

UNITED STATES DEPARTMENT OF AGRICULTURE
USDA NATIONAL ORGANIC PROGRAM

In the Matter of:)
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)
NATIONAL ORGANIC STANDARDS)
)
(NOSB) BOARD MEETING)
)
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Thursday,
September 19, 2002

The Radisson Barcelo Hotel
Washington
Washington, D. C.

The above-captioned matter convened, pursuant
to Adjournment, at 8:00 a.m.

MEMBERS PRESENT:

- OWUSU BANDELE
- KIM BURTON
- DAVE CARTER
- GOLDIE CAUGHLAN
- ANN COOPER
- DENNIS HOLBROOK
- MARK KING
- ROSALIE KOENIG
- RICHARD MATHEWS
- KEVIN R. O'RELL
- NANCY OSTIGUY
- JIM RIDDLE
- BARBARA ROBINSON
- GEORGE SIEMON

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8:10 a.m.

CHAIRMAN CARTER: Let's go ahead and get started.

(Pause)

CHAIRMAN CARTER: Okay. I want to reconvene the meeting of the NOSB, with the minutes and transcript noting that Becky Goldberg is absent as well as Mike Lacy, who had to leave last night because of a family emergency, and before we get into then the continuation of the Livestock Materials Review, just a couple of things.

Number 1. Some of us so are so incredibly optimistic, we think that we might get done a little bit early today, but the agenda does call for Public Comment from 5 to 6, and legally, we're required to have the Public Comment during that time. So, we may take a little recess, and I'll go take a nap or something, this afternoon for awhile, if we get done early. So, we will be here at 5:00 for that, for the Public Comment.

So, before we get started, too, I also -- Barbara Robinson would like to just visit with the Board about some issues.

1 MS. ROBINSON: Thanks, Dave.

2 It's come to my attention that some
3 certifying agents may have a misunderstanding of some
4 parts of the rule. So, I just want to restate a point
5 here, and if you know a certifying agent who's not got
6 this, please point them out to Section 205.501(a)(13),
7 and let me just say what this says.

8 (a) says that "any entity that we accredit as
9 a certifying agent under this part must" and (13) says
10 "accept the certification decisions made by another
11 certifying agent accredited or accepted by USDA."

12 That means that the certifying agents do not
13 have the authority and cannot require other certifying
14 agents to prove that their certificates are good. If
15 we hear about it, we will promptly contact the
16 certifying agent who is making those kinds of requests
17 and ask them to cease and desist from that kind of
18 activity, and if they do not, we will take further
19 action.

20 That's all I have to say. Thank you very
21 much.

22 CHAIRMAN CARTER: Could you be a little more
23 clear? Thank you, Barbara. That is a significant
24 issue and trying to get this taken care of.

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1 MS. KOENIG: I have a question of
2 clarification that came up. As I read some of the
3 Public Comment, and I guess there's two incidences that
4 are brought up regarding actual wording or linking
5 parts in the rule with changing, you know, like Marty
6 had said something about, you know, his -- not saying
7 we're going to do either of them, but do those types of
8 things, actually physically linking things or changing
9 thought or perception of the rule, does that require a
10 rule change? I was asking, I guess, in terms of
11 Marty's comment, which had to do with kind of rule
12 votings and changes or linking sections of rules.

13 MS. ROBINSON: If you do something that
14 actually changes the intent or the language of the rule
15 that would change somebody's actions, it would have to
16 go through rulemaking. There's probably finer points
17 to put around it, Rose, but I think that's the best way
18 to describe it. If it's a matter of saying, well, does
19 the word include followed by a colon mean only the
20 things that drop below it or include but not limited
21 to, you know, those sorts of things, and that's why we
22 have lawyers, and we go to them and ask them if we are
23 to allow this, is it rulemaking? Do we need to put it
24 to the public for comment or is it something that we

1 have, you know, within our ability just with -- and we
2 haven't changed the intent of the rule.

3 MS. KOENIG: Right. So, similar to kind of
4 the composting issues where, you know, there was public
5 comment that there needed to be changes. We instead
6 adopted a policy that rather than going through the
7 long tedious process of rulemaking that you said would
8 take a year and a half, the Board either assign, I
9 guess in the sense of composting, assign a task force
10 to actually look at the policy and then did sort of the
11 directives or, you know, the task force report to kind
12 of give our interpretation of what was meant, and that
13 thus far has been our policy, I guess, rather than
14 going through that tedious process of rulemaking that
15 doesn't serve the industry, correct?

16 I just wanted to see how to judge different
17 comments to try to figure out how we'd done things in
18 the past.

19 MS. ROBINSON: Well, in the compost, what we
20 -- the tack that we took, which I think would stand up,
21 is that rather than just hanging it all on the word
22 compost, we looked at 205.203(c)(2) where the actual
23 point is that producers must manage their soil and
24 that's the soil fertility and soil amendment and, you

1 know, what we did was we said what actions can a
2 producer take and still demonstrate that he is not only
3 maintaining but improving the soil?

4 MS. KOENIG: Right.

5 MS. ROBINSON: So, we haven't changed
6 anybody's actions. What we said was what can you do to
7 adhere to that, and if you go back even further in the
8 rule, at the very beginning, it talks about how every
9 producer must have an organic system plan and that plan
10 must contain like six elements that a producer has to
11 address.

12 Now, even though the rule's fairly specific
13 about a lot of things, we also look at the rule as to a
14 certain extent principles and recognize that no rule
15 written by anybody could ever be totally inclusive.

16 MS. KOENIG: Okay.

17 MS. ROBINSON: We could never account for
18 absolutely everything, particularly because this rule
19 is about processes. It's not about a product for which
20 there's only one recipe that you can come up with to
21 get to that point. It's about a process used by
22 producers, whether they're farmers or processors, to,
23 you know, actually manage an operation within those
24 organic principles.

1 CHAIRMAN CARTER: Jim?

2 MR. RIDDLE: I have a question, too, because
3 I see it directed not just to certifying agents but
4 also to multi-ingredient manufacturers, this is on your
5 first comment, going back to that, multi-ingredient
6 manufacturers because they have to have proof that
7 they're buying from certified suppliers, also retailers
8 who are putting things on the shelves and claiming
9 they're organic, livestock producers who are buying in
10 feed.

11 So, I understand that the rule says that
12 certification is good until surrendered, suspended, and
13 that's something that happens all the time and will
14 continue to happen as appropriate. You know, right
15 now, the certificate has dates on it to show that it's
16 valid, that it was in effect at the time that the
17 ingredient was manufactured or produced or that the
18 feed was grown, etc.

19 How are -- is the Department proposing to
20 replace that verification tool, I guess?

21 MS. ROBINSON: Look, what I said about
22 requirements by certifying agent, I don't have a
23 problem with a certifying agent or a company saying can
24 I see your certificate. What I'm talking about are

1 certifying agents who are telling their clients, go
2 tell those people to go fill out these forms and verify
3 to us that their certificate is good. Accept it on
4 faith. That's the bottom line. A certifying agent's
5 party or service is to keep up with your clients and
6 let them know whether they're in compliance or not in
7 compliance. If they haven't done the annual update,
8 you know, you got to get yourselves out there and do
9 it.

10 But the whole idea of this, you can't walk
11 around and maltreat everybody as though now the clients
12 are the crooks. That's the implication, Jim, that
13 unless you prove to me that, you know, you saw your
14 certifying agent some time in the last 12 months, I'm
15 not sure I believe you, and we will post those who are
16 suspended, and on January 2nd of every year, every
17 certifying agent is required to send to us a listing,
18 including the names, telephone numbers, and addresses,
19 of everybody they certified in the previous year.
20 We'll keep a database. If you tell us that somebody
21 needs to be suspended or revoked, we'll know, and then
22 we'll put that up, and we won't just do it on the Web.
23 We have -- you know, we know how to handle press
24 releases, program releases, and trust me, people like

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1 the packer, all kinds of magazines and the trade press
2 out there will pick it up and they will publish that.

3 We do it in our PACA Program at AMS every
4 time we rescind somebody's license and we don't allow
5 them to do business and we levy fines. We put out a
6 press release. The packer publishes those so that
7 people in the produce industry know who not to do
8 business with. Trust me, it works. Okay? We don't
9 need you guys to be the police, I mean, you know,
10 policing each other. We need you to police your
11 clients.

12 MR. RIDDLE: I guess that's what I'm talking
13 about, is, --

14 MS. ROBINSON: Poor choice of words. I don't
15 mean police.

16 MR. RIDDLE: -- during an inspection, you
17 know, if it's a multi-ingredient manufacturer, I need
18 to see the certificates from their suppliers that are
19 valid, and they may --

20 MR. MATHEWS: Every certificate is valid
21 until the certification is suspended. The certifying
22 agent has an obligation to update that certificate when
23 something changes. Something changes when there's a
24 change in the organic systems plan. Jim, we've been

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1 going over this for years.

2 You know, this whole issue has been discussed
3 through two rulemaking proposals, through a final rule,
4 and now for the past 21 months. What discourages me is
5 that we have a chairman of the Accreditation Committee
6 who does not get it, and I'll tell you, --

7 CHAIRMAN CARTER: No, Rick.

8 MR. MATHEWS: No, wait a minute.

9 CHAIRMAN CARTER: No.

10 MR. MATHEWS: No. What I want to say is that
11 we have to have compliance. We have to have
12 compliance, and we need everyone to understand that the
13 clients of certifying agents are not criminals. They
14 all want to do a good job, and the way they do a good
15 job is through the education from certifying agents,
16 and we have been trying to provide the guidance to
17 certifying agents.

18 Our first line of compliance will be with
19 certifying agents because the way we make this program
20 successful is for every certifying agent to recognize
21 that there is one standard, the National Organics
22 Standard. They can have other standards, but all
23 product produced under those standards have to be
24 marked for export, but when it comes to domestic

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1 production, it's one standard, and everybody has to
2 abide by the standard which is the National Organic
3 Program, and certifying agents have an obligation to
4 comply with that, and what Barbara said is that the
5 certifying agents cannot, cannot not accept product
6 produced by another certifying agent who has done their
7 job under the Act and the regulations. That's all
8 we're saying.

9 They have been accredited to certify to the
10 National Organics Standards. They are assumed to be
11 doing that until proven otherwise, just as clients are
12 assumed to be correct until proven otherwise. It's all
13 the process of due process.

14 CHAIRMAN CARTER: I just want to say
15 something at this point from the Chair. This Board
16 will conduct itself professionally, and when questions
17 are coming up, they will be responded to. They will be
18 responded to based upon the information. I will not
19 tolerate personality issues or accusations or those
20 type of things being a part of this Board's
21 proceedings. Period. End of discussion.

22 Let's move on now to Livestock.

23 Livestock (Continued)

24 MR. SIEMON: Atropine. Let me get my thing

1 here. Atropine is the first material on our list
2 today. This one --

3 MS. ROBINSON: Sometimes he's on our side.

4 MR. SIEMON: Anybody know what page it is in
5 your packet? Page 6, Atropine.

6 CHAIRMAN CARTER: Atropine.

7 MR. SIEMON: Atropine. Okay. We call this a
8 synthetic, and our motion is atropine should not be
9 added to 205.603, and one of the many uses that we can
10 see there that it can be used for was for plant
11 poisoning and it's a fairly rare occurrence and since
12 it's largely used for dealing with poison from
13 organophosphates, we recommend against the addition.

14 CHAIRMAN CARTER: Okay. So, motion.

15 MR. SIEMON: I read the motion. Atropine
16 should not be added to 205.603.

17 MR. SIEMON: Okay. Motion on the table is to
18 -- that atropine should not be added to 205.603. Is
19 there a second?

20 MR. BANDELE: Second.

21 CHAIRMAN CARTER: Owusu seconds. It's on the
22 table for discussion. Yes, Jim?

23 MR. RIDDLE: Well, during our consideration
24 of this material in the Livestock Committee, yeah,

1 first, the TAP really focused on the organophosphate
2 poisoning issue, but then it came out that it also is
3 effective for natural plants that quite conceivably
4 could be consumed by organic livestock, larkspur in the
5 West or Yew which could be more widespread, and then
6 there's another issue which has come up for this
7 material, and that is the dilation of pupils, of eyes
8 for eye surgery, and the TAP once again didn't go into
9 this a lot, and I guess I would like to call on Leslie
10 Zuck, who has some more information from Dr. Karreman
11 on this.

12 MS. ZUCK: Leslie Zuck, PCO. I did speak to
13 Dr. Karreman by phone yesterday.

14 MR. RIDDLE: We're not hearing you.

15 MS. ZUCK: How's that? No? Can you hear me
16 now? Okay. And one of the things that it is used for,
17 I don't -- I didn't talk about eye surgery with him,
18 but in livestock would be the dilation of the pupil.
19 It's really the only drug they use for that, and in an
20 eye infection, pink eye would be one which is something
21 that a lot of farmers struggle with, and other
22 infections for whatever reason. It could be a
23 bacterial infection that it picked up in the field.

24 The only way to get that eye to drain the

1 infection out, whether you treat it with a natural or,
2 you know, a conventional medication, is to get the
3 pupil to dilate so that you can get the air into the
4 eye and the atropine is used for that. It's only used
5 for a couple of days. The pupil dilates, they treat
6 it. When the eye is cleared up and the infection is
7 gone, it naturally goes back to normal and that's a
8 common treatment as well.

9 If you can't do that and the pupil continues
10 to be constricted, usually the animal's in a lot of
11 pain, but you can't get the infection to clear up, and
12 usually often they'll lose the eye. I don't know about
13 pink eye, but in other infections I've dealt with in my
14 livestock herd, they will lose that eye because, you
15 know, the infection would, you know, eventually just,
16 you know, do that. He's available by cell phone today,
17 too, if you have questions.

18 MR. RIDDLE: Yeah. No other question. I
19 misspoke when I said eye surgery. I meant eye
20 infections.

21 MS. ZUCK: Which was not -- I don't believe
22 -- I didn't see that dealt with in the TAP, but there
23 are producers I've spoken to today who have -- are
24 familiar with that use.

1 MR. RIDDLE: I guess I think it may be
2 premature to totally reject this material when we could
3 defer it and give a chance for some more factual
4 information. So, I 'd move to defer this material.

5 CHAIRMAN CARTER: Okay. Motion is made to
6 defer. Is there a second?

7 MS. KOENIG: I'll second it.

8 CHAIRMAN CARTER: Okay. Rose has seconded
9 it.

10 Discussion on the motion to defer? Owusu,
11 you had your hand up.

12 MR. BANDELE: That's okay.

13 CHAIRMAN CARTER: That's okay. All right.
14 Seeing nobody prepared to speak, we will then vote on
15 the motion to defer this material to the October
16 meeting.

17 Kim?

18 MS. BURTON: If there's more information
19 needed out of the contractors, then please get that to
20 me by next Wednesday.

21 CHAIRMAN CARTER: Okay. The instruction is
22 to get this to Kim by next Wednesday, and even though
23 this is just a motion to defer, I'll ask if anybody has
24 a conflict on this issue.

1 MR. BANDELE: That deferral now, is that --
2 are we implying that it is in fact going back to the
3 TAP review for additional information?

4 CHAIRMAN CARTER: Hm-hmm.

5 MR. BANDELE: Because otherwise, I have a
6 problem if it's petitioned for one thing and then
7 they're evaluating it based on the other, then suddenly
8 something else comes up for which the reviewers did not
9 find the opportunity to explore alternatives and that
10 type of thing.

11 MS. KOENIG: That wasn't petitioned.

12 MR. RIDDLE: It was a petition for livestock
13 medical treatment. I think we're still in that
14 category, and I think our request for additional
15 information from the TAP contractor can be quite narrow
16 on this, looking into these alternative uses of the
17 material, but it also gives the experts on the issue a
18 chance to provide us with more information, too.

19 CHAIRMAN CARTER: Okay. Ready to vote?
20 Bandelee?

21 MR. BANDELE: Yes.

22 CHAIRMAN CARTER: Burton?

23 MS. BURTON: Yes.

24 CHAIRMAN CARTER: Caughlan?

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1 MS. CAUGHLAN: Yes.

2 CHAIRMAN CARTER: Cooper?

3 MS. COOPER: Yes.

4 CHAIRMAN CARTER: Goldberg, absent.

5 Holbrook?

6 MR. HOLBROOK: Yes.

7 CHAIRMAN CARTER: King?

8 MR. KING: Yes.

9 CHAIRMAN CARTER: Koenig?

10 MS. KOENIG: Yes.

11 CHAIRMAN CARTER: Lacy, absent.

12 O'Rell?

13 MR. O'RELL: Yes.

14 CHAIRMAN CARTER: Ostiguy?

15 MS. OSTIGUY: Yes.

16 CHAIRMAN CARTER: Riddle?

17 MR. RIDDLE: Yes.

18 CHAIRMAN CARTER: Siemon?

19 MR. SIEMON: Yes.

20 CHAIRMAN CARTER: The Chair votes yes. 12 to

21 0, two absent, no abstentions. Okay.

22 MR. SIEMON: What's our number today? Two-

23 thirds, 8?

24 CHAIRMAN CARTER: Yes, two-thirds, so we're

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1 down to 8 today. 8's the magic number.

2 MR. SIEMON: Okay. Heparin is next. I'm
3 sorry, I don't have the same page. 5.

4 Heparin is a synthetic that's used in blood
5 -- to prevent blood from clotting. Our motion is that
6 heparin should not be added to 205.603, but that motion
7 was based on the availability of sodium citrate as an
8 alternative, and since we didn't find that in the
9 minutes yet, did we, where the processing are allowed
10 in our livestock?

11 CHAIRMAN CARTER: No.

12 MR. SIEMON: Have we found it? Remember
13 yesterday, we looked.

14 MS. KOENIG: I don't know if anybody looked.

15 PARTICIPANT: The committee was going to meet
16 last night.

17 MR. SIEMON: So, you know, the sodium citrate
18 is an alternative. It's not used as often for this.
19 It's not as available or widely used as this one is,
20 but if sodium citrate is available, that's the basis
21 that we were not adding this because there was already
22 an alternative. So, the motion is to not add it to
23 205.603.

24 CHAIRMAN CARTER: Okay. Motion has been made

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1 that it should not be added to 205.603. Is there a
2 second? Is there a second?

3 PARTICIPANT: Well, I'll second it for
4 discussion purposes.

5 CHAIRMAN CARTER: Okay.

6 PARTICIPANT: Then we have it on the table.

7 CHAIRMAN CARTER: Okay. It's been moved and
8 seconded. Now, discussion on the motion. Yes, Rose?

9 MS. KOENIG: Well, I would suggest that maybe
10 the committee would -- you know, if we're going to
11 obviously have a break, let's just go back and clarify
12 that, see if there is alternatives, before we knock it
13 out.

14 CHAIRMAN CARTER: Okay. So, is that --

15 MS. KOENIG: So, that's my motion. Motion
16 that the committee bring back --

17 CHAIRMAN CARTER: Motion to table.

18 MS. KOENIG: -- it some time today. Yeah.

19 MR. SIEMON: Second.

20 CHAIRMAN CARTER: Okay. Motion to table.
21 Seconded and tabled until later in the day is the
22 motion. So, it's not tabled indefinitely.

23 MR. SIEMON: And that's to go look through
24 the Minutes to find this motion that supports our

1 alternative.

2 CHAIRMAN CARTER: Okay. So, non-debatable
3 motion. Just call the roll.

4 Burton?

5 MS. BURTON: Yes.

6 CHAIRMAN CARTER: Caughlan?

7 MS. CAUGHLAN: Yes.

8 CHAIRMAN CARTER: Cooper?

9 MS. COOPER: Yes.

10 CHAIRMAN CARTER: Goldberg's absent.

11 Holbrook?

12 MR. HOLBROOK: Yes.

13 CHAIRMAN CARTER: King?

14 MR. KING: Yes.

15 CHAIRMAN CARTER: Koenig?

16 MS. KOENIG: Yes.

17 CHAIRMAN CARTER: Lacy, absent.

18 O'Rell?

19 MR. O'RELL: Yes.

20 CHAIRMAN CARTER: Ostiguy?

21 MS. OSTIGUY: Yes.

22 CHAIRMAN CARTER: Riddle?

23 MR. RIDDLE: Yes.

24 CHAIRMAN CARTER: Siemon?

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1 MR. SIEMON: Yes.

2 CHAIRMAN CARTER: Bandele?

3 MR. BANDELE: Yes.

4 CHAIRMAN CARTER: Chair votes yes. Okay.

5 That's tabled until later in the day.

6 MR. SIEMON: Okay. Moving right along here,

7 Furosemide.

8 CHAIRMAN CARTER: Yes. Oh, I'm sorry. That

9 was 12 to 0, 2 absent, no abstentions.

10 MR. SIEMON: F-U-R-O-S-E-M-I-D-E. We're
11 deferring too many here. This one -- anybody know what
12 page it is? 7, Page 7. This is a case where we
13 decided to return the TAP for further information, and
14 you can see on your sheet the list of reasons -- list
15 of inadequacies or where we need more information.
16 Method of manufacture and environmental impact,
17 alternative materials, studies and results, historical
18 use among organic farmers and certifiers, residual
19 properties, and, of course, the whole criteria. Sounds
20 like the whole works. So, if you want to talk about
21 it, we can.

22 CHAIRMAN CARTER: It does not require Board
23 action. The committee decided to send this one back.
24 So, we don't have to act on that. There's no motion

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1 that's on this one.

2 MR. MATHEWS: Do we know when they plan to
3 bring it back?

4 CHAIRMAN CARTER: George, the question that
5 was asked, do you have a plan when to bring it back?

6 MR. SIEMON: Oh, by October. That's our
7 goal. Yeah.

8 CHAIRMAN CARTER: Okay.

9 MR. SIEMON: Okay. The next one is activated
10 charcoal. Oh, okay. Sorry. Okay.

11 PARTICIPANT: Page 14.

12 MR. SIEMON: Calcium propionate is a
13 synthetic used in treating milk fever. It's the paste
14 form of milk fever, and the motion is calcium
15 propionate should be added to .603(a), allowed for use
16 in organic livestock production. Well, it just needs
17 to say (a). (a) is all we need.

18 CHAIRMAN CARTER: Okay. So, the motion is
19 calcium propionate should be added to 205.603(a),
20 allowed for use in organic livestock production.

21 Is there a second?

22 MS. OSTIGUY: Second.

23 CHAIRMAN CARTER: Okay. It's been seconded
24 by Nancy. It's on the table for discussion.

1 Rose?

2 MS. KOENIG: Through the TAP, I just noticed
3 that it could be used to increase milk production,
4 again just based on what the TAP said. So, I'm just a
5 little -- I don't know if we want to have an annotation
6 that would just, you know, specifically say as a
7 certain treatment because I wouldn't want to see it
8 used to enhance milk production which it can.

9 MS. OSTIGUY: Well, --

10 CHAIRMAN CARTER: Okay. Nancy?

11 MS. OSTIGUY: -- if you put it under Section
12 (a), then it can't be used for feed additive. It has
13 to be used for medical purposes.

14 MR. SIEMON: Right.

15 MS. OSTIGUY: That restricts it.

16 MR. SIEMON: Limited to what's right there on
17 the paper. Sedatives or disinfectants or medical
18 treatments is the limits of its use in (a).

19 CHAIRMAN CARTER: Okay. Jim?

20 MR. RIDDLE: Yesterday, when we discussed
21 this material, we mentioned that the committee had
22 considered its use as a mold inhibitor and recommended
23 against permitting that use, and it was suggested for
24 clarity that that also be part of the motion. So, I

1 would move to amend the motion to add prohibited for
2 use as a mold inhibitor.

3 CHAIRMAN CARTER: Okay. Motion's been made
4 to add that amendment. Is there a second?

5 MS. OSTIGUY: Second.

6 CHAIRMAN CARTER: Nancy seconded it.

7 MR. RIDDLE: Yeah. Prohibited for use as a
8 mold inhibitor, add that to the motion for clarity.

9 CHAIRMAN CARTER: Okay. Discussion on the
10 amendment? Yeah. Rose?

11 MS. KOENIG: I guess I'm not -- could
12 somebody make it clear to me how it's actually used?
13 Is it always just present for the milk fever or, I
14 mean, is that a realistic annotation? I'm not quite
15 sure on that.

16 CHAIRMAN CARTER: Okay. Have a gentleman in
17 the audience. Dan?

18 DR. LEITERMAN: Good morning. Dan Leiterman.
19 It's typically used for treatment in milk fever. It's
20 generally a one-dose or two-dose type application.

21 MS. KOENIG: Okay. So, it's not present.
22 Okay. So, then that's a realistic annotation.

23 DR. LEITERMAN: Hm-hmm.

24 CHAIRMAN CARTER: Okay. Any further

1 discussion on the amendment? Kim?

2 MS. BURTON: Well, a question on the
3 Executive Summary. It does say that the reason for the
4 mold inhibitor is for the liquid aloe vera dry feed
5 pellets, and I know that they don't use that, the
6 preservative that we've been discussing earlier,
7 potassium sorbate. There are too many materials in my
8 brain. Potassium sorbate. So, are we limiting
9 ourselves again for a necessity in the industry by not
10 using it as a mold inhibitor?

11 DR. LEITERMAN: Yes. Dan Leiterman again.
12 Currently, in my business, I use potassium sorbate or,
13 excuse me, calcium propionate two ways. One as a oral
14 treatment for milk fever, and secondly as a mold
15 inhibitor for aloe pellets, and given the feedback from
16 the Board here, I might have to find a different way of
17 mold inhibiting. It's very limiting to the use of aloe
18 delivery as a pelleted form to large groups of animals,
19 if I can't use calcium propionate.

20 One of the concerns with calcium propionate
21 as a mold inhibitor is it's been used in the past in
22 agriculture as a whole crop mold inhibitor on hay where
23 they would apply it to the whole hay crop. My
24 application as a mold inhibitor is strictly to an aloe

1 pellet that's delivered in 2 to 10 ounces or so during
2 therapy treatment to an animal.

3 So, at this point, I don't know quite what
4 I'm going to do with the aloe pellets if I can't use it
5 as a limited mold inhibitor on the aloe pellets, but
6 I'm still thinking. I don't know what I can do if I
7 can't use that.

8 CHAIRMAN CARTER: Go ahead.

9 MR. RIDDLE: It really was the intent of the
10 committee to not allow use of the material as a feed
11 preservative, just what you're talking about, and maybe
12 mold inhibitor isn't the proper term here because the
13 intent, and I guess I would change my motion, if the
14 seconder agrees, to read prohibited for use as a feed
15 preservative because that is our intent. That's what
16 we considered and discussed.

17 MR. SIEMON: But does that still allow the
18 use for the pellets?

19 MS. BURTON: It's one or the other, and if we
20 restrict it so much, then we're going to put another
21 business out of --

22 CHAIRMAN CARTER: Okay. Rose?

23 MS. KOENIG: Well, I don't understand. But
24 with the potassium -- so, you're saying now that

1 potassium sorbate isn't used in the aloe pellet but
2 it's used in aloe gel?

3 DR. LEITERMAN: When I make the aloe pellet,
4 when the aloe pellets are made, we get an aloe product
5 that's a concentrated form of the aloe juice. It's a
6 20X, you know, concentrated on.

7 MS. KOENIG: With the potassium sorbate?

8 DR. LEITERMAN: And that has some potassium
9 sorbate in it but not a very high level, and putting
10 higher levels of potassium sorbate have not been shown
11 to be effective when handled that way.

12 So, when we make the pellet, we put a lot of
13 liquid in that ton of dry material. Two ounces of that
14 pellet equals 1 ounce of liquid aloe. So, we have to
15 deal with very high mold potential. So, we put in 2
16 pounds of potassium sorbate -- calcium propionate per
17 ton just so that we can maintain some shelf life.
18 Otherwise, the product doesn't last a week when it gets
19 in the bag.

20 MS. KOENIG: I guess I'm not clear then.
21 Differentiate between what you're doing
22 therapeutically.

23 DR. LEITERMAN: We have two products for
24 calcium propionate.

1 MS. KOENIG: Right.

2 DR. LEITERMAN: One is in a gallon jug that's
3 given to animals that have milk fever immediately as a
4 treatment.

5 MS. KOENIG: Okay.

6 DR. LEITERMAN: The second application of
7 that ingredient, calcium propionate, is to use it as a
8 mold inhibitor for whatever you want to use it on aloe
9 pellets, and the aloe pellets are used for a wide range
10 of treatment for -- well, application on animals, be it
11 pink eye, pneumonia, skowers, mastitis treatment. Any
12 time an animal has to have an immune support to help
13 with its recovery, we use the aloe pellets.

14 So, it could be -- we get calls from
15 producers where they might have a pen of a hundred
16 animals, two have pink eye, and they don't want the
17 rest of them to get it. So, they all go on aloe
18 pellets which is hard to deliver with a liquid, or we
19 might have incoming feeder cattle. To prevent having
20 to use micotel or antibiotics, we would put them on
21 aloe pellets for 14 days at a low level, 2 to 4 ounces,
22 as a support so they don't get pneumonia and
23 respiratory problems.

24 So, we use it widespread. It's a nice

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1 delivery vehicle for delivering aloe to livestock.
2 Otherwise, a lot of times, we have to capture the
3 animal and drench them with the liquid, and that's very
4 difficult to do.

5 CHAIRMAN CARTER: Okay. Are there other
6 questions? Rose, follow-up?

7 MS. KOENIG: Well, the only thing -- so, the
8 annotation that was suggested is to put it in as a
9 preservative in general because -- what was your
10 annotation again?

11 MR. RIDDLE: To prohibit as a feed
12 preservative, is what I'm suggesting.

13 DR. LEITERMAN: That's medical use, what we
14 just heard about.

15 MR. RIDDLE: Right.

16 DR. LEITERMAN: That's not feed.

17 MR. RIDDLE: Yeah.

18 CHAIRMAN CARTER: Nancy?

19 MS. OSTIGUY: But aloe is not considered a
20 medicine by the FDA. So, we can't back this as a
21 medical treatment. Following the rules that we
22 function under, if we don't put it under feed, then
23 this action -- this would be prohibited. So, I'm
24 actually speaking against my -- the motion that I

1 seconded.

2 CHAIRMAN CARTER: That's not the first time
3 that's ever happened.

4 MS. OSTIGUY: I sometimes second things to
5 get things going.

6 CHAIRMAN CARTER: That's true. Well, my
7 question, though, is, I'm wondering, when we put
8 something under 205.603(a), which is specifically
9 disinfectant sanitizer medical treatment, doesn't that
10 by definition limit mold inhibiting? I mean, that --
11 so, okay. Rose?

12 MS. KOENIG: I have one more question. If
13 you -- I understand your treatment, that you're
14 treating them for a longer period of time. Isn't an
15 alternative just to make fresh preparations each day?
16 I mean, I know it would cost more on the grower side,
17 but is that not realistic?

18 DR. LEITERMAN: Right.

19 MS. KOENIG: I mean, if you're making these
20 pellets up, the reason why, as I understand, you need
21 the preservative is because you're treating them over
22 time and using that same batch.

23 DR. LEITERMAN: Right. Fresh delivery might
24 come under the category of using the original liquid

1 aloe. Challenges with that would be bunk application
2 where it's hard to get that material into the feed
3 stuff without it --

4 MS. KOENIG: I understand that you can put it
5 -- I mean, again, naive. I'm a vegetable producer, but
6 I would assume that you could put it -- your aloe in as
7 a therapeutic drug into the pellet or whatever.

8 DR. LEITERMAN: Delivery forms of the aloe on
9 fresh application might include a dry form. We've
10 looked at that. Dry forms increase cost two to three
11 times.

12 MS. KOENIG: So, we can't -- I mean, that's
13 not a factor in our decision in terms of cost.

14 DR. LEITERMAN: Right. The dried form
15 availability is very limited. Application on a farm
16 basis, it's so concentrated, that we're looking at
17 fractions of a gram per cow. So, you know, when you
18 have a TMR mixture that's got six ton and you ask them
19 to put in two grams or a gram of the material per head,
20 it's very difficult for that delivery. So, a carrying
21 agent of some sort brings it back into the realm of
22 reality for application.

23 CHAIRMAN CARTER: Okay. Jim?

24 MR. RIDDLE: Yeah. Well, the intent of the

1 motion was to make it clear that there's not broad use
2 of the material as a feed preservative in forage
3 production, and listening to the comments you made,
4 Dave, and the comments of my seconder, I withdraw the
5 motion.

6 CHAIRMAN CARTER: Okay. So, the amendment is
7 withdrawn.

8 We're back to then the original motion which
9 is calcium propionate should be added to 205.603(a),
10 allowed for use in organic livestock production.

11 Discussion on the motion?

12 MR. SIEMON: Where does that leave us with
13 the use of it in aloe then?

14 MS. OSTIGUY: That was actually my question.
15 If we do not put it in --

16 MR. SIEMON: If it's in (a), then it can be
17 used as an additive in medicines.

18 MS. OSTIGUY: Right. But can this particular
19 use, where it is put in pellets and since aloe is
20 considered a food, not a medicine, and then we're
21 feeding pellets, and is that the appropriate location
22 for this?

23 MR. SIEMON: Well, a lot of medicines are
24 fed, and, you know, your general statement that -- it's

1 always a dance, our relationship with the natural
2 medicines that we use, because they aren't approved by
3 FDA. A lot of the herbal things.

4 MS. OSTIGUY: Well, we have to function with
5 FDA's rules.

6 MR. SIEMON: Well, all right.

7 CHAIRMAN CARTER: Come to the microphone.

8 MS. BROWN-ROSEN: It's definitely a gray area with
9 FDA on that. Emily Brown-Rosen with Armery. It's a
10 gray area as to whether -- it's fairly common practice.

11 Even conventional guys use a lot of botanical and
12 alternative medical treatments, and they're all siding
13 with FDA, too, over the legal use of these materials.

14 So, I think if you put it under .603(a) as a
15 medication and then just don't put on the list, you
16 know, ostensibly anyway, we don't have to put on the
17 list that it's -- you know, because it's a natural
18 material, the aloe, and leave it -- you know, work with
19 FDA to make sure we have a clarification, but
20 internally, people can consider aloe a therapeutic
21 health care medication, and as we work on our
22 excipients policy further, this would be something that
23 would be allowed for that type of use. We'd have to
24 define better what is a therapeutic health care

1 application, but as long as we don't, you know, -- I
2 just think we could eventually work out an
3 understanding on that and just limit it to health care
4 and that could be considered ostensibly a health care
5 use.

6 CHAIRMAN CARTER: Barbara had something.

7 MS. ROBINSON: Nancy, if your concern that
8 FDA might somehow challenge this?

9 MS. OSTIGUY: I don't know.

10 MS. ROBINSON: They won't. I mean, --

11 MS. OSTIGUY: Okay.

12 MS. ROBINSON: -- I know that.

13 MS. OSTIGUY: I don't want to stick it in the
14 wrong place.

15 MS. ROBINSON: No, and I -- but I think
16 you're perfectly all right to categorize things. What
17 you're doing is putting -- defining their use. You're
18 not defining the substance as a -- you know, we've
19 taken tomatoes and now instead of calling them a fruit,
20 we're going to call them a legume or a medicine.
21 You're not doing that.

22 What you're doing in the list and according
23 to what you're supposed to be doing, you are supposed
24 to be defining the use, the application, of a

1 substance. So, you're okay, you know, to categorize it
2 the way you want because what you're trying to do is
3 tell people out there use it for these purposes. We
4 don't care what you call it per se, but this is the use
5 that you are allowed to use it for.

6 CHAIRMAN CARTER: Okay. Let's see. Kim,
7 then Jim, then Owusu.

8 MS. BURTON: The concern yesterday with the
9 nutritionist from Tyson was that when we directly link
10 -- say we would say aloe vera as a medical treatment in
11 our annotation, then the FDA would probably say, well,
12 it's not recognized. So, as long as you're not
13 specific with the use by material, we should be okay.

14 CHAIRMAN CARTER: Okay. Jim?

15 MR. RIDDLE: I'm still struggling with
16 whether just our placement on (a) is clear enough that
17 it's not allowed as a feed preservative.

18 MS. KOENIG: You can just put it -- I guess
19 you could annotate it.

20 MR. RIDDLE: Annotate not for use as a feed
21 preservative, but then it does still get into that area
22 of whether the aloe pellets are a feed.

23 MR. SIEMON: Feed non-medical use.

24 MR. RIDDLE: So, Barbara, in your opinion, is

1 placing it on a -- limiting it enough and making it
2 clear that if someone is trying to preserve feed using
3 it, that would be a reason for denying certification?

4 MS. ROBINSON: Well, it would certainly be a
5 cause for discussion between the certifying agent and
6 the producer, and I don't know that I'd decertify
7 somebody, but I'd say that's not compliant.

8 MR. RIDDLE: It would be a prohibited --

9 MS. ROBINSON: Yeah. I mean, it says that
10 the producer using this substance has to be able to
11 document and show that it is being -- the reason he has
12 it, the reason he's using it, is to deliver a medical
13 treatment to the animal, and, I mean, it's a -- I don't
14 pretend to be a chemist or an expert in this area, but
15 it seems to me that, you know, you ought to be able to
16 observe, you know, has this guy got tons of this stuff
17 on the farm and is using it for feed preservative?

18 MR. RIDDLE: Tons?

19 MS. ROBINSON: Well, I still come back to
20 there's got to be documentation and, you know, then
21 kind of paying attention, observing this.

22 MR. RIDDLE: Yeah.

23 MS. ROBINSON: Yeah. Help me out.

24 DR. LEITERMAN: Okay. Dan Leiterman again.

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1 The terminology is always a struggle, and I understand
2 the sensitivity of the use of the word "therapeutic" or
3 "medical", and in my catalog I put out, I make a great
4 effort to make it very clear that I'm not making claims
5 that if an ailment is evident in the livestock, that
6 these nutritional supports would be beneficial to
7 support the animal.

8 So, using livestock health support may be a
9 better terminology than using a medical or therapeutic
10 terminology because these are nutraceuticals that
11 support herd health during situations of illness or
12 challenge or stress.

13 CHAIRMAN CARTER: I do have -- if you don't
14 mind standing there, let me just kind of go in order
15 because Owusu had a question, then Rose, then George,
16 then Rick.

17 MR. BANDELE: I had two concerns. Number 1.
18 I take it that withholding is not an issue with this
19 particular --

20 DR. LEITERMAN: Correct.

21 MR. BANDELE: Okay. Secondly, in a lot of
22 the material that we were reviewing, it seemed that
23 they were for like one-time, you know, emergency uses
24 and very infrequently. Now, with this one, we're

1 hearing that it could possibly be used in a wide range
2 of uses. So, I do have a concern there, and I'm
3 thinking along the lines with Rose, that perhaps a
4 better delivery system for the aloe vera might be --
5 even though it's economically more demanding, because
6 it would be in a situation where we would be putting in
7 synthetics for a lot of use in most of these. So, if
8 you'd care to respond to that?

9 DR. LEITERMAN: The issue of wide use is
10 still in a limited category. When I say "wide use",
11 what I'm saying is that it applies to a wide range of
12 ailments. Generally at any given time, there could
13 only be possibly a few animals in a herd at any given
14 time that would receive this. It's kind of like
15 something you'd have on the shelf, like an aspirin,
16 that if something comes up that you could apply it for
17 a couple of days, take it back out. That's generally
18 to a few animals out of the herd.

19 The aloe pellets are economically so
20 prohibitive to do on a wide range in a herd, that I'm
21 not that good of a salesperson to get people to do
22 that.

23 MR. BANDELE: But like for example, with the
24 mastitis, that's pretty frequently occurring, is it

1 not, in animals?

2 DR. LEITERMAN: It does, but generally, it's
3 on a few animals. If we have a herd that has a
4 mastitis issue herd-wide, most operators are sharp
5 enough to get on top of it before it affects all the
6 animals. They test every two weeks to four weeks, and
7 they see it every day when they milk. So, if they see
8 an animal starting to flare up, they address it right
9 away. So, it's a very limited -- it's a wide range of
10 ailment application but a very few animal application.

11 CHAIRMAN CARTER: Okay. Rose?

12 MS. KOENIG: Okay. Just -- I don't
13 necessarily -- maybe the Board can discuss this, but, I
14 mean, it basically would be effective against any kind
15 of fungal-producing microtoxin-type organism. So,
16 couldn't a farmer say that, you know, I'm using it as a
17 preventative for microtoxins that occur in any of my
18 feed products or not, under that listing? Because he
19 might say that it's a preventative medical treatment.

20 DR. LEITERMAN: I don't know how to respond
21 to that. It's a stretch.

22 MS. KOENIG: I'm just making sure that it
23 wouldn't be -- that it couldn't be used as a
24 generalized, you know, controller of fungal

1 microtoxins.

2 DR. LEITERMAN: I think the main focus of
3 concern would be to at least indicate that the calcium
4 propionate is not intended for use on crops. That's
5 your primary concern. Use in feed, you know, its
6 application to agriculture should be like if a person
7 harvests a grain crop and they're worried about mold on
8 the corn, you put it on that whole corn crop or on the
9 whole hay crop.

10 MS. KOENIG: I understand that.

11 DR. LEITERMAN: Very rare to use in the feed
12 industry applied on feed. I had to do a lot of work
13 just to get the pelleter to get this material for me.

14 MS. KOENIG: Yes, I was kind of wondering.

15 CHAIRMAN CARTER: Okay. George?

16 MR. SIEMON: Having been in the medical
17 treatment section, you can't use it as a feed additive,
18 and it's going to be more challenging, you know, for
19 certifiers to deal with it being a medicine-fed, more
20 so than how they could jump from this to using it on
21 all their silage, all their hay, all -- I just don't
22 think it can jump over to a feed additive when we've
23 got medical treatment section.

24 DR. LEITERMAN: Livestock health support, I

1 think, is pretty definable.

2 CHAIRMAN CARTER: All right. Rick, then Jim.

3 MR. MATHEWS: I'm going to pass.

4 CHAIRMAN CARTER: Okay. Jim?

5 MR. RIDDLE: Yeah. I just wanted to -- in
6 response to Owusu, just remind the Board that the
7 committee voted unanimously and the petitioners -- I
8 mean, the reviewers as well that it be allowed for milk
9 fever. So, you know, we are, you know, if we all vote
10 for that, approving its direct use in the animal as a
11 treatment, but a lot of this discussion was centered
12 around its use in the aloe pellets. So, I just wanted
13 to keep that in perspective.

14 DR. LEITERMAN: May I make a comment to that,
15 too?

16 CHAIRMAN CARTER: Yeah. Go ahead, Dan.

17 DR. LEITERMAN: The treatment for the milk
18 fever application would be approximately a pint per
19 dose, two a day, for a couple of days, if needed, you
20 know, depending. That's a large dose. The application
21 of calcium propionate in these pellets are two pounds
22 per ton, and then you feed a couple ounces of the
23 pellets to the cow. We're at a very fractional low
24 level. So, if a pint per dose is acceptable, you know,

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1 then maybe a gram per dose would be reasonable --

2 CHAIRMAN CARTER: Okay.

3 DR. LEITERMAN: -- the other way.

4 CHAIRMAN CARTER: A question from George.

5 Where are we at? We're on the motion which is calcium
6 propionate should be added to 205.603(a), allowed for
7 use in organic livestock production.

8 MR. SIEMON: Okay. I didn't know if any of
9 the other amendments were still out or not.

10 CHAIRMAN CARTER: No. That's what's on the
11 table right now.

12 MR. SIEMON: Okay.

13 CHAIRMAN CARTER: The original motion. So,
14 Rose, you had your hand up?

15 MS. KOENIG: Well, I guess just -- so, are we
16 feeling that -- again, that preservative is in that
17 section as we're doing that? That's what I'm not clear
18 about.

19 MR. SIEMON: That we also would enable it to
20 be used for these aloe pellets, if we pass this motion
21 the way it stands now.

22 MS. KOENIG: Will it? That's the question.

23 MR. SIEMON: Will.

24 MS. KOENIG: It will.

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1 MR. SIEMON: I'm giving you my opinion. Just
2 one opinion.

3 CHAIRMAN CARTER: Okay.

4 MR. RIDDLE: I agree, because if it's
5 allowed in the medical treatment and it's being added
6 to another medical treatment, I mean, --

7 MR. SIEMON: This takes care of both things.
8 Are we ready to call the question?

9 CHAIRMAN CARTER: If you call the question,
10 then we'll proceed to vote.

11 MR. RIDDLE: Well, we do have a livestock
12 expert and husband of a veterinarian.

13 CHAIRMAN CARTER: Okay.

14 MR. RIDDLE: If he has something to add.

15 CHAIRMAN CARTER: Yeah. Anything
16 illuminating?

17 MR. ENGEL: David Engel. I don't mean to be
18 pointed with a comment like this, Dave or Jim, but I do
19 find the process here to be lacking. This kind of
20 information really should have been all brought to the
21 table before. The only thing that I'm going to bring
22 to this table at this point is that calcium propionate,
23 the way that you're discussing it here, does not
24 provide for me as a certifier a clarification. It is

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1 found in many, many, many feed supplements.

2 Now, aloe vera pellets are a feed supplement,
3 in my opinion. You can debate, you know, 2 to 4
4 ounces, is that a feed, is that a supplement? Is aloe
5 vera something that you go out and you eat, a cow will
6 go out and eat as forage? No, it's not. It's a
7 supplement.

8 The calcium propionate itself, I understand
9 your concern and obvious discussion previously to this,
10 that the propionic acid applicator that are found on
11 big balers are what you want to avoid, and as a
12 certifier and as a farmer, I personally would allow it,
13 but I don't mind it not being allowed. We've gotten by
14 for the last few years with other products. I think
15 it's shortsighted. It's taking another tool away, but
16 as a preservative for other uses, I don't know that
17 your decision here is covering that. It is used in
18 many, many supplemental products.

19 MR. MATHEWS: What would you like then, if
20 we're not going to allow it for feed additive?

21 MR. ENGEL: What I'm seeing come out of this
22 is that it's okay for aloe vera pellets. I mean, how
23 shortsighted can that be?

24 CHAIRMAN CARTER: Okay. Rose?

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1 MR. ENGEL: That's what I heard.

2 MS. KOENIG: Well, the big -- I mean, I think
3 what -- you know, I understand your criticisms, don't
4 get me wrong, but the thing is, is that, the only thing
5 I can vote on is what the TAP review --

6 MR. ENGEL: I'm with you.

7 MS. KOENIG: -- said it's used for. So,
8 either we go back and look at it for all the other uses
9 in livestock. I'm perfectly comfortable with it. I'm
10 comfortable with voting on it right now for milk fever
11 and then sending the TAP back for these other issues,
12 if the industry feels that that's necessary. I totally
13 agree. I mean, I was going to propose that motion
14 because personally, I didn't even think it was covered
15 very well in the TAP as a preservative and that's why I
16 asked many questions from the veterinarians. So, I
17 mean, the motion could be that, that we just right now
18 vote on it for use as a milk fever and then send the
19 TAP back and look at it in October for those other uses
20 in livestock and then be done with this thing.

21 CHAIRMAN CARTER: Okay. So, a motion has
22 been made that we approve this now. It's a motion,
23 though. I've got to repeat the motion here.

24 MS. KOENIG: Sorry. I can restate the

1 motion.

2 CHAIRMAN CARTER: Okay. Restate the motion.

3 MS. KOENIG: So, the motion -- well, there's
4 two motions. The motion would be for approval to be
5 allowed for use in 205.603(a) with -- no. With an
6 annotation for milk -- at this point, for milk fever,
7 for treatment of milk fever.

8 CHAIRMAN CARTER: Okay.

9 MS. KOENIG: And the second motion would then
10 be to send the TAP back to get further information on
11 the use in preservative and animal supplements and
12 medical treatments.

13 CHAIRMAN CARTER: Can we take that all as one
14 motion?

15 MS. KOENIG: Yeah.

16 CHAIRMAN CARTER: Because we have to vote on
17 it twice.

18 MS. KOENIG: That's fine.

19 CHAIRMAN CARTER: So, the motion now has been
20 made to -- essentially what it is, if I can give you --
21 it's an amendment that we send this back for further
22 review. So, we would still approve it for 205.603(a)
23 with the directive that it go back with more review on
24 it as a feed additive.

1 MR. SIEMON: I would think you would need the
2 annotation to be really clear.

3 CHAIRMAN CARTER: Okay.

4 MR. SIEMON: I heard the motion had an
5 annotation.

6 MS. KOENIG: For milk fever.

7 CHAIRMAN CARTER: Okay. Well, we'll just
8 take -- okay. It's an amendment, though. What her
9 motion is is an amendment. There's a motion on the
10 table. So, the only thing that she can do is offer a
11 substitute motion or an amendment which replaces the
12 original motion.

13 MR. SIEMON: Okay. So, the amendment would
14 be for milk fever only?

15 CHAIRMAN CARTER: Yeah. Yeah.

16 MR. SIEMON: Right?

17 CHAIRMAN CARTER: Okay. Okay. So, her
18 amendment then is -- and we will take this as two
19 motions. To amend this for milk fever only. Is there
20 a second to that?

21 MR. BANDELE: Yeah. I'll second it.

22 CHAIRMAN CARTER: Okay. Owusu seconded it.
23 Discussion? Owusu, you had your hand up.

24 MR. BANDELE: That took care of it because as

1 I saw the original one on the table, it allowed for
2 other uses outside of milk fever, but this addresses my
3 concern.

4 CHAIRMAN CARTER: Okay. All right. Other
5 discussion on the amendment?

6 MR. KING: Just a friendly suggestion, maybe
7 that we put only for treatment of milk fever, just
8 throwing that out as potential language.

9 CHAIRMAN CARTER: Okay. So, as we prepare to
10 vote, then repeat the motion one more time, Rose.

11 MR. SIEMON: Calcium propionate should be
12 added to 205.603(a), then with the restriction milk
13 fever only.

14 CHAIRMAN CARTER: Okay. Thank you, Rose.

15 MR. SIEMON: Yes.

16 MS. KOENIG: I had a voice change operation.

17 CHAIRMAN CARTER: Too much testosterone. All
18 right. Let's prepare to vote.

19 MS. KOENIG: Too much coffee.

20 CHAIRMAN CARTER: Burton?

21 MS. BURTON: Yes.

22 CHAIRMAN CARTER: Caughlan?

23 MS. CAUGHLAN: Yes.

24 CHAIRMAN CARTER: Cooper?

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1 MS. COOPER: Yes.

2 CHAIRMAN CARTER: Goldberg, absent.

3 Holbrook?

4 MR. HOLBROOK: Yes.

5 CHAIRMAN CARTER: King?

6 MR. KING: Yes.

7 CHAIRMAN CARTER: Koenig?

8 MS. KOENIG: Yes.

9 CHAIRMAN CARTER: Lacy, absent.

10 O'Rell?

11 MR. O'RELL: Yes.

12 CHAIRMAN CARTER: Ostiguy?

13 MS. OSTIGUY: Yes.

14 CHAIRMAN CARTER: Riddle?

15 MR. RIDDLE: Yes.

16 CHAIRMAN CARTER: Siemon?

17 MR. SIEMON: No.

18 CHAIRMAN CARTER: Bandele?

19 MR. BANDELE: Yes.

20 CHAIRMAN CARTER: Chair votes yes. It

21 passes, 10 to 2, 2 absent, no abstentions, and I forgot

22 to ask if anybody has a conflict of interest on this

23 issue.

24 (No response)

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1 CHAIRMAN CARTER: Okay.

2 MS. KOENIG: Okay. Do we have to make the
3 second amendment separately?

4 CHAIRMAN CARTER: Yes.

5 MS. KOENIG: Okay. So, the second motion
6 would be to send the TAP back to explore other uses as
7 a preservative in medical and supplemental feed.

8 CHAIRMAN CARTER: Okay.

9 MS. CAUGHLAN: I'll second it.

10 CHAIRMAN CARTER: Okay. Motion to send it
11 back for review for other purposes.

12 Discussion on that motion? Yeah. Nancy?
13 It was seconded by Goldie.

14 MR. SIEMON: I mean, I --

15 CHAIRMAN CARTER: Nancy first.

16 MR. SIEMON: Okay.

17 MS. OSTIGUY: I have a question. Are we
18 limited in terms of what the TAP can look at by what
19 the petition requested? If so, the petition requested
20 livestock medical treatment and mold inhibitor in dry
21 formulated herbal remedy.

22 CHAIRMAN CARTER: Okay. Rose?

23 MS. KOENIG: I would say that again part of
24 the problem of having an abridged petition process,

1 sometimes they're not thought out as well as they
2 should be. I think that our -- this current motion is
3 actually more beneficial to the industry and more
4 beneficial to the process because, you know, if we're
5 going through and, I mean, we made the exception, you
6 know, in terms of rushing some of these petitions
7 through to, you know, deal with industry constraints
8 and problems. So, I think at this point, we've heard
9 from the audience. There's good evidence to suggest
10 that it's in many other products. We can't -- you
11 know, if we're going to spend the money on the TAP,
12 which we've already done, the money's spent, let's get
13 the clarification.

14 CHAIRMAN CARTER: Okay. Kim?

15 MS. BURTON: Your question was whether or not
16 we can ask them for additional information, and yes,
17 historically, we have asked our contractors to look at
18 a broad overview and at least let us know the other
19 applications of the material but also focus on the
20 specific use or open it up.

21 CHAIRMAN CARTER: Okay. Other discussion?

22 MR. SIEMON: Well, --

23 CHAIRMAN CARTER: George?

24 MR. SIEMON: -- it's my understanding this is

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1 an ingredient that's allowed in human food.

2 MS. BURTON: It's not on 205.605.

3 MR. SIEMON: No, but I'm talking about in
4 general use. It says here with no limitation, other
5 than taste and flavor and good manufacturing practices.
6 So, again for a livestock thing, I'm voting against
7 what we already passed in part, it seems to me. I
8 don't know what other information we're going to get. I
9 agree it's inadequate on this subject, but I think with
10 the human thing, we can go ahead now.

11 CHAIRMAN CARTER: Okay. Rose?

12 MS. KOENIG: Because --

13 CHAIRMAN CARTER: Then Owusu.

14 MS. KOENIG: Well, I just disagree because I
15 think -- I mean, the TAP should cover historical uses
16 in the industry. Those -- that is the job then of the
17 TAP reviewers and other TAP reviewers have done it
18 before you explore, you know, all historical uses.
19 Where would you find it in other products that are used
20 within the industry?

21 MR. SIEMON: Well, let's vote.

22 CHAIRMAN CARTER: Owusu?

23 MR. BANDELE: I just want to point out that
24 there are a lot of things approved in human food,

1 including ground-up ready soybeans, you know. So,
2 that's really not a criteria for this.

3 MR. SIEMON: Well, that's not relevant to
4 this discussion.

5 CHAIRMAN CARTER: Okay. I think somebody
6 called the question. So, there are no other hands up.
7 We'll proceed to vote.

8 PARTICIPANT: Can you read the motion again?

9 CHAIRMAN CARTER: Okay. The motion, as I
10 have it down, was to send the calcium propionate back
11 for review for additional uses.

12 MS. KOENIG: Well, I specifically said for
13 medical and feed additives.

14 CHAIRMAN CARTER: Okay. For medical and feed
15 additives.

16 MS. KOENIG: Because that's what I understand
17 is what --

18 CHAIRMAN CARTER: It's your motion. So.

19 MS. KOENIG: Isn't that what the gentleman
20 said?

21 PARTICIPANT: Feed supplements.

22 MS. KOENIG: Supplements. Sorry. Feed
23 supplements. I'm sorry.

24 MR. SIEMON: So, beyond the medical field, we

1 want to now research its use just as a feed and not
2 medical. Is that what I'm hearing?

3 PARTICIPANT: Both.

4 MR. SIEMON: Okay. Fine.

5 MS. BURTON: You could just make the motion
6 to send it back for more information and you guys tell
7 me what you want.

8 CHAIRMAN CARTER: Okay. Just so Katherine
9 doesn't beat me up side the head here at the break, the
10 motion is to send this back to the contractors for
11 further information, right? Okay. George?

12 MR. SIEMON: I'm sorry. It makes a
13 difference how I would vote whether we're sending this
14 back to research it as more uses in medical treatments
15 or to uses in broader uses of feed additives, such as
16 in silage and hay.

17 CHAIRMAN CARTER: It's Rose's motion. So,
18 she's got to state what it is.

19 MR. SIEMON: If you're saying send it back
20 for all, then you're saying for broader feed uses,
21 right?

22 MS. CAUGHLAN: George, you do want more
23 information, do you not?

24 MR. SIEMON: Not as a medical treatment.

1 MS. CAUGHLAN: Vote against it.

2 MR. SIEMON: No. Well, --

3 CHAIRMAN CARTER: Let's all make sure we have
4 a clear understanding of what this is being sent back
5 for and that's -- Rose is the maker of the motion. So,
6 you know, I can paraphrase, but it's her motion, and
7 she needs to say --

8 MS. KOENIG: I find nothing wrong with
9 finding out how it's used in industry. My feeling on
10 these TAPs is how many times can we go back to the same
11 thing. I would like to see a complete review and then
12 us as a Board can -- should be able to judge what -- if
13 we need to restrict the use. But until we know that
14 use in the industry, it's not very smart for us to just
15 be, as the gentleman said, being -- pinning aloe
16 because somebody through an abridged process decided
17 that aloe is the most important thing that that person
18 needed.

19 CHAIRMAN CARTER: Okay.

20 MS. KOENIG: You know, we can't address
21 individuals. We need to address the industry in the
22 process.

23 CHAIRMAN CARTER: But just for the record,
24 though, so your motion is to send it back for other --

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1 to look at other uses?

2 MS. KOENIG: Yeah. To complete the TAP.

3 CHAIRMAN CARTER: Okay.

4 MS. KOENIG: Basically.

5 CHAIRMAN CARTER: To complete the TAP. Now,
6 you seconded this. Okay. Goldie, does that meet with
7 your understanding of the second?

8 MS. CAUGHLAN: Yes.

9 CHAIRMAN CARTER: Okay. That's what we're
10 going to vote on. Okay. You can vote yes or no, but
11 that's what the motion is. Okay. Okay. Let's see.
12 We'll start off with the easy one here.

13 Goldberg, absent.

14 Holbrook?

15 MR. HOLBROOK: Yes.

16 CHAIRMAN CARTER: Koenig?

17 MS. KOENIG: Yes.

18 CHAIRMAN CARTER: Lacy, absent.

19 O'Rell?

20 MR. O'RELL: Yes.

21 CHAIRMAN CARTER: Ostiguy?

22 MS. OSTIGUY: Yes.

23 CHAIRMAN CARTER: Riddle?

24 MR. RIDDLE: Yes.

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1 CHAIRMAN CARTER: Siemon?

2 MR. SIEMON: Yes.

3 CHAIRMAN CARTER: Bandele?

4 MR. BANDELE: Yes.

5 CHAIRMAN CARTER: Burton?

6 MS. BURTON: Yes.

7 CHAIRMAN CARTER: Caughlan?

8 MS. CAUGHLAN: Yes.

9 CHAIRMAN CARTER: Cooper?

10 MS. COOPER: Yes.

11 CHAIRMAN CARTER: Chair votes yes. Vote is
12 12 to 0, 2 absent, no abstentions. Okay.

13 MR. SIEMON: Activated charcoal. You'll have
14 to help me on this one, Jim. I don't think the motion
15 is correct on this. Before we start, I just want to
16 ask. Jim Pierce or Jim Riddle, we wanted vegetative
17 sources on here. Is there any reason why it's not on
18 here?

19 MR. RIDDLE: What page are you referring to?

20 MR. SIEMON: It's on your copy but not mine.

21 CHAIRMAN CARTER: Oh, here. The Chair
22 swiped.

23 MR. SIEMON: Okay. Does yours have
24 vegetative sources on it?

1 MR. RIDDLE: No. That was the recommendation
2 of the committee, was with an annotation, must be from
3 vegetative sources.

4 MR. SIEMON: Okay. I thought so, but since
5 it wasn't here, I just wanted to make sure.

6 Okay. The motion that we have is activated
7 charcoal should be added to 205.603(a), with the
8 annotation, made from vegetative sources.

9 CHAIRMAN CARTER: Okay. Motion. Is there a
10 second?

11 MS. OSTIGUY: Second.

12 CHAIRMAN CARTER: Okay. Nancy seconded.
13 Goldie?

14 MS. CAUGHLAN: You're not -- you're
15 eliminating the as a disinfectant, sanitizers and
16 medical treatments?

17 CHAIRMAN CARTER: That's inclusive under (a).

18 MS. CAUGHLAN: Well, that's what I thought.
19 I'm just clarifying because of how it's written on our
20 --

21 MR. SIEMON: Yeah. I guess --

22 MS. CAUGHLAN: So, you would --

23 MR. SIEMON: -- it should be added to
24 205.603, allowed for use in organic livestock

1 production, (a)

2 MS. CAUGHLAN: Period?

3 MR. SIEMON: Yeah. And --

4 MS. CAUGHLAN: Must be from vegetative
5 sources.

6 CHAIRMAN CARTER: When you refer to (a),
7 that's just inclusive.

8 MS. CAUGHLAN: I thought so, but I'm just
9 clarifying how it is here.

10 CHAIRMAN CARTER: Okay.

11 MR. SIEMON: Okay. We did declare it a
12 synthetic, even though it's coming from natural
13 sources. Just enough of a high heat verification
14 process.

15 CHAIRMAN CARTER: Okay.

16 MR. SIEMON: To that section now.

17 CHAIRMAN CARTER: Okay. You're muttering
18 over here.

19 Any further questions?

20 (No response)

21 CHAIRMAN CARTER: Okay. Are we ready to vote
22 on the motion?

23 MS. BURTON: I have a question.

24 CHAIRMAN CARTER: Okay. Kim?

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1 MS. BURTON: I will be recusing myself from
2 Processing. I'm not sure if I need to recuse myself
3 from Livestock. So, I'd ask this Board what you think
4 I should do.

5 CHAIRMAN CARTER: If we need to take that as
6 a motion --

7 MS. BURTON: Why don't we just vote on it?
8 This way, it's clear to the --

9 CHAIRMAN CARTER: Okay. So, the motion as
10 Kim Burton has announced, that she will be recusing
11 herself in Processing, asks for guidance, and a yea
12 vote is that she should recuse herself. A nay vote is
13 that she should not. Everybody understand? Okay.

14 CHAIRMAN CARTER: Holbrook?

15 MR. HOLBROOK: Nay.

16 CHAIRMAN CARTER: King?

17 MR. KING: Nay.

18 CHAIRMAN CARTER: Koenig?

19 MS. KOENIG: Nay.

20 CHAIRMAN CARTER: Lacy, absent.

21 O'Rell?

22 MR. O'RELL: Nay.

23 CHAIRMAN CARTER: Ostiguy?

24 MS. OSTIGUY: Nay.

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1 CHAIRMAN CARTER: Riddle?

2 MR. RIDDLE: Nay.

3 CHAIRMAN CARTER: Siemon?

4 MR. SIEMON: Nay.

5 CHAIRMAN CARTER: Bandele?

6 MR. BANDELE: Nay.

7 CHAIRMAN CARTER: Burton? Oh.

8 MS. BURTON: Abstain.

9 CHAIRMAN CARTER: Caughlan?

10 MS. CAUGHLAN: Nay.

11 CHAIRMAN CARTER: Cooper?

12 MS. COOPER: Nay.

13 CHAIRMAN CARTER: Goldberg, absent.

14 Chair votes nay. Okay. So, 12 to -- 11 to
15 0, 2 absent, 1 abstention. Yes, she's allowed, and I
16 appreciate and want to thank you for -- this is the
17 process, and please understand just as a reminder for
18 the audience and everybody here, this is a Board that
19 is made up of folks with inherent conflicts of interest
20 because we all represent subgroups, and our manual
21 requires that if there are some areas where we have
22 conflicting interests, that we report that. There's
23 nothing in any most non-profit law or anything else
24 that then prohibits you from participating in a

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1 decision, but the Board can make and act on whether or
2 not you have something that would inhibit your ability
3 to make a decision. So, this is the way we will handle
4 this process. I appreciate that, Kim.

5 Okay. So, now, we are back then to the
6 motion, which is, activated charcoal is a synthetic
7 that should be added to 205.603(a), allowed for use in
8 organic livestock production.

9 Further discussion on the motion? From
10 vegetative sources. Thank you.

11 MR. RIDDLE: Yes. I think I mentioned it
12 when we discussed it weeks ago, it seems, it is
13 available from hardwood sources. So, this is a very
14 realistic annotation.

15 CHAIRMAN CARTER: Okay. Proceed to vote.
16 King?

17 MR. KING: Yes.

18 CHAIRMAN CARTER: Koenig?

19 MS. KOENIG: Yes.

20 CHAIRMAN CARTER: Lacy, absent.
21 O'Rell?

22 MR. O'RELL: Yes.

23 CHAIRMAN CARTER: Ostiguy?

24 MS. OSTIGUY: Yes.

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1 CHAIRMAN CARTER: Riddle?
2 MR. RIDDLE: Yes.
3 CHAIRMAN CARTER: Siemon?
4 MR. SIEMON: Yes.
5 CHAIRMAN CARTER: Bandele?
6 MR. BANDELE: Yes.
7 CHAIRMAN CARTER: Burton?
8 MS. BURTON: Yes.
9 CHAIRMAN CARTER: Caughlan?
10 MS. CAUGHLAN: Yes.
11 CHAIRMAN CARTER: Cooper?
12 MS. COOPER: Yes.
13 CHAIRMAN CARTER: Goldberg, absent.
14 Holbrook?
15 MR. HOLBROOK: Yes.
16 CHAIRMAN CARTER: Chair votes yes. Passes,
17 12 to 0, no abstentions, 2 absent.
18 MR. SIEMON: Okay. Mineral oil is our last
19 material.
20 CHAIRMAN CARTER: This is reason for optimism
21 again here, Richard.
22 MR. SIEMON: This might have been our
23 homework last night. I haven't found it yet.
24 (Pause)

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1 MR. SIEMON: This one is a little confusing
2 to me still because they have mineral oil already
3 approved as a lubricant under topical treatment, and so
4 we're now wanting to put this into the medical
5 treatment and into (a) because this is for the bloat.
6 So, I'm just trying to recall if we changed our motion
7 yesterday.

8 CHAIRMAN CARTER: No.

9 MR. SIEMON: We didn't want to do once in a
10 lifetime, did we?

11 PARTICIPANT: You have to make the motion.

12 MR. SIEMON: All right. I'll make the motion
13 the way it is.

14 CHAIRMAN CARTER: Make the motion.

15 MR. SIEMON: Mineral oil which is listed
16 under 205.603, synthetic substances, allowed for use in
17 organic livestock production for topical and lubricant.
18 It should have the annotation changed to add the
19 following, allowed for internal emergency medical use
20 for only one incident in the animal's lifetime.

21 CHAIRMAN CARTER: Okay. That's the motion.
22 Is there a second?

23 MS. OSTIGUY: Second.

24 CHAIRMAN CARTER: Made by George, seconded by

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1 Nancy. Okay. It's on the table for discussion.

2 PARTICIPANT: I'd like to move that we delete
3 the allowed for internal emergency use only for one
4 instance in the animal's lifetime.

5 CHAIRMAN CARTER: Okay. Motion's made.

6 MR. KING: Second.

7 CHAIRMAN CARTER: Seconded by Mark. To
8 delete the language, allowed for internal emergency
9 medical use for only one instance in the animal's
10 lifetime.

11 Discussion on the amendment?

12 MR. SIEMON: We have to make sure it gets
13 into the (a), though. Is that going to -- if you
14 eliminate that whole sentence, you're not getting it
15 into (a).

16 MS. CAUGHLAN: Question.

17 CHAIRMAN CARTER: Okay. Goldie, then Jim,
18 then Nancy.

19 MS. CAUGHLAN: I support the one instance. I
20 don't understand. Why are you removing allowing it for
21 internal emergency medical use? Are you opposing its
22 use for --

23 MS. OSTIGUY: No. I think it belongs under
24 (a). But we don't have to put that in -- d

1 MS. CAUGHLAN: Don't put an annotation around
2 it.

3 MS. OSTIGUY: Right. We don't need to put an
4 annotation around it to say that it belongs in (a). It
5 just belongs in (a).

6 MS. CAUGHLAN: So, you're just cleaning it?

7 MS. OSTIGUY: Hm-hmm.

8 MS. CAUGHLAN: Cleaning it up. All right.

9 MR. SIEMON: So, what we'll -- if this motion
10 passes, then we'll have to have another motion to have
11 -- put it in (a).

12 MS. OSTIGUY: No, no, no. That's what the
13 motion is. I didn't delete that. I only deleted the
14 annotation.

15 MR. SIEMON: No, it doesn't say (a).

16 MS. OSTIGUY: Okay. Then I'd like to modify
17 my motion. I thought it did. I'd like to modify the
18 motion, my motion, to include that it goes under (a),
19 deletes the annotation.

20 CHAIRMAN CARTER: Okay.

21 MR. SIEMON: Delete the annotation and add it
22 to Section (a) of .603(a)?

23 MS. OSTIGUY: Right.

24 CHAIRMAN CARTER: Yes.

1 MR. SIEMON: Okay.

2 CHAIRMAN CARTER: So, if passed, then she
3 would amend this language to say, mineral oil would be
4 listed under 205.603(a), allowed in synthetic
5 substance, allowed for use in organic livestock
6 production. That's what (a) means. Yeah. So.

7 MR. KING: Just to clarify here, this does
8 not in any way remove it from (b). It simply adds it
9 to (a).

10 CHAIRMAN CARTER: Okay. Owusu?

11 MR. BANDELE: I just have a question about
12 why that was put in in the first place in terms of once
13 in the animal's lifetime. Who supported that, and why?

14 MR. SIEMON: Had to be Jim Riddle.

15 MR. RIDDLE: No, not on this one.

16 MR. SIEMON: Really?

17 CHAIRMAN CARTER: Yeah. My concern is that
18 this is a petroleum product, and so I just, you know,
19 it's really one of those things that's more for the
20 public and if you just allow broad use of petroleum
21 products, you've got your foot in the door.

22 MS. CAUGHLAN: What are the alternatives to
23 the petroleum mineral oil? I mean, are other --

24 CHAIRMAN CARTER: Somebody want to comment.

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1 Emily, the question is asked, what -- you -- to the
2 mike.

3 MS. BROWN-ROSEN: Just for one of the uses,
4 which was -- Kevin's buying tonight.

5 PARTICIPANT: Kevin's cell phone range.

6 MS. BROWN-ROSEN: I guess there's two --
7 several uses petitioned. I didn't know it was used for
8 bloat. There was another use internally for this. I
9 guess it's for compaction which is completely
10 different, but there is an alternative approved for
11 that one use. That's all.

12 MR. SIEMON: Say that again.

13 MS. BROWN-ROSEN: For two uses, medical uses
14 mentioned in the petition were bloat and compaction,
15 and we did approve bloat. There's a long discussion in
16 the piloxolin TAP review about mineral -- vegetable
17 oils and other alternatives for piloxolin. So, that
18 was covered extensively in that TAP review as well on
19 that particular medical use.

20 CHAIRMAN CARTER: Okay. Kim?

21 MS. BURTON: We do already have it on a place
22 in the national list in 205.605(b), and it's allowed
23 for one use. So, I'd just support it for this use.

24 MS. CAUGHLAN: When used not one time.

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1 MS. BURTON: Right. We'd be limiting a tool
2 to the farmers.

3 CHAIRMAN CARTER: Okay. Okay. Mark?

4 MR. KING: Well, I guess I'm just pointing
5 out and looking at (a) here. If we're adding it to
6 (a), it's for medical treatments. It's not like
7 they're just going to randomly use this, you know, for
8 no apparent reason, to get their jollies, you know. I
9 think we're okay on this.

10 CHAIRMAN CARTER: It's hard to tell.

11 MR. KING: Right.

12 CHAIRMAN CARTER: I've given up long ago
13 trying to figure out what motivates dairy farmers.

14 Okay. Are we ready to vote on the amendment?

15 Okay. The amendment then being to -- we change that
16 to insert (a) after .603, and eliminate internal
17 emergency use only in one instance in the animal's
18 lifetime. Okay. Let's see.

19 O'Rell?

20 MR. O'RELL: Yes.

21 CHAIRMAN CARTER: Ostiguy?

22 MS. OSTIGUY: Yes.

23 CHAIRMAN CARTER: Riddle?

24 MR. RIDDLE: Yes.

1 CHAIRMAN CARTER: Siemon?

2 MR. SIEMON: Yes.

3 CHAIRMAN CARTER: Bandele?

4 MR. BANDELE: Yes.

5 CHAIRMAN CARTER: Burton?

6 MS. BURTON: Yes.

7 CHAIRMAN CARTER: Caughlan?

8 MS. CAUGHLAN: Yes.

9 CHAIRMAN CARTER: Cooper?

10 DR. LEITERMAN: Yes.

11 CHAIRMAN CARTER: Goldberg, absent.

12 Holbrook?

13 MR. HOLBROOK: Yes.

14 CHAIRMAN CARTER: King?

15 MR. KING: Yes.

16 CHAIRMAN CARTER: Koenig?

17 MS. KOENIG: Yes.

18 CHAIRMAN CARTER: Lacy, absent.

19 Since that was my issue, I'll vote no. So,
20 it passes, 11 to 1, no abstentions, 2 absent.

21 We are back then to the motion as amended.

22 We just need to go through then and pass this then with
23 the new language. It's just a procedural thing. Okay.

24 Is there any further discussion?

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1 (No response)
2 CHAIRMAN CARTER: Proceed to vote.
3 Ostiguy?
4 MS. OSTIGUY: Yes.
5 CHAIRMAN CARTER: Riddle?
6 MR. RIDDLE: Yes.
7 CHAIRMAN CARTER: Siemon?
8 MR. SIEMON: Yes.
9 CHAIRMAN CARTER: Bandele?
10 MR. BANDELE: Yes.
11 CHAIRMAN CARTER: Burton?
12 MS. BURTON: Yes.
13 CHAIRMAN CARTER: Caughlan?
14 MS. CAUGHLAN: Yes.
15 CHAIRMAN CARTER: Cooper?
16 DR. LEITERMAN: Yes.
17 CHAIRMAN CARTER: Goldberg, absent.
18 Holbrook?
19 MR. HOLBROOK: Yes.
20 CHAIRMAN CARTER: King?
21 MR. KING: Yes.
22 CHAIRMAN CARTER: Koenig?
23 MS. KOENIG: Yes.
24 CHAIRMAN CARTER: Lacy, absent.

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1 O'Rell?

2 MR. O'RELL: Yes.

3 CHAIRMAN CARTER: Chair votes yes. Passes,
4 12 to 0, 2 absent, no abstentions.

5 MR. MATHEWS: Just for a point of
6 clarification. We probably ought to make sure that
7 Katherine has the right motion on that since it wasn't
8 repeated before the vote.

9 CHAIRMAN CARTER: Okay. The right motion on
10 this then is that the mineral oil is a synthetic
11 substance approved for use under 205.603(a) in organic
12 livestock production. Okay?

13 MR. SIEMON: Okay. The last part of this is
14 we -- I don't know if we need a motion, but we were
15 deferring mineral oil as a dust suppressant and to get
16 more information from the TAP on this subject. Do we
17 need a motion on that?

18 CHAIRMAN CARTER: No. The committees can
19 take action to defer and send it back.

20 MR. SIEMON: Okay.

21 CHAIRMAN CARTER: So, we don't need a motion.

22 MR. SIEMON: Okay. That is the end of the
23 Livestock Materials, but I do want to get clear that
24 we're supposed to get all the TAP issues into Kim

1 individually by next Wednesday of what else we need in
2 any of these deferred TAPs, is that right?

3 CHAIRMAN CARTER: That's right. And we do
4 have the other -- the one material then that we will be
5 bringing back up after lunch.

6 MR. SIEMON: I'm looking to the Minutes, but
7 anybody that could help, I'd appreciate it, about the
8 processing human -- if it's approved for humans, it's
9 approved for livestock.

10 CHAIRMAN CARTER: Okay. Kim, then Rose.

11 MS. BURTON: Just a comment. We now have the
12 six materials that we deferred to the October meeting.

13 We will have to prioritize these in some way, and I
14 would -- we did get a list of prioritization from the
15 Livestock Committee, and if it's acceptable by this
16 Board, we'll have them reviewed in that order.

17 CHAIRMAN CARTER: Okay.

18 MS. KOENIG: I just wanted -- can you just
19 restate those six, just so I have them for my records?

20 MS. BURTON: Sure.

21 CHAIRMAN CARTER: Give the order, too, Kim.

22 MS. BURTON: I don't have the order. I'll
23 have to go back to the original. The order was based
24 on industry survey on the needs of the materials, the

1 urgency.

2 CHAIRMAN CARTER: We've been using them in
3 livestock.

4 MS. BURTON: Yes. Okay. And these are not
5 in any certain order. They're just the ones that I've
6 got. We've got mineral oil to be referred, calcium
7 propionate, furosemide, atropine, flunixin, and the
8 proteinated chelate mineral complex with the question
9 still on the heparin. That one's coming back this
10 afternoon. That's not -- these are all going back for
11 more information.

12 CHAIRMAN CARTER: Okay. All right. Further
13 discussion on the Livestock issues then?

14 (No response)

15 CHAIRMAN CARTER: Okay. We are a little bit
16 ahead of schedule here, but this is a good time as we
17 start to segue into Processing.

18 MR. KING: I move that we take a break, so a
19 certain someone from the Processing Committee can print
20 out the final recommendations.

21 CHAIRMAN CARTER: Okay. We'll take a 20-
22 minute break here.

23 (Whereupon, a recess was taken.)

24 CHAIRMAN CARTER: Okay. We'll get started.

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1 George. George may be out getting something printed.
2 He was doing his research during the break.

3 Okay. Then let's turn it over to Mark to
4 start in with the Processing Materials.

5 Processing

6 MR. KING: Okay. Processing Committee had
7 five materials to review for this meeting. Going in
8 order as posted on the agenda, the first one is calcium
9 stearate.

10 Essentially, it was petitioned for use as an
11 antidusting agent for baking products, baking products
12 that are enriched with vitamins, enzymes, things of
13 that nature. It was found to be synthetic by both the
14 reviewers and the committee. The petitioner's stated
15 use was to look at the work environment and therefore
16 reduce the dust in that environment. Again,
17 specifically as it would relate to enriched or
18 fortified, if you will, baked goods.

19 Notes that were made by reviewers that this
20 would be presumptuous in some ways in thinking that
21 organic consumers want fortified products. Also,
22 reviewers, as did the committee, found that there
23 wasn't any, you know, real empirical evidence that it
24 actually was effective as an antidusting agent.

1 So, we looked at application of the criteria
2 and found the environmental information was also
3 inconclusive. Therefore, we're offering the following
4 recommendation, which is, for 205.605(b), synthetics
5 allowed, to prohibit for products labeled as organic
6 and also to prohibit for products labeled as made-with
7 organic. The vote at the committee level was --

8 CHAIRMAN CARTER: Was that the motion?

9 MR. KING: No. I'm just summarizing the vote
10 --

11 CHAIRMAN CARTER: Okay.

12 MR. KING: -- and then should I make the
13 motion?

14 CHAIRMAN CARTER: No. Go ahead, go ahead.

15 MR. KING: And the vote was 6 to 1. 6 to
16 approve this and 1 to disapprove.

17 So, I move that we consider the
18 aforementioned recommendation.

19 CHAIRMAN CARTER: Okay. So, the motion --
20 okay. The motion has been made by Mark, seconded by
21 Kim --

22 MS. CAUGHLAN: Goldie.

23 CHAIRMAN CARTER: By Goldie. I'm sorry.
24 That calcium stearate --

1 MR. KING: You want me to read it?

2 CHAIRMAN CARTER: Yeah. Go ahead and read
3 it. Yeah.

4 MR. KING: Be prohibited for products labeled
5 as organic and prohibited for products labeled as made-
6 with organic.

7 CHAIRMAN CARTER: Okay. Motion is on the
8 table for discussion. Owusu?

9 MR. BANDELE: I have just one question, Mark.
10 I think the third reviewer was an organic
11 certification specialist, and I know, I think he did
12 approve for made-with organic, and I was just wondering
13 why. Could you give a little more background here as
14 to why the committee did not recommend -- go along with
15 that recommendation?

16 MR. KING: Well, I'll give you some of my
17 thoughts and if other committee members want to share
18 their thoughts, please do so.

19 In looking at alternatives, Owusu, we didn't
20 see that they had actually explored them that much,
21 things like just, you know, natural mechanical dust
22 ventilation, things of that nature, because again the
23 primary petitioned-use was as an antidusting agent.
24 So, we didn't feel the case was, you know, strong --

1 only made for its effectiveness nor had they explored,
2 you know, simple alternatives like a mechanical
3 ventilation system.

4 CHAIRMAN CARTER: Other comments? Questions?
5 Discussion?

6 (No response)

7 CHAIRMAN CARTER: Are you ready to vote?
8 Okay. Voting on the motion that calcium stearate be
9 prohibited for products labeled as organic and
10 prohibited for products labeled as made-with organic.

11 O'Rell?

12 MR. O'RELL: Yes.

13 CHAIRMAN CARTER: Ostiguy?

14 MS. OSTIGUY: Yes.

15 CHAIRMAN CARTER: Riddle?

16 MR. RIDDLE: Yes.

17 CHAIRMAN CARTER: Siemon, absent.

18 Bandeleg?

19 MR. BANDELE: Yes.

20 CHAIRMAN CARTER: Burton?

21 MS. BURTON: Yes.

22 CHAIRMAN CARTER: Caughlan?

23 MS. CAUGHLAN: Yes.

24 CHAIRMAN CARTER: Cooper?

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1 MS. COOPER: Yes.

2 CHAIRMAN CARTER: Goldberg is absent.

3 Holbrook?

4 MR. HOLBROOK: Yes.

5 CHAIRMAN CARTER: King?

6 MR. KING: Yes.

7 CHAIRMAN CARTER: Koenig?

8 MS. KOENIG: Yes.

9 CHAIRMAN CARTER: Lacy is absent.

10 Chair votes yes. So, that passes on an 11 to
11 0, 1 absent -- 3 absent, no abstentions. Okay.

12 MR. KING: Okay. Next material on the agenda
13 is tetrasodium pyrophosphate or TSPP. The petitioned-
14 use in this case was as a pH buffer and doe conditioner
15 for use in organic meat alternative products, and if
16 you were here the other day, you know that what we
17 discovered was this is actually used in an ingredient
18 which in this case is texturized wheat protein for
19 organic meat alternative products, veggie burgers,
20 things like that.

21 So, in this case, the reviewers found it to
22 be synthetic as did the committee. We also discovered
23 through conversation and reading that TSPP is a
24 pyrophosphate that belongs sort of in this generic

1 classification of sodium phosphates, kind of the bigger
2 picture, if you will.

3 One of the reviewers allowed both organic and
4 made-with categories and then two prohibited in both
5 categories. The TAP review indicated some linkage to
6 some renal failure, kidney damage, looking at the
7 biological quality of processed protein, but it also
8 said that, you know, extrapolation from certain rat
9 models can over-estimate things. So, it was kind of
10 inconclusive in terms of the effect of TSPP as a food
11 additive in this case.

12 We did again confirm through conversations
13 with the petitioner that this is an ingredient,
14 therefore the levels of TSPP in the final product would
15 be somewhere around .35 percent. So, pretty low in
16 that particular case. It's apparent in conversation
17 and in reading that the petitioner had essentially
18 experimented with a lot of different alternatives and
19 had met with unsuccessful results. So, that was
20 considered. Some changed flavor, others were
21 allergens, some were just not functionally desirable.
22 So, there were a lot of different alternatives
23 explored.

24 One of the things we did find in looking at

1 the criteria, as we always do, is that, you know, there
2 is some concern that this material could be used and
3 really is used to improve texture, color, and/or
4 flavor. The committee also and some of the reviewers
5 pointed out that it's not a 100 percent compatible with
6 the principles of organic handling. So, that needs to
7 be noted, and then we also found not just from the
8 reviewers but in conversation that production, again
9 because so many alternatives have been explored, that
10 this -- it's difficult to really make this product
11 without the use of TSPP. So, that was also noted.

12 Our recommendation, and I move that we
13 consider the following, is for Section 205.605(b),
14 synthetics allowed, for use in dairy foods labeled as
15 organic or for use only in agricultural products
16 labeled as made-with organic-specified ingredients or
17 food groups.

18 CHAIRMAN CARTER: Okay. You've heard the
19 motion. Is there a second?

20 MS. CAUGHLAN: Second.

21 CHAIRMAN CARTER: Kim seconded -- oh, no, I'm
22 sorry. Goldie, you're right behind Kim there. Okay.
23 Goldie seconded it. Okay.

24 Go ahead. It's on the table for discussion.

1 Yes, Kevin?

2 MR. O'RELL: Well, this is one, and I did
3 vote on the committee for approving it as a product for
4 made-with organic. I struggled with this one, as I
5 shared with the committee. One of the things that
6 concerns me is that we, to be consistent, we've allowed
7 the use of sodium phosphates as a classification in
8 dairy products, and they are specific and have unique
9 functionality for dairy products.

10 In this case, I think in fact we had a
11 telephone interview with the petitioner and went
12 through extensively all the list of chemicals that they
13 have tried to utilize, some on the national -- some on
14 the list, and it was very clear to me that this product
15 cannot be made with any of those other chemicals.

16 My concern is with the made-with category.
17 This is a product that's used as an ingredient in an
18 ingredient that then is used in a final product which
19 does not have to be listed on that label of the final
20 product. So, we would have a made-with category with a
21 chemical listed, a synthetic listed or a synthetic in
22 the product but not listed on the label, and I just
23 don't think that would be consistent.

24 The fact that it has a very specific use and

1 the fact that it's not listed on the label, I would
2 like to make a motion that we would allow this for use
3 in organic and made-for organic by amending the
4 annotation in the current sodium phosphates to include
5 the use for textured vegetable protein or textured
6 wheat protein or maybe meat analogs. I need help with
7 that on the formation of that and meat analog products.

8 CHAIRMAN CARTER: Okay.

9 PARTICIPANT: I second that.

10 CHAIRMAN CARTER: Okay. It's been seconded.

11 Can you repeat that just for clarity here?

12 MR. O'RELL: No. To add to the present
13 annotation --

14 MS. BURTON: Wait. You want to change --

15 MR. O'RELL: To change the present
16 annotation of sodium phosphates to read -- I've got to
17 get this out.

18 MS. BURTON: I'll help you.

19 CHAIRMAN CARTER: Okay.

20 MS. BURTON: For use only in dairy foods
21 labeled as organic or for use only in textured meat
22 analog products.

23 MR. KING: Quick question. When we look at
24 this and this is just maybe for Rick, when we're

1 listing this, do we even need to say "labeled as
2 organic"? In other words, when you look at for use in
3 dairy foods, can we just leave it at that and it would
4 cover the labeling categories or no?

5 MR. MATHEWS: Well, if you don't identify
6 the made-with as a limitation, then it automatically
7 applies to the organic and the made-with.

8 MR. KING: Right. Right.

9 CHAIRMAN CARTER: Okay. Okay. Discussion?
10 Jim?

11 MS. CAUGHLAN: Read it again. I'm sorry.
12 Because it doesn't --

13 MS. BURTON: Okay. I'll try. For use only
14 in dairy foods labeled as organic or for use only in
15 textured meat analog products.

16 CHAIRMAN CARTER: Okay. So, does that mean
17 what the seconder meant?

18 PARTICIPANT: Yes.

19 CHAIRMAN CARTER: So, it is on the table for
20 discussion. Okay. Goldie, and then Rose? Oh, I'm
21 sorry. Jim, you weighed in first, Goldie, and then
22 Rose.

23 MR. RIDDLE: Everybody. Yeah. I have a
24 couple of comments, but my first one is really more

1 just a question about the current listing of sodium
2 phosphates in general and to help clarify what our
3 history has been and what that exactly meant when the
4 Board voted on it, I'd call on Emily Brown-Rosen to
5 help us, if you would, on what the starting point is
6 here.

7 MS. BROWN-ROSEN: Emily Brown-Rosen, Armery.
8 Yes, we have reviewed sodium phosphates twice now.
9 This is the third time. So, the last time we reviewed
10 this, we clarify -- which was not too long ago, 2001,
11 which was the petition to extend the allowance of
12 sodium phosphates to other products, notably soy
13 products, and at that time when we did the TAP review,
14 we clarified because our understanding was always that
15 sodium phosphates, although it is listed on the
16 national list as, you know, just phosphates and that
17 is, as Kevin said, a very large term and generally
18 refers to a lot of things, when the original TAP review
19 was done back in '94-95, it was only reviewed the
20 ortho-phosphates, mono-, di- and tri- basic sodium
21 phosphates. Mono-, di- and tri-. Right.

22 MR. RIDDLE: So, therefore, --

23 MS. BROWN-ROSEN: So, that's what we -- when
24 we asked for clarification of were we extending this

1 category, we asked which ones are we reviewing and
2 that's what we were told. We were only reviewing the
3 ortho-. That's the ones that are allowed and that's
4 what we were considering extending. Now, maybe that
5 should be corrected on the national list now. That
6 would be a good clarification. But there's like lots
7 of other groups of polytetraphosphates and there are
8 all different compounds with lots of different uses.
9 So, I think it would be good to be very clear which
10 ones we're talking about here and not -- otherwise,
11 we're allowing a lot more than just tetrasodium
12 phosphates.

13 CHAIRMAN CARTER: Okay. Goldie, George, and
14 then Kevin.

15 MR. SIEMON: I think Kevin might change.

16 MR. O'RELL: Yeah. And I agree, I think that
17 there is need for clarification with the current
18 listing because sodium phosphates is a generic term and
19 does cover a variety of orthophosphates,
20 pyrophosphates, polyphosphates. You can find
21 references in a lot of chemical books referring to the
22 generic classification of sodium phosphates, and in
23 this case, we have an annotation of -- we listed and
24 then agreed in the -- and then allowed product, sodium

1 phosphates, which is not specific to a chemical.

2 I think there's a need for a technical
3 correction in that. I don't know if that's something,
4 Rick, we could do as a technical correction. In that
5 case, then we would have to allow specifically the
6 tetrasodium pyrophosphate for use in meat -- textured
7 meat analog products and maybe that's a better -- Rick,
8 maybe if we could have your input, maybe that's a
9 better approach, is to clarify a technical correction
10 on the sodium phosphate.

11 MS. BURTON: I think what you'd want to do
12 then is just have a new addition to the list under
13 tetrasodium pyrophosphate and have a specific
14 annotation and then leave the current one as is, sodium
15 phosphates.

16 MS. BROWN-ROSEN: Unless you can recommend a
17 change now to do that. I don't know. Based on this
18 TAP review, maybe you could do that. I don't know.

19 MR. O'RELL: I would recommend, if the intent
20 of the Board in the past was to refer to sodium
21 phosphates, and I've read the petitions in the past and
22 the TAP, it was specific to orthophosphates, mono-, di-
23 and tri- basic. I think that should be clarified like
24 we do for calcium.

1 MR. SIEMON: In '95, that's -- we narrowed it
2 down to those.

3 MS. BROWN-ROSEN: And it was reaffirmed the
4 last time we did it.

5 MR. O'RELL: And I would ask, Rick, could
6 that be done as a technical correction?

7 MR. MATHEWS: I'll have to go back and review
8 the history on this from the standpoint of what was in
9 the first proposal, what was in the second proposal,
10 and then obviously we know what came out in the final,
11 but really it's going to have to be that there was a
12 mistake made in going from the second proposal to the
13 final in order for it to be a technical correction.

14 MS. BROWN-ROSEN: And I think this was the
15 same all the way through. I don't think it was
16 different.

17 MR. MATHEWS: Well, if it was the same all
18 the way through, then it's not a technical correction.
19 People understood it to be this which you're now
20 saying includes more than what you had really intended,
21 which means that you really need to take a look at this
22 and then come up with a new recommendation for the
23 Board on how this substance or this group of substances
24 should actually be listed. So, it's going to take --

1 MS. BROWN-ROSEN: Can they do that now as
2 part of this staff review and just recommend that be
3 the change listing?

4 MR. MATHEWS: I wold say --

5 MR. O'RELL: Can we make that motion now?

6 MS. BURTON: We've got a panel of experts
7 here who have read all the TAPs, and we know the past
8 intent of the recommendation.

9 MS. BROWN-ROSEN: It was covered in the past.
10 I mean, there were TAP reviews done on this topic.

11 MR. MATHEWS: Except that this meeting didn't
12 say we were going to -- the announcement on this
13 meeting did not say that we would be taking this under
14 consideration. So, if the Board is inclined to do
15 that, we could put it into the October meeting. That
16 way, it can be on the agenda. It can be in the Federal
17 Register Notice for that meeting. That will give the
18 public notice that you're going to address that issue
19 at your next meeting.

20 MS. BURTON: Just be specific on this.

21 CHAIRMAN CARTER: Kevin?

22 MR. O'RELL: Well, then, in that case then,
23 what I'd like to do is to withdraw my motion and make a
24 motion that tetrasodium pyrophosphate be added to

1 205.605(b) with the annotation for use in textured meat
2 analog products. Kim, is that consistent with what we
3 said?

4 PARTICIPANT: I second that.

5 CHAIRMAN CARTER: Okay. So, since you were
6 the seconder on the original motion, I assume you agree
7 to the withdrawal?

8 PARTICIPANT: Yes.

9 CHAIRMAN CARTER: Okay. So, now, the new
10 amended motion is that 205.605(b) be allowed as a
11 synthetic for use in textured meat analog products.

12 Discussion? Yes, Goldie?

13 MS. CAUGHLAN: Do we want to tie a limitation
14 to the amount? Because one of the things that was
15 comforting to us was the very, very, very minute
16 quantities that this particular petitioner in their
17 particular formulation has stressed. So, I'm wondering
18 if we want -- if that's the way to deal with it or if
19 that's too messy in terms of annotations, for God's
20 sake. I don't know.

21 CHAIRMAN CARTER: Kevin?

22 MR. O'RELL: I think it does get a little
23 messy in terms of the annotation, but the ingredient
24 itself is restrictive in its functionality. You're

1 only going to put in the amount that's needed to do the
2 job, and it functions at a very low level in finished
3 product form. So, I think that would be the limiting
4 factor, that people are not going to put in more of an
5 ingredient and build up costs of something, plus it
6 adds to your sodium content.

7 CHAIRMAN CARTER: Okay. Kim?

8 MS. BURTON: Also in support of this,
9 obviously the committee had one recommendation and we
10 came back. What we struggled with was, was the history
11 of this type of a material, and the specific use for
12 it. The other thing, like Kevin had said, was that
13 it's not on the ingredients statement. So, in reality,
14 we felt that this was the best place for a product such
15 as this. You know, we don't want all phosphates in to
16 organics, but again this is currently being sold. It
17 is an alternative to the consumer, and we thought that
18 it was appropriate.

19 CHAIRMAN CARTER: Okay. Owusu, then Goldie.

20 MR. BANDELE: Yeah. I was -- I had a few
21 concerns about this one. First, I think two of the
22 three reviewers voted to prohibit. One had a Ph.D. in,
23 I think, food biochemistry or the food industry. The
24 other had experience in organic certification, and I'm

1 quoting here. It says, "The allowance of a synthetic
2 agent to create a food product that has unknown,
3 inconclusive or questionable nutritional effects or
4 result in the creation of food products far removed
5 from the natural substrates", and he goes on to make a
6 couple other points, and if I could finish?

7 MR. SIEMON: Just the page number?

8 MR. BANDELE: Oh, I'm sorry. Page 10.

9 MR. SIEMON: Okay. Thank you. Sorry.

10 MR. BANDELE: The other point is that when
11 you're looking at like alternative meat products, a
12 large number of those consumers are people who are
13 very, very concerned with health issues and considering
14 the fact that this product would not even be on the
15 label, this ingredient would not be on the label, I
16 have some serious reservations about it at this point.

17 CHAIRMAN CARTER: Okay. Goldie?

18 MS. CAUGHLAN: Well, to pick up from where he
19 began, I mean, this is something that we've wrestled
20 with, but we're also wrestling with the fact that there
21 is, speaking from the consumer sector, that there is a
22 huge demand for products that are meat analogs and that
23 there -- I mean, what Owusu's suggestion would be that
24 it would -- I gather it's more to the effect that

1 people would have a sense of not recognizing what is in
2 the product. Was that your concern?

3 MR. BANDELE: Well, my concern was that --
4 okay. The points made about the unknown
5 characteristics or results of that particular
6 ingredient and also the fact that a lot of the folks
7 who would consume a product like that would be looking
8 toward, you know, organic food and, you know, would be
9 leery about the synthetics. So, those were my main
10 concerns.

11 And the second point was -- the first -- I
12 think the first review, and somebody may want to
13 comment on this with more knowledge in terms of the
14 food processing, but the first reviewer stated that he
15 -- the use of it was not proven. Its actual use was
16 not proven. I think that was the statement.

17 CHAIRMAN CARTER: Okay. Just a second.

18 MR. BANDELE: That's on Page 9, because no
19 use has been established. Towards the top of Page 9,
20 he says, "Because no use has been established as
21 necessary for the processing of an organic food and
22 because the nutritional impact of TSPP" --

23 MR. O'RELL: But in this case, we had a
24 telephone conversation with the petitioner.

1 MS. BURTON: A lot of this TAP was focused on
2 wheat gluten, and we had clarified that because we were
3 confused. It does not need to be used in the making of
4 wheat gluten, and there was a misunderstanding by the
5 TAP reviewers and the contractors on what its specific
6 use was for.

7 So, when we got down to it, it really wasn't
8 for the manufacturing of wheat gluten, and we went
9 through line by line by alternative of pages of, you
10 know, asking each specific material whether it's been
11 tested and why it wouldn't work, and in this case, I
12 think that that sentence was more referencing towards
13 the wheat gluten versus its actual use.

14 MR. BANDELE: But that point goes to the TAP
15 again.

16 MS. CAUGHLAN: But, also, the petitioner
17 initially was very -- did not communicate that this was
18 a product that would be used in. In other words, they
19 -- it did leave the inference that it was the gluten.
20 So, in a sense.

21 CHAIRMAN CARTER: Jim?

22 MS. CAUGHLAN: It just was not clear.

23 CHAIRMAN CARTER: Jim has been passed by a
24 couple of times here.

1 MR. RIDDLE: Yeah. I was waiting for that
2 discussion to conclude because it was very fascinating.
3 I was, you know, wanting to know, you know, but I
4 think we're beyond that, and I wanted to go back to the
5 original recommendation of the committee, and that it
6 be used in products labeled made-with organic and
7 that's how I agreed to support the material, and now
8 there's a different consideration, and I guess I look
9 at the current list and there are a number of materials
10 that have that kind of annotation.

11 I mean, the first, you know, most notable,
12 sulfur dioxide in wine, and that's quite understandable
13 and that does have to be labeled, but then, I also find
14 magnesium carbonate, magnesium stearate, potassium
15 iodide, and potassium phosphate having that label, and
16 those are similar in that they may not appear on that
17 final food label but somewhere -- if, somewhere in the
18 process, they were used to manufacture either an
19 ingredient or that final material, that that's simply
20 how that product's going to be labeled.

21 So, I think it would be consistent and it is
22 verifiable from an inspection and certification point
23 of view because you have to review the labels of the
24 ingredients as part of the process as well as the

1 certificates to show that they do meet the requirements
2 and then you do the formulation based on what all those
3 ingredients are, you know, calculation, to see how it
4 can be labeled.

5 So, I guess I would move to amend the motion
6 to change it to state for use only in agricultural
7 products labeled made-with organic-specified
8 ingredients or food groups.

9 CHAIRMAN CARTER: Okay. Is there a second to
10 this? This is an amendment to the amendment. Okay.
11 This is --

12 MR. SIEMON: I'm lost now.

13 MS. COOPER: I second it.

14 CHAIRMAN CARTER: Okay. Ann seconded it.
15 Okay. So, repeat the amendment. Okay. For use --

16 MR. RIDDLE: Yeah. For use only in
17 agricultural products labeled made-with organic-
18 specified ingredients or food groups. That's going
19 back to the original --

20 MR. SIEMON: Didn't we just vote no on the
21 present amendment?

22 CHAIRMAN CARTER: Well, okay, if you want to
23 go back to the original motion, it doesn't require
24 another motion. It simply requires defeating this

1 amendment and then we're back to the original
2 amendment.

3 MR. RIDDLE: Change it to TSPP instead of
4 sodium phosphates. That was the -- I'm not challenging
5 that.

6 CHAIRMAN CARTER: Okay.

7 MR. RIDDLE: I'm challenging how it's
8 annotated.

9 MR. KING: Question. This is for Kim. I
10 support the made-with category, as we discussed all
11 along. So, let's start there. But then, Kevin's
12 suggestion from earlier that -- in striking "in other
13 words, agricultural products", and then I think you
14 were saying, Kevin, textured meat analog products. So,
15 I'm asking if that's something you would support?

16 MR. RIDDLE: I would find that very friendly.

17 MR. KING: Okay.

18 MR. RIDDLE: Yeah.

19 MR. KING: Okay.

20 MR. RIDDLE: So, to change my motion --

21 MR. KING: So, we are in effect changing the
22 original by adding those three words.

23 CHAIRMAN CARTER: So, this is the third level
24 of amendment. So, read yours in its entirety. Read it

1 in its entirety.

2 MR. RIDDLE: To -- for allowed -- allowed for
3 use in textured meat analog products labeled made-with
4 organic-specified ingredients or food groups.

5 MS. CAUGHLAN: To be allowed for what? The
6 way the statute reads --

7 MR. RIDDLE: For use --

8 MR. KING: Well, start with dairy foods.

9 MR. RIDDLE: -- in textured meat analog
10 products labeled as -- and then in quotation marks
11 "made-with organic (specified ingredients or food
12 groups)".

13 MS. CAUGHLAN: To be consistent with the way
14 the made-with regulation reads?

15 MR. RIDDLE: Yeah. Did you catch that,
16 Katherine?

17 CHAIRMAN CARTER: Okay. Now, is that --

18 MR. SIEMON: I need to understand the
19 relationship of this motion to the previous motion. It
20 seems we need to vote on the first -- the second motion
21 before we can vote on the third motion.

22 CHAIRMAN CARTER: Well, here's what you do.
23 I mean, we can take this in a series of layers. I just
24 want to make sure that we have it right. Jim's

1 amendment is to change the language to say for use in
2 -- and are you still keeping the dairy foods in there?

3 MS. BURTON: You guys are all confused. Let
4 me straighten you out. Okay.

5 CHAIRMAN CARTER: Please do.

6 MS. BURTON: Okay. There was an amendment, a
7 new motion, to add TSPP as a separate material under
8 205.605(b) to read, for use only in textured meat
9 analog product. That's the motion that was on the
10 floor. That was --

11 CHAIRMAN CARTER: That's the amendment.
12 That's the amendment that was -- okay. Let me do the
13 first motion.

14 MR. KING: The first motion. Do you want me
15 to read the first motion?

16 CHAIRMAN CARTER: The first motion is what's
17 here, and there's an amendment to change that.

18 MS. BURTON: Right.

19 CHAIRMAN CARTER: Then Jim offered a further
20 amendment to --

21 MR. SIEMON: That pulls us back to the first
22 motion is my --

23 MR. KING: He changed it.

24 MR. SIEMON: I know, but it's the same. It's

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1 just a few word changes.

2 MS. BURTON: But we're right now at TSPP.

3 MR. SIEMON: It's the same intent. It's the
4 same intent.

5 MS. BURTON: No, it isn't.

6 CHAIRMAN CARTER: One at a time.

7 MR. SIEMON: Come on, you all.

8 CHAIRMAN CARTER: Okay?

9 MS. BURTON: Point of procedure. I mean, I
10 would suggest either ask for the rescinding of the
11 motions or vote on, if we get a second, vote on that
12 and then proceed.

13 CHAIRMAN CARTER: We will. We'll take it
14 procedurally, and --

15 MS. BURTON: But everybody just is amending
16 --

17 CHAIRMAN CARTER: Hang on. Okay? Each
18 amendment, as we go through it, and this is as far down
19 the chain as you can go with amendments, okay, is that
20 if you vote for this amendment, then you take -- if
21 this amendment is defeated, it goes back to Kevin's.
22 Okay. If Kevin's passes, then we go through and do
23 that, the motion is amended. If Kevin's is defeated,
24 it go back to the original motion. So, it's in a

1 series of layers now. Okay. You need to understand
2 that.

3 Discussion now on the Riddle amendment?
4 George?

5 MR. SIEMON: I think what's made for a lot of
6 confusion, not only when you try to bring it into the
7 final -- it might go in the final one. We've got the
8 non-label use. I think it's just a lot of confusion
9 that comes from this. I think it's also forcing this
10 whole category to go from a potential organic product
11 down to a made-with 70 percent which I think will -- is
12 the wrong message. We're trying to get organic
13 products into these things. I think these people have
14 showed that they've looked into -- there are no
15 alternatives. That's a key element in our
16 decisionmaking process here, and we've got a broad
17 allowance as dairy. I have to understand how we can do
18 that, and I hear a sense that we're kind of making a
19 decision because this is fake food. I don't think
20 that's our decision. We're trying to provide organic
21 food to the consumers, and I just don't see how you can
22 allow it in dairy and have this confusion when there
23 are no alternatives.

24 CHAIRMAN CARTER: Okay. Mark, and then

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1 Kevin.

2 MR. KING: I think that it's difficult to
3 argue two things. One, that there is consumer demand
4 for this product. Secondly, that this is a processed
5 product. All right. This is a meat alternative and
6 clearly not a "whole food", and I am comfortable with
7 the made-with category for those two reasons. I think
8 it's a compromise that fits both. It provides a
9 product to the consumer but clearly doesn't
10 misrepresent the fact that it's a processed product.

11 I'm uncomfortable with it in the organic
12 category because I just look at organic as a bit more
13 natural than perhaps a whole food.

14 CHAIRMAN CARTER: Okay. Kevin?

15 MR. O'RELL: Again, I come back to the point
16 that this is an ingredient used in an ingredient that
17 then goes into a final product. So, again, it doesn't
18 have to be listed on the label. It's used at minute
19 levels. We know there's a consumer demand for this
20 product. It's a product that exists in the marketplace
21 today as organic, and the product does not contain the
22 sodium phosphate or tetrasodium pyrophosphate on the
23 label, and I think when you're using an ingredient of
24 an ingredient as a secondary ingredient in a finished

1 product, it's very confusing in the made-with, and I
2 still would -- I can't support the made-with.

3 CHAIRMAN CARTER: Okay. Kim?

4 MS. BURTON: Ditto on Kevin, but also, Mark,
5 we don't want to categorize that the made-with label is
6 all for processed -- overly-processed foods. I think
7 that's a wrong statement.

8 MR. KING: That's not a general statement.

9 MS. BURTON: Right.

10 MR. KING: I'm saying in this case, based on
11 the information that's out in the field.

12 MS. BURTON: Yeah. I just --

13 MR. KING: I'm not making that as a
14 suggestion.

15 MS. BURTON: I think we should base that on
16 criteria for the made-with organic.

17 CHAIRMAN CARTER: When. Rose?

18 MS. KOENIG: I had just a question on the
19 implications of the amendment as it stands as far as
20 textured meat products only. Does that -- would then
21 the statement and the other uses that were explored in
22 the TAP fit within that category, and are we being too
23 limited if they don't?

24 CHAIRMAN CARTER: Okay. That's not the one

1 that we're voting on right now. We'll come back to
2 that.

3 MS. KOENIG: Okay. All right.

4 CHAIRMAN CARTER: All right?

5 MS. KOENIG: I'm confused. Sorry.

6 CHAIRMAN CARTER: Jim?

7 MR. RIDDLE: When I look on the list, the
8 most comparable material that I find is potassium
9 phosphate to this material, and it has the annotation
10 for use only in products labeled made-with. So, I
11 think to be consistent, that's the way to go. So, I
12 urge that we adopt this amendment. It was the most
13 similar to what came out of the committee, and it's the
14 only way I support the material.

15 CHAIRMAN CARTER: Okay. Kevin?

16 MR. O'RELL: Just to follow up on Jim, to be
17 consistent, we've allowed the use of sodium phosphates
18 in dairy foods labeled as organic, and I don't think
19 we're being consistent when the petitioner's
20 demonstrated that there isn't an alternative for making
21 this product. To be consistent, we did it for dairy
22 foods and this is a sodium phosphate. It's a different
23 name, but it's the classification of sodium phosphates,
24 and I think to be consistent, we would need to approve

1 it for organic as we did dairy.

2 CHAIRMAN CARTER: Okay. Are you ready to
3 vote? Okay.

4 PARTICIPANT: Call the question.

5 CHAIRMAN CARTER: We are voting now on the
6 Riddle amendment, which repeat your amendment in its
7 entirety.

8 MR. RIDDLE: Well, it would be in its
9 entirety, it would read, TSPP only for use in textured
10 meat analog products labeled made-with organic.

11 CHAIRMAN CARTER: All right.

12 MS. KOENIG: That's why my question.

13 CHAIRMAN CARTER: That --

14 MR. RIDDLE: Really, my amendment is only to
15 add that made-with organic.

16 CHAIRMAN CARTER: Let me try to explain this.
17 Okay? If the amendment passes, his language is added
18 to Kevin's amendment. If it is defeated, we simply go
19 back to Kevin's language and then we will vote again on
20 whether that language should be used to change the
21 original motion. Okay. So, you get a chance to make
22 decisions in all different levels here. Okay?

23 MR. SIEMON: I guess I'm confused.

24 So, the vote on the Riddle amendment.

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1 King?
2 MR. KING: Yes.
3 CHAIRMAN CARTER: Koenig?
4 MS. KOENIG: No, I guess.
5 CHAIRMAN CARTER: Lacy, absent.
6 O'Rell?
7 MR. O'RELL: No.
8 CHAIRMAN CARTER: Ostiguy?
9 MS. OSTIGUY: Yes.
10 CHAIRMAN CARTER: Riddle?
11 MR. RIDDLE: Yes.
12 CHAIRMAN CARTER: Siemon?
13 MR. SIEMON: No.
14 CHAIRMAN CARTER: Bandele?
15 MR. BANDELE: Abstain.
16 CHAIRMAN CARTER: Burton?
17 MS. BURTON: No.
18 CHAIRMAN CARTER: Caughlan?
19 MS. CAUGHLAN: No.
20 CHAIRMAN CARTER: Cooper?
21 MS. COOPER: Yes.
22 CHAIRMAN CARTER: Goldberg is absent.
23 Holbrook?
24 MR. HOLBROOK: No.

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1 CHAIRMAN CARTER: Chair votes no. Okay. The
2 motion fails on a vote of 4 yes, 7 no, 1 abstention, 2
3 absent.

4 We're back now to the O'Rell amendment, which
5 is simply then the textured meat products. That's on
6 the table for discussion.

7 George?

8 MR. SIEMON: Yeah. Not to make my same
9 arguments again. I would like to deal with this made-
10 with ingredient issue. Jim's pointed out it's on the
11 list, but what happens with these products when it's
12 put into an organic product? Do you count just the
13 percentage of organic? So, this is an ingredient
14 inside of a final product?

15 MR. KING: Yes.

16 MR. SIEMON: If we label it made-with -- I
17 just want to make sure. I don't see how that works
18 once it goes into the organic product. I need to -- I
19 think we need to really get a clear point there.

20 MR. KING: I think do we, and this has been a
21 discussion, and in fact, after we talked with Rick
22 about this just yesterday, so, Rick, so can have it
23 come from the horse's mouth, so to speak, or Barbara,
24 if you want to comment. We're talking about that 70 --

1 I'm sorry. I didn't mean it like that. It's a
2 friendly comment.

3 The relationship of the 70-30, if you will,
4 in the made-with category, which I think --

5 MR. SIEMON: In the final organic product?

6 MR. KING: Right, right.

7 MR. SIEMON: If you use the made-with in
8 organic product, do you just count the agricultural?
9 That's what we've got to get to.

10 CHAIRMAN CARTER: Okay. The request for --

11 MR. MATHEWS: Would you just please put it in
12 writing and then we'll analyze it?

13 PARTICIPANT: It's not relevant to what's on
14 the table because the made-with --

15 MR. MATHEWS: It's not with this amendment at
16 all,, but it is --

17 MR. SIEMON: It is. If you all -- those who
18 are advocated made-with, we need to know the
19 relationship with it when you use the made-with as an
20 ingredient in an organic product. It's very relevant
21 to those who are supporting the made-with.

22 CHAIRMAN CARTER: Okay. Kevin?

23 MR. O'RELL: I'd like to call on the
24 audience.

1 CHAIRMAN CARTER: Okay. Identify yourself.

2 MR. O'RELL: Andrea? Thank you, Andrea.

3 MS. CAROE: Hi. I'm Andrea Caroe, QAI. When
4 a made-with ingredient is incorporated into an organic
5 product, it is considered a non-organic ingredient
6 unless all of the ingredients are disclosed and it's
7 pulled apart in the final formulation. With that as a
8 non-organic ingredient, we'll just look at it for the
9 materials and the big three.

10 MR. SIEMON: But that means you add them all
11 up and look at the percentages and if the 95 --

12 MS. CAROE: Correct. This is a common issue
13 with wine that use sulfites. If the wine is an
14 ingredient in jelly and the sulfites were used, it's
15 not afforded the organic label on the end.

16 MR. SIEMON: So, if it's only allowed with
17 made-with, and the non-organic part and the substance
18 fall inside the 5 percent, it will be able to be
19 allowed to be labeled as organic?

20 MS. CAROE: No, it will not, if the substance
21 is only allowed in a made-with ingredient.

22 MR. SIEMON: Even though it's not --

23 MS. CAROE: Even if that ingredient is
24 incorporated into a final formulation, even if it

1 exceeds 95 percent organic content, it still contains
2 that material that is only allowed in that made-with.

3 MR. MATHEWS: That's correct.

4 MR. SIEMON: That's not what was said
5 yesterday.

6 MR. MATHEWS: Well, --

7 MR. SIEMON: Because it's not on the label.

8 CHAIRMAN CARTER: Kevin?

9 MR. MATHEWS: What she's saying is that there
10 is a substance which is allowed in a made-with product
11 and the made-with product is being included into an
12 organic product, and the made-with product does not
13 move it out of the organic status but you still have
14 the prohibited substance in there. So, that made-with
15 product disqualifies the organic status of the end
16 product.

17 CHAIRMAN CARTER: Kevin?

18 MR. O'RELL: So, in the case of this, you
19 could have a product that in total, when you break out
20 the percentage of organic ingredients in the made-with
21 ingredient, it could exceed 95 percent, but you have
22 knocked it to a made-with because of the annotation and
23 then you could put on your -- on the ingredient panel
24 the percent organic, 96 percent, but yet you're a made-

1 with product which I find very confusing.

2 CHAIRMAN CARTER: Okay. Just a second,
3 folks. Okay. George had his hand up, then Mark.

4 MR. SIEMON: Just again, I really think our
5 job is to encourage organic, and I think that we should
6 allow these products to be in the 95 percent world.

7 CHAIRMAN CARTER: Okay. Mark?

8 MR. KING: I guess in terms of Kevin's
9 comment about the 95 percent in the made-with category,
10 what was the intent when we look at the 70-30, I don't
11 see that as confusing, I guess, and I would ask if NOP
12 if they see that as an issue. It's still a made-with
13 product on the PDP. It's just going to state the
14 percent.

15 CHAIRMAN CARTER: specifies a minimum, not
16 the maximum.

17 MR. KING: I mean, 100 percent organic
18 product is a made-with product at a 100 percent
19 organic. All the made-with says, it's a minimum of 70
20 percent organic.

21 CHAIRMAN CARTER: Okay. Ann?

22 MS. COOPER: Well, I support the made-with
23 because I think that we're at least, you know, saying
24 that it has something in it that we're not comfortable

1 with. They'll want to sort of upgrade from made-with
2 to organic, and otherwise no one's ever going to change
3 the formulation. We're not going to see other things
4 come out that would be organic, really organic.

5 CHAIRMAN CARTER: Okay. Now, the discussion
6 is what -- I mean, what we are debating here is the
7 O'Rell amendment, which just says for use in textured
8 meat analog products. If that is defeated, then we go
9 back to the original motion, which was for use only in
10 dairy foods labeled as organic or for only in
11 agricultural products labeled as made-with organic.
12 Okay? That's the decision you got right now.
13 Everybody understand that? Okay.

14 Mark?

15 MR. KING: Two things, which is why obviously
16 we're discussing the made-with versus the organic, and
17 then, secondly, if I could call on Tom, who's part of
18 this whole discussion at the committee level.

19 CHAIRMAN CARTER: Okay. I made that clear
20 just for clarification because I had a couple people
21 ask me how can we be debating made-with organic when
22 that's just what we defeated. So, I just want to make
23 sure we're clear.

24 Okay. Tom, would you identify yourself?

1 MR. HARDING: Tom Harding. I'm speaking on
2 behalf of Kansas City Ingredient Technology, the
3 manufacturer of this ingredient.

4 I want to be very specific. When we looked
5 at this and we looked at all of the alternatives
6 exactly as we testified the other day, we found no
7 alternatives. This is a traditional process that's
8 being used throughout the industry to take and marry
9 two wheat-based materials into a finished product
10 that's been used for a long time in meat alternative
11 analogs, and when we looked at this broader section, we
12 looked at sodium phosphate. We looked at everything
13 else within the category, and we wanted to be honest
14 because the end user of this product needs to make sure
15 they have an ingredient that brings their product up to
16 the level of organic or made-with organic. Some use it
17 one way, some use it the other way.

18 We thought the honest way to do this was to
19 have this as a certified organic ingredient. Since
20 we're using such small amounts as a constituent in this
21 product, which is less than 3.5 percent in the initial
22 ingredient, and it appears, and I called yesterday, it
23 even comes out less than in most of the organic
24 products to be somewhere in the neighborhood of 7 or 8

1 percent that they actually this ingredient in the
2 finished material. So, it further reduces this
3 material that we're concerned about.

4 The thing that was most important for us is
5 that we have sodium phosphate on the list. We looked
6 at the analog differentials as they were and as Kevin
7 has pointed out. We didn't see tetrasodium phosphate
8 on the list. It is very important that we have
9 consistency in the labeling, whether you calculate it
10 and you -- what you're going to do is you're going to
11 pull a whole category down to a made-with, from an
12 organic to a made-with label. To me, you still don't
13 resolve the issue of how the consumer looks at this end
14 result.

15 We wanted to bring the integrity of the
16 product up. We wanted to encourage the manufacturers
17 to make this product as an organic ingredient, so that
18 we could identify, and it is clearly identified, TSPP
19 is identified on our label, as are the two 100 percent
20 organic ingredients that go along with it. We've
21 encouraged this manufacturer to take on this process
22 and therefore create another organic product that in
23 fact services the industry. So, I would speak, I
24 suggest, very strongly that we don't push this now from

1 an organic to a made-with, and that we maintain the
2 category consistency and broaden the category as it's
3 been proposed.

4 CHAIRMAN CARTER: Okay. Barbara?

5 MR. HARDING: And one other point I wanted to
6 make. There's been a lot of comment about why the
7 manufacturer didn't stay around. The reason is that on
8 Friday, they had an explosion in their Alcohol Section,
9 and they still came to this meeting as they were
10 prepared to come, as were the end users, at the last
11 meeting when we deferred this. So, they apologize for
12 that, but that's been my job, and I've been here ever
13 since to support it.

14 So, I thank you very much.

15 CHAIRMAN CARTER: Thank you, Tom.

16 Okay. Barbara?

17 MS. ROBINSON: I could be wrong about this,
18 but I -- somebody tell me if I am, but I don't think
19 the Board is -- really should be using as a criteria
20 whether or not to accept an ingredient, benchmarking it
21 against, well, will it make this label cut off or will
22 it make that label cut off? You go back and read the
23 Act and read your own criteria, you are asked to
24 evaluate materials based on the scientific properties,

1 whether there's harm, whether there are any other
2 categories. I don't think there's anything in there
3 because these label definitions weren't in the Act.
4 So, I don't think you guys ought to be sitting around
5 debating, gee, will it give consumers the made-with
6 label or will they get the 100 percent label? I mean,
7 you either buy off on it or you don't.

8 MR. SIEMON: Yeah. But, Barbara, --

9 CHAIRMAN CARTER: Thanks, Mom.

10 MR. SIEMON: -- doesn't that mean we should
11 be allowing it as for end processing and not picking
12 made-with over organic? Doesn't that support this
13 motion, what you just said? I mean, you just said we
14 shouldn't be worrying about which classification gets
15 it. We're supposed to be making calculated reviews
16 about alternatives and --

17 CHAIRMAN CARTER: The question -- and I just
18 -- you know, I don't think -- I think she's just giving
19 us -- you know, we've got to remember the guidance and
20 the basis for which we're supposed to be making these
21 decisions and how we're supposed to be evaluating them.

22 The question here has been called. If
23 there's no further hands up, --

24 MS. CAUGHLAN: Please read the motion again.

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1 CHAIRMAN CARTER: Okay. The motion that is
2 on the table, if I can find it, is, --

3 PARTICIPANT: The table or the motion?

4 CHAIRMAN CARTER: Find the motion. Okay.
5 It's the O'Rell amendment. The TSPP be approved under
6 205.605(b), synthetics allowed, for use in textured
7 meat analog products. That is -- it was a motion to
8 amend the original language. If you defeat this
9 motion, we go back to the original language that was
10 proposed by the committee. Okay? We will proceed to
11 vote.

12 MS. CAUGHLAN: And we can still discuss the
13 --

14 CHAIRMAN CARTER: You can still do that. It
15 will be back on the table at that time, yes. Okay.

16 Katherine, are you with us on this?

17 MS. BENHAM: Yes.

18 CHAIRMAN CARTER: Okay. Don't look too
19 happy, but she's with us. Okay. We will proceed to
20 vote on the O'Rell amendment then.

21 Ostiguy?

22 MS. OSTIGUY: Yes.

23 CHAIRMAN CARTER: Riddle?

24 MR. RIDDLE: No.

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1 CHAIRMAN CARTER: Siemon?
2 MR. SIEMON: Yes.
3 CHAIRMAN CARTER: Bandele?
4 MR. BANDELE: Abstain.
5 CHAIRMAN CARTER: Burton?
6 MS. BURTON: Yes.
7 CHAIRMAN CARTER: Caughlan?
8 MS. CAUGHLAN: Yes.
9 CHAIRMAN CARTER: Cooper?
10 MS. COOPER: No.
11 CHAIRMAN CARTER: Goldberg, absent.
12 Holbrook?
13 MR. HOLBROOK: Yes.
14 CHAIRMAN CARTER: King?
15 MR. KING: No.
16 CHAIRMAN CARTER: Koenig?
17 MS. KOENIG: Yes.
18 CHAIRMAN CARTER: Lacy, absent.
19 O'Rell?
20 MR. O'RELL: Yes.
21 CHAIRMAN CARTER: Chair votes yes. It
22 carries by -- I count a vote of 8 yes, --
23 MR. SIEMON: 8-3-1.
24 CHAIRMAN CARTER: -- 3 no, 1 abstention, 2

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1 absent.

2 Okay. Now, we are back to the motion as
3 amended to adopt this then as a part. Okay. To adopt
4 this -- include -- excuse me. I'm getting confused
5 here.

6 MR. KING: We just need to read it.

7 CHAIRMAN CARTER: Okay. So, the
8 recommendation now is that TSP is a synthetic allowed
9 under 205.605(b) for use in textured meat analog
10 products. Okay.

11 George?

12 MR. SIEMON: I know we just voted, and is
13 this saying this substance then is still allowed for
14 dairy foods or is not?

15 PARTICIPANT: We didn't discuss that.

16 MR. SIEMON: Okay. So, then should the
17 motion be for use only in dairy foods labeled as
18 organic?

19 MR. O'RELL: We agreed that we would take up
20 at the next meeting in October the issue for
21 clarification on sodium phosphate for use in dairy
22 foods. They were to be specific for orthophosphates.

23 MR. SIEMON: Okay.

24 MR. O'RELL: So, this is separate only as a

1 listing of tetrasodium pyrophosphate. Under the
2 motion, it would not be allowed in dairy products.

3 CHAIRMAN CARTER: Okay.

4 MS. KOENIG: So, now we're discussing the
5 amendment. So, as far as the textured meat analog
6 products, does that cover all the forms that the
7 committee feels -- is that the right wording? You
8 know, does that encompass, you know, the products that
9 it's used with? I'm just wondering if --

10 MR. O'RELL: Can we call?

11 CHAIRMAN CARTER: Okay. Yeah. Call.

12 MR. HARDING: To your point, Rosie, Tom
13 Harding for KCIT. Probably the best term would be
14 textured vegetable protein as a category. That's how
15 it's listed as TVPs. Textured vegetable protein, used
16 in meat analogs.

17 MR. KING: I mean, that's commonly sold in
18 bulk form even in a lot of natural food stores.

19 MR. SIEMON: Okay. That's a complication.

20 CHAIRMAN CARTER: Okay. Kevin?

21 MS. CAUGHLAN: Question.

22 CHAIRMAN CARTER: Yeah.

23 MS. CAUGHLAN: Tom, are you saying -- I mean,
24 would you include in this the type of extruded dried

1 product that the consumer normally calls TVP?

2 MR. HARDING: Yeah.

3 MS. CAUGHLAN: That's what --

4 MR. HARDING: Right.

5 MS. CAUGHLAN: Okay. That more generically
6 because I think what we then had in Kevin's amendment,
7 what it reflected here was the end product, the analog.

8 MR. HARDING: Then I would stay with Kevin's
9 language, if you want to encompass the end life, too.
10 That's it. Yeah. I'd support that.

11 MS. CAUGHLAN: Well, but except -- right.
12 You see, there is a difference.

13 CHAIRMAN CARTER: Kim?

14 MS. BURTON: Comment. The TAP clearly
15 pointed out that it's not needed for that product. So,
16 this was a specific use and that's why we struggled
17 with it, with the annotation, and the Board still
18 struggles with it, but that was our recommendation
19 specifically for that use.

20 MR. KING: When you say "that use", you're
21 talking about --

22 MS. BURTON: The meat analog products.

23 MR. KING: Okay. All right.

24 CHAIRMAN CARTER: Nancy, you were sort of --

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1 MS. OSTIGUY: I'm fine.

2 CHAIRMAN CARTER: Okay. Jim?

3 MR. RIDDLE: I just wanted to come back to a
4 comment, as Barbara had suggested, which states content
5 of the list, the list established under Subsection (a)
6 shall contain an itemization by specific use or
7 application of each synthetic substance permitted under
8 Subsection blah-blah-blah, and to me, the clause there,
9 by specific use or application, you know, certainly
10 gives the Board the authority to set annotations and
11 that could include how a product is labeled under that
12 at least. So, I think it is in our authority. It's
13 certainly been in our precedence. That's always how
14 we've interpreted and applied the Act. So, I just
15 think we are within our purview.

16 CHAIRMAN CARTER: Okay. Discussion now just
17 on passing this recommendation as amended. Okay.
18 Everybody understand. Are you ready to vote?

19 MS. CAUGHLAN: I'm still questioning the
20 final wording.

21 CHAIRMAN CARTER: Okay. Do you want to offer
22 an amendment?

23 MS. CAUGHLAN: No. I'm questioning.

24 MR. KING: Can I make maybe a point of

1 clarification?

2 MS. CAUGHLAN: Certainly it would be --

3 MR. KING: As I understand process, we voted
4 on the amendment which was approved. So, now we're
5 voting on it to take action essentially --

6 CHAIRMAN CARTER: Take action.

7 MR. KING: -- as amended?

8 CHAIRMAN CARTER: Yes. Okay. Because the
9 previous vote was only whether you prefer Kevin's
10 language over the original.

11 MR. KING: Got it.

12 CHAIRMAN CARTER: Now, you could still prefer
13 one of the things and oppose it all together.

14 MR. KING: Right.

15 CHAIRMAN CARTER: That's why we do it as two
16 votes.

17 Rose, did you -- am I just seeing things
18 again?

19 MS. KOENIG: No. I just wanted to remind the
20 Board, too, you know, when it comes again, it seems
21 like there's issues on similar to Chilean nitrate on
22 some of these products, and again, you know, we -- you
23 could look back at it and, you know, do again one of
24 those policy directives, so in five years, if people

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1 are really uncomfortable with it, explain the things
2 that make it -- I'm just saying that is a process that
3 people could go through.

4 CHAIRMAN CARTER: Sure. Okay. Are we ready
5 to vote?

6 MS. ROBINSON: State it again, please, Dave.

7 CHAIRMAN CARTER: Okay. The motion that is
8 on the table now is that TSPP is a synthetic allowed
9 under 205.605(b) for use only in textured meat analog
10 products.

11 MS. ROBINSON: This is to take action?

12 CHAIRMAN CARTER: This is to take action.
13 Okay? Everybody understand? Okay.

14 Riddle?

15 MR. RIDDLE: No.

16 CHAIRMAN CARTER: Siemon?

17 MR. SIEMON: Yes.

18 CHAIRMAN CARTER: Bandele?

19 MR. BANDELE: Abstain.

20 CHAIRMAN CARTER: Burton?

21 MS. BURTON: Yes.

22 CHAIRMAN CARTER: Caughlan?

23 MS. CAUGHLAN: Yes.

24 CHAIRMAN CARTER: Cooper?

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1 MS. COOPER: No.

2 CHAIRMAN CARTER: Goldberg, absent.

3 Holbrook?

4 MR. HOLBROOK: Yes.

5 CHAIRMAN CARTER: King?

6 MR. KING: No.

7 CHAIRMAN CARTER: Koenig?

8 MS. KOENIG: Yes.

9 CHAIRMAN CARTER: Lacy, absent.

10 O'Rell?

11 MR. O'RELL: Yes.

12 CHAIRMAN CARTER: Ostiguy?

13 MS. OSTIGUY: Yes.

14 CHAIRMAN CARTER: Chair votes yes. It
15 passes, 8 yes, 3 no, 1 abstention, 2 absent.

16 Okay. Just a reminder, under our procedure
17 at the end, when you count it, if there's ever a doubt,
18 those votes are counted with the majority vote. So,
19 okay.

20 MR. KING: Okay. Moving right along. Let's
21 see. Hydroxypropyl Methylcellulose or HPMC is next.
22 It's petitioned as an ingredient of hard capsules used
23 for encapsulating powdered herbs. It's considered to
24 be part of the group of compounds known as cellulose

1 ethers or ethers, depending on your preference, and I
2 guess one of the things, in looking at it, HPMC really
3 is part of this group. It's included on List 4-B which
4 EPA says is inerts which have sufficient data to
5 substantiate they can be safely used in pesticides.

6 Methylchloride, which is used in the
7 manufacturing process, however, is considered hazardous
8 and flammable. It's considered ozone-depleting but not
9 necessarily one that's "significant" or a contributor
10 to global warming, if you will. It is approved as a
11 food additive and it is currently used to make hard
12 capsules which are used, as you well know, in the herb
13 and supplement industry as an alternative to gelatin.

14 What we learned through this process is that
15 gelatin can pose certain challenges. Primarily it can
16 compromise the quality of things that are water
17 unstable. So, it may cause unwanted reactions which
18 would reduce the quality or perhaps even ruin what was
19 "encapsulated". Vegetarian consumers look sometimes to
20 hard capsules as, you know, a non-animal alternative.

21 There were alternatives discussed both in the
22 TAP and certainly at the committee level in looking at
23 herbs in bulk powdered form, tinctured form, things of
24 that nature. We found in some cases those could be

1 challenging to the producers of dried herbs and may be
2 confusing to some consumers or not necessarily
3 convenient, if you will.

4 So, the committee and the reviewers did feel,
5 you know, that HPMC is obviously challenging at best,
6 if you will, concerning some of the environmental
7 criteria for organic production, but the reviewers nor
8 the committee in our conversation and reading didn't
9 really find any, you know, real alternatives for this
10 specific use of hard capsules.

11 So the following recommendation, I move we
12 consider is 205.605(b), synthetics allowed, which would
13 be HPMC made with organic only, only for hard capsule
14 application.

15 CHAIRMAN CARTER: Okay. You've heard the
16 motion. Is there a second?

17 MS. CAUGHLAN: Second.

18 CHAIRMAN CARTER: Okay. Goldie seconded.

19 It's on the table for discussion. Okay.

20 Nancy?

21 MS. OSTIGUY: My primary concern with this
22 substance is the methylchloride. I'm not terribly
23 concerned about its ozone-depleting capability because
24 it reacts before it gets to the stratosphere mostly or

1 its ability to contribute to global warming. While it
2 is a chemical that can contribute to global warming,
3 there's so little in the atmosphere that it's pretty
4 irrelevant.

5 My primary concern has to do with its
6 hazardous nature and the use of that in an organic
7 product bothers me.

8 CHAIRMAN CARTER: Okay. Kim?

9 MS. BURTON: We certainly struggled with this
10 material, but I think the reason that we did recommend
11 it -- well, I know the reason we recommended it for the
12 made-with label was because the alternatives that were
13 given are not necessarily good enough, you know. You
14 put a really foul tasting herb in a tincture or dry
15 powder, you take a spoonful of that, those are really
16 the only alternatives, and so that's why we came up
17 with the recommendation.

18 CHAIRMAN CARTER: Okay. Goldie?

19 MS. CAUGHLAN: Well, there are other
20 alternatives, but they're not -- they are, but they
21 aren't, and that would be the gelatin capsule, and the
22 fact of the matter is there is an increasing concern in
23 a large segment of consumers who want to move away from
24 gelatin caps for lots of -- I mean, the hard gelatin

1 caps for lots of reasons, and so I was balancing the
2 fact that I think this does represent an important
3 viable option for an increasing amount of consumers.

4 CHAIRMAN CARTER: Okay. Kim?

5 MS. BURTON: The petitioner who petitioned
6 for gel caps also petitioned for these caps, and the
7 justification, and I think even Mark alluded to that,
8 is sometimes you can't use gel caps for certain dry
9 powder, and I don't know if that's true.

10 MS. CAUGHLAN: I'm talking about for hard
11 encapsulation. I support it for that.

12 MS. BURTON: Oh, okay. That confused me.

13 MS. CAUGHLAN: I'm sorry. The way it --

14 MS. BURTON: Because there is an alternative
15 of gel caps, and I don't think that's an alternative.

16 MS. CAUGHLAN: No. The alternative is
17 gelatin hard capsules which for many people isn't an
18 alternative.

19 MS. BURTON: Okay. All right.

20 CHAIRMAN CARTER: Okay. Jim?

21 MR. RIDDLE: I voted against this on
22 committee, and a large part of the reason is the
23 manufacturing process and the hazardous materials that
24 are used there, and I share Nancy's concern. On Page 5

1 of the TAP, about methylchloride, it's considered
2 hazardous, regulated by OSHA, DOT, EPA, and other
3 acronyms. It's readily absorbed in the human lungs,
4 causes neurotoxicity, lung irritation, dizziness,
5 drowsiness, blurred/double vision, and may damage liver
6 and kidneys. Animal studies show carcinoma and
7 mutagenic effects, and then on Page 7 of the -- in the
8 reviewer discussion, Reviewer Number 1, not only is the
9 material synthetic, manufactured using potentially
10 hazardous chemicals.

11 I'm especially concerned with the use of
12 propylene oxide as a final alkaline oxide reactant in
13 the last stage of manufacturing has the potential to
14 form formaldehyde and acetylhyde. To me, those are
15 some red flags when I'm considering use of the material
16 for organic, and I just think those are two big
17 environmental concerns, plus potential human health
18 concerns, and we should not approve the material.

19 CHAIRMAN CARTER: Okay. I just -- yeah. One
20 comment, and then I'll call on Rose, but, you know, one
21 of the things that we struggled with here, too, is the
22 -- and I think we need to be cautious about what basis
23 we have to make decisions on these. There's a tendency
24 to also want to base our decisions on whether or not

1 this is something that is approvable and appropriate
2 for vegetarians or for vegans as opposed to animal-
3 based, and there's nothing in the Act or the rule that
4 says we ought to make our decisions based upon whether
5 or not this is an animal-based product or vegetable
6 product, and so even though we bring certain biases,
7 there's really not justification in the Act or the rule
8 on that.

9 Rose?

10 MS. KOENIG: Well, I guess I'd just question
11 the committee in terms of that made-with organic status
12 that you're recommending. What's the justification of
13 that? Do you think it's less of a demand, I mean,
14 versus -- I mean, why are you allowing it in -- you
15 know, what's -- what was your thought process as far as
16 the distinction between those two classes as far as
17 your recommendation?

18 CHAIRMAN CARTER: Mark?

19 MR. KING: Well, one of the things I would
20 offer is that we did discuss, as Jim has just brought
21 up, the environmental challenges of this particular
22 material.

23 MS. KOENIG: Right.

24 MR. KING: And it's certainly not our intent

1 to, you know, look at materials like this and say that
2 they match up with organic principles in some way.

3 MS. KOENIG: Okay. So, it's really --

4 MR. KING: But also looking at, you know,
5 there is somewhat of a need, and in looking at the
6 criteria, you know, certainly the production of organic
7 herbs is not something that's detrimental to the
8 environment, and in knowing that a lot of growers do
9 currently, you know, produce herbs for sale at a retail
10 outlet, it just wasn't clear to us how that would
11 happen necessarily in the future.

12 CHAIRMAN CARTER: Okay. George, and then
13 Jim.

14 MR. SIEMON: Yeah. I just want to speak to
15 your thing about vegetarians are not one of our
16 criteria. One of our criteria is, is there an
17 alternative, just like with commercially-available, I
18 mean, to get the desired food product? So, I kind of
19 disagree with you. If you want a yogurt that's got
20 fruit in it, you want a yogurt that has fruit in it.
21 If you want a yogurt that's -- not yogurt, another
22 product that's vegetarian, that's the objective of the
23 food. So, I think it is part of our criteria because
24 we're trying to allow all the classes of food. So,

1 that's the definition of the food.

2 CHAIRMAN CARTER: And I will disagree with
3 you on that, but that is not germane to this
4 discussion. I think when we take a look at
5 alternatives, we have certain bases of which we need to
6 measure are there alternatives, and it's whether or not
7 those use prohibited substances, you know, those type
8 of things that are specified in the Act.

9 So, I would go with Jim first, and then
10 Goldie.

11 MR. RIDDLE: I would also like to add to what
12 Mark said in response to Rosie's question about why
13 made-with as -- even though I voted against the
14 recommendation, but this is a material, if there ever
15 was one, that could really clearly justify a made-with
16 better because the capsule itself is not organic. It's
17 far from organic, but it's a delivery mechanism to get
18 you the organic --

19 MS. KOENIG: Right. I just wanted to see --

20 CHAIRMAN CARTER: Okay. Goldie?

21 MS. CAUGHLAN: I was going to say the same
22 thing that Jim just said, but also to add that I am not
23 characterizing my earlier comments as coming to
24 represent the "vegetarian" perspective on this. I was

1 trying to point out that there are many people,
2 including non-vegetarians, who are expressing strong
3 concerns about the use of gelatin encapsulation.

4 CHAIRMAN CARTER: Okay.

5 MS. OSTIGUY: As far as I can tell by reading
6 this, this does not preclude the consumer from buying
7 the herbs in bulk and the capsules in bulk and doing
8 their own, putting together the two. So, even if we
9 said that this is not on the list as okay to use in
10 organic, a consumer could still go about making their
11 own capsules with the material in it.

12 CHAIRMAN CARTER: Goldie?

13 MS. CAUGHLAN: This is probably an
14 inappropriate point to make, but I'm going to make it
15 anyway.

16 CHAIRMAN CARTER: That's okay. I've got the
17 gavel ready.

18 MS. CAUGHLAN: I have a daughter who has
19 multiple sclerosis and remains extremely healthy using
20 a combination of both medical and complementary
21 medicine, and I think she represents many people's
22 approach to these things and taking around 60 capsules
23 a day in addition to a whole other, you know, and I
24 think that that's the kind of awareness that I'm

1 speaking of that people have expressed and to try to
2 encapsulate individually would be incredibly burdensome
3 for people.

4 CHAIRMAN CARTER: Okay. Other comments?
5 Other discussion?

6 (No response)

7 CHAIRMAN CARTER: Okay. Are we ready to vote
8 on the motion?

9 PARTICIPANT: Call the question.

10 MR. KING: Want me to read it?

11 CHAIRMAN CARTER: Yeah. Go ahead.

12 MR. KING: The recommendation is to list HPMC
13 under 205.605(b), synthetics allowed, with the
14 following annotation, made-with organic only, only for
15 hard capsule application.

16 CHAIRMAN CARTER: Okay. Understand the
17 motion? We'll go ahead and vote.

18 Siemon?

19 MR. SIEMON: Yes.

20 CHAIRMAN CARTER: Bandele?

21 MR. BANDELE: No.

22 CHAIRMAN CARTER: Burton?

23 MS. BURTON: Yes.

24 CHAIRMAN CARTER: Caughlan?

1 MS. CAUGHLAN: Yes.

2 CHAIRMAN CARTER: Cooper?

3 MS. COOPER: Yes.

4 CHAIRMAN CARTER: Goldberg, absent.

5 Holbrook?

6 MR. HOLBROOK: No.

7 CHAIRMAN CARTER: King?

8 MR. KING: Yes.

9 CHAIRMAN CARTER: Koenig?

10 MS. KOENIG: I'll abstain.

11 CHAIRMAN CARTER: Lacy, absent.

12 O'Rell?

13 MR. O'RELL: Yes.

14 CHAIRMAN CARTER: Ostiguy?

15 MS. OSTIGUY: No.

16 CHAIRMAN CARTER: Riddle?

17 MR. RIDDLE: No.

18 CHAIRMAN CARTER: Chair votes no. It fails

19 by a vote of 6 yes, 5 no, 1 abstention, 2 absent. The

20 abstention counted with the majority votes and that

21 still only brings it up to 7. So, it fails.

22 MR. KING: Okay. Are we ready?

23 CHAIRMAN CARTER: We're ready.

24 MR. KING: Okay. Off we go to the next.

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1 CHAIRMAN CARTER: Oh, and I -- let me -- with
2 the previous one, I forgot to ask, anybody have a
3 conflict on that issue?

4 (No response)

5 CHAIRMAN CARTER: Okay.

6 MR. KING: All right.

7 CHAIRMAN CARTER: Sorry.

8 MR. KING: Let's see. Next on the list is
9 Glucono Delta Lactone or GDL. It's petitioned to be
10 added to the national list as a tofu coagulant.
11 Specifically, GDL is used to make silken tofu.

12 So, it's produced both naturally through
13 fermentation and synthetically. We found out in this
14 case the petitioner has stated that the material they
15 use is produced through fermentation. The committee
16 considered really in this case only GDL produced from
17 fermentation as petitioned. So, you need to note that
18 up front. It's used at a level of approximately, as I
19 understand it, .4 percent, and it's considered to be
20 really the coagulant of choice for silken tofu, and the
21 reason, as I understand it, is because it produces kind
22 of this gradual acidification and it initiates the
23 curdling of the protein and then kind of provides that
24 silken texture. For those of you who use it, you know

1 it can be used in sauces and different things like
2 that.

3 There were some natural alternatives listed
4 in the TAP, and we talked about them. Lemon juice,
5 vinegar. They didn't seem to be suitable for these
6 applications because they could produce a bitter taste
7 that wouldn't be palatable, and so the reviewers in
8 this case did feel that there was a strong argument for
9 GDL produced from fermentation of carbohydrate
10 substances. So, that was the focus of the committee.
11 We voted 7 to 0 to approve the following annotation
12 which I move we consider, which is, to list GDL,
13 Glucono Delta Lactone, under Section 205.605(a), non-
14 synthetics allowed, produced by microbial fermentation
15 of carbohydrate substances.

16 CHAIRMAN CARTER: Okay. You heard the
17 motion. Is there a second?

18 MS. COOPER: I'll second.

19 CHAIRMAN CARTER: Okay. Ann seconded it.
20 Okay. Discussion on the motion? Owusu?

21 MR. BANDELE: If it's non-synthetic, does it
22 have to be -- do we still have to add it? I'm still a
23 little unclear on that.

24 PARTICIPANT: Processing, yes.

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1 CHAIRMAN CARTER: It's simply just livestock
2 that --

3 MR. KING: So, yes, we do.

4 CHAIRMAN CARTER: Okay. Other questions?
5 Comments? Discussion?

6 (No response)

7 CHAIRMAN CARTER: Looks like we're getting
8 ready to vote.

9 MR. RIDDLE: Just inform the Board, I
10 actually voted for this one at committee.

11 MR. KING: Yeah. We had a party after that.
12 Jim says yes.

13 PARTICIPANT: Call the question.

14 CHAIRMAN CARTER: Okay. The question's been
15 called. Does anybody have a conflict on this one?

16 (No response)

17 CHAIRMAN CARTER: Okay. Seeing nobody has
18 stated a conflict, then we will proceed to vote.

19 Starting off with Bandele?

20 MR. BANDELE: Yes.

21 CHAIRMAN CARTER: Burton?

22 MS. BURTON: Yes.

23 CHAIRMAN CARTER: Caughlan?

24 MS. CAUGHLAN: Yes.

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1 CHAIRMAN CARTER: Cooper?
2 MS. COOPER: Yes.
3 CHAIRMAN CARTER: Goldberg, absent.
4 Holbrook?
5 MR. HOLBROOK: Yes.
6 CHAIRMAN CARTER: King?
7 MR. KING: Yes.
8 MS. KOENIG: Koenig?
9 MS. KOENIG: Yes.
10 CHAIRMAN CARTER: Lacy, absent.
11 O'Rell?
12 MR. O'RELL: Yes.
13 CHAIRMAN CARTER: Ostiguy?
14 MS. OSTIGUY: Yes.
15 CHAIRMAN CARTER: Riddle?
16 MR. RIDDLE: Yes.
17 CHAIRMAN CARTER: Siemon?
18 MR. SIEMON: Yes.
19 CHAIRMAN CARTER: Chair votes yes. Passes,
20 12 to 0, 2 absent, no abstentions.
21 MR. KING: Are you ready for the next?
22 CHAIRMAN CARTER: Sure.
23 MR. KING: Sure. Last but certainly not
24 least is Activated Charcoal. It was petitioned to

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1 consider Activated Carbon, I should say, to remove
2 brown color from white grape juice concentrate. There
3 are several different groups or forms, if you will, of
4 activated carbon. There's animal, gas black, furnace
5 black, lamp black, which would be like burning oils,
6 fats, things of that nature. Then activated charcoal
7 which is prepared from wood and vegetable sources, if
8 you will. Hardwoods, grain hulls, corn cobs, nut
9 shells, rice shells, or other things that were listed
10 in the TAP.

11 In this case, it's used for mechanical
12 filtration, and essentially this is physically
13 separating the suspended solids as the liquid passes
14 through the carbon which is a porous medium, could be
15 in the form of like a column or a bed. This can be --
16 when you look at -- the carbon can be reused. It's
17 known as regeneration. That, as I understand it, is a
18 common practice. It was noted in the TAP. Charcoal
19 dates way back. We're talking pre-historic discovery,
20 you know, fire, things like that.

21 It has been used in the U.S. since 1929 for
22 municipal water supplies. So, its use is very well
23 established. It's not listed in U.S. Certifier
24 Standards but it is listed internationally, Codex, EU,

1 IFOM, Canada, for use as a processing aid and there are
2 not limitations on those.

3 So, in looking at this, we found that, you
4 know, again it's used to remove the brown color that's
5 caused by oxidation. So, the primary use in this is to
6 really, you know, look at the improving flavors and
7 colors. Alternatives listed in the TAP were things
8 like lighter color varieties, cold pressing, freezing,
9 centrifuging. It also notes in the TAP that in looking
10 at the similarity of the concentrate produced without
11 activated carbon, that it's difficult to assess the
12 effectiveness of these alternatives without looking at
13 specific color and flavor specifications. So, to us,
14 that was kind of inconclusive.

15 One of the reviewers noted that activated
16 carbon appears to provide like a more controllable
17 effective and perhaps even cost effective approach than
18 the listed alternatives. Another reviewer felt the
19 disallowance of this would affect organic sweeteners in
20 a big way. So, the committee, as did the reviewers in
21 the TAP, unanimously found this to be synthetic, and we
22 also unanimously voted to add it to the national list
23 as did the reviewers.

24 I move that we consider the following

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1 recommendation, which is, to add activated carbon to
2 Section 205.605(b), synthetics allowed, with the
3 following annotation, from vegetative sources only for
4 use as a filtering aid.

5 MR. O'RELL: I would second.

6 CHAIRMAN CARTER: Okay. It's been moved and
7 seconded and that is on the table then for discussion.
8 Kevin seconded.

9 Goldie?

10 MS. CAUGHLAN: I think I heard you say it was
11 unanimous.

12 MR. KING: Oh, I'm sorry. I'm sorry. That
13 was not correct.

14 MS. CAUGHLAN: However, --

15 MR. KING: It was 5 to 1.

16 MS. CAUGHLAN: Yeah. I was the spoiler on
17 that particular one, voted against it, in committee. I
18 gave it some additional thought afterward, and part of
19 the reason that I was moved to vote against it
20 initially had not -- didn't have a thing to do with my
21 -- any concerns about the safety of the product which
22 was why I reconsidered it or of the appropriateness for
23 its use but in one respect, but in another respect, I
24 have to admit that it does trouble me or whatever. I

1 have to take note of the fact that the main reason, the
2 reason that the petition -- the petitioner has asked
3 for this substance is for color change by filtration to
4 alter the natural color which also removes some of the
5 nutrients from the juice.

6 It by no means, however, is any kind of a
7 precedent because I think for us to think that there is
8 not -- that this sort of thing is not happening in a
9 lot of processed foods that are indeed being changed by
10 texture, by color, by flavor, it is a schizophrenic
11 kind of situation that we're all operating within
12 because we talk about organic and we refer to it as
13 being unprocessed or less processed, and I think we
14 have to get more honest about the fact that in fact
15 much of organic is being driven by the development of
16 processed products that are moving away. I mean, it's
17 just something we have to look at.

18 In any event, I am going to vote to support
19 the product, and I just wanted to point out that I
20 think I do so still with those concerns and
21 reservations about color change. I was thinking about
22 it again and was thinking, you know, perhaps this will
23 encourage some juice manufacturers to come out with
24 -- it's another niche. I'd like to be able to drink

1 that juice with its full bodied color.

2 CHAIRMAN CARTER: Okay.

3 MS. CAUGHLAN: I think a lot of consumers
4 would find that as another --

5 CHAIRMAN CARTER: Okay. Just also as a point
6 of information on the committee report, that the vote
7 was 5 to approve, 1 to disapprove, and one recusal.
8 Kim Burton has recused herself from this issue and she
9 did so at the committee level as well.

10 Okay. Mark?

11 MR. KING: I just wanted to thank Goldie for
12 making what I think is a very relevant point and to let
13 everyone know that the committee did discuss this and
14 that she's right in that we're changing the color and
15 it's a specific use here, and then other things that
16 were discussed was really the safety of the process,
17 and in looking at some of what can happen in the
18 marketplace and knowing that a lot of children
19 obviously are drawn to very sweet things, the
20 alternatives in my mind in this case were, you know,
21 refined sugars, high fructose corn syrup, not for
22 organic, but in looking at the things that they may
23 approach.

24 So, I just throw that out. It's not, you

1 know, one of the criteria, we know that, but it's
2 something that was discussed.

3 CHAIRMAN CARTER: Okay. Rose?

4 MS. KOENIG: I just want to offer a friendly
5 amendment by taking out "only" because I'm not sure we
6 ever used "only". We just used "for use", don't we, or
7 do we always use "only"?

8 MR. KING: Sometimes we do and sometimes we
9 don't. I don't know if that's -- somebody wants to
10 provide direction.

11 MS. KOENIG: Only.

12 CHAIRMAN CARTER: Okay. Jim has found a
13 couple references.

14 MS. KOENIG: Okay. So, is that all right?
15 Is that what the committee truly wants to say, "only
16 for"?

17 MR. KING: That's just from vegetative
18 sources only. Should say we --

19 MS. KOENIG: Oh, all right.

20 MR. KING: Should we say only from vegetative
21 sources?

22 PARTICIPANT: I like vegetative sources only.

23 MS. KOENIG: I didn't know where the
24 committee went. The "only" refers to the vegetative

1 sources.

2 CHAIRMAN CARTER: Yeah. So, put the word
3 "only" in front of vegetative.

4 MR. KING: Yeah. Obviously.

5 MS. KOENIG: Okay.

6 CHAIRMAN CARTER: Okay. Thank you, Rose.

7 MS. KOENIG: I just didn't know where the
8 "only" was supposed to go.

9 CHAIRMAN CARTER: Okay. Kim?

10 MS. BURTON: Just a couple comments about the
11 alternatives in the TAP and then also the response from
12 the petitioner on this, that as far as using other
13 varieties of grapes, the petitioner uses, you know, a
14 seedless white, as light a color grape as possible as
15 out there. The -- to remove the excess color is from
16 oxidation and from processing. It's a given. It's not
17 to remove the color from the existing grape because
18 they use the right variety, the only variety they can,
19 to remove the color. So, I just wanted to clarify
20 that.

21 CHAIRMAN CARTER: Jim?

22 MR. RIDDLE: Yeah. The Processing Committee
23 members were sent an e-mail from either the petitioner
24 or the supporter of the petitioner that had, you know,

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1 digital photos of the clarified white grape juice and
2 the unclarified, and, boy, that purple-looking grape
3 juice made me almost vote against this material because
4 it looked so much more healthy. Then I did the
5 reading. I didn't base it only on the visual.

6 But I guess a couple of things I'd like to
7 add to the discussion. I support this material because
8 it does come in direct contact with the organic food
9 and the organic products and is consistent with other
10 materials on the list, filtering aids, such as
11 diatomaceous earth. I think it's appropriate that we
12 have reviewed this, and the only question I have is
13 just about the title of the material. For livestock,
14 it was activated charcoal, and here, we're talking
15 about activated carbon. Is that a technical term for
16 food processing or --

17 MS. BROWN-ROSEN: It's actually activated
18 charcoal/carbon. That's how it was petitioned.

19 MR. RIDDLE: Okay.

20 MS. BROWN-ROSEN: I believe.

21 CHAIRMAN CARTER: Okay. Emily Brown-Rosen
22 comments that it should be -- yeah.

23 MS. BROWN-ROSEN: From Armery.

24 CHAIRMAN CARTER: From Armery, who did the

1 review, that it's activated carbon.

2 MR. RIDDLE: Okay. Thanks.

3 CHAIRMAN CARTER: That's the technical term.

4 MR. RIDDLE: I wanted to clarify that.

5 CHAIRMAN CARTER: That's the technical term.

6 Okay. Kevin?

7 MR. O'RELL: Yeah. Just one point on --
8 since we were talking about the color issue and
9 following up on Kim. I looked at this as a processing
10 aid that is improving or not improving but restoring
11 the color from the original because as you process the
12 grapes, they do oxidize, and it's just a step in
13 restoration of the color, not necessarily improving the
14 color from what the final -- the first product would
15 have been.

16 CHAIRMAN CARTER: Okay. Nancy?

17 MS. OSTIGUY: Thank you for bringing that up
18 because that was actually my reaction, because if this
19 was a result of oxidation, then we actually are
20 creating something that was -- we are restoring.

21 MR. O'RELL: Correct.

22 MS. OSTIGUY: You know, we did start with
23 white grapefruit juice or grape juice, excuse me, not
24 grapefruit.

1 CHAIRMAN CARTER: Kim?

2 MS. BURTON: The MSDS for this material is
3 activated carbon.

4 CHAIRMAN CARTER: Okay. Activated carbon.
5 Thank you very much.

6 PARTICIPANT: Call the question.

7 CHAIRMAN CARTER: Okay. The question's been
8 called. Okay. We will proceed to vote. Kim Burton
9 has recused herself on this one, just for point of
10 information. That means that her vote will not be --
11 her non-vote will not be counted in any manner. So, if
12 this has seven yea votes, it still fails because it's
13 different than an abstention. Is there anyone else
14 that wants to -- has a conflict on this issue?

15 (No response)

16 CHAIRMAN CARTER: Okay. If not, we'll --
17 yeah? Okay.

18 Caughlan?

19 MS. CAUGHLAN: Yes.

20 CHAIRMAN CARTER: Cooper?

21 MS. COOPER: Yes.

22 CHAIRMAN CARTER: Goldberg, absent.
23 Holbrook?

24 MR. HOLBROOK: Yes.

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1 CHAIRMAN CARTER: King?
2 MR. KING: Yes.
3 CHAIRMAN CARTER: Koenig?
4 MS. KOENIG: Yes.
5 CHAIRMAN CARTER: Lacy, absent.
6 O'Rell?
7 MR. O'RELL: Yes.
8 CHAIRMAN CARTER: Ostiguy?
9 MS. OSTIGUY: Yes.
10 CHAIRMAN CARTER: Riddle?
11 MR. RIDDLE: Yes.
12 CHAIRMAN CARTER: Siemon?
13 MR. SIEMON: Yes.
14 CHAIRMAN CARTER: Bandele?
15 MR. BANDELE: Yes.
16 CHAIRMAN CARTER: Chair votes yes. Passes,
17 11 to 0, 1 absent, no abstentions, one member of the
18 Board recused themselves. Two absent. Excuse me.
19 Yeah.
20 Okay. George?
21 MR. SIEMON: So, do we need to then at some
22 point in time take action on the Livestock to make sure
23 we have carbon there as well as not charcoal, like we
24 passed?

1 CHAIRMAN CARTER: I think we can do that as a
2 technical directive to the rulemakers --

3 MR. SIEMON: Okay. No problem.

4 CHAIRMAN CARTER: -- to make that.

5 MR. SIEMON: Okay.

6 CHAIRMAN CARTER: You know, that comes under
7 clerical.

8 Okay. Is that all on Processing?

9 MR. KING: Move that we go to the bathroom.

10 PARTICIPANT: I second.

11 PARTICIPANT: And I'll third that.

12 MS. BURTON: We have one more material which
13 was Glycerol Monooleate, and since the petitioners
14 formally withdrew that petition, do we need to do any
15 action on it? It's on the agenda.

16 MR. KING: That's a good point.

17 MS. BURTON: Just an announcement.

18 MR. KING: Right. The petitioner --

19 MS. BURTON: I move to withdraw it, based on
20 --

21 MR. KING: Do we need to do that?

22 MS. KOENIG: We can just vote on that.

23 CHAIRMAN CARTER: Yeah. If we just want to
24 cover our bases.

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1 MR. KING: Good idea.

2 PARTICIPANT: I second.

3 CHAIRMAN CARTER: Okay. So, motion to
4 withdraw the petition for Glycerol Monooleate.

5 MS. BURTON: As per requested.

6 CHAIRMAN CARTER: As per requested by the
7 petitioner. Okay. Any conflict on this one?

8 MS. BURTON: Yes. I will recuse myself.

9 CHAIRMAN CARTER: Okay. Ms. Burton will
10 recuse herself on this one as well.

11 MR. O'RELL: I will also recuse myself.

12 CHAIRMAN CARTER: Okay. Mr. King.

13 MR. O'RELL: No. That was me.

14 MR. KING: Kevin.

15 CHAIRMAN CARTER: Oh, Kevin. I'm sorry.

16 PARTICIPANT: I've been dumping it on my
17 garden in the backyard.

18 CHAIRMAN CARTER: Okay. Let's just go down
19 the list.

20 Bandele?

21 MR. BANDELE: Yes.

22 CHAIRMAN CARTER: Caughlan?

23 MS. CAUGHLAN: Yes.

24 CHAIRMAN CARTER: Cooper?

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1 MR. BANDELE: Yes.

2 CHAIRMAN CARTER: Goldberg, absent.

3 Holbrook?

4 MR. HOLBROOK: Yes.

5 CHAIRMAN CARTER: Koenig?

6 MS. KOENIG: Yes.

7 CHAIRMAN CARTER: King?

8 MR. KING: Yes.

9 CHAIRMAN CARTER: Lacy, absent.

10 Ostiguy?

11 MS. OSTIGUY: Yes.

12 CHAIRMAN CARTER: Riddle?

13 MR. RIDDLE: Yes.

14 CHAIRMAN CARTER: Siemon?

15 MR. SIEMON: Yes.

16 CHAIRMAN CARTER: Chair votes yes. Okay.

17 That's withdrawn.

18 MS. KOENIG: Just one point before the

19 bathroom.

20 CHAIRMAN CARTER: Okay.

21 MS. KOENIG: I just wanted to compliment the

22 Processing Committee because I loved the format, you

23 know. Having that explanation and the summary by the

24 committee was really helpful. I think it makes things

1 go quicker, and I would maybe want to say that, you
2 know, we'd like to maybe informally try to use that
3 policy.

4 CHAIRMAN CARTER: Use that as a template?

5 MS. KOENIG: Yeah. As a template.

6 MR. RIDDLE: I had the same reaction and
7 we're supposed to be working on a template. So, here
8 it is. So, it made my work a lot easier.

9 MS. KOENIG: It also makes it clearer to the
10 presenter who may not be, I mean, as familiar with the
11 product, but if he had it all written out, then no
12 matter who chairs the committee, it just is very clear
13 for them to read it, and it represents the consensus of
14 the committee.

15 CHAIRMAN CARTER: Okay. George, first, and
16 then Rick.

17 MR. SIEMON: Just to understand our schedule
18 now, we don't have anything this afternoon. It says
19 Dairy Animal Replacement. I'm prepared to talk about
20 this one material, heparin, now.

21 CHAIRMAN CARTER: Okay.

22 MR. SIEMON: So, I -- why aren't we going to
23 take a lunch break now, if it's 11:30?

24 CHAIRMAN CARTER: We can take a lunch break.

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1 We can come back at 1:00.

2 MR. SIEMON: I don't know why we're in a
3 hurry.

4 CHAIRMAN CARTER: Then we can take care of
5 heparin. We can talk about the Dairy Herd Replacement.

6 MR. SIEMON: Why not 1:30? Since we have --

7 MS. CAUGHLAN: Public Comment is at 5. We
8 could give ourselves more time.

9 CHAIRMAN CARTER: We can take a very long
10 lunch break. We can take off until 3:30. I got a lot
11 of work to do.

12 MR. SIEMON: No.

13 MS. CAUGHLAN: There might be audience that
14 wants to leave, so we should do our business first and
15 then take a break.

16 CHAIRMAN CARTER: Okay.

17 MR. SIEMON: 1:30?

18 CHAIRMAN CARTER: 1:30. And now, as of now,
19 we still only have one individual lined up for Public
20 Comment.

21 PARTICIPANT: I thought there were three.

22 CHAIRMAN CARTER: Are there three?

23 MR. SIEMON: He hasn't told his joke yet.

24 CHAIRMAN CARTER: And I haven't gotten a

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1 ruling here of whether we can start the Public Comment
2 early. We officially need to be here at 5:00 when it
3 calls for it on the agenda. So, you know, we may all
4 be sitting here and nobody walks in at 5:00 and we can
5 take off at 5:01. But if there are three individuals
6 here that are here to give Public Comment and we want
7 to start a little bit earlier, the Chair is going to
8 say we can do that earlier, unless I get flogged by the
9 NOP that that's not --

10 MR. SIEMON: As long as we're still here at
11 5, though.

12 CHAIRMAN CARTER: Yeah. As long as we're
13 still here at 5:00.

14 MR. SIEMON: We have to be here at 5.

15 CHAIRMAN CARTER: Toni says no? Okay. She's
16 saying we got to start it at 5:00. Okay. So, let the
17 record show that Toni spoiled all our fun and that
18 she's in charge of providing the beer. Okay.

19 So, we are now recessed until -- oops. Oh,
20 that's right. Rick did have something. Okay.

21 MR. MATHEWS: Well, now I've got two things.

22 CHAIRMAN CARTER: Okay.

23 MR. MATHEWS: Toni's only spoiled it by 15
24 minutes.

1 CHAIRMAN CARTER: Okay.

2 MR. MATHEWS: So, it's not that bad. But I
3 wanted to make a comment, too, that Rose complimented
4 the Processing people for the nice product that they
5 put out. While it appears that the Livestock documents
6 for -- while their format won't make it as the final
7 format, I want to compliment the Livestock Committee
8 for giving us written documents that helped immensely.

9 MR. SIEMON: And that's to Jim Pierce's
10 credit, too.

11 CHAIRMAN CARTER: Thank you. I hope for
12 everybody here, we're trying to get a little more
13 systematic in this, and we're going to continue to the
14 follow-up format in the future, where we try and
15 discuss these committee reports on one day and then
16 bring them back for action, you know, the next day, so
17 that we --

18 MS. CAUGHLAN: The Processing Committee also
19 did have written format.

20 CHAIRMAN CARTER: Yeah. Right. Mark?

21 MR. KING: I just want it noted that it was
22 not my intent to increase our paperwork load.

23 CHAIRMAN CARTER: Okay. With that, we will
24 recess until 1:30.

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1 (Whereupon, at 11:45 a.m., the meeting was
2 recessed, to reconvene this same day, Thursday,
3 September 19th, 2002, at 1:30 p.m.)
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A F T E R N O O N S E S S I O N

9

1:45 p.m.

10

Materials Review and NOSB Action

11

Livestock - Heparin

12

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16

MR. SIEMON: Okay. After intensive homework quite late last night, this is about heparin, and the question that we had was, had we officially made it that the alternative sodium citrate is available for medical purposes?

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So, if you refer to Tab 2, Page 15 of 24, in your manual, Page 15, the very bottom paragraph, is the action. It's a good thing we didn't form a new G this time because we formed a new G last time, I see. So, the motion was made, was that I moved that the NOSB recommends the addition of a new 205.603(b), all materials as annotated in 205.605 can be used in organic feed subject to FDA or AFCO regulations.

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1 Everybody on board where we're at? Okay.

2 This is in this book right here, this --

3 MS. CAUGHLAN: It says Motion 3.

4 MR. SIEMON: Tab 2. It says 15 and 24 at the
5 top.

6 MS. CAUGHLAN: Motion 3 down at the bottom.

7 MR. SIEMON: Very bottom. In order for us to
8 incorporate this to include medical purposes, I would
9 say that we need a motion or I would make the motion to
10 drop the word -- well, actually, you know, now that I
11 see this, the -- what's on the Web is different than
12 this. That's interesting. What's on the Web says
13 organic livestock feed.

14 So, which do I go -- which is the official
15 one, the Minutes or this, what's on the Web?

16 CHAIRMAN CARTER: The ones that are in our
17 book are the ones that I will refer to as the official
18 Minutes.

19 MR. SIEMON: Okay. That we drop --

20 CHAIRMAN CARTER: They were voted on.

21 MR. SIEMON: We drop the word "feed" and we
22 replace it with "livestock" would then enable those
23 same materials to be used for the several classes in
24 livestock production tools and still all subject to the

1 regulations. As far as I know, these two regulations
2 cover all the uses that we have in .603(a), (b), (c)
3 and (d).

4 CHAIRMAN CARTER: Okay. So, repeat the
5 motion.

6 MR. SIEMON: To delete "feed" and to add
7 "livestock". I don't know if we need livestock
8 production, but I think livestock is enough.

9 CHAIRMAN CARTER: Under the section, the new
10 205. -- okay. First of all, is there a second?

11 MS. OSTIGUY: Second.

12 CHAIRMAN CARTER: Okay. Let me make sure I
13 understand this. It's been moved by George, seconded
14 by Nancy, that then we would have 205.603(g) --

15 MR. SIEMON: Would read all materials as
16 annotated in 205.605 can be used in organic livestock
17 subject to --

18 CHAIRMAN CARTER: FDA or --

19 MR. SIEMON: Maybe that's a little awkward,
20 but I'm trying to get what our intent here is. Organic
21 livestock production. How about that? Would that --

22 CHAIRMAN CARTER: Organic livestock
23 production.

24 MR. SIEMON: Would that be a little clearer,

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1 Nancy?

2 CHAIRMAN CARTER: Okay.

3 MR. SIEMON: Would that be okay?

4 MS. OSTIGUY: I think so.

5 MR. SIEMON: Okay.

6 CHAIRMAN CARTER: Okay.

7 MR. SIEMON: And of course, our objective
8 here is to have sodium citrate be available for medical
9 purposes and not just feed.

10 CHAIRMAN CARTER: Okay. You've heard the
11 motion. Discussion on the motion?

12 MR. RIDDLE: I just have a question. What's
13 the relationship between this whole section of the
14 Minutes and this feed ingredients posting that's open
15 for public comment through November? I just don't
16 understand how that happened or what the relationship
17 is.

18 CHAIRMAN CARTER: George?

19 MR. SIEMON: I'm just looking at the posting
20 right here and to see if I can -- it is inside the feed
21 -- as far as I know, it is inside the feed ingredients
22 posting. So, it is inside -- that we adopted May 8th.
23 This is inside of that posting.

24 MR. RIDDLE: Okay.

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1 MR. SIEMON: Procedure --

2 MR. RIDDLE: I'd support this. If we vote in
3 favor of it, are we changing the posting that's still
4 open for public comment through May or is this a final
5 recommendation of the Board? I mean, through November.
6 I'm sorry.

7 MR. SIEMON: November?

8 MR. RIDDLE: I thought when we voted on these
9 in Austin, we were making a recommendation at that
10 time. I didn't know that they were going to be posted
11 for public comment through November.

12 MR. SIEMON: I would agree with that. That's
13 the procedure. Now, we can have a motion that's
14 outside of the feed ingredients and not try to
15 incorporate it, if that's what we need to do. This is
16 -- we have one now specifically for feed. We can do
17 another one for herd other uses and it wouldn't
18 complicate with this one. I have two motions.
19 Existing one. So, that's a procedural issue.

20 Richard, any guidance here where we're at on
21 this? We can't change the feed ingredient list issues
22 since it's already posted. So, we need an additional
23 --

24 MR. MATHEWS: I feel like I'm in a rowboat in

1 the middle of the Atlantic Ocean trying to figure out
2 which way to go because you lost me.

3 MR. SIEMON: Okay. In our posting that we
4 adopted May 8th under Livestock Feed Ingredients, we
5 have a motion that I'm referring to that specifically
6 deals with organic feed. Now we're wanting to broaden
7 that to include medical purposes and other purposes,
8 and Jim's bringing up the issue, can we change the
9 motion that was already on the Web? Is that right,
10 Jim? What you're asking?

11 MR. RIDDLE: Yeah.

12 MR. MATHEWS: This is just out for public
13 comment, right?

14 MR. SIEMON: Right.

15 MR. MATHEWS: Okay. You as the Board
16 approves something to solicit public comment, there is
17 nothing to prevent you from amending, updating, adding
18 to, taking away, you can do whatever you want to that
19 proposal.

20 MR. SIEMON: But to be clean, maybe we should
21 just make this one an additional one or make it a
22 combined one? My seconder's saying we combine it.
23 Okay. It stands.

24 MS. OSTIGUY: You do a second draft or

1 something.

2 MR. RIDDLE: So, even if we pass this, then
3 it's really just changing that posting. It's not an
4 action of the Board that we can then move forward under
5 until we're done with that posting period, is it?

6 MS. OSTIGUY: I think so.

7 MR. SIEMON: That sounds perfectly logical to
8 me. But then, would we make a decision based on the
9 final --

10 MR. ENGEL: If you put something out for
11 public comment, you're always saying yes, we're going
12 to make a decision based upon --

13 MR. SIEMON: No, that's a dumb question. We
14 had public comment before.

15 MS. BURTON: We put it out for public comment
16 does not -- I don't think we're compelled to take that
17 --

18 CHAIRMAN CARTER: Okay. Let's start
19 following the order. We're getting too discussional
20 here. Rose?

21 MS. KOENIG: I don't understand if it's a
22 materials issue why we even have to put it to public
23 comment. That's our jurisdiction, right? So, why are
24 we putting -- I mean, maybe it's just one up there for

1 no good reason, but, I mean, as I understand, since
2 it's our -- within our jurisdiction as a Board, it's
3 not like we're asking for public comment because, I
4 mean, if we make it after the fact.

5 MS. BROWN-ROSEN: Emily Brown-Rosen, Armery.

6 I agree that you have the authority over materials and
7 it's -- you don't have to post everything, but this was
8 a clarification of the existing vitamin and mineral
9 listing on the national list, and if you remember, it
10 was a really long discussion and there was a lot of
11 problems trying to resolve the language and stuff, and
12 when we came away from that meeting, there wasn't a
13 very good understanding of what you'd agreed on or --
14 and I just highly support the fact that this got posted
15 for comment. I'm fully intending to comment with some
16 suggestions for further improvement on it, and in this
17 case, I think it was very warranted. Maybe you don't
18 always have to, but it's a hard issue, and there's a
19 lot of details involved. So, it's hard to make the
20 final decision at a meeting without all the resources
21 or information at hand. So, I support this.

22 CHAIRMAN CARTER: George?

23 MR. SIEMON: It's not a question, but
24 therefore, this is an official position of ours. We've

1 already posted this once. Then we made a final
2 decision and for whatever reason, it got posted in some
3 optional way. This is our position right now.

4 CHAIRMAN CARTER: Right.

5 MR. SIEMON: Not waiting on any public input
6 or anything. This is officially our position.

7 Correct?

8 MS. BROWN-ROSEN: This being what?

9 MR. SIEMON: This whole document that's
10 posted. We've already posted it once before the
11 meeting. You just said you may not have to for all
12 things.

13 MS. BROWN-ROSEN: That's true. You did
14 discuss it once and then you changed it, yeah.

15 MR. SIEMON: That happens every meeting.

16 MS. BROWN-ROSEN: That's true.

17 CHAIRMAN CARTER: Okay.

18 MR. SIEMON: We can do it this afternoon. At
19 least Livestock's consistent.

20 MS. BROWN-ROSEN: But what about posting it
21 for public comment and then ignore public comment?

22 MR. SIEMON: We're not ignoring -- oh, yeah.
23 I can't answer that. I didn't post it.

24 CHAIRMAN CARTER: Okay.

1 MR. SIEMON: We have a motion.

2 CHAIRMAN CARTER: Okay. The motion that's on
3 the table then is that the -- go ahead and read your
4 motion because I will rephrase it here.

5 MR. SIEMON: Well, we're making a change to
6 the original motion passed in May so that the motion
7 now says, all -- that the NOSB recommends an addition
8 of a new 205.603(g), all materials as annotated in
9 205.605 can be used in organic livestock production
10 subject to FDA or AFCD regulations.

11 CHAIRMAN CARTER: Okay. That is the motion,
12 and just for purposes of the Minutes of these meetings,
13 the significance of this motion is that from the action
14 in May, it deletes the word "feeds" and substitutes the
15 word "livestock production".

16 MR. SIEMON: That's right. Thank you.

17 CHAIRMAN CARTER: Okay. Are you ready to
18 vote on the motion?

19 MS. KOENIG: I just wanted to clarify then
20 just the -- I guess the implications of -- so, we're
21 saying everything that's listed -- that had been looked
22 at for processing --

23 MR. SIEMON: Is now available for livestock.

24 MS. KOENIG: -- and approved on our list is

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1 allowed as long as it meets all the other government
2 regulations that would govern those materials within
3 those categories.

4 CHAIRMAN CARTER: Mark?

5 MR. KING: And when we're saying livestock
6 production, we're just saying really for any use in
7 livestock production.

8 CHAIRMAN CARTER: Right. Okay. I'm sensing
9 we're not ready to vote yet. Okay. Nancy?

10 MS. OSTIGUY: Well, the idea was that if we
11 allow it for humans to eat, there should be no problem
12 with feeding it to livestock, but we had to put in the
13 FDA and AFCO thing because they have some specific
14 restrictions. So, keeping in mind those restrictions,
15 if we say it's okay for people to eat, it's okay for
16 livestock.

17 CHAIRMAN CARTER: That was exactly the
18 rationale. If we've got something on the list as being
19 approved for humans. Okay.

20 Owusu, Kim, and then Mark.

21 MR. BANDELE: Just a question, though. Is it
22 possible, though, that there would be viable
23 alternatives in one situation and not in the other?

24 CHAIRMAN CARTER: Kim?

1 MS. BURTON: Two comments. The other reason
2 for doing that is we didn't want to have to rereview
3 and reforward TAPs for Materials if we didn't have to,
4 and to answer your question, Owusu, if somebody wanted
5 to petition to remove it and not allow it in livestock
6 for some reason, I think they could do that.

7 CHAIRMAN CARTER: Okay. Mark?

8 MR. KING: I just wanted to add perhaps
9 further detail to Nancy's point in that this is not
10 like some, you know, livestock production free-for-all
11 here. When we're saying this, there are also these FDA
12 and AFCO regulations that will apply. So, stating the
13 obvious, but I think it's important to recognize that.

14 CHAIRMAN CARTER: Okay. Are we ready to
15 vote?

16 Burton?

17 MS. BURTON: Yes.

18 CHAIRMAN CARTER: Caughlan?

19 MS. CAUGHLAN: Yes.

20 CHAIRMAN CARTER: Cooper?

21 MS. COOPER: Yes.

22 CHAIRMAN CARTER: Goldberg, absent.

23 Holbrook?

24 MR. HOLBROOK: Yes.

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1 CHAIRMAN CARTER: King?

2 MR. KING: Yes.

3 CHAIRMAN CARTER: Koenig?

4 MS. KOENIG: I'll abstain. I just would like
5 to think about it.

6 CHAIRMAN CARTER: Lacy, absent.

7 O'Rell?

8 MR. O'RELL: Yes.

9 CHAIRMAN CARTER: Ostiguy?

10 MS. OSTIGUY: Yes.

11 CHAIRMAN CARTER: Riddle?

12 MR. RIDDLE: Yes.

13 CHAIRMAN CARTER: Siemon?

14 MR. SIEMON: Yes.

15 CHAIRMAN CARTER: Bandele?

16 MR. BANDELE: Yes.

17 CHAIRMAN CARTER: Chair votes yes. Vote is
18 11 to 0, 1 abstention, 2 absent. Okay.

19 MR. SIEMON: Okay. Now, we're on our final
20 heparin. Now, Jim brought up a good question. We can
21 make a decision based on the previous decision at this
22 time. Is that too obvious?

23 CHAIRMAN CARTER: Yes.

24 MR. SIEMON: Okay. All right. The motion

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1 that is being made by the Livestock Committee is
2 heparin should not be added to 205.603. That was based
3 on that it is a synthetic and that there's already an
4 alternative on the list.

5 CHAIRMAN CARTER: Okay. You've heard the
6 motion. Is there a second?

7 MR. O'RELL: Second.

8 CHAIRMAN CARTER: Okay. Kevin seconded.

9 PARTICIPANT: Read it again, please.

10 CHAIRMAN CARTER: Okay. The motion is that
11 heparin should not be added to 205.603.

12 Discussion?

13 MR. KING: Well, yeah.

14 CHAIRMAN CARTER: Mark?

15 MR. KING: As soon as I find the right page.
16 What was the alternative you suggested?

17 MR. SIEMON: Sodium citrate.

18 MR. KING: Results of applying that (a) it's
19 commercially available, (b) it's efficacious, (c) it's
20 widely used. I'm just asking.

21 MR. SIEMON: That's what the TAP said, and
22 Jim, you did a little research as well on that or not?

23 CHAIRMAN CARTER: Come to the mike, Jim.

24 MR. SIEMON: Yeah.

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1 CHAIRMAN CARTER: Jim Pierce with Organic --

2 MR. PIERCE: Jim Pierce, Organic Valley. We
3 did check with a bunch of the vets and Hugh Karreman
4 checked with more. Some vets prefer heparin over
5 sodium citrate. Some prefer sodium citrate over
6 heparin. So, some just carry one or the other in their
7 kit bag, but I think they'll learn and they're an
8 independent bunch. So, this is pushing them towards
9 the one rather than the other.

10 CHAIRMAN CARTER: Okay. Thank you.

11 Further discussion? Mark?

12 MR. KING: Yeah. I just -- and maybe you can
13 comment on this, Jim, I don't know, but in looking at
14 what we -- the decision we just made and the logic
15 there was if it's used in humans, then it can be used
16 in livestock, and obviously heparin is used in humans
17 quite extensively. So, I just throw that out.

18 MR. PIERCE: They're probably -- and this
19 would be the committee's decision more than mine -- are
20 no detrimental effects with heparin. So, really, the
21 reason to not include it is because there is an
22 alternative, not because it's insidious in any way, the
23 manufacturer argues.

24 MR. KING: Okay.

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1 CHAIRMAN CARTER: Further discussion?
2 (No response)
3 CHAIRMAN CARTER: Okay. Sensing that we're
4 ready to vote.
5 Caughlan?
6 MS. CAUGHLAN: Yes.
7 CHAIRMAN CARTER: Cooper?
8 MS. COOPER: Yes.
9 CHAIRMAN CARTER: Goldberg, absent.
10 Holbrook?
11 MR. HOLBROOK: Yes.
12 CHAIRMAN CARTER: King?
13 MR. KING: No.
14 CHAIRMAN CARTER: Koenig?
15 MS. KOENIG: Yes.
16 CHAIRMAN CARTER: Lacy, absent.
17 O'Rell?
18 MR. O'RELL: Yes
19 CHAIRMAN CARTER: Ostiguy?
20 MS. OSTIGUY: Yes.
21 CHAIRMAN CARTER: Riddle?
22 MR. RIDDLE: Yes.
23 CHAIRMAN CARTER: Siemon?
24 MR. SIEMON: Yes.

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1 CHAIRMAN CARTER: Bandele?

2 MR. BANDELE: Yes.

3 CHAIRMAN CARTER: Burton?

4 MS. BURTON: Yes.

5 CHAIRMAN CARTER: Chair votes yes. Okay.

6 The motion passes, 11 for, 1 against, 2 absent, no
7 abstentions, and I forgot to ask if anybody has a
8 conflict.

9 (No response)

10 CHAIRMAN CARTER: Motion was to not allow it.

11 Okay. Nobody cited -- okay. 11 to 1 with two absent,
12 no abstentions.

13 Okay. That finishes up with the Livestock
14 Materials.

15 Now, Mr. Bandele, you wanted to bring forward
16 --

17 MS. OSTIGUY: I'd like to move that we
18 reconsider the -- where were we -- the TAP decision on
19 Chilean nitrate in the use of spirolena production.

20 CHAIRMAN CARTER: Okay. That motion, and a
21 motion to reconsider has to come from someone who voted
22 on the prevailing side in the original vote, and Nancy
23 did vote no. So, she's prepared to make that. Is
24 there a second?

1 MR. HOLBROOK: I'll second that motion.

2 CHAIRMAN CARTER: Dennis Holbrook, who also
3 voted on the prevailing side, seconds the motion. So,
4 the motion for reconsideration does require two-thirds.

5 The motion for reconsideration is not a motion for or
6 against it, it's just simply to say whether or not you
7 want to discuss it again. Okay? It's a non-debatable
8 motion. Okay?

9 MR. SIEMON: Shucks.

10 CHAIRMAN CARTER: Okay. Cooper?

11 MS. COOPER: Yes.

12 CHAIRMAN CARTER: Goldberg, absent.
13 Holbrook?

14 MR. HOLBROOK: Yes.

15 CHAIRMAN CARTER: King?

16 MR. KING: Yes.

17 CHAIRMAN CARTER: Koenig?

18 MS. KOENIG: Yes.

19 CHAIRMAN CARTER: Lacy, absent.
20 O'Rell?

21 MR. O'RELL: Yes.

22 CHAIRMAN CARTER: Ostiguy?

23 MS. OSTIGUY: Yes.

24 CHAIRMAN CARTER: Riddle?

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1 MR. RIDDLE: Sure.

2 CHAIRMAN CARTER: Siemon?

3 MR. SIEMON: Yes.

4 CHAIRMAN CARTER: Bandele?

5 MR. BANDELE: Yes.

6 CHAIRMAN CARTER: Burton?

7 MS. BURTON: Yes.

8 CHAIRMAN CARTER: Caughlan?

9 MS. CAUGHLAN: Yes.

10 CHAIRMAN CARTER: Carter votes yes. So, it
11 passes with 11 yes, 1 sure, 0 nos, -- no. 12 yeses, 0
12 nos.

13 Okay. So, the issue is back on the floor
14 then for discussion. I would ask everybody to get out
15 their --

16 MR. SIEMON: Can I ask a question?

17 CHAIRMAN CARTER: Yes.

18 MR. SIEMON: The people who have left, if we
19 do a vote on this, are we going to ignore their votes,
20 because we've reopened it, correct?

21 CHAIRMAN CARTER: That's correct. It passes
22 by the required two-thirds.

23 MR. SIEMON: Okay.

24 CHAIRMAN CARTER: So, yeah. Hm-hmm.

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1 MR. BANDELE: Okay.

2 MR. CHAIRMAN CARTER: All right. So, let me
3 open this back up. The floor is now yours.

4 MR. BANDELE: Okay. Several committee
5 members felt that there were some other situations with
6 the spirolena, it being the unique situation. I know
7 we discussed it pretty thoroughly yesterday, but there
8 were some other reasons that some of the committee
9 members felt we may have overlooked and may need
10 further interpretation, and Nancy will, as soon as she
11 gets situated, supply you with that.

12 CHAIRMAN CARTER: Okay. And I would prefer
13 to have a motion on the table to discuss here before we
14 --

15 MS. OSTIGUY: That's why I'm searching my
16 papers.

17 CHAIRMAN CARTER: Okay. Very good. Thank
18 you.

19 (Pause)

20 CHAIRMAN CARTER: Okay. The Chair will
21 declare a five-minute recess for those individuals that
22 need to run back to their room and grab the papers.

23 (Whereupon, a recess was taken.)

24 CHAIRMAN CARTER: Okay. Nancy?

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1 MS. OSTIGUY: Okay. Part of the confusion
2 was to figure out exactly what was the motion that we
3 passed because of a bunch of amendments. The motion
4 that we passed was to maintain the current restriction
5 on sodium nitrate use to no more than 20 percent of the
6 nitrogen input for the spirulina. So, I am moving that
7 we add to that, unless restricted to 20 percent of the
8 crop's total nitrogen use, Chilean nitrate can be used
9 in an unrestricted manner in spirulina production until
10 October 21st, '05. That's three years.

11 MS. KOENIG: So, basically, we discussed this
12 at one time. I mean, there's no difference.

13 MS. OSTIGUY: We need a second before we can
14 discuss it.

15 CHAIRMAN CARTER: Can I get a second?

16 MS. COOPER: I'll second it.

17 CHAIRMAN CARTER: Okay. Ann seconded. Made
18 by Nancy, and seconded by Ann.

19 Now, let me just understand the -- reread the
20 amendment. Reread the motion.

21 MS. OSTIGUY: Yes. It's confusing. Unless
22 restricted to 20 percent of the total of the crop's
23 total nitrogen inputs for spirulina production, until
24 October 21st, '05, Chilean nitrate can be used at an

1 unrestricted level.

2 MR. SIEMON: The first part of the motion is
3 what's in the rule now.

4 MS. OSTIGUY: Correct.

5 MR. SIEMON: Okay. So, --

6 MR. RIDDLE: No, it's actually not.

7 MR. SIEMON: Sodium nitrate.

8 MR. RIDDLE: It's similar to, but it's not
9 the language of the rule.

10 MS. OSTIGUY: No. I was going from whatever
11 the motion is on 20 percent.

12 MR. SIEMON: Well, maybe we should look at
13 the rule.

14 MS. OSTIGUY: I did look at the minutes, and
15 I pulled that part from the minutes.

16 MR. SIEMON: I'm talking about the rule.

17 MS. KOENIG: I think I can save a lot of
18 time.

19 CHAIRMAN CARTER: Okay. Rose?

20 MS. KOENIG: Yesterday, as I recall, there
21 was a discussion of it. We didn't put the date October
22 21st, but we discussed and there was amendment to do
23 the three-year extended use. So, as far as I'm
24 concerned, it's the same motion that we dealt with

1 yesterday. It didn't pass. It stayed status as we
2 voted yesterday.

3 MS. OSTIGUY: Can I do a point of order?

4 CHAIRMAN CARTER: Yes.

5 MS. OSTIGUY: As the maker of the motion, I
6 have -- I should be able to speak to why I am making
7 the motion.

8 CHAIRMAN CARTER: Absolutely. No. She can
9 come back in and you're right, Rose, we did pass on it.
10 She brought this up because she feels that there's new
11 information --

12 MS. KOENIG: Okay. Well, all right.

13 CHAIRMAN CARTER: -- in here.

14 MS. KOENIG: I'm sorry. I just thought that
15 you thought it was a whole different -- okay.

16 CHAIRMAN CARTER: No, no. A motion to
17 reconsider is to go back and reconsider something that
18 was previously acted on and have an opportunity to
19 change that motion. Okay.

20 MS. KOENIG: Sorry. I misunderstood.

21 CHAIRMAN CARTER: Nancy, the floor's yours.

22 MS. OSTIGUY: Okay. A couple of things that
23 -- as one of the individuals who originally did vote to
24 not allow the unrestricted use of spirolena, I began to

1 think about why that -- why I was making that vote, and
2 for me, it was environmental considerations.

3 I began to think about the fact that under
4 natural conditions, spirulina grows because of a very
5 high nitrogen load normally. If we look at
6 agricultural production in a land situation, it is a
7 recreation of an environment, such that you're able to
8 grow a crop. In some ways, one could argue that the
9 ponds for the spirulina production are closer to a
10 natural system than potentially some of the land-based
11 systems that we do, but more importantly, it is not a
12 system that we are putting in for that crop, more
13 nitrogen proportionately than the crop is going to use
14 if you were looking at a land-based system.

15 What the growers are doing is they are
16 putting in only as much nitrogen as necessary to
17 maintain the production. They're extracting actually
18 huge amounts of nitrogen in the spirulina. If they --
19 in some ways, this is a self-regulating system. If
20 they put in excessive amounts of nitrogen being a
21 limiting factor, especially in aquatic systems, the
22 spirulina is not going to grow, certainly not grow as
23 well.

24 So, for those reasons, I began to rethink

1 whether or not this was actually a reasonable
2 agricultural system but with an aquatic environment,
3 unlike -- and I really do feel it's very, very
4 different than looking at hydroponics. Hydroponics in
5 at least my definition of hydroponics, the one I've
6 functioned with for years, is that that is a land-based
7 plant that we are putting in water. This is an aquatic
8 plant that we are growing in an aquatic system, and we
9 are providing the requirements, the nutrient
10 requirements that are necessary for that plant to grow
11 in that aquatic system.

12 CHAIRMAN CARTER: Okay. Mark, and then Rose.

13 MR. KING: Two things. One, I think this is
14 a very valid point that Nancy's making, and actually
15 three, and secondly, I'd just throw this out perhaps
16 for discussion and that is, in looking at this as a
17 production system, so to speak, perhaps the question we
18 should be asking is, can it meet the criteria of an
19 organic production and handling system plan?

20 I'm not attempting to answer that at this
21 point but throw that out, and then, thirdly, if indeed
22 we look at organic production moving towards a system
23 of sustainability, if you will, in this production
24 system, in other words, the production of organic

1 spirolena versus the production of conventional
2 spirolena, what are the differences, and are we indeed
3 moving towards a production system that meets the
4 sustainability requirements?

5 So, that may be a question for the producer,
6 I don't know.

7 CHAIRMAN CARTER: Rose?

8 MS. KOENIG: When you're defining natural
9 system, are you just -- because the natural system that
10 it grows in, as I understand it, is Lake Chad, and I'm
11 not sure they're putting -- there's excess amounts of
12 sodium nitrate in the natural system at Lake Chad.

13 MS. OSTIGUY: There are higher levels of
14 nitrogen in that system than you are going to find in
15 most aquatic systems. Otherwise, it's not going to
16 grow.

17 CHAIRMAN CARTER: Okay. Other comments?
18 Other questions?

19 MS. OSTIGUY: I actually have a question for
20 a member of the audience. Well, you may be able to
21 answer it, on the sources of Chilean nitrate. An
22 individual indicated that there's more sources than
23 just Chile. Is that accurate or not?

24 MR. HOLBROOK: I think Marty was the one that

1 made that.

2 CHAIRMAN CARTER: Anybody that has knowledge
3 about the sources of Chilean nitrate?

4 MS. BROWN-ROSEN: It's all currently mined in
5 the high desert of Chile.

6 CHAIRMAN CARTER: Please. Please, somebody
7 come to the mike. Marty or Emily?

8 MS. BROWN-ROSEN: Yes. As far as I know, all
9 the commercially-available Chilean nitrate comes from
10 Chile in this country. There may be some mine sources
11 elsewhere in the world, but it's everything that we
12 have here.

13 CHAIRMAN CARTER: Okay.

14 MS. BROWN-ROSEN: And there's one company
15 that's repackaged by a bunch of other brand names. So,
16 you'll see different brand names, but all the blended
17 products have it from that one company.

18 MS. CAUGHLAN: So, the applicant that we
19 heard about is --

20 MS. BROWN-ROSEN: It might be available in
21 Europe, but it's not available here. I don't have
22 knowledge of that.

23 CHAIRMAN CARTER: Okay. Sir, if you have
24 information, you have to please come forward. Identify

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1 yourself.

2 MR. BELAY: I'm Al Belay from Abdira
3 Nutritionals. I just want to address one of the
4 questions concerning the amount of --

5 MS. CAUGHLAN: Could you speak up a little,
6 please?

7 MR. BELAY: I want to address the question
8 concerning the amount of nitrogen in the natural
9 systems. In fact, I come from a country which has
10 spirolena like nothing but spirolena grows in that lake
11 and that is where I derived some of the experiences,
12 and you'll find that there is a huge load of nitrogen
13 in those lakes, but if you were to go and measure
14 nitrogen levels at any one time, you don't get it that
15 high because it's recycled very fast, and this is
16 exactly what we have mimicked in the commercial
17 production system.

18 Thank you.

19 CHAIRMAN CARTER: Thank you.

20 MS. CAUGHLAN: Could you stay at the mike a
21 moment?

22 CHAIRMAN CARTER: Okay. Goldie?

23 MS. CAUGHLAN: What you just said, can you
24 conceive of a situation where over time, it might ever

1 be possible to recreate this self-sustaining
2 regeneration of nitrates which is being generated there
3 and then constantly?

4 MR. BELAY: In the case of the natural lakes,
5 what happens is the nitrogen is incorporated into
6 spirolena, and then the flamingos, millions of them,
7 eat that spirolena and recycle it, and also because the
8 lakes are deep, the nitrogen sinks in the bottom during
9 the summer, for example, or in our hot/warm weather
10 conditions, that the nitrogen is locked under the bed
11 of the lake, and then when wave action mixes that lake,
12 it gets recycled and goes into the balmast, and this
13 keeps on going.

14 In fact, in one of the lakes that I spent
15 many years on, there is very little inflow that's
16 coming into that lake and that lake has been there for
17 centuries and grows nothing but spirolena and
18 completely filled with flamingos, and in Kenya, also,
19 there are many lakes in Tanzania, but it's very
20 difficult to replicate that situation and our existing
21 situation here, although we recycle our nutrients, and
22 you could measure nitrogen on a daily basis, if
23 necessary, and adjust the nitrogen to the need of the
24 algae, but it's very rarely that you find high loads of

1 nitrogen in the system because the algae divide every
2 three to four days. So, one season in a conventional
3 crop is three days in our case.

4 CHAIRMAN CARTER: Yes?

5 MS. CAUGHLAN: I think we need to book
6 passage to go there and take a look at that.

7 CHAIRMAN CARTER: Or at least the Chair does,
8 yes.

9 MS. COOPER: I have a question. Yesterday,
10 we heard that in at least this one gentleman's system
11 that it was, I think, 50 tons, I believe, of nitrogen
12 he said went into the system. How much spirulina comes
13 out the other end? So, for 50 tons of -- that we're
14 putting in of nitrogen, how much spirulina would you
15 get?

16 MS. CAUGHLAN: Over what length of time?

17 MS. COOPER: He said a year. He said in a
18 year, that there were 50 tons of nitrogen going in.
19 How much -- sorry? Of 50 tons of nitrogen, how much
20 tons of spirulina do you get?

21 MR. BELAY: I can't speak for them because I
22 don't know their production capacity. We produce --
23 for the whole system?

24 MS. COOPER: Yes.

1 MR. BELAY: Forget about organic. We can
2 produce up to 500 tons a year, in fact, in seven months
3 of growth season, and 70 percent of that goes into the
4 nitrogen of the algae.

5 MS. CAUGHLAN: So, in your system, what --
6 how much nitrogen goes in and how much spirulina comes
7 out, in your system?

8 MR. BELAY: So, I would say roughly 70
9 percent of what we put would be incorporated into the
10 protein of the spirulina. This is one unique thing
11 about this algae, is 70 percent protein on a dry weight
12 basis and you can take 6.5 percent of that as nitrogen.

13 MS. OSTIGUY: But if -- then where does the
14 other 30 percent go? If 70 percent is taken up by the
15 spirulina and nothing else happens, then you're going
16 to build up nitrogen over time.

17 MR. BELAY: Okay. Well, what we are doing is
18 at the end of the season, the nutrients from the
19 production points is recycled in what we call a natural
20 pond and that also grows algae which is sold for the
21 feed industry and for extraction, which is a blue
22 pigment which is found in spirulina. It's not sold in
23 the United States for that purpose but is sold in
24 Japan, and therefore, the whole system, as I have shown

1 in the PowerPoint presentation in one of these
2 meetings, is a completely closed system where we
3 recycle our nutrients and the bulk of the product is
4 done in ponds that are lined with PVC, with no contact
5 with the soil.

6 So, we have taken care of most of the
7 environmental issues, and I can show that when -- if
8 anybody is interested after the meeting, I have the
9 PowerPoint presentation here.

10 CHAIRMAN CARTER: Okay. Jim?

11 MR. RIDDLE: Yeah. I have a further question
12 for you. These natural lakes in Africa, are humans
13 harvesting the spirulina for commercial sale?

14 MR. BELAY: No, not yet. They have not been
15 developed. It's just a system that is self-sustaining
16 only for the flamingos.

17 MS. CAUGHLAN: No, but they eat.

18 CHAIRMAN CARTER: Okay. Rose?

19 MR. BELAY: In Chad, excuse me, it is
20 actually harvested and eaten by humans, even now, and
21 also 400 years ago, in Mexico, it was the same thing.
22 So, it's a natural food that has been eaten for
23 centuries.

24 CHAIRMAN CARTER: Okay. Now, Rose, and then

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1 Mark.

2 MS. KOENIG: Well, I just want to -- I'll
3 finish with the lake, the natural system, and then I
4 have other points, but isn't the pH of those lakes and
5 natural systems extremely high?

6 MR. BELAY: Yes.

7 MS. KOENIG: So, I mean, basically, you have
8 a system. What else grows in those lakes besides the
9 spirolena at those high pHs?

10 MR. BELAY: In fact, nothing grows there
11 besides spirolena and that is what we do in the
12 commercial system, also. We make it inhibitive for
13 other algae when we mimic the condition in the natural
14 system. So, that's why we don't have any contamination
15 problem.

16 CHAIRMAN CARTER: Mark?

17 MR. KING: Do you also produce spirolena
18 through a commercial system, in other words, that's not
19 certified as organic?

20 MR. BELAY: Yes, we do. But what we want to
21 do is we want to separate the two production systems
22 temporarily. In other words, we want to do organic
23 first and then, when we finish our organic production,
24 we'll go to regular. Every -- because we have 5 months

1 of no growth season, that is our preventive maintenance
2 season, and in those 5 months, what we do is dismantle
3 the whole facility and clean up the whole system, so
4 that when we start the organic production in the next
5 season, we have everything is cleaned u p.

6 MR. KING: And is there, since you have two
7 systems, is there less, in your opinion, of an
8 environmental impact with the organic system than the
9 conventional system, and if so, can you explain
10 specifically why?

11 MR. BELAY: Okay. One of the things,
12 recommendations that we have taken in the last few
13 years is the phosphorous source is purely organic
14 source. The algae also require a large amount of
15 phosphorous. So, what we have done is we have used an
16 organic phosphorous source which we are not using in
17 the conventional production. This is what we have
18 taken steps of, and then the other handling and
19 packaging and shipping and warehousing is all taken
20 care of by our ISO Program. We are an ISO-9001-
21 registered company. We are FDA/GMP company. We are
22 also NNFA dietary supplement GMP company. So, we have
23 all these programs, plus we have our quality assurance
24 system, to make sure that all the other issues

1 concerning co-mingling and products, one product
2 contaminating others, are completely taken care of, and
3 one of the reviewers who has come to us, in fact the
4 only technical review that you have in front of you, is
5 from the consultant that you sent, has actually gone
6 through the whole system and seen and appreciated it
7 and that's why in fact he allowed us those 5 years of
8 sunset.

9 MR. KING: And specifically back to the
10 environmental impact issue, do you believe that your
11 organic production system has less of an environmental
12 impact, detrimental impact, than your conventional
13 production system?

14 MR. BELAY: Yes, and I also believe that we
15 are -- we firmly believe that we have to avoid Chilean
16 nitrate.

17 MS. CAUGHLAN: That what?

18 MR. BELAY: We want to -- all we are asking
19 actually is time until we get a substitute for the
20 Chilean nitrate, but we believe that if Chilean
21 nitrate is an environmental issue, then we can take
22 care of that by going into organic forms, other natural
23 forms of nitrogen, but in the last meeting, I invited
24 everybody in the audience to point me to a source of

1 soluble organic nitrogen, irrespective of the cost, and
2 there was nobody who put up their hands. So, it's not
3 because we are not -- we don't want to go in that
4 direction. We want to follow the principles of organic
5 production, but at the moment, we are registered or
6 certified under the California 1990 Act. We have been
7 supplying what used to be organic at that time to our
8 consumers, but tomorrow, I'm going to go and say no, we
9 are not going to have organic because it's no longer
10 organic. It's now a new regulation, the federal
11 regulation, and they will say why don't you supply me
12 what you used to supply me? I cannot. So, I have to
13 comply with the current rules and we want to. We want
14 that to be --

15 CHAIRMAN CARTER: Okay. Now, Jim? Jim, and
16 then Goldie.

17 MR. RIDDLE: Yeah. Just a follow-up. How do
18 you achieve the low pH that you need to keep anything
19 else from growing in the spirolena ponds?

20 MR. BELAY: It's the high pH is sodium
21 bicarbonate.

22 MR. RIDDLE: I heard you say the --

23 MR. BELAY: No.

24 MR. RIDDLE: Then again, the answer?

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1 MR. BELAY: Sodium bicarbonate or sodium
2 carbonate buffered with CO2 which is essentially the
3 same thing.

4 CHAIRMAN CARTER: Okay. Goldie?

5 MS. CAUGHLAN: Could you elaborate, following
6 up on Mark's probe, you stated that you, in your
7 opinion, this system is much more defensible as being
8 environmentally less damaging?

9 MR. BELAY: Yes.

10 MS. CAUGHLAN: Can you --

11 MR. BELAY: Let me --

12 MS. CAUGHLAN: -- elaborate on why you would
13 say that?

14 MR. BELAY: Okay. Let me elaborate by
15 comparing conventional crop production which uses
16 Chilean nitrate and our production which uses Chilean
17 nitrate. As I have indicated --

18 MS. CAUGHLAN: Which uses?

19 MR. BELAY: The same material. Now, the
20 Chilean nitrate in a conventional crop production is
21 applied to the soil and whatever is used is used,
22 whatever leaks out is going, for example, in our case,
23 neighboring farms, sending it to the Sultan Sea. Okay.
24 But we do not discharge anything from that system.

1 You can argue that over a period of time, it is an
2 issue, especially with respect to the sodium.

3 The nitrogen, I can assure you, there is no
4 problems with nitrogen because you can come any time
5 and I can take a sample because it's observed nitrogen,
6 analyze it for you in front of you and show you how
7 much it is, and we don't add any more than they need
8 because we do growth rate measurements every day. The
9 harvest is calculated on the basis of that 24-hour
10 period growth, not one-year growth, and then we
11 recommend whatever is to be added based on what has
12 been removed.

13 MS. CAUGHLAN: You're talking about which of
14 your two systems?

15 MR. BELAY: Both systems are the same. The
16 only difference is the ingredient. One of the systems
17 utilizes synthetic phosphorous, the one utilizes
18 organic phosphorous.

19 MS. CAUGHLAN: I thought what he was asking,
20 and I thought what I was following up on, is, is your
21 organic spirulina system --

22 MR. BELAY: Yeah. It uses a lot of
23 phosphorous.

24 MS. CAUGHLAN: -- superior environmentally to

1 your known organic systems? That's what he asked.
2 That's what I'm trying to determine.

3 MR. BELAY: It so happens, ladies and
4 gentlemen, it so happens that the system was even from
5 the beginning, from the design of the system, is
6 environmentally friendly, because we recycle nutrients
7 completely. We recycle and we're on a closed system,
8 and we use plastic or PVC-lined pumps.

9 The difference or the question I answered
10 was, in one of the major nutrients that we add, which
11 is a phosphorous source, in the inorganic, in the
12 regular production, we use a synthetic phosphorous
13 source which is cheaper, of course. It makes economic
14 sense, but it does not make environmental sense because
15 the dissolved form of organic phosphorous was available
16 for us. Although the cost is 15 times more than the
17 synthetic one, we are applying, we are using that
18 phosphorous source which is acceptable to organic
19 agriculture.

20 We will do the same for nitrogen, if we had
21 that material available right now, and I can go on and
22 explain the various research that we did --

23 MS. CAUGHLAN: Please don't.

24 MR. BELAY: -- and we are currently doing,

1 and there is some light at the end of the tunnel, but
2 it just requires time.

3 MS. CAUGHLAN: Okay.

4 CHAIRMAN CARTER: Jim?

5 MR. RIDDLE: On your conventional production,
6 your nitrate source is what? Potassium nitrate?

7 MR. BELAY: It's Chilean nitrate.

8 MR. RIDDLE: Oh, both.

9 MR. BELAY: And the ammonium nitrate.

10 MR. RIDDLE: Ammonium nitrate.

11 MR. BELAY: Yeah.

12 MR. RIDDLE: Okay.

13 MR. BELAY: Yeah.

14 MR. RIDDLE: You didn't follow through with
15 the -- how -- what happens to the sodium because you
16 said --

17 MR. BELAY: Yeah. The sodium is -- the
18 content of sodium. It is impossible to remove it from
19 the system. So, in that case, right now, we have it
20 all there within the system it recycles, and we don't
21 get any sodium build-up in the algae, but over a long
22 period of time, it may be an environmental problem.
23 Therefore, we want to go away from Chilean nitrate for
24 that particular purpose, even though, at the moment,

1 it's in a line where we have very little contamination
2 of soil. It's not sustainable. It's not as
3 sustainable a process in terms of accumulation of
4 sodium.

5 MR. RIDDLE: And you don't have that problem
6 with the ammonium nitrate in the conventional system
7 now, right?

8 MR. BELAY: In the conventional system,
9 because it's all taken up, but we can't use ammonium
10 nitrate in the organic system.

11 CHAIRMAN CARTER: Thank you.

12 Rose, and then Mark. Let's start moving
13 toward decision here.

14 MS. KOENIG: So, in essence, even though it
15 may be phosphorous is more sustainable in the organic
16 system, your conventional system may be more
17 sustainable than your organic system in terms of the
18 sodium build-up.

19 MR. BELAY: The same --

20 MS. KOENIG: Well, you're not getting sodium,
21 though, in your other forms of synthetic nitrogen, are
22 you?

23 MR. BELAY: Ammonia, yeah. The issue of the
24 ammonia again is I don't want to go into the details of

1 the system, but there is a requirement for sodium
2 nitrate, in fact a large amount of sodium nitrate, when
3 we start culture even for the regular production. But
4 the renewal then would come to ammonia because ammonia
5 can be toxic to the algae. So, we have to be very,
6 very careful with it. So, in fact, we may resort
7 totally to Chilean nitrate even for the production if
8 it has not been the -- one is the cost, of course,
9 always in commercial production, cost becomes a factor,
10 but whatever is recommended by the Board, we are
11 willing to accept, but what we want is time. That's
12 all.

13 CHAIRMAN CARTER: Okay.

14 MS. KOENIG: I have a second --

15 CHAIRMAN CARTER: No. I'm going to call on
16 Dennis right now because Dennis has not asked a
17 question in this and then I'll come back to people who
18 have spoken already.

19 MR. HOLBROOK: Well, it's not so much a
20 question as it is just a statement. You know, we heard
21 yesterday testimony that efforts had been put forth to
22 try and find an alternative. Today, we've heard the
23 same thing. What this amendment is actually doing is
24 making that provision to allow them to have some

1 additional time to come up with a better system.

2 We've also during today, we've also looked at
3 doing the same thing with other people who have
4 demonstrated that they have tried other products and it
5 hasn't worked successfully in their particular
6 operation. We have a similar situation here where
7 they're trying different things that haven't been
8 successful yet.

9 The bottom line is, is that, we are making an
10 amendment to place a time limit, but to extend the time
11 to give them the opportunity to continue to have this
12 product available on the market until some time that
13 they can find -- either they can find an alternative or
14 not.

15 MS. CAUGHLAN: Finite.

16 MR. KING: My question was specifically
17 related to the alternatives and addressed to you in
18 that there are seven or eight different alternatives.
19 I don't know if you looked at the TAP, and so, do you
20 have at this time at least something in mind that
21 you're experimenting with that you can give us examples
22 of, so that we know that in good faith, what Dennis is
23 saying is indeed a realistic window and what Nancy has
24 proposed as the amendment is a realistic window for you

1 to find an alternative, so that we're not back here
2 again three years from now having the same
3 conversation?

4 MR. BELAY: No. I can assure you three years
5 from now, we are not going to have this discussion. We
6 will either have found an alternative or we'll have
7 stopped organic production. You can take my word, but
8 let me explain what we did so far in terms of trying to
9 find a replacement for the Chilean nitrate.

10 The first thing -- excuse me.

11 MS. KOENIG: I just have -- before you go --
12 all right.

13 MR. KING: Let him finish the question.

14 MS. KOENIG: Okay.

15 MR. BELAY: The first thing we tried was, as
16 was mentioned yesterday, burnt quono. It's not
17 soluble. One thing I want to stress here is the algae
18 are grown in suspension within the water, and they are
19 mixed with and potted with and they are continuously
20 harvested on a daily basis. So, we cannot afford any
21 settleable or any solid material because it gets into
22 the harvest. So, it has to be readily soluble. For
23 example, the organic phosphate that we got a source
24 when we started organic production is totally soluble.

1 It's expensive, but it's soluble, we use it.

2 So, we started with burnt quono. Then fish
3 emulsion. You cannot add it directly because it's an
4 emulsion. It just floats in the water. Then Kelly has
5 explained this, what is happening to that. We then
6 tried fish, liquified fish. It's the same thing. If
7 you settle that material in a 100ml graduated cylinder,
8 you'll probably get a clean solution of about one inch
9 or maybe not even 10mm, 5mm. So, what do we do with
10 it? We don't have any permit for discharging of
11 settleable material. What -- how do we handle that?

12 Let me tell you. I went and searched all
13 organic nutrient producers in the area to do a joint
14 venture with them, even going with the technology of
15 production, how it can be fermented organically, and
16 several of them showed us some response, and I got some
17 results. I got a gallon of an experimental material.
18 When we first analyzed it, there was some nitrogen in
19 it. After some time, there was none in it. Apparently
20 what happened is the bacteria that come with it are the
21 ones that mineralized what there was, that kind of
22 mucky material, and it had nitrogen. But after some
23 time, it goes into the ammonia, and we had none, and
24 this is a system with high pH. You put in ammonium

1 salt in it, you are going to lose ammonia because
2 ammonia is under the alkaline situation of our lakes is
3 not stable and that is one of the reasons why ammonia
4 may sound to be cheaper and we use it, but we also
5 could be losing. So, that's why we're also considering
6 the sodium nitrate and, of course, now of the organic
7 nutrients.

8 Then recently, about two months ago, we found
9 other suppliers that may be able to give us soluble
10 forms of nitrogen as far as content of nitrogen is
11 concerned. We don't know yet what they can do with the
12 algae. So, we are not just sitting down and trying to
13 use a cheap form of nitrogen, and I have invited
14 everybody to give me an alternative source in the last
15 meeting and I do invite now to give me an alternative
16 source.

17 Thank you.

18 CHAIRMAN CARTER: Okay. Let's start wrapping
19 up here. So, Mark, Rose, and then I'm going to start
20 moving this to a vote. Okay. Okay. Okay. You're
21 done. Okay. Rose?

22 MS. KOENIG: This is just general comments.
23 It doesn't have to be --

24 MS. ROBINSON: Okay. You can sit down, sir.

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1 MR. KING: Thank you.

2 CHAIRMAN CARTER: Thank you.

3 MS. KOENIG: You know, it seems like the
4 conversation is going towards, you know, the fact that
5 the organic system may be more, you know,
6 environmentally friendly than the conventional system,
7 and I know that is one train of thought. I'm not
8 saying that that's not a valid thing to think about.

9 But the other thing that I would pose to the
10 Board to think about is there may be certain systems
11 and certain crops that are never going to get -- just
12 -- this is a very -- just like he said. I mean, in
13 Lake Chad, I mean, there's only like two or three lakes
14 in this whole world that naturally this organism grows
15 in. So, I mean, part of the uniqueness of the organism
16 is that it is likely going to be a very difficult
17 system in general to move into an organic system that
18 would not be dependent on sodium nitrate. So, I mean,
19 the question is, given three years, based on what this
20 gentleman's said, and given the fact that the rule --
21 the -- I don't know the exact date, but I think it was
22 1995 when the sodium nitrate c hanged to 20 percent or
23 it was in the -- you know, set the standard. Okay.
24 So, it's been seven years with no success.

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1 I'm just thinking that, I mean, if you're voting on the
2 extension to think in three years, you're going to have
3 success, based on the fact that in the last seven
4 years, there's not been success, I question whether
5 that's a valid thing to extend. I mean, it's nice to
6 extend to a person the ability economically to make
7 more money in three years, but when you're voting, I
8 mean, are you actually thinking that they're going to
9 be able to find an alternative and that we're going to
10 be able to go -- they're going to be able to do a
11 system based on 20 percent or are you realistically
12 saying that we're making exceptions for this product?
13 Because that's what I would like to discuss for this
14 Board, is that the reality, and what are the
15 implications then to the rest of the growers who have
16 moved away from this product?

17 Don't forget. It's not -- so, the system
18 itself, too, may be very sustainable. Maybe we're not
19 getting leaching out of the ponds, except in the case
20 when there is, you know, a breakage or something within
21 that liner, but you still have the problems of the
22 source point pollution and the fact that they're mining
23 a non-renewable resource.

24 So, in terms of sustainability, you know,

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1 there is a sustainable side in terms of the production,
2 but there's many environmental concerns on the
3 production of the product and the fact that it's a non-
4 renewable resource.

5 CHAIRMAN CARTER: Okay. Jim, and then Nancy.

6 MR. RIDDLE: I'm -- just quickly, to -- I
7 really echo Rosie's points there and just to add to it
8 the -- one of the main considerations when we rejected
9 this yesterday was the environmental impact of the
10 mining. That hasn't changed and it won't change in
11 three years, and we've heard about the sodium build-up
12 which is occurring right now. That's not going to
13 change, and your comment that this is an aquatic plant
14 makes it different than hydroponics, yes, but it's very
15 similar in that it's a totally input-dependent system.
16 You're adding all the nutrients just like you do for
17 hydroponics. So, it's not like the natural lake-grown
18 material, wild-harvested spirulina.

19 CHAIRMAN CARTER: Okay. Nancy?

20 MS. OSTIGUY: This is not the only mined
21 product that we have allowed. That's all I'm going to
22 say about the mining.

23 There has been attempts to find other
24 materials, just to follow up on what Dennis was saying,

1 to provide them with a few more years to find an
2 alternative because I don't want to see it used at this
3 level forever. It's not sustainable, I agree, but I
4 would like to see them have a few more years to try to
5 find something that may replace it. It may turn out
6 it's not possible.

7 CHAIRMAN CARTER: Okay. Owusu?

8 MR. BANDELE: Yeah. Two points. Number 1.
9 This is a natural -- I understand the mining situation,
10 and I have serious concerns about that, too, but as
11 Nancy has pointed out, the same holds true with the
12 rock phosphate. So, it is a mine situation.

13 Secondly, I was kind of moved by the 50 tons
14 which is a lot of material, but during the discussion
15 over lunch, I think Dennis pointed out that with some
16 of the land-based folks using sodium nitrate, even
17 though they have a 20 percent requirement, in some of
18 those cases, it may be more tonnage, you know.

19 The third point is -- well, actually, it's a
20 follow-up on my first point in terms of a temporary
21 situation. We have allowed the use of synthetics, you
22 know, until alternatives are found. In this case,
23 again it's a naturally-occurring product.

24 I share the concerns of my colleagues. It's

1 a very tough situation and a very difficult one, but I
2 would like to see them at least have the three-year
3 window at this point.

4 CHAIRMAN CARTER: Are we ready to vote on
5 this? I think we've discussed this at length.

6 MS. BURTON: Can we reread the --

7 CHAIRMAN CARTER: Yes.

8 MS. BURTON: Because I have what we had from
9 yesterday, if you'd like me to --

10 MS. CAUGHLAN: Actually, Katherine, could you
11 read it?

12 MS. BURTON: As it is now.

13 MS. CAUGHLAN: As it is now.

14 MS. BENHAM: For use in unrestricted manner
15 in spirolena production for up to 10/25/05. Until?

16 MS. BURTON: Shouldn't it be 10/21/05?

17 MS. BENHAM: For use in unrestricted manner
18 in spirolena production for up to October 25, '05?

19 MS. BURTON: 21. Whatever.

20 CHAIRMAN CARTER: October 21st, '05. Kim?

21 MS. BURTON: Yesterday, we were concerned
22 with the date being at the end, that it might imply
23 that it was both for the 20 percent and for the
24 amended. So, we had actually said or until October

1 21st, 2005, for unrestricted use in spirolena
2 production.

3 CHAIRMAN CARTER: Okay. Is that okay? I
4 think that's a clarifying thing. So, Katherine, yeah,
5 go through the language from yesterday and then add or
6 until October 21st, 2005, for unrestricted use in
7 spirolena production.

8 MS. BENHAM: So, the language from yesterday?

9 CHAIRMAN CARTER: Yes.

10 MS. BENHAM: The one that passed?

11 CHAIRMAN CARTER: No. The one that passed
12 that said that we continue the current restriction to
13 20 percent.

14 MS. BENHAM: 20 percent of the total nitrogen
15 supplied to the crop.

16 CHAIRMAN CARTER: Okay. Comma, or until
17 October 21st, 2005, for unrestricted use in spirolena
18 production. Okay. That is what we are going to vote
19 on.

20 MR. SIEMON: Who seconded?

21 CHAIRMAN CARTER: Dennis seconded it.

22 PARTICIPANT: Ann did.

23 CHAIRMAN CARTER: Or Ann. Okay. Okay. We
24 will call the roll, and I forget where we are in this

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1 whole sequence. I'm just going to pick it out at
2 random.

3 Caughlan?

4 MS. CAUGHLAN: Yes.

5 CHAIRMAN CARTER: Cooper?

6 MS. COOPER: Yes.

7 CHAIRMAN CARTER: Goldberg, absent.
8 Holbrook?

9 MR. HOLBROOK: Yes.

10 CHAIRMAN CARTER: King?

11 MR. KING: Yes.

12 MS. KOENIG: Koenig?

13 MS. KOENIG: No.

14 CHAIRMAN CARTER: Lacy is absent.
15 O'Rell?

16 MR. O'RELL: Yes.

17 CHAIRMAN CARTER: Ostiguy?

18 MS. OSTIGUY: Yes.

19 CHAIRMAN CARTER: Riddle?

20 MR. RIDDLE: No.

21 CHAIRMAN CARTER: Siemon?

22 MR. SIEMON: Yes.

23 CHAIRMAN CARTER: Bandele?

24 MR. BANDELE: Yes.

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1 CHAIRMAN CARTER: Burton?

2 MS. BURTON: Yes.

3 CHAIRMAN CARTER: Chair votes no. The motion
4 passes, 9 yes, 3 no, 2 absent, no abstentions.

5 Okay. Whew. Yes?

6 MR. MATHEWS: Can I throw a new wrinkle into
7 this?

8 CHAIRMAN CARTER: Oh, no. The Chair votes
9 no. Go ahead, Richard.

10 MR. MATHEWS: It has nothing to do with
11 spirolena, but I had a conversation with Marty
12 yesterday that there are some problems with the way the
13 annotation on this material is being interpreted
14 currently, and if no one has any objection, I'd like to
15 have Marty come up and explain the problem and then you
16 might want to consider whether or not you want to do a
17 little wordsmithing on the current annotation to
18 clarify it. It can be done through a policy statement,
19 but you might prefer to do it through an annotation
20 amendment at this time. It's totally up to you, but I
21 wanted to bring this issue to your attention.

22 CHAIRMAN CARTER: Yeah.

23 MR. SIEMON: It's 602. It says, "Unless use
24 is restricted to no more than 20 percent of the crop's

1 total nitrogen requirement". 602. Have you got 602?

2 MR. MESH: Yes, we've been told by producers
3 that in reading the annotation that George has quoted,
4 sodium nitrate, unless use is restricted to no more
5 than 20 percent of the crop's total nitrogen
6 requirement, that producers intended to submit to us as
7 a certifier documentation from a land grant institution
8 showing that the total nitrogen requirement for a crop,
9 for instance, may be a hundred pounds of nitrogen and
10 that they were ready to submit that documentation to us
11 and wanted us to then allow 20 pounds of nitrogen from
12 the source of Chilean nitrate.

13 The fact that they were -- made it clear that
14 in their farm production system, they thought that
15 potentially by the end of the season, they may be able
16 to produce this hypothetical crop, broccoli, with only
17 30 pounds of total nitrogen, you know, we said, well,
18 the 20 pounds of nitrogen from sodium nitrate would
19 constitute 66 percent of your applied nitrogen and
20 they're saying that's not what the regulation says. It
21 says of the nitrogen requirement and we're going to
22 submit to you information from a land grant institution
23 based on science that the nitrogen requirement is in
24 fact a hundred pounds of nitrogen.

1 The fact that we may, given certain weather
2 conditions or certain rainfall patterns or certain
3 whatever, get away with applying less nitrogen over the
4 course of the season doesn't change the fact that the
5 nitrogen requirement as established by science is a
6 hundred pounds of nitrogen.

7 So, I would encourage you to look at the
8 annotation that would say applied nitrogen, if it's the
9 intent of the Board to limit it to 20 percent of
10 applied nitrogen for the crop.

11 CHAIRMAN CARTER: Okay. Thank you.

12 Kim?

13 MS. BURTON: I guess I would like to go back
14 to see, you know, why it was annotated this way from
15 the NOSB recommendation whenever it was, '94 or '95,
16 and actually read what they had voted on and their
17 intent. I'm hesitant to make a change based on one
18 person's comment without other people who were using it
19 in the industry. It seems kind of rushed.

20 CHAIRMAN CARTER: Yeah.

21 MR. KING: I guess I would just add to that
22 comment in that like Dennis, for example, if you have a
23 multi-crop situation for a plot of land, and you don't
24 know obviously what the weather's going to be over 12

1 months, is it realistic to know what the total amount
2 of applied nitrogen's going to be over the course of a
3 year?

4 MR. HOLBROOK: Marty's right. There is in
5 most cases, they have pre-determined through scientific
6 design, if you will, what the nitrogen requirements are
7 for most every crop grown.

8 MR. KING: Right. I understand.

9 MS. CAUGHLAN: Irrespective of climate or
10 variety?

11 MR. HOLBROOK: Well, a lot of times, those
12 are not taken into consideration. They're looking at
13 optimum conditions, for optimum crop production, but I
14 think it stands to be a loophole myself.

15 MR. MESH: Can I just add that those optimum
16 crop production based on optimum requirements are based
17 on chemically-intensive production systems. That's for
18 land grant nitrogen recommendations which are typically
19 all nutrient recommendations are heavy from land
20 grants.

21 CHAIRMAN CARTER: Okay. I agree that I would
22 hate to do something today unless we looked at it. So,
23 I'm going to ask the Crops Committee to look at that
24 language and to come forward with the recommendation

1 for us for our October meeting. Are we keeping you
2 awake?

3 Okay. This is the agenda for that two-day
4 meeting, yes.

5 MR. KING: Capture that in a minute.

6 CHAIRMAN CARTER: Yes. I'm getting there.
7 Okay. Are we done with this discussion?

8 (No response)

9 CHAIRMAN CARTER: Okay. As we move forward,
10 we -- I'd like to have someone come up and visit with
11 the Board for a few minutes. At lunch today, Mark and
12 myself, Bob Bueller, Barbara, and Arthur had visited
13 with Debra White with Food Marketing Institute about
14 some of the issues that we need to begin looking at on
15 the processing, on the retailing side.

16 So, Mark, I'll turn it over to you to do the
17 proper introduction here, and we'll just have the
18 conversation.

19 MR. KING: Thanks, Dave.

20 Debra is legal counsel for Food Marketing
21 Institute. For those of you who are familiar with Food
22 Marketing Institute, you know it's one of the largest
23 institutions in the United States. Primarily as I
24 understand, you represent retailers but do get into a

1 lot of different areas of food production and handling.
2 So.

3 MS. WHITE: Fair enough, fair enough. Yeah.
4 My title is Regulatory Counsel. I'm in-house counsel
5 for FMIS as opposed to an outside hired gun.

6 Food Marketing Institute is a national trade
7 association that represents primarily the retail
8 community. We also represent food distributors and the
9 North American Perishable Agricultural Receivers as
10 well. I'm not sure whether the terminal markets are
11 affected by this, but they're also part of our
12 membership, and you guys obviously deal with a lot of
13 technical issues regarding substances and
14 certification. I've been sitting and listening for the
15 last 30 minutes, I'm blown away by what you guys do.

16 But as you know, the retailers are primarily
17 exempt or excluded from certification. So, the
18 certification requirements don't apply to us.
19 Nonetheless, we are bound by the statute and the
20 regulations and our members are very interested in this
21 program and what they need to do in order to comply,
22 what the best things to do are, and we have
23 participated since 1990. We have participated in the
24 development of the statute, the Organic Food Production

1 Act. We filed comments, detailed comments in response
2 to each of the proposals, and we're currently
3 developing guidance for our members to try to help them
4 understand what some of the requirements are as far as
5 maintaining organic integrity and labeling, what they
6 need to do at retail.

7 We have met with some of the USDA staff.
8 There's some questions that we're working with that
9 we're trying to understand exactly how they apply and
10 those have to do with -- I'm not sure about the sort of
11 level of detail that we want to get into at this point,
12 but you should know, I think, that the retail community
13 feels strongly that this is something that we need to
14 do to make sure that the products you guys work so hard
15 to get to retail and certified continue to reflect the
16 standards in the Act. So, we are working towards that.

17 I've talked some to Rick and to Bob about the
18 food contact substances issues that you guys are facing
19 and whether or not what sort of standards should be
20 applied to those, whether or they should be on the
21 national list. In my former life, I was specialized in
22 the Food, Drug and Cosmetic Act, and I'm familiar with
23 how FDA applies the indirect additive provisions and if
24 any background information on that would be helpful or

1 as you continue to look at that perhaps more in
2 October, I would be happy to try to provide the Board
3 with some information on that as well.

4 Can I answer any questions about what FMI
5 does? I know you guys are really focused more on
6 materials today and you've been doing this for two
7 days. So, you're probably feeling kind of worn out,
8 but is there anything I can do or tell you? Yeah?

9 CHAIRMAN CARTER: Rose?

10 MS. KOENIG: It wasn't really a question. It
11 was something that was a little of a concern. I have a
12 friend who's an organic extension agent in North
13 Carolina, and she deals with the large co-op and for
14 some reason that I couldn't quite understand, but she
15 was -- she sits on the board and was telling me that
16 they weren't going to handle organic product any more
17 because they thought that they needed to be certified.

18 MS. WHITE: Interesting.

19 MS. KOENIG: So, I just -- you know, I gave
20 her -- you know, I said, based on what you're telling
21 me about the operation, I don't think you have to be
22 certified, but I wasn't -- I was wondering, you know,
23 do you link with all different kinds of co-ops or do
24 you have -- what -- who's your clientele, and is that

1 information getting out? Because I was just alarmed,
2 and she was saying that a lot of growers were not going
3 to get certified who serve them because they were no
4 longer buying the product, and so it can have this --
5 this misinformation can have like this trickle-down
6 effect to the farming community.

7 MS. WHITE: Good question. I'm glad you
8 raised the point. I realized as you were saying that,
9 that I didn't identify our membership. We represent
10 2,600 different companies with 26,000 different retail
11 outlets, and we go from small mom and pops up to large
12 big box Wal-Mart-type of companies. So, we have a very
13 diverse membership. We do have a Natural Committee and
14 we represent some groups, some companies that serve
15 that market in particular.

16 As far as co-ops, I'm not sure sort of how
17 many co-ops that we work with in particular. My advice
18 to them would be to say there is a specific exclusion
19 in the statute for food retailers as that's defined,
20 and to the extent that they meet that definition that
21 they sell to consumers, they are exempt from the
22 certification requirement or excluded, if they process,
23 and then there are different or there are some
24 regulatory requirements that would apply with respect

1 to maintaining organic integrity in labeling, but I'm
2 surprised, and if it would be helpful for me to talk to
3 them, I'd be happy to, even if they're not members.
4 So, I can give you my information, if you want to pass
5 it on.

6 CHAIRMAN CARTER: Mark?

7 MR. KING: Just a quick question. Is there a
8 field at this point for maybe what percent of your
9 membership base has either shown an interest or is
10 currently handling organic products?

11 MS. WHITE: It's a big sector, as I think you
12 and the Board are well aware. It's a very important
13 sector in the retail community, and, you know, all of
14 our guys who sell it are interested in what they should
15 be doing. I get multiple questions a day on this stuff
16 from our guys, just general questions to, you know,
17 what do we need to do to very specific questions about,
18 you know, how do I label this or if I do that, what
19 happens, and so they're very -- there's a lot of
20 interest in it, and as soon as I get my act together
21 and finish putting out compliance guidelines which I
22 hope the USDA will help look at and review, I hope that
23 will help answer some of the questions.

24 CHAIRMAN CARTER: Barbara?

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1 MS. ROBINSON: Debra, would you just sort of
2 repeat for us -- well, not the stuff we said to you,
3 but a couple of the things -- the points that we talked
4 about at lunch, such as, so people have a sense of
5 there's some confusion out there that our own writing
6 is leading to because we -- things like packaging being
7 in two places, maybe having different meanings. When
8 does processing or handling become processing? Give us
9 a few of those highlights.

10 MS. WHITE: That would be fine. I wasn't
11 sure what sort of the level of interest and how much
12 detail you all wanted to get into. In the course of
13 putting together compliance guidelines, we've taken a
14 pretty close look at the statute and the regulations
15 and the preambles leading up to it, and you know, as
16 you know, it's primarily focused on certification and
17 those requirements, and it's very detailed with respect
18 to those things.

19 What we've been trying to dig through and
20 figure out through the tea leaves of all of this is
21 exactly what retailers need to do and how that all
22 shakes out, and there are a few sort of over-arching
23 issues that we've been looking at. One that Barbara
24 alluded to is what the scope of the definition of

1 processing is and that's important for a couple of
2 reasons.

3 First of all, in the regulations, retailers
4 are either exempt from certification, if they handle
5 but do not process, or they're excluded from
6 certification if they process. So, to determine which
7 category you're in, you need to know where that line
8 is. That's one issue where it's important.

9 The second is if you're a retailer and you
10 receive product that's certified organic, you can sell
11 it as certified organic until you cross that processing
12 line. So, once again, it's very important for the
13 retail community to understand where that line is.

14 To some extent, the location of the line is
15 muddied by the statute itself. The term "packaging"
16 appears in both the definition of processing and
17 handling. So, if you're familiar with the statute and
18 the way it works, it says that a handling operation
19 must be certified and follow all these requirements,
20 except for retail food establishments that doesn't
21 process. So, if you subtract out the term "processing"
22 from "handling", a retail operation that stores or
23 packages because packaging is part of the definition of
24 handling, it sort of falls in one category, but since

1 packaging is also part of the definition of processing,
2 you can read the statute two different ways.

3 When, when you package, are you only
4 handling, and when, when you package, are you
5 processing? And we have looked at some ideas and
6 concepts about what that might involve. There are
7 certain types of packaging that would seem to be
8 processing, things like modified atmosphere packaging
9 or pasteurization, real processing-type activities. On
10 the other end of the spectrum, you have situations
11 which I don't think the Act was intended to reach,
12 things like, you know, it's pretty clear in the '97
13 preamble, if a retailer puts out a bin of brown rice
14 and the consumer comes in and scoops that out into a
15 package, first of all, the retailer hasn't touched it,
16 but okay, that's not packaging. What if the retailer
17 takes that 50 pound bag of brown rice and breaks it
18 down into two pound bags? The preamble to the '97
19 proposal said that's not packaging or that's not
20 processing. We don't consider that processing. That's
21 a customary activity, and we'll let that fall on one
22 side of the line.

23 What about a retailer that -- well, this
24 actually goes into the definition of processing, but if

1 you have certified turkey breast, I won't use bologna,
2 but if you have certified turkey breast, and you slice
3 it up for the customer and you put it in a package,
4 well, you've got a packaging issue there, but you're
5 also cutting. So, you've cut the turkey breast. Are
6 you processing? So, should the turkey breast -- can
7 that package of sliced turkey breast that you've given
8 to the consumer no longer be labeled as certified
9 organic, despite the fact that the retailer really
10 hasn't done anything to it?

11 So, there's some issues that we're looking at
12 with respect to trying to understand exactly how the
13 statute operates with respect to our operations, which
14 I think are very different from the production end of
15 things with which you guys are so familiar. So, I
16 think the processing line is one issue that exempt
17 excluded the two different categories and what the
18 practical effect is of having those two different
19 categories, what they mean, and some of the food
20 contact substances issues as well we're looking at.

21 CHAIRMAN CARTER: Mark?

22 MR. KING: I was just going to ask a similar
23 question to what Barbara had suggested, and I guess the
24 only thing I would add to it is that as you all know,

1 we have on the Processing Committee now in our work
2 plan something to attempt, to somehow define this
3 processing issue when it becomes handling, post-harvest
4 handling. That may or may not be a realistic goal in
5 the next 30 days.

6 I would, however, encourage anyone really in
7 this room to weigh in on that, if you have suggestions,
8 and I'll leave it at that.

9 MR. SIEMON: I just wanted to ask. Have you
10 studied the in-store brand private label clauses and
11 the effect it has on your retailers?

12 MS. WHITE: I'm not sure what you mean by the
13 clauses?

14 MR. SIEMON: Well, we passed a policy on
15 labeling that relates to private label, correct, in
16 May?

17 CHAIRMAN CARTER: Yeah.

18 MR. SIEMON: I don't know when we passed it,
19 but --

20 MS. WHITE: Is that a separate policy
21 statement? It's not part of the regulations?

22 MR. SIEMON: No. It's since then.

23 CHAIRMAN CARTER: Yeah. It was since then.
24 It was passed last March.

1 MR. SIEMON: I'd make sure you study that to
2 see the effect on your retailers.

3 MS. WHITE: Okay.

4 MR. SIEMON: It's only a recommendation.

5 MS. WHITE: Oh.

6 CHAIRMAN CARTER: You can get it off the Web.
7 It was June 2001 meeting in LaCrosse, Wisconsin.

8 MR. SIEMON: We never know what will be
9 adopted totally but we try.

10 MS. WHITE: Okay. Hey, I'll take all the
11 information I can get and that's on the NOSB website.
12 Okay. Good. I'll take a look at it.

13 CHAIRMAN CARTER: Jim?

14 MR. RIDDLE: I've got two questions. First,
15 what's your understanding about the -- an on-the-
16 premises raw and ready-to-eat? Like if a store has a
17 deli and is mixing organic ingredients and can package
18 them for the retailer and still call them organic if
19 it's for, say, on the premises, but if they, you know,
20 have four other stores and they're only doing this at
21 one store but then distribute them out to their other
22 stores, would they have to be certified as a processor
23 in that instance? What's your understanding of that
24 clause?

1 MS. WHITE: The oldie central kitchen issue.
2 We talked with Bob and Rick and Art and some of the
3 other folks at USDA on that issue. We have an
4 interpretation of the statute and how it should apply
5 and what's reasonable. I mean, it ranges the spectrum,
6 you know. When do you cross the line? I mean, my
7 interpretation is that as long as you're a retail food
8 establishment, you can either -- you do not have to be
9 certified, and the definition of retail food
10 establishment is basically a facility at which you're
11 selling to a retail consumer.

12 So, if you are -- even if, you know, you've
13 got a central kitchen in the back of your store and you
14 are making organic potato salad, that's at your store
15 on Main Street, and your store on State Street also
16 wants to sell that same organic potato salad, they just
17 -- you should be able to transport it from one place to
18 the other and they should still be able to sell it as
19 organic, not certified organic if the store isn't
20 certified organic, but to still sell it as organic.

21 I don't think you've done anything to change
22 the organic integrity of the product by moving it from
23 one place to another.

24 MR. RIDDLE: I have a second question. Are

1 you familiar with the Organic Trade Association's Good
2 Organic Retailing Practices?

3 MS. WHITE: I am.

4 MR. RIDDLE: Okay. You've reviewed that?

5 MS. WHITE: I am. I think, you know, it's a
6 very valuable program. I think it goes beyond what the
7 statute and the regulations require. We have suggested
8 to our membership that they look at it and adopt what
9 they think is appropriate, but it's not required by the
10 statute or the regulations.

11 MR. RIDDLE: So, you're setting up something
12 similar with -- based on your understanding of the
13 statute?

14 MS. WHITE: Our goal is to try to provide
15 people with some basic understanding about what the law
16 requires and then to let people do whatever it is that
17 they want to beyond that. As you know, you know,
18 retailers can go out and become fully certified and
19 that's fine. That's their option to do that and they
20 are. What they need to do is to understand what the
21 legal requirements are and then to be able to, you
22 know, pick and choose the things above and beyond that
23 that they think will best serve their customers.

24 CHAIRMAN CARTER: Okay. Rose?

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1 MS. KOENIG: You know, I think it's great
2 that you're writing these compliance documents. So,
3 the question I had about that is, so as you're writing
4 those, you're kind of showing them or consulting with
5 USDA just to make sure that they're accurate, and then
6 so they're only available to members of your
7 association? How is that going to work, and if that's
8 -- I mean, I think that we as a group really are
9 interested in having those kinds of tools and I know
10 this organization which is a USDA organization has
11 gotten, you know, a grant through a separate
12 organization to help write these compliance-type things
13 for farmers on that end.

14 So, is there a possibility of somehow in the
15 good-heartedness of your organization to share that
16 with the industry as a whole?

17 MS. WHITE: Yeah. I hear two questions in
18 what you said. One is are you working with USDA, and
19 two, how broadly will the information be disseminated?
20 The answer to the former is yes, we're working with
21 USDA. We've been asking them questions. We're sort of
22 doing it by e-mail, thinking that there were -- you
23 know, this -- that the agency had had the time and
24 attention to really be able to focus on and answer some

1 of these questions, and I think what we learned is that
2 a lot of new issues keep coming up and so we sat down.

3 We actually said, you know, talked to Bob, we'd like
4 to come in and talk to you about some of these issues.

5 Well, you need one hour or two. Well, okay, let's
6 take two hours and then that'll cover it all. Well, we
7 spent three and a half hours and we only ended up
8 leaving after that point because some of us had other
9 meetings that we had to attend.

10 So, yes, we are working with the agency and,
11 you know, I've put together a draft which I will revise
12 once I have a minute to reflect what we learned during
13 that meeting and we'll send it out to the agency and
14 they'll look at it.

15 As far as its availability, that will need to
16 be made by a pay grade above mine, but I don't see a
17 problem with making it more fully available, and you
18 know, we are not planning to charge our members for it.

19 This will be something that'll be posted on our
20 website and, you know, again it's our interpretation of
21 the regulations in conjunction with USDA. So, to the
22 extent -- and we've offered it to USDA to use to the
23 extent that, you know, anything that we do is useful to
24 them, we'd be happy to let them use it.

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1 CHAIRMAN CARTER: Goldie?

2 MS. CAUGHLAN: Yeah. I'm pleased to see that
3 FMI is working on this. However, I would have some
4 concerns if I didn't -- well, I would have some
5 concerns if there was not some degree of very close
6 cooperation with OTA, given the fact -- whether or not
7 the GORP paper is or is not accurate at this point, it
8 was developed quite some while ago and there have been
9 differing approaches, but it would seem to me to be in
10 the best service of your customer base and all
11 retailers at large if there was very close cooperation
12 between your material that you put together and OTA
13 because otherwise in such a really still fledgling
14 industry, I think it would be very unfortunate if there
15 was any substantive difference in interpretation of
16 what it means to be in compliance.

17 MS. WHITE: Your point is well taken. I
18 think that the intent of the documents will be clearly
19 different and in fact, in the -- you know, the idea is
20 to make this as sort of simple and accessible to as
21 many people as possible as opposed to -- well, not
22 necessarily as opposed to, but in contrast to, for
23 example, the GORP document which is yea big. So, in
24 our very short three-sentence preamble, we mentioned,

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1 you know, that this is intended to just reflect the law
2 and he regulations, the statute and the regulations,
3 that people can do more, that they can get certified
4 and, by the way, there's also GORP out there if you
5 want to do that. So, that's certainly available and
6 reference, and OTA has been coming to our membership
7 and advising them about their programs.

8 MR. SIEMON: They've held several education
9 sessions at the Chicago meeting between OTA and FMI
10 together. Standing room only meetings. It's been very
11 great.

12 MS. WHITE: True. At the convention in May,
13 yeah.

14 CHAIRMAN CARTER: Okay. Debra, thank you
15 very much.

16 MS. WHITE: Thank you. My pleasure. Thank
17 you for having me.

18 CHAIRMAN CARTER: Look forward to working
19 with you even if we have to wrestle with issues of
20 organic bologna.

21 MS. WHITE: Organic Twinkies.

22 CHAIRMAN CARTER: Yeah.

23 MS. WHITE: Thank you very much.

24 CHAIRMAN CARTER: Okay. Let's take a 15-

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1 minute break.

2 (Whereupon, a recess was taken.)

3 CHAIRMAN CARTER: Let me note that I
4 unknowingly violated Board policy here in our last
5 segment in that, yes, --

6 MS. BENHAM: 40 lashes with a whip.

7 CHAIRMAN CARTER: -- we did have a policy
8 that we've established not all that long ago, so I
9 ought to be familiar with it, in regards to bringing
10 guest speakers before the meeting, and we do need to do
11 some advanced notification on that. So, I will
12 apologize here. Okay. Barbara, I won't let it happen
13 again. I'm sorry.

14 MS. BENHAM: Okay.

15 CHAIRMAN CARTER: At least until the next
16 time I do it. All right.

17 MS. OSTIGUY: Dave, can I ask a point of
18 clarification? What's the Board policy?

19 CHAIRMAN CARTER: Oh, the Board policy is in
20 the manual.

21 MS. OSTIGUY: I know this may have been a
22 previous Board.

23 CHAIRMAN CARTER: And I remember the genesis
24 of it was in the past, there has been requests to have

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1 certain people that show up at the meeting come up and,
2 hey, they're here, can they talk to the Board, and they
3 may or may not be pushing a certain, you know, and so
4 the Board thought we needed to really have an
5 established policy, that if we are going to invite any
6 guest speaker, we get advanced notification, put it on
7 the agenda, yada-yada.

8 MS. OSTIGUY: Okay.

9 CHAIRMAN CARTER: So, that's --

10 MR. KING: Page 30 of the manual.

11 CHAIRMAN CARTER: Okay. Then George, we are
12 back.

13 MR. SIEMON: I know where the Ben and Jerry
14 Ice Cream Shop is, I'm happy to report.

15 CHAIRMAN CARTER: Okay.

16 MR. SIEMON: Just confessing.

17 CHAIRMAN CARTER: Let's move on then to the
18 Dairy Herd Replacement Recommendation.

19 Dairy Animal Replacement Recommendation

20 MR. SIEMON: Okay. You know, we met with the
21 Board -- the committee met with other people in the
22 industry the other day to talk about this issue, and I
23 guess, you know, we've come up with a modified
24 recommendation, and we'd like to post that again and

1 specifically, we did not change the top title which
2 posted for the October meeting and recognize we're not
3 going to have 60 days for this modification, and so
4 really, I'm just handing this out. As far as I know, I
5 just got to get the committee itself to recommend that
6 we post this new draft and that's where we're at.

7 So, the top title here needs to change about
8 the 60 day and the date. It says July 11th. It needs
9 to change to a new date. So, unless -- I -- we had a
10 meeting that was both people from the industry and
11 ourselves. So, I just want to make sure from the
12 Livestock Committee that we are -- this is the draft we
13 want to send forward now.

14 CHAIRMAN CARTER: Okay. Would you review the
15 changes here, George?

16 MR. SIEMON: Yeah. Basically, instead of
17 having the two situations -- the two ways of getting
18 replacements that are in the present interpretation, we
19 had had it so they had to be the one year. We now have
20 dropped back to being last third. So, we've got
21 stricter but we have unified the standard, and so the
22 changes -- we've done the check here. So, you can see
23 the changes we've made, and so the 12 month now only
24 relates to one of the ways you can enter in organic

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1 dairy production, one of the entry points is all the 12
2 months relates to. So, you can see there in that Issue
3 1 that we scratched the whole replacement use of the 12
4 months.

5 Now, I know there's all kinds of how this
6 works with the rule, but Leslie has taken the
7 opportunity to write up some briefs supporting this and
8 I've just got a draft of it here which I'd be glad to
9 -- I didn't make copies for everybody, but some of her
10 thoughts about how she feels this is okay under the
11 rule.

12 I would say that the last line of the
13 paragraph where the interpretation is on Issue 1, I
14 think that needs to be scratched. We didn't talk about
15 that, but I think that whole line needs to be scratched
16 because this is not -- we have changes to enter and
17 it's not consistent with the majority of the standards
18 at this time.

19 CHAIRMAN CARTER: Okay. Reference that again
20 and then read it.

21 MR. SIEMON: Issue Number 1, underneath where
22 it says, "NOSB Livestock Committee Interpretation".

23 CHAIRMAN CARTER: Okay.

24 MR. SIEMON: We've eliminated Number 2 which

1 would have allowed replacement or expansion animals to
2 only satisfy the one year.

3 CHAIRMAN CARTER: Right.

4 MR. SIEMON: The paragraph after that, it's
5 my opinion we have to eliminate the last line of that.

6 PARTICIPANT: Where it says, "This
7 interpretation"?

8 MR. SIEMON: "This interpretation is
9 reflected in the American Organic Standards consistent
10 with the majority". I think that line needs to be
11 eliminated.

12 CHAIRMAN CARTER: Okay.

13 MR. SIEMON: So, any other Livestock people,
14 but that's -- it is not -- this is the stricter
15 standard than that exists out there right now, but this
16 issue has been talked about for a year now, and
17 overall, the industry keeps coming back with wanting
18 the third. So, some of this is us responding to the
19 feedback we've already gotten.

20 So, that's all on Issue Number 1, and then,
21 all we did after that was go to Issue Number 3, and --

22 MS. BURTON: George, this said -- just a
23 clarification. There's a dah-dah-dah on Page -- under
24 Issue 1, A-2.

1 MR. SIEMON: That was because Dave was our
2 typist. I really -- Dave, can you explain that?

3 CHAIRMAN CARTER: That's because it was 6:45
4 in the morning.

5 MR. SIEMON: Yeah.

6 CHAIRMAN CARTER: That's a typo. It should
7 be labeled.

8 MR. SIEMON: Right. I couldn't figure that
9 one out.

10 Okay. Going over to Issue Number 3, we again
11 -- and again, for the committee's sake, I'll get
12 Leslie's interpretation to you, but this is where we
13 interpret the intent of this section to mean that once
14 any dairy herd is certified organic, regardless of the
15 method or conversion, all organic dairy animals shall
16 be under organic management from the last third of
17 gestation.

18 So, this puts everything on an even keel.
19 There's two ways to enter organic dairy, but once
20 you're in, everyone in replacement or expansion is
21 under the same standard, and we went to the stricter
22 standard. Now, we need to get some feedback on this
23 because it's certainly stricter than what we had
24 before, not necessarily in this group, but in the

1 public. I'm open to feedback from the whole group.

2 CHAIRMAN CARTER: Okay. So, open it up for
3 discussion here. Richard?

4 MR. MATHEWS: On this third page, the Issue
5 Number 3, the italicized text, it's actually the second
6 line of the italicized text, near the end of the line,
7 you say, "Operation may be not sold." Do you mean to
8 say may not be sold?

9 MR. SIEMON: Right. I hope we --

10 MR. MATHEWS: Okay.

11 MR. SIEMON: -- got that right out of the
12 rule. So.

13 MR. MATHEWS: So, you just have a couple of
14 inverted words?

15 CHAIRMAN CARTER: Yeah. Just transposed.

16 MS. BURTON: Just a point of clarification.
17 This is going to get posted on the website so that with
18 like a 30-day comment period or what?

19 MR. SIEMON: Yeah. I thought October 15th,
20 and Rick, as far as I know, that's right out of the
21 rule. So, you can compare that.

22 MR. MATHEWS: Okay. Yeah. And the only
23 thing that I would ask, if the Board agrees to this
24 document, George, if you could have it to me like, say,

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1 on Monday of next week, we'll get it posted by Tuesday.

2 MR. SIEMON: I've already given it over, but
3 I can also get you electronic or Dave's got the
4 electronic.

5 CHAIRMAN CARTER: I've got a disk with it.

6 MR. SIEMON: With it right there.

7 CHAIRMAN CARTER: It's in my hands.

8 MR. SIEMON: So, Dave is responsible for
9 giving it to you today.

10 MR. MATHEWS: Yeah. Please.

11 MS. OSTIGUY: Katherine's waving.

12 MR. SIEMON: Katherine's waving. Ok.

13 MS. OSTIGUY: Give it to her.

14 MR. SIEMON: That's why I don't watch. I
15 turn away.

16 CHAIRMAN CARTER: Here's one thing that
17 concerns me, though, is that before we leave, if we're
18 going to be responsible for updating the document, we
19 need to make sure that whatever document we're taking
20 back to the office to amend that document that we've
21 got it right.

22 MR. SIEMON: All right. I'll sit down. All
23 I know, unless there's some input here, is the bold
24 front section needs to be changed to reflect the change

1 in dates.

2 CHAIRMAN CARTER: Okay.

3 MR. MATHEWS: Okay.

4 MR. SIEMON: I think October 15th is a good
5 goal to have feedback in. That's pretty late even.

6 CHAIRMAN CARTER: Okay. Well, let me just go
7 through those and recap those. That in the heading,
8 then July 1st, 2002, is stricken and today's date is
9 inserted.

10 MR. MATHEWS: Okay. Got that.

11 CHAIRMAN CARTER: Okay? In the second
12 paragraph --

13 MR. SIEMON: The first paragraph should say,
14 "resulting from the discussion at the September 2002
15 meeting --

16 CHAIRMAN CARTER: Okay.

17 MR. SIEMON: -- at Washington, D.C.".

18 CHAIRMAN CARTER: At Washington, D.C. Okay.

19 Then the second paragraph following "Public Comment
20 period ending October 15th, 2002"?

21 MR. SIEMON: Hm-hmm.

22 MS. CAUGHLAN: Where's this?

23 CHAIRMAN CARTER: Okay. Second paragraph.

24 MS. CAUGHLAN: Oh.

1 MR. SIEMON: Says 60 days. We're going to
2 just put the actual date of October 15th in there.

3 CHAIRMAN CARTER: NOSB Livestock Committee
4 will construct a final recommendation for consideration
5 by the NOSB at the meeting scheduled for October 19th,
6 20th, 2002, in Washington, D.C. Okay?

7 Then, under Issue Number 1, Rule 205.236,
8 Origin of Livestock, under Number 2, where it says,
9 "Dairy Animals", there's a typographical error in the
10 last line. It should be labeled, not lageled. NOSB
11 Livestock Committee Interpretation. Going down under
12 the paragraph beginning, "It is our interpretation
13 that", strike the last full sentence. So, strike the
14 words "This interpretation is reflected in the American
15 Organics Standards as consistent with the majority of
16 existing certification agency standards."

17 MS. CAUGHLAN: Change the last line on that
18 page?

19 CHAIRMAN CARTER: Yes.

20 MS. CAUGHLAN: "This interpretation"?

21 CHAIRMAN CARTER: Yes. Okay. And then, --

22 MS. CAUGHLAN: Excuse me. Does the heading,
23 "Supported Documentation" remain?

24 CHAIRMAN CARTER: Yes.

1 MS. CAUGHLAN: So, it's just the last line?

2 CHAIRMAN CARTER: Yeah. Just that. Okay.

3 MR. SIEMON: And the strike-outs we're
4 including are already in there.

5 CHAIRMAN CARTER: Yes. Every -- I'm only
6 making changes from this draft. Okay?

7 MS. CAUGHLAN: Where are we now?

8 CHAIRMAN CARTER: Okay. Then on Page 3,
9 okay, sixth line, the words, it should read, "Non-
10 organic operation may not be sold" rather than "non-
11 organic operation may be not sold".

12 MR. SIEMON: Well, I don't want to rewrite
13 the rule. That is the wording in the rule.

14 MS. CAUGHLAN: But has it been transposed?

15 MR. MATHEWS: That would be a transposition
16 in the record.

17 CHAIRMAN CARTER: That is --

18 MR. MATHEWS: Which is a technical
19 correction.

20 CHAIRMAN CARTER: That is a technical
21 correction. So, that should -- yeah.

22 MR. SIEMON: Okay.

23 CHAIRMAN CARTER: It does not change the
24 meaning. It's just correcting an error.

1 MS. CAUGHLAN: Should read as "non-organic
2 operations"?

3 CHAIRMAN CARTER: May not be sold.

4 MR. SIEMON: May not be sold.

5 MS. CAUGHLAN: That's right.

6 CHAIRMAN CARTER: Okay.

7 MR. SIEMON: I thought that was it.

8 CHAIRMAN CARTER: Those are the changes.

9 MR. MATHEWS: So, you thought that was D.C.
10 speak?

11 MR. SIEMON: Yeah. Language.

12 MS. CAUGHLAN: Okay.

13 CHAIRMAN CARTER: Okay. We've got those
14 changes.

15 MR. SIEMON: Okay. We help OTA since we want
16 to respect their process.

17 CHAIRMAN CARTER: George, that is an error
18 that is in the rule. So, it's just -- go, George.

19 MR. SIEMON: All right.

20 CHAIRMAN CARTER: Okay. Other discussion on
21 this? Did you want to make a motion that the Board
22 move this forward?

23 MR. SIEMON: I think it's the Livestock
24 Committee moving it forward, and we've already made

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1 that.

2 CHAIRMAN CARTER: Okay.

3 MR. SIEMON: So, I don't think -- it's Board
4 action just on the agenda. We're just keeping you
5 informed.

6 CHAIRMAN CARTER: The Livestock Committee
7 will move this forward, and we'll get back to it in
8 October.

9 Okay. Anything else, George, on that?

10 MR. SIEMON: Well, part of it also is that we
11 want to revisit the materials that are affected by
12 young stock and dairy animals and see if there's any
13 materials that need to be petitioned, and so that's
14 part of our assignment here, is to review that, revisit
15 those and hopefully something we'll do with OTA to see
16 which of those should be and see if we can move them
17 forward.

18 CHAIRMAN CARTER: Okay.

19 MR. SIEMON: But of course, even that will
20 cause a -- that's a long time to lay into that process,
21 but still we got to do what we can do.

22 CHAIRMAN CARTER: Okay.

23 MR. SIEMON: That's all I have.

24 CHAIRMAN CARTER: That's all you have? Then,

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1 we will move to Other Business at this point.

2 Other Business

3 CHAIRMAN CARTER: I have a couple of items
4 under here. Number 1. I think as everybody here is
5 well aware, Secretary Veneman yesterday disclosed that
6 she has been diagnosed with breast cancer, and I've had
7 a request from a member of the Board which I totally
8 support that this Board send a letter to the Secretary
9 with best wishes, best regards, and I would appreciate
10 a motion directing us to do that.

11 MS. CAUGHLAN: I move that you -- that we
12 draft a letter to Secretary Veneman expressing our
13 concern for her health and wishing her well.

14 PARTICIPANT: I second.

15 CHAIRMAN CARTER: It's been moved and
16 seconded. Hearing no discussion, I don't know if we
17 need a roll call on something like that.

18 All in favor, say aye.

19 (Chorus of ayes)

20 CHAIRMAN CARTER: Opposed, same sign.

21 (No response)

22 CHAIRMAN CARTER: Then that carries. Thank
23 you very much.

24 Let's talk then a little bit about our

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1 October meeting. We have right now the plans for our
2 meeting to be the 19th and 20th which is Saturday and
3 Sunday. It seems like we're getting a little -- we've
4 got a few things to talk about then, and so Barbara,
5 you had visited about some ideas on perhaps doing some
6 things on Monday as well.

7 MS. ROBINSON: I did?

8 CHAIRMAN CARTER: Hm-hmm.

9 MR. MATHEWS: That was me.

10 CHAIRMAN CARTER: Oh, okay. Rick, I'm sorry.

11 MR. MATHEWS: I can take the blame.

12 MS. ROBINSON: It's easy to confuse us.

13 MR. MATHEWS: Yeah. No. What I've been
14 talking about is that because we do seem to be adding
15 more and more, that there may be a need for additional
16 time, and we were already planning to bring you in
17 Friday to meet Saturday and Sunday and then you would
18 be at the roll-out issue or activities on Monday and
19 then you would have Tuesday as your travel day. That
20 would leave you with Monday afternoon free and so that
21 we get the most out of you, we decided that if you
22 weren't able to finish your work on the Saturday and
23 Sunday, that we could put into the agenda without
24 identifying what would be handled there but we would at

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1 least block out the time for Monday afternoon, so that
2 you could have that time for overflow activities.

3 But at the same time, you know, this meeting
4 has run so well, and you guys have done such a great
5 job of preparing for the meeting and going over these
6 materials, that, you know, we actually have the unusual
7 situation of having extra time, and, you know, if you
8 prepare as well for October, I'm now optimistic we
9 could probably do it in two days, but just to be on the
10 safe side, we are willing to, you know, schedule some
11 additional time which hopefully we would not need.

12 MS. CAUGHLAN: It was announced that thus
13 far, there was something scheduled for Whole Foods.
14 You announced that earlier at this meeting. What is
15 that time of day on Monday?

16 MS. ROBINSON: We don't have an actual time
17 pinned down. What the Secretary had requested was an
18 appearance at Whole Foods late in the morning. So,
19 we're trying to get it down to something like 10:30 to
20 12:30, block out that time, and the way -- you know, as
21 opposed to -- previous Administrations, when there was
22 an event, they really got big into the planning of it.
23 This Administration, the procedures are totally
24 different. They're actually giving it to the program

1 agency and saying, you know, figure out what it is
2 we're going to do, and so we just have a lot more --

3 MS. CAUGHLAN: If we schedule 8:00 till 10 or
4 something, I just -- if there was to be a 9:00 press
5 conference, it would -- is there some way that we could
6 figure out?

7 MS. ROBINSON: Yes. Well, in fact, given the
8 Secretary's announcement yesterday, it's all together
9 possible, and I don't know what kind of treatment she's
10 going to undergo, she said it was highly treatable, and
11 she said no travel?

12 MS. CAUGHLAN: That's what she said, but --

13 MS. ROBINSON: Then she'll be in town.

14 MS. CAUGHLAN: -- other than that, she
15 indicates that she expects fully to participate pretty
16 much in her regular schedule, other than travel out of
17 town.

18 MS. ROBINSON: So, yeah, what little I do
19 know of her, she's pretty feisty.

20 MS. CAUGHLAN: Yeah.

21 MS. ROBINSON: So, I'm -- I think you're
22 probably safe in -- and as soon as we know something,
23 we're going to -- we'll let you know if there's a
24 change in that time frame.

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1 MR. SIEMON: We can let you all plan Monday
2 around when you know.

3 CHAIRMAN CARTER: Yes.

4 MR. SIEMON: Try to get the word before you
5 sent out the notice.

6 CHAIRMAN CARTER: Yes, and what we're going
7 to do for the next meeting, just to address some of the
8 procedural things here, is any time we have multi-day
9 meetings, I would like to start planning so that we
10 have public comment at the first part of every day, so
11 we don't have to hang around, you know, until that, but
12 also then, if we're going to consider a certain
13 material or a certain item, then people could come in,
14 give some comment that day, you know, even though I
15 know the NOSB makes a great spectator sport, but the --
16 and then, also, to list our materials all the first day
17 with the additional days saying, you know, continuation
18 of discussion, so that we're not limited like we were
19 yesterday. So, I think we could have Monday just kind
20 of listed as an overflow day.

21 MR. MATHEWS: The whole idea would be to list
22 Monday as the day to take care of unfinished business
23 and that we would actually be announcing on Sunday
24 whether any of that time was going to be needed.

1 CHAIRMAN CARTER: Jim?

2 MR. RIDDLE: So, are you saying there would
3 be a public comment period on Saturday morning and
4 Sunday morning?

5 CHAIRMAN CARTER: Yes.

6 MR. RIDDLE: Okay.

7 CHAIRMAN CARTER: Yes. Okay. Go to early
8 service. We'll be here. You don't even need to take
9 your suitcase home.

10 Okay. Then the other thing I would -- I'm
11 working on some reception for Monday night that would
12 be here. So, as Rick said, Tuesday would be a travel
13 day and I would encourage folks to stay over Monday
14 night because I'd like to see if we could do our best
15 to celebrate and bring in some of the folks that have
16 been congressional supporters of this program from the
17 start.

18 So, George?

19 MR. SIEMON: My only concern about that is
20 that we don't end up having two or three events for the
21 organic industry if we could avoid it.

22 CHAIRMAN CARTER: Which is fine. If there's
23 something else going on Monday night or, you know, I
24 think we can coordinate that.

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1 MR. SIEMON: You could work with OTA and Nora
2 both are planning events now, so to see.

3 CHAIRMAN CARTER: That's fine. Okay.

4 Then, let's start talking about our next
5 meeting after October, what we'd like to look at as far
6 as our next NOSB meeting.

7 MR. SIEMON: Was there a time scheduled? Was
8 it in Austin was the next one or is there --

9 CHAIRMAN CARTER: Well, I mean, if we're
10 going to go -- you know, Austin would be then May of
11 next year. The other thing would be perhaps to do
12 something in California in March in conjunction with
13 Extra West which wouldn't then be quite so much time
14 after --

15 MR. SIEMON: I heard Hawaii in February.

16 CHAIRMAN CARTER: So, --

17 MR. SIEMON: Well, --

18 CHAIRMAN CARTER: Richard?

19 MR. MATHEWS: I think that what we need to
20 keep in mind is that we're going to be through the next
21 few days here actually starting to get some new
22 materials out to reviewers and in light of how long
23 they technically have to get the reviews done, I think
24 that the scheduling of the meeting should take that

1 into consideration. So, really, the later in the year
2 you do it, the more likely you are to get a complete
3 TAP and therefore you have happier campers at the next
4 board meeting.

5 So, I wouldn't be too inclined to rush into
6 another meeting. Let's give the reviewers enough time
7 to get the TAPs done, then have these materials go out
8 to you with enough lead time that you could come in
9 with the same kind of quality documents that you
10 brought this time that have made this meeting so
11 successful in getting through all of these TAPs, and so
12 that's my recommendation. I would support, even though
13 when we got done with the meeting in Austin, we swore
14 we would never go back to Austin for a board meeting
15 and OTA, I would have to say that's actually what I
16 would support because it does wear us out. But we're
17 willing to go back.

18 MS. OSTIGUY: If we can choose a different
19 hotel?

20 CHAIRMAN CARTER: Okay. So, that's a
21 recommendation, and Jim has said March is preferable,
22 Richard is saying we'll probably have more to talk
23 about in May.

24 MR. RIDDLE: Yeah. I wasn't thinking through

1 that whole material review petition and the committee
2 consideration of the TAPs. I mean, this has been a
3 pressure cooker to have these recommendations put
4 together.

5 MS. CAUGHLAN: I think we have enough to do
6 between now and May.

7 CHAIRMAN CARTER: I think then that I sense
8 that the recommendation at this point is that our next
9 meeting, next full board meeting will be in May. Okay.

10 PARTICIPANT: Anybody have those dates?

11 MR. MATHEWS: May 15th and 16th for OTA.
12 15th, Thursday, 16th, 17th.

13 MR. SIEMON: So, we would meet before or
14 after, and I'd request before.

15 PARTICIPANT: May which? 16th?

16 MR. SIEMON: The show is the 15th, 16th and
17 17th and 18th, I guess. That's Thursday, Friday,
18 Saturday, Sunday. So, I would suggest the 12th, 13th
19 and 14th would be our working days.

20 CHAIRMAN CARTER: Okay.

21 MR. SIEMON: Even though that makes travel on
22 Mother's Day, on Sunday. So, that's not good. Let's
23 try to avoid it this time.

24 CHAIRMAN CARTER: Okay. So, you're

1 suggesting, George, the meeting dates of the 12th, 13th
2 and 14th?

3 MR. SIEMON: Well, I did, but then I'm
4 worried about making us travel on Mother's Day. That's
5 not -- so, why don't we say 13th, 14th, and 15th?

6 CHAIRMAN CARTER: Okay. I would take that as
7 a recommendation.

8 MR. SIEMON: Then travel days on the 12th.

9 CHAIRMAN CARTER: Okay.

10 PARTICIPANT: Could we have that one last
11 final time, please?

12 MR. SIEMON: NOSB would meet on the 13th,
13 14th, and 15th of May in Austin.

14 MS. KOENIG: Tuesday, Wednesday, and
15 Thursday.

16 CHAIRMAN CARTER: The travel day of the 12th
17 and so you don't get out of buying a gift for a spouse
18 on Mother's Day.

19 MR. MATHEWS: Or at least you won't have to
20 buy one as expensive.

21 CHAIRMAN CARTER: Yeah. You won't have to
22 buy diamonds instead of a Dust Buster.

23 MS. KOENIG: Dust Buster?

24 MR. MATHEWS: What is that?

1 MR. KING: So, the travel would be the 12th,
2 correct?

3 PARTICIPANT: Dave, you might as well start
4 now.

5 CHAIRMAN CARTER: Oh, so, you want -- off
6 line, I'll tell you what happened a couple of weeks
7 ago. I'll be buying a new car at this point. Okay.

8 Okay. Then let's talk about our next
9 Executive Committee. The Executive Committee.

10 MR. SIEMON: Is there any chance the morning
11 of the 22nd -- do we want -- is -- which week?

12 MS. BENHAM: It's supposed to be before the
13 October meeting.

14 CHAIRMAN CARTER: Yeah.

15 MS. BENHAM: The Executive Committee.

16 CHAIRMAN CARTER: Okay. It probably wouldn't
17 hurt us to have a call. Seeing as we're going to need
18 to start planning stuff for the October meeting, it
19 wouldn't hurt to have it in about a week.

20 MR. SIEMON: I'd request Thursday morning, if
21 possible.

22 CHAIRMAN CARTER: Thursday morning?

23 MR. SIEMON: The earlier the better.

24 CHAIRMAN CARTER: Okay.

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1 MR. SIEMON: The 26th. Slave driver.

2 MS. CAUGHLAN: I'll be on a plane.

3 MR. SIEMON: Very well.

4 MR. KING: What about Wednesday afternoon?

5 MS. CAUGHLAN: Can we go Friday morning,
6 please?

7 CHAIRMAN CARTER: No, can't go Friday
8 morning. I'll be on a plane.

9 MR. KING: Can't do that.

10 MR. MATHEWS: Can we do Tuesday?

11 MS. CAUGHLAN: Well, my plane takes
12 precedence over your plane. How's that?

13 MR. MATHEWS: I'll be in travel on Wednesday,
14 Thursday and Friday.

15 CHAIRMAN CARTER: Okay. Next Tuesday.

16 MR. SIEMON: Next Tuesday?

17 CHAIRMAN CARTER: Yep.

18 MR. SIEMON: Early?

19 CHAIRMAN CARTER: Which is the 24th. We can
20 do it early.

21 MS. CAUGHLAN: I can call in, if Katherine
22 can take the notes, because I will be on vacation.

23 MR. SIEMON: How early? 9? Is that too
24 early? That's 6 East Coast time. That's too early.

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1 CHAIRMAN CARTER: 7:00 East Coast time. Is
2 that too early, or is it 8:00 preferable? 8:00 is
3 preferable. I'm getting the 8:00 is preferable. For
4 West Coast, yeah, I mean.

5 MR. SIEMON: Yeah. I'm not available for
6 that.

7 PARTICIPANT: Late in the day's better for
8 me.

9 CHAIRMAN CARTER: Tuesday? Tuesday, later in
10 the day?

11 MR. SIEMON: What do you call late?

12 CHAIRMAN CARTER: Okay.

13 MR. SIEMON: How about 2:00? That's not
14 late.

15 CHAIRMAN CARTER: No, that's not late.

16 MR. SIEMON: Okay.

17 CHAIRMAN CARTER: How about 4:00 Eastern?
18 2:00 Real.

19 MR. SIEMON: That's fine with me.

20 CHAIRMAN CARTER: Okay. So, 4:00 Eastern, 2
21 real time.

22 MS. CAUGHLAN: Is there any way that I -- how
23 could I arrange to get the call-in number, since I will
24 not be back in my office?

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1 MS. BENHAM: You won't be back in your office
2 at all?

3 MS. CAUGHLAN: Not until the 27th. So, I'll
4 have to call you, I guess.

5 MS. BENHAM: You're going to call me?

6 MS. CAUGHLAN: I can call you.

7 MS. BENHAM: Okay.

8 CHAIRMAN CARTER: Okay.

9 MS. BENHAM: Either I can have them call you
10 wherever you are.

11 MS. CAUGHLAN: I didn't bring even a cell
12 phone. I'm on vacation. I'm making a big exception.

13 CHAIRMAN CARTER: Okay.

14 MS. BENHAM: Okay.

15 CHAIRMAN CARTER: All right. And then, the
16 only other thing that I have -- oh, two other things
17 just in regard to -- well, no, we talked about this one
18 yesterday. Just doing some publicity for the 21st.

19 Then the other thing we talked about at the
20 outset of the meeting here was the recommendation that
21 has come up to kind of have a Materials Review Task
22 Force take a look at our whole process for materials
23 adoption, and I think what we'd like to recommend and
24 particularly since this regards mostly Crops or not

1 Crops but Livestock and Processing is that we really
2 work through those two committee structures and then
3 hopefully come forward with some things to talk about
4 at the October meeting.

5 MR. SIEMON: Okay. But my concern is about
6 this public notice period. So, if we come up
7 excipient, say I come up with it next week, for
8 example, which I'm not promising, what's the process
9 for public notice, implementation? I'm worried about
10 the October 21st.

11 CHAIRMAN CARTER: Rick?

12 MR. MATHEWS: Well, we'll post whatever you
13 send in as soon as we get it, if that's what you decide
14 that you want to do.

15 CHAIRMAN CARTER: Okay. All right. Anything
16 -- okay. Then I don't have anything else.

17 Anybody else have anything else?

18 MS. BURTON: Just remember to get me your
19 comments on the TAPs that we're going to be sending
20 back, please.

21 CHAIRMAN CARTER: Okay.

22 MS. KOENIG: I just want to make sure that on
23 the agenda, after conferring with the EPA, there will
24 likely be some kind of a report, and if it's not ready

1 by then, we can remove it, but that should be on the
2 agenda.

3 CHAIRMAN CARTER: Okay. We'll take note of
4 that as a suggestion.

5 MR. SIEMON: And can we have excipients on
6 the agenda?

7 CHAIRMAN CARTER: Excipients on the agenda?
8 Sure. Okay.

9 MR. SIEMON: One step ahead of us.

10 CHAIRMAN CARTER: All right. Okay. Then if
11 there's nothing else, we will recess here for about 40
12 minutes, come back at 5:00 for Public Comment.

13 (Whereupon, a recess was taken.)

14 CHAIRMAN CARTER: It is 5:00, and we are now
15 into Public Comment period, and first up is Thomas
16 Harding.

17 MR. SIEMON: I think he missed his
18 opportunity. Next.

19 CHAIRMAN CARTER: Thomas Harding? He's left?

20 MR. SIEMON: Boy, you're lucky, man.

21 CHAIRMAN CARTER: Identify yourself for the
22 record.

23 Public Comment

24 MR. HARDING: I'm Tom Harding, and I'm

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1 representing AgriSystems International, a consultant.

2 First of all, I just wanted to take and say
3 thank you to all of you at the NOSB and the National
4 Organic Program. I think you did an incredible job. I
5 don't know how you do it but that's another whole
6 issue, but I just want to thank you for the good work.

7 Even when I don't agree with the decisions, I
8 love the process. It's working anyway. I did want to
9 emphasize that I thought Rosie made a really good point
10 about the TAPs, and I think that looking at them in a
11 broader sense is an issue that's really important for
12 us because we don't want to come back here any more
13 often than we have to either, and I think it's really
14 important to look at them in a broader stroke than a
15 specific stroke, and you might want to encourage from
16 the outset the petitioners now and say look, are you
17 looking at the big picture or are you just looking at
18 the small picture?

19 Anyway, getting down to some other issues,
20 the thing that's plaguing us in the business, I work
21 with a number of certifiers, and one of the biggest
22 problems we have is getting answers. As you know,
23 there are some gray areas in the law. By the way, I
24 was going to let Marty tell the joke, but I guess he's

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1 going to speak after me. But the gray areas are a
2 serious issue in how we interpret what's going on right
3 now, and I would encourage -- is the Department in
4 here? I would encourage them --

5 CHAIRMAN CARTER: She's the Department.

6 MR. HARDING: I can always get an answer from
7 her, by the way.

8 CHAIRMAN CARTER: Yeah.

9 MS. BENHAM: Now we get something done.

10 MR. HARDING: If I want an answer, I call
11 her. That's for sure. I would encourage these answers
12 to flow back as quickly as possible, particularly to
13 our certifiers.

14 I only have 61 questions that are remaining
15 unanswered. I'm sure that the certifiers collectively
16 must have a lot more. I think that's leaving us in a
17 very difficult place come October 21st because as I
18 have learned not only at this meeting but in the last
19 few weeks, there's a huge misinterpretation of certain
20 aspects of the rules, and many people are operating,
21 accredited certifiers, under different rules, and so us
22 who are advising them and people who are living on
23 farms like my farm has been under the -- you know, we
24 have to go through a conversion now and finding out

1 maybe that's not necessary. We need answers, we need
2 them very quickly, and if we're going to publish them,
3 we've got to publish them with less than half the
4 lifetime. It's got to be done pretty quickly.

5 The other thing that I wanted to mention is
6 the transportability at certification. We're buying
7 product from some of the people I work with and
8 particularly farmers that I work with. We're buying
9 products from all over the place, and we're sure, based
10 on everything we've heard, that the certificates for
11 the raw material or the ingredient or the hay or, for
12 that matter, the grains, that certificate is
13 transportable.

14 If, as an applicant, I want to move from one
15 certifier to the other, and there's no inspection
16 involved, there's an acceptance of that certificate,
17 from one certifier to the other because I want to
18 consolidate my certifications because of labeling
19 needs, I can't transport that certificate. I actually
20 have to go through a new application, a full review and
21 inspection, at least that's what we've been told. To
22 me, that doesn't represent transportability of
23 certification under the accreditation provision.

24 The issue of private label which you've

1 addressed in a policy, I think is still not very clear
2 as particular retailers who are aggressively private
3 labeling and moving certification under a covenant, a
4 blanket certification, it's really important we pay
5 attention to this private label issue, particularly
6 under what we call multiple contract producers, and
7 those guys may produce the same product for 10 or 20
8 retailers, it may be produced by a co-packer that's
9 vertically integrated to another applicant, and neither
10 of those names will ever appear on the end package, if
11 you follow me, but it will be certified by a certifier
12 who actually never visited but only received the
13 certificates of the other. If that's kosher, then we
14 need to be clear about it because a lot of people are
15 operating under different rules there.

16 I want to move down to dairy because that's
17 an area I've spent a lot of my lifetime in, and I agree
18 that we need to look at excipients and carriers and
19 things like that, but I tell you what we need to look
20 at right now in looking at the provision that's
21 proposed just recently. I'll give you an example. I
22 had a dairyman who operates on one of our herds in the
23 West Coast who is not in our organic program but is
24 contemplating it and that dairyman was told recently

1 that he can actually come into the program in four or
2 five weeks or maybe eight or 10 weeks as long as his
3 land would qualify under legal affidavits and that he
4 could -- and that his animals would qualify as being
5 fed on that land, organic feeds under the provision of
6 the transitional part, and that he could eliminate the
7 12-month transition. If that's the case, we have
8 penalized an awful lot of dairymen around the country,
9 and I'm not under that impression. I thought I
10 understood the law but apparently I don't.

11 So, the other issues, of course, is land and
12 dairy. I know how we transition to land and how we
13 transition to dairy. I want to be clear. Is the 12
14 months a requirement or is it not? Can I just have
15 affidavits to say my animals have been eating on that
16 land and they're exempt and they can just go right into
17 the certification process? That's a very important
18 issue.

19 The other issue is we need to make sure that
20 when we consider these new changes -- if I could --

21 CHAIRMAN CARTER: Finish your thought.

22 MR. HARDING: Okay. If I can -- oh, my God.

23 All right. Well, let me jump down to that because I
24 do want to support the comments made by the Organic

1 Trade Association Livestock Committee, and I hope they
2 will be deeply considered in reformulating this next
3 point. My final point. Natural gases that are
4 approved in the system. I want to know if these
5 natural gases, such as nitrogen and carbon dioxide and
6 so forth, if they're applied on an organic product in
7 storage, does that no longer qualify that agricultural
8 commodity as 100 percent organic? If it's a finished
9 product, what does it do to the finished product?

10 CHAIRMAN CARTER: Okay.

11 MR. HARDING: Thank you all very much for
12 that.

13 CHAIRMAN CARTER: Thank you for staying.

14 MR. SIEMON: First about the dairy since
15 maybe that's what -- you're just bringing up the issue
16 of don't they have to be certified 12 months prior and
17 then start the 12-month period rather than have the 12
18 months be starting at -- right at the end of the 12
19 months?

20 MR. HARDING: I'm under the impression that a
21 newer conversion takes 12 months.

22 MR. SIEMON: Right. But do you have to --

23 MR. HARDING: No matter how many affidavits I
24 can get.

1 MR. SIEMON: -- get certified prior to the 12
2 months is your primary question?

3 MR. HARDING: I want to know, is the 12-month
4 conversion required to convert a dairy herd under the
5 certification criteria?

6 MR. SIEMON: But 12 months after the first
7 certification?

8 MR. HARDING: No.

9 MR. SIEMON: Just 12 months? It is 12
10 months.

11 MR. HARDING: So, --

12 MR. SIEMON: By rule. By law.

13 MR. HARDING: -- anyone else want to comment
14 on that? I gave Jim the scenario awhile ago, and I'm
15 under the impression it's 12 months, a dairy herd has
16 to go through the conversion, and there are no
17 shortcuts to it. Affidavits behold.

18 MR. RIDDLE: Yeah. It was the topic of the
19 gases.

20 MR. HARDING: Yes, sir.

21 MR. RIDDLE: Yeah. So, I just want to make
22 sure I understand what you're talking about. So, if it
23 were popcorn, for instance, that may go through a CO2
24 fumigation, but otherwise there's nothing being added

1 to it. Could it still be labeled 100 percent organic
2 popcorn or coffee that has nitrogen in a bag --

3 MR. HARDING: Or flour.

4 MR. RIDDLE: -- or flour?

5 MR. HARDING: Yeah.

6 MR. RIDDLE: That's what you're asking?

7 MR. HARDING: Correct.

8 MR. RIDDLE: Okay. That's a good example.

9 MR. HARDING: Because one is the raw
10 agricultural product and the other is a value-added
11 processed one. Yeah. That's what I'm asking.

12 CHAIRMAN CARTER: Okay. Richard?

13 MR. MATHEWS: Tom, do you have all those
14 questions written down?

15 MR. HARDING: I do, and I'm going to -- two
16 of them really hit me broadside about two and a half
17 hours ago. So, I will document them and send them
18 right to you.

19 MR. MATHEWS: Okay. Please do.

20 MR. HARDING: They're written down. I just
21 haven't put them in a copy that you could read, but
22 I'll get them to you.

23 MR. MATHEWS: Yeah. Please make them
24 readable.

1 MR. HARDING: Okay.

2 MR. MATHEWS: One other thing.

3 CHAIRMAN CARTER: Go ahead.

4 MR. MATHEWS: With regard to the -- your
5 comments on the OTA Livestock Committee's
6 recommendations, what I plan to do is not only post
7 what George has -- is submitting from the Livestock
8 Committee to the Board, but as soon as OTA submits me
9 theirs, I'll put that up as well and offer opportunity
10 for people to comment on that as well and we'll tie
11 them together so that people will be able to read both
12 and respond to both.

13 MR. HARDING: Great. Again, thanks, folks.

14 CHAIRMAN CARTER: Questions?

15 MR. HARDING: Thank you all very much.

16 CHAIRMAN CARTER: Oh, Rosie?

17 MS. KOENIG: Just in terms of procedural
18 stuff, has that been done before?

19 MR. SIEMON: The OTA posting?

20 MR. MATHEWS: No, but in the interest of
21 transparency and the time and the hope of resolving the
22 issue, I feel that it's appropriate to go ahead and
23 post that information as well.

24 MS. KOENIG: Although I'm -- you know, this

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1 is just for the Department to think about. What
2 happens if I, Rose Koenig, decided I had some very good
3 ideas? I don't belong to OTA, you know, but I feel my
4 views should be on that Internet, you know, up on the
5 website, too. You got to be real careful, I'm just
6 saying, and if you do it for one, you're going to have
7 to do it for many.

8 MR. MATHEWS: Ultimately, all the comments
9 are now being posted. They may not get posted right
10 away, but you note that this is the second meeting in a
11 row that we have done the meeting book and the meeting
12 book includes all comments that we had received right
13 on through the end of the day on Monday that we were
14 able to get posted. So, all the comments from the
15 public are now being posted on the website through the
16 meeting book format.

17 CHAIRMAN CARTER: Okay. Owusu?

18 MR. BANDELE: Yeah. I would like -- my
19 interpretation of the Crop requirements are that a
20 producer can go right into organic certification. I
21 would like -- is the question available now in terms of
22 the question the gentleman had regarding the herd?

23 MR. HARDING: It was specific to dairy cows
24 and the conversion of how long -- assuming all my land

1 is qualified, how long does it take for the transition
2 to occur, regardless of the affidavits?

3 CHAIRMAN CARTER: Transition of dairy herds.

4 MR. SIEMON: And that's if the land qualifies
5 and the cattle have been at the 80 percent level, and I
6 walk in the door with my application, when's the
7 soonest I could be certified is your question?

8 CHAIRMAN CARTER: Yeah.

9 MR. SIEMON: Okay.

10 MR. RIDDLE: This is a very important issue.
11 George, how do we prove they've been at the 80 percent
12 is my question. I was under the impression
13 irregardless we have to go through a 12-month
14 conversion. The land qualified, the cows go through a
15 12-month conversion, they're certified organic. The
16 reason this is a critical point is because every day
17 that I know of, at least I think I know of, that I have
18 been -- have gone through a 12-month conversion on land
19 that either is qualified or not. Some of it may be,
20 some of it may not be.

21 Yes, sir?

22 MR. HARDING: Just one thing. From the rule
23 on that concerning that 80 percent, the land is either
24 organic or raised from land included in an organic

1 system plan.

2 MR. RIDDLE: Which means you have to be in
3 the system.

4 MR. HARDING: Yeah.

5 MR. RIDDLE: That's my point. So, it's not
6 just plugging in affidavits.

7 MR. HARDING: No.

8 MR. SIEMON: That's the hinge point that
9 requires the 12 months in the plan. Now, that could be
10 debated, but that's the plan you're writing right now,
11 you know. So, you could still need the debate there.
12 Cows. It's the conversion.

13 So, Jim, I would say that could be read both
14 ways and that's why he's bringing it up. Our
15 certifiers are reading this both ways.

16 CHAIRMAN CARTER: Okay.

17 MR. SIEMON: The plan is part of what you're
18 providing to be certified right -- when you turn the
19 application, here's my plan. So, that could cover both
20 ways, I would think.

21 MR. HARDING: But if my plan says I've been
22 feeding my cows for 12 months under this 80/20, how do
23 I know that? I mean, I thought it had to be in the
24 system that converted it through a period of time so we

1 can get a management system in place, etc., etc.,.
2 etc.? This is a very crucial issue in my opinion. I
3 know how we've been interpreting it and everybody that
4 I know, but I'm finding out that that's not how
5 everyone is interpreting this rule.

6 CHAIRMAN CARTER: Okay. Thank you.

7 MR. HARDING: Thank you.

8 CHAIRMAN CARTER: All right. Llana Hoodes?

9 (No response)

10 CHAIRMAN CARTER: Okay.

11 MR. SIEMON: Wait a second.

12 CHAIRMAN CARTER: Llana has given her proxy
13 to Marty Mesh.

14 MR. SIEMON: How many proxies did he get?
15 Just spill it right away.

16 CHAIRMAN CARTER: He's speaking as Llana, as
17 Marty, and as Tina Ellor.

18 MR. MESH: And some of them are written. I
19 mean, this is legitimate. I'm going to read Jim
20 Pierce's comments, and I may struggle with some of
21 those.

22 CHAIRMAN CARTER: Okay. So, right now,
23 you're Llana Hoodes?

24 MR. MESH: No. Jim Pierce. Can we do him

1 first?

2 CHAIRMAN CARTER: Okay. Go down through here
3 because they're in between all of yours, there's -- so,
4 I'd kind of like to go in order here.

5 MR. MESH: You want to do Dan?

6 CHAIRMAN CARTER: Yes. Dan, do you mind?
7 We'll come up. Let's get you going and then Marty can
8 just wing it away.

9 DR. LEITERMAN: Thank you. Marty may have a
10 better conclusion than I do anyway. Thank you.

11 This is Dan Leiterman, representing Crystal
12 Creek. Initially, I had several questions. Some of
13 them were -- I had assistance over the break on some of
14 them. So, I just briefly want to say thank you. I
15 really, really appreciate the common sense melding that
16 you've had between common sense and the spirit of the
17 organics. I've struggled with this for over five
18 years, and I'm glad to have the assistance, and I look
19 forward to the October meeting.

20 The two points I do want to emphasize on the
21 protionates and chelates is that in my mind, as a
22 manufacturer, I'm looking for guidance on which that I
23 can use and if I can use both, that's wonderful. If I
24 can't use one, I'd surely hope I could use the other

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1 one. So, that's the question there.

2 On the calcium propionate, I do want to
3 emphasize that anything that you would have to detail
4 that item, if we could use it, I would emphasize it's
5 not being looked at for use on crops. It's strictly
6 for low use herd health issue.

7 So, that's all I have, and again thank you
8 very much. I learned a lot.

9 CHAIRMAN CARTER: Okay. Dan, thank you very
10 much for your assistance. We appreciate your
11 willingness to be on.

12 MR. SIEMON: And Dan, if I could just say,
13 we'd like to get help on the calf herd medication
14 material. So, if you could help us get a list
15 together, that'd be really great.

16 DR. LEITERMAN: I understand that we need to
17 get some materials to Kim or you do, and if I can help
18 you with that process relative to calves. There's a
19 lot of questions about calves. I deal with calves on
20 large and small operations every day, and frankly, we
21 have very -- access to a lot of very functional
22 alternatives for calves, and they've been out there for
23 a long time and have worked really well. So, those
24 options are available to look at.

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1 CHAIRMAN CARTER: Okay. Jim Pierce?

2 MR. MESH: Congratulations on good work done
3 at a historic pace. I come, I, Jim Pierce, come in
4 dancing a jig of optimism. In the past, I have left
5 singing the blues. Don't get your heads too big, you
6 could have done better. I honestly believe that
7 several of the materials that you deferred could have
8 been dealt with now.

9 There is probably a clinical time -- a
10 clinical term similar to claustrophobia for the
11 irrational fear to vote. While you have come a long
12 way to dealing with your collective phobia, I think you
13 should have continued to seek therapy. I commend you
14 on being prepared and so being able to not only ask but
15 answer the tough questions.

16 As a result, you not only reeled -- not only
17 something on 28 materials, the previous record is four,
18 but even more historically, you -- is that for me or --

19 CHAIRMAN CARTER: No, no.

20 MR. MESH: The gavel. You something -- for
21 use a hormone, chemical, mold inhibitor, and a
22 petroleum product, remarkable. Again, don't get such a
23 big head.

24 There is a body count. The organic spirolena

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1 producers were -- and then I changed it to almost cut
2 off at the knees pending Thursday afternoon. The
3 organic aloe vera producers are hanging by a thread and
4 the cow that Dr. Karreman operated yesterday on will
5 have to be sold as conventional since flunixin is not
6 yet decided. I am -- as many cases, maybe more. Maybe
7 no. And the entire organic whatever as a hard gel cap
8 industry will cease to exist.

9 Mr. Mathews, it is my strong opinion that
10 unscrupulous fly-by-night criminals, if you will, do
11 exist and will fundamentally represent product with bad
12 certificates, many times with potential fines factored
13 into the cost of goods. I think that means -- well,
14 I'll let it speak for itself.

15 Dated certificates have been the industry
16 standard for years, up until a few weeks ago.
17 Consumers, producers, certifiers, manufacturers and
18 inspectors are uncomfortable with undated certificates.

19 As soon as Marty Mesh tells you good job, God bless
20 you and thank you, he may use the remainder of my time
21 for his own discretion.

22 I've typed some of my own, and I don't
23 believe I'll need the time in that. I would urge you
24 not to deal with proxies from people that can't be here

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1 in the future.

2 My name's Marty Mesh, and I want to thank the
3 Department and the Board as well for their continued
4 work on the program. I know that you don't get thank
5 yous very much. I would like to make a few concise
6 points for your consideration in a slow coherent manner
7 today.

8 The first is a certification of grow groups
9 or more specifically the internal control system or
10 ICS. It is important that there is agreement that the
11 ICS, internal control system, is considered the
12 production unit as opposed to the misconception that
13 every small plot of land over a very wide geographic
14 area and areas that are often transportation challenged
15 need to be physically visited prior to the initial
16 certification, when in fact the internal control system
17 is the production unit being certified.

18 With that understanding, with the
19 understanding that we are certifying the internal
20 control system, I believe that the continuation of
21 certified organic products grown by smaller scale
22 producers in what is commonly referred to as grower
23 groups will be able to be available.

24 I have to again urge caution when developing

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1 annotations on materials. The consideration of once in
2 a lifetime on animals that can live over a decade would
3 cause verification issues during the inspection and
4 burdensome recordkeeping and review on the part of
5 producers, certifiers and inspectors.

6 The over-reaction by the Department in what
7 is supposed to be a public/private dialogue concerning
8 the industry's suggestion on something that would
9 facilitate trade is concerning. For the record, I must
10 correct Mr. Mathews, since it was the previous USDA
11 National Organic Program manager himself during a USDA
12 and industry accreditation training for certifiers in
13 Atlanta, Georgia, who stated that the USDA National
14 Organic Program would have no problem with the date of
15 issue on certificates and the renewal date or an annual
16 monitoring date on certificates, but that USDA would
17 absolutely not accept any accredited certification
18 agent issuing a certificate with an expiration date on
19 the certificate.

20 With all due respect, I found the comments
21 earlier today by the current program manager not only a
22 personal attack on a volunteer National Organic
23 Standards board member but also factually incorrect.
24 The sad thing is that although this was felt throughout

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1 the audience, I may be the only one to mention it
2 because others feel too intimidated to say anything.
3 This does not encourage a viable public/private
4 partnership.

5 The industry suggestion for annual monitoring
6 or renewal date in order to facilitate trade is being
7 misunderstood by the Department to mean lack of due
8 process. This is Llana's part. Due process refers to
9 the right of a certified operation or accredited entity
10 to defend their certified or accredited status, whereas
11 the printing of an annual monitoring and renewal date
12 on a certificate refers to information status. It is
13 not fair and in fact an impediment to trade to make a
14 small independent health food store with only one phone
15 line and possibly slow or no Internet access to check
16 to see if a certificate -- this is intermixed. So, to
17 see if a certificated November 2002 has been revoked,
18 given up, or suspended in December of 2007, and it's
19 listed on a USDA website or in the packer.

20 For the processor buying ingredients for a
21 multi-ingredient product, the packer deals only with
22 fresh producer and not processed ingredients. This
23 certificate issued in November of 2002 by an accredited
24 USDA certifier who goes out of business in 2004 or by

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1 an entity who's no longer certified would still be in
2 use in 2007 without USDA receiving a Notice of
3 Revocation. Again, the industry has made suggestions
4 that were accepted by USDA to facilitate trade while
5 not threatening due process of certified entities.

6 Certifiers who do not perform should have
7 their accreditation pulled or the free market will take
8 care of the situation, if that is the reasoning for the
9 decision. There are references in the law and in the
10 rule to annual updates and to put the date of that
11 update on a certificate could serve to facilitate
12 trade, not impede it. If this wasn't the case, I do
13 not believe the Organic Trade Association would have
14 urged this status.

15 The free accreditation program has been
16 mentioned, and again for clarification, the most recent
17 cost to us over the last couple months to use this free
18 initial reduced USDA accreditation service was \$2,439
19 in fees paid to USDA. If the accreditation is free, we
20 would like to apply for a refund. That is one reason
21 why we think that the discussion on outsourcing of
22 accreditation is a valid one to be had since this round
23 has been the USDA blue light special and the costs will
24 probably only rise in the future.

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1 I would like to announce the names of those
2 submitting nominations for the Consumer seat to be made
3 public today. Again, on behalf of the industry, we
4 look forward to coming to a common misunderstanding --
5 to a common understanding with input opportunities from
6 all accredited National Organic Program accredited
7 certifiers on the issuance of standards,
8 interpretations and guidance documents that will
9 achieve consistency among certifiers implementing the
10 national standard. This will, as stated the other day,
11 although quickly, will ensure that one of the stated
12 purposes of the OFPA to "ensure consumers that
13 organically-produced products meet a consistent
14 standard."

15 Actually, this was just mentioned, but the
16 National Organic Program or the Board still has not
17 issued an answer about whether nitrogen or oxygen
18 constitutes an ingredient in a 100 percent organic
19 product. We seem to feel that it is exempt from
20 consideration when used as part of a package in what
21 our technical staff refers to as sparging or
22 sequestering. The commitment to institute a peer
23 review panel which is mandated in the law, called for
24 in the regulation, and continually advocated for in

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1 public comment, could help not only instill confidence
2 and transparency but could affect the National Organic
3 Program budget significantly.

4 I would thank the USDA for their suggestions
5 on how they will deal with the issue of government-
6 mandated spray programs. Already the USDA has
7 interactions with other government agencies, such as
8 EPA, APHIS, BATF, and FDA, among others. The idea of
9 taking to RMA should be easy since that agency is
10 already inside USDA. The suggestion from the State of
11 Maryland that the USDA could work with these state
12 agencies to ensure buffer zones around organic farms or
13 that only approved materials are used to spray an
14 organic farm if it were to happen is a great idea and
15 will solve the issue.

16 You will have heard the last time from me on
17 this subject when those arrangements are completed, and
18 you will have the thanks of many organic farmers who
19 will not suffer economic devastation through no fault
20 of their own. Just again to clarify, my own farmland
21 has never been sprayed once since we started farming it
22 roughly over 20 years ago. The program manager
23 mentioned maybe organic products should not be grown in
24 those places where this is even an issue, and I would

1 like to review some but not all of the states where
2 government-mandated spray programs have occurred and
3 think they may remind us that this is widespread.

4 Those states, just the ones told to me here
5 at this meeting where organic farmers under the current
6 rule could be affected, include Texas, Louisiana,
7 Mississippi, Pennsylvania, California, Washington,
8 Florida, Hawaii, Oregon, Minnesota, Wisconsin, New
9 York, Maryland, Alabama, Illinois, Idaho, Virginia,
10 Connecticut, Rhode Island, and Massachusetts, New
11 Hampshire, Tennessee, Hawaii, Indiana, and I'm sure
12 there's others. So, it is much more than Marty's
13 issue.

14 I appreciate the potential resolution and as
15 co-chair of the Organic Certifiers Council and as a
16 board member of the Organic Trade Association, I would
17 personally commit to getting letters of support for the
18 Department's efforts to resolve the issue in their
19 conversations with other governmental agencies on
20 federal, state and local levels.

21 Thank you.

22 Now, since I have other people's proxy, --

23 CHAIRMAN CARTER: You do still have five
24 minutes left on the time. You have time for one joke.

1 MR. MESH: Is the lawyer still here?

2 MR. HOLBROOK: Why are you concerned about
3 that, Marty?

4 MR. MESH: It was the Food Marketing
5 Institute lady. So, in honor of the Soil Association's
6 release of a report documenting that biotechnology --
7 that biotech crops have been an economic devastation on
8 farmers and ranchers in Canada and North America, the
9 joke was how can you tell -- it's getting hard to tell
10 the difference between the government regulator -- no,
11 no offense intended, -- the government regulators,
12 biotech industry and university researchers who got DNA
13 testing.

14 CHAIRMAN CARTER: Comments? Questions?
15 Barbara?

16 MS. ROBINSON: Marty, let me ask you this
17 question. Isn't it true as a certifying agent that
18 every year, you're going to go out and you're going to
19 annually update your clients, is that correct? Doesn't
20 -- don't your clients have to get an annual update from
21 you every year?

22 MR. MESH: They have to supply an annual
23 update to us.

24 MS. ROBINSON: Right. And then you have to

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1 do a site visit?

2 MR. MESH: And then an inspection is part of
3 the certification process.

4 MS. ROBINSON: Okay. So, won't you keep a
5 record of that at your firm?

6 MR. MESH: Will we keep a record of that at
7 the firm?

8 MS. ROBINSON: Yeah.

9 MR. MESH: Yes.

10 MS. ROBINSON: Okay. Well, how about this?
11 You know, when you do that annual update and that site
12 visit, you hand that guy a piece of paper and it says
13 congratulations, you passed again or something like
14 that. So, now it's 2010.

15 MR. MESH: And we'll date that certificate.

16 MS. ROBINSON: And you'll date that
17 certificate.

18 MR. MESH: We date that letter.

19 MS. ROBINSON: You date that letter.

20 MR. MESH: Okay.

21 MS. ROBINSON: Okay. It's 2010. He wants to
22 sell to Acme Bread Manufacturers, and the guy says,
23 show me your certificate, and it's dated 2002, and Acme
24 says, well, how -- it's 2010. How the hell do I know

1 if you're -- excuse my -- take that out. How do I know
2 if you're still update and your client says, well,
3 there's two ways you can tell. One is you can call my
4 certifying agent, Marty Mesh, I'm on the list, but
5 secondly, here's my last year's update signed by QCS
6 that says I passed again this year. So, it's current.

7 Why is that a problem? You would have to keep those
8 records.

9 MR. MESH: Right, and we could do that. That
10 letter -- that additional document, but instead, it
11 seems like it's less paperwork to have the certificate
12 that's updated and given to him. Most every
13 certificate really --

14 MS. ROBINSON: See, it's a little like if I'm
15 a lawyer or, you know, a doctor, and as it is, I got a
16 diploma on the wall but it says that I went and did all
17 the right things, so that I've got this doctorate in
18 economics, and I don't have to go and do it every year,
19 I don't have to, I mean, if I'm a lawyer or a doctor, I
20 can be revoked if I have malpractice issues or I do
21 something like that, but you don't just annually come
22 out and say are you still fit to be a doctor? That's
23 what this system is, but there doesn't seem to be any
24 problem here with you guys issuing -- what is the

1 difference between you issuing a piece of paper that
2 says you've been updated and reissuing the certificate
3 that he's got hanging on the wall? What's the
4 difference? And why wouldn't it work?

5 MS. KOENIG: So, you're saying minimally --
6 she's saying minimally, you give them that certificate.
7 Maximally, you can give them other paperwork.

8 MS. ROBINSON: That's right. This is another
9 piece of paper and data. What's wrong with that?

10 CHAIRMAN CARTER: Okay. Jim?

11 MR. RIDDLE: I think you're presenting what I
12 was asking for this morning, which was some kind of a
13 workable replacement. This might work. It's a whole
14 new level. It takes away the current use of the
15 certificate as that verification tool.

16 MS. ROBINSON: That's right.

17 MR. RIDDLE: It replaces it with this letter
18 or --

19 MR. MESH: The annual update letter.

20 MR. RIDDLE: -- the certification tool.

21 MR. MESH: Annual update and verification
22 letter.

23 MR. RIDDLE: Yeah.

24 MR. MESH: I see our document binder

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1 expanding now.

2 MS. ROBINSON: Yeah.

3 PARTICIPANT: I want to thank you.

4 MR. MESH: An annual certificate update
5 document, whatever it is.

6 MS. ROBINSON: Whatever you want to call it.

7 MR. MESH: We'll call it something that --

8 MS. ROBINSON: Congratulations, you passed
9 again, you know.

10 MR. MESH: It will list the products and the
11 crops.

12 MR. SIEMON: One question.

13 MR. RIDDLE: It wouldn't happen right at the
14 time of the inspection. It has to go back. That's a
15 decision by the certification -- you know, --

16 MS. ROBINSON: But the certificate wouldn't
17 be -- yeah. In the meantime, yes, but you've limited
18 your window of vulnerability to the crooks and the
19 cheaters and whatever.

20 MR. KING: Don't certifiers normally issue
21 determination letters or something of the like? So,
22 how is this any different?

23 MS. ROBINSON: Because the certificate is
24 basically good for life. Okay?

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1 MR. KING: No. I understand that, how it's
2 different, that your letter has simply really just
3 changed title because you've still done it in the past,
4 the determination letter.

5 MR. MESH: If there's a document, a piece of
6 paper, a certification notification update,
7 verification form, or whatever, then I think the
8 industry would be happy.

9 MS. ROBINSON: And there may be many, many
10 factors or buyers or whomever that are perfectly happy
11 to see -- I want to pose the flip side of this to you
12 guys, too, that -- but I as the producer or the
13 processor can say to the guy who's dealing with me,
14 I've -- you know, I was certified in 2002, and I'm
15 still in business. I'm reliable. There's a benefit to
16 that certificate not expiring and not having a renewal
17 date. You show the people that they do business with
18 that they consistently have been in business for 10
19 years and require some additional verification.

20 MS. BURTON: I have somewhat of a concern
21 from a manufacturer standpoint; that is, if somebody
22 asks me for verification that I'm certified, I just
23 have to send them my certificate, though. I don't want
24 to have to compile 10,000 pieces of paper that all are

1 in different formats and look for a word that says
2 congratulations on it from some other certifier. As a
3 buyer of, you know, a thousand different raw materials,
4 I want to just be able to say give me your certificate,
5 if that's really all that's required.

6 MS. ROBINSON: That's all that's required.

7 MS. BURTON: I'm going to show them the
8 certificates from 50 million different vendors.

9 MS. ROBINSON: Look, I'm just saying this is
10 a solution for those certifying agents who want to
11 issue something. The deal between the client and
12 whoever they do business with, you know, we'll stand
13 behind them if the certificate's satisfactory.

14 MS. BURTON: Right.

15 MS. ROBINSON: This was supposed to be able
16 -- because you guys said you don't want to answer 5,000
17 phone calls. Now, you know, the bottom line is still
18 that the certificate is the litmus test, but if
19 everybody wants extra pieces of paper, we don't care.

20 CHAIRMAN CARTER: Okay. Bob? He had his
21 hand up. Come to the mike. Identify yourself.

22 MR. BUELLER: Bob Bueller, NOP. I just
23 wanted to remind everybody that for the annual update,
24 if there's new information, the certifying agent is

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1 supposed to issue a new certificate. In other words,
2 if they go from, say, a crop operation to a crop and
3 livestock operation, the certificate is supposed to be
4 updated. So, there is some updation -- updating.

5 MR. SIEMON: Marty, I was just wanting to ask
6 about that joke you said. Now I'm a little confused.
7 Now that you're an official government agent, who do I
8 send my reimbursement form? You're a government agent
9 now. Are you a regulator? I'm just a little confused.

10 MR. MESH: I'm assuming the answer is yes.

11 CHAIRMAN CARTER: Okay.

12 MR. MESH: The other issue, I mean, that I
13 wanted to raise really is on the 100 percent, which I
14 asked about nitrogen, but it's still the same issue on,
15 you know, coatings or processing or things that are
16 approved. Is it a 100 percent organic wash if it's
17 been washed with chlorine? Just food for thought.

18 CHAIRMAN CARTER: All right. Thank you,
19 Marty, I think.

20 Leslie Zuck? Leslie, thank you for your help
21 earlier this week, too.

22 MS. ZUCK: Oh, thanks. Marty's always such a
23 tough act to follow. I'm a little taller than he is.

24 Leslie Zuck, Executive Director of

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1 Pennsylvania Certified Organic, and I have to apologize
2 to Barbara, but I thought of it first. In February
3 2001, Keith Jones did tell the certifiers at our
4 meeting in Atlanta that we would not be permitted to
5 have expiration dates on certificates. So, PCRO,
6 aspiring to be an accredited certifier, certification
7 agency, we didn't put expiration dates on any of our
8 certificates issued in 2001. We told people in their
9 letter to take really good care of those certificates
10 because it's the last one they're going to get, you
11 know, and that was last year. Throughout the season,
12 we issued about 235 certificates all in the state of
13 Pennsylvania.

14 We got a few calls from clients and clients'
15 customers saying, hey, what the hey, what's this? You
16 know, what'd you give us here? Doesn't have an
17 expiration date. We explained to them it's the USDA
18 regulation. We can't put expiration dates on your
19 certificates any more. People didn't really think too
20 much about it. I mean, we actually got a couple of
21 calls from certifiers, too, saying what, huh, and
22 didn't think too much about it last year.

23 But except for the situation where -- this is
24 important -- that, you know, of all people, our State

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1 Department of Agriculture officials refused to give out
2 cost-share funds because the PCO producers could not
3 submit a certificate that covered a particular finite
4 period of time. So, that was the problem. It's still
5 a problem.

6 This year, nobody got a new certificate. A
7 few people did in, you know, Bob's situation out of
8 250. So far this year, we've issued about 8 new
9 certificates to people who added dairy cows. So, we
10 did issue new certificates. We got calls from nearly
11 all of our clients because many of our clients'
12 customers were demanding a new certificate. Okay. Not
13 to other certifiers, you know, and it was people who
14 were, you know, that they normally sold to, and they
15 submitted a certificate every year, which we've been
16 training them to do for five years. When you sell your
17 hay, give us a certificate.

18 They were not -- it wasn't a matter of
19 anybody attacking our clients' integrity. You know,
20 it's just the way the system is. It's the audit trail.

21 It's the tracking system that we all use, not just
22 certifiers but clients as well. There were buyers and
23 sellers of organic products that were not able to do
24 business because they didn't have current

1 documentation.

2 So, now, we issue each client each year an
3 organic product verification which states the crops or
4 products and it's valid for one year. As a result,
5 well, the farmers grumbled and groaned because now they
6 have to give two pieces of paper with every load of
7 everything that they sell, no matter where they sell it
8 to. Large customers, such as Whole Foods, we don't
9 certify Whole Foods, but they're a customer for a lot
10 of our producers. You know, they kind of furrowed
11 their brows and said their policy was not to buy
12 organic product unless it could be accompanied by a
13 certificate that was not more than a year old. So, our
14 Department of Agriculture, our friends in Harrisburg,
15 said no way, it's not a certificate, no certificate, no
16 cost-share money.

17 So far, no one has, that I know of, has
18 refused to accept product with -- accompanied by an old
19 certificate with our current product verification, but
20 as far as I know, I don't know any other certifiers
21 that have adopted this method yet, and once their
22 products are all in the stream of commerce and we've
23 got all these customers and all these clients and all
24 these retail operations, all these multi-ingredient

1 manufacturers, with all these expired certificates,
2 well, not expired, non-expired certificates floating
3 around, I believe there's going to be problems, and I
4 guess what I'm saying is I think those problems could
5 be prevented by allowing an expiration date or an
6 annual renewal date or an annual monitoring date on the
7 certificate. I believe it would be the very best way
8 we can serve our clients and facilitate trade, that was
9 Marty's word, you know.

10 As hard as we work to provide the best
11 quality services for our clients, when they submit an
12 application for a cost-share fund and they're turned
13 down and told that their certifier did not provide
14 proper documentation, it makes us look really bad, and
15 the Department of Ag staff also happen to tell our
16 client and me, our clients and me that they hadn't had
17 any problems with other certifiers, and a couple of
18 clients mentioned to me that, you know, they might just
19 have to switch certifiers if it meant the difference
20 between getting \$500 back from the state. As you can
21 imagine, I was not a happy camper to hear this. We're
22 really trying to do things, you know, in a way that we
23 were kind of guided to doing.

24 On Monday, I did speak to our Secretary,

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1 Under Secretary of Agriculture called and indicated
2 that a product verification might be acceptable but
3 that he would need final word from the USDA, that's
4 part of the reason why I thought I better bring it up,
5 and I think that really having expiration dates on
6 certificates would make enforcement a lot easier for
7 USDA and certifiers. It's also a simpler, more
8 effective system that has been working very well for a
9 long time, and the rule doesn't prohibit it, and the
10 problem I have is with the letters, as they're more
11 easily faked, and they all look different, like, you
12 know, every letter is going to be a different format,
13 the inspector, etc., and an announcement.

14 The Farm Aid concert Saturday in Pennsylvania
15 is focusing on organic farming in Pennsylvania. CMT.
16 It's going to be on tv, and they're going to have clips
17 of our farmers that we certify in between the musical
18 acts. So, if anybody can catch it.

19 CHAIRMAN CARTER: Thank you, Leslie.

20 MS. ZUCK: Questions?

21 CHAIRMAN CARTER: Questions for Leslie or
22 comments?

23 MR. SIEMON: It's exciting.

24 CHAIRMAN CARTER: Thank you.

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1 Dennis?

2 MR. HOLBROOK: One of the issues, too, that
3 -- and I think eventually this is all going to work
4 itself out, but the people that I sell to require
5 copies of certificates and copies of liability
6 insurance, product liability insurance, and so when I
7 told them that this was not going to be -- there
8 weren't going to be any renewal dates, then they said,
9 well, that's going to be a problem for our insurance
10 company because our insurance company wants to make
11 sure that there's an annual renewal date involved with
12 that as well.

13 So, it's their insurance company asking for
14 it, not my insurance company, because if without it,
15 they don't feel their insurance company's going to
16 carry their insurance. So, this is a, you know, multi-
17 level-type situation, and it's -- but it's going to
18 take some time, I think, for everybody to get somehow
19 into the system.

20 CHAIRMAN CARTER: Okay. Very good. Thank
21 you.

22 Then our last public commenter, Cissy Bowman.

23 MR. SIEMON: All right. Clean-up.

24 MS. BOWMAN: Hi. I'm Cissy Bowman. I'm the

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1 CEO of Indiana Certified Organic.

2 Unlike Pennsylvania Certified Organic, we
3 certify -- we'll probably certify in about 12 states
4 this year, and we'll certify probably between a 150 and
5 200 producers. I'm going to get to the certificate
6 expiration date, but I wanted to say a couple of things
7 first.

8 Chilean nitrate is an issue, and I'm not
9 talking about with regard to spirolena, Chilean nitrate
10 is an issue that I think -- this is kind of forward
11 here, but it's something that I think needs to be
12 looked at as an additional requirement for state
13 programs because it certainly has an environmental
14 impact and it's not necessary in every region. So,
15 just think forward. I'd like to see you consider
16 recommendations to the USDA about additional
17 requirements, and I think Chilean nitrate, this may be
18 one way we can help with that issue.

19 I unfortunately won't be here for the big
20 party on the 21st. We have a Halloween party we've had
21 for 21 years, and so I hate to miss that. I've missed
22 so few meetings, but I want to tell you all you did a
23 great job and congratulations and I wish I could be
24 here and I will be with you in thought although I'll be

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1 home in costume.

2 Okay. We don't have a problem with
3 expiration dates being on certificates, but we don't
4 have a problem with not having them either. What we do
5 when we issue a certificate, we have -- everybody got a
6 new certificate this year. We figured it was the time
7 to do it. We're really certifying to the USDA standard
8 for the first time. We also have a determination
9 letter.

10 Now, most buyers that we have dealt with have
11 not had a problem with whether it was a certificate or
12 whether it was a letter of determination, as long as we
13 can verify that the certification was indeed intact.
14 The problem with the expiration dates that we have
15 found and even sometimes when the expiration dates from
16 old certificates haven't expired yet is that buyers are
17 confused a little bit by this and because of the new
18 regulation, even when you have current certificates
19 that have old expiration dates on them, they're
20 contacting us a lot. So, we're having to give a lot of
21 information to buyers already anyway.

22 Another example of a way to handle this is
23 OCIA International at least used to, and I can't speak
24 for them today, used to not allow the growers to use

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1 their certificates as proof of certification. They
2 used transaction certificates for each transaction.
3 So, that's another way the paperwork can also be done.

4 I think there are lots of models of this, and
5 I think that we need to educate the buying community,
6 the growing community, etc. I'm going to be talking to
7 a lot of farmers and trying to explain this to them,
8 but I think that OTA or someone needs to also educate
9 buyers because I don't have contact with the huge
10 number of them. But I really don't think this is a
11 big, big problem. I think that we're going to be able
12 to work this one out, okay, and I'm amazed that it's --
13 each discussion that's happened about it because it
14 really -- I don't see it as a big issue.

15 And then the last thing, and I'm not going to
16 keep you long, but the last thing I have is a request
17 and having heard about Secretary Veneman and I really
18 think it's great that you guys are sending her a card,
19 I wish there were more people here, but I think it
20 would be appropriate, and in my closing here, I would
21 like it to be on the public record that the people in
22 this room at least pause for a moment of silence to
23 pray or whatever, send well wishes, to Secretary
24 Veneman. Hopefully, that message will show her that we

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1 exist and that we care.

2 Thank you very much and that moment of
3 silence I'd like to be now.

4 (Moment of Silence)

5 MS. BOWMAN: And do you have any questions?

6 CHAIRMAN CARTER: Thank you, Cissy.

7 Questions or comments for Cissy?

8 (No response)

9 CHAIRMAN CARTER: Okay. Thank you very much,
10 and speaking of that, I did jot down just a brief
11 letter to the Secretary. Ann has got it on her
12 computer right now. So, I'd like to just read it and
13 if there's some other things that the Board would like
14 to add.

15 MS. COOPER: Okay. I'll just read it
16 verbatim.

17 "Dear Madam Secretary. We on the National
18 Organic Standards Board were deeply saddened yesterday
19 to hear your announcement that you have been diagnosed
20 with breast cancer. Our thoughts go out to you and
21 your family as you stand to overcome this challenge.
22 We know you will face this adversity with the same
23 determination and tenacity with which you addressed
24 other challenges, and we know you will succeed.

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1 As your partners in commitment to a healthy
2 sustainable food system, we send our best wishes for a
3 full, speedy recovery. Sincerely, Dave Carter, Chair."

4 CHAIRMAN CARTER: So, if that meets with the
5 approval of the Board, we'll send that out as soon as
6 possible.

7 Okay. Was there any further discussion? Oh,
8 any further business?

9 MR. BANDELE: Personally, I would prefer
10 deeply concerned rather than deeply saddened.

11 CHAIRMAN CARTER: Okay.

12 MR. BANDELE: Put positive energy.

13 CHAIRMAN CARTER: Very good. That change
14 will be noted.

15 Any other business to come before the Board?

16 (No response)

17 CHAIRMAN CARTER: Is there a motion to
18 adjourn? You missed that part.

19 MR. SIEMON: Saturday and Sunday at 9 p.m.

20 CHAIRMAN CARTER: You missed that. Saturday
21 and Sunday at 9 p.m.

22 PARTICIPANT: I move we adjourn.

23 PARTICIPANT: Second.

24 CHAIRMAN CARTER: Motion to adjourn. Second.

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1 All in favor, say aye.

2 (Chorus of ayes)

3 CHAIRMAN CARTER: Opposed, same sign.

4 (No response)

5 CHAIRMAN CARTER: We're adjourned.

6 (Whereupon, at 5:55 p.m., the meeting was
7 adjourned.)

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