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ILLINOIS POLLUTION CONTROL BOARD

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9 IN THE MATTER OF)

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11 LIVESTOCK WASTE REGULATIONS) R97-15

12 35 ILL. ADM. CODE 506) (Rulemaking - Land)

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17 PROCEEDINGS taken on Wednesday, January

18 29, 1997, at the Regency Hotel, 3282 North

19 Henderson, Galesburg, Illinois, commencing at

20 9:07 a.m., before Audrey Lozuk-Lawless, Hearing

21 Officer, and Victoria Fickel, Certified Shorthand

22 Reporter, Registered Merit Reporter, and Notary

23 Public of the County of Rock Island, State of

24 Illinois.

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7

I N D E X

| WITNESS | PAGE |
|--------------------------|------|
| Chet Boruff. | 15 |
| Rich Warrington. | 30 |
| John Marlin. | 36 |

| | | |
|----|----------------------------|-----|
| 8 | Clinton Mudgett. | 37 |
| 9 | James Harrington | 40 |
| 10 | Bill Engelbrecht | 40 |
| 11 | Jill Appell. | 47 |
| 12 | Bill Emmett. | 59 |
| 13 | David Worrell. | 71 |
| 14 | Dennis DiPietre. | 94 |
| 15 | L.M. Safley | 162 |
| 16 | Jane Johnson. | 194 |
| 17 | John Weber. | 207 |
| 18 | Bruce St John | 218 |
| 19 | Mark Kuck | 261 |
| 20 | Karen Hudson. | 268 |
| 21 | Bill Knight | 275 |
| 22 | Donald Reeder | 281 |
| 23 | Mark Beorkrem | 289 |
| 24 | Steve Hobson. | 303 |

| | | |
|---|-------------------------|-----|
| 1 | Dana Walker | 314 |
| 2 | Mike Hennefent. | 316 |
| 3 | Sam Kaufman | 330 |

4

5

6

E X H I B I T S

7

8

| | | |
|----|--------------------------|-----|
| 9 | Exhibit No. 25 | 66 |
| 10 | Exhibit No. 26. | 111 |

11 Exhibit Nos. 27 and 28. 178
12 exhibit No. 29. 207
13 Exhibits Nos. 30 - 36 240
14 Exhibit Nos. 37 - 39. 274
15 Exhibit No. 40. 311
16
17
18
19
20
21
22
23 CERTIFICATE OF SHORTHAND REPORTER. . 338
24

1 THE HEARING OFFICER: Good morning
2 and welcome. If you'd like to take a seat up
3 front. There is plenty of seats up in the front
4 that are available right now. Sorry for the
5 inconvenience. I know it's a little crowded out
6 there. My name is Audrey Lozuk-Lawless, and I'm
7 the hearing officer in this matter.

8 Today present on behalf of the Board is
9 chairman Claire Manning, Board member Dr. Ronald
10 Flemal, and Board member Dr. Tanner Girard.

11 We also have several attorneys here.
12 Attorneys Ms. Marie Tipsord, and Mr. Chuck Feinen,
13 and Ms. Cindy Erwin. We also have a member of our

14 technical unit here today, Mr. Hiten Soni.

15 Welcome to the Board's hearing today.

16 This matter is entitled livestock waste --

17 Livestock Waste Regulations, 35 Illinois

18 Administrative Code, Part 506.

19 Today is the third of five hearings the
20 Board is holding in this matter. The first was
21 held in Jacksonville on the 14th. Then we held
22 another hearing two days ago on Monday in DeKalb.
23 We will also be having a hearing in Mt. Vernon on
24 Friday. And then the final hearing in Champaign on

7

1 Friday, February 7th. If you need maps or
2 directions to any of those hearings, if you'd like
3 to attend, those are in the back of the room.

4 Today's proposal was submitted by the
5 Department of Agriculture. And today we will hear
6 summaries at the beginning of the hearing from the
7 Department of Agriculture, from the Illinois
8 Environmental Protection Agency, from the
9 Department of Natural Resources, and from the
10 Department of Public Health.

11 Today's hearing will be conducted
12 according to the Board's procedural rules on
13 hearings. And any evidence which is relevant and
14 not repetitious will be admitted into the record.

15 The Board members or attorneys may ask
16 questions. Please realize that those questions are

17 only to build the complete record and not to show
18 any bias or preconceived notions about the proposal
19 at all today. Just that they want to build a
20 complete record for any board members that are not
21 here today to ask those questions.

22 Today we will hear testimony from
23 approximately eight people who have prefiled
24 testimony.

8

1 After the agencies have given their
2 summaries. We will move on to those persons who
3 have prefiled testimony. They will give their
4 testimony. And then I believe there are eight or
5 nine people who have also signed up to testify. We
6 will then go on to their testimony.

7 After each one of those persons has given
8 their testimony, anyone in the audience or Board
9 members may ask a question of those witnesses.

10 Any witnesses that would like to testify,
11 I'd like you to know that you will be sworn in by
12 the court reporter. And afterwards, you will be
13 subject to questions from anyone here today.

14 If you'd like to participate in the
15 rulemaking without being sworn in and testify at
16 today's hearing, we accept public comments on the
17 rulemaking until Friday, February 14th, Valentine's
18 Day.

19 So if you want to submit comments, go

20 ahead, file a public comment. Just make sure that
21 you mark on the top of your filing that this is 35
22 Illinois Administrative Code, 506, Livestock Waste
23 Regulations, which has been docketed as R97-15 by
24 the Board.

9

1 Okay. Then right now, I'd like to turn
2 it over to Dr. Flemal for any opening comment.

3 MR. FLEMAL: Thank you. I want to
4 welcome you on behalf of the Board to this hearing
5 in the livestock waste management matter. It's
6 indeed a joy for us to see such a large turnout.

7 The participation of people like yourself
8 in our rulemaking process is very important to us,
9 and we look very much forward to the contributions
10 that you can make to this rulemaking.

11 Many of you, I trust, are new to the
12 Illinois Pollution Control Board, and I want to
13 take just a moment to say a little bit about who we
14 are and some of the duties that we engage in.

15 And specifically, the activity that we
16 are engaged in today, that's the rulemaking
17 regarding livestock waste.

18 We have at the back of the room a number
19 of these brochures. I don't know whether we had a
20 sufficient supply to go all the way around. But if
21 you either have one or can borrow one from a nearby
22 neighbor, take just a moment to look through it.

23 It describes the general activity that the Illinois
24 Pollution Control Board is charged with.

10

1 These include two broad areas of
2 activity. One is to resolve contested or disputed
3 environmental matters. They may range from things
4 like reviewing contested environmental permits to
5 siting activities, enforcement activity and the
6 like. A description of these general activities is
7 included in this blue brochure.

8 We also have a second major charge given
9 to us by the Illinois Environmental -- or Illinois
10 General Assembly. And that's to establish the
11 Environmental Control Standards for the state of
12 Illinois.

13 And it's that activity that we are
14 engaged in today. The ultimate product of the
15 activity of our rulemaking is a body of law that
16 would control, in this particular case, certain
17 aspects of how livestock management facilities are
18 operated and how activity at those sites are
19 conducted.

20 The rulemaking proposal involves a series
21 of steps. We are simply at one of those steps at
22 the moment. The rulemaking has been publicized.
23 It's appeared in print in several places, allowing
24 people to see what the rule is and come to us at

1 this stage to help us look at the potential merits
2 of the rule proposal before us.

3 We are conducting the hearings at the
4 present time to gain input from all people who have
5 an interest or perspective on the nature of this
6 rulemaking. We gather that information by hearing
7 from you at hearings and by receiving from you
8 written public comments.

9 As the hearing officer has indicated, the
10 public comment period, written public comment
11 period, will remain open until February 14th. We
12 encourage you that if you have something that you
13 believe the Board would benefit from in making its
14 decision in this matter to avail yourself of that
15 public comment period opportunity.

16 Once we have the public comment period or
17 public comments, plus all of the information we
18 gather at the hearing today, the seven Board
19 members -- the other four Board members are off
20 doing other duties by the way, but they will
21 participate in the decision by reviewing all of the
22 information. We'll deliberate over the record and
23 make a decision as to how this rulemaking is to
24 proceed.

1 We conceivably would proceed by adopting

2 the rule pretty much as proposed, or we may proceed
3 by adopting a rule in some modified form. Those
4 modifications are dependent upon what in facts we
5 gather in our information gathering process here
6 today and at the other hearings and the public
7 comments.

8 That activity, we anticipate, will be
9 complete at some time in the middle of March, at
10 which time the Board will announce its decision via
11 a written opinion. That written opinion will be
12 sent to all of the people that are on the service
13 and notice list.

14 Many of you are already on one or the
15 other of those lists. If you are not, there are
16 sign-up sheets in the back that you can get your
17 name put on. Thereby be -- thereby be noticed of
18 what the decision the Board has ultimately made on
19 this rule.

20 The ultimate decision, as I've noted,
21 regarding what the disposition of the proposal
22 before us is, depends upon the information that we
23 are able to accomplish or to gather. And, again, I
24 note specifically that we much appreciate the large

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1 turnout and the contributions that we receive from
2 all of you in helping us make the best possible
3 decision in how this rulemaking ultimately turns
4 out.

5 I think that's it. Thank you.

6 MS. MANNING: I'm Claire Manning. I
7 just wanted to second Dr. Flemal's welcome to all
8 of you. Welcome to all the public. Welcome to all
9 the members of the livestock industry. And welcome
10 to all of the members to the government that have
11 worked so hard so far under this very controversial
12 and very tough issue to get us where we are today
13 and to get public input in this process.

14 I would ask: Is there any state or local
15 government officials here this morning that would
16 like to identify themselves? I know that you
17 represent --

18 MR. Jerry Lack. I'm with
19 Congressman Evans' office.

20 THE HEARING OFFICER: Thank you.

21 MS. MANNING: I want you to know
22 that your representatives and senators have sent
23 word that they are in session in Springfield today,
24 so they are not able to be with us today, with

14

1 you. They have all sent their regards and are
2 interested as well in this process and have been
3 and are interested in everyone's comments, and have
4 been watching this process very closely.

5 So with those comments, I think we should
6 begin and let the testimony in the record start so
7 that we can -- we can have a full record.

8 THE HEARING OFFICER: Okay. Let
9 me -- was there a question in the back?

10 MS. SHAW: Identify myself.
11 Margaret Shaw (phonetic spelling), city alderman.

12 THE HEARING OFFICER: Okay. Thank
13 you. Welcome.

14 And just to note that Dr. Flemal
15 mentioned the notice and service notice. If you
16 want to be added to the notice, list your name.
17 Not on there, you can go ahead and sign up in the
18 back. You'll receive any orders in the matter.
19 Receive all the orders, plus any prefiled testimony
20 or prefiled questions.

21 He mentioned the blue citizens guide to
22 the Board. If we did run out and you'd like to get
23 one, just see Marie Tipsord any time during any of
24 the breaks. Give her your name and address, and

15

1 the Board would be happy to send those out to you.

2 And because the court reporter is up in
3 the front, I know there is a lot of people, if when
4 you are addressing questions to any of the
5 witnesses, if you could just raise your hand, I'll
6 acknowledge you, and then in a loud and clear
7 voice, state your name and the agency that you may
8 or -- may represent, and then, you know, you can go
9 ahead and give your questions. Just speak slowly.

10 Right now, we are going to begin with the

11 summaries from the agencies. They will not be
12 taking questions yet. They will take questions
13 after all the other witnesses.

14 Okay. Would you please swear in all the
15 witnesses, if you would please.

16 (Wherein all four witnesses were
17 sworn in by the court reporter, and after replying
18 I do, testified as follows:)

19 MR. BORUFF: Good morning. My name
20 is Chet Boruff, and I am employed by the Illinois
21 Department of Agriculture and am deputy director
22 for the Division of Natural Resource and Ag
23 Industry Regulation, a position I have held since
24 entering the Department on July 8th, 1992. As

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1 deputy director, I am responsible for the program
2 areas of the Department dealing with animal health
3 and welfare, natural resource protection,
4 regulation of the feed, seed and grain industry,
5 and the weights and measures program.

6 I was raised on a grain and livestock
7 farm in Rock Island County, Illinois. I received a
8 bachelor's degree in agriculture from Iowa State
9 University. And prior to coming to the Illinois
10 Department of Agriculture, I have worked in
11 agricultural finance, real estate, and -- and
12 agricultural supply sales, as well as operating a
13 diversified grain and livestock farm.

14 At today's hearing, I will be offering a
15 summary of the written testimony which the Illinois
16 Department of Agriculture entered into evidence
17 with the Illinois Pollution Control Board at its
18 hearing in Jacksonville, Illinois. At that time,
19 two other employees of the Illinois Department of
20 Agriculture, Scott Frank and Warren Goetsch, also
21 presented testimony relative to the proposed
22 rules.

23 Mr. Frank and Mr. Goetsch will not be
24 providing a summary today, but will be available

17

1 for questioning as the hearing proceeds.

2 Illinois has long been recognized as one
3 of the leading livestock producing states in the
4 nation. Due to its access to abundant feed
5 supplies, strong markets, and a well-developed
6 infrastructure, the Illinois livestock industry has
7 been a major contributor to the state's overall
8 economy.

9 Livestock production accounts for a
10 sizable portion of the state's total gross
11 agricultural committee, and several types of
12 livestock species are produced in the state.

13 The livestock industry is undergoing
14 major changes in structure due to economic and
15 marketing forces which are -- are not unique to
16 Illinois. As a result, it has become fairly common

17 for many operations to expand, specialize and
18 invest in capital intensive production units in
19 recent years.

20 The livestock industry also been faced
21 with challenges regarding market structure, access
22 to capital, a limited supply of trained employees
23 and increased regulations. In many cases in
24 Illinois, as well as in other states, traditional

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1 and long established livestock producers have
2 chosen to leave the industry rather than to address
3 the challenges listed above.

4 In an effort to strengthen the industry
5 and position Illinois to be a continuing leader in
6 livestock production, Governor Edgar convened the
7 Livestock Industry Task Force in July of 1995. The
8 Livestock Industry Task Force chaired by Becky
9 Doyle, director of agriculture, includes
10 representatives from the following representatives
11 of the livestock industry. There are five pork
12 producers, two beef producers, one dairyman, one
13 sheep producer, all of whom own and operate their
14 own farms, two farm managers, one veterinarian with
15 a diversified practice, one grain producer, one
16 representative of the meat packing industry, one
17 representative of the animal pharmaceutical
18 industry. There is a one nutritional consultant,
19 one ag economist from the University of Illinois,

20 one grain elevator operator with farming interests,
21 and finally one diversified farmer who is also a
22 local elected official.

23 The charge given to the task force was to
24 consider those factors affecting the livestock

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1 industry in the state of Illinois and to make
2 recommendations to Governor Edgar on ways that
3 Illinois could continue to foster a healthy
4 livestock industry.

5 The task force has addressed a wide range
6 of topics, focusing on areas of economic
7 development, marketing, technology transfer and
8 environmental concerns regarding livestock
9 production. Its recommendations have dealt with a
10 number of issues, including concerns addressed in
11 this hearing.

12 In recent years, many livestock
13 operations in Illinois have expanded in an effort
14 to take advantage of efficiencies which may be
15 connected with these larger units. As the size of
16 the operation has grown, so has the amount of waste
17 which is generated and must be ultimately disposed
18 of by the operators of these production units.

19 Many citizens have expressed concern over
20 the possible negative impacts these large volumes
21 of waste might have on soil, water and air
22 resources.

23 A working group was formed by the
24 Livestock Industry Task Force to study these

20

1 environmental concerns and to report back to the
2 task force with its findings. Ten seats were
3 established on the working group, in an effort to
4 give balanced representation to individuals
5 favoring different approaches to the issue.

6 Groups favoring more restrictive measures
7 controlling the size and location of livestock
8 production units chose to provide four
9 representatives to the working group. The working
10 group reported its findings to the Livestock
11 Industry Task Force, giving an opportunity for
12 members with opposing opinions to offer a report,
13 if they had chosen to do so.

14 The recommendations of the working group
15 were supported by the task force as a whole, and
16 these recommendations were taken into consideration
17 by the legislative sponsors of the Bills, which
18 eventually became the Livestock Management
19 Facilities Act.

20 The Livestock Management Facilities Act
21 is intended to be preventative in nature, since
22 Illinois currently has statutes in place to deal
23 with situations once pollution has occurred. The
24 Act sets in place regulations providing for the

1 proper siting, construction, operation and
2 management of livestock management facilities and
3 associated waste handling structures.

4 It is the intent of the Act, and quoting
5 from the Act itself, to maintain an economically
6 viable livestock industry in the state of Illinois
7 while protecting the environment for the benefit of
8 both the livestock producer and persons who live in
9 the vicinity of the livestock production facility.
10 End of quote.

11 Section 55 of the Livestock Management
12 Facilities Act established a livestock management
13 facilities advisory committee made up of the
14 directors of the Department of Agriculture, Natural
15 Resources, Public Health and the Illinois
16 Environmental Protection Agency or their
17 designees.

18 I was designated by Director Doyle to
19 serve as the chair of the committee.

20 The members of the committee were charged
21 to review, evaluate and make recommendations to the
22 Department of Agriculture for rules necessary for
23 implementation of the Livestock Management
24 Facilities Act.

1 The Department was mandated by statute to

2 propose rules to the Board, the Pollution Control
3 Board, for the implementation of the Act within six
4 months of the effective date of the Act. Since the
5 effective date of the legislation was May 21, 1996,
6 the Department prepared its proposal for a filing
7 date of November 21, 1996 with the Illinois
8 Pollution Control Board.

9 Section 55 of the Act requires that the
10 Board hold hearings on and adopt rules for the
11 implementation of the Act within six months of the
12 Department filing of the rule proposal for that
13 purpose.

14 The committee met five times during the
15 summer and fall of 1996 to review, evaluate and
16 recommend amendments to various draft proposals
17 developed by the Department.

18 The Departments and the Agency
19 represented on the committee provide the vast
20 amount of professional knowledge and experience on
21 a broad spectrum of topics pertinent to the subject
22 matter of the -- of the Act.

23 The Department recognizes them for their
24 efforts and appreciates their recommendations and

23

1 input throughout the rule proposal development
2 process.

3 The committee considered several sources
4 of information such as technical papers, published

5 design standards, pertinent information from other
6 states, and information provided by industry and
7 private individuals as it made recommendations to
8 the Department regarding the rule proposal.

9 In the fall of 1996, as the advisory
10 committee was meeting to develop these proposed
11 rules, concerns were raised to the General Assembly
12 regarding the absence of regulations since the
13 permanent rules had not yet been adopted.

14 As a result, the Department developed and
15 proposed to the Board an emergency rule pertaining
16 to portions of the Act; namely, lagoon
17 registration, livestock facility siting, waste
18 lagoon design criteria, waste management plans and
19 certified livestock manager training and
20 certification. The Board adopted these emergency
21 rules on October 31, 1996. These rules are
22 currently in place until such time as the Board
23 adopts the permanent rules.

24 I want to briefly summarize the rules

24

1 which we have proposed to the Illinois Pollution
2 Control Board. Subpart A sets forth the
3 applicability, severability definitions and
4 incorporations by reference for the rule proposal.

5 This subpart follows concepts developed
6 and included in the emergency rules adopted by the
7 Board under docket R97-14. All but six terms

8 defined within the section have been taken directly
9 from the Livestock Management Facilities Act.
10 Definitions proposed in the rules will further
11 clarify concepts necessary for the enforcement of
12 the regulations.

13 An important issue relevant to the timing
14 of the application of setback needs clarification.
15 And the Department respectfully requests that the
16 Board consider a further clarification of this
17 important matter.

18 Subpart B of the proposal is organized
19 into eight major sections and outlines the approach
20 required of owners and operators of new or modified
21 livestock waste lagoons for the registration,
22 design, construction, closure and ownership
23 transfer of such facilities.

24 The proposal closely followed the

25

1 emergency rules adopted by the Board. This subpart
2 takes into consideration site-specific
3 investigation which is to be performed by the owner
4 prior to registration and construction. Design
5 criteria is based upon recognized design parameters
6 established by either the American Society of
7 Agricultural Engineers or the United States
8 Department of Agriculture, Natural Resource
9 Conservation Service. This subpart establishes
10 criteria for construction of lagoon berms,

11 monitoring wells, liners, lagoon closure and
12 ownership transfers.

13 Subpart C deals with waste management
14 plans. The application of livestock waste to the
15 land is one of the oldest forms of recycling, and
16 livestock waste has been used for generations to
17 supply nutrients for crop growth and development,
18 when properly applied.

19 Livestock waste can be a valuable
20 resource. However, improper application may have a
21 negative impact on surface and groundwater, as well
22 as detrimental effects to the soil.

23 Subpart C outlines the factors to be
24 considered by a livestock producer who must prepare

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1 a waste management plan in accordance with the
2 Livestock Management Facilities Act. This subpart
3 outlines what information will be necessary to
4 complete a waste management plan, establishes
5 criteria for crop nutrient values, optimum crop
6 yields, nitrogen availability, and proper disposal
7 methods for livestock waste.

8 Subpart D. This rule provides details
9 for the establishment of a certified livestock
10 manager program, intended to enhance the management
11 skills of the livestock industry in critical areas
12 such as environmental awareness, safety concerns,
13 odor control techniques and technology, and the

14 development of manure management plans.

15 This subpart includes proposed language
16 dealing with applicability and administrative
17 details. With the Pollution Control Board
18 concurrence, the Illinois Department of Agriculture
19 intends to adopt further rules and procedures
20 pursuant to authorities within the Illinois
21 Administrative Procedures Act.

22 Sub E of the proposed rules deals with
23 penalties associated with violations of three areas
24 of the Act; namely lagoon registration and

27

1 certification, certified livestock manager status,
2 and waste management plans. This subpart is
3 primarily devoted to cease and desist orders listed
4 as penalties within the Act.

5 This subpart also proposes that a waste
6 management plan that is prepared as a result of a
7 warning letter from the Department or of a
8 compliance agreement shall be subject to review and
9 approval by the Department regardless of the size
10 of the facility. Also proposed is a statement
11 indicating that penalties will not be imposed for
12 excessive nitrogen application for unplanned
13 cropping changes due to weather or unforeseeable
14 circumstances.

15 Subpart F deals with financial
16 responsibilities and relates to Section 17 of the

17 Livestock Management Facilities Act. The intent of
18 this Section is to ensure that in the event of a
19 closure of a lagoon associated with a livestock
20 management facility, the cost of that closure shall
21 be borne by the owner of the lagoon versus a unit
22 of local government.

23 Section 17 of the Act outlines surety
24 instruments which may be used to ensure financial

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1 responsibility. With the concurrence of the
2 Pollution Control Board, the Illinois Department of
3 Agriculture intends to adopt rules and procedures
4 in separate rulemaking processes pursuant to the
5 Illinois Administrative Procedures Act.

6 Subpart G deals with setback distances
7 which are intended to protect air quality and
8 control odors which may result from livestock
9 production, but may be offensive to neighbors of
10 individual operations.

11 It is very likely that any livestock
12 operation, regardless of size, will generate some
13 level of odor by the very nature of the operation.
14 Many factors contribute to the level of odor
15 resulting from a livestock operation.

16 The intent of establishing setback
17 distances is to provide for a dilution effect which
18 will lessen odors coming from a livestock operation
19 before they reach surrounding persons or homes.

20 With the concurrence of the Pollution Control
21 Board, the Illinois Department of Agriculture
22 intends to promulgate rules and procedures
23 necessary to perform its duties and
24 responsibilities under subpart G in accordance with

29

1 the Illinois Administrative Procedures Act.

2 Clearly, the issues which we face are
3 complex, have far-reaching impacts, and are not
4 easy to resolve. As discussions have been held at
5 several locations around the state over the last
6 year-and-a-half, it seems that two main themes have
7 emerged regarding livestock production in the state
8 of Illinois.

9 First, is one of providing protection for
10 the environment and natural resources of our
11 state. This concern is not unique to Illinois, and
12 other states have dealt with the same issues in a
13 variety of ways.

14 The rules which we have proposed will
15 serve to reinforce the preventative nature of the
16 Livestock Management Facilities Act, as intended by
17 the Illinois General Assembly. The proposed rules
18 take into account the most current design standards
19 and criteria, scientific information and production
20 practices to ensure that the natural resources of
21 Illinois are protected.

22 Another theme has developed which relates

23 to the social and economic changes occurring within
24 the livestock industry. Much has been said about

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1 protecting the family farm and restricting the size
2 of the mega farm as they are being considered in
3 Illinois.

4 The rules which we are proposing to the
5 Pollution Control Board do not address these social
6 and economic issues, but rather provide for the
7 protection of our natural resources. However,
8 there are many producers and industry experts who
9 warned that the increased cost of regulations may
10 actually lead to an acceleration of small to
11 mid-sized livestock operations leaving the
12 industry.

13 As a result, the Illinois Department of
14 Agriculture recognizes that the rules to be adopted
15 need to be fair in their approach, economically
16 reasonable in their implementation, and based upon
17 sound scientific information.

18 With that, that concludes my opening
19 comments. Thank you.

20 THE HEARING OFFICER: Thank you,
21 Mr. Boruff. Mr. Warrington would, you like to
22 begin.

23 MR. WARRINGTON: Good morning. My
24 name is Rich Warrington. I'm the associate counsel

1 for regulatory affairs for the Bureau of Water.

2 On behalf of our director Mary Gade and
3 James Park of the Bureau of Water, we would like to
4 welcome you here this morning and like to thank you
5 for your interest in these proceedings.

6 Today I'll be summarizing the testimony
7 of Jim Park given at the hearing in Jacksonville,
8 Illinois earlier this month. Additional copies of
9 his written testimony are at the table at the back
10 of the room, if you'd like one.

11 To summarize his testimony is that the
12 Illinois EPA supports the adoption of R97-15. The
13 division of operation, certification and the
14 mandate for livestock waste management plans for
15 the largest of these facilities is a positive step
16 in establishing consistent and responsible
17 operation of livestock waste handling facilities in
18 the state.

19 We endorse and encourage the training and
20 educational programs set forth in these rules as a
21 meaningful approach in making the agricultural
22 community aware of the responsibilities and
23 beneficial aspects of sound livestock waste
24 management.

1 This program, when fully developed,

2 promises to allow for the communication and the
3 evaluation of innovative technology as it affects
4 the development of the operators' waste management
5 plans. The expansion of the setback limit as its
6 mandated under the Livestock Facilities Act, is
7 also a necessary step in addressing the potential
8 detrimental aspects of large livestock facilities.

9 In addition to our general support, we
10 would like to offer the Board three specific
11 suggestions that these rules could be improved in.

12 The first is that soil boring
13 requirements are satisfactory for the vast majority
14 of sites in Illinois, as prescribed under 35
15 Illinois Administrative Code 506.202(b). However,
16 the Illinois Department of Agriculture needs
17 adequate flexibility to require additional borings
18 in the case of disturbed or mined land that may
19 have altered hydrology and soil conditions. More
20 routes to groundwater via abandoned shafts. In
21 these circumstances, a single boring for a large
22 four-to-six acre lagoon would be insufficient.

23 In addition, the rules establish criteria
24 for the design of lagoons. Based on experiences in

1 Illinois and other states, the Illinois EPA
2 recommended two additional criteria that be
3 specified in the design standards of the proposal,
4 both of which are addressed in the referenced

5 documents submitted by the Department of
6 Agriculture with their proposal to the Board.

7 These are a prohibition on the use of
8 outlet piping through the lagoon berm. Section
9 4.6-2 of the American Society of Agriculture
10 Engineers Standards states, and I quote, an
11 overflow device with a minimum capacity of 1.5
12 times the peak daily inflow may be installed at the
13 lagoon surface level, only if the overflow is to be
14 contained in another lagoon cell or other treatment
15 facility. Other devices should be installed in a
16 way that allows effluent to be taken at a level of
17 150 to 450 millimeters, or six to eight inches
18 below the surface, close quote. This seems to
19 suggest that a subsurface outlet may be approved.

20 The Illinois EPA is aware of a recent
21 example in North Carolina where a lagoon slope
22 failure was related to, and possibly directly
23 caused by, an outlet pipe design of this type. The
24 National Resource Conversation Service recently

34

1 changed the North Carolina guidance document so
2 that, quote, if any pipes are to be placed through
3 the embankment of the location, method of
4 installation shall be approved by the designer of
5 the embankment and installed by a certified
6 designer of the embankment, close quotes.

7 It should be noted that this guidance

8 document, although designates any National Resource
9 Conservation document, was developed specifically
10 for and applies only to North Carolina.

11 The National Resource Conservation
12 Service references a document submitted to the
13 Board with this proposal does not contain this
14 guideline. Therefore, the Illinois EPA recommends
15 an addition to R97-15 that either prohibits the use
16 of through-the-berm outlet piping, unless the
17 piping discharges to another lagoon, or would
18 require the Illinois Department of Agriculture's
19 specific approval, as called for in the North
20 Carolina example.

21 And lastly, the Illinois EPA recommends
22 that the design criteria require an emergency
23 spillway. The National Resource Conservation
24 Service document very clearly specifies under what

35

1 conditions this is to be present when, I quote,
2 lagoons having a maximum design liquid level of
3 three feet or more above natural ground shall be
4 provided with an emergency spillway or an overflow
5 pipe to prevent overtopping.

6 Since this is not close -- this is not
7 addressed in the American Society of Agricultural
8 Engineers' document, a potential point of confusion
9 exists that could be corrected by adding a specific
10 provision to R97-15 for the necessary design to

11 include an emergency spillway.

12 In conclusion, the Illinois EPA acting in
13 its role through the Livestock Management Facility
14 Act and advisory committee has evaluated and made
15 recommendations on a wide variety of issues
16 presented on the subject of livestock waste
17 management.

18 In the course of our deliberation -- in
19 the course of our deliberation, those on this
20 committee, the Department of Public Health, the
21 Department of Natural Resource, and in particular,
22 the Department of Agriculture, are to be commended
23 for their efforts and in drafting a well-reasoned
24 set of proposed rules for the Illinois PCB's

36

1 consideration.

2 R97-15 represents a strong step forward
3 in the effective management and prevention of
4 pollution from large livestock facilities in
5 Illinois.

6 We encourage the Illinois Pollution
7 Control Board to adopt R97-15 and include the above
8 noted additions. Thank you.

9 THE HEARING OFFICER: Thank you,
10 Mr. Warrington. Okay. Dr. Marlin would you like
11 to begin with your testimony.

12 DR. MARLIN: I'm John Marlin. I
13 represent Brent Manning, the director of natural

14 resources on the Livestock Management Advisory
15 Committee. The Department of Natural Resource
16 generally supports the livestock regulation
17 proposal before the Board today.

18 We realize that its scope is limited by
19 constraints of the Livestock Management Facilities
20 Act. We are confident that the groundwater
21 protection and structural integrity portion of the
22 rules regarding lagoons themselves are in sync with
23 the accepted standards at the national level and
24 the state level. And we believe they will provide

37

1 a significant protection to groundwater and surface
2 water throughout the state.

3 We also strongly support the operators
4 certification and training portions, in that they
5 will provide the Department of Agriculture an
6 opportunity to address operational and procedural
7 matters not specifically addressed by the Act or
8 regulations. We have one proposed modification to
9 the regulations in the area of the definition of a
10 populated area.

11 We propose modifying that definition to
12 make sure that land managed for conversation or
13 recreation purposes, including 4-H and scout camps,
14 be considered populated areas, as long as they meet
15 the 50 person per week attendance requirement.

16 Additionally, we believe that the

17 boundary of such properties should be used when
18 measuring the appropriate setback distances.

19 We appreciate this opportunity to appear
20 before the Board, and thank all the participants.

21 THE HEARING OFFICER: Thank you,
22 Doctor. Mr. Mudgett, would you like to present
23 your comments.

24 MR. MUDGETT: I'm with the Illinois

38

1 Department of -- Department of Public Health, and I
2 represent Director Lumpkin on the advisory
3 committee that developed the proposed rules.

4 We, the Department, support the rules as
5 written. Our primary concern in the development of
6 these rules was the protection of groundwater,
7 which can serve as a source of supply for drinking
8 water wells, private wells that are located in the
9 vicinity of these types of facilities. And we
10 believe that the requirements that were developed
11 in that regard are both adequate and reasonable.

12 We also endorse the remainder of the
13 rules that were written, and believe that the
14 public health aspects that are inherent in those
15 rules were carefully considered and adequately
16 included as need be.

17 We also believe that the rules that we
18 have proposed, again with regard to public health
19 in particular, are in keeping with both the letter

20 and the spirit of the Livestock Management
21 Facilities Act.

22 I, too, have provided copies of my full
23 written testimony, and they are located on the back
24 table with the others. We appreciate the

39

1 opportunity to participate in this very important
2 rulemaking, and also as others, have commended the
3 Department of Agriculture for the open manner in
4 which the rulemaking process was developed and the
5 way that our various recommendations were
6 considered. Thank you.

7 THE HEARING OFFICER: Thank you
8 Mr. Mudgett. At this time, what we are going to
9 do, we are going to have the Agency representatives
10 sit down and have those that have prefiled come up.

11 You will be given an opportunity to ask
12 all of these gentlemen questions after we have
13 heard the testimony of the other witnesses who have
14 prefiled.

15 So at this time, if Jill Appell,
16 Dr. Dennis DiPietre, William Englebrecht and David
17 Worrell could come up and sit here. And they can
18 go ahead and we can begin with their testimony. In
19 addition, if we have got the liberty to use the
20 next-door room, we are going to open it up right
21 now and see what's on the other side. Hopefully,
22 we will have additional chairs over there

23 (Recess taken.)

24 THE HEARING OFFICER: Okay. Then

40

1 let's begin again. Could the court reporter please
2 swear in the witnesses.

3 (Wherein all three witnesses were
4 sworn in by the court reporter, each having said I
5 do, and testified as follows:)

6 THE HEARING OFFICER: And please
7 remember when you are giving your testimony, speak
8 very loudly. We do have a few people. In case it
9 doesn't get picked up, use the microphone.

10 And Mr. Harrington, would you like to
11 begin.

12 MR. HARRINGTON: Yes. I'm Jim
13 Harrington here representing the Illinois Pork
14 Producers, Illinois Beef Association, and the
15 Illinois Farm Bureau. We have four witnesses we
16 are going to present today. Three are here, and
17 one is on the way.

18 If at any time, you cannot hear the
19 witnesses, please raise your hand and signal. And
20 we will try to speak up, or better, use the
21 microphone for everyone's benefit.

22 Our first witness today is Bill
23 Englebrecht.

24 MR. ENGELBRECHT: Thank you. I

1 would first like to thank the members of the
2 Illinois Pollution Control Board for the
3 opportunity to address the Board today.

4 My name is Bill Engelbrecht. I am the
5 owner and operator of several beef enterprises.
6 Engelbrecht Angus farm is 500 head seedstock
7 operation at Henry, Illinois. For nearly 100
8 years, there have been cattle grazing the pastures
9 and hills along the Illinois River Valley.

10 Cattle have been our livelihood for
11 generations, and I will hope that they would
12 continue to be for the next generation, which
13 includes my three young sons.

14 Years ago, these hills were plowed in
15 order to raise crops. But now our efforts to
16 conserve the land mean that we graze cattle on the
17 lush hills to make our living. We provide genetics
18 throughout the United States.

19 Our second cattle operation is Black Gold
20 Cattle Company, with 2,000 head of commercial
21 cow/calves located in Fulton County. A few miles
22 away, we have 5,000 head of confined cattle feeding
23 operation located near Lewistown, Illinois.

24 This operation uses a large waste

1 lagoon. Combined, these enterprises are designed

2 to integrate the beef production systems, thereby
3 maximizing the ability to utilize the best genetics
4 technology and management available in the industry
5 today.

6 But most importantly, it's designed to
7 put a nutritional, healthful, and delicious product
8 on the dinner tables --

9 THE HEARING OFFICER: Could you hold
10 on one second? Off the record.

11 (Off-the-record discussion held.)

12 THE HEARING OFFICER: I'm sorry.
13 Please continue.

14 MR. ENGELBRECHT: I'm sorry. I
15 can't see. Just kidding.

16 But most importantly, our efforts are to
17 put a nutritious, healthful and delicious product
18 on the dinner tables of the American consumer.

19 I think as you view the world, it's
20 interesting in many countries, many people spend
21 their days simply trying to put enough food on the
22 table. American agriculture has done mighty well
23 in serving the American public.

24 Yes, we have thousands of cattle.

1 Perhaps no one else in the state has more. But I
2 will also claim that maybe no one else has as many
3 pheasants or duck or geese or chucker or turkey or
4 quail or deer and fish than we have on our farms.

5 There is abundant wildlife flourishing side by side
6 with our beef production.

7 At Black Gold, we now host the Illinois
8 Department of Resource's Dog Trials. We have a
9 catch-and-release program and other special
10 conservation-oriented events.

11 Brent Manning, DNR's director, has looked
12 out over the hills at our operation at Black Gold
13 and seen the cattle and the wildlife flourish in
14 the same pastures.

15 As our management of the grazing land
16 improves the quality of the forages and the water
17 for our cattle, we also improve the habitat for all
18 the wildlife that are a part of that environment.

19 This past year, we worked hand in hand
20 with DNR to expand our wildlife management plan and
21 to improve our national resources at Black Gold.

22 This year, hunters and fisherman from all
23 over America will come to Black Gold in
24 unprecedented numbers. While there, they will see

44

1 and learn what we have known for years; livestock,
2 wildlife and sound environmental management go hand
3 in hand.

4 As you can see, my family has a very
5 large financial commitment to the beef industry.
6 The outcome of this rulemaking will have a large
7 impact on me, my family, my employees, and with

8 those with whom I do business.

9 My family and my employees' families
10 drink the water from the wells where we raise
11 cattle on our farm. We fish in the lakes. We hunt
12 in the woods. We find tremendous joy in the beauty
13 of nature that has been entrusted to our care.

14 Management decisions are made with
15 environmental impact concerns in mind. I am not at
16 all interested in upsetting the balance of nature.

17 In the final analysis, the farmer, the
18 livestock producer are the real true
19 environmentalists. In many respects, my whole life
20 is geared around caring for the environment. It's
21 not those who live someplace else and come out of
22 their homes sporadically at every town meeting with
23 a loud and shrill voice.

24 We ask you, Pollution Control Board, to

45

1 trust us, to work with us, and most importantly to
2 help us to do the right things.

3 Sound environmental standards for
4 livestock production are warranted. I believe that
5 the Livestock Management Facilities Act is a good,
6 proactive effort by the industry that has
7 established those standards.

8 You, this Board, has demonstrated its
9 wisdom earlier when the emergency rules for
10 Livestock Management Facilities Act were adopted.

11 A future of the livestock industry in Illinois will
12 be largely defined by the permanent rules now being
13 promulgated before you.

14 Contained within the Livestock Management
15 Facilities Act is the charge that the rules adopted
16 to implement the Act shall be technologically
17 feasible and economically reasonable. Those with
18 the shrill voices will say that the Act and the
19 rules do not go far enough. But for them, it will
20 never be enough, until many of us are out of
21 business.

22 I am concerned that the cost of overly
23 restrictive regulation of livestock production will
24 be more than agriculture producers can bear. And

46

1 you know well that our margins are very, very
2 thin. I find no one today saying, gee, I'd really
3 like to get in the livestock business.

4 I urge you to keep this concern in mind
5 as you deliberate the final rules.

6 And this morning, I'm struck by
7 something. I'm struck by the fact that four
8 officials sat up here this morning; Public Health,
9 Department of Agriculture, Department of Natural
10 Resources, and Environmental Protection Agency,
11 with their scientists, their administrators, their
12 experts all said that they endorsed what this Act
13 is doing, with noted exceptions.

14 Thank you for the opportunity to testify
15 today. I will be glad to respond to any questions
16 the Board may have.

17 THE HEARING OFFICER: Thank you,
18 Mr. Engelbrecht. Is there anyone in the audience
19 that has a question for Mr. Engelbrecht at this
20 time? Okay. Seeing no questions, anyone from the
21 Board would like to ask a question?

22 MS. MANNING: Mr. Englebrecht, would
23 you be indicate how these rules are going to affect
24 your operation, if you could just briefly.

47

1 MR. ENGELBRECHT: Well, the Act, of
2 course, as designed, I think will encourage me to
3 be a better manager of my facilities. There are
4 numerous occasions that will require me to do
5 significant additional paperwork, be mindful of a
6 lot of regulations. But in general, I'd have to
7 say that those are things that are worth doing.
8 Those are things that I do think are in my best
9 interests or the best interests of the people of
10 the state of Illinois.

11 MS. MANNING: Thank you.

12 THE HEARING OFFICER: Thank you,
13 Mr. Engelbrecht. Mr. Harrington, would you like to
14 call your next witness.

15 MR. HARRINGTON: Yes. Our next
16 witness is Jill Appell, and I'm going to ask her to

17 add a little bit to her testimony concerning the
18 family background in agriculture in Illinois, as
19 well as her own role on the farm. Thank you.

20 MS. APPELL: Thank you for the
21 opportunity to testify here today.

22 My name is Jill Appell. I am a pork
23 producer from here in Knox County, and I'm
24 currently president elect and chair of public

48

1 policy for the Illinois Pork Producers
2 Association.

3 Our family corporation operates a 600 sow
4 farrow-to-finish swine farm, which is approximately
5 1600 animal units. Therefore, we will be required
6 to have a certified livestock manure manager, and
7 we will have to have a manure management plan on
8 file on the farm.

9 For some of our background, the family
10 background, my husband grew up in the same home
11 that his father grew up in and his father's father
12 grew up in. And the family came from Sweden. My
13 husband's great, great grandfather died on the boat
14 on the way over here. And so his two-year-old
15 great grandfather and great, great grandmother came
16 down here to Victoria Township and spent the first
17 winter in a cave. And our family has been farming
18 in this area ever since then.

19 In late 1994, certain types of swine

20 confinement systems became an issue in McDonough
21 County because some local citizens objected to the
22 establishment of a facility and called upon their
23 legislators to find a way to prohibit construction
24 of the 1200 sow unit.

49

1 In December 1994, Senator Laura Kent
2 Donahue and Representative Richard Myers
3 established a Hog Confinement Task Force to address
4 the concerns associated with the influx of new
5 livestock protection facilities in Illinois.

6 Members of the task force included farm
7 organization representatives, state agency
8 personnel and concerned citizens. I served on that
9 task force.

10 The Hog Confinement Task Force held
11 several public hearings and revealed hours of
12 testimony from state agency personnel and from the
13 public. The testimony concerned the location of
14 hog facilities and concerned the social and
15 environmental impacts on neighbors.

16 The siting of new facilities was the key
17 issue discussed during the meetings of this task
18 force. Some public members thought that the
19 setback provisions in the Illinois Livestock Waste
20 Regulations were inadequate for the large-scale
21 operations. In response to this concern, the task
22 force members representing the Illinois

23 Environmental Protection Agency, the Illinois
24 Department of Agriculture, and the Illinois Pork

50

1 Producers Association agreed to carry out a project
2 to investigate the potential impact of extending
3 the current setback requirements without creating
4 an exclusionary effect of new facility
5 development. I was involved in the -- in the
6 survey here in Knox County in Victoria Township.

7 The findings of an earlier survey, which
8 resulted in the Title 35 setbacks, indicated that,
9 quote, between 40 and 60 percent of the land area
10 in each township appeared to be included within a
11 setback when all rural residences were assumed to
12 be non-farm residences. There was little
13 difference noted between rural and urban townships
14 in regards to the total area affected by setbacks.
15 Extending these setbacks to a half mile in
16 combination with implementing the non-farm entity
17 setbacks, appeared to be extremely restrictive for
18 locating new livestock facilities in the majority
19 of the survey areas.

20 The principal issue to consider here is
21 that the potential for having an exclusionary
22 effect upon the regulated entities would
23 significantly increase if the setback distances are
24 arbitrarily increased by a great amount. End of

1 quote.

2 The results of the 1995 survey, as
3 printed in the summary report, A Study to
4 Investigate the Potential Impact of Modifying New
5 Facility Setback Requirements in Illinois Livestock
6 Waste Regulations state, quote, without considering
7 the setbacks for non-farm entities, the fourth mile
8 setback for farm residences consumes an appreciable
9 amount of land in all but Menard and Williamson
10 County study areas. Extending these setbacks to a
11 half mile in combination with implementing the
12 non-farm entity setbacks appears to be extremely
13 restrictive for locating new livestock facilities
14 in the majority of survey areas. Similar to the
15 circumstances for non-farm residential setbacks, a
16 procedure allowing for a case-by-case determination
17 to deviate from the setbacks applicable to farm
18 dwellings would enhance the potential for having
19 expansive tracts available for large-scale facility
20 development. End of quote.

21 IEPA's current procedure that requires
22 that N.D.P.E.S. permit if over five acres of land
23 is being disturbed or if the facility discharges
24 into the water remains in effect. In addition,

1 IEPA's regulations governing the location of new

2 livestock management facilities and new waste
3 handling facilities remain in effect.

4 The conditions for location and
5 exceptions from being considered a new location
6 have been working well since the regulations were
7 adopted. Those exceptions are critical to avoid
8 further impact on the industry, especially since
9 the setback distances are only for producers. The
10 producer is not protected against the public moving
11 within the setback.

12 Those requirements, in addition to both
13 survey findings, helped establish new setbacks for
14 siting of the larger facilities in the Livestock
15 Management Waste Facilities Act.

16 Another issue that was reviewed by this
17 task force was the social and public health
18 aspects. Dr. Julia Dyer, assistant director of the
19 Illinois Department of Public Health, found
20 generally speaking, quote, no correlation of
21 proximity to hog confinement operations and the
22 transmission of any infectious agent, end of quote.

23 The task force reviewed current livestock
24 pollution regulations in Title 35 and other data it

1 had received, but the members could not reach an
2 agreement on how to proceed.

3 Then in the spring of 1995, Governor
4 Edgar established a Livestock Industry Task Force

5 to look at ways for the livestock industry to
6 remain viable in Illinois while protecting the
7 environment. I am a member of this task force.
8 And I served as a member of the environmental and
9 social issues working group.

10 That group was comprised of both
11 producers and members of the Illinois Citizens for
12 Responsible Practices. It was this group which
13 presented the preliminary report recommending the
14 legislation that has become this Act.

15 The Governor's Livestock Industry Task
16 Force findings were that, quote, current regulation
17 of the operation and management of livestock
18 production is adequate for today's industry with
19 few modifications. End of quote.

20 During public meetings of the working
21 group, we discussed the potential for groundwater
22 contamination from earthen livestock lagoons
23 because of problems experienced in states such as
24 Missouri and North Carolina. Thus, standards for

54

1 earthen livestock lagoon construction were
2 recommended which include inspection prior to
3 operation. These standards exceed the requirements
4 of any sanitary waste lagoon, as their provisions
5 are only guidelines.

6 The working group developed and
7 recommended to the full Governor's Livestock

8 Industry Task Force a draft of the legislative
9 proposal, which consisted of four primary
10 modifications to the existing regulations. The
11 General Assembly added some provisions as the
12 legislation advanced through the process.

13 First was the earthen livestock waste
14 lagoon registration. On the issue of the potential
15 for earthen livestock of lagoons to contaminate the
16 groundwater, this legislation sets construction
17 standards based on guidelines of certified
18 professional engineers, establishes registration of
19 new or modified earthen livestock lagoons, and
20 authorized the Department of Agriculture to inspect
21 and approve the lagoons prior to operations.

22 Second was the certified livestock
23 facility manager. The Illinois Environmental
24 Protection Agency indicated that 6 -- 50 to 60

55

1 percent of the complaints now on file with the
2 Agency could be avoided or solved by changes in
3 management. The Act requires waste handling
4 equipment for facilities serving 300 or greater
5 animal units to be operated under the supervision
6 of a certified manager, and creates a program for
7 management education, training and certification.
8 Recertification is required every three years.

9 This type of program is consistent with
10 the sanitary sewer operation certification and with

11 the private pesticide applicator's certification
12 programs.

13 Third was the handling, storing and
14 disposing of livestock manure. Farms with more
15 than 1,000 animal units, but less than 7,000, must
16 have a waste management plan on file at the farm.
17 The plans are intended as an integrated management
18 tool to assist the owner or operator in meeting
19 environmental and operational requirements. It is
20 the intent that this program operate similar to the
21 pesticide recording -- record keeping program and
22 not create a major governmental regulatory
23 program.

24 Farms with more than 7,000 animal units

56

1 must have a waste management plan preapproved by
2 and on file with the Department of Agriculture to
3 assure that sufficient land is available to spread
4 the manure. The application of livestock manure
5 cannot exceed the agronomic rate of nitrogen. And
6 restrictions placed on the application of manure as
7 far as distance from water sources during the
8 winter months and on new irrigation systems.

9 And finally, with the setbacks. Many new
10 setback distances were established for facilities
11 serving 1,000 animal units or greater, based on the
12 animal densities. The Act further authorized the
13 same conditions for exemptions from setbacks or

14 compliance with the maximum feasible location
15 requirements as currently set forth in Title 35
16 regulations governing agriculture-related
17 pollution.

18 In addition, the working group revealed
19 the issue of odor control and recommended that the
20 current odor control methods, as adopted in Title
21 35 regulations, remain in effect. Current research
22 projects concerning the mechanical separation of
23 solids from the liquid in livestock waste have not
24 yielded systems that are capable of handling large

57

1 volume units or that are economically feasible,
2 mechanically dependable and energy efficient.

3 There are many chemical and
4 bacteriological compounds available for odor
5 control, but are not totally effective and cost
6 efficient at the same time.

7 The General Assembly added a provision to
8 the legislation which states that, quote, rules
9 shall take into account all available pollution
10 technologies, shall be technologically feasible and
11 economically reasonable, and may make distinctions
12 for the type and size of livestock management and
13 livestock management handling facilities and
14 operations. End of quote.

15 In conclusion, concerns are being
16 expressed by some persons in the livestock industry

17 that the implementation of this Act will be the
18 straw that breaks many family farm operations. As
19 a person who has participated in both task forces,
20 as well as in the legislative deliberations,
21 concerning the development and the passage of the
22 Livestock Management Facilities Act, I strongly
23 recommend that the Act be implemented as passed,
24 and that its impact on the livestock industry be

58

1 evaluated before consideration of additional
2 mandates.

3 Thank you for allowing me to testify, and
4 I will answer any questions.

5 THE HEARING OFFICER: Thank you,
6 Ms. Appell. Are there any questions for Ms. Appell
7 at this time? Yes. Could you stand up and state
8 your name so the court reporter can hear you?

9 MR. EMMETT: My name is Bill Emmett,
10 McLean County. County board member from McLean
11 County.

12 Jill, you talked about the task force. I
13 also served on that subcommittee with you. And I
14 think it should be pointed out that that was not --
15 the report that came out of that task force was not
16 a majority report. Or I mean, it was a majority
17 report, but it was not the consensus of the entire
18 task force.

19 THE HEARING OFFICER: Excuse me,

20 sir. You know what, because you are giving
21 testimony and not asking a question, why don't I
22 just have you sworn in. That way, it will be
23 considered testimony when you are presenting that.
24 Please swear him in.

59

1 (Wherein the witness was sworn in by
2 the court reporter, stating I do, and testified as
3 follows:)

4 MR. EMMETT: I was also a member of
5 the same subcommittee that Jill was on. That was
6 not a majority -- it was a majority report.
7 However, in earlier testimony, we heard that the
8 committee was divided 50/50. In fact, it wasn't
9 divided 50/50. That the citizen environmentalists,
10 as we were -- were called, we had one less member
11 than what the task force did -- or the livestock
12 task force did.

13 So, therefore, it was a majority report.
14 And there was a second report that we offered at
15 the time that was not followed through on.

16 And the other thing is you quoted
17 Dr. Dyer in '94 when we were holding hearings.
18 With holding hearings, you quoted Dyer. And, in
19 fact, the quote that you were attributing to Dyer,
20 she was quoting a study by Dr. Kendall Thu. He did
21 a study on environmental social impact of large hog
22 confinements in North Carolina. And he is noted in

23 this area. And, in fact, the quote from Dr. Dyer
24 was from Kendall's study. And Kendall was

60

1 misquoted by Dr. Dyer. And I think you are aware
2 later that Dr. Dyer received a letter from
3 Dr. Kendall Thu telling that she had misquoted his
4 study. And he was very upset with that. And I'm
5 sure there is a letter available, if that's
6 needed.

7 The -- the other thing you talked about,
8 animal unit numbers above 7,000 have to have a
9 manure management plan on hand. And I ask you how
10 many animal -- or how many facilities in the state
11 of Illinois do we have that have 7,000 animal
12 units?

13 How many hog facilities in the state do
14 we have that have 7,000 animal units so, therefore,
15 they would be required to have a manure management
16 plan on file with the state?

17 THE HEARING OFFICER: Is that a
18 question directed to Ms. Appell?

19 MR. EMMETT: Yes.

20 MS. APPELL: We don't actually have
21 records of who has facilities and who doesn't. I
22 can't answer how many facilities that there are.

23 MR. EMMETT: Are you aware of any?

24 MS. APPELL: I am aware of several,

1 but I can't tell you how many.

2 MR. EMMETT: Where are they at?

3 MR. APPELL: They are located in --
4 close to the southern part of the state.

5 MR. EMMETT: But you can't tell me
6 where they are located, so we could go to those
7 facilities?

8 THE HEARING OFFICER: Excuse me.
9 Excuse me. The court reporter can't hear you. It
10 wouldn't get on the transcript. We just have to
11 listen to the person who has actually been
12 recognized.

13 Ms. Appell, do you have any further
14 answer?

15 MS. APPELL: One I know is in
16 Carlisle. How many others in the state, I really
17 can't say.

18 And it's true, to respond to the other
19 comment, that -- that the livestock producers had a
20 majority of the members on that working group. But
21 the reason for that was because the citizens group
22 did not appoint their fifth person. They were
23 given an opportunity to have an equal number.

24 MR. EMMETT: We were told about the

1 fifth person after the meetings were over with. We

2 did not -- we did not know that we had a fifth
3 person available.

4 MS. APPELL: Well, Phil Wright is a
5 member of the task force.

6 MR. EMMETT: Yes. That's correct.

7 MS. APPELL: First task force when
8 we decided how this working group was going to be
9 set up. Larry Butcher (phonetic spelling), Phil
10 Wright, and I sat down and discussed it. And we
11 decided -- and Phil Wright should be able to
12 confirm this -- that each group would get five
13 people and that the CEO's of our organizations
14 would be ex-officio members. And that was what was
15 decided. I think, Bill, you should remember.

16 THE HEARING OFFICER: Excuse me,
17 sir. It's just that right now, we have to have
18 questions directed to her. And we would certainly
19 like to hear your testimony. But we just have to
20 wait until we get to the point where we are hearing
21 the testimony from people that haven't prefiled.
22 Right now, we just want to direct to her questions
23 based on her testimony.

24 MS. MANNING: If I might, I'd like

63

1 to know, Ms. Appell. The conclusion that you reach
2 on page six of your prepared testimony about the
3 current research projects concerning mechanical
4 separation of solids from the liquid in waste are

5 not created systems that are capable, and that is
6 sort of a conclusion about the economic
7 feasibility.

8 Do you -- does the task force have any
9 documentation that you might want to put into
10 evidence regarding those conclusions on the
11 economic feasibility in terms of the costs of --
12 some of the costs of those new technologies? The
13 Board would really appreciate it if you were able
14 to do that.

15 MS. APPELL: I can try and find out
16 if there is anything.

17 MS. MANNING: Doesn't have to be
18 done at today's meeting. But during the course of
19 our proceedings, that I think in order to -- for us
20 to -- to look at that particular conclusion, if we
21 had some evidence that led you to that conclusion,
22 to put that on the record, I think, would be
23 helpful.

24 MS. APPELL: Okay.

64

1 THE HEARING OFFICER: Was there
2 another question back there? Did I see a hand?

3 MS. HUDSON: Karen Hudson. Karen
4 Hudson, with F.A.R.M. I would just like to clarify
5 the 17,500 animals, not animal units. We think
6 there may have been a miscommunication there.
7 Okay.

8 THE HEARING OFFICER: I'm sorry. Is
9 that a question directed to her?

10 MS. HUDSON: We were talking about
11 the number of animal units in regard to number of
12 animals. And the people around me that were saying
13 that they knew of other farms with 17,500 hogs.
14 And I wanted to clarify that for others in the
15 audience.

16 THE HEARING OFFICER: That's what
17 you are referring to was 17,000 units? Is that --

18 MS. APPELL: I didn't say
19 anything --

20 MS. HUDSON: No, ma'am. He was.

21 THE HEARING OFFICER: He was
22 referring to --

23 MS. HUDSON: Yes, ma'am.

24 THE HEARING OFFICER: Okay. Thank

65

1 you. Any further questions. Marie.

2 MS. TIPSORD: Marie Tipsord. I'm
3 with the Pollution Control Board.

4 Ms. Appell, you referred to two studies
5 that were done regarding availability of land with
6 the setbacks. Would you by any odd chance have
7 copies of those studies available, or could we get
8 you to supply copies?

9 MS. APPELL: Well, I have a copy of
10 this preliminary summary report I can give you, and

11 I would assume EPA has the full -- has the full
12 study with the diagrams.

13 MR. HARRINGTON: I will present for
14 the record a summary report, a Study to Investigate
15 the Potential Impact of Modifying the New
16 Facilities Setback Requirements in the Illinois
17 Livestock Waste Regulations, January 1996, prepared
18 by the Illinois Environmental Protection Agency,
19 and reviewed by co-participants, Illinois
20 Department of Agriculture, and Illinois Pork
21 Producers Association.

22 THE HEARING OFFICER: Thank you,
23 Mr. Harrington.

24 MR. HARRINGTON: We also have

66

1 Ms. Appell's own copy of the actual field surveys
2 that were done, but we have not made a copy of them
3 yet. We need to get them to a multicolor copying
4 source, and they will indicate by township the
5 amount of land that is occupied by the various
6 sized setback zones during the survey.

7 THE HEARING OFFICER: That's fine.
8 You can enter it into the record at a later
9 hearing. That's fine.

10 MR. HARRINGTON: Okay.

11 THE HEARING OFFICER: The -- the
12 record should reflect that the summary report has
13 been marked Exhibit No. 25 and entered into the

14 record. Question for Ms. Appell?

15 DR. ST JOHN: My name is Bruce
16 St John, and I'm with the Illinois Citizens for
17 Responsible Practices. I have a question for Jill
18 Appell.

19 Would you explain for the people
20 assembled here how an animal unit is defined in
21 terms of swine over 55 pounds in the Livestock
22 Management Facilities Act so people understand the
23 difference between an animal unit and a large adult
24 hog.

67

1 MS. APPELL: Yes. An animal unit is
2 based on an equation of one for a cattle -- for a
3 head of cattle. So one cattle is one animal unit.
4 For a swine over 55 pounds, an animal unit is .4.
5 For swine under 55 pounds, it's .03.

6 THE HEARING OFFICER: Thank you,
7 Ms. Appell. Okay. Mr. Harrington.

8 MR. HARRINGTON: A couple of
9 clarifying questions, if I may.

10 THE HEARING OFFICER: Yes.

11 MR. HARRINGTON: First, I believe
12 the gentleman in the back of the room mentioned
13 something about having waste management plans for
14 facilities having over 7,000 animal units.

15 What is your understanding of the Act and
16 the regulations in terms of at what size waste

17 management plans are required to be prepared and
18 kept?

19 MS. APPELL: The ones that are
20 prepared and kept on the farm, the purpose is so
21 that they can be management tools, so that they can
22 be used by the farmer and not just filed away
23 someplace. And the Department of Ag can come out
24 to the farm any time during business hours and

68

1 inspect those plans. So that they do have to be
2 done. They have to be revised and kept up to date,
3 so that they're a useful tool rather than something
4 that you just file with the Department and then
5 forget about it again until it's time to file them
6 again.

7 MR. HARRINGTON: Are those required
8 for units of under 7,000?

9 MS. APPELL: Those that are kept on
10 the farm are for units between 1,000 and 7,000.

11 MR. HARRINGTON: In the last hearing
12 there was some questions from the Board about the
13 Federal Equip Program (phonetic spelling). Can you
14 cast any light on that?

15 MS. APPELL: I have a small amount
16 of knowledge about Equip. Maybe just enough to be
17 dangerous. The Equip funds are two hundred million
18 dollars a year, and these are mandatory federal
19 funds that are part of the farm bill. 100 million

20 of those go to the livestock sector, and 100
21 million will go to the crop sector.

22 At this time, the secretary of
23 agriculture is still working on the final rule, so
24 we are not sure exactly how the funds are going to

69

1 be distributed. But they will be distributed to
2 the states, and then the state NRCS technical
3 committees will decide how those are -- will be
4 distributed.

5 The state technical committees have set
6 up priority areas for those funds. 75 percent of
7 the funds that Illinois receives will go into ten
8 areas that have already been decided upon. And
9 then 25 percent will be able to be used for more
10 discretionary spending. And those -- how those are
11 spent will be used -- they will be used for, as I
12 understand it right now, existing facilities, to
13 help mitigate any environmental problems. They
14 will not be used for new facilities.

15 MR. HARRINGTON: Thank you.

16 MS. MANNING: Ms. Appell, is there
17 an ongoing federal regulatory process currently
18 that's making some of these decisions yet in terms
19 of what the monies can be used for?

20 MS. APPELL: They are still
21 working. The Department of Ag is still working on
22 that.

23 MS. MANNING: Okay.

24 MS. APPELL: Well, they were

70

1 supposed to have it done months ago. But -- but
2 the latest word is they are supposed to have it
3 done by the end of this month.

4 MS. MANNING: Thank you. Thank you
5 for that update.

6 THE HEARING OFFICER: Thank you.
7 You have a hand up in the back. Could you please
8 stand and state your name.

9 MR. MEHTA: My name is Chirag,
10 C-H-I-R-A-G, last name, Metha, M-E-H-T-A. I'm
11 agricultural program coordinator for the Illinois
12 Stewardship. Just a point of clarification on the
13 Equip program. One notable point is that the
14 statute prohibits money from going --

15 THE HEARING OFFICER: Excuse
16 me. You know, you are testifying too.

17 MR. MEHTA: I'm not actually.

18 THE HEARING OFFICER: Just to
19 clarify.

20 MR. MEHTA: It was just a note about
21 the Equip program.

22 THE HEARING OFFICER: Okay. But you
23 are still trying to submit facts into the record.

24 MR. MEHTA: Let me ask, does the

1 statute say that the Equip program -- funds through
2 Equip should not be going to large-scale
3 operations? Is that correct?

4 MS. APPELL: At this time what is
5 defined as large is yet to be determined. And
6 initially, the secretary of agriculture asked the
7 states to define large. And then they decided that
8 the Department of Agriculture would define large.

9 At this point, large has not been
10 defined.

11 THE HEARING OFFICER: Thank you,
12 Ms. Appell. Mr. Harrington, would you like to call
13 your next witness.

14 MR. HARRINGTON: Call Mr. David
15 Worrell.

16 MR. WORRELL: Thank you. I'm David
17 Worrell. I reside six miles east of Winchester in
18 Scott County. I've been active in the local Farm
19 Bureau and a pork producer for 21 years.

20 I used to raise 4,000 head of hogs
21 farrow-to-finish in the family operation. But
22 since, have switched to a 500 sow farrow-to-wean
23 operation.

24 I would like to address the two areas of

1 setbacks and waste management and how they affect

2 my operation.

3 There is much discussion today in what is
4 the correct setback distances to protect non-farm
5 and farming -- and farming residents.

6 After -- after graduation from college, I
7 jumped at the chance to buy my grandfather's farm
8 and come back to the farm. I started with 35 sows
9 and a dream of being a successful grain and hog
10 farmer. When I started my operation 21 years ago,
11 I laid out my plan so that my farm would be an
12 efficient, easy to expand, if I wanted to, and yet
13 environmentally safe to my neighbors and to my
14 family.

15 My concern today is that the city
16 residents want to buy lots in the country next to
17 established hog operations. Since lots in towns
18 are high-priced and scared, people are buying two
19 and one-half acre lots in the county to build new
20 homes. They want the city life-style and yet live
21 in the country.

22 An example of this is my neighbor is
23 taking his field, which is across from my house,
24 out of the government's Cooperative Research Farm

73

1 System and selling nine lots for home builders.

2 I started my operation here 21 years ago,
3 primarily because there was no nearby residents.
4 Now, I have nine homes at my operation's back

5 door. We live on a dead-end gravel road six miles
6 from the closest town. How can my established
7 operation grow with the possible threat of all
8 these new neighbors?

9 I've set up my operation -- set up my
10 operation over the years in accordance to the EPA
11 rules, Title 35. And my farm is environmentally
12 sound as it can be. But I cannot guarantee that if
13 someone wants to build a house across from my hog
14 operation, that they will not smell an odor on a
15 given day.

16 The existing family farm operation has to
17 have some rights and privileges as well. Where
18 is -- where is my protection in this setback plan?

19 All this new neighbor growth has had a
20 major impact on my future in the hog industry. A
21 year ago, my wife and I were contemplating changing
22 our own operation to a farrow-to-wean network.

23 In this plan, we would just breed and
24 farrow the sows. At 14 to 17 days of age, the pigs

74

1 would go to an off-site nursery in another county
2 with another farmer. He would raise the pigs in
3 the nursery and sell them to other farmers to
4 finish them out. That is, to raise them to market
5 weight on their farm.

6 Three months ago, we implemented this
7 plan. One of the main reasons for doing this was

8 so that we would have only 500 sows instead of over
9 2,000 head of hogs at one time on the farm. Fewer
10 hogs means less manure to handle.

11 I want to live in harmony with my new
12 neighbors, even though I was there long before the
13 homes were built.

14 The second point I want to discuss is
15 waste management. This past year, the Illinois
16 Cooperative Extensive Service, Illinois Pork
17 Producers, Illinois Department of Commerce,
18 Community Affairs Bureau of Energy and Recycling,
19 along with other private companies started the
20 Illinois swine environmental course called
21 Environmental Assurance Program.

22 This study covers odor control, nutrient
23 management, manure application, lagoon pollution
24 prevention, and many other environmental topics.

75

1 The next step after this study is on-farm
2 visits by skilled instructors. Natural Resource
3 Construction Service is helping in setting up
4 individual environmental programs to tailor fit
5 that producer's operation.

6 Attending this workshop strengthened my
7 swine facility plan for my operation. If the
8 certified facility manager training workshops are
9 similar, I know they will be useful to livestock
10 producers. Let me elaborate.

11 Every three years we have KSI Labs soil
12 test all our farm farming ground. We tailor the
13 amount of manure we spread on that ground to the
14 nutrient needs of our soil. On several of these
15 farms, we don't use any commercial fertilizers
16 other than nitrogen and some lime.

17 This manure has a very economical return
18 for us. Neighbors have seen how well our crops
19 yield with hog manure applications and have started
20 asking to buy manure from us to apply to the
21 ground. The manure from each phase of our
22 operation has different nutrient value, so it must
23 be applied accordingly. Manure definitely has an
24 economic value when it's used in a good swine

76

1 facility management plan.

2 Basically what I've tried to say today is
3 that hogs are a very important part of our family
4 farm operation. Hogs have been raised on this farm
5 for 50 years. We love what we do and want to
6 continue to grow and to prosper in a sound
7 environmental way.

8 Thank you. I'd be happy to answer any
9 question.

10 THE HEARING OFFICER: Thank you,
11 Mr. Worrell. Are there any questions for
12 Mr. Worrell at this time? Yes.

13 MS. McKEOWN: My name is Lori,

14 L-O-R-I, McKeown, M-C-K-E-O-W-N. I live next to a
15 hog facility that was built after I purchased my
16 home. And I would like to know what the water
17 rights are concerning the neighbors that are all
18 either running out of water periodically or hauling
19 water on a constant basis?

20 MR. WORRELL: I can speak on my own
21 operation. Around where I live, the water table is
22 not too great, as far as wells. All the water for
23 my operation comes from ponds for my livestock.
24 Our well is located maybe 75 feet from where these

77

1 other lots start. But basically, this well just
2 furnishes our own house and that.

3 But as far as the rights on the water
4 issues, you know, I'm not sure on that. I just
5 know in our area, since the groundwater table is
6 not very adequate, you know, you have to go with
7 another supply of water, such as ponds, to supply
8 the livestock.

9 THE HEARING OFFICER: To add,
10 Ms. McKeown, you may also want to ask that question
11 when the agencies get back up here. IEPA or
12 Department of Ag, DNR could fully answer the
13 question.

14 MS. McKEOWN: I have to leave for
15 work, but would like to know if there is any
16 responsibilities. Can you just go in and pump 24

17 hours a day, and we have no water?

18 MR. WORRELL: If I pump five hours,
19 I'll be out of water. But you'll need to ask
20 someone else, because --

21 MS. McKEOWN: Does anyone here
22 know?

23 THE HEARING OFFICER: If you'd like,
24 we could you write down the question, and we could

78

1 ask the question later when the agencies come back
2 up here.

3 MS. McKEOWN: I have to leave for
4 work. That's why I'm saying I want to know if
5 anyone here knows that.

6 THE HEARING OFFICER: Only these
7 witnesses can right now answer the questions. If
8 you'd like to write it down, we can ask the
9 Department of Natural Resources or Department of
10 Agriculture later. I'm sorry. This witness
11 wouldn't be able to fully answer the question. He
12 can only answer really with regard to his
13 testimony.

14 MS. McKEOWN: Okay.

15 THE HEARING OFFICER: Any other
16 questions?

17 MR. WARD: I'd like to know --

18 THE HEARING OFFICER: Could you
19 state your name?

20 MR. WARD: Dale Ward. I live in
21 Rock Island County, up by Orion, Illinois.

22 I would like to know what is waste
23 management?

24 I am surrounded by four hog confinements

79

1 within a mile. And I have one of them farmers that
2 will come right up until almost to my house and
3 just splash it on the ground; snow, dirt,
4 anything. He has no concern about odor or anything
5 else.

6 And I was out there years before he come
7 in the area. And the odor is rough when the wind
8 is in the right direction. It gets in your
9 clothes, get in your house, and it's rough. Thank
10 you.

11 MR. WORRELL: Do you want me to
12 address any of that?

13 THE HEARING OFFICER: To the extent
14 that you can. Thank you.

15 MR. WORRELL: I just know in my own
16 operation, when we haul manure, we knife it in.
17 And we never spread on weekends. And, you know, we
18 try to make sure to watch the wind direction and
19 keep it, you know, away from the residents and
20 that.

21 MR. WARD: Is it a requirement to
22 knifing it in?

23 Do you have to, or can you just splash it
24 around, or what?

80

1 MR. WORRELL: You have 24 hours to
2 incorporate it, accept in frozen ground.

3 MR. WARD: Okay. Thank you.

4 THE HEARING OFFICER: Yes. In the
5 back.

6 MR. ST JOHN: Yes. I'm Phil
7 St John. I'm from Illinois.

8 I have a question for you, Mr. Worrell,
9 regarding the waste management aspect of your
10 testimony. You state we tailor the amount of
11 manure we spread on the ground for the nutrient
12 needs of our soils. Then it also says on several
13 of these farms, we don't use any commercial
14 fertilizer other than nitrogen and some lime.

15 Are you stating, then, that you are
16 getting adequate phosphorus and potassium from the
17 waste you are applying on your farm?

18 And secondly, do you see that could be a
19 problem if farmers weren't conscious like you and
20 continued to spread it on dirt without some kind of
21 levels?

22 MR. WORRELL: Yes. On the farms,
23 you know, we just kind of base our manure
24 application around our soil samples. And then the

1 ones that is the lowest in phosphorous and pot ash
2 is where we start spreading on those areas that we
3 concentrate, and we don't use any commercial
4 phosphate or pot ash. But that is basically how we
5 do it.

6 THE HEARING OFFICER: Yes. In the
7 back. Could he get his follow-up question?

8 MR. WORRELL: What was the
9 follow-up?

10 MR. ST JOHN: My question was -- and
11 you are indicating that application of phosphorus,
12 potassium, you are not having to use much
13 fertilizer on that.

14 My question is: What about if there is
15 an over-application of phosphorus and this law
16 doesn't address that whatsoever?

17 MR. WORRELL: We started -- when my
18 dad first started, I think he built his first hog
19 confinement in '68, you know. That was one of our
20 first concerns was checking the soil samples of the
21 ground to make sure that we weren't applying too
22 much. And, you know, you have to check it. If you
23 just go out in the same field and just keep
24 applying your manure in that same field all the

1 time, you are going to get your -- especially your

2 phosphate too high. So you have to watch it and
3 keep track of what your soil samples are telling
4 you. And then also what your nutrient is in the
5 manure that you are spreading too.

6 THE HEARING OFFICER: Okay.

7 MR. BEORKREM: Mark Beorkrem. Last
8 name about Beorkrem, B-E-O-R-K-R-E-M.

9 Sir, you mentioned that you have had
10 restrictions -- or you use some restrictions on
11 your property usage, because you have single-family
12 dwellings moving into the area surrounding your
13 farm. And that's a problem throughout the entire
14 state with conversion of farmland into other uses.

15 Does the Illinois Pork Producers
16 Association or the Livestock Producers Association
17 put restrictions on the conversion of farmland and
18 restricting of rights of your ability to sell your
19 land off for other uses?

20 And if not, how do you expect to deal
21 with your rights being subordinated or superior to
22 others that wish to purchase farmland for other
23 uses?

24 MR. WORRELL: We really -- the

83

1 Illinois Pork Producers don't have any decision or
2 anything on that right now.

3 MR. BEORKREM: Follow-up. How do
4 you expect to deal with this issue of convergent

5 farmland?

6 Yourself, you favor restrictions on your
7 fellow farmers on the sale of their land, or do
8 you -- do you think that your rights as a property
9 owner now are superior to somebody else that might
10 want to move in next to you and buy the land and
11 convert it into a factory or some other type use?

12 MR. WORRELL: I guess the best way I
13 can answer that, when I first heard that my
14 neighbor was taking his ground out of the ten-year
15 program, and was going to sell lots, we went and
16 talked to him about this, because we had the
17 concern that we had. And, you know, and I believe
18 in free enterprise. But I also -- you know, my
19 neighbor can do what he wants to as far as if he
20 wanted to sell those lots.

21 You know, I had some people suggest, why
22 don't you just go buy the ground and prevent all
23 this. Well, that wasn't my aim. I didn't want to
24 spend that money to do something like that to

84

1 prevent that. But yet, I -- you know, I respect my
2 neighbor's rights to do what he wants to. But I
3 also think that I have some rights also, especially
4 since I've been established there for 21 years.
5 You know, I want to work with my neighbors, you
6 know, 'cause I have a very good relationship with
7 my neighbors where I live.

8 But, you know, when the neighborhood
9 keeps growing, you know, it's just like anything
10 else. The more people you get, sometimes it's a
11 little harder to live as a family.

12 MR. BEORKREM: So these pollution
13 control rules, as far as livestock management, need
14 to be written for not only what's in effect now but
15 for what we might see in the future, right?

16 MR. WORRELL: Read back the
17 question, please.

18 THE HEARING OFFICER: Restate your
19 question, please.

20 MR. BEORKREM: So the livestock
21 rules developed now need to be written for what's
22 in place now, but for what also might occur in the
23 future, and the setback rules then have to be taken
24 into account that we might have convergents, that

85

1 that will occur; is that right?

2 MR. WORRELL: Well, I'm not going to
3 say yes or no to that. But just that, you know,
4 like I stated here, my testimony, my main concern
5 was that, you know, I wanted to be able to still
6 continue to farm like I had, you know, raised my
7 hog operation and continue to do it in an efficient
8 and safe manner.

9 But, you know, I wanted people to be
10 aware that there is others out there just like me

11 that, you know, have been here and are faced with
12 some of these same similar circumstances.

13 THE HEARING OFFICER: Thank you.
14 Have a question in the back?

15 MS. HUDSON: Karen Hudson. How many
16 acres do you have available for your 500 sow unit
17 for manure management?

18 And second part of this question: Are
19 you monitoring zinc and copper levels in your
20 soil?

21 MR. WORRELL: Yes. We are
22 monitoring the zinc and copper levels. That comes
23 back on the soil test. We have 990 acres of
24 tillable ground. Our problem is it's spread over

86

1 three counties, and the closest farm is 25 miles
2 away, which the only way that we could spread
3 manure to that farm was to have somebody with a
4 tanker pump it from our place and haul it. And
5 that gets pretty economically infeasible sometimes
6 to do that.

7 So that's why I've been selling some of
8 the manure to surrounding neighbors and that, that
9 because basically some of my fields, the soil
10 samples have showed that I don't need any more
11 phosphorus or pot ash.

12 So -- and these farmers are -- we have
13 worked out an agreement, I think, that's very

14 feasible for me to cover some of my costs of
15 spreading, plus it gives them a cheap source of
16 fertilizer.

17 MS. HUDSON: Are you currently using
18 all of those acres, or have you kept some of those
19 out of that number that you gave me?

20 MR. WORRELL: You mean for spreading
21 manure?

22 MS. HUDSON: Yes. Yes.

23 MR. WORRELL: Roughly I'd say close
24 to half of it is being used for spreading manure.

87

1 The other half is basically what I said, too far
2 away.

3 MS. HUDSON: Have you noticed a rise
4 in the zinc and copper levels in your soil?

5 MR. WORRELL: Not noticeably, no.

6 MS. HUDSON: Thank you.

7 THE HEARING OFFICER: Thank you.

8 And just to let you know, that there is a new
9 source of noise back here. So if you could even
10 speak up a little more, that would be great.
11 Mr. St John.

12 DR. ST JOHN: Bruce St John,
13 Illinois Citizens Group for Responsible Practices.

14 David, I wanted to follow-up on the
15 questions that have been asked in terms of how you
16 apply your nutrients.

17 The current Livestock Management
18 Facilities Act calls for livestock waste to be
19 applied at rates not to exceed the acknowledged
20 nitrogen demands of the crops.

21 I take it from your comments that you are
22 looking not only at nitrogen, at potassium
23 phosphorus, pot ash, and heavy metals, and I take
24 it then that you think those types of metals should

88

1 be written into the law, too, in terms of economic
2 feasibility.

3 MR. WORRELL: I'm not going to say
4 yes or no on that. Basically, if you are -- my --
5 I guess, my comment on that would be, if you are a
6 livestock and grain farmer, you are going to -- you
7 are not going to ruin your soil that you are
8 applying this manure to, 'cause, you know, that's
9 your other source of income is from the grain side
10 of your operation.

11 So in the past, we have been more
12 concerned about what the phosphorous and the pot
13 ash levels were. And then also what that ratio was
14 between those two to grow our crops. And, you
15 know, our crops have -- you know, we have had
16 excellent crops and that. And -- but we do, you
17 know, watch that.

18 One of the things that I did have a
19 concern with on the rules was, I think, Section

20 20-F, which talks about the nitrogen demand for
21 crops to be grown in a five-year average, and that
22 sometimes that gets to be real difficult, what that
23 five-year average should be. And that because, you
24 know, you have so many differences in soil types

89

1 which require different amounts of nitrogen --
2 yeah, different amounts of nitrogen to reach what
3 you think is the -- your potential yield in that
4 field.

5 But, you know, and then with restriction
6 like seed corn and that, lot of seed companies are
7 up coming with different corn, requires different
8 amounts of nitrogen. Then you have to tailor all
9 of that to there.

10 Basically, what it's going to get to, you
11 have to be pretty strong in agronomy to keep up
12 with all of this.

13 Livestock farmers are not trying to kill
14 off the soil, especially if you are trying to raise
15 a crop to feed those hogs. You are going to defeat
16 your purpose if you do that.

17 THE HEARING OFFICER: Thank you,
18 Mr. Worrell.

19 MR. KING: My name is Brent King.

20 And, David, I'd like to ask you -- you
21 said there is nine lots for sale across from your
22 farm. Is there any difficulty -- is the owner of

23 that land expressing any interest in -- difficulty
24 in selling those lots with your swine farm across

90

1 the road?

2 MR. WORRELL: I guess not. He knows
3 they are there. And my house sits maybe 50 feet
4 from the road. And then these lots are right
5 across the road. And I've got one lot that sits
6 right by my house. And a lot of times, we run
7 culled sows that we are getting ready to sell,
8 maybe 20 to a pen, out there on a dry lot. And,
9 you know, they are right 50 feet from one of these
10 lots and that. So, you know, I guess he's not
11 concerned, 'cause, you know, he knew it. You know,
12 I lived there before he even bought the ground.
13 You know, I assume that. You know, it's not like
14 I'm sneaking in the back door. I've been there
15 long before anybody else.

16 MR. KING: Could I follow-up?

17 THE HEARING OFFICER: Yes.

18 MR. KING: What you are saying is you
19 neither -- nor the owner of that land sees any
20 great negatives to its saleability or commercial
21 value or real estate value because you have hogs
22 there?

23 MR. WORRELL: I guess not, because
24 when we went -- my wife and I went to talk to the

1 farmer and his wife about, you know, him selling
2 these lots, he said that he is selling these lots
3 privately himself, and he said that everybody that
4 was coming to look about buying a lot, he was
5 explaining our that hogs were our livelihood and
6 that was our operation.

7 So obviously, I guess he doesn't see a
8 problem in that.

9 THE HEARING OFFICER: Thank you.
10 Thank you, Mr. Worrell.

11 Do we have anything from the Board? Oh,
12 yes. One question in the back.

13 MS. BUSS: Donna Buss, B-U-S-S. Are
14 you expressing some concern that these lots are too
15 close around, going to cause you problems because
16 of complaints down the road?

17 MR. WORRELL: Well, that's my
18 natural worry. My hog -- my main hog operation is
19 set back towards the middle of my farm, but yet,
20 you know, any time that there -- you know, that
21 it's that close, it starts to worry you. That was
22 one of the main.

23 MS. BUSS: How close are these lots
24 to your operation?

1 MR. WORRELL: To the main operation,

2 be about a quarter of a mile.

3 MS. BUSS: And you feel that's too
4 close for them to live comfortably?

5 MR. WORRELL: I don't think there is
6 any problem. There is no problem right now. But
7 I'm just -- I guess it bothers me that once they
8 build their \$100,000 homes there, and some day they
9 look out the window and say, I really don't like
10 that landscape, I look, over there is waste and see
11 hog confinements, I would rather see, you know,
12 trees or bare ground or something like that.
13 That's what concerns me. That they may, you know,
14 cause me some problems down the line.

15 MS. BUSS: Your concern on the
16 setbacks is that actually civilization is starting
17 to infringe on the setbacks that you have. What
18 about the opposite way where operations come in and
19 infringe on the setbacks of residences who are
20 already there for even decades, as much as you've
21 been there, for decades before these places come
22 along?

23 MR. WORRELL: Basically, that's why
24 we are working with the setback regulation.

93

1 It's -- you have to live in harmony with your
2 neighbors, wherever your neighbors are at, and
3 whatever type neighbors you have. And that's
4 basically just what we are trying to work through,

5 and that's what this Board, I think, is trying to
6 establish is seeing both sides of everybody's
7 discussion.

8 MS. BUSS: Thank you.

9 THE HEARING OFFICER: Thank you,
10 Mr. Worrell. Any other questions? Okay. Thank
11 you, Mr. Worrell.

12 Mr. Harrington, is Mr. Dennis DiPietre
13 here to testify?

14 MR. HARRINGTON: Apparently not. He
15 was due to be here at 10 o'clock.

16 THE HEARING OFFICER: Okay.

17 MR. HARRINGTON: But if he comes
18 later, then we can deal with it when he comes.
19 Thank you.

20 MR. HARRINGTON: Thank you.

21 THE HEARING OFFICER: Now, what we
22 would like is have these witnesses sit down. And
23 if the following witnesses could come up to sit and
24 get ready to testify in the front.

94

1 Mr. John Weber, Ms. Jane Johnson,
2 Mr. Bruce St John and Mr. Safley.

3 (Recess taken at 11:00 a.m.)

4 THE HEARING OFFICER: Okay. Then back on
5 the record now.

6 Mr. -- Dr. Dennis DiPietre has joined us,
7 so if you could please swear in Mr. DiPietre.

8 Swear all of them in at one time. It will be
9 easier.

10 (Wherein all five witnesses were
11 sworn in by the court reporter, all saying I do,
12 and testified as follows:)

13 THE HEARING OFFICER: Mr. Taber, if
14 you'd like to present your witness.

15 MR. TABER: Yes. We call Dr. Dennis
16 DiPietre.

17 DR. DiPIETRE: The testimony I'm
18 about to give is an estimation of the economic
19 impact of the swine industry to the state of
20 Illinois.

21 If you would indulge me for just a
22 moment, I will -- I want to start at the global
23 level, come down to the United States, and spend
24 the bulk of my comments about Illinois.

95

1 First of all, in terms of the global
2 trend, pork is the most widely consumed animal
3 protein in the world. In 1996, pork accounted for
4 over 40 percent of world meat consumption, beef was
5 second with about 29 percent, and poultry was third
6 with about 23 percent share.

7 For the past several years, pork
8 consumption in the United States has remained
9 relatively stable, while beef consumption has
10 declined, and poultry consumption has increased

11 dramatically.

12 Internationally, pork consumption is on
13 the rise. Rising incomes, increasing population
14 and reduced barriers to trade have been key factors
15 in rising worldwide demand for pork.

16 China has led the record in increased
17 consumption, averaging over 8 percent increases per
18 year in consumption during the 1990's. During this
19 same period, South Korea has averaged 7.3 percent
20 annual increases; Mexico, our second largest
21 importer of U.S. corn, 4.5 percent annual
22 increases; and Brazil, as much as 6 percent annual
23 increases in consumption.

24 The United States has also increased

96

1 consumption by about 3 percent per year during the
2 period 1990 to 1993.

3 The world political climate is moving
4 toward a trade environment with less protectionism.
5 Examples of that include the GATT and NAFTA
6 treaties. The United States is generally
7 considered to be the lowest cost producer of
8 quality pork worldwide.

9 So in this environment, global
10 environment, of increased free trade, the low cost
11 producer of quality pork would be expected to
12 increase market share. This is, in fact, what is
13 happening in the United States.

14 In 1995, the United States became a net
15 exporter of pork for the first time since 1952.
16 1996, the United States reached a record one
17 billion dollars in total exports of pork and pork
18 product.

19 On the national scene, consolidation of
20 the swine industry is continuing to follow a trend
21 which began shortly after World War II. This is
22 what economists refer to as reallocation of
23 reproductive capacity. As it occurs, it's not only
24 a case of pork production moving to larger farms,

97

1 but also the industry itself is moving to different
2 regions of the United States.

3 A growing percentage of national sow base
4 is leaving traditional growing areas such as Iowa
5 and Illinois and locating in the south, mid-south
6 and southwestern of the United States.

7 Historically, pork production was carried
8 out on a large number of relatively small farms.
9 The great majority of locations producing pigs in
10 the United States have an annual inventory of less
11 than 100 head. In 1990 -- or in 1980, for example,
12 almost 96 percent of the locations in the United
13 States which had pigs in inventory had less than
14 500 head total.

15 The restructuring that we just mentioned
16 of this industry is one of the most persistent

17 changes taking place in the swine industry
18 nationally, and it has been occurring for more than
19 30 years, long before there was anything in
20 existence that could be called a large operation.

21 In 1970, according to the USDA hogs and
22 pigs reports, there were about 875,000 locations in
23 the U.S., which had at least one pig in inventory
24 at some point during the year.

98

1 By the year end of 1996, we had gone from
2 875,000 down to 160,000 locations in Illinois. The
3 trend in Illinois has been to follow this national
4 trend. In 1980, the USDA hogs and pigs report
5 estimated a total swine inventory in Illinois to be
6 about 6.6 million head. Just 16 years later, by
7 the end of 1996, total inventory had been reduced
8 to about 4.4 million head. This is a full
9 one-third reduction in total inventory in swine in
10 the last 16 years.

11 The future productive capacity of the
12 Illinois swine industry, if it is to be measured by
13 the breeding stock inventory, shows a similar trend
14 of the total inventory. In 1980, the USDA
15 estimated the breeding herd in Illinois at 891,000
16 head. By year end 1996, 16 years later, breeding
17 herd in Illinois has been reduced to 520,000 head.
18 This represents a 40 percent reduction in breeding
19 herd inventory.

20 Even though the production per sow is
21 increasing, this reduction -- the amount of this
22 reduction in the breeding herd represents a net
23 large loss to the productive capacity of the
24 industry in Illinois. Farming operations which

99

1 produce pigs in Illinois have typically been
2 diversified producing a very small number of pigs
3 as well as a variety of other agricultural
4 problems. In 1980, the USDA estimated that
5 Illinois had about 30,000 locations which had at
6 least one pig in inventory at least at one time
7 during the year. By the end of 1996, that -- that
8 number had been reduced to 8,000.

9 The average inventory during that same
10 period on Illinois farms rose from 220 head to
11 about 500 head. The industry in Illinois and
12 throughout the United States is changing to a much
13 smaller, but still significant number, of moderate
14 to larger size specialized operations producing
15 pigs.

16 The latest census of agriculture reveals
17 that -- reveals a continuation of this trend. The
18 census report at over 50 percent of U.S. farms had
19 livestock in 1950 compared with only 11.7 percent
20 in 1989. The proximal distribution of Illinois
21 producers by size at the beginning of 1996 was less
22 than 100 head, about 2,900 locations; 100 to 499

23 head, about 3,300; 500 to 999 head, about 2,600
24 locations; 1,000 to 1,999 head, about 1,300; and

100

1 those which had 2,000 head in inventory -- and just
2 to be clear, this is not 2,000 sows, but 2,000
3 total inventory -- about 470 locations. Total of
4 about 10,570 locations.

5 80 percent of the inventory in Illinois
6 is held on approximately 30 percent of the
7 locations producing pigs. Illinois ranked second
8 in total inventory behind Iowa for many, many
9 years. Since 1993, Illinois has fallen behind both
10 Minnesota and North Carolina to fourth in the
11 nation with respect to total inventory. And the
12 question for Illinois is: Is this important and
13 should anyone in Illinois care?

14 The economic impact may answer part of
15 that question. Pork production and the related
16 support industry is big business in Illinois. John
17 Lawrence and Dan Otto in a report from Iowa State
18 University, 1992, showed gross receipts from swine
19 have exceeded one billion dollars annually in
20 Illinois to producers. For Illinois, this
21 represents about 15 percent of total ag marketing
22 for swine, and over 50 percent of total livestock
23 and poultry marketings, which shifts from year to
24 year, but represents close to and sometimes over 50

1 percent of total livestock.

2 Swine production is what we call a basic
3 industry in economics. Basic industries create
4 wealth for the state, community and region. They
5 do this by marketing their product outside the area
6 of production, thereby resulting in the transfer of
7 new dollars into the area. Non-basic industries,
8 on the other hand, circulate existing wealth and
9 expenditures, without creating new injections of
10 outside money.

11 In addition, swine production is highly
12 interrelated with the rest of the economy, both
13 agriculture and the non-ag economy. The
14 interrelated character results in widespread impact
15 when the swine production sector changes. These
16 impacts go both ways. As the industry contracts,
17 the impacts are reduced or cut off. If it expands,
18 the impacts are multiplied through the other
19 industries, ag and non-ag, in the Illinois area.
20 Linkages are both backward, towards suppliers, and
21 economically forward, toward processors and
22 value-added sectors.

23 Economists recognize three basic
24 categories of impact of output, personal income and

1 employment. Direct impacts measure total -- the

2 total economic activity directly related and equal
3 to the total output of the industry. In practical
4 terms, this means that direct purchases that swine
5 producers make to produce their animals and get
6 them to market. The direct impact. Direct
7 employment is the number of full-time equivalents
8 necessary to support the current level of
9 production, and direct personal income is the level
10 of the personal income paid to those employees.

11 We can also, though, recognize indirect
12 effects, which many people don't understand here.
13 But these result when the supply industries make
14 purchases, hire employees, pay salaries and wages.
15 All of this in direct support of the level of
16 output produced on farms.

17 So, for instance, when feed purchasers,
18 which are direct impacts made by the producer, the
19 feed company then must purchase corn, hire people,
20 pay utility for the elevator and feed making
21 operations and so on. These are considered the
22 indirect impacts. In addition, all the downstream
23 purchases that the corn or soybean producer had to
24 make to grow that corn are also part of the

103

1 indirect impact. So they may remain kind of occult
2 or hidden.

3 Input-output analysis to the Midwest
4 states can help get at some of those impacts. It

5 indicates that the direct and indirect effects are
6 multiplied for output, income and employment. And
7 those multipliers are approximately 1.69 for
8 output, 2.89 for personal income, and about 1.39
9 for employment. These multipliers give the total
10 amount of each type of activity, which is either
11 stimulated as the industry expands or contracted
12 per unit of change in the baseline of value of
13 production of swine.

14 For instance, if Illinois output of swine
15 were to be raised to a new sustained level of
16 output, one million dollars above the current level
17 of production, we used multipliers to estimate the
18 total impact on the economy, approximately 1.69
19 million dollars would be created in increased
20 economic impact, both direct and indirect. And
21 2,890,000 would be created in additional personal
22 income. And for the number of persons hired to
23 produce that one million dollars of additional
24 impact, 1.39 times that total would -- would be

104

1 higher than the total to account for both direct
2 and indirect impacts.

3 A third category of impact is referred to
4 as induced impact. Induced impact occurs as
5 household used personal income created by the
6 direct and indirect impacts to buy household
7 goods. Food, recreation or other items are also

8 included. All of the downstream impacts of an
9 industry, which must supply these needs, are also
10 included in the induced impacts. Induced impact
11 occurs in output employment and income. The
12 output, personal income and employment multipliers
13 for swine production in Missouri, which include the
14 induced effects are larger than the direct and
15 indirect ones. They are 3.36, 9.78 and 2.49
16 respectively for output, employment and personal
17 income.

18 And it would be expected that these would
19 be roughly the same for Illinois, since the same
20 production technology is used here.

21 In terms of direct economic impact
22 production technologies which are employed in
23 Illinois are quite diverse. However, feed is the
24 greatest single cost to direct purchase of

105

1 production of farrow-to-finish swine. It is
2 estimated that for every thousand sows of
3 farrow-to-finish production, approximately 1.17
4 million dollars of feed purchases are made in
5 direct support on an annual basis of that
6 production.

7 This estimate has been derived by the
8 expected feed purchases of a farm operating a 3.2
9 pounds of feed per pound of grain whole herd feed
10 efficiency and the inputs valued of the feed at

11 ten-year historical price levels. A detailed
12 breakdown is given in the appendix of this report.

13 The total feed need includes about
14 246,000 bushels of corn per year and about 1,500
15 tons of soybean material per 1,000 head of sows,
16 farrow to finish. Based on the USDA November
17 estimate of 1996 of the Illinois crop yield, this
18 means that this thousand sows, farrow to finish, of
19 swine production supports 1,798 acres of corn
20 production in Illinois and 1,518 acres of soybean
21 production.

22 Lawrence and Otto in their report
23 estimate approximately 134 million bushels of corn
24 valued at 312 million dollars are consumed by the

106

1 swine industry annually in Illinois.

2 In addition, approximately 800 million
3 total cash input purchases are needed to support
4 the direct production of swine in Illinois. And
5 total increase -- the total increase is 970 -- 917
6 million, or almost one billion dollars, if the
7 labor, which is often provided without cost by
8 producers, is imputed at a \$6 per hour rate. Total
9 capital expenditures are estimated at over 100
10 million dollars annually.

11 Besides costs for feed, are also non-feed
12 costs. Total non-feed costs or purchases per year
13 for each thousand farrow-to-finish production in

14 Illinois is estimated to be about 455,000. A
15 complete breakdown, again, is in the appendix in
16 the report provided to the Board.

17 Because of the interrelatedness of the
18 swine industry in production, changes in total
19 production affect many industries. Zero in on
20 employment. Estimated that approximately 5,150
21 full-time jobs are created annually in Illinois
22 directly on the farm in support of swine
23 production.

24 When you look at how that is multiplied

107

1 through the rest of the economy in Illinois for
2 employment, we can break it down and say that for
3 every 100 of those on-farm jobs, we support 26.6
4 jobs in crop production; 5.5 jobs in forestry; 4.3
5 full-time jobs in construction; 9.1 jobs in
6 nondurable manufacturing; 3.3 in durable
7 manufacturing; 4.4 in utilities; 9.4 in trade; 16.1
8 jobs in finance, real estate and insurance; 6 jobs
9 in business services; 12.5 jobs in personal
10 services; 7.5 in transportation; 4.6 in other
11 livestock; and about 35 other jobs in all other
12 segments of the economy added together.

13 Total indirect purchases can also be
14 estimated for every 1,000 sows, farrow-to-finish,
15 production, and it doesn't matter if -- for
16 instance, if this is ten 100-sow farms or one

17 1,000-sow farms, approximately 400,000 annual
18 indirect purchases are made for each 1,000 sows,
19 farrow-to-finish, production in Illinois.

20 A complete breakdown, again, of those
21 industry impacts that are given in the appendix.
22 The appendix is in the report. I wouldn't take the
23 time to --

24 MR. HARRINGTON: Excuse me. May we

108

1 interrupt for a moment.

2 THE HEARING OFFICER: Yes.

3 MR. HARRINGTON: I believe the
4 appendices were inadvertently left off the copies
5 that were given to the Board in prefile. We have
6 copies for the Board and others who have received
7 prefiled testimony.

8 THE HEARING OFFICER: Thank you.

9 MR. HARRINGTON: We certainly don't
10 have enough for everyone in the audience, but more
11 can be made available.

12 THE HEARING OFFICER: As long as the
13 four agencies can get them, and we can put the
14 remainder in the back. If anyone wants a copy,
15 certainly contact the Board.

16 MR. HARRINGTON: Would you like
17 copies handed out now?

18 THE HEARING OFFICER: At least give
19 it to us.

20 DR. DiPIETRE: The appendix is
21 primarily the estimate -- the detail estimates from
22 which the summaries are given in the report.

23 So in conclusion, it's important to say
24 that the swine industry is large in Illinois, but

109

1 declining. It's a basic industry which creates a
2 wealth. And as it declines, it saps wealth from
3 Illinois. It's dramatically interrelated to other
4 segments of the economy. And so as it either
5 expands or contracts, it either increases those
6 industries to which it's related or it contracts
7 them by stopping purchases.

8 The latest report of the economic impact
9 or importance of the Illinois pork industry of
10 Illinois is being conducted again and updated by
11 Lawrence and Otto. It will be available in a
12 couple of weeks. The report -- their statistics,
13 which I read, are part of a report produced in
14 1992.

15 THE HEARING OFFICER: Dr. DiPietre,
16 do you have a copy of that report, or would you
17 like to submit that into evidence?

18 DR. DiPIETRE: I can provide that to
19 you or the Illinois Pork Producers Association
20 could. I have a couple of tables that I've taken
21 from it that are part of the appendix, which is
22 just now being given to you.

23 MR. TABER: Are you referring to the
24 1992 report, or the one that will be out in a

110

1 couple of weeks?

2 THE HEARING OFFICER: 1992 report.

3 MR. TABER: The 1992, we will submit
4 it to the Board.

5 THE HEARING OFFICER: The two graphs
6 that you have there, then, they are both included
7 in that report? Is that where you received those
8 graphs? I know you read the statistics on the
9 second, employment statistics. However, the first
10 one, the size of the herd and number of farms, is
11 that taken from --

12 DR. DiPIETRE: Those come from the
13 USDA hogs and pigs report.

14 THE HEARING OFFICER: Okay. And
15 would you like to submit his testimony into
16 evidence so that we can also have his chart?

17 MR. HARRINGTON: Yes. Move for the
18 admission of the testimony and the appendices as an
19 exhibit.

20 Okay. Do you have a clean copy of his
21 testimony?

22 MR. TABER: Certainly.

23 THE HEARING OFFICER: Let the record
24 reflect that Dr. DiPietre's testimony and

1 appendices have been marked as Exhibit No. 26 and
2 entered into the record.

3 Thank you, Dr. DiPietre. Are there any
4 questions for Dr. DiPietre right now?

5 MR. KING: I have a question.

6 THE HEARING OFFICER: Yes.

7 MR. KING: Dr. DiPietre, my name is
8 Brent King, and I have a question for you.

9 As one of the leading experts in
10 economics in agriculture in the United States, the
11 person with a question that I'm just burning to ask
12 you here is that we see that you've told us that we
13 see an increase in the growth of larger farms and a
14 decrease in the number of smaller farms. Is that
15 correct?

16 Well, could you explain to us how that
17 these larger farms are running these small farmers
18 out of business?

19 DR. DIPIETRE: I think that
20 characterization can't be sustained by the
21 information that we have. The trend that we see in
22 the consolidation of farms from almost 900,000 in
23 1970 down to about 160,000 today is really the
24 result of retirement and attrition and

1 specialization. It's not a question of larger

2 farms running smaller ones out.

3 In fact, we have only really seen the
4 emergence of large-scale specialized pork
5 production in the last 10 to 12 years. And if you
6 examine the annual price of pork, or price paid to
7 producers for pigs since 1990, we have had three of
8 the highest price years on record occur in the last
9 six years. So you can't paint a picture of
10 unfortunately large farms growing gradually,
11 lowering or producing the lower price and driving
12 out smaller producers.

13 More likely scenario in this
14 consolidation has been that swine production grew
15 up in Illinois and the rest of the United States
16 organized as a few pigs on a diversified farming
17 operation. Those farming operations were very
18 small and did not support the level of income that
19 young people found comparable to what they could
20 obtain by going to the University of Illinois or
21 University of Missouri and taking jobs in either
22 related agricultural sectors or other places.

23 So we have an average age of producers
24 growing in the 50s, mid-50s, in Missouri. I

113

1 suspect in Illinois. And these producers retire
2 and are leaving the smaller farms, which are not
3 able to support young people in a comparable way
4 with their other opportunities.

5 So it's very difficult to construct a
6 scenario which suggests that large producers have
7 driven smaller ones out.

8 THE HEARING OFFICER: Thank you.
9 Any other questions for Dr. DiPietre?

10 MR. TABER: I have one clarifying
11 question. Dr. DiPietre, can you give us a basic
12 rundown of your education and your current
13 position?

14 DR. DiPIETRE: Yes. I have a
15 bachelors and masters degree in agricultural
16 economics from the University of Arkansas. I have
17 a Ph.D. in economics from Iowa State University.
18 And since 1991, I've been the leader of the
19 extension commercial agriculture swine focus team
20 at the University of Missouri. That team includes
21 a veterinarian and two engineers, and we work
22 exclusively with the swine producer and the
23 swine-related industry in Missouri.

24 MR. TABER: Thank you.

114

1 MR. KING: One follow-up question.
2 Again, I'm Brent King. One more question.

3 You said that as the -- at some point a
4 farm is not big enough to sustain the people who
5 run the farm with a reasonable standard of living.

6 In your best estimation, what size farm
7 is it that can support a small family or a farmer

8 and his wife?

9 DR. DiPIETRE: Well, that's
10 difficult to judge, because we have to watch people
11 make those decisions. But what we have seen is
12 that -- well, at the University of Missouri, same
13 probably at the University of Illinois, is that
14 young people are choosing opportunities other than
15 the farm, which currently with the bachelor's
16 degree are offering \$30,000 income out of
17 graduation, with -- typically with benefits paid,
18 couple of weeks vacation perhaps, and the potential
19 to grow that income over time.

20 So it's not clear that they are making
21 the judgment or the decision only on the basis of
22 that income difference. There may be other things
23 that go into that. But --

24 THE HEARING OFFICER: Thank you,

115

1 Dr. DiPietre. Are there any other questions?

2 Yes. I'm sorry. Could you just then come up to
3 the front like we said?

4 MR. REEDER: My name is Donald
5 Reeder. I'm a pork producer from Warren County.
6 You've talked about the effect of the swine
7 industry on economics.

8 How does this swine industry affect the
9 price of corn and soybeans in Illinois?

10 DR. DiPIETRE: As we mentioned, the

11 swine production -- the largest, single cost of
12 swine production is the feed. So say to producing
13 the animal, farrow to finish. And corn is the
14 largest, single portion of that feed ingredient.

15 Now, we do operate in both a national and
16 global economy with the sales of products like corn
17 and soybeans. But swine create a demand, a very
18 strong demand, for those feed ingredients and add
19 to -- added demand adds to the price of those
20 products.

21 Illinois has the advantage of being on
22 the Mississippi River, a major conduit to export
23 market. So those production areas for corn and
24 soybeans which are close to the river enjoy

116

1 relatively high prices, because of the demand in
2 the export markets that pulls that corn down the
3 river and out of this country. But once you move
4 out back into Illinois away from the river, all the
5 corn that you see as you go down the road, or 99
6 percent of it, is not consumed directly by humans.
7 It's consumed by livestock. So if it is less and
8 less to consume -- consume the corn, there will be
9 less local demand for it.

10 THE HEARING OFFICER: Thank you.

11 WOMAN AUDIENCE MEMBER:

12 Dr. DiPietre, my question to you is -- I have down
13 to prove this. Why did North Carolina lose such a

14 large amount of Pork Producers in the last ten
15 years when, in fact, in Nebraska where there are
16 tough, anti-corporate farming laws, essentially the
17 number of producers, small independent producers,
18 remained the same?

19 DR. DiPIETRE: When we look at the
20 historical data of North Carolina compared to
21 Nebraska, what you find is from starting at about
22 1980, Nebraska had a much larger distribution of
23 its swine farms on medium-sized operations or
24 larger. So in other words, it didn't start in the

117

1 same place in 1980 that North Carolina did, with
2 roughly 90 percent of North Carolina's production
3 on farms that had -- or 90 percent of the farms in
4 North Carolina having an inventory of less than 100
5 head.

6 So if you look at the -- at the
7 demographics over time, what you find is Nebraska
8 went through the same changes. It just simply lost
9 its smaller producers much earlier. And North
10 Carolina held on to small producers longer. And
11 the reduction that you see and the number of
12 operations in North Carolina between '80 and the
13 present, which is very substantial, primarily 80 to
14 90 percent, comes from the smallest size category,
15 the less than 100 head inventory. And the USDA
16 estimate of the average inventory for those farms

17 is about 1700.

18 WOMAN AUDIENCE MEMBER: Where can I
19 find data to prove that?

20 DR. DiPIETRE: USDA hogs and pigs
21 report for each year.

22 WOMAN AUDIENCE MEMBER: Thank you.

23 THE HEARING OFFICER: Any other
24 questions of DiPietre? Could you come forward?

118

1 MS. LEONARD: Del Leonard. My
2 question is: Is there any difference in the
3 economic impact of a locally owned and managed farm
4 versus one that is under contract to an
5 out-of-state corporation that supplies the hogs,
6 feed and the vet services, versus an out-of-state
7 corporation who owns and manages the operation, and
8 which is the best for the economy?

9 DR. DiPIETRE: There are differences
10 in the purchasing patterns. Larger operations are
11 operations which are either specialized or owned
12 locally versus owned, say, by operations in another
13 state. It's not necessarily easy to characterize
14 exactly what they would be, except to say that
15 normally feed, which is the greatest single cost of
16 production, cannot be transported economically very
17 far once it has been produced. So where pigs are
18 being fed, they are going to tend to buy their feed
19 locally.

20 Now, their professional services, if they
21 are complex or sophisticated and beyond the
22 availability of the local economy to provide, they
23 may reach out farther to get those in place.

24 So it would be expected that as farms,

119

1 whether they are professional family farms or ones
2 owned by corporate entities, as they become more
3 sophisticated and specialized, they often have to
4 reach out farther than the local community to get
5 the kind of specialized inputs that are necessary
6 for their production.

7 Feed, however, again because of the
8 economics of transporting it, we try to move it
9 once it's produced only no more than about 50 or 60
10 miles. Keep in mind, too, even though it's
11 important in many ways to talk about local
12 purchasing and the importance of local purchasing,
13 local suppliers must change over time and adapt to
14 the changing conditions of their economy.

15 So we don't want to start with the
16 proposition that anything which comes in which puts
17 pressure on local suppliers to either become more
18 sophisticated, to become more specialized and so on
19 is necessarily bad. That happens every day.

20 As Radio Shack stores, for instance,
21 added a computer line once computers came on. If
22 they would have stayed only with gadgets and things

23 like that, they wouldn't have been nearly as
24 successful.

120

1 So the changing economy, even at the
2 local level, has to respond to the changing local
3 needs.

4 And keep in mind, lastly, that in order
5 to create wealth in an area, we have to have trade
6 with an outside area. Otherwise, you are only
7 circulating local dollars. For instance, a local
8 community that provided all the feed, had its own
9 slaughterhouse, and all the pigs are -- were
10 consumed locally, is just circulating dollars
11 within the local community. And never be any room
12 for expansion or for young people.

13 For instance, if somebody had five sons
14 and daughters, and all of them wanted to come back
15 to the farm, it was just a circulation of existing
16 wealth, they would have to split that up into
17 smaller and smaller pieces, which may not be
18 sustainable for them.

19 So trade outside the region is not
20 necessarily bad even for the local community,
21 since it does bring in wealth.

22 THE HEARING OFFICER: Thank you,
23 Dr. DiPietre. Yes. Could you come forward?

24 MR. ST JOHN: Phil St John.

1 Dr. DiPietre, in your testimony there,
2 you quoted statistics that talked about the
3 distribution of Illinois producers by size and
4 location and size of heard. This is page four on
5 your testimony.

6 DR. DiPIETRE: Yes.

7 MR. ST. JOHN: My question -- I have
8 a couple of questions. But my question is: For
9 example, it says 2,000 head and up. Is that at one
10 time, or is that an annual figure of production?

11 DR. DiPIETRE: That is inventory.
12 Not annual sales. So that's in inventory on the
13 farm at any one time during the year.

14 MR. ST JOHN: Okay. 2,000 head,
15 does it mean animals and does not mean animal
16 units?

17 DR. DiPIETRE: That's right. It
18 means physical animals, where an individual feeder
19 pig is counted the same as a bore or sow.

20 MR. ST JOHN: Well, is there --
21 okay. Define head in inventory, not animal units
22 in inventory. For example, 2,000 and up, it says
23 470 farms out of 10,570 farms.

24 So am I correct then in my math that

1 10,100 farms have animals of less than 2,000 head?

2 DR. DiPIETRE: According to the
3 USDA, yes.

4 MR. ST JOHN: That would be a
5 correct figure, you assume --

6 DR. DiPIETRE: Yes.

7 MR. ST JOHN: -- in inventory in
8 Illinois.

9 DR. DiPIETRE: Yes. Yes.

10 THE HEARING OFFICER: Thank you.

11 DR. DiPIETRE: It's very important
12 to get that definition correct. And many people
13 misunderstand it. But the USDA does not report the
14 number of hog operations, which is the way most
15 people mischaracterize it.

16 They are -- an operation, as it's
17 reported by the USDA in these figures, is any
18 location which has at least one pig in inventory at
19 any one time during the year. So someone who lived
20 in the country on ten acres and a son or daughter,
21 bought a show pig for a 4-H project, if they -- if
22 the USDA enumerated it, happened to touch that
23 farm, that would be considered a so-called hog
24 operation. Then when that pig went to the fair and

123

1 on to slaughter, you know, we could have -- we
2 could have someone saying, well, we lost another
3 hog farm. They were misusing the data. You have
4 to be very careful about how we understand the USDA

5 definition.

6 MR. FLEMAL: Dr. DiPietre, a further
7 clarification on that. Is it possible that one
8 farm could have more than one herd?

9 DR. DiPIETRE: Yes. Not completely
10 sure from the USDA how they handle this, except
11 if -- if the farms are not continuous, in other
12 words if a particular owner had a farm 30 miles
13 away and another one at the homestead, separate
14 locations, and the enumerated estimated, those --
15 both of them could show up, even though owned by
16 the same person, as two farms.

17 MR. FLEMAL: Thank you.

18 THE HEARING OFFICER: Thank you.

19 DR. DiPIETRE: Even, for instance,
20 if that second farm received animals from the first
21 one, all a continuous part of a production process,
22 may be labeled as two operations, since locations
23 are what is counted.

24 MR. BEORKREM: Mark Beorkrem from

124

1 Knox County.

2 Doctor, you have considerable economic
3 experience with the ag industry. My question is:
4 If Illinois is one of the top feed grain producing
5 states in the country and we know that these
6 livestock operations are going to center themselves
7 where that feed grain is available, do we expect to

8 see much variation between the top five states, for
9 example, in livestock production because of this
10 tie into the feed grains availability?

11 And would we expect -- if Illinois chose
12 to put in, say, greater restrictions, environmental
13 restrictions on livestock operations than, say,
14 North Carolina does, would we expect to see a wide
15 divergence in movement or establishment of
16 livestock operations in mega hog operations because
17 of more restrictive environmental regulations, but
18 also of greater availability of grain feeds?

19 DR. DiPIETRE: That's a very
20 important question. Of course, it depends greatly
21 on the level of restriction and setback that
22 Illinois chooses within the next five years to
23 either add or to not add.

24 There is a trade-off between especially

125

1 unstable environmental legislation and where both
2 the professional family farm and large corporate
3 farms are choosing to locate. For instance, I
4 think in my experience in working with the decision
5 makers in this area, if the legislation is strong
6 but stable, that can represent a much more
7 favorable investment to climate than one which is
8 incremental. In other words, we have a certain set
9 of legislation today and increment it next year, or
10 more severe, or add additional burdens later, then

11 that unknown set of increasing restrictions makes
12 it an unstable environment. And those can outweigh
13 the feed cost advantages that you just mentioned.

14 So we do see examples of some of the
15 largest farms in the nation choosing to feed
16 deficit areas for their production because they
17 believe that even though they are going to pay
18 for -- more for feed over time, they have a more
19 stable investment climate and can potentially
20 offset those disadvantages with feed with either
21 lower building costs or better growth rates of
22 animals than, say, the dry southwest, where low
23 humidities work with -- favorably with the animals,
24 and no extreme temperatures, and less

126

1 incrementally -- sort of incrementally
2 environmental legislation.

3 Right now, both for the Illinois family
4 farm of the future and for others who want to
5 produce pigs, corporate or otherwise, states like
6 Illinois represent a stronger attraction.
7 So-called corn belt and fringe corn belt states
8 have the advantage of being close to low cost feed
9 supplies close to the existing packing
10 infrastructure. So we have competitive backing
11 possibility and actually infrastructure in place.

12 And more importantly than that, you have
13 the ability because of the intense cropping that

14 takes place in this state to effectively utilize
15 the manure nutrients.

16 So for -- I understand even though it may
17 be permitted by law to locate a large swine farm in
18 Wyoming and with very loose environmental
19 restrictions, the long run impact of that may be
20 perilous, because there isn't much cropping that
21 takes place there. And so the waste simply has to
22 build up or not be used in a sustainable fashion.

23 So all those factors conspire to make
24 Illinois a subject of intense interest both by its

127

1 own production family farms and by others. But the
2 trade-off could eventually be such that those
3 benefits here are viewed as to that's a too risky
4 environment to take on.

5 THE HEARING OFFICER: Thank you,
6 Dr. DiPietre. Yes.

7 DR. ST JOHN: Dr. DiPietre, Bruce
8 St John is my name. Illinois Citizens for
9 Responsible Practices.

10 I have some difficulty with your
11 characterization of the large-scale livestock
12 producer following a pattern of purchasing feed
13 locally. And where I come from most recently is an
14 article which was published this month in the
15 Federal Reserve Bank of Chicago, which I'm going to
16 introduce later as evidence entitled,

17 Industrialization in Hog Production, Implications
18 for Midwest Agriculture, by Gary Benjamin.

19 He says that the evidence where
20 industrialization is occurring surfaces in a
21 comparison hog inventory changes over the last five
22 years. From December of 1990 to December of 1995,
23 hog numbers nationwide rose nearly 11 percent. All
24 of that growth came in seven states. The seven

128

1 states he identifies where the growth was centered
2 were Missouri, North Carolina, Colorado,
3 Mississippi, Oklahoma, Utah and Wyoming.

4 I guess the question I have is: Why --
5 if this process is attractive to where the feed is
6 grown, why would we have not seen that growth in
7 Iowa, Illinois, Indiana and Ohio?

8 DR. DiPIETRE: Well, there are a
9 couple of things there. One, there have been --
10 there has been tremendous growth in Iowa. There
11 has just also been tremendous attrition. So the
12 net effect has been that the sow numbers and
13 inventory numbers are going down.

14 The reason why you're seeing growth in
15 those so-called fringe areas in the states that you
16 just mentioned are that -- the same that we just
17 spoke about here. Most -- most of that growth --
18 keep in mind two things. One, since Utah had
19 almost no pig production, when you add a few

20 thousand sows, it gets a lot of attention, when you
21 are looking at a percentage change basis.

22 So some of these are tremendous
23 percentage changes in growth, but they don't
24 represent that many total animals. The same with

129

1 Oklahoma and some of the other ones. So when you
2 see growth represented as a percentage change, that
3 can look spectacular, when you have almost nothing
4 there to begin with.

5 The second thing is these producers
6 are -- that are locating in Utah, for instance, in
7 Oklahoma, are targeting an export market, and they
8 want to get close to the western coast of the
9 United States. And so they are going to be
10 marketing Japan and pacific rim nations with
11 export.

12 And so the other states, it's really a
13 question of the local political climate and
14 decision of area producers.

15 THE HEARING OFFICER: Thank you,
16 Dr. DiPietre. Mr. Harrington.

17 MR. HARRINGTON: I just have a
18 couple of follow-up questions for the record.

19 Calling your attention to your appendix.
20 I just want to make sure the record is clear as to
21 what each of the pages of the appendix indicate.

22 DR. DIPIETRE: Unfortunately, each

23 page is not labeled, so you may have to describe it
24 to me.

130

1 MR. HARRINGTON: Okay. The first
2 page I have, and I believe the way it's been
3 presented to the Board, starts 1,000 farrow-finish,
4 increased community and regional direct impacts,
5 slash, year.

6 DR. DiPIETRE: Yes.

7 MR. HARRINGTON: Did you prepare
8 that?

9 DR. DiPIETRE: Yes, I did.

10 MR. HARRINGTON: And is -- you are
11 saying each unit of 1,000. 1,000, is that total
12 animals, or is that --

13 DR. DiPIETRE: This is 1,000 sows of
14 production.

15 MR. HARRINGTON: So each 1,000
16 farrow-finish unit would have a result in purchases
17 of \$1,170,000; is that correct? Am I reading this
18 correctly?

19 DR. DiPIETRE: Okay. What you are
20 reading there, that's correct, it would have an
21 average. Approximately that amount of feed
22 purchases per year.

23 Keep in mind, some years feed costs more,
24 corn costs less. So this is based on ten-year

1 historical prices and an average to a slightly
2 better than average feed efficiency for the state.

3 MR. HARRINGTON: And that would
4 include feed transfers on a mixed farm grain to
5 grain and hog farm where the grain was consumed on
6 the farm itself?

7 DR. DiPIETRE: That's right. Wasn't
8 directly purchased within the operation. It would
9 be the value of it.

10 MR. HARRINGTON: The next page I
11 have is 1,000 additional sows, slash,
12 farrow-to-finish production, increased community
13 and regional direct impact, slash, year, estimated
14 annual non-feed purchases.

15 DR. DiPIETRE: Yes.

16 MR. HARRINGTON: Now, that -- was
17 this page also prepared by you?

18 DR. DiPIETRE: Yes, it was.

19 MR. HARRINGTON: Am I correct that
20 it indicates additional purchases of non-feed at
21 \$455,400?

22 DR. DiPIETRE: Per year. Also keep
23 in mind, this represents the purchases probably on
24 a level of performance that is higher than the

1 average in Illinois.

2 Probably in Illinois, this does not
3 represent an actual sample or Illinois purchases,
4 but an estimate which is drawn from production
5 scheme, which is probably a little more efficient
6 than Illinois. Meaning that, if anything, these
7 underestimate these purchases on an annual basis.

8 MR. HARRINGTON: Okay. Next page I
9 have is job creation, slash, 100 FTE swine.

10 DR. DiPIETRE: Yes.

11 MR. HARRINGTON: Can you explain
12 what this page represents?

13 DR. DiPIETRE: This is a sample of
14 interrelatedness of the swine industry to the rest
15 of the economy. And what it suggests is that for
16 every 100 full-time equivalent jobs on the farm
17 producing swine, that production creates the
18 following. The table lists the number of full-time
19 equivalent jobs in these other related industries
20 to support that production.

21 For instance, if the swine industry in
22 Illinois would lose in production the equivalent of
23 100 full-time jobs, you would expect the economy in
24 Illinois to contract not just by the amount of

133

1 those farm workers, but unless there was an
2 increase somewhere else that allowed them to be
3 retained, all of the work force that's illustrated
4 in this table would also be lost.

5 MR. HARRINGTON: Okay. The next
6 page is a 1,000 sow farrow-to-feeder pigs,
7 increased community in regional indirect impacts,
8 slash, year.

9 Was this table also prepared by you?

10 DR. DiPIETRE: Yes, it was.

11 MR. HARRINGTON: And could you
12 explain this table briefly?

13 DR. DiPIETRE: This is a table which
14 shows -- it's meant to show, again, the tremendous
15 interrelatedness of pig production to the rest of
16 the economy. So using a well-accepted technique
17 referred to as input-output analysis, we are able
18 to trace purchase linkages down into all the rest
19 of the economy and show, for example, the amount of
20 annual indirect purchases which are created
21 throughout all the rest of the sectors of the
22 economy for every 1,000 sows, farrow-to-feeder
23 pigs, in this case, production in Illinois.

24 MR. HARRINGTON: That number is

134

1 386,998?

2 DR. DiPIETRE: Right.

3 MR. HARRINGTON: And the last page
4 has two tables, economic effects of Illinois pork
5 industry to the farm level, direct and indirect
6 impacts; economic effects of the Illinois pork
7 industry to the processing level, direct and

8 indirect impacts.

9 This is taken from the Lawrence and Otto
10 economic impact of swine production, 1994 study.

11 DR. DiPIETRE: Yes. Let me give a
12 more precise reference to that, because we were
13 under a time deadline for the submission of these
14 materials, and I gave it my best shot. The actual
15 title of this publication is, economic importance
16 of the Illinois pork industry. And the date is
17 actually 1992.

18 And again, as I previously mentioned,
19 that has been updated to 1995 data. But it's not
20 quite off the press. Or if it is, it's not readily
21 available for the next two weeks.

22 MR. HARRINGTON: And perhaps looking
23 at the top table, it says, employment, number of
24 jobs. And at the bottom, what does that total

135

1 represent? Can you read the number for us, and
2 also explain what that represents?

3 DR. DiPIETRE: This is the work of
4 John Lawrence and Dan Otto using input-output
5 analysis. And they have showed a more summarized
6 list than I had shown in my appendix. For
7 instance, they show -- if you look at swine
8 production, only the impact through the production
9 level on the farm. That's the top data. That pork
10 production itself on the farm creates about a

11 billion dollars. That's the first column in total
12 industry output. And then to the jobs, about
13 500 -- 5,151. Then if you see its impact, direct
14 and indirect, effect on the other industries as
15 they have been aggregated here, mining,
16 construction, manufacturing.

17 The activity in the pork production
18 sector stimulates and creates output income and
19 employment in all those other sectors. So that the
20 total impact of farm level swine production in
21 Illinois, by their estimates, in 1992 was the 5,100
22 on the farm. And counting all the others, that it
23 stimulates 15,000 jobs Illinois-wide.

24 Now, these models do specifically account

136

1 for the effect of outside -- any jobs where people
2 come over from St. Louis or Missouri, they are
3 included in this. The model accounts for shifts
4 across borders of the state.

5 MR. HARRINGTON: Thank you. That's
6 all on this.

7 One other follow-up question. If
8 Illinois, through setback rules or some other
9 rules, effectively prevented the out-of-state
10 corporate farmers from locating in this state, do
11 you believe that that would in any way result in a
12 reduction in total number of such farming
13 operations in the United States?

14 DR. DiPIETRE: Total number of the
15 corporate operations?

16 MR. HARRINGTON: Corporate
17 operations.

18 DR. DiPIETRE: It's difficult to
19 say. I would expect that it can be said to date
20 that the largest producers in the United States
21 have not been able to expand at the rate that they
22 have wanted to expand, because of instability and
23 changing legislation in different states.

24 So whether in the long run they would be

137

1 able to locate and expand in other areas, my best
2 guess is that the industry will reshape itself
3 according to economics, according to over time.
4 But in the short run where those -- where that
5 expansion takes place and where it gets laid in can
6 be affected by states. So it can be slowed up, but
7 probably not in the long run changed.

8 MR. HARRINGTON: Thank you.

9 THE HEARING OFFICER: Chairman
10 Manning.

11 MS. MANNING: I have a couple of
12 clarifying questions, if I might. First of all,
13 the testimony I understand that you are giving is
14 being offered today for a generalized Board
15 knowledge of the economic value of livestock
16 industry in Illinois. You have not done a specific

17 analysis of the proposed regulations presented to
18 us by the Department of Ag. Is that correct?

19 DR. DiPIETRE: That is correct.

20 MS. MANNING: Thank you. The other
21 question I had is a number of times in your answers
22 to your questions you referred to the words family
23 farm.

24 DR. DiPIETRE: Yes.

138

1 MS. MANNING: We have had
2 discussions in other hearings, you know, as to a
3 definition of the words family farm.

4 I would assume you've given that some
5 thought before you used that terminology, and I
6 would like you to tell us how you would consider a
7 definition of the words family farm when you use
8 them.

9 DR. DiPIETRE: When I use the words
10 family farm, I'm normally thinking of a farm which
11 primarily gains its direction, not necessarily its
12 management, since a family can hire external
13 management into the farm, but a farm which has
14 arisen out of a family operation. I don't think it
15 has much to do with size necessarily. But arose
16 out of a family operation, and that the family
17 still owns it or owns a majority share in it, and
18 that they are active in some way in the overall
19 management and guidance of the farm, and that they

20 receive their livelihood from it.

21 MR. FLEMAL: Can you identify one
22 characteristic that identified a family farm from
23 two or from some other entity or two or three?

24 DR. DiPIETRE: I'm kind of quoting

139

1 the farm law in Missouri when I just mentioned
2 that, since we do distinguish family farms which
3 are allowed to produce, versus non-family
4 operations. So the criteria that I just mentioned
5 were close to the Missouri statute, which is -- I
6 think, is fair.

7 The -- I think you have to be pretty
8 careful, because in -- many people want to talk
9 about the family farm as relatively small family
10 run without any hired labor and that sort of
11 thing. And you can point to Illinois to say that
12 some of the largest professional family farms in
13 the nation exist here. So it has nothing to do
14 with size or complexity. It has more to do with, I
15 think, the origin of the farm, that it came up out
16 of a family operation tied to the land, and that
17 the family still maintains it for its source of
18 income and maintains managerial control. Maybe not
19 exclusive, since when it becomes large and complex,
20 they hire on additional people. But given an
21 overriding sense to its management, maintain their
22 income from it, and it arose out of a family

23 operation. A small family operation typically.

24 THE HEARING OFFICER: Thank you.

140

1 MR. FLEMAL: I assume then from your
2 answer there is no single easy identification of a
3 family farm versus an entity other than the family
4 farm.

5 DR. DiPIETRE: Well, it's one of
6 those things that doesn't draw a clear border,
7 except you can only point to it and say, this is
8 not a family farm, and this is. Actually trying to
9 get your arms around it sometimes is difficult.

10 For instance, if a corporate entity buys
11 farmland and hires all people from outside of it
12 which are not related in any way, and the corporate
13 entity itself is not a hog producer or hog farm,
14 but say is a diamond trader, something like that,
15 and just diversified into the hog business, I would
16 not call that a family farm.

17 MS. MANNING: I had another question
18 on your employment statistics.

19 DR. DiPIETRE: Yes.

20 MS. MANNING: Specifically on page
21 eight of your testimony, you make the conclusion
22 that it is estimated that approximately 5,150 FTE,
23 which basically is full-time employees, 5,150
24 employees are created annually in Illinois from the

1 direct on-farm production of swine.

2 I -- I'm interested to know how that
3 estimate is derived specifically.

4 DR. DiPIETRE: Now that you read
5 that, I can see there might be some confusion. It
6 doesn't mean that many new ones are created each
7 year.

8 MS. MANNING: That's what it sounds
9 like.

10 DR. DiPIETRE: That's a miswording
11 unfortunately. The swine industry creates and
12 sustains a total of 5,150 full-time equivalents on
13 the farm. So it doesn't incrementally mean each
14 year that's added to by that amount. It's just if
15 you look at the production that takes place in
16 Illinois and the number of full-time equivalents
17 that produce it, it's about 5,100 full-time jobs.

18 MS. MANNING: So what you are
19 saying, I think, is if you look at an annual
20 picture of how many full-time equivalents are
21 resultant from the swine industry in Illinois, you
22 come up with the number of 5,150, but you don't
23 come up with that every year.

24 DR. DiPIETRE: No. Not added each

1 year. That's the total. Keep in mind, also,

2 that's simply the farm level. If you look at the
3 related processing, related industries, like the
4 feed businesses that arise to serve them, then the
5 number is much larger. But this is simply on-farm
6 farm work. And the full-time equivalent definition
7 is 2300 hours a year.

8 MS. MANNING: And you are not
9 claiming that that grows every year.

10 DR. DiPIETRE: In fact, in Illinois,
11 it's been --

12 MS. MANNING: Could be declining.

13 DR. DiPIETRE: Very definitely
14 declining.

15 MS. MANNING: That would have been
16 my next question. It was hard to believe it was
17 growing at that extent when the industry was
18 declining as well.

19 DR. DiPIETRE: Thank you for
20 bringing that up. That was a poor choice of words.

21 THE HEARING OFFICER: Dr. Girard.

22 DR. GIRARD: Thank you.

23 Dr. DiPietre, I have a question on your
24 testimony that since 1993 Illinois has fallen

143

1 behind both Minnesota and North Carolina with
2 respect to total swine inventory.

3 To your knowledge, what economic factor
4 may explain that recent change?

5 DR. DiPIETRE: Illinois, for some
6 reason, has -- has not stimulated the same growth
7 in the last few years that both Minnesota and North
8 Carolina have. In North Carolina, it was the
9 growth -- much of the growth was stimulated in
10 the last ten years. From -- this is sometimes
11 overly -- an over characterization, but a lot of
12 producers of tobacco in North Carolina, with the
13 demise of that industry, decline of that industry,
14 have shifted their assets from production of
15 tobacco to swine.

16 And they chose that, because historically
17 swine production has been the single most
18 profitable agricultural enterprise besides tobacco
19 that could be carried out on a typical Midwestern
20 farm.

21 Then Minnesota, much of the growth which
22 has taken up there is cooperative growth, network
23 growth that's occurred. That's a tremendous
24 cooperative tradition there. And there is several

144

1 leading veterinary clinics who assemble groups of
2 producers and assist them in seeing how they can
3 form strategic alliances to grow.

4 In Illinois, what we are primarily seeing
5 is some of the most famous and long-standing
6 producers of pork in the United States live here,
7 and they have been expanding and going on. But the

8 rest of the industry, in general, has been in a
9 retirement attrition and large -- a large-scale
10 production not situated here has not tried recently
11 to sit, wait here. And I think so far that
12 explains -- explains those differences.

13 MR. GIRARD: Thank you.

14 THE HEARING OFFICER: Excuse me.
15 Follow-up.

16 MR. GIRARD: If I can just state one
17 more, as long we are on this.

18 THE HEARING OFFICER: We will get to
19 you.

20 WOMAN AUDIENCE MEMBER: All right.

21 THE HEARING OFFICER: Okay.

22 MR. FLEMAL: In your appendix,
23 Dr. DiPietre, on page two, you have a table that
24 shows your estimates of the estimated non-annual

145

1 feed purchases, and consists of two columns of
2 data. The first being a per market hog, and the
3 second, total purchases. I note that the two
4 columns differ by a factor of 20,000.

5 Could you explain for us just for the
6 purposes of the record what it is that generates
7 that multiplier to get to your second column?

8 DR. DIPIETRE: What's being assumed
9 by this is that -- that somehow the sow operation
10 is producing for sale the equivalent of 20 pigs per

11 sow per year, which would be a highly productive
12 farm. And Illinois does not average that, as does
13 no other state in the union in the United States.

14 But this is emerging. New construction
15 being built both at the family farm level and the
16 corporate level are achieving these results.

17 MR. FLEMAL: What is the residence
18 time on the farm of that 20 hogs per sow?

19 DR. DiPIETRE: Well, they represent
20 an annual production, and probably they are
21 turned -- the entire inventory is turned about 2.3
22 times per year, something like that.

23 MR. FLEMAL: Something less than six
24 months, five months.

146

1 DR. DiPIETRE: Typically, yes.

2 MR. FLEMAL: Are you familiar with
3 the animal unit size designation that's involved in
4 the statute that we are dealing with today?

5 DR. DiPIETRE: I am not as
6 conversant with it as an engineer would be, but I
7 understand it basically.

8 MR. FLEMAL: The concept. Enough so
9 to convert for us, if you could, what a thousand
10 additional sow, farrow-to-finish, production unit
11 would be in terms of animal units?

12 DR. DiPIETRE: If I took about 15
13 minutes on a calculator. Would you like me to

14 submit that as part of an appendix?

15 MR. FLEMAL: One of the difficulties
16 that we as the Board have had, and perhaps many of
17 the people who have been following this, as
18 different experts have looked at the magnitude of
19 facilities, there has been a tendency to use
20 different kinds of ways to estimate that
21 magnitude. And it would be nice to get these all
22 on the same plain.

23 DR. DiPIETRE: Keep in mind, by
24 putting this thousand sows in here, I didn't mean

147

1 to imply by that that this is a single operation of
2 1,000 sows. It's just the summation of each
3 thousand. And that was meant to try to get it on
4 some kind of standardized unit that's equivalent to
5 the USDA reporting in thousands.

6 THE HEARING OFFICER: Okay. Would
7 you like to ask your question?

8 MS. LEONARD: Okay. Del Leonard. I
9 just have another question here.

10 Is it true that an out-of-state,
11 corporate-owned mega hog operation, most of the
12 profits go back to out of state rather than staying
13 local?

14 Otherwise, you know, how else could these
15 corporations survive?

16 DR. DiPIETRE: Again, it depends on

17 how they distribute or share profits. You know,
18 many operations have a profit sharing plan with
19 employees. But, of course, if owners live out of
20 state and the owner earns profits, then profits go
21 to the owner outside of state.

22 Whether he chooses to reinvest those
23 profits back into the state through additional
24 expansion or purchase is up to them and might

148

1 differ in every case.

2 MS. LEONARD: Well, generally, the
3 out-of-state ones are -- they own everything. It's
4 only, you know, the individual farmer or whoever
5 who is in whatever state they are coming into who
6 supplies, you know, the money for the land,
7 supplies the land, the buildings and whatever. But
8 it's the out-of-state companies, corporations,
9 that, you know, supply the animals, the feed, the
10 veterinarians.

11 And so consequently, ultimately I would
12 say, you know, in order for them to survive and get
13 as big as they are getting throughout the country,
14 they have to be coming up with, you know, just tons
15 of profits, whereas, you know, poor Henry Ha-ha
16 down the road here, you know, he is making X amount
17 of money. But now the corporations, they say,
18 well, now you are going to need more and more and
19 more things. So Henry Ha-ha, now his profits are

20 starting to diminish, whereas the company,
21 corporation, is making more and more.

22 Is that true or not?

23 DR. DiPIETRE: Well, I think I can
24 point you to --

149

1 MS. LEONARD: Yes or no?

2 DR. DiPIETRE: I think I can point
3 you to some pretty spectacular examples of that.
4 Two in our own state. Premium Standard Farms,
5 which owns 100,000 sows, is a completely integrated
6 operation. Had spectacular losses of money. And
7 so there is sort of a demagogic kind of statement
8 that's made in Missouri, that the pork from Premium
9 Standard went to Japan, and the profits went to
10 Wall Street, and they left us with the manure.

11 But unfortunately, they didn't make any
12 profits, so no profits went to Wall Street. In
13 fact, they made 500 million dollars investment in
14 the state of Missouri and hired almost 2,000
15 employees throughout their whole operation. And
16 the people who held their debt, when they went
17 through bankruptcy recently, got equity shares
18 instead of payment.

19 Now, the other example would be, I think,
20 Tyson Foods, who is spectacularly successful in
21 Poultry, has been much less successful in the swine
22 business. In fact, bought, and now has sold, the

23 only remaining large packing plant in Missouri, as
24 well as has sold all their pork processing division

150

1 and their beef processing recently.

2 So I fight this characterization a lot,
3 that large producers automatically are profitable,
4 first of all, or that they automatically drain
5 profitability from the state. Because almost all
6 of them, except Premium Standard Farm, operate in
7 strategic alliance with producers of the state.

8 So as you mentioned, when they build an
9 operation, they typically own the animals, but
10 local people own the buildings, the land, the
11 infrastructure, which the building of those new
12 buildings stimulates the local economy. The
13 payment for those buildings and the profit for
14 those buildings created for the owners are local
15 people receiving profits. And even though feed
16 grains may be transported easily by rail, at least
17 between states, they are normally not economical to
18 transfer, once it's been ground, more than 50 or 60
19 miles.

20 So either corporate local mills, which
21 earn profits, or build their own mill and hire
22 local people. It's pretty hard to buy farm trucks
23 in North Carolina and bring them to Illinois. They
24 will almost always, for instance, buy from local

1 dealers, that sort of thing. So it's -- you have
2 to be a little bit careful how you characterize
3 that. But, yes, any profit that they earn, if they
4 live in another state, would probably go back to
5 them. What they do with that and whether they
6 reinvest it is another question.

7 And it's a mischaracterization to suggest
8 that all the profit they earn is earned by the
9 owner of the pigs only. That all the interrelated
10 industry produce profit also, as well as the
11 producer who owns the buildings.

12 THE HEARING OFFICER: Ms. Leonard,
13 do you have a follow-up question?

14 MS. LEONARD: No.

15 THE HEARING OFFICER: Okay. Thank
16 you.

17 MS. LEONARD: Yes.

18 MS. KUCK: My name is Mary Kuck.

19 And Dr. DiPietre, you speak of 5,150
20 jobs. I'd like to know where on the economic scale
21 are these jobs located?

22 Are they, pardon me, well-paying jobs, or
23 are they minimum wage jobs?

24 What percentage of each and what is

1 the -- the farm minimum wage that they do pay?

2 DR. DiPIETRE: Those are excellent
3 questions. To clarify again, the jobs that are
4 reported in my piece, they are calculated, they are
5 primarily the on-farm farmer owners jobs. In other
6 words, the 5,150 jobs are the existing jobs in
7 Illinois produced on farms to create pigs. So
8 Henry Ha-ha, if he produces pigs, that's his job,
9 as well as everybody else.

10 So these are not jobs created by a
11 corporate entity. By far and away, most of the
12 pigs -- the vast majority of the pigs produced in
13 Illinois are produced by family operations of
14 various sizes, and they are these jobs I'm speaking
15 of here.

16 Now, your question may be, if a corporate
17 entity moves in, what kind of jobs did they create
18 and what are their pay scales. And I can provide
19 for the committee a detailed analysis of that in
20 Missouri. I have not done it for Illinois.

21 But if you look at Premium Standard
22 Farms, for instance, that we just mentioned in
23 Missouri. They located in a five county area of
24 Missouri, which was extremely depressed. In that

153

1 five county area, 30 percent of the households had
2 a household income below \$10,000 a year. Their
3 minimum job, which was a power washer job, paid
4 \$13,000 a year, plus profit sharing, which is --

5 has gone as high as \$6,000 a year, in the one year
6 that they had profits. The job, though, also
7 includes full medical and dental benefits and a
8 retirement plan. And 13,000. Their average
9 salary, overall positions, that includes
10 management, is about \$20,000 a year, which includes
11 these power washers, as well as everybody up
12 through the packing plant and so on.

13 WOMAN AUDIENCE MEMBER: Madam
14 chairman, I thought we were here for the Livestock
15 Management Facilities Act, to talk about that.

16 THE HEARING OFFICER: Yes, we are.

17 MS. MANNING: We are -- we are just
18 letting everyone ask the questions that they have.

19 THE HEARING OFFICER: Yes. If you
20 could please stand up front.

21 MR. WILSON: My name is Steve
22 Wilson. I just have a question of clarification.

23 In your written testimony it says that
24 Illinois has went from second to fourth in rank.

154

1 But today whenever you address that, you said that
2 we have fallen behind because we haven't expanded
3 as rapidly as other states.

4 Is Illinois declining or increasing pork
5 production? Just Illinois itself. Which is that?

6 DR. DiPIETRE: The secular trend has
7 been a decline. Tremendous decline. If you look

8 earlier in the report, you'll see that it's between
9 30 and 40 percent, depending on whether -- in the
10 last 15 years, depending on whether you measure in
11 terms of breeding stock or total. So there has
12 been a tremendous secular decline in the pork
13 industry in Illinois in the last 15 years.

14 THE HEARING OFFICER: Mr. St John.
15 Then we are going to get to your question.

16 DR. ST JOHN: Bruce St John.

17 Dr. DiPietre, I'm wanting to follow-up on
18 some of the comments and questions earlier on the
19 North Carolina situation, as I try to better
20 understand what happened there.

21 If I understood you correctly, you stated
22 that the transformation of the hog industry in
23 North Carolina had occurred over the last ten or
24 more years, and I think that's in your written

155

1 prefiled testimony to some degree too.

2 DR. DiPIETRE: Yes. About the last
3 ten, maybe 15 years.

4 DR. ST JOHN: Okay. I have two
5 questions based on two charts which I intended to
6 introduce later as testimony, but I will introduce
7 them now. They are both drawn from a report on a
8 1996 hog summit which was conducted in North
9 Carolina.

10 One shows hog inventory in North Carolina

11 from 1983 to 1995, and the number 1993 -- or 1983
12 rather is approximately a little over two million
13 hogs. And in 1995, it gets up to over eight
14 million. It's the chart that I think is
15 interesting. If you look between 1983 and 1989,
16 almost 1990, it's pretty flat in terms of the
17 inventory. And the real growth then begins to
18 occur in 1990-91 to the present time.

19 The second chart shows what happened to
20 hog farms in North Carolina in that same time
21 frame. The numbers there, again, are not exact.
22 But the material is drawn from the North Carolina
23 Department of Agriculture. I'm sure we could get
24 exact numbers, if someone wanted them. But

156

1 basically, 1983, you had about 20 -- it looks like
2 23 -- 2300 -- or 23,000 rather to 23,500 hog
3 farms. And in 1993, you're down to 7,000 hog
4 farms.

5 So you can see what that chart looks
6 like. That generates two questions for you.

7 One, in your comments a few minutes ago
8 in terms of the North Carolina situation, when
9 asked what economic factors caused things to happen
10 differently in North Carolina than we saw happening
11 in Illinois, there was no mention of the
12 industrialization of hog production in North
13 Carolina.

14 It would appear to me, based on this
15 chart, where we had pretty flat inventory levels in
16 North Carolina up until we started seeing the
17 industrializations of hog production. Must be some
18 connection between the way the pigs are being grown
19 there today, the size of the facilities, and so
20 forth and this massive jump in production.

21 Could you comment on that?

22 DR. DiPIETRE: Yeah. That's pointed
23 out quite a bit, and I think that you can -- cannot
24 make the conclusion that there is a causal link

157

1 between those. I think what you can show is that
2 had not people invested in the hog industry in
3 North Carolina, that you would have had just that
4 same trend -- the same exact trend in number of hog
5 operations existing there. That, in fact, what you
6 are really seeing, and why that is relatively flat
7 in those years in 1980, is because a lot of those
8 little ones were leaving as the larger scale
9 producers were gearing up. So you have a netting
10 out effect.

11 So you can trace this back to the G.I.
12 Bill, in my opinion. As soon as people had
13 alternatives off the farm and began taking them,
14 there was always the choice between coming back to
15 50 sows on dirt or a high labor operation or going
16 to college and seeking a career with a company not

17 on the farm. And people have been choosing that
18 for the last 40 years.

19 So you can line up that decline and the
20 number of operations and see that -- that it's been
21 occurring for 30 years before the existence of any
22 kind of large operation. So -- and again, if you
23 look at the mechanism by which large producers
24 might put small ones out, it might typically be

158

1 something like they flood the market with their
2 pigs and lower the price. And, therefore, smaller
3 high cost producers can no longer compete in that
4 environment.

5 But we have seen -- this last year the
6 highest hog prices on record we have seen in 1991.
7 And in 1990, second highest hog prices on record in
8 the history of this business. So in 1990, people
9 leaving the business. While some of them may have
10 left because of sharp economic problems, the
11 general trend has been that hog production has
12 remained quite profitable during that time. And
13 profitability is not the reason people are leaving
14 the business. Or squeezed profitability.

15 THE HEARING OFFICER: Okay. I know
16 there was one more question at the back of the
17 room.

18 MR. EMMETT: One last question.
19 Bill Emmett from McLean County.

20 THE HEARING OFFICER: Could you come
21 up here so we can hear you? Go ahead and take his
22 question, and have to break for lunch and come
23 back.

24 WOMAN AUDIENCE MEMBER: That's good.

159

1 MR. EMMETT: Bill Emmett from McLean
2 County. The question I have for you is you talk
3 about the wonderful things that pork is doing in
4 Illinois. And apparently, you've spent a lot of
5 time studying this, the economic benefits of pork
6 to Illinois.

7 Have you looked at the other side of the
8 coin? Because there is, in fact, another side of
9 the coin. That there is an economic side to the
10 other side, where large facilities coming in to a
11 neighborhood lower property values, causing you
12 health problems for the people in the area, quality
13 of life. We can put a dollar amount on a quality
14 of life issue.

15 Have you looked at the other side of the
16 coin?

17 DR. DiPIETRE: Some of the things
18 that you mention are being studied right now. But
19 it's -- in some ways, I have challenged other --
20 other sociologists to begin studying this, because
21 most of them speak out of studies that were done 30
22 years ago about other industries like the paper

23 mill and so on. And they have done very little, if
24 anything, to study the impact of increased sizes

160

1 in, say, swine production.

2 Let me say that I'm here today speaking
3 about economic impact of swine production, and
4 there is very little in this life, if anything,
5 that you get that doesn't cost something. So if
6 anybody has read my testimony only to say that let
7 in anything you want in Illinois, open the gate,
8 allow pollution, allow diminished quality of life,
9 allow people to be injured or their health reduced,
10 has misread my testimony.

11 In fact, I'm published in many places
12 calling for high economic and environmental
13 standards, but stable ones. So that you set
14 realistic high standards, which protect the
15 economic environment, do not result in tremendous
16 cost, water degradation, large numbers of people
17 suffering under noxious odors, or probably property
18 values decline.

19 It's up to the people of Illinois and the
20 regulatory bodies to look at the impact, both
21 negative and positive, that this industry can have,
22 and then to choose a course which they feel most
23 comfortable, which you, in fact, will have to live
24 with here.

1 I don't live in Illinois. The course
2 that you choose in Illinois is up to you. But do
3 it on the basis of knowledge, not on the basis of
4 causal links, which doesn't exist, or on the basis
5 of demography, or on the basis of emotion. Do it
6 on the basis of reasonableness, reasonable study.
7 Stop people from polluting and causing costs in
8 your area.

9 But don't -- I would encourage you, if I
10 did have a word of encouragement, is don't put in
11 regulations which destroy not only the target that
12 you are after, which may be corporate agriculture,
13 but also the professional family farm in this state
14 too. So my recommendation would be along that
15 line.

16 THE HEARING OFFICER: Okay.

17 DR. DiPIETRE: But, yes, there are
18 some costs involved. But it's only if you allow it
19 to be done in an unreasonable and unplanned and
20 unknnowledged-based way.

21 THE HEARING OFFICER: Thank you,
22 Dr. DiPietre.

23 MS. MANNING: Thank you,
24 Dr. DiPietre.

1 THE HEARING OFFICER: So what we

2 would like to do now is take an hour break for
3 lunch, and then resume with the remaining
4 witnesses.

5 (Lunch recess taken the 12:33 p.m.)

6 (Resumed proceedings after lunch
7 recess at 1:30 p.m.)

8 THE HEARING OFFICER: Back on the
9 record. Proceed this afternoon in the following
10 order.

11 First, we have Mr. Safley testify, then
12 Ms. Jane Johnson, Mr. John Weber, and Bruce
13 St John.

14 Following those who have prefiled, then
15 we will get to those of you who have signed up to
16 testify in the back of the room. I have this sheet
17 of 15 people who have signed up. I've also put
18 another sheet in the back if someone else wants to
19 testify that didn't get an opportunity to sign up
20 on this sheet. Please do so in the back of the
21 room.

22 Mr. Safley, you may begin.

23 DR. SAFLEY: Thank you very much.
24 Can I still be heard with the microphone? Okay.

163

1 I appreciate the opportunity of being
2 able to address the Illinois Pollution Control
3 Board today. I've submitted some testimony, and I
4 also have an addendum that -- that covers a few

5 additional items.

6 Agri-Waste Technology is an engineering
7 corporation doing business in several states,
8 including Illinois. I'm a licensed engineer in 17
9 states, including Illinois. Agri-Waste Technology
10 works extensively with the confined livestock
11 industry in developing permit applications,
12 designing waste handling systems, and writing waste
13 management plans. Agri-Waste Technology has
14 considerable experience in solving agricultural
15 waste utilization environmental problems.

16 And I'll state that I represent several
17 clients that I'm actively working with here in the
18 state of Illinois. I hold degrees in bachelor of
19 science, master of science, and Ph.D. in
20 agricultural engineering. I have more than 16
21 years of experience on the faculties of the
22 University of Tennessee and North Carolina State
23 University agricultural engineering departments in
24 those respective institutions.

164

1 During this time, I was involved with
2 both livestock waste management research and
3 teaching. I published a number of articles, and
4 I'm a member of the American Society of Agriculture
5 Engineers, and serve on its agriculture waste
6 management SE-412 committee.

7 Based on my experience and my involvement

8 in this state, I would like to offer some comments
9 with regard to the Illinois livestock rules, docket
10 number R97-15.

11 The first point that I would like to
12 address has to do with Section 506.205. In
13 paragraph B of this Section, it states that the
14 following: A liner constructed using in-situ soil
15 or borrowed clay or --

16 (Proceedings interruption.)

17 DR. SAFLEY: A liner constructed
18 using in-situ soil and borrowed clay or
19 clay/bentonite mixture shall meet the following
20 standards. And I'm quoting, as presently stated.

21 Minimal liner thickness should be two
22 feet, the liner should be constructed in lifts not
23 to exceed six inches in thickness, and the liner
24 shall be compacted to achieve a hydraulic

165

1 conductivity equal to or less than one to the 10th
2 minus seven centimeters to the second.

3 The effectiveness of a compacted clay
4 liner is based on the hydraulic conductivity of the
5 liner material and the thickness of the liner.
6 Since a hydraulic conductivity varies according to
7 the soil type used in the construction of the
8 liner, the liner thickness can be adjusted to meet
9 a set standard for discharge through the liner. A
10 liner of a given thickness constructed out of a

11 soil having a very low hydraulic conductivity will
12 offer the same protection as a thicker liner
13 constructed out of the materials having a higher
14 hydraulic conductivity.

15 Region six of USEPA has developed a
16 general permit or confined animal feeding
17 operations known as CAFOs, which contains a
18 standard for compacted clay liners. According to
19 the Federal Register, the liner shall be
20 constructed to have a hydraulic conductivity of --
21 of no greater than one times ten to the minus seven
22 centimeters per second, with a thickness of 1.5
23 feet or greater or its equivalency in other
24 materials.

166

1 USEPA language allows for use of varying
2 soil materials to meet the design standards.
3 Similarly, the state of Missouri has a compacted
4 clay liner criteria based on the quality of the
5 soil material. By using this language, or its
6 equivalency in other materials, allows a farm owner
7 using materials with a lower hydraulic conductivity
8 of -- and lower is better in that it reduces the
9 seepage potential -- to reduce the thickness of the
10 liner and, therefore, save costs with no compromise
11 in groundwater protection. Basing liner thickness
12 on the hydraulic conductivity of a given material
13 with a standard minimum thickness of perhaps 1 or

14 1.5 feet would be an appropriate way to ensure the
15 liner provides the desired groundwater protection.

16 The next point that I would like to make
17 is in regards to the lagoon design standards.
18 According to the rules both in NRCS Standard
19 Illinois 359 and ASAE EP 403.1 can be used to
20 design the lagoon system. However, in Section
21 506.204, subpart G, subpart 3, of the proposed
22 rules, it is stated that the design must meet or
23 exceed the volume as calculated by ASAE EP 403.1.
24 However, the suggested ASAE standard is limited in

167

1 that it is based on the volatile solids production
2 rate of only one type of animal, that being a
3 grow-finish animal. Actually in the standard, it
4 only gives the waste characteristics for one type
5 of swine.

6 Many modern swine production facilities
7 are developed for a specific function; breeding
8 sows and producing baby pigs could be one option,
9 nursery pigs or a grow-finish operation. A lot of
10 times it's referred to what we know as three-site
11 protection. The nutrition received by a given type
12 of swine directly impacts the corresponding waste
13 characteristics.

14 Table 4-11 of chapter four of the NRCS
15 Agricultural Waste Management Field Handbook. This
16 is by NRCS. It's a national document, not a

17 state. Presents nutritionally based waste
18 characteristics for different types of waste.

19 Contrast that with ASC, their intent was
20 to just to make an example. And they use just for
21 growth-finishing type of animal. I suggest that
22 this table be allowed for use in developing a
23 lagoon standard or design using the data presented
24 in ASAE EP 403.1 will lead to both overdesigning,

168

1 under -- and underdesigning certain types of waste
2 production facilities. Use of waste
3 characteristics in chapter four of the Agricultural
4 Waste Management Field Handbook will permit
5 development of appropriately designed lagoons.

6 Additionally, the Agricultural Waste
7 Management Field Handbook provides a very detailed
8 lagoon design procedure. This procedure should be
9 allowed in addition to the one presented in ASAE EP
10 403.1. Many smaller producers may solicit design
11 assistance from NRCS. NRCS personnel are typically
12 required to design waste facilities based on NRCS
13 approved data and procedures. Therefore, the use
14 of data and procedures found in the Agricultural
15 Waste Management Field Handbook is entirely
16 appropriate. Section 506.104 of the rules should
17 reflect that the Agricultural Waste Management
18 Field Handbook is a proper source for design
19 information.

20 Since Section 506.204, subsection A,
21 states that the lagoon needs to be constructed or
22 modified according to either ASAE EP 403.1 or NRCS
23 Illinois 359, there is no real need to later state
24 in the rules that the design must meet or exceed

169

1 the amount of ASAE standard.

2 Three. The next point that I would like
3 to address is that the setback distances should be
4 keyed to a specific time. An appropriate time to
5 determine the setback distances is at the time of
6 the professional engineer's site investigation.
7 This would protect existing residences by
8 maintaining the setback distances as specified in
9 the rules. At the same time, it would protect the
10 livestock operation from the possibility of having,
11 for instance, a mobile home move within the setback
12 after the site plan had been developed.

13 Keying the setbacks to the date that the
14 registration package is received by the Department
15 of Agriculture will not protect the livestock
16 facility from the location of such things as mobile
17 homes within the setback distance in order to
18 impede the placement of the facility.

19 In order to obtain the information that
20 is required to submit the registration package, the
21 following activities and some others have to be
22 completed. And we know this by experience, 'cause

23 we have processed several already.

24 Topographic survey that is to be

170

1 developed of the site. Soil borings taken. The
2 liner has to be established, along with
3 specifications for the liner. A liner, if it's a
4 synthetic liner, have to define the liner
5 manufacturer and get certain assurances from him in
6 terms of compatibility of the liner. And
7 monitoring wells, if they are needed or required at
8 a given site, they actually have to be located.
9 All this information has been submitted to the
10 Illinois Department of Agriculture.

11 It would be fairly simple for someone
12 opposing livestock operations to observe site
13 location activities and move something like a
14 mobile home within the offsets of the proposed
15 facility, if we didn't have the opportunity of
16 maybe keying this on the time of the site visit or
17 the engineering study was actually accomplished.

18 Point four. Sections 506.305 and 506.306
19 do not indicate the source of information to
20 determine the nutrient content of the livestock
21 waste or the adjustments to the nitrogen
22 availability. The permanent rules should include
23 information as presented in the emergency rules.
24 The emergency rules do provide that source of

1 information regarding these two calculations. The
2 emergency rules cite the Midwest Plan Service,
3 publication No. 18, as the source which should be
4 used for these determinations.

5 Finally, there are two points of
6 information that should have an appropriate source
7 of information identified. The first point is in
8 Section 506.305, subsection Q, and relates to
9 injecting or incorporating waste in areas which
10 fall in the ten-year floodplain.

11 At this time, we -- my firm has not been
12 able to identify a source in the state of Illinois,
13 source of information to which actually delineates
14 this ten-year floodplain. There are 100-year
15 floodplains, and they talk about ten years. Talk
16 about it, but nobody can show me a map where I can
17 use it so I can make sure for my clients that we
18 restrict activity off of the ten-year floodplain.

19 If a source has been identified, the
20 Department would be helpful if it is listed along
21 with the rule.

22 The second point is listed in the actual
23 registration package. There is a requirement under
24 the monitoring well Section. The form has a space

1 for providing information on the seasonal low water

2 table. If possible, it would be a great help
3 method for determining this depth should also be --
4 could be developed, so we could actually implement
5 that. And I'm talking specifically -- specifically
6 from a professional standpoint in trying to develop
7 such information.

8 Attached with my pre-hearing testimony
9 were also the references that I alluded to in terms
10 of the waste characteristics, of the lagoon design
11 procedure, as indicated in the Agricultural Waste
12 Management Field Handbook.

13 I've passed out to the proceedings
14 chairperson the -- a short addendum covering a few
15 other points that I'd like to briefly touch on.
16 And I'll read as I so stated here.

17 There are several topics that I'd like to
18 add to my testimony regarding Livestock Waste
19 Regulations. These topics are as follows: A brief
20 comparison of rules and regulations in Illinois and
21 the other swine producing states, or some others
22 have specifically here taken the examples of
23 Missouri and Oklahoma. A discussion on real world
24 cost of the regulations. And a discussion of the

173

1 requirements to test for copper and zinc in
2 livestock waste. And additional information with
3 regard to setback distances.

4 In the proposed Illinois livestock

5 regulations, they have similarities in difference
6 to the regulations of a number of states. I'll
7 leave this probably for the Board's review, and
8 since the audience does not have the benefit of
9 being able to look at this material.

10 The point in making the comparison, there
11 is equally strenuous, if not more strenuous, than a
12 number of other states and you could go on with X,
13 X and X of quite a few of the number of other
14 states, if we had had time to provide the
15 testimony.

16 So in that degree, I personally feel what
17 we have is -- I wouldn't say restrictive, but quite
18 demanding, quite robust in terms of requiring the
19 producers to really work very hard and diligent to
20 be able to meet these requirements in some
21 situations. Especially in siting with the setbacks
22 we have here, it will definitely impede the
23 potential of being able to locate the facilities in
24 certain parts of the state.

174

1 The second point that I've already
2 partially alluded to has to do with maybe the cost
3 of implementing these regulations from the
4 producer's standpoint. And since the producers are
5 my clients, it's obvious why that I would have such
6 information on this.

7 There are a number of factors, part of

8 which I've already identified and wouldn't repeat,
9 that have to be considered when you are developing
10 a site. You just don't drive out to a site and
11 say, that looks good.

12 Now, in order to submit a registration
13 package, which is quite comprehensive and one of
14 the few states that I work in that I'm required to
15 do such is sort of more before the fact, and the
16 producer is doing all of this without any real
17 assurance that he's going to get back an acceptance
18 of the registration.

19 So there is some up-front costs that
20 quite potentially you could go in and define a
21 site, registration wouldn't be accepted. And so
22 there is into the thousands of dollars potentially
23 for some sites that you could look at.

24 Many times, producers will accept part of

175

1 that cost, even before they get into submitting a
2 registration package, purely from the standpoint
3 that they will go out and screen a number of
4 candidate sites. So where there might not be
5 up-front evidence of activity, there is a lot of
6 effort that most judicious producers have to go
7 through in order to be able to develop sites.

8 I might mention that some -- you know,
9 the question obviously could come up, maybe you are
10 representing a corporate situation. But a number

11 of my clients right now are corporate, but they are
12 made up of individual swine producers in the state
13 of Illinois, that from the point of efficiency have
14 banded together maybe in developing, say, a nursery
15 facility, or quite frequently, a facility that will
16 produce baby pigs.

17 I can think of several situations, or
18 actually Illinois farmers, and they maybe just have
19 a corporate entity there that helps solidify their
20 efforts in trying to remain being very efficient.

21 Another point in the proposed livestock
22 regulations state that before waste can be applied,
23 the waste must be tested for both zinc and copper.
24 I'm very aware of what the connotation of these

176

1 heavy metals are. That's been addressed by the
2 federal government with regard to application of
3 municipal and industrial sludge for years. There
4 are federal regulations, 503 regulations, that
5 govern the actual application of such elements.

6 The soils we have here in the state of
7 Illinois for the most part being high CEC, or
8 cation exchange capacity, soils have a wonderful
9 ability for being able to absorb these nutrients
10 without any negative impact. Obviously, if you go
11 to the extent of over-application, drastic
12 over-application, they could have some negative
13 impact. But you are looking at something extremely

14 futuristic with the typical application rates that
15 I work with.

16 What I would suggest is that coming in
17 and testing for copper and zinc obviously in the
18 waste, we need to know what our base liner and our
19 soils. But the frequency of testing for soils is
20 probably not any more frequent than once every
21 three to five years is probably just going to be --
22 it will make the labs happy. They will get some
23 business. But as far as definitive information,
24 you wouldn't be able to see any buildups frequent

177

1 enough that would warrant testing any more frequent
2 than probably once every three to five years for a
3 good portion of the soils in Illinois.

4 The final point has to do with the
5 setback distances, as far as to whether they might
6 be from the lagoon or the facility. And I think
7 that this is a very appropriate place to attach the
8 setbacks. That's currently the way it's set in the
9 regulation. In a meeting in Dallas with USPCS that
10 is similar protocol, they are adopting in terms of
11 more center point of the facility, as opposed to
12 taking from the periphery of a given tract, a piece
13 of land, there that may -- in some of the
14 boundaries of which may not really be pertinent to
15 the actual facility operation.

16 So with that, I will submit my testimony

17 and would offer opportunity for questions.

18 THE HEARING OFFICER: Thank you,
19 Mr. Safley. I just wanted to clear up for the
20 record that on the bottom of page three of your
21 prefiled testimony that you are referring to
22 Section 506303, Q. You had said 305 Q. Is that
23 correct?

24 DR. SAFLEY: That's absolutely

178

1 correct. I appreciate your calling that to my
2 attention.

3 THE HEARING OFFICER: Then we will
4 also mark as Exhibit No. 27 Mr. Safley's addendum
5 to his prefiled testimony.

6 Also, Mr. Safley, do you have a clean
7 copy of the National Engineering Handbook that you
8 submitted in your prefiled testimony? We can
9 submit that as an exhibit as well.

10 DR. SAFLEY: I can just leave you my
11 original. I'll be glad to do that.

12 THE HEARING OFFICER: Okay.

13 DR. SAFLEY: Would you like that at
14 this time?

15 THE HEARING OFFICER: Yes. Because
16 you did read in all of your prefiled testimony, so
17 it's not necessary to mark that as an exhibit.

18 DR. SAFLEY: (Complies.)

19 THE HEARING OFFICER: Thank you.

20 The Agricultural Waste Management Field Handbook
21 from the National Engineering Handbook will be
22 marked as Exhibit No. 28 of the record.

23 WOMAN AUDIENCE MEMBER: I have a
24 question. Would you read that sentence again about

179

1 clay and bentonite. Do we have any bentonite in
2 Illinois?

3 DR. SAFLEY: The allusion to
4 bentonite. Should you have a soil that would not
5 have the characteristic of one times ten to the
6 minus seven. Just an engineering term we use
7 talking about hydraulic activity. You can come in
8 an add bentonite. Typically found in western parts
9 of the U.S. Have that shipped in, and then you
10 would make up, you might say, a recipe of how much
11 bentonite to how much native clay in order to be
12 able to achieve this one times ten to the minus
13 seven. Just be one alternative if you didn't find,
14 you might say, the natural class of that, the
15 rigor, develop the liner.

16 THE HEARING OFFICER: Thank you,
17 Mr. Safley. Are there any questions in the
18 audience of Mr. Safley at this time?

19 MR. HOBSON: Yes. My name is Steve
20 Hobson. I'd like to just kind of point out or ask
21 a couple of questions there. The NRCS Illinois 359
22 and ASAE 304.1, do those represent -- do these

23 describe any permeability rates?

24 DR. SAFLEY: No, they don't.

180

1 MS. MANNING: Another question. You
2 mentioned you design a lot of facilities here in
3 Illinois. I wanted to ask a question about methane
4 recovery as a way of reducing odors to some of
5 these large facilities and talk about the economic
6 cost benefit for doing that.

7 DR. SAFLEY: Go ahead. I didn't get
8 all of what you said in the form of a question.

9 MR. HOBSON: I was just wondering,
10 could you discuss about the -- it seems to me that
11 there is a cost benefit to doing methane recovery,
12 which is, you know, perhaps putting tarps and
13 running it through generators. Methane through
14 generators. And so for -- as a way of reducing --
15 or do you know why hasn't that occurred in designs
16 that possibly that you can do and so forth? If you
17 can mention about that, please.

18 DR. SAFLEY: I'll be glad to. I've
19 probably done as much research on that as anyone in
20 the country, so I can talk about that.

21 Putting a cover over a lagoon has a
22 marginal capability of, you might say, controlling
23 odor. You have other potential sources. Of
24 course, odor is highly subjective.

1 If that is the real goal, that can be
2 accomplished very easily through a lagoon design.
3 There is a potential of mitigating odor to a
4 degree. Typically when I visit with producers that
5 have constructed such, they say, well, possibility
6 I can see a 10 to 25 percent reduction in odor.
7 But that's very subjective. And that's about how
8 far it goes.

9 There is no way of really associating a
10 benefit, you might say, to that. On the other
11 hand, as far as the energy production, lagoons
12 themselves will produce a certain amount of
13 methane, and that's very quantifiable. You can
14 look at the waste characteristics and pretty well
15 estimate. And I have a number of clients who
16 happen to be doing that.

17 The utilities of that technology is
18 probably going to be restricted to climates
19 somewhat more southern right now. Most natural
20 bacteria are not going to exist in terms of making
21 methane in the environment that I've experienced
22 this morning out here.

23 So you get to southern climates where you
24 can maintain temperature in the reactor at a

1 minimum of probably 10 degrees C, or 50 degrees

2 Fahrenheit, throughout the course of the year.

3 There is some technological capability of
4 being able to make bile gas. If you were to do it
5 in Illinois, you wouldn't make any gas through the
6 winter. And come up to about May, and make so much
7 gas you wouldn't know what to do with it. Your
8 cover there may float off. It takes less than one
9 PSI of pressure to actually inflate these. And you
10 would have a dirigible hovering around.

11 It's a technology to be developed. It is
12 a concept. It's something very worthwhile to look
13 at. But since I have had a part of designing in
14 this -- coincidentally, a number of my clients
15 considering this technology right now. I have to
16 be very aware of all of the subtleties that have to
17 be in there. And very few of the clients I'm
18 working with at present are trying to attach that
19 technology and equate it with odor reduction.

20 So, yes, there may be some gravy to be
21 achieved, if you went to that expense. But the
22 expense right now is borderline. And the question
23 was asked, why hasn't it been implemented.
24 Typically for any producer, corporate or small,

183

1 it's going to get down to the dollars and cents.

2 Right now with -- even if you look at
3 avoided cost on the electrical energy, or even if
4 you had to displace your own electrical load there,

5 the economics are just not there to really give a
6 lot of incentive.

7 THE HEARING OFFICER: Thank you.
8 Yes. Please stand up there.

9 MR. KUCK: My name is Joe Kuck. I'm
10 from Peoria County. Now, you discussed lagoons and
11 everything else, and you talk of technology. Is
12 there an alternative technology to the lagoon
13 system?

14 I believe there is. Somewhere I read a
15 small amount about it, where it was almost equally
16 cost effective.

17 Why hasn't this been incorporated into
18 some of our discussions?

19 DR. SAFLEY: And I don't want to
20 play coy with you in the least. I've worked in
21 this for two decades. I left the university to
22 work in private practice on this.

23 If I knew of an alternative right now
24 that I could implement that's cost effective -- I'm

184

1 on the road essentially four to five days a week as
2 it is now. I would lose those remaining hours in
3 trying to be able to actually implement that. So I
4 am not aware of that technology that you say is
5 cost effective.

6 Even if it costs 20 percent, 30 percent
7 more than the current technology, if it was

8 available there, I have clients that would purchase
9 that right today and never look back over their
10 shoulders. So I'm not aware of it.

11 MR. KUCK: I think I read something
12 of it, but not --

13 DR. SAFLEY: Yes.

14 MR. KUCK: -- too much. I was just
15 wondering.

16 DR. SAFLEY: Sure.

17 MR. KUCK: You are in the field and
18 you are the technician. I would find you would be
19 the person to ask about that.

20 DR. SAFLEY: And I appreciate that.
21 There are a number of companies that are very
22 diligently looking for alternatives. I have
23 clients that probably have gone through every
24 commercial product that they have been able to come

185

1 up with, sometimes second or third generation, of
2 going through using scientific protocol and being
3 able to investigate this product or that product.
4 And I'll have to share it with you. For the large
5 part, there is some testimony that says, well, it
6 worked fine on my farm. But you can't get that
7 opportunity located. I can't look a producer in
8 the face and say, use this product regardless of
9 whatever the cost. Cost is typically not the
10 issue. It's going to do this for you. It's just

11 not there.

12 You got some big major agri-chemical
13 companies that are spending millions of dollars in
14 trying to develop technology. There are other
15 things that people are looking at. But believe me,
16 if there is technology out there that people are
17 saying it's on the shelf, you can come out there,
18 it's going to be effective, it's yet to come to my
19 door.

20 THE HEARING OFFICER: Thank you.

21 DR. SAFLEY: In order to be able to
22 understand --

23 MR. KUCK: I was curious to find out
24 if there was other possibilities. Municipalities

186

1 use closed facilities.

2 DR. SAFLEY: Typically, the
3 economics on any standard of trying to implement
4 that type of technology is not going to do anything
5 but put all of the producers out of business. To
6 carry it to anything even close to resemblance.

7 Now, there is also typically a major
8 difference with what we see in municipalities. And
9 what we see within the agriculture sector in that
10 most municipalities have what we refer as to
11 discharge systems. They have to invest a
12 tremendous amount of money, our money, you know, as
13 taxpayers, so they can devise a system, they can

14 design and implement it. They're cost conscious,
15 but they know always the bills are going to be paid
16 by someone. Levy more taxes, whatever, with you.

17 But those are discharge systems meant to
18 be directed toward developing the waste or treating
19 it to get to certain discharge standards going back
20 into a stream. Whereas most of the time on
21 livestock operations, what we are trying to do is
22 reach a degree of stability in terms of the organic
23 waste, minimize the odor impact and get nutrients
24 in a form that can be utilized readily for crop

187

1 production, as opposed to not talking about
2 discharge facilities, current permits or
3 regulations that we are looking at as far as a
4 non-discharge facility.

5 So talking about putting the material
6 back onto the land and utilizing it beneficially.

7 MR. KUCK: Okay. All right. Just
8 interested to know.

9 DR. SAFLEY: Yes, sir.

10 THE HEARING OFFICER: Are there any
11 other questions? Mr. Safley, could you just
12 shorten your answer a bit, though, too, 'cause we
13 really do need to get going.

14 DR. SAFLEY: Sure.

15 MALE AUDIENCE MEMBER: Ask you this
16 question. You mentioned design parameters, the

17 lagoon parameters in size. How in the world could
18 a bigger lagoon smell less than a smaller lagoon?
19 That doesn't make sense to us.

20 DR. SAFLEY: Leading me here. And I
21 can appreciate what you are saying. Address that
22 briefly.

23 Bacteria. And really bacteria is among
24 the oldest known to the planet. They grow to adapt

188

1 to specific types of feed stuffs. You can actually
2 affect bacteria by changing the rations that you
3 put into the animal that makes the waste. A
4 bacteria likes to come in and see relatively
5 uniformity.

6 If I characterize a waste in terms of the
7 organic strength, I can actually go in, and knowing
8 the temperature that the lagoon is going to be
9 operated, design a lagoon -- not -- this is not
10 going to ever have any odor, but reasonably
11 decompose and sort of stabilize that material. The
12 larger lagoons that you have up to a degree can
13 come in there, and it's a matter of just
14 designing.

15 Think of your stomach. You are just
16 coming in there and designing a stomach that has
17 that capability of routinely being able to
18 decompose the waste. If you underdesign the
19 lagoon, make it too small, it can't decompose all

20 of the waste, and you get tremendous odor
21 potential.

22 So it's size as far as the specific type
23 of waste material that has to go in there. So
24 therefore, the digester size is a function of the

189

1 temperature, and it will be much different from the
2 southern part of Illinois to the northern part of
3 Illinois in the actual waste characteristics. And
4 that is something that the standards Department of
5 Agriculture suggested fully take into account.

6 THE HEARING OFFICER: Thank you,
7 Mr. Safley. Okay. I think this will be the last
8 question for Mr. Safley. Then on to our next
9 witness.

10 MR. MEHTA: Chirag Mehta, Illinois
11 Stewardship Alliance. As we understand it, members
12 of our organization, Agri-Waste is the company for
13 designing the operation near Carthage, Illinois.
14 Is that correct? Little Timber. Limited liability
15 corporation.

16 DR. SAFLEY: We have a role that we
17 play in that, yes, sir.

18 MR. MEHTA: Now, as we understand
19 it, on that site, the EPA -- Illinois EPA recommend
20 that site not be -- the operation not be
21 constructed on that site. Is that correct?

22 DR. SAFLEY: In my review of the

23 correspondence, there was communication, but it's
24 not actually clear in terms of what capacity. No

190

1 disrespect to the Illinois EPA. I'm just not
2 certain as to, I guess, who has authority to bless
3 a site that doesn't exist. So I'm not sure.

4 MR. MEHTA: I'm not saying you
5 didn't get their blessing. But didn't they
6 recommend that you not --

7 DR. SAFLEY: I've seen a lot of
8 correspondence. Like I say, I don't know that
9 someone would make a statement. I could make a
10 statement, but I'm not sure they have that
11 capability or they have the authority just to make
12 a blessing on a site, you know, before it's
13 constructed. There may have been opinions that
14 were voiced, but I'm not aware of that right now.

15 MR. MEHTA: While constructing the
16 site, are you aware that while digging the lagoon,
17 you encountered sand at the bottom of the lagoon
18 while continuing to construct? And in
19 construction, you encountered more sand. Are you
20 aware of that?

21 DR. SAFLEY: Some sand in there. In
22 fact, we had put in freeboards. There were some
23 people, I think, that came out from an Agency that
24 I think had maybe understood that that was going to

1 be the liner. But, in fact, at the time that they
2 had actually made the visit, they probably didn't
3 have benefit of the knowledge that the borrow area,
4 from which the clay was going to be taken, was
5 several hundred yards away. The material they saw
6 was just incidental construction.

7 MR. MEHTA: You mentioned that the
8 registration application would help choose -- I
9 might be paraphrasing here, so correct me if I'm
10 incorrect.

11 DR. SAFLEY: Yes, sir.

12 MR. MEHTA: That the registration
13 process would help operations choose the best
14 possible site. How would the registration, for
15 example, help prevent a facility being built on
16 sink holes like they are being built in Green
17 County?

18 DR. SAFLEY: Okay. You are making a
19 statement that I guess I don't concur with. So
20 I'll have to ask you maybe to clarify your question
21 on that.

22 MR. MEHTA: For example, there is a
23 corporation building about a 35,000 head facility
24 on karst topography.

1 DR. SAFLEY: You know that's karst

2 topography?

3 MR. MEHTA: Yes. Absolutely. Now,
4 we wouldn't consider that the best possible site.
5 How would the registration process prevent bad
6 sites from happening, from being built on?

7 DR. SAFLEY: Switch it here a little
8 bit. How many borings and what depth typically are
9 required on the facility?

10 MR. MEHTA: For the registration
11 process, three borings are required, 50 feet in
12 depth.

13 DR. SAFLEY: Okay. Okay. If you
14 come in there and you are trying to screen a site,
15 No. 1, you are going to use every resource that is
16 available to come in and be able to screen the site
17 to see what the geology is going to be on the
18 site. Then you come in, and you'll actually put in
19 those borings there. So if you got to a point and
20 you saw that there was a problem, I think there are
21 a number of options that have allowed themselves to
22 be open.

23 At that point in time, you can come in
24 and put in monitoring wells. If you find that

193

1 you've found an ability for bearing material within
2 probably 20 feet, you can come in and put in a
3 liner. There is several stages, about three stages
4 I believe, that you can come in and screen the

5 site.

6 Most prudent operators are not going to
7 go to the trouble of submitting a registration to
8 the Illinois Department of Agriculture, unless they
9 have pretty well screened that site so they know
10 they can meet the criteria.

11 MR. MEHTA: So you would contend
12 that a liner in monitoring wells would be
13 sufficient protection if, say, a lagoon was being
14 built when there was a significant amount of sand
15 below and around a lagoon.

16 DR. SAFLEY: Well, I'll just defer
17 to what the exact regulations say. They are very
18 specific. If you encounter certain materials
19 during your boring evaluations, you can either put
20 in a liner or put in monitoring wells or both.

21 MR. MEHTA: You consider that
22 sufficient protection in a situation where that's
23 required?

24 DR. SAFLEY: That's not for me to

194

1 judge as far as whether it's sufficient
2 protection. My position would be to come in and
3 actually specify and design the liner to meet the
4 requirements that is set by the Illinois Pollution
5 Control Board.

6 MR. MEHTA: You said earlier in your
7 testimony that the regulations were robust. I --

8 that's why I'm asking the question if you think
9 that's sufficient regulations.

10 DR. SAFLEY: Well, I'm not going to
11 make a comment on that. That's for the Pollution
12 Control Board. They are setting the standards.
13 I'm just trying to implement them.

14 MR. MEHTA: Thank you. Appreciate
15 it.

16 THE HEARING OFFICER: Thank you,
17 Mr. Safley. Okay. Now, continuing, Ms. Johnson.

18 MS. JOHNSON: Hello, everyone. I
19 see you are awake now. Is this thing working?
20 Okay.

21 I want to say that in Knox County, we
22 love our hog producers association. We love hogs.

23 Ms. Hearing Officer, concerning possible
24 amendment to PA 89-456, the Livestock Management

195

1 Facilities Act, I want the Illinois Legislature to
2 include a statewide safe siting process, longer and
3 further setbacks, local control over intensities of
4 the operation, adequate indemnity funds for
5 accidents, and escrow funds for closure of any mega
6 livestock confinement site.

7 I would require that all consulting
8 engineers and construction managers offering plans
9 and drawings for the construction of mega animal
10 confinement facilities be licensed in the state of

11 Illinois as is required in 225 Illinois Compiled
12 Statutes, 325, slash, 1, through 325, slash, 49. I
13 would require that all plans and drawings for such
14 facilities be signed by the engineer who developed
15 the plans and drawings. The public must not be
16 shortchanged in this matter.

17 In my own neighborhood, the operator of a
18 proposed mega livestock corporation claimed in the
19 media that his facility would be a farrowing
20 operation only. But his county zoning permit
21 application and its field drawings show activity
22 from animal gestation to finishing, with plans for
23 expansion. If I am to embrace the pending
24 Livestock Waste Regulations, their criteria should

196

1 require the operator to submit correct and truthful
2 information to the public. The operator's plans
3 and public -- permits are public information.

4 An excerpt from the 1986 Knox County,
5 Illinois, soil survey shows that only 10.2 percent
6 of Knox County holds moderate limitation for siting
7 animal waste lagoons. The rest of the county, or
8 89 percent, is severely limited for siting such
9 lagoons. Many soil types have too much slope and
10 seepage, flooding or wetness. A new amendment to
11 the Act should require the Illinois Department of
12 Agriculture and the Illinois Environmental Agency
13 to verify all the soil types under any mega animal

14 confinement site for suitability. The IDOA and the
15 IEPA should not trust this job to the mega
16 corporation entity proposing to build.

17 And I apologize to you (indicating).

18 Regarding the U.S. Environmental
19 Protection Act of 1970, 40 CFR, part 412, feedlots,
20 point source category, and the Illinois Pollution
21 Control Board rules and regulations, Subtitle C and
22 E.

23 Section 412.10. All subcategories
24 applies to discharges of pollutants resulting from

197

1 feedlots where swine and cattle are housed and fed
2 regardless of whether on a slotted or concrete
3 floor, open or closed lot. The category applies to
4 operations as large or larger than 2,500 actual
5 swine weighing over 55 pounds.

6 Now, complying with 412.10 is part of the
7 National Pollution Discharge Elimination System
8 permit process, or the N.P.D.E.S., overseen in this
9 state by the Illinois Environmental Protection
10 Agency.

11 To begin the N.P.D.E.S. process, in one
12 instance, a public notice fact sheet dated August
13 23, 1996, was issued by the IEPA, Division of Water
14 Pollution Control permits Section, notifying the
15 public that in order to conduct his mega cattle
16 feeding business according to effluent and water

17 quality limitations specified in Subtitle C, water
18 pollution, and/or Subtitle E, agricultural-related
19 pollution, and/or 40 CFR 412, an applicant, Allen
20 Berry Livestock of Ogle County, Illinois, had to
21 seek and be issued an N.P.D.E.S. permit to prohibit
22 discharge into the waters of the state.

23 I contend that any mega hog confinement
24 operation in the Midwest is subject to the above

198

1 detailed criteria. Some agencies in this state, I
2 believe, have interpreted the above to mean that no
3 N.P.D.E.S. permits are required for large feedlots,
4 because the operator will not discharge into the
5 waters of the state. This seems a false
6 assumption, because there is no such thing to me as
7 a closed hydro circuit.

8 Further, since the N.P.D.E.S. permit
9 program is federally mandated, any mega livestock
10 producer should be obligated, I think, to file with
11 the national Environmental Protection Agency and
12 its representative agency, the IEPA, a full and
13 concise environmental impact statement taken from
14 an environmental impact study. No migrating mega
15 hog confinement corporation should be privileged in
16 the state of Illinois to circumvent any of the laws
17 on our books.

18 And I have the public notice fact sheet.
19 This man was going to start the beef mega

20 operation, and he had to apply for the N.P.D.E.S.
21 I don't know if he got it or not though.

22 The N.P.D.E.S. permit process, Title 35,
23 Subtitle E, part 501.340. Section 501.355
24 describes pollutant as sewage. And the Webster

199

1 dictionary's defined definition of sewage is the
2 waste matter carried off by sewers or drains.

3 Section 501.360 describes a settling
4 basin as diked or wall structures designed as part
5 of a livestock waste-handling facility to detain
6 feedlot runoff for a sufficient time to permit
7 solids to settle for later removal. That describes
8 the lagoon.

9 Section 501.380 describes water pollution
10 as alteration of the physical, thermal, chemical,
11 biological or radioactive properties of any waters
12 of the state, or which the discharge of any
13 contaminate will create a nuisance or render such
14 waters harmful or injurious to public health safety
15 or the welfare of men and beasts.

16 Subpart C, operational rules, Section
17 501.401, general criteria, B, requires the owner or
18 operator of any livestock management facility or
19 livestock waste-handling facility to comply with
20 the Clean Water Act, N.P.D.E.S. filing
21 requirements, and the feedlot category of
22 point-source effluent guidelines.

23 Little d-3 states that if there are local
24 zoning ordinances that cover such livestock

200

1 management or livestock waste-handling facilities,
2 then those ordinances take precedence as to setback
3 requirements of subsection C.

4 I am asking the Illinois Pollution
5 Control Board, how could federal regulations refer
6 to a right that a county could have to regulate
7 livestock waste through zoning regulations if the
8 county had no rights? No such rights? For quite
9 some time, citizens of this state have been led to
10 believe that their county boards and zoning
11 departments had no local control over mega
12 livestock waste management facilities. I don't
13 believe that is quite a correct assumption. The
14 IPCB should research this subject.

15 I don't believe that the Livestock
16 Management Facilities Act of 1996 can take
17 precedence over other established laws.

18 The IDOA has gone too far, squeezing out
19 local control. I'm getting finished here.

20 The Illinois Pollution Control Board
21 recently issued a statement in the Groundwater
22 Gazette, Volume 4, No. 2, that it had through the
23 years -- and this is very good -- strived for
24 regulatory flexibility, while at the same time

1 providing for the protection and environmental
2 integrity of our natural resource. The Board has
3 attempted to protect Illinois groundwater. The
4 Board deems Illinois groundwater at risk with --
5 quote, with the influx of construction of larger
6 livestock production facilities without
7 specification for their design.

8 This lack worries me too. I don't have
9 to tell the Board that mega livestock regulations
10 and controls are adequate at this time. The Board
11 told me they were. The Board recognizes the risk,
12 quote, not to the groundwater alone but to the
13 public at large, to the neighbors of the facilities
14 and to the livestock producers themselves, who risk
15 environmental liability for any pollution caused.

16 For this statement, in all honesty, I'm
17 grateful to the Board. Now, I ask the Board to
18 suggest an amendment to the Livestock Management
19 Facilities Act that will guarantee rightful
20 protection to the public.

21 Another law that should be referenced in
22 the modified regulations to PA 89-456, protecting
23 public health and safety, can be found in the 1987
24 Illinois Revised Statutes, chapter 111-1/2, Section

1 116.306.

2 Are you still with me?

3 Property owners of all buildings and
4 places where -- and not just -- where not just 15
5 people live, work or assemble, shall provide for
6 the sanitary disposal of all human waste and
7 domestic sewage, which shall be disposed of by
8 discharging into a sewage system operated and
9 maintained under permit of the Illinois
10 Environmental Protection Agency and shall be in
11 compliance with the Public Health and Safety Act.

12 Now, what that is leading up to is this.
13 I want the Illinois Pollution Control Board to
14 reference and consider the Illinois Private Sewage
15 Disposal Licensing Act and Code of 1973. 225 IL CS
16 through 225, slash, 1. The purpose of this Act is
17 to stop the spread from private sewage disposal
18 systems of infectious or contagious diseases. And
19 other conditions that would adversely affect the
20 public health, safety and general welfare of
21 persons.

22 All mega livestock operations' facilities
23 have groundwater pathways that might connect a
24 pollutant source to a groundwater resource. If

203

1 there is no consideration of travel times and
2 volumetric fluxes, wherever a mega site is
3 selected, there must not be a pathway or pathways
4 to a groundwater resource.

5 Page 64 of the above code under type of
6 establishment, offices and day workers, numbers
7 only 15 gallons of daily sewage flow per worker.
8 Office (sic) workers of a commercial mega livestock
9 facility taking two showers a day, as a measure to
10 prevent contamination to the livestock, will use
11 more than 15 gallons of water daily in their
12 ablutions. At an estimated one-and-a-half gallons
13 use per minute, times ten shower minutes, times two
14 showers daily, the figure would factor out at 30
15 gallons a day. 30 workers taking 30 showers would
16 use 900 gallons a day. These gallons would be in
17 addition to the 15 gallons of waste water already
18 allotted each person under the code.

19 Theoretically, it would take 1,350
20 gallons daily to run an operation just from the
21 human waste standpoint. Now don't forget that.

22 I want the Illinois Pollution Control
23 Board to incorporate into its rulemaking reference
24 to the Illinois Water Use Act of 1983. This Act

204

1 manages and conserves groundwater and is
2 implemented and enforced by the local county Soil
3 and Water Conservation District and its district
4 conservationists.

5 If a mega livestock facility will use
6 over 100,000 gallons of water daily, drawn down
7 locally, the operator must notify the local Soil

8 and Water Conservation District and its district
9 conservationists of that fact before construction
10 on the facility ever begins.

11 The district requires notice and provides
12 guidance for planned substantial withdrawals of
13 groundwater. The Act establishes a mechanism for
14 restricting groundwater withdrawals in case of
15 emergency. It established a means of reviewing
16 potential water conflict and imposing fines.

17 The draft improvement to the Illinois
18 Livestock Management Facilities Act should
19 carefully consider all of the groundwater and
20 surface water regulations contained in Illinois
21 law. The public wants a guarantee that
22 contaminants released at the surface will never
23 contaminate an accessible environment. The IDOA
24 and the IPCB should develop site-selection criteria

205

1 that satisfies the public demand.

2 Unless the IPCB, when overhauling the
3 Livestock Management Facilities Act, makes
4 reference to other state laws pertinent to the
5 construction and management of mega livestock
6 facilities, the mega corporations infiltrating
7 Illinois might not research water and other
8 important laws. Their neglect and ignorance could
9 cause serious environmental damage to a targeted
10 community's rights to clean water and clean air.

11 This is about land saturation.

12 The public is worried that the
13 introduction of nutrients; nitrogen, phosphorus and
14 ammonia, as well as heavy metals, steroids and
15 antibiotics, will adversely affect the terrestrial
16 and aquatic systems and the groundwater water near
17 the site of a mega livestock facility. The
18 presence of salt in the animals' feed passed on in
19 manure is another concern to be reckoned with.

20 When livestock waste from a mega facility
21 is spread on farmland to improve crop productivity,
22 the point of saturation of the land can soon be
23 reached. I offer the article, Area Needed for Land
24 Disposal of Beef and Swine Wastes, published by the

206

1 Iowa State University of Science and Technology.
2 That formulates the amount of waste that can be
3 deposited, sprayed or incised onto and into the
4 land before the land reaches a saturation point.

5 The article confirms the high application
6 rates present in potential groundwater and soil
7 water -- soil pollution hazards. I'm almost
8 finished.

9 This is a definition of an aquifer.
10 There are several definitions of the word aquifer
11 floating around the state of Illinois. I hope that
12 the IPCB will use the IEPA definition, which is the
13 separate one from the one the IDOA and the Illinois

14 state surveys use. And I would like to enter as an
15 exhibit this book, Understanding the Impacts of
16 Large-scale Swine Production. And this is by a
17 group in Iowa. Thank you.

18 THE HEARING OFFICER: Thank you very
19 much. Actually, we have that entered in as an
20 exhibit from the Jacksonville hearing.

21 MS. JOHNSON: All right.

22 THE HEARING OFFICER: However, we
23 will admit your testimony as Exhibit 29 because you
24 have attached the articles that you referenced.

207

1 MS. JOHNSON: That I referenced.

2 THE HEARING OFFICER: And the
3 N.P.D.E.S. permit you referred, to as well. So
4 that will be marked Exhibit 29.

5 Any questions for her at this time?

6 MS. JOHNSON: I hope not. We must
7 keep going.

8 THE HEARING OFFICER: Well, thank
9 you very much. We appreciate that.

10 And Mr. Weber, if you'd like to give your
11 testimony.

12 MR. WEBER: I am John H. Weber.
13 Retired. So that means you can't ask too many
14 questions, 'cause I've forgotten all the answers.

15 THE HEARING OFFICER: Could you
16 speak up or bring the microphone closer?

17 MR. WEBER: Is that better?

18 THE HEARING OFFICER: No.

19 MR. WEBER: Can't see over it then.

20 I thank you for the opportunity of being
21 here today to say what I have to say.

22 My background for making these remarks is
23 some over 55 years. My parents made it possible
24 for me to attend a university and graduate from the

208

1 school of engineering. Instructors were quite
2 clear that solutions must always include proper
3 scientific analysis and social requirements.

4 Technical development and analysis and
5 design of waste treatment in the last decade has
6 been important and plentiful.

7 And I have these suggestions. Treatment
8 of waste and handling waste and confined buildings
9 should be such that there be no septic conditions
10 allowed to exist. There are a number of ways to
11 accomplish this, and I certainly wouldn't want to
12 try and enumerate all of them, and couldn't
13 enumerate all of them.

14 Waste in Knox County should be treated to
15 a 95 percent of the biochemical oxygen demand
16 required to biologically stabilize the organic
17 matter present. The reason, after this treatment,
18 waste will generally have to be applied to the
19 soil, or it can -- or it can be let into a stream.

20 Into a stream, if the stream has adequate flow to
21 complete the remaining 5 percent of the biological
22 chemical demand.

23 Soil application rates must take the
24 following into account. The uptake by the

209

1 vegetation, limit nitrogen and phosphorus to the
2 amount used by the vegetation, as both can be
3 groundwater pollutants, proper consideration of
4 trace elements, particularly heavy metals, because
5 of their phototoxicity, and also because of their
6 potential to accumulate in the water and enter the
7 human food chain through crop uptake.

8 Some elements, especially boron, are
9 mobile, and they contaminate groundwater. The
10 complexibility of soil-plant trace metal
11 interactions and a lack of data have resulted in a
12 general lack of evaluation criteria for judging
13 consequences of waste applicable -- application to
14 land. Urban areas are required to meet strict
15 criteria in treating their waste and in disposal of
16 same.

17 During my career as a professional
18 engineer, it was necessary -- with the amount of
19 waste produced by hogs, it was necessary to
20 determine the amount of waste produced by hogs
21 versus human beings. After a reasonable amount of
22 research and advice from respected sources, it

23 turned out that hogs provide two-and-a-half times
24 more than humans. That means that 1,000 confined

210

1 hogs would produce waste equivalent to a village or
2 city of 2500 people.

3 A village of that size would be subject
4 to strict regulation as to why shouldn't a hog --
5 and so why shouldn't a hog confinement for 1,000
6 hogs or any other hog confinement installation? We
7 are fortunate to have a leading University of
8 Illinois with an engineering school with excellent
9 talent for teaching and researching waste
10 treatment.

11 I suggest that the state agency that ends
12 up with the responsibilities for administering --
13 administering the animal waste regulation ask the
14 university people to set up proper performance
15 requirements. The state administrator
16 administering authority will have to provide and
17 properly educate personnel to instruct owners in
18 the waste treatment, and see that regulations are
19 adhered to.

20 If the herein before outline is followed,
21 anyone planning to start a hog confinement would
22 know the rules, thus eliminating all the hassle;
23 the environment would be stable; there would be no
24 odor caused by septic conditions or improper

1 treatment design. A professional engineer would be
2 hired by the owner to ensure a proper waste
3 treatment design.

4 Following the herein before outlined
5 would ensure confinement would be a good neighbor,
6 no matter the size, as long as dead animals and
7 other housekeeping duties are properly conducted.
8 And I think somebody else mentioned this.

9 I think that there should be a
10 financial -- a financial arrangement that in a case
11 of the discontinuance of a confinement operation,
12 proper closing conditions are met so that the
13 taxpayer is not given an additional burden. I end
14 with that.

15 THE HEARING OFFICER: Thank you,
16 Mr. Weber. Are there any questions for Mr. Weber?

17 MR. KING: I have a question. Brent
18 King again.

19 Could you please tell where you got the
20 information -- make sure I understood this. Finish
21 hog produces two-and-a-half times the amount of
22 waste that a human produces in a day.

23 MR. WEBER: Mr. King, back in the
24 1950's an individual came in my office, and I'm not

1 going to state who it was or anything. But they

2 wanted to build a confinement facility. They
3 wanted to have waste disposal that would meet the
4 general social requirements of the day, and so I
5 went to the state agency, and I went to various
6 other people that are supposed to know this thing,
7 and that's where I found the two-and-a-half times.

8 MR. KING: So does that mean -- then
9 do you have current figure for human production
10 that establishes that?

11 MR. WEBER: Do I have what?

12 MR. KING: You mentioned that figure
13 for human production that hogs was two-and-a-half
14 times. What is the base for human production that
15 you are --

16 MR. WEBER: I can't give you the
17 base.

18 MR. KING: Okay.

19 THE HEARING OFFICER: Thank you,
20 Mr. Weber. Yes.

21 MALE AUDIENCE MEMBER: Mr. --

22 THE HEARING OFFICER: Please stand
23 and state your name.

24 MR. DuBUOIS: Bill DuBuois (phonetic

213

1 spelling) from Peoria County, I had a question for
2 the lady.

3 MS. JOHNSON: I hope I can answer.

4 MR. DuBUOIS: What is your

5 definition of a mega hog farm?

6 MS. JOHNSON: Well, what I read in
7 the paper tells me what a mega hog farm is. So
8 many hogs. Too many hogs in one space.

9 MR. DuBUOIS: Is there a number?

10 MS. JOHNSON: Yes. I think that,
11 but I can't understand those damned animal units.
12 I want people to talk to me in terms of hogs.

13 So tell me, what is 17,000 units?

14 MR. DuBUOIS: I don't know.

15 MS. JOHNSON: I don't either, but we
16 know it's mega.

17 MR. DuBUOIS: Okay. Is 500 to 1,000
18 mega?

19 MS. JOHNSON: I don't think so. I
20 don't think so.

21 MR. DuBUOIS: Is 1,000 sows mega?

22 MS. JOHNSON: I would say that it
23 wasn't in Knox County. I don't know about Peoria.

24 MR. DuBUOIS: You say it is not?

214

1 MS. JOHNSON: To me, the family farm
2 down around the corner with 500 sows or 1,000 sows
3 is not a mega hog operation. It's not a big
4 corporation coming in from some other state to
5 swipe up on Knox County.

6 MR. DuBUOIS: So your definition of
7 a mega hog farm is a corporate farm.

8 MS. JOHNSON: That is correct.

9 MR. DuBUOIS: I mean, if the

10 corporate farm has --

11 MS. JOHNSON: But it's not a family

12 corporate farm.

13 MR. DuBUOIS: If the corporate farm

14 had, I mean, 50 sows, that's a mega hog farm then,

15 right?

16 MS. JOHNSON: Well, now you got me

17 that way, which is what you wanted to do in the

18 first place.

19 THE HEARING OFFICER: I think she

20 answered it. I think she answered the question.

21 MR. DuBUOIS: I had no idea what

22 your definition of mega was.

23 MS. JOHNSON: Thank you.

24 MR. DuBUOIS: Yes.

215

1 THE HEARING OFFICER: She answered

2 the question.

3 Now we will turn to the testimony of --

4 I'm sorry. Hold on one moment. Could you come to

5 the front and state your name for the record?

6 Is this question directed to Mr. Weber?

7 MR. KANE: I'm not sure. It's kind

8 of just to any of them that feels they want it, I

9 guess.

10 THE HEARING OFFICER: Could you

11 state your name then for the record?

12 MR. KANE: Bill Kane, K-A-N-E.

13 THE HEARING OFFICER: Okay.

14 MR. KANE: I'm not originally from
15 this state, but I -- I've lived here long enough
16 that I figure that I have at least -- at least I
17 care. I don't know if all of you all do or not.

18 But I think this there is some important
19 things that most people kind of ignore. I didn't
20 ask any questions of some of the people earlier,
21 primarily because I didn't want to be too
22 argumentative, I suppose.

23 But when they come out and threaten, and
24 I think it's subtle threats, but they are

216

1 threatening, trying to say that too much regulation
2 on setbacks or whatever else has caused them to
3 move on. I say, go.

4 As far as I'm concerned, it's -- any time
5 you see something that's too good to be true, it
6 often is.

7 THE HEARING OFFICER: Mr. King
8 (sic), is this a question?

9 MR. KANE: I'm wondering why they
10 defend themselves without covering all of the
11 issues. And when you come up and bring up the
12 possibility of pollution and this, that and the
13 other, they graze over that, and they talk about

14 numbers as an important business opportunity. I
15 just think it's --

16 THE HEARING OFFICER: I think this
17 was supposed to be something that's more --

18 MS. MANNING: If I could -- I'll
19 just interject, if I could here. That maybe --
20 maybe we need to sort of talk a little about bit
21 the role of the Board in these proceedings.

22 It is our job to assess all of the
23 evidence and the testimony before us and to develop
24 a rule which is environmentally responsible and

217

1 economically justified at the same time.

2 So a lot of concerns that you are talking
3 about and a lot of issues. This is only one of
4 five hearings that we are having throughout the
5 state. And trying to do a very good job with all
6 those interests presented to us.

7 And we appreciate your concern and your
8 comments, and we appreciate the concerns and
9 comments really of all of the citizens and
10 industry. And it's our job to take all of those
11 concerns and all of those comments and all of the
12 scientific evidence and economic evidence that's
13 been presented. And very much a really responsible
14 role in developing the rule proposed before us.

15 THE HEARING OFFICER: Thank you.
16 Yes, Mr. Weber.

17 MR. WEBER: May I add a sentence. I
18 believe that the pollution control should be a
19 performance specification and not X feet of
20 setback, X feet of that, X that, X that. It should
21 be a performance specification that everybody has
22 to follow, no matter if they have got ten sows in
23 confinement or 10,000 sows in confinement.

24 THE HEARING OFFICER: Thank you,

218

1 Mr. Weber.

2 MR. WEBER: And the reason I say
3 what I said is there should not be any septic
4 conditions allowed. And this is the way I believe
5 it should go about it. Thank you.

6 THE HEARING OFFICER: Thank you.
7 Thank you. Mr. St John, if you'd like to give a
8 summary of your testimony, because it's been
9 prefiled, that would be --

10 DR. ST JOHN: I would prefer not to
11 do that because of typographical errors in there,
12 which it says --

13 THE HEARING OFFICER: That's fine.

14 DR. ST JOHN: It says somewhere, he
15 who would be first would be last. He who would be
16 first would be last. I'm last. I do appreciate
17 people staying through the day. I know it has been
18 a long day. But there are very important issues
19 yet to be discussed.

20 I am Bruce St John, a resident of Peoria
21 County, a farm owner in Stark County.

22 My family moved to the United States from
23 England in the 1700s and migrated to Illinois in
24 the 1840s. My brother still farms the ground that

219

1 they migrated onto in the 1840s. Growing up on a
2 centennial family farm in Stark County, I hold MA
3 and Ph.D. degrees in international relations with a
4 concentration in the field of economics. I make
5 that point simply because I'll be talking about
6 economic development a little later in the
7 presentation.

8 I've been a member of the Farm Bureau two
9 decades. I'm a founding member and executive board
10 member of the Illinois Citizens for Responsible
11 Practices.

12 On behalf of ICRP, I am pleased to have
13 this opportunity to input to the rulemaking process
14 for the Livestock Management Facilities Act and
15 applaud the Pollution Control Board for scheduling
16 a number of hearings around the state to allow for
17 broad public input.

18 Quite frankly, the dialogue we have had
19 today is one of best dialogs I've seen in the two
20 years I've been working this issue. Illinois
21 Citizens for Responsible Practices, most of whose
22 members are actively engaged in farming and/or

23 livestock production, organized in early 1995 to
24 foster public dialogue on the issue of large-scale

220

1 swine protection facilities in Illinois.

2 Our central objective since our founding
3 has been the development and enactment of the
4 rules and regulations necessary to ensure that
5 large-scale swine production facilities when they
6 locate in our state and in our communities act as
7 responsible citizens. In that regard, we view
8 large-scale swine production facilities not as an
9 extension of the family farm familiar to all of us
10 but as a new form of industrial agriculture new to
11 Illinois, which necessitates totally new rules and
12 regulations, not simply minor modifications to
13 existing ones.

14 We urge the Board to recognize
15 large-scale livestock production facilities for
16 what they are. A new form of industrial farming,
17 often corporately owned, which because of ownership
18 size and management requires a new level of
19 regulation in a variety of areas, like site
20 development, permitting waste disposal, and
21 enclosure. And we are pleased to see in the
22 preamble of the emergency rules promulgated in
23 October of '96 that type of recognition by the
24 Illinois Pollution Control Board.

1 We agree with the testimony of the
2 Illinois Pork Producers Association, the Illinois
3 Beef Association, and others, that the livestock
4 producers and farmers of Illinois have generally
5 been good stewards of the land and the state's
6 natural resources in the past.

7 Unfortunately, the recent performance of
8 large-scale, corporate, industrial farming
9 facilities around the country does not suggest we
10 can expect the same good stewardship from them,
11 unless statutory requirements governing this new
12 type of industry are in place and enforced.

13 In March of 1995, Governor Jim Edgar
14 appointed a 19 member Livestock Industry Tax Force
15 to consider issues livestock production and to make
16 recommendations to the General Assembly. The
17 membership of the Governor's task force was largely
18 composed of livestock producers, together with
19 representatives of affiliated agri-businesses, most
20 of whom had a direct economic stake in task force
21 recommendations. ICRP was eventually allowed a
22 single seat on the 19-member task force.

23 Much of the work done by the task force
24 was accomplished by the environmental and social

1 issues working group. This nine-member working

2 group consisted of four ICRP members and five
3 members sympathetic to the large-scale livestock
4 interests. Considerable effort was put into the
5 multiple meeting of this working group, and limited
6 progress was made in selected areas like odor
7 control and operator certification.

8 Unfortunately, the final recommendations
9 of the working group were based on majority rule,
10 with the five members representing large-scale
11 livestock interests repeatedly outvoting the four
12 ICRP members.

13 And would add parenthetically, there was
14 some dialogue among us as to whether or not the
15 ICRP could add a fifth member, that is true, toward
16 the end of the total process. Those members on the
17 working group were told that Renee Robinson
18 (phonetic spelling), who is the executive director
19 for the Illinois Stewardship Alliance was
20 considered an ex-officio and could become a member
21 of the working group. However, if she chose to
22 join the working group, bringing the ICRP members
23 to five, the other side would expect also to add to
24 the group. So it would be six to five, instead of

223

1 five to four.

2 In consequence, the recommendations of
3 the environmental social issues working group which
4 became the essence of the Livestock Management

5 Facilities Act, failed to address fully issues in
6 the area like site definition, public notice,
7 construction and operation permits, manure
8 management plans, sliding scale setbacks, closure
9 requirements, and a realistic fee and fine
10 schedule. Because the recommendations of the
11 Governor's task force did not reflect adequately
12 the viewpoints of concerned citizens, ICRP asked
13 permission to circulate a minority report.

14 While we were assured by the Governor's
15 office that a minority report, which was directed
16 to Governor Edgar on February 19th, 1996, would be
17 circulated, to our knowledge, this was never done.
18 I want to add a parenthetical there.

19 This morning, deputy director Boruff said
20 that those with opposing views were given an
21 opportunity to author a minority report. I wrote
22 the minority report. I submitted the minority
23 report to the Governor's office, to the people on
24 the Governor's staff that I was told to give the

224

1 report to. No one ever saw the report after that
2 point. Bill Wright, who was on the Governor's task
3 force, did not receive a copy of it. Members of
4 the working group did not receive a copy of it. It
5 was never reported on in the press, and I've never
6 found anyone in state government who saw the
7 minority report.

8 So I wish we would please stop saying
9 that there was an opportunity to circulate a
10 minority report, if there was not. If there was,
11 please show us who got it.

12 Today I will direct my testimony to three
13 issues; siting, economic development, and closure,
14 especially pertinent to the rulemaking process.

15 These are only a few of the ICRP's
16 concerns related to the rules. And other ICRP
17 members will testify in the course of the hearings
18 on other issues. Some of that testimony has
19 already been given.

20 On the subject of siting. The siting of
21 new facilities was a key issue discussed by the
22 environmental and social issues working group.
23 ICRP members took the position that the setback
24 revisions in Title 35 were inadequate. There is a

225

1 typo in the distributed prefiled testimony of
2 mine. It says adequate, when it should say
3 inadequate. And I would ask people to correct
4 that. Were inadequate for large-scale livestock
5 facilities because of their size and the consequent
6 amount of animal waste produced for disposal. In
7 the course of the deliberations, the Illinois
8 Environmental Protection Agency, the Illinois
9 Department of Agriculture and the Illinois Pork
10 Producers Association investigated varying setback

11 requirements to determine if an exclusionary effect
12 on siting facilities would result from different
13 setback distances.

14 Survey results dated January 12, '96,
15 covered one township in each of 19 counties in this
16 preliminary siting survey. For those of you who
17 don't realize, there are 1,064 townships in the
18 state of Illinois. So less than 2 percent of the
19 townships were covered in this preliminary survey.

20 Those 19 counties, and 19 townships, one
21 in each county were selected because large-scale
22 livestock facilities were either already located in
23 them, proposed for them, or thought likely to be
24 proposed for them in the future. The actual survey

226

1 work in the selected sample of Illinois townships
2 was then conducted by members of the Agency,
3 Department and the Illinois Pork Producers
4 Association, with the Illinois Concerned Citizens
5 for Responsible Practices, or other concerned
6 citizens involvement only in the case of one study,
7 the Edgar County survey.

8 My brother, as I've indicated, also owns
9 farmland in Essex Township, Stark County, one of
10 the townships surveyed. But he was not involved in
11 the survey, even though he was a member of the
12 environmental and social issues working group of
13 the Governor's Livestock Industry Task Force and

14 did volunteer to participate in the survey.

15 My point is that this preliminary survey
16 of new facility setback requirements was nothing
17 more or less than a preliminary survey conducted,
18 in large part, by organizations and individuals
19 vocal in their promotion of large-scale livestock
20 production facilities in Illinois. The results of
21 the survey suggest that there are some townships in
22 some counties where extending setback requirements
23 would limit the number of sites available to
24 construct large-scale livestock facilities.

227

1 However, there is simply not enough reliable data
2 available in this preliminary survey to conclude
3 that extending facility setback requirements would
4 pose an unacceptable burden throughout the state.

5 On the contrary, there remains in our
6 minds every reason to believe that new facility
7 setback requirements could be extended to and
8 beyond the limits of the Livestock Management
9 Facilities Act and still leave adequate siting
10 available in Illinois for large-scale livestock
11 production facilities. A thorough, detailed and
12 independent study of all the counties and townships
13 in Illinois is required to resolve this question,
14 and we urge the Board to support completion of such
15 a study.

16 In addition, we urge the Board to use

17 livestock lagoon capacity, as well as distance from
18 any and all residences, farm and non-farm, as a
19 means to determine adequate setbacks. The
20 incorporation of lagoon capacity into the setback
21 equation offers the real advantage of tying closely
22 any new regulations to large-scale livestock
23 facilities for ones we are seeking to regulate
24 while separating them and avoiding the consequent

228

1 additional regulations on small to medium
2 producers.

3 And I was going to submit as an exhibit
4 the summary report on the survey, but I think
5 that's already been done today, so I don't feel I
6 need to do that.

7 THE HEARING OFFICER: Yes.

8 DR. ST JOHN: Second Section relates
9 to economic development issues. And before I get
10 into that Section, I'm going to submit as an
11 exhibit and introduce to the group a document
12 called large-scale production facilities, a select
13 bibliography from Illinois Citizens for Responsible
14 Practices. 12-page bibliography we have put
15 together over the last two years of articles
16 pertinent to this subject. I will be referring to
17 a selected number of studies in the course of the
18 discussion. Details can be found in this
19 document. Submit that as an exhibit now. And

20 anyone who would like the copy of the document
21 later, if they want to refer to some of these
22 studies, feel free to take one.

23 The proponents of large-scale livestock
24 production facilities typically try to sell them to

229

1 the occupants of surrounding farms and communities
2 on the basis of the economic development they will
3 bring to local residences and businesses.

4 They often emphasis high-paying
5 construction and later livestock management jobs,
6 locally produced materials and feeds, and higher
7 local tax payments. This is a story we heard in my
8 hometown of Wyoming, and it is the same story the
9 citizens in Beardstown, Elmwood, and elsewhere
10 throughout the state are hearing today. In fact,
11 the truth of the matter is far different from the
12 myths and misconceptions being circulated about the
13 salespersons for large-scale facilities.

14 First of all, large-scale livestock
15 production facilities tended to displace more jobs
16 than they create. A University of Missouri
17 study -- I'm going to submit that as an exhibit
18 right now. It's entitled, Farm Spending and Local
19 Selling, How Do They Match Up? Authored by John
20 Chism, C-H-I-S-M, and Richard Levins, L-E-V-I-N-S.
21 And it was published in Spring 1994 in the
22 Minnesota -- I'm getting confused. I'm sorry. I'm

23 giving the Minnesota instead of the Missouri one.

24 Let me carry on with that then. It was

230

1 entered -- it was published in Spring of 1994 in
2 the Minnesota Agricultural Economist. I'm going to
3 drop down to the next paragraph and make that point
4 and come back to the University of Missouri study.

5 Large-scale livestock production
6 facilities are less likely to do business locally
7 than our small- to medium-sized producers. A
8 Minnesota study found that livestock operations
9 grossing under 400,000 a year spent 79 percent of
10 their business expenditures within 20 miles of
11 their farms. Large-scale facilities spend less
12 than 50 percent.

13 I'm going to come back to the paragraph
14 above and introduce the Missouri study then, which
15 is entitled, The Economic Impacts of Increased
16 Contract Swine Production in Missouri, Another
17 Viewpoint. It's by John Ikerd. He's with the
18 sustainable agricultural systems program at the
19 University of Missouri. University of Missouri
20 found that the independent producers create three
21 times as many jobs as corporate contract hog
22 production.

23 In short, the key to a healthy rural
24 economy in Illinois is not the number of hogs

1 produced, but rather the number of hog producers.
2 We need to ensure that small- to medium-sized pork
3 producers in Illinois have a level playing field
4 with the large-scale producers seeking to locate
5 here from outside the state. Large-scale,
6 corporate producers are fully capable of promoting
7 their own self-interests and absorbing the costs
8 associated with this new type of industry.

9 Third, the profits from large-scale
10 facilities usually go down to outside investors.
11 I'm introducing as an exhibit a Virginia study
12 entitled, Economic Impact of the Swine Complex in
13 Southeast Virginia. It's authored by Susan
14 Thorsbury, T-H-O-R-S-B-U-R-Y, Murphy Kambhampaty,
15 K-A-M-B-H-A-M-P-A-T-Y, and David Kenyon. And
16 they're all affiliated with the Department of
17 Agriculture and Applied Economics at Virginia
18 Technical University.

19 The Virginia study compared the impact of
20 adding 5,000 sows to a local area through
21 large-scale production versus independent
22 producers. It found the independent producers
23 provided 10 percent more permanent jobs and 20
24 percent more local retail sales, increased local

1 per capita income by 37 percent.

2 Finally, studies show that large-scale
3 livestock facilities, because of the environmental
4 and other problems they raise, cause property
5 values near them to drop dramatically. Property
6 assessments for tax purposes then have to be
7 lowered, with the net result generally being a
8 lower tax base for counties, not the economic
9 growth and development promised.

10 Local government expenses, on the other
11 hand, increase because larger and heavier truck
12 traffic causes rural roads to deteriorate faster.
13 If a large-scale facility goes bankrupt or
14 otherwise goes out of business, the county
15 government can be left with an expensive cleanup
16 bill.

17 And we have again in our select
18 bibliography a subsection on the question of real
19 estate guides with three or four articles in there,
20 if anyone wants to pursue that thought in terms of
21 documentation.

22 What large-scale livestock production
23 facilities really do is to concentrate the
24 livestock industry in a few communities which are

1 hard hit by the environmental consequences of these
2 facilities. At the same time, such facilities
3 displace the independent livestock producers,
4 draining other rural areas of farm jobs and

5 income.

6 Proponents of large-scale livestock
7 production in Illinois argue that the potential
8 economic losses which may come from properly
9 regulating such facilities in our state outweigh
10 any environmental gains from putting in place
11 adequate rules and regulations. We believe the
12 available evidence, based on experience of other
13 states, supports the opposite conclusion.
14 Large-scale livestock production facilities, while
15 they pose a real threat to rural economic
16 development, are fully capable of supporting
17 economically the new rules and regulations
18 necessary and required for corporate, industrial
19 agriculture.

20 The third Section and the final Section
21 relates to closure requirements. The issue of
22 closure requirements and costs is the final
23 question we wish to discuss.

24 In cases of abandonment, closure and/or

234

1 nonpayment of taxes, the potential cleanup costs
2 for large-scale livestock production facilities
3 will be considerable, given their overall size and
4 the size of the lagoons in particular. These costs
5 should be borne by the responsible parties and not
6 by the county taxpayers in which such facilities
7 locate. In anticipation of this eventuality, we

8 have -- we have advocated the state of Illinois
9 should create a large-scale livestock production
10 facility indemnity fund as a separate account in
11 the state treasury.

12 This fund would consist of monies from
13 indemnity fees remitted by large-scale livestock
14 production facilities. Sums collected on behalf of
15 the fund through legal action or settlement, civil
16 or criminal penalties assessed and collected
17 against large-scale livestock production
18 facilities, interest, properties, securities
19 acquired through the use of monies in the fund, and
20 monies contributed for the purpose of funds from
21 other resources.

22 The monies deposited in the fund would be
23 appropriated for the exclusive purpose of
24 indemnifying a county for expenses related to

235

1 cleaning up the site of large-scale livestock
2 production facilities, including the removal and
3 disposal of livestock waste from livestock waste
4 handling and storage facilities.

5 Unfortunately, the Livestock Management
6 Facilities Act does not create an indemnity fund,
7 but requires operators prior to beginning operation
8 to demonstrate financial responsibility. Or more
9 simply put, that they have enough financial
10 resources to close down their lagoons, if

11 necessary.

12 Regarding the level of surety required in
13 the Act, Department of Agriculture has testified
14 that the Board should allow the Department to
15 promulgate rules to determine the level of surety.
16 Illinois Citizens for Responsible Practices
17 believes the Board should promulgate regulations to
18 determine the level of surety required to ensure
19 financial security of an operation. The statute
20 for financial security in the LMFA was seemingly
21 modeled after the regulations on financial security
22 for landfill operators in Title 35, Subtitle G,
23 subpart F. The regulations already have a working
24 formula that could be adopted relatively easily for

236

1 the livestock regulations. The formula establishes
2 a level of surety based on the volumetric capacity
3 of the landfill.

4 The procedures for closing a landfill and
5 closing a lagoon may be different and the formula's
6 variables will change. However, the formula to
7 determine the cost for closing a landfill offers a
8 good start. Moreover, subpart F of the waste
9 disposal regulations includes regulations on the
10 use of financial instruments. What exactly
11 constitutes evidence of financial responsibility if
12 an operator wants to use a letter of credit or
13 perhaps commercial-provided insurance? Beginning

14 with Section 807.640, the waste disposal
15 regulations offer guidance on these questions, and
16 the Board should use those regulations as a model
17 to promulgate rules for Section 506.602 of the
18 livestock regulations.

19 Regarding the lagoon closure in the
20 proposed regulations, Section 506.209, subparagraph
21 A, subparagraph 2, allows the Department to grant a
22 waiver to closure requirements that will permit the
23 lagoon to be used for an alternative purpose. The
24 Board should clearly specify which alternative

237

1 purposes will qualify for a waiver. The Department
2 of Agriculture has not adequately explained what
3 some of these alternative uses might be. If the
4 alternative use still requires the structure to
5 hold livestock waste, these Livestock Waste
6 Regulations should remain applicable to the new
7 owners of the structure, and a waiver in this case
8 would not be necessary. If the alternative use
9 does not pertain to livestock waste, the owner will
10 still have to remove the waste, and the regulations
11 on closure should apply to the new owners as they
12 did to the previous ones.

13 Furthermore, on closure, Section 506.209,
14 subparagraph 3, subparagraph B of the regulations
15 should clearly state that if ownership of the
16 lagoon is transferred, the new owner should be

17 subject to all regulations for livestock waste
18 lagoons until the facility ceases to be utilized as
19 a livestock waste lagoon.

20 In conclusion, and I know you are all
21 glad to hear in conclusion, we would like to thank
22 the Board for the opportunity to testify publicly
23 on these very important issues. We appreciate the
24 attention the Board has devoted to assisting groups

238

1 like the Illinois Citizens for Responsible
2 Practices to understand the hearing process and
3 prepare for these hearings.

4 In the Spring of 1996, Illinois lawmakers
5 and members of the Edgar administration described
6 the Livestock Management Facilities Act as a
7 necessary first step in the process of developing
8 adequate rules and regulations for large-scale
9 livestock production facilities in Illinois. The
10 common argument heard at the time was that any
11 regulation of large-scale livestock facilities
12 would be better than no regulation.

13 Now is the time to flesh out and
14 implement the Livestock Management Facilities Act
15 through the rulemaking process, even as we seek to
16 develop and strengthen the law through additional
17 legislation. We commend the Illinois Pollution
18 Control Board for the role it has played in this
19 process, and we look forward to working with the

20 Board through the -- the remainder of the hearing
21 and in the future as we work towards this result.

22 Before we get questions, I would like to
23 add a couple more exhibits. Should I do that now?

24 THE HEARING OFFICER: Certainly. I

239

1 have the two here. We could go through the ones
2 first that you have submitted.

3 DR. ST JOHN: Okay. And I have then
4 four separate articles by Michael Duffy, who is
5 with the Iowa State University, all relating to
6 economic development.

7 THE HEARING OFFICER: Okay.

8 DR. ST JOHN: Copy of the select
9 bibliography. And an article I referred to this
10 morning from the Federal Reserve Bank of Chicago
11 entitled, Industrialization in Hog Production,
12 Implications for Midwest Agriculture, which came
13 out a couple of weeks ago, which is excellent.
14 Some of Dr. DiPietre's work. A letter from the
15 Cherokee County Board of Supervisors, Cherokee,
16 Iowa, depicting problems related to cleaning up a
17 ten-acre lagoon in Cherokee County, which the
18 county acquired through tax delinquency. And which
19 when they first acquired it in 1991, estimated cost
20 of cleanup was 250 to \$300,000. They still haven't
21 been able to clean it up. And, of course, the cost
22 of cleanup has gone up since then.

23 Those are all of the exhibits I wanted to
24 submit.

240

1 THE HEARING OFFICER: Thank you,
2 Mr. St John. Okay. Then, we will mark as Exhibit
3 No. 30, and enter into the record large-scale swine
4 production facilities, a select bibliography from
5 the Illinois Citizens for Responsible Practices.

6 Enter into the record as Exhibit
7 No. 31 an article in the Minnesota Agricultural
8 Economist entitled, Farm Spending and Local
9 Selling, How Do They Match Up.

10 Enter into the record Exhibit No. 32,
11 article entitled, Economic Impact of the Swine
12 Complex in Southeast Virginia.

13 Enter into the record as No. 33, an
14 article entitled, The Economic Impacts of Increased
15 Contract Swine Production in Missouri.

16 Enter into the record as Exhibit No. 34,
17 article entitled, Are We Out of Control, by Michael
18 Duffy, from the Iowa State University.

19 And enter into the exhibit as Exhibit
20 No. 35, Economic Perspectives, a Review From the
21 Federal Reserve Bank of Chicago, dated January
22 February of 1997.

23 And lastly mark as Exhibit No. 36, the
24 Cherokee County Board of Supervisors, courthouse

1 letterhead, from Cherokee, Iowa, letter to the
2 county board of supervisors.

3 Thank you, Mr. St John. And we will now
4 take a ten-minute break.

5 (Recess taken at 3:08 p.m.)

6 THE HEARING OFFICER: Back on the
7 record. Now we will proceed with prefiled
8 questions filed by Ross and Hardies on behalf of
9 the Illinois Pork Producers directed to -- to
10 Mr. Bruce St John. Mr. Harrington.

11 MR. HARRINGTON: I'll try and speak
12 loud enough so I can be heard. And I'm going to
13 try to skip through these questions and see if we
14 can get through them quickly.

15 Sir, do you -- what is your occupation?

16 DR. ST JOHN: First of all, let me
17 just comment that the prefiled questions were
18 excellent. I wrote out prefiled question answers,
19 so I will read those.

20 I am employed in a marketing position
21 with a Peoria-area company.

22 MR. HARRINGTON: Do you own or
23 operate any livestock facilities?

24 DR. ST JOHN: I own farmland in

1 Stark County, including a share in a centennial

2 family farm. Family members have been involved in
3 the livestock industry in Illinois for over 100
4 years, but I do not currently own or operate a
5 livestock facility.

6 MR. HARRINGTON: Were you a member
7 of the Livestock Industry Task Force or any of the
8 working committees?

9 DR. ST JOHN: I have a long answer
10 to that. The answer is, no, I have not. I was
11 asked to be, but because of my heavy business
12 schedule, I could not accommodate the meetings.

13 MR. HARRINGTON: Would you consider
14 a family owned and operated farm with more than
15 7,000 animal units to be a family farm or a, quote,
16 large-scale swine production facility, close
17 quote?

18 DR. ST JOHN: I would consider it to
19 be a large-scale livestock production facility
20 owned and operated by a single family.

21 MR. HARRINGTON: Perhaps you could
22 define what you mean by large-scale swine
23 production facility.

24 DR. ST JOHN: I think we are

243

1 addressing here a question of size, and we get into
2 that a little later. But let me just tackle it
3 right now. Maybe we can skip the question four
4 then.

5 In the emergency rules dated 29 October
6 1996, the Illinois Pollution Control Board
7 recognized that the current regulations specific to
8 livestock waste management facilities promulgated
9 long before the current agricultural changes and
10 trends identified by the legislature in adopting
11 the Livestock Management Facilities Act were in
12 place.

13 Pollution Control Board then concluded
14 that the immediate adoption of specific regulations
15 tailored to the design of facilities with a large
16 concentration of animals was necessary to ensure
17 the protection -- to ensure the protection of
18 animal natural resources. In fixing an
19 applicability threshold, the Pollution Control
20 Board ruled that livestock management facilities
21 with the design capacity of 300 animal units or
22 more were recognized in statute and regulation as
23 facilities with greater regulatory oversight was
24 needed to protect the environment.

244

1 I would add parenthetically that Danville
2 Township, Minnesota, and other places have also
3 come down as low as 300 animal units in terms of
4 where regulations should start.

5 For the purposes of site definition and
6 setbacks, Illinois Citizens for Responsible
7 Practices is in the basic same ballpark. We

8 consider a large-scale livestock production
9 facility to be one having a one-time maximum
10 designed capacity of 500 animal units or more.

11 MR. HARRINGTON: What was the basis
12 for selecting 500 animal units?

13 DR. ST JOHN: Trying to give you a
14 short answer. I guess we looked at what all the
15 states where these facilities were in place we're
16 looking at in terms of regulations. Most of the
17 regulation seemed to start somewhere around three
18 to 800. So we arbitrarily said, let's look at
19 five. It could be three. It could be six. I'm
20 not sure the exact point is so critical, as
21 recognizing that at some point, large-scaled
22 facility begins.

23 If you look at the -- if I can just
24 counter a second. The point four factors for

245

1 conversion of -- of animal units to live- -- to
2 livestock. Point four or five hundred is 1250 pigs
3 weighing 55 pounds or more. It seems like a good
4 benchmark to start.

5 MR. HARRINGTON: In your testimony,
6 you urged the Board to use livestock lagoon
7 capacity as a means to determine adequate
8 setbacks. First of all, what is the relationship
9 between the livestock lagoon capacity and the need
10 for setback?

11 DR. ST JOHN: Livestock lagoon
12 capacity of a given livestock production facility
13 is related generally rather closely to the maximum
14 design capacity of the facility animal units.
15 Therefore, we are just saying it seems -- seems
16 logical when you are looking at setbacks in
17 addition to using the maximum design capacity of
18 animal units, you ought to be looking at the
19 livestock capacity at the same time.

20 This is, by the way, a natural tie-in to
21 the point I was making. I'm sorry if I
22 interrupted. A natural tie-in to the point I was
23 making earlier about volumetric capacity and
24 looking at landfill regs for surety and so forth.

246

1 Getting, again, the same kind of characteristics in
2 terms of how we are regulating these things.

3 MR. HARRINGTON: You recognized that
4 the statute now does not allow for that; is that
5 correct?

6 DR. ST JOHN: Yes. I think.

7 MR. HARRINGTON: Thank you. In your
8 testimony, you referred to local producers
9 generating more economic development than
10 out-of-state producers coming in to the state. Is
11 that correct?

12 DR. ST JOHN: What? Can you refer
13 me to which question you are on? You are

14 paraphrasing a little bit, and I'm getting confused
15 myself.

16 MR. HARRINGTON: Basically question
17 six, which I think was mis-typed.

18 DR. ST JOHN: Yes. I guess my
19 comment was, it wasn't really a question. I see
20 where you are coming from now. What I'm saying is,
21 my testimony is that there are a variety of studies
22 out there. Again, most of them, in the
23 bibliography we have distributed. Variety of
24 studies showing that small, medium-sized,

247

1 owner-operated local producers produce more jobs
2 and are more likely to do business locally than
3 corporate-owned, large-scale livestock production
4 facilities.

5 Again, in a word, it's not the number of
6 hogs produced in a given township, county or state,
7 but rather the number of hog producers is the key
8 to economic growth, development and prosperity in a
9 rural community.

10 MR. HARRINGTON: When you say the
11 number of hog producers, in order for them -- there
12 to be hog producers, they have to be viable
13 economic units. Is that not correct?

14 DR. ST JOHN: That is correct.

15 MR. HARRINGTON: And do you have any
16 personal opinion as to what is a viable economic

17 unit for hog production now?

18 DR. ST JOHN: I'd have to say, no, I
19 don't.

20 MR. HARRINGTON: Okay. Would a 1200
21 sow farrow-to-finish operation be a viable unit?

22 DR. ST JOHN: I would think so,
23 looking at what I see around the state today.

24 MR. HARRINGTON: Uh-huh. Do you

248

1 know how much smaller it could be and still be a
2 viable, independent unit?

3 DR. ST JOHN: Never seen any studies
4 on that. But whether or not they exist, I don't
5 know.

6 MR. HARRINGTON: Thank you.
7 Referring to the University of Missouri study you
8 mentioned in your testimony. It shows that
9 large-scale production facilities -- does it show
10 that large-scale production facilities displace
11 jobs, or that independent producers, if that
12 distinction can be drawn, create more jobs than
13 corporate contract hog production?

14 DR. ST JOHN: What the study
15 concluded was that independent producers created
16 three times as many jobs as corporate contract hog
17 production. If I can quote just a couple of
18 sentences from that study. It said: Large-scale
19 specialized operations produced more hogs per

20 person employed, and consequently create fewer jobs
21 per hog produced. Consequently, large-scale
22 contract production employs far fewer people than
23 would be employed to produce the same number of
24 hogs in a typical owner-operated hog farm.

249

1 Some of the difference in employment is
2 accounted for by the fact that many hog farmers
3 produce a significant portion of their own feed,
4 whereas contract operators often purchase their
5 feed from outside suppliers. Management functions
6 of independent hog producers are often performed in
7 contract operations by off-farm supervisors or
8 corporate managers.

9 MR. HARRINGTON: Do you have any
10 reason to believe that if Illinois could somehow
11 write rules that kept out the corporate contract
12 hog production by out-of-state corporations, that
13 that production would not occur, or would it simply
14 move to other states where it is welcome?

15 DR. ST JOHN: Let me make two points
16 in answering your question. First of all, I want
17 to emphasize again that the Illinois Citizens for
18 Responsible Practice is not trying to ban
19 large-scale livestock production facilities or
20 corporate contract production in Illinois. What we
21 are trying to see put in place is rules and
22 regulations to cause them to behave as responsible

23 citizens. That's point one.

24 Point two. In terms of the issue of

250

1 these facilities going somewhere else, there is not
2 a lot of evidence I guess one way or the other.
3 Someone talked this morning about what happened in
4 the state of Nebraska where they banned -- I don't
5 know whether -- banned is probably a strong word.
6 They wrote very strong corporate farm regulations
7 two or three decades ago. What happened in
8 Nebraska is -- is that they have been able to
9 maintain a level of pork production that they had a
10 decade or more ago. At the same time, they have
11 been able to maintain about the same number of hog
12 producers.

13 In states like North Carolina, and I
14 showed that chart this morning, what we are seeing
15 is that as we get increases in hog production in
16 these states which had been going the large-scale
17 corporate contract route. We are seeing a real
18 decrease in the number of hog producers. I tried
19 to get that -- to discuss that a little bit with
20 Dr. DiPietre this morning. We didn't get too far
21 with it, I guess. But there is some correlation
22 there between welcoming the large-scale corporate
23 producers and seeing fewer and fewer people
24 involved in the pork industry in a given state, it

1 looks to me like.

2 MR. HARRINGTON: Do you have any
3 specific studies to refer to in that regard?

4 DR. ST JOHN: Only the ones that I
5 have prefiled, plus -- give me just a second. The
6 center for rural affairs in Nebraska is the best
7 source for the Nebraska case really. In terms of
8 North Carolina, I think the stuff I prefiled pretty
9 well tells the story in terms of what's happening
10 there in terms of numbers of pigs versus numbers of
11 pig producers.

12 MR. HARRINGTON: I'm asking whether
13 you are aware of any studies that show the causal
14 relationship between the presence of the
15 large-scale producers and the small producers?

16 MR. ST JOHN: No. Although, I would
17 recommend -- I mentioned earlier in my testimony
18 the study by the Federal Reserve Bank of Chicago
19 done by an economist. So I'm not sure. His
20 conclusions are somewhat different from what
21 Dr. DiPietre was saying. But what this generally
22 is concluding is that over the last decade,
23 productivity gains have meant that fewer hog
24 farmers today can produce the same number of pork

1 as a larger number did in the past, and I think

2 that logically sounds reasonable. He then goes on
3 to say that today 43 mega producers in the United
4 States own 29 percent of all sows. 43 mega
5 producers own 29 percent of all sows and account
6 for around 40 percent of all the pigs born an
7 raised nationwide.

8 So it looks to me like there is a
9 prevailing trend in terms of a smaller number of
10 hog farms and simultaneous increase in their size.
11 So that might be one document I would refer people
12 to, if you are interested in that subject.

13 MR. HARRINGTON: Are you familiar
14 with a document entitled, Measured Effect of
15 Feedlots on Residential Property Values in
16 Minnesota, Report to the Legislature, June 1996?

17 MR. ST JOHN: No. I don't think I
18 am.

19 MR. HARRINGTON: It has already been
20 introduced in the record in this proceeding. But
21 just for those in attendance, I think it's a fair
22 summary to say it was surprised -- would it
23 surprise you to know that it concluded that, in
24 fact, the presence of feedlots did not adversely

253

1 impact property values, but had a positive impact
2 on residential property values?

3 MR. ST JOHN: I would say that the
4 three studies I have on real estate values are

5 dated 1995, '95 and '93, and they all came to an
6 opposite conclusion.

7 I'd be very much interested in getting
8 a copy of the report and adding it to the
9 bibliography.

10 MR. HARRINGTON: This is the study
11 of June of 1966 (sic).

12 MR. TABER: '96.

13 MR. KING: '96.

14 MR. HARRINGTON: What did I say?

15 MR. TABER: '66.

16 MR. HARRINGTON: '96. Dyslexia is
17 fun.

18 We will provide you a copy of this.

19 DR. ST JOHN: Appreciate it.

20 MR. HARRINGTON: I think that's all
21 the questions we have.

22 THE HEARING OFFICER: Thank you,
23 Mr. Harrington. Yes. Would you please come on
24 up.

254

1 MR. KING: My name is Keith King.
2 I'm a farmer in Knox County. Have been all my
3 life. I don't have a Ph.D. or M.D. or anything
4 like that. About 85 years of experience dealing
5 with animal and animal products, things of that
6 kind.

7 Back -- probably the first time I heard

8 of EPA, back maybe probably they just got started
9 at the time. I was the only dairyman at the time
10 setting up animal waste regulations for the
11 Illinois EPA at that time back, I don't know how
12 many years, but I'd say about 25 years.

13 I've also -- in addition to other things,
14 I've served on the Board of Review of Knox County
15 mostly through the 1980s. The three-man Board of
16 Review who -- and all of 1980. I've been a man of
17 that three-man Board of Review and had causes that
18 conform to value and quite a few fairly large
19 operations in this county. And we have to contend
20 with those quite a bit.

21 I'm also -- our family has quite a large
22 hog operation. I have an interest in it. I don't
23 do the actual work anymore. But someone else
24 does. So those are my experiences.

255

1 Mr. St John, I disagreed with some things
2 that you said. First place, you say that on the
3 bottom of page three, study showed large-scale
4 livestock facilities, because of environmental and
5 other problems they raise, cause property values
6 near them to drop dramatically.

7 I guess my experience through APA (sic)
8 is quite extreme opposite of that. I feel that if
9 the proposed regulations become final and are
10 adhered to, there is no reason for the possibility

11 of any deterioration in the area tax base. In my
12 experience, extreme opposites have been true.

13 How did you come up with the statement
14 that they were deteriorating? You certainly know
15 the way the soils are valuated in this county, in
16 this state. You say you own a farm. You know how
17 the per acre dollars come back each year.

18 How -- how would you arrive at that in
19 the state of Illinois, that valuations would
20 deteriorate?

21 DR. ST JOHN: Based on the studies
22 that I spoke about a little earlier. There are a
23 variety of studies of property values near
24 large-scale livestock production facilities.

256

1 I think we have to be careful here as we
2 talk about issues like this, that we are not
3 thinking about mom and dad's old farm a little bit
4 bigger. We are talking about the big facilities.

5 MR. KING: That's what I'm thinking
6 about.

7 DR. ST JOHN: You have one of those
8 within a quarter mile of your house, studies have
9 shown that people are not real interested in buying
10 a home from you.

11 MR. KING: You realize that the
12 values per acre of land will not go down, except on
13 the very acres that those hogs are set on. Then

14 according to the statute in Illinois -- say there
15 is a ten-acre big hog operation occupying the
16 building in the road. Go down to one-sixth in
17 value otherwise. But the value of the operation of
18 the buildings put up on that, on those facilities,
19 multiply that by thousands of times, and a few
20 dollars taken off for those places.

21 Certainly in our experience in Knox
22 County, the issue of many big operations have
23 enhanced the tax base a large extent.

24 DR. ST JOHN: I would agree with you

257

1 that farmland uses farmland just because it's in
2 near proximity, because it's in -- the value of
3 that land would probably not be affected, unless
4 over time with the waste disposal you got into a
5 situation where you have problems with the land
6 itself in terms of either heavy metals or
7 over-application of nitrogen, phosphorus, pot ash,
8 whatever.

9 In general, I would accept your
10 statement.

11 MR. KING: Okay. Another where I
12 disagreed with you -- pretty definitely disagreed
13 with you, with expensive cleanup here, for
14 instance, if one of these things closed down. One
15 time in our hog operation, we had a lagoon. We
16 decided to do away with the lagoon. Used other

17 methods instead. Cost very little to close that
18 down.

19 When you talk toxics, we don't have
20 really a lot of toxic waste in a setup of that
21 kind.

22 We can take one filling station, you
23 know, where there are tanks in the ground, costs
24 them hundreds of thousands of dollars to clean that

258

1 up. We think as far as dealing with closing up a
2 facility and went down, because lagoon or
3 something in it and manure, we -- we are under
4 all -- the assumptions I'm making is that Illinois
5 Pollution Control Board comes up with adequate
6 recommendations and that are finally adopted. And
7 then I think you are overestimating or trying to
8 make people think maybe that this closing up these
9 toxic -- these dumps is going to come out to a lot
10 of money. I can't see it. I see very little
11 effect.

12 DR. ST JOHN: Well, the example I
13 cited here was a concrete example from Cherokee
14 County, Iowa, where they have a ten-acre lagoon
15 that's full that the county inherited through a tax
16 delinquency situation. The estimated cost of
17 cleanup to DNR when they took over -- the county
18 took over the lagoon in 1991, the Iowa DNR,
19 Department of Natural Resources, told them they

20 have to clean it up. It holds 17 million gallons
21 of animal waste. An estimated cost to clean up in
22 1991, was 250 to 300,000. I would consider that a
23 significant amount of money for most counties to
24 have to come up with.

259

1 MR. KING: Certainly many farmers in
2 the area, if they wanted fertilizer on the ground,
3 they would have been glad to pump that out and take
4 it and dispose of it. Then all they have to worry
5 about then is pumping.

6 THE HEARING OFFICER: Mr. King, just
7 make sure that you are asking a question and not
8 having a debate.

9 MR. KING: Okay. I think that's
10 all. I have some other things for to differ with
11 you.

12 THE HEARING OFFICER: You can bring
13 that up, but -- and you can bring up the other ones
14 in testimony, if you want to provide testimony
15 later.

16 MR. KING: Thank you.

17 THE HEARING OFFICER: Any other
18 questions for Mr. St John? Thank you,
19 Mr. St John. You may sit down.

20 DR. ST. JOHN: Thank you very much.

21 THE HEARING OFFICER: What we would
22 like to do now is then proceed to the people who

23 have signed up on the sign-up sheet to testify
24 today who have not prefiled their testimony.

260

1 And what I will do is call the first five
2 people, and you can come and have a seat up in
3 front. Swear you in and begin with your
4 testimony. I know Mrs. Johnson has already
5 spoken. Dale Ward, is he present? Okay. Mary
6 Kuck.

7 MS. KUCK: Kuck.

8 THE HEARING OFFICER: Kuck. I'm
9 sorry. Bill Knight. Yes. Thank you. Mr. Karen
10 Hudson. Donald Reeder, R-E-E-D-E-R. Donald
11 Reeder.

12 Anyone who has signed up on the sign-up
13 sheet but is not here, if you could just pass the
14 word on to them that they could certainly file what
15 they had planned on testifying to as a public
16 comment. As long as they file it before February
17 14th, the Board will consider it in the
18 rulemaking.

19 If you don't have our address, it is 100
20 West Randolph Street. And that's Suite 11-500. In
21 Chicago. It's zip code 60601. And you could put
22 that to the attention of the clerk of the Board.
23 And as I mentioned earlier, make sure that you have
24 docket R97-13 (sic) noted on there. If you'd also

1 like to include Illinois Administrative Code 506,
2 that would be great.

3 And I think we could have one more person
4 up here. Nancy Bostic. Mark Beorkrem.

5 If you could swear in the witnesses.

6 (Wherein the witnesses were sworn in
7 by the court reporter, all five having said, I do,
8 and testified as follows:)

9 THE HEARING OFFICER: If we could
10 begin with Ms. Kuck.

11 MS. KUCK: My name is Mary Kuck,
12 K-U-C-K. Rhymes with good luck. Okay.

13 Chairman, members of the Pollution
14 Control Board, I wish to express my concerns
15 regarding a number of issues which I feel should be
16 addressed in light of the encroachment into the
17 state of Illinois by mega livestock operations.

18 Issue No. 1. Mega livestock operations
19 require massive amounts of water, first to fill the
20 manure waste-holding lagoons, and then to continue
21 flushing waste from the confinement buildings into
22 the lagoons. Such enormous use of water will
23 inevitably lower the water table, thereby affecting
24 not only nearby rural wells but also municipal

1 wells throughout a large area.

2 Issue No. 2. A mega hog factory sited in
3 North Carolina, and which used what was considered
4 a state of the art lagoon system to contain waste,
5 which is, of course, urine and manure, had a lagoon
6 failure, which resulted in the spillage of 24
7 million gallons of waste. To put this volume of
8 waste into the proper perspective, you should be
9 aware that this is more than twice the volume of
10 the Exxon Valdez oil spill, which caused such
11 devastating pollution in Prince Edward Sound.

12 This 24 million gallon spill of manure
13 waste then polluted not only neighboring property
14 and homes but destroyed all aquatic life for a
15 17-mile stretch of the new river.

16 The corporations which installed these
17 facilities say they now can install a lagoon which
18 is safe. They do not, however, guarantee that this
19 kind of accident will not happen again.

20 Issue No. 3. In the case of a large
21 waste spill, who is responsible for the actual or
22 the physical cleanup of the resulting mess?

23 Who will then be responsible for
24 compensating individuals whose quality of life,

263

1 homes, water supplies, land and livelihoods are
2 damaged or even destroyed by a waste spill?

3 Will compensation be the responsibility
4 of the operator or the taxpayers of the state of

5 Illinois?

6 No. 4. Certain large factory farms, such
7 as mega hog factories, produce a terrible stench.
8 Operators say they can control some of the smell,
9 but not all of it. The smell is especially odious
10 when the facility begins operation during the
11 transfer of effluent waste to agricultural fields
12 and during hot, humid seasons.

13 Issue No. 5. Effluent from the waste
14 lagoons can seep down into the ground and pollute
15 the aquifer, which supplies water to a vast area,
16 with disease-carrying organisms.

17 Issue No. 6. If a lagoon-type system is
18 used for the animal wastes, how many cubic feet of
19 lagoon space is required per livestock unit, and by
20 whom will this be determined?

21 Issue No. 7. Pollution by surface water
22 runoff from fields where effluent is spread will
23 pollute streams and wells with nitrates, pot ash
24 and phosphates, as well as disease-carrying

264

1 organisms.

2 Issue No. 8. Pollution of our water
3 supply by disease bacteria and organisms, including
4 swine flu, more commonly referred to as Asian flu,
5 is highly probable.

6 In Asia, this flu develops among the
7 porcine population from which it migrates to the

8 human population. Asian flu is a killer flu
9 because it attacks all ages, but it is especially
10 dangerous to the lives of children, anyone already
11 suffering from health problems and to senior
12 citizens.

13 Issue No. 9. In some areas where mega
14 livestock operations have been located, families,
15 and especially the children, living within the
16 vicinity have suffered exceptionally high rates of
17 illness and disease.

18 Issue No. 10. Antibiotics, steroids and
19 food additives used in the production and feeding
20 of livestock on mega size operations will also
21 contaminate our water supplies as they percolate
22 into the soil and down into our aquifers and water
23 table.

24 Issue No. 11. Is there now in place an

265

1 indemnity fund which will be used to pay for
2 cleanups in case of lagoon failure?

3 And if a fund is established, who will
4 finance it?

5 Will it be those who will benefit from
6 the livestock operation, or will it be the
7 long-suffering taxpayers of Illinois? Will it be
8 possible for a facility to file bankruptcy and
9 completely escape all fiscal responsibility?

10 Issue 12. Inevitably, some of the

11 livestock, be it pigs or cows or chickens or
12 whatever, will die. What plans do the operators
13 have to cope with carcasses which could become
14 sources of disease for not only small family
15 farmers' operations but ultimately could be a
16 source of disease for the human population?

17 Issue 13. Where will the material,
18 combined liquid and solid waste, which is pumped
19 from the lagoons as they fill up through usage be
20 deposited?

21 The University of Illinois has standards
22 for disposal of waste on cropland which are very
23 specific. They require 2-8/10ths acres of land per
24 animal unit. What state agency will be responsible

266

1 for determining if a given facility has the
2 required acres to accommodate effluent?

3 How will this requirement be enforced?

4 In situations where regulations are not
5 adhered to, what punitive measures will be taken to
6 ensure current and future compliance?

7 Issue 14. If the manure is trucked over
8 our highways because of lack of adjacent acreage
9 for disposal, what regulations are currently in
10 place to safeguard our citizens if there is a spill
11 of the effluent on the highways we all must use?

12 How are we to be kept safe from this
13 biohazard being spread within our midst?

14 Issue 15. One danger all who are
15 concerned with this issue wish to see addressed is
16 the grandfathering in of the facilities already in
17 operation or currently under construction. These
18 facilities are as dangerous, if not more dangerous,
19 to our environment than proposed facilities,
20 because they were constructed without regard to any
21 environmental regulations.

22 Issue 16. Current regulations will
23 require more waste treatment facilities be
24 constructed to service the three or four or five or

267

1 ten employees needed to operate the facility than
2 are required to treat the waste of a thousand or
3 more head of livestock. There is something wrong
4 in a situation of this kind.

5 At the minimum, the following issues need
6 immediate attention.

7 Site development and requirement of
8 permits must be based on thorough study of site
9 conditions and location.

10 Public notification and hearings must be
11 held prior to the development of a new site or
12 expansion of an existing site.

13 Updated, larger setbacks must be
14 required, which also recognize that other area farm
15 residents as well as non-farm residents have
16 rights.

17 An indemnity fund must be established to
18 provide for site cleanup and waste cleanup such as
19 occurred when even state of the art lagoons burst
20 and spread massive amounts of waste on neighboring
21 property and in waterways such as creeks and
22 rivers, and to provide cleanup in cases of
23 bankruptcy.

24 Monitoring wells must be placed around

268

1 the perimeters of wet waste-handling facilities and
2 areas where lagoon sludge is spread.

3 There must be increased involvement by
4 the Illinois Environmental Protection Agency and
5 the Department of Public Health and all other
6 concerned state agencies.

7 In conclusion, I submit that much must be
8 done to put into place laws and regulations which
9 will protect our environment and our citizens.
10 Nearly everyone wants to improve their business and
11 financial position, but I contend that this
12 improvement must not be at the expense of other
13 citizens in the environment of the state of
14 Illinois. Thank you.

15 THE HEARING OFFICER: Thank you,
16 Ms. Kuck. Are there any questions? Thank you very
17 much, Ms. Kuck. Now, if we could go on to the
18 testimony of Karen Hudson.

19 MS. HUDSON: My name is Karen

20 Hudson, and I'm a resident of Peoria County. My
21 family lives and farms approximately two miles
22 north of Elmwood, Illinois. I have a bachelor's
23 degree in education, and I'm employed in the
24 engineering and drafting areas of a public utility

269

1 company. I am a representative of F.A.R.M.,
2 Incorporated, Families Against Rural Messes.

3 We are striving to support responsible
4 and accountable pork production. Our goal is to
5 educate the public about the social, environmental
6 and economic impacts of the mega hog industry, as
7 well as the stresses small independent producers
8 are now suffering. With this knowledge, people can
9 make educated decisions regarding this issue.

10 I also represent the Illinois Stewardship
11 Alliance and Illinois Citizens for Responsible
12 Practices. We do not support the current
13 definition for a populated area, because it does
14 not factor into situations wherein a facility moves
15 in adjacent to a subdivision. For example, if the
16 subdivision plot of 20 homes has only five homes
17 built to date, the setback will not take into
18 account any currently empty lots in its setback
19 perimeter. We feel that all empty lots in any
20 planned subdivision within the radius of a setback
21 should be accounted for and treated as a
22 residence. This not only protects the financial

23 interest of the owner of the subdivision, but also
24 the health and environment of present and future

270

1 residences.

2 This is sadly the case in Iroquois County
3 where a 2400 sow unit is located between a quarter
4 to a half a mile of the subdivision. This facility
5 was installed before the rules were written. But
6 unfortunately, even with today's rules, the
7 setbacks would still be the same. There are not
8 yet ten residences located within the perimeter, so
9 it is not deemed a populated area.

10 For the record, setbacks should be
11 measured from the property line of the nearest
12 corner of the hog facility. The current rules also
13 measure setbacks from the center of a building or
14 residence, not from the owner's property line.
15 This differs from the more acceptable rules of
16 North and South Carolina, which measures setbacks
17 from, quote, real property owned by another person,
18 unquote, or the real property line.

19 Being very familiar with
20 quarter-sections, township maps and mapping
21 procedures, I ultimately became interested in the
22 Department of Agriculture's case for not raising
23 setbacks. I am also aware of the preliminary
24 survey done by the IEPA, the DOA and the Illinois

1 Pork Producers.

2 This survey covered approximately 2
3 percent of the townships in our state. I have
4 recently been in touch with the Illinois Geological
5 Survey, concerning the 7-and-a-half minute
6 quadrangle maps available. These maps show
7 residences with almost all of the townships in our
8 state. I recommend using this as a valuable
9 resource for further and more complete
10 investigation of townships in our state and the
11 impact of higher setbacks.

12 We were, after all, recently told by the
13 deputy director of the Department of Agriculture
14 that this was, quote, a fairly scientific study
15 that was in itself only preliminary, unquote.

16 However, can this data be used to support
17 and write permanent rules? I am a citizen that
18 lives on a farm residence. I am appalled that my
19 family is not protected by the same setback rule as
20 a non-farm residence family.

21 Only until 1,000 animal units are
22 present, or 2500 hogs, will our health and welfare
23 be considered. How are we in any way different
24 from a non-farm family? This unconstitutional law

1 is clearly in favor of the pork producers and in no

2 way protects any farm families in our state.

3 By the way, in a recent vote at the
4 Peoria County annual Farm Bureau meeting in
5 December of 1996, 107 of our members voted against
6 mega hog farms locating in Peoria County, while
7 only 11 were in favor.

8 I was told by a paid public official in
9 Springfield that there are not setbacks for farm
10 residences because -- because it is, quote, a
11 carryover from the old days where farmers wanted no
12 regulations, unquote. This is hard to believe.
13 But then again, so is the entire Livestock Waste
14 Management Act to me.

15 I leave you with this thought. A good
16 neighbor is the kind of person that I see as living
17 on a farm like this with a family (indicating), and
18 sends a casserole to you when you are under the
19 weather. I am not expecting to receive a casserole
20 from our new neighbors moving into Knox County.
21 They look like this (indicating). Thank you.

22 THE HEARING OFFICER: Let the record
23 reflect she was holding up a picture of what
24 appears to be -- I can't see it.

273

1 MS. HUDSON: Large hog facility.
2 Not a family facility.

3 THE HEARING OFFICER: Do you want to
4 submit that into evidence, Ms. Hudson?

5 MS. HUDSON: Yes, I do. And also
6 submit into evidence a very recent article from the
7 Des Moines Sunday Register entitled, Disaster
8 Waiting to Happen. And Dale Cockran (phonetic
9 spelling), the Iowa secretary of agriculture is
10 quoted as saying, you can have a E coli.
11 infestation in the entire acquifer and a great
12 potential for disaster.

13 This is one of the most recent articles
14 we have received. Thank you.

15 THE HEARING OFFICER: Are there any
16 questions for Ms. Hudson at this time?

17 MS. MANNING: I just have one.

18 MS. HUDSON: Yes.

19 MS. MANNING: Ms. Hudson, you used
20 the word mega farm, and so did the Peoria County
21 Board, apparently in your testimony.

22 MS. HUDSON: Yes. Yes.

23 MS. MANNING: Do you have a working
24 definition of a mega farm?

274

1 MR. MUDGETT: 1250 animals is what
2 we are talking. Not animal units. We are talking
3 animals.

4 MS. MANNING: But the Peoria County
5 Board didn't define that in its vote; is that
6 correct?

7 MS. HUDSON: No. This was done -- a

8 preliminary question that was asked at the Peoria
9 County board meeting. And I'm sure at that meeting
10 there were people there who had as different an
11 idea of the definition of a hog farm as you or I.

12 So I have to say that that would probably
13 not be a scientific study. It was just a vote that
14 was taken that night on the general consensus of
15 the crowd.

16 MS. MANNING: That was the meeting
17 of the Farm Bureau, not the Peoria board.

18 MS. HUDSON: Peoria Farm Bureau.

19 MS. MANNING: Thank you.

20 THE HEARING OFFICER: Are there any
21 other questions of Ms. Hudson? Thank you.

22 We will mark into exhibit (sic) the
23 special advertising Section article, titled Quality
24 Crops From the Soybean Digest, January 1997 as

275

1 Exhibit No. 37.

2 Plus we will mark into the record as
3 Exhibit No. 38 the Des Moines Sunday Register
4 article from Sunday, January 19th, 1997. Editorial
5 titled, Disaster Waiting to Happen, a Deadly
6 Possibility, Manure Flowing Into Drainage Wells.

7 And finally mark into the record as
8 Exhibit No. 39 a picture of the Green County
9 Hanover Corporation, British Pig Improvement
10 Corporation photograph.

11 Thank you, Ms. Hudson. I'm sorry. Did I
12 skip Bill Knight?

13 MR. KNIGHT: I'm right here.

14 THE HEARING OFFICER: You can
15 present your testimony now.

16 MR. KNIGHT: I want to express some
17 concerns about something that's heretofore been not
18 brought up. And that's enforcement of current or
19 future Livestock Waste Regulations and/or laws.

20 The best law, of course, requires
21 enforcement. And with this particular topic, it
22 would require enforcement to ensure compliance by
23 inspecting and administering meaningful penalties
24 where violations may occur.

276

1 Without real enforcement, meaning
2 adequate funding, staffing and training of law
3 enforcement and other public officials, the results
4 will be economic anarchy, the same as no law at
5 all.

6 Already there are parallel examples in
7 government of inadequate staffing and funding
8 leading to public harm.

9 Even dismissing instances by meat
10 inspectors in the Department of Agriculture or
11 field representatives of the EPA as too adversarial
12 here, there are other places where bad management
13 of good laws have terrible consequences.

14 In 1995 and '96, federal budgets for the
15 Occupational Safety and Health Administration was
16 targeted for 5 and 15 percent budget cuts
17 respectively. OSHA already had nowhere near the
18 number of inspectors needed to monitor U.S.
19 workplaces, and in those years, was prohibited by
20 law from spending to issue a final or even a
21 proposed rule or guidelines on ergonomics the area
22 of biotechnology that addresses increasingly common
23 repetitive stress injuries.

24 So injuries kept happening, people kept

277

1 getting hurt and needed therapy or surgery, and
2 worker's compensation costs to employers
3 increased.

4 In a related area, OSHA and the
5 Department of Labor are so woefully understaffed
6 that it's possible for sweatshops, usually
7 associated with exploiting workers in third world
8 countries, to exist in New York and California.
9 Few can enforce that law.

10 Above us the air is busy with aircraft
11 coordinated by understaffed, overworked and ill
12 equipped air traffic controllers, and ultimately
13 supervised by the Federal Aviation Administration,
14 which also is understaffed and overworked. So the
15 FAA no longer requires checking flight data
16 recorders very often. Their function is checked

17 about once a year. So most don't work.

18 Further, nine years ago in Hawaii, a 737
19 airliner flown by Aloha was 24,000 feet when 18
20 feet of its outer skin peeled away, decompressing
21 the cabin and killing a stewardess, who fell from
22 the aircraft. Later inspection found extensive
23 corrosion and fatigue damage. That aircraft and
24 two other Aloha 737's were scrapped, because of

278

1 skin erosion and cracking.

2 The FAA had been assigned to watch that
3 carrier's and the entire industry's 737 fleet, but
4 it was overworked and understaffed. Regulations
5 and a citizen literally fell through the cracks.

6 Although the ultimate responsibility for
7 budgets and personnel really lies with the General
8 Assembly in Illinois and other state agencies,
9 officials and employees of the state must assert
10 their appropriate role of authority and
11 accountability to act in the public interest and to
12 represent citizens. If not, responsibility is
13 passed from building to building or desk to desk,
14 and the peoples business is not conducted, and any
15 law that has arisen is not enforced.

16 My other point speaks to kind of a
17 challenging tone that came up between the cracks, I
18 guess you could say again, in earlier testimony
19 about the invalid emotions that sometimes arise in

20 the debate about a large concentration of
21 livestock.

22 Implicit in some of these questions or
23 comments is that people need special qualifications
24 to comment on this issue or any issue in the public

279

1 interest, or that emotions have no validity. And
2 emotions, we have to realize, are part of the human
3 animal.

4 Socially and individually, many of our
5 marriages are based on emotions, not on any kind of
6 logic stemmed from some star-struck Vulcan
7 mindset.

8 Furthermore, our qualifications should be
9 obvious. We breathe the air. We drink the water.
10 We live here. We are citizens. No longer does any
11 kind of literacy test or poll tax or other litmus
12 test, limit debate to some kind of elite.

13 In this country, no longer is voting
14 restricted to white male property owners. Citizens
15 are entitled, even empowered, to take part in a
16 discussion without any kind of special status.

17 To question the appropriateness of
18 someone's statement or concerns is to set up
19 classes of participants in the rulemaking.

20 Excluding all but scientists or lobbyists
21 or experts or officials, further relying on various
22 opinions isn't unlike a serious medical condition.

23 The opinions of a doctor or even a specialist must
24 be balanced with the best interests of the patient,

280

1 as expressed by the patient or his or her family.

2 The patient here could be viewed as
3 Illinois, and we are Illinois' family. And a
4 handful of economic surgeons seem a little quick to
5 cut, especially interested in fees perhaps and not
6 the needs of the patient. Making Illinois submit
7 to the chemotherapy of unregulated or little
8 regulated livestock confinement operations might be
9 viewed as a radical and experimental procedure that
10 endangers Illinois' quality of life.

11 In the December issue of Consumer
12 Reports, the magazine comments, proposals to turn
13 risk management over to some elite corps of experts
14 or to base decisions solely on rigid cost-benefit
15 criteria without including public values are both
16 unworkable and at odds with democratic principles.

17 They quote Roger Casperson (phonetic
18 spelling), a researcher in risk management at Clark
19 University in Worcester, Massachusetts, as saying,
20 I think that in the risk situations, we need to
21 empower the people who are bearing the risks to
22 negotiate. The public is much more rational about
23 dealing with risk than the technical experts think
24 they are.

1 So lastly, I thank the PCB for giving
2 credence to ordinary citizens', qualifications
3 aside, and I encourage more people, both now and
4 through February 14th, to comment.

5 THE HEARING OFFICER: Thank you,
6 Mr. Knight. Are there any questions for
7 Mr. Knight? Seeing none, thank you very much,
8 Mr. Knight.

9 And we will go on with the testimony of
10 Mr. Donald Reeder.

11 DR. REEDER: I'd like -- I'd like to
12 thank the Pollution Control Board members for
13 allowing us to make public comment. And I would
14 like to say that many of the points that have
15 already been made, I agree with.

16 First of all, I think that the enactment
17 of the Livestock Management Waste Management Act is
18 desirable, and that it should be implemented, and
19 that it should be the rulemaking process. And
20 implementing it should be done with counsel from
21 some of the industry, as well as from the
22 scientific community at the university. And once
23 the rules are set, make them stable so that the
24 livestock producer has a ground rule by which he

1 can work.

2 I'm a retired veterinarian. I've watched
3 the livestock industry develop in this community
4 for 36 years. And I've seen many small farms
5 become viable units because the young people were
6 able to stay on that farm and have an effective
7 livestock production facility.

8 We have seen, as it's been alluded to
9 before, 40 percent of our livestock numbers from
10 the year 1973 till this past December -- the hog
11 numbers in the state of Illinois have declined 40
12 percent. That's an erosion of an awful lot of
13 dollars of income for this state.

14 If Maytag out here were to lay off 40
15 percent of their workers tomorrow, there would be a
16 lot of concern. The numbers of livestock producers
17 has declined even more than the numbers of hogs.
18 We were shown some graphs this morning showing the
19 downtrend of swine producers, of the smallest swine
20 producers in North Carolina. And the illusion was
21 that the large producers had forced them out.

22 What happened in Illinois? We didn't get
23 the large producers, but we lost an equal number of
24 small producers. And they are not being replaced.

283

1 Unfortunately, over the last few years
2 and during this period that I'm talking about, some
3 of the economics have changed as far as the farm
4 scene is concerned. And also in the last few

5 years, there has been an uncertainty on the part of
6 those who wanted to go into the livestock business
7 as to what the rules were and how they were going
8 to impact them.

9 And their bankers are quite aware of the
10 state of flux of the regulations. So we need a set
11 of rules that are -- that are making the
12 environment stable and safe, but we also need them
13 set in place so that they are what the livestock
14 producer can work with.

15 The other thing that I think you want to
16 remember, as you are designing these rules and
17 implementing them, is go by scientific fact, not by
18 fear. We have heard a number of people make
19 statements here today of the alleged dangers of
20 livestock waste and talk of it as though it were a
21 nuclear waste or some other major hazard. The fact
22 is, that livestock waste is biodegradable and
23 presents very little danger to the human
24 population.

284

1 I think this is primarily the area I
2 wanted to cover. The -- the other areas have
3 pretty well been covered.

4 Thank you for the opportunity.

5 THE HEARING OFFICER: Thank you,
6 Mr. Reeder. Are there any questions for Mr. Reeder
7 at this time? Yes. Could you come up?

8 MR. KAUFMAN: Sam Kaufman, Jr.,
9 (phonetic spelling), Knox County. I just wanted to
10 ask Dr. Reeder. You didn't address the subject of
11 odor at all.

12 DR. REEDER: Okay. I think first of
13 all, that the producers in this area are doing a
14 much, much better job today than they did perhaps
15 20 years ago when the -- for instance, when you
16 were in business at the stockyards.

17 At that time, you might joke and make the
18 comment, well that smells like money. But people
19 don't joke that way anymore. We do everything we
20 can, I think, as an industry to either -- to
21 realize it in a way that produces minimum odor. A
22 great deal of it is injected underground when
23 possible.

24 MR. KAUFMAN: Well, only comment,

285

1 would you say -- say we are doing better? And it's
2 different than it was 20 years ago. But that
3 doesn't say that it's good.

4 DR. REEDER: I guess what I'm saying
5 is that today's producers are conscious of their
6 environmental responsibilities and are -- I have
7 seen over the 36 years I've been in this area a
8 tremendous change in the attitude towards the
9 handling of waste and concern for their neighbors
10 and so on.

11 MR. KAUFMAN: I don't agree with
12 your statement that I ever said that hog --
13 THE HEARING OFFICER: That's okay.
14 Just make sure --
15 DR. REEDER: I didn't mean you.
16 MR. KAUFMAN: I don't want to
17 answer. I never made a statement on a radio that
18 said hog manure is money. And that was the
19 statement he made, and I never made that statement.
20 THE HEARING OFFICER: Okay. Okay.
21 DR. REEDER: I'm sorry, Sam. I
22 didn't mean -- I didn't intend to imply that you
23 had said that, but rather that at some time in the
24 years past, I heard somebody say it smelled like

286

1 money.
2 MR. KAUFMAN: Well, I'll accept your
3 apology.
4 DR. REEDER: That is no longer
5 existent among the --
6 MR. KUCK: I have a question.
7 THE HEARING OFFICER: Could you
8 please just come to the front, please.
9 MR. KUCK: My name I believe you
10 have. Joe Kuck.
11 Sir, you made a statement, livestock
12 waste is biodegradable. Correct?
13 DR. REEDER: Correct.

14 MS. KUCK: So is human waste
15 untreated, it produces everything. And
16 uncontrolled, we would have one awful mess. So
17 that is why we need pollution control and control
18 of these mass concentrated production of livestock
19 waste, because it can -- nature cannot take care of
20 it. They have to treat it properly.

21 THE HEARING OFFICER: Just make sure
22 that you are asking a question. I'm sorry. Just
23 make sure that you are asking a question.

24 MR. KUCK: I wanted to ask you why

287

1 if that's the case, if it's biodegradable, why
2 can't we dump human waste too?

3 DR. REEDER: First of all, we are
4 here to discuss regulations that are being put in
5 place to regulate livestock waste.

6 But secondly, the reason for the
7 different standards between livestock waste and
8 human waste is most of the livestock pathogens
9 bacteria flora are host specific and do not affect
10 humans. There are a few exceptions, but most of
11 them, that is the case.

12 THE HEARING OFFICER: Thank you.
13 Yes. In the blue sweater. Would you come up.

14 MR. ROBINSON: Bill Robinson, Knox
15 County.

16 One of the previous presenters suggested

17 that swine influenza was -- could be a causative
18 agent to -- I forgot what it was.

19 DR. REEDER: They were alluding to
20 infection through --

21 MR. ROBINSON: That my children
22 could catch something in the way of influenza.
23 Could you address that?

24 DR. REEDER: That, to the best of my

288

1 knowledge, is totally incorrect. The variety of
2 swine -- or the variety of -- variety of human
3 influenzas is not closely related to the virus from
4 which the swine influenzas virus was derived. So
5 they are not transferrable between. And to my
6 knowledge, present no health hazard to humans.

7 MR. ROBINSON: My childrens' mother
8 will rest more easy.

9 THE HEARING OFFICER: Thank you.
10 Last question then.

11 MS. HUDSON: My question is: Are
12 you aware of the so-called phantom dinoflagellate,
13 a one-celled organism, stimulated by nutrient
14 over-enrichment of public waters, and what they are
15 faced in North Carolina with?

16 Are you aware of what they are doing
17 about that?

18 Do you know that?

19 And are you aware that many of the

20 scientists that have been exposed to this have had
21 quite a lot of illness?

22 DR. REEDER: I'm not aware of
23 specifically of what you are speaking of. I did
24 see a survey of the waters of North Carolina and

289

1 their surface waters, and basically they have
2 improved over the period of time that the hog
3 numbers have increased.

4 Now, there is also data there, and it
5 would -- it would be applicable to this area as
6 well that shows that the shallow wells are likely
7 to be contaminated, both with Chlorobium organisms
8 and this -- the girardia they are speaking of.

9 It has been true from at least 36 years
10 ago, and I assume farther back than that, that the
11 deeper drilled wells that most of us have are not
12 likely to be polluted, but the shallow wells are
13 subject to contaminants from any source, whether it
14 be wildlife or human or our domestic livestock.

15 THE HEARING OFFICER: Thank you,
16 Mr. Reeder. Okay. Thank you.

17 Now we will go to the testimony of Mark
18 Beorkrem.

19 MR. BEORKREM: Thank you for being
20 allowed to speak today.

21 I am speaking on behalf of the Illinois
22 Chapter of the Sierra Club. We had submitted

23 written comments before the deadline that will
24 enhance and extend my comments.

290

1 I would give some background. Formerly
2 executive director of the Quad City Conservation
3 Alliance, which is a large Iowa and Illinois
4 conservation organization. Coalition of groups. I
5 served in that capacity for a number of years. I
6 also have served in various capacities and as a
7 consultant to the National and Iowa and Illinois
8 Wildlife Federations and the -- to the Mississippi
9 River Basin Alliance.

10 And most recently in the last year, I
11 served on the Lieutenant Governor's Illinois River
12 Planning Committee, which has just produced a
13 strategy for improving the Illinois river watershed
14 areas.

15 And my comments that will be submitted
16 for the Sierra Club will address some of the
17 concerns from that group that might be affected by
18 the implementation of the livestock rules.

19 I'll try not to duplicate some of the
20 concerns that have been expressed by others in the
21 meeting throughout the day in the interest of
22 time. But there are some specific things that I
23 think the Sierra Club would like to address. And
24 we have addressed this issue before, in that we

1 were one of the first organizations to present the
2 factory farming issue to the U.S. Department of
3 Agriculture in meetings with the Department heads
4 back in the early '90s. So we are not new to this
5 issue. And nor have we neglected it.

6 One of the things that we would like to
7 reiterate is the Department of Natural Resources'
8 proposals for increasing protection of the Illinois
9 parks and recreations areas. As they have
10 submitted to you in testimony, the parks and
11 recreations areas in the state of Illinois
12 represent critical conditions for the quality of
13 life of our residents, whether they are farm or
14 non-farm throughout the state.

15 And in the siting of facilities that have
16 been proposed in the regulations it can have a
17 significant impact on how people view those
18 facilities in which we have billions of dollars of
19 investment. And those facilities also represent
20 billions of tourist dollars that come into the
21 state every year.

22 A failure to protect those facilities
23 from the impact, whether it be odor or actual
24 pollution into those facilities, could have

1 long-term impact on the success of those

2 facilities. If the tourists or state residents go
3 to a facility and do not have a good time at that
4 facility, for whatever reason, and if it gets
5 traced to problems with odor or pollution from a
6 mega livestock facility, that impact is going to be
7 permanent probably, and that facility will suffer
8 as a result, as well as the surrounding
9 countryside. And it will impact negatively on the
10 agricultural community.

11 Secondly, one of the concerns from my
12 background in working with watershed management and
13 river issues is the most recent 1993 flood
14 occurrences we had in the state of Illinois and
15 through the Midwest. We had multiple weeks of
16 occurrences of heavy rainfall, much like California
17 is incurring right now.

18 We not only had specific 24-hour rainfall
19 events that exceed the six-inch rainfall
20 regulations that are listed in the regulations that
21 are proposed, but we also had weeks of rainfall
22 that saturated the soils and saturated dikes and
23 levies.

24 One of our concerns is that these rules

1 do not go far enough in allowing for adequate
2 freeboard to handle the volume of water that may
3 fall. May not be a large event, but may be a very
4 isolated event that occurs on the top of a lagoon

5 facility and lead to either catastrophic failure of
6 the facility or the overflow of the facility. And
7 I think a six-inch rainfall event, while it's
8 listed in the regulations as being one that covers
9 a 1-in-25-year event, I think we have seen since
10 the mid '60s that rainfall amounts exceeding six
11 inches in a 24-hour period have been increasing
12 throughout the Midwest.

13 And I will try to find evidence that I
14 know exists out there from the Weather Bureau that
15 indicates that we are on a trend, an increasing
16 trend, within the Midwest for such occurrences.

17 The other thing that I think is very
18 important to consider in looking at a catastrophic
19 event. And in your responsibility as the Pollution
20 Control Board in protecting the citizens in the
21 event of such events, there is no provision for
22 emergency inspections following such events within
23 the rules proposed by the Department of Agriculture
24 under their request to be the enforcer of these

294

1 regulations.

2 And I think that the Pollution Control
3 Board should not abrogate its responsibility to get
4 involved should we see a duplication of the 1993
5 rainfall events. I think that we saw at that time
6 an exhaustion of state, local and federal resources
7 to deal with the problems that we had at that

8 time. And I shutter to think of the consequences
9 if we have 10 or 15 or 20 mega hog facilities or
10 mega livestock facilities throughout the state and
11 have the '93 events occurring, dumping 20 to 25
12 inches of rain in a six-week period on such
13 facilities.

14 Where is that waste going to go?

15 And do the operators have the financial
16 resources to do emergency drawdowns at their
17 facilities and the ability to dispose of such waste
18 during such events?

19 Are we going to be required from the
20 citizens' standpoint and the state's standpoint to
21 move in with the National Guard and hire
22 contractors to go in and assist these operators?

23 Do we have a plan?

24 These are -- they are unusual events, but

295

1 they are not events that will never occur again.
2 They will occur again. We know that in the
3 planning we are doing now for the watersheds, both
4 at the federal and state level. And I think that
5 the Pollution Control Board has to build that into
6 its planning.

7 We also have concerns that the Department
8 of Agriculture is asking to be the regulator on the
9 inspections and development of such facilities. We
10 have problems right now within the federal

11 government where the NRCS has been charged with the
12 enforcement of wetlands regulations at the same
13 time when they were supposed to be working with the
14 producer in trying to -- to improve production,
15 prevent being both regulator and protector of the
16 industry. And Department of Agriculture is setting
17 itself up for failure by asking to be the enforcer
18 of livestock lagoon regulations at the same time
19 when the Department is established and charged with
20 the responsibility of increasing and aiding
21 production within the state of Illinois.

22 Certainly the Department needs to be
23 involved in assisting the -- the development of
24 rules and regulations that will help protect the

296

1 industry that is vital to the state of Illinois.
2 But at the same time, to expect the Department --
3 that Department that is charged with promoting to
4 also then be the enforcer and expect them to be
5 able to fully implement and provide the funds for
6 enforcement of these rules which you are charged
7 with developing, we have great concerns that that
8 could actually occur.

9 I also would echo the gentleman's
10 comments earlier about inspections. There is no
11 provision right now within the state for monies.
12 That's going to be a legislative issue, but we need
13 ongoing inspections of these facilities. And we

14 have concerns that the Department of Agriculture
15 will not be the one to fulfill that one
16 adequately.

17 The Department of Agriculture also
18 addresses the conditions concerning financial
19 failure of operators of such facilities. And
20 Mr. Boruff in his comments made the comment that
21 failure is an unlikely occurrence with these types
22 of facilities. They don't have any evidence of
23 this having occurred in the past.

24 Well, unfortunately, we have a lot of

297

1 farming operations and a lot of other business
2 operations that have been failing. It's a regular
3 occurrence in the business environment. And to
4 comment that it's unlikely that such a failure
5 could occur and these facilities are not going to
6 pass into the hands of county or state government,
7 I think is minimizing what could occur. An
8 operator of such a facility, if they do financially
9 fail, if a bank or system or such entity receives
10 the property, they are going to be strongly tempted
11 to not pay the taxes and let it pass on to the
12 county.

13 And I'm also not certain as to what the
14 federal laws are since we have pushed through the
15 federal level limitations on the financial
16 liability of financial institutions as regarding

17 the pollution on specific manufacturing sites. I'm
18 not sure how those limitations protect the
19 financial institutions from liability in the case
20 of sewage lagoons -- or waste lagoons for farms.

21 So I think that that needs to be
22 investigated by the Pollution Control Board and see
23 if that might have an impact on the financial
24 responsibility of property owners. Voluntarily.

298

1 Another concern. I've had some
2 experience with siting of landfills in the state of
3 Iowa in trying to find adequate sites for
4 landfills. And I think that I have some concerns
5 with having one site boring being the requirement
6 unless aquifer evidence is near -- which is
7 nearby.

8 If we are talking several acres waste
9 lagoons, it's very possible that because we have an
10 inadequate history on a lot of these properties
11 that one site boring on a two-to-four-acre sewage
12 or waste lagoon, might not provide the sufficient
13 evidence for development of an adequately built
14 lagoon. And I think that perhaps the Pollution
15 Control Board should look closer at its landfill
16 siting rules and landfill construction rules and
17 maybe draw upon that as guidelines for development
18 of waste lagoons.

19 And then finally, this particularly

20 addresses the concerns of the Illinois River
21 Watershed Management Plan that we have just
22 completed. Throughout the state of Illinois, we
23 have extensive use of drainage tile. And we see
24 now an impact on all the streams and waters of

299

1 Illinois nutrients and agricultural chemicals
2 moving rapidly into our watersheds from farm fields
3 because of the installation of drainage tile, which
4 allow for the adequate farming of the land.

5 And if we have operators that begin to
6 start using the waste products from mega facilities
7 concentrated into a few farm fields in and around
8 the facility, I think it's pretty likely that we
9 are going to see an increase in nutrient loading
10 into our watersheds because of the existence of the
11 drainage tile and runoff characteristics of much of
12 Illinois river basin.

13 So I think that that needs to be taken
14 into consideration. It's going to have -- these
15 rules are going to have a major impact long-term
16 on -- on what we are going to be able to do with
17 improving the Illinois river watershed, as well as
18 other watersheds throughout the state. And to
19 shortchange the industry now and not provide them
20 with good stable long-term rules will cause them
21 problems and increased costs.

22 We need to take the time now to make sure

23 that we're providing rules and regulations that not
24 only take care of the producer but also take care

300

1 of the rest of the citizens of Illinois.

2 Thank you.

3 THE HEARING OFFICER: Thank you.

4 Are there any questions for Mr. Beorkrem? Yes.

5 Mr. St John.

6 DR. ST JOHN: Can I ask a question

7 of another presenter?

8 THE HEARING OFFICER: First any

9 questions for Mr. Beorkrem? Okay.

10 DR. ST JOHN: Bruce St John. I'm
11 sorry, sir. The veterinarian, I didn't catch your
12 name.

13 MR. REEDER: Don Reeder.

14 DR. ST JOHN: Don, if I understood
15 your comments in terms of public health, you don't
16 see large-scale livestock production facilities as
17 posing any particular public health problems. Is
18 that correct?

19 DR. REEDER: I would say they would
20 be minimal.

21 DR. ST JOHN: I want to draw your
22 attention to the bibliography mentioned earlier.
23 The last Section is entitled, Worker Health. It
24 has 13 different articles in it. Just to give you

1 a sample, Kelly Donham, Physical Health
2 Consequences of Intensive Swine Confinement
3 Production on Workers. Second article by
4 Dr. Donham, Respiratory Disease Hazards to Workers
5 in Livestock and Poultry Confinement Structures.
6 Article by Susanna Essen of North Carolina, Health
7 Effects of Work in Swine Confinement Facilities.
8 And article by Ms. Thorsbury in the proceedings
9 from the Interdisciplinary Scientific Workshop that
10 we talked about earlier held in Des Moines, Iowa in
11 June of 1995.

12 So there is a growing body of literature
13 throughout scientific literature which suggests
14 that workers who work in large-scale swine or
15 large-scale livestock production facilities, in
16 fact, are subjected to some very serious health
17 risks.

18 Are you suggesting you're rejecting this
19 particular literature in the scientific body of
20 information, or are you saying you haven't been
21 aware of it and haven't read it?

22 DR. REEDER: What I was referring to
23 was the waste management on the facilities rather
24 than the health of the workers themselves. I'm

1 familiar with part of what you've alluded to here.

2 Some of that is a bit exaggerated, but it has been
3 printed.

4 Also I think you'll find that the primary
5 concern there has been a matter of dust, which
6 in -- in a good facility you can do a reasonable
7 job of controlling.

8 And certainly, such hazards as smoking
9 and the like are much, much more severe than what
10 this is. Perhaps they're additive. But if it's a
11 terrible hazard, after spending a lifetime with
12 livestock and in livestock facilities, I should be
13 dead, as well as a number of other people out
14 here.

15 THE HEARING OFFICER: Thank you,
16 Mr. Reeder. We are going to have to go on to the
17 next panel now. Okay.

18 MR. BEORKREM: One final comment
19 related to the testimony of the Sierra Club
20 regarding public health issues. We saw in
21 Milwaukee several years ago an outbreak of
22 Cryptosporidium infestation that was traced to
23 livestock operations north of Milwaukee. And I
24 think that the fact that we lack testing

303

1 regulations for Cryptosporidium in our drinking
2 water within the state of Illinois, and indeed
3 within the nation, is an area of concern that needs
4 to be addressed by the Pollution Control Board.

5 THE HEARING OFFICER: Thank you.

6 And thank you to all of the witnesses today.

7 Donna Buss. Steve Hobson. Dana Walker.

8 Dana Walker here?

9 MR. WALKER: Yes.

10 THE HEARING OFFICER: Judith Race

11 still here? Has she left? Okay. I have her

12 testimony as public comment. Mike Hennenfent.

13 Thank you. And William Emmett.

14 Please swear the witnesses.

15 (Wherein the three witnesses were

16 sworn by the court reporter, all saying I do, and

17 testified as follows:)

18 THE HEARING OFFICER: Thank you.

19 Could you -- and please just introduce yourself

20 before you begin.

21 MR. HOBSON: Yeah. My name is Steve

22 Hobson. I want to thank you for the opportunity to

23 speak to you today.

24 I'm a professional agricultural engineer

304

1 in Illinois and have worked in the engineering

2 field for nearly ten years where I've designed and

3 planned many animal waste systems. I have two BS

4 degrees. One is in agricultural engineering and

5 the other in agricultural sciences. Both from the

6 University of Illinois in Champaign-Urbana.

7 I am here today as a concerned citizen, a

8 member of the Illinois Stewardship Alliance, and to
9 represent my parents' concerns.

10 I grew up on my family's grain, hog and
11 family vacation farm in rural Green County,
12 Illinois. We have been there for seven
13 generations, since 1818. We have facilities there
14 that -- where we can take up to eight families at a
15 time horseback riding and et cetera.

16 In rural Green County, Illinois north of
17 the town of Eldred near a recently constructed
18 factory hog farm, our vacation business started in
19 1962. And I estimate that between 50,000 and
20 100,000 people have visited there.

21 My purpose in testifying before you to is
22 to comment about two main topics, waste management
23 and odor control.

24 The Section 506.301, purpose, the

305

1 alliance recommends that the most limiting nutrient
2 of nitrogen, phosphorus and potassium, referred to
3 as pot ash, be used. The most limiting nutrient in
4 most cases is phosphorus. The USDA, NRCS uses the
5 phosphorus rate in designing waste management
6 plans. Also the Minnesota Cooperative Extension
7 Service has written a computer program to prepare
8 waste management plans, and it uses the agronomic
9 phosphorus requirement of the crop grown.

10 The Illinois EPA in Title 35, Subtitle E,

11 Section 560.201, nutrient loading recognizes,
12 quote, in order to make the best use of phosphorus
13 resources, it may be advisable to apply waste at
14 the agronomic phosphorus rate, unquote. If applied
15 at nitrogen rates, long-term buildup of phosphorus
16 will occur.

17 I wish to provide methodology here for
18 determining phosphorus rate. Generally, a
19 livestock management plan involves balancing the
20 livestock-produced nutrients, waste, with agronomic
21 nutrient uptake of the crop accounting for storage,
22 handling, application and mineralizations losses.
23 Nutrient book values or actual tested values can be
24 used.

306

1 I have included two examples to show a
2 comparable amount of acres needed to balance
3 nitrogen and P205 crop maintenance needs for a
4 holding pond and anaerobic lagoon.

5 I would now will be to direct your
6 attention towards some testimony submitted by
7 Dr. Dennis Schulte, Ph.D., P.E., professor of
8 agricultural engineering at the University of
9 Nebraska in Lincoln.

10 In his oral testimony to the Missouri
11 Clean Water Commission, 31st August, 1994, states,
12 quote, historically pollution from livestock
13 production enterprises; that is, ground and surface

14 water pollution and air pollution, has not been a
15 serious problem when their scale is small and sites
16 are scattered. However, as demonstrated in the
17 Netherlands, where the average size of cattle and
18 hog and poultry facilities is still very small
19 compared to U.S. standards, serious pollution
20 problems can grow from livestock enterprises.
21 Their groundwater contamination by nitrates, algal
22 blooms prompted by elevated phosphorus levels in
23 canals, streams and lakes and acid rain caused by
24 high ammonia levels are all caused by the livestock

307

1 industry.

2 One telling result is that the
3 Netherlands' today has over one million acres of
4 land that is phosphorus saturated. The Dutch
5 government is imposing strict limitations on the
6 amount of manure that can be applied to soils based
7 on the phosphorus uptake rate of the crop as
8 opposed to the nitrogen uptake rate approach
9 commonly used in this country.

10 Nitrate movement to groundwater and
11 surface water contamination by N and P being
12 restricted by complete ban on manure spreading
13 during non-cropping times of the year and
14 restrictions of the amount of manure that may be
15 spread by using phosphorus as a limiting nutrient.
16 The situation in the Netherlands is strikingly

17 similar to that in some counties in the U.S.,
18 unquote.

19 Dr. Schulte further stated, quote, the
20 problem with leakage from animal waste lagoons and
21 storage basins has resulted in them being
22 completely banned in countries such as the
23 Netherlands. When earthen basins are used in the
24 Netherlands, they must include a geosynthetic

308

1 liner, all around, in addition to a compacted
2 liner. The geosynthetic liner extends to the top
3 of the basin and covers the liquid surface to
4 reduce odors and emission of ammonia.

5 Section 506.311, subsection A, subsection
6 1, approval of waste management plans. It is
7 recommended to replace nitrogen with phosphorus to
8 read, livestock waste application rate of
9 phosphorus not to exceed the crop of phosphorus
10 requirements for optimum yield.

11 Section 25 of the Livestock Management
12 Facilities Act manure and field application in
13 reference to practicing odor controls. But what
14 about during storage of manure not mentioned here?

15 I wish to point out several methods of
16 odor control that can be used today. Submit into
17 testimony here an article in 12 steps to reduce
18 lagoon odor by Dan Meyer, P.E., Ph.D. And there is
19 also a methane recovery program headed by the

20 USEPA. Purpose is to use methane digesters to
21 produce on-farm energy and reduce odors. The Board
22 should consider setting air quality standards
23 similar to that, similar to the Minnesota Pollution
24 Control Agency that specifies hydrogen sulfide

309

1 intensity and duration limits. I think those
2 numbers are at 50 parts per billion. I think some
3 others are submitting the testimony to that.

4 There needs to be quick and easy methods
5 of enforcement of rules in order to work well. In
6 the rules adoption process, there needs to -- there
7 needs to be a balance of economic harm and economic
8 benefit. In R97-15, on page is 11, under 4,
9 technical feasibility and economical
10 reasonableness, the estimated cost for a 1,000
11 animal unit lagoon at a site classified as highly
12 vulnerable is proposed to range up to 48,000
13 initial capital costs.

14 IEPA Section 502.104 defines large
15 operators as 300 plus animal units, and 502.103
16 defines large -- very large operators as 1,000
17 animal units. If new hog buildings cost around the
18 \$15 per square foot and hog density about 100
19 square feet per one animal unit, you arrive at a
20 building cost of 1.5 million dollars for housing
21 1,000 animal units.

22 The comparable lagoon costs 48,000, is in

23 the range of 3 to 5 percent of the building costs.

24 On page 11 of R97-14, the joint comment

310

1 by the Illinois Farm Bureau, Pork Producers and the
2 Illinois Beef Association indicates that if the
3 waste lagoon is not self-sealing, then a synthetic
4 liner or clay liner may be required to protect the
5 groundwater, gives the false impression that manure
6 in itself can seal a lagoon to acceptable levels.

7 Dr. Dennis Schulte, Ph.D., P.E., states,
8 quote, there are also research results, which
9 verify so-called self-sealing phenomenon in unlined
10 lagoons, but these studies generally were
11 short-term, did not include the effect of typical
12 operation and management practices such as periodic
13 pump down of the basins, unquote.

14 In summary, I believe I've raised some
15 important issues to the Illinois Pollution Control
16 Board. If all the concerns cannot be addressed in
17 the livestock waste -- or Livestock Management
18 Facilities Act, then that shows cause for trailer
19 legislation to address remaining issues.

20 Whatever form the final rules take, they
21 must protect my family's farm-vacation business
22 from being ruined or adversely economically
23 impacted by the air quality, odors, surface water
24 quality and polluting the aquifer where we get our

1 drinking water.

2 The current Livestock Management
3 Facilities Act does not guarantee that for me. I
4 must stand fast until that guarantee is in place.
5 Thank you.

6 In addition, I would like to submit into
7 as exhibits the items included in this booklet.

8 THE HEARING OFFICER: Okay. Could
9 you bring those over here? Take the whole folder
10 then?

11 MR. HOBSON: Yeah.

12 THE HEARING OFFICER: We will mark
13 as Exhibit No. 40 Mr. Hobson's blue binder. That
14 includes his oral testimony, as well as pictures
15 from Bluff Dale Vacation Farm, and brochures, the
16 Illinois Agronomy Handbook, the National
17 Engineering Handbook, Agricultural Waste Management
18 Field Handbook, and other documents.

19 Now take a five-minute break.

20 (Recess taken at 5:05 p.m.)

21 THE HEARING OFFICER: Okay. Then
22 back on the record. Are there any questions for
23 Mr. Hobson? Yes. Mr. St John.

24 MR. ST. JOHN: Mr. Hobson, there has

1 been some discussion among our group just sitting

2 back there. We thought that lagoons were
3 impermeable, but if that's not the case, is there
4 allowable leakage?

5 MR. HOBSON: In some of the -- like
6 the technical notes, 716, that the USDA, NRCS has
7 put out, it recommended a final construction
8 permeability of ten -- or one times ten to the
9 minus seventh when you include the manure in
10 with -- in with that.

11 MR. ST JOHN: So every lagoon is
12 going to leak some.

13 MR. HOBSON: If you go through the
14 math, I think that's a 10th of the foot per year of
15 distance traveled.

16 MR. ST. JOHN: And my other
17 question, as a farmer, if I would choose to put in
18 a lagoon, and I want to be environmentally safe and
19 conscious, how are you -- how am I going to know if
20 my lagoon leak is at a satisfactory level, or
21 leaking greater?

22 Is there anything under the law, the
23 Livestock Management Facilities Act, that is going
24 to allow me to find that out somehow?

313

1 MR. HOBSON: Other than the
2 permeability rate, there is no specific tests that
3 are required. But you can take soil tests and
4 permeability tests to prove that is the

5 permeability rate of your final constructed lagoon.

6 MR. ST JOHN: Are -- monitoring
7 wells, would they be something that would tell me
8 whether my lagoon is leaking at a rate that is much
9 higher than it should be leaking?

10 MR. HOBSON: Yeah. If -- I think
11 there is several different types of bacteria and so
12 forth that are common or specific just to hog
13 manure. That if you detected those, you could
14 specifically prove that leakage has occurred.

15 MR. ST JOHN: To your knowledge,
16 then, is there anything in the Livestock Waste
17 Management Facilities Act, as it stands right now,
18 that would allow a producer to know whether his
19 lagoon is leaking or not?

20 MR. HOBSON: Not that I know of.

21 MR. ST JOHN: Okay. Thanks.

22 THE HEARING OFFICER: Thank you,
23 Mr. Hobson. Okay. Then we will go on with the
24 next witness. Mr. Walker.

314

1 MR. WALKER: Okay. For those of you
2 who are left, please let me know if my voice gets
3 too shrill.

4 I am Dana Walker of Macomb. I grew up on
5 a family farm east and south of Carthage, about a
6 half a mile from the site of a pig factory now
7 under construction. And I have a fair amount of

8 experience in the planning and design of livestock
9 waste management systems.

10 Let's not kid ourselves. These
11 facilities are much more like factories than family
12 farms, and they should be regulated as such. Let's
13 make a distinction and draw the line at 300 or 400
14 animal units. That's roughly equal in waste
15 production to a small city of 3,000 or 4,000
16 people.

17 Do you know of any Illinois town of this
18 size without an EPA-regulated sewage treatment
19 facility?

20 Any medical doctor will tell you that
21 hogs and people have a great deal in common
22 physically. Some would say the similarities extend
23 beyond physiology, but let's restrict the subject
24 to pollution control and environmental health.

315

1 Hog manure is a threat to human health,
2 as well as fish and other wildlife.

3 Lagoons should not be constructed on
4 sandy, glacial outwash. The risks for leaks and
5 groundwater contamination are unacceptable, even
6 when the lagoon is lined with clay. While a
7 properly constructed lagoon may not leak, the
8 economics for the additional clay and monitoring
9 wells are not good. There are probably better
10 places to build these systems.

11 Monitoring wells can detect
12 contamination, but what do they do to prevent
13 contamination? A leachate collection system around
14 a lagoon could prevent pollution of our
15 groundwater, and should be required wherever the
16 soil borings indicate a significant risk of
17 conductivity.

18 A better idea, however, is to restrict
19 siting to areas with favorable soils.

20 Another concern is the application of the
21 waste to the land. If it is not injected,
22 restrictions according to land slope should be
23 applied, as well as setbacks from waterways and any
24 nearby streams.

316

1 Don't get me wrong. I eat pork, and I
2 realize that pork production is changing. And
3 change can be good. The current rules and the
4 existing law, however, are not adequate to protect
5 our precious health and environment.

6 Thank you very much.

7 THE HEARING OFFICER: Thank you,
8 Mr. Walker. Are there any questions for
9 Mr. Walker? Okay. Thank you. Seeing none, we
10 will go to our final witness, Mr. Mike Hennenfent.

11 MR. HENNENFENT: Yes. I'm Mike
12 Hennenfent. I live east of Knoxville. Born and
13 raised on a livestock farm in Knox County. We are

14 the operator of a farrow-to-finish sow operation of
15 approximately 160 sows. We have a beef cow herd,
16 and we have approximately 1500 acres of corn and
17 soybeans. So that's a little bit of background of
18 a what I consider a family farm.

19 My wife and I started a family farm when
20 we were married in 1966. We raised two -- three
21 children, I'm sorry, on our farm. And we have two
22 sons. Bill graduated from the University of
23 Illinois, and has returned to the home to join the
24 family farm. Our youngest son, Matthew, is a

317

1 junior at Illinois, and he also plans to return
2 home to our family farm. So we look toward the
3 future with excitement.

4 Swine has always been in my lifeblood, in
5 that my father was a swine producer and my brothers
6 are swine producers.

7 What is the future? We have no idea.
8 But as our operation has grown and expanded from
9 strictly a field operation and finishing our hogs
10 in lots to a totally confined operation, with
11 confinement for farrowing or nursery grower,
12 finisher, the project started in 1973, and it was
13 completed in 1989. Many of our original buildings
14 are to that stage that we either have to remodel or
15 dismantle.

16 Those decisions are going to be more than

17 the decisions of my sons than of mine. I represent
18 my operation. I don't represent all the pork
19 producers of Knox County or of Illinois. But I
20 feel that many of them and most of them are not
21 opposed to implementation of the Livestock Waste
22 Management Plan.

23 We want to be good stewards of the soil
24 and of the environmental waste. And as we run our

318

1 operations, we soil test using the GPS method on
2 two-and-a-half acre grids, so that we know what our
3 requirement needs are.

4 We have analyzed our effluents, and our
5 rate of application is approximately 3,000 gallons
6 of the effluent to the acre from our slurry store.
7 This equivocates to approximately a tenth of an
8 inch if it was all rain and in the liquid form. So
9 we are not putting on such vast amounts that it's
10 running off the sloping, because the residue from
11 our no-till corn and soybeans absorbs most of all
12 this effluent that's applied.

13 And so it's not our desire to apply it in
14 astronomical amounts so that it does run off the --
15 even the minute slopes. We want it to stay where
16 we placed it, so it is there for the uptake in our
17 crop production.

18 So I guess as a farmer, we are not
19 opposed to the implementation of the rules. We

20 appreciate that they are not so regulatory that
21 they prevent family farms like ours from -- from
22 growing to allow our sons to join our operations,
23 whether we double or triple or become part of a
24 co-op where we have larger numbers and specialize

319

1 in just farrowing or just nursery or just
2 finishing.

3 Economics has to -- to give us some
4 directions. And that will be determined a great
5 deal by the regulations that we have to meet. And
6 just because they're mega units and they are big
7 companies and they can pay the bill, that attitude
8 doesn't necessarily work for the family farm that's
9 raising their family and living in the same
10 environment.

11 We want to live in a safe environment
12 just as everyone else.

13 Thank you for the opportunity to share my
14 feelings. And I'm the last one. Thank you.

15 THE HEARING OFFICER: Thank you,
16 Mr. Hennenfent.

17 MR. FLEMAL: I do have a question.
18 Have you had an opportunity to examine in any
19 detail the actual proposal that the Board is
20 looking at now, what the Department of Ag has
21 recommended that we adopt?

22 MR. HENNENFENT: I personally have

23 not studied it.

24 MR. FLEMAL: You -- then my next

320

1 question would have been -- and let me ask it, then
2 if you say that you can't go any further on it,
3 that's fine.

4 What I'm curious about, at any rate, is
5 if these regulations were adopted as essentially
6 proposed or some modifications suggested to us
7 today, what would that require you to do
8 additionally that you don't do now?

9 Do you have a sense of that?

10 MR. HENNENFENT: It would cause us
11 to do, I think, somewhat more paperwork. Our
12 operation is small enough that we are not in the --
13 in the larger numbers. But if we expand to bring
14 our sons into the operation, we are going to fall
15 in that category. And that is my concern
16 currently. It wouldn't have that major an effect
17 next year. Two years, it might.

18 MR. FLEMAL: Do you operate an
19 earthen lagoon at the present time?

20 MR. HENNENFENT: No. We have a
21 slurry store that keeps it all contained within a
22 structure.

23 MR. FLEMAL: Sometime in the future,
24 conceivably with an expansion, that might become an

1 appropriate management tool for you?

2 MR. HENNENFENT: That very much
3 might be so.

4 MR. FLEMAL: When that happens, then
5 you would, if these rules are adopted, be required
6 to construct that lagoon in accordance with
7 whatever comes out of this regulation.

8 MR. HENENNFFENT: It would be
9 appropriate at that time, yes.

10 MR. FLEMAL: Similarly, another
11 provision of the rules before us is the requirement
12 that operators in various categories produce
13 livestock waste management plans.

14 And, again, I realize that maybe I'm
15 asking about things that you haven't had time to
16 reflect upon fully. But do you know if there --
17 there is things in that requirement that would go
18 beyond what you now as a steward of the your own
19 land do?

20 MR. HENENNFFENT: I couldn't say for
21 sure. I feel that most of the producers are
22 doing -- doing the right things now. But I
23 don't -- I can't answer.

24 MR. FLEMAL: Okay.

1 MS. TIPSORD: Marie Tipsord with the

2 Pollution Control Board. You mentioned applying
3 effluent onto no-till land, and we have had some
4 discussion at previous hearing about the
5 application of manure on land, and you are the
6 first person that's talked about doing it on
7 no-till.

8 My question is: Do you inject the
9 effluent or just apply it topographically?

10 MR. HENNENFENT: At this time of
11 year, we apply it topographically, or on the top.

12 If we were all out applying that waste
13 today, it sure wouldn't smell. And if we were to
14 be dumping tens of thousands of gallons per acre,
15 then you would have -- you'd have a massive amount
16 of effluent. But at 3,000 gallons to the acres,
17 that freezes, and there is little -- little odor.

18 And in my humble opinion, it's a much
19 better way of getting rid of it than knifing it
20 into the soil, and a week later, get a three-inch
21 rain, and just cut those trenches out and take all
22 that effluent and soil with it from putting it
23 in -- in trenches, as you incorporate it into the
24 soil with knifing -- with the knifing process. So

323

1 it makes it difficult to no-till.

2 We have to -- as we plant our corn, if we
3 knifed it in on soybean stubble going to corn, we
4 have to work the soil or use a soil finishing

5 device to level the ground in order that it's
6 acceptable for the planting of corn. So no tilling
7 and getting rid of manure doesn't really work that
8 well together if it's knifed in very deeply.

9 MS. TIPSORD: Thank you.

10 THE HEARING OFFICER: Thank you.

11 MR. KAUFMAN: I have a question.

12 THE HEARING OFFICER: Okay.

13 MR. KAUFMAN: Sam Kaufman, Jr., Knox
14 County again.

15 And Mike is my good neighbor. Mike and I
16 are good neighbors. I live down the road from
17 Mike, and I own the farm right across from Mike.
18 And Mike made a comment that there was not much
19 odor.

20 Now, we don't get much odor at our home.
21 But the home is -- the house is empty across from
22 the field where they spread the manure.

23 And in my opinion, Mike, there is an
24 odor. I don't think I could fix that house up and

324

1 rent it to the type of people that you and I would
2 want in the neighborhood because of that odor.
3 That is just -- and then the other --

4 THE HEARING OFFICER: But just
5 please make it a question.

6 MR. KAUFMAN: The question then,
7 Mike, is: You were talking about how you knife in

8 the manure and just putting on a little and it all
9 works well with your operations. But if you would
10 get bigger, you know, then you'd have to put on
11 more manure per acre.

12 Do you have the acres to do that with?
13 Am I clear? Didn't I understand you right when you
14 said that you knife in or spread on top manure, and
15 it's only 3,000 gallons per whatever.

16 MR. HENNENFENT: Correct.

17 MR. KAUFMAN: With your 160 sow
18 unit. But if you would expand naturally, you'd
19 have more manure.

20 How are you going to handle that extra
21 manure?

22 You just have to put it on deeper so that
23 it would run off in the rain or what?

24 MR. HENNENFENT: No. Putting more

325

1 gallons to the acre of effluent isn't the proper
2 method of use to get rid of it. I mean, it's
3 economically feasible to spread it on more acres at
4 the same amount, because we don't -- we can't get
5 our soil fertilitities out of balance of high levels
6 of phosphorus and not to a greater degree of pot
7 ash, because phosphorus is the main ingredient or
8 fertility product that gets out of balance.

9 So you -- you don't just put on more
10 gallons per acre to get rid of it. It's putting it

11 on more acre, same amount.

12 MR. KAUFMAN: Do you think the mega
13 hog farms that may be constructed in the state of
14 Illinois have the acres to dispose of all this
15 waste and not put it on too heavy?

16 MR. HENNENFENT: I would assume that
17 would be taken into their consideration when they
18 put one of these up, Sam. I don't know. I know we
19 have enough for ours. And some day, we would like
20 to farm your farm so we can put some of it on it
21 too.

22 MR. KAUFMAN: It wouldn't hurt it
23 any either.

24 MR. HENNENFENT: And we are good

326

1 neighbors.

2 THE HEARING OFFICER: That is
3 correct. Thank you.

4 MR. KAUFMAN: I'm not being
5 critical. Just trying to find out.

6 THE HEARING OFFICER: Thank you.
7 Are there any other questions? Yes. Could you
8 just come forward?

9 MR. SAWMAN: Wendell Sawman
10 (phonetic spelling). Mike, you talked about
11 bringing your sons back in. If they increase
12 setbacks, would that prohibit you from expanding
13 your operation and take away from the opportunity

14 to come back to the family farm.

15 MR. HENNENFENT: It very possibly
16 could. It depends on how much they increase the
17 setbacks and the determination of setbacks. If
18 it's -- if the setback starts at any corner of our
19 property, yes, it might be very difficult, because
20 our farmstead. And probably where we would site
21 one would be somewhere in one corner of it rather
22 than in the back 40 where it might be farther away
23 from anyone.

24 So how the siting wording is would have

327

1 some factor, where we site it on our particular
2 location. But I think that would be probably the
3 possible problem for every siting.

4 So I feel that it should be the siting --
5 the siting of a facility should be from the
6 facility itself, the center of that production
7 area, not the perimeter boundary line of the real
8 estate of the total farm.

9 'Cause you want these facilities to have
10 hundreds of acres to use the effluent on. And if
11 you make that that boundary line of the total
12 property as a quarter, of a half mile from that, or
13 whatever figure you want to use, that prohibits the
14 family farm, and our 320 acres, from even really
15 being considered, when you have that distance from
16 the far corner.

17 It has to be just where the -- where the
18 hog production unit is located to start your siting
19 process.

20 THE HEARING OFFICER: Thank you,
21 Mr. Hennenfent. Are there any further questions of
22 Mr. Hennenfent? Could you please come forward.
23 Could you just come forward? I don't think the
24 court reporter will be able to hear you.

328

1 MS. BAIRD: Nina Baird (phonetic
2 spelling), Knox County. In relation to what you
3 are talking about my house, Mike, how do you
4 feel -- I agree with what you are saying about the
5 land measurement, about the measurements. But how
6 do you feel about using another property owner's
7 land for part of the setback?

8 MR. HENNENFENT: Using another
9 property owner's --

10 MS. BAIRD: If you wanted to put it
11 in the corner of your farm and you wanted to use a
12 fourth mile of the other property owner's land as a
13 setback?

14 MR. HENNENFENT: I'm not following
15 your or --

16 MS. BAIRD: That's what's happening
17 to me, Mike. That's the reason for my question.

18 MR. HENNENFENT: They are using your
19 land as a quarter mile setback?

20 MS. BAIRD: That kind of put you on
21 the spot there. But what's fair is fair, you
22 know. If you'd like to move to a corner of your
23 land, I feel kind of bad the way I'm being set up,
24 too, and I think that both sides need to be taken

329

1 into account, you know.

2 THE HEARING OFFICER: Thank you.
3 Any further questions?

4 MR. KAUFMAN: Yes. I have another
5 question. I don't see if the setback -- and I
6 think this is a perfect time to explain this or
7 mention it, if I may. It has to do with setback
8 requirements.

9 THE HEARING OFFICER: Are you going
10 to give testimony or ask a question?

11 MR. KAUFMAN: I can ask a question
12 and make a comment later, if you want me to.

13 THE HEARING OFFICER: Yes.

14 MR. KAUFMAN: So the question -- so
15 the question.

16 THE HEARING OFFICER: Ask the
17 question. Then we will swear you in. Then could
18 you go ahead.

19 MR. KAUFMAN: I talked to you
20 earlier, and you said I could make a comment after
21 this was --

22 THE HEARING OFFICER: Right. But I

23 meant after they were done, and I'd swear you in,
24 and you'd make the comment. How about if I swear

330

1 you in now?

2 MR. KAUFMAN: That's fine.

3 (Wherein the witness was sworn in by
4 the court reporter, saying I do, and testified as
5 follows:)

6 MR. KAUFMAN: I was just going to
7 ask Mike. This setback requirement you are talking
8 about, is it the reason you want that is because it
9 fits your particular instance, or is it for the
10 good of the whole industry?

11 Why couldn't anybody put their hog
12 confinement in the middle of their farm if they
13 want it so bad?

14 Why do they have to infringe, you know,
15 on the neighbors?

16 MR. HENNENFENT: The -- our current
17 location is in the corner of our property. If we
18 were to build a new one, we would probably move
19 away from that area. We might locate it on another
20 corner. Or, you know, I guess my concern was that
21 if we -- if we have -- in our case, we have a half
22 mile by three-quarters, so it's a rectangle. If
23 our -- if our facility is in on one side of it, and
24 it's another three-quarters of a mile to the next

1 boundary line of ours, and there is a house just
2 across the fence, now that nonresident or
3 non-farmhouse resident is three-quarters of a mile
4 from our swine operation, and yet he qualifies. He
5 could qualify for being within that quarter of a
6 mile that currently is now, I believe, Sam.

7 MR. KAUFMAN: Quarter of a mile from
8 what?

9 MR. HENNENFENT: From -- for siting
10 the one -- a non-farm resident is a quarter of a
11 mile. Is that not correct?

12 MR. KAUFMAN: But you said I would
13 be three-quarters of a mile.

14 MR. HENNENFENT: But if they write
15 it for property, see it would be from our property
16 line, not from the siting of where the location of
17 the actual hog buildings were. That's what I say.
18 The siting should be where the hog buildings and/or
19 lagoon, rather than the entire property that it
20 sets on.

21 MR. KAUFMAN: Okay. And then the
22 comment that I'd like to make is this. Couple of
23 things, if I may, and it will be brief. It has to
24 do with the setback requirements. Why should there

1 be a difference in the setback requirement between

2 a family living on a farm near one of these
3 facilities -- and I'm talking a home that's been
4 built for quite a while -- and a family who lives
5 in town, which is, you know, a half a mile?

6 I mean, family is family, whether they
7 live on a farm or whether they live in town.

8 You know, is it a double standard or are
9 you discrim- -- not you, but is the rule
10 discriminating against a person who does live on a
11 farm?

12 Or what -- why would there be a double
13 standard?

14 And here is another question. And it
15 doesn't need to be on the record. I don't even
16 kind of want to say it. But it just does seem to
17 me like this whole project that we are going
18 through all over the state is to benefit a few
19 corporations and a few farmers at the, quote,
20 unquote, expense of everybody else. And maybe --
21 maybe I don't see it clearly. But it just appears
22 that way.

23 But I'm really more concerned about the
24 setback requirements, which I truly believe should

333

1 be the same for all people, whether they live on a
2 farm or whether they live in town.

3 I had one person tell me during the lunch
4 break that -- he said, well, that's why I moved to

5 town, so I wouldn't have to smell manure. And I
6 said, well, then you were forced to move to town,
7 so you wouldn't have to. That doesn't seem fair to
8 me.

9 I appreciate your time. And just
10 consider it. Thanks, Mike.

11 THE HEARING OFFICER: Thank you. Is
12 there anyone else in the audience that had not
13 signed up to testify that would like to give
14 testimony today? Okay. Seeing none,
15 Mr. Hennenfent, you may sit down.

16 MR. HENNENFENT: Thank you very
17 much. I would just like to remind everyone that if
18 you would like to attend the next hearing, it will
19 be held in Mt. Vernon on Friday at 9 o'clock.
20 There is a map in the back of the room, or you can
21 get the address from us. And the final hearing
22 which was rescheduled due to snow -- it was
23 originally scheduled a few weeks ago -- will be
24 held in Champaign on Friday, February 7th.

334

1 And, too, remember that the record does
2 close in this matter on February 14th. So if you
3 want to file any public comments for the Board to
4 consider, please make sure that they arrive at the
5 Board by February 14th. Yes.

6 WOMAN AUDIENCE MEMBER: Is that
7 postmarked the 14th?

8 THE HEARING OFFICER: No. The Board
9 has to receive it by the 14th, so the mailbox rule
10 does not apply.

11 MR. FLEMAL: Many hours ago, I
12 welcomed you and encouraged your participation.
13 It's been wonderful participation. We have had
14 wonderful, interesting perspectives, certainly
15 thoughtful perspectives today. I assure you that
16 the Board will take all of these into consideration
17 given the charge that we have got and the activity
18 that we are engaged in as mandated by the Illinois
19 General Assembly. Review all those comments in the
20 record.

21 I would like to say that everybody will
22 be pleased with what we come up with. I don't know
23 that I can appropriately say that. I hope you will
24 all be pleased, however, with the fact that the

335

1 Board will indeed deliberate clearly and closely
2 over what you have given us to think about. And
3 whatever the decision that is ultimately made on
4 these issues, we assure that it will be one that
5 has been made with a good deal of thought.

6 Thank you for helping us produce the kind
7 of information that hopefully will help us to make
8 that very best of well thought out decisions.

9 THE HEARING OFFICER: If you have
10 any other comments that you weren't able to say

11 that you wanted to talk to any of the agencies, I
12 know they're still representatives here from the
13 Department of Agriculture, Department of Natural
14 Resources, Illinois EPA, and Department of Public
15 Health. Majority of them are over there. If you
16 want to say anything to them, I'm sure they would
17 be happy to talk to you afterwards.

18 Another question?

19 WOMAN AUDIENCE MEMBER: Because I
20 wasn't in a position to get the address when you
21 gave it a while ago, I'd like to come up when you
22 have finished and get that address.

23 THE HEARING OFFICER: That's fine.

24 WOMAN AUDIENCE MEMBER: I just

336

1 wanted to know when the transcript will be
2 available now. Will we be able to get the
3 transcript from just this meeting or from all the
4 meetings?

5 THE HEARING OFFICER: You can get
6 the transcripts from all the meetings. But as they
7 become available. I believe --

8 THE REPORTER: I was told Monday.

9 MR. FLEMAL: We are on an expedited
10 request for all reporters. Work them hard here.
11 Work them hard later.

12 WOMAN AUDIENCE MEMBER: Sheet back
13 there?

14 THE HEARING OFFICER: Transcripts
15 are not sent to people on the service list or
16 notice list. But also if you can get on the
17 Internet, we do post them on our web page,
18 downloaded in their entirety for anybody who wants
19 it.

20 WOMAN AUDIENCE MEMBER: What if you
21 don't mess with a computer?

22 MR. KAUFMAN: \$150 for postage.

23 THE HEARING OFFICER: The site,
24 World Wide Web site, yes.

337

1 WOMAN AUDIENCE MEMBER: Said, what
2 is the site?

3 MR. FLEMAL: It's in the folder that
4 many of you have, and I guess it's another one of
5 those things that we ran out. If you are looking
6 for the web site, don't know what it is, there are
7 people still around who have that brochure. I
8 think I saved one copy myself.

9 THE HEARING OFFICER: And this
10 matter is now continued until the Mt. Vernon
11 hearing. Thank you.

12 (Proceedings concluded at 5:40 p.m.)

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20 this 2nd day of February, 1997.

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Victoria Fickel, Notary Public
In and For the County of Rock Island
State of Illinois
C.S.R. License No. 84-003220

24