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TALBOT COUNTY AGRICULTURAL RESOLUTION BOARD

TALBOT COUNTY, MARYLAND

Board Hearing

Regarding the Foster Farm

February 28, 2022; 9:00 a.m.

Talbot County Community Center

10028 Ocean Gateway

Easton, MD

AGRICULTURAL RESOLUTION BOARD MEMBERS:

Travis Hutchison

Robert Greenlee

Lewis H. Smith, Jr.

Shannon Dill

Shawn Smith

Reported by

Diane Houlihan

|  |   |
|--|---|
| Page 2   | Page 4  |
| <p>1            I N D E X</p> <p>2 ATTENDEES:</p> <p>3 Michael Duell<br/>            Talbot County Chief Code Compliance Officer</p> <p>4</p> <p>5 Bill Schmidt, LEHS<br/>            Supervisor, Office of Environmental Health<br/>            Talbot County Health Department</p> <p>6</p> <p>7 Duane Gottschalk<br/>            Talbot County Code Compliance Officer</p> <p>8 Lance Young, Esq.<br/>            MacLeod Law Group</p> <p>9</p> <p>10 Dwight Dotterer<br/>            Maryland Department of Agriculture</p> <p>11 Howard Callahan<br/>            Maryland Department of Agriculture</p> <p>12</p> <p>13 Tommy Phillips<br/>            Maryland Department of Agriculture</p> <p>14 Brian Coblentz<br/>            Maryland Department of Environment</p> <p>15</p> <p>16 Mark Spencer Cropper, Esq.<br/>            Ayres, Jenkins, Gordy &amp; Almand</p> <p>17 Jimmy Mardis<br/>            Denali</p> <p>18</p> <p>19 Chris Banks<br/>            Denali</p> <p>20</p> <p>21</p>   | <p>1     vice chairman of our Board.</p> <p>2            And the other party member of our Board is</p> <p>3     Mr. Lewis Smith.</p> <p>4            Also with us are advisers to the Board.</p> <p>5     They're non-voting members. But we have</p> <p>6     Ms. Shannon Dill with Talbot County extension</p> <p>7     agent, Mr. Shawn Smith, head of the Soil</p> <p>8     Conservation District here in Talbot County.</p> <p>9            Over here we have.</p> <p>10           MR. YOUNG: Lance Young.</p> <p>11           MR. HUTCHISON: Lance Young. He's our</p> <p>12     attorney, our adviser, legal counsel.</p> <p>13           MR. SCHMIDT: Bill Schmidt, Talbot County</p> <p>14     Health Department, Office of Environmental</p> <p>15     Health.</p> <p>16           MR. DUELL: Mike Duell, chief code</p> <p>17     compliance officer, Talbot County.</p> <p>18           MR. GOTTSCHALK: Duane Gottschalk, code</p> <p>19     compliance officer, Talbot County.</p> <p>20           MR. HUTCHISON: And over here, we have</p> <p>21     State officials to answer questions for us</p>                   |
| Page 3   | Page 5  |
| <p>1            T R A N S C R I P T   O F   P R O C E E D I N G S</p> <p>2</p> <p>3            MR. HUTCHISON: Good morning. I'd like to</p> <p>4     welcome everybody here today for the</p> <p>5     resolution, Talbot Agricultural Resolution</p> <p>6     Board for a hearing about the complaints from</p> <p>7     Trappe on the Foster Farm.</p> <p>8            First thing, I'd like to take care of a</p> <p>9     little bit of business. We have a court</p> <p>10     reporter with us today that we're recording</p> <p>11     everything we say. So we need to keep it</p> <p>12     fairly quiet in here so she can hear so she can</p> <p>13     record everything properly.</p> <p>14            Only want one person speaking at a time so</p> <p>15     it can be understood. I'd like you to speak</p> <p>16     clearly and slowly.</p> <p>17            First thing I'd like to do is introduce</p> <p>18     some of the parties involved. My name is</p> <p>19     Travis Hutchinson. I'm chairman of the Talbot</p> <p>20     Agriculture Resolution Board.</p> <p>21            On my right is Mr. Robert Greenlee. He's</p> | <p>1     today that have been involved with this case.</p> <p>2            If you guys would like to introduce.</p> <p>3            MR. DOTTERER: I'm Dwight Dotterer. I'm</p> <p>4     from Maryland Department of Agriculture, and</p> <p>5     I'm in charge of the nutrient management</p> <p>6     program.</p> <p>7            MR. CALLAHAN: I'm Howard Callahan. I'm</p> <p>8     with the Maryland Department of Ag's nutrient</p> <p>9     management program covering this region.</p> <p>10           MR. PHILLIPS: I'm Tom Phillips, State</p> <p>11     chemist.</p> <p>12           MR. COBLENTZ: Hi, good morning. My name</p> <p>13     is Brian Coblentz. I'm division chief of the</p> <p>14     Maryland Department of Environment's compliance</p> <p>15     division.</p> <p>16           MR. HUTCHISON: All right. I thank you.</p> <p>17            First thing we're going to do is ask</p> <p>18     Mr. Mike Duell to present his report and</p> <p>19     findings on the case.</p> <p>20           MR. YOUNG: Before Mr. Duell does, since</p> <p>21     we have a court reporter here and she has to</p> |

|  |   |
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| Page 6   | Page 8  |
| <p>1 swear in everybody who is going to be</p> <p>2 presenting evidence and is going to be talking</p> <p>3 before the Board today, I think it's probably</p> <p>4 easier if everybody in the room who intends on</p> <p>5 testifying today can raise their hand and the</p> <p>6 court reporter will swear everybody under oath.</p> <p>7 (Whereupon all witnesses were sworn in.)</p> <p>8 MR. YOUNG: And if anybody didn't raise</p> <p>9 their hand and swear in under oath now or</p> <p>10 anybody comes in late, we need to kind of make</p> <p>11 sure that we swear them in under oath later</p> <p>12 when they do decide they want to talk.</p> <p>13 MR. DUELL: Mr. Hutchison, I'd like to</p> <p>14 submit the following exhibits to you. The</p> <p>15 whole Board has copies of these exhibits.</p> <p>16 Also, Mr. Cropper, the defense attorney, has</p> <p>17 them as well. I'll name them out.</p> <p>18 Exhibit 1 is Talbot County's Planning and</p> <p>19 Zoning staff report.</p> <p>20 Exhibit 2 is Talbot County citizens</p> <p>21 written complaints.</p> | <p>1 MR. CROPPER: I do, for the record. Thank</p> <p>2 you.</p> <p>3 And I would add after the February 18th</p> <p>4 revised memorandum was sent to you, there were</p> <p>5 two follow-up letters that should also be part</p> <p>6 of the record and considered part of that</p> <p>7 memorandum.</p> <p>8 MR. DUELL: I'll verify that and make sure</p> <p>9 that's in there, sir.</p> <p>10 MR. CROPPER: I'm looking right now.</p> <p>11 Actually the first letter was dated</p> <p>12 February 18th and was submitted with the</p> <p>13 revised memorandum dated February the 18th.</p> <p>14 And then there was a letter of February</p> <p>15 the 23rd that was sent to Chairman Hutchinson,</p> <p>16 and it copied Mr. Young, yourself, Mr. Duell,</p> <p>17 Mr. Drummond.</p> <p>18 And then there was one further e-mail</p> <p>19 dated February the 24th that was sent to</p> <p>20 Chairman Hutchinson, it looks like Mr. Schmidt,</p> <p>21 Lance Young. And that was a follow-up to an</p> |
| Page 7   | Page 9  |
| <p>1 Exhibit 3 is photos taken by Mike Duell,</p> <p>2 chief code compliance officer.</p> <p>3 Exhibit 4 is MDE permit issued to Ocean</p> <p>4 City for sewage sludge utilization, product</p> <p>5 description, and application. MDE soil</p> <p>6 conditioners used on the Foster Farm.</p> <p>7 Exhibit 5 is a Freedom of Information Act</p> <p>8 request from MDA chemist for the three soil</p> <p>9 conditioners used on the Foster Farm.</p> <p>10 Exhibit 6 is copies of the MDE inspector's</p> <p>11 report relative to the Foster Farm.</p> <p>12 Exhibit 7 is Talbot County Health</p> <p>13 Department report and photos relative to the</p> <p>14 Foster Farm complaints.</p> <p>15 And the last one is Exhibit 8. It's</p> <p>16 miscellaneous support documentation to the</p> <p>17 staff report, in addition to Mr. Cropper's</p> <p>18 memorandum to the Board dated February 18,</p> <p>19 2022.</p> <p>20 Mr. Cropper, you have all of this I</p> <p>21 believe, including --</p>   | <p>1 e-mail that I received I think from Mr. Duell.</p> <p>2 So that would make all the documents that</p> <p>3 I've submitted on behalf of the Fosters, who</p> <p>4 I'm representing today.</p> <p>5 MR. DUELL: I'll examine that file and</p> <p>6 make sure it's complete with those three</p> <p>7 documents.</p> <p>8 MR. HUTCHISON: We need a motion for that?</p> <p>9 MR. YOUNG: A motion to submit evidence,</p> <p>10 no, I don't think so.</p> <p>11 MR. HUTCHISON: Just be patient with me.</p> <p>12 This is the first time we've had one of these</p> <p>13 hearings. So we're learning as we go.</p> <p>14 Is that all from the county?</p> <p>15 MR. DUELL: Yes.</p> <p>16 MR. HUTCHISON: Now we'd like to turn to</p> <p>17 the State guys. Do you have anything that you</p> <p>18 want to add to the case? Anything that you</p> <p>19 have --</p> <p>20 MR. CALLAHAN: I'm not aware of anything</p> <p>21 additional based on what the e-mail that I saw</p>                             |

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1 a couple of days ago from Mr. Duell basically  
 2 laying out I guess the conversations. So I  
 3 have nothing additional to what's in there,  
 4 unless you got questions for me.  
 5 MR. HUTCHISON: How do they determine --  
 6 and I'm not sure. I'm asking all of you. I'm  
 7 not sure who has the right department. How do  
 8 they determine the soil amendment versus like  
 9 the soil sludge, difference in those?  
 10 MR. CALLAHAN: Tom, you want to answer  
 11 that?  
 12 MR. PHILLIPS: Could you clarify the  
 13 question a little bit? Are you talking  
 14 about --  
 15 MR. HUTCHISON: How to determine what  
 16 comes from Valley Protein and Mountaire and Sea  
 17 Watch as a soil amendment compared to what came  
 18 out of Ocean City?  
 19 MR. PHILLIPS: One thing is they're --  
 20 well, the sludge is regulated by MDE. And the  
 21 soil amendments are regulated by my program.

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1 So basically I can give you the new  
 2 definition of what a soil conditioner is  
 3 because that came out in '19. And it's the ag  
 4 article.  
 5 I'm not a lawyer. So I'm just a chemist,  
 6 chemist that had to learn to be a lawyer.  
 7 Title 6., section-201. That's out of the  
 8 2021 supplement.  
 9 So basically a soil conditioner means any  
 10 substance or mixture of substances intended for  
 11 sale, offered for sale, or distributed for,  
 12 manurial, soil enriching, or soil corrective  
 13 purposes, promoting or stimulating the growth  
 14 of plants, increasing the productivity of  
 15 plants, improving the quality of crops, or  
 16 producing any chemical or physical change in  
 17 soil except to commercial fertilizer,  
 18 unmanipulated animal and vegetable manures,  
 19 agricultural liming material, and gypsum.  
 20 Soil conditioners includes, but is not  
 21 limited to, materials such as compost, peat,

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1 vermiculite, perlite, or digestate produced by  
 2 anaerobic digestion that are incorporated into  
 3 the soil.  
 4 That last part was, part of that last part  
 5 was added in 2019.  
 6 But to address the question, let me see if  
 7 I understand it correctly. You want to know if  
 8 there's a difference?  
 9 MR. HUTCHISON: Yeah.  
 10 MR. PHILLIPS: Or a way that we could tell  
 11 the difference?  
 12 MR. HUTCHISON: Yes, both.  
 13 MR. PHILLIPS: Basically, probably no.  
 14 Other than theirs is a more solid product than  
 15 ours.  
 16 Typically most of the soil conditioners  
 17 that we register are anywhere from 82 to  
 18 95 percent moisture, which means they're a  
 19 slurry, except for the cake products.  
 20 Those are the DAF, which is dissolved air  
 21 floatation. And that just brings the solids up

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1 to the surface where they're skimmed off.  
 2 Those are separated from the rest of the  
 3 liquid.  
 4 But as far as, in my opinion, no, I don't  
 5 believe there would be a way to tell a  
 6 difference if they were mixed together.  
 7 MR. HUTCHISON: Okay. How does a company  
 8 go about being registered to --  
 9 MR. PHILLIPS: Well, one of the first  
 10 things is they'll contact us because we would  
 11 prefer to talk to them on the phone instead of  
 12 trying to do everything through e-mail because  
 13 e-mail just misses so much.  
 14 We require the nutrient content because we  
 15 do that for Dwight's program so the farmer  
 16 knows what they're putting on the field as far  
 17 as nutrient wise.  
 18 We also require heavy metals, which is the  
 19 EPA, EPA metals, the eight.  
 20 And we also have started requiring  
 21 polynuclear aromatic hydrocarbons, or PAHs for

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1 short, because it did become a concern because  
 2 there were some products from New Jersey that  
 3 people wanted to bring in. They were high  
 4 arsenic and they were high PAHs.  
 5 I'm not going to let that go on the shore  
 6 because it's just going to affect the water  
 7 table. And that's just no, it's just not going  
 8 to happen.  
 9 So we look at those. We evaluate those.  
 10 They send us a label, like you've got in the  
 11 evidence. Label has to have, it's got to have  
 12 a product brand name because that's how we  
 13 register our products. And then it's got to  
 14 have a purpose statement and it's got to have a  
 15 source of what it is, and then the responsible  
 16 party. In this case, it would be Denali.  
 17 MR. HUTCHISON: Okay. Thank you.  
 18 You guys have any questions?  
 19 MR. GREENLEE: At some point I'm going to  
 20 want to know, and maybe now is as good a time  
 21 as any to ask, what has happened to fertilizer

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1 prices in the last five years?  
 2 MR. PHILLIPS: Well, everything has gone  
 3 up. It's going to go up. I mean I've got --  
 4 we -- the program covers six commodities. So  
 5 we have about 2,500 registrants, the people  
 6 that actually pay the fee and so they can  
 7 distribute their products in Maryland.  
 8 It's animal feed, pesticides, perk test,  
 9 fertilizers, soil conditioners, and liming  
 10 facility.  
 11 A lot of people that register say I know,  
 12 some of them I have kids that farm or they'll  
 13 have a farm on the side or whatever. And  
 14 they're just talking about how fertilizer  
 15 prices are going up and up.  
 16 MR. GREENLEE: Are we not sitting here  
 17 today without rising fertilizer prices?  
 18 MR. PHILLIPS: I haven't checked the price  
 19 this week.  
 20 MR. GREENLEE: Not necessarily this week.  
 21 But I mean the reason that we're turning

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1 to sludge and others sources of soil nutrient  
 2 is because of the escalating fertilizer price?  
 3 MR. PHILLIPS: Well, it's some of that is  
 4 a part of it.  
 5 But the other thing is when we register  
 6 those as soil conditioners, we keep that, I  
 7 hate calling it a waste stream, but that waste  
 8 stream out of treatment plant or landfill. And  
 9 it does have use.  
 10 There's been published papers, which I can  
 11 get the Board later if you want them, that show  
 12 that these things can actually improve the soil  
 13 health and improve the structure and also help  
 14 the crops to grow.  
 15 MR. GREENLEE: Thank you.  
 16 MR. HUTCHISON: So any other alternative  
 17 to soil amendments is dumping it in the  
 18 landfill if it's (inaudible) for fertilizer?  
 19 MR. PHILLIPS: That's out of my field.  
 20 MR. HUTCHISON: Have any questions?  
 21 MR. L. SMITH: The concern for these folks

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1 is the smell from these products.  
 2 Is there any way to gauge the aromatics  
 3 from your chemical test or is that just -- I  
 4 mean perfumes would be off the scale for me,  
 5 but some of these materials apparently are  
 6 pretty (inaudible).  
 7 So any way --  
 8 MR. PHILLIPS: You have to understand you  
 9 have decomposing protein and fats and other  
 10 things in these. And microbes are going to go  
 11 to town on them.  
 12 I mean it would be no different than  
 13 people planting fish at the bottom of a tomato  
 14 plant.  
 15 MR. L. SMITH: Right. But there's nothing  
 16 in your work that rank that?  
 17 MR. PHILLIPS: That part of it is out of  
 18 my expertise area.  
 19 MR. HUTCHISON: Shannon or Shawn, anything  
 20 else we should be asking?  
 21 MS. DILL: So these soil conditioners, are

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1 they done annually or is it a once?  
 2 MR. PHILLIPS: No, it's not a once and  
 3 done. It's annual.  
 4 MS. DILL: It's annual.  
 5 MR. PHILLIPS: And they have to report the  
 6 lab reports for five-year period, especially on  
 7 the PAHs because the thinking behind that is if  
 8 they don't have a major change in an input  
 9 source, then those numbers should not change.  
 10 They'll fluctuate a little bit, but they  
 11 shouldn't be going up and down forever.  
 12 But we're going to do that at least for  
 13 the PAHs for five years. The nutrients and the  
 14 metals will be done every year. They have to  
 15 be done or they don't get renewed.  
 16 MS. DILL: And is there a guaranteed  
 17 analysis that goes along with those or is  
 18 that --  
 19 MR. PHILLIPS: Yeah. These are actually  
 20 lab reports that they send me, which we keep  
 21 them as confidential. And we register, we

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1 register them on that basis. As long as the  
 2 metals and the PAHs aren't out the whack, then  
 3 they'll be fine.  
 4 MR. HUTCHISON: Okay.  
 5 MR. GREENLEE: Is there any other  
 6 background information that we should have and  
 7 the room should have prior to our neighbors  
 8 getting up to testify?  
 9 MR. L. SMITH: I mean I guess if, through  
 10 Foster's plan and other things, have you seen  
 11 anything -- I mean we're here to see if the  
 12 Right to Farm law (inaudible). We're here to  
 13 see if the Talbot County Right to Farm law is  
 14 being upheld.  
 15 Is there anything in your expertise that  
 16 you've seen in the Foster case that threw any  
 17 red flags up?  
 18 MR. CALLAHAN: No. Based on my visits to  
 19 the site and I'll say the review of the  
 20 nutrient management plan that included the  
 21 products and a review of the application

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1 records of what was applied last fall and the  
 2 situation at happened, nothing threw up any red  
 3 flags to me out of context of what's required  
 4 under the nutrient management regulations.  
 5 MR. HUTCHISON: Yes, sir.  
 6 MR. CROPPER: Mr. Chairman, and this is  
 7 really in response to -- I'm sorry, sir. I  
 8 forget your name. You just asked if there was  
 9 any additional information that may be helpful  
 10 to the hearing and THE complainants.  
 11 What I'm wondering is, I know recently  
 12 last week there were meetings on site between  
 13 representatives of the Foster family as well as  
 14 Denali in providing the class A biosolids, the  
 15 soil amendments.  
 16 And there have been some stipulations and  
 17 agreements reached with Talbot County health  
 18 officials that I'm thinking the complainants  
 19 maybe should be aware of before you begin  
 20 taking testimony because it may affect  
 21 something they have to say.

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1 I'm more than happy to put that on the  
 2 record if you would like me to do so.  
 3 MR. YOUNG: You can do that.  
 4 MR. HUTCHISON: That's fine.  
 5 MR. CROPPER: For the record, Mark Spencer  
 6 Cropper, 6200 Coastal Highway, suite 200, Ocean  
 7 City, Maryland. And I'm here on behalf of the  
 8 Foster family.  
 9 So in the past week, week and a half,  
 10 there were meetings on site between  
 11 representatives of Talbot County. I think  
 12 Mr. Duell was there. Mr. Schmidt, were you  
 13 there?  
 14 MR. SCHMIDT: Yes, I was.  
 15 MR. CROPPER: Chris Banks from Denali  
 16 and --  
 17 MR. GREENLEE: Mr. Cropper?  
 18 MR. CROPPER: Yes, sir.  
 19 MR. GREENLEE: Can you kind of stand in  
 20 the window and address the room?  
 21 SPEAKER: We're having trouble hearing

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1 back here.

2 MR. CROPPER: My apologies, my apologies.

3 So my name is Mark Cropper. I'm an

4 attorney with Ayres, Jenkins, Gordy & Almand

5 out of the Ocean City. I'm here on behalf of

6 the Foster family.

7 And I was aware that about a week to a

8 week and a half ago, there were meetings on

9 site with representatives of Talbot County,

10 Mr. Schmidt, Mr. Duell, and then from Denali,

11 who is the company providing the soil

12 amendments and the class A biosolids from the

13 Town of Ocean City, to discuss the concerns of

14 the complainants.

15 And there were certain stipulations and

16 agreements reached between the Foster family,

17 Denali, and Talbot County health officials,

18 which I will now put on the record because I

19 think the Complainants should be aware of them

20 first.

21 It is believed that the greatest odor

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1 concern was coming from a material that's

2 referred as Sea Watch, which is basically from

3 the byproduct of clam processing.

4 And due to the timing of when that

5 particular soil amendment was applied and when

6 the complaints were received, it's believed

7 that Sea Watch was the greatest culprit.

8 The Fosters and Denali have agreed no more

9 Sea Watch will be applied to any of the Foster

10 family properties. That's one.

11 Number two, of the remaining soil

12 conditioners, which there were two of, and the

13 class A biosolids from the Town of Ocean City,

14 there will be no further land application of

15 either the two soil conditioners or the class A

16 biosolids for the balance of 2022.

17 There will be some storage of soil

18 conditioners, not Sea Watch, and class A

19 biosolids from the Town of Ocean City on the

20 Foster Farm, but none of those materials will

21 be, again, land applied on the Foster Farms

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1 during 2022. They will be land applied on

2 other properties.

3 I believe, Mr. Duell, Mr. Schmidt, does

4 that accurately represent what was agreed to?

5 MR. DUELL: No, it doesn't.

6 MR. CROPPER: It doesn't?

7 MR. DUELL: It does not.

8 MR. CROPPER: Okay. Tell me how it does

9 not.

10 MR. DUELL: First off, there were no

11 agreements made by anybody there. I'll read

12 exactly -- can y'all hear me back there?

13 SPEAKER: Yes.

14 MR. DUELL: These were solutions that were

15 brought. This was the first interaction we had

16 with Denali and the Fosters, and we had tried

17 to contact them several times. And Mr. Cropper

18 I think initiated this and I thank him for

19 that.

20 The first solution was Sea Watch sludge

21 will no longer be accepted at the Foster Farm

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1 or any other farm operated by Denali.

2 Second one was no organic nutrients,

3 biosolids, or industrial soil conditioners will

4 be land applied at the Foster Farm in 2022.

5 Any additional nutrient needs for the farm will

6 be in the form of commercial fertilizers only

7 for 2022.

8 All biosolids and soil conditioners

9 conditionally stored in the concrete bunkers at

10 the farm will be hauled off the site for

11 utilization on other farms owned by Mr. Foster.

12 The farm mentioned was a farm Mr. Foster

13 owns on Chapel Hill Road and Gannon Road, north

14 of Easton.

15 The fourth, Denali is proposing to

16 continue using the old bunkers and newly

17 constructed bunker at the Foster Farm for

18 storage of class A biosolids and organic soil

19 conditioners to be used on off-site Foster

20 Farms.

21 The last, number five, is future land

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1 application of class A biosolids and organic  
 2 soil conditioners on the Foster Farm beyond  
 3 2022 were undecided at this time. Denali did  
 4 not commit to whether the organic nutrient  
 5 sources, biosolids, or soil conditioners would  
 6 or would not be land applied on the Foster Farm  
 7 in 2023 or beyond.

8 Land application of organic nutrient  
 9 sources in the future, if decided, would be  
 10 incorporated in the soil, conventional tillage  
 11 disking.

12 The no-till turbo till method will never  
 13 be used when organic soil conditioners or  
 14 biosolids are land applied at the Foster Farm  
 15 in the future.

16 MR. CROPPER: Okay. I believe -- now, I  
 17 did not mention how the soil conditioners or  
 18 biosolids will be disked, which was your number  
 19 five.

20 MR. DUELL: Right.

21 MR. CROPPER: Of the other items you just

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1 read, I believe they are 100 percent consistent  
 2 with what I said except for number one.

3 You wanted a commitment from Denali that  
 4 went beyond the Foster Farms and beyond 2022.  
 5 And Denali did not make a commitment to you or  
 6 Mr. Schmidt regarding anything happening beyond  
 7 2022.

8 But the other items you read, with all due  
 9 respect, I believe were consistent with what I  
 10 just read, which is, and I'll repeat it, there  
 11 are no soil conditioners or class A biosolids  
 12 land applied to the Foster Farms for the  
 13 balance of 2022.

14 MR. DUELL: Correct.

15 MR. CROPPER: No commitment was made  
 16 beyond 2022.

17 MR. DUELL: Right.

18 MR. CROPPER: There would be the storage  
 19 of class A biosolids and the soil conditioners,  
 20 other than Sea Watch, on the Foster Farm during  
 21 2022, but they would not be land applied to any

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1 of the Foster Farm properties during 2022.  
 2 Correct?

3 MR. DUELL: Correct.

4 MR. CROPPER: To the extent that there  
 5 would be in the future soil conditioners or  
 6 class A biosolids land applied to the Foster  
 7 Farm in 2023 and beyond, they would be -- it  
 8 would not be turbo tilled. It would be disked  
 9 into the soil.

10 MR. DUELL: Worked in the soil, correct.

11 MR. CROPPER: Right. What else am I  
 12 forgetting that you had on your list? Because  
 13 I think I covered everything except you wanted  
 14 a commitment from Denali beyond the Foster Farm  
 15 with regard to Sea Watch, and they were not  
 16 willing to make that commitment for the whole  
 17 State of Maryland.

18 So what did I misrepresent that you  
 19 covered?

20 MR. DUELL: My language I believe was more  
 21 accurate.

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1 SPEAKER: Hauling it off. I think you  
 2 said it would be hauled off, it would be hauled  
 3 off site. Did you not say that it would be  
 4 hauled off site this year?

5 MR. CROPPER: Yes. It will be stored  
 6 there. Not Sea Watch, but the other two soil  
 7 conditioners and the class A biosolids that  
 8 would be stored on the Foster Farm would be  
 9 removed from the site and applied to other  
 10 Foster Farm properties.

11 So it would have to be hauled off, yes.

12 MR. YOUNG: Can I just remind everyone  
 13 really quick, that if anybody needs to speak or  
 14 wants to speak, they need to have permission  
 15 from the chairman first.

16 MR. CROPPER: So I believe you and I are  
 17 in agreement.

18 MR. DUELL: No. You indicated there was  
 19 an agreement made there. And there was none.

20 MR. CROPPER: Okay. It was represented to  
 21 me that at the meeting between yourself,



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1 Mr. Schmidt, Chris Banks, and Arthur Foster,  
 2 Jr. that requests were made, I don't know  
 3 whether it was from you or Mr. Schmidt or both,  
 4 with regard to these items. And I have just  
 5 indicated to you and the Board and I put it in  
 6 writing on February 24th, that of the five  
 7 items you listed, they agreed to everything  
 8 except your number one, which had to do with  
 9 Sea Watch beyond the Foster Farm.

10 So if you made the request and they agreed  
 11 to it, that's why I represented to everybody in  
 12 this room that had been agreed to by my  
 13 clients.

14 If you don't consider that an agreement,  
 15 I'm sorry. But they believed that they were  
 16 responding to your requests in a positive  
 17 manner. So that's why I put it on the record.

18 MR. DUELL: Okay.

19 MR. SCHMIDT: Can I mention, can I mention  
 20 something? Do I have permission?

21 MR. HUTCHISON: Yes.

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1 MR. SCHMIDT: Bill Schmidt, Talbot County  
 2 Health Department. I was there on the 23rd of  
 3 February with Mike.

4 So I want you to understand that Mike and  
 5 I were not in any position to make any kind of  
 6 an agreement. What we were there to do is to  
 7 see what Mr. Foster and Denali was willing to  
 8 offer to perhaps settle this matter. So we  
 9 received that and conveyed that.

10 It's not our decision. It's the Board's  
 11 decision on receiving that.

12 So it's the word agreement that I think  
 13 Mike mentioned, we don't agree with that word,  
 14 and neither do I.

15 MR. CROPPER: Then I'll change the word  
 16 agreement and say on behalf of the Fosters,  
 17 they have stipulated that they have accepted  
 18 what has been represented. Thank you.

19 MR. HUTCHISON: All right. That brings up  
 20 another question. I'm not sure who it's for.

21 Storage of the soil conditioners and class

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1 A biosolids, rules and regulations on storage.  
 2 Can anybody just store it? Do you have to  
 3 permit? How is that handled?

4 MR. COBLENTZ: So this is Brian Coblentz  
 5 again with the Maryland Department of the  
 6 Environment.

7 Basically, the resource management program  
 8 of MDE, basically they permit the generation of  
 9 class A materials, such as Ocean City. But  
 10 once they have that approval, the distribution  
 11 is then given the green light to the farms how  
 12 they see fit to use it.

13 My staff, which is the solid waste  
 14 program, such as Brian Bombgard, who was my  
 15 inspector in this case, unable to make it, I  
 16 apologize, but basically his job is if we get  
 17 odor complaints or if we get something that  
 18 someone is stockpiling it for say over a year  
 19 and not using it, then we might get a concern  
 20 or a call and say hey, look, this person got  
 21 this material from wherever the treatment plant

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1 was and they're not using it and it's causing  
 2 odors. Then we investigate it, such as this  
 3 case.

4 MR. HUTCHISON: Soil amendments.

5 MR. DOTTERER: The nutrient management  
 6 program allows temporary storage of manures,  
 7 animal manures, class A biosolids, and  
 8 stackable materials. We do allow temporary  
 9 stockpile, but it has to spread in spring of  
 10 the following year. And it comes with a set of  
 11 guidelines.

12 In terms of any storage, we don't look at  
 13 a storage and try to determine the structural  
 14 integrity of it. We are limited to looking at  
 15 it to make sure that it's not overflowing and  
 16 the potential is not there for it to overflow.  
 17 That's essentially what we would look for.

18 MR. HUTCHISON: Somewhere in our notes  
 19 early on, somebody posed a question whether all  
 20 of it was used by the spring.

21 Anybody, was it all from last year used?

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1 What was hauled in last --

2 MR. DOTTERER: That's not temporary

3 storage at that farm. That's in a permanent

4 storage.

5 If it's in a permanent storage, we do not

6 have that same requirement.

7 For temporary storage, if it's temporarily

8 stockpiled out in the field, then we need it to

9 be spread by the following year.

10 If it's in a storage structure, a

11 permanent storage structure, then we don't

12 check for that. It's not the same rules.

13 MR. HUTCHISON: You have any questions?

14 MR. GREENLEE: Not at this time.

15 MR. HUTCHISON: Okay. I think we're ready

16 to start calling, hearing from complainants.

17 MR. YOUNG: Do we want to limit them to

18 five minutes?

19 MR. GREENLEE: Yes.

20 MR. YOUNG: So we're going to hear

21 testimony from the complainants. We're going

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1 to, because of the number of complainants that

2 we have in the room at this time, we're going

3 to ask that you limit your comments to five

4 minutes per individual.

5 You can come up to the front of the room

6 at this table, each person, and state your name

7 for the record and then say what you need to

8 say and sign in on the sheet.

9 MR. HUTCHISON: State your name, but also

10 sign in so we have it for the record, please.

11 MS. LEWIS: I'm going to attempt to do

12 this in five minutes. My name is Cheryl Lewis.

13 I live at 4075 Koogler Road, Trappe, Maryland.

14 I was the original letter of complaint to

15 the Talbot County Planning and Zoning

16 Department.

17 Because my testimony is fairly long, I

18 have brought it in writing, I will try to

19 summarize it as best possible. But I would

20 appreciate you taking all of this into

21 consideration. And understanding there was so

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1 much information in this case, I had five

2 inches of information over there that hopefully

3 you will take the time to review this after

4 this meeting and before you make a decision.

5 There are five copies here.

6 I also have a letter from a local farmer's

7 wife. She is a school teacher so she could not

8 be here today. She asked me to carry this in.

9 I have lived in the Town of Trappe or

10 within the Trappe area for the last 23 years.

11 I have lived within a road's distance across

12 the street directly from farmland the whole 23

13 years.

14 I currently live on Koogler Road and have

15 lived there for the past five years.

16 I've lived near farmland for so long that

17 I totally understand how it works, what it

18 smells like, the operations that take place.

19 And I'm not here today because of that. This

20 is a totally different situation.

21 I understand fertilizer. I understand

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1 farming. I understand what we need to do to do

2 the right thing. And we in no way want to do

3 anything that is harmful to the farmers. But

4 this is not normal, and that's why I'm here.

5 My complaint was filed by a great deal of

6 anguish because farmers do not do this. We do

7 not call people out. It's not something we

8 like to do, and it's not done in our community.

9 What I'm getting ready to describe to you

10 was basically a nightmare, and it started in

11 February of 2021.

12 I want this Board to consider that the

13 purpose of this meeting is for you to determine

14 whether the procedures of the last 12 months

15 are protected by the Maryland Right to Farm

16 Act. Are they generally-accepted practices in

17 Talbot County? Were they following local,

18 State, and federal regulations? And did they

19 impact the health, safety, or welfare of Talbot

20 County residents?

21 Talbot County's Code allows you to

|  |  |
|--|--|
| Page 38  | Page 40  |
| <p>1 consider the health, safety, and welfare of our<br/>2 residents.</p> <p>3 I would note one of the main criteria in<br/>4 the Right to Farm Act for Maryland and Talbot<br/>5 County is the operation needs to be underway<br/>6 for a period of one year or more. And I would<br/>7 note that the new operation of storing and<br/>8 spreading these wastes, water, and food<br/>9 processing plant byproducts started in January<br/>10 of 2021.</p> <p>11 And I would further let you know that even<br/>12 though this farm was purchased in 2020, it was<br/>13 currently being farmed by an operator who had<br/>14 the right to farm through the end of that year.<br/>15 So I would state for the records, I don't know<br/>16 that this, in fact, has been in operation for<br/>17 12 months, seeing as how the first complaints<br/>18 to the County Health Department were in<br/>19 September and the formal complaints to Planning<br/>20 and Zoning was in November of 2021.</p> <p>21 I also would like to point out in Talbot</p>  | <p>1 available and know that it is a reasonable<br/>2 means.</p> <p>3 This is raw products that are being taken<br/>4 from processing plants directly to farmland and<br/>5 being stored there for long periods of time.<br/>6 This is not a normal agricultural process.<br/>7 This is something different.</p> <p>8 I have attached several articles to my<br/>9 testimony demonstrating the issues and the<br/>10 problems surrounding this specific practice in<br/>11 this case.</p> <p>12 These farmers are paid to take this<br/>13 product. This is not the same as purchasing<br/>14 fertilizer. There is a difference. To say<br/>15 that fertilizer is expensive so now we're going<br/>16 to pay farmers to take it for free does not<br/>17 make business sense. I think any farmer can<br/>18 see the difference between purchasing product<br/>19 for farming and being paid to receive<br/>20 something.</p> <p>21 This is land dumping of waste. It's a</p> |
| Page 39  | Page 41  |
| <p>1 County's Right to Farm Act it clearly states<br/>2 that this chapter shall in no way restrict or<br/>3 impede the authority of the State or the county<br/>4 to protect the public health, safety and<br/>5 welfare. And that's really important because<br/>6 this is why we're all sitting here today, not<br/>7 because we have a problem with farming, but<br/>8 because we have a problem with our ability to<br/>9 survive where we live.</p> <p>10 The protection of our public health,<br/>11 safety, and welfare is very relevant in this<br/>12 hearing. And we've been told numerous times<br/>13 that it's a right to farm and we have no say.<br/>14 And that's why we're here today, because we do.</p> <p>15 The practice of diverting waste to rural<br/>16 areas is occurring across our county and is now<br/>17 occurring in Talbot County under the guise of<br/>18 generally-accepted farm processing.</p> <p>19 This is not waste that has been processed<br/>20 or pelletized or fertilized and stuff that<br/>21 we've all seen in farms and know that it's</p> | <p>1 means for people to move waste products<br/>2 someplace else at a less cost to them. It's<br/>3 profitable for everyone involved except for the<br/>4 land owners and the people that are living<br/>5 around this practice.</p> <p>6 In the early months of 2021, we started<br/>7 to --</p> <p>8 (Timer sounding.)</p> <p>9 MS. LEWIS: Afraid that would happen.</p> <p>10 MR. HUTCHISON: I have a question for you.</p> <p>11 MS. LEWIS: Yes, sir.</p> <p>12 MR. HUTCHISON: What would you like to see<br/>13 us, what would you like to see out of this<br/>14 committee? What are you looking for?</p> <p>15 MS. LEWIS: I have a list of quick<br/>16 questions, if you'll let me just ask the<br/>17 questions. You can answer them later.</p> <p>18 MR. GREENLEE: Can we give you another<br/>19 five minutes?</p> <p>20 MS. LEWIS: I would be pleased to take it.</p> <p>21 MR. YOUNG: I think that (inaudible) since</p>                                       |

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1 she's the original complainant.  
 2 MS. LEWIS: Thank you, sir.  
 3 MR. GREENLEE: Okay with that?  
 4 MR. HUTCHISON: Yes.  
 5 MS. LEWIS: The main reason we're here  
 6 today is because of the smell, which began in  
 7 the early months of 2021 when this product  
 8 started to be stored on this farm.  
 9 This is a product that is unbelievable.  
 10 Unless you live through this, there is no way  
 11 any of us can explain to you how bad it is.  
 12 In March, they spread it for the first  
 13 time. In most records, I have seen nothing  
 14 about it being spread in March. I hadn't seen  
 15 that. I remember talking to Howard Callahan  
 16 and him not remembering it being spread in  
 17 March. This started in March. So we were  
 18 subjected to this in March.  
 19 It takes months for it to go away. They  
 20 spread it again in September. But between  
 21 March and September, this product sat in the

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1 field in 90, 95 degree days festering and  
 2 fermenting and it's an unbelievable odor. We  
 3 lived through it all summer. We just kept  
 4 thinking if someone could drive by and say  
 5 something is terribly wrong and it would be  
 6 fixed, but that never happened.  
 7 In September 10th, the first call to the  
 8 Health Department was prior to the September  
 9 land application. It was so bad this young  
 10 lady called prior to that application, which  
 11 tells you this smell was there long before  
 12 anybody applied it. Storing of this product in  
 13 the sun in open fields on open pads is not  
 14 acceptable. We are living next to a land dump  
 15 right now.  
 16 The odor was incredibly bad and it  
 17 depended on the wind. If we were subjected to  
 18 it, then our neighbors were relieved. If they  
 19 were subjected, we were relieved. We literally  
 20 text each other daily going I'm sorry, I know  
 21 you're having a bad day because we knew that

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1 this didn't go away, it just moved in a circle  
 2 as far as Oxford and Easton. There are people  
 3 in this room that literally smelled it in those  
 4 towns because they knew that smell when they  
 5 left their homes.  
 6 Make sure I didn't miss anything before I  
 7 go to these questions.  
 8 And I think it's important to note that  
 9 that September 10th complaint was prior to this  
 10 application. And that distinguishes the  
 11 difference between it being applied on the  
 12 field improperly, which we already know is what  
 13 they testified to, but also that it just, it's  
 14 there. It doesn't go away. And we're all  
 15 sitting here dreading summer because we know  
 16 it's coming.  
 17 And to understand, it's not just a smell  
 18 that you can go outside and it upsets you a  
 19 little bit. You can't breathe, you can't  
 20 think, you can't eat, you can't function. It's  
 21 in your house, it's in your clothes, it's in

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1 your hair. It does not -- you can't shower  
 2 this stuff off.  
 3 I don't know how anybody can say it's  
 4 normal because it is not. It's as if you've  
 5 been introduced to something that you cannot  
 6 remove from your physical body.  
 7 I'll tell you the tape -- I had a  
 8 girlfriend send me a video of her son and it  
 9 was most disturbing because it was how we all  
 10 felt. The child, on November 15th, had left  
 11 his car to go in his house and he was choking.  
 12 He was holding his throat and he was crying.  
 13 It was how we all felt. We didn't know  
 14 how to verbalize that. But he, just standing  
 15 there, it just clearly made -- he didn't know  
 16 why he was choking. We all know why. We just  
 17 don't know how to stop it.  
 18 The questions I have:  
 19 Does this operation warrant protection  
 20 from the Right to Farm Act?  
 21 Has this operation been underway for one

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1 year or more?

2 Was the nutrient management plan in place

3 prior to receiving these products in January,

4 prior to spreading these products in March?

5 Were the proper authorities aware prior to

6 March?

7 Is allowing seepage and runoff from

8 bio-waste an accepted agriculture practice? We

9 have documented photos that this was happening.

10 Why are no steps in place to prevent the

11 seepage of runoff from this waste into the

12 creek on this property until authorities

13 requested that it be done? Why were they not

14 responsible for this product when it was a

15 problem? Anybody who does business knows the

16 thing you do is the right thing from the

17 beginning, not after you've been caught.

18 Was there a Talbot County-issued zoning

19 certificate in place for the construction of

20 the large cement bunkers on December 6th? Is

21 this construction in compliance? I'm well

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1 aware that it requires a permit. Is there a

2 permit? Has anybody seen the zoning

3 certificate? There was not one posted on the

4 property.

5 Has this operation been conducted

6 substantially in accordance with

7 generally-accepted agricultural practices? I

8 would argue in this testimony that it has not.

9 Is the practice of dumping and long-term

10 storage of large quantities of industrial

11 byproducts on farmland a generally-accepted

12 agricultural practice?

13 Is year-round open storage of these waste

14 byproducts an accepted agricultural use in

15 Talbot County?

16 A generally-accepted agriculture practice

17 does not violate public health, safety, and

18 welfare. Was the health, safety, and welfare

19 of the public affected by this practice? Are

20 there numerous reports of the same health

21 conditions caused by this practice?

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1 And I will tell you what struck me when I

2 had the opportunity to read the documents from

3 other people, neighbors I had not met before

4 just because we really haven't had reasons to

5 have to get together and talk, was we all had

6 the same physical reaction. The descriptions

7 in the original complaints, and I think it's

8 really relevant that you read every single one

9 of those original phone calls to the county and

10 the letters to the county because they all were

11 so similar. Different words, different

12 descriptions, but we were all suffering,

13 literally suffering.

14 And it's an unbelievable situation to wake

15 up one day and find that the only way you can

16 remove yourself from the situation is to leave

17 your home and not come back.

18 We don't all have the option. You have

19 farmers that have owned land there for over 70

20 years, third generation farmers. They can't

21 even farm in their own area because of this

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1 practice.

2 Please accept these. I thank you for your

3 patience.

4 MR. HUTCHISON: You guys have any

5 questions for Ms. Lewis?

6 MR. GREENLEE: (Inaudible.) Thank you

7 very much.

8 MR. HUTCHISON: Thank you.

9 MR. BURCH: Good morning. My name is

10 Michael Burch, 3821 Koogler Road. My wife Jan

11 is here with me.

12 I prepared a statement. It's only going

13 to take about six minutes, if that's okay. And

14 then I'm just going to ask a couple of

15 questions to a few of the officials here.

16 MR. HUTCHISON: Do your statement as quick

17 as you can. You got about five minutes. We

18 got a lot of people who want to talk.

19 MR. BURCH: Okay. My wife and I have

20 lived here for 19 years, and this home has been

21 in our family for 34 years.

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1 Before we purchased our home in 2003 from  
 2 my brother and sister-in-law, we were here on  
 3 many occasions for family functions and  
 4 visitations and have never experienced anything  
 5 of this nature. We've always admired just how  
 6 beautiful and serene this area was.

7 Beginning in September 2021, we stated  
 8 noticing some different odors depending on  
 9 which way the wind was blowing. They were  
 10 offensive at times but were tolerable. They  
 11 persisted through the next several months.

12 Though this was a little odd, they were  
 13 lingering for so long and haven't experienced  
 14 this in the past 19 years.

15 On November 15, 2021, I was working in the  
 16 yard. It was very windy, approximately  
 17 20-mile-an-hour sustained winds blowing out of  
 18 the west northwest and gusting above 30 miles  
 19 an hour.

20 From very early in the morning lasting to  
 21 approximately six p.m., I noticed a tractor

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1 broadcast spreading what I assumed to be  
 2 fertilizer on the field across from our home.  
 3 I noticed it was going airborne due to the wind  
 4 and a large cloud blowing in our direction and  
 5 it was being thrown halfway into the road,  
 6 large black chunks.

7 As the spreader was nearing our home, I  
 8 immediately noticed how strong and pungent the  
 9 smell was. I can only describe it as smelling  
 10 like rotting meat or death. This was unlike  
 11 anything I have ever experienced before.

12 The smell was so strong, it was burning my  
 13 eyes and my sinuses. I immediately started  
 14 feeling nauseous like I was going to throw up.  
 15 I ran for the house to get away from it. I  
 16 almost immediately started to get a headache  
 17 and it seemed to be singed into my sinus  
 18 passages.

19 My wife asked what the smell was. And I  
 20 told her the farmer across the road was  
 21 spreading fertilizer and it must be something

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1 new. Her reply was it was God awful.  
 2 The next day, the odor started to  
 3 penetrate into our home. We had to try and  
 4 seal up our sunroom with towels and try to keep  
 5 the smell from entering our dining room,  
 6 kitchen, living room, and the rest of our  
 7 house.

8 My wife immediately started feeling  
 9 nauseous, burning throat, eyes, and headache,  
 10 exactly what I was experiencing.

11 We couldn't escape the odor even within  
 12 our home. We had to leave our home for most of  
 13 the third day just to try to get some relief.

14 We felt like something was terribly wrong  
 15 with what Mr. Foster had used in causing this  
 16 extremely pungent odor. We started talking to  
 17 our neighbors and found out they were  
 18 experiencing the same health issues we were  
 19 having.

20 This deeply concerned us and weren't sure  
 21 which way to turn.

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1 The smell was so bad that one of our  
 2 neighbors with small children told us that  
 3 their youngest son was waiting for the school  
 4 bus in the morning and came running into the  
 5 house crying because he couldn't stand the  
 6 smell, and his mother had to drive him to  
 7 school.

8 We also had a conversation with our mail  
 9 carrier Jenny, who is here today, that she was  
 10 delivering mail at the time the product was  
 11 being spread and she felt physically ill and  
 12 nauseous and wasn't sure she was going to be  
 13 able to complete her route.

14 In speaking with many of our neighbors, we  
 15 learned that all of them felt the same issues.  
 16 There were just too many similarities that we  
 17 were all experiencing for this just to be a  
 18 coincidence.

19 We also learned from our neighbors that  
 20 this was being discussed on Facebook, and we  
 21 didn't realize just how wide spread the issue

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1 was, being that we don't belong on Facebook.  
 2 We also learned that a company Mr. Foster  
 3 contracted to spread the fertilizer was Denali  
 4 Water Solutions. I contacted Lauren Miller  
 5 from Denali Water Solutions to try to  
 6 understand just what was being spread on the  
 7 field across from our home and possibly get a  
 8 safety data sheet outlining just what was used.  
 9 Our son-in-law's father owns and operates  
 10 an air analysis company out of the Baltimore  
 11 area and told us he would have to know what was  
 12 used on the fields so he could know what to  
 13 test for.  
 14 Lauren Miller told us she would have to  
 15 speak to their attorneys and couldn't provide  
 16 us any further information at this time.  
 17 Lauren did, however, ask if she could send one  
 18 of her representatives by to discuss the  
 19 situation with us. We agreed. And within an  
 20 hour, Chris Banks stopped by our home to talk  
 21 with us. He's like a general manager or

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1 whatever for this area for Denali Water  
 2 Solutions.  
 3 We were hoping that Chris could provide us  
 4 with the information we were requesting. He  
 5 tried to explain what the process were on the  
 6 products that were being used, but he couldn't  
 7 provide us with any more information other than  
 8 his explanation on the products used.  
 9 We asked him about disking or liming the  
 10 field to help minimize or diminish the odor.  
 11 And he explained he couldn't do that due to the  
 12 field had already been seeded.  
 13 We also asked him why would he use such an  
 14 awful and offensive product on that field,  
 15 explaining that we never experienced that in  
 16 the past 19-plus years from the previous  
 17 farmer. His answer was do you know how much it  
 18 cost to fertilize an acre of land? Well,  
 19 multiply that times 600.  
 20 We explained that this was unbearable and  
 21 can't even enjoy our home inside or out.

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1 He then asked us if we knew about the  
 2 Right to Farm Act. We told him we don't wish  
 3 to take away the farmer's rights, we just want  
 4 our clean air and be able to enjoy our home.  
 5 We also explained to him that we were not  
 6 going to be able to have our children or new  
 7 grandchildren here for Thanksgiving due to the  
 8 awful pungent odor that was present inside  
 9 (sic.) and now inside our home in fear of not  
 10 knowing just what was used or how it might  
 11 impact their health.  
 12 Chris Banks offered us Thanksgiving dinner  
 13 out on him. We explained Thanksgiving is not  
 14 about the dinner, but family. He also offered  
 15 us a gift card to cover the cost we might lose  
 16 on the dinner for our inconvenience, which was  
 17 a nice gesture. But we explained we're not  
 18 looking for any monetary gain or financial  
 19 gain. We just want to coexist with your  
 20 neighbors. Even though Mr. Foster doesn't live  
 21 here, we still consider him our neighbor.

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1 We knew right away this wasn't any kind of  
 2 normal farming practice we have ever  
 3 experienced before and the smell was so  
 4 horrible.  
 5 At this point, we wrote to the county  
 6 officials a formal complaint about what we were  
 7 experiencing, Mike Duell and Bill Schmidt, who  
 8 immediately responded to our concerns. We felt  
 9 like our concerns had some merit and they got  
 10 right on with the investigation with daily  
 11 trips out to the farm and kept us informed on  
 12 what was being done to resolve the situation.  
 13 And we really appreciate their hard work.  
 14 We were informed by Mike and Bill that  
 15 Denali was going to disk the field on or about  
 16 December 14th through the 15th, which should  
 17 help diminish the odors.  
 18 The pungent odors finally started to  
 19 dissipate around the first of the year, which  
 20 was a blessing. But we had to forego another  
 21 family holiday, Christmas, with our children

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1 and new grandchildren due to the uncertainty of  
 2 what the air quality was going to be and the  
 3 fears of how it might impact them, which was  
 4 very hard to bear another holiday loss since  
 5 COVID.

6 In closing, we would like to inform this  
 7 committee on just how this impacted our lives  
 8 and welfare. This was such a nightmare with  
 9 the awful smells and apparent health concerns  
 10 that we and our neighbors experienced that it  
 11 was too much to only be a coincidence as we  
 12 were all experiencing the same issues that  
 13 persisted for months. This seems to be a bit  
 14 excessive to ask anyone to endure.

15 We could not enjoy our property outside,  
 16 our home inside, the Thanksgiving holiday or  
 17 Christmas holiday with our family. We felt  
 18 like we were being run out of our home on the  
 19 Eastern Shore of Maryland, which we have grown  
 20 to love and enjoy for the past 19 years. We're  
 21 very proud of our home and hope to enjoy it for

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1 many more years to come, God willing.  
 2 MR. HUTCHISON: Thank you.  
 3 MR. GREENLEE: Thank you. What was the  
 4 date that you first...  
 5 MR. BURCH: Excuse me?  
 6 MR. GREENLEE: What was the date of that  
 7 experience that you just relayed?  
 8 I think you said on -- I had 11/15, but it  
 9 was --  
 10 MR. BURCH: November 15th.  
 11 MR. GREENLEE: It was 11/15.  
 12 MR. BURCH: When they were spreading the  
 13 product that was overwhelming, yes,  
 14 November 15th.  
 15 And I also have, if you'd like, a report  
 16 from the weather survey for that day explaining  
 17 how hard the winds were.  
 18 I guess our feeling was we didn't know  
 19 what --  
 20 MR. GREENLEE: I think you made a good  
 21 statement.

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1 So do you have questions to follow up?  
 2 MR. BURCH: I have just a few questions to  
 3 ask.  
 4 First is for either the State chemist, or  
 5 no. State official from MDE for the State  
 6 registered class A biosolids. Who would that  
 7 be? Sir, on the biosolids amendment product  
 8 report, the page listed restrictions on usage.  
 9 States that (inaudible) class A biosolids, you  
 10 should avoid injection or inhalation.  
 11 Do you know that? You're aware of that,  
 12 right?  
 13 MR. COBLENTZ: I'm not familiar with that  
 14 (inaudible).  
 15 MR. BURCH: I have that here with me if  
 16 you would like. It's right here, the Town of  
 17 Ocean City (inaudible).  
 18 And on, highlighted here. (Inaudible)  
 19 says it should be -- avoid reach of children  
 20 and avoid ingestion or inhalation. That's your  
 21 paper. I obtained a copy of that from Ocean

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1 City biosolids.  
 2 What are the health risk concerns with  
 3 inhalation?  
 4 MR. COBLENTZ: I'm not the expert on that.  
 5 That would be the permitting program, which  
 6 would be --  
 7 MR. BURCH: -- something that we should  
 8 all know about.  
 9 And then also what I was going to ask is  
 10 should this product be applied while it's  
 11 windy?  
 12 MR. GREENLEE: Sir, can you leave those  
 13 questions with us? It sounds like we're  
 14 going --  
 15 MR. BURCH: Absolutely.  
 16 MR. GREENLEE: -- deliberate after this  
 17 hearing. And therefore, the questions that you  
 18 provided and these will be helpful.  
 19 MR. BURCH: Okay. The other question I  
 20 was going to ask this gentleman was should the  
 21 neighbors be informed when planning to apply



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1 this product so we can be prepared if we have  
 2 to go inside, close the window, doors,  
 3 whatever?  
 4 And I couldn't find anything else on the  
 5 other product, the land applied amendments that  
 6 they were using, the chicken waste and stuff  
 7 like that. Is that something when it gets in  
 8 the air --  
 9 (Cross talk.)  
 10 MR. BURCH: -- and buy Roundup --  
 11 MR. GREENLEE: Let's stop there for now.  
 12 You're well over the time. But thank you.  
 13 MR. BURCH: May I ask a question, one  
 14 question for Bill Schmidt and Mike Duell, just  
 15 one question?  
 16 MR. HUTCHISON: Hurry.  
 17 MR. BURCH: Huh?  
 18 MR. HUTCHISON: Hurry, please.  
 19 MR. BURCH: Thank you. For Mike Duell.  
 20 Considering what you experienced during the  
 21 time of your investigation, would you want or

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1 consider yourself, your family, children,  
 2 grandchildren living in this environment if  
 3 this practice were allowed to continue?  
 4 MR. GREENLEE: We're not going to have  
 5 that kind of question. Please. We have some  
 6 substantive -- I hear you. Let's carry on.  
 7 MR. BURCH: It's just an opinion about  
 8 what they experienced.  
 9 MR. GREENLEE: I understand. Thank you  
 10 very much.  
 11 (Cross talk.)  
 12 MR. HUTCHISON: (Inaudible.) what the  
 13 smells down there. So we're well aware of what  
 14 their opinions are.  
 15 MR. BURCH: That's all. I was just trying  
 16 to bring it up. Thank you so much.  
 17 This is what they asked for. Thank you.  
 18 MR. GREENLEE: Thank you. So all of you,  
 19 we're really trying to figure out how to  
 20 resolve. That's in our name, the Agricultural  
 21 Resolution Board.

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1 We get that this was a horrific  
 2 experience.  
 3 I would ask, just in the interest of time,  
 4 that unless you have something to add to two  
 5 very strong presentations, let us kind of move  
 6 on. But if you have something to add, we want  
 7 to hear it. But otherwise, let's not just go  
 8 down the same road time and time and time  
 9 again.  
 10 MR. HUTCHISON: Gentleman, come on up,  
 11 sir.  
 12 MR. WILLIAMS: My name is David Williams.  
 13 Live on 3599 Brummell Drive in Trappe. We  
 14 moved here four and a half years ago.  
 15 Before we moved here, our attorney, our  
 16 local attorney advised make sure you're not  
 17 anywhere close to a chicken farm because that  
 18 will -- you will not enjoy that. All right.  
 19 We investigated. The attorney even came  
 20 out, drove the property three or four weeks  
 21 before we finalized our purchase.

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1 We've lived here for four and a half  
 2 years. And until last year have never  
 3 experienced anything like this.  
 4 The smell will permeate say, stay in your  
 5 vehicle. You drive all day, go to another --  
 6 went down to Norfolk, got up the next morning,  
 7 opened my car door, and the smell just spewed  
 8 out of my car.  
 9 But the reason I'm up here right now is  
 10 because I heard some of these solutions, and I  
 11 appreciate all the effort everybody has put  
 12 into this, but it sounds like we're going to  
 13 try to put this off for a year. Wait. We're  
 14 not going to put in down in '22, but there's no  
 15 guaranty it's not going to be there in '23.  
 16 And also sounds like the product is going to be  
 17 continued to be stored right down the road from  
 18 us for an indefinite period of time, this nasty  
 19 stuff.  
 20 So I'd like, as you guys are considering  
 21 this, I don't see that as a complete solution.

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1 So please, I'd like to enter that into  
 2 testimony.  
 3 MR. HUTCHISON: Thank you. Some of these  
 4 things you're asking for are above our, what  
 5 we're allowed to do. So just remember, we're  
 6 only allowed to do certain things.  
 7 MR. WILLIAMS: Well, appreciate the fact  
 8 that you're considering it and hopefully will  
 9 end this awful practice.  
 10 MR. HUTCHISON: We can make  
 11 recommendations, but we can't change laws or  
 12 anything.  
 13 MR. GREENLEE: Who is next? Mr. Foster.  
 14 MR. PHIL FOSTER: I ain't no public  
 15 speaker, but I want to talk to you here.  
 16 I'm --  
 17 MR. HUTCHISON: Please state your name  
 18 first.  
 19 MR. PHIL FOSTER: Phil Foster, 4079  
 20 Koogler Road.  
 21 We -- I was come home born where we live,

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1 and I figure on dying where I live.  
 2 But I got a part that nobody else has  
 3 touched. Every time during the summer we go to  
 4 the house, open the door, the flies was  
 5 terrible. They just swarmed right in and  
 6 little tiny gnats.  
 7 Yesterday morning, and this was yesterday  
 8 morning, I went out to get the paper. And my  
 9 pickup was yellow and green with these gnats.  
 10 And we never had no problems.  
 11 Last summer we couldn't even work in the  
 12 shop the flies were so bad.  
 13 And I said you go in the house, and you  
 14 have to put a fly swatter in every room. And  
 15 the grandkid playing there with toys. He got  
 16 to put it in his mouth. And they've been all  
 17 through that stuff. It's got to be bad for  
 18 your health.  
 19 I tell you you go down to the mailbox to  
 20 get the paper, and your nose and inside of your  
 21 nose would burn so bad you couldn't hardly

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1 stand it. It was just like it was raw from  
 2 that smell.  
 3 So I just want everybody to know that if  
 4 they going to still stockpile it, if they got  
 5 any water puddles or anything around it, that  
 6 we're still going to have the fly and the gnat  
 7 problem. You know, that's not going to  
 8 eliminate that. So that's all.  
 9 MR. HUTCHISON: Thank you.  
 10 MS. GALLAMBERT: My name is Dory  
 11 Gallambert.  
 12 This is one of my four sons, Landon. He's  
 13 11 years old. He's attending today along with  
 14 me to answer any questions you may have about  
 15 the physical impact that he has been  
 16 experiencing, and he's also here to represent  
 17 the children of the area as far as the children  
 18 that ride bus 217.  
 19 Our home is situated on a property  
 20 adjacent to the farm field. My husband and I  
 21 have lived at this residence since July of

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1 2001.  
 2 What is happening on the farm field  
 3 currently is not farming and should not be  
 4 allowed.  
 5 We have lived on this property for almost  
 6 21 years. And when the previous farmers, the  
 7 Foster brothers, Phil, Billy, and John, who are  
 8 separate from the Foster family we're currently  
 9 discussing, were leasing the property, we never  
 10 had any issues whatsoever. What they do is  
 11 true Eastern Shore farming.  
 12 They've applied fertilizer seasonally and  
 13 have always respected our presence. And quite  
 14 frankly, they're very good at what they do. It  
 15 has always been a pleasure to be their  
 16 neighbor.  
 17 I fully understand that when you choose to  
 18 move next to a farm field, you are accepting a  
 19 certain level of activity, including spreading  
 20 of fertilizer. I expect there to be some odor  
 21 once in a while. Previously, any odor has only

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1 lingered for a couple of days.  
 2 Beginning in the spring of 2021, the  
 3 sludge was applied to the portion of the farm  
 4 that is right next to our property. It was  
 5 applied again this past fall, the fall of 2021.  
 6 To reiterate, it was applied in both the spring  
 7 and the fall.  
 8 The odor lasts approximately two months  
 9 each time. And then it was applied to a  
 10 portion of the field further to our south in  
 11 between, also lasting approximately two months.  
 12 The length of time that this odor remains is no  
 13 exaggeration.  
 14 The noxious odor from the sludge has had,  
 15 and will continue to have if allowed to  
 16 continue, a significant impact on our quality  
 17 of life and health. And I know you've already  
 18 heard this, but I do have some other things  
 19 that are a bit different.  
 20 The odor is so strong that going outside  
 21 for any activities at all is not possible

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1 without feeling nauseous. Our children cannot  
 2 play outside, we cannot work or play in the  
 3 yard, and there is certainly no ability to  
 4 enjoy being outside on the most beautiful days  
 5 of the year.  
 6 The odor permeates our home. We can smell  
 7 it in our bedrooms and living room. While this  
 8 is a nuisance, and it truly is a significant  
 9 nuisance, it is also impacting our health. My  
 10 children have complained of daily headaches and  
 11 dizziness. He's complained of the dizziness.  
 12 And my 18-year-old has additionally complained  
 13 of daily congestion and difficulty sleeping.  
 14 My husband and I have also experienced the  
 15 headaches and congestion.  
 16 Breathing outside after it has been  
 17 applied literally burns your nose and throat.  
 18 I am also extremely concerned about the  
 19 long-term effects on our health. What is the  
 20 long-term effect on my children experiencing  
 21 these symptoms daily? What is the impact on

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1 our well over time? What is the likelihood of  
 2 chronic lung disease in the future after  
 3 breathing this in for literally months on end?  
 4 Not to mention any other significant concerns  
 5 of illnesses.  
 6 I find it very hard to believe that anyone  
 7 can say that this is safe for adults, but  
 8 especially not safe for our children or adults  
 9 with compromised immune systems. There are too  
 10 many uncontrolled factors.  
 11 You can say that the waste is treated  
 12 properly, but is it really when it is stored  
 13 combined with several products and ferments in  
 14 various temperatures and conditions?  
 15 There are bus stops along various points  
 16 of the field and the neighboring communities.  
 17 Bus 217 for White Marsh Elementary School  
 18 transports the children five days a week, two  
 19 times a day. The bus driver has complained to  
 20 me multiple times about how he is nauseous by  
 21 the time he finishes his run and "can hardly

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1 stand it".  
 2 My son, Landon, reports that the children  
 3 all have to cover their noses with their  
 4 clothing, in addition to the masks that they  
 5 are already wearing. This is absolutely  
 6 unreasonable and, honestly, quite scary for our  
 7 children. They deserve better, and we owe them  
 8 protection.  
 9 I feel the need also just as importantly  
 10 to mention, and I do have some photos to share  
 11 with you when I'm finished, that the farm field  
 12 is within 200 feet of the Miles Creek. The  
 13 runoff that is most definitely positioned to  
 14 enter the creek is of great concern for the  
 15 health of the already ailing Choptank River, as  
 16 the Miles Creek flows directly into it.  
 17 This is also a playground for my children.  
 18 So once again, another concern for the health  
 19 of my children, splashing and playing in a  
 20 waterway contaminated by these waste products.  
 21 My children, my family, my home, and our

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1 local waterways, as well as the value of our  
 2 property, are depending on you to make the  
 3 right decision today.  
 4 I would like to share these, if I could.  
 5 And I'll just tell you really quickly what they  
 6 are. And then you can look at them a little  
 7 bit later.  
 8 This one is the corner of my property and  
 9 shows the farm field, and the entire length of  
 10 our six-acre property does adjoin the farm  
 11 field.  
 12 I stood in the same spot and took that  
 13 photo. And then the second photo, I'll keep  
 14 them in order, I just turned to the right.  
 15 This one you can see the drop-off that  
 16 goes -- it's a significant drop-off that goes  
 17 straight down to the creek. So you can see how  
 18 close the field and that drop-off are.  
 19 I took six steps to my right, and you can  
 20 see the creek at that point.  
 21 This one shows where the runoff goes.

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1 It's like a cutout in the land that goes  
 2 straight down.  
 3 And then the final two pictures are just  
 4 to kind of prove my point that my children do  
 5 play in this water.  
 6 Thank you so much for your time and  
 7 consideration.  
 8 MR. GREENLEE: Thanks for providing those  
 9 pictures and your testimony.  
 10 MR. HUTCHISON: Thank you.  
 11 MR. PLUTA: Good morning. My name is Matt  
 12 Pluta. I work as the Choptank riverkeeper.  
 13 And I thought it would be adequate to follow  
 14 that statement so I could bring up some issues  
 15 about water quality, which haven't been  
 16 addressed up to this point.  
 17 MR. GREENLEE: Excuse me. What's your  
 18 name again?  
 19 MR. PLUTA: Matt Pluta, Choptank  
 20 riverkeeper, with Shore Rivers.  
 21 Just start off by saying this is not an

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1 attack on farming. I commend a lot of the  
 2 farmers who are doing the right thing in Talbot  
 3 County. But what we're here talking about  
 4 today is industrial waste management. And I  
 5 think there's a difference that needs to be  
 6 spelled out and hopefully corrected in the way  
 7 that we manage this moving forward.  
 8 So hearing a lot of talk about the  
 9 solutions that were discussed and the way  
 10 storage is managed and oversight is provided on  
 11 that storage, I just want to share some  
 12 experiences.  
 13 So we talk about the, one of the solutions  
 14 being moving this material to somewhere else.  
 15 And I think what we have here is an issue with  
 16 the seafood waste and these byproducts in  
 17 general, no matter where they're being used.  
 18 If we move them up to the northern part of the  
 19 county, we're going to be right back here  
 20 dealing with this.  
 21 And my experience is, comes from a farm in

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1 Ridgely, Maryland, who is also using this Sea  
 2 Watch product on their fields. And we learned  
 3 a couple of years ago that they were storing it  
 4 and applying it. Well, they were improperly  
 5 storing it, which wasn't addressed by MDA at  
 6 the time. And so we were able to get out and  
 7 collect water samples in the stream just down  
 8 from where this area is being, where this  
 9 material is being stored.  
 10 And one of the things we test for when we  
 11 are testing industrial waste impacts is BOD,  
 12 biological oxygen demand. It's how much  
 13 organic material is in the water that consumes  
 14 oxygen and that needs to consume oxygen.  
 15 And I'll share some photos with you. But  
 16 essentially, it's this goo that ends up in the  
 17 waterways when you have a lot of this. There's  
 18 more of it right here if you want to see.  
 19 And the results from our tests show that  
 20 the BOD levels in this stream where this stuff  
 21 was applied and stored was, let me read here,

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1 625 milligrams per liter.  
 2 Put that into perspective, a wastewater  
 3 treatment plant is required to regulate their  
 4 BOD anywhere between ten and 30 milligrams per  
 5 liter. So this is 625 milligrams per liter,  
 6 compared to what a wastewater treatment plant  
 7 is required.  
 8 So I just want to point out that --  
 9 MR. HUTCHISON: Was that the place in  
 10 Ridgely or is this the place in Trappe you  
 11 pulled this from?  
 12 MR. PLUTA: This is the place in Ridgely.  
 13 This is an example to share with you --  
 14 MR. HUTCHISON: That's what I thought.  
 15 MR. PLUTA: -- the impacts.  
 16 MR. HUTCHISON: You didn't pull a sample  
 17 in Trappe?  
 18 MR. PLUTA: No. We weren't able to do  
 19 that in time unfortunately.  
 20 So to point out, this is industrial waste  
 21 management, and it needs to be seen as such.

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1 And I think when we're dealing with this  
 2 material, we need to recognize that it's not  
 3 just the nutrients but there are other things  
 4 in there that are causing problems.  
 5 I'll go on to say that just recently there  
 6 was a report that was put out about the vape  
 7 program and all of our efforts to reduce  
 8 nutrients from agricultural wastewater in urban  
 9 sectors. And that whole model had to be  
 10 recalculated because there was new data that  
 11 was omitted up to this point. Specifically  
 12 about fertilizer application and how much  
 13 nutrients are being applied.  
 14 And I think a lot of it has to deal with  
 15 this industrial waste that is being covered  
 16 under a nutrient management plan and not fully  
 17 seeing the scope of what exactly is being put  
 18 on the fields or being stored.  
 19 So I'll submit those documents for you  
 20 guys to consider as you're reviewing this.  
 21 The last couple of things I just want to

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1 point out, Denali is the common denominator on  
 2 all of these operations that I've seen.  
 3 There's about three or four where the Seafood  
 4 Watch is being applied.  
 5 Who are they reporting to? Who is making  
 6 sure that they're doing what's proper and  
 7 what's required under the law, to not be giving  
 8 more than they should to certain farmers or to  
 9 certain areas? And so I'd like that question  
 10 to be answered.  
 11 Then Valley Proteins is something we've  
 12 been working on for the past several years.  
 13 And I know this material is being applied here  
 14 as well with the cakes. But Valley Proteins  
 15 has been in significant non-compliance of their  
 16 wastewater discharge permit for at least the  
 17 last seven years. And what does that say when  
 18 the processes that you're using to treat this  
 19 material is in non-compliance? You can only  
 20 imagine that the material itself, that the  
 21 product of that is not to compliance, either,

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1 is not to standard of what is being expected.  
 2 So I urge you to look at Seafood Watch and  
 3 these other places and what is their compliance  
 4 history with actually treating and managing  
 5 this waste on site before it's even given out  
 6 to the farmers?  
 7 And so I want to say that's it with my  
 8 testimony. But in general, it concerns me that  
 9 these nutrients and the impacts are being  
 10 hidden under the nutrient management plan.  
 11 And so if I had to answer the question  
 12 what would be a good resolution of this, I  
 13 think the State needs to stop accepting seafood  
 14 waste as a soil amendment. And anybody who  
 15 wants to use it, should be required to do so  
 16 under an individual permit, not a general  
 17 permit, which offers general protection for  
 18 everybody.  
 19 With that, I'll close my testimony.  
 20 MR. GREENLEE: Do you have a map and  
 21 parcel number for the farm in Ridgely by

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1 chance?

2 MR. PLUTA: I sure do. Not offhand. But

3 I had it over in these documents. I don't have

4 the parcel number, but there's a map that's

5 included in there.

6 MR. GREENLEE: That would be fine. Thank

7 you.

8 Who is next?

9 MS. COLLIER: My name is Brittanie

10 Collier. I live at 30720 Taylor Road in

11 Trappe.

12 My husband and I are born and raised on

13 the Eastern Shore, originally from Queen Anne's

14 County, but we've been in Trappe for the last

15 15 years.

16 We own and operate a 124-acre farm right

17 across from the Foster Farm. We fully

18 understand the Right to Farm. We do it every

19 day. But the impact that this has had on our

20 lives is out of control.

21 I have two small children, one being six

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1 and one being 22 months. Having a child who

2 was born during COVID and having another small

3 child who doesn't understand COVID and the

4 ability to be able to go outside with your

5 children when they can't go anywhere else.

6 They're masked at school. Luckily that changed

7 today, thank goodness. But they can't

8 experience normal experiences they should have

9 been able to do.

10 My son couldn't be celebrated. There was

11 no baby shower. There was no celebration of

12 him coming home.

13 So the ability to go outside and spend

14 time with your family is extremely important.

15 So the ability to do that was inhibited by this

16 awful, horrendous smell.

17 My daughter rides the school bus, as one

18 of the other mothers stated. The ability to

19 ride a bus in the summer, you all know, you

20 have to put the windows down. Can't ride with

21 the windows up. It's 100 degrees on that bus.

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1 Those children are suffering riding on that

2 bus.

3 My daughter got off the bus one day and

4 literally walked to the side of the curb and

5 vomited because of the smell she had to endure

6 going on that bus ride. It's ridiculous.

7 Second part is our property lines Miles

8 Creek. I am extremely concerned about the

9 water contamination. We hunt, we fish, my

10 children, my pets play in that water. They

11 should not have to experience the nasty murky

12 gunk that is going to come out of here.

13 Thirdly, the population of wildlife. Deer

14 feed in that field. We all know that. Most

15 people around here hunt, including us. We use

16 that deer meat to feed our family. What is

17 going to happen to the deer meat?

18 There's been articles I found that in

19 Virginia where that deer meat is contaminated

20 and then the people are eating it and getting

21 sick.

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1 This is inhibiting our way of life and our

2 ability to enjoy our families.

3 I, again, have no problem with farming,

4 owning one myself. But we have to draw a line

5 and protect our families. We should be able to

6 go outside and open our windows on a nice day

7 and enjoy it. And right now, that is not

8 happening.

9 And again, I am encouraged that the

10 Fosters finally answered after all the times

11 they tried to be contacted, and I appreciate

12 you guys for reaching out to them so much. But

13 their lack of respect for their community and

14 their neighbors is not acceptable.

15 They don't live here. They live in

16 Cordova. They live at least 20 miles away from

17 this smell. That is not something that's

18 affecting them. It's affecting us, and we are

19 the ones who need to be heard.

20 Thank you.

21 MS. WRIGHT: Good morning. My name is

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1 Marti Wright. My husband and I are here today.  
 2 We live at 3745 Koogler Road. I am directly  
 3 across the field that we are talking about  
 4 today.  
 5 I'm not going to read a lot of what it --  
 6 because it's all been said before, but I do  
 7 want to point out that how would you feel if  
 8 this application was near your home. I'm sure  
 9 that you wouldn't like it. I have often  
 10 wondered if this would be spread along Oxford  
 11 and St. Michael's roads.  
 12 The Eastern Shore is full of farmland.  
 13 There are not many homes that are not near  
 14 farmland unless you live in the middle of a  
 15 large city.  
 16 Do any of you know what this smell is  
 17 really like? Believe me, if you did, I'm sure  
 18 most of you have the resources to stop it.  
 19 So I want to read to you an excerpt from  
 20 it's called the fact sheet, Right to Farm fact  
 21 sheet. Just a small thing. Although Right to

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1 Farm laws provide an affirmative defense  
 2 against nuisance suits, all Right to Farm  
 3 legislation's underlying theme is prevention.  
 4 Good relations between neighbors may limit the  
 5 number and types of complaints ever occurring.  
 6 Farmers can work with their neighbors and have  
 7 open lines of dialogue to ensure the farmer is  
 8 the first person hearing about questions and  
 9 concerns from the neighbors, which may limit  
 10 the disputes. Thus, improving communication  
 11 between farmers and neighbors, helping new  
 12 neighbors understand how farming works, and  
 13 resolving issues effectively are the first  
 14 lines of defense.  
 15 I'll have you know that no one from the  
 16 Arthur Foster family or Denali approached  
 17 anyone in our area letting us know that this  
 18 application was going to be being applied.  
 19 So I'm not a newbie to farming. I've been  
 20 around farming all my life. I mean I don't  
 21 know the ins and outs of farming, but I've

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1 lived on farms. My husband is a caretaker on a  
 2 farm in Tunis Mills. So we do understand what  
 3 farming is about.  
 4 So no one from the Foster family or Denali  
 5 approached any neighbors to explain what they  
 6 would be doing and how we could be affected by  
 7 this. So surely, you knew about it before it  
 8 was applied. But we are neighbors, even though  
 9 you do not -- even though the Fosters do not  
 10 physically live there, we are still neighbors.  
 11 So my questions were I want to know why  
 12 the Fosters did not apply this on their home  
 13 farm on Church and Brooks Lane. And I can tell  
 14 you why. It's because that's where they live.  
 15 So they don't want to smell this stuff. And  
 16 that's where their children live and their  
 17 grandchildren live. So they don't want their  
 18 family to smell this.  
 19 So I'd really like to know why if this is  
 20 so productive on the farm in Trappe, why wasn't  
 21 it applied towards the Church and the Brooks

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1 Lane residence?  
 2 And I also want to know when this  
 3 application is being applied on Chapel Road,  
 4 are the county and Health Department going to  
 5 be monitoring that to make sure that smell is  
 6 not there?  
 7 I understand it coming from the Sea Watch,  
 8 but I swear, I really worry about the biosolids  
 9 from Ocean City because that's what it smells  
 10 like, you know.  
 11 I -- once it subsides, you know, and we  
 12 don't smell it anymore, it's in the car. I  
 13 mean I have people getting in my car  
 14 smelling -- telling me the car stinks. And I  
 15 say well, what do you think it smells like.  
 16 And they tell me it smells like poop, really.  
 17 So it's just horrible.  
 18 And also I want to know what happens in  
 19 2023 because yes, you can stop it for 2022, but  
 20 yet is it going to be applied again in 2023?  
 21 And are we going to be notified about that?

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1 And also, they have been stockpiling this  
 2 stuff on this farm for there's like three  
 3 tractor-trailer loads that bring this stuff in  
 4 almost daily. How do you know that Sea Watch  
 5 is not in that stuff that's still back there  
 6 that's going to still be applied? It's been  
 7 back there for months.

8 But I really want to thank Mike and Bill  
 9 for all your hard work and your team. You've  
 10 been on top of it. You know what it smells  
 11 like. You know what we've been going through.  
 12 And I really, really appreciate, as all of our  
 13 neighbors do, appreciate all of your work on  
 14 this. And I'm sure it's going to get resolved.  
 15 So thank you very much.

16 MS. CHANCE: Hi. My name is Jenny Chance.  
 17 And while I don't live in Trappe, I am the mail  
 18 carrier in Trappe. I have delivered since 2004  
 19 in Trappe. And most of these people here are  
 20 my mail customers.  
 21 And I wasn't sure whether or not to come,

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1 but I've got great concerns about returning to  
 2 work there because the first time I was  
 3 training somebody back in I want to say it was  
 4 late summer, early fall, I was training a  
 5 fellow. And I was sitting in the back. You  
 6 see unlike them, I can't accept it. I have a  
 7 window down, no air conditioning. It's hot as  
 8 Hades, and I'm stuck in that truck. I have a  
 9 job to do. I have duties to perform.

10 Mr. Foster, Mr. Phil Foster is correct in  
 11 talking about the flies. The flies are so  
 12 horrendous.

13 The smell, I can't tell you how many times  
 14 I have had to get out of my mail truck and  
 15 vomit, and vomit until I have dry heaves. And  
 16 I have to get back in my truck and I have to  
 17 deliver to these people sick as a dog, going  
 18 back to my office with my ribs so sore from dry  
 19 heaving because I have nothing else that will  
 20 come up.  
 21 I have tried to remedy it by getting a

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1 cooler of ice water. And just as soon as I get  
 2 close to the area, so when I get that first  
 3 whiff, I put the water dripping down, which  
 4 isn't real cool at wintertime when it starts to  
 5 get cold, but it's the best that I have found,  
 6 is by putting something wet over my face, while  
 7 trying not to get my mail wet.

8 The flies. I have carried bug spray and  
 9 sprayed. And that's not good, either, to be  
 10 inhaling. But the flies that just won't let up  
 11 and that I can't get rid of. Because you see,  
 12 I can't ride around with my windows completely  
 13 down because everybody's mail would be who  
 14 knows where because it would just fly out of  
 15 the truck.

16 Most of these people are here from around  
 17 Wrights Mill, Koogler, and Barber Road. But I  
 18 can tell you that the first time I was exposed  
 19 to this where I literally got out of my truck,  
 20 training a fellow, it was down Parks Wharf. It  
 21 was blowing in that direction. And the smell

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1 was so horrific, I'm in the back and I'm  
 2 starting with the whole, the noise. And the  
 3 guy is like man, we got to stop this. He  
 4 wanted me to take him back to Cambridge, which  
 5 is where I'm stationed out of.

6 As you can see, I'm on oxygen. There's a  
 7 lot going on. I don't know all the ins and  
 8 outs. So I'm not going to play that card. But  
 9 I can tell you going back in, I've got lung  
 10 damage. I don't know that I can finish my  
 11 career delivering in this area if this keeps up  
 12 because I can't escape it. I can't go into my  
 13 house and close the doors.

14 I'm going to spend between six and seven  
 15 hours every day, and it has been because of the  
 16 COVID, we don't have enough help, seven days a  
 17 week. There's no escape for me. So I'm ten,  
 18 12 hours. This time of year, it was busy,  
 19 having to go back and go make another run. And  
 20 I tried to work.  
 21 And one of the times, it really made me



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1 really upset, was it was at nightmare, it was  
 2 blowing a gale. I had my window down. I'm  
 3 putting mail in a box, and that crap flies in  
 4 my window and lands on me. That is not cool.  
 5 That's not all right because what they're  
 6 saying -- first of all, I don't even know  
 7 what's in it. Okay.  
 8 I just know that whatever is going on, I'm  
 9 not a farmer and I'm not a chemist, all I know  
 10 is that what's ever is going on has made me  
 11 extremely ill. And I can attest to everything  
 12 that's being said.  
 13 And this is not just in that area. I have  
 14 smelled it down to Bruceville and Windy Hill.  
 15 I smelled it at Clark's Wharf, Kate's Point,  
 16 Barber Road, Beaver Dam Road, Chancellor's  
 17 Point, Jamaica Point. It just really depends  
 18 on -- I have smelled it in town on Rumsey,  
 19 Marble, Seymour. It really just -- Tiny Hill.  
 20 I mean the list goes on and on. It just  
 21 depends on the direction.

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1 But I can tell you, I don't like to stuff  
 2 (inaudible) on me.  
 3 Maybe if one of the solutions is not to  
 4 spread it when it's blowing a gale because I  
 5 can tell you I wouldn't want my child outside  
 6 playing with this mess spread.  
 7 And it is solid. It wasn't liquid. It  
 8 was a solid.  
 9 Then you go home, and I have to ride an  
 10 hour to where I live with this stuff on me. I  
 11 can't get the smell out. I have to go get a  
 12 shower and take my clothes and go put them in  
 13 the washer to get rid of the smell, that's  
 14 really not rid of it because, you see, I've  
 15 just ridden from Cambridge, where I'm stationed  
 16 out of, to Bozman, where I live, with that in  
 17 my car. So the smell is always really never  
 18 gone.  
 19 And then I'm raising three grandkids that  
 20 I've got to pile into that same car that has  
 21 that stuff. So it affects me differently, but

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1 I'm just wondering. I think there needs to be  
 2 more looked into it.  
 3 The flies. I have been on this route  
 4 since 2004. So this is something that I can  
 5 tell you is very different. I don't know  
 6 what's in it, what's not in it.  
 7 I've tried to just avoid it. If I can go  
 8 deliver my mail, which is why some of you guys  
 9 get your mail at different times, if it's  
 10 blowing, if I see them out on that field, I do  
 11 everything in my power to go around because I  
 12 do everything from Buck Brian all the way down  
 13 to Swan (Inaudible).  
 14 And by the way, out at Wellington, that  
 15 nice development out on Lloyd's, Lloyd's Wind,  
 16 Lloyd's Crest, you can smell it all the way out  
 17 there from Chestnut Ridge all the way. It's  
 18 all over where I deliver. There's no escaping  
 19 it. So it's not just in one small area is what  
 20 I'm saying.  
 21 I don't know what the solution is, but I

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1 can tell you I don't know how much longer I'm  
 2 going to be able to do it if this keeps up  
 3 because it's going to put me into early  
 4 retirement.  
 5 MR. GERARD: Hey, everybody. Alan Gerard,  
 6 eastern shore director of the Chesapeake Bay  
 7 Foundation.  
 8 Compelling testimony you're hearing from  
 9 folks today. And just in the spirit of the  
 10 relationship building that the Right to Farm  
 11 Law Act is intended to help promote, I just  
 12 wanted to provide some additional context  
 13 related to removed substances and how those are  
 14 regulated in the State of Maryland.  
 15 It's a little unclear which removed  
 16 substances or the sources of those substances  
 17 are in play here. Our partners at Shore  
 18 Rivers, Dorchester Citizens for Planned Growth,  
 19 and others are investigating compliance  
 20 failures at the Valley Protein's plant in  
 21 Dorchester County. As a condition of the

|  |   |
|--|---|
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| <p>1 discharge permit under which that plant<br/>                 2 operates, it is required that removed<br/>                 3 substances be fully accounted for through<br/>                 4 nutrient management plans.<br/>                 5 The substances used under a nutrient<br/>                 6 management plan under receiving farms are to be<br/>                 7 reported to the Maryland Department of<br/>                 8 Environment under the conditions in its State<br/>                 9 discharge permit.<br/>                 10 Our investigations have found that dozens,<br/>                 11 if not hundreds, of failures to do that<br/>                 12 reporting exists. And so there is a regulatory<br/>                 13 failure at the State Department of Environment<br/>                 14 and the Maryland Department of Agriculture<br/>                 15 related to adequately accounting for and<br/>                 16 tracking removed substances in Maryland.<br/>                 17 This is not an isolated incident with<br/>                 18 Valley Proteins. This is happening around the<br/>                 19 state. Something the Chesapeake Bay Foundation<br/>                 20 and our members and supporters are<br/>                 21 significantly concerned about.</p> | <p>1 and there are substances removed off site from<br/>                 2 that facility, in this particular instance, the<br/>                 3 permit requires those remove substances to be<br/>                 4 accounted for as a condition of the State<br/>                 5 discharge permit.<br/>                 6 What is the receiving farms? Is nutrient<br/>                 7 management plan active and accounting for the<br/>                 8 removed substances on that farm? And is that<br/>                 9 information being adequately reported to the<br/>                 10 Maryland Department of Environment, again, as a<br/>                 11 permit condition?<br/>                 12 And we have found that that accounting has<br/>                 13 not been happening.<br/>                 14 MR. GREENLEE: Are they particulate rather<br/>                 15 than liquid?<br/>                 16 MR. GERARD: These are solids.<br/>                 17 MR. GREENLEE: Okay. Thank you.<br/>                 18 Yes, sir.<br/>                 19 MR. ROBERTS: Good morning. For the<br/>                 20 record, Eddie Roberts. I live on 3633 Barber<br/>                 21 Heights Road in Trappe.</p>   |
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| <p>1 And it is context for you in Talbot County<br/>                 2 in terms of administering the Right to Farm Law<br/>                 3 to be very concerned with. And you can expect<br/>                 4 hearings like these to continue to the extent<br/>                 5 that these failures of compliance occur at the<br/>                 6 local, State, and federal levels. So just<br/>                 7 added a little bit more context for your<br/>                 8 consideration.<br/>                 9 Thank you.<br/>                 10 MR. GREENLEE: Before we go to the next<br/>                 11 one, I'd like to ask whomever a question.<br/>                 12 But I think that's the first we've heard<br/>                 13 of removed substance. Can you give us some<br/>                 14 context about removed substances?<br/>                 15 Mr. Gerard, can you perhaps go a little<br/>                 16 deeper, then?<br/>                 17 MR. GERARD: Sure, yeah. It's about what<br/>                 18 the Maryland Department of Environment requires<br/>                 19 in its State discharge permit relative to this<br/>                 20 example of the Valley Proteins. If Valley<br/>                 21 Proteins is allowed to discharge to a waterway</p>                   | <p>1 First and foremost, I want to thank<br/>                 2 Mr. Schmidt and Mr. Duell for keeping us in the<br/>                 3 loop on what is going on. They've been real<br/>                 4 diligent. I've seen them down there looking<br/>                 5 around. And I received the e-mail<br/>                 6 correspondences back and forth.<br/>                 7 I'll keep it brief. I'll keep it short.<br/>                 8 My biggest concern probably is a couple of<br/>                 9 things. One is health issues. I am asthmatic.<br/>                 10 It is uncontrolled. I've been doing pretty<br/>                 11 good with it throughout the years.<br/>                 12 However, the last year, I probably used my<br/>                 13 asthma pump more than I ever used it. The<br/>                 14 quantity of the air is very bad with this<br/>                 15 stuff. I'm not going to beat a dead horse<br/>                 16 because I know you've heard it enough, but just<br/>                 17 to give you an idea, putting your mask on is<br/>                 18 just not enough.<br/>                 19 So I'm having to use my asthma pump after<br/>                 20 cutting grass, after doing weeding or whatever<br/>                 21 I have to do outside.</p> |

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1 Some of my grandchildren have come in the  
 2 fall of '21 and experienced some I wouldn't say  
 3 respiratory issues, but some problems breathing  
 4 and wanted to know, Poppy, what is that awful  
 5 smell.  
 6 We had to forego family events that we  
 7 wanted to do in the fall because of it because  
 8 we just wasn't going to tolerate it or ask  
 9 anybody else to tolerate it. That is uncalled  
 10 for. To have to change your way of life,  
 11 especially post COVID when we all been shut up  
 12 enough.  
 13 We want to get out. We live in the  
 14 country where when my grandkids, some of those  
 15 who live on the western shore, want to come to  
 16 the Eastern Shore and enjoy the great outdoors,  
 17 get on the trampoline, whatever it is that they  
 18 like to do outside, ride their bikes, but this  
 19 is a problem.  
 20 So I, along with a bunch of my neighbors  
 21 who are here today, including Mr. Williams who

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1 gave his testimony earlier, would really like  
 2 for you not only just to consider what we can  
 3 do going forward about it, but really consider  
 4 does it have to be used. Does it really have  
 5 to be used? Is there alternatives to what they  
 6 can use?  
 7 I in no way want to get in the way of  
 8 farming. I respect farming. I've known  
 9 farmers all my life. I'm friends with some of  
 10 the farmers here today. They do a great job.  
 11 They have need to do it, and they have to feed  
 12 their family. And I understand a lot about  
 13 farming.  
 14 I've looked at the Farm Act that everyone  
 15 is speaking of today. I've spoken several  
 16 times with Ms. Lewis back and forth on this  
 17 issue.  
 18 And I have another concern. What will it  
 19 do in the long haul to our water supply. We  
 20 are on wells down there. This stuff starts to  
 21 seep throughout the years, it may not be in my

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1 generation. But what if I give my home to my  
 2 grandkids somewhere down the road and they  
 3 start drinking this water and start having some  
 4 issues. So there's great concern.  
 5 And I know you know this by now with all  
 6 the testimony, but my question is does it  
 7 really have to be used? I understand you cut  
 8 out the Denali part of the Sea Watch. Again, I  
 9 like what the one lady said who is holding them  
 10 accountable, Sea Watch. What are they using?  
 11 What are they doing before it's given to the  
 12 farmers?  
 13 So with all that, I ask that you really  
 14 take more than just a consideration of this  
 15 matter. And I understand, Mr. Chairman, when  
 16 you said you can't change laws and all, but we  
 17 greatly appreciate all you can do for us. And  
 18 not only just in Trappe, but in the county,  
 19 because they may just move this to another  
 20 portion.  
 21 One thing we do know is that Mr. Foster in

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1 Cordova is not putting it next to his home.  
 2 Why? Because of the smell. It's awful. It's  
 3 really health problems.  
 4 So I thank you for your time.  
 5 Going forward what I would like is that  
 6 correspondence, if there's some kind of way  
 7 that we all, citizens of Trappe, can go to  
 8 maybe one spot and follow up with  
 9 correspondence because I've had neighbors who  
 10 came to a meeting when we had a big meeting on  
 11 the issue that said they did not receive any of  
 12 the information that you, Mr. Duell and  
 13 Mr. Schmidt, sent to me. And I understand if  
 14 they didn't give you an e-mail, but some said  
 15 they did give e-mails and did not get anything  
 16 in return.  
 17 So if there's somewhere we can do  
 18 correspondence where overall citizens of Trappe  
 19 maybe can go to look on a link or somewhere and  
 20 follow everything, because I know you all can't  
 21 keep up with everybody in this room.

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1 And if you could have another meeting, if  
 2 we have to have another meeting, sometime in  
 3 the evenings because there was other people who  
 4 wanted to be here but because of work  
 5 situations, could not be here. And I  
 6 understand you guys want to go home at the end  
 7 of a tiring day, just like we all do. But  
 8 sometimes you got to accommodate those who  
 9 can't make it nine a.m. Monday morning.

10 Thank you.

11 MS. DOTY: Hello. My name is Marty Doty.  
 12 My husband and I are here because we purchased  
 13 the home on 30319 Kate Point Road back in May.  
 14 And then we modeled and we did not move in  
 15 until November.

16 Some of this stuff I won't go into.

17 The dates the neighbors have complained  
 18 about are the exact same dates that I have of  
 19 when the odors were the worst.

20 But when we first moved in, it was so bad  
 21 that we started looking around our yard because

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1 we thought our septic had failed. It just  
 2 smelled like human feces at our front door.

3 And then like they said, in November, it  
 4 was the week after we moved in, I literally --  
 5 the odor was so bad that when you got out of  
 6 your car, you just ran into the house. And  
 7 then it got worse and worse.

8 And I came home one day and I literally  
 9 sat in the living room and just cried because  
 10 it was so bad in the house.

11 And it's a split level house. So we  
 12 basically stayed in the basement area for  
 13 probably about ten days to two weeks because  
 14 that part did not have the central heating  
 15 system. So that was the only place that we  
 16 could even get away from the odor.

17 But I wrote this complaint on December the  
 18 7th because I was very concerned about our  
 19 well-being, but it has continued to affect our  
 20 well-being in a negative manner.

21 On December 14th and 15th, they did disk

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1 the field across the street from us. And on  
 2 the 15th, the odor was really bad.

3 And then on the 18th, I went out and I was  
 4 like oh, I don't smell it. Then I got to my  
 5 office on Route 50 in Trappe, and you could  
 6 smell it there. It was because the wind had  
 7 changed, it was going in towards the town.

8 I notice the days that I did leave the  
 9 house and didn't smell it, that's where I would  
 10 smell it. It didn't get into the office or the  
 11 buildings in Trappe, but you could smell it  
 12 when you were standing on the sidewalk and you  
 13 knew where it was coming from.

14 On the 19th, it was raining and the smell  
 15 got worse because of the rain.

16 And then I've been making notations on my  
 17 calendars. And on the 28th, the odor was bad,  
 18 but it got worse on the 29th because it rained  
 19 again.

20 And we didn't smell the odor again until  
 21 February 2nd. And I'm assuming because it got

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1 warmer that day and as soon as it started  
 2 heating up outside, it was like oh, my God,  
 3 there's that smell.

4 So as you can see, it still hasn't gone  
 5 away and it's never been put on the field since  
 6 November.

7 And they're going to reapply and it's  
 8 already still smelling from last year.

9 So in closing, I'd just like to reiterate  
 10 that how bad the odor is and that it does -- I  
 11 think there's two neighbors here of my  
 12 daughter's. And she's all the way over on  
 13 Chestnut Ridge Road, and that's off of Landing  
 14 Neck Road. And they smell it out in their  
 15 yards at their homes.

16 But we're still very concerned about our  
 17 health and well-being. I understand that they  
 18 said they won't do it this year, but they're  
 19 going to come back in 2023 and do it and we're  
 20 all in the same spot again.

21 So I hope you will take that into

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1 consideration because you certainly wouldn't  
 2 want it in your front yard.  
 3 Thank you very much.  
 4 MS. RYAN: Good morning. My name is  
 5 Lyndsey Ryan. I represent a neighboring  
 6 property owner.  
 7 I'm not going to get into the smells.  
 8 Luckily, I don't live nearby this farm.  
 9 I just want to raise a few points for you  
 10 all. And first, I would ask that anyone here  
 11 that wants to comment, please comment because  
 12 an appeal of this will be confined to the  
 13 records going forward. So it's important that  
 14 everyone put their testimony on the record here  
 15 today.  
 16 Second, I would ask that you all consider  
 17 whether you have jurisdiction over this matter.  
 18 As they have testified and her testimony and  
 19 it's included in the record, this farming  
 20 operation had not continued for one full year  
 21 prior to receiving the first complaints.

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1 Second, I would raise attention to the  
 2 fact that many have said they believe it's Sea  
 3 Watch causing the stench. No one has testified  
 4 to that. No one can confirm that. You heard  
 5 even the chemist say they couldn't confirm when  
 6 it was mixed with something else.  
 7 Based on the testimony you've heard, these  
 8 neighbors can't rely on a belief. They need to  
 9 know.  
 10 Third, I would add that just because these  
 11 practices either aren't regulated or are in  
 12 compliance with MDE and MDA, it doesn't mean  
 13 that they don't violate the public health,  
 14 safety, and welfare. And if they're found to  
 15 violate the public health, safety, and welfare,  
 16 it is not a generally-accepted agricultural  
 17 practice.  
 18 Last, I would add that you've heard  
 19 testimony that there was potentially an  
 20 agreement reached or stipulations. I would add  
 21 your code states that all parties to this

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1 matter would have to agree to that. And I  
 2 don't believe that any of the complainants here  
 3 have even gotten terms of that agreement. And  
 4 they would certainly have to be parties to  
 5 that.  
 6 With that, I would consider enforcement  
 7 action because if you don't have enforcement,  
 8 then what's the point of having an agreement.  
 9 I would also include in there who is going  
 10 to regulate that. Is it going to be by  
 11 complaints of the neighbors? Are these  
 12 neighboring property owners going to have to go  
 13 back again and regulate this farm basically  
 14 themselves to make sure it complies with this  
 15 agreement or is the county going to have  
 16 oversight of it?  
 17 And with that, I don't have anything else.  
 18 Thank you.  
 19 MR. HUTCHISON: Can I ask who you  
 20 represented today?  
 21 MS. RYAN: Cheryl Lewis.

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1 MR. HUTCHISON: Okay. Thank you.  
 2 Anybody else?  
 3 MR. WHEATON: Good morning, everyone. My  
 4 name is Craig Wheaton. I live at 5354  
 5 Wellington Drive, Trappe. We've been living  
 6 there about since 2006. My wife was born in  
 7 Oxford. I moved here in 1992.  
 8 I live about five miles from ground zero,  
 9 because that's what it is. It's horrible.  
 10 And I think -- I've served in the  
 11 military. I'm a veteran. I've been overseas  
 12 in a lot of third world countries. And that's  
 13 what we're producing down the road. It's  
 14 horrible I think for your mental health. I  
 15 mean you have smell to realize something is  
 16 wrong. And it's just God awful. We're not  
 17 talking about mayflies here or sitting at the  
 18 red light up at Chesapeake College.  
 19 You asked what you can do. I think you  
 20 should consider this an experimental farming  
 21 technique that's wrong.

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1 I mean for the record, this is a Monday  
 2 morning at nine a.m. and there was standing  
 3 room only when it's not even being spread.  
 4 Honestly, I thought I hadn't smelled it in a  
 5 while. So I thought you guys got rid of it. I  
 6 mean this is ridiculous.  
 7 People expect their government to do the  
 8 right thing, and you can't expect citizens to  
 9 live like this. It's absolutely horrible. It  
 10 really is.  
 11 And do any of you live near the farm or  
 12 ten miles away? I mean it is ridiculous.  
 13 And this will not go away. If you held  
 14 this meeting in the middle of summer in the  
 15 evening, you would pack the parking lot.  
 16 I think that I read through Chapter 128  
 17 the other night, and it's not very thick, a  
 18 couple of pages really.  
 19 And I'm pro farming. We need farmers.  
 20 Farmers are awesome. But come on, this is  
 21 ridiculous and y'all know it.

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1 Even the farmer knows it. He's trying to  
 2 make compromises. But I think he's just  
 3 invested in it and now that stuff has someplace  
 4 to go. I don't know. But it's just  
 5 ridiculous. Thank you.  
 6 MR. HUTCHISON: Anybody else?  
 7 MR. HOLT: Yeah. I'll go ahead. Good  
 8 morning. My name is Matthew Holt. I live at  
 9 3785 Koogler Road, directly across from the  
 10 field.  
 11 And to begin, I would like to thank  
 12 Mr. Duell and Mr. Schmidt, like everyone has.  
 13 They were very diligent in handling this. And  
 14 also, the Fosters for acknowledging the problem  
 15 and addressing the complaints.  
 16 I've lived most of my life in downtown  
 17 St. Louis. So I don't really know anything  
 18 about farming.  
 19 I am a recovering cancer patient, and my  
 20 situation is a little different than anyone  
 21 else. I suffer from a complication from my

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1 transplant called graft-versus-host disease.  
 2 My oncologist at Johns Hopkins informed me  
 3 that chemicals can seriously aggravate my GVHD.  
 4 And when I informed them of this situation,  
 5 they strongly recommended I avoid as much  
 6 exposure as possible. The biggest concern for  
 7 them was fungal infection, since I am immune  
 8 compromised, and I already had a very serious  
 9 fungal infection for about nine months.  
 10 If needed, I could request documentation  
 11 from John Hopkins that would describe my  
 12 particular situation if it's necessary.  
 13 But there's no need to repeat what I  
 14 stated in my letter. I think we're all in  
 15 agreement that the situation was unacceptable.  
 16 From my property, it wasn't until after  
 17 the second snow storm at the end of January and  
 18 early February and after it melted that I could  
 19 no longer detect significant odor.  
 20 I will add that my family members that  
 21 have lived here for years agree that it's not

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1 really a chicken product smell. And also, I  
 2 did not get a compassionate visit from anybody.  
 3 So if I'm allowed to ask some questions,  
 4 first off, I brought some greens in from my  
 5 house for my sister for Thanksgiving for flower  
 6 arranging. And when I washed them, you could  
 7 see the dust coming off of everything.  
 8 Everything in my yard, my patio furniture,  
 9 everything was coated with this stuff.  
 10 So that brings me to my first question.  
 11 What are the MDA material disbursement  
 12 regulations? Are they allowed, specifically  
 13 are they allowed to do this during nor'easters  
 14 or inclement weather?  
 15 Then I have some questions about the  
 16 product itself. And maybe I'll just leave  
 17 these with you and I'll get a response down the  
 18 road.  
 19 I don't understand what an MDE exempt from  
 20 an MDA and an air or I don't understand what  
 21 any of that means.

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1 But then moving on, for each of the four  
 2 components of the products, what regulations do  
 3 the suppliers have to follow? Specifically are  
 4 they required to wear masks and hazmat suits?  
 5 How do they get this material? Do they pump it  
 6 into a truck?  
 7 That leads me to my next question. Is  
 8 there any alternative to air transport? Can't  
 9 they put this in a container truck when they  
 10 transport?  
 11 Next question. How are these components  
 12 mixed? There's four different components.  
 13 Someone somewhere mixes these things. What are  
 14 the regulations on that?  
 15 Then probably my most important question.  
 16 I'm, by trade, I'm a laboratory scientist. And  
 17 I'm curious to know exactly how they eliminate  
 18 pathogens from the product. As stated that the  
 19 pathogens have been eliminated.  
 20 I know that some places lay it out and let  
 21 the air, let the sun kill the pathogens to 95

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1 percent is what I read, but I don't know how  
 2 this stuff is being -- if they just state that  
 3 it's pathogen free. I'd like to know how they  
 4 know that and how it's done.  
 5 Also, there was an issue with the Ocean  
 6 City permit. I don't know if that's been  
 7 resolved and what that's all about.  
 8 And then also, you reported on 2/17 there  
 9 was some unknown material. I'm just curious if  
 10 that material was ever identified.  
 11 And so I will just leave this for you with  
 12 my questions. Thank you very much.  
 13 MR. GREENLEE: Thank you.  
 14 Is his name on there?  
 15 Can we get you to put your name on this  
 16 list of questions, please, and a contact e-mail  
 17 or whatever you'd like?  
 18 MR. HOLT: Sure. Thank you.  
 19 MR. HUTCHISON: Anybody else?  
 20 MS. BRANIC: My name is Mary Branic. I  
 21 live at 30364 Chestnut Ridge Lane off of

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1 Landing Neck.  
 2 I am here as a citizen of Trappe, but as a  
 3 farmer's daughter. I will fight to my dying  
 4 day for the right to farm. I understand. I  
 5 grew up on 400-acre grain farm. I know what  
 6 chicken manure smells like. My family raised  
 7 pigs, my uncle raised dairy, my other uncle  
 8 raised chickens. I know farm smells.  
 9 This is not farm smell. This is toxic.  
 10 We are pretty much hostage to our house,  
 11 and we are over two miles away from what he's  
 12 called ground zero, over two miles. It got  
 13 into my house, it got into our hair when we  
 14 were outside, it gets in your lungs, in your  
 15 nose, on your clothes, in your cars. It's not  
 16 natural.  
 17 This wasn't a farming practice. He was  
 18 paid to take this. This was a cop-out for  
 19 cheap fertilizer. And he's not put it where he  
 20 lives. He put it where we live.  
 21 Like I said, I would fight to my dying day

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1 to defend a farmer and their right to practice  
 2 as long as it's done responsibly.  
 3 My family would never put this on their  
 4 farms because they wouldn't want to breathe it  
 5 in, nor would they want their neighbors to  
 6 breathe it in.  
 7 But he's not putting it where he lives.  
 8 He's putting it where we live. And to me,  
 9 that's irresponsible and it's cruel.  
 10 Thank you.  
 11 MR. HUTCHISON: Anybody else?  
 12 MR. STARLIPER: My name is Carl Starliper.  
 13 I live at 3801 Koogler Road, directly across  
 14 from the field and storage area.  
 15 I don't want to repeat everything that was  
 16 said here, but I want to put it on record that  
 17 I was at this meeting and that I agree with  
 18 everything that was said here so far. It's all  
 19 true. I just want to come up and state that I  
 20 was here and that I would like you to take this  
 21 into consideration for all my neighbors here.

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1 Thank you.

2 MS. NAVE: My name is Julie Nave. And I

3 live at 4567 Wright's Mill Road.

4 The Phil Foster family is our neighbor on

5 the other side of our woods. They have farmed

6 for many generations, and I come from a farming

7 family as well, except my grandfather farmed on

8 Barber Road. He was Isaac Nave. My father was

9 his oldest son.

10 And when my parents retired in their mid

11 50s, my father's dream was to move back to the

12 shore and buy a farm and be close to family.

13 He bought the farm on Wright's Mill Road with a

14 historic house.

15 He and my mother spent 16 years restoring

16 the property and the home that dates back to

17 the 1600s. It was the first grist mill in

18 Talbot County.

19 The farmer that bought the farm across

20 from the Fosters happens to the grandfather of

21 my daughter-in-law.

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1 And there is no way that what he put on

2 that land is normal type of fertilization. My

3 grandfather never would have used any of those

4 products on his land.

5 But my father, living on Wright's Mill,

6 had another neighbor across the road and on his

7 side before Steve Harris bought his farm on

8 Wright's Mill. And that farmer happened to be

9 Alan Baynard. He was one of the first farmers

10 in our area who was paid to take sludge from

11 Baltimore.

12 My parents endured the odor of that sludge

13 ever since they lived on the farm on Wright's

14 Mill.

15 My mother babysat my children in the

16 summer when they were off from school so that I

17 could work. And my kids could hardly ever go

18 outside when Alan Baynard chose to have sludge

19 spread on his farmland. And my father never

20 understood why he did it on Wright's Mill side

21 but not on his own property off of Tarbutton

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1 Mill because he didn't want to smell it right

2 around his home.

3 But my parents had to endure it while

4 restoring a home and bringing a property back

5 to beauty.

6 My mother is now 90 years old. She turned

7 90 the end of January. My father passed at 77.

8 He contracted lymphoma five years before he

9 died. He was perfectly healthy when he retired

10 at 55. He had no health conditions. He wanted

11 to retire early while he was still healthy, but

12 he found out five years before he passed that

13 he had lymphoma.

14 Now, my mother now has a condition called

15 bronchiectasis. She is in Indiana visiting my

16 sister, and she's had an ongoing cough for at

17 least a year, year and a half.

18 My sister took her to an internist there

19 since we couldn't seem to get to the bottom of

20 it here. The internist did his homework on

21 where my mother lived, which is here on the

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1 shore. He saw how much farmland was around my

2 mother's property. And he did his research on

3 the fact that certain farms are now using these

4 fertilizers and products to put on the land.

5 My mother was so shocked when she met with

6 this doctor when he had this information prior

7 to meeting with her because he chose to

8 research it because of her ongoing cough and

9 because of her age and wanting to know how long

10 had she lived where she's living.

11 This doctor I thought did an excellent job

12 doing his homework because he cared enough

13 about her health.

14 And then when I think about my dad having

15 contracted lymphoma, and we wondered well, how

16 did he get this, he was perfectly healthy. And

17 now we know, because he explained to my mother

18 that lymphoma is very easy to contract when you

19 are living in areas that are -- where you're

20 surrounded by chemicals that are used on the

21 land.



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1 I have asthma, and I have an autoimmune  
 2 disease as well. And now I understand why my  
 3 asthma flares up so many times over the course  
 4 of the things that go on with farming.  
 5 And I chose to live with my mother 14  
 6 years ago to help her with her life and her  
 7 property because my father had passed. But I  
 8 also realize that my health has declined in the  
 9 process, and now I'm starting to understand  
 10 why, with all the things that have been put on  
 11 these properties.  
 12 Phil Foster's family has never farmed that  
 13 way. They have always been great at what they  
 14 do. We have always been friends with them.  
 15 My grandfather never would have farmed it  
 16 this way, either.  
 17 But the other Foster family doesn't care  
 18 what goes on where we are because, again, they  
 19 live in Cordova and they don't have to deal  
 20 with this.  
 21 But now that I'm understanding more about

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1 these health issues, it concerns me for  
 2 everyone that lives in our area.  
 3 And I have grandchildren as well. And  
 4 when my grandchildren came with my son from  
 5 Oregon back last fall, and we couldn't -- they  
 6 couldn't be outside because of the odor and it  
 7 wasn't safe. And that's sad because when you  
 8 live in such a beautiful area, you should be  
 9 able to enjoy gardening and being outside,  
 10 taking a walk in the woods, and enjoying your  
 11 property. And when you're held at the mercy of  
 12 somebody that chooses to farm this way, it's  
 13 not right.  
 14 MR. GREENLEE: Thank you very much.  
 15 MS. NAVE: It's not fair.  
 16 Thank you for listening.  
 17 MR. HUTCHISON: Anybody else?  
 18 MS. BRUMMELL: I didn't come prepared to  
 19 speak, but I feel I have to speak. I live on  
 20 Barber Road directly across from part of this  
 21 farm just before you get to Koogler Road. And

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1 I'm 81 years old. I have allergies and asthma.  
 2 And I had an occasion when I was painting  
 3 one of my sheds in the yard and I smelled this  
 4 terrible smell. It made me sick to my stomach.  
 5 I had to stop and go into the house.  
 6 Several years ago, when the Mormons owned  
 7 this farm directly across from us, and they had  
 8 cows there and they used to put manure on the  
 9 fields, which is nothing compared to the smell  
 10 that we are experiencing. And we fought it and  
 11 they moved, they moved. They left the area.  
 12 I also noticed that even in the real cold  
 13 weather, you open your doors and the flies are  
 14 still coming, coming in your house.  
 15 And my sister-in-law lives directly behind  
 16 me and we take care of her. She's 101. And we  
 17 check -- well, we're living with her now  
 18 because she had a stroke. But before she had  
 19 the stroke, we used to check on her odd hours  
 20 to make sure she was okay. And we would always  
 21 see these big trucks coming the back road late

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1 at night delivering these products.  
 2 And I also remember a car came down I  
 3 guess to check the fields after the complaints.  
 4 And the day before the car came down, it had a  
 5 sign on it, I didn't see what the sign was,  
 6 somebody was out there and they just plowed the  
 7 edges of the field and they also put something  
 8 on it. I guess it was fertilizer or something.  
 9 And the day that they came down, it was a calm  
 10 day and you couldn't really get the smell that  
 11 we have to experience all the time.  
 12 MR. HUTCHISON: Can you state your name,  
 13 please? I didn't catch it.  
 14 MS. BRUMMELL: My name is Brenda Brummell.  
 15 MR. HUTCHISON: Okay. Thank you.  
 16 MR. YOUNG: Ms. Brummell also stated that  
 17 she didn't intend to talk.  
 18 Did you raise your hand under oath at the  
 19 beginning with everybody else?  
 20 MS. BRUMMELL: No, I did not. I didn't  
 21 come prepared to speak.

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1 MR. YOUNG: That's okay. You just want to  
 2 raise your hand and testify that the testimony  
 3 you just gave was true and accurate?  
 4 MS. BRUMMELL: I do.  
 5 MR. YOUNG: Okay. Thank you.  
 6 MR. HUTCHISON: Anybody else?  
 7 If not, I'd like to take a ten-minute  
 8 break and resume.  
 9 MR. DUELL: Mr. Chairman, one quick  
 10 question for Mr. Cropper.  
 11 Mr. Cropper --  
 12 MR. HUTCHISON: Mr. Cropper is going to be  
 13 testifying when we get back from our break.  
 14 Can it wait until then?  
 15 MR. DUELL: Yes, sir.  
 16 MR. HUTCHISON: Thank you.  
 17 (Recess taken.)  
 18 MR. HUTCHISON: We're going to get ready  
 19 to turn the floor over to Mr. Cropper and the  
 20 gentlemen he has with him. I understand  
 21 somebody still needs to be sworn in.

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1 (Whereupon the witness was sworn in.)  
 2 MR. HUTCHISON: The floor is yours. If  
 3 you could at some point introduce the gentlemen  
 4 sitting beside you, we'd appreciate it.  
 5 MR. CROPPER: All right. Then let's do  
 6 that now. So again, for the record, I am Mark  
 7 Spencer Cropper. And seated beside me is  
 8 Mr. Mardis.  
 9 Will you please identify yourself for the  
 10 Board?  
 11 MR. MARDIS: Yes. Jimmy Mardis. I'm  
 12 chief environmental officer for Denali Water  
 13 Solutions. I live in Arkansas. Here today  
 14 from Arkansas.  
 15 MR. CROPPER: And Mr. Banks.  
 16 MR. BANKS: Chris Banks. Operations  
 17 manager for Mid Atlantic. And I live in  
 18 Mardela Springs, Maryland.  
 19 MR. CROPPER: And I'm going to ask  
 20 Mr. Foster to come forward, please.  
 21 And you have been sworn in; is that

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1 correct?  
 2 MR. ARTIE FOSTER, JR.: Yes.  
 3 MR. CROPPER: Okay. Will you please  
 4 identify yourself for the Board?  
 5 MR. ARTIE FOSTER, JR.: Artie Foster, Jr.,  
 6 son of the land owner.  
 7 MR. CROPPER: And I'm here on behalf of  
 8 you and your father, the land owners that are  
 9 the subject of this hearing; is that correct?  
 10 MR. ARTIE FOSTER, JR.: Yes.  
 11 MR. CROPPER: And you've had an  
 12 opportunity to review the memorandum dated  
 13 February the 18th that I submitted to this  
 14 Board on your behalf, as well as a cover letter  
 15 dated February the 18th, another letter dated  
 16 February 23rd, and an e-mail of February 24th.  
 17 Do you adopt as your presentation and  
 18 testimony here the contents of all those  
 19 documents?  
 20 MR. ARTIE FOSTER, JR.: Yes.  
 21 MR. CROPPER: And do you affirm the

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1 accuracy of all those documents on behalf of  
 2 you and your father?  
 3 MR. ARTIE FOSTER, JR.: Yes.  
 4 MR. CROPPER: Thank you very much. You  
 5 can be seated.  
 6 I will also ask both Mr. Mardis and  
 7 Mr. Banks the same questions. You've had an  
 8 opportunity, each of you independently, to  
 9 review what I have submitted to this Board,  
 10 again, dated February 18th, 23rd, and 24th.  
 11 Mr. Mardis first. Do you adopt as your  
 12 presentation those submittals to this Board?  
 13 MR. MARDIS: I do.  
 14 MR. CROPPER: And do you confirm the  
 15 accuracy of those submits?  
 16 MR. MARDIS: I do.  
 17 MR. CROPPER: Mr. Banks, same question.  
 18 Do you adopt the contents of those submittals  
 19 to this Board as your presentation?  
 20 MR. BANKS: I do.  
 21 MR. CROPPER: And do you confirm the

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1 accuracy of the contents of those documents?  
 2 MR. BANKS: I do.  
 3 MR. CROPPER: First and foremost, I want  
 4 to thank the Board for providing the Fosters  
 5 with the opportunity to be here today and also  
 6 representatives of Denali to address the  
 7 concerns of the complainants.  
 8 And I think it's fair to say that the  
 9 complainants have all come here in good faith.  
 10 I think all the testimony they've given is  
 11 sincere. We don't question any of their  
 12 sincerity.  
 13 And we believe that there was an issue  
 14 with one of the products being land applied on  
 15 the Foster Farm, predominantly the Sea Watch,  
 16 which, again, is the clam processing remnant  
 17 that was used as a soil conditioner.  
 18 Before I discuss any of the facts,  
 19 however, I would like to reiterate for the  
 20 Board the legal premise upon which we're here,  
 21 which you've heard referred to by numerous

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1 people, which is the Talbot County Right to  
 2 Farm law.  
 3 Now, I'm going to quote from Chapter 128,  
 4 Right to Farm, section 1281B.  
 5 "When conducted within standard and  
 6 generally-accepted agricultural practices as  
 7 recommended and/or legally approved by the  
 8 Maryland Department of Agriculture, the United  
 9 States Department of Agriculture, or other  
 10 State and federal agencies, neighboring  
 11 property owners shall have no recourse against  
 12 the inherent effects of agricultural  
 13 operations. The inherent effects include, but  
 14 are not limited to, smoke, noise, vibration,  
 15 odors, fumes, dust, pests, glare, runoff, the  
 16 operation of machinery of any kind during any  
 17 24-hour period, including aircraft, the use of  
 18 irrigation, the storage and disposal of manure,  
 19 application of fertilizer, pesticides, and  
 20 other agricultural chemicals."  
 21 And what we're talking about here today is

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1 land application of class A biosolids and soil  
 2 conditioners that are registered with,  
 3 regulated by the Maryland Department of the  
 4 Environment, Maryland Department of  
 5 Agriculture, and to some extent the  
 6 Environmental Protection Agency.  
 7 Section 128.3A of that law provides that a  
 8 private action may not be sustained with  
 9 respect to an agricultural operation conducted  
 10 on agricultural land on the grounds that the  
 11 agricultural operation interferes or has  
 12 interfered with the use and enjoyment of  
 13 property, whether public or private, if the  
 14 agricultural operation was, at the time the  
 15 interference is alleged to arise, conducted  
 16 substantially in accordance with  
 17 generally-accepted agricultural practices.  
 18 Generally-accepted agricultural practices  
 19 are defined in that law as methods used in  
 20 connection with agricultural operations that do  
 21 not violate applicable federal, State, or local

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1 laws or public health, safety, and welfare,  
 2 which are generally-accepted agricultural  
 3 practices in the agricultural industry.  
 4 As noted by Mr. Duell in his staff report,  
 5 neither the Fosters nor Denali have been issued  
 6 any notices of violations of any sort regarding  
 7 the storage or land application of the class A  
 8 biosolids or the three soil conditioners that  
 9 are identified in the staff report and also  
 10 addressed in my memorandum.  
 11 We will, however, stipulate that the one  
 12 soil conditioner known as Sea Watch is deemed  
 13 by Denali and the Foster family to be the  
 14 culprit of these odor complaints. And when you  
 15 listen to the testimony of the complainants and  
 16 the time frames when the odor was first and  
 17 most noted, it was after land application of  
 18 Sea Watch on the Foster Farm.  
 19 Now, as the staff report was first  
 20 prepared by Mr. Duell with the assistance of  
 21 Mr. Schmidt, and there were pretty direct

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1 statements about frustration on the part of  
 2 Mr. Duell and Mr. Schmidt of a lack of  
 3 cooperation on the part of the Foster family  
 4 with regard to the investigation, that -- I was  
 5 contacted. That changed. And immediately  
 6 contact was made with the Talbot County Health  
 7 Department, predominantly Mr. Duell and  
 8 Mr. Schmidt. And subsequently there was a  
 9 meeting on site, which I referred to earlier in  
 10 the very beginning of this hearing.

11 I want the Board to be aware of the reason  
 12 for that meeting. It's because first an  
 13 allegation on the part of Mr. Duell and I think  
 14 Mr. Schmidt that they were frustrated by not  
 15 having greater cooperation from the Foster  
 16 family or Denali. And they wanted to meet on  
 17 site to discuss the complaints of the neighbors  
 18 and see if there was a resolution that could be  
 19 had that would not only be a benefit to the  
 20 Talbot County Health Department, the  
 21 complainants, but also this Board in performing

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1 its function.

2 This is the Talbot County Agricultural  
 3 Resolution Board. So we're here to resolve the  
 4 issues between the complainants, the property  
 5 owners, and to the extent involved, Denali.

6 The meeting took place. And I received an  
 7 e-mail from Mike Duell February 23rd at  
 8 4:51 p.m. And it said in our attempt to pursue  
 9 measures that could be considered to mediate  
 10 the complaint conditions in this case, both  
 11 Denali and the Fosters propose the following  
 12 action with the hopes of settling the  
 13 complaints of the citizens. And it listed the  
 14 items that you heard both Mr. Duell and I  
 15 discuss earlier where there appeared -- I  
 16 didn't think there was any difference between  
 17 what I was saying and what Mr. Duell was  
 18 saying, but he certainly did.

19 When Mr. Duell sent me the list, it said  
 20 in this e-mail, and I'm quoting, during today's  
 21 meeting, the below elements, this is the list

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1 of items that were agreed upon by the Fosters  
 2 and Denali. During today's meeting, the below  
 3 elements were presented to Bill and myself. I  
 4 will be entering the below in my staff report  
 5 for review to the Board chairman and members as  
 6 solutions to this matter. Please add your  
 7 comments. The below measures differ slightly  
 8 from your above letter.

9 So they met, they discussed resolutions,  
 10 they needed some clarification.

11 I then sent my reply e-mail to Mr. Duell,  
 12 which I read to you earlier, which was a  
 13 clarification of what had been discussed on  
 14 site. Again, it was all in furtherance of the  
 15 whole purpose of this proceeding, of trying to  
 16 reach a resolution cooperatively between the  
 17 Health Department, this Board, the property  
 18 owner, and Denali.

19 And we stand by that. We stand by what  
 20 was represented that day. We stand by what is  
 21 in my e-mails and letters.

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1 And to reiterate, believing sincerely that  
 2 Sea Watch is the culprit of this odor, there  
 3 will no longer be, the Fosters and Denali have  
 4 agreed there will no longer be Sea Watch either  
 5 stored or land applied on the Foster Farm.

6 Now, this hearing is about the Foster  
 7 Farm. It's not about any other properties in  
 8 Talbot County or any other county of this  
 9 state. So we are only speaking with regard to  
 10 the Foster Farm properties.

11 Of the remaining two soil conditioners and  
 12 the class A biosolids, there will be no land  
 13 application of any of those materials on the  
 14 Foster Farm properties for the balance of 2022.  
 15 To the extent any of those material, and again,  
 16 not Sea Watch, are stored on the Foster Farm  
 17 property, they will be hauled off site for land  
 18 application elsewhere, not on the Foster Farm  
 19 properties.

20 To the extent that any soil conditioners  
 21 or class A biosolids from the Town of Ocean

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1 City are to be re-land applied on the Foster  
 2 Farm, they will be disked in. There will be no  
 3 turbo till, as they call it, of those materials  
 4 on the farm.  
 5 So it was the hope then, it's still the  
 6 hope now that this Board will take those  
 7 efforts, those concessions as we deem them to  
 8 be, into consideration in determining a proper  
 9 resolution to this dispute.  
 10 The Talbot County Right to Farm law I  
 11 don't think could be more clear, candidly. The  
 12 fact that the soil conditioners and the class A  
 13 biosolids that are used as an alternative to  
 14 more traditional fertilizers to supplement the  
 15 soil for crop growth, how anybody could  
 16 possibly argue that's not a generally-accepted  
 17 agricultural practice. And again, the law, and  
 18 I don't want to beat up on this too much, but  
 19 it says when conducted within standard and  
 20 generally-accepted agricultural practices as  
 21 recommended and/or legally approved by Maryland

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1 Department of Agriculture, United States  
 2 Department of Agriculture, or other State and  
 3 federal agencies.  
 4 The fact of the matter is nothing --  
 5 everything occurring on the Foster Farm has  
 6 been legally permitted, registered, and  
 7 approved. It has been stated, earlier in the  
 8 hearing, there have been no violations of any  
 9 kind issued to Mr. Foster or Denali.  
 10 Therefore, it's our position very  
 11 respectfully to this Board, and I do mean this,  
 12 respectfully to the complainants, because what  
 13 they've described isn't good. The fact of the  
 14 matter is this is a generally-accepted  
 15 agricultural practice by the very definition of  
 16 law pursuant to which this hearing is taking  
 17 place.  
 18 We are hopeful that the stipulations that  
 19 have been made will address adequately,  
 20 satisfactorily to everybody's benefit the  
 21 concerns that have been raised by the neighbors

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1 and that this Board will take that all into  
 2 consideration.  
 3 But I don't want anybody to think for a  
 4 second but that the meeting on site, and also  
 5 there's some comments in Mr. Duell's staff  
 6 report questioning why Denali met with some of  
 7 the complainants after the complaints were  
 8 filed, I've addressed that in my memorandum.  
 9 But it's quite simple.  
 10 First of all, I would think that the  
 11 Talbot County Health Department would expect  
 12 Denali or the Fosters to meet with neighbors  
 13 who have filed complaints. I think it would be  
 14 improper not to do so.  
 15 And in fact, there was some testimony  
 16 earlier today from some of the complainants  
 17 they were offended or frustrated that they had  
 18 never been contacted by the Fosters or Denali  
 19 with regard to these materials being stored or  
 20 land applied on the Foster Farm. But when  
 21 Denali or the Fosters met with some of the

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1 complainants and tried to make peace let's say  
 2 or offer them some solace for their discomfort  
 3 and complaints, in the staff report I have to  
 4 say it sounds as though the Fosters or Denali  
 5 are being criticized for trying to address the  
 6 concerns of the neighbors, when I think they  
 7 should be applauded for doing so. Maybe they  
 8 should have done so sooner or earlier, but they  
 9 did so. And I think they're entitled to some  
 10 credit for having done so.  
 11 There was testimony by, and excuse me  
 12 because there was lots of testimony from lots  
 13 of people and I need to find the right note,  
 14 Matt Pluta, I hope I'm pronouncing his last  
 15 name correctly, of the Choptank riverkeepers.  
 16 And the chairman I think noted this correctly.  
 17 He gave testimony regarding testing certain  
 18 materials for BOD for nearby waterways and he  
 19 talked about testing samples and how those  
 20 samples could indicate a health concern.  
 21 But I want the record to reflect that the

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1 testimony of Mr. Pluta had nothing to do with  
 2 the Foster property or this matter. It was for  
 3 another property elsewhere. It had nothing to  
 4 do with the Foster Farm.  
 5 Moreover, you heard testimony from several  
 6 people today about Valley Protein and the fact  
 7 that there are investigations initiated by  
 8 certain environmental organizations or  
 9 individuals regarding the reporting  
 10 requirements by Valley Protein with regard to  
 11 materials that leave the site of Valley Protein  
 12 and then are considered a soil conditioner on  
 13 some of these properties.  
 14 Again, whether Valley Protein, as the  
 15 supplier of this material, has or hasn't  
 16 properly complied with reporting requirements  
 17 under the applicable regulations or statutes  
 18 has nothing to do with what we're talking about  
 19 here today. That's between Valley Protein and  
 20 the regulators whose regulations and laws  
 21 Valley Protein has to comply with. And even if

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1 Valley Protein didn't do something correctly,  
 2 that should have no bearing on this hearing  
 3 today.  
 4 The fact of the matter is the Valley  
 5 Protein soil conditioner as well as the other  
 6 three soil conditioners and the class A  
 7 biosolids were proper to store on this property  
 8 and they were proper to land apply on this  
 9 property. And as such, it was legal.  
 10 We hope that the concessions and  
 11 stipulations that we've represented will  
 12 adequately address the concerns of the  
 13 neighbors and this Board.  
 14 And beyond that, we're here to answer any  
 15 questions you may have. But that's going to be  
 16 my presentation, Mr. Chairman and the Board.  
 17 MR. HUTCHISON: Thank you.  
 18 MR. L. SMITH: Denali, I mean you're  
 19 nationwide I suppose?  
 20 MR. MARDIS: Yes, that's correct.  
 21 MR. L. SMITH: And you deal with

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1 applications near developments and towns I'm  
 2 sure?  
 3 MR. MARDIS: Yes, sir. We actually  
 4 probably do business in 48 states in the United  
 5 States. So in heavily -- in areas -- before I  
 6 worked for Denali I was with Tyson,  
 7 Incorporated environmental for 27 years.  
 8 So a lot of the work that we've  
 9 historically done over the years has been  
 10 around food processing, specifically poultry  
 11 operations. So very familiar with the same  
 12 thing on the shore and then all the way through  
 13 all the major poultry areas.  
 14 And some of those areas have growth. For  
 15 instance, Cumming, Georgia, is right outside of  
 16 Atlanta.  
 17 So yes. We're very familiar with doing  
 18 land application around a lot of commercial  
 19 operations.  
 20 MR. L. SMITH: Do you make attempts on  
 21 trying to stay clear of certain densities of

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1 populations or do you meet with --  
 2 MR. MARDIS: Yes, yes.  
 3 MR. L. SMITH: -- these people?  
 4 MR. MARDIS: Yeah. And once again, I mean  
 5 every state is regulated differently. We talk  
 6 about how Maryland works through the MDA and  
 7 MDE for different sources. Every state -- some  
 8 states we only deal with the Department of Ag,  
 9 some we only deal with the environmental, some  
 10 we do combination. So sometimes it's limited  
 11 in the state where you can land apply or get a  
 12 permit.  
 13 And obviously, yes. We, our company works  
 14 very closely. As we go through a process, we  
 15 do several things.  
 16 One, we can only go in a place that we  
 17 know is going to be a lot of, you know, cause  
 18 issues or because of density or didn't things  
 19 like that. And so we're very -- we try and be  
 20 very careful about where we do that.  
 21 We also try to permit as much land as

|  |  |
|--|--|
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| <p>1 possibly so we're not all the time land</p> <p>2 applying in the same places so we can kind of</p> <p>3 move around on that.</p> <p>4 Maryland has a unique situation in that we</p> <p>5 have to store material from December 15th</p> <p>6 through March 1st. I hope I'm not wrong.</p> <p>7 Lauren in the back will probably maybe correct</p> <p>8 me. But we don't have to do that in another</p> <p>9 state.</p> <p>10 So we try to take the material to the land</p> <p>11 immediately and do the application as we move</p> <p>12 around. But in Maryland, we're forced to go</p> <p>13 ahead and we have to store material.</p> <p>14 So for all these food plants, they don't</p> <p>15 stop here in the off season time. So we have</p> <p>16 to -- that part we have to work out with</p> <p>17 everyone.</p> <p>18 And then the farmers that both store the</p> <p>19 material and then be able to land apply the</p> <p>20 stored material at the same time on daily land</p> <p>21 applications, we're having to do still with all</p> | <p>1 have to take material --</p> <p>2 MR. HUTCHISON: If the crops are growing,</p> <p>3 they don't --</p> <p>4 MR. MARDIS: And we can't land apply when</p> <p>5 the crops are out there, too.</p> <p>6 MR. HUTCHISON: They have to stockpile it</p> <p>7 for the next season.</p> <p>8 MR. GREENLEE: That's what I understood</p> <p>9 you to say.</p> <p>10 So what is it that happens between 12/15</p> <p>11 and 3/1 again?</p> <p>12 MR. MARDIS: That's when we're not allowed</p> <p>13 to land apply.</p> <p>14 MR. HUTCHISON: That's for any nutrient in</p> <p>15 the State, just not them. That's everybody.</p> <p>16 MR. CROPPER: I'll just say to you and</p> <p>17 everybody, because we have a stenographer, make</p> <p>18 sure two people don't talk at the same time</p> <p>19 because she'll throw a pen at me if you do.</p> <p>20 MR. HUTCHISON: Sorry.</p> <p>21 Is there anything that can be added to the</p>   |
| Page 151   | Page 153   |
| <p>1 the companies. Just kind of a feel of how we</p> <p>2 do that.</p> <p>3 MR. GREENLEE: Is that the only period the</p> <p>4 product is being delivered to a storage</p> <p>5 facility?</p> <p>6 MR. MARDIS: When we have inclement</p> <p>7 weather, it could be the same thing. Across</p> <p>8 the country, everywhere, yeah.</p> <p>9 If you have a hurricane come through, we</p> <p>10 can't, you can't land apply on saturated</p> <p>11 ground.</p> <p>12 So no, there's storage that is required in</p> <p>13 inclement weather, also.</p> <p>14 MR. GREENLEE: But I do understand, then,</p> <p>15 that the only time these products would be</p> <p>16 delivered to the Foster Farm is from</p> <p>17 December 15th through March 1st?</p> <p>18 MR. MARDIS: No, no, no, not necessarily,</p> <p>19 no.</p> <p>20 We store material. We have weather</p> <p>21 throughout the year. So there are times we</p>  | <p>1 soil amendments to cut down on the smell when</p> <p>2 they're stored or applied?</p> <p>3 MR. MARDIS: I mean sometimes there's a</p> <p>4 possibly to add lime or some things you can do.</p> <p>5 But honestly, if you get the material out as</p> <p>6 quickly as possible and get it land applied and</p> <p>7 soil injected, which there was some discussion</p> <p>8 about this in this case, it helps tremendously</p> <p>9 to reduce the odor.</p> <p>10 So for the type of storage like when it's</p> <p>11 not in big lagoons, major, huge locations,</p> <p>12 there's bacteria and things you could use. But</p> <p>13 for smaller storage, it's just more difficult</p> <p>14 because you're -- the bacteria is not going to</p> <p>15 have time to work because you're constantly</p> <p>16 moving material in and out during normal</p> <p>17 operations, not during the season when you</p> <p>18 can't land apply.</p> <p>19 MR. CROPPER: Do I understand correctly,</p> <p>20 the deeper that you can incorporate either the</p> <p>21 soil conditioner or the biosolids into the</p> |

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1 soil, the better it is at controlling any odor  
 2 that would emanate from that material?  
 3 MR. MARDIS: Yes. With the understanding,  
 4 though, is the farmers, you guys are farmers,  
 5 you understand, you guys do different things on  
 6 your farm. And some, incorporation is not, is  
 7 not the way the farmer wants to do it.  
 8 So we're always working with the farmer as  
 9 we do this to what they want to do and have  
 10 different reasons for not wanting to  
 11 incorporate because of the way, whatever  
 12 farming practice they're doing there. So  
 13 that's what we try to work out.  
 14 But ideally, we like to inject. That's  
 15 what we typically do.  
 16 MR. HUTCHISON: When you spread it on top,  
 17 do you have a time frame that it has to be,  
 18 certain amount of hours it has to be  
 19 incorporated by?  
 20 MR. BANKS: Forty-eight hours in the State  
 21 of Maryland.

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1 MR. MARDIS: Every state is a little  
 2 different as far as that.  
 3 MR. HUTCHISON: Is that correct?  
 4 MR. CALLAHAN: Yes.  
 5 MR. HUTCHISON: I take it 24 hours would  
 6 be better, but you have 48 to do it?  
 7 MR. CALLAHAN: That is assuming that  
 8 they're required to incorporate, because all  
 9 operations and all situations are not required  
 10 to incorporate.  
 11 If you're in a no till situation and  
 12 demonstrate it as so, our regulations do not  
 13 require incorporation of any organic waste  
 14 product, whether it be this or manure.  
 15 We don't treat this any different than  
 16 animal manure in our regulations. It's an  
 17 organic nutrient source.  
 18 MR. HUTCHISON: Okay. Have any more  
 19 questions?  
 20 MR. DOTTERER: Mr. Chairman, this might be  
 21 a good time to point out the fact that we are

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1 looking at some regulation changes, especially  
 2 where incorporation is included.  
 3 And we are going to actually change that  
 4 to deep tillage. We talked a lot -- and we're  
 5 not doing it as a result of this case. We've  
 6 been looking at it for the last few years,  
 7 trying to decide what we can do all over the  
 8 State.  
 9 So we are looking -- well, actually the  
 10 regulation changes have been recorded last  
 11 Friday, on February 25th, in the Maryland  
 12 Register. So you can see what the wording is  
 13 on that.  
 14 So we'll require tillage. It will shorten  
 15 the window, the application window. We decided  
 16 maybe December 15th was a little too long to go  
 17 for food waste products, not for animal  
 18 manures. They still remain the same.  
 19 Biosolids stays the same. But for the food  
 20 waste materials.  
 21 Again, this is not just in regards to this

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1 case. It's something we're doing statewide.  
 2 So we are shortening that window. It's not  
 3 going to be December 15th (inaudible).  
 4 And the idea there also is that way we can  
 5 get the cover crop sowed early in the fall so  
 6 that we can have growth on the cover crop to  
 7 help with that, accept the nutrient uptake  
 8 throughout the fall.  
 9 So it would be good for everybody to check  
 10 those regulations that are now in the Maryland  
 11 Register.  
 12 MR. HUTCHISON: Okay. While you're  
 13 speaking, is there any regulations coming down  
 14 on the odors to control them or measure them?  
 15 MR. DOTTERER: Well, for us, that's the  
 16 only way that we really know to control the  
 17 odor is through deep incorporation.  
 18 And that's why we agreed last fall in  
 19 December to go ahead and disk the field at the  
 20 Foster Farm. It was a difficult decision for  
 21 us to make because we do require the cover crop



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1 to be there when you're applying the nutrients  
 2 in fall up to December 15th.  
 3 Cover crop is sowed before November 15th.  
 4 And I'm sure there's many cases a cover crop is  
 5 coming up. Difficult decision to make, but we  
 6 did go ahead and make that decision to go ahead  
 7 and disk those fields.  
 8 But for us, that's about the only thing  
 9 that we really know that works, is the deep  
 10 incorporation.  
 11 We recognize the fact that vertical  
 12 tillage has its benefits, especially for soil  
 13 health, reducing erosion. But we just decided  
 14 in this case when you get into something that  
 15 has a lot of odor associated with it, it's  
 16 going to have to be really covered deep with  
 17 deeper tillage. We're requiring that.  
 18 MR. GREENLEE: What other kinds of  
 19 regulations do you all run into around the  
 20 country related to these kinds of products?  
 21 MR. MARDIS: I mean it's some of the same

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1 things you're talking about. I mean the  
 2 subsoil injection for DAF sludge that we talked  
 3 about, dissolved air floatation, is not that  
 4 unusual in most places in the State.  
 5 Once again, some of the farmers, as you  
 6 know, because of the activities of the farm, it  
 7 may not be conducive for them. That's pretty  
 8 common.  
 9 There would be a difference if you're  
 10 doing a waste activated sludge cleanout like at  
 11 a processing plant and/or municipal facility.  
 12 That material is a lot more liquid and usually  
 13 a lot less odorous.  
 14 And when you're trying to clean out a huge  
 15 volume, you want to get all that out and done  
 16 and on the ground and away from that property  
 17 because that uses a lot of trucks for a short  
 18 period of time.  
 19 So the quickest way is to do surface  
 20 application. And plus, you don't have as much  
 21 nutrients or anything. So you're going to have

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1 to -- it just takes longer.  
 2 So those are some differences that I'm  
 3 kind of throwing that out there.  
 4 We've seen some of the written new  
 5 proposed regulations that we'll definitely be  
 6 looking at. That would be helpful for us and  
 7 everyone to differentiate some of that.  
 8 MR. GREENLEE: Would you ever see a  
 9 regulation that prohibits land application of  
 10 these products related in a no till situation?  
 11 MR. MARDIS: Okay. So you're saying that  
 12 we're not allowed unless we incorporate?  
 13 MR. GREENLEE: We have a resolution to  
 14 manufacture here. And I'm wondering if part of  
 15 it is that if a farmer wants a no till or  
 16 that's their preferred practice, then maybe we  
 17 can come behind them and say if that's what you  
 18 choose, then you can't use these products.  
 19 MR. MARDIS: I mean we would definitely  
 20 work with that. That's I think a fair  
 21 statement to consider that, consider that.

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1 MR. GREENLEE: Okay. Thank you.  
 2 MR. HUTCHISON: Other farmers that you  
 3 deal with in the county, say they will come to  
 4 you, can they say they want to use your product  
 5 but not Sea Watch or do you -- it's just  
 6 whatever you get that day, haul there?  
 7 MR. BANKS: In reference to sludge?  
 8 MR. HUTCHISON: Soil amendments. I  
 9 mean --  
 10 MR. BANKS: If a farmer comes and says I  
 11 need it for the fall, we no longer do Sea  
 12 Watch. So that is totally out of it.  
 13 So they have you take it and stockpile it  
 14 maybe at his field depending on when the crops  
 15 are going to come off. We'll have it at a  
 16 storage facility. And we'll take it and haul  
 17 it out.  
 18 But in reference to the Sea Watch, that's  
 19 not even going to be in our conversation going  
 20 forward.  
 21 MR. HUTCHISON: Okay.

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1 MR. GREENLEE: So Sea Watch is out in  
 2 perpetuity?  
 3 MR. MARDIS: We want to be careful to say  
 4 that because Sea Watch is a company that's  
 5 going to have to do something with their waste.  
 6 So we're just being really careful about  
 7 what -- we don't want to say absolutely.  
 8 We're talking about things. We're  
 9 obviously not going to do it at this farm ever  
 10 again.  
 11 But as far as, there are companies that  
 12 have waste that they can't go to landfills,  
 13 they have issues. You can only take so much  
 14 stuff to Pennsylvania or other states.  
 15 So I mean we always look at alternatives.  
 16 But since we don't want to -- I want to be on  
 17 the record as we're going through this process  
 18 to say we won't do that. But yeah, it's...  
 19 MR. CROPPER: You're not going to say for  
 20 the record that Denali as a company will never  
 21 utilize Sea Watch on a property somewhere, but

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1 it will never be on the Foster property?  
 2 MR. HUTCHISON: I was just asking if  
 3 another farmer come along, can he opt out, just  
 4 say hey --  
 5 MR. MARDIS: The farmer can always opt  
 6 out. I mean honestly, the farmer can say -- I  
 7 mean not (inaudible). I mean they have total  
 8 control of what.  
 9 MR. HUTCHISON: So any farmer that comes  
 10 to you, he can say I want your product but  
 11 don't bring --  
 12 MR. MARDIS: Yeah. Sea Watch probably is  
 13 not going to be a problem. So that's not an  
 14 issue.  
 15 MR. HUTCHISON: Okay.  
 16 MR. MARDIS: Some other materials, no, we  
 17 wouldn't -- that's just going to -- we may not  
 18 have any other products to give them at the  
 19 time.  
 20 MR. HUTCHISON: Yeah. Okay.  
 21 MR. MARDIS: Sea Watch is a one-off.

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1 MR. HUTCHISON: A farmer comes to you, he  
 2 could talk to you about what you bring on and  
 3 what you don't?  
 4 MR. MARDIS: Yeah.  
 5 MR. HUTCHISON: Thank you.  
 6 You had a question earlier?  
 7 MR. DUELL: Yeah. Mr. Mardis, Bill and I  
 8 are the lead investigators on this. And we've  
 9 been to the property quite a bit, almost on --  
 10 not on a daily basis.  
 11 But during the course of one visit almost  
 12 overnight, a concrete precast structure about  
 13 ten-foot tall, 200 feet long approximately, and  
 14 approximately 100-foot deep was built on an  
 15 adjacent pad to one, to the previous bunkers  
 16 that were holding material at the Foster Farm.  
 17 This obviously had to cost several hundred  
 18 or several thousand dollars at the very least.  
 19 What was your business plan relative to  
 20 this secondary apparent bunker storage which  
 21 was equal to or greater than the old one, the

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1 one that was in use when we were there?  
 2 MR. MARDIS: You'll have to...  
 3 MR. BANKS: For added storage. As you  
 4 saw, the bunkers you have looked at, some are  
 5 not in the best shape. So that was our -- for  
 6 the -- new structures for storage to try to  
 7 stay away from the open area that we had and  
 8 those three little trenches. That way we can  
 9 compact it in those two larger ones.  
 10 MR. DUELL: So the same amount for the  
 11 same farm would have been in the two separate,  
 12 the new bunker and the old bunker, but it  
 13 wouldn't have filled -- each one the same  
 14 amount, the same volume would be split between  
 15 the two structures?  
 16 MR. BANKS: Materials. Because with class  
 17 A you have to store it totally separate. So we  
 18 have one for that and we would use the storage  
 19 just for the other.  
 20 MR. DUELL: Okay. So no additional would  
 21 be brought there; is that correct?

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1 MR. BANKS: Just what we've been taking  
 2 over the past.  
 3 MR. DUELL: For that same farm?  
 4 MR. BANKS: Pardon?  
 5 MR. DUELL: For the Foster Farm?  
 6 MR. BANKS: Yes.  
 7 MR. SCHMIDT: For both Mr. Cropper and  
 8 Denali. Mr. Cropper, you said that there would  
 9 never be any Sea Watch sludge soil conditioner  
 10 placed on the Foster Farm ever?  
 11 MR. CROPPER: That's my understanding.  
 12 Correct? Is that correct?  
 13 MR. SCHMIDT: Here is the issue.  
 14 MR. CROPPER: Okay.  
 15 MR. SCHMIDT: We don't want to shift the  
 16 problem that these people experienced from one  
 17 location to the other in Talbot County.  
 18 We know Mr. Foster has other farms in  
 19 Talbot County. It would be ridiculous. It  
 20 wouldn't make sense to use Sea Watch material  
 21 on other farms that Mr. Foster owns in Talbot

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1 County.  
 2 So what is the decision here?  
 3 MR. MARDIS: I mean in the discussions  
 4 we've had so far, we have limited, Denali in  
 5 the discussion, has limited just the current  
 6 farm that we've looked at.  
 7 But I think we would be willing to discuss  
 8 limiting that to other locations --  
 9 MR. SCHMIDT: And that's concerning.  
 10 MR. MARDIS: -- public hearing, public  
 11 meeting.  
 12 I'm not an attorney. There are a lot of  
 13 attorneys around here that are suing the  
 14 farmer.  
 15 So I just want to be careful not to  
 16 absolutely limit something. But we can talk  
 17 about that.  
 18 And I think part of this meeting is going  
 19 to be helpful that we're just communicating now  
 20 and we can come back and all agree, not just at  
 21 a site visit because that happened really

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1 quickly right before the meeting, a lot of  
 2 things going on. So we can still definitely  
 3 discuss that.  
 4 MR. CROPPER: Mr. Foster just authorized  
 5 me to stipulate to the Board that Sea Watch  
 6 will not be land applied on any farm property  
 7 in Talbot County owned by his family.  
 8 MR. MARDIS: Okay.  
 9 MR. SCHMIDT: I just wanted to make that  
 10 clarification. Thank you.  
 11 MR. CROPPER: That's a fair clarification.  
 12 MR. DUELL: Mr. Mardis, when you buy this  
 13 material from a vendor, I guess Sea Watch  
 14 International is a separate entity altogether?  
 15 MR. MARDIS: We're not buying material.  
 16 They're basically contracting us to take the  
 17 residuals off of their site. Just to be clear.  
 18 MR. DUELL: Is there any research done  
 19 before you buy that product that it caused a  
 20 problem or did not cause a problem or have a  
 21 history of use that's been established?

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1 MR. MARDIS: I think the State has  
 2 explained how that works for all the material  
 3 from a food processing operation. The material  
 4 is sample tested. Goes to the lab.  
 5 MR. DUELL: I understand that. But from  
 6 your standpoint as a vendor, as a supplier or  
 7 purchaser, do you look at your vendor to  
 8 determine anything about the product that  
 9 you're buying and how that may influence?  
 10 MR. MARDIS: We basically have to follow  
 11 the regulations for any products, any kind of  
 12 food processing and what's required. I mean  
 13 it's regulated by the State, either by the Ag  
 14 Department and for non-municipal operations in  
 15 Maryland. But yes.  
 16 I don't know what else you think we  
 17 would --  
 18 MR. DUELL: My point is --  
 19 MR. MARDIS: -- analytically what the  
 20 material is made up of.  
 21 MR. DUELL: Is there anything that could

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1 be done that this doesn't happen again?  
 2 Obviously, this was a mess-up. There was  
 3 a problem with it, with that material. I don't  
 4 think anybody would dispute that.  
 5 So is there anything that can be done on  
 6 your part when you buy this material or obtain  
 7 it?  
 8 MR. CROPPER: Wait a minute. I want to  
 9 clarify something.  
 10 I don't want the record to reflect that we  
 11 agree that there was a mess-up, because it's  
 12 our position land application of that Sea Watch  
 13 material on the Foster Farm was completely  
 14 legal. It was properly regulated, registered,  
 15 and authorized by a State agency. So we are  
 16 not stipulating or agreeing that anything was  
 17 improper.  
 18 What we are doing is recognizing that  
 19 there was a problem associated with this  
 20 particular material, which was the odor being  
 21 significantly greater than other soil

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1 conditioners or class A biosolids, for which  
 2 we're here today and discussing a resolution.  
 3 But we are not stipulating and we don't  
 4 agree that there was a mistake or anything we  
 5 did in error. So I want the record to be clear  
 6 on that.  
 7 Go ahead.  
 8 MR. MARDIS: Did we answer your question?  
 9 MR. DUELL: Yes, please.  
 10 MR. MARDIS: I mean would you state the  
 11 question again?  
 12 MR. DUELL: When you obtain material to  
 13 put on a farm, like if I'm a farmer and I want  
 14 material put, fertilization, come and do your  
 15 research or do it the same, when you go to a  
 16 person that provides that nutrient, is there  
 17 any research that you can do on that particular  
 18 product to determine what kind of history it  
 19 has?  
 20 MR. MARDIS: Okay. As I've stated over  
 21 and over again, every material that we are

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1 contracted from a customer to take to a farm to  
 2 land apply, we have to follow the State  
 3 regulations and what's required before we can  
 4 apply that.  
 5 So that is the check we do. That's the  
 6 check the State does. That's the process we go  
 7 through.  
 8 MR. DUELL: Okay. So the basic  
 9 registration that you do with the State of  
 10 providing samples is the extent of it.  
 11 MR. HUTCHISON: How often do you pull  
 12 samples? Do you check -- how regularly do  
 13 you --  
 14 MR. MARDIS: For the sources. Okay. It's  
 15 different.  
 16 MR. BANKS: It's different for every  
 17 product. It could be every quarter, it could  
 18 be a yearly sample.  
 19 MR. MARDIS: At least yearly.  
 20 MR. HUTCHISON: Okay. That's what I was  
 21 wondering, where it's --

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1 MR. MARDIS: That's -- I understand the  
 2 question, yes.  
 3 MR. HUTCHISON: Does the State pull  
 4 samples yearly or do they just take the samples  
 5 that they send in?  
 6 MR. PHILLIPS: We just require them to --  
 7 MR. MARDIS: -- we're pulling samples for  
 8 the State.  
 9 MR. PHILLIPS: -- to submit it to --  
 10 MR. HUTCHISON: Just trying to make sure  
 11 everybody understands.  
 12 MR. MARDIS: Thank you.  
 13 MR. PHILLIPS: To a certified laboratory.  
 14 And then we get the results and we look at  
 15 them. If I have any questions, I'll send the  
 16 lab report over to MDE, especially with the  
 17 metals and the PAHs, to see if they have any  
 18 issues about this being land applied or not.  
 19 And if they do, then we don't renew it or  
 20 I don't register it.  
 21 MR. HUTCHISON: Okay.

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1 MR. GREENLEE: In Mr. Duell's question to  
 2 you just now, he referred to you buying the  
 3 product.  
 4 Is that true or are you paid to take the  
 5 product?  
 6 MR. MARDIS: Paid to remove their  
 7 residuals to I mean go to the landfill, land  
 8 application, digest, or yes. That's what the  
 9 contract is for.  
 10 We don't own the product. I mean we're  
 11 not buying the product. We're just  
 12 transporting it for the end use of it.  
 13 MR. CROPPER: But you're not paying for  
 14 the product, you go retrieve it from the  
 15 source, correct?  
 16 MR. MARDIS: We charge them by truckload  
 17 to take the material away.  
 18 MR. CROPPER: Correct.  
 19 MR. MARDIS: Or some process. Because in  
 20 different, different customers, we may do that  
 21 a little bit differently.

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1 MR. CROPPER: But the point is you're  
 2 being paid to retrieve and transport the  
 3 product, you're not purchasing the product and  
 4 then transporting it?  
 5 MR. HUTCHISON: You're paid to dispose of  
 6 the product?  
 7 MR. CROPPER: Exactly.  
 8 MR. MARDIS: Be careful about disposing  
 9 of. Because when you guys, when a farmer uses  
 10 it for fertilizer, it's the end use.  
 11 But you're right, for the end process.  
 12 MR. CROPPER: I'm trying to answer your  
 13 question (inaudible).  
 14 MR. GREENLEE: The follow-up to that.  
 15 Does the farmer pay for it?  
 16 MR. MARDIS: No. I just want to make  
 17 sure. In Maryland, no.  
 18 MR. BANKS: Does not pay for it.  
 19 MR. MARDIS: No. I mean most of the time  
 20 we never do that. But there are some states  
 21 and some situations that may be a different

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1 situation where they may pay.  
 2 Historically some of the biosolids across  
 3 the country, some -- if you get in Colorado,  
 4 some places that are really dry and need  
 5 material, they may be willing to pay.  
 6 But nowhere in the food processing world  
 7 are we paying anybody to take the material.  
 8 MR. GREENLEE: One gentleman characterized  
 9 the waste as industrial waste.  
 10 How would you respond to that?  
 11 MR. MARDIS: Well, for the food  
 12 processing, all the food processing situations,  
 13 you're bringing in some food product. And it  
 14 could be a live bird going through a process  
 15 and then you're making products that go to fast  
 16 food, restaurant, whatever. So it's all food  
 17 material that's being processed.  
 18 So the waste of that that comes off of the  
 19 dissolved air floatation units is just some of  
 20 the thicker solids that have to be removed in  
 21 order for that, the rest of the waste stream to

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1 go to the city for treatment and/or go to a  
 2 biological treatment system.  
 3 So it may be categorized as a poultry  
 4 processing plant would be an industrial type  
 5 facility, but it's not industrial waste that  
 6 you would think of as something that's  
 7 hazardous waste or something like that.  
 8 MR. CROPPER: You consider this an  
 9 agricultural byproduct used for agricultural  
 10 purposes and, therefore, is not industrial  
 11 waste?  
 12 MR. MARDIS: No. Although the process may  
 13 be industrial, SIC code, still the waste  
 14 material is food products are going through.  
 15 It's all food.  
 16 MR. CROPPER: Right.  
 17 MR. GREENLEE: Is that correct? It does  
 18 have an industrial SIC code?  
 19 MR. MARDIS: They have an SIC code, yes.  
 20 The processing plants do, processing plants,  
 21 because of the type of operations that are

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1 going on there.

2 That not really has anything to do with

3 the wastewater part of it, which is the actual

4 process.

5 MR. GREENLEE: Understood.

6 MR. MARDIS: Is my understanding.

7 MR. DUELL: Mr. Cropper, when you read

8 chapter 128-1B and put it on the record, you

9 omitted the last sentence of that ordinance.

10 And I'll read it to go on the record.

11 This chapter shall not in any way restrict

12 or impede the authority of the State or county

13 to protect public health, safety, welfare.

14 Do you think welfare applies to this case

15 based on the testimony we heard here today?

16 MR. CROPPER: I do not think that sentence

17 eliminates the prior sentences.

18 And the way you and I have had some

19 discussions about this, I believe you are

20 interpreting that sentence as replacing the

21 first two.

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1 And I don't agree with that at all because

2 there would be no reason to have the first two

3 if that's a proper interpretation of that

4 sentence.

5 What I believe is the whole purpose of the

6 Right to Farm law and as it's written is for

7 this very exact situation.

8 But what that law doesn't do is deprive

9 the Health Department from its general

10 responsibilities and obligations. But the

11 Right to Farm law and where it says if we're

12 dealing with a generally-accepted agricultural

13 practice as recommended and/or legally approved

14 by the Maryland Department of Agriculture, the

15 United States Department of Agriculture, or

16 other State and federal agencies, there is an

17 exception to the general rule that has been

18 statutorily created for generally-accepted

19 agricultural practices.

20 It doesn't deprive the Health Department,

21 again, of its general responsibilities,

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1 obligations to the community.

2 But what it's recognizing is that under

3 other circumstances, circumstances other than

4 generally-accepted agricultural practices that

5 meet this definition, the Health Department

6 continues to have its role. But there is an

7 exception carved out of that if you meet the

8 provisions of this law as regarding

9 generally-accepted agricultural practices, or

10 else there would be no reason to have the law.

11 If the Health Department, in reliance upon

12 that sentence. Again, I'll read it.

13 This chapter shall not in any way restrict

14 or impede the authority of the State or county

15 to protect the public health, safety, or

16 welfare.

17 To me, that's a perfectly appropriate

18 statement to make. This law is not intended to

19 deprive State or local agencies from their

20 authority.

21 What it's saying is, however, there are

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1 circumstances under which farmers have

2 protection. This is one of those provisions,

3 and it's been specifically defined.

4 MR. DUELL: Mr. Chairman, I would ask our

5 counsel to research this.

6 MR. YOUNG: Sure.

7 MR. GREENLEE: Let's go out to 2023 and

8 beyond. How do we solve some of these ongoing

9 problems?

10 MR. MARDIS: Yeah. Go ahead.

11 MR. CROPPER: I think the Fosters and

12 Denali are confident, because it's been

13 certainly represented to me and I'll represent

14 to the Board, that they never had complaints on

15 this farm, correct me if I'm wrong, until Sea

16 Watch was land applied.

17 Is that right?

18 MR. BANKS: Correct.

19 MR. CROPPER: So Sea Watch was the

20 problem. And there have been land applications

21 of other soil conditioners in the class A

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1 biosolids well prior to the Sea Watch.  
 2 So I think there's a certain level of  
 3 confidence, quite candidly, that without Sea  
 4 Watch being land applied on this farm, you're  
 5 not going to receive any more complaints  
 6 because the level of odor that was experienced  
 7 previously was not enough to cause anybody, to  
 8 our knowledge, to note a complaint.  
 9 And I know those material, similar  
 10 materials have been used on other properties  
 11 throughout the State of Maryland, again,  
 12 without complaints.  
 13 Is that correct?  
 14 MR. BANKS: Correct.  
 15 MR. CROPPER: So I think we're really  
 16 dealing with a unique situation here because of  
 17 that particular product.  
 18 So I don't know if that answers your  
 19 question. But the fact that there's not going  
 20 to be that product on any of the Foster Farms  
 21 from 2003 (sic.) on, I would just say we're

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1 optimistically, cautiously optimistic that you  
 2 won't receive any more complaints of the nature  
 3 that you heard described here today because I  
 4 think if those other materials, those other two  
 5 soil conditioners and the biosolids, were of  
 6 equal or even similar characteristics, I think  
 7 we would have heard about it in light of the  
 8 testimony you've heard today.  
 9 A lot of the people that testified here  
 10 today, complainants live in extremely close  
 11 proximity to this property. And I think that's  
 12 very telling, the fact that there weren't prior  
 13 complaints until the Sea Watch was applied.  
 14 Some of these complainants live right  
 15 across the street (inaudible) neighbor. So it  
 16 would have been of great concern is my thought.  
 17 SPEAKER: Can somebody add something to  
 18 that comment they just made?  
 19 MR. YOUNG: Chairman, the ordinance does  
 20 permit parties to cross examine witnesses.  
 21 Such to the extent that anybody in the audience

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1 is a party, they were a complainant, they filed  
 2 a complaint. They have the opportunity to ask  
 3 questions.  
 4 So if he has a question and he is a  
 5 complainant, you can entertain that.  
 6 I don't think we want to go down the road  
 7 of everybody in the audience asking questions.  
 8 MR. HUTCHISON: He signed one of the  
 9 original letters?  
 10 MR. YOUNG: Yes.  
 11 MR. JOHN FOSTER: I'm John Foster. I live  
 12 right across the road.  
 13 I can promise you in March when they  
 14 spread that stuff, it stank and it burnt my  
 15 nose and it burnt my lips and mouth and throat.  
 16 And the whole time, all summer. Not just a  
 17 little bit.  
 18 When it rained, it activated it, it stank,  
 19 and it got worse. At night when it got dark,  
 20 the dew set in, it got worse. When they  
 21 stockpiled it over there, it stank and it

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1 burned our noses.  
 2 And everybody in this room will tell you  
 3 that it burnt and it was bad.  
 4 And I live at 475 right across the street,  
 5 Koogler Road.  
 6 MR. YOUNG: Chairman, there's one other  
 7 individual in the back.  
 8 MR. HUTCHISON: I was going to wait and  
 9 see if they wanted to say something first.  
 10 MR. CROPPER: Mr. Banks, just provide the  
 11 Board with the same information you provided me  
 12 with regard to some of the material that was  
 13 stored at the farm.  
 14 MR. BANKS: The material that's stored  
 15 there now does not have Sea Watch in it.  
 16 And while I was there with Mr. Duell and  
 17 Mr. Schmidt, we actually went into the piles.  
 18 I actually grabbed it with my hands to let them  
 19 smell to see what they could smell or what they  
 20 thought it smelled like.  
 21 And I think we got a musty smell, maybe a

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1 dirt smell off of it. And that was I mean we  
 2 were literally nose from the pile in my hands.  
 3 MR. CROPPER: Do you concur with that?  
 4 MR. DUELL: That's correct.  
 5 MR. CROPPER: Okay.  
 6 MR. SCHMIDT: I would say that's correct.  
 7 There was a faint odor to it, but it was not  
 8 offensive in my opinion.  
 9 MR. MARDIS: Okay.  
 10 MR. CROPPER: Okay. Thank you.  
 11 MR. HUTCHISON: Somewhere in one of them  
 12 reports I read that.  
 13 MR. BANKS: It was just a reference  
 14 without sea Watch, what you would smell.  
 15 MR. HUTCHISON: One of the reports, they  
 16 did note that it didn't smell offensive.  
 17 MR. SCHMIDT: I would like to note that  
 18 that also included examining the class A  
 19 biosolids as well.  
 20 MR. CROPPER: Right.  
 21 MR. SCHMIDT: We looked at both materials.

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1 Very little there.  
 2 MR. CROPPER: I'm going to ask because I  
 3 don't know. Was there a difference between the  
 4 materials? Even though the odor wasn't great,  
 5 how much -- how did the smells differ to you  
 6 between the materials? Because I'm going to be  
 7 honest, I never smelled it.  
 8 So go ahead.  
 9 MR. SCHMIDT: You know, everybody's  
 10 description of odors and their ability to smell  
 11 things are different.  
 12 To me, the class A biosolids did have a  
 13 slight almost ammonia type of an odor, very  
 14 faint. And it was a little different than the  
 15 industrial sludge sources in the other bunker.  
 16 And it's my understanding that that was from  
 17 Mountaire and Valley Protein.  
 18 MR. CROPPER: Okay.  
 19 MR. SCHMIDT: That had a very faint odor  
 20 to it. But again, in my opinion, it was not  
 21 even close to being offensive.

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1 MR. CROPPER: Thank you.  
 2 MR. SCHMIDT: And that's right at the --  
 3 MR. CROPPER: Right. That's right --  
 4 MR. SCHMIDT: -- sludge. Yes, sir.  
 5 MR. CROPPER: Thank you.  
 6 MR. HUTCHISON: Sir, you had a question.  
 7 MR. BURCH: Yeah. Michael Burch. A  
 8 question. How can they determine or guaranty  
 9 that the chicken processing is not part of the  
 10 problem?  
 11 And from what I understand, I think Chris  
 12 Banks told him is when they mix the two  
 13 products together, they believe that that was  
 14 the problem that started like a chemical  
 15 reaction or something that caused this. Is  
 16 that correct?  
 17 MR. BANKS: I think what I was explaining  
 18 to you, how we store. You have a pile here  
 19 with certain product, you have a pile here with  
 20 certain product, and a pile here.  
 21 You take it. Of course, as we dump, we

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1 pile it up to make room. So you're pushing  
 2 that product into this product.  
 3 But due to how long I worked with Sea  
 4 Watch, I think I explained to you or was it  
 5 Mr. Duell that I can determine the smell from  
 6 the Sea Watch clam waste compared to the DAF  
 7 from Mountaire or Valley or Harvesting because  
 8 it is a distinct odor. It is very -- from Sea  
 9 Watch to that.  
 10 MR. BURCH: Thank you. I have one other  
 11 question for the State as well that approves  
 12 the product.  
 13 Before the State approves the product, is  
 14 the odor impact on the community considered  
 15 before it's approved for application on land?  
 16 MR. PHILLIPS: No. We have no regulation  
 17 ordinance in the statute.  
 18 MR. BURCH: Should it be, though? Should  
 19 it be considered?  
 20 MR. PHILLIPS: I'm not going to offer an  
 21 opinion on that one.



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1 MR. BURCH: And the last thing I have is I  
 2 asked one of the questions for the gentleman  
 3 from MDE about the biosolids and inhalation  
 4 concerns in their report, that it should not be  
 5 ingested or inhaled. And he wasn't aware of  
 6 that.  
 7 And I think that -- should it be applied  
 8 in the wind (inaudible) inhalation concerns for  
 9 that? I think that's something we should all  
 10 know about before it's used. Do you know what  
 11 I mean? Does that make sense?  
 12 I mean it's in their report that says it  
 13 shouldn't be ingested or inhaled. Why should  
 14 it not be inhaled or what are the health  
 15 impacts if it is inhaled? Thank you.  
 16 MR. HUTCHISON: Anything we need to ask?  
 17 MR. SCHMIDT: I have one question. You  
 18 heard concerns about assurances of the material  
 19 that's been tested and registered through the  
 20 Department of Ag actually being the same  
 21 material that's arriving at the farm and being

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1 land applied.  
 2 So we heard the process that when Denali  
 3 wishes to register one of these materials  
 4 through the Department of Ag, samples of that  
 5 material are collected from the sources, they  
 6 are analyzed by a lab, the lab submits lab  
 7 data, which Department of Ag State chemist  
 8 reviews.  
 9 Are there any assurances that what has  
 10 been tested and what has been registered is  
 11 actually what arrives at the site and is land  
 12 applied?  
 13 And in other words, are there any  
 14 verification sampling that's done by Department  
 15 of Ag or Denali? And if not, could there be?  
 16 MR. MARDIS: I mean you're asking a  
 17 regulatory question. So can you guys take on  
 18 that question?  
 19 I mean we're required to do the samples at  
 20 the sources, submit it to the laboratories for  
 21 analysis.

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1 And a lot of the analysis is used for the  
 2 pan calculation for the nutrient management  
 3 plan, looking at MPK. So this is for  
 4 beneficial use as fertilizer. So that's what  
 5 really the source is.  
 6 So that's what we regulatorily are trying  
 7 to make sure we stay within the nutrients that  
 8 the crops is going to yield and all that.  
 9 That's what we're looking at.  
 10 MR. SCHMIDT: I understand.  
 11 MR. MARDIS: I understand what you're  
 12 asking. I always just have to flip it back to  
 13 that what they require for us to do, that's  
 14 what we do, that's what we do.  
 15 MR. PHILLIPS: It would take a tremendous  
 16 amount of effort to categorize or even  
 17 characterize a product say that they pump out  
 18 on one day. What if something changes in the  
 19 plant on the second day? There's no way to do  
 20 that, not effectively, because what parameters  
 21 would I look at, other than what we're required

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1 to do. MPK, heavy metals, PAHs.  
 2 And then to go there and sample it,  
 3 because if it's been rained on, it's changed  
 4 because that rain is going to leech out water  
 5 solubles. Or it could dilute it if it's held  
 6 in a lagoon.  
 7 MR. SCHMIDT: I understand what you're  
 8 saying about that there could be some changes  
 9 due to those kind of conditions.  
 10 But I think the assurances that I think  
 11 would be good for all of us would be to know  
 12 what is actually received at the site for land  
 13 application is what was tested. And the only  
 14 way of really I think doing that, and you're  
 15 right, it is sort of a regulatory question, but  
 16 could there be verification sampling of the  
 17 material that is received at the site compared  
 18 to what was actually tested to get it  
 19 registered?  
 20 That's my question.  
 21 MR. PHILLIPS: It's something that we

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1 could look at.

2 MR. SCHMIDT: Okay.

3 MR. PHILLIPS: But from cost wise, it's

4 going to being extremely prohibitive.

5 MS. LEWIS: I just have four questions

6 here.

7 MR. SCHMIDT: Appreciate it.

8 MS. LEWIS: Number one. Currently, right

9 now, we have smells and we have flies. I

10 understood you were out there the other day.

11 It rained two days after that. The very

12 morning, about 48 hours after you left, as soon

13 as I walked out the door, I could smell it.

14 And yes, I agree it is literally a

15 latrine. Smells like the bathroom at summer

16 camp when you were a kid. And that's the air

17 we currently have.

18 The flies right now are extremely bad.

19 This is not a time of year for flies. It's not

20 just regular flies. It's midges. I don't know

21 if anybody knows what midges are. Midges are

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1 these tiny little things that you find at

2 wastewater treatment plants.

3 I have 20 years? experience with wastewater

4 treatment plants, and I recognize the bugs.

5 Currently our house is covered in them;

6 the windows, the doors, the vehicles.

7 What I want to know (inaudible), if you

8 could answer, and from Denali is does the

9 components, the Valley Protein especially, is

10 that changed when it rains and when it's hot?

11 So if I was to put that component in water

12 and let it sit in the sun for days on end at 90

13 degrees, does it chemically change? Is it

14 still the safe product that was left there?

15 Fermenting is the word we all can think

16 of. Does that not happen?

17 MR. PHILLIPS: It's really outside of my

18 area of expertise.

19 MS. LEWIS: That's fine. That's a

20 question for everyone.

21 Rain, moisture, dew, wind, all of those

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1 things affect a product. Do they not?

2 I can ask Chris that.

3 MR. BANKS: It's piled up in the trench.

4 Of course, you have the sun on top of it.

5 You'll create a crust.

6 If it rains, if there's any indentations,

7 of course, the water will sit on top of the

8 product.

9 But I'm not an expert on it, but I can --

10 sometimes you leave nutrients on it, yes, due

11 to the wind, due to the rain, due to the sun.

12 MS. LEWIS: I now have nine months

13 experience. And I can tell you that these are

14 all factors.

15 MR. GREENLEE: Before you go to the next

16 question, is that related to class A solids as

17 well as the Sea Watch or is that specific to

18 Sea Watch?

19 MS. LEWIS: My question on the chemical

20 change was more so the Sea Watch.

21 I'm not aware that the class A biosolids

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1 technically would do that.

2 What they do is they smell. And the

3 wetter they are, the more they smell. The more

4 the wind carries them, the more we're going to

5 receive the smell.

6 I would imagine the flies, the midges,

7 those are related to class A biosolids.

8 MR. HUTCHISON: Thank you.

9 MS. LEWIS: Does the farmer get paid to

10 receive this product? And that would be

11 addressed to Denali.

12 MR. CROPPER: (Inaudible) farmer gets paid

13 to receive the product. And I think you said

14 earlier they do not. Is that correct?

15 MR. BANKS: (Inaudible).

16 MR. CROPPER: So state for the record what

17 you just told me.

18 MR. BANKS: During the fall time of the

19 year, I will approach farmers. And when we

20 apply the product, I will offer them a buyout

21 of their cover crop program.

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1 MR. CROPPER: Which means what?

2 MR. BANKS: The State's, I'll just throw

3 numbers out, the State is paying them \$75 to

4 plant their cover crop.

5 I'll give them the same amount of money or

6 more to buy them out of their cover crop. That

7 way we can land apply the MPK or the sludge.

8 MR. HUTCHISON: Clarify that a little bit.

9 If we put cover crop, farmers put cover crops

10 out, they cannot put nutrients on them.

11 So what he's doing is there's still

12 probably putting the cover crop out to take up

13 the nutrients they applied. But the farmer,

14 once he puts out there, he's no longer eligible

15 for that.

16 So they're basically making sure the

17 farmer is not losing money on the deal by --

18 MR. BANKS: That's correct.

19 MR. HUTCHISON: Is the way I understand

20 it.

21 MR. BANKS: That is correct.

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1 MR. DOTTERER: It's more like they're not

2 eligible for the State's cover crop program

3 because it's an imported product. It wasn't

4 produced on the farm.

5 So since they're not eligible for the

6 State's cover crop (inaudible), at that point

7 they'd have to make up that difference.

8 MS. LEWIS: Is the farmer paid to allow

9 for storage of this product?

10 MR. MARDIS: It's not from the storage,

11 no. Not from just storage.

12 MS. LEWIS: Does the farmer receive any

13 financial benefit?

14 I'm just trying to ask the question.

15 MR. MARDIS: That's what (inaudible).

16 That was the --

17 MS. LEWIS: So their only financial

18 benefit is the offset of cover crop funding?

19 MR. BANKS: Cover crop funding? I would

20 say (inaudible) them out of their cover crop.

21 MS. LEWIS: What is the benefit to the

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1 farmer in this case?

2 MR. BANKS: The farmer can, whatever the

3 State allows that year for cover crop, they can

4 go through and plant their cover crop and

5 receive a certain amount of money from the

6 State of Maryland for planting a cover crop.

7 MS. LEWIS: But not in this case?

8 MR. BANKS: Pardon me?

9 MS. LEWIS: They can't receive money for

10 this cover crop.

11 MR. BANKS: That's why I buy them out.

12 MS. LEWIS: I understand that. It's okay.

13 Done asking the question.

14 For Denali, do you experience problems any

15 place in this country with the smell of chicken

16 byproducts from processing plants being placed

17 on farms?

18 MR. MARDIS: At times --

19 MS. LEWIS: In the last two to three

20 years.

21 MR. BANKS: At times during certain

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1 weather conditions when the land application of

2 any fertilizer on a farm site, you have the

3 potential to have odor complaints. You can

4 have some odors that may get off the property

5 line, yes.

6 MS. LEWIS: But you've not experienced

7 problems of this nature where people are in

8 meetings like this?

9 MR. BANKS: I don't think to this extent

10 because this goes back to the product we're

11 talking about, the issue, that's very usual.

12 MR. CROPPER: But you're not going to say

13 for the record --

14 MR. MARDIS: No.

15 MR. CROPPER: -- that Denali has never

16 received complaints after land applying either

17 a soil conditioner or a class A biosolids on

18 any property anywhere? We are not saying that?

19 MS. LEWIS: Specifically chicken was my

20 question.

21 MR. CROPPER: The byproduct of chicken

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1 processing, basically DAF material. There have  
 2 certainly been complaints at times about DAF  
 3 material being land applied on some properties.  
 4 That's a fair statement, correct?  
 5 MR. MARDIS: If the weather, under certain  
 6 weather conditions.  
 7 From the description that some of the  
 8 folks talk about the windy conditions,  
 9 obviously when the wind blows enough to one  
 10 direction, it's going to definitely change the  
 11 potential of the situation that's not normal.  
 12 It's my understanding that was more in the  
 13 wintertime. And in the spring applications,  
 14 I'm not sure we got many or any complaints.  
 15 MS. LEWIS: So we didn't -- and just part  
 16 of my testimony --  
 17 MR. MARDIS: I'm not saying that people  
 18 didn't --  
 19 MS. LEWIS: We had no idea who to testify  
 20 to.  
 21 And I just say to the chair please read

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1 what I submitted because there's a lot of  
 2 information regarding how we got where we are  
 3 today. But we didn't know how to get here.  
 4 And certainly our fault for not knowing  
 5 the law completely before they applied. That's  
 6 something we didn't know.  
 7 The other thing I would like distinguished  
 8 is we are not here just about November 15th  
 9 land application. In fact, this property has  
 10 stored product that has interfered with us for  
 11 all but maybe 30 days of the last 12 months.  
 12 Is that correct?  
 13 MR. CROPPER: What's the question?  
 14 MS. LEWIS: There have been products  
 15 stored on this property for the last 12 months,  
 16 give or take, maybe someplace between  
 17 December 15th and January 15th?  
 18 MR. BANKS: Correct.  
 19 MS. LEWIS: So the impacts are potentially  
 20 there year-round except for that small window  
 21 of opportunity?

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1 MR. CROPPER: Between the storage and the  
 2 land application?  
 3 MS. LEWIS: Yes. No. The storage.  
 4 In general, this product is being stored  
 5 year-round, give or take 15 to 30 days?  
 6 MR. BANKS: (Inaudible) in June. Spread  
 7 it in September is (inaudible) 90 days.  
 8 MS. LEWIS: There's product sitting there  
 9 today?  
 10 MR. BANKS: Correct.  
 11 MS. LEWIS: In the old bunkers?  
 12 MR. BANKS: Correct.  
 13 MS. LEWIS: Not in the new bunkers?  
 14 MR. BANKS: Correct.  
 15 MS. LEWIS: Which doesn't make -- you said  
 16 the new bunkers were going to be where the  
 17 product was going?  
 18 MR. BANKS: I haven't put anything in it  
 19 for a while.  
 20 MR. CROPPER: Well, look. I will say for  
 21 the record, I don't want to get a debate going

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1 between my clients and somebody in the  
 2 audience.  
 3 If there's a specific question, I have no  
 4 problem answering it. I don't want to get into  
 5 a back and forth, quite honestly. I don't  
 6 think it's appropriate in this forum.  
 7 MS. LEWIS: I will ask, then, sir, is  
 8 there a difference between land application and  
 9 storage of this product? What makes the  
 10 difference? Why do you feel that land  
 11 application is a discussion and storage is not?  
 12 MR. CROPPER: Well, because it's two  
 13 different things.  
 14 A storage is just what it is. You're  
 15 storing the material until it is land applied  
 16 somewhere. And so you can store material on  
 17 this particular property.  
 18 I hate to have my back to you.  
 19 MS. LEWIS: It's okay. You can't help it.  
 20 MR. CROPPER: It's okay.  
 21 Obviously as the materials are being

|   |   |
|---|---|
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| <p>1 stored on this site, they can be removed from<br/>                 2 this site and land applied wherever.<br/>                 3 But there's clearly a distinction between<br/>                 4 simply storing and land applying. They can go<br/>                 5 together, but they may not. It's two separate<br/>                 6 processes, storing versus land applying.<br/>                 7 MS. LEWIS: So the act of land storage of<br/>                 8 waste byproducts is now considered an<br/>                 9 agricultural process?<br/>                 10 MR. CROPPER: Everything being done on the<br/>                 11 Foster Farm is a generally-accepted<br/>                 12 agricultural process, that is correct.<br/>                 13 MS. LEWIS: Long-term storage?<br/>                 14 MR. CROPPER: Ma'am, I answered the<br/>                 15 question best I can.<br/>                 16 MS. LEWIS: Last question.<br/>                 17 MR. HUTCHISON: No. We're done.<br/>                 18 MS. LEWIS: Just one quick question.<br/>                 19 MR. HUTCHISON: We're done.<br/>                 20 Does anybody --<br/>                 21 SPEAKER: May I enter into exhibit three</p>  | <p>1 Anybody else on the Board have any more<br/>                 2 questions? Shannon?<br/>                 3 MS. DILL: I would just appreciate just a<br/>                 4 summary of what the crop year looks like and<br/>                 5 the relationship with cropping, storage, and<br/>                 6 application.<br/>                 7 So what would it look like and how that's<br/>                 8 being -- so we talked about the cover crop<br/>                 9 program, but we know you apply nutrients other<br/>                 10 times of the year.<br/>                 11 So what would...<br/>                 12 MR. BANKS: The benefit of the cake? Is<br/>                 13 that what you're getting at?<br/>                 14 MS. DILL: Well, no. I understand that.<br/>                 15 But the quantities. So how do you<br/>                 16 determine how much comes or can be stored?<br/>                 17 MR. BANKS: Based on the nutrient<br/>                 18 management program.<br/>                 19 MS. DILL: Okay.<br/>                 20 MR. BANKS: What their fields allow for<br/>                 21 that crop. So that's how we determine what we</p>  |
| Page 207  | Page 209  |
| <p>1 documents here? Two of them are from Alabama,<br/>                 2 one -- and this is in 2021, last year, about<br/>                 3 use of chicken waste products and Denali<br/>                 4 Corporation being fined using this --<br/>                 5 MR. HUTCHISON: -- anything to do with it.<br/>                 6 SPEAKER: -- and for your review and so<br/>                 7 you can understand what is going on here.<br/>                 8 MR. YOUNG: Take it for what it is.<br/>                 9 MR. CROPPER: I'm just going to note an<br/>                 10 objection for the record because that has<br/>                 11 nothing to do with the Foster property --<br/>                 12 SPEAKER: She asked you a question that if<br/>                 13 chicken, if the chicken byproducts have caused<br/>                 14 a problem --<br/>                 15 MR. HUTCHISON: Enter it in the record and<br/>                 16 let's move on.<br/>                 17 SPEAKER: Thank you. Appreciate it.<br/>                 18 MR. HUTCHISON: Not going to get in a<br/>                 19 shouting match here. We've had a good<br/>                 20 discussion all day. I don't want it to go<br/>                 21 downhill from here. Stay with the facts.</p> | <p>1 would put down.<br/>                 2 MS. DILL: How much gets brought in and<br/>                 3 then how much gets applied to that property?<br/>                 4 MR. BANKS: Correct.<br/>                 5 MS. DILL: And then we talked about the<br/>                 6 fall application, but there would be spring<br/>                 7 applications or does that not happen?<br/>                 8 MR. BANKS: Depending if the farmer wanted<br/>                 9 beans or corn. I mean if he wanted corn, we<br/>                 10 would do what we could, what we were allowed to<br/>                 11 do. But if he needed beans that year, rotate<br/>                 12 his crops out, no, we probably would not apply.<br/>                 13 MR. CROPPER: So it's basically all<br/>                 14 dictated by the farmer?<br/>                 15 MR. BANKS: Correct.<br/>                 16 MR. CROPPER: As far as the material you<br/>                 17 bring in, how much material, how and when it's<br/>                 18 land applied, and then you accommodate their<br/>                 19 desires or needs?<br/>                 20 MR. BANKS: Yes.<br/>                 21 MR. HUTCHISON: Dictated by a nutrient</p> |

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1 management plan.

2 MR. CROPPER: Right.

3 MR. HUTCHISON: You can only put so much

4 out.

5 MR. CROPPER: Right.

6 MR. HUTCHISON: These guys over here take

7 care of that. They check us.

8 Anybody else on the Board have any more

9 questions?

10 I think we're going to wrap up the

11 hearing, then.

12 We're not going to make a decision today

13 because we have a lot of stuff to go over.

14 Going to review all the evidence that was

15 submitted by everybody.

16 My understanding is we have 30 days to

17 have an opinion in writing in 30 days. So we

18 will review all this, we'll get together and

19 review all this material, and then we will have

20 our opinion.

21 MR. CROPPER: Mr. Chairman, I want to

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1 thank you. You've run a great hearing.

2 I appreciate everybody's patience and the

3 opportunity for everybody to speak. And I

4 thank you for it.

5 MR. HUTCHISON: Thank you.

6 Do we need a motion to...

7 MR. YOUNG: Yes. Move to close the

8 meeting.

9 MR. GREENLEE: So moved.

10 MR. L. SMITH: Second.

11 MR. HUTCHISON: Moved and second.

12 MR. YOUNG: The meeting has been

13 adjourned.

14 (Hearing concluded at: 12:42 p.m.)

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1 STATE OF MARYLAND

2 I, Diane Houlihan, a Notary Public in and

3 for the State of Maryland, County of Baltimore City,

4 do hereby certify that the within named, Talbot

5 County Agricultural Resolution Board Audio,

6 personally appeared before me at the time and place

7 herein set according to law, was interrogated by

8 counsel.

9 I further certify that the examination was

10 recorded stenographically by me and then transcribed

11 from my stenographic notes to the within printed

12 matter by means of computer-assisted transcription

13 in a true and accurate manner.

14 I further certify that the stipulations

15 contained herein were entered into by counsel in my

16 presence.

17 I further certify that I am not of counsel

18 to any of the parties, not an employee of counsel,

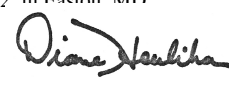
19 nor related to any of the parties, nor in any way

20 interested in the outcome of this action.

21

AS WITNESS my hand Notarial Seal this 8th

day of March, 2022 in Easton, MD



\_\_\_\_\_  
Diane Houlihan  
Notary Public

My commission expires September 16, 2025

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