UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

WEDNESDAY
APRIL 19, 2006

The meeting came to order in the Ramada Conference Center, 1450 South Atnerton Street, State College, PA, at 1:00 p.m., Kevin O'Rell, Chairman, presiding.

BOARD MEMBERS PRESENT:

KEVIN O'RELL	Chair
ANDREA CAROE	Vice-Chair
BEA JAMES	Secretary
GERALD DAVIS	Member
RIGOBERTO PELGADO	Member
KEVIN ENGELBERT	Member
DAN GIACOMINI	Member
JENNIFER HALL	Member
HUBERT KARREMAN	Member
JEFF MOYER	Member
NANCY OSTIGUY	Member
JOE SMILLIE	Member
JULIE WEISMAN	Member

NOP STAFF PRESENT:
MARK BRADLEY
VALERIE FRANCES
BARBARA ROBINSON
DEMARIS WILSON
ARTHUR NEAL
KATHERINE BENHAM
TONI STROTHERS
J.D. MELVIN

PRESENTERS:
EMILY BROWN-ROSEN
GEORGE LOCKWOOD

ALSO PRESENT:
RICHARD SIEGEL
ED MOLTBY
FRANS WIELEMAKER
DAVE MORRISON
CHARLES BLOOD
TOM HUTCHESON
MARK KASTEL
LIANA HOODES
DAVID DECOU
BRIAN BAKER
JIM GARDINER
GRACE MARROGUIN
JIM PIERCE
SALLY BROWN
ERIC SIDEMAN
JOSEPH KRACZYK
TOM KIMMONS
SARA FLACK
NICOLE DAHNE
JIM RIDDLE
LISA McCRORY
KIM DIETZ
LESLIE ZUCK
BLAKE ALEXANDRE
RICK SEGALLA
KATHIE ARNOLD
STEVE PECHACEK
ZEA SONNABEND
DIANE GOODMAN
JORGE GASKINS
RICHARD MARTIN
LYHNN CLARKSON
BECKY GOLDBURG
KELLY SHEA
PAUL STALLEY
ERIC BREMER
JENNEKE DEJONG
GEORGE WRIGHT

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P-R-O-C-E-E-D-I-N-G-S

1:20 p.m.

CHAIR O'RELL: Okay. We would like to call the meeting to order, the NOSB 2006 meeting at 1:20 called to order. I would certainly like to welcome the public to the meeting and thank everybody for the good turnout. Certainly the Pasture Symposium I think everybody was very excited and thought that was well planned.

I thank the USDA and OP for planning that along with the Livestock Committee. Mike Lacey, who is not here today is chair of the Livestock Committee, did a lot with Hugh Karreman running the committee in preparation with the NOP for the symposium that we just had for the last two days so I thank them.

Just a reminder, everybody on cell phones if you have your cell phone, turn it off, please, or turn it on vibrate. Or if it goes off and you want to buy the Board a beer

or drink after the meeting, that would be fine, too.

We have two sign-up sessions for public comment. The public comment for today the sign-up sheet for that is closed. There is a sign-up sheet in the back of the room for Thursday's public comment period. If you did not make it on today's public comment sheet, you have the opportunity to sign up for Thursday.

We have 13 of our 14 members here today at the Board. As I had said, Mike Lacey due to a personal conflict is not available. I would like to welcome the five new members and we will do this formally because we have a little certificate to give them from the NOP so we will call your names out and give you a certificate in a minute.

I would also like to welcome Valerie Frances, our NOSB executive director. You can identify her. She was the card-runner during the symposium.

It's really nice to have Valerie in her position. She has been getting engaged in all of the committee calls and there has just been a deluge of work that has been put on her plate. I just complement her for the way that she has handled that.

I would like to thank the NOP staff for making all of the arrangement and preparing the meeting books. Particularly Katherine and Toni. Thank you very much.

We realize we have a long public comment period today. It could be six hours plus so we are going to try to move things along rather quickly. In terms of introductions, I would like to go around the table. Rigo, we'll start with you and just tell a little bit about who you are, who you represent, what segment you represent on the NOSB and where you're from.

I would ask maybe the new members to go into a little more detail. Give a little bit of background on your organic

experience since this is the first time that you will be coming through introducing from a Board position.

Rigo.

MEMBER DELGADO: Kevin. My name is Rigoberto Delgado. My user-friendly name is Rigo. I'm representing producers. I'm a small farmer in West Texas. We grow cotton, alfalfa, sorghum, and we are being extremely successful with goats lately. We also have some chickens. Thanks.

CHAIR O'RELL: Thank you, Rigo.

MEMBER MOYER: My name is Jeff Moyer. My full-time job is farm manager for the Rodale Institute here in Berks County, Pennsylvania so I didn't have to travel too far to get here. We raise a variety of crops. We are predominately a grain-producing farm and forage. We have no livestock on site. We also produce apples and vegetable crops.

I've been at the Rodale Institute for a little over 30 years now. Most of my

expertise is in weed management, cover cropping systems, and compost facilities. I also have a 17-acre farm at home. There it's mostly horses for my wife and daughter, beef cattle for my son and I, and a lot of work for all of us. It keeps me broke.

MEMBER OSTIGUY: My name is Nancy Ostiguy. I'm probably the person that traveled the shortest distance. I live all of maybe three miles from here. I'm in the entomology at Penn State doing research on honeybees. Some of my students may be running around here. I teach an environmental science course in the spring and they were told that they could get extra credit if they showed up. I told them that the public comment period would probably be the most interesting to them and I told them because I think it's the most interesting.

MEMBER SMILLIE: My name is Joe Smillie. I'm the Senior Vice President at Quality Assurance International which is an

accredited USDA certifier. My seat on the Board is to represent certification agencies. I look forward to doing that. Both private and state certification agencies and state organic programs.

My background, I was a back for the land farmer and I farmed in rural Quebec for 15 years until I went broke. Then I became a compost consultant and ran a small supply company selling liquid seaweed and working on compost. I got involved in organics as an inspector and help found the International Inspector's Association and worked as an inspector for a number of years.

I then got involved with the Organic Trade Association. I was a founder member of the Organic Trade Association and a past president until I became a full-time certification person. I also moved to the United States and live in Vermont and I'm a U.S. citizen. Immigration laws being what they are now I'm glad I'm a citizen now.

Basically my function on the Board is to look at things from the perspective of a certification agency.

The last two days, of course, today and yesterday, were very interesting in that regard as regulations often enforce things that sometimes we don't intent. I think one of my roles here is to really point out that regulations have ramifications and it's really important to think them through before we take them to the lawmaking process.

MEMBER JAMES: Bea James. I'm from Minneapolis, Minnesota and I hold the retailer's seat here on NOSB. The company that I currently work for is called Lunds-Byerly's. They are a gourmet upscale grocery chain.

I'm also currently my first meeting where I'm Acting Secretary and I have big beautiful shoes to fill from Goldie who was nice enough to come to this meeting and who was Secretary before me.

CHAIR O'RELL: I'm Kevin O'Rell and this is my fourth -- completing my fourth and into my fifth year on the Board. I represent the handlers from the seat side of the Board. I have been in the organic industry for over 10 years in product development and regulatory and operations. Recently I had a business change which left me a ski bum and I have spent a lot of time with my family for the last couple of months which has been really good, and doing a lot of NOSB work.

MEMBER CAROE: Hi. I'm Andrea Caroe. I hold the environmental seat. I've been on the Board since 2003 so I have two full years left. I am from San Diego and I am the Certification Director of Protected Harvest which is a best management practice labeling program for crop specific standards in conventional agriculture. I am presently Vice Chair and Chair of the Certification Accreditation and Compliance Committee.

MEMBER DAVIS: My name is Gerald Davis. I'm a grower representative from California. My background is working in organic vegetable production as well as tree fruit production in my past. Currently I work for a large family-owned care and organic vegetable producer in California. I started last year on the Board so I'm pretty new. I look forward to tackling some of these issues that we're working on.

MEMBER GIACOMINI: My name is Daniel Giacomini. This is my first year on the Board. I'm from California in the San Francisco Bay area and I'm on the Board as a consumer in the consumer position. I do work as a nutrition and management consultant for dairy farmers, mostly in northern California. I'm happy to be serving at the pleasure of the Secretary.

MEMBER ENGELBERT: Hi. My name is Kevin Engelbert. I'm from Nichols, New York. I operate a certified organic dairy farm. I

have been farming organically for over 25 years. I served on the NOFA Standards Board for a number of years.

I would like to go on record as thanking my three sons who have agreed to take over the workload necessary for me to be able to serve on this Board. Only those of you that run a dairy farm know just how much that represents. I am very grateful to them. I am very thankful to be appointed to the Board and I'm looking forward to it.

MEMBER KARREMAN: My name is Hubert Karreman, veterinarian down in Lancaster County, Pennsylvania. I'm glad we have three Pennsylvanians here on the Board at this meeting in State College. It will only happen here once. I work with certified organic dairy farmers down there in Lancaster, about 80 of them, and they ship to four different shippers, I think, or processors.

As Roman pointed out earlier, it is quite true that a lot of my herds are quite

healthy and so as my -- I have been in practice 10 years and as my workload decreases some, it helps me go out and teach a lot of natural veterinary medicine to other groups. I look forward to teaching veterinarians in other areas of the country now more and more and that is what I have been gearing up to do.

MEMBER HALL: Hello. I'm Jennifer Hall. I am grateful to be a new member of the Board. I serve as executive director for Chefs Collaborative nationwide which is an organization, a nonprofit that works with restaurants to source local and organic ingredients. I'm serving as a consumer rep based on educating our population as well as the diners.

We are interested in what is being served to them. I've had the good fortune the past few years to also serve on the advisory board for Washington State Organic Program and so have been with Miles and that crew and have been educated through that process

fortunately. I did also participate in a processor handler certification training a couple of years ago to get myself more educated on the process.

CHAIR O'RELL: Thank you, Jennifer. Sorry, Julie.

MEMBER WEISMAN: No, my fault. I missed my cue. I'm Julie Weisman. This is my second year now on the Board. I am grateful to have survived my first. I have a handler position on the Board. I am the chair now this year of the Handling Committee. I'm from New Jersey where I'm involved in making organic vanilla and other organic flavors. I have been involved in the organic industry for 10 years now. I can't believe it.

CHAIR O'RELL: Thank you, Julie.

In the interest of time, I'm going to go rather quickly but I did want to just point out some

-- oh, introductions of NOP for the record. Introductions.

MS. ROBINSON: Barbara Robinson, Deputy Administrator for Transportation and Marketing Programs, USDA.

MS. WILSON: Demaris Wilson, Assistant Deputy Administrator for transportation and marketing programs, USDA.

MR. BRADLEY: I'm Mark Bradley, Associate Deputy Administrator, National Organic Program.

MR. NEAL: Arthur Neal, Director of Program Administration, National Organic Program.

MS. BENHAM: Katherine Benham, advisory board specialist, USDA.

MS. FRANCES: Valerie Frances, Executive Director, National Organic Standards Board.

MS. STROTHERS: Toni Strothers, Ag Marketing Specialist, USDA National Organic Program.

CHAIR O'RELL: Thank you.

MR. MELVIN: One more. J. D.

Melvin, National Organic Program, USDA.

CHAIR O'RELL: Behind the big computer I couldn't see it.

Just some brief comments on work of progress that the Board has completed since November of 2005 meeting. Certainly the Livestock Committee was very busy in working together to give recommendations, finding panelists, and moving those on recommendations to the NOP for selection for the panelists that you saw at the symposium for the last two days so their work was very busy.

The Board has completed the sunset review of all materials so at this meeting we will conclude and have recommendations, at least from committees going to the full board, of all materials that were needed to be sunset. We have met that timeline and I am sure there are some materials on there.

I know there will be some lively discussion and debate and we will hear from that in public comment. The committees will

have an opportunity after that to absorb that public comment before they make final recommendations to the full Board. That's the good news.

We have interim final report from the Aquaculture Working Group that will be presented, an update from the Pet Food Task Force. We have a recommendation on commercial availability as well as a couple of other discussion items, one along the lines of synthetic/nonsynthetic.

Before we get into the agenda are there any announcements by any other Board members? Okay. Hearing none, let's turn to in our books the agenda. In our agenda, before we have approval of the agenda, we do not have the Secretary's Report in there. That was overlooked so we are making a recommended change that just following this introduction period that we will go right into the Secretary's Report that will be given by Bea so that is a change to the posted agenda.

The only other proposed change but it's to accommodate some six hours of public comment that we have is we will try to stay on track and at 2:00 begin the opening session for public comment. We will take that to 4:00, have a brief break, come back at 4:15 which is the scheduled time for the presentation of the Aquaculture Working Group Report by George Lockwood, and then we'll have NOSB discussion and vote to accept that report. Then we will go into a brief presentation.

Emily Brown-Rosen will lead us through on a status report of the Pet Food Task Force. Then we will go back into finishing up public comments. We have to stick to some of the timelines that we have in the agenda, but yet we want to allow for the public commentors that have signed up. With those agenda changes, I would entertain a motion to approve the agenda.

MEMBER OSTIGUY: So moved.

MEMBER CAROE: I second.

CHAIR O'RELL: It's been moved and seconded. Any discussion? Hearing none, all those in favor aye.

ALL: Aye.

CHAIR O'RELL: Opposed? Okay. We officially accept it. The agenda for this meeting and the next item up then is Bea with the Secretary's Report.

MEMBER JAMES: The Transcripts from the last meeting, November 2005, and August 2005 are posted on the website. They have not been -- the minutes need to be formed from those transcripts for approval and we hope to have that accomplished so that we can officially vote on accepting the minutes for the October meeting.

Executive Committee conference call minutes have been posted and voted on by the Executive Committee for January 10, 2006, February 10, 2006. We have also posted the -- not posted March 11th but the Executive

Committee has voted and passed those minutes. We had Executive Committee call on April 14 and those minutes have not been posted or passed.

CHAIR O'RELL: And that's your report?

MEMBER JAMES: And that's my report.

CHAIR O'RELL: Okay. Thank you, Bea.

Next item on the agenda we would like to welcome the five new members. I think, Barbara, you have some certificates. I don't know how you want to do that, call out their names individually.

MS. ROBINSON: I thought I would recognize the outgoing Board members.

CHAIR O'RELL: Oh, outgoing. Well, I didn't know if you wanted to do in or out first. I'll let you make that decision.

MS. ROBINSON: The outgoing Board members are present. If you wouldn't mind

coming up front. We have five Board members.

CHAIR O'RELL: I know Jim was here. I saw him. Oh, there he is.

MS. ROBINSON: So we have plaques. Each of them say, "Certificate of Appreciation presented to -- they don't all say Jim Riddle, by the way. Maybe in your case they should -- for five years of dedicated services as a member of the USDA's National Organic Standards Board, January 2001 to January 2006."

MR. RIDDLE: Thank you.

MS. ROBINSON: Thank you very much.

George, thank you very much. Goldie, thank you very much. And David, thank you. Take care. Thank you very much. We have one more for Rose but she couldn't make it. Oh, we get to retire your name plates. There you go. That's important. Okay. Thank you very much for your years of service.

PARTICIPANT: It was a privilege.

CHAIR O'RELL: And thank you from the Board as well. We have appreciated serving with you.

MS. ROBINSON: We have new members of the Board. Oh, the old new members. We have old new members and we have new members. This is a certificate of appointment presented to Rigoberto Delgado with appreciation for accepting the call to serve the nation and the United States Department of Agriculture as a member of the National Organic Standards. It's signed by Secretary of Agriculture Mike Johanns. That's your letter of appointment.

Julie, where are you?

CHAIR O'RELL: We're a year behind in giving those.

MS. ROBINSON: We are a year behind in getting some of these. These are old new members -- I mean new old members or whatever you are. I'm sorry. Bea, where are you? Thank you very much. And Hugh. There

you are.

Now, for the most recent appointments to the Board.

CHAIR O'RELL: Now for the true new members.

MS. ROBINSON: The true new members. Again, with appreciation for accepting the call to serve the nation and the United States Department of Agriculture, Dan Giacomini. Thank you very much. Welcome to the ride of your life. Kevin, where are you? Thank you very much and welcome. Jeff Moyer, welcome aboard. Jennifer Hall. Joe Smillie, thank you very much. Okay. I won't take anymore of your time. You have a full day ahead of you.

CHAIR O'RELL: Thank you Mark and Barbara.

We are going to have a brief update from the NOP Program. I believe, Mark, you're --

MR. BRADLEY: Am I up to bat?

With so much going on we could go on for about 20 or 30 minutes or even a couple of hours about the activity that is happening with the NOP but there's just a few things that have been significant with the staff itself.

We have already done introductions but since there has been a bit of shuffling of activities and responsibilities for the NOP staff, I would like to kind of go down the line and explain who your contacts will be, who the people that will be responsible so that if you call into the program and you need some information or you have some information, you will know who to contact.

Shannon Nally with our Compliance staff was here earlier in the day. She just took off. She was on a pretty short time string but she came in and she was here for the Pasture Symposium. It's an excellent learning process for some of the compliance officers, although she is very knowledgeable in dairy anyway but to see the impact and the

nature of the comments that were taking place was good for her and we are trying to get more NOP staff into the field. That was one of our major focuses on trying to have this meeting outside the beltway to get out into the real world and see what was going on and giving you an opportunity to come in.

Down at the far end of the table, I'll start down on that end, J.D. Melvin, he has recently joined out staff from the Process Products Branch. J.D. has been acting as the accreditation manager and has been fully functional in that position since September. Most of the certifiers that are here have developed a good working relationship with J.D. He is very good at answering questions, very knowledgeable about the program already.

If any certifiers or potential certifiers have questions about what the process is for accreditation, what the status the status of their accreditation is. J.D. would be an appropriate contact on that. Al

these folks can be reached at the NOP's normal phone number in D.C. It's posted on the Internet.

Next to J.D. is Toni Strothers. Toni has taken on some recent responsibilities, primarily in charge of communications. There is a tremendous amount of reporting that has to be done to the program through the budget process. All of our appropriations reports have to be pretty much handled through a single person who is knowledgeable about the status of any particular part of the NOP activities.

Toni is our most senior person on the NOP staff. We are absolutely thrilled to be able to retain her for as long as we have. She would be a good contact if you have questions about anything concerning regulatory process. Anytime we have reg work that comes through the program she is responsible for putting it in -- checking over the format.

She works with clerical folks to

make sure that everything is in the right spot, that it goes through the right channels, that it gets out on time. Toni was recently recognized for her work in getting the Pasture ANPR out the door, through the process, and making sure everything was available for you to review before we came to this meeting so that was a great job on her part.

Next up to bat is Valerie Frances. Many of you have seen Valerie working around the meeting room. She is the new executive director of the National Organic Standards Board. Her arrival had been long awaited. We were just absolutely thrilled to have her come on the staff, to be able to get someone, steal them fair and square from the Maryland Department of Agriculture.

We specifically looked for someone who is involved in the organic community that had the experience, can relate well with certifiers, is an organic consumer herself. She is a true believer in organics and we are

looking forward to her taking on even more responsibilities and becoming deeply involved in the program so that the liaison between the Organic Standards Board and the program is very efficient and there is always a good place for them to camp their comments or to seek a collaborative effort with the program. She will be our person that is going to be responsible for a lot of the interaction between myself and Barbara and the rest of the program staff and the Board.

Second to my right is Katherine Benham. Most of you know Kat because she's been handling the Board meetings ever since I can remember. She has been doing a great job with them. She is responsible for us getting this great room. It's really proven to be -- her experience has really paid off for the program.

Valerie will be taking on a lot of her responsibilities as far as the coordination with the program. Katherine has

been recently promoted. She will be handling budget analysis for the program and she will be handling all NOSB finances. She is the money person. If anybody owe any money, she is kind of the person you can go to.

Next to my right is Arthur Neal. Arthur has been a mainstay in the program as far as working with the Board and having activities for making sure that the process is followed. Arthur's function for working with the Board will become less apparent as Valerie will be taking over a lot of those responsibilities.

Arthur is a primary contact for work with Codex Alimentarius Commission. He is going to be handling a lot of that with J.D. Melvin. J.D. will also be working with international. I'll be taking some of that responsibility as well so we will have a little bit more depth.

Keith Jones, who is on a temporary detail to Capitol Hill, worked with a

legislative fellows program and is not available to handle the international work for us right now. I know there has been a lot of concern in the organic community who is going to fill those big shoes. J.D. and I with the assistance of Arthur will be the primary contacts for that.

Demaris Wilson is the Associate Deputy Administrator and an indispensable part of the program. She keeps me out of more hot water than I even know I get into. A lot of the work that comes from Barbara comes to me through Demaris. I consider Demaris my boss as well as Barbara. Then there's Barbara.

MS. ROBINSON: Don't go there.

MR. BRADLEY: As far as the NOP update, the only thing of significance, I mean, we have all the regulatory work that's happening. You see that a couple of critical things have been posted. We have the Harvey reg work that is going to be posted as soon as we can get it through the lawyers. That will

be the first thing. Check it closely.

Comment once, comment often. Actually, I think a lot of the comments that will be handled through the ANPR for pasture and for the Harvey rulemaking will be fairly straightforward. I think we've got a lot of good work that we can do based on the information that we are getting from this meeting and the clear direction we have from the courts on the Harvey regulatory changes and with the changes to OFPA. Those are the things that are right on our front burner.

Another thing that has been -- we have been approached by the program -- by the industry and for many of the certifiers is to start making public compliance actions. These would be final actions that have been through the process when someone has had their certification suspended or revoked and it has gone through the appeals. It's a done deal. At that point we are going to start making that information available to the public and

post it on the website.

Another aspect of those types of actions would be certifier actions. We've had some certifiers that have left the fold. They've decided to -- I believe we've had four or five of them that have decided to voluntarily surrender their accreditation. Not so much because they were doing wrong but they were just not administratively able to handle it.

Those types of actions, of course, are available on the website. As for the website itself you will expect to see something probably within the next six weeks. The format changes will be complete for our website. Hopefully it will be more user friendly. I know our webmaster has worked closely with the program and has pursued me often and diligently as far as trying to nail me down to make the recommended changes.

Those are complete and as soon as that process is done for posting it, you will

be able to see a remarkable change in the website and hopefully it will be for the better. If you have any comments or questions from any of us, we will be available for the rest of the week.

One thing that will happen on Friday we are having a certifier meeting billed as a training session. That meeting is strictly for accredited certifiers or applicants for certification. We have also invited the Board members to attend that as part of their learning curve to try to jumpstart their understanding of how we are implementing the regulations. That's this Friday and, again, it's for certifiers only. If you have questions, we'll be floating around. Anything else? We're good. Thanks a lot.

CHAIR O'RELL: There's a couple of questions.

Hugh.

MEMBER KARREMAN: Yeah, I just

have my usual question for the National Organic Program. What is the status of the docket for the beloved troubled 12 livestock materials?

MR. BRADLEY: Those are -- we had some work done with those. We had to do some edits with them based on collaborating with EPA and FDA on that. Those went back to the attorneys. They will be available just anytime really.

MEMBER KARREMAN: Just one quick follow-up. Are they at the actual last stage?

MR. BRADLEY: The last stage of the last stage.

MEMBER KARREMAN: Okay.

MR. BRADLEY: They have been to OGC three or four times just trying to make sure that everything is exactly right with them. I think the notation is in there that we had collaborated both with the EPA and the FDA. We are the last changes that would need to be made.

CHAIR O'RELL: Julie.

MEMBER WEISMAN: I had a question along similar lines as chair of the Handling Committee. I was wondering if you could give us an update on the federal notice for parasitic acid and for activated carbon.

MR. NEAL: That particular docket is in a similar state due to the fact that we've had the ANPR for the past year ruling and we've got the Harvey document. We've got some serious timelines. As we expressed yesterday, we're not the only agency or program area that they are handling so we are hoping that after this meeting they can begin focusing on those dockets again.

MEMBER WEISMAN: Thank you.

CHAIR O'RELL: Any other questions? Thank you, Mark and Arthur. We are going to go into -- we are actually on time, two minutes early. We are going to start the public comment session. Before we do that, I'm going to read from the NOSB

policy manual, the policy for public comment at NOSB meetings.

All persons wishing to comment at NOSB meetings during public comment periods must sign up in advance. Persons will be called upon to speak in the order they sign up. Unless otherwise indicated by the Chair, each person will be given five minutes to speak. If you are coming to speak for your five minutes and you have a proxy, will you please come and tell us you have a proxy at that time so that Bea when she's keeping your time can set you for 10 minutes.

Persons must give their names and affiliations for the record. A person may submit a written proxy to the NOP or NOSB requesting that another person speak on his or her behalf. No person will be allowed to speak during the public comment period for more than 10 minutes. Individuals providing public comment will refrain from any personal attacks and from remarks that otherwise impugn

the character of any individual.

We'll start off with Richard Siegel and on deck would be Ed Moltby.

MR. SEGALLA: I'm Rick Segalla from Connecticut.

CHAIR O'RELL: No, Richard Siegel. That was close. That was a good try, though.

MR. SIEGEL: At least he's not Steven Segal. I'd be in rough shape.

My name is -- good morning -- good afternoon, ladies and gentlemen. My name is Richard Siegel and I'm a lawyer in Washington, D.C. I have the pleasure of coming before this Board frequently. I'm especially happy to be here today because my hometown is only 30 miles from here, Lewistown, Pennsylvania in Mifflin County. This is a very happy coincidence that the Board is meeting here.

The paper that is being passed out today, and I'm just going to be very brief because it's a very brief paper. The Crops Committee made a recommendation at the August

2005 meeting for a number of measures whereby the program could increase the level of enforcement and scrutiny on organic seed.

As a result of these recommendations, the American Seed Trade Association, which is a 700-member association that represents the entire U.S. seed industry, has adopted a resolution commending and supporting the NOSB in its attempt to propose to the Department some very worthwhile measures for the organic seed requirement.

This is a brief letter which was sent to Mark Bradley on April 11th by the President and CEO of the American Seed Trade Association, Mr. Andrew Levine. I just wanted to make sure that each member of the Board saw this current development and to know that what you do here on organic seed has been recognized and commended and supported by the entire

-- a group speaking for the entire seed industry of the United States. This is a very

brief letter. It speaks for itself and I do not have to take anymore of your time but I appreciate the opportunity to bring this to your attention. Thank you.

CHAIR O'RELL: Thank you, Dick.

Ed Moltby and on deck is Frans Wielemaker. Ed, I believe you have a proxy so you have 10 minutes total.

MR. MOLTBY: My name is Ed Moltby. I'm the Executive Director of the Northeast Organic Dairy Producers Alliance. I would like to introduce the Vice President, Steve Johnson -- Dave Johnson to speak on behalf of Steve Morrison who can't be here because he's busy farming in Maine in some beautiful pasture.

MR. JOHNSON: Thank you, Chairman, Deputy Administrator of the USDA for the privilege of speaking today. My name is Dave Johnson. I'm not Steve Morrison but I am a dairy farmer, organic dairy farmer from here in Pennsylvania.

Steve apologizes for not being able to get all the ducks lined up to be able to get away from the farm and speak this morning. I guess I'll speak both on behalf of him as the President of Northeast Organic Dairy Producers Association of which I am also the Vice President so the second in line to give our official statement. I would also like to just speak as a dairy farmer in general and express some of the concerns and things that we see as important to our industry.

First of all, a little bit about the Northeast Organic Dairy Producers Association. We frequently refer to ourselves as NODPA. It represents about 500 organic dairy farms in the northeast. We also cooperate with some parallel organizations in the midwest and on the west coast.

Our primary purpose is to support consumers and producers who believe that organic milk comes from dairy cows that have

been organic since birth, that have access to quality pasture during the grazing season. We understand and strongly believe that milk that comes from cows that are not advertised as such really fail to fully meet the USDA certified organic standards.

We are aware that the dairy industry has been growing at record rates both in terms of supply and demand for the products. During this period of rapid expansion the National Organic Program was implemented and the USDA took oversight for the certification process. Of course, the thing that we had all hoped for and the goal of this nationalizing of the organic standards was to assure that consumers were getting what they paid for regardless of the state of origin of the product.

It was in an effort to level the playing field for producers and bring all farms up to the same basic standard level of what organicness means, if you will. I guess

in some ways it just hasn't quite worked the way we had envisioned. Otherwise, I don't suspect this symposium would be taking place some better than 10 years after the standards were first written.

Milk from all kinds of farms with and without pasture systems and with various replacement animal programs is being certified as organic and different certifying agencies are interpreting and applying the organic standard quite differently. Some are allowing producers to help keep milk cows in feed lots and replace them with heifers that are started and raised on conventional operations.

Other certifiers are requiring that animals have access to well-managed pasture for dairy cows, all replacement animals, and to be raised organically from trimester of birth. NODPA's primary responsibility is to out farmer members in the northeast and to our organic dairy farmers nationwide. As part of that we have a certain

obligation to deliver a quality product to consumers.

It is in all of our best interests to abide by and maintain the strong standards consumers have come to trust and are currently willing to pay a premium for it. You don't have to look too far on the organic milk labels to see what the consumers are looking for.

Any action that compromises the integrity of the standards or leads to a softening in consumer confidence will be to the long-term detriment of our industry and particularly to our farmers. I guess the tendency would be sort of a knee jerk reaction of an industry at times such as this when the demand is strong and supply is tight to try to remove or relax barriers so that a rapid increase in supply can be met.

It is unfortunate that we lost the 80/20 transition rule as a result of the Harvey lawsuit. However, relaxing the organic

standard with respect to grazing and replacement animals in order to have a counterbalance affect to the loss of the 80/20 rule would be a short-term fix with long-term negative impact for the industry as a whole.

NODPA has responded to a request by the NOP in 2005 for guidance in evaluating compliance with the access to pasture requirement in the organic standard. In the guidance proposed by NODPA access to pasture is quantified in terms of time and dry matter intake we propose a minimum 30 percent dry matter intake for pasture for at least 120 days.

NODPA producers -- I would have to say in our conferences with producers from across the country in the midwest and the west are overwhelmingly supportive of the requirement that once a farm has gone through its one-time transitioning to organic, all dairy animals born and brought into that operation must be raised organically from the

last third of her mother's gestation.

We as producers across the country have learned through doing it that cows can maintain high levels of production on pasture, maintain excellent health and we can achieve well beyond the 30 percent dry matter intake for 120 days even up here in the cold northeast part of the country while exhibiting excellent health and breedability.

We have also learned since 2002 when the national standards came into effect that we can raise all our replacements 100 percent organically from the last one-third of gestation. These practices fulfill the expectations of our organic consumers and NODPA asked the NOP and the NOSB to ensure their application on all organic dairy operations. Our consumers deserve no less.

To speak as a farmer in the northeast and maybe to help dispel some of the rumors or myths that this pasture issue is not attainable, I can typically feed my cows 70 to

80 percent pasture. I can do that for seven to eight, and usually nine months of the year in the area where I have 7,000 heating degree days, a very cold, fierce climate. It's possible to do that and the animals can be out all the time which my animals have access to and, in fact, they live outdoors 360 days of the year in the northeast. They are healthy and breed back very well.

I guess just sort of for an executive summary which I think we always like to hear, what we are really asking for is for some real measurable standards in the pasture requirements and in animal husbandry that can be consistently applied to give us a level playing field for the sake of the integrity of the organic milk market. Thank you.

CHAIR O'RELL: No questions. Frans Wielemaker and on deck Steve Etka.

MR. WIELEMAKER: Good afternoon. My name is Frans Wielemaker. I traveled here from Costa Rica and Central America and I'm an

agronomist. I represent the Dole Fresh Fruit Company in Central America.

It is the interest of our company and the organic banana growers in Central and South America and the Caribbean to maintain horticultural oil as an approved substance to control diseases and pests in crops. It is important that we keep horticultural oil in the regulations as an approved substance because we need that to control certain diseases like Sigatoka Leaf Spot disease. This is a very serious disease. It affects all plantations. It's a wind-born disease. It comes from neighboring farms. You can't keep it off your plantation.

The horticultural oil actually functions just as a fungistatic. It reduces germination of the spores. It reduces the appressorium formation before the fungus penetrates the leaves. For insect control it controls or introduces the population of white flies, scales, mites, aphids and thrips on the

plantations which are diseases which can become quarantine problems and also transmit viruses.

Horticultural oils are considered safe when used appropriately according to the EPA and are listed on the EPA list No. 3 with the signal word caution. It is presently allowed under the NOP regulations. And also allowed under the Codex IFOAM and EU regulations. In fact, in the original OFPA Act they are expressly mentioned as being exempted from prohibition.

In order to find out what the comments were that the NOSB received to remove horticultural oil from the regulations, it's very hard to search the whole series of documents and find out who and why they had something opposing the use of horticultural oil. I think that's one of the changes that I would recommend in general to see if in the next review these comments could be ordered in a different way so that they can be accessed

with a database search.

In summary I support the NOSB Crops Committee recommendation for the continued use of horticultural oil for disease and insect control. It has been posted on the website so I hope tomorrow we can foresee the positive vote of the Board. Thank you.

CHAIR O'RELL: Thank you, Frans.

I would ask any of the speakers if you have written comments and you have not submitted them to the Board or to the NOP, if you would hand them over to Valerie at the NOP table and she will then have them in the record.

MR. WIELEMAKER: I sent them to Katherine Benham and I sent them to the whole Board.

CHAIR O'RELL: But there are some that aren't in the book so they have asked me if you have comments on you that you have not submitted, there is an opportunity to submit.

MR. WIELEMAKER: As of the day

before yesterday it wasn't listed yet but I hope that will be done.

MS. BENHAM: But it is in the book.

MR. WIELEMAKER: Questions?

MEMBER SMILLIE: Frans, just a quick one. In your professional use do you see nonpetroleum horticultural oils appearing to be as effective or do you still think that development is a little ways away?

MR. WIELEMAKER: As is explained in the document, we have done various experiments with all sorts of different vegetable oils to see if they would control Black Sigatoka but they really don't. They would function as a vehicle to have synthetic fungicides penetrate into the banana leaf. As a substance by itself vegetable oils do not control the disease.

MEMBER KARREMAN: One question. Are there any other biological methods that you have been trying to use?

MR. WIELEMAKER: Yes. There is quite a search in fermentation products to see if they would control the disease. There is, of course, sanitation procedures in the farm but, as I explained, it's a wind-born disease. It's not something that you can keep off your plantation. Spores can travel various kilometers and land on your property.

MEMBER DELGADO: I have a question.

CHAIR O'RELL: Rigo.

MEMBER DELGADO: When you mention the label caution in the use of horticultural oils, what are they referring to?

MR. WIELEMAKER: It's on the EPA list No. 3 which has a caution label.

MEMBER DELGADO: Is it referring to the amount used or the way it's applied? What is it referring to specifically?

MR. WIELEMAKER: It's probably based on the reduced toxicity of the product itself. It shows the classification of the

toxicity so it's not a list one or two. It's not considered a very toxic product.

CHAIR O'RELL: Just a point. When we are speaking, Rigo, I think we need to use the microphones more. It's a larger room and they can't hear us in the back. Also the speakers that come up I encourage you to get as close as you can to the microphone because I'm getting the high signs back there so I don't think we are doing the people in the back justice.

MR. WIELEMAKER: In summary I'm trying to support the Crops Committee to keep horticultural oil as an approved substance.

CHAIR O'RELL: Thank you. No further questions? Thank you, Frans.

Steve Etka. On deck will be Troy Bishopp.

MR. ETKA: I have my own testimony but I also have a proxy I think perhaps listed as 14 on your list for Joe Mendelson for the Center for Food Safety so I'm happy to do that

at the same time or at 14, whichever.

CHAIR O'RELL: No, that's fine. If you want to do it now, we'll take it off the list at 14.

MR. ETKA: I'll pass that out as well.

CHAIR O'RELL: Okay.

MR. ETKA: My name is Steve Etka and I'm here representing the National Organic Coalition which is an organization based in Alexandria right outside of Washington, D.C. The National Organic Coalition is a national alliance of organizations working to provide a voice and federal policy for farmers, ranchers, environmentalists, consumers, and others involved in organic agriculture.

Although we are on the brink of adding several new member organizations, the current member organizations of NOC are the Center for Food Safety, the Rural Advancement Foundation International USA, the National Cooperative Grocer's Association, and the

Northeast Organic Farming Association Interstate Council.

I wanted to welcome the new members of the Board and also to thank the retired members of the Board. As many of you all know, or will soon find out, this is a time-consuming project to be on this Board and often a thankless project so we wanted to thank on behalf of our members you all and to make sure you understand how much the organic community really appreciates your work on this Board.

I also wanted to say how pleased we are that we finally have an Executive Director for the National Organic Standards Board. This is something that our coalition has been pushing for several years because we have been concerned that without the adequate staff resources it is hard for this Board to fulfill its statutory obligations so we are really glad to see that happening as well.

The NOSB meetings have become the

avenue informed for many in the organic community to provide input into the workings of the National Organic Program. The NOSB has done a very good job over the years of listening to these comments from the public and turning those into formal policy recommendations in many cases.

However, one of the perennial frustrations of the organic community has been that the National Organic Program's lack of response and action on those recommendations. Many in the organic community feel that their concerns are not being heard.

Having said that, we are very pleased and encouraged by the new leadership at the NOP and take it as a good sign that the Department has issued an advance notice to the public for proposed rulemaking on the pasture issue for dairy. That is an issue that this Board has heard quite a bit about and has made at least six recommendations over the last five years. We hope the USDA will move

quickly toward a proposed rule on this topic. Five years is a long time.

One quick aside. I think the symposium we just listened to over the last couple days was very helpful. I learned a lot, particularly with regard to the last panel, the Consumer Perception Panel. I thought that Margaret and Mary Ellen did a great job at providing us new data.

One thing that I think would have been even a little more helpful in addition to what we already heard was if we had heard from a consumer group itself and if we had also heard from some of the co-op grocers as well to fully round out that panel because I think they have an important perspective as well.

With regard to some of the details, the members of the NOC, National Organic Coalition, do support rulemaking to create a pasture standard for organic ruminant operations specifying that after the age of six months a ruminant shall receive at least

30 percent of dry matter intake from pasture on a daily basis for at least 120 days a year. We believe that these requirements should be made in the form of a rulemaking so that there's no question at all about its enforceability.

Ultimately it does come down to enforcement because without enforcement of the pasture standard this process that we've all agreed to participate in many times becomes somewhat meaningless. Certainly there is a gray zone and we heard from the certifiers about what happens if you have 119 days or 29.5 percent DMI. I think we would all agree that there needs to be a lot of work and flexibility in trying to get those farmers into compliance.

But there is also a very bright line test

when you have certifiers who are sitting down with potential organic dairies and looking at their farm plans and seeing that there is no

intent at all for meaningful pasture and still certifying them. I think those operations have no business being certified and those certifiers have no business certifying those operations and ultimately USDA has a role in accrediting those certifiers.

This is not only an issue of fairness for the overwhelming majority of organic dairy farmers that are providing access to pasture, but it also poses a problem for consumers as well. I think there is concern about loss of the trends that we've seen on increased purchases for organic dairy products.

You will hear later about some survey data from both Consumers Union and Center for Food Safety that have shown very clear evidence that consumers do care about the pasture issue and that many of them would reduce their purchases of organic dairy products if they knew that the milk was produced from cows that do not have access to

pasture. I won't belabor that point more because you'll hear about that from other testimony.

In addition, I do want to support on behalf of our coalition strong standards stating that after the initial conversion to organic all dairy farms raised or brought into an organic dairy farm must be certified as organic from the last third of the mother's gestation. There may also be a need to clarify this one-time conversion to organic should be done on an operation basis and not on a per-herd basis because of concerns about the vagueness of the term herd and how that may be abused by some.

Also, the members of our coalition want to support the NOSB Livestock Committee's recommendations for a rule change with regard to access to outdoors and temporary confinement, to use the term "state of life" as opposed to stage of production. We particularly appreciate the rule change

recommendation stating that the producer of an organic operation must not prevent dairy animals from grazing pasture during lactation except as allowed under 205.239(b).

Also, we agree with many of the statements made in the guidance recommendations by this Board regarding temporary confinement. I think, however, it's important to note while it makes a lot of sense to allow some temporary confinement to protect soil and water resources, we want to make sure that is not abused.

Certainly if there are unique circumstances where the livestock must be confined to protect unusual short-term circumstances, that is just common sense. However, it is important that this not be permitted to become a long-term excuse for livestock confinement on a land base that is not capable of meeting the pasture standard. A farm's land base is not generally capable of meeting that standard. It should not be

certified as an organic livestock operation.

Thanks for allowing me to provide those comments. My second set is on behalf of Joe Mendelson who is the Legal Director for the Center for Food Safety. One thing I just wanted to present here real quickly is the Center for Food Safety did undertake a survey on the question of pasture. The questions that were asked were, first, "How often do you purchase organic milk." Folks were given the chance to answer, frequently seldom, never, don't know, or refused.

The second one is, "If you knew that many organic cows were confined to fenced-in feed lots and did not graze on pasture for most of their lives, would you still purchase organic milk?" The results are that 19 percent of Americans purchase organic milk. The data also presents a clear picture of consumer expectations concerning the pasture requirements for organic milk production.

Some of the results were as follows. A majority of organic milk purchasers, 51 percent, said that they would no longer purchase organic milk if they knew that the organic cows were confined in fenced-in feed lots and did not graze on pasture for most of their lives. Maybe even more significantly almost half of the frequent organic milk purchasers would also alter their purchasing habits.

Forty-four percent of those who frequently purchase organic milk would no longer do so if they knew that many organic cows were confined to fenced-in feed lots and did not graze on pasture for most of their lives.

Moreover, women, the principal family food purchasers, are even more apt to change their organic purchasing habits. Sixty-one percent of women who purchase organic milk either frequently or seldomly would no longer do so if they knew that many

organic cows were confined to fenced-in feed lots and did not graze.

Finally, the data show that if organic milk producers hope to grow their organic milk market by changing seldom purchasers into frequent purchasers, a strong pasture requirement should be put into place because 58 percent of those said that they would change their habits.

I'm out of time but I would like to make sure that the full testimony does get included in the record. Thank you.

CHAIR O'RELL: Thank you. Questions for Steve?

MR. ETKA: I do have the full set of data, one set of it that I can leave with you all from the Center for Food Safety.

CHAIR O'RELL: That would be fine. Give it to Valerie.

Troy Bishopp and next on deck is Sam Zeller.

MR. BLOOD: I'm not Troy Bishopp.

I do have a proxy to read his information. My name is Charles Blood. I'm an organic dairy farmer in central New York.

"Dear ladies and gentlemen of the Committee, I apologize for not being present today as the constraints of farming have kept me home. My name is Troy Bishopp. My family, in particular my daughters, are the fifth generation to farm in our community of Deansboro, New York, a small hamlet of Mohawk Valley."

He is the New York Chairman of the Grazing Lands Conversation Initiative. He's a proud member of the Pennsylvania Association for Sustainable Ag and the Northeast Pasture Consortium in the Regional Food and Farm Project.

To sustain our farm over the many years we have always relied heavily on pasture for our animals, surrounding wildlife and our livelihood. At the moment we custom graze 100 percent grass-finished beef for our clients

and supply meet to several northeast states. Consumers are driving this market towards pasture-based organic products. Supply for these essential foods are critical if we are to move our family farms and future generations forward.

Research has played an important role in substantiating the consumer's mindset for our products. Talik Dhamin from Utah State University, Joe Robinson, and Dr. Artemis Simopoulos of the Omega Diet, and Susan Duckett of the University of Georgia have all contributed greatly through their research and collaborating with the USDA ARS to discover the health benefits to humans of grass-fed animal products.

Can we afford to compromise the consumer's desire and perception of these products by not having a strong unified pasture standard? My comment on the continued use of pasture and the strengthening of the organic standard is quite simple. Ruminant

animals were designed to eat their own forage and for that work they supply us with milk, meat, and fiber period.

We as a society have somehow determined that an animal is just a production unit capable of turning all sorts of feed stuffs into products for us to consume. A significant growing segment of the population is finding this unacceptable and is choosing a different paradigm. A paradigm shift towards organic will need strong leadership as the conventional forces will want to adopt practices to access the burgeoning market.

I would find it quite flattering if we were copied and had all the animals out grazing instead of on concrete or put in a barn without access to sunlight. To carry out this mission I would be comfortable saying a start would be requiring a minimum of 30 percent dry matter intake for ruminants for at least 120 days during the growing season.

Regions of the country could most

likely achieve more than this but we should have a minimum to protect the integrity of the industry. The countless research, papers, and projects throughout the country on prescribed grazing practices can easily substantiate the minimums.

The adoption of an increased pasture-based idealogy for dairy could, in my opinion, give hope for the next generation. The Cornell Farm Business Summary has shown that from 1996 to 2003 good grazing farms are equal to or better off financially than conventional farms of the same size. Most of the advantage of pasture are on cow comfort, labor, energy, and feed cost during the grazing season.

The down side to the pasture-based farm is a mindset change from practices and a lack of support from the long-lived industries that would have to change also. There will be a keen need for support services for the successful transition to grass farming.

Another point in favor of adoption of stronger pasture standards is the increased benefit to the environment about the social aspects of farming. It brings many folks joy to see a newborn out in the field with its mom while out on a drive in the country or the hunting and fishing aspects that grazing increases.

I am a seasoned farmer with able common sense but I am afraid I may somewhat be naive on the difficult challenges that you all face in the decision making process. I trust you will get more guidance in the days ahead from folks more knowledgeable than I. Thank you for allowing me to comment and remember save gas, let them eat grass. Troy Bishopp."

CHAIR O'RELL: Sam Zeller. On deck was Kyle Stolz. No on both? Surprise. Tom Hutchinson. Surprise. You've just been moved up on the list. Mark Kastel is on deck.

MR. HUTCHESON: Thanks very much. I'm Tom Hutchinson, Associate Policy Director

with the Organic Trade Association. Of course, first I would like to welcome all the new members who may have discovered over the last couple of days that you may have gotten more than you bargained for, in terms of paperwork anyway.

I would like to speak of several things, none of which is pasture oddly enough. The notes have to do with the commercial availability, definition of synthetic, and aquaculture. Very briefly I would just like to mention that we do have full written comments on each of those.

I'm going to be speaking more today about the commercial availability which is something that is more important that it might seem. It's one of those parts of the rule that you might skip over if you didn't make a special effort to get there. It's small and out of the way. Nonetheless, it's very important. It just had much greater importance put on it by the court ruling in

the Harvey case.

A little bit about the background of 606. The first proposed rule and the second proposed rule both said in that five percent of an organic product it doesn't have to be organic. It can have anything that's in the what's now 605(a) or (b), that's either a nonagricultural natural product or a synthetic product if it was on the list. But if it was an agricultural product, didn't need a TAP review, it could go right on to the -- it could be used.

Didn't have to go on the list. The court ruling changed that and I think you can understand that does represent a significant difference for makers of multi-ingredient products. Also for the growers of spices and other small what are called minor ingredients.

Let me just get myself to my notes now. One important way that the commercial availability clause, which is imbedded in 606,

it says, "You can use the agricultural ingredients so long as no organic sources are available." One of the things that helped tremendously was establishing organic sources of spices and the usual example is cinnamon.

After the majority of private certifiers adopted the commercial availability requirement in the early and mid-'90s sources of these so-called minor ingredients grew healthily to supply the needs of the trade.

I mention this because one of the things we don't want to do is stifle the development of new products which might use a hitherto unfamiliar plant not available yet in organic form but hot in the natural products market. Once tested in the organic market perhaps a new candidate for an organic success story like cinnamon.

NOSB has recommended to USDA criteria for certifiers to use in determining commercial availability or nonavailability. Of course, making this determination is up to

the certifier and the NOP is responsible for ensuring that certifiers make this determination knowledgeably. NOSB is responsible for placing items on the national list, which it should do if a petition makes a reasonable legitimate case that a necessary product may not be commercially available. I will note again with emphasis that this is not the same as determining that some product is commercially unavailable which is the certifier's job. Placing an ingredient on 606 protects product lines that use the minor ingredient from sudden disruption. Many organic minor ingredients are plentiful but we need to be able to develop new products and if they are successful, manufacturers will, as they do now, work to help producers attain certification.

This system works for everybody. Sometimes minor ingredients might not be exotic. One excellent current example if almonds from California which due to recent

weather may not be available for the organic market soon. For those products that use almonds or almond flavoring, trail mixes, etc., these products could completely crash along with the market for the 95 percent of that product that is organic if manufacturers can't avoid product reformulation, changing product lines when orders have already been placed, marketing on tested products, and relabeling, all very real products for food makers. Thank you.

MEMBER CAROE: Tom, just really quickly, are you agreeing or disagreeing with the recommendation that we have on commercial availability because I don't see any difference with what you're saying and what we have said.

MR. HUTCHESON: I want to be sure that the emphasis is on NOSB reviewing any petitions to make sure that they address the criteria for commercial availability that you have proposed for certifiers to use rather

than getting involved in seeing whether or not that petition has actually met those tests.

CHAIR O'RELL: That is the intent of the recommendation.

MR. HUTCHESON: There was some confusion between the earlier and the later draft.

CHAIR O'RELL: I understand.

MR. HUTCHESON: I just wanted to emphasize that this is a matter of great importance.

CHAIR O'RELL: We will try and correct that and get it posted. The current draft that is posted, what is your feeling?

MR. HUTCHESON: In general it's very good. I just want to be sure that it maintains the direction that it got with the new draft because these decisions have to be made sometimes in a very timely way and certifiers are equipped to do that, trained to do it, etc. NOSB should be focusing on whether or not a petition has addressed the

questions of whether or not it may or may not be commercially available and let the certifiers make that determination when that time comes.

CHAIR O'RELL: That is the intent. We can discuss that to make sure that it's perfectly clear but that was the Committee's intent. Thank you, Tom.

MR. HUTCHESON: Thank you.

MR. KASTEL: Hello.

CHAIR O'RELL: Mark, one second.

MR. KASTEL: Sure.

CHAIR O'RELL: We are going to see who's on deck. Urvashi Rangan is on deck.

Mark, thank you.

MR. KASTEL: Okay. Thank you. Good afternoon to the Board. I do have a proxy from Florence Gordon of Nevada City, California. Again, good afternoon. My name is Mark Kastel. I am here representing the Cornucopia Institute and our 900 members, the vast majority of whom are organic farmers and

the vast majority organic dairy producers.

Why are we here today? Why is this debate continuing after this Board came up with their first policy ruling in the year 2000? Why are probably upwards of 99 percent of organic dairy producers complying with the pasture requirements that are currently in the rule? They understand the law. Their certifiers understand the law. Why does it still appear that some folks don't understand the law?

Upton Sinclair once said, "It's very hard to convince a man of something when his paycheck depends on him not understanding it." The Pasture Symposium was of great value. Thank you. I think we all learned a lot. I do, however, want to point out to the Board a few areas that were less than perfectly balanced. The farmer panel, and our thanks to all the farmers who participated, very qualified spokespeople. I want to point out the fact that that body was 60 percent

western dairy producers. According to our analysis there are about 5 percent of the nation's organic dairy farmers in the west. 35 percent of that panel today and in their past submitted testimony did not support the predominant proposal that was adopted by this Board and is supported widely by dairy producers.

The last time we did a public testimony analysis in written comments last year to this panel it was 20 to 1 in support. Besides for Roman's 80 cows, the range of scale of operations that were represented were between 130 and 8,500 cows. The average dairy farm, again, according to our analysis, in the country is somewhere between 50 and 70 cows.

The certification panel and, once again, thanks for the knowledgeable presenters. We are at 66 percent western based, the largest certifier of organic dairy farms in this country MOSA based on Wisconsin. Their executive director was here but not

invited to be on this panel. That's a little plug for the dairy state where we do have more organic farms, organic dairy farms.

And the Market and Expectations Panel. Thank you for very, very qualified presentations and well researched. It was retail and manufacturer driven. The survey was conducted, the last formal survey. We are still looking at those numbers. It was conducted by a firm that works for Agribusiness, Kraft, General Mills, the organics largest trade and lobby group.

My operative question here is where was the Consumers Union? Where was the Organic Consumer's Association? Like Steve I asked the question where was the National Cooperative Grocer's Association?

So our members want to know why it has taken five years? Why have five years gone by without enforcement by the USDA for what we seem in this community to understand? Why are there just a few folks gaming the

system? Meanwhile there are now 10 to 12 factory farms operating with little or no pasture. Why are investors now spending millions of dollars to transition upwards of reports of 30,000 cows in western states? What do these highrollers know that we don't know?

So we decided to ask. When the USDA rejected the rulemaking language that this body passed last August when they rejected it in August without explanation other than they didn't like the language, we felt at that time they could have collaborated with this Board to change the language if they didn't disagree with the intent. So we have wiped the record clean. We have this new advanced rulemaking notice.

But last August we wanted to know who was the Board talking to. The citizens of this country have the right to ask those questions so we filed a Freedom of Information Request. By law the Department has 20 days to

respond. After numerous requests verbally and e-mail and over the telephone after seven or eight months we filed a federal lawsuit two weeks ago asking for these documents that the public has a right to scrutinize.

So here we are. That's what we don't know. Here is what we do know. I'm going to pass these cartons around. I do want to get them back. These are organic milk cartons. They talk about pasture and they have pictures of cows on beautiful grass and they talk about biodiversity. They're beautiful.

The next thing I want to pass around to the Board is a picture of the farm they come from. You are going to be hard pressed to make an adequate comparison there. My colleague, Will Fantel, back in Wisconsin says in terms of consumer perception these marketers know exactly what consumers want, Safeway and Costco and Woodstock brands, which is United Natural Foods International. Forget

about that. That's what farmers think are in organic milk because that's what is on the label and there is a disconnect there between that photograph.

So we also know that there is wide support for the rulemaking that this Board has historically been supportive of. I'm going to give you the first installment but we have hundreds of proxies from organic farms. I don't have a count because most of them are back in Wisconsin. They are just being received now.

But probably the majority of dairy producers in this country are on record. They want judicious pasture enforcement. They want a rule passed with teeth. They want the existing rule to be enforced. There is little doubt about that. They have been on the record for five years now.

And I'm going hand out a sign-on letter which has 100 institutions on it that we circulated including the National Farmer's

Association -- National Farmer's Union. I'm sorry. Sierra Club, environmental groups, Eden's Foods, many food co-ops including PCC, the largest food cooperative in the United States, the Wedge Co-Op from Minneapolis, largest Singer store cooperative. These folks are saying the same thing. There is no doubt.

We think pasture is part of this thing and we want the USDA to take action but we are still talking.

Finally, I will bring back up to the front -- I couldn't carry it all -- and distribute the report we just released within recent weeks, "Maintaining the Integrity of Organic Milk" which reviewed all the milk brands, private label. 81 percent of folks participated and were highly rated in that study. There is higher authority than the USDA on this issue, the organic consumer.

So we need you folks to act now before the wheels fall off this thing. I am hearing an increasing buzz from farmers and

consumers and retailers saying, "What is the next label going to be? What is the `beyond organic label' going to be called?" I have never been supportive of that initiative but I am hearing a lot more from the organic community about it. Our position is that this is worth fighting for so we are not done.

Just in closing I want to say last third of gestation in general real organic farmers don't buy replacement heifers. They sell excess heifers and calves because the health of the herd is so good that their call rates are low enough that is a profit center for them. It is gaining the system for these other large industrial dairies to sell some of them all their calves off at birth and buy one-year-old animals to forego the cost of feeding that expensive organic milk to their calves and feeding organic grains.

Consumers don't want artificial milk replacer in their organic calves that could have had BSE risk blood as a component.

They don't want GMO grains. They don't want antibiotic treated livestock. We owe them to maintain the integrity of the label that they think is inherent. I will pass a couple of these pictures around to the audience. Thank you very much.

CHAIR O'RELL: Any questions?

MR. KASTEL: Thank you.

CHAIR O'RELL: Thank you.

MEMBER JAMES: I have one question. Mark.

MR. KASTEL: Bea.

MEMBER JAMES: You mentioned that there are 10 to 12 factory farms operating without pasture reinforcements.

MR. KASTEL: Yeah. Let me actually qualify that and then I'll answer if you a further question. What I usually say is there are 10 to 12 operating right now in the final stages of development. Some of them are shipping. One I know is gearing up for thousands of cows. They are only shipping

from 800 right now while others are in transition. A couple of them are in Texas.

They are predominately out west. One thing is there was some comment from the farmer panel today and a testimony written or read, I think, by Ed from Meg Katel's farm. I visited that farm and I visited the Aurora farm. They are within very short driving distance.

The difference was there was 1 to 2 percent of cattle out on pasture on the Aurora farm the day I was there and there was 100 percent out on Meg Katel's farm which is 400 cows in a dry western state. This is not big farm against small farm. Those are both big farms. And it's not midwest or northeast against the west. This is organic integrity against factory farming. Does that answer your question?

MEMBER JAMES: Um-hum.

MR. KASTEL: Okay. Thank you.

CHAIR O'RELL: Next on deck again

will be Charles Blood.

MS. HOODES: I am not Urvashi Rangan. I'm Liana Hoodes. I have a proxy that I am going to read Urvashi Rangan's testimony.

CHAIR O'RELL: Are you also signed up?

MS. HOODES: I am.

CHAIR O'RELL: So you have 10 minutes.

MS. HOODES: I prefer just to do two separate ones because --

CHAIR O'RELL: Two separate ones?

MS. HOODES: Yeah, because if I run out of time.

CHAIR O'RELL: So five minutes now. Okay. Got it. Thank you.

MS. HOODES: Good afternoon and thank you for the opportunity to give public comment today on behalf of Consumers Union, nonprofit publisher of Consumer Reports magazine submitted by Urvashi Rangan, Ph.D.,

Senior Scientist and Policy Analyst. There are four separate issues that we would like to present. The first concerns the pasture access requirements set in the regulations.

We believe that consumer concerns and expectations are not being adequately addressed at this time. While we appreciate the range of expertise within the panels, there was no consumer representation. As a public program supported by taxpayer dollars, it is imperative that the consumer voice be taken into account. The OTA, retailers, and other industry-based groups do not speak with an independent voice for consumers. The hearing on market expectations only takes one component into account, the retailer and, again, not the consumers. Consumers Union has conducted a nationwide scientific survey of more than 1,400 U.S. consumers in February 2006 asking them directly about their expectations regarding pasture access. When asked specifically if they would still pay a

premium price for organic milk that came from cows that were confined indoors and did not graze outdoors, have access to pasture, only 14 percent agreed that they would. 60 percent disagreed while 25 percent remained neutral.

More than two-thirds of all consumers and 75 percent of women in the Consumers Union survey of 1,485 U.S. online adults said that the national organic standards should require that animals graze outdoors. This survey reflects the public sentiment regarding the expectation of pasture access that is required for organic animals.

While this sentiment has also been expressed over the past two years by the NOSB farmer certifiers and others the USDA and recently issued ANPR and pasture access actually questions the ability of doing so, but the regulations already require access to pasture.

Producers make claims about access and have pictures of cows grazing on grass and

dairy products. Retailers successfully sell these products and consumers buy them and pay more than conventional milk with the full expectation that pasture access is required.

USDA should be working to improve the specificity of this already established standard and make it enforceable. Without that they put the current and future organic milk and meat market in jeopardy. Our colleagues from the Center for Food Safety have also conducted another nationwide survey with the results that concur with these conclusions.

The next issues that we would like to address is the definition of synthetics. Rosy Koenig had submitted a strong document last year defining synthetic ingredients that we believe should be the recommendation of this Board. We strongly disagree with the Organic Trade Association's recent comments that are frankly written without any understanding of chemistry or science.

The notion that a natural ingredient obtained from an agricultural product without any chemical or molecular changes could somehow retain a natural status no matter what other chemical or molecular changes occur is absurd and leaves gaping loopholes for synthetic materials like partially hydrogenated oil to be used in organic food.

Consumers Union's March 2005 survey shows that 85 percent of consumers do not expect artificial synthetic ingredients in products labeled as organic. A weak definition of synthetic and one that is not scientifically founded along with a recent weakening of the law will only serve to further erode the integrity of the label.

We would like to specifically address the review of materials. Streptomycin and tetracycline are now up for review. It is important to keep in mind that consumers do not expect antibiotics to be used in organic

production systems. That includes the use of fruit trees.

Consumers Union strongly encourages the Board to retire these materials as they are not in line with other organic production systems and consumer expectations. We also understand that the Board is considering allowance of all colors without review.

Colors are food additives that should be carefully reviewed based on their origin, chemistry, and overall appropriateness for organic production. Blanket allowances of materials for use in organic production undermine consumer expectations and the statutory authority of the Board. Please do not allow colors to be exempt from NOSB review.

The last issue is the report from the Aquaculture Task Force. Fish stock should ideally be sourced from organic stocks. Only if organic fish stock is new to market and,

hence, not commercially available should producers be able to source nonorganically. Task force definition of organic production for fish beginning no later than 5 percent market weight is arbitrary and prone to loopholes including the use of prohibitive methods. While caught fish fall outside the scope of this task force report and should not be eligible to be labeled organic at this time.

I'll try to run through this. As for option B, consideration for contaminate levels is paramount importance in fish. We commend the task force for taking this into consideration but believe that more standards need to be in place so consumers will not be subject to contaminated organic fish. There's more but I'll leave it at that.

CHAIR O'RELL: Charles Blood and Dave DeCou is on deck.

MR. BLOOD: Good afternoon again. I'm Charles Blood. One comment I would like

to make in regards to the last speaker was the whole panel and everybody that has been here today is a consumer so maybe they weren't represented as a specific group but they were represented.

One issue that keeps cropping up and part of the reason we're here is that 30 percent dry matter 120 days from pasture for all animals over six months of age I feel that you've got enough information and will probably get more on that today.

In regards to some comments from presentations, access to the outdoors is required and enforced under the NOP. Another issue that came up, and it bothers me that it's even an issue, is animal welfare. No farmer who is going to be profitable and sustainable in agriculture is going to mistreat his animals. He will not be in business so animal welfare to a farmer is number one.

Another point that we really need

and this is as important to me as all of the others put together. If the NOP does not enforce the rules that are in place, we might as well go home today because we have to have the violators prosecuted to the extent of the law so that they do not continue or manipulate the system and come back.

Being that I was already up here before and expressed a lot of my views, I thank you for your time.

CHAIR O'RELL: Dave DeCou and on deck will be Brian Baker.

MR. DeCOU: Thank you all for the opportunity to speak. My name is David DeCou. I'm the Executive Director of the Organic Materials Review Institute otherwise known as OMRI. My associate, Brian Baker, is handing out a copy of two of our publications that we put out on a regular basis. We consider ourselves as a resource to certifiers and producers of information on materials that they might use which may or may not be

appropriate to the organic standards.

There is a copy there of our generic materials list and of our organic products list. The generic materials list we will be updating soon but was last published in 2004 and will be updated on a regular basis as changes occur.

The organic products list is a list of products that we have reviewed against the standards and we provide them to people so that they can use them in their operation. They are divided up into livestock, processing, and crops categories with subcategories underneath that. That is for anybody to use. They obviously have to use it in conjunction with an organic system plan as was mentioned earlier today.

OMRI has a board of directors coming from a wide spectrum of the organic industry including manufacturers, certifiers, farmers. We use experts from widely around the industry to provide clarity on questions

that we have. One of the things that needs to be emphasized, and those if you who have heard me before have heard this, we are not a certifier. We have been accused of that. People say that what we do is certification but we are not a certifier. They didn't accredit us. We didn't ask. But we do review inputs for organic systems to see if they would be appropriate.

My comments today derive from the issues that we have in our work of how do we decide whether this thing is consistent with the regulation or not. Usually that is pretty straightforward. In fact, if it was all really simple, OMRI wouldn't be needed. Unfortunately, it's not.

The main issue I would like to speak to is aquatic plant extracts. The current recommendation of the Crops Committee and the current listing in the national list says that aquatic plant extracts other than hydrolyzed extraction process is limited to

the use of potassium hydroxide or sodium hydroxide. Solvent amount used is limited to the amount necessary for extraction is allowed as a plant or soil amendment.

What has never been clear to anybody in OMRI is other than hydrolyzed. What does other than hydrolyzed mean? It isn't a clear word. We don't really understand it. The concept of extraction is a deep one. Aquatic plant extracts are normally identified as kelp. Kelp is considered by the American Association of Plant Food Control Officials, AAPFCO, as a pot-ash fertilizer. Potassium hydroxide is used in extraction.

At what point are they extracting and what point are they fortifying? Potassium hydroxide is also a pot-ash fertilizer, a synthetic post-ash fertilizer clearly prohibited in the regulations. We don't have a good way of defining that line where it is extraction and where it is considered fortification.

In fact, in the definition of synthetic that is being talked about later tomorrow, I believe, includes the concept of when you extract something most of the solvent is taken out of the system afterwards. Current information that we have indicates that aquatic plant extracts vary between 2.50 and 6.75 percent pot-ash, whereas the extracted ones, the nonsolvent extracted ones, are 4.50 to 20 percent pot-ash. Somewhere there's a problem.

Our recommendation would be if you can't figure anything else out to force the review of potassium hydroxide, potentially potassium carbonate which is in the queue potentially for being reviewed, although it hasn't come forward, and phosphoric acid which is sometimes associated with aquatic plant extracts because of a letter issued by the National Organic Program.

It does need to be reviewed for specific uses because currently they are

actually listed associated with aquatic plant extracts, not directly with. Thank you.

CHAIR O'RELL: Any questions?

MEMBER DAVIS: I have heard OMRI's position many times about the potassium hydroxide extraction, how much pot-ash it leaves in the product. I have never heard directly from you guys why would a farmer spend quadruple to quintuple the amount for a pot-ash fertilizer than just use potassium sulfate which is an allowed natural? The cost per unit of these aquatic plant extracts are very high if you are considering them a pot-ash fertilizer and are predominately not used as a pot-ash fertilizer no matter what AAPFCO says.

MR. DeCOU: I understand they are not used as a pot-ash fertilizer. They tried to explain that. I don't think it's necessarily understood why these kelp products work and, thus, if they work some and then another one works better, nobody knows quite

why or they suspect why.

My supposition might be that they might be working better because they are often applied and it's because of the pot-ash and not because of the other ingredients that come directly from the kelp. Thus, the manufacturer is getting more of a reaction to their product but if you don't understand why, you don't understand that you could have gotten it by using potassium sulfate.

It's a question of is the farmer understanding what's going on or not. Kelp is widely used, widely respected. When I was an organic farmer I used it but I don't think I understood why. There's a lot of literature about it that isn't scientific.

MEMBER DAVIS: Are you familiar with any relative amounts that potassium as a foliar feed? It's a major nutrient that requires massive amounts more potassium to nutrition a crop than you could ever apply through the foliage of leaves. Is that part

of your understanding and why you guys keep analyzing it this way?

MR. DeCOU: We keep having the question of where do you stop extraction and where do you start because it's probably a logarithmic curve. If you add more, you get a little more. At some point you add a whole lot more and you still get a tiny bit more. Where does extract stop and become fortification? That is really our question. I can't see where you can say where.

If you were to put a ton of potassium hydroxide out there with a pound of the original plant material, you would probably still get a little bit more out of the plant material but you are really not at that point. It's extreme. Where does that line come back to be reasonable? I don't know. That's what we're saying. We don't know and we run into this question over and over again.

MEMBER DAVIS: It seems like a

certifier would be able to spot abuses of that material if they are putting excess potassium hydroxide in intending it to be a fertilizer instead of an aquatic plant extract.

MR. DeCOU: How would the certifier know?

MEMBER DAVIS: Because they would see growers using it --

MR. DeCOU: Not at $6 a pound.

MEMBER DAVIS: -- instead of half a pound per acre.

MR. DeCOU: Oh, I understand but they wouldn't use it at $6 a pound. Typically this is used either early or late in the season when those kind of things make a big difference. They are not used in broad spectrum applications. Kelp almost never is. Although kelp is often an ingredient in some of the mixed fertilizers that we review to the point of significant pot-ash increase in that mixed fertilizer. Why? We can't make that judgment because we don't have any line to

draw the line on. That's really our question.

MEMBER DAVIS: Thank you.

MR. DeCOU: Thank you. Any other questions?

CHAIR O'RELL: Thank you, Dave.

Brian. Next on deck, Ed Zimba.

MR. BAKER: Thank you. Brian Baker, Research Director, OMRI. I'll skip over what Dave covered already about who we are and what we do. I would like to move on to talk about a couple of the proposals that you have before us. The first is the question of synthetic and nonsynthetic. We support the guidance and moving ahead. We think there's been some improvement with the document that the NOP has come back with.

We still see some rough edges that perhaps need a little smoothing but on the whole I think it's much better. It helps to clarify how these decisions can be made. We do see a few things and we have made a few suggestions that we hope you will consider

about reviewing natural sources, what's an input. We need to distinguish between generic materials and formulated products.

What farmers use is not a generic material usually. It's a formulated product. It's something that is a formulated input so just to be a little more clear about that. On the whole OMRI wants to offer its experience and expertise in this area and help the NOSB and look forward to working with you toward implementation.

I also wanted to talk a little bit about the sunset process. This sunset is a necessary part of the nationalist process. I applaud the hard work you've all done, both current and past NOSB, at meeting this tight schedule that you have. The first time through a process is always the hardest. We see some ways that things can be improved.

The sunset should be used as an opportunity to fix glitches that have been identified by members of the community. In

1 particular, I understand the reasons that
2 annotations weren't on the table this time.
3 In the future you might want to consider going
4 through the whole petition, what the NOSB
5 recommended, and possibly making adjustments
6 to annotations in future sunset periods.
7 We are only asking that one
8 substance be removed from the national list
9 and that is natural colors. There are five
10 reasons that natural colors should be removed
11 from the national list. They have to do with
12 there is no standard of identity for natural
13 colors; the procedural irregularities by which
14 they were put on the national list; the
15 difficulty in verifying the colors are, in
16 fact, nature; the agricultural origin of many
17 colors that are used; and some health
18 concerns.
19 Many of the colors can be produced
20 either naturally or synthetically. Each color
21 needs to be reviewed on a case-by-case basis
22 to see if it is, in fact, natural or

synthetic. The extractants, the solvents, the carriers, the adjuvents all need to be taken into account.

I won't dwell on the procedural irregularities but colors were in petitioned. They were not TAP reviewed. They were not recommended by the NOSB. There was not proper notification in putting them on the national list. This has been a source of confusion between we don't have any real record of what is a natural color.

OMRI has been on record since 2001 calling for a technical correction in having colors removed from the national list. We supported the deferral and hope that the TAP review would address some of the questions in the sunset review. However, unfortunately, the sunset review did not address those questions.

The substantive issues are of greater concern. Many of the colors out there come from agricultural crops that are

familiar, beets, carrots, cotton, grapes. Things that sound natural often aren't and amaranth is a coal-tar derivative for example. Another is caramel. That comes from sugar. Indigo can be synthesized or is plant derived. Carmine has been -- it comes from insects.

It has been associated with allergies, anaphylactic shock, salmonella. There are a lot of unknown health affects. If these substances had received a proper TAP review we would know what those affects are, what they were but they are right now a big gray area. Thank you.

CHAIR O'RELL: Brian, let me just ask you a question. In terms of the synthetic/nonsynthetic document that we are working on, I appreciate, number one, OMRI's willingness to participate and help. I think from your perspective and from the Board's perspective that we both think that the response we got back from the NOP does have a lot of merit and I think it's a good place to

start so we appreciate your offer for guidance through that and will most likely take you up on that.

If that document existed today and was out in terms of the colors and certifiers then being able to have a tool to sort out those synthetic colors that might be on the market, do you think that would be a help?

MR. BAKER: It would help but it wouldn't solve the whole problem. It would get you part of the way there. It wouldn't address the health affects that were identified. It wouldn't address the agricultural/nonagricultural issue. I would like to say the synthetic/nonsynthetic process should be divided into two tracks, one for production and another for processing. The first step in processing should be determining whether its agricultural or nonagricultural. That could be fleshed out a little bit more in the synthetic/nonsynthetic document and perhaps with a case-by-case review of colors

could help with determining what colors are agricultural, what colors are synthetic, what colors are nonsynthetic and then splitting them three ways.

CHAIR O'RELL: As you know, we are working on the document as well for the agricultural/nonagricultural guidance so I think all of these kind of go together. The committee struggled over the recommendation of colors. The original sunset after the Federal Register process there were 30 people who responded in favor for continued use of colors. There were zero that went on record prior to our recommendation against colors.

MR. BAKER: We are on record now as against color. We were on record in 2001 as saying colors were not properly reviewed. We thought it was a technical error that could be corrected, quite frankly, and that appears to not be the case.

CHAIR O'RELL: Hopefully you will hear this is one that we know will have some

debate among the Board and I think it will be good debate. When the time comes the way we have public comment structured tomorrow is that we will give those recommendations, have an opportunity for public comment, and then be able to have the committees go off yet for still some time before final recommendation back to the full Board. Maybe if you are around during that time, you could make use of your expertise.

MR. BAKER: Certainly. Thank you.

MEMBER KARREMAN: Kevin, tomorrow we are voting on sunset materials. Aren't we?

CHAIR O'RELL: Yes.

MEMBER JAMES: There will be discussion first.

CHAIR O'RELL: There will be discussion first. There is a presentation of the items. Because of the logistics with the Pasture Symposium we couldn't do what we normally do which is present them one day and vote on them the next but we are doing it as

best we can to try to allow the public to comment on our discussions.

MEMBER KARREMAN: One quick question. Amaranth is a plant.

MR. BAKER: Right. Amaranth is a plant and red root was used 100 plus years ago. In 1880 they figured out how to make the same chemical from coal-tar and now it's red dye No. 2 which is banned in the United States but it has a natural sounding name and some people think it's natural.

CHAIR O'RELL: Okay. Thank you, Brian.

Ed Zimba and on deck Grace Marroquin.

MR. GARDINER: I have a proxy here from Ed Zimba. I don't know who I'm supposed to hand this to. My name is Jim Gardiner.

CHAIR O'RELL: Are you also listed as a speaker?

MR. GARDINER: I am not listed as a speaker.

CHAIR O'RELL: Okay. So you just start reading five minutes of comment from Ed Zimba.

MR. GARDINER: Correct.

CHAIR O'RELL: Okay.

MR. GARDINER: The first issue I would like to cover is on the sunset materials. As you pass through this countryside you have seen a lot of the different Amish farms around and a lot of the smaller farmers that are in organics also you will find that when they whitewash their barns for cleanliness it's basically a federal inspection.

Your barn is clean and white and the ingredients they use on that whitewashing material is hydrated lime. Our cows do have the ability after it's done when it's still loose and flaky they do rub up against it. I would like to see that stay in the rule if possible. I realize that is possibly one of the sunset materials that might be reviewed

coming up. It's also used as a topical application to help with pest control on animals. In a lot of cases it is very important in the use especially in dairy farming and other livestock as a preventative for the pests.

I do appreciate all your patience you folks have with being able to sit through all of what you've heard over the last few days. You've done quite a job. And with the people in the NOP also. The next thing I would like to touch on is the pasture.

With having four children that have in some way voiced an opinion of wanting to be in this industry at some point in time, they range in age from 23 on down to 12 years old, I really believe that the decisions that whatever comes out in the rules is going to have an affect on the next generations. It's not just about us and whether or not we can make a living for a short period of time.

It's about also the future of what

organics and organic dairying is about. Hopefully short-sightedness won't be employed in the rulemaking. When the rules are made, I think the emphasis that has been made for folks to be able to have the ability to enforce the rules and have the chance to have backup is very, very important.

Like Ed, who I'm taking his place for, stated that if it was done in the first place, we wouldn't be here now talking about it and everybody would be enjoying it more instead of looking at the dollars. The green that seems to be in everybody's eyes now is not pasture, it's dollar bills. Thirty percent dry matter intake.

I sat down with many, many farmers whether it be on the west coast, the middle of the country, or the east coast and shame on us if we can't come to that form of equation of around 30 percent. That basically equates to 10 percent of our milk production in organics coming from pasture. That is very little. I

mean, if you scored 10 on a score of any kind of exam, I know if I had a surgeon working on me and he scored 10 on his final exams, I probably wouldn't want him to work on me. That does mean that the other 90 percent of what that animal is eating you get to have the ultimate choice to put whatever density you want to put into that animal.

Ten percent of their feed over a year is not a huge amount even in 120 days. We are always looking for the minimum but optimizing. Isn't that what organics is all about, is optimizing the health of this place we live in called earth.

MEMBER KARREMAN: Jim, one question. You just mentioned the 10 percent over the year. Yesterday I think we were asking a few of the panelists is there a difference between 30 percent for 120 days versus 10 percent over the whole year because isn't it all the same in the wash? I think Andrea asked that but it doesn't matter.

Comments?

MR. GARDINER: Sure. The 30 percent on 120 days I realize like even listening to Mr. Straus the implementation on his farm if the desire there to graze and to focus on instead of the benefits of one part of the operation, whoever the farmer may be, is to focus on the whole operation and the 10 percent of that.

Talking about spreading it over the year but when you meet people from Minnesota, say, for instance, and their grazing time, I've chatted with several of them on phone conferences and their concerns are that the 120 days for them is quite a maximum amount of time in their grazing ability. But they do realize that in that period of time there may be 30 days out of that, maybe 45 days of that time they could at 100 percent of their dry matter intake could come from pasture.

Averaged over that 120-day growing

season period they could absolutely meet that criteria going through a farm plan. Yeah, it may not be -- I take from what Mr. Straus said is that optimally on his farm he only had a 90-day to 120-day window to graze. We all shoot for optimal grazing on our farms because we want that.

I'm the first one that would love to have a great milk check every month. To have optimal grazing that doesn't happen all the time but it does happen some of the time. If I had 90 days of grazing optimally on my farm even here in the northeast where everything looks so beautiful like it does now, 90 days is huge.

Our grazing optimal generally runs May and June. After that you have to work at it and that's part of being in this organic industry that we are part of is not only just saying, "I can't do it," but it's looking for optimal even when it's not optimal and learning how to manage what you have.

MEMBER KARREMAN: I guess just the 10 percent over the year, how do you feel about that?

MR. GARDINER: Ten percent over a year? If it was incorporated into the rule, I think it may end up complicating things more because then people are going to start looking at the whole year. You have people who do have lots of snow in their area. If you look at their growing time, the growing season that they have whether they live in a desert or whether they live in Maine or upper Minnesota, that growing season allows them to define that 120 days.

Now, optimally if you live in the desert you should be irrigating and it would be fantastic. I have seen some great irrigation systems that are in areas where nothing grows outside of where they irrigate but when they irrigate they have tremendous abilities. I've had chats even here with folks from Texas that are looking forward to

doing irrigation and they are in an arid area.

That 10 percent I think could cause confusion if it's worded over the full year. I think sticking with a minimum growing season, that's what we find is the minimum growing season in our country in the toughest place not counting Alaska. I haven't interviewed anybody from Alaska but I'm talking northern regions and 120 days seems to be the minimum and then you optimize inside that.

CHAIR O'RELL: Grace Marroquin and then Lou Anderson.

MS. MARROQUIN: Hello, everybody. My name is Grace Marroquin and I'm President of Marroquin International. My company is based in Santa Cruz, California. We import and distribute organic ingredients to the food industry. I'm here once again to request that the Board support the classification of yeast as an agricultural product.

Yeast is currently listed under

Section 205.605(a) as a nonsynthetic nonagricultural substance. It was nearly 21 months ago on July 30, 2004, that we filed our request with the Board that it recommended that yeast be transferred from 205.605(a) to 205.606 and be listed as an agricultural product. This request is still pending and I'm here again.

As a result of yeast being incorrectly classified as a nonagricultural substance we see processed food products labeled as organic that contain conventional yeast instead of organic yeast. This is because organic yeast cannot be officially recognized as an organic ingredient and be required in products with an organic label. Organic yeast cannot be officially recognized until it is considered an agricultural product so here I am again.

As we have stated in previous meetings, conventional yeast production is far from the standards of organic production in

several ways. It uses ammonia salts. It uses acid such as sulfuric. It uses caustic such as lye. It uses synthetic vitamins and growth substances and synthetic antifoaming agents and the conventional production creates waste water that is difficult and requires special handling.

In contrast organically produced yeast is bread in a wholly organic nutrient solution made from organic grains, pure spring water, and GMO free enzymes. This is done without chemicals and without creating hazardous waste water. In fact, the waste water is used further to make organic products.

Today we will present our most current position to support the reclassification of yeast as an agricultural product. We believe that we will present the Board a clear avenue to resolve this question, I hope, once and for all. Our position is quite simple and direct.

It is based on the legal definition of agricultural product that appears in the Organic Foods Production Act 7 USC 65021 and in the National Organic Regulations as 7 CFR 2052. This legal definition of agricultural product is identical in both the Act and the regulations.

Under this definition yeast qualifies as an agricultural product. The reason why yeast qualifies as an agricultural product is that the definition of agricultural product includes livestock. The definition of livestock appears in the Act as 7 USC 650211 and in regulation 7 CFR 205.2.

Under this definition yeast qualifies as a type of livestock. The definition of livestock in the Act is broad and it includes the following list of living organisms. Cattle, sheep, goats, swine, poultry, fish used for food, equine animals, wild or domesticated game, and finally, and most importantly, other nonplant life.

In the regulations the definition of livestock also extends the meaning of livestock to cover other nonplant life. Yeast is a form of nonplant life. This is why it comes under the definition of livestock.

Yeast is one of the fungi living micro-organisms that have a special category in biology because they are neither animal nor plant. Therefore, the plain wording of the Act and the regulations covers yeast within the definition of livestock.

Under these legal sources yeast qualifies as an agricultural product. These are the legal definitions that govern the operation of the National Organic Program. They are binding on the Department of Agriculture and they are binding on the Board. Yeast is entitled to be treated in all parts of the regulation as an agricultural product.

We said at the start that in the national list section of the regs yeast is listed as a nonagricultural substance in

205.605(a). Since yeast, like mushrooms, qualifies as an agricultural product under the definition in the Act and the definition in the regulations, this means that the existing national list is inconsistent with these definitions.

The national list portion of the regulation needs to be further corrected so that yeast will be listed in the national list as an agricultural product under 205.606. While yeast may be an unusual agricultural product as other fungi such as mushrooms, yeast producers that wish to seek organic certification should also have that opportunity. Thank you.

CHAIR O'RELL: I think there will be some questions, Grace.

Nancy.

MEMBER OSTIGUY: Grace, I have to admit that when we received the letter my first reaction was to laugh loud and rather long.

MS. MARROQUIN: Many people have howled over this idea.

MEMBER OSTIGUY: Yes, yes. It was actually, I though --

MS. MARROQUIN: A howler.

MEMBER OSTIGUY: It was a great way to relieve a whole lot of tension and just improve my day considerably so I thank you for that. But also when I --

MS. MARROQUIN: My pleasure.

MEMBER OSTIGUY: -- stopped laughing I thought, you know, my first reaction to the classification of honeybees as livestock was to laugh so maybe we can get there.

MS. MARROQUIN: That was our hope. That's why we presented it this way.

MEMBER OSTIGUY: So far in the discussion we are planning on looking at that. We have to make sure that we do it in such a way that it doesn't mess up other sorts of categories but, yes, it's worth the

consideration.

MS. MARROQUIN: I really appreciate that. I can understand and appreciate the deliberation that's been taking two years. I know that part of the concern has been how do we treat it because if yeast is considered an agricultural product, then it has its relationship to micro-organisms but it doesn't. I want to remind the Board that the NOP final rule specifically carves out a special status for bacteria cultures declaring that they are nonagricultural.

In fact, this is in the definition of nonagricultural. It's in the definition of a nonagricultural substance in regulation 7 CFR 2052. If you really look at the difference between a bacteria and -- I can never say these right -- eucariotes which is what animals are considered and yeast is considered.

Those are cells that have both a nucleus and a membrane-bounded structure,

whereas the procariotes, which is what bacterias are, they have neither a nucleus or an internal membrane-bounded structure. There are these differences. You have a way to work with that in how they are classified.

MEMBER OSTIGUY: Part of what I think is going to be very challenging and interesting is the access to outdoors.

MS. MARROQUIN: Yes.

MEMBER OSTIGUY: And pasture and I'm not sure but, you know --

MS. MARROQUIN: They get 120 days.

MEMBER OSTIGUY: We'll think about it.

MS. MARROQUIN: It's also part of a handling system, too. I think there are elements of both, the handling system and livestock system and that needs to be taken into consideration. Again, I really appreciate it.

CHAIR O'RELL: Grace, I know you have been very patient throughout this. I

think I have said that maybe two or three meetings before this. Your patience continues to grow.

MS. MARROQUIN: Tenacity, too.

CHAIR O'RELL: Yes. You have given us a very creative way to look at it. The committee has had a meeting on this and we see some substance here for us to work with and to put this to rest before the next meeting.

Joe.

MEMBER SMILLIE: Just a quick one. I'll resist the temptation to go into the livestock joke line but the organic compliance plan, I think what you stated was that the difference between an organic culturing of yeast and a conventional culturing of yeast is very clear and delineated. I think that is one of the key parts of the rule is that we need an organic compliance plan. I think what you presented is really good, too, but I think you could further help your cause by trying to

put an organic compliance plan together.

MS. MARROQUIN: We would gladly try to do that given some hope and some direction on this. That we can do. Thank you.

CHAIR O'RELL: Thank you, Grace.

Lou Anderson and on deck is Jim Pierce.

MEMBER KARREMAN: I just saw Jim Pierce 10 seconds ago.

CHAIR O'RELL: Next on deck will be Sally Brown. Sally, are you ready? Yes, please. Thank you.

MS. BROWN: I'm actually here speaking for Tony Azevedo but, for those who know him, I definitely don't have a white hat and I'm definitely not from California.

I am an organic dairy farmer from central New York. My husband and I have been farming for 28 years, the last five being organic. I want to thank you and apologize at the same breath. For the few times that I've

been through this process it seems like you hear the same line over and over and over again. I thank you for your patience and apologize, as I said, at the same time.

I think the organic product and whole process is about integrity, commitment, courage to find a new way of doing things, trustworthiness, and mutual respect. That is for our consumers and that's for our animals and that's for the industry we are trying to represent.

I am in support -- as you have heard eloquently presented by many other people, I am definitely in support of the 30 percent dry matter and 120 days in the last third of gestation. I have a lot of frustration because I am a consumer. Going organic has changed our lives considerably. It has been a entire paradigm shift in the way that we live our lives.

I'm looking at the issues that we are dealing with in the product that I

produce, that being milk because of the influences that are coming against it and the progress that is not being made. When I go out to purchase other organic products that says USDA certified organic, I'm starting to really have a question mark. If I know there are issues with my own product, then where is the status on the rest of them? I have some serious questions.

Your mind can really go wild in thinking about all of these things like how much of these large corporation influences are affecting these rulings? There are 99 percent of us trying to do this correctly and giving it everything we've got to do this right. It seems like there's a small percentage with a huge percentage of our product trying to find loopholes to pad their own pockets to make sure that their shareholders get a profit.

This is my future. This is my livelihood. This is generations to come. I'm concerned. I'm very concerned. I know that

this Board has done the very best that it can do over the last five years. You have presented it as well as you can.

I guess I would say I know you all have jobs but if somebody was coming against your livelihood and the way you have committed your life and you are looking at your own financial security and future, wouldn't you be a little bit frustrated if time and time and time again it was presented and you haven't given the people, the certifiers, the meat to do their job wouldn't you be a little frustrated? I've done my job right. Please do yours.

CHAIR O'RELL: Jim, since you were technically only on deck, we are going to let you come back in so you can speak.

MR. PIERCE: There's a couple people not here to know where you are in the rotation.

CHAIR O'RELL: Your excitement is next on deck.

MR. PIERCE: Thank you. Good afternoon. For the record, I'm Jim Pierce, Certification Czar at the 750 farmer-owned organic valley crop cooperative, as well as reigning monarch at the Trout Palace, my family-owned rainbow trout farm. It's been my privilege for nearly seven years to offer precise solutions to NOSB members and NOP staff regardless of the complexity of the issue.

Have you read any good books lately? I have. Thanks to an extra-long layover in Detroit I had a chance to finish Organic, Inc. by Samuel Fromartz, who is here by the way. Without passing judgment, Mr. Fromartz does an admirable job of telling the story of the tumultuous development of the organic food movement.

The tone of each chapter is set with a quote from a great thinker, often someone pivotal to the success of organics. Following timeless nuggets of prophetic wisdom

from Sir Albert Howard, Wendell Barry, and Moses, I found this quote at the beginning of Chapter 6.

"Hard as I try I cannot think of another private sector group being regulated that continually demands tougher regulations being inflicted upon themselves." Isn't that well said? I wrote that. I delivered that line during public comment at May 2003 NOSB meeting in Austin, Texas in a speech I called, "The Cow with Three Little Eyes," a passionate plea to fix the misinterpretation of the post-transition dairy replacement regulation, an issue that is not only still current but even more urgent in light of the Harvey suit and the OFPA amendment that eliminates the 80/20 dairy transition language.

My comment that day also contained this quote, "This interpretation is wrong and needs to be corrected. This horse or cow, the cow with three little eyes as the case may be, is not dead, will not die. In fact, we are

going to beat it until you change this rule to reflect its original never-wavering intent."

Consumer backlash from allowing continuous transition will be worse than from lack of pasture. This allowance erroneously allows calves to be feed nonorganic feed including conventional milk replacer and GMO grain to be medicated with anything for any or for no reason and be exempted from organic living condition requirements and then eventually to be milked as organic.

In addition to domestic consumer backlash it will almost certainly generate criticism from foreign certifiers that the USDA is hypocritically allowing the very practices that they are being criticized for allowing, namely the use of nonorganic feed and antibiotics on an organic dairy.

The 1990 congressional report on OFPA, the American organic standards, comments to both proposed rules, preamble to the final rule, previous NOSB recommendations.

Countless commanders to you are all very clear. Once an entire distinct herd is transitioned, all animals must be managed organically from the last third of gestation.

On to another topic. As a quiet observer on the OTA's task force on commercial availability, I've studied the Materials Committee's recommendation and the OTA's response and endorse both. There has been criticism that this proposal overburdens the certifier. I disagree and think that the certifier is precisely the right person to manage this complex issue.

At Organic Valley we have always formulated products to minimize the reliance on nonorganic material and, thereby, support and encourage organic production. But despite our best efforts we have a short list of ingredients that cannot be sourced organically and so we'll petition items to be added to 606 before 607.

Regarding the pending

recommendations on sunset materials -- you got that. Good. Regarding the pending recommendations on sunset materials, hydrated lime has valuable use in organic fruit and livestock producers. Please don't remove it.

Milk replacer is a more complex issue. The Livestock Committee has proposed its removal but since there is no product that meets current use restriction, the impact appears minimal. However, there are some assumptions in the proposal that I urge you to reconsider before you forever remove milk replacer from the national list.

First is the definition itself. It has been suggested that milk replacer be understood to include milk that is not organic but would otherwise meet the annotated requirement. If so, then its removal will circumvent an otherwise variable tool for producers.

Second is the assumption that there are organic product available to fill

the void. It is not. Anecdotal feedback from Organic Valley producers is that these products are mostly unavailable and sometimes of substandard quality.

Thirdly, and to bring this comment full circle, there is a general consensus that conventional milk replacer with RBGH milk, tallow, blood, and a myriad of synthetic ingredients is inappropriate in an organic system. Yet, if the dairy replacement regulation is not -- the dairy replacement regulation not only allows put expands allowance of nonorganic management of replacements, this is exactly what is going to be fed to an ever-increasing number of organic replacements.

Ladies and gentlemen, there is an elephant in the room, or rather a cow with three little eyes that needs to be dealt with. On behalf of the OV member farmers, I give you our blessings to do so with God's speed. Thank you.

MEMBER KARREMAN: Thanks, Jim. As usual, great. On your milk replacer thing on point 1, could you read that once again because I was having some thoughts about that.

MR. PIERCE: If milk replacer is thought of in terms only of a sack of powder that's mixed with water and fed to calves, then maybe there is nothing right now that can be considered as suitable milk replacer but RBGH free, etc.

If milk replacer could be considered whole milk used in an emergency when there is nothing to be fed to these cows, milk from another farm, an RBGH-free farm, of course, then perhaps milk replacer is available and maybe we just need to broaden the definition of what is milk replacer. What replaces the cow's milk that a farmer would normally feed.

MEMBER KARREMAN: Okay. What if there was to be, just to throw out an idea, a milk replacer, is it always just powder in a

bag? Is it always powder in a bag with fortification or could it actually be natural whole milk? This is something I've thought about when I've been driving around.

What about, let's say, if an animal had been treated on an organic farm with a prohibited material and then she is still fed and managed organically but her milk can never go in the tank. We all know that, but what about having her milk be considered milk replacer for the young stock, the calves?

Then the farmer wouldn't lose total value on the cow for possibly treating that animal in the most humane way by using a prohibited material. The decision wouldn't be as hard to do for the farmer and the cow could still live with her herd mates in an organic way but her milk would be donated to the calves forever. What do you think about that?

MR. PIERCE: That is possible except the way I read the annotation to milk replacer that would only be appropriate in an

emergency and an emergency, I think, is more dramatic than just having a cow that you can't put into the tank supplement the other cows. I'm going to encourage the Livestock Committee and the NOSB to explore those possibilities because that's the point of my comment.

If you remove milk replacer from the national list, the door is closed. There is nobody using milk replacer according to that listing now so it's really odd to know if we are losing anything because there is no RBGH-free milk replacer. There is very seldom a certifiable emergency on the farm where they would want to use it. You could argue that the only eradication is a suitable use but is that an emergency? Welcome to the NOSB, ladies and gentlemen. Enjoy your five-year term, or sentence as George used to refer to it.

MEMBER MOYER: Can I ask you a question?

MEMBER KARREMAN: Yes.

MEMBER MOYER: What sort of emergency situation would arise on a dairy farm where they would not have any milk to feed their calf?

MEMBER KARREMAN: Well, I would say an emergency just as a clinician would be an unplanned event requiring immediate attention so, therefore, I would not think of Yoni's disease as an emergency. Definitely not. It's one of the most chronic diseases in the dairy industry. I would say maybe a barn fire, salmonella outbreak, the cow dies during calving, the calf lives, those kind of immediate --

MEMBER MOYER: But there would be no other milk on the farm at all is what you're saying? No other organic milk?

MEMBER KARREMAN: Well, there usually is. There is usually hospital milk, a very low quality that you wouldn't put in the tank. There would be that possibly. I mean, you know, there usually is but not always.

It's a confusing issue because when I was talking to dairy farmers across the country over the last few months, you know, we asked about the sunset of various products and the milk replacer one came up. Basically everyone was like it can go away.

CHAIR O'RELL: Just so we stay focused to questions specific for Jim and not get into discussions we can have later. Is there another question?

MEMBER JAMES: Jim, why doesn't Organic Valley then make organic milk replacer?

MR. PIERCE: It would be prohibitively expensive. That milk is too valuable as a commodity for human food. We have researched it a number of times. There is also some logistical challenges like to separate the lactose and the waste solids and to formulate a fully suitable milk replacer. What we have done on occasion is provided whole milk power to our producers.

Typically whole milk powder that was no longer sellable for whatever shelf life date was issued. Again, it's quite expensive to the producers. There is potential there. There's just some barriers that need to be ironed out. It's a great opportunity for somebody to fill that void. But an organic milk replacer, of course, would never have to be on the list.

It's organic feed. If it was synthetic milk replacer, nonorganic, it would still only be usable in emergencies in which case there is really no desire to develop that product. There's no buyer. Anybody else? Thank you very much.

CHAIR O'RELL: Thank you, Jim. We are running up against the time but, Eric, you're there so we are going to have you speak and then we are going to take a 15-minute break after Eric's comment.

MR. SIDEMAN: I'm Eric Sideman. I work for the Maine Organic Farmers and

Gardeners Association. I served on NOSB from 1997 to 2002. I served on the first Aquatic Animal Task Force in 2000 and 2001. That task force concluded that while aquatic animals do not reflect the degree of producer management or continuous oversight during production that are characteristic of organic systems so the NOP should not develop standards for wild caught animals.

On the other hand, we did recommend development of aquaculture standards. The new task force, the new Aquaculture Working Group, did a good job of drafting practice standards. I want to make some suggestions on some points of improvement to come up with final standards that are consistent with the high standards that are in the National Organic Program rule.

No. 1, the organic farm plan should designate a specific site, the need to know where the animals are, to know the effect of the surroundings on that animal, or to know

the effect of raising those animals in a particular site. I suggest that within the organic farm plan they designate a specific site for where the production of aquaculture is going to take place. That's not in the report now.

No. 2, in the report they often use the term minimize. I think that almost all aquaculture production facilities should be minimizing the affect on the environment. I'm hoping that in the final report you move up to the stronger language that's in the national rule on organic aquaculture now which is using language such as "does not contribute to contamination."

This is particularly important in the sections that deal with nutrients. A key to organic production that is also reflected in the final rule is the importance of conserving and recycling nutrients within a system. Recycling nutrients should be documented in the farm plan of an aquaculture

system.

No. 3 is feed and I think this is probably most important. The OFPA mandates organic livestock eat organic feed. I'm comfortable that this is possible in an aquaculture system because of the degree of oversight of the site of production by the producer. They know what feed they feed and they can monitor what feed comes into the site.

The NOP rule allows natural nonorganic materials to be feed as supplements in addition to feed to balance the feed. I think a clarification of this is needed. Since OFPA is very clear that feed must be organic, I stress that basic feed groups such as protein, fat, and carbohydrates come from organic feed. Natural supplements or additives may be used to nutritionally balance the feed but they should not be permitted to supply a significant portion of those feed groups.

The report is very fuzzy on this as it offers two different options with respect to feeding fish meal. If fish meal is from wild caught fish, it is not organic and should only be allowed as a supplement. I support option B presented in the report where they talk about not certifying wild caught fish and there needs to be a cap on the use of fish meal as a supplement.

I would like to turn to a different subject now and that is one of the deferred materials aquatic plant extracts. The NOSB and NOP need to reconsider the policy refusing to make changes and annotations during sunset review. Ill-worded or illogical annotations with mistakes need to be corrected and the sunset review period is an ideal time to do that because when the NOSB voted, they voted on the annotation and the material as a couple.

Aquatic plant extract annotation is ill-worded. It seems to state that only

potassium hydroxide or sodium hydroxide are permitted but some certifiers are permitting potassium carbonate. It is so inconsistent among certifiers that a major manufacturer petitioned potassium carbonate in 2002.

There are two major manufacturers of seaweed extraction in Maine who are using potassium carbonate and we as the certifier in Maine are not allowing these products. Furthermore, I want to support OMRI's comments that there is potential fortification using either potassium carbonate or potassium hydroxide because of the potassium being a fertilizer.

My last line, phosphoric acid has never been reviewed by the National Organic Standard Board for the material plant extracts and should not be permitted. Any questions?

MEMBER KARREMAN: Regarding the sunset process with the annotations, and you mentioned it, that material was voted on as the material in the annotation. We have been

told in clear terms that we are not to tinker with annotations during the sunset process. I'm just wondering to the more seasoned members of the Board can we do something within the statute within OFPA to perhaps tinker with annotations at the next sunset review or not? That's to the NOP, I would guess.

CHAIR O'RELL: I'm going to ask Arthur.

MR. NEAL: The issue with sunset is that this happens once every five years. We've got a petition process that is open every day of the year. If anybody wants to change an annotation they've got every day of the year to petition the Board to change an annotation.

Due to the number of materials that are up for review, particularly this sunset, you can have the potential of changing every annotation and then the Board having to justify the reason for why they changed every

annotation. You can have an industry turned upside down overnight because no one had a petition but someone felt like changing an annotation.

But the process is designed to assess the continued need for the use of substances. Why wait until five years before someone asks to change an annotation? That's the question.

MR. SIDEMAN: I support Arthur in that but I would also like to add that I think it's within the power of the NOSB to change an annotation without a petition since they were the drivers of those annotations to begin with. When one is known for five years now is not working in the market place and production arena of farmers, the NOSB has the responsibility to change it.

There is a petition for potassium carbonate submitted in 2002 and it's still sitting there with a little line under NOP review. We have been preventing the use of

two manufacturers in Maine from selling the products they make to certified organic farms in Maine because of the way we interpret the petition -- excuse me, the way we interpret the annotation.

CHAIR O'RELL: I saw Kim is a former Board member from last year. I know we invited the Board members back to make comments. Did you have a comment? Okay. Arthur.

MR. NEAL: One more quick comment. I think it was the August 2005 meeting the Board had recommended to restructure the national list. The NOP is going to take that under advisement. We are going to do that. That will help to resolve this issue concerning aquatic plant extracts because aquatic plant extracts really are naturals. It's the synthetics that are added to them or how it's extracted, the process of synthetic or nonsynthetic decision that is under review right now. The other issue is that the

potassium carbonate petition that you've addressed, I think I mentioned this over the phone, that company, I think, is out of business that submitted that original petition to us. The other issue is that petition is incomplete so we will have to deal with that at the staff level.

MR. SIDEMAN: I knew that already. I'm not blaming NOP for not dealing with the petition but I think the NOSB has the responsibility because they recognized this as a problem to work with it. The problem is see -- and I don't know if I can go beyond a little bit here but the problem I see with addressing aquatic plant extracts has a natural, I think that may not be true if you adopt the decision tree that separates natural. I think it will fall into the synthetic category when you run it through there and then it will have to be listed.

CHAIR O'RELL: Thank you.

MR. SIDEMAN: Okay. Thank you.

CHAIR O'RELL: We're going to take a break now for 15 minutes. I guess that' like 4:22 we'll come back and we are going to have the presentation of the Aquaculture Working Group report at that time and pick up the agenda as it is posted. We will go through the NOSB agenda and we will pick up again with public comment as soon as we can wrap things up and we'll try to do that quickly for the NOSB business portion. Thank you.

(Whereupon, at 4:00 p.m. off the record until 4:27 p.m.)

CHAIR O'RELL: Board members, please take your seat so we have a quorum. Okay. We are going to convene the meeting. We have a quorum. There is a slight change. There was a little mixup in the public comment list on speakers and somebody got crossed out unintentionally. We have indicated that person. Liana, you will be able to address this. And then following this public comment

immediately into the aquaculture.

MS. HOODES: Kevin, thank you very much for this. I do have to leave before the next comment period. Ready?

My name is Liana Hoodes. I'm the Organic Policy Coordinator of the National Campaign for Substanable Agriculture. The National Campaign is a national network of hundreds of organizations and individuals working towards sustainable federal policy. The Organic Committee, which I head of the National Campaign, has worked since 1997 to advocate for higher organic standards in order to maintain the integrity of organic.

There are about somewhere around 150 members of the organic committee itself. The National Campaign would like to thank the National Organic Standards Board and the National Organic Program for your ongoing work in maintaining the integrity of organic. It's a really hard job. It's getting harder in this period of the sunset review and we thank

you for all this work.

I would also like to welcome new members to the Board. It's great to have you. And welcome to Valerie. We love the NOP for filling this position and we are happy to have Valerie on board.

For those of you who haven't heard me many times, I have often come up here and asked the Department time and again why aren't you moving the NOSB recommendations to regulations. It was a broken record often and so at this time I would like to thank the Department for beginning that process with the ANPR. It's a real big step and we really appreciate it.

With regards to pasture, we have a few comments. The National Campaign Organic Committee supports the current regulations on pasture. Currently they require outdoor access. There is a requirement for pasture for ruminants and there is a requirement for living conditions that allow animals to

satisfy their natural behavior patterns.

We believe that the current standards in place are enforceable. To the extent that existing dairy operations provide only dry lot confined feed lots for their dairy animals, it's clear they are in violation of the existing regulations. These are operations that I'm talking about that provide no access to pasture.

We ask the NOP to enforce these existing regulations when it is so clear there is absolutely no pasture. Indeed, the demand or organic milk is high and the current industry is unable to meet it. We can only look to a bright future for organic farmers and future organic farmers if we grow the supply in a sustainable manner. That means keeping the high standards.

There is no question in the minds of consumers who buy organic milk at a premium price. Organic farmers and operators who have committed to the organic system, certifiers,

scientists, and anyone who has been involved in organic agriculture as to the importance of pasture in livestock management systems for virtually all animals in organic agriculture. It speaks to the heart of an agricultural system that seeks to replicate natural systems as closely as possible.

There is no question that a dry lot confined animal dairy feed lot is neither organic nor is in anyway pasture. To explain it away as a temporary situation or that it keeps to the letter of some part of the law is an affront to the meaning and intent of the organic agricultural system.

Yet, obviously it's clear there is somewhere in between that needs to be worked on and that's what we're doing. From the zero, no pasture, to whatever it is. We support the 120 days, 30 percent dry matter. We support the NOSB recommendations, all of them that they've made including changing the term stage of production to stage of life.

Also, we absolutely support the recommendation that after a dairy operation is converted to organic all new animals must be under organic management from the last third of the mother's gestation.

Okay, materials. The NOSB I think should be looking at annotations. I realize this is a hard one this first sunset but I think you need to look at them for the reasons given by Brian and others. Colors also should be reviewed as a class. The numbers from the NMI survey said 63.3 percent organic users find it is important that organic contains no artificial colors.

That's the point here. We don't know which are artificial and which are natural so please look at colors individually and so as a class remove them from the list. There are no clear definitions and OMRI again made the case. Please review them on a case-by-case basis.

Also, we would like more time for

the comments on materials. It's hard for us as advocates because we are not one business that has an interest in one material. We need to look at the whole list so it's really hard to have a short comment time. Very hard for us to follow all the materials.

We also would say once again if TAP reviews are not complete please reject them and defer the decision on the materials if they are not complete. Thank you very much for giving me this time right now.

CHAIR O'RELL: Thank you. Any questions? Okay. Next on the agenda we are going to have George Lockwood who is chairperson for the Aquaculture Working Group and he's going to present a final report from the group to the Board.

MR. LOCKWOOD: Thank you, Mr. Chairman. It is a pleasure to be before the National Organic Standards Board again. I want to express the appreciation I have and my colleagues have for your interest in advancing

organic aquaculture.

It has been a distinct privilege for me to chair the Aquaculture Working Group of the Aquatic Animal Task Force. It truly was and is an outstanding group of people and a broad range of disciplines having to do with aquaculture. We also appreciate having in our work Jim Riddle and Andrea Caroe who contributed greatly as we moved along and Nancy Ostiguy when she was able to be with us. We also received a considerable amount of staff support from Keith Jones. Since Keith has left from Arthur Neal and we are looking forward to working with Valerie Frances in the future.

As a way of background, sir, the National Organic Standards Board first considered aquaculture standards in 1999. The ones that you were considering were not drawn up by people in the aquaculture community. We ask that the effort be stopped until the aquaculture community could get involved.

In the year 2000 we had a conference at the University of Minnesota, about 80 people with environmental and aquaculture backgrounds and organic backgrounds attended the conference. Shortly thereafter you appointed Margaret Wittenburg to head up a crew of about 15 of us to take our first crack at the development of aquaculture standards.

That work was basically around the livestock model as would be applied to fish and shellfish that are farmed. The Wittenburg Report was submitted in 2001 and immediately went to another committee, Aquatic Animal Task Force, that considered a parallel effort having to do with wild fish along with farm-grown fish. Bob Anderson who was here earlier today served as chair of that committee.

Sometime after that the National Organic Program invited the aquaculture community to make a proposal and based upon those two reports and international standards,

the group that called itself the National Organic Aquaculture Working Group, about 85 of us, put together a white paper that was submitted in the year 2000.

The NOAWG, as we call ourselves, basically use the livestock standards, the Wittenburg Report, the Anderson Report, and some 12 international standards. The white paper was then posted on the National Organic Program website and subsequent to that you appointed a new Aquaculture Working Group for another aquatic animal task force. Unfortunately, a wild group that was supposed to organize at the same time never did come to fruition.

As I said earlier, we have 12 outstanding members of our committee plus three overseers from your Board plus Keith Jones and now Arthur Neal and Valerie Frances.

In January of this year we submitted our interim final report. The reason for the term interim is that we did not

include shellfish. We are continuing to work on shellfish. Shellfish has its own set of complexities and, as a result, we didn't want to hold up the submission of the final report that you now have posted.

I would like to point out that our final report, our interim final report, has no minority report. We were able to work through every one of the issues that came up. When they came up and they looked like we were going to have a difficult time, we simply stopped what we were doing and we worked through the issues in good faith with each other and, as a result, we have avoided having a minority report.

In the report you will notice, and it has been commented on here earlier, in feed we have an option A and an option B and I would like to explain briefly the difference between the two. Option A includes the use or certification of wild fish to be used for the production of fish meal and fish oil to be

used in aquaculture.

Option B does not include the certification of wild fish. Because many of the species, perhaps most of the species, in aquaculture do require animal protein in their diets, it is necessary that if we can't use significant quantities of fish meal and fish oil that we may have to petition for synthetic amino acids, specifically methionine and lysine. Those are the basic differences. Option A would be the certification of wild fish by certain standards for use in producing fish meal and fish oil.

Now, there is a major advantage if you look at option A that I would like to point out. There is only one fishery in the world that would qualify at present and that is the Alaska Pollack fishery. Pollack is harvested for fish sticks and things like that.

Sixty percent of the weight of that animal is either thrown overboard if they

are in international waters or is reduced to fish meal and fish oil if on shore. The fish meal goes into the fish meal markets. The fish oil is mixed with fuel oil and burned in boilers or is mixed with diesel fuel and burned in engines.

That is very rich omega-3 fatty acids of which there is only a limited amount available in the world that virtually is being wasted. So as you consider option A we hope that you will consider that this is a wasted resource now and if option A is indeed your choice, the economics would drive the recovery.

There are four major issues that emerge from our work that are really organic issues across the board. I just mentioned wild fish used for producing fish meal and fish oil. There is also the issue of wild fish for producing for direct human consumption.

You have in the standards

provisions for wild game and, of course, you have honeybees that are producing honey that forage in the wild. So we are not adding anything new but this may be one more dimension to the complexities that the organic community has been wrestling with over the years.

A second issue is that of persistent organic compounds, PCBs and the like, that are in fish oil. They are also in other foods and we see this as being an organic issue for all food items, not just fish meal and fish oil and aquaculture.

At first we were going to recommend that we abide by whatever standards you adopt in this area, but we said no, let's go ahead and take the lead. So you have in our proposal standards having to do with minimization in fish oil of persistent organic contaminants.

There is also a section in our report having to do with humane slaughter. We

think we are far ahead of anybody in the world in what we are recommending for any animals in organic certification. We would hope that this would set a standard that might be applied across the board to other forms of livestock.

Finally, the issue of mammalian and poultry byproducts emerges. It has emerged. It is an item that we spent a lot of time talking about and considering because if fish meal isn't allowed, mammalian byproducts and poultry byproducts would allow the amino acids to come in by that route.

The livestock rule now prescribed the use of these meat products. We have gone along with that and we are recommending that they not be allowed. Nevertheless, I think this is a much larger issue that you are going to have to be wrestling with.

In wrapping this up, we have received 48 comments that have been posted on the National Organic website, the program

website. The quality of these comments is excellent. They are focusing on the issues. There is developing balance and we will take all of them very, very seriously.

Our work ahead is we do want to deal with the program and guiding through and digesting and synthesizing and commenting on the public comments. We need to complete if we can the very complex issues of bivalve shellfish. I might point out that there are foreign certified bivalve shellfish now in the United States market place so this puts a certain incentive on to get this very complex subject wrapped up. Finally, we will be working on the national list of compounds that the NOAWG report had a long list of but we think we can shorten it down.

I would be glad, Mr. Chairman, to answer any question if there are any.

CHAIR O'RELL: Are there any questions?

MEMBER SMILLIE: Yeah. In option

A you refer to certification. Currently the one that you mentioned, I think --

MR. LOCKWOOD: Marine Stewardship Council.

MEMBER SMILLIE: Yes, MSC.

MR. LOCKWOOD: What we are recommending is that in terms of sustainability that MSC or some equivalent organization certify the resources being sustainable. The case of Alaska Pollack that I mentioned, that is a resource they have certified as being sustainable.

MEMBER SMILLIE: I was under the impression that particular certification scheme was going fairly rapidly and accepted by a number of people in the seafood industry. I was surprised to hear there was only one fishery.

MR. LOCKWOOD: That we can use. That we can get fish oil and fish meal from.

MEMBER SMILLIE: I see.

MR. LOCKWOOD: When you consider

contaminants and all the criteria we have, it boils down right now there's just one fishery in the world that we can use that fit our criteria. MSC is certifying others.

MEMBER SMILLIE: But that is the only one that would be available.

MR. LOCKWOOD: Alaska Pollack fits our standards, our proposal.

MEMBER SMILLIE: The other question I had, being a real fish enthusiast, was that again some of the documents -- some of the proposed guidelines to become regulations, the comments I've heard is that it's an excellent report but it is species specific because apparently there's like one rule for all and there's quite a few differences. Again, do you see a compromise being reached without going to like 60 or more species specific regulations, but yet not putting all species under one?

MR. LOCKWOOD: We look very carefully whether we want to go species by

species or not. Right now we have about 15 pages of proposed regulations. The livestock standard now has three pages. Our proposal will add another 15. If we go species by species we would easily double that. In the livestock standards, these are broad standards, in a few cases for dairy and for poultry there are specific targeted standards.

We may be able to add something there but to go species by species would be a logistic nightmare. We've got five major species in Commerce in the United States now and another three that are coming up rapidly. There's probably another 10 that are in the development stage and you can't possibly go through each one. The other thing we don't want to do is limit innovation. If we write standards so tight that if they are too tight, they will limit innovation.

MEMBER JAMES: If I heard you correctly your preference is for option A?

MR. LOCKWOOD: No. We are not

expressing any --

MEMBER JAMES: You're not expressing any preference?

MR. LOCKWOOD: What we are saying is here are two options. If you can go with the wild A works. If you are not going to go for wild for good reasons, I mean for many reasons, then B will have to do but being mindful that we probably will be knocking on your door for having synthetic amino acids on the national list.

MEMBER JAMES: If option B were to be enforced, how long would it take for organic certified fish in the meal to be ready for this program?

MR. LOCKWOOD: Well, in the case of salmon it's basically a 30-month growing period so it would be 30 months from the day the regulations are adopted and a farm plan is certified. In other species it's a much shorter period of time. Perhaps some less than a year.

MEMBER JAMES: Okay. Thank you.

MR. LOCKWOOD: Shrimp would be less than a year.

MEMBER DAVIS: I have a question. For plan B you mentioned the possible use of other animal by-product proteins but I didn't catch whether you mean that would be considered as part of plan B or just the synthetic methionines.

MR. LOCKWOOD: In plan B we proscribe the use of animal byproducts but that, as I indicated, is an issue that we debated and debated and it's really an organic program issue. Under the livestock standards you have proscribed it. There is also another factor here. Whole Foods, the largest potential customer for organic aquaculture, will not allow mammalian and avian products in their fish. Their customers don't want to have pork by way of salmon.

MEMBER DAVIS: I understand.

MR. LOCKWOOD: Whether that's good

science or not it's a consumer perception.

MEMBER DAVIS: Yeah, I just missed that part.

MEMBER JAMES: One other question for you. Under option A.b, "To the greatest practical extent cultured aquatic animals should be provided their natural foods as closely as possible." Could you explain that a little bit more?

MR. LOCKWOOD: Well, yes. You can take a fish, I'll use salmon as an example, and in nature they eat a lot of other fish including other salmon. They will eat small salmon and eggs. It's not inconceivable that we could grow salmon with an entirely grain-based diet with synthetic amino acids so they would be totally removed from their natural diet. What we are doing here is repeating our perception of organic philosophies that you stay as close to nature as you can.

MEMBER JAMES: Okay. Wording like that with everything that is going on right

now with pasture, we just have to be careful that we are really clear about our intent.

MR. LOCKWOOD: It's these kind of concerns that when we work with the Livestock Committee will come out so we can get good clarification. I must repeat the comments we have gotten from the public, all 48 of them, are really right on target. They are very helpful to us.

They are developing the data on these issues and they are allowing us to focus in where there are ambiguities and not clarity. I must also say that your members that were working on advising our committee all along kept raising red flags, "You've got to be careful how you say this so a certifier in the field can certify."

MEMBER JAMES: Sure. Well, I want to thank you for this work. I appreciate that the Committee crafted a document that isn't just single-minded, that there are options in here for us to think about.

MR. LOCKWOOD: Well, thank you. When Keith Jones was leaving he and I added up how many person hours were involved. It's probably over a 1,000 to get to this point.

MEMBER KARREMAN: So this is an interim report at this time still. Right?

MR. LOCKWOOD: That's right. It's interim because we are still working on shellfish and we hope we can do something there.

MEMBER KARREMAN: All right. I'm really glad there's no minority report. That's nice that you are in unison there. I guess I would like to just say that the Livestock Committee recommends that the full board officially receives the interim final report from the Aquaculture Working Group and the Aquaculture Working Group members are especially commended for the excellent work you have done preparing it.

The Livestock Committee and the NOSB will begin consideration of the

Aquaculture Working Group interim final report immediately and we will continue to be in contact with the group as needed for clarification, advice, and counsel. I would like to, if I may, make a motion to receive the interim report.

MEMBER SMILLIE: Second the motion.

CHAIR O'RELL: And a second. Jim, do I see your hand because I know you participated in this committee if you have a comment, please.

MR. RIDDLE: Do I have to go to the microphone?

CHAIR O'RELL: Yes, you do.

MR. RIDDLE: Jim Riddle. I guess I heard what George said and I want to complement George in the leadership that he showed in making this a very inclusive process, very thoughtful, but I don't want to go on about that too much.

My question is that 44 comments

were received before this. I think George was expressing a willingness for the task force maybe to continue to be engaged. I'm just wondering if the Board receives this does that conclude the work of the task force or do you still keep the task force working on reviewing the comments as well as work on mollusk standards and list of materials?

MEMBER KARREMAN: He still has to work on the bivalves, the shellfish. That's for sure.

CHAIR O'RELL: I think what the Livestock Committee is proposing is we accept this as an interim final report for the work done thus far and the Livestock Committee can begin working on it from their side but the working group is not disbanded as they continue on the shell fish and conserve as a resource for the livestock committee.

MR. RIDDLE: So they could review these comments and provide further input to the Livestock Committee?

CHAIR O'RELL: Absolutely. That's perfectly fine with the NOP so that would be the intent. Thank you, Jim, for clarifying that.

MR. RIDDLE: They're not off the hook.

MR. LOCKWOOD: We would be glad to continue to participate.

CHAIR O'RELL: So we have a motion on the floor to accept this interim report from the Aquaculture Working Group and a second. Is there any discussion? Hearing none, we'll take a vote and start with Rigo.

MEMBER DELGADO: Yes.

CHAIR O'RELL: Oh, thank you, Andrea. Our policy is we will ask first does anybody have any conflict of interest as outlined in our procedures and policy manual on this particular issue?

MEMBER KARREMAN: I'm not sure but my sister is a veterinarian for salmon farmers in Canada and she has shown interest in the

organic program down here.

CHAIR O'RELL: We appreciate you disclosing that. I don't see it as an interest or conflict for this vote. Okay. Rigo.

MEMBER DELGADO: Yes.

CHAIR O'RELL: Jeff.

MEMBER MOYER: Yes.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: Yes.

CHAIR O'RELL: Julie.

MEMBER WEISMAN: Yes.

CHAIR O'RELL: Joe.

MEMBER SMILLIE: Yes.

CHAIR O'RELL: Bea.

MEMBER JAMES: Yes.

CHAIR O'RELL: Andrea.

MEMBER CAROE: Yes.

CHAIR O'RELL: Gerald.

MEMBER DAVIS: Yes.

CHAIR O'RELL: Dan.

MEMBER GIACOMINI: Yes.

CHAIR O'RELL: Kevin E.

MEMBER ENGELBERT: Yes.

CHAIR O'RELL: Hugh.

MEMBER KARREMAN: Yes.

CHAIR O'RELL: And the Chair votes yes. Twelve yes and no zero and two absent. Thank you, George.

Next we are going to move on to status report from the Pet Food Task Force. Emily Brown-Rosen is going to present to the Board the status report.

Thank you, Emily.

MS. BROWN-ROSEN: Thanks, Kevin. It's great to be here. I am the Secretary of the Pet Food Task Force and we have been working since last May when we were appointed on the whole issue of what standards need to be for pet food. We recently posted this document, or got it posted on the agenda so it's been just up for the public look since the last two weeks or so. We just want to present it here today as a discussion item and

then have some feedback from you on how to proceed further with the next step of this.

I would also like to thank Keith Jones who is not here anymore but he was really instrumental in getting us on track and helping us get started, getting the group up and running, sort of giving us our mission statement and clarifying things as we initially met. He was really helpful. Our third, and now Valerie, have been helping us so that's been great, too.

Also a special thanks to Dr. Bill Burkholder who is at FDA who is not on the task force but has been at almost all the meetings. He is like the pet food guy at FDA so that has been really helpful to have someone right there to tell us whether we are doing things right or wrong.

Okay. So what I would like to do is kind of walk through the executive summary for those of you who probably didn't have time to read this since you've got so many other

things going on here. That is perfectly understandable. I think pet food is a lot easier than aquaculture to deal with at this point in time. It's a lot closer to livestock standards and food processing standards already. It's not so hard to put this together.

Although it was a lot of work, a lot of discussion, I think we pretty far along on making this go forward. As a kind of general opening point here, what we had on the task force was two different groups of people basically. We had people from -- well, actually three I should say, the conventional pet food industry, we had people from the organic pet food industry, we had the FDA and state regulatory officials, and then we had people like me, somewhere in the middle of all that.

What we are trying to do is reconcile two different world views. We have what I call two bibles. We have this bible

which is the official publication of the American Feed Control officials that they publish every year. It's got very detailed pet food regulations in here. Then we have our well-known friend here, the USDA Organic Standards with people who are really familiar with each of these sets of rules.

What we are trying to do is merge them so that they can both be applied to pet food that is going to be organic and legal for sale under all the state regulations and keep everybody happy. We had a lot to work with. We had a few conflicts but I think we did pretty well.

Basically NOSB asked to start the task force last year. Part of the issue was that we do have people making pet food and we do have people labeling pet food but there is sort of a variation on how they are interpreting the rules. It kind of fits under the livestock standards and it kind of fits under the human food standards. People kind

of treat their pets like people or kids. They want to feed them really well so actually the industry thought that was a reasonable thing to do.

The conventional industry regulates pet food as livestock feed so we made the determination that it's really a better fit in general in the livestock standards. What we have done in this proposal is graph on a labeling standard that is more similar to processing. What that does is give us the feed ingredient definitions, the allowance for natural materials that are allowed in livestock feed from the livestock standards. We have also set up the labeling classes of 100 percent, 95 percent, 70 percent just like in food processing for the labeling of organic pet food.

I got a little ahead of myself here. We spelled out how we would fit this in exactly to the regulation. We decided we have two tasks here. We did that part of it and

that's how far we've gotten. The next task that we're going to keep working on is going back to the AAFCO people and looking at these regulations because they have whole labeling guides there that do have some problems as far as how you would interpret organic beef dog dinner.

There is some conflict when they call something with or when they call something dinner they have these code words in the pet food regulations that mean a certain percentage of that adjective. We need to work through some problems with them and probably help them write guidance that adjust their guidance.

That is something that is kind of beyond the purview of the Board here but that will continue and we can report back on that, too. I think in the long run will be to have some guidance available to organic pet food producers so how they can meet both sets of rules and not get in trouble basically.

This document is pretty ready to go. What we would like to discuss with you is the next step. It hasn't been out anywhere. We haven't circulated it amongst the various stakeholders at all. The idea is it really needs some public comment and some feedback. The task force is willing to continue to work on it some more.

If we post it for a certain amount of time, we are saying at least 60 days, then we would look at the comments and we could compile them and get back to you if we thought there needed to be changes. Of if you want to do that, you know, that's fine. You can take it to the next step, too.

We thought if we had a 60-day comment period, then we could wrap it all up and give it to you before the next meeting and then you could decide if it was ready to go or if you wanted to work on a further -- you could work on a recommendation before your next meeting. You talk about it and tell us

how you want us to handle it but we could go either way on that.

So, with that said, I'll just give you a couple of key points that are in here. As I said, we are talking about the livestock standards. We've added some new definitions. We have tried to pin down better definitions on slaughter products because this is an area in the rule that is not very well defined.

We know slaughter byproducts are not allowed for livestock feed but there is no definition of that. Whereas the livestock officials do have a lot of definitions related to that so we put that in there to help identify what are the meat products and what are the slaughter byproducts so that becomes more clear.

But we have -- as I say, we have stuck with the labeling standards so that an organic claim would have to have 95 percent organic ingredients. The made with organic would be 70 percent so that is very

consistent. There was really not much argument about that on the task force so I was happy that was

-- I think everybody, even the conventional people, realized the high value of the organic label and they didn't want to see anything that would confuse consumers or make it different than the way food is regulated.

We have proposed a change so that we recognize there's a difference between feeding pets slaughter byproducts. They are allowed to eat mammalian and poultry slaughter products. We did this by just proposing some wording changes. The ones in the rule now that prohibit feeding mammalian or poultry slaughter products that's limited clearly to livestock and pets would not be subject to that. Cats and dogs and carnivores so would allowed to be fed the organic byproducts of the meat industry. That's actually a value added thing for the meat producers.

We do require that when you have

"made with organic products" -- we anticipate there would probably be a pretty big demand for "made with organic" kind of label in pet food but we did include a requirement that you cannot have the same ingredient in both organic and nonorganic form in the "made with organic" claim. This is consistent with what you recommended last year.

But the differences would be based on the actual ingredient name so that's where this AAFCO book is handy because they have exact definitions of what is allowed in feed and in pet food. They could have organic chicken in the product and they could claim it's organic chicken but they also could have nonorganic chicken meal which has a distinct identify of its own. As long as it's clearly identified in the label they could do that. The manufacturers were concerned about that because there's a limited source for some of these chicken meals or chicken products.

I think that's basically it. We

are asking for some comments. A few members of the task force were kind of wanting more feedback on whether nonorganic slaughter products should be allowed at all in organic pet food just out of general concern about nonorganic meat. We didn't include that in the proposal but we are certainly leaving that open for comments.

The discussion on that was if we required no nonorganic meat, that would be a stricter standard than the food organic standard and we didn't really have a good basis to go that far so that got talked out. If you have any questions about this, I think this is pretty ready to go as far as the regulation goes but, of course, whenever you are trying to write regulations, there's always little unintended things that pop up so we need more eyes looking at this for sure.

One other thing I want to point out is the definition of pet is really strict. AAFCO thinks that pet only means dog or cat.

Then they have specialty pets which are all the odd pets which are things that live in cages or tanks but not gerbils, hamsters, canaries, birds, etc. The one point is that it doesn't include things like wild birds.

It doesn't include rabbits. It doesn't include horses. Those animals are livestock and they do have to meet the livestock feed rules. It's easier and better just to follow their whole universe for defining things and then it makes it just real clear cut. Questions?

MEMBER KARREMAN: Just one. Thank you very much. I feel terrible that I haven't been in on the calls. I know I'm part of the committee but I'm overwhelmed with a lot of things. Just a minor clarification. I think horses -- I don't know if they are considered livestock by the USDA. They are not considered agricultural anymore and if they are not pets, I'm not --

MS. BROWN-ROSEN: They are

considered livestock by the state feed regulators.

MEMBER KARREMAN: Are they?

MS. BROWN-ROSEN: Yeah.

MEMBER KARREMAN: Okay. But not agricultural. Well, I don't know if that's going to play in at some point. I know --

MS. BROWN-ROSEN: Probably. People do eat horses in some places in the world. Right?

MEMBER KARREMAN: Above the border.

MS. BROWN-ROSEN: Joe.

MEMBER SMILLIE: Yeah. I'm not up to speed on this again, Emily. I do apologize for that, but I know in our office and I've overheard a number of conversations at policy meetings that one of the things that I thought was a differentiation that AAFCO implied was the difference between pet food, which is very clearly defined, and a pet treat. Have you continued that or is that not --

MS. BROWN-ROSEN: They have different standards. They do distinguish between food and what can make a complete claim. That's a labeling issue. If they want to claim it's complete and balanced, you know, it has to meet their nutrient profiles. They have them spelled out pretty clearly for dogs and cats.

You can either use theirs or you can give your own proof of how you are meeting a complete diet but you can't call it a complete food if it doesn't meet the basic NRC requirements basically for the animal in question. But that wouldn't affect us because you can have organic pet treats. You wouldn't be able to call it complete and balanced, for example, unless it did meet the AAFCO requirements but if it's 95 percent you could still call it organic pet treats.

MEMBER SMILLIE: Right. So on threats we are moving ahead with our current interpretation. On pet food unless you meet

AAFCO's complete and balanced diet you can't call it organic pet food is my understanding.

MS. BROWN-ROSEN: Well, people are labeling organic pet food now. I think since last summer particularly they clarified after the Dr. Brownell lawsuit memorandum that it was in the scope if you could meet the standards. I think that is part of the issue now that some certifiers have slightly different interpretations of that.

I don't think AAFCO has turned people down. I mean, I know people are labeling. Maybe they haven't gotten to a point of looking at it yet as far as if they are complaining about it. A lot of pet food manufacturers really study this and know those rules very well. They could certainly -- it's just different terminology. You wouldn't call it a complete food. You would call it, you know --

MEMBER SMILLIE: A treat.

MS. BROWN-ROSEN: I think there's

in-between there, too. We can go through it later if you want.

MEMBER KARREMAN: Just wondering since you are referring to the AAFCO rules quite a bit when you are doing this, not all pet food -- I guess we'll just say pet food -- is subject to AAFCO testing. If an organic company wanted to make organic pet food, whatever comes up in the end, do they have to be under the AAFCO labeling?

MS. BROWN-ROSEN: Yeah, they do. I mean, they don't really do testing. What happens is people can put out a label and get it on the market and it might be a couple of years before they pay attention to the labeling requirements for AAFCO. Sooner or later someone will turn it into a feed control official and they will get a letter and they will get some enforcement action. You have to follow the rules for pet food.

MEMBER KARREMAN: But in conventional pet food I don't think all canned

dog food has AAFCO labeling on it.

MS. BROWN-ROSEN: The labeling doesn't say AAFCO on it. There are like certain requirements, you know. You have to have the type of product, you have to have the animal, you have to have the rates, you have to have guaranteed analysis. It's just a specific -- you know, it's nothing that would really jump out at you. In fact, I was very surprised to learn what some of their rules were because I didn't know platter meant 3 percent or dinner meant 25 percent. I mean, how would you know? That's the way it is.

CHAIR O'RELL: So I have Kevin, Dan, and Jim.

MEMBER ENGELBERT: Would you clarify again why they make the distinction between a food and a treat, Emily?

MS. BROWN-ROSEN: Well, I can't really answer that question. I mean, I could look it up and talk to you later about it. It's one of those arcane rules. Nancy Cook if

she were here she could spell it all out for you. They have different standards as far as nutrient guarantees. They expect people feeding -- part of the reason pet food and livestock feed is more regulated in some ways than human food is that these animals don't have any choice.

They just have to eat what you give them. FDA set it up that we are not starving them. You know, people are going to feed them the same thing everyday out of the bag that they should be nutritionally balanced. Otherwise they can't sell it as a whole food because they are worried about the animals.

CHAIR O'RELL: Dan.

MEMBER GIACOMINI: Yes. On your appendix I believe you list materials for possible petition. How many of those various items do you really think are likely to come up under petition with most of them being synthetic amino acids?

MS. BROWN-ROSEN: Right.

MEMBER GIACOMINI: I know we have torine for cats which is an unusual physiological situation but how many do you think are legitimate possibilities?

MS. BROWN-ROSEN: Well, I mean, they are legitimate in the sense that members pulled these out of what they saw in existing pet food, not necessarily organic pet food but things they would like to use. The question is how many of these could be from natural sources so they would not have to be on the list. I don't know. I think probably three or four of these really.

I mean, I think torine is the No. 1 thing that they want because it's difficult for cats who can't use -- natural forms of torine really aren't available unless it's raw meat so once they process the meet apparently it loses its viability. But of these others there may be alternatives but this is sort of the wish list. I think I would stress to the

group that they would have to file a petition.

I mean, there's room for them on the list but we would have to file a petition. We also added a section in the rule saying that -- additional piece of criteria for the 205.600 section so one of the criteria if you are evaluating a pet food substance is that it's a required nutrient in the animal profiles for pet food.

CHAIR O'RELL: Jim is former Chair and was the observer during the time of the Pet Food Task Force. I know you wanted to weigh in on a comment and then we need to move along.

MR. RIDDLE: I'll be very quick. I really just also wanted to complement Nancy Cook, the Chair of the task force for driving it forward, but especially Emily for doing the draft writing because it really brought it all together and gave people something to work from.

I did want to point out that under

the definition of livestock in both the rule and the law that equine animals are already included in the organic definition. What I am curious here is if the directive from the Board from this meeting is for the task force to remain intact and the comments that are coming in to go to the task force before they submit a final report that then the Handling Committee would post for comments.

CHAIR O'RELL: Yes, it was my understanding that this was just going to be kind of an update of status report from the task force and the task force then will take the public comments and go back and prepare a final report for the Board.

MR. RIDDLE: After my term on the Board ended I have continued to serve on this task force and am willing to continue to do that.

CHAIR O'RELL: Thank you, Jim. That has been blessed.

MS. BROWN-ROSEN: Good. We'll do

that for the next meeting and we'll just work with Valerie to make sure we get it posted appropriately.

CHAIR O'RELL: Thank you. Thank you for your hard work, Emily.

Okay. We are going to move back to public comment. I have been asked to read several names off and maybe we'll go like the next five names so that people know where they're at. Up first Joseph Krawczyk, Tom Kimmons, Emily Brown-Rosen, Lisa McCrory, Sara Flack, Nicole Dehne and then Lisa Zuck.

MR. KRAWCZYK: Good afternoon. My name is Joe Krawczyk. I am the owner of Field and Forest Products, Inc., in Peshtigo, Wisconsin. We are a supplier of certified organic mushroom spawn and a producer of certified organic shiitake. I am also on the Board of Directors for the Shiitake Growers Association of Wisconsin which currently has about 35 active growers in it.

For you people who are not

familiar with mushroom cultivation, I guess I'm going to give you the Reader's Digest version of the two different types of cultivation methods that are followed for growing certified organic shiitake in the United States.

I guess you could say we have livestock in a bag here. Shiitake is produced in two different ways. This is the production of shiitake -- oh, by the way, I do have a proxy statement to read, too. Sorry.

We do have this bag here which is certified organic mostly for the production of shiitake mushrooms. What this is is sawdust blended with certified organic wheat bran, certified organic millet, and a mine source gypsum. It's incubated in this plastic bag for 40 to 160 days depending upon the cultivation method being followed.

The traditional way of growing shiitake mushrooms is based on hardwood logs. These logs are generally harvested from

timber stand improvement cuts or from logs gleaned from the tops of threes cut during timber stand harvest. The input in this log is certified organic mushroom spawn.

What brings me here today? This past spring one of our growers and customer was being certified as organic for growing shiitake mushrooms on logs. One inspector who was not familiar with this process brought up the question of the use of cheese wax as a sealant for keeping moisture in the spawn and preventing it was drying out.

Not knowing the answer to that question, they approached the program director for the agency and they went to the National Organic Program who came up with the opinion that because this was considered an input, the use of cheese wax being a synthetic could not be -- the process could not be certified organic.

Well, I asked what are the alternatives and we were given quite a list of

alternatives, some of which I will go through in detail here. It was suggested that we use styrofoam caps or plastic plugs to seal spawn into logs. To me that reeks of hypocrisy because it's a petroleum-based product also.

One of the reasons we use cheese wax, there are actually two reasons we use it. It seals moisture in the logs and, more importantly, it's put on hot so it serves as a surface sterilant to kill any competing organisms that may have alighted on the spawn during inoculation. The alternative was beeswax which I'll discuss in detail in the proxy I have in front of me.

It was also suggested to us that we use wooden plugs to seal the spawn into the logs. Well, consider this. A four-inch diameter log 40 inches in length has approximately 50 holes drilled into it. Those spawn sites all need to be sealed. With wooden plugs currently wholesaling at $12.50 per thousand, then we have people inoculating

5,000 to 6,000 logs, the cost of that alternative would be strictly prohibitive.

It was suggested that we use carnauba wax which is a plant-derived wax. Carnauba wax has its own inherent set of problems. When a shiitake log is cut from the wood lot and eventually ends up in its laying yard, which is I guess in a way pasture because it's out in the forest for 365 days a year, it's handled eight times.

From the time it's cut to the time it's put out in the woods it's handled eight times. Carnauba wax, paraffin wax are too brittle to withstand the handling that is associated with log movement. As a result, wax falls off, spawn dries up, and we lose an inoculation site.

We would like the Board to take a common sense look at this process. Wax is an inert substance. We use a food-grade wax that fungus does not grow into. When a fungus decides to emerge from the log, it is pushing

the wax away. It is not residual on the mushroom. It is not absorbed by the mushroom.

One of the things that we find is that this ruling does affect really a small amount of people but in a very large way. Certified organic log-grown shiitake is something that is niche market. We have a handful of growers that a large part of their income is based on selling this product as certified organic.

We are right now facing intense competition in the fresh market by Chinese imports who are not certified organic. So as a result of this, we were given 90 days to come up with an alternative to cheese wax which, to me, is just way too short of a time frame because we need to get into the field and field test every one of these products to make sure it's going to work. We have been doing this now for over 23 years. We were one of the first cultivators in the state of Wisconsin. We have seen all the alternatives

being used and there is no better alternative.

One of the things that has been brought to my attention, and I would hope the Board would see this, this truly is not an input as much as this bag that holds this block together is not an input. It's part of the process. It has no impact whatsoever on how this mushroom grows. It is not fertilized. It is not pesticides and it has no nutritional value whatsoever.

Well, with that overview I would like to read a proxy letter that I have here from a grower in southern Missouri. This is from Persimmon Hill Farm. The authur is Ernie Bohner who has been in this business now for over 20 some years. I'm going to cut it short here because we have lots of public comment.

To whom it may concern. We have been growing shiitake mushrooms in the southwest Missouri Ozarks for over 20 years. During that time the Ozark Organic Growers Association, the Missouri Department of

Agriculture, and most recently One Cert have organically certified us. We have always presented all of our cultural practice to the inspectors who have visited our farm for over those two decades.

None have ever had a concern over the cheese wax that we used in nearly every inoculation effort. Early in the '80s we used paraffin for a year or so. We specifically chose cheese wax as a sealant due to its inert qualities and its well-tested safety record as a food sealant for many years.

The use of cheese wax as an inoculation site sealant has always been analogous to using a plastic sheet on a seed bed to maintain moisture in the germination media. Its contact with growing tissue and especially the fruit of the plant fungus is minimal if at all. I believe that once there is an understanding of how cheese wax is utilized in shiitake cultivation, it will be clear that it should not be considered a

cultural input and, therefore, should be classified as an allowable practice in shiitake cultivation.

Suggested alternatives to cheese wax have proved to be either counterproductive with regard to their purity as in the case of beeswax, or not economically viable as in the case of carnauba wax. One thing we have to keep in mind is that alternatives are generally running at four to eight times the cost of cheese wax.

With regard to the purity of beeswax honeybees are gathered to bring materials back to the hive from a radius of about three miles. In order to certify beeswax as being organic, their entire forage area would have to be organically certified. Bees have been used as environmental sampling techniques by taking samples of hive's pound wax and other bees and analyzing them for various substances to estimate their relative levels of various pollutants within the hives

forage area.

An article published by the University of Montana relates the value of bees as a sentinel for the quality environment. A quote follows. "Using honeybees as environmental sentinels has received wide acceptance in both the scientific and regulatory communities. The National Research Council judged honeybees to be excellent monitors of air pollution and include that other fine insects might be useful."

EPA has classified the use of honeybees as class 1 off-the-shelf in-situ assessment method for monitoring exposures to aerial contaminants at hazardous waste sites. So bees provide integrated samples of three modes in which pollutants may be transported so beeswax is not a very viable alternative.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: I will disagree. We do certify organic honey production,

organic beekeeping. You can get certified organic beeswax.

MR. KRAWCZYK: Okay. At what cost?

MEMBER OSTIGUY: I couldn't tell you in cost. It's not something we are supposed to be considering. I'm sorry.

CHAIR O'RELL: Andrea.

MEMBER CAROE: Joe, I understand that there is another method for propagated shiitakes on composite logs that wouldn't require wax at all. Not in a bag like that but actual logs that are composite material, compressed logs. We have actually seen operations with this. I just wanted to know if you are familiar with it.

Once upon a time I actually, in fact, did a shiitake mushroom operation. Anyways, I would like you to consider that. But also the information that you have provided is the information that this Board considers in the petitioning process for an

allowed input. You may not feel that it's an input but horticulture oils that are spread on tree trunks are inputs, you know.

It seems to me that it's a pretty clear input. The information that you provided is favorable information for a positive petition that would get a material listed. However, this Board would consider that during that petitioning process.

MR. KRAWCZYK: We do have a petition written and I would hope that the Board would consider it shortly because this is something that is done every year. As a farm we need to inoculate logs every year so we need to have a clear decision by next spring.

MEMBER CAROE: I think it's appropriate that we consider that when that petition comes through and this information will be very helpful.

MR. KRAWCZYK: Okay.

MEMBER KARREMAN: If the oil is

sprayed on the tree and is on the final product perhaps and this cheese wax is not, doesn't that make a difference? You said it's not in the final product. It's more like a canopy or roof over its habitat until it pops through.

MR. KRAWCZYK: Exactly. It's a sealant.

MEMBER KARREMAN: That's the way I heard you saying it.

MEMBER SMILLIE: That's the way I feel, too. I mean, I haven't had any experience in this area but, to me, I would look really long and hard before I would call the covering wax. I thought the analogy of the plastic sheeting for vegetable production is as good as analogies go. I would seriously question whether it really is an input. I don't see it as an input. It's not in the final product so it should make a difference, shouldn't it?

MEMBER CAROE: There is the herd

oil that is on the tree trunk.

MEMBER SMILLIE: Yeah, but the herd oil is there for a specific purpose for smothering dormant insects or for actually active fungicidal issues. This is not being used in this context that I can see.

MEMBER CAROE: He just stated that he's putting on hot to kill competing organisms. That's a pesticide.

MEMBER SMILLIE: It's mechanical. It's not infifthra.

MR. KRAWCZYK: Well, I'll let you guys argue about split hairs.

CHAIR O'RELL: Before we just continue with the discussion, any other questions directed for Joe and his comments? Thank you.

MR. KRAWCZYK: You're welcome.

CHAIR O'RELL: Tom Kimmons. On deck, Emily Brown-Rosen.

MR. KIMMONS: I have a proxy. Actually I have six proxies but I'll claim the

one for the time being.

CHAIR O'RELL: We are only going to let you claim one.

MR. KIMMONS: My name is Tom Kimmons. I'm here to represent myself, my organization and place on the record six proxies as samples of comments from a broad section of shiitake farmers. I'm the Director of the shiitake mushroom center in Arkansas where we grow organically certified log-grown shiitake on approximately 30,000 logs. It would take a room of about four of these to hold our logs.

We began this operation in 1988 and I've been certified organic over the years by OSFVP, AOCIA, ACO, OCIA, ICO, and for the past two years under the authority of the new NOP. During this time I have been a staunch advocate and promoter of organic certification and, more importantly, the principles and values surrounding organic practices and methods.

I was a founder and original trustee of the Arkansas OCIA, president of Arkansas Certified Organic, as well as founder and trustee and president of the Ozark Shiitake Growers Association, the Arkansas Shiitake Growers Association, and others.

Over the past decade and a half my organization has trained over 600 small family farmers in the techniques and methods of growing organically certifiable mushrooms. To reemphasize Joe's point, these mushrooms here have been grown this way for over 2,000 years. This is an ancient Chinese method that was originally grown on the Shia tree which is very similar in molecular configuration to our White Oaks.

Shiitake is a lignicolous fungus which means it's a fungus that eats lignum have been grown and harvested from hardwood logs for over 2,000 years because the mushroom fruit naturally on fallen logs with no amendments or inputs needed. They do this in

nature, in the wild. When you go out in the deer woods in the fall and you see all those white fungi grow in those polypores it's the same basic methodology. They are lignicolous fungi that grow on wood.

Shiitake are among the easiest to inspect and certify as organically grown. Why? Because there's no inputs because they grow that way in nature. In order to better manage and expedite the natural fruiting and fungal colonization of the hardwood logs a series of holes are drilled one inch deep into the log sap wood.

We have special drills that we drill these holes in these logs. They average about 30 holes per log. Shiitake spawn, which is the seed, is then inserted into the hole and heated cheese wax is painted or dabbed over the hole in order to hold the moisture in the inoculation site and to keep contaminants and competing fungi out of the log.

One of our biggest problems in our

industry is to keep competing fungi out of the log because the locally competing fungi have been in this environment for 150 million years. Shiitake has been here for about 30 so the local fungi will win the battle for the log and that's why we have to protect that internal fungi by coating it. We hold the moisture in and we keep the competing fungi out.

In past generations mud cakes, wet vines, rags, beeswax, etc., were used to hold moisture in the log until colonization was complete. It takes about 10 months for that fungus to grow throughout the log. Once that's done the wax is of no value. I mean, it's not an input. It doesn't grow on the wax. It simply holds the moisture in.

Over the past 30 years in the USA cheese wax has become the moisture sealant of choice for natural shiitake growers because it is more efficient, more affordable, cleaner, and safer than other sealants. Styrofoam plug

sealants used by some modern growers are scoffed at by organically certified log growers because styrofoam is unseemly, nonbiodegradable, and caustic when incinerated.

Beeswax presents multiple problems. First, it attracts bees and other insects who steal the beeswax from the holes and allow the spawn to dry out and die. Second, it has a low melting point and melts away easily in summer heat. Modern day beeswax contains myticides sprayed to control trachomats in bee populations.

It's also six to eight times more expensive than cheese wax and tends to shrink in extreme temperatures thus loosing effectiveness as a sealant. You can go online and find the most available organic beeswax from Australia. You're talking more like 15 to 20 bucks a pound, whereas cheese wax -- let me show you that.

CHAIR O'RELL: You have to speak

into the microphone.

MR. KIMMONS: This is a sample of the cheese wax we use which you will notice -- okay. I don't need to move anymore. You can see, I am passing right behind the cheese wax we use which is FDA approved for use on, around, and in cheese. I'm passing behind there some organically certified.

You will notice the organic label on there of a cheese that has been sealed in cheese wax. This is approved, OCI approved. Some cheese makers use plastic, some use cheese wax, some use both but this is an example of a cheese wax that has been used on cheese and you are going to eat that cheese. You are not going to eat this log unless you're hungrier than I am.

So cheese wax. Cheese wax has been around for centuries either by use or by design to seal moisture in various cheeses and/or to keep undesirable molds and fungi from growing on finished cheese. If you

didn't seal that cheese in that wax it would turn green very quickly.

The cheese wax used by modern shiitake growers is the same cheese wax used by cheese makers and essentially for the same reasons, namely, it is used in hold in moisture and keep out contaminants. Cheese wax is neither an input in cheese making, nor in log-grown shiitake making. Cheese milk doesn't grow on wax and shiitake spawn doesn't grow on wax. Wax is not an input in either cheese making or shiitake growing.

What I want to offer to the NOSB in this session are five reasons why food-grade cheese wax has been, is now, and should continue to be approved for use in growing organically certified log-grown shiitake.

One, virtually every certified log-grown shiitake producer that has grown shiitake in the USA since the early 1980s has used food-grade cheese wax to seal the inoculation sites. That's 25-plus years of

precedence for an accepted organic practice and, as far as I know, without question.

There is a legal cannon in the U.S. system of justice known as starry decises which states that traditions matter to societies and ways of doing things over time and require respect and consideration because they become a part of the fabric of civil life. If new evidence comes forward to challenge a tradition that shows it to be harmful or dangerous to consumers, then it can and should be challenged. The secondary use of this wax is in chewing gum, FDA approved.

In that respect if the NOP or the NOSB has analytical proof or new science that shows the tradition of using food trade cheese wax to be harmful, then it should be presented in all petroleum-based products be they cheese wax, plastic, or any petrol-based coatings for shiitake logs, cheeses, wax-coated shipping containers, polybag produced containers, wrappings, etc. need be inspected and

potentially prohibited in organic production.

Two, existing rules. The most current published organic growers that we have a record of for growing the use of cheese wax, the using of cheese wax in organic shiitake production, not only allows cheese wax but requires cheese wax for sealing inoculation sites.

If you refer to my handout, my attachment No. 1, it's the fourth page, attachment No. 1, you will notice it says, "Organic Crop Improvement Association International Certification Standards 2003." These were the standards we've been given to live by and have lived by.

If you'll notice on the back side of that under shiitake and oyster mushrooms, log and spawn site coatings used to prevent moisture loss must be food-grade paraffin, cheese wax, mineral oil, or beeswax. Those were the laws we were given as the International Certification Standards by OCIA.

Three, the certification of the quality of food-grade cheese wax used by log-grown shiitake growers comes from the U.S. Food and Drug Administration. See attachment 2. If you will notice the attachment just behind there, the wax we use states, "This product meets the FDA requirements set forth in 21 CFR for use in nonfood articles in contact with food and 21 CFR 172 for use in the food."

I've been cut off so I'll be done. Thank you.

CHAIR O'RELL: Thank you, Tom. Stick around. We've got some questions.

MEMBER MOYER: I have a question, Tom. So what you're saying is that this wax is currently used to wrap certified organic cheese.

MR. KIMMONS: Absolutely.

MEMBER MOYER: The difference is that in your instance it's being classified as an input as opposed to a --

MR. KIMMONS: It's not being classified. There are no rules and regulations. This judgment came out of NOP as an assertion, as a position stated. I don't think you all ever considered this. The only laws that we have governing our industry are what you just read there from the OCI standards.

MEMBER KARREMAN: Then why were you told you couldn't use it if it's right here in black and white?

MR. KIMMONS: I don't know the answer to that. My certification agent sent me a letter saying, "This has been questioned. It is up for review and you need to state why you have used it and why you want to use it and why you should use it." That's why I'm here.

MEMBER KARREMAN: So you don't use OCIA as your certification agent?

MR. KIMMONS: I changed. I used to. That's the law I was under for years and

years and years but I have a new certifier now.

MEMBER KARREMAN: Switch back.

MR. KIMMONS: A lot of people do.

MEMBER DELGADO: Have you appealed that decision?

MR. KIMMONS: What decision?

MEMBER DELGADO: Well, the fact that you are not allowed to have cheese wax?

MR. KIMMONS: That's basically what I'm doing today. I brought a petition with me.

MEMBER DELGADO: Give it to those guys.

MR. KIMMONS: I was told that you guys set the standards.

MEMBER KARREMAN: Yeah, but if you want to appeal something, you have to deal with the regulators.

MR. KIMMONS: Well, I've never received notice from NOP about anything. I received a notice from my certifier that this

has been questioned. I have a petition prepared and I will be glad to leave a copy for all of you all.

MEMBER SMILLIE: But your first step -- I'm really happy you brought it up and I'm sure you will get some action on it, but your first step is to appeal to the NOP that the decision made by your certification agent was out of line and your first step is to appeal to NOP.

MR. KIMMONS: Pardon me, I misstated. My certification agent never questioned this. My certification agent thinks we are perfectly within the law that we've been living under. It's another certification agency in another state and this was brought up because one inexperienced inspector questioned this, passed it on up. It went on up and it came back down that "you can't do this." This has not been done by any sort of protocol or any sort of rational order. This has been done by opinion and

innuendo as far as I know.

CHAIR O'RELL: Arthur.

MR. NEAL: I've not been involved in this particular situation but listening to the testimony that has been provided, it appears that it involves the use of a synthetic substance. Mushrooms are considered to be under crop production. The OFPA section 6517 requires that the National Organic Standards Board review these production aids so I think this is why he is before you right now. There may be some question that this is a synthetic substance used in crop production and the National Organics Standards Board has to look at synthetics in crop production.

CHAIR O'RELL: And, Tom, you indicated you have a petition that you are going to file?

MR. KIMMONS: Yes, I do. I thought --

CHAIR O'RELL: From the NOP website a petition?

MR. KIMMONS: Yes. I thought if I wasn't persuasive enough and you all just didn't agree with me --

CHAIR O'RELL: Unfortunately we have a process.

MR. KIMMONS: Okay.

CHAIR O'RELL: You've got a lot of nice props and we would really like to just say it's a good thing to do.

MR. KIMMONS: Yes, I have a petition.

CHAIR O'RELL: Yes. And that is the process so if you would file that petition with the NOP.

MR. KIMMONS: I appreciate that.

CHAIR O'RELL: That will come to this Board and will go to the appropriate committee.

MR. KIMMONS: And I have you a copy. Everything I have is written.

CHAIR O'RELL: Then the committee will act on it and bring it into the full

Board and a recommendation.

MR. KIMMONS: Please appreciate what Joe said. We are small farmers and when we do this work -- now, this is only one-fourth of the log but when we do this work, we do it every year. This is not something we do and then live on it for years. We have to go out in a pickup with a chainsaw and cut these trees, drill holes, inoculate them every January and I do like 5,000 a year so this is pressing. Plus, I already have all kinds of this cheese wax already on hand. I have 35,000 logs that are already part of the organic system so your decision affects more than just me. There's probably 5,000 small growers that use this method.

CHAIR O'RELL: I understand. We appreciate that. You are on the right road.

MR. KIMMONS: Okay.

CHAIR O'RELL: The petition process will get the system going.

MR. KIMMONS: Okay.

CHAIR O'RELL: Thank you.

MR. KIMMONS: I appreciate your comments, Mr. Smillie.

CHAIR O'RELL: Emily Brown-Rosen and next Lisa McCrory.

MS. BROWN-ROSEN: Hi. My name is Emily Brown-Rosen. I was just here. I think you remember. I'm here representing Pennsylvania Certified Organic. We are a USDA accredited certification agency right here in Center Hall, PA. My role here is as a materials review manager. So I'm going to talk about sunset here. Oh, I also have a proxy from Jess Greenplatt, one of the other PCO people signed up.

I have sent you some pretty detailed comments. I think they are in your books and I'm going to try to hit the highlights of those. I do want to comment a little bit about the process like a few others have. I really appreciate it. I know you had a huge amount of work on your place,

especially the new members who came in here and got handed all this stuff from the outgoing Board and we have a very short timeline here. Sunset has been a challenge and I recognize that.

I do hope that when the dust settles on this you can take a little time and evaluate how the process went and how we can work on it next time around and how we can get started on it a little sooner next time around because we had some stuff added to the list in 2003. That is going to be up in 2008 so the sooner we can get a Federal Register notice out and get those things out for comment, the sooner we can get started on this.

Part of the problem was last summer we had a 30-day comment on the whole list and the whole industry was scrambling and we didn't get some -- we got a lot of comments but not time to do thoughtful comments or dig up more research or do it in a way that would be better. Part of this is because we have

the big lump at once. The sooner the better and I hope we can keep improving this. I think there's lots of room.

I also feel that this policy of not changing annotations, I understand the time limit and maybe that made it really difficult to even look at that this time but I wouldn't rule it out in the future. I looked over the list and I commented on 10 of the materials and basically we supported all the other recommendations except for these 10. I don't know if I said that in here but that's what I meant.

Of the 10 that I commented on, basically all the problems are due to language of the annotations, some confusing interpretations that have been made about some of these categories of materials, and also some poorly worded language in the way it's listed itself. All these things are almost like technical fixes.

Some of them have been subject of

previous Board recommendations. You already recommended to fix these things. It's like how many more times do we have to kick this down the road before we make these changes. This would ideally be a good time to do that so I just wouldn't rule it out in the future.

Okay. Getting to the list. Starting with crops, aquatic plant extracts. You've heard a couple of comments. This is a really confusing listing. It has always been a confusing listing. We've had a hard time enforcing it. Now it's troubling because we thought there were several petitions in the works on extracting materials.

An issue had been raised about what does it mean other than hydrolyzed. Then also it says the process is limited to the use of just these two solvents, potassium hydroxide or sodium hydroxide. I don't know what other than hydrolyzed means. I understand that, you know, it wasn't exactly what the NOSB thought.

It ended up in the minutes but no one really knows what it means. We have no guidance on what is necessary for extraction so we have products with no extractants on the market. We have products that end up with a 20 percent of potassium K2O guarantee on the label. Obviously for different products some is necessary and some is not. There are different obvious effects of these products but we don't have a good understanding of how to enforce this annotation.

And also a compounding problem is NOP has issued a letter saying that what they think this annotation means is not that only potassium hydroxide and sodium hydroxide are allowed but that anything else can be allowed as long as it's not mentioned as prohibited. They have interpreted to mean that any amount of phosphoric acid could be used in an aquatic plant product.

We have kelp manufacturers who are arguing that they can put phosphoric acid in

there because of this letter which is posted on the petition substance database still. If you don't do anything else, I would really hope you could clarify what this annotation is supposed to mean to us now because I think the original Board had one idea what it means. NOP isn't saying that this category listing means that all kinds of things could be in there as long as they are not spelled out. It's just backwards. We need clarification and this would be a real good time to do it.

Hydrated lime for crop disease control. CCOF has filed some really good comments on this. I think there is a lot of use for hydrated lime in crop protection. We don't have very many materials for use as fungicides in crop protection. It is very important to the tree fruit industry, to the wine grape industry.

I don't really see a valid justification for taking it off at this point. You could call it a mineral as an off the

category. I don't think there is a real conflict with it being on the list. This was one that was kind of skewed up originally as listed. The original annotation said something about copper because originally the Board proposed this as being part of bordeaux mix so you could tank mix your own bordeaux mix which is hyradated lime plus copper sulfate.

It was important to have both those elements on the list. I'm not sure why the committee wanted to take it off but I think it's really highly needed and you should check in with some of the tree fruit people about the lack of alternatives.

Now, chlorine I have comments about on all three areas, in crops, livestock, and production. As I mentioned, there was a report done and a recommendation done in May 2003 where you have a detailed recommendation on chlorine. At this time the Board recognized that the language is confusing.

Words were left out in the original rule writing. It's not clear that water in contact with crops is supposed to be at this safe drinking water level and so the Board proposed this language. I don't see why now is not a good time to look at that to make that correction. You have already commissioned a TAP report. You already made the recommendation. I think you should take all that into advice.

Right now we have very widely inconsistent ways of applying the chlorine restriction by different certifiers. Some people because of NOP interpretation are testing the waste water that is going into the ground. Some people are testing the water that is going under the crops. The Board recommended they test the water after the final rinse so they could use chlorine but they would have to rinse it. Let's just get it standardized because it's really all over the map right now and I think this would be an

excellent time to do that.

I did recommend some adjustments under the livestock and processing section because we do have some conflicts with state laws on dairy sanitation where they can't rinse the chlorine after it's in a milk pipeline. I think there should be an exemption for when a state law requires that you can't rinse it and just leave it at that and that would make a lot -- basically I think certifiers are looking the other way now. People are not rinsing chlorine and dairy lines because they can't. There is a question whether those laws would preempt federal but let's just make this clear so people are doing the same thing.

Okay. Let's see. Next on the list would be moving onto livestock materials. I pointed out that iramecton you had also recommended a change in the annotation back in November of 2000 that was sort of lost in the midst of time but that was due to some

concerns that were brought up at the meeting after the material was originally recommended that the slow release formulations are persistent in the manure and the dung and that they would be harmful to the soil. Those type of slow release bolus formulations should be prohibited. That never got in.

Skipping on, hydradated lime as an external treatment. We have PCO growers that are using hydradated lime as a topical treatment for hoof rot and hairy heel wart. I've quoted some literature on that. I think this is a valid consideration. We have dairy farmers using it.

We also have reviewed a synthetic milk replacer that we found is compliant with the rules and recommend that it still be on the list. I agree that we can talk about what the emergencies are. It would be very rare that you would allow that use and we would require direct approval before we allow it but there are products out there.

It could use clarification of what synthetics are allowed in the milk replacer because we have made decisions that things like animal fats and amino acids wouldn't be allowed but if it had the normal types of electrolytes and other things allowed in organic, it would be allowed.

Okay, I talked about chlorine. Processing, flavors and colors. I support the OMRI statement and I also support what Gwendel Ward has written, some very good comments on flavors. The problem with colors as a certifier is if you just put it back on, we don't know what a color is, I mean, what a natural color is.

There is no definition. If we have to do a case-by-case review of every color and do a decision chart, it is extremely problematic. Also, the fact that it's on the list as a category is very problematic because NOP keeps saying that things there on is a category include everything that is used to

formulate them.

You know, under FDA definitions of these colors there's all kinds of solvents, extractants, etc., that are allowed in the formulation. We need more guidance on do you really want to allow all those solvents and carriers and synthetics in with the so-called natural colors? We don't know how to read that. We rely on the NOSB TAP reviews and decisions to help us identify what we are allowing and not allowing. My time is up.

Oh, one other thing. I'm going to hand in this comment from the National Lime Association who faxed this to me when they read my comments. They are in support of lime. Another point I would like to make from here is they point out that there is no EPA registration of hydradated lime as an external parasiticide so that is like a technical correction that should probably not be listed as an external parasiticide in the livestock section. Any questions?

CHAIR O'RELL: Andrea.

MEMBER CAROE: Well, I actually have a comment. I would kind of like to get a comment from the program. My understanding of sunsetting a regulation is considering it for continuation. Nowhere in my understanding of sunset does it consider any alterations of the regulation. Clearly I think what we had posted in the federal register was the sunsetting of these materials as is listed.

Also, I would like to consider if we were to make alterations to annotations at this time, I don't really feel like we are giving fair notice that is being done and we are not asking for any comments. If this Board were to consider tomorrow voting on an annotation change, we have not given any notice that is coming and that is not appropriate, I feel, in the regulatory world.

Maybe, Toni, you're the best one as a regulatory writer to address this.

However, the one thing I do want

to say is that anytime we can consider a petition for removal of a material, and they do have priority over adding a material, that is not a process that has ever gone.

MS. BROWN-ROSEN: I know there are several petitions in there on aquatic plant products. We would have thought they all would have been considered at this time but it didn't happen, you know.

MEMBER CAROE: It's not that it's not going to be considered. It's just not part of this sunset process. It's not that it shouldn't be considered. Yes, I understand and I agree with you completely that some of the annotations are poorly worded and could be better and maybe are antiquated. However, I don't feel that is part of sunset and I'm pretty vehement about that. In our process we are looking at the continuation of a regulation as it is written.

MS. BROWN-ROSEN: I read the Federal Register notice pretty carefully.

There is nothing in there that said annotations couldn't be addressed.

MEMBER CAROE: But it does say sunset and sunset implies that.

MS. BROWN-ROSEN: Sunset is described as a review by the NOSB of all exemptions and prohibitions as found on the national list. Now, I consider the whole listing as an exemption, you know. The exemption is not just chlorine. It's chlorine used in such and such and such and such. It was voted on together as a whole. The Board wouldn't have approved some of these things if they didn't have those restrictions.

If you are voting to review the exemption that allows something, you really need to look at the whole thing. Maybe there's various legal interpretations here. I understand now it's kind of late in the game but I just don't want to rule it out in the future.

CHAIR O'RELL: Arthur wanted to

respond and then Kim.

MR. NEAL: I'm referring back to the recommendation that the Board made concerning reordering or restructuring the national list. That is going to impact aquatic plant extracts allowed on the other list. To act on aquatic plant extracts, as I know some of the comments have stated, it really would be premature at this point, especially depending on what that particular recommendation is suggesting. It is suggesting listing individual synthetics that are used in the manufacturing of that product.

MS. BROWN-ROSEN: How about the chlorine where you already have a standing recommendation? I mean, there has been plenty of comment on that.

MR. NEAL: What will probably have to happen is NOP will have to respond because that particular -- the way the chlorine is listed in the final rule today it had actually gone through rulemaking, both proposals.

NOP's position had never changed throughout that rulemaking process.

The issue that people have expressed concerning is, I think, reducing the amount of chlorine that can come in contact with the food to four parts per million. That is addressing the preamble of the final rule so we are going to have to respond to that.

MS. BROWN-ROSEN: Okay. Thank you.

MEMBER GIACOMINI: Question, Mr. Chairman, a clarification for Arthur. Would it be possible in the structure, granted I'm new at this and I haven't seen even a full year's worth of the process of what goes on in the Board, but it seems like a tremendous amount of time and displacing of other work is done in the sunset process.

In the restructuring of the national list would it be possible to jockey to sort of break up the national list like we do in appointing Board members so that it

wouldn't be quite as much of one workload at one period of time?

MR. NEAL: That process will actually be handled by an OP because the recommendation has already come forth through the National Organics Standards Board as a recommendation to the Secretary. The program would have to take that recommendation and then begin drafting a proposed regulation to deal with it. We would probably consult with you as we are doing.

MS. DIETZ: Hi. I'm Kim Dietz. I serve as materials chair for three or four years. I'm a past NOSB member from 2000 to 2005. I was going to say this as part of my public comment but after Emily's passionate speech about annotations, this Board has a document out there somewhere. It's a material review process for the sunset and we spent at least two years on this document in collaboration with the NOP.

I believe it's about three or four

pages long and exactly what should happen and shouldn't happen through the sunset process. The issue of annotations was discussed many, many, many times. As past materials chair every time I got to open my mouth I would say if people want to change an annotation they need to petition to change it.

I think that this Board should stay consistent with that message. There is a process. You can do it at any time and anybody can petition to change an annotation or to move a material and it has been discussed so I encourage you to pull out that document, read it, alter it where necessary but the issue of annotations shouldn't be changed in the sense that you are going to bog it down. It is a one-year process to move a lot of materials through. If you start looking at changing or moving them around, it's just going to bog it down even more.

CHAIR O'RELL: Yes. Thank you, Kim. Those past Board members and the current

ones that were on the Board at that time knows we went through that debate and the rules of engagement and had those discussions and it was clear from the Board's perspective that we were not dealing with changes of annotations and we have encouraged the public at times when they have these issues please file a petition.

MEMBER KARREMAN: Just one minor thing. I think the slow release of the ivormectin is no longer on the market so I wouldn't worry about that too much, Emily. Then just as far as the chlorine in the wash water in the milk room for dairy, you know, which would be the more strict law, the federal one or the state one with the public health implications?

MR. NEAL: You're asking which restriction is the most?

MEMBER KARREMAN: Yes, because doesn't it usually go whichever is the most strict wins?

MR. NEAL: No.

MEMBER KARREMAN: I mean, a state law can be stricter than a federal law, right? It's something to think about.

MR. NEAL: Let's think about that offline.

CHAIR O'RELL: I would really like to get us to understand how many more -- we're halfway through our public comment period so we have a long ways to go. We are going to be here late at night so I would just encourage the Board let's get through public comment.

Let's ask specific relevant questions of the speakers. If we have debate within ourself for discussion, this is not the time and place so we really need to move forward. We are going to take a break here after a couple of speakers. It will be about two hours since we convened from the last break.

Lisa McCrory and then Sara Flack would be on deck.

MS. McCRORY: Hi. My name is Lisa McCrory and I'm a dairy and livestock technical advisor with NOFA Vermont. I want to thank you for this opportunity to speak today. I want to thank the NOP and the NOSB for making this happen. I think the pasture symposium over the last day has been fantastic. It has been nice to hear all these wonderful speakers, resources coming all in one room and sharing their experience so thank you very much for giving us this opportunity.

I am a dairy and livestock technical advisor for NOFA Vermont representing a membership of 1,053 of which over 600 of these are farmers. I have been working with farmers for over 15 years helping them to develop and improve their grass-based systems providing technical assistance for those farms interested in transitioning to organic dairy production and providing ongoing technical support to existing organic dairy producers as they continually strive to

improve their systems.

NOFA Vermont fully supports the NOSB recommendation that states that all ruminants over six months of age should harvest or graze 30 percent of their dry matter needs from pasture for a minimum of 120 days per year.

The NOSB recommendation also clarifies that the producer of an organic operation may provide temporary confinement for an animal because the animal's stage of life and that the producer of an organic operation must not prevent dairy animals from grazing pasture during lactation. Is it possible for the NOP to implement a measurable minimum dry matter intake requirement from pasture?

The way that this minimum requirement is to be measured should be up to the certifiers, farmers, and other resource individuals in the field. We know how to do it. The NOP in its accreditation process can

verify that the dry matter intake requirement is being met.

The OFPA established the NOSB to provide guidance and recommendations regarding the implementation of the NOP rule and in evaluating substances for inclusion on the national list. Farmers in Vermont trust this 15-member Board because of their expertise and experience in organic farming. The NOSB continues to create reasonable guidance documents that are not acted on by the NOP.

As we have done in the past NOFA Vermont would like to restate our support for the NOSB's role in providing these guidance documents and ask the NOP to act on these recommendations in a timely manner.

I would like to read to you a few of the NOP final rule citations relevant to pasture supporting the fact that it has always been the intent of the NOP that organic dairy products should come from farms raising their cows in edible pasture.

205.2 pasture, land use for livestock grazing that has managed to provide feed value and maintain or improve soil, water, and vegetative resources. 205.203, soil fertility and crop nutrient management practice standard. (a) "The producer must select an implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion."

205.237(a) under livestock feed, "The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products including pasture and forage that are organic produced and, if applicable, organically handled."

205.239 under livestock living conditions, (a), "The producer of an organic livestock operation must establish and maintain livestock living conditions which accommodate the health and natural behavior of

animals including Part 2, access to pasture for ruminants."

Lastly, the presentation Market Expectations and Perceptions by the Natural Marketing Institute was presented unfairly in reference to pasture and its importance to consumers of organic dairy products.

When one looks at most organic milk cartons, as Mark Kastel had passed around to everybody, in bold print one often sees statements saying, and I'm paraphrasing, contains milk from cows raised without hormones or antibiotics. Those are all big, bold words that we as human can remember that word and burp it right back.

The other thing that goes on the cartons are visual images of cows grazing on pasture. Now, if I was asked to repeat exactly what I saw, I don't have a word that immediately pops to mind because pictorially we are all going to have our own impressions. As consumers what they are thinking they are

going to repeat what they read on the cartons, "No antibiotics, no hormones," blah, blah, blah.

But there is rarely any information that says, "raised on pasture," or "pasture raised." If there is anywhere in the carton, it's in very minute print. It doesn't compare so I think that was very unfairly represented. I feel that this representation of what is or is not done on an organic farm determines how this information is retained in the minds of our consumer audience.

For this reason, the fact that questions pertaining to pasture and its importance to organic milk production were not asked was a disservice to the USDA in its attempt to learn what is really important to its consumer market. Thank you.

MEMBER KARREMAN: One question. Is that okay?

CHAIR O'RELL: Okay.

MEMBER KARREMAN: Regarding the

120 days, 30 percent, and then I brought up three other options that I asked the certifiers like to accommodate different geographic areas in the country. How do you feel about that like if you had to choose? Since there's two right now, you are going to have to use 120 and 30 percent, let's just say. What if there is a choice of two out of five just so it accommodates people in other areas of the country?

MS. McCRORY: I don't understand what those two out of five would be.

MEMBER KARREMAN: Okay. The only one would be cows are out on pasture eight hours a day. The next one would be a percent biomass. The other one would be cows per acre. Okay? Now, so the question would be, you know, could people pick a minimum amount of them to fit their region because what if they have full intent but it's like really hard to get that 30 percent, let's just say?

MS. McCRORY: Personally, I think

that unless everybody is following exactly the same thing, which is what we are telling our consumers and what the whole intention of the National Organic Program was, if we are saying pick two out of five, pick three out of five, but not everybody is following all five, then I think that misrepresents the intent of the standards.

I think we've got to keep it simple to the best of our abilities and it should be a standard that's measurable that everybody follows. These are minimum standards. Obviously you've heard from many people that are going way beyond the minimum threshold that we are recommending.

MEMBER KARREMAN: Thank you.

CHAIR O'RELL: Sara Flack. Next up Nicole Dehne.

MS. FLACK: Thank you for the opportunity to speak today. I'm Sara Flack with NOFA Vermont and speaking on behalf of over 1,000 members of NOFA Vermont. With our

NOFA Vermont's Organic Dairy Technical Assistance Program we work with over 110 -- it's actually approximately 110. They are certifying so fast it's hard to count.

As far as I know we have 110 certified organic dairies in the state right now and there are 30 who are in transition who will complete their transition by the end of this year. We are providing technical assistance to them as well as a whole lot more who are thinking about going organic.

I've got over 15 years of experience helping farmers set up grazing systems and transitioned organic and about 10 years of doing organic inspections.

So at this time with the rapidly increasing interest from farmers wanting to go organic and demand from processors, it is becoming really important for us to have clarity on two issues that I want to address today. One is the definition of pasture and the other is the origin of livestock on

organic dairy farms.

I'll address pasture first and if I have time, I'll get to the origin of livestock. NOFA Vermont supports the NOSB recommendation on all animals over 6 months being 120 days on pasture where they are getting 30 percent of their daily dry matter intake. I think this is a measurable and also minimal standard to be met.

Within this requirement I want to say additional clarity is needed that the lactation is not a stage of production. A large majority of organic dairy farms are already meeting this standard. Certainly everyone in Vermont is.

I think this standard of 30 percent of daily average dry matter intake on pasture during 120 days can easily be verified by an inspector using at least two different methods of calculations based on daily average dry matter intake for a group of animals. These methods of calculations are already

commonly in use and not just in Vermont.

In Vermont on our organic system plan that all of the farmers have to fill out, much of this information is already collected. VOF, the certifier in Vermont, now asks farmers for their field records which includes how much forage is harvested as well as purchased feed records for all of the grain and forage that's harvested.

Then also information on the average pounds of feed fed of each of these different types of feed during the winter months and during the summer months to the whole group. Sometimes it will be multiple groups but it's done on an average group basis.

So this is not a complex individual animal record keeping system for feeding. It's just average pounds of feed per day per cow to whole groups. There is not going to be a large additional record keeping burden for either the certifier or for the

farmer. This allows the inspector before they get to the farm to calculate the percent of dry matter from pasture during the summer just by using a simple subtraction method.

Then this can be confirmed by the inspector if they feel that they need to once they get to the farm if they feel like the farmer is not meeting the 30 percent during the 120 days. Then they can go to one of the additional methods which would be more complicated as part of the audit process.

So I'm going to quickly go to the second item that needs clarification which is on the origin of livestock. NOFA Vermont supports a clear requirement that all dairy animals need to be organic from the last third of gestation once the farm has completed its one-time whole herd conversation. And that the allowance for the conversion of nonorganic animals should be permitted only for that one initial per farm initial herd conversion, not for continuously bringing in transitioned

animals.

If farms are permitted to buy nonorganic animals, then the young stock may potentially be fed GMO feed or other materials that consumers will object to. In summary, at this time clarity on these two issues, both the definition of pasture and the origin of livestock, are really urgently needed and they are not currently provided in the National Organic Standards.

I think this clarification is needed in order to protect the continued growth of the organic dairy industry by maintaining consistency from certifier from certifier and assuring consumer trust and the integrity of organic foods. Thank you.

CHAIR O'RELL: Thank you. Questions?

MEMBER KARREMAN: Regarding the origin of livestock because that is the next hot issue right alongside with the pasture because of the Harvey case, there was a farmer

in Idaho. I think he just got certified with 200 or 300 cows. He had an idea and I just want to see what you think about this.

Everything has to be from last third gestation once you are certified organic, but to have just a little bit of flexibility but to keep the intent of the last third of gestation but to have some flexibility you could have, let's say, five or 10 percent in a year coming from other cattle so they are managed for the last 12 months before they milk.

I thought that was kind of an interesting option because 90 or 95 percent would have to come from the last third but you would have that little room for genetic improvement or if you had some horrible disease outbreak you could replace animals quickly or more quickly. Any thought on that? I just popped it on you.

MEMBER GIACOMINI: Just for a statement since we have a minute, I believe

that would be similar to what is listed in IFOAM where they have a maximum expansion standard.

MEMBER KARREMAN: Okay.

MS. FLACK: My official answer to that question is I'm really hesitant to create anymore kind of gray areas and loopholes in the standards. I feel like this one really needs to get cleared up right away. I think certainly in the northeast I'm not seeing a shortage of organic heifers or calves. I mean, it's quite the opposite.

They are all going out on the conventional market. I think if we can really hold to this rule that it may be tough for a few producers for a few years. I don't see it as a huge obstacle. I actually see what it will do is create a big market for all of these dairy farmers now who are selling really nice organic genetics who can't find a premium price for it to start getting a premium price for that. I think it will just help the

overall industry as a whole. I wouldn't support any sort of exclusion or loophole there.

CHAIR O'RELL: Thank you. Nicole and after Nicole speaks we're going to take a break and on deck Leslie Zuck is on deck, Blake Alexandre, Erin James. We are going to have a short break, I think, if the Board agrees, 10 minutes and then get back.

MS. DEHNE: Okay. Great. I want to thank the NOP and the NOSB for the opportunity to speak today. I am Nicole Dehne, the certification administrator for Vermont Organic Farmers, or VOF, which is a USDA accredited certification agency. I am speaking on behalf of 366 certified producers, 110 of whom are dairy producers and 56 of whom are livestock producers. There are several points I would like to comment on today.

The first is to reiterate what Lisa was saying, that the Organic Food Production Act established the NOSB to provide

guidance and recommendations regarding the implementation of the NOP rule and in evaluating substances for inclusion on the national list.

Farmers in Vermont trust this 15-member Board because of their expertise and experience in organic farming and in the organic industry. The National Organic Standards Board continues to create reasonable guidance documents that are not acted on by the NOP. As we have done in the past VOF would like to restate our support for the NOSB's role in providing these guidance documents and ask the NOP to act on these recommendations in a timely manner.

The Court-ordered changes stemming from the Harvey vs. Veneman lawsuit have presented the organic community with an opportunity to clarify the NOP regulations concerning dairy herd conversion and origin of livestock. VOF believes that the allowance for conversion of nonorganic dairy animals

should be permitted only as a one-time whole-herd transition. After the transition all certified operations need to manage their animals organically starting from the last third of gestation.

Currently all of 110 certified dairy farmers are abiding by the standard in Vermont. The preamble to the rule clearly states that this was the intent of the law. If farms are permitted to buy inorganic young stock or to continually transition in stock to organic, this allows animals under 12 months of age to potentially be fed GMO feed, feed treated with hormones or antibiotics, or fed slaughter byproducts. This is in, as you know, direct contradiction to the NOP rule for livestock fed and healthcare.

To clarify that, the NOP rule requires that animals brought into a certified operation must be raised organically starting from the last third of gestation would provide consistency among producers and certifiers.

It would not require a significant change in management as is currently the practice for a large majority of organic producers.

Lastly, I would like to comment on the role of pasture in the NOP rule. Additional clarity is needed on the definition of pasture. The NOSB recommendations provide this clarity and give producers and certifiers a clear and enforceable rule. VOF supports the NOSB recommendation that all dairy animals over six months of age need to meet a minimum requirement of 120 days on pasture and 30 percent dry matter intake per cow per day.

This recommendation as a minimum requirement is a standard that has been agreed upon by producers from around the country as we heard today.

Some of the certifiers on the panel today talked about the fact that they did not have dairy standards prior to the NOP. Vermont began certifying dairies in 1988 and our dairy standards included pasture

regulations that required ruminants including dairy animals to harvest 50 percent of their dry matter intake from pasture. That gives us an historical context.

It is important to remember that the flexibility to temporarily confine animals from going out on pasture due to inclement weather, stage of production, and health, safety, or well being of the animal, a risk to soil and water quality already exist in the rural and provide producers with the leeway to make management decisions about when to confine.

However, it must be made clear that lactation does not qualify as a stage of production. The clarification of these issues is urgently needed. By doing so the NOP will establish consistency and fairness amongst producers, strengthen the consumer trust in the organic label, and return integrity to the organic standards. Thank you.

CHAIR O'RELL: Thank you. Any

questions?

Leslie, we were going to -- oh. Okay. It's timely? Okay. We can accept that.

MS. ZUCK: Hello. I'm Leslie Zuck and I'm -- try again? I'm Leslie Zuck, Director of Pennsylvania Certified Organic and I really want to officially welcome everyone here and we are really honored to have you. I'm going to defer my comments until tomorrow but I did want to make an announcement that we have a few activities going on out in the lobby. Sam Fromartz is signing is book, "Organic, Inc." and Jim Pierce is going to be there. He's quoted in the book. I'm not going to tell you what his quote is. You will have to read it. It's on page 188 but he's going to be playing his guitar.

CHAIR O'RELL: He already read it. He gave it to us.

MS. ZUCK: Oh, he read it? Okay. I missed that part. Anyway, some of you are

in the book so you really ought to read it just to see what he said about you. Right now at the break we are going to lead -- since everybody has been sitting around all day people who aren't on the Board and can get away, we are going to lead a hike up Mt. Nittany and get some exercise. We are going to leave at 6:30 immediately after my announcement here from the lobby. Everybody is going to leave and you guys can stay. We could bring you some pizza back or something.

I just wanted to point out that we have this list of restaurants and local food places, places you can buy local organic food to eat to take home with you, souvenirs. It's on the desk outside in the lobby. Please make use of that and we are here to answer your questions or anything else you have need for. Just let us know.

CHAIR O'RELL: When are you bringing the pizza?

MS. ZUCK: When we come back from

the hike. Thanks.

CHAIR O'RELL: Thank you, Leslie. Okay. We'll take a break for 10 minutes and then let's get back and get going. We've got a lot to do.

(Whereupon, at 6:26 p.m. off the record until 6:43 p.m.)

CHAIR O'RELL: We have a quorum. We are back. Blake Alexandre. Probably not too many people are going to hear this because most people are still out there but what I was going to do is just ask people, plead with people that if there is any way they can kind of abbreviate their comments. We are not going to try to limit comments to three minutes but we would like if voluntarily you can make your point and help us out.

Otherwise, we are going to be here for a long period of time. If somebody else has already made comments very close to what you want to do, just give it support and if you can be concise, we would appreciate it

because we do want to accommodate everybody. Blake, Jim Riddle, Kathie Arnold are the next up. Blake.

MR. ALEXANDRE: Okay. Again, thank you. I will try to just cut to the chase here. I said most of my stuff this morning. The words and some terms I haven't heard today in regards to the pasture issue. Again, I'm speaking on behalf of the dairy and the pasture and supporting the 30 percent and supporting the 120 days.

I'm supporting it based on the organic principles and the original intent of what I believe organic is supposed to be. I mentioned it this morning and I want to reiterate that. And I look for something to some out of this. I started participating in this process a year ago in Washington, D.C.

I thought that we made headway there. I thought that the NOP responded, the Board responded. We ended up with some rules and some guidelines. I hope that's the path

that we're going down. I want to see those guidelines become rules that are enforceable.

The issue I want to bring up right now is in California where I'm from we've got issues where certifiers need to be backed up. We need to implement and enforce the rules that are currently on the books and those guidelines and we have discrepancies. I don't know the answer and I don't know the direction that we need to go but I think it's going to fall on the NOP.

I'm here to say that it is a problem out there. I function under a different set of rules than my neighbors do and the certifiers are going to the state of California or somebody is kind of coming in the back door and the state of California is allowing something that my certifier won't allow and my certifier's hands are kind of tied. Then there are other certifiers that are interpreting the rules differently and allowing other things to happen. It's a real

mess and I hope that we can get that resolved eventually.

Along those lines, Hugh, one of those comments you mentioned that the exemption for cattle coming into the herds, I'm certified under the IFOAM or international laws and we have a 10 percent loophole where we can bring in supplemental heifers. That already exist on that side. I don't know if I agree with it or not. It has worked for me to grow. I won't need it next year and it probably won't matter in the future. I don't know what to say about that. That is my personal opinion on it. Any questions?

CHAIR O'RELL: Thank you very much. Appreciate your comments.

Jim Riddle and then Rick Segalla. Let's see.

MR. RIDDLE: Yeah, Jim Riddle and Valerie has my written comments. There's two different documents that she'll be passing out. I do have a proxy. I am the Organic

Outreach Coordinator at the University of Minnesota. In that capacity I would like to invite you all to the first ever IFOAM international conference on animals and organic production. You will be getting a registration form in the things that are being passed out.

I have also officially invited Mark Bradley to be on a panel talking about standards. I am very excited. One of our keynote speakers is Dr. Temple Grandin who is just a dynamite speaker. Yesterday was the close of the abstracts being submitted and we have papers coming in from all over the world so it is really going to be truly a landmark event in August at the St. Paul campus.

I am a recent graduate of the NOSB. I really appreciate the opportunity to serve but it feels great to be on this side of the microphone. You all have something to look forward to in life even though some of you are just starting your term. The

remainder of my comments will reflect my own positions as well as those of Joyce Ford, my wife and President of the Board of the Midwest Organic and Sustainable Education Services.

I have already submitted written comments by e-mail on April 10th. Those should be in your packets. I'm not going to go through those but I will summarize those. In particular the issue of natural colors. I will try to be even briefer than what I have on paper because other people have mentioned it, but it is important to note that the Board never recommended natural colors be added to the list. There was never a petition, never a TAP review until this combined supplemental for the sunset process. The evaluation criteria even now have still not been completed and posted to show how natural colors comply with all of the criteria in the law and the rule and so I think this is not the proper process or procedures.

There is no standard of identity

for natural colors. As has been mentioned, they can contain any number of synthetic substances such as hexane and I encourage the Board to either defer the substance and fill out those evaluation criteria properly or reject it and let it be sunsetted.

On chlorine there's been quite a bit of talk about annotations being changed. I want to point out that the annotations currently in all of the listings, 601, 603, and 605, are different from those that were originally recommended by the Board. This has caused confusion and inconsistency and one of the purposes of the Act is to have a consistent standard and this is undermining that very purpose.

The Board, all of us, already voted in 2003 to correct those annotations. That was not a sunset, that was more of a sunrise recommendation because they just became official in October 2002 and we already in May of 2003 recommended to correct those.

I do think that is one item that is fair came for changing in this process because we already have a standing recommendation that needs to be responded to from the NOP.

We had never gotten an official response to that. On commercial availability I see that as the most significant item on your agenda for action at this meeting. I think your draft is good but it does still need to be improved.

In the information to be included in a petition, and I will read this, because your recommendation currently says that, "When petitioning for inclusion on the national list of nonorganically produced agricultural products, the petition must state why the product should be permitted in production or handling of an organic product.

Specifically the petition must include current industry information regarding availability of and history of nonavailability of an organic form of the product and all

factors that may present a challenge to a consistent organic supply. That's it. That's vague. If I'm a petitioner I don't know what that's asking for.

I think there should be a precise list of the information that you need to have submitted to you because it's this Board that makes the determination that something is eligible and should be placed on the 606 list. Yeah, you've got good recommendations about what the certifier has to do on a case-by-case basis and I support those but I do think more precise instructions are needed to petitioners on exactly what they have to submit.

The earlier draft and the comments I submitted by e-mail have a list of those. I think they are clear. They are not burdensome. Any petitioner should be able to follow those and submit that information to give you the kind of information you need to make an informed recommendation to the program.

Then I encourage just a small change in what the Board would need to do with that information, that you would validate the petitioner's information in part of your review. You are looking at the form, quality, and quantity but I would advise that while you are setting this up that you establish some criteria for what is meant by form, what is meant by quality, what is meant by quantity in your eyes so that you and all future Boards can make consistent predictable determinations that carryover from substance to substance and petitioner to petitioner.

On synthetic substances NOP has done a really good job of responding to the NOSB's previous draft on synthetic/nonsynthetics but there is one part in there that really bothers me and I think you need to respond to that. That is it states that a formulated substance is not synthetic if it contains only synthetic substances on the national list.

Now, I don't get that. I don't know how you can take synthetic substances and magically have them be nonsynthetic just because they are on the national list. I think that is mixing up the materials review process with the process of certification of a processed organic food. I think these are two totally different topics and that needs to be corrected so your nonsynthetics are only formed of nonsynthetics, not synthetics.

On future rulemaking issues there will be some new rulewriting in the short term coming out, especially from the court ruling and the change to OFPA last fall. On the issue of synthetic ingredients, you need to be aware that Section 6504 of OFPA requires that organic products shall have been produced and handled without the use of synthetic chemicals except as otherwise provided in this title.

Now the amendment allows the use of synthetic ingredients on the national list but not synthetic processing aids and other

synthetic substances. I think that's a bit of a problem because approximately half of the substances currently on 605(b) are processing aids, they are not ingredients. I think that has to be addressed.

In dairy conversion you'll have the last third transitional feed farm raised now being allowed but there needs to be a verification of transition of the status of that feed because now it will be fed to organic animals so it needs to be inspected and certified during that third year of transition so that needs to be accounted for.

You've already heard comments on the replacement stock. I think that also has to be addressed at this time. It's a huge issue and if you are allowing conventional replacement stock on a continuous basis, you are allowing young stock that have been fed GMOs, slaughter byproducts such as blood, serum, fats, may be treated with antibiotics and hormones.

As you saw on the marketing survey, antibiotics and hormones are at the top of the list of what people are buying organic dairy products from according to that one survey. It also undermines the market for organic young stock totally. Why would anybody raise organic young stock if there is no market?

Last, on the pasture requirements I want to thank NOP for putting up the ANPR and holding the pasture symposium. I think it's clear from the speakers that there are numerous health benefits for the animals and that grazing is the natural behavior of ruminants. These are both requirements of 205.239(a) of the regulation.

Pasture is a keystone issue when it comes to integrity, when it comes to confidence, and people buying other products. We don't want to kill the golden calf to mix metaphors here. You need to look at the principles of organic production and handling

that the Board has already adopted. The rule already has numerous quantifiable numbers so this would not be anything unique or unusual. I give examples of that. I'm not going to repeat it. I just encourage it to be dealt with in a timely manner. Thank you.

CHAIR O'RELL: Thank you, Jim. I think we have a couple questions.

MR. RIDDLE: Okay.

CHAIR O'RELL: Andrea.

MEMBER CAROE: Just a quick comment on the commercial availability language that we propose. You need to look at the rest of that document because that information for petition also addresses petitions for other lists. That level of detail is consistent if not more detailed than the information that is requested for a material to be listed. In order to fit into that document, we propose language that is similar. We did have language that was a lot more detailed. It was not appropriate in that

document.

MR. RIDDLE: I understand and I have done that. Some of it is redundant or it would have been redundant, kind of the name, rank, serial number type things. There are others in our earlier draft that are unique information for commercial availability determinations that I think the petitioner needs to know because other the Board in the future could be accused of making arbitrary and inconsistent decisions unless you've got better information feeding into the process.

MEMBER CAROE: My point is that when we are considering a material for crop input the level of information that is requested in that document, information for petitioning, is just as brief, yet we do consider a lot more information in the petition process.

That document has a very brief description of information to be provided. That does not mean that is all the information

we would look at. There may be a further-on document that spells that out but it was not appropriate in this document to lay all that out when for other lists, which we look at with the same level of scrutiny. It wasn't laid out in that detail.

MR. RIDDLE: And the Board already has made a recommendation to improve that petition instruction document to get more information and more consistent information for all of these inputs.

MEMBER CAROE: At that time that would be a good place and we have that information.

MR. RIDDLE: I think now is the time myself.

MEMBER CAROE: There's a lot going on.

MR. RIDDLE: Now it is being rewritten to be implemented and to me now is the time to get it right.

CHAIR O'RELL: Jim, thanks for

your comments. On the colors issue there was the evaluation -- the evaluation forms, the criteria forms, were completed. We are just looking online. They are not posted.

MS. FRANCES: They are at the end of sunset review. They are there.

CHAIR O'RELL: They are there.

MS. FRANCES: Actually they are there right now.

CHAIR O'RELL: But they are at the end. Okay. They are where?

MS. FRANCES: Because we didn't have a special line for it in the agenda because of the way --

CHAIR O'RELL: They are at the end of this document.

MS. FRANCES: They are at the end of the actual technical review for colors.

MR. RIDDLE: Attached to that supplemental tab?

MS. FRANCES: Yes. If you

continue on, it's there.

MR. RIDDLE: That's a unique place for them.

MS. FRANCES: It was because of the way --

MR. RIDDLE: I'm sorry then. I stand corrected.

MS. FRANCES: It's because of the way the agenda was done ahead of time and that wasn't included at that time. We couldn't just change it so we had to add it in somewhere.

MR. RIDDLE: Okay. Yeah, it would have been nice if they would have been somehow added to the recommendation.

CHAIR O'RELL: I agree they are a little obscure because we were looking here for ourselves to find them because we knew that they were filled in.

MR. RIDDLE: Okay. I would like to take a look at them.

CHAIR O'RELL: There were some

last-minute things that were being put together with the agenda to get them ready.

MR. RIDDLE: I know what it's like to do last-minute things for the NOSB meeting.

CHAIR O'RELL: I apologize for the confusion but, yes, they had been addressed. I know that doesn't fully address your concerns but at least during discussion here we will have that for a Board discussion to go through that criteria. I want to make sure that we have those at least printed out in our books for the Board.

Julie, we can talk about that when we break to make sure.

MS. FRANCES: I'm doing that right now.

CHAIR O'RELL: Thank you, Valerie.

MS. FRANCES: I'll have everything up on the screen tomorrow so I'm downloading everything right this minute. Everything will be on the screen.

CHAIR O'RELL: I want to make sure

that all the Board members have it and have seen it as well.

MS. FRANCES: I'm going to print out all that stuff to make sure that everybody has it.

CHAIR O'RELL: Thank you.

On the chlorine, I certainly think going back and reviewing and looking at the 2003 recommendation and I believe that recommendation is the correct recommendation. I think maybe we need to take that up as a work issue with the NOP as to why there hasn't been action on that recommendation as opposed to tying it up and trying to change an annotation on sunset.

MR. RIDDLE: Yeah. Like I said, it's a pre-sunset. It's more of a sunrise.

CHAIR O'RELL: Okay. Oh, I'm sorry. Bea was next.

MEMBER KARREMAN: Go right ahead.

MEMBER JAMES: Thank you, Jim, for your comments on so many different topics. We

appreciate that. I wanted to ask you since you are affiliated with IOIA your opinion as to why Mark Kastel mentioned that there were 10 to 12 farms that were currently not practicing pasture grazing. With 205.237 in place, how is it that an inspector could allow certification if they are not practicing grazing with pasture?

MR. RIDDLE: Yeah. Well, first, just to correct one thing, the inspector doesn't allow anything. The inspectors, the fact-finder reports.

MEMBER JAMES: Or not noticed.

MR. RIDDLE: Well, I don't know that the inspector did or did not report on the findings in the amount of pasture available and assessed whether that complies with the rule. Not all inspectors are IOIA members or attend IOIA training, especially a number of state employee inspectors because they work for a different hierarchy. I can't answer that.

I can offer, though, that whatever comes out of this pasture discussion, rule changes, that IOIA will be an active partner in helping train inspectors if they need to understand how to do 30 percent DMI calculations. That is quite doable, especially on an average annual basis.

Then I did have one other comment related to that and there was a discussion earlier today about standardized organic system plans. For the new members on the Board, you should know that the Board already has adopted standardized templates for OSPs for crops and processing. ATTRA has been commissioned and is in the final drafting of a standardized OSP for livestock that will be gathering the necessary information about pasture.

MEMBER JAMES: Thank you.

MEMBER KARREMAN: Just real briefly, Jim, when you mention that with the new rule for feeding livestock maybe in the

third year you said that the feed needs to be transitioned. The transitional feed needs to be verified because it's being fed to organic cattle.

MR. RIDDLE: Right. Right.

MEMBER KARREMAN: They are not organic yet.

MR. RIDDLE: Right.

MEMBER KARREMAN: There should be like a preinspection like a year beforehand?

MR. RIDDLE: I think that would be a very good practice. With this new change in the law that feed is going to be fed during that entire year and at the end of that year that milk will be qualified as organic and if those farms are getting that preinspection, there is going to be a lot more confidence that the operators following the rules during that third-year transitional time period.

MEMBER KARREMAN: That's a good idea. Good luck with your first IFOAM Congress.

MR. RIDDLE: Yeah. Hope you make it. Thanks.

CHAIR O'RELL: Thank you, Jim. Rick Segalla. On deck, Ernest Martin.

MR. SEGALLA: My name is Rick Segalla. I'm a dairyman from Connecticut. I have approximately 100 certified milkers milking every day. I've been here before. I've spoke before you twice so far. Over the past few months I've taken the initiative to go across the country and I attended a meeting in Wisconsin and I went to the west coast to the Humboldt meeting. It was enlightening.

We listened to the certifiers out there and they had no clue how to really enforce the dairy pasture rule because somebody said they didn't have to do it. I think that's because of the fact that we have big dairies out there that aren't doing it and they are saying, "They're doing it and they are getting away with it and people know it and they are not enforcing it."

I really think that they should be given a letter of noncompliance as of now because, as you saw today, when Juan got up here all he did was skirt the issue of whether there was pasture provided for these animals. He came up with all kinds of excuses why they didn't have pasture but none to the fact that they were trying to work towards pasture. They have no intentions of doing the pasture unless they are forced to do it.

I listened to people coming around and stuff like that and they said, "Wait until the end of June. The rules are going to drop and you will be able to do this and be able to do that and the other thing that you can't do now." We are here to build a better system and not take down the one we have. I was amazed when I went out there and started to hear about this replacement issue.

I mean, coming from the northeast that is one of the basics for organic production. Once you start that transition,

every cow in your herd is in your herd and, yes, you are going to do 100 percent transition but animals in your herd are in your herd so when they turn a year of age they start doing the transition, too. It works right back to the calves. Those calves aren't going to be considered organic to start over until that mother is in the last third of gestation. I don't know where the confusion is on this. I mean, it's there. I mean, the northeast has read these rules and this is the way they have interpreted them. I come out here and everybody -- it isn't that the laws aren't there.

They are just finding loopholes to them. The lack of authority over here to give them a letter of noncompliance so they start working towards it. I mean, they can appeal the letter of noncompliance but they haven't even done that. You talk about integrity and there's none.

I mean, as I went around I could

see there was always this little loophole that they were trying to exploit. Those aren't the true organic producers. We talked about the Straus farm. He's got enough acres and touring around the country I saw a lot of creative ways to making the 30 percent of dry matter.

I think he could work towards it. Maybe he might get a letter of noncompliance for a year or two until he got the system worked out but he has to work towards it. I mean, you've got all these family farms that are dependent on the system to work. We can't let the ones with money that rule the roost here. Thank you.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: I want to thank you for coming back again. I know you have been very discouraged with how slow this process is.

MR. SEGALLA: I'll be back again probably.

MEMBER OSTIGUY: That's good because, unfortunately, democracy is very messy but persistence wins. I think we're getting there. Thank you for coming again.

MR. SEGALLA: Thank you.

CHAIR O'RELL: I actually missed a name because it was crossed out and scribbled on the side so Kathie Arnold. I'm sorry and I apologize. Are you ready? Okay.

MS. ARNOLD: I carry a proxy for Gerald Snyder who actually is on the list probably sometime later but he had to leave so he left me a little bit of a statement.

My name is Kathie Arnold. I'm an organic dairy producer in central New York State and also the Policy Committee Chair for NODPA. I'm putting on my Gerald Snyder hat who is an organic dairy producer from Alfred, New York. He says, "I appreciate very much the attitudes and spirit of cooperation as well as a sense of humor that has been evident these past two days of interaction between the

NOSB, the NOP, and all people participating in the symposium.

Thank you to every person who has made these two days possible. I support the 30 percent dry matter intake for 120 days per year and want to see all dairy animals raised organically from the last third of gestation."

Gerald also wanted to point out that on one of Mary Ellen charts up there where it showed a concern with organic feed was No. 2, he just wanted to remind people that pasture is part of that organic feed. That's at No. 2.

I was also asked by -- okay, Gerald Snyder off, Richard Swartzentruber on. He is the Co-Chair of the Northeast Pasture Research and Extension Consortium. He asked me to read a letter from the Consortium and the Consortium is a public/private partnership of Land Grant University Research and Extension people, USDA Agriculture Research Service, USDA/NRCS representatives, dairy

beef, sheep, goat, and horse producers, NGOs and agribusiness suppliers in the northeast. I won't read that letter but just say that basically they are supporting inclusion of specific numbers, 30 percent, 120 days in the rule.

Ned Arthur, statement from him. I'll just put it in the record. Then I personally would like to say ditto to all that's been heard about putting specific numbers in for pasture and the need for dairy replacements being organic from the last third of gestation.

I just want to clarify one thing a little bit more as to where the 30 percent, 120 day figure came from. Our discussion this morning on the panel may have left the impression that it was totally in Organic Valley initiative which is not the case. It may have originated with Organic Valley and their process, their nationwide process of farmers being involved in that decision

making.

In the fall of 2004 when H. P. Hood was readying to enter the organic milk market under the Stoneyfield Farms label, H. P. Hood's Vice President of Operations communicated that it would be very helpful to have guidance on what constitutes an appropriate base level of pasturing to require such for all their supplying farms, him knowing that pasture was an issue.

At that time NODPA started the extension discussion among farmers in the northeast and drew in NODPA and producers from the west as well. These producers were shipping across the spectrum of processors from Horizon, Humboldt, Organic Valley, H. P. Hood, and Natural by Nature out of which came the agreement that the 30 percent, 120 days was agreed to by the vast majority of farmers.

Then finally I would just like to say thanks to the NOP for commissioning and Mary Ellen Molyneux for doing the research on

pasture and organic dairy. What that highlighted to me was that organic dairy as in all organic production is a whole package. It's not just one or two traits. Thank goodness our sector has the top one or two concerns of antibiotics and hormones under our belt and down right and we don't have to work on those issues.

Even though pasture is a concern of organic dairy consumers was deemed statistically significantly lower in concern, still pasture being a concern of 72 percent of consumers in my book is a very significant majority of those consumers. Thank you.

CHAIR O'RELL: Thank you, Kathie. Any questions?

Next, Ernest Martin and on deck Steve Pechacek. Steve Pechacek. Is that close? Pechacek. Thank you. Excuse me. Zea is on deck next.

MR. PECHACEK: My name is Steve Pechacek. I am from Mondovia, Wisconsin and I

am President of the Midwest Organic Dairy Producer's Association, or MODPA. And also Organic Choice Milk Procurement which has more than 50 small certified organic dairy farms.

I would like to thank you for the opportunity to be here today. I would also like to thank you, the speakers, who spoke yesterday who basically confirmed what small certified organic dairy farmers who graze have known for years, and that is that cows are healthier in their natural environment and doing what they are created to do, graze pasture.

We have heard a lot about intent and intentions. I would just like to remind everyone of the old saying, "The road to hell is paved with good intentions." We have to be careful not to let individual who would take advantage of this privilege.

How will small family organic dairy farms who are legitimately grazing and following the standards continue to compete in

the future if new organic dairies are allowed to say they have the intent to follow the organic standards then choose or come from regions of the country where it is well known that a grass-space farm or pasture requirements cannot be met.

In 1948 there were 148 thousand dairy farms in Wisconsin. Today there are about 15,000. For many small family dairy farms organic farming is their last chance to survive. It is truly unfair for farmers who may have been on the land for five generations to compete with new organic dairies not following same standards that they have abided by for years. We just want a level playing field.

On behalf of the Midwest Dairy Producers Association and Organic Choice Milk Procurement we support and endorse cattle grazing on a minimum of 120 days on grass during the growing season and a minimum of 30 percent of their dry matter intake to come

from grass.

We also support all replacements being raised organic since the last third of gestation. This is being proposed as a minimal standard so that all regions of the country could comply. There has been a general consensus from NODPA, MODPA, and WODPA that the proposed is reasonable and possible.

Yesterday we heard calculated evidence from Kathy Sutter, Lisa McCrory, and others that said this proposal is achievable citing evidence of enough time in the day and even byte rates and byte mass. There are also other scientific reasons why we support these criteria.

The first reason is chlorophyll. Chlorophyll has been said to be the most powerful cleansing and purifying agent in nature. It detoxifies the liver in the blood stream. Chlorophyll is known as concentrated sunlight. Because it is almost identical to blood, and I have submitted a molecular chart,

chlorophyll is also known as the blood of plants. The only difference between blood and chlorophyll is that the molecular structure of hemoglobin is centered around iron and chlorophyll is centered around magnesium.

Chlorophyll is the substance that fuels all life on earth and helps deliver more oxygen to the body. Without chlorophyll there would be no plants, no oxygen, or humans. We've all heard the expressions "grass green" or "green as grass." Grass contains one of the highest amounts of chlorophyll of all plant species. Chlorophyll also has the ability to buffer acidity and stabilize pH levels. Low pH or increased acidity in the blood and body is a contributing factor to many diseases in both cattle and humans.

There is a very well explained book called, "The Battle for Health is Over pH" by Greg Ciola and Gary Tunsky. Diets of dairy cattle that contain large amounts of grains, concentrates, or famedifids, or even

stress can make the body acid causing a breakdown of the immune system and disease.

There are reports from dairy farmers who graze that have individual cows living to 20 years of age. It was reported by a speaker yesterday that the average lactation for a cow in confinement is 2.8. Many cows in confinement today are like people and do not get enough exercise. With more exercise cattle are also better able to oxygenate their bodies. Oxygen is required for such things as healthy cell regeneration, assimilation of nutrients into the cells, metabolic function, immune function, hormone function, digestion, and respiration.

There are also other things in milk from grazing like conjugbated lentil lake acid which is beneficial to human diet. This is why I feel most consumers are buying organic milk. We live in a world today controlled by governments and laws. If you break a law, you pay the price. Many people

forget that there are also laws of nature that cannot be compromised. Every time man tries to cheat the system of nature and thinks he can create something better or greater, there are serious repercussions.

I could go on but for the purpose of time I'll stop. Thank you.

CHAIR O'RELL: Thank you. Zea Sonnabend and next is Brian -- okay.

MS. SONNABEND: Hi. I'm Zea Sonnabend with California Certified Organic Farmers. We represent more than 1,200 growers, ranchers, and handlers mostly in California but throughout the country.

I am going to take Nancy comment to heart that persistence often wins and I'm going to try -- I'm sorry to have to give you technical comments so late in the day but I have been here many times before and I'm going to try and focus my comments on things that not everybody has commented on like CCOF does support pasture things and we support

commercial availability. I am going to stick with some things that haven't been brought up for my comments.

I was invited to come to the second NOSB meeting in 1992 to give an introductory primer to the new NOSB members about materials which we in California had already been reviewing for some years before there was any federal regulation.

At that time myself and Lynne Cody, who is here but not here right now, talked to the incoming members and we said this is a great start in OFPA but this synthetic definition needs a little more work still. We need to hear some more definitions to distinguish formulation from substance and to define extraction better and talk about the parameters that really comes with synthetics.

I have been persistent and I have been bringing this back up now since 1992 and I'm glad to see that you are still working on it because for a long time it just lapsed and

I'm glad it got brought back again. You have now what I think is a good start. I really like the way that Valerie and whoever helped restructure the document called "The Recommended Framework to Clarify Synthetic and Nonsynthetic."

I have a few suggestions and then this will sort of apply to a lot of my comments about the renewal of the sunset materials. I am very concerned with what has been commented on previously about the nonsynthetic substance being on the list with synthetic additives and, therefore, the original NOSB decided the chemical change had occurred to call it synthetic. Arthur is saying in restructuring the list these things like fish and aquatic plants are going to be reclassified as nonsynthetic.

Well, that raises a number of issues and, in particular, in your document that you are looking at, your framework in Section 3.3 where it deals with formulation,

it does state that a formulated substance can be nonsynthetic if it contains a nonsynthetic substance and any synthetic substance from the national list.

This is not complete. It's saying the synthetic substances on the national list for that purpose of being added to the nonsynthetic substance. Just because phosphoric acid is on there as an equipment cleaner and handling does not mean that it can be used in an aquatic plant product that is called nonsynthetic. There is still work to be done on this. I would suggest adding to 3.3 that the synthetic substance on the list must be on there for the purpose of being combined with a nonsynthetic substance.

Another thing that came up in previous NOSB deliberations was the issue of combustion and whether combustion was a natural or not natural process in the end result. This is not dealt with at all in the

synthetic document right now. There is an old NOSB definition that includes combustion of minerals is considered to be a synthetic process.

We all pretty much would agree that combustion of plant residue, i.e., wood or things like that leading to ash is nonsynthetic. But when you do the same thing to limestone and your end result is calcium oxide or hydrated lime, that level of heat and combustion considered combustion of minerals is what classically we have determined to be synthetic, the difference between this natural mineral and the synthetic mineral.

I would like to see 3.6 used. In 3.6 of your document the combustion of minerals is one of the types of chemical changes that would be considered when you review synthetic and nonsynthetic determinations.

So that being said, we in California have worked really long and hard

with you. I was the original TAP contractor who helped get a lot of things on the list in the first place. In this course of doing so we always insisted on good process, good evidence, as good as we good have at the time which, granted, has improved over time a lot, and a transparent process.

Therefore, we were happy that the sunset provision gave the people the opportunity to bring forward new evidence of anything they wanted to have removed from the list. However, we are very concerned when something was recommended for removal from the list without having any such evidence presented to you of why it should be harmful.

Therefore, we are strongly opposed to removing hydradated lime from the list both in a crop use and a livestock use. We did not see any evidence come forward in public comment. We did not see any evidence in the posted recommendation from the committee of why the decision was made to not renew it.

The whole document started out stating how it was made and how it was considered and what they talked about. Then it just said, "Move to not renew," and no reason.

So in my written comments, which I have submitted and you all have in your notebook, I have given you some detailed reasoning about how growers are using hydrated lime, why they couldn't submit written comments to you themselves because of a two-and-a-half-week notice for written comment period when in California it's been raining every day. I tried to talk to a few of our growers and they said, "Please, members of the NOSB, call them on their cell phones. They are out in their field trying to keep the disease at bay on their sprayer because every day it rains and the disease is going wild. We are going to have a severe impact on organic fruit anyway, even with these materials this year. To remove them without allowing these growers the opportunity to

speak up about it they don't feel is very fair or a good process.

If there is something that you really are thinking about deferring, at least postpone your vote until the next meeting or something so that everyone would have a chance to weigh in on the meeting -- on the issue. Now, I'm not going to reiterate my detailed comments about how hydrated lime is used but I do encourage you to use them -- to read them in your notebooks.

I have with me similar type information for the antibiotic product streptomycin and terramycin. I got some of this originally for the NOP. I was very disappointed it didn't get into the TAP review because the information was there.

It talks a lot about resistance and how resistance is not likely to cure from plant applications of streptomycin because the resistant organism Erwinia, which is the flower blight organism, would have to

conjugate with the human pathogen organism to create a resistant strain in humans and the conditions that each thrive under are pretty much the exact opposite. That is fairly germane to the lack of any evidence so far that plant applied antibiotics have not led to any known cases of human resistance to antibiotics.

So, anyway, you are able in your discussions on some of the crops materials to call on people from the audience and, as I say, I have lots of the supplemental information with me on the antibiotics on the hydrated lime, on the lignosulphanate on the aquatic plant products. I'm happy to speak further on it so that I don't like bore you with all the absolute details tonight.

I have brought with me a few support letters from CCOF members in support of the hydrogen peroxide retention, the hydradated lime retention, and the streptomycin retention. We do hope that you

will consider these as time allows and thank you very much.

CHAIR O'RELL: Thank you, Zea. Any questions?

MS. SONNABEND: Everyone is glazed over. I probably won't be around for the vote for I will be around at least until about 2:30 tomorrow, 3:00 so I am happy to talk to anyone about the details.

CHAIR O'RELL: Okay. Thank you very much.

Diane Goodman. This is the one you're speaking on for Stephen Clark? Jorge Gaskins is up next on deck, please.

MS. GOODMAN: Okay. Hi, folks. Thanks for --

CHAIR O'RELL: You're only five minutes. Is that correct?

MS. GOODMAN: I'm five minutes. This one is five minutes, yes. Okay. I'm Stephen Clark right now. Thank you very much for allowing me to speak on his behalf. I'm

sorry also that this is so late in the day and we are all a little glazed over.

Stephen Clark is Director of Industrial Research and Development for Florida Crystals Food Corporation. Good afternoon -- good evening. Florida Crystals offers a warm welcome to the new NOSB members and offers our support, experience, and input in anyway that will be of value to you during your years ahead on the Board. Thank you to the NOP and the full NOSB for the opportunity to comment today.

Our written comment goes into greater detail of what I will summarize and emphasize now and that's what you have in your hands. Our comment focuses on the effort to further clarify the definition of synthetic and nonsynthetic for defining substances placed on the national list. We sincerely appreciate the consulting that was sought by NOP for technical expertise to help the Board in this determination. My comments address

three substantial issues under consideration.

First, we notice the question is repeatedly asked about the NOSB's intent and purpose. This needs to be clearly explained for any definition to be considered in the proper context and must be addressed before any further deliberation should move forward. We believe, and I can safely assume, that most of the organic industry and consumer market place agrees that there is no room in organic production or handling for petroleum derived toxic persistent chemicals.

The existing criteria for the evaluation of substances to be placed on the national list already qualifies many of those concerns. We trust the NOSB to use all necessary caution needed to avoid any jeopardy of organic integrity and to protect consumer expectations.

We strongly suggest that the NOSB consider any substances that are produced entirely from natural sources without any

prohibited materials, without the inclusion of any petroleum-based compounds, without any diversion from OFPA criteria whether by extraction, formulation, manufacturing, or by processes that are naturally biologically occurring or already permitted as processes to produce final products as food not be considered synthetic for the purposes of this definition.

The second point in response to the recommended definition of substance, we disagree that a substance be defined as a compound or element that has a distinct identity such as a separate CAS number. This is a little bit unusual but it was an observation that was made.

If you'll notice, the national list section 205.605(a) already lists three substances that are available in three separate forms each with a different CAS number. They are calcium sulphate and hydrous calcium sulphate, calcium sulphate,

hemihydrate, and calcium sulphate dihydrate. The same can be said of the three forms of magnesium sulfate and sodium carbonate, all on the (a) list and all available in three forms with separate CAS numbers.

This presents an obvious ambiguity in which the intended substance on the national list is a nonsynthetic which in another form could be a synthetic depending on its origin, form, and, if appropriate, method of manufacturing simply because it has a separate CAS number.

My third point is the relationship of the terms formulating, manufacturing, and processing as they relate to chemical change. I want to point out that the process of formulation as a synonym for manufacturing cannot be solely related to the use of the term in the OFPA definition of synthetic since OFPA also references manufacturing in the definition of processing.

It reads, "Processing as defined

means cooking, baking, heating, drying, etc., or otherwise manufacturing." This leads to the interpretation that manufacturing, and it would follow formulation as well, would include the methods defined as processing in OFPA. So I'm going to wrap this up as fast as I can.

So if a processing method is allowed to manufacture ingredients into food, it reasonably cannot be disallowed for the manufacturing of the naturally occurring sources of those ingredients or processing aids that unlike ingredients do not even remain in the final product. We suggest that the new proposed definition of formulation (manufacturing) include the methods allowed for processing as defined in OFPA.

In closing, I'll just wrap this up, we want to briefly mention the support for our customers who may use nonorganic agricultural substances that now need to be placed on the national list Section 205.606

and urge you to come to a clear and expeditious process for the approval of petitions for those substances, give clear guidance regarding commercial availability to the certifiers, and be as flexible as possible to an approval process that will avoid any disruption in the market place.

Thank you very much for your time and consideration.

CHAIR O'RELL: Thank you, Diane. Any questions for Diane?

MS. GOODMAN: Thank you.

CHAIR O'RELL: Jorge Gaskins. Do I have that correct?

MR. GASKINS: Yes.

CHAIR O'RELL: Next up is Richard Martin and then following is Michael McNichols. You have the proxy for Michael McNichols so 10 minutes.

MR. GASKINS: It will probably be shorter than that, sir.

CHAIR O'RELL: Thank you.

MR. GASKINS: Let me speak first for Michael McNichols who had to flee to catch a plane. I'll read his statement to you.

"My name is Michael McNichols and I am founder and managing director of Sustainable Seafoods, LLC. I'm a marketer of certified organic seafood since 2001. I thank the NOSB for accepting the report, the interim final report, and do exhort the livestock committee to move with all speed.

I confirm to you based on my actual experiences that there is a very strong market for organic seafood. The consumer is concerned about foreign substances in food and the consumer is concerned about fraudulent claims. This is supported by a report from the New Jersey Department of Agriculture and Rutgers University over the past three years where they compiled research of the U.S. market for organic seafood.

The top findings of this report included that 72 percent of consumers would

buy organic seafood if available. The largest concerns include chemicals, antibiotics, hormones, and the last concern was sustainability.

I urge the Board to move expeditiously in order to bring in to create credible U.S. standards that bring a halt to fraudulent claims that hasten consumer access to product that they clearly want and bring the United States in line with other parts of the world and allow U.S. producers to meet domestic demand with domestic product. Michael McNichols."

Good evening. Thank you also for the opportunity of speaking this evening. My name is Jorge Gaskins and I am President of the 8th Sea Organic Seafood Company which is a Puerto Rican corporation.

Our company has only dedicated to organic production systems operations and special agricultural feed rations and the production of the entire life cycle, all the

different stages of talapia fish from hatchery to harvest and the processing for local sales in Brazil and exports of both fresh and frozen products.

Briefly, our company's agricultural operations are located in Parana State in the southwestern part of Brazil, some two hours north of the great waterfalls of Iguazu along the Parana River which serves as a boundary between Brazil and Paraguay. Our production is fresh water, pond based, and certified by Natural Land of Germany and a pending application has been made to Quality Assurance International here in the United States.

8th Sea is also a founding member of the Organic Seafood Council. 8th Sea supports the acceptance of the interim final report of the Agricultural Working Group by the NOSB and we recognize and appreciate the hard work and thoughtful analysis that has gone into the report and all of the work that

has gone into agriculture and organic standards previous to the last working group.

8th Sea believes that the report is a good starting place in creating an NOP standard for aquaculture. The production of this standard is an effort that we commend, support, and urge to be pushed forward as quickly, yet as diligently as possible. 8th Sea is proud of the NOSB and NOP disposition and commitment that they show to tackle the creation of an organic standard for the last major food product category without one, seafood.

Our company is now one of the leading producers of talapia employing organic methods in the world. Talapia is the most cultivated fish in the world and from its Nile origin talapia is now raised in different cultivation systems in over 60 countries.

Talapia is a domesticated fish and in the tombs of the pharaoh there are depiction of talapia being raised both in

cages as well as being harvested by nets. So it's been around for a long time and it probably is as different from wild talapia as a broiler today would be to wild chickens or the original chickens in the South Pacific.

From our particular perspective in reviewing the interim final report, we recognize the need to be more specific in many of the subsections of the report and of the future standards, although we don't support a standard for each species which George Lockwood declared impossible.

We do recognize that the following classifications would be helpful in making the proposed standards to be more effective and measurable. Fresh water estuary zones in south water cultures are different and require different characteristics and facilities, citing, location, etc. Ponds, nets, cages, and stationary culture systems, herbivores, carnivores, and omnivorous, cold water, warm water, fin fish, crustations and mollusks are

all more specific classifications that would fit into the different subsections.

The OFPA and established organic practices are clear and expectations for preserving health and welfare of the aquatic animals under our care and the intent of providing for facilities and conditions and diet that supports the natural behavior of the aquatic animals.

The interim final report diligently outlines the framework of addressing these concerns. Again, we believe that by implementing more classification of aquatic species, this framework can be more meaningful. Specifically, 8th Sea supports the specific stocking densities being established by classification within the final standards to the total prohibition of hormone use as a growth enhancer or for sex reversal in both fish destined for human consumption as well as fish for brood stock. Three, the total prohibition of the use of antibiotics in

production.

8th Sea supports the Organic Seafood Council's comments including the possible use of wild-caught fish from verifiable fisheries as a feed ration ingredient in order to better assure natural diets. We would support this for a sunset period of five years.

8th Sea is a producer of organic fish meal and fish oil. We recognize that overall production of fish meal and fish oil is far less than the emerging organic seafood industry would require at this moment in order to really launch itself into the world markets.

Five, we do not support the use of synthetic amino acids or poultry or meat byproducts in agricultural feed rations because we don't feel that the consumer is going to accept them. Many of the organic consumers eat seafood as their only nonvegetarian source and to eat poultry

byproducts via the seafood we think is shooting ourselves in the foot and shooting the industry in the foot.

I thank you for the opportunity of addressing you today. I thank you for your commitment to embark on yet another slippery slope of organic certification and standards writing. Courage. Onward.

CHAIR O'RELL: Questions.

MEMBER JAMES: I apologize, NOSB members, but I just have to ask this question. Okay. In the proposal from the aquatics task force it says, "Aquaculture facilities shall be designed and operated to minimize the release of nutrients and waste into the environment. I understand that you operate pool ponds for the development of talapia. How do you -- how are you currently managing the waste from that?

MR. GASKINS: We operate almost 3,000 hectares of ponds both under our direct ownership under rental arrangements and under

supervision of third party associated growers so we have very many different systems operating. Basically they come down to two. One is the use of the solids in the pond. Talapia when you harvest you empty the pond. The pond is left empty between harvest for about two weeks and then it's filled again with water. That's an opportunity of removing organic solids at the bottom of the pond to be used for agricultural purposes which happens in our region quite a bit. I would say it's probably the No. 1 way of dealing with the solids left over from the production.

The second system is under the Parana state environmental laws in the state of Parana. Very good compared to many places in production of talapia around the world. A water reservoir wetland system is required. If the water itself is not going to be used for irrigation purposes. If it's going to be used for irrigation purposes, then you have to show that the application area is large enough

to take the organic matter suspended in the water.

For the reservoir systems artificial wetlands are created or wetlands are restored before the water can go back into the superficial water system which eventually will go back into the Parana river basin. They are very precise in measurements. The water quality is monitored not only by the grower but also the reports are monitored by the Environmental Protection Agency of the State of Parana

MEMBER JAMES: Okay. Thank you. One other question.

MR. GASKINS: You know, there's many agricultural systems, of course, where that's not an issue because -- well, it's a different issue because if you are raising in net cages in a waterway, then the waste becomes part of the ecosystem where you are producing so that's a different type of system.

This is a beautiful illustration of why the final standards have to take into consideration the different culture systems because that is very important for talapia culture as far as the nutrient fluent control. A net cage system is also very important but they are just two different types of systems.

MEMBER JAMES: Sure. Okay. One other question. You currently are practicing feed components that consist of soybean, corn, and millet. Correct?

MR. GASKINS: No. Soybean, corn, wheat, and sorghum.

MEMBER JAMES: Okay. I was just reading off of the bullet points from your website.

MR. GASKINS: That was probably true at one time.

MEMBER JAMES: What I want to ask you is that if you could purchase organic fish meal, would that be a preference?

MR. GASKINS: We're sitting on a

mountain of it ourselves at the moment, organic fish meal and organic fish oil as well. Unfortunately, we cannot use it for our own species which we think also is absurd. Mad fish is not an issue and talapia eats talapia. It's an omnivore.

Talapia eats larva and eggs as well so we feel that really there is not a reason why talapia fish meal cannot be used in talapia feed rations considering that we only use 5 percent of the total diet of the talapia as fish meal anyway and that is primarily so we do not use synthetic amino acids.

MEMBER JAMES: Okay. Thank you.

MEMBER SMILLIE: I won't apologize. I have a quick question.

MR. GASKINS: Don't apologize.

MEMBER SMILLIE: I'm not going to. I said I wasn't going to.

MR. GASKINS: Okay.

MEMBER SMILLIE: George said that you couldn't go into specie specific

standards. I certainly understand it. Yet, we can't have one size fits all as you have just illustrated. What was your -- what is a reasonable number? You started flashing a whole bunch of things like fresh water --

MR. GASKINS: The Organic --

MEMBER SMILLIE: How many?

MR. GASKINS: The Organic Seafood Council recommends, I think, we have 10 classifications. Some of them are based on type of -- you know, separating the crustations from the warm water and the cold water fin fish and the others are based on the culture systems, net cages versus ponds versus ponds and raceways put together. I think there are 10 on the comments that were posted. Something like that might be more manageable. Just some are more important under some subsections than others would be. Any other questions? Once again, I say courage. Onward.

CHAIR O'RELL: Richard Martin,

Diane Goodman. Are you up as Diane Goodman?

MR. MARTIN: I'm Richard Martin. I'm President of Martin International Corporation. I'm involved, or have been involved, in the aquaculture world in production, sales, and marketing as an import/export company for 26 years encompassing four continents in 11 countries. At age 51 that is exactly over half of my life.

I'll be as quick in trying to get to the points as best I can. We support and encourage the acceptance of the interim final report as the basis of a final rule that contains modifications and adaptations to conform with the Organic Food Production Act that specifically addresses the biological requirements of aquatic species.

George Lockwood brought up a couple of points in the interim final report. I think there's a couple of keystone points that we all agree are essential to be

addressed. I noticed when George started talking about the feed issue, option A or option B, everyone kind of perked up and there was a noticeable concern on all your faces from my vantage point.

Areas of concern within the Organic Food Production Act in our estimation under the item 6506 in general requirements, "Farmer field area to be certified has distinct boundaries and a buffer zone separating the land being operated through the use of organic methods from land that is not being operated through the use of such methods can be applied in the aquaculture setting."

You can define, as we have. You've made the perfect slide here with the cattle out on the field a boundary which you also can do in aquaculture. In aquaculture aquatic species in open net pen structures and systems are raised with the intent to provide a system in which species are able to exhibit as natural behavior as possible within limits

of aquatic systems in the sea. The established organic rules provide for systems that maintain densities in environment conditions that are as close to those found in nature as possible.

People have a difficulty. Aquaculture intimidates for some reason because people aren't familiar with it. They are familiar with seeing a cattle farm. They are familiar with seeing a fence and a pasture but they are not familiar with seeing what happens in the sea. For some reason the atmosphere is not equivalent to the ocean and people can't draw those conclusions. I urge you to think about that and the parallels because they are more apparent than not.

The other item of concern, the organic food production act, is item 6509(c) No. 1, "Shall feed such livestock organically produced feed that meets requirements of this chapter." That is probably the keystone issue with an aquatic standard. Where that goes to

the interim report and they look at A or B, we recommend the adoption of A.

I want to remind you that in considering A what people get shaky about is when they talk about certifying a wild fish. Immediately right there everyone stops. You are certifying a feed and in the E model they have specific requirements for harvesting fish from biologically safe capture fisheries that is very well vetted out over the last 10 years. There's a lot of science behind it.

Then it has certain controls such as requirement for using awful trimmings as a protein base and taking 100 percent waste and converting that into consumable fish which would be a psalmody for example. They also have requirements on limiting PPTs. The feed input in an aquatic system can be measured, quantified, you know where it came from, and it's no less wild than the grass on the prairie and it can be certified if it's taken in the context of certifying the feed and not

the fish that is plucked from the sea.

I think the differences are obvious but they are not insurmountable. The reason why we don't advise option B in the interim final report is that we are also trying to provide an animal in the end to the consumer that provides nutritional basis that the consumer is seeking.

If we start to look at adding synthetic amino acids and vegetable matter to a carnivore, you are really getting into manipulation of a creature and in the end you may be even reducing the available nutritional content of that animal to a consumer. Having dealt with the consumer for almost 30 years I can tell you that their No. 1 issue is lack of chemicals, No. 2 what do they get food benefit-wise out of this animal, and then, down the road, environment and so forth.

If you adopt option B and you ram soy protein into a salmon, for example, they will grow slowly but they will also counteract

any of your environmental benefit because they will pass much more waste into the sea as they dump the feed. Questions?

CHAIR O'RELL: Questions?

MR. MARTIN: I may add one little tiny bit. We also approve of the sunset provision in coming up with a feed certification process.

MEMBER GIACOMINI: I have a question. Do you know if there is any data on whether the change in diet would change the fatty acid profile in the fish meal?

MR. MARTIN: I would probably go to the Harvard School of Public Health who has done a lot of fatty acid analysis. You can pretty much put anything into a salmon. You can put soybean protein and lard and the animal will use the lard as an energy basis and that will change the omega 3 fatty acid profile of that animal. I can't quote a scientific entry in that put I could certainly dig that up.

CHAIR O'RELL: Rigo and then Nancy.

MEMBER DELGADO: I have a question. If you feed your fish chicken byproducts and so forth, would I get a chicken fish at the end of the day or am I dealing with a completely animal fish?

MR. MARTIN: There's two parts. There's consumer perception there which I think would really run afoul. The industry wouldn't benefit and the consumer would reject it if they knew that I believe. There is a good resource there that is unfortunately the case. There's a fantastic resource in taking children awful and making it into salmon feed or some other fish feed.

I think the other concern is how the fish bio-incorporates that. When you are thinking about the environmental impact that these fish have, and that is a major concern with those that don't want to see aquaculture expanded, if you start putting feed into the

animal that does not bio-incorporate efficiently, it ends up as waste.

If it's waste, it's environmental impact. If you give it the feed that it really biologically would go after or obtain in the wild, it's going to bio-incorporate that in a much more efficient manner. It's going to build muscle rather than making waste. I think there are potentially other options to explore and that is why we are asking for a sunset provision because we only have so many models now and there might be some other angles to take on this.

A carnivorous animal needs to do what it is supposed to do and the perception might run askew if you start putting other ingredients in. I know for example in the industry where in certain areas they use a lot of corn oil to boost protein or to mitigate expense. That ends up as being corn oil in the final product.

When you cook that product you can

see corn oil leach out of the product. You can also taste it. You don't taste corn and say, "This salmon taste like corn," but it does have a bitter aftertaste which is all attributed to corn. The U model tries to keep the feed that goes into -- the fish meal that goes into the feed as close to what that fish would find in nature even to the point of doing indigenous type of profiles for the feed in that region with the intent of that animal is being raised as close to what it would be if it wasn't in a cage.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: Just real briefly. There's a lot of data about how the nutritional value of fish changes when they are not fed close to their natural feed. There is a tremendous amount of data about how the health changes.

MR. MARTIN: I don't think that would be a hard challenge to find that data. It's readily available.

MEMBER OSTIGUY: Oh, no. I have some of it. It's readily available.

CHAIR O'RELL: Thank you very much. Diane Goodman. Ten minutes.

MS. GOODMAN: I won't need that long.

CHAIR O'RELL: John Stalley is on board.

MS. GOODMAN: Okay. George first. Thank you on behalf of George for his ability to comment to you. This is about commercial availability and proactive sourcing. This is a concept that George ran by a few of us the other day and thought it was worthwhile that he present it to you. Commercial availability is missing one component which is a proactive approach to either contract for an organic ingredient or commitment to the development of a new organic ingredient.

As a supplier of ingredients I have companies call me looking for organic ingredients that without a contract that

ingredient is not available. This scenario plays out every few months so the company can document that the ingredient is not available to the certifier. An exemption should be granted only if the company has a contract for further delivery of the exempted organic ingredient.

If a company knows an ingredient that they are formulating will require more of the specific ingredient than is currently available, the company should be required in their organic plan to show steps they are taking to make sure the ingredient will be produced for them during the next crop cycle taking into account worldwide sourcing.

We are seeing an upswing of companies moving to conventional ingredients as orders for their organic products increase rapidly. This emergency situation should not be used to replace organic ingredients permanently.

Creating an organic analog of

conventional ingredients is a vital step to increasing consumer confidence in organics and the intent of OFPA. Companies that use conventional ingredients in the five percent category should take steps to use products that contain organic ingredients in an effort to promote further development of these conventional alternatives.

As an example, there's baking powder that contains organic ingredients. Allowing the use of conventional baking powder without organic components serves to diminish the development of organic alternatives. If functionality is the same, then there should be a requirement for the use of these "made with" ingredients.

I have been told on more than one occasion that my suggestions are already part of the existing rule. If that is true, there needs to be a clarification to the organic community. However, if proactive sourcing is not specifically covered, then it should be

codified into the rule. Thank you very much for your consideration of this important issue. Sorry I wouldn't be able to answer any questions on behalf of George but I'm sure you can contact him and he will be glad to help you.

Now my comment. This is on my own. I'm just going to read it and I'm sorry I don't have it written out for you but I'll make sure it gets e-mailed to Valerie and she will distribute it to you for the record.

Welcome on my behalf to all of the new members of the NOSB. Anything you need that any of us can help you with, we are all here to help you. Thank you for the kind opportunity to comment today. As many of my comments have been made or will be made in other statements written and spoken, my intention is only to emphasize a few high points to jog your memory when they arise elsewhere.

First in your consideration of the

clarification for the definition of synthetic. Please keep in mind the clear intent and objective of any recommendation put forward by the Board and what it is this clarification will serve as it relates to consumer expectation of how organic processed food in particular is made.

A point was driven home during the dairy symposium that responding to consumer expectation that organic dairy animals should be paramount to science-based dairying, I found that was interesting that another comment on the issue of the definition of synthetic stresses the need for science. How does that relate then to consumer expectation about what should be allowed in organic foods. I hope you understand what that analogy was for me. It's kind of contradictory.

Please keep in mind also the need to avoid any further ambiguity in the use of the term synthetic that may come up in any new definition of the term substance and chemical

change. Finally on this point please note what appears to be the synonymous relationship between formulating, manufacturing, and processing.

Then regarding the relationship -- excuse me, the recommendation of the Joint Handling and Policy Development Committee on Commercial Availability. I point out that according to the language of the court order all nonorganic agricultural substances must be placed on the national list Section 205.606 and then determined by the certification body if based on the organic handling of plants submitted by a certified entity that the substance is, in fact, commercially unavailable in organic form.

I encourage you to provide clear and complete guidance to the ACAs to uniformly facilitate that determination. Furthermore, and this is a new suggestion not reiterated anywhere else, please consider approving petitions for similar substances such as all

dried leaves of green herbs. If all are produced identically, one petition may cover approval of dried oregano, dried sweet basil, dried marjoram, etc. This may close potential loopholes of categorical petitions, yet expedite approvals of very similar agricultural substances all produced identically.

Finally, in your consideration of acceptance of the Aquaculture Working Group interim final report, please give serious consideration of the need for any standard for aquaculture production to comply with OFPA, especially the requirement for all organic livestock including fish to be fed organic feed, the suggestion supported by the Organic Seafood Council to allow a five-year sunset period during which time organic aquaculture products may be fed some percentage of nonorganic feed will follow precedent implemented before in other instances such as the temporary allowance of methionine for

poultry. This will also give the aquaculture industry time to develop feed stocks that will comply with OFPA while providing a superior product in the market place and filling the ever-growing demand for organic products of all kinds.

Thank you very much for your consideration of my comments and I look forward to the rest of an exciting and productive meeting with you all.

CHAIR O'RELL: Thank you, Diane. Questions? Thank you.

John Stalley, on board Lynn Clarkson.

PARTICIPANT: He's not here.

CHAIR O'RELL: Okay. Lynn Clarkson, Becky Goldburg.

MR. CLARKSON: For those of you still awake, my name is Lynn Clarkson. I have a concise and personal applause for your Handling Committee on the subject of organic lecithin. I'm General Manager of a company

that has been making organic lecithin, 100 percent organic lecithin, and 95 percent organic lecithin for three years.

You have tackled a troubling area of organics and I think come out with a very good balanced policy. You have decided that bleached lecithin is really lecithin and an agricultural product that something has been done to later so you have removed that door that some people have been using.

You have not come up with a draconian policy forcing anybody to do anything but left certifiers, at least in your recommendation, in charge of deciding whether the organic product will meet anybody's needs. Now, of all the lecithins that are out in the world, which given the custom formulations probably run something like 180 versions, organic is today able to take care of 80 percent of the needs.

There will be a few that we don't know how to make. There will be a few that we

are not able to make yet but that, too, is an evolving process. I think you have a balanced situation here where you basically said the organic evolution has carried the burden of proof and now it's up to people who are putting organic labels on products and using conventional lessons to prove that organic won't work. Without that kind of push the evaluation of ingredients in organic will be awfully slow. This is the kind of push we need. To the best of my knowledge the National Organic Program is administering this rule already in keeping with what your recommendation to the full Board is.

Thank you very much. I'm a processor in this field. If you have any questions, I'll be happy to try and answer them.

CHAIR O'RELL: First, I want to thank you, Lynn, for staying around so late in the evening to give us some congratulations that we did something right. That's always

good to hear.

Jim.

MEMBER SMILLIE: Lynn, what is the percentage of bleached lecithin organic and, if you know, the conventional industry versus unbleached like usage wise?

MR. CLARKSON: In a conventional lecithin world it's probably no more than 10 percent. In the organic world it's almost zero. The only people that I know that have a serious interest in bleached lecithin for the conventional organic would be those fighting a color problem, those with white chocolate, for instance, that didn't want to have a collision between some other ingredients and wanted to have a particular color score. It is distinctly a minority product in the world of lecithin.

MEMBER SMILLIE: Thank you very much.

CHAIR O'RELL: Becky and then Kathie Arnold with a proxy. Or is that done?

Okay. Thank you. Kelly Shea is up on deck. Becky.

MS. GOLDBURG: Okay. I'll start. Thanks very much. My name is Becky Goldburg. I'm a biologist with Environmental Defense, a national nonprofit organization. I'm also a former member of the NOSB and a current member of the NOP's Aquaculture Working Group. I want to thank you very much for your endurance so that I can have my five minutes of fame up here.

I'm going to comment today on two matters. One is the interim report of the Aquaculture Working Group and the second is sunset reviews of streptomycin and tetracycline. First, I'm delighted that the interim report of the Aquaculture Working Group is being presented to the NOSB and that the Livestock Committee had recommended that the NOSB receive the report and that you did so.

I strongly support the

establishment of organic standards for wild fish and believe the report will be very helpful to the NOSB. Like others I want to draw the NOSB's attention to the two options in the report concerning feed. Standards for organic fish feed are controversial since many farm fish are naturally omnivorous or carnivores and are fed diets containing substantial quantities of fish meal and oil made from wild-caught fish.

The significant concerns about the ecological impacts of so-called reduction fisheries used for fish meal and fish oil, as well as the health affects of environmental contaminants such as PCVs and dioxin that are sometimes found in fish meal and oil at very high levels. Moreover, the use of wild fish as feed ingredients would result in feeds that are not 100 percent organic is now required for organic livestock.

As you have heard about the two options for feed, option A would allow the use

of wild fish and aquaculture feeds, while option B would maintain the current requirement for organic livestock that feed ingredients be 100 percent organic and thus prohibit the use of wild fish as feed ingredients.

Under option B, which I personally strongly favor, wild fish could still be used as a feed supplement presumably as a small fraction of a fish diet but to present essential nutrients. I believe it would be possible to create healthy feeds for many fish without the use of synthetic amino acids.

I also want to ask that the NOSB in coming months pay special attention to the inside's concerns and opinions about the draft aquaculture standards from others in the NGO community including those who work on marine conservation issues and have not in the past participated in NOSB deliberations. I was the only representative of an NGO, environmental or consumer, on the Aquaculture Working Group.

I simply wasn't wasn't capable of representing all my colleagues who have much to offer to the discussion.

In the second part of my comments I would like to address the sunset reviews of streptomycin and tetracycline which, of course, are used to control bacterial blights on fruit trees. My comments in this case are made on behalf of the Keep the Antibiotics Working Coalition, a coalition of health, consumer, agriculture, environmental, humane, and other organizations including my own Environmental Defense that together have about 9 million members.

We have two distinct concerns about continued use of streptomycin and tetracycline in organic food production. First, as I detail in my written comments and won't go over right now, the use of antibiotics on fruit trees likely makes at least a small contribution to the growing crisis of antibiotic resistance in human

medicine.

Although the technical materials prepared for the Board dismiss this concern, you should know that it has been strongly echoed by health agencies and experts. For example, in 1994 a company applied to EPA to register another antibiotic, gentamicin, as a pesticide to control fire blight on apples and pears.

The Centers for Disease Control and Prevention, the Food and Drug Administration, and the American Society for Microbiology all express their strong disapproval of the proposed registration because gentamicin is an important human drug and they were concerned about the potential for gentamicin resistance as a major health problem.

The result was that the company withdrew its application for approval of gentamicin in 1999. Particular relevant CDC's comments to EPA on gentamicin, which are

attached to my comments, also argue that consideration should also be given to the reduction and eventual elimination of pesticidal use of oxytetracycline. In other words, CDC thinks that using these antibiotics as pesticides is probably pretty bad for human health.

Second, antibiotic use in organic food production is inconsistent with consumer expectations. We expect that organic consumers no more want apples or pears from antibiotic-treated trees than they want milk or hamburgers from antibiotic treated cows. The upshot is a continued use of streptomycin and tetracycline in organic food production is not compatible with principles of organic reduction or consumer expectation.

We recognize, however, that streptomycin and tetracycline are useful chemicals for fruit growers to control fire blight. The NOSB may wish to consider whether it can phase out use of these drugs if it

feels it would be an undue burden to end their use immediately. That said, we urge the NOSB not to give an unqualified approval to continued use of these antibiotics. Thanks a lot.

CHAIR O'RELL: Thank you, Becky. Any questions?

MEMBER JAMES: First of all, Rebecca, excellent. I am really glad that you stuck around and you gave this presentation. I just want to make sure that I summarize what you're saying about the antibiotic use. Basically what you're saying is that consumers do not feel comfortable in your opinion with the idea of using antibiotics in organic production in any form.

MS. GOLDBURG: I think so. I think most of them are entirely unaware that they are used on fruit trees but I expect that the same consumer who buy organic animal products without antibiotics does not want the organic apple to be treated with antibiotics.

MEMBER JAMES: Okay. Excellent. Thank you.

CHAIR O'RELL: Gerald.

MEMBER DAVIS: Would you be willing to consider that the data that was presented about consumer concerns about pesticides, antibiotics in their food and so forth, they are more concerned about the antibiotic presence in the food they are consuming than the use of the antibiotics themselves.

MS. GOLDBURG: I have to confess I did not attend that presentation this morning. I think it is true that most consumers when they think of problems with antibiotics do think about residues but I think there are really two sets of concerns. One is residues but the other scientifically is antimicrobial resistance.

If you turn to anybody in the medical community and ask them what is one of the major public health crisis today, and the

Federal Government has used that term, public health crisis, they will say its antimicrobial resistance. That stems in part from use of antibiotics in agriculture. Obviously much more from use of antibiotics and conventional animal production than for anything to do with fruit production but fruit production probably makes a small contribution.

MEMBER DAVIS: Do you think that the technical reports characterization of the minimal impact of the use of antibiotics in this way at the timings that the fruit tree growers use them does pose a very minimal chance of causing microbial resistance?

MS. GOLDBURG: I wouldn't use the term minimal. I would say that the chance that in any one case, and this is in my comments, that if you spray a tree it's going to result in a resistant bug that reaches a human being is minimal. The fact is that bacteria are present in vast incomprehensible numbers in our environment and when it comes

to bacteria highly improbable events become quite likely simply because of the sheer numbers of the bugs. There probably is some contribution.

I must say that I found the technical reports overly dismissive of the concerns. I looked at them and the materials they dated were from 1992. That is well before the development of a lot of the molecular tools that are now commonly used to track resistance genes and various genetic constructs in the environment. I frankly think they are out of date.

CHAIR O'RELL: Nancy.

MEMBER OSTIGUY: I want to thank you, Rebecca, for bringing this up because the public health concerns are actually quite important and we are interested in food safety on a variety of levels. As you have stated, bacteria are virtually everywhere and just because we are starting with a plant does not mean that it won't move between species.

We have mosquitoes that are infected by malaria and humans so we can jump species quite far. There is some work that we're doing where we believe there is a reasonable possibility that a virus that we are researching in honeybees originated from plants so it does jump.

MS. GOLDBURG: Genes move around.

MEMBER OSTIGUY: Thank you.

CHAIR O'RELL: Thank you, Rebecca.

Kelly Shea, Eric Bremer next on deck if he's here.

MS. SHEA: Hi, you guys. Kelly Shea with Horizon Organics. Since most of what I was going to say has already been said and in the interest of time, I'll probably just take about 30 seconds to touch on some material things, turn my comments in, and then Paul Stalley was much later on the list so I'll give the rest of my time to him to finish up in the interest of shortening things.

We want to go on the record again

reiterating that Horizon Organic has been and continues to be fully supportive of changes to the organic regulations that clarify that the requirements for pasture apply to all ruminants including lactating animals. It's really critical I think as we've heard today that organic farmers today and conventional farmers that are thinking about making the change to organic dairying really have certainty versus ambiguity whenever possible.

So to that end we probably have only about 10 or 15 percent of the farmers that ship milk to us on the Internet so we were going to mail out about 500 copies of the ANPR with envelopes addressed to the USDA. Hopefully all those farmers will have a chance to get their comments in also.

As far as materials I want to echo what Zea and some other people had said about hydrated lime. That was in one of the materials that we had sent out to producers for comment because I think it kind of came up

late in the process. If the Board has found that there are other materials that work as well and have as great an efficacy, if you could let people know about that or at least defer it so you can get some more comments in on it.

We were also going to support the removal of milk replacers from the list. If you have a bulk tank of organic milk, it seems to serve the purpose. In view of some of my colleagues' comments feeling that it is still needed, I guess we would be willing to sit back and see what other people say and maybe you want to get some more information on that. I pretty much figured that everyone was on the same place about being okay with it going but it sounds like not maybe.

I want to thank Arthur Neal for letting me attack him at breakfast this morning and try to figure out where the heck that livestock docket was that we have been waiting for for so long. Arthur in his very

articulate manner said we can expect it any day. When that comes I think there will be a petition coming in to remove ivormectin because we know moxidectin is a lot less harmful to dung beetles and other members of the insect and microbial world.

With that I will just turn this in and let Paul use the rest of my time.

CHAIR O'RELL: Thank you.

MR. STALLEY: Hello. My name is Paul Stalley. I am a bit nervous. I would much rather be back at home at the farm but I think this is an important issue to be here and I appreciate to have this chance to speak.

I'm an organic dairy farmer from Oregon. We ship our milk to Horizon Organic and have for about five years. I'm a third generation on our farm and some of my fondest memories are seeing my grandfather and helping him work on the farm feeding calves. We still have his 30/20 John Deere that is going strong every day. Not a lot of things have changed

since he was there.

We used to pasture the cows. That wasn't an intent of grazing but when we started -- we did stop pasturing the cows for a while and when we restarted it was nice to see how much happier and healthier the cows were.

I guess I'm here to say that I would like to see things on a level playing field. The regulations have to have a bite so that some people that are not pasturing will get the feeling. What I don't want to do is for some regulations you don't need to be a rocket scientist to figure some of these things out. I think we need flexibility in the regulations as I see it. Farming revolves around mother nature and sometimes mother nature can throw a curve ball that takes a little bit of waiting out.

We have about 320 cows on 320 acres and 120 of that we intensively graze. Our cows are on pasture the whole growing

season and we have lots of folks coming by to look at our cows out on the grass. People love to see the cows and we get lots of comments about that. I will say that no one has ever asked me how much grass the cows are eating and what their dry matter intake is.

I hope we can get done with this soon. It's not helping any of us to have the rules be unclear. I hope we can also get this done without a lot of mud slinging and I hope it's okay to disagree. Everybody has their own opinion but we are all in this together and we should act just that way. Thank you.

CHAIR O'RELL: Thank you. Eric Bremer. Before you get started, one of the Board members would like to address Paul.

MEMBER JAMES: Paul, you don't need to get up. I just wanted to thank you for coming all the way from Oregon to speak. I was going to give you another three minutes just because in all fairness I know you made a big trek to get here. Thank you.

CHAIR O'RELL: Thank you. Eric.

MR. BREMER: Okay. My name is Eric Bremer. I'm with the New Jersey Department of Agriculture and I'm before you tonight to make comment on the aquaculture interim final report. The New Jersey Department of Agriculture appreciates this opportunity to provide the following comments on the interim final report of the Aquaculture Working Group.

The first portion of these comments provides insights into consumer interest and the ability to purchase a certified organic seafood product. The second deals with considerations related to feed composition and appropriate systems.

In a recent study completed by the New Jersey Department of Agriculture and Rutgers University consumers expressed a strong desire to purchase organic aquatic products. Many consumers were concerned about the possible presence of antibiotics and

hormones in farm-raised fish and felt strongly, 77 percent, that certified organic aquatic products would be free of these compounds.

50 percent of the respondents expressed such a strong commitment to the purchase of organic aquatic products that they were willing to change their shopping location to purchase them. Further information about the survey can be found at www.jerseyseafood.nj.gov.

Currently the USDA allows aquatic products certified under standards separate from the NOP regulation to be labeled as organic and sold within the United States. This is a competitive disadvantage for U.S. producers who are working with certification agents that do not have standards for organic aquaculture certification.

Adding aquatic species requirements to the NOP regulation would help to level the playing field with other protein

choices and imported organic aquatic products entering the United States bearing markets from foreign certifiers.

Comments on 205.252 aquaculture feed. Use of a high-quality feed that allows for an efficient feed conversion ratio and does not result in the production of excess waste products that may result in environmental degradation should be a cornerstone of organic aquaculture standards.

From a farm management standpoint production of excessive waste would place stress on aquatic organisms that would result in poor growth and possible disease. For these reasons the appropriate feed composition will be species specific and should mimic as closely as possible the natural feed of the species under cultivation.

For pisciverous species a feed composition that allows for only 5 percent fish meal and oil may not be adequate. Use of plant protein substitutes in the production of

these species may result in a poor feed conversion ratio and the production of excess waste and stunted growth of the farmed animals.

In this report the task force proposed two feed options. Option A allows for the use of wild fish and other wild seafood to produce fish meal and fish oils for organic aquaculture livestock feeds provided the use of such wildfish and wild seafood cannot exceed one pound of wild fish harvested for every pound of aquatic organisms cultured.

This one-to-one ratio may be unrealistic for some species given the high water content of the harvested fish that is lost during the reduction process. Most often wild fish species such as menhaden are used in the production of fish meal do not have a high intrinsic value as human food.

The New Jersey Department of Agriculture believes that scraps from the processing of food fish intended for human

consumption should be allowed for the manufacture of fish meal and oil in feed for organic aquaculture because it maximizes the use of the resource reducing potential stresses on wild populations that may be used to make aquaculture feeds for organic production.

NOSB's option A proposes the requirement that levels of unavoided residual environmental contaminants in the resulting fish meals and oils be comparable to the lowest levels. Thank you. I'm going to skip ahead here then.

The language in option A that would allow for wild caught to be labeled as organic is problematic in that historically organic certification has been a certification of process and not of product. In the explanation section following the feed options in the aquaculture report it is proposed that option A be adopted in the final rule so the USDA establish that wild fish are an

appropriate source.

The New Jersey Department of Agriculture favors the use of wild fish and other wild seafood along with listed byproducts from processing human consumption fish and seafood. However, the Department does not agree that labeling wild fish or other wild seafood as organic is appropriate.

The interim report contains provisions for aquatic aquaculture in open waters. Certification of animals in open waters presents some of the same challenges as certifying wild-caught species. These concerns include verification of feed sources and lack of control over the species' environment which could lead to exposures to prohibited materials.

We hope that if open water allowances become a point of contention that would slow the development and inclusion of closed-system aquaculture into the National Organic Program that the allowance is left out

of any proposed recommendation from NOSB until the issue is resolved within the industry.

The full comments have been turned in. I hope you folks get a chance to read them. Thank you very much.

CHAIR O'RELL: Thank you. Any questions? Joe.

MEMBER SMILLIE: Eric, in your support for option A you didn't mention that the only wild fish stocks that would be able to be used under the proposal in option A are MSC certified. Do you support that or are you just looking --

MR. BREMER: I scratched that part out in the interest of time but, yes. Quickly let me read what my counterparts had to say at the Department. Give me one second here. "Sustainability of wild fish and other wild aquatic stocks harvested in U.S. waters should be determined in cooperation with the National Oceanic and Atmospheric Administration Office of Sustainable Fisheries under Sustainable

Fisheries Act PL 104-297."

MEMBER SMILLIE: Is that a certification program?

MR. BREMER: I would be fibbing to you if I told you I could answer that question. I didn't know what the basis meant until I read the first draft.

MEMBER SMILLIE: George's report cites MSC but it says "or equivalent" so I presume we'll just --

MR. BREMER: I would presume that would be an equivalent, yes. I can say that the folks I work with at the Department felt strongly about including that cite of National Oceanic and Atmospheric Administration Office of Sustainable Fisheries under the Sustainable Fisheries Act. They wanted that in there. I'm assuming they had a very good reason for that and that they recognize that as a good benchmark to go with.

MEMBER GIACOMINI: Kevin.

CHAIR O'RELL: Dan.

MEMBER GIACOMINI: Yes. You may or may not be the right person to ask this question but you drew the short straw because I just thought of it. As a nutritional source for fish, is all fish meal fish meal? Is all of it essentially universally similar enough in its composition and nutrient values for various uses?

MR. BREMER: I'm sorry but I have nowhere near the background to be able to answer that with confidence.

MEMBER KARREMAN: If I may, I would just kind of liken it -- I don't know much about aquaculture but I would liken it that if you are feeding fish meal to carnivorous fish, that would be analogous to feeding grass to cows. It is appropriate for the species.

CHAIR O'RELL: Thank you, Eric.

The next name I have on the list I think he left, Tom Harding. I think he was going to sign up for tomorrow. I thought he

told me that but I didn't want to -- okay, he's gone.

Jacob Zuck.

PARTICIPANT: He's gone.

CHAIR O'RELL: Okay. This one I'm going to slaughter the name so I apologize. Jeneke Dejong. I apologize.

MS. DEJONG: My name is Jeneke Dejong and I want to thank everybody for staying this late and this long. I thought only dairymen worked this hard but you guys do too. Thank you very much.

In the interest of time I'm going to be really short. My husband and I own and operate a dairy farm in Bonanza, eastern Oregon. I will submit my speech to Valerie so you can read all the details about our farm and our family later. I just want to get to the pasture part. We believe in pasture. Pasture is great. It belongs, it's important, and it's part of what makes organic for the consumer.

We don't believe, however, that the consumer is set on a certain percentage of intake from pasture and hard numbers like 30 percent intake are difficult to enforce. A certain amount of cows per acre for certain amount of days or during growing season could be a workable solution. Given the regional differences, details are going to be a dairy-by-dairy decision. That was the it of what I wanted to say. Thank you very much for the opportunity.

CHAIR O'RELL: Thank you very much for your comments. Thank you for staying.

Kim Dietz. On deck, I don't know if he's here, George Siemon.

PARTICIPANT: No, that's for tomorrow.

CHAIR O'RELL: Okay. George is gone. Kim Kietz, you are on twice. You have a proxy?

MS. DIETZ: No.

CHAIR O'RELL: Well, you're on

twice. GMA? Are you on with GMA? No, just one? We can take off the one with GMA. Thank you. George Wright would be on deck if he's here.

MS. DIETZ: Okay, NOSBers, this is a record meeting. I just want you to know that. It is. I can't quite remember going this late that often. This is not setting precedence, let's hope.

Okay. My name is Kim Dietz and I have been involved in the organic industry for many years. I served on the NOSB from 2000 to 2005 as handler representative and during my appointment chaired the Materials Committee and acted as Board secretary. I've also been actively involved in OTA and chaired numerous task forces and committees over the years.

I am currently employed by Smucker Quality Beverages for 22 years. They are the manufacturers of Knudson Juice, Santa Cruz Organic, and a couple of other brands.

Today I would like to share with

you my personal comments and not those of my employer. They reflect an historical perspective on the issues before this Board. Please feel free to ask me any questions -- not today, maybe tomorrow -- during my comments or anytime over the next few days. It's late.

Sunset materials, I was the materials girl. That's near and dear to my heart. It always will be. My comments reflect my opinion on that. I congratulate the current Board members, past Board members, and NOP staff for making the first sunset process a success.

A few years ago I was in your role voting on materials and spending endless hours in collaboration with the NOP and public drafting guidance documents for the future of this Board. One of those documents, the Sunset Review Process, provided the details of how the first sunset process should work. I encourage all of you to read that document,

follow its procedures, refine it where necessary, it's a working paper, and pass it on to future Board members.

The key point to remember, use the sunset review document for reference on how the process should work. We spent a lot of time and sweat into that document. Materials do not need to go through an entire review process to be recommended to remain on the national list. I'm going to ad hoc some of this. They do have to go through a pretty detailed process to be removed so remember that as you recommend materials for removal.

Anyone at anytime can petition the material -- and I'm going to add annotations into that -- to be removed from the national list. The sunset is not the place to change annotations or move things. I do not agree with prior public comment on that issue. You guys have a lot of hard work. You are going to have a lot of stuff in front of you and if you start changing the sunset right now, I

think you're in for trouble. Remember this is an annual event. Another one is coming right around the corner.

Key learnings and recommendations to the process. I put on here, "Do not defer materials." By that I mean initially we had the committees identify materials that we thought were going to be contentious in the process and we defer those on purpose. I think, in my opinion, we erred on that side. I believe that it slowed down the process and it resulted in inconsistent reviews of materials.

Let the public tell you in the future what materials need to be deferred and what materials need further work. I encourage the chair of the materials committee to take a look at that in the document, future materials. Let them go through the process. If there are negative comments, defer them and address those at that time but don't do it ahead of time.

Flavors. I'll be here tomorrow when you discuss flavors but, bottom line, I'll be the first one to petition to remove flavors when they are commercially available for use in the industry. There's hundreds of them out there that are being used right now but they are not readily available in all products so please feel free to make comments.

Finally, recommendation framework on the synthetic document. I have put a lot of comments in here. I'm just going to summarize it. I think the document is a well-written document. One of the major areas of concern I have is the term "functional properties," where this came from.

I can tell you that in the last five years of my term on the Board we never put functional properties anywhere in the definition of synthetic. Look at that. I think if it stays in there you're in trouble with synthetic. Also, it's not clear that all materials don't go through this process. If

you look at pasteurization right now and you put pasteurization through that flow chart, it would be deemed synthetic because it does change the functional properties of a finished product. I would suggest, and I know that OMRI also suggested, just striking that out. Otherwise, I have recommended some language on here. I think that's it. Oh, can I just finish real quick? Commercial availability. I agree that you guys have done a good job with that and the way that it's written.

MEMBER CAROE: You could only finished because you were complementing.

MS. DIETZ: Oh, thanks.

CHAIR O'RELL: Kim, just one question on flavors. I agree with your approach that at one point I think a petition needs to be filed for flavors.

MS. DIETZ: Are you talking colors or flavors?

CHAIR O'RELL: I'm going back to

flavors.

MS. DIETZ: Okay.

CHAIR O'RELL: You're talking about the removal of flavors from the list but are you talking about the addition of flavors under 606?

MS. DIETZ: I don't think it needs to go under 606. I think that there's going to be enough organic flavors out there in the very near future that it won't need to go in 606. We are very close to that time. I would petition to remove flavors from 605(a) and have them as an organic commodity. I think we are very close to that.

CHAIR O'RELL: Or to petition for 606 now since it's close.

MS. DIETZ: Yes, you could do that.

CHAIR O'RELL: And let the industry --

MS. DIETZ: But, then again, you've got individual flavors. Cherry flavor

is one of them. There's a handful of flavors out there. I know you will hear from flavor producers tomorrow that we can't make them. We are struggling with it.

MEMBER WEISMAN: I also don't -- I mean, partly depending on how things end up with the definition of synthetic and nonsynthetic, I personally find it unlikely that everything that is currently out there being used in the category of natural flavors can be defined as an agricultural product. I don't think it can just be taken from where it is and en mass be put under 606. It will need to be parsed out. MS. DIETZ: And if somebody would like to ask me my opinion on colors, I'll tell you.

MEMBER WEISMAN: Kim, what's your opinion on colors?

MS. DIETZ: I wasn't going to comment but it seems to be the topic. From an historical perspective the NOSB at one time asked to have colors removed as a technical

correction. That is in your documents, I believe, that in 2002 we asked that they be removed so that should be considered by this Board.

I think probably what should happen with colors is that you defer that, once again I hate to say that, and somebody petition so that you have a complete package for review. There has been past precedence set where Board members have petitioned. You just have to recuse yourself.

That means you don't get to vote but you can petition. You recuse yourself and at least then you have the complete process together. I'm not sure that it's worth a fight in this industry right now to not have colors reviewed thoroughly. That is one of the only materials on the list.

It has been used for five years, I understand that, but also you can go back to all the minutes and see where I have been saying, "Somebody needs to petition colors

because they are going to come up on sunset," and nobody did. I think the industry is going to feel the pain because they haven't been proactive with colors.

CHAIR O'RELL: Kim, what is your thought on -- we've heard earlier comments in saying that colors as a group shouldn't be allowed to be petitioned but it should be those individual colors that want to be used.

MS. DIETZ: Colors are on the national list right now as a group. I think the only way that you can individualize them would be to let them fall off under sunset and let somebody petition individual colors. Right now if you want to salvage what you've got, you have the ability to defer and review colors as a group and let somebody petition to remove them if they feel they need to be removed and there is that process. That's my personal opinion.

MEMBER CAROE: You said defer and then petition to remove but if we don't

complete the sunset process by the deadline it's gone.

CHAIR O'RELL: They're gone.

MEMBER CAROE: It's off. No action means they're gone.

MS. DIETZ: Right, but you could vote the next meeting one way or the other on colors and have a recommendation out there before the 2007 deadline.

CHAIR O'RELL: And then see how long it takes to get into a docket to get approved and you do run the risk of having a period of time when colors would not be allowed.

MS. DIETZ: Hey, we've got materials from 2002 that still aren't on the national list that we voted on so I think that's one -- if you want the process to be thorough and you want it to go right, you probably should do that.

CHAIR O'RELL: Thank you. George Wright, Robert Barta. Is Robert here? Okay.

And then, George, before you go we have reached the end of the list but there were four or five people that we called names earlier and they didn't respond so I'm not going to go back and read those names but if you are in this room and you were on the list, raise your hand after George is done. Otherwise, you run the risk then of missing your turn.

Thank you, George.

MR. WRIGHT: Thank you. I'm George Wright, an organic dairy farmer from upstate New York. I thought I was nuts but I see I have lots of company here tonight. I'm going to cut this short. Just wanted to let you know that I support the pasture policy. Everybody knows that.

Also the last-third of gestation rule. I think that needs to be a given. I would like to see any of the stuff that used in the dairy industry right now on the sunsetting list stay on the list for another

five years until there are better things out there to work with.

This thing about perception of the -- we touched on today the surveys the lady put on this morning about consumer perception on pasture. It's not just an organic perception. The reason why there is not a lot of discussion about it, I think personally, is all people, even in conventional America, everybody thinks cows are on pasture.

It's not necessarily an organic thing. I mean, everything that's advertised. There's pictures of cows in pasture. Look at all the happy cow commercial from California. That's one reason why it hasn't been a hot button issue with the consumers yet because they all just assume that they are all on pasture.

They don't know any different. But when they find out they are going to be pissed and I'm going to tell them. One of the biggest reasons I'm really pulling for this is

I'm a firm believer that the confinement dairy system is what has destroyed the conventional America.

I mean, look at the milk prices this year. Right in my county there has been 10 auctions already this month. We figure since the first of the year within a 50-mile radius of my farm there has been between 3,000 and 4,000 cows have left the area.

I mean, do we want to do the same thing to organic? We've got a chance to make something good here. Let's keep it good and not try to ruin it with all this confinement dairy and factory farming type stuff. You've just got to back off on it. Thank you.

CHAIR O'RELL: Thank you, George. Questions of George? George, a question.

MEMBER OSTIGUY: That's fine. I just wanted to thank you for a comment about what public perception probably includes conventional as being out on pasture. I think the same thing is true about chickens. We

don't think that our conventional chickens are in those little tiny cages.

MR. WRIGHT: It just dawned on me this morning when I was seeing all these surveys and I kind of got the impression they had to ask people about pasture to get any response from it. I just went through this with my sister-in-law a month or so ago. She came out and I took her to a confinement dairy, some real good friends of mine and we always talked about them all the time.

They do one hell of a job for a confinement dairy. The call rate is like minimum. Never buy replacements, never. They have gone from 200 cows to 400 cows in the last four years and never bought a replacement. They've got it down pat. I was showing her that and I've got a stanchion barn and I'm proud of it. In the winter time we have to keep them tied up most of the time because the snow is too deep and we have ice problems. Of course, 20 below zero and 50-

mile-an-hour wind.

But we were down there and she was walking around looking at that and she said, "Oh, I like this style of barn." She said, "It's a lot nicer than yours because the cows get to walk around and eat." I said, "Yeah. To be truthful with you, I like this type of barn, too." So we were leaving.

We had been there for a few hours and stuff. She turned to me --and this is the God's honest truth, no prompting or anything from me. She turned around to me and my wife and said, "Where do they go to pasture?" I said, "Honey, they live and they die right here. They don't ever go outdoors." She was really upset about that. True story.

CHAIR O'RELL: Thank you, George. Last call for anybody who may have been on this list and was missed earlier. If I don't see any hands, I'm going to ask for a motion to recess.

MEMBER OSTIGUY: Motion to recess.

MEMBER KARREMAN: I second.

CHAIR O'RELL: Seconded. All those in favor?

ALL: Aye.

CHAIR O'RELL: Okay. Until tomorrow at 8:00. Until tomorrow at 8:00. Thank you all for hanging with us.

(Whereupon, at 8:54 p.m. the hearing was adjourned.)