

The parties to this action, by and through their respective attorneys, hereby jointly submit, for purposes of this action only, that each of the exhibits listed below are authentic for all purposes in this action:

<u>Tab</u>	<u>Description</u>
58	Deposition Transcript with Exhibits of Rita K. Suhr taken February 12, 2010
59	Deposition Transcript with Exhibits of Carl A. Sutter taken February 10, 2010
60	Deposition Transcript with Exhibits of Judith Ann Sutter taken February 10, 2010
61	Deposition Transcript with Exhibits of Gale A. Thomas taken February 4, 2010
62	Deposition Transcript with Exhibits of Nelda Thomas taken February 4, 2010
63	Deposition Transcript with Exhibits of Marilyn L. Uhlenhake taken February 18, 2010

Dated: June 1st, 2010

Joint Exhibits Approved and Respectfully Submitted By:



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Tab 58

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO
EX REL., WAYNE T. DONER, et al.

vs. CASE NO. 09-1292

SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

and

OHIO DEPARTMENT OF NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

DEPOSITION of RITA K. SUHR, was taken
by the Respondents as on cross-examination, pursuant
to the Ohio Rules of Civil Procedure, and pursuant to
agreement of counsel, at the Central Service
Building, 220 West Livingston Street, Celina, Ohio
45822, on Friday, February 12, 2010, at, 2:15 before
Edna M. Hawkins, Professional Court Reporter and a
Notary Public within and for the State of Ohio.

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I N D E X

1			
2	WITNESS:	RITA K. SUHR	
3		Examinations	DIRECT CROSS
4		By Mr. Martin	4
5		By Mr. Fusonie	50
6			
7			
8			

E X H I B I T S

9			
10	RESPONDENT'S	DESCRIPTION	MARKED
11	A	Affidavit of Rita K. Suhr	14
12		w/attachments	
13			
14	B	Conservation Plan Map	38
15			
16	C	A letter from James A. Garrett	39
17		to Mr. and Mrs. David Suhr	
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21			
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1 RITA K. SUHR
2 of lawful age, a Relator herein, called as upon
3 cross-examination, being first duly sworn, as
4 hereinafter certified, was examined and testified as
5 follows:

6 CROSS-EXAMINATION

7 BY MR. MARTIN:

8 Q. Could you state your name and spell it
9 for the record, please.

10 A. Yes, Rita Suhr, R-I-T-A, S-U-H-R.

11 Q. Good afternoon. My name is Dan
12 Martin. I'm an attorney for the State of Ohio and
13 representing the Department of Natural Resources in
14 this matter, and the first question I ask folks in a
15 deposition, usually, is whether you've had your
16 deposition taken before?

17 A. No.

18 MR. MARTIN: Okay. What I'll do is
19 I'll just go over a few ground rules just
20 so you're familiar with how the process
21 will work. As you notice, the first thing
22 we did was the court reporter swore you in
23 and, just like you would in a courtroom
24 situation, where you're with a judge and
25 taking the witness stand and being sworn,

1 you'll need to tell the truth to the best
2 of your ability and it will be important
3 for you to give verbal answers to my
4 questions because the court reporter is
5 taking a written transcript of what we're
6 doing today, so if you, like we all do when
7 we're conversing, maybe, say un-un or
8 uh-huh or shrug our shoulders or make
9 non-verbal gestures, that's hard for the
10 court reporter to translate that onto the
11 record, so I'd just ask you to do the best
12 you can to give a verbal response to my
13 questions.

14 Also I'd just ask that you give me the
15 opportunity to get my question out before
16 you start to answer so that way, we avoid
17 talking on top of each other and that gets
18 hard for the court reporter if we're both
19 talking, so I will do my best to let you
20 completely answer your question and just
21 ask that, you know, you do the same for me
22 with asking the questions.

23 The goal today is to get accurate
24 information about the claims that are being
25 made in the case, so we're not trying to

1 deliberately mislead or confuse anyone, so
2 it's important that if my question is
3 confusing or you find it misleading or you
4 just can't hear me, if I'm mumbling or
5 something and you can't hear the question,
6 please let me know that and I'll do my best
7 to ask the question again or ask it
8 differently or have the court reporter go
9 back re-read the question or do something
10 so that you're clear what the question is.
11 I don't want to, you know, have you answer
12 something, assuming that you knew what the
13 question was and find out later that you
14 were confused or didn't understand the
15 question. So feel free to do that.

16 Also if you need to take a break,
17 that's okay. You can just let us know and
18 we can take a brief break. Generally, I
19 prefer not to do that in the middle of
20 answering a question, but if you've, you
21 know, answered the last question and you
22 need to, you know, take a break and take a
23 few minutes, that's fine. We're not trying
24 to do an endurance test or anything like
25 that today. So those are, you know, just

1 some basic ground rules and does that make
2 sense to you?

3 THE WITNESS: Yes, it does.

4 Q. Okay. We'll just do a little bit of
5 background questioning here, and it's Ms. Suhr?

6 A. Yes.

7 Q. What's your current address?

8 A. 7241 Township Line Road, Celina, Ohio.

9 Q. And how long have you lived in Mercer
10 County?

11 A. All my life, 63 years.

12 Q. And did you go to school here?

13 A. Yes, I did.

14 Q. Where did you go to school?

15 A. I went to Celina Senior High School
16 and I went to Auburn Elementary School.

17 Q. And after you graduated from high
18 school, did you have any further education?

19 A. Yes. I went to Ohio State School of
20 Cosmetology, Ohio State, Lima, for a real estate
21 license and then I've taken courses out to Wright
22 State University, Lake Campus, in business courses.

23 Q. And if you could, tell me what course
24 work, what types of courses did you take at Wright
25 State, if you --

1 A. All the professional, office,
2 business, business law, some accounting.

3 Q. And did I understand you correctly
4 that you took some real estate courses?

5 A. Yes. I was certified to sell real
6 estate.

7 Q. Where did you take your real estate
8 courses at?

9 A. Ohio State's Lima Branch.

10 Q. What sort of classes did you take
11 there, if you can recall, like, some of the names of
12 them or --

13 A. It was just the basic real estate, the
14 classes that you needed to take for your license to
15 sell.

16 Q. And how long have you had a real
17 estate license?

18 A. I put them in escrow when I went to
19 work for Reynolds and Reynolds.

20 Q. And when did you begin to work for
21 Reynolds and Reynolds?

22 A. I went in in 1966 and then I took 10
23 years off to have a family and then I went back in in
24 1976 and I retired in May, after 33-some years there.

25 Q. Congratulations!

1 A. Thank you.

2 Q. In 1966 time period and maybe before,
3 when you were at Reynolds and Reynolds, what work did
4 you do there?

5 A. I started in a clerk position and I
6 worked myself up to be an executive secretary,
7 administrative assistant and I also done event
8 planning and public relations.

9 Q. And when you came back to Reynolds and
10 Reynolds, starting in 1976, what -- when you started
11 back in '76, what --

12 A. Oh, I'm sorry! When I first started,
13 I was in a clerk position and then when I went back
14 the second time around, I was in graphics --

15 Q. Okay.

16 A. -- and then I was promoted into the
17 executive positions for administration.

18 Q. Okay. So starting when you came back
19 in 1976, you were in graphics?

20 A. Yes.

21 Q. And what types of things would you do
22 in that field?

23 A. We composed and drafted various
24 checks, different types of automotive forms, and then
25 I was a group leader in that area.

1 Q. And as I understand, Reynolds and
2 Reynolds, here in Celina, they produce material that
3 used in the automotive dealer industry?

4 A. It's a business forms, yeah.

5 Q. Business forms?

6 A. Um-hum.

7 Q. Okay. And after the graphics area,
8 what was the next area you worked in at Reynolds?

9 A. I worked in -- for the secretary for
10 the plant manager.

11 Q. What type of work did you do there?

12 A. I done the secretarial, administrative
13 for the staff.

14 Q. And after you held that position, did
15 you hold any other positions?

16 A. No. I just advanced up into being
17 executive secretary for the Vice President.

18 Q. How long have you had your real estate
19 licenses in escrow?

20 A. Since 1976.

21 Q. So since 1976, you've not been doing
22 business as a realator?

23 A. That's correct.

24 Q. When you were holding, actively
25 holding those licenses, did you work for a particular

1 | realator?

2 | A. Yes, Paul Clark Realty.

3 | Q. Paul Clark Realty?

4 | A. Yes.

5 | Q. Was that here in Celina?

6 | A. Yes, it was.

7 | Q. Did you do residential or commercial?

8 | A. I did both.

9 | Q. And the type of work you would do, was
10 | it primarily sales?

11 | A. Sales and administration.

12 | Q. Did you ever have any course work in
13 | real estate appraisal?

14 | A. Yes.

15 | Q. And would that have been at the Ohio
16 | State Lima?

17 | A. Yes. That's a part of the course.

18 | Q. And what types of -- Strike that. How
19 | many types of courses did you take in real estate
20 | appraisal?

21 | A. It was just a basic appraisal as a
22 | part of the real estate class.

23 | Q. Okay. So that was, like, one class on
24 | real estate values?

25 | A. Yes.

1 Q. Did you ever do any appraisal work
2 yourself?

3 A. I done just market comparables. I
4 didn't really go out and to appraise for record, per
5 se. It was just for our company.

6 Q. And since you retired from Reynolds
7 and Reynolds, have you been doing any other type of
8 work?

9 A. No.

10 Q. Are you active in any community
11 organizations?

12 A. Yes. I am a trustee for the Chamber
13 of Commerce and I'm a survivorship chair for the
14 Relay for Life American Cancer Society. And I'm also
15 with a leadership program. I'm Chair of the
16 leadership program that the Chamber puts on.

17 Q. And with the leadership program, what
18 types of things would you do with that group?

19 A. The leadership program is to promote
20 and to educate the people of Mercer County at what a
21 great county that we have here and what all there is
22 to offer. We just want everyone to know what Mercer
23 County is all about and we have a lot to offer, so we
24 put classes together that's nine months, anywhere
25 from business to ag to law to education, human

1 resources, community services.

2 Q. Are those courses just open to anyone
3 that wants to participate.

4 A. Yes. There is a fee. We have about
5 23 is what we like to have, a max class. Yes, it is
6 open to the public.

7 Q. Is it the type of program where,
8 maybe, people coming into the community are invited
9 to participate to learn about different aspects of
10 the area?

11 A. Yes.

12 Q. Do you ever give any lectures as part
13 of that program?

14 A. I do promotional speeches.

15 Q. Okay, sorry. I was going to qualify
16 that to say do you ever do anything, like give
17 presentations to the group?

18 A. Yes.

19 Q. What sorts of things do you present
20 on?

21 A. Some leadership skills and usually, I
22 facilitate the beginning of the day to let them know
23 why we chose that day and what to expect and what we
24 expect them to get from this and how they can apply
25 it to their lives to help our community.

1 (Xerographic Document, Affidavit of
2 Rita Suhr, was marked for
3 identification Exhibit A.)

4 Q. What I'd like to do is start off by
5 giving you a copy of your Affidavit or, actually,
6 there are a couple of different Affidavits, but I'm
7 going to give you this one that's been marked as
8 Exhibit A. That was -- If you would turn to page --
9 I'm sorry. Can we go off the record for a second.

10 (Brief pause.)

11 Mrs. Suhr, the second paragraph of your Affidavit
12 identifies four parcels of property; do you see that?

13 A. Yes.

14 Q. Do you still own those parcels?

15 A. Yes.

16 Q. And to the best of your recollection,
17 is this still accurate?

18 A. Yes.

19 Q. And paragraph 3 describes how long
20 you've owned those parcels; is that accurate?

21 A. Yes.

22 Q. Are each of these parcels owned
23 completely in your name or do you share an interest
24 in them with someone else?

25 A. There is two parcels that I share with
my husband.

1 Q. And can you identify which ones those
2 are?

3 A. Yes. They would be the last four
4 digits of the 000, the 0200 and then the 0101.

5 Q. Thank you.

6 A. I'm sorry. The 101 is not.

7 Q. Okay. Thanks for clarifying that.

8 And you just go ahead and turn to the maps that are
9 attached there. The first one is -- it's where on --
10 using Exhibit A and then it's -- your map is marked
11 as Exhibit A, the first one, and is this one of the
12 properties you own jointly with your husband?

13 A. Yes.

14 Q. And how many acres is this?

15 A. One point five.

16 Q. And where is this property located?

17 A. It's right south of the Beaver.

18 Q. And is that the line going through the
19 middle; is that Beaver Creek?

20 A. Yes.

21 Q. And what's this property used for?

22 A. It's woods.

23 Q. And it says it's, at the bottom of
24 this page, it's 1.50 acres; is that right?

25 A. Yes.

1 Q. Besides woods, anything else on the
2 property?

3 A. No.

4 Q. Do you use it for any farming?

5 A. No.

6 Q. Is there a residence on the property?

7 A. No.

8 Q. There's an area that is dark, you
9 know, it's shaded in black. I know it's a photocopy
10 here, but can you identify the shaded area?

11 A. This one or -- I'm sorry, no. This,
12 or which one are you --

13 Q. Yeah, and again, I apologize because
14 the quality of the copy isn't the best, but is there
15 an area of this map that you had shaded in, in part
16 of preparing your Affidavit?

17 A. This part, here?

18 (Witness indicating on document.)

19 Q. You're indicating --

20 A. My husband and I done the shading
21 together.

22 Q. Okay. So you --

23 A. He had the pen in hand, but I was
24 right there by him.

25 Q. Okay. So you're indicating there, and

1 | pretty much in the center of that there's a
2 | triangular area that --

3 | A. This right here.

4 | Q. -- you and your husband jointly
5 | decided how to shade that?

6 | A. Yes.

7 | Q. And what's the meaning or significance
8 | of the shading? What's that meant to show?

9 | A. That was all flooded.

10 | Q. Okay. So that's meant to show
11 | flooding?

12 | A. Yes.

13 | Q. For what time period?

14 | A. This was in 2003.

15 | Q. And if you can, do you know how deep
16 | the flooding was on that parcel in 2003?

17 | A. It would be somewhere between, I would
18 | say, between two inches and two feet. It's just some
19 | areas might be deeper than others.

20 | Q. Were you able to actually view this
21 | property in 2003, during the flooding?

22 | A. I did not. I have some photos that I
23 | got from the other part of our land, but I could not
24 | get back into that specific area, but this is Dick
25 | Bacher's land joins (sic).

1 Q. And which area is that, ma'am, the --

2 A. It looks like this over here.

3 Q. Okay. So the --

4 A. On both sides, I believe, Dick owns.

5 Q. Okay. And what was his name again?

6 A. Dick Bacher.

7 Q. Okay. And when did you acquire, you

8 and your husband acquire this piece of property?

9 A. This was in 1997.

10 Q. And how did you acquire it?

11 A. We bought it from an auction.

12 Q. Do you remember how much you paid for

13 it?

14 A. I'm thinking between 28, 2900 and

15 acre.

16 Q. And since it's just 1.50 acres, I just

17 want to be clear, was that the extent of the parcel

18 at the time you bought it?

19 A. No. We had, also with that was 53

20 acres and this is just kind of a part of it.

21 Q. Understood.

22 A. It was a bonus.

23 Q. Um-hum. And since you bought it, it's

24 remained a wooded area?

25 A. Yes.

1 Q. Okay. If we turn to the next map
2 which is Exhibit B that's part of -- attached to what
3 we marked as Exhibit A, and this piece of property,
4 are you familiar with it?

5 A. Yes.

6 Q. And where is this parcel located?

7 A. This is right south of the Beaver and
8 over to the right a little bit, that's the woods,
9 that 1.5 acres.

10 Q. Okay. I see.

11 A. I'm not probably looking the same way
12 you are.

13 MR. FUSONIE: You want to make sure,
14 for purposes of the record, when you say
15 right, that, you know, which direction that
16 is.

17 MR. MARTIN: Well, just to, maybe, be
18 clear, I'll give you a little pen here and
19 maybe you can make a circle around it, the
20 area you referenced.

21 THE WITNESS: Okay.

22 MR. MARTIN: Is it showing up?

23 MR. FUSONIE: Not really.

24 MR. MARTIN: Well, try this yellow
25 highlighter. Maybe it's pink. We'll see

1 what color it -- It's a pink highlighter.

2 (Witness drawing on map.)

3 THE WITNESS: Like that.

4 MR. MARTIN: Okay. Thank you.

5 THE WITNESS: Um-hum.

6 MR. MARTIN: So witness indicated on
7 Exhibit B to Exhibit A, the triangular 1.50
8 parcel in pink outline.

9 Q. And the other parcel or a parcel
10 that's depicted on the map that's the larger piece,
11 the 51.489 acres, what is that parcel used for?

12 A. That's all ag. That's farmable.

13 Q. All farmable?

14 A. Yes, it's --

15 Q. And is all of it tillable?

16 A. Yes.

17 Q. Do you farm that land, you and your
18 husband?

19 A. No, we cash rent.

20 Q. And who do you cash rent to?

21 A. Mark Seafring.

22 Q. Do you have a annual amount that you
23 agree upon for the rent?

24 A. Yes, we do.

25 Q. Do you know what that is as of this

1 | year?

2 | A. I get `em mixed up. We charge a
3 | hundred dollars an acre is what we have for cash
4 | rent.

5 | Q. And how long have you charged a
6 | hundred an acre?

7 | A. Ever since we bought it in 1997.

8 | Q. So that amount's not gone up or down
9 | during the time you've owned it?

10 | A. Since the spillway has come in, we
11 | have not been able to raise ours, our cash rent and I
12 | think the average now is 150 to 200 an acre and we
13 | just don't feel right raising the rent on those guys
14 | when they get their crops flooded out.

15 | Q. But the rates, as I understand, it's
16 | remained the same since `97?

17 | A. That's correct.

18 | Q. And the shaded area, here, does that
19 | also represent flooding in 2003?

20 | A. Yes.

21 | Q. And I know you've identified it here
22 | on the map; but do you know approximately how many
23 | acres you would claim that were flooded in 2003 on
24 | this parcel?

25 | A. Twenty-one.

1 Q. And did you have crops? I'm sorry. I
2 mean -- Strike that. Did your cash renters, did they
3 have crops planted in 2003?

4 A. Yes.

5 Q. And was there a crop loss, if you
6 know?

7 A. I am pretty sure that they probably
8 did.

9 Q. But since you were renting the land,
10 you, yourself, did not have a cash -- I'm sorry --
11 did not have a crop loss?

12 A. That's correct.

13 Q. So you would not have reported an
14 insurance claim for a loss?

15 A. Correct.

16 Q. Do you know what crops were on that
17 parcel that year?

18 A. I believe it was corn.

19 Q. Okay. If you could look at the next
20 map in the series. It's Exhibit C to Exhibit A. Do
21 you know where this parcel is located?

22 A. Yes. This is north of the Beaver.

23 Q. And what's this property used for?

24 A. This is all ag. It's for crops.

25 Q. And do you cash rent this property, as

1 well?

2 A. Yes.

3 Q. And who do you rent to?

4 A. Rex Ferguson.

5 Q. And do you know, as of this year, what
6 you agree upon for rent?

7 A. It's the same; it's \$100.

8 Q. And has it -- I'm sorry -- How long
9 have you owned this property?

10 A. 1995.

11 Q. Okay. Since '95. Is it -- the rent
12 always been \$100?

13 A. Yes.

14 Q. And the shaded area, here, is this
15 also representing the flooded area in 2003?

16 A. Yes. Yes.

17 Q. And I notice it looks like there is a
18 strip along the right-hand side that's not shaded.
19 Actually, it'd be your left-handed side as you're
20 looking to it. It'd be -- I was trying to find a
21 point of reference, but it's south of -- looks like
22 it's south of Bunker Hill Road and going along the
23 edge of the property there's an area that's not
24 shaded; do you see that?

25 A. Yes.

1 Q. Why is that not shaded?

2 A. I didn't feel like that was really a
3 flooded area when we shaded it in.

4 Q. And that area, do you have any
5 recollection in 2003 whether you were able to see
6 whether or not that was flooded?

7 A. I don't recall.

8 Q. Do you recall how deep the flooding
9 was on this parcel in '03?

10 A. It would vary from two, two
11 inches-to-two feet.

12 Q. Do you remember where the deepest
13 areas were, the two feet area?

14 A. Right. I would say right in this
15 area, here, right by, close to the Beaver, the
16 center, the lowest, the lowest point.

17 Q. So it'd be fair to say that the
18 deepest flooding was closer to the Beaver Creek?

19 A. Yes.

20 Q. Do you know if the gentleman you rent
21 that to, did he have any crop loss for that year?

22 A. Oh, yes!

23 Q. And do you know what type of crops
24 were planted?

25 A. I believe it was beans.

1 Q. Did you experience crop loss that year
2 on this parcel?

3 A. We cash rented.

4 Q. And if you could turn to Exhibit D.
5 Are you familiar with this parcel?

6 A. Yes.

7 Q. And where is this at?

8 A. That is north of the Beaver and it is
9 across Bunker Hill Road.

10 Q. Are there any other creeks or streams
11 that are on this property?

12 A. There is a buck ditch that runs south
13 into the Beaver.

14 Q. And is that actually on your property
15 there?

16 A. The shaded area?

17 Q. Actually, just anywhere on that
18 parcel, is that ditch we talked about --

19 A. It's off of our property a little bit.

20 Q. Okay. And the shaded area there, is
21 that representing area flooded in '03?

22 A. That's correct, yes.

23 Q. Okay. How many acres is that?

24 A. Flooded acres were four.

25 Q. About four?

1 A. Four acres.

2 Q. Okay. And what -- I'm sorry. Strike
3 that. What's this property used for?

4 A. Crops.

5 Q. And do you recall what crops were
6 planted there that year?

7 A. No, I don't.

8 Q. And did you or your husband did you
9 suffer crop loss as a result of that flooding?

10 A. Yes.

11 Q. And was it turned in to insurance?

12 A. No.

13 Q. Do you have a dollar amount on what
14 the loss was?

15 A. No.

16 Q. But other than the area shaded on this
17 map, there is no other areas of flooding on this
18 particular parcel?

19 A. That's correct.

20 Q. Okay. Let's go ahead and turn to
21 Exhibit E and F that's in your Affidavit and these
22 appear to be some photographs. Did you take these
23 photos?

24 A. Yes, I did.

25 Q. And can you identify when these would

1 | have been taken?

2 | A. This would have been taken in July of
3 | 2003.

4 | Q. And the first one, Exhibit E, where
5 | was that taken?

6 | A. I was on Bunker Hill Road, facing
7 | south, looking at the Beaver and the crops that you
8 | see, here, was the closest to the road.

9 | Q. And Exhibit F, where was that photo
10 | taken?

11 | A. That is the same field.

12 | Q. And is it just looking in a different
13 | direction or --

14 | A. No. It was the same direction. I
15 | don't remember; I backed up or pulled forward because
16 | we had water going across the road, so I couldn't get
17 | every angle that I would like to. And I was just in
18 | aw. I just could not believe it.

19 | Q. And you said you were on the road.
20 | Were you standing on the road.

21 | A. I was in the car; I was afraid to get
22 | out.

23 | Q. Okay. So was it, the road passable
24 | enough you could drive your car on it?

25 | A. I got to the water on the road and

1 | then I just stopped because I could not go through
2 | it.

3 | Q. Um-hum.

4 | A. You'll see that in another photo.

5 | Q. Okay. And we'll move along to Exhibit
6 | G, in that photo?

7 | A. And that's the same field.

8 | Q. In the very corner of that, looks like
9 | the right-hand corner, is there a structure there?

10 | A. There is a mobile home.

11 | Q. And is that on your property?

12 | A. No.

13 | Q. Go to the next photo, Exhibit H. Did
14 | you take that one?

15 | A. Yes, I did and that was as close to
16 | the water as I got. I didn't get any -- I couldn't
17 | go across any farther.

18 | Q. Okay. And is that the road straight
19 | ahead?

20 | A. Yes.

21 | Q. And I'm sorry; which road was this?

22 | A. That's at Bunker Hill.

23 | Q. Bunker Hill.

24 | A. And the Beaver is to the south of
25 | that.

1 Q. Then Exhibit I, where was Exhibit I
2 taken?

3 A. That is on the northeast side of the
4 Beaver and it's showing the erosion and it's also
5 showing the rocks that the County put in to try to
6 detour the erosion.

7 Q. And I notice there's a date stamped
8 there of 8/24/2009; is that accurate?

9 A. Yes, it is.

10 Q. So this was taken just last year then?

11 A. That's correct.

12 Q. Was there flooding in 2009?

13 A. There was some.

14 Q. But nothing like 2003?

15 A. That's correct.

16 Q. And Exhibit J, who's that guy?

17 A. That is my husband, descending into
18 the erosion pit.

19 Q. And is that the same parcel as on
20 Exhibit I?

21 A. It would be very close.

22 Q. And I don't know if I asked this, but
23 do you know which parcel Exhibit I and J were taken
24 on?

25 A. We call it the Friday farm. Can I

1 | look at that.

2 | Q. Absolutely or if you want to refer to

3 | --

4 | A. It would be .0500. It would be the 33
5 | flooded acres.

6 | Q. And you mentioned, in reference to
7 | Exhibit I, the County put those rocks there?

8 | A. Correct.

9 | Q. And did you ask them to put the rocks
10 | there?

11 | A. No, I did not.

12 | Q. And did the County or someone from the
13 | County talk to you about placing the rocks on your
14 | property?

15 | A. I don't recall. I believe the land
16 | across the Beaver is County ground.

17 | Q. Okay. Look at Exhibits -- Next couple
18 | of photos -- K and L. Let's start with K. Where was
19 | that taken?

20 | A. That's in the same vicinity, both of
21 | those are.

22 | Q. Okay, both of them.

23 | A. Yes.

24 | Q. And what are they. Let's start with K
25 | first. What does that show?

1 A. It shows the deep erosion that's
2 coming from the flood, from the Beaver.

3 Q. And Exhibit L, what's that --

4 A. The same, the erosion.

5 Q. Let's just look at Exhibit L and
6 again, I recognize these are photocopies of the
7 photos, so it may be a little difficult, but what
8 aspects of what's being shown in Exhibit L do you
9 think depict erosion.

10 A. It's on a black area here and you can
11 also see the rocks that was placed to try to stop the
12 erosion.

13 Q. Did you look into any other causes
14 besides -- Strike that.

15 What causes of erosion did you explore
16 as the, I guess, the cause of this situation that you
17 have here?

18 MR. FUSONIE: Objection.

19 A. I don't ever remember having this much
20 erosion problem. Ever since the spillway has been
21 put in, it just seems like we have more and constant
22 water and erosions and it's devastating to see your
23 ground value go down.

24 Q. Do you know if there was any
25 development upstream of your property?

1 MR. FUSONIE: Objection. At what
2 time?

3 Q. Well, when were these photos taken?

4 A. These was taken in August of 2009.

5 Q. Okay. Well, in the 2009 time frame,
6 do you know if there might have been any development
7 of property upstream from where these were taken?

8 MR. FUSONIE: Objection.

9 A. There might be some closer to town.
10 That would be six miles from us.

11 Q. Okay. And just moving on to Exhibits
12 M and N, they also look like they were stamped dated
13 August 24, '09. Do you know where these were taken.

14 A. It's all in the same vicinity. It's
15 just, maybe, varies to the west or to the east and
16 again, that shows the erosion.

17 Q. Then Exhibits O and P, is that the
18 same area?

19 A. It's close to the vicinity there, but
20 what we were taking pictures here was to show the
21 trash that has come from the Beaver: plastic jugs,
22 bottles, cans and this all has to be cleaned up
23 before my husband and son can mow the filter strip
24 that we have, and I know that our renter, he has to
25 clean up the trash before he can get in and start

1 | planting.

2 | Q. And how do you know that?

3 | A. With all the trash, there's no way
4 | that they will use their equipment. I mean Dave and
5 | Brad would definitely have to clean it up before they
6 | would run their mower because it would just tear up
7 | their equipment.

8 | Q. Has your renter complained to you
9 | about problems with debris?

10 | A. He has -- He is not a complainer.

11 | MR. FUSONIE: Which one are we talking
12 | about here?

13 | THE WITNESS: Rex.

14 | MR. FUSONIE: Rex?

15 | THE WITNESS: We're talking about
16 | Friday's farm.

17 | MR. FUSONIE: Okay.

18 | A. Earlier, when my husband cash rented,
19 | well, did everything go okay, you pleased. Now, he
20 | was real happy and then after 2003, I said, "Well,
21 | did you do okay?" And he goes, "It was okay." So
22 | since then, I haven't asked.

23 | Q. Okay. What about Exhibit Q and R and
24 | these also seem to be indicating that this is the
25 | date that --

1 A. Right.

2 Q. -- '09 --

3 A. It's a part of the erosion and trash.

4 Q. Do you know where these are at?

5 A. It would be north of the Beaver.

6 Q. Do you know which parcel of property?

7 A. It would be the same in '05. It would

8 be the Friday farm, 0500.

9 Q. And moving on to Exhibit X. Where is
10 that photo taken?

11 A. Well, again, that's on that north --
12 he's on the bend of the same property and the white,
13 to the top here, that's the Beaver.

14 Q. Oh, okay! I see.

15 A. You can see the Beaver a little bit
16 better there and then you can see the erosion in the
17 rocks.

18 Q. And just to be clear from your prior
19 testimony, are these rocks that the County placed
20 there?

21 A. That's correct.

22 Q. So you're not contending that flooding
23 pushed the rocks into this position; is that the case?

24 A. They have probably moved some because
25 of the gush of the water that you get from the

1 | spillway, but physically, for human beings, no.

2 | Q. And last one's Exhibits T and U, where
3 | are those photos taken?

4 | A. In the same vicinity.

5 | Q. And what are they showing?

6 | A. Again, just showing the trash and the
7 | erosion.

8 | Q. Do you have any of your properties
9 | participate in any Conservation Reserve Programs?

10 | A. Yes.

11 | Q. And if we can maybe refer to the maps,
12 | Exhibit A, with the Exhibit A. On Exhibit A, the
13 | wooded area, does that participate in any --

14 | A. No.

15 | Q. What about the parcel in Exhibit B,
16 | does that participate in the program?

17 | A. We are not involved with that, no.

18 | Q. And Exhibit C?

19 | A. Yes. We have a filter strip by the
20 | Beaver.

21 | Q. And do you know how wide that filter
22 | strip is?

23 | A. I would say 40, 41 feet.

24 | Q. And do you recall when that was put
25 | in?

1 A. I believe it was 1997.

2 Q. And do you recall why that was put in?

3 A. My husband and son believe in being a
4 good steward (sic) and they just thought it was the
5 right thing to do to protect the water quality from
6 the soil particles, the nutrients, the pesticides on
7 -- It's good; it enhances wild habitat, so they kind
8 of like that, too, so it was just the right thing for
9 us to do to protect our ground and the water.

10 Q. So as I understand it correctly, it --
11 is it, basically, a buffer between the agricultural
12 use and the water?

13 A. Yes.

14 Q. And do you receive any type of
15 compensation for participation in that program?

16 A. Yes.

17 Q. Do you know how much a year?

18 A. I believe it's \$115.

19 Q. For the whole strip?

20 A. Yes.

21 Q. Okay. And then Exhibit B, that
22 property, does that participate in any conversation
23 program?

24 A. Part of -- I don't believe we're an
25 acreage that that would have anything to do with it,

1 | but yes, we do have one on the 60 acres.

2 | Q. And is a filter strip there, too?

3 | A. Not a filter strip; there's a
4 | waterway.

5 | Q. And how much land is in that
6 | conservation program, approximately? I won't hold
7 | you to an exact amount, but the best --

8 | A. Are you talking just about the four
9 | acres or are you talking about the entire property?

10 | Q. Entire property.

11 | A. I don't know.

12 | Q. What about the four-acre area?

13 | A. Very little.

14 | Q. Do you know if you receive any
15 | compensation for participation in that program?

16 | A. Yes, we do.

17 | Q. Approximately how much?

18 | A. I believe that I was told that we got
19 | so much dollars an acre. I don't know that.

20 | Q. Do you know how much of this property
21 | is tillable?

22 | A. Fifty-some.

23 | MR. MARTIN: I'm going to mark this is
24 | Exhibit B.

25 | (Xerographic Document, a Conservation
 Plan Map, was marked for

1 identification Exhibit B.)

2 Q. I don't know if this is something you
3 may have seen before, Mrs. Suhr, but does this look
4 familiar to you, this document?

5 A. I have seen it when I filed records,
6 but I don't participate in the farming much.

7 Q. Does this give you any guidance as to
8 the parcel we were talking about a moment ago and the
9 areas that may be in a conservation plan?

10 A. Down here was the four acres that was
11 flooded.

12 (Pointing on exhibit.)

13 MR. FUSONIE: Down where?

14 THE WITNESS: If the top is north, it
15 would be south. It would be the southeast
16 corner.

17 Q. And this indicates a area that says,
18 "tile;" do you see that in different places?

19 A. Yes.

20 Q. Do you know what type of tile is on
21 this property?

22 A. No.

23 Q. Do you know what condition the tile is
24 in?

25 A. No. I believe that we have done some

1 tiling in different -- But I'm not sure, no.

2 Q. All right, let me hand you a document.

3 MR. MARTIN: Mark this as Exhibit C.

4 (Xerographic Document, a letter from
5 James A. Garrett, dated 1/9/08, was
Marked for identification Exhibit C.)

6 And the first page of this, have you seen this
7 document before?

8 A. Yes.

9 Q. Do you remember getting this?

10 A. Yes.

11 Q. There's some handwriting on the
12 margins. Do you know whose writing that is?

13 A. Mine.

14 Q. Okay. Do you recall responding to
15 this letter from Garret Appraisal?

16 A. Yes.

17 Q. And can you tell me your recollection
18 of what your response was?

19 A. He had called to see if the figures
20 that he had in this memo was correct, with the date
21 and the cost and what we had paid for the acreage,
22 the date and the location and I agreed to that, yes.

23 Q. And you were agreeable with the amount
24 he was --

25 A. Yes, those are correct.

1 Q. Okay. And there's another page
2 following this. It was in the -- I don't necessarily
3 know that this is how it was kept, but in the lower
4 right-hand corner, there's a stamp, what we call
5 Bates stamp numbers and the next one is 1796 --

6 A. Um-hum.

7 Q. -- and for ease in this deposition, I
8 stapled it to this first letter. Does this second
9 page here appear to you to relate to the first page?

10 A. Yes.

11 Q. And do you recall if you prepared the
12 second page of this?

13 A. Yes.

14 Q. And what was the purpose of this?

15 A. These were just my notes so that when
16 I did speak with Mr. Garrett, I believe his name was,
17 I would have some points of conversation with him.

18 Q. And there's a note about midway into
19 the comments there that says, "The Friday ground is
20 only good for raise beans and corn. Wheat would not
21 have a chance with the spring rains, etc." The
22 Friday ground, that's a parcel we talked about
23 earlier.

24 A. The one that flooded completely.

25 Q. And the reference there to spring

1 rains, what did you mean by that?

2 A. The spring rain that in the spring,
3 when, for some reason ODNR will not lower the lake
4 and we get this gush of water, so wheat does not
5 stand the spring rains because the lake is -- the
6 spillway will bring all that water out to the Beaver
7 and overflow, so you can't put out wheat for a
8 rotation crop.

9 Q. But this particular document doesn't
10 appear to me to actually reference any action of the
11 ODNR; does it?

12 A. These were just my notes, bullet
13 points, to talk to `em.

14 Q. Understood, but I guess my question is
15 the indication in this document that the wheat would
16 not have a chance because of the spring rains, is it
17 your testimony today that you intended that to
18 include the water flooding because of DNR's action?

19 A. That's correct.

20 Q. Okay. Do you know, because the wheat
21 cannot be raised, does that amount to a loss in value
22 of the land?

23 A. Oh, yes!

24 Q. Does wheat sell for a higher price
25 than corn --

1 A. We just like to have it as a rotation
2 crop.

3 Q. Okay. Maybe, let me finish my
4 question there. Does the wheat sell for a higher
5 amount that, say, beans and corn?

6 A. No.

7 Q. Okay. And then the next page there,
8 there's a stamp there that says 1797, on the next
9 page. Can't really read this too well,
10 unfortunately, are these just additional notes on
11 your part?

12 A. Yes.

13 Q. Then I'll go to the next page; it
14 says, 1798. If you can just tell me the first
15 reference there, it says, "Dave has lived in this
16 area all his life...." Who's Dave?

17 A. My husband.

18 Q. And was this sort of a note that you
19 were taking of his recollections?

20 A. For Dave and my conversations, I just
21 made notations, yes.

22 Q. And the next one, Rita, that would be
23 you, right?

24 A. Yes.

25 Q. And it states here that you don't

1 | remember the highway closed due to water; is that
2 | true?

3 | A. That is very true.

4 | Q. And which highway are you referring
5 | to?

6 | A. State Route 127.

7 | Q. And the next reference is to Bob's
8 | Medical Center and that's no different now than when
9 | --

10 | A. Bob's, yes. It was Bob TV and the
11 | Medical Center, it's been there and there is just no
12 | difference, except that they put a cement -- I don't
13 | know what you call it -- boulder (sic) or something
14 | around it so that they don't get flooded out as bad.

15 | Q. And a couple more sentences down
16 | there's a statement that says, "When the spillway was
17 | developed, they never thought about the neighbors.
18 | They had one thing in mind, recreation on the lake."
19 | Was that an opinion you developed?

20 | A. No. What I'm thinking is for some
21 | reason they don't want to lower the lake.

22 | Q. I see.

23 | A. And previous, before the spillway,
24 | they were able to lower the lake and they did that
25 | during the wintertime so that the lake would be lower

1 | to hold the water when the spring rains came so that
2 | we, west of town, would not get flooded with gushes
3 | of water, and for some reason now, they're not doing
4 | that, so -- And I know it's a lot to do with the
5 | recreation on the lake and, to me, it's more
6 | important for the farmers to provide food than it is
7 | for the boats to be on the lake.

8 | Q. And what facts or information led you
9 | to the conclusion that, essentially, recreation was
10 | given priority over agriculture?

11 | A. If you would read all the articles
12 | that was in the paper and with some of the lake
13 | improvements, recreation is number one, and for them
14 | to have a good boating season, the lake needs to be
15 | up.

16 | Q. So that knowledge was based on,
17 | basically, newspaper sources?

18 | A. And some meetings and different things
19 | that I have attended.

20 | Q. Any particular meetings stand out in
21 | your recollection as one that you recall where
22 | someone made some statement supporting your position?

23 | A. In some of our Chamber Exec. meetings,
24 | they would discuss some of the meetings that the Lake
25 | Improvement Association would hold and then most of

1 | it comes out of the paper.

2 | Q. And what's the Lake Improvement
3 | Association?

4 | A. They are trying to develop the lake
5 | for tourism and also the quality of the lake, water
6 | quality.

7 | Q. Do you know if the Association is part
8 | of the Department of Natural Resources?

9 | A. I do not know.

10 | Q. And just to clarify something in the
11 | comments you made here, the line, it says, "When the
12 | spillway was developed, they never thought about the
13 | neighbors." Are you referencing the original
14 | spillway?

15 | MR. FUSONIE: Objection. Asked and
16 | answered. Go ahead.

17 | A. I am talking the -- The spillway that
18 | I'm referring to is the new one, the one that they
19 | put in. The old one they did. They lowered the lake
20 | before the rains came in the spring, if they can do
21 | it.

22 | MR. MARTIN: Okay. I'm trying to just
23 | check here to see what other questions I
24 | have. I think I'm close to wrapping up
25 | here.

1 Q. Besides the Conservation Reserve
2 Program, are there any easements on any of your
3 parcels that are easements where you're paid to not
4 farm?

5 A. No.

6 Q. Do you know if any of your parcels
7 participate in a Wetland Reserve Program?

8 A. Do I know? They don't -- They do not.

9 Q. Okay. Do you have any records,
10 showing what the value of the properties were when
11 you bought them?

12 A. I know what we paid for them, but I
13 don't have a comparable market for those.

14 Q. Okay. And the small parcel we talked
15 about first, that was purchased at auction; is that
16 correct?

17 A. The 1.5?

18 Q. Yes.

19 A. Yes.

20 Q. And then the Exhibit B property, was
21 that at that same auction?

22 A. Yes.

23 Q. And Exhibit C, do you know how you
24 acquired that property?

25 A. That was a private sale.

1 Q. And who did you buy that one from?

2 A. Joyce Friday.

3 Q. And do you recall how much you paid
4 for it?

5 A. Eighteen hundred an acre.

6 Q. And Exhibit D, how did you acquire
7 that property?

8 A. D, that was also at an auction.

9 Q. If you can recall, how much did you
10 pay for that parcel?

11 A. I believe at least 1100 an acre.

12 Q. Eleven hundred an acre?

13 A. Um-hum, yes.

14 Q. Do you know, on any of those parcels
15 that you purchased, did the prior owner give any
16 disclosures to you about prior flooding?

17 A. No.

18 Q. Were you aware if any of those
19 properties flooded prior to your purchase of them?

20 A. No. You know, in one of the documents
21 that I had, you know, my husband never seen it, the
22 flow, like it was in 2003 and I'm sure if it was a
23 flood ground, that he wouldn't have suggested that we
24 buy it.

25 Q. Okay. And I notice in reviewing the

1 number of the Affidavits attached to the Complaint in
2 this matter that you had notarized Affidavits for
3 people?

4 A. Yes.

5 Q. How did you, I guess, take on that
6 task?

7 A. The task --

8 MR. FUSONIE: Hold on. Objection to
9 the extent that you're asking her to
10 disclose attorney-client communications.

11 MR. MARTIN: I'll ask the question in
12 a different way.

13 Q. Are you a notary public?

14 A. Yes.

15 Q. And other relators in this case, they
16 appeared before you to have their documents
17 notarized; is that correct?

18 A. That's correct.

19 Q. Okay. And was it a coincidence that
20 many of the relators came to you to have it
21 notarized?

22 MS. FUSONIE: Objection.

23 A. They all live within the same close
24 area and with the busyness of their life and I was
25 home, I just told them whenever they were free they

1 | could come over and read their document, approve it,
2 | sign it and I would notarize it.

3 | Q. Did you have any, lack of a better
4 | word, meetings, and I don't want anything where your
5 | lawyers were present, but did you have any meetings
6 | with other relators in this --

7 | A. Oh, no!

8 | Q. Did you communicate with the relators
9 | to make them aware that you'd be willing to notarize
10 | their documents?

11 | A. I had told them that if they wanted me
12 | to notarize them, that I would be there for them.

13 | Q. And how did you tell `em?

14 | A. I would just say there was an
15 | affidavit or, you know, that I received that you need
16 | to notarize and at your convenience come over and
17 | read it, approve it and sign it and I would notarize
18 | it.

19 | Q. So just by word-of-mouth or --

20 | A. Phone call, yeah.

21 | Q. Okay, phone call. E-mails?

22 | A. No.

23 | Q. And were the affidavits provided to
24 | you?

25 | A. Yes.

1 Q. Who provided them?

2 A. Our attorneys.

3 Q. Did each person that you notarized,
4 did they personally appear before you?

5 A. Yes. In fact, one came --

6 MR. FUSONIE: You answered it.

7 Q. If you need to complete your answer --

8 A. No, that's fine.

9 Q. Well, you were about to say something.
10 What were you going to say?

11 A. I was just going to say that one of
12 the clients, his mother was passing away and we
13 notarized it about midnight, just so that he would
14 make sure that he had his done.

15 MR. MARTIN: Okay. I have no further
16 questions.

17 MR. FUSONIE: I just have a few.

18 DIRECT EXAMINATION

19 BY MR. FUSONIE:

20 Q. Rita, if you could turn to Exhibit A
21 and Exhibit A to Exhibit A. I believe you testified
22 that Mr. Dick Bacher owns the property to the north
23 of your parcel?

24 A. Yes.

25 Q. And he also owns the property to the

1 south of your parcel?

2 A. Yes.

3 Q. Are you aware or do you have knowledge
4 as to whether Mr. Bacher has brought a lawsuit
5 against ODNR for the flooding of his property?

6 A. Yes.

7 Q. Are you aware if Mr. Bacher has
8 prevailed in establishing that ODNR has flooded his
9 property -- Let me see -- Could you turn to Exhibit
10 C. I'm sorry --

11 A. Oh, I'm sorry. Okay.

12 Q. Deposition Exhibit C and to the fourth
13 page of Exhibit C. Your second note refers to you
14 never remembering Highway 27 (sic) closed due to
15 water. Is that note referring to the time period
16 prior to 1997?

17 A. Yes.

18 Q. Okay. And then after 1997, has
19 Highway 127 flooded?

20 A. Yes.

21 Q. And how close is 127 to the new
22 spillway, where it flooded?

23 A. The spillway, itself, it's probably
24 just a hundred feet away.

25 Q. Okay. Do you know how often Highway

1 or State Route 127 has flooded since 1997?

2 A. Numerous times.

3 Q. More than five times?

4 A. I would say yes.

5 Q. Okay. Now, also on this page -- I'm
6 sorry -- page 2 of Exhibit C. There's a reference to
7 "We expect at this time if we were to sale (sic) the
8 land, we would get half of the amount being along the
9 Beaver, compared to other land not next to the
10 water," and you wrote that?

11 A. Yes.

12 Q. And what led you to that conclusion?

13 A. Well, I know that there is ground that
14 is selling a lot higher than our bottom ground and I
15 had always heard that bottom ground was always good
16 ground for agriculture and with the Beaver
17 overflowing so much from the spillway, the value just
18 is not there anymore. And we've had some land that
19 sold around us, and there was just a piece not long
20 ago downstream, not far at all from our land, only it
21 went for 4500 an acre -- no -- 4100 an acre. There
22 was some west of us, farther down that sold for 4500
23 that's close to the Beaver, but if you would go
24 south, that's been selling for \$7, 8,000, and if you
25 go north, it goes from 6-to-7,000 and an acre.

1 Q. Now, when you refer to south, going
2 for 7,000-to-8,000 an acre, south, meaning away from
3 the flooded area --

4 A. That's correct.

5 Q. -- along the Beaver and the Wabash?

6 A. Yes.

7 Q. And as far as north, when you're
8 referring to north, and property is selling for
9 6-to-7,000 an acre, you're referring to property that
10 is outside the area flooded, along the Beaver --

11 A. That's correct.

12 Q. -- and the Wabash?

13 A. That's correct.

14 Q. And is your conclusion the same today
15 as the date that you prepared your notes that you
16 would get about half of the amount that you would get
17 if your property was away from the Beaver?

18 A. It appears to be that way, yes.

19 Q. Okay. Based, also, on your real
20 estate experience, would you agree that property that
21 floods frequently verse (sic) property that never
22 floods has less value, just as a general principle?

23 A. That that does not flood would have
24 much value, much more value.

25 Q. And property that is subject to

1 frequent and severe flooding would be of less value
2 than property that floods minimally on occasion?

3 A. That's correct.

4 Q. I just want to make sure the record's
5 clear. I believe you testified that you actually
6 observed drawdowns of the lake prior to 1997?

7 A. When I was very young.

8 Q. Okay.

9 A. My father took me over to watch it.

10 Q. Okay. And after 1997, you have no
11 knowledge that ODNR has done any drawdowns of the
12 lake?

13 A. It doesn't appear they have.

14 Q. You've not seen them --

15 A. I have not.

16 Q. And they've given you no indication or
17 you've obtained no indication that ODNR is ever going
18 to begin doing drawdowns again?

19 A. That's correct.

20 MR. FUSONIE: That's all I got, Dan.

21 MR. MARTIN: I don't have anything.

22 MR. FUSONIE: Rita, you have, if the
23 State orders the transcript of the
24 deposition, you have the right to review to
25 correct any errors in the transcript. I

1 can't tell you to do that. I can only say
2 that I recommend that you read the
3 transcript. You need to let the court
4 reporter know now.

5 THE WITNESS: Yes, I would like it.

6

7 (At 2:51 o'clock, PM, the deposition concluded.)

8

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Rita K. Suhr

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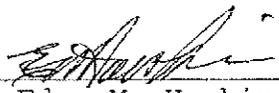
C E R T I F I C A T E

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

I, Edna M. Hawkins, the undersigned, a duly qualified and commissioned Notary Public within and for the State of Ohio, do hereby certify that before the giving of her aforesaid deposition the said RITA K. SUHR was sworn to depose the truth, the whole truth and nothing but the truth; that the foregoing is the deposition given at said time and place by the said RITA K. SUHR; that said deposition was taken in all respects pursuant to agreement and stipulations of counsel hereinbefore set forth; that said deposition was taken by me; that the transcribed deposition was submitted to the witness for her examination and signature; that I am neither a relative of nor attorney for any of the parties to this cause, nor relative of nor employee of any of their counsel and have no interest whatever in the result of the action.

IN WITNESS WHEREOF, I have hereunto set my hand at Cincinnati, Ohio, this 23rd day of February, 2010.

My Commission Expires:
September 17, 2012



Edna M. Hawkins
Notary Public - State of Ohio

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can't tell you to do that. I can only say
that I recommend that you read the
transcript. You need to let the court
reporter know now.

THE WITNESS: Yes, I would like it.

- - -

(At 2:51 o'clock, PM, the deposition concluded.)

- - -


Rita K. Suhr


Notary Date 3/14/10

MARTHA C. BREWER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

E R R A T A S H E E T

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I, Quita Kay Tucker, have read the transcript of my deposition taken in this pending matter or the same has been read to me. I have noted all changes in form or substance on this sheet this 14th day of March, 2010.

PAGE LINE CORRECTION OR CHANGE AND REASON:

7	14	Change Auburn to Texas
7	21	Change to to of
8	22	strike one of the "in"
9	7	Change done to did
8	24	Change 1976 to 1979
9	10, 11, 19	" " " "
12	3	Change done to did
12	14	Change for to For
12	20	Change at to of
17	25	Change joins to joins our
18	14	Change and to are
20	14	Change to to it is
20	21	Changeing to Deeping
23	7	add per acre
25	12	Change ditch to Buck Ditch
27	17	Change like to have liked to
29	17	Change descending to standing

E R R A T A S H E E T

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I, Quita Kay Smith, have read the transcript of my deposition taken in this pending matter or the same has been read to me. I have noted all changes in form or substance on this sheet this 14th day of March, 2010.

PAGE LINE CORRECTION OR CHANGE AND REASON:

- 31 10 change black to bark
- 33 18-10 change answer to earlier, when Jay cash rented I asked did everything go ok? He was real happy and then after 2003, I said, "Well, did you do ok?" and he goes "It was ok". So since then, I haven't asked.
- 34 9 Change X to S
- 36 22 Change conversation to conversation
- 39 1 add areas after different
- 41 13 em to him
- 43 43 Change boulder to boulder
- 50 23 Barber to Barber
- 51 4, 7, Barber to Barber
- 51 14 Change 27 to Highway 127
- 52 2 insert dollars after 8000.
- 53 21 Verse to verses



AFFIDAVIT OF RITA K. SUHR

STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Rita K. Suhr, I am over the age of 21, and I am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct. I state as follows:

1. I am a Relator in this mandamus action seeking compensation for the property taken by Respondents Ohio Department of Natural Resources and Sean D. Logan, Director. (collectively "ODNR").
2. Specifically, I am an owner of real estate described as Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101.
3. I have been an owner of Mercer County Parcel Numbers 26-040900.0000 and 26-039200.0200 since 1997. I have been the owner of Mercer County Parcel Number 26-004200.0101 since 1987. I have been the owner of Mercer County Parcel Number 26-039100.0500 since 1995.
4. Mercer County Parcel Numbers 26-040900.0000 and 26-039200.0200 border the south side of Beaver Creek. Mercer County Parcel Numbers and 26-039100.0500 and 26-004200.0101 border the north side of Beaver Creek.
5. Since ODNR replaced the western spillway of Grand Lake St. Mary's in 1997 and undertook its current lake level management practices, which include maintaining increased lake levels and use of the western spillway for virtually all water flow out of Grand Lake St. Mary's, Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-

DON000670

004200.0101 have been subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Mary's.

6. Specifically, as a result of ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 have flooded approximately fifteen times, or at least once per year. On each occasion, Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 were inundated with water at depths varying from two inches to two feet.

7. Since ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 flood more rapidly and remain flooded for longer periods of time. On each occasion of flooding, Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 remained inundated with water for a period of one to five days.

8. Prior to ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 never flooded as much, never flooded over as large an area, and never flooded for as long.

9. To date, the most invasive flood occurred in 2003 with approximately 1.5 acres of Mercer County Parcel Number 26-040900.0000, 21 acres of Mercer County Parcel Number 26-039200.0200, 33 acres of Mercer County Parcel Number 26-039100.0500, and 4 acres of Mercer County Parcel Number 26-004200.0101 being flooded with approximately two feet of water for approximately five days. True and accurate copies of black and white aerials from the Mercer

County Auditor's website of Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 are attached hereto as Exhibits A, B, C, and D respectively. I have shaded in the area of each parcel that was flooded in 2003.

10. Attached hereto as Exhibits E, F, and G are photographs that truly and accurately depict the flooding of Mercer County Parcel Number 26-039100.0500 in 2003.

11. Attached hereto as Exhibit H is a photograph that truly and accurately depicts the flooding of Mercer County Parcel Number 26-004200.0101 in 2003.

12. Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 also experienced severe flooding in 2005.

13. Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101 were again flooded as recently as Spring 2009.

14. As a direct result of the flooding, Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, and 26-039100.0500 have suffered damage in the form of loss of crops, field and bank erosion, the deposit of silt and other debris, and soil compaction.

15. As a direct result of the flooding, Mercer County Parcel Number 26-004200.0101 has suffered damage in the form of loss of crops, field erosion, the deposit of silt and other debris, and soil compaction.

16. Attached hereto as Exhibits I, J, K, L, M, N, O, P, Q, R, and S are photographs that truly and accurately depict the bank erosion along Beaver Creek as it runs through Mercer County Parcel Number 26-039100.0500. The large rocks in these photographs were placed along the waterway by Mercer County in an effort to deter the erosion.

DON000672

17. Attached hereto as Exhibits T and U are photographs that truly and accurately depict some of the debris deposited on Mercer County Parcel Number 26-039100.0500 as a direct result of the flooding.

18. The flooding caused by ODNR has substantially destroyed the value of Mercer County Parcel Numbers 26-040900.0000, 26-039200.0200, 26-039100.0500, and 26-004200.0101.

19. I believe that the intermittent, continuing, persistent, frequent, and increased severe flooding from the western spillway of Grand Lake St. Marys will inevitably recur as a result of ODNR's replacement of the western spillway and ODNR's current management practices.

FURTHER AFFIANT SAYETH NAUGHT.


Rita R. Suhr

Sworn in my presence and subscribed before me this 25th day of August, 2009.


Notary Public

KRISTIKRESS WILHELMY
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 O.R.C.

DON000673

EXHIBIT A
TO
AFFIDAVIT OF RITA K. SUHR

DON000674



Legend

Administrative

-  Townships
-  Neighborhoods

Parcels

-  Parcels

Transportation

-  State Highways
-  US Highways

Water

-  Lake
-  Streams



Scale: 1:3,000

EXHIBIT
A

Mercer County Ohio



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

David J. Suhr and Rita K. Suhr
-0- Gause Rd.
Parcel No.: 26-040900.0000 - 1.50 acres

EXHIBIT B
TO
AFFIDAVIT OF RITA K. SUHR

DON000676

Mercer County Ohio



Legend

Administrative

- Townships
- Neighborhoods

Parcels

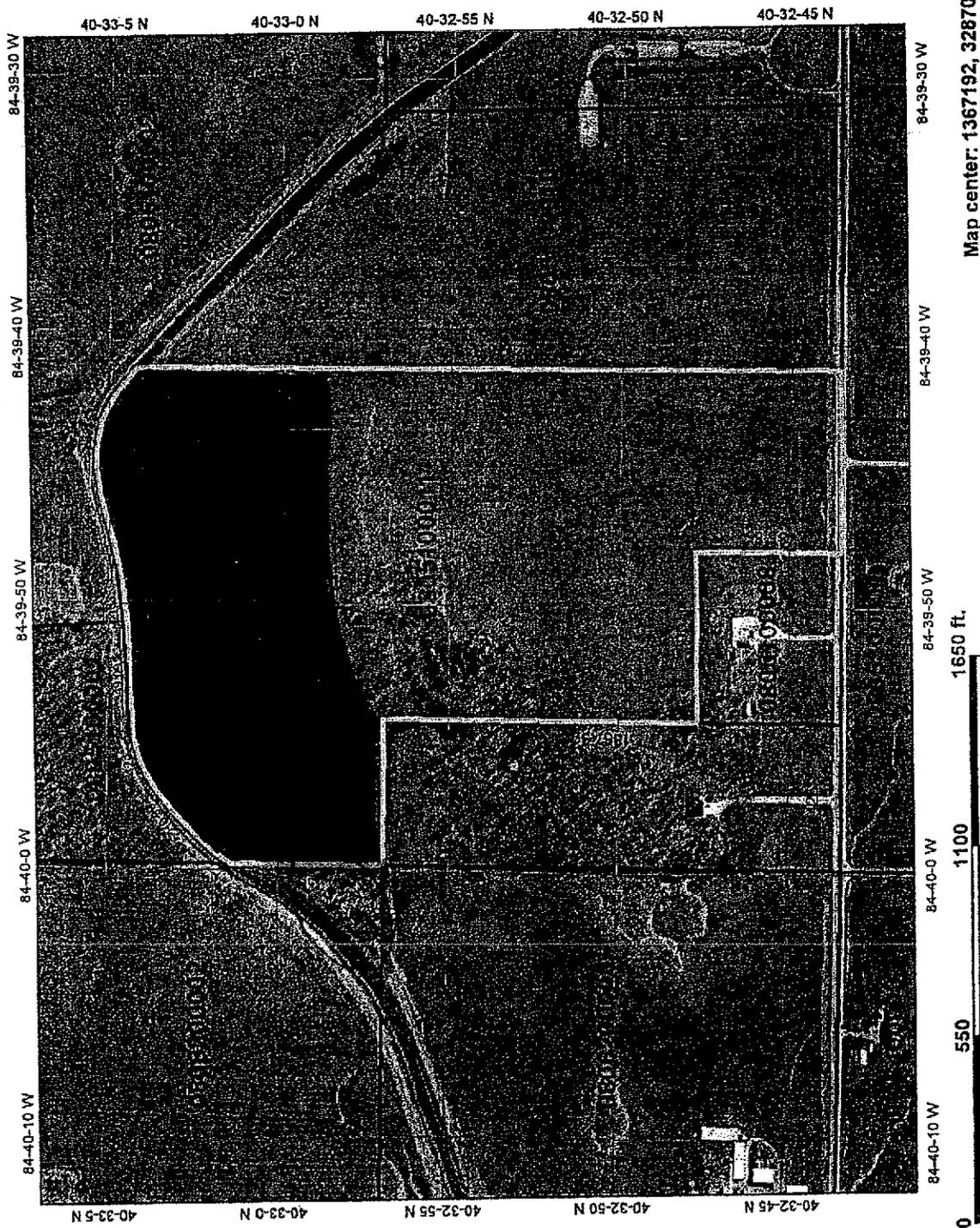
- Parcels

Transportation

- State Highways
- US Highways

Water

- Lake
- Streams



This map is a user generated static output from an internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

EXHIBIT

B

bbbles

David J. Suhr and Rita K. Suhr
 -0- St. Rt. 29
 Parcel No.: 26-039200.0200 - 51.489 acres

EXHIBIT C
TO
AFFIDAVIT OF RITA K. SUHR

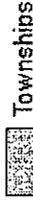
[DON000678]

Mercer County Ohio



Legend

Administrative

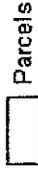


Townships



Neighborhoods

Parcels

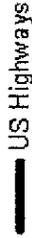


Parcels

Transportation



State Highways

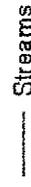


US Highways

Water



Lake



Streams



Scale: 1:4,200



This map is a user generated static output from an internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

EXHIBIT

C

Rita K. Suhr
-0- Bunker Hill Rd.
Parcel No.: 26-039100.0500 -- 35.989 acres

EXHIBIT D
TO
AFFIDAVIT OF RITA K. SUHR

DON000680



Legend

Administrative

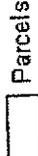


Townships



Neighborhoods

Parcels



Parcels

Transportation



State Highways

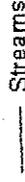


US Highways

Water



Lake



Streams



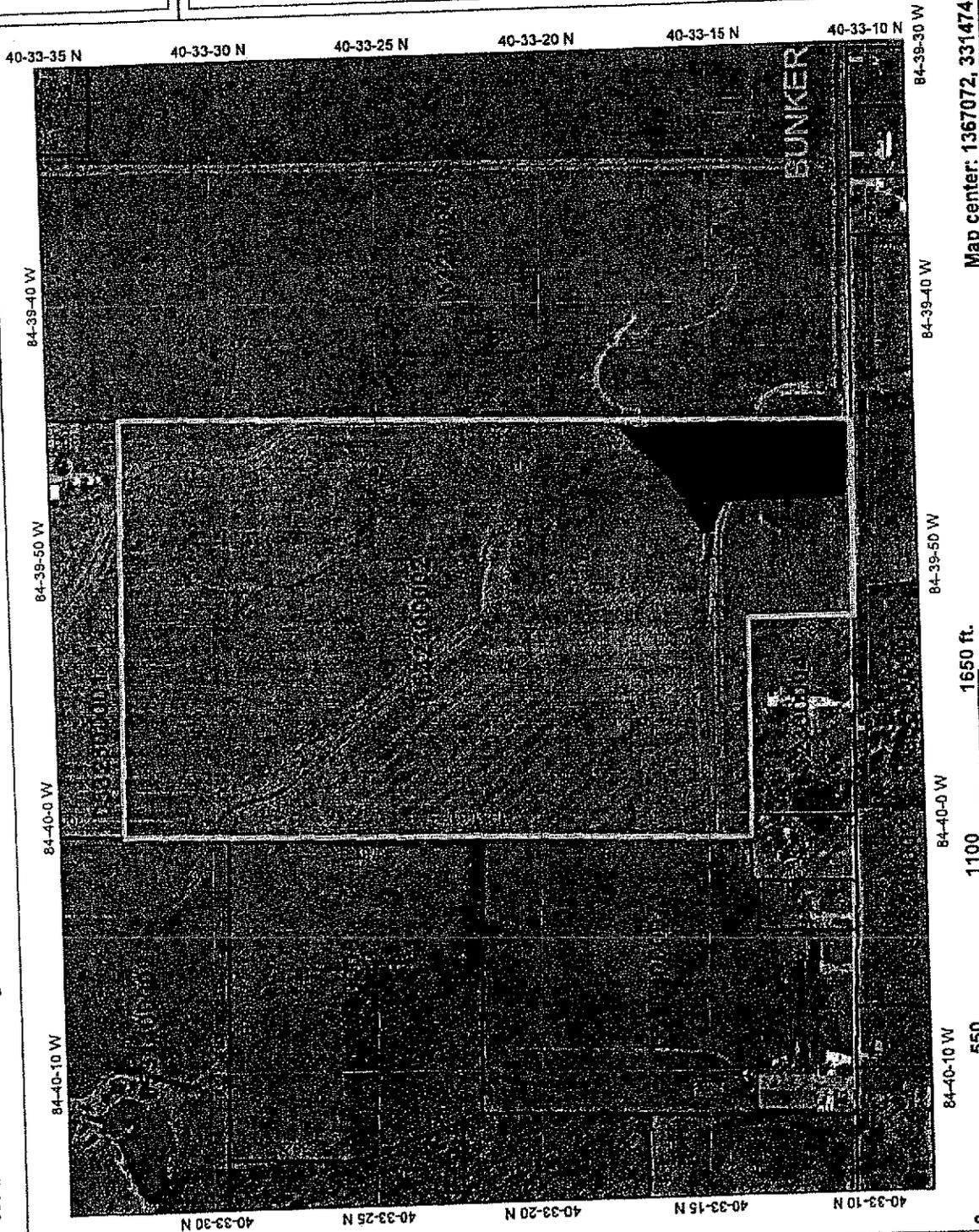
Scale: 1:5,700

EXHIBIT

D

blocks

Mercer County Ohio



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Rita K. Suhr
-0- Bunker Hill Rd.
Parcel No.: 26-004200.0101 - 60 acres

EXHIBIT E AND F
TO
AFFIDAVIT OF RITA K. SUHR

DON000682



tabbles®
EXHIBIT
E

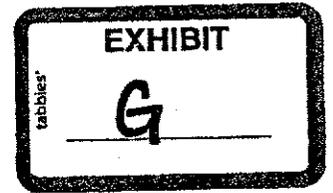
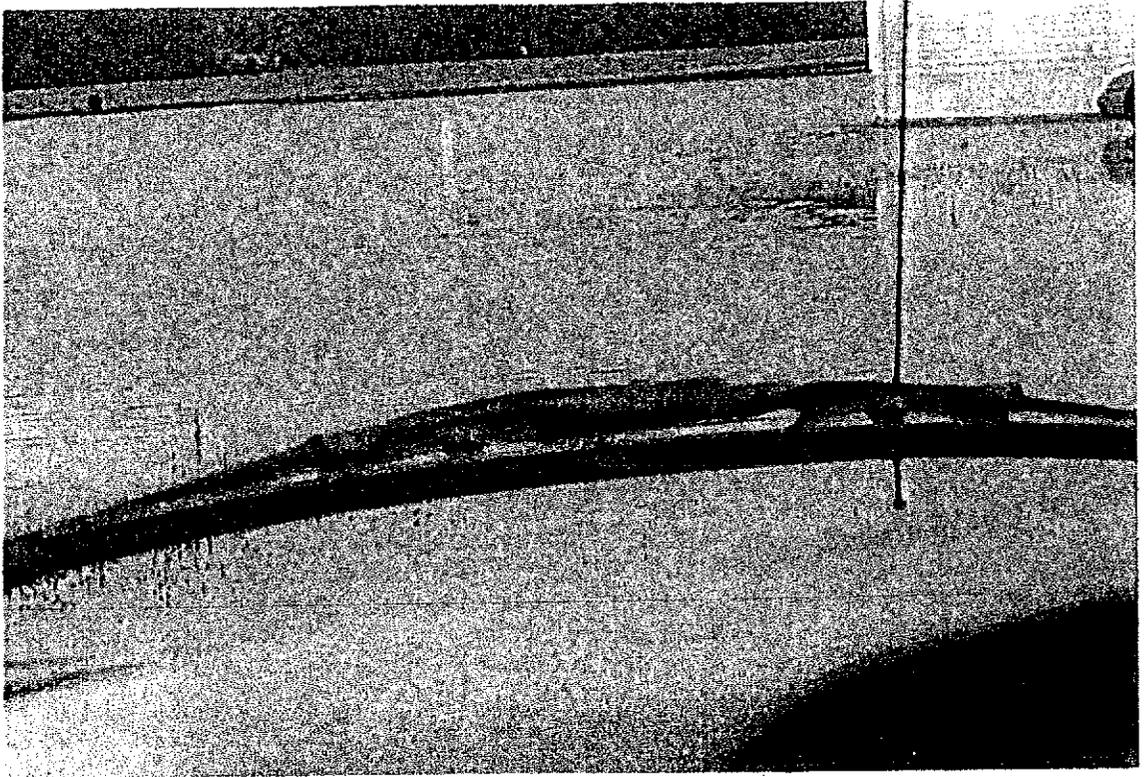


tabbles®
EXHIBIT
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EXHIBIT G
TO
AFFIDAVIT OF RITA K. SUHR

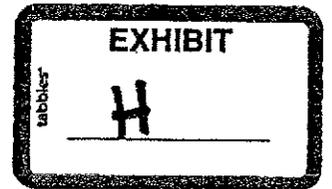
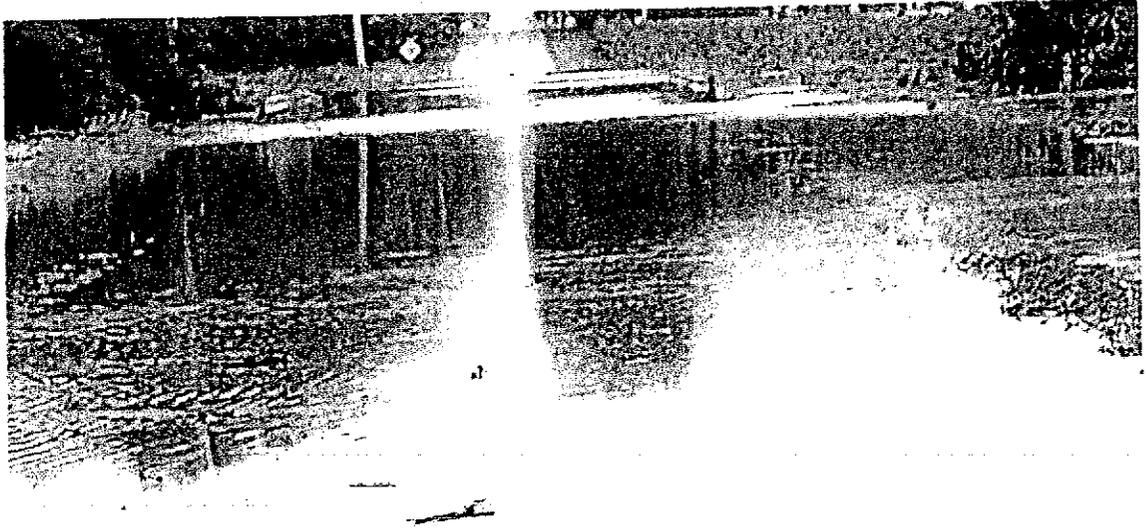
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EXHIBIT H
TO
AFFIDAVIT OF RITA K. SUHR

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DON000687

EXHIBIT I AND J
TO
AFFIDAVIT OF RITA K. SUHR

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EXHIBIT
I

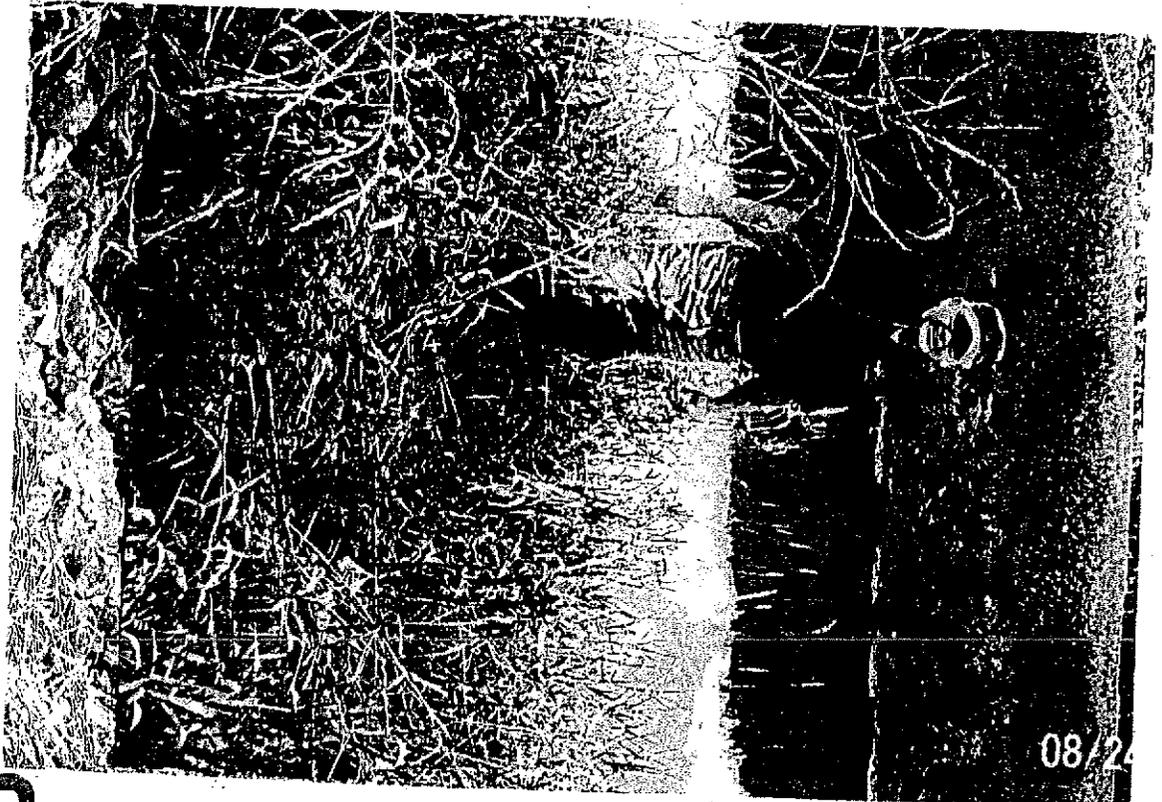


EXHIBIT
J

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EXHIBIT K AND L
TO
AFFIDAVIT OF RITA K. SUHR

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EXHIBIT
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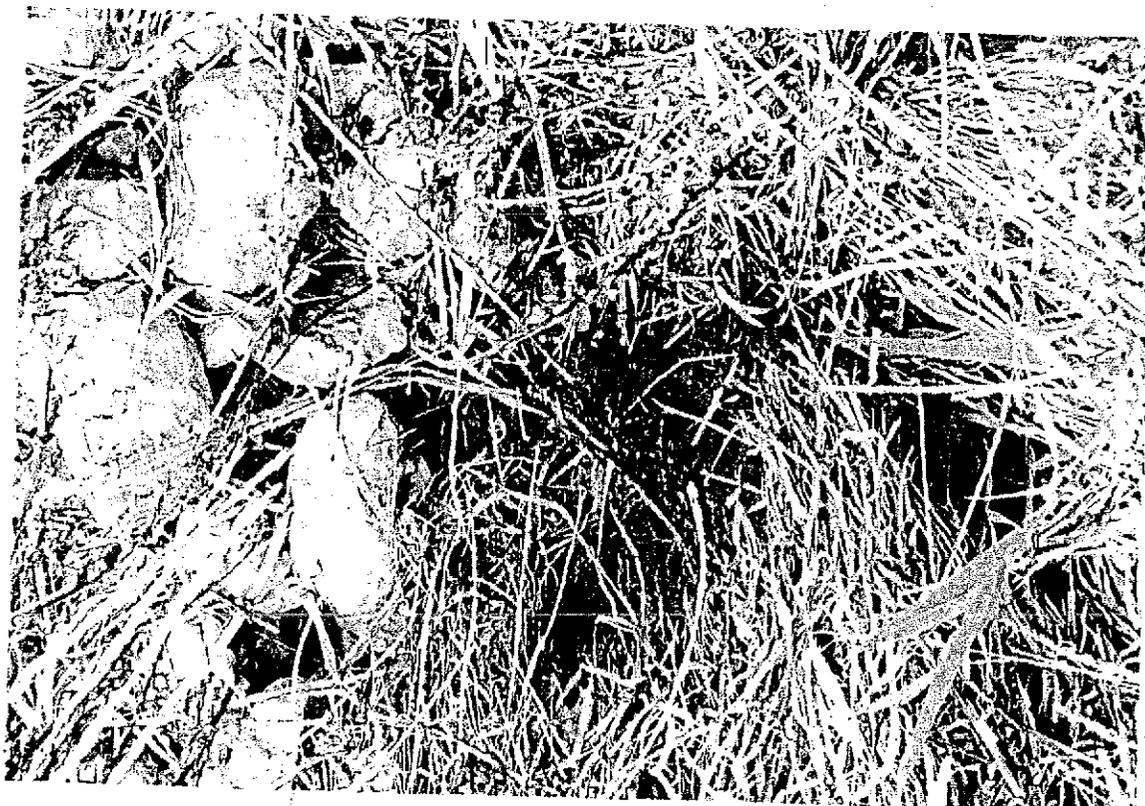
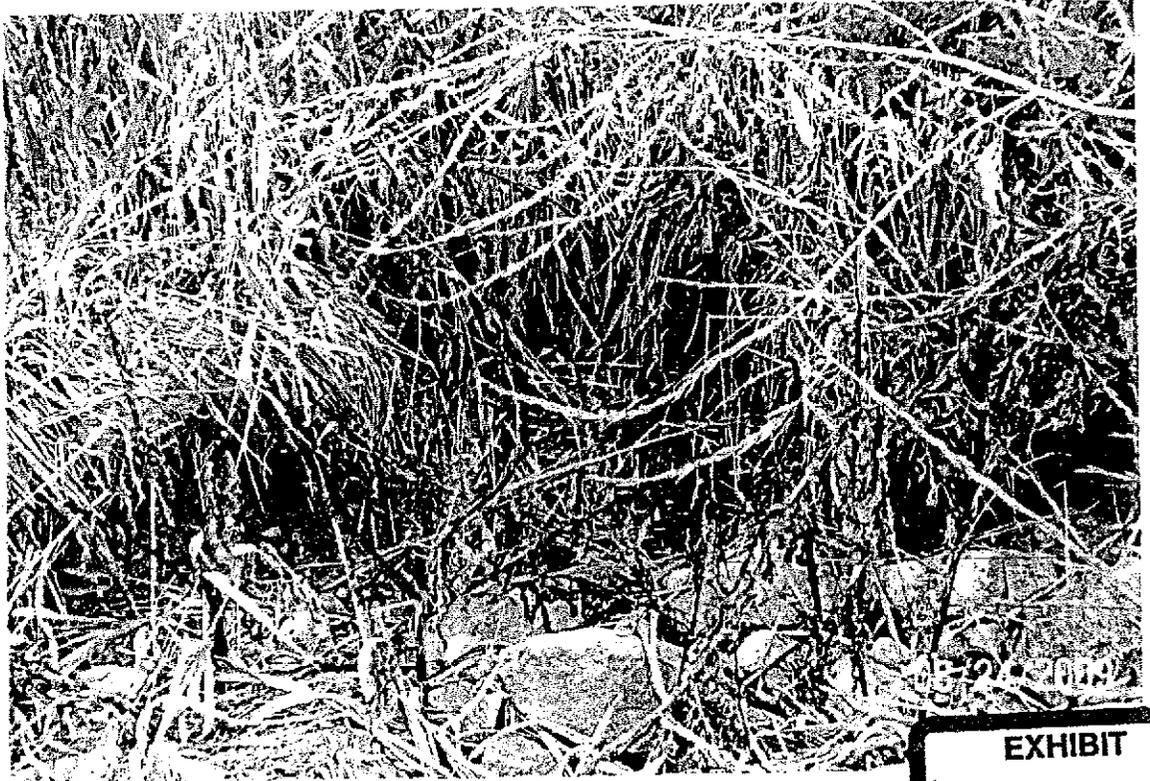


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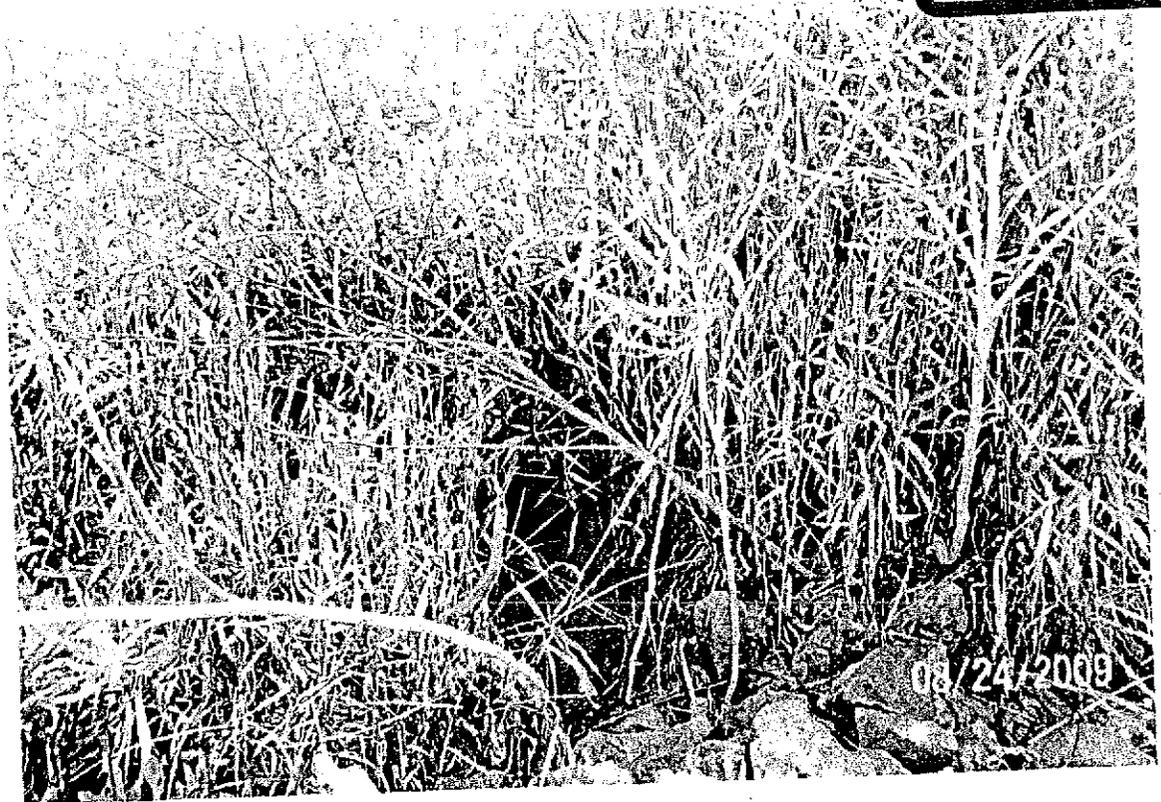
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EXHIBIT M AND N
TO
AFFIDAVIT OF RITA K. SUHR

DON000692



tabbies
EXHIBIT
M



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EXHIBIT
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EXHIBIT O AND P
TO
AFFIDAVIT OF RITA K. SUHR

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EXHIBIT
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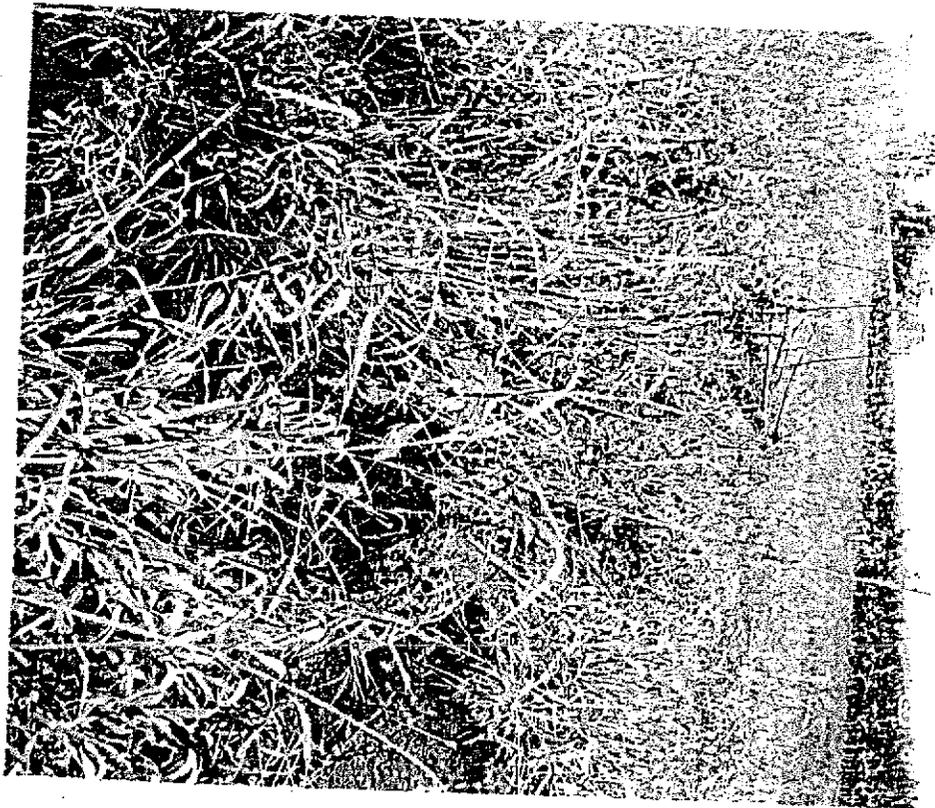


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EXHIBIT Q AND R
TO
AFFIDAVIT OF RITA K. SUHR

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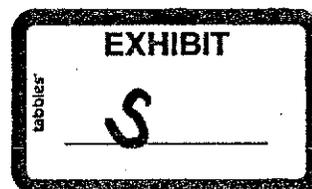
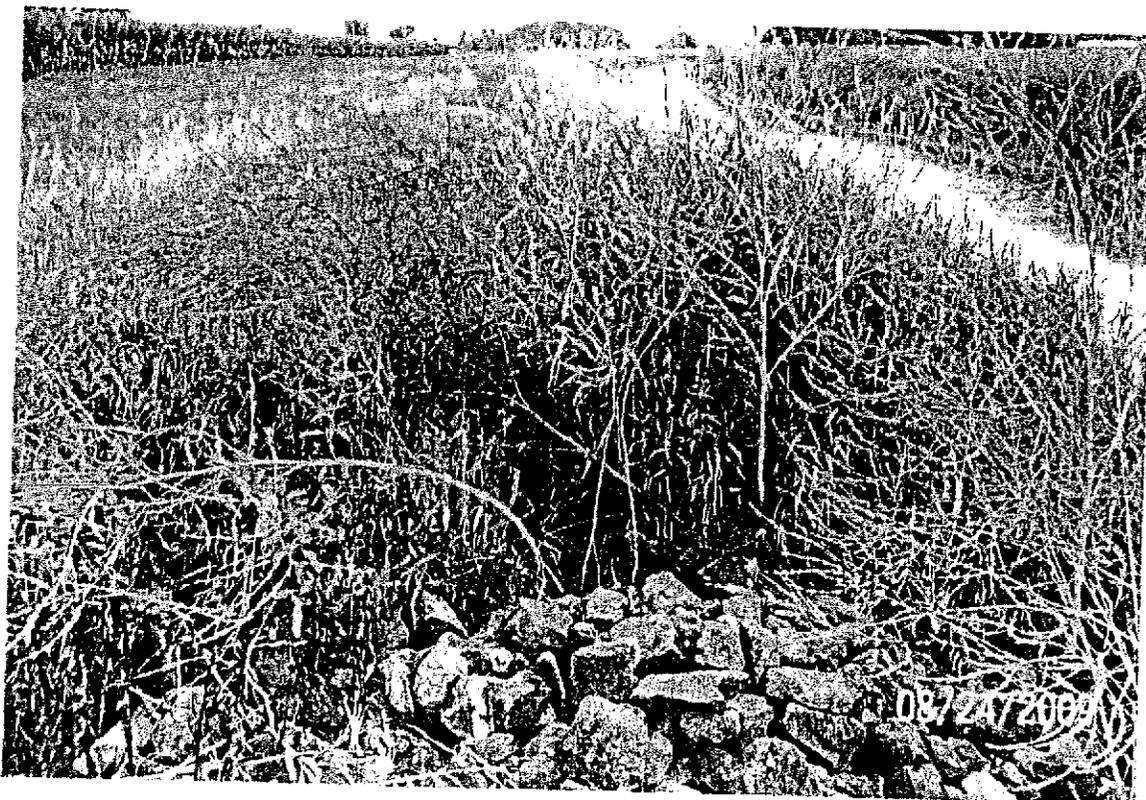


EXHIBIT
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EXHIBIT S
TO
AFFIDAVIT OF RITA K. SUHR

DON000698



DON000699

EXHIBIT T AND U

TO

AFFIDAVIT OF RITA K. SUHR

DON000700



EXHIBIT
T



EXHIBIT
U

DON000701

GARRETT APPRAISAL SERVICE



James A. Garrett, ARA, ASA
15 N. High Street
Lebanon, OH 45036
Phone and Fax (513) 932-0005

January 9, 2008

Mr. and Mrs. David Suhr
7241 Township Line Road
Celina, OH 45822

Dear Mr. and Mrs. Suhr:

I am doing appraisals for ODNR for flood easements on Beaver Creek and the Wabash River. The spillway changes, causing differences in flooding, was finished in 1997. My appraisals are as of December 2005 with the before valuation based on the old spillway water flow and, the after valuation based on the new spillway water flow. **I am not appraising any of your properties.**

I am researching some sales prior to 1997 to use as comparable sales. Some of the sales I am researching include land that flooded, and other sales researched did not flood but are from approximately the same time as the sales that had flooded. This is to help understand how the market valued the land that had flooded prior to 1997 compared to very similar land that had not flooded. This type of comparison will assist in my before valuation based on the old spillway conditions.

I need your help in verifying one of the older sales that I would like to use. I found in the courthouse records that Rita Kay Suhr purchased the 35.989 acres in Section 5 of Jefferson Township on the south side of Bunker Hill Road and north side of Beaver Creek east of Gause Road on September 1, 1995 for \$64,800 or \$1,801 per acre. I would like to talk with you to confirm the sale price and to find out if you have made any changes since your purchase that might not be obvious by looking at the property today. These changes might include tiling, removing buildings or clearing some woodland to create additional tillable land.

I would appreciate it if you would call me on my cell phone at 513-315-9131 so I might be able to talk with you about this sale in order to have the best information available or I will try to call you later this week or next week. Thanking you in advance for your help.

Sincerely,

GARRETT APPRAISAL SERVICE

DON001795

James A. Garrett, ARA, ASA

COPY

JAG/dgm

*Quasi bean/corn
Duck's / often more less*

*2 / 5 corn
4 / 12 bean*

*22-1995
22-1995
22-1995*

*Jan 1/14 - 2:10 P
Called back 2:10 P
8:24 called back for information*

Notes to attached with Garrett Appraisal Service
Jan-08

→ The water pours down the Beaver quicker and more often with more loss

→ Improvements since we purchased:
Grass filter strip
Cleaned part of a fence row
No tiling

The Friday ground is only good for raise beans and corn / Wheat would not have a chance with the spring rains, etc.

→ We expect at this time if we were to sale the land we would get 1/2 of the amount being along the Beaver compared to other land not next to the water
When you compare commodities of \$2.00 corn compared to \$5.00 now and \$4.00 beans compared to \$12.00 beans now and the crops gets stunned or is destroyed one can lose quite a hefty \$\$ amount.
Cannot raise wheat due to the spring rains, etc.

Bought private

DON001796

COPY

Books

Just

Sweep

Baths

mop

clothes → wk

Shower

Oranges & Juice

Lake

... ..

Water, new ... spillway

... ..

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Bridge

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DON001797

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COPY

... ..

... ..

Dave has lived in this area all his life - worse now then before the spillway
Doesn't remember the Beaver being high enough to flood

Rita lived closed to the lake on the west side / eyesight to 127 and never remembers the highway
closed due to water

State Route 127, Bob's, Medical Center is no different now then it was when I lived in town

I was devastated when Bob's T and the medical center was closed and the damage done.
Bobs nor the medical enter is at the same level when I lived in town - never got any lower.

When the spillway was developed they never thought about the neighbors - they had one thing
in mind - recreation on the lake.

They used to let the water go down in the lake over the winter - now they will not lower the lake -
they want to please the boaters. Who is providing more for the community? Boaters or farmers?

With the way the spillway is constructed it released water faster, to 127 to Beaver and floods more
acres more often.

Bridge was not changed to adjust to the flow of the water from the spillway

DON001798

COPY

CONSERVATION PLAN MAP

5

Date: 12/27/2007

Customer(s): DAVID J SUHR

District: MERCER SOIL & WATER CONSERVATION DISTRICT

Field Office: CELINA SERVICE CENTER

Agency: NRCS

Assisted By: James T Will

State and County: OH, MERCER

Legal Description: Section 32, Jefferson Twp.



*Flooded acreage is not in the
waterway area*

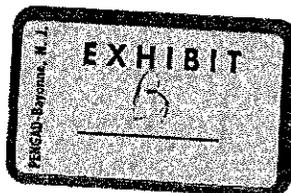
Legend

— Tile

— Grass Waterway

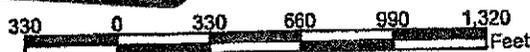


T6385_6386_CP8a_SU36



COPY

DON001799



Tab 59

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IN THE SUPREME COURT OF OHIO

- - -

STATE OF OHIO
EX REL., WAYNE T. DONER,
ET AL.,

CASE NO. 09-1292

VS.
SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693
AND
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

- - -

Deposition of CARL A. SUTTER,
Relator, was taken by the Respondents as on
cross-examination, pursuant to the Ohio Civil
Rules of Procedure at Central Service Building,
220 West Livingston Street, Celina, Ohio 45822, on
Tuesday, February 2, 2010, at 10:00 a.m., before
Terence M. Holmes, Professional Court Reporter,
and Notary Public within and for the State of
Ohio.

- - -

HOLMES REPORTING & VIDEO
982 Havensport Drive
Cincinnati, Ohio 45240
(513) 342-2088
(513) 342-1820 Fax
www.OhioDeposition.com

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C O N T E N T S

WITNESSES	DIRECT	CROSS
Carl Sutter	-	Mr. Vitale-4

E X H I B I T S

RESPONDENT'S	DESCRIPTION	MARKED
A	Affidavit of Carl A Sutter	16

1 APPEARANCES:

2 On Behalf of Ohio Department of Natural
3 Resources:

4
5 Dale T. Vitale, Esq., Chief
6 Environmental Enforcement
7 30 East Broad Street, Floor 25
8 Columbus, Ohio 43215-3400

9
10 On Behalf of Relators:

11 Thomas H. Fusonie, Esq.
12 and
13 Martha C. Brewer
14 Attorney at Law
15 Vorys, Sater, Seymour and Pease LLP
16 52 East Gay Street
17 Columbus, Ohio 43216-1008
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C O N T E N T S

WITNESSES	DIRECT	CROSS
Carl Sutter	-	Mr. Vitale-4

E X H I B I T S

RESPONDENT'S	DESCRIPTION	MARKED
A	Affidavit of Carl A Sutter	16

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CARL SUTTER

of lawful age, a witness herein, being first duly sworn, as hereinafter certified, was examined and deposed as follows:

CROSS-EXAMINATION

BY MR. VITALE:

Q. Good morning, Mr. Sutter.

A. Good morning.

Q. As I said, my name is Dale Vitale, and I'm here representing the Department of Resources and the State of Ohio in this case. Have you ever had your deposition taken before?

A. No.

Q. Okay. So this is kind of a strange experience for you. Well, I'm sure Mr. Fusonie has explained this to you, but it's really just asking some questions and getting some answers. If you don't understand any questions, just let me know, I'll try to repeat it, I'll try to be as clear as I can, and the one rule is that Mr. Holmes has to hear your answer, which shouldn't be too tough, since he's right there, but if you would audibly answer, that would be great.

Let me start by asking your current

1 name and address for the record?

2 A. Carl Sutter, 2840 Mud Pike, Celina,
3 Ohio, 28 -- Can't think of what our zipcode is.

4 Q. That's all right. And how long have
5 you lived at that address?

6 A. Forty-some years.

7 Q. And what is your occupation?

8 A. Farmer, repairman.

9 Q. Okay. The property, the address
10 that you gave, is that also the property that you
11 farm?

12 A. Yes.

13 Q. Do you own other property in Mercer
14 County, as well?

15 A. Yes.

16 Q. And where is that located?

17 A. Right within half a mile of the farm
18 in -- or that you have there.

19 Q. Is it contiguous or is there a
20 break?

21 A. No, there's other farmers in
22 between.

23 Q. Okay. How many -- do you know how
24 many parcels it actually is that you own?

25 A. Five.

1 Q. Okay. And you farm all five of
2 them?

3 A. Did all but the one, I rented it out
4 last year.

5 Q. Okay. What kind of crop?

6 A. They raise soybeans.

7 Q. Okay. And you, the same?

8 A. I raise corn, soybeans, and wheat.

9 Q. Do you rotate it?

10 A. Right.

11 Q. Okay. Did you inherit this property
12 or did you buy it?

13 A. I bought it.

14 Q. Okay. And that would have been back
15 in the '60's then?

16 A. Right.

17 Q. Who was the prior owner?

18 A. Dave Meyers.

19 Q. And he had also farmed this
20 property?

21 A. And he is a lawyer.

22 Q. Oh. When you farm it, do you farm
23 the same for the -- obviously for the parcel that
24 you farm, do you farm the same crop on all the
25 parcels or do you rotate parcel-by-parcel?

1 MR. FUSONIE: Objection.

2 A. Rotate.

3 Q. You rotate?

4 A. Yes.

5 Q. So you could have different crops in
6 the field, in the same year?

7 A. Not in the same year.

8 Q. Oh, okay. Where in relation to the
9 Wabash River and Beaver Creek is your property?

10 MR. FUSONIE: Are we talking about
11 all give parcels, where in relation to
12 each one is?

13 MR. VITALE: I suppose we could talk
14 about each one at the time, and let's
15 start to make it one question.

16 Q. Where in relation to the Wabash
17 River?

18 A. East of the Wabash River.

19 Q. About how far is the closest parcel?

20 A. The parcel that floods is about
21 three miles east of the Wabash River.

22 Q. Okay. And how close is that
23 particular parcel that you just described to the
24 Beaver Creek?

25 A. Beaver Creek runs through that

1 parcel.

2 Q. Okay. Does Beaver Creek run through
3 any of the other parcels?

4 A. No.

5 Q. Okay. And does the Beaver Creek run
6 -- I'm sorry. Did I just ask you whether Beaver
7 Creek runs through any of the parcels other than
8 than one?

9 A. Yes.

10 Q. Okay. Is this the only parcel that
11 has been susceptible to flooding of the parcels
12 that you own?

13 A. Right.

14 Q. Is the parcel a completely flat
15 field or is there any type of -- Well, let me ask
16 this way. Is there any type of ditch or other
17 natural break between the parcel in question and
18 Beaver Creek?

19 MR. FUSONIE: Objection as to form.

20 A. I don't understand that question.

21 Q. Okay. Where Beaver Creek runs
22 through this parcel, are there any other natural
23 barriers between the land you -- on the land --
24 excuse me -- on the land you own and Beaver Creek?

25 MR. FUSONIE: Objection.

1 A. I don't understand. What do you
2 mean as "barriers?"

3 Q. Are there trees between the creek
4 and --

5 A. No.

6 Q. -- the land that you farm?

7 A. No.

8 Q. Is there a ditch?

9 A. There is a small ditch that runs
10 through the farm.

11 Q. Okay. How close to the creek are
12 you able to plant crop effectively?

13 MR. FUSONIE: Objection.

14 A. You can plant within all, about 10
15 feet.

16 Q. Do you have field tiles on this
17 particular parcel?

18 A. No.

19 Q. Do you have field tiles on any of
20 your parcels?

21 A. Yes.

22 Q. Why would this one not have any
23 field tiles?

24 A. Because it floods so much the tiles
25 wouldn't do no good.

1 Q. The tiles aren't designed to carry
2 the water off the parcel?

3 A. They're designed to carry it off but
4 not as fast as it floods.

5 Q. How often does this parcel flood?

6 A. At least once a year.

7 Q. Is there a particular time of year
8 or is it just --

9 A. No, whenever we have a heavy rain.

10 MR. FUSONIE: Let 'em ask his full
11 question first before you answer,
12 Mr. Sutter. I know you'll be able to
13 anticipate a lot of, you know, the
14 questions, but so that the court reporter
15 is able to take down everything that's
16 said, allow 'em to ask the full question
17 first.

18 Q. Do you till the parcel when you farm
19 it?

20 A. No till.

21 Q. You use no-till farming?

22 A. Right.

23 Q. How long have you used that
24 particular technique?

25 A. About five years.

1 Q. Have you found it more successful
2 than using a till technique?

3 A. Saves fuel.

4 Q. What about your yield?

5 A. The yield is about the same.

6 Q. Do you have any other easements on
7 your property, on this particular parcels? Excuse
8 me, we're gonna focus on the particular parcel in
9 question. Do you have any other easements on this
10 parcel?

11 A. What do you mean by "easements?"

12 Q. People who have other rights to
13 utilize the parcel?

14 A. No.

15 Q. Okay. There is no utility that
16 passes through?

17 A. No.

18 Q. Okay. Have you ever participated in
19 the Conservation Reserve Program utilizing this
20 parcel?

21 A. No.

22 Q. Do you purchase crop insurance for
23 the crop on this parcel?

24 A. Yes.

25 Q. And that crop insurance, is that --

1 | who do you purchase that through?

2 | A. Dan Gilbert Farms.

3 | MR. FUSONIE: How do you spell that,
4 | if you know, off the top of your head?

5 | Q. Do you purchase crop insurance for
6 | any of the other parcels?

7 | A. Yes.

8 | Q. Have you made claims on that
9 | insurance on the basis of this particular parcel
10 | that the creek runs through?

11 | A. In what period?

12 | Q. Since 1997?

13 | A. I think once.

14 | Q. Do you happen to remember what year
15 | this was?

16 | A. Not for sure.

17 | Q. When you purchased the property, did
18 | you have -- did you get title insurance for the
19 | purchase of this property?

20 | A. I don't understand what you mean.

21 | Q. Back in the '60s when you purchased
22 | the property from Mr. Meyers, was there a title
23 | insurance policy written as a part of that
24 | purchase?

25 | A. I don't understand what you mean by

1 "a title insurance policy."

2 Q. Okay. In real estate transactions
3 it is common for there to be insurance policy
4 acquired so that the persons lending you the money
5 know that you're getting what's called "good title
6 to the property." Do you remember if you had
7 title insurance?

8 MR. FUSONIE: Objection.

9 A. There were -- The bank made title
10 searches.

11 Q. Okay. At the time you purchased the
12 property, were you informed that this property was
13 within the flood plain of Beaver Creek?

14 A. No.

15 MR. FUSONIE: Objection.

16 Q. Were you informed it was within the
17 flood plain of the Wabash River?

18 MR. FUSONIE: Objection.

19 A. No.

20 Q. When the property does flood, how
21 long does it stay flooded?

22 A. Through the years it becomes like
23 it's taking longer every year for the water or the
24 ground to dry out for the water to get off of it,
25 and two to three weeks usually.

1 Q. Have you noticed anything different
2 about the drainage over the years in terms of
3 where it drains or how it drains? Now you talked
4 about the duration, but I'm asking you about where
5 or how it drains?

6 A. I can't see where there's any
7 difference in it.

8 Q. This particular parcel, is this the
9 parcel on which you also live?

10 A. No.

11 Q. Okay. Again, focused on the parcel
12 that does experience the flooding. Do you use it
13 for anything else other than farming?

14 A. No.

15 Q. Did you ever take any pictures of
16 any of the flooding?

17 A. No.

18 Q. Have you ever had your parcels
19 appraised since they, since your purchase of them?

20 A. Yes.

21 Q. And has their value increased?

22 A. From the time we bought it until now
23 it has increased, but it has also decreased from,
24 on account of the flooding.

25 Q. When did you notice the decrease?

1 A. This year when I put it up for
2 auction.

3 Q. Did you get any offers?

4 A. No.

5 Q. So you've indicated that it floods
6 about once a year, is that correct?

7 A. Right.

8 Q. Okay. Do you have -- in your mind,
9 do you know about how much rain it takes for the
10 flood to occur?

11 MR. FUSONIE: Objection.

12 A. I don't, no.

13 Q. Didn't never notice like a
14 particular amount of rainfall?

15 MR. FUSONIE: Objection.

16 A. Just a heavy rain.

17 Q. Okay. Outside of the time that you
18 made the claim on the crop insurance, have you
19 ever reported the flooding to any other government
20 officials?

21 A. No.

22 Q. Do you keep any records of your crop
23 yield?

24 A. No.

25 MR. VITALE: Excuse me for a second.

1 MR. FUSONIE: Sure.

2 (Affidavit of Carl A. Sutter, marked for
3 identification as Respondent's Carl
Sutter Exhibit A.)

4 MR. VITALE: We can go back on the
5 record.

6 Q. Mr. Sutter, you're taking a look at
7 something that's been marked as Respondent's
8 Exhibit A, do you recognize that piece of paper?

9 A. Yes.

10 Q. Is that a copy of an affidavit that
11 you provided for this lawsuit?

12 A. Yes.

13 Q. Is that your signature on the back
14 of it?

15 A. Yes.

16 Q. Okay. Taking a look at Paragraph 5,
17 which is the top back side of the page. Does that
18 refresh your recollection of when the one year
19 that you recalled earlier was a particularly heavy
20 flood?

21 A. 2003.

22 MR. FUSONIE: Objection.

23 Q. You think that might be accurate in
24 terms of which year it was?

25 MR. FUSONIE: Objection.

1 A. Right.

2 Q. Okay. And one other question with
3 regard to this. Take a look at Paragraph 4, at
4 the bottom of the page. You, in that paragraph,
5 indicate that 1997 there was a change, but earlier
6 you had indicated that the property flooded every
7 year?

8 MR. FUSONIE: Objection.

9 Mischaracterizing his testimony.

10 Q. Did the property flood before 1997?

11 A. I don't know.

12 MR. VITALE: Okay. I think that's
13 all the questions I have for Mr. Sutter
14 at this time.

15 MR. FUSONIE: Alrighty. You have
16 the right, if the state orders the
17 transcript that'll be prepared, you have
18 the right to review it for any typos or
19 errors that may be made in answering a
20 question. It's up to you to decide
21 whether to do that, but my advice is that
22 you say, yes, I will read the transcript.
23 Will you read the transcript?

24 MR. SUTTER: Right. I will read the
25 transcript.

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Carl A. Sutter
Carl A. Sutter

- - -
(At 10:30 a.m., the deposition concluded)
- - -

Martha C Brewer 3/15/10
MARTHA C. BREWER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

C E R T I F I C A T E

1
 2 STATE OF OHIO)
) SS:
 3 COUNTY OF MERCER)

4 I, Terence M. Holmes, the
 5 undersigned, a duly qualified and commissioned
 6 notary public within and for the State of Ohio, do
 7 hereby certify that before the giving of his
 8 aforesaid deposition, the said CARL A. SUTTER was
 9 by me first duly sworn to depose the truth, the
 10 whole truth, and nothing but the truth, that the
 11 foregoing is the deposition given at said time and
 12 place by said CARL A. SUTTER; that said deposition
 13 was taken in all respects pursuant to agreement
 14 and stipulations of counsel hereinbefore set
 15 forth; that said deposition was taken by me in
 16 stenotype and transcribed into typewriting by me;
 17 that I am neither a relative of nor attorney for
 18 any of the parties to this cause, nor relative of
 19 nor employee or any of their counsel, and have no
 20 interest whatever in the result of this action.

21 IN WITNESS WHEREOF, I have hereunto
 22 set my hand at Cincinnati, Ohio, this 6th day of
 23 February, 2010.

24 

25 My Commission Expires: Terence M. Holmes
 July 28, 2012 Notary Public - State of Ohio

~~Respondent~~
Respondents A
C. Sutter

AFFIDAVIT OF CARL A. SUTTER

STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Carl A. Sutter, I am over the age of 21, and I am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct. I state as follows:

1. I am a Relator in this mandamus action against Respondent Sean D. Logan, Director, Ohio Department of Natural Resources ("ODNR").
2. Specifically, I am an owner of real estate described as Mercer County Parcel Numbers 24-010300.0200, 27-015000.0402, 28-015300.0000, 28-016900.0000, 28-017100.0000, 28-018000.0000, and 28-016200.0000.
3. I own lands that lie adjacent to or near Beaver Creek and/or adjacent to or near the Wabash River near its confluence with Beaver Creek.
4. I own lands which, since ODNR replaced the western spillway of Grand Lake St. Mary's in 1997, are subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Marys.

~~Respondent~~
Respondent: A
C. Sutter

AFFIDAVIT OF CARL A. SUTTER

STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Carl A. Sutter, I am over the age of 21, and I am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct. I state as follows:

1. I am a Relator in this mandamus action against Respondent Sean D. Logan, Director, Ohio Department of Natural Resources ("ODNR").
2. Specifically, I am an owner of real estate described as Mercer County Parcel Numbers 24-010300.0200, 27-015000.0402, 28-015300.0000, 28-016900.0000, 28-017100.0000, 28-018000.0000, and 28-016200.0000.
3. I own lands that lie adjacent to or near Beaver Creek and/or adjacent to or near the Wabash River near its confluence with Beaver Creek.
4. I own lands which, since ODNR replaced the western spillway of Grand Lake St. Mary's in 1997, are subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Marys.

Tab 60

IN THE SUPREME COURT OF OHIO

STATE OF OHIO
EX REL., WAYNE T. DONER, et al.

vs. CASE NO. 09-1292

SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

and

OHIO DEPARTMENT OF NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

DEPOSITION of JUDITH ANN SUTTER, was
taken by the Respondents as on cross-examination,
pursuant to the Ohio Rules of Civil Procedure, and
pursuant to agreement of counsel, at the Central
Service Building, 220 West Livingston Street, Celina,
Ohio 45822, on Wednesday, February 10, 2010, at, 2:30
p.m., before Edna M. Hawkins, Professional Court
Reporter and a Notary Public within and for the State
of Ohio.

HOLMES REPORTING & VIDEO
982 Havensport Drive
Cincinnati, Ohio 45240
(513) 342-2088
(513) 342-1820
www.ohiodeposition.com

1 APPEARANCES:

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3

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Environmental Enforcement
30 East Broad Street, Floor 25
Columbus, Ohio 43215-3400

4

5

6

On Behalf of the Respondent:

7

Thomas H. Fusonie, Esq.
and

8

Martha C. Brewer,
Attorney at Law

9

Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus Ohio 43216-1008

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WITNESS:

1	Examinations	DIRECT	CROSS
2	By Mr. Vitale		4, 12
3	By Ms. Brewer	10	

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E X H I B I T S

8	RESPONDENT'S	DESCRIPTION	MARKED
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9	(None marked)		
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1 JUDITH ANN SUTTER
2 of lawful age, a Relator herein, called as on
3 cross-examination, being first duly sworn, as
4 hereinafter certified, was examined and testified as
5 follows:

6 CROSS-EXAMINATION

7 BY MR. VITALE:

8 Good afternoon, Mrs. Sutter.

9 THE WITNESS: Good afternoon.

10 MR. VITALE: I'm Dale Vitale and I'm
11 one of the attorneys representing the State
12 of Ohio in the lawsuit.

13 THE WITNESS: Um-hum.

14 MR. VITALE: I would ask, have you
15 ever had your deposition taken before?

16 THE WITNESS: No.

17 MR. VITALE: Well, you may have had a
18 chance to see that it's just, basically,
19 questions and answers --

20 THE WITNESS: Um-hum.

21 MR. VITALE: Just provide your best
22 answer and if I don't make my question
23 clear, please ask me to clarify it before
24 you answer it.

25 THE WITNESS: Okay.

1 MR. VITALE: Your counsel may object
2 to the question and then she can tell you
3 whether you should answer or not, but she's
4 allowed to make her objections as she see
5 fit.

6 THE WITNESS: Okay.

7 MR. VITALE: Okay.

8 Q. Could you state your full name and
9 address for the record, please.

10 A. Judith Ann Sutter, 2840 Mudd Pike,
11 Celina, Ohio.

12 Q. And how long have you lived in Mercer
13 County?

14 A. Sixty-seven years.

15 Q. How many parcels of land in Mercer
16 County do you own?

17 A. Five, I think --

18 Q. Do you know addresses of these
19 parcels?

20 A. Um-hum. I don't know the particular
21 address. I know the roads.

22 Q. Okay. That'd be fine. Could you give
23 us those for the record, please.

24 A. There's 112 acres on the corner of
25 Mudd Pike and Burville Road. There's 31 acres on the

1 corner of Mudd Pike and Erastus-Durbin. There's 40
2 acres on Mudd Pike and then there's also 58 acres and
3 65 acres on Mudd Pike.

4 Q. And do you live on any of these
5 parcels?

6 A. Yes, on the 40 acres.

7 Q. How many of these parcels are farmed?

8 A. All of 'em.

9 Q. And who farms the parcels?

10 A. We do.

11 Q. And your husband is Carl Sutter?

12 A. Yes.

13 Q. How long have you owned these parcels
14 of land?

15 A. The 40 acres we've owned for
16 approximately 40-some years. I'm not sure on the
17 other ones. The Burville and Mudd Pike since 1998
18 and I'm not sure on the other ones what dates those
19 were, they were acquired.

20 Q. Would they have been since '98 or
21 before '98?

22 A. Before '98.

23 Q. Before '98? So you haven't acquired
24 any land since 1998?

25 A. No.

1 Q. Of all of these parcels, are any of
2 them subject to flooding?

3 A. Yes.

4 Q. Which one?

5 A. The one on Burville and Mudd Pike.

6 Q. And how many acres is that one?

7 A. It's 112 total acres.

8 Q. What is the closest body of water to
9 that particular parcel?

10 A. The Beaver Creek.

11 Q. And do you know where Beaver Creek is
12 in relation to that particular parcel?

13 A. It runs right down through the center
14 of it.

15 Q. How many times has that parcel
16 flooded?

17 MS. BREWER: Objection, time frame.

18 Q. Well, since 1998, since you've owned
19 it?

20 A. Every year.

21 Q. Is there a particular time of year in
22 which it floods?

23 A. The spring.

24 Q. Do you remember any years in which it
25 was particularly bad?

1 A. Yes, in 2003 and 2005 were
2 particularly bad years.

3 Q. Does the flooding coincide with
4 precipitation events?

5 MS. BREWER: Objection.

6 A. I don't understand.

7 Q. Have you noticed that the flooding
8 occurs after a heavy rain?

9 MS. BREWER: Objection.

10 A. Yes.

11 Q. Were you familiar with this particular
12 parcel, the 112-acre parcel, before you bought it?
13 Had you seen it before?

14 A. Oh, yes!

15 Q. Do you know who owned it before?

16 A. Meyers, Mr. and Mrs. Meyers.

17 Q. Did they farm it?

18 A. I think they rented it out. They
19 didn't farm it themselves.

20 Q. But somebody did farm it?

21 A. Yes.

22 Q. Did the parcel flood before 1998?

23 A. At times.

24 Q. When you farm this parcel, do you
25 utilize crop insurance?

1 A. Yes.

2 Q. Have you made any claims on that crop
3 insurance due to flooding on this parcel?

4 A. Yes.

5 Q. Well, when did you do that?

6 A. That was in 2003.

7 Q. That's the only year you recall?

8 A. Yes. There could have been other
9 ones; I don't recall.

10 Q. Have you ever made a complaint about
11 the flooding to any governmental agencies?

12 A. No.

13 Q. Who owns the property immediately to
14 your east, if you know?

15 A. Their last name is Geier.

16 Q. Can you spell it as best you can.

17 A. G-E-I-E-R.

18 Q. And how about to your west?

19 A. It's the same, Geier.

20 Q. Other than 2003, can you give me a
21 statement of how long the property stays flooded when
22 it floods?

23 MS. BREWER: Objection.

24 A. I can't answer that for sure.

25 Probably a week or two at the most.

1 Q. And in 2003, how long did it stay
2 flooded?

3 A. It was around three weeks, possibly
4 longer.

5 Q. How far from Grand Lake St. Marys is
6 this property? Your best estimate in distance.

7 A. Eight miles.

8 Q. And I'm sorry, you told me the name of
9 the road, but what's the road that --

10 A. This property?

11 Q. Yes --

12 A. Burville and Mudd Pike.

13 Q. Has there been development on that
14 road since 1997?

15 MS. BREWER: Objection.

16 A. No.

17 MR. VITALE: I don't think I have any
18 other questions for Mrs. Sutter at this
19 time.

20 MS. BREWER: Okay. I have some
21 questions.

22 DIRECT EXAMINATION

23 BY MS. BREWER:

24 Q. How often has your property flooded
25 since you've owned it, if you can remember?

1 A. Every year, it will flood in the
2 spring.

3 Q. Okay. And do you know whether this
4 property flooded to that extent before 1997?

5 A. No, it did not.

6 Q. And how do you know that?

7 A. Because we lived in the area.

8 Q. Okay.

9 A. We're familiar with the ground.

10 Q. Okay. Has the flooding on the
11 property affected your ability to resell the
12 property?

13 A. Very much.

14 Q. And how so?

15 A. We had an auction; we couldn't get a
16 bid on it. We still have the property up for sale
17 and we can't even get an offer on it.

18 Q. Okay. Do you know how much the
19 properties are going for that are not flooding?

20 MR. VITALE: Objection. What
21 property?

22 Q. Properties in the area that are a
23 similar quality that do not flood, do you know how
24 much those are going for?

25 MR. VITALE: Objection.

1 A. In the range from 55-to-7500 an acre.

2 Q. And do you know how much you would be
3 able to sell your property for right now?

4 A. We couldn't get 38 out of it.

5 Q. Okay.

6 MS. BREWER: That's all.

7 RECROSS-EXAMINATION

8 BY MR. VITALE:

9 Q. When you purchased the property in
10 1998, you knew it was flooding; didn't you?

11 MS. BREWER: Objection.

12 A. No. The property had flooded, you
13 know, but nothing like it does now, no comparison.

14 Q. Why do you think it floods more now?

15 A. Because of the spillway. There is --
16 Nothing else has changed in our area.

17 Q. When was the spillway modified?

18 A. 1997.

19 Q. And you purchased the property in '98.

20 A. Yes.

21 Q. Do you know how much per acre you paid
22 in 1998?

23 A. I don't recall?

24 Q. When did the Geiers purchase their
25 property?

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A. Within the past couple years. I'm not sure.

MR. VITALE: No other questions.

MS. BREWER: Okay. You have the right to read and review your transcript and then sign it to ensure that everything that you said here was accurate and truthful or you can waive this right. I recommend to all of my clients that they take the opportunity to read it and sign it. Would you like to do that?

THE WITNESS: Yes.

MS. BREWER: Okay. Thank you.

- - -

(At 2:41 o'clock, PM, the deposition concluded.)

- - -

Judith Ann Sutter
Judith Ann Sutter

Martha Brewer 3/15/10

MARTHA C. BREWER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

Tab 61

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IN THE SUPREME COURT OF OHIO

- - -

STATE OF OHIO
EX REL., WAYNE T. DONER,
ET AL.,

CASE NO. 09-1292

VS.
SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693
AND
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

- - -

Deposition of GALE A. THOMAS,
Relator, was taken by the Respondents as on
cross-examination, pursuant to the Ohio Civil
Rules of Procedure at Central Service Building,
220 West Livingston Street, Celina, Ohio 45822, on
Thursday, February 4, 2010, at 10:30 a.m., before
Terence M. Holmes, Professional Court Reporter,
and Notary Public within and for the State of
Ohio.

- - -

HOLMES REPORTING & VIDEO
982 Havensport Drive
Cincinnati, Ohio 45240
(513) 342-2088
(513) 342-1820 Fax
www.OhioDeposition.com

1 APPEARANCES:

2 On Behalf of Ohio Department of Natural
3 Resources:

4
5 Daniel J. Martin
6 Assistant Attorney General
7 Environmental Enforcement
8 30 East Broad Street, Floor 25
9 Columbus, Ohio 43215-3400

10
11 On Behalf of Relators:

12 Martha C. Brewer
13 Attorney at Law
14 Vorys, Sater, Seymour and Pease LLP
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C O N T E N T S

WITNESSES	DIRECT	CROSS
Gale Thomas	Ms. Brewer-50	Mr. Martin-4

E X H I B I T S

RESPONDENT'S	DESCRIPTION	MARKED
A	Affidavit of Gale Thomas	7
B	Affidavit of Gale Thomas	8
C	Property Deed	31
D	Group of Graphs	33

1 GALE A. THOMAS

2 of lawful age, a witness herein, being first duly
3 sworn, as hereinafter certified, was examined and
4 deposed as follows:

5 CROSS-EXAMINATION

6 BY MR. MARTIN:

7 Q. Good morning, Mr. Thomas.

8 A. Good morning.

9 Q. I'm Daniel Martin, I'm representing
10 the State of Ohio, and as you observed with the
11 deposition of your wife, I just want to ask some
12 questions today about the complaint that was filed
13 against the state related to the alleged flooding
14 from St. Mary's, Grand Lakes St. Mary's and the
15 spillway. And as we did with your wife, I just
16 want to go over some of the basic ground rules for
17 depositions. Have you ever had your deposition
18 taken before?

19 A. No.

20 Q. Okay. The first thing we want to
21 emphasize as we did before is that because this is
22 a sworn statement you'll need to tell the truth to
23 the best of your ability, and because of that I
24 want to make sure we don't confuse you or mislead
25 you, so if there's any questions that are unclear

1 or you don't understand, feel free to ask me to
2 repeat the question or rephrase the question; do
3 you understand that?

4 A. Yes.

5 Q. And another point -- and you're
6 doing a good job so far as to respond with
7 affirmative answers so that to the court reporter
8 can and take those down. A yes or no or a
9 responsive answer. If you do a head nod or shake
10 your head or do, ah -- you know, like we get in
11 the habit of doing the ah-huhs and uh-uhs, it's
12 hard for the court reporter to translate that. So
13 when I ask a question, just keep that in mind.
14 And just another point, I forgot to mention this
15 with your wife, but if I ask a question, just let
16 me get my question out before you start to answer,
17 because we don't want to talk over each other,
18 because that also makes it hard for the court
19 reporter to get the record straight. So do you
20 understand that?

21 A. I think so.

22 Q. Okay. First, if you could just
23 read and spell your name into the record?

24 A. Gale Thomas, G-a-l-e T-h-o-m-a-s.

25 Q. Mr. Thomas, just want to begin by

1 asking you some questions about your educational
2 background. Can you tell me what level of school
3 you attended?

4 A. I attended about two years of
5 college.

6 Q. And high school graduate, I
7 presume?

8 A. Yes.

9 Q. And where did you go to high
10 school?

11 A. Rockford Ohio, Parkway High School.

12 Q. And where did you attend college?

13 A. Wright State University in Celina
14 Campus.

15 Q. Okay. And can you tell me what
16 courses you studied there?

17 A. They were pretty much general
18 courses.

19 Q. Did you take any science courses?

20 A. Some sciences, yes, biology.

21 Q. And besides Wright State, have you
22 taken any other courses, maybe not at a college or
23 educational institution, but maybe at seminars or
24 conferences that may be covered specialized
25 topics?

1 A. Like in agriculture are you
2 talking?

3 Q. That would be what I was thinking,
4 sir. If there's some you can describe if you took
5 any, like maybe extension courses or anything of
6 that nature?

7 A. No, I haven't.

8 Q. Sir, do you have any special
9 licenses of any type, and what I mean by that like
10 commercial driver license or maybe a engineering
11 certificate or anything of that nature?

12 A. No.

13 (Affidavit of Gale A. Thomas, marked
14 for identification as Respondent's -
 Gale A. Thomas - Exhibit A.)

15 Q. Mr. Thomas, the complaint filed in
16 this matter involves some real estate that you,
17 you and/or your wife own, and what I want to do
18 is, first, provide a document to you that we'll
19 mark as Exhibit A. And this document was -- it
20 was attached to the complaint that was filed in
21 this matter. And if you could, I want to direct
22 your attention to Paragraph Number 2, and it
23 describes several parcels of land. Do you have
24 that in front of you?

25 A. Yes.

1 Q. And what I want to do is, if you
2 could, identify for me which parcel or parcels
3 listed there are the one or ones that you're
4 claiming have had an impact because of the
5 spillway?

6 MS. BREWER: Objection.

7 A. I can't tell you from the number
8 alone.

9 (Affidavit of Gale A. Thomas, marked
10 for identification as Respondent's -
11 Gale A. Thomas - Exhibit B.)

12 Q. Okay. What we'll do then is let's
13 go to this other affidavit, we'll mark it as
14 Exhibit B. And this document, Mr. Thomas, let's
15 turn to last page. There's a number stamped at
16 bottom of the pages, if you see that, and the page
17 I'm talking about is the one that's stamped
18 DON000711, can you --

19 A. I'm not there yet?

20 Q. Okay. Sorry. Down in the lower
21 right-hand corner?

22 A. Okay. I see it, yes.

23 Q. And this appears to be a map
24 attached to another affidavit you did. Can you
25 identify whether this property is the one that
you're claiming was the property damaged by the

1 flooding?

2 A. That's the one, yes.

3 Q. I know the copy is pretty hard to
4 read there, but you're able, at least from this,
5 to be able to identify this as the --

6 A. Yes.

7 Q. Okay. Thank you. And if we go to
8 Paragraph 13, which is on Page 3 of that
9 affidavit, also 709 in the lower right-hand
10 corner. Paragraph 13 alleges that the flooding
11 caused by ODNR has substantially destroyed the
12 value of Mercer County Parcel number, and then
13 there's the number that says 28-013800.0000, and
14 do you see that?

15 A. Yes.

16 Q. Would you agree with me that that
17 is the parcel that is identified, also, on Page
18 711?

19 A. Yes.

20 Q. Okay. Thank you. Okay. Let's
21 stick with Exhibit B there, since we have that
22 out, and if we look at -- Go to the first page and
23 look at Paragraph Number 3. It states you've been
24 the owner of parcel 28-013800.0000 since 1988, is
25 that correct, sir?

1 A. That's right.

2 Q. How do you acquire this piece of
3 property?

4 A. I bought it off of a landowner.

5 Q. And do you recall the name of the
6 landowner?

7 A. Imogene Menchhofer.

8 Q. Can you, to the best your ability,
9 could you spell that last name if us, if you know?

10 A. I think it would be
11 M-e-n-c-h-o-f-f-e-r. (sic) (Imogene L. Menchhofer)

12 Q. Do you recall how much you paid
13 for that property?

14 A. I think it was 130,000.

15 Q. And when you bought that property
16 did the prior owner say anything to you if you
17 recall or give you any information if you can
18 recall about any flooding history?

19 MS. BREWER: Objection.

20 A. I never talked to her, I dealt through
21 a Realtor.

22 Q. Do you know, if you can recall, did
23 the Realtor provide you with any information at all
24 about any prior history of flooding?

25 MS. BREWER: Objection.

1 A. They probably did not.

2 Q. Do you recall if the Realtor or the
3 property owner if they gave you any, maybe a
4 paper, maybe something called disclosure statement
5 that would have described any defects on the
6 property?

7 MS. BREWER: Objection.

8 A. No.

9 Q. Since you've owned this property,
10 Mr. Thomas, can you tell me, to the best of your
11 recollection, how many times you've experienced
12 flooding?

13 MS. BREWER: Objection.

14 A. I can't tell you exactly. Since
15 1988, it's a long time.

16 Q. Was there any flooding between 1988
17 and 1997 that you can recall?

18 A. There was.

19 Q. Can you remember approximately
20 maybe what years there were flooding?

21 A. Well, I remember in '96 we had a
22 crop loss.

23 Q. How much of a crop loss in terms of
24 dollar loss?

25 MS. BREWER: Objection.

1 A. I can't recall what the loss would
2 have been.

3 Q. The '96 flooding that you
4 reference, was that on the parcel we've been
5 discussing?

6 A. Yes.

7 Q. Do you recall what portion of that
8 property was flooded in '96?

9 A. It was the back portion.

10 Q. You have to look at page, maybe at
11 Page 711 with that map?

12 A. It would be this portion, and it
13 came around here. This back portion was --

14 Q. Let me see if I can maybe give you
15 something to write with. See if this orange
16 marker works. If I don't want, sir, if you can
17 maybe outline the area that we were talking about
18 that flooded in '96?

19 A. This doesn't make much of a mark.

20 Q. It's not working. All right.
21 Try this yellow marker instead.

22 A. It's not doing much. I guess maybe
23 you can see it. This area here and small area
24 along here.

25 Q. Is it smaller area than what's

1 outlined in black?

2 A. Oh, yes.

3 Q. So then the area that's outlined in
4 black there, can you tell me what in a represents?

5 A. That was the flood that we had in
6 '03.

7 Q. Okay. So on Page 711, the area on
8 the map that's in black, that represents what you
9 recall is the area that flooded in 2003?

10 A. Um-hum.

11 Q. And then in '96 a portion of that
12 was flooded but not --

13 A. Not as much.

14 Q. The same amount?

15 A. No.

16 Q. Would you say it was about half as
17 much?

18 MS. BREWER: Objection.

19 A. Somewhat over one half.

20 Q. Do you have like maybe a specific
21 amount of acreage that has been calculated, you
22 know, sort of the difference between the two or
23 not?

24 A. No, I don't.

25 Q. Okay. Do you have an estimate?

1 MS. BREWER: Objection. Are you
2 asking him an estimate of how much
3 flooded in '96?

4 Q. Compared to what's shown in black
5 for 2003 what the differential would be?

6 MS. BREWER: Objection.

7 A. That would be a guess on my part.

8 Q. Okay. Well I don't want you to
9 guess, but would it just be fair to say then that
10 there was a portion of the property flooded in
11 '96, but in 2003 during that flood it was a larger
12 percentage of the parcel that was flooded?

13 A. Yes, it was larger in '03.

14 Q. Do you recall if in '03 did the
15 area that was flooded, did it stay flooded longer
16 than '96?

17 A. Yes, it did. The higher the water
18 gets the longer it takes to drain off.

19 Q. Do you know what the depth of the
20 flooding was in 2003?

21 A. I'm going to say it was 6 feet.

22 Q. In 1996 do you have a ball-park
23 estimate of what it was?

24 A. It wouldn't have been that deep, I
25 would say possibly four.

1 Q. Okay. Besides the flood we talked
2 about in '96, do you recall any other flooding
3 incidents prior to 1997 since you've been owner of
4 the property?

5 MS. BREWER: Objection.

6 A. Not specifically.

7 Q. But there were some other floods?

8 A. Yes.

9 Q. And let's say after 1997 we talked
10 about the flood in 2003, were there other episodes
11 of flooding after '97 that you recall?

12 A. Yes. Well, crop loss, floods or?

13 Q. Well, let's say any type of flood?

14 A. Okay. It flooded last spring in
15 like March we had people, we planted this past
16 spring, we cleaned up sticks and brush for -- took
17 us a day.

18 Q. March of '09, sir?

19 A. Yes.

20 Q. Okay.

21 A. There were other years. In fact,
22 it all most floods every winter during the winter,
23 but we're not so concerned with that as we are
24 with crop losses?

25 Q. Do you experience any crop loss in

1 2009?

2 A. Yes, I did.

3 Q. Can you identify for me, if you
4 can, sort of the amount of that loss --

5 MS. BREWER: Objection.

6 A. -- in terms of -- we'll say in term
7 of dollars?

8 MS. BREWER: Objection.

9 A. No.

10 Q. How about in acreage, any, any
11 information about how many acres of crops were
12 lost in '09?

13 A. I have to tell you in '09 we didn't
14 have, we didn't lose a crop by flood.

15 Q. Oh, I'm sorry.

16 A. It was a drought year.

17 Q. Okay. So the '09 loss is from
18 drought?

19 A. Right. Actually to be truthful,
20 '09, '08 and '07 were all dry years, it hardly
21 rained all summer.

22 Q. Besides March of '09, flooding we
23 talked about in '08 or '07, was there any flooding
24 those years?

25 A. Over the winter months there was.

1 Q. Winter months?

2 A. Yes.

3 Q. If you can recall, sir, what months
4 in the winter was there flooding?

5 A. I can't recall specific months.

6 Q. I would guess though that there's
7 probably no crop loss involved with that flooding
8 then?

9 A. No.

10 Q. Let's flip to your affidavit, sir,
11 it's exhibit, Exhibit B, that affidavit. If we
12 could look at -- Let's go to Paragraph 10. It's
13 on the lower right, it would be stamp Page 708,
14 also Page 2, and looking at Paragraph 10, there is
15 an indication there that in 2005 there was
16 flooding so extensive that it flooded the first
17 five roads across Beaver Creek west of the
18 spillway. Do you remember that flood in '05?

19 A. Yes.

20 Q. And did that in fact happen that
21 the roads had flooded over?

22 MS. BREWER: Objection.

23 A. Yes.

24 Q. Were those public roads or were
25 they private roads?

1 MS. BREWER: Objection.

2 A. I would say public roads.

3 Q. So you didn't -- I mean you and
4 your wife did not have any roads or driveways
5 damaged then as a result of that flooding?

6 MS. BREWER: Objection.

7 A. No.

8 Q. You recall if in 2005, Mr. Thomas,
9 if your property suffered any crop loss as a
10 result of that flood?

11 A. Other than the debris and the
12 branches and the sticks, I don't think we lost a
13 crop in '05.

14 Q. And did you have to clear that
15 debris off?

16 A. Yes, we did.

17 Q. And did you incur any cost or
18 expense in doing that?

19 A. Just my personal labor and farm
20 machinery or tractor, loader.

21 Q. So you didn't have to hire someone
22 to --

23 MS. BREWER: Objection.

24 A. I didn't hire anyone.

25 Q. Let's go to Paragraph 12, it's on

1 the next page. And again we're talking about
2 parcel number 28-013800.0000. This paragraph,
3 sir, it indicates that parcel suffered various
4 types of damage, and I just want to go over each
5 of these with you and ask you what, you know,
6 facts or information you have about each of the
7 different issues here. Talk about crop loss, can
8 you tell me which specific flooding incidents
9 resulted in the crop loss for you?

10 A. I think I had a crop loss in '02
11 and '03, and I think, also, '98.

12 Q. Okay. And we're talking a crop
13 loss related flooding, right?

14 A. Yes. Actually those were the years
15 that I got insurance, I think.

16 Q. Were there other years that maybe
17 you didn't get an insurance claim in that involved
18 crop loss?

19 A. There were but I'm -- I don't know
20 which years.

21 Q. And let's just talk about '03.
22 That was the year that you submitted an insurance
23 claim, is that correct?

24 A. Yes.

25 Q. Do you recall if that claim was

1 honored?

2 A. Yes, it was.

3 Q. If you can do you recall what
4 compensation you received?

5 A. I can't recall.

6 Q. And what about '02, did you receive
7 any proceeds that year?

8 A. I think I did.

9 Q. And '98, same question?

10 A. I think so.

11 Q. Okay. What about field and bank
12 erosion, can you talk to me about any, you know,
13 facts or information that you could provide about
14 that damage?

15 A. There has been bank erosion that I
16 have put riprap in to repair.

17 Q. And what year did you put the
18 riprap in?

19 A. 2008.

20 Q. And was there cost or associated?

21 A. No, I had concrete that I'd put in
22 there.

23 Q. And why did you put the riprap in?

24 A. 'Cause it cut a large gully through
25 the bank and I tried to prevent further erosion.

1 Q. Do you have anyone give you any,
2 let's say, technical or design assistance --

3 A. No.

4 Q. -- with doing that?

5 MS. BREWER: Objection.

6 A. No.

7 MS. BREWER: And I want you to let
8 me jump in, you know, to pause for a
9 moment so I can make an objection. I
10 don't want to talk over you.

11 Q. So it was that project, you were
12 just able to do it yourself with some concrete?

13 A. Yes.

14 Q. And just so I'm clear, the bank
15 that we're talking about is this the Beaver Creek?

16 A. Yes.

17 Q. And anything else besides the
18 riprap, we talked about any other facts or
19 information that you can tell me about that
20 documents damage related to field and bank
21 erosion?

22 MS. BREWER: Objection.

23 A. No.

24 Q. And we talked about -- I think we
25 talked about deposits of debris such as branches,

1 | fire wood, tree trunks, trash and bottles, and it
2 | says that must always be removed. So is that a
3 | problem that, let's say, happens on a yearly
4 | basis?

5 | A. Yes.

6 | Q. Does it happen a certain time of
7 | year usually?

8 | MS. BREWER: Objection.

9 | MR. THOMAS: Should I answer that?

10 | MS. BREWER: You can answer that.

11 | Are you asking about when does the
12 | debris get deposited or when did he have
13 | to remove it?

14 | Q. When does the debris get onto your
15 | property?

16 | A. Whenever the water overflows the
17 | banks. We generally have to pick it up before we
18 | plant each spring.

19 | Q. Do you recall back in the '96 flood
20 | incident that -- did you have that same problem
21 | then?

22 | A. Yes.

23 | Q. Okay. And look at Paragraph 14,
24 | it's the last one there. I just want to go over
25 | that with you. It says "I believe that the

1 | intermittent, continuing, persistent, frequent,
2 | and increased severe flooding from the western
3 | spillway of Grand Lakes St. Mary's will inevitably
4 | recur as a result of ODNR's replacement of the
5 | western spillway and ODNR's current management
6 | practices." I guess, first, I want to do, if you
7 | could tell me what your understanding is in your
8 | statement here that the flooding is intermittent?

9 | MS. BREWER: Objection.

10 | A. I think that means it will happen,
11 | could happen tomorrow or next week or week after.

12 | Q. Okay. And what about continuing?

13 | MS. BREWER: Objection.

14 | A. I think it means it will continue
15 | to happen.

16 | Q. And how do you know that?

17 | MS. BREWER: Objection.

18 | Q. How do you know, I mean what's your
19 | source of information for knowing that it's gonna
20 | continue to happen?

21 | A. Well it has in the past, every time it
22 | rains couple inches it floods.

23 | Q. And when it rains a couple inches
24 | and it floods, do you have the same damages every
25 | time it happens or not?

1 A. No. If the lake level is low we
2 have less water to contend with, but if it's right
3 at the notch and we get 2 inches of rain, we're
4 gonna have a flood.

5 Q. Then that's when you have the
6 flood?

7 A. Um-hum.

8 Q. And what about "persistent?"

9 MS. BREWER: Objection.

10 Q. What's meant by that?

11 A. I think that means that it will
12 continue to happen.

13 Q. And "frequent," does that mean
14 something different or?

15 MS. BREWER: Objection.

16 Q. What's your understanding of what
17 that means?

18 MS. BREWER: Objection.

19 MR. THOMAS: Should I answer that?

20 MS. BREWER: You can go ahead and
21 answer.

22 A. I guess it means frequent.

23 Q. It's gonna happen a lot?

24 A. More often more than -- Yeah, often
25 than it has happened in the past.

1 Q. Okay. And increased, severe
2 flooding, does that -- does that indicate that you
3 believe it'll, it'll be more flooding and it'll be
4 severe as opposed to not being severe?

5 MS. BREWER: Objection.

6 A. Severe is -- flooding is always
7 severe if there's crop to be lost.

8 Q. Now there's some floods that are
9 less severe than others?

10 MS. BREWER: Objection.

11 A. Well if we have a smaller flood it
12 doesn't cover as big of an area, because the land
13 top up -- it gets higher, it doesn't cover as many
14 acres.

15 Q. Can you tell me, sir, and I know
16 you've been farming for a while, can there be
17 water in the field and not be crop loss?

18 A. Yes.

19 Q. How bad does the water level have
20 to be before typically there's a crop loss?

21 MS. BREWER: Objection.

22 A. It depends on the stage of
23 development of your crop.

24 Q. Is there certain stages where
25 flooding can cause more damage than other stages?

1 A. Yes.

2 Q. What's the worse stage for
3 flooding?

4 MS. BREWER: Objection.

5 A. Later in the season.

6 Q. So let's say if you have a flood in
7 July, is that potentially more damaging than one
8 in, say, May?

9 A. Yes.

10 Q. And again I'm not a farmer, sir, so
11 you can probably help me with understanding some
12 of these issues, but how long would, say, a corn
13 crop have to be under water before it's totally
14 destroyed?

15 MS. BREWER: Objection.

16 A. That would -- again, that would
17 depend on the development, but if it's gets over
18 the world, the corn, it only takes one day.

19 Q. So if it's basically gets over to
20 the, like up to the top, then after a day it's
21 gone?

22 A. It's gone.

23 Q. It's gone?

24 A. Yeah.

25 Q. Actually if we could, if we would

1 stick with that Paragraph 14. Can you tell me,
2 sir, you know, the statement there makes reference
3 to the flooding being caused by ODNR's replacement
4 of the western spillway and current management
5 practices. Can you tell me how you came to the
6 conclusion that the problems we talked about are
7 only related to the replacement of the spillway
8 and the management practices?

9 MS. BREWER: Objection.

10 A. Well the old spillway was only 39
11 and a half feet. This new one when it's above
12 going over the top you've got 500 feet. It's
13 draining into this creek that was probably -- it
14 was -- probably could handle most of the floods at
15 the small spillway, but now you've got
16 uncontrolled water.

17 Q. Have you personally observed the
18 Beaver Creek when, when these floods occurred?

19 A. Oh, yes, I have.

20 Q. Can you describe for me how it look
21 -- it come up out of the banks obviously, is it
22 flowing water or standing water?

23 MS. BREWER: Objection. Do you
24 have a time that you're talking about?

25 Q. Any time?

1 MS. BREWER: Any time he's ever
2 seen the river?

3 Q. Yes, when it's flooded?

4 MS. BREWER: Objection. To the
5 extent that you understand what he's
6 asking, you can answer.

7 A. It flows over top of the banks.

8 Q. And when it flows over the tops of
9 the banks does it -- you know, does it have -- you
10 know, if you can tell me, does this happen
11 gradually or does it just happen like a rush
12 or --

13 MS. BREWER: Objection.

14 A. In a very big flood it goes over
15 very fast.

16 Q. And how many times have you seen
17 that happen?

18 MS. BREWER: Objection.

19 A. I've seen it happen that way at
20 least twice.

21 Q. And when would that have been?

22 A. In '03 and '05.

23 Q. '03 and '05. And besides what
24 we've talked about here, you know, just knowledge
25 and personal observations, are there any other

1 facts that, you know, you believe demonstrates
2 that the spillway changes contributing to the
3 problems we talked about?

4 MS. BREWER: Objection.

5 A. It just dumps out too much water
6 too fast.

7 Q. Have you seen any measurements on
8 how much water it dumps out?

9 A. No.

10 MS. BREWER: Objection.

11 Q. Do you have any engineering studies
12 or reports that show that it's dumping out too
13 much water that's too fast?

14 MS. BREWER: Objection.

15 A. No.

16 Q. If we move up to Paragraph 13.
17 Statement says that the flooding caused by ODNR's
18 substantially destroyed the value of Mercer County
19 parcel number 28-013800.0000. What information do
20 you have that would help us understand what the
21 value would be that's been lost?

22 MS. BREWER: Objection.

23 A. I don't have any.

24 Q. If you could, can you tell me how
25 you came to the conclusion that the value of the

1 parcel was substantially destroyed?

2 A. I can't tell you.

3 Q. Is there any portion of the parcel
4 that you're not able to use for farming because of
5 the floods?

6 A. We have a CRP dealing with the
7 farm.

8 Q. And if we turn to that page with
9 the map on it. Can you identify for us, I'll try
10 a pen here, maybe might be able to mark it where
11 that strip is at?

12 A. It lies right along the beaver
13 approximately like that, comes around this. It
14 goes like that.

15 Q. Let's take a look and see.

16 A. It's the area right next to the
17 ditch.

18 Q. Oh, it's the area between here and
19 here is that the strip?

20 A. Yes, this area here, goes all the
21 way around.

22 Q. And when did you start utilizing
23 that in the CRP program?

24 A. I did it two different times. I
25 did a narrow strip. There's a filter strip right

1 on the ditch bank. I can't tell you exactly, like
2 in '95 maybe in that time frame.

3 Q. Okay.

4 A. They built the spillway, and I got
5 concerned that we'd have more loss, so at that
6 time they allowed you a maximum filter strip of
7 300 feet, so I had added to that, I'm thinking in
8 '97.

9 Q. Okay. So you think in '97 you
10 expanded that to 300 feet?

11 A. I went the maximum, yes.

12 Q. Okay. And besides that filter
13 strip, are there other facts or information that
14 you believe shows that the value of that parcel
15 has been substantially destroyed because of the
16 flooding?

17 MS. BREWER: Objection.

18 A. I don't know of anything else.

19 (Deed, marked for identification
20 as Respondent's - Dale Thomas -
Exhibit C.)

21 Q. Thank you. Done with that
22 document. Okay. Mr. Thomas, I'm handing you a
23 document that's been marked Exhibit C. And after
24 worried about spelling that name, here is a
25 document that has it on it. If you could take a

1 | look at this for a moment, then I'll ask you some
2 | questions. And, sir, this looks to be a deed, and
3 | if you can tell me, sir, does this deed describe
4 | the parcel of land that we've been talking about
5 | that's been impacted?

6 | A. Yes, it does.

7 | Q. And sitting here today is the
8 | description still accurate as far as, you know,
9 | describing the boundaries of the land?

10 | MS. BREWER: Objection.

11 | A. Yes, it is.

12 | Q. So you haven't sold of any lots or
13 | anything?

14 | A. No.

15 | Q. And the folks that you bought this
16 | from, do you have any recollection of whether they
17 | talked to you or talked to you at all about
18 | whether they had experienced any flooding issues?

19 | MS. BREWER: Objection.

20 | A. I never talked to those people.

21 | Q. Just through the real estate agent?

22 | A. Um-hum.

23 | Q. And I asked your wife this, but I
24 | just want to make sure I ask you, as well. This
25 | property, it was purely farm land, is that right?

1 A. That's right.

2 Q. There's no house on this?

3 A. No, they sold the off before we
4 bought it.

5 Q. And besides farming, have you, sir,
6 used the properties for any other type of use?

7 A. No.

8 MS. BREWER: Objection.

9 (Group of graphs, marked for
10 identification as Respondent's -
Gale Thomas - Exhibit D.)

11 Q. Have another document. And this,
12 sir, is a group of documents provided to us from
13 your attorneys, and down at the bottom right-hand
14 corner these, these have the old numbers stamped
15 on 'em, so I'll try to refer to those since that
16 provides a page number for all the pages in this
17 set. And the first one here, the front one 18,
18 Page 1839, can you tell me what this is, sir?

19 A. That is a summary of my loss for
20 crop insurance.

21 Q. And can you tell me what year this
22 claim would have been made?

23 A. It was for the '08 crop.

24 Q. I'm sorry, I didn't want to cut you
25 off?

1 A. The '08 crop.

2 Q. Okay. And when we were talking
3 about this earlier, was the -- the '08 crop that
4 was a drought loss, is that right?

5 A. Right, and that's not a flood.

6 MS. BREWER: Just to be clear for
7 the record, is this the entire stack of
8 documents produced on Mr. Thomas'
9 behalf, do you know?

10 MR. MARTIN: As far as I can tell.

11 MS. BREWER: Okay.

12 Q. And let's look at the page, next
13 page 1840. Can you tell me what, if you know,
14 sir, what this document is?

15 A. It's a payment from my CRP.

16 Q. Is that -- that's the strip that we
17 talked about earlier?

18 A. Yes, it is.

19 Q. And if you would, CRP stands for,
20 stands for what?

21 A. Conservation Reserve Program, I
22 believe.

23 Q. I wasn't sure myself so that's why
24 I was asking. And if you would, can you just sort
25 of tell me if you know what the purpose of the CRP

1 is?

2 MS. BREWER: Objection.

3 A. It's to promote soil conservation.

4 Q. And is that program, you know,
5 voluntary?

6 A. Yes, um-hum.

7 Q. Let's turn to the next page, it's
8 1841. Is that -- Is that -- Do you know if this
9 is for the same property, 'cause they both look
10 like they are dated '09?

11 A. It's same property.

12 Q. And do you know, sir, why they have
13 two different amounts here for what they're paying
14 you?

15 A. It goes back to that -- my original
16 small filter strip along the beaver, and then when
17 they built the spillway I increased it, so I did
18 that in two different sign-up periods.

19 Q. Okay. I understand. So it's --
20 They didn't combine them into one?

21 A. No, they didn't combine them,
22 they're separate.

23 Q. I'm gone try not to go through all
24 of these, just some select ones. So if you go to
25 Page 1844?

1 A. The document appears to be another
2 CRP document.

3 Q. Can you tell me if in this year
4 your -- the payment here on 1844 that's depicted,
5 is that for the small strip? If you want you
6 might want to look at 1845 'cause that also says
7 2007?

8 A. Yes, that's the small trip.

9 Q. Okay. 1844 is the small strip?

10 A. Yes.

11 Q. And then 1845 which is also 2007,
12 is that for the larger strip?

13 A. Yes.

14 Q. Okay. Let's move ahead up to
15 1850. Okay. If you're up to that document, sir,
16 can you tell me, if you can, can you identify what
17 this document is or what it's showing?

18 A. This is an additional crop disaster
19 payment in the Farm Service Agency.

20 Q. And can you tell from this document
21 if this parcel, or if the payment is for the
22 parcel of land we've been talking about that's on
23 your map there?

24 A. No, I can't tell.

25 Q. Do you know if this payment, is it

1 for loss as a result of drought or for flooding?

2 MS. BREWER: Objection.

3 A. No, I can't tell from here.

4 Q. Okay. We go to page 1851. Can you
5 tell me what this document is?

6 A. This is another summary crop
7 insurance loss.

8 Q. And is this in addition to the
9 dollar loss that was on page 1850?

10 MS. BREWER: Objection.

11 A. I think so.

12 Q. Are you able to tell from this
13 document which parcel of land this loss is
14 pertaining to?

15 A. On?

16 Q. On page 1851?

17 A. Yes, I can.

18 Q. And which parcel does it involve?

19 A. It's this parcel right here.

20 Q. The one on your affidavit?

21 A. Right.

22 Q. Okay. And can you tell if this
23 loss was based on the cause of flooding the
24 drought?

25 MS. BREWER: Objection.

1 A. I can only tell from my memory that
2 it was a flood.

3 Q. Okay. Can you move ahead to page
4 1854, and can you tell me what this document is?

5 A. This is another summary of a loss.

6 Q. And this one looks like it's got
7 parcel number written right there in the middle of
8 the page, right?

9 A. Yes.

10 Q. And this is the parcel we've been
11 talking about that's on your map, right?

12 A. Right.

13 Q. And the loss that's represented
14 here -- and appears to be in the upper righthand
15 corner a dated 2/17/03. Is this for crop loss
16 from 2003?

17 MS. BREWER: Objection.

18 A. 2002. That's not the correct
19 amount for that parcel either. There's two
20 parcels.

21 Q. Okay. So this particular one on
22 1854, it's actually for a loss that was in 2002,
23 is that correct?

24 A. That's right.

25 Q. Do you know if that loss was the

1 result of flood or drought?

2 A. Flood.

3 MS. BREWER: Objection.

4 Q. Okay. So you had a loss in 2002?

5 A. Only partial. That 3636 was the
6 total. If you look there on the right-hand column
7 there's 1318.

8 Q. I see.

9 A. That is the loss from this parcel
10 here.

11 Q. Okay. Thanks for clarifying that.
12 The next page 1855 and looks like it's another
13 summary of loss. Can you tell me what year this
14 loss would be?

15 A. '03.

16 Q. And do you know if this is from the
17 parcel we've already identified or a different
18 one?

19 A. Yes, it's that one.

20 Q. Parcel identified in your
21 affidavit?

22 A. Yes.

23 Q. Okay. And then page 1856, can you
24 tell us what that document is?

25 A. That's another crop disaster

1 payment.

2 Q. And for what year, sir?

3 A. 2002.

4 Q. And do you know if this is
5 pertaining to the parcel identified in your
6 affidavit?

7 A. I think so.

8 Q. And what things make you think that
9 that's the right parcel?

10 A. I'm going by memory.

11 Q. Okay. And let's go to page 1857.

12 Is this a -- Oh, okay, this is a -- looks like
13 another conservation reserve document, is that
14 correct?

15 A. Um-hum.

16 Q. And this looks like it says CRP
17 payment year 2003. Is this for -- if you can
18 tell, is this for that small strip or that big
19 strip?

20 A. I think this would be for the small
21 strip.

22 Q. And then if you go to page 1858.
23 Would that be the bigger strip we talked about?

24 A. Yes.

25 Q. And then 1859?

1 A. That's the bigger strip again.

2 Q. Okay. And 1860 is the smaller
3 strip. So look like, page 1860, is that the
4 smaller one?

5 A. Yes.

6 Q. Okay. If you can move ahead to
7 page 1865, and appears -- this looks like another
8 crop loss statement, is that true, sir, page 1865?

9 A. Yes.

10 Q. And can you tell what year this is
11 for?

12 A. Looks like it was '98.

13 Q. And do you recall if this was a
14 result of a flood or a drought loss?

15 A. It was a flood.

16 Q. And how do you remember that?

17 A. I had an insurance loss that year,
18 I believe in memory, also.

19 Q. Okay. And if we move ahead to
20 some more of the CRP statements. Let's move ahead
21 to 1868, page 1868. And if you could, sir, if you
22 can tell me, tell me what these documents are?

23 A. The first one, the top, one is an
24 insurance check that I got to replant the crop
25 after it flooded in the spring. It was early

1 enough that we were able to replant. So they --
2 they'll give you a payment to try again.

3 Q. Okay.

4 A. And then it rained again and we
5 still had a loss.

6 Q. That would be the second check,
7 right?

8 A. Right.

9 Q. And you said "it rained again."
10 Was that from just regular storm or --?

11 A. It flooded, we're talking flood.

12 Q. Okay. So your understanding is
13 that the second check was because of flood?

14 A. Right.

15 Q. So that would be different in your
16 room from, say, a storm damage?

17 A. Right.

18 Q. Have you ever put in an insurance
19 claim for damage as a result of, you know, like a
20 storm like one particular incident?

21 MS. BREWER: Objection.

22 A. No.

23 Q. Okay. If you could turn ahead,
24 sir, to page 1871. If you could tell me what that
25 is document is?

1 A. That's another check from the crop
2 insurance.

3 Q. And what year would this loss have
4 been for?

5 A. '96.

6 Q. And how much was the amount of loss
7 on that episode?

8 A. 15,740.

9 Q. And was that the result of
10 flooding?

11 A. Yes.

12 Q. Okay. Thank you very much?

13 A. Can I add to that?

14 Q. Oh, sure, absolutely, sir.

15 A. That was before I had -- there was
16 more acreage destroyed because I didn't have the
17 second filter strip at that time.

18 Q. That's right. '97 is when you
19 added the first filter strip?

20 MS. BREWER: Objection.

21 A. Right.

22 Q. Or did you both? I'm sorry, which
23 filter strip did you do in '97?

24 A. The larger one.

25 Q. And if I asked already, forgive me,

1 but the smaller, the original strip, what year did
2 you do that?

3 A. I can't recall.

4 Q. But it would have been before '97?

5 A. Yes, it was.

6 Q. So the larger filter strip you put
7 in place after that '96 flood, is that correct?

8 MS. BREWER: Objection.

9 A. After the spillway was built, yes.

10 Q. Well, I guess my question, sir, is
11 the loss we were just talking about on page 1871
12 in the documents, that flood loss happened in
13 1996, right?

14 A. That's right.

15 Q. And the larger filter strip was
16 added after 1996, is that correct?

17 MS. BREWER: Objection.

18 A. Yes.

19 Q. And was it '97 that you did the
20 larger filter strip?

21 MS. BREWER: Objection.

22 A. Yes.

23 Q. Do you know what month in '97?

24 A. No, I don't.

25 Q. I'm gonna just check through a few

1 | things, Mr. Thomas, and we'll hopefully get you
2 | out of here, but let me just double check. Okay.
3 | I had some questions that I thought you may be in
4 | a better position to answer, since your wife
5 | indicated you handle the farming operations. Can
6 | you tell me on the parcel that we identified in
7 | your affidavit here, what portions of the land are
8 | tillable?

9 | MS. BREWER: Objection.

10 | A. Everything is not in CRP.

11 | Q. And can you tell us what crops you
12 | farm?

13 | A. Corn and soybeans.

14 | Q. Can you tell me if there's a
15 | certain rotation of whether you do corn versus
16 | beans or how do you decide what you do each year?

17 | MS. BREWER: Objection.

18 | A. We rotate each year, corn one year,
19 | beans the following.

20 | Q. And what's the current status for
21 | that, for example, this year, what do you intend
22 | to plant this year?

23 | A. Soybeans.

24 | MS. BREWER: Objection.

25 | Q. So then last year would you have

1 had corn?

2 A. Yes.

3 Q. And have you had that same rotation
4 consistent?

5 A. Um-hum.

6 Q. Can you tell me, if you know, sir,
7 what type of soil is on that land, on that parcel?

8 MS. BREWER: Objection.

9 A. You mean the soil types?

10 Q. Yes, sir.

11 A. There's some Millgrove, Wabasha,
12 and some Digby.

13 Q. Do you know if those soils, are
14 they in particular areas, or how do you describe
15 their location?

16 MS. BREWER: Objection.

17 A. The Wabash is back here.

18 Q. And you say "back here," you're
19 indicating to the --

20 A. Towards the --

21 Q. -- south part of the parcel?

22 A. It would be the west.

23 Q. The west, okay.

24 A. There's a section of Millgrove in
25 here, which is the highest productive land in the

1 | county, and there's some Digby up here and in
2 | here.

3 | Q. Okay. Well we can -- we can always
4 | look a the soil map. Do you have a soil map for
5 | your property?

6 | A. Yes, I do.

7 | Q. Okay. Is that produced by the
8 | county or where do you get your soil map from?

9 | MS. BREWER: Objection.

10 | A. I'm not sure where that came from.

11 | Q. Do you have any drainage tile on
12 | that parcel?

13 | A. There are some, yes.

14 | Q. And do you know when those were
15 | constructed?

16 | A. I put 'em in after we purchased it.

17 | Q. Okay. So some time after 1988, I
18 | believe?

19 | A. Yeah. Shortly after that.

20 | Q. And do you ever check for the
21 | condition of that tile?

22 | A. I have.

23 | Q. What type of condition is it in
24 | right now?

25 | MS. BREWER: Objection.

1 A. There's, there's an outlet tile
2 that is in poor condition, but there's a lot of
3 tile that are okay.

4 Q. Where is that outlet tile located?

5 A. Back here.

6 Q. Okay. Do you mind maybe putting --
7 if I give you my pen here, putting an X about
8 where you thinks that's at?

9 A. About here.

10 Q. Okay. If you can go over it a
11 couple times maybe make a little -- It's hard -- I
12 know it's hard with these maps, but -- Okay.

13 A. Okay.

14 Q. Okay. Thank you. We talked about
15 the CRP Program. Do you participate in a Wetlands
16 Reserve Program?

17 A. No.

18 Q. Mr. Thomas, did you take any
19 photographs of the flooding that had occurred on
20 your property?

21 A. No, we didn't.

22 Q. Did you have any records, like
23 charts or diaries or anything like that?

24 A. No.

25 Q. Okay. Besides the documents that

1 we looked at a moment with the crop losses, do you
2 have any other records or statements of financial
3 losses as a result of the flooding?

4 A. No.

5 MS. BREWER: Objection.

6 Q. Do you know if you have any records
7 that would depict what you're crop yields were for
8 different years?

9 MS. BREWER: Objection.

10 A. No, I don't.

11 Q. Do you not know if you have records
12 or you just don't have records?

13 A. I don't have records.

14 Q. Did you look into any other
15 potential causes of the flooding that occurred on
16 your property besides the spillway?

17 MS. BREWER: Objection.

18 A. No.

19 Q. Besides your lawyers and your wife,
20 have you talked to anyone else about the case
21 against the state?

22 A. No.

23 Q. On your first affidavit that's
24 Exhibit A, we looked at earlier, you can get that
25 out if you want to, but on the second page there,

1 the person that signed as notary, Rita Suhr, did
2 you know her prior to her notarizing your
3 affidavit?

4 A. I know her if I see her, that's
5 all.

6 Q. Did you talk to her when you signed
7 your affidavit about the case?

8 MS. BREWER: Objection.

9 A. Well, I would say, "no."

10 Q. Did you see her when you signed
11 your affidavit?

12 A. Yes.

13 Q. Okay. Did she talk to you about a
14 opinion she might have about the case?

15 MS. BREWER: Objection.

16 A. No, she didn't.

17 MR. MARTIN: I'm done. I think
18 you're attorney will instruct you as to
19 reading the transcript.

20 MS. BREWER: Let me look over my
21 notes for a second. I have just a
22 couple follow-up questions.

23 DIRECT EXAMINATION

24 BY MS. BREWER:

25 Q. Mr. Thomas, how many acres do you

1 have in your filter strips right now?

2 A. 26.

3 Q. Okay. How many acres total are
4 there on the parcel that we've been discussing
5 today?

6 A. Tillable acres, there's 95 total
7 acres, but there's not all tillable. I own to the
8 center of the creek, which is pretty large. So
9 there's land there that we can't farm. I think
10 there are 87 tillable.

11 Q. Okay. Why did you put in the larger
12 filter strip?

13 A. Because we -- it's a guaranteed
14 payment, and there's no risk of flooding loss.

15 Q. And why did you put that in?

16 A. Well, the spillway was being built
17 and the old one was 39 feet and the new one is
18 gonna be 500, I was pretty sure we were gonna
19 flood.

20 Q. And were you farming that land
21 before you put it into filter strip?

22 A. Yes, we were.

23 MS. BREWER: That's all.

24 MR. MARTIN: Well, thank you very
25 much for your time. I appreciate both

1 you and your wife coming in today, and
2 we're done.

3 MR. THOMAS: Okay.

4 MS. BREWER: The court reporter,
5 when he gets home today he'll type up
6 our conversation and he'll put it into a
7 transcript. You have the right to read
8 over it and check and make sure what you
9 said is accurate and correct, or you can
10 waive that right. I can't tell you
11 whether or not you should sign, but I
12 can say -- I can recommend that most
13 people do take the opportunity to read
14 and sign. Would you like to read and
15 sign?

16 MR. THOMAS: Yes.

17 MS. BREWER: Okay. Thank you.

18

19

Gale Thomas
Gale A. Thomas

20

21

(At 11:35 a.m., the deposition concluded)

22

23

MARTHA C. BREWER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

Maureen [Signature] 3/15/10
Notary Public date

24

25

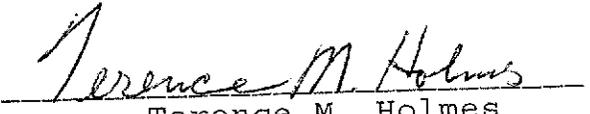
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STATE OF OHIO)
) SS:
COUNTY OF MERCER)

I, Terence M. Holmes, the undersigned, a duly qualified and commissioned notary public within and for the State of Ohio, do hereby certify that before the giving of his aforesaid deposition, the said GALE A. THOMAS was by me first duly sworn to depose the truth, the whole truth, and nothing but the truth, that the foregoing is the deposition given at said time and place by said GALE A. THOMAS; that said deposition was taken in all respects pursuant to agreement and stipulations of counsel hereinbefore set forth; that said deposition was taken by me in stenotype and transcribed into typewriting by me; that I am neither a relative of nor attorney for any of the parties to this cause, nor relative of nor employee or any of their counsel, and have no interest whatever in the result of this action.

IN WITNESS WHEREOF, I have hereunto set my hand at Cincinnati, Ohio, this 17th day of February, 2010.



My Commission Expires: Terence M. Holmes
July 28, 2012 Notary Public - State of Ohio

ERRATA SHEET

I, Gale Thomas, have read the transcript of my deposition taken in this pending matter or the same has been read to me. I have noted all changes in form or substance on this sheet this 15 day of March, 2010.

PAGE LINE CORRECTION OR CHANGE AND REASON:

clarify

typo

tone

typo

typo

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clarify

PAGE	LINE	CORRECTION OR CHANGE AND REASON:
15	14 through 17	Change to It flooded last spring in March. We had two men pick up sticks all day before we were able to plant the crop.
23	22	add a before couple add of before inches
25	13	change top up to topography
26	18	change world to wheel
31	19	change D to G on Dale
33	3	add house after the
15	22	change all most to almost
15	24	change ? mark to a period
30	2	change to Because there is always a chance of flooding which would result in a crop loss.

AFFIDAVIT OF GALE A. THOMAS



STATE OF OHIO)
) ss:
COUNTY OF MERCER)

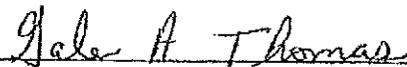
My name is Gale A. Thomas, I am over the age of 21, and I am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct. I state as follows:

1. I am a Relator in this mandamus action against Respondent Sean D. Logan, Director, Ohio Department of Natural Resources ("ODNR").
2. Specifically, I am an owner of real estate described as Mercer County Parcel Numbers 28-008000.0000, 28-001300.0000, 28-002100.0000, 30-004100.0000, 28-013800.0000, 28-002100.0100, 30-025300.0000, 30-018700.0000, 30-017200.0200, 30-025800.0100, 30-002300.0000, and 30-001800.0000.
3. I own lands that lie adjacent to or near Beaver Creek and/or adjacent to or near the Wabash River near its confluence with Beaver Creek.
4. I own lands which, since ODNR replaced the western spillway of Grand Lake St. Mary's in 1997, are subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Marys.

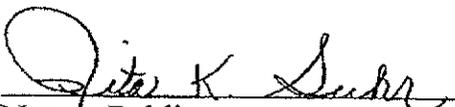
5. To date, the most invasive flood occurred in 2003, but my property has been subject to continuing, persistent, frequent, and inevitable increased severe flooding since 1997.

6. I have reviewed the Complaint and the facts relating to my real estate and the flooding of my lands caused by ODNR from the western spillway of Grand Lake St. Marys and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.


Gale A. Thomas

Sworn in my presence and subscribed before me this 19th day of June, 2009.


Notary Public

RITA K SUHR
Notary Public • State of Ohio
My Commission Expires May 13, 2011
Recorded in Mercer County



AFFIDAVIT OF GALE A. THOMAS

STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Gale A. Thomas, I am over the age of 21, and I am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct. I state as follows:

1. I am a Relator in this mandamus action seeking compensation for the property taken by Respondents Ohio Department of Natural Resources and Sean D. Logan, Director, Director (collectively "ODNR").

2. Specifically, I, with my wife Nelda G. Thomas, am the owner of real estate described as Mercer County Parcel Numbers 28-008000.0000, 28-001300.0000, 28-002100.0000, 30-004100.0000, 28-013800.0000, 28-002100.0100, 30-18700.0000, 30-017200.0200, 30-025800.0100, 30-002300.0000, 30-001800.0000.

3. I have been the owner of Mercer County Parcel Number 28-013800.0000 since 1988.

4. Mercer County Parcel Number 28-013800.0000 lies adjacent to the south side of Beaver Creek.

5. Since ODNR replaced the western spillway of Grand Lake St. Mary's in 1997 and undertook its current lake level management practices, which include maintaining increased lake levels and use of the western spillway for virtually all water flow out of Grand Lake St. Mary's, Mercer County Parcel Number 28-013800.0000 has been subject to continuing, persistent,

DO#000707

frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Mary's.

6. Specifically, as a result of ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 28-013800.0000 has flooded at least once per year. On each occasion, Mercer County Parcel Number 28-013800.0000 was inundated with water at depths varying up to 5 to 6 feet.

7. Since ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 28-013800.0000 floods more rapidly and remains flooded for longer periods of time. On each occasion of flooding, Mercer County Parcel Number 28-013800.0000 remained inundated with water for a period of 3 to 5 days.

8. Prior to ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 28-013800.0000 never flooded as much and never flooded over as large an area as it does now.

9. To date, the most invasive flood occurred in 2003 with approximately 81 acres of Mercer County Parcel Number 28-013800.0000 being flooded with approximately 6 feet of water for at least 7 days. A true and accurate copy of a black and white aerial from the Mercer County Auditor's website of Mercer County Parcel Number 28-013800.0000 is attached hereto as Exhibit 1. I have shaded in the area of the parcel that was flooded in 2003.

10. Mercer County Parcel Number 28-013800.0000 experiences severe flooding each year since 1997, including in 2005. Indeed, the flooding in January 2005 was so extensive that it flooded the first five roads that cross Beaver Creek west of the spillway.

11. Mercer County Parcel Number 28-013800.0000 was again flooded as recently as approximately March 2009.

DON000708

12. As a direct result of the flooding, Mercer County Parcel Number 28-013800.0000 has suffered damage in the form of loss of crops, field and bank erosion, and deposits of debris such as branches, firewood, tree trunks, trash and bottles, that must always be removed.

13. The flooding caused by ODNR has substantially destroyed the value of Mercer County Parcel Number 28-013800.0000.

14. I believe that the intermittent, continuing, persistent, frequent, and increased severe flooding from the western spillway of Grand Lake St. Marys will inevitably recur as a result of ODNR's replacement of the western spillway and ODNR's current management practices.

FURTHER AFFIANT SAYETH NAUGHT.

Gale A. Thomas
Gale A. Thomas

Sworn in my presence and subscribed before me this 24th day of August, 2009.

Joseph R. Miller
Notary Public



JOSEPH R. MILLER
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

DON000709

EXHIBIT 1
TO
AFFIDAVIT OF GALE A. THOMAS

DON000710

Mercer County Ohio



Legend

Administrative

- Townships
- Neighborhoods

Parcels

- Parcels

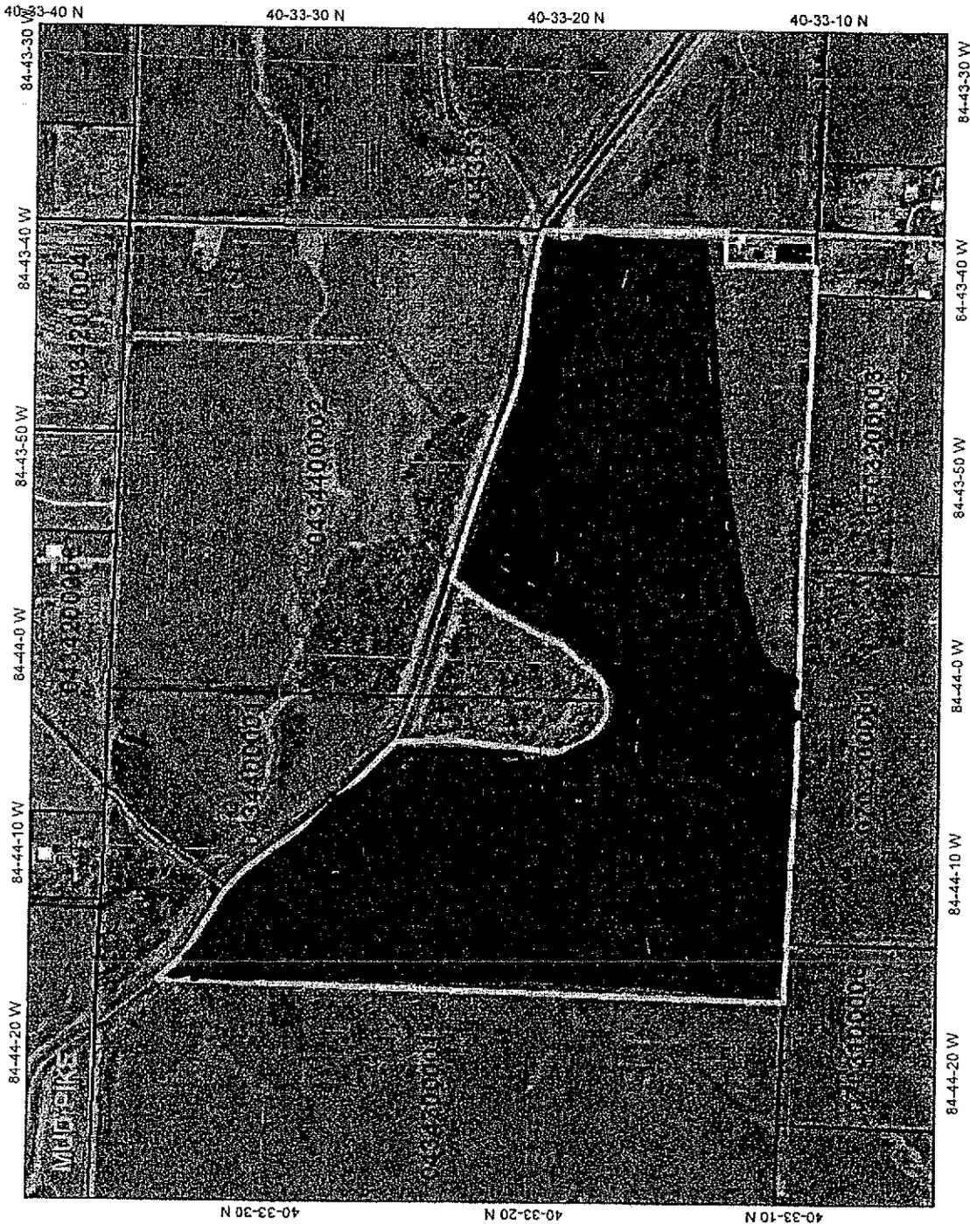
Transportation

- State Highways
- US Highways

Water

- Lake
- Streams

EXHIBIT
1



Map center: 1348173, 332011

2250 ft.

1500

750

0

Scale: 1:7,500

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Gale Thomas and Nelda Thomas
-0- Burrville Rd.
Parcel No.: 28-013800.0000 - 95.55 acres

DON000711

EXHIBIT
C
Gale Thomas

Know all Persons by These Presents

That, Cletus Menchhofer, Jr. and Imogene L. Menchhofer, VOL 305 PAGE 766
Husband and Wife,

the Grantors, who claim title by or through instrument recorded in Volume 261, Page 538, of the Deed Records, Mercer County Recorder's Office, for the consideration of One Dollar (\$1.00) and other good and valuable consideration received to their full satisfaction of

Gale Thomas and Nelda Thomas, the Grantees, whose TAX MAILING ADDRESS will be

8155 Burrville Road
Celina, OH 45822

Give, Grant, Bargain, Sell and Convey unto the said Grantees, their heirs and assigns, the following described premises, situated in the TOWNSHIP of LIBERTY, County of MERCER, and State of Ohio:

Situated in the TOWNSHIP of LIBERTY, COUNTY of MERCER, and STATE of OHIO:

Being the South portion of the Southeast Quarter (1/4) of Section Thirty-four (34), Town Five (5) South, Range One (1) East and a part of the Southwest Quarter (1/4) of said Section, Town and Range aforesaid. with same all being South of the old channel of Beaver Creek, and beginning for the same at the Southeast corner of said Section Thirty-four (34); thence West along the Section line Forty-five (45) chains to a stone; thence North Thirty-five and Ninety Hundredths (35.90) chains to the center of said Beaver Creek; thence Easterly following the meanderings of said Beaver Creek to the East line of said Section Thirty-four (34) at a point where said East line crosses the centerline of said Beaver Creek; thence South Fifteen and Ninety Hundredths (15.90) chains to the place of beginning and containing Ninety-six and Fifty-five Hundredths (96.55) acres of land, more or less, subject to all legal highways and easements of record.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL OF REAL ESTATE:

Being a parcel of land out of the Southeast corner of the Southeast quarter of Section 34, Town 5 South, Range 1 East, and being more particularly described as follows:

Beginning at the Southeast corner of the Southeast quarter of Section 34, Town 5 South, Range 1 East; thence West on and along the South line of said Section, 123 feet to a point; thence North 355 feet to a point; thence East 123 feet to a point on the East line of said Section 34; thence South 355 feet to the point of beginning. Being 1.00 acre of land, more or less, subject to all legal highways and easements of record.

Containing in all after said exception Ninety-five and Fifty-five Hundredths (95.55) acres of land, more or less.

Grantors hereby assume and agree to pay the July, 1988, installment of real estate taxes and assessments. Grantees hereby assume and agree to pay the January, 1989, and thereafter installments of real estate taxes and assessments.

APPROVED
MERCER COUNTY TAX MAP DEPT.
Date 7-14-88
By H. D.

Photograph, mortgage fee \$300
... if need have
...
BM
3/14/88
Gaid

be the same more or less, but subject to all legal highways.

VOL 305 PAGE 767

To Have and to Hold the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee s, their heirs and assigns forever. And we, Cletus Menchhofer, Jr. and Imogene L. Menchhofer, the said Grantor s do for ourselves and our heirs, executors and administrators, covenant with the said Grantee s, their heirs and assigns, that at and until the ensembling of these presents, we are well seized of the above described premises, as a good and indefeasible estate in FEE SIMPLE, and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all incumbrances whatsoever

and that we will Warrant and Defend said premises, with the appurtenances thereunto belonging, to the said Grantee s, their heirs and assigns, against all lawful claims and demands whatsoever.

And for valuable consideration Cletus Menchhofer, Jr. and Imogene L. Menchhofer, husband and wife do hereby remise, release and forever quitclaim unto the said Grantee s, their heirs and assigns, all their right and expectancy of Power in the above described premises.

In Witness Whereof, we have hereunto set our hand s, the 9th day of MARCH, in the year of our Lord one thousand nine hundred and eighty-eight (1988).

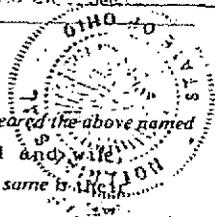
Signed and acknowledged in presence of
Shirley A. Mertz
Witness - Shirley A. Mertz

Cletus Menchhofer, Jr.
CLETUS MENCHHOFER, JR.

Rita A. Snider
Witness - Rita A. Snider

Imogene L. Menchhofer
IMOGENE L. MENCHHOFER

State of Ohio ss. Before me, as notary public in and for said County and State, personally appeared the above named Cletus Menchhofer, Jr. and Imogene L. Menchhofer, husband and wife, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.



In Testimony Whereof I have hereunto set my hand and official seal, at Celina, Mercer County, Ohio, this 9th day of MARCH, A. D. 1988.
Shirley A. Mertz
Notary Public
My Commission:

This instrument prepared by Knapke & Ingraham, Attorneys at Law, Celina, Ohio. Realtors for this transaction: Owen Hall Realty Group

Warranty Deed

16343

CLETUS MENCHHOFER, JR.
AND IMOGENE L. MENCHHOFER,
HUSBAND AND WIFE

TO
GALE THOMAS AND
NELDA THOMAS
8155 BURRVILLE ROAD
CELINA, OH 45822

Transferred 19

MAR 14 1988

ROGER A. SCHWETEMER, COUNTY CLERK

STATE OF OHIO

COUNTY OF Mercer ss

RECEIVED FOR RECORD ON THE

14 day of March 1988

at 10:48 o'clock A.M.

and RECORDED March 15 1988 in

DEED BOOK 305 PAGE 766-7

Patricia E. State
COUNTY RECORDER

RECORDERS FEE \$ 1.00

Knapke & Ingraham
Attorneys at Law
10 W. Main Street, P. O. Box 500
Celina, Ohio 45822

DON001107



RURAL COMMUNITY INSURANCE SERVICES

MPCI SUMMARY OF LOSS

GALE THOMAS
8166 BURRVILLE RD
CELINA OH 45822

34-3028 HAMILTON INSURANCE AGENCY INC
HAMILTON BRUCE HAYS INSURANCE
7927 HOWELL DR
WESTERVILLE OH 43081-8044

PHONE (800)338-5887

Policy #: 2008 34-951-665390 Claim #: 1550041
County: MERCER 107 RY: 2008

Page: 1

Date: 1/29/09

TOTAL NET LOSS \$17,549.00
PREVIOUS PAID AMOUNTS \$.00
AMOUNT OF CHECK \$17,549.00

*PREMIUM BALANCE DUE \$0.00

CROP	UNIT	FSN	ACRES	PRAC	TYP	STG	GUAR/ACRE	LPO	LAF	MIF	ADJ	GUAR	PROD TO COUNT	PRICE	SHARE	PAYABLE
SBEAN	04 01	4660	64.20	053	000	H	31.50	N	N	N	2022.00	1724.60	11.50	1.000	3420	
SBEAN	04 02	4660	77.70	053	000	H	34.30	N	N	N	2665.00	2305.10	11.50	1.000	4139	
SBEAN	04 07	5645	19.80	053	000	H	32.90	N	N	N	655.00	397.40	11.50	1.000	2962	
SBEAN	05 00	1750	50.30	053	000	H	31.50	N	N	N	1584.00	1406.70	11.50	.500	1019	
SBEAN	06 04	5826	121.00	053	000	H	35.00	N	N	N	4235.00	3562.50	11.50	.250	1933	
SBEAN	08 02	4677	118.20	053	000	H	33.60	N	N	N	3972.00	3263.10	11.50	.500	4076	

Parcel Number
28-013800.0000



*BALANCE REFLECTS TRANSACTIONS POSTED AS OF 1/29/2009

DON001839



U.S. DEPARTMENT OF AGRICULTURE
 MERCER FSA OFFICE
 220 W LIVINGSTON ST SUITE 2
 CELINA, OH 45822-1632
 (419)586-3149



DISBURSEMENT STATEMENT
RETAIN FOR TAX PURPOSES
 STATEMENT DATE: 10/08/2009

PAGE 1 OF 1

16785 1 AT 0.357 #10 16785 Sect: 76

GALE THOMAS
 8155 BURRVILLE RD
 CELINA OH 45822-8420



PROGRAM PAYMENT DETAIL FOR THIS PAYMENT:

	REFERENCE#	AMOUNT
CRP PAYMENT - ANNUAL RENTAL	607	\$1,028.00

THIS IS HOW YOUR PROGRAM PAYMENT WAS APPLIED:

REFERENCE#	AMOUNT	WITHHOLDING/OFFSET/ASSIGNMENT/PAYEE	DATE
	\$1,028.00	PAYEE: GALE THOMAS FUNDS TO BE DEPOSITED IN FIRST FINANCIAL BANK, NA ACCOUNT ENDING IN 6282 ON/ABOUT	10/13/2009

CUSTOMER SATISFACTION AND COMMERCIAL CREDIT INFORMATION CAN BE ACCESSED ONLINE FROM THE FARM SERVICE CENTER WEBSITE. SELECT ONLINE SERVICES IN THE TOP BANNER. WHEN SELECTING CONTACT INFORMATION FOR ANY COUNTY OFFICE FROM THE FSA WEBSITE, SELECT STATE OFFICES IN THE TOP BANNER. WHEN SELECTING CONTACT INFORMATION FOR ANY COUNTY OFFICE FROM THE FSA WEBSITE, SELECT STATE OFFICES IN THE TOP BANNER. WHEN SELECTING CONTACT INFORMATION FOR ANY COUNTY OFFICE FROM THE FSA WEBSITE, SELECT STATE OFFICES IN THE TOP BANNER.

SELECT ON-LINE SERVICES IN THE TOP BANNER TO REGISTER OR CONTACT YOUR LOCAL FSA SERVICE CENTER. CONTACT INFORMATION FOR ANY COUNTY OFFICE FROM THE FSA WEBSITE, SELECT STATE OFFICES IN THE TOP BANNER. WHEN SELECTING CONTACT INFORMATION FOR ANY COUNTY OFFICE FROM THE FSA WEBSITE, SELECT STATE OFFICES IN THE TOP BANNER. WHEN SELECTING CONTACT INFORMATION FOR ANY COUNTY OFFICE FROM THE FSA WEBSITE, SELECT STATE OFFICES IN THE TOP BANNER.

THE DEPARTMENT OF AGRICULTURE (USDA) (31 USC 3716) REQUIRES THE FEDERAL GOVERNMENT TO PROCESS ALL PAYMENTS THROUGH THE TREASURY OFFSET PROGRAM (TOP). THE PAYMENT MAY BE OFFSET FOR ANY DELINQUENT FEDERAL DEBT.

USDA is an Equal Opportunity Employer

DON001840



U.S. DEPARTMENT OF AGRICULTURE
 MERCER FSA OFFICE
 220 W LIVINGSTON ST SUITE 2
 CELINA, OH 45822-1632
 (419)586-3149



DISBURSEMENT STATEMENT
RETAIN FOR TAX PURPOSES
 STATEMENT DATE: 10/08/2009
 PAGE 1 OF 1

17701 1 AT 0.357 #10 17701 Sec: 76

GALE THOMAS
 8155 BURRVILLE RD
 CELINA OH 45822-8420



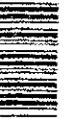
PROGRAM PAYMENT DETAIL FOR THIS PAYMENT:

	REFERENCE#	AMOUNT
CRP PAYMENT - ANNUAL RENTAL	1049	\$2,492.00

THIS IS HOW YOUR PROGRAM PAYMENT WAS APPLIED:

REFERENCE#	AMOUNT	WITHHOLDING/OFFSET/ASSIGNMENT/PAYEE	DATE
	\$2,492.00	PAYEE: GALE THOMAS FUNDS TO BE DEPOSITED IN FIRST FINANCIAL BANK, NA ACCOUNT ENDING IN 6282 ON/ABOUT	10/13/2009

USDA CUSTOMER STATEMENTS AND FINANCIAL INQUIRIES INFORMATION CAN BE ACCESSED ONLINE FROM THE FARM SERVICE AGENCY WEBSITE AT: [HTTP://WWW.FSA.USDA.GOV/](http://www.fsa.usda.gov/). SELECT ON-LINE SERVICES IN THE TOP BANNER, THEN SELECT FINANCIAL INQUIRIES FOR PRODUCERS. FOR INFORMATION ON OBTAINING A USDA USER ID AND PASSWORD, PLEASE VISIT THE FSA WEBSITE, SELECT ON-LINE SERVICES IN THE TOP BANNER TO REGISTER OR CONTACT YOUR LOCAL FSA SERVICE CENTER. TO OBTAIN THE CONTACT INFORMATION FOR ANY COUNTY OFFICE FROM THE FSA WEBSITE, SELECT STATE OFFICES IN THE BANNER AND THEN SELECT THE STATE, SELECT THE COUNTY OFFICE LINK AND THEN THE COUNTY YOU WISH TO CONTACT. THE DEBT COLLECTION IMPROVEMENT ACT OF 1996 (DCIA) (31 USC 3716) REQUIRES THE FEDERAL GOVERNMENT TO PROCESS ALL RECIPIENT PAYMENTS THROUGH THE TREASURY OFFSET PROGRAM (TOP). THE PAYMENT MAY BE OFFSET FOR ANY DELINQUENT FEDERAL DEBT.



USDA is an Equal Opportunity Employer

DON001841

Date 10-07-2008
Time 08:17
Statement Type B Original
Program 04CRP
Application Conservation Reserve

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer ID REDACTED

Disbursement Statement

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Contract 0607 Transaction WA28100068	1,028.00		CRP PAYMENT - ANNUAL
	1,028.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/ Check	ASGN/ JPYMT	RECVBL/ Claim	Amount	Payee Name/CCC Debt Repaid
10-07-2008	D0143145			1,028.00	GALE THOMAS
					Funds to be deposited in: FIRST FINANCIAL BANK, NA
				1,028.00	Total Disbursements
				1,028.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Joan Rutschling
(Authorized Representative of CCC)

Department of
Agriculture

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-08-2008
Time 11:29

Program 08CRP
Application Conservation Reserve

Statement Type B Original

CRP Payment Year 2008 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer ID REDACTED

Disbursement Statement

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Contract 1049 Transaction WC28200226	2,492.00		CRP PAYMENT - ANNUAL
	2,492.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JPYMT	RECVBL/Claim	Amount	Payee Name/CCC Debt Repaid
10-08-2008	D0145090			2,492.00	GALE THOMAS
				2,492.00	Funds to be deposited in: FIRST FINANCIAL BANK, NA
				2,492.00	Total Disbursements
				2,492.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Jean Rutchell
(Authorized Representative of CCC)

DON001843

Department of
Agriculture

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-03-2007 Program 04CRP
Time 09:45 Application Conservation Reserve
Statement Type B Original

CRP Payment Year 2007 PAGE 1

Name: GALE THOMAS
 8155 BURRVILLE RD
 CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer ID **REDACTED**

Disbursement Statement

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Contract 0607 Transaction WC27600190	1,028.00		CRP PAYMENT - ANNUAL
	1,028.00		Total Payments (Transactions)

Disbursement Information

Issue	ACH/ Date	ASGN/ Check	RECVBL/ JPYMT Claim	Amount	Payee Name/CCC Debt Repaid
	10-03-2007	D0135301		1,028.00	GALE THOMAS
				1,028.00	Funds to be deposited in: FIRST FINANCIAL BANK, NA
					Total Disbursements
				1,028.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed *M. B. L.*
(Authorized Representative of CCC)

DON001844

Department of
Agriculture

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2007 Program 97CRP
Time 08:48 Application Conservation Reserve
Document Type B Original

CRP Payment Year 2007 PAGE 1

Name: GALE THOMAS
 8155 BURRVILLE RD
 CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer ID **REDACTED**

Disbursement Statement

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Contract 0154 Transaction WB27500095	1,677.00		CRP PAYMENT - ANNUAL
	1,677.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JPYMT	RECVBL/Claim	Amount	Payee Name/CCC Debt Repaid
10-02-2007	D0134821			1,677.00	GALE THOMAS Funds to be deposited in: FIRST FINANCIAL BANK, NA
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Joan Rutschilling
(Authorized Representative of CCC)

DON001845

Department of
Agriculture

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-03-2006 Program 04CRP
Time 13:09 Application Conservation Reserve
Statement Type B Original

CRP Payment Year 2006 PAGE 1

Name: GALE THOMAS
 8155 BURRVILLE RD
 CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES Producer ID REDACTED Disbursement Statement

Transaction Information		Amount	STAT	Payment Description
Reference Number(s)				
Contract 0607	Transaction WB27600236	1,028.00		CRP PAYMENT - ANNUAL
		1,028.00		Total Payments (Transactions)

Disbursement Information				Amount	Payee Name/CCC Debt Repaid
Issue	ACH/	ASGN/	RECVBL/		
Date	Check	JFYMT	Claim		
10-03-2006	D0126461			1,028.00	GALE THOMAS
					Funds to be deposited in:
					COMMUNITY FIRST BANK & TRUST
				1,028.00	Total Disbursements
				1,028.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Joan Rutschling
(Authorized Representative of CCC)

DON001846

United States
Department of
Agriculture

Farm Service Agency

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2006
Time 09:54
Statement Type B Original

Program 97CRP
Application Conservation Reserve

CRP Payment Year 2006

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer ID REDACTED

Disbursement Statement

Transaction Information

<u>Reference Number(s)</u>	<u>Transaction</u>	<u>Amount</u>	<u>STAT</u>	<u>Payment Description</u>
Contract 0154	WC27500098	1,677.00		CRP PAYMENT - ANNUAL
		1,677.00		Total Payments (Transactions)

Disbursement Information

<u>Issue</u>	<u>ACH/</u>	<u>ASGN/</u>	<u>RECVBL/</u>	<u>Amount</u>	<u>Payee Name/CCC Debt Repaid</u>
<u>Date</u>	<u>Check</u>	<u>JPYMT</u>	<u>Claim</u>		
10-02-2006	D0125065			1,677.00	GALE THOMAS
				1,677.00	Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Joan Rutschling
(Authorized Representative of CCC)

DON001847

Department of
Agriculture

Farm Service Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-03-2005

Program 97CRP

Time 11:28

Application Conservation Reserve

Statement Type B Original

CRP Payment Year 2005

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer ID

Disbursement Statement

REDACTED

Transaction Information

Reference Number(s)

Contract	0154	Transaction	WF27600105	Amount	STAT	Payment Description
				1,677.00		CRP PAYMENT - ANNUAL
				1,677.00		Total Payments (Transactions)

Disbursement Information

Issue	ACH/	ASGN/	RECVBL/	Amount	Payee Name/CCC Debt Repaid
Date	Check	JPYMT	Claim		
10-03-2005	D0114982			1,677.00	GALE THOMAS
				1,677.00	Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed

Jean Rutchilling
(Authorized Representative of CCC)

4228

DON001848

Department of
Agriculture

Farm Service Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-04-2005
Time 14:14

Program 04CRP
Application Conservation Reserve

Document Type B Original

CRP Payment Year 2005 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer ID

REDACTED

Disbursement Statement

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Contract 0607 Transaction WC27700362	1,028.00		CRP PAYMENT - ANNUAL
	1,028.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/ Check	ASGN/ JPYMT	RECVBL/ Claim	Amount	Payee Name/CCC Debt Repaid
10-04-2005	D0115490			1,028.00	GALE THOMAS
					Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				1,028.00	Total Disbursements
				1,028.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Joan Ratachiling
(Authorized Representative of CCC)

DON001849

GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

2003-2005 Crop Disaster Program
Statement of Calculated Payment Amounts
Producer Summary Report

MERCER
220 W LIVINGSTON ST
CELINA, OH 45822-1632
(419) 586-3149

Location St-Cty	Unit	Insured Status	Crop Name	Pay Type	Planting Period	2003 Calculated Payment	2004 Calculated Payment	2005 Calculated Payment
39-107	1.01	I	CORN	11	01	\$5,214*	\$0	\$0
Total Calculated Payment by Year (Approved)						\$5,214	\$0	\$0
Total Calculated Payment by Year (Enrolled)						\$0	\$0	\$0

DISCLAIMER: The payment data reflected on this entitlement report includes payment amounts based on program eligibility. The calculated payment amounts reflected on this entitlement report may vary due to changes in RMA-provided data, payment acres, payment yields, producer eligibility, producer payment share, crop production, adjustments to affected production attributed to each loss level, and payment limitation. The distribution of this entitlement report does not in any way obligate CCC to disburse the payment amounts reflected.

* - Indicates crop is approved for payment.



RURAL
COMMUNITY
INSURANCE
SERVICES

MPCI SUMMARY OF LOSS

GALE THOMAS
8155 BURRVILLE RD
CELINA OH 45822

34-302B HAMILTON/BRUCE HAYS INS
3636 DARBYSHIRE DRIVE
HILLIARD OH 43026

PHONE (800)338-5887

Policy #: 2003 34-951-665390 Claim #: 895911
County: MERCER 107

Page: 1
Date: 12/29/03
TOTAL NET LOSS \$7,245.00
PREVIOUS PAID AMOUNTS \$.00
AMOUNT OF CHECK \$7,245.00

*PREMIUM BALANCE DUE \$.00

CROP	UNIT	FSN	ACRES	PRAC	TYP	STG	GUAR/ ACRE	LPO	LAF	ADJ GUAR	PROD TO COUNT	PRICE	SHARE	PAYABLE
CORN	01 01	4660	60.50	003	016	H	91.00	N	N	5506.00	2212.90	2.20	1.000	7245

*BALANCE REFLECTS TRANSACTIONS POSTED AS OF 12/29/2003

Mpsckhk.fm

INFORMATION ON FILE

CROP YEAR: 2003 MPCI
POLICY NO.: 34-951-665390
LEGAL NAME: GALE THOMAS
TAXID NO.: **REDACTED**

IMPORTANT TAX INFORMATION

THE IRS REQUIRES YOU TO PROVIDE US WITH THE CORRECT TAXPAYER IDENTIFICATION NUMBER WHEN AN INDEMNITY HAS BEEN ISSUED.

IF THE INFORMATION SHOWN IS CORRECT YOU MAY DISREGARD THIS REQUEST. PRINT ANY CORRECTION TO THE LEGAL NAME OR NUMBER IN THE SPACE PROVIDED AND RETURN TO RCIS

DON001851

United States
Department of
Agriculture

Farm Service Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-04-2004
Time 10:09
Statement Type B Original

Program 97CRP
Application Conservation Reserve

CRP Payment Year 2004 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

RETAIN FOR TAX PURPOSES

Producer 1 REDACTED

Disbursement Statement

Transaction Information		Amount	STAT	Payment Description
Reference Number(s)		1,677.00		CRP PAYMENT - ANNUAL
Contract 0154	Transaction WC27800107	1,677.00		Total Payments (Transactions)

Disbursement Information				Amount	Payee Name/CCC Debt Repaid
Issue	ACH/	ASGN/	RECVBL/	1,677.00	GALE THOMAS
Date	Check	JPYMT	Claim		Funds to be deposited in:
04-2004	D0102984				COMMUNITY FIRST BANK & TRUST
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Jean Rutschilling
(Authorized Representative of CCC)

DON001852

United States
Department of
Agriculture

Farm Service Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-06-2004
Time 10:18
Statement Type O Original

Program 04CRP
Application Conservation Reserve

CRP Payment Year 2004 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

REDACTED

RETAIN FOR TAX PURPOSES

Producer ID

Disbursement Statement

Transaction Information

<u>Reference Number(s)</u>	<u>Transaction</u>	<u>Y828000072</u>	<u>Amount</u>	<u>STAT</u>	<u>Payment Description</u>
Contract 0607			1,028.00		CRP PAYMENT - ANNUAL
			1,028.00		Total Payments (Transactions)

Disbursement Information

<u>Issue</u>	<u>ACH/</u>	<u>ASGN/</u>	<u>RECVBL/</u>	<u>Amount</u>	<u>Payee Name/CCC Debt Repaid</u>
<u>Date</u>	<u>Check</u>	<u>JPYMT</u>	<u>Claim</u>		
10-06-2004	D0104398			1,028.00	GALE THOMAS
				1,028.00	Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
					Total Disbursements
				1,028.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Jean Rutackillig
(Authorized Representative of CCC)

DON001853



MPCI SUMMARY OF LOSS

Policy #: 2002 34-951-665390 Claim #: 191630
 County: MERCER 107

GALE THOMAS
 8155 BURRVILLE RD
 CELINA OH 45822

Page: 1
 Date: 2/17/03
 TOTAL NET LOSS \$3,636.00
 PREVIOUS PAID AMOUNTS \$.00
 AMOUNT OF CHECK \$3,636.00

34-3028 HAMILTON/BRUCE HAYS INS
 3636 DARBYSHIRE DRIVE
 HILLIARD OH 43026

*PREMIUM BALANCE DUE \$.00

PHONE (800)338-5887

CROP	UNIT	FSN	ACRES	PRAC	TYP	STG	GUAR/ACRE	LPO	LAF	ADJ GUAR	PROD TO COUNT	PRICE	SHARE	PAYABLE
CORN	03 00	4659	148.40	003	016	H	79.50	N	N	11798.00	7584.20	1.10	.500	2318
SBEAN	04 01	4660	60.50	053	000	H	33.00	N	N	1997.00	1733.50	5.00	1.000	1318

unit 04 01 Parcel Number 28-03800.0000

*BALANCE REFLECTS TRANSACTIONS POSTED AS OF 2/17/2003

mposchkc.fmm

INFORMATION ON FILE

CROP YEAR: 2002 MPCI
 POLICY NO.: 34-951-665390
 LEGAL NAME: GALE THOMAS
 TAXID NO.: REDACTED

IMPORTANT TAX INFORMATION

THE IRS REQUIRES YOU TO PROVIDE US WITH THE CORRECT TAXPAYER IDENTIFICATION NUMBER WHEN AN INDEMNITY HAS BEEN ISSUED.

IF THE INFORMATION SHOWN IS CORRECT YOU MAY DISREGARD THIS REQUEST. PRINT ANY CORRECTION TO THE LEGAL NAME OR NUMBER IN THE SPACE PROVIDED AND RETURN TO RCIS ACCOUNTING DEPARTMENT 3501 THURSTON AVENUE, ANOKA MN 55303-1060

CORRECT LEGAL NAME (please print)

SOCIAL SECURITY NUMBER

OR

FEDERAL EMPLOYER TAX ID NUMBER

I CERTIFY THE ACCURACY OF THE INFORMATION PROVIDED.

SIGNATURE

DATE

DON001854



RURAL
COMMUNITY
INSURANCE
SERVICES

MPCI SUMMARY OF LOSS

Policy #: 2003 04501-00000

County: MERCER 107

GALE THOMAS
8155 BURRVILLE RD
CELINA OH 45822

Page: 1
Date: 8/04/03

TOTAL NET LOSS
PREVIOUS PAID AMOUNTS
AMOUNT OF CHECK

\$235.00
\$.00
\$235.00

34-3028 HAMILTON/BRUCE HAYS INS
3636 DARBYSHIRE DRIVE
HILLIARD OH 43026

PHONE (800)338-5887

*PREMIUM BALANCE DUE \$1,873.00

CROP	UNIT	FSN	ACRES	PRAC	TYP	STG	GUAR/ ACRE	LPO	LAF	ADJ GUAR	PROD TO COUNT	PRICE	SHARE	PAYABLE
CORN	01 04	4660 4660	19.50 19.90	003 003	016 016	R NR	5.50 .00	N N	N N	107.00 .00	.00 .00	2.20 2.20	1.000 1.000	235 0

Mpsokchk.frm

DON001855

GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

2001/2002 Crop Disaster Program
Statement of Calculated Payment Amounts
Producer Summary Report

MERCER
220 W LIVINGSTON ST
CELINA, OH 45822-1632
(419) 586-3149

Location St-Cty	Unit	Insured Status	Crop Name	Pay Type	Planting Period	2001 Calculated Payment	2002 Calculated Payment
39-107	3.00	I	CORN	11	01	\$0	\$3,877*
Total Calculated Payment by Year (Approved)						\$0	\$3,877
Total Calculated Payment by Year (Enrolled)						\$0	\$0

DISCLAIMER: The payment data reflected on this entitlement report includes payment amounts based on program eligibility. The calculated payment amounts reflected on this entitlement report may vary due to changes in RMA-provided data, payment acres, payment yields, producer eligibility, producer payment share, crop production adjustments to affected production attributed to each loss level, and payment limitation. The distribution of this entitlement report does not in any way obligate CCC to disburse the payment amounts reflected.

* - Indicates crop is approved for payment

Department of
Agriculture

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2003

Program 92CRP

Time 09:03

Application Conservation Reserve

Statement Type B Original

CRP Payment Year 2003

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-0420

Beaver

RETAIN FOR TAX PURPOSES

Producer ID REDACTED

Disbursement Statement

Transaction Information

<u>Reference Number(s)</u>	<u>Amount</u>	<u>STAT</u>	<u>Payment Description</u>
Contract 0061 Transaction WA27500006	799.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
	799.00		Total Payments (Transactions)

Disbursement Information

<u>Issue</u>	<u>ACH/</u>	<u>ASGN/</u>	<u>RECVBL/</u>	<u>Amount</u>	<u>Payee Name/CCC Debt Repaid</u>
<u>Date</u>	<u>Check</u>	<u>JPYMT</u>	<u>Claim</u>		
10-02-2003	D0094093			799.00	GALE THOMAS
					Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				799.00	Total Disbursements
				799.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed *Joon Rutachillong*
(Authorized Representative of CCC)

DON001857

United States
Department of
Agriculture

Farm Service Agency

MERCER COUNTY PSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2003

Program 97CRP

Time 09:03

Application Conservation Reserve

Statement Type B Original

CRP Payment Year 2003

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

BEG 10/2/03

RETAIN FOR TAX PURPOSES

Producer 1 REDACTED

Disbursement Statement

Transaction Information

Reference Number(s)	Transaction	Amount	STAT	Payment Description
Contract 0154	WA27500125	1,677.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
		1,677.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JPYMT	RECVBL/Claim	Amount	Payee Name/CCC Debt Repaid
10-02-2003	D0094204			1,677.00	GALE THOMAS
					Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed *Jean Rutach-Wing*
(Authorized Representative of CCC)

DON001858

Department of
Agriculture

Farmland Service Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2002
Time 10:23
Statement Type B Original

Program 97CRP *Beaver*
Application Conservation Reserve

CRP Payment Year 2002 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

REDACTED

STAIN FOR TAX PURPOSES

Producer ID :

Disbursement Statement

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
tract 0154 Transaction WC27500130	1,677.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
	1,677.00		Total Payments (Transactions)

Disbursement Information

Name	ACH/	ASGN/	RECVBL/	Amount	Payee Name/CCC Debt Repaid
Date	Check	JPYMT	Claim		
10-02-2002	D0083699			1,677.00	GALE THOMAS
				1,677.00	Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
					Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed *Joan Rutschilling*
(Authorized Representative of CCC)

DON001859

United States

Department of
Agriculture

Farm Service Agency

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2002

Program 92CRP *Beaver*
Application Conservation Reserve

Time 10:23

Document Type B Original

CRP Payment Year 2002

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-8420

STAIN FOR TAX PURPOSES

Producer ID

REDACTED

Disbursement Statement

Transaction Information

<u>Reference Number(s)</u>	<u>Transaction</u>	<u>Amount</u>	<u>STAT</u>	<u>Payment Description</u>
Contract 0061	WC27500006	799.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
		799.00		Total Payments (Transactions)

Disbursement Information

<u>Issue Date</u>	<u>ACH/Check</u>	<u>ASGN/JPYMT</u>	<u>RECVBL/Claim</u>	<u>Amount</u>	<u>Payee Name/CCC Debt Repaid</u>
10-02-2002	D0083577			799.00	GALE THOMAS
					Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				799.00	Total Disbursements
				799.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed *Jean Rustachelling*
(Authorized Representative of CCC)

DON001860

United States
Department of
Agriculture

Farm Service Agency

NERGER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2001

Program 92CRP

Time 08:22

Application Conservation Reserve

Statement Type B Original

CRP Payment Year 2001

PAGE 1

Name: GALE THOMAS
8155 BURSVILLE RD
CELINA, OH 45822-8420

REDACTED

RETAIN FOR TAX PURPOSES

Producer ID

Disbursement Statement

Transaction Information

Reference Number(s)

Contract 0001

Transaction WS27500010

Amount

799.00

799.00

STAI

Payment Description

CONSERVATION RESERVE ANNUAL - CCC FUNDED

Total Payments (Transactions)

Disbursement Information

Issue ACH/

ASEN/

RECVBL/

Date Check

DEBIT

Claim

Amount

799.00

Payee Name/CCC Debt Repaid

GALE THOMAS

Funds to be deposited in:

COMMUNITY FIRST BANK & TRUST

10-02-2001

D0075056

799.00

Total Disbursements

799.00

Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed

Jean Rutschelling
(Authorized Representative of CCC)

DON001861

United States
Department of
Agriculture

Farm Service Agency

MERCER COUNTY FSA OFFICE
320 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-02-2001
Time 10:13
Statement Type 2 Original

Program 97CRP
Application Conservation Reserve

CRP Payment Year 2001

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH, 45822-6420

RETAIN FOR TAX PURPOSES

Producer ID :

Disbursement Statement

REDACTED

Transaction Information

Reference Number(s)	Transaction	Amount	STAI	Payment Description
Contract 0154	WB27500132	1,677.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
		1,677.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JFYMT	RECVEL/Claim	Amount	Payee Name/CCC Debt Repaid
10-02-2001	09075177			1,677.00	GALE THOMAS Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed

Jean Rutschling
(Authorized Representative of CCC)

DON001862

Department of
Agriculture

Farmland Service Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-03-2000
Time 09:04

Program 97CRP
Application Conservation Reserve

Statement Type B Original

CRP Payment Year 2000

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-9460

RETAIN FOR TAX PURPOSES

Producer ID: REDACTED

Disbursement Statement

Transaction Information

Reference Number(s)	Transaction	Amount	STAT	Payment Description
Contract 0154	W127700149	1,677.00		CONSERVATION RESERVE ANNUAL - CCC FUNDEI
		1,677.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/ Check	ASGN/ JPYNT	RECVBL/ Claim	Amount	Payee Name/CCC Debt Repaid
10-03-2000	D0056780			1,677.00	GALE THOMAS Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed *Jean Rutschilling*
(Authorized Representative of CCC)

DON001863

Department of
Agriculture

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10-03-2000
Time 09:04
Statement Type B Original

Program 92CRP
Application Conservation Reserve

CRP Payment Year 2000 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-9460

REDACTED

RETAIN FOR TAX PURPOSES

Producer II

Disbursement Statement

Transaction Information

Reference Number(s)	Transaction	Amount	STAT	Payment Description
Contract 0061	W127700026	799.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
		799.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JPYMT	RECVBL/Claim	Amount	Payee Name/CCC Debt Repaid
10-03-2000	D0056658			799.00	GALE THOMAS
					Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				799.00	Total Disbursements
				799.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Joan Rutschilling
(Authorized Representative of CCC)

DON001864

United States
Department of
Agriculture

Farm Service Agency

MERCER COUNTY FSA OFFICE
228 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 06-02-1999
Time 08:57
Statement Type B Original

Program 98HYCLDAP
Application Crop Loss

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-9460

REDACTED

RETAIN FOR TAX PURPOSES

Producer ID

Disbursement Statement

Comment Information

The payment information reflected on this transaction statement is for the Crop Loss Disaster Assistance Program (CLDAP) for 1994 through 1998 (multi-year) crop losses. The payment has been reduced by a national factor of 0.84900000.

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Transaction X315300084	6,689.00		MULTI-YEAR CROP LOSS DIS ASSIST PROGRAM
	6,689.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JYPNT	RECVBL/Claim	Amount	Payee Name/CCC Debt Repaid
06-02-1999	D0025365			6,689.00	GALE THOMAS
					Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				6,689.00	Total Disbursements
				6,689.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Brenda Ventelbeurs Counter-Signed _____
(Authorized Representative of CCC) (Authorized Representative of CCC)

DON001865

United States
Department of
Agriculture

Para Service Agency

WINNER COUNTY FSA OFFICE
PO BOX 1170000000000000
STATE: IL
CELEBR. OR: 45922-4422
Phone 419-560-2749

Date 11-12-1999
Time 10:06
Statement Type Original

Program RCDRP
Application Conservation Reserve

OMB Payment Year 1999 PAGE 1

Name GALE THOMAS
3155 BOKRVILLE RD
CELEBR. OR 45922-9466

REDACTED

REDACTED FOR TAX PURPOSES

Producer ID

Disbursement Statement

TRANSACTION INFORMATION
Reference Number
Contract 0001

Transaction V120500439

Amount
799.00
799.00

ETN

Payment Description
CONSERVATION RESERVE WORK - CCR FUNDED
Total Payment Disbursements

Disbursement Information

ACH
Name
459 2-1999 00029652

ACH/
CREDIT

REDACTED
Plain

Amount
799.00

Payment Method/Use Bank Details
GALE THOMAS
Funds to be deposited at:
COMMUNITY FIRST BANK & TRUST

799.00

Total Disbursements

799.00

Total Program Payment Amount

Funds should be available within three working days of issue date.

Approved Signer

Jean Rutschilling

(Authorized Representative of FSA)

Counter-Signed

Anna Lee Brandhoff

(Authorized Representative of FSA)

DON001866

United States
Department of

Park Service Agency

RENDER TO: WYOMING STATE DEPARTMENT OF
ENVIRONMENTAL QUALITY
ATTN: STATE DEPARTMENT
CELINEY ON 10000-1000
Phone 407-828-2149

Date 10-12-1999
Type 1010
Check/Type 3 Original

Program 9700P
Application Conservation Reserve

CRP Payment Year 1999

Name: BOLE THOMAS
2155 RAYVILLE RD
CELINA, OH 45822-0400

REDACTED

REF IN FOR TAX PURPOSES

Procedure II

Disbursement Payment

Transaction Information

Reference Number

Contract # 54

Transaction # 025500100

Amount

1,677.00

1,677.00

FFEL

Payment Description

COMMUNITY SERVICE ANNUAL - CRP FUNDS

Total Payments Transactions

Disbursement Information

Date 10-12-1999

ADM/

ATSN/

REVENUE/

Type Check

BYPAY

Claim

Amount

1,677.00

Payee Name TOS Debt Payee

BOLE THOMAS

Place of deposit or

COMMUNITY FIRST BANK & TRUST

1,677.00

Total Disbursements

1,677.00

Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved Signed

Joan Rutschilling
(Authorized Representative of BIC)

Boarder Signed

Doris Marie Will
(Authorized Representative of BIC)

DON001867

PLEASE NOTE

American Agri Insurance, Inc.
P.O. Box 1574
Council Bluffs, Iowa 51502

Check number: 446705
Check date: 8/07/98

AMERICAN GROWERS

This check is in payment of loss number 98-0120 on policy number MP-284392

The amount of the loss has been reduced by any unpaid premium balance.

Agency: 43326-16

FLR/HAYS INSURANCE AGENCY
123 W. CARROL STREET
PO BOX 226
KENTON, OH 43326

Amount of loss: \$756.00
Less unpaid premium: 0.00
Amount of check: \$756.00

Please retain this stub for your records.

PLEASE NOTE

American Agri Insurance, Inc.
P.O. Box 1574
Council Bluffs, Iowa 51502

Check number: 458508
Check date: 11/20/98

AMERICAN GROWERS

This check is in payment of loss number 98-0608 on policy number MP-284392

The amount of the loss has been reduced by any unpaid premium balance.

Agency: 43326-16

FLR/HAYS INSURANCE AGENCY
123 W. CARROL STREET
PO BOX 226
KENTON, OH 43326

Amount of loss: \$9,238.00
Less unpaid premium: 0.00
Amount of check: \$9,238.00

Please retain this stub for your records.

United States
Department of
Agriculture

Farm Service Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45022-1632
Phone 419-586-3149

10-08-1998
Time 08:17
Statement Type B Original

Program 97CRP
Application Conservation Reserve

CRP Payment Year 1998 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45022-9460

RETAIN FOR TAX PURPOSES

Producer ID

REDACTED

Disbursement Statement

Transaction Information

<u>Reference Number(s)</u>	<u>Transaction</u>	<u>Amount</u>	<u>STAT</u>	<u>Payment Description</u>
Contract 0154	W129100049	1,677.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
		1,677.00		Total Payments (Transactions)

Disbursement Information

<u>Issue</u>	<u>ACH/ Check</u>	<u>ASGN/ JYPMI</u>	<u>RECVL/ Claim</u>	<u>Amount</u>	<u>Payee Name/CCC Debt Repaid</u>
10-08-1998	00008645			1,677.00	GALE THOMAS
					Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				1,677.00	Total Disbursements
				1,677.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Jean Rutschelling
(Authorized Representative of CCC)

Counter-Signed Martha Robeno
(Authorized Representative of CCC)

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ent Type B Original

Program 92CRP
Application Conservation Reserve

220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

CRP Payment Year 1998

PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-9460

ETAIN FOR TAX PURPOSES

Producer ID : REDACTED

Disbursement Statement

Transaction Information

<u>Reference Number(s)</u>	<u>Transaction</u>	<u>Amount</u>	<u>STAT</u>	<u>Payment Description</u>
Contract 0061	W127900050	799.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
		799.00		Total Payments (Transactions)

Disbursement Information

<u>Issue Date</u>	<u>ACH/Check</u>	<u>ASGN/JYPMT</u>	<u>RECVBL/Claim</u>	<u>Amount</u>	<u>Payee Name/CCC Debt Repaid</u>
10-06-1998	Check			799.00	GALE THOMAS Funds to be deposited in: COMMUNITY FIRST BANK & TRUST
				799.00	Total Disbursements
				799.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Joan Rutschilling (Authorized Representative of CCC) Counter-Signed Martha A. ... (Authorized Representative of CCC)

DON001870

American Agr Insurance, Inc.
P.O. Box 1574
Council Bluffs, Iowa

51502

AMERICAN GROWERS

PLEASE NOTE

Check number 422029
Check date 1/21/97

This check is in payment of loss number 96-2358

The amount of the loss has been reduced by the unpaid premium balance.

Agency: 43326-16

or policy number MP-284392

FLR/HAYS INSURANCE AGENCY
123 W. CARROL STREET
KENTON, OH

43326

Amount of loss:	\$15,740.00
Less unpaid premium:	0.00
Amount of check:	\$15,740.00

Please retain this stub for your records.

DON001871

UNITED STATES
Department of
Agriculture

Farm Service Agency

MERCER COUNTY PSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10/02/1997
Time 15:09
Statement Type B Original

Program 92CRP
Application Conservation Reserve

CRP Payment Year 1997 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-9460

RETAIN FOR TAX PURPOSES

Producer ID REDACTED

Disbursement Statement

Transaction Information

<u>Reference Number(s)</u>	<u>Amount</u>	<u>STAT</u>	<u>Payment Description</u>
Contract 0061 Transaction W127500064	799.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
	799.00		Total Payments (Transactions)

Disbursement Information

<u>Issue Date</u>	<u>ACH/Check</u>	<u>ASGN/JYPMT</u>	<u>RECVEL/Claim</u>	<u>Amount</u>	<u>Payee Name and Address/CCC Debt Repaid</u>
10/02/1997	D0000819			799.00	GALE THOMAS
				799.00	Total Disbursements
				799.00	Total Program Payment Earned

Deposited in Financial Institution:
CITIZENS COMMERCIAL BANK
CELINA, OH 45822-1601

ACH Approved By:

Signed *Joan Rutschilling* Counter-Signed *Doris Marie Will*
(Authorized Representative of CCC) (Authorized Representative of CCC)

DON001872

Department of
Agriculture

FARM SERVICE Agency

MERCER COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-586-3149

Date 10/02/1997
Time 15:09
Statement Type B Original

Program 97CRP
Application Conservation Reserve

CRP Payment Year 1997 PAGE 1

Name: GALE THOMAS
8155 BURRVILLE RD
CELINA, OH 45822-9460

RETAIN FOR TAX PURPOSES

Producer ID

REDACTED

Disbursement Statement

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Contract 0154 Transaction W127500162	703.00		CONSERVATION RESERVE ANNUAL - CCC FUNDED
	703.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JYPMT	RECVBL/Claim	Amount	Payee Name and Address/ CCC Debt Repaid
10/02/1997	D0000898			703.00	GALE THOMAS
				703.00	Total Disbursements
				703.00	Total Program Payment Earned

Deposited in Financial Institution:
CITIZENS COMMERCIAL BANK
CELINA, OH 45822-1601

ACH Approved By:

Signed Jean Rutschilling
(Authorized Representative of CCC)

Counter-Signed Doris Marie Will
(Authorized Representative of CCC)

DON001873

Tab 62

IN THE SUPREME COURT OF OHIO

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STATE OF OHIO
EX REL., WAYNE T. DONER,
ET AL.,

CASE NO. 09-1292

VS.

SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693
AND
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

Deposition of NELDA THOMAS, Relator,
was taken by the Respondents as on
cross-examination, pursuant to the Ohio Civil
Rules of Procedure at Central Service Building,
220 West Livingston Street, Celina, Ohio 45822, on
Thursday, February 4, 2010, at 9:30 a.m., before
Terence M. Holmes, Professional Court Reporter,
and Notary Public within and for the State of
Ohio.

HOLMES REPORTING & VIDEO
982 Havensport Drive
Cincinnati, Ohio 45240
(513) 342-2088
(513) 342-1820 Fax
www.OhioDeposition.com

1 APPEARANCES:

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On Behalf of Ohio Department of Natural
Resources:

Daniel J. Martin
Assistant Attorney General
Environmental Enforcement
30 East Broad Street, Floor 25
Columbus, Ohio 43215-3400

On Behalf of Relators:

Martha C. Brewer
Attorney at Law
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, Ohio 43216-1008

C O N T E N T S

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WITNESSES
Nelda Thomas

DIRECT
-

CROSS
Ms. Brewer-4

RESPONDENT'S
A

E X H I B I T
DESCRIPTION
Affidavit of Nelda Thomas MARKED
9

1 help you through the process this morning. First,
2 as you notice the court reporter sworn you in, so
3 that means your testimony today is given under
4 oath, and although we're not sitting in a
5 courtroom, it's likely being in front of a judge,
6 and that the questions I'll ask you you'll have to
7 answer them truthfully to the best of your
8 ability. And do you understand that?

9 A. Yes.

10 Q. One of the things that is
11 important, and your lawyer already referenced it
12 is, when I ask a question to be sure you give a
13 responsive answer with a, you know, a yes or no or
14 some other verbal response, because the court
15 reporter can't take down, you know, the uh-uhs or
16 ah-huhs, you know, it's kind of confusing for the
17 record. So just, you know, try to give a good
18 clear, you know, answer so to the questions. The
19 other thing that's important is, if you don't
20 understand my question or it don't make sense or I
21 mumble and you can't hear me or something like
22 that, you know, please feel free to ask me to
23 repeat the question or to let me know that you
24 don't understand the question, because my goal
25 today is to get accurate information. I don't

1 want something that's confusing or misleading. So
2 if my question does not make sense, feel free to
3 stop me and let me know that. Do you understand
4 that?

5 A. Yes.

6 Q. Okay. All right. Those are the
7 basics. Do you have any other questions before we
8 begin?

9 A. No.

10 Q. Okay. Ms. Thomas, can you just
11 tell me your -- a little bit about your
12 educational background?

13 A. I went to high school, graduated
14 from high school, and I had two years of college.

15 Q. And where did you go to college?

16 A. I went to Grace College in Winona
17 Lake, Indiana.

18 Q. And what did you study there at
19 college?

20 A. At that time it was just the
21 basics, I took the basics. I hadn't declared a
22 major or anything.

23 Q. Okay. So you just took the basic
24 prerequisite courses --

25 A. Yeah.

1 Q. -- and things like that?

2 A. Yes.

3 Q. Okay. And can you tell me if you
4 have any special licenses or certifications; in
5 other words, do you have like a CPA or, you know,
6 an accounting --

7 A. No.

8 Q. -- degree or anything like that?

9 A. No, I don't.

10 Q. Commercial licenses of any type?

11 A. No.

12 Q. Okay. And after you attended
13 college, what did you do in terms of career, did
14 you hold a job at that point?

15 A. I got married. No, I didn't have a
16 job.

17 Q. Okay. And when did you get
18 married?

19 A. In 1972.

20 Q. And did you marry Gale Thomas?

21 A. Yes.

22 Q. And part of the reason we're here
23 today is that the allegations in the complaint
24 that have been filed against the state involves
25 property, real estate, that you own, and I want to

1 ask some questions about what you know and what
2 you're able to answer about the property. What
3 property are you alleging has been impacted by the
4 spillway at the lake?

5 MS. BREWER: Objection. Are you
6 asking for a parcel number?

7 MR. MARTIN: Sure, I'll clarify
8 that.

9 Q. Can you describe for me,
10 Mrs. Thomas, what parcel numbers you allege are
11 impacted by the state's actions involving the
12 spillway?

13 A. I don't know.

14 MS. BREWER: I'm gonna object to
15 that. If you have -- I mean you have it
16 in front of you. If you want to ask her
17 about a particular property, that's all
18 in her affidavit. I think it's a little
19 unfair to ask for a parcel number.

20 Q. Okay. Well, I'll change my
21 question. You own property in Mercer County, is
22 that correct?

23 A. Yes.

24 Q. And is that property that you live
25 on or reside on?

1 A. Yes. Well, we don't reside on the
2 property that floods, our house isn't it there.

3 Q. Okay. So the property that you had
4 flooding issues with is non-residential property?

5 A. Correct.

6 Q. And what do you use the property
7 for?

8 A. Farming.

9 Q. Do you use that property for any
10 other use?

11 A. No.

12 Q. And I was going to go to the
13 affidavit. So I'll go ahead and mark that.

14 MS. BREWER: And just for the
15 record, they've been marking them as A,
16 you know, with letters, just for the
17 sake of --

18 MR. MARTIN: Consistency.

19 MS. BREWER: Yeah. Respondent's A.

20 (Affidavit of Nelda Thomas, marked for
21 identification as Respondent's - Nelda
22 Thomas - Exhibit A.)

23 Q. And let's just go right to
24 Paragraph 2 there on your affidavit, Mrs. Thomas.
25 This states that you're the owner of some real
estate and there's some parcel numbers there.

1 | Sitting here today, do you agree with what was in
2 | your affidavit that these are the parcel numbers
3 | that you currently own?

4 | A. Yes.

5 | Q. And if you would, can you tell me
6 | if all these parcels are parcels that you allege
7 | to be impacted by the flooding related to the
8 | spillway or are these just a list of all the
9 | parcels that you happen to own?

10 | A. It's a list of all of the parcels.

11 | Q. All the parcels that you own --

12 | A. Yes.

13 | Q. -- in Mercer County?

14 | A. Yes.

15 | Q. Let's start with the first parcel
16 | which is 01-041300-0100. Do you know how many
17 | acres are on that property?

18 | MS. BREWER: Objection.

19 | Q. You can answer.

20 | A. I have no idea.

21 | Q. Okay. You don't know? What about
22 | the next one, 28-008000.0000, would you know how
23 | many acres are on that property?

24 | MS. BREWER: And I'm gonna have a
25 | continuing objection to this entire line

1 of questioning. She's identified the
2 flooding parcels in her affidavit that's
3 been provided to you, and I don't think
4 that she should be required to answer
5 about each parcel that's not involved in
6 the lawsuit. This is unreasonable.

7 Q. You can answer.

8 A. I have no idea.

9 Q. Okay. So for each of the parcels
10 listed here, and we just did the first two, but
11 for all the other parcels listed in your
12 affidavit, you can't testify as to how many acres
13 are on each of these parcels?

14 MS. BREWER: Objection.

15 Mischaracterizing.

16 A. No, I can't.

17 Q. Well, specifically let's, I guess,
18 address the issue of, again, on Number 2,
19 Paragraph 2. Mrs. Thomas, you've listed parcel
20 numbers that you identified is property that you
21 own in Mercer County. I guess what I'm trying to
22 find out is, which of these parcels you believe
23 are impacted by the flooding that was alleged in
24 the complaint?

25 MS. BREWER: Objection. You have

1 this in her affidavit.

2 MR. MARTIN: I don't see it,
3 counselor.

4 Q. So can?

5 A. I don't know the number of that
6 parcel.

7 MR. MARTIN: Can you read my
8 question back?

9 COURT REPORTER: Sure.

10 (Pending question was read back.)

11 Q. Let me ask the question a different
12 way. Paragraph 4 in your affidavit, if you have
13 that in-front of you. It says "I own lands which
14 since ODNR replaced the western spillway of Grand
15 Lakes St. Mary's in 1997 are subject to continuing
16 persistent frequent and inevitable increased
17 severe flooding from the western spillway of Grand
18 Lakes St. Mary's," do you see that paragraph?

19 A. Yes.

20 Q. Okay. When you say in that
21 paragraph "I own lands," to which lands are you
22 referring to?

23 A. There is one property that lays up
24 against the beaver and that would be the property
25 that floods.

1 Q. I see. So do you know if that one
2 property, does it have a parcel number?

3 A. Yes, it does.

4 Q. Okay. Looking at Paragraph Number
5 2, are you able to identify which parcel number is
6 associated with that property you just described?

7 MS. BREWER: Objection asked
8 and answered. You can go ahead and
9 answer.

10 A. No, I don't know which one it is.

11 MS. BREWER: I mean we've already
12 established she can't tell you the
13 parcel number. If you want to ask about
14 an address or you want to identify it by
15 location, I think that's appropriate,
16 but asking her about parcel number, I
17 think is very unfair.

18 MR. MARTIN: Well I just note for
19 the record that her affidavit identified
20 the parcel number. So I think it's
21 pretty fair to ask when someone's
22 identified in a sworn affidavit parcel
23 numbers their knowledge of about those
24 numbers.

25 Q. Mrs. Thomas, the one property that

1 you identified as being subject to flooding, is
2 that property one that is exclusively used for
3 farming?

4 A. Yes.

5 Q. And can you describe for me the
6 location of that property?

7 A. Like you want a road number or?

8 Q. Well, I can start with that. Does
9 it actually have an address?

10 A. Not to my knowledge it doesn't have
11 an address.

12 Q. Okay. What's the road that, I
13 guess, is the closest road?

14 A. Okay. It's on Burrville road.

15 Q. Burrville?

16 A. Yeah.

17 Q. You mind spelling that for me?

18 A. B-u-r-r-v-i-l-l-e.

19 Q. Thank you. And approximately how
20 many, if you know, how many acres is that?

21 A. It's about 92.

22 Q. And do you have any structures on
23 that piece of property?

24 MS. BREWER: Objection.

25 A. No.

1 Q. Are there any streams or rivers or
2 anything like a culvert, anything like that on the
3 property?

4 A. The beaver runs next to it. If
5 that's what you're asking.

6 Q. Okay. Beaver Creek --

7 A. Yes.

8 Q. -- is next to the property?

9 A. Yes.

10 Q. Do you know if your property line
11 goes up to the creek or?

12 A. Yes.

13 Q. It does?

14 A. Yes.

15 Q. Do you know, Mrs. Thomas, how much
16 of that piece of property is tillable?

17 MS. BREWER: Objection.

18 MRS. THOMAS: Am I supposed to
19 answer, even when you object?

20 MS. BREWER: Yes, I'm sorry, yes.

21 When I object it just means that there's
22 something about the question that we
23 might have take up with the judge later,
24 and you can largely ignore that. It's
25 just preserving my disagreement with his

1 question for the record. But unless I
2 instruct you not to answer, you should
3 just go ahead and answer, if you can.

4 A. Okay. And I forgot the question.

5 MR. MARTIN: Could you read back,
6 please?

7 COURT REPORTER: Sure.

8 (The pending question was read back.)

9 A. My husband does the farming on
10 that, so he knows more about it than I do. I do
11 know that it's 92 acres, and as far as I know they
12 farm it all.

13 Q. Okay. We can follow-up with your
14 husband if he's got more detail on that. Do you
15 know what crops are farmed?

16 A. They rotate corn and beans.

17 Q. And again maybe this is something
18 that's better directed to your husband, but do you
19 know if there are tiles on this land?

20 MS. BREWER: Objection.

21 A. There are, there is tile.

22 Q. Okay. Do you know, Mrs. Thomas, if
23 your family on that piece of property participates
24 in a Conservation Reserve Program?

25 A. Yes.

1 Q. And do you have any knowledge about
2 what that program is about, can you describe what
3 it is?

4 MS. BREWER: Objection.

5 A. To my knowledge it's just land that
6 they set aside that they don't farm.

7 Q. Do you know on the parcel that
8 we've been talking about, the piece of land near
9 the Beaver Creek, do you know if that has
10 conservation reserve acreage on it?

11 A. Yes, it does.

12 Q. Do you know approximately how much?

13 A. No, I don't.

14 Q. Do you know if your family and
15 yourself and your husband and your ownership of
16 this property, do you participate in the Wetlands
17 Reserve Program?

18 A. I don't know that.

19 Q. How long have you owned this
20 particular piece of property?

21 A. I'm not sure how many years it's
22 been.

23 Q. Would it be since you were married?

24 A. Yeah. Yes.

25 Q. When did you first become familiar

1 with this piece of property, when did you first
2 know about it?

3 MS. BREWER: Objection.

4 A. When we bought it.

5 Q. Okay. Did you buy it before you
6 were married or after?

7 A. After.

8 Q. And who did you buy it from, if you
9 recall?

10 A. Menchhofer.

11 Q. I'm sorry.

12 A. Menchhofer.

13 Q. Can you spell that for us, if you
14 can?

15 A. Can I ask my husband to spell it, I
16 don't have no idea.

17 Q. That's all right, we'll follow-up
18 with him.

19 A. I don't know how you spell that.

20 Q. Okay. And since you and your
21 husband bought that property, when did you first
22 become aware of any type of flooding?

23 MS. BREWER: Objection.

24 A. I don't know. I knew it flooded
25 from the beginning when we first bought it, but

1 other than that, I don't know.

2 Q. Do you have any recollection of how
3 much it would flood --

4 MS. BREWER: Objection.

5 Q. -- like frequency, how many times a
6 year maybe?

7 A. No, not really.

8 Q. Do you have any knowledge as to
9 whether overtime the flooding has stayed the same
10 or gotten worse, can you describe your
11 recollection maybe of the history of the degree of
12 flooding?

13 MS. BREWER: Objection.

14 A. It seems to be worse now than it was
15 before.

16 Q. And can you tell me what things
17 you've observed that lead you to that conclusion?

18 MS. BREWER: Objection.

19 A. Other than the fact that there's
20 water, more water. When it rains there's a lot of
21 -- It gets pretty deep. I do remember one time
22 that it was up to the top of the corn. We had
23 mature corn in the field and it was -- all you
24 could see was the very tip of the corn.

25 Q. Can you recall maybe what year this

1 | was?

2 | A. Year wise, I don't remember. I do
3 | remember it was in the summer.

4 | Q. Can you recall if maybe it was
5 | before 1997?

6 | A. I would say not before that.

7 | Q. Okay. So probably after '97?

8 | A. Yes.

9 | Q. And you said it got up to the top
10 | of the corn and during the summer. Generally,
11 | thinking about high corn would be in the summer,
12 | can you sort of give me an estimate of how deep
13 | the water might have been?

14 | A. Maybe 6 foot.

15 | Q. Is that the highest you've ever
16 | seen it on that property?

17 | A. That I recall, yes.

18 | Q. Can you recall how long it stayed
19 | that high?

20 | A. No, I don't know.

21 | Q. Besides that event that we just
22 | talked about, can you recall any other episodes of
23 | flooding on this property?

24 | MS. BREWER: Objection. Do you
25 | have a time period you're asking about?

1 Q. Well, let's start before 1997?

2 A. I don't recall before 1997. I
3 don't know.

4 Q. You don't recall any particular
5 episodes?

6 A. No.

7 Q. What about other than the one we
8 talked about, what about after 1997?

9 A. I know there have been more than
10 one time when it has flooded; it floods.

11 Q. During the event that we talked
12 about where you said that the water was up to the
13 top of the corn, did you experience any crop loss
14 as a result of that flood?

15 A. Yes.

16 Q. And do you have any recollection of
17 whether you or your husband put a claim into
18 anyone for that loss?

19 MS. BREWER: Objection.

20 A. Yes.

21 Q. Is that to insurance or?

22 A. Yes.

23 Q. Do you recall if you did get
24 compensated for that loss?

25 A. Yes.

1 Q. Other than that event that we
2 talked about since you've been involved with the
3 property, since you've been owner of the
4 property, any other events that you recall
5 requiring a report of a crop loss or damage?

6 MS. BREWER: And to be clear, are
7 you talking about post 1997?

8 Q. From any time, from, well, say 1972
9 on?

10 A. Yes, there have been times.

11 Q. Okay. Can you recall what years?

12 A. No, I don't know.

13 Q. Any before 1997?

14 A. I don't know.

15 Q. Can you tell me during the event
16 we've talked about, again, where you said the
17 water was up to the top of the corn, besides the
18 impact you talked about to your crop, were there
19 any other damages as a result of that episode?

20 A. No.

21 Q. Did you experience any other loss
22 of use of your property during that episode we
23 talked about?

24 MS. BREWER: Objection.

25 A. I don't understand.

1 Q. Yeah. Were you not able to access
2 your property because of the water?

3 A. No, we couldn't get into the
4 property.

5 Q. Okay. Did you have any personal
6 property damage as a result of that episode?

7 A. Such as house or?

8 Q. Like equipment, machinery?

9 A. No.

10 Q. Did you have any residential
11 property loss or did you have a house that was
12 flooded or anything like that?

13 A. No.

14 Q. Did you keep any records or
15 documents related to these flooding incidents like
16 pictures or notes or a dairy or anything like
17 that?

18 A. No.

19 Q. Mrs. Thomas, do you have any
20 knowledge about what the value of the parcel we've
21 been talking about, what the value of that is
22 today?

23 A. No.

24 Q. If you can recall, do you recall
25 what you and your husband paid for it when you

1 | bought it?

2 | A. No.

3 | Q. Mrs. Thomas, do you or your husband
4 | do you farm that land yourself or do you lease it
5 | to someone else?

6 | A. We farm it ourselves.

7 | Q. If we can just go back to your
8 | affidavit, Exhibit A again. There is a few more
9 | questions I want to ask you about. And if we go
10 | to Paragraph 4. I just want to ask you some
11 | questions about that statement there. What's your
12 | understanding of the allegation here in the
13 | affidavit that the western spillway of Grand Lakes
14 | St. Mary's was replaced by ODNR in 1997, how do
15 | you know that?

16 | A. It was -- the spillway was made
17 | bigger in that year.

18 | Q. And how did you come to learn that
19 | information?

20 | A. It was in the paper.

21 | Q. Okay. And the statement says that
22 | "The lands are subject to continuing, persistent,
23 | frequent and inevitable, increased, severe
24 | flooding from the Western Spillway of Grand Lakes
25 | St. Mary's." So I guess I first want to know in

1 | your statement here what do you understand
2 | "continuing" to mean?

3 | MS. BREWER: Objection.

4 | A. That it continues to happen. It
5 | didn't just stop, the flooding didn't stop.

6 | Q. And what's your understanding of --
7 | as you use it here the term "persistent?"

8 | MS. BREWER: Objection.

9 | A. That it keeps happening.

10 | Q. And since 1997, can you identify
11 | for me how many times your property has flooded
12 | because of the spillway?

13 | MS. BREWER: Objection.

14 | A. No.

15 | Q. So you don't know?

16 | A. No.

17 | Q. Okay. The term here is used
18 | "frequent." What do you, what do you mean by
19 | "frequent?"

20 | MS. BREWER: Objection.

21 | A. That it's happened more than once.

22 | Q. So how many times has it happened?

23 | MS. BREWER: Objection.

24 | A. I don't know.

25 | Q. Okay. So it's happened more than

1 | once. Would 10 times be too many?

2 | A. I have no idea, I don't know.

3 | Q. And then the same statement says,
4 | "inevitable increased severe flooding." Can you
5 | tell me what you meant by that?

6 | MS. BREWER: Objection.

7 | A. That it floods. When we get rain
8 | it will flood.

9 | Q. Okay. And the do you understand
10 | the term in "inevitable" to mean that it's
11 | guaranteed that it's gonna happen?

12 | MS. BREWER: Objection.

13 | A. Yeah, yes.

14 | Q. And if you can tell me, how do you
15 | know that this flooding problem is all related to
16 | the western spillway, how do you know that?

17 | A. Well, I would say because the water
18 | from the spillway comes right out the beaver, and
19 | when it comes over the banks of the spillway, then
20 | it goes out the beaver and it get -- it floods our
21 | land.

22 | Q. So your understanding is that as
23 | the -- 'cause the beaver is the receiving stream
24 | for the flow from the spillway, that that's how it
25 | impacts your property?

1 MS. BREWER: Objection.

2 A. Yes.

3 Q. Have you explored whether there can
4 be other causes for this flooding?

5 MS. BREWER: Objection.

6 A. No.

7 Q. Besides what you described for me,
8 you know, your personal knowledge about how the
9 spillway is, you know, connected to the Beaver
10 Creek, are there other facts or information that
11 you're aware of that we should know about that
12 identifies the spillway as the culprit for this
13 flooding problem?

14 MS. BREWER: Objection.

15 A. No.

16 MS. BREWER: Let's take a quick
17 break.

18 (Off the record)

19 Q. Mrs. Thomas, besides your attorney,
20 have you discussed this case with anyone else?

21 A. My husband.

22 Q. I figured that would probably have
23 been the case, but -- And besides your husband,
24 have you talked to anyone else about your case?

25 MS. BREWER: Objection.

1 A. Not that I know of.

2 Q. There's large number of other
3 parties in the case claiming, you know, damages to
4 their lands. Have you talked to any of those
5 other people outside the presence of your lawyers?

6 MS. BREWER: Objection.

7 A. Maybe -- we might have, yes.

8 Q. Do you recall any details of any of
9 those conversations?

10 MS. BREWER: Objection.

11 A. No, no.

12 Q. Could I just direct your attention
13 to your affidavit again, Exhibit A, the second
14 page. The person who notarized your affidavit,
15 Rita Suhr, I think, do you know her?

16 A. Yes.

17 Q. Do you know that she's also a party
18 to this case?

19 MS. BREWER: Objection.

20 A. Yes.

21 Q. When she notarized your affidavit,
22 did you two talk about the case any?

23 MS. BREWER: Objection.

24 A. Not that I recall.

25 Q. And did you personally sign this

1 affidavit in Ms. Suhr's presence?

2 MS. BREWER: Objection.

3 A. I don't remember. I don't
4 remember.

5 Q. Okay. Did she give you an oath to
6 swear when you signed the affidavit?

7 MS. BREWER: Objection.

8 A. I don't recall.

9 MR. MARTIN: Okay. I want to just
10 double check a couple things. I think
11 I'm done with Mrs. Thomas, let me just
12 double check.

13 Q. Yeah, I just have a couple more,
14 and if this is something you don't know about, I
15 can ask your husband. But do you know if as a
16 result of the flooding, have you experienced any
17 income loss?

18 MS. BREWER: Objection.

19 A. I don't know.

20 Q. Besides the claim for insurance,
21 was there other types of claims that would have
22 been made for any losses associated with the
23 flooding?

24 MS. BREWER: Objection.

25 A. Not that I know of.

1 Q. Do you have any information about
2 whether or not the value of your property has --
3 and the property being the parcel we've talked
4 about near the creek, if that value of that
5 property has gone down or gone up since 1997?

6 MS. BREWER: Objection.

7 A. No.

8 MR. MARTIN: All right. No further
9 questions. Thank you.

10 MS. BREWER: When the court
11 reporter is done here today, he'll go
12 back and he'll type up everything that
13 was said and he'll put it into a
14 transcript. You have the right to look
15 that over and make sure that everything
16 you said was accurate and then you can
17 sign it or you can waive that right and
18 just assume everything was correct. I
19 can't tell you which one to pick, but I
20 will advise you you should read it.
21 Would you like to read it?

22 MS. THOMAS: Yes.

23 MS. BREWER: Okay.

24

Nelda Thomas

25

(At 10:15 a.m., the deposition concluded)

1 Q. Do you have any information about
2 whether or not the value of your property has --
3 and the property being the parcel we've talked
4 about near the creek, if that value of that
5 property has gone down or gone up since 1997?

6 MS. BREWER: Objection.

7 A. No.

8 MR. MARTIN: All right. No further
9 questions. Thank you.

10 MS. BREWER: When the court
11 reporter is done here today, he'll go
12 back and he'll type up everything that
13 was said and he'll put it into a
14 transcript. You have the right to look
15 that over and make sure that everything
16 you said was accurate and then you can
17 sign it or you can waive that right and
18 just assume everything was correct. I
19 can't tell you which one to pick, but I
20 will advice you you should read it.
21 Would you like to read it?

22 MS. THOMAS: Yes.

23 MS. BREWER: Okay.

24 Nelda Thomas
Nelda Thomas

25 (At 10:15 a.m., the deposition concluded)

MARTHA C. BREWER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

Martha Brewer 3/15/10
Notary Public date

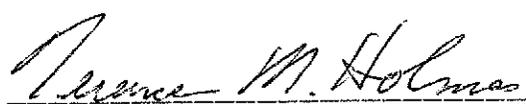
C E R T I F I C A T E

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STATE OF OHIO)
) SS:
COUNTY OF MERCER)

I, Terence M. Holmes, the undersigned, a duly qualified and commissioned notary public within and for the State of Ohio, do hereby certify that before the giving of her aforesaid deposition, the said NELDA THOMAS was by me first duly sworn to depose the truth, the whole truth, and nothing but the truth, that the foregoing is the deposition given at said time and place by said NELDA THOMAS; that said deposition was taken in all respects pursuant to agreement and stipulations of counsel hereinbefore set forth; that said deposition was taken by me in stenotype and transcribed into typewriting by me; that I am neither a relative of nor attorney for any of the parties to this cause, nor relative of nor employee or any of their counsel, and have no interest whatever in the result of this action.

IN WITNESS WHEREOF, I have hereunto set my hand at Cincinnati, Ohio, this 16th day of February, 2010.



My Commission Expires: Terence M. Holmes
July 28, 2012 Notary Public - State of Ohio



AFFIDAVIT OF NELDA G. THOMAS

STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Nelda G. Thomas, I am over the age of 21, and I am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct. I state as follows:

1. I am a Relator in this mandamus action against Respondent Sean D. Logan, Director, Ohio Department of Natural Resources ("ODNR").

2. Specifically, I am an owner of real estate described as Mercer County Parcel Numbers 01-041300.0100, 28-008000.0000, 30-004100.0000, 28-013800.0000, 28-002100.0100, 30-017200.0200, 30-025800.0100, 30-002300.0000, and 30-001800.0000.

3. I own lands that lie adjacent to or near Beaver Creek and/or adjacent to or near the Wabash River near its confluence with Beaver Creek.

4. I own lands which, since ODNR replaced the western spillway of Grand Lake St. Mary's in 1997, are subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Marys.

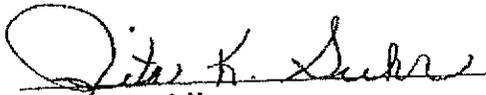
5. To date, the most invasive flood occurred in 2003, but my property has been subject to continuing, persistent, frequent, and inevitable increased severe flooding since 1997.

6. I have reviewed the Complaint and the facts relating to my real estate and the flooding of my lands caused by ODNR from the western spillway of Grand Lake St. Marys and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.


Nelda G. Thomas

Sworn in my presence and subscribed before me this 19th day of June, 2009.


Notary Public

RITA K SUHR
Notary Public - State of Ohio
My Commission Expires May 13, 2011
Recorded in Mercer County

Tab 63

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO
EX REL., WAYNE T. DONER,
ET AL.,

CASE NO. 09-1292

VS.
SEAN D. LOGAN, DIRECTOR
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693
AND
OHIO DEPARTMENT OF
NATURAL RESOURCES
2045 MORSE ROAD
COLUMBUS, OHIO 43229-6693

Deposition of MARILYN L. UHLENHAKE,

Relator, was taken by the Respondents as on
cross-examination, pursuant to the Ohio Civil
Rules of Procedure at Central Service Building,
220 West Livingston Street, Celina, Ohio 45822, on
Thursday, February 18, 2010, at 11:30 a.m., before
Terence M. Holmes, Professional Court Reporter,
and Notary Public within and for the State of
Ohio.

HOLMES REPORTING & VIDEO
982 Havensport Drive
Cincinnati, Ohio 45240
(513) 342-2088
(513) 342-1820 Fax
www.OhioDeposition.com

1 APPEARANCES:

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On Behalf of Ohio Department of Natural
Resources:

Daniel Martin
Assistant Attorney General
Executive Agencies
30 East Broad Street, Floor 26
Columbus, Ohio 43215-3400

On Behalf of Relators:

Martha Brewer
Attorney at Law
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, Ohio 43216-1008

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C O N T E N T S

WITNESS	CROSS	DIRECT
Marilyn Uhlenhake	M-4	B-21

E X H I B I T S

RESPONDENT'S	DESCRIPTION	MARKED
A	Affidavit	10

1 judge, you're sworn in and you'll need to tell the
2 truth, and answer the questions truthfully to the
3 best of your knowledge.

4 A. Okay.

5 Q. And the court reporter is taking a
6 record down of everything we say this morning, so
7 it's important that as he said, keep your voice up
8 so he can hear you, and also to answer with verbal
9 or audible answers. When we talk casually a lot
10 of times we shake our heads or nod our heads or
11 maybe we'll say, uh-uh or shrug our shoulders or
12 things like that, those are hard for him to put on
13 the record. So if you can express yourself
14 verbally, like yes rather than Aha or no instead
15 uh-uh, those types of things will make it easier
16 for the reporter to get the record down
17 accurately.

18 The other thing we need to try and
19 do is avoid talking over each other or
20 interrupting each other. I'll get my question out
21 and then ask that you wait till I'm done with my
22 question before you start to answer. Even though
23 you may think you know what the answer is or you
24 know what question I'm gonna ask, just let me get
25 my question out and then you can start your

1 answer, and that way it'll be easier for the
2 reporter, 'cause we won't be talking other each
3 over.

4 I don't want to say anything that's
5 confusing or misleading, so if I ask a question
6 that you don't understand or doesn't make any
7 sense to you, feel free to let me know that, and
8 I'll ask the question over again or rephrase it.
9 If you don't hear me or you're in any way not sure
10 what the question is, please let us know that so I
11 can ask the question again. I don't want to have
12 you answer something, you know, not understanding
13 the question or not knowing the question, and
14 those are the main grounds rules. Do you have any
15 questions?

16 A. No.

17 Q. All right. Well thank you, and
18 we'll go ahead and get started. I just wanted to
19 ask you some questions about your background. Do
20 you live here in Mercer County?

21 A. Yes.

22 Q. And how long have you lived here?

23 A. Seventy-five years.

24 Q. And where do you live?

25 A. I live south of Coldwater, Ohio.

1 Q. Okay. And what's your address?

2 A. 3631 Burkettsville-St. Henry Road.

3 Q. And did you go to school here in
4 Celina?

5 A. No, I went -- I went to school at
6 Reinstein, Ohio.

7 Q. And how far did you go in your
8 schooling?

9 A. I graduated from high school at 12
10 years.

11 Q. And any other schooling after that?

12 A. No.

13 Q. Did you ever take any courses or
14 classes from college?

15 A. No.

16 Q. Did you have any training for a job
17 like a class or a training that your employer was
18 sponsored?

19 A. No.

20 Q. And what do you currently do for a
21 living?

22 A. Right now I'm retired.

23 Q. Okay. And before retirement what
24 was your occupation?

25 A. We farmed and my husband was an

1 auctioneer and I was his, I did his book work.

2 Q. And what type of book work would
3 you do?

4 A. I had to take all the money from
5 the auction, I had to pay the bills, like the
6 advertising and pay all the people that helped
7 with the auction and that's it, what I did.

8 Q. Did those include real estate
9 auctions?

10 A. Yes.

11 Q. Did you ever participate in helping
12 your husband with running the auctions other than
13 what you've already described?

14 A. Yeah, I went along with the
15 auction, but I wasn't allowed to pull bids at real
16 estate auctions. We had farm machine auctions,
17 too, and then I could do the clerking. We had a
18 separate little motor home and that's where we did
19 the clerking.

20 Q. Okay. So would you do things like
21 add up people's bills for their bidders number?

22 A. Um-hum. Yes, and then the money
23 had to come out with the money, you know, that had
24 to all come out.

25 Q. Did you ever do any appraisal work

1 on any of the properties?

2 A. My husband did but my typed them
3 up.

4 Q. Okay. So you --

5 A. I did his typing.

6 Q. All right. So you did like the
7 clerking work?

8 A. I guess, yeah, I typed it up for
9 him, yeah.

10 Q. And before you were working with
11 your husband in the auction business, what were
12 you doing for a living?

13 A. Well, we farmed, so then and we
14 still farmed after we had the auction work, too.

15 Q. So did you do any farming before
16 you married your husband?

17 A. Yes, I lived on a farm before I was
18 married.

19 Q. Did you help your parents on the
20 farm?

21 A. Um-hum. But I did, after I
22 graduated from high school I did have a job at New
23 Idea, and I was a secretary at New Idea.

24 Q. And how long did you have that job?

25 A. I think five year.

1 Q. And then after the job at New Idea
2 did you have any other jobs other than the ones we
3 talked about?

4 A. No, I just helped him farm.

5 Q. And what types of work would you do
6 on the farm?

7 A. We milk cows and then I helped
8 drive tractor whenever I could, things like that.

9 Q. And as we sit here today do you
10 still help with farming?

11 A. No.

12 Q. When was the last time you helped
13 with things on the farm?

14 A. About 10 years ago.

15 (Affidavit of Marilyn L. Uhlenhake,
16 marked for identification as
17 Respondent's - Marilyn L. Uhlenhake -
18 Exhibit A.)

19 Q. Okay. What I wanted to do,
20 Marilyn, is I have an affidavit that you signed, I
21 want to mark this Exhibit A, and I'll hand that to
22 you. And this was attached to the complaint filed
23 in this matter. And if I could just direct your
24 attention to the second page of that, is that your
25 signature?

24 A. Yes.

25 Q. And you remember signing this

1 | document then?

2 | A. Yes.

3 | Q. And did you prepare this document?

4 | MS. BREWER: Objection.

5 | A. Well, I don't know if I actually
6 | prepared it but listened in on it.

7 | Q. Do you agree with the statements
8 | that were made in the document?

9 | A. Yes.

10 | Q. And let me just direct your
11 | attention to Paragraph Number 2, Number 2 on that
12 | first page. It says specifically I'm an owner of
13 | real estate, do you see that one?

14 | A. Yes.

15 | Q. And it gives five parcel numbers?

16 | A. Um-hum.

17 | Q. And do you still own those parcels?

18 | A. Not all of 'em. I own some of 'em
19 | and rent 'em out, some -- I think one of 'em is
20 | sold, but.

21 | Q. Okay. I'm sorry, I didn't mean to
22 | cut you off.

23 | A. He owns that.

24 | Q. Oh, I'm sorry, you pointed over
25 | your shoulder, is that your husband?

1 A. No, that's my son.

2 Q. Oh, okay, I'm sorry. Your son owns
3 one of the parcels?

4 A. Yes.

5 Q. And if you can, do you know which
6 one of these parcels is now owned by your son?

7 A. I think it's the first one, I'm not
8 real sure.

9 Q. Okay. Do you know when did that
10 transfer occur?

11 A. About the year 1999, 2000 right in
12 there.

13 Q. So if that transaction occurred in
14 1999, then at least on this document it would be
15 correct then that to say that you know no longer
16 own that parcel?

17 A. Not that parcel.

18 MS. BREWER: Objection. And I'm
19 going instruct if you not to guess. If
20 you don't know which parcel number
21 applies --

22 A. Yeah, I don't know exactly which
23 one it is, one of 'em.

24 MS. BREWER: If you want to
25 describe those by location, that's fine,

1 but I don't want you to guess.

2 A. Okay.

3 Q. The parcel that your son acquired
4 in '99 from you, do you know how many acres that
5 parcel was?

6 A. He bought 70 acres.

7 Q. And do you know if it has an
8 address?

9 A. Yes, that's 3723 Burkettsville-St.
10 Henry Road.

11 Q. Okay. Thank you. The other --
12 aside from that parcel, that we've identified that
13 you no longer own, the other four, do they lie
14 near the Beaver Creek?

15 A. Two of 'em do. We have a ditch at
16 that other farm, too, I think that run towards the
17 beaver.

18 Q. And when you say "the other farm,"
19 is that the one your son owns now?

20 A. Yeah, and then I live there, too.
21 That's where I live.

22 Q. Oh, okay. You live in a residence
23 on the property that we talked about earlier that
24 your son now owns, is that correct?

25 A. At one time I was, but not now, I

1 | moved off of that one?

2 | Q. Oh, I see. Okay. And then the
3 | Wabash River, is that near any of the four
4 | properties that you still on?

5 | A. No, I don't think so.

6 | Q. I just direct your attention to
7 | Paragraph five of your affidavit. It's that
8 | second page, and it says "To date -- I'm sorry.
9 | Let's go back to the first page, I meant to start
10 | with that 4th paragraph. And the statement
11 | indicates that since the Department of Natural
12 | Resources replaced the western spillway of Grand
13 | Lakes-St. Mary's in 1997, your land has been
14 | subject to flooding, and do you agree with that
15 | statement?

16 | A. Two of those parcels have, yes.

17 | Q. Okay. Do you know which of the two
18 | have been impacted by the flooding?

19 | A. I don't know their numbers, no.

20 | Q. Okay. Can you describe for me in
21 | however terms you can, you know, do in your own
22 | mind that describe the two parcels?

23 | A. Well, there were right south of
24 | State Route 29.

25 | Q. Okay. Right south of 29?

1 A. Um-hum.

2 Q. Do you know if they have addresses?

3 A. No, we tore the buildings down, so
4 there's no address on that one.

5 Q. Okay. But the other two parcels --
6 I'm sorry, just so I'm clear and the record is
7 clear. The two parcels just south of 29, and you
8 said you tore buildings down on those, are those
9 the two that are affected by flooding or not?

10 A. Yeah, uh-huh. See the Little
11 Beaver runs through there.

12 Q. All right. So Little Beaver
13 affects those two parcels south of 29, is that
14 right?

15 A. Um-hum.

16 Q. I'm sorry. Yes -- Is that a yes or
17 no?

18 A. Yes.

19 Q. Okay. And if you go -- go ahead
20 and go to Paragraph 5 on the the next page. It
21 says that the most invasive flooding that occurred
22 in 2003. Can you describe what type of flooding
23 was on those parcels in 2003?

24 A. Well, let's see, that was around
25 July. The corn was about this high and the water

1 | actually covered the corn.

2 | Q. And did you actually get to see
3 | this when it happened?

4 | A. Yeah, I drove past there and saw
5 | that, um-hum.

6 | Q. And besides the depth of the water,
7 | did the flooding there last for a certain amount
8 | of time?

9 | A. I don't know exactly how long it
10 | lasted.

11 | Q. Besides 2003, did you ever see
12 | flooding on those parcels?

13 | A. Yeah, 2005 it also was flooded.

14 | Q. How deep was it then, if you can
15 | recall?

16 | A. I think was about the same, maybe
17 | not quite as high.

18 | Q. Any other events after 2005 that
19 | you can recall?

20 | A. There seems to be there was one
21 | other year, maybe, I don't remember exactly which
22 | year that was.

23 | Q. Before 1997 was there ever flooding
24 | on the parcels we talked about that are south of
25 | Route 29?

1 A. Not that I know of.

2 Q. So best of your knowledge you never
3 were aware of any flooding there?

4 A. Not that I know of, no.

5 Q. Do you know if you experienced any
6 crop loss on those parcels south of 29?

7 MS. BREWER: Objection.

8 A. Well, you'd have to ask my son, he
9 farms it, I don't farm it, so.

10 Q. Okay. So you don't have knowledge
11 about whether he had a loss or not?

12 A. I think he did, but I don't know.

13 MS. BREWER: And are we talking
14 about 2003 or generally crop loss?

15 MR. MARTIN: Well, just generally
16 to start.

17 MS. BREWER: Since '97 or before
18 '97?

19 A. Before, before we sold it there
20 wasn't. We sold that -- No, we still owned it,
21 but he rents it, but before we stopped farming it
22 there wasn't, but then he rents it after that, so
23 I don't know after that what happened.

24 Q. Okay. And do you know who those
25 you rented to?

1 A. Yeah, they're rented to Gary, my
2 son.

3 Q. Oh, okay. So the two parcels we're
4 talking about south of 29 you own those but you
5 rent them to your son?

6 A. That's right.

7 Q. What's the amount of the rental?

8 A. That I get an acre?

9 Q. Yes, ma'am?

10 A. Well, you got to remember he's my
11 son, so he, we charge \$70.00 an acre.

12 Q. Do you have any photographs or
13 videos of any of the flooding?

14 A. No, we should have taken that, we
15 didn't.

16 Q. Do you have any facts or bits of
17 information that have lead you to conclude that
18 the flooding you experienced that the parcel south
19 of Route 29 were because of the actions of the
20 Department of Natural Resources?

21 MS. BREWER: Objection.

22 A. No, I didn't keep any of that
23 information and the paper, no.

24 MR. MARTIN: Can we go off the
25 record for a second?

1 (Off the record)

2 Q. Okay. Marilyn, the parcels south
3 of 29, and I'll keep referring them that way
4 because we couldn't identify the parcel numbers,
5 so as long as you understand the ones I'm talking
6 about. The parcels south of 29, did you ever use
7 those for anything other than farming?

8 A. No.

9 Q. Is it used for crops?

10 A. Yes, we put crops out there, yes.

11 Q. And is it used for livestock?

12 A. No, we have no livestock there.

13 Q. Okay. Do you know, and again I
14 know you said recently you haven't been farming,
15 but do you know if corn is there ever year or is
16 it rotated?

17 A. No they rotate, corn and beans and
18 wheat or something like that.

19 Q. The two parcels south of 29, do you
20 know how many acres there are tillable?

21 A. I think it's -- let's see, 55 acres
22 is probably about 53 acres are tillable.

23 Q. Between the two of them together?

24 A. Yeah, they lay right next to each
25 other, and there's a ditch along the side. The

1 Little Beaver is along side.

2 Q. Do you know if there's something
3 called "filter strips" on the property?

4 A. That I don't know.

5 Q. And how long have you owned the two
6 parcels south of 29?

7 A. We bought the first one in '83 and
8 we bought the second one about '86, something like
9 that.

10 Q. Do you recall if the previous
11 owners ever mentioned anything to you about the
12 flooding conditions?

13 A. No, not that I remember.

14 Q. Do you believe that the properties,
15 parcels south of 29, have they decreased in value
16 as a result of any of the flooding?

17 A. See, my husband isn't living
18 anymore so he would know that. I wouldn't know, I
19 haven't been buying any ground.

20 Q. As we sit here today you're not
21 sure if they're worth less because of the
22 flooding?

23 A. No, I'm not sure of that.

24 MR. MARTIN: I have no further
25 questions.

1 MS. BREWER: Okay. I have a couple
2 follow-ups.

3 DIRECT EXAMINATION

4 BY MS. BREWER:

5 Q. Mrs. Uhlenhake, you just said that
6 you weren't sure what the value of the properties
7 that you own are, but do you think that your
8 property would be worth more if it didn't flood?

9 MR. MARTIN: Objection.

10 A. I think it probably would be, yes.

11 MS. BREWER: Okay. That is all the
12 questions that I have.

13 MR. MARTIN: No follow-up to that,
14 so.

15 MS. BREWER: Okay. You have the
16 right to read and review your transcript
17 if they decide to order copy of the
18 transcript. Would you like to take the
19 opportunity to do that? I recommend to
20 my clients that they do.

21 MS. UHLENHAKE: Yeah, that
22 probably would be a good idea.

23 MS. BREWER: Okay.

24 Marilyn L. Uhlenhake
Marilyn L. Uhlenhake

25 (At 12:00 noon the deposition concluded)

MARTHA C. BREWER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

Marilyn L. Uhlenhake
3/31/10

C E R T I F I C A T E

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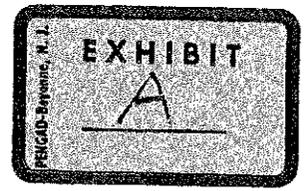
STATE OF OHIO)
) SS:
COUNTY OF MERCER)

I, Terence M. Holmes, the undersigned, a duly qualified and commissioned notary public within and for the State of Ohio, do hereby certify that before the giving of her aforesaid deposition, the said MARILYN UHLENHAKE was by me first duly sworn to depose the truth, the whole truth, and nothing but the truth, that the foregoing is the deposition given at said time and place by said MARILYN UHLENHAKE; that said deposition was taken in all respects pursuant to agreement and stipulations of counsel hereinbefore set forth; that said deposition was taken by me in stenotype and transcribed into typewriting by me; that I am neither a relative of nor attorney for any of the parties to this cause, nor relative of nor employee or any of their counsel, and have no interest whatever in the result of this action.

IN WITNESS WHEREOF, I have hereunto set my hand at Cincinnati, Ohio, this 25th day of March, 2010.



My Commission Expires: Terence M. Holmes
July 28, 2012 Notary Public - State of Ohio



AFFIDAVIT OF MARILYN L. UHLENHAKE

STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Marilyn L. Uhlenhake, I am over the age of 21, and I am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct. I state as follows:

1. I am a Relator in this mandamus action against Respondent Sean D. Logan, Director, Ohio Department of Natural Resources ("ODNR").
2. Specifically, I am an owner of real estate described as Mercer County Parcel Numbers 03-057700.0200, 03-057700.0000, 03-057900.0000, 26-043300.0000, and 26-042900.0100.
3. I own lands that lie adjacent to or near Beaver Creek and/or adjacent to or near the Wabash River near its confluence with Beaver Creek.
4. I own lands which, since ODNR replaced the western spillway of Grand Lake St. Mary's in 1997, are subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Marys.

5. To date, the most invasive flood occurred in 2003, but my property has been subject to continuing, persistent, frequent, and inevitable increased severe flooding since 1997.

6. I have reviewed the Complaint and the facts relating to my real estate and the flooding of my lands caused by ODNR from the western spillway of Grand Lake St. Marys and swear that those facts are true and accurate, based on personal knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

Marilyn L. Uhlenhake
Marilyn L. Uhlenhake

Sworn in my presence and subscribed before me this 22nd day of June, 2009.

Rita K. Suhr
Notary Public

RITA K SUHR
Notary Public • State of Ohio
My Commission Expires May 13, 2011
Recorded in Mercer County