UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE (AMS)
NATIONAL ORGANIC PROGRAM (NOP)
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MEETING OF THE NATIONAL ORGANIC
STANDARDS BOARD (NOSB)
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TUESDAY

APRIL 27, 2010

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The National Organic Standards Board convened at 8:00 a.m. in the Heidrick Ag History Center located at 1962 Hays Lane, Woodland, California, Daniel G. Giacomini, Chairperson, presiding.

MEMBERS PRESENT:

DANIEL G. GIACOMINI, Chairperson

TRACY MIEDEMA, Vice-Chairperson
TINA ELLOR, Secretary
STEVE DeMURI
JOE DICKSON
JAY FELDMAN
BARRY FLAMM
JOHN FOSTER

WENDY FULWIDER
JENNIFER M. HALL
KATRINA HEINZE
JEFFREY W. MOYER
ANNETTE RIHERD
JOE SMILLIE

STAFF PRESENT:

MILES McEVOY

JUDY RAGONESI

VALERIE FRANCES

ARTHUR NEAL

MARK BRADLEY

LARS CRAIL

SHANNON NALLY

DR. KERRY SMITH

DR. LISA BRINES

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

8:03 a.m.

CHAIRPERSON GIACOMINI: We'll call the meeting back out of recess, and today is our day for public comment. I would restart by reading part of our policy statement regarding public comment. We've already gone through the sign-up process, so we'll skip that, but every person will be given five minutes to speak, unless otherwise indicated by the Chair. Persons must give their name and affiliation for the record at the beginning of their comment. A person may submit a written proxy to the NOSB or NOP requesting that another person speak on his or her behalf. The proxy request should be submitted in writing to the Executive Director, and include the --

(Off the record comments.)

CHAIRPERSON GIACOMINI: So, you get five minutes, you give your name and affiliation at the beginning of your comment.

Proxies should be submitted to the Executive Director, include the name of the presenter and topics, who will be for the proxy, and limited to five minutes. No person will be allowed to speak during the public comment period for more than 10 minutes, unless otherwise indicated by the Chair. Individuals providing public comment will refrain from any personal attacks, and from remarks that would impugn the character of any individual.

We have nine -- as a count from yesterday, we have, and I don't know if this is a new list or not, we have 96 people signed up for public comment today. At five minutes per person, 12 people an hour, that is eight hours of solid public comment. At six minutes per person, that goes to nine and a half hours of public comment, so I am a complete believer that this is one of the most important things we do on this Board as a practice of our American democracy in the organic world. I think the only thing more important is the

written public comment, which is where the people who can't come to the meeting have access to the Board. After that, this is the most important, at least in my mind.

I don't want to have to go to a three-minute cutoff, but I would like everyone to be aware of what the time constraints for today do mean, both from those presenting when your time limit is called and up, and Board members for asking questions. I don't want t put any kind of restrictions or constraints on anyone, but I want everyone to be aware of what that time situation implies.

So, do we have any other statements or comments, or anything? Valerie, are we good to go this morning? Anyone else have anything for us before we get started?

Oh, we have -- thank you. Okay. We do have one statement, I believe from the Materials Committee or the Joint Committee, I believe that hopefully will address some of the issues that you'll be talking about today.

MS. HEINZE: The Joint Committee wants to thank everyone who submitted written public comment. We met last night. Well, we've met many times over the last few in reaction to the public comment, so we met last night and voted on a new second sentence for the definition of chemical change. We're changing -- getting this ahead of time because we know that classification of materials requires some thinking, so we wanted to get it up there and in front of folks who have put so much thought on this topic, so the Joint Committee voted unanimously to support the second sentence to address the public comment.

I will read it, but, again, we wanted everyone to have a chance -- I hope you're all writing it down so you have time to think about it. We would love some public comment on it today, but, again, we'll be presenting it and discussing it more broadly during my presentation tomorrow. So, if you have particular thoughts that we should be

aware of, that would be good, as well.

The second sentence is, "Processing is defined in 205.2 of Agricultural Products using materials allowed on the applicable section of the National List, 205.601 for crops, 603 for livestock, 605-606 for handling, does not result in chemical changes that applies to classification of materials."

Our intent with this sentence is two-fold. One, we heard a ton of public comment in November that our original definition for chemical change, which was the first sentence, went too far, and would have classified organic agricultural inputs that had been processed with non-synthetics, or synthetics, or even other agricultural inputs using lab processes would have classified those as synthetic, so we needed to address that. So, then we came up with a sentence to do that. Then we got public comment that said that went too far, and would have allowed

mixing if non-synthetics in crops and livestock, so this is our attempt to address that. So, again, wanted you to see it, so you had time to think about it. Thanks.

CHAIRPERSON GIACOMINI: Thank you. So, that, hopefully -- we tried to deal with the majority of the written public comment. We'll see how that satisfies the oral. Also, I apologize right now. I'm sure there will be names that I will completely and totally botch today, whether from unfamiliarity, to tiredness. When you deal with this long of a public comment, it becomes a bit of a, for lack of a better term, a time warp, so when we're dealing with our jump to the left, and step to the right, it sometimes could be possible. And someone with the last name of Giacomini, I went through almost 20 years of school with the first day of class my name was Dan G, here, so I understand fouling up names, and I apologize for it, but it's probably unavoidable. So, anything else before we

start? Valerie.

MS. FRANCES: Just a reminder, for those of you who do, or do not know the drill, when you're called you're on deck, and if you have written materials, bring them then, because I can't handle stacks of written materials and figure out whose is what. So, just when you're on deck be ready, and the person who is up there will be talking anyway. You'll be next, and I'll pass things out. All right?

CHAIRPERSON GIACOMINI: Also, for our five minutes, we have a one-minute sign, and a stop sign. And I believe the buzzer will also go with the stop sign, so in case you're so involved in your public comment, hopefully, that just the buzzer will be enough to pull you back to reality of the world.

So, as we start, Peggy Miars from CCOF is first, with a proxy, and Alexis Randolph is on deck with a proxy, and Gary Middleton in the hole.

MS. MIARS: Good morning. I do have a proxy, however, I doubt that I'll use it. I'm Peggy Miars, Executive Director of California Certified Organic Farmers. CCOF represents more than 2,100 certified organic operations, and about 350 individual supporting members. We certify about 80 percent of the organic farmland in California.

Those of you who have been on the Board have heard me over the last couple of years at each meeting urge this meeting to be held on the West Coast. So, I've waited a long time to say this, welcome to the great State of California. I understand this is the first time the NOSB has met in California for about 10 years, so we're glad to have you back.

We've excited to have you here because California is so critical to the organic industry. According to the National Ag Statistic Services 2008 Organic Production Survey, nearly 20 percent of the nation's

certified organic farms are here in California, and our state produced over $1.1 billion of organic ag products in 2008, which represents more than 36 percent of US organic production.

I think I've got a different audience here than you usually see in Washington, D.C., and I encourage you to take this road show, excuse me, this show on the road around the country.

(Laughter.)

MS. MIARS: Well, maybe it's a road show, I don't know, to expose the NOSB to people who would not otherwise be able to trek to D.C. And, as you know, at these meetings, we typically hear from certifiers, consumer groups, manufacturers, ingredient suppliers, and so forth, and then the occasional farmer. And I've heard Board members say how much you appreciate hearing from farmers, from the people who are actually impacted by many of the decisions that we make. So, CCOF has

encouraged our members to participate in this meeting, and we encouraged them to submit written comments, which I know they did. We've encouraged them to sign up for public comments, which I believe they did, and we encouraged them to just simply show up and watch the proceedings, because it's a fantastic learning experience. And I know that I've seen some CCOF members here who I have not seen at NOSB meetings before.

In fact, looking out at the audience, I'd say probably half of the faces are ones that I've never seen at an NOSB meeting before, so I think that's fantastic. And, also, you'll see the majority of CCOF's office staff here today, because it is such a great experience. They'll be here tomorrow, as well. They can see the transparent NOSB process, and it's a great experience seeing the big picture of organic, and it gives their jobs context.

We want to invite Board members

and everyone else here in the room to join CCOF at our Welcome to California Reception tomorrow night in the museum, which is across the lobby. I'm sorry, I keep forgetting what day it is. I thought it was Wednesday, or Monday, I don't know. It is tonight, 7 tonight. Okay.

So, now on to comments regarding an actual agenda item. We at CCOF are pleased to see the Sunset Review Process being addressed for clarity, since there seems to be different opinions about what Sunset actually means. We support the Policy Development Committee's Option 3, the Sunset fees at a hybrid approach. We agree that industry should bear the burden of proof that a material should remain on the National List, and that the NOSB should bear the burden to show that materials should be removed from the list. We also agree that synthetics should not be easy to get on the list, nor should they be easy to keep on the list.

And, lastly, in response to the Committee's question about annotations, we believe that the NOSB should be able to revise annotations for listed materials during the Sunset Process. Thank you so much for your attention.

CHAIRPERSON GIACOMINI: Any questions for Peggy? Seeing none, thank you.

MS. MIARS: Thank you.

CHAIRPERSON GIACOMINI: Alexis Randolph, Gary Middleton on deck, Grace Marroquin in the hole.

MS. RANDOLPH: Good morning. I'm Alexis Randolph from QAI Organic Certification Agency in San Diego, California, and I'd like to thank the National Organic Standards Board for this opportunity to provide comments. This is my personal first opportunity in front of the NOSB, so I'm very grateful for that.

A good chunk of the majority of my comments are going to be about the classification of materials. QAI appreciates

the Joint Materials and Handling Committee's continued work on this very complex issue. We do feel that the majority of our questions raised at public comment in 2009 have been answered with the new guidance document.

Because of the new definition which was just posted, I'm going to withhold many of my comments this morning, and then take that into consideration, submit written comments later if I feel it's necessary.

We did want to draw the Board's attention to the public comment submitted by Oregon Tilth in writing previously, as well as others. It sounds like the NOSB took those comments very seriously, and we appreciate that. We recognize the Committee has stated that the term "significant" and "insignificant level" still need defining, and we support that effort. QAI already uses this NOSB draft proposal as a tool for reviewing materials, and we find it to be very effective.

Before the definition was reposted

this morning, our intent was to encourage the implementation of the Classification of Materials Policy and Guidance document provided it was restricted for the use of handlers' scope only under the NOP. We would still like to encourage the implementation of this policy, specifically for handlers at this time. And, of course, we'll reevaluate the definition when time allows. It's a little bit tough being second speaker, didn't have time to do that.

I'll conclude my comments on the materials at that point, and move on to the discussion document on livestock stocking densities. We are very supportive of the Livestock Committee's concern for animal welfare, and intentions to bring clarity to certain concepts of the regulation, such as natural behavior. As a certifier, detailed regulatory requirements are always welcomed. They allow certifiers to verify compliance to the regulation, rather than debate the intent

of the regulation.

At this point, however, we do not feel enough data regarding the current stocking rates in the US have been collected or analyzed by the NOSB to determine the impact on the organic industry of implementing the stocking the way it's being discussed. Based on the US-Canada Equivalency Agreement, certifiers have already begun the process of collecting this data, and QAI asks the NOSB to allow certifiers ample time to finish this process, and provide data to the NOP for analysis.

Regarding the discussion document on the USDA's seal and the Natives Organic labeling category, QAI fully supports regulatory updates that would help consumers distinguish between the organic and native organic claims. However, QAI disagrees with the USDA's seal or variation of the seal on native organic products to accomplish this. The USDA seal on 100 percent organic and

organic products has raised the bar, and expanded the organic industry by requiring more ingredients obtain certification in order for new products to achieve the USDA gold standard.

To answer your specific question, what regulatory approaches would facilitate stronger consumer recognition of the native organic category, QAI would like to encourage the CACC to review Section 205.304 of the regulation with attention on the may versus must language in regards to the primary made with organic claim, and the percent organic statement. For example, with the primary claim of made with organic ingredients being optional, a percent claim of X percent organic ingredients can be used strategically to compete with products making a primary claim of certified organic.

With that said, we understand the NOP already intends to issue clarification regarding labeling in the native organic

category, with the intention of reducing consumer confusion, and we look forward to receiving that information. As always, we hope directives regarding labels are implemented with adequate grace period for operators to bring labels into compliance without suffering financial loss.

Regarding atmospheric gases and the 100 percent organic claim, QAI agrees with the CAC Committee that atmospheric gases do not meet the definition of processing aids or ingredients. These inert gases do not mix with the product and evaporate when packaging is opened. We support the recommendation that the use of atmospheric gases will be allowed as a packaging aid for products making 100 percent organic claim.

Regarding the National List and Sunset of materials, QAI has reviewed the recommendations to renew materials under all sections of the National List. We are in agreement with each Committee's recommendation

for lead listing of materials due to Sunset. In summary, QAI supports the immediate implementation of the Materials Classification Policy with a limited scope for products used by handler operations. QAI supports the intention behind the Livestock Committee discussion document on stocking rates, but do not feel enough data has been collected on the current stocking rates in the US to make any recommendation at this time. QAI looks forward to no further action being taken with regards to a USDA seal on made with organic products. QAI supports the use of atmospheric gases and packaging aids in products making a 100 percent organic claim, and QAI supports the relisting of all materials on the National List as currently proposed by the NOSB. Thank you for considering my comments.

CHAIRPERSON GIACOMINI: Any questions? Thank you. One other little housecleaning, for lack of a better term. It seems that yesterday with the people on this

room on the internet, we had a -- there was an area meltdown of the wireless support, similar to the blackout of Manhattan, so they have requested us not to have everyone on line at this time, so we've having to -- I guess we're just asking that the public not be online unless absolutely necessary, or however it's to be done. We just don't want to have that same sort of a disaster again today, because it was more than just this building. It was supposed to have been in like a two or three block area.

(Laughter.)

CHAIRPERSON GIACOMINI: I'm told it's already crashed on us. Okay. Gary Middleton, Grace Marroquin on deck, Liana Hoodes is in the hole.

MR. MIDDLETON: I'm Gary Middleton and I represent Middleton Organic Orchards. I would like to first take the opportunity to thank the Advisory Board for the opportunity to testify in regards to this issue. Again,

I'm Gary Middleton. I represent Middleton Organic Orchards in Eltopia. I represent Organic Tree Fruit Growers in the State of Washington, Oregon, and Idaho, as well. I am the owner and grower of 100-acre orchard in which we grow organic apples, cherries, and blueberries.

At issue is our 16-acre block of Gala apples. Over the past five to seven years, fire blight has disseminated approximately five to six acres throughout this block of apples which equates to 4,000 trees and a financial annual loss of 75,000. Fortunately, we've had the opportunity to utilize microshield, or the losses certainly would have been much greater. We have replanted with a somewhat resistant stock Bud 9 with, unfortunately, only marginal success. The one rootstock that has resisted to Fire blight is Geneva type rootstock, however, it is difficult for nurseries to propagate, therefore, availability is limited, at best.

According to Dr. Aldwinckle from Cornell University, Geneva, rootstocks are known to be resist to direct shoot inoculation with the amylovora strains. It was, however, not known if these apple rootstocks are resistant to infection through other avenues under orchard conditions. The cost to replant 16 acres of such a rootstock is extremely cost prohibitive for a small family farm.

It is important to note that not all varieties of apples are susceptible to Fire blight. Pink Lady, Gala, Fujis are susceptible, especially on dwarfing rootstocks such as M.9, and M.26. Fire blight infection in susceptible apple rootstocks, such as 9 and 26, frequently results in necrosis of the rootstock crown and tree death. Fire blight infection of rootstock can occur by several different avenues, including infection of rootstock suckers, basipetal internal movement of bacteria through healthy scion tissue, and direct infection of rootstock crown through

breaks or wounds in the bark.

The infection period primarily occurs during bloom time when microshield is used; however, Fire blight carries throughout the entire season. New shoots or branches are very susceptible when Fire blight has been prevalent in the orchard. Spreading of the disease occurs with wind, rain, heavy dews and insect transmittal. We utilize the WSU Cougar Blight models which measure degree days, leave bloom wetness, and dew points to assure we apply antibiotics only when infection period is high to extreme. A close monitoring of these models allow us to minimize applications. There would not be widespread use of oxytetracycline, as there are only a few of the many rootstocks grown.

According to the Department of Plant Pathology, Oregon State University, antibiotic use in plant agriculture constitutes less than one-half of 1 percent of total antibiotic use in the United States,

with the major use of controlling Fire blights in home fruits. Streptomycin is used in plant agriculture for bacterial disease control, particularly against Fire blight in home fruit orchards.

We have utilized bacteria control such as Blight Ban and Bloomtime with extremely nominal results. They are not viable options; however, we still utilize them to help suppress the disease. We are constantly monitoring the orchard, cutting out Fire blight strikes, as needed. Many times an entire tree becomes affected, and we have no choice but to remove the tree. It is not uncommon and very likely for adjoining trees to become affected, as well.

We elected to forego our Europe Ag certification on the Gala bug, because without antibiotics the entire orchard would have to be destroyed. This is not a preferable option, but rather an economical survival option. It is important to note streptomycin

was utilized in Europe from `93 to `96 to help suppress Fire blight in orchards. However, what is of more interest is that Germany had a severe Fire blight problem in 2008, and has allowed the use of streptomycin in 2009. In 2009, a high Fire blight risk was also reported in the UK, and the use of streptomycin in home fruit tree nurseries has been allowed in Switzerland for the first time, because there trees are considered to be pathogen risk spores.

Geographical areas, climatic conditions, and weather conditions play a major factor in Fire blight disease models infection susceptibility. When we planted our Gala block in 1995, Fire blight was not an issue in the northwest. Since 2004, the Fire blight has become a rapid enemy to dwarfing rootstocks in select varieties. Without products such as microshield, it is highly likely that our entire Gala block will be destroyed. Replanting is not an economical

alternative, even if the Geneva rootstock was available. Like other orchards, we are anxiously anticipated the organic products to suppress Fire blight. However, are not aware of any of these products at this time, or in the near future.

I cannot emphasize enough how we are concerned about the integrity of the organic products we provide to consumers. We take pride in ownership in the fruit that we produce. This is a complex matter at best, and there are no easy solutions, so with confidence, I can say that with stringent monitoring, and limited use of antibiotics, we can continue to move forward until a true organic solution becomes available. Thank you.

CHAIRPERSON GIACOMINI: Thank you. Questions? Katrina.

MS. HEINZE: Thank you very much for your comments. Would you be willing to provide Valerie with those in writing so we

could have them to reference?

MR. MIDDLETON: Yes, I did provide those. Thank you. And, actually, it's a little bit more in depth, because I had to scratch a lot of stuff to get it in five minutes.

MS. HEINZE: I understand. Thank you.

CHAIRPERSON GIACOMINI: Joe.

MR. SMILLIE: Sort of off topic, but do you use pheromone mating disruptives in your practice?

MR. MIDDLETON: Yes, we do.

MR. SMILLIE: Right. I just wanted to clarify that. And has that helped you a great deal to grow organic apples?

MR. MIDDLETON: It's absolutely been essential. We've been utilizing the mating disruption for about 10 years, and it certainly reduces the amount of opportunity, or need to spray other products. And it has worked extremely well in the northwest.

MR. SMILLIE: And do you find that this synthetic pesticide has enabled you to grow more organic -- get more growers growing organic?

MR. MIDDLETON: You're talking about the pheromones?

MR. SMILLIE: Yes.

MR. MIDDLETON: Yes. The pheromones certainly eliminate, or provide the opportunity for many other orchardists to grow organically, because they can suppress the amount of -- available throughout the orchards, and it's been a huge tool, and benefit to not only organic, but also conventional growers. Conventional growers are using that substantially to reduce their amount of synthetic sprays.

MR. SMILLIE: Thank you.

CHAIRPERSON GIACOMINI: Tina.

MS. ELLOR: When the peracetic acid that we approved last fall goes to rulemaking, do you see that as a viable

option?

MR. MIDDLETON: What was that again?

MS. ELLOR: When the peracetic acid that we approved at the fall meeting goes to rulemaking, do you see that as a viable option for at least to --

MR. MIDDLETON: Well, at this time, I don't know that it will be. I'm not familiar, I have not utilized that product. You're saying the peracetic -

MS. ELLOR: Peracetic acid was presented to us as an alternative. It is approved, but it has not been through rulemaking yet. So, maybe I'll ask you again.

MR. MIDDLETON: Is that for Fire blight?

MS. ELLOR: For Fire blight, yes.

MR. MIDDLETON: Yes. And we've tried, like I said, the natural bacterias and whatnot, and they're very expensive, and we have had no success with them at all.

Although, when you're losing your trees, you get pretty desperate and you'll use anything. But I have not seen or heard of anything that supports that product.

CHAIRPERSON GIACOMINI: Okay. Thank you. Grace Marroquin, Liana is on deck, and Rod Crossley in the hole.

MR. SIEGEL: My name is --

CHAIRPERSON GIACOMINI: You are not Grace.

(Laughter.)

MR. SIEGEL: I'm not Grace, no. My name is Richard Siegel. I'm a lawyer from Washington, D.C., and I'm counsel for Marroquin Organic International. Grace Marroquin is on her way, but she's been delayed, and asks the indulgence of the Board for her to appear at a later time today. So, I would like to just make that announcement. Thank you.

CHAIRPERSON GIACOMINI: Okay. We'll see what we can do on that. If we have

any of these in the future, contact Valerie so that we can do that rescheduling.

MR. SIEGEL: Yes, I mentioned this to Valerie, and she requested that I come to the mic.

CHAIRPERSON GIACOMINI: Okay. Just, you take care of it so that we'll -- okay. Let's go Liana, and then we'll come back to Grace. I believe she's coming in the door.

MS. HOODES: Good morning, all. I'm Liana Hoodes with the National Organic Coalition. First, I would like to -- I see you all have these -- to present to you the National Organic Action Plan from the Margin to the Mainstream Advancing Organic Agriculture in the US. This is a project we worked on for five plus years, and it's about the big picture looking at supporting organic throughout the federal government, and state and local government. So, the goal of the NOAP is to establish organic as the foundation for

food and agriculture production systems across the US So, enjoy the light reading in your free time, test you on it at the end of the week.

The National Organic Coalition is a national alliance of organizations representing farmers, environmentalists, other organic industry members, and consumers concerned about the integrity of national organic standards. The goal of the Coalition is to assure that organic integrity is maintained, that consumers' confidence is preserved, and the policies are fair, equitable, and encourage diversity of participation and access.

I want to welcome all the new members of the Board, and thank all of you for your continued hard work and dedication to organic.

I'm going to whip through some points to get to the details on others. Nanotechnology, there are others who have much

better information, and you'll hear details from the Center for Food Safety, Food and Water Watch, and Consumers Union. We support their comments on this, and we specifically feel that this is an instance where organic takes the lead in the precautionary principle. The issues are about big concern for health and safety, and we feel all materials developed with this technology should be prohibited, as a whole.

Nanotechnology is intended to change and manipulate nature at a fundamental level, and we do not agree that the classification of the technology as synthetic would provide the protections needed at this point. We're very happy to see that the NOSB is taking a careful approach, and support the request for more information, and a technical review.

Sunset Review Policy, this is something we've commented on a lot over the years. We're very pleased to see that it's

under review. We have been very disturbed over the years at the mention of the vague term of evergreen, and we're glad to see that's no longer a part of the discussion. And we did disagree with the interpretation of the Board that's now in the policy manual that annotations can't be changed during Sunset Review, so we encourage you to revise the policy manual as soon as possible to allow you to make those annotations.

We consider that Sunset means that after five years, the material comes off. Option 1 seems the clearest, but I'm intrigued by Option 3. I just worry that it presents you with a burden, another burden on top of all the rest of your burdens to prove -- so that you have to take a material off, as opposed to it automatically coming off. But I think I need to understand it just a bit more about what Option 3 is. I do not support Option 2 at all.

Sunset is clearly understood

throughout industry and government as a process that a material would stop, and we really think that decisions have been made from the very first Board about what materials should be on the list based on the fact that they understood that in five years that they would come off. And if they were to come back on, there would be a complete re-review. And we need to stick with those -- the issues of essentiality and compatibility when you're reviewing the materials. And it needs to be redone.

So, methionine is a poster child for what's going wrong with Sunset. It's had extensions, and we have -- there are alternatives, and they're just not there yet, in part, because there's no impetus for the industry to go there. We heard from Walter Goldstein about his research very close to actual commercial production of high methionine corn, and he -- because of a lack of USDA grants, because they don't tend to

fund corn that isn't GMO corn research, he has not been able to continue that. The industry should have stepped in and funded that research to get to commercial availability. I don't think they did, because they didn't actually think it was going to come off. There was no imperatives. This is why methionine needs to come off, and we don't agree with a five-year extension whatsoever. I had two comments on materials, but they'll be in my written comments to you.

CHAIRPERSON GIACOMINI: Thank you. Any questions? Okay. I think this is a good example, and not to point the finger at her, we know you appreciate being here, and we certainly appreciate you coming, but we would really appreciate that the majority of your time is spent on your substantive comments. That's going to be your best use of time, and it's our best use of time over a long day. So, I don't -- I want to sound as polite with that, as possible, but I'm sure Liana wishes

that she had spent that time talking about those materials, rather than saying how much she liked being here. So, next up, Rod Crossley. I think Grace is in the room. We'll slide Grace in, and Kim Dietz in the hole.

MR. CROSSLEY: Good morning. I'm Rod Crossley. I was on the Board that put together the materials in the 2000 list. When we started that, the only thing we had to work from was the -- when we started that, the only thing we had to work from was the Act. And that was our guiding line for both the comments to the Secretary, and for the National List. We also had organic production standards established by private certifiers, and we had an industry standard at that time which has definitely gone away, which was that if you could get it organically, that was what you had to use. And if you couldn't get it organically, could you get it naturally? And if you couldn't get it naturally, could you get a synthetic, and how fast could you go

back up the hill?

The Processing Committee was one of the three committees that the Board established, Crops, Livestock, and Process. The Processing Committee had the fortunate ability to travel around the United States meeting with private industry, meeting with certifiers, meeting with the public to basically find out what they're doing. What are you doing? What materials are you using? How are you keeping records? What do you think of our OSP drafts, et cetera? And after much discussion at the Board meeting, the Committee and the public, we came up with a list of 130 processing materials that needed to be reviewed with a TAP, because remember the rules, the Act states that any material put on the list must, or prohibited on the list, must go through a TAP review. There's no exception to that part of the rule at all.

The problem was that we realized that there were a bunch of things on there

that we knew were natural, but based upon the definition of synthetic, we had to go and review them. Cornstarch is a good example of that. It goes through, as we talked about yesterday, it goes through an acid bath. We were going down the cornstarch side, not the liquor side, and we were wondering if the corn physically changed. It doesn't, so now -- but we had to do a TAP review to prove it, and then vote on it, and add it to the list. So, that was -- an after Orlando, we issued a directive called a Progress Report on the Proposed National List. And, basically, what that did was it outlined what we were going to do, what we did, how it worked, and what we were going to do, the steps we were going to take going forward, which Miles alluded to yesterday in that we did two reviews. You did this synthetic, and do you add it? And if it's processing, do you -- is it going to go for all the processing, or only for made with? So, there are two points in that -- and, also,

we issued a preamble. I'm getting lost.

We also issued a preamble of the proposed list. I want to read two pieces of it. "The expectation to be embodied in the National Organic Program Standards is that cultural, biological, and other management practices will be sought to replace any material input, synthetic or natural, as the organic production system evolves over time." And for processing it says that, "Non-organic agriculture ingredients may be used in organic foods only when an acceptable organic product form is commercially unavailable. Justification for the use of non-organic ingredients, as well as the efforts to develop organic sources for non-organic ingredients must be addressed within the handling plan, and the record keeping requirements of the rule."

After Indianapolis, we had voted on 166 materials. Oh, God. We had voted on 166 materials, and I'll cut to the chase.

There are 28 materials that we considered to be natural. We put those on -- you put them on 605. They should be on 606. That's where we expected them to be. And, by the way, we expected those to be natural, to be used as organic. But the other thing that's bothering me is that on the National List at the present moment is a material that has never gone through a TAP review, and that's flavors. The Board only issued a memorandum for the use of natural flavors in organics at Austin, so I would request that you remove that material and put it through a TAP review to see if it comes back on as a synthetic, or as a natural. Thank you.

CHAIRPERSON GIACOMINI: Any questions?

MR. CROSSLEY: I'm sorry.

CHAIRPERSON GIACOMINI: No, that's all right. I don't think we have any, anyway. Okay, so we're fine. Grace Marroquin, Kim Dietz on deck, Kelly Shea in the hole.

MS. MARROQUIN: Good morning. My name is Grace Marroquin. I'm President and CEO of Marroquin Organic International based in Santa Cruz, California. We are importers and suppliers of organic ingredients since 1991. I would like to thank the 10 Board members who are continuing to serve, and I welcome the new five members, and I congratulate you.

For those of you who have seen me before at the NOS meetings, please indulge me. I've been addressing the Board at almost every meeting since 2004. And once again, I'm here to talk about our favorite topic, organic yeast.

Organic yeast is produced in Germany by a well-established company, Agrano. Agrano has been NOP-certified since 2003, and until November 2008, we sold Agrano's organic yeast to a small group of customers in the United States. Then the NOP received a complaint, and cited Agrano with a non-

compliance. The NOP claimed that yeast could not be marketed as organic, because it was listed on the National List as non-agricultural. Agrano filed an appeal to the AMS, on March 2nd, 2010 under new management lifted that non-compliance, and we are certainly grateful to the NOP for this decision. On April 15th, the AMS formally closed the appeal as moot, and made the appeal as moot. The NOP now recognizes again that yeast can be certified as organic. Then why are we here before this Board once again? Because we still have a loophole in the National List, and the Board is in charge of this National List.

Yeast is still classified on the National List as a non-agricultural substance on Section 205.605(a). This means organic food processors are allowed to use conventional yeast freely as an ingredient in their 5 percent non-organic content. Food processors do not have to look for an organic

version. There is no organic preference applied when it comes to yeast, not fair. As a result, the vast majority of organic processors continue to bypass and use conventional yeast. If yeast would be listed on 205.606 as an agricultural product, processors would have to use organic yeast, if it were commercially available. This would be a gain for the organic integrity of processed foods sold as organic.

In fact, the reason Agrano developed organic yeast was because European organic community objected to the synthetic chemicals involved in conventional yeast. These include ammonia, sulfuric acid, caustic soda lye, synthetic vitamins, and synthetic antifoaming agents. The waste water from conventional yeast product is contaminated, and must be treated before it's released.

In organic yeast production, none of these chemicals are used. The waste water is pure and can be reused in organic

production. In fact, we all could enjoy a glass of it right now. If you were to use the waste water from conventional yeast, surely you would be in the hospital.

Turning now to organic yeast, it does not use synthetic chemicals, as I've stated. It is grown on a substrate of organic grains. If there were a robust organic yeast industry here in the United States, then organic farms would produce these grains needed to make the organic yeast. The entire organic sector would benefit.

Yeast companies are watching this issue closely. I can assure you of this, because as soon as yeast is transferred to 205.606 they will meet the challenge, and the demand for organic yeast. There is no doubt. The EU first recognized organic yeast in its organic regulations in 2007. Under the current EU regulations, all yeast in organic processed foods must be organic, must be organic, as of December 31st, 2013. They gave

them this grace period, so to speak, to meet this challenge. This is causing Agrano, and other producers, to increase their capacity. However, the picture in the United States is far different. There will be no incentive for Agrano, or any other yeast company, to build capacity in this country for organic yeast until the National List gives yeast organic preference.

In addition, if the NOP does not require organic yeast, this could lead to a trade issue with EU, and I know right now we're engaged in these talks for equivalency. We look forward to this fall meeting. Yes, I do, when the Handling Committee intends to have a recommendation on the petition to reclassify yeast as an agricultural product.

In closing, I would like to thank the Joint Material and Handling Committee for its efforts. I know it's been a long road, and I know that we all are working towards the same goal, at least I hope. I know, I know,

I really do. And we look forward, we, I look forward to seeing you in the fall. Thank you.

CHAIRPERSON GIACOMINI: Questions for Grace?

MS. MARROQUIN: Yes?

CHAIRPERSON GIACOMINI: Joe.

MR. SMILLIE: Bring the champagne.

MS. MARROQUIN: Oh, good. Surely, I will. Thank you, everybody.

CHAIRPERSON GIACOMINI: Thank you. Kim Dietz, Kelly Shea on deck, Patty Lovera in the hole.

MS. DIETZ: I had to bring my water, because I'm losing my voice, so I apologize if I sound hoarse, and hopefully I make it through. Just a little bit of housekeeping before, if I may. We're bringing lunch in. We have a caterer bringing boxed lunches, so if you have not placed your order, and you'd like to, you have about 15 minutes to get lunch orders in. So, please see me out in the lobby after my presentation. And

welcome to California.

Okay. Good morning. I can't see my presentation here. My name is Kim Dietz, and I'd like to welcome all the new Board members, and thank each and every one of you for your service. And I just have to say that, Dan. For those new Board members, I served on the NOSB as Handler Representative from 2000 to 2005. During that time, I was Materials Chair, as well as Board Secretary, as well as one of the founding members of OMRI, a Materials Working Group.

I worked for Smuckers Natural Foods for 26 years, and today my comments are really my own comments based on my work with the Board, and not those of my employer. I have submitted comments in regulations.gov under Smuckers, and you can read those, if you like.

I'm going to start with Sunset, and get into definitions of insignificant, and end up with classification, if I have time.

So, yesterday Miles urged the Board to use caution with regard to Sunset. I agree with him, that this is a timely process that must be met within the five-year time period. Your role on this Board is to insure that Sunset is conducted timely, and efficiently. I encourage this Board to take into consideration the work that was put into the Sunset process by previous Board members, industry, and the National Organic Program.

The issues emerging in the Policy Committee's 2010 Sunset Review document are not new. In fact, if you read the minutes, we deliberated over those exact same issues, annotation change, extensive material review, how much of the criteria do we need to do the re-reviews? I'm confident that we did the best that we could to provide you with the tools that you need for the tremendous task of Sunset Review.

Below are a few historical highlights of the process. I just wanted to

remind you that in 2002, we started, I was on the Board at the time, I was Chair of Materials, and we started working on the Sunset process. In 2004, Ms. Rosalie Koenig was Chair of Materials, and she brought a document before the Board on the Sunset Review process. During that same year, the NOP brought their version of the Sunset Review process. Later on, it took about three years to evolve through this, but once we did, we had a joint agreement on what the Sunset process should be. It was a hybrid approach between the National Organic Program and the review of the Board, and it was voted on unanimously by the Board, and that is the Sunset process that is currently in your policy book today.

I do agree that over time things need to change, and that you guys need the tools that you need to do a thorough review. I wanted to just quote something, because, believe it or not, back in 2002, 3, and 4, we

knew that 2012 Sunset was coming. And we thought that it would be a train wreck if we didn't have a process in place that ran smooth so that you could review these 186 materials that were coming up for Sunset. So, I just wanted to quote something, and there's more to it before this, but "Understand that in 2012, if we're all still here, how many of us are still here -- this big clump that became active October 21st, `02, this big clump of materials has to go through it again, plus any materials that are voted on on an annual basis." So, again, I guess that -- just in summary, please take that into consideration.

I support the new Sunset guidelines that were put out in the most recent Federal Register asking for the OFPA criteria. If you look at my public comments, I did a template. I hope that -- please look at that. I tried to -- it took me about a week to put it together. I did a very thorough job. I think that gives you more information

than you've ever hard, and I think it's a stepping stone to what you're looking for. I support the request for new TAPs. That's not new, every Board has had that opportunity, if you need it.

I also support annotation change. We were never told you could not change an annotation. We did not want to do that, because we felt the annotations change need to come through the petition process. As a Board, we recommended that when we finalized that Sunset.

And, last, I do not support re-petitioning. I think that you need to transition. If you don't have enough of the information that you need, then let's look at it, but let's not go too far. I think you do have the tools that you need. Thank you.

CHAIRPERSON GIACOMINI: Questions? Joe.

MR. SMILLIE: The current Policy Committee recommendation provides three

options. With your experience, and your viewpoints, which of the Options --

MS. DIETZ: Well, I didn't choose any of them. I choose a hybrid to one. I like the current process with the ability to change annotations, and the new OFPA criteria. I think that's a good step to try. If it doesn't work, then let's go back at it.

CHAIRPERSON GIACOMINI: Katrina.

MS. HEINZE: If we were crazy enough in our free time to want to go back and read some current transcripts, is there one or two you would draw our attention to?

MS. DIETZ: For the Sunset? It was all in October -- actually, April 2004 and October 2004. That's when the NOSB brought their recommendation, and then the NOP brought their's, and we voted on it in October 2004.

And then just lastly, I gave Katrina on insignificant. I did a lot of work. I scoured the CFRs, and I put a couple of pages of CFR references to insignificant,

and I'll give those to Valerie to give to the Board.

CHAIRPERSON GIACOMINI: Thank you. Kelly Shea, Patty Lovera on deck, Jennifer Fearing in the hole.

MS. SHEA: Good morning, everybody. That coffee out in the hallway was really nice this morning.

I'm Kelly Shea with White Wave Foods. You have my submitted comments on the agenda. I was intending to go over those again, but I think in light of the surprising announcement by USDA yesterday regarding new thinking on the use of accessory nutrients in organic food, and the subsequent press release, and then Wall Street Journal article, I just wanted to make a couple of comments to the Board about the DHA product that's used in Horizon organic milk, and to talk a little bit about process.

So, first off, we really do want to thank Miles McEvoy and the NOP for

clarification, because it is always better for farmers, and certifiers, and processors when the requirements for organic compliance are clear as a bell. And we've been asking for a lot of years for USDA determinations on interpretation of the regulations to be published in today's news, to be sent to certifiers, and available to all participants in the organic community.

That said, changes to a published USDA position that has been in place for over four years, and impacts processors and their farmer suppliers, needs to be implemented thoughtfully. While we would have preferred that the work that resulted in the position outlined yesterday would have been done in a transparent manner, and would have been posted in advance of the meeting, we do accept it as done. Last we had heard, the NOP was coming to this meeting to present a document that asked questions on accessory nutrients, not made a declaration changing the way business

has been happening. So, I would just ask the Board and the program to ensure that the forthcoming petitions for accessory nutrients that you will get, because they're going to be necessary to comply with the new thinking, that they're reviewed and voted on in a timely manner, and that the timeline be coordinated with implementation of the new interpretation.

And I'd also like to note for the Board that contrary to a published report, the DHA product that we've used since 2007 is made from algae and it's not hexane-extracted. It's extracted with alcohol. DHA in certified organic products is currently in use by more than a dozen different companies allowed by four different USDA-accredited certification agencies, and carried in stores all across the nation, so we look forward to seeing the TAP review that was done on the substance, and commenting on that TAP review. We're not in favor of TAP reviews that are done kind of the Google approach, and contain erroneous

information, and cite unqualified sources, so we'd really like to have an opportunity to see that TAP and comment on it.

And then, in light of the new thinking on vitamins and minerals, the Board may want to consider deferring their Sunset vote on this listing until more clarification is provided from the program, and the proper annotation can be researched and decided on.

So with that, I'm going to end, but I just need to say, because Mr. Kevin Engelbert is not here today, I want to take the opportunity to reiterate that we strongly disagree with the recommendation for clarification of 205.238 by the Livestock Committee. We agree with the minority opinion, Mr. Engelbert's. If an animal is treated with a substance that requires a withhold, that milk cannot be put in the tank to be shipped, nor should it be fed to calves. Calves are only allowed to have certified organic feed, and that includes milk. And

milk from cows that have been treated with a substance that requires a withhold, or is a prohibited substance, should be disposed of, and that disposal should be recorded in a farm's audit record keeping. Thank you very much.

CHAIRPERSON GIACOMINI: Questions for Kelly? Tracy.

MS. MIEDEMA: I'd like to ask a question of the Deputy Administrator in light of the announcement yesterday, and in light of what Kelly just brought up. Yesterday, there was a reference to ample time and transition time. There is also a request that the NOSB help flesh out what the scope of nutrients, vitamins, and minerals would be. And I wondered if you could just spell out some more details about what that transition time looks like, and what the process would be that you see.

MR. McEVOY: Yes. First of all, in general, we would like to have these TAP

reports and other information to the Board way ahead of time, that we were expecting to come to this meeting with just some questions and information about accessory nutrients. And we got the clarification from FDA really very, very recently, and that's why the announcement is here. Basically, as soon as we got the information, we put it together in a coherent fashion for presenting it to the organic community.

In terms of timeline, I think there's a lot of information that we need to understand about how many products are out there, what kind -- what are the products, what's the universe of these substances, these accessory nutrients that are used in organic food products. And once we have a better understanding of that, then we'd have a better sense how long that transition would occur, that timeline would be.

Since this was allowed by the Program for understanding of the organic

industry that these compounds were allowed, we need to give ample time for that transition to occur. We need to have ample time for petitions to be received, reviewed, and potentially approved by the Board, and then go through the proposed final rulemaking process. So, we're probably talking about a couple of years, even in an expedited process, for this to work its way out of the system, or work its way through the system.

In terms of a draft guidance, we're hoping to get that out later this summer. Again, there would be a 60-day comment period. After the comment period, we would look at the comments, and then issue final guidance, but we're looking at a couple of years in terms of the transition here.

CHAIRPERSON GIACOMINI: Anything else for Kelly?

MS. SHEA: Thank you, and thank you, Miles, for that.

CHAIRPERSON GIACOMINI: Okay.

Patty Lovera, Jennifer Fearing, Urvashi Rangan.

MS. LOVERA: Hi, my name is Patty Lovera. I work for a consumer group called Food and Water Watch out of our D.C. office. We also have an office in San Francisco, and we're a member of the National Organic Coalition. So, I submitted more detailed comments specifically on nanotechnology, but I'm going to go over kind of the short version of that pretty quickly.

So, in short, to answer the questions that were in the document you put out for discussion, we think that intentionally engineered nanomaterials should meet those questions you asked about whether or not they're synthetic, but we're also looking for more than that to make sure that they are not part of the organic program, they're not part of this market, so we're looking for them to be prohibited as a group of materials.

In terms of what are we talking about when we're talking about nanotechnology and how it should be defined, I think the key points are that this is an intentional process of engineering materials to be on this scale of one to 300 nanometers. We're not looking to lump in naturally occurring things that happen in other processes where you weren't intending to create nanomaterials, or not dependent on nanomaterials coming out of that process, like homogenization, or grinding flour. We're looking for an exclusion of when you're intentionally creating these materials on this scale. And the reason we think that's important is because these materials are different. They're not just smaller, they're different. And to lots of the questions that you had in that document, we tried to answer by saying they act differently, they react differently, and we need to treat them differently. They're not just tiny versions of their former selves. So, we put lots of

things in there, in that more detailed comment. I'm happy to provide copies of anything that we referenced, but I think the most important point is that one of the most recent papers we received described nanomaterials as having a novel mechanism of toxicity. They act differently in our bodies. They can cross barriers that other chemicals cannot, like the blood brain barrier, and cell walls, and things like that. And we're dealing with different types of toxicity we haven't seen before. And that's why we don't think it's enough to put it in this classification when we're dealing with a petition process for synthetic materials. We want to build a wall to keep these out, and deal with them as a class, that, if you're intentionally creating these materials, they don't have a place in organic.

So, I think, kind of to sum up, it's just that we're looking for a more robust exclusion of this than just taking it down

that synthetic path, where you're going to have to deal with petition after petition to try to figure out which ones go on which list. I don't think that's a manageable exercise for the NOSB to have to do. There's been some studies that even for the EPA, or the FDA, agencies that are, in theory, set up to deal with things like this, it's going to take them decades, and hundreds of millions of dollars to start to even figure out what we're looking at with these new materials. And I don't think that's the venue for the NOSB to have to deal with on a case-by-case basis. So, we just think that's a really important issue for the label, for consumers to feel good about organic, and feel like it's credible, that they understand that there's been an effort made to keep these engineered nanomaterials out of the system.

So, just really quickly on a couple of other points, which Liana brought up for the National Organic Coalition, and others

will bring up, as well, later on the methionine issue, this is one that the consumers that we interact with, who read our materials and contact us, and ask us questions about labels, they're aware of it, but I think they're starting to become aware of it as like a proxy for a bigger discussion that hasn't necessarily happened about poultry, and it's a discussion about what kind of systems are we using to raise organic culture, so we're having conversations year after year about this one specific material, methionine, and they're not getting a sense that we're having a discussion about, how big are these systems? Are they imitations of the confinement model of conventional agriculture that more and more people are looking for an alternative to, so we'd like to see -- we'd like to be done with this conversation about methionine and get to a point where we are talking about the other things you're talking about, like density, and management, and breeds, are we using the right

breeds? I mean, this is a system conversation and we're boiling it down to a chemical conversation. So, I think for consumer clarity, and for the label's credibility, it's time to get this out of the system as quickly as possible.

And then, that really leads to what Liana was talking also about the Sunset issue. We agree that when these things expire, they need to come off the list. And if we're going to tell consumers that this is a label that's based on continuous improvement, and finding incentives to find alternatives that aren't synthetic, there has to be a clock that actually expires. And this kind of cycle where they stay on there needs to stop.

And then, finally, the last point I'll make is that with the Made With Organic label option, we think that this, again, is a standard, maybe, that's missing some context about how we enforce the use of the word

"organic," so we'd like to see some more concerted effort on enforcing the use of the word "organic" before we worry about changing that standard, and moving that seal to a different tier. So, we would like to see some reining in of the organic -- the use of the word "organic" that we all see before we decide whether to move that seal to a different category.

CHAIRPERSON GIACOMINI: Okay. Thank you. Any questions? Katrina.

MS. HEINZE: I just wanted to thank you for your detailed comments on nanotech; specifically, the proposed definition. That gives us something to start with, so we appreciate it.

MS. LOVERA: Good. Thank you.

CHAIRPERSON GIACOMINI: Okay. Joe.

MR. SMILLIE: Just a brief comment. And, again, this covers a lot of issues, and I appreciate everything you said.

I'm basically, in agreement. It's just when you talk about synthetics, it brings up a big issue. The whole of organic agriculture is not anti-synthetic, and I think we're starting to hear more and more people saying we've got to get rid of all synthetics. And I just disagree. I don't think that's where the NOSB and the NOP are going. That battle was fought a long time ago. All that is natural is not necessarily good, and all that is synthetic is not necessarily bad. And we have an orchardist, Gary Middleton, talking about a synthetic pheromone mating disruptor, which is a synthetic pesticide under FIFRA, and it has allowed organic to grow, so I just do not feel that this complete use of the word "synthetic" as equating bad is necessarily where we want to go. Synthetics can be very beneficial to the planet, and to consumers, and I just wanted to make that point now, and I will try to refrain from making it again.

CHAIRPERSON GIACOMINI: Yes, I

just have one -- I'd ask one point for clarification on your nanotechnology comments. In the category of that intentionally created, there were comments submitted of, I believe, slow churn processing that intentionally creates small nanosize particles to improve mouthfeel. Would that fit in under your idea of intentionally created, or fit in under the incidental along with the grinding and -- general grinding and homogenization?

MS. LOVERA: Yes. We had a lot of conversations about that particular -- I think in ice cream is where it's happening, and there's a lot of interest in it, and low fat, trying to make low fat feel like full fat. And I think the line for us is intentional, because all of these substances we're starting with are known, and then when you intentionally put them in this nano system they behave differently. So, I think that's the line. If you're intentionally going for a nanoscale material because you think it will

act differently -- otherwise, why would you do it? -- then that puts you in the category of these intentionally engineered materials that we think aren't part of that.

CHAIRPERSON GIACOMINI: Okay. Thank you. I just wanted to clarify that. Thanks. Anything else? Okay. Seeing none, Jennifer Fearing, Urvashi Rangan on deck, Michael Hansen in the hole.

MS. FEARING: Good morning. My name is Jennifer Fearing. I am here on behalf of the Humane Society of the United States. I'm our California State Director, and on behalf of our nearly 11 million supporters nationwide, we are pleased to respond, and we did so in writing, and are pleased to be here today in person with respect to the proposed stocking rate charts that you're considering.

We think it's important to be here to support the NOP's commitment to high standards of animal care and housing. Many organic producers recognize that humane

treatment of animals is integral to organic principles and philosophy. Consumers expect organic farms to meet the animals' needs, especially their needs for adequate living space, and the freedom to express their natural behaviors.

We support the most generous stocking densities that are feasible for producers, and we would be concerned with any proposals to increase the density or the stocking rates above those that are outlined in the proposed November 2009 rate charts, which correspond with the Canadian requirements. We feel strongly that these should not be weakened.

We raised, in our letter of April 12th, some specific concerns. While we are generally very supportive of the overall space allowances, we just wanted to highlight the finishing space for cattle, and make sure that those are in alignment, as well, with the Canadian requirements, and draw attention to

some potential concerns about accidental crushing of piglets, if no space is required to make sure that they have adequate zone to avoid that outcome, and wanted to refer you to the Global Animal Partnership Program, a plan that's already devised some requirements in that area. And we would strongly encourage the Board to incorporate those, and to fail farms that don't have the ability to meet those requirements.

So, again, mostly I'm just here to provide strong support for the direction that you're headed in, and to encourage you not to weaken any of the densities that you proposed.

CHAIRPERSON GIACOMINI: Thank you. Questions? Thank you.

MS. FEARING: Thanks.

CHAIRPERSON GIACOMINI: Urvashi Rangan, Michael Hansen on deck, Charlotte Vallaeys in the hole.

MR. RANGAN: Hi, good morning. I believe I have the proxy for Michael. Right,

Valerie? Yes. Well, good morning. My name is Urvashi Rangan. I am the Director of Technical Policy for Consumers Union. We publish Consumer Reports Magazine. I'm also an Environmental Health Scientist, Toxicologist.

I'd like to begin with nanomaterials. We also have comments. I'm sorry they're going to get to you late, but we're able to submit them to you this morning. We concur with the comments of Patty Lovera from Food and Water Watch, that we believe nanomaterials, it's really about the intentional creation of engineered nanomaterials, and then the prohibition of those materials in organic production. That's, ideally, what we would like to get to. We understand that treating them as synthetics, at least as of today, gets us one step further, but we think, at the end of the day, that is a type of substance that needs to be prohibited in organic production for all

the reasons Patty mentioned.

These things are very small. They do behave differently. From a toxicology perspective, when you start to look at the studies, as well, they are so small, they can penetrate much further than molecules that are like them that are bigger can. We've studied this issue in sunscreens, for example, and we know that the nanomaterials can actually penetrate the dermis much further, and get to places in the body that the regular versions of those chemicals or minerals cannot. So, for those reasons, we do think that engineered nanomaterials should be prohibited in organic production.

With regard to methionine, as Miles pointed out in the NOP presentation yesterday, amino acids are not vitamins or minerals. And so, we wonder about the rationale in the regulatory framework section of this recommendation. I think, overall, if this recommendation were to go through, it

would be 16 years of a prohibited material that is allowed in this feed. That's just not okay, and I think it really represents a bit of a breakdown process when it comes to Sunsetting materials, creating incentives for organic alternatives to be developed. And even in reviewing the recommendation, it's clear that there are many natural materials that can be explored further.

I've met a gentleman who is producing high methionine corn, and, apparently, didn't get four grants in the last several years, because there was no demand, and there's no interest. So, if you keep Sunsetting material, or you don't Sunset materials over and over again, that sends a clear message to the marketplace that there's no real need to develop alternatives. And that's a really big problem, because Sunset and use of synthetic materials -- and, Joe, I respectfully sort of disagree with your concept on synthetics with regard to organic -

- but it was designed to use it for a while, if there aren't any other alternatives. But as the natural alternatives become available, that's what needs to move into organic production. And consumers are trusting you to implement that process properly.

Methionine is an example of a failed Sunset procedure system, and we really urge you to start winding this down, to start Sunsetting this material, put a transition period in if you need to, but we really need to be done with this. And it shouldn't take another five or six years to get that done.

In the regulatory framework, though, if that is the rationale for this exemption, that it is a vitamin and mineral, and that is how it's being granted as an exemption for using a prohibited substance in organic production, then I would just encourage you to revisit that in the context of what Miles had stated yesterday.

With regard to classification of

materials, I'll tell you, I've been watching the development of what's synthetic, and what's not synthetic for the last decade. And, as a scientist, I'm even getting rather confused about what this is. And, as a scientist, trying to educate the public about what it is your rationale is for what is synthetic or what isn't, what is natural or what isn't, it's becoming increasingly difficult to do that.

We felt about a year ago we were getting on the mark, and then somehow we feel we've deviated from that point. I think it's important to avoid the ability to exploit the classification of a material, so let me just zoom out for a minute, and say that we think that this Board should err on the side of having to review a material that may be questionable for use in organic production, and that that should trump the development of an overworked formula that might actually lead to an inappropriate material being

greenlighted for use in organic production.

We are very concerned about many ingredients that might be listed, and I don't know if there's been a little bit of a testing process to this formula, like what synthetic ingredients are out there that we wouldn't want in organic production, and could that be greenlighted in this process?

I can't figure out how partially hydrogenated oil couldn't be done right now under the current definition. It's a nickel catalyst, natural oil, little pressure, little hydrogen gas and you've got hydrogenated oil. This doesn't prevent that from happening. And, frankly, we often talk about the natural label to consumers, and don't confuse natural with organic, and here's what natural ought to mean. And that is, if you don't have an ingredient that grew in nature, you don't have a natural ingredient anymore. If you processed it, and it is chemically different from what it was in nature, you don't have a

natural ingredient. You chemically changed it, and this is Chemistry 101. And I think there seems to be a drive to redefine what it is, rather than just saying by following basic chemistry principles, that's what it is. And maybe there's a way for you all to differentiate between products that are minimally processed, and you could, perhaps, fast-track that through a different, or through a shorter chain of evaluation than you would for a full-blown synthetic TAP review. But you can't just wave it through. And I think whatever it is, the recommendation right now, it doesn't jibe with what basic science is. So, we think that needs revision. We think if there's a chemical change, there's a chemical change, and we think that from the consumer point of view, they expect you to review those things, and approve them on the National List, so that if there are truly synthetic materials, that you have, in fact, reviewed them, and decided whether they should

be on the list or not.

With regard to the Made With label, consumers have been educated to look for the organic seal, the USDA organic seal, to find the most value in organic products. It's a way for us to help educate consumers, to tell them if you want the best of the organic, you need to look for the USDA seal. By allowing that seal to be used on the Made With category, it's, we believe, going to lead to actually more confusion on the marketplace, and it will, ultimately, confuse consumers even further.

We concur with Patty Lovera that this is an enforcement issue, and we appreciate the want to try to clear up this marketplace confusion, but we think that products like fish that are carrying an organic claim, or personal care products that aren't NOP certified that have an organic claim, or fertilizers that have an organic claim that are sewage sludge, those should not

be allowed, and that those should be prohibited, and that those are the direct confusing factors in the marketplace. It isn't the Made With so much as it is these misleading organic-labeled products out on the marketplace. And, at this point, we can say if food has an organic claim on the front, it meets the National Organic Program. And I think that most consumers understand that, but it's the other product categories in the other sectors where there hasn't been any enforcement action.

We're really pleased to see that the NOP is meeting with the FTC. We're very happy with that, and we encourage them to not only talk about personal care products in that meeting, but also any non-NOP organic claim in the marketplace. We think it's a really great opportunity. The FTC is about to issue their Environmental Marketing Guides again, and it's an opportunity for FTC to help the agency with preventing deceptive marketing claims on the

marketplace.

And, finally, with regard to inert gases used in the 100 percent organic, I tried to get a better handle on how inert gases are produced. It seems to be through fractional distillation of air, which is how you get most of these inert gases. And as long as that process, again, meets with all of the terms in terms of getting that, making a natural type of ingredient, we don't have a problem with the use of inert gases in 100 percent organic. Thank you.

CHAIRPERSON GIACOMINI: Thank you. Joe.

MR. SMILLIE: We may disagree on the role of synthetics, but we greatly appreciate the work of Consumers Union in educating the public about organic, and your strident support of the organic label as compared to the natural label. A great deal of appreciation on that issue.

MS. RANGAN: Thank you, Joe.

MR. SMILLIE: I'll pass on the classification, and let my colleagues tackle that one. But on the Made With, the Made With label also meets the NOP program. I'm not arguing for the USDA seal. It's a discussion --

MS. RANGAN: Oh, we realize --

MR. SMILLIE: Yes. And I think that organizations like yours play a really important role to bring that awareness to people that Made With organic products are certified, that they do meet the National Organic Program, and that they do help expand the growth of organics in the industry. And even though it's not as valid as the organic label, I think it's an issue of consumer education, not necessarily the seal. And I think that's the way we are heading. And organizations like yours can do a great deal to help us get that education out there, that it's not not organic, that it's just not as good as organic.

And, lastly, I greatly appreciate your support on the inert gases. As a distinguished scientist, I'm glad you did the research to realize that this material is going to be very helpful to manufacturers, and doesn't prevent them from using 100 percent claim.

MS. RANGAN: Thanks, Joe. Just to respond to your one labeling issue. I mean, there are other ways besides reducing the seal in half, and putting it on the back. And we think it is that seal use that's going to be confusing. I'm not sure consumers are going to know bigger versus smaller, and know the value differential.

Maybe a statement on the back with the certifier's seal to say, "meets the standards of the National Organic Program for this category," I mean, that's a very transparent, clear way of helping consumers understand that, while not confusing them further, and they still being able to

differentiate the higher organic categories with the seal.

CHAIRPERSON GIACOMINI: Katrina.

MS. HEINZE: Thank you for your comments on the classification of materials. Certainly, if it was easy, it would have been solved a long time ago. Your comments give us something to think about. I'm interested, if we just went with chemical change, which is what we did in the fall, we heard a lot of public comment that that would then unintentionally include a lot of agricultural products that had been processed, and make those synthetic, and that that would be confusing to consumers. For example, now the bread would be synthetic, their yogurt would be synthetic, and that certified organic synthetic, while perhaps scientifically correct, would offend the sensibilities of consumers. I'm interested what your thoughts are on that topic.

MS. RANGAN: Katrina, I think it's

a very difficult line we're trying to tread here. I think that if there are synthetics that are appropriate for use in organic production, and there aren't alternatives, come clean with the public, and let them know that that's the only way you can get yogurt, is to have certain synthetic materials in it. There's no other way. I think what happens is, you try to create this paradigm and spit something out as natural, that scientifically speaking isn't, and then you get outrage on the back end with, well, how did you evaluate this? And then it's, well, we didn't really, because we didn't need to, and then you back it up to that rationale. I think that becomes a challenge for you all, and for the integrity of organics on the whole.

MS. HEINZE: I appreciate that. I guess my question is not in cases where you've used synthetics, but in the cases where you've used a natural. So, for example, or have just processed it. So, the example we had in our

document was a very simple one, but you take wheat, you toast it, that is chemically changed. And our definition as it stood in November, that would be synthetic.

MS. RANGAN: Well, I think -

MS. HEINZE: And I also go back to my mom, and those of you who have been on the Board for a while, she would tell me I was an idiot if I made that synthetic.

MS. RANGAN: Right. And I've been up here having the same discussion before. So, the act defines processing, and we have those terms for what it can be. And I think there was agreement that if you use those processing techniques with an ingredient, that you cook it, you bake it, you dry it, that you would not need to run it through the mill. But if you do anything else to it, why wouldn't you want to run it through the mill, and why does the mill have to be as complicated for every single one? If you know that it's only a minimal processing, and

whatever it is, at least it had your eyes to review. And I think that's the point, is that the public needs you all to be that box, where these things input through, there's some sort of eyeballs and review on it, or a more extensive review if that's necessary, and then it comes out the other end. Without that, the fact that things can sort of land on the floor, and you all never have seen it because it was just greenlighted through, that's a very precarious position to be in, I think, for this program.

MS. HEINZE: Thank you. That is exactly what our edition is intended to do, to say if you process it with these few things, it doesn't need to go through the mill, but otherwise it does. And we'll take a look at other public comments, as well, but that was an intent to do that.

CHAIRPERSON GIACOMINI: John.

MR. FOSTER: So, one of the things that's occupied a lot of my time is that

complex world that you talked about. I would love to live in a world where if it's chemical change, it's chemical change. That's great. But one thing that's come a little more clearer for me in the last six months, particularly, is that there's a difference between how you define chemical change and its acceptability to the industry. And even though I've watched a lot of these meetings in the last few years, it seems like it's a subtlety that's now readily apparent. So, there's been a sharp and painful learning curve for me in the last few months about that. That's such a significant difference, I think it's so subtle that it escapes a lot of consumers who express discontent. I'm not sure that they're thinking in those terms.

When you had mentioned if it's chemical change, it's chemical change, so -- and I'm really looking for it, and I want the answer. Does baking bread -- in my understanding, there's a chemical change

there. Should that be considered synthetic, or not?

MS. RANGAN: No, and we've talked about this before. You have processing terms here, and that was sort of where we -- well, we agreed with you all that the line should be drawn last year, but if it was cooked, if it was dried, if it was evaporated, if it was grinded, I mean that those are things that were fine. But, John, I do have to ask you to consider why or how a partially hydrogenated oil right now could get through as organic, according to this definition. And I don't think you intend for that to happen, but that is, perhaps, an inadvertent consequence of creating a bigger formula for exempting things from being reviewed, rather than creating a narrow formula, and just running through the review. And, again, this isn't a matter of not using it, using it, and maybe you'll deem some of those things natural on the other end after you review them, and say, oh, I see how

it's done, and so, chemically, it's not any different, even though lots of synthetics were used to process the thing. But if it doesn't have that review, it doesn't have that kind of credibility that consumers are looking toward and paying more for, because they think that that kind of due diligence is being done when they buy organic products.

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: Thank you for your comments. Dr. Rangan, as a toxicologist, I want to ask you a couple of questions about -- on this classification issue regarding the significant versus insignificant definition, which, of course, is not before us here, but is sort of the foundation on which we are building this classification discussion. So, we take a process that involves a chemical extraction, and we end up with an insignificant amount of that chemical in the end product. As a toxicologist, what's your feeling about that?

MS. RANGAN: That you definitely do have a chemical change. And, Jay, thank you for bringing up that question. I wanted to mention that significant change, subtle change, John, however you want to phrase it, change is change. And from a chemistry perspective, it just is change. It requires your review, whether it's a subtle change, significant, whatever it is, it requires your review. I'm sorry, Jay, the last part of your question on that?

MR. FELDMAN: Well, it's just a question of how - I think you've answered it.

MS. RANGAN: Yes.

MR. FELDMAN: How should we address that as a Board? Should we view this as de minimis and, therefore, not --

MS. RANGAN: Yes. No, and I would also maybe encourage you all to look at what FDA did with the Corn Refiners Association. The Corn Refiners Association went to FDA a few years ago, and wanted to use the term

"natural" on high fructose corn syrup-containing products, and that processing involves a lot of strong acids and bases, also bacterial enzymes to make it. And, if you read through that document, it's pretty dense, and it kind of takes a scientist to read through it and tease it out, but what you realize is that even FDA at that time was saying, look, we really don't think so, and the fact that you've run these things on columns, you load it with an acid, it's only unless you have zero residue of that acid left at the other end that they would even entertain the thought of it being labeled as natural. So, I think that might help you all just looking at what little FDA has done around the natural claim, and it's not enough, in our opinion, but, even what little they have done, I think will give you some indications that certainly if there are residues left, it's not considered --

MR. FELDMAN: Yes. Part of the

struggle for us is that once you talk about zero, you're talking about limits of detection, and you're talking about a methodology for that, which, of course, is a moving target. But, at the same time, the statute under which we're operating is a process-driven statute, so the question is whether you're adding something, not whether something is remaining. We use residues to determine whether there's compliance with that process-driven process.

MS. RANGAN: Sure.

MR. FELDMAN: And we're getting caught up in -- and we're back-ending a lot of our discussion, I think partly because of the IG report, and the focus on how we're going to create a new enforcement, better enforcement system, and we're giving -- we're sort of forgetting that we're process-driven, and we don't want those inputs being put in at the front end, because we know about some of the deficiencies on detecting them at the back

end.

MS. RANGAN: That's right. And I can't agree more, and I think all the processing aids, and I'll bring up food contact substances, but it's those things should be considered, you should be looking at them. And there are areas -- I mean, bisphenol A is a classic example of what's going on right now as a food contact substance that leaches into food in the cans, that, had the law not been changed several years ago, we would be reviewing that material right now. And consumers ask me all the time, does organic not have BPA? And that's not the case, and that's the result of not reviewing food contact substances, and not really taking a closer look at processing aids. There will be more after BPA, but that's an example of how not paying attention to those things can sort of bite you on the back end.

MR. FELDMAN: Dan, I'm really sorry about this. I just have one other

question. I want to thank you for your comments on public perception, because I think on classification that's a really driving issue for the Board to deal with the fact that we are approving a lot of synthetics. We do go through a rigorous review, and we want to improve that review, but I agree with you, that we need to have that review and acknowledge that we do allow synthetics, and stand behind that. I don't go as far as Joe goes, I think our default under the statute is to try to avoid that, to the extent possible, but we do do it.

I need to ask you about inert ingredients, since you didn't mention that, and what your feeling is in terms of the Board authority or responsibility to evaluate inert ingredients, especially under the new EPA pending policy on full disclosure.

MS. RANGAN: I mean, the Board won't be happy with what I have to say on that. You guys, I think you need to review

them, and I think that maybe there are places at EPA, you know, they have this design for the environment program. There may be an infrastructure framework at EPA already there for you to try to use to help expedite the sort of re-review of some of these things, and where they're going, but, again, I just think to greenlight these things, or wave the hand through, what we're able to tell consumers is, if there's a synthetic material used in it, then the Board reviewed it, and that you, the consumer, can be assured of that. And that's a very important line in the sand. And if you start to erode that line, or get rid of it, that's really going to undermine the integrity of organics, and what consumers expect out of it.

MR. FELDMAN: Thank you.

CHAIRPERSON GIACOMINI: Jennifer.

MS. HALL: Thank you, Dan. Urvashi, I'd like to talk to you a little bit about your comments about the Made With label.

And I couldn't agree with you more that I think the greater consternation lies in the arenas that are completely not inspected, that don't have any rules around them with personal care, and other industries. However, I think that, in your own words, that what organic represents is the credibility that consumers are looking for. And that, up to now, we may have used that USDA seal as representing the gold bar, but that, potentially, it has more value to us if we actually use it as verification that it has met legal requirements to be in a certain category. And Made With is a legitimate category of organic, so to the extent that we refer to it as kind of the ugly stepchild, because it's less perfect, I don't think that does any good. I think that we need to promote the industry as a whole, and those products are 70 percent better than their conventional counterparts. So, I think that your group and others have done incredible work to establish a value with

the seal and the recognition of what that means, and that there's an opportunity to expand the credibility of all of organic, and recognizing all of the work that's done in the industry, even with the Made With category. And that the fact that at least the seal on every single thing that has gone through organic certification does start to spread the waters. It either has been inspected and is verified, or it's not, and there does become a clear divining rod then between those industries that are just making claims that we don't have a handle on yet, or may never ever, and those that are legitimately inspected and certified.

MS. RANGAN: Thanks, Jenny. I appreciate your comments, and I -- in reading through that recommendation, I really empathize with the Board. And it's something we have to educate consumers on too. And we agree, there is legitimacy to that, to the Made With organic label. We completely agree

with you.

I think it's in the way it's going to be denoted, that will actually have an inadvertent consequence of muddying it up for the consumer. And the reason I say that is because every time -- I mean, even today after a decade of this program being in place, I still have to deal with reporters in talking about the three tiers of organic, and meeting wonderment when they hear that. And people don't know there are three tiers of organic labeling. They don't know how they're supposed to figure that out. And the USDA seal has enabled us to tell people that those are the top levels of organic. It enables us to help guide people toward the most meaningful organic products on the market, and that's not an attempt to discredit the Made With category, and that's why I really do encourage some sort of, "meets the standards of the National Organic Program" on the back of it, so that it is clear to consumers that

those products do meet the standards of the National Organic Program.

I would just really caution that the seal may confuse people's ability to discern between those that are made with organic, and those that are organic, and those that are 100 percent organic. And right now, we actually have a way to differentiate better on those categories, but with the seal, it becomes increasingly difficult if you throw that on the third tier. So, that's why we would like to see some sort of disclosure on the back that it does meet the standards of the National Organic Program, so that it's very clear to consumers that you save that seal for the most meaningful organic products on the marketplace.

CHAIRPERSON GIACOMINI: Thank you. I'd like to remind the Board members that cots will not be brought in, and to please try and stay focused on -- thank you, Urvashi. Didn't mean to take that off at all, but please try

to stay focused on the questions, not discussions of your agreement and disagreement at this point in time.

Is Charlotte -- Will, do you have-

MR. FANTLE: Charlotte is not here. She is seven months pregnant, and decided to remain in Boston. We are going to cede her time to a producer from Pennsylvania who came out here.

CHAIRPERSON GIACOMINI: Okay. We are going to take this one. Are you already on the list?

MR. BAKER: Via Cornucopia, I'm not on the list.

CHAIRPERSON GIACOMINI: Okay. Let's try and keep this organized through Valerie, please, these kind of switches. We're going to do one more, then we'll take our break and give everyone a chance to stretch their legs. Thank you.

MR. BAKER: Thank you. John Baker, President of Giving Nature Foods. Regarding

the review of NOP standards affecting outdoor access for egg-laying hens, and whether or not it should be defined as providing a pastured environment for organic layers, I would like to make the following comments.

In my opinion, no one can question that consumers expect organic egg producers to provide pasture for organic laying hens. Also, in my opinion, no one can deny that the consumers who buy organic eggs expect them to be from anything other than from pastured hens. The term outdoor access was created to replace pasturing as a term to describe the environment that should be provided to organic laying hens. I will not conjecture on why this was decided upon, but will only say that I believe it falls far short of the expectation of the organic egg consumer.

Testimony that comes from representatives of large-scale CAFO, concentrated animal feeding operations, organic egg producers whose interests dwell on

keeping the standards as they are, and whose only result, should their desires be actualized, would, I believe, be the continued warping of the term "organic" to fit such a large-scale CAFO monoculture production model.

For the record then, I would like it to be known that as an organic egg supplier to the Mid-Atlantic and Greater New York City region of the United States, and whose scale of production includes 130,000 plus organic laying hens, I, without exception, support the following standards for organic egg laying hens, and that such standards be a replacement for the current NOP standard regarding outdoor access, as it pertains to organic laying hens.

All organic laying facilities should have pasture available to them at least 120 days of the calendar year. Such pasture must be maintained with at least 75 percent vegetation during the time the laying hens have access to pasture. The standard of maintaining 75 percent vegetation during

pasture access should be used as a baseline when determining the requirement of outdoor square footage per bird. Anything less will result in bare ground devoid of fulfilling the pasture concept's true intent.

I believe these standards are achievable under most climate conditions in the United States that an organic egg producer would encounter. Wherever they are not achievable, then those areas of the US should be deemed unfit for organic egg production, and those egg producers that are currently producing organic eggs in those areas can enter other existing vibrant markets, such as cage-free egg production. Thank you.

CHAIRPERSON GIACOMINI: Questions? Jeff.

MR. MOYER: You said you have 130,000 birds. Is that correct?

MR. BAKER: Yes, sir.

MR. MOYER: How many acres are you --

MR. BAKER: Well, we're just now transitioning them all into pasture, so we're going to attempt to have them all transitioned within the next three years. We have about a quarter of them going into transition now, and next year we'll do the same. Because of the way the standards are written, it was hard to find a farmer that was willing to go to that extent for the level of production that we needed to satisfy our customers. So, over the years, we've advocated for outdoor access, the greater standard than what is now available, in fact, that they should be pastured. What we've done is, we've asked the people that are willing to participate in the program right now, which is about a quarter of our production, we've asked them to take a 15-foot buffer that's around the house that has to be done anyway as a result of organic certification, and we've asked them to put them out on that pasture area. That's not adequate, but it begins that process, and then

the buffer that will come out around that 15 feet that goes around the house will be made even larger to finally be adequate to maintain 75 percent vegetation, like I just described. So, we're in the process, ourselves, and I would recommend that, too, in terms of reviewing this, because most people don't have their birds outside if they're supplying any type of size of production.

MR. MOYER: I guess, to be a little more specific, within your farm or your region in the northeast, if you have 130,000 birds, how many square feet per bird are you allowing, or how many acres is it going to take you for 130,000 birds?

MR. BAKER: We're still going through that process ourselves.

MR. MOYER: So, you don't know.

MR. BAKER: No, but we're going to have to -- we'll find out as we go along how much we actually do need. I think to try and have a target with an exact amount of acreage

needed right now isn't practical, because you may end up requiring too much acreage, or not enough. It's going to depend on the area that you're in, and what the experience is of the growers. Because we've gone through decades of not doing this, all that kind of knowledge is really lost, nobody really knows.

MR. MOYER: And how many hours a day do you expect the birds to be on that pasture?

MR. BAKER: I would probably defer to my Culture Management Service. Mel. What would you think they would be outdoor access? Minimum of four. Okay. Maximum? Four to ten.

MR. MOYER: Thank you.

MR. BAKER: Yes.

CHAIRPERSON GIACOMINI: Any other questions? Seeing none, thank you. We will take our break. We will stay on schedule, and bring you back together, reconvene at 10:00.

(Whereupon, the above-entitled

proceeding went off the record at 9:51 a.m., and resumed at 10:10 a.m.)

CHAIRPERSON GIACOMINI: Okay. We have a quorum, and we'd like our first -- where did my list go? Will Fantle with a proxy -- Will, do you have a proxy?

MR. FANTLE: Yes.

CHAIRPERSON GIACOMINI: Okay. With a proxy, and then Walter Goldstein, and Steve Ricke on deck and in the hole.

MR. FANTLE: My name is Will Fantle. I'm the Co-Director of the Cornucopia Institute. We have approximately 3,500 members across the country predominantly certified organic farmers as that membership, and I'm here representing the organization. We provided detailed comments to the Board on a number of the agenda items. I'm going to highlight some of those portions of the comments.

The first area I want to talk about is the Livestock Committee's request for

public input regarding stocking rates. We're concerned that the scope and magnitude of the area of regulatory oversight that's being suggested in this document warrants more extensive and greater public participation. And what we would suggest as a model for that is something that works successfully, we think, on the pasture rule. And that was the symposium that was held at State College Pennsylvania in 2006 that brought together a wide variety of producers from across the country who were able to generate a significant amount of discussion, and we think, ultimately, coalesced around a proposal that led to, eventually, what became the Pasture Rule that was released this last February. We think that's a good model to use for this going forward.

We would also suggest that the Board take a look at the document that was produced by Dr. Kathleen Merrigan, and Dr. Lokeretz when Dr. Merrigan was at Tufts, and

that dealt with this very issue of animal welfare and stocking ratios. In fact, the document that they jointly produced was a review of seven different organic standards designed for use by the NOSB and the NOP. And we think that would be useful for you to have, in addition to the three documents that were provided to you in your materials for discussion of this item.

The other aspect of this I want to mention is the organic egg sector. Later this year, our organization will be releasing a report based upon the extensive research that we're currently doing, and have been doing for the last year and a half into organic eggs. We've been doing survey work of organic egg producers. We've been visiting farms. We've been talking to people involved in the industry.

Generally, I can tell you right now, what we have uncovered is that most of the smaller scale organic producers would be

able to meet any of the standards that are mentioned in the appendices that you have received. In fact, they could probably go beyond those standards. We don't think, however, from what our research has found that many of the large-scale organic egg-laying operations can do that. In fact, we think they would need to remodel their hen houses, and potentially dedicate or acquire additional land to allow them to comply with what's even the lowest proposed numbers, meaning those highest densities that you're considering.

And I'd also like to note that it's very difficult for some of the smaller and mid-sized operations to come to events like this. They rely on organizations, such as ours, and others to share information with them. And this is one more reason, I think, for you to consider a symposium that would be a focal point for attention on this issue, and allow for these other producers to gather, and talk, and share information with you, and

dialogue with you.

The larger producers, as you recall from your November meeting, were able to send their representatives. I know that many of them are here again today, and we're concerned that you're only hearing one voice, and we would hope that you would broaden your activities, and try and include those other voices in this discussion.

Accessory nutrients, we were pleased by the announcement from the Program yesterday indicating that accessory nutrients are not on the National List. This is something that some of you may recall we filed a formal complaint with the Program on several years ago, saying that this was, indeed, the case. That complaint was dismissed by the prior Program Management. We re-filed that complaint last week, and I would hope that you would again just take a look at that, because one of the key components of this has been the suggestion going forward that you're going to

allow a transition time for businesses to remove some of these ingredients from their product. We don't have a problem with that. What I would suggest to you is that some of these ingredients are not, necessarily, benign. DHA, in particular, in infant formula, we have gathered and collected through our Freedom of Information Act request with the Food and Drug Administration a number of adverse reactions to that, scores of those, which indicate that for a small subset of infants, explosive diarrhea and vomiting are the result of taking formula which seems to clear up like that as soon as they switch to a formula that doesn't have DHA in it. So, please bear that in mind as you weigh how to proceed on this issue, that there are some infants that, perhaps, are needlessly suffering because of some of these ingredients.

As for Made With Organic, and the use of organic in company names, we believe

that use of a USDA seal for Made With Organic Product will dilute the value of organic, of 100 percent organic products, and we object to the usage of any type of seal, any color or size on any Made With Organic product. We welcome companies that are willing to move forward and invest in putting 70 percent of organic ingredients, or perhaps more, in the products, we think the gold standard remains the seal, and we think, in fact, we fear that that will be watered down, or diminished in value for those companies that are engaged in organics, and are providing 100 percent or 95 percent.

We also have a complaint that I think many of you are aware of pending before the NOP dealing with the use of the name, or the word "organic" in a company name on a product. I won't go into details on that, because I know you've seen that, and I think you'll be processing that, but we do think that's something that you're going to need to

take action on to insure that organic and a company name does not mislead consumers as to what's actually in the product.

The last item I want to point to is something that was not on your agenda, and something we would encourage you to be engaged with in the future, and that's the proposed exemption from pasture for beef. We're disappointed that the National Organic Standards Board did not have an opportunity to weigh in on this exemption. This actually has been much of the case with this proposal, the Pasture Rule going on for the past couple of years, and we would urge the Program in the future to recognize the importance of you, your input and your involvement in any future rulemakings that are involved.

I'll just briefly say a couple of things about the beef proposals that we suggested. We again surveyed, and went out and talked with beef producers across the country, and dairy producers that also sell

slaughter stock. What we discovered, actually, was a little surprising to us, that upwards of 80 percent of the nation's organic beef producers are exclusively or primarily grass-based until slaughter. They don't need an exemption.

On the other hand, upwards or close to 20 percent of organic beef producers do currently use green finishing and a feed lot setting. These producers, many, are family scale and run family operated farms, and they need an exemption to stay in business. So, we're sort of neutral on the exemption, but we did come up with a proposal that would, we think, accommodate several different production schemes, as well as provide transparency for consumers going forward. One would be organic green finished, organic 100 percent grass fed, and then there are producers who keep their animals out on pasture, and will bring some amount of grain out to them for the duration of their lives,

and that would be animals finished on pasture with green supplement. So, as I said, we think this will lend transparency to the process. It'll provide options for producers going forward to meet the demands of consumers, as well as allowing the market to help sort out which style of operation that consumers and producers are able to support. So, thank you for this opportunity.

CHAIRPERSON GIACOMINI: Any questions? John.

MR. FOSTER: The numbers you were talking about about beef producers, that 80 percent, 20 percent. Was that number of animals, or number of producers?

MR. FANTLE: Number of producers.

MR. FOSTER: Okay.

MR. FANTLE: The number of animals has probably flip-flopped for those two ratios.

MR. FOSTER: Thank you.

CHAIRPERSON GIACOMINI: Tracy.

MS. MIEDEMA: Mr. Fantle, I wouldn't need you to reply to this here and now, but in your written comments, and in your comments today on the topic of accessory nutrients, you use words like "explosive" and "suffering," very hyperbolic language. This appears to be some sort of narrative research. If you have any peer reviewed research on this topic, would you share it with this Board?

MR. FANTLE: I will try and get you the reports that we have from the medical community, and the FDA on that. There has been no -- actually, it's interesting you should mention peer reviewed, because the -- when the FDA granted approval to Martec for use of this product in foods, they asked them with a generally recognized as safe designation for the company to provide ongoing updates, do follow-ups to any type of reporting that they're receiving back. The company has not done that, so that's one of the deficiencies that's out there, and the

omissions that we think that has been allowed on this product. I will try and get to you, I will talk to Charlotte, our researcher who's collected this information, some overview and synopsis, and some of the actual medical reports.

CHAIRPERSON GIACOMINI: Thank you, Will. Next, Walter Goldstein, Steve Ricke, and David Martinelli on deck, or in the hole.

DR. GOLDSTEIN: I'm Walter Goldstein. I work at Michael Fields Agricultural Institute in Southeast Wisconsin as Research Director. I've been involved since 1989 in breeding corn for organic farmers. The interest was in quality, in particular, in nutritional value.

I'd like to talk with you about our project to breed methionine corn. It's a development project. It's something that comes under pressure. As you all know, methionine is a hot topic. There's three different issues that I need to talk with you

about. One of them is yield, the second is quality, and the third is speed, and funding, and so on, some of the issues that were brought up earlier by three other people on this issue.

I can refer you, actually, to a set of slides that are being shown right now. We're breeding high methionine corn, and high lysine corn that comes in the same sort of package. We have two different types of high methionine corn that we've identified. One of them has a hard kernel and the other has a soft kernel. And the hard endosperm sources, the harder kernel types, are high protein corns. They're more subject to fluctuations in protein content, but they're easier for us to immediately get something out to farmers on. The soft endosperm corn has a higher lysine and methionine content than the hard kind, and we have done feeding trials with the soft kind, together with Organic Valley and the University of Minnesota, where we found

that it replaced synthetic methionine in the diet for broilers and for layers with the soft kind. The hard kind we haven't done feeding trials on.

We have also had some problems with yields. The first two sets of hybrids that we put out, the first set was about a third less yield than normal hybrids, the second set was about a quarter less yield, and that was something that was actually considered not to make this product fly. Could we have the next slide, please?

We had a third set. We've been learning as we go along here. The third set looked a lot better. We did trials on nine organic and nine conventional sites, together with a set of seed companies, and USDA, and this year the high methionine hybrids, these are all hard endosperm, the hard type, yielded 87 percent as much as normal commercial hybrids, so we're climbing up there. It did seem like the ones that did better under

organic conditions were not the ones that did as well under conventional conditions, and so on, so that actually breeding under organic conditions did make a difference. So, we've got something that's looking fairly nice in terms of yields. Next slide, please.

So, to evaluate differences, we have looked at quality of our varieties. And, generally, we are -- on these particulars, these hard endosperm types, they are high protein corns. And, on average, we had 12.9 percent protein on a total dry basis for these corns, and .28 percent methionine. It's a little bit lower methionine than we'd like to have. We'd like to have about .3, but that's what we got, and that contrasts with about 8-1/2 percent protein for the normal hybrids. And this is pretty typical of results that we've had in the past at our research stage. So, essentially, what we're doing is we're breeding high protein corn that has a lot of methionine in it. It doesn't lose its

methionine as the protein content goes up.

Well, all right. So, we have made some gains. We're making gains in yield, but we also, on the other hand, we've been involved with Methionine Task Force in a project where they have been funding, more or less, seed production, not research, but seed production. And there the results were -- next slide, please. If you look at some of the -- these show some of the results that we've had on different farms, and we can see that on two of the farms, the lower two, we simply didn't get the protein that we would have expected, that we normally get. So, certainly, less than 12 percent. And this is part of the variation that we know that we have in the hard endosperm types, that if they don't make the protein content, they're not going to have the methionine. Unfortunately, I think the Methionine Task Force having invested so much in growing this seed is going to be feeding it. And I'm not sure that the results will

actually show the full potential of high methionine corn. Above it you can see the flowery type, or the soft type, and it preserves its methionine content even at lower protein levels. Next slide. And here, the little round balls here show the soft type, and the little triangles show the hard type, if you look at methionine as a function of protein.

If you want me to talk about funding, I could go on, and speed.

CHAIRPERSON GIACOMINI: Any questions? I have a -- or Jeff, go ahead.

MR. MOYER: Yes, Walter. I'm just wondering if through this research, how much of this was actually done on organic farms? You said some -

DR. GOLDSTEIN: Everything.

MR. MOYER: This was all done on -

DR. GOLDSTEIN: Except, remember I said nine organic sites, and nine conventional, but, otherwise, everything has

been done on organic.

MR. MOYER: And are these germ plasms patented?

DR. GOLDSTEIN: No.

MR. MOYER: Okay. Thank you.

CHAIRPERSON GIACOMINI: So, in the -- we found a variety of corn, the soft has a higher -- methionine is a higher percentage of protein than traditional. And the hard just has more total protein with traditional methionine as a percent of protein. Is that correct?

DR. GOLDSTEIN: Yes, let me -- can I rephrase that? I would say that the hard has a more fixed level of protein in it. It doesn't compensate for a low protein level, so if you have a farm where protein content is low because of the growing conditions -

CHAIRPERSON GIACOMINI: Right.

DR. GOLDSTEIN: -- it's not going to have high methionine. With the soft kind, it will have a higher methionine content, even

at a low protein content.

CHAIRPERSON GIACOMINI: Okay. Have you pushed the numbers if -- in trying to meet methionine requirements with your corn, how much of the corn in a traditional diet would need to be this corn to meet methionine, or would that meet the methionine?

DR. GOLDSTEIN: We've done two feeding trials, one with the University of Minnesota, and one with Organic Valley, and both have shown total replacement of the need for -- relative to synthetic methionine in the diet by using the soft kind. So, in terms of actual performance, they have performed as well as synthetic methionine in the small tests that have been done so far. I hope that answers your question.

In terms of the actual number pushing, what it looked like is that we want to get around .3 percent methionine in terms of totally --

CHAIRPERSON GIACOMINI: But of the

corn in the diet, was it all this corn that it took to get that amount of methionine?

DR. GOLDSTEIN: Yes, yes, yes.

CHAIRPERSON GIACOMINI: Okay. And then going back to Jeff's question, this would be public domain knowledge, this seed?

DR. GOLDSTEIN: We are a non-profit NGO public organization, and all our information is given out in field days, and on our website, and so on.

CHAIRPERSON GIACOMINI: But for -- the seed stock would be available to -

DR. GOLDSTEIN: The seed stock is available. We will license it to seed companies. We have given away things to farmers. We do work with farmers, we work with Practical Farmers of Iowa, and they test our stuff, so we have very much of a farmer involvement in what we're doing.

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: Thank you. I'm curious as to your opinion on what the

disincentives are for an expansion of the application of your research either in law, or as a function of funding, and what you believe the Board, the NOSB should do to help facilitate a transition, and an expansion of the hybrid that you've developed?

DR. GOLDSTEIN: Thank you very much for that question. We have, in terms -- this is a development process, and any development process is going to involve time, mistakes, learning curve, and so on. And any development process will occur, to a certain extent, in relationship to funding, how much money can you actually devote to the task.

We have submitted three proposals to SARE and been turned down, and two to OREI and been turned down. The comments have been that, mostly, that we don't want to see corn be the solution. We're interested in a systems approach. That's, basically, it. Now, I don't know if the movie "King Corn" has influenced that, or if it's -- what, exactly,

it's coming from, but it's very disappointing, and very difficult. Organic farmers need corn. It's one of their most productive crops, and it's very useful.

I would like to make the point that corn -- that high methionine corn is not -- is scale neutral. I, myself, have a flock of birds. I feed them through the growing season, and they do very well because they have high methionine corn. They go outside in the wintertime. I think the high methionine corn is especially important for them. So, I think we're dealing with a scale neutral thing, and it's been somewhat politicized, and that's probably the reason why we're not getting funding here. I'm hoping that those who are opposed to large-scale operations that don't allow chickens outside, or minimal use of that will understand that, that this is not something that is a silver bullet for just large-scale operations. It's something that's going to affect small and large.

In terms of what can be done, I would greatly welcome it if you would please consider helping to further this sort of work. Research needs to be done, it costs money. The Methionine Task Force has been engaged in producing seed for trials. It's put up money for doing that. It has not put up money for research in terms of breeding because, in part, that money could be available from other sources. But that money isn't coming available from other sources. Could you ask OREI, could you ask ARS for funding sources to be devoted to developing some of these things that the organic industry needs, such as high methionine?

MR. FELDMAN: Just a quick follow-up. We can ask, but, obviously, that's not within the purview of the Board. I guess my question is, if this Board were to take some of the actions that have been recommended in public comment to cut this thing off, or to phase it down quickly, would the market fill

that gap and provide the kind of methionine that's necessary, or appears to be needed in the production, on the production side?

DR. GOLDSTEIN: That depends on the industry, itself. The Methionine Task Force has been very helpful with us in terms of joining forces, in terms of asking for money from federal sources. We did, in terms of private investment, we did see a drop after the Board allowed synthetic methionine to be used until 2010. In terms of interest, in terms of feeding trials, I think there was a clear drop in interest. And I think that's something I would like you to take into consideration. Perhaps, I've heard from Dave Martinelli about the proposed drop, or reduction, the possible plan for reducing methionine over time. I think phasing out the use of methionine is something to be considered, the actual speed may affect to what extent we can help.

We have been able to do research

in this area with money from other sources. At the moment, we are very limited. We no longer have a winter nursery, our time of getting varieties out has been cut in half, so it does make a difference. I know there's people sitting on the line, there's people who like to see synthetic methionine continue because of ease, and there's a lot of inertia in the system. And I really do think that some strong changes are necessary if this is going to happen. It has to be driven by need.

CHAIRPERSON GIACOMINI: Thank you. Any further questions? Thank you. Dr. Steve Ricke, David Martinelli, and Greg Herbruck in the hole.

DR. RICKE: Good morning. Everybody hear me okay? I am Steve Ricke from the University of Arkansas, and what I want to talk to you a little bit about is some progress we've made on a project funded by the Methionine Task Force, which takes a little bit different tact than what's been talked

about some today, but addresses the methionine issue as it's been discussed today, to some extent. And what we've done is, basically, look at what would be called microbial overproduction of methionine as it pertains to alternative sources of methionine, as opposed to the normal crystalline methionine that's used in conventional industry, and obviously used in these associations, as well.

And, basically, the premise of what we've looked at here is, is to be able to isolate out in nature methionine-producing bacteria from a variety of different sources, and then examine their ability to overproduce methionine, and excrete methionine out into the media, or the environment, or whatever, and whether that has a potential availability as a methionine source. And then the second thing, obviously, that goes in hand with that is assessing the potential for methionine production, and quantitating that, and figuring out how much we might actually get

out of that. Can I have the next slide, please.

And this is just the results, and I can certainly provide more details, as needed. But, so far, what we've been able to do based off the funding we've had is we've isolated 38 methionine-producing bacteria sources. These comes from a variety of sources. Nine of these actually came from the chicken gastrointestinal tract, which we were excited about to some extent, because that may have some other possibilities, as well. Others came from the ruminant of the cow, some came from soil, and a pretty wide range of environments, which I think really gets us excited to some extent about where we can go with this.

We screened for overproducing by basically using methionine analog norleucine. Methionine overproducing organisms that occur in nature naturally are norleucine tolerant, so it makes for a ready fast screen, which we

can run from a plating standpoint. We have just completed here recently, we've ID'd a couple of the more tolerant strains using 16S RNA. We know what they are now, and that's an important part of the process, because once we know who the organisms are, we can get a much better idea on how to grow them initially, and how to optimize that growth. And, therefore, start to strategize on how to optimize our methionine production. So, we just recently completed that. We have a pretty good idea of at least two of the organisms, and what they are, so now we're in the process of developing that media, the media for growing these organisms, and coming up with ways to optimize methionine production.

And, finally, where we're at now is, is we're starting to assess methionine production capacity so that we can come up with some quantitative numbers in terms of how much methionine would be produced. Our overall goal on this thing is to come up with

something that could be used in the industry much like synthetic methionine, or crystalline methionine is used now, but now this is derived from an organic source. And the potential, I think, is definitely there. We're in the initial stages of this. Again, we want to thank, again, the Methionine Task Force for funding us to initiate this process.

I'm trained as a microbiologist, so this very much fits into my bailiwick, so to speak, in terms of the sorts of things that we're interested in. And this is not a new technology. I mean, a lot of amino acids in the past, certainly in Japan and other places have been produced by these processes using natural bacterial isolates in nature that overproduce amino acids, and excrete those amino acids. So, it's not uncommon. You do find them in gastrointestinal tract systems, as well, and I think really where we're at is trying to figure out a way to focus this, harness this potential, and then come up with

an industrial-scale process that can actually be useful to the industry.

I think as protein sources get to be more variable and valuable in terms of not just the organic industry, but the conventional industry as well, I think there's real need for some alternative approaches to how to do some of the amino acid balancing in diets, et cetera. And with that, I thank you for having me here, and I'll be happy to answer questions.

CHAIRPERSON GIACOMINI: Jeff.

MR. MOYER: Thanks, Steve. That's very interesting work that you're doing there. Best case scenario, how long before, if everything went well, that kind of a process would yield commercially available methionine?

DR. RICKE: Well, I anticipated that question and, unfortunately, I don't have a real good answer for it. We're in the beginning stages. We know who the organisms are, so with that, we're working out how best

to grow them now. I think the next stage is going to require a couple of things. And I know you've heard this several times now, additional funding. Us folks in academics are, in particular, guilty of making that plea all the time, but where we need to go next is to tie-in with a chemical engineer, somebody who can help us with the scale-up part. In other words, come up with ways to design -- come up with a good size fermenter that could actually help us to collect the amino acid, come up with a good collection process, which, obviously, would be compatible with an organic-type process.

The nice thing is with these excreting organisms, is the amino acid is put out into the media, so there's no chemical extraction per se required. So, I'm optimistic, give us a couple of more years, I think we'll definitely be in the process of -- I can come before you again, I think, and be able to lay out some actual game plans.

The real question here is, is how many organisms would you have to grow to get the amounts required, get up to the tonnage, or whatever that you're going to need, and I can't completely answer that one right now. But I think as we get at the lab scale, once we get an idea how much methionine is produced, and how to ramp that up a little bit, I think we'll have a pretty good idea of what it's going to take to scale that up. And as a microbiologist, what I would say is a lot depends on how much oxygen is required in the ferment -- you know, if it's fermentation system versus a more aerobic-type system, you know. Laboratory is easy to optimize. When you start getting large-scale, that has its own challenges, to some extent. But I've worked with a chemical engineers a lot over the years, and I feel pretty good about we'll be able to line up with somebody that can help us on that part. And we've made some overtures along those lines already, so does

that answer your -

MR. MOYER: Yes, it gives me a better idea. We're talking a few years before we actually get the plans laid out, and then another --

DR. RICKE: Yes. Exactly. I mean, there's, obviously, some commercial considerations and that sort of thing. I mean, keep in mind, and I know this has come up a little bit in some discussion points already, is that we're probably not dealing with what I would call intellectual properties, and patents, and that sort of thing, because these are natural isolates. I mean, we've not done any genetic modification or anything like that, nor would we. So, that's one of the upsides of this, is that really it's already an organism, it's already in nature.

MR. MOYER: Thank you.

CHAIRPERSON GIACOMINI: Joe.

MR. SMILLIE: Have any commercial

fermenters approached you, or do you have any knowledge if anybody is interested in this?

DR. RICKE: I've not been approached, but then I haven't been real aggressive about approaching folks either. I tend to be conservative that way. I like to make sure I've got my ducks in order before I start -- we have enough hype in this business. I try to -- but, absolutely, once I get a better idea lab-wise, my idea would be to -- I have colleagues in academics that certainly could help us along those lines. And, again, I think Walter brought this point up very well, is it's like a lot of things, I have applied to the OREI in the past for grants and that sort of thing, and all this stuff, the Methionine Task Force has been fantastic in terms of seeding this, and getting us to this point. We really do need to put some investment in this.

I'm going to get on my soapbox here a little bit, because I think it needs to

be said from the academic side, if people really care about this stuff, and really want this to happen, they need to make the case that put the funds into it, and it'll happen. You know, that's the bottom line here. So, I -- we certainly have -- I don't even want to go into how many grants I've written this year. And I certainly don't want to go into the success percentage on that either, but I think we're seeing some seed changes in USDA in terms of their mentality about stuff. I mean, the new regime that is in place now, the new Program Director, is very much more into stakeholder input, and folks coming in and helping to write those RFPs for the grants, and identifying what the issues are. And I think this audience, and I think everyone needs to be cognizant of that, and help to encourage that. As I said, I'll step back off my soapbox, but I think there's some potential here, but it's an investment potential, too, it's the way we need to look at it.

CHAIRPERSON GIACOMINI: Thank you. Just very quickly from the time that I've spent in microbiology lab, very simple question, are the bugs that you're optimistic about, are they easy to grow or hard to grow?

DR. RICKE: Yes, one of them in particular is a really easy to grow organism, so it's a fairly ubiquitous organism, and has lots of variants out there, so it wasn't a surprise that we might find one that would be a variant that could do this. And I think one of the long range things that we thought about here is that we wouldn't, necessarily, need to stop at methionine. We certainly could start to look at lysine, we certainly could look at some of the other essential amino acids. I mean, there's -- I work a lot with the conventional poultry industry, as well, and there is a definite need on that side of the equation, as well, with the ethanol driving grain prices, et cetera, to come up with ways to supplement lower quality proteins. And

that's one of the reasons why crystal amino acids retained some popularity along those lines. So, I think there's opportunities here to do some nice precise balancing of diets with some of these approaches. So, I think that's where we want to go with some of what we're doing.

CHAIRPERSON GIACOMINI: Thank you. Dave Martinelli with a proxy, Greg Herbruck, and Kurt from Nature Pure in the hole.

MR. MARTINELLI: Good morning. Dave Martinelli, I'm with Coleman Natural Foods. We're an organic broiler producer, but I'm actually representing the Methionine Task Force this morning. I'll try to be brief. I have the proxy, but I don't think I'll need the full 10 minutes. We'll just kind of go through this quickly.

Just kind of outline, next slide, Valerie, this is what we're going to be talking about. I want to spend a little bit of time on the recommendation coming out of

the Livestock Committee, and also reference some minor adjustments that the Task Force would like to see in the final recommendation. We'll touch briefly on the research. You've gotten a pretty good update from both Walter and Steve already, but I'll just mention a few other points to both of those. And then, lastly, we'll discuss some of the more recent feeding trial information that we've uncovered.

First, an acknowledgment. I do very much appreciate the fact that in our many years of rehashing this topic there seems to at least be an acknowledgment that methionine is a critical and essential amino acid in poultry. We wrote a very detailed petition this time in the justification section talking about the fact that with the vegetarian diet for an omnivore, for an animal that needs meat in its diet given the constraint of the vegetarian diet, it's basically critical that they get some level of methionine for

acceptable development of the immune system, particularly in young birds, baby chicks that need that good start on life so they can ward off other environmental pressures that may be coming their way. So, I think that's just a thank you very much for at least -- we can argue about how much, but at least acknowledgment that it is a critical and important amino acid.

We have two suggestions, and these are both covered in our written comments, as well, but just to address the Board, and entertain questions around them. We feel that pullets, because, again, we're dealing with baby chicks and birds up to 27 weeks of age, that those should really be carved out as a separate category from laying hens. They have different methionine needs. And our suggestion is to group them together with broilers, which also encompass birds from day old chicks, all the way to market age. And our suggestion would be that as we hit the

step-down levels, kind of the second point of this, effective 2012, our recommendation would be that both broilers and pullets get three pounds per ton, as opposed to the two pounds per ton that were recommended. The layers go from four pounds to two pounds in the step-down, broilers actually, currently, are recommended to go from five pounds to two pounds, so there's kind of a disproportionate drop in broilers, and also if this recommendation were accepted, in pullets, as well. There's not only a disproportionate decrease in the allowance, but it's happening in a category of birds that probably has the single highest level of methionine demand, because of their age, and their stage of life, and growth. Next slide, please.

It's also important to underscore that the majority of methionine for the birds will still be coming from grain sources in their diet. Technically, the diet will be deficient of methionine, but of the methionine

that is present in the diet on the step-down levels, 82 percent of the diet at a minimum, it varies by class of birds, but this is the lowest percentage, 82 percent of the methionine in the diet will be met from grain sources, so we're still talking about the majority of the birds' methionine needs being met by grains, and only a very small supplemental percentage being provided by the synthetic.

There's some different perspectives on whether even the three pounds is adequate for broilers and pullets. We were able to find at least one major breeder producer, High Line, that recommends for baby chicks, I think it's 2.88 pounds of methionine per ton, so that's kind of how the -- why the Task Force settled on three pounds, but you will probably hear comments today that even three pounds isn't sufficient. Again, we can argue over the level, but we're trying to live with the absolute bare minimum that we need

for maintenance of basic health requirements for the bird.

Just to segue a little bit into some of the research alternatives. Again, you've heard from Walter in detail about some of the seed trials. I'm going to speak, specifically, to some trials that we did with Walter's seed with Sun Opta. We did two plots in Iowa, specifically raising the corn for feeding trials. We had a 35-acre site that came in with a disappointing yield, about 66 percent of the control groups. And then we had a second 40-acre site that was really kind of off the chart, disappointing at 23 percent of the control groups. So, this has been a bit of a setback, frankly, because we had hoped that we would get something more consistent with some of the test plot work that shows more the 87 or 90 percent comparison to control, so about a 10-13 percent yield drag. And seeing yield drags like this creates a significant problem, just

in terms of making the project even a go.

So, the second leg of this, we've had the disappointing agronomic results, but the second, from our perspective, more important element of this is then to take that feed corn that we do have, and start running feeding trials. In two weeks, we're going to start feeding trials of broilers in California. The work that's been done so far has been on extremely small bird counts, I mean like 50 birds, so we've got some test housing in California that we've used previously, that'll probably run, I think the high methionine corn trial will be somewhere between 400-800 birds, so at least we get something closer to approximating a commercial setting.

This is just kind of a graphical picture. I don't know if it really shows in this light, but here on the left is organic corn from the control group, and here on the right is the high methionine corn. Not only

is the ear size smaller, but the kernels themselves are smaller, as well.

We heard from Steve on the first bullet point here about naturally produced methionine, so I don't think I -- he certainly knows a lot more about it than I do, and I think he covered it very well, so I'm not going to spend any time there.

You did hear a presentation, I want to say about a year ago, from a group that was working on alfalfa nutrient concentrate, again, an area of disappointment. We haven't really been able to engage the vendor. We sent emails, asked for spec sheets, asked to get a time line of when this product produced organically, and where they're at in the process, and there's just really been no follow-up, no response. So, we've poked, we've prodded, we've tried to get it moving along, and there's just been no reaction. So, I'm kind of putting that in the category of not viable at this point.

Obviously, if it revives, we'll pursue it, but at this point, I think we probably need to move on and focus on the high methionine corn and naturally produced methionine.

In terms of feeding trial results, Herbruck's ran a layer trial, and I think the two most significant take-aways on this, in the no methionine group, there was significant feather loss, particularly at the end of the test cycle. And, again, this is a no methionine group, not the step-down level that we're talking about. But I've got a slide following this from the 2008 study in Sweden, and there's a very consistent trend here in terms of feather loss in birds that don't have adequate levels of methionine.

Interestingly enough, they also have a reduced foot pad size in the no methionine group in the layer trial, and this is really Michigan State's speculation, but the hens could not maintain covered body temperature, and they were trying to --

because the feathering wasn't in place adequately, but they were trying to use stored body fats to clean the foot pad, to try to compensate. So, it's just another example that when you go to a strictly no methionine diet, you have some significant health problems within the birds.

Again, with the broiler trials that we're going to start in two weeks, we'll include high methionine corn, and we're also going to run trials on fish meal, just to see (a) if it works from a performance standpoint, if the birds look okay and feather properly, but, also (b) if there's other -- we'll then do a sensory analysis of the meat to see if there's any flavor issue that's come up before as a possible issue in terms of inclusion rates of fish meal in the diet.

And the last slide I have here is about the results of the trial in Sweden. You may have seen this before at the last Board meeting, but I thought I'd include it again,

since it's a fairly recent trial. The important thing is feathering was very poor. In this particular trial, it was manifested in much higher levels of feed intake. And I've got appendices at the end of this report that has detail on that trial, as well as the detail on the methionine percentage of the diet that's met from grains versus the synthetic, as well. So, I won't bore you all with that, but that's included as part of the presentation that you can view later. So, that concludes what I have to say.

CHAIRPERSON GIACOMINI: Okay. Any questions? Steve.

MR. DeMURI: Thanks for your presentation. Weren't you guys working on an insect option, as well?

MR. MARTINELLI: Yes, there was like an insect meal product that was really coming out of the aquaculture industry, and that really has tended the same track record as this alfalfa nutrient concentrate where it

was supposed to be this product that would solve our problems, and we finally did get a spec sheet, I think, a year and a half ago out of that group. It's basically got the same nutritional profile, including methionine as soybean meal which we currently feed, and to my knowledge, they really abandoned that project. I've not gotten any further follow-up with them about where they're at in the process.

CHAIRPERSON GIACOMINI: Dave, aside from the comments that we have online that we're reading, the ones who just said we were totally crazy one way or the other. Of the people who analyzed our step-down, I think the pullets were fairly universal, and suggesting that we move them. You're also suggesting the broilers. Can you give just a little bit of additional justification for us to be able to make that move?

MR. MARTINELLI: Yes, I guess there's two reasons, primarily. One is the age

of the bird. With broilers, you're dealing with baby chicks, as you are pullets, and they have a disproportionally high methionine demand at that stage of life. So, somehow we need to address that. And that's -- actually, when we wrote our petition it was around an average, because there is a disproportionally high need at the beginning that's offset by a lower need with older birds.

I think the critical thing is that we get adequate methionine to the birds at the stage of life that they need it. And in the case of broilers, they were going down from five pounds to two pounds, there's actually a 60 percent reduction, TAP provided for a 60 percent reduction, which didn't seem consistent with what we were doing with the other categories.

CHAIRPERSON GIACOMINI: Could you give us a number that we could possibly utilize as a maximum at saying all chicks, and putting a maximum age?

MR. MARTINELLI: You mean carving out broilers separate from pullets then? So, you'd actually have --

CHAIRPERSON GIACOMINI: Just carving out all chicks.

MR. MARTINELLI: Well, we're saying up to 27 weeks, so 27 weeks --

CHAIRPERSON GIACOMINI: Twenty-seven weeks.

MR. MARTINELLI: -- would solve the problem, because you're going to cover broilers with that.

CHAIRPERSON GIACOMINI: And how far do broilers go after 27 weeks?

MR. MARTINELLI: Well, broilers don't go to 27 weeks.

CHAIRPERSON GIACOMINI: But the pullets need 27 weeks.

MR. MARTINELLI: Right. And that would be our recommendation, actually, to have a specific number, as opposed to pullets.

CHAIRPERSON GIACOMINI: Thank you.

Greg Herbruck, Kurt Lausecker on deck, and Steve Mahrt in the hole.

MR. HERBRUCK: Good morning. My name is Greg Herbruck. I'm an organic egg producer in Michigan, and my brothers and I, we've been producing organic eggs since 1998. And we were a part of the large growth that's been going on in the organics. We believed in the USDA organic program, that this was -- to develop new markets. And this was a new market for our company, and we have invested millions of dollars in that growth. We have -- and I'm in the chicken house just about every day. And the Cornucopia study is right, this proposed guidelines for living conditions and stocking standards, and outside access will put us out of business. We did not build these currently certified organic houses with some of these standards in mind. And if they are imposed upon us, then we will not be able to produce.

The standard, and the assumption

that then 80 percent of the guys that are like us that have a house similar that cannot either economically depopulate enough but still pay the bills, that there's a cage-free market for our eggs if we are not organic. That market will quickly become a commodity market because there's too many of us out there already who have also -- that will follow me later in the day that have invested likewise millions of dollars. So, I challenge the NOSB to think about that as they look at setting a standard, that we are currently certified organic, and have been for many years. And these new standards could well put us out of business.

As we look at some of these stocking standards, I know for some of the sources were mentioned, I think the idea of considering further is merit. There are several sources that I work with through some of my farm industry standard boards, university ethicists and bird behaviorists

that have not been contacted yet, and I would strongly encourage that we do so as we proceed.

There's also existing standards that were developed on a science base, and an ethics base. American Humane Association has one such, Humane Farm Animal Care has one, that have all gone through a similar process that we're seeking to do, and in the absence of any guidance or direction from the NOP, most of us have all accepted those and are being certified and audited by those groups. So, I would encourage that we look to what has been accomplished there.

And one thing that is not in the initial standard, and what needs more research is the type of housing. There are multitudes of housing systems out there that affect how a hen's life goes on. There are flat floor barn systems, there's raised perch systems, roost systems, and then there's what's called aviaries, where it's multi-tier, where they

actually are free flying to move about in the system. None of those are considered in this, and should be, and there are standards with these other two groups I mentioned.

The third point I'd like to mention is the outside access rule. As an egg producer, we're also going to be required to comply with a new FDA rule July of this year, whereby we're required to clean and disinfect all living surfaces. If we have to increase and have more outside access, and more pasture area, the FDA will require us to disinfect those surfaces, and I don't know how we will do that.

The other thing is that rodents are a major vector of salmonella, and in the higher -- where we are, they're off concrete or a hard surface, they're more likely to have contact with rodents that very likely are one of the major sources of salmonella in eggs today, and will increase the risk of that in the finished product, and reduce food safety.

So, I think we should consider all those as you moved ahead. And, like I said, the goals of the USDA are to promote and build markets, and some of these guidelines will reduce markets. Thank you.

CHAIRPERSON GIACOMINI: Jeff.

MR. MOYER: Thank you Greg. Am I to understand that your birds don't go outdoors at all right now?

MR. HERBRUCK: Oh, no. Yes, they go outside, yes. But 20 percent of the living space is outside access.

MR. MOYER: Is that on porches?

MR. HERBRUCK: Porches, just fenced in areas all types. I guess they all -- that's the requirement, they have to -- they have access 365 days a year.

MR. MOYER: And are you currently disinfecting those areas?

MR. HERBRUCK: Yes. And most of them are covered in concrete. There's a few of our smaller farms that actually they're

going out of business. We had one contract producer that worked with us, couldn't comply with some of these new guidelines. Instead of adding the extra surfaces, chose to go out, so we had roughly 190,000 capacity just depopulate in the last month.

MR. MOYER: So, unlike the person we heard before who was trying to get his birds on grass, so that's 75 percent vegetative, your's is on concrete when they're outdoors. I'm just trying to get a picture of it.

MR. HERBRUCK: Most of them, yes. They're called winter gardens, porches, all types of things. Some of them we even have roosting areas where they can go out and get up higher staying away from some of the -- depending on the size, and it was mentioned that the main pathway areas, the difficulty with laying hens is keeping grass in there because they love to tear it up, and it's gone. I mean, when I looked at some of the

initial proposals, I don't know how we'd keep them because chickens just love to scratch. And you'll be to bare dirt very quick. And they love to burrow. They'll be down under, and rodents also like those burrows, as well, so we're going to increase the contact with high-risk opportunities, and rodents are one of the main carriers of salmonella. That is one of the risks to the food safety.

MR. MOYER: And how many square feet per bird of outdoor access do you currently -

MR. HERBRUCK: Well, it's anywhere around 20-25 percent of the -- depending on the system. We have all three types of -- or three types of systems, barn systems in the American Humane and Humane Farm Animal Care are 1.5 square feet. The raised roost system is 1.2, the aviary is one square foot. And this is all designed around how well these birds interact in the system, are they protected, do they have safe places? I mean,

pecking order came from birds, and the better designed system best protects the lower hierarchy birds, and gives areas for the dominant birds to stay away from them. So, on a flat floor system, I've seen it myself when some group decided to pick on one bird, that bird can be dead in a few moments.

MR. MOYER: Thank you.

CHAIRPERSON GIACOMINI: Joe.

MR. SMILLIE: Greg, your current - I realize you're dealing with complex systems, and there's no one single answer, but, currently, do all of your systems meet current USDA regulations?

MR. HERBRUCK: Yes.

MR. SMILLIE: We know that, and do they all meet the HSUS Humane Welfare Standards, or just -- the Humane Society.

MR. HERBRUCK: Humane Farm Animal Care, and American Humane Association?

MR. SMILLIE: Right.

MR. HERBRUCK: Yes.

MR. SMILLIE: They all meet.

MR. HERBRUCK: They all meet it.

MR. SMILLIE: Okay.

MR. HERBRUCK: And we had to make a lot of changes. There was specific requirements for nest space, for perch space, for dust bathing, for all the various behavioral things that a bird needs to go through in a day, feed and water also. So, those all should be considered as you move forward.

MR. SMILLIE: We had a speaker this morning that supported our current recommendation on -- wasn't that a Humane Society speaker? I think it was that, but we'll follow-up and find out what the discrepancy seems to be there.

CHAIRPERSON GIACOMINI: HSUS and HSA.

MR. SMILLIE: Oh, okay. They're different groups. Okay.

The last thing is, has there been

any networking with your Canadian colleagues that are currently facing this implementation of their regulation? They've got a soft enforcement for two years, and have you dialogued with them on the current Canadian regulations which are slowly being enforced?

MR. HERBRUCK: Minimally. The main difference between Canada and the US, Canada has a quota system, so they have -- they will not -- I mean, they have a market order, and any excess production winds up in the US They are almost guaranteed a profit. In the US, we have no such quota system that we can work with, and we can rely on to support and develop a standard. They set -- the Quota System Board sets the price of the eggs, so in the US it's market price. If you have extra eggs, you sell them until they're gone, or I mean you drop your price until they're gone. And in Canada, they don't have to deal with that risk.

CHAIRPERSON GIACOMINI: In Canada,

that's a provincial quota system. Correct?

MR. HERBRUCK: Yes.

MR. SMILLIE: I think we have to take a lot of things into consideration. The fact that you're currently meeting standards, and it looks as if we are creating an unstable regulatory environment for the entire industry, I think we need to look at that very carefully.

MR. HERBRUCK: We speculated that 80 percent of the current housing will not meet it. And I think that the Cornucopia study supported that, that my brothers all said we'll be out of business because we can't work the bank, we can't pay back the bank. We'll have to come up with tens, if not hundreds of thousands of more growers to meet it with the smaller sized populations that are out there.

CHAIRPERSON GIACOMINI: Okay. Thank you.

MR. HERBRUCK: Thank you.

CHAIRPERSON GIACOMINI: Thank you. One quick minute as the next speaker comes up, Kurt Lausecker, Steve Mahrt, and George Bass. As Joe tends to remind, it's good to be Chair. One of the things you can do is take a personal minute. As we've heard before, it is good to have a meeting outside of the D.C. area on the west coast. For me, I'm an hour and a half from home, so my wife is able to come, and the best secretary, and the best editor in the world. So, I -

(Laughter.)

CHAIRPERSON GIACOMINI: Thank you.

MR. LAUSECKER: Thank you for allowing me to comment on the proposed National Organic Standard Board's Animal Welfare recommendations for organic laying hens. My name is Kurt Lausecker, and together with my wife, Gertie, who is also here today, I'm the owner of Nature Pure, an organic egg farm in Raymond, Ohio.

I worked for 30 years as manager

of Daily Egg Farm, a layer operation with two million laying hens in cages, and about 200,000 cage-free organic laying hens. Three years ago, I was able to buy the organic part of Daily Egg Farm, including an organic feed mill. The investment at the time was several million dollars. I have a strong commitment to animal welfare, and served on the Animal Welfare Committee of United Egg Producers.

My dream came true when I invested in organic food production. This is my life now, and the life of my family. My farm consists of six laying buildings for 32,000 layers each, and one processing room with an egg crater and a cooler. I also have one organic pullet house, and I employ approximately 35 people, and buy organic grain from more than 13 local organic farmers.

All buildings have state-of-the-art equipment for cage-free organic egg production, and were furnished according to current organic and cage-free rules and

regulations, as outlined by the AHC, and the National Organic Program.

Just two weeks ago, my company passed an American Humane Certified Audit with 99 out of 100 points. While I agree with the concerns submitted by the US commercial size organic farms, there is one issue that is of critical importance to me. I'm here just to let you know that the proposed outside space of 1.8 square foot per bird will -- what they will do to my company. I cannot comply. I just do not have additional outside space available.

When the original transition from caged laying hens to cage-free organic laying hens was made, the existing buildings were utilized. While I am in compliance with the current requirements for outside access, I am very restricted on outside space. The proposed recommendations would reduce the number of hens in my houses from 32,000 to less than 5,000.

My young company is highly leveraged, and our financing is spread out over the useful life of the buildings and the equipment. If the recommendations will be implemented as proposed without grandfathering, they would force my company out of business, since I cannot repay my loans. Thirty-five employees would lose their job, and many local organic farmers would have to look for another market. Because egg production is my only source of income, I would lose everything I worked for in 35 years. Thank you.

CHAIRPERSON GIACOMINI: Questions? Jeff.

MR. MOYER: Your birds go outside right now, or have some access to outdoors. Is that correct?

MR. LAUSECKER: Yes.

MR. MOYER: And how many square feet do they have right now?

MR. LAUSECKER: Outside access?

MR. MOYER: Yes.

MR. LAUSECKER: About 35 percent of the living space that they have inside.

MR. MOYER: Okay. And what is the outdoor access, it is concrete porches?

MR. LAUSECKER: No, that's just fenced in and covered -

MR. MOYER: Fenced in, covered.

MR. LAUSECKER: -- grass area, pasture.

MR. MOYER: Okay.

MR. LAUSECKER: It's interesting to note, however, that how few birds really take advantage of the outside areas. This is something that is really surprising to me, and this is just an observation I made in my own company. I would expect really that there are far more birds outside than there actually are. Personally, I believe the reason is that birds generally are really worried about predators flying over them, and they really shy to the outside. I just want to mention

this because I think this gets somehow overlooked, that in reality birds are really not taking advantage of the outside areas that we even propose right now, have right now.

MR. MOYER: Thank you.

CHAIRPERSON GIACOMINI: Wendy.

MS. FULWIDER: What do you have for access doors?

MR. LAUSECKER: There are openings about five feet to six feet wide, and maybe two feet high, numerous. I mean, ten on each side of the building, ten, fifteen.

MS. FULWIDER: Thank you.

MR. LAUSECKER: Thank you very much.

CHAIRPERSON GIACOMINI: Thank you. Okay. Steve Mahrt up, Greg Bass on deck, Robert Beauregard in the hole.

MR. MAHRT: Well, good morning. It seems like 100 years ago I was here in the `90s testifying about organic egg production, and here I am again. And some of the same

issues are still here.

One of my concerns is being echoed here, is that I took an old cage layer house ranch, and I initially converted to cage-free. And in `95 we were one of the first certified egg producers in California. And, at that time, it was an experiment, not knowing how it was going to work out. And those of us lucky to live in California with all the wonderful water quality control issues that we have, air quality control issues, and every other issue you can think of, and some we haven't invented yet, but we will, we worry about not only the chickens, the environment, our customers, our competition, and the folks that work for us. And with this new onset of proposed regulations, I'll tell you, I can't move my chicken house. We don't have enough space. I can't afford enough land to fulfill these regulations. Our houses are open-sided. We naturally ventilate our chickens, we naturally light our chickens as much as possible. I

mean, it's kind of part of our whole sustainable creed that we use. We try not to use any outside inputs, as little as possible, and then we have roosting areas outside. We are faced -- we have areas right next to our farm where we have large populations of migratory birds, and for those of you that haven't kind of kept up with it, because you're not chicken farmers, avian influenza is a big scary deal. And we're very concerned about contaminating our chickens because -- I don't know if you guys realize what happens when a chicken gets avian influenza. It dies, and it's very rapid.

The other thing that we're concerned about, and the CDC is concerned about is that the birds that give our chickens potentially avian influenza, that some of that mutates and gets passed on to our customers. And that's the absolute last thing we want.

Another issue that makes it even more fun is federally now the FDA has decided

that eggs are the cause of all things. We got passed cholesterol, and now we're being blamed for virtually all the salmonella issues in the United States, even though the data they used was from the early `90s. We vaccinate all our chickens, we've tested our eggs, but that doesn't matter to the FDA at this point, and the problem is that we've got two regulatory bodies that we've got two regulatory bodies that are going heads on at each other. USDA, you guys say put them outside more, give them more space, and the FDA says well, you're going to have to swab all the environment, and if you run across one pellet from a mouse, you could be a positive sample, and then you've got to invert all your eggs to the breaking plant. And guess which breaking plant is going to want eggs that have possibly positive for salmonella. Gee, I don't think there's a lot of them signing up and saying I want to do this. Well, wait a minute, maybe I will, but I won't give you anything for the eggs,

because I'm taking such a risk. Okay?

So, my experience in the US talking to a few folks over the years is that if you're positive for salmonella, you depopulate the birds. Okay? So, you're recruiting an untenable situation for us by expanding the requirement for outdoor access because the threshold is 3,000 birds. That's not a very big organic farm.

One of the things that we'd all like to do is be diversified. Right? The problem is, a pretty large amount of expertise is required to raise chickens nowadays. I mean, we're talking about methionine. That's an essential amino acid. We're getting pretty sophisticated. Okay?

On my farm, I have a guy that raises potatoes. My brother has an organic dairy on our farm, but we all share our expertise, and share the farm. My part of the farm, there's roads, and I can't move my chicken houses any further.

The last point I want to make is that I'm in support of the Task Force because methionine, it even says in your last meeting, is amino acids are as important as vitamins and proper food sources. So, once again, I am concerned about what the FDA is going to do to us. I don't even know if any of us are going to pass, because we don't do environmental testing very regularly, but we do egg testing. So, anyway, questions.

CHAIRPERSON GIACOMINI: Questions? Jeff.

MR. MOYER: Thanks, Steve. I'm going to ask you sort of the same question I asked of the last producer.

MR. MAHRT: Sure.

MR. MOYER: Do your birds go outside at all?

MR. MAHRT: They go out some, but remember, our houses are way open, so they can sun themselves, so there isn't quite the need. But I'm not in -- I'm in West Sonoma County.

I'm not in the Midwest where there's snow, and it's cold. So, our birds, our wall is only this tall on nine foot high buildings, so they can sun themselves in the house, and naturally ventilate. And we don't use any outside lights except in the morning and evening.

MR. MOYER: Okay. So, if we were to pick a square foot number, what kind of square footage number would you -

MR. MAHRT: Well, I don't know what the -- I think that that should be left up to the certifier. I mean, I think that conforming with the rules -- this thing has been in existence for 10 years. I don't think it's broken. I think the issue you have is the consumer perception that there's kind of an industrialization of organic, and I think that's what you guys are wrestling with. And the problem is that anything in production agriculture is a little bit of a compromise. Okay? We have human welfare, we have animal welfare, and then we've also got farmer

welfare. Right? Because one of the key linchpins of sustainable is we've got to make a profit, because nobody is going to loan us any money to do this stuff, if we can't make you profitable. Right? So, it's -- the certifier I think is the manner -- for you to try to make a -- that's why it was so hard before when I was testifying years ago, that's why they left it pretty open and up to the certifier, because it isn't one size fits all. You know, I mean, I have -- we do some business with a major organic cooperative. Okay? Well, I've seen their places in the middle of winter. Okay? Birds don't go outside. They can't. The snow is over the top of the damned doors, so what are they going to do? So, you've got to really think about the environment in the house. You've got to provide for those birds.

The other thing, I've been in Europe a number of times looking at organic communities. Okay? They keep wanting to push

the birds further out, and the birds keep saying no. Okay? No matter how much the consumer wants kind of the bonanza chicken, okay, the chicken has a say in it, and they don't go very far. I should have brought it. I have a picture, an overhead picture of a pretty sophisticated organic layer operation in England, and there's dirt paths around every single building. Now, the guys that move their birds, this pasture-based system, that's cool if you're in Virginia where you get rain a number days a year, but I'll tell you, this is an unusual year for us. Most of our stuff is going to -- normally, in another month or so, they call it the Golden State. That's not because it's gold, it's because everything is dry, and there is no more pasture or forage out there. Okay? So, they get zip. Okay? What they do get is angst as we're full of red-tail hawks in our area, and every time one of those suckers flies over, even if the birds are inside, they see them,

they go on the other side of the chicken house, because guess what, to them that's still scary. Even though we say it's not scary, they still think it is.

MR. MOYER: I have one follow-up question to that.

MR. MAHRT: Sure.

MR. MOYER: When you described your laying house, to me it sounds very sunny, airy, and comfortable. If a consumer of your eggs came to visit your farm, would they be happy with what they see, in your opinion?

MR. MAHRT: It depends where they're sitting. It really depends on where they're sitting. I mean, I've brought people and there's chickens all over the place and they go gosh, they're crowded. Then I show them a picture at night, and they're all sitting up in the roost, and you can run through the place. Okay? So, it really depends where they're sitting. I've had people that thought we were wonderful. And

I've had people that said well, you should only have five chickens in there. I mean, that's such a broad statement that it's really tough for me to answer. I think most of our customers like what we do, but I'm sure there's always somebody, and my wife answers all the emails, there's always a few that say, you know, I'm a devil. And there's a lot of them that say we're good, but there's always a couple that say we're the devil.

MR. MOYER: Well, how many square feet do you have inside your building per bird?

MR. MAHRT: It's about 175.

MR. MOYER: One seventy-five --

MR. MAHRT: But we have different tiers, you know, so the birds can move into different directions, because there's a definite pecking order. You've heard that today. All right? So, we want to make different areas for different birds in the pecking order, to be able to have

relationships.

MR. MOYER: Thank you.

CHAIRPERSON GIACOMINI: Other questions? Thank you.

MR. MAHRT: Very well. Thank you. By the way, I want to thank all you guys. This is not a fun job. It wasn't a fun job 20 years ago, and I can't imagine it getting any better, so thank you guys all very much for your time.

CHAIRPERSON GIACOMINI: Where do people get this idea? It's a blast.

(Laughter.)

CHAIRPERSON GIACOMINI: Yes, at 9:00 tonight when we're still going, it's a blast.

MR. MOYER: Dan, apparently we don't look like we're having fun.

CHAIRPERSON GIACOMINI: Well, we apologize then. George Bass, Robert Beauregard, Hal Kreher, however you say. Hal, you're in the hole.

MR. BASS: Thank you very much. To the Committee and the staff, thank you all the time for the past and the present members of the NOSB Committee, and thank you to the staff which have worked very hard for the NOP for the public, and also the producers.

These are some of the important points of the Country Hen. Number one, even before the company was certified organic, the barns had hens on the floor, and had many, many windows back to back on both sides of the barns open to rain and the good weather. Every year each barn would be carefully cleaned by eight people. All manure was taken to other fields. All of this is going on today.

Number two, the porches of the farm are part of our certified organic system plan. I think we were the first certification. Number three, there should not be more hundred hens per acre to keep the grass. We have about 70,000 hens, therefore, we should have

700 acres. The cost of the land, building, and equipment would be exorbitant. Number four, we didn't want manure building up on the barn dirt so that non-potable water would get into the nearby large lake that supplies drinking water to Boston. This lake reservoir was closed to our farm. It's about 70 miles from Boston. Number five, the porches will stop the risk of migration of wild birds spreading external disease, AI. There are many internal diseases that can develop from hens in barren dirt.

As you know, cows are different from chickens. The disease was awful, at times you've seen it, over 250 million birds in China, they killed those hens, 250 million birds because the AI. And, also, in Pennsylvania, if you know about it, there are 17 million birds died AI because they have AI. So, there is difficult -- I think they're very difficult. They're much more difficult as cows are not very good. I mean, the cows go

outside.

Our customers have completed two surveys about porches. In 2002, we sent about 150,000 inserts in the cartons of the eggs to our customers. There were a total of 1,560 answers. Eighty percent were positive, 20 were negative. And we started another one. This came in this year, and the lady was doing it, she was fantastic. She did it during the night, and during the day, and she sent out 900 letters to our customers, and also about 1,000 emails. And these, which happened for these surveys, she got 405 replies to date, 392 of the responses or 96.8. That's a vote of positives, and so that is fantastic. I really think that these people, our customers, understand that these porches are okay. There's no problem at all. Therefore, I'd just like to thank you.

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: Thank you for your comments. I have a question I wish I had

asked everybody that sort of testified on this issue, but if you were to distinguish for a consumer between organically certified production, egg production, and conventional, how would you describe the difference? How would you distinguish the two to the consuming public?

MR. BASS: Thinking about the customers, some like the organics, and other like the commercial?

MR. FELDMAN: Yes.

MR. BASS: Well, most people -- anybody -- excuse me. I shouldn't say that, but we're the best of those eggs of anybody ourselves. We've done it for 22 years. Therefore, the quality I think is much, much better. Basically, and they understand what we do on the farm.

MR. FELDMAN: On the production side, what would be the key differences that you believe the consumer is concerned about?

MR. BASS: On the customers?

MR. FELDMAN: On the production, on your production side.

MR. BASS: Right now, it's on the computer, and, therefore, we've got those four photos that explains what happens. And we sent it. We gave a lot of information on that thing, the lady that set all that stuff. So, therefore, hopefully, the public could understand why it should be.

CHAIRPERSON GIACOMINI: Other questions? Okay. Seeing none, thank you. Robert Beauregard, Hal, I apologize for that last name, and Arnold Riebli.

MR. BEAUREGARD: Good morning. My name is Bob Beauregard, and I'm the General Manager of the Country Hen. And I have this thing all written up that I was going to read. I think that hearing from some of the past producers, it's just very repetitive.

The issues that we have with the outdoor access and the conflicting new guidance for FDA issues, environment will have

to be tested. So, obviously, this is about the outdoor access, and the animal welfare. So, I'm going to ask a question. If the chickens are out in the pasture, I would think that that would be environment. Environmental testing will be required between the ages of 40 and 45 weeks of age.

If a positive result comes in from an environmental test, all of our eggs will be required to be tested. If the eggs come back as a positive, which they probably wouldn't, they would be diverted into a breaking plant, as one of the past producers. But you certainly would come up with positive results in a free range system testing that environment. Not only the rodents, you have the pigeons, you have the bats, and several others that carry salmonella naturally. So, it's a conflicting side of the issue.

To go a little bit deeper, APHIS has a -- sister, USDA sister, APHIS, has guidance documents that support exactly how we

produce our eggs with our hens. It's a porch system that's fully netted. We use a clear plastic roof. We provide about .15 percent square footage per bird. As past producers have testified, none of the birds want to really go out there. They really don't want to go out. You do see numbers going out there. Sometimes the porches are completely full. They should be bigger. I think that, you know -- I mean, we developed our organic system plan based on the rule that's presently in the register right now. So, our whole entire organic system plan was based on that. We built the porches on the barns, we added this at a lot, a lot of cost, millions of dollars in new equipment, buildings, putting the porches on. And, again, just to reiterate that with the square footage recommendations that you've put out there, we certainly would not comply, and we would be out of business as soon as the rules were enforced.

So, we feel that the hen's welfare

and safety issues are -- the hens will be better protected in this type of a system, a porch system with a roof, a clear roof. We use a clear roof over the top of it. It's completely netted all the way around. We're in total agreement with expanding the outdoor access area, but under a porch system.

The only other thing that I wanted to touch on is that we believe that the three pounds per ton for the methionine in the first starter formula is crucial in allowing the chick the proper amino acids to develop at the young stage of life. And that's all I have.

CHAIRPERSON GIACOMINI: Questions? Katrina.

MS. HEINZE: We've heard a lot today about how the FDA Egg Safety Rule is in conflict with what the Livestock Committee has recommended. I guess I'm wondering, there's a lot of free range eggs out there, how -- what's your understanding of how the producers of free range eggs are going to meet

the Egg Safety Rule?

MR. BEAUREGARD: Well, free range -- or the requirement is any producer that has 3,000 or more birds must meet these requirements. So, free range egg producers that have more than 3,000, and I guess that's my question, is that environmental testing going to be enforced on a 700-acre plot. If we're going to free range our hens, we would need 700 acres of land to do so at 100 hens per acre. And how would you plausibly environmentally test that for the FDA regulations?

MS. HEINZE: So, I guess my question is, so you don't know how a current non-organic free range egg producer would be meeting the new Egg Safety Rule.

MR. BEAUREGARD: Well, currently, there's no enforcement. It's a new rule that's coming out.

MS. HEINZE: Right. But, presumably, they thought about it, or they're

going to lose their business -

MR. BEAUREGARD: Right. But if they have under 3,000 birds, they wouldn't have to.

CHAIRPERSON GIACOMINI: Thank you. No further questions. Thank you. I think let's -- that was Robert. Let's do Hal, and then we'll see how time is for possibly breaking for lunch.

MR. KREHER: Good morning. My name is Hal Kreher. With my four brothers and two cousins, I own a new organic egg farm near Buffalo, New York. We are currently producing eggs for Wegman's, and Tops chain of grocery stores. We have been organic crop farmers for over 10 years.

I support the Methionine Task Force recommendations that were brought up earlier. I apologize if some of my comments are repetitive. I had it all written out.

I was on a conference call listening to the USDA Organic Working Group

Stakeholders meeting two weeks ago, and one of the speakers spoke about access to organic food, and how to grow the sector. This brings up a very good point, and one that I think many people struggle with, and that is whether or not organic products should be available at chain grocery stores. Should people be able to get organic products wherever they shop? Most people purchase their foods at grocery stores, or should purchasing organic food require a drive out to the country? Is organic food for everyone, or just the elite? Should we try to spread organic practices across the entire agricultural sector, or should it be for small farms only?

I think there's a main concern with the current situation regarding organic egg production, and that we currently have a supply that is dependent on farmers that have approached production on a commercial scale. Many of the organic farmers are housing flocks in the 30,000 hen range. If this style of

production is not followed through requiring excessive outdoor area, a large segment of organic food production will be lost. This will decrease the access to organic food.

I personally do not believe that access to organic food should be limited to the very wealthy, or those who live in a rural area. Most people purchase their food at a grocery store, and in order for them to purchase organic eggs, they must be available at a grocery store. In order to supply these large customers, a large number of hens is required.

My farm is also certified by the American Humane Association, and according to their website, the American Humane Association created the first welfare certification program in the United States to insure the humane treatment of farm animals. The American Humane Certified Program provides third-party independent verification that certified producers care and handling of farm animals

meets the science-based animal welfare standards of American Humane.

It's important to note that the standards developed by American Humane were not developed by farmers, they were developed by animal scientists, and ethicists. The program, and other third-party auditors humane care programs we've already heard about covers every aspect of animal husbandry, as it relates to the care and raising of chickens. It's much more comprehensive than what has been developed by the Livestock Committee. I do not mean to criticize their efforts, as I realize that they spent many hours to develop the care standards. However, there already exists several of these programs which would fulfill the same requirement, and actually are much more comprehensive to insure that animals are treated humanely.

My proposal is that rather than spending many more hours debating what should and should not be included, that, instead, the

National Organic Program require the following of the standards off a list of acceptable programs. This list would include American Human Certified Program, Humane Farm Animal Care Program, and some others.

One benefit would be that if the standards change due to further research, it would not require a change to the National Organic Program. Another benefit of using one of these third-party audited systems is that they utilize auditors whose sole focus is the care of the animals. When they inspect a facility, they are already familiar with the standards as they apply to that animal species. Their inspection is quite thorough, and quite possibly more than can be handled by the usual organic inspector, who is already tasked with understanding fields, crops, inputs, et cetera.

We have already talked about space allowance. I kind of wanted to talk a little bit more about the multilevel aviary system,

but I see I'm running out of time.

There's no need for the NOP to develop stricter standards than what is already considered humane by the organizations that are most concerned with humane treatment of animals.

Regarding outdoor access, I realize there are some folks who would prefer to buy their eggs from a small farm that has a flock of barnyard chickens. In order to fulfill this need and to differentiate the eggs produced in this manner, I propose an additional standard for free range or pasture poultry be included.

In fact, the humane programs I have already discussed, they have standards for this, and they're on the order of requiring one acre for 400 chickens. It would be very difficult to produce the volume of eggs that can be sold through grocery store chains in this manner, but it would also allow a differentiation for farmers that choose to

have a small flock of chickens.

There's already precedents for having different levels of organic. And, in fact, earlier we heard about differentiation proposed for beef production.

CHAIRPERSON GIACOMINI: Questions? I apologize that you drew the short straw here. I'm going to come back to Jay's question. How would you, and for lack of a better term, the classic 30-second elevator speech, explain to a consumer the distinguishing differences between your operation and conventional?

MR. KREHER: I also have a conventional operation, so I'm very -

CHAIRPERSON GIACOMINI: Okay.

MR. KREHER: -- very able to talk about that. In fact, I have to talk to people about that all the time. The conventional production, the chickens are in cages. They're fed conventional feed. I don't see anything -- personally, I don't see anything

wrong with that. There are people who prefer organic products. The organic chickens, they're not enclosed in a cage, they can get out, they can run around the floor if they choose to. They can get around in the building. It's quite a bit different, and they're fed organic feed. Now, organic feed is, of course, produced without pesticides and herbicides, which, therefore, those pesticides and herbicides don't need to be produced. So, that's a benefit, I think.

CHAIRPERSON GIACOMINI: Joe.

MR. SMILLIE: You said your farms are near Buffalo?

MR. KREHER: Yes.

MR. SMILLIE: So, you'll be one of the experts on the snow up to the eaves.

MR. KREHER: Yes. And allowing the chickens out, is a big issue for us.

MR. SMILLIE: Well, I wanted to expound on that. So, what do you notice in your production during the winter months in

Buffalo, which are severe, and the summer months when your chickens are outdoors?

MR. KREHER: Our farm is quite new. Our first flock of organic hens is only about 30 weeks old at this point. Our veterinarian has advised us that they shouldn't go out when it's cold. They should stay inside when it's cold, and only go out when it's over 60 degrees. The temperature difference, when you open up a lot of these doors in the building, the building is depending on ventilation. The chickens in the house have to have ventilation, have to have air moving through there or they'll suffocate. So, when you open up all these buildings, all these doors for them, there's 36 doors in the house, and that creates now a ventilation problem.

CHAIRPERSON GIACOMINI: Okay. Thank you. I think this will be a good time to break for lunch. We're on schedule. Arnold Riebli will be up next, Lisa McCrory on

deck, Dave Will in the hole. Be back -- well, time-wise, we'll be back at 1:00.

(Whereupon, the proceedings went off the record at 11:46 a.m., and resumed at 1:01 p.m.)

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

1:02 p.m.

CHAIRPERSON GIACOMINI: We have a quorum and we're going to move on. We've had a number of requests that I'm not being ruthless enough on cutting off questions and we're about one-third of the way through and we should be half. We're fairly way behind.

So, is Arnold Riebli here? Okay.

Lisa McCrory, on deck. Dave Will.

MR. RIEBLI: Good afternoon.

I'll try not to put you all to sleep since you all just had a big meal.

Valerie, welcome to California. And on behalf of the California taxpayers you may have to turn off the light when you leave California.

My name is Arnold Riebli. I'm a fourth generation farmer and egg producer from Sonoma County, California.

My partners and I and our families have been producing eggs in Sonoma County on

a commercial basis for over 100 years.

Collectively today my partners and I have well over 300 years of practical experience. We were organic before organic was organic.

When our families first started in the egg business, all of our production was entirely of the floor or cage-free type.

In the late 1940s into the early 1950s we transitioned over to a battery cage type systems because we found these systems to be a better technology break for us. The primary reason for transitioning over was animal health and in essence safety.

Over the years we have seen many different types of cage systems come and go. About seven years ago we started to experience a demand for organic eggs and as reasonable businessmen we responded by adding organic production to our conventional production -- to our conventional product lines.

So, it is, I believe, fair to say

that we have a significant amount of practical experience even to the point of possibly calling us experts in the field of egg production.

Today I'd like to address four items that are up for consideration.

They are number one, space allowance for an egg-laying hens.

Number two, outside access for egg-laying hens and the need to increase the space allowance.

Use of Methionine in egg-laying hen feed rations.

And, number four, the condition of vegetation that must be used in egg-laying pastures.

First, space allowance. We understand that there is a consideration being given to increasing the minimum floor space from 1.2 square feet of floor space to 1.8. We question the reasoning.

When we look at broiler meat

production we notice the space allowance for a broiler is one square foot. The average mature egg-laying hen weights approximately 3.5 to 3.8 pounds per hen. The average mature broiler weight 6 to 8 pounds per bird.

When we observed mature egg layers in our current barn, we believe that the hens have more than adequate floor space. Hens are naturally social and they will group up.

To require us to increase this floor space would also mean a one-third reduction in our total bird capacity, thereby requiring us to either build more capacity to an approximate cost of $40 per hen or to reduce our total production and thereby failing to meet the current demand. No matter which course we take, it means a higher cost to the consumer. From a practical perspective, we do not support nor do we believe that this added space requirement is either necessary or wise.

Number two, outside access. We

question the rationale for required outdoor access for young birds during their reading age and the amount of space required throughout their access for adult layers.

First, let me address the young birds. On our pullet-rearing farms we have a significant amount of wild life in the form of wild duck, wild geese, starlings, swallows, pheasants and quail. In the early stages of a young pullet's life she has little or no immunity to any type of viral challenge. She gets these immunities through vaccinations that are administered to her during the first 15 weeks of her life and it usually takes two weeks to develop an immunity.

The consideration being given to require outdoor access starting at six to seven weeks of age flies in the face of good animal health practices so say nothing of exposing the young pullet to outside ambient temperatures that cannot be controlled.

It is absolutely imperative the

young birds be kept at 73 degrees Fahrenheit or above. As far as older hens are concerned and I would ask, why do you need the same space outside that I need inside. All of the birds will never be in the same place at the same time. Even when given the opportunity to be outside, some if not most will just simply refuse to do so.

As far as allowing outside access on a daily basis, unless weather did not permit, we would ask, how are we supposed to handle mud? That's a situation that exists in California for about six months out of the year.

Methionine. I, we agree with the recommendation that are being put forth by a methionine subcommittee. Very simply put, that without synthetic methionine we would have to increase the crude protein of a layer diet to a point where the layers' overall well being would be threatened. Anything below a minimum four pound level would be a challenge.

Number four, required vegetation.

In the outdoor access areas, well-

-

CHAIRPERSON GIACOMINI: Can you wrap that one up?

MR. RIEBLI: I'm sorry?

CHAIRPERSON GIACOMINI: Your buzzer went off. Can you wrap up that last point?

MR. RIEBLI: Okay.

Let me say, if we had to put birds out in the summer because of no rain the birds would dilute the yard of vegetation, within a period of time we could not live up to the vegetation standards.

Thank you.

CHAIRPERSON GIACOMINI: Questions from the Board?

Thank you. Okay.

Lisa McCrory and Dave Will on deck and Robin Allen in the hole.

MS. McCRORY: Good afternoon.

Hopefully there's copies for everybody.

My name is Lisa McCrory and I work for the Northeast Organic Dairy Producers Alliance, an organic dairy farmer organization with a membership of 836 organic dairy farmers.

NODPA's mission is to enable organic dairy farm families situated across an extensive area to have informed discussion about matters critical to the well-being of the organic dairy industry as a whole.

I'd like to provide some comments on a few areas. First, would be in regards to the livestock committee recommendation regarding clarification of 205.238. We strongly disagree with this recommendation by the livestock committee and we agree with the minority opinion.

Economic or management challenges should not be a valid argument to weaken organic standards. Rather than making the use

of substance enzymes 205.603 easy, there should be a cost involved with using them so that organic farms develop different management strategies to eliminate their use.

If the young animal's mother was treated with the 205.603 substance with a withholding time, the young animal would be better off with a surrogate organic mother until the withholding time has expired. That may prove difficult with some farms but organic rules shouldn't be enacted to make things easy.

We support the minority opinion that 205.238 (c)(i) should be amended as follows. Milk from animals undergoing treatment with a substance allowed under 205.603 that has a withholding time cannot be sold as organic or fed to organic livestock during the withholding time period.

And my comments are pretty condensed because it's a six-page comment document that you've got. So, I'm going to be

skipping over a few things.

The other area of comment that I wanted to voice was invitation for public input on stocking rate charts. And we strongly believe that organic animal welfare guidance and standards must be sensible and based on reasonable standards that are determined by the realities of farming, good husbandry, grazing, nature animal behavior and natural healing.

That said, we recognize the importance of requiring adequate space for animals to exhibit their natural behavior during the non-grazing season or during times of temporary confinement.

NODPA recommends that the livestock committee can reconsider the stocking density rate to calculate rates per weight and not per animal to insure more accurate space allocation. Such practices are common in the EU. And we believe that the USDA certified organic animal welfare

standards should meet or exceed the standard which applies to all animals in the EU.

Animals increase in size and weight during their lives and vary by breed. Calculating stocking densities by animal instead of by weight can most increasingly cramp conditions as the animals grow and cannot be applied to young stock except by using animal equivalents which are misleading.

And as for 205.236 origin of livestock we understand that the NOP is in the process of writing an ANPR on 205.236, origin of livestock and NODPA and food farmers recommend that the proposed rule on origin of livestock follow the principles that were outlined in the preamble of the December 21, 2000, Federal Register of the NOP final rule.

We do not request any exemptions to this rule. Some have advocated for transition cows and heifers to be sold as organic. Allowing transitioned animals to be sold as certified organic creates a loophole

that will be exploited and transition animals are technically not organic.

A transitioned animal is certified to produce organic milk but cannot be sold for organic slaughter and should be allowed to be sold and should not be allowed to be sold as an organic dairy animal. If culled from the herd a transitioned animal should be sold into the conventional market.

There will be no decrease in the asset value to the producer as the organic original value of the livestock was as a conventional animal and the producer has recouped any expense incurred in transitioning to organic certification through the premium received from organic milk produced.

A transitioned animal by definition did not have organic management through its life so on and so forth.

And for the sake of time, I think you get my point. There's a lot more detail as to why and we wait with baited breath to

see what the livestock -- the organic livestock standards are going to look like and thank you very much for listening.

Do you have any questions?

CHAIRPERSON GIACOMINI: Questions from the Board?

Seeing none, thank you very much.

MS. McCRORY: Thank you.

CHAIRPERSON GIACOMINI: Dave Will. Robin Allen on deck. Dave Carter in the hole.

MR. WILL: Good afternoon.

As a fellow Californian, I also would like to extend my welcome to our great state and please leave any spare change you have with Arnie on the way out so he can forward it to the governor.

Just a couple of things. I'm with Chino Valley Ranchers and we are organic egg producers in Southern California and I'd like to firs to start with thanking the NOSB for all the consideration you're given on our petition and where we are today.

Also, as a member of the task force, I'd like to personally thank Dave Martinelli for getting a group of egg producers and broiler producers throughout the United States to gather to actually talk about one subject in a coherent fashion. And I appreciate your hard work on that. It wasn't easy, I know. So, thank you.

A couple of minor issues. We do support the pullet concerns that Dave mentioned. You'll also hear from the OTA and I believe UEP put in their writing.

And one thing that we felt we left out was at 27 weeks of age, didn't pull that out of the air for pullets. That's actually the time the bird is fully feathered and has reached its full adult weight, so there was actually some science and understanding behind why we put in 27 weeks considered the same as a broiler.

Fourth, we'd like to talk about what sort of allowances there may be moving

forward to look at substances that currently are not on any list that are natural. Our nutritionist has actually been digging through some very interesting research and has found a couple of things that we'd like to be able to conduct in a small layer-trial full-scale so that we can get the full benefits of it, but we're concerned because this would be something in the realm of a natural non-synthetic, non-organic substance and whether or not that would lose our certification for that flock or those eggs.

Also, we tested the corn. We did bring in some of the high methionine corn back in January of '09 and sent it out for nutritional testing. We chose to pass because we got absolutely no significant differences between regular corn and high methionine corn at that point in time. And we were never able to ascertain a natural field cost on the product so it made it very difficult for us to move forward.

Switching gears onto animal welfare.

We just want to remind the Board to -- I know everyone looks at the Canadian standards and we've heard that a couple of times and as Greg mentioned, Canada is unique with the fact that they are on an egg quota and it makes it much easier for them to have the resources to develop systems and to have those sort of things in place. Any loss in production or land costs, they're capable of covering with the fact that they do have a quota system for eggs.

Second, on the densities.

We'd like to know if you guys have involved any of the major breeders. Basically, in the egg industry we're forced to buy our chicks from one of three or four companies. And they all have different standards for the inside space available for the birds and it basically monitors exactly what UEP, Free Farmed and American Humane have

also put out as a public standard of that 1.5 foot per bird.

Third, on behalf of ourselves in Southern California, and I know there are several other egg producers in the rooms. We would all like to invite you out to an operating ranch. If you want to grab one of us I'm sure we could work something out. We'd love to have you out so that you can see some of the trials and some of the issues that we have to face.

I know Greg in the Midwest has wanted to extend it but he forgot to and we in Southern California would be more than happy to invite any of you out to take a look at our operation.

Fourth, we support outside access as a space requirement not as a land quality requirement because that takes into seasonability and the judgment by a certifier and we just feel that leaving that open to interpretation is not correct. We really

would like to see putting as some sort of space.

Also, you know, we have major concerns that are different than the dairy industry because our major contaminants fly. If pigs flew you might have a different response out of them, concerned about cows and swine crossing paths, but they don't fortunately. Our major predators and concerns do and that's one of the main reasons that we are so worried about birds with the avian influenza.

And then last a little bit of housekeeping. I was asked to remind the group that something was slightly misspoken earlier.

A positive environmental test right now for salmonella as the law is written will require four negative tests in a row which are two-week interval and that the eggs should be diverted but it does not require them to be diverted in the rule. So, if you have a positive for those tests then you're

subject to recall. So, good business practice would require or suggest that they are diverted. But it's not the way the law is written.

So, thank you for your time.

CHAIRPERSON GIACOMINI: Thank you. Questions?

Seeing none, thank you.

Robin Allen, Dave Carter on deck, Beth Unger in the hole.

MS. ALLEN: My name is Robin Allen.

I'm the Director of Urban Livestock Verification as CCOF. I am responsible for the certification of approximately 1,770 crop operations and a 120 livestock operations.

Thank you for this opportunity to make comments.

My comments today going to be directed at recommendations put forth by the Crops Committee and by the Livestock

Committee. So, if I may begin with my comments to the Crops Committee on production standards for terrestrial plants and containers and enclosures.

In short, CCOF feels strongly that this recommendation is misguided and should not be approved by the board.

It appears as though the recommendation is aimed at achieving two different objectives. One to prohibit hydroponics and aeroponics and two the set production standards for green houses.

I want to address these two objectives separately.

Regarding the outright prohibition of aeroponics and hydroponics, CCOF does not believe that this is necessary, though we understand at this point it may be a foregone conclusion due to international trade issues.

Please remember that all certified operations, not just soil-based farmers, are already required to maintain or improve the

natural resources of their operation including soil and water quality.

The recommendations/rationale for prohibiting hydro and aeroponics due to lack of soil does not also take into account the fact that the organic community has agreed that other types of crop productions that are not soil-based should be allowed, including wild grown mushrooms and aquacultural such as health.

It does not seem reasonable to exclude hydro and aeroponics based on this rationale and while continuing to allow these other types of productions we are doing.

There are also ramifications for other crop producers which I do not feel are adequately addressed. As written, the recommendation would prohibit the production of organic sprouts. Commonly grown sprouts such as alfalfa and sunflower are both normally terrestrial vascular plants being grown in a soilless environment.

As the rule specifically discusses sprout production into 205.204(a)(i) and many sprout producers are currently certified, we do not believe that sprout production should be prohibited.

In addition to overlooking sprouts, the recommendation would create a very problematic situation for types of transplants and annual seedling production. Many transplants are grown in a media such a ProLight or Vermiculite which do not meet the recommendations requirement for a compost-based growing media which can support proper soil biology.

We ask that you carefully consider all of the ramifications of this recommendation and that you do not pass the recommendation that would prohibit sprouts or inhibit the production of transplants or annual seedlings organic production.

Separate from these issues stemming from the section on hydroponics and

aeroponics are the issues stemming from the recommendation standards for greenhouse production.

As we commented at the previous NOSB meeting, CCOF believes that these production standards are overly prescriptive and redundant to other parts of the NOP regulations and are therefore unnecessary.

The requirements in the recommendation duplicates requirements already found in other sections of the rule such as the recommendation states that prohibited materials may not be used in a growing media and that commingling and contamination must be prevented and that organic and non-organic crops must be labeled.

We do not believe that there's a widespread problem with commingling or contamination in greenhouses to the extent of wording such lengthy yet narrow requirements. The problem that this recommendations seems to be trying to solve just doesn't exist.

Those of you who work with livestock operations affected by the recent pasture rule publication may be sympathetic to the repercussions of subjecting a small segment of the organic community to lengthy and prescriptive requirements.

When it comes to organic dairy, there was a consensus there was a problem in the lack of regulations that needed to be addressed. In the cases of greenhouse production, this is not true.

Lastly on the subject, we're concerned that the recommendations allowance of supplemental carbon dioxide is by-passing the petition and review and approval process to allow synthetics on the National List. Carbon dioxide from a tank as used in greenhouses is likely from synthetic sources and we cannot support a recommendation that would circumvent the lifting process for synthetic materials.

So, for all these reasons, CCOF

cannot support the recommendation and we ask that the committee vote it off the table.

Next, I'd like to comment on the recommendations from the Livestock Committee.

First, we'd like to express our support for the majority opinion regarding a recommendation for clarification of 205.238(c)(i), so we do support something sometimes.

Second, regarding the definition of the animal health care products, I do sincerely appreciate that you recognize there's a catch-22 inherent in the regulations that limits the use of preventative and homeopathic health care products. However, the recommendation to add a new definition for animal health care products doesn't solve the problem.

The definition of animal drugs in NOP which references the definition provided by the Federal Food, Drug and Cosmetic Act includes preventative and homeopathic products

in the definition of a drug.

Under 205.238(c)(ii), animal drugs may not be used in the absence of an illness. Adding a definition doesn't cancel out this contradiction.

In my written comments I provided three suggestions for technical corrections that could solve this problem, including clarifying the wording of 238(c)(ii) to either state producers must not administer any synthetic medication allowed under 206.053 other than vaccinations in the absence of an illness or administer any drug other than vaccinations homeopathic or preventative products in the absence of an illness.

That's it.

Questions?

CHAIRPERSON GIACOMINI: Someone's paying attention.

Questions? Questions for Robin?

Joe.

MR. SMILLIE: Could I get a

response from Crops Committee on the sprouts issue. Did you consider that?

Anybody?

MS. ELLOR: Yes. We did and we'll probably go back in the committee with that.

MR. SMILLIE: Okay.

MS. ELLOR: I was -- actually we got a lot of good suggestions. We'll probably go back to the committee before it comes to the floor.

MS. ALLEN: Thank you.

CHAIRPERSON GIACOMINI: Thank you.

Dave Carter on deck. Gay Timmons.

MR. CARTER: Thank you.

Members of the Committee, NOP. I'm Dave Carter, a survivor of this body here today speaking on behalf of a group of organic pet food manufacturers working under the auspices of the Pet Food Institute.

Before I start though I want to welcome the new NOSB members. You're beginning about five years of the most

frustrating and interesting part of your career that you can imagine. And I also want to thank Valerie Frances for your work as Director for the NOSB. You've been a great resource.

Very briefly. The whole area of pet food has been confusing from the very get-go. From October 2002 when companies moved forward to engage in sort of an occasion to sort of market their products.

But particularly after 2004, when first of all the scope document came out and said that pet food couldn't be certified and then it was later corrected and said, well, yes. It can as long as it complies with 205.605, the human food standards rather than 603, the livestock feed.

There's been an effort on the part of certifiers and the companies to move forward in compliance with 605 in the midst of a confusing playing field.

Some further confusion and concern

was added earlier this year when the letter came out to some of the certifiers saying that pet foods that are complete and balanced can no longer be certified because they were -- because they contained nutrients not listed on 104.20 which is mentioned in 205.605.

And let me just stop and say complete and balanced is the be all, end all of pet food. Because pet food is a sole source diet. It's one bowl of food every day that that companion animal gets all of its nutrition from, that food product has to have all of the nutrients that that animal needs and that's established by AFCO to comply with FDA. So, there was a lot of concern and chaos coming out of that.

I am particularly pleased that Miles in his report yesterday gave us a road map to help address a lot of this.

There's four particular areas.

First of all, number one is to say that developing the pet food regulations is a

priority. Again, coming out of all the confusion in 2004, there was the establishment of the Pet Food Task Force delivered its report to this group which was pretty much adopted in toto in November of 2008. Probably one of the best recommendations I've seen in terms of being a ready-made regulation that can move forward.

We're very pleased that NOP has put that on their work plan.

Secondly, is the request from the NOP for this group to re-evaluate the recommendations for nutritional vitamins and minerals as to try and update the recommendation that was made in 1995 by the NOSB at that time.

Third, and this is a critical one. Was the acknowledgement in the memorandum yesterday that certifiers and operations have been playing by the rules as those rules were defined and interpreted by the program in 2006 and 2007. And that's critical because we have

so many folks out there that have been the good players. They have rolled up their sleeves, they've done the heavy lifting to try and develop their formulations in compliance with the National Organic Standards as interpreted by the National Organic Program.

Now that we have the program moving forward with a different interpretation, and with the consultation by the FDA, there's a couple of things.

Number one, is we want to make sure that the FDA folks from the Center for Veterinary Medicine are brought into the discussion. But the last point is that the comments in his memorandum, in Miles' memorandum yesterday, that there will be draft guidance on how to comply with the new interpretation. And that there will be a time period including the 60-day comments. I think that that helps give us some breathing space which is critical because we need to have the ability for those companies to move forward

and continue to market those products while we get the ground rules clarified.

So, let me just -- three things in summary.

Number one, is we need to start ASAP on the regulations.

Number two, is you can expect some petitions to be coming in on some of the nutrients that are essential. They are not supplemental. They are essential for companion animals.

And, number three, is that we do need to have this transitional period, the breathing space, so that we don't have the business interruption. Because in summary, this isn't just about pet food. I'm in the livestock business. It's about carcass utilization in our business is that if you're trying to get all of your organic premium off of the tenderloins and the ribeyes and the strips, and you can't get an organic premium off of those other ingredients, you simply

cannot compete in the market place. Pet food has been a critical component of allowing these companies that manufacture the human foods to be competitive in the marketplace.

Thank you very much.

CHAIRPERSON GIACOMINI: Thank you.

Any questions?

Thanks.

Beth Unger, Gay Timmons, Sheila Linderman in the hole.

MS. UNGER: I'm Beth Unger from CROPP Cooperative. A farmer-owned cooperative that markets organic products under the Organic Valley and the Organic Prairie label.

I am here to speak to you primarily methionine today. I'm going to say it one more time and then we'll go on to other topics.

So, first I think the Livestock Committee put a lot of time and effort into their recommendation for the methionine listing, a continued listing with a step down

thing. But I have a few problems with it.

I think that we need to go back and take a look at process and reconsider this in another way. The TAP review in the handout that everybody received is notes that Barbara Robinson had made in response to the initial TAP review that was done for methionine.

This particular TAP review was held up as a biased piece of work and incomplete and it was done so by the NOP and by the poultry industry.

Methionine is an essential nutrient. It is used in a very small amount and it is done for good solid animal welfare reasons. This is not a growth promotant.

The natural sources, you heard reports. There was, you know, a little this and that on the high methionine corn. Now we've got it at these levels. We tried it. It's didn't really work, you know. And there's a commercial availability issue. So, that's no where near.

I'm very interested to hear the gentleman from the University of Arkansas talk about the microbial trials that they're doing and what they're looking at. And then when you question him about that, it's years down the road. So, I think that we need to go back to the Methionine Task Force decision, take a good solid look at that once again, because as I reviewed the petition that the Livestock Committee put forth, I don't know where that step down came from. It's where is the science behind t? It is -- it is the lack of the science that brought us to where we are right now at this point in time.

The TAP review is discounted. We need a new TAP review and in the meantime until you have more information rather than just making a decision that pushes an industry to do something that does not exist at this time, go back, check on the science. And I would strongly encourage that the USDA spend a little time listening to this about no

funding available for this and the other thing on such a critical topic that nobody wants to hear about anymore.

We really need to rethink what's going on here and get some science behind this and do it right.

And that is what I have except the Methionine Task Force petition. Go back to that one, accept it and vote on it and request a new TAP review so that the next time we're back here talking about it we have better information available on that.

I really look forward to seeing you make a good decision on this in the future.

Now, haven't seen the one minute sign yet.

Stocking density. A lot of interesting discussion about that. I understand that certifiers are busy collecting a lot of information in terms of the Canadian equivalency agreement. Hopefully all of that

is going to go well. But I want to go back to the issue that this is a very large nation with a very diverse geography, different production systems, different requirements and I just don't see, first of all, that a table, a stocking density table is going to necessarily fit in all areas.

In some cases what was on that table will not be enough space for good animal care. And in other cases maybe you don't need quite as much space. So, it's like we're back to that same old thing that I bring every time and that is. Let this be a relationship with each producers and certifier to insure compliance with the standard.

Thank you.

CHAIRPERSON GIACOMINI: Questions?

Thank you.

Gay Timmons up, Sheila Linderman on deck. Jo Ann Baumgartner in the hole.

MS. TIMMONS: Hi. I'm going to be reading Sheila's also because she's not here.

CHAIRPERSON GIACOMINI: Do you want two fives or one ten?

MS. TIMMONS: Two fives. Actually maybe one ten. I'll keep the one ten.

My name is Gay Timmons. I'm with a distribution company. I've been working with organics since 1991.

And I want to thank everybody for having this at this end of the country. I went to school at Davis so it was really fun for me to drive here. I keep telling people I used to count tomato seeds as a way of getting through college right here in Woodland. It was not a good job. But I'm really proud to have people in California.

The 1990 Organic Food Production Act is a promise to consumers that they have access to organically produced foods that contain few if any synthetics.

I want to address the fact that over the past five years or so the NOP has presided over the organic certification of

synthesized non-food ingredients. As long as you guys are talking about synthetics and non-synthetics, let's get down to the hard core stuff.

These ingredients are synthetic under the definitions in the regulation and OFPA. They have been chemically changed and they have a new chemical identity. They do not exist in nature in isolation.

The products that are currently certified included but are not limited to organic or made with organic mono and diglycerides, seven different esters that I found, potassium cocoate and palmate and every other ate you can find out there that has to do with any -- that's any pontification of any oil. Glycerin, fatty acid ethyl esters, sulsinate ethyl palmate, distilled fatty acids, sucrose cocoate and palmate and there are a few other things as well.

Based on the processes and the policies used to certify those products, the

following list could also be certified. And I talked about this with my certifier and with two chemists. And basically it's the same processes as was used for the certification of the previously mentioned materials.

Monosodium glutamate, ethyl acetate, glycerol stearate, sodium isostearoyl lactylate, disodium coco-glucoside citrate, sodium cocoyl glutamate, et cetera, et cetera.

There's about 2,000 materials that fall into this. I'm totally making that number up. There are a lot of materials that fall into this category because it's processing that has been allowed to be used to certify these materials. So, it's methods plus materials.

This is obviously important because we have a potential for a very real mess. Certification of these ingredients and their inclusion in finished products has already occurred under muddy conditions. Need I raise the ghost of Arthur Harvey.

I'm asking the NOP and the NOSB to provide clarity and guidelines or to change the laws or to simply prohibit this practice.

Quite frankly, I don't care which thing you do, but right now I think it's very messy. It's very difficult for people to deal with decision-making if they own a business. Because I don't know if I should sell certified organic synthetics or not. I don't know if my customer is going to turn around and sue me because it gets de-certified. So, I think we need some sort of assurance of where we're going with this.

It's important to note that when making aroma chemicals, synthesis of a new chemical is the only goal. While we may all agree that there are chemical changes in food processing, they are generally a minute part of the whole. The result of traditional food production processes. In chemical manufacturing there is only one goal to make the unique chemical that does not exist in

nature and isolation.

Manufacturers take great risk in investing in new products and consumers deserve to trust the promises made to them by government. For both these parts of the community I ask these questions.

How can you certify as organic a synthesized chemical?

In multiple readings of the law and the regulation, there really does not appear to be an explicit prohibition of certification of synthesized ingredients. I've been reading the stupid thing for five years looking for that special line that says you can't do this and I don't see it.

At the same time, this seems to bed at odds with the intent of the law and the expectation of consumers as we have heard over and over.

Can the NOP or the NOSB provide guidance on this question?

Number two. If you look at

section 211 of OFPA which is you got to review it if it's synthetic and put it on the National List. What is, again, the guidance from the NOSB and the NOP on the use of organic synthetics that are not on the National List?

Process certification and chemical definitions are two separate realities.

Can one use organic glycerin at greater than five percent? Can you use non-listed certified organic synthetics in processed products under the law as it stands? Can we use certified organic mono and di glycerides in products other than drum drying?

While OFPA -- this is number three. While OFPA is a labeling law based on labeling laws, what is the impact of listing out the names of ingredients that no longer exist due to chemical reactions? Is it misbranding?

If I make sucrose cocoate, used as a emulsifier in food manufacturing, there's no

longer any coconut oil in the ingredient. It's a new chemical made from a reaction between the sugar and the coconut oil and calcium hydroxide. And it's allowed to purchase and you know that. And it has a new name.

How can you allow companies to list out the pre-reactive inputs to a chemical reaction as though they were actually in the bottle or the package. They're not there. And I evidently forgot the rest of that sentence. That's what happens when you've added too much.

So, my fourth and final question is simple.

What would consumer think when they pick up a product that contains certified organic mono and di glycerides?

I will share that I and other colleagues have asked this question and it is clear that most people in this industry are completely unaware that this is going on.

They think it's a joke. It's not. The products are out there.

I look forward to further guidance on this issue and I'll make this statement available to anybody who would like it electronically.

Please note that I've attached a listing from one of the certifiers of some of the materials mentioned and blacked out information about the company. It's not about them. It's about what's been certified.

So, that's the five minutes, number one.

CHAIRPERSON GIACOMINI: That was a lot more than five minutes so you better go on with the second one.

MS. TIMMONS: I read slow. It's me.

Okay.

This is from Sheila Linderman and I'm reading it on her behalf. I know nothing about it.

Flavors should be removed from the National List by a sense of review for the following reasons all of which are of equal importance.

Number one. There are literally hundreds of flavors that are already certified but are not required for use in products labeled as organic due to flavors being on 205.605(a) as opposed to 205.606 which includes organic preference.

When flavors were initially placed on the National List it was assured that compounded flavors could not be certified, yet the crafters of the National List had the foresight to include flavors non-synthetic so that processed organic foods could have increased palatability.

Clearly creative flavor houses have learned to use organic resources to create organic compliant if not fully certified flavors. These efforts must be encouraged by making the use of certified

organic flavors mandatory in finished products labeled as organic and are organic.

Three. Compounded flavors are generally composed of plant extracts, concentrates, essential oils, distillates, isolates and aroma chemicals. They are often in carriers such as ethanol and neutral oils.

With the exception of some, not all are aroma chemicals. These components are agricultural and nonsynthetic and therefore certifiable.

Furthermore, a tremendous amount of land compared to the individual component quantity is required for production of these types of components, requiring that they all be organic would therefore promote organic agriculture which is our ultimate goal.

Regarding certain distillants and isolates which may fall into the general category of aroma chemicals, these may be difficult to obtain as organic due to the commercial availability of the raw materials

needed to produce these items. One item is alphol which is produced by steam distillation pine needles followed by fractional distillation to purify, then dehydration. All are allowed processes, but the availability of organic pine needs is tenuous at best.

Aroma chemicals of this type could be petitioned onto 205.606. Given the shortened time that items on this list need to be included, it may be presumed that growers could demotivate to increase the availability of organic raw materials.

Other aroma chemicals such as triethyl citrate produced by coming ethanol and citric acid are synthetic but have no negative impact on the environment. Such materials could be petitioned to 205.605(b) with an annotation requiring the use of certified organic ethanol.

The addition of these and other materials to the appropriate sections on the National List would increase the flavor's

range thereby increasing the number of certifiable flavors all the while increasing the demand for land that is dedicated to organic agriculture.

It's important to note that flavor -- removal of flavors from 205.605(a) and showing organic preference would result in certifiers requiring a greater understanding of how flavors are produced, not to mention clear definitions of synthetic and nonsynthetic and agricultural and nonagricultural.

One could postulate that removal of flavors from their current position could promote general clarity of definition and knowledge for all parties concerned.

Lastly, I'd like to lend my support in favor of Gay Timmons' position on the certifiability of synthetics, the organic certification of synthetics such as glycerine that is a byproduct of saponification flies in the face of virtually all organic tenants. At

the very best glycerine is made by saponification of organic oils which should not be allowed for use as an ingredient.

CHAIRPERSON GIACOMINI: Any questions?

Thank you.

Jo Ann Baumgartner, Zea and Bonnie Wideman.

MS. BAUMGARTNER: Hello. I'm Jo Ann Baumgartner for Wild Farm Alliance. We promote agriculture that protects and restores wild nature and strongly encourage the implementation of biodiversity natural resource conservation in NOP.

This issue was first brought to the NOSB in 2004 when it was decided later that the NOSB adopt biodiversity inspection questions into the model of organic food plan.

Last year the NOSB went further unanimously in making a recommendation to the NOP to comprehensively address biodiversity by having the NOP consider biodiversity when

reviewing materials that NOP would incorporate biodiversity trainings for certifiers, for inspectors. All organic farmers would add biodiversity into their farm plans. Certifiers verified biodiversity as being implemented by farmers and NOP had biodiversity conservation to the checklist used by auditors when they are certifying.

So, we wanted to bring to your attention, so far these steps have not been taken and we'd like to suggest to encourage NOP to implement the NOSB recommendation without delay.

I was happy to hear that Miles with NOP yesterday said that biodiversity is on the priority list. Still, let's make sure that this urgent issue will be addressed soon.

Everyday rare species decline to the point of extinction. Agriculture's impacts to land and water resources are responsible in large part for the biodiversity crisis. As a natural systems we think

humanity loses because the system services they currently provide for free. The organic community can help to reverse the rate of loss and begin restoring the ecological infrastructure that provide viable soils, clean water and healthy food.

So, to begin with, it would be helpful for the NOP to incorporate the material review work done by the NOSB into proper form so that science and tech at AMS can begin checking for positive and negative impacts of biodiversity.

It's also important for the NOP to commence biodiversity conservation training which will then give a strong signal to all organic certifiers that they need to verify their farmers are putting conservation into practice.

We applaud the CCOF for continuing to address biodiversity into getting this passed to require their farmers to fill out a broad set of diversity inspection questions

and for those other certifiers who have already done this in the past. But we feel that the playing field still needs to be leveled for all certifiers.

One of the most significant changes that could be made is to revise ARC review compliance checklist, a document that guides audits of NOP accredited certification agents so the questions about natural resources standard 205.200 are in every audit.

The recent NOP oversight report confirms that the ARC checklist is inadequate and needs revision. Standard 205.200, which states production practices must maintain or improve the natural resources of the operation putting soil, water, wetlands, woodlands and wildlife, is not in the checklist. With this revision and a comprehensive implementation of biodiversity conservation, the organic community will address intent in the letter of the law.

Organic farms benefit from

ecosystem services provided by biodiversity. Conserving native habitats on farms yield necessary pollen and nectar for bees and natural enemy insects, valuable hunting roofs and cover for rodent eating predators and critical vegetation that filters sediments and pathogens produces clean water and clean food for all.

I also want to briefly discuss food safety and land conversion. We have been advocating for the co-management of food safety and conservation since the E. coli 0157:H7 spinach contamination in 2006. In the next year, we'll be working with -- working on a co-management guide for organic farmers with support from OMRI and some organic wholesalers so that the NOP and organic farmers and wholesalers can successfully influence and educate FDA as they write the safety rules and as they begin showing up on organic farms.

I had heard that the NOSB had wanted to address this issue and so I invite

any of you to be involved in this project.

Also, in NOSB's biodiversity recommendation last year, it was mentioned the controversial issue about land conversion and how native forests and grasslands are being converted to organic to avoid the three-year wait for clean land. And we'd like to work with the NOSB and NOP and NCAT on this issue and so you'll be hearing from us about that.

So, that's it. Oh, perfect timing.

CHAIRPERSON GIACOMINI: Thank you.

Jay.

MR. FELDMAN: Thank you for your comments on this.

I just want to get a better feel for what you think the timeline needs to be and whether you're getting the kind of response from NOP in terms of following through on the recommendations that were adopted by the Board and what specific schedule do you think needs to be adopted to

make sure that, you know, that we bring a greater sense of urgency to this issue perhaps.

MS. BAUMGARTNER: Yes. Thank you.

Well, the issue of addressing materials in biodiversity could happen right away or the NOP could deal with that right away because it sounds like the NOSB has already got it ready and the NOP just has to do something. And that's it.

As far as the ARC checklist, that's really critical. As soon as that 205.200 was added to that checklist then everything changes. It really makes a level playing field for all the certifiers and then that will filter down across the landscape.

So, I'd love to see that happen right away.

Then training certifiers on what all this means is obviously crucial. So, yes. We're losing species every day across the planet.

MR. FELDMAN: Right. So, may I ask.

Do we know as a Board whether there's adequate follow up to this and incorporated into the audit standards and are we happy with how that's gone?

MR. SMILLIE: Yes. The program has got our recommendation and it's on their list for implementation. I don't know what else --

MR. McEVOY: Yes. NOSB has a final recommendation on biodiversity. It's going to be included in the guidance that we put out this summer, so it's part of the program handbook. We'll be implementing that particular recommendation. Rule changes as necessary so that will come out in staff guidance.

In terms of the review criteria -- the ARC review criteria is under revision currently and we'll take this under advisement to see if we need to add more specific

information about biodiversity.

CHAIRPERSON GIACOMINI: Barry.

MR. FLAMM: First of all, I'd like to thank Jo Ann and the Farm Alliance for all the great work that you've done on biodiversity through the years and also on behalf of the Board I appreciate your follow up on the points that we approved a year ago and I think it's good to have this follow up.

I'm also particularly interested in this controversial subject but very important subject of land conversion and I hope we will -- that you will as an organization will pursue that and I hope the Board can play a role in this important factor.

So, thank you again.

MS. BAUMGARTNER: Thank you.

CHAIRPERSON GIACOMINI: Thank you.

Next up is Zea Bonneband, Bonnie Wideman on deck, Garth Kahl in the hole.

Just before Zea starts.

Every once in awhile with this system we seem to be, at least I am, picking up a rumble. As I'm looking through the crowd I think somehow it's picking up some of your conversations and the way it reverberates through the room so if we have any conversations going on in the audience outside of just a couple of word comments, and it's going to last anymore than that, please take them outside.

Thank you.

MS. BONNEBAND: Thank you very much.

I'm Zea Bonneband with California Certified Organic Farmers. Policy Specialist is my title. Materials girl is what I'm more often known by historically.

I've been coming to the meetings from almost the beginning and have been -- was the first TAP contractor so I've been so many of these same discussions many times over. And I want to touch on a few different

materials issues.

If I don't quick finish my inert portion of my talk feel free to ask me questions.

First, I want to say that CCOF does support the relisting of ferric phosphate. We feel that the petition should be evaluated thoroughly before you consider taking any other decision and our growers were in strong support of putting this on the list in the first place.

About the classification of materials, I've been working on this since 1993 when we started on it and I think we've made great, great progress towards a solution. I'm concerned about the latest version being too processing centric and I'm going to defer to further comments to Gwendolyn Wyard who is going to give a more explanation about it. And also the written comments from PCO which I thought were very good that you could look at.

I would like you to be careful when you make a number of your recommendations about how you handle materials and respect the National List process. For instance, suddenly seeing carbon dioxide in the greenhouse document which is -- was deemed to be synthetic in handling and is not on the National List for crops should not just be inserted into a greenhouse document without it being petitioned. Likewise, argon is in the 100 percent listing and argon is not on the National List.

So, let's double check, do our homework. Make sure what we're talking about is in correspondence with the petition and the National List process.

Okay. I have submitted extremely detailed comments about inerts because have been working on this issue since the beginning of materials lists as we know it for organics.

I think the -- I really understand your dilemma but I think the current document

as it's proposed is going to create a great deal of hardship for everyone involved, especially you and especially the growers who use the materials that are in question.

I think that what it boils down to for you is an extremely increased workload and you're not going to be able to find the information that you normally use to review materials because most of that is hidden in the EPA somewhere. It's not like these inerts have a lot of public available research about them.

And so what I was most disappointed about in the document was that the EPA was only mentioned as being a cooperator on the part to determine what's nonsynthetic on the EPA list, not in the further endeavors to try and solve the inerts program. And cooperating with the EPA is absolutely essential for you to be able to create a good inerts policy.

So, in this new era of, you know,

the NOP having increased budget and cooperation among all Federal agencies and the EPA taking some strides forward, I really urge you to create a more viable solution that involves working with the EPA.

For instance, it could be that the -- inerts could go into a program manual instead of on the National List. The EPA could help conduct the reviews of the things that for instance were reclassified to list for after 2004 or that are new or things like that. And then the NOSB instead could focus on developing the public statement about why inerts are even an issue and why they're compatible with organics.

It has been the past practice of the NOSB on occasions like this issue to create task forces. I've been on three NOSB task forces when never serving on the NOSB, including an inerts task force before the 2002 law came into effect. And you could create an outside task force with some of us inerts

people, OMRI us and EPA representatives to help you come to a more realistic solution.

Alternatively, you could contract with OMRI or some group like that for inerts. And our main objective here I think in the whole organic farming community is to create as little disruption to the amount of materials that we use as possible.

Thank you.

CHAIRPERSON GIACOMINI: Thank you.

Any questions?

Jay.

MR. FELDMAN: Is it possible to easily come up with a list of inert ingredients among those products that are registered or are allowed for use in organic production?

MS. BONNEBAND: Possible. Probably easy. No.

MR. FELDMAN: Is that something EPA could come up with relatively easily if we have a product names and --

MS. BONNEBAND: No.

MR. FELDMAN: For those on the registry.

MS. BONNEBAND: No. The closest would be OMRI who has an internal database of the inerts but they don't have it in their purview to have a, you know, a full-time person for a couple of months to pull it together in a format that would be useful, nor do they have the necessary the permission for the companies to provide that information.

MR. FELDMAN: Right. So, this wouldn't be produce-specific information. It would be an aggregate list.

MS. BONNEBAND: I understand that.

We did that. OMRI when -- as you know, the 2002 law was first published in the middle of 2000 or late 2000 so we had 18 months before implementation. And OMRI did that. We created a list that I believe had a 135 inerts, not linked to the brand name, gave it to the EPA and said. What do you think?

You know, we'd like these inerts either reclassified. Two lists -- if they're on list 3 or set, you know, acknowledgement.

The EPA took most of the 18 months but they did turn it around. They reclassified 17, I believe. They told us we had -- we, OMRI, had to prohibit about five or six of them and they okayed most of the rest of them.

So, there is precedent for that but it's a big work load, I mean OMRI did it on their own time for the benefit of the organic community and that would be the factor.

MR. FELDMAN: But it can be done. I mean, what you describe is --

MS. BONNEBAND: You know, when the first inerts document came out three meetings ago maybe and it asked -- it was a call for tell us what you're approving and what's in it. Almost no certifiers came forward with that information because when it comes right

down to it, OMRI does most of the approval for EPA registered pesticides. There are a few out there in certifiers but relatively few. Most of them are OMRI. So, OMRI would be the bulk of the inerts that would be in play.

MR. FELDMAN: I really appreciate your comments on the EPA collaboration because I agree that that needs to be more specific in the proposal here.

What I hope we can get help with on this is this balance between angry farmers and angry consumers because the whole process that I think inerts raises is transparency for both the farmer and the individual who is choosing to use one product over another. And the consumer who can have confidence that this Board and USDA is adequately reviewing everything that goes into organic production and processing and handling.

And so what -- the dilemma right now and we're at a crossroads is whether organic wants to stay ahead of the curve

before EPA actually gets to the point of disclosing these products for the, you know, the user community which obviously will be traced back to the consumer community. It's all, you know, there's a relationship there certainly.

So, your help in figuring out where the resources are, you know. What OMRI can contribute, what EPA can contribute. The point is, I think we all want the same end goal here and we've got to figure out how we bring the resources together to get it done.

And I like the comment that was made earlier that it's not always easy to do what's right, you know, in the organic world but that's the challenge we've taken on.

MS. BONNEBAND: Right.

MR. FELDMAN: So, this is a key challenge. It may end up adding synthetics to the National List and that's an unfortunate reality, but we can take comfort in the fact that working together, all together, we see it

in our best interest to get these things reviewed and to have some accountability for meeting the standards of OFPA. And so appreciate it.

MS. BONNEBAND: Don't get me wrong. Organic farmers want to use things that are fully disclosed and are the safest possible choices.

MR. FELDMAN: Right.

MS. BONNEBAND: But they also need things that are going to work for the purpose that they're intended for.

MR. FELDMAN: Right. I think we can work this out. I just hope everybody wants to pitch in and see that it's in all of our interest from the user standpoint, from the consumer standpoint and it will especially if we're ahead of the curve, it will increase, you know, this sense of organic integrity.

Thank you.

CHAIRPERSON GIACOMINI: Katrina.

MS. HEINZE: I appreciate your

comments on classification. I'm looking forward to hearing other comments.

You said that the definition that we showed this morning was too processing centric. And I'm wondering, do you mean it's too processing centric or it goes too far and expands the concept to crops and livestock? I just want to make sure I understand.

MS. BONNEBAND: Well, as I briefly mentioned it to you at lunch, agricultural is not a term used in the construct of crop materials. And so to try and bring the concept of agricultural into the discussion on 601, it just doesn't make it clear enough to -- I feel to crop inputs. And we very specifically want to prohibit things like mixing sodium nitrate and potassium chloride to get potassium nitrate.

Now, in that instance, they're all minerals, but there are situations where something that's biological might get mixed with a mineral to create what we feel is a

chemical reaction, chemical chance that has not historically been accepted in organics.

MS. HEINZE: So, am I correctly interpreting what you're saying to say that we went too far to include crops?

MS. BONNEBAND: Yes. I would like to leave the agricultural out of a crops decision, even if it means a different decision tree and just stick to synthetic/nonsynthetic for crops materials. We don't want excessive heating for instance which is an accepted processing practice but excessive heating for minerals is not acceptable. And, you know, it's different.

As much as you want to try and make it the same and the same definitions on some situations implied, but there are some differences.

MS. HEINZE: Thank you for clarifying.

CHAIRPERSON GIACOMINI: Joe.

MR. SMILLIE: Can you think of any

examples of the one you cited because mineral to mineral is not what we're talking about? We're talking about mineral with agricultural.

Can you think of anything in your vast experience that --

MS. BONNEBAND: Of the biological material that --

MR. SMILLIE: Yes.

MS. BONNEBAND: Well, of course, you know, the classic one that we are often concerned about is fish products that besides the accepted stabilizers they may have other ingredients added and then there's a question about whether chemical change that boosts the fertilizer content happens. And this is the reason why fish products and aquatic products were put on the National List as synthetics because they have been stabilized in the chemical changes created and we're acknowledging that chemical change made them synthetic.

Because of after all, a

nonsynthetic in crops does not have to be petitioned. And so you can't -- if you make a definition that includes a lot of nonsynthetics, then a lot of companies are going to go out there and say. Oh, it's nonsynthetic under the definition and, therefore, we -- you know, it's really hard to challenge that because it's not like you have the petition process to go through and ask those questions.

CHAIRPERSON GIACOMINI: John.

MR. FOSTER: So, what's excessive heat? You said -- used the term excessive heat that --

MS. BONNEBAND: Yes.

MR. FOSTER: That baking bread is okay, but excessive heat is -- what is excessive?

MS. BONNEBAND: Asked ourselves that question a lot and it basically comes down to heat that's more than you would use in boiling something or baking something.

Because most minerals that are heated are in the thousands of degree heat range but we have, you know. In the review panel in OMRI, I don't think I'm disclosing anything confidential by saying that we see gradients. You know, we see things that are heated to 900 degrees. Okay. Well, that's hotter than an oven gets, but is it -- you know, it's not the 2,000 degrees they use to slate lime or whatever.

So, you know, I used to try -- '93 I was involved in trying to push the NOSB to say what temperature. You know, to say no combustion for minerals because we don't want combustion and we don't want excessive temperature, but what should that temperature be and that's hard to determine.

MR. FOSTER: I have one more.

CHAIRPERSON GIACOMINI: One more. Follow up. Go ahead.

MR. FOSTER: Are fish products themselves synthetic by virtue of having say

phosphoric acid to it? Is the fish product itself synthetic by your thinking.

MS. BONNEBAND: Okay, fish by itself is not synthetic. When you take fish but the products on the market we believe have undergone enough chemical change to the stabilization process that they are synthetic. That's why they're put on the National List.

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: On the atmospheric -- sorry. One more question.

On the atmospheric gasses -- inert atmospheric gasses you mentioned argon needing to be on the National List. Well, it needs to be petitioned, whether it would make it or not. I know nothing about argon so --

MR. FELDMAN: Okay. I mean, the comment earlier from Urvashi was that these ingredients are readily available in the atmosphere, therefore, I guess it qualifies as nonsynthetic, wouldn't need to be listed and

therefore falls within -

MS. BONNEBAND: That's not necessarily a --

MR. FELDMAN: -- presumably the 100 percent.

MS. BONNEBAND: Yes. That's not necessarily true. When we -- as the TAP contractor I studied the gasses that we were petitioned and that they can be from synthetic sources. I don't know about argon, but it can be.

MR. FELDMAN: Okay. But we're talking about inert, right, atmospheric gasses? Because a --

MS. BONNEBAND: Yes.

MR. FELDMAN: Because CCOF did not support the committee proposals is the way I understand it.

MS. BONNEBAND: Yes. But that's partly from argon but also that has more to do with the 100 percent label and Jody will speak to that later.

MR. FELDMAN: Okay. Later.

Thank you.

MR. SMILLIE: Again, it's inert and atmospheric. Okay.

MS. BONNEBAND: Yes. Just like the carbon dioxide that I mentioned briefly.

We studied this extensively and there's an old petition in case Harvey went through as far as to declare it a nonsynthetic but it can be either one when you get it in a tank. When you get it from cow farts or whatever, it's natural.

MR. FELDMAN: There's also the -- there's also the issue and I don't know if anybody here can help on this.

When you put inert, the word inert before atmospheric gasses, we're talking that five inert, right, essential --

PARTICIPANT: Carbon dioxide.

MR. FELDMAN: Right. We're not -- we're not talking about nitrogen, I guess, and is it the intent that nitrogen be one of those

so-called inerts? So, I don't know --

CHAIRPERSON GIACOMINI: Inert has a specific chemical definition of which when you look at the periodic table it's the ones on the--

MR. FELDMAN: That's right and it doesn't --

CHAIRPERSON GIACOMINI: Right. So, unless they -- if they want to deviate from that, they need to be very specific.

Bonnie Wideman, Garth Kahl on deck, Stephen Pederson in the hole.

MS. WIDEMAN: Hello. My name is Bonnie Wideman and I'm the Director of MOSA, Midwest Organic Services Association in Wisconsin. We certify over 1,300 farms and over 600 of them are livestock operations.

So, we've submitted comments on all handling and other crop and livestock issues. But I want to address animal welfare.

The background for animal welfare in the November recommendation says that

livestock committee members arrived at the conclusion that current livestock regulation lacks specificity with the potential for creating confusion between producers, inspectors and certifiers.

Further, it was considered that the precise language had created unintended production practices which restricted the welfare of animals to a considerable degree.

Our concern here is that in striving for specificity with animal welfare, we will be embarking on a journey similar to the Pasture odyssey.

If you want to take that second sentence and put in Pasture for animal welfare, this is what you get. Further, it was considered that the imprecise language had created unintended production practices which restricted the access to pasture for ruminant animals.

And we do not feel that there is that much now that is of question. And I

think that we have to note that the emperor is wearing no clothes and admit that what we're looking at is poultry issues. Those are the ones where there are unintended production practices.

Unless you think that I just want to nay-say everything that's going on, I have three proposals that I would like to start with.

And the first one in regard to poultry is that it be up to the NOP to bring clarification to organic poultry production. Because in their putting out of the NOP program handbook, this is a proper time to do this because most certifiers are not allowing porches for poultry. Most of us are requiring indoor and outdoor space that is similar to the ACA poultry working groups proposal. And I'd like to see the NOP take this up.

And then my second proposal is that the livestock committee go back to the livestock rule as it is now with the pasture

changes and create another standard under 238 that calls for animal well-being as a primary consideration in on-farm, in transport and slaughter handling of animals.

And thirdly, I think that we need to recognize that there are many resources for animal welfare. And similar to the way the pasture trainings, preferred producers and certifiers to pasture guidance materials, I would like to see producers, certifiers and inspectors be referred to my favorite is Humane Foreign Animal Care Guidelines as best practices.

And now I think I should explain some of the reasons we don't want to get too specific.

One of the things in the November recommendation there were -- I think there were five alteration practices that were prohibited. And the issue I have with that is that most of them are not allowed now, especially tail docking. Some of us have

never heard of mulesing of sheep. In fact, now I've put on my farmer hat because I have 35 years experience in sheep handling.

And as far as space requirements, the Canadian requirement calls for 16.1 square feet per head, per sheep plus 2.5 square feet per lamb.

In the standard in the industry for lambing jugs, you know, those are where you put the sheep and the lambs if you are lambing inside is a four foot square pen which is 16 square feet. That is one of the reasons I respect the Humane Animal Care Standards is that that sort of thing is recognized in here.

But also as far as specificity, if you're going to go all the way, you're going to have to address everything in this book.

So, thank you.

Any questions?

CHAIRPERSON GIACOMINI: Any questions.

Thank you.

Garth Karl, Stephen Pederson, Carmela Beck.

MR. KARL: Hi. My name is Garth Kahl. I'm the Latin American Program Coordinator with Oregon Tilth Certified Organic.

Oregon Tilth is a nonprofit research and educational membership organization and we salute your service to the organic community and the considerable time and effort that each one of you has put in to -- the considerable time and effort each one of you contributes to this task.

As you know, we have already submitted brief written comments and at this time I'd like to highlight and summarize some of those comments in brief.

On the issue of production standards for terrestrial plants, Oregon Tilth supports the recommendation of the committee, including the prohibition on hydro and aeroponics. We are also pleased that the

definition is harmonious with that of the Canadian organic regime.

We would also comment that we overlooked the issue of sprouts and we would ask that the committee do take that into consideration as Robin did point out.

On stocking density charts. Oregon Tilth understands that many international regulations and certification bodies use them. But it is also under our understanding that equivalency agreements established with Canada and others recognize current practices for NOP producers to be acceptable and similar.

To verify this, the NOP requested that ACA report stocking densities. It was further understood that these numbers would then be reported to the NOP for analysis and later be used to demonstrate to foreign counterparts the validity of that equivalency.

Oregon Tilth request that ACAs and producers be given ample time,

specifically one to two years to record such data and report their findings to NOP before any additional action is taken. In other words, please don't fix it until we know if it's broken or not.

Particularly at a time when growers are already having to adapt to the new pasture regulations. This is an unnecessary and an added burden for them to jump through.

We support the relisting of tetracycline as well as materials on 601 through 603 that are due to set in the next two years. We also agree that ferric phosphate should be relisted. Producers needs, depend on and deserve a stable regulatory environment. We do not believe that synthetic materials are overused or abused.

For synthetic methionine, we support the recommendation in part because of the spirit of collaboration that went into it and because methionine is such an important

component for a nutritional requirement in birds.

We understand that many members of the committee, industry and the general public feel organic culture production should move away from the use of synthetic methionine. However, with have proven alternatives already we feel synthetic methionine is necessary.

If the industry does make strides to move away from this material, Oregon Tilth requests an ample time be given for production systems to trial other management practices, feed sources, breeds, etcetera.

On the evaluation and individual listing of inert ingredients, OTCO supports the recommendation in general but urges that the period to submit currently allowed synthetics for review be extended to one year.

We can envision many manufacturers, particularly those overseas who would not find out about the issue until after one or more growers had brought it to their

attention. In addition, if the rule is implemented, we would ask the NOP to make a significant wide-reaching effort to inform growers, processors and the industry in general and that effort be similar to what we're seeing with the pasture rule.

OTCO would also like the committee to consider putting forth recommendations and guidance for ACAs and material review bodies that allows them to continue to review materials in the interim. And we would also second Zea's comments regarding the -- regarding employing OMRI or the EPA to do that task.

Before closing I'd briefly like to touch on the issue of organic apiculture. OCTO strongly urges that the NOSB and NOP prioritize the consideration rapid and wholesale adoption of the 2009 Organic Apiculture Guidance document prepared by the ACA.

While NOSB did draft an apiculture

standard in 2001, we all know that the NOP did knock on it. In the intervening years, EU and now Canadian standards have become the de facto world standard, particularly, in the global south where most of the world's organic honey is produced.

The ACA standard was drafted with an eye for commonization with both the EU and COR standard. We feel the ACA standard would not only assure organic integrity, but would also create a workable standard that producers could live and pride with.

We would also stress that a crucial part of the adoption of any organic honey standard must also be the addition to the National List of a number of synthetic materials currently used internationally in organic apiculture. Specifically, time off formic acid and oxalic acid if the latter gains EPA approval for bees.

Again, thank you for your time, efforts and dedication. And I'll take any

questions.

CHAIRPERSON GIACOMINI: Questions?

Thank you.

MR. KARL: Thank you.

CHAIRPERSON GIACOMINI: David Pederson, Carmela Beck, Brian McEvoy.

No Stephen Pederson?

Carmela Beck. Brian McEvoy, Edward Gildea.

MS. BECK: Good afternoon. My name is Carmela Beck and I work at the Driscoll Strawberry Associates. I'm the Organic Program Supervisor.

Driscoll's is a distribution or conventional and organic strawberries, blackberries, blueberries and raspberries.

We work with upwards of 45 plus organic growers and on behalf of our growers we're here today to request that ferric phosphate continues to be relisted on the National List.

Ferric phosphate is used in the

snail bait that's in the life of our growers. Currently it's the best tool that they have right now for snail bait and we hope to be able to have it in the future in order to manage our buffer zone.

That's my comments.

Thank you.

Any questions?

CHAIRPERSON GIACOMINI: Questions?

Thank you.

Brian McEvoy, Edward Gildea, Tim Stemwedel. Tim Stemwedel.

MR. McEVOY: Brian McEvoy, Driscoll Strawberry Associates.

I want to express appreciation to the National Organic Program staff for their presentation on the corn liquor issue. I think that the issue is well phrased and I think that this body can deal with the determination that's going to come out of that. And so I look forward to the result of your review.

I do think that liquid fertilizers are consistent with organic production practices and methods and hope that the focus on review of corn liquor is just that. The review of corn liquor and not the review of all liquid fertilizers.

And that's the end of my comment on corn liquor and I wanted to go back to a comment that you made, Joe, earlier about mating pheromone disruption. And I wanted to point out that one of the things about being in California is that you are very close to the light brown apple moth quarantine area.

And the Light brown apple moth quarantine essentially means that any producer that is found with any evidence of light brown apple moth, whether it's a pupa or the actual moth itself or the worm, the lepidoptera, that producer can end up not being able to ship. And that has happened to Driscoll's producers. It's happened to other producers in Salinas, Swansonville and it could be happening up in

the Sonoma and northern San Francisco area.

This year AFIS, USDA AFIS has distributed mating pheromone twist ties for the disruption of the light brown apple moth mating process and they've distributed those twist ties to all growers, conventional and organic, in the light brown apple moth quarantine to help growers limit the light brown apple moth mating process and thus reduce hopefully how many pesticides organic and conventional we have to spray to try to control the pest. Because again, it's not about control. It's about eradication. We cannot have one.

So, I just wanted to go back and point out, Joe, that mating pheromone disruption we have found those twist ties to this point to be extremely effective. When we have a mating pheromone trap in our field and we have the mating pheromone disruption twist ties around it, the moths cannot find the trap. And it's a huge issue for us here in

California and it's a huge part of our program.

So, that's it. Thank you.

CHAIRPERSON GIACOMINI: Questions?

Thank you.

Edward Gildea, Tim Stemwedel and Kyd Brenner.

MR. GILDEA: Good afternoon.

My name is Edward Gildea. Thank you for taking the opportunity to let me speak today.

This is my first NOSB meeting and I have to say I'm very impressed with the amount of work and time and energy that you've put into making decisions.

I'm the President of a company called Converted Organics, Inc. I'm here today to provide input concerning your deliberations with respect to corn steep liquor.

We submitted written comments on February 10th to Deputy Administrator McEvoy.

I recommend those comments to you as they contain a great deal more information that I saw in the recent TAC Report on corn steep liquor.

Converted Organics is a publicly held company. We have shares traded on NASDAQ under the symbol COIN. Our main line of business is to manufacture, distribute and sell organic fertilizers that we manufacture by recycling food waste.

The recycled food waste using a proprietary aerobic microbial digestion progress. Our headquarters is in Boston, Massachusetts. We operate two recycling manufacturing facilities, one in Woodbridge, New Jersey, and one in Gonzales, California.

We employ about 46 people and in 2009 we generated sales of about $2.6 million.

Our products are sold in the agricultural market and lawn and turf market and in retail stores such as Home Depot, Whole Foods and WalMart.

The organic producers both solid and liquid fertilizers all of which are produced by recycling some form of food waste and one of the food waste products that we recycle is corn steep liquor.

We use corn steep liquor in a product -- when we use corn steep liquor in a product we always process it through the microbial digesting process. We don't advocate direct application onto land and we never use prohibitive substances in connection with our manufacturing process. But we do digest corn steep liquor in order to make our product.

Corn steep liquor is a food waste containing an insignificant amount of processing aid, sulfur dioxide or SO2. Our data indicates that a typical amount of SO2 in raw corn steep liquor at our facility is about one-tenth of one percent and that the percentage drops to seven one hundredths of a percent in our final liquid fertilizer

product.

Food waste from conventional tomato processing facilities that use potassium hydroxide to remove skins is permitted to be used in a composting facility. Potassium hydroxide is a processing aid. It's not allowed in organic processing for this use. It has residues in significant amount of the waste and the food waste from these facilities may be used as feed stock from compost for organic production.

The question is. How does corn steep liquor differ?

If the corn set million process is determined to be synthetic due to the use of SO2, then all the products resulting from this process including corn starch and corn gluten which currently are allowed in organic agricultural nonsynthetic materials would have to be considered a synthetic because these products with the same origin and go through the same process as does corn steep liquor.

Although I don't believe that the corn set milling process creates synthetic materials, I would expect that the NOSB and the NOP would apply the same decision uniformly to corn steep liquor, corn gluten and corn starch.

Compost, whether it's made on a farm or purchased for use has been used by organic farmers as one of their tools to go to build soil kilt and provide nutrients for their crops. Reducing the availability of good quality compost and fertilizer for the available feed stock for creating those products would increase the challenges of organic farming.

Corn steep liquor should continue to use this feed stock for compost and fertilizer that is used in organic production without the necessity of petitioning for its use as a synthetic material.

Thank you. I made it as quickly as I could since you must be tired.

CHAIRPERSON GIACOMINI: Questions?

Joe?

MR. SMILLIE: You've had a lot of experience. What did you -- what particular issues with the TAC that we were provided with from the program would you take issue with? Was it simply too simplistic or was it inaccurate?

MR. GILDEA: Well, it -- carefully, there are so many people listening.

MR. SMILLIE: Officially recorded I might add, you know. What you have said here will be held against you.

MR. GILDEA: My official -- my official position would be that it looked very much like it had been copied from a previous document issued by another agency. It didn't look as though it contained any independent thoughts on the evaluation of the subject raised in the document.

I think if you look at the submission we gave you, you'll find that

there's a lot of data and a lot of information that was not included in that TAC report.

Yes, ma'am?

CHAIRPERSON GIACOMINI: Tina.

MS. ELLOR: Yes. The crops committee came to pretty much the same conclusion and we talked about that yesterday with the program. So, we hope to address some of those extra questions as we, you know, continue to deliberate on the corn steep liquor question.

CHAIRPERSON GIACOMINI: Further questions?

MR. GILDEA: Thank you.

CHAIRPERSON GIACOMINI: Thank you.

Next up Tim Stemwedel, Kyd Brenner, Lindsay Fernandez-Salvador.

MR. STEMWEDEL: I'm Tim Stemwedel. I'm the Founder, Owner and President of California Organic Fertilizers.

I've been in business manufacturing organic fertilizer products for

20 years.

Several topics I wanted to address today which are waste streams being used as crop inputs. Sunset review of liquid fish and corn steep liquor.

Regarding waste streams, my research has shown that these materials are not made with the intent to be used in organic crop production. And as such, there's no concerns made relative to the organic materials in the production process.

Included in this category is corn steep liquor, concentrator separator by-product or what's known as CSB, and lysine by-products.

A number of these have been banned and others are under review. I believe that it's bad for organics to be dependent upon waste streams. If let's say the product that they're making that -- the commercial product that they're making is no longer needed all of a sudden we no longer have a fertilizer

product.

Regarding the sunset review of liquid fish, first, the fish with phosphoric and sulfuric acid is a formulated product and doesn't really meet the regulatory requirements for inclusion on the National List. It's two different ingredients put together. Each ingredient should be considered separately by petition.

The use of phosphoric and sulfuric acid are not necessarily -- are really not necessary as there are alternatives available such as citric and acidic acid.

And I agree with Zea that the strong acids that are used in these create a chemical reaction and they actually change the material. They degrade the acid hydrolysis of the proteins.

Finally, I've got some comments on corn steep liquor. I've already posted comments at the regulations.gov site. These are in addition to that.

CSL is an industrial waste. It's a by-product of the manufacturing of corn starch based cardboard glue. And there's thousands of tons of this stuff made and believe me it's not all going into little boxes in people's pantries. It's a good product.

It's an industrial material, not an agricultural product.

There are also alternatives, alternate fertilizers available that could be used in place. So, it's not really necessary as a fertilizer.

The addition of SO2 should make CSL formulate product as well because it's two ingredients together. So, each ingredient should be considered separately. You really should be looking at the use of SO2 by itself in the production of corn starch.

Additionally, we've looked extensively at the manufacturing process but really not at the shipping and handling of

this materials. The CSL is very biologically active and it ferments very easily. This is such the reason for adding the SO2 to begin with.

CSL needs to be stabilized in order to ship or store it for any length of time. Due to the fermentation issues, it's not stored for more than a few days at the production site. My research has discovered that CSL is usually stabilized to stop fermentation using sodium bisulfide.

So, in conclusion on the CSL, I would like to support OMRI's position that it is a synthetic material.

I'm also against the use of using the food process rules for crop inputs. And I ask the NOSB to be cautious in making recommendations that reduce the value of the organic brand by allowing organics to converge with conventional agriculture.

And I would as well also ask that the EPA list three and four ingredients be

considered separately, each by petition.

Thank you for allowing me to speak.

CHAIRPERSON GIACOMINI: Question?

Jeff.

MR. MOYER: To follow up on your last comment. You just said that you support the inerts being listed -- you're talking about each ingredient individually by petition to this board? Is that what you're saying?

MR. STEMWEDEL: Yes.

MR. MOYER: Thank you.

CHAIRPERSON GIACOMINI: Further questions?

Thank you.

Kyd Brenner, Lindsay Fernandez-Salvador.

Mr. Brenner in. Lindsay Fernandez-Salvador, Bob Durst on deck.

Valerie, is Mr. Durst listed twice?

MS. FRANCES: Representing two

different organizations. Yes.

MS. FERNANDEZ-SALVADOR: Good afternoon. My name is Lindsay Fernandez-Salvador. I'm the Technical Director at OMRI.

OMRI is a nonprofit organization. Our mission is to provide professional, independent and transparent review of materials and processes to determine their suitability to producing processing and handling organic food and fiber.

I want to start today by commenting on corn steep liquor. We would like to discuss a little bit about how we arrived at the synthetic determination or classification of corn steep liquor.

When OMRI comes across a material that's particularly complex such as corn steep liquor, we have a long review process that we take it through what we call a review panel. And when our review panel can't make that determination, we take it to an advisory council.

Our advisory council is made of a wide variety of experts in their field, not unlike the NOSB. And we prepare materials for them that they can review and make a determination or both. And the majority vote is how we go.

So, we have this process so that no one person had the complete power over the decision of a synthetic or nonsynthetic status.

The first time they voted they were provided with scientific literature, a copy of the NOSB guidance document that you -- that you recommended in 2006 with information from the manufacturer wanting to use this material. They voted 8 to 2 that it was synthetic.

Then we received more information substantiating the idea that it was nonsynthetic primarily that lactic acid was the driver of the protein cleavage. And so we provided the ACA again with this information

with the same information that the -- that the manufacturer used to support the determination of nonsynthetic or to support his argument. And, again, they voted 7 to 3 that it was synthetic.

So, I do believe that OMRI fulfilled our mission by being professional, independent and transparent in this review of this material.

But given that we of course appreciate the NOP's guidance in lieu of an official decision from the NOSB and we are assured that the NOSB will take into account the information that they've been provided on corn steep liquor and make a fair and informed decision on that.

I would also take a moment to mention the minorities' opinion as well because there was a good stream of, while this is synthetic, it's a very useful product. And they would like to see it listed on the National List. And so I quote.

I think there are limitations on how far the definition of synthetics should be extended. When the law was written the primary materials that were being rejected by organic growers was synthetic fertilizers and pest controls that were causing large-scale and long-term environmental damage. And synthetic materials such as artificial coloring that was adulterating our food supplies to the point of causing diseases in healthy people.

And so that was the characterization of many comments, both in the synthetic vote and the nonsynthetic.

So, with that I'd like to move on with the classification of materials.

We'd like to comment on question number 2 of the guidance material.

While we support this question of removing a material from classification when certified organic in processed foods, it causes a problem for OMRI when we have to look

at an ingredient that might be -- could be certified organic but isn't certified organic because it's used in crop or livestock inputs. So, if that was the intent of that question to remove those types of materials, we'd like you to rethink that if that really was the intent and if so how the industry might deal with that.

We also appreciate the burning of the midnight oil with the extra vote last night and we'd like to take another moment to make comments on that at a later date.

And we strongly support the continuing work on significant and insignificant levels. This is a vital piece of information. We prohibit on a regular basis whether or not a synthetic is left over in the formulation. And anytime that we can point to a regulation, it helps our case at OMRI, our staff but it also helps the manufacturers that work towards a threshold when making new products.

Thank you.

CHAIRPERSON GIACOMINI: Questions?

Katrina.

MS. HEINZE: Thank you for your comments on classification.

I would encourage you as the joint committee continues to work on that guidance document if you could send us any facts you have on significant and insignificant that might inform our deliberations. We would love to get those. You can send them to Valerie and she'll forward them on to us.

MS. FERNANDEZ-SALVADOR: I will do my best.

MS. HEINZE: Thank you very much.

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: Thank you for your comments.

you also commented on ferric phosphate, right?

MS. FERNANDEZ-SALVADOR: Correct. In my written comments. Yes.

MR. FELDMAN: In your written comments. And you say OMRI is not taking a position on -- on -- on the vote or the pending vote on the sunset.

MS. FERNANDEZ-SALVADOR: On the -- we're not taking a position on the petition to delist.

MR. FELDMAN: Right.

Now, is that unusual? Is that something you don't do? If you were requested to take a position, would you or it doesn't work that way?

MS. FERNANDEZ-SALVADOR: No. We tend not to take a position on the suitability or the allowance of materials.

MR. FELDMAN: Right. But in terms of compliance with the standards of the final rules, you would -- you would make a ruling on that? No?

MS. FERNANDEZ-SALVADOR: Currently ferric phosphates as formulated in a pesticide -- in a pesticide formulation is compliant wit

the regulations both EPA and NOP.

MR. FELDMAN: Okay. Does OMRI look at whether the essentiality of a product and whether there have been alternatives developed for a particular target pest?

MS. FERNANDEZ-SALVADOR: No.

CHAIRPERSON GIACOMINI: Question? Joe.

MR. SMILLIE: Thank you.

This is not just for you but I like OMRI's position on the industry as to this question. From reading the written submissions on corn steep liquor, I've been led to believe in a couple of cases that there are two methodologies for corn steep liquor. One called the old traditional method and the other the new method. And that these methodologies should be looked at separately.

When you -- when your panels looked at it, is that the way -- did you look at both methods?

MS. FERNANDEZ-SALVADOR: When we

look at the status of a material, we look at it primarily in the context of the actual ingredient that is wanting to be used in an OMRI listed product. So, in this case, it's the industrial corn steeping method, counter-current method.

I can't speak for the -- the old manufacturing process. But we would look and especially if there were other mechanisms through which something could be manufactured. For example, maltodextrin can be made both synthetically and nonsynthetically. So, if corn step liquor came through again that was made perhaps through enzyme hidrosis rather than sulphurous acid, we might consider that a nonsynthetic material.

CHAIRPERSON GIACOMINI: Any more questions?

Thank you.

Okay. Bob Durst is next.

Before you get started through, just for going back and checking where we

stand on our list.

Is there a speaker for the Corn Refiners of America here?

Okay.

And is Stephen Pederson here?

Okay. Then we have -- this is -- do you want one ten minute or do you want two fives?

MR. DURST: Give it one ten but allow me a five because it's sort of separate stuff.

CHAIRPERSON GIACOMINI: Okay.

Then we have Dennis Macura and Paolo Mario Bonetti in the hole.

MR. DURST: Thanks.

First, Bob Durst from Simple Organic Solutions. I'm a consultant and on the corn steep liquor issue I'm addressing that for some of my clients.

Something that wasn't just mentioned from OMRI is that they've made this ruling about it being synthetic now, but for

many, many years, it was actually an approved product and listed with them and when the first approvals of those products were made, they were aware of the sulfur dioxide content and the process that was used in it and it was readdressed later on most recently here. And when they readdressed that they decided to rule it as synthetic. So, it has been used widely for a long time and approved by OMRI. So that's its historical status on it.

To address a little bit the chemistry of the process, and Lisa yesterday introduced that and I'll reiterate a little bit. That SO2 is used primarily to prevent wild microbial action of the material while it's going through initial steeping. And that if the pH is involved in these conditions of extraction, there's really minimal breakdown of the chemical bonds in there and that most of the action and chemical breakdown is due to the lack of acid fermentation that's going on.

And if one looks at the entire

process there it might almost be a mute point because these products once you start with CSL, in order to make a liquid fertilizer it's going on to additional fermentations which are biological processes that are completely breaking down all the chemical nature of the things that are there regardless of anything that might have happened with SO2 up front. Those proteins are being broken down by biological fermentation products subsequent in the operation there.

Just to expand on that a little bit, examples that Miles gave yesterday in his presentation regarding things like bifenthrin, residues in compost, where you've got a real nasty chemical in there on the input stream but through the composting process you got a breakdown of that and subsequently you've got a material that's perfectly acceptable for use as an input in organic agriculture.

And the case here is very similar. We see a cell. Edward made a point just a

moment ago with the sodium hydroxide and tomato waste product being used in the same way that you've got a complete breakdown of this material that is happening through a biological process at the end of this whole liquid composting process that's real different from using that as an ingredient. It's -- it's material that's in there. It's being used. It's being broken down by exceptional processes that it should be allowed as an acceptable ingredient then for agriculture.

So, actually that's just about all I have on the CSL.

CHAIRPERSON GIACOMINI: Any questions on the CSL?

Okay. Go ahead.

I think after your next comment we will take our n ext break. We are a few minutes -- should have a few minutes. Probably should have done it before you, but go ahead.

MR. DURST: There's only one or two more CSL things. You might want to finish that up before you move on to something.

CHAIRPERSON GIACOMINI: Oh, okay.

MR. DURST: Just as a suggestion.

So, my second area that I'm going to address here and I'm representing Whitmeyer MicroGen which is a pesticide manufacturer. Has to do with inerts in pesticide product.

And the August 2004 list is the last combination list that was published by EPA. And unfortunately what happened is they, you know, they dropped the ball as you folks all know in 2006, but they had been continuing to evaluate materials between 2004 and 2006 when they dropped it.

And the recent guidance document that came out that said we're going to -- that you're going to use the 2004 list, but having acknowledged that some reviews continued after that point, and stating that there were half a dozen -- actually eight materials that were

removed from list 4 that the guidance document says are no longer going to be acceptable.

There's no acknowledgment that there were quite a number of materials that were reviewed and added to list 4 during that two-year period and because the 2004 list doesn't have those on them, nobody is allowed to use those. And it's really a travesty that those things -- people spent a lot of money to get those things listed in that interim period and now they've fallen through the cracks. And I realize that the whole issue with EPA inerts is a big kerfuffle these days because it's been dropping the fall, but there should be some guidance document that says anything that was listed at any point in time with the EPA list, the additions of these handful of materials and the removal of these materials between 2004 and 2006 when they dropped the ball, ought to be allowed as inert pesticides.

CHAIRPERSON GIACOMINI: Any questions?

Okay. So, you think we should do one more before we break? There's only one listed.

There is only one listed.

Dennis Macura.

MR. MACURA: Thank you, Mr. Chairman. Members of the Board, ladies and gentlemen.

Thank you for the opportunity to address this distinguished Board.

My name is Dragon Macura. I go as Dennis as well. I represent a company called AgroThrive, Incorporated. AgroThrive, I believe was the company at the focus of attention with OMRI.

When we first submitted our application for listing of our products with OMRI, we have submitted our application to Washington State and ASCO at the same time. They asked the same questions and approved our products within less than a month.

OMRI took about two years, two and

a half. At the end of deciding that they were going to list it as -- not list it in their -- their decision was that it was going to be synthetic. And that was made by their advisory council.

I asked for the information that was submitted to the advisory council and I received all the papers. There were seven in all. And none of them were peer reviewed published research papers. They were all discussion papers about the topic.

When I then went to do my literature search I found one field reviewed research paper by Disincogin 1996 which actually looked at this issue.

I believe I have submitted a copy of it with my written submission. If I have not, please let me know and I'll submit it to whoever has not received it.

I've taken some of the details of that research and I've also addressed some of the comments that OMRI had in their recent

newsletter publication talking about the issue.

The two points there that I would wish to make. One of them is to address the issue of 7 to 2 -- 7 to 3 or 7 to 2 voting of the OMRI advisory council. I believe that they -- the council members tried in earnest to make the correct decision. However, they did not have all the information to make a decision on.

The information being that the supposed reaction that is -- that was supposed to be happening is the reaction between sulfur dioxide that is used as a processing aid in up stream and steeping process creates a reaction with bisulfide bonds in protein and therefore renders a material synthetic.

While my application was for the listing of AgroThrive fermented compost -- a liquid composted product. It was not for listing of -- of an ingredient in steep liquor.

And as a result, the process that's -- that follows the formulation of our materials of the composting process was not even considered in the deliberation. The reaction itself is supposed to be going on at pH conditions that were not present in the counter current production system.

If you look at my submission I've gone to the manufacturer and I've taken detailed notes and diagrams on -- on how the material is actually produced, not what the literature says about it because there's a fair amount of discussion literature of different types of processes.

If you take a look at those -- the submission you will see that the fresh corn in which the supposed reaction is possible to take place is added to the oldest steep liquor. In other words to a pH at which this reaction is less than one percent chance of happening.

The highest concentration of SO2

is added to the oldest corn one and a half hours before it's taken out of the process and ground. So, chance of that happening or that reaction actually taking place is very minimal to none.

In addition, while this is happening there is a very, very vigorous lactic acid fermentation taking place. Lactic acid material are known to be pertilitic and they are -- they are very active at the -- at the onset when -- when the corn is added to the material.

And, finally, the -- the corn steep liquor that we use in our product is a formulated material. I mean, it's part of the formulation. So, I was very -- very glad to see that NOP did an explanation on composting with bifenthrin and I think that it should be looked at in the same context as composting as a composting process.

CHAIRPERSON GIACOMINI: Thank you.

Questions?

Okay. Folks, we are -- we've been at this -- thank you, sir.

MR. MACURA: Thank you.

CHAIRPERSON GIACOMINI: We've been at this since 8:00 this morning. It's 3:00. We are hoping to be done by 5:00 and we're not half done.

So, we're going to take a break. When that clock hits 3:10 we're going to be -- the next speaker is coming up. We'll start with the wine group and we may need a glass.

Paul Dolan, Paola Bonetti and Brian Fitzpatrick.

(Whereupon, the above-entitled matter went off the record at 2:59 p.m. and resumed at 3:11 p.m.)

CHAIRPERSON GIACOMINI: Could we please bring the meeting to order? Yes, we can. We have a quorum. We have eight. We're rockin' and rollin'.

MR. DOLAN: My name is Paul Dolan. I'm a farmer, biodynamic organic farmer and

wine grower, wine maker. I've been in the business for a number of years working for a small family business. I worked for a large corporation actually and I'm involved in small family business now. I'm excited that my sons have decided to become fifth generation farmers as well.

My awakening in this business came about 25 years ago. As a young wine maker I can remember being in vineyards tasting fruit trying to determine whether they were ready to harvest or not, tasting sauvignon blanc. Tasting the berry off the vine had all of the fruit and melon and fig characteristics I would expect for Sauvignon blanc.

And then just walking 10 feet over to another row, tasting another berry that was flat and insipid. I didn't get that and I didn't understand it. I always had great hopes for that wine but each year I would end up being disappointed. That wine would go into our everyday table wine.

Three years after we converted it to organic those same grapes started going into our top level Sauvignon blanc. Clearly for me there was a difference. I could make better wine growing grapes organically.

I also realized on some level I was probably poisoning the earth by using the chemicals that I was using and killing the microbial life from the soil. For me everything shifted and I started to become very passionate about organic. So passionate that my personal mantra is create a shift in sustainability on the planet through business leadership.

I think organics with its orientation to systems thinking actually starts to give us some access there. I've been involved in converting many, many acres over to organic, probably over 2,500 acres myself, and involved in leading the rest of the industry as well.

Now, 15 years ago I had to get

involved in order to make that happen because the NOP was going to go down the path of interpreting that wine could not be made -- organic wines or the word organic couldn't be put on the label that used sulfites. We were able to create special category, "made with organically grown gapes."

Since then, or the reason I went back to do that is because I knew farmers would not grow organically if there wasn't a market. I knew wine makers would not easily make wines without sulfites because sulfites have been in the production of wine for thousands -- hundreds of years I should say.

Now, today there are 55 wineries that are using sulfites, 55 brands that are using sulfites in their wine production with the terminology "made with organically grown grapes." There are 15 with no sulfites added.

Things have changed in the last 15 years now so that we are now the only wine-producing country in the world that does not

allow sulfites to be used for organic wines. Canada just allowed that just recently.

We also are a country that has five categories for the terminology organic if you can imagine that. So I have a simple request. My request is that we go to one category, organic wine, with two subcategories. We allow for products with no sulfites added but really organic wines really are just wine, wine that we use sulfites.

The simple benefits for that when we get this all cleared up on a global scale, I think that's really important for the growth and development of the business but also for the growth and development of organic. It also clears up with the trade. We will always have the confusion.

We created the confusion, if you will, the organic industry, with the sulfite issue because it never was an issue until we started to go down the organic path. We'll still have to deal with that but we can reduce

the confusion for consumers by simply creating products that are 100 percent organic.

Now, I would also suggest that we eliminate the category of 70 percent. We don't need it in our industry. There is no benefit. There is nobody that's using it. It's just a temptation to create more confusion for us going forward.

It would be wonderful if we could create an interpretation that doesn't allow for the 70/30 ruling, nor do we need the other one which suggest that you can put organic ingredients on the back label. That's it.

CHAIRPERSON GIACOMINI: Questions?

MR. DOLAN: Oh, they always have questions for the wine guy.

MR. SMILLIE: We love your product.

MR. DOLAN: All right. We love it.

MR. SMILLIE: In the vein of the "made with" and, again, 70 percent is a "made

with" label which is the only label you are currently able to operate under so if we got rid of that, you wouldn't have anything at this point in time which I agree is ludicrous. What's your view and your industry's take on the interpretation that you can have different varieties of grapes as organic and nonorganic in the same meritage blend?

MR. DOLAN: Crazy. It's crazy.

MR. SMILLIE: Total nonsense.

MR. DOLAN: Nobody wants it. We don't want it. We're saying don't give that to us. We just as soon not have that and we just as soon just have 100 percent or 95 percent.

MR. SMILLIE: You don't want to go a hundred either.

MR. DOLAN: You probably don't want to go to a hundred.

CHAIRPERSON GIACOMINI: Katrina.

MS. HEINZE: Have you submitted a petition to change the annotation for

sulfites?

MR. DOLAN: Yes. Paolo is going to speak to that next.

MS. HEINZE: Oh, fabulous. Thanks.

CHAIRPERSON GIACOMINI: Jon.

MR. FOSTER: When you -- forgive how odd this question sounds. When you add the sulfur compounds to wine do you consider wine to be synthetic at that point or a nonsynthetic product? I'm just asking.

MR. DOLAN: It's wine. Just wine. I've been involved in wine making for a long time. I'm the fourth generation. My great grandfather was the one that brought the technology of sulfites from France over to this country.

Actually he was an Italian but on a trip over there he discovered the use of it and he found that you could just stabilize wines and so for over 120 years now we've been using sulfites in the use of wine production

and it's just created stability. Absent sulfites, you know, the wines fall apart very quickly and then you lose the integrity of the product and that's not really what we want to do.

MR. FOSTER: So it's wine before and wine after.

MR. DOLAN: Thank you.

MR. FOSTER: Is that right?

MR. DOLAN: Thank you. Yes.

MR. FOSTER: Excellent.

CHAIRPERSON GIACOMINI: Those kind of questions are not allowable from a first-year member. I'm sorry. I can just imagine 15 or 16 years ago this was probably a very contentious conversation and so hopefully you won't be going forward with it.

Anymore questions? Thank you. I'm on the wrong page. Whoever knows they are coming up knows they are coming up.

MR. BONETTI: Here's the petition.

CHAIRPERSON GIACOMINI: Brian

Fitzpatrick, Chris -- whoever is from ZD Wines.

MR. BONETTI: Here's the petition. I agree with everything that Paul said. My name is Paolo Bonetti. I'm president of Organic Vintners from Boulder, Colorado. My company has been in the organic wine industry since October of 2001 after the Boxer McCall amendment to allow the FDA to allow the use of sulfites in wine.

We are primarily an importer of organic wines and we also product domestic and imported wines with our own brand also called Organic Vintners which make up about 25 percent of our business. All our wines are made from 100 percent organic grapes that comply with the NOP and contain no more than the permissible amount of sulfur dioxide which is 100 parts per million. By comparison conventional wines are allowed up to 350.

In addition to complying with the NOP alcoholic beverage labels are controlled

by the US Tax and Trade Bureau so it's my responsibility to help my foreign exporters comply with their regulations as well.

On October 8, 2009 our domestic certifier, CCOF, informed us that Organic Vintners brand would not longer be acceptable because the product is in the "made with" category. Up to that time CCOF and the TTB had approved 41 labels over an eight-year period. Upon this certification we were horrified, as you will be, by what we discovered.

We previously thought that all wine making and the organic claims were made from 100 percent organic grapes with sulfites or without sulfites because of the basic fundamental long-standing principle of organic agriculture to not have any organic and nonorganic form in the same ingredient.

We discovered this not to be true in wine. When the final regulations were passed, the language chosen for wine with

added sulfites was not subject to appear for public comment and these wines were restricted to the inferior claim of made with organic grapes which does not allow the use of the USDA organic seal and does not allow the product to be called organic wine.

Because made with organic ingredients requires only 70 percent organic agricultural products, we discovered that wines containing 30 percent nonorganic grapes were also permitted to make the same claim "made with organic grapes."

This horrifying fact was confirmed by an NOP and TTB joint publication issued last June called "Guidelines for Labeling Wine with Organic References." This document recommends a brand new label to the organic industry which is supposed to clarify the 30 percent rule by making the claim "made with organic grapes and nonorganic grapes." Have you all seen this? If you haven't, I have extra copies.

How is a consumer supposed to know that "made with" is 100 percent organic because it does not have the seal and it does not have to say organic wine. Interestingly, at the same time this document was issued last June Canada announced its own organic program the COR, Canadian Organic Regime. Canada was well aware of the US rules on organic wine and chose not to adopt them.

In Canada organic wine without sulfur dioxide is liable to be called organic wine and may carry the COR seal. A month later the US and Canada signed an historic equivalency agreement on organic regulations. We are also expecting the European Union to pass its own organic regulations in June of this year allowing the wines with added sulfites to be labeled as organic and use the seal.

To take advantage of these foreign regulations Organic Vintners recently exported a California organic wine with added sulfites

with a Canadian organic seal on the principle display panel to a customer in England whose label was approved by CCOF for export only.

We submitted this shocking label you are looking at to the USDA accredited certifiers of Argentina, Italy, Switzerland and Germany and they all rejected it, as we suspected, stating that they could only allow an organic claim with the existence of nonorganic grapes.

This puts the NOP's made with organic grapes category at odds with new and existing international regulations. We think you and Canada are correct and believe the NOSB should not allow organic wine to contain nonorganic grapes and should amend the annotation for sulfur dioxide on the National List.

How much time do I have left? One minute Thank you.

An overwhelming majority of organic wine makers use sulfur dioxide to

stabilize a product dating back to 1487. They are all prohibited from using the USDA seal causing consumer confusion over the difference between organic wine and wine made with organic grapes.

This has inhibited the growth of our industry. We estimate that 2 percent of all wine sales in the US are organic wines while the organic food and beverage category enjoys a 3.5 percent market share.

The only symbol that gives consumers confidence, assurance, and trust and the legitimacy of organic integrity is the USDA seal. Thank you for coming up with it. Although the additional sulfur dioxide is permitted by an act of Congress, NOP would not allow over 99 percent of wine makers using 100 percent organic grapes across the world to call it organic wine.

Therefore, for the benefit of the domestic and international organic wine industry and the promulgation of organic

agriculture in general, organic vintners and co-petitioners Paul Dolan and others have submitted an annotation to sulfur dioxide in Section 205.605(b) to allow wines with added sulfur dioxide to be labeled as organic instead of made with organic grapes. Thank you.

CHAIRPERSON GIACOMINI: Thank you.

MR. BONETTI: If anybody wants a copy, it's right here.

CHAIRPERSON GIACOMINI: I would. Anybody that wants one can take one.

Joe.

MR. SMILLIE: To follow up with the complications we're getting as we move into the era of equivalency clashing with the age of enforcement, you could contract a Canadian wine maker to certify a wine under the core and put the USDA seal on it.

MR. BONETTI: Right. We could but the label has to be approved by the TTB and they wouldn't.

MR. SMILLIE: Ah.

MR. BONETTI: Right?

MR. SMILLIE: The USDA would accept it but TTB --

MR. BONETTI: The USDA would accept it? You would accept a wine that says "organic wine from Canada" with a USDA seal that contained sulfites? I don't think so, Joe. It would be nice.

MR. SMILLIE: Well, let me ask the program. If there is an equivalency agreement and that's not part of the exclusions, if a Canadian wine maker in compliance with the core put a USDA seal on a Canadian wine, which noncompliance would they be charged with?

MR. BONETTI: Excuse me. Are you directing the question to --

MR. SMILLIE: I'm asking the program.

MR. BONETTI: Oh, okay.

MR. McEVOY: First of all, I think

you have a lot of good points. The National List does say that sulfites are only allowed to be used and made with organic products so in order for that to change there has to be a petition. You are following the right procedure petitioning the Board for a change to the annotation.

MR. BONETTI: Thank you.

MR. McEVOY: So that's great. I'll let Shannon answer the question in terms of the nonorganic components because Shannon is really on top of the TTB question.

In terms of the equivalency arrangement, the equivalency arrangement doesn't mean that you -- you still have to follow US labeling laws for products so it's an equivalency of organic products but you still have to follow the US labeling laws. TTB has certain labeling requirements and you have to meet those in order to sell an organic product within the US

MR. BONETTI: So the answer is no.

MR. McEVOY: At this time.

MR. BONETTI: Otherwise, the other thought we had when I heard the same thing George has said is why not export a wine to Canada with a USDA seal on it and then import it back into America if the answer was yes. Right?

MR. McEVOY: It still has to comply with the US labeling.

MR. BONETTI: Right. Of course.

MR. McEVOY: It's an area that needs some work.

MR. BONETTI: Any other questions? Thank you.

CHAIRPERSON GIACOMINI: Shannon, did you have anything to add on this since they made you walk all that way?

MR. SMILLIE: Have we received the petition yet?

CHAIRPERSON GIACOMINI: We just did.

PARTICIPANT: No.

CHAIRPERSON GIACOMINI: No. We haven't received it. No, we have not received it.

MS. HEINZE: The chair has not received it from the program. While you all have it in front of you, we have not officially received it.

CHAIRPERSON GIACOMINI: Pay no attention to the man behind the screen. Okay.

MR. McEVOY: Do you want clarification on the not organic, organic wine component?

CHAIRPERSON GIACOMINI: Okay.

MR. McEVOY: We'll try.

CHAIRPERSON GIACOMINI: Shannon.

MS. NALLY: Let's see. Last summer in June of 2009 we did issue a clarification to add essentially a new labeling category that is only specific to wines that would allow the "made with" claim to state "made with organic and nonorganic grapes" because we were informed that what was

happening is that some wines that had the label "made with organically grown grapes" had 70 percent organic grapes but within that 30 percent had nonorganic grapes.

The implication of made with organically grown grapes claim on the label to a consumer imply that the wine contains only organic grapes. Therefore, we allow grapes of different varieties, not the same variety, to be organic.

We allow organic and nonorganic grapes of different varieties but the organic grapes still have to be present at the 70 percent level and the nonorganic grapes can be within the 30 percent but they have to be a different variety than the organic grapes.

CHAIRPERSON GIACOMINI: I understand that.

Brian, then Chris from ZD and Patrick Riggs.

MR. FITZPATRICK: Hi. I'm Brian Fitzpatrick of Fitzpatrick Winery and Lodge.

I am the pioneer of making wines from organically grown grapes. We are celebrating our 30th year. I've spent my entire life, 40 years, in the organic food industry.

I've tried to be in the right place at the right time but I have suffered because of this misunderstanding of how wines need to be made and the benefits have not come my way. I still am committed to producing wines made from organically grown grapes but we get no premium for our product at all because of the misconception that is out there and the confusion.

I made wine when the natural food industry didn't allow alcohol in their establishment when they considered that not part of a healthy diet. I've come a long way and I've always been in the right place but it's never been the right time yet and I hope we can clear that up.

What I'm here though is for a more immediate need for clarification although I

support the speakers before me. One of them is that wine has to be understood. Wine is a family of derivatives. Now, that term is not very well received at the moment. Wine is not just hardy burgundy.

Wine can be red wine, white wine, rose, sweet, off-dry. It could be dry. It could be sparkling. It could be a brandy. It could be a sherry-like wine. It can be a fortified wine like a port. It could be vinegar and it could be a distillate. That's the family of wine and that's what our product is is a family of products all derived from the organically grown grape.

Well, recently I started making vinegars about three years ago and CCOF is saying that I can't call my vinegar "made from organically grown grapes." The fact of the matter is what is vinegar?

Vinegar is part of the family of wine and all I do with vinegar is I cull out wines that I don't feel are good enough for

our label to be bottled as a wine and I move them to what I call the vinegar house because they can't be in the winery and I allow oxygen and time to take them to their end result, vinegar.

Now, what do I tell my customers? Where is this vinegar from? It's from organically grown grapes. It's the same exact product. It's just part of the family of wine so I want to have that cleared up.

This family is wine is well supported by the TTB, and I think this form is an old form but the 702 form that we have to fill out has categories which list all these different things whether it be sparkling wine, a distillate, under 14 percent, over 14 percent, and vinegar. It's all in the same form. The definition of what is this family of wine that already exist, nobody has to redefine that.

Another issue I have is the interpretation that somehow my product is

poison when it comes to making an organic product with my wine and/or any of the family of my wines in it. My wines meet all of the 95 percent rule.

As a matter of fact, when CCOF pushed me to put ingredient labels in the very beginning when the TTB didn't require them, I put on there 99.999 percent organic ingredients and then sulfur dioxide. I mean, that is how ludicrous this is. Somehow CCOF is making the decision that I cannot use my product in an organic product.

For instance, I could take my vinegar and just boil it with organic sugar and make a beautiful sweet and sour hard candy. I could blend it with olive oil and make a beautiful, you know, vinaigrette dressing.

There are all sorts of things whether it be culinary sauces, mustards, jellies, marinades, reductions, confections, all sorts of things that I spent my life

wanting to make a product that I would be able to use that in making other products. Supposedly I can't do that.

This has been a revelation that just come to me in the past six months and I can't believe what I hear on that regard. Another item is labeling requirements. For some reason wine has been relegated to having different requirements than any other product has.

Take, for instance, apple juice. The apple juice fellow can every morning start to juice apples of many different varieties, from different sources, and different blends, different percentages, and then slaps the same label on that he's been using for 10 years.

Somehow because I make wines that have vintage dates on them I have to have a product profile for every single one of these. That's ridiculous and it's putting a standard in front of me that doesn't exist with any other organic product there is.

I ask you, this is immediate need, to clarify those three issues, that vinegar is wine, that I should be allowed to use any of my products in making of organic products, and that this labeling requirement should be no greater than any other organic product that's out there.

CHAIRPERSON GIACOMINI: Questions?

Tracy.

MS. MIEDEMA: Sir, have you checked with TTB on that third question you had because the provenance and the variety of the grape seems to be outside the purview of USDA. That seems to be a secondary labeling requirement of wine.

MR. FITZPATRICK: I always refer to CCOF, "You should not be creating labeling requirements. TTB has that all covered. We are allowed to not have to resubmit for label approval for a whole host of reasons. One is vintage doesn't trigger that, alcohol doesn't trigger that.

The percentage of the grapes if you don't list them on the label you just put a varietal there and it doesn't trigger that. TTB has it all worked out and that is all that should be enforced within the organic realm of labeling is what TTB rules are.

CHAIRPERSON GIACOMINI: Further questions? Thank you.

Chris from ZD, Patrick Riggs, and Amelia Slayton.

Sorry on your last name. I'm Italian, too, but I'm not going to try that one.

MR. PISANI: It's Pisani.

CHAIRPERSON GIACOMINI: Pisani. You pull that fire thing and switched the letters.

MR. PISANI: My name is Chris Pisani. I am the wine maker at ZD Wines in Napa, California. I apologize in advance. I'm going to address the sulfite issue in wine making, in particular the made with

organically grown grapes. I do want to say that I also support the previous speakers and their approach.

A brief background. ZD Wines is a small family-owned winery in Napa Valley that has been making wine since 1969. The de Leuze family has been deeply committed to organic farming practices producing wines of high quality and distinction.

Our state vineyard in Rutherford, California has been farmed organically since 1985. It was certified in 1999 via CCOF. Another property we purchased in the Carneros in 1996 was immediately converted to organic farming after our purchase and also certified our winery in 2001 as a handler.

We are committed to producing first and foremost a premium product. We use always the best ecological practices and methods that are available to us that even go outside the realm of organic farming. As part of that we recognize, as many other wine

makers do, that sulfur dioxide is critical to the process of making high-quality wines.

There is currently no other known substance available approved for use in wine making that has the same antioxidant properties as sulfur dioxide. While we make every attempt to keep the additions of S02 to a minimum, and there have been many technological advances in wine making that allow us to do just that, there are several things about S02 that pose problems for us.

Quickly, the nature of S02's action in wine is that it's strongly pH dependent and, as a result, a wine with a lower pH, say 3.3, may require only 25 parts per million to protect it while a wine at 3.6 or 3.7 can need upwards of 50.

Also, sulfur dioxide is extremely reactive in wine. It reacts and binds and essentially becomes inactive with many of the other compounds; tannins, polyphenols in that product and, again, no longer protects the

wine.

I should also mention that it is produced naturally by yeast. I have personally documented levels in wines that have had no sulfur dioxide added prefermentation to finish in the range of 26 to 40 part per million as total. That's coming just from yeast metabolism.

As a result what has wound up happening to us on many occasions is because of the NOP Rule 205.605(b) that specifically states that wine made with organically grown grapes cannot have more than 100 parts per million total.

I could find no reason or record of where that 100 part per million number came from. As it stands right now the FDA recognizes sulfur dioxide as GRAS or generally recognized as safe and regulates its limit at 350 parts. I doubt there are many wineries right now under the "made with" label that have wines that can approach that level.

Unfortunately what has happened to us on several occasions we've made wines with 100 percent organically grown grapes, followed all the NOP rules, no DAC, no sulfate, only to have our levels at 105 or 106 at bottling so basically we're almost there.

That being said, I mean, basically we're just petitioning and, again, if you agreed with the previous speakers and went that route, I wouldn't be up here asking for it. I would at least like to petition the Board to revisit the S02 issue.

A lot has been learned about its chemistry since the late '80s when a lot of the stuff came out after the famous salad bar incident with sulfites. It would be great if we could revisit that and potentially raise the level and match the FDA 350. Thank you.

CHAIRPERSON GIACOMINI: Questions? Just a couple quick things. Your speculation is that the 105, 106 you're achieving bacterial fermentations is what's pushing you

over the top?

MR. PISANI: Not from bacterial, from the yeast fermentation.

CHAIRPERSON GIACOMINI: Yeast fermentation. Right.

MR. PISANI: We start in the hole already sometimes at 40.

CHAIRPERSON GIACOMINI: It's late. Okay. You said there is no alternative. I'm going to throw you a softball because I know we've talked before. Why do you know there is no alternative?

MR. PISANI: Well, my understanding is that there currently is a one million dollar prize out there given through the University of California Davis or somebody affiliated with it to come up with another material with the same antioxidant properties and it has not been done. I don't have an answer. I haven't been involved in finding one but when somebody does, there is a nice fat pay out there for you.

CHAIRPERSON GIACOMINI: I haven't searched that out but it might be with the Pasteur Institute, I think. Can you go into a little more very briefly on the algae situation?

MR. PISANI: Yes. I did some reading up on that. Basically my understanding is that back in the late '80s after the salad bar incident, and maybe people don't know the salad bar incident. It was a case where they were spraying a very high concentration of potassium metabisulfite over their salad bar to preserve the vegetables.

A person that was asthmatic ate the vegetables and had a very severe reaction so this, of course, I believe the FASEB and the FDA combined forces and looked at the whole sulfite issue. The 350 I'm not sure how they came up with that. I looked and did find some papers that found that there is a very percentage essentially of asthmatics. I think the number is .4 percent of people with asthma

that can potentially have a reaction to sulfites.

Those people that have that sensitivity are aware of it and they avoid jams and jellies, juice concentrates. There are plenty of products out there that have 10 times the level of sulfites in their products. I've seen numbers as high as 6,000.

The numbers in wine are really already way, way below those thresholds. I found one particular university study that said that under 200 parts per million it was, I think, a sample of 30 asthmatics with the condition that had no reaction at all in the 200 ppm range.

CHAIRPERSON GIACOMINI: Okay. Thank you.

Patrick Riggs, Amelia Slayton, and Patrick Leavy.

MR. RIGGS: Hello. My name is Patrick Riggs. I'm a viticulturist for Jack Neal and Son Vineyard Management. I've been

around since 1968. Started farming organically in '84. Responsible for the organic certification of over 1,800 acres in the Napa Valley. 95 percent of the stuff we farm is currently organic certified or in the three-year transition process. We also serve as a wine grower for over 75 individual wineries.

The organic wine labeling standards and the consumer confusion surrounding that has prevented the development of a organic wine grape market as is typical with most other commodities. If this market existed more growers would transition to certified organic farming.

Despite the absence of this market many wine growers have gone organic because they believe in organic farming. However, economics can and will change that equation. I'll give you a specific example. One of our previous clients had 450 acres of certified organic wine grapes in the Napa Valley.

In 2008 when the market started to move down a decision was made despite the displeasure of the owner and they transitioned back to conventional agriculture because they did not believe that organic wine growing and the associated standards was economically viable in the long term. I disagree with this but that's the fact.

The Board labeling in the lower standard that others have eluded to around the 70 percent "made with organic" claim has blurred the lines between certified organic and sustainable or other green farming methods. This is a disservice to organic farmers who work their butts off and are held to really high standards. A 95 percent threshold makes a lot more sense.

If you make vineyard designated wine 95 percent of the grapes have to come from one place, that's what the TTB uses. It makes more sense to use that requirement. This would also allow growers a little

flexibility because there are other issues with buffer rows and neighbor issues such as pesticide drift that are beyond the individual growers' control.

Due to a variety of factors including the standards around wine labeling many organic wines have been received by consumers as being of low quality. Whether this is fact or fiction does not matter.

Most of this perception is due in part to old and poorly conceived standards surrounding wine processing aids that were previously talked about which typically make up less than .1 percent of the final product. This is a catch 22. It prevents wineries from making organic wine and making wine made from organic grapes and, therefore, growers have no market for organic wine grapes.

Finally, slightly different. I would love it if you guys could address the removal of a term "organic" in trade names unless these trade names are, indeed,

certified organic. This is a disservice to everybody who is certified organic across the spectrum. That's all I got.

CHAIRPERSON GIACOMINI: Thank you. Questions? Joe.

MR. SMILLIE: Could you clarify your role again? I didn't quite understand.

MR. RIGGS: I'm a viticulturist. I'm in the field every day concerned about producing the highest quality.

MR. SMILLIE: So you work for a number of different wineries and grape growers?

MR. RIGGS: Yes.

CHAIRPERSON GIACOMINI: Okay. Thanks, Patrick.

MR. SMILLIE: It's more for the program. Is there an understanding that if you're a wine producing and you've got organic in your name, because the only claim open to you is the "made with" claim, that you're pending policy on organic and the "made with"

products, is that going to be an exception?

MR. McEVOY: Yes, that's the concept is that would be the exception because it's 100 percent organic ingredients and that we would provide that exception. That's what we're thinking in terms of the draft guidance.

CHAIRPERSON GIACOMINI: Okay. Amelia, Patrick Leavy, Jon Cadoux.

MS. SLAYTON: Hello. My name's Amelia and I have been in the organic growing supply business since 1997 and also a brewer of beer and recipe development for our company since 1996. I'm here to talk about the organic hops issue. Currently organic beer is brewed in the US with nonorganic hops and they are on the 205.606 list. We are requested that they be removed when they sunset in 2012.

Having been in this business for a very long time we learned some significant reasons why we feel this should happen. The first and foremost is that hops are a key ingredient in beer and everybody who is a beer

fanatic who knows this. It's like making certified organic vanilla pudding and using nonorganic vanilla.

As a brewer for many years I've had the opportunity to work with a very limited array of hops. In the early years from the first time I got samples from New Zealand and Germany I decided to only use organic hops. Today our company has recipes for 25 different styles of beer.

We now offer 25 different kinds of organic hops so the market has changed significantly in the 13 years that we've been in business. We strongly believe that putting a USDA seal on a bottle of beer that is made without organic hops is very misleading to the public.

One of the reasons I'm here today is as an activist and not particularly as a company but I've been working on a petition that is a public outreach petition and it's interesting the reactions that people have

when they learn that this beer is made without organic hops. We have gathered about 600 signatures that I would like to give to you folks today if I could.

Another reason we feel strongly that this hops needs to be removed from the list is that there has been very little financial incentive in the organic hops market in the US in the past few years to change.

To give you an example just from a business standpoint, last year we had to cancel two-thirds of a huge contract with Germany because we didn't have buyers for the hops. We tried to sell them. We tried to sell them. We called breweries and when we are trying to sell hops for $15 a pound and they can use hops that are $5 a pound, that really makes it a difficult sell.

Going back to consumers because I've been in this meeting all day and I really appreciate what you guys do here and I really appreciate the opportunities to be able to

come here because if it was in Washington there would be no way for me to be able to take the time and spend the money to go.

That's the truth for a lot of people who are concerned about organic but can't be here. That's why I wanted to bring this petition that is from the public and has their comments and their sentiment so that you can see what they have to say about the issue.

One of the number one reasons that people buy organic is because they want to support organic sustainable earth friendly agriculture and requiring hops in organic beer will help achieve that.

Another big issue is the truth in labeling. We just constantly hear people who are just outraged that the product is labeled organic and it doesn't clearly say whether the hops are organic or not.

Finally, there is just an unfair market advantage. We work with a lot of breweries and we do sell wholesale and we do

sell to small and medium-sized microbreweries. Those breweries are paying twice as much for hops and they have an unfair market advantage because some of these breweries have a very strong commitment toward agriculture.

They are taking that step. The largest source of funding to develop organic hop growing is from the largest end user which are breweries. If there is a requirement by 2012 that they have to use organic hops, maybe they will. Thank you.

CHAIRPERSON GIACOMINI: Any questions? Steve.

MR. DeMURI: Thank you for your comments. I'm trying to understand your affiliation. Are you a hops broker?

MS. SLAYTON: Yes.

MR. DeMURI: Okay. Do you ever have certifiers calling you and asking you for information on commercial availability of organic hops?

MS. SLAYTON: No.

MR. DeMURI: No. My other question would be are you ever aware of any hops varieties that have been requested as organic that are not available as organic?

MS. SLAYTON: Yes. Some of that has changed but there are almost 200 varieties that we know of and it's unrealistic to wait until all of those varieties are available. There are major classes of hops and good substitutions.

As a brewer for 15 years I know what those are and can make educated recommendations for developing recipes with ultimate hops. You do have to be a little creative and you do have a more limited range of ingredients than a conventional brewer but it is a starting place and we've got a pretty good starting place now.

MR. DeMURI: Okay. Thank you.

CHAIRPERSON GIACOMINI: Joe, did you have a question?

MR. SMILLIE: That's the quality.

What about just total overall quantity of hops? Do you believe that there is organic hops available for all the organic growing that is currently occurring?

MS. SLAYTON: If we start transitioning now for 2012 I believe we'll be there. With world organic hop production I believe we have the capability to do it but it takes money. It takes money coming into the system now. If someone asked me today if I can provide them with 100,000 pounds of hops, I would say no.

We just don't have that buying power yet. We had to turn away 10,000 pounds of hops from Germany because we didn't have buyers. If we work towards that goal in two years we can get there. It just takes money.

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: So thank you for your comments. This is the challenge and maybe you can help us because the burden on the Board is to figure out whether there is

commercial availability in the organic alternative.

Some of this will come up in a conversation on sunset but rather than a listed petition, I mean, we know people are outraged by these sorts of things, the information that would help move the Board into a position of taking action on this criterion of commercial availability would be data that would show us in some format that would be reliable that the market could be filled. The market demand could be filled by the organic alternative.

MS. SLAYTON: I don't have that data today but it's something I'm happy to work on to give to you by the fall meeting.

MR. FELDMAN: The reason I'm intrigued by this is because this is not a problem unique to hops. This is a generalized problem that the Board needs to work more closely with the community, the organic community on. If you could be a trail blazer

in this area, it would be phenomenal, I think.

MS. SLAYTON: Do you know there are organic hops being sold to conventional breweries because they don't have buyers from organic breweries. I don't have the solid numbers but we can get those.

CHAIRPERSON GIACOMINI: Jeff.

MR. MOYER: I think to follow up Joe sort of asked my question but it's a two-part question. One is is it available and if it is available then it would be incumbent upon you to petition this Board not, as Jay said, to give us a stack of petitions but to petition the program to have hops removed from 606 and then that would come to the Board.

MS. SLAYTON: That has been done and I participated in that as well.

MR. MOYER: But we don't have it yet.

MR. SMILLIE: Yes, we do.

MR. MOYER: Oh, you have it.

MR. SMILLIE: It's on our work

plan.

MR. MOYER: Oh, never mind.

MS. SLAYTON: We're taking two different approaches to it. I did have a question. Can I give these two today or should I --

CHAIRPERSON GIACOMINI: Give those to Valerie and we'll get them. Katrina.

MS. HEINZE: To clarify for you, Jeff, we do have the petition to remove hops and sulfites that we don't officially have. I do not need an answer for this today but when we reviewed hops to put it on 606 one of the big arguments had to do with drought and pest residence.

I don't remember all the details but perhaps you could look at the original petition and some of our deliberations. It would be very useful for us in the fall to have some public comment on those particular topics. Thank you.

CHAIRPERSON GIACOMINI: Joe.

MR. SMILLIE: Just a small point. It's not up to the Board to determine commercial availability. It's up to the certification agencies to determine availability. There's a lot of ways to do that but one of the most common ones is if you are producing vanilla pudding without organic vanilla and you've got three competitors who are using organic vanilla, you better have some pretty good argument why you're not using it.

That's not the be all and end all of commercial availability but it's certainly an early indication. If a large volume of organic beers start showing up on the market with organic hops in it, then the antenna start pointing at, okay, commercial availability is starting to happen and now the scrutiny starts to go onto their clients who are not using organic hops so it's kind of push you/pull me kind of situation for commercial availability.

I agree with you it is a catch 22 but 606 is designed to spur organic production and that's the certification agent's job is to make sure that their --

CHAIRPERSON GIACOMINI: Joe, do you have a question in there, please?

MR. SMILLIE: No question.

MS. SLAYTON: I do have a response, though. I mean, the problem that we see is that the label looks exactly the same to the consumer whether it has organic hops or whether it doesn't. Unless there is a distinction, we want hops off the list.

CHAIRPERSON GIACOMINI: Any further questions?

MR. FELDMAN: I have a question for Joe.

CHAIRPERSON GIACOMINI: No. No.

MR. FELDMAN: I'll ask you later.

MR. SMILLIE: See me later.

CHAIRPERSON GIACOMINI: All right. Thank you.

Patrick Leavy, Jon Cadoux, and Bill Wolf on hold.

MR. LEAVY: Mr. Chairman and members of the Board, I would like to thank you for the opportunity to speak today. My name is Pat Leavy and I am current president of the American Organic Hop Growers Association. I've grown hops for 33 years and I'm in my fourth year of organic hop production.

On December 8th of 2009 a petition was filed by the American Organic Hop Growers Association to remove hops from 606 of the National Organic Program. The decision to file the petition was made last summer before the timeline for the sunset process for agricultural ingredients added in 2007 was set in motion.

At the time we felt organic hops were commercially available and their continued placement on the National List was undermining the further development of organic

production. It was imperative to start the process before organic production was discouraged, particularly here in the US

Also, we have submitted comments for this meeting. These comments request that a timely review of the petition given the timeline that has been set out for the sunset process it is a moot point. A decision will be made this fall. I ask that question. Is that an accurate statement?

CHAIRPERSON GIACOMINI: No and yes. It's not moot. We could vote to keep it on sunset and then consider your petition.

MR. LEAVY: Okay.

CHAIRPERSON GIACOMINI: They do not have to --

MR. LEAVY: Okay. Thank you.

CHAIRPERSON GIACOMINI: Yes.

MR. LEAVY: Because that's something new. It's sort of like, it's been lately, which way did they go.

CHAIRPERSON GIACOMINI: They maybe

overlap but it's a matter of receiving information. If we can't get all the information we need, we would vote to continue to sunset and then with more information consider the petition to remove.

MR. LEAVY: Again, this gets into how this should be done. The petition is in place. Should we resubmit these arguments or our position in the comment period also?

CHAIRPERSON GIACOMINI: Whenever you can.

MR. LEAVY: Okay. Because we have additional information to provide on that and your questions are helpful. Thank you.

CHAIRPERSON GIACOMINI: Yes.

MR. LEAVY: Okay. While I'm here I would like to make the following points. Today there are unsold organic hops available in the spot market. Today organic hops are being used in the production of nonorganic beer. This may seem like an accomplishment but it would be better to see organic hops in

organic beer.

Nearly 100 percent of the nonorganic hops being produced in 2010 are under contract. This is a number exceeding over 30,000 acres. Whereas, less than 10 percent of the organic hops being produced in 2010 are under contract.

Since November of 2009, board members of the association have listed their farms on the Accredited Certifier's Association 606 website. As of this day not one farm has received an inquiry resulting from this site.

Given the fact that certifiers required processors who have a system in place that regularly searches for organic ingredients and want to see commercial availability reviewed regularly, this is a disappointing development.

The question is how many varieties of hops must be available for hops to no longer be on the list. If the criteria to

remove an ingredient from the list is that every variety of the crop must be commercially available, very few crops, if any, would be removed from the list. If there's not enough varieties now how many more do we need? Five, 10? What would be the number? Every year new varieties are coming into the system from the breeding programs.

Lastly, no one should be surprised by the removal of hops from the list. The sunset process is well known and everyone knows that a petition can happen at any time. Arguments that the removal of hops will disrupt the organic beer production can be made forever, especially when there has been very little effort to use organic hops.

CHAIRPERSON GIACOMINI: Thank you. Questions? I have a question for you as a hops grower. The information we received in 2007 is that hops can tend to have a high susceptibility to molds. Is that a true statement from you as a hop grower?

MR. LEAVY: Hops are susceptible to two funguses, downy mildew and powdery mildew. They are environment dependent. In Western Oregon, where I grow hops, downy mildew is an issue. In Eastern Washington powdery mildew is the issue.

CHAIRPERSON GIACOMINI: Is that a problem for you as an organic hops grower?

MR. LEAVY: I pick varieties, as we are supposed to do under the NOP as part of the pest control. I select varieties which have resistance to the disease and that is part of an organic farmer's responsibility. I grow varieties that are resistant to downy mildew as what I put in the market place.

CHAIRPERSON GIACOMINI: Okay. Thank you.

Jay.

MR. FELDMAN: Do you think that hops should have been put on 606 originally?

MR. LEAVY: I started in 2007 with a 10th of an acre of hops, of organic hops.

I thought about commenting at the time and felt I did not have enough expertise or experience to do it. I would say yes. That was a decision that I could not argue with.

Looking back on it now, I would change my mind because of the spirit I have seen in the marketplace. It won't work this way but it would have been a good backup system. In other words, as the organic hop industry developed and, say, there were problems or a little bit of a supply issue, then the option of using a nonorganic hop would have kept the organic beer makers going.

I could see if it was done right, as a good system. As of today I think it is very damaging to the business. We have put our organic operation on hold until the situation changes so, yes. Sorry.

MR. FELDMAN: And a quick follow-up. Do you see any situations in which certifiers are not appropriately or adequately defining commercial availability of the

organic hops? Do you have specific instances where certifiers in your view did not adequately disallow conventional hops, given the availability of organic?

MR. LEAVY: I can get in a lot of trouble here. I mean, to be honest with you, there's blow-back on being up here, in the market place, that I can handle. Then there can be blow-back on certifiers. There are things -- I can give you an example.

I don't know if the certifier accepted this so I swill not put this in the certifier -- it's not quite what you wanted -- but I had an organic brewer who made sort of, we'll say, a blanket email through the Oregon Hop Commission to all the growers in Oregon saying that I'm looking for organic hops closer to home.

The reason that was said is that a lot of organic hops are grown in New Zealand and in Germany. The email is coming, "I want them closer to home." Okay, fine. I knew

this brewery. I've had contact with this brewery. They know I exist, so I thought about whether to respond.

I responded back, just to do it, told them which varieties I have and have never heard back. Now, if I was a certifier I would not have accepted that as sourcing and there are two reasons. First of all, they are under an obligation to source for that hop in the form. All they did was ask if I wanted to grow organic hops.

I wouldn't have accepted because they'd never asked for the form so how am I supposed to know what organic hop is desired? Not only are they supposed to look for the hops with the right form but they also talk about quantities so I did not even get, "I want 5,000 pounds of variety X, Y, Z."

I don't know if it is but I would not have accepted that as one of the attempts to source organic. It did not ask for variety. It did not ask for quantity. The

big problem that they are having is a reluctance by breweries to give us any information and I have another example but, you know, there's people waiting. Thank you.

CHAIRPERSON GIACOMINI: Thank you. Jon Cadoux, Bill Wolf, Richard Holt.

MR. CADOUX: Thanks for the time. Valerie, thanks, before I even start, for just helping me out with this PowerPoint. I really appreciate it.

I'm Jon, I'm the founder and I'm the president of Peak Organic Brewing Company. We're out of Portland, Maine. I thought it would interesting to give a little bit of perspective from the brewer's side. We are one of the few brewing companies in the country.

I think there are under five who just exclusively brews organic beer so it's not a line extension for us. It's literally 100 percent of what we do. We're not diversified. Organic beer is everything to

us. I think that the perspectives before me were interesting.

I think that we all sort of agree on the 10,000 foot view that we all wish that organic beer was brewed with 100 percent organic hops. It's just that right now, at least today, that's not a reality. There are things that we can do in the future that I want to talk about to get there.

I think that we need to be really sensitive to brewers, too, who are critical to this entire supply chain and sort of the things that we're up against. The first thing, the challenge for us is that when a supply of 100 pounds of any organic variety comes up we're buying varieties in the thousands of pounds so that's what we need, sort of, to brew our beers.

Another thing, there is a lot of talk in this petition about unsold organic hops and I've looked a lot into it and I agree with the fact that there are some out there

that are unsold. The one that I've noticed is in the biggest quantity is the Palisade hop.

Valerie, if you go to the next slide real quick. A couple of years ago Anheuser-Busch decided to get in the organic beer game and they came out with a couple different organic beer labels and encouraged and worked with some farmers to create an organic Palisade hop which came out in really large quantities.

Then they have since backed out of that game, so now the Palisade hop, which Peak doesn't use and I think probably the vast majority of other organic brewers do not use, is sort of out there for consumption and it puts us in a difficult spot because it's not a hop that we use. Again, they encourage those farmers to grow a whole lot of that hop so it's a really difficult situation.

One thing I want to talk about is the fact that hops are not hops are not hops. There is this sort of notion of

interchangability which I think is really complicated. Different hop varieties have really different characteristics and the demand levels for different hop varieties vary considerably based on those characteristics.

These are two examples that I thought I would give you guys. The one on the left is the Palisade that I talked about before, and I highlighted in red some of the things that are critical to the conversation. This is sort of a spec sheet if you will. Both are aroma-type hops.

The Palisade hop gives off these sort of earthy herbal aromas and tastes and the Centennial, which is an increasingly popular hop used in IPAs, which is a very popular style, gives off more of a citrusy, floral flavor.

They are both technically hops, no doubt about it, but the flavor and the aroma that they give off are wildly different. I think that is something that really needs to

be taken into consideration. The key thing here is the oils, if you look at the bottom.

So the Palisade is pretty high on this caryophyllene oil. Sixteen to 18 percent of its total oils are that and, again, that oil gives off those sort of earthy, herbal aromas and flavors. Then the Centennial, the myrcene oil is 58 percent of total oils. That oil contributes to that big citrusy, floral taste profile.

And this is the taste profile that is really popular in the marketplace right now. That's just not something we can control. Consumers when they are buying craft beers are looking for hoppy beers, citrusy beers. That's what's selling.

Go to the next slide. This is on interchangeability. This is the opinion of Ian Ward, who is the president. He is a Ph.D. of Brewer Supply Group. I highlighted the key parts here; but, today there are huge variations in one hop variety to the next;

different concentrations of over 150 aromatic oils which interact to produce very different organoleptic responses in the human palate.

Some hops will possess a very citrusy character, others pine-like, and some will possess spicy hops. Indeed, they are examples of the same varieties grown. I'll skip forward. In this author's opinion it is possible for international brewers to swap varieties of hops but the same cannot be said for craft brewers.

I'll skip ahead. This just shows which brews are most popular in the market place right now. Again, pale ales, amber ales, IPAs using these citrusy hops. Interchangeability, again, we just see, out in the marketplace, it's absolutely critical that we have sufficient quantities of critical hop varieties. That is sort of part of 606, in my understanding.

Contracts. Peak. I can only speak for ourselves. Nearly 100 percent of

our barley and our hops are contracted and we believe, anyway, that we've done a lot to spur the supply of organic hops and organic barley and this has come at a huge cost. Right now our Hallartau contract is $27 a pound. I can buy at Spot for 9 so we have incurred absolutely huge costs for this but it's something that we're passionate on.

I have one more slide at the end that I would really love to show you guys, if that's okay. These are just some of our farmers doubling of organic barley over the least two years. Sorry, Valerie. If you could just keep going. Doubling the use of organic wheat, doubling the use of organic hops through contracts.

I guess we can go to the next one. Suggested next steps. Okay. The good news is, I think, like Amelia and Pat were saying, there's been some really nice progress in the availability of organic hops, there is no doubt about it. There is a lot of acreage.

CHAIRPERSON GIACOMINI: Could you give that to us in a hard copy rather than reading through the whole thing and wrap up this?

MR. CADOUX: Can I wrap it up now?

CHAIRPERSON GIACOMINI: You can wrap it up now, but don't read the whole thing.

MR. CADOUX: Good. Last thing. So that's the good news. The bad news is a lot of this was used for one particular hop variety and other varieties that are just not currently in demand so what we believe is, it's up to us as brewers to give contracts to growers who have come on line and that is something that we are dedicated to doing.

There's no doubt about it. We have done it in the past and we'll do it in the future. But I think, and I think I speak on behalf of brewers, there needs to be a lot of sensitivity to this whole interchangeability piece and the lack of

diversification with hops. If one of my critical hop varieties, 100 percent of it is coming from one farm, and for whatever reason that farm goes out of business, there is a weather event, something happens and that variety is gone and hops --

CHAIRPERSON GIACOMINI: Thank you. I think we understand where you're going.

MR. CADOUX: Okay.

CHAIRPERSON GIACOMINI: We just need to continue and move on. We're extremely far behind. Very quickly, questions.

Katrina.

MS. HEINZE: Just generally, for beer, how much is water, how much is hops, how much is whatever else goes into it? Like a 30-second answer.

MR. CADOUX: Vast majority of it is water. Hoppy beer might be 1.5 percent hops. All of our beers are over 99 percent organic. Most are over 99.5 percent organic.

CHAIRPERSON GIACOMINI: Steve.

MR. DeMURI: Real quick. In your opinion how long do you think you need to get there?

MR. CADOUX: I think we can do it in 2012. I do. I think that if that is a hard goal and one thing goes wrong, we're in big trouble. Again, looking out there in the United States and Pat's association I think it seems like there are four farms out there right now that are capable of growing the type of acreage that we need.

If something were to happen with one of those, you know, it wouldn't work out. I do believe 2012 is possible but I think there needs to be some sensitivity to what is going to take to get there.

CHAIRPERSON GIACOMINI: Any further questions? Okay. Thank you.

Bill Wolf, Richard Holt. I'm gong to assume it's Stephen Colbert. I don't think Stephen Colbert is probably here.

One last thing, Jon. As Bill

comes up to the viral video that's going around, please keep it as beer and not sparkling malted barley beverage.

MR. WOLF: While Valerie is bringing up some slides, it's way after dinner time my time. I also submitted a proxy and I will not use the entire proxy. Nibble on those while I get ready for these public comments. I do have a proxy but I do not intend to use all of the second five minutes. I will be as brief as I can.

I'm going to talk about four specific areas that you all are struggling with and working with: first, on continuous improvement, second, on the stabilization of the regulatory environment, third, on clarifying synthetic definitions, and fourth, about inert ingredients.

To frame this, the roots of organic agriculture are obviously a healthy soil system. I've always talked about the core principles behind the decisions about

organic regulations being to ask the earthworm, to see what they like in the system. That's the frame.

Now I'd like to talk a little about continuous improvement because very few people look at organic as anything but the absence of certain things. We've got several new Board members here some of whom are familiar with this principle but I think it's critical to the way we think about moving forward, and organic is more than no chemical pesticides or fertilizers.

Built into the regulations I've referenced four examples, not just in cropping, not just in soils, but also in pest control and in facility management where it's embedded in the regs. With that in mind I want to talk about the principle of continuous improvement and request three ways to really promote continuous improvement.

The first one is something I've testified about several times in the past and

it's kind of bogged down. I know it's not at the top of the list but I'm going to address it both to the NOSB and the NOP, and that is that I think that if all ACAs had a place to post every commercial availability decision in a generic form, efficiently, on a website, it would give us all a transparent place to understand what is actually happening with decisions like organic hops or anything else, or organic seed, or the non-organic ingredients that are on 605.

Which takes me to point B, which is, to apply organic preference to all ingredients. Period. Across the board. We're seeing that in regulations around the world. Canada has actually embedded it in fertilizer requirements.

C. When the list was constructed, and I was one of the reviewers of some of the materials back in the '90s, we really weren't thinking about it being highly complex in the structure of the list. Having 605 be broken

into two sections and having 605 and 606 separated has actually caused an awful lot of the discussions that we've been having.

I would say that longer-term a solution to some of these side debates where we are not encouraging earthworms and instead we are creating a lot of bureaucratic conversation might be to look at merging 605 and 606 and reducing the debate about ag and non-ag and synthetic and nonsynthetic.

Next slide, please. This is where the heart of your work right now is so now we're going to get down in the bushes, your work about clarification of synthetics. First of all, the March 1 documents are extraordinarily thought out, well done, moving forward.

I think it does clarify the intent of synthetic and chemical change far better and it captures the precautionary principle to restrict and review manmade synthesized compounds. I think it improves the definition

of chemical changes so I support that work.

I do want to raise three concerns for consideration. One, continuing to watchdog against the use of the definition of synthetic that would cause the loss of commonly accepted natural materials by looking so closely at materials that we come up with the idea that somehow it's synthetic.

I can tell you from doing reviews of foreign regulations that they don't even look at inerts, carriers, processes. The active ingredient is all they look at. Now, I'm not saying that's right or wrong. I think actually they need to do more looking, for those foreign regs, but I think we've been looking way too deep.

I was president of the Board of OMRI for a number of years. I've not been on the Board for the last six. I believe that some of this work is going in the wrong direction. We are looking at the wrong -- not at the critical issues in organic. I want to

say, please, be careful what you do that causes damage to the availability of natural materials.

And I could give you some examples of those but I'm on a limited timeframe. I've heard conversations and I've worked on all kinds of issues like ion solutions that would technically be a chemical change if you look at it in one way as a chemist.

No. 2, I think that there are categories on the National List but they are generic categories such as insecticidal soap and sticky traps. And I think that, you know, for example, another category that really should have been petitioned should have been sugar esters rather than a specific compound within the sugar ester group. I present that as a concept because we are going down a road where we are going to end up without those groups.

Then, 3, there is a specific set of language, in the March 1, 2010 document

where the specific paragraph, the last paragraph of page 9, says, "the presence of any synthetic would cause a material to be a synthetic."

I think you need to clarify what you meant by the presence of any synthetic and I suggested some language here where it would simply add the phrase, "the presence of any synthetic at significant levels and specifically added as an ingredient."

The insignificant significant issue I know you're discussing and I've worked on it as well. It's part of the materials working group. I think that you're not going to come up with a number in every case, but I think it's really about functionality. If that material is there at an insignificant level and is not doing anything but was part of the process of getting us a natural material, then it's insignificant.

Next slide, please. Regarding inert ingredients. I have registered

pesticides. I have manufactured biologicals and botanicals in a past life back in '95. I stopped doing that but bottom line is that it's a complicated process. It's very complicated to get a registration through EPA.

I think that your current proposal is unworkable. There has been discussion and presentations about that. There have been several suggestions that are good suggestions that you've heard from presenters and in public comment. I think cooperating with EPA on the review of the merits is critical, number one.

And number two, I think the EPA's newest proposal for full disclosure of all inerts is good for everybody but I don't think we should get ahead of the curve, meaning that I don't think we should require it at any faster pace than the EPA is doing. I think we can retain the list for principle by referencing the inerts allowed in 25(b) and the inerts on EPA's list 180.950.

Next slide, please. That's just about Wolf DiMatteo. I'm open for questions.

CHAIRPERSON GIACOMINI: Questions from the Board. Katrina.

MS. HEINZE: This is not a question but a clarification. I appreciate the detailed reading of our addendum. Unfortunately page 9 is actually not part of our addendum but it's part of our November recommendation.

MR. WOLF: Correct.

MS. HEINZE: But I do get your point, so thank you.

MR. WOLF: Thank you for pointing that out. I should have clarified that. I would say that is a good example of this whole process that the perfect is not the enemy of the good and I quote from the Deputy Secretary when I say that. In this whole process we need to be protecting the long-term overview, that everything fits together.

MS. HEINZE: I appreciate your

comments. Thank you.

MR. WOLF: Thank you.

CHAIRPERSON GIACOMINI: John.

MR. FOSTER: It's a real question this time.

CHAIRPERSON GIACOMINI: Good.

MR. FOSTER: Bill, what are some of the examples of materials that you feel being -- the natural materials you fear are being lost?

MR. WOLF: Well, I'll give you four examples. One, in mine mineral processing ionic bonds are broken and put into water and then recollected. In fact, that's how salt is produced.

There are a number of mine minerals that are produced that way that would end up technically being synthetic if you said, "Well, was the chemical bond broken?" Salt would be considered -- most formulations of salt would be considered synthetic under that definition of chemical.

That's why I go back to, was it a manmade compound? And I think you have captured that in talking about did it represent its original material and intention. That's why I've said you've made real progress in clarifying that gap. We talked about those examples last time.

The second one is about compost and this one makes me very nervous because there is a number of materials going into compost, especially food waste materials that contain synthetic materials in the process, or synthetics that are byproducts or even products of food.

Does that, therefore, make that compost synthetic? That was not, in my opinion, our intent in developing the organic principles. So you've got manure, you've got compost, you've got food waste. I think the conversation about corn steep liquor fits the same conversation. If you drill down and say was the bond broken, where was it broken, it

couldn't have been broken in the soluble part of the corn.

There's no way, because what happens with that process in terms of S02 is that it's absorbed by the corn and there is an error in the presentation that was made on the website now because that flow chart is wrong because it says that the corn mash was produced before the corn steep liquor was removed. That's not the case. In other words, we've got to really be careful where we go here. Manure is the same way.

Manure from conventional farms is currently being used and I would love to see a time in the future where we only use manure from organic farms. We're not there yet but right now, manure from conventional farms contains, by their very character, synthetics. Those are a few examples.

CHAIRPERSON GIACOMINI: Katrina.

MS. HEINZE: Sorry, Dan. Have you had a chance to think about the new language

that you presented this morning?

MR. WOLF: I heard it. I read it. I liked your intention. I don't fully understand it. I would like to see it. I wish it was a handout.

MS. HEINZE: Sorry about that.

MR. WOLF: I'm sorry about that.

MS. HEINZE: I know there are some people in the audience who have it on their computers now.

MR. WOLF: Right.

MS. HEINZE: Perhaps you could ask one of them for it.

MR. WOLF: I will look --

MS. HEINZE: It would be great if you could think about it.

MR. WOLF: I will look at it and I'll be here tomorrow.

MS. HEINZE: Thank you.

MR. WOLF: Thank you.

CHAIRPERSON GIACOMINI: Thank you.

MR. WOLF: Thank you all.

CHAIRPERSON GIACOMINI: Richard Holt, Stephen Colbert, Walt Talarek.

MR. HOLT: Good afternoon and thank you for the chance to come and speak today. My comments are a bit of a follow-on to what I just heard, especially talking about significant and insignificant levels and also a number of comments I've heard today about list 4 and being incomplete and the problems that creates.

I think I've got a real world example to talk about. Beginning, my name is Rick Holt. I'm here on behalf of the DuPont Company. My comments today, and those of my colleague to follow, are intended to respectfully ask the Board to include the review and hopefully approval of two key inerts on the agenda in time for your next meeting in the fall.

These inerts are tetramethyldecyne diol, or TMDD, and ethylene glycol. Both are extremely low-level antifoam agents that are

essential components of the Kocide copper formulation. Although we at DuPont looked, we were unable to find any nonsynthetic replacements for it.

Kocide, as I'm sure many of you know, is the low use-rate copper fungicide and it has been a staple in organic production for many, many years. Unfortunately, it's been unavailable for the last couple of growing seasons while awaiting approval by the Board of these two inerts, both of which were caught in this catch-22 that we've been talking about with EPA relative to list 4.

Both inerts were, in fact, approved by EPA have tolerance exemptions and would have been included in the list 4 if, in fact, list 4 had ever been updated which, as we know, never occurred.

As described in the procedural rules for this Board, the DuPont company did prepare and submit petitions for both inerts in 2008. I believe the crop committee

received the technical views completed last year. Both inerts were, it was my understanding, originally intended for a review at this meeting but were superseded by other issues on the agenda.

If time had allowed, I would spend some time covering the toxicity and the fate aspects of these ingredients nor is this the venue for doing that. However, in your deliberations in the fall if, in fact, you do review this, which I hope you do, I would kindly ask that you factor in this one important factor when you do that.

I'm showing on this slide here both of these inerts are in the Kocide formulation at extremely low levels. They are there at a 10th of a percent of the Kocide formula which gives you an inert rate of .001 pound per acre. That translates to .45 grams per acre if you look at it on an in-use example.

If you were to assume no

degradation, or very little degradation, you would be hard-pressed to actually find any of this material in the environment. I'm personally a very visual person so we have a next slide; this sort of puts it into perspective.

You've got two vials here, one on the left there with sand and the other with colored water both at a half a gram. You can imagine spreading this material over an acre of land. You're looking at what I interpret as talking about insignificant levels and that's what we're looking at here.

I would ask in any review that when you're looking at risk that you factor in your calculus the real world exposure that we're talking about here. We're not talking about very high levels.

To conclude my presentation, I also have a number of, if I could, letters of support we received from our growers. This first one is from California, Oxnard, stating

that "we need Kocide available for organic production because it has the lowest rate of copper and is the most environmentally friendly copper choice on the market."

This is from Tehema up the road here. It says "without Kocide available our yields would go down due to less packaging control and less resistance to management." The third from the Florida Fruit and Vegetable Association down with Dan Botts and that crew stating that "FFVA strongly endorses the organic registration and reinstatement of preservation efforts and placement of Kocide back onto the OMRI list of approved products."

Finally, the last from Frank's Crop Watch stating that "Kocide products offer organic growers superior copper fungicide in comparison to the available alternatives."

With that, I would like to say thank you for the opportunity to talk and, again, restate my plea that at the next meeting in the fall that you take on the

review of these and hopefully approve at least two inerts. Thank you.

CHAIRPERSON GIACOMINI: Any questions? Thank you.

Stephen Colbert, Walt Talarek and Cam Wilson.

MR. COLBERT: First off, I would like to thank the Board for commenting on the Colbert report and I have a lot of questions for you. And it is Colbert, it's not Colbert. I'm the product development representative for DuPont here in Northern California so I do a lot of the testing and working with growers and customers with our products.

Of course, Kocide is a very large product for us. Copper fungicides are an essential part of many programs for disease control. As Rick previously mentioned, Kocide was standard for many years for organic production with some of our older products. I would like to get into what benefit it is to your growers to have Kocide on the approved

list.

Go ahead and we'll go to the first slide there. The Kocide brand has been around for quite a long time. It's the market leader in the United States. It is the most available product for growers to use of a copper hydroxide or copper fungicide.

DuPont is committed to environmental stewardship. We do have technical assistance. We do awards for various programs. We offer quality products that are very, very high standards. As it shows there, we do use recycled copper. We no longer mine it. At one time, Kocide was Kennecott Corporation, Kennecott Mines. That is no longer the case.

It does meet the highest standards for purity, for world organizations as well as for the United States. We pioneered the process of using less and less copper per acre.

There was vision within the

company at one time that said we are going to run into regulatory environment in the near future and cost that is going to mean we have to use less copper which provides an environmental benefit as well. We do market now products that you can use at much lower copper use rates than you could at one time. Therefore, the load in the environment is reduced.

Go ahead. A little bit of background on how copper works. Copper itself is a metal. You could throw all the copper wire you want at a disease and it wouldn't do anything. It has to be formulated in such a process that it can be released as an ion in water. You get the copper ion. That is what does all the work. For most formulations that's going to be in the low parts, one part per million, five parts per million in the water.

At any rate, the way to get around the fact that you could only get so much copper

into the water as a bioavailable or active ion was to develop new patented formulations that included certain ingredients that allowed you to take that to more like 100 parts per million. Therefore, you would have more active copper. You could do more disease control and use less total copper.

This has been pushed and pushed and pushed over the years and now we have Kocide 3000. You're actually using, let's say, for example, in grapes where you would have used two pounds of our older formulations at a 50 percent product, 50 percent copper, you would now use one pound that's 30 percent copper. So you are using 25, 30 percent of the total metallic copper that you want to use.

The other thing is that we provide the best formulations out there, the lowest foaming, the best mixing, the best sprayability. That's why we use the antifoam agents in there is, in the manufacturing use

of the product you don't want to have this much foam in your tank when you're spraying. It makes it impossible to spray.

Again, we would like to be organically certified. We strive to be there. We've been working on this for a couple of years now and would really appreciate your considering us and getting us onto the next meeting's agenda. Thank you very much.

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: Thank you for your comment. Do you guys have a label approved by EPA with these inerts in the Kocide product?

MR. COLBERT: The current product is labeled, and has been out for a few years and it includes these inerts which were reviewed from the one list.

MR. FELDMAN: So this is a basic section 3 registration, it's standard registration?

MR. COLBERT: Right. It's done and it's marketed worldwide and in a few years

in the United States as well.

MR. FELDMAN: Right. Thank you.

CHAIRPERSON GIACOMINI: Thank you. Okay. I think, in the essence of time, we still have about a third of the list to go, but we'll put this, maybe -- but we will try to continue to restrict our questions but I'm going to ask a little help from yourselves also. Any of you that would like to be held to a three-minute minimum tell us when you come up and we'll set that clock. That's is yours. No one is expected to do that.

MR. TALAREK: Good afternoon. My name is Walt Talarek. I'm here today representing W. Neudorff GmbH KG, or otherwise the Neudorff Company.

MR. SMILLIE: You're the guy.

MR. TALAREK: I must be.

MR. SMILLIE: All those petitions.

MR. TALAREK: Right. There's a lot of science that we submitted to you in rebuttal of the Steptoe and Johnson petition

to delist. I'm here primarily to encourage you to review the science and our evaluation of the science.

In any event, Neudorff is a small 150-year-old company. It's family-owned, based in Emmerthal, Germany. The company is dedicated to providing reduced-risk pesticides such as those containing ferric phosphate as well as biopesticides.

Neudorff is a producer and registrant of a slug bait containing ferric phosphate as the sole active ingredient. As you know, or may know, ferric phosphate occurs naturally in the environment. However, because of its lack of availability large quantities are produced for Neudorff and for its use in slug and snail bait.

In the US, as you guys know, ferric phosphate is currently allowed by the USDA at the regulation at 7 CFR Section 205.601(h). In other words, it's listed on the National List. I am here today to

encourage you to continue the listing of ferric phosphate as a molluscicide on the National List.

Throughout the world to date ferric phosphate's uses as a molluscicide for organic production has been approved by the Codex Alimentarius Commission, IFOAM, and the European Commission. Currently, Neudorff slug and snail bait is registered for organic production in the US by the US EPA as well as throughout the EC countries.

In the US, in our slug bait, I can tell you that all the inert ingredients are on EPA's list 4. Furthermore, the OMRI has certified Neudorff slug and snail bait for organic production here in the US

In Europe, Neudorff slug bait containing ferric phosphate has replaced metaldehyde slug baits for organic production. That occurred in approximately 2006. Neudorff believes that ferric phosphate continues to meet the OFPA criteria for listing as a

substance for organic production.

We did submit, as you know, to the docket a substantial list of comments this March. Also, we submitted to the docket our response to the Neudorff petition which we submitted in hard copy in January of this year to the Board.

Ferric phosphate is the only active ingredient in Neudorff slug and snail bait. We have submitted scientific studies supporting that statement to the docket. And actually, it's appended to our response to the Steptoe petition.

Ferric phosphate by itself is active as an ingested poison for mollusks. However, because it needs to be ingested for activity, carriers such as common foodstuffs and dispersants are used to encourage slugs and snails to eat the bait and to assist with the bait's digestion and absorption in the slug's gut.

Ferric phosphate does not react

with EDTA during the manufacture of Neudorff's slug and snail bait to form iron EDTA as an active ingredient. I think that is a key issue for you. I saw that in the recommendation. Again, we have submitted documentation supporting that statement and we encourage you to review the science behind that statement.

Ferric phosphate, I say this emphatically, has no unacceptable toxic effects on earthworms. Again, we submitted the scientific documentation supporting that statement. As a matter of fact, the study submitted by Steptoe has been critiqued.

If you look at the full 14 days worth of study, you'll see that statement I just made that there are no unacceptable toxic effects on earthworms is correct unlike the statement based on the truncated 10-day comment by Steptoe. Thank you.

CHAIRPERSON GIACOMINI: Questions? Joe.

MR. SMILLIE: First of all, let me apologize for my little outburst. It was not meant as a disparagement whatsoever but that was the most voluminous amount of scientific testimony that I have ever had the occasion to have to read through. Certainly, you have definitely made your case. Again, I apologize.

When we first got to the regulations I thought there was a mistake because this ferric phosphate thing kept coming up again. I said, "What is going on?" I realize that each of those are a separate submission and it was truly voluminous. I think it was a record.

MR. TALAREK: I apologize because the www.regulations.gov website only accepts 10 megabytes worth of data in a comment. Now, some of these studies run 60, 70 pages long so they had to be divided up into three or four parts. I apologize for that. My daughter did help out so it wasn't that much of a burden.

CHAIRPERSON GIACOMINI: Jay, did you have a question?

MR. FELDMAN: You say on page 2 that ferric phosphate, when used, does not cause unreasonable adverse impacts on humans or the environment. As you know, that's not the Organic Food Production Act standard for safety so I'm wondering what is reasonable or what is unreasonable in this context?

MR. TALAREK: I probably took that from my EPA jargon.

MR. FELDMAN: Exactly.

MR. TALAREK: Normally, I do EPA registrations.

MR. FELDMAN: Okay. I was wondering about that.

MR. TALAREK: Okay. Basically, if you look at the tox database for ferric phosphate you see that the acute tox is toxicity level 4 for the acutes, subchronics and chronics. There are no adverse affects.

MR. FELDMAN: Okay. So you think

it exceeds the standard required.

MR. TALAREK: Yes. Absolutely. Thank you.

CHAIRPERSON GIACOMINI: Thank you. Okay. Cam Wilson. Then, on the suggestion of the speaker earlier today, since that is the last one listed here for this subject, I think then we will take a break approaching the 5:00. After that will be Lyle Wong and Leslie Zuck.

MR. WILSON: Thank you, NOSB. Walt is responsible for the submission so don't shoot the messenger. I will continue where Walt left off on the discussion about ferric phosphate to keep it on the National List and to refute some of the claims that were made by Steptoe.

My name is Cam Wilson. I'm the Chief Technical Officer for Neudorff North America and I'm obviously here to defend ferric phosphate and keep it on the National List and let me to tell you the reasons why.

First and foremost, the need. Organic growers, as many people have spoken earlier, need an organic slug bait, and ferric phosphate satisfies that need. Strawberry growers, artichoke growers, hops growers, citrus growers, in this area in particular, need an organic slug bait.

Also, and many of you may not be aware of this, but those of you from the east that are involved in the dairy industry there is a vector for liver fluke and it's a snail.

Currently organic dairy farmers do not have control for that snail outside of Sluggo, which is the commercial name for the product, the ferric phosphate bait. Not only is it crop growers but it's also dairy farmers require something like this product.

The alternate methods, such as copper banding and hand picking, are not practical. I can't speak as a grower but I think the growers here if they were told to speak on that issue would become very

passionate about it. In the past ducks were recommended and we all know the issue of ducks in organic production. It's just really not practical, once more.

Earlier a speaker mentioned, the speaker for Wild Farm Alliance, and it was very interesting because we are currently working on a project with the US Army in Hawaii that is reforesting wild plants and they have a problem with a slug and they want an organic product. So without Sluggo that project would not go forward.

Just as a reminder, five years ago I was here, or in D.C., and petitioned to put ferric phosphate on the National List. As a result of the TAP review the NOSB voted 10 to zero to add ferric phosphate to the National List. No one voted against putting ferric phosphate on the National List.

I believe that still stands true today, that the product has minimal impact on humans and the environment, has no synthetic

substances available for mollusk control at the moment and the material is compatible with organic production practices.

The product is recognized, as Walt mentioned, by IFOAM as an active in organic production and by the European Commission. Throughout the world, everywhere where Neudorff, our company, has registered our slug bait, ferric phosphate is recognized as the active ingredient.

In total, and it is a list that has been provided to you on that website, approximately 22 countries have registered the Neudorff slug and snail bait with the active ingredient ferric phosphate.

I want to talk now about the Steptoe petition. Many of you may not be aware of this but that was competitor-based. Where that came from, Steptoe, was from a competitor of the ferric phosphate baits so that's the origin of the petition to remove. As far as I understand, no one in the organic

community has petitioned to remove ferric phosphate from the National List.

I'm going to go right to the conclusion because I think it summarizes things nicely. Just as a reminder, EDTA is a list 4 inert. All the inerts in the Neudorff slug and snail bait are list 4 and are acceptable by the NOP standards as of today.

In summary, organic farmers need an effective slug and snail bait. We have proven with all the submission in every country in the world that ferric phosphate is the active ingredient in the Neudorff bait.

As I mentioned, all the inerts are on the August 2004 list 4. As recent as January 2010, the EPA staff approved the Neudorff label with the NOP and OMRI confirming that the product is NOP compliant. The active ingredient is ferric phosphate. Just to repeat what Walt said, ferric phosphate slug and snail baits are not harmful to earthworms, as some may have led you to

believe.

Based on the facts I have provided I ask you to keep ferric phosphate on the National List. Any questions?

CHAIRPERSON GIACOMINI: Jay.

MR. FELDMAN: Thank you for your comment. Are you able, willing, or whatever to disclose the inert ingredients?

MR. WILSON: It has been provided to you.

MR. FELDMAN: It's provided to the Board?

MR. WILSON: Yes. In fact, it was provided in the Steptoe petition to remove it.

MR. FELDMAN: Okay. So beyond the EDTA and the EDDS there are other inert ingredients?

MR. WILSON: Flour and sugar.

MR. FELDMAN: Okay. Thank you.

MR. WILSON: Any other questions?

CHAIRPERSON GIACOMINI: No, I think that's it.

MR. WILSON: Thank you.

MR. TALAREK: There no EDDS in the US as slug bait. That is an alternative substance that is used elsewhere in the world, as a substitute for EDTA.

CHAIRPERSON GIACOMINI: Thank you. Okay. We're going to take a break. Next up will be Lyle Wong, Leslie Zuck. Does Katherine win the award for the first one to give up her space in the case of time? Thank you, Katherine. Followed by Tom Hutcheson. Again, let's go 10 after the hour on that clock. And Board members, please try to be prompt.

(Whereupon, the above-entitled matter went off the record at 4:59 p.m. and resumed at 5:11 p.m.)

CHAIRPERSON GIACOMINI: First up is Lyle Wong, Leslie Zuck, and Tom Hutcheson.

Mr. Wong, we needed eight seated and as soon as we have that, you can begin. Go ahead, sir.

MR. WONG: Members of the Board, my name is Lyle Wong. I am head of the Plant Industry Division of the Hawaii Department of Agriculture.

The Hawaii Department of Agriculture recently submitted a petition to USDA National Organic Program.

CHAIRPERSON GIACOMINI: Excuse me. Could people please take conversations outside? We're back in session. Could someone please close that door also so we can hold the noise down? Thank you.

MR. WONG: The Hawaii Department of Ag recently submitted a petition to USDA National Organic Program requesting the listing of formic acid as an approved substance for organic handling and processing.

This petition was submitted as a result of the recent introduction of the varroa mite into Hawaii and the need for an effective chemical control for this pest for the survival of organic honey production in

the State of Hawaii.

This is the first submittal of a petition by the Hawaii Department of Ag for a listing of a substance as organic. USDA NOP has completed its preliminary review of the document for completeness and we are hopeful that the document and our request for a listing can now proceed through the vetting process established by the National Organic Program.

From a discussion with USDA, we understand that the process could take possibly 18 to 24 months to complete, assuming all goes well for a determination. As author of the petition, I'm hopeful that a determination will be positive for listing at the earliest possible date.

To my comments I've attached a letter from Philip Grad, an organic beekeeper in Hawaii to the Honorable Dennis Cardoza, Chairman of the US House Committee on Agriculture, seeking his assistance to have a

temporary but immediately ruling that would permit US beekeepers to control parasitic mites, including the varroa mite, with formic acid without jeopardizing their honey organic certification.

This thoughtful letter from an organic beekeeper in Hawaii goes on to state that under the US/Canadian Organic Equivalency Agreement, Canadian beekeepers using formic acid can export their honey to the United States and label and sell it as organic using either the Canadian or US organic seal. However, US honey producers using formic acid are not permitted to label their honey as organic.

He adds further that other organizations and countries, such as the European Union and New Zealand, also permit the use of formic acid in the production of organic honey.

The Hawaii Department of Ag strongly supports this request for a temporary

ruling to allow the use of formic acid for mite control in the United States, which would allow the time needed by the National Organic Standards Board to develop a permanent position regarding position without disadvantaging US beekeepers.

For beekeepers in Hawaii, a delay in ruling of two years will, in all likelihood, see the collapse of the organic honey production in Hawaii to the varroa mite and to the absence of a control method that other producers have the privilege of using as organic not only in their producing area but also for distribution of product into the United States under an international agreement.

This would be a disaster not only for the producers in Hawaii, which are all small rural families, but for Hawaii agriculture as well. From worldwide experience with the varroa mite, Hawaii can expect the loss of the vast majority of its

many thousands of feral hives that supply bees with crop pollination throughout the Hawaiian Islands.

The Hawaii Depart of Ag and growers have been struggling with this reality for the past two years. It is likely that a number of small traditional beekeepers will step up production of managed hives with pesticide treatment to control the varroa mite for pollination services.

The reality is, however, that the only source of bees in Hawaii in any significant numbers at this time is through the organic honey producers, by far the largest beekeepers in the state.

The largest organic beekeeper in Hawaii is, in all likelihood, the largest organic honey producer in the United States. The loss of this sector of the industry to the varroa mite in Hawaii in the absence of an effective control would deprive the US market of certified honey previously available from

major sources in Hawaii and will vastly complicate how Hawaii is to transition into a system of organic production entirely dependent on managed hives throughout the Hawaiian chain, a very serious concern and problem for the State of Hawaii and the Hawaii Department of Ag.

Organic honey production is an important industry in Hawaii and an essential industry more so than ever to Hawaii at this point in time. I am not sufficiently familiar with organic -- the national organic standards to say whether the law provides for what is being requested but as Chief of the Pesticides Branch as well, I know that the provisions are available under the Federal Insecticide Fungicide Act to address true emergencies. The risk-based standard of FIFRA provides for --

CHAIRPERSON GIACOMINI: Wrap it up please.

MR. WONG: -- yes -- emergency

exemptions which are, hopefully, likewise available through a national organic standard.

Thank you.

CHAIRPERSON GIACOMINI: Any questions? Tina?

SECRETARY ELLOR: Don't growl at me, Dan.

CHAIRPERSON GIACOMINI: It wasn't a growl.

SECRETARY ELLOR: I have a question more for the program. And we talked about this a little bit this morning and with Katrina.

Is there an option within the rule that would allow for an emergency approval?

MR. WONG: Well, there is a temporary variance but it is not relevant for materials. There is emergency pest and disease treatment under I think it is 671, which allows the use of a prohibited substance under an emergency basis. But the products that are treated cannot be sold as organic.

But you don't lose the certification but you would lose the market.

CHAIRPERSON GIACOMINI: Jay?

MEMBER FELDMAN: I'll get this by the end of the meeting. Thank you.

Maybe this is a question for the program in terms of certification of organic honey production, where is that? Where do we find that? And is that just -- I'm -- I mean there are two elements to this. Obviously one is the care of the hives, the management of the hives.

But there's also issues around foraging and in conventional fields and conventional areas where there are flowering plants and whatever. So how has the program dealt with this, the labeling of organic honey?

MR. McEVOY: Well, it is a very interesting dilemma because there are not specific standards on organic honey production.

So there is an NOSB recommendation on apiculture. But if you look in the National Organic Program regulations, there's nothing specific to bee production.

MEMBER FELDMAN: So when I go to my co-op and I see organic honey with the USDA seal --

MR. McEVOY: It is certified by an accredited certifier. And it is certified under their best work to verify that it meets the national organic standards. So I'm not familiar with exactly what the certifiers are doing. But these are accredited certifiers that are following the national organic standards.

MEMBER FELDMAN: Maybe you can help with this. Is this product registered by EPA?

MR. WONG: Yes, it is. Formic acid is registered.

MEMBER FELDMAN: What is the product name that --

MR. WONG: It's Mite-Away. There is a Mite-Away 2 that has been around for quite a while but we can't use it in Hawaii because of temperature restrictions. So to get formic acid for our beekeepers, our traditional beekeepers, we have registered a 24C that has no temperature upper limit and a shorter exposure period.

MEMBER FELDMAN: So it is a special local needs permit just in Hawaii and other states?

MR. WONG: Yes. Other states are going to get registrations for a section -- for 24C and it is probably going to get a Section 3, too.

MEMBER FELDMAN: Okay. And do we know the inert ingredients in the product?

MR. WONG: That we have provided to USDA through the -- but it has confidential business information. There's nothing particular unusual about the inerts.

MEMBER FELDMAN: Okay. So the

dilemma is we don't really, as a Board, have a standard for organic production. The implication here is we are being asked to allow a material that would presumably be used -- knowingly be used to put a label on a product for which we don't have a process that we have approved.

So it sort of puts us in a bind, I think, as a Board, doesn't it, to essentially imply approval of a label, and presumably a process for management of hives, that we haven't really approved or at least the materials haven't been approved.

MR. McEVOY: Well, you have recommendations that you have approved. You have final recommendations on apiculture. And so a petition for something that is specific to apiculture could be a relevant thing for you to consider. I don't see that as a conflict.

MEMBER FELDMAN: Okay.

MR. McEVOY: You already have

recommendations. And it complements the recommendation or it could complement the recommendation.

MEMBER FELDMAN: Okay. So just so folk know, what we have here is a situation of a chemical that has not been registered by EPA.

MR. WONG: No.

MEMBER FELDMAN: The registrant is getting what is called a 24C registration, which is a Special Local Need permit.

MR. WONG: No, it is registered.

MEMBER FELDMAN: I thought you said it was pending, a Section 3.

MR. WONG: No, no, no.

MEMBER FELDMAN: I'm sorry.

MR. WONG: Formic acid is registered as a mitacide by US EPA, Mite-Away 2.

And what we did was we issued a 24C registration to provide for the use of formic acid under local conditions, which is

the temperature regimes that we have in Hawaii. So that formic acid end-use product is under a 24C specifically for use in Hawaii.

But formic acid is approved by US EPA for varroa mite control throughout the United States.

MEMBER FELDMAN: I don't want to drag this out but what makes it special in Hawaii then? Why can't you just go with the regular Section 3?

MR. WONG: Because we can't be compliant with the label requirements for not exceeding 82 degrees Fahrenheit over a 21-day period.

MEMBER FELDMAN: I see. Okay. Thank you.

CHAIRPERSON GIACOMINI: Have you submitted a petition for this to the program?

MR. WONG: Yes. And EPA -- I mean USDA has it. And they are looking at it for completeness right now. And I guess it will come to the Board.

CHAIRPERSON GIACOMINI: Okay.

Katrina?

MEMBER HEINZE: This is actually a question for you, Dan. Once we get that, this is a livestock material, right? Because it's used for pest management on the bees?

CHAIRPERSON GIACOMINI: It's on the bees themselves I would think.

MEMBER HEINZE: As opposed to a handling material?

CHAIRPERSON GIACOMINI: I would think so, yes.

MR. WONG: Correct.

MEMBER HEINZE: Okay. I just wanted to clarify. Little fuzzy for me.

MR. WONG: Sucrose esters are approved for varroa mite control. And so that's elicited.

And the formic acid is -- when you put it in the hive, it's there as an acid vapor from a pad, the delivery system. And bees happen to be very tolerant of formic

acid, possibly because it's in the stinger. And it's a natural product of honey, too, formic acid.

CHAIRPERSON GIACOMINI: Any other questions?

MS. FRANCES: Just a comment. Sucrose octanoate esters was looked at both in livestock and crops because the bees are in the field. That was looked at in crops, too, just so that it was kind of covering the bases.

CHAIRPERSON GIACOMINI: Okay.

MEMBER FELDMAN: So can I ask Miles another question? If they use the special provision, they couldn't sell the crop as organic but they could return to organic production immediately?

MR. McEVOY: You're talking about 671?

MEMBER FELDMAN: 671.

MR. McEVOY: I'd have to read 671 and so I can get you that answer.

MEMBER FELDMAN: Okay.

CHAIRPERSON GIACOMINI: Okay. I think this Board would need to work through the petition process. You've done that. As soon as it comes to us from the program, the other issues I would suggest you continue to work with the program on whether there is any kind of a "variance" and proceed from there. And hopefully we'll be able to come to some conclusion.

MR. WONG: Thank you.

CHAIRPERSON GIACOMINI: Okay. Is Leslie not here? Okay. Thank you, Leslie.

Tom Hutcheson, Patti Bursten-Deutch, and Pat Kane. Not here.

Jake Lewin? Proceed.

MR. HUTCHESON: Good afternoon, I'm Tom Hutcheson.

CHAIRPERSON GIACOMINI: Okay. Oh, I'm sorry. Pat Kane.

MR. HUTCHESON: Okay. Good afternoon. I'm Tom Hutcheson, Regulatory

Analyst for the Organic Trade Association. OTA, with its democratically-elected board is the membership business association for organic agricultural products in North American. We thank NOSB for the opportunity to provide comment. Please refer to our written comments on enclosed operations, animal healthcare products, and nanotechnology, as well as fuller discussions of the items I'll cover here.

First on Sunset items, OTA supports the recommendation for all items identified for continued use at this meeting. Unfortunately, items in the documents NOSB has prepared are not completely consistent with items published in the two Federal Register notices.

And the three opportunities for comment have caused some anxiety in the trade unnecessarily and we hope NOP and NOSB can collaborate more closely in the future to avoid confusion.

On List 4 inerts, OTA does not support the recommendation of the Crops Committee, particularly the suggestion that NOSB needs to review all inert ingredient components used in current NOP-complaint pesticide formulations. This recommendation would result in a significant loss of tools available to organic growers.

NOSB is not a smaller version of EPA for reviewing individual inerts. This would result in a large and unnecessary burden on NOSB with over 250 currently approved unique inerts. NOSB should work with NOP and existing technical advisors such as OMRI in adjusting to the changed regulatory environment rather than trying to stand in for EPA.

On methionine, OTA supports the recommendation with the following adjustments. OTA suggests that the reduction of the allowed amount by two pounds per ton applied to layers also be applied to pullets, which are not

currently treated separately although as growing chickens, they have higher nutrient needs and broilers.

Broilers, which under the current proposal could receive five instead of four pounds per ton, together with pullets, should be able to receive three pounds per ton of synthetic methionine per ton instead of two.

On stocking rates, OTA requests that NOSB use the data being gathered by NOP as part of the US/Canadian Equivalents Agreement and not take issue on this action before considering that data.

Also, OTA fully supports Deputy Administrator McEvoy's request that NOSB recommend clarification that animal living conditions standards apply throughout the certification chain until the time of slaughter.

On definitions of materials and classification, the revised clarification of chemical change is good and helpful but should

apply only to product to be used in producing a product for human or animal consumption, not to crop or livestock production inputs.

We appreciate the clarification of the definition of non-agricultural and agree that an agricultural product should remain agricultural no matter how it is processed or what it is combined with. But the new definition is inconsistent with the range of products that can be and are currently being certified under NOP.

The current definition of crop as a plant or part of a plant falls short as mushrooms and kelp, for example, are not technically plants.

OTA also supports yeast being agricultural. Any living organism that can be cultivated or cultured by humans that is produced from naturally-occurring biological processes can potentially be certifiable as organic and be agricultural.

Finally, 605 should be revised to

require sourcing of commercially available organic ingredients.

For classification, we need separate review sheets for crop, livestock, and handling inputs with different questions posed as applicable. Also non-organic agricultural ingredients should be allowed to be included as feed supplements or minor ingredients in food subject to commercial unavailability.

On inerts in gases, OTA supports the recommendation as written.

On Sunset Review, OTA supports Option 2B, which we feel does not challenge the integrity of NOSB's review program. OTA expects NOSB to review materials as fully as the Board decides is necessary. Nonetheless, initial NOSB review and subsequent votes should indicate that without new information either from periodic review or public comment, the original reviews and decisions were reasonable.

Thank you.

CHAIRPERSON GIACOMINI: Questions? Joe?

MEMBER SMILLIE: Well, just one quick comment and that's I really appreciate OTA breaking up their submissions to the nopregulations.gov as far as subject titles go. And I urge future petitioners who talk on multiple issues to break them up so that they are all clearly available for review. So I appreciate that and I appreciate all of your comments.

MR. HUTCHESON: Thank you.

CHAIRPERSON GIACOMINI: Thank you.

Patti, then Pat, then Jake.

MS. BURSTEN-DEUTCH: I could actually use a soap box. Here we go.

Hi, everybody. I'm Patti Bursten-Deutch of Organic Education Solutions and Organic Concepts. I live on a certified organic dairy farm in southwestern Wisconsin. And I've been a full-time independent organic

inspector since 1997.

In these many years, I've had the opportunity to inspect thousands of farms, facilities, and livestock operations. And during this time, it has become increasingly clear that there is a void in the long supply chain from producers to consumers.

This void creates an environment for some operations to game the system, creating an uneven playing field and providing cause for skepticism.

Since the inception of the NOP, the activities of many brokers, traders, and distributors have been considered to be excluded under 205.101(b). This was also the case in many pre-NOP private organic standards which served to provide a starting point for the current system.

Currently there are gaps in recordkeeping, procedures, and oversight of the activities of some uncertified brokers, traders, and distributors who deal in organic

goods that can allow compromising activities to occur.

Chief among these activities is non-organic goods being sold with an organic claim using otherwise valid organic producer certificates to represent more goods than were produced or purchased or to represent goods that were never purchased at all. This appears to be most prominent in organic commodities such as grains, soybeans, and hay and is not limited to a particular geographic area of the United States.

I understand that in the world of organic many consider fraud to be the F word. And as such, they don't really want to hear this word spoken out loud. So instead I think we could view this as the opportunity as in the opportunity to expand enforcement of the NOP under the existing regulation.

The opportunity exists because the language is already in the regulation to provide ample oversight of many activities

currently conducted without required organic certification and enforcement activity and without even the recordkeeping provisions required for exempt operations under 205.101(c).

There is no need to change the regulation in order to expand enforcement. So in the interest of time, I'm going to spare you reading the section of the regulation. But I'd like to note that 205.101(b) provides for the following:

Any organically-produced products are exempt if they are one, packaged or otherwise enclosed in a container prior to being received or acquired by the operation, and two, remain in the same package or container and are not otherwise processed while in the control of the handling operation.

The opportunity presented here is that while this language supports the continued allowance of the exclusion of

brokers, traders, and distributors of finished packaged goods, whether wholesale ingredients or retail products, it does not support continued exclusion of bulk agricultural commodities such as grains, soybeans, or hay.

These are not generally packaged or enclosed in a container prior to being received by the broker, trader, or distributor. And if they are, they may not remain in that container for the duration of the handler's activity.

Hay is not packaged or enclosed and so clearly does not need the provisions of 205.101(b). Bulk soybeans and grains are typically received by brokers, traders, or distributors in one container such as a railcar and transferred to another container. And so they also do not meet the provisions of 205.101(b).

Several other commodities and goods can be sold, brokered, and traded in a similar fashion. And as it was just pointed

out to me, this issue can also really extend to brokers of livestock as well.

I'm here to ask that the NOSB recommend that guidance be issued to clearly articulate the limitations of 205.101(b) and the need for handling operations involved in the activities described above to seek organic certification or risk appropriate enforcement activity.

I request that the NOSB send the message that handling operations currently engaged in brokering, trading, and distribution activities in a manner inconsistent with 205.101(b) are operating illegally and are subject to penalties and fines as per 205.101(c)(i).

I'd like to add that these ideas are not entirely my own. They are really the culmination of many conversations with people who have observed this same thing. And to those, several of whom are here, I thank you very much for encouraging me to bring this

issue to light.

Thank you.

CHAIRPERSON GIACOMINI: Thank you. Questions? Don't run off, Patti.

Katrina?

MS. BURSTEN-DEUTCH: Sorry.

MEMBER HEINZE: Yes, I just wanted to thank you for your comments. I think it is an important topic and appreciate you bringing it to the Board.

MS. BURSTEN-DEUTCH: Thank you.

CHAIRPERSON GIACOMINI: Thank you.

Pat Kane?

MS. KANE: I'll pass.

CHAIRPERSON GIACOMINI: You're passing? See, just like not being here. I was right the first time.

Okay, Jake with a proxy. Gwen -- Gwendolyn Wyard and Steven Peirce.

PARTICIPANT: Are you getting silly?

CHAIRPERSON GIACOMINI: If it

helps.

MR. LEWIN: It is my distinct hope to not use the proxy. And I'm sure it is yours, too.

All right. My name is Jake Lewin. I'm the Chief Certification Officer for CCOF Certification Services. We certify about 2,300 operations in 38 states in about three countries.

I want to thank you for all your work. I know you all work extremely hard. I know some of you personally and have spent some dinners with you. And I know the amount of work you do.

And with that, I believe I'll be nominated to the certifier's seat. And I humbly hope that I am chosen to serve. But I'm not sure why because it seems like a heck of a lot of work.

So, but the issue at hand, what we are here to talk about is the 100 percent recommendation. And we are CCOF request that

the Committee withdraw this recommendation and instead put forward either a recommendation that clarifies that non-organic additives or processing aids are prohibited in the 100 percent organic labeling category without exception or a recommendation to eliminate the labeling claim of 100 percent organic.

We believe that the problem that must be addressed is the inconsistent approval of products in the 100 percent organic claim. And we respectfully ask that the Committee to return the discussion back to this issue.

It is clearly compliant with the regulation to clarify that the use of any material listed on 205.605 means that the final product cannot be labeled 100 percent organic. This interpretation is also far more practical than the recommendation proposed by the Committee, which would create a confusing and contradictory exemption that is poorly supported by the regulation itself.

As certifiers, CCOF dedicates

significant time and resources to the daunting task of explaining the subtleties of the NOP standards to certified operations. We support regulatory changes or guidance that makes certification requirements clearer and more intuitive to certified parties and to consumers.

Instead of bringing clarity to this issue, this recommendation suggests that we add another layer of complexity to the 100 percent organic labeling category. The 100 percent organic claim is the simplest for consumers to understand and identify.

However, the distinction between ingredients, processing aids, and inert atmospheric gases are not obvious to the consumer and nobody should need a degree in chemistry to understand the 100 percent organic claim.

We are also confused and concerned about the inclusion of argon in this recommendation since it is not listed on

205.605 and, therefore, we just can't figure out where it fits into this at all.

The benefits of creating another except in the case of clause to allow these materials in 100 percent organic products and to allow the use of argon, which is not currently on the National List, clearly outweigh the disadvantages of adding yet another complication to the rule.

So moving on from that, moving to the Made with seal, there has been a lot of comments on this. There is not a lot of support. I don't really see the need to pile on so I'm going to keep this brief.

We've got written comments. I'd encourage you to read them. At kind of its fundamental level, an optional seal is sub-optimal at best. It's unlikely to be used. And a mandatory seal is a non-starter since that would create a huge burden on manufacturers and creates color issues and packaging issues.

So we just -- we don't see it as workable and, instead, believe that there should be clarifications regarding that claim and more promotion and time spent promoting that claim.

Finally, because we ran out of time earlier, I'd like to just address the stocking rate charts very briefly. I'd like to point out that the NOSB in 2000 discussed this issue and recommended that the stocking rate guidelines be included in a management practices manual and not in the rule itself as they were so specific.

While a management practices manual was never developed and, therefore, such guidelines were not implemented, the wisdom of the previous Board holds true. I strongly recommend that when stocking rates are determined, they be added to the NOP policy manual that is currently under development and not included in the regulations.

So those are our comments on those issues. And really thank you for taking the time to hear them.

CHAIRPERSON GIACOMINI: Questions? Jay?

MEMBER FELDMAN: Yes. Do you guys certify any 100 percent organic?

MR. LEWIN: Yes, absolutely, often.

MEMBER FELDMAN: Okay. Why would we need to put inert -- you said inert and atmospheric gases on 605?

MR. LEWIN: The inert atmospheric gases, with the exception of argon, that are discussed in this recommendation already appear under 605. It is there. Their use in organic is predicated on that listing. And we believe that any use of a material based on its 605 listing should result in that material being labeled organic. Does that make sense?

CHAIRPERSON GIACOMINI: Joe?

MEMBER FELDMAN: Thank you.

MEMBER SMILLIE: At the risk of -- I'll address some of your comments tomorrow when I present the 100 percent option. We would agree to disagree on that item.

The argon we'll have to think about since it isn't on 605. But the idea is not so much whether they are allowable or not. It is the question of whether they are a processing aid or not. And the Committee believes that they are not. They shouldn't be looked at as a processing aid but as a packaging aid. And hence, you know, that's why our recommendation is there.

As far as the 100 percent category itself, originally we considered making a recommendation to abolish the category. But for various reasons, we decided to just remedy this particular discreet usage. And I'll go into more detail tomorrow when I present the Committee. But we will certainly take account of your comments.

MR. LEWIN: We have some

significant concerns regarding implementing a justification based on a term packaging aid that appears nowhere in the regulation. It starts to verge on semantic niceties in order to gain exceptions to use of the 100 percent organic claim.

And it doesn't lead us down a good road. It leads us down a road of a thicket of exemptions for what should be relatively simply and what we should do our best to keep simple.

CHAIRPERSON GIACOMINI: Thank you.

Gwendolyn Wyard, Steve Peirce, John Ashby.

MS. WYARD: Testing, testing. All right. Great. Thanks.

Good evening, Mr. Chairman, members of the Board, NOP staff, and ladies and gentlemen of the gallery. My name is Gwendolyn Wyard speaking on behalf of Oregon Tilth.

I'm the Processing Program

Technical Specialist, holding a degree in Food Science. I've worked in the farming and certification community since 1994.

And I've also been working closely with the Board on the topics of agricultural and non-agricultural and synthetic and non-synthetic since 2004 when Oregon Tilth first submitted a proposal with a solution for distinguishing between agricultural and non-agricultural.

I also co-chaired the Material Working Group with Kim Dietz.

You have our written comments. We have comments on the USDA seal on Made with products as well as use of inert atmospheric gases in the 100 percent label. I'm not going to touch on those. If you have any questions, we concur with CCOF on the use of the Made with seal. We have a slightly different take on the use of inert atmospheric gases.

But what I am going to try to do today is bring some -- hopefully some

clarification to the discussion surrounding chemical change. Okay so we're talking about the classification of materials.

And the definition of chemical change, what I have up on the screen, the red is the OTCO Oregon Tilth proposed definition or addition to chemical change. It is going to be hard to see.

The blue is the one that was put out this morning. And the green is the one that's in the addendum document that went out.

So the green one, there was a lot of commenters that were concerned about the document that went out, feeling that it went too far. It went beyond an exception that was provided really to agricultural products to process food. And I'm going to give some background hopefully that will help clarify that.

The green version could have presented us with a situation where you could take two non-synthetics and react those and

come up with a third. And in the situation of a crop or a livestock input.

And I'm not going to speak on whether or not that is good or bad. But I will say it is different. It is different than historically, you know what's been reviewed and decided in terms of crop and livestock inputs.

So I want to go back to the 1993 Handling Committee working draft. And I want to read you a couple sections from that.

And when they were discussing the structuring and the National List and talking about agricultural, non-agricultural, synthetic, and non-synthetic, they said the first question is whether the normal effects of food processing by processing methods specifically allowed in the OFPA, such effects being known to generate chemical changes in food, thereby render the food synthetic.

The Committee's consideration of the term synthetic led to the following

statement. The term synthetic shall not be applied to otherwise non-synthetic substances that is formulated or manufactured by processing as defined in the Act.

That idea was carried forth into the 2005 clarification document on synthetic and non-synthetic where the Board was very clear when they said this clarification, as it relates to the definition of synthetic in the regulation, is about inputs put on to 601 through 606.

Okay, it doesn't apply to the processing of food or agricultural products that are processed by handling operations. It was really trying to distinguish between what takes place in a handling operation versus the inputs that the Board is reviewing to go on to the National List.

Okay. So the problem, however, is that you have the processing of food, okay, so you're toasted wheat, your bread, I think that most people can say if it goes through a

chemical change, not synthetic.

But there are substances that you will be looking at that go onto 605 or ones that are already on there that could be processed organically. And you also could review them and they could be synthetic.

So it is looking at specifically substances that are going on to 605, inputs on 605 or 606, and asking whether they could be organic.

If you'd put up the next slide, Valerie, this is our -- this simplifies it a little bit -- our suggestion for chemical change. A term synthetic shall not be applied to the processing of agricultural products as defined in 205.270(a).

We're choosing 205.270(a) versus 205.2, which is in your suggested definition as of this morning, because 205.270 is under the regulations for handling operations.

Please go on to the next slide. A lot of this has to do with commercial

availability. Assign it to 605 to all ingredients in the five percent.

So any questions, there's quite a bit more that I could speak on but I know we're all tired.

Katrina?

CHAIRPERSON GIACOMINI: Katrina?

MS. WYARD: Sorry.

CHAIRPERSON GIACOMINI: No, that's all right. Just go right ahead.

(Laughter.)

MEMBER HEINZE: Gwendolyn, as always, thank you for all your thought on this topic and insightful comments.

To maybe distill your comment down to maybe its key point, what I'm hearing is you like the language that we had this morning but it goes too far in going to crops and livestock. And you would prefer that it just be focused on handling.

MS. WYARD: It's -- yes, it needs to be -- it is an exception provided to

processed food, to processed agricultural products and inputs that are put onto 605 or 606 because you don't want to put something on to 605 as a synthetic, as a non-agricultural synthetic when an organic alternative is available or could be available because then we're stuck in the situation that is really what is the big stumbling block that we're up against.

People are less attached to whether something is classified as agricultural or non-agricultural per se but very attached to whether or not it can be produced organically or people should be required to source an organic form.

And that's why we're saying a lot of this could be eliminated if you were to apply commercial availability to anything in the five percent. A lot of this would be eliminated.

MEMBER HEINZE: Yes. So limit it to processing.

MS. WYARD: Absolutely. It has always been the intent. And their definition this morning said the processing of agricultural products using materials on 601 or 602, I don't really understand how that even makes sense because if I am processing an agricultural product, I'm a handling operation, I'm not looking to 601 or 603. I'm limited to 605 and 606 only.

So the way that that wording is structured, it's not even allowed by the regulations. It's the difference between the evaluation of an input versus evaluation of a processed agricultural product or food. So you need to make that distinguished.

MEMBER HEINZE: Thanks.

MS. WYARD: Sure. Any other questions?

CHAIRPERSON GIACOMINI: Do you want to comment? Go ahead, Jay.

MEMBER FELDMAN: Is there -- any I crazy or is there any reason to distinguish

between 605(a) and 605(b) in this whole conversation -- discussion?

MS. WYARD: Well, for 95.5, it has to be on the list period. Where synthetic and non-synthetic comes into play is really -- and I think a couple people have brought this up although it is not currently applied is the idea of organic preference where you use organic first, then you use non-synthetic, then you use synthetic.

But for 605, in organic products, it has to be on 605 or 606. But we --

MEMBER FELDMAN: Right. But whether we define that product as synthetic or not, the distinction between 605(a) and 605(b) seems significant because the (a) obviously is non-synthetic or natural and the other is synthetic. So, you know --

MS. WYARD: Because it is a closed list, it certainly has a lot less significance than with crop or livestock.

MEMBER FELDMAN: Okay. But it has

some significance.

CHAIRPERSON GIACOMINI: Jay, the difference -- and you're not crazy --

MEMBER FELDMAN: Okay.

CHAIRPERSON GIACOMINI: -- you make complete sense.

MS. WYARD: Yes.

CHAIRPERSON GIACOMINI: It's just not the way the law is written. The law states a chemical change. It doesn't say what made it.

MEMBER FELDMAN: Right.

CHAIRPERSON GIACOMINI: We've looked at that before.

MEMBER FELDMAN: Okay. I feel crazy though.

CHAIRPERSON GIACOMINI: No, you're just tired.

John?

MEMBER FOSTER: So going to the terminology or the definition that you are comfortable with, would that have, in your

mind, any bearing on the Corn Steep Liquor question?

MS. WYARD: Valerie, do you want to go back one bit here? Okay.

So if you had somebody producing Corn Steep Liquor using enzymes, I mean this would be a situation where you could look at Corn Steep Liquor in the context of crops, and you could say okay, the sulfur dioxide, we're going to decide that the cleavage of the disulfide bonds, that's synthetic.

Make your synthetic determination. Just because you've made that synthetic determination for that particular source and process doesn't mean that a non-synthetic or an organic form could also be available.

If you were to now have somebody that wants to petition cornstarch or some other product of the wet milling process to 605 or 606, now if you were to plug in this -- the second part of this definition, it's processing, it's using materials on 605 or

606, it would not be synthetic.

Rather it would be, in this particular case, non-synthetic and potentially could be made in organic form, which is the case with the organic cornstarch, organic maltodextrin, and all the ones that are utilizing enzymes versus sulfur dioxide or sulfurous acid.

MEMBER FOSTER: Okay. So if I hear you correctly, and correct me if I'm wrong, then since sulfur dioxide is on 605, is it not --

MS. WYARD: Annotated restriction.

MEMBER FOSTER: -- well, okay, but we haven't talked about annotations yet, right?

MS. WYARD: Well, when we talk about a material on 605 or 606, we talk about the material and its annotation.

MEMBER FOSTER: Okay.

MS. WYARD: We don't speak of them differently. They're all one.

MEMBER FOSTER: Thank you. Then we're only talking about ingredients, never about inputs here, correct?

MS. WYARD: Ingredients.

MEMBER FOSTER: Correct. So my wish in all of this has been to use the same definition for synthetic, whether we're talking about an ingredient or an input. It's my wish.

I realize I don't always get what I wish for. But what I would also wish to avoid is down the road someone else coming up with a definition of synthetic for an input that is inconsistent with what we come to here. That's a train wreck.

And by not including determination of ag inputs, farm crop, or livestock inputs under this same umbrella --

CHAIRPERSON GIACOMINI: Is there a question in here, John?

MS. WYARD: Oh, there must be.

MEMBER FOSTER: Eventually. Does

-- am I right in understanding that in your thinking, this would not apply to farm or livestock inputs?

MS. WYARD: No because the historical practice of material evaluation has been this, this exception that commenters were wanting to have built into this recommendation applied to food and processing, all of the materials that have been reviewed for many, many years have not applied this exception.

So to now take this exception and apply it to crop and livestock, that's going to be very different from a lot of decisions that have been made in the past.

So, you know, good or bad, it's just something we'll have to contend with. It's different. It's a change.

And also if anybody wants to ask any questions about the worksheets and how I've split apart the decision sheets that you put together and how they should definitely be split into ag and non-ag and synthetic and

non-synthetic, I'd love to answer those questions as well.

CHAIRPERSON GIACOMINI: Katrina?

MEMBER HEINZE: It will be fast. I was just going to say we appreciate getting them. Obviously that work will come after --

MS. WYARD: Guidance document, work to come. Yes, I'm here for you. Anything, assistance, I love it.

Thank you very much.

CHAIRPERSON GIACOMINI: Thank you.

Steve Peirce, John Ashby, Alexis Baden-Mayer.

MR. PEIRCE: Good evening. And I would like to start by saying thank you for the volunteer work that you all do. And the dedicated effort that the NOP puts in for our industry.

My comments this afternoon are relating to the National List and actually the removal of synthetics or non-organic ingredients from that list. And it is the

procedures involved.

My credentials, I'm a president of a company. I could be considered an entrepreneur, part-time inventor, in one of those kind of organizations that I think you, the Board, and the NOP has looked to to find organic and natural, wholly natural alternatives to some of the synthetics that are on the National List.

I have submitted comments in 2007 during the Sunset Review period as it related to silicone dioxide. Those comments seem to have been lost.

Secondly, we have submitted petitions to have silicone dioxide removed. I understand that the Board is going to be looking at that in the fall. And that petition would fly in the face of allowing an exemption for it again for the next five years.

Likewise, there are petitions coming on the subject of mono and diglycerides

for use as drum dry release agent according to the annotation on it.

With that in mind, the Sunset process I think is very good, very time consuming and part of what went into the Act when it was originally conceived. I think there is good direction on how to make comments, whether you are in favor of leaving a product on the list or removing the product.

However, what is either non-existent or I consider to be non-existent, is the information necessary for you, the Board members so that, as Jay said earlier today, you guys need to know what products are produced? Who is producing it? Is it a natural alternative? Does it fit the commercial availability?

So that you can make informed decisions not to disrupt the supply chain because that is one of your biggest concerns. One is food safety and life safety. But also not to interrupt that supply chain.

I think some provisions need to be made in that Sunset period so that someone that does invent something new and bring it to the marketplace can have the right process to inform you properly at the right time so that you can make an informed decision.

In that same vein, as we look at the petition process, it is all about how to get new synthetic or new non-organic ingredients on to the National List. Those on ramps onto that interstate highway are very well built and very well used.

What was conceived of in the Act to have a system where there are also off ramps so we don't get too crowded on that highway, they haven't been built. I applaud you on what you did earlier this year or last year as it related to lecithin. It wasn't easy. Brain damaging. Took a lot of time. And sure as heck was not efficient.

Something needs to be done so that the entrepreneurs that are out there that are

supporting what the Act stands for, what the NOP and the NOSB stand for, so we know how to actively get involved in that game, get our product, when it is in the commercial marketplace, our products have been sold in probably nine, 12 countries around the world into organics but yet silicone dioxide still remains on the National List.

So looking at this, the group that we most hardily support seems to be one of the hardest hurdles for us to jump is making that awareness. If you read the Act, and I know all of you have, it talks about that the reason an exception is given is when a wholly natural alternative doesn't exist.

And Joe made the comment today start using the organic hops. I'm sure the other certifiers will cause the producers to start buying that and using that. That's kind of fantasy land because I've got to tell you, it doesn't happen that way.

Since we've had a product on the

market over the last four years, I've had probably two cases where people have said my certifier said I need to look for this type of alternative.

So in closing with the one-minute mark, I support what you guys are doing. We have invented some products.

We have brought them to the market in commercial availability, working as one-to-one replacers on silicone dioxide, working as replaces for mono and diglycerides, we're going through the process, as set up by the Federal Register, and just encourage more of the dialogue like Jay talked about so that producers and regulators are in sync with one another and their system informs to that you've got yes, good on ramps for products that are needed in organics as well as good off ramps so that when some of those non-organic items are timed to either sunset or be disallowed, it is an easier, smoother, more efficient process for the entire industry.

Thank you.

CHAIRPERSON GIACOMINI: Questions? Joe?

MEMBER SMILLIE: Have we received that petition?

MR. PEIRCE: The Board probably has not. It was filed in January. It was resent -- it was resubmitted back to us on a point of confusion. Are we supposed to fill out the two parts according to the Federal Register as to why the synthetic is no longer necessary or do we need to fill out the 12-part portion that talks about ten sections, all about the synthetic that you are trying to displace rather than those specific items that we would bring to the market.

It was resubmitted to Washington, D.C. and received on Monday of this week. So you haven't gotten it yet.

CHAIRPERSON GIACOMINI: We don't have it then.

MR. PEIRCE: Okay. Good. No, you

haven't missed anything.

CHAIRPERSON GIACOMINI: Okay. Thank you very much. And a lot of these things will come up in discussions tomorrow specifically rather than getting into them when we don't really have questions here.

MR. PEIRCE: Understood. Thanks again.

CHAIRPERSON GIACOMINI: Thank you.

John Ashby, Alexis Baden-Mayer -- I'm not sure whether Meredith Niles is up or Jaydee Hanson is next. I have notes on here and I'm not sure what they mean.

So, John, go ahead.

MR. ASHBY: John Ashby with California Natural Products.

In the interest of the late hour, I've decided to present my comments in the form of a couple of haikus.

(Laughter.)

MR. ASHBY: 605(a), (b), thanks. Processors need them all. They don't hurt

nothing.

Nanochemistry, weird. This is what matters. Food safety will trump all.

One, two, three is best. Adjust annotations, oops, is the NOSB.

And finally, 205, 207(a), are chemical reactions. Synthetic, it depends.

(Laughter and applause.)

CHAIRPERSON GIACOMINI: You've had all day. We will not ask questions in the form of haiku.

Katrina?

MEMBER HEINZE: I would respectfully ask that you submit those in writing.

(Laughter.)

MR. ASHBY: Okay. I don't think I edited them in the reading.

MEMBER HEINZE: No, please, please, that was the most succinct think I have ever heard.

CHAIRPERSON GIACOMINI: Okay. One

question before you go. Valerie, what's my -- can you clarify the note on Meredith and Jaydee?

MS. FRANCES: Meredith is the proxy for Jaydee Hanson as well. Or the other way around. Meredith is supposed to be here.

CHAIRPERSON GIACOMINI: One will speak for ten minutes.

MS. FRANCES: Yes.

CHAIRPERSON GIACOMINI: Okay. And then after that would be David Bronner. Okay.

Alexis, I'm sorry about that. But go ahead.

MS. BADEN-MAYER: I'm going to do an interpretive dance.

(Laughter.)

MS. BADEN-MAYER: I'm Alexis Baden-Mayer. I'm here on behalf of the Organic Consumers Association and the 900,000 organic consumer activists who have worked with us over the last decade for a national organic program that lives up to consumer

expectations for organic food and farming.

Consumers expect organic to be safer, more nutritious, better for the environment, and kinder to animals than non-organic food and farming. And it is. But there are decisions that you will make as members of the National Organic Standards Board this week that will determine just how much better organic is.

Please support continuous improvement in organic by banning nanotech, letting the October 2010 Sunset on synthetic methionine happen, and keeping up the good work that you all have begun to put measurable minimum requirements behind the animal welfare standards that already exist.

Along with my testimony, I am submitting 16,184 letters from our members in support of excluding nanoengineering from organic and 8,767 letters in support of ending the use of synthetic methionine.

Organic is largely defined by what

it is not, no harmful pesticides, synthetic fertilizers, or radiation, sewage sludge, antibiotics, genetic engineering, or animal cloning. It's time to add nanotechnology and exclude that, too.

We need to give consumers a way to avoid unlabeled and potentially dangerous nanotech packaging and ingredients. Ban nanotechnology from organic by making nanoengineering an excluded method, not just prohibited synthetic materials that could be petitioned for use at a later time, but an excluded method that has no place in organic.

Organic, of course, is a lot more than what it isn't. We call organic organic because it builds up the organic matter in the soil. Organics' capacity to maintain and build soil fertility is the reason that it will be organic farming that feeds the world into the future.

Building organic matter in the soil also traps carbon dioxide. The Rodale

Institute has estimated that if all the world's crop land were transitioned to organic, it would sequester 40 percent of the world's current greenhouse gas emissions. And that's just crop land. Pasture has even more potential to trap carbon dioxide.

If it doesn't build soil's organic matter, then it isn't organic. Unfortunately, there is a lot of organic food production in the US that isn't in crop land or pasture. It's in sheds full of animals. Thirty thousands hens in a single building with a little door to a little porch. That's what is being certified as organic in chicken and egg production.

They are fed organic corn and soy, no antibiotics, no cages, but it is a far cry from what one would expect from reading the current rules. Animals raised organically are supposed to be given access to the outdoors and be allowed to exhibit their natural behaviors under conditions that provide for

exercise, freedom of movement, and reduction of stress.

If it weren't for the use of synthetic methionine, producers that didn't let their chickens out to scratch for food in pasture would have chickens that looked really sick. And the certifiers would see the stress that results when chickens are prevented from exhibiting their natural behaviors.

Synthetic methionine is a crutch that the industry has used to scale up production and keep costs down. This is organic as we know it. But this means the grocery store organic consumer is being deprived of the pleasure of cracking open a pasture-raised egg and seeing the difference for themselves. Pasture-raised hens lay eggs with yolks that are deep, bright, red-orange.

It's so different from what you see in organic eggs in the grocery store today. The difference you are seeing is the nutrition, four to six times as much Vitamin

D, one-third less cholesterol, one-fourth less saturated fat, two-thirds more Vitamin A, two times more Omega-3 essential fatty acids, three times more Vitamin E, seven more times beta carotene.

But organic consumers who shop at the grocery store won't see that. And they won't know what they are missing.

And maybe they will just agree with the United Egg Producers that there's no real difference between organic eggs and regular eggs. Maybe they will learn that organic chickens are fed synthetic feed supplements and kept by the tens of thousands in huge sheds.

I don't want to be the one to tell them that. I want to tell them that in October 2010, synthetic methionine is being phased out and won't be allowed in organic anymore. And that organic has strong animal welfare standards that are strictly enforced to produce food that is safer, more

nutritious, and better for the environment.

So I will be reporting back to our members. And I hope you all give us something to be excited about.

CHAIRPERSON GIACOMINI: Questions? Jay?

MEMBER FELDMAN: So I'm curious how you view the responsibility of the NOSB in light of -- you know, you are the largest organic consumer organization by name although I suspect Consumers Union might have claim a large segment of the population on this issue as well.

These issues you are discussing, you know, are they issues you feel we have discretionary authority on? Or do you see the law is very clear and in terms of a mandate, given the statute and the regulations?

MS. BADEN-MAYER: It's clear to me when I read the law. I mean it seems obvious that the idea is to phase out synthetics, continuous improvement, you know, and build a

system that improves soil fertility, and respects animals' natural behaviors.

I mean all these things seem obvious to me. And from the certifiers that show up here, you know, it seems obvious to them, too. I don't think that the scrupulous certifiers who are presenting before the NOSB and are really involved, I think they are doing the right thing.

That's my assumption.

MEMBER FELDMAN: Yes.

MS. BADEN-MAYER: I'm willing to suspend my disbeliefs and imagine that the way I interpret the law is the way it is being enforced.

MEMBER FELDMAN: Right. I mean obviously there is the issue of consumer perception here. But there is also what our statutory duty is. And that's what I need to hear in terms of what our responsibility is as a Board to meet the standards of the law as they exist right now.

And it sounds like what you are saying is all the positions you are taking are based on what you believe is the correct reading of the law.

MS. BADEN-MAYER: Yes. And I think that a lot of the issues that are before you that you are trying to figure out like the animal welfare issues, if we just had, you know, all the people who come to the NOSB meetings, I think really understand things.

But we have a lot of people participating in organic now who aren't as dedicated. They're not the first wave. They aren't the people who invented organic. You know and for them maybe we need clearer guidelines.

MEMBER FELDMAN: Thank you.

CHAIRPERSON GIACOMINI: I have one. Do you have any comment at all on the 238(c)(i) recommendation?

MS. BADEN-MAYER: I'm sorry. What is that?

CHAIRPERSON GIACOMINI: The products on 603 with the withholding period that are given to cows on whether that milk can be fed to the calves.

MS. BADEN-MAYER: Is that something I can submit comments on before May 25th? Okay, then I'll look --

CHAIRPERSON GIACOMINI: No, we would be voting on that at this meeting.

MS. BADEN-MAYER: My understanding was that you are accepting comments until the 25th --

CHAIRPERSON GIACOMINI: No, that's not a Sunset item, no.

MS. BADEN-MAYER: It's not one of the -- okay, sorry, never mind.

CHAIRPERSON GIACOMINI: No, no.

MS. BADEN-MAYER: I'm sorry. I don't know about this issue.

CHAIRPERSON GIACOMINI: Okay. Okay. Thank you.

MS. BADEN-MAYER: It's bad.

CHAIRPERSON GIACOMINI: And she says we're the group of no. Okay.

Is this Meredith or Jaydee?

MS. NILES: I am Meredith, not Jaydee.

CHAIRPERSON GIACOMINI: Okay, Meredith, Dave Bronner, and Cheryl van Dyne.

Meredith, do you need five or ten or two fives?

MS. NILES: I'm going to do my best to not take ten but that's what I'm scheduled for, I believe.

CHAIRPERSON GIACOMINI: That's so tempting to say give her eight. But go ahead.

MS. NILES: Okay. Good evening. I'm speaking on behalf of the Center for Food Safety and the International Center for Technology Assessment. They are both actually at the Supreme Court today testifying against an appeal by Monsanto to repeal the injunction on genetically-engineered alfalfa. So I'm a consultant to the Center for Food Safety and

I'll be speaking about nanotechnology.

Nanotechnology, like genetic engineering, irradiation, cloning of animals, and sewage sludge is antithetical to the intent and letter of organic law and the rules governing organic practices.

It is an industrial engineering process intended to engineer and manipulate nature at its most fundamental level. The platform technology allows industry to create or synthesize products that can behave in ways that naturally-occurring substances simply cannot.

A company intentionally manufactures or engineers a material at the nano scale so it can use the new properties that emanate from the nanoscale such as increased surface area, solubility, size, charge, physical dimensions, et cetera.

As such, it does not matter whether the original bulk material comes from a natural source because once nanotechnology

is applied, the chemical and physical changes that result render it a non-agricultural synthetic material.

Today's engineered nanomaterials and nanoparticles, as well as those in development, are different from anything else that occurs in nature. This is precisely why nanotechnology is promoted so heavily by industry.

While proponents may claim that their new products are just the same as non-nanoproducts to regulators, at the same time, they are claiming that their products are entirely new with novel properties in order to secure patents.

Naturally-occurring nanoparticles, such as salt nanocrystals found in the ocean or carbon nanoparticles emitted from fire, are very different from nanoparticles that are deliberately engineered or manufactured.

Nature makes them as nature has intended, in the natural environment. As

naturally-occurring and not manufactured, artificially synthesized or deliberately engineered, these natural nanoparticles should be omitted from the definition of nanoparticles or in the materials that are prohibited under the organic rules.

Section 2118 of the Organic Foods Product Act outlines the standard that must be met in order for synthetic substances to be included on the National List. Nanotechnologies and materials, as a class, fail to meet this standard and, therefore, they should be prohibited in organic now and in the future.

That said, if nanomaterials are classified as synthetic without a prohibition as an excluded substance and method, every single nanofood and nanofood packaging ingredient would be allowed to be petitioned for inclusion on the National List. Such petitions should, and hopefully would, be denied because the production of GECs in crops

fundamentally contravene the intent and express language of the Organic Foods Production Act.

But the integrity of the standards would be in constant jeopardy or question and organic advocates would have to remain forever vigilant that no nano-derived materials slip on to the National List.

The only way to protect the integrity of organic is to prohibit nanotechnology and engineered nanomaterials as a class because it is antithetical to the principles and purpose of the organic standard.

The assumption that there may be some type of nanotechnology application that may have the potential to be considered organic in the future should not be used as a basis for setting organic policy. That argument is without merit and it would be an irresponsible public policy to leave open the door for nanotechnology on that basis.

Instead, at this moment, there exist sufficient evidence to prohibit the use of nanotechnology by taking precautionary action particularly in light of the fact that nanotechnology intentionally manufactures or engineers synthetic substances that pose a demonstrated risk to both human and environmental health.

Please refer to our comment that we submitted in both April and November of 2009 regarding these risks.

In our written comments we propose specific amendments to the definition of nano and we ask the NOSB to seriously consider them when deliberating on this issue.

In short, the definition of nanomaterials and particles and the basis for its prohibition pivots on two significant factors. First, their non-agricultural synthetic nature and two, the fact that they are intentionally engineered or manufactured.

We argue that all nanoparticles

and structures which have at least one dimension and the nanoscale range of one to 300 nanometers must be considered synthetic, non-agricultural, and prohibited from organic agriculture.

Such nanoparticles do not qualify as processing aids, adjuvant excipients, solvents or other inert or minor ingredient substances even when present in insignificant amounts in the final product.

We further argue that the nano prohibition should not include naturally-occurring nanomaterials such as sea salt or nanomaterials that form during traditional food manufacturing and processing including homogenization, cheese making, or grain milling.

The NOSB definition of nanomaterials need not rest on the ability to detect the nanomaterials through techniques such as electron microscopes or other meteorological devices as suggested in our

class for comments. The NOSB can best address this concern by making nanotechnology a prohibited method.

Nanotechnology are synthetic in that they are engineered materials intended to take advantage of their properties at the nanoscale. Engineering an element, mineral, or a chemical compound at the nanoscale profoundly changes the ways in which a new nanomaterial's function can arise.

Unlike synthetic chemistry in which the chemistry of a chemical is altered and a new chemical is formed, nanotechnological engineering can change synthetic chemicals and natural metals' chemicals into a substance that is essentially a new synthetic because of its new properties such as scale or surface area, not chemical engineering.

The chemical reactions of a nanoscale material can change from that of the bulk substance from which it is derived. But

the chemistry of the chemical is not necessarily altered.

It is the new properties that make nanochemicals synthetic. These new property changes can be even more striking than those created through the application of traditional synthetic chemistry. For example, safe chemicals at the bulk scale can become dangerous at the nanoscale.

The huge increase in surface area alone in a nanoscale chemical makes it much more highly reactive than the bulk scale chemical. But the ionization and the surface charge of the chemical may or may not change.

Chemicals that are not soluble at the bulk scale can be soluble at the nanoscale. The agglomeration potential of the chemical changes also results in a larger particle size in many cases with a surface area far greater than that of a dense particle of the same chemical. When two nanochemicals are fused together, even more differences can

appear.

In conclusion, nanochemicals represent a new kind of synthetic not envisioned by the makers of the National List. Nanotechnologies are synthetic in that they are intentionally engineered to take advantage of their properties at the nanoscale.

Moreover, if nanotechnology and the knowledge we have now about its hazards was known when OFPA was written, we are confident that it would be considered an excluded method and excluded substance akin to genetic engineering. That is precisely how we believe the Board should treat these substances today and in the future.

There will always be additional studies needed for us to better understand how emerging technologies affect the environment and human health. But the NOP must not wait until all of these studies are completed before prohibiting nanotechnologies and synthetic nanomaterials and particles.

The NOSB should take immediate precautionary action to keep nanomaterials out of organics before nanotechnologies are infused into our food supply

Defining engineered nanomaterials as synthetic substances alone is not sufficient to protect the integrity of USDA organic. Therefore, we urge you to put nanotechnology and engineered nanomaterials in the same category as sewage sludge, irradiation, and genetically-engineered crops. And prohibit the substance and the methods.

Thank you for the time. And I'd be happy to answer any questions.

CHAIRPERSON GIACOMINI: Thank you.

Any questions?

(No response)

CHAIRPERSON GIACOMINI: Okay. I have one. I think your comments online were the ones -- was the one -- and my brain is -- I won't use the term I usually would use but it is a little fried right now -- the

potential examples we talked about were just not practical and not real world, whatever it is, but that's the part that I kind of disagree with.

I agree with most of where you are going. But I'd like to present just a very quick scenario. And I'd like you to give me an idea of what you want to do with it -- what you would do with it. Complete prohibition of nano, a company, middle of anywhere, a municipal area, on a municipal water supply.

Nano is coming and we're going to have a hard time stopping it. A water company decides to put water filters in their municipal water supply with nanosilver in it. Maybe at a very low level but there is some slough off and it can be measured at very low levels in that water supply.

With a complete prohibition on nanotechnology, should that then put any organic processing facility in that municipal water supply that has absolutely no control

over that water supply, should that put them out of business as organic?

MS. NILES: I think that's a great question. And first I'd like to add that I may have to consult with CFS and ICT on some of these questions since I'm here as a proxy today.

I would add, though, that I did give a talk to some water treatment employees at the National Association of Clean Water Agencies about a year ago. And nanosilver is actually something they are very concerned about as something that they would be able to keep out of the water supply.

So I actually think that most pretreatment and water agencies are thinking about it from an opposite perspective and viewing nanotechnologies and nanosilver as a threat to their integrity of water purification.

With regards to the rest of the question, to be honest, I don't feel

comfortable commenting on behalf of the CFS for that. But I would be very happy to check with Jaydee on that issue and get back to you about it.

CHAIRPERSON GIACOMINI: Okay.

Joe?

MEMBER SMILLIE: Briefly, the use of titanium dioxide and zinc oxide in personal care sun screen products, is that all in nanotechnology or are you familiar, are those products effective in the non-nanoscale?

MS. NILES: My understanding about that technology is that it's nano for the reason that it will cause sun screens to go on clear rather than cause them to go on white. So in this case you have a situation where it is actually a technology for a very cosmetic purpose and not necessarily for a health purpose or a purpose that would be beneficial for public health for example.

So my understanding is that there are both technologies there. The nano version

of it is so that the sun screen will go on clear.

MEMBER SMILLIE: Thank you.

MS. NILES: Thank you very much.

CHAIRPERSON GIACOMINI: Thank you.

David Bronner, Cheryl van Dyne, J. Friedman.

MR. BRONNER: Hello. I'm David Bronner, President of Dr. Bronner's Magic Soaps. I was going to talk a lot about soaps and alkaline and why potassium and sodium hydroxide should continue to be listed.

I'll talk on that briefly but then I want to address the NOP letter to NOSB on personal care.

So the voluntary certification of soaps under the NOP has been very successful. Dr. Bronner's on reliance of the NOP scope statement, as certified in 2003, following Twin Craft and Bradford, the two largest private label soap manufacturers in the United States to be certified in 2002.

We've invested three million in some costs in developing fair trade organic grower projects for coconut oil in Sri Lanka, palm oil in Ghana, olive oil in Palestine and Israel, and mint oil in India. This supports over 1,000 organic farmers in 10,000 acres.

As far as the alkali that we use, traditionally for melaneous, the alkali was made by leaching ashes or you could burn biomass and you reach the ashes and you get alkali and that was how you made soap.

It's not an appropriate way of doing that on a large scale. It's very -- if all the alkali in the world came from that process, you would be burning a lot of biomass. So the NOP properly has alkali from seawater.

Basically you run electricity through potassium chloride or sodium chloride. You separate and get your alkali that way. There are a few different processes and in my written comments, there's better ones and

worse ones. And the good one is winning out and taking over the production, which is membrane cell productions.

Energy efficient, there is no mercury contamination.

And also I appreciate the Materials and Handling Committee, that worksheet, you know, soap works great. And, you know, some comments made earlier about chemical changes in foods. I mean like milk caramel and you just cook sugar and milk and there is a maillard reaction and, you know, there's no sugar and there's no milk. I mean it's milk caramel.

You know, it's similar to the soap. And it's all organic and I feel it is very much within the spirit of the organic program. It's simple and more similar to making tofu than it is modern detergent manufacturing.

So the NOP, the letter to NOSB references that like the 2005 statement as

like a departure from previous NOP policy. And in 2005 all of a sudden NOP says personal care is allowed. And, you know, before that wasn't NOP's position.

Actually the NOP launched -- so in May 2002, the original policy scope of the national organic program, which is very difficult to find but, you know, I found it, so it states producers and handlers of any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption may seek certification under the NOP as an organic producer or handler.

Please note, the term consumption is not limited to products that are used for food. Specifically we have been asked if the regulations under NOP apply to the following products, class of products, and production systems: mushrooms, pet foods, aquatic

animals, fabrics, cosmetics, body care products, over-the-counter medications, dietary supplements, and other stuff.

Because these and other products, classes of products, and production systems contain agricultural products, the producers and handlers of such products, classes of products, and production systems are eligible to seek certification under the NOP.

So the NOP launched with the explicit invitation to personal care to certify. And we were not the first. We followed the two biggest soap manufacturers. We were like, you know, okay, we're going for it.

You know so this wasn't like something that we pushed on NOP. We followed what, you know, we just thought this is how it went.

Just quickly on the ag versus non-ag, I mean it's not like clothes. Like I've got a nylon shirt and I say it's organic. I

mean and I can't say oh, it's non-ag so you can't do anything about my non-ag organic, nylon shirt.

I mean personal care the same say. We can't control it being organic and agricultural. And anyways -- so and then Leahey, there's a statement of the Leahey after the rescinding of the statements from Benneman. Leahey, you know, basically says NOP, the NOP should be going after all these organic -- all these other product classes and there shouldn't be these loopholes.

So that's it.

CHAIRPERSON GIACOMINI: Thank you.

Questions?

(No response.)

CHAIRPERSON GIACOMINI: Okay. Thank you.

All right. We will not bring dinner in. We will not bring cots. We've been an hour and a half since the last break. We probably have -- oh, it could be another

hour and a half to go. Hour to an hour and a half. Do we want to take a break or just allow people to take breaks on their own?

Steve says keep going -- is it to keep going?

PARTICIPANT: Yes.

CHAIRPERSON GIACOMINI: All right. Let's rock and roll.

Cheryl, Jay is bypassing his time. Susan Cheney and Harriett Behar.

MS. Van DYNE: Okay. I'm make it brief.

Thank you very much for giving me the update. My name is Cheryl van Dyne. I am with C. P. Kelco and Huber Engineered Materials. I'm Global Regulatory Affairs Manager for -- they are J. M. Huber Companies.

Many years ago we submitted the Gellan petition. And Gellan has made it to rulemaking. And so I look forward, our customers look forward, we, as a company that manufactures food additives, we provide these

to the industry as asked. And we don't certify our products organic.

And so we've been through quite a bit with this. You know I've come to the meetings and I've really learned an awful lot in the process.

One thing I would like to ask -- Miles isn't here but the visibility that we don't have in terms of our petition material as an industry is really disturbing. We -- you know, I come, I ask, I talk to Mark, I talk to, you know, Bob Pooler, I talk to you guys. Where is it? Where is it?

Industry really doesn't have any idea what's going on. And I'd like to ask that perhaps we could, with the new staffing, that the industry maybe could get a little more visibility.

I do have my contacts. And I do have my insides. But it is a difficult thing.

The other -- anyway, thank you very much for getting Gellan so far along. I

guess we're at the point where it is going to be downhill pretty soon.

The other part of why I'm here is I'm representing IFAC. They've asked me to speak. It is the International Food Additive Council.

We did present public comments. Glenn Nabors provided them. But I'm not going to read them. You all have them. I printed them out again not knowing that I shouldn't have done that. But not to be no Green. But anyhow, Michelle and Valerie will pass them out.

But one of the things that we would like to ask is that in the letter, that this is group is like our company. We're members of this. They are industry folks, companies, that because their customers asked them to petition these materials and represent them, that they would like to see the National Organics Standards Board look at the Sunset materials that are on the 605 and the 606 as

being needed the industry. We represent industry as manufacturers. And industry comes to us, the Jams & Jellies group, you know, our different customers and ask us to support these.

So we ask you to support nominating these materials again for sunset. And, again, I won't read them. It's the materials that we've submitted.

And with that, I'm going to conclude. This has been a long day.

CHAIRPERSON GIACOMINI: Questions?

(No response.)

CHAIRPERSON GIACOMINI: Okay. Thank you.

MS. Van DYNE: Thanks.

CHAIRPERSON GIACOMINI: Susan Cheney, Harriett Behar with a proxy, and Nicole Dehne.

MS. CHENEY: Hello. I'm Susan Cheney, Director of Regulatory Affairs from Martek Biosciences Corporation.

In light of yesterday's policy change announcement regarding accessory nutrients and the time of day, my comments are going to be brief. Martek will be submitting a petition for our DHA and ARA food ingredients. And we look forward to working with you during a fair and transparent review process.

Martek would also like to thank the Program for confirming that ample time will be given to ensure a smooth transition during this policy change. And we will also be submitting further comments regarding the accessory nutrients technical review that was made public today.

I've provided Valerie a copy of our original written comments for your review. And I thank you for your time.

CHAIRPERSON GIACOMINI: Questions?

Joe?

MEMBER SMILLIE: Could you clarify the use of hexane because that seems to be one

of the areas that I'd like to just find out -- get some more information on.

MS. CHENEY: Martek employs several different microbial sources to produce our products. And those specific microbial sources will use a different processing method.

Our comments will address -- our petition will address these various processing methods that are used with the different microbial sources. In the interest of time, hexane can be used within this process.

MEMBER SMILLIE: So hexane, if necessary, but not necessarily hexane.

MS. CHENEY: Hexane, depending on the source, may be used.

CHAIRPERSON GIACOMINI: Other question?

(No response.)

CHAIRPERSON GIACOMINI: Thank you.

Harriett Behar, Nicole Dehne, I think, and Dave DeCou.

MS. BEHAR: Hello. Long day. But if I don't read my husband's proxy, he'll be very angry.

CHAIRPERSON GIACOMINI: That's okay. We won't tell.

MS. BEHAR: What's that?

CHAIRPERSON GIACOMINI: We won't tell.

MS. BEHAR: Oh, you won't tell? He'll find out.

(Laughter.)

MS. BEHAR: Okay. You should have my comments in front of you, I hope. My name is Harriett Behar and I'm the Organic Specialist for the Midwest Organic and Sustainable Education Services, MOSES, which aids organic and transitioning to organic farmers to improve their farms and the greater environment through organic production.

And I have a few short comments on a variety of subjects.

I have seen a thread of similarity

through many of the recommendations and discussions posted for this meeting that go back to a long-standing issue since the inception of the NOSB.

There is a lack of complete science-based Technical Advisory Panel reviews by competent organizations with a deep understanding of the criteria within the OFPA for materials approval as well as the background in organic production to help them know where and how to compile the information needed to verify compliance to that criteria.

The NOSB should not be expected to the research and discovery on any of these materials. You neither have the time nor the expertise in all matters to do these effectively or efficiently.

Not only should all new materials have TAB reviews but sunset materials as well. It is understood that these two reviews would be different since they address different criteria. However the proposal put forth to

have suppliers, users, or others provide information to the NOSB on sunset would not provide the complete and diverse information needed for the NOSB to make their decisions since most organic producers are busy making a living and do not monitor the NOSB process.

Items on 606 should also have TAB reviews with another criterion including not only is it currently available but could it become available within a reasonable time. It has been used instead as an excuse to not pre-contract with possible organic suppliers to make these 606 items since because it is not readily available as organic, they do not need to do the legwork to provide the environment so it could be produced organically.

I believe a variety of TAB contractors should be educated by the NOP staff and Emily Brand-Rosen, among others, could help with this task. To expect an organization to be able to take on this unique function of doing TAB reviews without any

training or background results in poor TABs and delayed decisions.

The NOSB should ask the NOP to begin this task as soon as possible since to build a variety of well-trained TAB contractors could take years and the sooner we start the better.

I support the minority opinion dealing with the feeding of milk from organic animals treated with medicines that have withholding time. Removing the young from the mother for this short amount of time will not affect the bonding process.

Unless the farmer only has one animal, there would be other sources of organic milk on the farm for the young. And it is actually common practice for dairy farms to have nurse cows who suckle calves that are not their own offspring.

The amount of milk that would be dumped is not huge but the risk to the young fed tainted, non-organic milk from ill mothers

is great.

Please consider the points made by the minority opinion and not only the fact that the farmers have to do something with this milk. These young animals are the future organic production stock on the farm and they should be the best, not the second rate products.

This milk is not organic for humans or the animals offspring. I do not support the small, Made with organic seal on the back label of the package. Producers who use the Made with organic label may have chosen to go with this designation because they do not want to use a commercially available organic product for economic or other reasons. This should not be rewarded.

If there is abuse of the Made with organic label, this should be brought to the attention of the NOP Compliance and Enforcement Division and not dealt with by lessening the value of the USDA organic seal.

Producers who are in the 95 to 100 percent organic category have earned that prize, not the Made with organic producers.

I agree with the sentiments of the Livestock Committee and the frustration as we wait for viable alternatives to methionine. I also believe that stocking rates and true access to the outdoors on more than just bare ground would also contribute to a lessened need for synthetic methionine in the poultry diet.

The management of organic poultry needs to be addressed as well as the current abuses we have occurring where organic birds of all types never see the sun or a blade of grass. The need for synthetic methionine has never been studied in what I would consider a true organic system. So it is difficult to say how much it is really needed.

Lastly, as a member of the ACA Apiculture Task Force, I encourage you to review the ACA Apiculture proposed standards.

I believe you will find this a good starting place to tackle the needs of this unique production system.

Now I'm going to go to Aaron's. I'm just going to talk about honeybees.

This is for my husband, Aaron Bin, who is the Inspection Manager at MOSA. So there is a little confusion in the family. I work for MOSES. He works for MOSA.

MOSA hopes that the NOSB and the NOP will respond to the needs of organic beekeepers and vendors and develop national organic standards for apiculture. While some of the livestock standards can be applied to apiculture, an insect's life cycle and needs are quite different from animal life and require additional standards in our view.

We at MOSA are supportive of the Accredited Certifiers Association guidance on apiculture published in October 2009. The ACA Apiculture Working Group was a broad-based committee of nine certifiers with

participation of agencies from Hawaii to Vermont. This group struggled with many issues and reached consensus on most of them.

Because European and Canadian apiculture standards were published after the NOSB Apiculture Task Force Standard of 2001, this standard needs to be updated. MOSA supports taking into account Canadian and European apiculture standards and harmonizing with these standards where possible.

MOSA supports the ACA vision on how wide an area is needed for organic bee forage. ACA guidance has both a forage zone and a surveillance zone. An organic bee forage zone of 1.8 mile radius harmonizes with Canadian and European forage areas while an additional less restrictive surveillance zone with a 2.2 mile radius still maintains the original NOSB concept of a forage zone with a four mile radius.

MOSA also supports a one year transition for bee colonies and hive

equipment. At the beginning of the transition period, the bees would be required to draw out wax comb under organic management. Beekeepers now understand that wax absorbs chemicals applied inside and outside the colony, resulting in a toxic bee brood nest and toxic food storage of honey and pollen.

We feel that replacement bees purchased to populate hives that could not survive the winter or dearth period could be purchased from conventional sources and managed in organic wax combs with a shorter transition of 60 days.

However, we want to limit replacement bees to 25 percent of the hives present in the previous honey flow. This would encourage beekeepers to develop their queen and colony genetics and manage bee diseases and pests so their apiaries could become stronger, healthier, and self sustaining.

But finally we believe that pest

control materials to help manage varroa mite infestations should be reviewed and petitioned for addition to the National List. These would include formic acid, thymol, and carbon dioxide.

In addition, if folic acid, lactic acid, or oxalic acid become recognized by the EPA for use in honey bees, these materials should also be petitioned and considered for inclusion on the National List.

Thank you.

CHAIRPERSON GIACOMINI: Thank you.

Questions?

(No response.)

MS. BEHAR: Good. Tell them to give TAB reviews.

CHAIRPERSON GIACOMINI: Thank you.

Nicole, Dave DeCou, and -- Nicole? No Nicole.

MS. FRANCES: Dave already gave up his spot.

CHAIRPERSON GIACOMINI: And Dave

is passing.

Moving quickly, the speaker from Earthwise, is she here? Rather than my trying to say that again and get laughed at.

Paul Browner? They're dropping like flies.

Bob McCain? McClain, I'm sorry.

MR. McCLAIN: Thank you. My name is Bob McClain. I'm the Research and Field Director for the California Pear Advisory Board. I'm here to talk about oxytetracycline.

And, Valerie, could I have that slide up? I'm not going to go into some of the things that my northwest friend went into. I'm just going to -- I would like you folks to see some of the photographs of what a blighted orchard looks like.

And if you would give us the first one, that is a cluster of pear blooms infected with fire blight. And that is a bud spur with that little yellow thing. Down on the right-

hand side is a blight ooze that insects get into and spread around to other green tissue.

Could I have the next one? And that is a pear shoot that is recently infected. And, of course, that's the other green tissue where insects transmit that blight bacteria.

That is a small pear, about as big as my little finger or whatever, that is infected with blight bacteria. And that bacteria can be airborne. So it is not a case of just being limited to one tree. If you have a wound, a hail mark, or something like this, a torn leaf or something like that and that bacteria gets into it, it could come from a pear like this.

Could I have the next one? And that is -- it's kind of hard to see but all those little flags around the top are blight strikes.

Next? And that is the base of a tree like that where the grower has attempted

to scrape away the blight infection out of the cambium but it has also gone down all the way into the ground of the root stock. So that tree is as good as dead.

Next please. And that is a salvaged pear tree, I'd say about an eight- or nine-year old tree. And you can see where it has been scraped at the base as well. But they have been able to save it. But they've taken all the scaffolds out of it.

All of the fruit-producing wood is gone and you are basically left with sort of a non-producing tree for the next three or four years until you get new shoots to develop new fruit wood out of it.

And I'd just like to say a little bit about alternatives to terramycin. One of the things -- I know there was a fellow here talking about Kocide 3000. And we use that conventionally. It does a very good job for us. And hopefully you folks will be able to see that the inner ingredients will comply

with your standards.

We use a couple of biologicals, Blight Ban 85-06, and another one called Bloomtime. There is similar colonization, bacteria which colonizes the nectaries of the flowers before the blight bacteria gets into it. And basically it denies the blight bacteria the food source in the nectaries.

The other products we have, of course, are copper products. Coppers tend to russet smooth-skinned pears like the Bartlett, Comice, Seckel, and those varieties, which is actually a great defect in the business as far as USDA is concerned.

And then you have the streptomycin which you hear in California has some issues with resistance. And then, of course, terramycin which we have no resistant issues. And so we're kind of -- we're really concerned in the industry, particularly with the organic people, that they are going to lose their orchards when this product sunsets.

Do you have any questions?

CHAIRPERSON GIACOMINI: Questions?

(No response.)

CHAIRPERSON GIACOMINI: Thank you.

MR. McCLAIN: Thank you.

CHAIRPERSON GIACOMINI: Dan Todd?

(No response.)

CHAIRPERSON GIACOMINI: Tony Avedo, is he still here?

(No response.)

CHAIRPERSON GIACOMINI: Nancy Cook? Nancy Cook, okay.

MR. TODD: Well, thank you for your sitting through all of this testimony. It can't be easy to do that.

My name is Dan Todd. I'm an organic pear grower. I've been doing that since 1986. I'm one of the -- maybe not the first wave but an early generation organic farmer.

I had farmed for ten years conventionally. And I switched over to

organic because that was the way I wanted to farm.

I realize that the passing diseases don't go away when you become organic like some people would like to think so. They are still there. Some pests become less of a problem, some that you've never heard of or even thought of show up and become devastating.

I've had my orchard defoliated by pear slug. I've had pear scab, which is an ongoing problem with pear. They affect my entire crop in those 25 years, three or four times where I couldn't sell any fruit into the fresh market.

I had to look at what were my tools, what were my alternatives for controlling things with organic products. And a lot of the early research on organic materials was done on my farm.

When I started trying to this, there was nobody to talk to. There was nobody

to say how do you do this, how do you control these pests because there were almost no organic pear growers around. Bill Denevan, who some of you know, is in the back and he was doing that.

I worked with the university with Dr. Falcon and Dr. Walter on some of the materials that even conventional growers use today.

I'm here to talk specifically about the removal of tetracycline as a tool to control fire blight in pears effective October 2012. But before I do, I need to address briefly the NOSB Sunset materials list, some of which are to be reviewed at the spring meeting and some at the fall meeting.

All metal sulfur, lime sulfur, horticultural oils, pheromone, coppers, streptomycin, and tetracycline are all on that list, with tetracycline being actually removed effective October 2012.

These are the tools that I

discovered I could use when I moved to organic farming. And I've used them, all of these materials, and those are the only materials I have to control most of the pests, insects, and diseases that I face.

Without them I could not continue to farm pears organically. It would not be possible.

Back to tetracycline. Tetracycline is a vital tool to control fire blight. You've seen the pictures of the damage that fire blight can do. I have had pear trees with over 200 blight strikes per tree. When you are done pruning that tree what you end up with is a stump about yea big. That might be all you have left.

As a grower that has planted trees and orchards and farmed trees that my grandfather and my father have farmed, that's not a pretty picture. It's not fun to look out there and see all that work be cut down.

Last year on June 3rd I was hit

with the worst hailstorm I have ever seen. Hail as big as my thumb. And I have big thumbs.

Besides the damage to the crop, every torn leaf or pear was a potential entry point for the blight bacteria. Within 24 hours, I sprayed every part of my 50 acres with tetracycline.

As the growing season progressed, I could see that the last areas to be sprayed in that 24-hour period had indeed developed significant blight. That's how critical the timing is of what we do and how we face these problems, these diseases. I sprayed most of the night that night to protect my trees and my crop.

This last part, I have a minute left, I am going to take the Board to task a little bit. I believe that this Board's backdoor removal of tetracycline effective October 2012, intentionally bypassing the Sunset review criteria, has taken away an

important material for organic pear growers.

Two things were clear to me from reading the transcripts of the November 19th, 2008 tetracycline vote. I wish I had time to read more of this to you but the two things I came away with from that, one is that this Board wants to remove tetracycline from organic use. That seems very clear.

CHAIRPERSON GIACOMINI: That was the buzzer also. So wrap -- it was a different buzzer but they both went off.

MR. TODD: They were buzzers both for me.

CHAIRPERSON GIACOMINI: Okay.

MR. TODD: Okay. The second point and I'll wrap this up quickly, the second point is that this decision could not have been made using Sunset review criteria.

I end with a quote from Mr. Smillie from that, from the transcript, and stick with the date that we have here to allow the growers hopefully to find some materials

they can use. Now that's not an exact quote because I didn't finish writing it down.

But the problem I have is that there are no other materials that we have effectively to use. It effects my life, my home, my family, those kinds of things.

You've had people talk about millions of dollars today. That's not me. I'm a small grower. But you know what? It's my whole life. And I don't know if you have any questions.

CHAIRPERSON GIACOMINI: Questions?

Katrina?

MEMBER HEINZE: Perhaps a question for someone on the Crops Committee. I guess I'm a little bit confused. Is there a date? Because I don't see that it comes off without a separate Sunset.

MR. TODD: It's not allowed to just go through the Sunset Review. Or that's the recommendation from the Board. It said it would not --

CHAIRPERSON GIACOMINI: Was that -- what is that -- when did that come out, Miles?

MR. McEVOY: Yes, there is a proposed rule that went out in --

CHAIRPERSON GIACOMINI: A proposed rule.

MR. McEVOY: -- oh, what was that, the comment period closed on May -- March 15th, somewhere around there, mid-March, on tetracycline and sulfurous acid. And I believe, Shannon, what the proposed rule had that tetracycline would Sunset -- or not Sunset -- would expire after October 2012. And that was based on the LSB recommendation from November 2008, I believe.

PARTICIPANT: That is right.

MS. NALLY: Thank you.

CHAIRPERSON GIACOMINI: Correct.

Any other questions?

(No response.)

CHAIRPERSON GIACOMINI: Thank you.

Okay. I don't believe Tony Avedo is here. Nancy Cook and Marty Mesh. Is Laura here to still speak? Okay. Okay.

MS. COOK: Well, good afternoon, evening, where I'm from this is pretty late guys.

Thank you very much for allowing us all to come in today and talk to the hardest working Board I think I've ever met. I'm Nancy Cook from Pet Food Institute based in Washington, D.C. And we represent 98 percent of the dog and cat food that you find in the US marketplace. And about a percent of that -- percent, percent and a half of that is organic pet food based on our best estimates.

Now you think about that for a minute and you say that's not such a big piece. But then you realize that out of a 17.5 billion dollar industry, that's about 262 million dollars worth of pet food.

And the thing that should make it really interesting for this group is fully

half of that 262 million dollars is farm gate sales for producers of organic products.

That comes from the co-products of what everybody in this room produces, whether as Dave Carter mentioned earlier this morning, it's the parts from the critter that we have decided we aren't going to eat but our little friends with four legs really like or if it is the guy who is growing organic corn or organic wheat and he's got to do something with the co-products there, we take those co-products and put it into a product that is uniquely formulated to be the complete and balanced diet for that pet.

Unlike you and I, the dog or cat that gets fed a commercially-produced pet food, whether it is organic or not, it is all the nutrition that he needs to get out of that food. And he doesn't have to worry about going out and making sure he's got five servings of vegetables and three more servings of fruit. And making sure he's got his dairy

and his protein. We've already done that for him a whole lot easier than we've ever done before in this country or around the world.

In addition to that 17.5 billion dollars in sales that we do around the world -- or that we do in the US, we do another 1.3 billion around the world. The folks at Foreign Ag Service call us the poster child of value-added agriculture because we take a million dollars in market access program funds and generate 1.3 in sales. It's pretty helpful.

What we want to do, as the pet food industry, is we want to be able to support the portion of the industry that is going to make good, solid, wholesome organic pet foods. And that's why we went out and got the best guy we knew to come and negotiate the rapids that are part of the deal with NOP and the NOSB.

I've had the opportunity to come speak before this Board on several occasions,

most recently as Chair of the Pet Food Committee that -- or the Pet Food Task Force that you folks put together. And we were happy to build a recommendation that the NOP accepted in 2008. And we were glad to hear that the pet food regs are on the calendar in 2011. Thank you Miles, Arthur, and Mark. We really appreciate that.

And we also are meeting in our offices the week after next to kind of shake the bushes and make sure those folks are understanding what we have to do on the recommendations for the petitions that we will be filing.

So keep us together, expect information from us. Don't hesitate to contact me or Dave or any of the folks that you know are around because we'll do the very best we can for you.

And, again, thank you very much for the opportunity to come work with you, come visit with you. And these guys over

here, you have to feel sorry for them because they are probably going to see me fairly often.

(Laughter.)

MS. COOK: Thanks very much.

CHAIRPERSON GIACOMINI: Any questions?

(No response.)

CHAIRPERSON GIACOMINI: Thank you.

MEMBER SMILLIE: Just thanks for your work. We really appreciate it.

MS. COOK: Well, thanks, Joe. We decided a long time ago that the very best thing that we could do as a pet food industry was pay close attention to how the organic program got together so that it would be a good solid program all around.

And we appreciate all the work of this Committee. Thanks so much.

CHAIRPERSON GIACOMINI: Thank you.

Marty?

MR. MESH: It's always a bit

intimidating to be the last between this crew and the reception when the Chair especially has suggested to refrain from humor or tangential comments, especially if you are a guy like me. This after I thought we were going in reverse order this meeting so I strategically waited until the end to sign up.

(Laughter.)

MR. MESH: I want to thank Peggy in CCOF for giving me the rest of her unused minutes. To show my appreciation for CCOF, I have passed out a letter from Louis Ocunia and C.F. Rush concerning their support for growers in California and the Northwest and the effort to keep tetracycline on the list.

CHAIRPERSON GIACOMINI: Marty, you have five minutes.

MR. MESH: No, I have the proxy. Valerie?

CHAIRPERSON GIACOMINI: You have your five minutes. You've had all day and all the time to prepare for it.

MR. MESH: You're killing me.

CHAIRPERSON GIACOMINI: You have your five minutes.

MR. MESH: But stop the clock, Tina.

CHAIRPERSON GIACOMINI: You have your five minutes. Thank you.

(Laughter.)

MR. MESH: It was handed to me by Bill Devin, a pioneer California organic farmer who probably I last saw before today in the early or mid-1990s at an NOSB meeting where we were discussing inerts. Given that history and the reality and the fact that I couldn't access the internet and review relevant documents, I stopped writing extensive and technical comments and instead I'm thinking we should focus on getting to the CCOF reception out of frustration and appreciation for Peggy's additional time, which now is being taken away.

(Laughter.)

MR. MESH: For the new Board members, my name is Marty Mesh. I'm the Executive Director of Florida Organic Growers and our certification program, Quality Certification Services.

I started farming organically in 1972. On a larger scale in `76. We formed FOG 20 years ago. And today I serve on the Board of Directors of the ACA, the Southern Sustainable Ag Working Group, and the OTA Board, not to ever say that my comments reflect the opinion of the Organic Trade Association.

A warm welcome to the new members and a reiteration of the thank you to Valerie for the years of work and patience you have shown with all of us and me personally.

I want to thank the Program for, again, a transparent and full Program report and presentation yesterday. The competency and dedication of the staff is to be commended. And we are thankful for all of the

work.

I also want to reinforce and support the preliminary unofficial comments communicated by the Program that seem to lead in the direction that increased pesticide testing mandated in OFPA and identified in the OIG audit may be done by USDA and USDA labs with the cost borne by the increased funding that the NOP has received, which will make it much easier to fulfil the requirements in OFPA and have those results available.

They didn't say those exact words but I'm thinking that's what they meant. Those who want a material should be responsible for making the case to keep it on the list. That's what I've said before. And that position remains true.

While I believe institutional memory should be remembered when we talk about more easily updating annotations, the historical time lag and/or dysfunction of an underfunded government regulatory system that

at times can be in conflict with the more immediate needs of farmers and industry is frustrating.

While use of annotations were part of the public process, result in the decision to list materials in the first place, to narrow the use of a listed material by tightening up an annotation seems to be a no-brainer if the only thing that needs to be changed is the Board policy manual.

I don't really believe there exists a real alternative to methionine at this point. And if it was taken off the list, I believe we would see many less stores carrying organic eggs but conventional GMO grain, partially made possible by atrazine poisoning our water being used for all natural, free range eggs, which would proliferate.

Concerning Urvashi and the CU comments on fish, I want to put in my continuing plug for developing aquiculture

standards for low-hanging or maybe low-swimming species that are being managed in systems that can again be compliant and certified.

I hear again today how honey without specific standards can have a USDA logo on it when almost ten years ago Florida and Texas shrimp producers were told by the then-NOP manager that if they met the standards, were certified they, too, could be a USDA seal on the shrimp.

Thus they invested around a half a million dollars. We certified them. They marketed their shrimp. And then had USDA change their mind, order the removal of the USDA logo. They lost their major markets. And are both now bankrupt.

Concerning the hops issues and seeing the frustration of organic hops growers, maybe it would be fitting to just -- maybe it would just be fitting to give a quick update on behalf of southern growers who have

been waiting for the petitioner who I advocated against for non-organic IQF okra to be added to the list to get in touch and offer a fair contract and have certified organic IQF okra.

I believe that petition discussion was about three or four years ago. And the updates -- no contact ever.

I'm almost finished. And I have a proxy. I really do.

CHAIRPERSON GIACOMINI: No, you don't. Wrap it up.

MR. MESH: The update, no contact ever. Those okra growers are still waiting and the okra continues to grow well organically in the south.

One might remember several years ago a film maker being at the NOSB meeting in D.C. When she asked if she could interview me for a film and she said she was making a film about y'all and about organic agriculture and the NOP, I became very interested and

ultimately co-producer of the film.

The DVD is done and we're doing screenings at film festivals. And if the community would like to a screening, please get in touch.

And then the last closing comment. One question for John. When you take organic salad greens and you wash them and put them in a sealed up plastic bag that may heat up or even if they don't heat up, do they become synthetic?

(Laughter.)

CHAIRPERSON GIACOMINI: Any questions?

Tracy?

MS. MIEDEMA: I just have one, Marty. And it's non-okra. I've been saving this one.

Do you think chickens are range animals? Are chickens --

MR. MESH: We're out of time.

(Laughter.)

CHAIRPERSON GIACOMINI: Okay, folks.

That brings us to the end of our public comment. Thank you for staying with us. Thank the Board for staying with us.

(Applause.)

CHAIRPERSON GIACOMINI: Many of you sat through 11 hours. Many of us will now go to Committee meetings where we will look at and evaluate all the inputs we've taken.

We're now in recess until eight o'clock tomorrow morning.

(Whereupon, the above-entitled meeting of the National Organic Standards Board was concluded at 7:12 p.m.)

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