

UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD MEETING

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Monday, May 4, 2009

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The National Organic Standards Board met in the Franklin and Adams Rooms in the Washington Plaza Hotel, 10 Thomas Circle, Washington, D.C., at 9:00 a.m., Jeff Moyer, Chairman, presiding.

PRESENT:

JEFF MOYER, Chairman
DAN GIACOMINI, Vice Chairman
JULIE WEISMAN, Secretary
KATRINA HEINZE, Member
GERRY DAVIS, Member
TINA ELLOR, Member

BARRY FLAMM, Member
TRACY MIEDEMA, Member
JOE SMILLIE, Member
STEVE DeMURI, Member
BEA JAMES, Member
KEVIN ENGELBERT, Member
HUE KARREMAN, Member

STAFF PRESENT:

VALERIE FRANCES, Staff
BARBARA ROBINSON, Staff
RICHARD MATTHEWS, Staff
DEMARIS WILSON, Staff

ROBERT POOLER, Staff

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1 PROCEEDINGS

2 (9:05 a.m.)

3 CHAIRMAN MOYER: Good morning,
4 everybody. I'd like to officially call the
5 May 4th meeting of the National Organic
6 Standards Board to order.

7 We have a quorum. The Board
8 members are all seated, and I'd like to get
9 directly to the business of approving our
10 agenda.

11 We have an agenda that was
12 presented to the Board members. It was
13 presented to the program and posted for the
14 public to view. So at this time what I'd like
15 to do is ask the Board if somebody would make
16 a motion to approve our agenda.

17 MEMBER ELLOR: So moved.

18 CHAIRMAN MOYER: Tina made a
19 motion.

20 SECRETARY WEISMAN: I'll second.

21 CHAIRMAN MOYER: And Julie
22 seconded that. Any discussion about the

1 agenda or changes? Anybody see anything wrong
2 with it?

3 (No response.)

4 CHAIRMAN MOYER: Not hearing
5 anything, I'll call for a vote. All those in
6 favor of approving the agenda say aye.

7 (Chorus of ayes.)

8 CHAIRMAN MOYER: Opposed?

9 (No response.)

10 CHAIRMAN MOYER: Hearing none, we
11 have an agenda. Thank you, everybody.
12 Appreciate that.

13 What I'd like to do is welcome
14 everybody to this meeting, members of the
15 Board, program staff that's in attendance, and
16 the general public seated in the gallery. On
17 behalf of the entire Board, we appreciate you
18 all being here.

19 For me I have to say it's a real
20 honor to sit on this Board today. We've been
21 extremely busy over the past few months
22 working very diligently on the items that you

1 see in the agenda that we've just approved,
2 and like every working session before us,
3 we've spent literally hundreds of hours on
4 conference calls and countless more hours
5 reading, writing, and thinking about the
6 complex issues that we're going to be
7 discussing over the next three days.

8 And while some of you will agree
9 with things that we vote on and some of you
10 will not agree with things that we vote on, I
11 can assure you that the members of this Board
12 have worked tirelessly and put their best
13 effort forward, and I'm extremely proud of
14 this Board and the work that we've
15 accomplished here.

16 And my time is up.

17 (Laughter.)

18 CHAIRMAN MOYER: We've recorded
19 and posted, I believe, Valerie, over 400
20 written comments for the Board members to read
21 and educate themselves with, and we expect to
22 have dozens of comments here over the next

1 three days or two days given in person. So
2 it's clear that you, the members of the
3 extended organic community have also been
4 doing your work, and we appreciate that and
5 all the effort that you've made to stay
6 connected to the issues that are in front of
7 this Board.

8 I will say as the organic industry
9 matures, it is becoming increasingly more
10 difficult to find a balance between the
11 integrity of the word "organic" and the desire
12 for the industry to grow and produce and make
13 new products in new product areas.

14 Words like "nanotechnology" and
15 the concept of linking organic to the cosmetic
16 industry weren't even in the equation when the
17 law was passed however many years ago, but
18 today these are real challenges to this Board
19 and to the program.

20 The organic industry faces new
21 challenges. Several Board members I know have
22 been deeply involved in some of these

1 challenges. To date over a dozen food safety
2 bills have been introduced into Congress.
3 From traceability to the FDA and USDA
4 reorganizations, these pieces of legislation
5 take various approaches to reforming the food
6 and food safety system.

7 In recent weeks there's been a
8 great deal of misinformation circulated about
9 the impact that some of these bills would have
10 on our industry, and I know that the Organic
11 Trade Association has been engaged in some of
12 these issues and has been sending out
13 information assuring folks that are members of
14 the OTA that these major bills that have bene
15 introduced would not put an end to the organic
16 industry as some of the critics have claimed.

17 By the same token, organic
18 certification does not nor is it intended to
19 be a substitute for compliance with the
20 weather and the spirit of good agricultural
21 practices and good manufacturing practices
22 that insure safe food for consumers.

1 So I look forward to discussing
2 how the organic standard can support new and
3 existing practices that help insure the safety
4 standard consumers have every right to expect.

5 As an industry, we have seen
6 serious issues of fraud and cheating over the
7 last several months. Many of you are aware of
8 that, pointing to the need for continued
9 vigilance, and we all have a role to play.
10 It's important for us all to step up and
11 protect the integrity of the word and the
12 meaning of the word "organic."

13 Improving consumer confidence in
14 the food industry is paramount to this Board,
15 and if we all do our jobs, we can minimize the
16 impact of organizations and individuals that
17 they might try to have whose efforts are
18 counterproductive to the mission of this
19 Board.

20 In light of this, our industry
21 continues to shine as a beacon light in an
22 otherwise failing food system. Data from

1 research around the country now is conclusive
2 that organic production systems not only
3 produce high quality food products, but also
4 through carbon sequestration can have a
5 positive impact on climate change.

6 And finally, we should take pride
7 in the fact that we now have an organic garden
8 on the front lawn of the USDA building. Thank
9 you, program

10 (Appause.)

11 CHAIRMAN MOYER: Only a few months
12 ago that would not have been possible, and
13 it's pretty exciting to see that take place.

14 And now what I'd like to do is end
15 my comments and go right to introductions and
16 give each of the Board members the opportunity
17 to introduce him or herself and give a brief
18 summary of your individual position and your
19 representation on the Board.

20 And if we might start with Joe,
21 Joe, would that be all right? Joe.

22 MEMBER SMILLIE: Well, pardon the

1 laryngitis, but glad to be here again.
2 Looking forward to this meeting. Joe Smillie
3 and the senior VP at Quality Assurance
4 International, and I represent certifiers on
5 the Board.

6 And we have one recommendation
7 coming up on peer review and three discussion
8 papers, which I think should prove
9 interesting.

10 I'd also like to thank the
11 consortium of people out there who put up the
12 money so that you could all have Internet
13 access while you are at this meeting.

14 That's it.

15 CHAIRMAN MOYER: Thank you, Joe.
16 Tracy.

17 MEMBER MIEDEMA: Good morning. My
18 name is Tracy Miedema. I work at a large
19 pharm in Oregon called Sawbush Island Farms.
20 About 1,500 of our acres are certified
21 organic.

22 My own food journey really comes

1 from being privileged to live in the Pacific
2 Northwest and be raised on wild food. I still
3 have a strong connection with being as close
4 to the source of food as possible. I'm one of
5 the consumer reps., and I want to help keep
6 the food sources transparent for consumers as
7 possible.

8 CHAIRMAN MOYER: Thank you, Tracy.
9 Barry.

10 MEMBER FLAMM: I'm Barry Flamm
11 from Polson, Montana on Flathead Lake. I'm in
12 one of the environmental positions, and my
13 term goes to 2013. As you can tell, I've only
14 been on the Board a little over a year now,
15 and I chair the Policy Committee.

16 CHAIRMAN MOYER: Thank you, Barry.
17 Rigoberto Delgado will not be with
18 us this morning. Due to travel arrangements,
19 he'll be here later on this evening, as will
20 Jennifer Hall.

21 Tina.

22 MEMBER ELLOR: Hi. Tina Ellor

1 from Kennett Square, Pennsylvania. I'm
2 technical director of Phillips Mushroom Farms,
3 and I'm fill the environmental slot on the
4 Board, and my term -- not that we're counting,
5 Barry, are we? -- ends in 2012.

6 I've been chairing the Crops
7 Committee, which has been an incredible
8 privilege.

9 Thank you.

10 CHAIRMAN MOYER: Gerry.

11 MEMBER DAVIS: Gerald Davis from
12 Arvin, California. I'm a grower
13 representative on the Board. This is my last
14 year on the Board, and I work for a very large
15 still family owned and operated vegetable farm
16 in California.

17 CHAIRMAN MOYER: Thank you, Gerry.
18 Katrina.

19 MEMBER HEINZE: Good morning. I'm
20 Katrina Heinze from Plymouth, Minnesota. I
21 hold the scientist position on the Board, and
22 this is the beginning of my third year. My

1 background is in chemistry, but my current
2 position is I lead food safety, regulatory
3 compliance, and product quality for Small
4 Planet Foods.

5 I am a long time organic consumer
6 and mother of two children. So certainly
7 consumer confidence in the organic label is
8 very important to me.

9 I would like to apologize to my
10 fellow Board members for my absence, unplanned
11 absence, at the last meeting and really a very
12 big thank you to Bea for stepping in and
13 taking on the Secretary responsibilities while
14 I was gone. I know it is a ton of work, and
15 I appreciate it.

16 CHAIRMAN MOYER: Thank you,
17 Katrina. Well said.

18 Dan.

19 MEMBER GIACOMINI: Dan Giacomini,
20 one of the consumer seats on the Board. I'm
21 trained as an animal nutritionist. I live in
22 northern California, in Middletown not far

1 from San Francisco and the Bay area. I do a
2 lot of work with both conventional and organic
3 livestock and farming and a lot of work in the
4 feed industry and consulting, and being in
5 that area I'm able to be around and in contact
6 with a very vocal and active and politically
7 aware and liberal and all those things
8 consumer group, which you have in the San
9 Francisco Bay area.

10 CHAIRMAN MOYER: Thank you, Dan.

11 Julie.

12 SECRETARY WEISMAN: Good morning.

13 I'm Julie Weisman. I hold one of the handler
14 positions on the Board. I'm actually the
15 former chair of the Handling Committee, but
16 this year I have passed the torch on to Steve.

17 Also have been Vice Chair of the
18 Board and am currently the Secretary, and this
19 is also unbelievably my fifth and last year on
20 the Board. Boy, time flies when you're having
21 a good time.

22 I have two flavor companies, Elan

1 Vanilla and Flavorganics, and I am also the
2 mother of children, and since way before I was
3 dealing with flavors, I've been buying organic
4 food for my family and myself.

5 And I can't believe that this is
6 getting to be the end. Enough said.

7 CHAIRMAN MOYER: Thank you, Julie.
8 I'm not sure why you and Gerry sound so happy.

9 Steve.

10 MEMBER DeMURI: Good morning,
11 Everybody. My name is Steve DeMuri. I live
12 in Carmichael, California, which is near
13 Sacramento for those of you that aren't
14 familiar with California. I am the fledgling
15 Chairman of the Handling Committee under the
16 tutelage of Julie here, and I work for an "um-
17 um good" soup company. My office is in
18 California, but our corporate office is in New
19 Jersey. So I can give you a hint who it is.

20 We do have quite a stable of
21 organic products. I do hold one of the
22 handler positions, and this is going on my

1 third year on the Board as well.

2 CHAIRMAN MOYER: Thank you, Steve.

3 Bea.

4 MEMBER JAMES: Good morning. My
5 name is Bea James. I hold the retailers seat.

6 Previously I have been the Secretary, and I'm
7 very excited to be at this meeting, to not
8 have to take notes. Thank you, Julie.

9 I work for a company out in
10 Minneapolis, Minnesota, a 21-store upscale
11 grocery chain called Lunds and Byerly's, and
12 I am the senior manager of organic natural and
13 HBC programs there.

14 I'm also the mother of two boys,
15 Forest and Harvest. So I really do have roots
16 in Crunchy Granola Bell, and they are very
17 excited when I leave because their
18 grandparents get to give them all the food
19 we're not advocating for today.

20 (Laughter.)

21 CHAIRMAN MOYER: Thank you, Bea.

22 MEMBER ENGELBERT: Good morning.

1 My name is Kevin Engelbert. I hold a producer
2 seat on the Board. This is my fourth year.
3 My family and I operate a 120-cow dairy farm
4 in Nichols, New York. We also have a retail
5 meat business, and we've just recently started
6 up an organic grain business.

7 I serve as Vice Chair of the
8 Livestock Committee. I'm on the Crops
9 Committee and also the Materials Committee.
10 A difficult time of year for me to be here,
11 and again, I'd like to thank my sons and now
12 my brother for covering for me so that I can
13 attend the meeting, and it's certainly, again,
14 still a privilege to be here.

15 CHAIRMAN MOYER: Thank you, Kevin.
16 Hugh.

17 MEMBER KARREMAN: My name is
18 Hubert Karreman. I'm a dairy veterinarian,
19 among a lot of certified organic dairy farmers
20 in Lancaster County, Pennsylvania. I hold an
21 environmentalist seat here, probably partly
22 due to my past in soil conservation with the

1 USDA Soil Conservation Service, and I'm Chair
2 of the Livestock Committee, and I guess we'll
3 leave it at that.

4 CHAIRMAN MOYER: Thank you.
5 Kevin.

6 MEMBER ENGELBERT: I'd like to add
7 one more thing on a personal note. Those of
8 you who know me know my wife Lisa is always at
9 these meetings, but she's not in attendance.
10 Our middle son, his wife is eight days
11 overdue. She couldn't bring herself to come
12 to the meeting with a baby imminent. So if I
13 break into a big smile, you'll know that I've
14 gotten a text message, and I'm a grandfather
15 again.

16 (Laughter and applause.)

17 CHAIRMAN MOYER: Thank you, Kevin
18 and Hugh.

19 And lastly, I'm Jeff Moyer. I'm
20 the Board Chair. I am also the research farm
21 director for the Rodale Institute in Burks
22 County, Pennsylvania. I have my own farm,

1 about 53 acres. We raise crops and some beef
2 cattle, and it's a pleasure to be here.

3 I have one other announcement. I
4 would like to ask that members in attendance
5 try to refrain from E-mailing individual Board
6 members during the voting process that will
7 take place on Wednesday. Apparently that has
8 happened, and we'd like to not have that
9 happen. It's not an official policy
10 statement; just a request from the Board.

11 Next on our agenda, we'd like to
12 go over and just for the record state the
13 mission of this Board, the vision and the
14 mission of this Board, and I'm just going to
15 read it directly as it is written in our
16 policy and procedures manual.

17 The National organic Standards
18 Board's vision is an agricultural community
19 rooted in organic principles and values that
20 instills trust among consumers, producers,
21 processors, retailers, and other stakeholders.
22 Consistent and sustainable organic standard

1 guard and advance the integrity of organic
2 products and practices.

3 The NOSB mission statement: to
4 provide effective and constructive advice,
5 clarification, and guidance to the Secretary
6 of Agriculture concerning national organic
7 program and consensus to the organic
8 community.

9 In carrying out the mission, key
10 activities of the Board include assist in the
11 development and maintenance of organic
12 standards and regulations; review petitioned
13 materials for inclusion on the national list
14 of approved and prohibited substances;
15 recommend changes to the national list;
16 communicate with the organic community,
17 including conducting public meetings,
18 soliciting and taking public comments;
19 communicate, support, and coordinate with the
20 National Organic Program staff; and provide
21 information and education on the National
22 Organic Program.

1 That is our vision and our
2 mission, and we're pleased to be able to bring
3 that to you today.

4 The other thing that I will
5 mention is that unlike my previous illustrious
6 predecessors, being Pennsylvania Dutch, I'm
7 going to tell you in advance that I'm going to
8 butcher and bolix every name from somebody who
9 comes up to give public comment. I will do my
10 best not to discriminate against anybody and
11 will probably do it equally to everyone. So
12 I apologize in advance for that.

13 And now, if we could have the
14 Secretary's report. Julie.

15 SECRETARY WEISMAN: Yes. We have
16 I'm sure whether to count it as one or two
17 separate things, but I will call them out as
18 two, and we may vote as one if that's
19 appropriate.

20 We generally vote to accept in the
21 past it was the minutes that were taken by the
22 Secretary, but we have now been practicing for

1 the last two years using the transcripts from
2 the meeting and accepting those as the
3 official record.

4 In addition, we have passed around
5 to everyone on the Board this spring the
6 voting results and tallies from the November
7 meeting. Actually this was done in the
8 winter, and I think everyone reviewed and made
9 amendments at that time.

10 The Executive Committee on its
11 last call on April 17th voted to accept the
12 tally as it was last circulated, and so at
13 this time we can entertain motions to accept
14 the meeting transcript and those voting
15 results as an official record of the 2008
16 meeting.

17 I don't know if there's
18 discussion.

19 CHAIRMAN MOYER: Will somebody
20 make that motion or did you make the motion,
21 Julie?

22 SECRETARY WEISMAN: I move that we

1 accept the meeting transcripts and the voting
2 results that were voted on at the last EC call
3 as official record of the last NOSB meeting in
4 November.

5 CHAIRMAN MOYER: Thank you, Julie.

6 We have a motion. Would there be
7 a second?

8 MEMBER HEINZE: Second.

9 CHAIRMAN MOYER: Katrina seconds
10 that motion.

11 Is there discussion?

12 (No response.)

13 CHAIRMAN MOYER: Hearing none, I
14 call for the vote. All in favor say aye.

15 (Chorus of ayes.)

16 CHAIRMAN MOYER: Opposed, if any?

17 (No response.)

18 CHAIRMAN MOYER: Hearing none,
19 that motion is approved and passed, and we
20 have a Secretary's report.

21 Thank you very much, Julie.

22 Now what I'd like to do is ask

1 Barbara if you might be willing to introduce
2 your staff or allow them to introduce
3 themselves and give your report.

4 MS. ROBINSON: Sure. I'm Barbara
5 Robinson, Deputy Administrator for
6 Transportation and Marketing Programs, and
7 presently the Acting Director for the National
8 Organic Program.

9 MS. WILSON: I'm Demaris Wilson,
10 the Associate Deputy Administrator for
11 Transportation and Marketing Programs.

12 MS. GUO: I'm Ruihong Guo, the
13 Chief of Compliance and the Enforcement NOP.

14 MR. MATTHEWS: Richard Matthews,
15 Branch Chief, Standards Development and
16 Review.

17 MS. SCHMALE: Valerie Schmale.
18 I'm with Compliance and Enforcement staff.

19 (Additional introductions made off
20 microphone.)

21 MS. FRANCES: Valerie Frances,
22 Executive Director of the National Organic

1 Standards Board, and garden coordinator.

2 (Laughter.)

3 CHAIRMAN MOYER: And we couldn't
4 live without Valerie. Thank you.

5 (Additional introductions made off
6 microphone.)

7 CHAIRMAN MOYER: I'm sorry, but
8 some of the Board didn't hear, and if you
9 could stand up when you introduce yourself in
10 the back. We can't see you.

11 (Additional introductions made off
12 microphone.)

13 CHAIRMAN MOYER: Thank you,
14 everybody, for the introduction.

15 Dr. Robinson.

16 MS. ROBINSON: Okay. Good
17 morning, Mr. Chairman. Just a few things.
18 First of all, I have some sad news to
19 announce. I don't know how many of you
20 remember Beth Hayden. She used to work with
21 this program and then with the ARC Branch.
22 She was in a glider with a friend of hers,

1 Alan Melendie, and was missing April 24th, and
2 I just got word last evening that they are
3 confirmed dead. So I am very sorry about
4 that.

5 Anyway, Beth did do a lot of work
6 for the NOP, and we will miss her. So our
7 prayers go out to her family.

8 Let me just go on with the NOP
9 update. Our budget this year was increased by
10 \$630,000 for FY '09, and we are very pleased
11 about that. We didn't get that budget
12 increase until March, of course. So you know,
13 we're scrambling to make the most productive
14 use of it as possible.

15 The good news, of course, is that
16 with the new administration and the limelight
17 on sustainability and organic and small and
18 local, we do expect with the appropriations
19 hearings that the NOP budget will be doubled
20 for the 2010 budget.

21 Now, so that will take us to \$6
22 million in 2010. Now, except that I don't

1 know, given the way Congress has been acting,
2 whether we'll get that budget in October. It
3 could well be that we don't see that budget
4 increase again until next March, but still
5 that would increase the base of the NOP budget
6 in the outgoing years. So that will be good.

7 In the meantime we have put out an
8 announcement for a multiple hire at the GS-9
9 through 12 level. That is out on the street
10 now. So we hope to -- we're going to hire as
11 many people as we can afford right at the
12 moment and try and continue to increase that
13 staff.

14 I also put forward a memo, a
15 proposal to the administration to separate the
16 National Organic Program as its own program in
17 the agency. I just believe it's time for the
18 NOP to stand on its own. I think it has the
19 resources and the responsibility and the legs,
20 frankly, to do that, and that initiative is
21 being given serious consideration in the
22 administration. So we'll just, you know,

1 watch and see what happens with that.

2 The Inspector General is
3 continuing to review the NOP. They did a
4 review of the program in 2005. They are
5 reviewing the program again. They expect to
6 complete the review probably by the end of the
7 fiscal year.

8 After they complete their review,
9 of course, then we'll respond to that review.

10 The People's Garden, as you may
11 have heard, there is a People's Garden around
12 the Whitten Complex. The Whitten Complex is
13 USDA Headquarters, the big, white building
14 across from the South Building. Contained
15 within the People's Garden, of course, is a
16 smaller section of that, which is being
17 converted, transitioned to organic, and on
18 Earth Day, there was quite, you know, a
19 celebration of that.

20 And I did ask Valerie if she would
21 be our point of contact. She is the point of
22 contact for all of AMS for that, for the

1 organic portion of the People's Garden, and
2 she willingly agreed to take that on in
3 addition to her duties as your Executive
4 Director. So I don't know when she's
5 sleeping, but she's doing a very, very good
6 job at that, and I'm quite proud of what she's
7 doing there.

8 And thanks very much to the
9 Rodale Institute, who jumped right in and
10 delivered ten cubic yards of compost so that
11 we could get that garden up and started right
12 away.

13 PARTICIPANT: (Speaking off
14 microphone.)

15 MS. ROBINSON: Yes, and sage
16 advice. That's true.

17 And Seeds of Change delivered
18 what, 24,000 seed packets, and Southern Seeds
19 Exchange, yes.

20 Well, we had a lot of seeds
21 donated, yes, yes. But at any rate, we've had
22 just a tremendous amount of interest in the

1 garden, and people walking by, they're just
2 fascinated by this. So we view it as a
3 teachable moment, that it will be just
4 something that we can explain to people what
5 organic is and what it isn't.

6 Pasture rulemaking, you know, we
7 asked the organic community to please give us
8 substantive comments. So they did, very
9 substantive comments. We got 19,000 comments
10 on this rulemaking.

11 So we are writing as we go,
12 writing as we analyze, but we really did get
13 some hefty comments this time. We have, I
14 think, I have because I've asked for copies of
15 them, I think, three three-ring binders that
16 are at least two inches thick of the comments.
17 So we got what we asked for this time. So
18 it's pretty significant feedback from the
19 industry. So we expect to publish something
20 later this year.

21 I've asked Shannon Ellie on my
22 staff to begin work to work on the proposed

1 rulemaking for original livestock and get that
2 underway.

3 ACA training, we talked about this
4 at the last meeting, that we want to do Web-
5 based training, and we have sent out an
6 invitation to the ACAs for the all things
7 organic session in Chicago. This is not going
8 to be an NOP A to Z type of training.
9 Instead, we're going to demo some of our
10 training that we've developed so far.

11 We'll have training sessions on
12 labeling, certification, investigations and
13 complaints. We'll have a general one on
14 labeling, and we'll have one that zooms in a
15 little more in depth on labeling for alcoholic
16 beverages because that's an area that we see
17 continued problems in with TTB, and so we've
18 developed a more detailed how to approve
19 labeling for alcoholic beverages.

20 And then if we have some more
21 time, later in the afternoon we've got a list
22 of topics that we think continue to be raised

1 by ACAs and that we continue to see issues
2 with dealing with the health and safety
3 statement that we just put out, fertilizers,
4 something called "What's in the other 30
5 percent?" that sort of thing, flavors, and a
6 few other little fun things that we continue
7 to see pop up.

8 We are going to hold an NOP
9 retreat, program retreat, the first full week
10 of July, right after the 4th of July holiday.
11 Because the program is growing, because we
12 have increased the staff, because we will
13 increase the staff, because the budget is
14 increasing, because the spotlight continues to
15 shine on this program, this program needs to
16 figure out where it's going, and I really
17 think a retreat is in order, strategic
18 planning session for this program.

19 So it's kind of a Tuesday,
20 Wednesday, Thursday, maybe, you know, late in
21 the morning and then go through Thursday
22 midday. We're going to go off site and have

1 a facilitated retreat.

2 I have invited Jeff Moyer to come
3 to part of this retreat as chair of the Board,
4 as I have invited the ARC branch, the Appeals
5 staff, and OGC because I think that we need to
6 reach out and touch all of the folks that we
7 work with, all of the people that we interact
8 with, all of the various staff that we do
9 interact with, maybe not for the entire
10 retreat, but certainly for a good portion of
11 it.

12 And that leads me to a couple of
13 other things that I think are important, and
14 this thing is really driving me nuts. Let me
15 fix that.

16 I have discussed this a little bit
17 with my staff, and that is recommendations by
18 the NOSB, and I had asked Valerie to give me
19 a summary of this, and I had discussed this
20 briefly with the Executive Committee of the
21 Board, and I think that they have agreed with
22 me about this.

1 Since 2002, this Board has made 65
2 non-material recommendations to the program,
3 and I can tell you in all confidence that we
4 haven't worked on those. I know that we have
5 not worked on those, and I can only imagine
6 that by this time, you know, there must be a
7 certain amount of frustration growing on your
8 side of the table. There is certainly a level
9 of frustration on our side of the table.

10 It strikes me that, you know, I
11 just have to wonder why are we doing this.
12 Why do we continue to do this? You know, I
13 think maybe what we ought to do is kind of
14 just call a time out here. This may stem from
15 some rational thing in the past, but it
16 doesn't make a lot of sense to me to continue
17 to do this in the future.

18 We will always work on materials
19 recommendations as a priority. Sunset will
20 come first, and then new materials will come
21 second. That will always be our first
22 priority because that is always the priority,

1 of course, of the Board and of the industry.

2 But then it does seem to me that
3 here's 15 of you and now there's, you know, so
4 many of us; it does seem to me to just make
5 logical sense that we should have a working
6 session or some kind of get-together and say,
7 "What do we want to work on? What's important
8 to you? What's important to us? What do you
9 want us to work on?"

10 Now, you know, we can sit around
11 and say, "Well, how come we haven't done this?
12 And how come we haven't done that?" You know,
13 we can do that, and maybe we should, but once
14 we get beyond that and we want to get to the
15 constructive part of the conversation, you
16 know -- and I'm not saying I have the answers
17 here, but I am saying don't you think we ought
18 to get to that constructive part where we say,
19 you know, "What are your priorities? What are
20 our priorities? What two or three things
21 during the year do you think are the most
22 important and you would like us to pay

1 attention to?"

2 I mean, we see work coming from
3 you, but you know, I don't get a sense from
4 you about what is the most important thing.
5 Maybe that's because you're organized by
6 committee, you know. I don't know.

7 In any event, where I guess I'm
8 going with this is perhaps we should also have
9 a strategic planning session of this Board in
10 concert with the program. I'm not talking
11 about the one we're having in July. I'm
12 saying maybe at a later time this year, and
13 there's a couple of ways we can do it.

14 A simple one would be to tack it
15 onto an upcoming Board meeting. Another way
16 we could do this, and we did discuss this,
17 because we have a problem with operating in
18 the sunshine and the public may want and may
19 feel strongly that if we all go behind a
20 closed door or something and say, "Well, we're
21 all going to have a strategic planning session
22 with the Board," and the public may say,

1 "Well, no, you're not. We want to know what
2 the Board is going to work on."

3 Well, okay. We could do something
4 like we did a couple of years ago with the
5 symposium, the dairy symposium, where we say
6 fine. We'll all go and we're going to have a
7 strategic planning session. The public is
8 free to sit in and observe while we all sit
9 around and work. So nobody is shut out. They
10 can watch us all work, but it's not like a
11 meeting like we're having right now.

12 So no offense to everybody in the
13 room, and maybe there's a time when you can
14 throw three-by-five cards up and say, "We
15 don't like that idea. We don't want you
16 working on that. You know, bad idea," so that
17 you get some input from the public, but
18 meanwhile everybody is just sitting around
19 working and we have it facilitated or
20 something, right?

21 Anyway, I'm just tossing this out.
22 I'm not telling you what to do. I'm just

1 saying it does bother me and it must bother
2 you that you keep doing these recommendations
3 and nothing ever happens. I mean, you must be
4 getting frustrated.

5 So that's just my thought. I just
6 worry about this, and I just think it seems
7 like we ought to do something more than just
8 you do this stuff and you feel as though no
9 one is paying any attention. It's not that
10 we're not.

11 We do still have a small standards
12 staff, by the way. I want to hire more people
13 there, but until we get more people, we're
14 busy trying to go after cheaters and
15 mislabelers and, as some people out there call
16 them, Scott laws, and so you know, I just
17 think we should work on this.

18 Anyway, on to my next thing. I'm
19 taking too long.

20 Nominations for new members.
21 Katherine is working on those. They are
22 beginning to trickle in. Please do encourage

1 people, especially those of you who are so
2 eager to leave, that there might be merit in
3 sitting on this Board. Please encourage
4 people to apply, to volunteer for a thrilling
5 five-year ride on the Board.

6 Materials dockets. We had one
7 just come back from OGC with six materials on
8 it which will go out as a proposed rule. I
9 think that has gellan gum, tragacanth gum,
10 aqueous potassium silicate, marsala and sherry
11 cooking wines, sodium carbonate,
12 peroxyhydrate. I think that's it. I think
13 I've got it.

14 And a couple of last things.
15 Let's see. Mark wanted me to tell you, and
16 I'm going to butcher this, Mark. So help me
17 out. The ARC Branch just received a peer
18 review for NIST accreditation. Did I say that
19 right?

20 And last but not least, okay,
21 flavors, fertilizer and renewal dates on
22 certificates. We are going to -- oh, yes. On

1 the new members, we're calling for two
2 producers, one retailer, one handler, and one
3 environmentalist.

4 Hugh, that must be you. Oh, no.

5 PARTICIPANT: (Speaking off
6 microphone.)

7 MS. RICHARDSON: We've had two
8 applications and 22 inquiries. Okay. My, all
9 right, okay.

10 CHAIRMAN MOYER: Barbara, I think
11 one of the reasons that we have so few people
12 throwing their hat in the ring is what you
13 were just discussing earlier. There is a
14 sense of frustration at the Board, and we are,
15 as some of the Board members have mentioned in
16 our meetings, we are overworked, and when
17 people from the outside look in and go, "Well,
18 you're signing up for a lot of work," it does
19 kind of shrink the pool.

20 MS. ROBINSON: Well, maybe we can
21 work that.

22 CHAIRMAN MOYER: I think if we can

1 streamline that it will make it much better.

2 MS. ROBINSON: Maybe we can work
3 on that.

4 CHAIRMAN MOYER: That's right.

5 MS. ROBINSON: All right.

6 Flavors, fertilizers and renewal dates. We
7 have had a flavor affidavit submitted to us by
8 FEMA, a task force and industry group out
9 there. We want to just go ahead and allow
10 that to be used right now. We're going to
11 approve that.

12 We have always said this. We
13 don't like affidavits. However, we're going
14 to work on a generic affidavit from the
15 program, and we're going to get OMB's approval
16 because we're going to put some toothy little
17 language on it, and we would like to see ACAs
18 start using this, and that little language I'm
19 referring to is something if you've ever been
20 on our Website and you've seen something
21 called the TM-11 form on the export
22 arrangement portion of the NOP Website, up in

1 the corner of the TM-11 form is some language
2 that says basically if you are signing this
3 form and you are falsifying a statement to the
4 federal government, to an ACA -- I
5 affectionately refer to it as the hanging
6 language -- that you can be hung or shot or
7 put in front a firing squad.

8 I don't know whether you should
9 write this down. Anyway, it's where you can't
10 falsify language to a federal official or you
11 can be subject to fines and imprisonment.

12 And so we are going to get that
13 language approved for affidavits that ACAs
14 have to use where they have to collect
15 information of a somewhat voluntary nature on
16 our behalf in order to make sure that folks
17 are in compliance with these regulations.

18 So the flavor affidavit that's
19 been submitted to us has some variation of
20 that language, and so we're going to go ahead
21 and approve that.

22 The fertilizer recommendation, the

1 OTA task force has submitted some
2 recommendations to us, and we're giving those
3 very positive consideration right now. We're
4 leaning towards approving those.

5 Our only concern, and those
6 recommendations, frankly, deal with addressing
7 the 100 yard requirement out there that we've
8 put in place. Our concern on the 100 yard
9 requirement is that if an ACA can verify an
10 auditable plan, an auditable, trace-back plan
11 from a fertilizer manufacturer, they can
12 approve it. If they cannot, the 100 yard
13 physical requirement should stay in place.
14 It's just that simple.

15 If you can't verify that a company
16 is cheating, don't approve them. I just think
17 it's that simple.

18 And finally, on renewal dates on
19 certificates, I understand certifying agents
20 want to standardize certificates. We don't
21 have any problem with that. Our only
22 objection is that expiration dates are not

1 allowed on certificates, but you know, we've
2 seen so many bogus certificates, people
3 saying, "Yes, I'm certified by, you know,
4 PCO." They are not. You know, they've come
5 up with some bogus certificate that they
6 manufactured by PCO, and they're certified by
7 NOFA-New York, but they made one up so that
8 they could go out and, you know -- they said
9 so they could go out and find out milk prices,
10 which had nothing whatsoever to do with
11 finding out milk prices.

12 You know, we would just as soon
13 ACAs go ahead and put, you know, renewed, last
14 date of renewal, scope of renewal. Go ahead.
15 Put the information on there. Make your
16 certificates standard, but I don't see that we
17 need to standardize your certificate.

18 If your certificate, you know, you
19 want to have your company on it, that's fine.
20 If you want to have a renewal date on there,
21 the last date of inspection, go ahead. The
22 burden is going to be on you to make sure you

1 get out there and make sure it's up to date.

2 I don't have a problem with that.

3 So like I said, you can't have an expiration
4 date on there, but you may certainly have a
5 renewal date on.

6 So that's all I have unless you
7 have questions for me.

8 CHAIRMAN MOYER: Are there any
9 questions? I saw Steve, then Kevin, then Joe.

10 Thank you.

11 MEMBER DeMURI: Thanks, Barbara.
12 Good report.

13 Can you comment on how things are
14 going with the Canadian equivalency
15 discussions?

16 MS. ROBINSON: Swimmingly.
17 They're going very well, Steve. We are
18 confident that -- in fact, we have invited --
19 we are both planning to meet in June. We
20 agreed in March to our public statement that
21 it was our mutual intention to sign an
22 agreement before the Canadians implement their

1 standards by June 30th.

2 MEMBER DeMURI: Thank you.

3 CHAIRMAN MOYER: Okay. Kevin.

4 MEMBER ENGELBERT: Thank you,
5 Barbara, especially for the update on the
6 pasture role. I can't tell you the
7 frustration that exists out in the dairy
8 community involving that. I'm not going to go
9 into a diatribe about it.

10 I also wonder if you could just
11 touch briefly on getting the program to stand
12 on its own two feet I assume is a good thing,
13 but what exactly do you hope to gain from
14 that? Is it something as simple as being able
15 to get your offices all in one spot so you can
16 work more efficiently, or will it give you
17 more clout when you go to other agencies and
18 need work done, or what exactly do you hope to
19 see happen if that does take place?

20 MS. ROBINSON: Well, some of it is
21 optics, to use an overused word, I suppose,
22 Kevin. You know, I've come before this Board

1 now I don't know for how many years, and you
2 know, as the Deputy Administrator for
3 Transportation and Marketing, and I'm sure
4 people are like, "What is that?" You know,
5 where is that?

6 And I guess I'm just to the point
7 where I thought it would be nice if -- and
8 I've heard this industry ask for many years if
9 this program could be -- they've asked for a
10 program to be housed in the Secretary's
11 office. You've wanted your own office, your
12 own place in USDA.

13 And so I guess this is kind of my
14 way of sort of a happy medium between those to
15 say that this program should be managed as its
16 own program within the department. It would
17 still be in the Ag. Marketing Service, but it
18 would report to the Administrator of AMS, and
19 so, i mean, to some extent maybe it is a
20 little bit optics, but it would be on par
21 with, say, the dairy programs or livestock and
22 seed or transportation and marketing, but it

1 would be the National Organic Program would
2 have its own office in USDA.

3 Yes, I do think it gives it more
4 recognition, maybe a little more clout. It is
5 going to continue to attract resources down
6 the road. If the resources that are
7 authorized by the farm bill continue to be
8 appropriated, then I just think this program
9 should have its own address.

10 CHAIRMAN MOYER: Kevin, did you
11 have a follow-up?

12 MEMBER ENGELBERT: Yes. Would
13 that be something that you would like this
14 Board or the public to take part in
15 encouraging that to happen, or is this
16 something strictly internal in USDA that has
17 to take place?

18 MS. ROBINSON: I don't think that
19 the Board needs to do anything at this time
20 about it. I think it is being given very
21 serious consideration in the department. I
22 think you have leadership in the department

1 now that welcomes these kinds of ideas. So I
2 don't think that you have to do anything about
3 it.

4 CHAIRMAN MOYER: Thank you,
5 Barbara.

6 The Chair recognizes Joe.

7 MEMBER SMILLIE: Thank you,
8 Barbara for the update.

9 The Canadian news is definitely
10 interesting. A lot of people are hanging.
11 It's getting close.

12 MS. ROBINSON: For about two
13 months.

14 MEMBER SMILLIE: I know. Labels
15 take a long time to create, but that is good
16 news and hopefully that will continue.

17 Also, the flavor affidavit, I
18 can't tell you how important that is. It has
19 become a real issue with certification, and I
20 think your approach on, you know, tough
21 language when someone signs an affidavit is a
22 valid compromise because we do need affidavits

1 because, once again, they are conventional
2 materials, not organic materials.

3 So I think that that will work. I
4 look forward to getting that out on the street
5 as soon as possible.

6 As far as renewal dates and
7 expiration of certificates, I understand that
8 you're hemmed in by the language of the
9 regulation and the enabling legislation on
10 expiration dates, and that, you know, they can
11 only be surrendered, voluntary surrender,
12 revoked or suspended, and that we'll live
13 with.

14 It is a problem with renewals
15 because a lot of times some people have
16 noncompliances, and they don't get their
17 certificate until they rectify those
18 noncompliances, and other people are trading
19 in those materials.

20 So it does create a problem, but
21 we can deal with it, and again, working
22 together between the ACAs and the program we

1 can iron out those difficulties and educate
2 all of our certified clients as to what it
3 means because they want the up to date
4 certificate, and they say, "No, we can't
5 accept it until we get an up to date
6 certificate."

7 And we have to read them, no, it's
8 still valid, you know. So it's a problem, but
9 we'll deal with it. It's not a huge problem,
10 but hopefully with the education we'll start
11 to solve it so that the certified entities
12 could understand what renewal means.

13 As far as standardization, it's
14 not an issue of who's name is on the top.
15 There's some real basic issues, and I think
16 our recommendation, I would urge you to just
17 take another look at it because there's some
18 core information that we need to be
19 standardized in the certificate.

20 For example, there is no, from
21 what I understood consistently from the
22 program, that the certificate does not have to

1 say in accordance with National Organic
2 Program regulations. They all now are
3 starting to say that because many of us won't
4 accept it unless they say that, but we would
5 like to see that enshrined formally, that the
6 certificate must say in compliance with the
7 program. That's a small item.

8 Then the other issue is, you know,
9 that we tackled as a group is that the
10 certificate could say grain. It could say
11 corn. It could say blue corn, yellow corn,
12 feed corn. You know, we do need the program
13 to give guidance to the ACAs as to just
14 ballpark what you want to see on that
15 certificate because there's a lot of
16 frustration really because some sort of filers
17 will just say, you know, this company is
18 certified for grain, you know. Then other
19 people will get more specific. Other people
20 want to get, in my opinion, too specific and
21 say Pioneer 365A.

22 But we need something to get

1 people a little closer together. Now, maybe
2 that can happen through the work of the ACA
3 self-discipline and that, but we'd like you to
4 take another look at that document to see if
5 we could try and get towards a more
6 standardized certificate from your point of
7 view also, what you would like to see as core
8 information on the certificate. How specific
9 is the listing?

10 CHAIRMAN MOYER: Thank you, Joe.

11 MS. ROBINSON: Yes, that's fair
12 enough.

13 CHAIRMAN MOYER: Yes. Hopefully
14 the program can take that advice. I think
15 it's great advice.

16 Hugh and then Bea.

17 MEMBER KARREMAN: Thanks for your
18 update, Barbara.

19 I just wanted to add something or
20 ask something totally different from what
21 you've been talking about. Livestock
22 Committee and the Executive Board, I think,

1 knows, but we've been in conversation with the
2 NOP about the topic of vaccines and how some
3 certifiers are starting to look at vaccines
4 differently than has been done for the last
5 seven years since the program was officially
6 started.

7 I was wondering if you have any
8 official statement on what the program might
9 be thinking about as far as vaccines to
10 prevent disease in organic livestock.

11 MS. ROBINSON: Are we going to
12 take this up as a discussion item during the
13 meeting?

14 MEMBER KARREMAN: I don't think
15 it's on the agenda for that.

16 CHAIRMAN MOYER: It is not on the
17 agenda.

18 MEMBER KARREMAN: That's why I
19 wanted to ask you about it because --

20 CHAIRMAN MOYER: It did not come
21 up in our discussions until after the agenda
22 was approved and posted.

1 MS. ROBINSON: Okay. You know, I
2 want to work with -- yes, we do want to make
3 a statement about that, but I'll tell you
4 what. Let me work with Rick because I don't
5 have something written down as well. Let me
6 make sure that I've got something because I
7 don't want to misspeak. Okay? Because we
8 have discussed this, and I want to make it
9 clear and clearly state what our position is
10 on vaccines. Okay?

11 So I will do that, but I want to
12 get with Rick and you, and then I'll make a
13 public statement about that.

14 And before --

15 CHAIRMAN MOYER: Do you know when
16 you'll be ready to make that statement,
17 Barbara?

18 MR. ROBINSON: Yes. Well, no. I
19 mean, during the meeting some time.

20 CHAIRMAN MOYER: It will be today?
21 I'm just wondering for the members.

22 MS. ROBINSON: Yes, we can do it

1 today.

2 CHAIRMAN MOYER: Thank you.

3 MS. ROBINSON: And before I
4 forget, two other things. Of course, some of
5 you are going to meet with the Science and
6 Tech folks after the meeting. Jeff, neither
7 one of us mentioned that, to get together to
8 discuss to improve the TAP review process,
9 which is great.

10 And we are working on a petition
11 substance database, trying to improve that.
12 We've got a statement of work with Science and
13 Tech. They are trying to develop the database
14 for us and improve that because I know I went
15 on there and say, "Oh, God, this is terrible."
16 So we are working to improve that as well.

17 CHAIRMAN MOYER: Thank you for
18 bringing that up, Barbara. I should have
19 mentioned that, that the Board was invited to
20 sit down and meet with the program and with
21 the Office of Science and Technology to review
22 the process and procedures that we'll be using

1 for TAPs or technical reviews that we've been
2 getting from that office.

3 There are some concerns that we
4 need to go over and address, and we're going
5 to be meeting on Thursday with that group.

6 Thank you.

7 Bea, then Julie.

8 MEMBER JAMES: Thank you for the
9 update, Barbara. I'm really encouraged to
10 hear you bring up kind of the pink elephant in
11 the room, which is that the Board is weighted
12 down with a lot of work and that working on
13 prioritization would help us all make sure
14 that we're doing thoughtful work.

15 I just wanted to comment that I
16 believe that slowing down and doing thoughtful
17 work that is applicable will go farther than
18 racing to a finish line weighted down with too
19 many recommendations that we can't really
20 implement.

21 And the one thing I wanted to
22 point out is that after the next meeting, five

1 of us will be going off, and if there's any
2 way to have that meeting about working on a
3 way of prioritizing, I don't want to speak for
4 my other fellow Board members, but it seems
5 like it would be valuable to take the wisdom
6 of the people who have been on the Board and
7 know how much work there is to do.

8 MS. ROBINSON: I agree.

9 CHAIRMAN MOYER: Thank you, Bea.

10 The Board recognizes Julie.

11 SECRETARY WEISMAN: Yes. I
12 actually, going back to the issue about the
13 meeting with S&T and the going over the
14 technical review process, I did want to
15 mention that in public comments before this
16 meeting as before many meetings, a number of
17 people had part of their comments that were
18 directed to how the technical reviews either
19 are in regards to various issues that we are
20 working on, specific comments and suggestions
21 about how those could be addressed and
22 clarified through the technical review

1 process, and I wanted people who made such
2 comments to know that we have, you know,
3 collected all of those, and we do intend to
4 incorporate that as well as our own
5 observations and working with the technical
6 review into that meeting.

7 So I think I've said enough.

8 CHAIRMAN MOYER: Thank you, Julie.

9 That's correct, yes.

10 Any other questions for the
11 program?

12 (No response.)

13 CHAIRMAN MOYER: Hearing none,
14 thank you, Dr. Robinson. I appreciate that.

15 Next on our agenda we have Dan,
16 Materials Committee or materials review
17 process update, if you're ready for that.

18 MEMBER GIACOMINI: If Valerie is
19 ready for that, thank you, Mr. Chairman.

20 Materials review update, when I
21 started this, was asked to do this about two
22 years ago, it had been a number of years since

1 it had been done at a meeting to review this
2 process. It has been at every meeting sine
3 then.

4 So if at any point in time people
5 are starting to get bored with it and want to
6 break, just let us know.

7 Next slide, please.

8 What we'll review today is a
9 national list of allowed and permitted
10 substances, the petition, and sunset review
11 items, the material review process, the
12 national list criteria, sunset review
13 criteria, an overview of the Materials Working
14 Group, and some final notes.

15 next slide.

16 For the national list of allowed
17 and permitted substances, Section 205.601 for
18 crops, are synthetic substances allowed for
19 use in organic crop production, with Section
20 602 being non-synthetic substances prohibited
21 for use in organic crop production.

22 Livestock, 603, synthetic

1 substances allowed for use in organic
2 livestock production; 604, non-synthetic
3 substances prohibited.

4 Section 605 for handling, non-
5 agricultural, non-organic substances allowed
6 as ingredients in or on processed products
7 labeled as organic or made with organic
8 specific ingredient or food groups: (a) non-
9 synthetics allowed and (b) synthetics allowed.

10 Section 606, non-organically
11 produced agricultural products allowed as
12 ingredients in or on processed products
13 labeled as organic. Listed non-organically
14 produced agricultural products may be used as
15 ingredients in or on processed products
16 labeled as organic only in accordance with any
17 restrictions specified in this section and
18 only when the product is not commercially
19 available in organic form.

20 Petition and sunset review items
21 under consideration at this time. Petitioned
22 items for this meeting, spring 2009 meeting,

1 for 601 of crops, isoparaffinic hydrocarbon,
2 sulfurous acid, and a parasitic acid and list
3 for inerts are two items for discussion only.

4 Section 603 for livestock,
5 propionic acid and injected use of vitamins
6 and minerals.

7 Section 605, propionic acid,
8 sodium chloride acidified, propane, and
9 Lecithin bleached petition for removal.

10 And 606, chicory root, red corn
11 color, Murr essential oil, wheat germ, and
12 another petition to remove Lecithin fluid
13 unbleached.

14 Other petitioned items that are
15 under review at this time, they have been
16 there in the technical review process or we
17 have received them too late to deal with at
18 this meeting. Tetramethyl -- I won't even try
19 these. You can just read those, folks.

20 Six, oh, one, 603, clarification
21 on vaccines; 605, glucosamine HCl and a pectin
22 non-aminated which has also been under TAP

1 review, TR, technical review.

2 Some additional items of
3 petitioned substances, Mr. Bob Pooler is now
4 the terminator. The petition for potassium
5 phosphate for 603 for livestock after dealing
6 back and forth with the petitioner, I'm sure,
7 over a significant period of time, that
8 petition was determined to be terminated.

9 Deferred petitions by the
10 petitioners which notate no further action at
11 this time are sulfuric acid and yeast.

12 We are beginning to look at items
13 for 2011 for sunset there under this meeting
14 for discussion, 602 items for 601, nothing for
15 603. Six, oh, five (a) has three substances
16 listed, and a number for 605(b) and none for
17 606.

18 The material review process, the
19 petition process is under the guidelines to
20 either add or delete substances from the
21 national list according to this Federal
22 Register notice.

1 The material review process is
2 designed for adding new listings to the
3 national list, changing annotations of
4 existing listings already on the national
5 list, or removing items currently on the
6 national list.

7 The material review process is a
8 minimum -- and that's very minimum, ideal
9 situation which has never and never will be
10 seen -- but an absolute minimum time frame
11 with the national list material review was 145
12 days, and that does not include rulemaking.
13 That is conditional on completeness of the
14 petition on initial submission, manpower
15 within the specific reviewing committees and
16 the Board overall, time frame relative to the
17 NOSB public meetings on when this substance
18 petition is received, and completion and
19 review of technical reviews.

20 The material review process day
21 one through 14-plus -- and that plus is
22 significant in later slide -- the petition is

1 received by the NOP and reviewed for
2 completeness. Issues determined to not be
3 complete and the NOP contacts the petitioner
4 to complete the petition, and under
5 termination of completeness by the NOP, the
6 petition is forwarded to the NOSB materials
7 chairperson.

8 Day 14 through 45, so essentially
9 that is saying for a minimum of the next 30
10 days after completion of the previous slide.
11 So if the previous slide takes six months,
12 there is no way that we can complete this next
13 session in 45 days. So it's 30 days from when
14 this -- a minimum of 35 days from when this is
15 received.

16 The material chairperson forwards
17 the petition to the chairperson of the
18 designated NOSB committee. The petition is
19 reevaluated for completeness to determine if
20 it will be forwarded for an external technical
21 review, and specific issues and questions
22 which the committee wishes addressed in the

1 technical review are submitted to the NOP.

2 You jump now to the 60 days prior
3 to the NOSB meeting where technical reviews
4 are sent to the NOSB. TAP and technical
5 reviews are posted on the NOP Website for
6 review and public comment. Committee
7 recommendations are posted for public comment,
8 and 30-day period prior to the meeting where
9 public comment is accepted by the NOP and
10 posted on the Website.

11 At the NOSB meeting, committee
12 recommendations are submitted. Further
13 comments are accepted from the public, and all
14 public comments are taken into consideration,
15 and action is taken by the full NOPSB Board
16 regarding committee recommendations.

17 As a final note, during the entire
18 process, all communication between petitioners
19 and the NOSB should go through the NOP office.

20 National list criteria as
21 according to the Organic Foods Production Act
22 of 1990, as amended, and the NOP regulations,

1 Section 205.600. In general, item number one,
2 the potential of each substance for
3 detrimental chemical interactions with other
4 materials used in organic farming systems.

5 Number two, the toxicity and mode
6 of action of the substance and of its
7 breakdown products of any contaminants and
8 their persistence in areas of concentration in
9 the environment.

10 Three, the probability of
11 environmental contamination during
12 manufacture, use, misuse, or disposal of such
13 substances.

14 Four, the effect of the substance
15 on human health.

16 Five, the effect of the substance
17 on biological and chemical interactions in the
18 agroecosystem, including the physiological,
19 including the physiological effects of the
20 substance on soil organisms, including the
21 salt index and the solubility of the soil
22 crops and livestock.

1 Six, the alternatives to using the
2 substance in terms of practices and other
3 available materials.

4 And, seven, compatibility with a
5 system of sustainable agriculture, according
6 to the Federal Register docket there, and if
7 anyone would like to reference that, they are
8 certainly welcome.

9 National list criteria for
10 processing aid or adjuvants, the synthetic
11 substance cannot be produced from a natural
12 source, and there is no organic substitute.

13 Two, the substance manufacture,
14 use and disposal do not have adverse effects
15 on the environment and are done in a manner
16 compatible with organic handling.

17 Three, the nutritional quality of
18 the food is maintained when the substance is
19 used, and the substance itself or its
20 breakdown products do not have an adverse
21 effect on human health as defined by
22 applicable federal regulations.

1 Four, the substance's primary use
2 is not as a preservative or to recreate or
3 improve flavors, textures, colors, nutritive
4 value lost during processing, except where the
5 replacement of nutrients is required by law.

6 Five, the substance is listed as
7 generally recognized as safe by the FDA when
8 used in accordance with the FDA's good
9 manufacturing practices and contains no
10 residues or heavy metal or other contaminants
11 in excess of tolerance set by FDA.

12 And, six, the substance is
13 essential for the handling of organically
14 produced agricultural products.

15 National list criteria for Section
16 606, agricultural and potentially commercially
17 unavailable. The NOSB considers why the
18 substance should be permitted in the
19 production or handling of an organic product.
20 The current industry information regarding
21 availability and history of unavailability of
22 an organic form in the appropriate form,

1 quality and quantity, and this information
2 includes, but is not limited to, regions of
3 production, including factors such as climate
4 and number of regions; the number of suppliers
5 and amount produced; current and historical
6 supplies related to weather events, such as
7 hurricanes, floods, droughts, that may
8 temporarily halt production or destroy crops
9 or supplies; trade related events, such as
10 evidence of hoarding, war, trade barriers or
11 civil unrest that may temporarily restrict
12 supplies; and other issues which may be
13 present which may present a challenge to a
14 consistent supply.

15 The sunset review criteria. The
16 sunset provision, according to OFPA is no
17 exemption, which is the listing on the
18 national list, or prohibition contained in the
19 national list shall be valid unless the
20 National Organics Standards Board has reviewed
21 such exemption or prohibition as provided in
22 this section within five years of each

1 exemption or prohibition being adopted or
2 reviewed, and the Secretary has renewed such
3 exemption for prohibition.

4 The sunset review criteria for
5 exemptions' national listings were accepted
6 because the evidence available showed the
7 substances were found not harmful to human
8 health or the environment. Substances were
9 necessary because of the unavailability of
10 wholly non-synthetic alternatives, and the
11 substances were consistent and compatible with
12 organic practices.

13 The sunset review criteria
14 includes the opportunity to revisit the
15 continued need for the exemption. If the
16 review finds that the initial conditions still
17 exist, the regulation is renewed for an
18 additional period of time.

19 Sunset review is to determine if
20 conditions relevant to the acceptance of the
21 exemption have changed. The sunset review
22 process is not to add a new substance to the

1 national list. It is not to change an
2 existing annotation, and it is not the time to
3 reinterpret unchanged information and
4 conditions. These issues are dealt with in
5 the petition process.

6 In working with the Materials
7 Working Group, the Materials Working Group was
8 formed to help the NOSB resolve the issues,
9 questions and confusion regarding the
10 classification and the definition of
11 materials. It includes members from across
12 the organic industry.

13 In the spring and fall '08
14 meetings, they issued reports to this body
15 regarding questions on the ag/non-ag question.
16 At this meeting they will issue a report on
17 the synthetic/non-synthetic questions, and
18 which will hopefully allow this Board for the
19 fall '09 meeting to take action on hopefully
20 as many of these recommendations as possible.

21 A final note. Public comment is
22 handled via www.regulations.gov. It is to

1 bring processing of public comment to an equal
2 level across agencies. This process sets a
3 deadline for public comment posted two weeks
4 prior to public meetings.

5 However, we want to recognize that
6 all public comments received by the NOP is
7 made available to NOSB members for review in
8 advance of the respective vote whenever
9 possible.

10 And as a final note, again,
11 posting the relevant Websites for the NOP, the
12 NOSB and for the posting of public comment.

13 Thank you, Mr. Chairman. Are
14 there any questions?

15 CHAIRMAN MOYER: Are there any
16 questions from the Board to Dan regarding his
17 report and update on materials?

18 (No response.)

19 CHAIRMAN MOYER: Okay. There
20 being none, unless the Board has a problem,
21 Richard Matthews would like to add an addendum
22 to the program report dealing with the comment

1 on vaccines. Any problems from the Board?

2 (No response.)

3 CHAIRMAN MOYER: Richard, the mic
4 is yours if you care to take it.

5 MR. MATTHEWS: This deals with the
6 issue that was raised by Hugh. For a minute
7 there I had a brain freeze. I couldn't
8 remember your name, Hugh.

9 Two, oh, five, one, oh, five
10 addresses the fact that excluded methods are
11 prohibited under the National Organic Program,
12 and in there it talks about except for
13 vaccines, but it then goes on to say provided
14 that the vaccines are approved in accordance
15 with 205.600(a).

16 We've looked at this because it
17 has come to our attention that at this point
18 some certifying agents are starting to look
19 closer at vaccines today than they did at any
20 other time since the program was implemented,
21 and some vaccines that have historically been
22 allowed under the program are suddenly being

1 called into question.

2 I think there's a multitude of
3 ways that this could be addressed. One of the
4 ways that this could be addressed would be to
5 amend Section 105 to take out the language
6 that occurs after "vaccine." So one option
7 would be where it currently says -- I lost my
8 spot again already. The pages flipped on
9 themselves -- "excluded methods except for
10 vaccines," that could be where the period
11 goes. That would take a recommendation from
12 the Board.

13 So I would suggest that the Board
14 take that into consideration as to whether or
15 not they want to amend the regulations at
16 205.105 to allow all vaccines regardless of
17 how they're manufactured.

18 Quite frankly, for the last seven
19 years, that's how it has been.

20 Now, just for a little history,
21 the preamble to the final rule addresses
22 205.105(a)(6) as to how it was structured, and

1 it basically said, as I said earlier, that if
2 you had a vaccine that was created using an
3 excluded method it was okay as long as the
4 material was reviewed and added to the
5 national list.

6 And that was done because we had
7 no information as to how prevalent the use of
8 vaccines was -- I mean how prevalent the use
9 of excluded methods was in the production of
10 vaccines. We are no more knowledgeable on
11 that today than we were back when the
12 regulation was written in 2000.

13 And so the question is: do you
14 want to allow what has been in place really
15 since these regulations were written, or do
16 you now want to start putting extra scrutiny
17 on materials that historically have been
18 allowed under the program, which is exactly
19 what is happening from some certifying agents?

20 So that's the issue. I mean, do
21 you want us reviewing or do you want to review
22 every vaccine or do you want to amend 105?

1 CHAIRMAN MOYER: Thank you,
2 Richard.

3 If you'd stay by the mic for a
4 moment, I believe there are some questions.
5 Hugh.

6 MEMBER KARREMAN: Thanks a lot,
7 Richard. I think as Chair of Livestock
8 Committee I will take that suggestion to amend
9 105(e) and work with that within the committee
10 and then hopefully bring it up for a
11 recommendation as vote at the November
12 meeting.

13 CHAIRMAN MOYER: Bea.

14 MEMBER JAMES: I just want your
15 opinion. Hypothetically speaking, let's say
16 we had all of the staff we needed; we had all
17 the resources that we needed. If we did,
18 would this part where it says "provided that
19 the vaccines are approved in accordance with
20 205.600" stay?

21 MR. MATTHEWS: I think that's up
22 to the Board. I mean, right now it's in there

1 and that would be the requirement. I
2 personally, if you're asking for my personal
3 opinion, I have a problem with suddenly
4 telling farmers that vaccines that they've
5 been allowed to use for all these years are
6 suddenly no longer good enough. I mean
7 because they've been good enough up to this
8 date, and so why all of a sudden are they no
9 good? Well, it's because somebody discovered
10 that it was made through an excluded method.

11 We've got to remember that
12 vaccines are there for our safety, as well as
13 the safety of the animals, and so the statute
14 itself says vaccines are allowed. It doesn't
15 say unless they're made using an excluded
16 method. It says vaccines are allowed.

17 It was a reaction to GMOs that
18 created the exclusion. So the question that
19 this body needs to determine is how important
20 is that exclusion. I mean, up to this point
21 it apparently has not been important because
22 nobody is worried about it, and suddenly we've

1 got some ACAs that are cracking the whip on
2 it.

3 CHAIRMAN MOYER: Richard, I think
4 the other issue that the Livestock Committee
5 was looking for some guidance from the program
6 on is in the interim between now and when the
7 Livestock Committee has a chance to act on
8 this, is there some sort of language or stay
9 that can be put in place so that farmers can
10 continue to do what they have been doing at
11 least until November when we have a vote on
12 something. Otherwise ACAs could immediately
13 close the door on that.

14 MR. MATTHEWS: Yes, we've talked
15 about that as well, and it would be a
16 directive that would go out to the ACAs. You
17 can probably call it an action alert, that
18 would tell them to not start disqualifying
19 things that have been previously approved and
20 to allow the rulemaking process to run its
21 course.

22 CHAIRMAN MOYER: Am I to

1 understand then that that's an official
2 statement and that that will be happening for
3 the purposes of the ACAs in the room?

4 MR. MATTHEWS: Barbara is shaking
5 her head yes. Yes, it will happen.

6 CHAIRMAN MOYER: Okay. Thank you
7 for that.

8 Hugh, you had another comment.

9 MEMBER KARREMAN: No, just thank
10 you very much for hitting the nail on the head
11 and describing the situation as it is, and
12 we'll be working on it from our part, too.

13 CHAIRMAN MOYER: Any other
14 questions from the Board for Richard Matthews?

15 (No response.)

16 CHAIRMAN MOYER: Thank you,
17 Richard.

18 We're now scheduled to take a
19 brief break, and we will take a 15 minute
20 break. When we come back, we will be getting
21 a status report from the Methionine Task
22 Force, and then entering into public comment.

1 If you're signed up, please be
2 here and be prepared to speak at the assigned
3 time.

4 Thank you.

5 (Whereupon, the above-entitled
6 matter

7 went off the record at 10:30 a.m.
8 and resumed at 10:49 a.m.)

9 CHAIRMAN MOYER: If folks in the
10 back of the room could please quiet down, I
11 would appreciate that.

12 Before we start with public
13 comment, I am going to take the time to read
14 the policy manual's handbook on public comment
15 because it's relevant and pertinent. I'm just
16 going to read it exactly as it comes from our
17 handbook.

18 All persons wishing to comment at
19 the National Organic Standards Board meeting
20 during public comment period must sign up in
21 advance per the instructions in the Federal
22 Register notice for the meeting. All

1 presenters are encouraged to submit public
2 comment in writing according to the Federal
3 Register notice.

4 Advanced submissions allow NOSB
5 member the opportunity to read comments in
6 advance electronically and decrease the need
7 for paper copies to be distributed during the
8 meeting.

9 Persons will be called upon to
10 speak in the order they sign up. Persons
11 called upon who are absent from the room could
12 potentially miss their opportunity for public
13 comment.

14 We do have a lot of public comment
15 over the next few days, and your consideration
16 to our timeliness is important to us.

17 Each person will be given five
18 minutes to speak unless otherwise indicated by
19 the chair. Persons must give their names,
20 affiliation for the record at the beginning of
21 the public comment period.

22 A person may submit a written

1 proxy to the National Organic Program or the
2 National Organic Standards Board requesting
3 that another person speak on his or her
4 behalf. No persons will be allowed to speak
5 during the public comment period for more than
6 ten minutes unless otherwise indicated by the
7 chair.

8 Individuals providing public
9 comment will refrain from any personal attacks
10 or other remark that otherwise impugn the
11 character of any individual, and the Chair
12 will not tolerate that either.

13 The National Organic Standards
14 Board will attempt to accommodate all persons
15 requesting public comment time. However,
16 persons requesting time after the closing date
17 of the meeting notice or during last minute
18 sign-ups at the meeting will be placed on a
19 waiting list and will be considered at the
20 discretion of the Board Chair depending on
21 availability of time.

22 Similarly, persons who have signed

1 up to address the National Organic Standards
2 Board for their five minute slot and have also
3 served as a proxy for another person will be
4 placed on a waiting list if they wish to speak
5 for a third time on the same topic and will be
6 considered at the discretion of the Board
7 Chair, depending on availability of time.
8 This should allow more members from the public
9 the time they need to present.

10 Members of the public are asked to
11 define clearly and succinctly the issues they
12 wish to present before the Board. This will
13 give NOSB Board members a comprehensible
14 understanding of the speaker's concerns.

15 And finally, members of the public
16 should be considerate about speaking more than
17 once on the same topic to allow more members
18 of the public the opportunity to speak.

19 Julie will be your timekeeper. We
20 will be keeping track of the time.

21 I also want to remind people to
22 please turn off your cell phones. It is

1 disruptive. I don't think we should have to
2 mention that in 2009, but sometimes it doesn't
3 hurt.

4 MEMBER DAVIS: Mr. Chair.

5 CHAIRMAN MOYER: Gerry.

6 MEMBER DAVIS: A quick suggestion
7 on handling that microphone over there. I
8 changed it so for shorter or taller people,
9 rather than pull down on it, which over time
10 causes it to not want to stay in position,
11 just spin the cross-arm. Just rotate it,
12 which will cause the mic to go up or down
13 versus your height.

14 CHAIRMAN MOYER: A little
15 housekeeping. Thank you. Gerry knows his
16 microphones because I don't. So just take the
17 microphone and turn it downwards. Rotate it
18 in its socket. Don't pull the whole thing
19 down.

20 Thank you, Gerry. Appreciate
21 that. It should help things along.

22 The Board would now like to call

1 the Methionine Task Force, Dave Martinelli, to
2 come to microphone, please, for an update.

3 MR. MARTINELLI: Dave Martinelli,
4 Coleman Natural Foods and chairing the
5 Methionine Task Force.

6 I'd also like to introduce. We
7 have another task force member here today, Mel
8 Gehman with Heritage Poultry.

9 I'm going to be doing the
10 presentation and Mel will come up for the Q&A
11 period if there's any specific questions. His
12 background is much more on the layer side,
13 whereas our company is broilers.

14 If you go to the next slide,
15 Valerie.

16 I've only got ten minutes. I've
17 got my own time and a proxy for an additional
18 five minutes and a lot of material to try to
19 cover. So I apologize in advance. I'm going
20 to move through this very quickly.

21 But just to kind of set the stage,
22 we had promised and committed to you all that

1 we would give you regular updates on our
2 progress on alternatives to synthetic
3 methionine, whether it's high methionine corn
4 or naturally produced methionine, and the
5 results of our feeding trials.

6 So today what we've got is just a
7 quick reminder of why we need methionine and
8 an established report on a variety of
9 alternatives, some information on three
10 different feeding trials and then kind of a
11 looking ahead at what's coming at us in the
12 next year or so with methionine.

13 Again, a reminder that methionine
14 is an essential nutrient in organic poultry
15 production. It's the first limiting amino
16 acid. As we talked about at the last meeting,
17 we feed supplemental synthetic methionine to
18 cover both the methionine deficiencies in the
19 diet as well as to make up for cystine
20 deficiencies, and the total inclusion rate of
21 synthetic methionine is extremely small. It's
22 about one-quarter of one percent, anywhere

1 from two to five pounds per ton of feed.

2 The majority of the bird's needs
3 are met through the grains in their diet.
4 About 70 percent of their methionine and
5 cystine needs are met through the other
6 elements of the diet.

7 Dr. Walter Goldstein is not going
8 to be here to present today. He's with the
9 Michael Fields Agricultural Institute. We've
10 had a number of dialogues with him back and
11 forth, and I think this is important to try to
12 understand.

13 There's basically three different
14 types of corn seed that he is working on.
15 There is the soft endosperm, flowery 2, and
16 the hard endosperm, both of which he discussed
17 at the last meeting.

18 The flowery 2 shows a lot of
19 promise from a methionine content perspective,
20 but there have been some issues in terms of
21 yield drag and high moisture levels in the
22 corn from an agronomic perspective, and those

1 yields are running about 35 percent less than
2 typical organic corn yields.

3 We did have a planting project
4 with this corn in Pennsylvania that only
5 yielded about 50 bushels to the acre. So
6 there's still some pretty significant yield
7 drag issues, and obviously farmers fairly
8 enough need to be compensated for any yield
9 loss they've got. So the price premium gets
10 borne by the feed user, and it becomes really
11 prohibitive.

12 The hard endosperm varieties
13 actually have a less severe yield drag,
14 approximately 20 percent based on the five-
15 year trials. At their best the methionine
16 levels are very comparable to the soft
17 endosperm flowery 2, but there's a tremendous
18 amount of variation in the methionine levels
19 so you don't tend to know with as much
20 specificity how much methionine you've got in
21 the hard endosperm varieties.

22 What the Michael Fields

1 Agricultural Institute has come across is a
2 new strain of the soft endosperm that is not
3 a flowery 2. It's an opaque variety. This is
4 very preliminary data, but it would appear
5 that they've got similar consistent methionine
6 levels to the flowery 2 with the yield
7 characteristics more of the hard endosperm.
8 So it's kind of a good balance between the
9 two, and we'll get back to that in a little
10 bit.

11 I've outlined for you all what
12 we're working on currently in 2009. There's
13 a couple different fronts. The first is the
14 seed corn front. The Michael Fields group is
15 working on 18 different test sites where
16 they're going to be working on 15 different
17 hybrids for planting in the U.S. in the
18 Midwest. They're working a variety of seed
19 companies and universities to get this done.

20 Separately, the Methionine Task
21 Force and the Michael Fields group is
22 partnering with a group of farmers in Indiana

1 to do seed multiplication trials with seed
2 that we've generated in both Chile and Hawaii
3 over the last two years. And the idea is that
4 they'll do seed multiplication with the seed
5 stock, and then the task force will get back
6 some of the hybrids, the more promising
7 hybrids for further seed multiplication and
8 development.

9 On the feed corn side -- next
10 slide, please -- we are working on a
11 partnership with the Michael Fields group and
12 also SunOpta to get 90 acres of high
13 methionine corn planted for feeding trials in
14 the Midwest. We've identified growers. We've
15 agreed upon a price premium, and the idea is
16 that the task force will buy this corn back
17 from those farmers and then we've got some
18 different test flocks that we'll be able to
19 run in the fall on a more significant scale
20 feeding high methionine corn.

21 There's also one of the task force
22 members, Herbrucks Poultry Farms, that have

1 planted 18 acres of high methionine corn or
2 are planning on planting 18 acres of high
3 methionine corn for feeding trials this year
4 as well.

5 Lastly, I mentioned about the
6 opaque variety of corn offering significant
7 potential. So we're strategizing right now
8 with the Michael Fields group about doing some
9 over winter trials in the southern hemisphere
10 or Hawaii again to try to get seed
11 multiplication going of this.

12 Ideally, we'd like to see a little
13 more field test results before we went to seed
14 multiplication, but because of the time line
15 we are under we feel we need to move pretty
16 aggressively on this, and to the extent we've
17 seen some very promising results in the lab,
18 we think this is something we need to put some
19 effort and time toward and try to jump start
20 the process a little bit about bringing this
21 up to a commercial scale.

22 Segueing away from high methionine

1 corn into some of the other alternatives, we
2 continue to look at naturally produced
3 methionine. There's really two different
4 avenues we're going down there. We've engaged
5 with the University of Arkansas, Dr. Steve
6 Ricke, on a pilot project to try to find
7 bacteria that produce natural methionine and
8 that we can replicate this on a commercial
9 scale.

10 They are just in the first phase
11 of a three phase research project but have
12 already talked to Dr. Ricke about having him
13 present to you all in the fall and you can
14 hear first hand on what progress they're
15 making on that front.

16 There is some private party
17 interest in naturally produced methionine as
18 well. We've had one private party in
19 particular that continually expresses to us
20 that they have a solution, but we've been
21 unable to get any specifics about specs or
22 cost or time line, and these are the things

1 that really make us feel it's viable.

2 So we're very open to that, but we
3 just can't seem to get a whole lot of traction
4 with kind of the leading party in this.

5 We have received some information
6 on one potential promising product, an alfalfa
7 nutrient concentrate. I actually believe
8 these folks are presenting here today as well.
9 Much higher methionine levels than soybean
10 meal, which is the primary source of
11 methionine in the diet currently, but when you
12 look at methionine plus cystine, it actually
13 comes out very close. You can see 1.6 percent
14 methionine plus cystine versus 1.39 percent
15 for soybean meal.

16 So I'm not sure from a methionine
17 plus cystine perspective it really gives us
18 what we need. We had some comments back from
19 our nutritionist, and the whole comment is
20 there, but I'll just read the part in red
21 highlight. Really there's very little
22 difference with the methionine plus cystine

1 levels. So that still becomes a limiting fact
2 at least with respect to broiler diets.

3 There is some calcium benefit in
4 this which doesn't really help broilers, but
5 could be of some interest to egg producers.
6 I'm not sure it really solves the methionine
7 issue, but just as an overall dietary
8 inclusion point, it might make some sense.

9 This product is not yet approved
10 for organic production, but I understand these
11 folks are working with OMRI to get that
12 approval, and not currently produced in the
13 U.S., but again, I believe they're working on
14 that as well.

15 There was also some discussion
16 about maybe hydrolizing grains to isolate
17 methionine. It doesn't appear currently.
18 Again, we ran this by some of our
19 nutritionists that we work with in the task
20 force. It does not appear that we're able to
21 cleave off the particular amino acid strains.
22 At present it seems to be more of enzymatic

1 solution here than really doing anything with
2 hydrolizing grains.

3 We'll continue to look at this,
4 but the initial feedback from nutritionists
5 was not particularly promising that we could
6 get a lot of value out of it.

7 Next slide, please.

8 So I'm going to move into the
9 trials that we've been running. I
10 unfortunately don't have a lot of information
11 on this trial. I just received this literally
12 over the weekend, but there was an Italian
13 heritage breed, a red-feathered bird broiler
14 trial done in Pennsylvania.

15 Just to give you a little bit of
16 background, these birds typically are raised
17 for about ten weeks before they're brought to
18 market. They ran a group of no methionine
19 birds, no added synthetic methionine in the
20 diet, and they waited an additional two weeks
21 before bringing the birds in, and they were
22 still not -- even at 12 weeks, they really

1 didn't have the right muscle structure, and
2 they weren't really meaty.

3 And I only raise the question that
4 relative to some of the animal welfare
5 standards we're going to be looking at that we
6 may have some issues with this.

7 Five minutes or ten? On the full
8 ten? Okay. I'll to move as quickly as I can
9 here.

10 The next slide, this is the layer
11 trial that you saw last time. These birds are
12 now at 50 weeks old. In the interest of time
13 we'll kind of keep moving along here.

14 There's basically no methionine
15 group, no added methionine and a control
16 group. You can see the production levels are
17 actually relatively close. The no methionine
18 group is only about five points behind the
19 control group. So we're seeing some loss in
20 production, but it might not be as significant
21 as you would think.

22 But I think the next slide really

1 illustrates the point that even the control
2 group is significantly lagging what you would
3 normally expect for organic hens to produce at
4 this point in their cycle.

5 Normally you'd have about 192 eggs
6 produced at the 50 week mark. The control
7 group is only at 135, and the no methionine
8 group is at 123. So the problem is we don't
9 know if it's a problem with the environment or
10 the chick quality or whatever. We do know
11 they're lagging significantly.

12 I'm happy to take any questions
13 about some additional things I can inform you
14 on for layer trials if you would be
15 interested.

16 CHAIRMAN MOYER: Are there any
17 questions or comments from the Board?

18 MEMBER SMILLIE: Just a point of
19 order. Since this is the working group that
20 we commissioned, are they held to the ten
21 minute rule on this, Jeff? I mean, it's not
22 --

1 CHAIRMAN MOYER: That was a
2 decision that the administrative team made
3 early on. If we want to allow Dave
4 Martinelli, certainly it's the Board's
5 discretion to do that.

6 Opinions? Hugh.

7 MEMBER KARREMAN: If possible, I
8 would move that we allow him to keep going
9 with his presentation if it's not more than,
10 let's say, five more minutes.

11 SECRETARY WEISMAN: I just want to
12 ask a question. But the next two speakers,
13 are they also part of your presentation or are
14 they completely independent of you?

15 MR. MARTINELLI: I know Dr.
16 Goldstein is not going to be here. The other
17 two folks are separate.

18 SECRETARY WEISMAN: Okay.

19 CHAIRMAN MOYER: I think it's the
20 Board's opinion that you continue, please.

21 MR. MARTINELLI: Okay. I'll move
22 as quickly as I can.

1 CHAIRMAN MOYER: We'll set the
2 clock for another five minutes and hopefully
3 that will be enough.

4 MR. MARTINELLI: Okay. That's
5 great.

6 CHAIRMAN MOYER: Thank you.

7 MR. MARTINELLI: It will easily be
8 done by then.

9 As you can see, there's some
10 really good stuff here though. There's no
11 significant differences in mortality between
12 the two groups, which I think is a positive.
13 No signs of cannibalism, which we, frankly,
14 expected to find. Feathering looks very good
15 in both groups. No differences in the egg
16 weights, which is another surprising find.
17 That may be somewhat a function of the breed
18 that was used, the high lines. And no
19 noticeable ammonia levels, which again was
20 something we thought we might run into. That
21 may be a function of where the trials were
22 held since they were in Southern California.

1 You may have different issues in the Northeast
2 if you're trying to run those trials.

3 So, again, just a quick synopsis
4 of the layer trials: 105 percent feed cost;
5 91 percent egg production relative to the
6 control group and only 65 percent of normal.
7 The birds are exhibiting some kind of strange
8 nervous behavior, but that's not really
9 quantifiable. The key is that we need to do
10 more trials. We need to get some replication
11 and try to understand why the control group
12 was off so significantly as well as the new
13 methionine group.

14 I also mentioned that we need --
15 and you brought this up last time -- that we
16 need trials with organic feed and outdoor
17 access. So there is a new trial that just
18 started with Herbrucks that's identified here.
19 They're doing it in conjunction with Michigan
20 State and a professor emeritus from Clemson
21 University, Woody Williams.

22 They raised the birds with

1 methionine in the diet, but they're in the egg
2 production cycle with no synthetic methionine
3 in the diet. They are going to do some pullet
4 trials, but they literally just kind of pulled
5 this together after the last meeting.

6 I think the important thing is
7 these birds are on organic feed. They do have
8 access to the outdoors, and actually they have
9 extensive outdoor access, three times kind of
10 the normal standard for what Herbrucks runs.

11 The other important thing is we
12 will be collecting behavioral data,
13 quantifiable behavioral data on these flocks
14 to see if there's any difference in the birds
15 that don't have methionine in their diet.

16 We are working with Herbrucks in
17 trying to get some additional test flocks
18 going using fish meal as well.

19 Next slide, please.

20 I just wanted to point out there's
21 a little bit of noise that's come to our
22 attention out of the EU. They currently have

1 a standard that allows them to feed ten
2 percent non-organic feed in the diet, and
3 they've been satisfying the methionine
4 requirements in the birds by using fish meal
5 and corn gluten meal, and there's already some
6 discussion in the U.K. particularly about as
7 they ratchet down from a ten percent allowance
8 to a five percent allowance and eventually
9 phase out of non-organic feed ingredients
10 whether they're going to have a problem
11 satisfying the nutritional needs of the birds
12 without methionine.

13 And basically Dr. Cliff Nixie from
14 the British Poultry Council presented in
15 February at a symposium in Europe and
16 indicated that already you've got an
17 imbalanced diet. So he's got some real
18 concerns about whether as Europe goes through
19 the phase-down, whether they're going to be
20 able to meet the nutritional needs of the
21 birds.

22 So just looking ahead, this is

1 kind of what's on our plate in terms of we've
2 got to get some additional fund raising done.
3 We've got to work on some additional trial
4 designs, monitoring the corn planting progress
5 both here and in the southern hemisphere, and
6 then also try to get more specifics around
7 some of the research that's been done in the
8 University of Arkansas. They naturally
9 produce methionine and ever mindful of the
10 fact that we're 17 months away and the clock
11 is ticking towards our 2010 deadline.

12 So I think that's within my five
13 minutes, and I'll take any questions.

14 CHAIRMAN MOYER: It was. Thank
15 you very much, Dave. We appreciate that.

16 A question from Kevin.

17 MEMBER ENGELBERT: Thank you, Mr.
18 Martinelli. Would you please explain on that
19 last chart you spoke of three times the
20 outdoor access? Would you describe exactly
21 what the outdoor access was, the area, how
22 many birds, you know, what stage of their life

1 they had access to it, et cetera?

2 MR. MARTINELLI: I'd have to get
3 back to you on that. That's Herbert's trial,
4 and I just don't have the specifics, but I
5 could certainly get that and provide it for
6 the group.

7 CHAIRMAN MOYER: Thank you, Kevin.
8 Dan.

9 MEMBER GIACOMINI: Thanks, Dave.
10 Just a couple of things. Again,
11 it is not a sunset. There is a cutoff date,
12 and while that date is 70 months away, you're
13 going to need to start working on that
14 petition again soon.

15 The second thing is I don't think
16 I'm speaking too far out of turn with the
17 members of the Board that I've talked to where
18 we commend you for the work you've been doing,
19 and we encourage you to move ahead on that,
20 but I think the ideal, ultimate achievement of
21 what you're trying to do is probably well out
22 into the future of really trying to put

1 rations together without the methionine.

2 So what I would ask you to do is I
3 think in those conversations, again, a full
4 blanket, free wheeling use of synthetic
5 methionine in the next go-round is probably
6 not as likely as you've had before, and so
7 next time come to us with a lot more data on
8 the amount of synthetic methionine that's
9 being used in diets.

10 You've presented with us now for
11 two meetings in a row that you want it viewed
12 as synthetic methionine plus cystine. Present
13 it to us in that format if that's the way you
14 want us to look at and give us something to
15 start being able to start putting a fence
16 around.

17 MR. MARTINELLI: Would there be an
18 opportunity to work directly with the
19 Livestock Committee on that, too? I mean, how
20 would we go about engaging in that dialogue?
21 Any suggestions?

22 CHAIRMAN MOYER: Now, wait. Bob

1 Pooler has a comment on that.

2 I'm sorry, Bob. It's hard for me
3 to see you through the projector. I
4 apologize.

5 MR. POOLER: As a petitioner, you
6 would need to work with the program and work
7 with me in particular, and then I would work
8 with the Livestock Committee. Because we
9 don't know the makeup of the Livestock
10 Committee when the new members come on.

11 CHAIRMAN MOYER: Thank you, Bob.

12 That's correct. We don't have
13 direct interaction between petitioners and the
14 Board.

15 MR. MARTINELLI: That's fine.

16 CHAIRMAN MOYER: Gerry. The Board
17 recognizes Gerry.

18 MEMBER DAVIS: I was wondering as
19 part of your presentation you mentioned a
20 supplier of an alternate methionine source
21 that hasn't really come up with what they
22 promise. Is that referring to the

1 commercially reared insect producer guy?

2 MR. MARTINELLI: No. This product
3 would be maybe not 100 percent methionine, but
4 an extremely high percentage of methionine.
5 It would just be a natural source of what we
6 currently use in synthetic form.

7 The insect meal, it's high
8 relative to typical feed inputs, but I think
9 it's like three percent methionine or two and
10 a half percent methionine, and that project
11 has never come to fruition either.

12 MEMBER DAVIS: So you have checked
13 on the progress of that company --

14 MR. MARTINELLI: Yes.

15 MEMBER DAVIS: -- and they
16 haven't.

17 MR. MARTINELLI: Yes. I mean,
18 they were going to have possibly at some point
19 this year the capacity to produce five pounds
20 a week. So we didn't have enough to do a
21 trial with, frankly.

22 CHAIRMAN MOYER: Thank you, Gerry.

1 The Chair recognizes Kevin, then
2 Hugh.

3 MEMBER ENGELBERT: Dan brings up a
4 point that leads me to ask the use of
5 methionine at a rate of two to five pounds
6 seems like a huge variance for such a powerful
7 amino acid. Is it strictly a variance because
8 of the different feeds that are used or the
9 different time of year or the different types
10 of birds or is it simply a production
11 quantitative figure?

12 MR. MARTINELLI: It's the
13 different types of birds. I mean, one is
14 layers. One is broilers. One is turkeys, and
15 you know, even ducks and geese and all the
16 other fowl are going to have different
17 standards as well, but it's really specific to
18 the type of bird.

19 CHAIRMAN MOYER: Thank you, Dave.

20 The Chair recognizes Hugh.

21 MEMBER KARREMAN: Dave, I was glad
22 to see I think one of the trials with the

1 layers that the eggs were the same weight, I
2 guess, quality.

3 MR. MARTINELLI: Size, yes.

4 MEMBER KARREMAN: Size, right, and
5 you know, I guess in organics, you know, we
6 try to perhaps look more at quality than
7 necessarily quantity, and you guys are showing
8 equivalent quality, and that to me counts more
9 than you guys getting what the conventional
10 levels are of egg production. So I was glad
11 to see that.

12 MR. MARTINELLI: Good.

13 CHAIRMAN MOYER: Any other
14 questions for Dave?

15 (No response.)

16 CHAIRMAN MOYER: Thank you.

17 Now we have Walter Goldstein, but
18 I understand he's not here; is that correct,
19 Valerie?

20 MS. FRANCES: Right.

21 CHAIRMAN MOYER: Then we have
22 Ralph Emerson and John Emerson on deck.

1 MR. RALPH EMERSON: Hello. I am
2 Ralph Emerson. I hope my transit time is not
3 deducted from here to there.

4 CHAIRMAN MOYER: No.

5 (Laughter.)

6 MR. RALPH EMERSON: I am in an
7 association, a consultant with VITALFA, which
8 is part of Brewster Foods, California based,
9 and a longstanding organic, if you will,
10 vitamin health food company that's been around
11 for 60 years.

12 I'm with Innovations Technology.
13 I work in neuroceuticals. We work in
14 immunology with the Defense Department and
15 with the NFL, and our interests are in unique
16 plant based products. And I've been working
17 with the VITALFA group looking at their
18 products derived from French production, and
19 David described it very well a little bit
20 earlier.

21 And the purpose of my being here
22 is to present more about the availability of

1 the alfalfa nutrient concentrates, alfalfa
2 derived products from the EU, and ask a
3 question, which is what I know you all
4 certainly need is another question.

5 The VITALFA, as I mentioned, USA,
6 is an exclusive supplier of alfalfa nutrient
7 concentrate, is its acronym, and a press cake
8 to the natural, if you will, the product feed
9 industry. It's currently AVCO approved, which
10 I'll get into later, and it's in the companion
11 animal area feed.

12

13 And both the products, the ANC,
14 which is the concentrated nutrient, which is
15 extremely high in methionine but also in
16 vitamins and other particular chemicals of
17 interest, is separate. It's a process that we
18 describe up on the PowerPoint here as a Pro-
19 San process. The Pro-San process is actually
20 a USDA technology. It was developed up by
21 Berkeley and Albany by Bennie Nuchols. Dr.
22 Nuchols spent -- it sounds like a comic book

1 character -- but Bennie is a very good
2 research agronomist, scientist -- and they had
3 some time on their hands and decided that
4 alfalfa was a nice crop and could they
5 mechanically -- no chemical extractions --
6 develop a product.

7 Well, they did a marvelous job,
8 but unfortunately it was not seized by the
9 industry, and the French decided to take it
10 over and develop it, which they did, and they
11 produce mechanically ECOCERT, ECOCERTIFIED
12 organic, non-GMO, mechanically processed
13 products.

14 And, on one hand, the ANC is the
15 liquid again, and the press cake, of course,
16 is the solid phase of the fiber.

17 The methionine in the ANC, the
18 liquid concentrate and formulated in feed is
19 both economic and meets nutritional
20 requirements. This is per work we've done
21 with Foster Farms, which is one of the fifth
22 or sixth ranked poultry industry corporations

1 based out of Livingston, California, and their
2 comments follow.

3 VITALFA, as I said earlier, it's
4 an ECOCERT France CEE 2092-91 product, and the
5 goal the French have is to dramatically
6 increase their certified organic growing
7 fields, and you'll have a letter to that
8 effect later from Mr. Brewster when he
9 arrives. He's been delayed. The French have
10 written and asked for consideration.

11 Moreover, they're most excited
12 about fostering our NOP relationship with them
13 and reciprocities and all of that business.

14 As I mentioned earlier, Brewster
15 Foods has a long history, again, in 1939 in
16 alfalfa research.

17 Yes, thank you.

18 MS. FRANCES: His son is giving
19 his time to his father.

20 MR. EMERSON: Mr. Brewster is
21 delayed courtesy of Delta Airlines, I think,
22 coming from the coast.

1 Brewster -- and VITALFA entertains
2 them, but VITALFA is the principal corporation
3 -- was the first company to really pioneer the
4 alfalfa health food industry and did so in the
5 '40s quite successfully for humans, and
6 continued that research. The research is one
7 of the reasons that I got involved with what
8 they're doing, largely because of George
9 Gailey's work out of OSU, Oregon State.
10 George is a toxicologist. We did a lot of
11 work, aflatoxin induced tumors, for NIEHS at
12 the time, and it turns out that the alfalfa-
13 chlorophyll-chlorofins business as a separate
14 issue was very intriguing as an anti-
15 carcinogen.

16 And so that has been published by
17 George, who is now my age and emeritus, but
18 that led me into looking at alfalfa, and found
19 a very long history of its use in not only
20 food, but in medicinal chemistries.

21 I went to Dr. Alfonso Morales.
22 Alfonso, Foster Farms, is an immunologist,

1 nutritionist, and Director of Research, and
2 his comments are posted. He feels that the
3 high protein alfalfa meal, again, feed is a
4 proper step in the right direction,
5 elimination of other methionines, and I see it
6 more broadly than that, but those are
7 Alfonso's feelings.

8 Foster has a significant and
9 growing interest in creating more organic
10 farms in California, assuming it's there next
11 week.

12 He feels a high protein alfalfa
13 meal in the concentrate is an excellent source
14 of protein, limiting amino acid. You heard
15 all of that earlier. You've heard about the
16 synthetic methionine, and in his opinion, the
17 viable poultry feed formulation, some VITALFA
18 products have been developed by Foster Farms
19 and the use of their ingredients.

20 His preliminary work suggests that
21 alfalfa meal usage has a potential in the
22 methionine issue to be used for both the

1 finishers and for the growers. In addition,
2 he has really elucidated other benefits in our
3 discussion in scientific mutual research.

4 The xanthophyll issue, naturally
5 beneficial for poultry immunity, and may
6 stimulate feed consumption in poults on the
7 turkey side for a number of very interesting
8 chemical-biological reasons.

9 Moreover, the high nutrient
10 vitamin concentrations are of particular
11 interest, and he has used the Pro-San
12 materials before at Foster Farms. In his
13 opinion, they have been around 25 years, which
14 ties back into Dr. Nuchols' work at the USDA
15 in Albany.

16 They found no detrimental effects,
17 and he feels in his opinion -- and I quote
18 from him -- there should be no problems in
19 implementing this product. And they go into
20 shadow prices and how you count in mLs in that
21 industry. So I am pleased that he said that.

22 The last slide. It's, again, a

1 reiteration of the Pro-San process, and as I
2 mentioned, they're AFCO approved, and a source
3 naturally rich in vitamins, minerals for
4 animal feed, and Mr. Brewster will bring these
5 compendiums for you. They are strongly
6 committed and a sustainable egg environment,
7 organic principles, and we would understand
8 this needs to be certified to the NOP that
9 said it's an alfalfa.

10 However, this is the point of my
11 whole -- it is a mechanically derived juice
12 high in vitamins, minerals, used certified
13 organic, and the question to you as a group is
14 could this be included in organic poultry
15 rations under those appropriate sections.

16 And with that I'll conclude early.

17 CHAIRMAN MOYER: Thank you, Mr.
18 Emerson.

19 MR. RALPH EMERSON: Thank you.

20 CHAIRMAN MOYER: We appreciate
21 that. If you'll just stand there, I think we
22 have a few questions.

1 MR. RALPH EMERSON: Thank you.

2 CHAIRMAN MOYER: I just wanted to
3 mention to your son my son never would have
4 given the floor up to me. So that's --

5 (Laughter.)

6 CHAIRMAN MOYER: -- to your
7 credit.

8 MR. RALPH EMERSON: Yes, but you
9 notice I had a cane.

10 (Laughter.)

11 CHAIRMAN MOYER: Joe.

12 MEMBER SMILLIE: Maybe I'm missing
13 something, but there is no equivalency
14 agreement with the EU to the EU standard, but
15 on crop productions, the standards are very
16 similar, very little difference between them.
17 ECOCERT is an accredited USDA certifier. I
18 see no problem in approaching ECOCERT and
19 asking them to certify this process to the NOP
20 standard.

21 MR. RALPH EMERSON: They've sent a
22 letter to that effect, but there was a long

1 trail of who should talk with whom and how we
2 get there from here wasn't necessarily a
3 straight line.

4 MEMBER SMILLIE: Right. I think
5 you cut the Gordion Knot really quickly by
6 just getting ECOCERT to certify that product
7 to the NOP standard. I don't know, but I
8 doubt that there's serious technical issues
9 there. I think it can be done.

10 Certainly the chances of this
11 route are pretty much nil because, you know,
12 the regulation is clear it has to be to the
13 U.S. standard.

14 MR. RALPH EMERSON: Yes, very
15 good. Thank you.

16 CHAIRMAN MOYER: Good point, Joe.
17 I think you're right, but if it is produced
18 organically, it could work.

19 Hugh, you had your hand up.

20 MEMBER KARREMAN: I just would
21 like to see other ingredients in the poultry
22 nations that include some plant material,

1 other plant materials than just grains. So I
2 was glad to see this presentation. Hopefully
3 the idea still is to get the birds outside a
4 little and get the real green stuff, but short
5 of that or in complement to that, I think
6 having an alfalfa derived product would be a
7 wonderful thing if it fits poultry nutrition.

8 CHAIRMAN MOYER: Any other
9 questions by the Board?

10 (No response.)

11 CHAIRMAN MOYER: Okay. Thank you.

12 MR. RALPH EMERSON: Thank you.

13 CHAIRMAN MOYER: And now we have
14 Mr. Luke Howard and then Liana Hoodes is on
15 deck.

16 MS. FRANCES: Luke was moved to
17 later in the day because he asked me to make
18 sure -- I know he's here, but if you look on
19 the list, I rearranged it, on the screen.
20 It's a scheduling change.

21 CHAIRMAN MOYER: I'm getting
22 motions from both sides. Mr. Howard is in the

1 room and he's trying to get your attention.

2 MR. HOWARD: I'm ready to go.

3 MS. FRANCES: Well, you asked me
4 to change your time. So I readjusted.

5 MR. HOWARD: No, I needed to go
6 this morning because I have farming to do this
7 afternoon.

8 MS. FRANCES: Okay.

9 MR. HOWARD: Is that okay? Is
10 that okay with the Board?

11 MS. FRANCES: All right.

12 CHAIRMAN MOYER: Yes, please go
13 ahead.

14 MR. HOWARD: Thank you for
15 accommodating me, and I apologize for the
16 confusion.

17 My name is Luke Howard, and I'm
18 here representing Blue River Hybrids. You
19 have heard from us before about organic seed
20 issues.

21 And, of course, we are an organic
22 seed and corn and soybean company based in

1 Kelley, Iowa, and we distribute seeds
2 nationally from the north to the south, from
3 the east to the west.

4 And I want to thank you for your
5 time and your attention to the organic seed
6 issues, and your guidance document from last
7 year was excellent, and we really appreciate
8 all of those efforts.

9 But the purpose of this report is
10 I really want to give you kind of the state of
11 the organic seed industry report. So this is
12 a 2009 update.

13 For many years we've been seeing
14 an increased usage of organic seed, but this
15 year we've seen a real decline in organic seed
16 usage, especially in the Midwest. For
17 example, we had about 650 -- let me get my
18 facts straight here -- 650 farmers were
19 surveyed throughout the Midwest, basically
20 Michigan, Indiana, Illinois, Iowa, and
21 Nebraska, and of those farmers, most of them
22 said that they were not going to use organic

1 seed to grow corn and soybeans because of
2 price, and that they were actually going to
3 use conventional, untreated seed.

4 So we're seeing a decline,
5 especially in the Midwest and the West, and
6 our sales show that as well. And when we
7 communicate with other organic seed companies,
8 we're hearing that same message echoed.

9 So we have some real concerns.
10 For example, our company has equal -- we have
11 had no growth this year as far as our corn
12 seed sales, and actually in some places we're
13 down in corn seed sales. These are difficult
14 times, especially with the volatility of the
15 grain market, and we can certainly understand
16 farmers wanting to decrease their input costs.

17 However, when we look at the
18 difference between conventional untreated seed
19 and organic seed, we see about a \$40 a bag
20 differential. Those are very general terms.
21 Sometimes they are \$30; sometimes they are 50
22 or \$60.

1 So I'm wondering, you know. This
2 translates to about \$10 to \$15 an acre input
3 cost increase by using organic seed. If you
4 think about the return that the farmers get on
5 their grain, it's still double if not more
6 than double of conventional pricing, and so
7 that \$10 extra input cost becomes pretty
8 significant when you're looking at a return of
9 possibly 1,000 or \$1,500 an acre.

10 We've been told that some
11 certifiers are allowing this exemption, and
12 some of the larger farms are really certifying
13 certifier shopping, finding a certifier that
14 will accommodate their needs because they have
15 a favorite hybrid from a Pioneer or another
16 seed company and allowing them to use that
17 product.

18 We've also heard that hybrids
19 aren't available for their geographic region.
20 We have seed grown in southern Alabama. We
21 have seed grown in Quebec and Ontario. We
22 have seed grown in Maine, and seed grown in

1 California. So that excuse sometimes is a
2 little frustrating.

3 I guess in conclusion, because I
4 don't want to take up too much of your time
5 based on the confusion that just happened, we
6 again want to thank you for your support of
7 the organic seed rule, but we would also like
8 to encourage the NOP staff to enforce this
9 rule. It's very important that we really live
10 by our rule because it would be comparable to
11 a farmer maybe not using other organic inputs
12 when they're available.

13 We would ask the certifiers really
14 enforce this rule, and that they possibly
15 could post this information on the Web when
16 they make an exemption for a farm. So if
17 Farmer A decides to use conventional
18 untreated, possibly that could be posted for
19 the public, and we realize that's a lot of
20 work for certifiers, and we're not going to
21 make any friends saying that statement, but we
22 feel it's important to know that the public

1 knows what farmers are using when they're not
2 using organic seed.

3 I think that pretty much is it.

4 If there are any questions, I'll be glad to
5 answer them based on our experience at Blue
6 River.

7 CHAIRMAN MOYER: Any questions
8 from members of the Board? Kevin.

9 MEMBER ENGELBERT: What did your
10 prices do from last year to this year for a
11 bag of soybean and a bag of corn?

12 MR. HOWARD: Our prices increased
13 rather dramatically, just like the price of
14 corn increased rather dramatically, and so the
15 price that we increased was maybe about \$40 a
16 bag, but you also need to keep in mind that
17 when we increase that price, the farmer
18 growing our seed got most of that increase, if
19 not all of that increase.

20 CHAIRMAN MOYER: I have a question
21 for the program. Yes, I was just wondering
22 where are we with the recommendation that we

1 passed and this Board approved on seed? I
2 believe it was in 2008.

3 And then you have a comment, too,
4 Richard.

5 MR. MATTHEWS: Yes. Well, just
6 for starters, price is not a factor, and
7 certifying agents are supposed to insure that
8 their clients are doing due diligence to
9 obtain organic seed. So if there's organic
10 seed out there, they have to use it.

11 And so it's one of those areas
12 that we're looking at back at the department
13 and trying to come up with some solutions to
14 it, but it is an area that we will be doing
15 more due diligence on our own behalf to make
16 sure that the auditors are looking for
17 certifying agent compliance with the
18 requirements that they require their clients
19 to source organic seed.

20 And, again, getting back to the
21 question that was raised, price is not a
22 factor. It doesn't matter what the price is.

1 You have to use the organic seed.

2 CHAIRMAN MOYER: Yes, I think this
3 Board made it clear in their recommendation
4 that that is the direction we wish to head.

5 Just a minute, Kevin. Barbara,
6 you have a follow-up?

7 MS. ROBINSON: Rick and I just met
8 with ASTA last week, American Sea Trade
9 Association, and we did talk with them about
10 what they could do along with the program to
11 help facilitate this a little better, and
12 they're going to help build a database
13 reporting the availability of organic seed,
14 who's got the organic seed, and then we're
15 going to try and work, you know. We've got
16 the ACA database that we've sent out to all of
17 our ACAs. We're going to work with Mike
18 Smith. Poor Mike doesn't know this yet, but
19 we're going to see if we can use that same
20 kind of reporting mechanism, work with ASTA,
21 get that out to seed suppliers, and then get
22 them to report back to ASTA.

1 They'll, you know, collect all of
2 the information in a usable format and then
3 get it to us. We can, like we did with the
4 hay, the feed suppliers back at the beginning
5 of the program, and then post that on our
6 Website because I think a lot of this is, you
7 know, the more we can report it, we have
8 something that starts growing, a database. We
9 can start closing this noncompliance and get
10 people -- you know, people have less ability
11 to say, "Oh, I didn't know. You know, I don't
12 know that there's any seed out there," and
13 that sort of thing.

14 We can say, "Well, well, there's
15 the database out there, and you've got to go,"
16 and the auditors will be able to say, "Where
17 have you been? You know, did you go and look
18 on this database? And show us your records,"
19 and that sort of thin.

20 CHAIRMAN MOYER: I figure database
21 is a great idea, but it seems from Mr.
22 Howard's report that farmers know the seeds

1 available and are choosing not to use it
2 anyway. So that wouldn't solve that problem.
3 I think we need the joint action from the
4 accreditation and auditing side to follow up
5 with that.

6 But, Kevin, you had a comment as
7 well.

8 MEMBER ENGELBERT: Yes, I want to
9 clarify why I asked that question about price.
10 I'm not saying it should matter at all when
11 you purchase and it shouldn't, but in our
12 little corner of the world, I've learned from
13 other organic farmers that they have saved
14 their own soybean seed, and that might be why
15 your sales are down, because of the huge
16 increase in price and also because they have
17 found seed from a different company that is
18 less expensive. Just from talking to the
19 farmers in my area I know that to be the case,
20 and everyone is expecting because of the lower
21 price that dairy farmers are being paid, the
22 demand for grain has lessened, and they're

1 expecting the price of organic grains to be
2 substantially lower this fall.

3 So at least in my corner of the
4 Northeast, I know that a lot of the demand has
5 dropped simply for those reasons. That's the
6 reason I brought that up.

7 MR. HOWARD: And if corn acres do
8 decrease nationally, then certainly our sales
9 should be down, but we're not hearing that,
10 and we're hearing our statements echoed in
11 other seed companies that are pretty close to
12 the same price for their seed as we are.

13 So I hear what you're saying, and
14 certainly saving soybean seed is easy enough
15 to do, but saving hybrid corn seed would be
16 pretty tough to do.

17 Thank you for your time.

18 CHAIRMAN MOYER: Our pleasure.

19 Thank you, Mr. Howard.

20 Michael Sligh for Liana Hoodes,
21 and Harriet Behar on deck.

22 MR. SLIGH: Good morning,

1 everybody. I am Michael Sligh. I am here
2 representing the National Organic Coalition.
3 We're a national alliance of organizations
4 representing farmers, environmentalists,
5 consumers and other organic industry members
6 with the goal of insuring organic integrity is
7 maintained and consumer confidence is
8 preserved.

9 We have submitted or are in the
10 process of submitting comments on about seven
11 different areas that are before the Board, two
12 of which I want to devote the bulk of my time
13 to today, that being peer review panel and
14 nanotechnology.

15 We also have provided comments on
16 encouraging greater incorporation of
17 biodiversity as has been reported by the Wild
18 Farm Alliance, animal welfare discussion that
19 NODPA will cover, also mentioning about retail
20 certification, cosmetics, and the 100 percent
21 label requirement linked to materials review.

22 But for the purposes of my time,

1 I'm hoping that I can zero in on these two
2 issues of both peer review and nanotechnology.

3 This is, I think, the 17th
4 anniversary of the founding meeting of the
5 NOSB. I'm glad to see that peer review is
6 starting to get traction. We had it in the
7 legislation. We had it in the regulation, and
8 we think it is the cornerstone issue in
9 integrity for the national program.

10 We applaud Mark and his work in
11 getting ARC recognized by NIST, and we know
12 that's a couple of years of work, but we would
13 like to see the National Organic Program
14 recognized by NIST, including the ISO-17011,
15 and we believe that that is the cornerstone.
16 That is the Holy Grail we're looking for here,
17 and this is what we want to encourage.

18 And while we do applaud the NOSB
19 for willing to lay their body down to do that
20 work themselves, I know full well that that is
21 way more work that you really can do or should
22 do, and that we strongly urge you not to

1 recommend to look at either ANSI or the OIG as
2 a replacement for NIST oversight.

3 And I want to talk briefly about
4 what you get with NIST that you can't get with
5 those other two recommendations. The main
6 benefit that you get from the NIST recognition
7 is that it is an ongoing relationship. So in
8 order to keep that relationship, it requires
9 you to make and correct your noncompliances
10 with a clearly delineated period of time and
11 allows for regular surveillance of the
12 accreditation program in order to maintain the
13 recognition. These other programs will not
14 provide that level of rigor or accountability.

15 It also gives you independent
16 third party verification free from conflict of
17 interest. It also, I think, in many ways
18 gives this opportunity for the NOSB to play a
19 proper role, which would be to look at these
20 ongoing evaluations and to see if, indeed,
21 there are recommendations that you should be
22 making to improve the accreditation program

1 overall.

2 So that's a very sound job for
3 you, and not one that I think will add unduly
4 to your burden.

5 So we strongly recommend this. We
6 concur with Lynn Cody's excellent comments
7 that she has sent you on this topic, and we
8 hasten you to make this recommendation and for
9 the department to move forward on this piece.

10 I also note that Congress has, I
11 believe, at least three times in their annual
12 appropriations language to the department
13 urged them to put in place peer review.

14 On nanotechnology, I would just
15 say that this is very much a parallel to
16 biotechnology in the sense that it is both
17 novel and unregulated technology, and organic
18 is a conservative, precautionary approach to
19 agriculture. We urge that you exclude,
20 prohibit or otherwise disallow the use of both
21 nanotechnology, nanomaterials, including those
22 in packaging as well as those that would be in

1 food or come in contact with food.

2 The reason that we're here today
3 celebrating the continued growth of organic is
4 partially because the original NOSB made a
5 very good decision about biotechnology. This
6 is your moment in history where you can make
7 yet again a very wise decision about the
8 future of organic, and we urge you to say no
9 to nanotechnology.

10 I will take any questions if
11 there's time. Thank you.

12 CHAIRMAN MOYER: Thank you,
13 Michael.

14 Joe.

15 MEMBER SMILLIE: Yes, we got
16 Lynn's comments, and we will implement them,
17 and I'll roll that out tomorrow. We'll have
18 a committee meeting to verify that. We do
19 agree.

20 As far as our role, our role in
21 the recommendation is exactly as you described
22 it. We're not taking over the evaluation of

1 the NOP program whatsoever. We're simply
2 putting a body in place to make sure that the
3 review by the NOSB is part of its regular
4 function.

5 MR. SLIGH: That's great, and the
6 NIST will also get you witness audits, which
7 is quite a valuable tool as well.

8 CHAIRMAN MOYER: Any other
9 questions from the Board? Hugh.

10 MEMBER KARREMAN: Just one
11 question. Maybe I don't have it right, but I
12 think in dairy production in the processing,
13 making ice cream and various other things,
14 things get refractionated and whatnot. Isn't
15 that nanotechnology already being used, from
16 what I understand? It's already happening
17 that way.

18 MR. SLIGH: Well, even more so for
19 you to be definitive about the issue because
20 I can clearly tell you without consultation
21 that part of what draws customers to organic
22 is they are looking for an alternative to GMO,

1 and in many cases nanotechnology is a platform
2 for linkage to GMO into the future.

3 So you need to be very cautious,
4 and if indeed you believe there is activity
5 already, then I say there is some remedial
6 work that needs to be done on the part of the
7 Board, and this issue.

8 CHAIRMAN MOYER: Just a minute,
9 Michael. The Chair recognizes Dan.

10 MEMBER GIACOMINI: Yes, we'll get
11 into this more when we do the nanotechnology
12 discussion, but I just last week had a
13 conversation with a professor at the Dairy
14 Technology Center at CalPoly University, and
15 he confirmed that nanosized particles are
16 naturally created in homogenization. There
17 are also a lot of very simple processes where
18 they are also created in other ways.

19 So one of the things that we're
20 going to be struggling with in doing that is
21 how to define and how to isolate what we're
22 really talking about. I mean not wanting

1 something that will -- you know, and then we
2 also have the issues of what we might be
3 required of in the future. But those are part
4 of what makes it difficult just from drawing
5 a line and cutting things up.

6 MR. SLIGH: Right, but I would
7 caution you not to fall prey to substantially
8 equivalent and also keep in mind that this is
9 like biotechnology in the sense that there is
10 no statutory authority or any regulatory
11 oversight. So you would be stepping out into
12 very, very novel territory to encourage or
13 condone that direction. It may come back to
14 hurt our sales and our farmers in the future.

15 CHAIRMAN MOYER: Any other
16 questions from the Board?

17 (No response.)

18 CHAIRMAN MOYER: Thank you,
19 Michael.

20 MR. SLIGH: Yes, thank you.
21 Congratulations to those of you retiring and
22 thank you for your service. I fully

1 understand your commitment.

2 Thank you.

3 SECRETARY WEISMAN: We do still
4 have one more meeting after this.

5 (Laughter.)

6 CHAIRMAN MOYER: Harriet, please.

7 MS. BEHAR: Good morning. I am
8 going to address something. I gave you
9 written comments, and I'm going to go past the
10 peer review panel just to say that I'm happy
11 to hear that NIST is working with ARC and
12 looking forward to a long and fruitful
13 relationship there.

14 I am Harriet Behar, a long time
15 certified organic farmer, organic educator,
16 organic inspector, and most importantly, an
17 organic consumer.

18 I appreciate the transparency and
19 exchange of ideas that occurs during these
20 NOSB meetings.

21 I would like to address what
22 Richard Matthews talked about with the GMO

1 vaccine. I really think that the rule already
2 has a way for GMO vaccines for livestock to be
3 approved on and put on the national list, and
4 I believe that they should go through the
5 process that that -- we shouldn't just blanket
6 allow all vaccines, GMO or not.

7 GMOs are different than
8 conventional, and we do have an allowance to
9 approve GMOs if they go through the
10 transparent petition and review process.

11 Now on technical review panels,
12 another favorite topic. I'm happy to see that
13 there has been some use now of outside TAPs,
14 and I'm optimistic that over time these could
15 improve as the agency becomes more
16 knowledgeable about organic production both
17 here and around the world. I think they need
18 to be looking at European and other countries
19 as well.

20 However, not all petitioned
21 substances have had TAP reviews, and this
22 should be rectified. Items requested for

1 inclusion on 606 should also have TAP reviews
2 with the handling committee's decision to put
3 wheat germ on 606 as a good example.

4 The NOSB should not be put in the
5 position of having to judge if their fellow
6 members have done a good job thoroughly
7 researching a petitioned material. The
8 organic community has lobbied long and hard
9 and continues to lobby for more funding for
10 the NOP. Shortcuts based on lack of funds
11 should not be taken, especially for this
12 primary and important function of the NOSB,
13 which is to decide what is on and what is not
14 on the national list.

15 Wheat germ on 606, this item
16 should not be included on 606. There is
17 sufficient organic wheat available, and I
18 believe the petitioner could facilitate the
19 production of this organic wheat germ. Just
20 because the organic product is not available
21 after a few phone calls does not warrant the
22 inclusion on 606.

1 Putting wheat germ on 606 would
2 also do a disservice to the many organic
3 producers of organic wheat and processors of
4 wheat products by shrinking their marketplace.
5 Too much emphasis was given on the
6 petitioner's statements of their projected
7 needs and not enough on whether the product
8 was truly unattainable.

9 Biodiversity. I support the
10 committee's recommendation and believe that
11 this does not put any undue burden on farmers.
12 Many long time, successful organic farmers
13 understand the immense benefits they receive
14 by conserving and enhancing biodiversity on
15 their farms, and a little nudging to others
16 who do not see biodiversity as important will
17 improve their farming systems as well as the
18 environment for all live.

19 The NOP should make sure that
20 certifiers are verifying conservation of
21 biodiversity during their accreditation visits
22 and desk audits, and this should be

1 incorporated into the auditor's checklist.

2 Animal welfare. I agree with much
3 of the document, but I prefer to see the
4 evaluation of the farm and livestock done as
5 a system with body scoring just one of the
6 many evaluation tools. Inspectors can
7 currently verify husbandry by reviewing health
8 records, viewing the housing and outdoor areas
9 and viewing the animals. The current
10 recommendation, I believe, puts too much
11 emphasis on body scoring.

12 Injectable vitamins, et cetera. I
13 disagree that these should be added to the
14 national list as written. Each item should be
15 reviewed against the off-book criteria and not
16 be given a full class of items such as
17 electrolytes.

18 Inerts. Put the current items on
19 the national list and have them go through the
20 unset process. When applicable, all new
21 inerts reviewed on a case-by-case basis.

22 Nanotechnology. The NOSB should

1 clearly state that nanotechnology is
2 incompatible with organic and is not allowed
3 in food packaging or other materials that are
4 in contact with organic products. The
5 precautionary principle should be used with
6 this novel technology.

7 Personal care products. The NOSB
8 should stress to the NOP the importance of
9 protecting the organic label in the
10 marketplace and not allow the organic label on
11 body care products that do not meet NOP
12 standards. This is confusing to the consumer
13 and encourages profiteering at the expense of
14 legitimate organic producers.

15 Voluntary retail certification. I
16 believe the current handling standards can be
17 applied to retailers with no special
18 procedures necessary. I agree with other
19 committee recommendations for propionic acid,
20 propane, bleach Lecithin, chicory root, and
21 red corn color.

22 I got through just about all of

1 it. So as you see, I was looking over many of
2 the things on your docket and gave you my
3 little piece on each of them.

4 CHAIRMAN MOYER: Thank you,
5 Harriet.

6 Questions or comments from the
7 Board? Bea and then --

8 MEMBER JAMES: Thank you, Harriet.
9 Hi.

10 I was wondering if you could
11 comment if you believe from your experience
12 that retailers understand how to market USDA
13 retail certification.

14 MS. BEHAR: You mean do they
15 understand what the USDA seal means on --

16 MEMBER JAMES: Do they understand
17 once they're certified? Do they understand
18 how to market that certification at retail?

19 MS. BEHAR: Yes, I believe that
20 they then advertise to their customers that
21 their handling practices in their stores are
22 having that extra oversight, whereas other

1 stores that do not have that oversight cannot
2 make that statement.

3 And as many of us who have worked
4 in retail know, there can be a lot of abuse at
5 retail as far as having iced conventional
6 broccoli dripping onto conventional salad mix
7 below. I've seen this myself at stores.

8 So those people are not certified,
9 and those consumers buying in those stores
10 hopefully would be aware that maybe they want
11 to go to a certified handler retailer for
12 their purchase of organic foods.

13 CHAIRMAN MOYER: Thank you,
14 Harriet.

15 Hugh, you had your hand up.

16 MEMBER KARREMAN: Thanks for your
17 comments, Harriet.

18 I just wanted to remind, I guess,
19 the group in general, the organic community,
20 that the animal welfare document is a
21 discussion document this time. So nothing is
22 set in stone. We're trying to get all of your

1 information, and I'll go into it more
2 tomorrow. I just want to remind you of that.
3 Okay?

4 MS. BEHAR: Okay. I'm discussing
5 here.

6 MEMBER KARREMAN: Right. No,
7 that's fine.

8 And injectable vitamins and
9 minerals, the reason we're looking at that as
10 a section, it's kind of to mirror the Section
11 603(d)(2) and (d)(3), which allow vitamins and
12 minerals as feed additives, period, the end.

13 MS. BEHAR: I was concerned really
14 more about the electrolytes.

15 MEMBER KARREMAN: The electrolytes
16 are allowed on 603 already.

17 MS. BEHAR: Yes.

18 CHAIRMAN MOYER: Okay. Thank you,
19 Harriet.

20 The Board recognizes Jim Pierce,
21 Leslie Zuck on deck.

22 MR. PIERCE: You guys are going to

1 get a stiff neck over on this side. You
2 deserve it.

3 Okay. Ready? For the record I am
4 Jim Pierce, Global Certification Program
5 manager for Oregon Tilth, and for the record,
6 Oregon Tilth is the best certifier.

7 (Laughter.)

8 MR. PIERCE: Oregon Tilth has
9 prepared written comments which are now mired
10 in regulations.gov, the cyber equivalent of
11 the La Brea tar pits.

12 My comments begin by asking you to
13 pay particular attention to comments of two
14 women who I learned long ago to obey without
15 question and whom I suggest you do the same.
16 First is Beth Unger from Organic Valley, who
17 will comment on how the Livestock Committee
18 proposals will affect nearly 1,400 actual
19 certified organic farmers. My colleague and
20 genius, Gwen Wired, is the five-year Sisyphus
21 of the ag/non-ag synthetic/non-synthetic
22 project. Pay close attention. It's slightly

1 more difficult than rocket science, and there
2 will be a quiz.

3 It may be raining, but the sun is
4 shining. This is the first time that I/we
5 have had an NOSB meeting under the "yes, we
6 can" umbrella of hope and change that comes
7 from an administration openly favorable to
8 organic agriculture. As proof, witness that
9 a USDA parking lot is now an organic garden;
10 that the chair of the NOSB can drive in and
11 dump a truckload of what was during the last
12 administration actually coming out of the back
13 end of a bull and be commended and
14 photographed instead of cuffed and
15 fingerprinted.

16 The author of the Organic Food
17 Production Act is now Deputy Secretary of the
18 USDA. Now, Kathleen Merrigan is no more a
19 savior to the NOP than Barack Obama is to the
20 Supreme Court, but the potential is as
21 exciting as if Jackie Robinson had just been
22 appointed Commissioner of baseball. Things

1 are going to change.

2 Hit the anvil hard then while the
3 iron is hot. Don't blow your credibility by
4 getting political or pandering to personal
5 agenda, but don't be afraid to work for
6 positive change.

7 As a Board, you have two more
8 meetings together. Make it your legacy to put
9 the NOSB and the NOP on a path of continuous
10 improvement that is the guiding principle, the
11 Holy Grail, of organic farming.

12 To that end, I would draw your
13 attention to a pearl contained in your
14 ambitious agenda that, if acted upon properly,
15 will manifest the fundamental changes that
16 will make the NOP stronger, higher quality and
17 more respected and so will, as a result, make
18 the yeoman task of the NOSB inmates easier,
19 more effective and possible -- think about
20 this -- fun.

21 The pearl is not in the bivalve
22 mollusk standard as one might suspect, but

1 rather in the peer review proposal. To
2 harvest the pearl, however, you need to
3 reconsider the proposal in front of you.
4 You've heard a little bit of this already.

5 The madness has merit, but the
6 method is misaligned. Peer review of the NOP
7 is a federally mandated good idea. However,
8 no offense, but the NOSB members are not up to
9 the task. Put OPCO in with the cacophony of
10 voices that favor ISO-17011, accreditation of
11 NOP through the NIST process. Proper peer
12 review needs to be the highest priority in
13 order to minimize miscommunication and
14 misinformation.

15 Most of the ongoing challenges
16 between our public servants and we whom they
17 serve, challenges such as idle petitions,
18 inactive recommendations, inconsistent and
19 unvetted interpretations, delayed rule
20 implementations, and a nonexistent practice
21 manual will be addressed with this one action.

22 Please, harvest the pearl, plant

1 the seed, nurture it, cultivate it, water it
2 till first it flowers, and then it bears
3 fruit.

4 In the 100 words or so that I have
5 left, I would like to note digress but drill
6 down. The Livestock Committee has a proposal
7 that will clarify the allowance of injectable
8 vitamins and minerals. Good, great,
9 fantastic. But it's important to realize if
10 you do not already that injectable vitamins
11 and minerals are currently right now today
12 commonly administered to organic livestock as
13 needed. It's important that you not only
14 approve the use of injectable vitamins but
15 insist on language that clearly continues to
16 allow this practice.

17 The consequences of eliminating
18 this proactive nutrition tool from organic
19 farmers would be significant, possibly
20 devastating.

21 As easy as it is to complain, we
22 have a lot to be thankful for, including a

1 solid organic regulation foundation and now an
2 administration willing to advance our agenda.
3 We are thankful for the long hours and
4 dedication that you suffer on our behalf, and
5 for this avenue of transparent public comment.
6 Thank you for listening.

7 CHAIRMAN MOYER: Thank you, Jim.
8 Questions or comments from the
9 Board?

10 (No response.)

11 CHAIRMAN MOYER: Thank you.

12 We'll try to get in one more
13 presenter before lunch. Leslie. We have a
14 lot of folks to get through this afternoon
15 yet.

16 MS. ZUCK: Hi. I am Leslie Zuck,
17 Executive Director of Pennsylvania Certified
18 Organic, and it says up there I'm going to
19 talk about livestock issues and various
20 topics.

21 So I did want to bring up the
22 People's Garden because Valerie did a really

1 great job. I was actually there. She did
2 plant a beautiful garden, and not only that.
3 She put together an entire organic system
4 plan. It was really nice. So a beautiful day
5 despite the hail.

6 (Laughter.)

7 MS. ZUCK: I'm not sure what that
8 means, but it was a great attempt.

9 And you've been hearing from
10 various certifiers about various topics.
11 That's typical of these meetings. In the
12 future Pat Kane will be talking about this a
13 little bit. ACA has formed a number of
14 working groups on a lot of the topics you're
15 working on. Id' really like to see some
16 direct collaboration between your committees
17 and the working groups. She'll be talking to
18 you a little bit about that and how you can
19 connect with them.

20 Animal welfare recommendation is
21 good, a good issue, good topics. Let's put
22 some more about poultry in there and remember

1 that it is really difficult to identify each
2 and every bird in a flock. So we do have an
3 ACA working group speaking or working on
4 poultry, particularly with animal welfare, and
5 that case has lots to do with the density and
6 the outdoor access. We need to go there.

7 Peer review, I'm not going to say
8 much on that because everyone else seems to
9 want to, but it is good to see it coming up.
10 I'm sure you'll hear from Lynn Cody on this
11 topic.

12 I just want to remind you that the
13 rule does require an annual review, and the
14 recommendation talks about three years and
15 then it talks about a review every two years
16 and every other year. So I think you probably
17 should really make sure it's annually. Once
18 we get that going and they are accredited, we
19 want to look at that on an annual basis.
20 Certifiers have to; ARC has to; everybody has
21 to. So we think that's a good idea.

22 On the 100 percent labeling

1 claims, just I want to remind you of the
2 purpose of that claim and to be clear that
3 there really isn't any reason. If you're
4 uncomfortable with loosening the rules on
5 that, don't worry about -- I mean, you should
6 be uncomfortable about it. You know, there's
7 no reason to go there except for to assist
8 some of the manufacturers of these products to
9 market their products. The purpose of that
10 claim really is to provide consumer with a
11 choice that is more restrictive than the usual
12 organic product. It's going to be made
13 without any -- you know, it has to have all
14 organic ingredients, and so we'd like to make
15 sure that you keep that differentiation and
16 understand the reason for the difference.

17 It's not as though you're
18 prohibiting the use of organic on those
19 labels.

20 So the last topic I had just came
21 up, this GMO vaccines. I just felt like I
22 should say something about it since it was our

1 actions that kind of brought this to the fore,
2 and to clarify that PCO does not
3 philosophically oppose GMO vaccines. We
4 really do understand the importance of
5 vaccines in organic livestock management.

6 So actually in the 12 years that
7 we've been certifying, I guess we've kind of
8 been blissfully unaware that GMO vaccines were
9 being marketed for livestock. So we had not
10 been reviewing vaccines at all, and it was our
11 policy vaccines in the rule says vaccines are
12 cool. So we allow vaccines.

13 We literally stumbled across
14 information that one of the vaccines being
15 used was genetically modified, and so we
16 looked at the rule, and we realized that GMO
17 vaccines are prohibited. So we prohibited
18 that particular vaccine, and we don't know if
19 all vaccines are GMOS. We've been told that
20 most of them or a lot of them are, but you
21 know, if that's the case, then what we need is
22 a list of them which may be available working

1 with APHIS, but you know, in the onset of that
2 particular action, because the results of the
3 particular action that we took, we've kind of
4 been accused of splitting hairs over this, and
5 I guess as a certifier we'd like to know, you
6 know, if there was another decision we should
7 have made or could have made in that
8 situation. It would be really helpful to have
9 that list, as we said.

10 You know, we're not opposed to the
11 use of the GMO vaccines, but I am worried
12 about, you know, the public maelstrom that
13 could result if we do get a directive or an
14 action item coming from USDA saying that GMOs
15 are excluded methods are patently allowed now
16 despite language in the rule that specifically
17 prohibits them.

18 So let's work on this and figure
19 out what we can do, and I think one of the
20 first steps is to find out what the situation
21 really is. Are all the vaccines out there
22 that are being used on dairy cows and

1 everything else and organic agriculture right
2 now, are they genetically modified or are they
3 allowed?

4 And let us as certifiers know what
5 we should be doing because we don't want to,
6 you know, cut people off from that important
7 livestock management tool any more than
8 anybody else here does, but we also don't want
9 to just like look the other way when the rule
10 says they should be prohibited.

11 CHAIRMAN MOYER: Thank you,
12 Leslie.

13 Any question from the -- Hugh.

14 MS. ZUCK: I warned you.

15 MEMBER KARREMAN: That's fine. We
16 always have good back and forth Leslie.

17 Regarding the vaccine topic, I
18 think your concern is valid absolutely within
19 the organic community regarding the excluded
20 methods topic. That's kind of half of it, and
21 a big half of it, but there's also the other
22 part of the society that would probably be

1 aghast that vaccines would be prohibited from
2 use for prevention of disease in livestock and
3 organic livestock.

4 You know, like right now with this
5 particular flu that is in Mexico mainly, I
6 guess, but anyway, you know, if a vaccine is
7 produced or needed to be produced in a quick
8 way, in a quick fashion, current science
9 technological advance would probably indicate
10 they would go through genetically engineered
11 process to get a very quick vaccine to prevent
12 outbreaks of, let's say, foot and mouth or
13 avian influenza or whatever if they need to
14 because the traditional vaccine production
15 takes about -- I don't know -- three or four
16 months or something like that to get going,
17 and that's the case right now with what
18 they're doing with the seed stock vaccine that
19 they're talking about currently.

20 So, you know, I think we do have
21 to keep in mind the absolutely excluded method
22 topic within the organic world, but we also

1 have to think in even a bigger picture, you
2 know, in agriculture in general, which
3 organics is part of that.

4 You know, if genetically
5 engineered vaccines were mandated to be used
6 or had to be by law, you know, the organic
7 community would be favorable at least to that
8 in a limited fashion if they're licensed,
9 let's say, or something. It goes beyond just
10 organics in a sense. It's within organics,
11 but it goes beyond that.

12 CHAIRMAN MOYER: Thank you, Hugh.
13 Dan.

14 MEMBER GIACOMINI: Hi, Leslie.
15 You know, when this first came up, I sat down
16 and I read the rule. I didn't go back and
17 review every page in the preamble. I will
18 admit that, but I think it's sincere to say
19 that there's a difference of opinion on
20 whether GMO vaccines are prohibited, and I
21 think that's a reasonable statement to make.

22 One, oh, five requests that they

1 be approved according to 600, and 600 is
2 stating that things need to be on the national
3 list, and under 603 for livestock, biologic
4 vaccines, there's no listing of it; there's no
5 quantifying of it. It doesn't say non-GMO
6 vaccines. It says vaccines.

7 So I think there is a fair
8 interpretation and a reasonable interpretation
9 to say that they are allowed, and to just say
10 that the rule obviously says that they're not
11 allowed and making a statement clarifying and
12 giving it a blanket clearance is a little bit
13 out of line, there are other interpretations
14 and I think they're just as reasonable.

15 But we do need clarity on this
16 certainly, but where we stand right now is not
17 just one point of view that needs to be fixed
18 but multiple points of views.

19 MS. ZUCK: Sure. And when there
20 is a difference in a rule, if there are
21 different areas -- and Rick Matthews, maybe we
22 agree or disagree. I don't know -- if there's

1 two contradictory parts of the rule, that's
2 where usually as a lawyer I would go to the
3 preamble to try to find out why the rule was
4 written that way.

5 We know that the preamble is not
6 the regulation, but it is useful in
7 interpreting the regulation. So if there is,
8 you know, a gray area or if something does
9 seem to be contradictory, you can go and read
10 that part, and it is on page, if you would
11 like to read it, it is on page of the Federal
12 Register 80554.

13 "Based on comments received and
14 because of the potential impact of the
15 prohibition on the use of excluded methods, it
16 is still uncertain. We have created the
17 possibility at Section 205.105(e) for the NOSB
18 to exercise one very narrow exception to allow
19 the use of animal vaccines produced using
20 excluded methods, but only if they are
21 explicitly approved on the national list."

22 And they have some really good

1 discussion in there, and I think that they're
2 saying, yes, it's a good idea, but we don't
3 want to tell everybody that now because
4 there's this big backlash against GMOs. But
5 we're going to give the NOSB the opportunity
6 to add those to the list.

7 CHAIRMAN MOYER: Thank you,
8 Leslie. I think that's good advice to go back
9 and check the preamble.

10 Hugh, you had one last question
11 before we break for lunch.

12 MEMBER KARREMAN: Just being
13 lawyerly, I guess, and I've learned some
14 paralegal maneuvers here on the Board, but
15 doesn't the Act of 1990 precede the preamble
16 of the regulations? So in Section 2110 or USC
17 6509, under animal production practices and
18 materials, health care, D, and then C under
19 that, you cannot administer a medication other
20 than vaccinations in the absence of illness.

21 Does that not preempt the preamble
22 if that's in the act? I mean just saying that

1 vaccines are allowed.

2 MS. ZUCK: I'm not arguing with
3 you that you can allow vaccines.

4 MEMBER KARREMAN: And there are
5 three other --

6 MS. ZUCK: It's just like anything
7 else that you allow. You can allow feed to
8 feed the cows, too, but we have restrictions
9 on what kind of feed you can use.

10 CHAIRMAN MOYER: Okay. Thank you,
11 Leslie.

12 What we're going to do now is
13 we're going to adjourn this meeting until
14 1:15. We will be starting promptly at 1:15
15 with Ed Maltby ready to go and Beth Unger on
16 deck.

17 So we'll see you in about an hour.

18 Thank you.

19 (Whereupon, the above-entitled
20 matter went off the record at 12:10 p.m., and
21 resumed at 1:15 p.m.)

22

1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (1:18 p.m.)

3 CHAIRMAN MOYER: This meeting is
4 back in session.

5 Would Ed Maltby please come to the
6 podium? And Beth Unger is on deck. Once we
7 get our technical difficulties straightened
8 out, Ed, we'll be with you.

9 Ed, can you continue without the
10 audiovisual?

11 MR. MALTBY: Oh, I don't know.
12 That might be difficult, but I can try.

13 CHAIRMAN MOYER: I think the Board
14 would appreciate if you would go ahead and try
15 to do that. I apologize for that
16 inconvenience.

17 MR. MALTBY: That's no problem.

18 My name is Ed Maltby, Executive
19 Director of Northeast Organic Dairy Producers
20 Alliance and Administrator for the Federation
21 of Organic Dairy Farmers.

22 Unfortunately, the two people I

1 want to speak to most directly aren't here,
2 but -- ah, Barbara is there as well.

3 I would like to make a plea from
4 the 1,800 organic dairy producers across the
5 country that Richard Matthews does nothing but
6 write the access to pasture rule.

7 (Laughter.)

8 MR. MALTBY: From the time he gets
9 into work at eight o'clock in the morning to
10 when he leaves at eight o'clock at night, he
11 has no other duties at all.

12 And the NOSB Livestock Committee
13 provide recommendations relating to organic
14 dairy replacements. We feel both of these
15 issues or the access to pasture issue is
16 something critical both for the integrity of
17 organic livestock and for the future economic
18 security of an industry that is now being
19 devastated by low prices both for organic milk
20 and organic beef.

21 It's very interesting listening to
22 these other comments where you have certifiers

1 arguing about the minutia. The unfortunate
2 thing is that when it comes down to -- oh, Mr.
3 Karreman, pleased to see you. That's okay.

4 Arguing about the minutia and the
5 lingering interpretation of different parts of
6 a preamble to a preamble to a preamble, and I
7 think one of the essential ingredients that
8 sometimes is missed is that these have to be
9 interpreted by farmers who spend their days
10 working, who actually want to do the job
11 right, who invested vast amounts of capital to
12 get it right, and we owe it to those farmers
13 to have clear and understandable criteria for
14 what they can and can't use and not to
15 unilaterally make changes as different things
16 get discovered.

17 I know my board of directors
18 wanted to know, well, if they want us to do
19 this other stuff, when are they going to give
20 us the access to pasture rule. You give us
21 the access to pasture rule, then we'll start
22 doing a bit more on that side. Perhaps that's

1 the way to negotiate. We've tried everything
2 else.

3 I'd like to thank the NOSB
4 Livestock Committee for introducing a
5 discussion document about animal welfare. It
6 is a critical area of all livestock farming,
7 both conventional and organic, and we applaud
8 the start of that discussion.

9 We also recognize the depth and
10 breadth of that discussion, and we would
11 request from the NOSB that they set up a task
12 force to consider and evaluate what standards
13 can be put in fairly quickly because there is
14 consensus and what standards need further
15 investigation.

16 We're reluctant to take it to the
17 level of rulemaking because rulemaking as
18 we've learned can take three months, fourth
19 months, four years, five years to get common
20 sense policies in place.

21 I'm not going to read all of this,
22 but I think from the point of view of

1 livestock producers we strongly believe that
2 organic animal welfare guidance and standards
3 must be sensible, reasonable, and based in the
4 realities of farming, good husbandry, grazing,
5 natural animal behavior, and natural healing.
6 Obviously the prime one of those is cows
7 should be out on pasture.

8 Sorry I'm getting a bit
9 repetitive, but they say you've got to repeat
10 it 17 times to get what you want.

11 One of the issues raised in the
12 discussion document was around the treatment
13 of sick animals, and we agree and have
14 actively advocated for all possible measures
15 to use to treat sick animals, even at the
16 expense of their organic status.

17 What we do need, apart from new
18 guidance perhaps, is the education of new
19 entrants who have limited knowledge, who mean
20 well, but might not necessarily understand the
21 implications of what they're doing.

22 Education of inspectors and

1 certifiers as to what they should be looking
2 for; more education of veterinarians so that
3 organic livestock farmers have veterinarians
4 available and can use them on a regular basis;
5 and of course, high levels of profitability
6 for organic livestock operations to provide an
7 adequate return for the cost of organic
8 production.

9 Do you want me to stop? I only
10 got started. Do I get three minutes because
11 you got me delayed?

12 CHAIRMAN MOYER: No.

13 (Laughter.)

14 MR. MALTBY: How unreasonable.

15 CHAIRMAN MOYER: Are there any
16 questions for Mr. Maltby? Hugh, go ahead,
17 please.

18 MEMBER KARREMAN: Ed, thanks for
19 your input, and I read the Food Farmers' input
20 previous to your comments here.

21 You mentioned just earlier that
22 some items would be in the animal welfare, I

1 think, contentious. What are they exactly?

2 MR. MALTBY: I don't think
3 necessarily contentious, but need examination
4 by all of the stakeholders, that we need to
5 understand consumer concerns, but we ought to
6 balance that with scientific knowledge and
7 good husbandry. And I think a further, more
8 detailed analysis of those issues, and I think
9 that by using a task force we can get to the
10 root of some of the easy ones, put them out
11 there, keep up with what is happening in
12 industry, and I think the conventional
13 livestock industry leading the way in some of
14 these things, and we should at least be able
15 to catch up with them and implement some of
16 their standards. A lot of them are already
17 written within the existing rule. They just
18 need to be implemented well.

19 So I don't really want to get into
20 any distinct specifics right now, but I think
21 that is a discussion that we should be having
22 as a task force or whichever way the NOSB

1 wants to handle it.

2 MEMBER KARREMAN: As far as only
3 having it as guidance versus regulation due to
4 the length of time regulation can take to get
5 through, and I know that from the medicines
6 that are now thankfully approved after all the
7 years.

8 In the regulations, let's say --
9 I'm just thinking of I forget the exact number
10 -- you know, clean and dry bedding must be
11 provided, but there's no endpoint, you know,
12 no measurable metric that what we inserted
13 was clean and dry bedding must be provided so
14 the animals are clean. I mean because there
15 are sometimes concerns about that.

16 So, I mean, that's a regulatory
17 change. Is that too much to ask or do you
18 want to keep that as guidance or I mean --

19 MR. MALTBY: From the point of
20 view of keeping up with the whole marketplace
21 where you do have at least three or four
22 labels out there specifically geared to

1 livestock welfare, I think it would be good to
2 get some of those guidance out there.

3 You know, what is a clean animal?

4 In the winter a clean animal might have some
5 manure on the sides, on the back end. Going
6 out to pasture, the manure might be on the
7 back end. You know, so that then requires a
8 level of skill from the inspector and the
9 certifier to judge which production practice
10 is being used, what time of year.

11 So there's all these caveats
12 within there that I know when we looked at the
13 access to pasture and there as some very
14 prescriptive language in there, we had an
15 intense discussion about, okay, how much
16 should be prescriptive, how much should be
17 left up to the certifier, and what is pure
18 common sense?

19 Unfortunately, pure common sense,
20 you know, has to be administered in good faith
21 on both sides, which as we know is not always
22 the case.

1 So I think it would be good to
2 have some guidance through the NOSB on
3 livestock welfare standards that can be
4 relatively easily implemented and can enhance
5 the integrity of the organic seal. I wouldn't
6 like to see us in any way saying that
7 conventional livestock is badly treated or
8 worse treated than organic, but I think it's
9 incumbent upon us to have some of that
10 guidance there to guide consumers that we are,
11 in fact, keeping up with the general trend of
12 marketing.

13 CHAIRMAN MOYER: Okay. Thank you.

14 Are there any other comments by
15 Board members?

16 (No response.)

17 CHAIRMAN MOYER: Thank you, Ed.

18 MR. MALTBY: You're welcome.

19 CHAIRMAN MOYER: Beth Unger next
20 and Will Fantle on deck.

21 MS. UNGER: Hello. I'm Beth Unger
22 from CROPP Cooperative.

1 We appreciate the opportunity to
2 submit comments for today's agenda. CROPP is
3 a marketing cooperative serving farmers
4 producing organic farm products. We have over
5 1,300 farmer members located in 32 states.
6 CROPP currently markets over 500 different
7 products bearing CROPP's Organic Valley Family
8 of Farms label and Organic Prairie's label.

9 I'm going to primarily stay to the
10 animal welfare topic because I see you're very
11 serious about your time limitations, and so
12 going on with that, we believe that the
13 consumers of today are engaged in a dynamic
14 learning process. They are taking on the task
15 of learning for themselves about where their
16 food comes from, how it is produced and
17 processed, and what goes into their food.

18 CROPP seeks to have the consumer
19 continue to view the organic seal as the gold
20 standard of all labels, and therefore, it is
21 critical that we as an industry see the issues
22 that are important to our consumers and are

1 willing to take on those issues.

2 Animal husbandry is very important
3 in our cooperative, as evidenced by some of
4 the policies that we have on our full manual
5 that really do go above and beyond the NOP
6 standards.

7 We have adopted animal husbandry
8 standards within our cooperative. Development
9 of these standards was not an easy process.
10 But once the standards were adopted, our
11 farmers have worked to improve their
12 operations to meet the standards. Our field
13 staff has received training and visual
14 material to score livestock. The staff is
15 currently working with some of our members
16 scoring their livestock to set the stage for
17 continuous improvement on each farm.

18 Organic is the gold standard of
19 labels because it integrates the whole system.
20 Therefore, if one portion of the system breaks
21 down, it has ripple effects throughout the
22 system. If the soil is not healthy, the feed

1 grown for the livestock will be lacking in
2 some fundamental way, and the animal's health
3 will suffer.

4 A healthy, organic system is a
5 system that already incorporates by necessity
6 many of the animal husbandry standards that
7 are advocated in the labeling world.

8 In the testimony submitted in
9 November 2007, Kathleen Merrigan and William
10 Lockhertz recommended adoption of the
11 following five straightforward animal
12 husbandry standards as a starting point for
13 clarifying the role of animal welfare in the
14 organic standards.

15 They are purchase for poultry,
16 prohibition of forest molting; development of
17 standards for spacing in livestock feed lots;
18 and banning of swine gestation crates. These
19 recommendations are a part of the recognition
20 that these production methodologies are not
21 conducive to healthy, overall successful
22 organic systems.

1 We encourage the Livestock
2 Committee to consider these recommendations
3 put forth in this testimony. Strengthening
4 the standards will provide more meaning to the
5 USDA seal and promote consumer confidence that
6 the organic seal continues to be the gold
7 standard of all labels.

8 The Livestock Committee's
9 discussion documents successfully hurdling the
10 difficulty in marrying the need to have clear,
11 enforceable standards and the recognition that
12 every livestock operation is different,
13 different animals, different production
14 systems, different regions.

15 Accordingly, language adopted in
16 the rule should always be outcome oriented,
17 and the rule change language suggested by the
18 Livestock Committee is clearly outcome
19 oriented.

20 We support these proposed rule
21 changes. However, in looking at the
22 guidances, we do have some concerns regarding

1 an appropriate infrastructure to support this
2 proposal. The Livestock Committee's guidance
3 proposals contemplate a significant increase
4 in the role of the inspectors to provide
5 oversight of animal welfare standards. There
6 is currently a shortage of good livestock
7 inspectors. The skill level of livestock
8 inspectors must increase to appropriately
9 score livestock to assure compliance.

10 The cost of organic certification
11 will increase due to the extra time spent on
12 inspections. Therefore, we do not support
13 requiring inspectors to individually score all
14 animals.

15 Thank you, and I had a little
16 more, but.

17 CHAIRMAN MOYER: Okay. Thank you.

18 Any questions or comments from the
19 Board? Hugh.

20 MEMBER KARREMAN: Thank you.

21 And applaud Organic Valley for the
22 welfare animal husbandry standards you've

1 developed, very detailed, in depth, and I know
2 that I think your person within the
3 cooperative was a student of Temple Brandon,
4 and just so you know that the guidance that we
5 are discussing at this meeting was taken
6 straight from Temple Brandon. Okay? She was
7 on some conference calls we had. So I guess
8 there's a whatever.

9 Anyway, as far as the inspectors
10 needing extra training, I guess so possibly,
11 but I also have to say that I have given a
12 talk or two at inspector trainings for IOIA
13 and have basically put like regulatory
14 statements on top of the slide and had
15 pictures of like how it looks good and
16 pictures of how it looks bad. And more than
17 a couple of inspectors have thanked me after
18 the talk and said, "Gee, Hugh, thanks for
19 showing that because now I know what to look
20 for."

21 So it wouldn't take that much
22 because, you know, they continue to say, "You

1 know, sometimes I get onto farms and I leave
2 with kind of an odd feeling like something is
3 not right," and it just takes some pictures at
4 an IOIA training session to do that, and I
5 don't think that inspectors are going to have
6 to body condition score each and every animal.
7 Definitely not. That's not the intent. It's
8 basically to get an overall picture, a
9 holistic view of what's going on.

10 Is it clean in the barn? Are the
11 animals generally in good condition? Are
12 there just not too many that are limping
13 around and they're all walking well so they
14 can go graze on the pasture?

15 Those kind of bigger picture
16 things are what I think we want to get at, not
17 crack the whip on a guy who has, you know,
18 three lame cows and hone in on that, although
19 it should be seen by the inspector.

20 So it's just kind of, you know,
21 making them more aware of what should be done.
22 And if you look at the discussion document,

1 the regulatory language change we're proposing
2 is only on like three or four things and it's
3 only a few words. It's the guidance that I
4 think people are starting to think the
5 inspectors are really going to have to learn
6 a lot about, and like I said, some inspectors
7 have thanked me for showing pictures that show
8 good compliance and bad compliance. I don't
9 think it will be that hard.

10 MS. UNGER: Thank you for
11 finishing my presentation for me.

12 (Laughter.)

13 MS. UNGER: Because that's
14 essentially where I was going with it, you
15 know, with that whole outcome based business,
16 that it is a general impression, and as I
17 stated earlier in my remarks, you know, it's
18 the visual materials that really make a
19 difference. It's how our full staff has been
20 trained to do this very thing.

21 But it does take experience, too.
22 Showing them a picture and the reality of

1 going out on a farm in the varying conditions
2 that Ed had mentioned does make a difference.

3 And I think that you have to agree
4 that we do tend to have a shortage of good
5 livestock inspectors.

6 CHAIRMAN MOYER: Okay. Any other
7 questions from Board members?

8 (No response.)

9 CHAIRMAN MOYER: Okay. Thank you,
10 Beth.

11 Will Fantle and Michael McGuffin
12 on deck.

13 MR. FANTLE: My name is Will
14 Fantle. I'm the Co-Director of the Cornucopia
15 Institute.

16 We have approximately 3,000
17 members scattered across the country. The
18 majority of those members, a strong majority,
19 are organic farmers.

20 I'm going to talk about something
21 a little bit different today than what we've
22 been talking about in the past as we have come

1 before you. Most of our farmers understand
2 that any organic food that they grow and they
3 can't sell direct, they require the assistance
4 of handlers and processors and, in particular,
5 retailers to bring to the market.

6 So we wanted to talk a little bit
7 today about the discussion document that was
8 put out from the committee talking about
9 retail certification, and what I brought with
10 me based upon that discussion that we had with
11 retailers in the community concerned about the
12 interest of farmers. I'm going to read some
13 select excerpts of that.

14 This is a sign-on letter.
15 Approximately 50 retailers from across the
16 country signed onto this from corner to corner
17 across the United States.

18 It says, "The undersigned
19 retailers of organic food have the following"
20 -- I'm going to have to read this differently
21 -- "have been following the multi-site
22 retailer organic certification discussion. We

1 support the granting of organic certification
2 status to the retailers of organic food on a
3 store-by-store basis with annual inspections
4 of each store listed on an organic
5 certification."

6 Now, this is important because
7 this is different from the discussion document
8 and the recommendations made in that. I
9 understand there's not going to be a vote on
10 that, but I wanted to bring this to your
11 attention.

12 There are several reasons itemized
13 in this. There are some good things in this
14 discussion document. The identification of
15 the need for a strong internal control system,
16 very important, needed, but one of our
17 concerns articulated in this letter and
18 brought forth is the creation of basically a
19 two-tier system.

20 Some of the signators of this
21 letter have multiple stores, retail stores,
22 and they get those annually inspected, and

1 they have certification for each one of those
2 stores. So they are on there as well as
3 single store operations.

4 And I just want to close this part
5 of the letter by saying we are concerned with
6 equity and fairness, a certification program
7 that creates a different tier of store
8 inspection rates for large chains as opposed
9 to single store or smaller retail operations
10 creates a competitive advantage based on cost
11 for the larger operations.

12 So we're concerned about
13 integrity, ethics and the confidence of
14 consumers as they continue to go out, explore
15 and buy organic food in the marketplace. We
16 think the individual store certification, as
17 noted in this letter, provides a premium
18 value. It's something that retailers can
19 point to and show their customers. We are
20 about organics. We've made the effort. We've
21 gone forward. We're looking at each one of
22 our stores, and we're working with our

1 management employees to make sure that they
2 understand organics and are handling it in the
3 proper form.

4 I want to also just add one other
5 point about some retailers that we have called
6 attention to in the past that haven't been
7 doing this right, in particular, Wal-Mart. We
8 filed a complaint based upon systemic
9 violations of the display and presentation of
10 organics in their stores. The State of
11 Wisconsin Consumer Protection Office reached
12 an agreement with Wal-Mart to stop those
13 practices, as did the USDA.

14 So again, this type of practice,
15 we believe, allows for the stores that are
16 truly interested to demonstrate to their
17 customers that they are willing to take that
18 extra step to do it right.

19 One other quick comment on a
20 totally separate subject. I mean, I go back
21 to the organic livestock rule, which we, too,
22 are waiting for, and we support the work of

1 Mr. Matthews on that. Our one addition to the
2 discussion that we've heard so far is that we
3 want the rule done right. It's not enough
4 just to get it out fast. We want it done
5 right.

6 So with that I'll close, and if
7 there are any questions that anybody has, I'd
8 be happy to take those.

9 CHAIRMAN MOYER: Questions or
10 comments from the Board. Bea, then Tracy.

11 MEMBER JAMES: Thank you for you
12 comments. Appreciate that.

13 I wanted to ask you if you think
14 that the noncompliance issue with Wal-Mart
15 perhaps could have been due to a lack of
16 understanding or a lack of clarity as far as
17 what was expected of them for retail
18 certification.

19 MR. FANTLE: It was clearly due to
20 that. We found this in multiple stores in
21 five states, these types of practices. It was
22 at a management level and their reluctance or

1 unwillingness to invest in employee and
2 management training in their chains, in their
3 stores in their chain across the country that
4 contributed to that problem. Their employees
5 did not know how to present organics, did not
6 know the difference between natural or
7 certified organic problems.

8 CHAIRMAN MOYER: Bea, a follow-up?

9 MEMBER JAMES: Yes. So I guess I
10 want to just put it out on the table right now
11 that I think that the heart of where the
12 discussion document is really trying to go is
13 in getting more clarification around what
14 voluntary retail certification means so that
15 all retailers whether it's a single or a
16 multi-site retailer understands exactly what's
17 expected of them.

18 And I think because originally the
19 recommendation was tied in with the farmer
20 grower group that there seems to be some
21 concern with the public and its duly noted
22 that perhaps the recommendation is trying to

1 find a way to circumvent that construct into
2 the retailer piece, and we'll discuss this
3 more tomorrow when the CACC really reviews the
4 document a little bit more.

5 But I think that where the
6 recommendation is trying or the discussion
7 document is trying to go is just seeing where
8 the industry has comment and understanding as
9 far as what does retail certification mean and
10 how are retailers supporting that.

11 And I think from a lot of the
12 comments that I've heard and read regarding
13 violation, when you have more than one store,
14 it clearly comes from a lack of understanding,
15 and so it's the goal of the discussion
16 document to get to a point where we can more
17 clearly define some guidance around voluntary
18 retail certification.

19 MR. FANTLE: I think you're
20 correct in that. I think the discussion
21 document does get at the internal controls and
22 the management procedures to be put in place

1 to help with that issue, and for that the
2 discussion document is very valuable.

3 Our difference is on the multi-
4 store and the frequency of inspections.

5 CHAIRMAN MOYER: Thank you, Bea.

6 The Chair recognizes Tracy. Your
7 question was answered? Thank you.

8 Anybody else on the Board,
9 questions?

10 (No response.)

11 CHAIRMAN MOYER: Thank you, Will.

12 Michael McGuffin and then Lorna
13 Badman on deck.

14 MR. MCGUFFIN: What do I have,
15 five minutes or ten? What is it?

16 CHAIRMAN MOYER: You have five
17 minutes.

18 MR. MCGUFFIN: Okay. Good
19 afternoon. My name is Michael McGuffin. I'm
20 president of the American Herbal Products
21 Association, or AHPA.

22 Our members market products. They

1 sell organic food products like teas. They
2 sell organic supplements, dietary supplements
3 like tablets and tinctures. They sell organic
4 herbal cosmetics like salves and soaps, and we
5 also represent companies that grow organic
6 herbs.

7 I'm here to discuss the document
8 that was issued by CACC on March 13th where
9 they recommended organic cosmetics and
10 personal care products be recognized
11 explicitly by the NOP and more specifically,
12 I'm here to express support for the stated
13 purpose of that document, which is to present
14 the topic for public discussion and comment
15 and then to incorporate feedback.

16 I last addressed this Board on a
17 different topic, dietary supplements. At that
18 time NOP had said dietary supplements can't
19 comply with NOP. We argued that we should be
20 able to. That issue was resolved in August of
21 2005 when USDA issued a memorandum stating
22 that it clarified its position that the issue

1 or products that meet the NOP program standard
2 for organic products is based on content
3 irrespective of the end use.

4 We think that should also be
5 applicable to cosmetics generally.

6 That memorandum in '05 went on to
7 acknowledge that products may be certified.
8 Dietary supplement products may be certified.
9 Cosmetic products may be certified under the
10 NOP and also closed by stating that if
11 additional rulemaking is required to address
12 labeling issues or the use of synthetics and
13 such products, NOP would pursue rulemaking
14 expeditiously.

15 So we've known for four years that
16 cosmetics and personal care products may be
17 marketed as organic, and there now are NOP
18 compliant organic cosmetics in the
19 marketplace. These are agricultural products
20 since they're derived from organically grown
21 plants. There has been much less clarity on
22 and, in fact, controversy as to whether or not

1 cosmetics and related products are allowed to
2 bear the word "organic" outside of the NOP,
3 not in full compliance with the NOP.

4 Some companies view the NOP as
5 designed primarily to deal with foods and
6 believe it to be incapable in its current form
7 of addressing many of the ingredients used in
8 cosmetics even when derived from organically
9 grown herbs and other plants because they'll
10 fall into the definition of synthetic.

11 And while the NOP has a process
12 for dealing with some synthetics, many
13 companies don't see an option for marketing
14 organic cosmetics under the NOP. But the
15 continuing interest in this class of organic
16 cosmetics has led to the development of
17 private standards, and in just April of '08
18 NOP issued a document on cosmetics, body care,
19 products and personal care products in which
20 it stated that these products may be certified
21 to private standards and be marketed to these
22 private standards in the U.S. and that USDA's

1 NOP does not regulate these labels at this
2 time.

3 Now, we have member companies that
4 have been involved in the development of the
5 private standards. We have other member
6 companies who think that USDA is abdicating
7 its responsibility to protect the integrity of
8 the organic mark across all classes of goods,
9 and what we do have though is a consensus , is
10 that it's clear that additional effort must be
11 given to making the NOP work for all
12 agricultural products to fix the NOP so that
13 it works even for organic cosmetics and body
14 care and personal care products.

15 So, again, we support the purpose
16 of presenting this topic for discussion. We
17 have some suggestions for modifying the
18 specific recommendations that are outlined on
19 page 2 of that document. I don't know that I
20 have time to articulate those. So let me see.
21 If I have a few seconds left, I'll come back
22 to that if I do.

1 But I think another thing that we
2 all agree on is we want to maximize the use of
3 the marketplace for organically grown herbal
4 crops. Our vision is more and more and more
5 acres of organic herbs. It may now be time
6 for USDA's NOP to be called upon to pursue the
7 additional rulemaking that it promised back in
8 2005 to address labeling issues and the use of
9 synthetics.

10 Let me just mention one of the
11 points that we would add to modifying the
12 existing regulation. I think we should look
13 at whether or not we can add a new paragraph
14 to 205.605. Right now there's a natural
15 ingredient, synthetic ingredient, and maybe we
16 need a class of synthetics used in cosmetics
17 and include in that not just the ingredient,
18 but something about the processing because
19 what we're looking for is a way to make the
20 NOP work for cosmetics, and that's the key
21 issue, is how do we deal with these
22 synthetics.

1 I do have other comments, and
2 they'll be in my written comments that I
3 submit to whomever I'm supposed to send those
4 to.

5 Thank you.

6 CHAIRMAN MOYER: Thank you,
7 Michael.

8 Any questions from the Board for
9 Michael? Joe.

10 MEMBER SMILLIE: In 605(b), rather
11 than creating a different section, although I
12 think maybe in the end run eventually I'd like
13 to have a section that's devoted to personal
14 care; I think that might be appropriate. We
15 have livestock; we have processing; we have
16 crops, and maybe this could be split off.

17 But we can certainly do
18 annotations. So it's a possibility in the
19 future that certain essential ingredients that
20 perhaps are considered synthetic but come from
21 organic ingredients could be annotated for
22 personal care use only. I mean, that's an

1 option that we would have in the future, to
2 create a set of allowable synthetics, because
3 that's probably going to be what's going to be
4 needed, regardless of where we end up on the
5 synthetic/non-synthetic debate.

6 I think probably most of these
7 things will end up being regarding the
8 synthetic, but we have got that ability to
9 create allowable synthetics, and we have the
10 ability to annotate them for specific uses.
11 So that's a possible future way without
12 changing the regulation whatsoever I don't
13 think.

14 We could create the possibility of
15 an enlarged organic personal care industry.
16 We also can't annotate certain substances that
17 can be allowed and made with organic
18 ingredients and not allowed in organic.

19 So there are possibilities. There
20 is flexibility within the regulations to
21 accommodate the personal care industry and its
22 needs. Again, whether this will be considered

1 by some people as diluting the organic
2 standard is the political and social issue we
3 will have to face.

4 In your specific comments, which
5 direction in general does your industry want
6 to go? Does it want to just work with the
7 605(b)?

8 MR. MCGUFFIN: What I know is that
9 the companies that have invested resources in
10 developing these private standards are not
11 interested in being able to only put their
12 product on the back of the package. They want
13 to be able to grand the product as organic on
14 the PDP. I don't stand here as knowledgeable
15 about the complexities of the regulation, as
16 many of you. So as much as anything my hope
17 was just to put it forward that I know that I
18 represent a community that's interested in
19 trying to make the NOP function so that we can
20 brand organic products without diluting the
21 quality of the brand.

22 And I think one of the issues in

1 terms of these four specific recommendations,
2 to add the words "or cosmetics," one thing
3 that we think is that it would be a whole lot
4 better to revise the definition of the term
5 "agricultural product" so that it uses that
6 language that USDA has used before, that it
7 says that the term as used herein without
8 regard to the end use of the product, and
9 maybe even say "for example, foods, cosmetics,
10 dietary supplements, and any other product
11 made from an agricultural crop."

12 I think that could resolve this a
13 little cleaner.

14 CHAIRMAN MOYER: Thank you, Mr.
15 McGuffin.

16 MR. MCGUFFIN: Thank you very
17 much.

18 CHAIRMAN MOYER: Any other
19 questions?

20 (No response.)

21 CHAIRMAN MOYER: Thank you.

22 Lorna Badman and then Lynn

1 Clarkson.

2 MS. BADMAN: Good afternoon. My
3 name is Lorna Badman, and I am the senior
4 standards developer at NSF International.
5 Thank you for your time today.

6 NSF International would like to
7 inform the NOSB that an American national
8 standard for organic personal care products
9 has been adopted through a consensus process
10 after five years of work. NSF has actively
11 facilitated the diligent work of a volunteer
12 stakeholder group in the development of a
13 personal care standard which follows the
14 example of the NOP and encourages the use of
15 NOP certified ingredients in the development
16 and production of personal care products.

17 This volunteer stakeholder group
18 remained cognizant of the scope of the
19 national organic program. It was the desire
20 of this group to create a standard that
21 followed the rules of the NOP, but expanded
22 the scope to cover processes that are specific

1 to the production of personal care products.

2 An example would be
3 esterification, the reaction of a carboxylic
4 acid and an alcohol in the presence of an
5 acidic substance which is allowed under NSC
6 ANSI 305, but not the USDA NOP. Products
7 intended to be labeled with the organic
8 processing claims currently defined under the
9 USDA NOP, including 100 percent organic,
10 organic and made with organic, are not covered
11 by NSF ANSI 305.

12 NSF International, an independent,
13 not for profit organization, is a public
14 health and safety company headquartered in Ann
15 Arbor, Michigan. NSF's primary focus is to
16 improve human health through standards
17 developments, testing and certification
18 services that help to improve air and water
19 quality, food safety, and environmental
20 preservation.

21 Since its founding 1944, NSF has
22 adopted 49 ANSI accredited standards, many of

1 which are referenced in local state and
2 federal regulations.

3 NSF ANSI 305 was developed by the
4 Joint Committee on Organic Personal Care,
5 which is comprised of a balanced
6 representation of stakeholders, including
7 industry, public health and regulatory
8 officials, academia, and non-government
9 organizations, users, consumers, advocates,
10 and trade associations.

11 NSF International administered the
12 committee in accordance with the American
13 National Standards Institute's accredited
14 standards development process. ANSI is a
15 private, nonprofit organization that
16 administers and coordinates the U.S. voluntary
17 standardization and conformity assessment
18 system.

19 ANSI accredits NSF's volunteer
20 consensus standards development process. This
21 accreditation verifies that NSF develops
22 public standards in a manner which insures

1 openness and due process, allowing for equity
2 and fair play.

3 The intention of this standard is
4 to address the organic personal care labeling
5 misconception that currently exists in the
6 market. Products not certified to the NOP but
7 claim to be organic which have little organic
8 content are prevalent in grocery and retail
9 stores. NSF invites you to review the
10 standard and take part in the NSF standards
11 development process.

12 Should you decide to expand the
13 scope of the National Organic Program to cover
14 cosmetics and personal care products, NSF
15 welcomes your review and consideration of a
16 reference to the NSF ANSI 305 in the NOP.

17 Thank you.

18 CHAIRMAN MOYER: Thank you. That
19 was very well done.

20 Any questions? Tracy, please.

21 MEMBER ELLOR: Ms. Badman, I just
22 had a comment for you. I wanted to make sure

1 you knew that did circulate the NSF draft, the
2 January 2009 draft, which we thought we had
3 access to as opposed to the final standard,
4 which I know has copyright protection, and so
5 every member of this Board has a copy of that.

6 MS. BADMAN: Okay, good.

7 CHAIRMAN MOYER: Thank you, Tracy.

8 Any other questions or comments
9 from the Board?

10 (No response.)

11 CHAIRMAN MOYER: Thank you.

12 Lynn Clarkson and then Dr. Szuhaj.

13 DR. SZUHAIJ. Szuhaj.

14 CHAIRMAN MOYER: Szuhaj will be on
15 deck.

16 MR. CLARKSON: Good afternoon,
17 Board members. I want to take you on a walk
18 through organic evolution of an ingredient,
19 lecithin.

20 Below the line, when the NOP took
21 its first breath, soybeans existed, but the
22 material above it didn't and that's all

1 organic lecithin. We support the Handling
2 Committee's recommendation to remove bleached
3 lecithin from 605(b) for a classic reason: an
4 organic version exists.

5 Number two, we support the
6 Handling Committee's recommendation to remove
7 fluid unbleached lecithin from 205.606.
8 Classic reason: it exists and has been in
9 commercial use since 2004.

10 We accept the annotation to leave
11 de-oiled lecithin on the national list because
12 de-oiled organic lecithin is not commercially
13 available at this time. Some time in the
14 future it may be, but not at this time.

15 Next.

16 These are the organic lecithins
17 that are available at this time. The upper
18 bowl is your standard lecithin used in
19 commerce. Lower left is bleached. Across
20 from it is what we would call a dry lecithin.
21 It does not mean de-oiled. It means that a
22 fluid lecithin was absorbed on a carrier, such

1 as a multi-dextrin and can be used in a dry
2 situation. It is not de-oiled, which many
3 people confuse between dry and de-oiled.

4 And at the bottom you have the
5 very low micro lecithin currently in use by
6 cosmetic companies who are concerned that some
7 of the lecithin will get in the eye which
8 lacks the protection of the stomach.

9 Next.

10 Since bleached lecithin is of key
11 concern here, I thought you would like to see
12 it being made. The picture on the left is
13 where lecithin in gums is coming out of a
14 process line and being bleached. That is the
15 only time where you can bleach lecithin.

16 You can de-oil lecithin later.
17 You can take organic lecithin and de-oil it
18 later with acetone. You cannot remove it and
19 later bleach it. It has to be bleached now.

20 On the right-hand side, finished
21 product, bleached lecithin ready to go into
22 commerce.

1 Next.

2 Now, organic lecithin
3 availability. Where does lecithin come from?
4 Typically it comes from an oil seed. On the
5 right-hand side you've got your crop sources,
6 your primary, soybeans, canola and sunflowers.
7 From the source of organic soy, we have fluid,
8 bleached fluid, and dry blend, every one
9 available in organic form.

10 We have made organic canola
11 lecithin and fluid bleached and dry blend
12 form. I would not say it is commercially
13 available at this time. We're awaiting
14 orders. We have not had any orders for it.
15 We have it sitting on an inventory floor.

16 Organic sunflower lecithin we have
17 made, but it is not commercially available at
18 this time. It's under development.

19 Now, out of any of those sources,
20 de-oiled version is not available. So it's
21 appropriate to retain.

22 Next.

1 Lecithin under the USDA seal. It
2 should mean organic. It doesn't. You can
3 walk into any store in the country, walk
4 through the grocery store shelves, and looking
5 at the seal you will not know whether organic
6 lecithin or non-organic lecithin is in the
7 product that uses lecithin. You have to read
8 the ingredient package.

9 The ingredient panel, well, it
10 would be nice to use the seal as a shorthand
11 way to know what you're buying.

12 Non-organic lecithin, the
13 production system is non-organic farming. Our
14 production system, organic. With the non-
15 organic farming system, any pesticide in use
16 is going to be out in that farm. We will
17 allow pesticides only if they're on the
18 national list. An extraction of almost all of
19 the oil from which lecithin is extracted from
20 the non-organic is hexane. We use pressure
21 and heat. Everything else about what we do is
22 organic.

1 Next.

2 Uses: food supplements, release
3 sprays, personal care and industrial. I could
4 lead you through examples in many of these
5 categories starting with infant, toddler and
6 right on through to cookies, but neither you
7 nor I have the time for that. So I've picked
8 a few to show you.

9 Please, next.

10 Organic formulas for infants and
11 toddlers. Some use organic lecithin; others
12 don't. If you'll follow the green arrow, it
13 will carry you to a panel showing organic soy
14 lecithin. If you'll follow the red arrow,
15 it'll be a non-organic soy lecithin.

16 The upper canister on the left is
17 a dry product. You've been told in some
18 comments that it's impossible to mix a fluid
19 lecithin with a dry product. Huh, really? It
20 doesn't look impossible to me.

21 The lower canister on the left is
22 not under the National Organic Program. It is

1 a baby food that belongs to a Korean company
2 that very much wanted to be organic. They
3 were our first client for organic lecithin in
4 2004. They continue to be a client today.
5 That is one of the world's more organic
6 products.

7 Next.

8 Chocolate bars using organic
9 lecithin. Some do and everyone on this page
10 does. Every arrow is green. If you'll look
11 at the one on the lower left, you'll see an
12 arrow going to soy lecithin with an asterisk.
13 The asterisk says that it's organic.

14 Next.

15 Chocolate bars not using organic
16 lecithin. Now, from a consumer standpoint,
17 these chocolate bars are essentially
18 interchangeable. The marketing department of
19 every company will argue, but they're
20 essentially interchangeable with the one on
21 the prior slide. Not a one of these uses
22 organic lecithin, despite being quite aware of

1 its existence.

2 Next.

3 Certified organic vegetable oil
4 sprays. Lecithin plays a significant role in
5 this. You've got two with organic lecithin
6 and three without.

7 Next.

8 So what conclusions can you make
9 from a brief visit through the store and
10 reading panels? I think it would be safe to
11 say organic lecithin now meets commercial
12 quality and supply standards, has penetrated
13 the market significantly.

14 Two, I think continuing allowance
15 for non-organic lecithin, bleached and
16 unbleached, encourages a wide range of
17 interpretation by vendors, processors and
18 certifiers, all gathered together under the
19 USDA seal.

20 The NOP rules should encourage
21 organic production and use of organic
22 ingredients, agriculturally grown organic

1 ingredients. So we would like to ask that the
2 NOSB support the recommendations of your
3 Handling Committee. Your decision in favor of
4 removing bleached lecithin and unbleached
5 fluid lecithin, as proposed, supports the
6 organic first principle. It increases market
7 for organic crops, and it will encourage
8 innovation and competition.

9 Final. One more.

10 We tend to forget often in our
11 discussions one of the foundation stones, and
12 that's the organic farm. On the right you've
13 got one from central Illinois standing in an
14 organic bean field, growing organic beans,
15 looking for organic markets.

16 We have seen an evolution in at
17 least this ingredient, and I think you'll see
18 it in other ingredients, and I think we have
19 now reached the time we need an evolution in
20 the rules to make it clearer what's acceptable
21 in the marketplace and what's not.

22 Now, how do I know what I'm

1 telling you is the truth? Truth is an elusive
2 concept in many locations. Well, we've
3 monitored our penetration of the market. We
4 talked to users. We talked to people who
5 aren't users, and we reached out to see if we
6 couldn't find an impartial party that knew a
7 lot about phospholipids and lecithin, and we
8 reached out to a gentleman by the name of Dr.
9 Bernie Szuhaj, and we've asked him to speak to
10 you today.

11 He has a reputation for expertise
12 in this field that's worldwide and goes way
13 beyond my company or this particular
14 discussion. So I would hope that you would
15 regard him as a neutral party of science.

16 Questions?

17 CHAIRMAN MOYER: Questions or
18 comments from Board members? I'm sorry.
19 Katrina and then Joe.

20 MEMBER HEINZE: As we've tried to
21 understand lecithin in all its varieties, I
22 want to make sure I understood correctly that

1 de-oiled in either an unbleached or bleached
2 form is not currently commercially available.

3 MR. CLARKSON: The only reliable
4 and high quality method of producing de-oiled
5 amino right now uses acetone, which we cannot
6 use under organic certification. So the
7 answer is we do not currently know how.

8 There are a couple of techniques
9 that were studied that might work, but those
10 are probably a year to two years away, and I
11 can't tell you that they work.

12 So the short answer to your
13 question is we can't make, we don't know how
14 to make it right now.

15 MEMBER HEINZE: So I have a
16 follow-up to that, but then I think what I
17 heard was that it is possible to have organic
18 bleached lecithin.

19 MR. CLARKSON: Yes, we have it
20 today.

21 MEMBER HEINZE: So one option that
22 might be available to us would be to move

1 bleached lecithin to 606 with an annotation
2 only the dry de-oiled.

3 MR. CLARKSON: That would be
4 possible.

5 MEMBER HEINZE: Thank you.

6 MR. CLARKSON: You're welcome.

7 CHAIRMAN MOYER: Joe.

8 MEMBER SMILLIE: My main question
9 was answered. Katrina had the same question,
10 but a follow-up. Could you just walk me
11 through once again how the dry is created from
12 a fluid sprayed on a substance?

13 MR. CLARKSON: Okay. Whether
14 you're dealing with a conventional or an
15 organic lecithin, you're starting with a base
16 dock of fluid lecithin. It has a very, very
17 low moisture level. All right? So you're not
18 going to dry it with heat. You need to take
19 the oil out to de-oil it.

20 But to provide you a dry form, you
21 put it on a multi-dextrin or flour as a
22 carrier, as a neutral carrier. In that case

1 you could make it out of organically certified
2 multi-dextrins or flours, and you would have
3 a dry form of organic lecithin. It would not
4 be de-oiled, and many people that submitted
5 comments and were concerned about using access
6 to a particular form of lecithin were
7 addressing you, in my mind about de-oiled
8 lecithin.

9 MEMBER SMILLIE: So also as far as
10 the carrier goes, you can choose from a
11 variety of carriers then. You're not
12 restricted to multi-dextrin.

13 MR. CLARKSON: Correct.

14 MEMBER SMILLIE: Okay.

15 CHAIRMAN MOYER: Thank you, Joe.
16 Dan.

17 MEMBER GIACOMINI: Thanks, Lynn.

18 Regarding the petition for 606,
19 fluid, unbleached lecithin, you have the
20 product.

21 MR. CLARKSON: Yes.

22 MEMBER GIACOMINI: It's not

1 extensively being utilized.

2 MR. CLARKSON: Excuse me. Did you
3 say unbleached or bleached?

4 MEMBER GIACOMINI: The unbleached,
5 the petition for 606 right now.

6 MR. CLARKSON: It is being
7 reasonably extensively utilized. We have set
8 up a table in the back with a number of
9 products you are certainly free to sample, and
10 we've been shipping it commercially since
11 2004.

12 CHAIRMAN MOYER: Okay. Thank you.
13 Tracy.

14 MEMBER MIEDEMA: Is there any
15 difference in the quality or form of this that
16 hasn't been captured yet in your presentation
17 around flavor or mixability that would warrant
18 it staying on 606?

19 MR. CLARKSON: I am unaware of any
20 differences, but the better person to answer
21 that one would be Dr. Szuhaj. You might be
22 inviting a comment about is there a difference

1 in flavor color or quality from other sources
2 of lecithin, such as sunflower lecithin or
3 canola lecithin, and all I can tell you is
4 that the people who make those lecithins
5 publicly announce that they're
6 interchangeable. There's no difference in
7 terms of color, flavor or functionality.

8 CHAIRMAN MOYER: Okay. Thank you,
9 Lynn.

10 MR. CLARKSON: You're welcome.
11 Thank you.

12 CHAIRMAN MOYER: I just want to
13 remind the Board that we've gone through 15
14 presenters and we have about 48 to go yet. So
15 make sure that your comments and questions are
16 pointed. We certainly want to get everybody
17 to have the information that they need as we
18 move into the decision making process
19 tomorrow.

20 Dr. Szuhaj.

21 DR. SZUHAIJ: Thank you very much.

22 For the sake of clarity, my name

1 is pronounced "shuhi." Just think of high
2 shoes and reverse it, "shuhi."

3 I am here to present technical
4 comments on organic lecithin to the Board, and
5 I am the president and owner of Szuhaj &
6 Associates.

7 Next slide.

8 Not to bore you with my key
9 technical qualifications, I have my Ph.D. in
10 biochemistry from Penn State University in
11 1996. I have over 40 years of experience in
12 lecithin and lipids. I have several
13 publications and patents, and I'm past
14 chairman and president of the American -- this
15 is wrong -- that should be the International
16 Lecithin and Phospholipid Society. This would
17 be a promotion. Sorry. I'll send you a
18 corrected.

19 Okay. Next slide. This is a
20 tough one. This is not the one we should
21 have. This is going to confuse a lot of
22 people because the other one we have is green

1 and red, and is better. We want that one, the
2 one that looks like that.

3 I know this is two o'clock in the
4 afternoon and everybody is half asleep, but
5 this will get you awake now. We need to go to
6 the right one. All right. There we are.

7 Okay. Thank you.

8 Okay. To clarify some of the
9 questions we're going to talk about, this is
10 the simplified production process for
11 different types of lecithin. Here you can see
12 the oil seeds which might be soy, canola or
13 sunflower, and they go through this process of
14 either being expelled or hexane extraction.
15 Now, the things that are green are organic.
16 The ones that are red are non-organic, and
17 then you can see a combination of organic and
18 non-organic.

19 What happens is the lecithin is
20 expressed out, and you have crude oil. You
21 add water to this crude oil and you get the
22 gums.

1 Okay. From here you can take the
2 gums and Lynn said, and you can bleach them,
3 and you can go have a bleached lecithin, or
4 you can take the bleached product and come
5 down here and move remove the oil with
6 acetone.

7 You can also take the materials
8 from the gums and have the standard fluid
9 lecithin product here and you can blend it.
10 And then when you blend it, you can make the
11 dry product, and I think that's being passed
12 around.

13 Now, I'd like to correct something
14 here. In the industry the word "dry" is not
15 used. It is just "de-oiled." I don't know
16 where that came from, but that's a misnomer to
17 call it dry, and I think they come up with
18 this because you have a food product and you
19 have the granules. So, therefore, you call it
20 dry, but really in the industry it is called
21 de-oiled.

22 This one, however, is considered

1 as a dry product because you have lecithin
2 coated onto a multi-dextrin.

3 I should mention something here in
4 the area of bleaching. I think some people
5 might think that when we're talking about
6 bleach we're talking about sodium
7 hypochlorite, which is a normal bleaching
8 agent, and you might be using that as part of
9 the discussion here.

10 Here we're talking about hydrogen
11 peroxide. This is the bleaching agent that's
12 used to lighten the color, and the only thing
13 you're impacting here are the chromophores
14 that are present, primarily the pigments.

15 Next slide. Oops, we have to go
16 back to the other one. No, we just need to go
17 to one that looks like this. Oh, well, it's
18 apparently not in that. I don't know where it
19 went.

20 Okay. Well, let me say what's on
21 this sheet, for the Board members here, this
22 was to cover the estimated world's share of

1 lecithin products. You need to know that
2 there are approximately 250 to 300 million
3 pounds of lecithin worldwide, and liquid
4 lecithins make up about 80 percent, 27 percent
5 which are standard fluid; 38 percent are
6 reacted or modified. The remaining 20 percent
7 is de-oiled, and of that 80 percent goes into
8 the nutritional supplement market and 20
9 percent goes into the food sector.

10 Now we can go to the last one that
11 says organic standard fluid products. Okay.
12 Apparently this is the wrong thing that got in
13 here, but what I wanted to say about the
14 organic standardized fluid lecithin, the Board
15 needs to understand that functionality is
16 based on phospholipid composition, not color,
17 not necessarily viscosity or flavor, and the
18 same thing goes with organic bleach. It's the
19 phospholipid composition that makes a
20 difference. Lecithin is bleach with hydrogen
21 peroxide to lighten the color and not to
22 reduce microbes. Microbes are controlled in

1 the gum drying process.

2 CHAIRMAN MOYER: Okay. Thank you.

3 Questions? Joe.

4 MEMBER SMILLIE: Well, where does
5 the hexane come from in organic lecithin?

6 DR. SZUHAJ: If you're looking at
7 this word "hexane" here, this is the test
8 method that's used. Use hexane to dissolve
9 the lecithin, and you collect the particle
10 matter on the filter. So there's no hexane in
11 lecithin. That's just a test method.

12 MEMBER SMILLIE: Oh, okay.

13 CHAIRMAN MOYER: Thank you, Joe.

14 Does anybody else have any
15 questions? Tracy, please.

16 MEMBER MIEDEMA: Would you mind
17 just repeating that bit about the
18 functionality is the phospholipid composition?

19 DR. SZUHAJ: Right.

20 MEMBER MIEDEMA: Can you just
21 elaborate a little bit on that?

22 DR. SZUHAJ: Yes, I can. The

1 phospholipid content is what makes lecithin do
2 its function, and the phospholipids are
3 phosphocholine, phosphoethylnolamine, and
4 phosphotilenostol. There are three major
5 phospholipids in lecithin. These are the same
6 three that you find in almost all of the oil
7 seeds that were shown up there, sunflower,
8 canola, and corn, cotton seed. They all have
9 the phospholipids as the functioning agent in
10 the product.

11 CHAIRMAN MOYER: Okay. Thank you
12 very much.

13 Katherine DiMatteo and then we
14 have Lulu Kurman on deck.

15 MS. DiMATTEO: All right. Thank
16 you, and I think the microphone is the right
17 height for me.

18 My name is Katherine DiMatteo.
19 I'm with the consulting firm of Wolf, DiMatteo
20 & Associates, and I have been working with
21 Lynn Clarkson and learning a lot from Dr.
22 Szuhaj about lecithins, and I don't know that

1 I can answer all of the questions that they
2 have, but I certainly have begun to understand
3 a lot more about it.

4 But what I want to say in
5 particular is urging you to take bleached
6 lecithins off of 605 because you can make
7 lecithins using hydrogen peroxide, which is
8 allowed under the National Organic Program,
9 and you can start with an organic agricultural
10 ingredient, whether that's organic soy or
11 organic canola or organic sunflower. So you
12 can end up with a bleached lecithin in
13 compliance with the regulation.

14 I also want to urge removing the
15 fluid lecithins from 606, again, because they
16 are commercially available and because your
17 annotation, especially if it says de-oiled,
18 which seems to be the correct annotation or
19 dry de-oiled, would allow for both what is not
20 commercially available and for anybody who is
21 producing something with allergens that can be
22 available in a de-oiled form.

1 But mainly I wanted to say it's
2 your decision. You have to be decisive, and
3 there's a lot of arguments that have come
4 forward about what is needed by the processing
5 industry, and for many of those who know me
6 and some of you who don't, I'm almost always
7 the one who is characterized as representing
8 the processor and allowing for use of almost
9 everything so that processors can make as much
10 organic product as possible. Because I
11 believe that we shouldn't put artificial
12 barriers in the way so that more farm products
13 are sold. If we can sell as much farm product
14 through processed products, that's great.

15 But I always believed that because
16 I also always believed that when something was
17 available in an organic form, it would be
18 used, and that when the proof came forward to
19 the National Organic Standards Board, things
20 that were on the list would get taken off, and
21 that's why I would argue strongly always for
22 processors to be allowed to make as much

1 processed product as they possible could
2 following the rule and even allowing the
3 processing aids that they needed to have.

4 Now we have a great case. You
5 have a great example right here and an
6 opportunity to move forward and to really
7 follow through on this balance of integrity
8 and growth. We've had the growth. We can
9 maintain the integrity now by taking those
10 lecithins off that no longer are needed to be
11 on the list.

12 And the last thing I wanted to
13 say, that it really is the time for you to
14 make this decision. Please don't delay this
15 any longer, and here's why. If you make this
16 decision today, it's likely that it won't be
17 implemented or off the list for about two
18 years, and not because of anybody's fault.
19 It's just that it's a long process.

20 We just heard that the materials
21 that you approved in November of 2007 will
22 soon come out as a proposed rule. So if you

1 take this off today, there is time for people
2 in the industry to make adjustments if they
3 need to to use organic lecithin or to use the
4 dry de-oiled lecithins in the forms that they
5 need for their products.

6 Thank you very much.

7 CHAIRMAN MOYER: Thank you,
8 Katherine.

9 Comment or question? By Joe.

10 MEMBER SMILLIE: So now that we're
11 educated about the de-oiled versus the dry,
12 what you're saying is that if we leave de-
13 oiled lecithin on 606, that will allow the so-
14 called allergy concerns to be met.

15 MS. DiMATTEO: Allergy, yes, and
16 the de-oiled needs.

17 MEMBER SMILLIE: De-oiled needs
18 because we can't de-oiled organic.

19 MS. DiMATTEO: Right.

20 MEMBER SMILLIE: Okay. So some
21 people might move to de-oiled lecithin because
22 they don't want to pay the price for organic

1 lecithin, but it does provide that window for
2 those needs that are truthful.

3 MS. DiMATTEO: Right.

4 MEMBER SMILLIE: We haven't
5 discussed the whole allergy thing yet, and I
6 think that that's one of the inputs that we
7 got, and you're probably not an allergy
8 expert. So I guess we'll wait on that, but I
9 just wanted to remind the Board that one of
10 the concerns we had about removing lecithin is
11 that people who were allergic or who maybe
12 were truly allergic to soy or maybe allergic
13 to reading soy on a label, maybe it's not
14 really an allergy concern and Katrina may have
15 something to say about that, but that way they
16 could have something on a label that wouldn't
17 affect their allergy concerns, real or
18 perceived.

19 So I think we'll have to have that
20 discussion once we have someone, if we have
21 someone, that objects to us removing lecithin
22 from the list based on allergy concerns.

1 MS. DiMATTEO: Right, and I'm not
2 an allergy expert.

3 MEMBER SMILLIE: Right.

4 MS. DiMATTEO: I don't even have
5 an allergy.

6 (Laughter.)

7 MS. DiMATTEO: But what I would
8 have to say is, and again, this may be
9 surprising for some of you in the room who
10 know me, I don't know that the organic rule
11 has to solve all the problems that are out
12 there. It's about organic. It's not about
13 allergies, and even though, you know, it would
14 be wonderful to meet every single processor's
15 need and every single person's need about the
16 particular kinds of products that they want to
17 have, I don't know that that's the job that
18 you're asked to do.

19 Thank you.

20 CHAIRMAN MOYER: Thank you.

21 Just a minute, Katherine. Julie.

22 A question from Julie.

1 MEMBER MIEDEMA: It's actually not
2 specifically a question for Katherine, but I
3 just wanted to be sure that -- I wanted to
4 know if during the discussion period when the
5 Handling Committee is going to be discussing
6 this tomorrow if Dr. Szuhaj is going to still
7 be here tomorrow.

8 MS. DiMATTEO: Yes.

9 MEMBER MIEDEMA: Was that yes?

10 CHAIRMAN MOYER: He indicated yes.

11 MEMBER MIEDEMA: Thank you. So
12 then I feel more comfortable about moving on
13 because I know we'll still have resources
14 available.

15 MS. DiMATTEO: Lastly, in the back
16 of the room we've got a display of products
17 with and without organic soy.

18 CHAIRMAN MOYER: Thank you,
19 Katherine.

20 Lulu Kurman and Zareb Herman on
21 deck.

22 MS. KURMAN: My name is Lulu

1 Kurman, and I'm the manager of Regulatory and
2 Scientific Affairs at Solae, a manufacturer of
3 non-organic bleached de-oiled lecithin sold to
4 producers of products labeled as organic or
5 made with organic. We also sell quite a bit
6 to the conventional food market as well.

7 I would like to thank the NOSB
8 Committee for allowing me the opportunity to
9 speak today.

10 Solae would like to express its
11 concern with the Clarkson's soy products
12 petition to remove lecithin, bleached, from
13 Title VII, Part 205.605(b) of the Code of
14 Federal Regulations. As Solae is not aware of
15 any certified organic emulsifier or other
16 substance currently on the national list that
17 provides equivalent functionality to bleached
18 de-oiled lecithin.

19 In addition, Solae's concerns
20 about the removal of all forms of bleached
21 lecithin from the national list is heightened
22 as we are not aware of any suppliers of non-

1 organic unbleached de-oiled lecithin.

2 Finally, we would like to
3 emphasize the significant difference in form
4 and function between de-oiled lecithin and
5 powdered lecithin, a distinction which we feel
6 is not clearly made in the Clarkson Soy
7 Products petition.

8 De-oiled lecithin is an emulsifier
9 that exists in powder form. In the production
10 of de-oiled lecithin, liquid lecithin is
11 treated with hydrogen peroxide as a precaution
12 to guard against microbial growth before the
13 de-oiling process commences. A secondary
14 effect of the antimicrobial hydrogen peroxide
15 treatment is a slight bleaching of the
16 lecithin.

17 The acetone insolubles, or AI, is
18 the active portion of de-oiled lecithin. It
19 consists of a complex mixture of polar
20 molecules, primarily phospholipids. The
21 minimum AI of Solae de-oiled bleached lecithin
22 is typically 97 percent, while the AI of

1 organic liquid lecithin is typically no
2 greater than 65 percent.

3 De-oiled lecithin is simply
4 lecithin and does not contain carrier
5 ingredients such as multi-dextrin, which
6 dilute the AI. Other dry lecithin products,
7 however, such as the Clarkson Soy Products
8 granules are produced by combining fluid
9 lecithin with a carrier.

10 Bleached de-oiled lecithin is used
11 in many food emulsions where water is the
12 continuous phase into which oil is dispersed,
13 known as oil and water emulsions. Examples of
14 product applications can be found in beverage,
15 sauce, soup, dairy product, and frozen dessert
16 categories. The apparent hydrophilic,
17 lipophilic balance, or HLB, of de-oiled
18 lecithin is seven, making it water dispersable
19 and very effective at emulsifying oil into a
20 continuous water phase.

21 Standard lecithin, such as typical
22 organic liquid lecithin has an apparent HLB of

1 four. Emulsifiers with HLBs less than six are
2 generally ineffective for making oil and water
3 emulsions.

4 Powered lecithin that has not been
5 de-oiled is not water dispersable, nor is it
6 an effective emulsifier for oil and water
7 emulsions. Aside from its increased
8 functionality compared to standard lecithin in
9 many food applications, bleached de-oiled
10 lecithin has a blander flavor. The de-oiling
11 process removes much of the bitter and beany
12 tasting components of standard lecithin,
13 making de-oiled more readily usable in foods
14 with a delicate flavor.

15 The Clarkson Soy Products granules
16 which are not de-oiled cannot be expected to
17 have the same bland flavor profile as de-oiled
18 lecithin.

19 Aside from the inability of the
20 Clarkson Soy Products granules to function
21 similarly to non-organic bleached de-oiled
22 lecithin, we further question the validity of

1 the petition to remove lecithin, bleached,
2 from the national list as Clarkson Soy
3 Products is not offering an organic equivalent
4 that can be labeled as lecithin in compliance
5 with the U.S. food labeling laws.

6 The Clarkson Soy Products

7 specification for organic soy lecithin
8 granules dated April 2008 states that the
9 product meets lecithin requirements under
10 Title 21, Part 184.1400 of the CFR. The
11 Clarkson specification, however, states the
12 hexane insolubles are less than one percent.
13 The food chemicals Codex specification for
14 lecithin, which is referenced in 184.1400 of
15 the CFR, lists a requirement for hexane
16 insolubles to be less than 0.3 percent.

17 In order for a lecithin to truly
18 be called a lecithin or declared as lecithin
19 in an ingredient statement, the additive must
20 meet the food chemical's Codex specification.
21 If a producer of organic products were to use
22 the Clarkson granules in their formula, they

1 would be required to declare soy phospholipid
2 emulsifier or some other adequately
3 descriptive and non-misleading name on their
4 product label.

5 Thank you for your attention.

6 CHAIRMAN MOYER: Thank you.

7 Any questions or comments from
8 Board members? Yes, the Chair recognizes Joe.

9 MEMBER SMILLIE: Are you going to
10 be here tomorrow?

11 MS. KURMAN: What time?

12 MEMBER SMILLIE: What time is the
13 HC?

14 CHAIRMAN MOYER: I'm sorry. I
15 don't have that part of the agenda. It's in
16 the afternoon.

17 PARTICIPANTS: Two o'clock.

18 CHAIRMAN MOYER: Two o'clock.

19 MS. KURMAN: My flight leaves at
20 5:15.

21 MEMBER SMILLIE: You'll be here.

22 CHAIRMAN MOYER: That's a

1 definitely maybe. Okay. Thank you very much.
2 Appreciate that.

3 MS. KURMAN: Thank you.

4 CHAIRMAN MOYER: The Board
5 recognizes Zareb Herman, and then Amy Nankivil
6 is on deck.

7 MS. FRANCES: Hey, Jeff or
8 commenters, when you are on deck, that's the
9 time to give me the written materials that I
10 can pass out.

11 CHAIRMAN MOYER: Thank you,
12 Valerie.

13 Anything that can save this Board
14 time we certainly will appreciate it as the
15 day wears on. We do have a lot of commenters
16 and presenters to get through.

17 MR. HERMAN: I do have a proxy
18 from Paul Standing of Bloomfield Baker. So I
19 should have ten minutes to share, although my
20 comments should only take about seven minutes.

21 And excuse my hoarse voice. I
22 just have a little case of the swine flu.

1 (Laughter.)

2 MR. HERMAN: Just kidding, just
3 kidding.

4 Can you hear me better?

5 My name is Zareb Herman, and I am
6 representing the Hain Celestial Group, one of
7 the largest producers of organic products in
8 the United States. We sell over 900 organic
9 products under many brand names, including
10 Arrowhead Mills, Earth's Best, Health Valley,
11 Spectrum, and many others.

12 Our history of promoting the
13 organic movement in the United States goes
14 back over 50 years. I'm also here today
15 representing Bloomfield Bakers, who produce a
16 large number of organic products at their two
17 manufacturing facilities in California.

18 In addition, my comments have been
19 endorsed by Country Choice Organics, a
20 manufacturer of organic bakery products.

21 I'm here to comment on the two
22 lecithin petitions. On the first page of your

1 handout is a chart that shows some of the
2 categories of our organic products that
3 utilize lecithin as a vitally important
4 processing aid.

5 In our organic chocolate products,
6 we use lecithin in liquid form. The organic
7 form is available and we have been using
8 organic liquid lecithin for a number of years.

9 The same holds true for our
10 organic spray oils. We use the organic liquid
11 form.

12 For the next two categories of
13 products, organic frozen desserts and low fat
14 bars and cereals, these manufacturing
15 processes require the use of an IP powdered,
16 de-oiled water dispersable lecithin. This
17 form of lecithin is not available in organic
18 form. There is an organic granular lecithin
19 sold by Clarkson, and I did bring a sample,
20 but that's okay. And this product is, as has
21 been acknowledged, just liquid lecithin that
22 has been plated onto multi-dextrin and rice

1 flour. It is not de-oiled. It is not a true
2 powdered, water dispersable lecithin, and it
3 does not work in our applications.

4 Now, if I could direct your
5 attention to page 3 of the handout and toward
6 the middle of the page, and if you could read
7 along with me I'd appreciate it, and this
8 concerns the 606 petition.

9 The Handling Committee has
10 acknowledged that there is not an adequate
11 supply of organic dry, they call it, dry
12 unbleached lecithin. However, besides the
13 organic granular lecithin that does not work,
14 this is what we know. Nearly all of the
15 powdered lecithin commercially available is
16 bleached. We very recently located one
17 unbleached de-oiled powdered lecithin that is
18 sold in Europe. We have not been able to test
19 it.

20 Now, because the current supply of
21 powdered lecithin is bleached and because it
22 needs to be de-oiled to work, we strongly urge

1 the Board to keep bleached lecithin on the
2 605(b) list. If bleached lecithin is removed,
3 we and other companies will most likely have
4 nothing to use in these applications.

5 If we are able to obtain a source
6 of powdered unbleached lecithin, we recommend
7 that unbleached de-oiled powdered lecithin be
8 added to the list. I guess it would be the
9 606 list, but one alternative would be to add
10 both the bleached and unbleached powdered
11 lecithin on 605(b). That would be one option.

12 Now, regarding the use of hydrogen
13 peroxide as a bleaching agent, the majority of
14 suppliers we contacted said that they use it
15 primarily to lower microbial contamination, an
16 important food safety concern. They said that
17 they use it secondarily to lighten the color.
18 However, two of the companies stated that they
19 use it primarily to lighten the color.
20 However, with one exception, the product sold
21 in Europea, they are all using hydrogen
22 peroxide, but it is not present in the

1 finished ingredient. So it poses no health
2 risk.

3 I want to make one point about
4 GMOs. I've seen in some of the comments some
5 proponents of these petitions claimed that
6 non-organic lecithin that is used in organic
7 products is sourced from genetically modified
8 soybeans. This is not true. Our organic
9 certifiers require us to use lecithin derived
10 from non-GMO identity preserved soybeans.

11 Some claims have been made that
12 gums can take the place of lecithin in food
13 products. This is not true. Lecithin is
14 primarily an emulsifier, while gums are used
15 to bind water. We often use gums and lecithin
16 together in the same products.

17 Some people claim that non-organic
18 de-oiled lecithin contains hexane. This is
19 also not true. Our two principal suppliers of
20 powdered lecithin guarantee less than one part
21 per million hexane residue, and the other
22 suppliers guarantee that residues will be in

1 the low parts per million range.

2 When you consider that lecithin is
3 used at less than one percent in food
4 products, and when you consider that nearly
5 all of these products are heated during
6 processing, there is virtually no hexane that
7 can be detected in the food.

8 We would all like to live in an
9 environment totally free of organic solvents,
10 but unfortunately the technology is just not
11 there yet, but in terms of exposure, pumping
12 one tank of gas into your car will probably
13 expose you to more hexane than a lifetime of
14 eating products made with non-organic de-oiled
15 lecithin.

16 If you could return to the chart
17 on page 1, there is one additional category of
18 our products, organic baby cereals. We
19 currently product these products in Germany.
20 However, we did find a U.S. company that could
21 produce it using liquid sunflower lecithin as
22 a processing aid. They will not introduce soy

1 lecithin into their facility because they are
2 concerned that their equipment will be
3 contaminated with soy protein allergens.

4 And if you've ever worked with
5 fluid lecithin, it's very sticky, and it's
6 really hard to get off your equipment.

7 Now, the organic liquid soy
8 lecithin that is currently available does test
9 positive for soy protein, and it's a protein
10 that is the allergenic agent in the food.

11 Now, regarding the sunflower
12 lecithin, to our knowledge, it is not
13 available, commercially available in organic
14 form. If the NOP decides that all liquid or
15 fluid lecithin must be organic, soy free
16 facilities and products that are soy free will
17 not be able to use liquid lecithin in those
18 organic products.

19 And just to answer a question, de-
20 oiling does not remove soy allergens.

21 Personally, I am a strong
22 proponent of organic foods. I even managed a

1 health food store my college days, but as a
2 scientist I make decisions based on facts, not
3 on emotions. We sincerely hope that the Board
4 will make a decision based on facts, not on
5 smoke screens and we believe in some cases
6 misleading information.

7 Lecithin is a vital ingredient in
8 many organic food products. To deny companies
9 the right to use DOL powered bleached lecithin
10 will result in the loss of many organic
11 products from the marketplace. This will
12 negatively impact farmers, processors,
13 retailers and, most importantly, consumers who
14 will not be able to purchase these products.
15 Many of these products have been consumer
16 favorites for years, and we're talking about
17 millions of pounds of organic ingredients and
18 millions of dollars in sales on these
19 products.

20 For this reason we strongly urge
21 the Board to keep bleached lecithin on the
22 605(b) list or you may want to put it on the

1 606 list, however you work it out.

2 Regarding the 606 petition and
3 liquid lecithin, we have been using organic
4 liquid soy lecithin from one company,
5 Clarkson, and the supply has been reliable.
6 However, we do have serious reservations about
7 giving a near monopoly to one company. The
8 contacts we have had with these other organic
9 liquid lecithin suppliers have not been good.
10 We contacted the company in India recently,
11 and they told us that they hoped to have
12 organic certification in two to three months.

13 We contacted a French company and
14 spoke with a Fabian. Excuse my French or
15 pardon my French. Anyway, she explained to us
16 that they do not have NOP certificated organic
17 lecithin.

18 We found a U.S. supplier which
19 supposedly was going to sell organic fluid
20 lecithin, but I was not able even to get a
21 specification out of them. So it was not
22 encouraging.

1 Just one final comment. It's that
2 for companies needing to use lecithin that is
3 free of soy protein allergens, non-organic
4 liquid sunflower lecithin and sunflower
5 lecithin we recommend be added to the 606
6 list.

7 Thank you.

8 CHAIRMAN MOYER: Okay. Thank you,
9 Zareb.

10 Are there comments or questions?
11 Bea and then Tracy.

12 MEMBER JAMES: Thank you for your
13 comments.

14 My question was I was surprised to
15 see Ersvest products that do not have organic
16 lecithin in them, and the baby formula, in
17 particular, and that Nature's One is able to
18 make that with organic lecithin, and so I'm
19 wondering why you're not.

20 MR. HERMAN: Well, that particular
21 formula is packed for us. We essentially
22 purchase that formula from that supplier, and

1 the particular methodology that they use, they
2 explained to us that they cannot use that
3 form. So, you know, for the baby formula
4 products, we really are stuck with this
5 formula provided to us.

6 And infant formula products go
7 through a lengthy period of approval by the
8 FDA and to introduce any change to one of
9 those takes a very long time.

10 CHAIRMAN MOYER: Okay. Thank you.
11 Tracy.

12 MEMBER MIEDEMA: I just had a
13 question. I'm trying to synthesize this data
14 in real time here while it's coming in as
15 opposed to on day three when we're a little
16 bleary-eyed. And what I'm hearing first from
17 the petitioner and, Lynn, jump up and correct
18 me here if I'm wrong; you said the words it
19 would be appropriate to retain de-oiled
20 lecithin on 606.

21 MR. CLARKSON: I did.

22 MEMBER MIEDEMA: Okay, and then

1 the council from Solae sounded like her
2 company needed the same thing, needed de-
3 oiled, and I'm not sure whether they're
4 talking about needing both bleached and
5 bleached, but it sounds like, yes, both
6 bleached.

7 MR. HERMAN: Yes.

8 CHAIRMAN MOYER: Please stand up
9 and state your name for the --

10 MS. KURMAN: Lulu Kurman from
11 Solae.

12 We do not make an unbleached de-
13 oiled --

14 MEMBER MIEDEMA: Okay.

15 MR. HERMAN: Yes, and that's what
16 we have also found. No one is making
17 unbleached de-oiled lecithin. I shared we
18 found one company that's selling some in
19 Europe, but we haven't had a chance to test
20 it. You know, I know the Handling Committee
21 had recommended that unbleached powdered
22 lecithin we retained, but there is no

1 unbleached. So it doesn't do us any good. It
2 has to be bleached because that's what's
3 available.

4 MEMBER MIEDEMA: Okay.

5 CHAIRMAN MOYER: Valerie, program?

6 MS. FRANCES: I just wanted to
7 remind folks that when public comment is
8 coming in off the floor and not on the mics
9 it's not captured in the transcript.

10 CHAIRMAN MOYER: Yes, thank you,
11 Valerie.

12 MEMBER MIEDEMA: then I'll go
13 ahead and restate that in the audience Lynn
14 Clarkson did affirm that, and he's the
15 petitioner, that he's comfortable with the
16 retention of bleached de-oiled lecithin, and
17 that would be on 606, right?

18 MR. HERMAN: Yes.

19 MEMBER MIEDEMA: Okay, and that's
20 workable for both of the commenters that we've
21 just heard from as well. So I'm just trying
22 to find where there's consensus among people

1 and synthesize.

2 MR. HERMAN: Well, yes. So then
3 you're saying you could move the bleach from
4 605(b) to 606. Is that what you're saying
5 you're going to do?

6 MEMBER MIEDEMA: I'm basically
7 looking at it if we were somehow able to wipe
8 the slate clean and do what is best, you know,
9 what that would look like. So I don't know
10 whether from a regulatory standpoint
11 rearranging things on the list is possible,
12 but we can cross that bridge a little later.

13 CHAIRMAN MOYER: I think you're
14 right, Tracy. We can wipe the slate clean in
15 that regard and start.

16 The Chair recognizes Julie.

17 SECRETARY WEISMAN: Yes, there
18 were two things that just came up from me. I
19 do believe that some questions that the
20 Handling Committee put out just ahead of this
21 meeting regarding -- we have some other
22 information to look at about the microbial

1 issue and bleaching because I think we do have
2 some conflicting information that we need to
3 sort through.

4 Secondly, Ms. Kurman from Solae
5 mentioned that they used to make an unbleached
6 de-oiled lecithin a long time ago and that
7 there was no demand for it then, and I have
8 heard also Mr. Zareb also talking about how
9 there's no unbleached dry -- Mr -- wait.
10 That's your first name. Mr. Herman. I'm
11 sorry.

12 MR. HERMAN: That's all right.

13 SECRETARY WEISMAN: That there is
14 no unbleached de-oiled lecithin available, and
15 this is an issue that we contend with all the
16 time when we're considering 606 petitions. It
17 doesn't mean that it can't be done, and the
18 fact that I hear that it was done a long time
19 ago and it wasn't being -- but none was sold,
20 that was then and this is now. So I would
21 like to encourage everyone to also keep in
22 mind that maybe I believe for sure there was

1 no market for it many years ago, but I don't
2 think that would be the case today.

3 MR. HERMAN: Currently, it is not
4 commercially available. So, you know, we're
5 sort of stuck right now.

6 SECRETARY WEISMAN: So our job
7 here is now to ask why not. That's what
8 information we need now.

9 MR. HERMAN: Well, and I have
10 asked these questions of the suppliers, and
11 like I mentioned, the majority of them say
12 that it's there to reduce the microbial count,
13 and so, you know, that's a really important
14 concern in food safety.

15 SECRETARY WEISMAN: Thank you.

16 CHAIRMAN MOYER: Thank you, Mr.
17 Herman.

18 The Board recognized Amy Nankivil
19 and Methias Rebmann is on deck.

20 MS. NANKIVIL: Thank you.

21 Many of the points I was going to
22 bring up have been brought up. So I will try

1 to keep this short and concise.

2 I am Amy Nankivil. I'm with
3 Northland Organic Foods. Thank you for the
4 opportunity to speak today. I think it's
5 great to finally get everybody together to
6 actually figure this deal out.

7 So I'd like to make a few comments
8 regarding the Handling Committee's
9 recommendation to remove bleached lecithin as
10 an allowed substance on the national list
11 under 205.605(b). This is the only part of it
12 that I'm dealing with. I'm not dealing with
13 the unbleached part of this.

14 The last time this issue came
15 before the Board in 2006, the committee
16 summarized its final decision stating it has
17 become clear that although there are plentiful
18 non-synthetic and organic alternatives to
19 synthetic bleached lecithin in liquid form,
20 there is current no such alternative for
21 bleached lecithin in dry de-oiled form. The
22 Board strongly hopes a petition will be

1 presented in short order to restrict the use
2 of bleached lecithin to dry forms only.

3 My first comment is to point out
4 that nothing has changed regarding the
5 availability of organic forms of dried de-
6 oiled bleached lecithin, the form of dry
7 lecithin that is used as a minor ingredient by
8 almost all organic food manufacturers. I have
9 not seen any information prior to today or
10 today presented by the petitioner to prove
11 otherwise.

12 I believe the petitioner and his
13 consultant have based their petition to remove
14 bleached lecithin from the national list on
15 three major sources of misinformation. Again,
16 I'm speaking specifically about the dry form.
17 I'm not speaking about the fluid form.

18 Number one, these are quotes from
19 their petition. There are now certified
20 organic lecithins available to replace the
21 need for non-organic bleached lecithin.

22 Number two, bleached lecithin is

1 functionally identical to unbleached lecithin.
2 It differs only in color. The primary reason
3 for bleaching lecithin is only to alter the
4 color of an otherwise agricultural product.

5 And number three, there are very
6 limited applications for bleached de-oiled
7 lecithin in granular or powdered form. There
8 are two forms of de-oiled lecithin, bleached
9 and unbleached. Bleached de-oiled lecithin is
10 rarely used.

11 I'd like to ask your patience
12 while I quickly respond to each of these
13 claims. Number one, unless the petitioner can
14 prove there's a dry de-oiled form of organic
15 bleached lecithin commercially available, then
16 this statement is not true. I have seen
17 nothing in the petition proving there is any
18 such product in which case bleached lecithin
19 dry forms must be left on the national list.

20 Number two, lecithin is not
21 bleached primarily to change the color of the
22 product. Lecithin is bleached as a food

1 safety issue to control the microbial count.
2 The microbial values being controlled by the
3 use of hydrogen peroxide are total plate
4 count, coliforms, E. coli, salmonella, yeast
5 and mold.

6 I don't know why Dr. Szuhaj has
7 disputed the fact when he contributed the well
8 known and well respected soy processing book
9 called Practical Handbook of Soy Processing
10 and Utilization, which clearly states hydrogen
11 peroxide is used to bleach the lecithin in
12 order to control microbial count.

13 In Chapter 10, page 179 under
14 production of lecithin, it states, "The wet
15 gums coming from centrifugation will contain
16 about 50 percent water. The wet gums are
17 susceptible to microbial fermentation and
18 require immediate drying or treatment with a
19 preservative such as a dilute solution of
20 hydrogen peroxide. Required dosages will
21 depend on expected storage time, ambient
22 temperature, sanitary conditions, microbial

1 types and load."

2 Dr. Szuhaj actually contributed to
3 this particular chapter in that book.

4 The third point, without exception
5 every single organic food manufacturer I've
6 spoken to has confirmed they're using bleached
7 lecithin, not unbleached, and without
8 exception each of the four primary
9 manufacturers of de-oiled lecithin has
10 confirmed that their products are bleached.

11 Dr. Szuhaj says in his April 20th
12 comment, "I'm not aware of significant amounts
13 of bleached dry lecithin being generally used
14 in food or personal care items. As an expert
15 in the area I'm not aware of production or use
16 of bleached dry lecithin.

17 In addition to Solae, there are
18 three other primarily de-oiling facilities
19 that produce dry forms of lecithin: Cargil,
20 Adium and Riceland. I have a letter which
21 I've submitted to you from Riceland foods who
22 has been in the de-oiled lecithin business for

1 over 30 years. They confirm that over 99
2 percent of all the raw material they've ever
3 used has been bleached crude lecithin. The
4 quote from their manager states, "In our
5 experience, every time the crude lecithin has
6 not been bleached, microbial problems
7 inevitably result. Unbleached lecithin
8 usually came from inexperienced suppliers or
9 is an operating mishap. The problem always
10 carries over to the final product."

11 Also included in that packet is a
12 letter from IMCOPA, the largest IP non-fluid
13 lecithin producer, also stating that they
14 bleach all of their crude lecithin which is
15 going into de-oiled product for microbial
16 reasons.

17 In closing, based on the
18 information that I and many others in the
19 organic industry have supplied, I'd like to
20 request that the same annotation that was
21 recommended for unbleached lecithin under
22 205.606 be added to the recommendation for

1 bleached lecithin under 205.605(b), that is,
2 there's not enough information available at
3 this time about the commercial availability of
4 dry forms of organic bleached lecithin. If
5 there's any doubt about this, I suggest
6 putting this off to a future time.

7 CHAIRMAN MOYER: Thank you, Amy.
8 Any questions or comments? Joe
9 and then Katrina.

10 MEMBER SMILLIE: Well, we're going
11 to have to take some time to digest all of
12 this lecithin. That's for sure. What about
13 the argument that we see in the marketplace,
14 that we've seen and that we as a certifier
15 also see all the time, some people making
16 similar products, some use organic and some
17 don't?

18 MS. NANKIVIL: I'm not a food
19 manufacturer, but I talk to a lot of them.

20 MEMBER SMILLIE: Right.

21 MS. NANKIVIL: And I can tell you
22 from one to the next their formulations are

1 very different. Again, if it's a fluid type
2 product, that's one thing. If it's a dry type
3 mix, that's a complete different issue.

4 So the fact that there's a fluid
5 bleached lecithin available, that's great.
6 Take it off the list, but it cannot be used in
7 the dry forms, in dry formulations. It simply
8 can't be, and what they're talking about is a
9 different product that's attached to a
10 carrier.

11 As Solae pointed out, this is not
12 a de-oiled emulsifier.

13 MEMBER SMILLIE: No, we learned
14 that one. We got that one.

15 MS. NANKIVIL: Okay.

16 MEMBER SMILLIE: If in the world
17 of possibilities we could leave de-oiled
18 lecithin on 606, would that solve the problem?

19 MS. NANKIVIL: No, because 606 is
20 only referring to unbleached de-oiled
21 lecithin, and that's not commercially
22 available. Nobody is making it. Nobody is

1 using it.

2 So the bleached form needs to have
3 the annotation that it should stay on the
4 list. Whether it goes under 205.605(b) or
5 205.606, I don't know.

6 MEMBER SMILLIE: See, the beauty
7 of 606 is we've got the commercial
8 availability issue. We can bring that into
9 play, whereas in 605 we can't touch it, and
10 that's one of the problem, is that some people
11 rightly or wrongly -- and I certainly wouldn't
12 want to judge -- use that. So the way we're
13 heading is to get rid of the 605. At least
14 that's what the Handling Committee is
15 recommending. Get rid of the 605 and think
16 long and clear about what we're going to put
17 on 606.

18 We don't want to shut down the
19 industry. That's the last thing we want to
20 do. At the same time we'll honor the
21 principle of getting as much organic in as
22 possible.

1 So yours and other comments should
2 help us in the direction that we want to go,
3 which is get it off 605 and put the right
4 collection of words, the right annotations on
5 606.

6 MS. NANKIVIL: I understand.

7 CHAIRMAN MOYER: Thank you.

8 MS. NANKIVIL: So may I just
9 comment on mine? Then I would like to
10 retract, if it makes a difference where this
11 is. This isn't my comment; it's only if it's
12 going to be put back on 205.605(b) am I
13 pushing this.

14 I would like it to remain on the
15 national list of allowed substances. Where
16 that category is I don't know.

17 CHAIRMAN MOYER: Thank you.

18 The Chair recognizes Katrina.

19 MEMBER HEINZE: What a lovely
20 segue into my question. My question has to do
21 with where bleached lecithin belongs on the
22 list, and it has to do with the hydrogen

1 peroxide, and you may not know the answer
2 today, but certainly I think by the time we
3 make our decision it would be nice to have an
4 answer, which is how much of the hydrogen
5 peroxide remains in the finished ingredient,
6 and kind of to better understand that
7 bleaching process because we'll need to
8 understand that better as we decide where it
9 properly belongs.

10 MS. NANKIVIL: Well, I think even
11 the Clarkson petition, their fluid is bleached
12 as well. So you'll be addressing that with
13 their product as well because it's using
14 hydrogen peroxide as well.

15 MEMBER HEINZE: Okay.

16 MS. NANKIVIL: So yes, and I can't
17 tell you. Lulu or Dr. Szuhaj or someone else
18 may be able to answer that question.

19 MEMBER HEINZE: Or perhaps a
20 general comment to the public if you could
21 think about that overnight that would be
22 helpful for us.

1 CHAIRMAN MOYER: Thank you, Amy.

2 MS. NANKIVIL: thank you.

3 CHAIRMAN MOYER: Appreciate your
4 time.

5 Methias Rebmann to the podium. Is
6 Methias here?

7 (No response.)

8 CHAIRMAN MOYER: Okay. Moving on,
9 Charlotte Vallaeys, and Charlotte has a proxy
10 and then Tom Harding, I believe, yes.

11 MS. VALLAEYS: Good afternoon. I
12 also want to comment about soy lecithin, and
13 I wanted to just start off by saying that this
14 is an exciting opportunity to help the organic
15 industry evolve. You know, when there's
16 organic ingredients that become available when
17 they weren't before, it's a great opportunity
18 to show companies that it's worth the
19 investment. You know, if they see that
20 there's something on the national list that's
21 not available organically and they think that
22 they can make an organic version of that,

1 they're not going to be motivated to do that
2 if this process takes years and years and
3 might eventually never reward them for those
4 investments. So, you know, I think that's
5 something important to think about.

6 Also, from the point of view of
7 organic consumers who do expect if there is an
8 organic version available of an ingredient,
9 they just expect that the organic label will
10 reflect that and that they can trust that,
11 that they don't have to look at those
12 ingredients lists to see, you know, is it
13 organic soy lecithin or is it not. So that's
14 another thing to think about.

15 But I wanted to respond to some
16 comments or some things that have been brought
17 up. For example, about hexane residues in soy
18 lecithin, I know that that's true. The
19 residues will be extremely, extremely small,
20 probably not any concern to public health.

21 But organic is not just about
22 residues. We all know that. It's about the

1 process of how you make food, and if you
2 extract it with hexane, there are hexane
3 emissions that is a concern, and for example,
4 the Solae plant, according to EPA data, emits
5 one million pounds of hexane into the
6 atmosphere every year. So that's a concern.
7 If we want to have organic food reflect a
8 better way of making food, then we should
9 encourage the companies that are doing it
10 without hexane.

11 And another issue that was brought
12 up is that it will hurt the organic industry
13 if a lot of products will no longer be
14 available organically, if they can't use the
15 conventional lecithin. But we've seen how
16 many products are currently out there that are
17 not using the organic when right next to it on
18 store shelves is the exact same product,
19 whether it be chocolate, infant formula that
20 is using the organic. So it's important to
21 think about that as well.

22 And I want to bring up infant

1 formula because another argument was that, for
2 example, Earth's Best. It takes years and
3 years for the Infant Formula Act because it's
4 true. It's highly regulated, to change your
5 product.

6 But if you turn over a can of
7 Earth's Best infant formula, you see that it
8 says PVM, Vermont, which means that it's made
9 by PVM Nutritionals, which also makes all the
10 other kinds of formula, and they manage to get
11 DHA and ARA, which I will comment on later;
12 they manage to get that into infant formula.
13 It took them just a couple of years.

14 Babies Only, which also makes
15 infant formula, has added the organic lecithin
16 since 2004, January 2004. So it has been five
17 and a half years that PVM has had that
18 opportunity. If they really wanted to change
19 their formulation, well, they could. They've
20 had five and a half years to do it.

21 They managed to do it in way less
22 time than that for another ingredient. So I

1 don't see why they can't do it for organic
2 lecithin.

3 The other thing that was brought
4 up was concerns about monopoly, that Clarkson
5 Grain by now has a monopoly. Well, their
6 plant is running at about a ten percent
7 capacity, meaning that they have so much
8 organic lecithin that is not being used, why
9 would another company right now start offering
10 organic lecithin unless the regulations change
11 to show companies it's worth it to invest in
12 that?

13 And besides, if I understand this
14 correctly, their process is not patented. So
15 other companies are welcome to start making
16 organic lecithin.

17 Okay. My next comment is also
18 related to ingredients that are currently not
19 organic that are in organic foods. It's about
20 DHA and ARA, which I know I brought up last
21 year.

22 I'm happy to see that it is on the

1 work plan that I will be discussing, at least
2 microorganisms, which I'm assuming also refers
3 to DHA and ARA.

4 And I just wanted to bring up
5 that, you know, last year when I brought this
6 up, I actually thought that these synthetic
7 oils, which are not on the national list, that
8 they were put in organic infant formula, that
9 that was an honest mistake, and I've since
10 learned a lot of things; that this is not an
11 honest mistake. I have some documents here
12 showing that the Compliance Office actually
13 came to the conclusion that these DHA and ARA
14 ingredients are not approved for use under the
15 NOP regulations. That letter was ordered to
16 be rewritten by the Acting Director of the NOP
17 to say that they are allowed using the 1995
18 Board recommendation for nutrient, vitamins
19 and minerals.

20 So I don't really know what to ask
21 for because they're not on the national list.
22 They're making babies sick. We keep getting

1 adverse reaction reports from mothers who give
2 organic infant formula to their babies. These
3 babies are getting sick, and it is a subset of
4 the infant populations. So I'm not saying
5 that all babies are getting sick from this,
6 but organics should be a refuge from
7 ingredients that have not been reviewed, that
8 are novel ingredients, that are hexane
9 extracted, and if they're just put in without
10 review to be on the national list before
11 they're added, it really hurts consumer
12 confidence in organics.

13 So I was going to ask maybe that
14 the Board consider rescinding the 1995
15 recommendation, which is what is currently
16 used as the justification for allowing these
17 in organic infant formula or maybe a
18 recommendation that Board recommendations do
19 not supersede the actual federal regulations;
20 that that's what certifiers and manufacturers
21 need to follow, is what it actually says, what
22 the federal regulations actually say, and that

1 a Board recommendation doesn't allow or
2 doesn't take precedence over the accepted
3 regulations.

4 You know, why this is important,
5 you might be wondering why am I bringing this
6 up. You know, I'd like just mention, again,
7 that we are getting adverse reaction reports.
8 Babies are getting sick from this. It's a
9 serious issue.

10 And I know a lot of you out there,
11 you mentioned when you were introducing
12 yourselves. The women, you're mothers. You
13 know, that it's important. It's terrifying to
14 watch your baby in pain, to watch an infant
15 screaming, and when I read these adverse
16 reaction reports, it just -- I mean, it's
17 chilling to read those.

18 So I really urge you to consider
19 this, and I guess that's it.

20 CHAIRMAN MOYER: Okay. Thank you.
21 Any questions for Charlotte? Bea, I'm sorry.
22 I didn't see you. Bea.

1 MEMBER JAMES: The adverse
2 reaction reports, is that something that you
3 could send to Valerie so she could share it
4 with us?

5 MS. VALLAEYS: Oh, sure, yes.

6 CHAIRMAN MOYER: Thank you, Bea.

7 What we're going to do now, Tom,
8 if you don't mind, we're going to take our
9 break, and we'll start with Tom Harding
10 immediately following the break.

11 Fifteen minutes, which puts us
12 back here a little before 3:25.

13 Thank you.

14 (Whereupon, the above-entitled
15 matter

16 went off the record at 3:09 p.m.
17 and resumed at 3:26 p.m.)

18 CHAIRMAN MOYER: We do have a
19 quorum on the Board. If we could get started.

20 Just one minute, Tom.

21 MR. HARDING: Yes, sir.

22 CHAIRMAN MOYER: Okay. Quite down

1 in the back please. Any discussions, take
2 them outside.

3 Tom. The Board recognizes Tom
4 Harding.

5 MR. HARDING: Thank you, Mr.
6 Chairman, and good afternoon.

7 First of all, my name is Tom
8 Harding, Agrisystems International. We're
9 organic program consultants, one for our
10 client who is here today, EcoLab, and for a
11 number of producers and manufacturers who
12 serve the organic industry.

13 I first want to say that I have
14 been to almost every one of these meetings, I
15 just want to tell you that I really appreciate
16 what you folks have done. This Board has been
17 really involved and very committed, as have
18 all the Boards, and I don't think anyone knows
19 the kind of work that you are really putting
20 in. I want you to know that all of us very
21 much appreciate it.

22 And that also goes for the

1 National Organic Program. We very much
2 appreciate this partnership. It's important
3 to us. Hopefully it will only grow stronger
4 and stronger, and I hope that we will move
5 toward the release of redundancy and more into
6 the consistency of getting right down to the
7 nitty-gritty.

8 I'm here to speak in favor of
9 adding acidified sodium chlorite to the
10 national list of materials for handling and
11 processing.

12 Our petition was submitted in
13 2006. You all have had a chance to look at
14 it. As you know, it's in the chlorine family,
15 but it acts very differently.

16 You had my comments, which I
17 submitted both in November and we have
18 resubmitted again. They're pretty much the
19 same, and I'll let my client really get into
20 the very specific aspects, but I wanted to
21 point out a couple of things.

22 One of the issues that's really

1 important to us is that we have a multiple
2 choice, in other words, a few very effective
3 food safety materials in the organic
4 community, and there are a very limited list,
5 as you know, on the national list, and
6 secondly, not any of them are really approved
7 for meat, poultry, seafood, and other things,
8 including hard surface.

9 So it's really important that we
10 have a good battery, particularly with the
11 consciousness that we have now in the
12 marketplace, and I'm looking at the proposed
13 bills on the Hill at the moment on food
14 safety, and I get real nervous. They're bound
15 with fees, and they certainly are not bound
16 with helping aids that really help to get into
17 the preventative side of our business.

18 So this is a really important
19 action.1 This material here, ASC is a
20 preventative material. It's really important
21 that it's used as it's labeled. It has been
22 approved by almost every authority throughout

1 the world, and we really support that.

2 The third point is that I want to
3 support the annotation that the working group
4 and the committees have come forward with. We
5 support the annotation. There's only one
6 concern I have, and I'm not sure why you added
7 the aspect that it had to meet the chlorine
8 requirements of four parts per million because
9 technically speaking, and I'll let Dan speak
10 more specifically from the technology
11 standpoint, we're not talking about chlorine
12 residue. We're really talking about salt as
13 a remainder once this material is used as
14 effective.

15 Other than that, the annotation
16 looks fairly good and we hope it can go
17 forward on that basis.

18 The other thing that's very
19 important is that we have the understanding
20 that has been approved by all authorities, as
21 I was saying, but equally important, it has
22 very little if used properly environmental

1 impact. In fact, it's one of the safest
2 materials we've been using. You probably
3 don't know, but it's almost in everything we
4 drink in one form or another, and certainly
5 it's a lot in animal husbandry as well.

6 But I encourage you to vote in
7 favor of adding acidified sodium chlorite to
8 the list, and I hope that you will do so, and
9 following me immediately is Mr. Dan Dahlman,
10 who is from EcoLab, if you have any technical
11 questions, but otherwise I want to thank you
12 very much, and I want to give the rest of my
13 time to Mr. Dahlman.

14 Thank you all and, again, thank
15 you for your good work.

16 CHAIRMAN MOYER: Thank you, Tom.

17 Any questions or comments from
18 Board members to Tom?

19 (No response.)

20 CHAIRMAN MOYER: Thank you, Tom.

21 The Board recognizes Dan Dahlman
22 and Kim Dietz is on deck.

1 MR. DAHLMAN: Good afternoon. My
2 name is Dan Dahlman. I work for EcoLab,
3 headquarters in St. Paul, Minnesota. I work
4 in the Regulatory Affairs Department there.

5 I'd first like to not only thank
6 the Board for the opportunity to speak here
7 today, but also for all of your hard work and
8 commitment to the organic industry.

9 My intention here today is to
10 speak on behalf of EcoLab to support the
11 addition of acidified sodium chlorite
12 solution, or ASC, to the national list and
13 convey to the Board the importance of ASC as
14 an antimicrobial intervention step in the
15 organic food processing industry.

16 EcoLab petitioned, as Tom said,
17 for the inclusion of ASC back in October 26th
18 of 2006. ASC meets the FDA's definition of a
19 food contact substance and is a processing aid
20 used to control microbes on the surfaces of a
21 variety of products, including meat, poultry,
22 seafood, fruits and vegetables, and hard

1 surfaces.

2 ASC has also been fairly tested
3 and proven effective against some of the most
4 serious and infectious pathogenic and spoilage
5 organisms that threaten the food system today.
6 These tests have been thoroughly reviewed by
7 FDA CFSAN and USDA FSIS.

8 ASC has been accepted by the FDA
9 and is published in 21 CFR 173.325 as a
10 secondary direct antimicrobial food treatment
11 in the processing of poultry, red meat,
12 comminuted and formed meat products, seafood
13 and fruits and vegetables.

14 The USDA FSIS has also accepted
15 ASC and added it to the safe and suitable
16 directive 7120.1 for use on red meat and
17 poultry.

18 In addition to the FDA and USDA
19 clearances, the U.S. EPA has evaluated the
20 chemistry, toxicology, and efficacy data of
21 ASC. As a result of these safety reviews,
22 EcoLab's Sonova brand product has been

1 registered under the EPA registration number
2 of 1677-219 as an antimicrobial agent to
3 reduce the growth of microorganisms that cause
4 spoilage on raw fruits and vegetables,
5 otherwise known as RACS.

6 EPA has also issued a food
7 tolerance exemption for sodium chlorite in 40
8 CFR 180.

9 Organic consumers can have
10 confidence that the use of acidified sodium
11 chlorite is safe for the food supply. ASC
12 breaks down to citric acid, water, and common
13 table salt. ASC solutions do not chlorinate
14 organics and, therefore, have an advantage
15 over treatment with chlorine which can
16 seriously damage aquatic life and form
17 chlorinated hydrocarbons with mutagenetic or
18 carcinogenic properties.

19 I'd also like to stress today to
20 the Board that there is no one antimicrobial
21 intervention that does it all. EcoLab
22 strongly believes that there's no single

1 product chemistry that is appropriate for such
2 a wide variety of intervention points and
3 application methods present in the processing
4 industry today.

5 The food industry itself has
6 adopted a multi-hurdle approach to food safety
7 intervention since the implementation of the
8 HASAP standards in the 1990s. We believe that
9 offering processors multiple interventions
10 will allow for each individual processor to
11 tailor its intervention to the facility's
12 specific needs. Our goal is to provide our
13 customers with enough intervention options to
14 help meet those needs and insure a safer food
15 supply for the people.

16 It was mentioned in the technical
17 evaluation report for ASC that peracetic acid
18 can be substituted for ASC. I would oppose
19 this viewpoint as does EcoLab. While both
20 substances exhibit an oxidative chemistry to
21 control bacterial growth, each substance has
22 its place in the processing environment and

1 each provides its own advantages.

2 For example, a typical poultry
3 processor may purchase both a peracetic acid
4 product and acidified sodium chlorite product
5 for their facility. EcoLab currently markets
6 a peracetic acid product called Inspects 100,
7 and an acidified sodium chlorite product
8 called Sonova. Inspects 100 is typically used
9 in poultry chillers when a low temperature and
10 longer contact time occurs to insure the
11 greatest reduction in bacterial contamination.

12 Sonova, on the other hand, is used
13 in situations where a much shorter contact
14 time is required, and typically is used in a
15 pre-chill or post-chill situation or
16 processing steps -- excuse me -- where contact
17 time is limited.

18 Inspects 100 and Sonova are both
19 effective against *Salmonella typhimurium*,
20 *Campolabacta dejuni*, *Listeria monocytogenes*,
21 and *E. coli* 015787, and depending on the
22 customer's needs, EcoLab can adapt and tailor

1 its product line to satisfy those specific
2 needs and offer an antimicrobial control
3 package at each step in the processing line.

4 We believe that the inclusion of
5 ASC on the national list for processors and
6 handlers is justified and meets the criteria
7 of a synthetic used in organic processing and
8 handling. In the interest of food safety, we
9 urge the NOSB to vote to include acidified
10 sodium chlorite in the national list of
11 allowable substances as a synthetic ingredient
12 allowed in or on processed products in organic
13 or made with organic.

14 Thank you. Any questions?

15 CHAIRMAN MOYER: Okay. Thank you,
16 Dan.

17 Questions by Joe.

18 MEMBER SMILLIE: Tom mentioned
19 earlier that there's the annotation on the
20 four parts per million chlorine. Could you
21 speak to that?

22 MR. DAHLMAN: Well, I'm not a

1 chemist and I don't claim to be, but the
2 breakdown of components would not break down
3 into chlorine. So I don't know what the
4 purpose was to add that in the annotation.

5 MEMBER SMILLIE: Can I ask the
6 committee?

7 CHAIRMAN MOYER: Please follow up
8 from Joe to the Handling Committee on the
9 question of ASC or food scientist, yes,
10 absolutely.

11 MEMBER HEINZE: Remember I was a
12 chemist, not I am a chemist. The purpose of
13 the annotation was to try to make a
14 recommendation consistent with the NOSB
15 Processing Committee recommendation of April
16 30, 2003. In that recommendation, the
17 Processing committee took up the annotations
18 for all of the chlorine materials that are
19 currently listed.

20 I won't read the whole five or six
21 pages to you, but I would have that available
22 if anyone wants to read it.

1 But really it had to do with
2 sanitizers that were used in food contact
3 applications and a desire to limit the
4 chlorine levels in contact with the organic
5 commodity. So I'll read this sentence.

6 It says, "The intent of the
7 original NOSB recommendation for chlorine
8 methyl compliance was to insure that chlorine
9 levels of water in contact with the organic
10 commodity do not exceed four milligrams per
11 liter or four parts per million of residual
12 chlorine."

13 So then it goes on for quite a bit
14 of discussion. So the conclusion of this
15 recommendation was that there was the original
16 annotations, but there had been quite a bit of
17 confusion in how those annotations had been
18 interpreted. So this recommendation tried to
19 clarify.

20 So then in the recommendation we
21 tried to use this language which obviously
22 didn't help because everyone was confused by

1 it. So we need to try to get back to this
2 intent and perhaps a little bit more study on
3 the annotation.

4 CHAIRMAN MOYER: Did that help
5 clarify things, Joe?

6 MEMBER SMILLIE: Yes. It was just
7 a question. I understand the reason for the
8 annotation, but I'm trying to connect it to
9 this particular product, and the petitioner is
10 saying that it doesn't leave residual or --

11 MEMBER HEINZE: The intent is not
12 what's remaining, but what contacts the food.
13 So what happens, what's in solution before it
14 touches the food, not after, and what you
15 addressed was after, citric acid and water and
16 table salt.

17 MR. DAHLMAN: Right, the
18 breakdown, yes.

19 CHAIRMAN MOYER: Okay. Thank you.
20 Any other questions?

21 (No response.)

22 CHAIRMAN MOYER: Thank you, Dan.

1 Kim Dietz next, Emily Brown- Rosen
2 on deck.

3 MS. DIETZ: I think I'm short
4 enough I don't have to move the mic.

5 Good afternoon. My name is Kim
6 Dietz. I'm the regulatory manager for Smucker
7 quality Beverages.

8 The first thing I want to just
9 announce is that our company has changed our
10 name. So we're not Smucker Natural Foods. So
11 if you see anything from me, you'll see
12 instead of SQB it will be Smucker Natural
13 Foods, SNF.

14 Mainly we're just growing out of
15 just beverages into other products as well.

16 My background, as you know, most
17 of you know, I was the handling representative
18 from 2000 to 2005, and I worked with the
19 materials group as chair for four years while
20 I was on the Board.

21 Just a couple of comments today.
22 I'm going to start off with the materials

1 discussion document. We have a very limited
2 time tomorrow, 15 minutes with our group. So
3 I just want to talk a little bit about the
4 Materials Working Group.

5 First of all, I want to just thank
6 the Board for letting us work with you and the
7 industry. It's been a very good thing for us.

8 Our role at this point has been to
9 bring you the historical perspective on
10 materials and recommendations, and I think we
11 all agree that moving forward, we're just
12 going to be in the background and try to give
13 you comments once you bring us
14 recommendations. So we look forward
15 continuing to work with you.

16 I'd like to really thank Gwendolyn
17 because I haven't formally done that. When we
18 started this group, Gwendolyn and I had never
19 even worked together, and over the last couple
20 of years, weekly calls and off calls and
21 weekends and at night. It's been a really
22 good friendship. So I appreciate all of your

1 work that you do with that, and all members as
2 well.

3 And particularly I want to just
4 thank Organic Trade Association because
5 they've given us their conference call weekly
6 numerous times for many years. So I
7 appreciate that.

8 Formal comments. I support all of
9 the sunset materials that are moving forward
10 and the continuation of those, and I just want
11 to remind the Board that there is a formal
12 process to remove materials since you're going
13 through a lot of heavy debate this time. I
14 think that's our first petition that I can
15 remember to remove a material.

16 So just go through your processes.
17 I always say that. Support the 100 percent
18 label recommendation. I think that's also
19 very well.

20 Some examples, you asked for
21 examples. We used to produce a product, not
22 organic, but a recharged product, which is a

1 non-carbonated beverage in a can. So we
2 needed nitrogen to keep the can rigid.

3 See, there's a lot of applications
4 out there that you need those inert gases for
5 packaging.

6 My other comments, thank you for
7 the docket on gellan gum. I think I've been
8 -- the upcoming docket. That material was
9 petitioned in 2004 and voted on in 2007, and
10 quite honestly, we had a product formulated to
11 use that, and labels were almost all the way
12 through the process. I keep saying, "Oh,
13 it'll be on the national list. It'll be on
14 the national list." And we actually has to
15 reformulate because it's not. So we're
16 waiting for that, for a new product to come
17 out. So hopefully that's soon.

18 Colors. I say this at every
19 meeting, and I guess I just have to do
20 petitions to change the annotations on those.
21 All of those colors that we put on 606, none
22 of the cast numbers match. If you try to

1 match those CAS numbers with the colors,
2 there's no correlation. So we have the wrong
3 annotation on all of those colors. I don't
4 know how people are using them out there.

5 And specifically, I could tell you
6 all them, but I'll go ahead and put something
7 through. It could be a technical correction
8 from the Board, but again, those CAS numbers
9 are wrong.

10 Specifically I'm going to be
11 working on the beta carotene because we would
12 like to use beta carotene in some of our
13 products, and right now there's no such thing
14 as beta carotene derived from carrots. It's
15 not out there. So that annotation is also
16 incorrect, and it needs to be changed.

17 I'm just going to make a comment
18 on the lecithin because I think I'm causing a
19 little bit of an uproar. As past materials,
20 I see three ways for you to change the
21 national list. You can petition to add a
22 material to the national list. You can

1 petition to remove a material from the
2 national list, and you can petition to change
3 an annotation.

4 And I have no personal use. Our
5 company doesn't use lecithin, and I have not
6 really paid attention at all before coming to
7 this meeting, and it seems there's a lot of
8 controversy on, you know, what's commercially
9 available, what isn't available, as well as
10 what you're trying to do.

11 And I just sat in the back and I
12 looked up the national list, you know, where
13 they are. Six, oh, five says bleached and 606
14 says unbleached, and I looked at the
15 petitions, and they're both to remove. Okay?

16 Now, one specifically, 606, is
17 petitioned to remove a certain form of
18 lecithin, but it's not in the annotation. So
19 it seems to me like you either need a friendly
20 amendment to change that petition to change
21 the annotation versus remove it. You almost
22 need to vote on the petitions, and maybe the

1 organic needs to get involved in this or not,
2 but you're trying to look at changing the
3 annotations, not removing materials, it seems
4 to me.

5 CHAIRMAN MOYER: Thank you, Kim.

6 Any questions, comments from the
7 Board to Kim?

8 (No response.)

9 CHAIRMAN MOYER: Okay. Thank you
10 very much, Kim.

11 MEMBER HEINZE: Wait.

12 CHAIRMAN MOYER: Oh, I'm sorry,
13 Katrina. I didn't see you.

14 MEMBER HEINZE: Just in case we
15 don't get a chance tomorrow, thank you for all
16 of your help with the Material Working Group.

17 MS. DIETZ: You're welcome.

18 CHAIRMAN MOYER: Okay. Tracy.
19 Kim, if you have one more moment.

20 MEMBER MIEDEMA: Okay. So since
21 the petitioner is asking for the removal of
22 fluid lecithin, but the word "fluid lecithin"

1 isn't actually on the list. That's our clunky
2 thing we're trying to figure out.

3 Does that mean -- walk us through
4 what our options were if, for instance, we
5 were interested in -- I guess, how do we deal
6 with that?

7 CHAIRMAN MOYER: Okay. Thank you,
8 Kim.

9 Valerie, could we do something
10 about the microphone? I don't think it's
11 going through. They're not picking it up over
12 in the corner.

13 Okay. Thank you, Kim.

14 Emily Brown-Rosen and Gwendolyn
15 Wyard on deck.

16 Okay. Thank you, Hugh and
17 Valerie. We'll continue and get started here.
18 Emily, if you're ready, thank you.

19 MS. ROSEN: Okay. How's that?

20 Okay. My name is Emily Brown-Rosen. I'm with
21 Pennsylvania Certified Organic Policy
22 Director.

1 I have quite a few materials,
2 things I want to talk through here today. So
3 hopefully I can get through them.

4 First of all, thank you for
5 announcing you're working on the process and
6 you're working with Science and Technology.
7 That's a big step. We have a lot of trouble
8 right now finding the petitions. It's hard to
9 see what's on your agenda for the materials.
10 Like Dan whips through his list here and then
11 we never see that list again. So we'd really
12 appreciate to see a summary of the Materials
13 Committee work regularly because there's no
14 other way to really find it on the NOP
15 Website.

16 So great that you're working on
17 better communication and better prioritizing
18 and better information because we're really
19 suffering out here trying to keep up with what
20 you're doing.

21 And things do get lost. We've
22 made comments. CCOF made comments. AMRY made

1 comments about quite a number of petitions
2 that have kind of gotten lost in the system.
3 So we want to get past that and help
4 prioritize those.

5 Number two, the docket on 606,
6 where's the final rule on 606? No one asked
7 that question. We have an interim final rule
8 from two and a half years ago, I think it was.
9 Was it 2007? 2007, the 38 new colors and
10 stuff that are on 606. We only got an interim
11 final rule. A lot of us wrote comments to say
12 things like, you know, the CAS numbers are
13 wrong. The annotation on characters is wrong.
14 Those comments were never addressed because we
15 never had a final docket.

16 So I think if we get that final
17 docket, that will help answer some of our
18 questions, and also will help us to review
19 products because we don't know even -- you
20 know, it's very difficult out here in the
21 certifier world to review products when all of
22 these things are wrong or unanswered

1 questions.

2 For instance, something that came
3 up here today quite suddenly was that
4 synthetic solvents like acetone are being used
5 to extract products on 605 and possibly be put
6 on 606. We have been asking this question,
7 which Gwendolyn and I have filed for the last
8 two years-plus straight. What are synthetic
9 solvents and other synthetic carriers or non-
10 organic carriers allowed in the 606 products?
11 And we have not gotten an answer yet, but it
12 seems like you're going to go ahead and decide
13 something sort of by example without a
14 decision, and that would be the wrong way to
15 do it. So one issue brings up another issue.

16 Lost petitions, for instance,
17 potassium and sodium lactate as a food
18 additive, these are being put in organic food;
19 was petitioned in 2002, has never been
20 reviewed; and there was one letter that's no
21 longer posted saying this is allowed even
22 though it's not on the national list. It

1 should be a high priority to review this.

2 We're really glad you took up
3 acidified sodium chlorite because this is
4 another kind of substance that's been in
5 limbo. It was petitioned, and that's the
6 right thing to do, is to review it and
7 consider it on its merits, not let it be
8 allowed sort of by some back room method.

9 Moxydectin for livestock use, you
10 made a good recommendation to allow it. I t
11 got stalled at NOP. I think you need to
12 follow up on that. There's no reason it can't
13 go forward in the rulemaking docket. They
14 have some references in here to help you with
15 that.

16 More, as public records of all
17 decisions including your synthetic or non-
18 synthetic decisions, we're hoping this will
19 come along with the improved database of
20 substances, and possibly consider a mechanism
21 where people can petition to have you
22 determine if something is synthetic or not.

1 Sometimes we get hung up in the crops and
2 livestock world on is it just allowed or not,
3 and then we could maybe not go through the
4 whole process to put it on the list.

5 But where they get us in a
6 synthetic/non-synthetic decision and get it
7 reported and then that's it, I mean, if
8 they're interested in something being ruled
9 non-synthetic so that it can be used.

10 Okay. Vitamins and minerals in
11 livestock materials. I kind of understand
12 your limitation with putting this under health
13 care because of conflicts with FDA, but we
14 appreciate that you're working to put this on.
15 We do miss the TAP review. We need those TAP
16 reviews so that when we go off in the future
17 to know what we're reviewing, we know what
18 we're reviewing.

19 It becomes a very large category
20 that's not well identified, and we really
21 appreciate getting TAP reviews on these
22 things.

1 The existing restriction on
2 excipients does limit them to those approved
3 by FDA and food additives, and so it won't
4 mean all injectables are allowed. I have a
5 list here. I have a few copies. We went
6 through our database. We have 35 improved
7 injectable vitamins. There are about five
8 that we find do not meet these FDA
9 requirements. So the bulk of them are okay,
10 but we do need more clarification on
11 excipients, and I think a number of us would
12 be willing to meet with you to work out how to
13 apply these rules on excipients to multiple
14 products.

15 Okay. I'll stop there.

16 CHAIRMAN MOYER: Thank you, Emily.

17 Comments, questions from the Board
18 to Emily?

19 (No response.)

20 CHAIRMAN MOYER: Seeing no hands,
21 thank you, Emily. Appreciate that.

22 Gwendolyn, the Board recognizes

1 you, and Grace Marroquin is on deck.

2 MS. WYARD: Okay. Good afternoon.

3 For the record, my name is Gwendolyn Wyard.

4 I am the processing program technical

5 specialist for Oregon Tilth. We are a

6 nonprofit organization dedicated to supporting

7 biologically sound, socially equity

8 agriculture, and I'm here representing over

9 700 members and 1,200 certified operators.

10 I'll be drawing your attention to

11 select portions of our written comments

12 submitted to regulations.gov. For further

13 elaborations, detail, and inspiration, we

14 invite you to revisit and study those comments

15 prior to your vote on Wednesday.

16 The first issue I'd like to draw

17 your attention to is a request for

18 clarification related to the review of

19 materials on 205.606. So this is the issue

20 that Emily was just discussing. PCO and

21 Oregon Tilth, we've requested clarification

22 for the past two years, and to date received

1 zero clarification. The large majority of the
2 colors on 606 that we're reviewing, they're
3 formulated products. They contain
4 agricultural carriers, standardizing agents
5 like apple juice concentrate, also various
6 non-agricultural carriers and stabilizers.

7 We'd like to understand how we
8 should be reviewing those formulation aids
9 because they were not reviewed by the NOSB.
10 Your focus has primarily been on source
11 material and extraction. So that's very
12 important to us to understand how we should be
13 looking at formulated products on 205.606.

14 On the topic of agricultural
15 versus non-agricultural, we'd like to address
16 the joint committee's rejection of the
17 classification of agricultural synthetic.
18 This concept dates back to the '90s where it
19 was discussed in Senate committee reports. It
20 was embraced by the Handling Committee in 1993
21 and adopted in the 2005 NOSB guidance document
22 on the clarification of synthetic.

1 Rejecting this concept will reject
2 history and create a barrier to the
3 development of organic ingredients and
4 products.

5 The NOP definition of processing
6 and the allowed materials on 205.605 and 606
7 can and will continue to bring about chemical
8 changes when applied to agriculture raw
9 material.

10 And the NOP definition of
11 synthetic is based on the occurrence of
12 chemical change. So as a result, minor
13 ingredients derived from agricultural material
14 may be evaluated by the NOSP and placed on the
15 list as a non-agricultural synthetic.

16 However, it's entirely feasible
17 that the same ingredient classified as
18 synthetic could be produced now in a certified
19 handling facility using organic agricultural
20 substrate and non-organic materials on the
21 national list, and in this scenario the
22 product will have undergone chemical changes,

1 but those changes are the result of processing
2 methods and materials that are allowed in the
3 OFPA and in the NOP regulation.

4 So Oregon Tilth ask that the NOSB
5 reconsider this topic and clarify that non-
6 organic input classified as synthetic can also
7 be considered agricultural and organic when
8 it's produced in a certified handling
9 facility.

10 Microorganisms and products of
11 microbial fermentation. Please be more
12 specific with terminology in your final
13 recommendation. There are microorganisms and
14 there are products of microbial fermentation.
15 They should not be discussed as one and the
16 same.

17 We were surprised to learn that
18 the Board is currently viewing beer, yogurt,
19 and other products of microbial fermentation
20 as non-agricultural. We suggest that the NOSB
21 identify the materials and processes that
22 would result in a non-agricultural

1 fermentation byproduct. Otherwise,
2 fermentation products consumed by humans and
3 livestock should generally be considered
4 agricultural.

5 Microorganisms. Oregon Tilth does
6 not believe the use of annotations will clean
7 up the debate. For example, yeast
8 manufacturers would invest significant
9 resources into the use of organic substrate
10 and compliant materials, essentially meeting
11 the requirements for an organic product, but
12 they wouldn't have the benefits of marketing
13 their products as organic. And even more,
14 annotations are extremely difficult to
15 enforce.

16 We believe the problem can be
17 addressed by the following approach. Continue
18 to list microorganisms and yeast as non-
19 agricultural while organic production
20 standards are developed. Once standards are
21 developed, microorganisms can be classified as
22 agricultural, and this will allow a transition

1 period for the entire industry, particularly
2 for the livestock sector.

3 In the interim, the NOP should
4 clarify that yeast and other microorganisms
5 can currently be certified based on the
6 product composition requirements, 205.301, and
7 the handling requirements of 205.270. This is
8 consistent with the allowance to certify
9 natural flavors. If flavors can be listed as
10 non-agricultural and be certified as organic,
11 yeast should also be granted this exception.

12 And finally, we would like to end
13 by discussing some of the guidance documents
14 that have been recommended by the Board where
15 no regulatory change is needed. It would be
16 extremely useful if the NOP could address the
17 work of the NOSB and approve those guidance
18 documents and prominently post them on the
19 NOP Website, namely, commercial availability
20 guidance documents.

21 Thank you very much. We offer our
22 support.

1 CHAIRMAN MOYER: Thank you,
2 Gwendolyn.

3 Questions, comments? I have one
4 question. Am I to understand that you said
5 that this Board should list microorganisms and
6 yeast as non-ag temporarily, and then once the
7 standard is adjusted re-list them as ag?

8 MS. WYARD: Keep them listed where
9 they're at as non-agricultural while standards
10 are being developed, and once those standards
11 are developed, then reclassify them as
12 agricultural, once you have those production
13 standards in place.

14 CHAIRMAN MOYER: Thank you.
15 The Chair recognizes Kevin.

16 MEMBER ENGELBERT: Gwen, why
17 wouldn't you want them to have their own
18 separate category? Why eventually
19 agricultural?

20 MS. WYARD: So that they can be
21 formally recognized and certified as organic.
22 It's my understanding the barrier to

1 certifying them as organic is the non-
2 agricultural classification. Now they're
3 being certified or we believe that it's
4 entirely feasible to certify yeast based on
5 the composition standards because you're
6 looking a formulation that is identical to
7 many of the other organic products out there.
8 You have 95 percent organic substrate, and the
9 rest of the five percent is on the national
10 list.

11 So we feel that there is a way
12 right now to certify yeast. I think we need
13 to address how they're labeled, how those
14 yeast products are labeled, but eventually if
15 we can get standards in place, classify them
16 as agricultural, you could call them organic
17 yeast.

18 Clear as dark beer?

19 (Laughter.)

20 MS. WYARD: Made with organic
21 yeast?

22 CHAIRMAN MOYER: Thank you,

1 Gwendolyn.

2 MS. WYARD: Should I try to better
3 explain that?

4 MEMBER ENGELBERT: No, no, that
5 was fine.

6 CHAIRMAN MOYER: Okay. Thank you,
7 Gwendolyn.

8 The Board recognizes Grace and
9 George Kalogridis is on deck.

10 MS. MARROQUIN: Can I go yet?

11 CHAIRMAN MOYER: Please.

12 MS. MARROQUIN: Okay. Good
13 afternoon. My name is Grace Marroquin. I'm
14 president and CEO of Marroquin Organic
15 International based in Santa Cruz, California,
16 as many of you know, and we are importers and
17 suppliers of organic ingredients.

18 Once again, I'm here to address
19 the Board. Guess what. Yeast. In response
20 to the specific questions in the discussion
21 document, please refer to our extensive
22 written comments, number 0377.

1 Let me say that the discussion
2 document is a definite step forward because in
3 the second option it recognizes yeast as an
4 agricultural product.

5 However, it still leaves a long
6 way to go before the Board resolves the issue.
7 Organic yeast was developed in Germany and
8 introduced in the 1990s. I have introduced
9 many organic ingredients of the last 18 years
10 while I was still a baby on the basis of
11 organic preference. When I learned that
12 organic yeast was available, I was really
13 excited because this was a breakthrough for
14 organic ingredients.

15 Organic yeast is grown on a
16 substrate of organic grains instead of
17 conventional, and I'm sorry I have to repeat
18 this, but I do because this is really
19 important. It's production uses no synthetic
20 chemicals.

21 By contrast, conventional yeast
22 uses ammonia, not allowed on the national

1 list; sulfuric acid, not allowed on the
2 national list; caustic soda, not allowed on
3 the national list; also synthetic vitamins and
4 synthetic anti-foaming agents allowed.

5 Because of these chemicals used in
6 the production, the conventional yeast waste
7 water is contaminated, and you have to treat
8 it before you can dispose it, whereas the yeast
9 from organic production has no chemicals.
10 None are used, and the waste water is pure and
11 can be reused for organic products.

12 Now I want to tell you why I've
13 been coming here since 2004, besides being
14 crazy, is I'm simply waiting for the Board to
15 act in accordance with OFPA. Under the
16 definition of agricultural product in OFPA,
17 yeast is an agricultural product.

18 The proper legal place for yeast
19 on the national list is in 205.606 as an
20 agricultural product. This will make organic
21 yeast a preferred organic ingredient and
22 processors will have to use it if it is

1 commercially available.

2 But yeast is still not on 606.

3 This is a loophole on the list. The national
4 list is not intended to keep organic
5 ingredients off the market. That's not its
6 purpose. This is the loophole. The national
7 list has yeast in 205.605 as a non-agriculture
8 ingredient, and this allows food processors to
9 label their products as organic while using
10 conventional yeast.

11 Okay. I would like now to address
12 the objections that have been raised. First,
13 the major barrier to classifying yeast as an
14 agricultural product has not been in the
15 impact of yeast on food processing. It has
16 been the impact and the fear that this is
17 going to have on livestock feed. This is why
18 this is being held back, and I understand it.

19 In the NOP regulations for feed,
20 all agricultural products and livestock feed
21 must be organic. There's no exceptions
22 allowed even if the ingredient is minor. This

1 is a rigid rule, and in the EU the rule for
2 composition of organic yeast is not as strict.

3 So the main reason the Board has
4 not reclassified yeast as an agricultural
5 product is food is because of the rules on
6 feed. As a food ingredient, organic yeast is
7 being held hostage. The problem here is not
8 yeast, but the rule on feed. Yeast is only a
9 minor ingredient in feed. It is used to aid
10 the digestion in the animals rather than for
11 nutrition. It is one of a number of
12 alternatives for this purpose.

13 Last year the NOP ruled that
14 molasses in feed was an agricultural product
15 and had to be organic. This created a greater
16 demand for organic molasses and thus leads to
17 greater supply.

18 The same thing will occur with
19 yeast. Once there is a strict requirement
20 many yeast companies will supply organic yeast
21 for feed. One company, Midwest Bioag, tried
22 to do this back in 2002 and three, and it

1 could not sell any of it because there weren't
2 any regulations mandating it.

3 I know, and I mean I know, that
4 the big boys are right now working on this,
5 and they could implement rather quickly if
6 they had to, but they don't have to right now.
7 They're doing a wait and see.

8 Standards, yes, we could have
9 standards, but right now, as Gwendolyn
10 mentioned, the August 23rd, 2005, the NOP
11 issued that policy that it would require
12 specialized products to have specific
13 standards as long as they're certified under
14 existing NOP standards.

15 NOP allows mushrooms, greenhouse,
16 epiculture to be certified to be certified
17 even though they do not have specialized
18 standards.

19 I'm going to jump.

20 This is the approach. The EU
21 under the Regulation 834, 2007, singles out
22 yeast from other microorganisms. It declares

1 that yeast is eligible to be organic in food
2 and feed, and it does not do this for
3 bacteria, enzymes or microorganisms. These
4 remain on a restricted list of organic
5 materials that are permitted in the EU, and by
6 the way, Japan has now recognized yeast as
7 agricultural and, thus, organic.

8 I thank you all for everything, on
9 your patients for letting me come here year
10 after year after year, and for all your hard
11 work. If you have any questions, I'll be
12 happy to answer them.

13 CHAIRMAN MOYER: It's always a
14 pleasure to have you here, Grace.

15 (Laughter.)

16 MS. MARROQUIN: I promise I'll
17 keep coming back.

18 CHAIRMAN MOYER: Kevin.

19 MEMBER ENGELBERT: My sentiments
20 exactly, but I'd just like to make clear,
21 Grace, that I don't think that the livestock
22 issue is what's holding this back. If organic

1 yeast becomes available or becomes part of the
2 rule, then it will become available for
3 livestock. I think there are other issues
4 involved besides that. I don't think that's
5 what's holding us back.

6 MS. MARROQUIN: You know, I
7 appreciate that. I tend to disagree because
8 I know if I were to say to 50 percent of the
9 people sitting in here how many of you think
10 yeast is agriculture, they probably all would
11 say yes, but the concerns that come back is
12 because of the impact on feed.

13 MEMBER ENGELBERT: I didn't
14 address whether it's agricultural or not.
15 That I'm not sure about still, and I
16 definitely don't think it's livestock.

17 (Laughter.)

18 MEMBER ENGELBERT: But if it does
19 become certified organic, you know, the
20 product will become available, and farmers
21 will use it.

22 CHAIRMAN MOYER: The Chair

1 recognizes Joe.

2 MEMBER SMILLIE: Well, I hate to
3 get on my soapbox, but the last two
4 presentations I couldn't be in agreement more
5 with. I think that we've done a great
6 disservice to this industry by not recognizing
7 the organic production of fermentation
8 products and yeast. I mean, if we are really
9 going down the path of looking at microbial
10 fermentation that's not agricultural, I think
11 we're making a huge mistake.

12 I really believe that organic
13 systems plans for yeast and other productions,
14 such as cogi are there and available, and I
15 think we need to recognize them, and I know
16 I've been bleeding this out for the last four
17 years along with Grace, and I just want to get
18 this Board before I leave it to finally
19 recognize the agricultural production and the
20 agricultural nature of microbial fermentations
21 because humankind has been growing these
22 things since we got out of the caves.

1 MS. MARROQUIN: It's true.

2 CHAIRMAN MOYER: The Chair
3 recognizes Bea.

4 MEMBER JAMES: I just want to
5 thank you for coming again, and, okay, so
6 you've been coming since 2004. That's ten
7 written public comments that you do fresh
8 every time, and so maybe you could just maybe
9 take pieces of the different recommendations.

10 Anyway, thank you for your
11 comments.

12 MS. MARROQUIN: Thank you. Thank
13 you again.

14 CHAIRMAN MOYER: Thank you, Grace.
15 The Board recognizes George
16 Kalogridis and Patrick Arnt is on deck.

17 MR. KALOGRIDIS: I'm George
18 Kalogridis with the GCK Group.

19 I want to make a brief comment
20 regarding lecithin, not specifically. To me
21 the issue there is a proactive approach by
22 these companies with what they've done to

1 replace this solvent extracted product that
2 they're using, and had they taken the time and
3 financial resources to try and keep this
4 product they're using as opposed to working
5 with Clarkson Grain to develop what they need
6 for their products, I think that would have
7 been the solution.

8 I'm talking today about the term
9 of synthetics. I know this Board asked the
10 Material Working Group to try and come up with
11 some definitions of synthetic. I, along with
12 Grace Trashuni, were part of that. The Board
13 did some extraordinarily good work, but the
14 two of us felt that we had gone down a path
15 that was ultimately not that productive.

16 We recognize the fact that the
17 organic standards were codified in the 1980s;
18 that the law was passed in '90; and the rule
19 was implemented in 2001. A lot has changed
20 since we started this journey, and what we
21 thought was organic and the issues around
22 organic have changed quite dramatically.

1 The discussions that we had on the
2 Materials Working Group about what is and was
3 not synthetic started to boil down to the
4 nature of chemistry and specifically about
5 which electrons were being cleaved or not
6 being cleaved and who were they coming back
7 into the product after they had been
8 molecularly changed.

9 Grace and I believe that if we
10 start down the path of telling consumers that
11 something is organic based on molecular
12 chemistry, then we have truly lost our way in
13 organic.

14 Our proposal is rather simple, but
15 very controversial in that we believe that the
16 best thing to do is to go back to the AHPA, to
17 open it up, to open it up and make substantial
18 changes there as opposed to the continued
19 work-around that we keep doing time and time
20 again in trying to figure out what synthetic
21 really means.

22 Our proposal is basically to

1 change the AHPA such that we have synthetic
2 defined as manufactured from a petrochemical
3 or mined hydrocarbon resource.

4 The second alternative would be to
5 modify the term "synthetic chemicals" where it
6 appears in 605.041 and, two, to say "synthetic
7 petrochemicals" and a definition of
8 "petrochemicals," and this would avoid the
9 objection that changing the definition of a
10 commonly understood term, such as "synthetic,"
11 would violate public expectations of the
12 clarity and consistency of the law.

13 The only other section of the AHPA
14 that would need to be changed would be
15 605.08(b)(1) and 605.08(b)(2). Section
16 605.08(b)(1) to be amended to prohibit
17 synthetic petrochemicals rather than synthetic
18 ingredients as fertilizers, while synthetic
19 nitrogen produced by the Haber process would
20 not be prohibited.

21 Section 605.08(b)(2) could be
22 revised to reflect the original intent, which

1 was to specifically prohibit any synthetic
2 source of nitrogen.

3 Our believe is that if we go down
4 the road of molecular chemistry that we will
5 end up with discussions like we're having
6 about the lecithin right now with various
7 different technical people discussing whether
8 or not that electron truly is removed or not
9 removed from a product, and I think that we
10 will have lost our organic consumers at that
11 point.

12 Thank you very much.

13 CHAIRMAN MOYER: Thank you,
14 George.

15 Questions or comments from Board
16 members?

17 (No response.)

18 CHAIRMAN MOYER: Okay. Thank you,
19 George.

20 MR. KALOGRIDIS: Thank you.

21 CHAIRMAN MOYER: Emily Brown Rosen
22 for Patrick Arnt.

1 MS. BROWN-ROSEN: Thank you.

2 I will just make a couple more
3 points, and Patrick couldn't be here. So I'll
4 fill in on a couple of the handling points.

5 On the injectable vitamins, one
6 last point I wanted to make was that for
7 livestock use, that as you proposed it, I
8 mean, it would work, but I really don't think
9 we want to put electrolytes as a stand alone
10 category. Electrolytes are already on the
11 list for health care. They already can use
12 excipients, and the problem if you put them in
13 as some sort of supplement is that we see a
14 lot of formulations that have amino acids and
15 other things that are not approved. Right now
16 we reject the ones that are full of amino
17 acids.

18 So they are already covered.
19 They're already there. I just wouldn't
20 include them in your recommendation.

21 Sodium chlorite, acidified. I
22 really appreciate that you went back and

1 looked at the 2003 recommendation on chlorine.
2 I think that was a good piece of work, and
3 it's one of those high priority, old NOSB
4 recommendations that needs to come to the top
5 when you restrategize on this.

6 We have a huge confusion over
7 chlorine in general, in food processing and
8 food sanitation. Certifiers are doing all
9 different things. So you know, you were
10 right. That was the intent, was, you know,
11 originally to limit direct chlorine contact,
12 but the context was more municipal water
13 that's treated with a chlorine product as safe
14 drinking water standard was allowed.

15 So for free chlorine, CL₂, that
16 standard is four parts per million. For
17 chlorite, sodium chlorite, the standard is one
18 part per million of the Safe Drinking Water
19 Act. The product that's being petitioned is
20 being used at something like 500 to 1,200
21 parts per million for poultry, and I believe
22 they're not supposed to rinse it afterwards.

1 That's not quite clear to me, but I think that
2 is the use there, no rinsing.

3 So that's something to consider.

4 I think that the ACS may be a better product
5 than sodium hypochlorite in terms of the
6 trihalomethane carcinogenic type properties.

7 That does sound better.

8 TAP didn't have any information
9 about the volatile chlorine. Where does this
10 chlorine go when they're putting it on? I
11 mean, it's very volatile when you mix those
12 solutions. You release chlorine dioxide; you
13 release hypochlorous acid.

14 So I don't know the recovery rate
15 on the chlorine. Do they get it all or not?
16 I don't know, but certainly it's worthy of
17 consideration. The TAP review was not real
18 detailed.

19 And I'm also finding that as we
20 look at chlorine in general there's other
21 issues where we've been trying to apply a
22 policy along those lines. For vegetable and

1 fruit washing, carcass washing, people can use
2 higher than the four parts per million of
3 chlorine product provided there's a rinse with
4 potable water at, you know, four parts or
5 less.

6 However, some other regulations
7 seem to conflict. That leads to a problem
8 with chlorine on eggs, for instance, egg
9 washing. They use 200 parts per million, and
10 there's various egg grading, Grade A eggs
11 marketing rules under AMS that say you can
12 rinse, you can't rinse, and also EPA is
13 involved.

14 So there's multiple agencies
15 involved, and I'm still trying to track down
16 who's in charge, but we may need to modify
17 that earlier 2003 piece to look at where are
18 there some exceptions that we may have to
19 grant because we have no choice or else until
20 there are other products available.

21 There is peracetic acid available
22 on the carcass washing. For eggs peracetic

1 acid is not labeled. So there's these little
2 wrinkles here. I mean, we all want safe food,
3 but we all need help in finding out where the
4 other regulations are that affect this, too,
5 and it should be clear so everyone is doing
6 the same thing.

7 So right now we don't have that
8 situation. I think it can be approved. I'm
9 just going to stop there. That's enough, but
10 if you have more questions, let me know.

11 CHAIRMAN MOYER: Thank you, Emily.

12 Anybody have -- Bea has a question
13 for you, Emily.

14 MEMBER JAMES: Emily, in your
15 comments that you submitted you had said a few
16 things about retailer certification, and I was
17 wondering if you could just elaborate a little
18 bit.

19 MS. BROWN-ROSEN: Sure. My point
20 there was mainly that we've had a lot of
21 controversy in the certification community
22 about how to do retailer certification and I

1 think a lot of people feel you can just apply
2 processing rules and are doing that
3 successfully. I mean the handling rules as
4 exist.

5 However, there has been, I think,
6 some valid legal arguments made whether
7 handlers were excluded; retailers who do not
8 process food are excluded from the definition
9 of handler. If you look at the definition of
10 handler, it says except for retailers who do
11 not process food. So there is some question
12 whether you can even certify them at all
13 because the AHPA and the regulation says that.
14 So we'd just like to get a legal opinion from
15 whoever you get it from on that issue.

16 CHAIRMAN MOYER: Follow-up, Bea?

17 MEMBER JAMES: Just as a follow-
18 up, I guess, I would like to ask Barbara if
19 she wouldn't mind making comment on the
20 question that you specifically put in your
21 comments, which was can retailers that don't
22 process be certified. So if the program could

1 comment on your position with that, please.

2 MS. ROBINSON: Well, you know,
3 we've come to sort of a point here, I guess,
4 where because we issued a scope statement
5 where we pretty much said that products,
6 regardless of their end use, could be
7 certified, we got to a point where we
8 recognized that just for consistency sake we
9 know that the rule says that retailers are
10 exempt from certification, but our position
11 has gotten to the point, I believe where we
12 would rather have entities under the
13 regulatory umbrella than outside the
14 regulatory umbrella.

15 And the mere fact that they do not
16 have to be certified does not mean that they
17 cannot be certified. They may be certified.
18 They may seek certification under this
19 regulation.

20 CHAIRMAN MOYER: Thank you,
21 Barbara.

22 Joe has a comment.

1 MEMBER SMILLIE: This isn't the
2 retail argument, but I have to go back.
3 Emily, could you go back? I missed. It was
4 in the early part of your comments about
5 chlorine washes can be allowed without a
6 rinse. Could you just repeat that again?

7 MS. BROWN-ROSEN: Well, the
8 question was can they be allowed without a
9 rinse.

10 MEMBER SMILLIE: Right. Depending
11 on the concentration.

12 MS. BROWN-ROSEN: Right. Well, in
13 direct contact with food. We have been
14 interpreting the two or three position, which
15 was, you know, very clearly worked out, to
16 mean, you know, you test at the point of
17 contact with the food, and the final rinse
18 water should be no more than four parts per
19 million or Safe Drinking Water Act for that
20 material. Like chlorine dioxide is only .8
21 parts per million, and sodium chloride is one
22 and chlorine is four. They have different

1 levels.

2 Anyway, that should be no higher
3 than Safe Drinking Water Act says. So that's
4 what we've been trying to apply, and then we
5 did run into a few conflicts with certain
6 regulated products like eggs and dairy
7 processing.

8 MEMBER SMILLIE: And you wouldn't
9 consider washing surfaces direct contact with
10 food?

11 MS. BROWN-ROSEN: Well, we do. I
12 mean, we'd like clarity on that, too,
13 actually. We require rinsing with potable
14 water, yes, or approved with no restriction
15 like peracetic acid doesn't require rinsing.

16 MEMBER SMILLIE: And an
17 intervening event couldn't be time.

18 MS. BROWN-ROSEN: Well, it could
19 be time if they were willing to test for us
20 and show there was absolutely no residue. We
21 do provide alternate paths for them to put
22 that, yes.

1 CHAIRMAN MOYER: The chair
2 recognizes Hugh.

3 MEMBER KARREMAN: Emily, just a
4 question on the injectable vitamins and
5 minerals. On the proposed section heading, I
6 think we were trying to say formulate
7 injectable supplements of trace minerals per
8 603(d)(2), vitamins per 603(d)(3), and
9 electrolytes per 603(a)(8), just in reference
10 to those things, not re-allowing electrolytes.
11 It's more like in reference to those already
12 allowed.

13 That's all I wanted.

14 MS. BROWN-ROSEN: Well, I
15 understand that, but I think injectable, I
16 mean, electrolytes is on the list at 603
17 whatever. It just says electrolytes. It
18 doesn't say oral. It doesn't say injectable.
19 So we assume that means however you want to
20 apply them as a health material.

21 You know, unless you were going to
22 restrict it otherwise, we've always assumed

1 that injectables were allowed. And, you know,
2 why would we need to re-mention it?

3 MEMBER KARREMAN: I guess I would
4 have thought that electrolytes, as stated in
5 (a)(8), would be actually oral. So we want to
6 make sure that the injectable forms would be
7 allowed.

8 But we can go over that more, but
9 I just want to -- that was our thinking.

10 MS. BROWN-ROSEN: Okay.

11 CHAIRMAN MOYER: Thank you, Emily.
12 Appreciate your time.

13 MS. BROWN-ROSEN: Thanks.

14 CHAIRMAN MOYER: The Board
15 recognizes Mark Kastel. Is Mark here?

16 MR. FANTLE: Not here.

17 CHAIRMAN MOYER: Thank you, Will.

18 Patty Lovera and Lisa Bunin on
19 deck.

20 MS. LOVERA: Hi. My name is Patty
21 Lovera. I'm with the consumer group Food and
22 Water Watch. So I have to talk about a couple

1 of things quickly. So I'll try to make it
2 through all of them.

3 The first one is nanotechnology.
4 You heard a lot about it today. I think
5 you're going to hear more, and for us it's a
6 very basic issue of answering that first
7 question that you asked in discussion. You
8 asked about whether nanotechnology is
9 compatible with organic, and we think the
10 answer is no, and we think a lot of consumers
11 think the answer is no.

12 FDA doesn't have a handle on this
13 technology. It's essentially unregulated, and
14 it's exploding into the marketplace for food
15 through a lot of channels, through packaging,
16 through additives and flavorings through
17 contact surfaces and disinfectants, and as
18 consumer awareness of the technology grows,
19 they're going to look for a place that doesn't
20 have it. We believe that organic should be
21 that place. So this is the opportunity to
22 figure that out.

1 And the last point I'll make on
2 that is that, you know, this is similar, we
3 think, to the genetic engineering issue with
4 the cloning issue. We have to find ways in
5 all of the channels of organic, all of the
6 different venues it could make its way in to
7 make sure that it doesn't.

8 Another topic to cover quickly is
9 the aquaculture for bivalve issue. In the
10 discussion draft, we thought that the
11 Livestock Committee asked very good questions
12 of the Aquaculture Working Group, those five
13 questions, and that really brought up the same
14 issues we're always talking about with
15 aquaculture, is whether this is compatible
16 with the systems approach of organic and we
17 think that just like with other things you've
18 heard from me before about aquaculture, you
19 know, these open water systems where you're
20 not able to control the inputs because the
21 inputs are the ocean or some kind of open body
22 of water, aren't meeting that compatibility

1 test of organic.

2 So I thought those were good
3 questions that you all asked of the working
4 group.

5 On animal welfare, again, you've
6 heard good stuff about this today, and it's
7 incredibly clear from the marketplace that
8 consumers are really interested in this. So
9 obviously it's time for organic to deal with
10 it.

11 We will just inject into that
12 discussion that access to pasture and the
13 outdoors is a piece of animal welfare,
14 especially in the perception that consumers
15 have about the way animals are raised, and
16 another really important piece of that is
17 density. It's stocking density and how many
18 are put in there.

19 And as you have this conversation
20 about how to do animal welfare and we've heard
21 good discussion today about whether it's
22 measuring something at the end or it's a

1 systems approach, you know, a piece of that
2 system has to be thinking about that density.

3 We also wanted to speak quickly
4 just in support of the biodiversity
5 recommendation. That's another issue it's
6 past time for organic to tackle. It is really
7 important to consumers, and we're happy to see
8 that we're about to get there.

9 And then on personal care
10 products, I think the biggest and most
11 immediate need for consumers is some
12 enforcement which you all pointed out in the
13 document that you write. It's kind of a free
14 for all out there in the marketplace of what's
15 labeled, what's not labeled. I think Urvashi
16 Rangan from Consumers Union is going to get
17 into more detail on this in her comment later
18 on.

19 But one thing I will throw out
20 there from the consumer perspective that we
21 hear from people is that they're concerned
22 about all of the ingredients in something that

1 bills itself as organic in any category,
2 whether it's made with organic ingredients or
3 just has organic stuff on the label. They're
4 concerned about all of it. They don't want it
5 to be a vehicle for things that may not be,
6 you know, healthy enough or make their kind of
7 cut for what should be in organic, not just
8 the stuff that is, you know, under that cap of
9 organic ingredients.

10 And then finally, I will just say
11 that we're a member of the National Organic
12 Coalition, and so we support all of the
13 recommendations they made, especially the ones
14 on peer review and retail certification.
15 They're really important issues to the
16 credibility and integrity of the program, and
17 consumers are obviously very interested in
18 that.

19 So that was kind of lightning
20 speed.

21 CHAIRMAN MOYER: Thank you, Patty.
22 Questions or comments, again, from

1 Board members for Patty?

2 MS. LOVERA: Thanks.

3 (No response.)

4 CHAIRMAN MOYER: Hearing none,
5 thank you.

6 Lisa Bunin at the podium and Sam
7 Welsch on deck. Lisa.

8 MS. BUNIN: Good afternoon. My
9 name is Lisa Bunin, and I'm the campaigns
10 coordinator for the Center for Food Safety, a
11 nonprofit membership organization that works
12 to protect human health and the environment by
13 curbing the proliferation of harmful food
14 production technologies and by promoting
15 organic and sustainable agriculture.

16 CFS represents people across the
17 country who support organic food and farming,
18 grow organic food and regularly purchase
19 organic products.

20 My comments today address the
21 issues of biodiversity, peer review and
22 nanotechnology. CFS urges the NOSB to support

1 the guidance document recommendations on the
2 implementation of biodiversity conservation.
3 In the fact of global warming challenges,
4 biodiversity conservation practices can help
5 create the agroecological conditions under
6 which food production systems can adapt to
7 climate change and still maintain their
8 productivity. Biological conservation
9 measures can mitigate global warming impacts
10 by sequestering carbon through the planting of
11 cover crops, perennial crops, native
12 vegetation, and intercropping.

13 These same practices increase soil
14 microbial activity and diversity and create
15 habitats for beneficial insects and predators,
16 all of which enhance the resiliency of farming
17 systems and the surrounding environment to
18 adapt to climate change.

19 Diverse farm systems are less
20 vulnerable to new pests, the loss of
21 beneficial insects and drought. We urge the
22 NOSB to fully support the committee's

1 recommendations on biodiversity.

2 CFS is pleased to see that the
3 NOSB is directly addressing the issue of peer
4 review and certification accreditation. Over
5 the years CFS and others have urged USDA to
6 comply with the mandatory standards and
7 procedures of OFPA to insure that certifying
8 agents operating on the act are accredited and
9 in full compliance.

10 On October 16th, 2002, CFS and
11 four other NGOs petitioned USDA to create an
12 accreditation peer review panel for the
13 National Organic Program. We have not yet
14 received a formal reply to our petition. We
15 filed the petition in response to growing
16 public concern about whether the NOP was
17 properly performing its role as an accreditor
18 of organic certifying organizations. Our
19 petition was intended to highlight the
20 critically important oversight role that peer
21 review panels play in insuring the integrity
22 of the organic label and in maintaining public

1 confidence in the organic products labeled
2 with the USDA certified organic seal.

3 We feel strongly that the panel
4 must be comprised of individuals who not only
5 have expertise in organic production, handling
6 and certification procedures, but also that
7 have experience with methods used to audit
8 against ISO 1711, the industry standard for
9 evaluating accreditation bodies.

10 CFS agrees with the comments of
11 others and NOC that the peer review panel
12 should not be a task force of the NOSB.
13 Instead we urge you to enlist the services of
14 the U.S. Department of Commerce's National
15 Institute of Standards and Technology to
16 manage the program.

17 This formal recognition will
18 instill credibility in the NOP certified
19 organic label both nationally and
20 internationally. We urge the establishment of
21 a peer review panel without delay.

22 The position of CFS on

1 nanotechnology is that it should be listed as
2 an excluded method under the organic rules
3 because nanotechnology creates novel patented
4 substances that do not meet the OFPA's
5 definition of organic.

6 Intentionally engineered and
7 manufactured nanomaterials have the capacity
8 to be fundamentally different than the bulk
9 materials from which they are derived by
10 exhibiting new chemical, physical and
11 biological properties at the atomic and
12 molecular level. As such, nanomaterials
13 should be defined as synthetic and prohibited
14 under the organic rules.

15 It's worth noting that there is a
16 precedent for prohibiting nanotechnology and
17 organics. In 2007, the U.K. Soil Association,
18 one of the world's largest organic certifiers,
19 prohibited manufactured nanoparticles in
20 organically certified products.

21 Commercial applications of
22 nanotechnology in food and agriculture are

1 quickly expanding without government oversight
2 or labeling in the absence of adequate risk
3 and ethics research. It's quite possible that
4 certain sectors of the organic industry may
5 already be considering applying these
6 nanotechnology applications, such as in food
7 packaging.

8 We urge the NOSB and NOP to act
9 now to take a precautionary approach to
10 nanotechnology and protect the integrity of
11 organic by prohibiting nanotechnologies and
12 nanomaterials.

13 Thank you.

14 CHAIRMAN MOYER: Thank you, Lisa.

15 Questions or comments again from
16 Board members?

17 (No response.)

18 CHAIRMAN MOYER: Seeing no hands,
19 thank you, Lisa. Appreciate that.

20 The Board recognizes Sam Welsch
21 and Michael Fiery on deck.

22 MR. WELSCH: Hello, everyone. I

1 certainly appreciate all the work that you go
2 through. It's a lot of work just to prepare
3 for these meetings on the items we're
4 interested in. You have to look at
5 everything, even those you may not be quite so
6 interested in.

7 I have a few comments. In the
8 prepared ones I sent I'll just highlight, and
9 then I have a couple of other things I wanted
10 to add.

11 I'll start with voluntary retail
12 certification comments. Although there have
13 been other things added to the scope of the
14 NOP, like cosmetics and pet food and other
15 items, they're different from retailers that
16 are not doing processing because Congress
17 specifically excluded retailers that did not
18 process from the definition of handling
19 operations. And if they're not included in
20 the definition of handling operation, they
21 cannot be certified.

22 That doesn't mean there isn't

1 plenty of room for voluntary retail
2 certification because retailers do many things
3 that are processing for which they could be
4 certified, such as meat cutting, baking, deli
5 operations, et cetera. I don't think there's
6 any specific regulations that are needed for
7 retail certification of that type. It's the
8 same type of processing activities that are
9 done by other handlers. They can be certified
10 in the same way, including an annual
11 inspection of each site that's to be
12 certified.

13 In fact, I think that's even more
14 important for retail stores because they have
15 less separation in terms of time and space
16 between the organic and non-organic handling
17 that they do. They are usually a split
18 operation handling both organic and non-
19 organic products, and unlike other handlers
20 that dedicate a certain amount of time or
21 space exclusively to organic, it's not as
22 clearly separated in most retail operations.

1 So I think it's very important
2 that every store that wants to be certified be
3 inspected.

4 In terms of soilless growing
5 systems, I was very pleased to see the
6 discussion document that came out that
7 essentially said as I've been saying for
8 years: hydroponics cannot be certified
9 because there's no soil involved. As OFPA
10 states, fertility must primarily come through
11 management of organic content of the soil,
12 organic content of the soil. No soil; nothing
13 to certify.

14 So I would ask that in your
15 discussions, you request that the NOP
16 immediately remove from its Website the answer
17 yes to the question that says, "Can hydroponic
18 operations be certified?" I think it's time
19 for that to be removed and to give notice to
20 those certifiers that have certified such
21 operations that it's time to tell them to get
22 soil in their system or not be renewed in

1 their organic operations because there are
2 hydroponic operations out there that are being
3 certified, and at the store you can't tell if
4 it was grown in soil or if it was grown in
5 liquid fertilizer, unfortunately many of which
6 are no longer being allowed by the NOP because
7 of the scandals in California.

8 So I think it's high time to get
9 rid of the soilless operations that have been
10 certified.

11 Under cosmetic and personal care,
12 I do agree with the main recommendation that
13 they be included under the scope of the NOP.
14 Simply changing one word in the policy that
15 was put out a couple of years ago which said
16 they may be certified, saying they must be
17 certified if you're going to use the organic
18 claim would be a good start.

19 I know there are problems with
20 many of the items that substances people want
21 to use as ingredients, but I think the process
22 of requesting that those be added to the

1 national list is the best one to use.

2 Right now it's very confusing to
3 consumers, myself included. You know, I like
4 to be able to look at the label. I don't
5 always read ingredient labels. Sometimes I
6 like to go shop and just see "organic" on the
7 front and know it's organic. It's not true in
8 the personal care aisle. You don't know if
9 it's actually certified to the NOP or if it's
10 certified to some -- well, I use the word not
11 "bogus certification." You know, if it's not
12 NOP, I don't think it's organic in the U.S.,
13 and I think that's the way it ought to stay.

14 Regarding some of the other
15 comments people have made, I am pleased to see
16 that there is support for moving lecithin from
17 the national list. I think it's a good step
18 when we have things that are on there that
19 people have invested in developing and
20 creating organic forms, that we can actually
21 see some of those agriculture products
22 removed.

1 Regarding comments very early in
2 the day, if you still remember, somebody
3 talked about vaccines. We were one of the
4 certifiers when we started certifying
5 livestock we asked if the vaccines were from
6 GMO sources or not and asked the manufacturers
7 to identify whether the microorganisms or
8 whatever was used in making the vaccines were
9 from GMOs or not.

10 So that's it. All right. I won't
11 talk about seeds.

12 CHAIRMAN MOYER: Thank you, Sam.
13 We appreciate your comments.

14 Hugh and the Kevin.

15 MEMBER KARREMAN: Sam, since you
16 ended with the vaccine topic and you've been
17 looking at these you told me out there since
18 October 21st, 2002 or whatever, right?

19 MR. WELSCH: Since I was
20 accredited in 2003.

21 MEMBER KARREMAN: Okay. Roughly
22 how many do you think in your review, maybe

1 just off the top of your head if you could,
2 have been disqualified because of being
3 genetically engineered versus traditional?
4 Any numbers roughly?

5 MR. WELSCH: Well, I'm going to
6 check the ones that PCO found, but we have not
7 had any that have been identified as GMO. It
8 doesn't mean they may not be and they just
9 haven't informed us of that, but we do look.
10 It's difficult because of the way most inputs
11 are reviewed that we don't always have as much
12 information as we would like, but to date we
13 have not rejected anyone for that.

14 MEMBER KARREMAN: Just a quick
15 follow-up?

16 CHAIRMAN MOYER: Follow-up again?
17 Go ahead, Hugh. Follow up.

18 MEMBER KARREMAN: They're all
19 licensed products by USDA. So they are kind
20 of, you know, checkable rather than just
21 asking the manufacturer. I think there's an
22 easy way to do that.

1 MR. WELSCH: We've done some
2 searches on the USDA sites as well.
3 Fortunately, I have other staff who look into
4 those details.

5 CHAIRMAN MOYER: Thank you.
6 Kevin.

7 MEMBER ENGELBERT: I just wanted
8 you to finish your thought on the GMO vaccines
9 and what your opinion is, Sam, and give you
10 the opportunity to finish that subject that
11 you were on.

12 MR. WELSCH: Well, I think under
13 the current way the rule is written it should
14 go if there's a GMO vaccine on the market that
15 wants to use an organic production, it should
16 be petitioned, and if it's going to be
17 allowed, then it should be approved by this
18 Board.

19 As far as whether they should or
20 should not be approved, you know, I'm somewhat
21 neutral on that. Generally I don't support
22 the use of GMOs, but this might be a special

1 case if there are not other alternatives
2 available, but I think right now the rule is
3 written, we cannot approve them if they're
4 made with prohibited methods.

5 CHAIRMAN MOYER: Thank you, Sam.
6 Bea. Go ahead, Bea.

7 MEMBER JAMES: Sam, thank you for
8 your comments, extensive comments on retail,
9 and I will certainly look at those and take
10 those into consideration, but the question I
11 have for you is actually on body care, and I'm
12 wondering if you believe that body care,
13 organic body care should be agricultural, for
14 agricultural products only, ingredients.

15 MR. WELSCH: Could you say the
16 question again?

17 MEMBER JAMES: Do you believe that
18 body care that is going to be certified as
19 organic should be for 100 percent agricultural
20 based ingredients?

21 MR. WELSCH: Well, I think like we
22 currently allow synthetics and other products,

1 so I think the same kind of mix would be
2 allowed in cosmetics or personal care
3 products, that if it's not agriculture, if
4 it's not a certified organic agricultural
5 ingredient, then it should be on the national
6 list if it's going to be in an organic or a
7 made with organic product, and then if there
8 are substances that are needed in the personal
9 care industry in order to achieve certain
10 functions, then those things should be
11 petitioned and added to the national list.

12 I've heard recommendations that
13 there would actually be a separate portion of
14 205.605 specifically for body care cosmetic
15 products. So it's easily distinguished from
16 those who are allowed in food.

17 CHAIRMAN MOYER: Thank you, Sam.

18 MR. WELSCH: Thanks, Jeff.

19 CHAIRMAN MOYER: You're welcome.

20 Michael Fiery to the podium, and
21 Lisa Nichols on deck.

22 MS. FRANCES: Jeff.

1 CHAIRMAN MOYER: Yes.

2 MS. FRANCES: There is a women,
3 Lendy Banister. I'm not sure if she's here,
4 but there were some travel issue for her.

5 CHAIRMAN MOYER: I apologize. Is
6 Lendy Banister here?

7 (No response.)

8 CHAIRMAN MOYER: No, I don't
9 believe so. Thank you, Valerie.

10 Go ahead, Michael.

11 MR. FIERY: Thank you.

12 Members of the National Organic
13 Standards Board, my name is Michael Fiery. I
14 am vice president in charge of product
15 development currently at Miller Chemical and
16 Fertilizer Corporation.

17 Since this is my first time making
18 a public comment, I feel it's my duty to be
19 brief, and I promise to do so.

20 We've been honored to serve
21 organic growers and certifiers since the mid-
22 1980s with polymer based resins under the

1 trade name of Nu Film. I appreciate the
2 opportunity to comment on the list for
3 approved inert materials issue currently being
4 discussed.

5 Miller previously received a
6 letter in 2005 from the U.S. EPA regarding an
7 inert polymer which was completed through
8 reassessment being approved and classified as
9 a List 4(b) inert. EPA acknowledged that the
10 public list of 4(b) inerts had not been
11 updated, but this chemical would be included
12 in the next 4(b) update.

13 Well, we recognized, of course, in
14 2005 that EPA had no plans to update that
15 list. This inert polymer was approved for
16 organic use by organic certifiers through the
17 confidential statement formula process, which
18 included the signed document from EPA until
19 the USDA letter specifying that only 2004
20 inert materials would be accepted.

21 The current inert polymer in
22 question is cleared under 40 CFR 180.960 as an

1 inert ingredient in pesticide formulations
2 applied pre and post harvest to food crops as
3 a low risk polymer. One of the current
4 options being discussed at the NOSB or was
5 discussed at the NOSB November meeting was to
6 adopt the minimal toxicity inert cleared under
7 40 CFR 180.950. Since polymers are safe and
8 non-toxic, along with the fact that EPA
9 notified us in writing that they would have
10 placed the polymer on List 4(b) if and when it
11 was updated, we would respectfully respect
12 that the NOSB consider accepting polymers
13 under 40 CFR 180.960 in addition to the
14 minimal inerts cleared under 40 CFR 180.950.

15 As a manufacturer who supplies the
16 required confidential statement of formulas
17 and manufacturing processes to any and all
18 certifiers, we believe that the certifiers do
19 a thorough job of reviewing the documentation
20 submitted.

21 One option might be to allow
22 accredited certifiers to accept documented

1 letters from EPA on reassessed or new inerts
2 that would meet the minimal risks or criteria
3 of List 4(b).

4 Finally, we agree that the EPA and
5 NOP and NOSB should work closely to maintain
6 safe, compliant products and establish fair
7 and equitable methods based on science which
8 might allow the USDA, NOP and their certifiers
9 options for retaining or adding new inerts,
10 which are vital for the success and global
11 growth of organic farming.

12 I thank you for your continued
13 service to the industry.

14 CHAIRMAN MOYER: Thank you,
15 Michael.

16 Questions. Gerry.

17 MEMBER DAVIS: Are you familiar
18 with a -- your material is extracted from pine
19 trees of some fashion, correct?

20 MR. FIERY: The main resin is an
21 extract from the cellular conifer pine tree
22 stump. That is correct.

1 MEMBER DAVIS: Are you familiar
2 with a class of like compounds called tall oil
3 and if they are related to your material?

4 They are also pine extracted resins.

5 MR. FIERY: Tall oil resins,
6 turpentine, there's a whole class of compounds
7 that would be considered, let's say, terpene
8 polymers I think the difference is, again, in
9 the extraction of how they're extracted and is
10 it a polymer or, in the case of a tall oil,
11 fatty acid, what's the chemistry behind that
12 actual material

13 What we particularly work with is
14 the actual polymer.

15 MEMBER DAVIS: Okay.

16 MR. FIERY: What I'm discussing
17 here now is not so much that polymer as it is
18 an inert ingredient that might be used in that
19 polymer or an inert ingredient that might be
20 used in any pesticide formulation that would
21 be accepted or compliant under the national
22 organic program.

1 And our concern is that currently
2 only using the old 2004 list, there have been
3 a lot of new inerts sine then that have come
4 before EPA or have been reassessed by EPA and
5 commented back to a manufacturer like ourself,
6 and what we're trying to determine is how to
7 take that information, do a reassessment or a
8 new inert being listed as what would be a 4(b)
9 material; how to get those materials allowed
10 for use.

11 MEMBER DAVIS: Right. The Crops
12 Committee is considering the whole List 4
13 inert and pesticide issue, and I know your
14 material is somewhat wrapped up in the entire
15 problem, and I was just wanting to ask a few
16 more questions --

17 MR. FIERY: Sure.

18 MEMBER DAVIS: -- because I was
19 keeping your material in the back of my mind
20 as one example of something that's already
21 been affected, and we don't want to stumble
22 into a ruling that might affect a whole bunch

1 more.

2 MR. FIERY: No, I agree, and
3 again, the List 4 or the inert issue because
4 it's so broad, it's not a particular compound
5 or nothing. I think the one that you're
6 particularly referencing to ours, which was a
7 material that we actually petitioned or went
8 through the petition process, it was sent in
9 2005 up to the NOSB through the petition
10 process. That was relating to the polymer
11 itself, and from what I understand, that
12 petition was never acted upon. It is on the
13 list as approved or those polymers are
14 approved because of information that had been
15 forwarded, also stating that they were
16 compliant under List 4(b) as low risk polymers
17 at the time.

18 CHAIRMAN MOYER: The Chair
19 recognizes Kevin.

20 MEMBER ENGELBERT: I'd like to ask
21 you as a layman and a Crops Committee member
22 one of the things that we're dealing with as

1 we look at these List 4 inerts is their level
2 in the final product. The inerts that you
3 deal with, can they all get to the point if
4 they have a certain level that they are no
5 longer inert and their properties can be
6 considered an active ingredient? Are these
7 inerts in the --

8 MR. FIERY: The inerts are used
9 actually in the formulation in this particular
10 situation in order to be able to get that
11 polymer to actually dissolve in water.
12 Normally the polymers we work with are
13 insoluble in water. So part of the function
14 that that polymer resin is playing is allowing
15 the main active polymer which might be 95 to
16 96 percent of that formulation to stay
17 emulsified in water, and then upon applying to
18 a plant surface, allow the polymer to
19 polymerize properly on the surface over time.

20 So it is in there as an inert, but
21 it is an important inert because if it was not
22 in the particular product, the product would

1 not function in the manner which growers have
2 come to acknowledge its use.

3 And, you know, often that's been a
4 comment someone has come back. They would say,
5 "Well, why don't you just replace that? Do
6 you know how easy it would be if you just took
7 that inert out, go back to the 2004 list,
8 replace it with something that's there?"

9 And while that could be done, the
10 product itself and the product performance
11 would change, and I think the importance in
12 growers that work with these compounds, you
13 know, we're not going to for the sake of
14 selling something. We want to put a product
15 in the grower's hands that especially under a
16 brand name have come to recognize that brand
17 name of giving them performance.

18 So rather than just putting an
19 inert in that would be on the '04 list, we
20 basically feel it's important to keep the
21 integrity of an inert that got reassessed,
22 making sure that it is in the product so that

1 the product's performance wouldn't be
2 affected.

3 But it is as an inert.

4 CHAIRMAN MOYER: Thank you,
5 Michael.

6 MR. FIERY: Thank you.

7 CHAIRMAN MOYER: Lisa Nichols or
8 Andy LaVigne.

9 MS. FRANCES: I literally just got
10 an E-mail from Andy LaVigne saying he's not
11 here, and so I told him he's on deck, but we
12 got it.

13 CHAIRMAN MOYER: Okay. Thank you.

14 I will mention to the Board that I
15 don't think we'll plan on taking a break at
16 five. So just individually as you need to,
17 just in the essence of time, we still have
18 about 18 people to go through yet.

19 Dave DeCou. Is Dave still here?
20 I thought I saw him. I apologize Renee Mann
21 for Dave DeCou.

22 Thank you, Renee.

1 MS. MANN: Good afternoon or early
2 evening, and thank you for the opportunity to
3 comment.

4 My name is Renee Mann, and I'm the
5 review program manager of OMRI, the Organic
6 Materials Review Institute.

7 I'll be commenting on the topics
8 of the definition of materials, petitions that
9 have been overlooked, inerts, and peracetic
10 acid.

11 First I'll touch on the definition
12 of materials and the discussion surrounding
13 agricultural/non-agricultural and synthetic
14 versus non-synthetic.

15 OMRI supports the work that's been
16 conducted thus far to clearly define these
17 terms because these definitions have serious
18 implications for the future of the organic
19 industry.

20 How these issues are resolved
21 requires tremendous deliberation, and I won't
22 say much more than that because OMRI

1 participated in the Materials Working Group,
2 and there will be others that will express the
3 details of the results of that working group.

4 Regarding overlooked petitions,
5 both OMRI and CCOF submitted lists of
6 overlooked petitions. OMRI would like to
7 remind the Board and the NOP of these
8 petitions, and we encourage you to give a high
9 priority to either continuing the petition
10 review process or updating the petition's
11 substances database to show how the petitions
12 were dealt with.

13 In general, all of the petitions
14 need to be clearly reviewed. Otherwise the
15 system loses credibility, also, considering
16 these petitions would help OMRI resolve a
17 couple of lingering issues that have been
18 lingering for years with us as well.

19 I have one small note on petition
20 materials that I made at the last NOSB meeting
21 as well, and that is that OMRI recommends that
22 any material that's added to the national list

1 include when possible either its CAS number or
2 the Lannean taxonomic identity.

3 There's many biological materials
4 that don't have really good CAS numbers of
5 Lannean taxonomic identification for them. So
6 I understand that's not going to work every
7 time, but when possible, please do use these.

8 I notice that some of the NOSB
9 Committee recommendations for consideration at
10 this agenda contain CAS numbers. So thanks
11 for trying to use those.

12 I'm going to touch on my notes
13 now. Without the allowance for List 4(b)
14 inerts, many currently used inputs would be
15 lost to organic farmers. We went back through
16 our list of products and determined that about
17 65 percent of the pesticide products that OMRI
18 currently lists contain EPA List 4(b) inerts.
19 This number comes from a data gathering that
20 we did just a couple of weeks ago.

21 Another point I'd like to make is
22 that the soon to be implemented Canadian

1 organics standards reference the Health Canada
2 list of inerts, which designated List 4(a) and
3 4(b) inerts as allowed. So their list was set
4 to correlate to EPA List 4(a) and 4(b), and
5 with the high probability of equivalency
6 between the USA and Canada regulations, it
7 would be good if we kept with our list 4(a)
8 and 4(b) allowed materials that we have right
9 now.

10 That being said, how do we
11 preserve the status quo? The only way that
12 OMRI sees that we could preserve the status
13 quo would be to include the 2004 EPA List 4(a)
14 and 4(b) in the national list for both crops
15 and livestock, and then allow those materials
16 to be sunset every five years.

17 You could also accept 189.50, but
18 note that that's not even 4(a) inerts. that's
19 actually a smaller subset of 4(a) inerts. So
20 we have a problem if we go with the
21 recommendation to just accept what's at
22 189.50.

1 Okay. And there is always the
2 option to simply currently allow all of the
3 materials at 18900 through 960 by reference.

4 Okay, and regarding the petition
5 for a peracetic acid in crop production, OMRI
6 support the final recommendation at this time.
7 Because of the urgency of the situation, those
8 formulated products using hydrogen peroxide
9 and that contain peracetic acid, that now is
10 considered an active ingredient, and these
11 materials must be pulled off OMRI's list if
12 peracetic acid is being used as an active and
13 it's not allowed on the national list.

14 So at this time OMRI supports the
15 annotation change that's been suggested by the
16 committee and hope that there can be a final
17 recommendation at this meeting instead of just
18 a discussion.

19 And I'm done. So any questions?

20 CHAIRMAN MOYER: Okay. There are
21 some questions for you, Renee.

22 Joe and then Gerry.

1 MEMBER SMILLIE: Actually my
2 question is for the Chair. I've heard twice
3 now about lost petitions. Could we get some
4 clarification on that?

5 MS. MANN: do you want that from
6 me or --

7 MEMBER SMILLIE: Whoever.

8 CHAIRMAN MOYER: What I'd like to
9 do is turn that over to the Executive
10 Director, Valerie Frances for an answer.

11 MS. FRANCES: Well, this is
12 something that Dan and I and others have
13 talked about. We addressed it somewhat in the
14 last meeting sa well, where we were asking
15 people to bring forth their list.

16 I don't think there's so much loss
17 as that all sorts of different types of action
18 were take, and they just want them to be
19 revisited and reassessed, brought forward,
20 tabled permanently.

21 There was this whole group of
22 tabled petitions or no action. So I think

1 that's what that's referring to, not so much
2 lost.

3 MEMBER SMILLIE: They're not lost.

4 MS. MANN: No.

5 MEMBER SMILLIE: They're in
6 process.

7 MS. FRANCS: Well, they were not
8 being acted upon.

9 PARTICIPANT: Stuck in limbo.

10 MEMBER SMILLIE: Oh, there's a lot
11 of people in limbo. There are a lot of, a lot
12 of things in limbo. So okay. That's what I
13 meant. They're not lost.

14 CHAIRMAN MOYER: Thank you.

15 Gerry, if you could just hang on a
16 second. Richard Matthews.

17 MR. MATTHEWS: Just to add onto
18 that, as Barbara mentioned this morning, we
19 have a statement of work that we've put out
20 with Science and Tech to help us develop an
21 improved database for the recording of all of
22 the actions that have taken place on all of

1 the materials, and they are currently working
2 on that project.

3 CHAIRMAN MOYER: Thank you,
4 Richard, for that point of clarification.

5 MS. FRANCES: And they've had lots
6 of input from me on making that happen.

7 CHAIRMAN MOYER: Does that clarify
8 your question, Joe?

9 MEMBER SMILLIE: Yes.

10 CHAIRMAN MOYER: Thank you. Good.

11 MR. MATTHEWS: And if anybody
12 needs more details on it, I'm sure Shannon
13 would be more than happy to speak on it
14 because she's the one who's been working with
15 Science and Tech.

16 CHAIRMAN MOYER: Thank you.

17 The Chair recognizes Gerry.

18 MEMBER DAVIS: Renee, listening to
19 their responses I don't remember exactly the
20 context of what you said in your last
21 sentence, but if you remember, can you repeat
22 it because I couldn't quite catch part of it?

1 MS. MANN: I'm sorry. We support
2 the Materials Committee or not Materials
3 Committee, the Crops Committee making a final
4 recommendation at this meeting or this week.

5 MEMBER DAVIS: Making a final
6 recommendation at this meeting?

7 MS. MANN: yes, on peracetic acid
8 instead of just discussing, if possible.

9 CHAIRMAN MOYER: The Chair
10 recognizes Tina.

11 MEMBER ELLOR: While we have you
12 here, Renee, do you want to comment on the
13 annotation or, you know, limiting the
14 percentage? Would that be -- how does OMRI
15 feel about that?

16 MS. MANN: I didn't look into
17 detail into that.

18 MEMBER ELLOR: Okay.

19 MS. MANN: But it looked
20 acceptable from off the top of my head. I
21 could look into it some more tonight.

22 MS. FRANCES: and a comment on

1 their request. We can't make a
2 recommendation.

3 CHAIRMAN MOYER: That's correct.
4 One we've posted what our mode of action will
5 be, we cannot change that. So it will remain
6 a discussion item, contrary to your hopes and
7 wishes.

8 MS. MANN: Okay.

9 CHAIRMAN MOYER: Any other
10 questions for Renee?

11 (No response.)

12 CHAIRMAN MOYER: Thank you, Renee.

13 MS. MANN: Thank you.

14 CHAIRMAN MOYER: Kristen Knox, and
15 Patrick Carr on deck.

16 MS. KNOX: Good afternoon,
17 everyone. That was a very nice segue from
18 OMRI since I'm going to be discussing
19 peracetic acid and the inerts issue as well.

20 We are the petitioners, Biosafe
21 Systems, for the inclusion of peracetic acid
22 to be on 205.601 without annotation. We also

1 understand that the committee came back with
2 a recommendation as Tina alluded to to allow
3 it but with a limitation of two percent.

4 I did submit comment to all of the
5 recommendations, and that is on the posting.

6 I hope you've had a chance to look at that.

7 This is not going to be a complete going
8 through everything that was in the letter
9 because it was rather lengthy, and otherwise
10 I'd like to just summarize the extent of that
11 letter.

12 Peracetic acid cannot exist
13 without hydrogen peroxide. Therefore we'd
14 like to see it represented in the same manner
15 as hydrogen peroxide, as an oxidizer without
16 any restrictions other than exhausting the
17 other options for organic farming.

18 We believe it is compatible with
19 organic farming practices, and it is also
20 discussed in the posted comments.

21 We also believe that there is no
22 true alternative to hydrogen

1 peroxide/peracetic acid formulations for the
2 immediate knockdown of any pests without
3 residue, without toxicity, and without
4 mutational resistance.

5 In regards to the issue of HEDP, I
6 know that was a concern, and the
7 recommendations list that it is either a one,
8 two, or three list inert. I don't know where
9 that is on those lists, but it is on the EPA's
10 2004 List 4(b).

11 HEDP, just for a little bit more
12 information about it, biodegrades into carbon
13 and phosphorus. The FDA found not concerns
14 for environmental toxicity with HEDP for food
15 contact uses, and it is listed in the 21 CFR
16 along with hydrogen peroxide and peracetic
17 acid to address different food contact
18 applications.

19 As far as toxicity of HEDP goes,
20 when it's used at its labeled rates, it is far
21 below the indicated EC-50 or NOEC values
22 demonstrated in two different submitted

1 reports, including the Herr report for
2 phosphates, and with the exception of algae.
3 We do get the algae, but then, again, that's
4 one of our targets. So we don't mind.

5 And in regards to the inerts
6 issue, we feel very strongly that the list
7 should be inclusive of List 4(b). It affects
8 all of our products and several other products
9 that we know that are out there on the market,
10 and we addressed this as well in a separate
11 letter to the NOSB.

12 The EPA has already determined
13 that these inerts are of no toxicological
14 concern when they're used at the labeled
15 rates, and in many instances we've gone
16 through a lot of trial and error with finding
17 the correct inerts to be used in our
18 formulations, especially this HEDP, which is
19 a very specific stabilizer that keeps the
20 hydrogen peroxide/peracetic acid in its
21 balance, for lack of a better word.

22 And the -- I lost my train of

1 thought.

2 There are many 4(b)s that are on
3 the 180.910, 920, 930, that all have tolerance
4 exemptions for inerts, but they're just not on
5 950 yet, and why they haven't been evaluated
6 we're not sure, but to just limit it to 950
7 would exclude, as OMRI alluded to, a lot of
8 products that are out there.

9 And in many instances there are no
10 substitutions for the inerts that are on the
11 4(b) or the 950 because that's even more
12 exclusive.

13 And that's about all I have. Does
14 anyone have any questions?

15 CHAIRMAN MOYER: Thank you,
16 Kristen.

17 Questions? Tina.

18 MEMBER ELLOR: This is a question
19 that would be really helpful if you could
20 answer for us. It was our understanding, and
21 I think Gerry probably was the one who
22 ferreted out this information, about the two

1 percent limitation. It's our understanding
2 that the products that are on the market now
3 that you make don't contain more than two
4 percent anyway, right?

5 MS. KNOX: That's true. Well,
6 that's true and it's not true. We do. Two of
7 our main products that are used in the organic
8 agricultural community do contain two percent
9 peracetic acid, and thank you for saying that
10 because I forgot to mention as part of my
11 comments that if it absolutely has to be
12 annotated, that we would like to see it
13 limited to the ppms, parts per million, of the
14 peracetic acid that's in the formulation as
15 opposed to the percentage of the concentrate
16 because we think this is a much more accurate
17 way to get a handle on how much peracetic acid
18 is being applied.

19 We have a five percent product
20 that's also approved for post harvest washes
21 and for agricultural irrigation, and a 12
22 percent product that's approved for

1 agricultural irrigation waters as well, and if
2 we limit it to the two percent, then those
3 products are gone.

4 And when you dilute down either
5 the five percent or the 12 percent products to
6 their one to 1,000 at the very least ratios,
7 you end up with minuscule amounts of peracetic
8 acid, even less.

9 The worst case scenario would be
10 200 parts per million, and that's in a two
11 percent product at a one to 100 dilution.
12 Everything else, any of the other
13 applications, the amount of peracetic acid
14 goes down.

15 MEMBER ELLOR: So are there any
16 applications you could think of that would use
17 high concentrations of peracetic acid on crops
18 in the field? MS. KNOX: No. It's just to
19 treat the irrigation waters. And it's not at
20 high dilution rates.

21 MEMBER ELLOR: And if you had to
22 put a ppm annotation on, what would it be?

1 MS. KNOX: 200.

2 MEMBER ELLOR: 200? And that is
3 in the final dilution to use on the crop?

4 MS. KNOX: Yes. That's the
5 highest application rate for--to our field
6 crop product, at 1 to 100.

7 MEMBER ELLOR: Okay. Thank you.

8 MS. KNOX: Okay.

9 CHAIR MOYER: The chair recognizes
10 Gerry.

11 MEMBER DAVIS: So let me clarify
12 it to myself, at least what you just said.
13 Your company's wish is, if we put it on a ppm
14 basis, based on rate per acre, not in what it
15 says on the label; correct?

16 MS. KNOX: No. This is based on
17 what it says on the label. It's a 1 to 100
18 dilution--

19 MEMBER DAVIS: No, no, no. I
20 mean, what it says on the ingredients page of
21 the label. Let me clarify myself.

22 How would a certifier verify, if

1 we say 200 ppm, how would you envision that
2 happening? If we base it on 200 ppm--no more
3 than 200 ppm can be applied to a crop. Is
4 that what you're suggesting?

5 MS. KNOX: Yes. I understand what
6 you're saying now. Yes. With the new
7 products that are coming out, it's going to
8 list peracetic acid as an active ingredient at
9 2 percent. So if you do the math, at 1 to
10 100, it comes out to the 200 ppm per million
11 per application.

12 MEMBER DAVIS: Okay. Then my
13 follow-up question is 200 ppm applied to--in
14 the soil water, being washed into the soil,
15 was our -- from the research we had done and
16 talked with different people, read a lot of
17 information coming from other sources other
18 than BioSafe, the petitioner, was that
19 peracetic acid is a polar molecule compared to
20 hydrogen peroxide; correct?

21 MS. KNOX: I'm not a chemist. I'm
22 sorry. I can't answer that.

1 MEMBER DAVIS: Okay. It's a much
2 more active concentration per concentration
3 than hydrogen peroxide as far as sanitizer or
4 germ killing--it takes a much higher
5 concentration of hydrogen peroxide to kill
6 organisms than it does peracetic acid to kill
7 the same organisms; correct?

8 MS. KNOX: Correct. That's very
9 true, and it's a synergistic effect. The
10 peracetic acid breaks down the cell wall and
11 the hydrogen peroxide then just comes in right
12 behind it and oxidizes the organic matter.

13 MEMBER DAVIS: So our concern was
14 the effects of--we hadn't thought of limiting
15 it to a 200 ppm application rate to the field,
16 but our concern was that we would--our
17 decision, if we allowed too much peracetic
18 acid beyond what was necessary to maintain the
19 hydrogen peroxide formulations that currently
20 exist, was that--I'm getting confused on how
21 to word this.

22 There's a potential, whether they

1 exist now on your label rates and everything,
2 at this moment, there's the potential,
3 depending on what we allowed, that some day we
4 could have peracetic acid formulations being
5 irrigated on organic crops that would
6 effectively be biocides, killing beneficial
7 and parasitic organisms in the soil at some
8 level. And we thought that was not compatible
9 with organic, to be treating the soil with
10 nonselective biocides. Yes, they kill some
11 things easier than others, but they will kill
12 some beneficials as well as parasites,
13 according to your comments that you submitted,
14 the written comments that you submitted at
15 least.

16 MS. KNOX: From April? The most
17 recent letter?

18 MEMBER DAVIS: Yes.

19 MS. KNOX: Yes. That's our plant
20 pathologist, Vijay Tropicala, had indicated to
21 me that the beneficials are stronger and use
22 a little bit of the p.a., actually, knocks

1 down the harmful pathogens and gives them a
2 little bit more breathing room, for lack of a
3 better word, to repopulate.

4 MEMBER DAVIS: Anyway, that was
5 our rationale, was concern about the soil
6 effects of opening the door wide open to
7 potential future parasitic acid formulations
8 labeled in different ways than exist today.

9 MS. KNOX: I should point out,
10 though, that the product that I'm talking
11 about, where we're using at a 1 to 100
12 dilution or 200 ppm of the peracetic acid, is
13 mostly filler. It has nothing to do with the
14 soil applications. Our product for soil,
15 Terraclean, is a 1 to 1000 dilution of a 5
16 percent p.a. product.

17 MEMBER DAVIS: I understand. We
18 just didn't want to approve something now that
19 would give a company like Biosafe, or others
20 running--you know, "rope" to just--if they
21 could convince EPA it's okay, to bring on to
22 the organic market biocidal soil-applied

1 materials.

2 MS. KNOX: No; we're not looking
3 to do that; but I understand your concern.

4 CHAIR MOYER: Thank you, Kristen.
5 Patrick Carr and Terry Gong on
6 deck.

7 MR. CARR: Ladies and gentlemen,
8 I'm Patrick Carr with Diatech. My brief
9 comments are regarding the Diatech petition on
10 isoparaffinic hydrocarbon, and on the inert
11 four list, both of which are before the Crop
12 Committee and the NOSB.

13 The List 4 issue that the NOP has
14 with the EPA was attributing effect on
15 Diatech's petition. I urge the Crop Committee
16 and the NOSB to move toward an expeditious
17 resolution of this problem, that allows the
18 use of inerts that have been vetted by the EPA
19 and not to cause adverse effects to the public
20 health or the environment.

21 This list must be dynamic and
22 responsive to the determinations made by the

1 EPA in their assessments. Accepting the
2 status quo is not in the best interest of
3 organic agriculture, in my opinion, and the
4 petition process, also in my experience, takes
5 years, and as I will comment later in my
6 comments, appears to lack the technical rigor
7 that goes into an EPA health and safety
8 assessment.

9 As was made in my written
10 comments, I believe that neither the Crop
11 Committee nor the NOSB can fulfill their
12 responsibilities of duty of care, especially
13 to the standard of being reasonably informed,
14 given the problems with the TAP Report on this
15 issue. The TAP Report contains significant
16 errors and shows a superficial understanding
17 of pyrethrins and its processing, at best.

18 Judgments made by the Crop
19 Committee based on this TAP Report can only be
20 flawed. Moreover, the multiple errors in the
21 TAP--if the multiple errors in the TAP were
22 corrected, I suspect many of the unfavorable

1 responses in evaluation criteria would be
2 reversed.

3 These are distilled down into two
4 problems. First, contrary to what the TA
5 Report says, there is not pyrethrins available
6 to pesticide formulators that the NOP finds
7 acceptable. Thus, the actions of the NOP in
8 this matter have created a monopoly in organic
9 pyrethrins which is not in the best interest
10 of organic farmers in terms of price or
11 product availability.

12 Second, much of what is in the TAP
13 about the availability of pyrethrins via
14 supercritical extraction is in error. This
15 again reinforces a lack of understanding the
16 TAP has about the processing of pyrethrins.

17 Yes, there is a patent but there
18 are a great many patents and a patent does not
19 make a commercially-available product. I
20 believe there is no supercritical extractive
21 pyrethrins available on the market. I have
22 looked. The TAP premise about the

1 availability of this supercritical extracted
2 pyrethrins is in error, and it's one of the
3 bases for not believing that the approval of
4 the isoparaffinic hydrocarbon is important.

5 In closing, the reliance of the
6 Crop Committee on the NOSB--excuse me. The
7 reliance of the Crop Committee and the NOSB on
8 the TAP will cause an injustice to organic
9 farmers that do not wish to be limited to one
10 product and will stifle product improvements
11 that could benefit organic farmers and
12 consumers.

13 I urge the Crop Committee, at the
14 very least, to postpone a decision on this
15 petition till such time that they have full
16 and accurate information.

17 I thank you for your time and
18 consideration. I'd only like to make one
19 other brief comment regarding lost petitions,
20 and to quote Daniel Boone, he once made the
21 comment, "I was never lost but I was mighty
22 confused for three days."

1 And I know my petition very
2 confused for a number of months, until we made
3 a lot of effort to have it located. thank
4 you.

5 CHAIR MOYER: Thank you, Patrick.
6 The chair recognizes Kevin.

7 MEMBER ENGELBERT: Thank you, Mr.
8 Carr. Did you post comments, electronically?

9 MR. CARR: Yes, I did, sir.

10 MEMBER ENGELBERT: You did?

11 MR. CARR: In detail.

12 CHAIR MOYER: The chair recognizes
13 Gerry.

14 MEMBER DAVIS: Mr. Carr, do you
15 know the extraction method used for the
16 pyrethrins in your competitor's product, MGK?

17 MR. CARR: No, sir. I don't. I
18 know there's proprietary and that's as far as
19 I know. I also know they won't make it
20 available to outsiders.

21 MEMBER DAVIS: And are you saying,
22 then, that you mean you don't know what they

1 use, but you're saying you don't know if
2 they're using the supercritical extraction
3 method that you said is not available?

4 MR. CARR: My understanding, from
5 talking to a number of people in the industry,
6 is that that supercritical extraction is not
7 being used in a commercial process, that MGK
8 is using some other method, the best of my
9 knowledge.

10 MEMBER DAVIS: Thank you.

11 CHAIR MOYER: Thank you, Mr. Carr.
12 Terry Gong and then Brad McElroy
13 on deck.

14 MR. GONG: Hello. My name is
15 Terry Gong. I'm a partner with Harmon Systems
16 International, and I'd like to thank the Crop
17 Committee for moving this on to where we are
18 now. Our quest to achieve sustainability has
19 taken us on a wondrous journey of learning.
20 We never know what we'll discover along the
21 way. If we view knowledge that we've amassed
22 as the building blocks, we'll discover some

1 things new. We'll even start to discover that
2 maybe something that we thought to be true may
3 not be.

4 And so I think we all need to look
5 at this as that we don't have to abandon some
6 of the knowledge we have, but that we can
7 fine-tune it, and to reinforce and buttress
8 the things that we know to be correct. Next
9 slide, please.

10 When we examine the various
11 ecosystems, the truth of nature becomes
12 apparent to what that foundation is. Most
13 people think it's water, but it really is not.
14 If you look at a cave, there's no rain,
15 there's no sun, and so forth.

16 But as you see, once you get out
17 in the open, there's some rain that occurs,
18 and then there's some rain that occurs a lot,
19 like the rain forest.

20 But it really isn't so much the
21 water. It is, in my view, the hydrogen that
22 is delivered to that ecosystem. After all,

1 how could the Earth's soils or these
2 ecosystems be created if rainwater were
3 neutral? Next slide.

4 Normally, rainwater has a pH of
5 5.6. I had an opportunity to speak with a
6 NASA scientist at Ames Research, where they're
7 trying to go to Mars, and they actually
8 thought that the rain pH, normal throughout
9 the world, was 5.2.

10 And I thought, well, that's fine
11 because we're pretty much in the same ball
12 park. And the reason why I bring this up is
13 because I think there's a myth or a notion
14 that rainwater is supposed to be a neutral pH,
15 and it really has never been, because if
16 rainwater were neutral, again, how long do you
17 think it would have taken to create the
18 Earth's soils and our ecosystems. Next slide.

19 Normal rainwater gets its acidity,
20 mostly, from natural volcanic activity. I've
21 got some images of Kilauea in volcano--excuse
22 me--the Kilauea volcano in Hawaii, and that is

1 purported to product at least 2000 tons of SO₂
2 into the atmosphere per day. It's one of--
3 well, last year, there were about 64 active
4 volcanoes among 590 on the surface. Next
5 slide.

6 We don't even know all of the
7 volcanoes and the hydrothermal vents that are
8 going on underneath the ocean, at the ocean
9 floor, under the seas. Less than one percent
10 of the Earth has been mapped, and we're now
11 just starting to find out more about that with
12 robotics and submersibles.

13 Now, clearly, sulfur, in its
14 various forms, has a major role to play in the
15 regulation of life on this planet.

16 The natural acidity of rainfall
17 explains why areas of high rainfall have
18 acidic soils and why areas with low rainfall,
19 the soils are alkaline and basic.

20 Soil always takes on the
21 characteristics of the materials applied upon
22 it, and eons of years has created these soils,

1 and I think that a lot of these soils,
2 especially here in the East Coast, because you
3 receive such an abundant amount of rain, more
4 than let's say the Western states, long before
5 the Industrial Age and the burning of coal,
6 these soils were probably already acidic.

7 The next slide, please. And with the coal
8 burning, because that 5.2, 5.6 rainwater falls
9 through a plume of SO₂ coming from a coal-
10 burning power plant, it falls uncontrolled on
11 to the ecosystem. One minute left. Wow!

12 Anyway. The point is that this is
13 why acidifying water is so important compared
14 to the East Coast, that the Western states
15 that are dealing with alkaline soil and
16 alkaline water, and there virtually is no way
17 in the world that they can provide enough
18 acidity--and I'll just conclude since I've got
19 the one minute sign--that if we think about
20 it, sulfuric acid absorbed in rainwater has
21 probably more natural--it's the most natural
22 way of acidifying a system.

1 I've yet to see sulfur fall from
2 the sky, or acidic acid, or the various other
3 approved forms. But we do see rainwater.

4 CHAIR MOYER: Thank you, Terry.
5 Questions from the board. Tracy.

6 MEMBER MIEDEMA: If you could just
7 kind of finish your thought and connect the
8 dots for me. It sounds like you're a real
9 expert on sulfur and pH in the soil, and how
10 rain interacts with that. What is your
11 opinion on the Committee's recommendation, and
12 why?

13 MR. GONG: The Crop Committee?

14 MEMBER MIEDEMA: Yes.

15 MR. GONG: Well, I think that my
16 petition that I wrote, I think it really
17 explains rainwater and the effect of sulfur in
18 the ecosystem. I think it really speaks for
19 itself. I mean, I can't really say everything
20 in five minutes but you go back to the
21 beginning of time, I mean, it's--you'll be
22 able to see if if you look at the petition

1 carefully.

2 CHAIR MOYER: Any other questions?

3 Thank you, Terry. Appreciate your
4 time.

5 Brian McElroy to the podium and
6 Michael Christensen on deck.

7 MR. McELROY: Mr. Moyer, can I
8 address you on a point of order, outside of my
9 five minutes, please.

10 CHAIR MOYER: Certainly.

11 MR. McELROY: Yes. We have
12 Michael Christensen in the air. It was our
13 impression that we were speaking on Tuesday.
14 So both John Rapp and Michael Christensen,
15 growers, who have gone much out of their way
16 to try to address this body, are not available
17 this afternoon. So if there's any way to
18 accommodate them tomorrow, it would be much
19 appreciated.

20 CHAIR MOYER: We'll certainly do
21 our best.

22 MR. McELROY: Okay.

1 MS. FRANCES: There's no actual
2 space.

3 MR. McELROY: I understand that.

4 CHAIR MOYER: Let us talk among
5 ourselves later, and we'll do our best to
6 accommodate that, but I can't guarantee
7 anything at this point.

8 MR. McELROY: Appreciate your
9 understanding. Brian McElroy. I work with
10 Driscoll Strawberry Associates. We grow
11 raspberries, blackberries, blueberries,
12 strawberries, and we believe that this
13 material, sulfuric acid, provides our growers
14 with an opportunity to improve soil fertility,
15 improve the quality of the uptake of nutrients
16 in the soil by improving the quality of the
17 water we use.

18 Driscoll's growers, they are
19 independent family growers, family farmers.
20 We grow organic in Florida, California,
21 Mexico, North Carolina, Washington, Oregon,
22 Chile, and a number of places, and we see

1 applications of this equipment in those areas.

2 We see the benefits of this coming
3 to irrigation system cleaning and maintenance
4 of irrigation systems. Water quality
5 management. Being able to bring water to a pH
6 that is more conducive to crop production. As
7 you know, much of the water in the Western
8 United States can be high in bicarbonates, or
9 slightly on the alkali level.

10 So balancing that water allows us
11 to balance the soils and make better use of
12 the nutrients.

13 We also think that this will lead
14 to more efficient use of agricultural inputs
15 and fertility. The current tools that are
16 available, there are some current tools, we
17 recognize them, we use them, organic matter,
18 bringing in additional organic matter, soil
19 sulphur, citric acid, vinegar.

20 Unfortunately, soil sulphur's not
21 always a good solution because it may require
22 tillage that is not always the best of

1 solutions, additional tillage, and it may not
2 work in permanent crop situations.

3 Citric acid is a very low
4 efficiency product, and when the product is
5 low efficiency and you have to use more, it
6 basically leads to growers asking themselves
7 why they're using this material so much. So
8 the low efficiency leads to a nonuse.
9 Vinegar, clearly, is also a low-efficiency
10 material and not readily available in the kind
11 of quantity producers would want to use.

12 We do see that this process of
13 burning sulphur is a pretty simple process.
14 Burn some sulphur, take that and move it in.
15 It was actually allowed by a number of
16 certifiers, up until kind of fine reading of
17 the regulation led a number of people to the
18 conclusion that there needed to be a petition
19 on the product for use. So there is a history
20 of this use being consistent with organic
21 production practices.

22 And that really is it. We do see

1 that this, allowance of this material,
2 allowance of this equipment to give us this
3 material is going to allow us to solve some
4 soil fertility issues on farm. The material
5 and equipment is available by several sources.

6 A number of our growers are
7 familiar with this process because it was used
8 historically in their region and they're
9 looking at possibly getting some of that old
10 equipment out of the barn and tuning it back
11 up.

12 So that is my appeal to you to
13 approve the petition. Thank you.

14 CHAIR MOYER: Thank you.

15 Mr. Joe.

16 Thank you, Brian. You have a
17 question, Joe?

18 MEMBER SMILLIE: I can't resist,
19 Brian. Did you allow it when you were at
20 CCLF?

21 MR. McELROY: Yes, we did.

22 MEMBER SMILLIE: I thought so.

1 Well, that puts you in a good space then.

2 MR. McELROY: We allowed it until
3 we didn't allow it.

4 MEMBER SMILLIE: North Carolina.
5 You don't use this in North Carolina; right?

6 MR. McELROY: I don't specifically
7 know if there would be an application in North
8 Carolina. I doubt it.

9 MEMBER SMILLIE: So combined with
10 the charts that the previous gentleman set up,
11 it's really a low rainfall, high pH soil, that
12 requires this treatment?

13 MR. McELROY: My understanding is
14 that some producers on the East Coast might
15 use it in greenhouse situations, where you're
16 not getting the acid rain.

17 MEMBER SMILLIE: Gee, I never
18 thought it would be so good to have acid rain,
19 let me tell you!

20 CHAIR MOYER: Thank you, Joe.
21 Gerry.

22 MEMBER DAVIS: Brian, you

1 mentioned the growers acknowledged there are
2 several sources of elemental sulfur that's
3 pure enough to be appropriate to fit into the
4 recommendation that the Crops Committee has.

5 MR. McELROY: Sorry. The soil
6 sulfur?

7 MEMBER DAVIS: The elemental
8 sulfur for burning.

9 MR. McELROY: Oh. No, there's--
10 we're--I'm saying there's other sources, other
11 than just the equipment that Harmon Systems is
12 offering.

13 MEMBER DAVIS: I see.

14 MR. McELROY: There are other
15 people that manufacture similar equipment.

16 MEMBER DAVIS: Similar equipment.

17 MR. McELROY: And there's
18 equipment historically, sitting around on
19 various farms, that was used--my
20 understanding--was used prior to broader use
21 of--now I'm going to blank on it. The other
22 acid on the conventional side. Sulfuric acid.

1 MEMBER DAVIS: Okay. I
2 misunderstood you. Thanks.

3 CHAIR MOYER: Hugh. Go ahead.

4 MEMBER KARREMAN: Just a question.
5 I haven't kept up on the Crops Committee, and
6 sulfuric acid--can't you just use elemental
7 sulfur pattern? I'm just wondering.

8 MR. McELROY: Well, you can but
9 that's what I said. That requires tillage.
10 So maybe you can go in and put that in, first
11 round on tillage, but if you've got a
12 permanent crop--and then you kind of have to
13 ask about the efficiency thing too, and is
14 that really better for long-term soil?

15
16 I mean, what we see with this
17 product is the ability to build better soils,
18 and we're not just talking about adding
19 sulfur. We're talking about places where
20 we've got salt buildup, that this could help
21 us move that through.

22 We're talking about not losing

1 organic ground that's currently certified,
2 that if we can't rectify the soil fertility
3 issues, we're going to have to drop that round
4 and move on, and, you know, it's hard to make
5 organic round. It takes three years.

6 CHAIR MOYER: Thank you, Brian.
7 Appreciate your time.

8 MR. McELROY: Thank you.

9 CHAIR MOYER: The Board would like
10 to call Bryan Sakuma to the podium.

11 He's on the plane as well.

12 [off-mike remarks]

13 MS. FRANCES: I made some
14 suggestions.

15 CHAIR MOYER: We have Renee Mann.
16 Is that correct, Valerie? Renee had spoken
17 earlier.

18 MS. FRANCES: She said she went
19 sufficiently.

20 CHAIR MOYER: Thank you. On our
21 list next I have Will Fantle again. Will is
22 going to give it to the farmers tomorrow, too.

1 The Board would like to call Tom
2 Hutchinson to the podium and Peggy Miars will
3 be on deck.

4 MR. HUTCHINSON: Thank you. I'm
5 Tom Hutchinson, regulatory and policy manager
6 for the Organic Trade Association. Our written
7 comments are considerably fuller than what I
8 can mention here, and I urge you to review
9 them as you consider your agenda items,
10 including comments on inerts and the 100
11 percent label, retail certification, soil-less
12 growing systems, animal welfare and
13 biodiversity.

14 A couple of other issues. On
15 personal care, or you have "cosmetics," please
16 note that the term "personal care," as OTA
17 uses it, includes soaps as well as cosmetics.
18 The FDA term, cosmetics, does not include
19 soaps, as I understand.

20 And while NOP regulation is a
21 worthwhile eventual goal, the proposal as it
22 stands does not seem sufficient to resolve

1 several issues. OTA therefore recommends that
2 NOSB form a task force similar to aquaculture
3 to address the numerous issues raised in our
4 written comments and others that might arise.

5 On materials and the definition of
6 synthetic, our primary objective in seeking
7 clarification here is to facilitate the
8 expansion of organic producers, land under
9 organic management and the range of organic
10 products on the market.

11 Clarification will reduce or
12 eliminate significant uncertainty in the crop,
13 livestock and handling input industry, and
14 potentially make more organically-compatible
15 tools available to organic farmers and
16 handlers.

17 Clarification will also help
18 reduce consumer uncertainty about the meaning
19 of the organic label, and we're confident that
20 our suggestions would not compromise the
21 integrity of the organic label in any way.

22 Rather, greater clarification will

1 make the whole organic system more robust and
2 consistent.

3 We disagree with the conclusion
4 reached in the final paragraph of page two
5 concerning the question of whether an
6 agricultural raw material that is processed,
7 so that it becomes synthetic, is still
8 agricultural. The Materials Working Group did
9 not recommend a classification of agricultural
10 synthetic, and while the realm of potential
11 certified organic synthetic products might
12 represent a small fraction of organic
13 agriculture, several approaches have been
14 suggested to address this issue, including
15 requiring that all handling substances
16 included on the national list in Section 605
17 and 606 be subject to commercial availability,
18 regardless of their classification.

19 It would also help for livestock
20 feed requirements to be revised, to be
21 consistent with human food rules, by
22 permitting up to 5 percent nonorganic

1 agricultural product as livestock feed, also
2 subject to commercial availability.

3 Finally, microbiological
4 production can be considered agricultural and
5 organic. We note that there currently exists
6 certified organic products of microbiological
7 fermentation, including yeast and alcohol.

8 Finally, I'd like to spend some
9 time just mentioning that OTA has formed a
10 food safety legislation task force, and we are
11 requesting input from the entire organic
12 community, especially we're looking for input
13 regarding production or handling research or
14 practices, including the use of manure that
15 could help us make the case for preventive,
16 outcome-based requirements that will not
17 disadvantage the organic system, both in
18 production and handling.

19 We're looking for any kind of
20 research that anybody might have on food
21 safety and organic production, and we want the
22 bad news as well as the good, and the more the

1 merrier, and anything that anybody can do to
2 help us out in that is more than welcome,
3 because as has been noted before, there's a
4 lot of activity up there on the Hill and we
5 need to be prepared as soon as possible. We
6 are working with what's going on, and hope to
7 be able to get them the best information we
8 can as soon as possible.

9 So, please, if anybody has
10 anything like that, you can send it to me
11 directly. Thank you. That's all I have.

12 CHAIR MOYER: Thank you, Tom.

13 Any questions or comments for Tom
14 from the board members?

15 [No response]

16 CHAIR MOYER: Okay. Thank you,
17 Tom. The chair recognizes Valerie Frances.

18 MS. FRANCES: I was just told that
19 John Rapp is in fact here. The sulfuric acid
20 seeker; or one of them.

21 CHAIR MOYER: Okay. The board
22 would recognize John Rapp. Thank you,

1 Valerie.

2 MR. RAPP: John Rapp, and I farm
3 with Olsen brothers in Washington State.
4 We're farming organic blueberries. We have
5 used sulfur burners in the past. We did that
6 to mitigate some of the mineral residue that
7 come out of the wells. Since the introduction
8 of sulfuric acid, we have not done that, but
9 that's in a conventional sense. We have some
10 of the equipment.

11 It would work well to use in the
12 blueberries. Initially, in our area, we have
13 to buffer the soil down from about 7.5 pH down
14 to about five. That's an initial application
15 of sulfur. Over time, though, you know, ten
16 years, we're not sure that we'll be able to
17 keep that soil down at about 5 pH. It's going
18 to naturally want to come back up.

19 The use of a sulfur burner would
20 be a very sustainable way to keep this pH down
21 at a lower level, so that we could continue to
22 farm the organic blueberries.

1 We have experience with a lot of
2 crops' hops. Apples, blueberries, cherries,
3 wine grapes. And sulfur's very common. We
4 use sulfur in organic applications via
5 sprayers on our organic crops of Concords.
6 It's considered organic for our purposes. The
7 basic sulfur applications. But this would a
8 very nice way to very friendly with the soil,
9 we've been there a long time, and it's truly
10 going to be a sustainable way to keep our
11 production going.

12 Any question?

13 CHAIR MOYER: Yes, we do have a
14 few questions for you, John. Kevin, and then
15 Katrina.

16 MEMBER ENGELBERT: Did you say how
17 long you've been certified organic?

18 MR. RAPP: In the blueberries,
19 we've been certified organic for about three
20 years. In Concord, it's about ten years.
21 Blueberries are very new.

22 CHAIR MOYER: Katrina.

1 MS. HEINZE: If you didn't have
2 the sulfur burner as an option, what would you
3 do to lower the pH of the soil?

4 MR. RAPP: We would probably be
5 using a citric acid application.

6 CHAIR MOYER: Yes. Katrina, a
7 follow-up?

8 MS. HEINZE: And why would you
9 consider that less sustainable?

10 MR. RAPP: That product, the
11 majority of that I think we'd get out of
12 China. The expense of it is getting higher,
13 and I'm not sure what direction that industry
14 is going to go in the future.

15 MS. HEINZE: Thank you.

16 CHAIR MOYER: The chair recognizes
17 Tina.

18 MEMBER ELLOR: I don't know if
19 this is a good time to bring this up, and
20 "beat me down" if it's not. But we had some
21 questions, you know, that we had asked to be
22 answered by our technical review and they

1 didn't. But it's possible you could help us
2 with this. You said you're using citric acid
3 from China, and we had some questions
4 surrounding whether that's a more sustainable
5 method than this, and we had questions around,
6 you know, how that's produced. Is it non-GMO?
7 You know, a lot of questions about citric acid
8 as a viable substitute for sulfuric acid.

9 Also we had some questions about
10 why vinegar is not a good substitute, and this
11 might be beyond the scope of anyone in the
12 room but we wanted to know the quantitative
13 differences between citric acid, acetic acid,
14 and sulfuric acid, and their ability to
15 neutralize carbonates and bicarbonates in
16 irrigation water.

17 So just for the record, we had
18 those questions, you know, so that if anyone
19 can seek us out and answer those questions,
20 that would be great.

21 MR. RAPP: I'll pas on that.

22 CHAIR MOYER: John, I had one

1 question for you. I'm just trying to maybe
2 get your opinion or your idea about the
3 concept. That you said mainly you would be
4 using the sulfur in blueberries cause you have
5 to get your soil pH from 7.5, or something,
6 down to 5.0.

7 What's your thoughts on whether or
8 not some soils just weren't meant to grow
9 blueberries? And maybe that's not what we
10 should be growing there.

11 MR. RAPP: Well, that is true.
12 Mother Nature, in our area, gave us a pH that
13 is not conducive to growing blueberries. The
14 one thing that turns out to be very
15 interesting--we get a very good production and
16 we do not have the typical associated problems
17 with blueberry production. An example.
18 Mildew.

19 Most places that grow blueberries
20 have a tremendous amount of rain. That is how
21 the pH gets lowered. But also with that, you
22 have a lot of mildew problems and product to

1 market is an iffy thing. In the area that we
2 are, we do not have a lot of rain. We can
3 consistently bring to market a very nice
4 product with just fooling Mother Nature on the
5 pH of the soil. Other than that, the
6 blueberries absolutely love to grow in that
7 area.

8 CHAIR MOYER: A follow-up
9 question. What's your feeling, then, about
10 whether or not you think you might be creating
11 an unfair advantage for East Coast blueberry
12 growers, or something, where it does rain and
13 they are designed to grow?

14 I mean, it's always an issue that
15 comes up.

16 MR. RAPP: You know, since
17 blueberries are fresh product, it's largely a
18 degree of timing, and so I'm not sure that
19 we're going to hit the timing, and along with
20 the transportation costs, I think it's going
21 to equal out.

22 CHAIR MOYER: Thank you.

1 Gerry had a follow-up to that,
2 Joe, and then I did recognize you.

3 MEMBER DAVIS: When you look at
4 blueberry production in the United States,
5 Florida and California production is the
6 earliest. They tend to hit the market at
7 similar timeframes. Columbia Basin, where
8 this gentleman is, I'm assuming...?

9 MR. RAPP: Yes.

10 MEMBER DAVIS: --comes in after
11 that, and then the East Coast, a lot of these-
12 -you may be in the market the same time as
13 like North Carolina or somewhere like that;
14 right?

15 MR. RAPP: A portion of; yes.

16 MEMBER DAVIS: Say that again.

17 MR. RAPP: Yes; just a portion of,
18 though.

19 MEMBER DAVIS: Right. And then
20 the more northern areas have their own market
21 timing. You're done by then because it's too
22 warm at that point, and--

1 MR. RAPP: That's correct.

2 MEMBER DAVIS: --you do not compete
3 with the bulk of the Northeast growers.

4 CHAIR MOYER: Thank you, Jerry;
5 appreciate that.

6 Joe.

7 MEMBER SMILLIE: Just want to
8 note. Yes, if they use sulfur too, put sulfur
9 into the soil, and to lower the soil pH in
10 order to grow blueberries, we use a lot of
11 limestone, Jeff, to get our calcium into the
12 soil and to raise our pH. So, you know, it's
13 not as if that area's not meant for
14 blueberries. Maybe our area isn't meant for
15 broccoli. But thank God for limestone; right?

16 CHAIR MOYER: No, I understand, I
17 appreciate that. I just wanted to get his
18 opinion. Thank you.

19 Any other questions for John?

20 [No response]

21 CHAIR MOYER: John, we appreciate
22 your traveling to come and speak with us here

1 today.

2 MR. RAPP: Thank you very much.

3 CHAIR MOYER: Our pleasure to have
4 you here. The board would like Peggy Miars to
5 come to the podium. Or Zea. You don't look
6 like Peggy.

7 MS. SONNABEND: I don't look like
8 Peggy but I'm trading with her so I can go to
9 the certifier meeting, and she'll go in my
10 spot; if that's okay.

11 CHAIR MOYER: The board has no
12 problem with that.

13 MS. SONNABEND: Thank you. I'm
14 Zea Sonnabend with California Certified
15 Organic--

16 CHAIR MOYER: One moment, Zea.
17 Will you be using your proxy as well?

18 MS. SONNABEND: Yes.

19 CHAIR MOYER: Thank you.

20 MS. SONNABEND: I have a proxy
21 from Jody. I don't think I have a full ten
22 minutes but a little over five.

1 Anyway, I'm Zea Sonnabend with
2 CCOF, and I've been here many times, and I'm
3 here today to talk to you about materials. So
4 let's get started cause there's a lot of
5 materials on your agenda.

6 I wanted to say one thing about
7 your document, about priority of petitions.
8 I really raised a question, on the second
9 paragraph of that document, where you said you
10 were going to take petitions to remove over-
11 petitions, to add, even if the petition didn't
12 raise substantive issues about health, and the
13 environment, and that makes it sound to me
14 like you're willing to forgo some of the
15 criteria that you have to fulfill in order to
16 have a petition to remove, and I'd like you to
17 take another look at that second part of
18 petitions to remove, and make it more clear,
19 what you're talking about, and why you
20 wouldn't have to have evidence supporting
21 removal that affects human health and the
22 environment.

1 I also suggested an additional
2 priority, which I call 2A, which is the
3 petitions received that were never taken up by
4 the NOSB. I never called these "lost."
5 They're not lost. But they were never taken
6 up by the NOSB.

7 Consequently, they will not be in
8 past minutes of the NOSB, and I wish Dan was
9 here. Maybe one of you can convey this to Dan
10 when he gets back. They're not in the minutes
11 because they got stalled somewhere in the NOP
12 process, for various reasons.

13 The list is in my written comments
14 but the most pressing one, that you've heard
15 something about today, a little bit, is the
16 one for turpine polymers, because turpine
17 polymers is stuck in the whole EPA inerts
18 conundrum.

19 But the petition for turpine
20 polymers that was never taken up because it
21 was ruled to be an inert and reclassified by
22 the EPA, is actually not an inert. It's an

1 active ingredient in the product, in the way
2 that it's used. And therefore, as an active
3 ingredient, it needs to be addressed by the
4 NOSB, as a petition, to put it on the national
5 list.

6 So that got further complicated by
7 the EPA ruling because it got reclassified to
8 EPA List 4 in 2005, and yet the statement from
9 NOP only recognized inerts as of 2004. So
10 turpine polymers is a petition that, really,
11 you need to take up, it was a complete
12 petition as far as I recall, all you need to
13 do is send it for a TAP review, and let's
14 please get it on to the agenda. It's the
15 turpine polymers from pine trees have a long
16 history of use in organic as adjuvants, and we
17 really want you to take it up as a petition
18 item for an active.

19 What Mr. Fiery was commenting on
20 was an additional ingredient that is an inert,
21 that is along with the turpines in his product
22 formulation, and that is under the inerts

1 policy and needs to be treated as such. But
2 the polymers themselves are the active
3 ingredients in those products.

4 Okay. On to other petition
5 materials. CCOF supports the addition of
6 sulfuric acid to the national list. As Brian
7 said in his testimony, this is not just one
8 company who makes it. We had every intention,
9 when we let growers use it before the NOP rule
10 came in, of having it be in full compliance
11 with the rule.

12 We didn't get a straight answer to
13 of NOP at the beginning, when the rule was
14 first implemented, about whether it needed to
15 be petitioned or whether it was just okay, and
16 when we finally got the answer, which we were
17 left waiting on for a long time, it was not
18 the answer that will enable us to keep
19 allowing it to be used.

20 So we're happy to see that this is
21 one of those "dusted off" ones that has come
22 back to you, and we do hope that you can act

1 on it.

2 If I had more time, I'd talk about
3 the bicarbonate thing, and that's later; but
4 don't have enough time.

5 We also support the peracetic acid
6 to be allowed in the equilibrium with hydrogen
7 peroxide. Not necessarily for blanket use.
8 We feel like we need to know more about that.

9 But we were really confused by the
10 way that you posed those documents as
11 discussion items. It wasn't really made that
12 clear to me, what you were trying to get
13 discussed, and if it wasn't that clear to me,
14 it probably wasn't clear to a lot of other
15 people also.

16 So we understand what the urgent
17 problem is, which is that it's reclassified as
18 active. It is in stasis with hydrogen
19 peroxide. Whatever amount of it needs to be
20 recognized to keep achieving the stasis, we
21 would support the continued allowance of
22 hydrogen peroxide.

1 Okay. I have one thing to say
2 about the clarification of definitions. I
3 will be taking a little part of the Materials
4 Working Group tomorrow. So the one thing I
5 want to say about the definitions of materials
6 is please just make a decision. I don't care
7 so much what the decision is. We just want a
8 clear decision. Then we'll come back and see
9 the parts that don't work. But a decision
10 would really help us, whatever it happens to
11 be. Thank you.

12 Now on to the subject of inerts.
13 Well, because it's not easy to come up for the
14 information that you ask for in your request
15 for discussion, as I'm sure you know, I went
16 ahead and just hand-counted the items on the
17 OMRI list that were in the categories that
18 would be allowed to have inert ingredients in
19 them, which is the categories of pest and
20 disease control.

21 I came up with 346 products
22 listed. Now I will disclaim OMRI on this

1 because they had nothing to do with my
2 counting it. I just took the printed list and
3 counted it.

4 But in order to find out which
5 things have which inerts on is a huge and
6 laborious process that the OMRI database is
7 not really equipped to do at this time.

8 However, suffice it to say that
9 any of those things may have an inert and they
10 may have more than one inert, and those inerts
11 might be on 4A, and they might be on 4B.

12 Renee just did give you the
13 statistic. Approximately 65 percent of those,
14 they think, are ones that have List 4B inerts,
15 which would not be transferred over under any
16 of your existing options that only recognized
17 180.950 of the EPA, or List 4A, as it stands
18 right now, and not List 4B.

19 So if you can do the math, 346,
20 give or take, by 65 percent, some of which
21 have more, some of which have less inerts,
22 you're looking at several hundred inerts,

1 minimum. So you don't have that great of a
2 track record of reviewing inerts,
3 individually.

4 I hate to say it, but in the whole
5 time of the NOSB, I think you've done three,
6 and then we have the fourth one of turpine
7 polymers, that we're hoping will come back.
8 But you've got to pick up the pace if you're
9 planning to review the inerts individually.

10 Also, the reason that more haven't
11 come to you is many inerts do not have a full
12 amount of studies done on them, especially the
13 ones that were not moved over in the
14 reorganization of the EPA list to 180.950.

15 The ones that were moved over had
16 a whole--I can never get the acronym right--
17 but, you know, have had the whole process done
18 under FQPA or FPQA, or whatever. So they have
19 studies. But the other ones don't have in
20 that's accessible to most of us, and sometimes
21 that isn't even accessible to the formulators
22 of the products because they're just buying an

1 inert package called Surewet or MoreGrow, or,
2 you know, some other thing from another
3 company, and are only buying it for functional
4 effect, and get an assurance from the other
5 company that it's 4B, but they don't
6 necessarily know exactly very much information
7 about it. And so reviewing each inert is
8 very, very difficult.

9 I made a couple of
10 recommendations. Of course our main goal is
11 we'd like to have as little disruption to the
12 organic industry and the materials review
13 process as it stands right now, because we've
14 worked up a pretty good scheme, and although
15 we need some clarification and some dealing
16 with petitions, but we do have quite a few
17 products available for growers to use that
18 have been reviewed.

19 So we would like you to, at least
20 as an interim proposal, adopt all of List 4A
21 and 4B, whether that be on the national list,
22 or some addendum. We hope. Then we suggest

1 that you find some funding, or help find some
2 funding for OMRI and/or the EPA to complete a
3 comprehensive database, so you can get a full
4 idea of what inerts are out there, how many,
5 what kind.

6 And third of all, we'd like you to
7 take more seriously the clause in OFPA that
8 says, the NOSB shall work with manufacturers.
9 And then another part of it says, work with
10 the EPA to fully disclose all the inerts that
11 are in all of these products. Because if we
12 had full disclosure, then we wouldn't have
13 quite so much problem about confidential
14 information.

15 CHAIR MOYER: Thank you. Thank
16 you, Zea. Questions or comments from board
17 members?

18 [No response]

19 CHAIR MOYER: Thank you, Zea. We
20 appreciate your time.

21 Peggy Miars will be next up, and
22 Claudia Reid on deck.

1 MR. FEDER: I'm Sean and they
2 wanted to switch with me, so that I could go
3 to the certifier meetings, if that's okay.

4 CHAIR MOYER: The board recognizes
5 Sean Feder, then, in place of Peggy.

6 MR. FEDER: Thank you.

7 MS. FRANCES: Do you have a proxy?

8 MR. FEDER: I do have a proxy for
9 Robin Allen. That's correct.

10 CHAIR MOYER: Thank you.

11 MR. FEDER: My name is Sean Feder
12 and I am the inspection operations director
13 for California Certified Organic Farmers, an
14 accredited, certified certification agency.
15 I've been involved with organic certification
16 since 1991. Thanks to the board for this
17 opportunity to comment, and for all of your
18 hard work and diligence in addressing these
19 topics.

20 And as I mentioned, I will also be
21 commenting for Robin Allen who is CCOF's
22 grower and livestock certification supervisor.

1 And I'm going to comment on four topics.

2 One is the implementation of
3 biodiversity, and then three livestock topics
4 which I won't list now but I will get to.

5 So first, then, I will comment on
6 the joint crops compliance, accreditation,
7 certification committee's March 5th document,
8 Implementation of Biodiversity Conservation in
9 Organic Agriculture Systems.

10 CCOF strongly supports the
11 widespread implementation of the NOP
12 regulations regarding natural resource
13 conservation, and so we therefore welcome and
14 support this NOSB guidance proposal.

15 In particular, we believe that
16 implementation of these NOP regulations will
17 be enabled and greatly accelerated when the
18 NOP accreditation check list requires that
19 accredited certifiers implement organic system
20 plans, and inspection reports which address
21 the national resource conservation
22 requirements of the NOP regulations.

1 And on the whole, we believe that
2 this part of the regulation, in particular,
3 would benefit from strong leadership on the
4 part of the NOP, such as guidelines for
5 issuing noncompliances and specific deadlines
6 for implementation of relevant OSP sections by
7 accredited certifiers.

8 Another point I'd like to make is
9 that we confer with the accredited certifier
10 association comments, which actually, I was on
11 the committee that helped to draft those,
12 regarding the reemphasis of the term, natural
13 resources over biodiversity, and the reason is
14 because the former, natural resources, is a
15 more practical and familiar term to most
16 farmers.

17 And biodiversity is of course a
18 vitally important term and concept; however,
19 it tends to connote a particular method of
20 scientific measurement that is not widely
21 applicable to organic farm management or
22 organic farm certification.

1 And the term natural resources
2 better reflects the actual language used in
3 the key sections of the NOP.

4 For example, natural resources of
5 the operation is included in the definitions
6 section, 205.2, whereas the term biodiversity
7 is not.

8 So not that we shouldn't use the
9 term, biodiversity, but just that in our
10 experience as certifiers, we seem to get a
11 better reaction and more understanding and
12 buy-in from the farmers when we think about it
13 in terms of natural resources, and sometimes
14 when we talk about biodiversity, they think
15 about like counting egg shells, or counting
16 the number of species of grass, which is all
17 great and important but not as practical.

18 Okay. I'm going to move on. And
19 I'd like to briefly report to you on the state
20 of where CCOF is with regards to treatment of
21 the natural resources conservation and
22 biodiversity in our certification program.

1 We have a natural resource and
2 biodiversity section in our farm inspection
3 form. At this stage, these verification
4 questions aim to identify practices that may
5 fall short of maintaining or improving the
6 natural resources of the certified operation.

7 And we take really seriously our
8 obligation to require remedial actions of
9 certified operations who do not meet these
10 requirements, and we are also working at the
11 same time to refine and develop our response
12 and compliance thresholds in this area.

13 We also provide relevant training
14 and reference material to our inspectors, and
15 certified operations. Our organic system
16 plan, while it has always addressed certain
17 aspects of conservation and stewardship, but
18 from the angle of soil management, such as
19 questions about soil erosion and cover
20 cropping, and though we favor the concept, we
21 have not yet incorporated a specific organic
22 system plan section on natural resource

1 conservation.

2 It is substantially challenging
3 for both us, and our certified clients, to
4 distribute, collect, and approve new organic
5 system sections for existing clients.

6 We will eventually implement this
7 into our OSP, and again, we would like to see
8 this be a requirement for all certifiers
9 through the accreditation process.

10 Next, I'd like to move on to the
11 Livestock Committee's proposed recommendation
12 on the petition to include propionic acid on
13 the national list.

14 CCOF has reviewed this petition
15 and agrees with the Livestock Committee, that
16 propionic acid as a mold inhibitor for animal
17 feed, does not meet the evaluation criteria
18 for addition to the national list.

19 The second livestock issue that I
20 wish to address--I wish I had some volcano
21 slides at this point, because I know you guy
22 shave had a long day, but I don't, so you'll

1 have to bear with me.

2 The second livestock issue that I
3 wish to address is the Livestock Committee's
4 proposed recommendation to add new section
5 205.603(g) regarding the injectable vitamins,
6 minerals and electrolytes.

7 CCOF applauds the Livestock
8 Committee for taking on this issue and we
9 believe that these products are essential to
10 maintain the health and welfare of organic
11 livestock, and that they are consistent with
12 the Act.

13 Most--and I think this was
14 mentioned earlier this morning by another
15 certifier. But it is our understanding that
16 most, if not all accredited certifying
17 agencies, are already allowing their certified
18 livestock researchers to use injectable
19 vitamins and minerals as part of their
20 preventative health care systems, and so we
21 will be most happy to see these products added
22 as explicitly allowed.

1 Our written comments discuss the
2 manner in which the NOP regulations are
3 unclear in the approach to animal drugs, and
4 while these nutritional supplements, under
5 recommendation, are not and should not be
6 commonly thought of as drugs, we are a little
7 concerned that they could possibly be
8 misconstrued as falling under the restrictions
9 of the NOP 205.238(c), which requires there to
10 be illness to administer a drug. So we have
11 a specific request, or suggestion,
12 recommendation, that the proposed wording of
13 the section change include--or start with the
14 term, "as nutritive supplements, colon,
15 formulated injectable supplements."

16 And that would also actually be
17 consistent with the way that that whole
18 section of the rule is written. Each list is
19 as a particular purpose, and that would ensure
20 that it was intended to be allowed as a
21 nutritive supplement.

22 Okay. In the interest of time,

1 I'm going to--I had a little more on that, but
2 I'm going to move on to the last livestock
3 topic, and that's the committee's proposed
4 organic animal welfare guidance and standards.

5 Of course CCOF strongly believes
6 that animal welfare is an important element of
7 the organic regulations, and the standards
8 have not been super clearly defined, and we
9 understand that intelligent people can
10 disagree on what are the adequate measures
11 taken by livestock producers to ensure animal
12 welfare.

13 That said, we believe that one of
14 the most significant threats to the perceived
15 value of organic livestock products is the
16 nonspecific requirements concerning animal
17 welfare and living conditions.

18 While it seems that the intent of
19 the regulations is to provide humane care to
20 animals, the lack of specific requirements
21 prevents consistent interpretation of the
22 requirements and allows for a broad range of

1 livestock operations to be certified organic.

2 And so we welcome and encourage
3 the Livestock Committee in addressing this
4 issue and attempting to provide some guidance
5 and metrics to the organic community. And
6 let's see. We see the discussion regarding
7 the measurable scoring elements, such as body
8 condition and cleanliness, as a good first
9 step. However, CCOF would support more
10 explicit requirements regarding animal welfare
11 standards. We encourage the Livestock
12 Committee to continue their work to ensure
13 appropriate living conditions in health care
14 by developing more comprehensive language that
15 speaks specifically to such issues as animal
16 density, indoors and outdoors, access to the
17 outdoors and the allowance of various physical
18 alterations.

19 If the regulations can be modified
20 to clearly identify requirements for livestock
21 operations, we believe the consumer confidence
22 in organic livestock will also increase.

1 Thank you.

2 CHAIR MOYER: Thank you, Sean;
3 appreciate your cutting it short.

4 Questions or comments from the
5 board for Sean?

6 Hugh Karreman.

7 MEMBER KARREMAN: Just a comment.
8 Thank you for the constructive addition on --
9 as nutritive supplements for the proposed new
10 section heading. That's right on.

11 CHAIR MOYER: Thank you, Sean.

12 Finally, Peggy. I said your name
13 three times, and now you finally get to go.
14 Claudia Reid on deck.

15 MS. MIARS: I'm Peggy Miars,
16 executive director of CCOF. Thank you for
17 allowing us to change the order, so that Zea
18 and Sean could get to their meeting.

19 CHAIR MOYER: You're welcome.

20 MS. MIARS: And you'll be happy to
21 know, the longer the day got on, the more I
22 cut my comments. So thank you for the work

1 that the CACC has done on various issues and
2 for this opportunity to comment on the
3 committee's four agenda items today.

4 Regarding the issue of peer
5 review, we did submit written comments, and
6 after discussion with others here at the
7 meeting, I'd like to amend those to support
8 the effort to contract with NIST to do an
9 evaluation of the program, and I think that
10 undertaking a peer review program will
11 ultimately solve many of the current issues
12 surrounding differing interpretations of the
13 standards, lack of transparency, and a lack of
14 an NOP quality manual.

15 A 100 percent organic labeling
16 claim. The scope of the discussion document,
17 first of all, was very limited, and certain
18 uses for atmospheric gases were not even
19 included. They were left out entirely. So we
20 wanted to mention that. And we feel that the
21 simple answer to the 100 percent issue is that
22 any product--excuse me--use of any product on

1 605 would remove the final product from the
2 100 percent organic category, and this is the
3 cleanest way to ensure consistent application
4 of the claim.

5 And we suggest that the committee
6 consider a qualitative descriptor rather than
7 a quantitative 100 percent statement.

8 For example, a super duper
9 organic, or ultra organic, or premium organic,
10 or a totally organic dude would be fine,
11 unless you decide to drop the 100 percent
12 claim, entirely, which would not disappoint
13 us, at all.

14 And we request that you produce a
15 recommendation that's easy to explain, that's
16 able to be applied consistently, and that does
17 not manipulate the rule for specific
18 situations.

19 We need a document that will help
20 certifiers to regulate the variety of products
21 that are encountered every day, from organic
22 greens in storage, to bag salad, to fresh-

1 washed product, to canned tomatoes.

2 Retail certification. We
3 appreciate the fact that retail certification
4 has been removed from the grower discussion.
5 However, we do disagree that NOP guidance or
6 regulatory changes are required to certify
7 retailers.

8 Other than perhaps an issue that
9 was brought up today about the definition of
10 handler, that does not include retailers, and
11 perhaps that definition could be changed.

12 CCOF has been applying the organic
13 standards to retailers, locally and
14 nationally, since 2003, without any problems.
15 Some minor clarifications may be helpful in
16 the future regarding employee training and
17 signage, which I know have been some issues.

18 But overall, we think the rule is
19 sufficient to certify retailers today.

20 We do continue to oppose less than
21 100 percent annual inspection by a third party
22 for retail operations, with multiple

1 locations. The largest chains we're aware of
2 have a few hundred stores, and it is possible
3 to possible to inspect them all each year.

4 In fact, CCOF has just done so.
5 We recently completed nearly 300 individual
6 store inspections for one chain in about five
7 months.

8 Retail stores regularly face
9 annual inspections for food safety compliance,
10 so we see no reason why they couldn't also
11 have annual inspections for organic
12 certification.

13 So we urge you to uphold the
14 existing organic standards by requiring 100
15 percent third party inspection of retail
16 locations.

17 And cosmetic, personal care
18 products. In general, we support the
19 inclusion of cosmetics and personal care
20 products within the organic standards, rather
21 than standards that are developed and
22 administered by private businesses.

1 We recommend as few changes to the
2 rule as possible, the addition of a definition
3 of "cosmetic" and adding the word, cosmetics,
4 to the list of products that can use the
5 organic label, should be sufficient for now.

6 And lastly, I'm going to make
7 another pitch for the board to hold a meeting
8 on the West Coast. You'll get a different
9 perspective from very passionate and very
10 vocal individuals, I can guarantee you that,
11 and I really do urge you, assuming the budget
12 can allow to meet on the West Coast, because
13 I think it would be a different experience for
14 you, and like I said, a totally different
15 perspective on issues.

16 So thank you for this opportunity
17 to comment.

18 CHAIR MOYER: Thank you, Peggy.

19 The chair recognizes Kevin.

20 MEMBER ENGELBERT: Thank you.

21 Would you repeat your comment
22 about--I couldn't quite catch what you said

1 about any material that's used, that's not a
2 605, would disallow a substance from, or a
3 food product from being called 100 percent
4 organic.

5 MS. MIARS: Yes. That was it.
6 That if you use any product on 605, that the
7 final product should not be able to use 100
8 percent claim, because it would be a
9 nonorganic ingredient, or--

10 MEMBER ENGELBERT: But used in
11 what way? As a disinfectant for equipment?
12 Or in the product itself? Or in the
13 packaging? What, exactly, are you referring
14 to? I guess is what I'm not clear on.

15 MS. MIARS: All of the above.

16 CHAIR MOYER: The chair recognizes
17 Tracy; then Katrina.

18 MEMBER MIEDEMA: What about
19 diatomaceous earth in a green silo?

20 MS. MIARS: And it would be coming
21 in contact with the product; correct?

22 MEMBER MIEDEMA: Green. Yes.

1 There'd be no way of removing that
2 diatomaceous earth at any--

3 MS. MIARS: Yes. Then it should
4 not be able to be labeled 100 percent.

5 MEMBER MIEDEMA: And if it were
6 the case that most grains were stored that
7 way, preventing 100 percent organic grain,
8 that's your final thought?

9 MS. MIARS: Well, yes. In fact
10 the 100 percent claim, as you know, isn't
11 really used that much, and so, quite frankly,
12 should probably just go away, and the grain
13 should be called organic.

14 MEMBER MIEDEMA: Okay. I just
15 wanted to make sure. Thank you very much.

16 CHAIR MOYER: Katrina.

17 MEMBER HEINZE: Maybe you just
18 answered this question for me, but, really,
19 you mean that if we use the sanitizer, the
20 product shouldn't be a 100 percent organic?

21 MS. MIARS: Yes. Because there's
22 too much room for inconsistent interpretation,

1 and quite frankly, the 100 percent--
2 personally, I don't think there should be a
3 100 percent category.

4 MEMBER HEINZE: Well, that's what
5 I meant by it. I think you maybe jus answered
6 the question.

7 MS. MIARS: yes.

8 MEMBER HEINZE: I think it's
9 confusing for consumers, that buy lettuce that
10 has been appropriately washed. It seems like
11 it should be 100 percent organic. But maybe
12 it's just that the label is unclear. Thank
13 you.

14 CHAIR MOYER: The chair recognizes
15 Kevin.

16 MEMBER ENGELBERT: Yes. I'd like
17 to get back to that again. Does CCOF certify
18 any milk plants that use sanitizers in their
19 pipelines and then process and package organic
20 dairy products?

21 MS. MIARS: Yes.

22 MEMBER ENGELBERT: That seems

1 inconsistent with your statement to me.

2 MS. MIARS: Okay. Well, I'll be
3 honest with you. This is a question that'd be
4 better answered by our handler staff, who,
5 unfortunately, we don't have here today.

6 CHAIR MOYER: My question would
7 be, Peggy, if you use Tracy's example of
8 diatomaceous earth in grain, livestock must be
9 fed a 100 percent organic feed, are you saying
10 that all grain that has diatomaceous earth in
11 the storage tank would not be considered
12 useful for livestock feed?

13 MS. MIARS: Well, in that
14 situation then, I believe then that the rest
15 of the rule would have to be--rather than
16 saying a 100 percent, you would say organic.

17 CHAIR MOYER: Okay. The chair
18 recognizes Julie.

19 SECRETARY WEISMAN: I think that's
20 a very important point that you just made,
21 Peggy. The 195, and made with our labeling
22 claims that are used on the labels of

1 processed products, almost--mostly, really
2 sold at retail, I do not believe that those
3 categories apply to agricultural inputs.

4 Maybe I'm using the wrong terminology. I
5 forget it. I hate using the word input.

6 CHAIR MOYER: Raw.

7 SECRETARY WEISMAN: Raw materials.

8 I don't think that those categories apply.

9 MS. MIARS: And I apologize for my
10 ignorance, but does it currently say 100
11 percent organic feed or does it say organic
12 feed?

13 CHAIR MOYER: It says 100 percent
14 organic feed.

15 MS. MIARS: Okay.

16 MEMBER MIEDEMA: But we know
17 that's not true, just based on our use
18 discussion earlier. I think what we're
19 talking about with 100 percent labeling
20 composition is different. In a sense of a
21 livestock requirement is saying the word "all"
22 and using the word "100 percent," or else

1 there wouldn't--

2 CHAIR MOYER: Yeast is not
3 considered feed, though.

4 MEMBER MIEDEMA: It is not. Okay.

5 CHAIR MOYER: Bea, you had your
6 hand up. Please.

7 MEMBER JAMES: Okay. Sorry. I
8 guess you're getting a "grilling."

9 I'm not advocating for the
10 multisite construct with retailers, but I'm
11 trying to understand, and I really appreciate
12 your comments that you had about retail
13 certification. What I heard CCOF say is that
14 currently, injectable vitamins are not allowed
15 but they're being used. And that you
16 recognize that they are currently being used,
17 and it could be a detriment if injectable
18 vitamins were not put through by the NOSB.
19 Please allow that to happen.

20 Yet, on the other hand, retail
21 certification under the multisite construct
22 was also being used and was being practiced.

1 But I hear CCOF say that they don't support
2 that and that that's not part of what the rule
3 is.

4 Well, neither was injectable
5 vitamins. And so I'm trying to understand, if
6 you could help me understand how you quantify
7 what should be enforced and what shouldn't be.

8 MS. MIARS: That is a good
9 question and I didn't write the comments about
10 the injectable vitamins, so I can't really
11 address that aspect of our comments.

12 CHAIR MOYER: Thank you, Peggy.
13 We appreciate your patience for us.

14 The board would like Claudia Reid
15 to come to the podium and Joann Baumgartner is
16 on deck.

17 MS. REID: Good evening and thank
18 you for the opportunity to once again come and
19 make comments before you.

20 My name is Claudia Reid, and I'm
21 the policy and program director for CCOF. I
22 will speak to three agenda items today.

1 Soilless growing systems, lecithin, both
2 bleached and unbleached, and nanotechnology.

3 The Crops Committee did a really
4 good job of writing this soilless growing
5 systems document that we reviewed, and our
6 staff had a difficult time writing complete
7 comments on it without the full framework of
8 the greenhouse production standards
9 recommendation that was mentioned in the
10 document.

11 So instead of making your job
12 easier, we're going to make it a little more
13 difficulty by simply asking some additional
14 questions that we'd like you to consider.

15 Are you referring only to mature
16 crop production in soilless media? Many
17 transplants are grown in media consisting of
18 vermiculite and peat, or core fiber, and in
19 our mind would be soilless.

20 We would not support a proposal
21 requiring transplants to be grown in soil or
22 compost since they have plenty of time, once

1 transplanted, to interact with the soil.

2 Second question. Exactly how much
3 compost is needed in a, quote, compost-based
4 growing media. End quote. CCOF has certified
5 greenhouse production plants for mature crops,
6 such as tomatoes and cucumbers, with a grow-
7 bag type system in which most nutrients are
8 added through water.

9 But some compost, and other
10 biologically-active substances are added to
11 the media. We would need clarification on the
12 minimum requirement for compost, and whether
13 alternatives like humates, peat, and other
14 approved materials, would be acceptable.

15 Final question on the soilless-
16 growing systems. Since it's possible to meet
17 every other provision of the NOP rule, other
18 than the soil improvement standard, with
19 soilless media, and, in fact, potentially
20 provide more optimum nutrients--nutrition--
21 sorry, two crops--in the controlled
22 environment than they would get in the field,

1 thus making the food from them more
2 nutritious, maybe it would be best to suggest
3 allowing such crops to be certified with an
4 alternate label.

5 A label such as, quote, made with
6 soilless organic inputs, end quote. For
7 certifiers, it comes to the same thing as for
8 all growers. Is there an organic system plan
9 that can be verified, monitored, and enforced?
10 If there is, then there could be some type of
11 certification allowed, even if it wasn't the
12 full NOP organic seal.

13 For lecithin, bleached and
14 unbleached, and for purposes of our comments,
15 we are not making any distinction between the
16 synthetic and the nonsynthetic lecithin. We
17 support the movement--CCOF supports the
18 movement from nonorganic to organic
19 ingredients, if there is solid evidence of an
20 adequate supply of organic lecithin in an
21 appropriate form and of appropriate quality.

22 Our comments today are on behalf

1 of some of our clients. Our comments from our
2 clients indicate that there is not necessarily
3 an adequate supply of organic lecithin in
4 appropriate form or quality.

5 We have heard from many of our
6 clients, that the quality is what is a problem
7 for them in the manufacture of some of their
8 products. If the supply is not adequate,
9 either in quantity or quality, it might be
10 premature to remove it from the list.

11 We know that it's going to take a
12 little bit longer for this whole issue to be
13 settled, and we're hoping during the amount of
14 time that it will probably take for this, for
15 you guys to make your recommendation, better
16 quality alternatives will become available in
17 the meantime.

18 Zea mentioned to me that any of
19 you who had questions about the allergy to
20 soy, which in her case is real, it's not an
21 allergy to the word soy on the label, but a
22 real allergy to soy--she is available to

1 answer those questions. Obviously, she's not
2 here now.

3 On nanotechnology, what I want to
4 do, in the interest of time, is you asked
5 specific questions in your document, and we
6 did submit written comments on all of these
7 subject matters. So I just want to go through
8 your written questions and tell you what our
9 answers were.

10 You asked: As currently
11 understood, is nanotechnology compatible with
12 organic? We believe that nanotechnology is
13 not compatible with organic.

14 You asked: If not, are the current
15 standards keeping nanoparticles out? And we
16 commented that we believe the current
17 standards do not necessary keep nanoparticles
18 out.

19 Are any sectors of the organic
20 industry already using nanotechnology?
21 Because labeling is not required, we don't
22 know the answer to that question.

1 What are the concerns about
2 nanotechnology in food? Our concerns expand
3 on what the Materials Committee document
4 articulated. Lack of a clear definition.
5 Lack of understanding of the atomic and
6 molecular changes that can take place, and
7 that are not well-documented or researched at
8 this time. Inability of current regulatory
9 structure to deal with potential human health
10 and safety threats. Lack of current
11 regulatory structure that could rein in
12 unscrupulous actions by some manufacturers.
13 Lack of knowledge about long-term impacts of
14 nanotechnology use. And I'll stop there. Any
15 questions?

16 CHAIR MOYER: Thank you, Claudia.
17 Questions or comments from members?

18 Steve.

19 MEMBER DEMURI: Thanks, Claudia.

20 Did your clients indicate which
21 forms of lecithin they're using? Or is it
22 just a blanket statement?

1 MS. REID: Well, of course I
2 learned a lot about lecithin today, way more
3 than I ever probably needed to know, and I was
4 not interacting directly with the client, and
5 our handler person, who gave me the
6 information, referred to the particular form
7 of the lecithin in a way that I didn't hear
8 mentioned today. I suspect it might have been
9 the oilless. And I'll get back to you on
10 that.

11 MEMBER DEMURI: Okay. If we could
12 have that information for tomorrow, that would
13 be helpful.

14 MS. REID: Yes. Okay. I'll e-
15 mail Jody tonight and get it for you.

16 MEMBER DEMURI: Great.

17 CHAIR MOYER: Claudia, I had one
18 comment regarding your soilless mix comment,
19 and that was in discussions with the Crops
20 Committee, I think there's a strong feeling
21 that our thought would be that terrestrial
22 plants are designed to grow in soil, not in

1 bags of media where liquid is poured in. So
2 if that went through the way--I think it
3 should--that operation would not be certified
4 as organic.

5 MS. REID: Okay.

6 CHAIR MOYER: That's my personal
7 feeling, not necessarily that of the entire
8 committee.

9 MS. REID: And we'll hear more
10 about this tomorrow, then?

11 CHAIR MOYER: We will.

12 MS. REID: Thank you. All right.

13 CHAIR MOYER: Thank you, Claudia.
14 Joann. And Alexis Baden-Mayer is
15 on deck.

16 MS. BAUMGARTNER: Thank you,
17 members of the board, for the opportunity to
18 give input on biodiversity, conservation and
19 NOP. I'm Joann Baumgartner, the Wild Farm
20 Alliance. We promote a healthy, viable
21 agriculture that protects and restores wild
22 nature, and we encourage you to fully adopt

1 the recommendation of your Joint Crops and
2 Compliance Accreditation and Certification
3 Committees.

4 As I'm talking, there's slides up
5 here showing some farms that are conserving
6 biodiversity, and of biological diversity
7 itself.

8 Writers of the organic act and
9 rule instituted principles and standards that
10 are models for achieving balance of our
11 technological and natural worlds. We live in
12 extraordinary times. While we have the
13 fastest communication yet, which brings quick,
14 positive changes to our world, we are hitting
15 our ecological limits, experiencing global
16 warming, an unsafe food supply, river
17 pollution resulting in 500 oceanic dead zones,
18 unparalleled species extinctions and a
19 pollination crisis.

20 What is required in NOP to
21 conserve biodiversity and to maintain or
22 improve the natural resources, including soil,

1 water, wetlands, woodlands and wildlife, helps
2 to address these interrelated critical
3 situations.

4 Dated vegetation on farms, when
5 conserved on road edges, and tracks too
6 marginal for good yields, or in riparian
7 forests or wetlands, helps to capture excess
8 nitrogen before it off-gases or pollutes
9 waterways, filters pathogens like E.coli,
10 hence making our food safer, slows water down
11 for better groundwater recharge, provides food
12 and cover and corridors for wildlife. Farms
13 that conserve or plant native species that
14 flower throughout the growing season benefit
15 from native bees, which augment honeybee
16 pollination, and in some cases surpasses it.

17 Economic values can be realized
18 when habitat is present for beneficial
19 insects, rodent-eating predators, and
20 insectivorous birds and bats. Studies show
21 that biodiversity is greater on organic farms
22 than conventional production. This is partly

1 a function of less-toxic pesticides being
2 used, and partly because of diverse cropping
3 situations, including cover crops.

4 In different regions of the world,
5 organic farms have better pollination services
6 by native bees, greater success of fledgling
7 birds, a larger abundance of birds and bats
8 and butterflies and spiders than on
9 conventional farms. Additionally, because
10 organic livestock must be raised on pasture
11 during part of the year, grassland birds, like
12 bobolinks, that are in decline, benefit from
13 this habitat.

14 In 2008, the Farm Bill dedicated
15 significantly more funds to organic farming
16 than in the past. Especially important for
17 biodiversity is the conservation stewardship
18 program that now streamlines applications for
19 organic farmers.

20 Some certifiers have called
21 attention to the fact that biodiversity is not
22 defined in the rule, and they would like to

1 replace the word with the term, natural
2 resources.

3 I want to point out that there are
4 a lot of words, such as management,
5 monitoring, mulching, hormones, and
6 antibiotics that are not defined, yet they are
7 critical components for certification and
8 compliance.

9 In addition, the preamble makes it
10 clear that biodiversity is not just a cursory
11 word, but it has intent behind it when it
12 says, "The use of conserve establishes that
13 the producer must initiate practices to
14 support biodiversity and to avoid, to the
15 extent practical, any activities that would
16 diminish it."

17 The term, natural resources,
18 typically refers to management and extraction,
19 where biodiversity describes values of nature
20 that exist, not only for our benefit, but for
21 the sake of native species and ecological
22 processes. Both terms are important and one

1 should not be emphasized over the other.

2 We believe it's crucial for

3 biodiversity and natural resources

4 conservation to be fully developed and

5 implemented. By doing so, the organic

6 community will become more efficient at

7 addressing the intent of the rule and better

8 equipped to benefit from all that nature

9 provides. There's a couple more slides.

10 These are some slides of farms. Thank you.

11 CHAIR MOYER: Thank you, Joann. I

12 thought your slides were beautiful, and I tend

13 to agree with you, that the two words are not

14 interchangeable, and we need them both. But

15 comments, other comments from the board?

16 Suggestions?

17 [No response]

18 CHAIR MOYER: Thank you very much

19 for your presentation.

20 Alexis Baden-Mayer in the room?

21 [No response]

22 CHAIR MOYER: If not, Marty Mesh.

1 Mr. MESH: I'm going to let Andy
2 go first.

3 CHAIR MOYER: Well, then by all
4 means, Andy LaVigne.

5 MR. LAVIGNE: I brought the
6 microphone for you, Marty, so you're going to
7 have to stand in the middle of the room. And
8 being given the floor by Marty really does
9 concern me since he's behind me. But we do
10 have a little bit of a history in the Florida
11 Organic Advisory Committee.

12 I appreciate the opportunity and
13 the indulgence with my outlook file and my
14 electronic incapability this afternoon to keep
15 up with myself. But I'm Andy LaVigne, the
16 president and CEO of the American Seed Trade
17 Association, and we appreciate the opportunity
18 to be here with you today.

19 The American Seed Trade
20 Association is a very diverse group. We have
21 over 715 member companies. Obviously, the
22 seed industry in the U.S. is a multibillion

1 dollar industry. We represent all sectors of
2 seed production for propagation, organic,
3 conventional and biotech.

4 We've got a lot of--a growing
5 Biotech Seed Committee, and very active in
6 this area, and working both with the NOP staff
7 and the industry to meet the needs of the
8 growers, and also to begin addressing the area
9 within the National Organic Program dealing
10 with the use of organic seed in the exception.

11 And my comments today are with
12 respect to the List 4 inerts and List 4A
13 section, specifically, of inerts, and how we
14 deal with that, going forward.

15 And I want to read a few comments,
16 and then I've got our prepared statement for
17 the record.

18 We acknowledge that there are
19 complex issues surrounding seed use in today's
20 organic operations, and that these issues are
21 compounded by the underdeveloped organic seed
22 sector within the greater seed industry.

1 In 2005, the NOSB statement
2 specifically recognized gaps in the organic
3 seed industry by stating--I quote: "That
4 further development of the organic seed
5 industry is the key to increasing commercial
6 availability of organically-grown seeds. and
7 subsequent increased usage by growers.

8 In an effort to advance the
9 organic seed industry, ASTA has worked to
10 encourage the development of organic seed
11 markets, and increase member participation in
12 such markets. Recently, ASTA formally
13 committed members and resources to providing
14 better communication, information and training
15 related to seed production, seed sourcing and
16 seed inputs to the organic community.

17 ASTA believes these efforts will
18 further advance the availability of organic
19 seed, to provide the expertise and knowledge
20 necessary for the organic community to
21 effectively deal with seed, the seed inputs in
22 organic operations.

1 Our efforts here, and the products
2 on List 4A are important to the organic seed
3 industry, and we feel ultimately are important
4 to the organic grower. As the NOSB and the
5 NOP staff at USDA look at how to deal with
6 this issue, we feel that adoption of the
7 current List 4A inerts is the way to go, and
8 if a review needs to be done, then all
9 products should be reviewed in a scientific
10 manner through the resources that--or the
11 sources that AMS, NOP and the AMS have
12 available to them.

13 Just four quick topics on the
14 areas of interest for the seed industry.

15 One is the issue of coatings that
16 comes along with the seed industry. It's
17 important for size, buildup, and planting, the
18 uniformity issues, precision planting, as you
19 look to use more advanced material, or
20 implements to plant the seeds, as well as seed
21 placement to ensure better germination.

22 Seed also is an efficient delivery

1 mechanism for materials such as micronutrients
2 and amendments that may improve seed viability
3 and performance for the grower, and under
4 certain conditions, as we all know, seed may
5 require both processing inputs to make seed
6 viable.

7 For example, many lettuce
8 varieties may present photo or thermal
9 dormancy, such that it will not grow under
10 many normal growing conditions. Dormancy must
11 be broken through process and the use of
12 inputs. Otherwise, the seed simply may not
13 germinate.

14 And lastly, when seed-born
15 pathogens are present, NOP-compliant materials
16 may play an important role in reducing these
17 pathogens, such that the seed viability is
18 improved and disease transmission to the soil
19 is eliminated.

20 The seed industry is moving to
21 expand organic seed production. However, the
22 use of NOP-compliant materials and technology

1 will be necessary for the seed industry to
2 ultimately meet the needs of organic
3 production. Therefore, we ask that the NOSB
4 adopt solution option number two from the
5 November 2008 discussion document, which
6 provides to adopt the original 2004 List 4A
7 inerts as an itemized list, with ongoing
8 reassessment through the sunset process. I
9 appreciate the opportunity to submit our
10 comments and we look forward to working with
11 NOSB, and I will attempt to take any questions
12 that you may have this evening. Thank you.

13 CHAIR MOYER: Thank you, Andy. We
14 appreciate your time. Any questions or
15 comments from board members for Andy?

16 [No response]

17 CHAIR MOYER: Hearing none, we
18 appreciate your time.

19 Marty Mesh.

20 MR. MESH: Marty Mesh, Florida
21 Growers. I see the glazed looks, lasting
22 between me and happy hour, and so I'm going to

1 be really brief. Just a technical correction
2 for Jim. Jim's statement earlier was not
3 based in science. It was his personal
4 opinion, and he gets paid to have such an
5 opinion on OTCO's superiority as a certifier.
6 So I do want to raise a concern about the
7 multiple accreditation costs from the
8 certifier's perspective. We probably spent
9 over \$30,000 in staff time, this year, dealing
10 with NOP ISO Canadian, and lately, the OIG
11 audit, accreditation audits, and it's a
12 tremendous burden on small, nonprofit
13 certification programs.

14 I raise concern about George and
15 Grace's suggestions about opening up OFPA. Be
16 careful what you want to do. It caused a
17 great deal of concern from my viewpoint at
18 least. Brian's request for two farmers to be
19 heard. I would always urge this board to make
20 time for farmers, and maybe there'll be one
21 tomorrow.

22 This room. You know, with the

1 additional money that this industry has tried
2 to get for the NOP, you know, I mean, there's
3 room now, but the whole day, there are people
4 out in the hall kind of taking turns, standing
5 up in back. It's pitiful to think that
6 without USDA staff time being-- and lodging
7 costs and travel costs, going somewhere else,
8 California was mentioned, that we don't have
9 a room big enough, and that we had to take up
10 a collection out in the audience to get
11 wireless, so that people could pull up
12 documents, you know, and NOP positions or NOSB
13 recommendations, to be able to share in the
14 audience as this meeting took place.

15 And for the record, I've never e-
16 mailed any NOSB member about any vote. I
17 barely know how to do e-mails as well. I
18 think substantively, aquaculture standards, if
19 Grace is going to bring up yeast again, then
20 I'm going to bring up shrimp, and urge this
21 board to move forward with aquaculture
22 standards, you know, and out of concern for at

1 least managed aquaculture. The sunset
2 materials. We want to support them being
3 relisted. We also support the biodiversity
4 effort, and when we certify retailers, we
5 inspect every store.

6 And then last but not least, a
7 nonorganic okra update. We still, to this
8 date, have never been contacted by the
9 petitioner, by a yet-to-be-named "hmm-hmm
10 good" soup company that expressed interest, or
11 anybody else, as far as--you know--not as far
12 as organic okra, IQF, and I've said it at
13 every meeting. I will continue to say it.

14 It's up to the industry that wants
15 to source a product to contact farmers, maybe,
16 about hey, how can we make this work? It's
17 not up to, you know, us to come, keep stuff
18 from being listed. Nonorganic agriculture
19 products from being listed. But that's what
20 we had to do, and I've been waiting, somewhat
21 patiently, and somewhat not, for the phone to
22 ring or the e-mail to come, expressing

1 interest, and there's certainly farmers in the
2 South that grow okra every single year and
3 will continue to do so, and would be happy to
4 work with a company on a fair and equitable
5 long-term relationship.

6 With that, you guys have done
7 great as usual, and see you next time.

8 CHAIR MOYER: Thank you, Marty.

9 Any questions or comments that
10 board members may have for Marty on any of the
11 topics he brought up?

12 MR. MESH: Nonorganic okra
13 comments.

14 CHAIR MOYER: Just a minute.
15 Steve doe shave a comment.

16 MEMBER DEMURI: I was going to
17 comment that your--I thought we were going to
18 get away without an okra comment. I thought
19 you were going to disappoint me; but you
20 didn't. So thank you.

21 CHAIR MOYER: Okay. Thank you
22 very much. Thank you, board members. With

1 that last presenter, this board stands
2 adjourned until promptly, 8:00 o'clock
3 tomorrow morning, when we will reconvene.

4 Thank you very much.

5 (Whereupon, the above-entitled
6 matter went off the record at 6:42 p.m.)

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