMILLIE: Understanding that that's a  
2 compromise.

3           MR. ENGELBERT: Because that's what works in the  
4 rest of the rule anyway.

5           MS. JAMES: Kevin, Kevin.

6           MR. ENGELBERT: Yes, Bea.

7           MS. JAMES: Why are we changing it based on what we  
8 have for crops? Don't you think we should be making these  
9 regulations based on the science for aquaculture?

10          MR. ENGELBERT: It's based on -- right, it's not in  
11 the science for crops. It's based on --

12          MS. JAMES: Well, I heard you reference that it  
13 should be changed because we have this three-year period with  
14 crops, so therefore.

15          MR. ENGELBERT: But it's not --

16          MS. JAMES: However, then I'm hearing George and  
17 Joe say, well, a lot of these things aren't used anyway, and  
18 within a year -- so I'm just confused, why three years then?

19          MR. ENGELBERT: Joe.

20          MR. SMILLIE: Bea, I think what we are saying is,  
21 three years from the date of the last prohibited material  
22 being applied. Ponds are very much like fields in that they  
23 have bottom, and the bottom is generally some sort of soil-  
24 based material. These chemicals can fall down, impede  
25 themselves -- it's no different than ponding on a field, only

1 it's deeper and you are raising fish in. So that's why we  
2 are saying, three months from -- just the same as with crops.  
3 36 months, I'm sorry.

4 MR. LOCKWOOD: I might add --

5 MR. SMILLIE: If they haven't applied anything to  
6 the pond for the last 36 months, technically, when George  
7 walks out the door, it's certified organic if we voted on  
8 this, just like a farmer's field would be. They are very  
9 comparative. And farmer's fields are not based on science  
10 per se. I mean, there is science, but --

11 MR. LOCKWOOD: One of our members, John Hargraves,  
12 is a scientist who works in the area of ponds. And in our  
13 commentary to you, which was delivered on March 23rd, John  
14 wrote the following. Conversion periods in terrestrial  
15 agriculture are intended to allow dissipation of residue,  
16 chemical residues that may have accumulated in the soils  
17 subject to repeated exposure to pesticides and other  
18 agricultural chemicals.

19 Aquaculture production systems are fundamentally  
20 different from terrestrial agriculture in this regard. Very  
21 few agricultural chemicals are applied to aquaculture  
22 production systems because of concerns related to  
23 accumulation of chemical residues in cultured fish.

24 Furthermore, chemical residues partition between  
25 the water and the soil. So simply draining water from a

1 culture unit will remove a variable portion of residues.

2 So that's a scientist who works in this area's  
3 opinion. Again, it's your decision. We have suggested one  
4 year, but --

5 MR. ENGELBERT: Right, but we still believe because  
6 there are, if -- the key word is, there are very few used,  
7 but there are some. Andrea and the Rigo.

8 MS. CAROE: I just want to point out that 205.202,  
9 present land recommendations, number, or letter B, indicates,  
10 have no prohibited substances as listed in 205.105 applied to  
11 the -- applied to it for a period of three years immediately  
12 preceding harvest of the crop. So in order to apply this  
13 identically, you have to say, three years prior to the  
14 harvest of the fish.

15 MR. ENGELBERT: Of the animal, right.

16 MS. CAROE: So --

17 MR. ENGELBERT: That's a good point.

18 MS. CAROE: -- this is actually more restrictive  
19 than it is for terrestrial farming.

20 MR. ENGELBERT: Yes, that's true. That's a good  
21 point. Okay. Can you repeat that for Valerie to add into  
22 that?

23 MS. CAROE: Well, I mean, it has to be changed  
24 somewhat, because we don't have a prohibited section to refer  
25 to.

1 MR. ENGELBERT: Right.

2 MS. CAROE: But essentially it is immediately  
3 preceding harvest of the, what do you call it? It's not --

4 MR. ENGELBERT: It's not --

5 MR. LOCKWOOD: It's a crop.

6 MS. CAROE: Crop? You call it a crop?

7 MR. LOCKWOOD: Sure.

8 MR. ENGELBERT: I guess.

9 MS. CAROE: Okay. Call it a crop.

10 MS. FRANCES: Aquatic crop.

11 MR. LOCKWOOD: Aquatic animals.

12 MS. CAROE: They're fish, or shrimp, or whatever.

13 MR. LOCKWOOD: We call fish aquatic animals.

14 MS. CAROE: Okay.

15 MR. LOCKWOOD: That's in our definitions.

16 MR. ENGELBERT: So why don't we go with that, then.  
17 Let's go with aquatic animals.

18 MS. CAROE: Harvest of aquatic animals.

19 MR. ENGELBERT: Yes.

20 MS. CAROE: I'll bring this to Valerie.

21 MR. ENGELBERT: Okay.

22 MR. SMILLIE: So let's proceed.

23 MR. ENGELBERT: Oh, that's right. Rigo.

24 MR. DELGATO: Going back to the topic of the three  
25 years, and when I think of a pond, I think of very clay



1 bottom soils, not much permeability. The water is going to  
2 stay there.

3 And thinking of land crops, three years, we don't  
4 have the science to back those three years. But you're  
5 saying that in the case of aquaculture, we do have the  
6 science to say that three years will be plenty of time to  
7 somehow eliminate any prohibited substances if they fall to  
8 the bottom and then they are somehow leaked outside of the  
9 system. Is that correct?

10 MR. LOCKWOOD: Our scientists who work in this area  
11 believe that one year is adequate, and certainly three years  
12 would be more than adequate.

13 MR. ENGELBERT: Okay. Now onto 205.258, farmed  
14 aquatic plants. Page 15, Valerie. Okay. George, would you  
15 refresh everyone's memory on what we are referring to there,  
16 and what you think we should change to leave that in rather  
17 than taking out the entire section, because you said that  
18 it's needed, aquatic plants are needed.

19 MR. LOCKWOOD: Aquatic plants are essential for  
20 some forms of aquaculture. And it is also the frontier of  
21 the future of aquaculture. There is a strong effort to push  
22 down to a lower tropic level so we get away from fish meal  
23 and fish oil and fish diets. And this is accomplished by  
24 having a system that grows plants, aquatic plants. So we  
25 feel it is essential for aquaculture of certain species.

1           Now, originally written here, we have a clause for  
2 human consumption, as well as feed for aquatic species. The  
3 reason for that is, there are aquatic plants, nori, for  
4 instance, that are grown and cultured, and there is a large  
5 market in Japan for nori. And we wanted to cover nori and  
6 others.

7           If this is a matter that you want to consider  
8 further, then we're quite willing to go along with that, as  
9 long as feed for aquatic animals is included.

10           MR. ENGELBERT: Joe.

11           MR. SMILLIE: Yes, I think we're just way better  
12 off in striking the human consumption and as from this  
13 document, because the whole sea vegetable production systems  
14 are a different --

15           MR. LOCKWOOD: Okay.

16           MR. SMILLIE: I wasn't going to say that. Anyhow,  
17 it's a different thing. So I think we are just better off  
18 for your industry, for the aquaculture industry at this point  
19 in time, to just work without the human consumption.

20           MR. LOCKWOOD: Well, would it be your intention to  
21 revisit this?

22           MR. SMILLIE: Well, currently, to my understanding,  
23 we are certifying sea vegetables mostly under the while crop  
24 provisions of the regulation, and there have been a number of  
25 different, you know, programs that are based on the current

1 NOP, that allow the certification of sea vegetables for human  
2 consumption, such as nori, hakama and I can't remember them  
3 all.

4 MR. ENGELBERT: Sorry, Joe. But, yes, George, I  
5 think this will be addressed, but it may very well come under  
6 the Crop Committee --

7 MR. LOCKWOOD: Fine.

8 MR. ENGELBERT: -- because it will be for human  
9 consumption at that point.

10 MR. LOCKWOOD: We just ask that -- this is an  
11 integral part of aquaculture.

12 MR. ENGELBERT: Right, but I think if we, as Joe  
13 suggested, and Valerie, if we start out with aquatic plants  
14 may be grown in organic system for feed for aquatic species  
15 that utilizes algae for food provided that. If we take out  
16 those four words, human consumption and as, I think we can  
17 continue with this in the recommendation, and keep  
18 everybody -- Andrea.

19 MS. CAROE: Just, I think, I think that's a good  
20 thing to do. And just to take this back to the precedence of  
21 what we already have in the rule, this would be analogous to  
22 pasture requirements in the livestock section, as opposed to  
23 crop production practices in the crop production.

24 MR. ENGELBERT: Right.

25 MS. CAROE: So this, this, right now, is addressing

1 pasture for fish. And we certainly want to have them have  
2 pasture access.

3 MR. LOCKWOOD: Well, I hope we don't get, we don't  
4 confuse -- I hope we don't confuse wild with cultured. Now,  
5 Joe, I have one other possible suggestion here, if we want to  
6 really clearly differentiate from wild, insert the clause  
7 after organic systems, insert, in ponds or other containment  
8 vessels, if that would help you in dealing with, you're  
9 certifying now wild seaweeds, or seaweeds grown in the ocean.  
10 And we could deliver that limitation, but we are not  
11 proposing it.

12 MR. ENGELBERT: Andrea.

13 MS. CAROE: I think that can be taken up as a crop  
14 section later on.

15 MR. LOCKWOOD: Okay.

16 MS. CAROE: Yes.

17 MR. LOCKWOOD: Now, moving on, the one year in  
18 number one there --

19 MR. ENGELBERT: Yes.

20 MR. LOCKWOOD: -- we just talked about changing to  
21 36 months.

22 MR. ENGELBERT: Yes, we changed that to 36 months.

23 MR. LOCKWOOD: Again, this is from the application,  
24 prohibited substances.

25 MR. ENGELBERT: Right.

1 MR. LOCKWOOD: So if somebody has a concrete tank  
2 that they just build --

3 MR. ENGELBERT: Yes.

4 MR. LOCKWOOD: -- and no prohibited substance has  
5 ever been used, they can go into organic production  
6 immediately.

7 MR. ENGELBERT: Yes, they can. Yes, they will, or  
8 they may.

9 MR. LOCKWOOD: So that needs to be changed.  
10 Valerie, that's A(1).

11 MR. ENGELBERT: A(1), any uncontaminated vessel  
12 from which algae are intended to be represented as organic,  
13 must have had no prohibited substances as listed in 205.602  
14 applied for 36 months immediately preceding harvest of the  
15 crop.

16 MS. FRANCES: It also should be just 602, just  
17 prohibited substances.

18 MR. ENGELBERT: Just prohibited substances, true.  
19 Yes.

20 MS. FRANCES: Should we just delete that phrase?

21 MR. ENGELBERT: Just, yes, prohibited substances  
22 applied for 36 months.

23 MR. LOCKWOOD: Kevin, under paragraph 2 there,  
24 there is a mis-citation which should be taken out.

25 MR. ENGELBERT: Okay.

1 MR. LOCKWOOD: It says, 205.601, which is correct,  
2 and 205.603, which is incorrect.

3 MR. ENGELBERT: That should be taken out. Okay.

4 MR. LOCKWOOD: That has to do with animals.

5 MR. ENGELBERT: Okay. Valerie, under 2 we need to  
6 strike, and 205.603. George, did you address the comments  
7 from IFOM with respect to our standards, and incorporated  
8 them in your latest recommendations that you presented today?

9 MR. LOCKWOOD: That's the only area where we --

10 MR. ENGELBERT: That was it?

11 MR. LOCKWOOD: Yes.

12 MR. ENGELBERT: Okay.

13 MR. LOCKWOOD: Now, Kevin, there are a couple of  
14 other changes that we have submitted to you in writing that I  
15 think you might want to address. Going back to feed,  
16 Valerie, item B has a typographical error that needs to be  
17 corrected.

18 MR. ENGELBERT: That's on page 8, Valerie.

19 MS. FRANCES: Which?

20 MR. LOCKWOOD: Item B, Valerie. The way it reads,  
21 it just doesn't make sense. And the and should be must.

22 MR. ENGELBERT: Right here. Use of fish meal and  
23 fish oil must minimize?

24 MR. LOCKWOOD: Yes. Now, that being said, we  
25 suggest another change there. It's not the fish meal and

1 fish oil. It's the aquatic animal feeds. So we would  
2 recommend changing use of fish meal and fish oil to read, use  
3 of aquatic animal feeds must minimize.

4 MR. ENGELBERT: Okay. Good.

5 MR. LOCKWOOD: It just makes it a little bit  
6 clearer.

7 MR. ENGELBERT: Yes. Okay, now do we -- do we want  
8 to remove item A under 252 for right now because of the fish  
9 oil and fish meal? We said we'd come back to that, but maybe  
10 we can talk about that right now before we break a little  
11 bit. Andrea.

12 MS. CAROE: We're not prohibiting the use of fish  
13 meal and fish oil. We're prohibiting the use of nonorganic  
14 fish meal and fish oil.

15 MR. ENGELBERT: Nonorganic. Okay.

16 MS. CAROE: Keep it in there because the industry  
17 may be generating fish meal and fish oil off of these plant  
18 eaters.

19 MR. ENGELBERT: Okay. Is there anything else from  
20 anyone? George.

21 MR. LOCKWOOD: Yes. The public comments received  
22 in writing include some very good ones from the Humane  
23 Society that we recommend be included.

24 MR. ENGELBERT: Okay.

25 MR. LOCKWOOD: First of all, under aquaculture

1 general, 250, item 9, Valerie. What they have recommended  
2 and we concur is, it should read, aquaculture facilities  
3 shall be designed, operated and managed in a manner that  
4 seeks to maximizes the welfare of cultured aquatic animals,  
5 minimizes stress on those animals, and prevents the spread of  
6 disease within the facility, and so forth.

7 Those comments are included in addendum one, which  
8 was handed out yesterday of our public, of our digested  
9 public comments.

10 MS. FRANCES: Could you state that again?

11 MR. LOCKWOOD: Nine should be amended to read,  
12 aquaculture facilities shall be designed, operated and  
13 managed in manner that seeks to, and then add, maximize the  
14 welfare of the cultured aquatic animals, comma, minimize  
15 stress on those animals, and prevent, as it reads now, and  
16 prevent, yes.

17 MR. ENGELBERT: Okay.

18 MR. LOCKWOOD: So that's one amendment.

19 MR. ENGELBERT: Okay. Let's wait just a minute,  
20 George. Let's make sure Valerie gets it and reads it.

21 MS. FRANCES: I got it. Do you want to read it?

22 MR. ENGELBERT: Read it back, please, and then --

23 MS. FRANCES: Aquatic, I mean, aquaculture  
24 facilities shall be designed, operated, and managed in a  
25 manner that seeks to maximize the welfare of cultured aquatic



1 animals, minimize the stress on the animals, and prevents the  
2 spread of disease.

3 MR. LOCKWOOD: It should be, on those animals.

4 MR. ENGELBERT: Okay. Any comments or discussion  
5 from anybody on the Board? Okay.

6 MS. CAROE: Are you done with changes?

7 MR. ENGELBERT: No, just this one.

8 MS. CAROE: Okay.

9 MR. ENGELBERT: We're going to move onto the next  
10 one now.

11 MR. LOCKWOOD: There's a couple more amendments.

12 MR. ENGELBERT: A couple more.

13 MR. LOCKWOOD: There's two more.

14 MR. ENGELBERT: Let's do it, two more.

15 MR. LOCKWOOD: I'm just as hungry as you are.

16 205.254, aquaculture living conditions. Section A -- I'm  
17 reading from something different.

18 MR. MOYER: It's page 12.

19 MR. LOCKWOOD: It would be 12. And paragraph 2.  
20 It's recommended that there be a new three added which says,  
21 appropriate population or biomass densities that promote  
22 natural behaviors and limits aggressive and dominant  
23 behaviors from others.

24 MR. ENGELBERT: One more time, please, George.

25 MR. LOCKWOOD: Appropriate population or biomass

1 densities that promote natural behaviors and limits  
2 aggressive and dominant behaviors from others.

3 MR. ENGELBERT: Okay. Any comments or questions  
4 from the Board? Did you get that, Valerie.

5 MS. FRANCES: I'm assuming we mean other aquatic  
6 animals? Okay.

7 (Discussion off the record.)

8 MR. LOCKWOOD: Fish farmers are very gentle people.

9 MR. ENGELBERT: Okay. Would you read that back,  
10 please, Valerie.

11 MS. FRANCES: Three, as appropriate population or  
12 biomass densities that promote natural behaviors and limits  
13 aggressive and dominant behaviors from other aquatic animals.

14 MR. ENGELBERT: Thank you.

15 MR. LOCKWOOD: Okay the --

16 MR. ENGELBERT: Any discussion? Okay. Next,  
17 George.

18 MR. LOCKWOOD: 205.259, harvest transport post-  
19 harvest handling. Which B must be --

20 MR. ENGELBERT: Page 16.

21 MR. LOCKWOOD: 16.

22 MR. ENGELBERT: For those of you following at home.  
23 Okay.

24 MR. LOCKWOOD: Item D, number D --

25 MR. ENGELBERT: Yes, I've got it.

1           MR. LOCKWOOD: Fish will be held in high-quality  
2 water for the duration of food deprivation prior to transport  
3 and slaughter for a period not to exceed the time necessary  
4 to allow clearance of the stomach and intestine contents.  
5 Insert, after slaughter for a period not to exceed the time  
6 necessary -- to allow.

7           MR. ENGELBERT: Cross the S off.

8           MR. LOCKWOOD: Take that, allows and change it to  
9 be to allow. Okay. And that, and then there is a change  
10 on --

11          MR. ENGELBERT: Wait just a minute, George. Read  
12 that right -- read through that again the way it should read,  
13 so we can be sure Valerie has it. Are you set, Valerie? Go  
14 ahead and read it, then.

15          MS. FRANCES: Fish should be held in high quality  
16 water for the duration of food deprivation prior to transport  
17 and slaughter for a period not to exceed the time necessary  
18 to allow clearance of stomach and intestined contents.

19          MR. ENGELBERT: Thank you. Any discussion on that?  
20 I'm seeing none.

21          MR. LOCKWOOD: Under E, just below that, I believe  
22 is L, permitted procedures include, okay, it says (1), E(1).

23          MR. ENGELBERT: E(1).

24          MR. LOCKWOOD: And then two small i's. Electrical  
25 stunning sufficient to achieve insentence --

1 MR. ENGELBERT: So right after electrical stunning  
2 insert --

3 MR. LOCKWOOD: Before immediate. Insert after  
4 electrical stunning --

5 MR. ENGELBERT: Sufficient --

6 MR. LOCKWOOD: -- sufficient to achieve  
7 insentence.

8 (Discussion off the record.)

9 MR. ENGELBERT: Any discussion? Do we need that  
10 read again? Does anybody like to have Valerie read that?  
11 Okay. We're all set. George, I know everybody wants to  
12 break, but quickly would you talk about the ice slurry, and  
13 why you have, why you disagree with the comments on that, and  
14 why you feel that should still be allowed? Because there  
15 will be some discussion on that, I'm sure, amongst Board  
16 members eventually.

17 MR. LOCKWOOD: Our proposal is for warm water fish,  
18 ice slurry be allowed for a period of five years. The reason  
19 being that the technology for the stunning of cold water fish  
20 is already developed and in practice. The technology for  
21 warm water fish is not quite there yet. And we propose a  
22 five-year period to allow that technology to catch up.

23 MR. ENGELBERT: Okay. Does anybody else have any  
24 questions or comments, concerns while we're -- before we turn  
25 this back over to Andrea? Thank you, everybody, for your

1 patience in helping us work through this process. Andrea.

2 MS. CAROE: I just ask George, after the break, if  
3 -- after we go to lunch and come back, the Committee may want  
4 to discuss some more general topics about aquaculture yet.  
5 So if you could make yourself available, it would be  
6 appreciated.

7 MR. LOCKWOOD: I'll be here.

8 MS. CAROE: Okay. Then anything else from you,  
9 Kevin?

10 MR. ENGELBERT: Not right now.

11 MS. CAROE: Okay.

12 MR. LOCKWOOD: Thank you very much for your  
13 patience, everybody. Thank you for your interest in this.

14 MR. ENGELBERT: Yes, and everybody in the audience,  
15 also. Thank you very much for your patience.

16 MS. CAROE: Dan.

17 MR. ENGELBERT: Dan.

18 MR. GIACOMINI: Would it be possible for members of  
19 the Board to get flash drive distribution of the updated  
20 document, so that we can take a look at it before tomorrow?

21 MS. FRANCES: You'll have to bring your little  
22 thing and I will do it.

23 MS. CAROE: Bring her your stick. Okay. So we  
24 were supposed to break for lunch 35 minutes ago. And we were  
25 supposed to also get through cloning. So we're a bit behind,

1 but I am going to ask the Board, do you feel that you can be  
2 back at 1:15? It's 12:35.

3 (Discussion off the record.)

4 MS. CAROE: All right. 1:30, but we are going to  
5 be here for a little while tonight. Everybody will be here  
6 promptly at 1:30.

7 (Luncheon recess.)

8 MS. CAROE: Do you want to address anymore  
9 aquaculture questions at this time from the Board?

10 MR. ENGELBERT: That's up to the Board, Andrea. If  
11 anybody on the Board has anything they want to bring up, we  
12 could ask George to come back up and we could try to address  
13 these issue right now. I don't see George in the room. But  
14 we can start, anyway.

15 MS. CAROE: Okay. Why don't you go ahead and see  
16 if anybody has any questions on any part, or in general, on  
17 his recommendation.

18 MR. ENGELBERT: Having said that, are there anymore  
19 discussions, comments, criticisms that anybody on the Board  
20 would like to bring up about aquaculture before we move on?  
21 You had one.

22 MR. SMILLIE: Just one comment, and that is that  
23 once again, as everybody knows, but just to make sure, that  
24 this is not set in stone; that there's been a number of good  
25 comments that we've received, and we haven't been able to,

1 perhaps, put into the document. And it's going to be an  
2 ongoing document, so the Board and everyone else -- it is a  
3 work in progress.

4 MR. ENGELBERT: Right, a work in progress.

5 MR. SMILLIE: It's going to be a recommendation.  
6 We've still got lots more time to hone it and perfect it, and  
7 it's still a ways before it's a regulation.

8 So I think that having been said, a couple of the  
9 petitioners that got in very reasonable petitions that could  
10 have been accepted, weren't accepted at this go round. That  
11 doesn't means that those comments are lost. We will  
12 definitely get back to them when we get time, and as we  
13 continue to work on the document. Hopefully, it gets voted  
14 for positively tomorrow, then we'll continue to work on it.  
15 So those comments that didn't get specifically answered today  
16 from petitioners are still kept.

17 MR. ENGELBERT: Tracy.

18 MS. MIEDEMA: Yes, I just have a question on the  
19 terminology aquatic animal versus aquatic species that's  
20 mentioned in our responses to public comments. Aquatic  
21 animals includes, or it accepts amphibians, reptiles, birds  
22 and mammals. But the term aquatic species includes  
23 amphibians, reptiles, aquatic plants? I just wanted to make  
24 sure we don't have any confusion of that in using the term  
25 aquatic animal we are excluding the species I just mentioned?

1           MR. ENGELBERT:  Where are those references,  
2 exactly, to each?

3           MS. MIEDEMA:  It's on page four and on page 25,  
4 where the two terms are defined.

5           MR. ENGELBERT:  Okay.  What was your question  
6 again?  I don't see aquatic species.

7           MS. MIEDEMA:  The broader question is just  
8 aquaculture as we are defining it here only applies to fish  
9 and crustaceans, not amphibians, reptiles, or any mammals  
10 that are raised in the water.

11          MR. ENGELBERT:  That's my understanding.  Yes.

12          MS. MIEDEMA:  Okay.

13          MR. ENGELBERT:  Yes.  That's what we believe.

14          MS. MIEDEMA:  Okay.

15          MR. ENGELBERT:  Bea.

16          MS. JAMES:  Well, I guess I'll just play devil's  
17 advocate here, what else is new.  I just want to know what  
18 the rationale was with the Livestock Committee on pushing  
19 this forward so quickly, when there is obviously so much more  
20 information that we need?

21          MR. ENGELBERT:  Andrea, do you want to address  
22 that?

23          MS. CAROE:  It's far from quick.  This, there has  
24 been a tremendous amount of work over a lot of time being  
25 done on this.  I believe that we've requested a lot of



1 volunteer time from industry. They will not, they will not  
2 stay with us and work with us any longer if we don't show  
3 progress.

4           We are not finished with this. We have further  
5 work that we are going to do. This is the noncontroversial  
6 part. And you know, we've pulled out -- you've heard a lot  
7 of comment today and yesterday about two sections that we've  
8 pulled because we know they are controversial. So those two  
9 sections, you know, we agree they need further work. But  
10 establishing something and showing progress is important for,  
11 you know, to return.

12           Essentially, we can have organic catfish and  
13 Tilapia after we task this. We can't have carnivores unless  
14 Tilapia and catfish become fish meal and fish oil to meet  
15 those dietary requirements of carnivorous fish. But this  
16 will establish some organic production, and it will show that  
17 we, as we have said, we are going to make progress. And it's  
18 been, it's been two years of work -- two years of volunteer  
19 time. I mean, I don't think that's quick.

20           MS. JAMES: Well, I would disagree. And I don't  
21 think that two years is a long time in this industry. And I  
22 think that the recommendation has a lot of unanswered  
23 questions in it, in my opinion. And I believe that it's  
24 better to have the full recommendation with all things  
25 considered than to just put something forward because the

1 industry is pounding at our door.

2           That's just, that's my opinion. I feel like I  
3 don't really fully understand the water quality maintenance  
4 and the off puts from land locked operations. I understand  
5 that when I questioned one of the people that came up about  
6 it, they had -- were able to reference one facility that they  
7 were familiar with. But I haven't, I've read through a lot  
8 of the comments that are saying that there are issues around  
9 that.

10           That there are issues with the auditing; that there  
11 are going to be issues with adding this into the certifiers  
12 process. Are they ready for that. And so I think that there  
13 is a lot of information that still needs to be considered,  
14 and I appreciate and respect all of the hard work that's been  
15 done with this.

16           But I would be hesitant to put something forward,  
17 just because we're trying to please the industry. I think  
18 that our duty is to make sure that we fully understand the  
19 impact of whatever recommendation that we put forward, and we  
20 have all the necessary information before we put a  
21 recommendation out there.

22           MR. ENGELBERT: Andrea.

23           MS. CAROE: This recommendation has been available  
24 for NOSB members to look at for a while and ask questions. I  
25 feel like I've been a part of this. I've been working with

1 this. I think it's been available to us. You have a vote.  
2 If you feel that way, you know, a minority opinion is a good  
3 thing. But I can't -- I will say that we agree to disagree  
4 on this.

5 MR. ENGELBERT: Katrina and then Jennifer. Or  
6 Jennifer. Katrina and the Jennifer.

7 MS. HEINEZ: I'm not sure who can most  
8 appropriately answer this, but as I'm trying to wrap my arms  
9 around this recommendation, I'm trying to understand what the  
10 impact will be for consumers once a final rule is issued.

11 Today, when I go to the grocery store, there is a  
12 wide variety of fish available. Some are labeled organic.  
13 So for example, organic salmon. If this recommendation -- if  
14 we approve the recommendation and a final rule is issued,  
15 what I'm understanding is that only noncarnivorous fish could  
16 then be certified organic?

17 I guess I need someone to explain what does, what  
18 does the future look like for consumers?

19 MR. ENGELBERT: Andrea.

20 MS. CAROE: At this time, we are not allowing any  
21 deviation from 100 percent organic feed. That presents a  
22 pretty significant challenge to anybody that is raising fish  
23 that require fish meal or fish oil as part of that diet.  
24 It's not impossible. It's improbable, but it's not  
25 impossible.

1           However, that is what is being established today.  
2 We will be looking for a possible provision and other methods  
3 to accommodate this period of time where availability of  
4 those organic supplies are not there. That's tabled. That  
5 we have already said we are going to engage in some type of  
6 dialogue with industry to establish that. But at this time,  
7 it doesn't prevent those things from making it out to market,  
8 it just makes it extremely difficult.

9           MS. HEINEZ: I guess I don't, I'm not saying that  
10 having those off the market is a bad thing. I'm just trying  
11 to understand. They exist today, and we've heard lots of  
12 public testimony that maybe they shouldn't be on the market  
13 today.

14           So maybe, Mark, this is a question for you. The  
15 current things that I can see at the grocery store that are  
16 labeled organic salmon, would those then not be able to be  
17 labeled as such, unless they meet these requirements?

18           MR. BRADLEY: Are you asking if they come forward  
19 with an herbivorous fish standard only, if it would exclude  
20 carnivorous fish from being sold? That's something we're  
21 going to have to look at, but that's something that the Board  
22 need to consider as well, is if this would be the aquaculture  
23 standard, or if it would be an aquatic species standard for  
24 herbivorous fish that would leave the rest of them still able  
25 to be marketed? I think it would be very confusing.

1           I mean, there's a lot of confusion going on right  
2 now, and we consistently get comments about, how are they  
3 marketing this, and you know, on the other side, the industry  
4 has been waiting for a standard for a while.

5           MS. HEINEZ: Thank you.

6           MR. ENGELBERT: Jennifer was on behalf of Katrina,  
7 so Joe.

8           MR. SMILLIE: Well, two things. Number one, as  
9 Andrea said, and I want to reiterate, it doesn't ban  
10 piscivorus, I think is a more correct term, and carnivorous  
11 fish. For example, if the organic -- if we pass a standard  
12 and we have organic Tilapia, catfish, et cetera, those fish  
13 could become legitimate organic feed and be fed to piscivorus  
14 fish.

15           So it doesn't specifically exclude piscivorus fish.  
16 It excludes wild fish meal as organic feed at this point in  
17 time for further discussion.

18           Number two is, rather than confusing the consumer,  
19 the consumer is now confused. The aquaculture industry in  
20 the United States is just an absolute welter of different  
21 claims and different promotions, including, you know, organic  
22 being banned in California and Georgia. I don't know where  
23 Georgia came from. But it's banned in California and  
24 Georgia, yet there's organic labeled product all of the U.S.  
25 which is European organic, which is still allowable in this

1 country to call it organic, since there is no regulation.

2           So by putting down a regulation, we are at least  
3 starting to clear up the consumer confusion issues by saying,  
4 here's what's allowed in the U.S. as organic. And that way,  
5 you know, it could create trade barriers for organic fish  
6 from Europe in the future, because we will have an  
7 aquaculture standard. So I think it will take a big step  
8 towards clearing what is an extremely confusing eco-seal,  
9 humane seal, you know, all sorts of different claims in the  
10 marketplace now.

11           MR. ENGELBERT: Yes, Bea.

12           MS. JAMES: I want to comment on that. I don't  
13 necessarily think that having this partial recommendation is  
14 going to clarify things for the consumer. I think that the  
15 consumer, it's going to potentially cause more confusion  
16 because the retailer is going to, and I'm just speaking from  
17 experience in the retail industry, assume that there are now  
18 regulations within the United States, and there will be more  
19 labeling of organic fish that potentially is not considered  
20 organic by the NOP.

21           MR. ENGELBERT: Okay. And I would like to just  
22 comment, quickly, that I don't want, Bea, to give the  
23 impression that the livestock committee is trying to force  
24 anything on anybody on this Board. That's not our intent at  
25 all. And if that was the impression that was given, I

1 apologize. That's not it at all. Andrea and then Jennifer.

2 MS. CAROE: Just for clarification, one of the  
3 reasons why, when we took this on, we looked at this is  
4 because of the confusion of marketplace labels.

5 Ultimately when the decision is made, after we have  
6 this fact finding, whether there is going to be some other  
7 method to allow for the fish that eat fish to get into the  
8 organic systems, or whether there is going to be net pens,  
9 when we have that dialogue and we come up with our  
10 recommendation after that, I fully expect if this Board  
11 determines that it's inappropriate to allow some short period  
12 of time when nonorganic fish are allowed as feed, if that  
13 doesn't happen, we're establishing a rule across the board  
14 like any other food labeled in organic.

15 So, you know, if it is a no for -- any product on  
16 the market that's labeled as an organic fish will also have  
17 to meet these standards. So European standards, which  
18 presently, since there is no established rule, have a place  
19 in the marketplace, won't. It will be establishing that  
20 federal regulation.

21 So your argument, I guess, I see it the opposite  
22 direction. I see this as a means to correct what's  
23 happening.

24 MR. ENGELBERT: Did you want to comment? Jennifer.

25 MS. HALL: I'm not sure how many people are

1 familiar with Monterey Bay Aquarium Seafood Watch Guidelines,  
2 but currently that is probably the most widely recognized  
3 consumer education on seafood purchasing in a sustainable  
4 manner. And with the document that we have that's been  
5 revised that we're currently considering, it is on a very  
6 consistent and parallel path with how that defines  
7 sustainable purchasing at this time, which is vegetarian or  
8 nonpiscivorous fish that are farmed, are in the green  
9 category, and farmed salmon is in the red category. So I  
10 think if anything it helps to work hand in glove with efforts  
11 that are in place already.

12 MR. ENGELBERT: Okay. Anybody else on the Board  
13 have any comments or questions they'd like to bring up before  
14 we move on? Seeing none, that was fun.

15 Now we go onto our next recommendation, relatively  
16 recent on the radar screen, and that's cloning. The  
17 Livestock Committee took heed of the message sent by the  
18 overwhelming majority of the public comment sent in since the  
19 posting of our recommendation, and we have voted to add  
20 wording to deal with the progeny of cloned livestock.

21 Valerie is putting that on the screen. And what we  
22 have proposed since the recommendation came out was on the  
23 introduction on the second paragraph, we have voted on  
24 striking out the entire last sentence. And we have also  
25 voted on adding the following under 205.236, origin of



1 livestock, B, the following are prohibited, then number 3.  
2 Livestock, progeny and all succeeding generations from cloned  
3 livestock, reproductive materials, or any other products  
4 derived from animals produced using animal cloning  
5 technology, and then in parentheses, includes somatic cell,  
6 nuclear transfer, or other cloning methods. Those would be  
7 prohibited under origin of livestock.

8           We've had some good suggestions yesterday on public  
9 comment, and I think that if we can adopt those suggestions  
10 also, and change under excluded methods, state or other  
11 methods of asexual reproduction of animals -- I can't see the  
12 screen.

13           MS. FRANCES: I am confused. Where are we?

14           MR. ENGELBERT: Okay. Under 205.2 --

15           MS. FRANCES: Right.

16           MR. ENGELBERT: -- terms defined, excluded methods.

17           MS. FRANCES: Right.

18           MR. ENGELBERT: The second sentence. We have  
19 proposed adding in somatic cell, nuclear transfer, or other  
20 methods of animal cloning. And it has been suggested and the  
21 Livestock Committee agrees that we should change that to  
22 asexual reproduction of animals, or other methods of asexual  
23 reproduction of animals.

24           And then the same thing under 3 on what we proposed  
25 under the filing are prohibited. The last two words would

1 need to be struck and add in, methods of asexual reproduction  
2 of animals.

3           Okay. Then the last change that we proposed, the  
4 original first working draft contained the word forever quite  
5 a few times, and I went through and took it out and have  
6 discovered that I missed one. Right at the top of that page  
7 under for recommendation, the paragraph reads, the Livestock  
8 Committee recommends that the NOP implement rule change to  
9 clarify that cloning technology and all its products,  
10 including all progeny and succeeding generations from those  
11 progeny in organic production be forever excluded from  
12 organic production. We would like to strike the word forever  
13 there, also. Right there. Strike that word.

14           That's the only place it was. And that's what we  
15 have for our, the Livestock Committee's recommendation on  
16 cloning. And I will open it up for questions, comments,  
17 discussion from the Board. Dan.

18           MR. GIACOMINI: Thanks, Kevin. The original, the  
19 previous version of this document, not including progeny,  
20 allowed for us to use some terminology without being quite as  
21 specific as we could have been. In the process of including  
22 progeny on this, we are now then, and using the term somatic  
23 cell nuclear transfer, I contacted a fair number of  
24 reproductive and AI Bull industry experts, who said that that  
25 would include embryo splitting, which is currently allowed.

1           There may be some people in the industry that do  
2 not feel that it would be. And it's not that it's allowed  
3 within to organic industry, you could not do this on your own  
4 operation, but by the language we are including now, we would  
5 be prohibiting the progeny of those animals.

6           There are thousands of bulls in the last probably  
7 five to 10 years that have, that are in AI service that were  
8 from these techniques. They are identified as ET, embryo  
9 transfer, at least within the dairy industry. I'm not sure  
10 how they are identified in the beef industry. But they are  
11 not separated from any other ET animals. There is no  
12 additional identification of them, other than just being  
13 embryo transfer, the result of embryo transfer.

14           So I'm very concerned that we are theoretical,  
15 essentially creating a prohibition on a large number of  
16 animals that number one are currently allowed in the organic  
17 industry; and number two, there is absolutely no way in the  
18 current landscape to track these animals. And from the  
19 people that I've talked to, if this is also a concern of  
20 other members of the Board, a result around this would be  
21 simply to add the word adult between includes and somatic in  
22 the origin of livestock paragraph.

23           That would eliminate the embryonic somatic cell  
24 transfer problem that is currently, this document, this  
25 language currently creates. And the fact, if someone has a

1 problem with adult and saying, well, I don't want to be able,  
2 I don't want them to be able to clone calves, the use of the  
3 asexual reproductive techniques that we follow that first  
4 phrase with would outlaw it for them also.

5           But this would, by adding adult, I believe we would  
6 go a long way towards not restricting and prohibiting animal,  
7 techniques in animals that are -- animals that are a result  
8 of techniques that are currently allowed and is not part of  
9 this document, is not part of this debate. This is an adult  
10 cloning problem that we're trying to address. And I think  
11 this would solve the problem. Otherwise, I think this really  
12 creates some problems in the industry.

13           MR. ENGELBERT: Anybody else have any comments?  
14 Joe?

15           MR. SMILLIE: Just a clarification, Dan. Could  
16 you, the language for those of us that are not as familiar  
17 with the livestock issues, in going with the ban on progeny  
18 it creates a problem on enforceability of --

19           MR. GIACOMINI: There is currently technique that's  
20 been used for --

21           MR. SMILLIE: Right.

22           MR. GIACOMINI: -- fairly regularly, for a large  
23 number of years, where the embryos, some or all the embryos  
24 harvested in an embryo transfer process are, let's say, I  
25 don't know the exact numbers, but let's say at 16 cells, they

1 are split to two eight cells, reintroduced in evacuated eggs,  
2 and then implanted in recipients. That's currently allowed  
3 -- that's not allowed in organic, but the progeny of those  
4 animals is not illegal.

5 This language would make the progeny of those  
6 animals illegal. There are thousands of bulls currently in  
7 use, and there is absolutely no identification of them. And  
8 there is no way to track that.

9 MR. SMILLIE: So it would create an unenforceable  
10 rule?

11 MR. GIACOMINI: Well, there is debate now of  
12 whether this would even, as the best language we put together  
13 is an enforceable rule. We would be outlying a tremendous  
14 number of animals that are currently allowed in organic  
15 production.

16 MR. ENGELBERT: Jeff.

17 MR. MOYER: Yes, I think, Joe, to answer your  
18 question, on top of what Dan already said is, it will do  
19 both. It will create a situation where animals that are  
20 currently being used as breeding stock in the organic  
21 industry would no longer be allowed, nor would it be an  
22 enforceable rule. So it's both true.

23 MR. ENGELBERT: Andrea.

24 MS. CAROE: Originally, the first draft of this  
25 document, we looked at changing or adding to the definition

1 of excluded methods to include or to clarify that this type  
2 of technology is excluded. However, understanding that  
3 progeny of these, even though we felt that the rule does not  
4 allow that, adding language and putting that in we avoided,  
5 and we avoided it for this reason, in that all of these  
6 problems exist. All these consequences exist for trying to  
7 enforce that.

8           The original language was somewhat vague saying  
9 that we're committed to working with the program identifying  
10 these areas and areas in which we can create enforceability  
11 for this. This draft kind of went past that. And I respect  
12 the fact that the Livestock Committee wanted to be very clear  
13 on their opinions about this excluded method and its progeny.

14       However, I don't think we're doing ourselves any justice by  
15 putting something out there that's useless.

16           Because since these animals don't come with a  
17 pedigree, and there is no markers to indicate that they, you  
18 know, that mom or dad or grandma or grandpa was, you know,  
19 just like their sister, it just doesn't, it -- I just don't  
20 see that we are doing anything. I think this is words for  
21 words. It's making a stand but it's, you know, it doesn't  
22 really make much sense to me to do this.

23           So I would, I would like the committee to  
24 reconsider language that commits to working with the program,  
25 and identifying enforceable regulation here, whereas, you

1 know, and I think that's the commitment we need to show at  
2 this point, instead of stating something that we can't do.

3 MR. ENGELBERT: Jeff.

4 MR. MOYER: Andrea, from the very beginning, you  
5 have the same position as I have on this with the words for  
6 words sake, and sort of placating people by putting the word  
7 progeny in there is a nice idea, but I don't see how it is  
8 enforceable.

9 On the other hand, by putting the words in there  
10 the way we talked about doing it in the second draft, does  
11 indicate the intent of the Board and the intent of the  
12 direction that we want to go. And even though it may not be  
13 enforceable, it's been argued that it does show farmers the  
14 intent that we don't want it to be there.

15 On the other hand, an inspector could never verify  
16 that it was there, nor could he verify that it wasn't there.  
17 So I agree with exactly what you are saying.

18 MR. ENGELBERT: Andrea. Andrea.

19 MS. CAROE: Is there a compromise position? Is  
20 there language we can use that does not suggest rule change  
21 that's not enforceable, but makes that commitment to include  
22 progeny? That's what I'm looking for is a compromise  
23 position.

24 MR. ENGELBERT: Bea.

25 MS. JAMES: I believe that if we were to change the

1 language again to have a more compromised position, that we  
2 should allow public comment on that.

3 MR. ENGELBERT: That's a good point. Anyone else?  
4 I mean, to defend the Livestock Committee's decision, I think  
5 it's important that we come out strongly against cloning in  
6 organic agriculture. I don't think there is any place for  
7 it. I think we're all in agreement on that.

8 I also don't think there is any place for progeny  
9 of cloned livestock in organic agriculture. And I think we  
10 need to deal with it.

11 I think the issue has been identified. I think  
12 this is, at the present time, is as good a language as we can  
13 come up with for it. I don't see it as just word smithing or  
14 placating the public. I think this is important to get on  
15 the record right now.

16 When the original rules were drafted, there was no  
17 cloned livestock in the marketplace. And there is going to  
18 be soon. And as a process-based system, there is a lot of  
19 things that can't be proven in organic agriculture. But we  
20 still need to have the guidelines there so that people know  
21 what's right and what's wrong and what's accepted. And if  
22 someone is caught doing something that's not acceptable, they  
23 can be, they can be taken to task for that. And if it's not  
24 there, it's almost an unrestricted type of situation in my  
25 opinion. Bea.



1           MS. JAMES: I also think that we need to remember  
2 that this recommendation still has more stages to go through,  
3 that it will go to the NOP and that the NOP, perhaps, would,  
4 you know, whether we change the language now or we don't,  
5 they are going to be faced with the situation of looking at  
6 how to deal with tracking progeny.

7           MR. ENGELBERT: Right. Joe.

8           MR. SMILLIE: Bea said exactly what I was going to  
9 say.

10          MR. ENGELBERT: Andrea.

11          MS. CAROE: I'd like to actually direct my question  
12 to Mark. Where is this recommendation going to go with  
13 language like this?

14          MR. BRADLEY: Mark Bradley with the National  
15 Organic Program. The program asks for clarification and a  
16 statement from the Board and some consideration as to, you  
17 know, what to do about progeny. We've already said that  
18 cloning is a prohibited practice underneath the NOP  
19 regulations. We didn't know exactly how the Board was going  
20 to view, or the public was going to view the progeny issue.  
21 I think we got the message. And it's, I think it's something  
22 that we can just work with.

23                 In terms of, you know, the problem about the Board  
24 coming out with the recommendation saying that progeny is  
25 excluded and then how do you track that? I think the main

1 thing would be like Kevin is saying, that the intent is  
2 there. It's getting it in the regulations, and the program  
3 can -- I don't know if it's going to cause a reg change or  
4 not, because, I mean, if it's an excluded method now,  
5 perhaps, you know, that will be enough, that we can make it  
6 clear to the industry and to the consumers that this is not  
7 acceptable under the regulations. And it's under an existing  
8 regulation.

9           So from this, from here we would work with the  
10 attorneys to see if it would take a reg change; but I would  
11 think a recommendation from the program or the Board would be  
12 in order.

13           MR. ENGELBERT: Rigo.

14           MR. DELGATO: I just wanted to echo what you said,  
15 Kevin, previously. And I was one of the ones who was  
16 struggling whether we should come out with this  
17 recommendation or not. But it seems to me that the industry  
18 is changing so much that I think that the fact that we're  
19 coming out with a statement of intent has more validity than  
20 waiting for the industry to develop a way of tracking or  
21 enforcing our recommendation. That's what I wanted to say.

22           MR. ENGELBERT: Dan, I'd like to address your  
23 point, just for a second, not that I'm a reproductive, you  
24 know, Ph.D., or anything like that. But the techniques that  
25 you're referring to I don't think would be looked at

1 favorably from the organic public. And I'm not convinced  
2 that that is actually cloning, splitting an embryo, because  
3 you haven't removed a cell from an animal and then fertilized  
4 it separately and then made it grow in another animal. So  
5 that to me is still a gray area as to, given the wording  
6 change to asexual reproduction of animals, if we really are  
7 infringing upon that practice.

8 MR. GIACOMINI: The wording that is infringing on  
9 that practice is somatic cell nuclear transfer.

10 MR. ENGELBERT: Okay.

11 MR. GIACOMINI: That is the term for that  
12 procedure. There are other versions of that, for lack of a  
13 better term, but that is the -- what that procedure is called  
14 of the splitting of embryos.

15 And the fact that we're specifically identifying  
16 that as a prohibited, as an excluded method, which I don't --  
17 that is currently, that's currently the way the regulation  
18 is. What we are changing by this is by prohibiting the  
19 progeny of those animals. And that's an entire shift in the  
20 way the regulation currently is, and it's not part of this  
21 argument.

22 MR. ENGELBERT: Explain again then now adding adult  
23 won't open up trouble by implying that we than approve of  
24 that technology with anything younger than what would be  
25 considered an adult animal.

1           MR. GIACOMINI: Well, the adding of the word adult  
2 is to classify the somatic cell nuclear transfer away from  
3 the embryonic process. By putting adult in, you are, in a  
4 way, and I talked about this with the people that I talked  
5 to, you are setting up a possibility of a loophole of younger  
6 animals.

7           It seems, and while they don't know organic  
8 regulations and/or anything else, but they felt that the  
9 addition of that, the clause that follows that of or other  
10 cloning methods, or other asexual reproductive techniques,  
11 would include the young stock as not being allowed. But it  
12 pulls, but adding the adult, it pulls it away from the embryo  
13 splitting problem.

14           MR. ENGELBERT: Anybody else?

15           MR. GIACOMINI: If you were to do it with calves,  
16 it would be an asexual reproductive technique --

17           MR. ENGELBERT: Right.

18           MR. GIACOMINI: -- which we are saying is not  
19 allowed.

20           MR. ENGELBERT: Right.

21           MR. GIACOMINI: Okay. But by saying, adult somatic  
22 cell nuclear transfer, we are not saying that the embryonic  
23 somatic cell nuclear transfer is prohibited.

24           MR. ENGELBERT: And I agree, but that's a concern,  
25 you know. To me it makes it seem like we're giving our

1 blessing to embryonic somatic cell nuclear transfer, and I  
2 don't want to do that, I don't believe.

3 MR. GIACOMINI: It's been done. We would be  
4 changing the regulation. And it's not that it's not  
5 prohibited. It is a prohibited excluded method on organic  
6 livestock operations. But the progeny of that technique is  
7 not currently prohibited.

8 MR. ENGELBERT: Mark, do you have anymore insight,  
9 what you think we should do with this?

10 MR. BRADLEY: I wish I did. Is this a postpartum  
11 thing that you're thinking of, Dan, just anything after birth  
12 that's -- and once it's been born you don't want, you know,  
13 to do cell transfer?

14 MR. GIACOMINI: Well, all somatic cell nuclear  
15 transfer or asexual reproductive technique done after birth  
16 would be prohibited from this wording and would not be  
17 allowed. And the progeny of them would not be allowed.

18 MR. BRADLEY: If this goes to a reg change, then we  
19 can include language in the preamble that explains fully what  
20 the intent is, and what the implications are. If it doesn't  
21 go to a reg change, and it's just a guidance document, we can  
22 include all that in there.

23 But in your recommendations, what we would  
24 appreciate, if you could send forward, would be something  
25 that fully explains what your intent is, and then we can --

1 you know, you can make the recommendation about the actual  
2 reg language, but the most important thing right now is that  
3 we get a clear signal from the Board that progeny is not  
4 accepted.

5 But if there are certain techniques that you wish  
6 to remain in place, then make that clear too, if you can.

7 MR. ENGELBERT: Jennifer?

8 MS. HALL: I don't have the perfect suggestion, but  
9 it seems since it's a clarification of one term, that there  
10 may be the opportunity just to reformat that paragraph in  
11 some kind of a bullet style or a list style that specifies a  
12 qualification of a term that's acutely just about that one  
13 item, since it's in a list format instead of kind of jumbled  
14 together. So that might be something we could work on.

15 MR. ENGELBERT: Yeah. Bea.

16 MS. JAMES: Well, another suggestion might be to  
17 think about in the terms defined, defining out exactly what  
18 those methods mean, and include it. And I think Mark alluded  
19 to, was potentially alluding to that a little bit.

20 MR. ENGELBERT: Yes. Anyone else? Yes, I'd like  
21 to conclude by thanking the entire Livestock Committee for  
22 all their --

23 MR. GIACOMINI: Where are we going with the  
24 document?

25 MR. ENGELBERT: We're going to, we're going to have

1 to try to get together sometime before the vote tomorrow, the  
2 Livestock Committee, and see what we can agree to put in for  
3 our regs, for our -- Andrea.

4 MS. CAROE: We won't be prepared to vote, then,  
5 tomorrow, because this Board needs to consider whatever  
6 recommendation you are putting forward. I don't have a  
7 recommendation that you are putting forward to discuss.

8 MR. ENGELBERT: All right. Bea.

9 MS. JAMES: And, Kevin, I just want to point out  
10 that if you do add terms defined or you do change it  
11 significantly, that we really should look at the public  
12 giving comment to that, and I don't know what the, you know,  
13 how the rest of the Board feels about having this go into the  
14 fall. I know --

15 MR. ENGELBERT: Yeah, I don't think it should. I  
16 think as Mark has stated, we need to get a recommendation out  
17 here.

18 MS. JAMES: Is it possible to look at voting on  
19 this and then in the fall meeting have terms defined?

20 MR. ENGELBERT: I can't answer that. I don't know.  
21 Andrea?

22 MS. CAROE: You know, if the intent is to send a  
23 message to this industry that this is prohibited, even if  
24 this recommendation gets deferred, the Board is showing its  
25 intent.

1           USDA, and we've heard this before, you know, their  
2 interpretation of the regs has precedence. There  
3 interpretation of the regs say it's prohibited now. We're  
4 just adding clarification. Right now, the USDA lawyer said,  
5 cloning the progeny of cloning is not allowed by the  
6 regulations as they exist today. We were simply adding  
7 clarification language.

8           MR. ENGELBERT: Okay.

9           MS. CAROE: Okay. Let me just say, we have heard  
10 the statement. Mark, correct me if I am wrong, but we have  
11 heard the USDA lawyers emphatically say it's not allowed by  
12 the regs as they exist. Is that not correct?

13          MR. BRADLEY: That is correct. Cloning is a  
14 prohibited practice under the NOP regulations. Cloning is a  
15 prohibited practice under the NOP regulations. We asked you  
16 about progeny.

17          MS. CAROE: So my suggestion, and not being a  
18 member of your committee, is to defer this to fall.

19          MR. ENGELBERT: I would prefer to have a vote and  
20 have it not pass then to defer it. Because I think we are  
21 abducting our -- not living up to our responsibilities to  
22 come up with some type of recommendation dealing with progeny  
23 for the NOP. That's my personal opinion.

24          MS. JAMES: But Kevin, voting on something and  
25 having it not pass sends a mixed message.



1 MS. CAROE: That's right.

2 MR. ENGELBERT: Yeah.

3 MS. JAMES: I mean, I understand your dilemma --

4 MR. ENGELBERT: Well, I guess if we, if we put in  
5 adult, would you think that then we could go ahead with a  
6 vote? Would you concur that that alleviates your concerns  
7 about current technology that's being used in agriculture?

8 MR. GIACOMINI: Yeah, I think that alleviates the  
9 problem with --

10 MS. CAROE: Microphone.

11 MR. GIACOMINI: Yeah, I think that alleviates the  
12 problem of prohibiting progeny from where they currently are  
13 not prohibited. And I think we have enough additional  
14 language there of asexual reproductive techniques to cover  
15 the entire animal's life span from birth on.

16 MR. ENGELBERT: Bea.

17 MS. JAMES: I just want to remind the Board how  
18 long we spent trying to define pasture. And it makes me a  
19 little nervous putting forward something that needs further  
20 clarification. So I don't, I'm just going to state my  
21 opinion, for the record.

22 I think that if the NOP and Mark Bradley, you know,  
23 that they have made this announcement that the lawyers have  
24 taken this position that the USDA does not allow cloning in  
25 organic production, that that is a pretty powerful statement.

1 And that to wait until the fall to have your accurate  
2 document for recommendation with the public comment, might  
3 better suit the overall purpose of what we are trying to say  
4 here.

5 MR. ENGELBERT: Jennifer.

6 MS. HALL: As a member of the livestock committee,  
7 and I fully support what the intent of what you want out of  
8 this, Kevin. What I'm hearing Mark say is that he has the  
9 ammunition he feels like he needs, having requested from us a  
10 statement about progeny. And it may be deferred, but then at  
11 least we have a greater chance of getting it passed and  
12 permanent, as much as that's really a fact. So I would  
13 suggest we defer.

14 MR. ENGELBERT: Jeff.

15 MR. MOYER: I guess Jennifer pretty much answered  
16 my question. I was going to ask it of Mark. If we table  
17 this, as the Livestock Committee, until fall, does that in  
18 any way jeopardize the NOP's position and your understanding  
19 of what you need to accomplish?

20 MR. BRADLEY: We would wait on the Board to come  
21 with a recommendation on progeny if you did defer on that.  
22 But we would say that the Board is working on it. And that's  
23 the current statement right now, is that the Board is  
24 considering, you know, the fate of progeny of cloned animals.  
25 But waiting until the fall meeting may give you the time you

1 need to mince out exactly how Dan's concerns about, you know,  
2 the progeny of split embryos. And we would need to have  
3 clarifications on that anyway.

4 MR. ENGELBERT: Dan.

5 MR. GIACOMINI: Mark, do you need better wording  
6 than cloning?

7 MR. BRADLEY: Do we need better wording than  
8 cloning?

9 MR. GIACOMINI: Do you need more specific wording  
10 than cloning? Is the recommendation coming from us, if we  
11 just said, that, would that -- and their progeny. Would that  
12 be clear enough for you, and if we totally got out of,  
13 without the specifics of somatic cell nuclear transfer,  
14 asexual reproductive techniques, without giving you those  
15 specifics, is just cloning and their progeny, would that be  
16 enough for the program, or would you be looking for something  
17 more specific from us?

18 MR. BRADLEY: Is your intent that progeny of split  
19 embryos remain eligible for organic production? If that's  
20 your intent, and that is captured by cloning right now,  
21 then --

22 MR. GIACOMINI: It's not captured by cloning right  
23 now. It's captured by the wording we're using to describe  
24 cloning.

25 MR. BRADLEY: Okay.

1           MS. CAROE: I would suggest that that is something  
2 that gets discussed in Livestock Committee instead of right  
3 now with Mark. I don't -- I think you need to discuss that  
4 in committee.

5           MR. ENGELBERT: Yes, so how do we --

6           MS. CAROE: And let me just, I just want to add one  
7 more thing. Could somebody, or a question to you, to the  
8 livestock committee, and from the little bit I know about  
9 this technology, what is the likelihood that progeny of  
10 clones are even going to be available to organic anytime  
11 soon?

12          MR. ENGELBERT: Dan.

13          MR. GIACOMINI: The gentleman that I talked to  
14 that's an executive with one of the major bull studs in the  
15 U.S. said that they are seriously looking at the fact that  
16 they won't even get cloning in, that they'll never be allowed  
17 to market those animals because of the results of what have  
18 come up from this risk assessment document.

19          MR. ENGELBERT: Okay, then we'll defer the  
20 recommendation then.

21          MS. CAROE: I think you've sent the message, Kevin.  
22 I think you've done great work on this. I don't mean to  
23 sound like I'm combating the work that's been done. I think  
24 it's good work. However, I think it needs to be a little bit  
25 better thought out so that it can be work that actually is

1 enforceable from the day that it hits.

2           And I just want to say that because I know that  
3 I've been contradicting a lot of what you've stated here.  
4 But I think it's a prudent move, and based on the fact that  
5 the risk of this technology ending up in the organic herds is  
6 not likely to happen in the next six months. I feel like you  
7 can buy some time.

8           Okay, so that concludes the livestock discussion.

9           MR. ENGELBERT: Yes.

10          MS. CAROE: Thank you. Two tough issues. Thank  
11 you so much. Moving along to Handling Committee. There's a  
12 couple recommendations that they have. All right, Julie, if  
13 you want to get started.

14          MS. WEISMAN: Okay. Just for my fellow Board  
15 members that are on the Handling Committee, I just passed  
16 around for your reference a list of the order in which we are  
17 going to present the something like 58 materials that the  
18 Handling Committee has to consider and vote on by tomorrow  
19 sometimes, hopefully not in the night.

20          Before we, before we tackle the list, I thought  
21 that it would be helpful to make a few general comments, not  
22 that I want to take anymore time than is necessary, but I  
23 think it might move the process along, and also in the  
24 interest of transparency, that everyone on the Board, and  
25 everyone in the public that is here, should understand what's

1 gone on so far.

2 I won't repeat all the good presentation that was  
3 made by Dan Giacomini yesterday about the February meeting  
4 and what that was all about. What I do want to say is that  
5 at the February meeting, there were subcommittees which were  
6 described yesterday. Each subcommittee had a Handling  
7 Committee member on it, in addition to other Board members  
8 who were extra pairs of eyes to help the process. And then,  
9 at a following subcommittee votes, the Handling Committee is  
10 who voted on the recommendations that we're considering at  
11 this meeting.

12 Some of those votes were taken before we left  
13 Washington at the February meeting, at the very end, and also  
14 on subsequent conference calls. In the, for nonhandling  
15 committee members, one of the first, one of the early pages  
16 in the tabbed section seven is the summary in alphabetical  
17 order of the materials, and it shows you in the far right  
18 hand column what the subcommittee motion and votes were. And  
19 then it shows you what each Handling Committee member voted,  
20 with a summary of the committee vote in that middle bold  
21 column.

22 And so you will notice that there were some  
23 instances in which the -- there were many instances in which  
24 the Handling Committee voted, vote was in accordance with the  
25 subcommittee vote. In other words, the Handling Committee

1 concurred with what the subcommittee had come up with. In  
2 other cases, the Handling Committee, you know, had some  
3 issues with the way the subcommittee, sometimes it was a  
4 function of the fact that there were not seasoned Handling  
5 Committee members who were accustomed to dealing with these  
6 issues.

7           So for instance, even though subcommittees voted to  
8 recommend things like paprika and annatto with annotations  
9 that only organic oils be used, when the Handling Committee  
10 got a look at it we said, you know what, that doesn't work.  
11 You know, in handling you can't have that prescriptive an  
12 annotation. And that's something that you're going to see  
13 dealt with during the discussion this afternoon.

14           And I think that it was a good process, because we  
15 got help from everybody on the Board, but the check was that  
16 ultimately everything came through the Handling Committee.

17           There were a number of issues that came up in  
18 considering some of these items which asked questions about,  
19 what are the evaluation criteria for 606? And what's the  
20 eloquent way to state this. Basically, that there is the  
21 question of demonstrating -- the question gets asked,  
22 traditionally, when we've considered materials, one of the  
23 important questions to answer is, is this essential for  
24 organic production?

25           And it was important to keep in mind that that is a

1 question, really, that is reserved to be asked for  
2 synthetics. If we're talking about an agricultural  
3 ingredient, that is not a question that needs to be asked.  
4 You know, I don't know if there is going to be, if there  
5 needs to be further discussion about that, but that's what  
6 I'm -- that's where I'm coming from right now.

7           So the third point that I wanted to make is that we  
8 hired a lot of public comment yesterday, already, between  
9 yesterday and -- we heard a lot of public comment even just  
10 yesterday that added information that we felt that we were  
11 lacking. And that we, as a result of that, there are certain  
12 -- the Handling Committee met after public comment, and we  
13 actually, we voted to change some of the recommendations that  
14 have been posted for the last 30 days. So we want to get  
15 that out there.

16           I'm going to briefly mention what they are, and  
17 then they will be discussed in a little more detail as those  
18 particular materials get presented.

19           So, for instance, we voted on the issue of three,  
20 you know, annotations for various numbers of years that are  
21 less than five. We voted to remove all the annotations that  
22 were for less than five-year listing, in other words, it's  
23 either on the list or it's off the list. And there is  
24 nothing at any time in the next five years that prevents  
25 anybody from petitioning to have something removed.



1           One exception to that is the rice starch. We  
2 didn't -- because that was a two-year listing, particularly  
3 taking into account the fact that it had a less than a 30-day  
4 comment period. And so we thought because of that  
5 extenuating circumstance that it was appropriate to have a  
6 short listing.

7           We also voted last night, the Handling Committee  
8 voted to reconsider whey protein concentrate at 80 percent.  
9 We also, now did we vote here to reconsider or to recommend?  
10 Okay. We voted to reconsider and then recommended that  
11 annatto be made into two separate recommendations, annatto  
12 water extracted and annatto oil extracted, and that paprika  
13 also be similarly separated into two recommendations, paprika  
14 water extracted and paprika oil extracted all for 606.

15           And lastly, we voted to reconsider, and then we  
16 voted to recommend FOS and inulin, OFS, for listing on 606.  
17 Does everyone on the Handling Committee agree that that's  
18 what we did last night? Okay. So --

19           MS. FRANCES: Question. I don't have any of those  
20 revised documents. I don't know if you revised them.

21           MS. WEISMAN: You mean --

22           MS. FRANCES: The recommendations.

23           MS. WEISMAN: You mean new cover sheets?

24           MS. FRANCES: Yes.

25           MS. WEISMAN: It's only -- no, no, the votes and

1 the annotations will change. Do you -- is it possible that  
2 those can be provided for you by tomorrow before the vote?

3 MS. FRANCES: I just was wondering if I should be  
4 scrolling through those as you advise --

5 MS. WEISMAN: Oh, no, no, no. No. We -- there was  
6 time for much last night, but making new documents for that  
7 did not happen.

8 MS. FRANCES: Okay.

9 MS. WEISMAN: Okay. So we, for the purposes of  
10 voting tomorrow, we made a decision that we're going to go  
11 through each item and vote on them individually. However,  
12 today, for the purposes of discussion and presentation, in  
13 the hopes that it might save some time, we felt that it was  
14 appropriate that there were certain groupings of items that  
15 could be presented together.

16 And we have a very, very brave new member of the  
17 Board, Katrina, that actually is going to lead us off. But I  
18 just, for, maybe for clarity sake, I just wanted to just say  
19 briefly that I think the groupings, roughly, that you are  
20 going to be hearing are colors that were accepted by the  
21 Handling Committee. Katrina is going to discuss those.  
22 Colors that were rejected by the Handling Committee. And  
23 mostly that's going to be with the exception of annatto and  
24 paprika, which Joe is going to talk about.

25 Then we had spice materials that were accepted, and

1 Steve Demure, another brave new soul, is going to talk about  
2 that group. An then we had a couple of rejected spice  
3 petitions, which Andrea is going to talk about one and I'll  
4 talk about the other.

5 After that we have, I'm not going to get too  
6 detailed, but then we have a sort of a general category of  
7 materials that were accepted. There's about a dozen of  
8 those, and a general category of materials that were  
9 rejected. All of, I've mentioned that we've already changed  
10 some Handling Committee recommendations, some of the things  
11 on that list. And two things on that list, yeast and whey  
12 protein isolin were both withdrawn by their petitioners.

13 And then lastly we had one materials that was  
14 deferred, which I'll discuss, and three, where we voted in  
15 February not to consider them for technical reasons, which  
16 Andrea will go into.

17 So if Katrina's -- are you ready? Her light's on.  
18 I guess that means yes.

19 MS. HEINEZ: Okay. The Handling Committee reviewed  
20 petitions for seven colors that are produced from  
21 agricultural materials that we voted to recommend for listing  
22 on 205.606. Is that better? Okay.

23 These colors are, color purple and black carrot,  
24 color elderberry, color red cabbage, red radish, color red  
25 cabbage, color black current, and color choke berry, and

1 finally, color beet juice.

2 All these colors are produced through a physical  
3 process then soaked in water and concentrated. And in all  
4 the cases, the petitions provided evidence that the  
5 agricultural products used to make these colors were not  
6 available in sufficient form, quantity or quality. And we  
7 heard public comment to that effect this morning, that  
8 production of these colors relies on using specific varieties  
9 under specific growing conditions that produce a color with  
10 the correct hue and strength.

11 We also heard these colors are used in a wide  
12 variety of products to make them visually appealing for  
13 consumers.

14 One point of note, the hosted recommendation for  
15 color choke berry includes an annotation to list the material  
16 on 606 for three years. When we met last night we amended  
17 that recommendation to remove the annotation.

18 So again, the Handling Committee recommends  
19 inclusion of all these colors on the national list, 205.606,  
20 and all those votes were five for and zero against.

21 Discussion?

22 MS. WEISMAN: Yes, that's mine. Will there be any  
23 discussion? Are there any questions? Wow. Okay.

24 MS. CAROE: That's one of the easy ones.

25 MS. WEISMAN: All right. The next, the next group

1 of color materials being petitioned for 606 are the ones that  
2 were rejected at this point. And I just, I'll let Joe  
3 discuss the annatto and paprika. And then I'll make a couple  
4 comments about the other ones.

5 MR. SMILLIE: Yeah, there was, as has already been  
6 discussed, and well petitioned and well commented on, we are  
7 dividing annatto into the oil and the water sections. And  
8 after due consideration and a certain amount of arm twisting,  
9 there will be a friendly amendment to remove the annotation.

10 And in the other case, another decision was made to  
11 take any three or five year, make all things five year,  
12 rather than the three year. That pretty much clears the  
13 decks as far as the Handling Committee is concerned for the  
14 acceptance by the Board of annatto.

15 Paprika is in the same boat as it were, as far as  
16 the annotation, the three to five year issue, and the oil and  
17 water soluble issue. But at this point in time, the Handling  
18 Committee would like to have any public comment on the  
19 diligence of the search for paprika sources.

20 We still feel that although the petition for  
21 paprika did go into the availability of sources, we felt at  
22 that time that it wasn't particularly global, and that  
23 certain areas of rich paprika production, paprika, as it  
24 were, production, weren't mentioned. And we were hoping that  
25 the petitioner or petitioners would get back to us with more

1 information on a more global search.

2           So that's where we are right now. I'm not 100  
3 percent sure that we've changed our recommendation, even with  
4 the removal of the annotations and the three-year issue on  
5 the paprika. But I could be fuzzy on that. Any other  
6 Handling Committee members? Is that pretty much it?

7           MS. WEISMAN: Jeff.

8           MR. SMILLIE: Yes.

9           MR. MOYER: I guess I'm not quite clear on the  
10 annatto. Can you go over that one again? You split it  
11 into oil and water, and you're changing your vote now to  
12 approve --

13          MR. SMILLIE: Correct.

14          MR. MOYER: -- water but not oil?

15          MR. SMILLIE: No, approve both, with all -- with  
16 the annotation for the organic oil requirement being removed.  
17 There's two annotations.

18          MR. MOYER: Yes.

19          MR. SMILLIE: Okay. One is to allow for three  
20 years. We're changing that. It will be five years.

21          MR. MOYER: Yes. Right.

22          MR. SMILLIE: The other annotation was that organic  
23 oil be used in the production of oil soluble annatto, oil  
24 extracted, sorry, oil extracted annatto. And we're also  
25 removing that annotation.

1 MR. MOYER: Okay.

2 MS. SMILLIE: And with those annotations removed,  
3 the Handling Committee is voting favorably on the acceptance  
4 of both oil extracted and water extracted annatto.

5 MS. WEISMAN: Andrea.

6 MS. CAROE: I voted against this material being  
7 listed, specifically because the annotation that was attached  
8 was for organic oil for oil extracted. If that, being that  
9 that annotation is being removed, my vote will change for  
10 this. I will vote for list.

11 MR. SMILLIE: Great.

12 MS. WEISMAN: I was also thinking that for  
13 nonhandling committee members that haven't really, you've had  
14 other things that you've been eating, sleeping and breathing  
15 for the last six weeks, but not this, that I wanted to  
16 emphasize that this nonorganic agricultural ingredient is  
17 being petitioned for listing on 606 including it's production  
18 method, which includes nonorganic oil. That's the package.  
19 That is the package. Okay. Any other questions or  
20 discussion?

21 MS. MIEDEMA: On this entire grouping?

22 MS. WEISMAN: Well, just on the annatto and  
23 paprika, yes. Tracy.

24 MS. MIEDEMA: So do I have this correct that both  
25 forms of annatto are now being recommended by the Handling

1 Committee to pass, will not have any annotations about time  
2 limits or organic oil?

3 MR. SMILLIE: Correct.

4 MS. MIEDEMA: Okay. And then in terms of paprika,  
5 the annotations have been removed for the organic oil, and a  
6 time limit, but no one has come forward to demonstrate that  
7 these are not available?

8 MS. WEISMAN: Actually, I do, I'm going to  
9 recognize myself, because I'm -- the petitioner actually did  
10 submit additional comment on March 21st. That was handed out  
11 yesterday. It didn't, wasn't in time to be posted on our  
12 wonderful new regulations.gov website.

13 But one of -- they specified, they were more  
14 specific about four different reasons why they found  
15 something to be not available as organic. And one of,  
16 paprika, actually, sweet peppers for paprika are mentioned  
17 in, on the second page, item 1.2, where they say, the  
18 underlying certified organic raw material may exist, but they  
19 are crops that have far more value in the market fresh,  
20 either whole, cut or diced, than as raw materials for color  
21 extraction.

22 That generally, things that get used for color  
23 extraction are end products, leftover pulp, things that have  
24 no value. So if the market grabs up all of the organic  
25 product and uses it for fresh applications, there is nothing



1 left over from which to make color, from which to make color.

2 I mean, there may be, we may have additional  
3 questions about that comment, but that was the additional  
4 information that the petitioner gave about why there is no  
5 pulp material on the -- organic pulp material on the market  
6 available, even though there is lots of organic red pepper.  
7 Kevin.

8 MR. ENGELBERT: Could you explain briefly why the  
9 annotation for organic oil was dropped?

10 MS. WEISMAN: Andrea.

11 MS. CAROE: The listing of these materials on the  
12 national list are for nonorganic materials. These are  
13 nonorganic colors. They are not produced in organic  
14 facilities. They are not within the control of this  
15 regulation. Including organic oil into the production of  
16 these is imposing organic regulations on nonorganic products.

17 Annotations restrict the use of materials that come  
18 in a variety of ways to the ones which are acceptable to be  
19 used in organic production. It is not used to designate how  
20 things get produced. Oil, organic oil crossed that line.

21 If you wanted to say oil production as opposed to  
22 water production, both of those are available, and if you  
23 were narrowing in on one that's acceptable, that's  
24 appropriate, but this is imposing organic regulations on a  
25 nonorganic world. And it crossed the line, and I opposed it.

1 And also we had some commentators that opposed it as well.

2 MR. ENGELBERT: Okay. Thank you. I just wanted to  
3 be clear that that's what was the reasoning behind that.

4 MS. WEISMAN: Tracy.

5 MS. MIEDEMA: I'm going to go ahead and bring this  
6 up now because it's going to apply to several of these  
7 colors. The additional evidence that you just presented was,  
8 similar evidence was present in many of these color  
9 petitions. And it was very uneven, the evidence presented.

10 And I felt that there probably was not enough  
11 guidance given to petitioners what our expectation was,  
12 because some people really had a slam dunk case where they  
13 had six letters, maybe even a dozen from suppliers around the  
14 world clearly documenting they had given it this amazing  
15 shot.

16 Whereas other people said one sentence about, most  
17 of it is getting taken up by fresh market. We can't get any.

18 And it was just very hard to draw the line of what, you  
19 know, what is proof. So maybe someone on the Handling  
20 Committee could further clarify that.

21 MS. WEISMAN: I'll take that one. I actually, I  
22 thank you very much, Tracy, for bringing that up. That  
23 should have been something that was in my initial  
24 presentation.

25 I think that is absolutely a factor. The timing

1 with which the industry was presented with the commercial  
2 availability criteria, and what the process was going to be  
3 for this new category of petitioned products on 606 was, I  
4 mean, even though everyone was working as fast as they  
5 possibly could, I believe that that was first published in  
6 December. And about four weeks, including Christmastime, and  
7 the holidays, four weeks ahead of what we had put out as our  
8 soft deadline for when we had to have these petitions in  
9 order to consider them at the March meeting. And I don't  
10 know if I've said anything that makes anyone from the program  
11 want to respond. I hope not. Okay.

12 But so I think that's a very, I think it's very  
13 important. And I ask the entire Board to please keep that  
14 in mind, that there was a wide variety in the depth of  
15 information that got presented. And it kind of depended a  
16 little bit on, you know, which petitioners are better  
17 connected to this process, and which ones are just newly  
18 trying to figure out how to do this.

19 And I want people to take that into consideration,  
20 and not be overly punitive of the people that are newer to  
21 the process and trying to get on board. Dan.

22 MR. GIACOMINI: Just for clarification on that, if  
23 we vote to reject an item significantly based on insufficient  
24 information, is there a process for petitioner to supply that  
25 information for us without having to go back to square one?

1 That might be a question --

2 MS. WEISMAN: You mean, if they supply --

3 MR. GIACOMINI: -- that might be a question for  
4 Bob, I don't know.

5 MS. WEISMAN: Okay. I mean, there was -- we posted  
6 our, 30 days ago we posted our decision. So there's been the  
7 last 30 days when it would have been hoped that they would  
8 have come forward with the additional information.

9 So you are asking, what happens if after this  
10 meeting there wasn't enough to change that recommendation.  
11 Is that what you are asking?

12 MR. GIACOMINI: Right. Granted, it won't be acted  
13 on until fall --

14 MS. WEISMAN: Right.

15 MR. GIACOMINI: -- but would they have to go  
16 through the entire process of resubmitting a petition and  
17 doing all that, just for clarification?

18 MS. WEISMAN: No. Kim, can I ask -- okay, Bob.

19 MR. POOLER: Yeah, Bob Pooler, National Organic  
20 Program. If the Board decides that there is insufficient  
21 information to evaluate these petitions, they have the option  
22 of notifying the petitioner, and indicating that there is  
23 insufficient material, and the petitioner will have the  
24 opportunity to provide more information. And the petition  
25 can be deferred until the fall.

1           MS. WEISMAN: Okay. So I guess the answer is,  
2 don't, let's not reject. Let's defer, rather than reject it,  
3 if that's what it comes down to.

4           MR. GIACOMINI: It's a different motion.

5           MS. WEISMAN: Right. Okay, so, with that being  
6 said, I'm going to talk about the color materials that were  
7 rejected, other than annatto and the paprika.

8           And they basically, they all fell, they all fell  
9 into the same category. Basically, they were petitions. I  
10 might go out on a limb here, even, and say that they all were  
11 on, they all came from the same petitioner who, the assertion  
12 was that there were very general comments made about all of  
13 these ingredients.

14           And if you look down the list, for instance, okay,  
15 we don't -- all right. Saffron is one that got rejected.  
16 And that's actually, this petitioner submitted a comment last  
17 week, and in the same paragraph where they discussed sweet  
18 peppers for paprika, they have also mentioned -- well, I  
19 guess can I read it?

20           While there is an abundance of domestically grown  
21 grapes, for instance, and while some of this crop is now  
22 certified organic, the crop is more valuable in the  
23 production of wine than as a raw material for color  
24 extraction. This is true for organic certified tomatoes from  
25 which lycopene is extracted, for carrots from which beta-

1 carotin is derived, for the sweet peppers which we just  
2 discussed, and most certainly saffron.

3           So I'm -- that's the additional information that I  
4 have to offer at this point. And I don't know -- that's the  
5 additional information that I have to offer on the saffron.  
6 And that's also for the grape.

7           Now, we have -- you know, I'm kind of going to  
8 apologize that we don't have a list to put up, you know, for  
9 the public. But I'm assuming the fact that everybody on the  
10 Board has this list in front of them, it's okay. All right.

11           These are the items that were rejected colors for  
12 insufficient data. Turmeric, saffron, grape juice extract  
13 and grape skin extract, blueberry juice, cherry juice,  
14 hibiscus juice, carrot juice, pumpkin juice, tomato juice  
15 extract, purple potato juice, lycopene, and beta carotin.

16           Now, we have heard public comment today that  
17 mentions some of these items, and on the basis of that, some  
18 of these ongoing, there are, some of these items on this list  
19 that I'm going to suggest now that the handling committee  
20 change its recommendation. Is that -- I'm looking for -- is  
21 that appropriate to do?

22           MS. CAROE: No, you can't do committee work at this  
23 table.

24           MS. WEISMAN: Okay. Based on what's mentioned in  
25 this second comment from petitioner, I would put, I would put

1 turmeric in this category. We did hear evidence in public  
2 comment on a lack of supply. We also heard a commentor this  
3 morning mentioned cherry juice and carrot juice.

4 We have a public comment that was not made into,  
5 read in to the record, but was received in writing that I  
6 just read from, and that one listed lycopene and beta carotin  
7 and tomato juice, so -- and the grape, and the grapes in  
8 general, grape juice and grape skin, which were referred to.

9 So it basically, of the list that I just read, it  
10 leaves blueberry juice, hibiscus, and purple potato, for  
11 which no additional information has been given since the  
12 Handling Committee voted to reject it.

13 MR. GIACOMINI: Pumpkin.

14 MS. WEISMAN: Oh, and you know what, I'm sorry,  
15 that didn't -- yes, and pumpkin. Yes, Andrea?

16 MS. CAROE: At this time, if we're to consider  
17 these for a vote tomorrow, which we all intend on doing, the  
18 Handling Committee cannot meet and forward a different  
19 recommendation. The recommendation is to reject. However,  
20 the Board does not have to vote with the committee  
21 recommendation.

22 Based on the new information, these are identified  
23 and will go to full Board vote. That's what I would suggest.  
24 Dan's asking --

25 MS. WEISMAN: Okay.

1           MR. GIACOMINI: The important point on this is that  
2 these have all been presented in a positive to accept motion.  
3 So it would, all we are, the Handling Committee is merely  
4 recommending a yes vote rather than a no vote. And that  
5 allows us to do that without having to change the motion, in  
6 order to get a passing. All we would need is a two-thirds  
7 vote of the motion to accept, to pass it, which is the same  
8 as it would be before. You are just now suggesting a yes  
9 instead of a no.

10           MS. WEISMAN: That's right. Thank you for that  
11 clarification, Dan. You are actually -- thank you for doing  
12 my work for me. I was supposed to say that. So yes, that's  
13 absolutely true. We don't have to change the recommendation.  
14 The full Board is welcome to vote differently than the  
15 Handling Committee. That's the way it works. Andrea.

16           MS. CAROE: I just want to let everybody know, but  
17 by design, all of these motions were made to list, even if  
18 they weren't going to pass committee, they were all voted to  
19 list for several reasons.

20           One, like I said, this was an atypical situation.  
21 We wanted these all to be posted to elicit public comment  
22 where we didn't have it. But also, knowing that we were  
23 going to have so many votes for the Board, we wanted all the  
24 motions to be in the same format, so at no time does a Board  
25 member not know what they are voting for.





1 technically use these materials until they actually sunset.  
2 And I suppose there is a possibility that we might meet  
3 before that sunset. But you know, the way this thing -- but  
4 it wouldn't make it in the Federal Register, obviously, in  
5 time for sunset, but I did want to point that out.

6           And I guess the second statement that I wanted to  
7 throw out is, I feel a responsibility to represent my  
8 constituency, which is the processing community. And I would  
9 encourage the Board, having said everything I said about  
10 which materials we got, no additional information.  
11 Ultimately, you know, there is an additional step in this.  
12 Because something gets onto, is listed on 606, it does not  
13 mean that a handler can use it. It does not mean that a food  
14 manufacturer can use it.

15           All it means is that it's something that's eligible  
16 for the certifier to consider letting them use; that the onus  
17 will still be, there's still going to be an additional filter  
18 to get through. There's another hoop to jump through. It  
19 isn't enough to have it listed on 606.

20           And because of the difficulties of timing, of  
21 getting the information out to manufacturers, some of whom  
22 are more or are sometimes are less savvy about how the  
23 organic industry and this process works, I would really  
24 encourage the Board to err on the side of listing.

25           I know we've also had some public comment that

1 goes, you know, that's been the other way. But I, it is not  
2 clear to me how severe the impact will be from not listing.  
3 And putting things on the list does not mean that they get to  
4 be used. So I wanted to remind everybody of that.

5 Any other discussion about this? Wow. Okay. All  
6 right. The next category, or the next group of materials  
7 that are going to be presented will be spices that were  
8 accepted by the Handling Committee, and Steve Demure is going  
9 to talk about those.

10 MR. DEMURE: Okay. We've got a group of five  
11 spices that were submitted for inclusion on 606 that the  
12 Handling Committee went through. They are lemon grass,  
13 frozen, galangal, frozen, Turkish bay leaves, red pepper,  
14 dried, crushed, and celery powder.

15 The lemon grass, the galangal and the Turkish bay  
16 leaves all passed, five yes, zero no. The red pepper was the  
17 same. The celery powder passed four yes, no no votes and one  
18 absent vote.

19 You'll notice in the, on the website, that the red  
20 pepper and the celery powder both have three-year  
21 annotations. And as several people have mentioned, we have  
22 decided to remove those and make these five year annotations  
23 or five year listings, so you can disregard those.

24 All of these substances were considered by the  
25 Handling Committee to be recommended for listing.

1           MS. WEISMAN: Any discussion? Okay. Now we're  
2 going to move on. There were a couple of spice petitioners  
3 that were rejected. The first one we are going to talk about  
4 is dill weed oil which Andrea is going to discuss.

5           MS. CAROE: As we broke down into these groups,  
6 dill weed oil kind of became one of those materials that was  
7 a little bit more challenging for us. There was one major  
8 piece of information that was missing from this petition.  
9 There was quite a bit of information about how good this  
10 product is, and how available it is, and information about  
11 the quality of this product as compared to organic dill weed  
12 oil. But there was no information about why dill weed oil  
13 was needed.

14           And I don't say it's not essential. That's really  
15 not the argument here. But why dill isn't used, because this  
16 is for pickles. And so we were hoping that we would elicit  
17 more information about that.

18           However, since whether the product is essential for  
19 organic production as a processing aide requirement, and not  
20 an ingredient argument, it's touchy. This is close. But the  
21 Board, the committee had voted to reject this on that  
22 principal, that there was really no information why dill weed  
23 oil, that form is necessary for the flavor, the flavor  
24 representation for this product. Any discussion? Tracy.

25           MS. MIEDEMA: That question seems out of the

1 purview of the Board. It's something like a flavor  
2 formulation decision.

3 MS. CAROE: Yes and no, I agree with you. If we  
4 had somebody that came to us and wanted to use, you know, it  
5 was specking to the point where they can use a nonorganic,  
6 you would question it. You would question it. If they said  
7 that they needed orange rind dried in milk to, you know, you  
8 could spec things down to the point where they are not  
9 available.

10 What we didn't get from this is why it's -- you  
11 know, they never gave us any information about whether their  
12 processing technique takes this -- this makes their technique  
13 work, or whether there is pathogen issues with using the  
14 fresh herb or the dried herb or, you know, we didn't really  
15 get a feel for why this form, this particular spec was what  
16 they needed. And without that, you can't really tell if they  
17 are specking for a particular product.

18 That was the issue. And like I said, it is close.  
19 And you know, you can see it either way, but it was just  
20 never explained at all. It was missing from this petition.  
21 They did not come back.

22 MS. HEINEZ: This is a comment, not a question. I  
23 just wanted to point out for the Board that, or for the rest  
24 of the Board, this petitioner provided ample evidence that  
25 the dill weed oil was not commercially available in organic

1 form. Our vote was more a reflection of, was there an  
2 alternate substance, fresh dill, that they could have used.  
3 So when you make your decision, that's the point that we  
4 would recommend that you consider.

5 MS. CAROE: And actually, I wanted to add that that  
6 was a factor in some of the other spices that were accepted,  
7 that specifically, every single one of those that was  
8 excepted, where there were two that were in frozen form, and  
9 those petitioners specifically addressed and gave, you know,  
10 industry information why the fresh form isn't available in  
11 the quantity or at the times that we need it, and the dried  
12 form, only the frozen can substitute, not the dried. Those  
13 other petitioners that were accepted were very, very clear  
14 about why the other forms were not, were not either available  
15 or not usable for them. Dan.

16 MR. GIACOMINI: I'm a little confused. And maybe  
17 the committee can, or the subcommittee can enlighten me a  
18 little bit here. But just looking at the petition on number  
19 eight, justification statement, it says, no form of dill is  
20 currently available in the organic form. We're working with  
21 our suppliers to grow organic dill, but the earliest  
22 available will be October 2007.

23 Given the date of June 2007, when all the organic  
24 ingredients not on the national list must be organic, they  
25 are asking for this. Do we know something contrary to the

1 availability of organic dill in any form?

2 MS. CAROE: No, actually the petition, you're  
3 reading off the checklist, the quotation?

4 MR. GIACOMINI: I'm reading off the petition.

5 MS. CAROE: Okay. I thought the petition  
6 specifically referenced dill oil?

7 MR. GIACOMINI: It does say dill oil, but it says,  
8 no form of dill is currently available in organic form.

9 MS. CAROE: I thought it said, I thought it said  
10 that it was dill oil that was not available in organic form.

11 MR. GIACOMINI: Number eight, justification  
12 statement on page two if somebody wants to look that up.

13 MS. WEISMAN: I don't have the --

14 MS. CAROE: It will take me a while to get it up,  
15 but I truthfully, Dan, there's so many materials in my head,  
16 I can't remember all the details about this.

17 MR. GIACOMINI: Oh, I know. I know.

18 MS. CAROE: But I do know that specifically we  
19 looked for that in the petition, and we felt it was  
20 insufficient. I have to pull up the petition and look at it  
21 again. Like I said, we felt that they made a very good  
22 argument as far as dill weed oil, but there wasn't a whole  
23 lot addressed as far as the rest. Tracy.

24 MS. MIEDEMA: So if what you are saying is they  
25 made the case for dill weed oil, I'm confused of why we are

1 even talking about dill weed. Because it seems like the oil  
2 and fresh form are so different, we know of all the  
3 constraints. We're aware of the challenges of taking a minor  
4 ingredient and extracting, you know, something from that.  
5 And I just, if they made their case, then it seems like we  
6 should move on.

7 MS. CAROE: We need to revisit this. And I can  
8 report back tomorrow before we do the vote on this, but we  
9 did not feel that they did do what you said that they did. I  
10 mean, again, we were looking at this and seeing, you know,  
11 there was no explanation of the specification of this  
12 product. None. None.

13 And so, all we wanted, we felt it was a very short  
14 answer that we needed from them, to tell us that, you know,  
15 the concentration of a flavor is, you know, they need to have  
16 this level of concentration. They can only get that through  
17 the oil component. Or that the equipment can only add it in  
18 a liquid form, or that, you know, there is too many pathogens  
19 in the fresh or the dried product. Any of that.

20 We just wanted that explanation just to verify that  
21 they weren't specking out the organic product. So that's  
22 kind of where we were. But I have to, I will revisit the  
23 petition, and again, I apologizes, but I just cannot remember  
24 all the details. Jeff.

25 MR. MOYER: Andrea, my recollection of that



1 conversations, also, was that for this particular pickle  
2 manufacturer, dill is not a minor ingredient in dill pickles.

3 There was a discussion about that as well, too. I don't  
4 remember exactly where.

5 MS. CAROE: No, I don't think we could be  
6 considering the nonorganic -- we couldn't even be discussing  
7 that if it was not a minor ingredient. We're only discussing  
8 ingredients that are nonorganic, and therefore are limited to  
9 5 percent of the finished product.

10 MS. WEISMAN: I know what it was.

11 MS. CAROE: The issue that, and it wasn't an issue  
12 for our deliberation on this, but if they use a nonorganic  
13 dill oil, they will not be able to label the product as  
14 organic dill pickles, because it's not organic dill. But  
15 that was a different issue.

16 MS. WEISMAN: Katrina. Katrina.

17 MS. HEINEZ: I thought it might help. We have  
18 listed on our recommendation checklist, the petitioner did do  
19 a search for an organic form of the dill weed oil. So this  
20 is from the petition, page two, item nine. The petitioner  
21 states that one of their manufacturers is willing to contract  
22 with the petitioner to product an organic dill weed oil, but  
23 that crop would not be available until October of 2007, at  
24 the very earliest. So that there was information about the  
25 commercial availability of the organic form of the oil.

1           And underneath that, we asked the question, is  
2 there another practice that would make the substance  
3 unnecessary? We wrote, while fresh dill is a possible  
4 alternative, information was not provided by the petitioner  
5 as to the viability of this option.

6           So that the petition is specifically for dill weed  
7 oil, and they did provide information that they are unable,  
8 today, to find an organic form.

9           MS. WEISMAN: I also, the difference between this  
10 petition and the color petitions that didn't pass is that I  
11 believe that the recommendation at committee level, at  
12 subcommittee committee level was to reject. So the yes votes  
13 were yes to reject. So if this were going to be changed, I'm  
14 reading from the -- the subcommittee motion was to reject,  
15 five nothing, and the committee vote -- am I reading the  
16 wrong line here?

17           MS. HEINEZ: Julie?

18           MS. WEISMAN: That's correct. So this is different  
19 than the colors that didn't pass. They were recommended and  
20 they didn't pass. This was actually, the recommendation was  
21 not to list. So this would require -- from the subcommittee.

22           Oh -- okay. All right. I'm sorry. I didn't mean to  
23 confuse it.

24           Then the vote to clarify, this is, this is the same  
25 as the colors. So in other words, the recommendation was to

1 list. So the Board, the full Board does have, anybody on the  
2 Board has the opportunity to vote for listing, because that  
3 is the recommendation on the table when it comes to tomorrow.  
4 Any other? Anymore on dill weed oil? Okay.

5 The other spice petition that did not pass, there  
6 was a petition that was received for dried spices as a group.  
7 And this had to be rejected because only single materials  
8 can be petitioned.

9 And we were prepared to debate about this, but we  
10 had it on pretty good authority that even if we voted to  
11 accept it, legally it was not going to make its way through  
12 all of the hoops that it would have to get through in USDA  
13 and OGC and all of those. So that's why that petition did  
14 not pass.

15 MR. GIACOMINI: Julie?

16 MS. WEISMAN: Dan.

17 MR. GIACOMINI: I would just like to note on that,  
18 that in NOP passing that onto us, NOP specifically went to  
19 this petitioner and said, these need to be individually. We'd  
20 like you to break them down. They said, no. Put it through  
21 in that, we want you to put it through in that form.

22 And interestingly, it is the same petitioner that  
23 did submit a couple of other of the spaces, individually, and  
24 those have passed. So they are, the petitioner is the one  
25 who insisted that it go through this way, even after we, the

1 NOP asked them to break it down.

2 MS. WEISMAN: Yes, that is my recollection as well.

3 Now, we are, we're moving to a new category of a number of  
4 materials not for color, petitioned for 606, that are the  
5 Handling Committee did vote to accept. And these are going  
6 to be presented by a few of us.

7 So the first, I'll read off the list of materials,  
8 of all the materials in this category. They are gellan gum,  
9 fish oils, whey protein concentrate, hops, jalapeno and  
10 chipotle peppers, poblano peppers, salvia hispanica, which is  
11 Spanish sage, sweet potato starch, rice starch, fish gelatin,  
12 natural pork casings, and seaweed otherwise known as wakame  
13 undaria.

14 So the first material, gellan gum, I think Katrina.

15 MR. SMILLIE: Julie?

16 MS. WEISMAN: Yes.

17 MR. SMILLIE: You said these are all 606? Gellan  
18 gum is 605.

19 MS. WEISMAN: Thank you. Yes. That's actually a  
20 very important distinction.

21 MR. SMILLIE: B.

22 MS. WEISMAN: Is there anything else that anybody  
23 can think of that I misclassified here? These were materials  
24 petitioned for 605 or 606 that were accepted. And yes, the  
25 first one, gellan gum is a 605 B material, which is the

1 synthetic part of the list. Katrina.

2 MS. HEINEZ: Okay. So we reviewed gellan gum  
3 petition for addition to the national list on 605 B,  
4 synthetic allowed materials. Just a brief background, we did  
5 have a tap review that was completed in February 2006.  
6 Gellan gum is used as a thickening agent at low levels.  
7 There are similar materials already on the list. 605 A has  
8 agar and carrageenan, 605 B has pectin and xanthan gum.

9 Gellan gum, in the petition, they describe that  
10 this provides different functionality, or is used in  
11 different applications than the similar materials already on  
12 the list.

13 It's produced, just as background for the rest of  
14 the Board, by microbial culture. The gum is separated from  
15 the fermentation began through solvent extraction. The TAP  
16 identifies that isopropyl alcohol is that solvent, but the  
17 TAP did not reveal any adverse effects on humans or the  
18 environment. As a note, the residual solvent is at less than  
19 .1 percent after the process.

20 We voted to recommend inclusion of gellan gum on  
21 national list 205.606 E, and the vote was five for, zero  
22 opposed. Any discussion or questions?

23 MS. WEISMAN: I just, I want to make one brief  
24 comment here. I do encourage my fellow Board members, if  
25 there are any questions at all, not that I want to make us

1 stay here any longer tonight, but tomorrow it will be very,  
2 we will barely have enough time to vote. So it's pretty  
3 important to, as much as humanly possible, to get all  
4 discussion out of the way today. So if you even think you  
5 have a question, do not be shy about asking it.

6 All right. Sounds like we are ready to move on.

7 MS. HEINEZ: Okay. The next material that we  
8 reviewed was fish oil, so again some background. It's an  
9 ingredient typically used to increase omega-3 fatty acid in  
10 food stuffs. The manufacturing typically involves an alkali  
11 refining process, filtration, bleaching, and deodorization.

12 The typical fish sources cited in the petition were  
13 anchovies or sardines. And the petition did provide evidence  
14 that the fish oil is produced in a manner consistent with  
15 organic production.

16 I think it is obvious to everyone that given all  
17 our discussions this morning on aquaculture, that clearly  
18 organic fish are not currently commercially available as an  
19 input to making this fish oil. So based on that, the  
20 handling committee recommended inclusion on 205.606 of fish  
21 oil. And the vote was five for, zero opposed.

22 MS. WEISMAN: Dan.

23 MR. GIACOMINI: There was discussion in the  
24 subcommittee on the possibility of an annotation that this  
25 contain, that this have, be with a natural preservative. I

1 don't remember how that came out of subcommittee on a vote,  
2 but would that be considered too conscriptive jist as the  
3 organic oil would be, or --

4 MS. WEISMAN: I'll take a stab at this. I don't  
5 think so. I mean, you're saying, this is being petitioned as  
6 an agricultural ingredient, and you're a nonorganic  
7 agricultural ingredient. Asking that the preservative be  
8 natural is not the same thing as petitioning a nonorganic  
9 ingredient, and saying that one of the components has to be  
10 organic. Andrea.

11 MS. CAROE: I guess it would depend on, you know,  
12 are these products typically made with natural preservatives.  
13 And then the second question is, what is a natural  
14 preservative? Is that clear? I mean, if I was a certifier  
15 and saw an annotation like that, it's a rat's nest. I mean,  
16 it's just, what is a natural preservative.

17 If it's defined by FDA, I'm great with that. But  
18 if it's not, I don't know. I think that it might not mean  
19 anything. And if nobody is using that, and if it means that  
20 they are going to have to, you know, try to designate new  
21 production to meet an organic market, then it's just as bad  
22 as imposing an organic regulation on them.

23 MR. GIACOMINI: Well, it just seems that allowing  
24 nonorganic agricultural products is one step, allowing into  
25 the food stream for organic consumers, all owing ethoxyquin

1 in is another step, which is essentially what we would be  
2 doing.

3 MS. CAROE: Kim, if I can call you to the podium to  
4 talk, I mean, I know we had this whole fish argument, and I  
5 can't remember how it all went. If you can give us some  
6 history.

7 MS. DIETZ: I'll try. Kim Dietz, past NOSB  
8 Materials Chair, regulatory manager for Smucker Quality  
9 Beverage. In the past, as we've reviewed materials, your  
10 role is to review them as they are and as they are  
11 manufactured, okay. And that includes all processes and all  
12 processing aides, and all products, anything it takes to make  
13 a material. You are reviewing it for inclusion on the  
14 national list.

15 Typically, if that includes a processing agent, a  
16 ph adjuster, anything that is included in that, you don't  
17 necessary put that in an annotation. You are accepting that  
18 material as a whole. So annotations make things very touch  
19 and sticky when you get to using them on the national list.

20 As far as fish goes, you know, we were talking  
21 about the gelatin, and that's a separate material that you  
22 are reviewing, so, and I don't know. Maybe that's good --  
23 Rich Theuer, are you still there? Is there any such thing as  
24 a natural preservative? I don't know as it --

25 AUDIENCE: Tocopherol.



1 MS. DIETZ: Okay. Tocopherol. Okay. So, you  
2 know, you may need to take this back and discuss it and talk  
3 about it.

4 AUDIENCE: There is also rosemary --

5 MS. DIETZ: Okay. Okay. So you can limit that  
6 annotation. But typically, in the past, we've -- you've put  
7 materials on as is including all manufacturing processes.

8 MS. WEISMAN: I am reminded that the petition  
9 specifically said that tocopherol was what was being used.

10 MR. GIACOMINI: Again, 55 petitions run amuck in my  
11 brain.

12 MS. WEISMAN: Yes, okay. So this one is, and in  
13 fact, the petitioner is in the room. So if we would like  
14 to --

15 PETITIONER: I'm open to questions.

16 MS. WEISMAN: Okay. Do we need that at this point,  
17 or was that -- I think we just reminded ourselves of what we  
18 had to remember.

19 MR. GIACOMINI: I think maybe the debate came up on  
20 the possibility of the fact, putting it on, you know, we're  
21 putting on fish oil. We're not putting on the fish oil from  
22 this petition. It still is a potential problem.

23 MS. WEISMAN: Right. Yes. Andrea.

24 MS. CAROE: Knowing that there is a product out  
25 there that is made with a natural preservative, you can put

1 the annotation. I would suggest not using the word natural,  
2 because I really feel it's undefined, but you might want to  
3 use tocopherol only, or you know, you might want to come up  
4 with different terminology for that annotation.

5 And again, it's not imposing organic regulations on  
6 the nonorganic world. It's being specifically about what you  
7 accept into the organic world. Does that make sense?

8 MS. WEISMAN: Sounds good to me. Katrina. All  
9 right, what do we want to do with it? I think that, let's --  
10 I know we try to avoid the annotations as much as possible,  
11 but I think it might be appropriate here. So I think we  
12 would need a motion to amend the recommendation.

13 MS. CAROE: You don't need it.

14 MS. WEISMAN: Okay.

15 MS. CAROE: What I suggest doing is, we can have --  
16 during this discussion, we can talk about an annotation.  
17 When the motion gets put on the table tomorrow, then accept a  
18 motion to amend to add an annotation. But let's discuss it  
19 here so that we're aware of it, so that, you know, we're  
20 making notice of it right now, unless you want to take it to  
21 committee, reconsider, and then come back, which I would  
22 suggest not.

23 I would say, let's leave the motion, the  
24 recommendation from the committee as it stands. When the  
25 motion gets made tomorrow, if somebody wants to amend that

1 motion to add an annotation, that would be the appropriate  
2 place to do it.

3 MS. WEISMAN: I do suggest that we, that we discuss  
4 now exactly what the wording of that annotation will be.  
5 Joe.

6 MR. SMILLIE: With preserves allowed under the NOP  
7 regulation, or something to that effect. Allowed, not  
8 natural.

9 MS. WEISMAN: Okay, so state it the way you think  
10 it would read.

11 MR. SMILLIE: Oh boy. Where it is? Substance to  
12 be voted as allowed on the national list, 205.606 with  
13 annotation in accordance with all NOP regulations, including,  
14 but not limited to allow preservatives.

15 MS. WEISMAN: What?

16 MR. SMILLIE: What I just read. This is English.

17 MR. GIACOMINI: Canadian English.

18 MS. WEISMAN: Yes.

19 MR. SMILLIE: Et tu en Francais? Substance to be  
20 allowed, to be added as allowed on national list 205.606 with  
21 -- to be allowed on 205.606 in accordance with all NOP  
22 regulations including but not limited to allowed  
23 preservatives.

24 MR. GIACOMINI: Preservatives allowed on the  
25 national list.

1 MR. SMILLIE: Well, okay, preservatives allowed.  
2 Ball park. Ball park.

3 MS. WEISMAN: Okay. Ball park. All right. I'm  
4 just trying to avoid problems tomorrow. I'd rather have  
5 problems today.

6 MR. SMILLIE: Okay, what's problematic about that?

7 MS. WEISMAN: It sounds a little wordy.

8 MS. CAROE: Can I make a suggestion?

9 MR. SMILLIE: Please.

10 MS. CAROE: Can we just say, only natural -- only  
11 preservatives listed on the national -- oh, now I'm  
12 getting --

13 MR. SMILLIE: No. See, you're --

14 MS. CAROE: It turns around.

15 MR. SMILLIE: I'll try that again.

16 MS. CAROE: Allowed preservatives only.

17 MS. WEISMAN: Okay.

18 MR. SMILLIE: Okay.

19 MS. WEISMAN: What she says. Okay. Jeff.

20 MR. MOYER: How is that different from putting an  
21 organic standard on this that we just said we couldn't do?  
22 What's the difference? I'm sure there is. Just explain it  
23 to me.

24 MS. CAROE: All right. The difference between this  
25 an annatto oil extracted and being made with organic oil is,

1 right now, nobody is making annatto extracted with organic  
2 oil and made with other oil, and letting you choose which one  
3 you purchase. In this case, there is available through the  
4 conventional supplies products that have preservatives that  
5 are tocopherol or rosemary oil or whatever, using those.  
6 They are available in the conventional market. In this case,  
7 we're setting an annotation that narrows in on what's  
8 acceptable to bring in.

9 In the case where you're saying organic oil, you're  
10 forcing manufacturers to have their vendors remake their  
11 product specifically for their allowance. And that's  
12 different. That's impending regulation down. You see, you  
13 see the difference?

14 MS. WEISMAN: In other words, product that complies  
15 with this is already in the marketplace. So we're just  
16 closing the door and saying, that's it. This is what's going  
17 to be allowed. Nothing that meets less than this standard.

18 MR. SMILLIE: And again, the historical reason for  
19 this, for Board members not up to it is that fish meal, in  
20 the past, that was allowed in organic products, contained  
21 ethoxyquin. It was a standard preservative in fish meal.  
22 And we just want to be really clear that we're allowing fish  
23 oils, but we're not allowing fish oils with ethoxyquin.

24 And again, the petitioner in this case, you know,  
25 was very clear that was alpha tocopherol -- mixed tocopherols

1 that were being used as an allowable natural preservative.

2 MS. WEISMAN: Okay. Are we good with fish oils?

3 Okay. Whey protein concentrate.

4 MS. HEINEZ: Are you ready?

5 MS. WEISMAN: Yes.

6 MS. HEINEZ: Okay. The Handling Committee reviewed  
7 three petitions for whey protein materials. Just as a  
8 reminder, whey protein isolate has been withdrawn by the  
9 petitioner. The other two petitions were for whey protein  
10 concentrate, 35 percent and 80 percent.

11 Whey protein concentrate is used in dairy products  
12 for texture and consistency. It's manufactured from whey  
13 byproducts, mostly from cheese production. It goes through  
14 an ultra-filtration process that removes a large portion of  
15 the lactose and the minerals in the water. The process does  
16 not involve use of chemical, and then it's spray-dried and  
17 sold as a dry ingredient.

18 The petitioner provided great deal on why they've  
19 been unable to source organic whey protein concentrate. So  
20 just to summarize that for the rest of the Board, it really  
21 has to do with the fact that the economics are such that it  
22 is better for the producers of the whey byproduct to produce  
23 whey powder versus whey protein concentrate. They have  
24 better yields, the runs are larger, and there is a market for  
25 all that whey powder. So why go to the extra expense of

1 creating the whey protein concentrate, when you have a market  
2 for the whey powder that's cheaper to produce.

3 So because of that, there just is not any whey  
4 protein concentrate available for purchase. It's a very  
5 short summary. If you have more questions about it, there's  
6 a lot of detail in the petition.

7 There are two companies in the U.S. that collect  
8 the majority of the whey from organic cheese processing. One  
9 occasionally will provide whey protein concentrate, but will  
10 not guarantee a supply. The other one has just said, they  
11 have no interest in producing it.

12 A last point of note here, our posted  
13 recommendations for the whey protein concentrate 80 percent  
14 is a recommendation not to list it. Subsequent information  
15 from public comment was received that provided evidence that  
16 the process for whey protein concentrate 80 percent was  
17 identical to that for the 35 percent, and did not involve the  
18 use of chemicals.

19 So at our meeting last night, the Handling  
20 Committee voted to reconsider our recommendation, and voted  
21 to recommend listing whey protein concentrate 80 on 606. So  
22 our recommendations are to list both on 606 and the votes  
23 were both five for and zero opposed.

24 MS. WEISMAN: Any discussion? Questions? Kevin?

25 MR. ENGELBERT: Just one. What's the future look

1 like for whey protein concentrate? Is there going to be any  
2 organic on the marketplace if this is allowed on 606?

3 MS. WEISMAN: Can I please answer that? Kevin, I  
4 think you probably know the answer to that question better  
5 than anybody. It depends on the supply of organic milk.

6 MR. ENGELBERT: Okay.

7 MS. WEISMAN: It depends on the supply of organic  
8 -- okay, Andrea has more.

9 MS. CAROE: We are not doing away with commercial  
10 availability. It's still there. If it becomes available, it  
11 has to be used. This permits a certifier to consider a  
12 manufacturer that's using a nonorganic form. It does not  
13 give them carte blanche. They still have to prove that it's  
14 not available. Okay. So listing on 606 does not prevent the  
15 development. It should incite the development of these  
16 organic products.

17 MS. WEISMAN: I'm debating whether I want to take  
18 this moment, because it's relevant, to -- there has been,  
19 there has been public comment on both, you know, on two  
20 different strains about -- there are some -- I think Jim  
21 talked about the lumpers and the splitters yesterday. Well,  
22 we have kind of a similar breakdown of categories on the  
23 listing issue.

24 There are those who think that as few things as  
25 possible should be listed on 606, and the reason that's given



1 is that it will inhibit the development of organic  
2 ingredients. And I do, I also want to point out that we're  
3 -- all these, all the ingredients that we're talking about  
4 right now are all minor ingredients. They're all used less  
5 than 5 percent. And that up until the Harvey lawsuit,  
6 anyone, theoretically, you could use an agricultural product  
7 if your certifier approved, that was not organic in your 5  
8 percent.

9           So if being able to use those products was an  
10 inhibitor to the development, it becomes very difficult to  
11 explain the fact that in the last, since the rule became  
12 effective in 2002, there were -- I mean, and I'll ask, you  
13 know, think, all you manufacturers out there, think about how  
14 many minor ingredients were available in 2002 compared to  
15 now.

16           The facts in the field are that despite the fact  
17 that there is an allowance to use agricultural ingredients,  
18 if they are not available organically, many, many, many, many  
19 minor ingredients have been brought to market, for reasons  
20 that were mentioned by many commentators in the last two days.

21           There are many, many companies who were not, I  
22 certainly would not be in the organic business. I make a  
23 minor ingredient. And it was my customer who pushed me to  
24 make it organically. They didn't have to, but they did. And  
25 many, many manufacturers, many manufacturers do that.

1           I am not saying that there aren't people out there  
2 who do try and push the envelop and take advantage. But the  
3 facts in the field are that the ability to use, have access  
4 to nonorganic agricultural ingredients has not so far proven  
5 to be an impediment to the development of organic minor  
6 ingredients. That's my spiel. Thanks.

7           Okay. The chairman informs me that we're due for a  
8 break.

9           MS. CAROE: Yes, if we could take a 10-minute  
10 break, 10 minutes, just 10 minutes. Okay.

11           (Recess.)

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1                                   A F T E R N O O N   S E S S I O N

2                   MS. CAROE:   Okay, Board.   The next material is hops  
3   which Joe Smillie is going to be handling.   He's not in the  
4   room right now.   So, we're going to go slightly out of order  
5   and, Julie, I'm taking over for you.

6                                   (Discussion off the record)

7                   MS. WEISMAN:   The next material on our list is hops  
8   which Joe Smillie is going to discuss.

9                   MR. SMILLIE:   Even though hops are somnorific I  
10   hope everybody's awake.   What Julie said at the end, before a  
11   break, I won't repeat.   You've heard it eighteen times  
12   already which is that hops is another one of those categories  
13   which simply because it's placed on the list does not mean  
14   that one can use it.   One has to justify to one certifier  
15   that organic and farm quality quantity is not available.

16                   So, again, with that as the bedrock that we start  
17   from, we looked at the hops petition and quickly determined  
18   that unlike perhaps other products hops are simply not hops.  
19   There are many different varieties of hops and there's a very  
20   long, long tradition.   The Reinheitsgebot in Germany and  
21   other traditions where different hops are used to create  
22   different identities of beer, so, beer is not beer, it's AL  
23   lager, pilsner, you have all these different things.   They  
24   all rely on different hops produced in two different ways,  
25   either boiled with the water or added as fresh after and

1 that's simplifying, you know, a very long brewing process.

2           So, basically, in reviewing the petition we had to  
3 look at a wide variety of different types of hops produced  
4 under different regimes and while there are organic hops  
5 available and possibly in the near future in sufficient  
6 quantity, they would be of a specific type of form and  
7 quality that while useful for some beers is not useful for  
8 all.

9           And we went through the petition. The petition  
10 went into great detail with the different types of variety,  
11 growing methodologies and that, and the very strong  
12 possibility that as this industry grows that more and more of  
13 these hops would be available as organic. Again, quality,  
14 quantity, and form were all issues in the availability and  
15 the fragility of supply.

16           Once again, like a lot of modern agriculture there  
17 used to be, you know, small scale production all over the  
18 place and unfortunately it's been, you know, centralized  
19 production in only certain areas now have the infrastructure,  
20 certain agricultural areas, one in the U.S. in particular  
21 have an infrastructure that will support the growing of hops.

22           So, in reviewing the document we decided that it  
23 was acceptable; that it be placed on 606 without any  
24 annotations or restrictions.

25           MS. WEISMAN: Any discussion or questions. Andrea?

1           MS. CAROE: I actually just want to make a comment.  
2     When we first approached the 606 process the materials  
3     committee and Dan created a process by which we would be  
4     reviewing these new category of materials and after that  
5     process was established we took two diverse materials that we  
6     received petitions for and did a beta test where we ran this  
7     review process engaging the board and this was one of those  
8     two products that we used for that beta test. The other one  
9     was poblano peppers.

10           So, they had two separate issues, two separate sets  
11     of issues, I should say, and this one, you know, was actually  
12     a model for what we expected to see in a petition. So, I  
13     just wanted to make that very clear that actually it's more  
14     than the handling committee that's seen this. The whole  
15     board hasn't seen this as part of that exercise.

16           MS. WEISMAN: Okay. We're going to move on. We  
17     have a group of materials, three, that Steve DeMuri is going  
18     to present, jalapeno, chipolte peppers, poblano peppers and  
19     salvia hispanica.

20           MR. DEMURI: In the interest of time I'll take the  
21     jalapeno, chipolte, and poblano peppers kind of as a little  
22     mini group of this three set group. We reviewed the  
23     petitions for these pepper ingredients. As Andrea mentioned,  
24     the poblano is one that we had looked at before the rest and  
25     used it as kind of a model for future petition discussions

1 and to begin with we didn't have the information that we  
2 wanted or needed to accept this one, but, in the meantime  
3 since we looked at it again we received some more information  
4 from the petitioner on availability and all these, all three  
5 of these peppers, jalapeno, chipolte, and poblano did pass.

6 The jalapeno, chipolte peppers was voted 5 yes,  
7 zero no votes, and originally did have a three annotation and  
8 that will be removed. The poblano peppers, 4 yes and one no.

9 And, so, we felt all of these pepper ingredients may be  
10 criteria for form, quantity, and quality to be listed on 606.

11 The third one is salva hispanica, also known as  
12 Spanish sage. For those on the board that don't know, it's  
13 used in quite a few snack foods as a nutritional additive to  
14 products that provide soluble and insoluble dietary fiber,  
15 omega 3 fatty acids and a few other things. The petitioner  
16 did make a case for it not being available as organic and the  
17 handling committee carefully reviewed that petition as well  
18 as the sub-committee and it was voted 5 yes and zero no votes  
19 to list that on 606.

20 So, any discussion on any of those three items?

21 MS. WEISMAN: Okay. Thanks, Steve. Bob, sorry.

22 MR. POOLER: I don't have any comment on the  
23 specific materials, but, I do want to make a general comment  
24 about 606 materials. I would like everybody to know that  
25 after the commercial availability criteria was established by

1 the NOSB in October that information was distributed to all  
2 the petitioners that are on this list and they were given  
3 ample opportunity to provide commercial availability  
4 information.

5 We also distributed this information to any  
6 potential petitioner that contacted us. We also provided  
7 this information to any person or any industry member who was  
8 interested in the petition process specifically for 606. So,  
9 what everybody needs to know is that the commercial  
10 availability information was put out there prior to being  
11 published in the Federal Register so many petitioners, and  
12 these petitioners here and other petitioners or potential  
13 petitioners were provided the opportunity to respond to  
14 commercial availability information. Thank you.

15 MS. WEISMAN: Thanks, Bob. We know that the  
16 program worked as fast as they possibly could and to get this  
17 out in as many ways as they could think of, you know, and  
18 there's also, unfortunately, you know, a big gap in terms of  
19 what is -- there's a big gap in what's required to reach some  
20 parts of the industry as opposed to other parts of the  
21 industry and there's just no way we have been getting around  
22 that.

23 So, everybody did the best they could. It's  
24 agreed. Yes?

25 MR. GIACOMINI: I just want to throw in one thing.



1 In regard to the NOSB's effort on this I think I got close to  
2 20 petitions passed on to me over one weekend so they were  
3 putting in extra hours on above and beyond just like all the  
4 rest of us were.

5 MS. WEISMAN: Yeah, that's for sure. The next two  
6 items in this category actually are three now that I'm going  
7 to present, sweet potato starch, rice starch, and fish  
8 gelatin. What I will -- I'm going to present the sweet  
9 potato starch and the rice starch also as a little bit of the  
10 mini group because they are both products that are used in --  
11 used for purposes of texture in organic processed food  
12 products. They are both made from starch, one coming from  
13 sweet potatoes, the other coming from rice.

14 There are no synthetic substances used in the  
15 processing of these. Sweet potato starch is commonly on the  
16 market as bean thread. Some people know it as cellophane  
17 noodles and is essential to create a certain -- a very  
18 specific texture in authentic Asian cuisine.

19 The petitioner of the sweet potato starch had first  
20 of all had communicated with the major producers of these  
21 cellophane noodles who are all located in Korea and none of  
22 them are producing this in an organic form. In addition,  
23 they considered other products which are made from other  
24 kinds of starches which are available organically such as  
25 they looked at wheat and soy, organic soy starch and neither

1 of them gave this authentic Asian texture that people expect  
2 in these type of products.

3           In the case of rice starch it's used to create a  
4 texture in dairy products such as yogurts. I believe it's  
5 necessary to keep it from liquefying for things like squeeze  
6 yogurts so that I don't know how many of you have kids, but,  
7 in other words, without the rice starch if you opened up the  
8 squeeze yogurt it would just fall down your kids' shirt and  
9 then you'd get a call that you have to pick them up and bring  
10 them clothes and it would be really a mess.

11           So, we saw nothing in either of these petitions  
12 that would make it at all questionable and compatible and we  
13 felt that both petitioners -- one more thing. In the case of  
14 rice starch, there are certainly organic forms. This is  
15 organic rice on the market but this particular, the rice  
16 starch for this particular use comes from sticky rice and  
17 although there are organic varieties being developed I think  
18 the brand is under conversion is I think what the petitioner  
19 said, it's still a year or two away from being available for  
20 use and I think there's also some R&D that would still have  
21 to be done.

22           It's not determined that once the organic variety  
23 is being grown that it actually is going to work for this  
24 purpose. But, that's the trajectory so we felt that due  
25 diligence was being done on that as well. The one difference

1 between these two is that there is going to be the  
2 recommendation for rice starch is the one item that still is  
3 going to have an annotation about the length of time that  
4 it's going to be listed and that's for the reason I mentioned  
5 in my earlier presentation that the petition ended up being  
6 posted for less than the 30 day period and, therefore, we  
7 felt it should have a smaller window of listing. But, it can  
8 certainly be re-petitioned before that time.

9 And I'll just say that the committee votes on the  
10 rice starch were 4 yes, zero no and on the sweet potato  
11 starch was the same.

12 The next item is the fish gelatin.

13 MR. GIACOMINI: Do you want to comment on these as  
14 a group?

15 MS. WEISMAN: Yeah, I'm sorry, thank you. It's  
16 getting late. Thank you for keeping me on track. Is there  
17 any discussion about the starches?

18 MR. GIACOMINI: Yes.

19 MS. WEISMAN: Okay. Dan.

20 MR. GIACOMINI: The petition for the sweet potato  
21 starch almost gives the impression that it is the main  
22 ingredient in the bean thread noodles. It's very difficult  
23 to extract out of there that it's an ingredient of less than  
24 5 percent. Do we know anything more about that?

25 MS. WEISMAN: Yes.

1           MR. GIACOMINI: Or are they going to be looking at  
2 final recipes?

3           MS. WEISMAN: No, no. It's actually -- the bean  
4 thread noodle is not the final product. Rice potato starch  
5 is the name by which they're petitioning bean thread noodles.  
6 Bean thread noodles are a minor ingredient in Asian  
7 potstickers. They are less than 5 percent. Is that the  
8 question you were asking?

9           MR. GIACOMINI: Is that the only -- is that the  
10 main place that it's used or is there any place where it --

11          MS. WEISMAN: That's the only place that this  
12 petitioner -- I mean, that's what it's being petitioned for.

13          MR. GIACOMINI: Okay.

14          MS. WEISMAN: Andrea?

15          MS. CAROE: As far as whether it's over 5 percent  
16 in the product, that's kind of irrelevant to this  
17 conversation.

18          MR. GIACOMINI: Right.

19          MS. CAROE: It's elsewhere in the regulation.

20          MR. GIACOMINI: Right. Okay.

21          MS. WEISMAN: Any other questions? Okay. We need  
22 to move on to the fish gelatin. I have to tell you, I  
23 volunteered for this one, but, I wasn't on a sub-committee so  
24 I might need a little help from somebody that was. The fish  
25 gelatin was being petitioned for micro encapsulation.

1           Does anybody have the petition in front of them?  
2   It's the same as the fish oils.    I didn't know that.   Okay.  
3   Thank you for helping me.

4           UNIDENTIFIED SPEAKER:   What do you want me to do  
5   with the petition once I have it?

6           MS. WEISMAN:   Joe can help.

7           MR. SMILLIE:   It was petitioned for use as the  
8   micro encapsulation of the fish oil by the same petitioner  
9   and it basically just physically encases the fish oil and  
10   it's fish gelatin and it follows through with all the other  
11   petition reasons of fish oils as available as organic for  
12   obvious reasons and it poses no other significant, negative  
13   effects in 606 criteria, so, it meets all the criteria.

14           It doesn't seem to be controversial in any way,  
15   shape, or form.

16           MS. WEISMAN:   Right.   Now, part of what made this  
17   one more complicated, why I took it on also is because after  
18   we -- after the handling committee voted to recommend this  
19   material it was brought to the attention of the committee  
20   that there had been a past recommendation and I'm actually  
21   going to pass copies out now to the rest of my fellow board  
22   members.

23           So it only affects how we're going to list it.   If  
24   it were not for this it would just be seen as fish gelatin.  
25   However, at the May 2002 meeting of the NOSB in Austin, Texas

1 there was a final recommendation on gelatin and that  
2 particular gelatin was being used primarily as a processing  
3 aid to clarify tea but it was also used as a fining agent in  
4 wine, as a stabilizer, a thickener, a texturizer, so, there  
5 are a number of gelatins.

6           So, this particular gelatin was approved. In  
7 addition, the recommendation was that gelatin in general be  
8 listed on 606. And that would include the fish gelatin  
9 that's being petitioned today. The reason why it wasn't  
10 listed -- the only reason why it wasn't listed was because at  
11 that time the general interpretation was that materials not  
12 organically produced agricultural products did not need to be  
13 listed on 606.

14           Obviously that has changed. Our world has changed  
15 since then. And it might even have been appropriate at the  
16 time that the announcement was made that konjac flour and the  
17 shellac and one other thing were now going to be added to 606  
18 that this gelatin, you know, should have been included in  
19 that group, but we're here now talking about it.

20           So, the recommendation for this item is going to be  
21 for gelatins to be listed, for gelatin to be listed on 606  
22 because that's the way it was petitioned in 2002. And, so,  
23 now it's time to add it that way and fish gelatin will be  
24 among those gelatins.

25           There may be questions though, so, Dan?

1           MR. GIACOMINI: part of this petition was specific  
2 dealing with either banning the fish gelatin over other  
3 animal sources for kosher and vegetarian reasons. It seemed  
4 the sub-committee to be a significant distinction. And I'm a  
5 little leery of just throwing it in with the other prior  
6 petition. It's the same general category but it certainly  
7 has some very different specifics.

8           MS. WEISMAN: Let me restate it. We actually don't  
9 have a choice. This is a past board decision and it should -  
10 - there is a past board decision for the recommendation of  
11 gelatin. Maybe is that too strong? Okay. There is a past  
12 board decision. And it has always been our -- I mean that  
13 has been a guiding principle here that we do -- that we abide  
14 by past board decisions. It was only maybe nearly like -- it  
15 took a little while for the light bulb to go off in  
16 everyone's head, oh, we made a decision about this in 2002  
17 and now we do have to list things on 606 so this needs to be  
18 on 606.

19           MR. SMILLIE: I don't think it will create a  
20 problem because fish gelatin will be a part of the gelatin  
21 listing and the manufacturer can specify, you know, suitable  
22 for vegetarians or kosher or which other, you know, which is  
23 what they need which is why they needed fish gelatin  
24 specifically.

25           MR. GIACOMINI: Do we need to vote on this at all

1 to reinforce the prior decision or will that just pass  
2 through as a 606 recommendation?

3 MS. WEISMAN: Andrea?

4 MS. CAROE: We don't have to vote on it. It's been  
5 voted on. In order to change this we have to vote to rescind  
6 a prior board recommendation and I would strongly suggest we  
7 don't do that. I'd like to recognize Kim Dietz.

8 MS. DIETZ: I am Kim Dietz. That recommendation  
9 you have in front of you I'm not sure if you actually printed  
10 out the whole recommendation but we discussed in detail the  
11 fish oil, the fish gelatin as part of the gelatin  
12 recommendation so that was included in our petition but the  
13 original petition that was included in our recommendation.  
14 We blanketed -- we looked at all of them as a whole because  
15 they all have different forms and functionalities and  
16 different products.

17 MS. WEISMAN: Jeff.

18 MR. MOYER: That sort of begs the question, are  
19 there any other outstanding votes that were made that aren't  
20 in front of us that we don't have to act on or should have  
21 acted on?

22 MS. WEISMAN: Bob, help.

23 MR. POOLER: No, there are no outstanding decisions  
24 or recommendations on 606 that have come from the NOSB.  
25 There's only these three materials, shellac, gelatin, and



1 konjac flour.

2 MR. GIACOMINI: And those are considered viable and  
3 active or whatever petition -- I mean recommendations without  
4 us needing to do anything else?

5 MR. POOLER: That is correct.

6 MR. GIACOMINI: So do we need to move on this  
7 petition then at all?

8 MS. WEISMAN: I guess not. We won't be voting on  
9 this one. Bob?

10 MR. POOLER: Would it be necessary for the board to  
11 say we include this petition to be incorporated in the prior  
12 recommendation?

13 MR. GIACOMINI: It already is.

14 MS. WEISMAN: Andrea.

15 MS. CAROE: I don't think so. From a  
16 recommendation standpoint it's encompassed in that prior  
17 recommendation. There's no further action. For record  
18 keeping purposes if you want to include the documents  
19 together we can do that, but, there's absolutely -- it  
20 doesn't gain us anything.

21 MS. WEISMAN: Okay. Next. Two from Joe. Natural  
22 pork casing and wakame.

23 MR. SMILLIE: Basically, very sound petitions  
24 presented. Met all of our considerations. We looked at them  
25 both very carefully. There are a couple -- you know -- a

1 couple of minor issues with the casings. Again, the question  
2 was asked, you know, why can't animal -- vegetarians may want  
3 to leave at this point in time, but, why can't animal  
4 intestines be used, you know, from organic animals and the  
5 petitioners, of which the three collaborated, I think there  
6 was three, three or four collaborated, and basically made the  
7 case that the concentration of animal slaughter houses wasn't  
8 sufficient at this point in time to yield enough intestines  
9 for the casings for the sausage products and that was backed  
10 up with data and we, once again, by listing this we see that  
11 in the future this will hopefully change as organic meat  
12 production surges and perhaps there's more specialized  
13 companies start looking for this market.

14 But, we will see them emerge and at that point in  
15 time we can have the petition to withdraw casings from the  
16 national list or certifiers will enforce the fact that there  
17 are organic casings available. We also looked at the option  
18 of no casing type sausages and found out that just wasn't  
19 culturally acceptable in many sausage eating communities and  
20 that other forms of non-animal casings were also unacceptable  
21 so basically the petition was solid and we approved it 5 to  
22 zero.

23 The seaweed was a different item. Basically the  
24 issue came down to that there is certified organic sea  
25 vegetable species available and it got down to a species

1 argument of which type of seaweed was appropriate for the use  
2 and the petitioner was very -- gives a very comprehensive  
3 petition that outlined why this particular species is used in  
4 a particular Asian formulation such as soups and why the  
5 current existing wakame, Atlantic wakame, which is available  
6 as organic wasn't acceptable for use commercially.

7           Also, it met every other criteria for 606 and once  
8 again it may be possible that this material starts to become  
9 available organically, but, at this point it isn't available  
10 and, again, it's followed the other conditions and so it was  
11 also approved unanimously. Does it say SPP? I can't read  
12 that, but, it should be -- again, it's very specific to one  
13 particular strain of wakame undaria spp.

14           Any questions from the board on those two?

15           MS. WEISMAN: Bob?

16           MR. POOLER: Yes. Joe, the materials, petition  
17 materials database indicates that the petitioner for natural  
18 casings submit a petition for natural casings. Why was the  
19 recommendation specified for pork?

20           MR. SMILLIE: Good point. The petition -- you're  
21 absolutely right. The petition is for natural casings, not  
22 natural pork casings. And we did look at all of the  
23 different -- yeah, that's a typo.

24           MS. WEISMAN: That must have been me. I made up  
25 this list last night. So, it must have been me.

1 MR. SMILLIE: Yeah, the petition for natural  
2 casings.

3 MS. WEISMAN: Not pork.

4 MR. SMILLIE: Well, including pork. But, not  
5 specific to.

6 MS. WEISMAN: But, not limited. Not limited, yes.  
7 Thank you.

8 MR. SMILLIE: Thank you.

9 MS. WEISMAN: Any other comments or discussion  
10 about the casings or the seaweed? Bea?

11 MS. JAMES: Could I just get some clarification on  
12 the word natural casings?

13 MR. SMILLIE: Yes.

14 MS. JAMES: So, just thinking of, you know, the  
15 whole situation with Harvey and whatnot, could it be --

16 MR. SMILLIE: No, very specific to animal  
17 intestines.

18 MS. JAMES: From cloned animals though and could be  
19 from --

20 MR. SMILLIE: That came up yesterday. We didn't  
21 -- we didn't want to get to that, but, that would be from the  
22 progeny of cloned animals.

23 MS. JONES: It concerns me a little bit using that  
24 word natural in there because, you know, it's --

25 MR. SMILLIE: Well, it means not synthetic.

1 MS. WEISMAN: Can we say animal derived casings?

2 MR. SMILLIE: Well, it's not --

3 MS. WEISMAN: Tracy.

4 MS. MIEDERMA: They use the word natural casings as  
5 an industry standard term and it's to designate it between  
6 peelable, cellulose casings, and eatable collagen casings and  
7 natural casings are that a known industry term.

8 MS. JAMES: Right, but, it's also very confusing to  
9 use that term so within the --

10 UNIDENTIFIED SPEAKER: How about people making  
11 sausage?

12 MR. SMILLIE: Yeah, within the meat industry that's  
13 the term.

14 MS. WEISMAN: Bob?

15 MR. POOLER: Yes. The term natural as it applies  
16 to meat products is regulated by the USDA FSIS and so any  
17 term of the use natural with pork casings or whatever natural  
18 casings would probably be applicable or regulated by USDA  
19 Food Safety Inspection Service.

20 MS. JAMES: So, where does the current FDA  
21 definition of natural as it pertains to --

22 MR. POOLER: The USDA and FSIS has a definition of  
23 what is natural and it's part of their regulations. I'm not  
24 sure where it is but they control, they regulate natural  
25 labeling of meat products and this probably falls under their

1 purview as far as labeling natural casings.

2 MR. SMILLIE: Bea, what's the issue? I don't  
3 understand your concern?

4 MS. JAMES: It's just a red flag.

5 MS. WEISMAN: Can I try. I think I know where  
6 you're uncomfortable. We have been avoiding the use of the  
7 word natural, Joe. We are conditioned here to avoid the use  
8 of the word natural. That's the problem. Bob?

9 MR. POOLER: Yeah. I just received information that  
10 the word natural under FSIS means minimally processed, no  
11 additives.

12 MR. BRADLEY: The minimally processed, no added  
13 ingredients but usually with natural casings it's an identity  
14 factor that distinguishes it from collagen casings or  
15 something like that.

16 MS. WEISMAN: So it is a standard of identity?

17 MR. BRADLEY: I can't speak to standard identify  
18 but that gets into a very technical definition that I can't  
19 speak to.

20 MS. WEISMAN: Tracy?

21 MS. MIEDERMA: The petition does go into the  
22 specifics of the terminology and they cite scientific  
23 research. You know, for instance, the anti-microbial  
24 properties used for the preservation of natural casings  
25 that's, you know, peer reviewed journal article. It seems to

1 be used throughout the petition in a very standard of  
2 identity sort of way.

3 MS. WEISMAN: Bea, this is addressing your  
4 concerns?

5 MS. JAMES: It's, you know, it is what it is. I  
6 don't --

7 MS. WEISMAN: Are you concerned that even though we  
8 understand where it comes from that once it's out in the  
9 field and certifiers are having to use it that it may be --  
10 so we need to think maybe of some language to add to this  
11 descriptor that's going to specify? Katrina?

12 MS. HEINZE: The petition on page 3 states that the  
13 common name for this is natural casings, the processed  
14 intestines of hogs, cattle, and sheep.

15 MS. WEISMAN: What do you think, guys? I mean, you  
16 don't want to add that?

17 MR. SMILLIE: No.

18 MS. MIEDERMA: Here's the FSIS language. Natural  
19 casings are regulated by the FSIS of USDA under 9 CFR Parts  
20 317 and 338(I) so it looks like the term is part of FSIS.

21 MS. WEISMAN: Can we say natural casings as defined  
22 -- okay, it's inferred. I guess that becomes part of  
23 certifier training. That actual -- that concludes this  
24 category.

25 We now have a general category of materials that

1 were rejected. The first two on this list, yeast and whey we  
2 do not need to discuss because as I mentioned earlier the  
3 petitioners have already withdrew those petitions. So, the  
4 next item on the list is carrot fiber which is, I guess,  
5 Joe's got the next three.

6 MR. SMILLIE: Right. The carrot fiber was a  
7 petition that basically the petition made a -- gave us  
8 comprehensive information about the use of carrot fiber and  
9 it was very much about one company petition. They had the  
10 only process that would create this carrot fiber. The  
11 arguments for the use of carrot fiber were very strong but  
12 the company did not present a sound argument. In fact, for  
13 the fact that they couldn't create organic carrots create  
14 this organic fiber and they basically said, you know, we're  
15 basically declared that we're not going to make an effort to  
16 get organic carrots, it's just much too difficult, and we  
17 consulted with our vegetable producers and they said that,  
18 you know, that there's a number of firms out there willing to  
19 produce organic carrots for this and that we felt that the  
20 company really owed it to us in order to get carrot fiber on  
21 606 to give us a good reason of why they couldn't work to  
22 locate organic carrots for their process at their facility  
23 and so we rejected it unanimously and have not received any  
24 response to that rejection so that's where we sit on that  
25 one.



1           What's next?

2           MS. WEISMAN: The next items is the milled flax  
3 seed.

4           MR. SMILLIE: Oh, flax seed, okay. I don't have  
5 that one right in front of me but the recollection is that  
6 the company made an effort to point out the importance of  
7 milled flax seed as essential which we had no trouble with.  
8 The argument for not using flax seed, which basically didn't  
9 buy. Basically, we felt that it was almost as much organic  
10 flax seed as there is conventional flax seed produced and  
11 that there certainly wasn't a shortage of organic flax seed.

12           Their issue was that the organic had more defects  
13 than the conventional which, you know, that was what they  
14 said and we happened to have knowledge, you know, that there  
15 are machines, those little air machines that kick out seeds  
16 that spot defects and that perhaps, you know, we needed to  
17 invest in that machine in order to get the quality they  
18 wanted of flax seed.

19           So, we thought that was rightly or wrongly we  
20 thought they were overspecing in order to be able to use  
21 conventional flax seed and so we rejected it and we were more  
22 than happy to receive their response which we did not receive  
23 so the committee rejection stands on that one.

24           MS. WEISMAN: Should we be stopping in between for  
25 discussions because we didn't have any discussion.

1 MR. SMILLIE: Oh, I'm sorry.

2 MS. WEISMAN: Yeah, we didn't have any discussion  
3 on carrot fiber. Were there any questions or any discussion  
4 that we needed to have on that?

5 MR. ENGELBERT: Just real quick I also wanted to  
6 point out that the fiber is also obtained from peelings, not  
7 just whole carrots, and the company was unwilling to source  
8 them either.

9 MS. WEISMAN: And any discussion that needs to  
10 happen on the milled flax seed? Okay. Can we move on to the  
11 instant non-fat dry milk?

12 MR. SMILLIE: Yeah. I really want to point out  
13 there's been a couple of mistakes within the committee that  
14 this is not non-fat dry milk, this is instant non-fat dry  
15 milk. This is a more complicated one and it was, as Tracy  
16 will back me up on, we spent a lot of time on this one and  
17 went through in great detail.

18 The issue is here is that the milk supply is our  
19 first challenge but we don't think it's fragile so,  
20 therefore, the milk is there. It's all about the process.  
21 The process for non-fat dry milk is in place and organic is  
22 available. The process for instant non-fat dry milk,  
23 however, is a much more limited process and if anybody has  
24 any more information I'd be glad to listen to it.

25 But, basically, it was determined that indeed

1 instant non-fat dry milk would be available organically if  
2 the order was 40,000 lbs. And the petitioner was a small  
3 bakery that makes granola. Again, this material is used  
4 primarily in baking from what we were able to read from the  
5 petition and they said that it's just -- you know -- it's  
6 impossible for them to make that order.

7           We debated in the committee as to whether this  
8 really, you know, created a fragility of supply and  
9 eventually the majority opinion was that even though it may  
10 be impossible for small users to obtain the material that we  
11 felt that it was possible for either trading companies or  
12 larger users to make the commitment to that 40,000 lb. order  
13 and then it could become available.

14           So, after much debate and with a split opinion it  
15 was rejected at that point and we have not heard anything  
16 back from the petitioner.

17           Dan, you have the minority opinion on this.

18           MR. GIACOMINI: Well, I had the minority opinion  
19 and then I think Tracy had the moving opinion. But, I don't  
20 know where it is right now, so, I just viewed this petition  
21 as a processing petition. We have a number of processing  
22 petitions. We have the wakame seaweed. They were looking for  
23 a particular type of seaweed to go into their misco soup.

24           We had lemon grass frozen. We had some other  
25 frozen gilango. We had red pepper dried crushed. All of

1 these, to me, seemed like processed petitions. Now, they went  
2 out -- granted, they went out to their petitions and to their  
3 suppliers and all the suppliers said no. Well, this -- the  
4 one that made this one different, number one, I think is  
5 because it was dealing with milk, which I think it had a bias  
6 that there was milk and there shouldn't be any fragility  
7 supply to consider there, but, also the fact that they had  
8 one supplier that essentially said, and I am paraphrasing,  
9 yeah, we can do it if your order has this many zeros and the  
10 implication then of course is the check is going to have this  
11 many zeros.

12           To me, it seemed like -- it seems to be an unfair  
13 additional burden we're placing on this petitioner simply  
14 because their suppliers just don't -- they don't want to  
15 cooperate. They don't want to make this ingredient. They  
16 don't want to make in an organic form. They make it in their  
17 regular form. And they're only going to do it if it's worth  
18 -- you know -- if they make up for their inconvenience.

19           It's the way it seemed to read, so, I could do it  
20 just the same way as I did the other processing ones and I  
21 voted to put it on. Tracy, did you want to also speak to  
22 this?

23           MS. MIEDERMA: Okay. Yeah, I flipped flopped big  
24 time on this and finally just made an extension vote because  
25 I had too many open-ended questions. A couple of things that

1 haven't been raised. One gets back to your point earlier,  
2 Andrea, about companies expecting things so fanatically that  
3 they just force themselves to get to an organic version.

4           And the other particular case a company had been  
5 using non-fat instant milk for about 20 years and decided to  
6 organic in 2003 and switched to the available form of organic  
7 dry milk which was non-instant and that was back in 2003 and  
8 now here in 2007 they're petitioning saying our sales are  
9 down, R&D has told us we've go to back to instant.

10           MR. GIACOMINI: They went back. They went back  
11 because it was not an acceptable product.

12           MS. MIEDERMA: Well, they're in the process of  
13 going back because there is no instant organic and, so, on  
14 one side of the coin maybe this is one of those spec  
15 questions. I don't now their hearts and minds and my advice  
16 would be to think best intentions but the complicating thing  
17 to me is the president's just said that if manufacturers know  
18 what's being petitioned they can cover the flag that says,  
19 yes, we've got this even though they don't really have it  
20 yet.

21           This company is saying they can make the instant  
22 non-fat organic dry milk powder having actually made it yet.  
23 And that gives unscrupulous companies the power to say they  
24 can do something they haven't done yet and hold against the  
25 head of buyers and I am concerned about the precedent there.

1 MS. WEISMAN: So, oh, Rigoberto, I'm sorry.

2 MR. DELGADO: I think it's important those are to  
3 consider the intent of the company. I know we have the same  
4 discussions with, what was it chipolte peppers and dry  
5 peppers, but, it was clear in the petition that some of those  
6 companies were actually making the effort of going out and  
7 contracting with farmers to get the raw material.

8 I wonder if in this petition there was any  
9 indication that this company or this petitioner was  
10 eventually going out to try to find other possible sources of  
11 dry milk that had fewer zeros attached to it or the  
12 limitation.

13 MR. GIACOMINI: This petition included a number of  
14 letters from dry milk processors that said they would not  
15 make an instant. There was only one company that currently  
16 made an instant conventional and they said that we will make  
17 an instant organic for this minimum worth.

18 MR. DELGADO: So, we're taking about a case where  
19 you're probably never going to have that material available  
20 in organic form, correct?

21 MR. GIACOMINI: No. Other companies could decide  
22 to make it or a larger company could buy that order and make  
23 available to different users. The question is whether there  
24 are enough users or not. One of the companies listed that  
25 they used as a reference was Morroquin International.

1 Morroquin International I assume would be somebody who  
2 possibly could buy that 40,000 lbs. if they thought there  
3 were enough users to sell it in a six month period.

4 MS. WEISMAN: Wait, wait. I would like to not have  
5 back and forth because we're way behind schedule and we're  
6 pretty close to the end and, you know, on the one hand, you  
7 know, we're here for robust discussion and on the other hand  
8 it's going to get to a point that we're so punchy that  
9 whatever discussion we have is going to be worthless. It's  
10 going to be less than robust, thank you.

11 The difficulty -- so it sounds like there is some  
12 sentiment that we may want to have a new recommendation for  
13 tomorrow?

14 MR. GIACOMINI: No, the recommendation is set.  
15 You're just voting no.

16 MS. WEISMAN: Well, the recommendation was -- was  
17 this recommendation -- so we have the opportunity tomorrow  
18 then for everyone to vote yes, correct?

19 MR. GIACOMINI: I believe so.

20 MS. WEISMAN: All right. All of these we made an  
21 effort to post all of these petitions in the positive so in  
22 other words the original, the recommendation for the handling  
23 committee was to list non-fat dry milk instant and the  
24 committee voted no and I'm sorry it was misleading that I  
25 called this category rejected, but, it was not phrased that

1 way so this is, once again, a positively worded  
2 recommendation and tomorrow when the full board votes  
3 everyone has the opportunity to vote differently than the  
4 handling committee voted previously. We can vote yes.

5 There are no changes in the recommendation  
6 necessary.

7 MR. GIACOMINI: I didn't meant to put Morroquin  
8 International on the spot. It was just an example from the  
9 petition. Nothing intended or implied.

10 MS. WEISMAN: I'm going to take comment on this,  
11 Tracy.

12 MS. MIEDERMA: Yes, I'll be brief here. This is  
13 just to clarify availability and what quantity means. If  
14 it's hypothetically available then that means available and  
15 I'm asking my colleagues on my board and if there's too much  
16 of it does that mean quantity is not available?

17 MS. WEISMAN: Available only means available if  
18 your certifier says it's available. You know, you can look  
19 at this that there's no jeopardy in listing because  
20 ultimately if some -- if Grace goes out and buys orders for  
21 40,000 lbs. then the certifier is then not going to agree for  
22 that to be used anymore as non-organic.

23 MS. CAROE: Let me make this point over and over  
24 again. Just because it's listed does not mean you can use  
25 it. You're still going to have to show the certifier it's



1 not available so if it gets listed then Grace can buy the  
2 40,000 lbs. of dry milk and tell Joe that it's available so  
3 his processor doesn't use the non-organic form.

4 MS. WEISMAN: Let's tighten it up here, troops.  
5 We're almost there. We're almost there, okay.

6 MR. ENGELBERT: One quick comment, please.

7 MS. WEISMAN: Yes, Kevin.

8 MR. ENGELBERT: If it's not approved wouldn't the  
9 same thing happen? I mean, I'm concerned about the precedent  
10 of saying that there's too much, I can't afford it. Then  
11 there's no incentive for a smaller company to try to develop  
12 and there's no incentive for anyone to purchase it and if  
13 this company has success with a product using an organic  
14 ingredient at any level other companies will follow suit and  
15 the demand will be created.

16 MS. WEISMAN: Andrea?

17 MS. CAROE: Kevin, you got to understand if it  
18 doesn't get listed manufactures that are making products are  
19 not going to formulate products using that ingredient. And  
20 if they formulate the products using that ingredient they're  
21 not going to buy that ingredient. There's no incentive to  
22 create an organic ingredient.

23 MS. WEISMAN: Anything else on non-fat dry milk?

24 MR. SMILLIE: Is everyone clear on that issue? I  
25 think it's a key issue. In other words, what Andrea just

1 said. Let's take that. I just really want to make that  
2 point. The baker's there, they're making a granola, the need  
3 instant non-fat dry milk. If it goes on 606, okay, and they  
4 can prove to their certifier that they can't get organic  
5 instant non-fat dry milk then the certifier may allow you to  
6 use conventional. The product continues. The demand is  
7 created. And someone or some manufacturer then makes it  
8 available and it comes off the list and it's an incentivizing  
9 process to put it on 606.

10 If we don't put it on 606 then basically that small  
11 baker cannot formulate that product with instant organic and  
12 they'll either stop making organic granola or they'll  
13 reformulate and then there's no demand created for an organic  
14 instant milk. That's my interpretation. I just want to make  
15 sure everybody sees it the same way.

16 MR. MOYER: Well, I just take offense to the thing  
17 that we all have to see it. I understand what you're saying.

18 MS. WEISMAN: That's all, he just wants to be  
19 understood. He just wants to be understood. I think that's  
20 from my past career as a social worker.

21 MS. JAMES: Julie, I don't want to beat a dead  
22 horse but I think that, Jeff, you should state your point of  
23 view.

24 MR. MOYER: Well, boy, I haven't thought of it well  
25 enough to state it at the moment, but, I think that in many

1 cases, look at the seed industry for example, we have said  
2 that, you know, farmers need to use organic seed, yet, we  
3 just heard yesterday that less than one percent of the  
4 vegetable seed that's being used is actually certified  
5 organic even though it is available and everyone knows it's  
6 available. They just spec around it. And, so, we have to be  
7 careful how we do this and just the rush should not be to  
8 list everything on 606 in my opinion and I realize Joe  
9 disagrees with that.

10 MR. SMILLIE: For example, not on this issue.

11 MS. WEISMAN: Okay. I would really like to move  
12 on. We have natamycin and I think I'm going to try to, if  
13 I'm may I'd like to try and get the short story on this.  
14 Basically when this was looked at in February it was looked  
15 at -- it was being considered as a synthetic. And the rules  
16 are very clear that -- and it was being looked at as a  
17 synthetic and the petition was very clear that it was going  
18 to be used as a preservative. And it did not meet the  
19 criteria to be used. Sole use as a preservative is not a  
20 reason for a synthetic to be listed on the national list.

21 So, we voted against listing natamycin at that  
22 time. However, I think we heard -- I believe that we've  
23 heard -- on the handling committee I think we've heard pretty  
24 compelling public comment yesterday and today and I think we  
25 are persuaded that natamycin is not in fact not synthetic and

1 so the prohibition for listing something for the purpose of  
2 being using as a preservative does not apply to a non-  
3 synthetic. So, I think that the recommendation will be to  
4 list -- no, I guess, help, it's getting late.

5 This is not something that the handling committee  
6 voted on like some of the other things I mentioned earlier.  
7 Yeah, but, I think Andrea's going to help me out here.

8 MS. CAROE: Right now the petition that -- the  
9 recommendation from the committee is not to list. The motion  
10 was to list in the sales. However, the same motion will  
11 stand and go to the board and based on new information it is  
12 not unlikely that the board will vote different than the  
13 committee and list.

14 MS. WEISMAN: Okay. Now, there's a second issue  
15 which we did get some very good scientific information about  
16 the natamycin would be needed on specifically on English  
17 Muffins as opposed to other baked products and the board may  
18 tomorrow may want to entertain a recommendation for an  
19 annotation that -- you want to finish my thought?

20 MS. CAROE: Well, I want to suggest language for an  
21 annotation before we get to tomorrow and that annotation  
22 would be for use in baked goods with moisture levels of  
23 greater than 40 percent.

24 MS. WEISMAN: Will 40 percent do it or does it have  
25 to be above 39? I forget what the threshold is.

1 MS. CAROE: Well, the commentor that gave us all  
2 that wonderful comment everything was over 40 percent.

3 MS. WEISMAN: Okay. I'm good with that. Dan?

4 MR. GIACOMINI: I believe first we would need to  
5 deal with an amendment to change this motion to 605-A unless  
6 that's already been done but you didn't say that it had been  
7 done.

8 MS. CAROE: Okay. Like I said, we're not going to  
9 change the motion now. We're not going into committee. So,  
10 tomorrow the motion will be put on the floor as is for 605-B.  
11 At that time we can entertain an amendment to 605-A as well  
12 as entertaining an amendment for an added annotation for  
13 baked goods with greater than 40 percent moisture. So,  
14 that's kind of how I see it done at this point based on the  
15 fact that we're in the 11th hour, but, I defer to any other  
16 board member that has a procedure that we feel that we can do  
17 this with transparency.

18 MS. WEISMAN: Any other questions on this time on  
19 natamycin? Okay. Koji mold.

20 MS. CAROE: Okay. That was mine. I'm going to  
21 read the recommendation from the sub-committee which was then  
22 accepted by the handling committee. The handling committee  
23 recommends -- this is so small -- the handling committee  
24 recommends the petition that Koji mold is already listed --  
25 I'm sorry -- to the petitioner that Koji mold is already

1 listed on 205.605-A under the listing micro organisms, any  
2 food grade bacteria, fungi, and other micro organisms. The  
3 petition is for inclusion on 205.606. The handling committee  
4 recommends continued including on 205.605 instead an  
5 acknowledgement that OFPA does not provide for production  
6 practices or standards for this type of production. That's  
7 considered as agricultural.

8 Evidence to this is found in the regulation where  
9 the definition of non-agricultural includes bacteria. This  
10 contradicts considering non-plant life as agricultural  
11 included in the livestock definition so we have heard the  
12 argument that livestock includes all non-plant life.  
13 However, we also see in the definition of non-agricultural  
14 bacteria is included.

15 So, we consider that Congress did not intend for  
16 these types of products to be included in this regulation,  
17 and, therefore, we don't consider it agricultural. We do  
18 consider it appropriately listed as 205.605-A and that was  
19 voted on by the handling committee and there is a minority  
20 opinion.

21 MR. SMILLIE: Yeah. I think the shoiu, miso, tenta  
22 and associated products are protected by the listing in 605-  
23 A. However, I think that eventually this material needs to  
24 move to 606. If it doesn't move this session hopefully we'll  
25 have another round at it after we have created our ag/non ag

1 definition document.

2 My belief is that the bacteria issue doesn't talk  
3 about aspergillus cryzae. That is the micro organism, if you  
4 want to call it that, that leads to Koji mold. Koji mold is  
5 an agriculture. It is the culturing of soy beans in the  
6 presence of aspergillus cryzae and is a very traditional  
7 culture that's been going on for centuries in Japan and other  
8 countries and I believe it's a form of agriculture and will  
9 be proven as such eventually.

10 However, the industry that creates these products  
11 is protected under 605-A. There's no encouragement to that  
12 industry to start to use organic methodologies as similar to  
13 what the yeast industry has done in creating organic  
14 substrates and methodologies without the use of chemicals to  
15 create yeast products. And I think the Koji culture people  
16 will also eventually start to create organic Koji cultures  
17 and hopefully at that point in time the NOSB will see the  
18 wisdom of traditional Japanese production methodologies and  
19 move it on to 606.

20 MS. WEISMAN: Any questions or comments? Okay.  
21 Now the next two items are the list I think are going to  
22 require some discussion. Those are FOS and NON and I just  
23 want to note that there are four items that come afterwards  
24 which are I think quite non-controversial and I wonder if we  
25 should not close off first before we do the FOS.

1           There is a category. There is one item that was  
2 deferred. There was one material deferred. We had a  
3 petition for pectin, non-annotated which is currently covered  
4 on 605-B. The petitioner wanted to make a distinction  
5 between non-annotated and annotated lone antitoxin pectin and  
6 asked that the non-annotated be moved to 606 and we looked at  
7 the petition. There may be merit in it but we felt for this  
8 meeting that is a product that is already covered and  
9 available for use and it has a home elsewhere on the list and  
10 we felt like our time at this meeting really had to be  
11 devoted to looking at times for 606 that didn't have any  
12 other home and that will be lost for use after June.

13           So, we decided to defer. It's a well-written  
14 petition and it has merit and we are going to look at it in  
15 the fall.

16           Any questions or discussion about that? Okay. We  
17 also had three items that we voted to not consider and I  
18 think Andrea will speak to those.

19           MS. CAROE: As you might recall, the sub-committee  
20 that I worked with got some of the more complex materials for  
21 a petition so this was one of the ones that my sub-committee  
22 looked at and they're the handling committee looked at. I  
23 would like to read what we wrote because it codifies our  
24 thinking.

25           The petitioner requests consideration of the



1 principal components of sea salt for allowance in organic  
2 production. The four principal components are sodium  
3 chloride, potassium chloride, magnesium chloride, and  
4 magnesium sulfate. Sodium chloride is designated as exempt  
5 as in the regulation as salt. This was further clarified by  
6 the NOP at a later date.

7           Magnesium chloride and magnesium sulfate are  
8 currently permitted through their listed on 205.605-A as non-  
9 synthetic non-agricultural materials allowed for organic  
10 production. The petitioner further requests that magnesium  
11 chloride presently listed on 205.605-B of the synthetic  
12 material be moved to 205.605-A as a non-synthetic.

13           This request was made in order to ensure the  
14 allowance of this material after the court order action. The  
15 petitioner was concerned that due to the court order  
16 synthetic materials would not be allowed in organic  
17 production. This was one of those materials caught in an in-  
18 between time between the court order and some further  
19 clarification of changes made so I think there might have  
20 been some misunderstanding.

21           Upon review of the original TAC this material was  
22 deemed synthetic due a bleaching process that is used for  
23 extracting sea water. Further the Federal Register Notice of  
24 5 June 2006 clarifies that an amendment to the statute made  
25 after the court order negated the issue of synthetics allowed

1 in organic production. Therefore, items listed on 605-B  
2 continue to be allowed for inclusion in organic products.

3 For this reason, moving the material is  
4 unnecessary. The committee recognizes that may desire the  
5 listing of sea salt on the national list of allowed. In  
6 order to accommodate this the petitioner must provide a  
7 detailed petition that addresses all the criteria for the  
8 instructions of the NOP website. A TAC review must be done  
9 and evaluated to assess the manufacturing process as well as  
10 the health and environmental impact and all of the contents  
11 as is the procedure.

12 This must include all possible contaminants, both  
13 principal and minor. So, for this reason, this material is  
14 not being considered for listing. It is deemed unnecessary.  
15 The handling committee did vote on this and the vote was --  
16 yeah, the recommendation was not to consider it and handle it  
17 through a vote which was 5 to zero. So, that was a unanimous  
18 decision on that.

19 Any discussions on sea salt? Next is processing  
20 technologies.

21 MR. GIACOMINI: Julie, while you're processing  
22 that, I think it would just be worth noting that there wasn't  
23 an error on the recommendation listing on sea salt bond, it  
24 was on the internet. It was listed as a 5-5 vote and it was  
25 actually 0-5. That was corrected like a week before the

1 meeting, so, it's just worth noting that if people have  
2 looked they'd have seen that.

3 MS. WEISMAN: Is it possible that there was no  
4 document for this?

5 MS. FRANCES: There was a document, I think. There  
6 should be a document in your meeting book.

7 MS. WEISMAN: We can find it. Not for processing  
8 type technology.

9 MS. CAROE: Oh, for processing. I think we ended  
10 up pulling it all together.

11 MS. WEISMAN: Let me just talk about that. There  
12 was a petition received for processing technologies and  
13 listed were five or six technologies such as freeze-drying,  
14 indicating that these were a limiting factor in supply and to  
15 each of these technologies there's a long list of materials  
16 that may use this technology and become available in a  
17 specific form.

18 Unfortunately, the national list is not a list of  
19 methods, it's a list of materials, and in order to apply the  
20 national list process to this we would have had to look at  
21 each of the individual materials so it would have been, you  
22 know, sage, free dried, you know, time freeze dried, each of  
23 those individually and the petition that we received did not  
24 include all of our criteria for 606 being that it didn't  
25 include any of the information on those independent,

1 individual materials.

2           Therefore, this petition was voted not to consider  
3 and sent back to the petitioner who can then, you know,  
4 resubmit individual materials.

5           Any discussion?

6           MS. CAROE: I'd did want to note -- I'm sorry, I  
7 was confusing that with something else. There was nothing  
8 further from that petitioner. So, the next item is carbon  
9 dioxide not to consider and I will read the recommendation  
10 off the covering sheet.

11           The committee recommends that the petition does not  
12 need to be considered so carbon dioxide is already listed on  
13 205.605-B. Further, the Federal Register notice of 5 June  
14 2006 clarifies that an amendment to this statute made after  
15 the court's order negated the issue of synthetics allowed in  
16 organic production and therefore items listed on 205.605-V  
17 continue to be allowed for inclusion in organic production.  
18 For this reason moving this items unnecessarily.

19           Again, this was one of those materials that the  
20 manufacturer was concerned it was listed 205/605-B, that it  
21 was a synthetic, that it would not be allowed as they were  
22 asking for it to be moved over as a non-synthetic. It's not  
23 necessary. It can be used as a non-synthetic since it is  
24 listed. So, it becomes unnecessary.

25           Obviously there are available forms of CO2 that

1 floats around in the air, but, it often is manufacturers that  
2 sell commercially so listing it where it is is appropriate.

3           Comments? Okay. It looks like we're all okay with  
4 that or else we're --

5           MS. WEISMAN: So, these should be removed from our  
6 lists for tomorrow. We won't even be addressing these at all.

7           MS. CAROE: That is correct.

8           MS. WEISMAN: The last two materials that we need  
9 to discuss are FOS and inulin about which we have heard much  
10 comment in the last two days. Andrea, why don't you take  
11 this one.

12           MS. CAROE: Okay. Well, bear in mind that this was  
13 a unique situation and things don't always go well but we  
14 looked at these two materials. FOS, there were several  
15 concerns of the sub-committee level. One is that we had a  
16 TAC on this material and the TAC does recognize that there  
17 can be side effects to this material. We don't know to what  
18 extent those side effects are possible, whether they're  
19 remote or at a significant level.

20           So, when it came to human health impact we did have  
21 concerns there that we indicated. The other criteria that we  
22 felt needed more information was on whether this material was  
23 essential and we have heard plenty of comment today about why  
24 that is essential and yesterday for that matter. The sub-  
25 committee voted against this material. However, with the new

1 information that we've received this is another motion that  
2 may be made tomorrow where the board votes against -- let me  
3 step back.

4           The sub-committee voted against it. Originally the  
5 handling committee voted with the sub-committee. Last night  
6 there was a vote to reconsider this material at the handling  
7 committee level. The handling committee did indeed pass that  
8 we should consider that the recommendations should be for  
9 listing. I'm still hearing some concern from the board on  
10 this.

11           So, it may not be a straight vote either way but I  
12 do believe that we received compelling information here,  
13 whether it's enough compelling information to take us to a  
14 positive vote, I'm not quite sure, but, I would like to open  
15 it up for discussion. Katrina.

16           MS. HEINZE: I wanted to add to that that part of  
17 our reverted to, I'm not going to use the right language  
18 here, reconsider our recommendation and then we amended it to  
19 move the recommendation from 605 to 606. That was based on  
20 public comments that we had received.

21           When we reviewed this in sub-committee and then in  
22 the handling committee the nature of the number of things  
23 we're looking at we misclassified it as something on 605. I  
24 can't remember whether it was synthetic or not. Given new  
25 information we received in public comment and then additional

1 public comment this morning the handling committee felt that  
2 it was more appropriately an agricultural product.

3           Given that, we have different criteria that we use  
4 to consider its listing. For 605 synthetic you would  
5 consider essential. That is not something you would consider  
6 for 606. So, a point of clarification on what we did.

7           MS. CAROE: This is a very messy one,  
8 unfortunately, and when this motion comes up tomorrow I  
9 expect that we may be considering some amendments especially  
10 on which list is appropriate. Clearly we heard a lot of  
11 information that says it's non-synthetic. However, is it  
12 agricultural or is it non-agricultural. Is it 606 or is it  
13 605-A? That may be a point of amendment tomorrow.

14           Other information on this? Questions, concerns?

15           MS. WEISMAN: I'm just trying to look. Jeff?

16           MR. MOYER: According to our initial recommendation  
17 this is still being considered a value added material, not  
18 necessarily essential for final product.

19           MS. CAROE: I want to remind that if a product is  
20 either non-synthetic or it is agricultural that is not --  
21 that's only criteria that has to be met for synthetics to be  
22 listed as allowed, not for agricultural products or non-  
23 synthetics.

24           MS. WEISMAN: The heading is for 605, 600-B-6. B-6  
25 is for essential for organic production. B says non-

1 synthetic processing eggs must be. 6 is essential for  
2 organic production.

3 MR. MOYER: Right now it's not in any listing.

4 MS. WEISMAN: She's not saying which section number  
5 it's with. She's saying where in the rule it says the  
6 criteria. The criteria only is for synthetics. This  
7 criteria needs to be met for synthetics and she's quoting.  
8 It's 205600B6.

9 MS. JAMES: So my question is could you explain  
10 some of the compelling information that led you to believe  
11 that FOS was essential as a processing aid?

12 MS. CAROE: No, it doesn't have to be essential.

13 MS. WEISMAN: It's not a processing aid, it's an  
14 ingredient.

15 MS. CAROE: It's an ingredient.

16 MS. JAMES: Okay. Let me rephrase my question  
17 then. Can you give me some information on the testimony that  
18 you heard yesterday and today that led you to believe that  
19 FOS had compelling information to change your position?

20 MS. WEISMAN: yeah. We had pretty thorough  
21 descriptions of the production methods which clarified the  
22 confusion we had back in February as to whether it was --  
23 there was a question in February. We couldn't tell from what  
24 we had at that point whether this was synthetic or non-  
25 synthetic. I believe that the tissue wasn't even clear. It



1 was like for 606 or 605. They weren't sure. And, so, at the  
2 time we said, well, we're going to need a TAC review to  
3 figure out whether this should be on A or B.

4 But, we feel convinced. As of last night we felt  
5 convinced by what we had heard yesterday. The handling  
6 committee felt convinced but the board obviously, everyone  
7 makes their own decision about what's been heard, but, as of  
8 last night we agreed that we had been convinced, that, okay,  
9 this is not synthetic.

10 Joe?

11 MR. SMILLIE: Yeah, that's what i was going to say  
12 that we're convinced that it's not synthetic. Whether it's a  
13 605-A or whether it's 606 is the issue that without a non-ag  
14 criteria document my leaning right now would be 606, but,  
15 we're going to have to decide that. Andrea.

16 MS. CAROE: I do want to say if you wanted to ask  
17 specifically what compelled me to believe that it's non-  
18 synthetic is the description of the enzyme fermentation which  
19 when we read it in the document that we received looked to be  
20 a very aggressive chemical treatment whereas we're finding  
21 out and what we're finding from the petitioners is that  
22 something that is a very natural occurring process and, yet,  
23 there is a chemical change but it's a chemical change by a  
24 natural process as opposed to that.

25 You know, I think the language was maybe not as

1 descriptive as it should have been and more technical and the  
2 leaving of that group off which we kind of cringed at. Would  
3 it be appropriate now to recognize the petitioner? Are you  
4 asking to be recognized?

5 We recognize Nancy Hershberg, petitioner on this to  
6 come up.

7 MS. HERSHBERG: I realize that A, this is so complex  
8 and B it's very late but you're mixing up FOS with the NUN  
9 but what you got in the document last night was the NUN, not  
10 the FOS made by different ways. And it's really complex. I  
11 know there's a presentation coming and there's an idea. I'll  
12 just leave it at that.

13 MS. CAROE: Okay. And also Kelly, another  
14 petitioner. Kelly Shay.

15 MS. SHAY: You do also actually also receive  
16 information on the process for the creation of short chain  
17 FOS showing it to be a 606 product using the board's own  
18 ag/ag-non determination and also the rules you've received.

19 MS. JAMES: Were you able to review the potential  
20 side effects that are sometimes with FOS? Was that  
21 information made available?

22 MS. CAROE: Well let me say that that was never a  
23 compelling reason for me to vote against this material and  
24 there was information that we saw in the TAC and it's like  
25 reading an MSDS sheet for aspirin. You think the stuff is,

1 you know, nuclear waste. I never found it compelling in the  
2 TAC so it may not have been addressed thoroughly in the  
3 comments that we received, but, I'm still willing to vote for  
4 this material.

5 Kelly?

6 MS. SHAY: Kelly Shay. I really appreciate what  
7 Bea is referencing and I would like to remind this board that  
8 we've had a history of the imperfect TAC reviews provided to  
9 the board. The product short chain FOS has been determined  
10 to be grasped by FDA since 2002. It's being used in a lot of  
11 products. We would never put anything in a product that would  
12 hurt a customer and I think that there are many places in the  
13 TAC where they colored outside the lines and I think after  
14 the TAC you received follow up documentation from the  
15 manufacturer that addressed all the incorrect points in the  
16 TAC and we continue in our industry to struggle with not  
17 having perfect TAC reviewers yet.

18 MS. WEISMAN: Do we need any further discussion at  
19 this time on the FOS? Okay. Andrea, you want to move on?

20 MS. CAROE: All right. Now, inulin which is even  
21 worse. And the reason I say it's worse is this. When we had  
22 our working handling committee meeting in February we looked  
23 at this material which we received a 606 petition on. We  
24 looked at it and the information in regards to how it was  
25 produced indicated to us that it was non-agricultural which

1 meant we needed a TAC.

2           For that reason our comments were cut short and we  
3 requested that it be considered for 605 and be sent for TAC.  
4 In that we had a lot of other things to do and we weren't  
5 looking to invent work for ourselves. The checklist for this  
6 material was not completed. It will be completed tonight.  
7 Come hell or high water it will be completed tonight. We  
8 have received a tremendous amount of information.

9           We did read the entire petition in the information  
10 and we did consider it. We just did not complete our  
11 paperwork on this one. I believe that we've gotten quite a  
12 bit of information, very good information here at the  
13 meeting. We appreciate the petitioner. We appreciate all  
14 the other comments that we received on this and there will be  
15 a motion tomorrow on this product for listing and handling  
16 committee vote on it before it is put forward.

17           However, that's not today, it's tomorrow, and for  
18 that reason I don't have a checklist to put in front of you,  
19 although I can tell you that anything in FOS seemed to  
20 parallel quite a bit so I suspect that they'll be somewhat  
21 similar. Is there any comments on that? Is anyone capable  
22 of making comments at this point? Kelly Shay?

23           MS. SHAY: This is Kelly Shay. I know you're  
24 getting tired. I just want to throw out you will remember in  
25 during the public comment period the comments that were due

1 by March 16th. You had gotten comments from members of the  
2 industry saying it's Jim's kind of lumping and splitting  
3 things though they're not identical. There is a precedence  
4 on the national list for putting categories of products  
5 together and though you do have a couple of organic companies  
6 represented here that use these if you look at the comments  
7 there's quite a few organic companies that use these type of  
8 OFF products that are not represented here.

9           And as you know, some people and especially in  
10 smaller companies just really aren't aware of what's going on  
11 on the board and these different things. So, we've tried to  
12 reach out to a few of them but you'll find there are company  
13 names and their products in some public comment that you  
14 have.

15           MS. CAROE: Thank you, Kelly. The comments that we  
16 received in writing will be considered as we put this  
17 together.

18           That concludes the discussion on materials for 605  
19 and 606 from the handling committee. Okay. We're going to  
20 take a ten minute break. We're only three and three quarters  
21 hours behind. And we've got 35 public comments, 37 public  
22 comments.

23           If there is anybody that's willing to volunteer  
24 that they move off the list for today's public comment and  
25 make public comment tomorrow we'd be really appreciative of

1 that. And, also, we won't limit you past five minutes, but,  
2 you can summarize your comments or if somebody's made your  
3 comments and you can just acknowledge that you're supporting  
4 that comment that would be appreciated.

5 So, for now, a ten minute break, ten short minutes.

6 (Whereupon, a brief recess was taken)

7 MS. CAROE: Board members, please, please. I still  
8 don't have a quorum. I need ten for a quorum. I think I've  
9 got it now. Okay. All right. We do have a quorum now, ten.  
10 We've got ten. Let's just go. All right. First on the  
11 list, Tom Hutcheson. Tom, I'm going to ask you if you  
12 wouldn't mind being on desk. Urvashi is signed up but she's  
13 much later on the list and she's not feeling well.

14 MR. HUTCHESON: That's great.

15 MS. CAROE: Okay. So, I'm going to ask you to be  
16 on deck. Urvashi Rankin.

17 MS. RANKIN: I actually appreciate it. It's  
18 actually a sick baby I've got to get back to and a flight I  
19 need to catch so I appreciate it. My name is urvashi Rankin.  
20 I'm an environmental health scientist at Consumers Union.  
21 We're the non-profit publisher of Consumer Reports Magazine  
22 and I really appreciate being here today and hearing the  
23 deliberations. There's a lot of really great discussion  
24 going on.

25 And I want to talk about two specific issues. One

1 about the use of progeny of cloned animals and maybe I can  
2 provide a fix for you all on the language to get that moving  
3 because we think it's a really important issue that the  
4 progeny of cloned animals is also prohibited and I think  
5 without the asexual reproduction as well at the end of that  
6 statement and just restricting it to semeiotics on nuclear  
7 transfer that would be adequate in our minds to take care of  
8 the problems associated with the progeny of cloned animals.

9 I brought in a lot of peer review studies for you  
10 that I'm going to submit to you for your review but they  
11 essentially document how as CNT actually specifically can  
12 cause genetic alterations in the progeny of cloned animals,  
13 including nuclear DNA, myocondrial DNA, two areas which are  
14 at the end of the DNA's and histones which help control genes  
15 turning on and off.

16 Those problems are largely not associated with  
17 embryo transfer systems and really don't apply to those.  
18 These would be genetic problems very specific to semiotic  
19 cell nuclear transfer. In addition to that, the offspring of  
20 these cloned animals through SCNT can exhibit an intended  
21 physiological differences compared to their non-cloned  
22 counterparts.

23 One study found that offspring from a cloned bull  
24 showed lower heart rates, lower body temperatures, and other  
25 studies have shown two links can be altered which can perhaps

1 affect life span of the animal as well. So, we would  
2 strongly encourage you to please include progeny of cloned  
3 animals in the ban at this time and if you restrict it to  
4 SCNT at this time and consider other forms of asexual  
5 reproduction later that would suffice in terms of dealing  
6 with the problems associated with the progeny of cloned  
7 animals.

8           The next thing I'd like to comment on is the  
9 agriculture standards. Actually, we're very pleased to see  
10 the progress that's been made on these standards. I know  
11 it's been a very long and arduous task and Consumers Union  
12 has been very leery of the fact that organic fish at this  
13 time is being sold in the market. Consumers don't know  
14 whether it's USDA certified or not. It's incredibly  
15 misleading to consumers. States like California and Georgia  
16 have gone the extra mile because they consider it to be a  
17 deceptive and illegal business practice.

18           We strongly urge you and the USDA to please  
19 prohibit that label until we get these standards straight.  
20 It simply doesn't do anything to help the market today and  
21 it's not going to help the market once these standards are  
22 established. Consumer Reports continues to advise our 6.5  
23 million subscribers not to pay more for organic fish at this  
24 time and that it just doesn't mean anything more.

25           We strongly support the comments of the Pure Salmon



1 Campaign, including the exclusion of open net pens, and also  
2 the use of wild fish meal. That's particular important at  
3 this time because with that exclusion we don't get into the  
4 problem with the contaminants in fish production. That's  
5 been a big concern for Consumers Union, for consumers who are  
6 purchasing organic fish who consider it to be cleaner,  
7 contain less contaminants like mercury or poly chlorinated  
8 bifennels. By prohibiting the use of wild fish you literally  
9 get around that issue. If wild fish meal is considered at a  
10 future point we are going to ask for contaminant testing of  
11 the end product so that consumers are assured that these  
12 products that they buy do not contain contaminants.

13           Along a similar line with the fish oil you  
14 discussed today and the fish oil supplements, if that comes  
15 from wild fish you're running into the same issues again with  
16 contaminants and we really think if that is going to be  
17 approved that we also address the testing of contaminants in  
18 this fish oil supplements.

19           Thank you. I appreciate it.

20           MS. CAROE: Thank you, Urashi. Any questions?  
21 Thank you so much.

22           MS. RANKIN: I'm going to submit these papers and  
23 also my colleague, Dr. Michael Hanson, who is an expert in  
24 cloning and other genetic matters can also be contacted at  
25 Consumers Union. Thank you.

1 MS. CAROE: Before I call Tom up we've had a  
2 filming crew that's been going around. I was hoping that you  
3 could identify yourselves since we have commentators coming up.  
4 So, if you would just identify who you are and I think our  
5 public comment folks would appreciate knowing who you are and  
6 what you're doing that.

7 MS. ROGERS: My name is Shelly Rogers. I'm a  
8 student at NYU. And I have started this project as a masters  
9 thesis but it has since grown to become a full fledged  
10 documentary project and, so, it's called What's Organic About  
11 Organic and it's following the stories of farmers trying to  
12 help consumers understand exactly what organic means.

13 MS. CAROE: Thank you. Okay. Tom Hutcheson,  
14 you're up and next we have Neil Simms. Neil, are you in the  
15 room? Very good.

16 MR. HUTCHESON: Thank you all and thanks, of  
17 course, for all your work. I extend -- I'm Tom Hutcheson  
18 from the Organic Trade Association. And we extend our  
19 welcome also to the new members for the board, even if we  
20 know you've already been working for the past several months  
21 very hard so we also recognize you're not new.

22 Some brief comments and then perhaps a little bit  
23 of an extended comment on 606. First, on the topic of  
24 flavors, OTA appreciates your attention so far and notes that  
25 further board consideration is needed. We'd be happy to work

1 with you to identify issues and approaches.

2           On cloning, OTA supports the position of no  
3 progeny, recognizing the current recommendation may need  
4 further refinement for practical or regulatory purposes. OTA  
5 agrees with those board members who feel that it is important  
6 to move forward at this meeting and requests the board to  
7 craft a simple statement of intent expressing the sense of  
8 the board even if a final recommendation is deferred.

9           On aquaculture, the excellent foundation NOSB has  
10 provided will expedite the development of recommendations for  
11 carnivorous fish, shell fish, and mollusks. Such species  
12 represent a significant portion of the conventional  
13 aquaculture industry and the opportunity to include a  
14 certified organic product of this type would benefit both  
15 consumers and the environment.

16           OTA suggests that the issue of net pens can be  
17 addressed by considering specific criteria for stocking  
18 density and nutrient management. We are confident that these  
19 criteria can be set so as to support responsible ecological  
20 management and the health of the species being cultivated in  
21 addition to expanding the options for consumers seeking high  
22 quality organically produced seafood.

23           Now, on 606. OTA commends the NOSB for its  
24 diligence in reviewing the numerous petitions for inclusion  
25 of substances on section 205.606. We would also reiterate a

1 fundamental point. Petitions for 606 do not need to  
2 demonstrate that the substance is currently commercially  
3 unavailable in order for the NOSB to recommend that it be  
4 added to the national list. Commercial availability  
5 determinations are quite properly the job of an accredited  
6 certification agent.

7           OTA urges the board not to be overly exactly in  
8 requiring evidence of unforeseen and perhaps unforeseeable  
9 supply disruptions. Instead, the board should err on the  
10 side of including ingredients whose steady availability is  
11 especially important as the industry expands. There are many  
12 uncertainties at this stage and new product development is  
13 already risky.

14           The previous allowance of non-organic agricultural  
15 ingredients in the five percent of an organic product not  
16 required to be sourced organically led directly to the  
17 current strength in the organic spice trade. Again, please  
18 give 606 petitioners the benefit of doubt so that 606 may  
19 indeed be a list of entrepreneurial ideas and not an  
20 unnecessarily difficult hurdle to jump. Thank you.

21           MS. CAROE: Thank you, Tom. Any comments for Tom?  
22 Thank you so much. Next up is Neil Simms followed by Barbara  
23 Glenn. Barbara, are you here?

24           DR. GLENN: I'm here.

25           MS. CAROE: Okay. If you could please check with

1 Valerie. Valerie, wave your hand so they can see you. Thank  
2 you.

3 MR. HUTCHESON: Did I have 30 seconds left?

4 MS. CAROE: You have 30 seconds. Go for it.

5 MR. HUTCHESON: Thank you. I did also want to  
6 support the inclusion of both inulin and the saccharites on  
7 section 606. I think we've demonstrated here today that they  
8 are agricultural products. If there's any chance that that  
9 does not happen we've included in the handout a suggestion  
10 for dealing with it in a regulatory way so that the trade can  
11 continue forward as if you require a TAC review, as that  
12 happens.

13 I hope that that's not the case. I hope that you  
14 do recognize its agricultural nature for both of those  
15 products and that construction of the solution can move  
16 forward.

17 MS. CAROE: Okay. You've lost your 30 seconds.  
18 Thanks, Tom. Okay. Neil and then Barbara next.

19 MR. SIMMS: I'm Neil Anthony Simms. I'm the co-  
20 founder and president of Kona Blue Water Farms. Kona Blue is  
21 the first integrated open ocean fish farm and marine fish  
22 hatchery in the United States and operations are in waters  
23 over 200 feet deep out off shore in Hawaii. We're now  
24 producing over 12,000 of shishina grade kampachi every week  
25 in an operation that has negligible almost immeasurable

1 environmental impacts.

2           Our company was founded by marine biologists who  
3 are committed to environmentally sound agriculture. We use  
4 all submersible cages and we are aspiring to more sustainable  
5 feeds. We culture an 80's species kona kampachi. There is  
6 no commercial fishery for the species and all of our stock is  
7 hatchery produced.

8           We have very high feed conversion, a highly  
9 efficient feed conversion ratios, no detectable mercury in  
10 our product, very high in omega 3 fatty acids. It's a super  
11 soshini and also very versatile as a cooked product.

12           I want to reiterate my invitation to the board to  
13 please come to Kona at your leisure and visit our farm. I  
14 also want to share with you here as we scroll through some of  
15 the pages of our operation to help dispel some of the  
16 misapprehensions that some would you have labor under.  
17 You'll see no plumes of sewage or piles of uneaten fish feed.

18           Organic fish farming need not be the future cesspool that  
19 some would paint it as. We can do this right. We just need  
20 the opportunity and the incentive.

21           So, while I commend and thank the livestock  
22 committee for the work to date I believe further  
23 recommendations on fishery and fish oil and the use of net  
24 pin culture was a lost opportunity. This deferral means a  
25 fish farm does not have the prospect of an organic premium as

1 an incentive to improve their farming methods.

2           Because of this, our oceans are somewhat the  
3 poorer. And a deferral also means that Americans will not  
4 yet have organic seafood products that they can consume with  
5 confidence. Their diet is therefore somewhat poorer for  
6 this. Organic standards for marine fin fish could have  
7 encouraged better farm practices and improve national health.

8           Instead, it seems that the emotional arguments of a small  
9 minority are vocal opponents to set a net pin culture have  
10 held sway, but, that notion should not be a basis for  
11 decision-making.

12           Rather, we should address the issues at hand based  
13 on their merits. If we must have rigorous and exacting  
14 standards then so be it. We want to see organic agriculture  
15 respected and organic seafood sought after. Americans need  
16 to eat more fish. The health foundation is suffering from  
17 over-consumption of fat laden animals. Heart disease is a  
18 national epidemic. And seafood is part of the solution.

19           Yet, consumers are confused by the barrage of  
20 misinformation that such as you've heard here this afternoon  
21 about contaminants in farm seafood. Organic seafood  
22 standards can begin to rectify this by providing increased  
23 consumer confidence in organic seafood sufficient for some  
24 Americans to increase their seafood consumption. Organic  
25 standards will, therefore, save lives.

1           You have an opportunity and an obligation. Let's  
2 please address the specifics and not the emotion. It makes  
3 more sense and is more productive for us all instead of  
4 preventing any and all fish farms from being organic, let's  
5 impose a rigorous, exacting standards for organic operations.

6           As some farms aspire towards organic status, then  
7 these more wholesome practices might then become more widely  
8 integrated throughout the conventional system. This is the  
9 very same exemplary manner in which organic agriculture has  
10 helped to improve conventional agriculture systems. It is  
11 proper and appropriate.

12           Please act expediently to establish net pin  
13 standards however so as you see fit to allow fish to be  
14 farmed in the sea where they belong. The exclusion of the  
15 culture for fin fish production is perhaps analogous to  
16 excluding fences from terrestrial agriculture production,  
17 It's simply a production method. If the opponents of net  
18 pins have specific concerns then we need to be able to hear  
19 them and discuss them, yet, there being no simply outright  
20 opposition. Are they not citing guidelines that might make  
21 organic net pin culture acceptable? We haven't heard from  
22 them.

23           Are there not restrictions on which species might  
24 be cultivated organic net pin systems, why are these not  
25 being proposed? Are there not standards for affluent water



1 quality or impacts that would be considered appropriate for  
2 organic fish farms? Then why haven't we not heard these.

3 Let us please address the issues and not the  
4 emotion and let us please establish some standards. Our  
5 oceans and there are consumers who will thank you for it and  
6 I thank you.

7 MS. CAROE: Comments? Yes, Joe?

8 MR. SMILLIE: Do you have any -- I appreciate your  
9 comments on the aquaculture and the fish mill culture and  
10 again we will consider it down the road. Do you have any  
11 specific comments on the current recommendations that are now  
12 before this board?

13 MR. SIMMS: Yes, I do. I don't want to distract  
14 from the main thrust but I support the fish mill and fish oil  
15 from organic sources. That's a very good start. I also  
16 would like to put forward the suggestion that poultry sort of  
17 by-products should be considered if they're perhaps from  
18 organic poultry sources and I'd also like to suggest that if  
19 I had the choice between electrocution and falling asleep in  
20 the snow I'd choose falling asleep in the snow.

21 And, so, I don't think that concussion and  
22 electrocution should immediately be embraced as the most  
23 humane method for slaughtering warm water species. When you  
24 come to Kona and visit our operation, our fish farm  
25 operation, and you see how we harvest our fish into -- it's

1 very humane. It's the analogy of falling asleep in the snow  
2 is the best one that I can find.

3 MS. CAROE: Dan.

4 MR. GIACOMINI: Testimony was given yesterday  
5 regarding a very poor feed efficiency. I believe the gave  
6 for Kona Blue they gave the number 50 lbs. of harvested fish  
7 or it was 50 to 1. I don't remember the exact for your  
8 output. You've just said you had a very high efficiency.  
9 Would you like to state for the record what your -- what the  
10 range of what your efficiency is?

11 MR. SIMMS: Yes, I'd be very curious as to where  
12 that information had come from yesterday. Was the source for  
13 that cited?

14 MR. GIACOMINI: The hallway.

15 MR. SIMMS: I'm sorry?

16 MR. GIACOMINI: The hallway. I just heard it in  
17 the hallways.

18 MS. CAROE: It was presented.

19 MR. GIACOMINI: It wasn't presented here but he  
20 said I just heard it a minute ago. That was his reference.

21 MR. SIMMS: Okay. I'm a little displeased and  
22 distressed that people have impugned our reputation so  
23 liberally here at this podium. In land-based chiles where  
24 they have species leaving we got feed ratios down to 1 to 1.  
25 Now, please understand that's with the dried pellet feed. So,

1 we use about 50 percent fish meal and fish oil in that dried  
2 pellet feed.

3           If you're going to go and take that back out then  
4 as to how many poundage of wild fish goes into that there's  
5 about five pounds of wet fish that needs to go to make one  
6 pound of fish meal so it works out to be about 2.5 to 1 in  
7 our land based systems where we can have better regulation of  
8 the feed. Out of offshore, because of the open ocean system  
9 and there still are some challenges there, putting the pieces  
10 in place to make this work efficiently our feed conversion  
11 ratio using the dry pellet is about 1.7, 1.8 to 1.

12           MS. CAROE: Okay. Well, I just want to correct  
13 something you said. It wasn't Kona Blue. It was Kona  
14 kampachi, wasn't it?

15           MR. SIMMS: We have the trademark Kona kampachi.  
16 That's the fish.

17           MS. CAROE: I know. It's a company name, isn't it?  
18 Kona Blue --

19           MR. SIMMS: Kona Blue is the company name. Kona  
20 kampachi is our trademark.

21           MS. CAROE: It was the fish that was being -- okay.  
22 Jeff or is it Kevin.

23           MR. ENGELBERT: Kevin. I was going to ask how much  
24 do you feed to get a pound of yield.

25           MS. CAROE: No, no, he said how much wet fish.

1 Five pounds of wet fish make one pound of fish meal that then  
2 gets fed to the kampachi.

3 MR. SIMMS: Right.

4 MS. CAROE: How many pounds of food does that --  
5 how many pounds of kampachi does the fish meal for whatever  
6 it eats?

7 MR. SIMMS: We're doing it where we can push feed  
8 where we have better control and we can get the feed  
9 conversion ratio of 1 to 1. So, that's 1 to 1 of dried feet  
10 to one pound of Kona kampachi. Then the wet fishing, the wet  
11 fish out, which is really as a fishing biologist that's the  
12 major that I want to look at, that 2.5 to 1 and offshore it's  
13 closer to 5 to 1.

14 MS. CAROE: Okay. Got it.

15 MR. SIMMS: When we go toward -- we can very  
16 quickly move towards something like 1 to 1 by using by-  
17 products in there. This is what I was talking about, the  
18 incentive and using these incentives. We can go and use  
19 pollack or salmon by-products which at the moment are being  
20 dumped. We can use those and we get down to a ratio of wet  
21 fish in/wet fish out of 1 to 1 and I think when you're  
22 looking at this that's something that everybody, even those  
23 people who testified here yesterday with this misinformation,  
24 if you told them that we had a wet fish in and a wet fish out  
25 of 1 to 1 they may --

1           MS. CAROE: I just want to say that this is  
2 something -- this is the type of thing that we want to  
3 investigate and so I don't -- although I know the board has a  
4 lot of questions on this stuff I do want to point out the  
5 fact that there will be another time and a place and I'm  
6 really hoping in your -- I can get a unanimous vote on that  
7 recommendation from the board. I'm just saying.

8           Did you have a question, Bea?

9           MR. JAMES: And I know that Gerald has made it very  
10 clear that we will be discussing that at another point in  
11 time and I look forward to that. But, in the interim to kind  
12 of help me think about some of the things are know are going  
13 to be coming up, can you address -- I've heard a lot of  
14 comment about the impact to wild species if over-fishing  
15 happens on the food supply.

16           Can you give me any kind of -- you know -- how you  
17 perceive that statement that's been made.

18           MR. SIMMS: The fishing of?

19           MS. JAMES: For feed.

20           MR. SIMMS: Oh, the reduction fisheries such as  
21 proven in anchovies. Proven anchovies, when I went through  
22 the marine biology back 20-25 years ago even back then the  
23 proven anchovy fishery was used as a model for a beautifully  
24 managed fishery and it still is to this day. We recognize it  
25 though. We as a company recognize it even though it's very

1 stable and it's sustainable in its stability, it's not  
2 sustainable in its salability and that's why we as a company  
3 already are trying to push the envelope for more sustainable  
4 feeds.

5           That's why we originally feeding our fish an  
6 organic feed based on European standards that that was  
7 primarily a proven anchovy and that didn't hold water as we  
8 were concerned about trying to hold ourselves out to be  
9 sustainable and that's why we've pushed the envelope down to  
10 50 percent fish meal and fish oil and using more agricultural  
11 grains.

12           One of my concerns going forward is that if we're  
13 going to do an organic farm there may not be -- the  
14 limitation may not be fish meal or fish oil. The limitation  
15 may be the availability of agricultural products to go into  
16 the feed, the cannola, the organic cannola, the organic soy.  
17 That's going to be a limitation as well.

18           MS. CAROE: Anymore questions from the board?  
19 Thank you so much for your comments.

20           MR. SIMMS: Thank you all very much.

21           MS. CAROE: On deck we have Sean Taylor. Sean, are  
22 you in the room?

23           MR. TAYLOR: Yes.

24           MS. CAROE: Can you please check in with Valerie.  
25 Mrs. Barbara Glenn.

1 DR. GLENN: Good evening to members of the National  
2 Organic Standards Board. First, please indulge my voice, I  
3 apologize. My name is Dr. Barbara Glenn and I'm managing  
4 director of animal biotechnology for the Biotechnology  
5 Industry Organization in Washington, D.C.

6 Thank you for providing the opportunity to testify  
7 today on the current recommendation before the board. We  
8 respect that today you've actually taken an action to defer  
9 on this recommendation. Today, however, I'd like to  
10 summarize some of the written comments that were submitted on  
11 March 16th which respectfully opposes the recommendation.

12 Biotech Industry Organization's members provide  
13 cloning technology for agricultural animals and are leaders  
14 in the production of livestock clones to provide solutions  
15 for issues important to human kind, including hunger and  
16 health. An animal clone is a genetically identical twin to a  
17 donor animal that has been recognized as naturally possessing  
18 desirable traits that the breeder would like to replicate.

19 There is recombinant DNA technology involved in the  
20 process of cloning. No genes are inserted or changed.  
21 Cloning simply produces a genetic twin. In fact, animal  
22 cloning allows farmers and ranchers to produce healthy  
23 productive animals and healthful foods for human consumption.  
24 Animal cloning allows for rapid distribution of the best  
25 genetics for proven animals to provide consistent, healthful,

1 and safe food for human consumption.

2           Animal cloning is a safe assisted reproductive  
3 technology. There is no human health nor food safety reason  
4 to exclude animal clones from organic production. Following  
5 exhaustive food safety reviews by the U.S. Food and Drug  
6 Administration they have stated in a science-based draft  
7 assessment that edible products from healthy clones and  
8 progeny of clones pose no additional food consumption risks  
9 relative to corresponding products from other animals.

10           In this conclusion the FDA agrees with the National  
11 Academy of Sciences who concluded similarly in 2002.  
12 Moreover, animal cloning is simply another step along the  
13 continuum of assisted reproductive technologies or ART's  
14 which are high technology breeding methods used today in  
15 animal agriculture and including organic agriculture.

16           Somatic cell nuclear transfer or SCNT has been  
17 recognized as an ART by FDA. Other ART's include artificial  
18 insemination and transfer and in vitro fertilization, all of  
19 which are allowed to be used in organic production in the  
20 NOP. Indeed, the proposal currently before the board would  
21 specifically allow the use of artificial insemination in  
22 organic production where the regulations have previously been  
23 silent.

24           Any distinction made among these different types of  
25 ART's that deny or give producers the benefits of these



1 technologies should be supported by science and reasonable  
2 argument. The value of these breeding tools is undeniable  
3 both within and outside the organic community. For example,  
4 it's estimated that 75 percent of the milk and 80 percent of  
5 the pork is produced through the use of artificial  
6 insemination which includes milk and pork labels under the  
7 National Organic Program.

8           There is nothing in the Organic Food Production Act  
9 of 1990 that speaks directly to animal cloning. Organic  
10 livestock producers should have the option to select the best  
11 genetics, select the reproductive technology to allow them to  
12 raise high quality livestock in a manner that's consistent  
13 with the NOP. Animal clone progeny are not produced using  
14 SCNT. The progeny or offspring of clones are not clones  
15 themselves. These animals are sexually produced from the  
16 mating of a clone with another animal after undergoing the  
17 normal gestation period and birthing process.

18           Without prejudice to our position, the cloning  
19 should be allowed under the NOP. It's even more the case for  
20 progeny. The NOP should certainly allow the progeny clones  
21 to be used in organic production. As discussed above,  
22 livestock clones, because of their highly desirable traits  
23 and genetic mirror will be the superior farm animals.  
24 Organic livestock producers should have the opportunity to  
25 take advantage of those superior breeding stock.

1           Furthermore, the progeny of clones are produced  
2 under normal conditions of livestock breeding and production  
3 and are compatible with organic production. These naturally  
4 born offspring which may be raised according to the statute  
5 or the regs should be allowed under the NOP to produce animal  
6 feed products to be labeled according to the NOP.

7           Importantly, attempting to force a ban on progeny  
8 clones and organic production will actually impose  
9 significant burdens on organic livestock producers. As  
10 mentioned earlier, livestock clones and progeny are  
11 indistinguishable from livestock produced using natural  
12 mating or other ART's. There's no test, chemical or  
13 otherwise, that can be conducted to identify that an animal  
14 is actually the offspring of a clone. Therefore, there would  
15 be no practical process in organic production to allow  
16 absolute certainty that an organic livestock producer isn't  
17 purchasing or doesn't have a progeny of a clone.

18           In fact, that problem is likely to be magnified  
19 because there will be thousands of progeny in the future and,  
20 indeed, today there are several dating several generations to  
21 the 1980's when cloning was actually used.

22           MS. CAROE: Thank you.

23           DR. GLENN: Thank you for allowing me to make  
24 comments.

25           MS. CAROE: Any comments from the board? Thank you

1 so much.

2 DR. GLENN: We'd be happy to work with you if you  
3 need assistance.

4 MS. CAROE: Thank you. Next up, Sean Taylor. On  
5 deck, Wim Caers. You're on deck.

6 MR. TAYLOR: Good afternoon. I'm Sean Taylor. I'm  
7 the scientific director of the International Association of  
8 Color Manufacturers. I'm going to limit my comments today  
9 primarily to talking a little bit about annatto and support  
10 of annatto very briefly and talk a little bit about  
11 commercial availability.

12 I have written proxy to talk tomorrow morning and  
13 I'll talk a little bit more about some of the anthosianic  
14 contained colors. But, you're welcome to ask any questions  
15 that you want obviously.

16 What I'd like to say is that first of all we'd  
17 like to thank you for the chance to comment on  
18 recommendations of the NOSB that are slated for discussion  
19 and final vote at this meeting. My association, the  
20 International Association of Color Manufacturers is the trade  
21 association that represents manufacturers and end users of  
22 coloring substances that are used in foods, including those  
23 colors that are used in products labeled organic and made  
24 with organic.

25 We've already supplied some written comments to the

1 NOSB. What we'd like to do with these public comments is  
2 provide some additional information concerning the  
3 recommendations of the NOSB handling committee with regards  
4 to petitions received for both annatto and paprika colors.

5 Our association felt one of the two petitioners  
6 received for paprika and we found the only petition received  
7 for paprika oil resin or paprika oil extracted as it's now  
8 being called.

9 As far as annatto goes, I'll keep it very briefly.  
10 We support strongly today's recommendation for annatto color.

11 And I don't think I'll go beyond that considering the time.  
12 What I'll say as far as paprika goes, as within annatto, the  
13 current handling committee recommendation is to separate  
14 paprika, water-extracted paprika, oil extracted, I should  
15 say, on the national 205.606 and to the annotations  
16 concerning material listed for three years from the date of  
17 publication and organic oil must be used for the oil  
18 extraction.

19 Again, we strongly support these recommendations  
20 now from the handling committee to remove these annotations  
21 and to separate the two materials. The one thing I would  
22 like to suggest, however, is you may want to consider  
23 remaking paprika water extracted for maybe something like  
24 paprika color because as it turns out paprika is really not  
25 water extracted. It's really just taking sort of the dried

1 pepper and grinding it. So, paprika water extract is a  
2 little bit if a misnomer I would say. So, please take that  
3 under consideration.

4           Finally, in our view of the petition the handling  
5 committee recommendation we feel that the paprika petition is  
6 dealing with both forms of paprika have met all of the  
7 critical criteria for getting on the national list but we'd  
8 like to provide some additional comments with regards to the  
9 commercial availability of certified organic paprika or raw  
10 material alternatives.

11           In our original petitions for paprika color and  
12 paprika oil resin which is now referred to as paprika oil  
13 extracted we provided evidence in our petitions of pepper  
14 crop went outside of the United States and is currently in  
15 transition to certified organic. Specifically, there's crop  
16 plants in South America which is, as it turns out, a major  
17 source for the sweet peppers that are used in the production  
18 of paprika colors.

19           We anticipate, I should say, some of our member  
20 companies anticipate that this crop land will eventually  
21 produce sufficient raw materials for certified organic  
22 process for what you might want to call paprika color and  
23 paprika oil extracted color. However, we expect that initial  
24 reduction so real conventional crops will occur. We had some  
25 concerns that the supply chain may be initially inconsistent

1 after the transition is first complete.

2           Additionally, the certified organic paprika pepper  
3 farm lands will require crop rotation to ensure consistent  
4 yields, maintain quality of the soil, and prevent disease.  
5 We believe this will necessitate the development and  
6 coordination of companion organic product to be grown in the  
7 same land and while members of our association are working  
8 with the growers to find a suitable companion crop this work  
9 is still very much in progress.

10           We feel that these factors alone require the  
11 listings of paprika color and paprika oil extracted colors of  
12 the natural west. We'd also like to provide some additional  
13 comments in the sourcing of peppers for paprika used as a  
14 color, whether it's paprika or paprika oil extracted.

15           In the handling committee's recommendation the  
16 question was raised as to the importance of Hungary, the  
17 country Hungary, as a supplier. One of the member companies,  
18 and specifically it's a company called Cowset, which is one  
19 of the major producers of paprika color and paprika oil  
20 extracted for use as a color has indicated to me that Hungary  
21 does not supply substantial amounts of raw materials for  
22 paprika used as a color.

23           That's not to say that Hungary produces no peppers  
24 for paprika. What it really says is that Hungary is a  
25 relative source of paprika used as a flavor and spice agent

1 and so there's a distinction between paprika use as a color  
2 and that used as a flavor and spice agent.

3 In addition to that, some of the specific varieties  
4 of peppers that are used to make paprika colors, those that  
5 have been selected over time due to, say, increased pigment  
6 content, are not generally grown in Europe but primarily in  
7 South America and in the United States to a lesser extent.

8 We expect that within five years, and we hope this,  
9 when the use of these materials occurs members will have  
10 certified organic processes in place and sufficient certified  
11 organic raw materials to fulfill our customers' requirements.

12 Our member companies are fully committed to developing  
13 certified organic paprika color and paprika oil extracted  
14 colors and some of the members already have some sort of  
15 organic processes and materials in place and we're going to  
16 continue to work towards that.

17 So, thank you very much.

18 MS. CAROE: Thank you. Comments? Thank you so  
19 much. Up next is Wim Caers. Okay. On deck, Steve Abrams.

20 MR. CAERS: In the sake of time and perhaps in the  
21 sake of a general level of fatigue I have a proxy for Steve  
22 Abrams, but, if my presentation is clear enough I will offer  
23 not to give the presentations from Professor Abrams but just  
24 give you the handouts and if there are any questions I'm  
25 available for answers.

1 MS. CAROE: I appreciate that.

2 MR. CAERS: So I am Wim Caers. I am regulatory  
3 support manager for RFT. We are a medium to small sized  
4 company from Belgium but we are the leading producers of  
5 inulin worldwide and our presentation today is in support of  
6 the Stoney Field petition and just to make it clear for the  
7 record I would like to point out that the petition product is  
8 not just any standards inulin but it's all different enriched  
9 inulins which is a particular type of compound.

10 On the next slide you will see a relative  
11 distribution, a comparison relative distribution of inulins  
12 coming from different sources and you'll see immediately that  
13 there is a large difference in the overall composition of  
14 these different inulins.

15 The next slide will show you a number of potential  
16 sources that contain inulin to different levels and it's safe  
17 to say that despite the high number of potential sources  
18 today more than 95 percent of all the inulin which is  
19 produced to be used in foods is coming from the chicory root  
20 and this is a very conservative assumption I should say.

21 The next slide really shows you how inulin looks  
22 like and it's important to say that each different amount is  
23 represented by a singular peak and it's also very important  
24 to remember that the general profile and compositions of  
25 these types of ingredients are really crucial for both the



1 technological properties while using in the food product and  
2 its metabolic fate and nutritional benefits after ingestion  
3 in your body through any type of fruit matrix.

4           The next slide really summarizes what happens in  
5 the plant. So, the seeds are planted in spring and then the  
6 plant really grows throughout summer and during the summer  
7 the plant or the root produces the high levels of inulin  
8 which reaches a peak in September when normally our company  
9 starts harvesting.

10           But, at the same time there is a second process  
11 that the plant does which we call the endogenous hydrolysis  
12 from inulin back into oligofructose and this is triggered by  
13 temperature and weather conditions. And if you look on the  
14 next slide what you will see is that the first column really  
15 gives you an idea about timing. The second column gives you  
16 the general level of the chain links and you see a steep  
17 decrease starting at September going down to the end of  
18 December.

19           But, at the same time you do not see a steep  
20 decrease of percentage of inulin type fructan which basically  
21 means that all the hydrolysis that's taking place is used to  
22 form again these phototype type of quantities.

23           This is most demonstrated by research done by  
24 people from the University of Ghent in Belgium and in the  
25 next slide you will see on top, and they used chicory inulin

1 as a model to demonstrate the whole concept. You will see on  
2 the top side, this is inulin measured from September and then  
3 compared to inulin measured in January and the next slide  
4 will show you that indeed there is a high -- an increased  
5 level of presence of these oleofactoral type of modalities  
6 and are those are reproduced in the plants.

7           And these are published results by other people.  
8 The next slide will show you how this looks without inulin  
9 and the next slide will show you that this process already  
10 starts in September when we actually harvest the ingredient,  
11 but the next slide shows you how these levels genetically  
12 increase if you just wait long enough that when the plant  
13 matures and you go into much colder conditions in wintertime.

14           The next slide really shows you the general  
15 composition of inulin coming from chicory in this corner  
16 compared to similar type of inulins coming from other sources  
17 which I believe are organically available on the market in  
18 very small quantities.

19           But, you will see immediately a clear difference in  
20 the general compositions of chicory inulin and then, of  
21 course, compared to the one from blue agave and irusin an  
22 aftershock represented right there.

23           And then the next slide shows you how the profile  
24 looks from the petitioned product which is the oligofructose  
25 enriched chicory inulin with a concentration of shorter ones

1 combined to the long ones and you will see as an example a  
2 very clear distinction with the profile from the short chain  
3 FOS that has been discussed also today and which is part of  
4 different petition.

5           But, you can clearly see the difference between the  
6 two products. So, as a general conclusion I would like to  
7 state that indeed we would support the inclusion of this  
8 oligofructose inulin as an agricultural product based upon,  
9 first of all, latest originated agriculture product, the  
10 chicory root. Secondly, the change in the chemical structure  
11 is identical to the process which invariably takes place in  
12 the plant when it matures.

13           The identity of this oligofructose enriched inulin  
14 is clearly recognizable in the overall pattern from the  
15 chicory root and even it's safe to say that only the chicory  
16 root can be used as a raw material for this type of  
17 ingredient and it's very unique in it's very unique in its  
18 composition and its nutritional properties. And as such,  
19 today, there is no organic variety available to replace it.

20           Thank you very much for your attention.

21           MS. CAROE: Thank you. Joe?

22           MR. SMILLIE: What do you think in the future could  
23 be the possibility of organically produced chicory being used  
24 as your base for production?

25           MR. CAERS: Well, since the organic interest is

1 gaining momentum both in the U.S. and in Europe we've only  
2 lost months. We've discussed this with the Belgium  
3 Federation of Organic Processing Companies and what they're  
4 trying to do is to see how we need to adapt our process, but,  
5 of course, if the problem starts with starting from organic  
6 material.

7           And the chicory plant is not the easiest one to  
8 grow because it's a rotating crop and you can only use the  
9 same field every fourth year and that in combination, of  
10 course, with the organic requirements, at least in Europe,  
11 where you need to produce four years of organically type of  
12 crop harvesting, so we need to do that first.

13           And then, secondly, we need to adjust our process  
14 because, as you can imagine, the chicory has some remaining  
15 bitterness that we need to be able to separate from the rest  
16 and still staying within organically allowed type of process  
17 technology and this is something that we are looking at this  
18 moment but it will take quite some time to get there.

19           MS. CAROE: Katrina?

20           MS. HEINZE: Thank you for your comments today. We  
21 received several public comments after our recommendation  
22 with the public recommending that we list fructans as a broad  
23 category on 606. I'd be interested in your thoughts on  
24 whether that's a reasonable solution and if there are any  
25 hurdles to doing that or ramifications that we may not be

1 thinking about.

2 MR. CAERS: I think if you really go into the  
3 chemistry, fructans really cover a number of quite different  
4 types materials. It goes from the inulin type, from the  
5 oligofructose short chain first type. It includes levans who  
6 have a totally different chemical structure.

7 So, having said that I also believe that the  
8 different members within the fructans have very different,  
9 let's say technical qualities and also physiological  
10 qualities after ingestion, and, as such, I believe it would  
11 be fair to look at the different members within the fructan  
12 family and to judge them based upon their own merits for  
13 inclusion in 606 lists or not because I think that the  
14 difference in potential behavior and characteristics is too  
15 wide to really look at them as one group.

16 MS. HEINZE: Thank you.

17 MS. CAROE: Any other questions? Thank you for  
18 your comment. Next up, I didn't have anybody on deck. Jorge  
19 Gaskins, are you here? You're up and on deck is Tony Moore.  
20 Are you in the room, Tony?

21 MR. MOORE: Yes.

22 MS. CAROE: Excellent. Check in with Valerie.

23 MR. GASKINS: Good evening. My name is Jorge  
24 Gaskins. I'm the managing director of HC, the Organic  
25 Seafood Company. And I'd like to thank you for the

1 opportunity of sharing with you our views on the progress to  
2 date on the agricultural standards and also thank you for the  
3 amount of effort that has gone into producing the work to  
4 date, historically and the actual effort. It's notable, it's  
5 admirable, and it's commendable.

6           And having said that, let me go into a few things  
7 that we think should also focus your attention. HC is a  
8 vertically integrated producer of certified organic tilapia  
9 and shrimp and polychocho, both organisms in the same pond.  
10 We're certified organic by Natural Land from Germany. And  
11 we're a pioneer in the Western Hemisphere of organic talapia  
12 production. We actually have 925 acres of fresh water ponds  
13 in production in southwest Brazil and Panama State, just  
14 north of the great waterfalls of Equasoux along the Parana  
15 River.

16           I'd like to also suggest a visit which would  
17 probably be educational, interesting, maybe not quite the  
18 same competition as Hawaii, but, worthy. We employ over 125  
19 persons and contract over 80 organic grain farmers and 60  
20 organic talapia producers. And our parts have been in the  
21 North American and European markets for over a year.

22           Talapia is a well domesticated fish species, an  
23 omnivore. The relationship with man is even depicted in the  
24 hieroglyphics on the pyramid walls. We have submitted  
25 written comments for the record but we have traveled here to

1 underline and bring into focus certain points of concern in  
2 the proposed regulations, one of which, of course fish meal,  
3 fish oil, and agricultural feed rations.

4           And I say this because, one, we are perhaps the  
5 largest producer at the present time of certified fish meal  
6 and fish oil and we are beginning to raise fish only for fish  
7 meal production. Two. We use micro algae production  
8 extensively in our ponds as an essential part of our fish  
9 nutrition during the first six to eight months of life. We  
10 are now doing research and development to harvest these  
11 biolipids producing algae and incorporate them into the diet  
12 of the shrimp and fish, more directly into the feed rations  
13 to better address the diets of the adult talapia.

14           We are most encouraged with the results to date and  
15 together with other research and development in the industry  
16 we look forward to a more diversified diet for organic,  
17 aquatic animals in the future. And, three, finally, we are  
18 working with major soy processors in Brazil to remove the  
19 complex sugars in soy meal; some 20 percent of the soy's rate  
20 and possibly 10 percent of aquatic feeds that do not  
21 contribute to the fish nutrition but they do add to the waste  
22 in the water systems.

23           So, we see that the soy used in agriculture feeds  
24 can be improved. Micro algae can produce a more natural  
25 source of biolipids and protein for fish and shrimp rations

1 and the sources of organic fish meal and oil do exist and  
2 will increase. However, at the moment these food  
3 alternatives lack far behind the actual production of organic  
4 fish and shrimp to be found on the North American market  
5 today.

6           And these alternatives will not fuel the supply to  
7 meet the identified demand for organic seafood as well  
8 described in the New Jersey comments on the website of  
9 consumer interest. It is for this reason that although we  
10 feel we are part of the long-term solution for organic feed  
11 we endorse the use of fish meal and fish oil from trimmings  
12 of wild catch from identified sustainable fisheries until  
13 such time as these other alternatives can mature.

14           In another area of the market the retail buyers,  
15 the food service operators, consumers, and even chefs  
16 expressed their interest in having a broad selection of  
17 seafood. Commercially having organic talapia and possibly  
18 organic catfish at some time in the future and a much more  
19 limited supply of shrimp and not having cod, salmon, kobia,  
20 sea bass, seabring to choose from, is going to dampen if not  
21 cripple the growth of the organic seafood industry.

22           MS. CAROE: Thank you. Board comments? Thank you  
23 for your comments. Oh, wait. Joe?

24           MR. SMILLIE: Yeah. The current recommendation,  
25 for example, for which your company qualified under those



1 standards?

2 MR. GASKINS: Our company definitely would qualify  
3 under those standards and we support the timeliness of  
4 producing a standard and it's a part that I couldn't quite  
5 get to. A lot of capital decisions are being held in  
6 abeyance all over the industry as NOP process grinds on. And  
7 the industry definitely needs more stability. The standards  
8 as you have referred to them up-to-date, the draft, we can  
9 support.

10 We don't think that they're the standards that the  
11 industry needs to propel itself into a better market  
12 position. But, we do support the standards and approving  
13 standards as early as possible.

14 MS. CAROE: Any more questions from the board or  
15 comments? Thank you so much.

16 MR. GASKINS: Thank you.

17 MS. CAROE: Up next is Tony Moore and on deck is  
18 Brian Baker for Dave DeCou.

19 MR. MOORE: Tony Moore, Moore Ingredients. I'll  
20 make this really short. Thanks to all you folks for all the  
21 work you're doing. I can't imagine. I'm getting tired just  
22 sitting here. I can't imagine what you guys have put into  
23 it.

24 Really simply put I guess I would like to request a  
25 further appeal on the current state of organic flavors. I

1 was sent a notice the NOP sent out that was attempting to  
2 clarify organic flavors and I just have a couple of points on  
3 that. I'm going to assume that some of the language used  
4 that refer to simplicity and also not consumer acceptability  
5 and of these flavors was more simplistic flavors like some of  
6 the dill weeds that we spoke to and that was a whole  
7 different class of flavors that exist and those are complex  
8 flavors that are used in beverages and a lot of other --

9 (Discussion off the record)

10 MR. MOORE: I was comparing some of the language of  
11 the NOP's clarification on flavors hoping to refer to more  
12 simple things like spices and some of the dill weed we spoke  
13 of earlier but I'm also saying there's a whole different  
14 class of flavors that exist and neither complex flavors that  
15 are used by the commercial consumer, beverages, and that our  
16 company manufactures these. We make most of our livelihood  
17 doing that and if you're an organic consumer chances are you  
18 probably consume these products with these complex flavors.

19 There are also blends of both organic -- I'm sorry,  
20 both agriculture and non-agricultural products so they really  
21 don't meet all of the classification that we are currently  
22 going under. Some of the other issues, just by using natural  
23 flavors we talked about some of the things not imposing  
24 organic regulations on a non-organic industry which is a  
25 comment I think we talked about but rather what are we

1 introducing into the organic industry from non-organic  
2 products and that's something that we should really take into  
3 consideration by products that are just called natural  
4 flavors.

5 That's the gist of it so I guess I'm officially  
6 asking for a further review on the possibility of organic  
7 flavors in the current state of organic flavors.

8 MS. CAROE: Comments? Julie, you want to comment?

9 MS. WEISMAN: I'm going to make a confession. I  
10 was trying to make sense of your handout so can I -- so,  
11 pardon me if i misunderstood something, but, did you take  
12 from the last clarification, do you think that there is an  
13 implication that there should be no organic flavors? Is that  
14 what you --

15 MR. MOORE: No. I took the position that saying  
16 that they thought the current flavors, the 1 to 1 don't exist  
17 in organic flavors and that the current flavors being organic  
18 are simplistic and not acceptable for consumers. That's what  
19 I think. Did I misunderstand that?

20 MS. WEISMAN: Okay. All right. So, you are saying  
21 that organic -- can I rephrase it? That whole organic  
22 flavors, to say that they are not complex is not accurate,  
23 that they are also complex. To say that they are not  
24 acceptable to consumers?

25 MR. MOORE: I think a more accurate way to say it is

1 the flavors is too broad of an issue to simply call it  
2 flavors and I think we need to look at that as a class and  
3 explain exactly what they are. You know, if we're going to  
4 keep referring to the CFR it's a pretty broad swatch of what  
5 they're calling natural flavors. Spices fall under that,  
6 sweeteners fall under that. However, there's also a class of  
7 flavors that are blends of, again, non-ag. They're going to  
8 contain solvents of alcohol. They're going to contain fruit  
9 juices. They're going to contain sweeteners, acidulants and  
10 so forth and all those have their own little issues which  
11 makes those kinds of flavors very complex issues and I guess  
12 I'm encouraging doing whatever would mean to encourage these  
13 organic flavors because by doing that you're encouraging the  
14 use of other organic products.

15           You're encouraging the use of organic alcohol.  
16 You're encouraging the use of organic fruits and berries.  
17 You're encouraging the use of organic sweeteners and the list  
18 goes on and on. By just simply allowing natural flavors are  
19 so-called organic component you're not encouraging that and  
20 you're not encouraging all the businesses that want to sell  
21 these products and manufacture those products.

22           And, also, by just simply following within the  
23 current CFR for natural flavors you're inadvertently  
24 introducing a lot of non-organic things into organic products  
25 and there's a lot that goes into that so I guess I'm offering

1 up a really honest discussion about that.

2 MR. SMILLIE: As you know, we will be working on  
3 our ag/non-ag definition and I believe that that will be the  
4 key for us as a board to go back to the NOP and give them  
5 advice as to how to come up with a guideline of which flavors  
6 do really belong on 605 and which belong on 606 and  
7 encourage, you know, the growth of 606, you know, and organic  
8 flavors as much as possible rather than allowing occurring to  
9 the latest recommendation that, you know, just having FDA  
10 define it for our industry.

11 MR. MOORE: Yeah, I agree.

12 MR. SMILLIE: And, so, we'll look forward to your  
13 contributions as we try to create this document but what  
14 we're going to be down to pretty quickly is what we saw in  
15 the previous flavor presentation that was put out there.  
16 When does an organic essence stop being agricultural, after  
17 how many cuts and splits. You know, where do we draw a line  
18 and so we'll be looking for industry expertise such as yours  
19 to help us determine when does something stop being  
20 agricultural and become non-agricultural through the  
21 distillation process.

22 MR. MOORE: Sure. I will assist any way that I  
23 can, anyway you'd like to. One really fast comment though i  
24 that a lot of these lines need to be simplified because all  
25 we're doing is finding ways to encourage use of non-organic

1 products when a lot of these can be made organically. The  
2 raw materials are available. The technology is not that  
3 difficult when it comes down to it.

4 MR. SMILLIE: Great. Thanks.

5 MS. CAROE: Do you want to comment?

6 MS. HEINZE: I can't help but notice in your  
7 handout that you have a hibiscus certified organic color.

8 MR. MOORE: We do. I chose not to confuse the  
9 issue, but, we do have two organic colors.

10 MS. HEINZE: We are looking for commercial  
11 availability information on hibiscus. I was wondering if you  
12 could speak to that a little bit.

13 MR. MOORE: Oh, certainly. When we first  
14 manufacture it's a very simple product. It's a hydro extract  
15 meaning that we take certified organic hibiscus and extract  
16 that with organic alcohol and water. We first manufactured  
17 the flavor not for color but in using it in finished product.  
18 It's actually been commercially used in five different  
19 consumer products that are labeled as organic right now.

20 We found a wonderful color so using that as a color  
21 that led us into making into an extract which is also being  
22 manufactured right now and is being sold in some different  
23 confections. It's manufactured in the same process so using  
24 organic tumeric, organic alcohol and water.

25 MS. HEINZE: Are you able to find enough certified

1 organic hibiscus to make enough to meet your customers'  
2 needs?

3 MR. MOORE: We've had no issues and, in fact, as we  
4 posed the question to our suppliers for hibiscus our  
5 suppliers for tumeric and we're currently we're not complete  
6 to all the suppliers asking about commercial availability and  
7 our hope is they're saying bring it on. So, they're saying  
8 there is no commercial, but, -- sorry.

9 MS. CAROE: Jeff.

10 MR. MOYER: My question would be, I'm trying to  
11 understand it. Are you inferring that by placing items on  
12 606 it encourages the use of organic or are you inferring  
13 that keeping things off the list is encouraging people to  
14 develop more organic?

15 MR. MOORE: I guess you could take that either way.  
16 I guess I'm saying that by not being really encouraging the  
17 use of organic flavors. In other words, right now as it  
18 stands, because of ag versus non-ag you can use simply  
19 natural flavors in the product. There's no legal requirement  
20 to use organic flavor. Am I correct about that? By doing  
21 that -- I'm sorry, go ahead, Julie.

22 MS. WEISMAN: Sure. Yeah, I think the other issue  
23 here is that natural flavors are elsewhere. In other words,  
24 it is already a problem whether -- it's not about what gets  
25 listed on -- part of it is not about what gets listed on 606.

1 Part of it is the fact that natural flavors is a broad  
2 category on 605-A and there's very broad interpretation about  
3 what is a natural flavor and I think part of what Tony is  
4 arguing is like let's look at what's in natural flavors  
5 because there are -- and let's look at what called a natural  
6 flavor that may really be a natural ingredient or composed  
7 solely agricultural ingredients that are available as  
8 organic.

9 MR. MOORE: There's mixtures of ag and non-ag just  
10 like a lot of consumer products are because at the end of the  
11 day you look at the components of an organic flavor they  
12 exactly mimic let's just say an organic beverage. You've got  
13 solvents, you've got water, you've got sweeteners, you've got  
14 fruits, you've got acidulants, and you've got flavor so, in  
15 other words, that's another choice but it's not the same  
16 classifications and we need to really address that because,  
17 like Julie said, they're called natural flavors it just  
18 really confuses the issues and I think it causes a lot of  
19 confusion in people and customers, people like myself who  
20 formulate them for a living.

21 And, as well, like I said, my bigger interest  
22 though is just encouraging the use of all the organic  
23 ingredients that we can to further a trait.

24 MS. CAROE: Julie?

25 MS. WEISMAN: I just have one more comment in



1 response to what you're asking for. You know, Joe addressed  
2 one issue, one aspect of how we will be responding which is  
3 going to be throwing work onto the ag/non-ag recommendation,  
4 but, I think that you're not the first person in the last two  
5 days that has called for a more rigorous look at flavors in  
6 general and, so, I think we're going to, you know, have to  
7 have some conversations with the program about what other  
8 forms might be crated and that to include participation, you  
9 know, of people outside just the board. And we will probably  
10 want you to -- we may contact you when that time comes.

11 MR. MOORE: Anyone in my organization is happy to  
12 help in any way that we can.

13 MS. CAROE: Any other comments or questions from  
14 the board? Thank you, Tony.

15 MR. MOORE: You're welcome.

16 MS. CAROE: Next up, Brian Baker for Dave DeCou and  
17 then following is John Jantos. John, are you in the room?  
18 How about Will Fantle for Mark Kastel? Will.

19 MR. BAKER: Thank you very much. I'm not Dave  
20 DeCou. I'm Brian Baker, research director of OMRI and I have  
21 been asked to speak on his behalf and not say anything he  
22 wouldn't say so do that and that should make things even  
23 briefer.

24 I just wanted to touch briefly on TAC reviews and  
25 what Kim said earlier today is very helpful and very true.

1 We use TAC reviews and petitions to try and understand the  
2 standards of identity and what we're talking about here, cast  
3 numbers, INS numbers, 21 CFR references, those are all very  
4 important for us to establish what it is we're talking about  
5 when we're working with certifiers, when we're working with  
6 suppliers and manufacturers to help them understand what's  
7 going on here and what the regulations mean and navigate  
8 that.

9           We need to know and be all on the same what we're  
10 talking about when the TAC reviews are not posted and the  
11 petitions are not clear. That makes our job more difficult  
12 and it makes the job of certifiers and inspectors and  
13 processors more difficult as well.

14           So, several of the petitions, a couple of the  
15 petitions were not posted, TAC reviews were not done on 606  
16 materials and there's some ambiguity about what we're talking  
17 about here. Also, on the subject of TAC reviews and  
18 petitions, the board needs to seriously consider all  
19 alternatives.

20           One alternative not discussed very much has been  
21 the option to make a product with a process product with a  
22 made with claim that a non-organic ingredient is used.  
23 That's not to say that it's the only option but it is an  
24 option and should be considered by the board. OMRI wants to  
25 see the result to see organic strengthened and that's a very

1 clear consensus message.

2           On the issue of cloning, briefly, OMRI is in line  
3 with what's been said to ban clones and their progeny. We've  
4 received a lot of questions on the subject. We understand  
5 the devil is in the detail. There are a number of other  
6 excluded method questions that are being sent our way. We  
7 have a whole lot of related issues. I mean, look, we put  
8 meat and bone meal on our list. Does that mean meat and bone  
9 meal from cloned animals can't be used as a fertilizer,  
10 things like that.

11           We want to know what the implications downstream  
12 are and need to seriously consider what the implications are  
13 of what that means. So, we want to see the NOSB go ahead. We  
14 want to see a standard that is clear and enforceable and  
15 meaningful and doesn't leave people in funny situations.

16           Thank you.

17           MS. CAROE: Any questions for Brian, for Dave?

18           MR. BAKER: I'll take them back to Dave if you  
19 don't want hear from me now.

20           MS. CAROE: Thanks, Brian.

21           MR. BAKER: Thank you.

22           MS. CAROE: Next up is Will Fantle. Do we have  
23 John Jantos in the room yet? Has he arrived? How about Jeff  
24 Racherty?

25           MR. FANTLE: Hello, again, I'm Will Fantle for the

1 Cornucopia Institute. I am its research director and I will  
2 try and say things that Mark Kastel would want heard here  
3 today.

4           We want to thank the livestock committee for its  
5 move to try and bring the progeny of cloning into the  
6 consideration before this board. We think it's very  
7 important. It's our hope that this board will make it very  
8 clear that the progeny are not allowed. It's also our desire  
9 to see our favorite color removed from the organic  
10 regulations as much as possible and that color is gray so  
11 what that crystal clear for people to know and understand.

12           I have a comment about the web page and its usage.  
13 I've used it for two other non-NOP uses, one with FDA and one  
14 with USDA on another matter. Very difficult to navigate and  
15 very user-unfriendly. I've been involved in some web page  
16 development myself. I think there's probably better ways to  
17 approach this and I hope you'll do that and I want to take --  
18 I hope you take that as a sincere request on our part. It's  
19 very important for the public to be able to use this and to  
20 comment and to provide you with feedback and input on the  
21 issues that you were considering. The web page does not need  
22 some upgrading.

23           Next, I want to address just your meeting process.  
24 I am an elected official in Wisconsin, a local elected  
25 official. I understand what the open meeting process is

1 about. I'm a little disappointed that the NOP and the NOSB  
2 have been encouraging the use of the most recently closed  
3 meetings.

4 We have very distinct criteria for what we use as  
5 an elected official in Wisconsin. Contract negotiations,  
6 labor negotiations, consideration of legal strategies. I'm  
7 not sure that those are the types of things that have been  
8 taking place during your closed sessions. I understand fully  
9 the need for you to have compressed meetings and schedules  
10 and try and be efficient and effective in what you're doing  
11 but I hope that you will consider that sunshine and  
12 transparency go together and try to be involved and keep the  
13 public aware of what you're doing.

14 It only leads people to be suspicious of what's  
15 taking place behind closed doors if those processes are not  
16 fully open. Lastly, a matter that I know you can't do  
17 anything about but I have to comment on, pasture, and the  
18 regulation that the lay of the regulation once more.

19 This board in August of 2005 made a recommendation  
20 that was rejected by the National Organic Program. They  
21 decided instead to try and refine the language that this  
22 board approved. We're now into 2007. We're told that maybe  
23 at the end of this year -- well, actually I don't know that  
24 it is the end of this year. We were told at the end of the  
25 year. We weren't told what year that would be that this

1 pasture regulation will come out.

2 Our members, our family farm members really want to  
3 see this resolved and I know, again, that you have little  
4 control over the process, but, whatever you can do to try and  
5 push that out the door we would fully appreciate. It's our  
6 contention, our continued contention that the current regs  
7 are enforceable. They're not being done. That's not being  
8 taken, that action by the National Organic Program.

9 We think that confinement, farm operators that are  
10 speeding down the highway that are violating the regs and  
11 something should be done about that. Perhaps you can find  
12 some ways to encourage enforcement activities.

13 With that, thank you and I hope the rest of your  
14 evening goes quickly.

15 MS. CAROE: Comments for Will? Thank you so much.  
16 Jeff, you're up next. After that, Zea, you're on deck. I  
17 saw her somewhere in the back. Is Zea here? She might have  
18 fallen asleep. Yeah, there's a lot of that going around.

19 MR. RACHERTY: Hello, everybody. Jeff Racherty,  
20 Moore Ingredients. You've heard earlier from Tony Moore who  
21 is the technical director and I'm more on the sales and  
22 marketing side so I'm going to kind of be a little more  
23 basic. I just wanted to thank everybody on both sides of  
24 this know that there's been -- it's clear that flavors have  
25 to be that more closely and I think we're all heading in that

1 direction with the discussions that we all have had.

2 I just want to make a couple of comments about a  
3 few things. Moore Ingredients, as numerous other flavor  
4 manufacturers, it has been clearly established that certified  
5 organic flavors are indeed available. So, I guess with some  
6 of the earlier commentary today as it pertains to that,  
7 adding the fact that that natural non-organic flavors that  
8 are in compliance are on the allowed list and some of the  
9 comment, I guess the exact verbiage may have been it just  
10 means that it is available, not that it is a given or a  
11 definite.

12 So, I guess I have a question and I'll ask if  
13 someone wants to answer it now that would be great and if  
14 that is the case. What is the criteria that the certifier is  
15 using to evaluate a given flavor to be accepted under that  
16 parameter or not or challenged?

17 MS. CAROE: Well, we'll let a certifier answer  
18 that.

19 MR. RACHERTY: I was looking right at -- sorry,  
20 Joe.

21 MR. SMILLIE: Let me start by saying that I'm  
22 accredited by the USDA. When I'm given guidelines, I've got  
23 a law, a regulation, guidelines, current thoughts, and a  
24 number of different inputs from my accreditor as to how I  
25 will deal with different issues and unlike Will who wants to

1 see the color gray go away it ain't go away in my lifetime  
2 and there's a lot of things that are gray out there.

3 Our personal company, and I cannot speak for all  
4 certifiers, and it's hard to, because there's a variety of  
5 opinion on this, but, we took the position early on on the  
6 fact that we felt that natural flavors are what's called, you  
7 know, NOP compliant that are allowed under 605-A. You know,  
8 we allow them. We saw that clearly they were natural but  
9 non-agricultural, okay.

10 So, that was fairly simple. They're allowed as long  
11 as they don't have propylene glycolin or other solvents.  
12 They're allowed. There's also a whole world of flavors out  
13 there that are, we thought in our estimation that were  
14 agricultural, you know, essential oils, extracts, vanilla,  
15 you know, and, so, we said, hey, if those are agriculture  
16 they've got to be organic or under 606.

17 And, so, that's the way we were operating. Then  
18 the first guideline that we received was that anything,  
19 anything that even smacks of agriculture has got to be on 606  
20 and I was like whoa, that is we fell a little far to the side  
21 of the way we were interpreting it. And then we moved  
22 forward and we have a lot of clients that are really working  
23 hard to use a lot of certified organic flavors and a lot of  
24 flavor companies that are producing certified organic flavors  
25 and our business is certification so we see it.



1           You know, we have to work with flavor companies.  
2   It's one of the hardest questions to answer is a flavor  
3   company will phone us and say what's the deal here and you  
4   have to take a long deep breath and try and walk them  
5   through, you know, the mine field in explaining how you  
6   certify a flavor. And, so, we usually get through it and the  
7   companies struggle with it and then they sort of get it and  
8   then they start to move and that's our job, to encourage  
9   production of organic flavors and that's our role.

10           And, so, I thought we were doing fairly well moving  
11   along that, quite frankly, the latest guideline which went  
12   back to like the FEMA stuff and, you know, I, personally,  
13   I'll be honest, was disappointed with that guideline, but,  
14   again, it's a guideline and, again, NOSB's just is to come up  
15   with their response to that guideline and to give advice to  
16   the USDA on how we all consistently among certifiers, you  
17   know, interpret that.

18           And, so, it's very difficult for me to give you an  
19   answer across the board for other certifiers because it's a  
20   complicated situation. Each certification organization works  
21   their way through the issues different, but, from our  
22   position we think very clearly that some flavors -- you know  
23   -- we're certifying organic flavors. We know it's possible.  
24   We know you can do it. And then for those that aren't  
25   possible as agricultural they need to be put on 606 if

1 they're extracts.

2 That's clear. How far you go --

3 (Discussion off the record)

4 MR. SMILLIE: I was directed to answer your  
5 question. Anyhow, and, so, once again, it's, you know, we're  
6 working on it and I'm actually -- on the flavors issue I'm  
7 pretty confident that we'll get to a reasonable solution.

8 MR. RACHERTY: And just to comment on that comment,  
9 you know, for QAI, who Joe works for is very good at it and  
10 they really have -- I think they're taking the right stance.  
11 I won't go into that because it's my five minutes, but, the  
12 one other question on this and it's actually just a  
13 statement.

14 In almost every guideline, clarification,  
15 conversation that a certifier has with a processing company,  
16 there is never the common -- I shouldn't say never -- there  
17 is a very infrequently the commentary of if it is  
18 commercially available, the commercially available certified  
19 version should be used and I think that all the bodies  
20 involved, the certifiers, the NOSB, the NOP, USDA, I think  
21 when they clarify and they give guidance and guidelines they  
22 should always finish it, start it, wherever, with the fact  
23 that if there is a commercially available version it should  
24 be used. And that we as an organic industry should strive  
25 for that.

1           So, that's just a comment. And then just one  
2 comment I want to make and Joe mentioned it too and I kind of  
3 think several people have had problems with it, is pertaining  
4 to the NOP's guidance for certifiers, the documents that they  
5 produced on 2/16 of this year. Towards the bottom of that  
6 document in the last paragraph, and I'm quoting right from  
7 it, it says, however, these flavors, and they're talking  
8 about certified organic flavors, are more simplistic and may  
9 not deliver complex flavors and profiles demanded by  
10 consumers.

11           So, I just want to make a comment that I think as a  
12 flavor supplier this was an extremely inaccurate and  
13 irresponsible statement from the point of view of the  
14 processor who might buy that flavor from me and use it in  
15 their product. That's an insult to their product that has a  
16 complex flavor and it's also on the bottom of that rung,  
17 which is not the bottom because it's really the top, is the  
18 consumer who eats it, drinks it, or whatever and enjoys it  
19 and their statement basically said that we have no taste.

20           So, I am finished so I don't even need that minute,  
21 but, I just want to really, you know, say that that we all in  
22 the organic business really kind of took offense to that  
23 comment and we'd hope there would be a retraction on it and I  
24 thank you all for the time.

25           MS. CAROE: I just want to address a couple of your

1 --

2 MR. RACHERTY: Yeah. Oh, absolutely. Any  
3 question.

4 MS. CAROE: Very quickly. We did put out a  
5 recommendation on how certifiers -- what certifiers' role is  
6 and what their due diligence needs to be in order to review  
7 an organic systems plan that includes a non-organic  
8 agricultural ingredient and if it is listed on 606. So,  
9 there is a guideline from this board to certifiers on what  
10 that process needs to be and what they need to do in order to  
11 verify that there is a non-availability of that organic form.

12 And as far as further development, I don't know if  
13 it was very clear, the board is going to take up a  
14 recommendation on flavors in clarifying that the flavors word  
15 is a whole universe and try to tear that apart and as Julie  
16 indicated we're going to outreach to do that. We're going to  
17 bring the community in and come up with a more comprehensive  
18 and well vetted recommendation.

19 We will collaborate as well with the program as we  
20 do that so that it can be implemented. So, I can say that,  
21 you know, it is on the work plan. It's going to be  
22 developed. It's going to happen. It's not here at this  
23 meeting just because of time constraints.

24 MR. RACHERTY: Thank you. Thank you very much  
25 everybody.

1 MS. CAROE: Thank you for your comments. Is there  
2 anybody else that had any comments? Sorry. Next up, Zea,  
3 and then I have L. Monge. Are you here? Are you going to be  
4 giving comment? You are. Okay. You're up next then.

5 MS. SONNEBRAND: Before we start, Andrea, Eric  
6 Sidemen signed up also and I have his proxy. I am willing to  
7 do that tomorrow morning as long as it's not before 8:30.  
8 Well, we can stay the night and do it if you'd like. Eric  
9 Sidemen. He's somewhere. I signed him up today. So, that's  
10 fine for tomorrow. I do have a proxy from Eric but that's  
11 not the comments I'm giving right now. I'll do those  
12 tomorrow.

13 Okay. I am Zea Sonnebrand from California  
14 Certified Organic Farmers. Thank you for the opportunity to  
15 address you and welcome to the new board members. I've been  
16 working with NOSB since pretty much the beginning of the  
17 materials review process. Also sometimes I'm known as the  
18 materials girl and I've helped the board deliberate on many  
19 of the issues over the past and as such I'm one of the people  
20 who knows quite a bit about history and what things have come  
21 up in the histories and what decisions might have been made  
22 so feel free to ask me about that.

23 As one of the oldest and largest certifiers in the  
24 United States we have several issues that we're concerned  
25 about today. Like Harriet Behar's comments we're still

1 waiting for the program manual to come out from the  
2 department that has specific instructions on what we're  
3 supposed to abide by. We feel like we really need clear and  
4 consistent communication from the department and when new  
5 policies or implementation details change we need plenty of  
6 advanced notice with clear start and end dates.

7           We don't like hearing things in a certifier  
8 training that don't have a clear date of implementation,  
9 except as of that moment, and we don't like the same things  
10 posted on the website in an adverse decision on a case that  
11 we suddenly have to abide by. We like an announcement saying  
12 please start this as of this date and it takes -- our clients  
13 do not read websites every day. So, we figure it takes about  
14 six months to get a full notice out to all of our clients.

15           And that's a number of cases recently of suddenly  
16 things are different and we're supposed to do things  
17 different without appropriate notice. We also have some  
18 things to say about materials. We were the petitioner for  
19 the carbon dioxide and I've submitted the letter to Valerie  
20 to withdraw the petition. We're perfectly comfortable with  
21 you not taking it up at this time. We are trying to be  
22 proactive in case the Harvey situation did not get  
23 overturned.

24           We do, however, have problems with future decisions  
25 when we don't have a clarity on synthetic/non-synthetic

1 document and the ag/non-ag determination document. We also  
2 have a great deal of concern over this whole issue of  
3 changing the annotations in subset and you can imagine our  
4 confusion. You board members, I'm sure, are thoroughly  
5 confused, but, we've been trying for any number of years to  
6 change the annotation for aquatic plant products.

7           We would like to see this annotation change. We've  
8 gotten told that it needs a petition. Well, we do not have a  
9 commercial interest in any product. However, one of the  
10 commercial interests did petition and the petition did get  
11 swallowed up in the black hole of the NOP and so now we can't  
12 get it changed because it's part of restructuring the  
13 national list.

14           And restructuring the national list is sometimes  
15 it's in your court and sometimes it's in their court and we  
16 need to change some of these annotations. Some of these  
17 annotations date from 1994 and 95 and things have changed  
18 since then and some of the things, and the crops list in  
19 particular, because processing almost always has commercial  
20 interests that want to change things, but, with grower-based  
21 things a grower does not know enough information to file a  
22 petition and often we have a hard time representing what  
23 might be in the best interest of all the certifiers.

24           So, we urge you please to keep -- somehow figure  
25 out a process so annotations can be changed without it only

1 having to be the commercial interest. And please finish your  
2 work on the synthetic and non-synthetic document.

3 We want to support that you take up the cloning  
4 issue at this meeting and please try and have a vote. If you  
5 have to take out one paragraph don't let it hold up the whole  
6 thing. We thoroughly support the comments against cloning  
7 and we feel like you are so close you should be able to vote  
8 on something tomorrow instead of tabling it.

9 And I wanted to point out one teeny thing about the  
10 research proposal which is that you have a thing in that  
11 research proposal saying that parcels for research have to be  
12 on your certificates. Therefore, it has kicked into the  
13 certificate problem which does not have parcels on it right  
14 now and so that part probably needs to be changed.

15 And, lastly, for someone on the board yesterday  
16 expressed support of the organic seed variations on the  
17 websites for certifiers. Since certifiers don't customarily  
18 put the information into computers that would create a  
19 tremendous workload for certifiers that doesn't exist and we  
20 do oppose such a proposal while we encourage more use of  
21 organic seed if we can figure something out.

22 MS. CAROE: Thank you, Zea. Comments for Zea?

23 MR. DAVIS: I have a question.

24 MS. CAROE: Gerry.

25 MR. DAVIS: Zea, on the aquatic plant extraction



1 they had a change. What specifically did you mean by that?

2 MS. SONNEBRAND: Well, right now I don't have it in  
3 front of me because it's not on your agenda today, but, it's  
4 worded to allow a certain amount of extraction from basis but  
5 it doesn't cover all of the points that you'd want to have  
6 in, you know, a thorough annotation of what types of organic  
7 plant aquatic plant products are out there and when we do  
8 take it up, when it is able to be on the agenda, we'll be  
9 happy to provide you with some wording.

10 The petition that is being ignored is to put the  
11 stabilizing materials directly onto the national list as a  
12 stand alone item so, therefore, the aquatic plant product  
13 would not necessarily need to be on its own and that's one  
14 way of doing it, it's not the only way of doing it, but,  
15 that's why that got held up for the restructuring.

16 MS. CAROE: Thank you, Zea. Okay. Katrina?

17 MS. HEINZE: Is it possible to take a quick break  
18 sometime in the next half an hour?

19 MS. CAROE: Okay. One more and then we'll take a  
20 five minute, ten minute quick minute break. We have L.  
21 Monge.

22 MR. MONGE: It's L. Monge. The final "g" changes  
23 and sounds like an "h". It's M-O-N-G-E, Monge. That's fine.

24 Well, thanks for the opportunity to submit this public  
25 comment. Again, my name is L. Monge and I work with Dole

1 Fruit International. I live in Costa Rica and I made the  
2 trip from Costa Rica to Washington to speak on behalf of  
3 1,500 small banana farmers from Northern Peru. As you may  
4 know, organic culturing in developing countries is often  
5 associated with the small farmers. Primary organic crops  
6 produced by the small growers include coffee, cocoa, tea,  
7 fishes, and tropical fruits.

8           In America, many of the small growers starting  
9 farming their own land after the agrigarian reforms in the  
10 60's and 70's. Before that they were farming the same land  
11 as workers of the landlord large estate. With the agrarian  
12 reforms the large farm was divided in 1,000 of small plots  
13 and run by the new owners who continued farming the same  
14 crops in a more genus farming systems. It was the old  
15 landlord large farm became the small grower groups growing  
16 that we see today.

17           In Northern Peru, the provinces of Plura and  
18 Tumbes, there about 5,000 hectares of organic certified  
19 bananas, most of them grown by the small farmers with farms  
20 from 0.17 hectares to up to 20 hectares on an average of one  
21 hectare per farm or plot. Before the organic banana  
22 production there were no real options for the small farmers  
23 and their families and there was no hope and there was no  
24 future for them.

25           After the year 2000 the first organically certified

1 banana exports to international markets the farmers started  
2 receiving better prices for the product and their livelihoods  
3 started to improve. Today, their quality of life has  
4 improved tremendously. There are new and better schools.  
5 They can build new houses. They are getting access to things  
6 that only they see in their dreams.

7           The organic certified banana grower is being a  
8 major development drive in Northern Peru. The small growers  
9 are organizing groups under one management and marketing  
10 system. These groups market their products collectively.  
11 Their members belongs to the same geographical area. Their  
12 farms are one continuous orchard and their farming systems  
13 are very similar.

14           In many cases, all these micro farms used to be one  
15 single farms just four years ago. The grower groups's  
16 education concept plays an important role in the organic  
17 banana production in Northern Peru. Just to give an example,  
18 an extension of 20 hectares it's possible to find 20 or even  
19 more different farms with 20 or more different owners. This  
20 is how in 5,000 hectares of organic certified bananas in  
21 Plura and Tumbes it is possible to find 5,000 small farmers.

22           Five thousand small farmers plant hundreds of  
23 inspection days per year which are currently conducted and  
24 recorded by the internal control system of the organization.  
25 The NOP certification bodies are inspecting each small grower

1 group as outlined for the certification of grower groups by  
2 the NOSB recommendation as of October 20, 2002.

3 Policies and procedures are in place for  
4 determining how many smart growers must receive an annual  
5 inspection by the certifying agent, documenting in each case  
6 in order to get the number of growers to be inspected, taking  
7 into account the number of operations in the grower group,  
8 the size of the average operation in the grower group, the  
9 degree of uniformity between the growers group operation, the  
10 complexity of the group production system and the management  
11 and structure of the group's internal control system.

12 Now, that recently the NOP has pronounced itself  
13 requesting the inspection of 100 percent of the plots of the  
14 small grower groups. This will imply a significant increase  
15 in the number of available certified inspected small grower  
16 groups, in the certification cost, and will reduce the  
17 importance of the internal control system.

18 This interpretation from the NOP substantially  
19 affects the operations of thousands of non-grower groups in  
20 Africa, Asia, and Latin America and substantially affects the  
21 viability of the supply of organic group certification and  
22 the supply of the organic goods produced by such groups.

23 Therefore, hereby, we from Dole ask the NOSB to  
24 insist that the NOSB adopts its recommendation from October  
25 20, 2002 regarding the criteria for certification of grower

1 groups in order to avoid a situation where thousands of the  
2 small farmers in the tropics will be affected by regulation  
3 and may assist only for large farms.

4           And, finally, I have three questions. Number one  
5 is why hasn't the NOSB recommendation been adopted by the NOP  
6 yet? Number two is, when we can expect that this  
7 recommendation will be adopted, and number three, what kind  
8 of actions we, the growers in the tropics, can perform or we  
9 can be doing in order to support your job as the NOSB in  
10 order to get this done? Thank you.

11           MS. CAROE: Thank you. Comments from the board?  
12 Joe.

13           MR. SMILLIE: We will -- this will be on the work  
14 plan of current certification, accreditation, and compliance  
15 committee. I can't answer the first two questions. Those  
16 would have to be asked to the NOP. The third question as to  
17 what you can do, I think one of the real challenges here, I  
18 mean, it's ironic that we're supporting a return to the  
19 Astoncia system. It is not the way we thought this was going  
20 to go and we don't want it to go that way so I think the NOP  
21 is enforcing 205.403 and they have good regulatory ground to  
22 do so because there has been abuses.

23           I think what we all have to do is show how these  
24 abuses will be corrected with the NOSB recommendations. So,  
25 whatever documentation you have on the effectiveness of the

1 internal control system is probably going to be the most  
2 help.

3 Now, whether this is going to be a regulatory  
4 battle, I don't think so because the NOP is enforcing their  
5 interpretation which is a correct interpretation of 205.403.  
6 That doesn't mean it's the only correct interpretation but  
7 theirs is correct so they're not wrong and it's not new.  
8 It's come to their attention because of the fact that it has  
9 been abused and there's no question of that and now we need  
10 to correct that abuse with another correct interpretation of  
11 205.403 as my personal belief and our committee will take it  
12 up and as a committee recommend it to the board.

13 We already have an NOSB recommendation that is also  
14 the practice of the NOSB to honor previous NOSB  
15 recommendations so I would imagine, although it's not my  
16 prerogative but we will be asking those two questions that  
17 you asked of the NOP ourselves. Of course, the NOP, we're  
18 always open for any comment they might have.

19 MS. CAROE: Kevin, did you have a question? Rigo?

20 MR. DELGADO: Waiting for Marks' response to the  
21 first two questions from the gentleman from Peru.

22 MR. BRADLEY: It's awfully quiet in here. As we've  
23 discussed this with the board at length and the regulations,  
24 we are required to enforce the regulations. The program has  
25 not responded to that portion of the group's recommendation

1 because it does conflict with the regulations as they exist  
2 but we will work with the board to clarify what the  
3 requirements are and we've worked with certifiers in the  
4 training sessions on what options are available on this, how  
5 they can meet the requirements of the regulations and still  
6 have the grower groups enjoy the advantages, the timings of  
7 scale that are important for small developing countries so  
8 there will be lots of talk on this and we're looking forward  
9 to working with the board on it.

10 MR. DELGADO: Madam Chair, I have one question.  
11 I'm trying to imagine your producers, small scale, one  
12 hectare which is about two acres. It's very small. Are you  
13 as Dole charging those farmers for the actual certification  
14 of their land or how does that work?

15 MR. MONGE: It's a mixed system. There are groups  
16 that are organized by themselves. They pursue their own  
17 certification so they pay for their certification and there  
18 is also a members of farmers that are organized with us so we  
19 pay for their certification too so it's a combination of two  
20 systems. And you can see them at [Doleorganic.com](http://Doleorganic.com) and you go  
21 to Peru and then you can see them or Google it. It's nice.

22 MR. DELGADO: Thank you.

23 MS. CAROE: Any other comments? One more?

24 MR. SMILLIE: I just wanted to point out to Rigo,  
25 as a certification person, the person who pays for the

1 certification owns the certification so, again, the  
2 independence of these growers in paying for their own  
3 certification means they can sell anybody. Otherwise it's  
4 back to the old 1950's and area fruit company.

5 MR. DELGADO: I was just curious to see if Dole was  
6 working with these farmers and there was some kind of  
7 incentive to bring them over and promote it. That's all.

8 MR. MONGE: And, in fact, we helped them to develop  
9 their own control systems.

10 MS. CAROE: I hope you found your five minutes  
11 satisfying for that trip from Peru.

12 MR. MONGE: Absolutely.

13 MS. CAROE: Thank you for coming. And stay tuned  
14 for more information on that. It is on our list.

15 MR. MONGE: I will. Thank you.

16 MS. CAROE: So, at this point I'm calling for a ten  
17 minute break and before I go is David Guggenheim here?  
18 David, you will be next up. I don't think I have anybody on  
19 deck. Let me just make sure. We've got twenty more. Just  
20 relax yourself.

21 So, David, you will be next. And then Marty Mesh  
22 is on deck.

23 (Whereupon, a brief recess was taken)

24 MR. GUGGENHEIM: Good evening and thanks for  
25 staying late and thanks for this opportunity to provide



1 public comment. For the record, my name is Dr. David  
2 Guggenheim. I am an independent consultant based here in  
3 Washington and project consultant for Aquaculture  
4 Development. It's a Pittsburgh-based aquaculture company  
5 dedicated to sustainable aquaculture and the development of  
6 closed recirculating systems in the Americas.

7           For four years I served as vice-president for  
8 conservation policy at the Ocean Conservancy, the leading  
9 U.S. NGO indicated exclusively to ocean conservation and  
10 during my tenure there it became very clear that over-fishing  
11 and destructive fishing practices ranked among the gravest  
12 threats to ocean ecosystems.

13           And at one meeting I was asked why we in the  
14 conservation community were seemingly always opposed to  
15 aquaculture. Well, aquaculture potentially can represent one  
16 of the more important solutions to the problems of over-  
17 fishing on wild fish populations and, you know, I really took  
18 that question to heart and, in fact, much of what we did was  
19 policing rather than promoting aquaculture.

20           So, two years ago I left the Ocean Conservancy and  
21 I've been dedicating my career to solutions in ocean  
22 conservation, especially in aquaculture. And I also came to  
23 the conclusion that closed recirculating systems are by far  
24 the most sustainable of aquaculture practices. I've recently  
25 returned from extensive travel overseas, including Malaysia

1 and Denmark to see firsthand state-of-the-art recirculating  
2 systems in action used by our technology partners, namely  
3 Uni-Aqua in Denmark and Fish Protech in Australia. And these  
4 systems are impressive. They really, in my opinion, afforded  
5 me a glimpse of the future of truly sustainable and scalable,  
6 profitable closed land-based systems that are sustainable.

7           So, it's with this background and perspective that  
8 I respectfully offer my comments today very briefly on three  
9 points. The first being on the topic of closed systems.  
10 Because of the level of control that you achieve in closed  
11 systems we believe that they are in the best position to  
12 fulfill organic requirements both from an environmental and  
13 from a human health perspective. Closed systems have clear  
14 and dramatic advantage over other forms of aquaculture in  
15 addressing the majority of environmental concerns.

16           They can completely address the problems of water  
17 pollution, coastal habitat alteration, disease and escapement  
18 and further properly managed systems never need the use of  
19 antibiotics, chemicals, or hormones. But, all forms of  
20 aquaculture, including closed systems, have one great  
21 challenge and that is the use of fish meal for raising  
22 omnivorous species.

23           But, closed systems do have a profound advantage in  
24 this venue as well and that is tremendous efficiency because,  
25 again, because of the level of control over their

1 environment. Our technology partners are demonstrating food  
2 conversion efficiencies more than ten times higher than  
3 comparable open systems meaning that less than one-tenth of  
4 the feed and, therefore, less than one-tenth of that wild  
5 fish component is required per unit of fish grown.

6 Conversion ratios of less than .8 have been  
7 demonstrated in real world conditions for baramundi and  
8 halibut among other species in climates ranging from tropical  
9 to more than temperate. Closed systems have many other  
10 advantages as well, but, I don't have time to talk about.

11 Second point relates to feed. I've lost track of  
12 where the board is on feed since I wasn't here yesterday,  
13 but, we do support the use of wild feed over a period of time  
14 during a phaseout. The closed systems, even the most  
15 advanced ones, haven't cracked that just yet on how to have -  
16 - not use wild feed and fish meal, but, we do believe that  
17 efficiency is a key metric that the task force and board  
18 should use.

19 And, finally, on the point of stocking density.  
20 The current draft language refers to the natural behavioral  
21 characteristics of the species and while they're acceptable  
22 and understood metrics for determining physical health of  
23 those species we see that natural behavioral characteristics  
24 is more problematic so we ask you to take another look at  
25 that.

1           Sorry, I went over.

2           MS. CAROE: Thank you. Kevin.

3           MR. ENGELBERT: Very quickly, could you go over  
4 your closed system as opposed to an open one.

5           DR. GUGGENHEIM: I'm sorry. A closed system is a  
6 system that recirculates its effluence so the systems that  
7 we're working with are closed to the outside environment.  
8 They're land-based, often land-locked, nowhere near a coast,  
9 and recirculate between 97 and 99 percent of the water and  
10 other compounds within that facility.

11          MR. ENGELBERT: Thank you.

12          MS. CAROE: Jeff and those Joe.

13          MR. MOYER: Those facilities are often indoors, is  
14 that correct?

15          DR. GUGGENHEIM: Yes. I mean, they are completely  
16 enclosed with a roof.

17          MR. SMILLIE: Are the fish species raised there  
18 speciferous?

19          DR. GUGGENHEIM: Yes. Yes.

20          MS. CAROE: Any other comments, questions?

21          DR. GUGGENHEIM: They don't have to be. I mean,  
22 it's both. You can raise talapia indoors in these systems as  
23 well as speciferous but these are market driven decisions to  
24 raise those fish.

25          MR. ENGELBERT: How many years have you been

1 accomplishing this, raising these fish like that? How many  
2 years experience do you have doing this?

3 DR. GUGGENHEIM: I'm fairly new to aquaculture. As  
4 I've mentioned, I come from the conservation business myself;  
5 spent a decade in various -- the Ocean Conservancy and other  
6 NGO's. But, this technology has existed for more than 15  
7 years in commercial operation, especially in Australia, and  
8 has been commercially successful for a long time. So,  
9 there's a long track record of this sort of technology.

10 MR. ENGELBERT: Thank you.

11 DR. GUGGENHEIM: Thank you.

12 MS. CAROE: Any other comments or questions from  
13 the board? Thank you. Marty, you're up and on deck, Steve  
14 Gilman, are you here? Steve? Steve Gilman?

15 (Discussion off the record)

16 MS. CAROE: Steve is not doing. Marty is tomorrow.  
17 Julianne Mayo, are you here?

18 MS. MAYO: Yes, I'm here.

19 MS. CAROE: Julianne, you're up. And Richard  
20 Martin, are you here? Richard, you're on deck.

21 MS. MAYO: Hopefully I won't even take the five  
22 minutes. I'm Julianne Mayo, for those of you who don't know,  
23 from Ocean Nutrition Canada and in the regulatory affairs  
24 department there and am visiting Washington from Nova Scotia.  
25 I'm from the other coast of Canada.

1           Basically, you guys talked about fish oil today and  
2 the recommendation on the fish gelatin so I just wanted to  
3 put it very quickly into context for the board members or the  
4 public who might not know where that petition kind of came  
5 from and offer the chance for any questions that you might  
6 have.

7           Basically, Ocean Nutrition has only been operating  
8 in the organic sector for about a year, year and a half, so,  
9 we're relative novices to this arena and I've got to say  
10 we're having fun. It's been a really busy year, year and a  
11 half for that part of our business. So, about a year and a  
12 half ago we reformulated a fish oil product so that it could  
13 be compliant in the five percent non-organic portion of  
14 certified organic products.

15           In that process we consulted from the very early  
16 stages with the NOP. We worked very closely with QAI and  
17 with Stoney Field to reformulate a product that would be  
18 fully compliant and meet the needs of customers that were  
19 operating organically. So, that's kind of the context of  
20 where we came from.

21           With the changes in the regulations, obviously we  
22 needed to get fish oil and fish gelatin on 606 as agriculture  
23 ingredients when we didn't need that when we started a year  
24 ago. So, Ocean Nutrition Canada, Ltd. is a manufacturer of  
25 fish oil for human consumption and uses fish gelatin in a

1 processing of certain fish oil powder products. ONC would  
2 like to take this opportunity to thank the NOSB's handling  
3 and materials committees for their recommendations to add  
4 fish oil and fish gelatin to Section 205.606 of the national  
5 list of allowed and prohibitive substances.

6 I was very excited that Dave was tracking the  
7 website hourly to see what the recommendations would be. So,  
8 thank you for making my day, my year, it was great.

9 Just a couple of very quick comments. The handouts  
10 were made this morning before the recent chat so a lot of the  
11 comments are a little bit redundant now. Fish oils used in  
12 handling organic and agricultural products. It's an  
13 ingredient that serves to increase the omega-3 contents,  
14 specially EPA and DHA of organic products. Fish oil from ONC  
15 is not an organic product itself, as you guys will be well  
16 aware, it is food grain, grass, and intended for human  
17 consumption. Fish oil is not commercially available in  
18 organic form as we know because there are no current  
19 standards.

20 Also, as everybody's been pointing out, this is  
21 like the change in the future. We're moving towards that.  
22 Fish oil derives from fish. Ours actually comes from the by-  
23 product of the Peruvian fish meal industry. So, no fish are  
24 harvested for the purpose of creating the oil. It's simply  
25 the by-product from the fish meal.

1           Definitions, of course, have started to come out  
2 more focused towards the aquatic systems as a result of the  
3 aquaculture working groups so we are very excited to see  
4 that. It more clearly defines fish as agricultural products.

5     Fish oil for human consumption is typically manufactured  
6 using alcohol refining which is sodium hydroxide based,  
7 filtration, bleaching, which is plain carbon and  
8 deodorization. It's a very mechanical process. There's no  
9 chemical change to the oil.

10           Fish oil can be derived -- delivered in its liquid  
11 oil form or can be made into a fine powder product using  
12 gelatin. It's high omega-3 polyunsaturated fatty acids.  
13 Many international health authorities have agreed on the  
14 beneficial effects of fish. The use of fish oil in organic  
15 products is necessary in order to deliver the health benefits  
16 provided by fish oil to organic consumers, particularly in  
17 the absence of a current organic fish standard.

18           Further, the addition of fish oil to 606 allows the  
19 continued use in organic products which will allow organic  
20 products to maintain a competitive position as similar  
21 conventional products, many of which are fortified with fish  
22 oil omega-3 ingredients.

23           So, for the fish gelatin I only had one question.  
24 I just wanted to forego the rest of the comments on that. Do  
25 I have it clear that fish gelatin would fall under the



1 previous recommendation for gelatin and as such there won't  
2 be a vote tomorrow? Is that how that works? I just wanted  
3 to say thanks and it's absolutely lovely to see regulations  
4 that keep pace with innovation and it's something we fight in  
5 our industry and you guys did a great job on this one and  
6 we're very pleased to see that.

7 MS. CAROE: As far as just a point of procedure, we  
8 do have a recommendation that encompasses fish gelatin as  
9 gelatin overall and like Kim Deitz pointed out that fish  
10 gelatin as well bovine were all considered in that so that  
11 recommendation is going to move forward to the program just  
12 like all of the rest of our recommendations will.

13 MS. MAYO: So the actual vote.

14 MS. CAROE: The actual vote. It's voted and passed  
15 already, but, you know, it does have to go through channels  
16 at that point so we'll watch it.

17 MS. MAYO; That's great.

18 MS. CAROE: Any other questions or comments from  
19 the board? Thank you for your comments.

20 MS. MAYO: Thanks guys.

21 MS. CAROE: We have Richard Martin up next and then  
22 John Cardoux. John, are you here?

23 MR. CARDOUX: Yes. I'm going to go tomorrow.

24 MS. CAROE: Tomorrow. You deserve a cookie. How  
25 about Barbara Blakistone, are you here? Barbara? She's not

1 here. How about Buffy Bauman? Buffy, are you here?

2 MS. BAUMAN: I'll go tomorrow.

3 MS. CAROE: We're winning. M.J. Marshall. She's  
4 gone. All right. Will Fantle, are you still here, Will?  
5 You spoke for a proxy. Okay. So he's not here. Liana, are  
6 you here? Marty, are you going to find her for us? Okay.

7 MR. MARTIN: I'll make this as fast as I can. I'll  
8 beat your timer. I'll really go. I need to catch a plane as  
9 well. Richard Martin. I hold a degree in marine biology.  
10 And I own Martin International Corporation and Export  
11 Company. I've been involved with aquaculture for 27 years  
12 and I thank the board for hearing me out. I'll be as quickly  
13 as I can.

14 Neil Simms kind of said everything I was going to  
15 say. He and I should have consulted before I made the trip  
16 down because he's stole my thunder so I'll just hit a few  
17 points, especially about the livestock recommendations and as  
18 they're stated now which I think is a key important  
19 discussion to make.

20 I recognize the livestock recommendations is a  
21 positive step forward but a step and they're not yet really  
22 comprehensive with the two exemptions but if you do delay  
23 moving on fish meal, oil, and net pens until October let's  
24 use those six months in the most effective way we can, as  
25 Neil said, not in an emotional manner, but, let's get to some

1 science, let's make some visitations or have a symposium  
2 that's really, really essential.

3 I'll cite two of the livestock proposals that you  
4 had included very quickly, the standard 205.2.2, paragraph C,  
5 aquatic animals must be provided with their natural foods.  
6 Also cite paragraph E, non-synthetic and synthetic substances  
7 allowed under 205.603 may be used as feed additives in  
8 supplements and additionally standard 205.253, 1 and 2, the  
9 producer of an organic aquatic animal shall not provide feed  
10 supplements or additives in amounts above those needed for  
11 adequate nutrition and health maintenance to species at a  
12 specific stage of life. All of these kind of allude to or  
13 looks as though they allow the use of fish meal and oil or  
14 move in that direction.

15 I'm speculating that livestock committee's  
16 confusion over the inability to differentiate between wild  
17 fish and organic feed is as simple as the influential  
18 understanding of the basic difference between a product claim  
19 and a processed claim. The livestock committee should not  
20 consider or identify fish meal as wild substance unless it  
21 also considers inclusion of wild vegetable matter such as  
22 grass, weeds, seeds, or insects in terrestrial organisms.

23 The livestock committee should prescribe a separate  
24 rule for feed which defines an organic process by which the  
25 feed components are obtained and processed and, secondly,

1 considered the process by which the actual creature is raised  
2 utilizing that feed. In the EU, that's what they've done.  
3 They separated out the two. They certified the process for  
4 feed, they certified the process for growing the animal.

5           In terms of inherent organic principles the use of  
6 fish meal and oil are also in compliance with the base  
7 principle or the preservation of biological capital and the  
8 recycling of highly valuable omega-3 equity. A lot of their  
9 adversarial positions say this is a net deficit in the  
10 conventional system it is. In the organic system we're using  
11 recycled fishery waste products is 100 percent gain. These  
12 products would be thrown away or utilized as pet food,  
13 fertilizer, other extenders, and they're not used for human  
14 food so to take recycling of fish waste and turn it into a  
15 human food that's very, very good for human beings is 100  
16 percent gain.

17           I know that I won't get into the ocean closures.  
18 That's for October. I'd just make the comment that the  
19 committee's proposal failed to address three of the most  
20 important points that differentiate between organic and  
21 conventional aquaculture. Those are density which relates to  
22 net culture, but, nonetheless stocking densities is a key  
23 issue in reducing parasite movement, in reducing  
24 environmental impact, and reducing or improving the overall  
25 health of the system.

1           Also, site-specific regulations. Location,  
2 location, location is so important that you don't put farms  
3 just anywhere. There are places where there's more sea life  
4 than others. There's places where there's more predators  
5 than others. So, when you're certifying a farm where it  
6 resides is as much part of -- it should be part of the  
7 standard as what it's doing.

8           The third is single year class crop locations, base  
9 based principle for those who are in agriculture it's the  
10 same principle. You don't keep farming the same spot year  
11 after year after year after year. The EU principle is  
12 requiring single year class crop rotation. That also  
13 mitigates parasite transfer, disease, environmental impact,  
14 it reduces the overall footprint. Those were not in the  
15 standards that I read and I think they should be heavily  
16 considered going forward.

17           Ocean culture is not exclusively open or more open  
18 than the terrestrial culture. All farmed animal culture is  
19 open. Avian flu and hoof and mouth disease are clear  
20 examples of just open terrestrial culture is and I say  
21 actually that our kind of culture provides a barrier for a  
22 lot of human transfer that is not available in terrestrial  
23 but it's not exclusively open whereas land-based is not.  
24 Thank you very much. Have a good evening, everyone.

25           MS. CAROE: Questions? Bea?

1           MS. JAMES: Could you explain the advantages of  
2 having separate certification of feed and process? I mean,  
3 how do you see that as being a better process?

4           MR. MARTIN: I don't think it's a better process. I  
5 think it brings you to the point of the discussion.  
6 Remember, we're discussing organic principles and I'm talking  
7 the way people outside the industry and they say what is an  
8 organic product and I go through this discussion of what a  
9 process is.

10           What they've done in the EU is to describe a  
11 process by which the food is realized or recognized as an  
12 organic feed. That then becomes a part of the process of  
13 raising the animal. You can't raise an organic fish without  
14 an organic feed but what constitutes organic feed and they  
15 have a whole list of principals such as recycling of fish  
16 trimmings, 100 percent certified vegetable binders, pigments  
17 that are natural. They use all those components to create a  
18 process by which the feed is described.

19           MS. JAMES: And you don't feel that that was  
20 accomplished in the recommendation?

21           MR. MARTIN: No. Well, fish meal and oil was  
22 pushed forward for future consideration, but, I'm saying in  
23 the future consideration breaking that out is a separate  
24 process would be recommended.

25           MS. CAROE: Joe?

1 MR. SMILLIE: Do we have your comments in writing?

2 MR. MARTIN: Yes.

3 MS. FRANCES: They're in your book, your main book.

4 MR. SMILLIE: Okay. Great. The points that you  
5 make on the differences I think that that's one thing that  
6 we, you know, we're going to move forward with the  
7 recommendation as it stands now but I think in the future we  
8 would want to incorporate that because one of the real issues  
9 coming up will be what is the difference between organic  
10 aquaculture as it's being proposed and conventional because a  
11 lot of the criticisms we hear are really directed against  
12 conventional agricultural and not with some of the issues  
13 that you brought up and I think that that's what the whole  
14 purpose of the next round of discussion's going to be is to  
15 get down to those differences.

16 MS. CAROE: Any comments or questions? I have a  
17 couple of quick things to say. For you folks in the  
18 aquaculture that are coming into organic you don't get the  
19 full history of where we are with feed in this regulation.  
20 This is a regulation that is a marketing regulation and it  
21 considers public policy in its development. We've had  
22 situations where there has been suggestions that leniency on  
23 feed requirements would stimulate the industry's growth.

24 It brought about quite a bit of very passionate  
25 helpful comment. So, this is an area that is very tricky for

1 this industry to deal with because we've heard the public say  
2 to us when it comes to organic, organic feed is necessary.  
3 The only reason that it was even considered to offer  
4 something in this situation was this is a new component to  
5 this industry and it was only for a temporary allowance.

6           So, anyway, so it's not that we don't understand  
7 what you're saying. It's just that there's more to the  
8 picture than what's here and now and it really is kind of the  
9 last ten years which you don't have the ability to really be  
10 part of. And, just another little clarification. The  
11 recommendation does not disallow the use of fish meal and  
12 fish oil, just disallows the use at this time of non-organic  
13 fish meal and fish oil.

14           MR. MARTIN: I understand. I think it's also safe  
15 to point out or good to point out that at least in the world  
16 of aquaculture that industry is coming to a close in terms of  
17 expansion. It's hit a plateau. And that's important to  
18 note. It's not just ever expanding and going crazy, it's  
19 not. It's coming to an end and part of that is feed.

20           You can't produce more feed, you can't grow more  
21 fish. So, the technology will come and pick up behind.  
22 Competition creates good technology and innovation. That's  
23 going to happen. We'll find solutions to that. But, also, in  
24 the meantime the world population is growing. The demand is  
25 growing hand over fist. There's not enough already and we



1 have to find ways to create systems that improve what we have  
2 going forward to give to humanity as well as the system  
3 itself.

4 MS. CAROE: Dan.

5 MR. GIACOMINI: I think I remember from a prior  
6 testimony you gave before us where you were describing that  
7 essentially you can't feed corn oil to fish.

8 MR. MARTIN: Right.

9 MR. GIACOMINI: With the current recommendation we  
10 have and we even had one grower, one aquaculture person today  
11 say that they're growing their fish for feed, the type of  
12 fish that you would see qualifying under regulations that we  
13 have used and ground and used as feed, and we're not getting  
14 into the environmental footprint that that might have, would  
15 they be of a high enough grade, for lack of a better term, to  
16 be a meal and oil source for some of the other species we're  
17 looking at?

18 MR. MARTIN: Oh, absolutely. The question, Dan, is  
19 when can you get there. When will that industry be growing  
20 enough to make the feed for the next step in the industry and  
21 on a commercially viable scale. I think that the commercial  
22 viability is going to happen before the practical, you know,  
23 application can bring, for example, talapia grown to the  
24 extent that you can create the kind of fish meal you're going  
25 to require for just the existing industry as it stands.

1           I think it's something that it really has to be  
2 facilitated. It's an absolute necessity, not as an exclusive  
3 source, but, as another source where we're growing feed to  
4 grow fish. Absolutely.

5           MS. CAROE: Any other questions from the board.  
6 Thank you again.

7           MR. MARTIN: Thank you very much.

8           MS. CAROE: All right. Going backwards a little  
9 bit.

10                           (Discussion off the record)

11           MS. CAROE: Okay. Bob Smiley. Bob, are you here?  
12 Okay. All right. How about Steven Craig, are you here? You  
13 are the last commentor for today.

14           MR. CRAIG: Well, I won't say the usual say, saving  
15 the best for last, but, my name is Steven Craig. I'm a fish  
16 nutritionist from Virginia Tech Aquaculture Center. So, I'm  
17 kind of the guy that steps into the breach with all this fish  
18 meal, fish oil discussions. I'd like to thank George  
19 Lockwood and the other people at the task force. They did a  
20 marvelous job trying to get something to you guys.

21           I think it's important that we have some movement  
22 that was discussed this morning. The industry needs it. We  
23 need to see something moving forward mainly so that we can  
24 protect the notion of organic aquaculture. It's the wild west  
25 out there and until we have something moving on the USDA

1 level it's just going to go out of control and I've got to  
2 worry about the protection of the notion of true organic  
3 aquaculture.

4           So, I think, you know, you basically side-stepped  
5 the two really controversial elements of the proposal so I  
6 think certainly it deserves a positive recommendation side-  
7 stepping those events for a little bit. But, as Neil said  
8 very eloquently earlier, you know, we need movement, we need  
9 to solve these problems. We can solve these problems.

10           We've grown shrimp, marine shrimp for the last  
11 three years on a commercial level with no fish meal, no fish  
12 oil in these diets using certified organic protein sources.  
13 Just last month out of my lab we produced the first kobia  
14 which is carnivore pisovore equal to the salmon on a total  
15 fish meal, fish oil free diet. We can do these things, but,  
16 we need to protect the notion of organic while we're catching  
17 up.

18           Another point I'd like to make it's all about  
19 sustainability. Traditional aquaculture is moving away from  
20 fish meal because of sustainable issues. Now, if you factor  
21 in the organic aspects of that, to me it makes sense to move  
22 away from the relaxed all fish meal, it's certainly a big  
23 part of our program at Virginia Tech is alternate protein and  
24 research in high level marine carnivores. One final thing I  
25 would like to say is, you know, the salmon guys, they're an

1 easy whipping boy, they dd a lot of bad things for a long  
2 time, they've gotten a lot better. They've reduced their fish  
3 meal and fish oil consumption quite dramatically over the  
4 last fifteen years. What I'm worried about is seeing other  
5 carnivores suffer because of the salmon reputation. And by  
6 that I mean the fish I work with, so I'm urging you not to  
7 make these regulations for herbivores or omnivores but not  
8 carnivores, I would say if the fish can get in under  
9 granulation studies, no matter what it is, it shouldn't be  
10 certified organic and so with that, I would love to buy you  
11 all a cocktail, but I have to get home, so I appreciate your  
12 time.

13 (Discussion off the record.)

14 I certainly appreciate your effort you guys put forth, I  
15 thought academics like me would put you all at rest. And  
16 I'll take any questions if you have them.

17 MS. CAROE: Thank you for your comments. Are there  
18 any comments from the board? Joe?

19 MR. SMILLIE: Yes, the topia is a piscovorous fish  
20 used on an experimental basis on feeding a non-fish meal,  
21 non-fish oil, where did the omega-3 come from?

22 MR. CRAIG: We're working with a U.K. company  
23 called Sea Bay, they're growing myriad worms, un-organic  
24 certification by the British Coral Association, it's a Marine  
25 protein source that supplies the EPA-DHA. The technology is

1 still moving, I mean the Malvoso Group may be a nice organic  
2 food certified for the EPA-DHA, so there are other sources  
3 out there, it coming, it's going to get there, you know, it  
4 should be hard to do an organic marine carnivore, I mean,  
5 don't make it easy, you don't want everybody doing it, and  
6 it's going to be costly, but don't shut the door on them  
7 because the research is trying to catch up.

8 MR. SMILLIE: Before we table one or two of the  
9 contentious sections, one of the compromises we were working  
10 on, unfinished business, we wanted to talk about your work,  
11 you know, a drop dead date for the period of use of fish meal  
12 and fish oil. As a specified crop, you know, for the industry  
13 a few times. Maybe we'll bring that back to the table once we  
14 get to something

15 MR. CRAIG: Please do something out there us, it's  
16 hard to keep people invigorated, again George and his group  
17 does a fantastic job, incredible amount of hours put into  
18 this, so we just need to move forward for us, so we can keep  
19 the momentum going.

20 MS. CAROE: Thank you for your comments. We  
21 appreciate it and the commission needed to hear that  
22 information. Do you have that in writing, or contact  
23 information?

24 MR. CRAIG: No I haven't, I'm on the no-Ag, but I  
25 can be -- I did not make a public comment on it. Who would I

1 send that to?

2 UNIDENTIFIED SPEAKER: The more help we get the  
3 better.

4 MR. CRAIG: Thank you very much.

5 MS. CAROE: Any further comments or questions? I  
6 want to remind the board before we recess for the day that  
7 Committee Chairs need to make sure that your recommendations  
8 are complete and are there for tomorrow, you need to make a  
9 vote. We have a vote for tomorrow, so -- Any other business,  
10 is that it for now? All right, we're in recess until 8:00am.

11 (Whereupon the proceedings were suspended.)

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% Digitally signed by Teresa S. Hinds

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NATIONAL ORGANIC STANDARDS BOARD MEETING - DAY 2

A handwritten signature in black ink, appearing to read "Teresa S. Hinds". The signature is written in a cursive, flowing style.

By:

Teresa S. Hinds, Transcriber