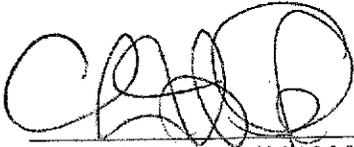


The parties to this action, by and through their respective attorneys, hereby jointly submit, for purposes of this action only, that each of the exhibits listed below are authentic for all purposes in this action:

<u>Tab</u>	<u>Description</u>
64	Deposition Transcript with Exhibits of Jerry Weisman taken February 19, 2010
65	Deposition Transcript with Exhibits of Vicki L. Weisman taken February 18, 2010
66	Deposition Transcript with Exhibits of Jennifer Zumberge taken February 19, 2010
67	Deposition Transcript with Exhibits of Michael Zumberge taken February 12, 2010

Dated: June 1st, 2010

Joint Exhibits Approved and Respectfully Submitted By:



Bruce L. Ingram (0018008)
(Counsel of Record)
Joseph R. Miller (0068463)
Thomas H. Fusonie (0074201)
Kristi Kress Wilhelmy (0078090)
Martha C. Brewer (0083788)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
Tel.: (614) 464-6480
Fax: (614) 719-4775
blingram@vorys.com
jrmiller@vorys.com
thfusonie@vorys.com
kkwilhelmy@vorys.com
mcbrewer@vorys.com

Attorneys for Relators

William J. Cole (de l. THF/0074201) per written authorization
William J. Cole (0067778) *written authorization*
(Counsel of Record)

Mindy Worly (0037395)
Jennifer S.M. Croskey (0072379)
Assistant Attorneys General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215
Tel: (614) 466-2980; Fax: (866) 354-4086
william.cole@ohioattorneygeneral.gov
mindy.worly@ohioattorneygeneral.gov
jennifer.croskey@ohioattorneygeneral.gov

Dale T. Vitale (0021754)
Rachel H. Stelzer (0083124)
Daniel J. Martin (0065249)
Assistant Attorneys General
Environmental Enforcement Section
2045 Morse Road # D-2
Columbus, Ohio 43229
Tel.: (614) 265-6870; Fax: (614) 268-8871
dale.vitale@ohioattorneygeneral.gov
rachel.stelzer@ohioattorneygeneral.gov
daniel.martin@ohioattorneygeneral.gov

Attorneys for Respondents

Tab 64

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 JERRY WEISMAN,

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
Friday, February 19, 2010, at 11:00 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

1 APPEARANCES:

2 On Behalf of Ohio Department of Natural

3 Resources:

4
5 William Cole
6 Senior Assistant Attorney General
7 Executive Agencies
8 30 East Broad Street, Floor 26
9 Columbus, Ohio 43215-3400

10
11 On Behalf of Relators:

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

WITNESS	CROSS	DIRECT	RECROSS
Jerry Weisman	W-4	F-62	C-62

E X H I B I T S

RESPONDENT'S	DESCRIPTION	MARKED
A	Affidavit	8
B	Farm Service Agency	31

1 JERRY WEISMAN

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

5 CROSS-EXAMINATION

6 BY MR. COLE:

7 Q. Mr. Weisman, I'm Bill Cole, I'm one
8 of the attorneys representing the Department of
9 Natural Resources in this lawsuit. I'm taking
10 your deposition, and I just got a couple things I
11 want to go over with you. If you can go ahead and
12 give verbal answers to my questions. Don't give
13 head nods or the ah-huhs because it's being
14 transcribed.

15 A. Sure.

16 Q. If you have any questions, if the
17 question I ask you is confusing, you don't
18 understand, please ask me to rephrase it. I'm not
19 trying here to trick you into answering, or you
20 can tell your attorney. I would ask that you
21 don't start answering until I'm done asking the
22 question. I'll do my best not to interrupt you,
23 too.

24 A. Okay.

25 Q. And I don't think we're gonna be

1 here that long, but if you need to take a break,
2 it's no problem. The only condition is if there's
3 a question that's pending, I'd like you to answer
4 it before you take a break.

5 A. Okay.

6 Q. Fair enough?

7 A. Okay.

8 Q. You have any questions before we
9 begin?

10 A. No.

11 Q. Can you go ahead and state your
12 name and spell your last name for the record?

13 A. Jerry, J-e-r-r-y, Weisman,
14 W-e-i-s-m-a-n.

15 Q. Where do you live?

16 A. 7984 US 127 Celina.

17 Q. And how long have you lived there?

18 A. Thirty-seven years.

19 Q. Did you live in Celina before that?

20 A. Yes.

21 Q. Where did you live?

22 A. Ah.

23 Q. You don't have to give me an exact
24 address, an area of town.

25 A. Just down the road, north of

1 Celina at my father's house.

2 Q. Are you a life-long resident of the
3 area?

4 A. Yes.

5 Q. Can you give me your educational
6 background?

7 A. High school.

8 Q. Graduate?

9 A. Yes.

10 Q. Any formal education beyond high
11 school?

12 A. I did one quarter of college.

13 Q. Where was that?

14 A. Wright State branch?

15 Q. What?

16 A. Business, I just took some business
17 classes.

18 Q. Have you ever had any training in
19 agriculture?

20 MR. FUSONIE: Objection. Vague.

21 Q. Any -- Let me -- Any formal
22 training?

23 A. No.

24 Q. Any formal training or experience
25 in engineering?

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A. No.

Q. Formal training or experience in water drainage, hydrolics or hydrology, something like that?

A. No.

Q. And are you married, sir?

A. Yes.

Q. And who's your wife?

A. Vicky.

Q. Any children?

A. Yes.

Q. How many?

A. Two.

Q. How old are they?

A. My son is 28 and my daughter, well, she will be 31 Sunday.

Q. Oh, okay. Where do they live? Do they live in the Celina area?

A. My son does, my daughter lives in the Columbus area.

Q. Does your son own property that --

A. No.

Q. -- may have been flooded?

A. No.

Q. Good. Don't have to go any

1 further.

2 (Affidavit, marked for identification
3 Repondent's - Jerry Weisman -
4 Exhibit A.)

4 Q. Mr. Weisman, I'm gonna --

5 MR. COLE: It's his affidavit, you
6 got it?

7 MR. FUSONIE: Yeah.

8 MR. COLE: Affidavit with the
9 exhibit.

10 Q. Gonna hand you what I've marked
11 States or Respondent's Exhibit A. Take a quick
12 look at that. If you go to Page 3.

13 MR. COLE: Take a time out.

14 (Off the record)

15 COURT REPORTER: Okay. Back on the
16 record.

17 Q. If you would turn to Page 3?

18 A. Okay.

19 Q. Is that your signature?

20 A. Yes?

21 Q. All right. Now, Mr. Weisman, do
22 you know who prepared this affidavit?

23 MR. FUSONIE: Objection. Vague.

24 A. I gave the information for this
25 affidavit.

1 Q. Who typed it up?

2 A. My attorneys did.

3 Q. You provided the information here
4 before they typed it up?

5 A. Yes.

6 Q. When you signed it did you read it,
7 confirm that everything there was what you had
8 provided?

9 A. Yes.

10 Q. Do you know if any of the
11 information in this affidavit, any of the
12 statements are not accurate maybe because
13 something changed or maybe you realized something
14 is wrong now?

15 A. No.

16 Q. As far as you know, to your
17 information and belief, this is all accurate?

18 A. Yes.

19 Q. Now, you've -- your affidavit
20 identifies one parcel of property and that's
21 identified beginning on Paragraph 2, correct?

22 A. Yes.

23 Q. Do you own any other properties?

24 A. Yes.

25 Q. All right. Are any of the other

1 | properties that you own, other than the one in
2 | this affidavit, do you claim have been damaged by
3 | flooding?

4 | A. No.

5 | Q. All right. So we're just talking
6 | about one parcel here?

7 | A. Yes.

8 | Q. And I'm sure it's obvious, is that
9 | -- Is there a picture of that parcel attached as
10 | Exhibit 1 to your affidavit?

11 | A. Yes.

12 | Q. So when I talk -- Unless I say
13 | otherwise when I mention "land or property" I'm
14 | talking about this parcel.

15 | A. Okay.

16 | Q. How long have you owned the
17 | property?

18 | A. Bought it in 1986.

19 | Q. Can you tell me about the sale when
20 | you bought it?

21 | A. I bought it from an individual, and
22 | I actually farmed it over 10 years before I bought
23 | it from the individual.

24 | Q. Who did you buy it from?

25 | A. Robert Heckman.

1 Q. Do you know how long he had the
2 property?

3 A. Approximately two years.

4 Q. And do you know how he acquired
5 that property?

6 A. I don't remember how he acquired
7 it. I don't remember how he acquired it.

8 Q. Do you know who owned it before
9 him?

10 A. Mr. Hone, and I don't remember a
11 first name, but Mr. Hone.

12 Q. H-o --

13 A. H-o-n-e.

14 Q. And the property is about hundred
15 and 15.63 acres (115.63), is that correct?

16 A. Yes.

17 Q. Okay. And is that -- is the -- is
18 -- on Exhibit 1 there, is your property the one
19 that's bounded by white boundary lines?

20 A. Yes.

21 Q. All right. So there's -- it looks
22 like there's a carve out on the left-hand side
23 there in the middle, you do not own that property?

24 A. No, I do not.

25 Q. All right. Can you tell me --

1 let's see, it looks like that's Erastus-Durbin
2 Road on the left, correct?

3 A. Yes.

4 Q. And that's -- Just so I'm clear,
5 that's to the west?

6 A. Yes.

7 Q. What borders your property on the
8 north?

9 A. Bunker Hill Road.

10 Q. And then is that private property
11 then north of that of Bunker Hill?

12 A. Yes.

13 Q. How about on the east side?

14 A. That's private property, also.

15 Q. That's just -- Is there a road
16 there or is that just the property line?

17 A. It's just the property line.

18 Q. And how about the southern part?

19 A. State Route 29 is -- lays against
20 -- the state has a right away for their side ditch
21 and stuff up against my property.

22 Q. And this line here, is that Beaver
23 Creek?

24 A. Yes.

25 Q. All right. In the southwest

1 corner?

2 A. Yes.

3 Q. All right. Who owns the -- Do you
4 know who owns this property in the middle there?

5 A. I don't remember the lady, it's a
6 single lady and I do not remember her name, no.

7 Q. Is there a house on that property?

8 A. Yes, there is.

9 Q. She lives there?

10 A. Yes.

11 Q. Tell me briefly about the other
12 properties you own?

13 A. I have a 40 acre farm, that was my
14 father's, it would be northeast of this property.

15 Q. How far?

16 A. Approximately five miles.

17 Q. Okay. Other properties?

18 A. No, that's it.

19 Q. Have you had that 40 acre farm
20 appraised ever?

21 A. Probably when my father passed
22 away, but it would have been appraised for the
23 estate.

24 Q. When did you acquire that property?

25 A. In, I think it was put in my name

1 in 2001.

2 Q. All right. Do you know what the
3 value of that property was?

4 A. I do not remember.

5 Q. Do you know what it is now?

6 A. No, I really don't.

7 Q. Any structures on that property?

8 A. Yes. There's three grain bins,
9 there's a house, a machine shed, and there's a hog
10 house that is not used.

11 Q. You live in that house?

12 A. No, I do not.

13 Q. Does someone rent from you?

14 A. Yes.

15 Q. Who's that?

16 A. Bruggeman, Mrs. Bruggeman.

17 Q. What does she pay in rent?

18 A. \$450.00 a month?

19 Q. Do you personally farm other, the
20 40 acres?

21 A. Yes.

22 Q. Do you personally farm this parcel?

23 A. Yes.

24 Q. That's in this case?

25 A. Yes, I do.

1 Q. Any other property in the area
2 that you own?

3 A. No.

4 Q. Do you own your house?

5 A. I have a life-time lease on my
6 house. I don't actually own it. I have a
7 life-time lease.

8 Q. Can you tell me a little bit about
9 that?

10 A. The farm I live on, my father moved
11 there when I was like five years old and I've
12 always lived there, I grew up on it, and we wanted
13 -- my wife always wanted to own a house, and --
14 The house was actually refurbished but they didn't
15 want it remodeled or nothing. So I come into
16 agreement with the owners, and I have a life-time
17 lease there, and I remodeled the house.

18 Q. Any land with that or is it just a
19 house?

20 A. No, just the buildings.

21 Q. Where is that in relation to, the
22 parcel in this case?

23 A. It's north of Celina a mile and a
24 half, so it would be like seven miles away from
25 this.

1 Q. Your wife is a co-owner of this
2 property, correct?

3 A. Yes.

4 Q. Is there anyone else that you know
5 of who is an owner of the property?

6 A. No.

7 Q. Do you lease any of this property
8 to anyone?

9 A. No.

10 Q. What's the use of the property?

11 A. Agriculture.

12 Q. What do you grow on it?

13 A. Corn and soybeans.

14 Q. As far as you know, is the property
15 -- Let me ask you this: As long as you've owned
16 it, has it always been farmed, has it's always
17 been agriculture?

18 A. Yes.

19 Q. And you said you personally farmed
20 it 10 years prior to owning it, that's correct?

21 A. Yes.

22 Q. You had a relationship then with
23 Mr. Heckman on that?

24 A. Yes, it was share 50-50 share crop
25 lease.

1 Q. Can you tell me about, a little bit
2 more about that, the amounts involved?

3 A. The landowner which is Mr. Heckman,
4 furnished the land, and also half of inputs,
5 fertilizer, seeds, et cetera. I furnished my half
6 of the inputs, plus the labor and machinery and
7 the crop was split 50-50.

8 Q. What, did you pay 'em anything
9 else?

10 A. No.

11 Q. Strictly off the proceeds?

12 A. Yes.

13 Q. Okay. Other than, other than this
14 property and the 40 acres you mentioned earlier,
15 do you farm any other properties?

16 A. Yes, I do.

17 Q. Okay. Where else do you farm?

18 A. Do you mean in relation to this
19 farm or you want? I farm between where I live on
20 127 north of Celina I farm several farms between
21 that and this farm.

22 Q. How many? Take your time.

23 A. Nine.

24 Q. And, well, nine of them, okay. Are
25 they -- where are those nine, are they spread

1 throughout Celina?

2 A. Yes, they're all located -- Where I
3 live is just north of Celina, the rest of 'em
4 would be west of 127 towards this. They're all up
5 north; also would be north somewhat in relation to
6 this farm.

7 Q. Let me ask you this: If you know,
8 are any of the other nine farms that you farm, are
9 any of those properties the subject of this suit?

10 A. No.

11 Q. Then I'm not gonna ask you anything
12 more, I don't think, all right.

13 Do you have any other rights on any
14 other property, leases, ownership?

15 A. No.

16 Q. How far -- Going back to the
17 property here that's at issue in this case. How
18 far is this parcel from Grand Lake-St. Mary's and
19 from the west bank of the spillway?

20 A. I would say approximately seven
21 miles.

22 Q. Oh, I forgot to ask you. I asked
23 you was it always farmed since you owned it. As
24 far as you know, has this parcel always been
25 farmed?

1 A. Yes, as far as I know.

2 Q. Do you know whether your parcel is
3 that flood plain?

4 A. I don't know.

5 Q. Are there -- It's doesn't appear
6 from the picture, but are there any manmade
7 structures on your property?

8 A. No.

9 Q. Can you tell me about the
10 typography of the property?

11 A. It has a little bit, it has some
12 slope to it, other than that I don't know.

13 Q. Can you tell me about that, where
14 the slope starts or ends?

15 A. It would basically start at beaver
16 and just work its way north.

17 Q. So on the -- on the exhibit it
18 would be, the slope would be kind of in the
19 southwest part?

20 A. Actually the slope would be the
21 whole -- the whole farm slopes to the north.

22 Q. The high part of the property would
23 be at the south?

24 A. No, the high point would actually
25 be -- The high point would almost be where the

1 | line is where the flood was of '03, that was the
2 | high point.

3 | Q. The exhibit is shaded. Who
4 | actually physically shaded that?

5 | A. I did.

6 | Q. All right. Is the non-shaded part,
7 | which would be the northern part, is that at a
8 | higher elevation or to the west of the property?

9 | A. Somewhat, yes.

10 | Q. Okay. Do you know the grade of
11 | the slope?

12 | A. No, I do not.

13 | Q. Any part of this parcel that is not
14 | farmable or is not farmed?

15 | A. No.

16 | Q. Trees on the property?

17 | A. No.

18 | Q. Hills?

19 | A. What do you mean by "hill?"

20 | Q. Hills beyond what we've talked
21 | about with the slope?

22 | A. No.

23 | Q. Good question though. All right.
24 | How about ditches, you know?

25 | A. No. Beaver is the only ditch on

1 the property.

2 Q. Do you know, do you know how far
3 the bank to the river bed is on beaver when it
4 goes on your property?

5 MR. FUSONIE: Objection.

6 A. Could you clarify that?

7 Q. Okay. From where beaver boarders,
8 there's gonna be the river bed or the creek bed, I
9 should say, do you know how far down that goes?

10 A. Oh, I'm not sure, no.

11 Q. You never measured that?

12 A. No.

13 Q. Do you know if that's a -- Do you
14 know if it's uniform throughout, is it a deeper
15 bed at a certain point?

16 A. No, I don't know.

17 Q. You don't know?

18 A. No.

19 MR. FUSONIE: Objection.

20 Q. Okay. About how many acres -- The
21 area that's shaded, is that the part that's you
22 say has been affected by flooding?

23 A. Yes.

24 Q. Was this shading to represent a
25 particular flood or a particular year?

1 A. Yes, '03.

2 Q. 2003 flood?

3 A. Yes.

4 Q. All right. Was that -- I'm gonna
5 ask you more questions later, but just right now.
6 Since 1997 when the spillway was changed, was that
7 the most severe flood on your property in 2003?

8 A. Yes.

9 Q. All right. Do you know how many
10 acres is shaded?

11 A. I would say approximately 60.

12 Q. Okay. So maybe a little bit more
13 than half?

14 A. Yes.

15 Q. All right. Do you know, do you
16 know if this little carve-out parcel here, whether
17 that flooded, too, or has flooded?

18 A. I don't believe it has. There's
19 some embankments around this property. I mean
20 it's natural when they built the building, so I
21 think the water basically stopped there. If it
22 went in, it was very little.

23 Q. Do you know how high those
24 embankments are?

25 A. No, I don't.

1 Q. Is all of this property tillable?

2 A. Yes, except the right-of-way would
3 be, but, yes, yes.

4 Q. Physically though?

5 A. Yes.

6 Q. Do you know what the makeup of the
7 soil is?

8 A. No, I do not.

9 Q. Any existing drainage system on
10 your land?

11 A. In the part, the lower part here.

12 Q. The part that's shaded?

13 A. Yes. There is a surface drain to
14 let the water out, but other than that there's no
15 tile on this part.

16 Q. Tell me a little bit more about the
17 drainage on the southern part?

18 A. Basically all it is, is that -- So
19 when the water, when beaver comes out and when
20 beaver actually goes back down, the water can help
21 get away a little faster. It helps some, it's not
22 a cure-all, but it does help a little.

23 Q. That's a manmade system?

24 A. Yes, that was put in there, yes.

25 Q. Do you know when that was put in

1 | there?

2 | A. I don't remember.

3 | Q. Do you know if it was there before

4 | 1997?

5 | A. No.

6 | Q. You don't know or it was not?

7 | A. Oh, it was not.

8 | Q. Was it put in there because of the

9 | flooding?

10 | A. Yes.

11 | Q. Did you put it in?

12 | A. I hired -- Yes.

13 | Q. You hired somebody to do it?

14 | A. Yes.

15 | Q. Any sort of drainage system in the

16 | northern part?

17 | A. There are a few tile, but it's not

18 | -- the whole thing is not, just a few tile.

19 | Q. Do you know how long those tiles

20 | have been there?

21 | A. Some of 'em was put in before I

22 | owned it, so it would be pre '86, and then I had a

23 | few put on; would be like seven, eight years ago,

24 | I'm not sure.

25 | Q. Other than the right-of-way, any

1 easements on your property that I know of?

2 A. There's an easement along beaver
3 that the county uses to maintain to spray brush
4 and stuff like that.

5 Q. Any others?

6 A. No.

7 Q. Have you ever heard of the
8 Conservation Reserve Program?

9 A. Yes.

10 Q. Do you participate in that?

11 A. No.

12 Q. No filter strips on the property?

13 A. No.

14 Q. You ever heard of the Wetlands
15 Reserve Program?

16 A. Yes.

17 Q. Do you participate in that?

18 A. No.

19 Q. By the way, when I say "you" I am
20 presuming that you and your wife make joint
21 decisions about the land; is that affair
22 assumption?

23 A. Yes.

24 Q. Okay. Don't always agree maybe.

25 All right. Does -- I apologize if I asked this:

1 Does anyone other than the right-of-ways that
2 you've mentioned, does anyone else have any
3 property rights on your parcel --

4 A. No.

5 Q. -- besides you and Vicky?

6 A. No.

7 Q. I'm gonna ask you some questions
8 about water and flooding on the property, and
9 these initial questions I want -- all of these are
10 gonna be before 1997 when the spillway was built,
11 all right.

12 A. Okay.

13 Q. Did the property, any part of the
14 property ever flood at all before 1997?

15 A. Yes.

16 Q. Okay. Can you tell me about that?

17 A. If the lake was high enough, even
18 with the old spillway, I would get a little water,
19 I would say approximately maybe 10 or 15 acres
20 maximum, and it didn't stay long because then
21 beaver did go down faster than it does now.

22 Q. Where are the 10 or 15 acres or
23 so, where would those be?

24 A. They would lie right along the
25 creek itself.

1 Q. In the southwest corner?

2 A. Yeah, yeah, basically, any, yeah.

3 Q. How deep would the water get?

4 A. Probably only 12 to 16 inches,
5 something like that.

6 Q. And how often would that occur?

7 A. It would depend on the lake level,
8 because if the lake was down, you know, probably
9 most years I could get somewhat. Seemed like I
10 would get some flooding, it varied on the amount.

11 Q. Okay. So at least once a year
12 approximately?

13 A. Approximately, yeah.

14 Q. And when it did flood, how long did
15 the water stay on the land?

16 A. Back then it probably only stayed
17 four or five days.

18 Q. How deep would you say, I didn't --

19 A. 12 to 16 inches.

20 Q. And what caused that?

21 A. I don't understand what you mean.

22 Q. What would cause the flooding
23 before 1997?

24 A. Beaver would go out of the its
25 banks.

1 Q. Do you know why beaver would go out
2 of its bank?

3 A. Because the lake water would come
4 over, you know, and it would be too much water,
5 lake would come over the spillway.

6 Q. And again what would cause the lake
7 water to come over?

8 A. Rain.

9 MR. COLE: Off the record.

10 (Off the record)

11 COURT REPORTER: Back on the
12 record.

13 MR. COLE: Yeah.

14 Q. Okay. Were there any other -- Did
15 you get any other flooding on your property, other
16 parts of your property other than what you've
17 described?

18 A. Oh, no.

19 Q. Would parts of your property flood
20 not near the creek because of the heavy rain?

21 A. No.

22 Q. Before 1997 when you did get
23 flooding, was it a particular time of year when it
24 would flood?

25 MR. FUSONIE: Objection.

1 A. It would vary depending on some
2 times, yeah, in the spring, but it would vary
3 again on lake level if we had a high lake in the
4 summer and we got a lot of rain I would get it in
5 the summer, too.

6 Q. When it did flood in those 10 or 15
7 acres, was it uniform level or would it be more
8 flooding in area than some others?

9 MR. FUSONIE: Objection.

10 A. I really don't remember.

11 Q. Did you get -- Before '97 when you
12 had flooding on your property, did it -- did you
13 have any damage, any harm because of that?

14 A. I don't understand what you mean.

15 Q. When before '97 when you had
16 flooding, did you lose any crops because of that?

17 A. Oh, yes.

18 Q. Did you get debris on your
19 property?

20 A. Yes.

21 Q. Did it damage the makeup of the
22 land, the soil?

23 A. Yes. You get -- With this water
24 land I get a lot of soil compaction, the water
25 compacts the soil.

1 MR. FUSONIE: We're talking about
2 prior to 1997?

3 MR. WEISMAN: Yeah.

4 Q. Yeah. When the land flooded again
5 before '97, was it usable while it was flooded?

6 A. No.

7 Q. Did you ever make any records,
8 written records --

9 A. No.

10 Q. -- of your property before, before
11 1997?

12 A. No, I did not. I'm sorry.

13 Q. I know you know the answer.

14 A. I'm sorry.

15 Q. And I'm not one to throw a looper
16 at the end, maybe I will just to keep you honest,
17 but. Before 1997 did you take any action to
18 lessen the flooding?

19 A. Not physically. I did talk to John
20 Zumberge who had been fighting the state ODNR
21 about the flooding, but other than contacting the
22 state, no, I did not.

23 Q. What did you discuss with
24 Mr. Zumberge, and spell that for the court
25 reporter?

1 A. Z-u-m-b-e-r-g-e.

2 Q. All right. And what did you talk
3 about with him?

4 A. What he was doing. He was actually
5 lobbying. I think he even had an attorney to try
6 to lessen the damage to our property, everybody's
7 property on the beaver.

8 Q. You recall when you talked to him?

9 A. No, I did not.

10 Q. Was it more than five years? Was
11 your it like -- All right. If you don't recall,
12 that's fine. Anyone else try to do so anything?

13 A. No.

14 Q. All right. Do you have crop
15 insurance?

16 A. Yes, I do.

17 MR. COLE: Go ahead and mark this
18 as B Tom. marked for identification.

19 (Farm Service Agency, marked for
20 identification as Respondent's -
Jerry Weisman - Exhibit B.)

21 Q. I'm gonna hand you some papers that
22 I have that were provided to us from your counsel
23 which I've marked as Exhibit B, and it starts
24 with -- if you look at the bottom righthand
25 corner, this is a stamping system that your

1 attorney used, it says DON001487, do you see that?

2 A. Yes.

3 Q. I'm not gonna ask you a lot of
4 questions about this, but if we could just go kind
5 of page-by-page, I'd like you to just let me know
6 if you recognize this and if you could identify it
7 starting with the 1st page there, the 1487; do you
8 recognize that?

9 A. Yes.

10 Q. And what is it?

11 A. It's a -- this is a disaster
12 payment from the USD for the year of -- well, it
13 does, it's not being specific, from '94 through
14 '98, so I'm not sure what year it actually was.

15 Q. Does the information there appear
16 accurate to you?

17 A. Yes.

18 Q. Then if you go to the next page
19 1488?

20 A. This is also a disaster payment for
21 the year 1999.

22 Q. Accurate information?

23 A. Yes.

24 Q. It appears? Okay. And go to the
25 next page, can you identify that?

1 A. Yes. This is a crop insurance
2 payment for a crop loss and the year would be
3 2000.

4 Q. Is that the company that you have
5 your insurance policy with?

6 A. Yes, it is.

7 Q. Can you tell me about the policy?

8 A. Ah.

9 Q. Well, I'm gonna -- I'll will
10 withdraw. Let's go through these exhibits. Next
11 page.

12 A. Okay. This is also a disaster
13 program for 1999?

14 Q. Accurate?

15 A. Yes.

16 Q. Next page 1491?

17 A. This would be a crop insurance
18 payment for crop loss.

19 Q. 2001?

20 A. 2001?

21 Q. Accurate?

22 A. Yes.

23 Q. Next page, this is 1492, although
24 it is a little cut off at the bottom, and I'm
25 sorry about that.

1 A. This would be crop insurance
2 adjustment for crop losses in 2002.

3 Q. And accurate?

4 A. Yes. I might add this is also -- I
5 have crop insurance, it's called Revenue
6 Insurance, so part of this is also based on
7 prices.

8 Q. All right. Next page 1493?

9 A. This would be disaster -- yes,
10 disaster program for '02, I believe.

11 Q. Okay. Accurate?

12 A. Yes.

13 Q. Okay. The next one 1494?

14 A. Yes. I believe that is also a
15 breakdown of the previous page.

16 Q. All right. Accurate?

17 A. Yes.

18 Q. Okay. Page 1495.

19 A. Okay. For crop losses in 2005?

20 Q. Accurate?

21 A. Yes.

22 Q. Page 1496. It's a bates stamp just
23 for the record. Go a head.

24 A. This is crop losses for '03 to '05
25 from the USDA.

1 Q. Accurate?

2 A. Yes.

3 Q. Next page 1497?

4 A. This is a crop insurance of crop
5 losses for the year '06, 19 or 2006, I'm sorry.

6 Q. Accurate?

7 A. Yes.

8 Q. And the last page 1498?

9 A. This would be crop insurance for
10 2008, and this also reflects revenue besides yield
11 losses.

12 Q. Accurate?

13 A. Yes.

14 Q. Have you received a statement for
15 2009 from crop insurance?

16 A. Yes, I have.

17 Q. Is it in here?

18 A. No, because I did not have it at
19 the time these were compiled.

20 MR. COLE: Can we get that?

21 MR. FUSONIE: Yeah.

22 A. I have no losses on that farm from
23 it.

24 Q. Okay. You have -- No payments or
25 anything?

1 A. No payments, no.

2 MR. COLE: All right. If that's
3 the case, he's -- that's under oath and
4 this, that's fine.

5 MR. FUSONIE: Okay.

6 Q. When did you -- How long have you
7 had crop insurance?

8 A. I want to say approximately 20
9 years, I'm not really sure of the first date I had
10 it, but.

11 Q. So that makes it about 1990-'91,
12 1990? Approximately?

13 A. Actually it might have.

14 Q. That's okay.

15 A. I've probably had it longer. I've
16 switched kinds, that's why I'm trying to, you
17 know. I've really probably had it almost 30 years
18 the more I -- 'cause I've upped the coverage and
19 stuff over the years.

20 Q. Can you tell me about your current
21 policy, can you tell me about that?

22 A. The current policy I have is
23 revenue insurance and it's based on prices plus
24 crop losses. Also there is a combination thing.

25 Q. And how does it work, and I'm kind

1 of ignorant about insurance, so talk to me like a
2 laymen?

3 A. The revenue part is based on --
4 they set our target price in the spring and one in
5 the fall, and if there's a difference that is paid
6 against your yields. So if your yields are down,
7 you could collect, you will collect the money, the
8 different in the two prices against your yield,
9 but if your yields are up, you may collect nothing
10 from the revenue.

11 Q. Now, the times that you -- the
12 statements that show when you've been paid?

13 A. Uh-huh.

14 Q. Have those losses been due to
15 flooding?

16 A. Some of 'em have.

17 Q. All right. Tell me a little bit
18 about that if you can, what besides flooding
19 caused crop loss for you?

20 A. Drought that, drought and flooding
21 would be the only two.

22 Q. Do you know approximately how much
23 money you've received since 1997 of crop insurance
24 payments due to flooding?

25 A. No, I do not.

1 Q. Would it be more than half of the
2 total you've received?

3 A. As it relates to that, the property
4 at issue?

5 Q. Yes, yeah, absolutely. Yeah, and
6 let me stop you, Mr. Weisman, I'm only concerned
7 about the parcel in this case?

8 A. I would say, yes.

9 Q. All right. Does the -- Are --
10 Does the policy -- Is the policy based on the
11 total properties you own, do you have insurance
12 for all your parcels?

13 A. The policy is split up in units and
14 each farm is a different unit, so this would be a
15 separate unit right here.

16 Q. Oh, okay. So do you have a,
17 basically a single policy for this farm?

18 A. I have one large policy but it's
19 all the broken down unit. So I could have a loss
20 on one farm and not another one and it doesn't
21 affect each area.

22 Q. All right. So you might have no
23 problems with all but one of your parcels, but one
24 that you do use you still could get a payment due
25 to a crop loss on that?

1 A. Yes.

2 Q. Or on that parcel?

3 A. Yes.

4 Q. For the parcel in this case, this
5 parcel, when have you had losses due to flooding?

6 A. Do you want, you want, are you
7 asking for specific years or?

8 Q. Yeah, if you can maybe going back?

9 A. I know in '08 and '05 and '03 for sure,
10 and there could be more, but those are the ones I can
11 remember those years for sure.

12 Q. Those specific years you had crop
13 losses due to flooding?

14 A. Yes.

15 Q. And in those specific years you
16 made claims that were paid due to crop loss due to
17 flooding? Sorry, I added the last -- You made
18 claims on that land?

19 A. I believe I did, yes.

20 Q. And you got payments for those?

21 A. I don't remember.

22 Q. Do you remember whether a claim was
23 ever disallowed?

24 A. Disallowed?

25 Q. Yes?

1 A. No.

2 Q. Any flooding in 2009?

3 A. I had early spring flooding, yes.

4 Q. Did you suffer any crop losses
5 because of that in '09?

6 A. The crop was not planted but it
7 held my planting days back.

8 Q. So it delayed the planting?

9 A. Delayed my planting, yes.

10 Q. Did you make a claim in '09 because
11 of that?

12 A. No.

13 Q. Would that -- I'm not asking you to
14 be an insurance expert, but would a delay due to
15 flooding be a, would that constitute a crop loss?

16 A. It could because the longer delay
17 is, the chances are my crop yields would be less.

18 Q. Was your crop, if you know, was
19 your crop, overall crop yield for this parcel in
20 2009, less than it would have been without
21 flooding?

22 A. I don't know.

23 Q. Okay. Have you ever used this
24 land for any purpose other than farming?

25 A. No.

1 Q. Have you ever had this property
2 appraised or valued?

3 A. No.

4 Q. Do you know what you paid for it?

5 A. Yes.

6 Q. What did you pay?

7 A. 1,500.

8 Q. Per acre?

9 A. Per acre, yes.

10 Q. Let's say within a mile radius, all
11 directions of this parcel, okay, any non-farm
12 property, and I don't mean roads but I mean other
13 parcels, is it totally surrounded by farm, other
14 farm property?

15 A. Yes.

16 Q. Do you know where, in any
17 direction, where the nearest, either residential
18 commercial property is, how close it gets to
19 yours?

20 A. Can you be more specific?

21 Q. Where is the -- In relationship to
22 this parcel, where is the closest land that is
23 used for something other than farming?

24 A. There would be a few homesteads,
25 other than that there's nothing else close to

1 | that.

2 | Q. Are there any housing or industrial
3 | developments?

4 | A. No.

5 | Q. Anywhere near --

6 | A. No.

7 | Q. -- within a mile or more, well, no,
8 | with more of course but within two miles?

9 | A. No.

10 | Q. All right. I'm gonna ask you
11 | some questions about post '97 when the spillway
12 | was modified. Let me take you to Paragraph 5
13 | Exhibit A there, sir. You refer to ODNR's current
14 | lake level management practices, and again I'm
15 | quoting you, which include or quoting the
16 | affidavit which include maintaining increased lake
17 | levels and use of the spillway for virtually all
18 | water flow out of Grand Lake-St. Mary's; do you
19 | see that?

20 | A. Yes.

21 | Q. When did you learn about that, that
22 | that was going on?

23 | A. Could you be more specific?

24 | Q. When did you first learn about
25 | that's what ODNR was doing with the lake?

1 A. Well, I just knew it because I saw
2 the spillway being built, and after that was
3 built, I, you know, the water came a lot
4 faster.

5 Q. In Paragraph 6 you indicate that
6 since there it is flooded almost every year. I'd
7 like to -- Let's go back, for most recent on back
8 as far as you can recall. You say you believe
9 your property did flood some last year in 2009?

10 A. Yes.

11 Q. What time of year did it flood?

12 A. Well spring. I would guess --

13 MR. FUSONIE: That was the
14 question.

15 MR. WEISMAN: Pardon?

16 MR. FUSONIE: Just what time of the
17 year did it flood?

18 A. This spring.

19 Q. And how long did it flood?

20 A. Approximately a week to a week and
21 a half.

22 Q. How many acres were flooded?

23 A. 25 to 30.

24 Q. Is that an approximation, is that
25 near the Beaver Creek where it flooded?

- 1 A. Yes.
- 2 Q. How deep did the water get?
- 3 A. Approximately 3 feet.
- 4 Q. One time in 2009?
- 5 A. Yes.
- 6 Q. And again that was just before
- 7 planting?
- 8 A. Yes.
- 9 Q. How about in 2008, when did it
- 10 flood in 2008?
- 11 A. Spring again.
- 12 Q. Okay. How long was it flooded?
- 13 A. I'd say approximately a week, week
- 14 he and a half, something like that.
- 15 Q. How deep did the water get?
- 16 A. About 3 feet.
- 17 Q. And how many acres?
- 18 A. Again 20, 25.
- 19 Q. Is that before or after planting?
- 20 A. Before.
- 21 Q. So fairly similar to '09?
- 22 A. Yes.
- 23 Q. How about 2007?
- 24 A. I don't remember.
- 25 Q. You recall whether it flooded at

1 all for sure?

2 A. I don't recall.

3 Q. How about 2006, anything specific
4 do you recall about that?

5 A. I think I had some spring flooding
6 in 2006, but I do not remember the intensity of
7 it.

8 Q. Do you know how long the water was
9 on the land?

10 A. Week, week and a half.

11 Q. Do you know how deep it got?

12 A. I will say approximately three feet.

13 Q. How many acres?

14 A. About 25.

15 Q. Fairly similar to '08 and '09?

16 A. Yes.

17 Q. Before or after planting?

18 A. Before.

19 Q. One time in 2006 you can recall?

20 A. I don't recall.

21 Q. Well you do, you believe at least
22 once?

23 A. Yeah, at least once.

24 Q. How about 2005?

25 A. Yes.

1 Q. How many times?

2 A. I think 2005 is the year we had it
3 twice.

4 Q. Do you recall when the times it
5 flooded?

6 A. In the spring and then I think late
7 spring or early summer I had another flood.

8 Q. You ever keep records or written
9 records --

10 A. I really don't, I do not.

11 Q. Okay. You said the spring and when
12 else?

13 A. Early summer.

14 Q. Do you know how many months apart
15 the two floods were?

16 A. Approximately two.

17 Q. Two months?

18 A. Yes.

19 Q. How long the first time, how long
20 was the property flooded the first time?

21 A. At least week and a half.

22 Q. At least a week in a half?

23 A. Yes. I had a little more water I
24 think 2005, it could have been a little longer.

25 Q. How about the second time?

- 1 A. Probably a week and a half.
- 2 Q. How deep the first time?
- 3 A. Almost four feet, a little more.
- 4 Q. How about the second time?
- 5 A. Three feet.
- 6 Q. Was the first time before planting?
- 7 A. Yes.
- 8 Q. Second time any crops destroyed?
- 9 A. Yes.
- 10 Q. Did you make and claim that year?
- 11 A. I don't recall.
- 12 Q. How about 2004?
- 13 A. I believe I had some spring
- 14 flooding.
- 15 Q. Spring?
- 16 A. Yes.
- 17 Q. How long?
- 18 A. Week, week and a half, I'm not
- 19 sure.
- 20 Q. I'm sorry. Go back to '05, do you
- 21 know how many acres were affected the first time?
- 22 A. The first time, probably 30.
- 23 Q. Second time?
- 24 A. 25.
- 25 Q. So it sounds like the second flood

1 in 2005 was similar to the '08 --

2 A. Yes?

3 Q. -- and the '09 floods?

4 A. Yes.

5 Q. Okay. Back to '04. Did you tell
6 me how many acres in '04?

7 A. I don't, I don't remember.

8 Q. Do you know how long the water was
9 on land?

10 A. A week to a week and a half.

11 Q. How deep?

12 A. Three foot.

13 Q. Before planting?

14 A. Yes.

15 Q. How about '03, you say with a
16 laugh?

17 A. Yeah. I had pre-flooding or spring
18 planting or flooding.

19 Q. Flooding in the spring?

20 A. It was before planting in the
21 spring actually.

22 Q. Okay.

23 A. And then we had July. We had a lot
24 of flooding, I guess you could say.

25 Q. So two separate flood periods?

1 A. Yes.

2 Q. How about the first one, how many
3 acres were flooded in the first one the
4 pre-planting?

5 A. Approximately 25.

6 Q. How long?

7 A. Week and a half.

8 Q. How deep?

9 A. Three foot.

10 Q. How about the second?

11 A. Ah.

12 Q. I'm sorry. How many acres -- Was
13 that the one that you've drawn?

14 A. Yes.

15 Q. Okay. How long did the water stay
16 on the land?

17 A. At least two weeks.

18 Q. At least two weeks?

19 A. Yeah.

20 Q. Okay. And how -- what was the
21 highest it reached?

22 A. Could you be more specific?

23 Q. How deep did it get in 2003?

24 A. Approximately six feet.

25 Q. Do you know how long it stayed at

1 six feet?

2 A. I'm not sure.

3 Q. Did you ever measure?

4 A. No, I base it on the road is higher
5 than the farm land and I just --

6 Q. Did it -- Go ahead, I -- Were you
7 finished, I'm sorry?

8 A. And it went over the road, and so
9 the road is that how much higher than the farm.

10 Q. That was my next question.

11 A. Okay.

12 Q. Do you know how much higher the
13 road -- did it just reach the road level?

14 A. It was over 'cause the road is
15 closed, I didn't drive across it.

16 Q. Okay. Did you sustain damages
17 that year?

18 A. Yes.

19 Q. Any claims?

20 A. Yes.

21 Q. How about 2002?

22 A. I don't remember.

23 Q. Let me try to save a little time.

24 A. Okay.

25 Q. Specifically, before 2003, between

1 1997 and 2003, do you remember any specific
2 flooding that occurred on your land?

3 A. Not specific but I, almost every
4 year I get some spring flooding.

5 Q. All right. Prior to planting --

6 A. Yes.

7 Q. -- spring is a rainy season,
8 correct?

9 MR. FUSONIE: Objection.

10 A. Yeah, but lake level again the lake
11 level if it's high, it doesn't matter all the
12 rain, I can get a little bit and still I get
13 flooding.

14 Q. Was it ever -- Was the flooding
15 ever as bad as it was in 2003?

16 A. No.

17 Q. Did you sustain any crop -- Any
18 crops destroyed prior to 2003?

19 A. I don't remember.

20 Q. Do you know in any of those years
21 that we went over whether it particular hard
22 rains?

23 MR. FUSONIE: Objection.

24 A. Yeah, I don't remember.

25 Q. Has on Exhibit 1 which is the

1 picture, has the, has the northern half 40 percent
2 of your property, the part that's not shaded, has
3 that ever flooded because of the Beaver Creek?

4 A. Not to my knowledge.

5 Q. When the other times 2009, 2008,
6 2007 maybe '06 or '05 when you talked about spring
7 flooding prior to planting about 25 acres or so,
8 was that on both sides of Beaver Creek?

9 A. Yes.

10 Q. Do you know how much rain has to
11 fall to cause flooding on your property?

12 MR. FUSONIE: Objection. Asked and
13 answered.

14 A. No.

15 Q. Do you ever have, say before or
16 after 1997, did you ever have flooding on any part
17 of your property because of rain or not because --
18 Let me rephrase that.

19 Did you ever experience flooding on
20 your property, standing water, where Beaver Creek
21 did not over crest on?

22 A. No.

23 Q. You may have -- we may have
24 referred to this exhibit, but I'm just gonna go
25 back. Have you ever gotten any compensation or

1 payment from any state or any governmental agency
2 due to flooding?

3 A. Well the disaster payments from the
4 USDA.

5 Q. All right. Other than those?

6 A. No.

7 Q. Do you recall if you got any
8 payments from the USDA other than what's -- we
9 went over, do you know if this is missing any?

10 A. Not that I know of.

11 Q. That's the Farm Service Agency,
12 right?

13 A. Yes.

14 Q. Looks like you got a payment in
15 '05, correct? I think that's the page 1496?

16 A. Yes.

17 Q. And I have a summary report for
18 2001, 2002 which is page 1494?

19 A. Okay.

20 Q. Correct?

21 A. Yes.

22 Q. Did you get any payment or
23 compensation from the Farm Service Agency due to
24 the 2003 flood?

25 A. To my knowledge I don't know, I

1 don't remember.

2 Q. Okay.

3 MR. FUSONIE: Just so the record is
4 clear, DON001496 refers to CD Program
5 for 2003-2005 crop losses. It doesn't
6 define a year, but so the record is
7 clear, there's a range when the payment
8 was made for those years, without
9 identifying the exact year or years.

10 Q. All right. Mr. Weisman, even
11 though --

12 MR. COLE: No, I appreciate that
13 counsel.

14 Q. Let me ask you this: Based on
15 that, and counsel is correct. Could that payment,
16 a little bit less than 4000, could it, now that,
17 now that counsel has mentioned it and you've taken
18 a look, could that have covered losses '03?

19 A. Yes, it could have.

20 Q. You don't know that specifically?

21 A. No, I do not.

22 Q. All right. If you could go to Page
23 2 of your affidavit and go kind of toward the
24 bottom there, it's Paragraph 13?

25 A. Okay.

1 Q. It says "The flooding caused by ODNR...
2 and I think that means post-1997 "...has substantially
3 destroyed the value of..." your property, you've
4 identified it by number. Can you tell me what you
5 mean by that?

6 A. Because of the flooding the value
7 has to be less because most people is not gonna
8 buy it because of the risk they're taking.

9 Q. Do you believe your property is
10 valueless?

11 A. Excuse me.

12 Q. Do you believe your property has no
13 value?

14 A. Oh, no, I do not.

15 Q. Do you have an idea or an opinion
16 of how much more valuable your property would be
17 if it did not have flooding problems?

18 A. No, I do not.

19 Q. Other than damage loss of crops
20 due to flooding, which what occurred in '03,
21 right, you had some crop loss then?

22 A. Yes, yes.

23 Q. And since '03 did you indicate you
24 had any crop damage?

25 MR. FUSONIE: Yeah, he's testified

1 about that.

2 A. Yes.

3 Q. '05?

4 MR. FUSONIE: And he testified
5 about '08, as well, specifically.

6 MR. COLE: I thought he indicated
7 in '08 it was pre-plant.

8 Q. Did you have existing crops destroyed
9 in '08 because of flooding?

10 MR. COLE: I thought he said --

11 MR. FUSONIE: He testified about a
12 crop loss at Page 12 packet offer
13 Exhibit B is a crop loss for 2008.

14 Q. Is that right, Mr. Weisman?

15 A. Yes, but again some of this is
16 revenue, so I don't know, and they do not break it
17 down, it could be both.

18 Q. Based on this last page on Exhibit
19 B --

20 A. Yes.

21 Q. -- do you recall whether you had
22 plant crops that were already planted that were
23 destroyed by flooding in 2008?

24 A. I do not recall.

25 Q. All right. It appears, based on

1 | your earlier testimony, I believe you testified
2 | that that was spring flood before planting; is
3 | that what you recall in '08?

4 | A. Yes, I think so.

5 | Q. All right. Any other -- Did you
6 | have any other damage other than crop loss due to
7 | flooding?

8 | A. Well I get -- I have to always pick
9 | up debris. I don't know if you're considering
10 | that damage or not, every year it floods I have,
11 | takes hours of it doing that, plus I get soil
12 | compaction. When the water lays on there, it
13 | packs the soil which impacts my root growth which
14 | ultimately hurts my yield.

15 | Q. Have you, have you ever taken any
16 | inventory or any record of -- I want to say this
17 | correctly, so give me a second. Have you ever
18 | determined, either on your own or through somebody
19 | else, how much less you plant because of this
20 | on-going flooding?

21 | A. No.

22 | Q. Are there any portions of your
23 | property, any part of your property that is
24 | permanently forever unplantable because of the
25 | flooding so far, if it never flooded again after

1 | today, would you be able to flood (sic) on your
2 | property?

3 | MR. FUSONIE: Objection.

4 | A. Could you restate that again?

5 | Q. Yeah, absolutely. If the flooding
6 | stopped, if they changed the spillway and you only
7 | got flooding because of rain and you didn't have
8 | this increased water coming through Beaver Creek,
9 | if they put the spillway back to the way it was
10 | before, would all of your property still be
11 | farmable?

12 | A. Yes.

13 | MR. FUSONIE: Objection.

14 | Q. When have you experienced drought
15 | on your property?

16 | A. I really cannot remember the years,
17 | we've had a couple within the last several years
18 | from drought, but it's usually summer droughts.

19 | Q. '09?

20 | A. Yes.

21 | Q. 2008?

22 | A. Somewhat, yes.

23 | Q. 2007?

24 | A. No, I don't think so.

25 | Q. You recall any specific years other

1 | than the ones we've just talked about?

2 | A. No, we had some previous ones, but
3 | I do not recall which, the exact years.

4 | Q. Have your crop yields changed
5 | because of the spillway construction?

6 | A. Yes.

7 | Q. Have you determined how much less
8 | your yields have been because of flooding?

9 | A. No.

10 | Q. Have you made less income per year
11 | because of --

12 | A. Oh, yes.

13 | Q. -- because of the spillway?

14 | A. Yes.

15 | Q. So you made more off your farming
16 | per year before the spillway was built?

17 | A. Yes, but that's relative to crop
18 | prices too and that's --

19 | Q. Okay.

20 | A. You know what I'm saying, that
21 | changes things a little bit.

22 | Q. Sure. Do you have an opinion of
23 | what this property is worth today?

24 | A. No, I do not.

25 | Q. Other than talking to Mr. -- Is it

1 Zumberge?

2 A. Yes.

3 Q. Did you, did you talk to anyone
4 else, and I don't mean your lawyers in this
5 lawsuits of course, but prior to bringing this
6 lawsuit or participating in this lawsuit, did you
7 talk to anyone about the spillway?

8 A. Could you be more specific?

9 Q. Yeah. Did you ever -- did you ever
10 complain to anyone in the government?

11 A. Oh, no.

12 Q. How come?

13 A. I -- From what I've read in our
14 paper and everything, they've interviewed people
15 in the park. They were not doing anything about
16 the water level in the lake, so I figured it would
17 do me no good.

18 Q. Have you ever tried to mitigate or
19 lessen the amount of flooding on your land?

20 MR. FUSONIE: Objection.

21 A. No, because there's no way doing
22 that.

23 Q. Have you ever tried to sell your
24 land?

25 A. No.

1 Q. Are you aware of any recent sales
2 of property, a similar property?

3 MR. FUSONIE: Objection. Vague.

4 A. Yes. Could you be more specific?

5 Q. Are you aware of any sales within
6 the past two years of farm property within a mile
7 of this parcel?

8 A. No.

9 Q. Do you know how long Beaver Creek
10 goes on your property, the length of that?

11 A. Well, it's actually the whole
12 length. It straightens out and goes on that white
13 line.

14 Q. Okay. Right. So from the
15 southwest corner, up to --

16 A. Yes.

17 Q. -- the part where it intersects at
18 Erastus-Durbin Road, do you know the length of
19 that?

20 A. No, I do not.

21 Q. Never measured that?

22 A. No.

23 Q. Does anyone help you farm the
24 property?

25 A. My wife helps some times and my son

1 | also a little bit, and my son also sometimes,
2 | that's all.

3 | MR. FUSONIE: I just have a few
4 | questions, Mr. Weisman.

5 | DIRECT EXAMINATION

6 | BY MR. FUSONIE:

7 | Q. How long have you farmed?

8 | A. Myself personally?

9 | Q. Yeah.

10 | A. Oh, approximately 37 years now.

11 | Q. Based on your 37 years of farming,
12 | do you believe that the longer water stands on
13 | soil the more compaction occurs?

14 | A. Yes.

15 | Q. And do you believe that the soil
16 | compaction that has occurred on your property
17 | since 1997 because of flooding has caused
18 | long-term damage to the soil?

19 | A. Yes.

20 | Q. And thus long-term damage to your
21 | crop yield?

22 | A. Yes.

23 | Q. Are you aware of any sales in the
24 | last year of bare land in Mercer County?

25 | A. Yes.

1 Q. What sales are you aware of?

2 A. There's a farm that sold that would
3 be north of this ten miles, roughly approximately
4 ten miles.

5 Q. Do you know what that sold for per
6 acre, approximately?

7 A. Approximately 6700.

8 Q. Do you have an approximation as to how
9 many acres that property was?

10 A. There's two parcels, I believe each
11 one is approximately 88 acres, something like
12 that.

13 Q. And that was bare land?

14 A. Yes.

15 Q. Do you believe if you tried to
16 sell your parcel today that you would get 6700 per
17 acre?

18 A. No.

19 Q. You believe it would be
20 significantly less than that?

21 A. Yes.

22 Q. And is that because of the flooding
23 your property has been subject to since 1997?

24 A. Yes.

25 Q. Just so I'm clear on the crop

1 insurance claims. Since 1997 have you filed any
2 crop insurance claims because of reduced yield
3 based on a delayed planting?

4 A. Yes.

5 Q. Do you remember -- Could 2008, the
6 crop insurance claim that you filed in 2008, could
7 that have been for a reduced yield because of
8 delayed planting?

9 A. Yes.

10 Q. Do you remember any other years
11 where since 1997 where because of delayed planting
12 you filed a crop insurance claim because of
13 reduced yield?

14 A. Most of those would be, I mean, you
15 know, I can't pull out a certain year.

16 Q. But you recall that you have done
17 that --

18 A. Oh, yes.

19 Q. Do you recall since 1997 having
20 filed a crop insurance claim because of reduced
21 yield due to delayed planting caused by planting?

22 A. Yes.

23 MR. FUSONIE: Okay. Those are all
24 I have.

25 MR. COLE: Let me just follow-up.

REXCROSS-EXAMINATION

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BY MR. COLE:

Q. The bare-land sale that Mr. Fusonie referred to, who bought that property?

A. The one parcel I do not know the name on, the other one is Neal Boeckman, B-o-e-c-k-m-a-n.

Q. And you said two parcels 80 acres each?

A. Yes.

Q. A single sell, two parcels?

A. One family owned and then they sold, they split, it was two -- they touch, but, not, yeah, they don't split up two parcels.

Q. You said you don't believe your parcel is worth 6700 an acre?

A. No.

Q. But you don't know the value?

A. I do not, no.

Q. So all you know is it's not 6700 an acre?

A. I don't believe it is, no.

Q. Do you know specifically whether your claim in 2008 was because of delayed planting?

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A. No, I do not?

MR. COLE: That's all.

MR. FUSONIE: Mr. Weisman, when the state attorneys order a written transcript of this deposition, you have the right to review it to correct any errors in the transcript. I can't tell you to do that, I can only recommend that you do take advantage of that right to read. You need to let the court reporter know now whether you'd like to do so.

A. Yes, I would.

Jerry Weisman

Jerry Weisman

Martha C. Brewer 4/18/10

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

(At 12:30 p.m., the deposition concluded)

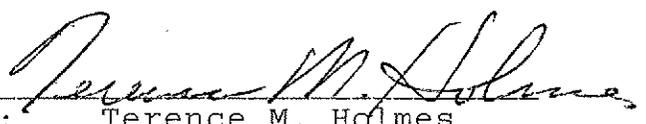
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C E R T I F I C A T E

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 JERRY WEISMAN 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 JERRY
WEISMAN; 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 6th day of
April, 2010.



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

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 06-02-1999
Time 08:57
Statement Type B Original

Program 98NYCLDAP
Application Crop Loss

PAGE 1

Name: JERRY WEISMAN
7984 STATE ROUTE 127
CELINA, OH 45822-9417

Handwritten signature

REDACTED

RETAIN FOR TAX PURPOSES

Producer 1

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)

Transaction X315300016

Amount

738.00

738.00

STAT

Payment Description

MULTI-YEAR CROP LOSS DIS ASSIST PROGRAM
Total Payments (Transactions)

Disbursement Information

Issue Date

06-02-1999

ACH/

Check

D0025338

ASGN/

JYPWT

RECVBL/

Claim

Amount

738.00

738.00

738.00

Payee Name/CCC Debt Repaid

JERRY WEISMAN

Funds to be deposited in:
THE PEOPLES BANK CO

Total Disbursements

Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed

Brenda Ventuburg
(Authorized Representative of CCC)

Counter-Signed

[Signature]

(Authorized Representative of CCC)

DON001487

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 02-25-2000

Program 99CDF
Application Crop Loss

Time 13:16

Statement Type B Original

PAGE 1

Name: JERRY WEISHAN
7984 STATE ROUTE 127
CELINA, OH 45822-9417

RETAIN FOR TAX PURPOSES

Producer **REDACTED**

Disbursement Statement

Comment Information

The payment information reflected on this transaction statement is for the Crop Disaster Program (CDP) for 1999 losses. The payment has been reduced by a national factor of 0.35000000.

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Transaction X305600011	139.00		CROP DISASTER PROGRAM
	139.00		Total Payments (Transactions)

Disbursement Information

Issue	ACH/ Date	ASGN/ JYPNT	RECVEL/ Claim	Amount	Payee Name/CCC Debt Repaid
	02-25-2000	D6044736		139.00	JERRY WEISHAN Funds to be deposited in: THE PEOPLES BANK CO
				139.00	Total Disbursements
				139.00	Total Program Payment Earned

Crop Loss Detail (Unit/Appn. Crop	Amount)
2 SOYBN 62.00	3 SOYBN 77.00

Funds should be available within three working days of issue date.

Approved: Signed Martina Polhemus Counter-Signed Jean Rutschilling
(Authorized Representative of CCC) (Authorized Representative of CCC)

DON001488

AL COMMUNITY INSURANCE AGENCY, INC
THURSTON AVENUE
KA, MN 55303-1060

800/328-9143 EXT. 2301
OR EXT. 2120

THIS DOCUMENT IS ISSUED AS A SUBSTITUTE STATEMENT FOR A 1099 INFORMATION RETURN

ERRY WEISMAN
84 US RT 127
ELINA OH 45822

FOR TAX YEAR 2000
TAX PAYER ID NUMBER REDACTED

1099-MISC (OMB No. 1545-0115)
PAYERS FEDERAL
ID NUMBER
41-1708414

SUMMARY OF MISCELLANEOUS INCOME AS REPORTED - CROP INSURANCE PROCEEDS

YEAR	CLAIM	CLAIM DETAIL AMOUNTS	CLAIM TOTAL
2000	34-951-113000	PREMIUMS PAID	1,834.00
TOTAL INDEMNITY PAYMENT REPORTED			\$1,834.00

7/25
Pecher

** WE APPRECIATE YOUR BUSINESS **

TO HAVE ANY CORRECTIONS MADE TO YOUR FORM 1099, YOU MUST CONTACT OUR OFFICE BEFORE FEBRUARY 28, 2001.

THE "TOTAL INDEMNITY PAYMENT" WHICH INCLUDES ALL AMOUNTS DEDUCTED FROM THE CLAIM(S) AND CHECK(S) ISSUED, IS CONSIDERED TAXABLE INCOME BY THE INTERNAL REVENUE SERVICE. PLEASE CONTACT YOUR TAX PREPARER OR THE IRS IF YOU HAVE ANY QUESTIONS ON REPORTING THIS INCOME.

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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 04-11-2000
Time 10:20
Statement Type B Original

Program 29CDF
Application Crop Loss

PAGE 1

Name: JERRY WEISMAN
7984 STATE ROUTE 127
CELINA, OH 45822-9417

REDACTED

RETAIN FOR TAX PURPOSES

Producer

Disbursement Statement

Comment Information

The payment information reflected on this transaction statement is for the
Crop Disaster Program (CDF) for 1999 losses.
The national payment factor is 0.69600000.

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Transaction X310200077	139.00		CROP DISASTER PROGRAM
	139.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JYFHT	RECVBL/Claim	Amount	Payee Name/CCC Debt Repaid
04-11-2000	D0046271			139.00	JERRY WEISMAN Funds to be deposited in: THE PEOPLES BANK CO
				139.00	Total Disbursements
				139.00	Total Program Payment Earned

Crop Loss Detail (Unit/Appn. Crop Amount)
2 SOYBN 62.00 3 SOYBN 77.00

Funds should be available within three working days of issue date.

Approved: Signed 
(Authorized Representative of CCC)

Counter-Signed 
(Authorized Representative of CCC)

DON001490

RURAL COMMUNITY INSURANCE AGENCY, INC
3501 THURSTON AVENUE
ANOKA, MN 55303-1060

800/451-3836 EXT. 2301
OR EXT. 2120

THIS DOCUMENT IS ISSUED AS A SUBSTITUTE STATEMENT FOR A 1099 INFORMATION RETURN

JERRY WEISMAN
7994 US RT 127
CELINA OH 45822

FOR TAX YEAR
2001
TAX PAYER ID NUMBER
REDACTED

1099-MISC (OMB No. 1545-0045)

PAYER'S FEDERAL
ID NUMBER
44-7078414

SUMMARY OF MISCELLANEOUS INCOME AS REPORTED - CROP INSURANCE PROCEEDS

REPORTING PARTY	2001 24-001-10300001	615599	CHECK AMOUNTS PAYABLE TO YOU	1,127.00
				DON001491

**** WE APPRECIATE YOUR BUSINESS ****

TOTAL INDEMNITY PAYMENT REPORTED \$1,127.00

TO HAVE ANY CORRECTIONS MADE TO YOUR FORM 1099, YOU MUST CONTACT OUR OFFICE BEFORE FEBRUARY 28, 2002.

THE "TOTAL INDEMNITY PAYMENT" WHICH INCLUDES ALL AMOUNTS DEDUCTIBLE FROM THE CLAIM(S) AND (S) EXCLUDED, IS CONSIDERED TAXABLE INCOME BY THE INTERNAL REVENUE SERVICE. PLEASE CONTACT YOUR TAX PREPARER OR THE IRS IF YOU HAVE ANY QUESTIONS ON REPORTING THIS INCOME.

THIS IS IMPORTANT TAX INFORMATION AND IS BEING FURNISHED TO THE INTERNAL REVENUE SERVICE. IF YOU ARE REQUIRED TO FILE A RETURN, A NEGLIGENCE PENALTY OR OTHER SANCTION WILL MAY BE IMPOSED ON YOU IF THIS INCOME IS TAXABLE AND HAS DETERMINED THAT IT HAS NOT BEEN REPORTED.

RURAL COMMUNITY INSURANCE AGENCY, INC
501 THURSTON AVENUE
ANOKA, MN 55303-1060

800/451-3836 EXT. 2301
OR EXT. 2300

THIS DOCUMENT IS ISSUED AS A SUBSTITUTE STATEMENT FOR A 1099 INFORMATION RETURN

JERRY WEISMAN
 7044 US RT 127
 CHLINA OH 45822

FOR TAX YEAR 2002
TAX PAYER'S ADDRESS REDACTED

1099-MISC (OMB No. 1545-0045)
 PAYERS FEDERAL
 ID NUMBER
 31-1775014

SUMMARY OF MISCELLANEOUS INCOME AS REPORTED - CROP INSURANCE PROCEEDS

DESCRIPTION	2002 34-951-103092	703524	CHECK AMOUNTS: PREMIUM WTHLD:	238.00 .00	238.00
CROPS: SBEAN MPCI	2002 34-951-103092	712503	CHECK AMOUNTS: PREMIUM WTHLD:	595.00 .00	595.00
CROPS: SBEAN MPCI	2002 34-951-103092	761021	CHECK AMOUNTS: PREMIUM WTHLD:	32,598.00 .00	32,598.00
CROPS: CORN MPCI	SBEAN 2002 34-951-103092				

TOTAL INDEMNITY PAYMENT REPORTED: \$33,431.00

**** WE APPRECIATE YOUR BUSINESS ****

TO HAVE ANY CORRECTIONS MADE TO YOUR FORM 1099, YOU MUST CONTACT OUR OFFICE BEFORE FEBRUARY 28, 2003.

THE "TOTAL INDEMNITY PAYMENT" WHICH INCLUDES ALL AMOUNTS DEDUCTED FROM THE CLAIM(S) AND CHECK(S) ISSUED, IS CONSIDERED TAXABLE INCOME BY THE INTERNAL REVENUE SERVICE. PLEASE CONTACT YOUR TAX PREPARER OR THE IRS IF YOU HAVE ANY QUESTIONS ON REPORTING THIS INCOME.

THIS IS IMPORTANT TAX INFORMATION AND IS BEING FURNISHED TO THE INTERNAL REVENUE SERVICE. IF YOU ARE REQUIRED TO FILE A RETURN, A NEGLIGENCE PENALTY OR OTHER SANCTIONS WILL MAY BE IMPOSED ON YOU IF THE INCOME IS TAXABLE AND IRC DETERMINES THAT IT HAS NOT BEEN REPORTED.

FORM 1099

United States
Department of
Agriculture

Farm Service Agency

HENNING COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45022-1632
Phone 419-504-3149

Date 07-21-2003
Time 13:11
Statement Type B Original

Program 01-02CBP
Application Crop Loss

PAGE 1

Name: JERRY WEISMAN
7904 US ROUTE 127
CELINA, OH 45022-9447

RETAIN FOR TAX PURPOSES

Producer ID: **REDACTED** Disbursement Statement

Comment Information

The payment information reflected on this transaction statement is for the
BP Program for 2001/2002 crop losses.

Transaction Information

Reference Number(s)	Amount	STAT	Payment Description
Transaction WF20200053	13,828.00		01-02 CROP DISASTER PROGRAM
	13,828.00		Total Payments (Transactions)

Disbursement Information

Issue Date	ACH/Check	ASGN/JPYNT	RECVBL/Claim	Amount	Payee Name/CCC Debt Repaid
7-21-2003	100692816			13,828.00	JERRY WEISMAN
					Funds to be deposited in: THE PEOPLES BANK CO
				13,828.00	Total Disbursements
				13,828.00	Total Program Payment Earned

Paired

Funds should be available within three working days of issue date.

Approved: Signed *Jane [Signature]*
(Authorized Representative of CCC)

DON001493

9538
JERRY WEISMAN
7984 US ROUTE 127
CELINA, OH 45822-9417

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	1.01	I	CORN	11	01	\$0	\$2,775*
39-107	1.04	I	CORN	11	01	\$0	\$15*
39-107	1.05	I	CORN	11	01	\$0	\$971*
39-107	1.07	I	CORN	11	01	\$0	\$3,709*
39-107	4.00	I	CORN	11	01	\$0	\$4,852*
39-107	5.00	I	CORN	11	01	\$0	\$531*
39-107	6.00	I	CORN	11	01	\$0	\$502*
39-107	5.00	I	SOYBEANS	11	01	\$0	\$370*
39-107	6.00	I	SOYBEANS	11	01	\$0	\$103*
39-107	7.00	I	SOYBEANS	11	01	\$0	\$0
Total Calculated Payment by Year (Approved)						\$0	\$13,828
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 FMA-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

AL COMMUNITY INSURANCE AGENCY, INC
THURSTON AVENUE
A, MN 55303-1060

800/451-3836 EXT. 2178
OR EXT. 2353

DOCUMENT IS ISSUED AS A SUBSTITUTE STATEMENT FOR A 1099 INFORMATION RETURN

RY WEISMAN
4 US RT 127
INA OH 45822

FOR TAX YEAR 2005
TAXPAYER ID NUMBER [REDACTED]

1099-MISC (OMB No. 1545-0047)

PAYER'S FEDERAL
ID NUMBER
41-170414

PRIMARY OF MISCELLANEOUS INCOME AS REPORTED - CROP INSURANCE PROCEEDS

Code	Payee Name	Amount	Description	Other
1	AL COMMUNITY INSURANCE AGENCY, INC	4,880.00	CROP INSURANCE PROCEEDS	

TAX INFORMATION

DON001495

TOTAL INDEMNITY PAYMENT REPORTED \$4,880.00

WE APPRECIATE YOUR BUSINESS

TO HAVE ANY CORRECTIONS MADE TO YOUR FORM 1099, YOU MUST CONTACT OUR OFFICE BEFORE FEBRUARY 28, 2006.

TOTAL INDEMNITY PAYMENT WHICH INCLUDES ALL AMOUNTS DEDUCTED FROM THE CLAIM(S) AND (S) ISSUED, IS CONSIDERED TAXABLE INCOME BY THE INTERNAL REVENUE SERVICE. PLEASE CONTACT YOUR TAX PREPARER OR THE IRS IF YOU HAVE ANY QUESTIONS ON REPORTING THIS INCOME.

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United States
Department of
Agriculture

Farm Service Agency

BERCEUR COUNTY FSA OFFICE
220 W LIVINGSTON ST
SUITE 2
CELINA, OH 45822-1632
Phone 419-584-3149

05-05-2005
14:27
Document Type B Original

Program OSCRIP
Application Crop Loss

PAGE 1

Name: JERRY WEISHAN
7764 US ROUTE 127
CELINA, OH 45822-9417

REDACTED
Producer ID

Disbursement Statement

NOT VALID FOR TAX PURPOSES

The payment information reflected on this transaction statement is for the
IP Program for 2003-2005 crop losses.

Transaction Information	Amount	STATE	Payment Description
Reference Number(s)	3,964.00		CROP DISASTER PROGRAM
Transaction Y912330009	3,964.00		Total Payments (Transactions)

Disbursement Information	Amount	Payee Name/CCC Debt Repaid
Issue ACH/	3,964.00	JERRY WEISHAN
Date Check		Funds to be deposited in:
05-05-2005 00113797		THE PEOPLES BANK CO
	3,964.00	Total Disbursements
	3,964.00	Total Program Payment Earned

Funds should be available within three working days of issue date.

Approved: Signed Martha Lehman
(Authorized Representative of CCC)

Prosted

DON001496



MPCI SUMMARY OF LOSS

County: MERCER 107

HY: 2000

JERRY WEISMAN
7984 US RT 127
CELINA OH 45822

Page: 1

Date: 8/01/06

TOTAL NET LOSS
PREVIOUS PAID AMOUNTS
AMOUNT OF CHECK

\$4,389.00

\$0.00

\$4,389.00

Barker

34-1250

LEUGERS INS AGENCY INC
PO BOX 38
MARIA STEIN OH 45860-0038

*PREMIUM BALANCE DUE \$3,155.00

PHONE (419)925-4511

CROP	UNIT	FSN	ACRES	PRAC	TYP	STG	GUAR/ACRE	BASE PRICE	LPO	LAF	MIF	ADJ GUAR	PROD TO COUNT	HARVEST PRICE	SHARE	PAYABLE
RACRN	01 01	2356	25.00	003	016	R	8.00	2.59	N	N	N	200.00	.00	.00	1.000	510
		2356	25.50	003	016	NR	.00	2.59	N	N	N	.00	.00	.00	1.000	0
		5800	46.20	003	016	R	8.00	2.59	N	N	N	370.00	.00	.00	1.000	958
RACRN	01 07	5800	46.20	003	016	R	8.00	2.59	N	N	N	104.00	.00	.00	1.000	135
RACRN	03 00	1522	13.00	003	016	R	3.00	6.18	N	N	N	110.00	.00	.00	1.000	660
RACRN	01 04	2626	36.80	053	000	R	3.00	6.18	N	N	N	71.00	.00	.00	1.000	439
RASBN	01 05	393	23.80	053	000	R	3.00	6.18	N	N	N	537.00	.00	.00	.500	1850
RASBN	01 05	490	179.00	053	000	R	3.00	6.18	N	N	N	.00	.00	.00	.500	0
RASBN	04 00	490	67.00	053	000	NR	.00	6.18	N	N	N	.00	.00	.00	.500	0

*BALANCE REFLECTS TRANSACTIONS POSTED AS OF 8/01/2006

IMPORTANT TAX INFORMATION INFORMATION ON FILE

CROP YEAR: 2006 MPCI
POLICY NO.: 34-851-103092
LEGAL NAME: JERRY WEISMAN
TAX ID NO.: [REDACTED]

The IRS requires you to provide us with the correct taxpayer identification number when an individual has been issued. Please verify that the legal name and the taxpayer identification number (Tax ID) shown are correct. If there is a typographical error, please provide the corrections in the space provided and return to RUCS Accounting Department, 3001 Thurston Avenue, Anson, MD 20686-1060.

If the information shown is correct you may disregard this request.

This form may NOT be used to change the legal name or Tax ID. Please contact your agent if a change is required.

CORRECT LEGAL NAME (please print)

SOCIAL SECURITY NUMBER

OR

FEDERAL EMPLOYER TAX ID NUMBER

I CERTIFY THE ACCURACY OF THE INFORMATION PROVIDED.

SIGNATURE

DATE

DON001497

800/451-3836 EXT. 2353
OR EXT. 2162
OR EXT. 2381

THIS DOCUMENT IS ISSUED AS A SUBSTITUTE STATEMENT FOR A 1099 INFORMATION RETURN

MERRY WEISMAN
984 US RT 127
MELINA OH 45822

FOR TAX YEAR
2008

1099-MISC (OMB No. 1545-0045)

PAYERS FEDERAL
 ID NUMBER

41-1706414

TAX PAYER ID NUMBER
REDACTED

SUMMARY OF MISCELLANEOUS INCOME AS REPORTED - CROP INSURANCE PROCEEDS

FORM NUMBER	YEAR	CLAIM NUMBER	AMOUNTS	CLAIM TOTAL
PS: RACRN RASBN 1	2008 34-051-103082	1438481	CHECK AMOUNTS: 14,182.00 DEDUCTIONS: .00	14,182.00
PS: RACRN 1	2008 34-051-103082	1516444	CHECK AMOUNTS: 3,883.00 DEDUCTIONS: .00	3,883.00
PS: RACRN RASBN 1	2008 34-051-103082	1516898	CHECK AMOUNTS: 44,779.00 DEDUCTIONS: .00	44,779.00

DON001498

**** WE APPRECIATE YOUR BUSINESS ****

**TOTAL INDEMNITY
 PAYMENT REPORTED**

\$62,844.00

**PLEASE VERIFY THE ACCURACY OF THE TAX PAYER IDENTIFICATION NUMBER LISTED.
 REPORT ANY CORRECTIONS TO OUR OFFICE BEFORE FEBRUARY 27, 2009.**

TOTAL INDEMNITY PAYMENT WHICH INCLUDES ALL AMOUNTS DEDUCTED FROM THE CLAIM(S) AND
 (S) REQUIRED, IS CONSIDERED TAXABLE INCOME BY THE INTERNAL REVENUE SERVICE. PLEASE
 CONTACT YOUR TAX PREPARER OR THE IRS IF YOU HAVE ANY QUESTIONS ON REPORTING THIS INCOME.**

**THIS IS IMPORTANT TAX INFORMATION AND IS BEING FURNISHED TO THE INTERNAL REVENUE SERVICE. IF
 YOU ARE REQUIRED TO FILE A RETURN, A NEGLECTED PENALTY OR OTHER SANCTION MAY BE IMPOSED
 ON YOU IF THIS INCOME IS TAXABLE AND THE IRS DETERMINES THAT IT HAS NOT BEEN REPORTED.**

AFFIDAVIT OF JERRY WEISMAN

STATE OF OHIO

)

) ss:

COUNTY OF MERCER

)

My name is Jerry Weisman. 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 Number 42-000300.0100.
3. I have owned since 1986 Mercer County Parcel Number 42-000300.0100.
4. The Beaver Creek cuts through Mercer County Parcel Number 42-000300.0100.
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 42-000300.0100 has 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 Number 42-000300.0100 have flooded almost every year, and some years it has flooded several times. On each occasion, 42-000300.0100 was inundated with water at depths varying from approximately two to six feet.

DON000725

7. Since ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 42-000300.0100 flood more rapidly and remains flooded for longer periods of time. On each occasion of flooding, Mercer County Parcel Number 42-000300.0100 remained inundated with water for a period of up to week and a half.

8. Prior to ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 42-000300.0100 had less frequent flooding, never flooded as much, never flooded over as large an area, never flooded for as long.

9. To date, the most invasive flood occurred in 2003 with approximately 61 acres of Mercer County Parcel Number 42-000300.0100 being flooded with approximately up to six feet of water for approximately up to a week and a half. A true and accurate copy of black and white aerials from the Mercer County Auditor's website of Mercer County Parcel Number 42-000300.0100 is attached hereto as Exhibit 1. I have shaded in the area of the parcels that was flooded in 2003.

10. Mercer County Parcel Number 42-000300.0100 also experienced severe flooding in 2005 and 2008.

11. Mercer County Parcel Number 42-000300.0100 was again flooded as recently as spring 2009.

12. As a direct result of the flooding, Mercer County Parcel Number 42-000300.0100 has suffered damage in the form of crop losses, the deposit of other debris, and soil compaction.

13. The flooding caused by ODNR has substantially destroyed the value of Mercer County Parcel Number 42-000300.0100.

16. 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

DON000726

result of ODNR's replacement of the western spillway and ODNR's current management practices.

FURTHER AFFIANT SAYETH NAUGHT.

Jerry Weisman
Jerry Weisman

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

Kristi Kress Wilhelmy
Notary Public

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

DON000727

EXHIBIT 1
TO
AFFIDAVIT OF JERRY WEISMAN

DON000728

Mercer County Ohio



Legend

Administrative



Townships



Neighborhoods

Parcels



Parcels

Transportation



State Highways

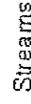


US Highways

Water



Lake



Streams

tabbles

EXHIBIT

1



Scale: 1:6,359



Map center: 1355924, 329246

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.

Jerry Weisman and Vicki Weisman
-0- Erastus Durbin Rd.
Parcel No.: 42-000300-0100 - 115.63 acres

Tab 65

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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 MOSE ROAD
COLUMBUS, OHIO 43229-6693

and

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

DEPOSITION of VICKI L. WEISMAN, 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 Thursday, February 18, 2010, at,
11:15 a.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

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APPEARANCES:

On Behalf of Ohio Department of Natural
Resources:

Rachel Stelzer,
Attorney at Law
Environmental Enforcement
30 East Broad Street, Floor 25
Columbus, Ohio 43215-3400

On Behalf of the Respondent:

Thomas H. Fusonie, Esq.
and
Martha C. Brewer,
Attorney at Law
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus Ohio 43216-1008

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I N D E X

WITNESS: VICKI L. WEISMAN PAGE
By Ms. Stelzer 4, 33
By Ms. Brewer 32

E X H I B I T S

RESPONDENT'S DESCRIPTION MARKED
A Affidavit of Vicki L. Weisman 30

1 VICKI L. WEISMAN

2 of lawful age, a witness herein, as upon
3 cross-examination, as hereinafter certified, was
4 examined and testified as follows:

5 EXAMINATION

6 BY MS. STELZER:

7 My name is Rachel Stelzer. I
8 represent the State of Ohio.

9 Q. Could you please state your name and
10 address for the record.

11 A. Vicki L. Weisman, 7984 US127, Celina,
12 Ohio 45822.

13 Q. Have you ever been deposed before?

14 A. No.

15 Q. My purpose today is to get a better
16 understanding of the flooding that's occurring on
17 your property. It's important, in this deposition
18 that if you -- well, first, that you speak clearly
19 and loudly so the court reporter can take down
20 everything you're saying, and that if you don't
21 understand a question, please let me know so I can
22 clarify. Can I get you to agree to stop me if you
23 don't understand a question?

24 A. Yes.

25 Q. Can I call you Vicki?

1 A. Yes.

2 Q. Okay. Vicki, have you reviewed any
3 documents in preparation for your deposition today?

4 A. Yes.

5 Q. What were those?

6 A. The Affidavit and the Complaint.

7 Q. Vicki, where are you employed?

8 A. I'm self employed. I have several
9 jobs. I sell custom window treatments; I'm a
10 seamstress and I help with the farming, seasonally.

11 Q. Did you pursue any further education
12 after high school?

13 A. No.

14 Q. Can you please describe the location
15 of the property that you own that you allege has been
16 flooded in this case.

17 A. It is west of Celina, about nine
18 miles, on the corner of Erastus Durbin Road and
19 Bunker Hill Road.

20 Q. And that property is your residence?

21 A. No.

22 Q. Do you rent that property?

23 A. No. We farm it.

24 Q. Is that -- Well, first, how many acres
25 are we talking about?

1 A. 115.63.

2 Q. Is that 115 acres divided into
3 different tax parcel numbers?

4 A. No.

5 Q. How long have you owned that 115
6 acres?

7 A. Since 1986.

8 Q. Do you know who owned it before you?

9 A. Ralph Heckman -- Not Ralph, sorry.
10 Robert Heckman.

11 Q. How do you spell Heckman?

12 A. H-E-C-K-M-A-N.

13 Q. Do you know how long Mr. Heckman owned
14 the property?

15 A. We owned -- We bought it from him
16 prior to 1986, in 1976, on land contract and he owned
17 it probably two years before that, but my husband
18 farmed it. So probably '74 he has farmed it. I
19 don't know if that's what you're wanting.

20 Q. So your husband has farmed the
21 property since 1974?

22 A. Correct.

23 Q. And you mentioned that you helped him
24 farm the property?

25 A. Since, probably, the last 10 years,

1 since his father died because they farmed together
2 and then when he died, there wasn't anybody else, so
3 I learned.

4 Q. So, okay, so you started helping your
5 husband farm the property in the late '90's or --

6 A. No, at least 10 years. I mean, I was
7 a part of it as far as decisions, but not actually
8 driving machinery or anything until then.

9 Q. Okay. Do you and your husband farm
10 the entire 115 acres?

11 A. Yes.

12 Q. In addition to your residence and this
13 115 acres, do you own any other property in the area?

14 A. Yes. We have 35 acres in Hopewell
15 Township which is not in that flood plain or flood
16 area.

17 Q. Do you rent any other property in the
18 area?

19 A. Yes. We farm a thousand acres and the
20 two properties that we own is -- What would that be,
21 115 and 35 and the rest of it we rent of the
22 thousand.

23 Q. How many parcels do you rent?

24 A. I better -- My husband would know that
25 better than I would, exactly. I know how many people

1 we rent from, but how the parcels are set up, I'm not

2 --

3 Q. How many people do you rent from?

4 A. Six.

5 Q. How many different fields do you rent?

6 A. Oh, golly! I'm not comfortable

7 answering that.

8 Q. That's okay. Are any of these -- So
9 outside the 35 acres in Hopewell Township, the 115
10 involved in this lawsuit, how much of the rest of
11 this a thousand acres is located in the Beaver
12 Creek-Wabash area?

13 A. None, none.

14 Q. Okay. How far away is the rest of the
15 property -- How far away are the rest of the
16 properties you farm?

17 A. They're all in, in Mercer County.
18 Most of them are in the northern part -- north of
19 Celina, just two or three miles. This farm is the
20 farthest that we have that we farm --

21 Q. The farthest away from --

22 A. -- from our home and from Celina.

23 Q. Okay. So the 115 acres we'll be
24 talking about today is the farthest from your home in
25 Celina then?

1 A. Yes.

2 Q. Can you describe -- Well, let's talk
3 about the 115 acres that are involved in the lawsuit.
4 Can you describe where that 115 acres is in relation
5 to the Beaver Creek?

6 A. Well, a corner of Beaver runs right
7 though our farm, so we have some on either side, a
8 real small field and then the rest of it is on the
9 north side.

10 Q. The larger field is on the north side?

11 A. Correct.

12 Q. How far -- or how many acres are on
13 the south side of the Beaver, approximately?

14 A. Less than 10.

15 Q. How far away is your 150 acres (sic)
16 -- 115 acres from the Wabash?

17 A. I don't know that.

18 Q. How far away is it from the Grand
19 Lake?

20 A. Approximately eight or nine miles
21 west.

22 Q. You mentioned that you far that 115
23 acres. What else is on the property?

24 A. It's bare ground.

25 Q. No trees?

1 A. No.

2 Q. Any buildings?

3 A. No.

4 Q. So no man-made structures at all?

5 A. No.

6 Q. Besides the Beaver running through the
7 property, are there any other water courses?

8 A. I don't understand what you're asking?

9 Q. Are there streams --

10 A. No.

11 Q. -- any other streams outside the
12 Beaver Creek?

13 A. No.

14 Q. Is it ditched? Is there a ditch?

15 A. I don't know that.

16 Q. Is the property pretty flat?

17 A. No.

18 Q. Can you describe the elevation of the
19 115?

20 A. There are, approximately in the center
21 of the north side, there is a slight hill. That's,
22 basically, all I can tell you.

23 Q. Is it fair to say the rest of the
24 property is flat?

25 A. I wouldn't say it was, no.

1 Q. Would you describe it as rolling?

2 THE WITNESS TO HER COUNSEL: Should I
3 answer.

4 MS. BREWER: If you know, you can
5 answer. You don't need to guess though.

6 A. I don't want to guess. I don't know
7 if you would call it rolling or not.

8 Q. Is the highest point on your property
9 that center point on the north field or the north
10 side?

11 A. I don't know for certain.

12 Q. To your knowledge, how long has the
13 property been farmed?

14 A. I only know about when we took it over
15 in approximately '70-- 1974 and I don't know who
16 farmed it before or who owned it before Mr. Heckman.

17 Q. Since 1974, have you and your husband
18 used the property for anything other than farming?

19 A. No.

20 Q. What crops did you guys plant last
21 year?

22 A. Corn and soybeans.

23 Q. Do you know a soil type on the
24 property?

25 A. No, I don't.

1 Q. Can you describe the drainage system?

2 A. No, I cannot.

3 Q. Do you know if the property is tiled?

4 A. There is tile on the north side that's
5 not in the flood area or that has never flooded, but
6 other than that, I do not know.

7 Q. So how many acres are tiled on the
8 north side that you know?

9 A. I don't want to guess. My husband
10 could answer that better than I.

11 Q. Can you give me, perhaps, a fraction
12 or a percentage of the farm that you know is tiled?

13 A. Maybe a forth.

14 Q. Okay. And that's on the northern
15 side of the property?

16 A. The northwest.

17 Q. The northwest. Do you know who put
18 that tile down?

19 A. We did.

20 Q. When was that?

21 A. My husband would know that for sure.
22 At least 10 years.

23 Q. So before you got seriously involved
24 in the farming operation?

25 A. Oh, yes!

1 Q. To your knowledge have there been any
2 other improvements to the land to alleviate drainage
3 problems?

4 A. Not to my knowledge.

5 Q. Have you or your husband ever thought
6 about improving the property to alleviate drainage
7 problems?

8 A. Not to my knowledge.

9 Q. Do you participate in the Conservation
10 Reserve Program on this property?

11 A. I do not.

12 Q. I guess, does your husband?

13 A. Yes.

14 Q. Okay. So that program requires
15 property owners to maintain the filter strips;
16 correct?

17 A. I do not know the answer to that
18 question.

19 Q. Do you know how much money you receive
20 for your participation in this program or that your
21 husband receives?

22 A. No, I do not know the exact amount.

23 Q. How do you know that your husband
24 participates in the Conservation Reserve Program?

25 A. Because he goes to the agriculture

1 office and signs up for it and does all the
2 paperwork.

3 Q. Do you have any idea how many acres of
4 your property are involved in that program?

5 A. Of this 115?

6 Q. Yes.

7 A. I would imagine all of it.

8 MS. BREWER: And, again, I'll instruct
9 you not to guess if you don't know.

10 THE WITNESS: Okay.

11 MS. BREWER: I don't know is a fine
12 answer.

13 THE WITNESS: Okay.

14 Q. Do you participate or did this 150
15 acres -- 115 acres participate in the Wetlands
16 Reserve Program?

17 A. I don't know.

18 Q. Before your -- you and your husband
19 became involved with the property in 1974, what did
20 you know about it?

21 A. Nothing.

22 Q. Before you bought the property, what
23 did you know about it?

24 A. Nothing.

25 Q. Were you involved with any

1 conversations with the previous property owner, Mr.
2 Heckman, before you purchased the property?

3 A. Me, personally?

4 Q. Um-hum.

5 A. No.

6 Q. Were you aware at the time you bought
7 the property that the property flooded?

8 MS. BREWER: Objection. Foundation.

9 Q. But you may still answer.

10 A. Would you repeat it again, please?

11 Q. Sure. When you bought the property,
12 were you aware that the property flooded?

13 A. It did not flood like it does now. It
14 was minimal, if it's a yes or no, then I guess it's
15 yes.

16 Q. At the time that you bought the
17 property, did you know if the property was in the
18 flood plain?

19 A. No, I did not, personally.

20 Q. I'd like to talk about flooding that
21 occurred on your property since the new spillway was
22 put in, in 1997. So from the time -- from 1974 or
23 from when you purchased the property in '86 until the
24 new spillway in 1997, how often did flooding occur?

25 A. You're saying prior to '97. The only

1 information or knowledge I have on that is what my
2 husband would have said because at that time, I was
3 raising the family and not involved in the
4 day-to-day, like he was, so he could answer that
5 better than I.

6 Q. Before 1997, how often were you
7 physically on the property?

8 A. Probably six-to-ten times a year.

9 Q. What occasion would you have to go out
10 there?

11 A. Well, in the spring and in the fall,
12 when they were working, I would bring meals or if
13 something broke, I would go and get a part and bring
14 it to the field.

15 Q. So pre-1997, when flooding did occur
16 on the property, what parts of the property flooded?

17 A. Would you repeat that, please.

18 Q. Pre-1997, so before 1997, when the
19 property flooded, what parts of the property flooded?

20 A. Just on -- out the banks of the
21 Beaver.

22 Q. Did the Beaver Creek need to be out of
23 banks before the property would flood?

24 A. Yes.

25 Q. To your knowledge, did the property

1 flood while the Beaver was still in bank?

2 A. No.

3 Q. Do your knowledge, how often did the
4 property flood before 1997?

5 A. I don't know that.

6 Q. Do you know how long water would
7 remain on the land when the property flooded before
8 1997?

9 A. Until, until the Beaver went down,
10 then it would recede.

11 Q. So what would be the longest amount of
12 time water would remain on the land before the new
13 spillway was put in during a flood event?

14 A. I don't know that.

15 Q. A day?

16 A. I don't know that.

17 Q. To your knowledge, how did the
18 flooding that occurred before the spillway in 1997
19 impact the property?

20 A. Well, we lost a bushel to the acre
21 because it would make us later to plant or if the
22 crops were already in, we could lose that.

23 Q. To your knowledge, did the property
24 suffer drainage tile failure due to flooding
25 pre-1997?

1 A. I don't know the answer to that.

2 Q. Do you know if flooding caused any
3 erosion issues on the property before the new
4 spillway was put in?

5 A. I don't know that.

6 Q. Did flooding that occurred before the
7 new spillway was put in ever leave debris on the
8 property?

9 A. Not to my knowledge.

10 Q. Did the property carry crop insurance
11 at the time -- during the time before the new
12 spillway was --

13 A. My husband would know that.

14 Q. So you don't have an idea either way?

15 A. I don't remember what year we began
16 with crop insurance.

17 Q. Do you carry crop insurance now?

18 A. Yes.

19 Q. Do you have any knowledge of
20 submitting crop insurance claims prior to 1997?

21 A. No, I don't.

22 Q. Do you know if there are any records
23 of the property condition, of field conditions on the
24 property from before 1997?

25 A. No, I do not.

1 Q. So you never kept any notes, diaries,
2 calendars of field conditions --

3 A. No, I did not.

4 Q. Did you take any pictures of flood
5 events prior to 1997?

6 A. No, I did not.

7 Q. Do you have any idea what a typical
8 crop yield was in the early '90's for your property?

9 A. No, I do not.

10 Q. Let's talk about flooding issues on
11 the property after the construction of the new
12 spillway, so after 1997. How often had flooding
13 occurred after the new spillway was put in?

14 A. Most every year, in the spring,
15 there's some, some worse than others.

16 Q. But usually in the spring?

17 A. Well, that's always the first time.

18 Q. How often are you, physically, on the
19 property since you started helping your husband?

20 A. Well, several times in the spring and
21 several times in the fall, when we're planting and
22 when we're harvesting.

23 Q. Can you give me an approximate number?

24 A. Well, I would guess 20, 20 times.

25 Q. Twenty times a year?

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A. Yes.

THE WITNESS TO HER COUNSEL: Sorry.

Not supposed to guess.

MS. BREWER: You can approximate;
that's fine --

THE WITNESS: Approximately.

MS. BREWER: -- but it's the wild
guesses that we're trying to stay away
from.

THE WITNESS: Okay. I understand.

Q. When was the last time your property
flooded?

A. Last spring.

Q. Spring, 2009?

A. Nine.

Q. And how long did water stay on your
property in spring, 2009?

A. Approximately a week.

Q. How deep was the water?

A. That, I don't know.

Q. How many acres were affected?

A. I don't know that, either.

Q. Can you give me a percentage of your
property that was impacted?

A. No.

1 Q. Were you, physically, out on the
2 property in spring, 2009?

3 A. Yes.

4 Q. Every day during that week?

5 A. Not every day?

6 Q. How many days; do you remember?

7 A. No, I don't remember.

8 Q. Was more of your property affected in
9 spring, 2009, than it was -- Well, I guess strike
10 that.

11 Was that the largest flood event that
12 has occurred on the property?

13 A. No.

14 Q. What was the largest flood event?

15 A. 2003.

16 Q. So in spring, 2009, was there more
17 water -- or excuse me -- less water than was on the
18 property in 2003?

19 A. Yes.

20 Q. How much less?

21 A. Quite a bit less.

22 Q. Before spring of 2009, what was the
23 last flood event you remember on your property?

24 A. 2005.

25 Q. How long did water stay on your

1 property in 2005?

2 A. I don't recall.

3 Q. What time of year was that?

4 A. Probably spring or late spring.

5 Q. Do you remember how many acres were
6 affected?

7 A. No, I don't.

8 Q. Was this about the same size as the
9 2003 flood? Less?

10 A. At least as much?

11 Q. So there might have been more water on
12 your property in spring, 2005, than there was in
13 2003?

14 MS. BREWER: Objection.

15 A. I'm sorry. I think I misunderstand
16 the dates that you were asking when I answered that.
17 Would you ask that, not this question, but the one
18 before, again.

19 Q. Of course. In the spring, 2005, flood
20 event was there more or less water on your property,
21 compared to the 2003 flood?

22 A. Less.

23 Q. How much less?

24 A. I don't know.

25 Q. Do you have any memory of how deep the

1 water got in 2005?

2 A. In 2005?

3 Q. Um-hum.

4 A. No, I don't.

5 Q. Before the spring -- Well, first,
6 during the spring of 2005, that flood event, were
7 you, physically, on the property?

8 A. Before spring of 2005?

9 Q. During the spring, 2005, flood event,
10 were you, personally, on the property?

11 A. Yes.

12 Q. Do you remember why you were out
13 there?

14 A. Because I had to help clean it up. I
15 helped my husband for a couple of days clean all that
16 up before we could even think about getting out there
17 and planting.

18 Q. So was there still water on the
19 property when you were out there?

20 A. No. It had receded.

21 Q. So how did you know where the flood
22 waters had been?

23 A. 'Cause you can tell right where it was
24 when it recedes.

25 Q. Okay. How can you tell?

1 A. Because there's debris and there's a
2 line right there, where it was.

3 Q. How many days did it take you to clean
4 up debris from the --

5 A. The two of us, it took two days.

6 Q. So before spring of 2005, what is the
7 last flood event you remember on your property?

8 A. Before 2005. Well, that'd probably
9 have been --

10 Q. Before spring of 2005.

11 A. 2003.

12 Q. And what time of year was that event?

13 A. That would have been June.

14 Q. Do you remember how long the water
15 stayed on the property?

16 A. Days. I don't -- That was the worst.
17 I don't want to guess.

18 Q. Was it on the property for a week?

19 A. Oh, at least!

20 Q. Two weeks?

21 A. I don't know.

22 Q. But more than a week?

23 A. Yes.

24 Q. Do you have any idea how deep the
25 water was in June of 2003?

1 A. No. I just remember telling my
2 husband that we could put our sailboat on there. It
3 would have been deep enough.

4 Q. How many acres were affected by the
5 June 2003 flood?

6 A. My husband could answer that. He
7 knows the acreage of each part.

8 Q. Were you, personally, on the property
9 during the June, 2003, flood?

10 A. Yes.

11 Q. Why?

12 A. To see how much damage there was.

13 Q. Were waters still on the field when
14 you were there?

15 A. Yes.

16 Q. Were you just out there a single day?

17 A. I don't recall how many times we went,
18 but we would drive out as soon as we could get there
19 because the roads were covered and as soon as we
20 could get there to see how much damage and probably
21 every couple of days after that.

22 Q. Do you remember how long the roads
23 were covered?

24 A. No, I don't.

25 Q. But the roads were covered with water,

1 such that they weren't passable with a car?

2 A. Some of the roads were, yes.

3 Q. What roads were?

4 A. Bunker Hill Road and probably 29.

5 Q. Do you access your property from

6 Bunker Hill Road?

7 A. Most of the time we come on Erastus

8 Durbin.

9 Q. So the day that you were physically on

10 the property during the June, 2003, flood, can you

11 give me a percentage of the property that you saw

12 covered in flood waters?

13 A. I'd say at least half. That's

14 probably conservative.

15 Q. When you went out to visit the

16 property, did you get out of the car and walk around?

17 A. In 2003?

18 Q. In June, 2003?

19 A. No.

20 Q. You stayed in the car?

21 A. Yes.

22 Q. Where would you -- Would you always

23 park in the same place? Is there a drive on one side

24 of the property?

25 A. Well, the property has three roads

1 around it, so we could access it from either of those
2 three roads.

3 Q. Before June of 2003, what was the last
4 flood event that you remember on the property?

5 A. I don't remember.

6 Q. So you have no memory of any other
7 flood even between 1997 and June, 2003?

8 MS. BREWER: Objection.

9 A. I can't give you an actual years. I
10 don't remember.

11 Q. In the flood events that we've
12 discussed, following the construction of the new
13 spillway in 1997, what harm or damage did the
14 property experience?

15 A. Since 1997?

16 Q. Yes, since the new spillway was put
17 in.

18 A. You mean what damage that the property
19 sustains --

20 Q. As a result of the floods that have
21 occurred?

22 A. Well, erosion.

23 Q. Do you always have erosion issues
24 following a flood event?

25 A. Well, sure. It takes the topsoil off.

1 Q. What other impacts?

2 A. Well, the fact that we can't get on it
3 to till it and get planting in a timely fashion, so
4 you lose, you lose yield.

5 Q. Anything else? Anything else?

6 A. That's it that I can think of.

7 Q. Did you make any records of any of the
8 flood events that have occurred since 1997?

9 A. No.

10 Q. Take any pictures?

11 A. No.

12 Q. Do you, did you take a picture of the
13 2003 flood?

14 A. No.

15 Q. Do you have a diary, a calendar --

16 A. No.

17 Q. -- track dates of flooding?

18 A. No.

19 Q. Have you carried crop insurance since
20 1997?

21 A. My husband could answer that.

22 Q. But you do carry crop insurance right
23 now?

24 A. Yes.

25 Q. To your knowledge, have you submitted

1 any crop insurance claims --

2 A. Yes.

3 Q. -- since 1997?

4 A. Yes.

5 Q. How many?

6 A. I don't know.

7 Q. Do you know in what years?

8 A. No, I don't know.

9 Q. What do you believe is the value of
10 your property today?

11 A. I don't know.

12 Q. Has it been recently appraised?

13 A. I don't know.

14 Q. Do you think the property value would
15 be different had the spillway not been constructed,
16 the new spillway not been constructed in 1997?

17 A. Do I think the property value would be
18 different than what it is now?

19 Q. Yes.

20 A. Um-um.

21 Q. Why?

22 A. I think it would be worth more because
23 it would not be flooding like this every year or
24 almost every year.

25 (Xerographic Document, headed,
Affidavit of Vicki L. Weisman, was

1 marked for identification Exhibit A.)

2 Q. Vicki, I'm going to hand what's been
3 marked Respondent's Exhibit A. If you could take a
4 look at that, please.

5 (Witness complying.)

6 A. Okay.

7 Q. This is your Affidavit, dated August
8 5th, 2009; correct?

9 A. Correct.

10 Q. And that's your signature on page 3?

11 A. Yes.

12 Q. Who wrote or drafted this Affidavit?

13 MS. BREWER: You can answer.

14 A. Our lawyers.

15 Q. Paragraph 2 references one specific
16 Mercer County parcel number. Is that the 115 acres
17 that we've been talking about today?

18 A. Yes.

19 Q. And is that the only property that you
20 allege has been taken by flooding?

21 A. Yes.

22 Q. Can you flip to the last page of your
23 Affidavit, please. What does this map represent?

24 A. This is a map of our farm and shaded
25 in is where the flood waters were in 2003.

1 Q. So this is the 115 acres we've been
2 talking about today; correct?

3 A. Yes.

4 Q. And what does the black shading
5 represent?

6 A. How high the flood waters came.

7 Q. In 2003?

8 A. In 2003.

9 Q. Who shaded this?

10 A. I did.

11 Q. Did anyone help you?

12 A. My husband and I looked at ours
13 together and agreed that this is where it was.

14 Q. You looked at yours together, what do
15 you mean?

16 A. He looked at his; I looked at mine and
17 we shaded our --

18 Q. So he prepared a similar map?

19 A. Yes.

20 Q. Vicki, what do you hope to accomplish
21 from this lawsuit?

22 A. I hope that ODNR will do the right
23 thing so that our property does not flood anymore.

24 MS. STELZER: I don't have any other
25 questions.

1 MS. BREWER: I have a couple follow-up
2 questions.

3 EXAMINATION

4 BY MS. BREWER:

5 Q. You mentioned that you had some crop
6 loss before 1997. How does that crop loss before
7 1997 compare to any crop loss you had after 1997?

8 A. Before 1997, it was minimal and now,
9 most of the time, it's a lot more than that.

10 Q. You mentioned that you were on the
11 property before 1997 about six-to-ten times a year;
12 is that right?

13 A. Yes.

14 Q. Okay. And during that time, you had a
15 chance to observe the property?

16 A. Yes.

17 Q. Okay. And do you recall seeing floods
18 like you see post-1997, back before 1997?

19 A. No, never.

20 Q. Do you think that you would know if it
21 had been flooding?

22 A. Absolutely, yes.

23 Q. Why do you think that the spillway has
24 been causing the increased flooding on your property
25 since '97?

1 A. Because the water is coming too fast
2 and the Beaver can't take it, so it has to go
3 somewhere.

4 Q. Okay. How long have you lived in
5 Mercer County?

6 A. My whole life.

7 Q. Okay.

8 MS. BREWER: I think that's all I
9 have.

10 MS. STELZER: Okay. I have just a
11 couple more questions.

12 RE-EXAMINATION

13 BY MS. STELZER.

14 Q. I guess I'll ask you one more time.
15 Since 1997, since the new spillway was put in, how
16 often have you experienced crop loss?

17 A. I've been advised not to guess and it
18 would be a guess, so I'm going to say I don't know.

19 Q. You characterized two minutes ago that
20 you've suffered a lot more crop loss post-1997,
21 compared to pre-1997. What is the basis for that?

22 A. Because the flooding is worse since
23 1997, but I don't know how many times or how many
24 bushels that we would loss (sic).

25 Q. When was the last time you remember

1 experiencing crop loss on the property?

2 A. The last time I remember is 2003.

3 Q. When was the last time before that
4 that you experienced crop loss on the property?

5 A. I don't remember.

6 Q. So is it your testimony that the only
7 instance of crop loss you can remember since 1997
8 occurred during the 2003 flood?

9 MS. BREWER: Objection.

10 A. No. I can remember other times, but I
11 can't remember the crop year.

12 Q. In 2003, how was your yield impacted
13 by the flood event?

14 A. Well, we had, we had crops planted and
15 we lost those and I don't recall -- My husband would
16 know for sure. I don't recall whether we replanted
17 that or whether we -- I don't know.

18 Q. On the last page of Exhibit A, did you
19 lose all of the crops in this entire shaded area?

20 A. Yes. You can't have water standing on
21 them like that and expect them to make it.

22 Q. But you don't remember whether you
23 replanted this area or not?

24 A. Because it was June, the end of June

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MS. BREWER: I'm going to object because this is asked and answer and I'm going to instruct you again not to guess.

A. I don't know.

MS. STELZER: I think those are all my questions.

MS. BREWER: Okay. When we're done here today, the court reporter will type up a transcript of what happened and you have the right to read it for accuracy and then sign it to ensure that it's correct. I would recommend that you take that opportunity. Would you like to do that?

THE WITNESS: Sure, yes.

MS. BREWER: Okay. All right.

MS. STELZER: Thank you very much.

- - -

(At 11:45 o'clock a.m., the deposition concluded.)

- - -

Vicki L. Weisman
Vicki L. Weisman

Martha C. Brewer 4/18/10

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

ERRATA SHEET

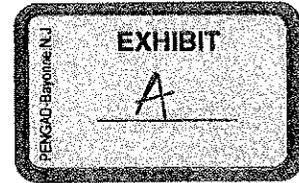
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I, Vicki Weisman, have read the transcript of my deposition taken in this pending matter or the same has been read to me. I have noted all changes in form or substance on this sheet this 18 day of April, 2010.

PAGE LINE CORRECTION OR CHANGE AND REASON:

17	20	Change "a bushel" to "bushels" - misquote
21	5	replace question mark with a period.
22	10	replace question mark with a period.
28	6	add - Soil compaction & debris - ^{incomplete} answer

AFFIDAVIT OF VICKI L. WEISMAN



STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Vicki L. Weisman. 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 Number 42-000300.0100.
3. I have owned since 1986 Mercer County Parcel Number 42-000300.0100.
4. The Beaver Creek cuts through Mercer County Parcel Number 42-000300.0100.
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 42-000300.0100 has 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 Number 42-000300.0100 have flooded almost every year, and some years it has flooded several times. On each occasion, 42-000300.0100 was inundated with water at depths varying from approximately two to six feet.

{ DON000730 }

7. Since ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 42-000300.0100 flood more rapidly and remains flooded for longer periods of time. On each occasion of flooding, Mercer County Parcel Number 42-000300.0100 remained inundated with water for a period of up to week and a half.

8. Prior to ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 42-000300.0100 had less frequent flooding, never flooded as much, never flooded over as large an area, never flooded for as long.

9. To date, the most invasive flood occurred in 2003 with approximately 61 acres of Mercer County Parcel Number 42-000300.0100 being flooded with approximately up to six feet of water for approximately up to a week and a half. A true and accurate copy of black and white aerials from the Mercer County Auditor's website of Mercer County Parcel Number 42-000300.0100 is attached hereto as Exhibit 1. I have shaded in the area of the parcels that was flooded in 2003.

10. Mercer County Parcel Number 42-000300.0100 also experienced severe flooding in 2005 and 2008.

11. Mercer County Parcel Number 42-000300.0100 was again flooded as recently as spring 2009.

12. As a direct result of the flooding, Mercer County Parcel Number 42-000300.0100 has suffered damage in the form of crop losses, the deposit of other debris, and soil compaction.

13. The flooding caused by ODNR has substantially destroyed the value of Mercer County Parcel Number 42-000300.0100.

16. 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.

Vicki L. Weisman
Vicki L. Weisman

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

Kristi Kress Wilhelm
Notary Public

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

DON000732

EXHIBIT 1
TO
AFFIDAVIT OF VIKKI L. WEISMAN

DON000733



Legend

Administrative



Townships



Neighborhoods

Parcels



Parcels

Transportation



State Highways



US Highways

Water



Lake

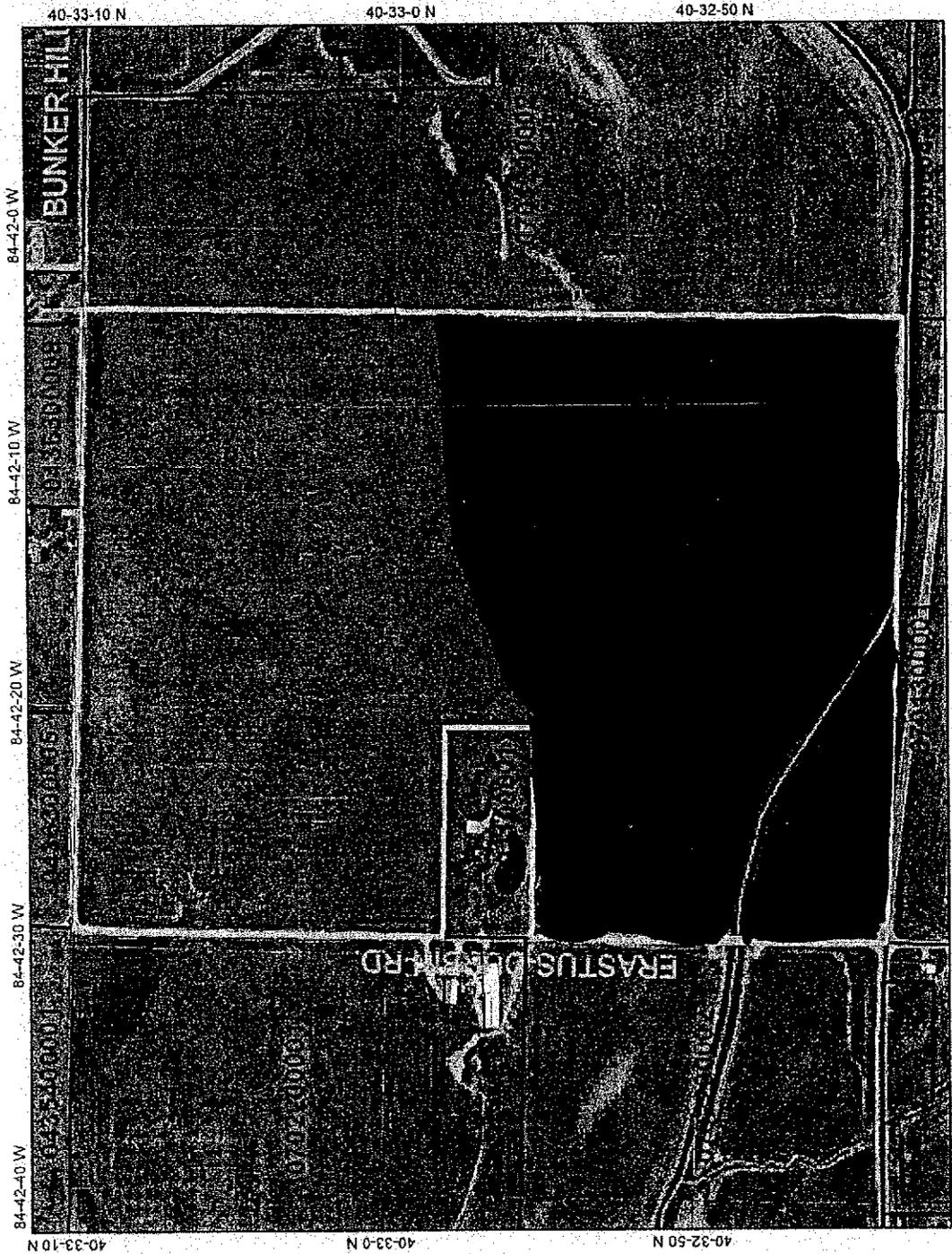


Streams



Scale: 1:6,359

Mercer County Ohio



Map center: 1355924, 329246

1800 ft.

1200

600

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.

Jerry Weisman and Vicki Weisman

-0- Erastus Durbin Rd.

Parcel No.: 42-000300.0100 - 115.63 acres

Tab 66

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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 JENNIFER ZUMBERGE,
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
Friday, February 19, 2010, at 4:15 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 William J. Cole
6 Senior Assistant Attorney General
7 Executive Agencies
8 30 East Broad Street, Floor 26
9 Columbus, Ohio 43215-3400

10
11 On Behalf of Relators:

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

WITNESS CROSS DIRECT RECROSS REDIRECT

Ms. Zumberge C-4 B-32 C-34,36,38 B-37

E X H I B I T

RESPONDENT'S DESCRIPTION MARKED

A Affidavit 7

1 JENNIFER ZUMBERGE
2 of lawful age, a witness herein, having been duly
3 sworn, as hereinafter certified, was examined and
4 deposed as follows:

5 CROSS-EXAMINATION

6 BY MR. COLE:

7 Q. Could you please state your name
8 and spell your last name for the record?

9 A. Jennifer Zumberge, Z-u-m-b-e-r-g-e.

10 Q. Ms. Zumberge, I'm William Cole,
11 I'm with Attorney General's office and I'm
12 representing the Department of Natural Resources
13 in this litigation. I'm gonna take your
14 deposition and ask you some questions. Couple
15 ground rules, please give verbal answers to my
16 questions, don't nod the head or give ah-huhs or
17 um-hums because it's being transcribed. If you
18 have any -- if you're confused or don't understand
19 a question, let me know, I'll try to rephrase it.
20 Please wait till I finish asking the question
21 before you start answering and I'll do my best not
22 to start asking my question until you're finished.
23 And finally, although I don't think this is gonna
24 go very long, if you need to take a break, just
25 let me know, the only condition is, if there's a

1 question pending, please go ahead and answer.

2 Sound good?

3 A. Sounds good.

4 Q. Any questions for me?

5 A. No.

6 Q. All right. Can you tell me where
7 you live?

8 A. 6661 Gause Road, Celina Road.

9 Q. What's your educational
10 background?

11 A. I have a two-year degree in
12 accounting. I also have a Realtor's license in
13 escrow and an active health and life insurance
14 license.

15 Q. Have you had any formal schooling
16 since you got your two year accounting degree?

17 A. Just the classes to get my
18 licensing.

19 Q. That you talked about?

20 A. (Witness nodding.)

21 Q. Do you have any schooling or
22 education in agriculture?

23 A. No.

24 Q. Any experience dealing with
25 agriculture?

1 A. Yes.

2 Q. Tell me about that.

3 A. I was born and raised on a family
4 farm.

5 Q. Were you involved in the farming
6 operations?

7 A. In milking, feeding calves and
8 helping with bailing, but no crops other than
9 that.

10 Q. Any training, schooling or
11 experience in engineering?

12 A. Mechanical engineering some
13 training at work.

14 Q. Can you briefly tell me about that?

15 A. I work for C.A.P.T., it's
16 automotive supplier Honda, and I am a new-model
17 technician.

18 Q. So automotive engineering?

19 A. Yes.

20 Q. Any other type?

21 A. No.

22 Q. How about any experience training
23 or schooling in land drainage or water issues such
24 as hydrology or hydrolics?

25 A. No.

1 Q. And are you married?

2 A. No.

3 (Affidavit, marked for identification
4 as Respondent's -- Jennifer Zumberge
- Exhibit A.)

5 Q. I'm gonna hand you what I've
6 marked as what's, yeah, what I've marked as
7 Exhibit A. Go ahead and take a look at that. All
8 right. Oh, let me ask you one thing. Did you get
9 any real estate appraisal or valuation training in
10 getting your real estate license?

11 A. Yes, it has been 20 plus years
12 since I was in real estate, so.

13 Q. All right. On a your affidavit on
14 Paragraph 2 you indicate that you're the owner of
15 a real estate of parcel 26-0428 some zeros
16 afterwards, is that correct?

17 A. I don't know how to answer that
18 question.

19 Q. All right.

20 A. It if that is the tax number, yes.

21 Q. If I could take you to the last
22 page on Exhibit 1 there which is an attachment to
23 your affidavit. I believe if you look at bottom
24 righthand corner there, it's off to the side. It
25 identifies that parcel about a two acre parcel.

1 A. Yes.

2 Q. Do you recognize --

3 A. Yes.

4 Q. -- that as your property?

5 A. Yes.

6 Q. Do wait until I finish. Okay.

7 A. I'm sorry.

8 Q. That's all right. Who typed up

9 this affidavit?

10 A. Our lawyers.

11 Q. All right. Did you provide

12 information to your lawyers before the affidavit

13 was typed up?

14 A. Yes.

15 Q. Did you review this affidavit

16 before you signed it?

17 A. Yes, I did.

18 Q. And that is your signature on Page

19 3, is that correct?

20 A. Yes.

21 Q. All right. How long have you owned

22 this property?

23 A. Since 2001.

24 Q. And how did you acquire it?

25 A. It was a For Sale By Owner listed

1 in the paper.

2 Q. And did you act as your own agent
3 when you bought it?

4 A. Yes.

5 Q. Was it a sale on the open market
6 then?

7 MS. BREWER: Objection.

8 Q. You can answer if she objects
9 unless she tells you not to.

10 MS. BREWER: If you know and if you
11 understand the question, you can go
12 ahead and answer. If he asked for
13 information that you and I have talked
14 about and you talked about with Tom or
15 another, I'll instruct you not to
16 answer, but otherwise if you understand,
17 you can answer.

18 A. I really don't understand the
19 question.

20 Q. All right. Who did you purchase
21 the property from?

22 A. The owners, the previous
23 owners.

24 Q. What was name?

25 A. Bob and Paula Hein.

1 Q. Hein?

2 A. Yes.

3 Q. Do you have any previous
4 relationship, did you know the Hein's?

5 A. No.

6 Q. Okay. Were they under any
7 compulsion to sell?

8 MS. BREWER: Objection.

9 Q. Were they being foreclosed upon or
10 anything like that?

11 A. I have no knowledge.

12 Q. Okay. What do you pay for the
13 property?

14 A. 85,000.

15 Q. That's a total?

16 A. Yes.

17 Q. And it's just about 2 acres then,
18 right?

19 A. Yeah.

20 Q. Now, do you know what the -- have
21 you ever determined what the land per acre value
22 of that parcel is?

23 A. No.

24 Q. It appears that the parcel has a
25 building on it, is that correct? Is that a

1 structure on that parcel?

2 A. Which area are you --

3 Q. The part that is not shaded?

4 A. That is the house.

5 Q. Do you live in that house?

6 A. Yes.

7 Q. All right. So was the house

8 included in the price?

9 A. Yes.

10 Q. It was the house and the real

11 estate?

12 A. Yes.

13 Q. Do you know what the house went for

14 versus the land?

15 A. No.

16 Q. Do you know how long Mr. and

17 Mrs. Hein had owned the property?

18 A. Approximately 20 years.

19 Q. They had lived there?

20 A. Yes.

21 Q. Do you own any other property,

22 real estate?

23 A. No, I do not.

24 Q. Do you lease any real estate to

25 anyone?

1 A. No, I do not.

2 Q. Do you lease any real estate from
3 anyone?

4 A. No, I do not.

5 Q. To your knowledge, do you have any
6 other rights or interests in any other real estate
7 other than this property here?

8 MS. BREWER: Objection. If you
9 know you can answer.

10 A. I do not know how to answer that
11 question, honestly.

12 Q. Do you know if -- do you have an
13 easement over another piece of property?

14 A. No, I do not, no easement.

15 Q. Do you have any liens on your
16 property?

17 A. No.

18 Q. Can I ask you why you were, why you
19 didn't, why weren't you able to answer that, what
20 was, you didn't understand question?

21 MS. BREWER: Objection.

22 A. No, I do not understand the
23 question.

24 Q. What is the property used for?

25 A. It is my personal residence.

1 Q. All right. What about the land?

2 A. The land is just a yard.

3 Q. All right. Do you --

4 A. There is a spare garage.

5 Q. All right. Is that also visible in
6 the unshaded part? Where is the spare garage,
7 approximately? You need to say --

8 A. Ten feet from the south property
9 line 10, 15.

10 Q. Is it in the middle, to the right,
11 to the left?

12 A. Close to the road.

13 Q. Close to the road in the middle, at
14 the bottom or?

15 A. It would be --

16 Q. So kind of in the southeast corner?
17 Right here?

18 A. Yes.

19 Q. Okay. All right. Do other than
20 using it as a yard do you -- does the land have
21 any -- do you have any uses for the land other
22 than a yard?

23 A. Garden.

24 Q. Anything else?

25 A. No.

1 Q. Any other structures other than the
2 house and the garage on the property?

3 A. An above-ground swimming pool.
4 It's not a permanent pool though.

5 Q. Okay. Do you know whether your
6 property is located in the flood plain?

7 A. Yes, I do.

8 Q. Is it located in the flood plain?

9 A. Yes, it is.

10 Q. And do you know what kind of flood
11 plain, what duration flood plain it's located in?

12 A. I do not understand the question.

13 Q. Well the flood plain is based on
14 likelihood of flooding, some are identified as a
15 100 year flood plain?

16 A. No, I do not.

17 Q. What about the flood plain do you
18 know other than it's a flood plain, is that the
19 extent of your knowledge on that?

20 A. Yes.

21 Q. Do you have any trees on your
22 property?

23 A. Yes, I do.

24 Q. How many?

25 A. Approximately 25, 20.

1 Q. Anything else on your land other
2 than the garden, the pool, and the trees, and the
3 structures, and grass?

4 A. No.

5 Q. Is your property flat?

6 A. Where the house is, it is raised
7 some.

8 Q. Do you know how high it is?

9 A. No, I do not.

10 Q. What about the rest of the
11 property?

12 A. There is a small section in the
13 center of the yard that is lower than the rest.

14 Q. Do you know how much lower it is?

15 A. No.

16 Q. More than five feet?

17 A. No.

18 Q. Okay. The rest of the property
19 level as far as you know?

20 A. Fairly level.

21 Q. All right. When you purchased
22 your property, had the owners told you anything
23 about flooding on the property?

24 A. They had told me that they had
25 installed new drainage, a new drainage basin, some

1 new tile because they used to get some standing
2 water in the low section of the yard.

3 Q. Where is the low section, the
4 center part?

5 A. The center part.

6 Q. And what kind of -- You say
7 drainage tile, did you say?

8 A. Some drainage tile and a catch
9 basin.

10 Q. Do you know what the drainage tile
11 is made of?

12 A. No, I don't.

13 Q. Did they put it there because of
14 the flooding in the center part?

15 MS. BREWER: Objection.

16 Q. Did they tell you why they put it
17 in?

18 A. They told me to eliminate the water
19 that stands in the center of the yard.

20 Q. Did they talk about flooding on the
21 property before the spillway was changed in 1997?

22 A. The only water in the yard was in
23 that low section, that is the only thing they said
24 they ever received.

25 Q. All right. Looking at the exhibit,

1 I see and I can't tell if it continues, is that,
2 is there, it's looks like a waterway, does that go
3 through your property?

4 A. Right.

5 Q. Go ahead.

6 A. It is the back line of my property
7 and it is the Little Beaver.

8 Q. All right. That's a creek?

9 A. Yes.

10 Q. All right. Now, does it bisect
11 your property, does it cut through your property?

12 MS. BREWER: Objection.

13 A. No.

14 Q. Okay. Is this the Little Beaver up
15 here north and west of it, north and west of your
16 property?

17 A. Yes.

18 Q. What about over here, is this the
19 Little Beaver, as well?

20 A. No.

21 Q. Do you know what that is?

22 A. I have no idea.

23 Q. All right. Where does -- Oh, so
24 the Little Beaver then runs, forms the west
25 boundary of your property?

1 A. Uh-huh.

2 Q. I see it now, I wasn't sure. All
3 right. Does the flooding on your property come
4 from the Little Beaver?

5 A. The flooding on my property comes
6 from the Little Beaver that the Little Beaver
7 dumps into the main beaver.

8 Q. All right. But when your property
9 gets flooded, is it because the Little Beaver
10 overflows, over tops?

11 A. It is because the Little Beaver is
12 out of its banks.

13 Q. All right. So it floods from this
14 western boundary onto your property?

15 A. Yes.

16 Q. Has your property ever flooded
17 since you've owned it where the Little Beaver has
18 not over topped? It's the center -- You've never
19 seen flooding in the low center part because of a
20 lot of rain, for example, have you ever had that
21 where it doesn't over top?

22 MS. BREWER: Objection.

23 A. I don't really understand the
24 question.

25 Q. All right. So you've not had

1 standing water on your property unless the Little
2 Beaver over tops; is that correct, since you've
3 own it?

4 A. That is not what I have said.

5 Q. Okay. Then let me ask you. When
6 your property gets flooded, you indicated it comes
7 from the Little Beaver, right?

8 A. Correct.

9 Q. Again, and just so I'm clear, have
10 you ever had standing water on your property where
11 the Little Beaver has not over topped?

12 A. I think we have a difference as to
13 what I call "flooding" and what I call "rain
14 water" in my yard.

15 Q. When I say "flooding" from whatever
16 source, I'm talking about water that remains,
17 standing water that's visible on your property?

18 A. Yes, I have had flooding.

19 Q. All right. That has been caused
20 not because the Little Beaver has over topped?

21 A. Yes.

22 Q. All right.

23 MS. BREWER: To be clear, when you
24 say you had flooding that happened
25 because the Little Beaver has over

1 topped the pertaining to the word
2 flooding that he just explain to us?

3 MS. ZUMBERGE: Yes.

4 Q. All right. Do you know what depth
5 the drainage tiles are on your property?

6 A. No, I do not.

7 Q. Any easements on your property?

8 A. No.

9 Q. That you know of? Have you ever
10 made, have you ever made any changes to your
11 property because of flooding?

12 A. No.

13 Q. When you purchased your property,
14 did you look at other land sales before buying
15 your property?

16 A. Yes.

17 Q. Did you find that this property was
18 comparable to other land sales that you had looked
19 at?

20 A. Yes.

21 Q. Was there any indication that the
22 purchase price was influenced by flooding on the
23 property?

24 A. No.

25 Q. Do you believe it was a factor?

1 A. No.

2 Q. Because of any flooding on your
3 property, have you received any payment or
4 compensation from any government entity?

5 A. No.

6 Q. When you purchased your property
7 at that time, did you know that the property
8 flooded?

9 A. No.

10 Q. Where did you live before you lived
11 here?

12 A. 6612 Meyer Road, Celina, Ohio.

13 Q. Have you always lived in Mercer
14 County?

15 A. Except when he went to college, and
16 for a brief time when I worked in Covington, Ohio
17 for less than a year.

18 Q. When your property flooded, an
19 instance -- the times when it's flood when the
20 Little Beaver did not over top, do you know what
21 the cause of that flooding was?

22 A. A heavy rain.

23 Q. Is there a particular time of the
24 year when your property floods, and again using
25 standing water as a definition of a flood?

1 A. No.

2 Q. Have you kept any notes or any
3 records of when the property has flooded?

4 A. No.

5 Q. How often does your property flood
6 since you've owned it?

7 A. Flooding on Little Beaver is out of
8 its banks, I recall three times.

9 Q. All right. And what was the most
10 recent time?

11 A. Spring of 2009.

12 Q. Now if I'm not mistaken, you shaded
13 the area on Exhibit 1 of your affidavit, that
14 represents the flooding in 2003, correct?

15 A. Yes.

16 Q. Can you tell me what area of your
17 property flooded in 2009?

18 A. That was clear.

19 Q. Okay. That's all that was clear?

20 A. Yes. The rest of this was still on
21 there?

22 Q. All right. So other than -- so
23 it's -- Now, I don't want to mischaracter -- It's
24 not that different than the 2003, it's a little
25 bit -- Actually it looks like overall maybe a

1 little bit more space that wasn't flooded?

2 A. Yes, it was not under my house.

3 Q. All right. And that was in 2009?

4 A. Yes.

5 Q. In the spring?

6 A. Yes.

7 Q. Do you know how, how long was the
8 water on your property?

9 A. Less than a week.

10 Q. Half a week?

11 A. I cannot say for sure.

12 Q. How deep was the water?

13 A. Probably a foot, foot and a half.

14 Q. Did you have any damage because of
15 the water?

16 A. Our spare garage we had to clean
17 again.

18 Q. Any damage to your house 2009.

19 A. No.

20 Q. Okay. So we got Spring of 2009.

21 Then what was the next most recent time?

22 A. In 2005.

23 Q. All right. And you want to mark,
24 again -- you've got the actual exhibit -- how many
25 -- What part of your property was flooded in 2005?

1 A. Similar to '09.

2 Q. All right. One time?

3 A. Yes, that I can recall.

4 Q. And one time in 2009?

5 A. Yes.

6 Q. Similar area, do you know what time
7 of year that flooding was?

8 A. I don't remember.

9 Q. How deep was the water?

10 A. Foot to a foot and a half.

11 Q. And how long was it on the land?

12 A. About a week.

13 Q. A little bit longer than?

14 A. Uh-huh.

15 Q. All right. Yes?

16 A. Yes.

17 Q. Okay. And what about the third
18 time?

19 A. Third time was in 2003.

20 Q. All right. And that's indicated
21 here?

22 A. Yes.

23 Q. How long was the water on the
24 property?

25 A. A week in a half.

1 Q. How deep?

2 A. Foot and a half, I'd say foot and a
3 half.

4 Q. Any damage to the house in '03?

5 A. No damage 'cause we ran pumps from
6 the craw space out the windows and across the
7 road.

8 Q. You ran that before the flood
9 actually came?

10 A. No. As the floods waters were
11 coming up underneath the house to keep it from the
12 main floor.

13 Q. Do you have a basement?

14 A. A craw space.

15 Q. Was that damaged?

16 A. No.

17 Q. What about your garage?

18 A. Spare garage. We had property in
19 it that we threw away, we had to clean it. We had
20 debris all over the yard. We had a refrigerator
21 float into the yard.

22 Q. And I forgot to ask, what about
23 damage in '05, any damage to the house?

24 A. None to the house, garage needed to
25 be cleaned, debris in the yard.

1 Q. Are you aware of any permanent
2 damage to your land because of flooding?

3 A. I have lost approximately 2 feet if
4 not more of my back property line that is along
5 the Little Beaver.

6 Q. What do you mean by you lost that,
7 how have you lost that?

8 A. Erosion.

9 Q. What did it look like before and
10 what does it look like now?

11 A. When we bought the property in 2001
12 there was a tree line all along that creek. All
13 the roots of those trees are now totally exposed.

14 Q. Have any trees been destroyed
15 because of the flooding?

16 A. Yes.

17 Q. How many?

18 A. I cannot give you a number.

19 Q. When I asked were destroyed, did
20 they fall during the flooding or were they chopped
21 down after flooding?

22 A. They're falling due to having a
23 base root.

24 Q. All right. So but some are no
25 longer there that there?

1 A. Yes.

2 Q. All right. Do you have flood
3 insurance?

4 A. Yes, I do.

5 Q. Have you made a claim because of
6 the flooding?

7 A. Unless your house is flooding down
8 the creek, flood insurance does not pay you.

9 Q. Did you make any claims?

10 A. That is my answer from my
11 representative, unless my house is floating.

12 Q. And just so we're clear for the
13 record, the answer is "no" then?

14 A. No.

15 Q. All right. You have never made a
16 claim to insurance due to flooding for this
17 property?

18 MS. BREWER: Objection, asked and
19 answered.

20 Q. Is that correct?

21 A. No, I have not.

22 Q. All right. Have you ever made any
23 claims for any insurance, for example, your home
24 or anything else that may have been damaged due to
25 a flooding, anything else on the land?

1 A. No.

2 Q. All right. Any other instances of
3 flooding on your property that you recall since
4 2001?

5 A. No.

6 Q. Have you had your property valued
7 or appraised recently?

8 A. No.

9 Q. Do you have an opinion of its
10 value?

11 A. No.

12 Q. Do you think it has value, do you
13 think your land has any value?

14 MS. BREWER: Objection.

15 Q. I'm not asking for a dollar figure
16 just any value at all?

17 MS. BREWER: Objection. Go ahead
18 and answer if you understand the
19 question?

20 A. I would have to say it has some
21 value.

22 Q. Do you -- go ahead.

23 A. I do not think it is the value
24 that I thought it had when I bought the property.

25 Q. So you believe it's gone down in

1 value?

2 A. Yes.

3 Q. And why is that?

4 A. I cannot sell my property without
5 disclosing to the next buyer how badly my property
6 flooded in 2003 in 2005 and in 2009.

7 Q. Were any -- And there were no
8 disclosures made by the prior owners when you
9 bought the property?

10 A. They disclosed that there was
11 ponding in the center of the yard.

12 Q. So they did not tell you that they
13 had flooding due to the Grand Lakes-St. Mary's
14 spillway being modified?

15 A. No.

16 Q. Did you know about that event? Did
17 you know that the spillway at Grand Lakes-St.
18 Mary's had been modified by the state?

19 A. Yes, I did.

20 Q. Did you know that the property or
21 did you believe the property was susceptible to
22 flooding because of that?

23 A. No.

24 Q. Have you tried to sell your house?

25 A. No, I haven't.

1 Q. Do you want to move from your
2 property?

3 A. No, I don't.

4 Q. Have you ever -- Other than this
5 lawsuit, have you ever taken any complaints or
6 claims to the government or to the State because
7 of this situation?

8 A. No, I have not.

9 Q. How did you get involved in this
10 lawsuit?

11 A. My whole family is involved in this
12 lawsuit.

13 Q. All right. And go ahead, your
14 whole family, did they talk to you about becoming
15 involved?

16 A. My brother Steve is one of the
17 litigants in the first lawsuit, and after the
18 judgement for an easement given ODNR the right to
19 flood their ground and four other people's ground,
20 I worry what will happen to my ground.

21 Q. And when you say "first
22 litigation," is that commonly known as the Post
23 case, if you know?

24 A. Yes.

25 Q. Mr. Post was one of the lead

1 litigants in that case, correct?

2 A. Yes.

3 Q. All right. Have you looked at any
4 other recent sales of property?

5 A. There is a house across the road,
6 maybe 10th of a mile south of me that has been for
7 sale a year. The house was majorly remodeled and
8 it cannot get sold.

9 Q. Who owns that house?

10 A. I do not know the people's name.

11 Q. Do you know why it's hasn't been
12 able to sell?

13 A. No.

14 Q. Do you know what the asking price
15 is?

16 A. No, I don't.

17 Q. How about any other sales, you
18 monitor sales in the area?

19 A. That is the only house that I know
20 of for sale.

21 (Off the record)

22 COURT REPORTER: Back on the
23 record.

24 MR. COLE: I'm done.

25 MS. BREWER: Okay. I have a couple

1 follow-up questions.

2 DIRECT EXAMINATION

3 BY MS. BREWER:

4 Q. Mr. Cole was asking you about
5 flooding that happened on your property and he
6 explained that his meaning of the term "flooding,"
7 is any time that there is standing water on the
8 property, is that how you would also define
9 flooding?

10 A. No.

11 Q. How would define flooding?

12 A. Flooding my definition is when a
13 creek or a lake has gone out of its banks.

14 Q. Okay. So whether you testified
15 that you had flooding when there were heavy rains
16 in the low spot of your property, were you using
17 Mr. Cole's meaning of the term flooding?

18 A. Yes.

19 Q. Okay. Do you think that the
20 flooding affects your property value?

21 A. The flooding or the creek is out of
22 its banks, yes.

23 Q. And why do you think that?

24 A. I would have to explain how much
25 was water was out of those banks, and how closer

1 -- actually in 2003 it was underneath the house,
2 and it would be very hard to explain to a
3 potential buyer that it won't happen again; I
4 can't guaranty that.

5 Q. You mentioned that you had water
6 underneath your house, What do you mean by that?

7 A. We had water in our craw space that
8 we were pumping out to keep it from coming onto
9 our man floor.

10 Q. And if you hadn't been pumping the
11 water?

12 A. It would have been on main floor of
13 my house of which I, my homeowners -- not my
14 homeowners but my flood insurance does not pay me
15 for. So it was to prevent any damage that I would
16 have paid out of pocket.

17 Q. Why do you think the spillway is
18 responsible for the increased flooding in the
19 area?

20 A. We took a spillway that was not
21 quite 40 feet wide, and for any spillway that is
22 500 feet wide, and the creek that carries the
23 water from that spillway was never changed, and
24 when you dump water at a higher rate 'cause the
25 added distance into the same size creek, you

1 cannot expect water to stay in the creek, it's
2 going to come out.

3 MS. BREWER: Okay. I think that is
4 all I have.

5 RECROSS-EXAMINATION

6 BY MR. COLE:

7 Q. Ms. Zumberge, I have a few
8 questions based on what Ms. Brewer has asked you.
9 How many other instances of flooding where you've
10 had increased water on your land where, but no
11 standing water have you had since you've owned the
12 property?

13 MS. BREWER: Objection.

14 Q. Do you understand the question.

15 A. No, I don't.

16 Q. All right. Let me go back. Based
17 on Ms. Brewer's question you said you had
18 different definition of flooding than standing
19 water, and that's what when you have water coming
20 into our craw area?

21 MS. BREWER: Objection.

22 Q. What is your definition of
23 "flooding?"

24 MS. BREWER: Objection.

25 Q. You can answer that?

1 A. As I stated earlier, my definition
2 of flooding is when a creek or a lake is outside
3 of its banks and encompassing the ground next to
4 it.

5 Q. All right. Based on that
6 definition, when has your -- has your property
7 flooded more than the three times you've testified
8 to when I was asking the question?

9 A. To my knowledge, no.

10 Q. All right. So under either
11 definition since you've owned the property in 2001
12 you are aware of three separate instances where
13 your property has flooded, correct?

14 A. I don't understand the question.

15 Q. When I asked you to accept my
16 definition of flooding, which was standing water
17 on your property, I believe you identified three
18 separate instances 2009, 2005 and 2003, correct?

19 A. Yes.

20 Q. Now I'm asking using the definition
21 you just gave, what you see flooding as, how many
22 instances have you had flooding on your property
23 since you've own it?

24 A. Those three instances.

25 Q. All right. Just those three

1 instances?

2 A. Yes.

3 MR. COLE: All right. That's all I
4 have. Thank you very much.

5 MS. BREWER: You have the right to
6 read and review the transcript that the
7 court reporter will type up. I would
8 recommend that you take that
9 opportunity. Would you like to do that?

10 MS. ZUMBERGE: Yes. I -- I guess I
11 do have.

12 MR. COLE: Wait a minute.

13 CONTINUED RECROSS-EXAMINATION

14 BY MR. COLE:

15 Q. You need to change something?

16 A. A question for you.

17 Q. Okay. You can ask me something off
18 the record.

19 A. I have a question.

20 Q. I can't promise I'll answer. You
21 can ask me off the record.

22 (Off the record)

23 MR. COLE: Martha, you want to ask
24 her.

25 MS. BREWER: We are back on the

1 record.

2 REDIRECT EXAMINATION

3 BY MS. BREWER:

4 Q. Mrs. Zumberge, you just told me
5 that you had some questions about what Mr. Cole
6 had asked you about how many times your property
7 had flooded since you've owned it, and I think
8 some of the confusion comes from the fact that Mr.
9 Cole had a different definition of flooding, which
10 would be any standing water on the property than
11 you did, and your definition would be when a creek
12 or a river comes out of its banks. I believe the
13 question that he asked you was, other than 2003,
14 '05 or 2009 has there been any other flooding on
15 your property, and I think that you wanted to
16 clarify your answer?

17 A. Yes.

18 MR. COLE: Go ahead.

19 A. In 2003, 2005 and 2009 is when my
20 definition of "flooding" occurred, when the creek
21 was out of its bank. Every year I have some
22 small amount of standing water due to a heavy
23 rain, but nothing where the bank, the creek is out
24 of its banks.

25 CONTINUED RECROSS-EXAMINATION

1 BY MR. COLE:

2 Q. Other than the time you indicated

3 -- Have you had any this year?

4 A. In 2009.

5 Q. How about 2010?

6 A. Oh, no.

7 Q. How about 2009, in addition to what
8 you testified to?

9 A. No.

10 Q. Is there a separate time?

11 A. No.

12 Q. One time and that's where the water
13 came over its banks?

14 A. Yes.

15 Q. How about 2008, you had some
16 standing water?

17 A. Yes.

18 Q. When was that?

19 A. In the spring, I think it was.

20 Q. How deep did the water get?

21 A. And inch.

22 Q. How long was it there?

23 A. A day.

24 Q. Cause any damage?

25 A. No.

1 Q. How about 2007? Any other times in
2 2008?

3 A. Not to my knowledge.

4 Q. 2007?

5 MS. BREWER: Just, not to interrupt
6 you but just to make sure that we're
7 clear. The standing water that you're
8 talking about, is that low-lying area
9 that you were talking about?

10 MS. ZUMBERGE: Yes.

11 MS. BREWER: Okay. So you wanted
12 to clear up that you have had standing
13 water in that low-lying area --

14 MS. ZUMBERGE: Yes.

15 MS. BREWER: -- which may have been
16 part of Mr. Cole's definition of
17 flooding?

18 MS. ZUMBERGE: Yes.

19 MS. BREWER: Okay.

20 MR. COLE: Thank you.

21 Q. How about 2007, small amount of
22 standing water?

23 A. In '07 I don't remember.

24 Q. No flooding under either definition
25 in '07 that you can recall?

1 A. Not that I can remember.

2 Q. How about '06?

3 A. In '06 I'm -- at least one time
4 that I can remember.

5 Q. When was that?

6 A. It was spring time.

7 Q. How deep?

8 A. And inch?

9 Q. How long was it there?

10 A. Not even a day.

11 Q. Any damage to the property?

12 A. No.

13 Q. How about '05 other than the time
14 you indicated?

15 A. Not that I remember.

16 Q. '04?

17 A. No, not that I can remember.

18 Q. '03?

19 A. '03 was the --

20 Q. The big one?

21 A. The big flood.

22 Q. Any other flooding other than that,
23 separately, a different time?

24 A. Not that I remember.

25 Q. How about '02, small amount?

1 A. No, nothing.

2 Q. 2001?

3 A. 2001 I don't remember there being?

4 MR. COLE: Could I see Exhibit 1,
5 Exhibit A?

6 Q. So in Paragraph six, it's your
7 statements that it's flooded at least annually,
8 that's not exactly correct then, correct?

9 MS. BREWER: Objection.

10 A. I do not remember.

11 Q. Did you think you remembered when
12 you signed the affidavit?

13 A. My boyfriend, he's the one that
14 remind -- we flood every year. In -- Our term of
15 "flooding" is the ponding. We get some rain
16 standing in the middle of the yard.

17 Q. So that's a third definition --
18 that's the one you've just told me about?

19 A. That's the same one, the ponding.

20 Q. You sign it because your boyfriend
21 reminded you of that?

22 MS. BREWER: Objection.

23 Q. Is that what you're saying?

24 MS. BREWER: Objection.

25 Q. You can answer.

1 A. Yes, 'cause he's -- He remembers
2 what happens more than I do.

3 Q. He didn't sign the affidavit,
4 right?

5 A. No.

6 MS. BREWER: Objection.

7 Q. Were you done answering, I'm sorry?

8 A. Yes.

9 Q. All right. So as you sit here now,
10 under oath, to the best of your recollection, that
11 statement that it floods at least once annually is
12 not entirely accurate, correct?

13 MS. BREWER: Objection.

14 A. He had to remind me, yes.

15 Q. All right. Well, which is it, are
16 you -- is it accurate there or did you testify
17 inaccurately today --

18 MS. BREWER: Objection.

19 Q. It can't be both?

20 MS. BREWER: Objection.

21 A. When I wrote this he had to remind
22 me we get water every year. So when this was
23 stated, yes.

24 Q. All right. But now as you look --

25 A. He remind me.

1 Q. All right. Now as you look back
2 today, that presently is not accurate, correct,
3 true?

4 MS. BREWER: Objection.
5 mischaracterizing her testimony. Hold
6 on. She's testified that she doesn't
7 recall whether it's flooded in every
8 single year.

9 Q. All right. So when I just -- when
10 we went back on the recorder and you told me three
11 separate years it didn't flood, were telling the
12 truth then?

13 A. I did not have this out again in
14 front of me to remember.

15 Q. Do you need the affidavit to
16 remember?

17 MS. BREWER: Objection.
18 argumentative.

19 Q. You can answer.

20 A. I cannot always remember.

21 Q. All right. Ms. Zumberge, is it
22 fair to say you don't recall all the instances
23 when your property has flooded; is that fair to
24 say?

25 A. Today I cannot recall all the

1 instances that it has flooded.

2 Q. And why is that?

3 MS. BREWER: Objection.

4 argumentative.

5 MR. COLE: I'm just asking her why.

6 MS. BREWER: Objection.

7 Argumentative.

8 Q. You can answer.

9 A. I really do not know how to answer
10 that.

11 Q. Okay. If you don't know how to
12 answer, let me ask you this: Are you able to tell
13 me now with your boyfriend not here whether the
14 allegations that you've sign-off on in Paragraph 6 are
15 completely accurate or not, do you know?

16 MS. BREWER: Objection.

17 A. Yes, I do know.

18 Q. And they are or they are not
19 accurate?

20 A. They are accurate.

21 Q. So there was flooding every year
22 that you've own the property since it 2001, at
23 least once a year?

24 A. Yes.

25 Q. All right. But I can't remember

1 it?

2 A. I can't remember when it was -- I
3 can't.

4 Q. But I asked you whether you
5 remembered it at all and I think in '02 you said
6 "No," there was none that year, you said it rather
7 confidently --

8 MS. BREWER: Objection.
9 Argumentative.

10 Q. -- didn't you?

11 MS. BREWER: Objection
12 argumentative.

13 MR. COLE: She's allowed to answer.

14 MS. BREWER: I don't even think that
15 that was a question.

16 MR. COLE: Yeah, it's a pending
17 question. She said one thing, I just
18 want to get it straight. That's all.

19 A. I -- re-reading my affidavit.

20 Q. It's right there.

21 A. Yes, which until you brought it
22 back out, that I could not remember today.

23 Q. Did you --

24 A. I --

25 Q. Go ahead.

1 A. I am a busy person, I have a lot to
2 remember, and it's been months since I've done
3 this affidavit. I can't remember everything.

4 Q. Did you review your affidavit
5 before today?

6 A. Skimmed it's.

7 Q. Did you --

8 A. I did not fully read it.

9 Q. All right. Then let's go back,
10 'cause I'm not sure. If it flooded every year, as
11 you say in the affidavit, you've told me when it
12 flooded in '09, I think you testified it flooded
13 in '08, did it flood in '07?

14 A. Yes.

15 Q. When?

16 A. The time I cannot remember, the
17 time of the year.

18 Q. Do you recall anything about that
19 flood?

20 MS. BREWER: Objection.

21 Q. How deep the water was?

22 MS. BREWER: Objection. This is
23 all asked and answered and she's
24 testified that she can't remember.

25 MR. COLE: Counsel, if she can't

1 remember now, how can she testify that
2 she knows a statement in Paragraph 6 is
3 accurate? She gonna say it's accurate,
4 I'm gonna inquire. If she isn't, that's
5 okay. She doesn't know if it's accurate
6 or not, then I'm gonna let it go.

7 MS. BREWER: Well, I believe she
8 used her affidavit to refresh her
9 recollection which is perfectly proper
10 for her to do, and we went back on the
11 record to make sure that the recorder
12 was clear. So I would appreciate if you
13 direct actual questions to my client
14 instead of just argumentative.

15 MR. COLE: The affidavit is under
16 oath and this testimony is under oath.

17 Q. Is it -- can I -- can we leave it
18 at this: That you recall that there was some
19 flooding on your property, some standing water, no
20 matter how small, every year, at lease once
21 annually, but you don't know any details other than
22 the three instances you've cited; is that fair to say?

23 A. Yes.

24 MS. BREWER: Objection.

25 MR. COLE: Thank you. We're done.

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Thank you. Okay. Thank you, ma'am.

Jennifer Zumberge
Jennifer Zumberge

- - -
(At 5:30 p.m. the deposition was concluded)
- - -

Martha Brewer

MARTHA C. BREWER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C. 4/18/10

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 JENNIFER ZUMBERGE 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 JENNIFER ZUMBERGE; 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 5th day of April, 2010.

Terence M. Holmes

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

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ERRATA SHEET

I, Jennifer M Zimberge, 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 18th day of April, 2010.

PAGE LINE CORRECTION OR CHANGE AND REASON:

<u>2</u>	<u>11</u>	<u>Change Thomas H. Fusonic to Martha C. Brewer</u>
<u>26</u>	<u>22</u>	<u>Add "not" before having</u>
<u>33</u>	<u>7</u>	<u>Crawl instead of crow</u>
<u>33</u>	<u>21</u>	<u>change "and for any" to "for a"</u>

6. Specifically, as a result of ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Number 26-042800.0000 has flooded at least annually, with very major flooding occurring three times. On each of those three occasions, Mercer County Parcel Number 26-042800.0000 was inundated with water at depths varying from 12 to 18 inches and remained inundated with water for at least a week.

7. To date, the most invasive flood occurred in 2003 with approximately 1.85 acres of Mercer County Parcel Number 26-042800.0000 being flooded with approximately 18 inches of water for at least a week. A true and accurate copy of a black and white aerial from the Mercer County Auditor's website of Mercer County Parcel Number 26-042800.0000 is attached hereto as Exhibit 1. I have shaded in the area of the parcel that was flooded in 2003.

8. Mercer County Parcel Number 26-042800.0000 was again flooded as recently as the Spring of 2009.

9. As a direct result of the flooding, Mercer County Parcel Number 26-042800.0000 has suffered damage in the form of personal property loss, deposit of debris, bank erosion, and yard damage.

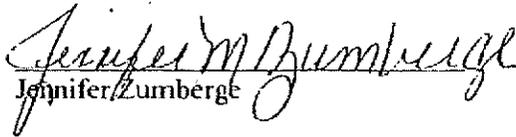
10. As a direct result of the flooding, a garage located on Mercer County Parcel Number 26-042800.0000 was inundated with water and debris and suffered severe damage. The personal property stored in the garage was destroyed and had to be thrown away. In 2003, flood waters inundated my home's crawl space as well. I bought a pump to remove the flood waters so as to prevent my home from being inundated with water.

11. The flooding caused by ODNR has substantially destroyed the value of Mercer County Parcel Number 26-042800.0000.

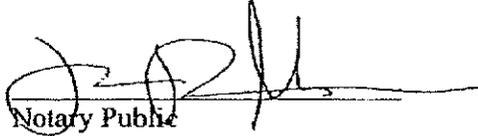
DON000760

12. 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.


Jennifer Zumberge

Sworn in my presence and subscribed before me this 21st day of August, 2009.


Notary Public



JOSEPH R. MILLER
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

DON000761

EXHIBIT 1
TO
AFFIDAVIT OF JENNIFER ZUMBERGE

DON000762

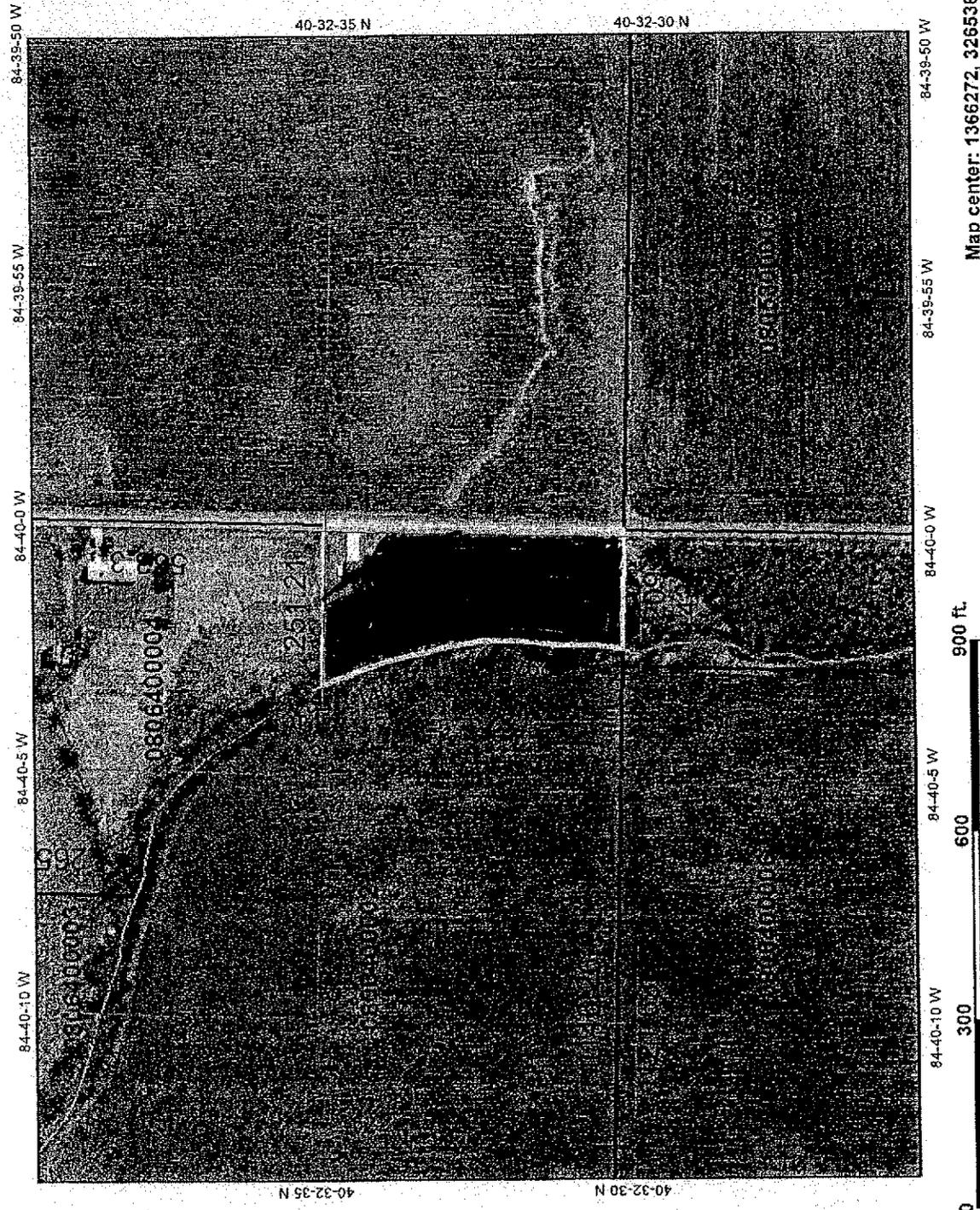
Mercer County Ohio



Legend

- Administrative**
 - Townships
 - Neighborhoods
- Parcels**
 - Parcels
- Transportation**
 - State Highways
 - US Highways
- Water**
 - Lake
 - Streams

tabbles
EXHIBIT
1



Scale: 1:3,000

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.

Jennifer Zumberge
6661 Gause Rd.
Parcel No.: 26-042800.0000 - 1.99 acres

Tab 67

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 MICHAEL ZUMBERGE,

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
Friday, February 12, 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:

2 On Behalf of Ohio Department of Natural
3 Resources:

4
5 Daniel Martin
6 Principal Attorney
7 Executive Agencies
8 30 East Broad Street, Floor 26
9 Columbus, Ohio 43215-3400

8
9 On Behalf of Relators:

10
11 Martha Brewer
12 Attorney at Law
13 Vorys, Sater, Seymour and Pease LLP
14 52 East Gay Street
15 Columbus, Ohio 43216-1008

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C O N T E N T S

WITNESS	CROSS	DIRECT	RE CROSS	REDIRECT
Michael Zumberge	M-4	B-42	M-45	B-46

E X H I B I T S

RESPONDENT'S	DESCRIPTION	MARKED
A	Affidavit	9
B	Great American Insurance	31
C	2002 Schedule	37

MICHAEL ZUMBERGE

1
2 of lawful age, a witness herein, having been duly
3 sworn, as hereinafter certified, was examined and
4 testified as follows:

5 CROSS-EXAMINATION

6 BY MR. MARTIN:

7 Q. Hello, I'm Dan Martin, we just met
8 coming in the door. I'm an attorney representing
9 the State of Ohio in the action that's been filed,
10 and today we'll be taking your deposition, and
11 first thing I usually ask folks is: Whether
12 you've ever had your deposition taken before?

13 A. No.

14 Q. Well what I'll do, I'll just go
15 over a few basic ground rules. The first thing
16 you may notice is the court reporter sworn you in,
17 and although there's no judge here today, this
18 works the same way as you would if you were taking
19 an oath in front of the Judge.

20 A. Yeah.

21 Q. And you have to answer all the
22 questions truthfully and to the best of your
23 ability. Another thing we have to try and do is
24 make sure that the reporter is able to get an
25 accurate record, and one of the ways we do that is

1 | try to avoid talking over each other. So if I'm
2 | asking a question, I just ask that you wait till I
3 | get my question out before you start your answer,
4 | because if you and I are talking at the same time
5 | or if you think you know the answer and I haven't
6 | finished my question and we're talking at the same
7 | time, it'll make it hard for him to get that, you
8 | know, typed down so he has an accurate record. So
9 | I just ask you to try to avoid talking while I'm
10 | talking and I'll do my best to do the same for
11 | you.

12 | Because the transcript today is a
13 | record of what's said, it's important that in
14 | response to the questions you have a verbal
15 | response. In conversation a lot of times we'll
16 | shrug our shoulders or maybe say uh-uh or ah-huh
17 | or something like that, but it's hard for the
18 | court reporter to put that into the record. So I
19 | ask that instead of, you know, maybe saying
20 | ah-huh, you say, yes, or if it's uh-uh, no, would
21 | be a better, you know, way of doing it, so he can
22 | get clear on the record.

23 | And what we're trying to do today
24 | is just get accurate information about the issues
25 | that have been raised in the complaint. So I

1 don't want to mislead or confuse you. So if I ask
2 a question that you don't understand or I, you
3 know, ask it, you know, in a strange way -- We're
4 doing a lot of these depositions, so maybe by
5 later in the afternoon if I'm not making sense,
6 please feel free to stop and say, you know, I
7 don't understand your question, please rephrase it
8 or ask it again or if you just can't hear what I'm
9 saying, you know, that's fine, I don't want to
10 trick you into answering one way or the other,
11 just let me know and I'll rephrase the question,
12 because when you answer it, I'll assume that you,
13 you know, know and understand it. So if you don't
14 understand it, let me know that and we'll ask it a
15 different way or try it in another manner.

16 If you need to take a break, that's
17 fine. I don't expect we'll be going real long
18 today, but if you do need to take a few minutes,
19 that's fine, we can take a break, just let me know
20 and we'll stop. So does all that make sense?

21 A. Yes.

22 Q. What I'd like to do, sir, if you
23 could say your name and then spell it for the
24 record?

25 A. Michael Zumberge, Z-u-m-b-e-r-g-e.

1 Q. And, Mr. Zumberge, I want to ask
2 you a few background questions. Do you live here
3 in Mercer County?

4 A. Yes.

5 Q. How long have you lived here?

6 A. All my life.

7 Q. And where do you live right now?

8 A. In Celina in town.

9 Q. And what's your address?

10 A. 145 Margo Lane.

11 Q. And did you go to school here?

12 A. Yes.

13 Q. Did you graduate from high school?

14 A. Yes.

15 Q. Which high school?

16 A. Celina Senior High.

17 Q. And after graduating from high
18 school, did you go on for any further education?

19 A. No.

20 Q. Did you start with a job after high
21 school?

22 A. Went right into the farming.

23 Q. Okay. And how long have you been
24 doing that, since high school?

25 A. Since high school.

1 Q. And besides farming, any other
2 occupation?

3 A. Small odd jobs of carpentry helping
4 build houses for one year.

5 Q. And as part of your farming, have
6 you taken any courses or seminars pertaining to
7 farming?

8 A. No.

9 Q. Are you associated with Z-Farms
10 Incorporated?

11 A. Yes.

12 Q. And can you tell me what Z-Farms
13 Incorporated is?

14 A. It's a family corporation started
15 in '76.

16 Q. And how many officers are there?

17 A. Two.

18 Q. Are you an officer?

19 A. Yes.

20 Q. Who else?

21 A. My brother, Charlie.

22 Q. And are there shareholders?

23 A. Just the two of us.

24 Q. And what does Z-Farms, what do they
25 do, what's the business of Z-Farms?

1 A. Grain and cattle right now.

2 Q. Besides grain and cattle, did
3 Z-Farms have other areas that they do business in?

4 A. We used to milk cows, dairy.

5 Q. When did that end?

6 A. '97.

7 Q. Does Z-Farms have employees?

8 A. Not -- no.

9 Q. Besides your brother and yourself,
10 is there anyone else that does any work for the
11 company for the business?

12 A. No.

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

15 Q. What I'd like to do, I gonna go
16 ahead and mark this document as Exhibit A. This
17 is a affidavit we received. And I just direct
18 your attention to Page 3, and is that your
19 signature, sir?

20 A. Yes.

21 Q. And you recall signing this
22 document?

23 A. Yes.

24 Q. Did you prepare this?

25 MS. BREWER: Objection.

1 Q. You can still answer.

2 A. No.

3 Q. Did you review it before you signed
4 it?

5 A. Yes.

6 Q. Just wanted to direct your
7 attention to the second paragraph, Number 2 on the
8 first page. And I just want to identify what
9 pieces of property are being -- are an issue of
10 Z-Farms as far as the claims in this case, and
11 Paragraph 2 says specifically Z-Farm is an owner
12 of real estate described as Mercer County Parcel
13 Numbers 26-051400.0000 and 26-049500.0000.
14 Besides those two parcels there, does Z-Farms
15 currently own any other real estate in Mercer
16 County?

17 A. No.

18 Q. And just following along there,
19 Paragraph 3 states that Parcel 26-051400 has been
20 owned since 1988 by Z-Farms, is that true?

21 A. Yes.

22 Q. And the next statement, Number 4,
23 that parcel there has been owned by Z-Farms since
24 '76, is that correct?

25 A. Yes.

1 Q. As we sit here today, do you -- I'm
2 sorry. Does Z-Farms still own those two parcels?

3 A. Yes.

4 Q. Has Z-Farms sold any portions off
5 of those parcels?

6 A. Yes.

7 Q. When would that have been?

8 A. Three years ago we -- off -- parcel
9 we had in '88.

10 Q. Okay.

11 A. Roughly that time frame. Then
12 another, estimate about 10, 15 years ago we
13 another three acre tract off of it.

14 Q. And Paragraph 5 talks about Beaver
15 Creek and that cuts through Parcel Number
16 26-049500. Does it cut through the middle of the
17 property or where does it cut through on that
18 piece?

19 A. Towards the north end.

20 Q. Okay. Towards the north end. And
21 the next paragraph, Number 6 says that the other
22 parcel lies near the Beaver Creek. Do you know
23 how close that parcel is to Beaver Creek?

24 A. Roughly half to three-quarters of a
25 mile.

1 Q. Let's look at the first attached
2 exhibit there. There's some maps that are
3 attached, and the first one is Exhibit 1. And
4 does this document, Exhibit 1, look familiar to
5 you?

6 A. Yes.

7 Q. And what's this map show?

8 A. It shows where the Beaver Creek
9 runs through the north end of the property and our
10 property surrounds down toward Meyer Road.

11 Q. Okay. And this is 26-049500
12 property. There's a shaded area or darker area;
13 do you see that?

14 A. Yes.

15 Q. Did you make that shading?

16 A. My brother and I did.

17 Q. Okay. So two of you together did
18 that?

19 A. Yeah.

20 Q. In the kind of the center where the
21 two larger pieces come together, there's a little
22 neck, looks like there's an area that's maybe had
23 structures, what is that area?

24 A. Oh, there used to be a house and
25 barn, and my brother used to live up there in the

1 house trailer.

2 Q. Are that's still there?

3 A. Yes.

4 Q. And appears on this map that area
5 was not an area that was shaded in?

6 A. No.

7 Q. All right. Is that -- Do you agree
8 with that that that's accurate?

9 A. Yes.

10 Q. Do you know what the shaded area is
11 supposed to be representing?

12 A. That's where the water, flood water
13 of '03 was at. That's how far it came around on
14 the property.

15 Q. Okay. So the shade area is from
16 2003 Flood?

17 A. Yes.

18 Q. And do you know in 2003 how deep
19 that flood was on your property?

20 A. Towards the north end it got to
21 approximately 8 to 10 feet maybe, many other parts
22 from 2 to 3 feet.

23 Q. Okay. Is the top part or northern
24 part, is that closer to the Beaver Creek?

25 A. Yes.

1 Q. How long did it take the flood to,
2 the water to recede or to go away?

3 A. Close to a month.

4 Q. Do you remember when the flood was
5 in '03?

6 A. Yes.

7 Q. What month, if you can recall?

8 A. July.

9 Q. Do you recall if this parcel
10 experienced any crop loss as a result of that
11 flood?

12 A. Yes.

13 Q. Did Z-Farms to your knowledge put a
14 report in or a claim in for insurance?

15 A. Yes.

16 Q. Do you know the amount of the
17 damages that were reported?

18 A. Not off -- no.

19 Q. Besides 2003, do you ever remember
20 seeing this parcel be flooded?

21 MS. BREWER: Objection. Are you
22 asking ever in his life has he seen it
23 flooded?

24 MR. MARTIN: Yes.

25 A. Yes.

1 Q. When would that have been?

2 A. Every year pretty much.

3 Q. Okay. So pretty much every year
4 you've seen some flooding on this parcel?

5 A. No.

6 MS. BREWER: Objection. Can we
7 have a time frame? Are you talking
8 about every year before '97, after '97,
9 since 2003, December?

10 MR. MARTIN: Well he said every
11 year.

12 Q. What do you mean by "every year"
13 Mr. Zumberge, when you say every year, how far
14 back would that go?

15 A. As long as I've been living there
16 really.

17 Q. Okay.

18 A. Yeah.

19 Q. And how long has that been?

20 A. Well, I'm 54 now and every since
21 I've been a little kid that's always been flooded
22 at one time or another but not to this extent.

23 Q. What would you say has been the
24 change over the years as far as flooding, has it
25 gotten more flooded recently?

1 A. Since the new spillway, yes, it
2 has.

3 Q. And what would the difference be
4 from, before the spillway and after the spillway
5 in terms of flooding?

6 A. Could you repeat the question
7 again?

8 Q. Sure. Before the spillway was
9 built, it sounds like you recall there being
10 flooding, and if I understand your testimony
11 correctly after it was modified it was worse; is
12 that a fair statement?

13 A. Yes.

14 Q. And what would you say, if you
15 could, would be the difference between before and
16 after the spillway, in terms of flooding?

17 A. Percentage wise I would say it's 50
18 to 60 percent more flooding.

19 Q. Is there a portion of the property
20 that didn't flood before '97?

21 A. Yes.

22 Q. And roughly what area would that
23 be, if you can identify it?

24 A. Oh, three quarters of it.

25 Q. Did the area that is closer to

1 Beaver Creek, did that always flood, based on your
2 knowledge and history?

3 A. A portion of it.

4 Q. And besides 2003 which is
5 represented with the shaded area here on this map,
6 do you recall whether there were any floods in,
7 say, 2005?

8 A. Yeah, there was flooding in 2005.

9 Q. Was there much as what was shown
10 here in 2003?

11 A. No, not quite as bad.

12 Q. Do you recall how deep it got in
13 2005?

14 A. Probably 7 to 8 feet deep in the
15 deepest part.

16 Q. Okay. Back before 1997, do you
17 have any recollection of how deep you had seen the
18 flooding on this parcel?

19 A. About four feet to the north of the
20 parcel.

21 Q. Okay. What that be the part that's
22 closer towards Beaver Creek?

23 A. Yes.

24 Q. Is this property near the Wabash?

25 A. No.

1 Q. And what's the, I guess, the
2 nearest road or what road has frontage on this
3 parcel?

4 A. Meyer Road.

5 Q. Meyer Let's take a look at the next
6 map, it's on Exhibit 2, and does this map look
7 familiar?

8 A. Yes.

9 Q. And this the other parcel of
10 property Z-Farms owns?

11 A. Yes.

12 Q. And this also has a black shaded
13 area, is that also representing the flooding in
14 2003?

15 A. Yes.

16 Q. And is there a stream or other
17 water body that cuts through this property?

18 A. There's a stream that runs along
19 the west edge of it.

20 Q. And which one is that, which stream
21 is that?

22 A. I don't know the name of the ditch.

23 Q. Okay. So you're not sure if it has
24 a name or not?

25 A. No.

1 Q. And this area that was shaded in
2 here, did your brother also assist you with this?

3 A. Yes.

4 Q. How deep was the flooding in this
5 area in '03?

6 A. One to two feet.

7 Q. And let's say before 1997, did this
8 area ever flood, to your knowledge?

9 A. Not to this extent, no.

10 Q. But did it flood some?

11 A. A little.

12 Q. About how deep would it have been
13 prior to '97?

14 A. Three to six inches.

15 Q. And was it the same -- would it
16 have been the same area as what's in the black?

17 A. Not quite as far to the south.

18 Q. So it would be a smaller area?

19 A. Yeah.

20 Q. Okay. And what road is -- Let's
21 see, looks like there's a road running along the
22 top there, which road is that?

23 A. Monroe Road runs to the north.

24 Q. Now in 2003 did this parcel have
25 any crop damage?

1 A. Yes.

2 Q. Do you recall what crops were in
3 that year?

4 A. Beans.

5 Q. And did Z-Farms put a claim in on
6 insurance for the crop loss?

7 A. No.

8 Q. Do you know how many acres of crop
9 were lost that year on this parcel?

10 A. Roughly six to eight.

11 Q. Okay. Do you know how many acres
12 on this parcel were tillable?

13 A. Yes.

14 Q. About how many?

15 A. 32.

16 Q. I just notice that the bottom of
17 the page there, looks like the whole parcel is
18 30.724 acres, so is it -- you think it's more than
19 30 acres then?

20 A. Yes, with the extra little strip
21 that's along. There's 32.7 acres that belong to
22 Z-Farms, then there's another 2.3 -- two and
23 three-quarter acres in this other section that
24 belongs to another person.

25 Q. Oh, okay, I see. That other area

1 | you said belongs to someone else, can you point
2 | that out?

3 | A. Straight down.

4 | Q. Okay. So does Z-Farms not own that
5 | strip?

6 | A. No, that's one of the parcels that
7 | was sold.

8 | Q. Oh, I see. So who owns that now?

9 | A. John Knott.

10 | Q. If you don't mind, could you take a
11 | stab in spelling that name, last name?

12 | A. I probably couldn't even spell it
13 | any better than what you could.

14 | Q. Okay.

15 | A. But it goes under J.R.C. Rentals.

16 | Q. Do you know what he uses that land
17 | for now?

18 | A. Nothing right now besides us
19 | farming it.

20 | Q. Okay. So Z-Farms stills farms that
21 | piece?

22 | A. Yeah.

23 | Q. Do you pay him rent for it?

24 | A. Yes.

25 | Q. I'm gonna hand you a pink marker

1 here, sir. If you could try to outline, you know,
2 put like a little circle or a square or something
3 around the area that approximately represents the
4 area that was sold off of that parcel, I would
5 appreciate it.

6 A. Shade in the whole area then?

7 Q. That would be fine, yeah.

8 A. Shade it in?

9 MR. MARTIN: Yeah, just a -- Okay.

10 The witness has shaded in that area in
11 pink. Thank you.

12 Q. Was there any flooding on this
13 parcel in 2005?

14 A. Yes.

15 Q. And how deep was it then?

16 A. At the most probably about a foot.

17 Q. And did it flood the same area as
18 what's shaded in here or not?

19 A. I don't know if it got as far south
20 as what the shaded area shows here or not.

21 Q. Okay. Let's go ahead and go to
22 Exhibit 3, that's attached after that. And first
23 page there looks like -- and these are photocopies
24 or copies, so they're maybe not as clear as the
25 originals, but do you recall ever seeing these

1 | photographs before?

2 | A. Yes.

3 | Q. Do you know if you took 'em?

4 | A. No, I did not.

5 | Q. Do you know who took the photos?

6 | A. Yes, I do.

7 | Q. Who is that?

8 | A. My brother, Charles.

9 | Q. If you're able to, can you tell
10 | where these photos, these two on the page here,
11 | where they were taken at?

12 | A. They was taken off the road of
13 | Meyer Road pointing to the buildings up on our
14 | property that's up on the hill where it didn't get
15 | flooded.

16 | Q. And do you know when these pictures
17 | were taken?

18 | A. Some time in July.

19 | Q. Of '03?

20 | A. Yes.

21 | Q. Now, let's turn the page, look at
22 | the next one. And there's a little number stamped
23 | on the bottom of these two. That first group of
24 | photos was 772 on the bottom and so the next one
25 | 773, is that as far as you can tell taken on the

1 | same farm from Meyer Road?

2 | A. Yes, but it's just a little farther
3 | south than what the first ones were.

4 | Q. And which -- Just make sure I'm
5 | clear, and you can describe. If you know the
6 | parcel number, that's fine, if you don't, you can
7 | describe some in some other terms which property
8 | this is showing of the couple we talked about.
9 | Would that be the one that's on Exhibit 1 or
10 | Exhibit 2, if you know?

11 | A. Exhibit 1, southern part of Exhibit
12 | 1.

13 | Q. Okay. Then the next page after
14 | that one, it's 774. Do you know which parcel
15 | these were taken on or can you identify 'em?

16 | A. Yeah, these are on Exhibit, Parcel
17 | Exhibit 1, 2.

18 | Q. And what do these photographs show,
19 | let's start with the top one there, looks like
20 | there's a note on that top one?

21 | A. Yeah, that's a picture of our,
22 | where the farm buildings were, are at --

23 | Q. Um-hum.

24 | A. -- taking the pictures heading
25 | north.

1 Q. And is there any flooding visible
2 on that picture if you can tell, that top one?

3 A. I don't know if this was taken
4 before the worst of the flooding happened or after
5 it receded, I can't tell for sure.

6 Q. I understand. Then the lower one
7 that's kind of dark, but if you're able to tell
8 where that one is at?

9 A. Pretty much, that's the same
10 direction.

11 Q. Okay. What about on page 775. Do
12 you know -- can you tell which farm those photos
13 were taken on?

14 A. The top photo was taken from the same
15 place as the previous page, and that was facing kind
16 of a northeast direction, and the bottom photo was
17 taken -- is about the same as the one on the earlier
18 page, farther south on Meyer Road facing west.

19 Q. And these are also -- and we're
20 talking about the parcel that's on Exhibit --

21 A. 1.

22 Q. -- Exhibit 1, right? Okay. And
23 then it looks like the last photo on page 776, can
24 you tell where that picture was taken?

25 A. That picture was on the property of

1 Parcel 1 or Exhibit 1, sitting up on our building
2 site where the barn and trailer house is at,
3 taking pictures heading east.

4 Q. Do you know if this would have been
5 from 2003?

6 A. Yes, it would be.

7 Q. And do you know when -- if you can
8 recall when it was taken?

9 A. In the month of July.

10 Q. Besides these photographs we went
11 through, sir, do you have any other photos or
12 videos that show the flooding?

13 A. No, I don't.

14 Q. Do you have any other, like,
15 diaries or records or measurements or anything
16 like that that would document that, you know, like
17 the depth of the flooding, for example?

18 A. No.

19 Q. Okay. Besides crops, are there any
20 other damages to your property that you believe
21 occurred as a result of the flooding?

22 A. Yes.

23 Q. Can you tell me what any of those
24 are?

25 A. Well, soil bank or erosion on the

1 creek banks, silt out in the field, compaction,
2 besides your crop loss.

3 Q. What type of erosion issues
4 occurred along the bank because of the flooding?

5 A. Ate out the dirt of the bank to
6 keep it from -- the water -- to help keep the
7 water if the bank ain't there, so it's gonna run
8 out into the fields farther or quicker.

9 Q. Did you have to make any repairs to
10 that area?

11 A. No.

12 Q. Do either of these properties, that we
13 talked about, do you know if they have filter strips?

14 A. No.

15 Q. Did both these properties have bank
16 erosion on them?

17 A. No.

18 Q. Which one, if you can, had the bank
19 erosion?

20 A. The parcel that's on Exhibit A or
21 Exhibit 1.

22 Q. And what about soil compaction, did
23 they both have soil compaction?

24 A. Yes.

25 Q. And in your affidavit, sir, and

1 | this is a statement coming out of Paragraph 17 on
2 | Page 3. You state here that the two parcels here
3 | have been substantially destroyed or the values
4 | have been substantially destroyed because of
5 | flooding caused by ODNR. What facts or
6 | information do you have that demonstrate that the
7 | -- first of all, that the flooding was caused by
8 | ODNR?

9 | A. From the spillway, it is roughly
10 | nine times bigger than the previous spillway that
11 | was put in. From a 39 foot spillway to a 500 foot
12 | spillway. It dumps a lot more water, and there's
13 | nothing that we can do about it, and anything
14 | else, I don't know what else to say about it.
15 | It's just that that spillway was put in there at
16 | the wrong -- they didn't put it in right, to my
17 | knowledge.

18 | Q. To the best of your knowledge, do
19 | you know what was done on the spillway that was
20 | not right?

21 | MS. BREWER: Objection. You can
22 | answer.

23 | Q. Yeah, to the best of your
24 | knowledge?

25 | A. No.

1 Q. And continuing on with the
2 statement in Paragraph 17. What information do
3 you have that demonstrates that the flooding has
4 substantially destroyed the value of your two
5 parcels?

6 MS. BREWER: Objection.

7 A. Can you rephrase the question
8 again?

9 Q. Sure. The statement in Paragraph
10 17 alleges that the value of your two properties
11 has been substantially destroyed, and maybe what I
12 should first ask is: What do you mean when your
13 statement that the properties were substantially
14 destroyed, what does that term mean to you?

15 A. That the property is not worth as
16 much as what we paid for it at the time.

17 Q. And do you know when you bought the
18 two properties what you paid for it?

19 A. Roughly I do.

20 Q. And as best you can, I know it's
21 been a while, but roughly what did you pay an acre
22 for, let's say, the first one in Exhibit 1?

23 A. That shouldn't pertain to our
24 flooding problems.

25 MS. BREWER: If you know the answer

1 you can answer.

2 A. Roughly \$2000 an acre.

3 Q. And do you have any information, as
4 we sit here today, on what the value of the
5 property is today?

6 MS. BREWER: Objection.

7 A. No.

8 Q. And what about the one on Exhibit
9 2, that property, do you recall roughly what you
10 paid for that per acre?

11 A. Roughly about the same amount of
12 money, 2000, roughly.

13 Q. And as we sit here today, do you
14 have any information on appraisal or something
15 like that that would tell us what the value of the
16 property is today?

17 MS. BREWER: Objection.

18 A. No.

19 Q. Did you explore whether there were
20 any other causes to flooding other than the
21 spillway at the lake?

22 MS. BREWER: Objection.

23 A. No.

24 (Great American Insurance Group,
25 marked for identification as
Respondent's - Michael Zumberge -
Exhibit B.)

1 Q. Gonna hand you a document I'm
2 marking as Exhibit B. These documents were
3 provided to us by your counsel, and I'm gonna ask
4 you some questions about, see if you can identify
5 these. And I recognize there maybe some of these
6 that maybe are or are not related to Z-Farms but
7 maybe other people in your family, so I'll just
8 try to walk through these with you and see if we
9 can just identify if any of these pertain to the
10 two parcels we're talking about with you today.

11 The first one here, first page, and
12 this is stamped at the bottom 2232. It says
13 something, it says Multiple Peril Crop Insurance
14 Production Certification Worksheet. Do you
15 recognize this document at all?

16 A. Yes.

17 Q. What is the purpose of this
18 document?

19 A. Tell you the records of the crops
20 on personal farms that you have.

21 Q. And do you know what year this is
22 for?

23 A. This shows from 19, 1997, then it
24 skips '98 and '99, then it goes from 2000 on to
25 2008.

1 Q. Do you know if this document, does
2 this pertain to either the two parcels we've been
3 talking about today, those Z-Farms parcels?

4 A. No.

5 Q. Okay. Let's move onto Page 2234.
6 And this is a similar document, only I note in the
7 upper lefthand corner as I'm looking at the same
8 one you are, looks like it says Z-Farms, Inc.
9 Does this document pertain to those two parcels we
10 were looking at in your affidavit?

11 A. No.

12 Q. Okay. Let's move on to Page 2236.
13 If you're able to, can you tell whether this
14 document pertains to the two parcels we were
15 talking about?

16 A. No.

17 Q. Okay. How about up to Page 2238.
18 Same question with this one?

19 A. No.

20 Q. And moving onto Page 2240. Have
21 you seen this document before?

22 A. I have but I don't remember it.

23 Q. Are you able to tell what this
24 document is, what's the purpose of this?

25 MS. BREWER: Objection.

1 A. No, I don't.

2 Q. There is a notation in the middle
3 of the top, it says "Agent/Agency Information."
4 And it says, "American Agricultural Assets LLC,
5 Matthew B. Vantilburg." Do you know who he is?

6 A. Yes.

7 Q. Does he provide insurance?

8 A. Yes.

9 Q. Do you recall whether you have a
10 policy through him for your crops?

11 A. No, we don't.

12 Q. You believe you've seen this
13 document before, you just don't remember?

14 A. When.

15 Q. When. Okay. Let's go onto to the
16 next one which is 2241. Can you recall seeing
17 this before?

18 A. No, I don't.

19 Q. And same with 2242?

20 A. No.

21 Q. How about 2243, is this something
22 you've seen before, this document?

23 A. Similar documents like this.

24 Q. Okay. What on this particular
25 document here, what's this showing?

1 A. It tells you what section it's in,
2 how many acres are planted in that section, and
3 the production off that section.

4 Q. Can you tell if any of these
5 include either the two parcels we were talking
6 about earlier today?

7 A. Yes.

8 Q. Are they included in this document?

9 A. Yes.

10 Q. Which ones are they?

11 A. Z-Farms/Pax and Z-Farms/Pax
12 Sections 11, which is a combination of four other
13 farms put together.

14 Q. Okay. Do those entries, do they
15 include parcels in addition to the two that we
16 were identifying earlier?

17 A. Yes.

18 Q. Do you know if those parcels were
19 ever taken out on their own and put into a chart
20 like this?

21 A. No.

22 Q. Okay. Let's proceed to the next
23 page, 2244. Can you tell if this document
24 pertains to either of the two parcels we've been
25 talking about?

1 A. No.

2 Q. And what about 2245?

3 A. No.

4 Q. If you can go ahead and just go to
5 the last page of this exhibit, it's 2250. In the
6 upper corner it says "Rural Community Insurance
7 Services 2009 Notice of Loss Report." Have you
8 ever seen this document before?

9 A. Yes.

10 Q. What is this?

11 A. Tells of the corn and beans that
12 was planted that year and the payment they
13 received through crop insurance.

14 Q. And can you tell if any of these
15 entries here, if any of them pertain to the two
16 parcels of Z-Farms that we were going through in
17 your affidavit?

18 A. Not completely.

19 Q. If you notice, sir, there's two
20 entries for 5-14-2003 and they both have a cause
21 of loss. It looks like it says "PRECIP" and then
22 parentheses "(Excess)" do you see those?

23 A. Yes.

24 Q. Do you know if those were, those
25 loses were the result then of a rain loss as

1 | opposed to a flood loss?

2 | A. No, I don't.

3 | Q. Do you know if the Rural Community
4 | Insurance Services if they differentiate between a
5 | flood loss and a precipitation or rain loss?

6 | A. No, I don't.

7 | Q. Okay. And there's a notation on
8 | this page, sir, it's handwritten; do you see that,
9 | where it says "total payments?"

10 | A. Yes.

11 | Q. Do you know who wrote that?

12 | A. No, I don't.

13 | Q. Is it your handwriting?

14 | A. No.

15 | Q. Does that number sound familiar to
16 | you?

17 | MS. BREWER: Objection.

18 | Q. The 26,948?

19 | MS. BREWER: Objection.

20 | A. No.

21 | Q. So you don't know what that number
22 | represents?

23 | A. That would be a payment of some
24 | sort, but I don't know what for, whether it was
25 | for flooding or -- I hadn't replant.

1 (2002 Federal Farm Activities Schedule,
2 marked for identification as
3 Respondent's - Michael Zumberge -
4 Exhibit C.)

5 Q. Okay. I got another set of
6 documents here. I'm gonna hand this to you, too,
7 marked as Exhibit C. We just received these
8 today, so I just wanted to see if you had seen
9 these before. This first one is stamped 2256 at
10 the bottom, and the top says 2002 Federal Farm
11 Activities Schedule. Have you ever seen this
12 document before?

13 A. Yes.

14 Q. And there's one line, it's Line
15 Number 9 where it says, "Taxable agricultural
16 program payments," and there's amount of 8,293,
17 what would that be for?

18 A. Government programs, I would
19 imagine.

20 Q. And do you know if Z-Farms received
21 any payment for any government programs on the two
22 parcels we were talking about today?

23 A. Yes.

24 Q. Would this amount reflect those two
25 parcels?

A. No.

Q. Would this amount maybe reflect the

1 total amount for all your farms?

2 A. Yes.

3 Q. Okay. So the amount that you have
4 received for the two parcels would be included in
5 this number, but not the whole number?

6 A. Right.

7 Q. Do you have any idea what you would
8 have received for those two parcels for government
9 programs?

10 A. No, I don't.

11 Q. Do you know what government
12 programs they participated in, just those two
13 parcels?

14 A. I don't remember the name of the --
15 what they call them.

16 Q. Would it be Conservation Reserve
17 Program?

18 A. No, I don't believe, I don't
19 remember what it's called.

20 Q. Well, that's okay. If you don't
21 remember the exact name, can you maybe just
22 describe what you did to, in exchange for getting
23 the payment?

24 A. Repeat the question again.

25 Q. Sure. That's okay you can't recall

1 the exact name, but if you could describe for me
2 if you have any recollection of the nature of the
3 program you participated in, in order to get the
4 program payments, and again just for those two
5 parcels?

6 A. I can't think of the name of it
7 right offhand.

8 Q. Was there an area of the land that
9 you did not plant as part of the program?

10 A. No.

11 Q. All right. Well, let's move onto
12 2257, and that's the next page, and same again,
13 line 9 says "Taxable agricultural program
14 payments." I don't want to beat a dead horse
15 here, but looking at this, does that, I guess, jog
16 your recollection of maybe what the program would
17 have been?

18 A. No.

19 Q. How about on Line 12, "Taxable crop
20 insurance proceeds..." do you remember that, what
21 that was for?

22 A. No.

23 Q. Would that have been some type of
24 crop loss?

25 A. Yes.

1 Q. And do you know if the number
2 there, the 49,988, would that have been for any
3 particular parcel?

4 A. All parcels combined.

5 Q. Okay. So that figure could
6 represent all your holdings together?

7 A. Multiple farms.

8 Q. And then just last one there, 2258.
9 Again it's that line, Number 9 that we talked
10 about earlier, that's a program you don't recall
11 the exact name of, right?

12 A. No.

13 Q. All right. Well thank you for
14 going through that. I'm just gonna check to see
15 how many more questions I got for you. I think
16 I'm pretty-well done here, but let me double
17 check. Both these parcels are just used for
18 farmland, is that right?

19 A. Yes.

20 Q. So you don't have any other
21 business activities on the properties?

22 A. No.

23 Q. Do you know if either of those
24 parcels participated in a wetland reserve program?

25 A. No.

1 Q. Do you know if there is any
2 easements on those two parcels?

3 MS. BREWER: Objection.

4 A. Yes.

5 Q. Do you know what the easements are
6 for?

7 A. Creek maintenance, Beaver Creek
8 Maintenance Program.

9 Q. And who's that -- if you know,
10 who's that easement for, who's the beneficiary of
11 that easement?

12 A. County and state.

13 Q. Do you know what soil type is on
14 the two parcels?

15 A. No, I don't.

16 Q. Do you know what your current yield
17 is on the two parcels for corn?

18 A. Average, no.

19 Q. Same for beans, do you have an idea
20 what your average yield would be for those two
21 parcels?

22 A. No.

23 Q. Do you know what you got last year
24 on your yield for whatever you planted last year
25 for those two?

1 A. Roughly?

2 Q. Sure.

3 A. 175 on corn, 50 on beans.

4 Q. Were they pretty much the same for
5 both those parcels or was there a difference
6 between the two?

7 MS. BREWER: Objection.

8 A. Well there's -- had beans in one,
9 corn the other, so I can't compare 'em.

10 Q. Okay. And which one had the corn
11 on it last year, which parcel?

12 A. Exhibit 1.

13 Q. Okay. And then the other one had
14 the beans?

15 A. Yeah.

16 MR. MARTIN: Okay. I don't have
17 any further questions.

18 MS. BREWER: I just have a few
19 follow-up questions.

20 DIRECT EXAMINATION

21 BY MS. BREWER:

22 Q. We talked about the times that your
23 property flooded in 2003 and 2005, are there other
24 times that your property has flooded since 1997?

25 A. Yes.

1 Q. And about how many times or what
2 years do you think it flooded since '97?

3 A. Roughly in figuring it flooded
4 about every year.

5 Q. Okay. And how has that flooding
6 changed if at all since the flooding that happened
7 before the spillway?

8 A. It's a lot more, a lot more water
9 coming down through the creek and after '97 and
10 compared before '97 didn't have near the water
11 coming down.

12 Q. Does it flood a larger area?

13 A. Yes.

14 Q. Does it stay flooded for longer?

15 A. Yes.

16 Q. Is the water deeper?

17 A. Yes.

18 Q. Does it affect the crops more
19 severely?

20 A. Yes.

21 Q. Okay. And you said that you did
22 see your property when it was flooded in 2003,
23 right?

24 A. Yes.

25 Q. Did you see anyone else on your

1 | property in 2003?

2 | A. Please?

3 | Q. Did you --

4 | A. Say again.

5 | Q. Did you ever see anyone else on the
6 | property when it was flooded in 2003, like on
7 | boats or anything like that?

8 | A. Well, my step-son lives along Meyer
9 | Road adjacent to our property, and he has keeping
10 | from getting his basement flooded was trash pumps
11 | and things of that nature, so we stayed there to
12 | help take care of that, and he got pretty fed up
13 | with it, and he, I could see he was under a lot of
14 | stress, so he took a jet ski out on his front yard
15 | and drove it across the fields.

16 | Q. Can you usually drive a jet ski
17 | across that part of land?

18 | A. No.

19 | Q. Okay. Who is in charge of the crop
20 | insurance for Z-Farms?

21 | A. Vollmer is the last name, it's
22 | Multi-Peril Crop Insurance out of --

23 | Q. Okay. Who at Z-Farms is in charge
24 | of handling the crop insurance?

25 | A. Both my brother and I.

1 MS. BREWER: Okay. That's all I
2 have.

3 MR. MARTIN: Just a follow-up on
4 that.

5 RECROSS-EXAMINATION

6 BY MR. MARTIN:

7 Q. Does the flooding fluctuate with
8 the amount of rain that you have here?

9 MS. BREWER: Objection.

10 A. Yes.

11 Q. Do you recall in 2003 if there was
12 large amount of rain during that period of July of
13 '03?

14 A. Yes.

15 Q. Do you recall if there was a period
16 of time when there was flooding in the Celina area
17 generally in 2003 --

18 A. No.

19 Q. -- in July? You don't recall in July
20 2003 if there was floods all around the area?

21 MS. BREWER: Objection.

22 A. Well, no, I don't.

23 Q. Okay. Do you know if the St.
24 Mary's River flooded in July of '03?

25 MS. BREWER: Objection.

1 A. It probably did.

2 MR. MARTIN: No other questions.

3 MS. BREWER: And like a Ping-Pong
4 ball, I have a couple of questions.

5 REDIRECT EXAMINATION

6 BY MS. BREWER:

7 Q. Did you ever have heavy rain before
8 1997?

9 A. Yes.

10 Q. And did your property ever flood
11 before 1997 like it did in 2003?

12 A. No.

13 Q. And why do you think it flooded
14 like it did in 2003 and since 1997?

15 A. You got a spillway that's probably
16 10 times bigger than the old spillway that was in
17 there, and if you got a 39 foot spillway and a
18 foot of water is coming over it, then you make
19 that 10 times bigger. That's like a 50 foot wall
20 of water coming down towards you; stack them on
21 top of each other. I don't know what else to say
22 about it.

23 MS. BREWER: Okay. That's all I
24 have.

25 MR. MARTIN: I'll stop.

1 MS. BREWER: Are you sure?

2 MR. MARTIN: I'll stop, yes.

3 MS. BREWER: Okay. Mr. Zumberge,
4 you have the right to read and review
5 the transcript of the conversation we
6 had today. If the other side chooses to
7 order a copy, I recommend to all my
8 clients that they do take the
9 opportunity to look over it and insure
10 that everything they said was correct
11 and truthful. Would you like to do
12 that?

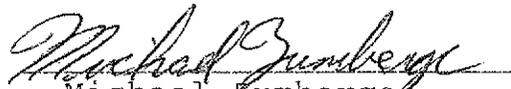
13 MR. ZUMBERGE: Yes.

14 MS. BREWER: Okay.

15 MR. MARTIN: All right. Well,
16 we're done today and thank you for your
17 time.

18

19


Michael Zumberge

20

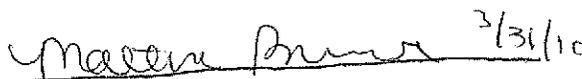
21

(At 1:08 p.m., the deposition concluded)

22

23

24

 3/31/10

25

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

ERRATA SHEET

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I, Mike Zumberge, 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 31 day of March, 2010.

PAGE LINE CORRECTION OR CHANGE AND REASON:

15 20 change every to ~~ever~~ ever

23 12 change was to were

44 9 insert all after and

25 17 change is to its

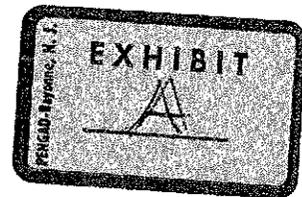
C E R T I F I C A T E

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 MICHAEL ZUMBERGE
9 was by me first duly sworn to depose the truth,
10 the whole truth, and nothing but the truth, that
11 the foregoing is the deposition given at said time
12 and place by said MICHAEL ZUMBERGE; that said
13 deposition was taken in all respects pursuant to
14 agreement and stipulations of counsel hereinbefore
15 set 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 28th day of
23 March, 2010.

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



AFFIDAVIT OF MICHAEL ZUMBERGE

STATE OF OHIO)
) ss:
COUNTY OF MERCER)

My name is Michael Zumberge. 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 the President of Z-Farms, Inc., a corporation organized under the laws of the state of Ohio ("Z-Farms"). Z-Farms is 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, Z-Farms is an owner of real estate described as Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000.
3. Z-Farms has owned since 1988 Mercer County Parcel Number 26-051400.0000.
4. Z-Farms has owned since 1976 Mercer County Parcel Number 26-049500.0000.
5. Beaver Creek cuts through Mercer County Parcel Number 26-049500.0000.
6. Mercer County Parcel Number 26-051400.0000 lies near the Beaver Creek.
7. 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 26-051400.0000 and 26-049500.0000 have been subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Mary's.
8. Specifically, as a result of ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Numbers 26-051400.0000 and 26-

DON000764

049500.0000 have flooded almost every year, and some years they have flooded several times. On each occasion, 26-051400.0000 and 26-049500.0000 were inundated with water at depths varying from approximately two to eight feet.

9. Since ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000 flood more rapidly and remains flooded for longer periods of time. On each occasion of flooding, Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000 remained inundated with water for a period of up to three to four weeks.

10. Prior to ODNR's replacement of the western spillway and its current management practices, Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000 had less frequent flooding, never flooded as much, never flooded over as large an area, never flooded for as long.

11. To date, the most invasive flood occurred in 2003 with approximately 72 acres of Mercer County Parcel Number 26-049500.0000 being flooded with approximately up to eight feet of water for approximately up to three to four weeks. A true and accurate copy of a black and white aerial from the Mercer County Auditor's website of Mercer County Parcel Number 26-049500.0000 is attached hereto as Exhibit 1. I have shaded in the area of the parcel that was flooded in 2003.

12. To date, the most invasive flood occurred in 2003 with approximately 6 acres of Mercer County Parcel Number 26-051400.0000 being flooded with approximately up to eight feet of water for approximately up to three to four weeks. A true and accurate copy of a black and white aerial from the Mercer County Auditor's website of Mercer County Parcel Number

26-051400.0000 is attached hereto as Exhibit 2. I have shaded in the area of the parcel that was flooded in 2003.

13. Attached hereto as Exhibit 3 are photographs that truly and accurately depict the flooding of Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000 in 2003 several days after the flooding had taken place.

14. Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000 also experienced severe flooding in 2005.

15. Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000 were again flooded as recently as spring 2009.

16. As a direct result of the flooding, Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000 have suffered damage in the form of crop losses, bank erosion, the deposit of silt, sand, stones and other debris, and soil compaction.

17. The flooding caused by ODNR has substantially destroyed the value of Mercer County Parcel Numbers 26-051400.0000 and 26-049500.0000.

18. 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.


Michael Zamberge

Sworn in my presence and subscribed before me this 12th day of December, 2009.


Notary Public

RITA K SUHR
Notary Public • State of Ohio
My Commission Expires May 13, 2011
Recorded in Mercer County

EXHIBIT 1
TO
AFFIDAVIT OF MICHAEL ZUMBERGE

DON000767

Mercer County Ohio



Legend

Administrative

- Townships
- Neighborhoods

Parcels

- Parcels

Transportation

- State Highways
- US Highways

Water

- Lake
- Streams

Scale: 1:6,372



1800 ft. 1200 600

Map center: 1386182, 323208

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.

Z Farms, Inc. aka Z - Farms, Inc.
 6345 Meyer Rd.
 Parcel No.: 26-049500.0000 - 80 acres

EXHIBIT 2
TO
AFFIDAVIT OF MICHAEL ZUMBERGE

| DON000769 |

tabbles



Legend

Administrative

- Townships
- Neighborhoods

Parcels

- Parcels

Transportation

- State Highways
- US Highways

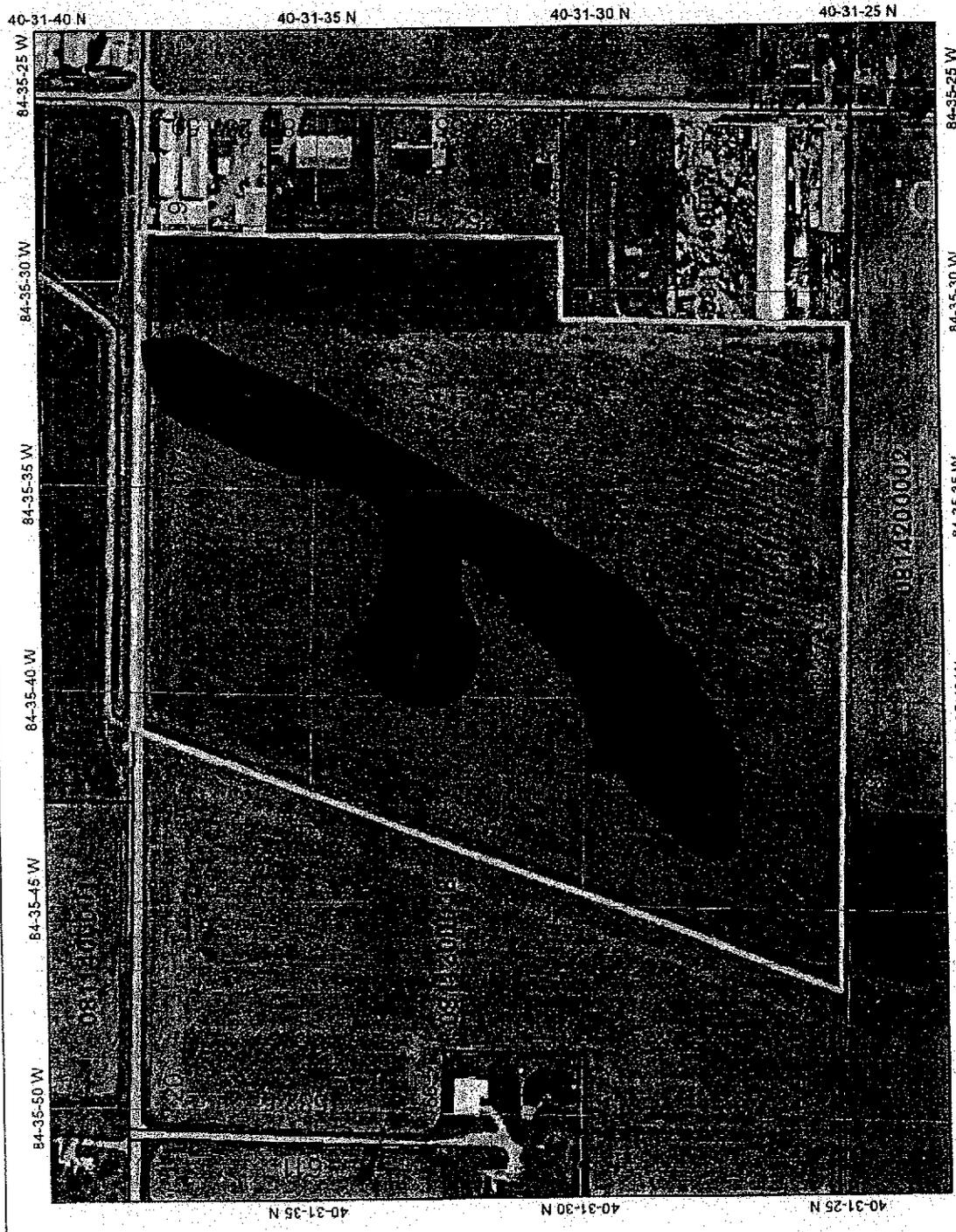
Water

- Lake
- Streams



Scale: 1:3,596

Mercer County Ohio



Map center: 1386469, 319866

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.

Z Farms, Inc.
 -0- Monroe Rd.
 Parcel No.: 26-051400.0000 - 30.724 acres

EXHIBIT 3
TO
AFFIDAVIT OF MICHAEL ZUMBERGE

DON000771



EXHIBIT
tabbles® 3

DON000772



DON000773



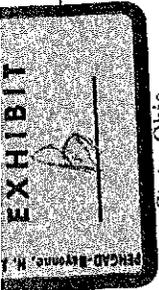
DON000774



DON000775



DON000776



Multiple Peril Crop Insurance Production Certification Worksheet

APH Yield Computation for the 2009 Crop Year

Great American Insurance Group
Peoria
1315 W. Commerce Drive
Peoria, IL 61615-1462

INSURED: CHARLES ZUMBERGE
6612 MEYER RD
CELINA, OH 45822

Entity Type: Individual
Identification Number: **REPAIRED**
 SSN EIN Assignment Number
Phone: (419) 586-6576
POA: None

AGENT: ROBERT G VOLLMER
SHELBY CROP INSURANCE INC.
1441 N LIBERTY CIRCLE E
GREENSBURG, IN 47240-8202

State: Ohio
Policy Number: 2009-OH-030-970686
Code No: 275660
Phone: (812) 653-6238
Fax: (812) 663-5645

Authorized Representative:		Unit, County & Crop:		Farm #:		Map Area:		Share:		Plant:	
Year	Production	Acres	Yield/Type #	Year	Production	Acres	Yield/Type #	Year	Production	Acres	Yield/Type #
1987	1,230.0	30.0	41 A	1986	0.0	0.0	70 T	1999			
2000	2,546.0	38.0	67 A	1997	860.0	15.0	44 A	2000			
2001	0.0	0.0	0 Z	2000	938.0	14.9	67 A	2001			
2002	1,008.0	16.0	60 A	2002	0.0	0.0	0 Z	2002			
2003	376.0	6.6	57 A	2003	0.0	0.0	0 Z	2003			
2004	0.0	0.0	0 Z	2004	1,820.0	28.0	65 A	2004			
2005	0.0	0.0	0 Z	2005	0.0	0.0	0 Z	2005			
2006	1,041.0	15.5	67 A	2006	0.0	0.0	0 Z	2006			
2007	1,311.0	21.0	62 A	2007	0.0	0.0	0 Z	2007			
2008	990.0	13.2	75 A	2008	0.0	0.0	0 Z	2008			
T Yield:		70	Total (of Yield History):	T Yield:		70	Total (of Yield History):	T Yield:			
Yield Limit:		None	Avg Yield:	Yield Limit:		None	Avg Yield:	Yield Limit:			
Prior APH Yield:		60	Preliminary Yield:	Prior APH Yield:		59	Preliminary Yield:	Prior APH Yield:			
Approved APH Yield (for insurance provider use only):		60	2009 Record Type:	Approved APH Yield (for insurance provider use only):		62	2009 Record Type:	Approved APH Yield (for insurance provider use only):			
2009 Production:		60	2009 Record Type:	2009 Production:		62	2009 Record Type:	2009 Production:			
Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review			Land Other County:	Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review			Land Other County:	Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review			
Record Types: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Processor Number/Name and/or Number of Trees or Vines:	Record Types: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Processor Number/Name and/or Number of Trees or Vines:	Record Types: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Other (Remarks):			Other (Remarks):	Other (Remarks):			Other (Remarks):	Other (Remarks):			
2009 Quote with 1,000 Share		2009 Quote with 1,000 Share		2009 Quote with 1,000 Share		2009 Quote with 1,000 Share		2009 Quote with 1,000 Share		2009 Quote with 1,000 Share	
Approv APH Yield	Lab	Price Per Acre	Total	Approv APH Yield	Lab	Price Per Acre	Total	Approv APH Yield	Lab	Price Per Acre	Total
62.75%	3.88	744	5,384	62.75%	3.88	744	5,384	62.75%	3.88	744	5,384
Intended Acres:		Intended Acres:		Intended Acres:		Intended Acres:		Intended Acres:		Intended Acres:	
62.75%		62.75%		62.75%		62.75%		62.75%		62.75%	

DON00232



Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-0310-970686
Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT) STATEMENT

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a): The Risk Management Agency (RMA) is authorized by the Federal Crop Insurance Act (7 U.S.C. 1501-1524) or other Acts, and the regulations promulgated thereunder, to solicit the information requested on documents established by RMA or by approved insurance providers (AIPs) that have been approved by the Federal Crop Insurance Corporation (FCIC) to deliver Federal crop insurance. The information is necessary for AIPs and RMA to operate the Federal crop insurance program, determine program eligibility, conduct statistical analysis, and ensure program integrity. Information provided herein may be furnished to other Federal, State, or local agencies, as required or permitted by law, law enforcement agencies, courts or adjudicative bodies, foreign agencies, magistrate, administrative tribunal, AIPs contractors and cooperators, Comprehensive Information Management System (CIMS), congressional offices, or entities under contract with RMA. For insurance agents, certain information may also be disclosed to the public to assist interested individuals in locating agents in a particular area. Disclosure of the information requested is voluntary. However, failure to correctly report the requested information may result in the rejection of this document by the AIP or RMA in accordance with the Standard Reinsurance Agreement between the AIP and FCIC. Federal regulations, or RMA-approved procedures and the denial of program eligibility or benefits derived therefrom. Also, failure to provide true and correct information may result in civil suit or criminal prosecution and the assessment of penalties or pursuit of other remedies.

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

CERTIFICATION STATEMENT

To file a complaint of discrimination, write to: USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

I understand this form may be reviewed or audited and that information inaccurately reported or failure to retain records to support information on this form may result in a recomputation of the approved APH yield.

I certify that to the best of my knowledge and belief all of the information on this form is correct. I also understand that failure to report completely and accurately may result in sanctions under my policy, including but not limited to voidance of the policy, and in criminal or civil penalties (18 U.S.C. §1006 and §1014; 7 U.S.C. § 1506; 31 U.S.C. §3729, §3730 and any other applicable federal statutes).

CHARLES ZUMBERGE

(Insured's Signature)

(Date)

ROBERT G VOLLMER

(Agent's Signature)

(Date)

(Agent's Code)

DON002233



Multiple Peril Crop Insurance Production Certification Worksheet

APH Yield Computation for the 2009 Crop Year

State: Ohio
Policy Number: 2009-OH-030-970688

Code No: 275660
Phone: (812) 663-6258
Fax: (812) 663-5665

Great American Insurance Group
Peoria
1315 W. Commerce Drive
Peoria, IL 61615-1462

INSURED: Z-FARMS INC
C/O MICHAEL/CHARLES ZUMBERGE
6612 MEYER RD
CELINA, OH 45822

AGENT: ROBERT G VOLLMEYER
SHELBY CROP INSURANCE INC.
1441 N LIBERTY CIRCLE E
GREENSBURG, IN 47240-8202

Entity Type: Corporation
Identification Number: **REDACTED**
 SSN EIN Assigned Number
Phone: (419) 586-2643
POA: None

Authorized Representative:		Unit 00101 - Mercer County Wheat (W) (NTS)		Unit 00102 - Mercer County Wheat (W) (NTS)		Unit 00103 - Mercer County Wheat (W) (NTS)		Unit 00104 - Mercer County Wheat (W) (NTS)			
1	2	3	4	5	6	7	8	9	10		
Farm #: 2910 - JACKSON/HOME FARM Acres: 1.003 Plan: CRC(44)		Farm #: 3970 - MULTIPLE Acres: 0.0 Plan: CRC(44)		Farm #: 3909 - CORNER FARM Acres: 1.000 Plan: CRC(44)		Farm #: 3909 - CORNER FARM Acres: 1.000 Plan: CRC(44)		Farm #: 3909 - CORNER FARM Acres: 1.000 Plan: CRC(44)			
Other Entity(ies): Section/Township/Range or Other Land Identifier: 1-6S-2E		Other Entity(ies): Section/Township/Range or Other Land Identifier: 3143E-6S-2E		Other Entity(ies): Section/Township/Range or Other Land Identifier: 314E11-6S-2E / 4209		Other Entity(ies): Section/Township/Range or Other Land Identifier: 3591012-6S-2E		Other Entity(ies): Section/Township/Range or Other Land Identifier:			
Year	Production	Acres	Yield/Type #	Year	Production	Acres	Yield/Type #	Year	Production	Acres	Yield/Type #
1994	2,700.0	36.0	75 A	1993	2,278.0	34.0	67 A	1982	1,194.0	18.0	69 A
1995	2,470.0	38.0	65 A	2000	0.0	0.0	0 Z	2000	1,340.0	20.0	67 A
1996	138.0	34.4	4 A	2001	2,402.0	30.0	80 A	2001	1,600.0	20.0	80 A
1998	1,940.0	20.0	87 A	2002	590.0	10.0	58 A	2002	580.0	10.0	58 A
1999	2,970.0	30.0	80 A	2003	1,050.0	15.0	70 A	2003	0.0	0.0	0 Z
2000	3,780.0	6.0	58 A	2004	4,077.7	44.0	93 A	2005	558.0	8.0	70 A
2002	342.0	6.0	70 A	2005	1,284.0	18.5	69 A	2006	1,950.0	23.0	70 A
2003	414.0	6.0	68 A	2006	312.9	22.8	14 A	2007	0.0	0.0	0 Z
2004	250.0	5.5	55 A	2007	243.0	3.0	81 A	2008	0.0	0.0	0 Z
2008	3,380.0	40.0	45 A	2008	0.0	0.0	0 Z				
T Yield: 70		Total (of Yield History): 608		T Yield: 70		Total (of Yield History): 593		T Yield: 70		Total (of Yield History): 414	
Yield Limit: None		Avg Yield: 61		Yield Limit: None		Avg Yield: 66		Yield Limit: None		Avg Yield: 69	
Prior APH Yield: 53		Preliminary Yield: 61		Prior APH Yield: 65		Preliminary Yield: 66		Prior APH Yield: 69		Preliminary Yield: 69	
Approved APH Yield (for insurance provider use only): 61		Approved APH Yield (for insurance provider use only): 59		Approved APH Yield (for insurance provider use only): 66		Approved APH Yield (for insurance provider use only): 66		Approved APH Yield (for insurance provider use only): 66		Approved APH Yield (for insurance provider use only): 69	
2009 Production		2009 Record Type		2009 Production		2009 Record Type		2009 Production		2009 Record Type	
Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review		Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review		Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review		Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:	
Other (Remarks):		Other (Remarks):		Other (Remarks):		Other (Remarks):		Other (Remarks):		Other (Remarks):	
2009 Quota with 1,000 Share		2009 Quota with 1,000 Share		2009 Quota with 1,000 Share		2009 Quota with 1,000 Share		2009 Quota with 1,000 Share		2009 Quota with 1,000 Share	
APH Yield	Price	Per Acre	Total	APH Yield	Price	Per Acre	Total	APH Yield	Price	Per Acre	Total
61.75%	8.55	0	0	65.75%	9.68	0	0	69.75%	8.93	1,347	11,557
Intended Acres:		Intended Acres:		Intended Acres:		Intended Acres:		Intended Acres:		Intended Acres:	
0		0		0		0		0		0	

Yield Type: Actual Yield, Zero Acres Pooled:



DON002234

Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-030-970688

Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT) STATEMENT

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NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

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CERTIFICATION STATEMENT

I understand this form may be reviewed or audited and that information inaccurately reported or failure to retain records to support information on this form may result in a recomputation of the approved APH yield.

I certify that to the best of my knowledge and belief all of the information on this form is correct. I also understand that failure to report completely and accurately may result in sanctions under my policy, including but not limited to voidance of the policy, and in criminal or civil penalties (18 U.S.C. §1006 and §1014; 7 U.S.C. §1506; 31 U.S.C. §3729, §3730 and any other applicable federal statutes).

Z-FARMS INC
(Insured's Signature) _____ (Agent's Signature) _____
_____ (Date) _____ (Date) _____
_____ (Agent's Code)

ROBERT G VOLLMER

DON002235



Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-030-961163

Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT) STATEMENT

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CERTIFICATION STATEMENT

I understand this form may be reviewed or audited and that information inaccurately reported or failure to retain records to support information on this form may result in a recomputation of the approved APH yield. I certify that to the best of my knowledge and belief all of the information on this form is correct. I also understand that failure to report completely and accurately may result in sanctions under my policy, including but not limited to voidance of the policy, and in criminal or civil penalties (18 U.S.C. § 1006 and § 1014; 7 U.S.C. § 1506; 31 U.S.C. § 3729, § 3730 and any other applicable federal statutes).

MICHAEL ZUMBERGE (Insured's Signature) _____ ROBERT G VOLLMER (Agent's Signature) _____

(Date)

(Date)

(Agent's Code)

DON002237



Multiple Peril Crop Insurance Production Certification Worksheet

APH Yield Computation for the 2009 Crop Year

Great American Insurance Group
Peoria
1315 W. Commerce Drive
Peoria, IL 61615-1462

State: Ohio
Policy Number: 2009-OH-030-970687

INSURED: MICHAEL ZUMBERGE
6612 MEYER RD
CELINA, OH 45822

AGENT: ROBERT G VOLLMER
SHELBY CROP INSURANCE INC.
1441 N LIBERTY CIRCLE E
GREENSBURG, IN 47240-8202

Entity Type: Spousal/Married
Identification Number: **REDACTED**
 SSN EIN Assigned Number
Phone: (419) 586-5071
POA: None

Code No: 275660
Phone: (812) 663-6258
Fax: (812) 663-5645

Authorized Representative:

1 -	2 -	3 -	4 -
Unit, County & Crop:	Unit, County & Crop:	Unit, County & Crop:	Unit, County & Crop:
Unit: 00101 - Mercer County, Wheat (W) (NTS) Farm #: 4210 - McDONALD FARM Practice: Non-irrigated Type / Variety: NTS Shares: 1,000 Plan: CRC(44) Othr Shr: Acres: 0.0 Section/Township/Range or Other Land Identifier: JEFFERSON TWP-2-6S-2E	Unit: 00101 - Mercer County, Wheat (W) (NTS) Farm #: 1446 - MCGEE/JEFFERSON TWP Practice: Non-irrigated Type / Variety: NTS Shares: 1,000 Plan: CRC(44) Othr Shr: Acres: 0.0 Section/Township/Range or Other Land Identifier: 11-6S-2E	Unit, County & Crop: Farm #: _____ Practice: _____ Othr Shr: _____ Acres: _____ Section/Township/Range or Other Land Identifier: _____	Unit, County & Crop: Farm #: _____ Practice: _____ Othr Shr: _____ Acres: _____ Section/Township/Range or Other Land Identifier: _____

Year	Production	Acres	Yield/Type #	2009 Production		2009 Record Type		T Yield:	Total (of Yield History):	Avg Yield:	Preliminary Yield:	Yield Limit:	Prior APH Yield:	Approved APH Yield (for insurance provider use only):
				Acres	Yield/Type #	Acres	Yield/Type #							
1997	1,320.0	30.0	44 A	70	60	60	60	70	520	55	65	65	65	65
1998	1,105.0	14.0	79 A	None	None	None	None	70	520	55	65	65	65	65
1999	1,541.0	23.0	61 A	65	65	65	65	70	520	55	65	65	65	65
2000	2,193.0	27.0	79 A	65	65	65	65	70	520	55	65	65	65	65
2001	1,600.0	20.0	80 A	65	65	65	65	70	520	55	65	65	65	65
2002	860.0	15.0	80 A	65	65	65	65	70	520	55	65	65	65	65
2004	1,632.0	25.1	55 A	65	65	65	65	70	520	55	65	65	65	65
2006	1,035.0	15.0	89 A	65	65	65	65	70	520	55	65	65	65	65
2007	0.0	0.0	0 Z	65	65	65	65	70	520	55	65	65	65	65
2008	566.0	12.1	72 A	65	65	65	65	70	520	55	65	65	65	65

2009 Production: Acres: _____

Required: Inspection Field Review Field Review
 Record Types: Land Other County: Yes No
 Processor Number/Name and/or Number of Trees or Vines: _____

2009 Record Type: Acres: _____

Required: Inspection Field Review Field Review
 Record Types: Land Other County: Yes No
 Processor Number/Name and/or Number of Trees or Vines: _____

Other (Remarks): _____

Record Type	Price	Per Acre	Total	2009 Quote with 1,000 Share		2009 Quote with 1,000 Share	
				Acres	Yield	Acres	Yield
ES 75%	8.58	0	0	65	65	65	65
ES 75%	437.55	51.0	42,278	65	65	65	65
ES 75%	418.70	48.6	4,187.0	65	65	65	65
ES 75%	0	0	0	65	65	65	65
ES 75%	0	0	0	65	65	65	65

Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-030-970687
Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

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MICHAEL ZUMBERGE (Insured's Signature) ROBERT G VOLLMER (Agent's Signature) (Date) (Date) (Agent's Code)

DON002239





RURAL COMMUNITY INSURANCE SERVICES®
Production and Yield Worksheet/Report

INSURED INFORMATION				AGENT/AGENCY INFORMATION				CROP YEAR		POLICY NUMBER																																																																																																																																																			
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RURAL COMMUNITY INSURANCE SERVICES®
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RECORD TYPE: 1. Production Sold/Commercial Storage 2. On Farm Storage, Recorded Bin Measurement 3. Livestock Feeding Record, 4. FSA Loan Record, 5. Appraisals 6. Other
 I certify that to the best of my knowledge and belief all of the information on this form is correct. I understand this form may be reviewed or audited and that information inaccurately reported or failure to retain records to support information on this form may result in a recomputation of the approved APH yield. I also understand that failure to report completely and accurately may result in sanctions under my policy, including but not limited to voidance of the policy, and in criminal or civil penalties (16 U.S.C. §1006 and §1014; 7 U.S.C. §1506 U.S.C. §3729, §3730 and any other applicable federal statutes).
 See attached form for statements required by Privacy Act of 1974.

INSURED'S SIGNATURE _____

 Page 3 of 3

DON002242
 DATE _____

RURAL COMMUNITY INSURANCE SERVICES®
Production and Yield Report Worksheet



INSURED INFORMATION		AGENT / AGENCY INFORMATION		CROP YEAR		POLICY NUMBER	
Z FARMS INC %CHARLES ZUMBERGE 6612 MEYER RD CELINA, OH 45822		AMERICAN AGRICULTURAL ASSETS LLC MATTHEW B VANTILBURG 8398 CELINA MENDON RD CELINA, OH 45822		2003		OH-951-179431	
(419) 586-2643		(419) 586-3077		OH		OHIO	
		34-3021 01		OH		OHIO	
				107		MERCER	

INSTRUCTIONS: PLEASE PROVIDE 2002 TOTAL PRODUCTION AMOUNTS

CROP / PLAN	TYPE	PRAC	LAND DESCRIPTION			UNIT / MAP AREA	PRODUCTION	PLANTED ACRES	YIELD PER ACRE	FARM NAME	SHAREHOLDER NAME	RECORD TYPE**
			SEC	TWP	RNG							
WHEAT - CRC		NIRR	1 *	005S	002E	001-01 00	0.0	0.0	0.0			
WHEAT - CRC		NIRR	2	005S	002E	001-02 00	2,850.3	45.0	63.0			
WHEAT - CRC		NIRR	11 *	005S	002E	001-03 00	2,020.1	35.0	58.0			
WHEAT - CRC		NIRR	12	005S	002E	001-04 00	404.0	8.0	51.0			
CORN - CRC	GRAN	NIRR	1	006S	002E	001-01 00	3,470.9	65.0	53.0			
CORN - CRC	GRAN	NIRR	2 *	006S	002E	001-02 00	4,127.4	89.0	60.0	MULTIPLE		
CORN - CRC	GRAN	NIRR	11 *	006S	002E	001-03 00	3,911.4	80.0	49.0	Z FARMS/PAX		
CORN - CRC	GRAN	NIRR	2	006S	002E	001-04 00	0.0	0.0	0.0			
SBEAN - CRC		NFACN	1	006S	002E	001-01 00	192.6	5.0	39.0			
SBEAN - CRC		NFACN	2 *	006S	002E	001-02 00	1,003.5	21.0	48.0			
SBEAN - CRC		NFACN	11 *	006S	002E	001-03 00	6,134.7	223.0	28.0	ZFARMS/PAX		
SBEAN - CRC		NFACN	12	006S	002E	001-04 00	4,618.8	90.0	51.0	JZUMBERGE		

DON002243

I certify that to the best of my knowledge and belief all of the information on this form is correct. I understand this form may be reviewed or audited and that information inaccurately reported or failure to retain records to support information on this form may result in a recomputation of the approved APH yield. I also understand that failure to report completely and accurately may result in sanctions under my policy, including but not limited to voidance of the policy, and in criminal or civil penalties (18 U.S.C. § 1006 and §1014; 7 U.S.C. § 1506; 31 U.S.C. § 3729, §3730 and any other applicable federal statutes).

See attached form for statements required by Privacy Act of 1974.

INSURED'S SIGNATURE _____ DATE _____

Multiple Peril Crop Insurance Production Certification Worksheet

APH Yield Computation for the 2009 Crop Year

State: Ohio
Policy Number: 2009-OH-030-961162
Code No: 275660
Phone: (812) 663-6258
Fax: (812) 663-5645

Entity Type: Corporate
Identification Number: [REDACTED]
 SSN EIN Assigned Number
Phone: (419) 386-2643
POA: None

INSURED: Z-FARMS INC
C/O MICHAEL/CHARLES ZUMBERGE
6612 MEYER RD
CELINA, OH 45822

AGENT: ROBERT G VOLLMIER
SHELBY CROP INSURANCE INC.
1441 N LIBERTY CIRCLE E
GREENSBURG, IN 47240-8202

Authorized Representative:		Unit 00101 - Mercer County Corn (N) (GSG)		Unit 00102 - Mercer County Corn (N) (GSG)		Unit 00104 - Mercer County Corn (N) (GSG)	
Form #	Map Area	Form #	Map Area	Form #	Map Area	Form #	Map Area
3910 - JACKSON'S HOME FARM	1,000	3910 - CORNER FARM	1,000	3909 - CORNER FARM	1,000	3909 - CORNER FARM	1,000
Practice: Non-Irrigated	Type / Variety: Grain	Practice: Non-Irrigated	Type / Variety: Grain	Practice: Non-Irrigated	Type / Variety: Grain	Practice: Non-Irrigated	Type / Variety: Grain
Other Shrs:	Other Entity(ies):	Other Shrs:	Other Entity(ies):	Other Shrs:	Other Entity(ies):	Other Shrs:	Other Entity(ies):
Acres: 38.6	Section/Township/Range or Other Land Identifier: 31452-6S-2E / 4920	Acres: 0.0	Section/Township/Range or Other Land Identifier: 31452-6S-2E / 4920	Acres: 0.0	Section/Township/Range or Other Land Identifier: 31452-6S-2E / 4920	Acres: 0.0	Section/Township/Range or Other Land Identifier: 31452-6S-2E / 4920
1-6S-2E		1-6S-2E		1-6S-2E		1-6S-2E	
Year	Production	Acres	Yield/Type #	Year	Production	Acres	Yield/Type #
1998	4,840.0	40.0	121 A	1998	28,805.0	155.0	187 A
1999	1,180.0	8.0	145 A	1999	12,690.0	90.0	130 A
2000	6,302.0	46.0	117 A	2000	21,452.0	124.0	117 A
2001	9,010.0	53.0	170 A	2001	3,920.0	80.0	162 A
2002	8,750.0	5.0	175 A	2002	13,959.6	128.1	111 A
2003	3,445.0	65.0	53 A	2003	7,790.0	38.0	165 A
2004	12,980.0	59.0	220 A	2004	20,710.0	108.0	180 A
2005	552.4	5.0	110 A	2005	5,359.0	31.7	175 A
2006	11,700.0	65.0	170 A	2006	23,257.5	132.9	175 A
2008	5,185.0	30.5	170 A	2008	5,814.0	32.3	180 A
T Yield:		126	Total (of Yield History): 1,481	T Yield:		126	Total (of Yield History): 1,563
Yield Limit: None			Avg Yield: 148	Yield Limit: None			Avg Yield: 156
Preliminary Yield: 148				Preliminary Yield: 156			
Prior APH Yield:		148		Prior APH Yield:		152	
Approved APH Yield (for insurance provider use only):		148		Approved APH Yield (for insurance provider use only):		150	
2009 Production		2009 Record Type		2009 Production		2009 Record Type	
Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review		Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review		Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:		Processor Number/Name and/or Number of Trees or Vines:	
Other (Remarks):		Other (Remarks):		Other (Remarks):		Other (Remarks):	
2009 Quote with 1,000 Share		2009 Quote with 1,000 Share		2009 Quote with 1,000 Share		2009 Quote with 1,000 Share	
APH Yield	Per Acre	Quota	Lab	Per Acre	Quota	Lab	Per Acre
148.60%	4.04	4,570	15,460	155.25%	4.04	13,728	55,461
Total			\$1,329.00	Total			\$3,886.00
Intended Acres:		Intended Acres:		Intended Acres:		Intended Acres:	

2009 APH Yield, Z-200 Acres Placed:
DON002244



Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-030-961162
Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

Unit #	Unit Name	Map Area	Map Area	Map Area	Map Area
6	Unit #0102 - Mercer County Soybeans (NFAC-NI) (NTS)	3310 - MULTIPLE	3310 - MULTIPLE	3310 - MULTIPLE	3310 - MULTIPLE
7	Unit #0103 - Mercer County Soybeans (NFAC-NI) (NTS)	CORNER FARM	CORNER FARM	CORNER FARM	CORNER FARM
8	Unit #0104 - Mercer County Soybeans (NFAC-NI) (NTS)	CORNER FARM	CORNER FARM	CORNER FARM	CORNER FARM
6	314512-6S-2E / 4523	Acres: 3.0	Other Entity(ies): Section/Township/Range or Other Land Identifier	314512-6S-2E / 4523	314512-6S-2E / 4523
7	314511-6S-2E / 4208	Acres: 35.5	Other Entity(ies): Section/Township/Range or Other Land Identifier	314511-6S-2E / 4208	314511-6S-2E / 4208
8	391012-6S-2E	Acres: 63.0	Other Entity(ies): Section/Township/Range or Other Land Identifier	391012-6S-2E	391012-6S-2E

Year	Production	Acres	Yield/Type #	Added Land P/T/V	Yield/Type #
1997	3,793.0	55.4	58 A		58 A
1998	205.4	9.4	22 A		22 A
1999	3,288.0	55.0	51 A		51 A
2000	248.0	8.0	31 A		31 A
2001	5,565.0	65.0	61 A		61 A
2002	192.5	5.0	35 A		35 A
2003	2,282.1	65.4	35 A		35 A
2004	217.0	5.0	43 A		43 A
2005	3,120.0	65.0	48 A		48 A
2006	247.5	5.5	45 A		45 A
T Yield:		43	Total (of Yield History):	433	
Yield Limit: None			Avg Yield:	43	
Prior APH Yield:		43	Preliminary Yield:	43	
Approved APH Yield (for insurance provider use only):		43			
2009 Production					
Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review					
Record Types: Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Processor Number/Name and/or Number of Trees or Vines:					
Other (Remarks):					
2009 Quota with 1,000 Share					
APH Yield	37.8%	8.80	Total	37.8%	8.80
Lib	321.00	321.00	321.00	321.00	321.00
Plan	3177.00	3177.00	3177.00	3177.00	3177.00
Intended Acres:					

Year	Production	Acres	Yield/Type #	Added Land P/T/V	Yield/Type #
1999	4,841.3	126.7	39 A		39 A
2000	8,337.7	193.9	43 A		43 A
2001	6,327.0	111.0	57 A		57 A
2002	6,244.0	223.0	28 A		28 A
2003	2,879.8	129.3	22 A		22 A
2004	7,022.0	114.0	62 A		62 A
2005	946.0	19.0	50 A		50 A
2006	5,083.7	117.9	43 A		43 A
2007	177.0	3.0	59 A		59 A
2008	5,036.0	136.5	37 A		37 A
T Yield:		43	Total (of Yield History):	440	
Yield Limit: None			Avg Yield:	44	
Prior APH Yield:		43	Preliminary Yield:	44	
Approved APH Yield (for insurance provider use only):		43			
2009 Production					
Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review					
Record Types: Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Processor Number/Name and/or Number of Trees or Vines:					
Other (Remarks):					
2009 Quota with 1,000 Share					
APH Yield	44.86%	8.89	Total	44.86%	8.89
Lib	3,093.85	3,093.85	3,093.85	3,093.85	3,093.85
Plan	585.00	585.00	585.00	585.00	585.00
Intended Acres:					

Year	Production	Acres	Yield/Type #	Added Land P/T/V	Yield/Type #
1998	3,104.2	91.3	34 A		34 A
1999	4,598.0	116.0	43 A		43 A
2000	4,848.0	101.0	45 A		45 A
2001	4,800.0	96.0	50 A		50 A
2002	1,008.0	21.0	48 A		48 A
2003	2,239.9	109.9	20 A		20 A
2004	986.0	8.0	50 A		50 A
2005	200.0	7.0	28 A		28 A
2007	87.0	3.0	32 A		32 A
2008	58.9	3.1	19 A		19 A
T Yield:		43	Total (of Yield History):	373	
Yield Limit: None			Avg Yield:	37	
Prior APH Yield:		41	Preliminary Yield:	37	
Approved APH Yield (for insurance provider use only):		37			
2009 Production					
Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review					
Record Types: Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Processor Number/Name and/or Number of Trees or Vines:					
Other (Remarks):					
2009 Quota with 1,000 Share					
APH Yield	37.89%	8.80	Total	37.89%	8.80
Lib	251.00	251.00	251.00	251.00	251.00
Plan	372.00	372.00	372.00	372.00	372.00
Intended Acres:					

DON002245

Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-030-961162 Z-FARMS INC.
Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

Farm #:		Unit, County & Crops:		Farm #:		Unit, County & Crops:	
Practice:		Type / Variety:		Practice:		Type / Variety:	
Other Shr.:		Other Entity(ies):		Other Shr.:		Other Entity(ies):	
Acres:		Section/Township/Range or Other Land Identifier:		Acres:		Section/Township/Range or Other Land Identifier:	
391912-55-2E		391912-55-2E		391912-55-2E		391912-55-2E	
Year	Production	Acres	Yield/Type #	Year	Production	Acres	Yield/Type #
1999				1999			
2000				2000			
2001				2001			
2002				2002			
2003				2003			
2004				2004			
2005				2005			
2006				2006			
2007	400.0	20.0	20 A	2007			
2008	0.0	0.0	0 Z	2008			
T Yield:		Total (of Yield History):		T Yield:		Total (of Yield History):	
		20				20	
Yield Limit:		Avg Yield:		Yield Limit:		Avg Yield:	
None		Preliminary Yield:		None		Preliminary Yield:	
Prior APH Yield:		Approved APH Yield (for insurance provider use only):		Prior APH Yield:		Approved APH Yield (for insurance provider use only):	
0		0		0		0	
2009 Production				2009 Record Type			
Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review				Required: <input type="checkbox"/> Inspection <input type="checkbox"/> Field Review			
Record Types: <input type="checkbox"/> Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				Record Types: <input type="checkbox"/> Land Other County: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Processor Number/Name and/or Number of Trees or Vines:				Processor Number/Name and/or Number of Trees or Vines:			
Other (Remarks):				Other (Remarks):			
2009 Quota with 1,000 Share				2009 Quota with 1,000 Share			
Quota	Libb	#/A	Pctm	Quota	Libb	#/A	Pctm
0.0		0	\$400	0.0		0	\$400
Price Per Acre	Total	#/A	Total	Price Per Acre	Total	#/A	Total
0	0	0	0	0	0	0	0
Intended Acres:				Intended Acres:			
0				0			

DON002246



Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-030-961162

Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT) STATEMENT

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a): The Risk Management Agency (RMA) is authorized by the Federal Crop Insurance Act (7 U.S.C. 1501-1524) or other Acts, and the regulations promulgated thereunder, to solicit the information requested on documents established by RMA or by approved insurance providers (AIPs) that have been approved by the Federal Crop Insurance Corporation (FCIC) to deliver Federal crop insurance. The information is necessary for AIPs and RMA to operate the Federal crop insurance program, determine program eligibility, conduct statistical analysis, and ensure program integrity. Information provided herein may be furnished to other Federal, State, or local agencies, as required or permitted by law, law enforcement agencies, courts or adjudicative bodies, foreign agencies, magistrate, administrative tribunal, AIPs contractors and cooperators, Comprehensive Information Management System (CIMS), congressional offices, or entities under contract with RMA. For insurance agents, certain information may also be disclosed to the public to assist interested individuals in locating agents in a particular area. Disclosure of the information requested is voluntary. However, failure to correctly report the requested information may result in the rejection of this document by the AIP or RMA in accordance with the Standard Reinsurance Agreement between the AIP and FCIC, Federal regulations, or RMA-approved procedures and the denial of program eligibility or benefits derived therefrom. Also, failure to provide true and correct information may result in civil suit or criminal prosecution and the assessment of penalties or pursuit of other remedies.

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write to: USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6392 (TDD). USDA is an equal opportunity provider and employer.

CERTIFICATION STATEMENT

I understand this form may be reviewed or audited and that information inaccurately reported or failure to retain records to support information on this form may result in a recomputation of the approved APH yield. I certify that to the best of my knowledge and belief all of the information on this form is correct. I also understand that failure to report completely and accurately may result in sanctions under my policy, including but not limited to voidance of the policy, and in criminal or civil penalties (18 U.S.C. §1006 and §1014; 7 U.S.C. §1506; 31 U.S.C. §3729, §3730 and any other applicable federal statutes).

(Insured's Signature)

(Date)

ROBERT G VOLLMER

(Agent's Signature)

(Date)

(Agent's Code)

Z-FARMS INC

DON002247



Multiple Peril Crop Insurance Production Certification Worksheet

State: Ohio
Policy Number: 2009-OH-030-961522

APH Yield Computation for the 2009 Crop Year

Code No: 275660
Phone: (812) 663-6258
Fax: (812) 663-5645

AGENT: ROBERT G VOLLMER
SHELBY CROP INSURANCE INC.
1441 N LIBERTY CIRCLE E
GREENSBURG, IN 47240-8202

Entity Type: Individual
Identification Number: **REDACTED**
 SSN EIN Assigned Number
Phone: (419) 586-6576
POA: None

INSURED: CHARLES ZUMBERGE
6612 MEYER RD
CELINA, OH 45822

Authorized Representative: Unit 00101 - Marear County Comm (NY) (550) 3
Farm #: 3145 - HEIBY FARM Map Area: Shares: 1.000
Practice: NFAO-NI Type / Variety: NTS Plan: CRC(44)
Other Shr: Acres: 24.6
Section/Township/Range or Other Land Identifier: JEFFERSON TWP WC-2-63-2E

Unit, County & Crop: Farm #: Map Area: Shares: Plan:
Practice: Type / Variety: Other Entity(ies):
Other Shr: Acres: Section/Township/Range or Other Land Identifier

Unit, County & Crop: Farm #: Map Area: Shares: Plan:
Practice: Type / Variety: Other Entity(ies):
Other Shr: Acres: Section/Township/Range or Other Land Identifier

Unit, County & Crop: Farm #: Map Area: Shares: Plan:
Practice: Type / Variety: Other Entity(ies):
Other Shr: Acres: Section/Township/Range or Other Land Identifier

Year	Production	Acres	Yield/Type #	Yield/Type #	Yield/Type #	Yield/Type #
1999	7,215.0	39.0	185 A	43 A	43 A	43 A
2000	3,344.0	22.0	152 A	48 A	48 A	48 A
2001	2,783.0	21.5	175 A	50 A	50 A	50 A
2002	2,340.0	39.0	60 A	48 A	48 A	48 A
2003	2,646.9	15.3	173 A	20 A	20 A	20 A
2004	11,650.0	53.0	280 A	52 A	52 A	52 A
2005	2,581.0	21.5	175 A	46 A	46 A	46 A
2006	8,702.5	38.3	175 A	47 A	47 A	47 A
2007	1,909.8	12.4	154 A	57 A	57 A	57 A
2008	5,128.5	26.3	185 A	39 A	39 A	39 A
T Yield:	126	Total (of Yield History):	1,609	Total (of Yield History):	449	Total (of Yield History):
Yield Limit:	None	Avg Yield:	161	Preliminary Yield:	45	Preliminary Yield:
Prior APH Yield:	163	Approved APH Yield (for insurance provider use only):	161	Approved APH Yield (for insurance provider use only):	45	Approved APH Yield (for insurance provider use only):

2009 Production: Acres: 2009 Record Type: 2009 Record Types
Required: Inspection Field Review
Record Types: Land Other County: Yes No
Processor Number/Name and/or Number of Trees or Vines:
Other (Remarks):

APH Yield	Of	Price	Per Acre	Total	Price	Per Acre	Total
161	33%	4.04	75HT	16,390	11,601.00	886	7,797
2009 Quote with 1,000 Share				APH Yield	Lib	Price	Per Acre
2009 Quote with 1,000 Share				APH Yield	Lib	Price	Per Acre
2009 Quote with 1,000 Share				APH Yield	Lib	Price	Per Acre

Yield Type: A-Actual Yield:
Intended Acres: 161.33%
Intended Acres: 161.33%

APPROVED APH YIELD: 161.33%
APPROVED APH YIELD: 161.33%

APPROVED APH YIELD: 161.33%
APPROVED APH YIELD: 161.33%

APPROVED APH YIELD: 161.33%
APPROVED APH YIELD: 161.33%

DON002248

Production Certification Worksheet - for the 2009 Crop Year

Policy Number: 2009-OH-030-961522
Agency: 275660 SHELBY CROP INSURANCE INC. / GREENSBURG, IN

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CHARLES ZUMBERGE (Insured's Signature) ROBERT G VOLLMER (Agent's Signature) (Date) (Date) (Agent's Code)

DON002249



2009 Notice of Loss Report



Policy	Insured's Name	Crop/Plan	Notice Date	Damage Date	Cause of Loss	Type of Loss	Insured's Intention	Companion Policy	Status	Adjuster
OH-951-179431	Z FARMS INC	CORN/CRC	05/14/2003		PRECIP (EXCESS)	R			CLOSED	RODNEY H ARMSTRONG
OH-951-179431	Z FARMS INC	CORN/CRC	07/28/2003		FLOOD	F			CLOSED	RODNEY H ARMSTRONG
OH-951-179431	Z FARMS INC	SBEAN/CRC	05/14/2003		PRECIP (EXCESS)	R			CLOSED	RODNEY H ARMSTRONG
OH-951-179431	Z FARMS INC	SBEAN/CRC	07/28/2003		FLOOD	F			CLOSED	RODNEY H ARMSTRONG

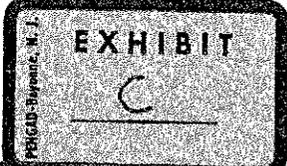
Remarks: PER ADJUSTER DID NOT REPLANT THIS CROP.

total payments \$261,948

DON002250

2002 Federal Farm Activities Schedule

For Form 1120



Name Z FARMS INC		Employer ID Number	
Principal product GRAIN FARMING		Activity Code REDACTED	
Farm Income	Amounts	Farm Deductions	Amounts
1 Sales of items bought for resale	1	17 Salaries & wages less employment credits	17
2 Less: Cost or basis of above items	2	18 Repairs and maintenance	18
3 Sales of livestock, etc raised	3	19 Bad debts	19
4 Sales of livestock, produce, etc	4	20 Rents	20
5 Beginning inventory of livestock, etc	5 REDACTED	21 Taxes	21 REDACTED
6 Cost of livestock purchased	6	22 Interest	22 REDACTED
7 Ending inventory of livestock, etc	7	23 Depreciation	23
8 Taxable cooperative distributions	8	24 Advertising	24
9 Taxable agricultural program payments	9 8,293	25 Pension, profit sharing plans	25
10 Commodity credit loans reported under election	10	26 Employee benefit programs	26
11 Taxable commodity credit loans forfeited/repaid	11	Other Farm Deductions:	
12 Taxable crop insurance proceeds received in 2002	12	27 BANK CHARGES	
13 Taxable crop insurance proceeds deferred from 2001	13	CCC PAYBACK	
14 Custom hire (machine work) income	14 REDACTED	CHEMICALS	
Other Farm Income:		CUSTOM HIRE	
15 OTHER INCOME	15	FARM PUBLICATIONS	
		FEED PURCHASED	
		FERTILIZERS AND LIME	
		GASOLINE, FUEL, OIL	
		INSURANCE	
		MISCELLANEOUS	
		PROFESSIONAL FEES	
		SEEDS AND PLANTS	
		SUPPLIES/PURCHASES	
		UTILITIES	
		VETERINARY/BREEDING	
			27
		28 Total Other Farm Deductions (total of line 27 amounts)	28
16 Total income. Add lines 1 through 15	16 REDACTED	29 Total expenses. Add lines 17 through 26 and 28	29 REDACTED
		30 Net income (loss). Subtract line 29 from line 16	30

2003 Federal Farm Activities Schedule

For Form 1120

Name		Employer ID Number	
Z FARMS INC		REDACTED	
Principal product		Activity	
GRAIN FARMING			
Farm Income	Amounts	Farm Deductions	Amounts
1 Sales of items bought for resale	1	17 Salaries & wages less employment credits	17
2 Less: Cost or basis of above items	2	18 Repairs and maintenance	18
3 Sales of livestock, etc raised	3	19 Bad debts	19
4 Sales of livestock, produce, etc	4	20 Rents	20
5 Beginning inventory of livestock, etc	5	21 Taxes	21
6 Cost of livestock purchased	6	22 Interest	22
7 Ending inventory of livestock, etc	7	23 Depreciation	23
8 Taxable cooperative distributions	8	24 Advertising	24
9 Taxable agricultural program payments	9	25 Pension, profit sharing plans	25
	28,321.	26 Employee benefit programs	26
10 Commodity credit loans reported under election	10	Other Farm Deductions:	
11 Taxable commodity credit loans forfeited/repaid	11	27 ▶ BANK CHARGES	REDACTED
12 Taxable crop insurance proceeds received in 2003	12	CCC PAYBACK	
	49,988.	CHEMICALS	
13 Taxable crop insurance proceeds deferred from 2002	13	CUSTOM HIRE	
14 Custom hire (machine work) income	14	FEED PURCHASED	
Other Farm Income:		FERTILIZERS AND LIME	
15 ▶ OTHER INCOME	REDACTED	GASOLINE, FUEL, OIL	
		INSURANCE	
		MISCELLANEOUS	
		PROFESSIONAL FEES	
		SEEDS AND PLANTS	
		SUPPLIES/PURCHASES	
		UTILITIES	
		VETERINARY/BREEDING	
	15		27
		28 Total Other Farm Deductions (total of line 27 amounts)	28
16 Total income. Add lines 1 through 15	16	29 Total expenses. Add lines 17 through 26 and 28	29
	REDACTED	30 Net income (loss). Subtract line 29 from line 16	30

