

ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
)
 Complainant,)
)
 vs.) PCB 10-84
) (Enforcement -
) Water)
 PROFESSIONAL SWINE MANAGEMENT,)
 LLC, HILLTOP VIEW, LLC, WILDCAT)
 FARMS, LLC, HIGH-POWER PORK,)
 LLC, EAGLE POINT, LLC, LONE)
 HOLLOW, LLC, TIMBERLINE, LLC,)
 PRAIRIE STATE GILTS, LTD., and)
 LITTLE TIMBER, LLC, an Illinois)
 Corporation,)
)
 Respondents.)

TRANSCRIPT FROM THE PROCEEDINGS taken before
HEARING OFFICER CAROL WEBB by LISA HAHN PETERMAN,
CSR, RMR, a notary public within and for the County
of Macon and State of Illinois at the offices of the
Illinois Pollution Control Board, 1021 North Grand
Avenue East, Conference Room 1244, Springfield,
Illinois, on the 13th day of December, 2016, A.D., at
10:00 o'clock a.m.

1 A P P E A R A N C E S:

2 ILLINOIS POLLUTION CONTROL BOARD
1021 North Grand Avenue East
3 P.O. Box 19274
Springfield, Illinois 62794-9274
4 217/524-8509
BY: MS. CAROL WEBB, Hearing Officer

6 ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

7 MS. JENNIFER BURKE, ESQ.

8 OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS
9 ENVIRONMENTAL TRUST FUND DIVISION
500 South 2nd Street
10 Springfield, Illinois 62706
217-782-1090
11 BY: MS. JANE McBRIDE, ESQ.

12 Appeared on behalf of the Complainant;

13 HEPLERBROOM, LLC
3150 Roland Avenue
14 Springfield, Illinois 62705-5776
217/528-3674
15 BY: MR. EDWARD W. DWYER, ESQ.
MR. JOSHUA J. HOUSER, ESQ.

16
17 Appeared on behalf of the Respondents,
Hilltop View, Eagle Point, Timberline,
Little Timber, and Wildcat Farms;

18
19 BROWN, HAY & STEPHENS, LLP
205 South 5th Street, Suite 700
20 P.O. Box 2459
Springfield, Illinois 62705-2459
21 217/544-8491
BY: MS. CLAIRE A. MANNING, ESQ.

22
23 Appeared on behalf of the Respondents,
Prairie State Gilts, Lone Hollow, and
High-Power Pork;

24

1 A P P E A R A N C E S: (Continued)

2
3 PATTERSON & PRAHL, LLP
4 25043 Little Water Lane
5 P.O. Box 767
6 Custer, SD 57730-0767
7 605/673-5223
8 BY: MR. CHARLES T. PATTERSON, ESQ.

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Appeared on behalf of the Respondent,
Professional Swine Management.

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E X H I B I T S

MARKED ADMITTED

Public Hearing Exhibit No. 1.....	10	10
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1 HEARING OFFICER WEBB: Before we start
2 today, if everybody could please silence your phones,
3 I would appreciate that.

4 I suppose we can -- we're about two
5 minutes before 10:00, but I don't see any reason that
6 we can't get started.

7 Good morning. My name is Carol Webb.
8 I'm a hearing officer with the Pollution Control
9 Board. With me today is Board Member, Jennifer
10 Burke.

11 This is the Public Hearing on the
12 Proposed Settlement Agreement for PCB 10-84, People
13 of the State of Illinois versus Professional Swine
14 Management, LLC; Hilltop View, LLC; Wildcat Farms,
15 LLC; High-Power Pork, LLC; Eagle Point, LLC; Lone
16 Hollow, LLC; Timberline, LLC; Prairie State Gilts,
17 LTD., and Little Timber, LLC.

18 It is December 13th and we are beginning
19 at 10:00 a.m.

20 This hearing was noticed pursuant to the
21 Environmental Protection Act and the Board's Rules
22 and will conducted pursuant to Part 101, subpart (f)
23 and Part 103, subpart (c) of the Board's Procedural
24 Rules.

1 I'll note for the record that there are
2 about a dozen members of the public present today.

3 The purpose of this hearing is to take
4 public comment on the Proposed Stipulation and
5 Settlement Agreement. The Board will make the final
6 decision in this matter. My purpose is to conduct
7 the hearing in a neutral and orderly manner so that
8 we have a clear record of the proceedings.

9 The transcript of this hearing is due by
10 December 20th and will be posted on the Board's
11 website.

12 Written public comment will be accepted
13 until January 10th. Written comment may be sent by
14 mail or e-mail. Please direct any public comment to
15 the Clerk of the Board in our Chicago office. Also,
16 by January 10th, the parties may file Post Hearing
17 Responses, if they so choose.

18 We will begin with a summary of the
19 Proposed Settlements, and please allow the parties to
20 complete their presentation without interruption, and
21 then we will then take public comment.

22 Public comment may address the nature of
23 the alleged violation, the impact on the environment,
24 and any views on the Proposed Settlement Agreements.

1 At this time, I will ask the parties to
2 please make their appearances on the record.

3 MS. MCBRIDE: Jane McBride, Attorney
4 General's Office for the Complainant.

5 MR. HOUSER: Josh Houser, attorney for
6 Hilltop View, Eagle Point, Timberline, Little Timber,
7 and Wildcat Farms.

8 MR. DWYER: Ed Dwyer from HeplerBroom;
9 also counsel for Eagle Point, Hilltop, Wildcat,
10 Timberline and Little Timber.

11 MS. MANNING: Claire Manning from the law
12 firm of Brown, Hay & Stephens on behalf of Prairie
13 State Gilts, Lone Hollow, and High-Power Pork.

14 MR. PATTERSON: I'm Charles Patterson. I
15 go by Tom. I'm an attorney with the firm of
16 Patterson & Prahl, LLP, and I represent PSM.

17 HEARING OFFICER WEBB: Thank you.

18 Before we begin, would any parties like
19 to make opening remarks?

20 MS. MCBRIDE: Right. So the Complainant
21 will make a very brief statement at this time, if we
22 may.

23 On September 22, 2016, the Complainant
24 filed eight Stipulations and Proposals for Settlement

1 in this matter, representing settlement with each of
2 the eight subject facilities and Professional Swine
3 Management. Professional Swine Management is a party
4 to each stipulation.

5 Each settlement represents a negotiation
6 with the respective parties; the terms and conditions
7 of the stipulation, including Section 1(d),
8 compliance to date, as well as Sections 5(a) and (d).
9 Penalty payments and future compliance represent
10 resolution of the allegation of the violation.

11 Each facility has agreed to cease and
12 desist from future violation, has undertaken
13 compliance activities to address the alleged
14 violations.

15 Further, the stipulations require
16 additional actions to ensure future compliance. Each
17 stipulation also requires a payment of a civil
18 penalty.

19 All parties have executed the
20 stipulations, indicating agreement with the terms and
21 conditions of each respective stipulation.

22 The total penalty for this matter, that
23 is the sum and the amounts identified in the
24 individual stipulations, are added together is

1 \$116,500. And that's pretty much a summary of these
2 stipulations.

3 At this time I move to enter the eight
4 stipulations into the hearing record, as well as
5 Hearing Exhibit 1, and this exhibit is a hard copy of
6 the electronic filing. It's an electronic filing.
7 It's the Notice of Filing, the eight Stipulations and
8 Proposals for Settlement, and the Motion for Relief
9 from the Hearing Requirement, and it was filed by the
10 Complainant on September 22, 2016.

11 I'd also just like to note that given the
12 scope of this hearing as described by the Board's
13 Rules, which allows an opportunity for public
14 comment, the state will handle any questions directed
15 to the parties as follows: The state does not intend
16 to provide answers during the hearing but will
17 consider all questions and then respond to the extent
18 the state deems appropriate in post hearing comments.

19 HEARING OFFICER WEBB: Did you want to
20 introduce that as an exhibit?

21 MS. MCBRIDE: Right. So as I mentioned,
22 what I've got in my hand are the stipulations as
23 filed on September 22. I've got them marked as
24 Public Hearing Exhibit. I could put a 1 on it.

1 HEARING OFFICE WEBB: Sure.

2 MS. MCBRIDE: I don't know if we're going
3 to have more exhibits.

4 HEARING OFFICER WEBB: I don't think so.

5 MS. MCBRIDE: But I'll put a 1 on it and
6 we would like to enter it for the record.

7 HEARING OFFICER WEBB: Exhibit 1 is
8 admitted into the record. This is a copy of the
9 Proposed Settlement Agreement for each of the
10 Respondents.

11 (Public Hearing Exhibit Number 1 was
12 marked for identification and was
13 admitted into the record.)

14 Would any of the Respondents care to make
15 opening remarks?

16 MS. MANNING: Yes, Madam Hearing Officer.
17 Good morning, Madam Hearing Officer and
18 Board Member Burke.

19 I've been elected to just make a short
20 statement on behalf of the Respondents. We are here
21 this morning because we've entered into a
22 Stipulation, a Proposal for Settlement with the State
23 of Illinois, and particularly the Office of Attorney
24 General and the Illinois EPA.

1 As we have various Respondents here with
2 separate counsel, we will plan to address any
3 questions or public comments or statements that are
4 made here today as necessary when we file whatever
5 post hearing filing is required and directed by the
6 Board.

7 As the Board has recognized in its
8 decision, the Act to the Illinois Environmental
9 Protection Act which governs these proceedings,
10 encourages settlements.

11 In a case involving ADM,
12 Archer-Daniels-Midland, the 3rd District stated: The
13 public interest is better served by a procedure which
14 encourages Respondents to enter into settlement
15 discussions. By allowing the state and Respondents
16 to reason together, the result will conserve
17 resources, which would otherwise be expended in
18 litigation.

19 In a similar case involving Kmetko, the
20 5th District stated that the primary goal of the Act
21 is the enhancement of the environment and settlements
22 that do not contain a finding of violation but do yet
23 impose a penalty and a compliance plan may more
24 expeditiously facilitate this enhancement.

1 Here, after lengthy negotiations between
2 the parties -- that's the State of Illinois EPA,
3 eight farms on one side, and a professional
4 management company -- we are pleased that we were
5 able to reach agreement on all of the issues.

6 In each case, there were separate
7 incidents that were involved; each case for different
8 reasons, none of which were intentional and all of
9 which occurred several years ago. In fact, the
10 earliest incident that is the subject of these
11 stipulations occurred in the summer of 2004 and the
12 latest occurred in the spring of 2009.

13 In each of these cases, violations were
14 completely addressed to the satisfaction of the
15 state. The issues giving rise to the incidents were
16 corrected to the satisfaction of state, and no
17 incidents beyond those charged in the Complaint have
18 occurred.

19 In each of the cases, the farms have
20 achieved compliance with the Act and have agreed to
21 pay a civil penalty, ranging from \$18,000, being the
22 largest, to \$10,055, being the lowest, as explained
23 recently by Ms. McBride.

24 At each of these farms, prior to the

1 parties reaching agreement, the state insisted on a
2 final inspection at each farm, which were conducted,
3 we believe, for two purposes: First, to assure the
4 state that the farm was designed and operated in such
5 a way that there would be no discharge to a water of
6 the United States; and, secondly, for assuring that
7 the farms were in compliance with the Act and the new
8 federally driven state CAFO rules that became
9 applicable in the summer of 2014, in the middle of
10 these proceedings actually.

11 It was not until the state achieved these
12 assurances that these settlements were entered and
13 filed.

14 We appreciate the Board's attention today
15 and the public's interest in our settlement.

16 Thank you.

17 HEARING OFFICER WEBB: Thank you.

18 Ms. McBride, did you have any further
19 comments you wanted to make on the proposed
20 settlement agreement, or was that addressed in your
21 opening statement? Did you care to expound upon
22 anything?

23 MS. MCBRIDE: No, not at this time.

24 HEARING OFFICER WEBB: Okay.

1 We are now ready to hear from members of
2 the public.

3 The first person on the signup sheet is
4 Ms. Ramona Cook. Let me make sure the microphone is
5 on. If you don't mind stepping up to the podium
6 here, and please state your name for the court
7 reporter.

8 MS. COOK: Good morning. My name is
9 Ramona Cook. I live on a farm in McDonough County
10 within three miles of Hilltop View and Timberline hog
11 confinements.

12 We are corn and soybean farmers since the
13 1830s, I'm proud to say, in McDonough County, and in
14 Schuyler County as well. So I am vitally interested
15 in the farm industry and I appreciate the opportunity
16 to speak on behalf of the people of Illinois and how
17 the settlement will, I believe, affect them.

18 I have the following concerns and
19 questions. First of all, with regard to fines, the
20 fines, according to the agreement and the Pollution
21 Control Board regulations are intended to deter
22 future violations by the Respondents and also all
23 those similarly situated. That would mean that 2,000
24 or more hog farmers in the state of Illinois. I have

1 grave concerns that the amount of the fines will, in
2 fact, do so.

3 First of all, past fines for similar
4 violations have been much more. In 2010, Alan Berry
5 Livestock was fined \$75,000 for, I believe,
6 violations based on 300 cattle. These confinements,
7 of course, contain many, many more hogs and probably
8 much more profit.

9 In 2009, there was a \$66,000 fine against
10 Cold Springs Farm. In 2010, there was a \$40,000 fine
11 against Greenville Livestock; 2011, a \$40,000 fine
12 against Heinrich's Dairy; and, of course, in 2007, as
13 stated in the agreement, there was a \$27,000 fine
14 against Professional Swine Management, against
15 Pinnacle Genetics, which they manage.

16 The violations in that case were similar,
17 except there was one additional claim of air
18 pollution for burning carcasses.

19 I am concerned that current penalties
20 will not deter future violations in that they will be
21 viewed as minimal compared to previous penalties
22 against Professional Swine Management and others.
23 These penalties must each exceed the \$27,000 that
24 Pinnacle Genetics settled for in order to deter

1 Professional Swine Management and others from future
2 violations. Otherwise, the fines in the current case
3 will be a signal to the industry that the claimants
4 are no longer as interested in enforcing the laws and
5 their prescribed fines.

6 The fines are also not enough to
7 compensate the people of Illinois for the fish
8 killed, if any, in the streams and rivers in which
9 the discharge is spread, and in some cases, we do not
10 know how far the spread went.

11 Decontamination of the Illinois River for
12 drinking water used by small communities along its
13 banks. And we do know that the Illinois River is
14 contaminated. I am not here to allege that the
15 Respondents themselves are responsible for that, but
16 we don't, in fact, know. So somebody has to pay for
17 decontaminating the water.

18 The cost of EPA employees' work on the
19 violations, including inspections, reports, and
20 reinspections. The fines are not enough to
21 compensate the attorneys' fees for the Attorney
22 General's Office, the IEPA, and the Pollution Control
23 Board. The law provides that attorney fees are
24 chargeable to the Respondents.

1 The tax deductions given to these eight
2 sites by the state and counties as pollution control
3 facilities. If, in fact, the Respondents applied for
4 and received these grants, they are not enough to
5 compensate for any environmental protection grants.
6 The sites were given by the EPA to improve their
7 facilities, and they are not enough for the future
8 inspections of the sites to be made by the Attorney
9 General, the IEPA, and the Pollution Control Board to
10 confirm the site's compliance with the settlement
11 agreement.

12 These fines are also not enough to
13 recognize the value of the waters of the state to
14 those citizens who rely on them for income, drinking
15 water, recreation, and navigation. They are not
16 enough to recognize the damage done to the air,
17 wildlife, fish, birds and land by pollution
18 violations. They are not enough to compensate the
19 damage done to neighbors of the facilities who
20 pollute, for their loss of property values and
21 health.

22 Regarding the settlement of this case, I
23 am curious and somewhat disturbed that the decision
24 was made to settle the cases instead of litigating

1 it. There appears to be ample evidence alleged in
2 the original Complaint and in the settlement
3 agreement to litigate them. Then why have the
4 claimants decided to settle for such smaller amounts
5 than seems warranted in comparison to other similar
6 cases?

7 I would suggest that substantial costs
8 have been incurred so far in litigating these
9 matters. Shouldn't the people of Illinois have
10 penalties that will at least pay for part of those
11 expenses?

12 Why were the initial penalties dropped
13 from \$50,000, plus \$10,000 a day for each count to
14 what they are now?

15 In some cases, the violations did occur
16 after the Respondents were asked to make corrections
17 and they did not.

18 The locations of these sites are not
19 suitable for avoiding pollution violations. Hilltop
20 View, by its very name, is on top of a hill where
21 it's -- the pollution that it generates flows to a
22 body of water.

23 In every single one of these cases, the
24 pollution outflow was allowed to enter waters of the

1 state and the U.S. because of the location. I am
2 concerned that in many, many cases, hog confinements
3 are located on the edge of watersheds, by creeks and
4 ponds and lakes, and even by dry, unnamed
5 tributaries, that when there is rainfall, if manure
6 or other pollution has been laying there, will flow
7 into our waters.

8 When I was growing up in Illinois, we
9 looked forward to each spring when large numbers of
10 carp would move upstream in our backyard creek to lay
11 their eggs further upstream. That isn't even a
12 possibility now. I would not drink out of any of the
13 streams on my farm, or Sugar Creek, which has been
14 proven to be contaminated by E.coli, even if I were
15 dying of thirst. I would die much faster that way.

16 I have one final question/comment, and
17 that is regarding paragraph two under Section D,
18 future compliance in each of the counts. It has the
19 Respondents agreeing not to put manure on other
20 CAFOs, application fields, and not commingling
21 carcasses among several sites.

22 I am curious, first of all, if violations
23 were, in fact, occurring of this nature. Secondly,
24 is such an act a violation of the Pollution Control

1 Board regs.

2 Third, is it a violation of these sites'
3 existing manure plans.

4 And fourth, if these are violations, has
5 a fine been levied for them? I do not see one in the
6 settlement agreement.

7 I appreciate the time to talk with you
8 and I will reserve the right to file amended comments
9 after the hearing.

10 Thank you so much.

11 HEARING OFFICER WEBB: Thank you.

12 And just to be clear, Ms. McBride, you
13 expressed a preference to responding to any questions
14 in post hearing comments, is that correct? I mean,
15 does anybody care to respond to any questions now
16 versus post hearing?

17 MS. MCBRIDE: No. As I stated, we're
18 going to review these questions for the record and we
19 will respond if we feel appropriate.

20 HEARING OFFICER WEBB: Okay.

21 Ms. Connie King. And please state your
22 name for the court reporter.

23 MS. KING: Good morning. My name is
24 Connie King, and I live in Fulton County, and I am a

1 citizen of Illinois.

2 I would like to ask questions about the
3 alleged violations at Hilltop View, Wildcat Farms,
4 and High-Power Pork sites.

5 Hilltop View. I understand that this
6 site did not have the required NPDES permits when the
7 allegations regarding the storm water erosion,
8 venting, occurred in 2006, and then again in 2009
9 when there was an alleged manure spill.

10 My questions are rhetorical. They're as
11 follows: What evidence is there of social economic
12 benefit by Hilltop View to the public, as stated in
13 Section 3 of the stipulation?

14 Number two, what evidence is there that
15 the location of Hilltop View is suitable? A, isn't
16 its name indicative that Hilltop View is situated on
17 a hilltop? B, is the location above Sugar Creek? C,
18 are the land application fields near Sugar Creek? D,
19 is Sugar Creek a major tributary to the Illinois
20 River? E, wasn't the location contributory to
21 violations, since the pollution was able to flow down
22 to Sugar Creek?

23 Question three, did PSM and Hilltop View
24 self-report these violations?

1 Then onto Wildcat Farms. I understand
2 that this site also did not have the required NPDES
3 permit for a manure spill in September of 2008
4 entered into Wildcat Creek, and the smell and taste
5 indicated dead fish and contamination of the creek.

6 My questions are as follows: How is
7 Wildcat Farms a social and economic benefit to the
8 public? Two, why is it stipulated that location of
9 Wildcat Farms is suitable? Wasn't the spill just 200
10 yards long into Wildcat Creek? Wasn't the CAFO
11 located too near a water of the state? Didn't its
12 location contribute to the damage done by the spill?

13 And then onto High-Power Pork. I
14 understand that this site also did not have the
15 required NPDES permit in 2008, when 90,000 gallons of
16 manure allegedly spilled into Cedar Creek and killed
17 fish. I would like to ask, how much did this site
18 pay to the DNR for the fish kill, as stated in the
19 settlement agreement? What was the amount of the
20 fine based on? Isn't there evidence that this
21 location was not suitable, since the manure spill was
22 able to reach Cedar Creek and kill fish before it was
23 stopped?

24 Finally, I have these additional

1 questions and comments. Why didn't PMS advise these
2 sites they had to obtain NPDES permits? They had
3 learned at least as early as 2004 at Pinnacle
4 Genetics that such a permit was required, and all of
5 these sites allegedly fail to get them. Do the fines
6 reflect this?

7 Why were the fines proposed for these
8 three sites to deter operations of PMS and other hog
9 confinement operators for future violations? In
10 fact, isn't PSM's yearly revenue at least 3.9
11 million, as reported on the internet by Manta
12 Consultants? Won't these fines be only very small
13 percentages of PSM's annual revenue? In fact,
14 \$14,500 is only .37 percent for Hilltop View; \$10,500
15 is only .27 percent for Wildcat Farms; \$18,000 is
16 only .46 percent for High-Power Pork.

17 The fines -- will the fines be only a
18 tiny percentage of the \$900,000 average revenue for
19 2,000 hog confinements from Illinois Pork Producers.
20 The state brought in 1.8 billion dollars for 2012?
21 Will the fines be able to compensate the people of
22 Illinois for the cost of damage to the water in
23 Illinois and the state, the cost of investigating and
24 litigating these violations and the future costs of

1 enforcing these agreements? I am concerned these
2 fines are too small to do so.

3 And thank you for allowing me to speak.

4 HEARING OFFICER WEBB: Thank you.

5 MS. KING: And I would like the option to
6 post more comments after the hearing.

7 HEARING OFFICER WEBB: Yes, yes, and I
8 will announce that again at the end of the hearing.

9 MS. KING: Thank you.

10 HEARING OFFICER WEBB: Ms. Cindy Arnett?
11 Please state your name for the court reporter.

12 MS. ARNETT: My name is Cindy Arnett.
13 I'm from Fulton County. I am a citizen of the state
14 of Illinois.

15 One thing I would like to add to what
16 Ramona had said in the costs, why aren't the people's
17 wells that are surrounding these CAFOs, why aren't
18 they added into this compensation because they have
19 to treat also.

20 Anyway, I would like to ask questions
21 that are rhetorical about the alleged violations of
22 the Prairie State Gilt and the Little Timber sites.

23 I understand the site did not have the
24 required NPDES permits in September 2008 when the

1 manure alleged spilled from a lagoon into the holding
2 pond which empties into a tributary of the homing
3 branch.

4 My questions are as follows: It appears
5 that the evidence -- or that there is what is the
6 social and economic benefit of the Prairie State
7 Gilts, though, and the public as stated in Section 3
8 of the stipulation.

9 Number two, what evidence is there that
10 the location of the Prairie State Gilts is suitable?
11 A, isn't it located where spills can drain into a
12 tributary or a holding branch and the waters of the
13 state? B, doesn't the location contribute to the
14 violations, since the pollution was able to flow down
15 into the creek? C, shouldn't hog confinements be
16 located where a spill cannot flow into the water of
17 the state?

18 Little Timber. I understand that these
19 three separate incidents are alleged to have occurred
20 at the site. I also understand that the site did not
21 have the -- the required NPDES permit in June 2004
22 when a leak from a mortuary structure flowed into the
23 tributary of Middle Creek. The tributary -- and a
24 tributary of the Illinois River.

1 In February 2007, there was an alleged
2 manure spill in Middle Creek. In August 2007, a flow
3 from burned carcasses once again allegedly entered an
4 unnamed creek.

5 My questions are as follows: How is Lone
6 Hollow a social and economic benefit to the public?

7 Number two, why is it stipulated that the
8 location of Timber -- Little Timber is suitable? A,
9 didn't the location contribute to the damage done by
10 the three spills? B, isn't there evidence that the
11 site located was too close to the tributary of Middle
12 Creek and Illinois River to prevent pollution from
13 entering the waters of the state?

14 And finally I have these additional
15 questions and comments.

16 Number one, why didn't PSM advise these
17 sites that they had to obtain the NPDES permits? Do
18 the fines reflect PSM's continuing failure to obtain
19 permits for the sites that it operated?

20 Number two, why will the fines proposed
21 for these three sites deter these operators, PSM and
22 other hog confinement operators, for future
23 violations.

24 In fact, A, isn't PSM's yearly revenue at

1 least 3.9 million as reported on the internet by
2 Manta Consultants? B, won't these fines be only very
3 small percentages of PSM's annual revenue? In fact,
4 \$14,000 is only .36 percent of Prairie State Gilts,
5 and \$15,000 is only .38 percent for Little Timber.
6 Won't the fines be only a tiny percentage of the
7 \$900,000 average revenue for the 2,000 hog
8 confinements that Illinois Pork Producers say brought
9 in 1.8 billion in 2012.

10 Will the fines be able to compensate the
11 people of Illinois for the cost of the damage to the
12 water and land of the state, the cost of
13 investigating and litigating the violations, and also
14 for the future costs of enforcing the agreements?

15 I am also concerned that the fines are
16 much too small.

17 Thank you so much for the opportunity to
18 be able to speak today.

19 HEARING OFFICER WEBB: Thank you.
20 Ms. Lindsay Keeney, K-E-E-N-E-Y. Please state your
21 name for the court reporter.

22 MS. KEENEY: Hi. I am Lindsay Keeney.
23 I'm with the Illinois Environmental Council and I'm
24 also a citizen of the state of Illinois.

1 I'd like to comment on the alleged
2 violations of the Eagle Point and Timberline sites.

3 IEPA is concerned that the Eagle Point
4 site did not have the required NPDES permits in May
5 of 2007 when it allegedly spilled the contents of a
6 perimeter tile in a septic tank into a strip mine
7 lake in Otter Creek.

8 We feel that the location of the site is
9 not suitable because it is located where spills can
10 drain into a strip mine lake and Otter Creek, and the
11 location contributes to the violations because the
12 pollution was able to flow down into Otter Creek.

13 Concerning the Timberline site, I
14 understand that this site also does not have the
15 required NPDES permit in September of 2008 when fluid
16 from a compost structure entered a dry dam and then
17 into the waters of the state. There is evidence that
18 the site was not suitable, as the spill was able to
19 reach waters of the state.

20 Finally, I raise additional questions and
21 comments. Why didn't PSM advise these sites that
22 they had to obtain NPDES permits? They had learned
23 at least as early as 2004 that Pinnacle Genetics said
24 such a permit was required, yet all three sites

1 allegedly failed to get them. Do the fines reflect
2 this?

3 Why do these fines proposed for the three
4 sites deter these operators, PSM, and other hog
5 confinement operators, for future violations? Won't
6 these fines be only very small percentages of PSM's
7 annual revenue?

8 The fines seem to be only a tiny
9 percentage of the \$900,000 average revenue for 2,000
10 hog confinements of the Illinois Pork Producers.
11 Will these fines be able to compensate the people of
12 the Illinois for the costs of the damage to the
13 waters and the lands of the state, the cost of
14 investigation and litigating the violations, and the
15 future costs of enforcing the agreement. I'm
16 concerned that the fines are too small to do so.

17 Thank you for this opportunity to speak.

18 HEARING OFFICER WEBB: Thank you.

19 Ms. Karen Hudson. Please state your name for the
20 court reporter.

21 MS. HUDSON: My name is Karen Hudson,
22 H-U-D-S-O-N. I'm a citizen of the state of Illinois,
23 a farmer in Peoria County, cofounder of Illinois
24 Citizens for Clean Air and Water, and a regional

1 representative for the Socially Responsible
2 Agricultural Project.

3 I am making a general comment today. My
4 experience in our rural community of Illinois is a
5 \$50,000 fine on a CAFO operator near our farm for
6 violations, and I'm here to just make a statement
7 about the alleged positive social and economic
8 benefits of these facilities, as stated in Section 3
9 of the stipulation.

10 I'd like to inform you that there is a
11 recent study, as recent as 2008, that looked over
12 seven decades of research from the 1930s until 2008
13 that examined the impact of industrialization to
14 rural communities. They looked at the economic
15 situation and the socioeconomic situation, the
16 communities' social fabric effects and the effects to
17 the environment. They concluded that there were few
18 positive effects for the community.

19 I feel that the public concern is
20 warranted in this case, due to the continued
21 construction of these and other CAFO sites in the
22 state of Illinois.

23 Thank you.

24 HEARING OFFICER WEBB: Thank you.

1 Ms. Molly Hall.

2 MS. HALL: My name is Molly Hall, and I
3 am from Menard County and have served as chairperson
4 of the Menard Citizens for Clean Air and Water.

5 We were aware of the experience of the
6 rest of the state when the latest CAFO project in
7 Menard County was proposed. We already had a USEPA
8 designation of both the Clary Creek, which flows
9 through the property where the CAFO was eventually
10 allowed to develop, and the Sangamon River are
11 impaired, impaired due to agricultural contamination.
12 And let's be honest; it is sewage. This is not like
13 the manure from Grandpa's farm. This contains
14 chemicals and compounds, all of these unnatural
15 substances that would never be found in a traditional
16 farm setting, and that's what's necessary to keep
17 these animals alive in these settings.

18 So we know about the settlements and the
19 fines, but there's no cleanup, so how does one
20 determine the monetary value of environmental damage?
21 And I would agree that these fines are not going to
22 deter anyone from doing anything untoward, because
23 the fines don't compare to the profits of these
24 factory farms.

1 The reason why they want to keep siting
2 is because they are so profitable.

3 When we had our informational meeting, we
4 were told about how great these farms are and how
5 well run they are. We have self-monitoring. We have
6 self-reporting if there's a problem.

7 Well, you know, that doesn't happen.
8 Let's face it. EPA doesn't get involved until
9 citizens inform them that there's been a problem,
10 and, you know, by then the damage is done and it's
11 too late.

12 No traditional business would be allowed
13 to put millions of gallons of untreated sewage onto
14 land that flows downhill into waterways of this
15 state, but the Act has ensured that factory farms can
16 do that, and the EPA coming in after the fact isn't
17 helping.

18 The state of Illinois does have severe
19 financial constraints. We all know that. So why not
20 start proactive monitoring of these facilities to
21 spot problems before they create environmental havoc?

22 You've got all of these attorneys getting
23 involved. You've got all of these different
24 investigators doing their thing. Why not get out

1 there and just look at the operations and see if
2 they're -- you know, there are problems that can be
3 detected early enough to prevent the pollution.

4 But in the case of our CAFO, the most
5 recent one in Menard County, which, by the way, is
6 just a few miles from Lincoln's New Salem State
7 Historic Site, the most visited historic site in the
8 state of Illinois, it's on a hill. The land that the
9 sewage is applied on is sloping. It runs off into
10 Clary Creek, which flows into the Sangamon River,
11 which is a Lincoln Heritage Water Trail that gets a
12 lot of recreation every year.

13 If you're going to keep citing these
14 CAFOs, at least do something proactive to prevent the
15 damage and recognize that the reason why there are
16 more of them coming into Illinois is because other
17 states have seen the devastation and have said
18 enough.

19 Thank you.

20 HEARING OFFICER WEBB: Thank you.

21 Those are all the names I have on my
22 list. Is there anybody else here who would like to
23 make a comment?

24 MR. PATTERSON: Just as a point of

1 clarification, the last commenter, is my
2 understanding correct that her concerns in Menard
3 County did not involve any of these farms or PSM?

4 HEARING OFFICER WEBB: Ms. Hall, did you
5 hear Mr. Patterson's --

6 MS. HALL: My comments spoke to the
7 totality of industry statewide, which includes those
8 operations.

9 MR. PATTERSON: Yeah, but my question is,
10 your complaints about a facility in Menard County did
11 not involve any of these Respondents, is that
12 correct?

13 MS. HALL: My comments were directed at
14 the totality of the industry in Illinois and the
15 impacts we have seen statewide from CAFO operations
16 throughout the state.

17 MR. PATTERSON: All right. I think my
18 question is made clear for the record. Thank you.

19 HEARING OFFICER WEBB: Okay. Thank you.

20 Nobody else? No more public comment?

21 Okay. Do the parties have any closing
22 remarks they would care to make? No? Okay.

23 Again, the transcript will be received at
24 the Board by December 20th and will be posted on the

1 Board's website.

2 January 10th is the deadline for public
3 comment, as well as post hearing responses from the
4 parties, if they so choose. Public comment must be
5 postmarked or e-mailed by the deadline and must be
6 directed to the Clerk of the Board in our Chicago
7 office. Street and e-mail addresses, as well as
8 phone numbers, are available on our website,
9 ipcb.state.il.us.

10 If you do not have internet access,
11 please see me after the hearing and I will get you
12 any information you need.

13 I thank you all for your participation
14 and we are adjourned.

15 (Hearing adjourned 10:42 a.m.)
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December 13, 2016

1 STATE OF ILLINOIS)
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I, LISA HAHN PETERMAN, do hereby certify that I am a Certified Shorthand Reporter and Notary Public in the State of Illinois and that I reported in shorthand the foregoing, taken on the 13th day of December, 2016, and that the foregoing is a true and correct transcript of my shorthand notes so taken.

Notary Public -- CSR, RMR
CSR #084.2149

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