ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, Complainant, v. CURLESS FLYING SERVICE, INC., an Illinois corporation, and FARM AIR, INC., an Illinois Corporation, Respondents.	)	PCB 22-79

RESPONDENTS' MOTION FOR SUMMARY JUDGMENT

NOW COMES, Respondents, CURLESS FLYING SERVICE, INC. ("Curless"), and FARM AIR, INC. ("Farm Air"), by and through their attorney DYLAN P. GRADY, from BROWN, HAY + STEPHENS, LLP, and pursuant to 35 Ill. Adm. Code 101.516, move this Honorable Board to enter summary judgment in its favor and against the State. In support, Respondents state the following:

I. INTRODUCTION

On May 23, 2022, the State filed its Complaint with the Board alleging that Curless and Farm Air caused air pollution during an August 5, 2019, aerial application of a chemical mixture onto an agricultural field where some workers in a neighboring field reported an exposure to sprayed chemicals. The Respondents now move for summary judgment on the State's claims.

Respondents are entitled to summary judgment because the State cannot prove that Respondents caused the alleged air pollution or were the source of any spray on the field workers. The State's case is based on contradictory witness statements that are undermined by both objective evidence and expert analysis. As the State cannot meet its burden proving

Curless or Farm Air caused air pollution, Respondents are entitled to summary judgment.

II. STATEMENT OF MATERIAL FACTS

1. Curless is an Illinois corporation which specializes in the aerial application of agricultural products onto crops, and services various agricultural producers in Central Illinois and throughout the Midwest. (Ex. A, Dep. of Joseph Curless, at 12:18-21, 99:17).

2. Farm Air is a separate Illinois corporation that performs maintenance on aircrafts and is an Air Tractor dealership for new and used airplanes. (Ex. A at 12:18-24, 13:8-14:6).

3. In order to complete the aerial applications, Curless leases several types of aircraft of various sizes. It does not own any aircrafts. (Ex. A at 36:17-21, 38:21-40:4; https://registry.faa.gov/aircraftinquiry/Search/NameResult).

4. At the time, neither Curless nor Farm Air owned any helicopters. (Ex. A at 39:18-40:2; https://registry.faa.gov/aircraftinquiry/Search/NameResult).

5. The aircrafts Curless uses for aerial applications are equipped with GPS units and monitors to assist the pilots with their aerial application of chemicals to fields. (Ex. A at 22:2-11).

6. The GPS records and collects every aspect of the aircraft's flight, including the altitude, precise location of the aircraft, and whether the aircraft's sprayer was on or off at each GPS location. The data from the GPS units is regularly downloaded and preserved by Curless. (Ex. A at 56:19-58:19; Ex. B, Dep. of Ewing, at 151:12-182:22; Ex. D, Flight Map Diagram; Ex. C, Overhead Flight Video).

7. Before an aerial application, Curless's pilots complete a "reconnaissance circle" around the field to check the wind conditions, identify any obstacles, and to ascertain other relevant information about the field. (Ex. A at 93:2-13).

8. In addition, in order to ascertain information about the wind patterns, Curless provides the pilot with current weather reports from local stations, and the pilot would confirm the reports by releasing and observing smoke from the aircraft. (Ex. A at 88:21-91:16).

9. On August 5, 2019, Curless was hired by Evergreen FS for an aerial application of agricultural products to a field located at 910 N. Main St., Farmer City, IL 61842 (Kopp Farms). (Ex E, Application Report).

10. Curless contracted pilot, Michael Ewing, to complete the application of the agricultural products to Kopp Farms. (Ex. A at 38:4-15).

11. At the time of the application, Mr. Ewing was licensed to apply restricted use pesticides in Illinois. (Ex. B at 48:12-14; Ex. F, Ewing License).

12. During the application, Mr. Ewing was flying a yellow and blue Air Tractor aircraft. (Ex. G, Dep. of Harley Curless at 96:17-97:12; Ex. H, Purchase Order; Ex. I, Photo of Air Tractor; Ex. B at 63:9–23).

Photo of the Air Tractor flown by Mr. Ewing on August 5, 2019. (Ex. I).

13. Before the agriculture product application on August 5, 2019, Mr. Ewing was aware of the wind direction because he had been reviewing the weather data throughout the day, had completed other applications, and deployed smoke to determine wind direction before applying product to the Kopp Farms field. (Ex. B at 110:1–12).

14. The GPS data from Mr. Ewing's flight reflects that the product was delivered only to Kopp Farms 94-acre soybean field. (Ex. C; Ex. D).

A map depicting the plane's flight path in red and the area sprayed in green, based on the data gathered by the GPS. (Ex. D).

15. Mr. Ewings' application log indicates the winds gusts were 8 miles per hour from 247 degrees. (Ex. E).

16. The mixture being sprayed contained three products: approximately 7.71 gallons of the fungicide Avaris 2XS (azoxystrobin + propiconazole); approximately 94 gallons of a nitrogen-based product called Coron; and approximately 1.18 gallons of the insecticide Sultrus (cyfluthrin + cyano). (Ex. E; Ex. A at 113:3-116:3).

17. Although there were some workers in a nearby field, Mr. Ewing's application spray would only have been carried in the opposite direction of the worker's location(s), based on the wind speed and direction. (Ex. J, Dennis Gardisser Expert Report; Ex. B at 105–106:7).

18. On August 7, 2019, field workers Fidencio Salinas, Armina Salinas, and Fidencio Salinas, Jr., filed a complaint with the U.S. Department of Labor, alleging that they and several migrant workers began experiencing adverse medical reactions after feeling a mist fall over them. (Ex. K, Complaint).

19. The Illinois Department of Agriculture (IDOA) also began investigating the incident. (Ex. L, Special Assignment Report, at 1)

20. The Corteva field, where the workers were located, was approximately .25-.5 miles to the east of the Kopp field. (Ex. L at 1).

21. Two pesticides were used in the Corteva field the workers were located in: Miravis Neo, which contains azoxystrobin, and Trivapro, which contains azoxystrobin and propiconazole. (Ex. M, Davis's Email from Oct. 24).

22. During the IDOA investigation, Brandon Gillen, a Pioneer/Corteva employee, confirmed that only 14 of the approximately 90 field workers went to the hospital after they reported feeling the mist. (Ex. L at 1).

23. Jacob Wantlant, a Corteva supervisor who was in the field with the workers, stated that he did not believe a plane sprayed the workers, but that he had the workers left the field after seeing the plane, under Corteva's policy. (Ex. L at 1).

24. Pete Dunn, another Corteva supervisor, stated that he witnessed the entire application and was able to see when the spray was turned on and off. (Ex. L at 1-2). Dunn reported that he did not see the plane's boom turn on while it was over the work crew. (*Id.*).

25. Fedencio Salinas, crew supervisor, reported to the IDOA that he smelled something strange when the plane flew over the workers, but he did not go to the hospital, and did not see any spray on the workers. (Ex. L at 2).

26. On August 8, 2019, three days after the application by Mr. Ewing, IDOA collected Salinas's hat and submitted it to their lab for pesticide residue analysis. (Ex. L at 2).

27. No other clothing was preserved or tested; nor were samples or testing performed in the field where the migrant workers were located. (See, e.g., Ex. L; Ex. U, Collection Log)

28. The hats worn by the workers at the Corteva field were typically worn every day, and the workers would take them home. (Ex. N, Dep. of Consuelo Perez, at 30-31).

29. During the relevant time, Salinas was also working at other seed corn locations, which could have used the same pesticides. (Ex. O, Davis's Email from Nov. 22).

30. Adrian Perez, a worker who went to the hospital with complaints of vomiting, admitted the airplane did not spray anything on him and he does not believe he was sprayed by any pesticide. (Ex. V, Dep. of Adrian Perez, 54:20–55:20).

31. As part of the investigation, the IDOA also obtained several videos from the workers, which depicted either a helicopter or a blue-and-white aircraft. None of the videos depict the yellow air-tractor flown by Mr. Ewing. (Ex. P, Moss's Email from Sept. 18; Group Ex. Q, Videos).

32. Based on the interviews conducted of the workers and witnesses, the Illinois Department of Agriculture noted that: "Preponderance of evidence so far is that the workers were not sprayed on and the case will hinge on the lab test." (Ex. L at 2).

33. On August 9, 2019, the IDOA prepared a Residue Sample Result Report in its

Pesticide Laboratory. The "Analysis Requested" requested testing for Azoxystrobin and Propiconazole (ingredients contained in Avaris 2SX) and Cyfluthrin (an ingredient contained in Sultrus). The results of the analysis show that the Azoxystrobin and Propiconazole were detected but not quantified (DNQ). Further, the results showed a finding of "ND" (not detected) is listed for Cyfluthrin. (Ex. R, Analysis Report).

34. On October 27, 2020, the IDOA issued a Notice of Fine to Curless alleging pesticide misuse. (Ex. S, Notice of Fine).

35. Curless and Mr. Ewing requested a hearing before the CMS Bureau of Administrative Hearings. (Ex. T, IDOA Dismissal Order).

36. After reviewing the facts and evidence gathered in related litigation, the IDOA concluded that it did not have a preponderance of evidence to assess a monetary penalty against Curless and Mr. Ewing. (Ex. T).

37. As a result, the IDOA dismissed the claims against Curless. (Ex. T).

38. Respondents retained an expert, Dennis R. Gardisser, Ph.D., to review the facts related to this matter. Mr. Gardisser is an expert in agricultural chemical application, pesticide applications, aerial applications, ground applications, pesticide labels, instructions for use, label interpretations, label instructions impact upon licensed end-user applicators, scope of labeling, label warnings, precautions, ad label meanings for applicators who meet industry and regulatory standards. (Ex. J).

39. Mr. Garisser holds the opinion that, based on the application log which identifies winds from 247 degrees at 8 mph, spray Mr. Ewing's agricultural application would have carried in the opposite direction of the migrant workers. (Ex. J at 6-7)

40. Additionally, no material was analyzed which had the tank mixture from Mr.

Ewing's application. As a result, the facts and evidence do not support an allegation that any pesticide was released over the workers. (*Id*.).

III. LEGAL STANDARD

A motion for summary judgment will be granted if the pleadings, admissions and affidavits on file reveal that there is no genuine issue as to any material fact and that the movant is entitled to a judgment as a matter of law. 35 Ill. Adm. Code 101.516. Summary judgment is appropriate if there exists no genuine issue as to any material fact; under those circumstances, summary judgment should be granted if the moving party is entitled to judgment as a matter of law. *E.g., Irwin Industrial Tool Co. v. Ill. Dept. of Revenue*, 238 Ill.2d 332, 339-40 (2010) (quoting 735 ILCS 5/2-1005(c)). Issues of fact must be material; that is, they must be relevant to determine the outcome of the case. Issues that do not matter to the result are immaterial. *Whitman v. Lopatkiewicz*, 152 Ill. App. 3d 332, 337 (1987).

A defendant may, at any time, move for summary judgment in its favor as to the relief sought against it. 735 ILCS 5/2-1005(b). Summary judgment is encouraged as an aid in the expeditious resolution of a lawsuit. *Gilbert v. Sycamore Mun. Hospital*, 156 Ill.2d 511, 518 (1993). A defendant moving for summary judgment bears the initial burden of proof. *Benson v. Stafford,* 407 Ill.App.3d 902, 912, 941 (1st Dist. 2010). The defendant may meet its burden of proof either by affirmatively showing that some element of the case must be resolved in its favor, or by establishing "that there is an absence of evidence to support the nonmoving party's case." *Id.; see also Welton v. Ambrose,* 351 Ill. App. 3d 627, 633-34 (4th Dist. 2004).

"It is well established that in deciding a motion for summary judgment the court may draw inferences from undisputed facts." *Makowski v. City of Naperville*, 249 Ill.App.3d 110, 119 (2d Dist. 1993). If the record shows that the complainant has failed to establish an element

of a cause of action, summary judgment for the respondent is proper. *Id.* Thus, to avoid the entry of summary judgment, the complainant must present facts sufficient to support the elements of its claims. *Id.*

IV. ARGUMENT

Respondents are entitled to summary judgment because the State cannot meet its burden of proving that Respondents caused the alleged air pollution, where the GPS data and objective evidence contradict the allegations and where the testimony of the workers is not supported, or clearly establishes the workers were not sprayed.

The Environmental Protection Act ("the Act") makes clear that the Complainant has the burden of proving all of the essential elements of the air pollution violation. 415 ILCS 5/31(e). The Act also prohibits people from committing acts which "[c]ause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act." 415 ILCS 5/9(a). A "contaminant" is defined as "any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source." 415 ILS 5/3.165.

The Act defines "air pollution" as "the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property." 415 ILCS 5/3.115. Based on this definition, the Illinois Supreme Court has recognized that there are two categories of "air pollution." *See Incinerator, Inc. v. Pollution Control Bd.*, 59 Ill.2d 290, 295 (1974). The first category is the "presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property." *Id.* The

second category is "the presence of such contaminants in such amounts, characteristics and duration as to unreasonably interfere with the enjoyment of life or property." *Id.* In this case, only the first category is at issue.

Complainants have the burden to prove the violations of the Act by a preponderance of the evidence. *Rodney B. Nelson, M.D. v. Kane County Forest Pres., et al*. PCB 94-244, 1996 WL 419472 (July 18, 1996), slip op at 5. Further, Illinois Appellate Courts have vacated rulings by the Board where evidence of the cause and source of emissions is unavailable. *See Lonza, Inc. v. Illinois Pollution Control Bd.*, 21 Ill.App.3d 468, 475 (3d Dist. 1974); *see also Harold Craig and Robert Craig v. The Pollution Control Board*, 59 Ill.App.3d 65, 69 (4th Dist. 1978). For example, in *Lonza*, the Environmental Protection Agency filed a complaint against two companies with adjacent plants and alleged that either alone or in combination with other sources, they were causing pollution in the form of odor contaminants. *Id.* at 469. When assessing the sufficiency of the evidence, the Court first noted that the burden shall be on the complainant to show that the respondent caused or threatened to cause the pollution, and that the respondent may respond by presenting evidence in support of other theories. *Id.* at 472. The Court noted that several of the citizen witnesses could not identify which plant the odors came from, and the technical representatives of the Agency were unable to report and corroborate either the existence of the odor or its source. *Id.* at 473-75. The Court also pointed out that the plant manager for Lonza admitted that the plant had, on a handful of occasions, caused a fishy odor due to a malfunction. *Id.* at 474-75. Despite this admission, the Court did not find that there was sufficient evidence to identify the cause, particularly when considering the other evidence. *Id.* at 475. As a result, the Court vacated the ruling of the Board against Lonza. *Id.*

a. Farm Air did not cause or allow air pollution.

The State alleges that the Respondents caused the emission of the fungicide Avaris, the insecticide Sultrus, and the fertilizer Coron. However, just as in *Lonza*, the State's claim must fail there is no evidence that Farm Air had any involvement in the incident besides performing maintenance on the aircraft, and there is no evidence that Curless, through its contracted pilot, caused any emission into Corteva Field.

As it relates to Farm Air, there is no evidence that it had any involvement beyond preparing the aircraft. The two companies are separate entities, and Farm Air's only role is to maintain Curless's aircraft. There is no evidence that any alleged emissions were caused by a fault in the aircraft's maintenance or that the aircraft's systems were not working properly. As a result, Farm Air did not cause any alleged emissions. Unlike in *Lonza*, which involved two companies that each could have caused the pollution, there is no evidence that Farm Air contributed to this incident at all. As a result, summary judgment should be granted in Farm Air's favor.

b. Curless did not cause or allow air pollution

Turning to Curless, there is no reliable evidence that it was the cause of the emissions either. The aircraft's GPS data recorded every aspect of Mr. Ewings flight—flight, altitude, precise location of the aircraft, and whether the sprayer was on or off at each GPS location. (Ex. B at 151:12-182:22; Ex. D; Ex. C). The data reflects that the product was delivered only to Kopp Farms 94-acre soybean field, which is exactly what Curless Flying Service was hired to do. (Ex. D). Based on the GPS data and the wind direction, Dr. Gardisser was able to conclude that any released spray would have blown away from the workers, rather than toward them.

(Ex. J at 6).

In contrast, the State has offered no admissible evidence in support of its theory. The lab reports and GPS data contradict the State's theory. As the IDOA has acknowledged there is not a preponderance of the evidence to support a claim against Respondents. The IDOA's lab analysis requested the testing of two substances. The first substance Avaris, which contains the ingredients Azoxystrobin/Propiconazole. (Ex. R; Ex. E). The second substance was Sultrus, which contains the ingredient Cyfluthrin. (Ex. R; Ex. E). The third product that Mr. Ewing sprayed, Coron, was not included in the testing. (Ex. R; Ex. E).

The results of the analysis show that the Avaris ingredients were detected but not quantified (DNQ). (Ex. R). However, the Sultrus ingredient was not detected. (*Id.*). This result is significant, as that was one of the main ingredients in the application made by Curless. (Ex. E). The testing only indicated the presence of one of the three products applied by Curless. Since these products were contained in the same mixture, the results should have revealed the presence of both of the substances that the IDOA tested for, not just one of them. It defies reason to suggest that somehow only one of the substances in the mixture would be detected from Mr. Ewing's application.

The IDOA received an explanation for this during their investigation. In an email dated October 24, 2019, from Rick Davis to Suzanne Moss of IDOA, it is noted that: "Two of the active ingredients found on the sample were also used by Corteva. Attached is a list of products used by Corteva in the corn fields." (Ex. M). The email then notes that Corteva uses Miravis Neo on its fields, which contains Azoxystrobin, and Trivapro, which contains Azoxystrobin and Propiconazole. (*Id.*). Corteva does not use products containing cyfluthrin in its fields. (*Id.*). In another email, Davis also noted that the man who wore the sampled hat was "moonlighting

at other seed corn locations and that pesticide residues could have come from those locations." (Ex. O; Ex. Nat 30-31). These records suggest that the substances found on the sampled material could have originated from either the Corteva field itself, or another field.

The only evidence that the State can offer in support of its theory is based on testimony from the workers, but even that is contradicted by the evidence they submitted to the IDOA. Additionally, one of the workers who sought medical treatment for vomiting admits that the airplane did not spray him. (Ex. V at 54:20–55:20). Further, the workers submitted several videos to the IDOA for review. All but one of the videos taken by the workers show a helicopter above the fields. (Ex. Q) The only video that shows a non-helicopter aircraft features a blue and white aircraft. (Group Ex. Q, Field Worker Video 855). This is significant because Curless does not own or operate any helicopters. (Ex. A at 39:18-40:2; https://registry.faa.gov/aircraftinquiry/Search/NameResult). Additionally, Mr. Ewing was operating a yellow Air-Tractor during this application. (Ex. I). This demonstrates that the aircraft which the workers attributed to their pesticide exposure was not the same aircraft that was operated by Mr. Ewing.

As in *Lonza*, the workers' testimony should be weighed against the objective evidence. Just as in *Lonza*, the workers' testimony is undermined by the reports of other witnesses and by the expert witness report of Dr. Gardisser. Additionally, their testimony is refuted based on the objective information provided by the GPS, the wind patterns, the lack of positive test results indicating the presence of the mixture used by Curless, and the contradictory video evidence. Based on the objective evidence, the State cannot meet its burden of proving that Curless caused the air pollution at issue. As a result, this Board should grant summary judgment for respondents.

V. CONCLUSION

WHEREFORE, Respondents CURLESS FLYING SERVICE, INC., and FARM AIR, INC., move this Honorable Board to enter summary judgment in its favor and against the State, and for any other and further relief as the Board may deem proper.

Respectfully submitted,

Curless Flying Service, Inc., and Farm Air, Inc.,
Respondents

/s/ Dylan P. Grady

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CERTIFICATE OF SERVICE

The undersigned certifies that on January 16, 2026, a copy of the foregoing Respondents Motion for Summary Judgment was e-filed and served via email to the following:

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Under penalties as provided by law under Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Dylan P. Grady

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DEFENDANT'S EXHIBIT

A

Royal

REPORTING SERVICES, INC.

Transcript of the Deposition of

Joseph Curless

Case: Hada Garcia, et al. v. Pioneer Hi-Bred International, Inc.; et al.

Taken On: September 13, 2024

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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF ILLINOIS

SPRINGFIELD DIVISION

HADA GARCIA, et al.,	)	
	)	
Plaintiffs,	)	
	)	
-vs-	)	No. 3:20-cv-03322
	)	
PIONEER HYBRID INTERNATIONAL, INC.; CORTEVA, INC.; RAS AVIATION, L.L.C.; FARM AIR, INC., and CURLESS FLYING SERVICE, INC.,	)	
	)	
Defendants.	)	

The 30(b)(6) deposition of Curless Flying Service by JOSEPH CURLESS, called for examination, taken via videoconference pursuant to the Federal Rules of Civil Procedure of the United States District Court pertaining to the taking of depositions, taken before MARY T. MURPHY McGUIRK, a Certified Shorthand Reporter of said state, on September 13, 2024, at 9:00 a.m.

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(The witness was duly sworn.)

JOSEPH CURLESS,

called as a witness herein, having been first duly sworn, was examined and testified via videoconference as follows:

EXAMINATION

BY MR. LINDSEY:

Q. Good morning, Mr. Curless. My name is Dan Lindsey, and I'm one of the attorneys representing the plaintiffs in this case, and I'll be conducting today's deposition.

Can you please state your full name and just spell it for the record?

A. Yes, sir. My name is Joe -- Joseph -- J-O-E, C-U-R-L-E-S-S.

Q. And I'm actually going to stop you right there and make sure that we clear up any confusion that we may have, because I feel like I've seen Harley Joe Curless and Harley Curless and Joe Curless, and maybe you can clarify the record for us.

A. Harley Joe Curless is my father. I'm Joe Curless and named after my grandfather, and so that's the difference. So...

Q. Okay.

A. And I will never fit into Joe Harley Curless's shoes. I can tell you that.

Q. So next week we have a deposition with Harley Curless. That's your father?

A. Yes, sir.

Q. Got it. Thank you.

Where do you currently reside, Mr. Curless?

A. I reside in Havana, Illinois.

Q. And are you married?

A. Yes, sir.

Q. Do you have children?

A. Yes, sir.

Q. How many? How old are they?

A. Three children: One is 19; one is 17; and one is 16.

Q. Have you ever had your deposition taken before, Mr. Curless?

A. No, sir.

Q. Have you ever been part of a trial or a court proceeding before?

A. No, sir.

Q. Okay. Well, let's just go over the basic ground rules. Always a good place to start. First of

all, real important to just listen carefully to the full question and then answer. Does that make sense?

A. Yes, sir.

Q. And please do so verbally instead of just gesturing, or sometimes we grunt or make a noise that's not a word. So please answer so that we can all hear you.

Does that make sense?

A. Uh-huh.

Q. You grunted.

A. Sorry.

Q. So does that make sense?

A. Yes, sir.

Q. Great. And at any time I ask a question you don't understand, just tell me, and I'll try to rephrase it better. Okay?

A. Yes, sir.

Q. Thank you.

And if you don't know the answer to a question, but maybe you can think of a document or someone else who may be able to help you answer, you can let us know that. Okay?

A. Okay.

Q. And if I ask you a question and maybe you

don't know or don't remember and then later in the deposition something comes to mind, you can always supplement your answer later. Okay?

A. Okay.

Q. Now, you swore to tell the truth, and that means you'll tell the whole truth to the best of your ability, right?

A. Yes, sir.

Q. And if you do need a break at any time, let me know. But if there's a question pending, please answer that first before we try to take a break.

Does that make sense?

A. Okay.

Q. And believe me, I will build in some breaks. Just to let you know up front, I have a little bit of a chronic back pain issue, which is why I'm currently standing at my standing desk, but that means occasionally I need to take a break and stroll around or I may need to sit down for part of the dep. Or if you see me kind of do this, I'm kind of shuffling back and forth right now. It's not because I'm not paying attention, but that's why. So just to let you know.

A. Good to hear. My back is out, too.

Q. I think anyone 50 or older has some version of

that.

How old are you, sir? I should have asked.

A. I'm 54.

Q. There you go. Are you on any medications of any sort today?

A. No, sir.

Q. Or is there any other reason you wouldn't be able to answer my questions fully and truthfully today?

A. No, sir.

Q. Great.

And lastly, I would just say from time to time I may ask a bad or confusing question. Your counsel may object. Please try to answer. If you really can't because it's a bad or confusing question, let me know and I'll rephrase it.

Does that make sense?

A. Yes, sir.

Q. Now, a few more questions in terms of ground rules since we are doing this deposition remotely.

Where are you located right now?

A. I'm at our business in Astoria, Illinois.

Q. And I see you're in an office room with your counsel, Mr. Ravich. Is there anyone else in the room

with you?

A. No, sir.

Q. And do you have any computer or device that's open currently?

A. No, sir.

Q. So you're not able to access a phone or a tablet or --

A. Oh, my phone. I've got my phone here. You want it off? I've got my phone.

Q. Probably better if it's off.

A. It's turned off, but I mean --

MR. RAVICH: Yeah, I mean --

MR. LINDSEY: That's fine.

MR. RAVICH: He's got your focus. Obviously, it's during the business day, but it's not going to interfere with his testimony. And the only computer that's open, obviously, is my computer for purposes of this deposition.

MR. LINDSEY: Great. That's fine.

BY MR. LINDSEY:

Q. And, Mr. Curless, do you have any notes or documents with you right now that you're looking at or that you have with you?

A. I have just a blank sheet of paper just so I

can take a note if I need to.

Q. Okay.

A. That's it. And whatever Tim has.

Q. Okay. Now, I've already, happy to say, successfully attached a document to the chat, which is Exhibit 1.

(J. Curless Deposition Exhibit No. 1 marked for identification.)

BY MR. LINDSEY:

Q. So you and/or your counsel can open that if you want. I can also share my screen here briefly.

MR. RAVICH: I think --

MR. LINDSEY: Sorry.

MR. RAVICH: I think we need you to do that. The only thing I see in the chat right now is the court reporter's information.

MR. LINDSEY: Well, I think if you look further up, because I put it there when I first came on.

MR. RAVICH: Yeah, I've got nothing. I really don't.

THE COURT REPORTER: If I may, anything shared prior to them joining wouldn't be in their chat.

MR. LINDSEY: Got it. Well, let me put it in

there.

MR. RAVICH: We can see the deposition notice, in any event.

MR. LINDSEY: Right. So that's the document. I will put in the chat to just -- so you have it officially. It's Exhibit 1.

BY MR. LINDSEY:

Q. But I wanted to ask you, Mr. Curless, if you recognize this document?

A. Yes, sir.

Q. And what's your understanding of what this document is?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. You can answer, if you can.

A. Just the deposition document, I guess. That's what it is, sir.

Q. Well, it's captioned "First Amended Notice of Rule 30(b)(6) Deposition." Do you understand that you're sitting today for a deposition?

A. Yes, sir.

Q. And you're -- do you understand that you've been called as what we call Rule 30(b)(6) representative, otherwise known as a corporate

representative?

A. Yes, sir.

Q. And what's your understanding of what it means for you to be sitting today as the corporate representative?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Do you understand what that means, Mr. Curless?

A. So I'm just answering to the best of my ability the questions that you pose to me, sir.

Q. Right. And you're answering on behalf of the corporate entity, correct?

A. Of Curless Flying, yes, sir.

Q. And, actually, let's pause there for a moment. Can you please describe to me the relationship between Curless and Farm Air?

A. Absolutely. Curless Flying started 1978, I believe, by my father, and that would primarily seed and fertilize and cover crop and spray crops for producers in Central Illinois and Midwest. And Farm Air is working on planes, keeping inventory for the planes, a staff of people that work on and keep those aircraft safe for our pilots that fly them in the Midwest. So

they're two distinct companies, how we look at it.

Q. By the way, I stopped sharing. I don't really think we need to look at that document. I can bring it back up if you think we need to, but I stopped sharing. And now I'll go ahead and put that document in the chat just so it's officially there for anybody to download or look at.

And going back to the difference between Curless and Farm Air, is there a parent subsidiary relationship or anything of that kind?

A. Subsidiary? No, not that I'm aware of. It's just --

MR. RAVICH: If you don't understand.

BY THE WITNESS:

A. I don't understand your question, sir.

BY MR. LINDSEY:

Q. Well, you know, sometimes there's a company that owns another company.

A. Oh.

Q. We call that parent subsidiary. Is that the case here?

A. No, sir.

Q. No?

A. They're just two independent companies that we

run that, you know, we understand the flying business and understand how to take care of crops. And with my father's experience, he's brought in good people that do work on our aircraft and -- to keep us safe and keep the airplanes moving along during the summer to take care of hard-working agricultural people.

Q. We'll get back and talk a little bit more about the two different companies in a minute, but I wanted to return to the notice. Just wanted to ask you if you feel that you are prepared to testify today about the different topics that were listed in that notice.

A. I'll do the best I can.

MR. RAVICH: Dan, can I clarify for just a moment?

MR. LINDSEY: Certainly.

MR. RAVICH: Yesterday, since we got a second amended notice -- so I'll be frank. I'm not even clear which notice we are traveling under.

MR. LINDSEY: Well, I've attached the first amended notice because that's the one that I assume Mr. Curless would have seen some days or weeks ago. The second amended was sent yesterday. All it did was change the in-person to remote, and none of the

topics or text were changed at all otherwise.

MR. RAVICH: Thanks.

BY MR. LINDSEY:

Q. So, Mr. Curless, what steps did you take to prepare to testify today?

A. We meet on the Zoom conference a couple of days ago. Sorry. Looking at Tim. He and I met and Jennifer met -- Dancy met on a Zoom conference a couple of days ago, and then Tim came in late last night in our community since we're Downstate Illinois. We had dinner, briefly talked about this, and that's basically the discussion, sir.

Q. And how much time would you say that you spent in total preparing?

A. I'd say probably over the last couple of days three hours maybe.

Q. I'm sorry. Three hours total?

A. Yes, sir.

Q. And did you review any documents in preparation for this deposition?

MR. RAVICH: Object to form.

He can answer what he reviewed in his own presence, but not with us, if any.

MR. LINDSEY: Well, I --

BY MR. LINDSEY:

Q. In any event, go ahead, Mr. Curless. What documents did you review?

A. I read some of the document that you've brought up a few minutes ago, and that's basically what the -- that I looked at, as well as some of the documents from the day of questioning that you have, of our application.

Q. So did you look at any other documents besides that?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Not that I'm aware of, no.

BY MR. LINDSEY:

Q. Okay. Did you do anything else besides the conversations you mentioned and the documents you looked at to prepare for today's deposition?

A. More specific?

Q. Well, anything. Did you go anywhere or look at anything else?

A. Not that I'm aware of, no.

Q. And were there any particular topics in the deposition notice that you focused on or spent more time preparing about?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I've never been deposed. He was very thorough with me. They were both very thorough with me. Some of the questioning that might be asked and how you were going to ask it, that was basically what he -- or what they both did for me the other day. So...

BY MR. LINDSEY:

Q. So it doesn't sound like you're saying there was any particular topic or topics that stood out as ones you spent more time on?

MR. RAVICH: Object to form, asked and answered.

BY MR. LINDSEY:

Q. Would that be correct to say?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. You can still answer, Mr. Curless.

A. Okay. I'm trying to think. I mean, it was just going through the day. We talked a fair amount about the application day, making sure I knew exactly what -- you know, what we have on the information and some clarity on that, and that was basically the discussion that day.

Q. Okay. Well, let's get a little bit about your background, Mr. Curless. Can you tell me about your educational background?

A. Sure. I went to Illinois College for two years. High school degree in Astoria; this is my home community that I have lived in. Went to Illinois College for two years; played sports, injured a knee -- knees, actually. That decided that was not my future, and that school never really had what I wanted. I knew I wanted to be a part of agriculture. It's -- agriculture has a lot of work and a lot of effort added to it and real people doing real things. And I wanted to be part of agriculture, so I went to Illinois State and focused my education in agronomy. Finished there at Illinois State; met some great people in ag there. Then had, I think, a class or two from the University of Illinois remotely, long before this Zoom thing was ever a thing. It was all over the phone, and it was not a great experience over the phone. And then decided that -- I went to grad school at the University of Arkansas in weed science. Weeds as in terms of things in the field that reduce yield, not what we smoke today that we've legalized as a nation.

And then worked for a company called

Case IH in the precision ag division for a year and a half or two and decided to go back to work on my advanced degree in agronomy from the University of Wisconsin Madison. And then eventually came back here to the business.

Q. When did you complete that degree at the University of Wisconsin?

A. I did not complete it. I got very ill when I was at Wisconsin, and I went -- I got all the classwork done, all research done, the prelims done, and about 30, 30-some pages done in the writing and came back home to be a part of the business, so...

Q. And what year was that?

A. 2001 and '2. '2 is when I officially came back locally.

Q. And when you say you officially came back to be a part of the business, can you tell me what you mean by that?

A. Well, I came back to be close to my family and help here as my dad is getting, you know, older and is wanting to start phasing out of my business. He really couldn't afford to keep me back in here full-time before that. So I worked for the USDA, FSA side in Springfield, Illinois, for the state office and the GIS,

geographic information systems. So all of your Google Maps that you see now, if you look at the bottom of that Google Maps or -- I'm responsible for the Illinois side. So all of that imagery kind of flowed through my office, and we used -- created geo boundaries essentially for the fields and agriculture in Illinois.

Q. And what years were that -- were those that you were working there?

A. 2000 -- I may not be right on this. But 2002 through 2006-ish. It was three, three and a half years, and then come back to the business full-time.

(Simultaneous speakers.)

THE COURT REPORTER: I'm sorry. There was crosstalk there. I didn't hear the end of your answer.

BY THE WITNESS:

A. Restate your question, sir.

BY MR. LINDSEY:

Q. Well, I think you said came back to the business after that, and I was asking what you meant by that.

A. I couldn't envision sitting in a cubicle for the rest of my life, and I -- I don't mind it, but I couldn't do it every day. And so I wanted to be a part

of the business, and at this point, dad is old enough that he wants to phase me in to be a part of the business and to help with the business in the off-season and during the summer.

Q. And approximately what year would that be?

A. '06, '07 is when I came back and started phasing in.

Q. And by that, do you mean that you came back to Curless or to Farm Air or to --

A. To Curless. Yeah. Curless. Farm Air didn't really even exist at that point. Curless was the exclusive business that we had, and Farm Air was in -- '09 is when we officially took that over.

Q. And what were you doing for Curless, say, during that first period prior to Farm Air, sounds like about '06 to '09?

A. Yeah, before that, we were doing all of our -- when we would cast an airplane to go put on cover crops or put on fertilizer or spray fungicide or other products, we would use a plat map and -- to navigate to the field.

And if you ever know what a plat map is, it's very challenging. It's just to figure out where the field is at and -- especially from the air. And --

and you're kind of -- you're not lost, but you're lost not knowing exactly where you're at. And so what my job was with my work at the agency, USDA, I brought in some of those GIS tools into our business. And so now we have GPS in each of our aircraft that we can type in the longitude, the latitude, and fly directly to the field and have a map in hand that gives a description to the pilot of exactly the way the field looks with the boundary around it and with -- it's not current imagery, but fairly current of the boundary of what the customer wants treated or applied.

And that was my job, was to basically create a backbone for that for the business. And then that way we're communicating clearly to the pilot so he's focused 100 percent outside the aircraft rather than looking down at something trying to figure something out and processing that and keep the pilot safer as well as get the work done correctly.

Q. So just to be clear, you were just describing the work that you did in the '06 to '09 period?

A. Yeah, yeah. It was -- yeah.

Q. And then how did your role change in '09?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. What does he mean by that?

BY MR. LINDSEY:

Q. Well, did your job -- well, let's -- you said you guys acquired Farm Air or Farm Air -- something changed related to -- also Curless working with Farm Air in 2019; is that right?

A. Oh, well, not really. My father has flown all different size of aircraft. And, you know, he is getting older at this point, and he knows those aircraft very well and knows how to respond to those aircraft and their characteristics in flight. And the dealer at the time for the Midwest was retiring, and they asked him to be the new dealer. And I thought that was a great fit for him specifically, because he could represent the aircraft and communicate the characteristics of the aircraft to the pilots in other geographies and represent Air Tractor via Farm Air well, and that would get him physically out of the airplane at that age. And as a son, as a family member, that was good to get him physically out of the airplane and represent the airplane well to young kids that have good eyes and no glasses like myself now and good reaction time. So it was a nice step.

So, basically, my role at that point changed from just doing maps to helping him on the Farm Air side as well as on the Curless side. So there's -- it's hard to explain verbally, but that's kind of what goes on here on a daily basis, so...

Q. So when -- I just want to make sure I understand. When your dad started working for Farm Air -- I mean, that's what you're talking about right now, right?

A. Right.

Q. Did he become the owner or he just became an employee of Farm Air?

A. You would have to ask him that. I guess I don't know how he has got that -- how he has that structured. That's not my area of interest.

Q. Well, let's go back to your developing job role. So after Farm Air came on and you were helping your dad with Farm Air, how did your job evolve from that point, if at all?

A. Well, at that point in '09, we had -- the whole industry grew because of some different products that we utilized in corn to manage disease in corn. And we've got some diseases, so -- in corn that are a challenge that were -- significantly reduced yield. And

so my job basically was split between the two businesses of the day-to-day, keeping airplanes rolling along and helping the airplanes do their work during the summertime, sir.

Q. And was that your job all the way up until the events of this case in 2019?

A. Well, that role actually was Bobby, probably more. I relinquished that role, the day-to-day casting the airplanes, sending the airplanes to different jobs. And Bobby Blickenstaff was that person that casted those airplanes and managed those pilots at that point, and I was -- I went -- I was working on different projects, so yeah.

Q. Okay. Well, let's try to get specific. So 2019, Curless -- first of all, who are the -- who was the owner or who were the owners of Curless as of 2019?

A. Harley Curless.

Q. And what about Farm Air?

A. Harley Curless.

Q. And who worked for Curless? Who were the employees of Curless in 2019?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Their names?

BY MR. LINDSEY:

Q. Well, how many people work for Curless? Let's start that way.

A. For Curless, that would probably be ten people total. And that would flux during the year. We would bring in different college-aged students to help us with airplanes during the summer and mow and keep the grounds good during the summer. And so that fluxes a lot. They're not full-time. Kind of like detasselers or the workers that are brought in for -- to detassel.

Q. So what about the managerial staff then?

A. Okay. That would have been Bobby Blickenstaff. He would have been the manager.

Q. So did he have a specific job title?

A. He was the manager of Curless Flying Service.

Q. And the owner?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. And the owner? No, he was not the owner.

BY MR. LINDSEY:

Q. Oh, I thought you said before he was the owner of Curless.

MR. RAVICH: Object to form. He hasn't asked a question.

BY MR. LINDSEY:

Q. Or I'm sorry. Did you say your father was the owner of Curless?

A. My father is the owner of Curless.

Q. Got it. Sorry.

So we have your father and then Bobby was the manager, and who were the other --

A. Of Curless.

Q. -- managerial staff?

MR. RAVICH: Form.

BY THE WITNESS:

A. Nobody was other managers. That was it.

BY MR. LINDSEY:

Q. In 2019?

A. Correct.

Q. Okay. What was your job title then?

A. Title? I don't look at a title. I try to work wherever there was a problem that day. It -- I could be washing a windshield to mixing product to answering a phone call. So I'm kind of -- I'm kind of all over the place, kind of like a free safety in football.

Q. Well, you said a minute ago you worked on various projects. What kind of projects did you have in

mind?

A. Oh, we were moving airplanes. So we get an airplane in good position -- good condition, and we move the airplane. So I would help move an airplane around. So fly to Ohio, fly to Kansas with another pilot to drop the airplane off and commute back, which would take a fair amount of time because of the weather; get to know some of the customers and their different challenges on the Farm Air side. Get parts. We have to go to Texas, drive to Texas to get those parts. And then on the farm -- my passion is the farm, and I work on the farm trying to figure out what we do with cover cops, so...

Q. So just to make sure I've got everyone, 2019, Curless, we had your dad and Bobby and yourself?

A. Uh-huh.

Q. Anyone else in a managerial or supervisory role?

MR. RAVICH: Form.

BY THE WITNESS:

A. No, sir.

BY MR. LINDSEY:

Q. Okay. And what about on the Farm Air side, same thing for 2019?

A. Yeah, it was pretty much the same. Dad -- my

father would have been the manager of Farm Air, so...

Q. And who would you say would set the company policies as of 2019?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. It would have been -- the policies would have been through Bobby and through dad and some of myself.

BY MR. LINDSEY:

Q. So would it depend? Was there a division based on what kind of policies?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I don't -- be more specific.

BY MR. LINDSEY:

Q. Well, maybe examples of different policies that Curless would need to set or Farm Air would need to set and who would be the one to take a responsibility?

MR. RAVICH: Form.

BY THE WITNESS:

A. Well, depending on the scenario. I mean, the day-to-day work would be Bobby, and then it would be pilot discussions. That would be my father. If it would be some GPS work, that would be me. So that would be -- that's how that would kind of be structured. And

then we would all, you know, work together on, you know, the scenario.

BY MR. LINDSEY:

Q. So who would be involved in setting policies regarding safety protocols?

A. In terms of the airplane, that would be Harley.

Q. And would that encompass spraying?

A. Absolutely. He's done it for 30-some years safely, so that would be the -- that would be a big part of his discussion.

Q. And would he set those kind of policies on his own or would you or Bobby also be involved?

MR. RAVICH: Form.

BY THE WITNESS:

A. We would also be involved. I mean, he would have his input, and we would trust his input because of his experiences over the years, so -- but we would all be involved.

BY MR. LINDSEY:

Q. So in terms of the area where the spray or spraying took place on August 5th, 2019, the subject of this lawsuit, had Curless and Farm Air had a history of doing jobs in that same area prior to that time?

A. Yes, sir.

Q. For how long?

A. We'd probably been there for ten years in the geography.

Q. And when you say this geography, what area do you have in mind?

A. Kind of Central Illinois. Farmers are spread out with their fields, you know, and their relationships with their fields, so we have relationships with the farmers as well as the co-ops that service those farmers. So we, you know, kind of go to that geography where those guys are at.

Q. And how did that business arrangement develop? How did you first begin to work in that area? How did that come about?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Well, we work out of the McLean airport. We have a little grass strip in McLean, and we developed a relationship with Evergreen FS. That would be the co-op that would have sent the work into us that works directly with the farmer and farmers. And those are the people that actually make the decisions. There's a -- decision-makers that make the decision on the product

itself. And then they give it back to us to execute the work.

BY MR. LINDSEY:

Q. Okay. So focusing on the spraying that you were doing on August 5th, 2019, you mentioned Evergreen. That's a co-op?

A. Yes, sir.

Q. Were they the co-op involved in that job or series of jobs?

A. Yes, sir.

Q. And can you explain a little bit more about what a co-op is, how that works?

A. A co-op -- well, it's my understanding they work directly with the grower with their fertilizer needs, their phosphorus, the potassium, the nitrogen, the timing of application of those different products. Then, of course, we have weeds that are competitive in the field. And they'll treat the field for different weed species, and that falls -- then they're a better platform because they'll have ground rigs that spray herbicides to control those weeds in the early spring and summer, early summer.

And then once the crop gets, you know, waist high and larger, it becomes more difficult for

them to get across that landscape with their wheeled equipment, their -- and that -- that's when we -- our platform of application takes over. If it's wet or if it's -- the canopy of the cash crop is too thick where they damage it, that's when they hire us to come in and apply a product during that segment of the season.

Q. So is it the co-op that actually hired you?

A. Yes, sir, absolutely. Well, the co-op and the farmer work together. They make a decision of what products they need on that specific field, and then they -- then they release that information to us, and then we execute whatever they've asked to do that are, you know, within the rules of application.

BY MR. LINDSEY:

Q. And then when they ask you to do that, are you the ones who figure out how to arrange for the plane and the pilot?

A. Yeah, exactly. So they send us the map of what needs to be done and those products and the rates of those products. And then that all comes to us on what we would call a work order and with the longitude and the latitude and the boundary of that field. And so we basically have been given a job. You know, this is your job to go do. This is your errand, if you will,

for the day, and that's how we help the farmer. And he compensates us for that work.

Q. And as of 2019, when you owned Farm Air, does that mean that you owned the plane or the planes that would do the job or you would have to go out and --

MR. RAVICH: Object to form.

(Court reporter clarification.)

BY MR. LINDSEY:

Q. How -- did you own the plane that you needed to do the job in the scenario you just described?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. You can answer.

A. Honestly, I don't remember. We do lease airplanes back from Curless, yes, but I don't recall the -- what airplane -- if it was owned by Curless or owned by Farm Air, I don't recall. And we -- we -- I mean, they're very expensive aircraft, and, you know, you just don't have them, you know, easily accessible. So that's why we lease them back.

Q. What do you mean when you say "we lease them back"?

A. Well, they're all owned by Harley, and that way the accountants can keep track of the work that the

airplane does. So, in other words, you drive your car. Okay. Well, I'm trying to explain how -- that is not easy for me to explain this.

We can just manage -- we know how many hours we put on the airplane. So the airplane has to have annals done to other airworthy items done, and so we kind of manage the number of hours that that airplane gets flown so we know how to do the work on the airplane. And that's basically what we're doing with that, you know.

Q. Well, let me go back a second. You said Harley owns the planes. So Harley owns all the planes that you used for your jobs?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. And the bank. The bank owns the majority of them.

BY MR. LINDSEY:

Q. So the lienholder you're referring to, the lender, correct?

A. Yes.

Q. And when you say Harley, do you mean Harley individually or do you mean Farm Air?

A. Farm Air owns them and the bank.

Q. Got it. So, in other words, when you get a job like -- you got a job this time 8/5/2019 from Evergreen, and so now you've got to figure out what plane to use and what pilots to use, among other things?

A. Yeah.

Q. The plane you're going to use or you did use was one of these planes that you talked about that Harley or Farm Air owns, correct?

A. Yes. It would have been our aircraft, yes.

Q. So I'm still a little confused about when you said earlier we leased them back. Help me understand that.

MR. RAVICH: Object to form. You can ask a question.

BY MR. LINDSEY:

Q. What did you mean by "we leased them back"?

A. Well, because of the bank, you know, we don't own all of those aircraft exclusively through Farm Air or Curless. They are -- I don't understand how to explain this. They're all for sale. Okay. And through Farm Air. And we don't plan on using them, but if there's a need and it's -- the industry is -- how do I say this properly?

It's like there's a lot goes on during the

summertime, during the five weeks out of the summer, and then the airplanes sit for a long period of time during the winter. And so we can't afford to keep them year around, but we need them during the summertime. So this allows us the ability to utilize those airplanes, keep them productive, and keep them paying the bank who basically owns the equipment to begin with. And then we make a little bit of money; pay the notes off; and keep the people employed, gainfully employed, you know, in the communities. So these rural communities don't have much employment.

Q. Okay. So focusing on what I'm going to call the August event, if that's all right, in other words, the event of 8/5/2019, subject of the lawsuit, if that's all right. If I say the August event, that's what I'm talking about. Does that make sense?

A. Yes, sir.

Q. So for the August event, Evergreen sent you the job. You got a plane that you can use. Then how do you figure out who's going to be the pilot?

A. Well, because of this distance, we would use this airplane, the bigger of the airplanes. This airplane was an airplane that would help us on our faraway jobs, in other words, take a big load to get the

work done so we don't have what we call ferry time or commute time. We'll think of it that way. And that -- that's why that airplane does that.

So Mike -- I'm sorry. They will also call him Hammer on occasion; that's his nickname that I refer to him as. So that's what -- Hammer and Mike are synonymous.

Anyway, Mike is a very competent pilot. He has been with us a long time, and he is a very skilled individual like my father that is checked out in that airplane and knows that airplane and can make it do things properly.

Q. So I think you just gave the reasons why you chose Mr. Ewing to be the pilot.

A. Oh, absolutely. He's a very good pilot.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. And you also were speaking about the plane. You said something like we chose the bigger of our planes; is that right?

A. Yeah. Well, we don't use small planes to go far distances. We use a large airplane so we can get the work done when we are there that's been requested of us, and we're trying to utilize our fuel and our

resources properly.

Q. And how many different planes do you use?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I'd have to look. I don't know.

BY MR. LINDSEY:

Q. But several?

A. Yes, sir.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. And you said this was the bigger one or a bigger one?

MR. RAVICH: Object to form, asked and answered.

BY MR. LINDSEY:

Q. Was this the biggest of your planes or...

A. Yes, sir.

Q. Okay. And can you describe basically what the difference sizes are of these different planes?

A. This is an 802, so it's an Air Tractor 802. So it'll hold 800 gallons or around 4500 gallons of cover crop seed -- 4500 pounds of cover crop seed or fertilizer. There's a 602 version that we've had over the years. I do not know if we had it this year or not.

We had a 502 version which is a 500-gallon version or around 3200 pounds of cover crop seed.

And then they step down to about a 300-gallon airplane.

Q. And you said a minute ago you use this bigger one or one of the bigger ones so that you could cut down on commuting time?

A. Yeah.

Q. Commuting from where to where?

A. If -- when we -- I'm trying to put this into context for you. When we've come off the airport -- we've got rules from a mixing perspective. So there's no contamination of the soil and so forth. We have to mix at a physical site with cement and containment.

When we leave that site -- which would be right where I'm sitting today, there's a physical site here that's covered with a roof, cement floor. If we had a spill, we would -- they all come off these airports that have these physical locations. And then we may fly for 30 minutes one direction to do the actual work for the customer and then fly 30 minutes back. So that 30 minutes is time that is not productive. It's not getting anything done. And you've got equipment that is not -- it's depreciating. You know, the

airplane is not being -- it's flying, but it's not being financially productive. Does that make sense?

Q. Yeah, so --

A. So we try to use the best airplane for the best job.

Q. I understand. And can you tell me how far away was the job for the August event?

A. It would be approximately a half-hour commute, if you will, one direction from the airport that he flew from. Yes, sir.

Q. So you describe that as a far commute or further commute, I think.

A. Well, it's a reasonable commute.

MR. RAVICH: Object to form.

Don't talk over each other, please.

MR. LINDSEY: Yeah, let me finish. Thank you. Sorry. I kind of paused there so --

MR. RAVICH: That's all right, Dan. We got you.

MR. LINDSEY: -- he thought I was done.

BY MR. LINDSEY:

Q. Anyhow, the August event, you described that event as a longer one and, therefore, one where you needed the bigger plane?

A. Correct.

Q. Now, one step we haven't talked about yet in the job is the pesticides or the chemicals. What's the term that you normally use?

A. The product.

MR. RAVICH: Object to form.

What's the question?

BY MR. LINDSEY:

Q. Well, for the aerial spray, I think I've seen the documents aerial spray, pesticides, insecticides, chemicals. I'm just wondering what you normally use as the term of industry?

A. We use the term "product."

Q. Okay. So for the August event, you've got the job. You've got the plane. You picked Michael Ewing. Who figures out what product to get and how to apply the product?

A. That would have been Bobby at that point.

Q. And how does that work?

MR. RAVICH: Object to form, ambiguous.

BY MR. LINDSEY:

Q. What steps would Bobby take to do that?

A. He would look at the weather. He would look at the distance. He would look at the product, what

airplane is available to him. And that would basically be the decision-making tree that he would decide on.

Q. And where would he acquire the product from?

A. That would have come from Evergreen FS at that point. They would have provided that product to us, and they spray a lot of the same stuff on the ground with their method of application. It would be a ground rig.

(Reporter clarification.)

BY MR. LINDSEY:

Q. I'm going to switch gears for a little bit here and ask you some questions about the interrogatories that Curless answered that were posed by plaintiffs.

Do you remember reviewing those?

A. What's the term?

Q. Interrogatories, a fancy legal term for questions.

So do you remember reviewing and participating in responding to interrogatories?

A. When was this?

Q. No. I'm just saying do you recall participating in giving responses to plaintiffs' interrogatories?

A. Which -- it's been a while back.

Q. Right. Yeah. Fair enough.

A. Vaguely.

Q. Well, I can pull them up if we need to, but I just have a few basic questions. See if we need to.

MR. RAVICH: That would help. I'm sorry to interrupt. That would help. Please.

MR. LINDSEY: Well, I thought I had them ready to pull up, but I don't. So we will table those, get back later to those.

MR. RAVICH: And, Dan, we're coming up on an hour. That's not a pressure point, just kind of a -- on the clock.

MR. LINDSEY: Well, are you suggesting you want to take a break?

MR. RAVICH: I'm not.

MR. LINDSEY: Okay.

BY MR. LINDSEY:

Q. So we started talking about some of the steps leading up to the job you did on August 5th, 2019, the August event. Let me put in the chat and then I'll share my screen, Exhibit 2. So I'm going to start by putting that in the chat.

(J. Curless Deposition Exhibit No. 2 marked for identification.)

MR. LINDSEY: It's loading, so it should be there. And now let me share my screen. Sorry. All right. Hopefully, you can confirm for me that we're looking at a series of pages, the first one of which is marked Curless 1 at the bottom. And to avoid the multiplicity of having hundreds of exhibits, I've got them arranged in groups. So this is Curless 1 through 22. So you can see 1 there at the beginning and 22 at the end. I'll take silence as consent.

MR. RAVICH: Well, don't do that, but we see what you're --

MR. LINDSEY: In this case, can I take it as consent?

MR. RAVICH: Again, I don't have any -- I just don't know what it is you're asking us to consent to.

MR. LINDSEY: I just want to make sure that everybody see on their screen what I'm describing.

MR. RAVICH: I've seen the first page and the last page. On our screen is a 22-page document, but we haven't been through any of these documents. So I don't know what's in here.

MR. LINDSEY: Okay. Well --

MR. RAVICH: I'm sure you'll go through it, and I'm sure --

MR. LINDSEY: Yeah, I'll represent that it's Curless 1 through 22. And you have it in your chat. You can download it and look at it separately as well if you need to.

For now, I'm going to go move to Curless 5. So, again, at the bottom of the page, you can see it's marked Curless 5. Now going back to the top of the page.

BY MR. LINDSEY:

Q. So do you recognize this document, Mr. Curless?

MR. RAVICH: This is Curless 5, Dan?

MR. LINDSEY: Curless 5, correct.

MR. RAVICH: Okay. Thank you.

BY THE WITNESS:

A. That would be Mike's pilot's license and Illinois pesticide application card.

BY MR. LINDSEY:

Q. And what do those indicate about Mr. Ewing?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. He has -- he's a commercial applicator

licensed to apply those product -- those -- on those different crops.

Q. And how does one get a license like this?

A. The top question, or the top -- because you've got two different things there. Two significant things.

Q. Let's start with the top ones, yes.

MR. RAVICH: What are we referring to with the top one? I'm lost.

BY MR. LINDSEY:

Q. Well, the top one says Illinois pesticide ID card. So you agree with that, Mr. Curless?

A. Yes, sir.

Q. And so can you explain what that is and how you get that?

A. Mike would have taken an exam three years prior to this that gave him the ability to be a commercial applicator in the state of Illinois. He was -- he has an ability to spray -- apply -- I shouldn't say spray -- apply products to be -- he's a general applicator in aerial standard. So he's skilled in that area by the Department of Ag. Field crops, forestry areas, aquatic, and right-of-way with an aerial platform.

Q. And moving down, is that a separate license or

certification that we're looking at?

A. The green ones?

Q. Yes.

A. That would have been Orville and Wilbur Wright that gives him the ability to fly the airplane legally and give him his certifications of what airplanes he's checked out in. That's his pilot's license.

Q. And at the bottom, we've got a medical certificate, second class. Can you explain what that is?

MR. RAVICH: Form.

BY THE WITNESS:

A. Yeah, that would have been his medical certificate for that year, second class medical certificate, saying that he was physically able to fly.

BY MR. LINDSEY:

Q. And can you read what's written there under the limitations section?

MR. RAVICH: Object to form. If you need it larger, you can just ask.

BY THE WITNESS:

A. Must have available glasses for near vision.

BY MR. LINDSEY:

Q. And what's your understanding of what that

limitation means?

A. It means he has to have the same thing you're wearing and I'm wearing and Tim's wearing, glasses.

Q. And in your experience, would that have any effect on his abilities to perform his duties as a pilot?

A. Is he nearsighted or farsighted? I can't read the dash on my airplane is why I wear mine. And I can't see you if I don't wear mine, but I can see far away.

Q. So do you know if he wore his glasses when he was piloting?

MR. RAVICH: Form.

BY MR. LINDSEY:

Q. I see you shaking --

A. I don't recall. I don't recall. That was a long time ago, but he wears glasses quite often.

Q. Well, when you say quite often, do you mean while he's acting as a pilot?

A. Yes, sir.

Q. And do you remember if he was in 2019?

MR. RAVICH: Form.

BY THE WITNESS:

A. Sir, I -- sir, I can't remember what I ate last night. I don't remember.

BY MR. LINDSEY:

Q. Okay. Fair enough.

And how many years did you say Mr. Ewing had been flying for you?

A. I would say 13 or 14 now, during the summer months.

Q. Do you remember when he first came to you or when you first worked with him, I should say?

MR. RAVICH: Form.

BY THE WITNESS:

A. Do I remember? I remember loading him a few times. Yes, sir.

BY MR. LINDSEY:

Q. What year, if you recall, did you first work with him?

A. I think probably in '09 I worked with him. We loaded fertilizer together, and that's where I found out his first -- why he's named Hammer.

Q. Why is he named Hammer?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I'll tell you. When he was a boy, he would have a hammer in his hand and go around tapping the hammer on the ground. And his -- one of his family

members nicknamed him Hammer, and it stuck with him for life. And he told me the story when I was loading him in about probably 2009, 2009.

BY MR. LINDSEY:

Q. And I'm sorry. When you say loading him, what does that mean?

A. Well, that particular time that he told me, we were putting fertilizer in the airplane, nitrogen, just like what you put on your yard.

Q. And do you still work with Mr. Ewing?

A. Yes, sir.

Q. As far as you know, have there ever been any complaints related to Mr. Ewing's piloting?

A. No.

Q. Or investigations?

A. No.

Q. Or fines?

A. No.

Q. Do you have an employment contract with Mr. Ewing?

A. That would be a Harley question.

Q. Does that mean you don't know?

A. I do not know.

Q. Okay. Do you know if he's considered an

employee or an independent contractor?

A. He's a contractor.

Q. Do you know in 2019, if he was -- in August of 2019, if he was working with other applicators?

A. I do not know.

Q. Sorry if you already told me this, but when you get the job and you get the pilot, who determines the flight path?

MR. RAVICH: Form.

BY THE WITNESS:

A. The pilot does.

BY MR. LINDSEY:

Q. Let me go down one page. What I'm going to do here is try to turn it if I can do so successfully, make it more readable, easier to look at. I believe this is Curless Document 6. Would you agree with that, Mr. Curless? It's a little hard to see. It's sort of black on brown on the bottom right-hand side. Do you know where it says Curless 000006?

MR. RAVICH: See it somewhere?

Dan, I'm looking at the screen, because I think we're both really struggling to see that.

BY MR. LINDSEY:

Q. Well, I can make that bigger just to focus for a moment on your number. Do you see it now?

A. Oh, yeah.

MR. RAVICH: Just wanted to make sure we're --

MR. LINDSEY: Sorry.

MR. RAVICH: Go ahead.

MR. LINDSEY: Just want to make sure we're correctly identifying -- we're looking at the same document.

THE WITNESS: Yeah.

BY MR. LINDSEY:

Q. So let me bring it back down here. I'm going to try to get the whole document on the screen. So do you recognize this document?

A. Yes, sir.

Q. And what is it?

A. It would be the as-applied field for Kopp Farms, the customer, the farmer customer that we worked for. The red would have been his track, the airplane's track without spraying, no spray, but that would have been where the airplane flew. And the green area would also be where he flew, but there's where he actually applied the products that were requested of us to apply

on his -- on his field.

Q. And I think we'll see it in other documents, but is this, if you know, what's referred to as the Moo Maw Field?

A. Well, that's what he calls it. Probably the customer, the Kopp Farms, the customer, who I do not know, that would have been his nickname or alias for the field.

Q. So the field itself would be where it's green, or is it a larger area? Can you tell from this map?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. That would have been the area that we'd been asked to be treated.

Q. Well, you said a minute ago the green is where it was actually sprayed, correct?

A. Right.

Q. So how would you know if that is actually the complete field or more than the complete field?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. We have -- we have a boundary. There's another map that the pilot will take with him in the cockpit, a single map, that gives the boundary of the

field, and he follows directions based off of that boundary.

Q. Are you aware of another field nearby referred to as the Maxwell Field?

A. There were several fields in that geography. I don't know the names of those fields.

Q. Let me move down. Well, first of all, we're going to -- well, let's move down first. There we go. So now we're looking at Curless 21. Is this a document that you recognize?

A. Sort of.

Q. What's your understanding of what this shows?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. It shows that the wind is out of the west direction, southwest direction.

BY MR. LINDSEY:

Q. And what's your understanding of the demarcations here, "plane" and "work"?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Well, that would be where the plane would have been. They think that's where the plane was working, and that's where the -- they -- I assume that's where

they think the workers were located.

BY MR. LINDSEY:

Q. Do you know who generated this document?

A. No, sir.

Q. Do you know who generated the other document we were looking at, the as-applied, as you called it?

MR. RAVICH: Form.

BY THE WITNESS:

A. I did.

BY MR. LINDSEY:

Q. And how did you generate that document?

MR. RAVICH: We're talking about Curless 6?

MR. LINDSEY: Correct.

MR. RAVICH: Do you want to see it?

THE WITNESS: Yeah, I want to see it.

MR. LINDSEY: Do you want to go back?

THE WITNESS: Sure.

BY THE WITNESS:

A. Okay. There is a GPS unit in the aircraft, and there's a monitor, a TV screen, if you will, right in front of the pilot that shows the boundary. That's all tied to a GPS unit in the aircraft itself.

So as the aircraft travels, it knows whether it's spraying or not by a microswitch. So when

we're ferrying, which would be the red lines, or just cruising, just no different than a jet, going from East Coast to West Coast -- they're just traveling along -- it would be a red line. And when the spray is on or the spray off -- sorry. When the spray is on through the microswitch, it turns it green and shows it painting. We refer to it as painting. Okay. But that shows where the spray was on and the spray was off on the field.

And what's that really done is to illustrate to the pilot where he has sprayed and where he has not. It is a sea of corn up there. It is thousands of acres, and we get -- you can't remember where you've been in the sea of corn. And this allows us to know that we've properly blanketed or covered the field properly for the customer that's paying a large bill. That would be where the green is at, and that's why we utilize it.

That data is recorded on a -- on the hard drive and then of the computer. At the end of the day or every couple of days, I go down. I personally go in and download that information from the aircraft to communicate that mainly to the customers. So the farmer that's paying the bill knows where we've sprayed, and we haven't made a mistake. And he knows it's done. It

kind of gives him a verification that our -- or confirmation that we were there.

Sometimes I've heard customers that are paying the bill, they're in Florida or they're at the lake with their families. And they can get on their computers and look at their computer and say, oh, they got that field done and that field done, but why didn't we get this field done for whatever reason? And then they can -- they talk to the co-op, their point of contact at the co-op, and then that minimizes our discussion from the farmer to us during the summertime when we've got fewer people to talk to during the summer. And that's really what it's used for.

So they record the data. They let it ride all day long in the airplane. And at the end the day, I pull it off, and then that helps us communicate clearly to the customer where we sprayed and where we did not and where the airplane flew as well. It's kind of like your iPhone. It tracks you all the time now, too.

BY MR. LINDSEY:

Q. I'm going to attach another document, and then I'll screen share it. We're going to be looking at this same document again put together with a preceding email. Apologizing in advance or again for my less-than-perfect

grasp of technology. I want to make sure I'm sharing the correct screen. Am I sharing the screen?

(J. Curless Deposition Exhibit No. 7 marked for identification.)

MR. RAVICH: Dan, we see an email of a --

MR. LINDSEY: From Beckey Ogden?

MR. RAVICH: Yeah, October 31st.

BY MR. LINDSEY:

Q. So this is a short document. It's a Curless 146 and Curless 147. I think those two numbers are pretty easy to see. So it looks like I'm sharing the correct document. Is that right?

MR. RAVICH: You're scrolling right now, but we're at the bottom of 146 is what we see.

MR. LINDSEY: Great, great. Thank you. I'll close that.

BY MR. LINDSEY:

Q. So what we're looking at here is an email between Beckey Ogden and Rick Davis. Is that accurate, Mr. Curless?

A. That's what the email says. Yes, sir.

Q. And just going back down to the bottom to sort of the start where the email thread is, we've got Ms. Ogden. And do you know who Ms. Ogden works for?

A. She works for Curless Flying.

Q. So she is -- so this first email would be from Rick Davis at Illinois.gov, Department of Agricultural; is that correct?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Is that your understanding?

A. Yeah.

Q. So he's asking for the "as-applied" map for this field. And would it be your understanding that that's the type of "as-applied" map that you've been talking about for the last few minutes?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Yes, sir.

BY MR. LINDSEY:

Q. So then Beckey replies according to the email. It's the fourth page of the attachment.

Do you see that?

A. Okay. Do I see that?

MR. RAVICH: Again, I think your witness is confused as to what you're asking.

BY MR. LINDSEY:

Q. Do I need to make it a little bigger? Sorry

about that.

MR. RAVICH: That's okay. You can ask him what you need to see.

BY MR. LINDSEY:

Q. So toward the bottom, can you see where --

MR. RAVICH: Is the fourth page.

BY MR. LINDSEY:

Q. -- Beckey says -- it's the fourth page of the attachment?

A. Uh-huh.

Q. And that was on October 24th, correct?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. According to the email?

A. Yeah, it looks like it. Yes, sir.

Q. So just to get our bearings, this would be a couple of months after the August event?

A. Probably.

Q. And then we have Rick Davis from DOA responding, "Thanks. I saw that, but it is a modified version. I would like to see the raw file that would include the flight path of the plane outside of the treated field. Do you have that?"

Do you see where the email says that?

A. Yeah.

Q. Do you have an understanding as to what Mr. Davis would mean by a modified version?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. My guess is that when we sent an "as-applied," the maps get very busy. And we would just send to him in October 24th just the applied area only or, in other words, just the green area only to him. And what they're referring to is, is the flight path, would be where the red lines are at on the other image.

BY MR. LINDSEY:

Q. So your understanding is the raw file would show that as well?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. The raw file, it -- the computer behind the scenes to the customer, which would be Evergreen FS and the Kopp Farms, would just see the "as-applied," the green area only. The computer basically just shows that information to reduce the confusion on the map. And so he knows or she knows exactly where we sprayed, which would be the green area. The computer clips out, if you

will, or does not illustrate the red lines for the original as-applied.

BY MR. LINDSEY:

Q. And do you know why they would be looking for the raw file?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. To illustrate where the airplane actually flew.

BY MR. LINDSEY:

Q. But then it looks like a week later on October 31st, Beckey got -- or at least it's saying that she got that back to them. Finally got it for you, correct?

A. That's what the document says. Yes, sir.

Q. And would it be your understanding that this document -- this map that we looked at a little bit already, it is that raw file that was being requested?

A. Correct.

MR. RAVICH: And you are referring to Curless 6 at this point?

BY MR. LINDSEY:

Q. Well, I'll referring to Curless 147, but it's the same that we were looking at Curless 6 previously,

correct?

MR. RAVICH: Form.

BY MR. LINDSEY:

Q. Would that be right, Mr. Curless?

A. Yes, sir.

Q. Same document. And I'm trying to get -- I apologize -- the whole thing on here. I might have to move it a little bit because I can't get the whole thing on there, and I want to keep it big.

So what does the HGPS Summit liabilities refer to up here in the right-hand corner?

A. Well, those would be the -- the GPS is collecting its point and what the airplane is doing at that point. They call them vertexes. I don't know what the Summit liabilities actually means. I bring this in through Google Earth program, and that is what's printed off on that. So I have no idea. That's a Google Earth thing that I don't understand, sir.

Q. Okay. Okay. But you'd say that this is standard form that you get when you use Google Earth on a regular basis?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Yes, sir.

BY MR. LINDSEY:

Q. And did you say you created this?

A. I believe so.

Q. Or you pulled it together using Google Earth?

A. Right.

Q. And what does the term "swaths" there mean or refer to?

A. Those are our passes.

Q. Well, when you say passes, what does that mean?

A. Our pass at either -- of the products that we're applying to the field -- the field that the customer has asked us to apply to.

Q. So does the pass -- does the pass correspond to when the actual spraying is being done?

A. Yes.

Q. And do you know the technology of that, how that works? How does the pass get recorded only when the spraying is being done?

A. Right beneath the belly -- I'm sorry. Right beneath the cockpit when the pilot pushes the spray handle down, there is a microswitch that completes the circuit of on or off. And then that is communicated to the GPS that says I'm now spraying or I'm not spraying,

assuming that microswitch works correctly.

Q. And how do you determine if it's working correctly, or how does the pilot determine that?

A. It's painting. It shows him, yeah, I've got the handle down and it's painting. As he flies across field, he can actually see it on his monitor. I mean, it's a couple of seconds behind, but it's still, you know, all the computer hooking together. But it's still doing it as he flies. And, again, this is confirming to him, the pilot, that he has treated the field properly for the customer that has asked the job to be done.

Q. So looking down toward the bottom of the green portion, it looks like there's a gray line that says East 1000 North Road; is that right?

A. Yeah.

Q. So that's an actual road?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I assume it's gravel or blacktop road of some sort. Yes, sir.

BY MR. LINDSEY:

Q. Okay. And the plane would have sprayed according to these green lines across that road; is that right?

A. You say across?

Q. Well, it looks like there's green lines that are on top of that gray line that we just identified as East 1000 North Road, correct?

MR. RAVICH: Object to form. You're asking him to confirm what you're seeing?

BY MR. LINDSEY:

Q. Well, is that what that looks like to you, Mr. Curless?

MR. RAVICH: Form.

BY THE WITNESS:

A. The -- how do I say this properly? It is a microswitch. The airplane is traveling 140 mile an hour. If you look at the bottom of that, where you're questioning, where it's jagged at the bottom, that is cast -- they refer to as castling. There is nothing -- this is wrapped imagery around the Earth, and the GPS may not be recording absolutely perfectly. So, in other words, there could be a lead or there could be lag on the GPS. Same thing happens in a yield monitor in a combine to show yield. Same concept is used. And so it gives you the general idea of what we applied and where we did not. It is not absolutely perfect.

Q. Well, do you believe that on this flight the

pilot would have sprayed over that road that we see?

MR. RAVICH: Form.

BY THE WITNESS:

A. I doubt it.

BY MR. LINDSEY:

Q. And why?

A. Why? Wasting product.

Q. Are there protocols for spraying over roads?

A. We ask them not to.

Q. But in your experience, do pilots spray over the road if there's a road that's in the middle of their path like this?

MR. RAVICH: Form.

BY THE WITNESS:

A. I have no idea.

BY MR. LINDSEY:

Q. So in your experience, you don't have any knowledge of whether or not that happens?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Do you know what your kids do every day?

BY MR. LINDSEY:

Q. Well, when you say you ask them, is it a written instruction or guideline or -- or just an oral

request?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. It's -- it's common sense that you wouldn't most likely do that, but there are scenarios where it's possible that they do that.

BY MR. LINDSEY:

Q. So just to be clear, it doesn't sound like you have written instructions or guidelines that tell your pilots not to do that?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Is that correct?

MR. RAVICH: Form.

BY MR. LINDSEY:

Q. Can you answer that, Mr. Curless?

A. Is there guidelines? No.

Q. In doing the spray, do the pilots ever double spray in the same area?

A. They -- that's why we actually have it on the board so we avoid double spraying as much as possible. Where those darker areas are at is where the clean -- they call it the cleanup row, where the areas of -- where the airplane pitches up for a highline or pitches

down for a highline and to do a good job for the customer, we will do what we call a cleanup pass. And those darker areas -- move your mouse to the east side of the field -- right there -- and move it on over to the west -- right there -- and move it on to the west -- right there, that is where we -- the pilot would have done a good job on the field. And that tells me that he did a good job on that field and did a good job for the customer that's paying the bill.

Q. Thank you, by the way, for answering a lingering question I hadn't asked, which is, can you see my little mousey thing? I guess you can. Thank you.

Now, going back to these red lines, you're saying that's the path that the plane traveled without spraying; is that correct?

A. Yes, sir.

Q. And who determines how to travel along -- or what path to travel along? When I say path, I mean these red lines. Who determines to go along these red lines to complete the job?

A. That's the pilot, with obstacles and other things on the landscape that he makes that decision. That's just showing the track.

Q. When I say obstacles, what do you mean by

that?

A. If there were wind towers here or cell phone towers or other objects on the landscape that can hurt him and the aircraft, he would avoid those and navigate around those.

Q. Are there any other kind of obstacles?

A. Yeah. If there was some other -- somebody mowing on the landscape or a bicycler or, you know, somebody walking, there -- you know, they're walking along the road, then he could avoid that. If he can see it, he could avoid that and fly around those areas.

Q. Why would he need to fly around them?

A. Well, a wind tower would hurt him and the airplane.

Q. Well, the obstacles you mentioned like somebody just on the ground, you said he would try to fly around them. Why would he do that?

A. If we were spraying, if he was down spraying, trying to do a job, and they are on the road that is near the application -- near the application area of interest, then he would shut off and avoid them until they get out of the area, you know, or exit the area, and then we go back to work.

Q. Well, so going back to this road here,

obviously, if somebody were on the road right in here, he wouldn't just keep spraying over this area; is that correct?

A. That's right. But the castling is the question there.

Q. The castling, what does that mean?

A. Go to the -- move your mouse up just a little bit to the very bottom of -- no. Down, down, down, up, up, up, up. Right there. Stop. Now, just right there on that line, move your mouse down. See that castling right there? It's jagged. It's not nice and smooth.

Q. Are we talking about the red lines or the green lines?

A. The green lines.

Q. The green lines here that are jagged?

A. Yeah.

Q. Okay.

A. That's the castling.

Q. And why are they jagged? What does that mean?

A. It means he's moving 150 mile an hour, and he turns the spray on. The GPS may not record it for another couple of seconds. Also, on the exit of the pass at 150 mile an hour, it may not -- it may show him spraying when he's actually not. So it's not smooth and

it never will be. I personally can't get it figured out to make it nice and perfect.

Q. Going back to what you said a minute ago about him avoiding obstacles on the ground if it's somebody near or in the area, how do you define near or in the area?

A. If they are adjacent to the application area is -- or potentially get downwind of the area where we know that we can have potential to get them to -- potentially get them with our product on board, then we try to avoid that as much as possible to respect them and the environment and the cost.

Q. Is there a standard measurement of distance that you use to avoid an area of that sort?

A. No, sir.

Q. So how would the pilot determine what's a safe distance to avoid obstacles like that?

A. That's a good question. You probably need to ask Harley or Michael that.

Q. So going back to the red lines, some of them it looks like we can see go off or come from off the page, off this grid, right?

A. Yeah.

Q. Down here and then up in this quadrant,

there's a few up here --

A. Sure.

Q. -- and down here as well. So why would it be necessary for the pilot to make -- take those directions on the flight?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. The one that you're on now and go north of that or up.

BY MR. LINDSEY:

Q. Well, okay. We can focus one at a time. The one on the north here?

A. He was doing -- if I remember correctly, there are more fields that he had on his order that were to the north of where your mouse is at now. So he would have been moving from one field to another field, and that would have probably been that line, is my assumption.

Q. Well, and then we've got a couple of others over here --

A. That --

Q. -- to the west?

MR. RAVICH: There is no question pending right now.

BY MR. LINDSEY:

Q. What do you think those would be for?

A. For those other fields, the geography.

Q. Which other fields?

A. The other fields on the load.

Q. Do you know how -- do you know how many different jobs were on this load?

A. You have it on your sheet.

Q. Okay. Fair enough. We'll get to that, and then here's one down here, the line to the southwest, I guess. Would you say that's the same reason for that one?

A. Just based off of tracing the line back, he could have been working on the GPS, could have been on the radio. I have no idea.

Q. All right. And it looks like there's some more here to the south?

A. That would have been the turn for those. That would have been the turn for that -- to the north, that field to the north if you look at the --

Q. Okay. You say this one looks like it loops more?

A. Yeah, exactly.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Do you think that -- well, it's been a while since we mentioned Mr. Ewing. I think we established that this was the August 5th job that Mr. Ewing did that we were talking about earlier; is that correct?

A. Yes, sir.

Q. Do you think that at any point Mr. Ewing sprayed any of the workers in this lawsuit?

A. No, sir.

Q. And why would you say that?

A. As applied, the green area illustrates where he sprayed.

Q. Any other reasons?

A. For my -- personally for me, that's exactly what I'm looking for from him. I think he did a fantastic job.

Q. Do you think Mr. Ewing ever flew over the workers?

MR. RAVICH: Could you repeat the question? I didn't hear it.

BY MR. LINDSEY:

Q. I asked if Mr. Ewing -- if Mr. Curless believes that Mr. Ewing flew over the workers?

A. Probably.

Q. And why do you say that?

A. Where were the workers at on this map?

Q. Why do you think he flew over them?

MR. RAVICH: Object to form, lack of predicate.

BY THE WITNESS:

A. I'm asking you where the workers were at.

BY MR. LINDSEY:

Q. Well, I get to ask the questions. Sorry, Mr. Curless. You did say you thought that he flew over the workers. So I'm asking you why you thought that or why you --

MR. RAVICH: Object to -- object to form.

BY MR. LINDSEY:

Q. Well, let me start over. So as you know, the workers in this case have alleged that the plane flew over the field where they were working. So my question a minute ago was, do you think the plane flew over the workers, and I believe you said yes. And so now I'm following up and asking why you think so, why you think that is the case.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. What leads you to believe that the plane flew

over the workers?

MR. RAVICH: Object to form, speculative.

BY THE WITNESS:

A. Do airplanes fly over O'Hare in the city of Chicago? And people?

BY MR. LINDSEY:

Q. In any event, you believe that the airplane may well have flown over them?

MR. RAVICH: Object --

BY MR. LINDSEY:

Q. But I think it's fair to say you don't think that the airplane sprayed them; is that correct?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Is that correct, Mr. Curless? You can answer.

MR. RAVICH: Object to form.

If you understand.

BY THE WITNESS:

A. I understand.

They did not spray them. He did not spray them.

BY MR. LINDSEY:

Q. I understand that, but you also said you thought that he did fly over them.

MR. RAVICH: Dan, we've been over this a number of times. It's been asked and answered.

MR. LINDSEY: And then I asked why he believed that, and he has not answered that question.

BY THE WITNESS:

A. Can I use an example, sir?

BY MR. LINDSEY:

Q. Sure.

A. Are you at an office building today or are you at home? The point being is, if you walked -- if a school bus or a city bus was on the road and you were on the sidewalk, you're going one direction, the city bus or the school bus was going the opposite direction or the same direction. It's pretty much irrelevant. They were doing a job, and you were doing a job. You were going to work this morning. They were delivering their kids or their school bus riders, and they were both doing a job safely.

That example is exactly what Mike did. He did a job perfectly correct, in my mind. Did he fly over them? It's very possible. But airplanes at O'Hare or other airports every day fly over people. Those pilots doing those jobs in those aircraft are doing perfectly good jobs landing those aircraft, but they're

also flying over people, just like Mike perhaps flew over the people. But you haven't told me where they were at.

Q. Well, but I think what you're saying -- correct me if I'm wrong -- is he may well have flown over them, but that doesn't mean he sprayed them and you don't believe that he sprayed them because you think the spray was only on this green patch that we've been looking at. Is that --

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. -- is that right?

MR. RAVICH: Objection to form.

BY THE WITNESS:

A. Correct.

BY MR. LINDSEY:

Q. Okay.

MR. LINDSEY: Why don't we take a break. It's 10:45. Should we come back at 11:00, Tim?

MR. RAVICH: That's fine. That's fine with us. I've got a --

THE WITNESS: 15 minutes.

MR. RAVICH: Yeah, that's fine. Thank you.

MR. LINDSEY: Whatever thing or things we need to do for a bit.

MR. RAVICH: Sure.

MR. LINDSEY: Thank you. So we can go off record until 11:00.

(Recess.)

BY MR. LINDSEY:

Q. So during the break, I went ahead and put the next two exhibits that I want to ask about in the chat, 3 and 4.

(J. Curless Deposition Exhibit Nos. 3 and 4 marked for identification.)

MR. LINDSEY: I can share. We can look at them, hopefully. You may want to look at them.

BY MR. LINDSEY:

Q. There are two weather reports, and both weather reports Curless produced to us. And I want to ask you about -- and in part, I just want to get a sense of if either one of or both of these two reports pertain to the August 5th event.

So Exhibit 3, if you look at it, the cover page says progressive ag, Paul's KILLARROW4, and, you know, there's some basic, I guess, internet or online or

GPS information. And then we get into the wind speeds. And then the next Exhibit 4.

BY MR. LINDSEY:

Q. Please confirm that you're tracking with me. I just switched to one that says, "Dale Valley Subdivision KILMAHOM9."

MR. RAVICH: We see exhibit -- yeah, we see the top part of it.

BY MR. LINDSEY:

Q. Yeah, so these are two different, you know, printouts of reports that Curless gave us. So my foundational question is, if you know, Mr. Curless, which of these or both or neither applied to the August 5th event?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Scroll down, please.

BY MR. LINDSEY:

Q. I'll make it a little smaller. Tell me if it's too small. I'm sorry. Let's take it in order to avoid confusion. Exhibit 3, and it's the first -- it's got the lower number of Curless -- this is Curless 23 through Curless 30.

So we're looking at 3. This is the one

KILARROW4. Do you want me to go down further?

A. Yeah. You need to blow it up a bit, sir. On down, please. Stop. So if you see that link there, the HTTPS without me reading it?

Q. I see it.

A. Yeah, right there shows the date and time for that geography. And if I remember right, I pulled up Wunderground, and Wunderground is a data warehouse that has independent weather stations. They're not official weather stations. I don't even know if they're great weather stations. Okay. Good or bad, I have no idea. But it kind of gives us a sense of the direction of wind. And in areas where we don't have -- it's -- it's as good as we can come up with to kind of give you an idea of the wind direction and speed. But it's not official. It's not calibrated. It's just information, you know, that would be for the Dan Lindsey property, for example.

Q. Well, do you know who pulled up this report?

A. I did. I think I went out and found it for you for that particular area and sent it to the -- to the lawyers here.

Q. And when did you pull it up?

A. Oh, a year or two ago now. It's been quite

some time. Just historical data. You can go to Wunderground and do the same thing.

Q. Sure. So I see -- I mean, the link that you started talking about a minute ago refers to 8/5/19. I take it you were trying to get information that you thought pertained to that day, right?

A. Yeah.

Q. And then there's this other date here toward the bottom, October 23rd, 2019. What do you think that entails?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I think that would be the day that the department came in that shows the whether. Don't know.

MR. RAVICH: I can't answer.

BY THE WITNESS:

A. I can't answer.

MR. RAVICH: No. I can't answer.

BY MR. LINDSEY:

Q. It looks like every one of them has 10/23/2019 at the top. I mean, do you think that's the date you pulled this information?

A. Probably.

Q. And then just going to Exhibit 4, it looks

like kind of everything you said about Exhibit 3 is the same for Exhibit 4 in terms of you're the one who pulled it; is that right?

A. Yes, sir.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. And it looks like probably on 10/23/2019?

MR. RAVICH: Form.

BY THE WITNESS:

A. Probably.

BY MR. LINDSEY:

Q. And then you were pulling it, trying to get information for -- pertaining to it looks like 8/5/19, right?

A. Right.

BY MR. LINDSEY:

Q. Well, why did you pull these particular two, information on these particular two?

A. I think they were the closest to the field. And if you look at the official weather stations in Bloomington and in Champaign, if you remember correctly, they are a pretty good distance away. And these, even though they are not calibrated properly compared to an official weather, verify that, you know, that the wind

was that direction, south -- southwest and the, you know, reasonably low wind speed.

Q. Okay.

A. That's why I did that.

Q. I understand. So it sounds like you are saying you pulled these two because these two seemed to be the two most relevant to the geography that you were looking for?

A. Yes, sir.

MR. RAVICH: Object to form.

BY THE WITNESS:

A. But not calibrated.

BY MR. LINDSEY:

Q. I'm sorry. What does that mean, not calibrated?

A. Somebody went out there and properly said that is exactly 2-mile-an-hour wind or 50-mile-an-hour wind. I don't know. It's the local weather station of the person.

Q. Okay. So why specifically did you pull these two reports?

MR. RAVICH: Objection, asked and answered.

BY MR. LINDSEY:

Q. Well, I understand that you said you pulled

them because they were the most relevant for the geographical point that you were interested in. But what led you to undergo the exercise of gathering these two reports?

A. It shows -- I mean, you look at where that city is at compared to Bloomington and Champaign, it's kind of halfway in between. It's, you know, 50 miles or more from those weather stations, and this would be some information for you and for the Department of Ag to see that even local weather stations were reporting the same thing.

Q. So these were pulled at least in part for the Department of Ag. Is that what you're saying?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I don't recall.

BY MR. LINDSEY:

Q. I mean, did you pull these on your own initiative, or did someone ask you to pull them?

MR. RAVICH: Object to form, asked and answered.

BY MR. LINDSEY:

Q. You can answer, Mr. Curless.

A. Oh, I thought you said answer -- I thought you

said -- I'm sorry. I misunderstood. That's my fault.

MR. RAVICH: I did, but you can go ahead.

BY THE WITNESS:

A. I did it on my own accord just to verify that the wind was slow in that geography, too. And this is the best information that I come up with in between those two official stations.

BY MR. LINDSEY:

Q. Okay. But to be clear --

A. And close to the field -- and close to the field of interest.

Q. My apologies. Didn't mean to cut you off. But to be clear, these aren't reports that the pilot pulled the day of?

A. No. No, no, no.

Q. So would the pilot pull some kind of report the day of --

A. No.

Q. -- the wind?

A. No.

Q. So would the pilot do anything to ascertain speed, direction of the wind the day of?

A. Actually, Bobby would have looked at the wind that day before he would have sent him, the pilot, to

say, okay, it's reasonably -- it's a reasonably good day. And then when the pilot gets there, he will use smoke on the aircraft just like smoke at an air show. It's a paraffin-based oil in the exhaust. That gives the pilot wind direction and -- a guesstimate of wind direction and speed so he knows how to properly apply the field.

Q. So focusing on the first part of your answer there, that Bobby would, I think you said, do some kind of research or look at the wind or make some type of calculations.

A. Yeah.

Q. What specifically would Bobby do to come up with his opinion?

A. We have a -- we have a screen here that has the official weather station's wind speed and direction, tick marks, if you will, that show direction at those stations in real time that shows that information and the speed of that wind, and that would have helped him say, okay, we're good in that area to -- to, you know, make an application.

Q. And for the August 5th flight, where would those weather stations be?

A. He would have likely looked at not this

information. He would have looked at Bloomington and Champaign official weather stations.

Q. And how far away would Bloomington be?

A. It's probably 25 or 30 miles.

Q. How far would Champaign be?

A. Same.

Q. And after looking at those weather stations, would Bobby make any kind of written record or not?

A. No.

Q. Would he take any other steps other than looking at those weather stations?

A. No.

Q. So based on looking at those two weather stations, you would give the go-ahead while -- well, he gave the go-ahead on August 35th to Mike to go ahead with the flight, correct?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Correct.

BY MR. LINDSEY:

Q. And then walk me through the steps of how Mike would have used the smoke in the way that you're talking about.

A. I'm trying to explain that system to you. On

the -- on the aircraft is a exit of the exhaust. So it's, you know, 500 degrees on the exhaust-ish. There is an orifice that we can inject smoke into the -- I'm sorry -- paraffin-based oil in the exhaust. And just like an air show, it is injected into the exhaust from a little button on the stick of the aircraft. So it's normally not running. We don't want to waste the product. But when we want to see the smoke, we push that little button. It injects the oil into the exhaust, and then that shows -- in the airplane at that point after he gets the smoke going, he turns the airplane around and looks at the smoke, and then it shows the wind -- it gives him an idea real time of what the wind direction and speed is of the -- at the moment. And that way he can determine whether, you know, off-target applications are a risk or not.

Q. And do you know how many times Mike would have gone through that -- what you just described --

A. We -- one of our -- well, one of our safety aspects is we would like our guys -- and this is what Harley would ask -- is to circle the field of application. During that circle of application from a safety perspective, he does a little reconnaissance. If there's trash burning, if somebody is burning their

trash in their yard, you make a note of the trash smoke direction and wind speed. Or perhaps there's a power plant that is producing steam, and that steam shows us the wind direction and speed. Maybe there's a wind sock there and/or he shows the smoke out of the aircraft, and that gives us an idea. So maybe once that he'll do that at the beginning the application. And that gives him an idea of how he is setting the application up, sir.

Q. So I'm sorry. You say he makes the rounds to look at all of those things once?

A. At least once. I mean, he could do more. But we ask him to do once from a safety aspect.

Q. And then he also does the injection of the smoke?

A. Yeah.

Q. Once at that time?

A. Yes, sir.

Q. And would he normally do it again later during his flight or just that once?

A. It doesn't last long. The application time doesn't last long. So if everything is going properly, 10 or 15 minutes and he's done with that field and moved on to another field. So it's fairly quick. So the wind probably does not change dramatically during that event.

Q. Got it.

So besides sort of doing a little look around to see what's going on and check the wind conditions, are there any other preparations that go into the process of doing the application?

A. Yeah, during that reconnaissance circle, it's what can hurt him and the aircraft and what obstacles are around him that he needs to be prepared for. Is he in the right field? Say it's the right crop, so is it, in fact, soybeans or is it, in fact, corn. And those are things that are on his work order that he's verifying that, yes, I'm in the right field, I'm in the right area here that is being asked to be treated.

Q. Do you know what crop Mike was treating that day?

A. Can we look back? I don't remember.

Q. Well, I tell you what. We will be looking at the application report later. So I think it would say on there. I can ask you then.

A. If it's corn -- I know it's corn on there. So it'd probably be corn.

Q. But we'll look at that.

What about -- in terms of preparations, what about communications with other nearby owners or

employers or other parties --

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. -- doing the application? Did Mike -- would Mike do that, any of those types of communications?

A. That would be a Bobby decision.

Q. So was there a --

A. Mike flies the airplane. Mike flies the airplane. That's his job.

Q. Got it. So Bobby would tell him -- or Bobby would take care of that is what you're saying?

A. Yes, sir.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Was there -- but did you have any specific guidelines for communicating with others, owners, employers, others in nearby fields?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. There could be, but sometimes not as well.

BY MR. LINDSEY:

Q. Well, can you explain what you mean by that?

A. This was not a -- this field that we treated was a general field that a producer asked us to work on,

and there are -- how do I say this properly? -- other areas that, you know, we -- I'm trying to think how to say this. I'm kind of running out of mental steam here.

If it's close in proximity, then we might check on, you know, if there's other people around, but the -- if it's a reasonable distance, then we're fine to do the application and no communication exists.

Q. And what would be a reasonable distance?

A. Quarter mile. 1500, 2,000 feet and closer. You know, that's pretty tight.

Q. So if somebody were within a quarter mile, you would communicate; is that what you're saying?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Well, you said a quarter mile, so I am just trying to make sure I understand. It sounds like you're saying if there was a -- something going on or --

A. If we had the information.

MR. RAVICH: There's no question for you.

BY MR. LINDSEY:

Q. If you had the information that there was something going on within a quarter mile, you would communicate with them before the application; is that right?

A. We would try to.

Q. Well, how would you try to?

A. We could call them. Sometimes they report; sometimes they do not, the companies that have a staff in their fields.

Q. Were you part of any regular communication networks that would facilitate that process?

A. Some do. Some do not.

Q. Well, I mean, were you part of any --

A. Personally, no. No.

Q. When you say personally, I -- Curless and Farm Air; is that what you mean?

A. Right.

Q. So you weren't part of any, like, specific Listservs?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. They would -- sometimes people would occasionally send us faxes or emails that they would be in fields, but they wouldn't give us the location of those fields.

BY MR. LINDSEY:

Q. Okay. But you were not in a regular Listserv seeking this information on a regular basis,

correct?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. They send it to us.

BY MR. LINDSEY:

Q. Okay. Are you familiar with an online communication platform or service called DriftWatch?

A. I am.

Q. And what is that?

A. It is a tool that comes into our system that illustrates where sensitive areas are at.

Q. What do you mean by sensitive areas?

A. People that have sensitive crops.

Q. What are sensitive crops?

A. They tell us what those sensitive crops are. Everybody has a different threshold.

Q. Well, do you mean sensitive to --

A. A lot of different things.

Q. -- to spray?

(Simultaneous speakers.)

(Reporter clarification.)

BY MR. LINDSEY:

Q. So my complete question was, do you mean sensitive as to what might be sprayed on the crops? Is

that what you mean?

A. Yes.

Q. And so through DriftWatch, you might get information --

A. Yes.

Q. -- this neighbor's field has sensitive crops, please avoid it at all costs, that sort of thing?

Sorry. Is that a yes?

A. Yes.

Q. Okay. And would you inquire through DriftWatch or put information in, we're planning this, or you would just receive information?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Just receive information.

BY MR. LINDSEY:

Q. Okay. So on the day of the August 5th spray, Bobby -- sorry. Mike Ewing's the pilot. Is anyone else from Curless in the area on the ground?

A. I don't know. Likely, someone was mixing for us, the products to properly load the aircraft.

Q. Well, I'm sorry. I thought the mixing was done like back at your office before the plane took off and flew the distance?

A. Yeah, yes.

Q. I'm sorry. What I meant was, was there anybody from Curless at the field where the spraying was being done?

A. Oh, no. Nobody's at the field other than our pilot and aircraft.

Q. Or the adjacent fields?

A. Correct.

Q. So the people in your office are there helping load the plane with the product?

A. Correct.

Q. Got it. And Bobby, I guess, the things he was doing, looking at the wind, et cetera, would be there at your office?

A. Yes, sir.

Q. And I'm sorry. Where is your office again?

A. Our office is in Astoria, Illinois.

Q. And --

A. I think the field would have been pulled out of McLean, Illinois. The airplane would have landed in McLean, Illinois, for refueling and reloading the product.

Q. Okay. So you would have had somebody on the ground at McLean?

A. Yes.

Q. How far is McLean from the field that was sprayed?

A. 30 miles, 25 miles, something like that.

Q. And after the spray was done, what would have happened? What are the standard procedures that happened when you have completed -- pilots completed the spray?

A. He would record the end time and record any unusual things that happened or happened. If he lays back, he has the latitude to lay back if he has got a sensitive scenario that Bobby or I would not have known about. In other words, the field would have been partially incomplete, not done to perfection. And he has the latitude to write that on the map so we can reduce the acres, reduce the cost or reduce the billing, you know, to the co-op and to the grower so he can lay that off if he so desires.

But if he sees no problem, at that point, we do the full -- do the full work as it was turned in. So he records that on his work order, and then -- remember, we're flying the airplane. And that's -- so the -- sometimes the -- it's not written great on borders of the work order, but he'll also record -- and

this is the Department of Ag request to write the wind direction and speed on the work order itself and sign it, that he completed that specific field to the best of his ability.

Q. And do you know if this field we're talking about on 8/5 was fully completed?

A. Yes, sir. It was completed.

Q. And the write-up or report that you just mentioned, how does that get memorialized, in what sort of the written document or documents?

A. Memorialized?

Q. Preserved.

A. It's -- it rides with him on a clipboard in the aircraft. He signs it or checks it off that he got it done. And then when he gets back at the end of the load, when he's safely on the ground and can spread his paperwork out, then he will complete the order on the ground of the time. Usually just writes the time and wind speed, just jots it down real quickly because you can't remember all that. And it can be on different margins of the paper. And then when he gets back to the offers, he will fill it in to the best of his ability. And that's when his job is done for that field.

Q. Is this the same as the logbook or this is

something different?

A. Logbook like for the pilot that's --

Q. Yeah.

A. Well, it's different because the logbook typically just is the time and if you're cross-country or your distance or your destination, where you took off from and where you landed. And that's basically -- what aircraft you were flying. It's totally two separate things, sir.

Q. Got it. So the completion paperwork that you were talking about first, was that preserved in this case for this field?

A. Yeah. You have got it in the package.

Q. And that's been produced?

A. Yes, sir. I think he would have signed it M.E., Mike Ewing.

Q. Not H?

A. What?

Q. Not H?

A. H? What's H mean?

Q. I'm sorry. I'm not supposed to make jokes in depositions. H for Hammer?

A. Good one. I didn't catch that one.

No, M.E.

That's a good one.

Q. Just one quick question at this point. Back on our Exhibit 2, I'm just going to go to Curless 14, Exhibit 2, which we looked at as a sort of group exhibit before. So this is Curless 14. This is 505 current field.

A. I'm not seeing anything.

Q. Do you recognize this?

MR. RAVICH: Yeah, we're not seeing it on our screen.

MR. LINDSEY: You're not seeing it?

MR. RAVICH: No.

MR. LINDSEY: All right. Let me try.

MR. RAVICH: Thank you.

MR. LINDSEY: Share. How is that?

MR. RAVICH: Good. And this is Curless 14, you say?

MR. LINDSEY: Curless 14, it says, "505 current field" at the top.

MR. RAVICH: That is part of your map, Dan.

BY MR. LINDSEY:

Q. Do you recognize that, Mr. Curless?

A. I've seen it.

Q. Do you know what it is?

A. It's their map of their production field, Pioneer's map. Their production field.

Q. Okay. I understand it's their field, not the one where you were spraying, but is this type of map and document that you're generally familiar with?

A. Generally, yes.

Q. So just a couple quick questions on this one. Would you have an understanding as to what this means up in the top left where it says "date modified 7/5/2019"?

MR. RAVICH: Mr. Curless just indicated he can't read it. Would you mind enlarging, please? Tell just him when you can see it.

BY THE WITNESS:

A. Yeah, I see it.

BY MR. LINDSEY:

Q. Just if you would have an understanding of what that would mean, date modified 7/5/2019?

A. I assume what's on their end, Pioneer's end of updated the map in some form or fashion.

Q. All right. And then would you have an understanding as to what you think this phrase would mean, "no application to this field as of 8/5"?

MR. RAVICH: Form.

BY THE WITNESS:

A. I have no idea.

BY MR. LINDSEY:

Q. That's not a sort of designation you'd use on any of your paperwork?

A. No.

Q. Okay. Let's go to that logbook for a moment that I was referring to. Just put Exhibit 9 in the chat.

(J. Curless Deposition Exhibit No. 9 marked for identification.)

MR. RAVICH: You said logbook?

MR. LINDSEY: Sorry?

MR. RAVICH: Logbook is what you said?

MR. LINDSEY: Logbook, yes. I'm pulling it up right now.

MR. RAVICH: Thank you.

BY MR. LINDSEY:

Q. It's Exhibit 9. It's in the chat, and I'm in the process of sharing it. Let me know when you can see it. This is Curless 161 and 162.

A. Yes.

Q. 161 and 162?

A. Yes.

Q. So is this something you're familiar with, Mr. Curless?

A. It's his logbook, not mine. It's just recording his days and hours.

Q. Okay. Can you just explain your understanding of what these entries are here on the line that ends with "Curless Flying"?

MR. RAVICH: Form.

BY THE WITNESS:

A. So he's just saying that he has flown from 7/10. You need to zoom it in a little bit more, please.

BY MR. LINDSEY:

Q. Sure.

A. Mike Ewing signed it from 7/10 to 8/16, during that stretch of time. They do not write this down every load. It's impossible to do that work. He's flown 802 November 3082 Victor approximately 246 hours for us. And that's in his logbook to kind of give an idea of how many hours he flew during that stretch.

Q. Okay. Is that a typical amount of hours?

A. Yeah.

Q. Like how many jobs would that be, approximately?

A. Oh, that's -- I'd hate to know. We get fields

that are an acre all the way to a thousand acres per field, so per job. So it's all over the board.

Q. And I assume this could be, you know, multiple jobs --

A. Oh, golly, yeah. Yes, sir.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Would your typical job -- I'm sorry.

Would the typical day have more than one job?

A. Yes, sir.

Q. And so that 802 there, that's the type of aircraft you were talking about earlier, correct?

A. Yes, sir.

Q. Is that what they call it, an 802, or is there another designation for it?

A. That's what we call it. Yes, sir.

Q. And then this number here, what is that called, that number (indicating), the N3082V?

A. That's the N number for the FAA, the number that we would report to the Bloomington airport or the Champaign airport. And that airplane is identified that way. Rather than Dan or Joe, it's identified as 82 Victor.

Q. So what -- do these different letters and numbers have specific meanings independently like the N?

A. Yeah. It's North America or U.S. designation.

Q. And then the 3082?

A. That's just random numbers that the FAA provides, and the Victor is random as well so they can properly separate the airplanes.

Q. And then let's see. I guess on the second page, it just continues, and it's got that same number. Those are the hours, correct?

A. Yeah.

Q. And in Havana, Illinois. Why does it say Havana, Illinois?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Well, he stays close to Havana, and -- but flies out of Astoria. It's small.

BY MR. LINDSEY:

Q. Got it.

A. Not even a stop sign in our communities.

Q. All right.

A. Do you want to ask me how many hours he has as a pilot?

MR. RAVICH: That's impressive.

BY MR. LINDSEY:

Q. I'd be happy for you to tell me. Sure.

A. That man has over 22,000 hours of flight time.

Q. Over how many years?

A. That would be a Mike question, but I bet it was over 25 years. So probably has five times, ten times more experience than any airline pilot. Even Captain Sully.

Q. Great movie.

And do you know how old Mike is?

A. Your pilot's license would say that. I think he's mid-60s, I believe.

Q. All right. I'm going to go take us back to Exhibit 2. Now you tell me. Am I sharing Exhibit 2 with you, or did that not work?

MR. RAVICH: Yeah, I think that's right. Is it -- I'm not sure what you're referring to this document. If you show me the Bates number.

MR. LINDSEY: Well, again this is -- your Bates 1 through 22.

MR. RAVICH: Yeah, so this is -- Curless 1 is on our screen.

MR. LINDSEY: Yes. Great. So we're going to

go back there and look at some stuff there for a bit.

BY MR. LINDSEY:

Q. So starting with Curless 4, the application report. Yeah, there's Moo Maw. I got it right it looks like. Field named Moo Maw south.

All right. So this is the application report that pertains to the October 5th spray that we've been talking about, correct?

MR. RAVICH: Object to form.

Did you say October?

MR. LINDSEY: If I did, I misspoke.

August 5th. I'm sorry.

BY MR. LINDSEY:

Q. Is that right?

A. Can you scroll it down, ma'am -- or sir?

Q. Mr. Curless, sure.

A. Yeah, that would have been sent to the customer. So the customer of Evergreen FS and Kyle Kopp would have got the copy of this electronically.

Q. Okay. So it's almost like a receipt or a --

A. Yeah.

Q. -- proof of job completed?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I would agree.

BY MR. LINDSEY:

Q. Thank you.

Right. So we've got Michael Ewing; N3082V, that's the correct airplane; August 5th is our date; and temperature, wind direction, wind speed, humidity, acres applied.

So it comes out of Astoria because that's where the fuel is?

A. That's where -- no, that's where Curless Flying, that's our address here. If you go down --

Q. Oh, McLean. There we go.

A. Yeah, there we go.

Q. McLean is the airport. Okay.

And how is this document produced?

A. When I pull the GPS data as flight data from the cockpit later that day or maybe even the following day, I bring it in. It goes into a product called Flight Plan. That is the communication mechanism or the software tool between Wapella, Evergreen FS, and Curless Flying Service. And that illustrates where we applied for that customer. And then the Wapella manager and Kopp Farms then can be on -- they can be basically

notified electronically that that's their field and it was taken care of. So it's a check and balance, you know, that we're communicating to them electronically of what was done and how we did it.

Q. And who is Wapella or what is Wapella?

A. Oh, that is the co-op location. So that's the little town north of Decatur, I think. I think. That is the co-op's location. That's where the salesman and the agronomist work out of. That's their physical office.

Q. But Kopp Farms, I guess, is the grower meaning --

A. Yes.

Q. Does that mean they own this field, these crops?

A. No, it does not. That means that is the grower. That's their investment in their crop.

Q. Do you know who actually owns this land?

A. No. I don't even know Kopp Farms.

Q. You just know Evergreen; that's who you dealt with?

A. Correct.

Q. And can you just tell me a little bit about the product or products that are used in this instance?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Avaris is a -- it looks like a fungicide. And much like Desenex that you use on your feet to control athlete's foot, there's two different modes of action. There's azoxystrobin and propiconazole, and they're made by Helena. They're not restricted use, meaning that anybody can put it on. No applicator certification is necessary.

EPA registration, that's the serial number. And then the rate that they -- the company who was Wapella and the farmer have asked us to put on is 10.5 ounces. So basically a soda can across the entire acre, and the acres are 94 acres. And I'm going to need a total of 7.7 gallons of Avaris, that fungicide, across the entire farm of 94 acres. So that tells you how to load it.

So back at McLean, we put in 7.7 gallons of that Avaris in our mix, plus the other products to come up with a proper mix that the customer wants and has paid for.

Q. I'm trying to figure out. So if you multiply 10 ounces by 94 acres, are you supposed to get this total volume? Is that the way it's supposed to work?

A. Yeah, total ounces -- let me get a calculator.

Q. Yeah, the next one shows much easier.

MR. RAVICH: Just answer the question.

BY MR. LINDSEY:

Q. It's just one gallon, 94 -- 90 per gallon.

A. Yeah.

Q. Yeah.

A. So the 10.5 ounces, sir, times 94 acres comes up with a total ounces of 900 total ounces. Is that right? Whatever that math is.

Q. Okay.

A. And then you divide that ounces per gallon to give you the number of 7 gallons.

Q. And then you talked a little bit about Avaris. What does Coron do?

A. Coron is a nitrogen-based product. So the 25 represents 25 percent nitrogen in that gallon. And nitrogen is actually about 74 percent of every breath that we take, and it is the gas that makes the corn go. So at that stage of corn growth, the plant is putting a lot of its energy or resources towards the reproduction system of the corn seed, so we're trying to basically give nitrogen to the corn with that application. More gas if you essentially -- to make that corn go to create

a bigger yield.

Q. So you mentioned corn, but actually I'm now seeing here it says crop is soybeans?

A. Yeah.

Q. So would that --

A. Sometimes they --

Q. -- use that or --

A. That's a decision. Their -- nitrogen is also used in soybeans. It's also a key component in photosynthesis. And they put -- sometimes they will put it on beans. Agronomically, I would not. Not that it's unsafe, but I don't see the result. But that's not my decision. That was the farmer and the co-op decision.

Q. And in any event, just to confirm, it does look like this was a soybean?

A. Yeah.

Q. Correct?

A. And that's what Mike would have been looking for, would have been soybeans.

Q. And then the Sultrus, what's the purpose of that one?

A. That one is -- that one is an insecticide, and that would have been probably used to control bean leaf beetle which would clip pods or Japanese beetle that

would defoliate the crop. And that looks like that would have been at 1.6 ounces, so about the size of a shot glass across the whole acre.

Q. And let's see. It looks like the end time here is registered as 2:45. Any reason that you know of why we don't know what the start time is?

A. If you look at the other fields that he would have done on that work order, that would show the start time. I mean, in other words, he went to another field above that one. He would have written the end time on that one.

Q. Okay.

A. It's just too much paperwork trying to fly the airplane.

Q. So he didn't start with this field, is what you're saying?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I would assume so. He would have went to another field first.

BY MR. LINDSEY:

Q. And then do we know if he went to another field after 2:45, or we can't tell from this?

A. I do not know.

Q. And just going back for a moment to the product. It also says carrier product, water.

A. Yeah.

Q. So is it all of these things were being mixed into an amount of water as well?

A. That's right.

Q. And when they get mixed, that is at McLean before he takes off?

A. Yes, sir.

Q. And are these all just mixed in any generic way, or is there some special process?

Bad question.

MR. RAVICH: Form, yeah.

BY MR. LINDSEY:

Q. Imperfect Dan, can I just come up and look at this formula and throw it all in there, or does it have to be done in a more technical way than that?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Does it matter which product you start with?

A. No.

Q. Does --

A. Not with these --

(Simultaneous speakers.)

BY THE WITNESS:

A. Not with these compounds. It's irrelevant. Some are relevant, but not this set.

BY MR. LINDSEY:

Q. Okay. And just moving up a page, this is Curless 3.

MR. RAVICH: We see it. What is the title of this?

MR. LINDSEY: I'm just verifying for myself and for you that it's Moo Maw Kopp.

BY MR. LINDSEY:

Q. It's the same -- it's the same -- it appears to be the same area, correct, that Moo Maw field, 94 there? Does that look right?

MR. RAVICH: Object to form. Just didn't understand "the same."

BY MR. LINDSEY:

Q. Where it's 94 in yellow, Mr. Curless, does that appear to be the same spray area that we've been talking about on 8/5/19?

A. Yes, sir.

Q. And so we're looking at a -- obviously a different form of a document, which is a map of some kind.

Do you recognize this document?

A. You bet.

Q. What is this document?

A. That's his spray map. That's what he would have had in the airplane with him, sir.

Q. So how does he use it? Like physically, where does it go?

A. It would be on a clipboard with the other fields, and he would refer to that when he's actually -- as he enters the field and if he's got any questions on the way to the field and then making notes on it if he's -- needs to. But flying the airplane simultaneously.

Q. So the pilot can safely do that, I assume?

A. Yeah, and that's -- the scribbles show him -- show us what he's done.

Q. So what's your understanding of these scribbles? It looks like we have two of them.

A. You would need to ask Mike that.

Q. He didn't talk to you that you recall?

A. That would be a Bobby and -- that would be a Bobby and Hammer at the time. Or Mike.

Q. So you don't have any idea of what this is

here on the upper left?

A. No.

Q. Or this one on the --

A. No.

Q. Or any idea just by virtue of the fact that he put a big dot here? Does that normally mean something specific?

A. No.

MR. RAVICH: Objection to form.

BY MR. LINDSEY:

Q. Okay. Well, what do these other designations on here mean, if you know?

A. That's what he would have filled in at the end of the day. So he would have filled in ME as Mike Ewing. 82 Victor is the quick notation of what aircraft.

Q. That's a V? I'm sorry. That's an 82V?

A. I would say so. It's his quick V. The J means Jack's. H is McLean. Jack's is the owner of that airport, but it's McLean. Application date of 8/5 and end time of 2:35. That, our lady Beckey would have filled in for end time.

Q. I'm sorry. I missed that. That who would have filled in for end time?

A. Beckey Ogden.

Q. Oh, okay. Now, do you know why that would be since the document we looked at before had the end time of 2:45?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Go back up.

BY MR. LINDSEY:

Q. So that's 2:45 there and 2:35 there.

A. Maybe she fat-fingered it. I don't know.

Q. I mean, is that something normal or not normal to see --

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. -- this discrepancy?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. She's human. I don't know.

Q. So one other question on the application report, this one again, Curless 4. When that's completed, generated, and delivered to your customer, I guess Evergreen, is that ever amended and changed, or you just send it once and that's it?

A. That's it.

Q. And then, I mean, is this what they used sort of as an invoice to pay you or that's not how it works?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. That's a reference for them. Yes, sir.

BY MR. LINDSEY:

Q. I mean, do they pay when they get this or you have some other billing system?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. It would be -- the acres would be listed for the specific customer for the billing.

BY MR. LINDSEY:

Q. All right. Let me go to the next document that does have some overlap, Exhibit 5.

(J. Curless Deposition Exhibit No. 5 marked for identification.)

MR. LINDSEY: Are you guys seeing September 16, Beckey Ogden email there at the top?

MR. RAVICH: I think so, and you said this is a -- what's the document number?

MR. LINDSEY: Well, it's going to be Exhibit 5, which I'll put in the chat momentarily. It's Curless 128 to 137.

MR. RAVICH: Okay. Dan, I don't want to interrupt your flow, but do we have a sense of time in terms of a break for lunch?

MR. LINDSEY: I could say no way. I didn't build any time in for lunch, but --

MR. RAVICH: What about back stretches, like you said?

MR. LINDSEY: -- then I'd have to go without lunch, too.

Yeah, give me maybe about 15 or 20 minutes.

MR. RAVICH: Are you okay doing that?

THE WITNESS: Yeah, sure.

MR. RAVICH: Okay. Thank you.

BY MR. LINDSEY:

Q. Okay. So like I said, this is Curless 128 to 137. And we've got another email from Beckey Ogden to somebody at departmentoflabor.gov.

Do you recognize or recall this document, Mr. Curless?

A. I do not.

Q. Here, I'll just go through quickly. It's basically attaching a number of documents, some which we've looked at, like that one, the application report,

some of which we haven't yet. But it's a total of eight pages. So it's an email from Beckey to -- someone at Department of Labor saying, Please see attached documents.

A. Okay.

Q. You can see it was sent September 16th, so this was a month or so after the August event, correct?

A. Yes.

Q. And it was sent on the Pioneer spray issue, according to the subject line.

Do you know why Ms. Ogden needed to send these documents to the Department of Labor?

A. They requested it.

Q. The Department of Labor requested it?

A. Evidently.

Q. Do you know from whom at Curless they requested it?

A. I would assume Bobby.

Q. And you would assume then Bobby just went to Beckey?

A. Yeah.

Q. So just to confirm -- let's see. We didn't really talk about this one yet, but this is -- go ahead and tell me if you recognize it and what it is.

A. Sure. I recognize it.

MR. RAVICH: Dan, for the record, just for everyone's benefit, you might want to state what we're looking at.

MR. LINDSEY: Sorry. This is Curless 129.

MR. RAVICH: Okay. Thank you. And the question is just does he recognize it?

MR. LINDSEY: Yeah.

BY MR. LINDSEY:

Q. Do you recognize it?

A. Oh, yeah.

Q. And what would this be?

A. That would be our work order that helps us keep our work straight for the day of acres and the customer names of the fields for that particular farmer.

Q. Well, is this all, you know, one run by one pilot or not necessarily?

A. Not necessarily. But in this situation, yes. So ME would have completed all of those, Mike Ewing.

Q. Oh, over here?

A. Yeah.

Q. Okay. With the same products that we were talking about earlier?

A. Yes, sir. Yes, sir.

Q. On 8/5?

A. Yeah.

Q. And it looks like some is corn and some is soybeans?

A. Yes, sir.

Q. So is that typical that you got the same product for different crops?

A. Yes, sir.

Q. And so who would have filled out this sheet?

A. Umm.

MR. RAVICH: Form.

BY THE WITNESS:

A. I would assume Beckey or Mike at the office.

BY MR. LINDSEY:

Q. And the Z time, is that the end time?

A. The time would be the time -- the end time for those fields.

Q. So a little hard to figure out because it's not chronological, but can you explain how it could be that -- it looks like there's Johnson and Lewis and Dan all have the same end time.

A. They could all be fields right close to one another that we've tied together.

MR. RAVICH: I don't want you to guess.

BY MR. LINDSEY:

Q. So, in other words, they could be considered as a group, and we finished this group at this time?

A. Yes, sir.

MR. RAVICH: If you know.

Object to form.

BY THE WITNESS:

A. If -- that's right.

BY MR. LINDSEY:

Q. And then why would this have been changed here, if you know? Or when you see a designation like this, what would it mean? We've got 34 crossed out and then 17.

MR. RAVICH: If you know.

Object to form.

BY THE WITNESS:

A. I do not know, but that's what we want to charge the customer.

BY MR. LINDSEY:

Q. And why would that be?

A. Various -- various things. It could have been sensitive area that he did not want to spray next to. It could be he didn't like it for obstacles around it,

you know. That could be why, but we didn't feel right in charging the customer the full -- the full 34 acres when we only did 17.

Q. So, in other words, for some reason, which it doesn't say here, the pilot only did 17, so you're not going to charge them for 34?

MR. RAVICH: Form. Form.

BY THE WITNESS:

A. The pilot only did 17, and we don't want to charge him 34.

BY MR. LINDSEY:

Q. Got it.

A. And that's why we have adjusted the total acres at the bottom.

Q. Is it ever possible the pilot runs out of the product and that would be why it would be a lower number?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. No. He would come back.

BY MR. LINDSEY:

Q. So on this one we've got Maxwell and Moo Maw both with Z times at 2:35. So that would be a situation that you talked about before where they're close

together and they're essentially being counted in a consolidated fashion?

A. Likely.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. And Moo Maw was the 8/5/19 August event field that we've been talking about previously, correct?

A. Right.

Q. And can we tell or not from this if Moo Maw or Maxwell was done first?

A. No. No.

Q. Sorry?

A. No, sir.

Q. Okay. Do you know independently?

A. No, sir.

Q. Then it looks like Mary Ann was done shortly thereafter, by 2:45, right?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Sounds like it.

BY MR. LINDSEY:

Q. And it looks like from this sheet Lewis was done shortly after that at 12:50, correct?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. That would be before.

BY MR. LINDSEY:

Q. Oh, I'm sorry. 12:50, not 2:50. Sorry about that.

No, I guess after Mary Ann, it looks like the next in -- last one was Reeder, correct?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Yes, sir.

BY MR. LINDSEY:

Q. And then if Reeder was the last one and 3:05 was listed as the Z time, does that mean when it was finished or when the pilot was actually back at McLean?

MR. RAVICH: Form.

BY THE WITNESS:

A. When the pilot was finished.

BY MR. LINDSEY:

Q. And how long do you think it would take them to get back to McLean after that?

A. At least -- at least 25 minutes.

Q. All righty. Let's look at this next one, which we haven't looked at before. This is Curless 130. So I think I know who Hammer is. Is that Mr. Ewing?

A. That's Mr. Ewing.

Q. Is he, like, special that he gets to put his nickname on here instead of his official title?

MR. RAVICH: Form.

BY MR. LINDSEY:

Q. So are these all different -- these are all different planes, given the different designations, the different numbers, right?

A. Yes, sir.

Q. And I don't know. Is this out of line? Should Joe Coppick be the one that ends with the "T" and Juliana Coppick ends with the "M"?

MR. RAVICH: Object to form. Mr. Curless just said, "What?" I'm not sure he's understanding.

MR. LINDSEY: Sorry?

MR. RAVICH: Mr. Curless just said, "What?" I don't think he understood the question.

BY MR. LINDSEY:

Q. Well, I'm just trying to get a sense of what's going on here where it says 2019 season and there's six people -- pilots, I assume, six planes and there's this gap. I'm just trying to clear up if there's an error.

MR. RAVICH: What's the question?

BY MR. LINDSEY:

Q. Which plane do you think Joe Coppick flew?

MR. RAVICH: Object to form, speculative.

BY MR. LINDSEY:

Q. If you know. And Juliana. I'm just trying to match up these numbers here. It looks like there's a glitch or some missing information.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. So do you know?

A. I don't know.

Q. Okay. Now, can you explain this sheet again? This is called Curless Flying Service, 2019 season, work order 724. Are these all for Mr. Ewing?

A. Yes, and for our mixing group. So the guys that are on the ground at McLean or in Astoria, they know that in the mixing vat we put in Coron, Avaris, and Sultrus in that vat together, and those -- these are -- this is Bobby's writing and -- by hand. And we would have broken that work up, three separate loads all for Hammer in that airplane of 82 Victor. We're looking for that many gallons of product for each one of those products and the total volume in the hopper of the aircraft being 475 gallons three times. So he would

have come back to the airport three times to complete that job for that customer.

Q. Okay. And the acreage is slightly different. Do we know why?

MR. RAVICH: Form.

BY MR. LINDSEY:

Q. Do you know why?

A. Whatever that math adds up to.

Q. Well, I guess, let me make sure I understand. So this is three different runs basically with the same plane, correct?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Yes.

BY MR. LINDSEY:

Q. And is the work order covering a total of 234 or 235, or it's three times that?

A. So we went -- we load for 234 acres one time, and we loaded for 235 acres two times. If you add that up, that's, what, 700 -- 770 acres, whatever that number of acres is.

Q. Okay.

A. And then that gives us the total acres to get that work completed.

Q. All the work up here that was --

A. Yeah.

Q. -- we looked at a minute ago?

A. 681 acres, yes, sir.

Q. And can we tell from this or either of these sheets put together, like, when the plane came back after these three runs, was there any product left in the plane?

A. We cannot tell from this, no.

Q. Okay. And if there were, then what would happen to it?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. He would ask Bobby what to do.

BY MR. LINDSEY:

Q. The pilot would?

A. Yes, sir.

Q. And so you're not involved in that?

A. Not on that day.

Q. So the question -- let me ask a question here. Referred a few times to Bobby would do this or Bobby would do that. Obviously, unfortunately, Bobby is no longer with us. Sorry for your loss. But nonetheless, someone has to answer the questions to the best of the

company's ability as to what Bobby did know. Normally, that would be the corporate representative, which is you in this deposition, you know, unless you could tell me that that's a Harley question, Harley would know the answer to that. Because we will be deposing Harley, of course.

So, for instance, here when you say, you know, Bobby would do that, you'd have to ask Bobby, I mean, we can't. So who can we ask? Who can we get that information from?

MR. RAVICH: Objection to form. What information?

MR. LINDSEY: Well, in this particular instance, I asked the question, you know, what would happen to extra product that came back, if it came back. And Mr. Curless said, you know, reasonably enough, pilot would ask Bobby, you know, so I don't know.

MR. RAVICH: Correct.

MR. LINDSEY: But that's not -- that can't be -- that's not an acceptable entity answer from a 30(b)(6) corporate representative. If he doesn't know, then he needs to tell us who could answer that question.

MR. RAVICH: Well, the testimony --

MR. LINDSEY: And we can ask.

MR. RAVICH: The testimony is that that was the conversation between Mike Ewing and Bobby. As I heard it, you'll be deposing Mike. So you'll have at least half that conversation. But this is all the information the corporation knows through its corporate representative.

BY MR. LINDSEY:

Q. So Mike would know the answer to that question?

MR. RAVICH: I can't represent that, but --

MR. LINDSEY: Well, I'm asking Mr. Curless if Mike would know.

BY THE WITNESS:

A. Perhaps.

BY MR. LINDSEY:

Q. Okay. Well, we'll certainly ask.

I think I had just one last question on this set of the documents sent to the Department of Labor. I was just curious about this -- Curless 136 is -- it's kind of a spec sheet, or maybe there's another proper term that you all use for this for the Coron.

What do you call that kind of sheet normally, this informational sheet?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. The label.

BY MR. LINDSEY:

Q. Label. Anyhow, you see where it says, "This product is only for sale and use in South Dakota"?

A. Yes.

Q. Is that something you were familiar with, the fact that the label says that?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. No.

BY MR. LINDSEY:

Q. It's your understanding -- can Coron be used in Illinois?

A. Yes.

MR. RAVICH: Object to form.

MR. LINDSEY: Almost ready for a break. Let me just check one thing here.

Sure. Why don't we take a reasonable lunch break. What would you suggest, Tim?

MR. RAVICH: We want to get done with this.

So do you have a -- again, we'll yield to you, whatever you need to do to have a full deposition.

How much time more do you anticipate?

MR. LINDSEY: You know, I would say I'm probably at least two-thirds of the way done, maybe even more.

MR. RAVICH: Understood.

MR. LINDSEY: So it could be an hour, hour and a half.

MR. RAVICH: So based on that, you know, maybe a shorter lunch could be, you know, advisable. I would say, you know, half an hour is, you know, fair.

THE WITNESS: That's fine with me.

MR. RAVICH: Yeah. Me, too.

MR. LINDSEY: Sure. Let's make it 1:00 even, which is now, I think, 39 minutes.

MR. RAVICH: Okay. That's fine. 1:00 p.m.?

MR. LINDSEY: 1:00 p.m. Thank you.

(Recess.)

BY MR. LINDSEY:

Q. Now, I didn't do this earlier, Mr. Curless, but every time you come back on the record, I'm supposed to say, "You remember you're still sworn to tell the

truth, correct?"

A. Yes, sir.

Q. I knew it. Great.

Just a couple of follow-up questions on one of the documents we were just talking about right before the break, the application report, and this is Curless 132 in Exhibit 5.

MR. RAVICH: Back up. Thank you.

BY MR. LINDSEY:

Q. Here it is. Yeah. So correct me if I'm wrong. I think you said you were the one who pulled together and generated this report after the 8/5 spray?

A. Not that one. That one would be sent directly to -- the computer does that to send directly to Wapella and to Kopp Farms automatically. It's kind of an automated scenario. So we plugged the USB in from the airplane to a Flight Plan. It creates that.

Scroll down for me, please.

And then we plug in automatically. We plug in the temperature. The computer plugs in the wind direction and speed automatically from those official weather stations of Bloomington and Peoria -- I'm sorry -- Bloomington and Champaign. And then that is all generated and sent cleanly to Wapella and to the

customer.

Q. Okay.

A. And that way, they know that we got that field done.

What I generated was the other one with all the turns, the red lines and all the turns and all of that. That's what I generated.

Q. So for this one, it's like you got some kind of software setup --

A. Yeah.

Q. -- that pulls from four different places. It populates it and creates this document?

A. Yep.

Q. Okay. And then for the weather ones, temperature, wind direction, wind speed, humidity, you mentioned the Champaign and Bloomington weather stations. But which one is it pulling from, or is it pulling from --

A. I --

Q. -- or what?

A. I could not tell you. I don't know. Whatever is closer is any assumption that the program puts together. And I don't know.

Q. Okay. All right.

A. And you do understand that the wind direction is from the 247 direction. So it's blowing from that direction to its reciprocal.

Q. So 247 means it's coming from somewhere in that southwest --

A. South.

Q. -- quadrant.

A. Yes, sir. Blowing to the northeast quadrant.

Q. All right. Let me share a different document and put it -- I'll put it in the chat first. That takes me a couple of more buttons to push. So I'm putting in Exhibit 10 and I'm sharing Exhibit 10, which is two pages. These are not produced by Curless. They're marked P1881 and 1882, two documents.

(J. Curless Deposition Exhibit No. 10 marked for identification.)

BY MR. LINDSEY:

Q. One says "Bill of Sale." One says "Purchase Order." So I believe these are the bill of sale and purchase order related to the plane at issue. But you can tell me what you think.

So, first of all, this initial document, bill of sale, do you recognize that?

A. Yes.

Q. And can you tell me what that is?

A. It's from us, from our company to David Edwards in Missouri.

Q. So David Edwards is the seller, and Harley Curless is the purchaser, correct?

A. Well, he -- David Edwards sold us 802 Mike Alpha. Dave Edwards is selling us that airplane, a different airplane than there for that value.

Q. Oh, I see when you say "a different airplane," this is not the airplane we've been talking about?

A. No.

Q. Okay.

A. He's doing a trade.

Q. Sorry?

A. He's trading a car, essentially.

Q. He's trading a car?

A. Well, think it on your end. That's not the same. It's not even close to the same, but it's -- but it's the same concept. You know, you have a -- your new Lexus that you want -- your used Lexus that you want to trade in for the new Hyundai.

Q. Are you saying this was essentially a trade

for the -- for when you sold the plane we've been talking about?

A. Yeah.

Q. Okay. So I was going to ask you about the date because there is --

A. I have no --

Q. -- no date here.

A. I have no idea why that's not in there.

Q. Right. But the next document, to focus on it, has a date, January 2021. And this is the plane we've been talking about, correct?

A. That's right.

Q. Okay. So when you said a trade before, did you mean like in some sense it was a trade between that plane was coming to you and this plane that we've been talking about went to them?

A. Yeah. If you look over there in the -- move your mouse to the left, down. It says Model 802MA on the left side.

Q. Right here?

A. Right there. That's the aircraft that Dave is trading in, and he's trading for 82 Victor, the airplane that we had in the equation on August the 5th, 2019.

Q. Okay. And this was done in January of 2021?

A. Evidently, yeah.

Q. And what was the purpose of doing this trade in January of 2021?

A. Dave would be wanting to update his aircraft to a newer aircraft, lower hours, and newer model and his was a 2002. And 82 Victor was a 2015. So he's updating his aircraft.

Q. Okay. So Dave Edwards, he's at Mid Missouri. He's the one --

A. Yeah.

Q. -- side of the equation here to the left, correct?

A. Right.

Q. Got it.

And then would it be Harley was in charge of this deal for Farm Air?

A. Yes. Yes.

Q. And the purchase price, I guess, accommodates or takes into account that trade-in that you were just talking about; is that right?

A. Yes.

Q. And what would you describe as the condition of the plane that you traded at this time, the one you were trading to or selling to in Missouri?

A. Very --

MR. RAVICH: Object to form.

BY THE WITNESS:

A. -- good.

BY MR. LINDSEY:

Q. Sorry?

A. Very good.

Q. Would you say it was in the same condition that it had been in 2019 or any different in a material way?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. A few more hours. That would be the only thing that I would know of, a few more hours compared to 2019.

BY MR. LINDSEY:

Q. Okay. But it hadn't been in any accidents that you know of?

A. I think you -- it says it on there, no damage history.

Q. Okay.

A. If you go on down, on down.

Q. Am I in the right document?

A. No, sir.

Q. Oh, back to this one?

A. Down. Down. No damage history.

Q. Okay. So that would include, also, no major mechanical problems; is that right?

A. Yes, sir.

Q. Okay. And had there been any -- any other direction, had there been any improvements or updates or changes to the vehicle -- to the plane since 2019?

A. I would have to look at the logbooks. I don't recall that.

Q. Would that be something else that Harley would be more directly knowledgeable about?

A. We'd have to look at the logbooks. We get them confused.

Q. But nothing that you recall?

A. Not --

MR. RAVICH: Object to form.

THE REPORTER: I didn't hear an answer on that.

BY THE WITNESS:

A. Not that I'm aware of, ma'am.

BY MR. LINDSEY:

Q. All right. I think I can leave that one.

So on August 5th, did it come to your attention that the workers who are plaintiffs in this lawsuit claimed that they had been sprayed?

A. Later in the evening, I believe so.

Q. And how did it come to your attention?

A. Either Bobby or my dad. I don't recall who told me.

Q. Well, do you remember who told someone at Curless? Who contacted Curless to communicate that information?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I honestly don't remember.

BY MR. LINDSEY:

Q. But you weren't contacted directly, you --

A. No.

Q. One of them?

A. Yes, sir.

MR. RAVICH: Object to form, asked and answered.

BY MR. LINDSEY:

Q. And what steps did you take after you heard about this information?

A. I downloaded the data of the GPS so we'd be

sure we had it, that night, to provide for questions like this, and that would -- that's all I was responsible for that night. Because Bobby at that point was communicating with Pioneer and with the other issues around it, sir.

Q. And then what happened after that, next?

MR. RAVICH: The witness just told me he doesn't understand the question.

BY MR. LINDSEY:

Q. Well, you just told me what you did that night. So what happened next in terms of your responding to the events that were claimed to have happened?

MR. RAVICH: Object to form.

If you understand.

BY THE WITNESS:

A. I simply downloaded the USB drive card, gave it to Bobby so he could show he has applied to the Department of Ag, Illinois Department of Ag and to Pioneer, if they so desired, which is what was sent to them. And that was my -- that was my recollection of what I did for him, for anyone.

MR. LINDSEY: Let me put Exhibit 2 back up

that we looked at before. This is Curless 1 through 22. Sorry. One moment.

BY MR. LINDSEY:

Q. Is this a document you recognize?

A. No, sir.

Q. You'd agree it's from Rick Davis to Julie Pryde?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. As is written. Do you see that?

A. I see it, yes, sir.

Q. Okay. And --

MR. RAVICH: Dan, we may want to give him an opportunity to read the whole thing if he's claiming unfamiliarity.

MR. LINDSEY: Certainly. It's two pages.

MR. RAVICH: Yeah. Exactly. Take your time.

MR. LINDSEY: Have you got it downloaded there, Tim?

MR. RAVICH: No. It's on the screen.

Is that satisfactory for you?

THE WITNESS: Yeah.

MR. LINDSEY: I'll go down when you want.

MR. RAVICH: Thank you.

THE WITNESS: Okay.

MR. LINDSEY: Okay. Let me go down.

Let me know when you want me to...

THE WITNESS: I'm good. Go ahead.

MR. LINDSEY: It's almost at the end there.

THE WITNESS: Okay.

BY MR. LINDSEY:

Q. Okay. I understand this is not your document, Curless's document. But I do want to ask you some questions about your reactions to some of the statements herein or your understanding or your interpretation.

So this is, of course, Pioneer/Corteva reporting to the Department of Agriculture. So toward the top here, Brandon Gillen of Pioneer/Corteva --

And do you know Brandon Gillen?

A. I do not.

Q. Acknowledged some of their workers went to the hospital after work complaining of pesticide exposure. State that on 8/5, a plane had circled over the top of some of their workers.

So do you believe that that's possible, that a plane circled over the top of some of their workers on 8/5?

MR. RAVICH: Object to form.
BY THE WITNESS:
A. It's possible.
BY MR. LINDSEY:
Q. Brandon stated his supervisors reported that the application was taking place at a field a quarter to a half a mile to the east.
Would that be the approximate location of the field that we've been talking about, the Kopp Farms field?
MR. RAVICH: Form.
BY THE WITNESS:
A. I would assume so.
BY MR. LINDSEY:
Q. And that the plane was making turns over the top of the crew. Is that something that you think could have happened, that the plane might have taken turns over the top of the crew?
MR. RAVICH: Form.
BY THE WITNESS:
A. Just like flying into O'Hare. That's possible.
BY MR. LINDSEY:
Q. So let me read this statement here. "Corteva

requires all work crew to vacate the field when the crop dusting is taking place within a mile of their work site."

Is that a requirement of Corteva's that you were aware of?

A. No.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Do you know if some companies working in the area have requirements like that?

A. I don't --

MR. RAVICH: Form.

BY THE WITNESS:

A. I don't keep up with their policy.

BY MR. LINDSEY:

Q. Do companies sometimes communicate guidelines like that to you?

A. Not that I'm aware of.

Q. Do you have any opinion on why that would be a mile?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I have no idea why a mile. It's probably just a general distance.

BY MR. LINDSEY:

Q. Well, earlier, you talked about -- something about precautions being taken if somebody was near, and you said, like, within a quarter mile; is that right?

MR. RAVICH: Form.

BY THE WITNESS:

A. The pilot makes a decision if it's safe. With the wind speed and the wind direction, if it is a safe application and plenty of buffer.

BY MR. LINDSEY:

Q. And I think you said the buffer generally would be a quarter mile?

MR. RAVICH: Objection to form.

BY THE WITNESS:

A. It would just be a buffer.

BY MR. LINDSEY:

Q. Well, do you remember talking about that distance, though, a quarter mile?

A. Yes.

Q. So what is the significance of that distance, that quarter distance?

MR. RAVICH: Objection to form.

If you understand.

BY THE WITNESS:

A. What's the significance of the distance?

BY MR. LINDSEY:

Q. Well, you mentioned it before as being near, in the vicinity, and in terms of the pilot, you know, making safety determinations or avoiding spraying?

MR. RAVICH: Objection to form, misstates the testimony.

BY MR. LINDSEY:

Q. So I'm just asking you to clarify what you believe is the significance of that distance?

MR. RAVICH: Objection to form, vague.

BY MR. LINDSEY:

Q. You can answer.

A. I really don't know. I mean, it's -- you know, they are trying -- the pilot is trying to be respectful of the people around him and not get in trouble for himself or the equipment or the people on the ground, and a quarter mile is a general number that we would use to say, oh, there -- you know, there could be a potential problem there. And that would be the scenario, that he was -- that he is kind of on, you know, he -- he would say, eh, you know, we're a little too tight there. That buffer is little too tight.

Let's move on to another field and come back.

But if we're outside that boundary or within it and it's downwind -- in other words, the people -- the work is being done downwind, I see no problem with it.

Q. So there's a few sentences here about different Corteva personnel who are on the ground in different places observing different things, but I think you testified before that nobody from Curless would have actually been there at the time other than the pilot?

A. Correct.

MR. RAVICH: Objection to form.

BY MR. LINDSEY:

Q. Now, one of the Pioneer or Corteva employees, Pete, stated, according to this document, he could see when the plane would turn the spray boom on and off over the field of application.

Is that something that you would expect somebody could see from the ground?

MR. RAVICH: Object to form.

You can answer.

BY THE WITNESS:

A. Perhaps. It depends on the crop between the application and where they're standing.

BY MR. LINDSEY:

Q. Well, I mean, I guess I'm asking for a layperson. What would that mean, to see the boom go on and off? What would that look like?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Just see the water and the product come out of the booms over top of the field of interest.

BY MR. LINDSEY:

Q. So does it look just like water spray?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. It looks just like with a groundwater would look like.

BY MR. LINDSEY:

Q. I'm sorry. What was the word you said? It what?

A. It would look just like when you spray the yard at your house or on the schoolyard. It would look the same way.

Q. So it would be a spray?

A. Well, yeah.

Q. I know it sounds dumb. I'm very much a layperson here.

But it wouldn't be colored; it would just be --

A. I doubt it.

Q. -- light in color?

A. I doubt it.

A whitish background.

Q. And one or more of the employees say they could smell something strange, and they thought it was pesticide. What is your opinion as to whether you could smell pesticide in a situation like this?

MR. RAVICH: Objection to form.

BY THE WITNESS:

A. Well, they're downwind. I'm sorry. They're upwind, number one. Number two is I'm not sure this product even smells as -- has much of a scent to it, and, you know, if -- the farms have all kinds of smells. People burning trash. People from a mile away that could -- you could smell things. There are livestock on the farms. So I couldn't answer that, sir.

Q. Does the pesticide have a smell, though, if you're actually in contact with it?

MR. RAVICH: Form.

BY THE WITNESS:

A. It depends on the product.

BY MR. LINDSEY:

Q. Well, this particular product that we've been talking about from the 8/5 event?

A. I don't know.

Q. All right. Let me go a little further down here to Curless 18 and 19.

Actually, I think they're repeats. So we really just need to look at one. We'll look at 18.

Do you recognize this document?

A. I do.

Q. And what is this?

A. From the Illinois Department of Agriculture.

Q. And what does it indicate?

A. It looks like they collected the clothing from a worker, and there was no azoxystrobin or propiconazole in the DNQ.

Q. When you say there was none, doesn't it say at the bottom that both of those were detected and confirmed?

MR. RAVICH: Form.

BY THE WITNESS:

A. Oh, well, it doesn't show rate. It doesn't show amount.

BY MR. LINDSEY:

Q. But it says they were detected and confirmed, right?

MR. RAVICH: Form.

BY THE WITNESS:

A. It doesn't show rate.

Q. Sorry?

A. It doesn't show concentration level.

Q. Right. It says they were both detected and confirmed, but it's DNQ, which is detected, not quantified, right?

MR. RAVICH: Object to form, asked and answered.

BY MR. LINDSEY:

Q. Go ahead.

A. Yeah, it shows that, but it doesn't show where the clothes have been.

Q. And these two chemicals are components of Avaris; is that correct?

MR. RAVICH: Which chemicals are you referring to?

THE WITNESS: Avaris.

BY MR. LINDSEY:

Q. Azoxystrobin and propiconazole.

BY THE WITNESS:

A. Yes.

MR. LINDSEY: Sorry. Just one minute.

(J. Curless Deposition Exhibit No. 11 marked for identification.)

BY MR. LINDSEY:

Q. All right. So this is Curless 11. I'm trying to get it readable here.

Do you recognize this document, Mr. Curless?

A. Yes.

Q. And what is it?

A. The product Avaris being put on in that field.

Q. Well -- and, specifically, the result of the application that we've been talking about by Michael Ewing, correct?

A. I cannot read it.

Q. Tell me if you need me to make it bigger.

THE WITNESS: I can't.

MR. RAVICH: The witness is saying he can't read the bottom right at all, you said. So I think enlarging, please.

MR. LINDSEY: Enlarging it or going down?

MR. RAVICH: Enlarging, please, or magnifying.

BY THE WITNESS:

A. It was produced by the Illinois Department of Ag.

MR. RAVICH: Is there a question pending, Dan?

BY MR. LINDSEY:

Q. I had asked him if he knew what this document -- or if he could identify what this document was?

MR. RAVICH: I think he answered.

BY THE WITNESS:

A. Yeah. The Illinois Department of Ag. It was the official complaint.

BY MR. LINDSEY:

Q. And what happened as a result of this complaint?

A. It looks like from this they wanted to fine us two $750 initially.

Q. They wanted to or they did?

A. I believe they did.

Q. Was this the only fine that you're aware of?

A. I'm not aware.

Q. You're not aware whether there were other fines?

A. Yeah. I'm not aware if there was other fines

or not.

Q. And according to this finding, there was a violation of the label stating, "Do not apply this product in a way that will contact workers."

I take it you don't agree with that finding?

MR. RAVICH: Objection to form.

BY MR. LINDSEY:

Q. Do you agree with that finding?

MR. RAVICH: Form.

BY THE WITNESS:

A. No, I don't agree.

BY MR. LINDSEY:

Q. And for what reasons?

A. Simply not possible. They're downwind. We were downwind. They were upwind.

Q. Can you explain what you mean by that?

A. It means the wind direction was 247 degrees at 8 mile an hour from the official data, weather stations. They were a 40-acre field between the workers and us. The wind should have taken all of the drift potential to the northeast.

Q. And what you just said is based on the

assumption that the spray was just over the Kopp's field that we were looking at earlier; is that correct?

MR. RAVICH: Object. Object to form.

BY THE WITNESS:

A. Correct. North and east.

BY MR. LINDSEY:

Q. Well, the spray that went northeast, are you talking about the spray that was spraying on the Kopp's field that we were looking at earlier, the Moo Maw field?

A. If there was drift, that would have -- where it would have been.

Q. Are you familiar with the concept of inversion?

A. Yes.

Q. Can you explain your understanding of that?

A. The product could be limited up with wind currents and then dropped at a later point. Those are not conditions of -- inversions usually occur when it is very, very calm conditions. Not a solid constant wind.

Q. So you don't believe there could have been an inversion?

A. No.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. And that's because?

A. Wind is actually helpful.

Q. In what way?

A. Because it's a constant pressure against that -- those products sending them a direction, a constant direction.

Q. Okay. And what happens if it's not constant?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Can you answer, Mr. Curless?

A. It was constant. It's not an inversion condition.

Q. Okay. Well, I'm just asking if it were not constant, how would that affect what you said about inversion?

MR. RAVICH: Objection, speculation.

BY MR. LINDSEY:

Q. You can still answer, Mr. Curless.

A. It wasn't. It was downwind of the application at 8 miles an hour in the opposite direction.

Q. But if we found out it wasn't, would that affect what you said about inversion?

MR. RAVICH: Objection.

BY MR. LINDSEY:

Q. You can answer.

A. If it wasn't, I don't know. I mean, that's not. It's impossible for this to happen. It's physically impossible. It's called laws of physics.

Q. I understand you believe it didn't happen. I'm just asking about the inversion point since you described what inversion is. I'm just following up on that.

MR. RAVICH: Objection, asked and answered, speculation.

MR. LINDSEY: Well, he hasn't answered it. He's --

MR. RAVICH: You don't like the answer, but he has answered. Object to form.

MR. LINDSEY: I don't believe he's answered.

BY MR. LINDSEY:

Q. What's your answer, Mr. Curless?

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Okay. That one you have to answer. That's not a nonanswer objection. So...

MR. RAVICH: Again, I don't know what you just said.

BY MR. LINDSEY:

Q. So I'll ask my question again. You said that constant wind would help, you said, the inversion, that the wind would take the spray away, you believe, from where the workers were.

I'm asking you, in terms of the inversion effect, what if it were not a constant wind?

MR. RAVICH: Object to form. You're asking a 30(b)(6) witness to speculate on these technical matters.

MR. LINDSEY: Well, he's been willing to speculate as to what in his favor. So...

MR. RAVICH: Dan, we'd be happy to read back the testimony. We can ask the court reporter. He's answered three times on this.

MR. LINDSEY: Okay. Let's see. Read it back, please, Court Reporter.

THE COURT REPORTER: Where would you like me to start?

MR. RAVICH: When he talks about the wind going for -- at miles from the southwest to the northeast at a constant speed. That's the witness's testimony.

(The record was read as requested as

follows:)

THE COURT REPORTER: One of the answers I have is:

"Question: You can still answer, Mr. Curless.

"Answer: It wasn't. It was downwind of the application at 8 miles an hour in the opposite direction."

MR. LINDSEY: Okay. So that's not an answer to my question.

BY MR. LINDSEY:

Q. All I'm asking, Mr. Curless, is a follow-up question to your point about inversion. That's all. I understand you believe the wind was blowing away from the workers. I understand that. I'm not trying to trick you. I'm just trying to get a follow-up question.

You said -- I asked about inversion because that can sometimes change the situation. You said, well, that -- if it was a constant wind, that wouldn't have changed the situation. Inversion would still take it away.

And all I'm asking is if it's not a constant wind, would that change the situation with the inversion effect?

MR. RAVICH: Objection to form, misstates

testimony, asked and answered, speculative.

BY THE WITNESS:

A. But it was a constant wind.

BY MR. LINDSEY:

Q. All right. Let me show you. Let me see. I don't think I've put this in the chat yet. Exhibit 6.

(J. Curless Deposition Exhibit No. 6 marked for identification.)

MR. LINDSEY: I need to change the share screening. I'm working on that.

Sorry. It stopped.

BY MR. LINDSEY:

Q. So you should be able to see Exhibit 6, which is Curless 138 to 143.

MR. RAVICH: We see that, Dan.

BY MR. LINDSEY:

Q. And this is similar to a couple of others we've looked at. Emails from Beckey Ogden to the agency, saying -- or attaching documents. In this case, "Please see the attached documents."

So this one would have been sent about three weeks after the incident, correct, according to the date?

MR. RAVICH: Dan, just for benefit of the

record, you're referring to -- I don't know what document, but an email purporting to be Friday, August 30th, 2019.

MR. LINDSEY: Yes.

MR. RAVICH: And your question was whether --

MR. LINDSEY: Correct.

BY MR. LINDSEY:

Q. Just confirming this was about three weeks after the August 5th event, correct, Mr. Curless?

A. The date, it looks like, yes, sir.

Q. Okay. And it was sent by Beckey Ogden from Curless to illinois.gov, correct?

A. It looks like it.

Q. So do you know why this document -- or I'm sorry -- this email and these documents were sent to Mr. Braffet? And, you know, I can go through them. We've got an application report, another application report.

MR. RAVICH: Dan, give him a chance to --

MR. LINDSEY: Sorry.

MR. RAVICH: No. No. That's okay. Just so we're all on the same page. You presented an email with attachments. The witness should just see the attachments so he can answer your questions.

MR. LINDSEY: Yeah. I'm going through the attachments.

MR. RAVICH: You got it. Thank you.

BY MR. LINDSEY:

Q. Two maps, this document and this document.

A. Okay.

Q. And a map. It looks like all documents related to -- I think. You tell me -- a different job.

A. Totally different pilot, totally different job.

Q. Right. So do you know why these were sent to the Department of Agriculture?

MR. RAVICH: Objection to form.

BY THE WITNESS:

A. No, I don't.

BY MR. LINDSEY:

Q. Do you know if they relate in any way to -- sorry -- the 8/5 event?

A. No. It's a different grower, different field, different products. Everything is different.

Q. Looking at the map -- sorry. I'm going to try to shrink it. I believe we looked at something like this in relation to the 8/5 event. Would this be a

map that was prepared by the pilot or back in the office?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. That would have been a different pilot.

BY MR. LINDSEY:

Q. So would the pilot be the one who wrote these notes on it?

A. Yep.

Q. And can you explain the purpose of these notes?

A. He says, "No spray. People at sand pit." So he purposely left that stretch off. And when you look at the "as-applied," he's purposely left that area off, and he has made an effort, a good effort to properly treat the field by his notes, but I'm unfamiliar with the scenario.

Q. You're not sure where that field is?

A. I mean, I kind of know where it's at.

MR. RAVICH: Form.

BY MR. LINDSEY:

Q. I guess, does that information help you have a better sense of where that field is?

MR. RAVICH: Form.

BY THE WITNESS:

A. Yeah. The wind's out of the wrong direction there. It's ten-zero-five degrees.

Go ahead.

BY MR. LINDSEY:

Q. Well, I wasn't quite sure about your answer. Like, you do or you don't know where --

MR. RAVICH: Where it's at?

MR. LINDSEY: Yeah.

BY THE WITNESS:

A. No. I don't know where it's at. Tazewell County, Spring Lake. I think I know where that sand pit's at, yeah.

BY MR. LINDSEY:

Q. And the notes on here, is this what you were talking about earlier, where you say the pilot has a map on the clipboard, and as they're flying around, they're occasionally making notes?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Yes.

BY MR. LINDSEY:

Q. And were you able to -- I mean, we can all see this says "Done," bottom left. It says, "Sensitive

person" here on the right.

Do you have an opinion as to what these notes mean here on the left?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. He is saying that up against the boundary, he's calling it done, but he did not spray clear to the boundary. So he has skipped those areas. It says, "No spray. People in the sand pit."

So he has purposely left off a pass or two, trying to keep from anybody getting sprayed. He's made an effort at it.

Q. Got it. And what about this up here?

A. Same.

Q. It notes here --

A. "No end cut." So, basically, he's -- the cars or whatever else, he's made an effort to not get any drift on that, either. So he's purposely laid off of that north boundary.

MR. RAVICH: Dan, just a question. I can't see. When was this from, this application?

THE WITNESS: 8/2. 8/2.

MR. LINDSEY: Well, it says start date of 8/2. End date, 8/7.

BY THE WITNESS:

A. No. This is when he did it, right here.

BY MR. LINDSEY:

Q. When did he do it?

A. Where are you seeing that at?

Q. Bottom right (indicating).

A. Well, that's -- that's the window that they give us to do the work in.

Q. Okay. So --

A. He actually did it --

Q. So I'm sorry. Go ahead. When did he do it?

A. When he did it was 8/2 of '19. Over on the left, far left.

Q. Oh, okay.

A. 8/2 of '19 is when he actually did the work.

Q. The application date. Okay.

A. Yeah.

MR. RAVICH: And who is "he"? This is not Mike Ewing.

THE WITNESS: His name is Donnie. It's a totally different pilot.

MR. RAVICH: So, Dan, just, as discussed, I'm not sure where we're going here. The case is on August 5th.

MR. LINDSEY: Well, I understand. I mean, these are your --

MR. RAVICH: I'm just getting for the record --

MR. LINDSEY: -- what you gave us. So we're just asking some basic questions about what this --

MR. RAVICH: I understand. I'm just trying to get ahead of things. We talked about this at our meet and confer about --

MR. LINDSEY: Yeah.

MR. RAVICH: -- relevant in the case.

(Simultaneous crosstalk.)

MR. LINDSEY: I'm almost done here. I just wanted to ask one more question.

MR. RAVICH: Of course.

BY MR. LINDSEY:

Q. "Sensitive person," does that just mean there's a person who might be in danger? It's not really a -- what does that mean to you, that terminology?

A. That means to the pilot that, you know, tried to be respectful of the community, and that person has either complained or has indicated to a customer that they, you know, don't, you know, want any of our

products and agriculture -- the tools that we use in agriculture flying around them. So we make an effort to avoid that, you know, those areas where those areas or those people are at, you know.

Q. Got it.

And DH, who was that?

A. That's Donnie Haley.

Q. I think their name was, like, one of the ones on that list we looked at before?

A. Oh, yeah.

MR. LINDSEY: All right. I'll take that one off.

MR. RAVICH: Dan, I just got a --

THE WITNESS: Even if it's five minutes.

MR. RAVICH: The witness just needs to use the restroom.

MR. LINDSEY: Oh, sure. Let's -- it's 1:57, just to make it easy for everybody, come back at --

THE WITNESS: Give me five minutes.

MR. RAVICH: 2:05.

MR. LINDSEY: Eight minutes. Round numbers. 2:05.

MR. RAVICH: Thank you.

(Recess.)

BY MR. LINDSEY:

Q. All right. Let me put it in the chat first, always, and then share. This is Exhibit 8. This is just two pages, Curless 159 and 160, on the PAASS or the Fly Safe program.

(J. Curless Deposition Exhibit No. 8 marked for identification.)

MR. RAVICH: It's not on the screen yet. There you go. Thank you.

BY MR. LINDSEY:

Q. Do you recognize that --

A. Oh, yes.

Q. -- those two sheets?

A. Oh, yeah. You bet. It's a great organization. It keeps us safe.

Q. So is PAASS the acronym of the organization?

A. Well, it's in Triple A. The National Ag Aviation Association sponsors this, and it's mainly meant as a weekly -- it communicates weekly from NAAA of how many people have had accidents, and we've had fatals, and reminds people during the busy season of safety and professionalism and taking care of themselves and their aircraft and the community, as best as we know how. And it's just a bit of a pep talk, and as well as

a bit of a -- you know, it's serious. This is serious work that we're doing.

Q. And so help me understand the difference between the -- in Triple A that you just described, and then there's this acronym, PAASS, and then the Fly Safe campaign.

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Someone else need to be -- would be a better -- do a better job of explaining this than I would, of the division between those, but part of this campaign is, is to properly calibrate the aircraft. So through PAASS and Fly Safe campaign, to make sure that we have as many fines in our spray pattern. We minimize those spray pattern fines, and we're trying to get as much product as we can to the customer's field and keep it off of the airplane and to educate our applicators throughout the nation to do a good job. That's what the goal is, and this is an extension of that. And it's a weekly little clip, if you will, that we put on our counter and our lunchroom table so the pilots, while they're eating their lunch, can read over that, and it kind of gives them, yeah, I need to bone up in that area or, you know, just a reminder. It's a quick reminder.

It's like when you shove your kids off for the day to go to school or in the evening, you know, Be safe, wear your seat belt, love you, bye. Same thing.

Q. So you mentioned couple of things there that you dealt with. You said something about reduce our spray product fines. Or am I misstating it?

A. So when we fly, we fly across a -- we calibrate in the spring, before the season kicks off. So we put a dye, a material into the water, and it shows us on a string -- think of a movie reel, on a string. This string is rolled up on this movie reel and analyzed with what's called a fluorometer. And the fluorometer looks at all the particles of the spray application and sees where the peaks and valleys are at.

And, ideally, it's an even application all the way across. But there are small peaks and valleys, just kind of like what the -- heart rhythm, you know, heart rhythm. It's kind of the same look. And they -- this group of guys will come in and analyze it and say you need to move the nozzle one direction or another to minimize the small droplets. The very, very fines. So those very, very fines can evaporate, actually, in hot weather. You know, 85 degrees, they evaporate. So, essentially, they never reach the target at all because

they're evaporated, and the customer doesn't get full potential of what that product can do for them. So we actually want a little bigger droplet in order to get it to the canopy of the crop that we are trying to treat, sir.

Q. So is that a process that is undertaken each year at the beginning of the season?

A. We make an effort to do that, yes, sir.

Q. And did you do that in 2019, if you recall?

A. We did.

Q. And do you recall what the results were of the testing?

A. I don't believe if we did that specific airplane. We had had it done on that airplane. But we -- we did that, yes.

Q. And you also used the term "calibrate." Maybe that's kind of the same as what you just said.

A. It is. It is. It is, yes, sir.

Q. So it's calibrating the proper workings of the nozzles?

A. That's right. So that way we know that the nozzle itself has got the proper orifice. So it's -- the orifice is not worn. There's no cracks in the nozzle. There's no -- it's working properly. And that

helps us verify that with that. It's water and that fluorescent dye that helps us verify that we're doing things properly or to the best of our ability.

Q. And you said something about these Fly Safe campaign fliers come out weekly; is that right?

A. Typically, yeah, during the peak of the season, yes, sir.

Q. And you put them out. Do you have any kind of meetings regarding the new fliers that come out?

A. Our meetings, usually we do that during our calibration and shortly thereafter because it's quiet. Pilots can focus on the safety majors that Harley would lay out or I or Bobby would lay out for them, and then there is a reminder. This is our -- basically our daily communication, if you will, to the pilots about safety, in the air and on the ground.

Q. And are there any other meetings that you have about --

A. Oh, yeah. Absolutely. Every day there's basically a discussion of things that happened. Be aware of this.

Q. So were there any meetings held as a result of the 8/15 event?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. The 8/15 event?

BY MR. LINDSEY:

Q. I'm sorry. 8/5. Thank you.

A. Afterwards we had -- we all had a discussion that it has happened and be vigilant to do the right things in the cockpit, yes, sir.

Q. Can you be more specific when you say, "Do the right things in the cockpit"?

A. Just to remind them that -- to give plenty of room between people -- the workers on the ground and, you know, the application, and that's basically all it boils down to. But we -- you know, we do this every day in terms of the pilots know those rules.

Q. Did you implement any new rules or policies?

A. No.

MR. RAVICH: Object to form.

BY THE WITNESS:

A. No.

BY MR. LINDSEY:

Q. And are there any other safety protocols that you haven't mentioned yet that are normal course?

A. That are safety protocols that I haven't mentioned yet?

MR. RAVICH: Form.

BY THE WITNESS:

A. I'm sorry, sir. I don't understand. I mean, I understand, but I don't -- I can't think of any off the top of my head. I'm kind of getting a little bit mentally fried here.

Q. Aren't we all?

Well, let me go through a list I have. And you've talked about some of these, and so fair enough, maybe they're just going to be no, nothing else, but maybe it will trigger something else.

Do you have any health and safety protocols or procedures that we haven't talked about yet regarding communicating with others about applications that you're going to make on a given day?

A. Probably the -- if we know that we're working for a company, we would call the grower. Mainly, that's to turn the irrigation system on or off, to let them know that's a safety protocol so they keep the people out of the field on irrigated fields. We tell them at the same time of the reentry period of that field. We've been asked to do that.

So we make that -- we at our cost make that effort to the growers of the different companies to

call those growers and explain to them what field. The Mee Maw field, for example, is going to be sprayed tomorrow with this product. The reentry time is 12 hours and rain fast is 12 hours. So don't turn the irrigator on for 12 hours. That's probably some of our communication that we do within our office when we call our customers.

Q. Okay. And can you explain the reentry issue that you mentioned?

A. Yeah. The reentry, basically, is on the label, and it would basically restrict the -- restrict people after -- after the application of whatever product that is. Every product has a different reentry period. That restricts the grower or the workers from reentering that field from a residue -- you know, perspective from a residue's perspective.

Q. So continuing down my list of safety protocols and procedures, anything you haven't mentioned having to do with tracking the weather?

A. I mean, we've done the best we can. I would say Bobby has done the best he could with looking at the official weather and making sure that was good. And, obviously, it was, with the information I'd been shown. I really couldn't ask -- I really couldn't ask any more

of Bobby or of Mike in this scenario.

Q. Okay. How about anything else we haven't talked about related to preflight preparation, you know, the plane and the products?

A. Would you be more specific, sir?

Q. Well, any protocols, any procedures you have for what you do or have your pilots do to prepare for the flight and --

A. Okay.

Q. -- for the spraying of product?

A. I'm with you.

Q. Spraying the product.

A. All right. So I'll walk you through a checklist. Basically, that pilot is responsible for the airplane, and he is the principal. He's the PIC, pilot in command. And we try to give him as good a working aircraft as we know how to provide, and he would do a walk-around on the aircraft to make sure there's no nozzles dripping. He would make sure that the pump was secure. There's nothing -- there's no leaks around the pump. Make sure all the surfaces on the aircraft are in good condition. There's no bolts lose, you know.

So he walks around, moves the ailerons, moves the elevator, moves the rudder, jiggles the flaps

a little bit, makes sure the lights are all working, we haven't hit a -- occasionally, we'll hit a bird and knock a light out or other things that happen.

You know, we've hit -- we hit a turkey vulture. As a matter of fact, Mike Ewing hit a turkey vulture this summer and dented one of the wings in. He himself did that on a different aircraft. And he did that in a turn, actually. It was kind of amazing that he hit it in the top of the turn.

And so we just generally look at the aircraft, and that's Mike's responsibility to that and keep him safe. That gives him confidence and verification that as he's riding in that machine that it's in good working order.

And then our ground guys, to take the workload away from Mike on the ground, when he comes back, his job is to fly the airplane, not to load the product and not to put fuel in this aircraft, his airplane. His job was to load the aircraft, fly the aircraft.

And our guys on the ground put fuel in him and put the product on him with that load sheet of 400 and -- what was it -- 234 acres, 235 acres. That's their job. So everybody has a different job to keep

everybody focused on their specific job to keep them safe and in their world; in other words, focused, is kind of -- really the premise of that. And there's enough going on in each of our lives that we have -- that we need to stay within our job, our boundaries, if you will.

Q. Okay. And how about the sort of online and computer software, the GPS system and software that get used in the aerial sprays, any --

A. What about?

Q. Any protocols or procedures for ensuring safety in those?

A. Well, probably the biggest safety concern that I have is they don't spend any time -- they spend as least time as possible on that. If you're unfamiliar with that, Mr. Lindsey, they've got a light bar on the nose of the aircraft, and they're flying the airplane off of lights. And if the airplane is one direction or another, then they'll move, shift the airplane one direction or the other, left or right, for example, to make sure we've got a good application off of those lights. Those are the -- that's the guidance side.

And then the TV screen in the cockpit shows then the boundary of the field they're trying to

treat and it shows, as I said it earlier, if you're spraying, it paints with inside that boundary to show them where they've covered. On occasion they'll get over and try to double pass it, double -- make a double application, and, obviously, that makes them stop and say, oh, geez, I've already sprayed this, and then stop the application, make the turn, come back, and then move over that proper distance.

So the GPS allows us to -- like we call it a swath advance. But it's goes back to our PAASS program or our calibration of saying this is our effective swath width in this aircraft. And every aircraft is different. And it says we are -- we will do a good job, for example, at 80 feet. Beyond 80 feet -- think of a histogram or a bell-shaped curve -- we don't do as good a job. So we're not doing a good job for the customer.

So we kind of chop those edges of the histogram or the bell-shaped curve off and say your effective application now is 80 feet. And we plug that into the GPS, and that gives us a reference of 80 feet off the GPS when we do swath advance to move over another 80 feet. Because there's -- oftentimes in the fields, there's no ground reference. It's a sea of

corn. It's a sea of beans. It's just green, and there's no good reference. And I can't remember all that. So the lights and the guidance help us do that, sir.

Q. How about any safety protocols or procedures regarding the -- the neural application hardware, the tank, pump, nozzles, the stuff that actually does the spraying?

A. Well, it starts with the calibration, and we did that spray, make sure that those nozzles are all good, they're not worn, the orifice is not -- it is not worn. Replace those. If they get worn, they get -- they actually create bigger droplets, typically. And we don't want that. We want a nice, even coverage for the application.

And they will also show cracks that -- the dye in the water, when we do the calibration, shows cracks, if there are any, in the nozzle body. And that would have all been looked at. And then, occasionally, the nozzles will drip, and we -- we inspect those virtually every time the airplane comes back. When the airplane comes back and you reload it, that's probably the only job the pilot has to do, is to glance over and look at the nozzles to make sure there's no dripping

nozzles and the diaphragm in there, the little rubber diaphragm isn't -- bypass anything.

Otherwise, he sits there and relaxes, uses the restroom, grabs a bite to eat, and checks his nozzles if he needs to. If there's -- not every nozzle. It would be a nozzle or two that would be dripping, but not every one.

Q. Can you sometimes get debris from the nozzles?

A. Which is why they would drip.

Q. And how does that happen? Like what kind of debris is it?

A. We all do cover crop seed with the aircraft, or I have seen a rock or two in there before, a very, very small rock that makes its way through -- there's a filter in the aircraft. There's some rocks occasionally or grass. That can happen. I've seen a lid to a chemical container get in there once or twice.

But it's -- it's -- again, they're -- they're looking at it every time they get reloaded. So if you go back to the load sheet where it said 234, 235, 235, three times on that group he has looked at his nozzles. So that's part of our -- that's part of his normal job. That's part of your mental checklist of, We're good.

Q. And then what are your protocols and procedures for vetting pilots or choosing pilots?

A. That one is -- that one I -- I give all that credit to my dad on that one. He has been a PAASS presenter. He has -- how do I say this? He's probably got 28- to 30,000 hours of flight time since the mid '70s, and he is -- in those periods of time, he's -- with all of that experience, that real-world experience, he goes out and trains these guys across the nation in the wintertime on safety, of some of the things we talked about over the last 15 or 20 minutes, and things to look out for that can get them hurt and killed and have serious fatalities.

And he has been instrumental in picking the cream of the crop throughout the nation that come in and help us during that couple of weeks of busy time. So there's -- we brought people from Florida and Arizona up in the past. And pilots that don't have a lot of work that time of year, and they're kind of slow in their operations and or they're multi aircraft and they're slow. So we will get one of their great pilots, and my father, Harley, has already kind of filtered that out or, you know, vetted those guys of being good pilots that do a good job.

Q. And how about the last part of the process? So protocols and procedures for handling the pesticides or chemicals and product remaining afterwards?

A. Remaining afterwards?

Q. Anything left in the tank, anything that has to be dealt with post application.

A. So well, post application, we hope that the product -- there's maybe literally a quarter of a gallon left, all right, in the bottom of the hopper. That's our ideal. That way they come back -- they come back virtually empty, and there's nothing left in the glass, if you will. That's their goal, and, oftentimes, that happens.

Q. I'm sorry. Oftentimes which happens?

A. That happens. It's completely dry. There's very, very little in the bottom of the hopper.

Q. Got it.

A. And remember, these are all -- we do a lot -- a lot of our industry in this geographic is insecticide and fungicide. We don't do herbicide very often here in this latitude, and we choose not to do herbicide, and -- the way the fields lay with waterways and so forth, and that's a job for the ground rigs. You know, there's a

time for a box end wrench and there's a time for a crescent wrench. And the crescent wrench is, you know, not used. So they try to be as empty as we possibly can.

Q. Sure.

But if there is some left, was that, I think you said earlier --

MR. RAVICH: Object to form, asked and answered.

BY THE WITNESS:

A. Well --

MR. LINDSEY: I didn't finish my sentence yet.

BY THE WITNESS:

A. I'll do that. That's okay.

What we -- we actually have a small farm here. I personally farm a little bit. It's kind of my -- I like to do it, and it helps me clear my mind, and I get a use of these products and understand the pressures the farmers are under. It makes me a better consumer. It makes me a better applicator. It makes me appreciate their jobs and -- as farmers and as retailers, and really get to understand my cover crop programs that I put on with the airplane and grow that side of the business. And if -- and Bobby would have

been instructed to do this.

My personal fields that I -- that I farm myself, that I control myself, I give him the freedom to use those if he needs -- if he needs to. So we've had scenarios where have additional product because there was a rain storm come in or something didn't work out right, and he can go to one of my fields and dress my fields up with that product. And I'll reimburse the customer if necessary.

Does that make sense?

Q. Yes. Thank you.

A. It keeps the pilot -- and mainly, the key to that is we're keeping the pilot safe.

MR. RAVICH: You answered.

THE WITNESS: Hmm?

MR. RAVICH: You've answered.

BY MR. LINDSEY:

Q. I had two questions just about two terms on the Fly Safe Campaign. I'm not going to put it back up unless you tell me you need me to. But there were just two terms in there I didn't quite understand. You know it says, "Always check TFR NOTAMs before flying."

I guess TFRs are temporary flight

restrictions?

A. Correct.

Q. So I just didn't know what --

A. A NOTAM.

Q. -- a NOTAM is, yeah.

A. NOTAM is notice to airman, and that is if I'm flying into the Bloomington, Illinois, airport, which is not far from here, they will tell you what taxiway is closed or there's a light out on the end of the runway or beware of birds, things likes that. That's what a NOTAM does. It's specific to each airport.

MR. RAVICH: And, Dan, respectfully, it's been a long day. Like, we just haven't presented our 30(b)(6) to educate you on aviation law like NOTAMs. Please.

BY MR. LINDSEY:

Q. One other term in there, burping. "'Burping' out part of your load in order to get off the ground is not safe or professional." Can you just explain what that is?

A. What is it?

Q. Burping. It says "burping" in quotation marks.

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I never even heard that before.

BY MR. LINDSEY:

Q. Well, I guess I can put it up again.

A. I never even heard the term.

Q. There at the bottom right, I think it says, "'Burping' out part of your load in order to get off the ground is not safe or professional."

That's all I was asking about.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Do you understand what that means --

MR. RAVICH: The documents speaks --

(Reporter clarification.)

THE COURT REPORTER: I'm sorry. There's crosstalk. I heard "Object to form." I didn't hear anything else.

THE WITNESS: What a --

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. Do you have an understanding of what that means, Mr. Curless?

A. I have an idea, but I don't -- I'm not -- it's not my document. I don't know what he's referring to

there.

Q. Well, I understand. But you use the document, so...

MR. RAVICH: Object to form, asked and answered. Predicate --

MR. LINDSEY: He has not answered it.

BY MR. LINDSEY:

Q. Please answer just what your understanding is. I understand it's not your document. I'm not trying to trick you. I just want to --

A. I get what you're saying. I also use the road, and I don't understand what people do on the road sometimes, too. But I don't know.

Q. So Curless is subject to certain federal and state regulations for aerial applications; is that correct?

A. Yes, sir.

Q. Is there a certain person in Curless whose job it is to deal with those issues primarily?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. State and federal what now?

BY MR. LINDSEY:

Q. Regulations, laws, statutes.

A. Yeah. Yes.

MR. RAVICH: Object to form.

BY MR. LINDSEY:

Q. So how does Curless keep itself aware of the regulations affecting it?

A. We retake our exams every third year in Illinois. We go to the NAAA, National Ag Aviation Association meetings. We also have a yearly meeting with our state where we have our regulators come in. So our state regulators in the Department of Agriculture will come address the Illinois applicators, usually in Bettendorf, Iowa. I think this year it's in December. Normally, it's in November. Normally, it's on election day, to be honest with you.

And they will come address the problems that have occurred, ground and air, to us so we're aware of those. The FAA will also come and address us of incidences and fatalities from those respective states or those separate regions to keep us all safe, and it keeps us at the top of our mind.

Q. And who attends those? I'm sorry. Were you finished?

A. Yes, sir.

Q. And who attends those trainings that you just

mentioned?

A. I do, the pilot staff here, my father. And then -- our pilots do, and if they don't live locally, they go to their state -- they go to their state meetings themselves. Because this is -- it's a -- a program that National Ag Aviation puts on, our national organization, and it's a PowerPoint presentation that lasts about three to four hours after our week together.

Let me break that down a little better for you. We have an afternoon of regulators that come in that discuss it, whether FAA or the Department of Ag in the afternoon. We can take exams at this meeting.

And then the following day, a completely separate day, we exclusively look at new policies that have come out from Washington, DC, or our geographies in our programs to learn and educate and keep our guys safe and effective.

Q. And what sorts of these regulations apply to your aerial spray activities?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. It's everywhere from drone applications, what they can legally do and what they can't legally do. It can be the FAA will talk for an hour on different

incidences that have occurred across the U.S.

Does that make sense?

BY MR. LINDSEY:

Q. Well, you mentioned drones. We haven't talked about drones today yet. Those are always cutting-edge and fun.

Does Curless use drones in its work?

MR. RAVICH: Object to form, irrelevant.

BY THE WITNESS:

A. No.

BY MR. LINDSEY:

Q. So that's just interesting, not relevant. Okay.

MR. RAVICH: Correct.

BY MR. LINDSEY:

Q. So what policies or procedures does Curless have to make sure that it complies with these regulations that you're learning about?

A. Make sure that we comply?

Q. Yes.

A. Well, we're visited by the Department of Ag at least twice a year, the FAA at least once a year physically. They come here, inspect our facility, our containment, look at our records.

On occasion, like this -- this today, you know, where we've talked to different people from the Department of Ag, if we've got a complaint, they'll be here to go look at those.

The FAA will come look, inspect the aircraft at least once a year in our -- our paperwork with that aircraft or aircrafts.

Q. Anything else that you do other than participate in those inspections?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. That's all that comes to my mind, sir.

BY MR. LINDSEY:

Q. Okay. After the 8/5 event, we've talked some about your communications with Curless and with the Department of Ag. Are there any other actions that Curless or Farm Air took as a result of the 8/5 event?

A. I don't believe so. I honestly did not see anything wrong with his decision-making process.

Q. Okay. Or any other investigation or evidence gathered?

MR. RAVICH: Object to form, asked and answered.

BY THE WITNESS:

A. No.

BY MR. LINDSEY:

Q. Were there any general audits or reviews in the 2019 season?

A. No.

Q. Have there been any other incidents as -- similar to the incident alleged by the plaintiffs regarding the 8/5 event?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Not that I'm aware of.

BY MR. LINDSEY:

Q. So I have just two questions about Curless's answer. And it's a big document, so I hope I don't have to put it up, and I think you've really already answered one of them. But for now, let me just state that in the answer -- in Curless's answer to the plaintiffs' amended complaint, paragraph 213, the question was made about communications with Curless -- I'm sorry -- between Curless and PHI, and the answer was Farm Air and Curless admit they provided a, quote, as-applied -- or quote, as-applied information to representatives of PHI upon PHI's request.

I didn't know what that meant before, but I assume that's the same term we've been using during the dep, that as-applied map; is that correct?

A. Yes, sir.

Q. Great. I just wanted to clarify that.

The other one confused me a bit. We describe or allege the facts as we see them related to the 8/5 event, and in paragraphs 149, we say the Curless defendants owned and operated this plane, the plane that is alleged to have flown overhead, and the answer is, Fair Air and Curless deny that Curless owned the aircraft on the date alleged in the plaintiffs' complaint.

So can you explain -- is that an accurate answer by Curless?

MR. RAVICH: Objection to form. This was covered several hours ago.

MR. LINDSEY: I'm sorry. Can you repeat that, Tim? I didn't hear you.

MR. RAVICH: Yeah. I objected to form. This was covered several hours ago, when you talked about ownership and leasing and so forth.

MR. LINDSEY: Well, if that's all it means, I'm just looking for clarification.

MR. RAVICH: I know. And I'm saying you got it.

BY MR. LINDSEY:

Q. Is that -- is that all it means, that you leased it instead of owned it on the date in question?

A. Yes.

Q. Okay. Thank you.

Likewise, in your answer, you allege a number of affirmative defenses, and, admittedly, some of these are purely legal, and I'm not going to ask you about those, nor about the legal portion of any of them, but I think there's a couple of your affirmative defenses that you may have actual allegations to testify about.

So your first affirmative defense says that there may have been an intervening or superseding act, admittedly fancy legal language. So, in other words, if you'll agree with me, that somebody else did something or something else happened that caused the harm that the plaintiffs are alleging, that it wasn't Curless or Farm Air that caused it.

So my question is, do you know or do you have any factual allegation supporting the notion that somebody else or someone else or

something else did something that caused harm to the plaintiffs?

MR. RAVICH: Objection to form, calls for a legal conclusion.

BY MR. LINDSEY:

Q. You can still answer, Mr. Curless.

A. I was under the -- I've been informed that there was another event a couple of weeks ahead of this. We have insects throughout the entire season and disease throughout the entire season to protect these crops. And it's believable that there was another application somewhere.

There is also ground rigs that spray the same products that we spray all around the area, that's also a scenario that could be out there.

I personally had been a detasseler. I had been a worker for seven years when I was a young man. So -- maybe it was eight. I don't remember. So I know that there's activity out there on the landscape constantly, trying to protect that very valuable seed crop. And so there could be a variety of different scenarios.

Q. And do you have any specific facts?

A. No facts. No facts at all.

Q. Okay.

A. I can only do what I can do on my end. That's all I can contribute to, sir.

Q. I understand. Thank you.

The second affirmative defense states that plaintiffs have failed to mitigate their damages; in nonlegalese, that plaintiffs have failed to lessen their damages, either acted or failed to act in some way that through their own fault they've suffered damages.

So, likewise, do you have any factual beliefs underlying that affirmative defense?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. I have no idea. I have no idea. I mean, I've been in those fields myself for seven or eight years when I was a teenager through 17, 18 years old. There's all kinds of stuff that goes on in those fields that had nothing to do with agriculture.

We've now legalized drugs in our fine nation, and that could be part of the equation as well, and I've seen it myself when I was younger. So I have no idea. But what I should have done is asked -- requested a drug test by all these people to begin with. That's what I should have done.

MR. RAVICH: Dan, I just want to comment. We had a discussion off the record about discovery. You may be moving for an extension of time for discovery. Apparently, discovery is still ongoing. So I'm not sure rewording legal affirmative defenses in what you deem plain English and giving it to the witness is going to a productive path here.

BY MR. LINDSEY:

Q. Those are the only two questions I had on those.

Just a few other loose ends to tie up here, Mr. Curless. Do you recall seeing or being told about a letter sent by the plaintiffs asking Curless to preserve or keep relevant documents while this case was pending?

A. That probably went to Bobby, but you have everything I would have anyway.

Q. Okay. Well, just to tie up the loose end, as I say, we sent a letter on August 15th, 2020. So would you agree that -- well, it sounds like you're saying since that time you would have kept and produced anything relevant to this case, is that right?

MR. RAVICH: Object to form, asked and

answered.

BY THE WITNESS:

A. You have what I have, sir.

BY MR. LINDSEY:

Q. Okay. Just a couple of questions on interrogatory responses. And, again, I can put them up if we need to, but we've covered a lot of this. So I think it's really just a couple of loose ends, Tim.

MR. RAVICH: And I agree. Your lawyer's always tasking me with putting it up. For the interrogatories, it might make sense.

MR. LINDSEY: Okay.

MR. RAVICH: Please.

MR. LINDSEY: Okay. Let me do my and --

MR. RAVICH: Thank you.

MR. LINDSEY: -- put it in the chat first. Let me see. This is Exhibit 12, and I think I have your file version. Then next I will share. Maybe I'm already sharing. But I will reshare.

(J. Curless Deposition Exhibit No. 12 marked for identification.)

MR. RAVICH: No, not yet.

We see it now.

MR. LINDSEY: Got it. Okay.

MR. RAVICH: Our first supplemental answer, yeah.

BY MR. LINDSEY:

Q. All right. Well, unfortunately, this doesn't even have the one I wanted to ask a question about. Let me just ask.

I believe in a prior answer Curless stated that you did not independently do training of the pilots, flight training, ground school, or schooling on introductory aerial applications.

Does that sound accurate?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. No. That doesn't sound accurate at all. I participate. I listen. I had a few things, but the majority of that would come from Harley and his 30-plus years of experience. Then I'll interject. So I'm in the room during that process.

BY MR. LINDSEY:

Q. All right. Well, I apologize. I put the supplemental here, which I thought included everything, and it doesn't.

Well, then please just describe in general

what training you do believe that Curless does give on aerial applications.

MR. RAVICH: Object to form, asked and answered repeatedly.

THE WITNESS: No wonder we have inflation.

MR. LINDSEY: Sorry?

THE WITNESS: I said it's no wonder we have inflation.

BY MR. LINDSEY:

Q. If you could please just answer briefly, we'll move on. We're almost done, Mr. Curless.

A. I have answered the question.

We meet together. We've met right outside of this room that I'm meeting with at today. We talk about these things, Mr. Lindsey, and -- with the pilots, all collectively together before we start the season. We talk in the mornings. Bobby would have discussed in the mornings with them the things that have happened. We've been clear on this, sir.

Q. Okay. I understand. So that's what you're talking about by training. All right.

A. Of course. It's education. It's on-the-fly education.

Q. Are there any other --

A. It's no different than sitting around the table at night with your family and having a discussion, which we've all got away from in our lives.

MR. RAVICH: Go ahead, Dan.

BY MR. LINDSEY:

Q. Are there any other facts that you haven't mentioned that support your contention that Curless did not spray the plaintiffs in this case?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. Say that again, please.

BY MR. LINDSEY:

Q. Any other facts that would support your contention, your belief that Curless did not spray the plaintiffs? And I'm not asking you to repeat anything. I'm just trying to be complete --

MR. RAVICH: Other than already testified, correct? Dan, other than already testified?

MR. LINDSEY: Correct. That's right.

MR. RAVICH: All right. Object to form.

BY THE WITNESS:

A. There's nothing else that I'm aware of. We're

downwind. We're 400 feet high. I don't know what else we can do.

BY MR. LINDSEY:

Q. Okay. Thank you.

Do you know what the current status is of any insurance claim that Curless has made on this case?

MR. RAVICH: Object to form.

BY THE WITNESS:

A. No.

BY MR. LINDSEY:

Q. Is there somebody else at Curless that would know that that we should ask?

A. Harley would know. Our insurance agent was 80-some years old. He passed two weeks ago, ten days ago now. And he and Harley have had those discussions. They're aware of it. They were aware of it within probably 24 hours after the event. They do good work. They keep charging us more money because of stuff like this.

MR. LINDSEY: I think I'm done, Tim, if I could just take a couple of minutes.

MR. RAVICH: Yeah, of course.

MR. LINDSEY: Why don't we adjourn until --

just for, like, five minutes.

MR. RAVICH: Sounds good.

THE WITNESS: 3:00 p.m. sharp.

(Recess.)

MR. LINDSEY: So we are finished with the witness. Thank you.

MR. RAVICH: Thank you.

No questions point.

THE COURT REPORTER: Signature?

MR. RAVICH: We'll read.

THE COURT REPORTER: Thank you.

Orders?

MR. LINDSEY: Yes.

THE COURT REPORTER: Mr. Ravich, would you like a copy?

MR. RAVICH: Not just yet.

Actually, I'm sorry. We are ordering. Yes. We'll take a copy.

MR. LINDSEY: And, Tim, I may have accidentally not put Exhibit 5 in the chat earlier because I was going back and reviewing. So I just put it in.

MR. RAVICH: Okay. No worries. I was outside. I know what you were talking about

generally. I trust Mary and you will work through that process. That's okay. I don't know what Exhibit 5 was, but...

THE COURT REPORTER: Are we off the record?

MR. LINDSEY: Yes. We're done.

MR. RAVICH: Yeah. I think so.

(The deposition concluded at 3:05 p.m.)

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF ILLINOIS

SPRINGFIELD DIVISION

HADA GARCIA, et al.,	)	
	)	
Plaintiffs,	)	
	)	
-vs-	)	No. 3:20-cv-03322
	)	
PIONEER HYBRID INTERNATIONAL, INC.; et al.,	)	
	)	
Defendants.	)	

I, JOSEPH CURLESS, state that I have read the foregoing transcript of my testimony taken September 13, 2024, consisting of Pages 1 to 214, inclusive, taken at the aforesaid time and place, and that the foregoing is a true and correct record of the testimony given by me at said deposition and any changes I have indicated on the errata sheet(s), if any, produced herewith.

_____
JOSEPH CURLESS, Deponent

_____ No corrections (Initial and sign above)

SUBSCRIBED AND SWORN TO
before me this day
of , 2024.

Notary Public

_____
NOTARY PUBLIC

REPORTER'S CERTIFICATE

I, Mary T. Murphy McGuirk, a Certified Shorthand Reporter of the State of Illinois, do hereby certify that the foregoing was reported via videoconference by stenographic and mechanical means, which matter was held on the date and at the time and place set out on the title page hereof, and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

IN WITNESS WHEREOF, I do hereunto set my hand in Tinley Park, Illinois, this 8th day of October, 2024.

Mary T. Murphy McGuirk
Certified Shorthand Reporter
CSR Certificate No. 84-4160

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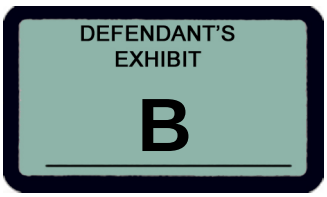
UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF ILLINOIS

SPRINGFIELD DIVISION



HADA GARCIA, et al.,	)	
Plaintiffs,	)	
vs.	)	Case No. 3:20-cv-03322
PIONEER HI-BRED	)	
INTERNATIONAL, INC.;	)	
CORTEVA, INC.; RAS	)	
AVIATION, L.L.C.; FARM	)	
AIR, INC.; and CURLESS	)	
FLYING SERVICE, INC.,	)	
Defendants.	)	

The deposition of MICHAEL EWING, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before RYAN K. KOHLER, Certified Shorthand Reporter of the State of Illinois, remotely via Zoom videoconference, on October 29, 2024, at the hour of 10:00 a.m.

Reported by: RYAN K. KOHLER, CSR

License No.: 084-004747

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THE REPORTER: Remote proceedings are more challenging, we kindly ask all participants to speak clearly and one at a time.

The witness will be sworn in remotely. The parties agree not to challenge the validity of the oath, even if the court reporter is not physically present with the witness, and not a notary public in the state where the witness resides.

Here begins the remote deposition of Michael Ewing in the matter of Garcia, et al., versus Farm Air, Inc., et al. Today's date is October 29, 2024, and the time is 10:00 a.m. Central Standard.

My name is Ryan Kohler of Thompson Court Reporters.

Beginning with the noticing party, will counsel please introduce themselves, state whom they represent, and stipulate to the swearing in of the witness remotely.

MR. SCOTT: This is David Scott for the plaintiffs. I'm joined by my co-counsel, Dan Lindsey and Thomas White, and we consent.

MR. RAVICH: This is Tim Ravich of Tressler for Defendants Curless and Farm Air joined by Jenny Dancy.

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(Witness sworn.)
MR. SCOTT: Good morning, Mr. Ewing.
THE WITNESS: Yes.
MR. SCOTT: Would you please state your name for the record and spell it.
THE WITNESS: Michael Ewing, M-i-c-h-a-e-l E-w-i-n-g.
MICHAEL EWING,
called as a witness herein, having been first duly sworn was examined and testified as follows:
EXAMINATION
BY MR. SCOTT:
Q. And we met off the record, but just, again, while we're on the record, just my name is David Scott. I'm one of the lawyers for the plaintiffs in this case, and I'm going to be taking your deposition today.
Where do you currently reside, Mr. Ewing?
A. Mississippi.
Q. And what is your -- what is your full address?
A. (Zoom audio distortion.)
MR. SCOTT: Let's go off the record.
(Discussion had off the record.)
MR. SCOTT: We'll go back on the record and I'll

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just ask you the question again, Mr. Ewing.
BY MR. SCOTT:
Q. Could you please tell us your full address?
A. Okay. 94, that's 94, Asa, A-s-a, Miley, M-i-l-e-y, Road, Hattiesburg, Mississippi 39401.
Q. Thank you, sir. And that came through much better so hopefully we solved that audio issue.
A. Good.
Q. Mr. Ewing, are you currently married?
A. Yes.
Q. And how long have you been married, sir?
A. 46 years, November.
Q. Good for you. Congratulations.
Do you have any children?
A. Yes.
Q. How many?
A. Two.
Q. And how old are they?
A. 42 and 40.
Q. Okay. Have you ever given a deposition before?
A. No.
Q. Have you ever been part of or testified in a trial or a court proceeding before?

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A. No.
Q. Okay. Are you represented by Mr. Ravich as your attorney today?
A. Yes.
MR. RAVICH: He is.
MR. SCOTT: Thank you.
BY MR. SCOTT:
Q. All right. So since this is your first time, Mr. Ewing, in a deposition, let me just go over some basic guidelines that hopefully will help the process go smoother for you and me and especially the court reporter. So I'm going to be asking you questions today, as we've already been doing, and you have sworn an oath to answer my questions truthfully.
Do you understand that?
A. Yes.
Q. Okay. And the court reporter will be taking down everything we say so we need to take turns and we're doing a good job so far. So I'm going to wait until you finish your answer before I ask my next question, and I'd appreciate it if you would wait for me to finish my question before you start your answer.
Is that okay?
A. Yes.

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Q. And your answers -- you're doing great so far, but your answers need to be verbal. So we can't have head nods or uh-huh, uh-uh, because the court reporter needs to take down the verbiage that you say.
Do you understand that?
A. Yes.
Q. And if I ask a question that you do not understand for any reason, will you please tell me?
A. Yes.
Q. If you give an answer to my question, I'm going to assume that you understood my question.
Is that fair?
A. Yes.
Q. From time to time, your attorney, Mr. Ravich, might make a brief objection to some of my questions. Like he might use the word "form" and he's just making a record. But when he does that, you still need to answer my question unless there is an instruction from Mr. Ravich where he instructs you not to answer.
I don't expect that to happen, but I think he'll be very clear if he's giving you that instruction. Do you understand that you still need to answer even if he makes short objections?
A. Yes.

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Q. Okay. And, lastly, Mr. Ewing, today, it's not an endurance test. I don't expect and I hope not to take the whole day, but it's not an endurance test. So if you need a break at any time, please just tell me. I'm sure I'll ask for one at some point to get rid of this coffee, but you tell me if you need to take a break and we'll take one. Okay?
A. Okay. Yes.
Q. All right, sir. A moment ago you swore an oath to testify truthfully. Do you understand that that's the same oath that you would swear when testifying in a courtroom?
A. Yes.
Q. And do you understand that with that oath you have sworn to provide true and complete answers today?
A. Yes.
Q. And do you intend to do that?
A. Yes.
Q. Is there any condition you have or any medication you might be taking that would prevent you from testifying truthfully today?
A. No.
Q. Is there any other reason that would prevent you from testifying truthfully today?

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A. No.
Q. Now, because we're on Zoom, this remote technology for the deposition, and I'm not there in the room with you, I just need to ask you a few questions about your setup. I think I see it pretty clearly, but let me just ask anyway.
Where are you physically located right now?
A. At home.
Q. Okay. And it looks like you're in an upstairs room maybe?
A. Yes.
Q. Okay. Is there anyone else present in the room with you?
A. No.
Q. And are you on a laptop computer or a tablet or iPad?
A. No. Desktop.
Q. Desktop. Thank you.
Do you have access to e-mail or any messaging applications on that desktop computer?
A. I do. Yes.
Q. Okay. Do you have any of those open right now?
A. Yes, I do.

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Q. Is it okay with you if you close that and don't access it during the deposition?
A. Sure.
Q. Okay. Thank you.
And will you agree during the deposition not to use e-mail or messaging during -- while you're testifying?
A. Yes.
Q. Okay. Thank you.
Do you have access to any documents on that desktop computer that relate to this lawsuit?
A. I do.
Q. And what do you have access to on your computer, sir?
MR. RAVICH: Object to form.
THE WITNESS: I have access to the as-applied map.
MR. SCOTT: Okay.
THE WITNESS: But it's closed out. I don't have it pulled up.
BY MR. SCOTT:
Q. Okay. Very good. I suspect we're going to look at it at some point today.
Is that -- just so I know what you're referring to, is that the one with the red and the

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green lines?
A. Yes.
Q. Okay.
A. I believe so. I believe so.
Q. Okay. All right. Well, I will show you that one later and we'll talk about that one a little bit.
Any other documents on your computer besides that one?
A. No.
Q. Okay. Do you have a smartphone with you in the room?
A. I do.
Q. Okay. Will you agree with me not to use the smartphone during the deposition today?
A. Yes.
Q. Do you have any notes or hard copy documents with you right now?
A. Yes.
Q. What do you have with you, sir?
A. Just some notes that I made out of some reference material.
Q. Okay. And what reference material are you referring to there?
A. Our appli -- our pesticide applicator --

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aerial applicator guides.
Q. Okay. And which guides specifically? Do you have the actual documents with you or just have notes about the documents?
A. Just notes.
Q. Okay. And what's the name of the guide you have?
A. Aerial Applicator's Manual.
Q. Aerial Applicator's Manual. Is that the one with the yellow plane on the front?
A. Yes.
Q. Okay. Is that the one -- well, we might look at it later.
Any other documents that you have notes about there?
A. No.
Q. Okay. Can you just hold up your notes for me just so I can take a look at them? I mean, if we were in the room together, I would look at them, but can you just show me on the screen?
Okay. And how many pages of notes do you have?
A. About one and a half.
Q. Okay. When did you take those notes?

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MR. RAVICH: David, I'll assert a lawyer-client privilege. These are notes taken from my conversation with him that are driven by attorney-client privilege.
BY MR. SCOTT:
Q. Mr. Ewing, are your notes things you wrote down that Mr. Ravich said or are they your notes from your review of that manual you were talking about?
MR. RAVICH: Object to form.
THE WITNESS: My notes from the review of the manual.
BY MR. SCOTT:
Q. Okay. And describe for me how you went about reviewing that manual and taking notes.
What did you do?
A. I just went in and read some of the things that I thought might -- would be a question. So I just wrote the notes down.
Q. Okay. Where did you access that manual? Did you access it online?
A. I've had it for years.
Q. Got it. So you have a hard copy of it that you reviewed? Is that what you're saying?
A. Uh-huh.
Q. And just give me a yes there just so the

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court reporter knows.
A. Yes. I'm sorry. Yes.
Q. That's okay. Thank you, sir.
When did you review that manual recently when you took those notes?
A. Maybe two weeks. Two weeks ago.
Q. Okay. I'm not able to read what you held up, but are there -- can you just describe for me are there particular chapters in the manual that you focused on?
A. On inversions and also on the nozzle bodies.
Q. Say that again, please.
A. Nozzle bodies.
Q. Oh, thank you.
A. Nozzle body setups.
Q. Thank you.
Any other chapters or sections that you focused on?
A. No.
Q. Okay. Why did you focus on those two chapters or sections in particular?
A. I talked to Joe and he said that seemed to be a point of issue that you was really focused on during his deposition.
Q. Okay. And are you referring to Joe Curless?

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A. Yes.
Q. And when did you talk to him, Mr. Ewing?
A. I don't remember. It's been maybe a month ago.
Q. Okay. And did you have more than one conversation with Mr. Joe Curless?
A. Yes, I've had a couple.
Q. Okay. So you had one of them about a month ago. When was -- when was the other that you recall?
A. I don't remember.
Q. Okay. Was it near in time to that one a month ago or it was a long time ago?
A. It was probably -- it was probably after that.
Q. After the call a month ago?
A. Near in time to that.
Q. Okay. Thank you.
And were both conversations about Mr. Curless -- Joe Curless's deposition?
A. No.
Q. Okay. What -- what was -- just take them one at a time. What were the conversations about?
A. The second conversation was mostly about just random stuff dealing with the flying service.

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Q. You mean Curless Flying Service business stuff?
A. Yes.
Q. Okay. So not about this case?
A. No.
Q. Okay. Got it.
And what about the other conversation, what was that about?
A. I was just curious. After his deposition, I was curious.
Q. Okay. And so you told me that he suggested you look at those two issues in the manual or that those were topics of interest. Did he -- what else did he tell you about his deposition?
MR. RAVICH: Object to form.
You can answer.
THE WITNESS: Not really much.
BY MR. SCOTT:
Q. How long did you talk?
A. A few minutes.
Q. Okay. Okay. So you reviewed the Aerial Applicator's Manual a couple weeks ago. Did you review any other -- and it sounds like maybe you've reviewed the as-applied map. Other than those two documents,

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are there any other documents that you reviewed for this deposition?
A. No.
Q. And I understand you have your own copy of the Aerial Applicator's Manual and it sounds like you have an electronic copy of the as-applied map.
Are there any other documents you have --
A. No.
Q. -- relative to this case?
A. No.
Q. Thank you.
You told me about a conversation you had with Joe Curless asking about his deposition. Before we leave that, the other call you had with him about the Curless business, what topics were you talking about in that conversation?
A. Just different acres, acres applied.
Q. And by that do you mean farms or fields that Curless would be doing aerial applications for?
A. Yes.
Q. Okay. Other than those two conversations with Joe Curless, and I'm not asking about any conversations you might have had with your attorneys, but are there any other nonattorneys that you've

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communicated with or spoken to related to either this case or this deposition?
A. No.
Q. No communications with Harley Curless about it?
A. No.
Q. Generally, Mr. Ewing, how do you go about communicating with people at Curless, whether it's Joe Curless or somebody else there?
A. Usually by phone.
Q. Do you ever e-mail with them?
A. Occasionally.
Q. I'm sorry. I didn't catch that last part.
A. Occasionally.
Q. Okay. Thank you.
Do you e-mail with them related to aerial applications that you might perform for Curless? Again, the course of the business.
A. I'm not understanding what you -- what you're wanting there as far as what you want me to answer.
Q. Fair enough. Let me try again.
You said that you e-mail with folks at Curless occasionally. Let me just unpack that.
Who at Curless do you occasionally e-mail

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with?
A. Mostly it's Harley.
Q. And when you say mostly, is there -- who else is the other part that's not mostly?
A. Well, Joe did send me the as-applied map by e-mail, but usually it's Harley. Sometimes the girls will e-mail me a document that I need to sign as far as the -- I'm trying to think of how to put this. The doc -- forms to sign for the Illinois Department of Agriculture for recertification.
Q. Okay. I think I understand that. When you say -- when you reference the girls, can you just tell me who you mean there?
A. Either Cheri or Beckey.
Q. Okay. I've seen Beckey Ogden's name. Is that who you mean?
A. Front office.
Q. I'm sorry. I cut you off. My bad.
A. Yeah. No, I'm sorry. Yes.
Q. Okay. And when you say Cheri, what's Cheri's last name?
A. Koster.
Q. And what's her role?
A. She's a secretary.

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Q. Okay. And I'm sorry if I missed it, but what's Beckey Ogden's role?
A. She's a secretary.
Q. Okay. Thank you.
All right. So you mostly e-mail with Harley, but you also e-mail with those two women, it sounds like. When you e-mail with Harley, what types of things do you e-mail with him about?
A. The only e-mail that Harley and I do is concerning my contract.
Q. What about do you ever do any text messaging with anybody at Curless?
A. Yes.
Q. And who at Curless do you text message with?
A. Usually with the load crew. Seth which is the -- which is the load boss.
Q. Okay. And what is --
A. And --
Q. I'm sorry.
A. And that's got to do with job related.
Q. What is Seth's last name?
A. Kessler.
Q. Can you spell that for me?
A. I think it's K-e-s-s-l-e-r.

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Q. Okay. And how long has Mr. Kessler worked for Curless?
A. I don't know.
Q. Okay.
A. Ten years.
Q. Do you know if he was there in 2019?
A. Yes, I believe he was.
Q. Okay. And I think you described his position as the load boss. What's that?
A. Yes. Well, he's the guy that -- he's over the ground crew and tells what and how to mix and -- and what our next job is.
Q. And has he been in that position -- was he in that position in 2019?
A. No.
Q. Okay. Who held that position in 2019?
A. Bobby.
Q. Bobby Blickenstaff?
A. Blickenstaff, yes.
Q. Okay. And I understand he is -- he passed away. Sorry about that.
Did Mr. Kessler take that position after Mr. Blickenstaff?
A. I believe so.

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Q. Okay. And I'm sorry, but when did that happen? I apologize.
A. When Seth took over?
Q. Yes, sir.
A. Oh...
Q. Roughly.
A. Maybe in 2023.
Q. Okay. All right. So in 2019 Mr. Blickenstaff was the load boss; right?
A. Right.
Q. Okay. And he was in charge of the ground crew I think you said; right?
A. Yes.
Q. Okay. And you said the ground crew does, I think you said, mixing of the chemicals; is that right?
A. They service the plane.
MR. RAVICH: Object to form.
MR. SCOTT: Say that again. I apologize.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Okay. And how many people are on the ground crew?
MR. RAVICH: Object to form.

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BY MR. SCOTT:
Q. Let me be more specific. In 2019 when Mr. Blickenstaff was the load boss in charge of the ground team, how many members of the ground team were there?
A. Four, maybe. I don't remember. Three, four, five.
Q. Okay. And for an aerial application that you would fly, where would Mr. Blickenstaff and the ground crew be located? Would they be at the airport?
A. Yes.
Q. Okay. Do they stay at the airport?
A. Yes.
Q. And that's where they do the mixing of the chemicals?
A. Yes.
Q. And they handle loading the chemicals or reloading the chemicals on the plane?
A. Yes.
Q. And do they also handle refueling the plane?
A. Yes.
Q. Other than those things, is there anything else that the ground crew does?
A. They wash the planes. Clean the windshields

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every load.
Q. Anything else?
A. Just keep the grounds clean, keep the shop clean.
Q. Okay. And which -- is there a single airport where the ground crew is based, or are there multiple airports?
A. Mostly single airport. Occasionally we would go to other airports with a -- with a mobile loading truck.
Q. The one that they were normally based at, what's that airport called?
A. Curless Flying.
Q. Okay. And where in Illinois is that located?
A. Astoria.
Q. Okay. And so unless you were going to a remote airport location, normally Bobby Blickenstaff and his ground crew would be based at the Curless Flying Airport in Astoria; right?
A. Right.
Q. Is that normally where you would take off from for your aerial application flights?
A. Yes, normally.
Q. Okay. And I think we started talking about

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that because I asked you about text messages. So can you just describe for me a little -- in a little more detail what types of things you would text message with Bobby Blickenstaff about?
MR. RAVICH: Object to form.
THE WITNESS: Through the off-season, we would just text each other how's it going, how's things going. During the season, occasionally I would text him from the airplane if there was an issue that I needed to ask about.
BY MR. SCOTT:
Q. And on that last part, are there any examples of like an issue that you have in mind that you might need to text him about from the plane?
A. Occasionally the map would say that we were spraying corn. The field that was to be treated may not be corn. It may be soybeans or vice versa. Text back or either call on the radio, so...
Q. Okay. And I think you said the mount on that answer? Is that -- did I hear that right?
A. The what?
Q. Did you say the mount?
A. The map.
Q. Map. I'm sorry.

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A. Yes. The map.
Q. Thank you. Okay.
And is that map located on a GPS screen or somewhere else on the plane?
A. I have a hard copy of the map in the plane.
Q. Got it. And that --
A. On the work order -- it could be several maps on one work order. The work order is put on a USB stick, put in through the computer. When you go to that -- to the -- they call it a poly, which is the -- which is the field, it is outlined. You do have a copy of it on the GPS.
Q. Okay. So it sounds like you can see it on the screen, but then also you have a -- typically have a hard copy with you in the plane; is that right?
A. Yes.
Q. Any other examples come to mind about when you might need to text Bobby Blickenstaff from the plane, text message him?
A. No.
Q. Do you have an e-mail address that says -- has Curless in the name or has at Curless something in the name?
A. No.

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Q. Would you use your personal e-mail address when you e-mailed with somebody at Curless?
A. Yes.
Q. And would you use your personal smartphone when you would text message with somebody at Curless?
A. Yes.
Q. To prepare for this deposition, did you -- and this is just a yes or no question. Did you meet with Mr. Ravich?
A. Yes.
Q. And when did you -- I'm not going to ask you any questions about what you spoke with him about, but when did you meet with him?
A. We didn't meet in person. We met over Zoom.
Q. Understood.
When did you meet over Zoom?
A. Maybe a week before last and yesterday evening.
Q. Okay. Let's take those one at a time.
When you met over Zoom a week before last, just approximately how long did you talk?
A. Hour.
Q. Okay. And when you met again over Zoom yesterday evening, approximately how long did you talk?

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A. Ten, 15 minutes.
Q. And during either one of those meetings with Mr. Ravich, was there anybody else present?
A. Yes.
Q. And who else was present?
A. The one before, I don't remember their names, the other lawyers.
Q. Okay. They were lawyers. Okay. That's all I want to know.
Okay. And you told me about a couple documents, but I just want to be thorough.
When you met with Mr. Ravich a week and a half ago, did you all -- did you look at any other documents in connection with that preparation?
MR. RAVICH: Object to form. I'll instruct him not to answer. That goes to content.
BY MR. SCOTT:
Q. Let me just ask a yes or no then. Did you look at other -- besides the manual and the as-applied map, yes or no, did you look at other documents in that preparation session?
MR. RAVICH: Same objection.
Mr. Ewing, you need not answer.

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BY MR. SCOTT:
Q. Are you going to follow Mr. Ravich's instruction, Mr. Ewing?
A. Yes.
Q. Okay. Besides the conversations you've told me about with Joe Curless and besides your meetings with Mr. Ravich and maybe some of the other lawyers, did you do anything else to prepare for this deposition?
A. No.
Q. Okay. All right. Thank you, sir.
You've told me about your hard copy of the Aerial Applicator's Manual. Are there any other documents that you have in your possession that relate to this lawsuit?
A. No.
Q. Did you do anything to search your e-mails from around the August 2019 time period?
A. No.
Q. Did you search e-mail for any other time period after August 2019?
A. No.
Q. Did anybody ask you to do that?
A. No.

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Q. Did you do anything to search your text messages from August 2019 time period?
A. No.
Q. Did you search your text messages for any other time period after that?
A. No.
Q. Did anyone ever ask you to search for your text messages?
MR. RAVICH: Object to form.
THE WITNESS: No.
BY MR. SCOTT:
Q. All right. I want to ask some questions about your background, Mr. Ewing.
Where did you grow up?
A. Louisiana.
Q. Whereabouts?
A. Central Louisiana, Jonesville.
Q. Okay. Did you attend high school there?
A. Yes.
Q. And in what year -- approximately what year did you graduate?
A. '76. 1976.
Q. Okay. Did you attend any college after that?
A. No.

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Q. Okay. Did you go to trade school or any other type of additional education?
A. Other than my flight training, no.
Q. Okay. And so the next thing after high school was going into flight training; is that right?
A. Shortly.
Q. Okay. Did you serve in the military?
A. No.
Q. Okay. You said shortly. Was there a period of time after high school -- between high school graduation and going to flight school where you did some job or something else?
A. Approximately a year.
Q. Okay. And just what -- if you remember, what did you do then?
A. Worked at a farm and a seed store.
Q. Okay. And so how old were you when you first decided you wanted to become a pilot?
A. Oh, 19.
Q. And what steps did you take to become a pilot?
A. I went to work at a local airport and started taking flying lessons.
Q. What airport was that?

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A. Jonesville.
Q. Okay. And did they have a flight school there?
A. No, not a flight school per se. Just an instructor that came in.
Q. Got it.
How long did you take those flight lessons at the Jonesville Airport?
A. Approximately a year.
Q. Okay. After those lessons at the Jonesville Airport, did you attend a flight school or get other flight lessons?
A. I attended a ground school and weekend seminars.
Q. And where did you do that?
A. Flight school was in Alexandria. I mean, the ground school was in Alexandria. Weekend seminar in -- I think it was Lafayette and Shreveport.
Q. All those are in Louisiana, I take it?
A. Yes.
Q. In what year did you first get your pilot's license?
A. Oh, 1977.
Q. And do you recall what licensing authority

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issued that license to you?
A. FAA.
Q. Okay. And what type of pilot's license did you get in 1977?
A. Private.
Q. Did you later obtain a different type of pilot's license as well?
A. Commercial.
Q. And when did you get your commercial pilot's license?
A. 1979, I believe.
Q. And this probably sounds like a dumb question to you, but can you just describe for me the difference between a private pilot's license and a commercial pilot's license?
A. Private license, minimum of 40 hours of flight time. Commercial, a minimum of 250 hours commercial -- of flight time with different requirements. You have to have a commercial to -- to be paid to fly. To fly for hire.
Q. Are there any other important differences between the two licenses?
A. Just more training.
Q. Understanding what you said about getting

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paid to fly, are -- what types of flights are you allowed to do with a commercial pilot's license? What types of planes are you allowed to fly, for example?
A. Depends on what rating you have. I have a single-engine land so I -- I'm ready to fly a single-engine land.
Q. And I apologize but spell that last word for me.
A. SEL, single-engine land.
Q. Thank you.
A. There's lots of different ratings that you can get.
Q. Is that the rating -- I'm sorry. Go ahead.
A. I'm rated for a single-engine, take off and land on land.
Q. I see.
A. Hard surface.
Q. Thanks for clarifying.
Is that the type of -- is that the rating you've always had with your commercial pilot's license?
A. Yes.
Q. How often do you have to renew your commercial pilot's license with the SEL rating?
A. We have to have a biennial flight review by a

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certified flight instructor, which biennial means every two years.
Q. Any other steps you have to take to renew your license?
A. Yes. You have to have -- for a commercial, you have to have a Class 2 physical which you renew every year.
Q. Any other steps you have to take to renew besides those?
A. That's it.
Q. Okay. Any continuing education you have to take other than what you just described?
A. That's it.
Q. Okay. Have you kept your commercial pilot's license up-to-date ever since you got it?
A. Yes.
Q. There's never been a period when it lapsed or was invalid?
A. No.
Q. Do you still have a private pilot's license?
A. The commercial supersedes the private.
Q. Okay.
A. If -- if you -- if you go the physical -- the flight physical for commercial is one year. You renew

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each year. If you don't renew each year, then it goes to you're a private -- you're considered a private pilot and that's -- then you renew every three years on that.

Q. Got it.

Has yours -- your commercial license ever become a private license because of that physical issue?

A. No.

Q. Okay. Besides the commercial pilot's license you've told me about, have you ever had any other -- and besides the private before that, have you ever had any other type of pilot's license?

A. No.

Q. Are you certified under FAA regulations to fly agricultural aircraft operations?

A. Yes.

Q. When did you complete that certification program?

A. Each operator you work for signs -- signs you off to be competent. I don't remember which -- what year Curless -- Harley signed my log -- signed me off to be competent for him. I would say that was 20 -- 2013, I think, maybe. That's when I went to work for

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him.

Q. Okay. That's when you went to work for Curless Flying Services?

A. Yes.

Q. Okay. And is it okay with you if we just refer to Curless Flying Services as Curless?

A. Yes.

Q. All right. So it sounds like you started working for Curless in 2013; right?

A. I believe that's the year. I think so.

Q. Okay. And that's -- that's when you also got your certification under the FAA regulations to fly agricultural aircraft operations; right?

MR. RAVICH: Object to form.

THE WITNESS: For Curless.

BY MR. SCOTT:

Q. I'm sorry. I didn't hear that. Can you repeat that, Mr. Ewing?

A. For Curless.

Q. For Curless. Okay. I apologize.

So you had the certification with another operator before that? Am I getting that right?

A. Yes.

Q. Okay. Let me back up then.

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When you got your commercial pilot's license in -- I think you -- I think it was around 1979.

Does that sound right?

A. Yes.

Q. Okay. When you got that license, did you immediately go in to working as an aerial applicator pilot, or did you do some other type of flying before that?

A. I immediately went into aerial application.

Q. Okay. And so in 1970 -- I just want to walk through the timeline and the dates might not be perfect but just do your best for me.

In 1979, who did you -- who did you work with as an aerial applicator then?

A. Oh, Catahoula Aerial Application.

Q. Could you spell that first word for me?

A. C-a-t-a-h-a -- C-a-t-a-h-o-u-l-a.

Q. Thank you.

And where is Catahoula located?

A. It's in Louisiana.

Q. Okay. And approximately how long, how many years, did you work with Catahoula as an aerial applicator?

A. Four, four years.

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Q. Okay. So can we call that from 1979 to about 1983?

A. Yes.

Q. And during those four years with Catahoula, were you doing anything other than flying aerial applicator flights?

A. No.

Q. After you left Catahoula, did you go to work for another company that does aerial application?

A. Yes.

Q. And what company was that?

A. I think he called it Cane, C-a-n-e, Air. I think.

Q. Okay. Where was Cane Air located?

A. On the same airport in Jonesville.

Q. Okay. And do you mean the same airport where Catahoula was located?

A. Yes.

Q. Okay. And about how long, how many years, did you work for Cane Air?

A. Two. I believe it was two. Or maybe -- well, it wasn't -- it wasn't quite two. A year and a half.

Q. Okay. Can we -- let's just -- can we call

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that 1984 to 1985 you were with Cane Air?
A. Yes.
Q. All right. So then after Cane Air, did you go work for another aerial applicator company?
A. Yes.
Q. And who was that?
A. Tri-State Aviation.
Q. And where was Tri-State Aviation located?
A. Wahpeton, North Dakota.
Q. How long did you work for Tri-State Aviation?
A. One year.
Q. After Tri-State Aviation, where did you go to work doing aerial applications?
A. Louisiana Delta Plantation.
Q. That was the name of the company?
A. Yes.
Q. And how long did you work for Louisiana Delta Plantation?
A. I think 13 years.
Q. So does that basically take you through the 1990s?
A. Yes.
Q. And after Louisiana Delta Plantation, where did you go to work doing aerial application after that?

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A. Stokes Flying.
Q. How long did you work for Stokes?
A. One year.
Q. After Stokes, where did you work?
A. Bunkie Flying.
Q. Bunkie? Is that what you said?
A. Bunkie, B-u-n-k-i-e.
Q. Thank you.
And how long did you work for Bunkie?
A. Three years.
Q. Okay. After Bunkie, where did you go to work?
A. Stokes Flying.
Q. Okay. Back to Stokes. How long were you back at Stokes?
A. Until I went to Curless.
Q. Okay. So, by my math, maybe that was from 2005 or so to 2012?
A. I skipped a flying service before Bunkie.
Q. Okay.
A. Mullis Flying Service in Pine Bluff.
Q. Spell Mullis.
A. Two years.
Q. Can you spell Mullis for me?

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A. M-u-l-l-i-s.
Q. Thank you.
Okay. So two years in between Stokes and Bunkie you worked for Mullis; is that right?
A. No, it was -- it was before Bunkie.
Q. Okay. All right. So from Stokes -- you worked for Stokes for several years in the late -- in -- around 2005 until you went to Curless or something like that?
A. Right. Right.
Q. All right.
A. Those timelines may not be exact.
Q. I understand. And I'm not -- I'm not holding you to it. I just wanted to get a rough sense so thank you for your patience.
Did all those aerial application jobs entail spraying crop fields or was there other type of spraying you were doing?
MR. RAVICH: Object to form.
MR. SCOTT: You can answer.
THE WITNESS: Crops.
BY MR. SCOTT:
Q. And I guess I can tell by some of the locations you gave me, but other than Curless, did you

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fly in Illinois for any of those other companies?
A. No.
Q. And how did you come to start working for Curless? Can you just describe that for me?
A. I -- when I worked for Stokes, I took an airplane, a Stokes -- a Stokes airplane up to Curless to help one season. They needed some extra help. And I got to know the guys up there.
Q. Okay. And they offered you a job at some point?
A. Yes, like a year or so later.
Q. Okay.
A. A couple years -- something like -- one or two years later.
Q. Okay. And so you started with Curless in 2013. Since then, is there any other aerial application company you've worked for besides Curless?
A. Yes. I've worked for Myers Flying, Blytheville, Arkansas.
Q. Any others?
A. I think I -- I think I went and worked at Stokes when they needed some extra help.
Q. Okay. Besides Myers and Stokes, any others that you've worked for since your time at Curless?

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A. Yes. I worked for Stallings in Clovis, New Mexico.
Q. Okay. And when you've worked for these other companies during your time at Curless, was that -- were each of those times when they just needed some extra help and so you pitched in?
A. Yes.
Q. And is that typically -- you do that outside of the spraying season or during the spraying season?
MR. RAVICH: Object to form.
THE WITNESS: It's -- it's during -- during -- different seasons run different. So if I was available and wasn't at Curless, I would go to -- if other outfits need help, I would go.
BY MR. SCOTT:
Q. Okay. Understand. Thank you.
And you flew for Curless this past spraying season; right?
A. Yes.
Q. Will you be flying for them again next season?
A. I hope so.
Q. When will you know?
A. Somewhere around the first of the year.

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Q. Okay. And what are the -- to the extent you know, what are the factors that go into whether you'll go back?
MR. RAVICH: Object to form.
MR. SCOTT: You can go ahead.
THE WITNESS: I guess it depends on their work. The workload. If they -- their acres that they have lined up to do.
MR. SCOTT: Okay. Understood.
BY MR. SCOTT:
Q. And you mentioned a bit ago that I think you've gotten your certification under the FAA regulations to fly agricultural aircraft operations with multiple companies. Is that -- did I hear that right?
MR. RAVICH: Form.
THE WITNESS: Yeah.
BY MR. SCOTT:
Q. Did you have that certification with each of the companies that you just listed off for me?
A. No.
Q. And I really just want to get at when did you first get that certification approximately?
A. 1979.

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Q. Okay.
A. I actually took a -- a chief's pilot test. It was by the FA -- it was given by the FAA and it was in 1982 or '83, something like that. I don't remember.
Q. And the chief's pilot test, is that part of the certification we've been talking about or is that something different?
A. Yes, that's part of the certification.
Q. Have you had to take any other test or take any steps to renew that certification?
A. No.
Q. Do you have a license to apply restricted use pesticides in Illinois?
A. Yes.
Q. How long have you had that license?
A. At least 2013 and I had it the year that I brought the other airplane up.
Q. And you've had it every year since then?
A. Yes.
Q. How often do you have to renew that one?
A. Every three years.
Q. What steps do you have to take to renew it?
A. I have to take a test.
Q. And is that related to what you were telling

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me about earlier when you would e-mail with the secretaries about your Illinois --
A. Yes.
Q. -- testing? Okay. Thanks.
And we've been using -- you've been using and I think I've been using the term aerial application so far. Is that the term you use to describe what you do?
A. Yes.
Q. It's essentially the same thing as what people used to call crop dusting. Is that fair?
A. Well, that's fair, I guess. They used to call it crop dusting because they put out dust, but we don't -- we don't put dust out anymore. It's either a liquid spray or fertilizer.
Q. Understood. Thank you.
You've told me about your original flight testing and you've -- or training, I'm sorry, and you've told me about certifications and testing you've taken.
Besides what you've told me about, is there other training you've gotten to do aerial applications specifically, not just flying but aerial applications?
A. Oh, conventions. The convention of -- the Aerial Applicators Convention, they will have training

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sessions that you go to. So when I attend those conventions, they do have some training sessions that they go through. I don't guess you would call it a formal training.
Q. How often do you attend those conventions?
A. Generally every two or three or four years.
Q. And who puts those conventions on?
A. That depends on which state. Arkansas, Louisiana, Mississippi. I try to -- usually I go to somewhere local.
Q. Ever been to one in Illinois?
A. No.
Q. Getting back to your work for Curless, so obviously I know you've done aerial application flights working for Curless. Is there any other type of work you've done for Curless besides aerial application flights?
A. No.
Q. And have you had a job title or position at Curless?
MR. RAVICH: Object to form.
THE WITNESS: I'm not sure. I mean, I'm just considered a pilot.

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BY MR. SCOTT:
Q. Fair enough. Okay. And, if you know, are you an employee of Curless or an independent contractor or do you have some other status?
A. No, I'm an employee.
Q. You're an employee of Curless. Okay.
Do you get a W-2 from Curless?
A. Yes.
Q. Okay. Has that always been the case since you started working there?
A. Yes.
Q. And are you paid on an annual basis by Curless or just seasonally?
MR. RAVICH: Object to form. Relevance.
MR. SCOTT: You can answer.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. And have you always -- yes, you are paid annually?
A. Yes.
Q. So do you get a paycheck every two weeks?
A. Yes.
Q. And has that always been true since you started working with Curless in 2013?

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A. Yes.
Q. Now, you -- you told me earlier when you were talking about e-mailing with Harley Curless that you would e-mail with him about your contract.
Do you recall that?
A. Yes.
Q. Tell me what you mean by your contract.
A. Just states what he'll pay based on how many acres that I treat.
Q. And do you -- is that a negotiation you have each year?
A. Yes.
Q. And you have that negotiation before the season starts, I take it?
A. Yes.
Q. And so what are the basic terms? Did he ask you to fly aerial applications to spray X number of acres and he agrees to pay you Y number of dollars for that?
A. Yes.
MR. RAVICH: Objection to form.
BY MR. SCOTT:
Q. Is that essentially how it works?
A. Yes.

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MR. RAVICH: Objection to form.
BY MR. SCOTT:
Q. As best you can recall just thinking about your contract for this past -- well, I guess let me ask this.
The aerial applications that you -- the acres you would be agreeing to spray, that would all be performed during the spraying season in Illinois; is that right?
A. Yes.
Q. And roughly in Illinois when does the spraying season start and end?
A. Well, my -- the season starts before I come up and it ends a little after I leave from up there. But generally I'm up there June through part of August. And July -- sometimes July through part of August.
Q. I'm sorry. I didn't understand that last part when you said July. What did you say?
A. Well, sometimes -- sometimes I would go up there the first of July and work up into August and sometimes I go up there in June and work through August. It depends on their workload.
Q. I see. And that's something you negotiate with Harley Curless beforehand?

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A. Yes.
Q. Okay. So if they have a heavier workload, they might need you in June; if they have a lighter workload, it might be July; is that right?
A. Right.
Q. Okay. This past season, when did you go up there to start working?
A. I think I got up there the second week in June.
Q. Okay. And when did you -- when did you leave?
A. Second week in August.
Q. Okay. And it sounds like there's a set number of acres that you've agreed to work and to spray for Curless under your contract.
Am I understanding that right?
MR. RAVICH: Objection to form.
THE WITNESS: Well, there's no set amount of acres other than that my pay is based on up to a certain amount of acres, but the acres always vary from year to year.
BY MR. SCOTT:
Q. Okay. So can you describe for me how that payment calculation works? Does -- do you agree on

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like you're going to get a certain number of dollars for each acre?
MR. RAVICH: Objection to form.
THE WITNESS: I'm guaranteed a certain amount up to so many acres. Anything over a certain amount of acres I get paid extra.
BY MR. SCOTT:
Q. I see. So it's almost like time and a half, overtime kind of thing?
MR. RAVICH: Objection to form.
THE WITNESS: I don't know. I guess you could call it...
BY MR. SCOTT:
Q. Well, I think I understand. But so for this past year, just give me the numbers. What was the -- what was the set amount of acres where you got paid the standard amount?
MR. RAVICH: David, that's for this year?
MR. SCOTT: Yeah, this past year. I'm just trying to get an example.
MR. RAVICH: Form.
BY MR. SCOTT:
Q. How many acres was it?
A. Up to 50,000 acres.

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Q. Okay. So if you did aerial applications for up to 50,000 acres, you would get paid what amount per acre?
MR. RAVICH: Form.
THE WITNESS: Well, the industry standard is they pay a percent. I have a guaranteed amount up to 50,000 acres. If I do less than that, I still get my guaranteed amount. Anything over the 50,000 acres, I get 20 percent of the gross of those acres over.
BY MR. SCOTT:
Q. Okay. And when you say gross, you mean Curless's gross revenue for those acres?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. And when you say guaranteed amount, just tell me how much that amount is.
MR. RAVICH: Same objection.
MR. SCOTT: I'm only asking because I didn't get your contract so I don't know what it says and I just want to know the amount.
MR. RAVICH: Same objection.
THE WITNESS: I'm guaranteed 100,000 up to 50,000 acres. Anything over 50,000 acres, I get paid

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20 percent of those extra -- of the extra acres.
BY MR. SCOTT:
Q. Got it. And that was the arrangement this past season; right?
A. Right. Correct.
Q. Has that been the arrangement in prior years before that?
A. Yes, prior years. It hasn't been the arrangement the whole time, but it has been for the last few years.
Q. Okay. Was that -- I'm sorry. I didn't mean to cut you off. Were you done?
A. Yes.
Q. Okay. Was that the arrangement in 2019?
A. Yes.
Q. Okay.
A. I believe so.
Q. And do you and -- is there a written contract that --
A. I think -- I think the arrangement -- I think it was 90,000 in 2019.
Q. Okay.
A. Up to 50,000 acres.
Q. Same arrangement, just the guaranteed amount

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was 90,000 instead of 100,000?
A. Right.
Q. Okay.
A. Yes. Correct.
Q. Thank you.
And is there a written contract that you have each year with Curless or with Harley Curless?
A. Yes.
Q. Okay. And so that gets put down on a piece of paper and he signs it and you sign it; is that right?
A. Correct.
Q. And I imagine you have copies of those contracts for your files; right?
A. Yes.
Q. You said you get a paycheck every two weeks from Curless and a W-2, so does that amount get spread out over the whole year? Is that how it works?
A. He pays a certain amount over a certain period of time. After the season is over, he takes what the amount that was already paid and deducts that and pays the remaining sum.
Q. Over the year or in a lump sum?
A. In a lump sum.

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Q. Okay. And when you file your tax return, it shows you as a Curless employee; right?
A. Right.
Q. This -- and I guess let me ask this. I think you said it, but I just want to confirm.
In 2019, was the number of acres for your guaranteed amount -- was it a 50,000 acre threshold again?
A. Yes.
Q. Okay. Do you keep records of how many acres you spray in aerial applications each season for Curless?
A. Yes.
Q. How -- just generally, how do you go about keeping track of that?
A. Well, they keep a -- they keep a log in the office and then plus the -- they do it by the baling.
Q. Okay. Did -- this past season, do you remember how many acres you sprayed?
MR. RAVICH: Object to form.
THE WITNESS: I believe it was between 41 and 42,000.
BY MR. SCOTT:
Q. Do you happen to remember in 2019 how many

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acres you sprayed in that season?
A. I do not.
Q. Have you ever cleared the 50,000 acre threshold?
MR. RAVICH: Form.
THE WITNESS: Yes. One year.
BY MR. SCOTT:
Q. Do you remember what year that was?
A. No.
Q. I take it given the 20 percent you get, it -- it's a goal of yours to clear that threshold; right?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. You want to spray as many acres as you can in a season so that you can naturally make as much money as you can; right?
MR. RAVICH: Object to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. And you're not getting paid for the time you spend in the air, you're getting paid for the number of acres you spray; right?
A. Correct.

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Q. We touched on training a little bit, but just to follow up, has Curless provided you -- I mean, I recognize you're very experienced, but has Curless provided you with any training for aerial applications?
A. No.
Q. Do you happen to recall in 2019 approximately when the -- when you got to Curless in early summer and when you left Curless in late summer in 2019?
A. Not exactly. Maybe first of July through Aug -- up into August. I don't remember.
Q. What would you -- just, I guess, over the -- over the last five years since 2019, approximately what would you say is the number of acres you average spraying each season for Curless?
MR. RAVICH: Objection to form. Asked and answered.
THE WITNESS: I'd say approximately 44, 45,000.
BY MR. SCOTT:
Q. And, again, approximately how many flight hours does that represent? Spraying 44 or 45,000 acres, how many flight hours is that approximately?
A. Anywhere from 200 to 250.
Q. And that's over a period of eight weeks or

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so; is that right?
MR. RAVICH: Form.
THE WITNESS: Yeah, six to eight weeks.
BY MR. SCOTT:
Q. Okay. So, I guess, just can you give me a sense during the spraying season when you're working for Curless up in Illinois what's your workload in terms of how many hours you're working a day?
A. Approximately 12.
Q. So 12-hour days?
A. Average.
Q. And how many days a week?
A. Six or seven.
Q. Okay. That's a pretty busy time for you, I take it?
A. Yes.
Q. Again, just thinking about the last five years since 2019, how many pilots besides you has Curless had on the flying team?
MR. RAVICH: Form.
THE WITNESS: Four or five. I'm just guessing.
BY MR. SCOTT:
Q. Fair enough. Fair enough.
And, again, same time period since 2019, how

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many planes has Curless had that do aerial applications?
MR. RAVICH: Form.
THE WITNESS: Approximately four or five.
BY MR. SCOTT:
Q. When you're flying aerial applications for Curless, do you always fly the same plane or do you fly different planes?
A. Mostly the same. Now, that varies from year to year. But mostly each year I fly the same airplane.
Q. And by that do you mean the same model of airplane or, you know, actually literally the same airplane?
A. Well, it's, yeah, the same model and the same airplane each year.
Q. Okay.
A. Occasionally I'll fly a different one but --
Q. Okay. And in 2019 I think you flew an Air Tractor AT-802. Is that what you call it?
A. Yes.
Q. Is there any other name you use to refer to that particular plane?
A. No.
Q. Okay. And is that the same model that you've

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always flown for Curless?
A. Mostly, yes.
Q. How -- when you're up there working for Curless in the spraying season, how does Curless determine which pilot will take which aerial application flights?
MR. RAVICH: Form.
THE WITNESS: I'm not real sure.
BY MR. SCOTT:
Q. How do you get your assignments?
A. They bring their work order on a clipboard that's got the work order, the maps, USB stick.
Q. And does that happen each day?
A. Several times a day.
Q. Okay. So you -- does that mean you're at -- I guess are Curless's offices at the same location as the airport? I assume they are, but is that true?
A. Yes.
Q. And so are you -- you're there at Curless's offices and somebody comes to you with the clipboard and gives you an assignment to do an aerial application flight. Is that how it works?
A. Yes.
Q. In 2019, who was that person that would come

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to you with that assignment?
A. That would have been Bobby.
Q. Okay. Bobby Blickenstaff?
A. Yes.
Q. And is it currently Mr. Kessler?
A. Yes.
Q. Okay. We'll just do a handful more and then we'll take a break, but just let me finish this line.
How would you describe your working relationship with the folks at Curless?
A. Good.
MR. RAVICH: Objection to form.
BY MR. SCOTT:
Q. Have there been any rough patches over the years?
A. None that stand out.
Q. Have you yourself ever had any complaints about your work with Curless?
A. No.
Q. Okay. Mr. Ewing, do you own a plane personally?
A. No.
Q. Have you ever owned a plane?
A. Yes.

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MR. RAVICH: Object to form.
BY MR. SCOTT:
Q. What type?
A. Just -- just a personal.
Q. Okay. Single-engine I'm sure; right?
A. Yes.
Q. What made you get rid of it?
MR. RAVICH: Form.
THE WITNESS: I didn't use it enough to justify having it.
BY MR. SCOTT:
Q. Fair enough.
Mr. Ewing, do you -- do you wear glasses or contacts?
A. No.
Q. Have you ever?
A. Yes.
Q. When did you -- did you get LASIK surgery or something?
A. Yes.
Q. When did you get that?
A. This year.
Q. Oh. How is it working?
A. Good. Well, it wasn't LASIK, it was -- yeah,

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it was -- it was cataract.
Q. Okay. Understood.
A. But I -- I only use glasses for reading, near vision.
Q. Okay. You don't need them for flying?
A. No.
Q. Okay. Have you ever needed them for flying?
A. No.
Q. Okay. Besides the cataract surgery, have you ever had any eye issues or surgeries?
A. No.
Q. Last one before we break, have you ever lived in Illinois?
A. No.
MR. SCOTT: Okay. Now's a good time for me to break if you all want to.
THE WITNESS: Yeah, it's good for me.
MR. RAVICH: That's fine.
(Short break taken.)
MR. SCOTT: Let's go back on the record.
BY MR. SCOTT:
Q. Okay. Mr. Ewing, just one follow-up from some questions earlier. You told me that there was one year where you did clear the 50,000 acre threshold and

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I just want to make sure I understand. Was that in 2019 or not?
A. I don't think so. I don't really remember, but I don't think that it was that year.
Q. Okay. Switching gears a little bit. As an aerial application pilot, are there circumstances that can arise that require you to stop or delay or change your plans for an application?
A. Yes.
Q. Can you give me an example of what circumstances can arise to make you need to do that?
A. If there's people too close to the field or the wind is blowing in the wrong direction toward houses or there -- there could be obstacles in the field that you didn't know. You may not want to do it because of safety.
Q. Okay. Let me try to take this one at a time.
So the first example you gave is that if there are people too close to the field.
A. Uh-huh.
Q. Why would that circumstance require you as the pilot to stop or delay or change your plans for an application?
A. Well, it's -- if people were too close and

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the wind would blow in the spray toward them to where it could drift and get on them, you wouldn't want to do that.
Q. And I think the answer is probably obvious, but can you explain to me why not?
A. Well, you don't want to spray anybody.
Q. How close is too close?
MR. RAVICH: Form.
THE WITNESS: It depends on wind velocity and, you know, it could be -- it just depends on the situation. The wind velocity and the temperature and humidity.
BY MR. SCOTT:
Q. Okay. I think I understand the wind velocity point. Can you explain to me how the temperature affects that decision-making process?
A. Well, the warmer it is, the higher the temperature, it evaporates faster. The lower humidity it evaporates faster.
Q. And when you say it evaporates faster, you mean the chemicals that you're spraying evaporate faster?
A. Yes, the spray.
Q. And when you have those conditions, the spray is more likely to drift into an area where the people

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might be too close. Is that what you mean?
A. Yes.
MR. RAVICH: Object to form.
MR. SCOTT: I'm sorry. I didn't hear your answer.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. So is it fair to say that if your -- if you, Michael Ewing, are flying an aerial application and you see people in the adjacent area around the field you are spraying, that is a circumstance when you change your plans for that application?
MR. RAVICH: Object to form.
THE WITNESS: It depends on where they're located.
BY MR. SCOTT:
Q. Has that ever happened to you where you did see people on the ground and you changed your plans for an application you were supposed to do or you were in the process of doing?
A. Yes.
Q. How -- as best you can approximate, how many times has that happened or how often has it happened?
A. Occasionally.
Q. How --
A. I don't know the --

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Q. Once a season, more than once a season?
MR. RAVICH: Form.
THE WITNESS: Maybe once or twice a season.
BY MR. SCOTT:
Q. Did it happen -- are there any instances when that happened this past season?
MR. RAVICH: Form.
THE WITNESS: I don't recall.
BY MR. SCOTT:
Q. Are there any particular instances when that -- those circumstances happen that you do recall?
A. No.
Q. You also gave me an example of a circumstance that can arise that would require you to change your plans in an application of changes in the wind, I think. Was that an example you gave?
MR. RAVICH: Form.
MR. SCOTT: Let me ask you differently.
BY MR. SCOTT:
Q. Are changes in the wind a circumstance that would require you as a pilot to change your plans for an aerial application that you're in the process of doing?
A. Yes.

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Q. And explain to me why that is and -- well, explain to me why that is.
A. Well, if you're -- if you're spraying close to sensitive areas and the wind is -- it's favoring the right direction but -- and then either the wind changes directions or either dies down as far as loses its velocity, then you may want to rethink, you know, your -- the spraying the field.
Q. And I think I understand the change of direction part, but can you explain to me why the wind dying down would make you want to consider changing your plan in that situation?
A. Well, you just stay further away from your sensitive areas.
Q. And why is that with the wind dying down? Why does that make you want to do that?
A. Well, the wind's not pushing it away from your sensitive area as much.
Q. Have those types of wind changes occurred in aerial applications that you've flown?
A. Yes.
Q. How do you -- when you're flying up in the air doing the application, how do you determine what the wind is doing?

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A. We have the smokers on the planes and you can put out smoke and that tells you what the wind is doing.
Q. And when during an application do you -- well, let me ask this.
For every aerial application do you use the smoker?
A. Not every but it depends on the situation. Depends on the field. If the field's out in the wide open and nothing's around, there might be occasions that you don't use it.
Q. When you do use the smoker, is that something you do before you start applying the spray on the field?
A. Before and during.
Q. Besides having the ability to use the smoker, are there any other ways that you're monitoring changes in the wind while you're flying for an aerial application?
A. No, that's pretty much it.
Q. Is there any instrument you have in your plane inside the cockpit that's telling you what the wind is doing?
A. No.

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Q. Do you -- do you have anybody on the ground in or near the field that is communicating with you about the -- what the wind is doing down there?
A. Not near the field generally, no.
Q. And when you say not near the field, do you mean you have people back at the airport? Is that what you mean?
A. Right.
Q. Okay. And are the people back at the airport kind of your source for, I'll just say, weather data about what the wind is doing?
A. Sometimes.
Q. Are there occasions when the wind is doing something different lower to the ground than it is higher up where you might be flying on a turn or something?
A. Yes, that can -- that can -- yeah, that can be occasionally.
Q. I think another example you gave me in response to my first question was, I think you said, if there are houses in the area, that might be a circumstance that can arise that requires you to change your plans for an application; is that right?
A. Yeah, it could.

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Q. And just explain to me how that circumstance would affect your decision-making while you're doing the aerial application.
A. It depends on the velocity of the wind and if you see any people outside or -- you want to, you know, not spray right up to the house.
Q. Is there a general rule of thumb that if wind speed is too high you stop or delay or change your plans for an application? And I guess what I'm getting at is, is there a limit -- like a certain miles per hour of wind speed where you use that as a rule of thumb that if it's above that you're going to stop? Does that make sense?
A. Yeah, generally.
MR. RAVICH: Object to form.
BY MR. SCOTT:
Q. And is -- and what is that general rule of thumb? How many miles per hour?
MR. RAVICH: Form.
THE WITNESS: There again it depends on where you're at, but I'd say average maybe 15.
BY MR. SCOTT:
Q. Okay. What about -- what about very low wind speeds? Does -- if the wind speed is very low, is

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there a general rule of thumb that if it's below a certain miles per hour number you don't want to spray?
A. Typically it depends on the situation, but anything under three -- two or three, you would want to, you know, not be in a real sensitive situation.
Q. And why is that?
A. Well, you want to be sure when it does start blowing, what direction in...
Q. Is that -- are you saying that when the wind speed is low like that, the direction the wind's going to blow is unpredictable?
MR. RAVICH: Objection to form.
THE WITNESS: I wouldn't say unpredictable. You have your weather forecast that predicts pretty accurate of what you can expect. So, you know, spraying in under three is not -- it's not a -- just an absolute no.
BY MR. SCOTT:
Q. You just want to be more careful. Is that what you're saying?
A. Right. More cautious.
Q. Okay. You mentioned weather forecasts. Before you do an aerial application, when are you getting the weather -- when are you getting the weather

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forecast?
A. We check it regularly throughout the day.
Q. Okay. At the airport, is that what you mean?
A. We check it through the -- you can check it on your flight apps at different airports, Weather Channel app, several different weather apps that you can, you know, get your forecast or what the wind is doing.
Q. Okay. And which -- which sources do you use to get weather forecasts information?
A. I use ForeFlight. I use Weather Channel.
Q. And do you know what -- are those sources getting their information from I don't know how to put this but the official weather stations?
A. I'm assuming.
Q. Okay.
A. You know, they're -- the ForeFlight does.
Q. And so those are like the weather stations at airports, for example? Is that what you mean?
A. Yes.
MR. RAVICH: Form.
BY MR. SCOTT:
Q. We touched on this, but let me just ask it a little more specifically. Is there a general rule of

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thumb that people or vehicles must be a certain distance away from the application area before you can proceed with the aerial application?
MR. RAVICH: Form.
THE WITNESS: I think the EPA has a standard of 100 feet regardless of wind direction.
BY MR. SCOTT:
Q. And where -- where is that rule of thumb located in EPA's materials, if you know?
A. That's their -- I think they call it the aerial application exclusion zone. I'm not real sure where you'd find that.
Q. Other than that, is there any other general rule of thumb you're aware of about the distance people or vehicles should be away from the --
A. No.
Q. Okay. What's your understanding of the reason for an exclusion zone that you referenced that EPA has?
A. Just to stay away. To -- to stay away from -- from people.
Q. And you've mentioned drift. Is another way to describe a drift is that it's an off-target application or movement of the pesticide from an aerial

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application?
A. Yes.
MR. RAVICH: Object to form.
BY MR. SCOTT:
Q. And just whether we call it drift or an off-target application or movement, just tell me what's your understanding of that concept?
MR. RAVICH: Objection to form.
THE WITNESS: It's pretty much what it says. Off target.
BY MR. SCOTT:
Q. Okay. Do you have an understanding of factors that can cause drift or off-target application or movement of pesticide from an aerial application?
A. Yes, pretty much.
Q. And what types of factors can cause that?
A. Well, too high winds would be the main factor.
Q. You mentioned heat and humidity earlier; is that right?
A. Right.
Q. What about the droplet size of what you're spraying, does that have an impact?
A. Yes, it does.

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Q. And what's your understanding of how that can impact drift or an off-target application?
A. You want a certain -- you want your droplets to fall within a certain size to -- to mitigate movement and also evaporation.
Q. What about wind shear, can a wind shear cause drift or off-target application?
MR. RAVICH: Object to form.
THE WITNESS: Yeah, I guess theoretically it could, yeah.
BY MR. SCOTT:
Q. In what way?
A. Well, the wind shear is -- is when you have a sudden change in direction of wind which usually happens in inclement weather.
Q. And another thing you mentioned much earlier was inversions. Do you recall that?
A. Uh-huh. Yes.
Q. Inversions can cause drift or off-target application; is that right?
MR. RAVICH: Form.
THE WITNESS: An inversion would be movement of the product after the application. So I wouldn't myself consider that in the drift, but -- but I guess

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technically it would be considered that.
BY MR. SCOTT:
Q. Because it is movement of the spray to someplace that's off target; right?
A. Right.
MR. RAVICH: Object to form.
BY MR. SCOTT:
Q. What about the position of the nozzles on the boom? Can the way you have the nozzles arranged contribute to off-target application?
A. Well, it contributes to droplet size, so, yes, I guess so.
Q. What about the possibility of equipment failure with the boom or with the nozzles, can that lead to off-target application of spray?
A. Yes, it could.
Q. And how could that happen?
A. Well, it would take -- it would take a faulty valve and also faulty nozzles.
Q. And how would a faulty valve and faulty nozzles result in off-target application? Just explain that to me.
A. If your valve didn't close good or if you had faulty nozzles that were not operating properly.

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Q. And I imagine that type of wear and tear could happen if you're using the plane a lot and doing a lot of jobs?
MR. RAVICH: Object to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Besides the factors we talked about, are there other factors that come to mind that can cause or contribute to drift or off-target application?
A. No.
Q. Is it important to minimize off-target application or movement of pesticide from aerial applications?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Why is it important to do that?
MR. RAVICH: Form.
THE WITNESS: Well, it's an economic reason for one. You want the farmer's crop that you're spraying to get -- to get what it's supposed to get.
BY MR. SCOTT:
Q. You said for one. Are there other reasons?
A. Well, you just -- you just want it to stay

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where you want it -- where you're trying to put it.
Q. Earlier in the deposition you told me that you, in the last, maybe, a couple weeks ago, reviewed the Aerial Applicator's Manual. Do you recall that?
A. Yes.
Q. And just at a high level can you just describe for me what that is?
A. The Aerial Applicator's Manual?
Q. Yeah, just for a layperson. I'm not a pilot like you so just what is it?
MR. RAVICH: Object to form.
THE WITNESS: It's just a lot of the nuts and bolts of aerial application.
BY MR. SCOTT:
Q. Is that a manual that you rely on as an aerial applicator?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Was that a yes?
A. Yes.
Q. It's an important manual for aerial applicators. Is that fair to say?
MR. RAVICH: Object to form.

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THE WITNESS: Yes.
BY MR. SCOTT:
Q. I know you said you had your own hard copy of this Aerial Applicator's Manual. How often do you review it?
A. Every two or three years.
Q. And is that just so you can stay -- refresh yourself on guidelines for aerial application?
A. Yes.
Q. All right. I want to mark that as an exhibit and look at it with you. So let me take a moment and make sure I do that the right way.
Okay. I just put in the Zoom chat a pdf that I'm marking as Ewing Dep Exhibit 1. Anybody who wants to I think can download that pdf and look at it themselves. I'm also going to share my screen just so Mr. Ewing can follow along maybe a little easier.
(EWING Exhibit Number 1 marked for identification.)
BY MR. SCOTT:
Q. Okay. Mr. Ewing, are you now seeing on your screen the Aerial Applicator's Manual?
A. Yes.
Q. And is this the manual we've been talking

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about?
A. Yes.
Q. And so just, again, for the record, I'm marking this as Exhibit 1 for Mr. Ewing's deposition.
So obviously you've seen this manual before; correct, Mr. Ewing?
A. Yes.
Q. And it's got a subtitle that says "A National Pesticide Applicator Certification Study Guide;" right?
A. Right.
Q. Is that one of the certifications you have?
A. Well, there's -- each state has its own certification.
Q. Okay. Understood.
And since you mentioned states, I'm going to scroll down and we can see on page 3 that this Aerial Applicator's Manual was published by the National Association of State Departments of Agriculture Research Foundation; correct?
A. Correct.
MR. RAVICH: Object to form.
BY MR. SCOTT:
Q. Did Curless provide this manual to you?
MR. RAVICH: Object to form.

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MR. SCOTT: You can answer.
THE WITNESS: I'm thinking. I don't remember if I got it from Curless or if I got it from another source.
BY MR. SCOTT:
Q. Fair enough. And I know you told me that this is a manual that you rely on. Do you know if this is a manual that Curless relies on?
MR. RAVICH: Object to form.
THE WITNESS: I would think so.
BY MR. SCOTT:
Q. All right. And I just want to -- I want to look at several places in the manual and ask some questions about them.
By the way, is it big enough or can you see it?
A. Yeah, I can see it.
Q. All right. I apologize for the scrolling. I'm going to try to be efficient.
All right. So I'm looking at the introduction and I want to go to page 2 of the introduction. So the first sentence here says "This manual focuses on how to apply pesticides properly and safely from an aircraft;" correct?
MR. RAVICH: Object to form.

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THE WITNESS: Correct.
BY MR. SCOTT:
Q. And that's one of the things you rely on this manual for is to stay up-to-date on how to apply pesticides properly and safely from an aircraft; right?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. All right. Now I want to move to Chapter 2. Chapter 2 of this manual in Exhibit 1 is titled Operation and Application Safety; correct?
MR. RAVICH: Form.
THE WITNESS: Correct.
BY MR. SCOTT:
Q. Is this a chapter that you've reviewed before?
A. Yes.
Q. And under Learning Objectives on the first page of this chapter in the second bullet point, it's saying that this chapter will assist you to "understand the importance of protecting people and the environment from hazards associated with aerial application of pesticides;" correct?
MR. RAVICH: Form.

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THE WITNESS: Yes.
BY MR. SCOTT:
Q. And do you agree that it is important to protect people from hazards associated with aerial applications of pesticides?
A. Yes.
Q. Staying in Chapter 2, let me go to page 22. And in here there's a section in Chapter 2 titled Application Safety. Do you see that?
A. Yes.
Q. Okay. And in the second paragraph under the Application Safety heading, there's a sentence that reads "Arrange to scout the target site and surrounding areas so you can plan the application before scheduling it." Did I read that correctly?
MR. RAVICH: Object to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that an aerial applicator should scout the target site and surrounding areas before performing an application?
A. Yes.
Q. The next sentence, again under Application Safety, reads "Review the pesticide label to understand

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application restrictions and precautions and to prepare for emergencies or other problems."
Did I read that correctly?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that an aerial applicator should review the pesticide label and understand it before performing an application?
A. Yes.
Q. Staying in the same section in Chapter 2 on page 24, there is a subsection called Pilot Qualifications and Limitations. Do you see that?
A. Yes.
Q. Can you still read that? I just shrunk it down a bit. Can you still read that?
A. Yeah.
Q. Okay. Now, below that heading, Pilot Qualifications and Limitations, there's a pretty long list of several bullet points describing qualifications pilots must have.
Do you see that list of bullet points?
A. Yes.
Q. I know you've reviewed this manual and this

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chapter before, but take whatever time you want now to read to yourself just these bullet points under the Pilot Qualifications and Limitations, and when you're done, I'm just going to ask you a question about it.
A. Okay.
Q. You can let me know when you're done.
A. Okay.
Q. Okay. Did you read through the list of qualifications on page 24 of Chapter 2?
A. Yes.
Q. Do you agree that an aerial application pilot needs to have these qualifications?
A. Yes.
Q. Okay. The next subsection on the next page, page 25, is titled Scouting the Target Site.
Do you see that?
A. Yes.
Q. And at the end of the first paragraph, this subsection says during scouting collect information about several different categories of information and then they're listed in bullet points.
Do you see that?
A. Yes.
Q. The third bullet point on that list of

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categories of information, it says the aerial applicator should scout information about "proximity of the site to adjacent fields and other areas where fieldworkers may be present."
Did I read that correctly?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that an aerial applicator should do that?
A. Yes.
Q. The very next item down says that aerial applicators should also scout information about "general local weather conditions."
Did I read that correctly?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that an aerial applicator should do that?
A. Yes.
Q. Still in Chapter 2, I want to go down to page 28. Do you see there's a section here again on page 28 of Chapter 2 and it's titled Planning for

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Emergencies?
A. Yes.
Q. The first sentence of this section says "a very important part of the application planning includes being prepared for any emergency that might occur during the operation."
Did I read that correctly?
A. Yes.
MR. RAVICH: Form.
BY MR. SCOTT:
Q. Do you agree with that statement?
A. Yes.
Q. In this section, which is called Planning For Emergencies, now going to page 30, there is a subsection titled Spray or Dust Contacting Bystanders or Vehicles. Do you see that?
A. Yes.
Q. The first sentence under that section heading says "it is illegal to apply any pesticide in a manner that exposes people, livestock, vehicles, and other objects to the spray or dust."
Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.

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BY MR. SCOTT:
Q. Do you understand that it is illegal to apply pesticide in a manner that exposes people to the spray?
A. Yes.
Q. The next sentence says "unfortunately, farm workers, joggers, trespassers, and others may not recognize the hazard of entering an area until an aircraft making an application flies over them."
Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that aerial application pilots need to be alert to the possibility of that happening?
A. Yes.
Q. And I think you told me before in your experience that that has happened to you; right?
MR. RAVICH: Form.
THE WITNESS: What -- what has happened to me?
BY MR. SCOTT:
Q. When you've been doing an aerial application and a person has entered into the area near where you were spraying?
MR. RAVICH: Objection to form.

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THE WITNESS: Yes, entered in, yes.
BY MR. SCOTT:
Q. And in that situation it was important that you were alert so that you could change your plans with that aerial application due to the person being nearby; right?
A. Yes.
Q. The next sentence in the same subsection says "Weather patterns, especially wind direction, can also change rapidly, causing pesticide from the application to move off site and possibly onto workers or other people nearby." Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that aerial application pilots need to be alert to the possibility of weather patterns, especially wind direction, changing rapidly?
A. Yes.
Q. All right. And then the remainder of this paragraph gives an example that I just want to talk about briefly if I can get it highlighted.
Okay. Just bear with me for a second. The next few sentences at the end of this same paragraph

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say, "For example, you might plan and begin an application based on the wind blowing away from nearby areas where people are present. However, during the application, the wind direction could change and blow towards these areas. Therefore, develop a plan that includes communication between you and the ground crew to delay or stop the application if anyone spots people nearby, and only make applications if no one is in adjacent areas where they might be subject to exposure. Inspect the application site and adjoining areas before beginning an application to confirm no one is around the site."
Did I read that correctly?
MR. RAVICH: Object to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that this is an example of why it is important to inspect the areas around the application site to confirm no people are around?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Okay. Now I want to move ahead to Chapter 6 of the manual. It's on page 81. Chapter 6 is titled

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Making an Aerial Pesticide -- I'm sorry.
Chapter 6 is titled Making an Aerial Pesticide Application; correct?
A. Correct.
Q. Is this another chapter of this manual that you've reviewed before?
A. Yes.
Q. And in Chapter 6 I want to go to page 86. Here there is a section called Application Methods.
Do you see that?
A. Yes.
Q. Just below that on page 87 in this section, in the first full paragraph there is a sentence that reads "To prevent spray from contacting sensitive areas, or to avoid flying or turning over residences and other sensitive areas, you may need to wait for more favorable conditions or alter the application pattern in relation to prevailing wind direction and even contrary to logical field layout."
Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that aerial application pilots

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need to be prepared to alter the application flight pattern if circumstances require it?
A. Yes.
Q. Okay. Now, there's -- the remainder of this paragraph, there's another example I want to talk about briefly.
The next few sentences say "For instance, consider a rectangular field having its longest width running east and west. Because the wind is from the north, it would appear logical to make east-west passes. However, on the eastern border of the field is a road with houses on the other side of this road. East-west passes require making turns over the road and houses. In this situation, make shorter, north-south passes over the field even though this requires making more turns."
Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you agree that in this example the pilot should alter his application flight pattern to avoid making turns over the road and houses?
MR. RAVICH: Objection to form.

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THE WITNESS: Yes.
BY MR. SCOTT:
Q. Have you ever done that before, something similar to this example?
MR. RAVICH: Objection to form. Vague.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. If you recall, what were the circumstances when you did this type of change of -- change of course?
A. If there's traffic on the road or if it was just a lot of houses.
Q. You would change your course so you don't fly over the road or over the houses? Is that what you mean?
MR. RAVICH: Form.
THE WITNESS: In certain circumstances, yes.
BY MR. SCOTT:
Q. And are there -- when you say in certain circumstances, are there circumstances you have in mind when you would do that?
A. Yes. It would depend on the amount of traffic and the amount of houses and people.
Q. And --

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A. And how close -- how close they were to where you were pulling up and getting to them, going toward them.
Q. Okay. Okay. Just a few more. I want to go back to Chapter 3 on page 33. Again, we're in Exhibit 1 which is the Aerial Applicator's Manual.
Okay. Chapter 3 is titled Preventing Pesticide Drift; correct?
A. Correct.
Q. And is this a chapter you have reviewed before?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Yes?
A. Yes.
Q. On page 34 of Chapter 3, the last full paragraph of the first section of the chapter, it says "During any application, a certain percentage of the spray droplets will drift."
Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.

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BY MR. SCOTT:
Q. Do you agree with that statement?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Same Chapter 3 turning to page 37, there is a section titled External Factors Affecting Droplet Size and Drift. Do you see that?
A. Yes.
Q. The first sentence of that section says "Certain factors remain beyond your control. These external factors include weather such as humidity, rain, extremely high or low temperatures, wind, or conditions leading to an inversion layer."
Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Is that consistent with your understanding as some of the factors that can cause pesticide drift?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Okay. On page 38, just beneath the bullet

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list in the first full paragraph, there are a couple sentences here I want to focus on.
The first sentence says "The optimum time to make an aerial application when evaporation of spray droplets is a concern is during the coolest part of the day." And then a couple sentences later it says "Avoid making applications during hot, dry periods of the day."
Did I read those two sentences correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Are those statements consistent with your understanding of pesticide drift?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. On the same page 38 near the bottom of the left-hand side, there is a sentence that says "Upward air movement caused by thermals also entraps and moves small droplets, increasing the probability that they will drift away from the application site. Thermals occur as the ground heats up, usually in the afternoon."

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Did I read that correctly?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Are those statements consistent with your understanding of pesticide drift?
A. Yes.
Q. Okay. I'm going to stop sharing and take Exhibit 1 down. Thanks for bearing with me there.
A. Can I take a three-minute break?
MR. SCOTT: Yes, sir. Let's go off the record and let's take five.
THE WITNESS: Okay.
(Short break taken.)
MR. SCOTT: Let's go back on the record.
BY MR. SCOTT:
Q. Okay. Mr. Ewing, I now want to turn to August 5th, 2019, the aerial application event that's the reason for this lawsuit. So I want to ask some questions about that and talk about that.
Do you have -- can you have that August 2019 time period in mind as best you can?
A. Yeah.
Q. Okay. Was August 5th, 2019, a memorable day

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for you?
A. It wasn't until the lawsuit.
Q. Okay. And what do you mean by that?
A. Or until the -- until the complaint.
Q. Meaning until the complaint in this lawsuit was filed? Is that what you mean?
A. Well -- no, that day they -- that it was called in.
Q. I got you. Later that day --
A. Right.
Q. -- you learned about a complaint being made --
A. Yes.
Q. -- to the state; is that right?
A. Yes, yes.
Q. Sorry. I'm just treading on your words. My apologies.
A. No, that's fine.
Q. Okay. So, just so I understand that, you only became aware of -- that something had happened at the end of the day after you had finished all your flights; is that right?
A. No, no. It was -- it was a little later.
Q. What do you mean? A little later after you

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finished?
A. Yes. After I -- not the day but after I finished treating that specific field.
Q. Oh, I see. Okay.
And how did you come to learn that something had happened?
A. I believe they called me on the radio.
Q. And they -- is that Bobby Blickenstaff?
A. Yes, Bobby.
Q. Okay. So he called you from the airport on the radio?
A. I think so. Yes, I think so.
Q. And what's your best recollection of what he said?
A. He said the state was wanting to inspect the airplane, to come back and -- you know, and give a statement and inspect the airplane.
Q. Did you still have some more fields to spray that day at that point in time?
A. Yes.
Q. Okay. So did you finish your spraying jobs and then go back, or did you head straight back?
A. No, I went back.
Q. Okay.

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A. Went straight back.
Q. And you mentioned something about giving a statement. Was that you that gave a statement?
A. Yeah, to the Illinois State Department of Agriculture.
Q. Okay. And was that a -- a verbal exchange where they asked you questions and you answered verbally?
A. Yes.
Q. Okay. Was there any written statement that you gave?
A. No. Not that I -- not that I wrote.
Q. Do you recall the -- and, again, I'm not going to hold you to specifics, but what do you recall about what the Department of Agriculture person asked you in giving that verbal statement?
A. Just specifics about what I saw and the wind and about the general condition of the spray nozzles which they inspected, so...
Q. And what do you -- when you say they asked you questions about what you saw, what do you recall telling them in response to that question?
A. They asked did I see people in that -- in the field that was in question of where the plant is --

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were. And I said, yes, I saw them.
Q. And did you say more to them than that? Did you elaborate at all?
A. Well, yes. I told them yes, I did, the wind was blowing away from them. They were approximately a quarter of a mile away and there -- there -- it was basically a nonissue.
Q. From your perspective, it was a nonissue; is that what you mean?
A. Correct.
Q. Do you understand that from the workers' perspective it was an issue?
A. I don't -- I don't know what their perspective was, I mean, but --
Q. Well, at the time you gave the statement to the person from the Department of Agriculture later in that day, August 5, 2019, what was your understanding of what the workers had told the state?
A. That I had -- that I had got spray on them.
Q. Anything else that you understood that they had told the state?
A. Uh-uh. No.
Q. Just looking back from right now, is there anything you would do differently on that day if you

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could?
A. Honestly, looking back from now, as far as the issues that it has caused, I wouldn't have sprayed the field. But as far as the -- the logistics of spraying the field, the wind blowing at the -- at the speed that it was blowing away from the field that the workers were in, no. I made the statement that if my own family would have been in that field where the workers were at I wouldn't have done anything different.
Q. You mean you said that to the state?
A. I said that to the state lady. It was -- it was a lady. Yeah, I'm almost sure it was a lady.
Q. Okay. Is there anything else you remember about what you said to the woman from the Department of Agriculture who was interviewing you?
A. No, not any specifics. I don't -- I don't recall the whole conversation.
Q. Let me just ask you this. Do you think that the farm workers were lying?
MR. RAVICH: Objection to form.
THE WITNESS: I guess it's a hard -- I'm -- well, let me put it this way. Do I think I got spray on them? 100 percent not. I don't -- I don't know what

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they're -- I don't want to just say they were lying. I don't want to call them liars, but did I get spray on them, no.
BY MR. SCOTT:
Q. Is it possible that you genuinely believe you did everything right and didn't -- didn't fly in a way that you would expect spray to get on them, but things can still happen, right, and it's possible that you're both right, that you believe you didn't -- you didn't do anything wrong but they genuinely were sprayed? Isn't that -- isn't that possible?
MR. RAVICH: Objection to form.
THE WITNESS: That's a hard question to answer because all I have to go by is what was going on at the particular time. No spray got over in that area. The spray system was functioning properly which the Department of Agriculture determined was working properly. It was -- it was not spraying when it was not supposed to. So your question is -- that's kind of hard to answer.
BY MR. SCOTT:
Q. Are you aware that there was testing done by the state that confirmed that at least one of the chemicals you sprayed appeared on an item of clothing

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from someone who was in the field? Were you aware of that?
A. I was -- yes, I was aware of that.
Q. How do you explain that?
MR. RAVICH: Objection to form.
THE WITNESS: I would explain it as the fields that they work in are sprayed by the same chemicals several times over the course of a year that they're working in. Even though they do have -- the Worker Protection Standard as far as reentering into the field is -- is good, but when you have the plant becoming wet with dew overnight and then they get in the field early, is there some residue that's going to transfer from the plant to them, yes, I believe so.
BY MR. SCOTT:
Q. You mentioned the wind a moment ago. You told me earlier that you don't have any instrument in the cockpit that tells you what the wind is doing currently; right?
A. Right.
Q. And I know you get weather forecasts from the airport at the beginning of the day, but that's not telling you what the wind is doing in the field at the time you're flying; right?

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A. Well, we don't just get it at the beginning of the day. We -- we're constantly looking at the -- at your weather app through the day. I was spraying fields and I knew which direction the wind was blowing that weren't too far from the field that I -- that's in question.

And then when you put smoke, the smoke gives you a very good indication of what the wind is doing at that specific time.

Q. Do you specifically recall using the smoke for this specific field on August 5th, 2019?

A. Yes, I do.

Q. Okay. And did you do that at -- before you -- before you started spraying?

A. I did that -- yes, I believe I did.

Q. How many times did you use the smoke during that application? Just once or more than once?

A. More than once.

Q. How many times?

A. Several.

Q. How many times?

A. I don't know. Several.

MR. SCOTT: All right. I want to put in the chat what I'm going to mark as Exhibit 2. Okay. So Ewing

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Deposition Exhibit 2 is now in the chat, and I'm going to separately open it and share my screen so it's easier to view for Mr. Ewing.

(EWING Exhibit Number 2 marked for identification.)

BY MR. SCOTT:

Q. Okay. Mr. Ewing, can you see a document open on your screen now?

A. Yes.

Q. Okay. I'm showing you what I've marked as Exhibit 2 for your deposition. And this is a document titled Defendants Farm Air Inc. and Curless Flying Services, Inc. Second Supplemental Answers to Plaintiffs' First Set of Interrogatories.

Before I ask you about this document, are you familiar with the company Farm Air, Inc.?

A. Yes.

Q. Can you just tell me your understanding of what Farm Air is and what it does and how it relates to Curless?

A. My understanding, Farm Air, Inc. is an Air Tractor dealership which deals in new and used airplanes. And I understand that Curless Flying leases those planes from Farm Air. Now I'm -- that's my

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understanding, but, no, I'm not a hundred percent sure of any of that.

Q. Fair enough.

In your job piloting aerial application flights, does Farm Air have any role in what you do?

A. No.

Q. Okay.

A. Not to my knowledge.

Q. Okay. So looking at Exhibit 2, have you seen this document or documents like it before?

A. No, I have not.

Q. Okay. Well, I'll represent to you that -- and Mr. Ravich can chime in if he wants to, but I'll represent to you that this is a set of sworn answers to written questions called interrogatories that Curless and Farm Air provided in discovery in this case. And for right now I just want to look at one of those answers that Curless and Farm Air provided and talk to you about it. Okay?

A. Okay.

Q. All right. So I'm going to scroll down to Interrogatory Number 7. And Interrogatory Number 7 asks Curless and Farm Air to identify the pilots who flew aerial applications on August 5th, 2019, and the

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areas of those applications. Do you see that?

A. Yes.

Q. All right. And then in response to that Interrogatory Number 7, Curless and Farm Air said that they would provide information about the aerial applications that you, Michael Ewing, flew on August 5th, 2019.

Do you see that right here in this paragraph?

A. No, you're -- okay. Yes.

Q. Okay. And then the next paragraph down they wrote in the response "Mike Ewing, as pilot-in-command, made the following aerial applications on August 5th, 2019, with client and township and total acreage listed." Did I read that correctly?

A. Yes.

Q. Okay. And then the response to the interrogatory lists five bullet points showing your aerial applications on August 5th, 2019; correct?

A. I guess that's what it's showing.

Q. Okay. And, again, I'll just represent to you that this is a sworn response that Curless and Farm Air gave.

A. Right.

Q. If you know, are -- are -- Scott Dean and

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then these other four entities listed underneath there, are those clients of Curless?
A. I would assume so.
Q. Okay. And the names listed after the client, like, for example, Astoria after Scott Dean and Woodland and Littleton, are those different townships for each client?
A. Yes, I would assume so.
Q. Okay. And are the clients here owners of farms or are they co-ops?
MR. RAVICH: Form.
THE WITNESS: Well, it would seem like Scott Dean is the farmer. Evergreen FS is a co-op. The Baker and Meehan I would think would be farmers. I'm not sure.
BY MR. SCOTT:
Q. Okay. Fair enough. It's maybe a mix of the two. Okay.
A. Honestly, I'm not sure.
Q. That's fair.
A. I don't get involved in who the customers are actually or what they are.
Q. Okay. Is there any way to tell from this list how many different farms you were performing aerial applications on on August 5th, 2019?

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A. How many different farms or different fields?
Q. Well, either really.
A. No.
Q. Okay. I guess the one thing we can tell is the acreage; right? So the total acreage for each client is in parentheses; is that right?
A. It looks to be correct.
Q. Okay. All right. And so I just went ahead and added these up. So, adding up the acreage, you performed aerial applications on 1,633 acres on August 5th, 2019; is that correct? And I'll represent I did the math.
MR. RAVICH: Form.
THE WITNESS: I'm assuming if you did the math correct, yes.
BY MR. SCOTT:
Q. All right. The total is over 1,600 acres; right? So that's what you did that day.
A. Okay.
Q. Is -- now, you told me a little bit earlier about your, you know, 12-hour days and seven days a week. Is 1,600 acres in a day -- is that a high number of acres, a typical number? What is that in the spraying season?

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MR. RAVICH: Objection to form.
THE WITNESS: It's typical of average to maybe a little below average.
BY MR. SCOTT:
Q. Okay. And, as best you can estimate, how long -- how long a workday would that be to spray 1,600 acres?
A. There's a lot of variables in that. There's not a straight answer to that. It depends on the size of the fields, distance to the fields. So, I mean, I would say for that amount, eight hours.
Q. Okay. And that would probably involve stops to refuel and reload chemicals you were spraying; right?
A. Correct. And that's just an estimate.
Q. Fair enough.
I'm just -- so can you approximate for a day like that how many refueling stops and chemical reloading stops would you have?
MR. RAVICH: Objection to form. Don't guess.
THE WITNESS: Probably six or seven, maybe.
BY MR. SCOTT:
Q. Okay. And judging by these locations, would you expect that those refueling stops and chemical

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reloading stops were done at the airport in Astoria?
A. Some of them, yes. Probably the Evergreen McLean was probably done at an airstrip over McLean.
Q. Okay. For a workday like this, what time of day would you start working?
A. We usually start by the time we get airborne 6:30, 7:00.
Q. Okay. And do you take breaks during the day?
A. Yes, occasionally. Short breaks.
Q. Okay. Do you stop to eat any meals?
A. Yes.
Q. Lunch I take it?
A. Yes.
Q. Okay. For a day like this, if you started at 6:30 like you said, approximately when would you finish the day?
MR. RAVICH: Form.
THE WITNESS: Well, that -- I mean, we fly until, you know, we -- we want to be on the ground before dark.
MR. SCOTT: Okay. All right. I'm going to move from this exhibit to another one so let me take that down.
Okay. So I've now put in the chat what I'm

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going to mark as Ewing Deposition Exhibit 3, and I'm going to share my screen again for Mr. Ewing's benefit.

(EWING Exhibit Number 3 marked for identification.)

BY MR. SCOTT:

Q. Okay. Mr. Ewing, is the document showing up on your screen?

A. Yes.

Q. Okay. So I wanted to zero in on one of the five co-ops -- or this one is a co-op, but one of the five clients that were listed on that interrogatory we were just looking at and this one is for Evergreen FS Wapella. Do you see that name at the top of the document?

A. Yes, I do.

Q. Okay. And so I've marked this as Exhibit 3, and I'll represent to you these are nine pages produced by Curless and Farm Air in discovery in this case with Bates number Curless 000129 through 137.

And just for your benefit, Mr. Ewing, those numbers I'm referencing are down in the lower right-hand corner if you can see it.

A. Okay.

MR. RAVICH: David, would you mind scrolling down

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too just so he can see the full document.

MR. SCOTT: Yeah. Of course.

MR. RAVICH: Same for me. Thank you.

MR. SCOTT: Yeah. Sure. So, absolutely, I'll scroll through it. That's it. Okay?

THE WITNESS: Okay.

MR. SCOTT: All right. So --

MR. RAVICH: Mike, do you want more time to look at that or --

THE WITNESS: No, that's okay.

MR. RAVICH: All right.

BY MR. SCOTT:

Q. All right. So I just want to start -- I'm just going to take these in order, so I want to talk about the first three pages first one at a time. And, I mean, is it fair to say, Mr. Ewing, that these first three pages appear to be work order documentation for the aerial applications for Evergreen FS Wapella on August 5th, 2019?

MR. RAVICH: Form.

THE WITNESS: Correct.

BY MR. SCOTT:

Q. Okay. And the work order for this job was Number 724; correct?

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A. Correct.

Q. Okay. All right. And this shows that -- on the lower left that you were assigned as the pilot for the aerial applications; correct?

A. Correct.

Q. And do you see next to your name where it -- there's a line for plane and it says 82V. What does that mean?

A. That's the last two numbers of the end number, 82 Victor.

Q. Of the plane?

A. Yes, sir.

Q. Got it.

Underneath your name there's something that says tach start, t-a-c-h start, with the number 1971 next to it. What's that?

A. That's your -- that's your tach time on the -- on the total time on the airplane off the Hobbs meter.

Q. Okay. All right. And you're going to have to help me a little bit there. What's the Hobbs meter? What is that?

A. That's your hour meter.

Q. Okay.

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A. Operating.

Q. Okay. So it says start 1971, stop 1972.8, and then 1.8 is circled. Does that signify 1.8 hours?

A. Yes, 1.8 total hours.

Q. Okay. And is that total hours in the air?

A. Yes.

Q. Okay. So if -- if the times on the page like listed in the lines here are a longer amount of time than 1.8 hours, that's because you were on the ground part of the time reloading, things like that?

A. Correct.

Q. But the 1.8 hours is your time in the air?

A. Yes. The hour meter doesn't start until you're at flight power.

Q. Okay.

A. And it stops when you're pulled back for landing power.

Q. Okay. I understand. Thank you.

A. It doesn't count on-the-ground time.

Q. Got it. And that's probably the clock you use to measure your flight time for your experience and things like that; right?

A. Correct.

Q. Okay. All right. Second page of this

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exhibit, upper left, there's the name Hammer circled. I heard from Joe Curless that that's your nickname; is that right?
A. Correct.
Q. Okay. And next to your nickname is 3082V. I take it that's the plane you were flying?
A. That's the end number of the airplane, correct.
Q. All right. And the other names in the box are the other pilots working for Curless at that time?
A. At that time, yes.
Q. And the numbers next to their names are the planes they were flying?
A. Correct.
Q. Okay. And going back to the first page of Exhibit 3, in the middle of the page, this shows that the farm owner was Kopp Farms; correct?
A. Correct.
Q. Okay. And then it shows -- it lists 13 different fields you sprayed for Kopp Farms; correct?
A. Correct. Whatever -- whatever number that is.
Q. Yeah.
A. I didn't count them.

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Q. I counted them up. It's 13. Okay.
All right. And then the acreage for each field is shown next to -- in the next column over; right?
A. Correct.
Q. And in the next column over the heading is Z time. What does Z time represent?
A. I'm assuming Zulu time.
Q. Okay. Is that the end time of completing an application?
A. Yes.
Q. Okay. So, just for one example, the Williams field was 79 acres and you completed it at 10:55 a.m.; is that right?
A. Correct. Looks to be correct.
Q. Okay. And then the next column over is pilot and the initials ME, those must be your initials; right?
A. Correct.
Q. Okay. All right. And then the total acres for these 13 fields is shown here and it's 687 acres; is that right?
A. Correct.
Q. Okay. It was originally 704 acres, but it

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looks like the Maxwell field was changed from 34 acres to 17 acres; is that right?
A. Yes. Looks that way.
Q. Do you have any understanding of what's going on there?
MR. RAVICH: Form.
THE WITNESS: I probably left off part of the field.
BY MR. SCOTT:
Q. Okay. And why would you leave off part of the field?
A. Just for reasons of not being able to do it. I mean, there could have been several reasons but could have been somebody close or, you know, I felt uncomfortable maybe doing that part of the field. I don't remember. I'd have to look at it.
Q. Okay. And the 13 fields here are -- they're not listed in the order of the time that you did them so I was just wondering how did you determine in which order to spray these 13 fields for Kopp Farms?
A. It just depends. A lot of times we try to do the bigger fields first. Sometimes we go to -- it's just different -- different areas. Different fields were in different areas. That could be.

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Q. Okay. All right. And then it says that the crops in these 13 fields were corn and soybeans; correct?
A. Correct.
Q. And you sprayed three different chemicals on these fields; correct?
A. Correct.
Q. Okay. And on the -- this first page of Exhibit 3, those chemicals are listed in the upper right-hand corner?
A. Correct.
Q. One was called Avaris. Do you know what Avaris is?
A. I believe it's a fungicide.
Q. Is it hazardous to humans?
A. I would say very -- very slightly.
Q. Another chemical you sprayed was called Coron. Do you know what Coron is?
A. Yeah, that's a -- like a liquid fertilizer.
Q. I'm sorry. Did you say fertilizer?
A. Yes.
Q. Okay.
A. I don't think they call it fertilizer. They call it a plant nutrient but --

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Q. Is it hazardous to humans if they're exposed to it?
A. No.
Q. The third chemical was called Sultrus. Do you know what Sultrus is?
A. I believe that's an insecticide.
Q. Okay. Is Sultrus hazardous to humans if they're exposed to it?
A. It depends on the label what the -- but, yeah, I mean, it could be, yeah.
Q. Okay. Next to each of these three chemicals in the upper right corner there's a -- there is a rate.
Do you see that?
A. Yes.
Q. What does that mean?
A. That's your rate per acre.
Q. Okay. So the amount of that particular chemical you're going to be spraying on each acre?
A. Right.
Q. Okay. And how is that rate determined?
A. By the label of the -- the -- the scout or whoever turns in the job to Curless.
Q. Okay. The customer you mean?
A. Right.

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Q. Okay. I'm almost finished with this page, but can you tell me whether any of the handwriting on this page is your handwriting?
A. No.
Q. Okay. None of it is.
Do you know whose handwriting is shown on this page?
A. It was probably either Bobby's or one of the secretaries.
Q. Okay. So they would have been filling this out back at the office or at the airport?
A. Correct.
Q. Okay. And I take it that some of this would be filled out before you did the applications and then some of it would be filled out after you did the applications. Is that fair to say?
A. Yes. Everything is before except the times.
Q. Yeah. That makes sense.
All right. Turning to the second page of Exhibit 3, this lists those three chemicals again that you sprayed; correct?
A. Correct.
Q. On the left of this second page, there are three blue boxes listing acres and on the right there

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are three red boxes listing hopper loads.
What is a hopper load?
A. That's your total volume in the hopper for that particular load.
Q. Okay. And that -- that particular load means --
A. Well, that job was split up into three loads so that was -- it's 234 acres on the first load so -- and then your hopper capacity.
Q. Okay. Thank you. I think I understand that.
And so what -- is 475 -- I guess, first of all, what is that? 475 what? Is that gallons?
A. Yeah. 475 gallons.
Q. Okay. Is that the maximum load that you can carry?
A. No. My maximum load is up to 800.
Q. Okay. But for this particular job, you just divided it into three different loads; right?
A. Correct.
Q. Okay. And so that means you had to go back to the airport and reload twice. Is that fair to say?
A. Right. It was three loads total. You take a load and then you come back twice.
Q. Okay. I understand. Thank you.

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And in the middle here in the green boxes for each hopper load, it shows the amount of each of the three chemicals, Coron, Avaris and Sultrus; correct?
A. Correct.
Q. And those numbers in the green boxes in the middle, are those determined by the customer?
A. Well, I guess in a roundabout way they do, but that's determined on -- off the first sheet where it says how many ounces or the gallon per acre and then you divide how many acres you're doing in that load and that's how -- how you get your -- what you go in a gallon to the acre of Coron and it cost you 234 gallons.
Q. Okay.
A. And then you break your ounces down to see how -- what you need for your -- for that load.
Q. Have you sprayed Coron, Avaris, and Sultrus before in other aerial applications?
A. I'm sure I -- I'm sure I did.
Q. How frequently would you say you sprayed those particular chemicals?
A. I mean, it's -- they change chemicals up. They're like basically the same, just different name brands and sometimes a little bit different ingredient.

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But as far as that, I wouldn't know exactly how many times those three together.
Q. Okay. And I know you told me about the ground crew at the airport before and what they do mixing chemicals. Did -- apologies if I asked you. I can't recall.
Did you play any role in preparing the chemicals for these loads for the aerial application?
A. No.
Q. Okay. Again, sticking with this second page, at the bottom of the page it says GPA and there's a 2 X next to it. Do you see that?
A. Yes.
Q. What does that mean?
A. Gallons per acre, 2. 2 gallons per acre.
Q. Okay. Just whose handwriting is on this second page of Exhibit 3?
A. I don't know.
Q. Okay. All right. Now let's move to the third page. So this information on this page is specific to one of the 13 fields you sprayed for Kopp Farms and that field's called Moo Maw South; correct?
A. Correct.
Q. Okay. And is -- is there a page like this

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for each of the 13 fields you sprayed for Kopp Farms on August 5th, 2019?
A. Yes, there would be.
Q. And we looked at that interrogatory earlier and there were other clients that you sprayed that day -- sprayed for that day besides the Evergreen co-op. Would there be a sheet like this for every single field you sprayed that day?
A. Yes.
MR. RAVICH: Object to form. Asked and answered.
THE WITNESS: Yes.
MR. SCOTT: Okay. Thank you.
BY MR. SCOTT:
Q. In the chart in the lower left, there's a field that says airport and I think the letter next to it is a J, but do you know?
A. Yes. That would be Jack's at McLean.
Q. Okay. All right. So does that tell you that for this particular field you flew out of the airport at McLean?
A. Correct.
Q. Okay. And so would the ground crew be located there at the airport in McLean for this field?
A. Correct.

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Q. And, just to confirm, there was not a ground crew or anybody on the ground at the actual field for this application; right?
A. Correct.
Q. Okay. And I just want to go back. So we were just looking at Moo Maw, the Moo Maw field, and going back to the first page of this Exhibit 3, this says that you -- your Z time when you finished the Moo Maw field was 2:35 p.m.; correct?
A. Correct.
Q. Okay. And then for the next field down, Maxwell, the Z time is also 2:35 p.m.; correct?
A. Correct.
Q. Does that tell you that you sprayed both the Moo Maw field and the Maxwell field together at the same time?
MR. RAVICH: Form.
THE WITNESS: Basically. I may not have sprayed them -- tied them together, but evidently the Maxwell field was right there at it and I finished it at about the same time, so...
BY MR. SCOTT:
Q. Got it. Then I -- the -- the field with the next earliest -- with the Z time just before that is

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the Brown field which has a Z time of 1:25 p.m. when you completed that one. Do you see that?
A. Okay.
Q. And so does that tell you that between 1:25 p.m. and 2:35 p.m. you probably had a refueling and a reloading stop?
A. True.
MR. RAVICH: Form.
THE WITNESS: Yeah.
BY MR. SCOTT:
Q. Okay. Is there any way to tell from this when you actually started your spraying for the Moo Maw field?
THE WITNESS: No.
BY MR. SCOTT:
Q. Okay. What's your best estimate of how long it would have taken you to spray 94 acres?
A. Probably 15 minutes.
Q. Okay. And if you did another 17 acres for the Maxwell field either before or after that, how many more minutes would that add?
MR. RAVICH: Form.
THE WITNESS: Maybe five.

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BY MR. SCOTT:
Q. Okay. So maybe we're talking about around 20 minutes total to do those fields?
A. Give or take, yes.
Q. Okay. All right. Going back to page 3 of the third page of Exhibit 3, in the map on this page, the Moo Maw field, 94 acres is outlined in yellow; correct?
A. Correct.
Q. Okay. And this -- this page shows that the crop in that field was soybeans?
A. Correct.
Q. Okay. And, again, we see it in the bottom, you sprayed Avaris, Coron, and Sultrus on this field; correct?
A. Correct.
Q. Looking at the map, do you see there are a couple places where there is some scribbling? It looks like it's in pen?
A. Yes.
Q. Do you know who did that?
A. That would have been me.
Q. Okay. And just taking them one at a time. There's some scribbling just immediately underneath the

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Moo Maw field which I guess is the direction south of the Moo Maw field.
A. Correct.
Q. Do you see that? What does that scribbling signify?
A. I wish it was zoomed in a little bit more.
Q. Let me do that for you. Is that better?
A. Yes.
Q. What does the scribbling just south of the Moo Maw field signify?
A. It's -- to the right is where I sprayed. To the left where the big dot was, I think there was a white truck over in that area.
Q. Okay. And so you were marking on the map here where you saw a vehicle and you didn't want to spray there. Is that what you mean?
A. Correct.
Q. Okay. And do you think that explains why the acreage for the Maxwell field went from 34 acres to 17 acres?
A. Yes. That would be -- that would be -- that would be right.
Q. Okay. All right. And then the other scribbling is to the west of the Moo Maw field and just

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a little north. Do you see that?
A. Yes. That's probably -- I did that to show where -- that I saw the workers in that field.
Q. Okay. And so you are marking on the map the location -- the location of approximately where you saw workers. Is that what you're saying?
A. Correct.
Q. Okay. Do you recall approximately how many workers you saw in that area?
A. No, I do not.
Q. Do you believe you saw all of the workers who were in that field?
MR. RAVICH: Objection to form.
THE WITNESS: I -- I believe I did.
BY MR. SCOTT:
Q. Okay. How many do you think were there?
MR. RAVICH: Same objection.
THE WITNESS: I just said I don't know. I didn't count them.
BY MR. SCOTT:
Q. Well, can you give me your best approximation to the best of your recollection? I mean, are we talking a dozen? Are we talking several dozen?
MR. RAVICH: David, this is the same question four

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times.
THE WITNESS: No. I can't give an answer to that.
MR. SCOTT: Okay.
THE WITNESS: I don't know.
BY MR. SCOTT:
Q. So you don't know, for example, if there were a hundred workers in that field; is that right?
A. I --
MR. RAVICH: Objection to form. Argumentative.
MR. SCOTT: I didn't hear your answer, Mr. Ewing. I'm sorry.
THE WITNESS: Well, I mean, it's like I -- I answered. I don't know how many was in that field.
BY MR. SCOTT:
Q. Okay. Do you recall what you told the Illinois Department of Agriculture representative about how many workers you saw in that field?
A. No, I don't.
Q. And approximately when in time did you make these scribblings on the map?
A. It would have been after -- after the fact.
Q. And what do you mean by that? After you got back to the airport or something different?
A. After I got back to the airport.

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Q. Okay. Okay. So in other words -- and by that time you had -- you had flown over and sprayed other fields; right?
A. I don't -- honestly, I don't remember.
Q. Okay. Well, let's see.
A. I mean, the time -- the time on the other sheet would tell you.
Q. Yeah. So if these were -- these were done at 2:35 p.m., there are later times on this page just for these 13 fields; right?
A. Right. Right.
Q. So at least with --
A. Yeah. I did -- I did do some before I went back.
Q. Okay. And do you think you sprayed fields for some of those other four clients after 3:05 p.m. which is the latest time on this page for Kopp Farms?
A. I don't remember.
Q. Okay. All right. But in any event you had sprayed multiple other fields, then gone back to the airport, and at that point this is when you -- that's when you scribbled down these markings; right?
A. Yes. The markings over on the other field, not those. I had done those earlier in the -- in what

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you call the Moo Maw field or whatever field that's called, right on the south side of the 94.
Q. Uh-huh. Oh, okay. Well, let me break it down because now I'm confused.
So let's focus on the markings underneath -- south of the Moo Maw field. Are you saying -- when are you saying you did those markings?
A. I did those shortly after I finished up there.
Q. Okay. And shortly after you finished up all your jobs for the day or this field?
A. This field.
Q. Okay. So -- okay. I understand. And then it sounds like you're saying the other circle marking to the northwest of the Moo Maw field, you made that marking later in the day?
MR. RAVICH: Form.
THE WITNESS: After I went back in, that there was a complaint.
MR. SCOTT: Yeah. Got it.
THE WITNESS: After the complaint, I went back in and I scribbled -- I circled where I had seen the -- seen the workers.

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BY MR. SCOTT:
Q. Okay. So, in other words, you only put that mark on the page after you knew that there had been a complaint; right?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Okay. You didn't -- you didn't do that marking contemporaneously upon seeing people in the field; right?
MR. RAVICH: Objection to form.
THE WITNESS: I think I just answered that question by telling you I did it after I got back to the airport.
MR. SCOTT: Okay. And after the complaint. Yeah. You did.
MR. RAVICH: Form.
BY MR. SCOTT:
Q. All right. I'm going to zoom back out but tell me if you want me to zoom in again. Okay?
A. Okay.
Q. All right. Going to the fourth page of Exhibit 3, do you recognize this to be the application report for your aerial application of the Moo Maw South

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field?
A. Yes.
Q. Okay. And do you agree that this -- the map on this application report also shows your spraying for the Maxwell field, I believe, south of Moo Maw; correct?
MR. RAVICH: Objection to form.
THE WITNESS: Now say it again. Ask that one more time.
BY MR. SCOTT:
Q. Yeah. We talked just a bit ago about this area south of the Moo Maw field, and we looked at the Maxwell field that went from --
A. Okay. Yes. Yes. Maxwell field. Yes. Okay. I just want to make sure I had the names right.
Q. Yeah. So is it your understanding that the spraying shown south of the Moo Maw field is the Maxwell field?
A. Correct.
Q. Okay. And this -- based on your testimony about the scribbling a moment ago that you saw a vehicle somewhere south of --
A. Yeah.
Q. -- the road; right?

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A. Yes.
Q. And so you stopped spraying or decided not to spray all of the Maxwell field; correct?
A. Correct.
Q. And it looked like you -- the acreage went from 34 to 17 so it's -- it cut in half, you sprayed half the field; right?
A. Correct.
Q. Okay. And then I just want to go back and look at that map. I mean, do you believe that the field extended -- do you see where my cursor is? The field extended -- basically you sprayed the eastern half of the Maxwell field and you decided not to spray the western half of the Maxwell field; is that right?
A. Correct. It looks that way.
Q. Okay. And that's because there was a vehicle there that you didn't want to spray close to; right?
A. Correct.
Q. Okay. How close would you say that vehicle was to where you were spraying?
A. Probably six -- 600 feet, 700 feet, maybe.
Q. Okay.
A. 500, 600, 700. I don't know exactly.
Q. Okay. This application report, did you have

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any role in preparing it?
A. No.
Q. Do you know who prepared it?
A. I would think Beckey maybe.
Q. Okay. Beckey Ogden?
A. Yes.
Q. Okay. I wanted to look at the upper right. I mean, it has -- a lot of the information we've already been over, but in the upper right do you see where it has a field for "ground support provided by"? Do you see that?
A. Uh-huh.
Q. And next to that it just says applicator. Do you see that?
A. Uh-huh. Yes.
Q. So who is the applicator there? Is that you, the pilot?
A. I would think that would be considered -- the applicator would be Curless Flying.
Q. Okay.
A. I mean, I guess --
Q. Go ahead. Sorry.
A. -- I'm the applicator under Curless Flying but --

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Q. Okay. Let me just ask you this way because I just want to confirm. Other than you flying the plane in the air, there was not ground support at this location at the time of the application; right?
A. Correct.
Q. Okay. Was that normal for you to not have any ground support for aerial applications you do?
A. At the field, yes.
Q. Okay.
A. But I -- what they're calling ground support is the ground crew back at the airport.
Q. Got it. But remember we were looking at the aerial applicator manual earlier and there were sections about the importance of having a team on the ground. Do you recall looking at that?
MR. RAVICH: Objection to form. If you want to pull that up, you can.
BY MR. SCOTT:
Q. Mr. Ewing, do you recall that?
A. I think whatever it was referring to was scouting the field. It didn't necessarily say it had to be somebody on the ground.
Q. Okay. If it did say there's somebody --

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important to have somebody on the ground, is there any reason why you chose not to have somebody on the ground?
MR. RAVICH: David, if you want to refer to the particular provision, I'd ask you to bring it up.
MR. SCOTT: Yeah. All right. I'll strike it. It's fine. It says what it says.
MR. RAVICH: Yes.
BY MR. SCOTT:
Q. Mr. Ewing, you told me about the vehicle, I think you said it was a white truck that you recalled seeing in the -- near the Maxwell field. Do you recall that?
A. Yes.
Q. Did you see any other vehicles in the vicinity of either the Moo Maw field or the Maxwell field?
A. Yes. There was another white truck up on the border of the field where the workers were at.
Q. Okay. Let me --
A. And --
Q. Let me scroll -- let me just -- for the record, we're scroll back to the third page of Exhibit 3. So approximately where on this map do

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you -- do you recall seeing another white truck?
A. Somewhere probably in the vicinity of where the R on the road is.
Q. Okay. On the 2450 East Road, is that what you mean?
A. Yes, where the R is. Somewhere in that neighborhood.
Q. Got it.
A. In that area.
Q. Okay. You recall seeing a white truck in that vicinity as well?
A. Yes, I believe I do.
Q. Besides that other white truck, so we've got two white trucks so far, did you see any other vehicles in the area?
A. I don't remember if I saw the bus that the workers are transported on or not. I don't remember if I saw the bus or not.
Q. Okay. Okay. Just a few more on this exhibit for now and then we can take a break.
Back on the fourth page, so the application report again, in the middle of the page there's a chart that lists the three chemicals you sprayed; right?
A. Yes.

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Q. And the third column from the left, the heading is "restricted use?" Do you see that?
A. Yes.
Q. And for the Sultrus chemical, it says -- there's a "yes" under restricted use.
Do you see that?
A. Yes.
Q. What is your understanding of what that means?
A. A restricted use is you have to be licensed by the state to -- to disperse it.
Q. Okay. Oh, and then there's a chart -- again, the fourth page of Exhibit 3, the application report, there's a chart at the bottom of the page.
Do you see that?
A. Yes.
Q. The information that's typed into this chart, do you know who types that in?
A. I think that's generated by the computer off of weather data.
Q. Okay. And so you didn't -- in other words, the temperature number here is not a number that you typed in; is that right?
A. Correct.

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Q. And the wind direction number here is not a number that you typed in?
A. Correct.
Q. And the wind speed number here is not a number that you typed in; right?
A. Correct.
MR. SCOTT: Okay. Okay. That's -- that's a good time to stop. Let's go off the record.
(Lunch break taken from 1:50 p.m. to 2:20 p.m.)
MR. SCOTT: Let's go back on the record.
Welcome back, Mr. Ewing. I want to talk more about your flight over the Moo Maw South field for the aerial application we were talking about towards the end of the last segment. I have put in the chat Ewing Deposition Exhibit 4 and I'm going to share my screen as well as we've been doing.
(EWING Exhibit Number 4 marked for identification.)
BY MR. SCOTT:
Q. Okay. So, Mr. Ewing, do you have the document on your screen now?
A. Yes.
Q. Okay. Now, I'm showing you what I have

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marked as Exhibit 4 for your deposition. These are three pages produced by Curless and Farm Air in discovery in this case. It's Bates numbered Curless 006 -- 000662 through 664. And I'll scroll through them for you so you can get the overview.
Okay?
A. Okay.
Q. So, just to orient us, the first page of Exhibit 4 is an e-mail exchange between Beckey Ogden and Rick Davis in October 2019; correct?
A. Correct.
Q. Okay. And you've told me who Beckey Ogden is. She's a secretary at Curless; right?
A. Correct.
Q. Okay. And you can see from his signature block on the e-mails that Rick Davis in October 2019 worked for the Illinois Department of Agriculture; correct?
A. Correct.
Q. And in the second e-mail down on this first page of Exhibit 4, on October 24th, 2019, Mr. Davis asked Ms. Ogden to provide "the raw file that would include the flight path of the plane outside of the treated field;" correct?

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A. Correct.
Q. Okay. And in response on October 31st, 2019, Ms. Ogden e-mailed Mr. Davis back saying "finally got it for you;" correct?
MR. RAVICH: Object to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Okay. And you can see in Ms. Ogden's e-mail from October 31st there is a line for the attachment to the e-mail; right?
A. Right. Yes.
Q. And the file that she attached to the e-mail is called Kopp underscore farms underscore 2019.pdf; correct?
A. Yes.
Q. All right. And the third page of this exhibit -- and I'll just represent to you that these documents were produced to us like this in sequential order. This map is the attachment that Ms. Ogden sent to Mr. Davis. Do you understand that?
A. Yes.
Q. Okay. And this map that we're looking at, the third page of Exhibit 4, is this what you called the as-applied map near the beginning of the

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deposition?
A. Yes. I would think that would be close to it. I'm not sure if that's exactly what they do, but it's something like that, if not that.
Q. Okay. Is this -- is this image the same or similar to the as-applied map that you reviewed to prepare for the deposition?
A. Yes.
Q. Okay. All right. So we're talking about the same map; is that right?
A. Correct.
Q. Do you have an understanding of how this map was created?
A. Well, the GPS system that we use in the plane, it logs your flight and then it's downloaded back onto the USB stick or downloaded -- excuse me -- downloaded back into their system and the computer generates this file basically.
Q. And do you get that information from Joe Curless?
MR. RAVICH: Objection to form.
THE WITNESS: I'm not sure -- I'm not sure what you're asking. What are --

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BY MR. SCOTT:
Q. Okay. Do you know when this map was created?
A. No, I do not.
Q. Do you know who created it?
MR. RAVICH: Objection to form.
THE WITNESS: I would assume Beckey created it since it was under her e-mails.
BY MR. SCOTT:
Q. Okay. Do you know -- do you know that or are you just assuming that?
A. I'm assuming.
Q. Okay. Is it your understanding that the red lines on this map are meant to represent the flight path your plane flew over these particular fields on August 5th, 2019?
A. Yes.
Q. And we were looking before the break at the application report and some of the work order documentation specific to the Moo Maw fields and then the Maxwell fields. Is it your understanding that this map that we are looking at in Exhibit 4 also shows the Moo Maw field and the Maxwell field?
A. Yes.
Q. And, just for clarity, can you see the 1000

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North Road running across -- laterally across the middle of the map?
A. Yes.
Q. And the field in -- to the north of that road is the Moo Maw field; correct?
A. I believe so.
Q. And the field to the south of that road is the Maxwell field; right?
A. Yeah, I believe so.
Q. Okay. And as you testified earlier, you sprayed both of those fields during -- in the same time period, one after the other; right?
MR. RAVICH: Object to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Do you happen to remember or can you tell from this map which -- which of those two fields you sprayed first, Moo Maw or Maxwell?
A. I can't tell from this map, but I believe I sprayed the bigger field first.
Q. Okay. So that's the Moo Maw field; right?
A. Yes, I believe so.
Q. Okay. And can you tell from this map where you made your first pass spraying on the Moo Maw field?

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A. No, not on -- not on this map you can't tell that.
Q. Is there another map or source you're aware of that will tell you which swath you sprayed first?
A. No.
Q. You testified earlier that you used the smoker on the plane while flying over the Moo Maw field. Do you recall that?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Are you able to tell from this map which of the red lines reflects where you used the smoker?
A. No.
Q. Okay. All right. I want to get a sense of how many passes you flew over the Moo Maw field first. And just looking at the red lines here if we count them, I count 18 different lines that go laterally east-west or west-east across the Moo Maw field.
Does that look right to you?
A. I can't see the lines good enough to count them so if that's what you counted.
Q. I think it's less than 20 but close to 20. Is that -- it's --

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MR. RAVICH: Objection to form.
THE WITNESS: It sounds good.
BY MR. SCOTT:
Q. Yeah. And so this is a 94-acre field. Are you able to tell how wide each swath is that you sprayed across the Moo Maw field?
A. Either 90 or 95 feet.
Q. So each swath represents 90 or 95 feet of width?
A. Right.
Q. And is that based on -- what do you base that on?
A. That's the swath width that we have set in the GPS that -- our GPS guiding system.
Q. Okay. And how wide is the boom?
A. The boom is 75 percent of the wingspan.
Q. And how wide is the wingspan?
A. I don't remember off the top of my head.
Q. Okay. But is the boom -- are you saying that the boom is spraying a swath that results in a width of 90 to 95 feet?
A. Yes.
Q. Okay. And so the Moo Maw field -- is it fair to say the Moo Maw field is oriented east-west or

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west-east?
MR. RAVICH: Object to form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. Okay. But the longer edge of the field stretches from the west to the east; right?
A. Correct.
Q. Okay. And you flew -- your flight path took passes over the field that went east-west as well; right?
MR. RAVICH: Objection to form.
THE WITNESS: Correct.
BY MR. SCOTT:
Q. Are you able to tell from the map whether you were flying -- well, I guess you would have done both. You would -- some of your passes would have been from the east to the west, other passes would have been from the west to the east; right?
A. Right.
Q. And is there a particular name for this pattern of passes that you flew over the Moo Maw field?
A. I'm assuming I did a racetrack.
Q. And why did you do a racetrack pattern over -- over this field?

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A. It's just an easier pattern to fly.
Q. And when you fly that racetrack pattern, do you start on the outside and work your way in?
A. You start on -- you start on one side, then you're -- then you have -- you start on one side, then you have one in the middle, and then you work toward the other -- the -- the swaths stay the same width apart from -- from each other on a racetrack.
So let's just say you would start down on the -- say by the -- by the 1000 North Road.
Q. Uh-huh.
A. East North Road. And then you would do a pass in the middle, and then you would come back and do a pass on the south side and then back on the middle again and work your way toward the north.
Q. I see.
A. Each consecutive swath is the same distance apart as the prior ones.
Q. Okay. And I've got a scale here at the bottom right of the map that measures 5,000 feet. About how far from the -- I want to focus on the west side of the map.
When you exited the west side of the Moo Maw field to make your turn, about how far would you say

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you flew out beyond the western edge of the Moo Maw field to execute your turns?
A. Well, it's about a quarter of a mile to the other field across over there so then you -- I'd say a half to three quarters of a mile.
Q. Okay. So, just so I'm clear on that, you're saying that the road to the west of the western edge of the Moo Maw field is a quarter mile from the western edge of the Moo Maw field; right?
A. In my estimation, somewhere close to that.
Q. Okay. And you -- to execute your turns, you flew out over and past that road and flew another quarter to a half mile to execute your turns. Is that what you're saying?
A. Correct.
Q. Okay. I'm with you.
Is that a typical distance for executing a turn?
MR. RAVICH: Object to form.
THE WITNESS: Yes, it is. Yes. And -- yes, it is.
BY MR. SCOTT:
Q. And that field to the west of the road, that's the field where the workers were; correct?

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A. Correct.
Q. Okay. And so do you agree that you were executing your turns flying over where the workers were in that field?
A. The workers were up further on the north -- north -- further north side of that field. There wasn't any workers on that -- where your cursor is at there that I saw.
Q. Okay. So you didn't see -- sorry. Go ahead.
A. They were up further.
Q. Just so I'm clear, so you're saying the workers that you saw were to the north of your northernmost red turn here?
A. Yes.
Q. Okay. So almost even with kind of -- there's like a -- do you see the little house up in the northwest to that field?
A. Somewhere in that neighborhood, yeah.
Q. Okay. That's where you saw the workers. That's what you're saying?
A. Right.
Q. Okay. And so you didn't see any workers south of there?
MR. RAVICH: Objection to form.

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THE WITNESS: Correct.
BY MR. SCOTT:
Q. Okay. If there were workers located south of there, would that surprise you?
A. Yes.
Q. And I think you told me earlier but I just want to confirm, you don't remember where any buses were located on -- on the map; right?
MR. RAVICH: Object to form.
THE WITNESS: Right.
BY MR. SCOTT:
Q. Okay. When you were doing your passes and swaths over the Moo Maw field, approximately how high would you have been flying?
A. Over the field?
Q. Yes, sir.
A. Approximately 15 -- 15, 18 feet above the crop. Well, a little less above the crop. Probably above the ground.
Q. Okay. And this was a soybean field; right?
A. Correct.
Q. Okay. And then, just so I understand, after you finish a swath and reach the western edge of the field, of the Moo Maw field, are you then ascending

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into your turn?
A. Correct.
Q. Just for a layperson, can you just describe that process how -- how quickly you ascend, how high you ascend to, to execute the turn?
A. Yeah. At the end of the field, you shut your -- you shut your spray off, start to pull up. Probably by the time I hit the edge of the field I was 150 and probably three to 400 feet at the -- 300 to 500 feet at the max -- in the max part of the turn.
Q. Okay. So just so I'm clear, so when you said the edge of the field, I think you meant when you cross this road?
A. Right. When you cross -- yes, correct.
Q. Okay. You're at about 150 feet of altitude there?
A. Correct.
Q. And then as you keep ascending through the turn at the far end of the turn, you're at about 500 feet altitude?
A. Three to -- three -- probably average 400, 450 feet, but anywhere from 300 to 500 feet.
Q. Okay. Thank you.
A. I mean, that's -- you know.

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Q. And is that generally true for each of the turns you executed?
A. Yes. Pretty much.
Q. And then I assume the opposite happens when you come into the back side of the turn and you're going back towards the field, you're descending as the reciprocal rate essentially; is that right?
A. Correct.
Q. Okay. How fast are you flying -- and I'm sure it changes at different points in the -- in the swath and the turn so can you describe that for me as a layperson as well?
A. Yeah. It's probably average 160 to 170 going into the field and across the field. Probably up and down to 110, 120 in the turns.
Q. Okay. And then accelerating again to go through the field; right?
A. Right.
Q. Okay. All right. I follow. Thank you.
You mentioned at the end of the swath when you reach the edge of the field taking some action to stop spraying. Can you describe that process for me? What are you doing there?
A. Well, you have a spray -- a spray handle to

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work the spray valve. You pull it off. You pull it up to turn it off. It closes the -- closes the spray valve which shuts the -- shuts the flow off to the booms. Once you shut the flow off to the booms, the pressure drops. You have the nozzles spring-loaded with diaphragms to close the nozzles off once the pressure hits down on an average of around seven pounds and then you have a negative suck-back on the valve which creates a negative pressure to make sure that the spray is shut off good so everything shuts off clean.
Q. Okay. And then the first step in that process is you -- I don't know how to put it. Are you flipping a switch, or are you pulling a lever? What are you doing?
A. A lever.
Q. Okay. So the first step in that process is -- you cross the western edge of the field, you then pull a lever to start that process of turning off the boom; right?
A. No. You do it a little bit before you get to the edge of the field.
Q. How far before the edge?
A. Just 50 feet, maybe.
Q. Okay. And it's a manual lever you're

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pulling; right?
A. True. Correct.
Q. And why do you pull the lever 50 feet before or approximately 50 feet before the edge of the field?
A. It gives everything time to shut off clean before you cross the edge of the field.
Q. Okay. So there's several other steps that have to happen -- mechanical steps that have to happen to close the boom; right?
A. No. I don't know -- I don't understand what you mean several other steps.
Q. Well, just the steps you just described to me.
A. No. One step closes the spray off to the boom and that's the spray handle.
Q. Uh-huh.
A. The other steps I was talking about is just the way the system is designed to make sure that that step closes everything off good.
Q. Okay. I understand.
A. There's -- there's -- once you close that valve, the pressure drops off the boom and then all that other comes into play then.
Q. Let me ask you this. And if you don't know,

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just tell me. But the data that's gathered in the GPS and I guess reflected on this map, is the underlying data showing when you have pulled the manual lever to turn -- turn it off?
A. It's probably just a -- just a split maybe not even a second lag because once you pull it, the pressure goes through and there's a pressure switch which then tells the GPS that it's not spraying anymore. So, I mean, it's like milliseconds.
Q. And I guess looking at the Maxwell field portion of the map, for that -- the eastern half of that field that you sprayed, you flew north-south passes across that field; correct?
A. Correct.
Q. And do you recall why you flew north-south passes for the eastern half of the Maxwell field instead of the east-west passes that you've been flying on the Moo Maw field?
A. Because I knew I wasn't going to spray the whole field so I just sprayed up to a certain point.
Q. Now this map shows -- I guess we should clarify that the -- do you understand that the green on this map is -- well, let me ask you.
What do you understand the green on this map

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to be reflecting?
A. It's the application area.
Q. Okay. And that means -- the green is where you have the boom turned on; is that right?
A. Correct.
Q. Okay. And where the green stops, that's reflecting you've pulled the lever to turn the boom off; right?
A. Correct. Very close to it, yes.
Q. The -- in the Maxwell field, the green lines go across that road, that East 1000 North Road.
Do you see that?
A. Yes, I do.
Q. Does that mean that you sprayed across that road?
A. Not necessarily. It could be in that little bit delay.
Q. Okay. And I'm sorry if you said that -- explained that before, but can you explain that to me?
A. Well, it's there -- like I said -- there's just a millisecond or so delay from where it stops pinging from where you -- after you shut the spray off. It's just a -- it's just a little lag in the system.
Q. Okay. I'm going to zoom in a little bit.

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Do you see -- how should I describe this -- in the Moo Maw field on the short leg of that L shape of the field, do you see on the left western side of that there's a -- it looks like a gap where at least there's no green? Do you see that?
A. Yes, I do.
Q. What does that reflect?
A. Reflects I didn't turn my spray on until I was in the field just a little bit.
Q. Okay. And why would you have done that?
A. I just -- just didn't get it turned on in time.
Q. Okay. And so flying all of the paths we see in red here for these two fields, you approximated that took you about 20 minutes or so to do; is that right?
A. Approximately. I don't remember exactly but approximately.
Q. Okay. Do you see the road number 2543 East on the map?
A. Yes.
Q. North on that road do you see a house?
A. Yes.
Q. You flew pretty close to that house, didn't you?

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MR. RAVICH: Object to form.
THE WITNESS: Yeah.
BY MR. SCOTT:
Q. Why did you do that?
A. It's not like I was down close to the house. I was way up in the turns.
Q. Okay. So that wasn't a concern flying over that house?
A. No.
Q. Okay. So at what point during these red flight paths that we see here -- to the best you can tell me, at what point did you see workers in the field to the west of Moo Maw?
MR. RAVICH: Form.
THE WITNESS: Honestly, I don't remember which way I came in, but I saw them before I got to the field.
BY MR. SCOTT:
Q. Okay. So on one of these red lines that's coming from off the -- off the screen probably; right?
A. Yes.
Q. Okay.
A. More -- more than likely.
Q. Do you -- do you recall any characteristics of the workers that you saw? What they were wearing,

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for example?
A. It seemed maybe they had orange -- some orange on. Usually the workers wear orange or yellow or the bright green safety colors.
Q. Okay. And you recall seeing neon colors like that?
A. Yeah, I do. I recall. It seems like I do.
Q. Do you recall what kind of crop was growing in the field where they were working?
A. I'm assuming it was seed corn.
Q. Okay. Yeah, they were detasseling; right?
A. I assume that's what they were doing. That's usually what they do.
Q. Okay. And this was then early August. Do you recall how tall the corn was at that time?
A. Probably -- I'd guess 5 or 6 feet to 4 or 5 feet. The seed corn is generally not real tall.
Q. When you -- so you said you saw some workers on your entry flight into this area; is that right?
MR. RAVICH: Object to form.
THE WITNESS: Correct.
BY MR. SCOTT:
Q. And you -- and when you -- when you saw the workers that you saw, did -- did you report that to

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anybody?
A. No.
Q. Didn't radio back to the Curless airport or offices?
A. No.
Q. Why not?
A. I didn't see an issue.
Q. You told me earlier about how you decided only to spray the eastern half of the Maxwell field and to not spray the western half of the Maxwell field.
Do you recall that?
A. Yes.
Q. And you made that decision because there was a white truck in the vicinity of the Maxwell field; right?
A. Correct.
Q. Did you radio back to the offices or the airport to report that change of plans?
A. No.
Q. Why not?
A. There -- there wasn't an issue. I stayed away from them far enough.
Q. Was there any protocol though where if you saw something like that that made you change your

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spraying plans that you would report that back to Curless offices?
A. If I would have got there and decided that it wouldn't have been safe to spray the fields, I would have called back and told someone I can't spray these fields, I'll have to do something else.
Q. Okay. But because you went ahead and sprayed half of it, you didn't feel the need to make that call?
A. Correct.
MR. RAVICH: Form.
BY MR. SCOTT:
Q. Now, you could have sprayed the Moo Maw field using north-south passes just like you did for the Maxwell field, couldn't you have?
A. Correct. I could have.
Q. And yet you chose not to do that. Why did you choose not to do that?
A. Because that's the -- that's the most logical way to spray that field.
Q. When was the first time you saw this particular map we're looking at in Exhibit 4?
A. I -- I don't really recall when the first time I saw it.
Q. Okay. Was that -- was it recently?

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MR. RAVICH: Form.
THE WITNESS: I think that's the same one that Joe sent me or I think that's what -- I think that's the one that he sent me.
BY MR. SCOTT:
Q. Okay. And is that what you told me about earlier when Joe had sent you an e-mail with an as-applied map?
A. Yes.
Q. Okay. And do you have a recollection of whether that was a year ago or more or less?
MR. RAVICH: Same objection.
THE WITNESS: It was less.
BY MR. SCOTT:
Q. Okay. So within the last year?
A. Yes.
Q. Okay. All right. I'm going to keep this map -- this exhibit up for the moment. I'm going to pull up another exhibit so I'm going to transition here. Hold on. Okay. I've just put Ewing Deposition Exhibit 5 in the chat, and I'm going to open it and share my screen for Mr. Ewing.

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(EWING Exhibit Number 5 marked for identification.)
BY MR. SCOTT:
Q. Okay. Mr. Ewing, is a document showing on your screen?
A. Yes.
Q. Okay. And I'll just note for the record that I'm marking this as Deposition Exhibit 5 for your deposition. It's a one-page document. It comes out of the discovery production from Curless and Farm Air. As you can see sideways here on the left, the Bates number is Curless 000021.
A. Okay.
Q. And I know it's a -- not the most easiest to view document, but this is just how it came to us.
Have you seen this before?
A. No.
Q. Okay. Any sense of what this map depicts?
A. No.
Q. Okay. All right. So on the right-hand side do you see a rectangle that has a circle that says plane in the middle? Do you see that?
A. Yes.
Q. And then do you -- just judging by the map

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and the other map we were just looking at, that looks like the location of the Moo Maw field?
A. Yeah, I'm assuming -- yes, I'm assuming that's close to the location.
Q. Okay. And then to the west of the Moo Maw field there, there's another shape and a circle that has work or worker. I can't tell what that says in the middle of it. Do you see that?
A. Yes.
Q. Do you understand that to be reflecting where workers were located?
A. Well, that's the same field, but that's not where they were located.
Q. All right. That's not where the ones you saw were located?
A. Correct.
Q. Okay. Okay. For -- so this is the first time you're seeing this document, I take it?
MR. RAVICH: He's answered yes.
MR. SCOTT: Yes. All right. Fair enough. I'll take it down. A few more things here.
All right. I've put in the chat what I've marked as Ewing Deposition Exhibit 6. I'm now going to pull it up on my screen and share my screen.

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(EWING Exhibit Number 6 marked for identification.)
BY MR. SCOTT:
Q. All right. Mr. Ewing, is a document appearing on your screen now?
A. Yes.
Q. Okay. So this is a 24-page document that, again, comes from Curless's and Farm Air's production in this case. The document is Bates stamped Curless 000023 and it goes all the way to 46.
Mr. Ewing, this is -- this is a document that Mr. Curless, Joe Curless, testified about in his deposition when he was testifying for the -- as a representative of the company. And I'll just represent to you in -- that he testified that this was weather information that was pulled from the Weather Underground website.
Are you familiar with the Weather Underground website?
A. Yes.
Q. What is it?
A. Weather Underground, it's just a -- it's like Weather Channel. It forecasts the weather and gives you current conditions.

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Q. Okay. And have you communicated or spoken with Mr. Curless -- with Joe Curless about pulling this type of weather information for August 5th, 2019?
A. No.
Q. Okay. Have you used Weather Underground before?
A. Yes.
Q. Okay. Do you see down here at the bottom of the first page, and it's on all the other pages, but there is a website address and it has the date of August 5th, 2019, in it? Do you see that?
MR. RAVICH: It's super small, David.
MR. SCOTT: That's true.
THE WITNESS: Yes.
MR. SCOTT: Sorry.
MR. RAVICH: No, that's all right. Thank you.
BY MR. SCOTT:
Q. And you can see here on page 000026 that the date for the weather reflected in this document is August 5th, 2019; right?
A. Yes.
Q. Okay. And I wanted to -- we -- do you recall earlier when we were looking at the work order documentation that you -- your Z time when you

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completed the spraying of the Moo Maw field and Maxwell field, it was 2:35 p.m.? Do you recall that?
A. Yes.
Q. Okay. So looking at this Weather Underground data that Joe Curless testified about, I wanted to look at the entries for around that time. So let's just go from 2:00 to 3:00.
So this is on page Curless 000028 and I've highlighted the entries from 2:00 p.m. to 3:00 p.m. on August 5th, 2019. Do you see that?
A. Yes.
Q. In the -- do you see where in the middle column it's -- the heading is speed?
A. Yes.
Q. I understand that to be data for wind speed?
A. Yes.
Q. And during the hour from 2:00 p.m. to 3:00 p.m., the wind speed reflected here ranged from two miles per hour to four miles per hour; right?
A. That's the low.
Q. Well, is that what you understand speed to mean?
A. Yeah, speed and then you got your -- it's -- yes.

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Q. Okay. You don't understand that to mean the average speed?
A. Yes, I understand.
Q. You understand it to be the average speed; correct?
A. Correct.
Q. Okay. So the average speed of the wind from 2:00 p.m. to 3:00 p.m. according to this Weather Underground data was between two miles per hour and four miles per hour; right?
A. That's what that shows.
Q. Okay. And then Mr. Curless testified that he pulled a second station on Weather Underground, same date, August 5th, 2019, and I want to look at the data from this one.
Again, we're focusing on that time from -- here we've got it from 1:59 -- I'll just highlight from 1:59 to 2:59 p.m. That's the hour that travels your aerial application at the Moo Maw field; right?
A. Yes.
Q. And here, again, the speed column in the middle reflects the average wind speed during that time; right?
A. Correct.

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MR. RAVICH: Object to form.
BY MR. SCOTT:
Q. And the average wind speed shown in this data ranged from 0.5 miles per hour at the low end and 3.5 miles per hour at the high end; right?
MR. RAVICH: Form.
THE WITNESS: Correct.
MR. SCOTT: Okay. I've put in the chat Ewing Deposition Exhibit 7. Let me pull it up on my screen and share my screen.
(EWING Exhibit Number 7 marked for identification.)
BY MR. SCOTT:
Q. All right. Mr. Ewing, is a document appearing on your screen?
A. Yes.
Q. Okay. And do you recognize this to be I think a photo of a couple pages from your flight logbook?
A. Yes.
Q. And just for the record, the document is Bates numbered Curless 000161 to 162.
And, Mr. Ewing, I just wanted to get an understanding of what is shown here in your flight

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logbook, and I don't think I care about the first two entries, but I think I'll -- the third entry on the page here is your summer of 2019 work in Illinois; is that right?
A. That's right. Correct.
Q. Okay. And is there a reason why there's just one line item entry here for the whole summer season?
A. It's just a normal practice for -- in our business to just log usually your yearly numbers. If you logged daily, you would spend hours.
Q. Okay. As a lawyer, I can understand that pain.
All right. So on the -- the left-hand side of this first page, you show the dates of -- that you worked that summer at Curless and it's July 10th, 2019, to August 16th, 2019; right?
A. That's correct.
Q. Okay. So that's the period of time in the spraying season of 2019 that you were flying aerial applications for Curless in Illinois; correct?
A. Correct.
Q. The next two columns over, I think, show the model of the airplane you flew and the number for that airplane; is that right?

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A. Correct.
Q. The next column over with an entry is under aircraft category and class and it says -- I read that to be 246.6, but you tell me what that entry is and what it shows?
A. 246.6 hours.
Q. Okay. So that's logging --
A. That's the total --
Q. -- the -- the total?
A. Total flying.
Q. Sorry. Total flying time in this plane for those dates?
A. Correct.
Q. Okay. And to the right it shows you were flying for Curless Flying, Illinois; right?
A. Correct.
Q. Okay. Then on the next page it continues over with, again, the total flying time of 246.6 hours; correct?
A. Correct.
Q. It says Havana, Illinois, on the right. What does that mean?
A. That's just -- it's Havana, Astoria. I just put Havana because it's right there.

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Q. Okay. And then it looks like below you've totaled up -- are those your -- well, you tell me what are the hours -- what are the numbers reflected below at the bottom of this page, the second page?
A. That's your -- that's my total time for that year.
Q. 248.10?
A. Right.
Q. And then what's the -- what are the numbers below that?
A. Well, if you'll scroll back over to the other one, it will tell you. Previous -- that's totals from the previous page. Previous totals. And then the next line is new totals.
Q. I'm with you. That makes sense. Thank you.
Just to finish this one up, the -- just to the upper right of those numbers, it's -- it says total ag and total turbine and then there are numbers next to that. Can you just explain to me what that reflects?
A. Total ag time, that's total spraying time. And total turbine time is the -- turbine is the type of engines. It's turbine engines.
MR. SCOTT: Okay. Okay. Thank you.
All right. I have one more topic. It will

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take longer than these few exhibits we've been doing, but it's just one or two documents. I'll plow ahead unless you guys want to break for any reason.
THE WITNESS: Can we take a quick break?
MR. SCOTT: Okay. Let's --
THE WITNESS: Five minutes?
MR. SCOTT: Five. We'll go off the record and come back in five.
THE WITNESS: Thank you.
MR. RAVICH: Thank you.
(Short break taken.)
MR. SCOTT: Let's go back on the record.
BY MR. SCOTT:
Q. All right. Like I said, one more topic here.
Mr. Ewing, first I'd like to go back to Ewing Deposition Exhibit 3 that I marked earlier and this was the document with the -- in the chat.
Let me share my screen.
All right. Do you see the document?
A. Yes.
Q. So this is the nine pages of documents that had the work order documentation and then the application report. And I want to now just focus on the last few pages of -- of Exhibit 3 which are Bates

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numbered Curless 000134, 135, 136, and 137. Okay. So let me start with Curless 001 -- 000134.
Mr. Ewing, do you see about a third of the way down the page this particular page relates to one of the chemicals you sprayed, Sultrus?
A. Yes.
Q. Okay. And do you understand this to be one of the pages showing directions for use for Sultrus that comes from its labels?
A. Yes.
Q. Okay. And, as you noted earlier, at the top of the page it says that Sultrus is a restricted use pesticide; correct?
A. Correct.
Q. And the next -- the next line down it says "it is a violation of federal law to use this product in a manner inconsistent with its labeling;" correct?
A. Correct.
MR. RAVICH: Form.
BY MR. SCOTT:
Q. And then just below that, still at the top of the page, the directions for use for Sultrus say "do not apply this product in a way that will contact workers or other persons, either directly or through

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drift." Correct?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. And the next sentence of the directions for use for Sultrus say "only protected handlers may be in the area during application." Correct?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. And then in the -- in the box below that, it says "agricultural use requirements." Do you see that?
A. Yes.
Q. And in that box the directions for use for Sultrus say "use this product only in accordance with its labeling and with the Worker Protection Standard 40 CFR Part 170." And then it says "This Standard contains requirements for the protection of agricultural workers on farms."
Did I read that correctly?
MR. RAVICH: Object to form. David, I'm sorry to keep objecting, but this can't be a reading comprehension exercise this many hours in. If you want to ask him questions, may I ask you to just please do

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that.
MR. SCOTT: Yeah. I mean, it's a label he's supposed to be familiar with so that's why I'm asking.
MR. RAVICH: You can ask him that then.
MR. SCOTT: Yeah, I did.
BY MR. SCOTT:
Q. Did I read that correctly, Mr. Ewing?
A. Yes.
Q. And then beneath that do you see where the directions for use for Sultrus say "do not enter or allow worker entry into treated areas during the REI of 12 hours"?
MR. RAVICH: Form.
THE WITNESS: Yes.
BY MR. SCOTT:
Q. That means that the directions for use for Sultrus are that workers should not be allowed in a field where Sultrus was sprayed for at least 12 hours; is that right?
MR. RAVICH: Objection to form.
THE WITNESS: Correct.
BY MR. SCOTT:
Q. Okay. Just one question about page Curless 000135, this is a page from the label for the Avaris

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chemical you sprayed; correct?
MR. RAVICH: Form.
THE WITNESS: I'm assuming that's what it is.
BY MR. SCOTT:
Q. Do you see the name Avaris at the top of the page?
A. Yes.
Q. That's one of the chemicals you sprayed?
A. Yes.
Q. Okay. And then in the application -- and I'll make it bigger for you.
A. Thank you.
Q. In the application instructions on this page of the labeling for Avaris, do you see where it says "do not apply in a manner that will result in exposure to humans or animals"?
A. Yes.
Q. Okay. Did you understand that the application instructions for Avaris directed you not to apply Avaris in a manner that would result in exposure to humans?
MR. RAVICH: Form.
THE WITNESS: Yes.

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BY MR. SCOTT:
Q. Pages Curless 000136 and 137, the last two pages of Exhibit 3, these are pages from the labeling for Coron which is the third chemical you sprayed; correct?
A. Correct.
Q. On the lower left down here, lower left of page 136, do you see where it says hazards to human -- humans and domestic animals?
A. Yes.
Q. And there's a warning that says "May be harmful if swallowed. May be harmful in contact with skin. May be harmful if inhaled." Correct?
MR. RAVICH: Form.
THE WITNESS: Correct.
BY MR. SCOTT:
Q. What was your practice -- before you were going to do an aerial application, what was your practice in terms of reviewing the labels for the chemicals you would be spraying in the application?
MR. RAVICH: Objection to form.
THE WITNESS: Just familiarize yourself with the label.

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BY MR. SCOTT:
Q. Would you read the directions for use for each chemical before each aerial application where you would be spraying it?
A. Not before each, but we generally read the labels at some point in time to each one of them.
MR. SCOTT: Okay. All right. Let me take two minutes. Let's go off the record.
(Short break taken.)
MR. SCOTT: All right. Let's go back on the record.
BY MR. SCOTT:
Q. I think I have just one more question unless Mr. Ravich has some that I need to address. But, Mr. Ewing, last question.
We've talked a lot about the August 5th, 2019, event. My question is since that event have you done anything to change your practices or approach to doing aerial applications?
MR. RAVICH: Objection to form.
THE WITNESS: No.
MR. SCOTT: Okay. All right. Unless there's something I need to respond to that Mr. Ravich asks about, I have no further questions and I really

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appreciate your patience and your time.
THE WITNESS: Okay. Thank you.
MR. RAVICH: All right. We're still on the record and you're still under oath. I just wanted to ask a few what I'll call housekeeping or cleanup sorts of questions.

EXAMINATION

BY MR. RAVICH:
Q. You were asked at very early hours ago in the deposition about whether or not Curless trained you to which you responded "no" and I wanted to clarify. You're trained and regulated by the Federal Aviation Administration; correct?
A. Yes.
MR. SCOTT: Objection. Leading.
MR. RAVICH: Your answer?
THE WITNESS: Yes. Federal Aviation Administration. Agriculture departments of -- or the Department of Agriculture from each state.
BY MR. RAVICH:
Q. Right. So I just wanted to be sure that the question about training isn't confusing.
What is the safety culture at Curless? In other words, do you discuss safety protocols and what's

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necessary to fly safely in order to avoid drift or aerial spraying of people?
A. Yes.
MR. SCOTT: Form.
MR. RAVICH: Go ahead.
THE WITNESS: Yes.
BY MR. RAVICH:
Q. Could you describe that?
A. We just discuss that -- you know, to be careful and stay away from sensitive areas, you know, and so forth.
Q. Do you regularly read literature and information such as the PAASS program to stay current with safety protocols with respect to aerial spraying?
A. Yes, I do.
Q. I think my final question is about regarding when -- we saw from Exhibit 6 some entries for speed of wind -- of wind speed relative to two weather stations.
Do you remember seeing that?
A. Like the last ones --
Q. Yeah, I can try to --
A. -- that he -- that pulled up?
Q. Yeah, I'll pull it up quickly.
MR. SCOTT: I can do it quicker, Tim, if you want.

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MR. RAVICH: Yeah. Thank you. Okay. Thank you. I see it now, but yeah. David, thank you. If you want to go down to the area in which you were talking about, I think it's -- well --
BY MR. RAVICH:
Q. All right. So in front of you is -- David, I'm sorry, what page is that? Curless 28. I see.
Mr. Ewing, do you see this as well?
A. Yes, I do.
Q. When you did the smoke pass that you testified to, was your observation consistent with the speed that is indicated in this document or is it more consistent with what's recorded in the application report which is wind of eight miles an hour blowing from the southwest to the northeast?
A. Yeah --
MR. SCOTT: Objection to form and foundation and leading.
MR. RAVICH: You can answer the question.
THE WITNESS: It's -- it's -- it leans more toward the eight mile an hour and upward. The -- the smoke was moving at a real good speed.
BY MR. RAVICH:
Q. In what direction?

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A. From the west, southwest.
Q. To?
A. To -- to the east, northeast.
Q. Was it on the basis of your observation of the smoke pass from the southwest to the northeast that you determined it was safe to fly?
A. Yes, it was.
MR. SCOTT: Objection to form and leading.
MR. RAVICH: All right. No further questions.
Thank you for your patience throughout this process, Mr. Ewing.
MR. SCOTT: I don't have any additional questions. Thank you, Mr. Ewing, and appreciate your time.
THE WITNESS: Okay. Thank you.
THE REPORTER: Mr. Scott, did you want to order this transcript?
MR. SCOTT: Dan, what are we doing from the last order?
MR. LINDSEY: Yes. I think we do.
THE REPORTER: Mr. Ravich, did you want a copy?
MR. RAVICH: We'll need a copy, yes, please.
MR. MADSEN: I will not be ordering. Thank you.
(Deposition concluded at 3:37 p.m.)

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STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

I, RYAN K. KOHLER, a Certified Shorthand Reporter for the State of Illinois, do hereby certify that heretofore, to-wit, on October 29, 2024, personally appeared before me, remotely via Zoom videoconference, MICHAEL EWING, in a cause now pending and undetermined in the United States District Court for the Central District of Illinois, Springfield Division, wherein HADA GARCIA, et al., is the Plaintiff, and PIONEER HI-BRED INTERNATIONAL, INC.; CORTEVA, INC.; RAS AVIATION, L.L.C.; FARM AIR, INC.; and CURLESS FLYING SERVICE, INC. are the Defendants.

I further certify that the said witness was first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by said witness was reported stenographically by me in the presence of the said witness, and afterwards reduced to typewriting by Computer-Aided Transcription, and the foregoing is a true and correct transcript of the testimony so given by said witness as aforesaid.

I further certify that the taking of this

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deposition was pursuant to Notice, and that there were present at the deposition the attorneys hereinbefore mentioned.

I further certify that I am not counsel for nor in any way related to the parties to this suit, nor am I in any way interested in the outcome thereof.

IN TESTIMONY WHEREOF: I have hereunto set my hand and affixed my notarial seal this 10th day of November, 2024.

Ryan K. Kohler
Thompson Court Reporters
ILLINOIS CERTIFIED SHORTHAND REPORTER
LICENSE NO. 084-004747

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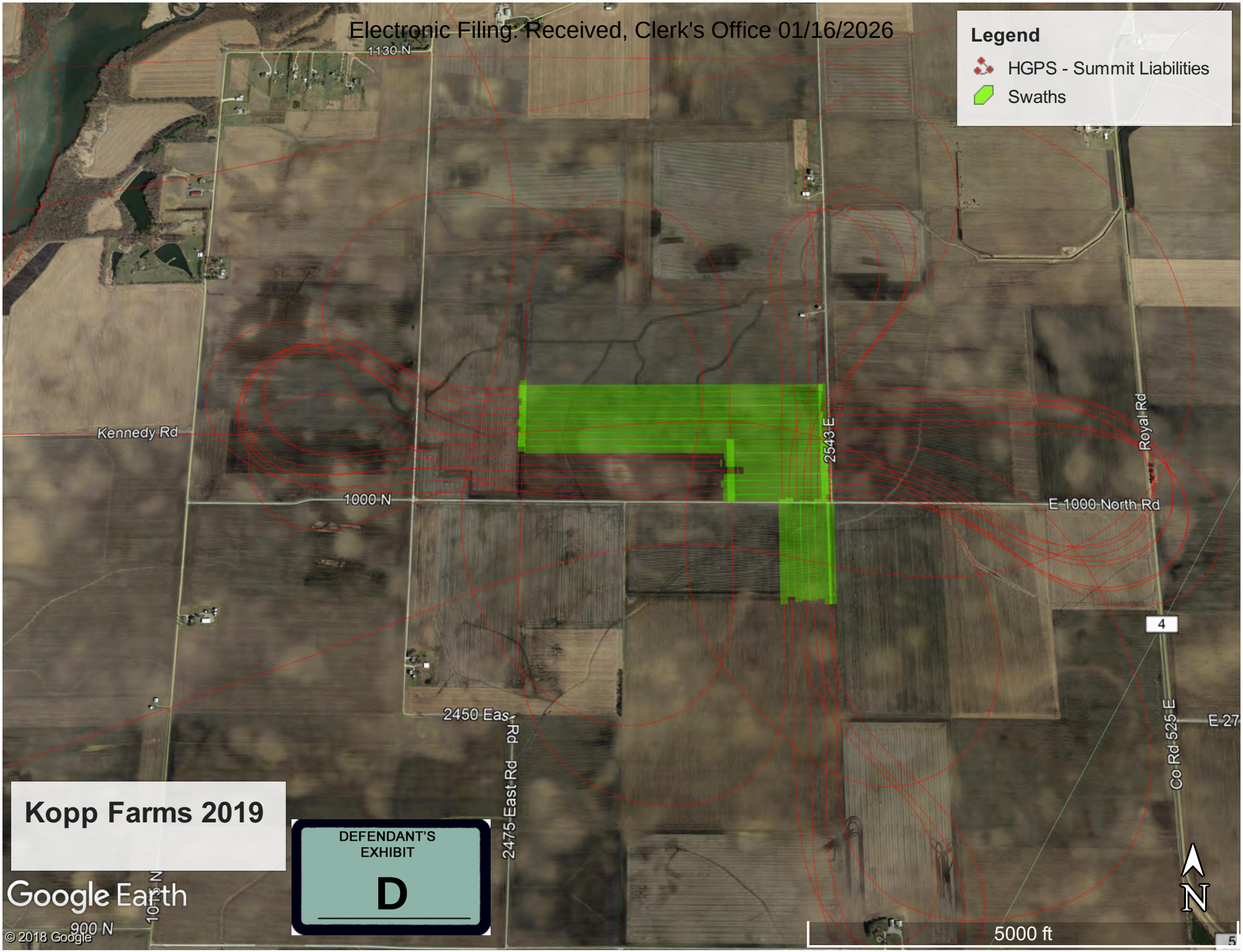
Exhibit C -
Flight Video sent via electronic link and mail

Electronic Filing: Received, Clerk's Office 01/16/2026



Application Report

Curless Flying Service, Inc. - 11220 East Bricker Road - Astoria, IL 61501 - 309 759-4826

DEFENDANT'S EXHIBIT
E

Job #: 1356338

Batch #: 724
Airport: CFS East (McLean, Illinois, 61754)
Pilot/Operator: Michael Ewing
Pilot/Operator Address: , , ,
Ground support provided by: Applicator
Job Type: Aerial Application

Customer: Evergreen FS - Wapella

301 N. Chestnut, Wapella, IL 61777
217-935-9533
Ron Reynolds - 217-935-9533

Grower: Kyle Kopp - Kopp Farms

910 N. Main St, Farmer City, IL 61842
Acres: 94
Crop: Soybeans **Pest:** Disease and insects
State: IL **County:** De Witt
Township: Santa Anna
Tier & Range: 8-20N-5E
Center: 40° 12.129' -88° 39.9483'
Field name(s): MOO MAW SOUTH

Product(s) Provided by Customer:

Product	Company	Restricted Use?	EPA Reg #	Rate per Acre	Acres	Total Volume Used
Avaris 2XS (azoxystrobin + propiconazole)	Helena	No	100-1324-5905	10.5 flozs	94	7.710938 gallons
Coron 25-0-0 .5 B (25-0-0-0.5B)	Helena	No	Exempt	1.0 gallon	94	94.0 gallons
Sultrus (cyfluthrin + cyano)	Helena Chemical Company	Yes	5905-599	1.6 flozs	94	1.175 gallons

Carrier Product	Rate per Acre	Acres	Total Volume Used
Water	0.91 gallons	94	85.1 gallons

Actual GPA: **2.0**

Comments:

Released by Customer	App. Date Range		Assigned App. Date	Actual App. Date	Actual App. Time	
	App. Start Date	App. End Date			Start Time	End Time
YES	Aug 04	Aug 09	Aug 05	Aug 05, 2019		02:45 PM

Temperature	Wind Direction	Wind Speed	Humidity	Acres Applied
86.0	247	8.0	52.0	94

Pilot/Operator Name	Pilot/Operator Pest. Lic. #	Business Name	Bus. Pest. Lic. #	Plane N#/Equipment
Michael Ewing				N3082V

Electronic Filing: Received, Clerk's Office 01/16/2026

DEFENDANT'S EXHIBIT

F

ID CARD

ILLINOIS DEPARTMENT OF AGRICULTURE
BUREAU OF ENVIRONMENTAL PROGRAMS

(CUT ALONG DOTTED LINE)

STATE OF ILLINOIS
DEPARTMENT OF AGRICULTURE
SPRINGFIELD, ILLINOIS

LIC# CA94970
EXPIRES December 31, 2019

CURLESS FLYING SERVICE
MICHAEL EWING
11220 E BRICKER ROAD
ASTORIA IL 61501

Michael Ewing
SIGNATURE

(FOLD LINE)

ILLINOIS PESTICIDE ID CARD

LIC# CA94970 **USAPLANTS ID:** 000T31

COMMERCIAL APPLICATOR

General Standards
Aerial General Standards
Field Crop
Forest
Aquatic
Right-of-Way

IL406-1122 X021-406-0030

COPY

UNITED STATES OF AMERICA
Department of Transportation
Federal Aviation Administration

MEDICAL CERTIFICATE SECOND CLASS

This certifies that ***(Full name and address):***

MICHAEL wayne EWING
94 asa miley rd
hattiesburg MS 39401 USA

Date of Birth	Height	Weight	Hair	Eyes	Sex
03/04/1958	74	233	BALD	GREEN	M

has met the medical standards prescribed in part 67, Federal Aviation Regulations, for this class of Medical Certificate.

Limitations: Must have available glasses for near vision.

Fold Here

Date of Examination: 06/13/2019
Examiner's Designation No.: 000018940

Examiner
Signature
Typed Name: JOHN M. BEAMAN , MD

AIRMAN'S SIGNATURE Michael Ewing

Page 1

IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF ILLINOIS

SPRINGFIELD DIVISION

HADA GARCIA, et al.	)	
	)	
Plaintiffs,	)	
	)	CASE
v.	)	NO. 3:20-cv-03322
	)	
PIONEER HI-BRED INTERNATIONAL, INC.; CORTEVA, INC.; RAS AVIATION, L.L.C.; FARM AIR, INC.; AND CURLESS FLYING SERVICE, INC.,	)	
	)	
Defendants.	)	

The deposition of HARLEY JOE CURLESS, taken under oath on December 6, 2024, at 9:00 a.m., via Zoom videoconference.

APPEARANCES:

FARMWORKER JUSTICE, by

MS. LORI J. JOHNSON

1126 16th St. Northwest

Washington, D.C. 20036

ljohnson@farmworkerjustice.org

appeared on behalf of Farmworker Justice;

ENVIRONMENTAL LAW & POLICY CENTER, by

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appeared on behalf of the plaintiff;

TRESSLER LLP, by

MS. JENNIFER DANCY

MR. TIMOTHY M. RAVICH

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travich@tresslerllp.com

appeared on behalf of defendants Fair Air, Inc.,

and Curless Flying Services, Inc.

I N D E X

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E X H I B I T S

DEPOSITION EXHIBIT PAGE

Exhibit 1 Curless 000004 to 000022 77

Exhibit 2 Bill of Sale 93

Exhibit 3 Letter 108

P R O C E E D I N G S

THE COURT REPORTER: So we are on the record at 9:01 a.m. Central, and I have a little spiel to read. Let me pull it up. I apologize for the delay. All right. Remote proceedings are more challenging. We kindly ask all participants to speak clearly and one at a time. The witness will be sworn in remotely. The parties agree not to challenge the validity of the oath, even if the court reporter is not physically present with the witness, and not a notary public in the state where the witness resides.

So here begins the remote deposition of Mr. Harley Curless, in the matter of Garcia v. Pioneer. Today's date is December 6th, 2024. And the time is 9:01 a.m. Central. My name is Lindsay Welbers, with Thompson Court Reporters. Beginning with noticing party, will counsel please introduce themselves, state whom they represent, and stipulate to the swearing in of the witness remotely?

MS. JOHNSON: Good morning, my name is Lori Johnson, and I'm with Farmworker Justice. And I'll be conducting the deposition.

MR. SCOTT: David Scott, on behalf of the plaintiffs, as well.

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THE COURT REPORTER: Okay.
MR. RAVICH: There's one other participant by telephone, I think.
MS. JOHNSON: That's me. That's my backup audio.
MR. RAVICH: Beg your pardon. All right. And this is Tim Ravich of Tressler, for Farm Air and Curless.
MS. DANCY: And this is Jenny Dancy, also on behalf of defendants Farm Air and Curless.
THE COURT REPORTER: Okay. Thank you. Mr. Curless, would you please raise your right hand for me?

HARLEY JOE CURLESS

the deponent herein, called as a witness, after having been first duly sworn, was examined and testified as follows:

THE COURT REPORTER: Thank you. Parties have stated their agreement on the record. Counsel, you may proceed. Thank you.

EXAMINATION

BY MS. JOHNSON:

Q. Good morning, Mr. Curless. My name is Lori Johnson, and I represent the plaintiffs in this case. So I will be conducting the deposition today. I appreciate your coming here. I understand that you

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have had some health concerns. If you have any trouble hearing me, please let me know. Is there any reason that you would be unable to answer questions fully and truthfully today?

A. No.

Q. Thank you. If you need a break at any time, please let me know. But if a question is pending, we will need you to answer it before we can then take a break. Okay?

A. Okay.

Q. Could you state your full name for the record?

A. Harley Joe Curless.

Q. Could you spell that?

A. H-A-R-L-E-Y, J-O-E, C-U-R-L-E-S-S.

Q. Could you tell me where you currently reside, and provide your address?

A. I live at 530 North Teal Drive, Havana, Illinois 62644.

Q. Have you ever had your deposition taken before?

A. No.

Q. Okay. Have you ever been part of or testified in a trial or a court proceeding before?

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A. No.

Q. Okay. Well, we'll take this as easy as we can. Since I understand this is your first deposition, I'm going to go over a few ground rules before we start today. The court reporter is recording everything that we say, and as she said, it's important for both of us to speak slowly and clearly, and to not speak over one of each -- over each other. Do you understand that?

A. Yes.

Q. All the answers have to be verbalized. She can't really record if you're shaking your head or nodding your head, or gestures, such as mm-hm. Does that make sense?

A. Sure does, yes.

Q. You took an oath at the beginning of this deposition. Please tell me in your own words what you understand the oath to mean.

A. Well, I need to tell the truth on what I'm getting ready to answer, your questions.

Q. Thank you. Do you understand that telling the truth means answering the whole truth, and to the fullest extent possible?

A. I do.

Q. If at any time I ask a question that you

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don't understand for any reason, can you tell me?

A. Yes.

Q. If you provide an answer, then I'm going to assume that you understood the question. Is that fair?

A. Yes.

Q. If you don't know the answer to the question, but can think of some document or another witness, perhaps, that may be able to assist, would you let me know?

A. Yes.

Q. And you have an attorney who is here to represent you today. Who is that?

A. Tim and Jenny.

Q. Okay. So is that Tim Ravich and Jenny Darcy?

A. Yes. Dancy.

Q. I'm sorry, Dancy. I apologize for that. When, to the best of your understanding, did Mr. Ravich begin to represent you?

A. I don't know when you were -- I assume just shortly after we received the suit.

Q. So from time to time, he may make objections to some of my questions. He may, for example, object to the form of a question. He is making a record, but you still do have to answer the question, even if he

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objects, unless he instructs you not to answer. Do you understand that?
A. Yes.
Q. So because this deposition is occurring via Zoom, I'm going to ask you some preliminary questions about where you're located. Where are you physically located right now?
A. We are at 11220 East Bricker Highway, Astoria, Illinois.
Q. And is that at your lawyer's office? A conference room at your lawyer's office?
A. No. It's our place of business.
Q. Okay. Thank you. What type of computer or device are you using to connect to this Zoom deposition?
MR. RAVICH: I can answer. It's my law firm computer.
MS. JOHNSON: Thank you. Do you have access to any email or messaging app that are open right now?
THE WITNESS: No. No.
MS. JOHNSON: Do you have any other applications that are open right now on that device?
THE WITNESS: No.
MR. RAVICH: We don't. My email is open, just for

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purposes of accessing Zoom.
MS. JOHNSON: I understand. Do you have any documents that are open on that device right now?
MR. RAVICH: No.
THE WITNESS: No.
MS. JOHNSON: Will you agree not to open any documents during the deposition unless it's one of the exhibits that I provide?
MR. RAVICH: It's my computer. Yes.
MS. JOHNSON: Okay. And I emailed both you and the court reporter the potential exhibits. Did you receive that?
THE WITNESS: I did. I saw it just about 15 minutes before starting the deposition. But I have seen those. Thank you.
MS. JOHNSON: Great. In case we have any tech issues, that's going to serve as a backup.
MR. RAVICH: I see.
BY Ms. JOHNSON:
Q. So do you have a smartphone or a tablet or other device open today? Or nearby?
A. No.
Q. Okay. And will you agree not to use any such device during this deposition?

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A. Yes.
Q. How about notes or hard-copy documents? Do you have any notes or hard-copy documents open or nearby right now?
A. Nothing's here.
Q. Okay. Did you do anything to prepare for today's deposition?
A. Tim and I had a short meeting.
Q. Okay.
A. Well, not just Tim. Jenny, too. So with both attorneys.
Q. And I don't want you to get into anything that you said to your attorneys, but when did you meet?
A. We met this morning. I guess we met yesterday, too. Yeah. He came in yesterday afternoon, and again this morning.
Q. And when you say in, you mean into your office?
A. Yes.
Q. Okay. And for how long?
A. I don't know. Do you remember? No. It was a short meeting. I don't remember time. Just a short meeting.
Q. Did your attorney show you any documents?

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A. Yes.
MR. RAVICH: Lori, we did go over documents, which will be bound by the attorney-client privilege.
BY MS. JOHNSON:
Q. Okay. So I'm going to ask just a few questions to get to know your background. How long have you lived at your current address?
A. In Havana? We've been there 11 years. No, excuse me. 13 years.
Q. Are you married?
A. Yes.
Q. And how long have you been married?
A. 55 years.
Q. Wow. Do you have any children?
A. Three children.
Q. And how old are they now?
A. Let's see, they've got to be 54, 51, and 49. And they were all born in May, three years apart. I just wanted to clear the record on that.
Q. Very nice. Well planned. Any grandchildren?
A. Yes. I have seven.
Q. Where are you from originally?
A. Astoria, Illinois.
Q. And you grew up there?

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A. I did.
Q. What was your highest level of education?
A. I had graduated high school, and took some college courses, just on my own, after that.
Q. Where did you take the college courses?
A. Some of them were in Spoon River. Some of them were Western Illinois.
Q. What type of courses were they?
A. Agricultural courses.
Q. I'd like to take you through your employment history. What is your profession?
A. I'm a retired professional aerial applicator, and now I spend my time selling and servicing air tractors -- aircraft.
Q. And how long have you been retired?
A. From aerial application, two years.
Q. And how long were you an aerial applicator?
A. Too long.
Q. Okay. Can you expand on that?
A. I began aerial application in '78, and so it took me up to 2022. So --
Q. How many miles have you logged?
A. I don't log the miles. Log the hours.
Q. How many hours have you logged?

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A. I think my logbook shows an excess of 30,000.
Q. How did you decide to become a pilot?
A. It was just something I wanted to do. In the days when I learned how to fly, agriculture wasn't treating us very well. So I needed to do some sort of -- another source of income. And so in those years, Cessna aircraft had a $10 demo flight, and you could lay $10 on the counter, and they'd take you for a ride around the patch, in the 182 -- or 172. And I did that, and I was hooked. And when I came home, I mortgaged our house to buy the first airplane so I could go spray. And my wife backed me up all the way. Yeah. She's been -- yeah. She's special. Yeah.
Q. Happy to hear that. Did you have any other types of work prior to becoming a pilot?
A. Yeah, I worked at a coal company. I was a warehouse clerk in a coal company, and an engineer. We worked in reclamation with the coal company. And I worked for Caterpillar Tractor Company here in Peoria.
Q. What did you do with Caterpillar Tractor Company?
A. I was a custodian.
Q. Now, you said that even though you're retired, you're still active. Can you tell me about

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that?
A. I am. So I'm now taking care of the sale and service of the air tractor spray planes, which is Farm Air.
Q. Okay. And do you belong to any associations?
A. I sure do. I'm a member of the Illinois Ag Aviation Association, the NAAA, which is National Ag Aviation Association.
Q. Anything else?
A. AOPA.
Q. And what type of responsibilities or services do these -- or do you have with these associations?
A. In the IAAA, that's a state organization, and I've held the offices there from secretary to president. You move up through the ranks. I've done that twice. And on the NAAA, National Ag Aviation Association, I served as the vice president a few years ago. Plus I was a PAASS presenter.
Q. A past presenter. Can you tell me what that means?
A. I was a -- I was a past PAASS presenter. And that's PAASS, Professional Aerial Applicators' Support System. I was a presenter for over ten years in that.
Q. Okay. You mentioned 1978. Is that the year

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that you got your first pilot's license?
A. Yes.
Q. And what type of license was that?
A. Well, you start out with a private, and you go commercial, and you go instrument. You've got to have a commercial to be spraying, so -- and actually, I got my pilot's license in '76. Started spraying in '78.
Q. Okay. Sorry about that. Who was the licensing authority for that?
A. FAA, Federal Aviation Association.
Q. And does it have to be renewed?
A. Every year.
Q. What's the process for renewing it?
A. Actually, you get a pilot's license for five, as long as you keep your medical up. You have to take a medical examination. There's three classes. First, second and third. And I hold a second-class, which -- every year I have to take a physical, because it's commercial.
Q. Understood. So then am I to understand there are no continuing education requirements or additional examinations that need to be done, other than the medical examination?

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A. No, that's incorrect. You have to do what they call a biannual flight examination. And so you have to go ride with an instructor, at least every two years. And in my case, I'm fortunate that my -- I've got an instructor that works for me part time, and he and I fly together, so he's very aware of my piloting ability. But each year, you're required to go through a -- two years, recertification.

Q. And what was his name? Or what was his --

A. John Komnick.

Q. Thank you. Now, you had mentioned aerial application. Can you tell me about your experience with aerial application?

A. Yes. We spray crops locally, here. Treat different products on different crops.

Q. When you say locally, are you talking about the county, the tri-county area, Illinois? Like, what's the area?

A. Midwest. Yeah, we've worked in Missouri, Iowa, Illinois, Kentucky, Indiana, for example.

Q. Okay. Is it for certain crops? Or --

A. Yes. Yeah.

Q. What crops?

A. It's crop-specific. We primarily do sweet --

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there's corn, field corn and soybeans, out of our location here.

Q. So is it true, then, you have roles and responsibilities in the aerial spray application?

A. Yes.

Q. Let's talk about what happens before a particular flight, in your experience. How would you ensure that an aircraft was safe and ready for flight and application?

A. Well, the first thing is that the airplane has to have its annual -- basically a physical for the airplane. And as a pilot, you make sure that that airplane has been inspected and signed off, with an annual. And then you discuss that with your pilots and/or yourself. And then you do a walk-around every day before you fly the airplane, to make sure it's safe.

Q. Is the annual for a specific month, or is -- I mean, is it by the end of the calendar year? Or does it differ for each aircraft?

A. The annual is per aircraft, each year. So each aircraft has to have it.

Q. Okay. And is there a fee for getting the annual?

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A. Oh, yes. Yes. And that's what Farm Air does. Out there in our shop, we do the inspections, and there's an inspection sheet for each model, that we follow, and sign it off. And then you have to have a certified mechanic sign it off.

Q. Okay. And who do you go to for that, to find -- how do you find a certified mechanic? Do you have someone you typically use for all vehicles? Or does it change?

A. Our inspectors are employed by Farm Air. They're right here on the property.

Q. Okay. Have you ever -- what would happen if you let the inspection lapse?

A. Well, the airplane's no longer airworthy, so we won't fly it.

Q. Would you let it lapse if you hadn't -- if you intended to sell the airplane, and didn't intend to use it anymore?

A. They could, yes.

Q. So can you walk me through examining equipment, for example, for the type of aircraft that's at issue in this lawsuit, a plane registered as N3082V, that was used on August 5th, 2019? What type of equipment would need to be examined for that type of

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aircraft?

A. That airplane, along with any other, is examined from front to back. It takes a minimum, for us, the way we do ours, two weeks to a month. You inspect the time on the prop, inspect the time on the engine, the condition of both, and then you start on the airframe, and the airframe then has a list from the manufacturer that you follow for inspections. Wing bolts, for example, get taken out and inspected and/or replaced. Landing gear has to be inspected and/or replaced. And it goes on and on and on.

So there's over 8,000 parts in the airplane, so you're not looking at all 8,000, necessarily, but -- you are actually looking at all 8,000, but you don't have to replace all 8,000. And some of them have -- some of them have time limits on them. For example, a set of wings, you have a set of wings that have certain hours that they have to be replaced. Landing gear's that way. Engines and propellers are that way. So all those things are checked and signed off by an authorized individual, which is called an IA, inspector, an approved inspector.

Q. How do you keep that organized? Is there some sort of software you use to determine, like, okay,

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these wings are going to -- on this vehicle are going to need to be replaced on this date?
A. Yes. Yes, there sure is.
Q. And what type of software is that?
A. They've got it back in the shop. I don't know what the name of it is. But they use it on the shop. And then you have manuals from Air Tractor, as well. From the manufacturer, in other words.
Q. And who keeps that updated?
A. The mechanics. We've for three mechanics back there that keep track of that stuff. And the pilots, they're pretty intuitive, too. They know what the airplanes need, or whatever. And as a dealer, you can walk up to the airplane, you can tell pretty quick whether it's needing an inspection, or it needs a lot of work. So --
Q. Okay. Can you name those mechanics?
A. I'm sorry?
Q. Could you name the three mechanics?
A. Yes. Jim Rogers. Scott McKenny. Scott Sidwell, I'm sorry. And Kody Wickert.
Q. Okay. And do you also get -- for example, with my car, I might get a recall notice from the manufacturer. Could you get something like that for an

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airplane, as well?
A. You sure do. And you also get -- you get FAA notices that a certain part has to be inspected within a certain time, or replaced within a certain time. And those all come right to their office, as well as mine. So -- it's called an -- it's called an AD, advisory directive. And that's required by the FAA, to comply with that.
Q. And those notices would also be entered into the same software that the mechanics are using for the --
A. Yes. Yes. We actually get a disc once a month that shows all the current ADs and service letters that need to be updated. So they're on top of things. Those mechanics also have to be recertified at least every year. And they go to a class in -- it's done by the FAA. And here locally, it's in Springfield, Illinois. And they attend that to keep their certification up.
Q. So looking at the exterior of the plane, what would you be looking at, when checking for safety?
A. Loose bolts, chafing of panels, the hopper leaking, anything that's loose, falling off. You just do a walk-around every day, you can pick those things

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up. You know what the airplane's supposed to look like, and so you're focusing on those areas.
Q. What about -- and I apologize if I get any of this vocabulary wrong. What about, like, the spray tank, the irrigation system? What would you look for?
A. Yeah, that's called the hopper on the airplane. And we look at the hopper to make sure it's not leaking, all the fittings that are attached to the bottom of the hopper are attached securely, and all the spray system is attached securely, and not leaking.
Q. What would happen if you found -- how would you know if there was a leak? I mean, would you be able to smell it? Would you be able to see it? What do you look for?
A. Yeah, you'd be able to see it.
Q. And then, what's the follow-through when that happens?
A. It gets pulled offline and brought over to Farm Air, and made a repair.
Q. Okay. So one of the mechanics, then, would repair it?
A. That's correct.
Q. Is Farm Air located at the same location?
A. Yes.

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Q. What about GPS navigation systems? Is that something that you would check preflight?
A. Yes.
Q. And how would that be done?
A. Well, as they get their load and taxi out of the building, they put in their coordinates, and/or their job number, and -- before they ever leave the ground. And if there's an issue, they don't leave. They stay right there and we fix it.
Q. So you have a work order. Do you review the work order prior to flight?
A. Not each one, but most -- but a lot of times, I'll try to help out and do that today, in today's world, yes.
Q. I guess I should preface that by saying, if you are the pilot who's going to be on the flight.
A. Okay.
Q. If you've contracted with a pilot, then who looks over the work order? Who all would look over the work order?
A. Well, the work order is -- I'll just give you how it flows through our operation, if that's okay.
Q. Yes.
A. The order will come in, in today's world, via

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the internet. Our secretary prepares it. It goes into the master table, I'll call it, and then at that time, in '19, when Bobby was here, he would prepare the orders. And then if he had a question on any of them, he would call me into the other room, and I would go over and look at the order. I don't know whether this is good or bad, but most generally, when we're working here, if they have a question on a field or any order, being in this business that long, and sitting in the seat that many hours, I pretty much knew every field. And so I could give them some personal guidance on that particular job, or that particular area that they were working in.

Q. Now, when you say Bobby, you mean Bobby Blickenstaff?

A. That is correct.

Q. And I understand that he has passed away. Correct?

A. He has.

Q. Who would take over what would've been his duties?

A. That job has been replaced by Seth Kessler. And I do the same process with Seth.

Q. And when did Seth start with you?

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A. Seth's been here, gosh, eight or nine years now. He worked under Bobby. So it was an automatic progression in knowledge base, you know.

Q. But he took over immediately after Mr. Blickenstaff passed away.

A. Yes. Yes.

MR. RAVICH: Give her a second to finish.

MS. DANCY: You can take a beat between question and answer.

MR. RAVICH: Right. That's a good way of putting it. Let her ask the question, maybe just a moment of silence, and then --

THE WITNESS: I'm sorry.

MR. RAVICH: Everyone's doing good. It's actually for her benefit, so she can record everything.

THE WITNESS: Okay.

THE COURT REPORTER: Thank you. And I'm not 100 percent sure I got your whole answer, Mr. Curless. Would you please repeat it?

THE WITNESS: Yes. Seth has been employed here for several years now. Eight or nine years. I can't remember exactly how long. But he was a natural progression to Bobby, because he worked under Bobby for that length of time.

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THE COURT REPORTER: Thank you.

THE WITNESS: I'm sorry. I get to going too fast. Slow me down.

MR. RAVICH: That's okay. All witnesses do. You're okay.

THE WITNESS: Slow me down.

BY MS. JOHNSON:

Q. So generally speaking, before a flight, who all would be involved with a particular flight? What staff would be involved with that?

A. We have secretaries that take care of that. They receive the emails. They prepare the maps. And then it goes to the map table. And Bobby, at that time, would be looking over the maps and putting a plan together. And as I said before, if he had a question on any of them, he would approach me or Joe, my son Joe, Joe Curless, for advice. And sometimes, we had maps that need to be put off for a day, or we're not able to do a complete field -- or a complete map, because of an outlying area.

Q. And what would be the follow-up for that, if there's an outlying area?

A. Then that's when they would come to me for sure, and ask me, what do I know about this field?

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Q. I think I got ahead of myself a little bit. Can we go back to talking about the work order? So also, when you're looking at the map, and the map table, what all are you looking for?

MR. RAVICH: Objection to form.

MS. JOHNSON: You may answer the question.

MR. RAVICH: You can answer if you understand the question.

THE WITNESS: We're looking for any unsafe areas. That would include nearby schools, nursing homes, any notice that we've had, bees in the area. The list goes on and on. There are things that would red-flag that, and postpone that order.

BY MS. JOHNSON:

Q. Okay. So can we talk about -- what kind of crew is needed for each flight?

A. Well, we obviously have a pilot for the plane. And that's his job only, except the pilot is required, here at our operation, the pilot is required to adjust his nozzles for the correct gallons-per-acre for that particular job. Otherwise, the load crew consists of a person that's fueling the airplane, mixing and loading the product in the hopper, and cleaning the windshield, and filling the smoker. Those

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kind of things. So that's provided for each load.
Q. Okay. And so the optimal practice, then, would be to have someone to check for -- adjusting nozzles for the correct gallons-per-acre. Is that specific to the type of agent or product or chemical that's going to be used?
A. Could be.
THE COURT REPORTER: I'm sorry, Ms. Johnson, I think your audio glitched. Would you repeat after, is that specific to the type of?
MS. JOHNSON: Is it specific to the type of agent, product or chemical to be used for the flight?
THE COURT REPORTER: Thank you.
THE WITNESS: Yes.
MS. JOHNSON: Okay. And what then is best practice for a ground crew? What would they do?
MR. RAVICH: Objection to form. You can answer.
THE WITNESS: The ground crew then is looking at the -- they also have a copy of the spray order. Not the map, necessarily, and oftentimes the map. And they are looking to match the mix product, if there's mixes in the product, and get the proper amounts in the mix tank, to pump it into the airplane.
BY MS. JOHNSON:

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Q. Do they also, then, pump it into the airplane? Or is somebody else responsible for that?
A. No, the mixing and loading crew does the whole -- does it all.
Q. Okay. How many people would ideally be in the ground crew?
A. Typically, we have two per aircraft. And in today's world, we're working -- the way we work now, since my retirement, we just have two, because we just have two airplanes. So that's all we have.
Q. I see. What would be the procedure, ideally, for accounting for weather conditions?
MR. RAVICH: Objection to form. You can answer.
THE WITNESS: Okay. Again, the weather here is looked at on the computer every day. We'll check it on our cellphone. We can call the weather service if we need to, to wonder what the -- you know, what the wind or what the weather's going to be. And we just look out the window. We've been here for 50 years, so you can kind of tell what the weather's going to be in central Illinois.
BY MS. JOHNSON:
Q. Okay. And in addition, do you -- apologize if I'm leaving -- if you've already mentioned this.

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But do you use any sort of applications?
A. I'm sorry, could you repeat?
Q. Do you use any software or other applications to determine the conditions of the weather, ideally prior to flight?
A. Yes, there are some -- there's a software that's available.
Q. Are you familiar with something called DriftWatch?
A. I am.
Q. What is that?
A. That's a weather site, plus it gives you other things on the site. And ultimately, the pilot is the one that makes the decision when he gets to the field.
Q. Let's talk about what happens when you're in flight. What would the pilot do upon launch?
MR. RAVICH: Objection to form. If you understand, you can answer.
MS. JOHNSON: Oh, sorry, go ahead.
THE WITNESS: No, no, go ahead. Clarify your question --
MS. JOHNSON: The question is -- so I'm trying to understand, like, what are the ideal safety measures

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preflight and then inflight and postflight? So you've talked a lot about what you do -- what you would ideally do prior to flight. Once the vehicle is in the air, does the pilot circle the area? What would the pilot do to check for safety measures?
MR. RAVICH: Objection to form. You can answer if you understand.
THE WITNESS: And yes, I understand your question. I'll try to answer as best I can. When we take off -- and I say we, putting myself back in the seat -- or the pilots today operate the same way, because I flew with those pilots when they first came on board. We would obviously stay in radio communication the whole trip, depending on how far out we're going.
We can also dial up, locally, our airports, and get wind and weather reports from the airports themselves. It's called AWAS, and that's a radio frequency that repeats itself and updates itself every hour. So we can get those en route. Once we arrive at the site, we will circle the field at least once, if not more. Often, we'll put out smoke and watch where the smoke goes, and look for obstructions, anything that's unsafe. And we have a saying here, and I teach this a lot, and say this a lot. If there's a question,

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don't. And they all go by that.
MS. JOHNSON: Can we talk about plane speed? What range of speed would you expect during a typical flight?
MR. RAVICH: Object to form.
THE WITNESS: The speed working across the field is normally 150 in the 802, 135 in the 502, and about 115 or 120 in the 301. Those are the three models that we fly.
MS. JOHNSON: And does it change if you're actually applicating -- if the application is in process? Does the plane slow down?
MR. RAVICH: Objection to form. You can answer.
THE WITNESS: The pilot can slow it down if he wants to, but typically that's where you set it at. That's where, from a pilot's perspective, that's where the airplane -- I'll use the term feels good, flies good, comfortable, and safe, at that speed. You get too slow, the airplane will stall. And you don't want that to happen. And depending on the load, how heavy the load is, depending on the humidity -- am I going too fast for her?
MR. RAVICH: I think somebody just coughed. You're doing well.

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THE WITNESS: Okay. It's depending on the day and the humidity, as to how the airplane is reacting.
MS. JOHNSON: Now, my understanding is, the plane will be spraying, and then it gets to the end of the -- edge of the field, then it's going to have to turn around. Correct?
MR. RAVICH: Object to form.
THE WITNESS: Absolutely.
MS. JOHNSON: You know, as it leaves the field, is it going to accelerate, stay the same, slow down? Or does it not matter?
MR. RAVICH: Object to form.
THE WITNESS: It will slow down, because you're gaining altitude.
BY MS. JOHNSON:
Q. Why are you gaining altitude?
A. To make your turnaround. Yeah, you can -- I'll expand on that a little bit. If you don't slow down -- when you pitch up, that bleeds air speed off, which automatically slows the airplane down. I'm trying to come up with something that would be comparable to that. In other words, if you pull up behind a car, and you don't slow down, you're either going to have to pass it or slow down.

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So when the airplane comes out the end of the field, it needs to slow down to make the turnaround. Otherwise, we're going into the next county to get the airplane turned around to get it back in the field. And that's just the term we use. So in order to be efficient, the airplane needs to slow down in the turn. And it automatically does that -- when you pitch the nose up, it automatically does that, just like your accelerator does on your car when you take your foot off the accelerator. It slows down.
Q. So then, conversely, as you're coming back into the field, then, does it speed up a little bit?
A. It will, yes. Yeah. And the airplane, from a pilot's seat, we typically do not adjust the power coming out or going into the field. There is a governor on the engine that will help us adjust that. In other words, it's an automatic adjustment to the airspeed and the engine performance, up to a point.
Q. Does Curless or Farm Air have recommended speeds for any specific task?
A. No.
Q. How does that work, then?
MR. RAVICH: Objection to form.
THE WITNESS: Pilot. Pilot decides.

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MS. JOHNSON: What is the GPS or software that's used for aerial application?
THE WITNESS: Our planes are provided -- or have the Satloc G4 GPS. I think the new ones are Ag Pilot X and Falcons.
MR. RAVICH: Just answer the question.
BY MS. JOHNSON:
Q. And how long have you been using the Satloc G4 GPS?
A. We were (inaudible). We were, in 1991, Curless Flying Service purchased the first GPS in the state of Illinois.
Q. 1991. Wow.
A. 1991. Yeah.
Q. The Pilot X, Falcons, I assume that's newer. When did you start using that?
A. I believe -- I'm not sure.
MR. RAVICH: Don't guess.
THE WITNESS: I think the aircraft in question here had the G4 in it, and that's been around a long time. The Ag Pilot X and the Falcon are just new in the last couple of years.
BY MS. JOHNSON:
Q. Okay. What was in place in 2019?

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A. The G4, I believe.
Q. Okay. Now, once that navigation system's been installed in an airplane, can it be updated?
A. Yes.
Q. And how frequently is it updated?
A. Usually, Joe does that annually.
Q. So do you have a flight protocol to ideally minimize drift during application?
A. Could you repeat?
Q. So what is your best practice flight protocol to minimize drift during application?
MR. RAVICH: Form.
THE WITNESS: Well, first thing you need to do is read the label, because some labels have different restrictions on them than others. We have a company rule that it's got to be 20 or less miles per hour for anything we're doing. So again, it goes back to the pilot, at the field, because he's the one that's got to make the decision when he gets to the field, because the weather, the field, and the wind at the field may not be the same as it is at home base.
MS. JOHNSON: Can you tell me what a smoke test is?
THE COURT REPORTER: I'm sorry, your audio

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glitched. Can you repeat that, please?
MS. JOHNSON: Can you tell me what a smoke test is?
THE COURT REPORTER: Smoke test?
MS. JOHNSON: Yes.
THE COURT REPORTER: Thank you.
THE WITNESS: It's actually called a smoker, and it has a smoker -- it has a tank on board that -- we fill it with high-paraffin-based oil that we can hit a trigger and pump that high-paraffin-based oil into the exhaust, and it makes smoke that hangs in the air for just a little while. Same smoke system they use at the air shows.
BY MS. JOHNSON:
Q. How often does the paraffin need to be replenished?
A. We usually check them every day.
Q. So the supply is not necessarily exhausted by each use?
A. Correct. It depends how much you use it. But they usually get filled every day. Or checked every day, not necessarily filled, but checked every day.
Q. Is that the pilot or the ground crew who

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replenishes?
A. Both. Both could do it.
Q. So have you ever had to alter a flight due to sensitive areas or people in the spray area?
A. Yes.
Q. Okay. What happens then?
A. Pilot goes to the next field, radios in, goes to the next field, or brings it back.
Q. Have you ever had to alter a flight due to wind conditions?
A. Yes.
Q. Same follow-through?
A. Yes.
Q. Okay. Let's talk about after the flight. Generally speaking, are there safety measures that you would take after a flight has finished?
A. Yes.
Q. What are those?
A. Well, I talk to, or Bobby would talk to anybody -- the load crew could talk to them, the pilot, to see if there's anything mechanically that needs to be done for safety, for the next flight. Does he have any concerns or comments about the flight and/or the airplane? If he has a question on a work order, that

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comes into the office, and we all sit down and -- I say all, being our secretaries that took the order, Bobby, in that case, or myself and Bobby. We review that order and say, yes, you did it right. We should hold this order, or never go back there again.
Q. What are you looking for to make sure that a job order has been completed?
A. They have a completion sheet that they -- they being the pilot -- will complete, once the job is done, which typically has -- the order will have wind speed, temperature, the aircraft they're flying, the jobs they did, the acres they did, the date, obviously their name. And they are -- they being the pilots -- are very, very meticulous with that, because that's how they get paid. They get paid by the acre. So they want that complete, so it matches the work orders.
Q. I understand. What is done to clean -- well, do you clean a vehicle after a flight's completed?
A. Not each flight, no.
Q. How often would a vehicle such as the 802A be cleaned?
A. Depends on the products they were using and where they were flying. It could be done daily. It could be done weekly. It's always done weekly, if not

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daily.
Q. Who does that?
A. The ground crew does that. Or myself.
Q. So what on the airplane would be, if anything, would be inspected after a flight?
A. Well, again, it would be just like a walkaround. You'd be looking for anything that's falling off the airplane, that's loose, dangling. Leaky nozzles, a pump that's loose, a pump that's leaking, a hopper that's leaking. Just a general inspection. And if you find something, it goes straight to Farm Air to get repaired.
Q. What would be -- thinking about, for example, the nozzle, specifically, what would be best practice for postflight -- anything to do with the nozzle?
MR. RAVICH: Object to form.
THE WITNESS: The ground crew or pilot, and often myself, if I were out on the load pad, just take a look. If it's leaking, you just fix it.
MS. JOHNSON: Would you check the spray pattern again?
MR. RAVICH: Objection to form. You can answer if you understand.
THE WITNESS: I don't understand.

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BY MS. JOHNSON:
Q. I think you covered that already. Can we talk about recordkeeping? What recordkeeping is done? What is the best practice for recordkeeping, following a flight?
A. Best practice for us is, we attach the map, the work order, and the load sheet that the crew has -- the load crew has, that all matches that particular job site, job. And then if the -- once the pilot signs it off, and he has a master sheet that he fills out, that all gets done.
Q. Is that master -- where is that master sheet then stored?
A. In our office.
Q. Okay. Is it entered into any type of computer, or scanned? Or is it just kept in paper form?
A. It's kept in paper form.
Q. And what all information is on that master sheet?
A. The master sheet is basically the pilot, the day, the acres, for that day or job.
Q. Okay. I'm going to try -- well, I'll get back to that. Okay. Does that master sheet include

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information on any change of course that might've happened from what was planned?
A. No.
Q. Does it account for weather changes?
A. No. Not on the master sheet.
Q. Would it account for any proximity to sensitive sites or other crops?
A. Not on the master sheet, no.
Q. Okay. So when you're saying not on the master sheet, is that then recorded somewhere else?
A. The master sheet is the paper sheet that the pilot fills out, generally at the end of the day. The work order is where he would make any notes. It's on the work order itself. That's not part of the master sheet.
Q. Could changes to the course that occur during flight impact billing?
MR. RAVICH: Objection to form.
THE WITNESS: I don't understand.
MR. RAVICH: I don't, either. That's my objection.
MS. JOHNSON: Okay. Let me try to reword that, then. So say you have a pilot in flight, and there's a change to course, for whatever reason. Can that impact

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how you are able to bill your clients?
MR. RAVICH: Same objection.
THE WITNESS: I'm assuming --
MR. RAVICH: Don't assume.
THE WITNESS: Okay. No assumption. If there's a change in acres, that could impact the client, or the customer.
MS. JOHNSON: How so?
THE WITNESS: If the acres were less than what the customer turned in, would be noted on the work order.
MS. JOHNSON: Once a flight is completed, what is the best practice for any product that may remain in the tank postflight?
MR. RAVICH: Objection to form. You can answer if you understand.
THE WITNESS: There is no product left. If that job is completed as the order was turned in, we're out of product on that particular job.
MS. JOHNSON: Have you ever worked with products -- pesticides, fungicides -- that have high volatility?
MR. RAVICH: Form.
THE WITNESS: Not in current times, no.
BY MS. JOHNSON:
Q. Okay. Now, you mentioned labels. Is it the

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pilot that reviews product labels?
A. The pilot can review those. He's expected to, I guess. He's not required to, per load. But the pilot can, if he wants.
Q. Who else on the crew would review the labels?
A. In this particular case, Bobby Blickenstaff would know the label.
Q. Okay. So is it correct that you're the president of Curless Flying Service?
A. That's correct.
Q. Can we talk about a little of how this company got started? When did it begin?
A. 1978.
Q. And what services does it provide?
A. Aerial application, seeding and spraying.
Q. Who is the owner?
MR. RAVICH: Object to form.
THE WITNESS: Harley Curless.
BY MS. JOHNSON:
Q. Are you referring to yourself or your son?
A. Myself.
Q. Are there other owners?
A. No. Solely earned. Owned. Say it right.
Q. And was that the case in 2019?

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A. Yes.
Q. Are there any managers?
A. In '19? Yes.
Q. Okay. Who were the managers in 2019?
A. Bobby Blickenstaff.
Q. How many employees in 2019?
A. You're talking five years ago. We have summer help that comes and goes. Full time, probably four or five, year-round, in 2019. But that's been so long ago.
Q. Are the mechanics full time?
A. Yes. But they're Farm Air.
Q. Thank you. How many planes do you use?
A. We typically operate two, and in 2019, I think that's what we used. Two or maybe three.
Q. Can you tell me what type of planes those were in 2019?
A. They would've been air tractors, AT802As.
Q. Okay. Are they all -- were they all the same type, then, in 2019?
A. Yes.
Q. Do you work with co-ops?
A. Yes.
Q. Are you familiar with a co-op named

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Evergreen?
A. Yes.
Q. Can you tell me what the role of the co-op is?
A. The co-op will, again, produce the order, provide the maps to our secretary. They provide the products that we apply, and when they have the window that they want it treated.
Q. The dates, the timeframe. When you say window, you mean --
A. Time.
Q. Okay.
A. Yes, timeframe.
Q. Is there any other information that they provide to you?
A. They talk to us daily about different things, but no other pertinent information that comes to mind.
Q. What types of information would they -- when they contact you daily, what type of information are they giving you?
A. They want to know what we've accomplished the day before, for example, what we're doing today, what we're going to -- what we're going to shoot for tomorrow. And they'll give us an idea of their plans

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of what needs to be done in the future.
Q. Do you have any contact with growers?
A. Very few, contact with growers.
Q. So the growers are working with the co-op, who then communicates with you. Is that correct?
A. Correct.
Q. Have growers ever contacted you to provide further information?
MR. RAVICH: Objection to form. You can answer if you understand.
THE WITNESS: Occasionally.
BY MS. JOHNSON:
Q. Who sets up the safety protocols?
A. That starts at my desk. Harley's desk.
Q. And was that the case in 2019?
A. Yes.
Q. Okay. How many pilots are you working with?
A. When?
Q. Well, let's say 2019.
A. Two.
Q. And is it -- and you supervise those pilots?
A. Daily.
Q. Is anyone else responsible for supervising those pilots?

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A. Bobby Blickenstaff, Joe Curless.
Q. Who collects and reviews licenses?
MR. RAVICH: Form.
THE WITNESS: Harley.
BY MS. JOHNSON:
Q. How do you assign -- are you responsible for assigning the pilots?
A. I don't understand. Assigning them to what?
Q. Well, say you get a work order in. Who chooses the pilot?
A. There's no choice to it. We just have the orders, and it depends on the day, and where each pilot needs to be at a certain time, for example.
Q. So the pilots are scheduled to be working at a certain time, and then it goes to who's available at that time?
MR. RAVICH: Form.
THE WITNESS: Possibly.
MS. JOHNSON: Okay. What else could be a factor?
MR. RAVICH: Form.
THE WITNESS: Other orders.
MS. JOHNSON: So you have multiple orders on the same -- at the same time, and you might have -- I'm just trying to understand, like, how a particular pilot

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is assigned to a particular work order.
MR. RAVICH: Object to form. She asked a question.
THE WITNESS: Okay.
BY MS. JOHNSON:
Q. Can you tell me how, when work orders come in, how is a particular pilot matched to that work order?
A. Several factors may be considered. If that particular pilot has worked that area or geography prior. If we need a certain pilot at a certain location at the same time, for the same reason, the other pilot may have been working another area at a different time. So every hour here, it changes.
Q. We talked a little bit about Farm Air. What is Farm Air?
A. We are an authorized Air Tractor dealership, selling and servicing the Air Tractors.
Q. What is your position within Farm Air?
A. The owner.
Q. And did you have a role in its creation?
A. Farm Air was originated in Fairfield, Illinois in, I believe, 1976. And that owner retired, and the factory then awarded us the dealership for the

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central part of the United States.
Q. Okay. And so then, had you previously been associated with them prior to your taking over ownership?
A. Yes.
Q. Okay. As an employee?
A. No.
Q. In what capacity?
A. Customer.
Q. Okay. And how many planes are used by Farm Air?
MR. RAVICH: Form.
MS. JOHNSON: Let's make it about 2019. How many planes were used by Farm Air in 2019?
THE WITNESS: It's been quite a while ago, so I can't tell you for sure. But probably two or three. I don't recall without looking back at the notes.
BY MS. JOHNSON:
Q. Do you own the planes?
A. Farm Air owns the planes.
Q. Does Farm Air ever lease them out to anyone?
A. Yes.
Q. How does that work?
A. We lease the airplanes to Curless Flying

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Service.
Q. Okay. Do you lease them to anyone else?
A. No.
Q. Are the planes used seasonally?
A. Yes.
Q. What happens during the off season?
A. They come in for their annual, in the shop, at Farm Air.
Q. Anything else?
MR. RAVICH: Form.
THE WITNESS: No, it usually takes most of the winter to get the airplanes inspected, and any improvements we want to make to the airplanes. For example, a GPS update. Currently, you know, not in '19. But those kinds of things can be done. Any modification, any AD note that needs to be complied with. Sometimes they take months to get those AD notes complied with.
BY MS. JOHNSON:
Q. I have notes here -- AD meaning advanced directive? What does AD mean again?
A. Yeah. It's required by the FAA to inspect and replace or repair the part.
Q. Are they used by -- during the offseason, are

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they used by anyone outside of Farm Air or Curless?
A. No.
Q. Has Farm Air ever sold a plane?
MR. RAVICH: I missed a word. What was it?
THE WITNESS: Sold airplanes.
MR. RAVICH: Sold. Okay.
THE WITNESS: Yes. That's what we do. We sell them and service them. Yes.
MS. JOHNSON: Okay. What is the best practice in preparing for a sale?
MR. RAVICH: Form.
THE WITNESS: If somebody needs a new airplane, that's a pretty easy thing. If they have a used airplane they want to trade, we'll usually go look at the used airplane, and then make them an offer on trading the airplane in for our airplane, whether it's new or used. So we do an onsite inspection.
BY MS. JOHNSON:
Q. You have to certify that the aircraft is in good condition prior to sale?
A. Yes.
Q. And how is that done?
A. By the inspections, by Farm Air.
Q. Okay, so by the mechanics at Farm Air?

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A. Yes.
MR. RAVICH: And Lori, just to kind of remind -- Lori, just kind of reminder, we're coming up on about an hour and 15 minutes. I'm not going to interfere in your examination. I do want to just look out for Harley.
MS. JOHNSON: I think we're coming up on a good stopping point, if I can just get through a few more questions.
MR. RAVICH: Yes, of course. Is that all right, Harley?
THE WITNESS: Yes.
BY MS. JOHNSON:
Q. All right. Is there a document that acknowledges the certifications of the airplane being in good condition prior to sale?
A. Yes.
Q. What is that called?
A. The logbook endorsement.
Q. And how long are those stored?
MR. RAVICH: Form.
THE WITNESS: Forever, for us.
BY MS. JOHNSON:
Q. Do you contract with any pilots outside of

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Curless?
A. In terms of what?
Q. Would Farm Air contract with any pilots outside of Curless for work orders?
A. No.
Q. Or for other use of -- for other use of the vehicles, for --
MR. RAVICH: Object to form.
THE WITNESS: No. Curless is Curless, and Farm Air is Farm Air, and they don't -- Farm Air does not contract with any other pilots for spraying.
BY MS. JOHNSON:
Q. Okay. Who's tasked with recordkeeping at Farm Air?
A. Mechanics.
Q. Who should check to see if a pilot completes required recordkeeping?
A. Harley.
Q. Okay. And do you have logbooks? And where are they stored?
MR. RAVICH: Objection to form.
THE WITNESS: The logbook is the pilot's private information. And so I can visit with them about that, or they can show me a page out of it, if they want.

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But I review their status each year, make sure they have all their certification for employment in piloting. The current medical, pilot's license, notification, next of kin in the event of something bad happening. The list goes on and on. That's all done -- it all stops at my desk.
MS. JOHNSON: Okay. And setting policy is also your -- was your responsibility in 2019. Is that correct?
MR. RAVICH: Objection to form.
THE WITNESS: Mine and Bobby Blickenstaff. Joe was involved to some degree.
BY MS. JOHNSON:
Q. Can you tell me the date that Mr. Blickenstaff passed away?
A. August 23, I believe.
Q. What would've been his role --
A. It might've been 22. Time gets away pretty fast. He was a manager of Curless Flying Service. And pardon my French, but a damn good one.
Q. Understood. Thank you. What would've been his role on the day of the flight at issue here, in August of 2019?
A. He would've went through the protocol of

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arranging the maps, getting into the load facility, products, probably visited with Evergreen. I don't know whether he did or not. He ran a tight ship, so everything was in order to make his day go better and easier, for not only him, the load crew, the pilot, and anybody downstream. In this case, Evergreen. So they're always involved in what's going on.

Q. In communicating with him, did he have a Curless email address?

A. I don't recall.

Q. Did he have a cellphone that he used for work?

A. He did.

Q. Okay. Did he text, as well, through his cellphone?

MR. RAVICH: Form.

THE WITNESS: Yes.

BY MS. JOHNSON:

Q. Did Curless preserve Mr. Blickenstaff's emails?

A. I would have to say yes, to my knowledge.

Q. Did Curless search his emails in connection with discovery in this case?

A. No.

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Q. Did Curless search Mr. Blickenstaff's text messages in connection with discovery in this case?

A. No.

MR. RAVICH: Lori?

MS. JOHNSON: Mm-hm?

MR. RAVICH: Lori, he's not going to know what we did. And we can talk about this.

MS. JOHNSON: Okay. If you're in need of a break, we can take a quick break. Or do you want to keep going?

THE WITNESS: Break's fine.

MR. RAVICH: Yeah, break's fine. How long? Five or ten minutes?

THE WITNESS: Yeah, five minutes.

MR. RAVICH: Lori, any estimation on how long we're running today?

MS. JOHNSON: I'm over halfway through my outline. I can tell you that.

MR. RAVICH: Okay. No, that's helpful to know. Okay. All right. Five minutes, would that be --

THE WITNESS: Yeah.

MR. RAVICH: Okay. All right. Five minutes --

THE WITNESS: Let's go six minutes. That's 10:20.

MR. RAVICH: All right. Six minutes. 10:20.

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THE COURT REPORTER: We're off the record at 10:14 a.m.

(Whereupon, a short break was taken.)

THE COURT REPORTER: So with that, we are back on the record at 10:25 a.m. Please proceed.

MS. JOHNSON: I had asked about minimizing drift. And you said the first thing you do is read the label. Why do you need to do that?

MR. RAVICH: Objection to form.

THE WITNESS: Different products have different restrictions on the wind requirements, or maximum winds.

BY MS. JOHNSON:

Q. Okay. What do you look for on the label?

A. The restrictions.

Q. Just that?

A. Yeah. That will tell you that. That's correct.

Q. Okay. You also said that you have a company rule that the wind needs to be 20 miles per hour or less. Is that rule written down anywhere?

MR. RAVICH: Objection to form.

THE WITNESS: No, we do that in our meetings,

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verbally.

BY MS. JOHNSON:

Q. What meetings are those?

A. We have an annual meeting prior to the season. It may be multiple meetings, but normally, the pilots all look forward to it. We bring them in, we have a meeting with them and the mechanics, so that's all discussed. Safety and what they do to the airplanes. Plus we feed them lunch. And that gets them in the room. And they all get to voice their opinions, and then I go over the safety part of it.

Q. I'm sure free lunch is nice, but is attendance required?

A. Yes.

Q. Okay. When did you implement the rule of 20 miles per hour or less, where the wind needs to be 20 miles per hour or less?

MR. RAVICH: Objection to form.

THE WITNESS: Several years ago. I don't know the date.

BY MS. JOHNSON:

Q. Would it be prior to 2019?

A. Yes.

Q. Okay. These headphones may be helping you,

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but it makes it a little harder for me to hear. I'll try. How did you come up with that standard of 20 miles per hour?
A. By being a pilot, and being in different fields, different locations. Just from experience.
Q. Did you consult with any authorities or other sources?
MR. RAVICH: Form. When?
MS. JOHNSON: In coming up with that standard.
THE WITNESS: No.
BY MS. JOHNSON:
Q. Okay. So 20 miles per hour is the maximum limit. Do you have a rule for minimum wind speed?
A. No.
Q. Why would it not be important to have a similar rule for minimum wind speed?
MR. RAVICH: Lori, can I just back up? I'm just not even following the question. A minimum speed for what?
MS. JOHNSON: For allowing flights. Correct? So we have the maximum speed of 20 miles per hour, in determining whether it's safe to have a flight. Is there also, similarly, any minimum wind speed rule or not?

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MR. RAVICH: You're just talking about flying an airplane?
MS. JOHNSON: Yes.
MR. RAVICH: Okay.
MS. JOHNSON: Or for application. Well, let's start -- well, first of all, for flying the airplane. Or is the 20 mile per hour rule for aerial application?
THE WITNESS: 20 miles an hour is Curless Flying Service's maximum for applying products.
BY MS. JOHNSON:
Q. For applying products. Sorry. Okay.
A. Applying products.
Q. So is there --
A. It has nothing -- it has nothing to do with flying.
Q. Got it. I understand the difference now. Now, would a lack of wind impact aerial application in any way?
A. Possibly.
Q. Would it affect it adversely?
A. Possibly.
Q. How so?
A. It might be a situation where you would get an inversion or get no penetration.

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Q. Can you explain to me what that is?
A. You have an inversion of the atmosphere. And the penetration is the downwash of the aircraft into the crop.
Q. And what happens if there's little to no wind?
A. Most generally, nothing happens. It's just a situation you have to be aware of. And little or no wind also is adversely -- it doesn't help the pilot maneuver the airplane safely -- as safe, I should say. As safe.
Q. You had also said that the wind at the field might be different than the wind at the home base. What do you mean by home base?
A. That'd be here at Curless Flying Service, or any satellite operation that we were working from that particular day.
Q. Okay. In your experience, local wind conditions at the target field can be -- in your experience, can local wind conditions at the target field be very different from the wind conditions where the plane took off from?
A. It's possible.
Q. Has it happened?

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A. Yes.
Q. For example, if the airport's 30 miles away from the target field, you should not rely on wind at the airport to determine what the wind at the -- what the wind might be doing at the target field. Right?
MR. RAVICH: Objection to form.
THE WITNESS: Not necessarily.
BY MS. JOHNSON:
Q. Can you tell me about that?
A. Well, yes, I will tell you about that. Here in central Illinois, if you listen to, for example, Springfield, Illinois, Peoria, Illinois, Macomb, Illinois, Quincy, Illinois, Jacksonville, Illinois, Decatur, Illinois, on the AWAS, and they're all -- and they're all saying the same wind, the same direction and the same wind, you pretty much know that that's what the wind is that particular time and that particular day.
Q. And what if they're not all saying the same thing?
A. Well, that's a situation where you definitely run your smoke out, and see where the smoke's going. And it's up to the pilot, again, to determine that on site.

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Q. Do you agree that wind conditions can change suddenly?
MR. RAVICH: Object to form.
THE WITNESS: Yes, I object to suddenly. It's generally subtly, not suddenly.
MS. JOHNSON: Well, are we talking about -- from the time that a vehicle may take off from your home base to when they get to the target field, during that timeframe, don't you agree that the wind conditions could've changed?
MR. RAVICH: Objection. Calls for speculation. This witness is not qualified on those matters.
MS. JOHNSON: You may answer the question.
THE WITNESS: I think Tim did.
MR. RAVICH: Well, answer to the best of your knowledge. I stated an objection for the record.
THE WITNESS: Yeah.
BY MS. JOHNSON:
Q. So could the wind conditions change between when a vehicle takes off from your home base and, let's say, prior to completion of the work order?
A. Probably not on completion, but it could, from the time that the aircraft left home base to arriving at the application site. It could change.

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Q. And when it changes, can it change -- can wind direction change?
A. It can.
Q. And can wind speed change?
A. Yes.
Q. Do you agree, then, it is important to pay attention to changes in wind conditions?
A. I'm sorry?
Q. Do you agree, then, that it's important to pay attention to changes in wind conditions?
A. Yes.
Q. And that changes in wind conditions can affect the possibility that drift could occur. Correct?
A. Yes.
Q. Let's go back to talking a little bit about managing Farm Air. Are you involved in finding pilots to use?
A. Not for Farm Air.
Q. Or for Curless?
A. Yes. Farm Air doesn't use any pilots. Curless Flying Service -- yes. Yes. I locate the pilots for Curless Flying Service.
Q. And what do you look for in a pilot for

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aerial applications?
A. Experience. Their safety record.
Q. You check licenses?
A. Absolutely.
Q. What certifications would you be looking for?
A. Their experience, where they worked, their safety record, insurance claims. This is a --
Q. Were they --
A. This is a pretty small industry. And being a PAASS presenter for over ten years, I was exposed to a lot of different operations across the country. So it's a pretty small industry.
Q. I see. If a pilot had an insurance claim taken out, involving them, would they notify you? Are they required to notify you?
A. No. They're not required to.
Q. Do you sign an employment contract with them?
A. Yes.
Q. What are the terms of that contract?
A. The terms are, they get paid a per-acre rate.
Q. Are there disciplinary requirements?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
BY MS. JOHNSON:

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Q. What would those be?
A. Attention to safety, accepting suggestions and direction of safety, and just good maintenance, just good management practices, good business plan.
Q. What additional training is required of pilots during their employ with you, while you're contracting them?
A. Well, there is nothing that's done during the summer. They have to get their biannual, as we previously stated. They have to get their medical done before that, so they are legal to spray. Their state licenses were also regulated by the State of Illinois. So those things are all taken care of prior to the season's start, so they don't have to stop and do any training during the summer.
Q. So during the offseason, that would be the ideal time for training, for pilots?
A. Yes. And most of our pilots, if not all pilots, are required to take the PAASS program as a safety training session during the offseason.
Q. Are they required training?
A. They're not required, no.
Q. So what oversight is done to make sure the pilots are performing according to best practices?

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A. Verification of their safety record, verification of the PAASS program attendance, verification of their medical, verification of their state licenses.
Q. Do you have checklists that they would have to complete during the course of any particular flight?
MR. RAVICH: Object to form.
THE WITNESS: Not a checklist, per se.
BY MS. JOHNSON:
Q. Have you ever had concerns about a pilot that resulted in discipline?
A. Yes.
Q. What happened?
A. They no longer are employed here.
Q. And were -- okay. So it resulted in their -- the discipline was termination.
MR. RAVICH: Objection to form. Asked and answered.
BY MS. JOHNSON:
Q. Okay. Has there ever been a situation, perhaps, that wasn't as dire, where there was less severe discipline that resulted?
A. Yes.
Q. And what happened?

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A. I take the pilot out of the airplane for a period of time. And then we have a safety meeting. We talk about protocol. We go over -- we have a meeting. He and I do.
Q. Okay. And what might result in that discipline? What actions on the part of the -- or omissions on the part of the pilot?
A. There are no actions, per se, except that the pilots usually are pretty open-minded, because when the rest of the planes are flying, and he's not, he's not generating any income. So I've taken his income away from him for a period of time.
Q. Okay. Would that have resulted from not following safety procedures? What would've led to that?
MR. RAVICH: Objection to form. Lori, we're getting far afield from August 5th.
MS. JOHNSON: We'll be getting -- we'll get there soon enough.
THE WITNESS: You want to repeat the question, then?
BY MS. JOHNSON:
Q. Yes. You testified that, on occasion, a pilot was kept from getting in the airplane for a

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while.
A. Correct.
Q. What would've -- you know, what violation or concerns would've resulted in that?
MR. RAVICH: Objection to form. You can answer, if you understand.
THE WITNESS: If he's tired, if he's making bad decisions, if a customer calls and says, hey, you know, he's flying erratically, for example. I don't think I ever had that, but something along that line. And occasionally, during the day, unannounced, I go to the loading shed, the loading pad, where they're loading those airplanes, and I stick my head in the cockpit, and I talk to the pilot. And I can tell by their responses to my questions whether they're safe or not, and making good decisions.
BY MS. JOHNSON:
Q. Would it ever result from a lack of recordkeeping?
A. No.
Q. Have you ever been involved in training applicators on the Worker Protection Standard?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.

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BY MS. JOHNSON:
Q. Okay. Is there anyone else that would be responsible for that, as well?
A. Bobby Blickenstaff.
Q. What would constitute a safety briefing?
A. A bad decision around the load crew, how they handle the aircraft.
Q. Okay. And who's all involved in that?
A. Well, in '19, it would've been Bobby, myself, sometimes Joe, depending what the infraction might've been.
Q. Now, so you've mentioned, I believe, an annual meeting. Are there, in addition, monthly all-hands meetings?
A. Actually, it's almost daily. Oftentimes, I would be at the map table, and they'd come back in at night, and we would discuss what happened during the day, and things that we can improve on, and safety.
Q. Okay. But are there scheduled meetings, in addition to that?
A. No.
Q. Can you tell me about the Fly Safe campaign?
A. I'm assuming you're referring to the PAASS program?

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Q. Yeah, you've mentioned it a couple times. Can you tell me more about it?
A. Yes. It's Professional Aerial Applicator Support System. It was produced by the NAAA to lower our accidents and drift claims, as an industry. That process is volunteer for the teachers. Like I said, I was involved in that for over ten years. We go to two annual meetings a year for training, which are usually over two days, each training. And then we travel throughout the country, as pairs. There'd be two of us that presented the program.
And we had four segments in the program. One's safety, one's drift, one's accidents, and one's maintenance. And those four items were always covered. We would travel throughout the country at state meetings for that. It's not required. It's all volunteer. Highly encouraged by the insurance companies, and required by Curless Flying Service.
Q. Are you familiar with something called agricultural exclusion zones?
A. No.
Q. Okay. Is it the best practice to have a buffer when spraying, between any sensitive objects or people?

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A. Yes.
Q. And what is that?
A. Depends on the buffer -- or depends on what the surrounding area is.
Q. Okay. What would you be looking for?
A. School, nursing home, those types of things. Church.
Q. Have you ever been fined for not adhering to a buffer zone?
A. No.
Q. Does the licensing that you receive for aerial spraying -- does it vary by state? Or once you have the one license, is that good for the whole nation?
A. It's regulated state to state.
Q. State to state. And since you said that you were in Missouri and other states, do you have to have separate licenses for those states?
MR. RAVICH: Objection to form.
THE WITNESS: Yes.
MS. JOHNSON: How many licenses do you have?
MR. RAVICH: Objection to form.
THE WITNESS: We had a license for each one of those states, back in those years.

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BY MS. JOHNSON:
Q. Okay. Apologies if I already asked this, but who is the licensing authority?
A. Normally, the Department of Agriculture in each state.
Q. So does any of your training include protocols for avoiding exposing humans to drift?
A. Yes.
Q. And what is that? What are the protocols?
A. See and avoid. And then don't.
Q. And to see, what is necessary to ensure that any people who might be there would be seen?
A. Just a visual look, as you approach the field.
Q. Anything else?
A. No.
Q. Are there protocols for avoiding drift?
A. Yes.
Q. Protocols or best practices. And what are those?
A. Yes. It's the wind speed at the site, and again, to go back to smoke, what the pilot determines when he's there.
Q. Would it violate any protocols to spray a

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field that had humans located in the field adjacent to it?
A. Would it -- say that again?
MR. RAVICH: Object to form. Yeah.
MS. JOHNSON: Would it violate any safety protocols to administer an aerial application in a field that had humans adjacent to it?
MR. RAVICH: Objection to form.
THE WITNESS: Not necessarily.
MS. JOHNSON: And what would you look for?
MR. RAVICH: Objection to form. Vague.
MS. JOHNSON: When would it be appropriate, and when wouldn't it be appropriate, to spray in a field adjacent to where there are people?
THE WITNESS: Wind direction, first of all. And any prior notice that it's okay to be near to the people, from a customer or co-op.
MS. JOHNSON: Okay. I'm going to try to drop something in the chat here, which I'd like to mark as Exhibit 1.
(Whereupon Plaintiff's Exhibit No. 1 was marked for identification by the court reporter.)

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MS. JOHNSON: Okay. Can you see that that appeared in the chat?
MR. RAVICH: Yes. I'm trying to pull it up now.
MS. JOHNSON: Okay. And I'm going to try and now share my screen. Bear with me, I'm not -- okay. Are you seeing that? Are you seeing a document that is marked Curless 000004 through 000022?
MR. RAVICH: Lori, we think so. It's 22 pages. We can't see the Bates number. But the upper left corner, we --
MS. JOHNSON: Okay. Okay, the upper left corner has, yeah, Page 1 through 22, Curless 4 through 22. And I'm going to scroll down to the bottom of this page, where it says Curless 000001. Okay. Do you recognize this document?
THE WITNESS: Yes.
MS. JOHNSON: Okay. What is this document?
MR. RAVICH: You're talking about the first -- Lori, you're just talking about --
MS. JOHNSON: Well, if you like, I can just -- I'll scroll through the whole thing, so you can see what's in there. Why don't we do that? I'll kind of go slowly. So you'll see the next page. I'll go quick to the bottom. It says 002 -- or string of zeroes, 2.

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MR. RAVICH: Just as a housekeeping matter, I guess what I'm trying to get at is, you're not representing that this is one document. Right? It's just your combination of individual pages.
MS. JOHNSON: It's a combination of individual pages. I'll get to a couple individual pages, and just ask about those. And we can note the number on those as we go through it.
MR. RAVICH: Understood. I think that makes sense.
MS. JOHNSON: I'll just continue to run through it to the end, so you can see. Just a couple more pages. Okay. I'll return to the beginning. Going to the first page, which is marked Curless 1, do you recognize this document?
THE WITNESS: Yes.
BY MS. JOHNSON:
Q. Okay. And what is the date at the top of this document?
A. 8/5 of '19.
Q. What is the farmer's name?
A. That's Evergreen FS.
Q. Thank you. Is this document related to the flight on August 5th that is at issue?

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A. Yes.
Q. Okay. Can you tell me, what are the products indicated?
A. It's Avaris, Coron, and Sultrus.
Q. Okay. I'm going to go forward to 9, which talks about -- let's see here.
MR. RAVICH: If you need it bigger or smaller, she'll do that for you.
THE WITNESS: Okay.
BY MS. JOHNSON:
Q. Okay. So this is 9, Bates stamp marked 9. And can you tell me the name of the product indicated on this page?
A. It's Coron.
Q. And what is this? What are you looking at?
A. It's ammonia, nitrogen. A foliar --
THE COURT REPORTER: Sorry, I didn't quite get that answer.
BY MS. JOHNSON:
Q. Is this a pesticide label?
A. Yes, it's a label. Yes.
Q. Have you heard of this product before?
A. Yes.
Q. What do you know of Coron?

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A. It's widely used to enhance the growth of the crop.
Q. And have you completed flights where Coron was sprayed?
A. I'm sorry?
Q. Have you completed flights where Coron was sprayed?
MR. RAVICH: Objection to form. Asked and answered.
THE WITNESS: Yes.
MS. JOHNSON: If it was, I did not hear. I think we were kind of talking over each other. Have you been -- have you piloted a flight in which Coron was sprayed?
MR. RAVICH: Objection to form. You're asking him if he's personally flown?
MS. JOHNSON: Well, first let's ask that. Have you personally flown one where this was sprayed?
MR. RAVICH: Objection to form. He wasn't the pilot at issue.
MS. JOHNSON: You can go ahead and answer.
THE WITNESS: No.
MS. JOHNSON: Okay. Has your company completed flights in which Coron was sprayed?

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MR. RAVICH: Objection to form. Asked and answered.
MS. JOHNSON: You can go ahead and answer.
THE WITNESS: Yes.
MS. JOHNSON: Okay. What safety precautions might you take with this product?
THE WITNESS: Safety, considering wind --
MS. JOHNSON: Just generally, what safety precautions come to mind --
MR. RAVICH: Lori, he wasn't finished with his answer.
BY MS. JOHNSON:
Q. Apologies. Please finish.
A. Just overall safety, as we've already talked about. The wind, the day, et cetera.
Q. Is there any particular speed that you would keep a plane while applying this product?
A. No.
Q. Okay. What is the purpose of this product?
MR. RAVICH: Form.
THE WITNESS: It's a foliar fertilizer that enhances growth.
MS. JOHNSON: Is it low or high volatility?
MR. RAVICH: Objection to form.

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THE WITNESS: Low.
MS. JOHNSON: How would this product be readied for spraying?
THE WITNESS: It's a liquid, and it's pumped into the load -- mixed into the load.
MS. JOHNSON: Who would load it?
MR. RAVICH: Objection to form.
THE WITNESS: The load crew.
BY MS. JOHNSON:
Q. Now, would it be kept separate from other products to be sprayed? Or can it be mixed with, say, Sultrus?
A. It can be mixed.
Q. Can it be -- could it be mixed with Avaris?
A. Yes.
Q. Okay. I'm going to go to -- I'll back up a little bit to 7. Do you know what this -- it's Bates Stamp Curless 7. Do you recognize this? What is this?
A. I don't recall what that specific product is.
Q. Okay. Does the highlighted in yellow word say Sultrus?
MR. RAVICH: Objection to form.
THE WITNESS: Yeah, that's what it says.
BY MS. JOHNSON:

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Q. Okay. And did I hear you correctly? You're not quite sure what this one's used for?
A. Yeah, I don't recall. It's been so long ago.
Q. Okay. Do you know if it has a reentry interval?
A. Not without researching the label.
Q. Would that information be on this label?
MR. RAVICH: Objection to form. Document speaks for itself.
MS. JOHNSON: Okay. Do you see a reentry interval stated on this form?
MR. RAVICH: You're asking him to read this right now?
MS. JOHNSON: Yes, please.
MR. RAVICH: Okay.
THE WITNESS: REI's 12 hours.
MS. JOHNSON: Okay. Okay, moving to what is marked as Curless Bates Stamp 8, what is this?
MR. RAVICH: Form.
MS. JOHNSON: Okay. What type of form? I'm sorry. I apologize. I thought that was the answer.
MR. RAVICH: An objection.
BY MS. JOHNSON:
Q. Can you tell me what this is, sir?

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A. No, I don't know.
Q. Okay. Could this be a pesticide label for Avaris?
A. I would say yes.
Q. Are you familiar with Avaris?
A. No.
Q. Speaking from your experience, are products generally crop-specific?
A. Yes.
Q. Have you seen where the return entry interval might be specific to the pest being treated?
A. Not to pest being treated, but to reentry from humans.
Q. I see. Could the return entry interval change at all for when humans can reenter, based on the type of crop, in addition to the type of chemical?
MR. RAVICH: Objection to form. If you know --
THE WITNESS: It's usually the product, not the crop.
BY MS. JOHNSON:
Q. Okay. So if Avaris were sprayed on soybeans, it would have the same REI or reentry interval as it would if it were sprayed on corn?
A. It could be different.

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Q. It could be different. Okay. Is Avaris low or high volatility?
A. I don't know.
Q. Now, wait a minute. Okay. Sorry. Okay, I'm going to stop the screen-share. Okay. Looks like that worked all right. I have a few questions about the pilot on August 5th of 2019. Was his name Mike Ewing?
A. Yes.
Q. Okay. Was he the pilot on the August 5th spray that is at issue in this case?
A. Yes.
Q. What type of license did he have?
A. Commercial aerial applicator's license.
Q. Were there any restrictions on his license?
A. Without seeing his records, I don't recall.
Q. All right. Did he receive training from Curless?
A. He did.
Q. In what?
A. The PAASS program, our annual meetings, our daily meetings, our weekly meetings, whenever we visit.
Q. Was he an employee?
A. Yes.
Q. Is he still working with you?

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A. Yes.
Q. Were you the manager when he was first contracted?
A. Yes.
Q. Okay. What can you tell me about his flight experience?
A. He came to us well-educated -- or well-trained, I mean, from other operators. And I checked with his previous -- actually, I was sharing him with the employer that he had at the time.
Q. And who --
A. So he would go to that employment agency prior to the season being in the -- in season here.
Q. What was the other employer that he had?
A. Stokes Flying Service, in Arkansas.
Q. Okay. So let's turn to the flight that was completed for Curless on August 5th, 2019, for the Moomaw South Field. I'm going to try to share my screen again, and bring back up that same document, that same big collection of 22 pages. Can you see that?
A. Yes.
Q. Great. I'm going to go back up, okay, to what is the -- Bates stamp marked Curless 1. How was this event booked?
A. Evergreen FS supplied the order.
Q. The page that you're looking at right now, what would you call that form?
A. That is our worksheet.
Q. And who completes the worksheet?
A. Pilot.
Q. So in receiving this particular work order, would Curless have been contacted by Evergreen?
A. Yes.
Q. Okay. How would that -- how would that play out? What would happen?
MR. RAVICH: Objection to form. Asked and answered.
THE WITNESS: Yeah, I think we answered that earlier.
MS. JOHNSON: Okay. Well, I think we were talking generally about Evergreen contacting you for work orders, and not this particular one. Is there anything different here that would be pertinent?
THE WITNESS: No.
MR. RAVICH: Form.
MS. JOHNSON: Okay. And for this particular work order, who decided which pilot to use? Or how did it

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come to be handled by Mr. Ewing?
MR. RAVICH: Objection to form.
THE WITNESS: It was a customer in an area that Michael was familiar with.
BY MS. JOHNSON:
Q. Had he flown aerial applications to that particular field before?
A. Not to this particular field, that I recall, but the area.
Q. Okay. Had he flown prior aerial applications for that grower?
A. Are you referring to Evergreen FS?
Q. Well, I was referring to the owner of the field, of the field, that particular grower. Had he sprayed other fields that were owned by this grower?
A. Unknown.
Q. On August 5th, were you at the office?
A. I don't recall.
Q. You don't recall being at the office?
MR. RAVICH: Object to form. Asked and answered.
THE WITNESS: Yeah, five years ago, no, I don't recall. No.
MS. JOHNSON: Did you learn that workers were claiming to have been sprayed?

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MR. RAVICH: Object to form.
THE WITNESS: I learned about it later in the day, yes.
MS. JOHNSON: Later in the day. Okay. Was it that day? Or was it the following day?
MR. RAVICH: Object to form.
THE WITNESS: It was --
THE COURT REPORTER: Was there an objection?
MR. RAVICH: Yes. Thank you.
THE COURT REPORTER: Form?
MR. RAVICH: Yes.
THE COURT REPORTER: Thank you. I'm sorry, please complete your answer.
BY MS. JOHNSON:
Q. So you said it was soon. Where were you when you learned about it?
A. I don't recall. I assume I was in the office at some point, and learned about it. Maybe they called me. I don't remember. If I was not in office, I might've been out on the loading pad. I don't know.
Q. Would it have been Mr. Blickenstaff who contacted you?
A. Yes.
Q. Had you ever had to respond to a situation

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where workers complained about exposure to chemicals during an aerial application, prior to that?
MR. RAVICH: Object to form. Over what time period?
MS. JOHNSON: Have you ever had to -- setting aside the events of August 5th, 2019, have you ever had to respond to a situation where workers complained about exposure to a chemical during aerial application?
MR. RAVICH: Object to form.
MS. JOHNSON: You may answer.
MR. RAVICH: You can reduce that to a time period, a relevant time period.
MS. JOHNSON: I'm asking about any time.
MR. RAVICH: The company goes back to the 1970s. So we're not going to be answering that.
MS. JOHNSON: It would be relevant to know. Please answer.
MR. RAVICH: He's not answering. You can reduce it to a time --
MS. JOHNSON: Are you raising a privilege?
MR. RAVICH: No. I would refer you back to discovery, where the Court has ordered you to keep this relevant to time. I am instructing the witness not to answer. You're welcome to ask him over a particular

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time. We're not going back to last century.
MS. JOHNSON: Okay. Let's talk about the last ten -- the last ten years. Setting aside the incident of August 5th, 2019, have you ever had to respond to a situation where workers complained about an exposure to chemicals during an aerial application?
THE WITNESS: No.
MS. JOHNSON: Okay. What about the last 20 years?
MR. RAVICH: We're not answering that question.
MS. JOHNSON: What about the last 15 years?
MR. RAVICH: You know what the answer to that is.
MS. JOHNSON: Are you saying that you're not -- are you advising your client not to answer the question?
MR. RAVICH: Yes.
MS. JOHNSON: Are you claiming any privilege?
MR. RAVICH: No.
MS. JOHNSON: Is there a protective order that would prevent him from answering that?
MR. RAVICH: I'd have to look back in the record. I don't believe so.
MS. JOHNSON: I have some questions --
MR. RAVICH: I will refer you to the discovery that we've addressed, going back beyond 2019.

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MS. JOHNSON: I have some questions regarding the aircraft registered as N3082V. Let me try and pull something up again. Stop the share. I'm going to try to share my screen. Okay. Can you see something that says, at the top, P 1881 to 1882 Copy?
MR. RAVICH: Yeah.
THE WITNESS: Yes.
MS. JOHNSON: Okay. I'm going to mark this as Plaintiff's Exhibit 2.
(Whereupon Plaintiff's Exhibit No. 2 was marked for identification by the court reporter.)
BY MS. JOHNSON:
Q. Do you recognize this document?
A. Yes.
Q. And what is this?
A. The bill of sale.
Q. Okay. What is that?
A. Farm Air sold the airplane to David Edwards.
Q. Okay. And what airplane was that?
A. November 3082 Victor.
Q. Okay. Is that the -- is that the airplane that's at issue in this case?

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A. Yes. No --
Q. When it says --
MR. RAVICH: Wait, hold on. Lori, I'm sorry. I think he wanted to clarify.
THE WITNESS: Yeah, I didn't give you the right N number. It's 802 MA, Mike Alpha.
BY MS. JOHNSON:
Q. Okay. Yes. When it says 802A, what does that refer to?
A. That means it's an air tractor, 802A, being agriculture. There are several models of 802s, and the A represents agriculture.
Q. So you're familiar with this type of plane.
A. Yes.
Q. Okay. What would be the navigation system on this particular type of plane?
A. G4.
Q. How precisely can that navigation system gauge location?
MR. RAVICH: Object to form.
THE WITNESS: Very accurate.
BY MS. JOHNSON:
Q. Down to the meter? Do you know?
A. Yes, down to one foot.

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Q. Does the speed of the plane impact the ability of this navigation system to determine location?
A. No.
Q. There's a phone number on here. I will read it to you. 877-715-8476. Do you see that?
A. Yes.
Q. Okay. Is that the phone that you used with Farm Air, Inc?
A. Yes.
Q. And the email --
THE COURT REPORTER: Was that a yes? Was that a yes?
THE WITNESS: Yes.
THE COURT REPORTER: Thank you.
MS. JOHNSON: The email that's stated here, farmair@farmairinc.com, is that the email that you used?
THE WITNESS: Yes.
MR. RAVICH: Lori, can I just ask a question?
MS. JOHNSON: Mm-hm.
MR. RAVICH: I don't think this is the aircraft at issue.
MS. JOHNSON: Okay. Can your client tell me about

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that? What aircraft is this?
THE WITNESS: Without looking back in the record, it's an 802 that we sold to Dave Edwards. But --
MS. JOHNSON: Okay. Had the bill of sale -- sorry, I didn't mean to interrupt you. Can you please finish?
THE WITNESS: If we go back to the other screen you had, I think it's on that screen, on the load sheet.
MS. JOHNSON: Okay.
MR. RAVICH: Thank you.
BY MS. JOHNSON:
Q. Here?
A. No, on your previous screens.
Q. Okay. The previous document?
A. Yes.
Q. I'm going to stop sharing, and I'm going to pull up that document. Bear with me. While I'm at it, I'm also going to drop the Plaintiff's Exhibit 2 into the chat. Okay. Is this the document that you were referring to?
A. Yes.
Q. Okay. So where did you say --
A. Stop. Stop. Back up to previous -- right

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there.
Q. Up at the top.
A. That one. That one. You scroll down just to the bottom -- and that, whatever exhibit -- it says 001. You'll see at the bottom, on the left, it says, Mike Ewing, Plane 82 Victor. Now, go to the next page. That is the load sheet. That's the sheet that they used to load the product in the airplane, and you'll see that it's Hammer, circled. And it's 3082 Victor. It's the same airplane. And Hammer's his nickname. If you called him Mike --
Q. So this is Mike Ewing.
A. Yeah. You would -- yeah. That's his nickname.
THE COURT REPORTER: I just want to make sure I heard that correctly. Mike Ewing's nickname is Hammer. Is that accurate?
MR. RAVICH: Yes.
THE COURT REPORTER: Yes.
THE WITNESS: Yes. Yes.
THE COURT REPORTER: Thank you. Please proceed.
MS. JOHNSON: Okay. It is my understanding, though, that you had sold the vehicle -- or the vehicle at issue in this case, the 3082V. Is that correct?

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MR. RAVICH: Lori, you can ask him a question. He's not going to know about your understanding.
BY MS. JOHNSON:
Q. Is it -- let me rephrase it. Did you sell the vehicle at issue in this case?
A. Yes.
Q. Okay. Do we have a bill of sale for that?
A. Yes, it's in the previous document you just had up there.
Q. Yeah. So I'm going to close this document, and we're going to pull up the previous document. Okay. Can you see that?
A. Yes.
Q. Okay. What can you -- can you describe for me what we're looking at right now?
A. It's a purchase order.
Q. Okay. It's a purchase order between Farm Air, Inc., and -- is it correct to -- the Mid Missouri Spray Service, LLC, Dave Edwards?
A. Correct.
Q. Okay. Is this for the vehicle at issue in this case?
A. Yes.
Q. Okay. Who owned this plane prior to its

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being purchased by Farm -- is Farm Air purchasing this or selling this?
A. Selling this.
Q. Okay. Is that your signature -- let's see, here. Did you see where it says, signature of dealer? Is that your signature?
A. Yes.
Q. Okay. Is there also a trade being made here?
A. Yes.
Q. I'll move up. Okay. And so what was the trade?
A. Scroll back down, please. There it is, right there.
Q. Okay.
A. 802 Mike Alpha was traded in.
Q. Okay. So this N0802MA was traded in.
A. Correct.
Q. Prior to the sale, was there an inspection of the plane?
A. Yes.
Q. Was there -- let me rephrase that, please. Was there an inspection of the plane made for purposes of the sale?
A. The sale came with a new inspection.

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Q. Who conducted that inspection?
MR. RAVICH: Form. If you know.
THE WITNESS: I don't understand the question.
BY MS. JOHNSON:
Q. So in preparing the plane that was at issue in this case for sale, in preparing that sale, was an inspection conducted?
A. Yes.
Q. By whom?
A. Farm Air.
Q. Okay. And by the mechanics at Farm Air?
A. Yes.
Q. Okay. Was anything documented related to that inspection made in preparation for sale?
A. I'd have to go back and look at the records.
Q. Please do. With what frequency does Farm Air sell vehicles?
MR. RAVICH: Objection to form. Lori, where are we going with this?
MS. JOHNSON: I'm trying to understand, like --
MR. RAVICH: Did they buy and sell --
MS. JOHNSON: How common is it for them to sell planes?
MR. RAVICH: The witness has testified that it's

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their core business, at least Farm Air, so I don't know where we're going or what relevance this has to this case.
MS. JOHNSON: How many planes would be sold in the course of a year?
MR. RAVICH: It has no relevance. Can we please move on?
MS. JOHNSON: I'll decide what's relevant. I'm asking a question. I'd like him to answer the question, please.
MR. RAVICH: If you know.
THE WITNESS: Several.
MS. JOHNSON: Okay. Several during the course of a year. And prior to the sale of this -- let me look at the date here.
MR. RAVICH: Lori, may I also say, we're coming up on an hour. I don't want to embarrass Mr. Curless, but he did say he's struggling this morning.
MS. JOHNSON: Okay. We're getting toward the end of my outline. Let's move through this as best we can. Is there a date on this document to give a date of the idea -- or to give you an idea of when this sale occurred?
THE WITNESS: Scroll back to the top, please. No.

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No. Just the --
MS. JOHNSON: Oh, top of this page. Okay.
THE WITNESS: Yeah. Looks like it was January the 28th, 2021.
MS. JOHNSON: January the 28th of 2021?
THE WITNESS: Yes.
MS. JOHNSON: Okay.
MR. RAVICH: And Lori, please hear me. We've been through this. Asking the witness just to read things that can be obvious to anybody reading it is just not a good use of our time.
MS. JOHNSON: Understood. Prior to this sale, were any efforts made to preserve data from the plane?
MR. RAVICH: Object to form. If you know.
THE WITNESS: I don't know.
BY MS. JOHNSON:
Q. Okay. Is there any data that would've been saved on vehicle equipment, but not elsewhere?
A. I don't know.
Q. Had there been any changes to the aircraft that might've changed the price?
A. I don't know what the customer would've asked for back then, what he might've wanted updated or removed.

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Q. I'm trying to understand this document. It's under optional equipment, which you can see here in the righthand column. The plane identified as N3082V is listed as optional equipment. Was this plane, then, included in the sale to Dave Edwards?
A. That is the plane that Dave Edwards purchased.
Q. Okay. I guess, why did Farm Air opt to sell this plane at that time?
A. We sell and service airplanes.
Q. Okay. And to the best of your knowledge, who's the current owner of this plane?
A. I have no idea now. Dave may still own it. I don't remember.
MS. JOHNSON: Okay. Okay.
MR. RAVICH: Now would be a good time for a break.
MS. JOHNSON: Do you need a break, sir?
THE WITNESS: Yes.
MS. JOHNSON: Yeah. We are four fifths of the way through, or more. Okay. You want to take a five- or ten-minute break?
THE WITNESS: Five.
MR. RAVICH: Okay. Five-minute break. Thank you.
THE WITNESS: I just need to go to the bathroom.

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MR. RAVICH: Yeah. No worries.
MS. JOHNSON: All right. We'll be back in five minutes.
THE COURT REPORTER: And we're off the record at 11:29 a.m.
(Whereupon, a short break was taken.)
THE COURT REPORTER: So we are back on the record at 11:36 a.m. Please proceed.
MS. JOHNSON: Thank you. I'm going to try and share screens. And we're going to go back to that same document we've pulled up a couple of times. It's Plaintiff's Exhibit 1. And I'm several pages into it. I'm going to go back up to the top, so you can see what we're looking at. It's the same document. But I'm going to go down to what's Bates marked Curless 11. Okay. Can you see that?
THE WITNESS: Yes.
BY MS. JOHNSON:
Q. Okay. Do you recognize this?
A. Yes.
Q. What is this?
A. That's an inspection.
Q. Okay. From whom? The Illinois Department of

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Agriculture?
A. Yes. Yes, it is. Says so right on the top.
Q. Okay. And this is related -- it says 8/6/19, so this is related to the issue here at this case. Correct?
A. Correct.
Q. Okay. Did you participate or assist in this investigation?
A. Probably Bobby did, to answer their questions.
Q. Okay. Did you have -- what involvement did you have?
A. I don't recall having any involvement. It was Bobby.
Q. Okay. Were documents provided to the Illinois Department of Agriculture, related to this investigation?
A. Yes.
Q. What documents?
A. Whatever they asked for at the time. Similar to what you had on your exhibits, a while ago.
Q. Okay. Did the Illinois Department of Agriculture inspect the vehicle?
A. Yes.

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Q. Okay. Are you familiar with the name Cathy Ward?
A. No. I don't recall.
Q. Are you aware of the findings from that investigation?
A. No infractions were found.
MS. JOHNSON: Okay. I'm going to scroll to the bottom of the page, there. Do you see where it says -- did someone speak?
MR. RAVICH: No.
THE COURT REPORTER: I think there was an echo.
MS. JOHNSON: Okay. Do you see where it says, $750 fine penalty?
THE WITNESS: Yes.
BY MS. JOHNSON:
Q. Do you know what that was for?
A. It's never been paid.
Q. Okay. Why hasn't it -- why has it not been paid?
A. This case has not been closed. And the Department of Agriculture found us not guilty.
Q. Okay. Is there a document in which they state that?
A. I don't recall that.

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MS. JOHNSON: Okay.
MR. RAVICH: Lori, I think you're looking at that document, actually.
MS. JOHNSON: Right here. Okay. I'm going to scroll down to the bottom here. Okay. And that's where it talks about Cathy Ward, too. I just wanted to -- my goal here is to confirm that, one, that the fine has not been paid, either by Curless, Farm Air, or the insurance company. Is that correct?
THE WITNESS: That's incorrect.
BY MS. JOHNSON:
Q. That's incorrect. Has something --
A. That's incorrect, because Farm Air has no part of this. It's Curless Flying Service. And that document states plainly that -- at the very bottom. You just scrolled away from it. The very last sentence. There was no workers sprayed.
Q. But if you could go back to my question, I just wanted to confirm that there's been no payment to the Illinois Department of Agriculture, related to this case.
A. That's correct.
Q. Okay. Were you in contact with the U.S. Department of Labor, related to this matter?

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A. I don't recall.
Q. Okay. How about the Occupational Safety and Health Agency, or OSHA, Administration?
A. I don't --
Q. Okay. Was Bobby Blickenstaff, to your knowledge, in contact with those agencies?
MR. RAVICH: Lori, hang on a second. I do think he's answering your questions, but y'all are talking over each other.
THE WITNESS: And I apologize. I'm going too quick. And Bobby talked to several different agencies, and I don't know who they all were. So he was --
MR. RAVICH: Okay. She'll ask the questions, and just -- it's okay.
THE WITNESS: Yeah. Yeah.
MR. RAVICH: Go ahead, Lori. I'm sorry.
MS. JOHNSON: Okay. I'm going to close this. I'm going to stop the share. And I'm going to pull up one last exhibit. And are you able to see that?
THE WITNESS: Yes.
MS. JOHNSON: Okay. I'd like to mark this as Plaintiff's Exhibit 3.
(Whereupon Plaintiff's Exhibit No. 3 was marked for

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identification by the court reporter.)
MS. JOHNSON: Do you recognize this? What is it?
MR. RAVICH: First, do you recognize it?
THE WITNESS: I do recognize it. It's where you're suing me. Somebody's suing me.
MS. JOHNSON: Okay. You can see that there's some language in bold. Just for the record, for the deposition transcript, that it's clear, can you tell me what this letter is actually about? It says RE --
MR. RAVICH: Objection to form. It's your letter.
MS. JOHNSON: I'll read it out, then, into the transcript. Your immediate duty to preserve all evidence related to the legal claim of agricultural workers against Farm Air, Inc., and Curless Flying Service Inc. Okay.
MR. RAVICH: Your question is if he read it. Correct?
THE WITNESS: Well, I have read it, yes. That's what you're --
MR. RAVICH: Well, I'm just --
MS. JOHNSON: I just want to understand that the witness knows what letter we're talking about.
THE WITNESS: Yes.

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MS. JOHNSON: Okay. At any point after August 5th, 2019, did anyone communicate with you about the need to preserve documents, data and communications related to the flight and aerial application that occurred that day?
MR. RAVICH: Objection to form. We've covered this. As counsel of record, we've worked with you to get all documents that we have.
MS. JOHNSON: My question to the witness was whether anyone had communicated with him about the need to preserve documents, data and communications.
THE WITNESS: Again, it's five years ago, and Bobby was our manager. And that was his duty, to take care of things like this.
BY MS. JOHNSON:
Q. Understood. Sir, are you aware of any affirmative steps that were taken to preserve -- by Curless Flying Service, to preserve documents, data and communications related to the flight on August 5th of 2019?
A. I guess I don't understand your question.
Q. Do you know if Curless Flying Service took any actions to try and preserve data that might be related to this lawsuit?

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A. Yes.
Q. Okay. What efforts were taken to preserve that data?
A. We reserved the work orders, the load sheets, the maps, for that particular day and job.
Q. Do you have an IT person? Somebody whose job it is to handle tech?
A. Not specifically an IT person. Joe is our IT guy here.
Q. Okay. And in 2019, would it have been -- would it have also been him?
A. Could've been him or Bobby.
Q. Okay. And would one or the other of them have been in charge of all written and electronic communications?
A. Yes.
Q. Okay. Who would've been -- and who would've been charged with handling data from the airplane?
A. Well, it's in the records that belong to the airplane, and to that day's flight job.
MR. RAVICH: And Lori, I'll refer you to our 26(a)(1) disclosures. This is not an area that Harley's been identified as having information about.
MS. JOHNSON: Okay. I'll move forward here. I'm

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going to stop sharing this screen. Oh, wait. Yeah, okay. I'm going to stop sharing this screen. Okay. Does Curless have insurance coverage that might apply to the August event or this lawsuit?
MR. RAVICH: Objection to form. That's been addressed in the 26(a)s. You can look there.
MS. JOHNSON: Please answer the question.
THE WITNESS: Yes.
MS. JOHNSON: Do you have any documents or communications with the insurance carrier related to this August event?
MR. RAVICH: Objection to form. I'm advising you not to answer.
MS. JOHNSON: Okay. Did you provide a copy of the August 15th, 2020, letter to the insurance carrier?
MR. RAVICH: Same objection. You don't have to answer.
MS. JOHNSON: Has Curless filed an insurance claim related to the August event?
MR. RAVICH: Same objection. You don't have to answer.
MS. JOHNSON: Well, I have no more questions. So thank you. Thank you for meeting with us today.
THE COURT REPORTER: Will there be cross?

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MR. RAVICH: No.
THE COURT REPORTER: All right. So how would like to -- I'm sorry. How would Mr. Curless like to handle his signature?
MR. RAVICH: So typically, you can read your deposition transcript. You can't change anything, but you can read it. Typically, witnesses waive. I can recommend that to you.
MR. CURLESS: Yeah. It's Tim's. Tim will have it.
MR. RAVICH: He'll waive, and we'll order.
THE COURT REPORTER: Sounds good. Ms. Johnson, would you like a copy of the transcript?
MS. JOHNSON: Yes, please.
THE COURT REPORTER: Sounds good. And Mr. Ravich, that was a yes for you?
MR. RAVICH: Yes. Thank you.
THE COURT REPORTER: All right. So with that, we are off the record at 11:48 a.m.
(Whereupon the deposition adjourned.)

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DIGITALLY SIGNED CERTIFICATE

THOMPSON REPORTERS hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings in the matter of:

Case No. 3:20-cv-03322

HADA GARCIA, et al.

v.

PIONEER HI-BRED INTERNATIONAL, INC.; CORTEVA, INC.; RAS AVIATION, L.L.C.; FARM AIR, INC.; AND CURLESS FLYING SERVICE, INC.

By:

MADISON WAGAMAN

Thompson Court Reporters

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Electronic Filing: Received, Clerk's Office 01/16/2026

Bill Of Sale

DEFENDANT'S EXHIBIT H

Date

Purchaser's Name	Harley Curless	Seller's Name	David W. Edwards
Company	Farm Air Inc.	Company	Mid Missouri Spray Service LLC
Address	11220 E Bricker Hwy	Address	11215 Great Canadian Lane
City, State, Zip	Astoria, IL 61501	City, State, Zip	Richmond MO 64085
Phone	877-715-8476 Fax 309-759-4226	Phone	816-752-5333 Fax
E-Mail	farmair@farmairinc.com	E-Mail	agpilot.dave@yahoo.com

Aircraft description

Make: 2002 Air Tractor

Model : AT-802A N802MA

Serial No: 802A-0136

2002 Red/White AT-802A,N802MA

S/N 802A-0136,4050 TTSN, PT6A-65AG,S/N PCE-PN0050, 0-Since Covington Hot Section

4048 TTSN, Hartzell propeller model HC-B5MP-3F, S/N EVA 2699, smoker, electric brake/fan,

STC S.P. Fuel Steam gauges

7 1/2 gate, Wingman, Prop 1450 Siran

CP'S

Single point fuel

308 gallon fuel tanks

Wingman

Com radio/ transponder/ADSB out

Kawak throttle quadrant

Farm Air Annual

G-4 GPS/Flowcontrol /9"screen

Covington hot section inspection, blade stretch complied with , FCU/ high pressure pump complied

Total Purchase Price		665,000.	00
Cash deposit with this order			
Trade value of used aircraft			
Total Credit To Purchase Price			
Balance Due		665,000.	00

David W Edwards
Purchaser's Signature

Accepted By:
Signature Of Dealer

11220 E Bricker Hwy, Astoria, IL 61501
Address Of Dealer

Date Of Acceptance

Expected Delivery Date

CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER

EXHIBIT 2 Curless 12/6/24

Electronic Filing: Received, Clerk's Office 01/16/2026

FARM AIR INC.

Purchase Order

Purchaser's Name	Dave Edwards	Date	1/28/2021
Company	Mid Missouri Spray Service LLC	Dealer's Name	Farm Air Inc.
Address	11215 Great Canadian Lane	Address	11220 E Bricker Hwy
City, State, Zip	Richmond, MO 64085	City, State, Zip	Astoria, IL 61501
Phone	816-752-5333 Fax	Phone	877-715-8476 Fax 309-759-4226
E-Mail	agpilot.dave@gmail.com	E-Mail	farmair@farmairinc.com

Information About Aircraft To Be Traded In:

1. Make: 2002 Air Tractor
2. Model: AT-802A N802MA
3. Serial No.: 802A-0136

Remarks: 2002 Red/White AT-802A, N802MA, S/N 802A-0136, 4050 TTSN, PT6A-65AG, S/N PCE-PN0050, 0- since Covington hot section, 4048 TTSN, Hartzell propeller model HC-B5MP-3F, S/N EVA 2699, smoker, electric brake/fan, 308 fuel, G-4 GPS/flow, STC S. P. fuel, steam gauges, CP's, Kawak, 7 1/2" gate, Wingman, prop 1450 SIRAN.

Farm Air annual

Covington hot section inspection, blade stretch complied with, FCU / high pressure pump complied.

David W. Edwards
Purchaser's Signature

Accepted By:
Signature Of Dealer

11220 E Bricker Hwy, Astoria, IL 61501
Address Of Dealer

Date Of Acceptance

Expected Delivery Date

Optional Equipment
2015 Yellow/blue AT - 802A N3082V S/N 802A-0620
Pratt Whitney PT6A-65AG engine S/N PCE-PN0248
Hartzell propeller model HC-B5MP-3F S/N EVA 3450
Smoker
Electric brake/fan
G-4 GPS / Flow control / 9" screen
7 1/2" Transland gate
Stainless steel cam locs
MVP 50 T glass dash
CP's
Hatfield STC single point fuel
308 gallon fuel tanks
Wingman
Com radio / transponder / ADSB out
Kawak throttle quadrant
Farm Air annual
0- hrs since Covington hot section
All with approx 2200 TTSN
No damage history

Total Purchase Price			$980,000	00
Cash deposit with this order	$50,000	00	Pd 1/25/2021 Ch# 3623	
Trade value of used aircraft	$665,000	00		
Total Credit To Purchase Price				
Balance Due			$265,000	00

DEFENDANT'S EXHIBIT
1

EXPERT OPINION OF Dennis R. Gardisser, Ph.D.

In the Matter of:
Hada Garcia, et al., v Curless Flying Service, Inc.

I am Dennis R. Gardisser, PhD and I am an expert in the areas of agricultural chemical application, pesticide applications, aerial applications including helicopter applications, all types of ground applications, and pesticide labels, instructions for use, label interpretations, label instructions impact upon licensed end-user applicators, scope of labeling, label warnings, precautions, ad label meanings for applicators who meet industry and regulatory standards.

My qualifications and background are as follows:

I retired in January 2009 as Full Professor and Associate Department Head of Biological & Agricultural Engineering at the University of Arkansas Division of Agriculture – Cooperative Extension Service, Little Rock, AR. My primary emphasis included the areas of aerial and ground agricultural chemical applications, precision agriculture GIS/GPS, and agricultural fencing systems. I have held an engineering position responsible for chemical application education, aerial, ground, turf, landscape, forestry, and rights-of-way, in the state of Arkansas for more than twenty-eight years. I am also President and Owner of WRK of Arkansas LLC, a firm specializing in chemical application technology from a variety of platforms. WRK of Arkansas also concentrates on agricultural chemical application research, testing, product development, drift evaluations, field evaluation and testing software and hardware development, training seminars, fly-in agricultural aircraft characterization clinics, literature development, and applicator, regulator, and related industry education. In the past 3 years. I have conducted aviation calibration clinics in approximately 50 locations in the US and Canada and evaluated over 500 aircraft for application efficiency and safety in the last two years. I have personally trained and/or retrained almost all the active Operation S.A.F.E. analysts, (Self-regulating Application and Flight Efficiency)—a-National Agricultural Aviation Association program to evaluate and dynamically characterize agricultural aircraft performance.

I received a Doctorate in Engineering from the University of Arkansas in 1992, my dissertation title was: "*Computer Simulation of Dry Material Distribution Patterns from Agricultural Aircraft."* I hold a Master's in Science in Agricultural Engineering from the University of Arkansas, 1981 and a Bachelor of Science degree in Agricultural Engineering, University of Arkansas, 1979. I am also Registered Professional Engineer – inactive – former President Arkansas Engineering Society, State of Arkansas.

I have a Commercial Pilot's certificate and hold Instrument, Multi-engine, Agricultural, FAAST member, FAA Wings level XIV ratings and I also have an Australian Pilot's license; I am a FAA Certified Flight Instructor, CFI, and was recognized as the Arkansas CFI of the year 2007. I was inducted into the Arkansas Aviation Hall of Fame in 2007 and into the National Agricultural Aviation Hall of Fame in 2009, primarily as a result of my work with agricultural aviation in Arkansas and the world, and was also the FAA Safety Team Counselor of the year 2007 and currently the lead FAAST leader for central Arkansas. I am the past President of the Experimental Aircraft Association Chapter 122. I was recognized as the outstanding associate of the Arkansas Agricultural Aviation Association 2012. I have trained pilots to make aerial chemical applications to control a variety of pests and disperse oceanic oil spills nationally and internationally. I have designed several pesticide mix and loading containment facilities. I hold an Arkansas Research and Development pesticide applicators license and have held a commercial pesticide applicators license and actively flown agricultural aircraft.

My professional associations include Professional Aerial Applicator Support System (PAASS), (content committee member and past presenter- 17 years), Arkansas Council for Engineering and Related Sciences,

American Society of Agricultural and Biological Engineers (ASABE) member—active on chemical application subcommittees. I am a member and past chairman of the Arkansas Biological and Agricultural Engineering Academy. Arkansas Section ASABE representative 1995-2010; National Agricultural Aviation Association (member Board of Directors, Research & Technology, Research & Education Foundation, Federal Air and Safety Regulations); American Association of Pesticide Control Officials (past chair Drift Management Sub-committee). I have served as technical chair for the National Coalition on Drift Mitigation. The University of Arkansas Engineering College named me Outstanding Engineering Alumnus.

I have investigated over 200 drift episodes. I have qualified as an expert witness on the subject of aerial chemical applications approximately 50 times. I have conducted application technology and drift mitigation seminars for all sorts of professional application technology and regulatory groups. I conduct an average of 35 characterization clinics each year where agricultural aircraft and helicopters are dynamically evaluated and tweaked for optimum application efficiency and environmental stewardship.

I have reviewed the following materials provided by counsel relative to this case:

Depositions and exhibits and the following files:

1. Plaintiff's Expert Material
CERTIFICATE OF SERVICE.pdf
Garcia v. Curless No. 20-03322 (C.D. Ill.) Expert Report of Dr. Ken Giles (2025-01-15).pdf
Garcia v. Curless, No. 20-03322 (C.D. Ill.) — Expert Report of Dr. Kenneth Rosenman (2025-01-15).pdf
2. Pleadings
Amended Complaint (3.19.21).pdf
Farm Air and Curless Answer to Am Compl.pdf
3. Plaintiff's Production
P000001 - P000085.pdf
P000123.mov
4. Deposition Transcripts
Depositions of Plaintiffs
Adrian Perez
Alberto Montalvo Jr
Alberto Montalvo Sr
Anahi Perez
Carreon Lidianelly 09.27.24
Consuelo Perez
David Carreon
Ediel Tanguma
Hada Garcia
Jennifer Zuniga
Jesus Zuniga Jr
Jesus Zuniga, Sr
Jose Zuniga
Joseph Curless
Luis Sifuentes
Maria Zuniga
Mario Gonzalez
Miguel Sifuentes
Ramon Hernandez Jr
Sasha Valdez
Screenshot 2025-02-03 at 10.39.05 AM
Yadira Zuniga

Application Setup/Operating Criteria taken from records provided:

- Pilot – Michael Ewing "Hammer"
- Air Tractor 802A – Registration number N3082V
- Nozzles – CP11TT – 4020 orifice (55 total) at ~ 35-45 psi
- Nozzle deflection angle relative to airstream 0 degrees
- Boom length ~ 42ft (70% of wingspan)
- Application date/time – August 5, 2015 (14:14-14:30) Moo Maw and (14:30-14:37) Maxwell – GMT 5 West
- Application target rate 1.76 gallons per acre – total mixed volume
- Application pattern flights E-W Racetrack Moo Maw and N-S Racetrack Maxwell
- Swath width 90 feet
- Wind speed – 8 mph from 247 degree
- Temperature 86F – RH 52%
- Smoke was utilized from the aircraft throughout the application to confirm direction and wind speed.
- Chemicals utilized per acre:
    - Avaris 10.5 oz (azoxystrobin + propiconazole)
    - Coron 1gallon (25-0-0-0.5B)
    - Sultrus 1.6 oz (cyfluthrin + cyano)

Observations/Opinions – Curless Flying Service, Inc (CFS)

Regulations

- Agricultural spray operations are regulated by the Federal Aviation Administration (FAA) regulations 14 CFR Part 91, General Operating Guidelines and 14 CFR Part 137, Agricultural Aircraft Operations.
- Facts presented indicate that Mr. Ewing was a properly certificated and very experienced agricultural aviator.
- There were no facts presented in the data I have reviewed to date to indicate any infraction of the FAA regulations. There were certainly no facts presented to indicate any FAA enforcement actions relative to this case.
- The facts presented indicate that these applications were flown safely in compliance with all the regulations.

Aircraft spray system

- Diaphragm check valves utilized on aircraft are designed to shut off the flow as soon as the pressure is reduced when the pilot closes the spray handle.
- The closure is done when the valve seat is pressed down against a seat by a spring in the upper portion of the check valve.
- There are several different design styles utilized on aircraft, but all work by the same principal. The attached diaphragm lifts the plunger from that seat as pressure develops when the spray valve is opened by the operator once reaching the desired application area.
- The spring mechanism provides an instant shutoff and aircraft flow systems have an additional safety feature to assure that the nozzle is positively shut off when the spray valve is closed – which creates a negative pressure or suction in the system – sucking the diaphragm down against the outflow seat.
- When the spray valve is open, a portion of the flow from the pump is directed to the boom and the nozzles at the desired rate – which is preset by the pilot or an onboard control system.
- When the spray valve is closed, the flow doesn't stop but is redirected back to the hopper through a venturi. As flow goes through this venturi a negative pressure or suction developed in the restrictor portion is redirected to the boom and all nozzles providing a very positive means of assuring that no nozzle leaks during flight any time the pump is running.
- Almost all spray pumps are turned by airspeed currents flowing over them as the aircraft moves along. Pumps are of the centrifugal design and flow may be controlled by the design of the system. The most common is to redirect this flow back to the hopper and generate a negative pressure in the boom anytime the spray valve is closed – either by the operator or the onboard electronic controls.
- The spring pressure in the check valve and the suction provided by the suck back venturi assure that no material may leak from an aircraft during any portion of the ferry or turn around operations.
- The system pressure is visible to the pilot to help with calibration but also to show that the

suck back system is functioning properly. Pilots may also sense a slight break in the sealed system when the boom is charged with spray if air has been drawn in.
- Any small pieces of debris that get into the system tends to migrate to the outboard sections of the boom. Any potential leaks in this area would be quite visible to the pilot.

Weather conditions

- Mr. Ewings' application log indicates the winds were from 247 degrees at 8 mph. This wind speed and direction would have carried any released spray in the opposite of the plaintiff's location(s).
- Mr. Ewing testified that he utilized smoke several times to monitor direction and speed. He also stated that the winds were from Southwest to Northeast at 8 miles per hour and upward. *(Ewing 110 and 192)*
- The GPS .log file shows upwind and downwind ground speeds. Increases in ground speeds flying East and North throughout the application window support the recorded wind data.
- Winds blowing away from the plaintiff's field provide an excellent mitigation tool to ensure an excellent safety margin. A buffer of ¼ mile from the application site with winds blowing in the opposite direction would provide an excellent standard of care.
- Applications made with the existing weather with winds blowing away from the plaintiff's field show excellent judgement by Mr. Ewing.

Operating procedures

Field scouting

- The most common industry practice is for aerial applicators to receive job locations is in the form of a dropped pin, shape file, coordinates, and/or a printed map.
- Pilots are encouraged to adequately survey the field and surrounding area for obstructions, sensitive sites and people.
- Pilots typically make one or more passes over the application site to help plan the best way to fly the field and assess any possible hazards.
- Mr. Ewing did make a survey pass of the field and area prior to making the first spray pass.
- Mr. Ewing saw the workers in the field and decided their presence would not be a safety issue.

Flight patterns

- Flight patterns included gradual turns over the field where plaintiffs were located. Mid turn altitudes were approximately 400 feet or greater based on the GPS .log file.
- The safest turns are generally smooth and coordinated; they do not use up all your energy (airspeed), and they do not put the aircraft into an unsafe attitude.[1]When possible, with fixed wing aircraft, use patterns that allow for a wide turn such as a racetrack pattern. These types of turns are easier on the aircraft and the pilot.

Chemical Analysis

[1] NAAA Professional Operating Guidelines

- Plaintiffs did not do any due diligence to support claims of being sprayed. None of the clothes with exception on one individual's hat were examined for residue.
- This chemical analysis of that hat showed fungicide residue. This is not surprising with analysis of a person that spends a good deal of time in an area where almost every acre of corn is treated with fungicides. Studies indicate that persons working with, or around agricultural chemicals touch several parts of their clothing or body frequently – ie. nose, pockets, crotch, and head gear/hats.
- No insecticide from Mr. Ewings application was detected. Not all products are applied at the same volume. Volume is not an indication of relative toxicity. These products were applied at label recommended dosages.
- The facts presented would support that there was no material analyzed that had the tank mixture from Mr. Ewing's applications.
- Off target movement of pesticides are typically heavier near the application site but no facts were presented to support that premise.

Conclusions

The applications made by CFS were done professionally with an excellent standard of care. Applicators are contracted to apply agricultural pesticides accurately to enhance production outputs. The files reviewed indicate that CFS applied pesticides following best management practices and standards common within the industry.

The facts presented do not support the allegation(s) that CFS allowed any pesticides to be released over the plaintiff's field.

The opinions expressed in this report are based on the information available to date. These opinions are summary in nature and are not intended to be exhaustive. If additional information becomes available, further analysis may be warranted and a supplemental report may be prepared. If called to testify at deposition or trial, I may use demonstrative exhibits to summarize or support the opinions in this report. In additional to the materials cited above, these exhibits may include photographs, product labels, and other relevant information to visually convey the opinions expressed in this report. Thank you for the opportunity to review this case.

Dennis R. Gardisser

Dennis R. Gardisser, PhD
WRK of Arkansas LLC
153 92nd W
Lonoke, AR 72086
dgardisser@icloud.com
(501) 676-1762

March 3, 2025

12332

U.S. Department Labor
Employment and Training Administration

OMB Approval No 1205-0039
Expiration Date. April 30. 2015

DEFENDANT'S EXHIBIT
K

One Stop Career Center (OSCC) Complaint/Referral Record

For OSCC Use Only

Complaint No	Date Received
	8/7/2019

Part I. Complainant's Information	Respondent's Information
1. Name of Complainant (Last, First, Middle Initial) Migrant and Seasonal Farmworkers (Multiple Individuals)	4. Name of Person Complaint Made Against Corteva; FLC: Fidencio Salinas, Armina(?) Salinas, Fidencio Salinas Jr.
2a. Permanent Address (No., St., City, State, ZIP Code) Various locations in the United States.	5. Name of Employer/OSCC Office Corteva; FLC: Fidencio Salinas, Armina(?) Salinas, Fidencio Salinas Jr.
b. Temporary Address (if Appropriate) WoodSpring Suites, 1212 W. Anthony Dr.,Champaign, IL 61822 Candlewood Suites 1917 Moreland Blvd., Champaign, IL 61822	6. Address of Employer/OSCC Office Corteva (Pioneer) 2112 County Rd 1600 N, St. Joseph, IL 61873

3a. Permanent Telephone	b. Temporary Telephone	7. Telephone Number of Employer/OSCC Office
( ) -	( ) -	(217) 469 - 7000

8. Description of Complaint (If additional space is needed, use separate sheet(s) of paper and attach to this form)

Corteva (Pioneer) – St. Joseph, IL
Incident occurring 8/5/2019 around 2:00 to 2:30 pm
FLC: Fidencio Salinas Sr, Armina (?) Salinas, and Fidencio Salinas Jr.
As reported by 25 workers on 8/7/2019 at IL Dept of Employment Security, Champaign Local Office @ 5:30pm – 9:00 pm:

- Airplane spraying pesticides while they were working in the field.
- Approximately 40 workers were in that field during that time, according to some of the workers (might have been more).
- Yellow buses were parked on one end of the field and trucks with portable bathrooms were parked at the other end f the field.
- Yellow airplane flew overhead, above the workers 2-3 times and sprayed workers with pesticide.
- The first time, workers reported seeing a mist falling over them. The workers stated the mist was not smoke as it did not remain suspended in the air as a cloud. Instead it was a liquid substance that fell on them. Some were drenched completely in the liquid/mist.
- Ran out of the field and some stated an airhorn was heard by some of them, others followed the lead of the other workers and ran out of the field.
- Stood outside the field about 5 mins, then 2 White Males asked them if they were okay and ordered them back in immediately.
- About 5 minutes later. workers were sprayed with pesticide again by the yellow plane and they ran out of the field again.
- During the first and/or second time, workers began experiencing tight throat, difficu ty breathing, redness/inflammation on their skin and around their lips. Rashes on skin.
- A burning sensation and numbness on the skin of workers that were drenched in the pesticide.
- Corteva (Pioneer) stated to the workers at that time that they did not know what kind of pesticide it was.
- One worker stated her son's skin split open (on forearm?) and began to bleed.
- Eyewash station or emergency shower was not on site. Only portable bathroom was available, and it was extremely dirty and insufficient water for all workers to wash themselves. 4 bathrooms, 1 for men and 1 for women in each truck. Toilet paper is not readily available and rarely if ever cleaned.
- Workers were told to throw their work clothes into a garbage bag for disposal. One worker kept his clothes to show the amount of pesticide that was sprayed on him.
- Approximately 12 workers were sent to the hospital. Some to OSF Hospital and some to Carle Hospital.
- Some workers were sent to company clinic and were seen by the company nurse.
- Safety Manager "Dylan" (Approximate name) and Corteva White Male from Corporate was present at the OSF Hospital where some workers were taken.
- Safety Manager "Dylan" told workers at the hospital and other instance that it was not pesticide and it would be recorded as "No Chemical Exposure"
- "Dylan" and/or another other Corteva Employee was seen by workers arguing with hospital staff about discharging workers as quickly as possible with a non work related diagnosis so worker's compensation would not apply.
- Pioneer told them they would not pay any hospital costs because it was not work related and the cost would fall on the individual workers.
- "Dylan" told the workers that it was not pesticide that was over the field but leftover smoke from the plane.
- Workers were individually sent to a room to speak to staff member from the hospital, possibly a nurse, to sign a form (possibly a medical release form).

Certification I CERTIFY that the information furnished is true and accurately stated to the best of my knowledge. I AUTHORIZE the disclosure of this information to other enforcement agencies for the proper investigation of my complaint. I UNDERSTAND that my identity will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of my complaint.

9. Signature of Complainant	10. Date Signed
[redacted]	8/8/2019

Part II. For OSCC Use Only

On Behalf of MSFW who wish to remain anonymous.

ETA 8429
Revised 04/16/2012
Expiration Date: 04/30/2015

U.S. Department Labor
Employment and Training Administration

OMB Approval No. 1205-0039
Expiration Date: April 30, 2015

One Stop Career Center (OSCC) Complaint/Referral Record

For OSCC Use Only

Complaint No.	Date Received
	8/7/2019

Part I. Complainant's Information	Respondent's Information
1. Name of Complainant (Last, First, Middle Initial) Migrant and Seasonal Farmworkers (Multiple Individuals)	4. Name of Person Complaint Made Against Corteva; FLC: Fidencio Salinas, Armina(?) Salinas, Fidencio Salinas Jr.
2a. Permanent Address (No., St., City, State, ZIP Code) Various locations in the United States.	5. Name of Employer/OSCC Office Corteva; FLC: Fidencio Salinas, Armina(?) Salinas, Fidencio Salinas Jr.
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3a. Permanent Telephone	b. Temporary Telephone	7. Telephone Number of Employer/OSCC Office
( ) -	( ) -	(217) 469 - 7000

8. Description of Complaint (If additional space is needed use separate sheet(s) of paper and attach to this form)

- During those conversations, a Corteva "Translator" was in the room. Workers stated the person's name was "Maria" (approximate name). This individual supposedly was meant to translate for the workers. However, the fluent English speaking workers reported that "Maria" stayed in the room, even when she was not needed and mistranslated the answers from the workers or added comments that favored the company, understating the physical effects that the workers were feeling.
- Some workers were only looked at briefly by a doctor and/or nurse and told they were okay to go home. Others had bloodwork done.
- Once workers arrived at home, some of them began experiencing symptoms such as vomiting, headaches, rough feeling in their throat, tightening in their throat, skin turning red, dizziness, extreme thirst, irritation around their eyes and mouth, lack of breath, (one worker was recorded foaming at the mouth).
- Some workers decided to return to the emergency room due to the symptoms stated above.
- Some workers did not return to work the next day because they were experiencing some or all of the symptoms stated above and/or fear of being fired.

~

- Worker's recalled another incident about a month ago (approximately early July) where a helicopter also sprayed an adjacent field to where they were working at.

~

U.S. DOL Wage and Hour:

- Workers stated they are being deducted hours on their paycheck for using the bathroom, drinking water or taking their designated break.
- Workers stated they are given 1 or 2 five minute breaks over a 12 hour or more workday.
- Workers state they are given approximately 15 minutes to eat and not always at the midpoint of their workday.
- Workers state they are sometimes forced to eat their lunch on the bus on the way to other fields which can be early in the shift or late into their shift.
- Workers state their hours are not recorded. They do not punch a time card or sign in.

Certification I CERTIFY that the information furnished is true and accurately stated to the best of my knowledge. I AUTHORIZE the disclosure of this information to other enforcement agencies for the proper investigation of my complaint. I UNDERSTAND that my identity will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of my complaint.

9. Signature of Complainant	10. Date Signed
	/ /

Part II. For OSCC Use Only

1. Migrant or Seasonal Farmworker? [X] Yes [ ] No

2. Type of Complaint ("X" Appropriate Box(es))
- [ ] Job Service Related Job Order No ___
  - [ ] Against Job Service
  - [X] Against Employer
  - [ ] Alleged Violation of WIA Regulations
  - [X] Alleged Violation of Employment Law(s)
- [ ] Non-Job Service Related

3. If non-Job Service-related, does Complaint concern laws enforced by Wage and Hour Division (formerly called the Employment Standards Administration) U.S. D.O.L. WHD or OSHA? [X] Yes [ ] No

4. Kind of complaint ("X" Appropriate Box(es))
- [X] Wage Related
- [ ] Child Labor
- [X] Working Conditions
- [X] Migrant and Seasonal Agricultural Worker Protection Act (MSPA)
- [ ] Housing
- [X] Pesticides
- [X] Health/Safety
- [ ] Disability Discrimination
- [ ] Discrimination*
- [ ] Other (Specify) ____

5. H-2a/Criteria Employer
- [X] U.S./Domestic Worker
- [ ] H-2a Worker
- [X] Wages
- [ ] Transportation
- [ ] Meals
- [ ] Housing
- [ ] Other ____

6. *For DISCRIMINATION COMPLAINTS ONLY Persons wishing to file complaints of discrimination may file either with the State Workforce Agency or with the Directorate of Civil Rights (DCR), U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, D.C. 20210

7a. Referrals To Other Agencies ("X" one)
- [X] WHD, U.S. DOL [X] OSHA U.S. D.O.L.
- [ ] Other ____

b. Follow-Up ("X" one) [ ] Yes [ ] No | [ ] Monthly [ ] Quarterly

c. Follow-up Date 1 1

8 Address of Referral Agency (No., St., City, State, ZIP Code and Telephone No.)
U.S. DOL WHD - Jim Vochim & OSHA at Peoria, IL - OSHAPeoria@dol.gov

9. Comments (If additional space is needed, use separate sheet of paper) Provide OSCC Services? [ ] Yes [ ] No If "No", explain.

Complaint resolved? Pending further investigations [ ] Yes [X] No If "No", explain.

10a. Name and Title of Person Receiving Complaint: Edgar Revuelta - State Monitor Advocate.

b. Phone No. ( ) - (217) 278-5724

11. Office Address (No., St., City, State, ZIP Code): 1307 N. Mattis Ave, Champaign, IL 61821

12a. Signature [redacted]

b. Date 8/8/2019

Public Burden Statement

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Obligation to reply is required to obtain or retain benefits (44 USC 5301). Public reporting burden for this collection is estimated to average 8 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.

ETA 8429
Revised May 2012
Expiration Date: 12/31/2018

Electronic Filing: Received, Clerk's Office 01/16/2026

SPECIAL ASSIGNMENT REPORT

DEFENDANT'S EXHIBIT

L

From:	Rick Davis
Case Number:	12332
Date:	8/13/19
Subject Name:	Julie A. Pryde 201 W. Kenyon Road Champaign, IL 61821 Cell-217-202-0657

Location: 40.205532 -88.677616 damage: possible exposure

I spoke with Julie on 8/6/19. Julie had received a report from local hospitals of possible human exposure to pesticide from an aerial application on 8/5/19 around 3:45pm. I spoke with her and she stated the workers belong to Pioneer of St. Joseph.

I met with Brandon Gillen of Pioneer/Corteva of St. Joseph on 8/7/19. He acknowledged some of their workers went to the hospital after work complaining of pesticide exposure. He stated that on 8/5/19 a plane had circled over the top of some of their workers. Brandon stated that his supervisors reported that the application was taking place to a field located ¼ to ½ mile to the east of where the crew was working and that the plane was making turns over the top of the crew. Brandon stated that none of the supervisors reported feeling any spray land on them and that only about 14 of 90 workers in the field believed they were sprayed on and went to hospital. Brandon stated that winds that day were from the southwest blowing away from the crew. Brandon submitted a map (sample 08) locating the field where the workers were and the field being sprayed.

I met with Jacob Wantland, Corteva supervisor in the field during the incident, He stated he did not believe the plane was spraying over the top of him. He witnessed a plane flying over the top of the crew. He stated that as a matter of policy, Corteva requires all work crew to vacate the field when crop dusting is taking place within 1 mile of their work site. He had ordered the crew out of the field as soon as the plane flew over them. The crew was to assemble at the bus's and to remain there for evaluation. He stated that after the crew had assembled at the bus's they did not remain and left the field to return to their hotel rooms. It was after they had returned to the hotel that 14 of the crew started going to the hospital. I have requested the hospital findings from Corteva but have not received any as of yet.

According to Brandon, the workers were assessed and released back to work with no findings of pesticide exposure.

I met with Pete Dunn, Corteva supervisor on 8/8/19. He was sitting at the northeast corner of the field and witnessed the entire application being made. Pete stated he could see when the plane

would turn the spray boom on and off over the field of application. He said he watched the boom being turned off as it left the field being treated, then make its turn over the crew, go east towards the field it was treating and saw the boom being turned on. Pete stated that he never saw the plane's boom turned on while over the work crew.

I met with Fedencio Salinas, crew supervisor. He was in the field when the plane flew over them. He claims he could smell something strange when the plane flew over and believed it to be pesticide. I collected his hat and submitted to our lab for pesticide residue analysis. Fedencio stated he did not go to hospital.

I spoke with Bobby Birkenstaff of *Curless Flying Service* on 8/7/19. He acknowledged his company made the application to a field east of the Corteva de-tasseling crew. He submitted spray records via email.

I asked Cathy Ward to go to *Curless Flying Service* to inspect the plane for proper maintenance, specifically to look in the nozzle bodies for debris that might have prevented the check valves from working properly. She did not find any debris inside the nozzle bodies.

Preponderance of evidence so far is that the workers were not sprayed on and the case will hinge on the lab test.

Moss, Suzanne

From: Davis, Rick T
Sent: Thursday, October 24, 2019 9:57 AM
To: Moss, Suzanne; Beaver, Brad
Subject: Corteva case
Attachments: Field Application Template 09-14-2019 07-28 AM.pdf

DEFENDANT'S EXHIBIT
M

Two of the active ingredients found on sample were also used by Corteva. Attached is list of products used by Corteva in the corn fields.

Miravis Neo contains azoxystrobin

Trivapro contains Azoxystrobin and Propiconazole

Cyfluthrin was not used by Corteva.

Rick Davis | Plant and Pesticide Specialist
Illinois Department of Agriculture

Bureau of Environmental Programs
John R. Block Building | 801 E. Sangamon, P.O. Box 19281 | Springfield, IL 62794 - 9281
(c) 217-549-0363

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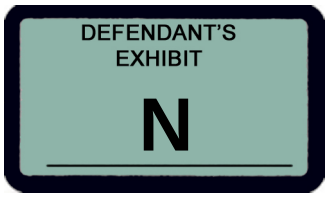
Electronic Filing: Received, Clerk's Office 01/16/2026

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION



HADA GARCIA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	3:20-cv-3322-
PIONEER HI-BRED INTERNATIONAL, INC., CORTEVA, INC., RAS AVIATION, LLC, FARM AIR, INC., and CURLESS FLYING SERVICE, INC.	)	STEM-TSH
	)	
Defendants.	)	

THE DISCOVERY DEPOSITION VIA ZOOM OF
CONSUELO PEREZ
August 30, 2024
9:00 A.M.

Called as a witness by the Defendants herein, pursuant to the provisions of the Federal Rules of Civil Procedure pertaining to the taking of depositions for the purpose of discovery, before GLORIA APOSTOLOS SIOLIDIS, C.S.R. License #084-001205, duly qualified and commissioned for the State of Illinois.

PRESENT:

LEGAL AID CHICAGO, by
MS. MARGARET O`CONNOR
120 South LaSalle Street
Suite 900
Chicago, IL 60603
moconnor@legalaidchicago.org

appeared on behalf of the Plaintiff.

TRESSLER, LLP, by
MS. JENNIFER A. DANCY
233 South Wacker Drive
61st Floor
Chicago, IL 60606
jdancy@tresslerllp.com
appeared on behalf of the Defendants.

I N D E X

WITNESS: CONSUELO PEREZ

	Page No.
EXAMINATION BY:	
MS. DANCY	4

THE COURT REPORTER: Raise your right hand, please.

(The oath was thereupon duly administered to the Interpreter by the Notary.)

(The oath was thereupon duly administered to the witness through the Interpreter.)

MS. DANCY: Good morning.

Please let the record reflect that this is the discovery deposition of Consuelo Perez, taken pursuant to Notice and agreement of parties.

CONSUELO PEREZ,

Called as a witness by the Defendants herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

By: Ms. Dancy

Q Good morning. My name is Jennifer Dancy, and I represent the defendants Curless and Farm Air.

A Good morning. My name is Consuelo Perez. Pleasure.

Q Thank you.

Can you please state your full name and spell it for the record?

A Yes. My name is Consuelo Diana Perez. C-o-n-s-u-e-l-o D-i-a-n-a P-e-r-e-z.

Q Thank you, Miss Perez.

We're here this morning to ask you a few questions about an incident that allegedly occurred back on August 5th of 2019.

A Yes. Good morning.

Q Okay. Before we get started, where are you currently sitting this morning?

A In a library.

Q In what state are you currently located?

A The state of Wisconsin.

Q And who is located in the room with you today while you present your testimony?

A My attorney, Maggie.

Q And before we get into your deposition, I'll go over a few ground rules, okay?

A Yes, very well.

Q You understand that you are under oath this morning as if you were testifying live in court?
A I do understand.
Q Have you ever given a deposition before today?
A No.
Q If for any reason you do not understand a question that I have asked of you, you can ask me to rephrase the question. Does that make sense?
A Yes. Yes, I do understand.
Q And please do your best to answer the questions verbally, rather than shaking your head or nodding your head. Does that make sense?
A Yes.
Q And you understand that we have a court reporter who is taking everything down that you and I both say, and we also are using an Interpreter as well for this deposition?
A Yes, I understand.
Q Okay. And you're doing a great job so

far, and I will also try my best of not speaking over one another. Does that make sense?
A Yes, very well.
Q If at any point you need to take a break throughout the time of your deposition, just let me know and I'll just ask you to finish the question that we are on and then we can certainly take a break. Does that also make sense?
A Yes, very well, thank you.
Q With that being said, is there any reason that you are not able to be honest and truthful in your deposition testimony this morning?
A No.
Q Are you under the influence of anything that would impact your ability to testify at your deposition this morning?
A No.
Q Have you consumed any prescription medication or over-the-counter medication in the past 24 hours?
A No, I have not taken anything.

Q Okay. Just to avoid confusion, throughout the course of your deposition, I will be referring to the August 5th event. Does that make sense if I refer to the August 5th event as the event that occurred on that day when you were working on August 5th, 2019?
A Yes.
Q I'm going to start with just a few background questions.
Do you go by any other names other than Consuelo?
A Yes.
Q What names do you go by, or what is your nickname that you are commonly referred?
A Deanna.
Q And what is your date of birth?
A December 26th, 1981.
Q Are you currently married?
A Yes.
Q And to whom are you married?
A With Alejandro Perez.
Q And how long have you been married to

Alejandro Perez?
A 25 years.
Q So would it be accurate in saying that you were married to Mr. Alejandro Perez on August 5th of 2019?
A Legally, yes, but we were separated.
Q Was Mr. Perez with you in Texas on August 5th of 2019?
A No.
Q Are you still legally married to Mr. Perez?
A Yes.
Q Are you still separated from Mr. Perez?
A Yes.
Q Do you live in the same house as Mr. Perez?
A No.
Q What is your current home address?
A So it is 123 Water Street, Apartment 100, Berlin, Wisconsin, 54923.
Q And how long have you lived in Wisconsin?
A Three years.

Q Where were you living on August 5th of 2019?
A In Texas.
Q Where in Texas were you living in August of 2019?
A Alton, Texas.
Q And why did you move to Wisconsin from Texas?
A Better work, better jobs.
Q Who lived with you in your home in 2019 when you lived in Texas?
A My five children.
Q And do you only have five children? So is that all of your children?
A Yes.
Q What are the names and ages of your children?
MS. O'CONNOR: Excuse me, Jenny. There's a minor under the age of 18 that I'd like to go off the record for.
MS. DANCY: Sure.
THE WITNESS: So my oldest is Alejandra Perez. She's 23 years old. The second is A-d-r-i-a-n, Adrian Perez, 22.

Anai, A-n-a-i Perez, 20. Alejandro Perez, Jr. 19.
MS. O'CONNOR: And also Anahi is A-n-a-h-i.
THE INTERPRETER: Thank you.
MS. DANCY: And the minor?
(There was a discussion held off the record, after which the deposition resumed as follows:)
MS. DANCY: Okay. We can go back on the record now. Thank you.
BY MS. DANCY:
Q Do any of your -- I need to rephrase that question.
Does your minor child still live with you, or has she moved out?
A She still lives with me.
Q Okay. Do any of your other children live with you at this time in Wisconsin?
A Yes.
Q Okay. Which children besides your daughter who's a minor live with you in Wisconsin?
A Adrain, Anahi and Alejandro.

Q So your daughter Alejandra, she does not live with you currently in Wisconsin?
A She does live in Wisconsin, but she does not live in my house, in the same house.
Q Okay. Were any of your children with you in Texas on August 5th of 2019?
A I was not in Texas on that date. I was in Illinois working.
Q So you were not -- I'm sorry. Were any of your children with you in Illinois on August 5th of 2019?
A Yes.
Q Which one of your five children, or explain to me who was with you in Illinois out of your family members?
A Yes, four of my children were.
Q Which of your four children were with you?
A Alejandra, Adrain, Anahi and Alejandro.
Q Do you currently have a primary care physician?
A Yes.

Q Who is your current primary care physician?
A Dr. Javier Rincon. So that would be J-a-v-i-e-r R-i-n-c-o-n.
Q And I'm assuming that he is located near where you currently live in Wisconsin?
A Yes.
Q Did you have a primary care doctor when you lived in Texas?
A Yes.
Q Do you remember the name of your primary care doctor when you lived in Texas?
A Yes.
Q And who was your primary care doctor in Texas?
A Dr. Rodriguez. So Rodriguez.
Q And is Dr. Rodriguez's office near where you lived in Alton, Texas?
A Yes.
Q Do you currently have health insurance?
A Yes.
Q Do you know who your mental health

insurance is through currently?
A You mean the name of the insurance company? Is that what you're asking me?
Q Yes.
A United Healthcare, I believe.
Q And did you have United Healthcare back in 2019 as well?
A No.
Q Did you have healthcare insurance in 2019?
A No.
Q Do you wear any type of eyeglasses or eye contacts?
A No.
Q Okay. With reference to the August 5th, 2019 event, you were living in a hotel in Illinois; is that correct?
A Yes.
Q How did you get from Texas to Illinois?
A I traveled in my car.
Q Did you drive your children, or did they drive separately?
A I drove with my children.

Q And you were working for Pioneer?
A Yes.
Q How did you learn about the job with Pioneer?
A So I heard through another person about the available work. And so also, my son, Adrain, wanted to work because he wanted to go to college, too. So they said that if you can become a migrant, that could help him to attend college.
Q Was this the first time you had ever worked for Pioneer, or had you worked for them in years prior to 2019.
MS. O'CONNOR: Sorry, Jenny. Can we take just a quick second?
MS. DANCY: Sure.
MR. MADSEN: She said I had already worked for them also.
MS. DANCY: Okay.
MS. O'CONNOR: Thank you.
(There was a break taken, after which the deposition was resumed as follows:)

BY MS. DANCY:
Q I believe the last question I asked was if you had worked for Pioneer prior to 2019?
A Yes.
Q And for how long had you worked for Pioneer prior to 2019?
A I think I was two months, if I remember correctly.
Q Okay. Let me rephrase this.
Was 2019 the first season that you worked for Pioneer?
A No.
Q How many other seasons before 2019 had you worked for Pioneer?
A One season.
Q So would that have been the season in 2018?
A I think so.
Q So the year before, the summer before, did you also work for Pioneer?
A I think so. I cannot recall well if it was 2017 or 2018, but it was one of those two years.

Q And did you have a similar job in the year prior that you worked with Pioneer?
A Yes.
Q And describe for me what your job was with Pioneer.
A So it was the corn plant. It was the part of the plant that they had to remove from the corn.
Q And did you primarily work with corn, or did you always work with -- did you always work with corn, or were there other plants that you worked with while you were in employed for Pioneer?
A So only with the plant with the espiga.
THE INTERPRETER: Interpreter is not quite sure what the espiga means as part of a corn. I imagine maybe perhaps the blonde strings that come through the top.
THE WITNESS: The detasseling.
BY MS. DANCY:
Q Would Pioneer tell you which field to work in?
A Yes.

Q Were there ever times when you were not allowed to enter particular fields?
A Yes.
Q How did you know when a field had been recently sprayed by Pioneer?
A They would let us know.
Q So Pioneer was responsible for telling the workers which field had been sprayed?
A So yeah, they would give us instructions about which field to enter.
Q Did you ever work through bean fields, or work in bean fields?
A Yes.
Q And when you walked through the bean fields, were those the farms that were next to the corn fields?
A I'm not quite sure if they were separate fields.
Q And were you paid by the Farmers who owned those fields?
A Yes.
Q And would they pay you cash for walking through their fields?
A I don't recall.

Q Okay. Before you worked for Pioneer in 2017 or 2018, where else did you work?
A So I worked in a cafeteria of a school in Mission, Texas.
Q And do you recall what years you worked for the cafeteria in the school?
A Yes.
Q What years did you work there?
A I worked for several years.
Q And which years were they that you worked there?
A So I worked from 2012, `13, `14, `15, `16, `17, `18 and `19, 2019.
Q And was this a full-time job at the cafeteria, at the school cafeteria?
A So I worked only while school was in session, but not in the summer vacations, during summer vacations.
Q So when school was in session, was it a full-time job?
A Yes.
Q Do you recall what your salary was in 2019, the school year that ended in 2019?
A $9.75, as I believe.

Q Would that be $9.75, was that an hourly position?
A Yes.
Q So you were earning $9.75 an hour in 2019?
A Yes.
Q During the summer months before you worked at Pioneer, did you have a job that you would work at during the summer?
THE INTERPRETER: I'm sorry, can you repeat that question, counsel?
BY MS. DANCY:
Q Sure. Before you worked at Pioneer, did you have a job during the summer months?
A Yes.
Q And where did you work during those summer months before Pioneer?
A At McDonald's.
Q And what was your job at McDonald's?
A Cleaning.
Q Do you recall how many summers you had worked at McDonald's?
A About three.

Q And these were the summers before you worked at Pioneer?
A Yes.
Q Do you recall what your salary was when you worked at McDonald's during the summer?
A $8.50.
Q Now, when you went to Pioneer, did you miss time from work in the summer of 2019?
A So I asked to miss it. So I asked to not work.
Q Okay. You asked to miss how long from work?
A For two months.
Q And what months did you miss from Pioneer, do you recall?
A No, I don't remember.
Q Did you return back to work after August 5th of 2019?
A Yes.
Q And when you indicated you asked to miss work, why did you ask to not return?
A Because I told them because I had an opportunity to work at another -- to labor

at another state to help my son go to college.
Q Okay. So you already had a different opportunity for a better job?
A So I don't understand the question.
THE INTERPRETER: And the interpreter too. Was it a statement, or was it a question?
BY MS. DANCY:
Q I'll ask it again.
Did you leave Pioneer because you had a better opportunity for a different job?
A I did not ask permission from Pioneer to go to another job.
Q But you left Pioneer for a different job that was a better opportunity; is that correct?
A No.
Q Okay. So I'm not understanding what you mentioned earlier. Can you please explain to me what you meant by when you left earlier for a different job?
MS. O'CONNOR: Objection.

THE WITNESS: I asked permission from McDonald's to go to another state so my son could go to college.
BY MS. DANCY:
Q Okay. So you were leaving McDonald's to go to Pioneer and Pioneer was the better job?
A Yes. I asked permission because my son was informed that if he became a migrant working in this other state, he would have benefits in college. So that is the reason why I did that.
Q Okay. Thank you for clarifying that.
A It's nothing.
Q So you completed the season in 2019, correct, with Pioneer?
A Yes.
Q And after the season ended in 2019, did you return back to your job in Mission at the school cafeteria?
A Yes.
Q And at some point you moved to Wisconsin. What are you doing currently to earn a living?

A I work in a company.
Q What company do you currently work for?
A Alliance Laundry Systems.
Q And what do you do for Alliance Laundry Systems?
A So I work on the assembly line. We make carts for washers and dryers.
Q And is this a full-time job at Alliance Laundry Systems?
A Yes.
Q And what do you earn for a salary at Alliance Laundry Systems?
A So weekly, if I don't have any overtime, $700.00 that I take home.
Q And do you frequently have over time?
A No.
Q Have you worked for Pioneer since 2019?
A No.
Q Have you worked in any other agricultural industry doing migrant working in fields since 2019?
MS. O'CONNOR: Objection, form.

THE WITNESS: Yes.
BY MS. DANCY:
Q Where else have you worked doing similar type of work since 2019?
A I do not recall well. I know it's in Illinois.
Q And what years did you do this type of work?
A If I recall, it was the year 2021 only.
Q Do you recall the name of the company that you worked for in 2021?
A No, I don't remember.
Q Do you remember what type of crop you were working with?
A It was also with corn, but it was not the same kind of work that I did with the other company.
Q How was the type of work different that you did in 2021 compared to what you did with Pioneer?
A Okay. So the difference was that in Pioneer we worked with the young corn. The plant was still young. So the espiga,

that's what we would work with. In this other company we worked, it already had the corn. It was fruited had. And so then we would just bag it.
Q And do you recall about how long you worked with this other company for in 2021?
A No.
Q And was this before you started your job at Alliance Laundry Systems?
A Yes.
Q Do you recall when you started your job with Alliance Laundry Systems?
A Yes.
Q And when was that?
A If I recall, September 10th, 2021.
Q Was your last year working for the school system in 2021?
A No.
Q When was your last school year working in the cafeteria?
A 2020.
Q So just so I understand, would that be the end of the school year, May or June of 2020?

A Yes.
Q And after that school year ended in May or June of 2020, did you work anywhere after that before you went to the other place in Illinois?
A I don't remember.
Q Okay. Did your children work with you at the other location that you worked at in 2021?
A Yes.
Q Which of your children worked with you in 2021?
A All five of them.
Q Okay. Now I'm going to transition to questions about specifically August 5th of 2019. Did you have a typical work schedule?
A When?
Q For example, in the mornings, would you have to get to the field at a certain time?
A Yes.
Q And how would you know what time to arrive at the fields on any given day?

A Because we were given transportation, we already knew what time we needed to be waiting outside for that pickup, that pickup time for transportation to the fields.
Q So was the pickup time the same time every day?
A If I recall, sometimes, yes.
Q Okay. Do you recall what time your pickup time was?
A If I recall, it was 4:30 in the morning.
Q Okay. And how would you get from the hotel to the field?
A On a bus.
Q Okay. And if you left your hotel on the bus at 4:30, what time did you arrive at the fields?
A So it all depended on the location of the place where we would be working at, so it all depended on how far that place was.
Q Okay. How long would you work, typically, in a day?

A Eight hours if the job was fine. If not, less.
Q Okay. How did you know when the day was done?
A So the persons that worked for Pioneer, we would call them our bosses, they would let us know.
Q Are there certain procedures that are required of workers before you enter a field?
A So there was a sign indicating which ones we would go into, and there was a sign too on those that we could not go into. They would let us know.
Q When you arrived to the fields, are you wearing personal clothes that belonged to you, or a uniform that was given to you by Pioneer?
MS. O'CONNOR: Objection, form.
THE WITNESS: So our own clothing. They only gave us a cap.
BY MS. DANCY:
Q And on August 5th, do you recall specifically what you were wearing on that

day?
A So I don't recall specifically what I had on, but it would be pants and a longsleeved T-shirt.
Q And you mentioned earlier a hat is provided by Pioneer, correct?
A Yes.
Q Is that something that you would have been wearing on August 5th?
A Yes.
Q Is the hat something that is issued to you by Pioneer at the beginning of the season?
A Yes.
Q And you're only given one hat for the entire season?
A Yes, but if we needed another one, we just needed to ask our boss.
Q You would wear this same hat every day that you would come to the fields, correct?
A Yes.
Q So it's fair to say that you would take your hat home every day and then bring it back to work with you?

A Yes.
Q Did Pioneer issue any other items other than a hat?
A Yes.
Q What other items were you issued by Pioneer?
A Gloves and like the glasses, the safety glasses.
Q And were you wearing gloves and safety glasses on August 5th?
A Yes.
Q And similar to your hat, are these gloves and safety glasses issued at the beginning of the season by Pioneer?
A Yes.
Q And did you ever wash your hat or your gloves while working for Pioneer?
A No.
Q Do all of the workers generally wear the same clothing?
A Yes.
Q On August 5th, did you take the bus to the field on that specific day?
A Yes.

Q And you mentioned earlier that several of your children were there with you. Did they also ride the bus to the field that specific day?
A Two of my children.
Q Which two of your children rode the bus with you to the fields?
A Adrian and Anahi.
Q And your other two children, why did they not ride the bus to the fields on August 5th.
MS. O'CONNOR: Objection, form.
THE WITNESS: That day they did not go to the job because they were not feeling well that day.
BY MS. DANCY:
Q When you rode the bus on that specific day, did you sit next to your children, Adrian and Anahi? Did you sit next to your children on the bus?
A Yes, I sat with them, around them. We always tried to sit together.
Q Do you recall on August 5th how many workers were riding the bus to the field on

that specific day?
A I don't recall specifically how many, but there were quite several. I would say maybe around ten persons.
Q So that would be ten persons in total on the bus that you were on?
A So on the bus that we had to go in that day I recall it being more than ten people. I cannot recall exactly how many, but it was more than ten people.
Q Was there more than one bus on August 5th of 2019?
A Yes.
Q Do you have any recollection of how many busses were going to the fields on August 5th of 2019?
A I don't recall exactly, but I know that it was two or three, more or less.
Q Do you recall what time your day would have ended on August 5th of 2019?
MS. O'CONNOR: Objection, form.
THE WITNESS: So I couldn't understand it so well. So you're asking what time the work ended that day?

BY MS. DANCY:
Q Let me rephrase that question.
Their was a horn that typically would sound to signify the end of the work day, correct?
A Yes.
Q And did you hear that horn sound on August 5th of 2019?
A So I don't recall well if I heard it that day, but they did then take us out of the fields at the end of the day.
Q Okay. Were you working as part of a crew during your time with Pioneer in the 2019 season?
A Yes.
Q Were you part of Fidencio Salinas`s crew?
THE INTERPRETER: Can you repeat that name?
MS. DANCY: Finencio Salinas.
THE WITNESS: Yes.
BY MS. DANCY:
Q Were your children also part of Fidencio Salinas`s crew?

A Yes.
Q And Fidencio Salinas was your crew lead, correct?
A Yes.
Q Did you know Fidencio before working at Pioneer?
A No.
Q Do you have an opinion of Fidencio?
MS. O'CONNOR: Objection.
THE WITNESS: What do you mean about an opinion? What about his person?
BY MS. DANCY:
Q Do you have a personal opinion about Mr. Salinas?
A Well, all I could say about him is that he was a good person.
Q Would you work with Mr. Salinas again as part of his crew?
A Yes.
Q Do you recall the weather on August 5th of 2019?
A I don't recall well. I think it was hot.
Q To the best of your recollection, what

do you recall about the incident that occurred on August 5th of 2019?
A So that day we were working in the fields. I remember a lot of movement.
My daughter had been working in my portion as well, but she finished before me and she left. So I don't recall a lot, but we were -- I was trying to talk to her on the phone.
THE INTERPRETER: I stopped her and I will continue.
THE WITNESS: Yes, she was trying to tell me on the phone, she was telling me to get out of the area. I was working as fast as I could. They wouldn't let her go in. That I needed to leave as soon as possible.
So I began to leave. I left as fast as I could. And they told us to go back to the bus.
And as we were walking to the bus, my breathing stopped. So other people, including some from the company were trying to give me aid. They were trying to throw water at me to try to give

me aid to help me.
So after that, when we were already in the bus, my son was still in the field, so he too was getting out, but that day he also was feeling unwell.
BY MS. DANCY:
Q Okay. I'm going to come back and ask just a few questions about what you said and just the general facts of August 5th, okay?
A Yes, that's fine.
Q Let me know if you need to take a break at any time, okay?
A Yes, thank you.
Q What time of day did this incident occur, to the best of your recollection?
A I think it was Noon.
Q Were you outside in the field at that time?
A In what moment are you referring to?
Q Were you standing out in the field at the time that the aircraft was flying near the fields?
A So yes, I was on the field when the

plane was spraying. I mean I saw the plane, I just didn't know what it was doing. I didn't understand what it was doing.

My daughter was trying to inform me to get out of it as soon as possible.

Q At that time, specifically, were you working around other people?

A In the area where I was doing my work, it's like a groove or ditch kind of, that I was working. Other people were in their own furrow of vegetation.

Q Okay. Who would have been closest to you in terms of where their work area was?

A So the furrows in farming is the rows of plantings that each person has. So each person is assigned a row or a circle. And so we each have our own area to work, and we would all be at different levels within that circle, that row of plantings.

Q Were you working in a row that was close to your son Adrian?

A No.

Q Do you know who was working in the row

that was closest to your row?

A Yes.

Q Who was working in the row that was closest to your row?

A My daughter, Anahi.

Q And your daughter, she finished her work before you did, correct?

A Yes.

Q And is this the daughter that was on the phone with you?

A Yes.

Q Where was your daughter standing?

A She was outside of the row.

Q So was she back on the bus? Was she out of the field completely?

A No.

Q Do you know where? Like was she just outside of the field?

A So she was still within the field, but she had already left the path.

Q Do you recall where your row was located within the larger geographical area of the field?

MS. O'CONNOR: Objection, form.

THE WITNESS: So the labor field we were working, I know I was on it. I'm not quite sure, but I know my son was more toward the left of me in that whole area.

BY MS. DANCY:

Q Okay. Were you completely surrounded by corn?

A So it was the young plantings, yes.

Q And how tall was the corn on August 5th in the field that you were working?

A If I recall well, it was already high.

Q Was it higher than your head at that time?

A Yes.

Q When did you first become aware of the airplane on August 5th of 2019?

A When I was within the labor field.

Q Did you hear the airplane before you saw it?

A I don't recall well. I mean I know that I saw it. I didn't know the reason why it was flying. I didn't know why it was flying, but I recall the plane.

Q What color was the airplane on August 5th of 2019?

THE INTERPRETER: I have to ask her again.

THE WITNESS: Okay. So I do not recall, but I do know that I saw the color.

THE INTERPRETER: Which is why the Interpreter was confused is do you know the color. She said I saw the plane, but I saw it well, but I don't recall the color.

BY MS. DANCY:

Q Okay. Did you see the numbers on the airplane?

A So I wasn't paying attention to the plane because I was focusing on my work.

Q How fast was the airplane moving?

A Normal.

Q And what is normal speed in your opinion?

A You could see that it's moving, but it's not something that goes so fast, Zoom.

Q How high was the airplane at the time that you saw it?

A So as far as distance, I couldn't

really tell you, but if I looked to the sky, I would say that it was taller, as tall as a very tall tree.

MS. O'CONNOR: Jenny, before you get into any line of questioning, I just want to flag that we're going to need a break in the next 10 or 15 minutes or so.

MS. DANCY: All right. That sounds good. Thank you for letting me know.

BY MS. DANCY:

Q Did the airplane fly directly over where you were standing in the field?

A Yes.

Q And how many times did the airplane fly over where you were standing in the field?

A So it wasn't flying like directly over me, my head; however, it was flying around my area and then went and then turned around again.

Q Okay. So the airplane did not fly directly over where you were working in the field?

MS. O'CONNOR: Objection, form.

THE WITNESS: So I don't know how to explain this.

It didn't fly exactly over me as in like a straight line pointing at me. I don't know how to explain that the labor field, it went around the labor field which is all of it.

BY MS. DANCY:

Q Okay. When you first -- let me rephrase this.

You continued to work when you first saw the airplane, correct?

A Yes.

Q At what point did you exit the field?

A When my daughter Anahi called me.

Q And how much time had passed from when you first saw the airplane to when your daughter called you?

A I don't recall exactly, but it was quite fast.

Q Were there other workers near you as well who were exiting the field?

A So like I told you, I didn't see them because the plant was tall, but Anahi was

on the other side of the plant, so I do know that they were also exiting.

Q Did you see anything being released from the airplane?

A So I don't recall looking at that; however, I do know that when my daughter called me to leave fast because the plane was spraying the labor fields.

Q So you personally did not see the airplane spray the fields, correct?

A So I don't recall looking at anything, but the spray goes in the wind. It's something that's in the wind. You would not be able to see it. All I know is that I was told to leave fast because the spray was in the wind.

Q Okay. And that was something that your daughter Anahi had told you?

A That was what they had told her to say. That's what they had told her.

Q And when you're referring to they, were you referring to someone at Pioneer?

A Yes.

Q Did your clothing get wet at any point

on August 5th of 2019?

A I don't recall. You don't feel it. I didn't feel it.

Q How do you know that you were sprayed on August 5th of 2019?

A Due to the reaction I had, my breathing had never stopped, and my face and my neck had never become irritated or inflamed.

Q You had your cell phone with you because you were talking to your daughter, correct?

A Yes.

Q Did you take any photographs or videos of the aircraft on August 5th of 2019?

A No.

Q Are you aware if either of your children had taken any videos or photographs from August 5th of 2019?

A I am quite sure that they did not, because we were working.

MS. DANCY: We can take a break. I think this is a great point to take a break.

MS. O'CONNOR: Okay. About ten minutes okay?
MS. DANCY: Yes, that's fine.
MS. O'CONNOR: Okay, thank you.
(There was a break taken, after which the deposition was resumed as follows:)
MS. DANCY: Picking back up following any brief break.
BY MS. DANCY:
Q What happened when you left the field?
A So when we were on our way home, or when I left the field itself?
Q When you left the field itself.
A So when I walked out of my row where I was working, walking towards the bus and were told to go to the bus, that's when I stopped breathing and I felt unwell.
Q Okay. Now, what happened when you stopped breathing?
A So at the moment that I stopped breathing, my daughter realized it and she became very disturbed and started screaming, asking for help. And that's

when other people arrived and they poured water on me or threw water on me.
Q Did you lose consciousness?
A No.
Q Did anyone have to do CPR on you?
A No.
Q Did you sit down somewhere?
A Yes.
Q How do you know you stopped breathing?
A Because I felt that I stopped breathing. I felt my throat close. I felt that that was happening in me.
Q Okay. And who was nearest to you at that time?
A My daughter, Anahi.
Q And did anyone call emergency services or 911?
A No.
Q So was it your daughter who put water over you or over your face?
A No. She was only holding me up.
Q So it was other workers who were helping you as well?
A Yes. Also including personnel from

the company as well.
Q And was your son with you at that time also?
A At that moment when that was happening, no.
Q Where was your son at that time?
A He was still inside the work fields.
Q So after you got some water, what happened next?
A So then I felt better quite after that. It was just that my breathing stopped quickly, but then also I recovered. I was able to recover quickly.
Q And did you talk to any of the Pioneer employees at that specific time after you exited the field?
A Yes, I think so.
Q Do you remember specifically who you spoke with at that time?
A I think it was the wife of Mr. Fidencio who approached me to ask me how I was feeling.
Q And did you talk to anybody else from Pioneer?

A I don't remember.
Q And what did you say to Mr. Fidencio`s wife?
A So when she came toward me and she asked me was I better, I said, "Yes, I feel better." But the thing is, when it happened, I couldn't swallow. My throat was closed.
Q And your daughter was also with you when you were speaking to Mr. Fidencio`s wife?
A I think so.
Q And was your daughter, was she experiencing any issues, or was she okay?
A So from what I remember, yes. Her skin seemed irritated, but that was -- that's what I saw, nothing else.
Q Okay. And you saw her skin was irritated while you were still at the field on August 5th of 2019?
A So yes.
When I walked out of the field and I saw her, she was quite red and her skin was irritated, but I don't know, it

might have been the heat, because it was quite hot that day.
Q Okay. How long did you remain at the field on August 5th before leaving after this incident occurred?
MS. O'CONNOR: Objection.
THE WITNESS: So I don't understand well the question.
You're asking how long did I remain there after I felt unwell?
BY MS. DANCY:
Q Yes. So after you began feeling unwell, how long did you remain at the field before you left?
A So I felt unwell, and I had to wait until I recuperated and felt better. And then also, we had to wait for the people to get out. And I also had to wait for my son to get out, Adrian.
Q And did anything happen with your son when he exited the field?
A Yes.
Q And what happened when your son Adrian exited the field?

A I was already on the bus, but I was desperate to hear or see my son get out of the field.
My daughter Anahi was told, or she was able to see that when they got him out of the field, he was not well.
Q Okay. Now, did you wash your hands or do any type of decontamination at the field before you left?
A Yeah, I recall that they washed me off with plenty of water.
Q Okay. And was that the Pioneer workers who washed you off?
A Yes.
Q And did they also wash your daughter off as well?
A I think so. I don't recall well.
Q Okay. And I'm not sure if I understood or got a clear answer from you. After you began to feel unwell, you had to wait for everyone to exit the field. About how long did you have to wait until you were leaving the field on the bus?
THE INTERPRETER: You're saying after

you began to feel unwell, how long did you have to wait before everyone left the field and got on the bus?
MS. DANCY: Correct.
THE WITNESS: So after I left the field it was quite fast when I began to feel unwell when what happened to me happened.
I recovered fast too, and then the people there began to wash me off, my skin, my face, my arms.
And so it was still some time that we needed to wait for the people to get out of the fields completely before we could proceed with the next step or get on the bus.
BY MS. DANCY:
Q Were you and your daughter on a different bus than your son?
A No.
Q So you just had to sit on the bus and wait for him to exit the field?
A Yes.
Q So earlier you testified that when he

exited the field, he started to feel unwell, correct?
MS. O'CONNOR: Objection, form.
THE WITNESS: Can you ask me the question again? Sorry.
BY MS. DANCY:
Q Sure. Earlier you testified that your son Adrian exited the field and became unwell; is that correct?
THE INTERPRETER: See, the pause is confusing her, so I'm pausing in case the objection comes, but she's beating it.
THE WITNESS: So that's what I was told. They told me that my son had already begun to feel unwell within the field itself in his row.
BY MS. DANCY:
Q Okay. So who told you that?
A So my daughter Anahi, because I was seated on the bus, but I sent her to go and check on her brother.
Q And what was your understanding of what your son's medical condition was at that time?

A So my daughter and son came out. He was unwell, but he too was being washed down, and that he was not feeling well. But all I wanted to know, whether he was alive, was he breathing, was he talking? And they said yes, and so I felt better about that.
Q When you say he felt unwell, what does that mean?
A So I asked my daughter, that's what I asked my daughter, "What do you mean that he's unwell, that he's not feeling well?" She said, "All I know is that he's not well. He's being detained by two other persons. They are aiding him. But he is talking."
Q And when was the first time that you saw your son after he exited the field?
A When he went into the bus, that's when I saw him.
Q So you all rode the bus back to the hotel together after exiting the field?
A Yes.
Q Okay. And did you sit with your

children on the bus back to the hotel on August 5th of 2019?
A Yes.
Q And what did you do when you first got back to your hotel on August 5th of 2019?
A So during the ride back to the hotel, that's when I was able to see that my son was not feeling well, and I was able to see that he was breathing not well. And he was also making gagging noises. I asked him if he needed to throw up, because he was going ugh, ugh, noises like gagging, like he would have to throw up. And then we got to the hotel.
Q What happened when you first got back to the hotel?
A So we got to the hotel. My son was still feeling unwell, so someone called the ambulance.
Q And your son was transported to the hospital by ambulance?
A Yes.
Q And did you go with him in the

ambulance?
A Yes.
Q And what about your daughter, did she go with you and your son by ambulance?
A No.
Q And in terms of your condition at this time, were you experiencing any issues?
A I was only quite agitated regarding looking at my son having trouble breathing.
Q So the issues you were experiencing were more of that concern for your son?
MS. O'CONNOR: Objection, form.
THE WITNESS: That is correct.
BY MS. DANCY:
Q You were evaluated at the hospital, correct?
A Yes.
Q And that's OSF? Does that sound familiar?
THE INTERPRETER: OSF? Do you mean, is that a hospital?
MS. DANCY: Yes.
THE INTERPRETER: I just want to pronounce it correctly.

THE WITNESS: No, I don't remember. It was another name.
BY MS. DANCY:
Q Okay. You were evaluated and discharged the same day, correct?
A Yes.
Q And when you first went to the hospital, what issues were you experiencing that necessitated your medical treatment?
MS. O'CONNOR: Objection, form.
THE WITNESS: When I arrived at the hospital, it was only that my skin was irritated, my neck and my face.
BY MS. DANCY:
Q Okay. Do you have asthma?
A I do have asthma since a child, but I've always had it well controlled.
Q And how do you control your asthma?
A I use an inhaler when I need it.
Q Did you have your inhaler with you in Illinois in 2019?
A Yes.
Q In 2019, when was your last asthma attack?

A So in reality, I never had an asthma attack; I only would use it, for example, if I exerted myself with a lot of exercise or exertion that I felt like my breathing was more labored, then I would use it. Otherwise, I would not use it.
Q So how frequently would you say in 2019 you used your inhaler?
A So I can't remember if I even used it. I mean I always carried it with me in case I ever would need it, but I don't recall really using it.
Q So the issue that you presented for treatment was for skin irritation? Am I understanding that correctly?
A Yes.
Q Was there a specific area of your body that was irritated?
A My face and my neck.
Q Was it a different color, or was it a rash? How did it look?
A So yeah, it was red, and also it looked like it had a rash.
Q Did you take any photographs of the

rash in 2019?
A So really no. I mean I didn't have the thinking to be taking photos about anything.
Q Were you given any medication for your skin at the hospital?
A No. They only told me to see a doctor.
Q Okay. Has your rash or skin irritation resolved?
A Yes. It went away.
Q Okay. In the lawsuit you've also alleged emotional distress. What does that mean to you?
A So when it was, you know, looking at my son, I didn't know whether he was well, whether he could breathe, whether he was well, really well. So I was just like distressed. I was anguished, or I was really suffering seeing him, not knowing how he was. So that is what I was feeling when I went to the hospital.
Yeah, I thought that my son might be dying. So please tell her that.

Q Have you sought any mental or psychological treatment as a result of August 5th, 2019?
A So really, no. I just simply pray to God to help me.
Q Besides what we've discussed with the skin irritation and the emotional distress, do you have any other symptoms or issues that relate to August 5th of 2019?
A So up to now, no. However, I live with the thought that it might show itself in the future, that I might develop some kind of illness or disease with time.
Q Okay. Thank you for that.
Now, I want to make sure that I understand that you did miss two days of work after August 5th of 2019, correct?
A I cannot recall exactly if it was two days, but I did miss some time from work.
Q Do you recall why you missed time from work after August 5th of 2019?
A So yes. I stayed to take care of my son because he was not feeling well. In fact, I took him again to the hospital.

Q And when was the second time that you took Adrian to the hospital?
A The next day after the incident happened, on the 6th.
Q And why did he need to go to the hospital for a second time?
A Because he continued with the same symptoms.
Q While you were at the hospital, or any time after that point, had you spoken with anyone from Pioneer?
A The second day, no. The first day, yes.
Q So what did you say -- what was said to Pioneer on the first day?
A So a person from Pioneer informed us that after the hospital, we could return to work, but we did not want to return to work. And that was the only day that we spoke with someone from there, a personnel from there.
Q You mentioned earlier that two of your children were not in the field on August 5th of 2019 because they didn't feel

well, correct?
A Yes. Alejandra and Alejandro stayed back because they had stomach problems, stomachache.
Q Did all of your children finish the rest of the season with Pioneer in 2019?
A Only not my son Adrain.
Q So the rest of your children who were with you besides Adrian, they did finish the season with Pioneer?
A Yes.
Q Were you part of an anonymous group that made a Complaint to the Department of Labor following August 5th of 2019?
THE INTERPRETER: Did you say a date? Sorry, counsel. I do not recall.
MS. DANCY: Just following the Complaint.
THE WITNESS: So anonymous, you're asking?
MS. DANCY: Did she not understand?
THE INTERPRETER: She's asking if you said the word anonymous.
MS. DANCY: Oh. Yes.

THE WITNESS: So no, I did not report anything. It was the people around my son and paying attention to my son that reported the issues that he had.
BY MS. DANCY:
Q Okay. So you were not part of the group that reported anything to the Department of Labor?
A No, not anonymously, no.
Q Did you make a Complaint to the Department of Labor that was not anonymous?
A No, I don't think to have done that. I don't know if my attorney has done that.
Q Okay. Did you meet with somebody at the hotel from the Department of Labor regarding making a Complaint?
A No. I don't remember that.
Q Besides what we have already addressed, have you had any conversations, not including your attorneys, with anybody regarding the August 5th, 2019 event?
A No.
Q So it's my understanding that you've spoken with Pioneer, but only on the first

day that you took your son to the hospital?
A So yes, the first day someone from Pioneer, it was not Mr. Fidencio. I mean I spoke with him and his wife afterwards, but as far as that first day regarding Pioneer, it was that day. Anybody else, I do not remember.
Q Have you spoken with anyone from Pioneer after that first day that you took your son to the hospital?
A No.
Q Now, you mentioned that you have at some point spoken with Mr. Fidencio and his wife. When was that?
A Days after the incident happened, when I returned to work.
Q And what did you say when you spoke to Mr. Fidencio and his wife?
A I told him that I was afraid and worried about my son's health; that I was quite worried about what happened.
Q And what did Mr. Fidencio say to you?
A Not to be worried about him, that he would be well, and if he felt better, he

could return to work in a few days.
Q And at that time did Mr. Fidencio`s wife say anything to you?
A No.
Q Other than Pioneer, Mr. Fidencio, Mr. Fidencio`s wife and your family, have you spoken about this with anyone else, not including your attorneys?
A So apart from the person from Pioneer, Mr. Fidencio and his wife, my family, my attorney, I spoke with Jorge. He's Mr. Fidencio`s son. He was right there next to my son that day.
Q So Jorge was out in the fields working next to your son on August 5th?
A So no. I don't know where he was that day.
All what I said before earlier was that Senior, Mr. Jorge, we spoke outside of the parking lot of the hotel when my son was sitting on the bench outside in the parking lot of the hotel.
Q Okay. So you're not sure where Jorge was working on August 5th of 2019?

A So he was also working in the field of labor. I don't know where, but that day I know that he was there. However, when I spoke with Mr. Jorge it was at the parking lot of the hotel. My son sitting on the bench. Apart with the people that we've already mentioned and his mother and his father, that was when we spoke with him, because he was equally concerned.
Q Does your daughter Alejandra have a boyfriend named Michael?
A She had a boyfriend by the name of Michael, yes.
Q And was Michael also with you in Illinois in 2019?
A Yes.
Q And was Michael in the field on August 5th of 2019?
A No.
Q Do you know Michael's last name?
A Yes.
Q What is Michael's last name?
A Moralez, M-o-r-a-l-e-z.
Q Are Alejandra and Michael still

dating?
A No.
Q Now, in terms of your children, Alejandra, what does she do now in terms of work?
A My daughter takes care of some children, babysitting.
Q And Anahi, what does she do now for a living?
A Anahi works at WalMart.
Q And your son Adrain, what does Adrain do for a living?
A In this moment my son is not working.
Q Is he currently looking for a job?
A Yes.
Q There are several questions that I ask in every deposition that are not meant to be offensive in any way. Have you ever been convicted of a felony?
A No.
THE INTERPRETER: The question itself, have you ever what?
BY MS. DANCY:
Q Been convicted of a felony?

A No.
Q Have you ever been convicted of a misdemeanor involving fraud or dishonesty?
A No.
Q Are you aware that a settlement has been reached with Pioneer and Corteva in this matter?
A No.
Q Do you have any knowledge of the amount of the settlement reached with Pioneer in this matter?
MS. O'CONNOR: I'm instructing the witness not to answer that question.
As you know, Jenny, we are working on getting an Order entered by the Court to provide that information to you under the Rules, and we've talked about this before, so I'm reasserting our position that we will not answer questions related to the details of the settlement.
MS. DANCY: I didn't ask her about the details; I just asked her if she's aware.
MS. O'CONNOR: Yes, for an amount.

MS. DANCY: I didn't ask her what the amount was.
MS. O'CONNOR: I heard your question. I'm asserting our position.
MS. DANCY: Okay, that's fine.
BY MS. DANCY:
Q Are there any activities that you cannot do today that you could do prior to August 5th of 2019?
A So no. But I do remember that day of going to work that day and issues with the airplane, and as a consequence, my son might have been very harmed or died, as well as me or my daughter.
Q Do you feel that all of your issues from August 5th, 2019 have resolved?
MS. O'CONNOR: Objection, form.
THE WITNESS: So no. But I will always relive that very awful moment of what we all suffered that day, especially me, not knowing how my son was for a period of time, knowing that he could have died that day. That brings me great suffering.
MS. DANCY: I have no further

questions.
MS. O'CONNOR: Okay. Could you give us two minutes?
MS. DANCY: Yes.
MS. O'CONNOR: Thank you.
(There was a break taken, after which the deposition was resumed as follows:)
MS. O'CONNOR: We have no questions to ask. So we are okay with ending here.
MS. DANCY: Okay.
MS. O'CONNOR: Thank you all.
MS. DANCY: I'll order a copy.
MS. O'CONNOR: We'd like to read and sign, but we're not going to order a copy at this time. So we've done it in the past, so that we can make sure if we need to submit any errata, but we won't keep a copy.

AND FURTHER DEPONENT SAITH NOT

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

I, GLORIA APOSTOLOS SIOLIDIS, C.S.R., in and for the State of Illinois do hereby certify that CONSUELO PEREZ was first duly sworn by me to testify the truth; that the above deposition was recorded in shorthand and reduced to typewriting by me; that the deposition is a true, correct and complete transcript of the entire testimony given by the said witness at the time and place hereinabove set forth, and that signature is hereby reserved by said witness.

I further certify that I am not counsel for, nor in any way related to any of the parties to this suit, nor am I in any way interested in the outcome thereof.

In witness hereof, I have hereunto set my hand and affixed my Notarial Seal this 9th day of September, A.D., 2024.

_____
GLORIA APOSTOLOS SIOLIDIS
CSR License #084-0001205

SIGNATURE PAGE/ERRATA SHEET

I, CONSUELO PEREZ have read the foregoing transcript of my deposition taken on August 30th 2024, and except for any corrections noted below, it is a true and correct transcript of my deposition given on the date aforesaid.

CORRECTIONS BASED ON ERRORS IN REPORTING OR TRANSCRIPTION

PAGE	LINE	
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_____
CONSUELO PEREZ

STATE OF ILLINOIS)
COUNTY OF _____)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 2024.

Notary Public
_____

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60606
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61st
2:10

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9th
71:20
9:00
1:14
900
2:4
911
47:17

Moss, Suzanne

From: Davis, Rick T
Sent: Friday, November 22, 2019 12:54 PM
To: Moss, Suzanne
Subject: Fw: records needed
Attachments: Department of Ag WPS Request 11-22-19.pdf

DEFENDANT'S EXHIBIT
O

Suzanne,
Attached are the application records requested.

Brandon Gillen of Corteva stated to me today that he knows the crew leader-Fedencio Salinas (from whom we collected the hat for sampling) was moonlighting at other seed corn locations and that pesticide residues could have come from those locations. Branden knows this because Fedencio tried to submit receipts for reimbursement from a gas station near Montezuma, Indiana. Hubner Seed corn operates near that location.

Rick Davis | Plant and Pesticide Specialist
Illinois Department of Agriculture

Bureau of Environmental Programs
John R. Block Building | 801 E. Sangamon, P.O. Box 19281 | Springfield, IL 62794 - 9281
(c) 217-549-0363

From: Gillen, Brandon <brandon.gillen@corteva.com>
Sent: Friday, November 22, 2019 12:04 PM
To: Davis, Rick T <Rick.T.Davis@Illinois.gov>
Subject: [External] RE: records needed

Rick,
Please see attached. Feel free to call if you have questions.

Brandon

Brandon Gillen
Regional Digital Agronomist

CORTEVA™ agriscience

M: 1-217-530-1746 | E: brandon.gillen@corteva.com
Twitter | LinkedIn | www.corteva.com

DEFENDANT'S EXHIBIT

P

Noyes, Kari

From: Revuelta, Edgar
Sent: Monday, October 21, 2019 1:16 PM
To: Moss, Suzanne
Cc: Julie Pryde; Owens, Doug; Beaver, Brad; Davis, Rick T; Rittenhouse, Susan; Teefey, John; Noyes, Kari; Flores-Quinones, Rosa; Chalecki, Elvira; Jones, Cynthia E.
Subject: RE: Follow-up on Case#12332- Aerial spray incident- Corteva workers- August 5, 2019 incident
Attachments: WorkersMedicalDocs2.pdf; WorkersMedicalDocs3.pdf; WorkersMedicalDocs1.pdf; ETA 8429 Complaint.pdf

Good afternoon,

The complaint that was filed by the workers was sent to OSHA in Peoria and U.S. Dept of Labor – Wage and Hour Division in Springfield. The workers also sought out legal representation from an organization called Legal Aid Chicago. Attached is a copy of the complaint that was filed and the hospital discharge documents. I have not received anything else at this time. Because these are Migrant and Seasonal Farmworkers coming in from another state (Texas) and their crew leader is registered as a Farm Labor Contractor by the U.S. Dept of Labor, the complaint was referred to U.S. DOL Wage and Hour for further investigation under MSPA (Migrant and Seasonal Farmworker Protection Act). Let me know if you have any further questions. Thanks

Edgar Revuelta
State Monitor Advocate
State of Illinois - Dept. of Employment Security
1307 N. Mattis Avenue
Champaign, IL 61821
(217) 278-5724

IDES
ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY

From: Moss, Suzanne <Suzanne.Moss@Illinois.gov>
Sent: Monday, October 21, 2019 10:11 AM
To: Revuelta, Edgar <Edgar.Revuelta3@illinois.gov>
Cc: Julie Pryde <jpryde@c-uphd.org>; Owens, Doug <Doug.Owens@Illinois.gov>; Beaver, Brad <Brad.Beaver@Illinois.gov>; Davis, Rick T <Rick.T.Davis@Illinois.gov>; Rittenhouse, Susan <Rittenhouse.Susan@epa.gov>; Teefey, John <John.Teefey@Illinois.gov>; Noyes, Kari <Kari.Noyes@illinois.gov>
Subject: Follow-up on Case#12332- Aerial spray incident- Corteva workers- August 5, 2019 incident

Good Morning Mr. Revuelta,

I just wanted to send you a quick note and follow-up with you about this case. Do you have any additional information regarding this case to pass on?

IDA has just received out laboratory results back from our pesticide residue lab and we are wanting to keep things moving on this case.

If you have any additional information can you please forward it on to me a.s.a.p. Also, if your office has taken any additional actions regarding this case can you share that with me.

Thank you so much!

Suzanne Moss-Support Services Manager
Illinois Department of Agriculture/Bureau of Environmental Programs
John R. Block Bldg. | 801 Sangamon Ave, P.O. Box 19281 | Springfield, IL 62794
(o) 217-785-4754 (f) 217-524-4882 (TTY) 866-287-2999

www.agr.state.il.us – check out our website for more detailed information about IDOA!

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited an communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-clie

Group Exhibit Q - Field Worker Videos

Electronic Filing: Received, Clerk's Office 01/16/2026

DEFENDANT'S EXHIBIT

R

Illinois Department of Agriculture

Bureau of Environmental Programs

Pesticide Laboratory — **Residue Sample Result Report**

Sample ID: 12332-01 **Collected Date:** 8/8/2019

Collected By: Davis, Rick **Received Date:** 8/9/2019

Matrix: Clothing

Analysis Requested:	Chemist:	Results:	Review date:
azoxystrobin	Mellor, Jessica	DNQ	10/18/2019
propiconazole	Mellor, Jessica	DNQ	10/18/2019
cyfluthrin	Brown, Michelle	ND > 0.160 mg/kg	10/4/2019

Analysis Notes:

Azoxystrobin and propiconazole were both detected and confirmed by LC/MS/MS.

ND: Not Detected
DNQ: Detected Not Quantified
NAI: Not Analyzed, instrumentation, method and/or standards not available
NAW: Not Analyzed, request for analysis withdrawn
P<__: Present at concentration below lowest calibration standard
NAIS: Not Analyzed, Insufficient Sample Amount
I: Inconclusive results, matrix effects and/or QA/QC concerns
P>__: Present at concentration above highest calibration standard

Final Report Date 10/18/2019

Reported By [redacted]

Electronic Filing: Received, Clerk's Office 01/16/2026

Illinois Department of Agriculture

JB PRITZKER, GOVERNOR
JERRY COSTELLO II, ACTING DIRECTOR

Bureau of Environmental Programs
State Fairgrounds • P.O. Box 19281 • Springfield, IL 62794-9281 • 217/785-2427 (voice) • 866/287-2999 (TYY) • 217/524-4882 (FAX)
Pesticide Misuse Hotline 1-800-641-3934 (voice)

DEFENDANT'S EXHIBIT
S

SENT VIA CERTIFIED MAIL NO: 7019 2280 0001 1036 8743

October 27, 2020

Michael Ewing
Curless Flying Service
11220 E. Bricker Road
Astoria, IL 61501

NOTICE OF FINE (NOF EP-20-120)
CASE#12332

On August 6, 2019, an investigation was conducted by the Illinois Department of Agriculture and a violation of the Illinois Pesticide Act [415 ILCS 60/1 et seq.] was discovered. It was discovered that on August 6, 2019, Michael Ewing used the pesticide Avaris 2XS inconsistent with the labeling of the pesticide, when he applied it to property near Champaign, IL.

The Avaris 2XS label requirements include:

1. Directions for Use: "Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during the application."

It is a violation of the Illinois Pesticide Act if an applicator fails to follow instructions listed on the label. Section 14(1)(D) of the Illinois Pesticide Act [415 ILCS 60/14(1)(D) states: 1. *The following are violations of this Act, if any person: D. Used or made recommendation for use of a pesticide inconsistent with the labeling of the pesticide.*

Michael Ewing failed to follow the instructions of the label by:

1. Applying a pesticide when detasslers were in a nearby field. Laboratory analysis of a hat worn by a field worker indicated the presence of the active ingredients contained in Avaris 2XS fungicide. Workers reported they were contacted by spray from an airplane resulting in symptoms lasting 3 or more days.

Pursuant to Section 24.1(3)(G) of the Illinois Pesticide Act (415 ILCS 60/24.1 (3)(G) Michael Ewing is being assessed a $750 penalty as follows:

Since the total violation points as determined by the Use and Violation Criteria as set forth in paragraph (4) of Section 24.1 equal 15, the monetary penalty shall be $750.

Therefore, the Notice of Fine shall be $750.

To pay this fine, please sign the attached agreement and remit a personal check, company check, cashier's check, or money order made payable to the Illinois Department of Agriculture. Payment should be mailed to Illinois Department of Agriculture, Bureau of Environmental Programs, P.O. Box 19281, Springfield, IL 62794, and postmarked within 30 days of the date of this notice.

If you wish to contest this fine and have an administrative hearing, contact Suzanne Moss at (217) 785-2427 or by email at suzanne.moss@illinois.gov within 30 days of the date of this notice to schedule a hearing date.

If you wish to request a copy of this case file email your request in to AGR.FOIA@illinois.gov and state the specific case number which can be found at the top of the cover page in this notice.

If you have general questions regarding this matter, you may contact me at (217) 785-2427.

Sincerely,

[redacted]

Douglas C. Owens, Chief
Bureau of Environmental Programs

cc: 019-07-19-12332
Rick Davis
Brad Beaver

Electronic Filing: Received, Clerk's Office 01/16/2026

STATE OF ILLINOIS
CMS BUREAU OF ADMINISTRATIVE HEARINGS
FOR
ILLINOIS DEPARTMENT OF AGRICULTURE
BUREAU OF ENVIRONMENTAL PROGRAMS

State of Illinois Department of Agriculture Bureau of Environmental Programs Petitioner,	)	
v.	)	AGR-EP-20-120
Curless Flying Service Michael Ewing Respondent.	)	

MOTION TO DISMISS WITHOUT PREJUDICE

The Petitioner moves to dismiss this case without prejudice. In support of this motion, the Petitioner states the following:

1. The Petitioner initiated this action on October 27, 2020 by issuing a Notice of Fine to the Respondent for an incident that occurred on or about August 6, 2019 involving aerial application of pesticide (the "incident").
2. Respondent requested an administrative hearing instead of paying the Notice of Fine. The matter was referred to CMS Bureau of Administrative Hearings in February 2021.
3. Civil litigation also ensued after the incident, naming the Respondent as a defendant. This case was continued during the duration of that civil litigation.
4. In August 2025, Petitioner learned that around March 2025 the civil case was settled confidentially amongst the plaintiffs, their employer, the Respondent, and another aerial applicator.
5. The Petitioner's review of information obtained since the initial investigation in 2019 indicates that the Petitioner does not have a preponderance of the evidence to determine a point value assessing a monetary penalty against the Respondent pursuant to the Use and Violation Criteria set forth in the Illinois Pesticide Act [415 ILCS 60/24.1(3)-(4)].
6. Since the incident, legislative changes have been made in the State of Illinois to more stringently address human exposure to pesticides.
7. The Petitioner now seeks dismissal of all claims asserted against the Respondent.

8. The Petitioner requests that this case be dismissed without prejudice, preserving the Petitioner's right to pursue these claims at a later date, provided the applicable statute of limitations has not expired.

Illinois Department of Agriculture

Shauna Collins
Assistant General Counsel

Entered this 16th day of January, 2026.

Shauna Collins
Assistant General Counsel
801 E. Sangamon Ave.
P.O. Box 19281
Springfield, IL 62794
E-mail: shauna.collins@illinois.gov
Phone: (217) 782-3256
Fax: (217) 785-4505

Electronic Filing: Received, Clerk's Office 01/16/2026

STATE OF ILLINOIS
CMS BUREAU OF ADMINISTRATIVE HEARINGS
FOR
ILLINOIS DEPARTMENT OF AGRICULTURE
BUREAU OF ENVIRONMENTAL PROGRAMS

State of Illinois Department of Agriculture Bureau of Environmental Programs Petitioner, v. Curless Flying Service Michael Ewing Respondent.	)))))))))))	AGR-EP-20-120

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Motion to Dismiss Without Prejudice was served upon the parties of record to the above cause in the manner indicated below on January 16, 2026, addressed to such parties as shown below.

Dated: January 16, 2026

Illinois Department of Agriculture

Shauna Collins

Shauna Collins
Assistant General Counsel

Service by E-mail:
Michelle Thielen
Administrative Law Judge
CMS Bureau of Administrative Hearings
E-mail: Michelle.Thielen@illinois.gov

Service by E-mail:
Dylan Grady
Brown Hay Stephens
Counsel for Respondent
E-Mail: dgrady@bhslaw.com

ILLINOIS DEPARTMENT OF AGRICULTURE
BUREAU OF ENVIRONMENTAL PROGRAMS
P.O. BOX 19281 - STATE FAIRGROUNDS
SPRINGFIELD, IL 62794-9281

RECEIPT FOR PESTICIDE SAMPLES

DEFENDANT'S EXHIBIT
U

DATE: 8-8-19

NAME OF INDIVIDUAL: Brandon Killen

TITLE: Manager

NAME *(Firm, Farmer, Homeowner, etc.)*: Corteva Agriscience

ADDRESS *(Street, City, State, and ZIP Code)*: 3112 County 1600 N St. Joseph IL 61873

SAMPLE NUMBERS: 12332

SAMPLES COLLECTED *(Describe fully, List Registration, Lot, Batch, Model, Serial Numbers and other positive identification.)*

The following pesticide and/or environmental samples were collected by the Illinois Department of Agriculture in connection with the administration and enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act and the Illinois Pesticide Act and receipt is hereby acknowledged.

01 - bat wash by Federico Salinas worker
02 - Cavalry II label front page
03 - WPS Field Posting
04 - field map
05 - 402 front page Nutrien
06 - 402 front page Quarts
07 - 402 front page Coron
08 - map
09 - map field location

ACKNOWLEDGEMENT OF PRODUCER/REGISTRANT

The undersigned acknowledges that the samples shown above were obtained from pesticides or devices that were packaged, labeled, and released for shipment.

SIGNATURE *(Owner, Operator, or Agent)*: [redacted]

TITLE *(Owner, Operator, or Agent)*: Field Rep Trainee Supervisor

☐ DUPLICATE SAMPLES REQUESTED AND PROVIDED ☐ DUPLICATE SAMPLES NOT REQUESTED

SAMPLES WERE ☐ PURCHASED ☑ RECEIVED, NO CHARGE ☐ BORROWED

AMOUNT PAID FOR SAMPLES ☐ CASH ☐ VOUCHER ☐ TO BE BILLED

NAME OF COLLECTOR *(Print or Type)*: Mark Davis

TITLE OF COLLECTOR: PSIS II

SIGNATURE OF COLLECTOR: [redacted]

IL 406-0997 (9-83)

Original - OWNER/AGENT COPY
1 - SAMPLE RECORD COPY
2 - REGION COPY
3 - INSPECTOR'S COPY

Electronic Filing: Received, Clerk's Office 01/16/2026

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ILLINOIS SPRINGFIELD DIVISION

HADA GARCIA,	)	
Plaintiff,	)	
vs.	)	
PIONEER HI-BRED INTERNATIONAL, INC., CORTEVA, INC., RAS AVIATION, LLC, FARM AIR, INC., and CURLESS FLYING SERVICE, INC.,	)	3:20-cv-3322-STEM-TSH
Defendants.	)	
	)	

The discovery deposition of ADRIAN PEREZ, taken in the above-entitled cause, before Dina M. Crivellone, a notary public of Cook County, Illinois, on July 25,2024 at the hour of 9:12 a.m., via Zoom Videoconference, pursuant to notice.

Dina M. Crivellone
License No.: 084-004157

REMOTE APPEARANCES:

ON BEHALF OF THE PLAINTIFF:

LEGAL AID CHICAGO
BY: LISA PALUMBO
MS. MARGARET O'CONNOR
Lpalumbo@legalaidchicago.org
Moconnor@legalaidchicago.org
120 South La Salle, Suite 900
Chicago, IL 60606
(312) 229-6360

ON BEHALF OF DEFENDANTS FARM AIR, INC. AND CURLESS FLYING SERVICE, INC.

TRESSLER LLP
BY: TIMOTHY M. RAVICH, ESQ.
Travich@tresslerllp.com
233 South Wacker Drive, 61ST Floor
Chicago, IL 60606
(312) 627-4000

Electronic Filing: Received, Clerk's Office 01/16/2026

I N D E X

WITNESS	EXAMINATION
ADRIAN PEREZ	
By Mr. Ravich	4

E X H I B I T S

NUMBER	MARKED FOR ID
NO EXHIBITS MARKED	

Electronic Filing: Received, Clerk's Office 01/16/2026

(Whereupon, the witness was duly sworn.)

ADRIAN PEREZ,

called as a witness herein, was examined and testified as follows:

EXAMINATION

BY MR. RAVICH:

Q. Good morning, sir. My name is Tim Ravich. I'm a lawyer with the law firm of Tressler based in Chicago. I represent two of the defendants that you're suing in this case, Curless and Farm Air. 09:11:41

Do you understand who I am and who I represent?

A. Yes.

Q. Please state your name for the record. 09:11:54

A. Adrian Perez.

Q. Do you have a middle name?

A. No.

Q. And that's Perez with a Z?

A. Yes. 09:12:02

Q. Have you ever gone by any other names?

A. No.

Q. Any nicknames?

A. No.

MAGNA LEGAL SERVICES

Q. What's your date of birth?
A. April 25th, 2002.
Q. Have you ever had your deposition taken before?
A. Sorry. Can you repeat that. 09:12:19
Q. Of course.
Have you ever had your deposition taken before today.
A. No.
Q. You never had a lawyer question -- engage in a question and answer like we're going to do today? 09:12:25
A. No.
Q. Okay. And let me just go over a few ground rules so we're on the same page as we get going on the examination. 09:12:33
You understand you've been sworn by a court reporter and that you are under oath to tell the truth, the complete truth under penalty of perjury? 09:12:48
A. I understand.
Q. Because the court reporter is present, she is transcribing everything that I say and everything that you say or anybody else says.

Because of that, particularly because we're on Zoom, we want to be careful that we don't interrupt each other. It may happen, but please let me finish talking, and I'll obviously extend the same courtesy to you so that she can write everything down. Okay? 09:13:09

A. Okay.

Q. Verbal responses, just like we did, are going to be important. The court reporter cannot record in writing shakes of the head or uh-huh or uhn-uhn. So please speak clearly and say yes or no if that's your answer. Okay? 09:13:21

A. Okay.

Q. If you do not understand my question or any question, please ask for clarification. You can say I don't understand, and I'll do my best to make sure that you have a question that you understand how to answer. Okay? 09:13:35

A. Okay.

Q. If you answer a question, I'm going to assume that you understand what I'm asking. All right? 09:13:45

A. All right.

Q. And, finally, if you need a break at any

time, just ask, and we'll see what the time looks like. If there is a question pending, meaning I've asked you a question and you want a break, I would ask that you finish the question and then we can see what the timing looks like. All right? 09:14:08

A. All right.

Q. What, if anything, did you do to prepare for today's deposition?

A. I spoke to -- to Lisa.

Q. Okay. You're referring to Ms. Palumbo? 09:14:24

A. Yes.

Q. All right. And I'm not asking what you spoke about with your lawyers, but when did you speak, that was yesterday?

A. Yesterday. 09:14:32

Q. For how long?

A. A little less than an hour.

Q. Did you look at any documents in preparation for today's deposition, whether that was yesterday or at any time? 09:14:45

A. Yes.

Q. What did you review?

A. My written statements.

Q. Do you know what written statements you're

referring to?

A. Statements that they asked me previously, like -- yeah.

Q. Were the answers to questions that you answered under oath? 09:15:11

A. I'm not sure.

Q. That's okay.

For instance, I call them interrogatories. Do you think you looked at your interrogatories?

A. Yes. 09:15:20

Q. Okay. Anything else that you looked at besides your interrogatory responses?

A. No.

Q. Did you speak with anyone other than your lawyers in preparation for today's deposition? 09:15:32

A. No.

Q. At any time have you spoken with anybody about this case?

A. No.

Q. Have you consumed any alcohol within the last 24 hours? 09:15:41

A. No.

Q. Are you on any prescription medications in the last 24 hours?

A. No.
Q. Is there anything -- is there any reason that your memory would be impacted today in giving accurate answers?
A. No. 09:16:11
Q. Have you ever been arrested?
A. No.
Q. Have you ever been charged with a felony or misdemeanor?
A. No. 09:16:21
Q. Do you have a Social Security Number?
A. Yes.
MR. RAVICH: All right. Let's go off the record, please.
(Whereupon, a discussion was had off the record.) 09:16:27
MR. RAVICH: Thank you. We're back on the record. I've taken down your Social Security Number.
BY MR. RAVICH: 09:16:42
Q. Are you a U.S. citizen?
A. Yes.
Q. Where were you born?
A. Minnesota.

Q. Where in Minnesota?
A. I'm not sure of the city name.
Q. I didn't hear the last word.
A. I'm not too sure of the city name.
Q. Okay. When did you leave Minnesota? 09:17:03
A. I was only born there.
Q. Got you.
Have you ever filed for bankruptcy?
A. No.
Q. How old were you at the time of -- on 09:17:12
August 5th, 2019?
A. I believe 17.
Q. And how old are you now?
A. 22.
Q. Are you married? 09:17:25
A. No.
Q. Have you ever been married?
A. No.
Q. Do you have any children?
A. No. 09:17:33
Q. What is your current address, please?
A. May you repeat that.
Q. I'm sorry.
What is your current address?

A. 143 Water Street, Apartment 100.
Q. And what city and state is that?
A. Berlin, Wisconsin.
Q. I see from your interrogatory answers that we referenced earlier, which you signed back on June 8th of 2023, that you were living at 7018 West Mile Five Road in Mission, Texas. Was that your address at one point? 09:18:09
A. I believe so, yes.
Q. When did you leave Mission, Texas? 09:18:26
A. In December.
Q. Of what year?
A. Of last year.
Q. Okay. And where did you go after the Mission, Texas address? 09:18:42
A. The Berlin address.
Q. The which address?
A. The Berlin address.
Q. Berlin?
A. Yeah, that I just gave you. 09:18:52
Q. Okay. I must have -- is it Berlin, Wisconsin?
A. Yes.
Q. Thank you.

Do you rent or do you own that apartment

A. I live with my mother. So she rents.

Q. What's your mom's name?

A. Consuelo.

Q. Same last name? 09:19:18

A. Yeah, Consuelo Perez.

Q. Do you know if she's a plaintiff or someone who's suing in the lawsuit that you're also suing in?

A. I believe so. 09:19:29

Q. Okay. You have not spoken to your mom at any point about this case?

A. Not particularly, no.

Q. What does not particularly mean?

A. Like, no details, no. 09:19:40

Q. Is there some reason you wouldn't talk to your mom in detail about this?

A. No. It's just not something on topic that I talk about.

Q. Are you also aware that you are suing a company called Pioneer? 09:19:57

A. Yes.

Q. Did you work for Pioneer?

A. Yes.

Q. We'll talk more about this. What did you do for Pioneer?

A. I detasseled corn.

Q. Are you aware that your lawsuit against Pioneer has been settled? 09:20:20

A. Yes.

Q. How much money, if any, did you get from that settlement?

MS. PALUMBO: Objection. I'm going to ask him not to answer that question. 09:20:27

MR. RAVICH: So, Lisa, I think we were past this. We were told not to ask this question, but yesterday we saw that the settlement has been filed, and I think you are well advised of the arguments. To the extent this has been a global 09:20:39 settlement, we're allowed to ask what he's been paid.

MS. PALUMBO: The settlement hasn't been filed yet. It was -- we notified the court that it is about to be filed. The actual settlement has not 09:20:49 been filed. It's not completed yet.

MR. RAVICH: When will it be filed?

MS. PALUMBO: We hope soon, very soon. But it's not filed yet. And we're not objecting to the

fact that you would have access to some of the information you're seeking, but not at this point and not with our clients.

MR. RAVICH: All right. I'll reserve the right to recall this witness for that purpose. But I do understand what you're saying, is that information is forthcoming, and that may not be necessary. 09:21:11

BY MR. RAVICH:

Q. Are you aware that you've settled with Pioneer though, sir? 09:21:21

A. Yes.

Q. And how did you learn that?

A. Through my lawyers.

Q. So through your lawyers you said?

A. Yes. 09:21:30

Q. When did you learn that?

A. I don't recall.

Q. Was it yesterday?

A. No.

Q. It was this month, meaning July of 2024? 09:21:40

A. I believe so, yes.

Q. Do you know how much money you're getting, if any?

MS. PALUMBO: Objection. I'm going to object

again and instruct him not to answer the question for the same reasons, Tim.

MR. RAVICH: And the reason is why?

MS. PALUMBO: Because it's not final. Until it's final, there's nothing our clients are going to provide related to that. 09:22:00

MR. RAVICH: So I'm asking a general question, which is did he get any money, does he know if he got any money.

MS. PALUMBO: I believe your question was how much money did you get. 09:22:13

MR. RAVICH: Can you read the question back.

(Whereupon, the record was read as requested.)

BY MR. RAVICH: 09:22:26

Q. All right. Your lawyer doesn't want you to answer that.

Are you aware if you're getting any money?

A. Yes.

Q. Are you getting any money? 09:22:31

A. I believe so.

Q. Why do you believe that?

A. I don't know how to answer that.

Q. Well, you believe you're getting some

money. Why is that in your head?
A. Oh, because the settlement is settled, I believe.
Q. Do you work?
A. No. 09:23:04
Q. When is the last time you worked?
A. I believe 2021.
Q. With whom did you work in 2021?
A. I worked for a company.
Q. Okay. What was the name of that company, please? 09:23:19
A. Generac.
Q. Can you spell that for me?
A. G-E-N-E-R-A-C.
Q. What does Generac do? 09:23:31
A. They assemble generators.
Q. What was your role with Generac in 2021?
A. Assembling alternator towers and control boxes for the generators.
Q. And, I'm sorry, you said alternator something? 09:23:55
A. Towers.
Q. Towers.
Okay. Where did you work for Generac?

A. Oshkosh, Wisconsin.

Q. I'll be there tomorrow.

All right. For how long did you work for Generac?

A. I believe about five months. 09:24:19

Q. Why did you leave?

A. I returned to school.

Q. And where, if anywhere -- and we'll get to your schooling. Where, if anywhere, were you before Generac? 09:24:34

A. In terms of work?

Q. Yes, sir.

A. Just agricultural work.

Q. So I'm going to ask more specifically when you worked for Generac. From what month to what month in 2021? 09:24:52

A. I believe it was between July and December.

Q. So in June of 2021, you were doing agricultural work? 09:25:09

A. I don't recall.

Q. Okay. Really, all I'm getting at is I'm trying to understand your employment history, what did you do before Generac and then before that.

So what did you do before Generac specifically? Agricultural work. You worked for whom?

A. I did agricultural work.

Q. And for who? 09:25:30

A. It was a local contractor.

Q. Do you remember who your boss was, who you reported to, the name?

A. His name was Chris.

Q. Last name? 09:25:47

A. I don't recall.

Q. What do you mean by agricultural work? What did you do?

A. I pollinated corn.

Q. For how long did you work for Chris? 09:26:03

A. I don't recall.

Q. When did you leave Chris' employment?

A. I don't recall.

Q. When you pollinated corn for Chris, where did you work? Did you work in fields, for example? 09:26:22

A. Yes, fields.

Q. Okay. Where were those fields?

A. I don't recall.

Q. Was it Minnesota?

A. No.
Q. Was it Texas?
A. No.
Q. Was it in Illinois?
A. I can't remember. 09:26:38
Q. Is there some reason you can't remember only four years ago?
From when to when did you work with Chris?
A. It was a summer.
Q. Do you remember when? 09:27:36
A. Let me think. I believe 2020.
Q. Say again?
A. I believe the year 2020.
Q. You believe that in the summer of 2020 is when you worked with Chris. Thank you. 09:27:57
And you worked in fields pollinating corn, correct?
A. Correct.
Q. We talked about your ability to remember where you worked. And I asked you was it in 09:28:10 Illinois. And your answer to that is?
A. I can't remember. It was -- to specify it was in between Illinois or Iowa, and I can't remember which state it was. I just know it was

between the two.

Q. That's fair.

So it was in the Midwest though?

A. Yes.

Q. I'll ask some more details, and if you don't remember, you don't remember. 09:28:32

But in the summer of 2020, how long did you work in Chris' employment?

A. I'll say about a month or so.

Q. Describe specifically what you did? You would go into fields and do what? 09:28:47

A. I would pollinate the corn. So, basically, the crop of the corn plant has pollen on the top of it, and my job was to bag it up and also pollinate the flower. So there was another part of the plant where I would wrap the bags of pollen in it to pollinate the flower and the corn plant. 09:29:08

Q. Okay. I think I understand. And how did you learn that skill?

A. Through Chris. 09:29:21

Q. And he trained you very early in the summer of 2020?

A. Yes.

Q. This was the first time you had worked in

that line of work?

A. Pollinating corn, yes.

Q. Okay. The fields in which you worked, had they been treated with pesticides or chemicals?

A. Can you specify which fields? 09:29:43

Q. The fields you worked while pollinating corn for Chris.

A. I do not know.

Q. Did you ever ask?

A. No. 09:29:58

Q. Do you have a guess?

A. No.

Q. Do you understand that corn is treated with chemicals from time to time?

A. Yes. 09:30:13

Q. Where did you work before the summer of 2020, in other words, before you worked with Chris, where were you, if anywhere?

A. My very last job before Chris was with Pioneer. 09:30:31

Q. And for how long did you work for Pioneer?

A. Can you specify that question again.

Q. Yeah, sure.

From when to when did you work for

Pioneer?

A. So I worked I believe it was two separate years, and it was just during the summer.

Q. For two years you said?

A. It was two separate years. 09:31:03

Q. Two separate years.

A. It was just during the summer.

Q. And some of my questions are -- I don't want to put words in your mouth. I can sort of guess here, but what years were those? 09:31:14

A. So for sure 2019, but I can't recall the other year.

Q. Do you have reason to believe it would not have been 2018 as opposed to 2017? That's not a great question. 09:31:34

Is there some reason it wouldn't be two consecutive years, like 2018, 2019? Do you think you took time off, so 2017 and then 2019?

A. Yes, I did take time off.

Q. I think I'm understanding your testimony to be that you worked for Pioneer the summer of 2019 and the summer of 2017, is that accurate? 09:31:47

A. I believe so.

Q. Okay. Why did you leave Chris'

employment?

A. I started college.

Q. I should ask. In the residence you live with your mom, do you live with anyone else? Is there anyone else living in your apartment with you? 09:32:28

A. My siblings.

Q. Who are your siblings?

A. You want their names?

Q. Yes, please. 09:32:34

A. Alejandro Perez --

Q. Slow down for me.

We have Alejandro Perez.

A. Alejandro Perez, Sylvia Perez, Anahi Perez. 09:32:50

Q. Can you spell that?

A. A-N-A-H-I.

Q. How do you say it?

A. Anahi.

Q. Okay. Who else? 09:32:59

A. That's it.

Q. Okay. Is your father in your life?

A. No, not at the moment.

Q. Where is he?

A. Incarcerated.
Q. What's his name, sir?
A. Alejandro.
Q. When is the last time -- when did your father become incarcerated? 09:33:25
A. I believe two years ago.
Q. Were you living with him in 2019 when you worked for Pioneer?
A. No.
Q. Why not? Where was he? 09:33:40
A. He was in Mexico.
Q. For Alejandro or is it --
A. Alejandro.
Q. How old is he?
A. I can't recall. 09:33:53
Q. Younger or older?
A. Younger.
Q. Okay. Did he work with you with Pioneer?
A. Yes.
Q. Okay. Do you know if he is suing Pioneer and the other defendants, including my clients? 09:34:08
A. He is not.
Q. Sylvia Perez, how old is she?
A. I believe she's 17.

Q. Did she work with you when you worked with Pioneer in 2019?
A. No.
Q. And what about Anahi?
A. Yes. 09:34:32
Q. How old is she?
A. I can't recall.
Q. Younger or older?
A. Younger.
Q. Under ten years old or over ten years old? 09:34:41
A. She's over ten.
Q. Under 20?
A. I believe she's 20.
Q. Okay. And I think she did work with you with Pioneer, is that right? 09:34:53
A. Right.
Q. And I think she is a plaintiff in this lawsuit, plaintiff meaning someone who's bringing the lawsuit?
A. Right. 09:35:01
Q. Have you ever spoken with Anahi about this?
A. No.
Q. Okay. Why haven't you spoken with her

about it?

A. I don't think there's nothing to talk about.

Q. Even if you don't talk about the lawsuit with Anahi, do you ever talk about how you're feeling, mentally or physically in connection with the events you allege? 09:35:32

A. No.

Q. And does she talk to you about them?

A. No. 09:35:46

Q. Do you have a good relationship where you think you would talk about things that are important between brother and sister?

A. Yes.

Q. Okay. So it's -- you live with your mother and your two sisters and brother, correct? 09:35:53

A. Correct.

Q. All right. And Anahi, what is she doing today? Does she work? Is she in school?

A. She works. 09:36:12

Q. Does she have any limitations or any inability not to work?

A. No.

Q. How does she seem to you?

A. Can you repeat the question.
Q. Of course.
How does she seem to you?
A. Can you specify that?
Q. Healthy? Unhealthy? 09:36:28
A. She's healthy.
Q. Okay. And where does she work?
A. Walmart.
Q. Okay. What does she do for Walmart?
A. I believe she's a stocker. 09:36:43
Q. Do you know how long she's been there?
A. No, I do not.
Q. Who is the sole income provider for your household or the apartment you live in?
A. My mother. 09:37:01
Q. What does your mom do work-wise?
A. She works for a company.
Q. I'm sorry?
A. She works for a company.
Q. Okay. What company? 09:37:09
A. I believe it's called Alliance.
Q. Do you know how to spell that?
A. No.
Q. Alliance?

A. Yes, Alliance.
Q. What does she do for Alliance, if you know?
A. She assembles parts of laundry machines.
Q. Where does she do that? 09:37:33
A. Here in Wisconsin.
Q. Okay. Do you contribute any money to your household to pay for the rent or food or any of those expenses?
A. No. 09:37:52
Q. All right. At the time of the events you allege, meaning August 2019, who was the income provider for your home? Also your mom?
A. Yes.
Q. Do you have a primary care physician? 09:38:13
A. I don't think so.
Q. When you say you don't think so, do you -- is it possible you have one and just don't remember, or you didn't have one, just to understand? 09:38:32
A. I'm not sure.
Q. Just to ask you, I'm not trying to be difficult, I'm trying to clarify. What are you not sure about?

A. Can you repeat the question.
Q. Yes, of course.
I'm asking if you have a -- do you know what a primary care physician is?
A. Like a doctor that I see regularly? 09:38:52
Q. Exactly.
Do you have such a doctor?
A. No.
Q. Okay. Have you seen doctors before today?
A. Yes. 09:39:00
Q. And we know that you've seen some doctors or health care professionals in connection with the events of August 2019. Apart from those doctors, have you ever seen any other doctors just to keep yourself up to see how you're doing health-wise? 09:39:16
A. I will say not recently.
Q. All right. And by not recently, when is the last time you think you might have seen a doctor just to see how you're doing, independent of the August 2019 events? 09:39:33
A. Probably in 2020.
Q. Why did you see a health care professional or doctor in 2020?
A. I don't recall.

Q. Do you have health insurance?
A. I am not sure.
Q. How do you pay for your medical expenses?
A. I'm not sure.
Q. Through your mom? 09:39:54
A. I'm not sure.
Q. Do you wear glasses?
A. No.
Q. Do you wear contact lenses?
A. No. 09:40:06
Q. Have you ever seen a doctor for vision, for seeing far and near?
A. Yes.
Q. When was the last time you saw an eye doctor or eye care professional? 09:40:19
A. I don't recall.
Q. Was it in the last five years?
A. Yes.
Q. Do you recall why you saw an eye doctor?
A. I think my health care physician at the time sent me. 09:40:32
Q. Do you have any issues reading things or seeing far away?
A. No. But to re-answer your question, I do

have glasses, I just don't wear them.

Q. Okay. Why do you need glasses, for what purpose?

A. I believe it was far sight.

Q. So you can -- you do not need glasses to read something, is that right? 09:41:08

A. Correct.

Q. But you may need glasses to see things far away, right?

A. Correct. 09:41:19

Q. Okay. So you're nearsighted. Have you ever been told you're nearsighted?

A. I believe so.

Q. So your glasses, even if you choose not to wear them, they're prescription glasses? 09:41:34

A. Yes.

Q. And when were you first prescribed glasses to wear for nearsightedness?

A. I don't recall.

Q. As a little boy, older? 09:41:44

A. Older.

Q. Why don't you wear them?

A. I just don't feel like I really need them.

Q. Do you drive?

A. I do.

Q. Are you required -- you would see it on your license. Are you required to wear your glasses when you drive?

A. No. 09:42:06

Q. Are there any limitations on your driver's license that you need corrective lenses?

A. No.

Q. Can you see equally well in daytime as nighttime? 09:42:24

A. No.

Q. Which is -- in which environment do you struggle, night or day?

A. Night.

Q. And can you explain what exactly do you see? Are things fuzzy? I'll let you describe it. Why is it more difficult at nighttime for you to see? 09:42:35

A. A bit fuzzy.

Q. A lot fuzzy or a bit? 09:42:53

A. A little bit.

Q. Apart from your eyesight, do you suffer from any preexisting medical conditions? We're going to talk about the things that you allege in

this lawsuit. But do you have any medical conditions that you've had for -- you know, since you can remember?

A. I don't believe so.

Q. You mentioned you're in college. Where did you go to high school? 09:43:19

A. In Mission, Texas.

Q. What was the name of your high school?

A. Mission Collegiate High School.

Q. Slow down for me a little bit. What is it? 09:43:35

A. Mission Collegiate High School.

Q. Okay. After high school, where did you go to school, if anywhere?

A. College. 09:43:56

Q. Where did you go to college?

A. In Edinburg, Texas.

Q. Edinburg?

A. Edinburg, Texas.

Q. What was the name of the college you attended? 09:44:11

A. The University of Texas at Rio Grande Valley.

Q. And did you go right to UT Rio Grande

Valley after high school?

A. Yes.

Q. Like you graduated, had a summer off and started in the fall time?

A. Yes. 09:44:34

Q. What year was that that you started at UT Rio Grande Valley?

A. 2020.

Q. What did you study there?

A. Psychology. 09:44:47

Q. Did you graduate from UT Rio Grande Valley?

A. Yes.

Q. Did you attend college straight through for four years, four continuous years? 09:45:01

A. No.

Q. All right. You took some time off. When did you take time off and why?

A. It was 2021.

Q. So in your sophomore year you took time off? 09:45:19

A. Yes.

Q. Why?

A. I was having difficulty finding

employment, so I took a semester off to work.

Q. I'm trying to understand. You're in college. Were you working during college? 09:45:41

A. No.

Q. So you stopped to -- I'm a little uncertain.

You stopped college to find a job?

A. Correct.

Q. Why did you stop college to find a job as opposed to just continuing on with your schooling? 09:45:53

A. Well, 2021 was the year that my family moved up here, and so I just decided to move with them.

Q. So in 2021, you're sophomore in college, your family moves, and you decide to move with them, and that's when you got a job with Chris, is that right? 09:46:14

MS. PALUMBO: Objection to form.

THE WITNESS: No.

BY MR. RAVICH: 09:46:23

Q. All right. You tell me. You left college in 2021, you moved to Wisconsin, and what job did you get in Wisconsin?

A. Generac.

Q. All right. We talked about when you were with Generac. At what point did you go back to college?

A. January 2022.

Q. Did you live on -- did you live on campus or on your own? 09:46:49

A. On my own.

Q. Did you rent an apartment?

A. Yes.

Q. How did you afford that? 09:46:59

A. My mother would help me.

Q. When did you graduate?

A. 2023.

Q. Did you graduate early?

A. Yes. 09:47:22

Q. Okay. Impressive. And you graduated with a psychology degree, is that right?

A. Correct.

Q. As part of your psychology major, did you focus on any specific topic within psychology, any particular courses you took, just a broad psychology degree? 09:47:35

A. Yes. So it was a Bachelor's in Psychology.

Q. What did you do upon graduation?
A. Can you specify?
Q. Yeah. Sure. You graduated. What did you do next?
A. I graduated, and then I decided to move back with my family. 09:47:59
Q. And we're talking in January of 2023.
Was it the case that you worked for Pioneer over the summer between college?
A. Can you specify? 09:48:17
Q. Yeah. Is sounds like there's some overlap between when you were in college and when you worked for Pioneer. Is that true?
A. No.
Q. All right. You moved back, and then have you been employed since graduation? 09:48:29
A. No, I haven't.
Q. And I apologize if I'm duplicating. I'm just trying to understand this.
Any reason why not? 09:48:54
A. No reason.
Q. Have you sought employment?
A. Yes.
Q. Tell me about your job searches, what kind

of employment are you looking for, why has that not been successful?

A. At first I was looking for jobs related to my -- my degree. But I was having trouble finding jobs that you just needed a Bachelor's in psychology. So then I started going for jobs I'm familiar with, which is manufacturing jobs. 09:49:20

Q. And to the best of your memory, what companies or what firms or what practice groups did you apply to for psychology jobs? 09:49:45

A. I do not remember.

Q. What manufacturing jobs have you applied for?

A. I applied to Generac, I have applied to Alliance, and there are some other ones that I don't recall. 09:49:57

Q. And what happened?

A. I just have no luck in getting selected.

Q. All right. Now, speaking of psychology, how does this job search make you feel? 09:50:14

A. At first it was frustrating, but then I realized I just have to wait my turn.

Q. What's the last application you sent off?

A. It was to Alliance.

Q. When was that?
A. I don't recall.
Q. Was it in the last few months?
A. In the last month.
Q. And have you heard back from them? 09:50:43
A. Yes.
Q. And they said what?
A. They just say to go into -- go in for the walk-in.
Q. What does that mean exactly? 09:51:02
A. So instead of scheduling interviews, they have every one walk in like a Wednesday, and they just told me to go.
Q. Have you done that?
A. I've done that before, yeah. 09:51:14
Q. When was your last walk-in appointment?
A. I believe in February.
Q. Is there any reason you haven't done a walk-in appointment since February of 2024?
A. They haven't contacted -- they usually 09:51:32 contact you to go in for a walk-in. So they just haven't contacted me.
Q. Have you followed up?
A. Yes.

Q. And what did they say?
A. They had told me that I just wasn't selected.
Q. Have you ever served in the military?
A. Can you repeat that question. 09:51:53
Q. Have you ever served in the military?
A. No.
Q. All right. I said at the outset of the deposition that I represent Curless and Farm Air. Those are two different entities. Do you know who 09:52:29
they are, Curless and Farm Air?
A. Can you specify?
Q. I represent two companies, Curless and Farm Air. Have you ever heard of them before?
A. I believe so. 09:52:49
Q. Why do you think you're familiar with those names?
A. I'm pretty sure they were mentioned by my lawyer.
Q. Do you know anybody at Curless or Farm 09:53:00
Air?
A. No, I do not.
Q. All right. Well, you're suing them in connection with some events on August 5th of 2019.

Are you aware of that?

A. Yes.

Q. Where were you on August 5th, 2019?

A. I believe I was in Illinois.

Q. And what were you doing in Illinois on August 5, 2019? 09:53:28

A. Working for Pioneer.

Q. You earlier testified that you were detasseling corn for Pioneer?

A. Yes. 09:53:48

Q. Do you remember the events of August 5th, 2019?

A. Yes.

Q. Take me through your day on August 5th. What time did you wake up? 09:54:06

A. I believe around 4:00 in the morning.

Q. Why so early?

A. That's when the bus will come pick us up. Around 4:30 they'll come pick us up. So I wake up at 4:00. 09:54:21

Q. Okay. Did you get dressed, did you shower?

A. Yes.

Q. I would like to talk through those

details.

All right. You get up and get dressed.

What did you -- what clothing did you put on or what equipment, if anything, did you put on?

A. I would wear jeans, some boots, like planting boots or whatever for the fields, and then I would wear an undershirt and then a long-sleeve shirt, and I would wear gloves and safety goggles and a hat with a face net. 09:54:35

Q. And you wore -- it's hot out, but you're wearing all this equipment why? 09:55:01

A. To protect from the sun and from the plants.

Q. What protection do you need from the plants? 09:55:16

A. When you're walking, they scrape your arms.

Q. They physically scrape your arms?

A. Yes. If you're just in short sleeves and if you have no face covering, the plants are going to scrape your arms. 09:55:31

Q. Do you also wear long sleeves and pants so that you don't come in contact with any pesticides on the crops, in general?

A. Can you rephrase that?
Q. I think so.
Do you also wear long sleeves and pants so that you don't brush up against crops that have been treated with pesticides? 09:56:00
A. Not for that reason, no.
Q. Do you think that is a risk?
A. Can you specify what's a risk?
Q. Coming into contact with pesticides on a treated field. 09:56:18
A. Yes.
Q. You think that is a risk?
A. Yes.
Q. Why do you think that is a risk?
A. Because they had taught us that if we come in contact with pesticides, that you could get sick. 09:56:25
Q. Okay. When you say they, you're referring to Pioneer?
A. Correct. 09:56:41
Q. Tell me more about what Pioneer said about that? I think I understood you to say that if you come into contact, you can get sick.
What else, if anything, do you recall from

their discussion about that?

A. Well, I remember before we work, we go to like a training video, and that was mainly the main topic.

Q. The main topic being what? 09:57:04

A. The risk of pesticides exposure.

Q. You dress in this equipment about 4:00 a.m. How many fields did you work on on August 5th, 2019?

A. I believe it was just one big field. 09:57:22

Q. What time do you arrive at the field?

A. I don't recall.

Q. Morning or afternoon or --

A. Morning.

Q. In general, how many fields would you work on any given day for Pioneer? 09:57:49

A. It depends on the size of the field.

Q. For sure. So maybe one day it was -- maybe one day it might have been one field, on another day it would have been several fields, 09:58:06 is that fair to say?

A. Correct. Yes.

Q. And what's the most number of fields on one day that you think you would work or had

worked?

A. Another thing is that depends on how much the field -- how much work needs to be done on the fields. Sometimes it's not the whole field. Maybe sometimes we'll go to three or four maybe. 09:58:30

Q. Okay. And I understand it depends. But I think what I'm hearing from you is your recall is on one or more occasions, you may have worked up to four fields in one day, is that fair?

MS. PALUMBO: Object to the form. 09:58:44

BY MR. RAVICH:

Q. You can answer the question.

What was the maximum number of fields you think you worked on on any given day?

A. Probably four I would say. 09:58:53

Q. On the field that you were working on on August 5th, 2019 that you saw an airplane fly nearby, right, these allegations, and we'll get to where the airplane was flying, were you in the field? 09:59:20

A. Yes.

Q. Where in the field?

A. So I was in the middle of my course.

Q. What does that mean?

A. We're assigned courses of corn to detassel. So I was working the middle of my course.

Q. Is a course like a row?

A. Yes, a row. 09:59:44

Q. Other people, other workers around you?

A. Yes.

Q. How many would you say?

A. So I was like on a different section of the field because it was a large field that day. 09:59:58 So around me -- we were finishing up a larger part of the field, so around me I remember it was three more -- I believe three more people.

Q. Do you know if you were on the north side of the field, west, east or south? Are you able to know that? 10:00:21

A. No, I don't recall.

Q. Where do the buses drop you off?

A. So when the fields are very large, there are bus rows in between the fields. So the bus was on -- well, that day we started on one side of the field and then ended on another side. So when we got dropped off on one side of the field, and by the end of the day, the people were finishing the 10:00:40

courses, so everyone is moving and the buses are moving accordingly.

Q. Were any of your family members near or around you on August 5th, 2019 on that field?

A. Can you specify? 10:01:09

Q. Were your family members near you working in the field?

A. They were near me, but not the whole day, obviously. But at that point, they were near me.

Q. And then who was that exactly? 10:01:21

A. My mother and my sister.

Q. Perhaps I'm just mixing up the -- does your mother work for Pioneer?

A. Currently?

Q. No. Then in 2019. 10:01:41

A. Yes.

Q. All right. How long did you work that day?

A. I don't recall.

Q. I want to be sure. You recall just working in that field in the morning? 10:01:57

A. Yes.

Q. Not in the afternoon?

A. From the morning until the afternoon.

Q. Okay. Can you describe the weather that day?
A. It was hot.
Q. Clear skies?
A. Yes. 10:02:27
Q. Clouds?
A. I don't recall.
Q. Was there any rain or precipitation?
A. I don't believe so.
Q. Was there any wind? 10:02:39
A. I don't believe so.
Q. When you say you don't believe so, do you think the wind was calm as opposed to breezy?
A. It was a hot still day.
Q. Did you notice the wind blowing in one direction versus another? 10:02:52
A. No.
Q. How did you know it was safe to go into that field, if you knew?
A. Can you specify like a time? 10:03:17
Q. Any time during the day when you were asked to get off the bus and go to the field, do you just go in the field, or are you told to be careful of anything in the field?

A. So the -- we wouldn't work on fields that were sprayed with pesticides because we're told that we're not supposed to work on fields that have been sprayed with pesticides. So if we're on the field, it has to be safe. 10:03:56

Q. Do you make an independent judgment about the safety of the field or do you just believe what Pioneer is telling you about the field, if they say it's safe, you think it's safe, is that accurate? 10:04:10

A. I'll say --

MS. PALUMBO: Object to form.

BY MR. RAVICH:

Q. You can answer.

A. I'll say it would be a mixture of both, 10:04:18 and, also, other's judgment.

Q. All right. So if Pioneer says it's safe, what independent judgment do you exercise?

A. So I will listen and hear what other people are saying. If they say, oh, I don't think 10:04:33 this is safe, then I'll go off that. If it's a normal day, then it's most likely safe.

Q. When you say you would listen to people, you mean your co-workers?

A. Correct.
Q. If your coworker said it wasn't safe, but it wasn't, in fact, safe, how would you know?
A. I do not know.
Q. You wouldn't, right? 10:05:06
A. Correct.
Q. The allegations in this lawsuit are that you were sprayed by an airplane?
Describe the airplane? Was it an airplane or helicopter? 10:05:24
A. I believe it was an airplane.
Q. What color was the airplane?
A. To my memory, I believe it was orange.
Q. The whole thing was orange or just the tail or the wings? 10:05:38
A. I don't recall.
Q. Orange like the fruit?
A. Yes, I would say like a bright orange.
Q. Do you know where the propeller on the airplane was? 10:06:00
A. I did not see that close.
Q. Tell me what you saw? You saw an airplane flying. Tell me everything you saw just in terms of the direction? We'll get to --

A. So I'm working and I'm walking straight, and the plants are pretty tall, but I can hear noise, so I can hear a plane, and I can look up and look like around this angle, probably like to my left, and I could see a plane flying. 10:06:32

Q. So we're on Zoom and the court reporter is taking this down, and so I'm trying to maybe describe what I'm seeing in your body language.

So you're looking up and to your left at about 45 degrees? 10:06:48

MS. PALUMBO: Objection. Form.

You can answer the question.

THE WITNESS: About so, yeah.

BY MR. RAVICH:

Q. If not, you can tell me. That's what I'm seeing. 10:07:01

A. That seems correct, yeah.

Q. Okay. And how tall do you think the crops are?

A. I wouldn't know. 10:07:08

Q. How tall a man are you?

A. Five-eight.

Q. Taller than you?

A. Taller than me.

Q. Over six feet, meaning the crops?
A. I would say about six feet.
Q. Okay. So maybe another head or shoulders above you, is that fair?
A. Fair. 10:07:35
Q. Did the airplane pass over you?
A. No.
Q. All right. Tell me about its path. You heard an airplane and saw an airplane, and what was the airplane doing as you observed? 10:07:49
A. I didn't focus too much on the airplane because I'm working and focusing on my job, and it was just the airplane passing by, flying by. So --
Q. How high was it above your head, if you know? 10:08:03
A. I wouldn't know.
Q. Was it above the treetops?
A. Yes.
Q. Was it near the clouds? 10:08:12
A. I guess you can say.
Q. I don't want to say. I need you to say. Would you say it was as high as a tall building?

MS. PALUMBO: Objection. Form.
THE WITNESS: I would say -- I really couldn't say.
BY MR. RAVICH:
Q. Okay. Could you touch the airplane while it was flying over you? 10:08:34
A. No.
Q. Was the airplane --
MS. PALUMBO: I'm sorry. Could we break in a couple minutes. It's been about an hour. 10:08:57
MR. RAVICH: Yeah, in a few minutes. This is going to be an important part of the testimony.
MS. PALUMBO: Yeah. But I would like to take a break at an hour. Thank you.
BY MR. RAVICH: 10:09:07
Q. All right. So was the airplane flying in the sky or close to the ground?
A. I couldn't specify.
Q. Was the airplane flying close to the ground? 10:09:22
A. No.
Q. Was the airplane spraying anything?
A. I -- I couldn't -- I didn't observe that closely.

Q. And you did not observe that closely because you were focused on doing your work with the crops, I think that's your testimony, is that right?

A. Correct. 10:09:44

Q. Is it fair to say that the airplane's flight was unremarkable to you?

MS. PALUMBO: Objection. Form.

THE WITNESS: I don't understand that question.

BY MR. RAVICH: 10:09:56

Q. Were you bothered by the airplane flying overhead?

A. I didn't think too much of it.

Q. Did you smell anything emanating from the airplane? 10:10:11

A. I was not that close to it.

Q. Did you see the pilot?

A. No.

Q. Did the airplane spray anything on you?

A. I don't believe so. 10:10:24

Q. What would you need to make a definite understanding of whether something was sprayed on you or not? If you don't believe so, what would you need to know?

A. It didn't.
MR. RAVICH: Okay. Now is a good breaking time.
MS. PALUMBO: Great. 10, 15, what?
MR. RAVICH: Sir, how are you doing? I'll leave it up to you. You want 10 minutes or 5 minutes? 10:10:52
MS. PALUMBO: Let's do 10. So we'll come back at 10:20.
MR. RAVICH: Perfect. Thank you. 10:11:03
MS. PALUMBO: Great. Thanks.
(Whereupon, a short break was taken.)
BY MR. RAVICH:
Q. When you say it didn't, you're saying you were not sprayed? 10:22:29
A. From what I believe, yes.
Q. You believe you were not sprayed, is that correct?
A. Correct. 10:22:37
Q. All right. Why are you suing my clients?
A. Can you specify?
Q. You're suing my clients for an aerial spray, but you're testifying you were not sprayed.

Why are you suing my clients?

A. I believe that there's a cause and effect in people's actions, and it's obvious that the cause of whoever flew that plane at that time on that day in that area caused people to be exposed to pesticides, including myself. 10:23:08

Q. How were you exposed to pesticides from an airplane?

A. Can you specify?

Q. You're telling me it is obvious to you, to use your word, that you were sprayed by an airplane. Explain? 10:23:22

A. I don't think I said I was sprayed directly by an airplane. But pesticides to my belief that were sprayed by an airplane were near or on the field that I was working at, and I was exposed to those pesticides. 10:23:38

Q. When did those pesticides get on the field that you were on?

A. Can you specify? 10:24:01

Q. What I'm hearing from you is you think you were exposed to pesticides on the field.

When and how did those pesticides get on the field in which you were working?

A. I believe -- I believe after they were from the plane.

Q. But you did not see the airplane spraying any pesticides down on the field at the time that you were working, is that right? 10:24:31

A. Me personally?

Q. Correct.

A. I did not. But I can't speak for others.

Q. That's right.

You testified that the airplane passed over you once. Did it do it ever again? 10:24:42

A. I do not recall.

Q. So just once?

A. I believe so.

MR. PALUMBO: Objection. Form. 10:24:57

BY MR. RAVICH:

Q. Could it have been more than once, but you just don't recall?

A. Correct.

Q. And is the reason you don't recall because you were focused on your work? 10:25:02

A. I would say -- I wouldn't specifically say I was focused on my work, but I was probably focused on something else other than the plane.

Q. The airplane was not a concern for you, right?

MS. PALUMBO: Objection. Form.

BY MR. RAVICH:

Q. You can answer. 10:25:39

A. Can you specify?

Q. The airplane was not a concern for you, you were able to go about your business and not worry about the airplane, right?

A. Depending on the -- the specific time. 10:25:47

Q. The time it was flying?

A. I do not know how long it was flying. But when I first seen it and that was -- at that time, that specific time when I first saw it, I was focused on it more. 10:26:07

Q. Well, you testified you only recall it flying once over, is that right?

MS. PALUMBO: Objection.

THE WITNESS: Can you specify?

BY MR. RAVICH: 10:26:16

Q. Specify what?

A. Can you rephrase the question?

Q. You testified you saw it fly over you once, right?

A. Me personally, yes.
Q. I'm only talking about you personally.
And then you did not observe it flying over you again, right?
A. Correct. 10:26:29
Q. When the airplane flew over you, what was the reaction of other workers around you as you observed them?
A. Okay. So I was in a different part of the field, so around me there was only, like, I would say like three people. But I do remember someone instructing or yelling for people to get off the field. 10:26:49
Q. Who was yelling?
A. I do not know. 10:27:10
Q. Was it a worker or someone -- or a Pioneer supervisor?
A. I couldn't tell you.
Q. Again, what part of the field -- do you know if it was the north part, south part, east part, west part? 10:27:20
A. I couldn't specify.
Q. Were you close or far from the buses?
A. Far.

Q. And, again, you don't know if the buses were to your west or your north or somewhere else?

A. I would just say left and right. The buses were to my left.

Q. How far -- I'm asking you to estimate, how far into the field were you from the buses? 10:27:44

A. I couldn't tell you.

Q. Let's do it this way.

How many buses do you think could be parked between you and the buses that were actually parked? 10:28:12

A. A lot. I would say -- I would say between 20 and 30, maybe. I don't know.

Q. So the airplane flies over you once, you hear someone else from the field -- someone saying something. What happened next? What did you do next? 10:28:36

A. Okay. So I recall someone yelling, but I did have my headphones on, so I -- I just continued with my work. And when I finished my work, there was a Pioneer worker saying that they're waiting for everyone to get out of the field because the plane was flying overhead. 10:28:55

Q. You said you had earphones. What were you

listening to?

A. Music.

Q. How loud was it?

A. I wouldn't say that loud because I heard the person yelling and I heard the plane. 10:29:18

Q. Okay. So you could hear a person and a plane through your earphones and whatever you were listening to, music, I presume, right?

A. Yes.

Q. Okay. How did you personally feel physically after the airplane flew over you? 10:29:29

A. After I seen the airplane, I felt fine.

Q. Okay. I'm going to share a screen.

What do you see?

A. I see me. 10:30:06

Q. Okay. So this is document labeled P, as in papa, 132. This was given to us by your lawyers.

What is this?

A. Okay. So that is me experiencing symptoms afterwards. 10:30:16

Q. All right. So you just testified that after the airplane flew over you, you felt fine. When is this photograph taken?

A. Okay. So I'm going to express -- I'm going to specify when I felt fine and --
Q. Well, just answer my question.
When was this photograph taken?
A. On the same day. 10:30:47
Q. August 5th, 2019?
A. Right.
Q. By who?
A. I do not know.
Q. You don't know who took this photo, right? 10:30:54
A. Right.
Q. Where is this?
A. At the hotel.
Q. Approximately what time, if you know?
A. In the afternoon. 10:31:04
Q. In the afternoon.
Early afternoon, mid-afternoon, late afternoon?
A. I wouldn't -- I don't know. Between early and mid. 10:31:14
Q. So between noon and 3:00 o'clock, you think?
A. Correct.
Q. You don't know who took this photograph,

right?

A. Correct.

Q. When was the first time before now that you've seen this photograph?

A. I don't recall. 10:31:41

Q. You have seen this photograph before I just showed it to you, correct?

A. Correct.

Q. Did you look at it yesterday when talking with your lawyers? 10:31:50

A. I don't believe so.

Q. Meaning you don't recall, or it's possible you saw it, and you just don't remember?

A. I'm pretty sure I didn't.

Q. Would you remember if you saw this photograph yesterday? 10:32:02

A. Yes.

Q. All right. You were testifying this was back at the hotel.

And what's going on here? 10:32:15

A. So I was -- what I was experiencing was kind of like nausea and retching, which basically I was trying to throw up, but nothing would come out. So I was just like retching and nausea.

Q. Are you drinking milk there?
A. They tried to give me milk because, like, I don't know too much of it, but people believe that when you drink milk, you can throw up if you consumed chemicals. 10:32:56
Q. I'm sorry. Do you mind repeating that. I'm just trying to understand.
A. They tried to give me milk because I couldn't throw up or nothing, like, I was having trouble breathing and trying to throw up, but I 10:33:09 couldn't throw up. So they -- their belief is that if you drink milk, it will help you throw up chemicals.
Q. Who's they?
A. Whoever gave me the milk. 10:33:21
Q. You don't know who gave you the milk?
A. I believe it was one of the co-workers.
Q. Is someone -- it seems like someone is touching your back there. Do you know who that was? 10:33:41
A. One of my co-workers.
Q. But you don't know who?
A. I can't see the face, so I'm not sure.
Q. I can't either. But you don't know who

was around you?

A. I'm not too sure.

Q. This document P-133, is this still you at the same location?

A. Yes. 10:34:03

Q. What's on your finger?

A. I'm not sure. I think that's when the ambulance arrived, I believe.

Q. So let's talk.

You went back home to the hotel on the 10:34:23
bus, right?

A. Right.

Q. And your bus ride was uneventful?

A. No.

MS. PALUMBO: Objection. Form. 10:34:32

BY MR. RAVICH:

Q. How was the bus ride for you?

A. I started coughing like I would say five minutes into the bus ride, and then I started having trouble breathing. 10:34:46

Q. Where did the bus take you?

A. To the hotel.

Q. And what did you do once you were back at the hotel?

A. Can you repeat that?
Q. What did you do once you were back at the hotel?
A. Well, I started to get sick, so I couldn't do much. And I was trying to breathe, so I was -- they sat me down. 10:35:06
Q. Who's they?
A. Co-workers.
Q. And you said that an ambulance was called?
A. Yes. 10:35:17
Q. And take me through that. What happened?
A. So originally we were told -- we were instructed to wait for an ambulance provided by Pan Air (phonetic) but it wasn't there, so we just called the local ambulance, I think. 10:35:33
Q. Did you call the ambulance or someone called on your behalf?
A. Someone called on my behalf. I couldn't talk.
Q. And so, again, looking at this photo, P-133, do you know why something is on your finger or who put it there? 10:35:47
A. I don't recall. But I'm pretty sure that's because the ambulance put it there or the

people -- the nurses or whatever.

Q. Was the milk provided by one of the health care professionals or paramedics in the ambulance, if you know?

A. No. 10:36:16

Q. Here's P-134. Is it the same photo or a different photo? What do you see here?

A. I see me.

Q. Did you get into the ambulance?

A. Yes. 10:36:28

Q. Where did you go?

A. To the hospital.

Q. And what were you treated for there?

A. Nausea, trouble breathing, and -- yeah.

Q. You told the health care providers that you had been sprayed with pesticides? 10:36:50

A. Not me, no. I don't think it was me directly.

Q. Well, when you presented there, did someone tell the people treating you that you had been sprayed or otherwise exposed to pesticides? 10:37:07

A. Yes.

Q. Who told them that?

A. I'm not sure. But I know when the ambulance arrived, they asked what's happening, and they explained to them, you know, he was in a field with pesticides.

Q. And I need to be specific. When you say they, who explained that? 10:37:28

A. My co-workers.

Q. Did any of your Pioneer supervisors talk to health care professionals on your behalf, and say, for example, he was sprayed, we need to get him help? 10:37:46

A. I don't recall.

Q. Did any health care professional at any time tell you that you were exposed to pesticides?

A. I don't recall. 10:37:59

Q. When you say you don't recall, did you once know, or you just don't know, or you don't have an idea one way or the other?

A. I don't remember.

Q. Meaning you knew at one point, but cannot remember at this moment, is that right? 10:38:12

MS. PALUMBO: Objection. Form.

THE WITNESS: Meaning there's a possibility that they could have told me and I just don't

remember at this time.
BY MR. RAVICH:
Q. All right. What would help refresh your recollection as to whether a health care provider told you that you were exposed to a pesticide? 10:38:31
A. I wouldn't know.
Q. I'm looking at your interrogatory answer Number 10, which you said you reviewed yesterday.
You remember signing these documents under oath, right? 10:38:55
A. Hello.
Q. Yes. Can you hear me?
A. Can you repeat that.
Q. Yes. I'm looking at your interrogatory responses. 10:39:08
You remember signing these and promising to tell the truth under penalty of perjury, right?
A. Right.
Q. Okay. I'm looking at interrogatory Number 10. I'll refer to your response. You say I 10:39:17 experienced chemical exposure caused by aerial spray.
Again, how do you think you experienced chemical exposure?

A. Okay. So I believe I was exposed to chemical exposure by aerial plane because the airplane passed by and other people said that they were sprayed from the airplane, not me personally. But -- and then when they left the field, we were told to return back, and that's when I started experiencing effects. 10:39:50

Q. Understood. So let me be clear that I understand your testimony.

You are not claiming that spray came down from an airplane on to you at any time, correct? 10:40:07

MS. PALUMBO: Object to form.

BY MR. RAVICH:

Q. You can answer.

A. On me directly, no. But on the field that I was working on, yes. 10:40:16

Q. You say you experienced a number of symptoms, including irritated red eyes. Do you still have irritated red eyes today?

A. No. 10:40:32

Q. When did that condition that you allege, irritated red eyes, go away?

A. Well, I experienced that after I left the field the second time, returning into the field,

and while I was in those pictures, I had -- I was having trouble breathing and stuff, I also had red eyes. And when I went to the hospital I also had red eyes. And at the hospital they gave me an eyewash to -- with water to wash out my eyes since they were so red. 10:41:02

Q. When did -- for how long did you have irritated red eyes after August 5th?

A. I would say I didn't.

Q. We talked about nausea and vomiting. Did that stop soon after August 5th? 10:41:17

A. No.

Q. For how long did that continue?

A. I would say on and off -- for like a couple months I would say. 10:41:35

Q. Do you still suffer from nausea and vomiting today?

A. No.

Q. You allege dizziness. Do you experience dizziness today? 10:41:44

A. No.

Q. When was the last time you experienced dizziness?

A. From what I recall, that situation.

Q. August 5th?
A. Yes.
Q. What about gagging and coughing, is the last time you experienced that also August 5th?
A. No. 10:42:00
Q. When was the last time you had gagging and coughing?
A. Like I said, like around a couple months or a month or so after that incident.
Q. So when, to your best estimation, did the gagging and coughing stop for you? 10:42:10
A. I would say the last time I remember was around October of that year.
Q. October of 2019?
A. Correct. 10:42:24
Q. All right. You also allege disorientation and feeling faint. Was the last time you felt those also in 2019?
A. Yes.
Q. You mentioned retching, you also say that in your interrogatories. Was the last time you experienced retching in 2019? 10:42:36
MS. PALUMBO: Objection. Form.
THE WITNESS: Yes.

BY MR. RAVICH:

Q. You also indicate difficulty breathing. When was the last time you had difficulty breathing?

A. 2019. 10:42:56

Q. You note, and I'm reading your statement here, I also sustained a cut on my arm from trying to escape the spray and needed assistance standing and walking. Can you explain that?

A. Okay. So when I first left the field, 10:43:10 obviously, I wasn't harmed, but we were instructed to --

Q. I'm sorry --

A. When I first left the field and I first saw the plane, I was unharmed. But I was 10:43:25 instructed to return to the field a second time, and when -- so when you do a course, you have to go once and then come back through it. So the second time when I was coming back to it is when I started experiencing the side effects. So that's when I 10:43:41 had trouble -- I started trying to gag, and I was having trouble kind of breathing, and that's when people were trying to -- I was having trouble standing up and people were helping me.

Q. So I apologize, but I didn't hear a word. Was the word unharmed, the first time you went -- that you left, you were unharmed, and then went back into the field?

A. Correct. The first time when I saw the plane and I finished my work, when I was on the other side of the field, like I mentioned, yes, I was unharmed. 10:44:07

Q. And then your testimony is that you got hurt going back into the field or coming back out of the field? 10:44:18

A. Yes. So we were instructed to -- because at first everyone was instructed to go back to the buses because of the plane flying over by. But then we got instruction that we're still going to continue working, and so we were instructed to return to the field once more. 10:44:34

Q. What were those instructions to the best of your memory?

A. Okay. To the best of my memory, so when the first time when I left the field, there was a Pioneer worker waiting in his car, and he said they were instructing everyone to get out of the field because of the plane flying over, and he said to 10:44:46

return to the buses. So when I went to the buses, near the buses was the worker that assigns the corn row, and I see people on the buses, so I asked her are we returning to the buses, and she said we're waiting on instruction because they might send you guys back into the field. So by waiting for my instructions I mean by our local contractor was there, and she was speaking to Pioneer workers, and she was basically told to instruct us to go back into the fields. So that was the instruction. 10:45:21 10:45:41

Q. Thank you. What was her name?

A. I believe it was Melinda.

Q. Okay. Who were the supervisors present that day by name?

A. I wouldn't say -- we didn't have like assigned supervisors. They never said this person is a supervisor or stuff like that. But the person in charge I would say would be her. 10:45:55

Q. You also note, you say I also experienced emotional distress symptoms as a result of the August 5th, 2019 events, including fear, anxiety and insomnia. 10:46:24

Do you still have fear from August 5th, 2019?

A. No.

Q. What were you afraid of, if anything, at that point?

A. I was just -- I had like fear and anxiety of death, like, you know, you can die at any moment, and I would just have fear of death. Like say I was riding in a vehicle, I would have anxiety because you can die in a car crash or things of that nature. 10:46:49

Q. All right. So you don't have any fear or anxiety at this time? 10:47:10

MS. PALUMBO: Objection to form.

THE WITNESS: At this time I would say -- I would say no fear. But anxiety I still get a little bit. 10:47:24

BY MR. RAVICH:

Q. All right. What are your anxieties?

A. I would say it was -- my anxieties now are just like the idea of just like when there's too much people around, things of that nature, but not like death anxiety. I don't have an anxiety about death or nothing. 10:47:36

Q. Do you tie any of your anxiety to the event of August 5th, 2019?

A. My current anxiety now, no.
Q. You also mentioned insomnia. When was the last time you suffered from insomnia?
A. I would say I still suffer from insomnia.
Q. Why? 10:48:04
A. I do not know.
Q. Okay.
A. Do you mean why I believe I still suffer from it?
Q. I think there was a question do you suffer 10:48:12
from insomnia and why do you believe you suffer from insomnia?
A. So I believe I suffer from insomnia because I have trouble sleeping.
Q. Do you tie the insomnia with the event of 10:48:25
August 5th, 2019?
A. I wouldn't be sure.
Q. What does that mean you wouldn't be sure?
A. Because it's a possibility that it could be tied and I just don't know. 10:48:38
Q. What are the other possibilities?
A. That -- that it's tied to something completely unrelated.
Q. You're a psychology major. What do you

think is keeping you up at night?

MS. PALUMBO: Objection. Form.

THE WITNESS: That's a good question. I just haven't thought about that.

BY MR. RAVICH: 10:49:17

Q. Have you sought any counseling or someone to talk to about insomnia?

A. No.

Q. Why not?

A. Because I would say that it comes and 10:49:29 goes. So it comes and goes, and I wouldn't say -- it's just something that I deal with and it's normal.

Q. And how do you define insomnia? When you use that word, what do you mean? 10:49:49

A. I just can't sleep, and when I try to sleep, I'm just thinking.

Q. No health care provider told you that you were vomiting or retching because you were exposed to chemicals or pesticides, is that right? 10:50:20

MS. PALUMBO: Objection. Form.

You can answer.

THE WITNESS: I can't recall.

BY MR. RAVICH:

Q. Do you know how much money you're seeking from my clients in this case?

A. I do not know.

Q. What do you want from them? 10:51:44

A. I wouldn't know how to answer that.

Q. What do you think they did wrong to you?

A. Well, like I said, I believe in cause and effect, and there's -- the effect of one's actions results in other things. So whoever flew that 10:52:12 plane at that time on that date in that area, obviously, there was a reaction, a chain of events of that person's action, the chain of events was people to get hurt.

Q. Some -- 10:52:30

A. So --

Q. I'm sorry?

A. You can go ahead.

Q. Thank you.

So I'm not asking what other people told 10:52:37 you. I'm asking your opinion, what's in your head, what did this pilot do wrong?

A. Okay. So in my head, what did this pilot do wrong? It could be that he was just following

instructions and working his job, like any other day, so you could say that he didn't have any harmful intentions to what happened, but there was a chain reaction of events that happened because of him flying that plane on that day at that time. 10:53:21
But it could be that he was just doing his job that day.

Q. To repeat your testimony, you have no personal knowledge that the airplane sprayed any of your co-workers, right? 10:53:36

MS. PALUMBO: Objection. Form.

THE WITNESS: Can you repeat that.

BY MR. RAVICH:

Q. Do you have personal knowledge that the airplane sprayed any chemicals on any of your co-workers? 10:53:47

A. Well, according to some of my co-workers, I'm pretty sure they said they did get sprayed from something from the plane.

Q. I understand what they told you. Did you see anyone get sprayed? 10:54:01

A. No, because I was on the other side of the field working when it originally sprayed.

Q. The only basis you have for believing that

people were sprayed is the other people telling you that, right?

A. No.

Q. What bases do you have other than that for believing that people were sprayed? 10:54:33

A. The physical injuries that I seen with my eyes and that I experienced cause me to believe that people were sprayed from the plane.

Q. Do you know if Curless or Farm Air, the operators of the airplane, were employed by 10:55:08 Pioneer?

A. I do not know.

Q. At any point in time did you think that it was a Pioneer airplane?

A. No. 10:55:20

MR. RAVICH: Okay. I think that's all I have.

MS. PALUMBO: Can you give me one moment.

MR. RAVICH: Yes.

MS. PALUMBO: Thank you. We don't have any redirect, Tim. 10:56:29

MR. RAVICH: Okay. Very good. Thank you very much for your time. I appreciate it.

Off the record.

(Whereupon, a discussion was had off the record.)

(The deposition concluded at 10:56 a.m.)

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STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

I, Dina M. Crivellone, a notary public within and for the County of Cook County and State of Illinois, do hereby certify that heretofore, to-wit, on July 25, 2024, personally appeared before me via Zoom videoconferencing, ADRIAN PEREZ, in a cause now pending and undetermined in the Circuit Court of Cook County, Illinois, wherein HADA GARCIA is the Plaintiff, and PIONEER HI-BRED INTERNATIONAL, INC., et al., are the Defendants.

I further certify that the said ADRIAN PEREZ was first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by said witness was reported stenographically by me in the presence of the said witness, and afterwards reduced to typewriting by Computer-Aided Transcription, and the foregoing is a true and correct transcript of the testimony so given by said witness as aforesaid.

I further certify that the signature to the foregoing deposition was waived by counsel for

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the respective parties.

I further certify that the taking of this deposition was pursuant to notice and that there were present at the deposition the attorneys hereinbefore mentioned.

I further certify that I am not counsel for nor in any way related to the parties to this suit, nor am I in any way interested in the outcome thereof.

IN TESTIMONY WHEREOF: I have hereunto set my hand and affixed my notarial seal this 7th day of September, 2024.

Dina M. Crivellone

NOTARY PUBLIC, COOK COUNTY, ILLINOIS

LIC. NO. 084-004157

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MAGNA
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