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NATURAL RESOURCES CONSERVATION BOARD

NRCB AOPA REVIEW HEARING
DOUBLE H FEEDERS LTD. /LA21033

P R O C E E D I N G S

February 10, 2022
(Via videoconferencing)

1 Natural Resources Conservation Board Proceedings taken
2 virtually.

3

4 February 10, 2022

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Peter Woloshyn	Chair
Page Stuart	Commission Member
Sandi Roberts	Commission Member
Earl Graham	Commission Member

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William Kennedy	Commission Counsel
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Laura Friend	Commission Staff
Sylvia Kaminski	Commission Staff
Carolyn Taylor	Commission Staff
Makram Elhakim	MNP Technologies

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11

Fiona Vance	NRCB Field Services
Carina Weisbach	NRCB Field Services
Andy Cumming	NRCB Field Services

12

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Scott Van't Land	For Double H Feeders
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15

Hilary Janzen	For Lethbridge County
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Diane Horvath	For Town of Coalhurst
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17

Mellissa Schmid	In their own stead
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18

Bryan Clifton	In their own stead
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19

Art Bedster	For Mr. and Mrs. Bedster
Carol Ann Bedster	

20

Lorelee Vespa CSR(A) CRR RPR	Official Court Reporters
Deanna DiPaolo, CSR(A)	

21

22

23 (PROCEEDINGS COMMENCED AT 9:04 A.M.)

24

24 THE CHAIR: Good morning, everyone.

25

25 Technology is fantastic, and I think it's working, but

1 there's always seems to be opportunity for glitches.
2 So welcome everyone, and good morning again.

3 So we'll get started. My name is Peter Woloshyn,
4 and I'll be chairing this panel, the Natural Resources
5 Conservation Board, to hear the review of Approval
6 Officer Decision LA21033 for Double H Feeders.

7 Now, to help you identify the Panel, and I think
8 you might be able to move tiles around anyway, and
9 Kevin I think was going to do that for the participants
10 down in Lethbridge, but the Panel and Bill Kennedy, our
11 general counsel, have this mountain kind of background
12 with NRCB logo, and staff folks have the beige
13 background with an NRCB logo; you see Laura Friend's
14 there, for instance. So that might make it a bit
15 easier at least for folks to identify the Panel we
16 hope, because there's quite a few folks on the screen.

09:05

17 I'll briefly introduce the Panel for you.
18 Page Stuart -- and Page, if you just kind of wave there
19 so people can find you on the screen -- Page was the
20 general manager of a large feedlot in central Alberta
21 for a number of years and also chaired the Alberta
22 Cattle Feeders Association and has championed several
23 environmental sustainability initiatives in
24 agriculture, including on a national roundtable. So
25 clearly a lot of experience in agriculture, and

09:05

1 welcome, Page.

2 Sandi Roberts -- and Sandi, there you go -- Sandi
3 is an agricultural engineer and was an approval officer
4 with the NRCB up until 2010. When she left the NRCB,
5 she decided to get into some municipal politics and was
6 municipal councillor for the Town of Carstairs and also
7 has been an instructor with Olds College.

8 Earl Graham -- and Earl, you're there -- so we've
9 got a different view from here, so I don't see all the
10 panels -- but Earl has extensive experience in
11 municipal politics, including serving as a deputy reeve
12 for Clearwater County and central zone director for
13 AAMDC, which is now RMA, as you know, and is a member
14 of the subdivision and development appeal board in his
15 region.

09:06

16 And my name again, Peter Woloshyn. I grew up on a
17 forage and beef farm near Devon, Alberta, and I was the
18 CEO of the NRCB from 2006 up until my appointment as
19 Chair in late 2017. I have a background in resource
20 economics and policy, and have led several research
21 divisions in both crops and livestock.

09:07

22 So assisting the Panel today -- and you've been
23 chatting with these folks over the last number of
24 weeks -- is Bill Kennedy, the board's general
25 counsel -- and, Bill, are you there? I don't see

1 -- there you are. Okay, perfect, thank you.

2 Bill has been with the Board now 30 years, we just
3 gave him a 30-year-long service award, and has a ton of
4 experience obviously with the NRCB and in assisting
5 Panels through reviews.

6 Laura Friend is our manager of Board reviews and
7 has been with the Board for 20 years. So if you have
8 any technical difficulties today during the hearing,
9 you can just phone or text Laura at 403-620-8294. So
10 once again, that number for Laura if you have
11 difficulties is 403-620-8294.

09:08

12 And depending on the issue and what's happening,
13 we may have to pause the hearing briefly to get folks,
14 if it's an IT issue and it's somebody that needs to be
15 obviously participating in the hearing so we may have
16 to pause. Hopefully we'll have no glitches today.

17 With Field Services, we've got a number of folks.
18 Carina Weisbach -- welcome, Carina -- Carina was the
19 approval officer who handled the application.

20 Fiona Vance, who is the chief legal officer for Field
21 Services.

09:09

22 MS. VANCE: Good morning.

23 THE CHAIR: Good morning, Fiona.

24 Andy Cumming, and Andy is the director of Field
25 Services and applications.

1 MR. CUMMING: Good morning.

2 THE CHAIR: Good morning, Andy. And we have
3 two staff that will be doing the virtual on-screen
4 document management. So when we're operating in a
5 virtual hearing, we have the ability to have our
6 documents up if and when we need them, and
7 Sylvia Kaminski and Carolyn Taylor will be assisting
8 us. And Carolyn and Sylvia, are you online?

9 MS. KAMINSKI: Yes, good morning.

10 MS. TAYLOR: Morning.

09:09

11 THE CHAIR: Good morning, thanks. And they're
12 our expert document managers from Springbank, so
13 they've had a ton of experience, they ran that document
14 manager, along with some other folks, on our Springbank
15 hearing, which was an 11-day hearing. So welcome and
16 thank you, Sylvia and Carolyn.

17 So when you do want a document shared on the
18 screen, please clearly say the exhibit number and the
19 pdf page number that you'd like to refer to, and we'll
20 just give the document managers a few moments. They'll
21 get the document loaded and on the screen at the right
22 page.

09:10

23 So for -- our Zoom host is with MNP, Meyers Norris
24 Penny, who is our IT deliverer, and we have
25 Mak Elhakim. And, Mak, are you online?

1 MR. ELHAKIM: Yeah, I'm with you.

2 THE CHAIR: Perfect. Okay, well, thank you
3 very much for your patience and getting everybody
4 onboard and into the hearing. Thank you very much.

5 MR. ELHAKIM: You're welcome. No problem.

6 THE CHAIR: And our court reporters for today,
7 Ms. Vespa and Ms. DiPaolo. And who's on this morning?

8 THE COURT REPORTER: It's Ms. Vespa, Lorelee.

9 THE CHAIR: Lorelee Vespa, okay, welcome. And
10 Ms. Vespa and Ms. DiPaolo were also court reporters
11 with the Springbank hearing. We're thrilled to have
12 you back, you did a great job. So thank you very much.

13 And so during the hearing, we are transcribing.
14 We would ask when you're speaking, just identify
15 yourself and speak relatively slowly so that they can
16 get it. It's a tough job on the court reporter side,
17 and so if you can speak clearly and make sure you're
18 not speaking too quickly, it's a lot easier for our
19 court reporters, and we can ensure we get the
20 transcript right.

21 So we've also provided a YouTube link, and it's on
22 our website for members of the public to observe the
23 proceedings. These are typically -- well, they're
24 always open to the public, and if there's anyone that
25 wants to join, or if you were hoping that somebody

09:11

09:11

1 would be able to watch, you can just let them know that
2 they can go to our website and our main page, there
3 will be a link there to the YouTube channel that they
4 can view the hearing live.

5 And if there's any members of the media on the
6 YouTube feed, and if you have a question regarding
7 today's process, you can contact Janet Harvey, NRCB
8 communications specialist, and Janet can be reached by
9 email at janet.harvey, and that's H-A-R-V-E-Y,
10 janet.harvey@nrcb.ca, or you can reach her by telephone
11 at 780-720-2317.

09:12

12 So the purpose of the hearing is to review
13 Decision LA21033, dated November 25th, 2021, and was
14 issued by approval officer, Carina Weisbach.

15 The confined feeding operation is located at
16 NE Section 22, Township 9, Range 22, west of the 4th
17 meridian in Lethbridge County, near the Town of
18 Coalhurst.

19 So the approval officer denied the Double H
20 Feeders' application to expand an existing poultry CFO.
21 The application was to construct two barns and increase
22 chicken broiler numbers by 65,000 to a total of 120,000
23 birds.

09:13

24 So, following that denial, a request for review or
25 RFR from the operator, Double H, was received by the

1 filing deadline of December 16, 2021.

2 We received three rebuttals by the deadline
3 December 23rd, 2021, from Ms. Schmid, Mr. and
4 Mrs. Bedster, Mr. Clifton, who are all directly
5 affected parties as determined by the approval officer.

6 So the Panel met on January 5th, 2022, and in its
7 RFR Decision 2022-01 dated January 7th, 2022, advised
8 that it made a decision to grant the RFR and hold a
9 oral hearing, and that decision report provided the
10 reasons for granting a review and the core issues that
11 the Panel would have regard for at this hearing.

09:14

12 So the letter also directed that written
13 submissions by directly affected parties were to be
14 filed to the Board by no later than January 27th of
15 2022. Submissions were received from Field Services of
16 the NRCB, the Town of Coalhurst, County of Lethbridge,
17 Double H Farms, and Mr. Clifton.

18 Mr. Clifton did submit one submission by the
19 deadline, and he did submit one submission after the
20 filing deadline, and the Board allowed that late
21 filing, sent out the reasons for allowing the filing,
22 and we heard no objections to it.

09:14

23 So all Panel members have and are familiar with
24 the documents that parties have submitted as
25 evidentiary materials for this hearing, and so given

1 this, there is no need for you to reread into the
2 record materials that you've already submitted. So in
3 order to make the best use of our time, we request that
4 each party use their presentation time to highlight or
5 clarify the important and salient points that are
6 relevant to the written submission.

7 Your participation in this hearing is very
8 important to the Panel, and we look forward to the
9 information you'll be providing, and recognize that our
10 decision will have a significant impact on you and your
11 community. 09:15

12 The process that we follow is inherently formal,
13 it's a quasi-judicial proceeding, and so a certain
14 level of formality is appropriate. However, we do try
15 to minimize that formality to the extent possible so
16 that participants are comfortable presenting their
17 information to the Panel and also asking other parties
18 questions.

19 But we do encourage you to ask questions if you're
20 unsure about the process or when you're allowed to
21 interject. You know, the Panel gets that this is
22 likely the first time at a hearing for many of you and
23 many of the parties, and we have -- and we're here
24 to -- for you to participate. So this is about you
25 folks and about getting the best information we can to 09:16

1 make our decision.

2 So if you're unsure about the process at any time,
3 please don't be shy. Just you can ask me the question,
4 or you can ask for Mr. Kennedy for a few minutes to
5 understand the process. Mr. Kennedy does this all the
6 time. It's not an issue. And we would much rather you
7 interrupt us and ask questions about the process if
8 you're unsure than sort of go through the process and
9 then feel afterwards that, you know, you may have had,
10 you know, missed an opportunity that you should have
11 taken. So please don't be shy and ask questions at any
12 point.

09:16

13 So just a brief overview of the process for today:
14 We'll register all parties, and then each participant
15 will have an opportunity to address any preliminary
16 matters that you may have.

17 We will then begin the evidentiary or direct
18 evidence portion of the hearing, and the Board believes
19 it's beneficial for -- we have done this in the past
20 for NRCB Field Services to present their direct
21 evidence first, followed by Lethbridge County, Town of
22 Coalhurst, directly affected parties, and we'll have
23 Double H -- oh, sorry, we'll have Double H Feeders
24 follow the approval officer.

09:17

25 When it's your turn -- and we'll be highlighting

1 this as we go through the hearing -- when it's your
2 turn, you'll be sworn in or affirmed. So it's your
3 choice whether you're sworn in or affirmed by the court
4 reporter. And once you're sworn or affirmed, any new
5 evidence that you want us to consider can be entered
6 into the record on request. So if you have any paper
7 copies or electronic copies of evidence that you would
8 like us to review for the purpose of the hearing, you
9 can enter that at that time, and we'll give it an
10 exhibit number.

09:18

11 And then we'll give you a chance to highlight or
12 expand upon any points in your submission that you feel
13 are particularly significant for the Panel. After
14 you've presented that evidence, you'll be open to
15 questions from other parties, including NRCB Field
16 Services, the Board counsel, Mr. Kennedy, and Panel
17 members.

18 Once questioning is complete, the party will
19 then -- that presented the evidence will have an
20 opportunity to reintroduce or redirect any evidence.
21 So, essentially, you know, once you've been asked all
22 the questions, we'll give you a chance to submit any
23 further evidence or comments to address areas that may
24 have been raised in the questions that were posed to
25 you that you believe there's some additional

09:18

1 information that the Panel should have that you may
2 have missed during the questioning.

3 Once we've completed the direct evidence and
4 questioning of all parties, then Double H Feeders may
5 provide any rebuttal evidence, and if there's any
6 rebuttal evidence that's provided by Double H at the
7 very end of the proceeding or near the end of the
8 proceeding, then the other parties will have an
9 opportunity to ask questions based on that rebuttal
10 evidence. And once that's done, every party will have
11 an opportunity to provide a final argument.

12 So it's a lot to absorb. Hopefully you've had a
13 chance to go through our hearing guide, but, once
14 again, as we move through the process, if you have any
15 questions, please don't hesitate to ask.

16 So we'll take a couple of breaks during the day.
17 It's always a bit of a guess as to how long a hearing
18 will take, but we'll take some breaks. We won't
19 necessarily set them now because if we're in the middle
20 of somebody's direct evidence, as an example, we'd like
21 to get through that. So, you know, we'll try to get
22 lunch around noon, if we're not done by lunch, and it's
23 hard to know when we'll finish up. I think in our
24 letter, we indicated that it would be 9 to 4:00. If
25 for some reason we needed to go past 4:00 -- and I'm

09:19

09:19

1 confident that we can get done by then -- but if we
2 need to go past 4:00, are there any other parties that
3 are -- have other commitments that would prevent us
4 from going a little bit later than 4:00 today?

5 MR. VAN'T LAND: I have a hard out at 5:00, so just
6 to make note of that.

7 THE CHAIR: At 5:00?

8 MR. VAN'T LAND: Yes.

9 THE CHAIR: Okay. Thank you.

10 THE COURT REPORTER: I'm sorry, who spoke? 09:20

11 THE CHAIR: Who was that speaking?

12 MR. VAN'T LAND: I'm sorry, this is
13 Scott Van't Land from Double H Feeders.

14 THE CHAIR: Okay. And so we'll do our best to
15 obviously be done by 5, and that would mean that we
16 would need to move to another day if we can't wrap up,
17 but let's all do our best to see if we can wrap this up
18 by, at the latest, 5:00.

19 Any other parties have time commitments that we
20 should know about? 09:21

21 MS. HORVATH: Mr. Chairman, it's Diane Horvath
22 from the Town of Coalhurst. I won't be able to
23 participate past 4:30 today.

24 THE CHAIR: 4:30. Okay. Thank you.

25 Other parties?

1 Okay. Hearing none, let's do our best to finish
2 up by 4:30 and it may be the case, and Mr. Kennedy, if
3 we needed to go past 4:30 and Ms. Horvath had to leave,
4 that may still be possible, depending on where we're at
5 with the evidentiary portion. Is that fair?

6 MR. KENNEDY: Yeah, I think we -- I'll keep an
7 eye on the time and perhaps have a conversation with
8 Ms. Horvath at some point in terms of what she might be
9 missing should it look like 4:30 is an issue.

10 THE CHAIR: Okay. Great. Thank you very
11 much.

09:22

12 Okay. So let's -- we need to formally register
13 the parties.

14 And for Field Services, Ms. Vance and
15 Ms. Weisbach; correct?

16 MS. VANCE: Yes, thank you, Mr. Chair. And we
17 also have Mr. Cumming.

18 THE CHAIR: Okay. Mr. Cumming will be
19 registered, then? A party?

20 MS. VANCE: Yes.

09:22

21 THE CHAIR: Thank you. And for
22 Double H Feeders, Mr. Van't Land; correct?

23 MR. VAN'T LAND: Yes, that's me.

24 THE CHAIR: Thank you. And for
25 Lethbridge County, Ms. Janzen.

1 MS. JANZEN: Yes, that's me.

2 THE CHAIR: And Town of Coalhurst, Ms. Hygge
3 (phonetic).

4 MS. HORVATH: Diane Horvath, yes.

5 THE CHAIR: Yeah, I'm just -- yeah, I've got
6 my list wrong. So it's Ms. Horvath only; is that
7 correct?

8 MS. HORVATH: Correct.

9 THE CHAIR: Thank you. And directly affected
10 parties, Ms. Schmid, Mr. Clifton, Mr. Bedster. Are we
11 missing anyone? 09:23

12 MS. SCHMID: Carol Ann Bedster.

13 THE CHAIR: Thank you. Do we have someone
14 else? That's it. Okay. Thank you very much.

15 All right. So if I missed no one, that's our
16 official registered participant list for today.
17 Thank you.

18 So are there any preliminary matters that anyone
19 has or any questions before we get started with the
20 direct evidence? 09:23

21 MS. VANCE: Mr. Chair, this is Fiona Vance
22 from NRCB Field Services. This is a really minor
23 procedural point, but in the order of proceedings under
24 Number 12, which is closing arguments, Field Services
25 is not listed.

1 At this point, I don't actually anticipate having
2 a closing argument, but I would like to just reserve
3 the opportunity to do so if necessary.

4 THE CHAIR: Agreed.

5 MS. VANCE: Thank you.

6 THE CHAIR: Thank you. I'll just make a note
7 now. Thank you.

8 Any other matters? Okay. Hearing none. The
9 exhibit list. We'd like to formally adopt the exhibit
10 list that is on our website, and just so that everybody
11 is clear about what that is, document managers, do you
12 have that handy? Could you throw that up on the screen
13 for us?

09:24

14 Boom, there we go. Thank you very much.

15 So all parties, this is the listing that is on the
16 website, and there is a document on the website that
17 summarizes, just as you've seen on the screen. So if
18 there are no objections, we'd like to adopt that as our
19 exhibit list. And if there's anything new added, we
20 would start numbering, of course. And I think -- is
21 23 -- that is our last exhibit number. I think we
22 would start at 24 if there's anything new.

09:25

23 MS. FRIEND: That's correct, Mr. Chair.

24 THE CHAIR: So are there any objections?

25 Hearing none, we'll adopt that as our exhibit list.

1 Thank you.

2 Thanks, document managers. Appreciate it.

3 So we'll start with Field Services, the approval
4 officer, Ms. Weisbach, and Ms. Vance. Are you ready?

5 MS. VANCE: We are. Thank you. I wonder if
6 it would be helpful -- maybe I'll just speak extremely
7 briefly just as by way of introduction. I act for both
8 the approval officer and NRCB Field Services in this
9 hearing.

10 As I explained in the submissions we made, we take
11 no position on the outcome of this hearing. In other
12 words, we don't take a position on whether the Board
13 should be upholding the denial or directing the
14 approval officer to issue a permit. The decision
15 documents from the approval officer speak for
16 themselves.

09:26

17 That said, I did bring two witnesses today, and
18 the purpose of them is to assist the board in this
19 hearing. So I will have all of two questions for
20 Ms. Weisbach and probably none in direct for
21 Mr. Cumming, but I wanted to make them available for
22 questions from other parties.

09:26

23 THE CHAIR: Thank you.

24 MS. VANCE: So before moving -- well,

25 Ms. Weisbach, of course, is the approval officer. She

C. WEISBACH, A. CUMMING**Ms. Vance examines the panel**

1 prepared the documents that are Exhibits 2 and 3;
2 that's the decision summary and the technical document.
3 Mr. Cumming is the director of Field Services
4 applications. He will not answer questions about this
5 application in particular. It could be he will not
6 have to answer any questions at all.

7 The reason Mr. Cumming is potentially here as a
8 witness is to answer questions about how the NRCB might
9 consider Intermunicipal Development Plans and Municipal
10 Development Plans if the Board decides to consider that
11 issue.

12 THE CHAIR: Thank you.

13 MS. VANCE: And if there's no questions for
14 me, then maybe we could get to affirming the witnesses.

15 THE CHAIR: Yes, thank you. Please proceed,
16 Court Reporter. Ms. Vespa.

17

18 **C. WEISBACH, A. CUMMING** (For NRCB Field Services), affirmed

19 **MS. VANCE EXAMINES THE PANEL:**

20 MS. VANCE: Thank you, Madam Reporter.

21 Q. Ms. Weisbach, I'll ask you a couple of short questions
22 first.

23 And my first question is, this operation is
24 located on a northwest quarter. There's also some
25 discussion about an operation on the northeast quarter.

09:27

09:29

C. WEISBACH, A. CUMMING**Ms. Vance examines the panel**

1 To your knowledge, does the operation on the northeast
2 quarter hold an NRCB-issued permit?

3 **A. MS. WEISBACH: No, it doesn't.**

4 **Q.** Thank you. And when you received the application for
5 LA21033, and you worked through that process in getting
6 to your decision, did you consider the operation on
7 that northwest quarter at all.

8 **A. MS. WEISBACH: No, I did not. It holds an MD**
9 **permit at this point, which for us, it's deemed -- it's**
10 **a deemed permit. So I did not consider this.**

09:30

11 **Q.** And just to clarify, the northwest quarter was not part
12 of this application?

13 **A. MS. WEISBACH: No, it was not.**

14 **Q.** Okay. Thank you. That's actually all the questions I
15 have for you. But please answer any questions that
16 other parties or the Board may have.

17 **THE CHAIR:** Okay, thank you. Thank you,
18 Ms. Vance.

19 Ms. Weisbach, thank you.

20 So Lethbridge County, do you have any questions
21 for the approval officer?

09:30

22 **MS. JANZEN:** No, I don't.

23 **THE CHAIR:** Town of Coalhurst?

24 **MS. HORVATH:** I don't have any questions.

25 **THE CHAIR:** Ms. Schmid?

C. WEISBACH, A. CUMMING

Ms. Vance examines the panel

1 MS. SCHMID: No questions at this time.

2 THE CHAIR: And Mr. and Mrs. Bedster?

3 MR. BEDSTER: We have --

4 THE CHAIR: Sorry?

5 MR. BEDSTER: -- no questions at this time.

6 THE CHAIR: Thank you. Mr. Clifton?

7 MR. CLIFTON: No questions.

8 THE CHAIR: Mr. Van't Land.

9 MR. VAN'T LAND: No questions at this time.

10 MR. KENNEDY: I'm going to jump in. A couple of
11 people said "no questions at this time." This is the
12 only time that you would have to ask questions of the
13 approval officer. So I guess the advice is don't hold
14 back.

15 THE CHAIR: Thank you, Mr. Kennedy.

16 MR. KENNEDY: And I'm also wondering, we
17 didn't -- I don't know whether we were going to receive
18 any direct evidence from Mr. Cumming, and whether
19 parties, you know, whether this would be the time to
20 ask questions of Mr. Cumming as well so we move
21 through both witnesses from this particular panel
22 before --

23 THE CHAIR: Ms. Vance, was Mr. Cumming going
24 to provide any direct?

25 MS. VANCE: So I have no direct questions for

09:31

09:31

C. WEISBACH, A. CUMMING

Cross-examined by Mr. Clifton

1 Mr. Cumming. As to whether the questions from other
2 parties should go to both or one at a time, I'm in the
3 board's hand on that one.

4 THE CHAIR: And often, I know in the past,
5 we've had, say, Mr. Cumming and Ms. Weisbach sitting as
6 the Panel, they can decide sometimes even who best
7 might answer the question.

8 But I guess the question is based on Mr. Kennedy's
9 advice and direction, folks, this is your chance to ask
10 Mr. Cumming or Ms. Weisbach, the NRCB, questions. Are
11 there any questions from directly affected parties or
12 the Town or the County for that matter?

13 MR. CLIFTON: I have a question.

14 THE CHAIR: Okay. This is -- please identify
15 yourself.

16 MR. CLIFTON: It's Mr. Clifton.

17 THE CHAIR: Go ahead, Mr. Clifton.

18 **MR. CLIFTON CROSS-EXAMINES THE PANEL:**

19 Q. In the approval officer's -- what she wrote there, she
20 said there was no permit issued from the NRCB for this
21 operation on the northwest?

22 A. MS. WEISBACH: Mrs. Vance asked me if there was
23 an NRCB-issued permit for the northwest, and there is
24 not.

25 The northwest, however, holds an MD permit, a

09:32

09:33

C. WEISBACH, A. CUMMING

Cross-examined by Mr. Clifton

1 municipal permit or a development permit as it's also
2 called. Those are deemed permits, but they are not
3 NRCB-issued permits.

4 So this -- the northwest holds a grandfathered or
5 deemed permit at this point.

6 Q. Okay. And there was some conditions on that permit.
7 Would they be carried forward if a new permit was
8 issued?

9 A. MS. WEISBACH: So we do have a policy when we do
10 carry over municipal permit conditions into NRCB-issued
11 permits. And it says that any conditions that are
12 written in these old permits, as I say, or grand --
13 deemed permits, if they are above and beyond *AOPA*, they
14 will be carried over. That's what the policy says at
15 this point.

16 So I would carry over these permit conditions into
17 a new permit.

18 Q. Okay. That's all I have.

19 THE CHAIR: Thank you, Mr. Clifton.

20 Other parties? Before we get to Board counsel and
21 Panel questions?

22 Hearing none, okay.

23 Mr. Kennedy?

24 MR. KENNEDY: Yes, thank you. I will have
25 questions for both of the witnesses.

09:34

09:34

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 **MR. KENNEDY QUESTIONS THE PANEL:**

2 Q. My first set of questions goes to you, Ms. Weisbach.

3 So if I could get the document managers to pull up
4 Exhibit 7, pdf page 78. And Exhibit 7 is the
5 Intermunicipal Development Plan, and it's pdf page 78.
6 There is no numbered page 78. Well, there's only
7 19 pages.8 So there is, in fact, if we use the -- I think we
9 use the link in the -- here's what we have is the
10 Intermunicipal Development Plan that has been pulled
11 up, and I'm not sure whether that's the link from the
12 exhibit we've gotten. When I click on the link to the
13 exhibit page, I get the full Intermunicipal Development
14 Plan. This is a consolidated version, so yeah,
15 Exhibit 7. So can we click on that and just see what
16 comes up.17 MS. FRIEND: This is Laura, Bill. I can
18 confirm that the document does only have 19 pages, the
19 one that is linked.

20 MR. KENNEDY: All right.

21 Q. Well, within those 19 pages, I'm sorry, I don't have
22 the pdf page number, there is a provision 4.1.5. And
23 it might be that everybody is familiar with this
24 provision. It's the provision in the IDP that talks
25 about both new confined feeding operations and not

09:36

09:37

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 being permitted and then a provision that deals with
2 the expansion of existing CFO operations.

3 And so it's just the page --

4 MS. KAMINSKI: Sorry, Bill, it lets me pull it
5 up, but it won't show -- I don't know if it's too
6 large.

7 MR. KENNEDY: Ah, okay.

8 MS. FRIEND: And this is Laura, and yeah, when
9 I look in the other file, there's 541 pages in
10 the -- at another place where it's saved. But in the
11 exhibit list, it is only 19 pages.

12 MR. KENNEDY: I'd like to be helpful, but I
13 can't because I've got the whole document that keeps
14 coming up on my page, but somewhere in here...

15 MS. KAMINSKI: Sorry, which page?

16 MR. KENNEDY: Oh, you've got the whole thing --

17 MS. KAMINSKI: I do.

18 MR. KENNEDY: Pdf page 78, and I may also be
19 referring to page 79 which is a map, but we may not go
20 there.

21 Q. But, Ms. Weisbach, you're familiar with this provision?

22 A. MS. WEISBACH: I am.

23 Q. But just to be clear, you didn't consider this decision
24 when you were considering the Double H Feeders'
25 application?

09:38

09:38

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 A. MS. WEISBACH: No, I didn't, because I came -- as
2 I described in my decision summary, Exhibit 2,
3 Appendix A, which should be page 6, my analysis was
4 that the IDP is not sufficiently referenced in the MDP,
5 and therefore on the AOPA, I would not consider the IDP
6 for my final determination, consistency determination.

7 Q. Fair. And I think that is clear in your decision
8 report.

9 I'm going to ask you, though, in wearing your
10 approval officer hat, to visit some of these conditions 09:39
11 and perhaps venture your opinion as to how, if you had
12 considered this, they might be -- might apply to the
13 Double H Feeders' expansion operation. And if I'm
14 going beyond your level of comfort and asking you to
15 answer a question that you just frankly don't feel
16 comfortable answering, please let me know.

17 But my questions are going to be pretty general,
18 and they're going to focus on those kind of qualifier
19 provisions that are stated in the last -- you know, the
20 second part of Section 4 -- or Article 4.1.5, dealing 09:40
21 with the CFO expansion operations.

22 So as if you were considering -- again, I'm going
23 to ask you to answer these questions as if you were
24 considering the Double H Feeders' application, but
25 applying this IDP provision -- so without -- I don't

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 know that we need to pull up the next page, but the
2 next page is a map, and it includes the exclusion zone
3 for CFOs. Is it clear that the Double H Feeders'
4 operation, both the west and east barns that are
5 referred to, are within that exclusion zone?

6 A. MS. WEISBACH: Yeah, they're both within.

7 Q. In your opinion, would the expansion as proposed
8 upgrade or modernize the operation?

9 A. MS. WEISBACH: So you're asking if the proposed
10 expansion would be a monetization upgrade?

09:42

11 Q. Yes. So in Section 4.1.5, it says, you know, if it is
12 to upgrade and modernize, and then it's got within
13 brackets --

14 THE CHAIR: Mr. Kennedy, Mr. Kennedy, sorry to
15 interrupt. Maybe if document managers could just go
16 back up to 4.1.5, and then Carina can kind of continue
17 to read, Ms. Weisbach. There we go. Thank you, yeah.
18 Thanks. Okay, please proceed.

19 Q. MR. KENNEDY: So expansions are permitted under
20 these kind of qualified conditions, and one of them is
21 to upgrade and modernize. And then it says: (as read)
22 "...within the requirements of the
23 *Agricultural Operation Practices Act* and
24 Regulations."

09:42

25 So, within that context, would this application be

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 considered an upgrade and modernization?

2 A. MS. WEISBACH: To say I'm carrying the approval
3 officer hat. So, for me, it's strictly -- does it meet
4 the *AOPA* regulations. We do not look at facilities if
5 they're being proposed if they're a modernization or an
6 upgrade per se. We look at if these facilities do meet
7 *AOPA* requirements in respect to liners, that is our
8 primary goal I would say, and if they meet MDS, or the
9 minimum distance separation, and if they're consistent
10 with the MDP land use provisions.

09:43

11 So if I look at land use provisions, upgrade and
12 modernize is the request that things can be approved if
13 they're an upgrade or modernized, that would not be a
14 land use provision per se.

15 So, as an approval officer, I don't believe that I
16 would look at a proposal in that respect.

17 Q. And then the next one is an outcome-based assessment,
18 and it says: (as read)

19 "Demonstrating changes will reduce
20 negative impacts."

09:44

21 Could you venture an opinion as to whether the expansion
22 will reduce negative impacts? And they use the example
23 of odours, and I assume this is to nearby neighbours,
24 residents.

25 A. MS. WEISBACH: When -- mmm.

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 Q. And, in fairness, it might be a bit of a challenge
2 because what we are talking about is an expansion on
3 one site and perhaps the decommissioning of another
4 site. And so the effects on neighbours, depending on
5 their proximity to either site, might be quite
6 different.

7 A. MS. WEISBACH: When -- when I look at that
8 provision, I could not -- I would not be able to
9 consider the -- the CFO on the northeast parcels, I
10 think that's what you're referring to in respect to
11 decommissioning.

09:45

12 So on the northwest, which is the site of the
13 proposed expansion, to me demonstrating changes will
14 reduce negative impacts. That, when I read that, I
15 would -- I would interpret that as if you do have an
16 existing facilities and you do upgrade that existing
17 facility, that would not necessarily apply to an
18 expansion, if you know what I mean.

19 Q. Yes. And part of the challenge -- and maybe I should
20 back up a little bit because when we talked about
21 upgrading and modernizing, you said it's not a land use
22 planning provision. But, overall, is 4.1.5 a land use
23 planning provision?

09:46

24 A. MS. WEISBACH: Mmm. I would interpret that as
25 not being exactly a land use provision. Having said

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 that, I -- that was a quick assessment of a section
2 that I have not really thought about that in such
3 detail, so...

4 Q. Yeah, it's not my intention to put you in an awkward
5 situation, but it's -- certainly when I put my
6 questions together, I did so on the assumption that
7 this was a land use planning provision. And that's why
8 I kind of circled back when you said that subcomponent,
9 that qualifier, was not a land use planning provision.

10 So I'll move on. And one of the final qualifiers
11 is "Additional environmental protection will be
12 considered." Do you have a sense as to what that might
13 mean?

09:47

14 A. MS. WEISBACH: As I said, you asked me if I read
15 the provision; yes, I did. Did I interpret every
16 little detail of that provision? No, I did not because
17 I did not consider it in my MDP consistency
18 determination and, therefore, I would -- I'm not very
19 comfortable to interpret that on a fly, so to say.

20 Q. Okay. And, in part, I'm asking all of these questions
21 because -- and we've seen your decision, we understand
22 why you didn't consider the provision of the IDP. But
23 there is an outstanding question perhaps in terms of
24 how the Board may be looking at this, where they may
25 well, when they're reviewing this, look and say, the

09:48

C. WEISBACH, A. CUMMING**Questioned by Mr. Kennedy**

1 IDP provision is or is not a land use provision, and
2 does it or does it not prevail over the provision of
3 the MDP.

4 So, my final question, and I'm not going to ask it
5 with -- requiring as much detail as I originally wrote
6 it. Is it fair to say that the IDP provision
7 is -- contemplates potential expansions where the MDP
8 provision is an absolute exclusion of new and expanding
9 operations?

10 **A. MS. WEISBACH:** Yes, there is a definite
11 difference.

09:49

12 **MR. KENNEDY:** Okay. Mr. Chair, those are all
13 the questions I have for Ms. Weisbach.

14 I do have some questions for Mr. Cumming related
15 to the proposed approval officer policy as to how
16 to -- you know, how to go forward.

17 **THE CHAIR:** Why don't the Panel ask questions
18 of Ms. Weisbach, and then we could circle back to
19 questions to Mr. Cumming? Does that work for you?

20 **MR. KENNEDY:** Yeah, I don't see anything that
21 I -- the only challenge might be if I had questions of
22 Mr. Cumming that would lead me back to Ms. Weisbach,
23 but I can't see that happening.

09:50

24 **THE CHAIR:** And I think they're both basically
25 sitting as a panel, so we can circle back to

C. WEISBACH, A. CUMMING

Questioned by Ms. Roberts

1 Ms. Weisbach if we need to after Mr. Cumming.

2 So Panel members, Ms. Roberts, do you have
3 questions for Ms. Weisbach?

4 MS. ROBERTS: Yeah, I have a couple of
5 questions.

6 **MS. ROBERTS QUESTIONS THE PANEL:**

7 Q. First of all, Ms. Weisbach, there seems to be a little
8 bit of a discrepancy in the number of broilers that I
9 guess we'll say are actually at the -- let's
10 see -- that are at the proposed location, and it's not
11 a huge discrepancy, but I just would like to clarify
12 because the various documents we're looking at besides
13 just yours state different things.

09:51

14 For instance -- and I don't believe we need these
15 documents put up on the screen unless somebody wishes
16 to actually see them, but in the technical document,
17 the approval officer makes the comment that says it's
18 about 55,000. In the decision summary in Appendix D,
19 it talks about what the deemed capacity of the site
20 would be, which would be 50,000 based on the current
21 municipal permit, and then -- perhaps this is more
22 proper to Mr. Van't Land -- but just to kind of
23 complete the various numbers we're looking at, there's
24 a comment made by him that there are 58,000 broilers at
25 NE 22.

09:52

C. WEISBACH, A. CUMMING**Questioned by Ms. Roberts**

1 So I'm just curious with these various numbers,
2 55,000, 50,000, 58,000, what is your understanding of
3 what the number of broilers currently allowed at NE 22
4 is?

5 **A. MS. WEISBACH:** **Municipal permit that was issued**
6 **says 50,000, and that's the number I went with.**

7 **Q.** Okay. Thank you. It was more a point of clarification
8 because of all these various numbers that were out
9 there.

10 I also just have a question for you regarding
11 surface runoff because that is a concern that was
12 raised by the neighbours. And in your decision
13 summary, which is Exhibit Number 2 and on, I believe
14 it's on page 6 -- no, it's not -- sorry, page 3, Bullet
15 Number 3 -- sorry, page 3, and Bullet Number 3 there,
16 when you're talking about whether the *AOPA* requirements
17 have been met, it says: (as read)

18 "The proposed expansion would have
19 sufficient means to control surface
20 runoff from the CFO facilities."

21 Can you explain to me how that determination was made
22 and how we try and correlate it with some of the
23 concerns that were raised by the neighbours about
24 surface runoff?

25 **A. MS. WEISBACH:** **So the pullet barns are completely**

09:53

09:54

C. WEISBACH, A. CUMMING

Questioned by Ms. Roberts

1 indoor, so they're surrounded by a concrete wall and
2 protected by a roof. So there is no runoff coming from
3 that facility. So when -- as Mr. Van't Land also
4 explained in his manure management plan that he
5 submitted to us is, once the barns are being cleaned
6 out, the manure will be transported offsite. So there
7 is no manure from -- no manure contaminated runoff from
8 manure storage on site.

9 So, therefore -- and that is what I'm saying here
10 when I say, "There is no manure contaminated runoff
11 from the CFO facilities," the runoff that directly
12 affected parties talk about, I believe, is from manure
13 spreading, and this is a compliance issue.

09:55

14 Q. Okay. Thank you for that clarification. And perhaps
15 those parties will -- will further explain what their
16 concerns are, but I do understand how you made the
17 determination you did, which is kind of what I
18 was -- what I was after.

19 And one more thing, and this was something I
20 believe it was Mr. Bedster had asked previously about,
21 and that's potential conditions and carrying over
22 conditions, which is in your decision summary, and it
23 is, I believe, page 9, it's Appendix C. So yeah,
24 Number 2: (as read)

09:56

25 "Conditions to be potentially carried

C. WEISBACH, A. CUMMING

Questioned by Ms. Roberts

1 forward from Development Permit 98-189."

2 Would you mind just briefly explaining those conditions
3 that, if the -- if the Board overturns this and a permit
4 is issued, I think it's important for us to understand
5 what those potential conditions that you're recommending
6 the Board to consider be.

7 So if you wouldn't mind, I really would appreciate
8 just a brief description of them.

9 **A. MS. WEISBACH:** So condition -- so those are the
10 conditions that I changed or that were -- yeah, changed
11 or recommended to carry over.

09:57

12 So Condition 2, land area for manure utilization.
13 And in the development permit, they mentioned, as you
14 can read here, a specific area that is -- should be
15 available for manure spreading.

16 So Mr. Van't Land submitted in his application a
17 manure management plan with manure management records
18 that will -- that will take care of all of the 120,000
19 broiler birds that he proposed to expand to.

20 So Condition 2 would only apply to the 50,000 that
21 were covered in the MD permit, but now we need to cover
22 more. There's more manure produced, that needs to be
23 spread somewhere, so therefore that condition needed to
24 be updated to actually reflect the land base that is
25 required to -- to spread manure accumulated by 120,000

09:58

C. WEISBACH, A. CUMMING

Questioned by Ms. Roberts

1 birds. So that's an update.

2 Then the next part in that condition is, "Manure
3 must not be applied to snow and frozen ground," that is
4 similar to what *AOPA* describes, so that is carried over
5 as is.

6 MS. ROBERTS: Excuse me, document manager, if
7 you can just go to the top of the next page. That's
8 what Ms. Weisbach is referring to now. Thank you.

9 A. MS. WEISBACH: So in the opening paragraph of the
10 permits when we issue those permits, it always states
11 that any operator or permit holder has to adhere to
12 all -- to all requirements under *AOPA* and its
13 regulations, and that is one of the requirements and
14 other regulations for manure spreading. So that would
15 be redundant.

09:59

16 The third part now is incorporation of manure
17 within 48 hours of land spreading. That is a condition
18 that will be carried over as it is -- or would be
19 carried over. And the reason for that is that *AOPA*
20 allows for several ways, and one of them is if you have
21 minimum till or zero till lands, it allows for manure
22 spreading without incorporation.

10:00

23 So the condition as it stands here in the MD
24 permit is more stringent than *AOPA* requirements and,
25 therefore, according to NRCB policy or approval policy,

C. WEISBACH, A. CUMMING

Questioned by Ms. Roberts

1 I would have to carry that over as it is, as written.

2 So the fourth part is consideration for
3 neighbouring residences, including a separation
4 distance from such residences during manure spreading,
5 that part is very subjective and very reg (phonetic)
6 and can't really enforce this because there are no
7 concrete numbers that inspectors could go with, or the
8 operator for that matter.

9 So I replaced that with the regulations as they
10 are in *AOPA*, and that's why I determined that this
11 condition -- this part of the condition should not be
12 carried forward and is being replaced by *AOPA* and its
13 regulations.

10:01

14 And similar to Condition 4 with dead disposal,
15 they are regulations under Alberta Environment --
16 sorry, Alberta Agriculture. They have their own Act
17 that is to be enforced and the operator has to adhere
18 to.

19 Q. Okay. Thank you very much for that clarification.

20 It's much appreciated.

10:02

21 MS. ROBERTS: Mr. Chair, that's all my
22 questions. Thank you.

23 THE CHAIR: Thank you, Ms. Roberts.

24 Ms. Stuart, any questions?

25 MS. STUART: Thank you, Mr. Chair. Yes, I do

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 have a couple.

2 **MS. STUART QUESTIONS THE PANEL:**

3 Q. Hi, Ms. Weisbach. Just as a follow on to Ms. Roberts'
4 questions about runoff, I wonder if we could pull up
5 Exhibit 3, page 6 of 32. It should be the technical
6 document, if I've got that right. That's perfect.
7 Thank you, document manager.

8 So that highlighted blue area that is labelled
9 "runoff" identifies, you know, this area around the
10 existing barns on NE 22-9-22 that appear to drain as
11 per this diagram to the northeast of the existing barns
12 into a catchment area on SW 26-9-22. And then, as
13 Ms. Roberts addressed, both the Bedster and Clifton
14 rebuttals expressed concerns that you I think said you
15 believe are due to manure spreading rather than that
16 facility; is that right?

10:03

17 A. **MS. WEISBACH:** **Correct.**

18 Q. And I'm just wondering, do any of those concerns --
19 when Mr. Bedster, for example, expresses concern that
20 the runoff possibly flows from NE 22-9-22 through SE
21 9-22 and then onto the Bedster land, is any of that
22 potentially due to short-term manure storage?

10:04

23 A. **MS. WEISBACH:** **When I talked to Mr. Van't Land**
24 **about manure storage or short-term manure storage, he**
25 **indicated to me that the manure is being transported**

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 right after cleaning the barn to either other fields
2 where it's going to be spread to a dry corner or to the
3 other operation.

4 So he -- he stated that manure is not stockpiled
5 in front of the barns for an extended period of time to
6 cause runoff.

7 Q. Okay. Thank you.

8 Changing directions a bit, and I appreciate that
9 you explained some of this in the decision summary, and
10 just for a little clarification, recognizing fully that
11 you are bound by *AOPA* legislation and that *AOPA* does
12 not specifically talk about Intermunicipal Development
13 Plans, is it your understanding that in the
14 *Municipal Government Act* that IDPs have a hierarchy
15 relative to municipal development plans?

16 A. MS. WEISBACH: I do understand that, yeah.

17 Q. So my question is, because I think some of the policy
18 documents, there's discussion about if the municipal
19 development plan includes a reference to the
20 Intermunicipal Development Plan, then you, as the
21 approval officer, would consider it; is that right?

22 A. MS. WEISBACH: Under *AOPA*, we are bound to look
23 under MDP, as you know, right? So if the -- if other
24 planning documents are sufficiently referenced in the
25 MDP, then we will consider. But at this point, I'm

10:05

10:06

C. WEISBACH, A. CUMMING

Questioned by Mr. Graham

1 **strictly bound to AOPA.**

2 Q. Okay. Understood, and I appreciate that.

3 And so just to clarify, had the MDP specifically
4 or more robustly referenced the IDP relative to the CFO
5 exclusion zone and the IDP's description of potential
6 to improve operations, then that would have been a
7 consideration for you potentially?

8 A. **MS. WEISBACH: If it had been, yes, I would have**
9 **to consider it.**

10 Q. Okay. I appreciate that. Thank you very much.

10:07

11 MS. STUART: That's all I have, Mr. Chair.

12 THE CHAIR: Thank you, Ms. Stuart.

13 Mr. Graham, any questions for Ms. Weisbach?

14 MR. GRAHAM: Yes, I do.

15 **MR. GRAHAM QUESTIONS THE PANEL:**

16 Q. Ms. Weisbach, on page -- it would be on page 3 of the
17 MDP. If we could bring that up, please?

18 THE CHAIR: I imagine you know which exhibit
19 that is. It's probably labelled, but just in case.

20 MS. FRIEND: This is Laura. I believe it's
21 Exhibit 8.

10:07

22 THE CHAIR: Thank you.

23 Q. MR. GRAHAM: Actually, the numbered page 3.
24 It's kind of confusing because some of these pages are
25 numbered and some are not. It's the page that shows

C. WEISBACH, A. CUMMING

Questioned by Mr. Graham

1 the hierarchy of plans.

2 THE CHAIR: May need a bit of help here,

3 Mr. Graham. Is it towards the beginning or is it --

4 MR. GRAHAM: Yes, it's right near the

5 beginning. It's page 3 of the actual document. At

6 least --

7 THE CHAIR: Here we go. Here we go. Yeah.

8 Q. MR. GRAHAM: Okay. That shows -- just go up a

9 little bit. No, it must be down, then. I missed it on

10 my screen. Right there.

10:08

11 Ms. Weisbach, did you view this when you looked at

12 the MDP for the hierarchy of plan, and how would

13 you -- how did you deal with this?

14 A. MS. WEISBACH: **AOPA is very specific on the**

15 **planning documents that I must consider when I make the**

16 **decision on an application. And it very specifically**

17 **says the MDP, so municipal development plan that must**

18 **be considered and it has to be consistent with the land**

19 **use provisions in that plan.**

20 **So if the MDP incorporates other documents such as**

10:09

21 **land use bylaws or IDPs, Intermunicipal Development**

22 **Plans, then -- then I must consider them as well,**

23 **and -- so that is how we deal with considering IDPs.**

24 **It hinges on the reference of a specific document, if**

25 **it's part of the MDP.**

C. WEISBACH, A. CUMMING

Questioned by Mr. Graham

1 Q. Okay. Thank you.

2 One other question, and I don't believe we have to
3 bring up a document for this one, when you're going
4 through this, what was the timeline or the time frame
5 that Coalhurst or Lethbridge County sent replies? Do
6 you recall?

7 **A. MS. WEISBACH:** We -- we deem an application and
8 that day the application is being sent to the referral
9 agencies and the County. So by then, they have
10 20 working days to respond. Typically, I think that's
11 the time frame they do have.

10:10

12 And the County, I don't know the specific date,
13 but the County responded. Now the Town of Coalhurst
14 did not receive because they are not within the
15 notification radius.

16 Q. Okay. And the response from Lethbridge County, can you
17 just talk about that a little bit, please?

18 **A. MS. WEISBACH:** Do you have any specific questions
19 in respect to their --

20 Q. Did they reference the IDP or anything there? That's
21 the question I'm asking.

10:11

22 **A. MS. WEISBACH:** I believe they did.

23 Q. Okay. Thank you. Right now, that's all. Thank you,
24 Ms. Weisbach.

25 **THE CHAIR:** Thanks, Mr. Graham.

C. WEISBACH, A. CUMMING**Questioned by The Chair****1 THE CHAIR QUESTIONS THE PANEL:**

2 Q. Good morning, Ms. Weisbach. I have a couple of
3 questions. And some of the questions you've probably
4 noticed are sort of being put to you because if the
5 Board does overturn their decision and approve it
6 despite a potential inconsistency, then some of these
7 questions may be important in terms of conditions or
8 better understanding of what might have to be in that
9 approval.

10 So with that in mind, the manure management plan,
11 it seemed to incorporate, at least some of the
12 documents we had, a third operation. Was that part of
13 your approval process is how all those operations would
14 be handled in manure management plan or just
15 specifically the northeast proposed operation?

10:12

16 A. **MS. WEISBACH:** So when we look at applications,
17 one of the requirements is to -- under the Act also,
18 they either have to provide sufficient manure spreading
19 lands, which is determined by the land -- the land
20 based code, or they can -- alternatively, they can
21 provide us with a manure management plan. So there are
22 these two options.

10:13

23 And Mr. Van't Land went with the manure management
24 plan, and this -- and that plan was prepared by an
25 agrologist, professional agrologist, who is looking

C. WEISBACH, A. CUMMING

Questioned by The Chair

1 after the manure spreading and manure application in
2 case of Mr. Van't Land --

3 Q. And you --

4 A. MS. WEISBACH: -- that plan as being sufficient
5 for manure spreading or taking care of their manure
6 production.

7 Q. So you take no issue with the manure management plan?

8 A. MS. WEISBACH: No, because it was prepared by a
9 professional.

10 Q. Okay. Thank you. Does this operation have nine
11 months' storage?

10:13

12 A. MS. WEISBACH: No, they don't. They do -- they
13 go with short-term manure storage, which is an
14 acceptable way of storing manure. And short-term
15 manure storage is also here under the standards and
16 admin regulations manure storage Section 5.

17 There are certain requirements that need to be
18 fulfilled, so you cannot store it longer than seven
19 months every three years. But as Mr. Van't Land
20 pointed out, manure is being carried to the fields
21 where manure will be stored. So then they will be
22 basically transported to various areas of those fields
23 that will receive that manure.

10:14

24 Q. Okay. So just perhaps help me or remind me, is there a
25 variance or something that's required if there is not

C. WEISBACH, A. CUMMING**Questioned by The Chair**

1 nine months' storage available?

2 **A. MS. WEISBACH: No. No. Short-term manure**
3 **storage is an acceptable way to store your manure.**

4 **Q. Okay. And so when that happens, then really, the**
5 **approval officer, do I have this right, the approval**
6 **officer then assumes it's not an application issue; it**
7 **just moves offsite. And if there's an issue in terms**
8 **of the number of fields that it could be stored on to**
9 **meet the seven months and three-year requirement or**
10 **runoff issues, it is now purely a compliance issue?**

10:15

11 **A. MS. WEISBACH: Right.**

12 **Q. So if it's short term, the approval officer is**
13 **essentially out of the picture?**

14 **A. MS. WEISBACH: Right.**

15 **Q. And that's regardless of concerns that if there are**
16 **concerns that are raised by residents in terms of the**
17 **amount of land available to store or runoff issues,**
18 **that would just be referred to compliance?**

19 **A. MS. WEISBACH: It would be.**

20 **Q. Okay. Is it relatively unique to have short-term used**
21 **in replacement of nine months' storage, or is that**
22 **fairly common?**

10:15

23 **A. MS. WEISBACH: For broiler operations, it is**
24 **actually quite common. We see that a lot. Some feed**
25 **lots also have short-term manure storage, so it's a**

C. WEISBACH, A. CUMMING

Questioned by The Chair

1 **common form of manure storage, so to say.**

2 Q. Okay. Thank you. Just going through my notes here.

3 So just maybe two other questions. One of the
4 conditions to be carried over because it's more
5 stringent and to meet the policy that is -- you carry
6 that forward in terms of the 48-hour incorporation or
7 incorporation within 48 hours, are you aware of -- or
8 was Double H using zero or minimum till? Is that their
9 common practice, do you know?

10 A. **MS. WEISBACH:** Well, I'm not entirely sure what
11 **your question really is.**

10:17

12 Q. So my question, I guess where I'm going with this is if
13 they are minimum zero till, and this may be better put
14 to -- and I will likely put this to Double H, as
15 well -- but if a condition is being carried over,
16 presumably, if he's on zero till, either he's going to
17 incorporate then to meet the condition; otherwise, it's
18 a compliance issue or he put an amendment, request for
19 an amendment potentially.

20 And I guess, you know, from the Board perspective,
21 it would be better to deal with that now perhaps, if,
22 you know, if the application was to be approved, it
23 might be better to deal with that now?

10:17

24 But that question perhaps is better for Double H.
25 I just thought perhaps that was part of the

C. WEISBACH, A. CUMMING**Questioned by The Chair**

1 conversation when you were dealing with the application
2 in terms of their operating practice, similar to the
3 short-term storage where the nine month, I was
4 wondering if that was part of the conversation between
5 you and Mr. Van't Land.

6 So you're unaware? You're not sure?

7 **A. MS. WEISBACH:** No, we didn't -- we didn't speak
8 on that.

9 **Q.** All right. Thank you.

10 And in your decision document, you indicated that
11 there was no need to really move further with directly
12 affected party concerns because the application was to
13 be denied, yet you have a series of potential
14 conditions that you think the Board ought to look at
15 if -- again, if the application was to be approved.

10:18

16 So is that kind of common practice where you
17 would -- you have a series of potential suggestions or
18 conditions on a denial in case the file -- or the
19 decision is overturned, but not concerns from the
20 directly affected parties. Like, you don't go that
21 far.

10:19

22 Is that sort of the operating procedure for
23 applications where the conditions in existing permits,
24 perhaps, post-construction, inspection, those are dealt
25 with, but gap concerns essentially are left? If there

C. WEISBACH, A. CUMMING

Questioned by The Chair

1 is a hearing request, that's where you believe those
2 would be best dealt with?

3 A. MS. WEISBACH: We don't -- that part isn't
4 covered by approval policy, to my knowledge.

5 So what I did was to basically cover the
6 standard -- standard conditions, what we would do with
7 the -- with development permits.

8 So that is a standard that we carry them over and
9 incorporate -- yeah, we carry them over. And the way
10 we do that, that's covered by policy.

10:20

11 And then we do have the standard conditions such
12 as the concrete, so construction conditions, as well as
13 post-construction inspections and the deadline,
14 construction deadline. Those are standard conditions
15 or standard procedures.

16 Other conditions arising out of Statements of
17 Concern would then be going beyond. So I did -- I did
18 not do that because I denied the application.

19 Q. Okay, understood. Thank you very much. Those are my
20 questions.

10:20

21 THE CHAIR: Mr. Kennedy, did you want to have
22 -- or did you want to direct some questions to
23 Mr. Cumming?

24 MR. KENNEDY: I do. Before I do so, because we
25 seem to be splitting these out, as long as we're

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 comfortable that nobody else has questions of
2 Mr. Cumming, I'm happy to start.

3 THE CHAIR: Oh, in terms of other parties?

4 MR. KENNEDY: Yeah.

5 THE CHAIR: Okay, well, let's ask the
6 question. So are any other parties looking to ask a
7 question of Mr. Cumming?

8 Hearing none, you may proceed.

9 MR. KENNEDY: Thank you.

10 **MR. KENNEDY QUESTIONS THE PANEL:**

10:21

11 Q. Mr. Cumming, my questions will relate to I think why
12 you're here, and that's kind of the proposed way of
13 dealing with statutory plans beyond the MDP on a
14 go-forward basis, in terms of board review policy. Do
15 I have that right?

16 A. MR. CUMMING: Yes. Good morning, Mr. Kennedy.
17 It's essentially Part B of the submission, which is
18 Exhibit 16 that we put forward.

19 Q. And if I might, and hopefully it will be a lot easier
20 on the document managers. Could we get Exhibit 16, pdf
21 page 7? That's perfect, and it's really where -- it's
22 paragraph 23 and then the following paragraphs
23 describing the process that you're here to speak to.
24 Is that -- did I read that correctly?

10:22

25 A. MR. CUMMING: That is essentially correct,

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 Mr. Kennedy.

2 I would point out to you, if we could go to pdf
3 page 5, please, right there, Section 12, is that the
4 *Agricultural Operations Practices Act*, Section 20(1),
5 and you've heard this before, is quite specific about
6 what an approval officer must consider when they are
7 looking for the consistency, and it is municipal
8 development plan land use provisions.

9 As you pointed out and as we've identified here,
10 the *Municipal Government Act* was amended in late 2017 I
11 believe it was, and there was a change in the
12 *Municipal Government Act* and a change in the hierarchy
13 of the different plans as has been previously
14 identified.

15 When that change was made, there were no
16 consequential amendments made to *AOPA*. So this
17 provision about the municipal development plan and more
18 specifically the land use provisions within that plan
19 still applies despite the changes to the *Municipal*
20 *Government Act*.

21 If you could go to the page 7 again...

22 Q. Thank you. And, Mr. Cumming, none of my questions
23 hopefully will be asking for a legal opinion and how
24 Section 20 perhaps might be interpreted given the, you
25 know, whether there's an interpretation requirement

10:23

10:23

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 driven by the changes to the *Municipal Government Act*.
2 I won't be going there, or I don't anticipate going
3 there.

4 And I want to preface all of my questions with an
5 acknowledgement of how constructive I think this
6 approach is, you know. Put forward the policy, let's
7 examine it in a hearing, perhaps with some, you know, a
8 live example as to how that policy might work.

9 **A. MR. CUMMING:** Just one correction there. I
10 think you're calling it a policy at the moment. It's
11 actually a framework, and we're putting this thing
12 forward to sort of update, you know, provide updates
13 that may be helpful and may be useful for the Board,
14 but it is certainly not in our approvals policy at this
15 point in time.

10:24

16 **Q.** No, fair. If I was suggesting that it was in the
17 policy at this point, I didn't mean to do that. But am
18 I fair to assume that at some point, language, you
19 know, there could be a policy amendment driven by -- by
20 this consideration?

10:25

21 **A. MR. CUMMING:** We are certainly looking at
22 improving our policy with respect to how this might be
23 considered.

24 **Q.** Sure. And all of my questions -- so we've got the
25 23(a), (b), and we've got a reference to statutory

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 plans, and it uses the example of IDPs. My questions
2 will all be dealing with the instance where the
3 statutory plan under consideration, the other statutory
4 plan under consideration, is an IDP.

5 So I'm not talking about land use bylaws. Does
6 that make sense?

7 **A. MR. CUMMING:** I understand where you're coming
8 from, yes.

9 **Q.** And is it fair to assume that we have both an (a) and a
10 (b) because there is a potential for inconsistency
11 between a Municipal Development Plan and other
12 statutory plans, specifically in Intermunicipal
13 Development Plan?

14 **A. MR. CUMMING:** Yes, absolutely.

15 **Q.** And, Mr. Cumming, is there any magic -- so there's an
16 "and" between (a) and (b). Is there any magic to the
17 order of (a) and (b)?

18 **A. MR. CUMMING:** It comes back to the legislation
19 that we have right now. So as I pointed out earlier,
20 *AOPA* specifically references the MDP land use
21 provisions, so we're looking at consistency with the
22 MDP land use conditions -- sorry, provisions.

23 Then once we've done that, then we're going to
24 look at the next step, which is in the proposed
25 framework here, is that that MDP specifically

10:26

10:27

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 **cross-references the statutory plan, IDP in this case,**
2 **relevant to that particular site.**

3 Q. So I'm going to visit -- so the approval officer didn't
4 follow this format; is that fair? And I'll explain why
5 I'm saying that is -- is she found the inconsistency,
6 the exclusion zone provision in the MDP, but then she
7 did look to the MDP to see whether the IDP was
8 sufficiently cross-referenced to bring it into her
9 table of consideration?

10 A. **MR. CUMMING:** I believe if you look at the
11 decision summary for this particular application, that
12 the approval officer cross-referenced our existing
13 policy which provides that direction, and that is in
14 there.

10:28

15 Q. So what I'm asking is -- but the proposed policy, this
16 is not what she -- you know, this would take a new
17 path?

18 A. **MR. CUMMING:** It's proposed framework; it's not
19 policy at all at this point in time, but it would take
20 a different path to what's now current policy.

10:28

21 Q. If I refer to it as a proposed policy it's because
22 that's the way I wrote it in my notes; I'm not
23 suggesting that it is current policy, so...

24 A. **MR. CUMMING:** Forgive me if I keep on correcting
25 you then.

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 Q. My question is this, is -- I think there would be a
2 substantial difference, and maybe a constructive
3 difference, if we started asking ourselves the (b)
4 question before the (a) question.

5 So can we follow that path a little bit and
6 explore that piece?

7 **A. MR. CUMMING:** So I'm not sure what you want me
8 to explore. I understand --

9 Q. At this stage all I want you to do is understand that
10 I'm going to start with (b) and say let's do -- make
11 the way we -- the order in which we address this the
12 inverse.

13 So when I first asked, does it -- you know, is it
14 identifying the order of which these things must be
15 done, and I think your answer was yes, so the "and" has
16 a qualifier. Because, generally, if you ask yourself
17 two questions with an "and," it means you will have to
18 answer both questions, and whereas if the "and" had the
19 qualifier to say yes, it's consistent with the MDP land
20 use provisions, then we'll go on and consider (b). I
21 think that's what you told me.

22 **A. MR. CUMMING:** Yes.

23 Q. Okay. So my proposal now is to start with (b), so just
24 flip the order in which those two items are addressed.
25 And I'm going to run through that using the

10:29

10:30

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 Double H Feeders as an example perhaps. Do you follow
2 me?

3 **A. MR. CUMMING:** Yes, I'm waiting for you to carry
4 on.

5 **Q.** All right. Good. So what I think we heard, and the
6 IDP provision that we're looking at, so I'm not going
7 to pull that up again, but it's the 4.1.5 of the
8 Intermunicipal Development Plan that we pulled up when
9 the approval officer was answering some questions,
10 contemplates the potential for expansion of existing
11 feedlots. So you don't take issue with that?

10:31

12 **A. MR. CUMMING:** No. My look and observation of
13 4.1.5 is that it actually has several sections within
14 it, even though it calls itself one section. So I
15 think you need to be careful as to how you deal with
16 each one of those particular questions or set of
17 circumstances that it's suggesting.

18 **Q.** Yeah. So, clearly, it provides no new operations, but
19 that's not a relevant consideration to the
20 Double H Feeders. Is that fair?

10:31

21 **A. MR. CUMMING:** The Double H Feeders' application
22 is what we would consider to be an expansion.

23 **Q.** So in that sense, the first part doesn't apply?

24 **A. MR. CUMMING:** Correct.

25 **Q.** It's not a new operation.

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 So the second part is really one provision with a
2 number of, you know, directions to have regard for
3 various things, qualifiers, caveats, whatever you might
4 characterize them; is that fair?

5 **A. MR. CUMMING:** We would potentially characterize
6 **those as tests or conditions which is expressly**
7 **excluded from what an approval officer has to consider**
8 **under AOPA.**

9 **Q.** Now, if those tests or provisions are driven to a
10 planning and exemption, are they still tests or
11 conditions that an approval officer cannot look to?

10:32

12 **A. MR. CUMMING:** I think the part in *AOPA* is pretty
13 clear about having to exclude test of conditions. I
14 just need to pull up that part of *AOPA*, unless you have
15 it handy?

16 **Q.** I do have it handy.

17 **A. MR. CUMMING:** I have it here. It's
18 Section 20(1.1) if that helps. And I don't know that
19 *AOPA* is an exhibit and I don't know if it is there and
20 available to be pulled up.

10:33

21 **Q.** So maybe very briefly, we could pull up pdf page 78
22 again of Exhibit -- Exhibit 7. And I apologize to the
23 document managers. Again, this is -- my reference is
24 going to cause a bit of a delay because just the
25 magnitude, the size of that document. Thank you.

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 So the current policy -- you know, there is a
2 provision in this IDP that says: (as read)
3 "No new operations within the exclusion
4 area in Map 11."

5 So that's a clear land use provision and there is an
6 inconsistency if it's a new operation.

7 So looking at the second part of that, are those
8 all tests or conditions? So let's just --

9 **A. MR. CUMMING:** Let me read what *AOPA* says,
10 **Mr. Kennedy.** In 20(1).1, it says, "In considering" --
11 under subsection 1, which deals with the consistency
12 with the Municipal Development Plan, amongst other
13 things: (as read)

10:35

14 "...whether an application is consistent
15 with the Municipal Development Plan land
16 use provisions, an approval officer
17 shall not consider any provisions
18 respecting tests or conditions related
19 to the construction of or the site for a
20 confined feeding operation or a manure
21 storage facility, nor any provisions
22 respecting the application of manure
23 composting materials or compost."

10:35

24 **Q.** Right. So let's just look at the very first one, you
25 know, upgrade or modernize, because, presumably, if

C. WEISBACH, A. CUMMING**Questioned by Mr. Kennedy**

1 we're expanding an operation that's been around for a
2 while, I think the municipal development permit for the
3 northeast quarter operation which is being expanded
4 was -- it predated the NRCB. Is that your
5 understanding?

6 **A. MR. CUMMING:** **That is correct, yes.**

7 Q. So it might be that some of -- some of the facilities,
8 and I think what Double H Feeders is saying is we are,
9 in fact, replacing facilities from the 1993 operation,
10 which is on a different land location?

10:36

11 **A. MR. CUMMING:** **Under a different permit.**

12 Q. Under a different permit. But if it were considered to
13 be one -- one application and you were looking at both
14 operations falling under the purview of this operation,
15 is -- and my question is very specific.

16 So this upgrade and modernize -- and this is why I
17 think this qualifier might be relevant because I think
18 it has to be understood with respect to Section 1.1,
19 within the requirements of *AOPA* and the regulations.

20 So perhaps all it's calling for is an
21 acknowledgement and an understanding as to whether the
22 expansion will take out manure storage facilities and
23 replace them -- that don't meet the current standards
24 with facilities that do meet the current standards. So
25 that's an upgrade and a modernization. And that's

10:37

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 why -- you know, I'm trying to understand what those
2 bracketed terms mean, but it could mean that. And if
3 it means that, is it -- it's on side with 1.1; correct?

4 **A. MR. CUMMING:** You are making a large number of
5 assumptions there which aren't necessarily part of what
6 was originally applied for.

7 What was originally applied for deals specifically
8 with the northeast barns at this particular facility.
9 None of the existing barns are proposed to be upgraded
10 or changed.

10:38

11 Your assumption is that the separate operation,
12 which is on the northwest part of the property is -- is
13 part of this whole application, and that's certainly
14 not the application that was in front of the approval
15 officer.

16 **Q.** But let's -- so let's put Double H Feeders and consider
17 it -- I just want your interpretation of 1.1 and this
18 very provision.

19 If there were manure storage facilities that were
20 being replaced during the expansion that would bring
21 them current with *AOPA*, does that mean that they are a
22 land use provision? So not a -- you know, it's just an
23 acknowledgement that *AOPA* is going to bring them up to
24 standard.

10:38

25 **A. MR. CUMMING:** I think you're making an

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 assumption there as well. And I don't want to be
2 argumentative here, but you're assuming that whatever
3 is constructed right now doesn't meet *AOPA*
4 requirements, and I don't know that for a fact. So I
5 can't make that assumption.

6 Q. And neither am -- well, I'm using an example. I'm
7 trying to understand Section 4.1.5 of the IDP and how
8 it might work when we're dealing with the second part
9 of that which deals with expansion facilities and *AOPA*,
10 and the proposed policy that you're putting forward. 10:39
11 So we've got a live IDP that is a little more relaxed
12 than the MDP, so it might allow an expansion where the
13 MDP says no.

14 So my question is, the --

15 A. **MR. CUMMING:** I think what -- you're jumping to
16 a conclusion there because in the example that you're
17 using, we don't get past what is Section -- subsection
18 22 on pdf 7 of Exhibit 16.

19 MS. VANCE: Mr. Cumming, this is Fiona Vance.
20 I might just suggest you wait for Mr. Kennedy to ask 10:40
21 his question.

22 A. **MR. CUMMING:** Okay.

23 MS. VANCE: Thank you.

24 Q. **MR. KENNEDY:** So take me back, sorry,
25 subsection? What am I missing?

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 **A. MR. CUMMING:** Sorry, it's not on that one; it's
2 in the proposed framework that we have there, which is
3 paragraph 22 on pdf page 7. And you're talking about
4 paragraph 23, but in order to get to paragraph 23, we
5 have to go through paragraph 22.

6 **Q.** Okay.

7 **A. MR. CUMMING:** The way I understand what you're
8 suggesting now is we wouldn't get through paragraph 22
9 to get to paragraph 23.

10 **Q.** Maybe if we can pull that up, and it's Exhibit 16 --

10:41

11 **A. MR. CUMMING:** Pdf 7.

12 **Q.** Yeah. So I'm sorry, Mr. Cumming, I understand
13 paragraph 22, and it relates to my question to you in
14 terms of the priority of (a) and (b), and it's simply a
15 statement that says, "we're going to start with (a)."
16 So it's not just an "and." It's an "and" with a
17 qualifier that will only go on to (b) if (a) doesn't
18 eliminate the application; correct?

19 **A. MR. CUMMING:** Correct. The example that you're
20 using, though, however, I understand if we don't get
21 past -- we don't get to that paragraph 23.

10:42

22 **Q.** Yeah, well, that's why I'm saying let's start with (b)
23 because I think there might be some merit in
24 considering the potential of starting with (b) rather
25 than (a), and then answering both questions.

C. WEISBACH, A. CUMMING**Questioned by Mr. Kennedy**

1 At least if it applies to IDPs and, again, none of
2 this discussion relates to land use, bylaws or other
3 statutory plans.

4 So, with that, and I'm not taking issue with the
5 statement in paragraph 22. I understand that's what's
6 being done and I understand that's what is being
7 proposed as potential policy, not current policy, but
8 potential policy. And that's why I'm visiting that is
9 I think it -- at the very least, we may want to ask
10 ourselves the question as an organization as to whether
11 there's merit in asking (b) first.

10:43

12 And I do that because we all -- I think everybody
13 acknowledges that the *MGA* now has a provision that says
14 IDPs prevail over MDPs if there is -- in the case there
15 is an inconsistency. I have that right?

16 **A. MR. CUMMING:** I don't disagree with you that
17 that's what the *MGA* says. The challenge is that *AOPA*
18 doesn't specify that.

19 **Q.** Yeah, so when people read -- I mean, there could be an
20 explanation that when people now read an MDP and there
21 is a provision in an MDP that is inconsistent with the
22 provision that applies in an IDP, it could be that you
23 cannot simply read the MDP. It makes no sense to apply
24 a provision that doesn't apply anymore. If it doesn't
25 prevail, you've got an issue.

10:44

C. WEISBACH, A. CUMMING**Questioned by Mr. Kennedy**

1 That's what I'm trying to explore with you, in
2 terms of reversing the order of (b) and (a). Because I
3 think if you reverse the order, you in fact would
4 identify those situations where the provision in the
5 MDP that you're applying may not carry the day anymore.

6 So -- and, again, it's not for me to give
7 evidence. But if we were to apply (b) first, would it
8 address the situation where the IDP had a provision
9 that maybe softened an MDP exclusion zone? Because I
10 think that's what we have here with the
11 Double H Feeders IDP and not necessarily their fact
12 situation because, again, we're talking about two
13 different operations under different permits.

10:45

14 But we've got an IDP that applies to these lands,
15 and we've got an MDP that applies to these lands, and
16 there is an inconsistency. I have that correct?

17 **A. MR. CUMMING:** **Yes, it would certainly identify**
18 **it. Would it address it? I don't know that it would.**

19 **Q.** Well, if you like, we can have a quick look at that and
20 maybe identify. That was why I was going with the
21 caveat pieces, and I think your suggestion is those
22 caveat pieces are not relevant considerations for an
23 approval officer. Is that what you told -- is that --

10:45

24 **A. MR. CUMMING:** **If I understand what you mean by**
25 **the "caveat pieces," yes. The approval officer is very**

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 limited under the *AOPA* legislation as to what they can
2 consider.

3 Q. Right. But they could consider, for example, an
4 upgrade of existing manure storage facilities to *AOPA*
5 standards and probably would in every application to
6 expand an operation?

7 A. **MR. CUMMING:** If those -- if those upgrades were
8 proposed as part of the application, yes, they would
9 consider them. Normally existing operations are looked
10 at purely on the risk to the environment posed by those
11 operations. I think that's different.

10:46

12 Q. But if the risk to the environment was identified and
13 there was a need to upgrade -- upgrade to respond to
14 that risk, the approval officer would typically apply
15 the current *AOPA* standards and requirements?

16 A. **MR. CUMMING:** That's not -- that's not what's
17 set out in the legislation. The risk needs to be
18 addressed, but it doesn't necessarily have to meet the
19 *AOPA* standard. So they could be slightly different.

20 Q. But -- well, they could be slightly different. How
21 often are they slightly different, do you have any
22 sense?

10:47

23 A. **MR. CUMMING:** I can't give you an honest opinion
24 on that point.

25 Q. But it's commonly the approval officer might look at

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 that application and say, "Here's what the current *AOPA*
2 standard is and the purpose for those requirements. If
3 there's a risk and we're addressing it, let's look at
4 the current standard." Is that a starting point that
5 you would typically find in an approval officer
6 decision summary?

7 **A. MR. CUMMING:** I think that that conversation
8 happens prior to a decision being issued with the
9 applicant for them to figure out what they want to do
10 as part of their application, which the approval
11 officer would then consider.

10:48

12 **Q.** Okay. So -- okay. Well, I have further questions, but
13 frankly, I'm not sure whether they're constructive at
14 this point because I think we've -- I understand your
15 position is you don't think there's any merit in moving
16 (b) in advance of (a), identifying whether there's an
17 IDP provision that prevails over an MDP provision?

18 **A. MR. CUMMING:** I think if you do swap what we
19 have identified as (a) and (b) around, certainly that
20 would identify an IDP -- potential difference with an
21 MDP, but it wouldn't necessarily address it.

10:48

22 **Q.** So let's do that for the moment. And if we identify an
23 IDP provision that would be more permissive than an MDP
24 provision, so the MDP provision --

25 Well, let's do it a little differently. Let's use

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 in our example an MDP provision that is permissive of a
2 CFO expansion. So the approval officer goes forward --
3 no that gets us to (b).

4 My problem is this: We are applying an MDP
5 provision that would say no to an operation when that
6 MDP provision may not be the statutory provision that
7 applies to the operation. That's what happens when we
8 exclude consideration of a statutory plan that in
9 hierarchy is at a higher level, so prevails. Am I
10 wrong in that statement? Is that --

10:50

11 **A. MR. CUMMING:** No, I think you're right. You
12 know, I wanted to also point out to you that the way
13 that this framework is set out, it wouldn't matter if
14 that IDP provision was less stringent or more stringent
15 than the MDP provision.

16 So I think you have to consider that as well.
17 It's not just always that it's going to be less
18 stringent and less permissive, if you will.

19 **Q.** Well, here, it would always -- if it's more
20 restrictive, then it's important that we consider it,
21 because if it says no to the application and the
22 approval officer says "I'm not looking at it because
23 the MDP tells me that it's okay to build a CFO on this
24 site and the IDP isn't sufficiently referenced in the
25 MDP for me to get there and look at that under

10:50

C. WEISBACH, A. CUMMING

Questioned by Mr. Kennedy

1 statutory plan," then you are -- then we're approving
2 an operation that's inconsistent with a land use
3 provision that prevails over the MDP. Is there
4 something wrong with my logic in running through that
5 scenario?

6 **A. MR. CUMMING:** Under the *MGA*, you're absolutely
7 right. Under *AOPA*, the approval officer would be doing
8 the right thing at that point in time as to they're
9 required to do under that statute.

10 **Q.** And not that this requires an answer, but, you know,
11 the *MGA* applies throughout this province whether -- and
12 if there is a provision that affects the interpretation
13 of a statutory plan in the *MGA*, you know, we can't
14 ignore the fact that the *MGA* exists I would suggest.

15 And, again, does this policy meet that
16 expectation?

17 And I'm not looking for a legal opinion. And
18 that's why this question is a bit awkward, and if you
19 want to just decline answering it, that's fine.
20 Perhaps Ms. Vance can address this in final argument or
21 in redirect, more of a legal question so perhaps final
22 argument, but I think there's a real question that
23 needs to be addressed.

24 **A. MR. CUMMING:** I agree that it does put approval
25 officers in an awkward position from time to time.

10:51

10:52

C. WEISBACH, A. CUMMING**Questioned by The Chair**

1 Q. Well, and perhaps it puts neighbours and municipalities
2 in an awkward position as well because our decisions
3 affect not only the Board; they affect operators, they
4 affect neighbours.

5 Our legislation is to address communities, and the
6 fact that we put an approval officer or legal counsel
7 or the Board in an awkward situation should not be our
8 priority. That's not our main concern.

9 So, thank you, Mr. Cumming, those are my
10 questions.

10:53

11 Ms. Weisbach, I overlooked thanking you. I was
12 thinking that I should have thanked you, and I missed
13 that. Your answers are very helpful, and Mr. Cumming,
14 thank you. Those are my questions.

15 THE CHAIR: Mr. Kennedy, thank you.

16 Mr. Cumming, I just have one question.

17 **THE CHAIR QUESTIONS THE PANEL:**

18 Q. And I would agree, you know, Mr. Kennedy's outlined it;
19 there's a bunch of legal interpretation that has to
20 happen here. And this is probably not, you know, maybe
21 perhaps even the forum. The Board will have to
22 struggle with this for sure, but it's when we need to
23 struggle about it is really the question.

10:53

24 But my question to you is if -- there's statutory
25 interpretation rules that you may or may not be

C. WEISBACH, A. CUMMING**Questioned by The Chair**

1 familiar with, but I think one that you might be
2 familiar with is if an outcome would lead to an
3 absurdity as an example, then even regulators that need
4 to interpret the law can interpret it somewhat
5 differently if it leads to an absurd answer as an
6 example.

7 Are you aware of where *AOPA* directs you very
8 specifically in many places that you have said,
9 "Well, in this case we're not going to follow *AOPA*."
10 Has your policy recognized any potential
11 inconsistencies or absurdities in *AOPA*, and therefore
12 you've said, "Well, this time we're not going to follow
13 very prescriptive direction from *AOPA*"?

10:54

14 **A. MR. CUMMING:** What I can say is that *AOPA* does
15 allow for variances to be utilized, and our policy
16 outlines that if a variance is going to be considered,
17 that it needs to be explained as to why a variance is
18 being used and being proposed.

19 So it needs to be very clear as to why something
20 is not going to be -- not going to be done.

10:55

21 **Q.** Okay. So I guess I could be a little more specific; I
22 thought you might just jump to it.

23 But as you know in your policy under deemed
24 incapacity, Section 18.2(b) states, you know, that the
25 numbers in a municipal permit are the numbers that are

C. WEISBACH, A. CUMMING**Questioned by The Chair**

1 to be used. But there was some potential outcomes from
2 strictly applying that very prescriptive piece of
3 legislation that led to a policy shift, and, you know,
4 I would think that rightly so.

5 But it essentially directs approval officers to
6 ignore that piece or maybe not ignore but to apply a
7 different provision in terms of using capacity rather
8 than strictly municipal numbers. Does that kind of
9 ring a bell?

10 **A. MR. CUMMING:** Are you talking about the Act and
11 not the policy when -- I assume that you're referring
12 to Section 18?

10:56

13 **Q.** Yeah, sorry, the Act under Section 18.2, but the policy
14 is -- I wrote it down here somewhere. Deeming capacity
15 for grandfathered operations, I think it's 216-5; I'm
16 just kind of going by memory there. I was looking at
17 it, and I thought I had written it down here, so my
18 apologies.

19 So in that policy, it -- you know, approval
20 officers are directed to -- or basically the policy
21 says that that one piece of the legislation does not
22 need to apply because strict application of the act in
23 that section will lead to potentially an absurd
24 outcome.

10:56

25 So my question isn't to debate that; it's really

C. WEISBACH, A. CUMMING

Questioned by The Chair

1 to say if a statutory interpretation were presented or
2 if you worked through with legal counsel, statutory
3 interpretation rules that would allow you to sort of
4 say, "Yeah, you know, perhaps the *MGA* -- the changes in
5 the *MGA* now could be reflected in policy."

6 And in terms of, as Mr. Kennedy points out,
7 flipping those around, there would be -- you would be
8 open to -- to making that change in policy or change a
9 policy to reflect that if the statutory interpretation
10 rules opened the door for you. Would that be fair?

10:57

11 **A. MR. CUMMING:** I want to be very careful how I
12 respond to this because it does have potential
13 implications and, typically, anything that we're going
14 to put into policy which may be in conflict with the
15 legislation, we would want to have those discussions
16 with the owner of the legislation and probably also our
17 policy advisory group before we ran through that.

18 So you know, I don't want to say no, but I think
19 that there is quite a number of steps to take place
20 before that happens.

10:58

21 The one thing that does typically happen when an
22 act is changed is that there are consequential
23 amendments that are done to different pieces of
24 legislation that it applies to or may impact.

25 And when the *Municipal Government Act* was changed,

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 those consequential amendments, excuse me, were not
2 made to change any of the *AOPA* requirements, which
3 leaves us in this position that we're happening right
4 now. My presumption would be that that was done
5 knowingly.

6 Q. Right. Okay. Thank you, Mr. Cumming.

7 THE CHAIR: Ms. Stuart?

8 MS. STUART: Thank you, Mr. Chair.

9 **MS. STUART QUESTIONS THE PANEL:**

10 Q. You know, one of the clear challenges in this
11 discussion is that -- and, Mr. Cumming, please confirm
12 my interpretation of this is correct, that under *AOPA*,
13 the approval officer is currently bound to disregard
14 anything other than the Municipal Development Plan; is
15 that correct?

10:59

16 A. **MR. CUMMING:** It's very specific about what they
17 have to consider, and it is the Municipal Development
18 Plan land use provisions.

19 Q. And do you agree that in Section -- and I apologize,
20 I'm just trying to bring up my Act to make sure I've
21 got the section correct, but that in *AOPA*
22 Section 25 (4), Item (g), it says that: (as read)

10:59

23 "In conducting a review, the Board must
24 have regard to, but is not bound by the
25 Municipal Development Plan."

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 **A. MR. CUMMING:** **Yes.**

2 **Q.** Can you speak to how you view that statute, that piece
3 of statute?

4 **A. MR. CUMMING:** **In my opinion, that essentially**
5 **says that the Board has more authority and more power**
6 **than an approval officer and may choose to do something**
7 **that may not be included as part of the Municipal**
8 **Development Plan, which is different to what the**
9 **approval officer has to consider under Section 20.**

10 **Q.** And my only other question is -- and recognizing and 11:00
11 respecting your comments about proper process of
12 interpretation and the involvement of policy
13 change -- I do note that you said -- and I, of course,
14 don't have the exact wording in front of me, but it was
15 around 25 minutes after 10, you alluded to Field
16 Services revisiting policy in terms of those statutory
17 plans and you did -- you did use the word "looking at
18 improving our policy" and I just wondered if you could
19 expand on that slightly to help the Panel understand
20 when you use that word "improving," do you see a 11:01
21 current deficiency in the policy? And, again, I
22 recognize you may have some question in wanting to
23 answer this.

24 **A. MR. CUMMING:** **I think I recall what you're**
25 **referring to, and our current policy is -- is really**

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 not perhaps as clear as it could potentially be and
2 some of our approval officers have asked for additional
3 clarity as far as those concerns.

4 So that's what we're trying to do is to add
5 clarity, and by adding clarity, obviously, improve how
6 considerations, Municipal Development Plans, other
7 statutory plans are made.

8 So our objective here is to continuously improve
9 and provide that clarity that everyone is seeking. The
10 framework that we proposed in the submission is just
11 that; it's a proposed framework for consideration.

11:02

12 Q. Okay. Thank you, Mr. Cumming.

13 MS. STUART: Mr. Chair.

14 THE CHAIR: Thank you, Ms. Stuart.

15 Mr. Graham?

16 MR. GRAHAM: Not at this time. Thank you.

17 THE CHAIR: Thank you, Mr. Graham.

18 And, Ms. Roberts.

19 MS. ROBERTS: I have no questions for

20 Mr. Cumming. Thank you, Mr. Chair.

11:03

21 THE CHAIR: Okay. So I think we are at the
22 end of our questioning for Field Services.

23 MR. VAN'T LAND: Mr. Chair, I wonder if -- through
24 the discussion, I had one question that came to mind,
25 and I wondered if I could offer some points of

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 clarification on two other items?

2 THE CHAIR: Who's speaking, please?

3 MR. VAN'T LAND: Sorry. This is Scott Van't Land
4 from Double H Feeders.

5 THE CHAIR: Well, I'm kind of wondering is
6 this something you can bring up during your direct or
7 is this a direct question for Mr. Cumming?

8 If it's clarification, I think you'll have an
9 opportunity to perhaps do that.

10 MR. VAN'T LAND: This is a question about the
11 detailed permit for Ms. Weisbach.

12 So whether that's now or later --

13 THE CHAIR: Oh, I see. Well, Mr. Kennedy? I
14 mean --

15 MR. KENNEDY: Well, it's highly unusual. And,
16 you know, of course, it's in the Panel's hands as to
17 how they're going to field this and rule on it.

18 But just so all the parties understand, and I
19 think our guides are pretty clear is you have an
20 opportunity, once that opportunity is passed, typically
21 it doesn't come back to you. So when you had an
22 opportunity to ask questions of the approval officer
23 and Mr. Cumming and you declined to do so, that's it in
24 the normal process.

25 You know, and to be fair, is these proceedings

11:03

11:04

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 have to move along in an orderly fashion and there's a
2 reason why we've established the order that we have
3 established and we follow.

4 You know, if we conduct an open house, which we do
5 from time to time, it's a far different format, but a
6 public hearing has rules and the rules are there for a
7 reason.

8 And with that, I'll leave it to the Chair and the
9 Panel as to how they're going to rule on your specific
10 request, and not knowing what your question is, and it
11 could be that you put that question to the Panel and
12 determine whether they are prepared to put it to the
13 witness.

11:04

14 THE CHAIR: And I guess a quick question I
15 had, Mr. Van't Land, is this something that you could
16 just address in your direct if it's a clarification
17 that you -- or is it something you just don't know and
18 want an answer to?

19 MR. VAN'T LAND: It's a clarification.

20 THE CHAIR: Why don't you make that in your
21 direct. I think that's fair ball.

11:05

22 MR. VAN'T LAND: I can do that, too. There are two
23 clarifications about information that's been provided
24 that I feel might be helpful, but I will leave that at
25 your discretion.

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 THE CHAIR: Well, Mr. Kennedy, I think he
2 has -- that's his opportunity when he's presenting. Do
3 I have that right?

4 MR. KENNEDY: Yes. So, Mr. Van't Land, just so
5 you understand, the evidence that other parties
6 provide, typically other parties may not agree with it,
7 they may take issue with that and that's the reason why
8 you get a chance to present your evidence and why you
9 get an opportunity to question them when your
10 opportunity to question arises.

11:06

11 And, you know, hearings become very awkward if we
12 start circling back. You know, I heard something in
13 the response to the next parties' questions that I
14 think I want to clarify. No, you had your chance, and
15 it's passed, and that's a typical feeling. It happens
16 to me all the time when I'm in a public hearing is I
17 hear somebody further down the road ask a question and
18 I think, "Boy, there's a follow-up that I'd just love
19 to ask." I don't get to do that.

20 So find a way, and there probably is a way when
21 you are giving your direct evidence, you can make your
22 statement as to -- or qualification as to how you --
23 you know, what your evidence is, and then, of course,
24 you get to final argument. And that's your opportunity
25 to say, "You heard this as the evidence, and you heard

11:06

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 conflicting evidence perhaps, but here's how I want you
2 to consider and factor that evidence," and you get to
3 persuade the Board as to why your interpretation should
4 be -- should carry the day. So that's the final
5 argument piece.

6 You don't get to put in new evidence at that
7 point, but you get to present your case as to why the
8 Board should reach a certain decision based on the
9 evidence they've heard through the course of the
10 hearing prior to final argument. Does that help you.

11:07

11 THE CHAIR: Yes, great explanation,
12 Mr. Kennedy.

13 Mr. Van't Land, do you understand where
14 Mr. Kennedy is going? And my sense, unless the Panel
15 is in disagreement, and I'll hear from them, but is to
16 have you during direct evidence, if there's some
17 evidence that you want to put in front of us, that's
18 the best spot for you to do that, and then we can, you
19 know, as Mr. Kennedy says, avoid the circling of wagons
20 because that could go on all day, of course.

11:08

21 Panel members, are you in agreement with that
22 approach?

23 MS. STUART: Yes, I am.

24 MS. ROBERTS: Yes, I am.

25 MR. VAN'T LAND: My apologies to the Panel, and not

C. WEISBACH, A. CUMMING

Questioned by Ms. Stuart

1 following procedure. So I will take lots of notes and
2 make sure to address the concerns that I have.

3 THE CHAIR: No apology required. I mean, at
4 the start I encourage people to ask questions, and
5 you've done that. You've said -- and I think we've
6 provided an avenue for you, but it's a learning
7 experience for folks that, you know, this is -- a
8 hearing process is new to you, so no apology required.
9 And we'll look forward to those -- your direct evidence
10 in just a few minutes, actually.

11:08

11 Okay. Well, thank you. Thanks, Panel members and
12 Mr. Kennedy.

13 Field Services, do you -- Ms. Vance, do you have
14 any redirect?

15 MS. VANCE: I do not.

16 THE CHAIR: Thank you. It is about seven
17 minutes after 11. Getting sort of close to the lunch
18 hour, but probably a little too early for lunch. But I
19 think some folks might be looking for a bio break if
20 nothing else, and maybe grab a coffee. In particular,
21 I notice that some of us are sort of locked into these
22 screens and we can't really get away from them. So why
23 don't we break until 20 after 11, but we'll --

11:09

24 Oh, I'm sorry. Ms. Vance?

25 MS. VANCE: Sorry, just before we break, I

1 wanted to -- or broke, I wanted to clarify and confirm
2 that Ms. Weisbach and Mr. Cumming are released from
3 their chair and their testimony?

4 THE CHAIR: Yes.

5 MS. VANCE: Thank you.

6 (PANEL STANDS DOWN)

7 THE CHAIR: So if there's no objections, let's
8 take until 11:20, a quick bio break and resume at that
9 time.

10 (ADJOURNMENT)

11 (DISCUSSION OFF THE RECORD)

12 THE CHAIR: So we've got everybody back.

13 Thank you, all.

14 So, Mr. Van't Land, with Double H, you are up, and
15 your turn to present direct evidence, and then we'll
16 have an opportunity to ask you questions just as we did
17 with the approval officer.

18 So are you ready to proceed?

19 MR. VAN'T LAND: I am.

20 THE CHAIR: Great. The floor is yours.

21 THE WITNESS: I wonder --

22 THE COURT REPORTER: Sorry, excuse me. Would you like
23 the witness sworn in?

24 THE CHAIR: Yes, I would.

25 Thank you.

11:10

11:25

S. VAN'T LAND

1

2 S. VAN'T LAND (For Double H Feeders), affirmed

3 A. I wonder if I could have the people preparing the
4 documents bring up Document Number 18, which is the
5 document that I submitted.

6 My plan is roughly to walk through and offer
7 clarification and a few more details around various
8 aspects of that document, if that's okay.

9 So starting on the first page here, there was some
10 question about the number of birds that are at each
11 location. And one of the challenging things, I don't
12 know how familiar everyone is with the broiler
13 industry, but when I first started growing birds, a
14 typical chicken would weigh somewhere in the
15 neighbourhood of 1.95 kilos. Today, we're typically
16 shipping a chicken that is in the neighbourhood of
17 2.3 kilos, and that depends on what market we're
18 shipping into. Sometimes that chicken, if we're
19 shipping into a KFC market, could be a 1.7 kilogram
20 bird.

11:26

11:27

21 So the presumption of issuing a permit based on
22 birds is a very fuzzy number. And when we're allocated
23 our quota from -- through the Alberta Chicken
24 Producers, it's actually done in kilos instead of
25 chickens to try to alleviate that process.

S. VAN'T LAND

1 And also, there -- I don't know how these numbers
2 get updated over time, but it's also worth noting that
3 when I first started raising birds, the feed conversion
4 on a chicken was somewhere around 1.8, 1.85, kind of in
5 that range. And, today, we're typically shipping with
6 a feed conversion of 1.5.

7 And the reason I feel that's relevant is because,
8 obviously, if you're feeding a chicken a kilo of feed
9 and more of that kilo becomes part of the chicken
10 rather than goes out the tail end and out into the
11 manure pile, that's relevant to how much manure we're
12 generating.

13 So that being the case, I hope that clarifies some
14 of the numbers that seem to be thrown around. And I
15 realize that a permit number that was issued 20 years
16 ago is relevant, but from a technical point of view, we
17 also have to understand that the industry, when my dad
18 first built the barns on the west quarter, the typical
19 stocking density of a chicken barn was one chicken per
20 square foot. As time moved on, that commonly became
21 three-quarters of a square foot per chicken, and in
22 some operations it got as dense as half-a-square foot
23 per chicken.

24 The industry has moved back from that, and we
25 actually target now, because of the weight variation,

11:28

11:28

S. VAN'T LAND

1 we target a density of 38 kilograms per square metre.

2 So the allocation of the stocking of a chicken
3 barn isn't a static number and isn't perhaps as simple
4 as it might be in a hog or a feedlot scenario. So that
5 being the case, I think that answers any of the
6 questions that might happen on the first page.

7 If we move to the second page of that document,
8 just to talk a little bit about the rationale for going
9 through this process, I don't know if it's because of
10 the details of the legalities of dealing with the
11 different permits or if it's a misunderstanding. But
12 we're essentially looking to -- to move one operation
13 onto another.

11:29

14 I know there's some questions about the
15 relationship of the northwest versus the northeast
16 quarter. And when we applied for that permit, we did
17 apply for a modest increase, to go from a total of
18 226,000 birds to 238,000 birds, which represents
19 roughly a 5 percent increase.

20 And to be honest, there's a portion of me that
21 doesn't like odd numbers and that's where 120,000 came
22 from. And that fits within the proposed square footage
23 in current technical standards that we place our birds
24 to.

11:29

25 So, from an operational point of view, we look at

S. VAN'T LAND

1 this as a moving of our operations away from the Town
2 of Coalhurst onto a more appropriate location.

3 That ties into the -- on the second half of this
4 page, I referenced the Intermunicipal Development Plan,
5 and I'm just going to go to, would be page -- there's a
6 map in the plan that I think best illustrates this, and
7 that would be, in this document, it's on page 5. If I
8 could have that brought up and kind of just centre the
9 operation there.

10 And so I've taken this straight from the
11 Intermunicipal Development Plan, and I just annotated
12 it with the location of the land we own within that
13 area. Where "Trevor's Yard" is, which is the operation
14 that we're planning on decommissioning, and "Scott's
15 Yard" is the yard where we're proposing to add the --
16 to move the production to.

11:30

17 And you can see in the bottom left corner there
18 the proximity we are to Coalhurst and how that yard,
19 when you stand on that yard and look around, there's --
20 fortunately my grandparents and dad had the foresight
21 to plant a lot of trees, so a lot of people can't see
22 the barns there. And a lot of neighbours are quite
23 frankly surprised that there is an operational --
24 operation there.

11:31

25 But it's also sited in an area which, according to

S. VAN'T LAND

1 the IDP, is -- is destined to be potential group
2 country residential, which we can see that there is
3 already a dense smattering of acreages and whatnot
4 there, and in the future, I can see where that might
5 lead to some friction.

6 And that's why we're making this move to move that
7 production over to what is deemed in the IDP to be
8 primarily agricultural land. And you can see the pink
9 semicircle on that page where it's actually slated
10 perhaps for industrial development, if not
11 agricultural. So what that communicated to us as well
12 is that that area is not destined to be residentially
13 developed, regardless of what the current determination
14 is.

15 There's been a lot of concern about runoff, and
16 with that, I would like to go to page 17 I think shows
17 it the clearest. And this map is a topographical map
18 which I obtained from -- the Lethbridge Northern
19 Irrigation District was good enough to provide that to
20 me. And you can see in the bottom left corner is our
21 current operation, that quarter section where our
22 operation is. And on the bottom right-hand corner is
23 where Mr. Clifton's operation is.

24 In one of the previous documents, there is -- it
25 demonstrated where the runoff runs, and it shows the

11:32

11:32

S. VAN'T LAND

1 runoff is running -- from our quarter section, there is
2 no culvert going directly east, but there is a culvert
3 going north and then east into the southwest of
4 26-9-22. And it was alluded to I thought that that
5 might be considered Mr. Bedster's land, and that is not
6 where Mr. Bedster lives. He lives significantly
7 further south from there.

8 But that neighbour has approached us about the
9 drainage, and we've had some good conversations, and
10 he's looking to make some improvements there, and we've
11 offered to work with him on that, and the ball is in
12 his court on that. So we're looking to work with our
13 neighbour on that.

14 THE CHAIR: Excuse me, Mr. Van't Land,
15 Document Manager, are we seeing the entire page here?
16 Is there a way to just maybe bring that down a bit,
17 yeah, and maybe just a little bit more? Thank you very
18 much.

19 Sorry, Mr. Van't Land, I thought it might be
20 easier to kind of follow your descriptions if we could
21 see the entire page.

22 A. Yes, I appreciate that.

23 What can also be seen when you look at the
24 drainage on that parcel, the purple lines are
25 indicative of where the lines would run. On a

11:33

11:34

S. VAN'T LAND

1 topographical map when you run perpendicular to the
2 lines, you're walking straight downhill. So the middle
3 of the bottom left-hand quarter is where my barns are.
4 And it's on a hill, and drainage runs both east and
5 west from there.

6 So the drainage that runs west does run into a low
7 area where we have put a swale, and that ends near the
8 what locally is known as the Kipp Highway, the
9 Township Road 9-4, which is on the north side of our
10 property. That swale and the tile ends in the position
11 that is lower than the culvert where the water from
12 that drainage runs.

11:34

13 So the mindset behind that is simply to try and
14 take some of our problem land and consolidate the
15 problem in one area, as opposed to having it spread
16 over a larger area. So that is the mindset with that
17 particular drainage.

18 And then when you move to the east side of the
19 parcel, you can see again that the water runs generally
20 speaking towards Highway 25, and from Highway 25 it
21 runs north.

11:35

22 And if you go to the -- if you can highlight the
23 south side of this picture, I know Mr. Bedster has a
24 significant amount of drainage that runs through his
25 land. I've seen it; I've seen virtual rivers running

S. VAN'T LAND

1 through there. But that water all comes -- "all" is a
2 strong word -- but most of that water comes from south
3 of him.

4 There is some water from the quarter section that
5 is directly north of us that will also run through
6 there. But if we move to the south side of this
7 picture, you can see that there is an elevation rise.
8 Actually, it's probably better shown on picture -- the
9 page previous to this is a wider area. There we go.
10 You can see along our southern border there that that's
11 a rising elevation. And part of that is because that's
12 an old irrigation ditch that was decommissioned. And
13 they tended to run the irrigation ditches along the
14 high points of the land.

11:36

15 And as that crosses Highway 25, there is no
16 culvert there, so there is no place for our water to
17 run south in that regard.

18 So I just wanted to make that clear, yeah, that
19 none of the water from here is ending up there. All of
20 the water that runs from our southern border runs to
21 the north. None of that water runs onto our southern
22 neighbours' land. It -- the elevations are just not
23 adequate for that.

11:36

24 So that covers, I think, the drainage, and I
25 imagine there will be questions about that.

S. VAN'T LAND

1 The IDP, I think I'll just -- any questions that
2 people had about how the IDP associated with this,
3 because I think it's pretty clear in the documentation
4 in the IDP.

5 And the nutrient management plan that was
6 incorporated into our application, we have been working
7 with a certified crop advisor for over 15 years. And
8 he's been working with us to make sure that our manure
9 application is appropriate. And in our particular
10 case, we don't look at the manure as a waste product;
11 we look at it as a valuable asset. I mean especially
12 in a year like this when fertilizer prices are
13 approaching what they will be, we're looking to utilize
14 productively every last truckload of manure that we
15 generate.

11:37

16 To do that, we work with him to make sure that
17 that manure gets utilized properly. We do work in a
18 direct-seeding method of crop production. We do spread
19 the manure on the land, and given the provisions in
20 *AOPA*, we do not turn it over. We wait for it to be
21 incorporated.

11:38

22 The direct-seeding pool that we use is -- does
23 disturb the land a fair amount, so I would probably
24 estimate that the ground is 75 percent disturbed by the
25 time that grows over. But it's a single-pass

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1 operation.

2 And part of that is because we're really looking
3 to maintain soil structure. We're looking to
4 maintain -- there's a lot of science that's still in
5 process as far as what bacteriological and fungal
6 networks are occurring in the land, not to mention the
7 soil structure itself that every time you turn that
8 land over, you disturb it. And it has implications for
9 resiliency for water and carbon storage and just for
10 the resilience of the land as far as the health of the
11 crop is concerned.

11:38

12 So that, we sample every field every year.
13 It's -- we feel it's a valid cost to get that done, and
14 that way, we always know where every parcel is as far
15 as the nutrient factor is available to us. We don't
16 like guessing, so we -- we do that.

17 And yeah, I'm trying to think what else to
18 highlight here.

19 One of the provisions in the IDP referred to --
20 there's a fair bit of discussion about Point 4.1.5 in
21 the last session. And one of the provisions in there
22 was reducing negative impacts to rural and urban
23 residents. And that is a significant portion of why
24 we're approaching this project the way we are.

11:39

25 We've been weighing the tradeoff of improving the

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1 barns that are on the northwest location to a modern
2 standard. They're currently double-standard --
3 double-decker barns that are for modern broiler
4 production is inefficient and inconvenient and
5 not -- not the current standard of operation, which we
6 would be building on the northeast quarter.

7 But to put investment into building barns there
8 where in the foreseeable future, I mean within 20 to 30
9 years I can anticipate that area being much more closed
10 in with residential development.

11 And on the east quarter we're much more open.
12 There -- for some reason, there seems to be some kind
13 of a dividing line between the east and the west
14 quarter even when you look to the subdivision map,
15 there are dozens of subdivisions out of the different
16 quarter sections that are on the west side of that
17 line. When you come to east side, most of the quarters
18 are whole.

19 And keeping that production close to Highway 25,
20 close to areas that are slated for industrial
21 development, close to areas that are less prone to
22 residential development is -- is what our goal is.

23 So one of the questions I had regarding the
24 permit, which I was remiss in not asking earlier, is
25 there is a provision in the previous permit that was

11:40

11:40

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1 issued regarding the incorporation of manure. And my
2 question would be, I think when that permit was issued,
3 I think we only had the 200 acres that we colloquially
4 call the home place. We have about three or four times
5 that amount of land now, and if that were to be
6 incorporated -- we're not interested in incorporating
7 all our manure for the -- I mean for the amount of
8 diesel fuel, iron, and just waste that that
9 incorporates.

10 So I'm wondering what the specific details around
11 that particular provision would be, and if there's a
12 way to amend the permit to remove that, as long as
13 we're -- we're committed to following *AOPA* guidelines
14 from start to finish, and if those guidelines change,
15 obviously the requirements will be changing as well
16 anyway just as a legislative reality of that. But I'm
17 curious what the appetite and procedure would be for
18 removing that clause from the permit. So, and with
19 that, I think I've covered my notes anyways. So with
20 that, I'm open to questions.

21 THE CHAIR: Thank you, Mr. Van't Land.

22 Lethbridge County. Ms. Janzen, any questions?

23 MS. JANZEN: No, I have no questions.

24 THE CHAIR: And, Ms. Horvath, Town of
25 Coalhurst.

11:41

11:42

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 MS. HORVATH: I have no questions.

2 THE CHAIR: Ms. Schmid?

3 MS. SCHMID: I actually do have a couple of
4 questions. I'm not sure how pertinent they are.

5 **MS. SCHMID CROSS-EXAMINES THE WITNESS:**

6 Q. My question kind of goes back to compliance issue, just
7 when Matt [verbatim] is speaking about how they figure
8 out numbers. Like, it says they have 58,000 birds
9 currently, but they operate by kgs. So if you have a
10 permit in place for 50,000 birds, and you have to
11 assume a kg amount, why couldn't you back off the total
12 kg amount to get closer to what you were permitted as
13 opposed to going over?

11:43

14 A. I guess my question would be there's a perceived intent
15 to a limitation on how much livestock can be produced
16 on any particular location. And in order to -- to
17 achieve the market conditions that we're looking to
18 ship into, it -- it can make as much as a 25 to
19 30 percent difference in the stocking density that's
20 available to us with no discernible difference.

11:44

21 When we're operating our chickens, we operate on
22 an eight-week cycle. Typically the birds with their
23 current genetic development, when we're operating with
24 a 2 -- 2 and a quarter kilo bird, we're stocked for
25 38 days and then we have the balance of the time to

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Cross-examined by Ms. Schmid

1 clean up the barns and prepare for the new flock.

2 If we're only shipping a 1.7 kilo bird, we only
3 have birds in there for 30, 31 days which is roughly
4 half the time. And I would suggest that if we're going
5 to look strictly at stocking density, then we should
6 also be looking somehow to accommodate for the time
7 that the birds are in the barn.

8 When the permits were initially issued, we would
9 routinely have birds in for 42 to 43 days, but the
10 development of the genetic potential of them birds has
11 improved that much over the last 25 years that we're
12 able to get much more bird out of the same physical
13 facilities.

11:44

14 And I don't think it is necessarily the intent of
15 the permit to -- to arbitrarily limit the production in
16 these barns.

17 MS. FRIEND: This is Laura. I think you're on
18 mute, Mellissa.

19 MS. SCHMID: Yes, I'm just trying to figure out
20 how I want to ask a follow-up question for this.

11:45

21 THE CHAIR: I sort of figured that you were
22 just doing a little caucus there, so.

23 MS. SCHMID: Yes.

24 Q. I guess what I'm trying to sort out in my mind here,
25 and maybe somebody else can clarify this better than I

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 can, is you had the permit for the 50,000 birds. We
2 spoke about like reducing the total kg to be more
3 compliant with that permit, but then you're kind of
4 saying that you'll set your own parameters even if it
5 does mean exceeding what you were approved for.

6 So I don't really know how to frame my question,
7 but in my mind, it just comes across as, okay, so we're
8 permitted for so many birds, but this is what I'm going
9 to do anyway.

10 **A. The requirements that are indicated under manure**
11 **spreading and what have you make sort of assumptions as**
12 **to the size of the bird and the amount of manure**
13 **they're going to produce. And in my working with the**
14 **NRCB through this and previous projects, it almost**
15 **seems like there's more of a concern over the manure**
16 **than the actual birds.**

11:47

17 Any welfare or production concerns are dealt with
18 by other arms of government, but here we're looking to
19 make sure that everything is done in an environmentally
20 sustainable manner, and that's always the attitude that
21 we've looked at it under is to make sure that we're
22 following the spirit of the permit.

11:47

23 To be honest, we produce less manure now than we
24 did 20 years ago.

25 **THE CHAIR:** I think, Ms. Schmid, your

S. VAN'T LAND**Cross-examined by Ms. Schmid**

1 questions are valid, and my sense is that, even on a
2 go-forward basis on the existing operations, if there's
3 an issue around density, population, exceeding permit
4 numbers, that ought to be issued as a complaint to the
5 NRCB and they can follow up, and if Mr. Van't Land's
6 interpretation of what's allowed is different from the
7 NRCB's, I mean the NRCB will prevail.

8 It isn't -- we don't have somebody right here, and
9 that question might have been suitable for the approval
10 officer too in terms of how they handle numbers and 11:48
11 that, but that time has passed, and this wasn't brought
12 up as a key -- we don't have a compliance -- anybody
13 from compliance here as an example because this was not
14 brought up as a key issue for the hearing.

15 So I get your question. I think it's been
16 answered, but in the future, if -- you know, if you
17 feel that there's an issue that needs to be addressed,
18 you know, I think you should feel free to call the NRCB
19 and make sure that issue is addressed appropriately.

20 MS. SCHMID: Okay. That's definitely fair. 11:49

21 Q. I just do have two more questions for Matt -- or,
22 sorry, Scott -- if you could just maybe outline to me,
23 like, the long-term impacts ecologically, like, the
24 positive and the negative aspects if you get approved
25 for expansion and what that looks like.

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 A. Right now when we operate in the older barns, they're
2 double decker barns, they're older wood construction,
3 the energy efficiency in those barns is verging on
4 laughable. The age of the barns is such that the
5 insulation is mostly out of the walls and to bring them
6 up to current standards is difficult.

7 The operations that are involved in cleaning out
8 the manure in those barns -- just for a point of
9 comparison, we built a set of new barns in a different
10 location about five years ago, and the amount of time
11 and equipment, operational hours that it takes us to
12 clean out -- what takes us an easy day in the new
13 facility takes us about three days in the old facility
14 probably -- and that's strictly manure clean-out, and
15 then there's sweeping, blowout, disinfection.

16 I would say that it probably doubles the amount of
17 equipment time, doubles the amount of work time, and at
18 the same time, the barns, because of the modern
19 construction, are much more energy efficient. We burn
20 a lot less fuel, the birds are a lot more comfortable,
21 we're able to keep the environmental conditions inside
22 the barns a lot more suitable in extreme weather. So
23 those are a number of the improvements that we're
24 targeting.

25 As far as the implications regarding the amount of

11:50

11:50

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Cross-examined by Ms. Schmid

1 manure produced, we're talking about a 5 percent
2 difference, which is -- when it comes to something like
3 spreading manure is somewhere in the neighbourhood a
4 rounding error.

5 We continue to -- we spread the manure based on
6 the soil samples that we get and how much manure is
7 appropriate for -- for those quarter sections. So in
8 our particular operation, that tends to mean that we
9 operate on a four-parcel rotation.

10 Canola has been an integral part of our rotation
11 for many years, and the most suitable place for the
12 manure in our rotation is the head of the canola. It
13 seems to use it the best, and it's a heavy nutrient
14 user, reacts the best to having the manure on, and
15 that's how we've been managing that.

11:51

16 So I think in the grand scheme of things, it would
17 be a net positive from an environmental point of view
18 because we're using -- it's a much more energy
19 efficient construction, it's a much more labour
20 efficient construction. The utilization of the manure
21 is going to be status quo. It's essentially the same
22 as it is now.

11:52

23 Five percent increase or decrease, that has to do
24 with if we adjust our bedding depth by a fraction of an
25 inch eats up that percentage. So the net implications

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 of the operation are positive of this project.

2 Q. One final question is my concern around air quality,
3 what you guys are doing regarding that, and I guess
4 your rebuttal for, like, the long-term health concerns
5 or health exacerbation on community and neighbours with
6 your expansion and existing barns.

7 A. Right now both operations are upwind of you. And in
8 the new operation, there is better handling, there's
9 better ventilation. Because of the efficiency of the
10 heating and what not, we -- we have better air
11 movement, we have better air control. As far as the
12 actual direct impact of the barns, I honestly don't
13 recall ever getting a single complaint about the direct
14 location of the barns.

11:53

15 As Mr. Clifton is certainly aware, these barns
16 were converted from hog barns somewhere in the
17 neighbourhood of 20 -- 22 years ago I think. You'll
18 have to forgive me if I don't have the exact date
19 right. They stank. There's no argument about it.
20 There was frequent concerns from the neighbours
21 downwind and we -- we appreciated that and that had
22 something to do with our move at that time to shift
23 from pork to poultry operation in that facility. Since
24 then, I don't recall ever getting a note or complaint.

11:53

25 In one of the documents I was submitted there was

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 a concern about poultry manure being extremely
2 odorific.

3 I have been in laying egg barns where the manure
4 is handled in a wet manner where there is no litter,
5 where the litter is just kept wet and I have never
6 smelt a stench quite like it, and that is definitely
7 true. But when you shift to broiler manure, it's --
8 the barns are dry.

9 For bird health, we have to move enough air to
10 keep the litter dry so that the birds don't develop any
11 kind of adverse effects on their feet or lung quality,
12 any of those issues. The birds are in a dry
13 environment.

11:54

14 When that manure is handled, it's dry and that's
15 why it doesn't have the same odour that's associated
16 particularly with wet chicken manure.

17 Hog manure can be bad. Even feedlot manure can be
18 particularly smelly because of the nature of -- when
19 you disturb it, then there's a lot of moisture in the
20 cattle manure.

11:55

21 But poultry manure, when it's pushed out of the
22 barn, it's a layer -- it starts off as a layer that's
23 about 2 to 3 inches thick. It's dry and it doesn't
24 have the same odour associated as other types of
25 manure.

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 Q. Thank you. Could you just clarify, though, like as far
2 as air quality and modifications on this expansion,
3 like what's in place to reduce, like, fluctuations in
4 odour, like if your fans are running because you're
5 going to have two exponentially larger barns running
6 plus the three. And I'm just curious how you guys are
7 modifying and upgrading things to make this downwind
8 smell better and how that will impact health
9 exacerbations for people with respiratory conditions?

10 A. We are not planning to make any significant changes to
11 the existing barns, and the new barns have, yeah, the
12 ventilation. As far as the outside world is concerned
13 is you draw in fresh air, and you move out stale air.

11:56

14 We -- we manage the humidity in the barns. One of
15 the most recent developments in poultry ventilation is
16 we used to operate more on a minimum ventilation system
17 where we tended to just move enough air to keep it dry.
18 And when it comes to heating barns, that's a very
19 inefficient way to run a barn.

20 So now what we do is we typically target a 40 or
21 50 percent relative humidity in the bird living space.
22 When you run a barn at that humidity, it produces far
23 less dust. There isn't a lot of dust inside the barn
24 at that level of humidity.

11:56

25 And the nuisance complaints, I would put the

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 question to the NRCB as to how many nuisance complaints
2 they get from broiler chicken operations. On the grand
3 scheme of intensive livestock, I consider it to be a
4 relatively low impact development in any neighbourhood.

5 One of the things that I can point to is just the
6 current location of the west barns, we've had
7 neighbours that have lived within several hundred feet
8 of those barns that are surprised they're occupied.

9 So I don't know what to tell you as far as the
10 nuisance factor is concerned. It hasn't been a big
11 problem.

11:57

12 Q. Okay. So just so I'm clear, like there is no air
13 quality compliances you guys need to do moving forward?

14 A. We can't react to a complaint we don't get. I -- in
15 our own -- yeah. There have been a lot of complaints
16 about the air quality downwind of the barns.

17 Q. Thank you. Those are my questions.

18 THE CHAIR: Thank you, Ms. Schmid. Mr. and
19 Mrs. Bedster, do you have questions?

20 MR. BEDSTER: Yes, I do.

11:58

21 **MR. BEDSTER CROSS-EXAMINES THE WITNESS:**

22 Q. You suggested that there is the page where you had the
23 maps here of your land location. And on the NE 22-9-22
24 West of 4, you show a swale coming from the north to
25 the south. Page 16, yeah, sorry about that. And when

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 was that tile, that weeping tile, put in there?

2 A. I think we put that tile in two or three years ago. We
3 had some -- some line left over from a previous
4 project, and rather than let it go to waste, then we
5 thought we would see if we could improve.

6 There's a little bit of a collection area in the
7 south -- southwest corner of that field, and we thought
8 we would try and consolidate some of our -- our
9 wasteland.

10 Q. So water that comes down that swale is water that comes
11 off the roof of the barns, plus the water -- or I'm
12 assuming when you clean the barns, that would wash them
13 down, that that water comes out of the back of the barn
14 and goes down into that swale also; is that correct or
15 not?

11:59

16 A. The water off the roof of the barns will definitely run
17 where it runs. The roof of the barns are clean, so I'm
18 not sure what the concern would be there.

19 When we wash the barns, we're not washing the
20 material in the barn that's out. The cleaning process
21 for the barns is first we go in heavy equipment, we
22 push out the manure. Then we go in with backpack
23 blowers and air compressors, and we blow all the dust
24 off the equipment. Then we go through the barn and
25 sweep up all the dust that we've accumulated.

11:59

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 And then the final step before preparing for the
2 new flock is to wash. And that's a pressure washer
3 situation where typically what happens is you wash down
4 the equipment and the walls and the floor, and the
5 water evaporates out. You might get, I don't know,
6 five or ten wheelbarrows of water.

7 In our new facility in a barn that is a similar
8 size to all of my barns combined, I don't know, we
9 might get 100 litres of water out the back door. It
10 doesn't even run off the yard when we push it out.

12:00

11 Q. So the second swale you've got there that runs east and
12 west, where does that water go?

13 A. That water runs eventually towards Highway 25 and then
14 north and ends up going through SW 26-9-22.

15 Q. And so none of that water out of that swale can come
16 south, is that what you're indicating?

17 A. Yeah, if you go -- next time you're going by, go look
18 under Matt's driveway; there's no culvert there.

19 Q. But -- okay. There's no culvert there. But what's the
20 pump doing there in Matt's location there? And that's
21 where my concern comes from because the photos I sent
22 in in July or June, and I phoned Mr. Grisnick, and I
23 said, "How come so much water coming down here off the
24 north end?" And he said, "I don't know. I'm feeding
25 right now, I'll be over shortly." That's fine.

12:01

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 So he walks across the field and comes over. And
2 he indicated to me that "That water is not from my
3 field." "Well, where did it come from? And if it's
4 not from your field..." my question was to him, "Why
5 aren't you sprinkling that on your land?" And which I
6 got no response.

7 And that day, he said, "Well, you know, this will
8 quit around early afternoon." And it had been running
9 the day before, I'm fairly sure, but not a
10 hundred percent sure. And so the water was as grey as
11 chicken manure, and not just a little bit of water,
12 because he says, "My pump can't do that."

13 And I said, "Well, Matt, when you've got a 4-inch
14 line or whatever you're using up there that's coming
15 down your roadway coming out of Mr. Van't Land's place
16 and going into the culverts or into the water pit of
17 Highway 25 on the west side and comes down, then it
18 goes into the north culvert close to my property, and
19 none of this water is coming from the south." He says,
20 "It will be shut off by early afternoon." And he said,
21 "Yeah, that's pretty bad." And I said, "You're right."
22 And you know, that water was still running at midnight.

23 So where can it come from? I hate to say it, sir,
24 but it come off your property. It come down that
25 swale, and how it accumulated over there, I have no

12:02

12:03

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 idea.

2 But all I'm saying to you is I don't need that
3 water coming through my property to use on my garden
4 when I've had three kids get cancer and somebody says,
5 "Well, I just don't know." Please don't say you just
6 don't know; you know.

7 A. I -- if there's issues between you and Matt, I can
8 appreciate --

9 Q. No, there's no issue between Matt and I.

10 A. All I can say is when I was in school, I remember my
11 first year of engineering school, the professor told us
12 there's two things you need to know: One, you can't
13 push on a rope, and two, water runs downhill.

14 And Matt's driveway is higher than all my fields,
15 that water doesn't run into his place. It can't. The
16 drainage doesn't facilitate that.

17 Q. Okay.

18 A. That swale is where it is because the water runs
19 downhill from Matt's driveway towards that swale, and
20 the beginning of that swale is to kind of get over one
21 hill to another. But the natural drain of that area is
22 towards Highway 25, and from there, the water runs
23 north.

24 Q. With a pump?

25 A. There's no way -- well, then Matt's pump is higher than

12:04

12:04

S. VAN'T LAND**Cross-examined by Mr. Bedster**

1 **my field.**

2 Q. I don't care. The suction is in the ground or in a
3 vault or a hollow in the ground and was pumped out. I
4 walked up there, and I seen it coming out down to my
5 property.

6 **A. Our water does not run south, so that's all I can tell**
7 **you.**

8 Q. Well, maybe we should -- okay. If you want to say
9 that, you must remember well, that's all I gotta say
10 right now, sir.

12:05

11 But -- oh, one other fact. On that pipeline, how
12 did you ever get that in the ground? How did you get
13 that -- how did the Environment allow that because of
14 where it is and the manure you're putting on your land
15 and the medication that comes out of the birds' back
16 end, where does all that go?

17 **A. There's no manure coming out -- there's no medication**
18 **coming out the back end of the birds. That's something**
19 **that's carefully monitored.**

20 Q. Are you telling me your broilers aren't medicated?

12:05

21 **A. Not for anything that's for human concern, that's for**
22 **sure.**

23 Q. Well, Eramycin or Terramycin for the first two to three
24 weeks, maybe four. If they get any other disease, they
25 get medicated.

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 A. That's something my dad did 20 years ago, but we don't
2 do any prophylactic antibiotics at all in the barns.

3 The last time I had an antibiotic in the barn, I
4 think I got an expired pail on the shelf that expired
5 five years ago. We just don't use it.

6 Q. All I know is NEP companies that produce feed,
7 pre-starters, starters, and probably 21 percent has
8 some medication in it automatically in there, unless
9 that has changed?

10 A. It has changed. The industry is being very proactive
11 as far as improving both for being responsible and for
12 perception from our customers.

13 There's an obvious concern with antibiotics in
14 animal production, and that has been -- started being
15 addressed -- the first I remember hearing of it was 15
16 or 20 years ago, and there's been a constant march in
17 the environment, in the livestock production,
18 particularly in broiler chicken production; I can't
19 speak as much for cattle or for pork.

20 But to remove the prophylactic use of antibiotics
21 in our production, it just is not acceptable anymore.
22 And we've been improving our methods, and that has a
23 lot to do with why we've been focusing so much on
24 improving the barn environment is a healthy bird is a
25 happy bird and grows better and produces better. And

12:06

12:07

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 if we can do those things without using prophylactic
2 antibiotics, then we're all for it.

3 Q. Right. I've been retired 12 years now. It must have
4 changed in the last 12 years no medication in broiler
5 feeds; is that correct?

6 A. I think it went under the microscope probably five or
7 six years ago, and I think two years ago, because when
8 they're classing antibiotics as far as they're relevant
9 for human relevance, they have a four-stage -- four
10 categorizations: There's Class 1, 2, 3, and 4, Class 1
11 being primarily is for human antibiotic -- human use.
12 Class 4 being not used in human at all.

12:08

13 And Class 1 stopped being used probably seven or
14 eight years ago, and they're in the process, I think
15 they've phased out Phase 2 now.

16 So we're moving in the direction of being
17 definitely antibiotic reduced throughout the whole
18 process and we don't use -- we don't use them in the
19 barn. We don't have a lot of antibiotics there.

20 And when it comes to your concerns about drainage
21 and manure spreading, I mean those questions, we,
22 again, if we have manure running off our land, that's a
23 waste of manure, and we want that manure to be properly
24 used by the crops.

12:08

25 So we're very careful to try and use it in a way

S. VAN'T LAND**Cross-examined by Mr. Bedster**

1 MR. BEDSTER: Oh, I'm sorry. Okay.

2 Q. Where the cement is, that's south. Going to the end
3 where the water where it starts, that way is north. To
4 the left of the picture is to the west, and that's
5 where the water comes from. And it comes down on the
6 west side of Highway 25 from Matt Grisnick's driveway,
7 which, in my belief, comes out of Mr. Van't Land's
8 land.

9 And if you look, you can see on the second picture
10 there, or even on the first picture I guess, yeah, that 12:11
11 one right there. You can see, we had a rain before, a
12 little bit of a rain. And you see the material on the
13 left of the picture there, shows how high that water
14 was coming down there. And again, that's only from the
15 north.

16 The next picture I have here is this one. Yeah.
17 Isn't that nice water? Why would the water be brown?
18 You know, it's not -- I know what soil water looks
19 like, and I know what cow manure water looks like. But
20 this, I must have missed this before because I believe, 12:11
21 in all truthfulness, sir, that's happened a few times.

22 So I put it in your ballpark.

23 A. I can only say that from our piece of land, I mean you
24 can look at the topographical map on the east
25 side -- or rather, the west side of the piece, we get

S. VAN'T LAND

Cross-examined by Mr. Bedster

1 some water from Matt. When you move closer to
2 Highway 25, the water doesn't run over where the old
3 irrigation canal used to be.

4 That's a peak in elevation, and any of that water
5 that's coming from across the road from you from Matt,
6 I'm not familiar with exactly where the water flows on
7 his land, where it comes from, how much he gets from
8 upstream, and how much is his water, but that's
9 something you'll have to take up with him. But he
10 doesn't -- our water doesn't go to a place where he
11 pumps out of.

12:12

12 I know where the pump you're referring to, I know
13 where it's sitting, and it's -- every direction from
14 there is that downhill to our land.

15 Q. Okay. Then please enlighten me how that pump can run
16 for 24 to 30 to 40 hours with a 40 or 50 horsepower
17 tractor and 4 HP old pump? It magically must be coming
18 out of an artesian well that's there.

19 A. I suppose that must be the case.

20 Q. Well, I don't think so, sir.

12:13

21 MR. BEDSTER: That's all I got to say right now,
22 thank you.

23 THE CHAIR: Thank you, Mr. Bedster.

24 MR. BEDSTER: You're welcome.

25 THE CHAIR: Mr. Clifton?

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 MR. CLIFTON: Yes, I have a couple of questions.

2 **MR. CLIFTON CROSS-EXAMINES THE WITNESS:**

3 Q. I'm kind of referring back to that I believe it's the
4 4.5.1 thing where it talked about the modernizing,
5 improving, and reducing impacts to neighbouring
6 landowners, or I can't remember how it said it there.

7 But Mr. Van't Land just stated that he's not
8 interested in incorporating any manure into the land.
9 And what that says in that 4.5.1 is that the expansion,
10 whatever, should reduce the impacts.

12:14

11 He already has a condition on the existing permit
12 to do it, which is he not being, which is a compliance
13 issue, but stating that he's not interested in
14 incorporating any manure in future kind of goes against
15 reducing the impacts part?

16 A. The challenge of managing impact is a fascinating one.
17 It has been fascinating as we've been working with our
18 certified crop advisor since we started direct seeding
19 our crops.

20 There's a 50-pound nitrogen credit that, as far as
21 he can tell, it magically appears, and as best as we
22 can tell, that has something to do with the improvement
23 in the soil and improving the bacterial fungal and worm
24 populations in the soil, that we're working with the
25 soil instead of working against it.

12:14

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 The benefits of incorporating the manure into the
2 soil, not to mention the degradation of the quality of
3 the soil, the extra diesel fuel and equipment required
4 is -- in our estimation, the tradeoff is definitely
5 towards not incorporating the manure. We spread it in
6 a fashion that is evenly spread, we leave our stubble
7 fairly high on the crop where we're going to
8 be -- where we're going to be utilizing the manure so
9 that the wind does minimal chance of taking it.

10 I mean, obviously, some of the winds we've been
11 having lately, I mean, it's been fascinating to me to
12 watch even zero till land blow in some cases, but we
13 take every step that we can in order to make the best
14 use of that manure. And for that manure to run off the
15 land, I mean, that -- to me, that's money running off.
16 So we do everything we can to make sure that that's
17 available for our crops.

12:15

18 Q. So wouldn't by incorporating that manure into the land
19 prevent it from running off?

20 A. I would contend that it doesn't run off right now, and
21 I would also contend that the damage to the soil by
22 turning it over does more damage than the perceived
23 benefit of turning the manure in, especially a product
24 like broiler manure where the nuisance factor is
25 minimal at best.

12:16

S. VAN'T LAND**Cross-examined by Mr. Clifton**

1 Q. On that topography map that you had there, it's page 16
2 with the tile and swales, if that could be brought up
3 again.

4 THE CHAIR: So, document manager, that was
5 in --

6 MR. CLIFTON: That was in Mr. Van't Land's
7 submission.

8 **A. It's Document Number 18.**

9 THE CHAIR: 18, thank you.

10 Q. MR. CLIFTON: You're saying the gravel
11 dispersion pit is lower than the culvert and you're
12 concentrating all your water to that area to make your
13 land better, but that gravel dispersion pit is right on
14 the property line of the county ditch and your
15 property. Why couldn't you make this go to somewhere
16 contained on your property as opposed to making it
17 drain right to the county ditch where it can all run
18 off?

19 **A. To be honest, that is somewhere contained on our**
20 **property. If I were interested in getting that water**
21 **off the field in the most efficient way possible, I**
22 **would have continued that tile line permissible**
23 **distance from the county ditch and continued running**
24 **further east of it until we got to where the elevation**
25 **worked with us. But we stopped it where we did because**

12:17

12:18

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 we are not interested in doing that.

2 Q. You have the tile run right to the county ditch. The
3 dispersion pit, if it is lower, it's only inches lower
4 than the culvert. Like any accumulation of water will
5 run. So I'm just curious why you didn't concentrate it
6 more centralized on your property as opposed to
7 exposing it to the county ditch and neighbours?

8 A. The county ditch at that location is higher than our
9 dispersion pit. We're working with the topography of
10 the land. I can't -- the amount of dirt I would have
11 to move in order to make a central location on that
12 quarter section to store matter would be massive.

12:18

13 We're working with the existing topography, and,
14 like I say, if we'd been interested in removing that
15 water as efficiently as possible, we'd have continued
16 that tile further east. Get through that hill, and
17 then have it run into the ditch and down along whatever
18 path it follows into marketplace and then onto the
19 river.

20 Q. So were there any consultations with Alberta
21 Environment before all this was done?

12:19

22 A. No. Since then, we've been contacted by both the NRCB
23 compliance officer in the neighbourhood, Denny Puskar
24 and Logan Huscroft also was interested.

25 So I have taken both of them around. They've both

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 seen with their own eyes firsthand the work that we've
2 done. I asked them if there were any concerns, if
3 there was anything that needed to be done or anything
4 to move forward on to get ahold of me, and that has not
5 been something they followed up on.

6 Denny Puskar from the NRCB seemed content with
7 what he saw. Alberta Environment I think will probably
8 have a larger stake in any changes that are made as far
9 as drainage are concerned. I showed him around. He
10 took a lot of pictures. He advised me at the time that
11 he was going to consult with a number of historical
12 aerial photos to see what changes have been made to the
13 land since -- since the beginning of those things being
14 recorded, and I have not heard from him since and that
15 occurred on November 10th was when I took him around,
16 and he's had four months to -- to address the file, and
17 I've taken the silence to mean that there are no
18 concerns.

12:20

19 Q. Okay. I have a letter from him that's in my
20 submission, but we can get to that later.

12:20

21 Are you also saying that any or all of your runoff
22 does not affect me at all?

23 A. I am saying that when I look at the drainage maps and
24 I've gone down and looked where the water runs, the one
25 thing which I didn't -- wasn't even aware of until I

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 looked closer was that there is no culvert directly
2 between you and me. So all the water that accumulates
3 in that road ditch down at that intersection does run
4 north into Paragon's Corner there. From there, it runs
5 across east into Mark Davis's quarter.

6 Just looking at the topography, it's downhill from
7 there, so it would have to run uphill to get to your
8 place. So I'm not saying that it's impossible. I'm
9 saying that when there's a massive rain, then some of
10 the pictures you submitted were interesting, they
11 brought back some difficult memories as far as the
12 amounts of water we got in that case.

13 It was also interesting to me -- I'm not sure how
14 old those pictures are, but they're over ten years old
15 we're thinking, because of the equipment we see in the
16 pictures. It is not something certainly that happens
17 on any kind of a continual basis or -- and in the case
18 where we get massive amounts of water, then I would
19 also argue that there is water everywhere.

20 And as far as if it's going to run back from
21 Mark's into your place, given enough water, I don't
22 know, but I -- that's why I wanted to get the
23 topography maps from the LNID to see where the water
24 runs, and the story is pretty clear.

25 Q. Well, the culvert does come from -- down from you

12:21

12:22

S. VAN'T LAND**Cross-examined by Mr. Clifton**

1 across to the north and then across Highway 25 to the
2 east into the ditch on the southwest 26, but from
3 there, there's a culvert to the south and to my
4 northwest 23 where the water backs up in the county
5 ditch and then comes into me.

6 **A. If you say. My eye, when I look at it, the road ditch**
7 **is lot lower than your field there.**

8 So I can imagine the volume of water it would take
9 to run back onto your land.

10 **Q. When the ditch fills up, it backs up. I've got the** 12:23
11 **pictures in my submission.**

12 **A. I would ask you how much of that water is your water.**

13 **Q. Very little.**

14 **MR. CLIFTON:** I guess that's it for now.

15 **THE CHAIR:** Thanks, Mr. Clifton.

16 It's just about 12:30. So -- and I know that
17 Mr. Kennedy and Panel members do have a few questions
18 for you, Mr. Van't Land, that would take probably, you
19 know, more than just a couple of minutes.

20 So I would suggest that maybe we break for lunch 12:23
21 now. You would remain sworn, Mr. Van't Land, you know,
22 and you shouldn't be contacting any outside parties
23 while you're essentially still being sworn in. Your
24 testimony will continue and questions will continue
25 after lunch.

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 Now, I'm not sure what the arrangements are, so
2 we're all over the place in Alberta and then including,
3 you know, the affected parties in the Lethbridge
4 office, so we all need to have at least enough time to
5 grab a bite.

6 But I think maybe just a quick question for
7 Ms. Janzen and Ms. Horvath, we'll likely have questions
8 for you, but how much time did you need in terms of
9 presenting any evidence that you have?

10 MS. JANZEN: Sorry, Mr. Chair, you're asking
11 how much time we'll need to present our information?

12:24

12 THE CHAIR: Yes.

13 MS. JANZEN: I wouldn't need much at all. I
14 just would have a really brief summary of my -- what
15 I've already submitted to the board. So I wouldn't
16 need much time at all, Mr. Chair.

17 THE CHAIR: Okay. And Ms. Horvath?

18 MS. HORVATH: Yeah, I did not have a
19 presentation to actually make. I was looking more to
20 be available to answer questions that might be from the
21 participants.

12:25

22 THE CHAIR: And I know we have -- we'll have
23 direct from the directly affected parties and
24 neighbours as well but I think we're going to be okay
25 for time. So why don't we take an hour and let

S. VAN'T LAND**Cross-examined by Mr. Clifton**

1 everybody have -- get their lunch -- just under an
2 hour. Why don't we reconvene at 1:20; is that right?
3 1:20. Get my watch right here. One day I'll learn how
4 to tell time. Sorry, folks. So 1:20.

5 So that's just barely under an hour and we'll
6 reconvene at that time. And you might just want to
7 throw all of your mics on mute and that because you may
8 be having some conversations that you don't want to
9 have broadcast, so just remember to do that.

10 Thank you, everyone. See you at 1:20.

12:26

11 (PROCEEDINGS ADJOURNED AT 12:26 P.M.)

12 _____

13 PROCEEDINGS ADJOURNED TO 1:20 P.M.

14 _____

S. VAN'T LAND

Questioned by Mr. Kennedy

1 February 10, 2022

2 P.M. Session

3

4 _____
(PROCEEDINGS RESUMED AT 1:23 P.M.)

5

6 **S. VAN'T LAND** (For Double H Feeders), previously affirmed

7 THE CHAIR: So I do believe we have everyone
8 back. So welcome back, everyone. Thanks for the
9 timeliness.

10 We finished off with Mr. Clifton which now brings
11 us back, Mr. Van't Land, questions for you will be
12 directed from, if any, from Field Services. I don't
13 think I asked you previously if you had questions.

13:23

14 MS. VANCE: We do not, thank you, Mr. Chair.

15 THE CHAIR: Okay. Thanks, Ms. Vance.

16 Mr. Kennedy, then?

17 MR. KENNEDY: Thank you.

18 **MR. KENNEDY QUESTIONS THE WITNESS:**

19 Q. I have a couple of questions, Mr. Van't Land, and I
20 think it's -- I think almost all of my questions are
21 with the purpose of clarifying your submission and how
22 you're asking the board to treat your request.

13:24

23 And almost all of my questions relate to the
24 commitment that appears in relation to the operation on
25 the northwest quarter of Section 22.

S. VAN'T LAND

Questioned by Mr. Kennedy

1 Now, in your submission, you say Double H Feeders
2 Ltd. owns both operations. So is the ownership
3 identical between the northwest quarter and the
4 northeast quarter?

5 **A. I think my dad might have his name on the title on the**
6 **northwest quarter. I'm not entirely sure, but the same**
7 **farm, the same corporate entity owns the barns and runs**
8 **both operations.**

9 Q. I don't mean to split legal hairs, but how would a
10 corporation own a barn that's on the title that's owned
11 by somebody other than that corporation, can you help
12 me?

13:25

13 **A. Yeah, our accountant has asked us the same question.**

14 It -- I'm trying to think which title -- you know
15 what, I'd honestly have to look. As far as that
16 particular parcel where them barns are on, I don't know
17 which name is on that title.

18 Q. Would you undertake to provide a copy of the title or
19 some kind of description as to the ownership on the
20 northwest quarter property and operation and northeast
21 quarter operation?

13:26

22 **A. I can look for that.**

23 Q. And simply by giving that undertaking, you don't have
24 to provide that prior to the close of the hearing, but
25 sometime soon after the close of the hearing, if you

S. VAN'T LAND

Questioned by Mr. Kennedy

1 would provide that answer to Laura Friend, and we will
2 make sure that that answer gets out to all of the other
3 parties.

4 **A. I'm just getting confirmation. My brother is chatting**
5 **with me, and he's confirming that Double H does own**
6 **that parcel. So he knows that better than I do, so...**

7 **Q. All right. So your accountant has been misled**
8 **somewhere along the line.**

9 **A. It -- that conversation had to deal with the shop which**
10 **I do know for sure was built on my dad's land. And** 13:26
11 **that's a separate issue from today so...**

12 **Q. Okay. And can you describe what manure storage**
13 **facilities are on the northwest quarter?**

14 **A. On the northwest quarter, we used to run an 800-head**
15 **feedlot. So we have -- and probably 80 percent of that**
16 **feedlot was concrete.**

17 **So at the moment when we store our manure, it's**
18 **stored on the concrete, and the drainage there is**
19 **collected. It -- the drainage there does not go off**
20 **property. That is an endpoint for the drainage.** 13:27

21 **Q. And what do you do with the drainage once it's**
22 **captured?**

23 **A. It goes into a lake that my dad has for where he keeps**
24 **some fish.**

25 **Q. So it's never pumped out; it never overflows?**

S. VAN'T LAND

Questioned by Mr. Kennedy

1 **A. It's at the bottom. You'd have to go probably up 4 or**
2 **5 feet for it to be...**

3 **Q. Okay. And so if you take the birds out of the**
4 **property, and I think that's what you're proposing to**
5 **do, is say, "We will no longer raise -- raise birds on**
6 **that property," are you going to -- are you also saying**
7 **you're not going to store manure on that property?**

8 **A. No, we're going to continue with our manure handling**
9 **the way we have been.**

10 **Q. What does that mean for the northwest quarter?**

13:28

11 **A. We'll continue piling it on the same pile we have been.**

12 **Q. So you'll take it from the northeast quarter to the**
13 **northwest quarter?**

14 **A. When we're going to use it there. What happens right**
15 **now, for example, right now, the piece of land that**
16 **we're going to be spreading manure on happened for the**
17 **balance of this year is several miles away.**

18 **And when we have spare time, like right now when**
19 **we have a flock finish, we -- for the short term, we**
20 **buckle haul it to the northwest quarter. And then as**
21 **we have people available, we truck it to where we're**
22 **going to be spreading it.**

13:28

23 **Right now we're storing it on a dry corner. When**
24 **it's compliant, then we do tend to spread it straight**
25 **off.**

S. VAN'T LAND

Questioned by Mr. Kennedy

1 **But at the moment we're stockpiling it there on a**
2 **dry corner.**

3 Q. So one of the things that we see is the Town of
4 Coalhurst and the County of Lethbridge saying if you
5 decommission that site, they're prepared to support
6 your application on the northwest quarter for an
7 expansion. If you continue to store manure there, have
8 you had that conversation with the Town and the County
9 as to what the ultimate plan is for your lands on the
10 northwest quarter?

13:29

11 A. **We have not. Nobody's brought it up.**

12 Q. Okay. Do you think they'd be surprised to hear that
13 you're still going to be storing significant quantities
14 of manure on that quarter?

15 A. **To be honest, given the neighbours reaction, I think**
16 **they'd be surprised right now that we're storing manure**
17 **there.**

18 Q. Okay. And if it's a consequence, and we'll hear from
19 the Town and the County later, we were to ask them the
20 question, with this knowledge as to whether their
21 opinion about the expansion on the northwest quarter
22 might change given the proposal to continue activities
23 on the northeast quarter, do you have any comment on
24 that?

13:30

25 A. **Well, for starters you've got it backwards. We're**

S. VAN'T LAND

Questioned by Mr. Kennedy

1 expanding on the northeast; we're shutting down the
2 northwest.

3 And I'm not sure if that raises a concern for them
4 or not. They haven't raised it. It -- like I was
5 expressing in previous questions, I honestly don't
6 recall the last time we got a nuisance complaint
7 regarding manure.

8 Q. Okay. But you did read in their submissions that
9 they're anticipating that on the northwest quarter,
10 there would be an opportunity for country residential
11 expansion and more -- a more urbanization of that urban
12 fringe?

13:31

13 A. In that general area. And we're committed to
14 decommissioning those barns once the new barns are
15 built.

16 We may, as an act of grace, ask for a period of
17 overlap while we're moving equipment and such over, but
18 I mean that would be for a flock or two at most; that
19 would not be a perpetual reality.

20 Q. I was going to get there as to exactly what the
21 schedule of decommissioning of the one facility and
22 populating the expansion facility, what that looks
23 like.

13:31

24 So perhaps this is an opportunity to provide some
25 significant detail.

S. VAN'T LAND

Questioned by Mr. Kennedy

1 A. Until we have a permit, we don't have significant
2 detail because we need to talk logistics with our
3 construction outfitter and our contractors.

4 I don't know if our builder is available. We have
5 not done any design work because I don't want to waste
6 people's time to do the design work required to build
7 this project before I know there's going to be a
8 project.

9 So right now everything is on the back of an
10 envelope, and we are depending on the outcome of this
11 hearing. Then we will pursue the detailed design work,
12 get timelines oriented. I'm sure everybody is aware
13 that right now, the logistics of just getting supplies
14 for construction are not something that you can nail
15 down.

13:32

16 So, as part of our application, I think I
17 indicated something of a 2025 deadline, and there's a
18 reason for that is because I don't know what the
19 availability is of labour or materials to -- to build
20 the project.

13:32

21 What I can say is that once the new barns are
22 built, then we're having the internal debate right now
23 whether to buy new equipment or move equipment over,
24 and there's some logistics involved with that. But the
25 reality is that we would not be raising birds in both

S. VAN'T LAND

Questioned by Mr. Kennedy

1 set of barns at the same time.

2 Q. So does that mean you can surrender your permit
3 concurrent with -- you know, prior to populating the
4 expanded barn?

5 A. I don't want to get myself in trouble with agreeing to
6 some legal language that I'm not sure the implications
7 of. What I can say is that we will not be trying to
8 temporarily increase our bird population as some kind
9 of an overlap.

10 Q. So to avoid that language, the northwest quarter would
11 be depopulated before the northwest expansion was
12 populated?

13 A. The net effect would be one flock would be placed in
14 the new barns instead of the old, and the old barns
15 would never see another chicken.

16 Q. Yeah, so very specifically, and I'm hoping you can
17 answer this, is the northwest would be depopulated
18 before the northeast expansion was populated; is that a
19 yes or no?

20 A. I'm not sure if you understand how broiler operations
21 work, but it's all-in all-out.

22 So there'd be a flock where we would ship the
23 birds out of the northwest barns and be preparing the
24 northeast barns to accept the next flock, and the
25 northwest barns would never see another bird.

13:33

13:34

S. VAN'T LAND

Questioned by Mr. Kennedy

1 So there would be a line, a deadline where there
2 would not be birds anymore in the northwest quarter.

3 Q. And no overlap. So you wouldn't have the
4 expansion -- again, I think this is what you're telling
5 me and simply confirm that is there would be no birds
6 in the northwest quarter when the northeast expansion
7 was populated?

8 A. Because of the nature of flock schedules and
9 overlapping, I might have to ask for a four-week
10 overlap of some kind because I spent the whole morning
11 listening to you guys argue over the order of two
12 paragraphs.

13:34

13 The reality is that right now we operate under
14 what are called three producer numbers, and those three
15 producer numbers operate under three different
16 schedules.

17 So when I'm placing barns on what is on there
18 labelled "Scott's place," we're placing them at what's
19 labelled "Trevor's place," so the northeast-northwest
20 quarters we have different cycle schedules.

13:35

21 So depending on how those overlap on the
22 particular time frame, there may be a period of time at
23 most -- the most it could possibly be is five weeks
24 when there may be birds in both locations at once, but
25 that would be a very temporary situation. That would

S. VAN'T LAND

Questioned by Mr. Kennedy

1 **not be a perpetual.**

2 Q. Okay. And to be clear is whoever holds the permit for
3 the northwest quarter, and let's assume for the moment
4 that's Double H Feeders and it's a deemed permit I
5 think is what we heard this morning, Double H Feeders
6 will be surrendering -- asking for that permit to be
7 cancelled?

8 A. Yeah, I'm not sure what the appropriate language is.
9 But I'm assuming that as a condition of if the Board
10 chooses to grant this permit, that rescinding that
11 permit will be part of the condition. That's our
12 intention, that's our anticipation.

13:36

13 Q. And if that were conditional upon some restriction on a
14 timely basis, and whether it be, you know, five-week
15 overlap or whatever is tied to the population of the
16 northeast quarter expansion, you would have no issue
17 with that?

18 A. We would work with that, yeah.

19 Q. Okay. And aside from storing manure on the northwest
20 quarter, what other manure storage facilities do you
21 have? You have the barn. What's the future plan for
22 those facilities?

13:36

23 A. For facilities? Carina had it pretty good. We operate
24 on a temporary basis. We work on a rotation through
25 four quarter sections, and depending on which quarter

S. VAN'T LAND

Questioned by Mr. Kennedy

1 section is getting the manure next is where the manure
2 gets stored.

3 Q. No, I'm speaking about the barns. So is --
4 Double H Feeders I take it is not intending to market
5 that property, sell it?

6 A. Correct.

7 Q. And long term, if you're successful with your
8 application today is I think you're prepared to
9 surrender your CFO permit for that site, but it still
10 has barns on it. What's going to happen with the
11 barns?

13:37

12 A. Our current intention for that site is we're debating
13 what kind of storage we can make for that. We've got a
14 bunch of trucks and tractors we parked outside, and
15 we're debating if we could park them under cover.
16 There's other equipment that we could park inside.

17 The intention is some kind of storage if we keep
18 the buildings up at all. But it would be not any kind
19 of livestock, not any kind of manure. The intention is
20 for equipment or supplies, but no manure would be in
21 that facility.

13:38

22 Q. And should you receive an approval to expand on the
23 northeast quarter, the way our legislation works, we're
24 approving notwithstanding an inconsistency within the
25 municipal planning requirement, so it means you are

S. VAN'T LAND

Questioned by Mr. Kennedy

1 operating with an approved facility perhaps on that
2 northeast quarter, but you're probably severely limited
3 on future expansions and those opportunities. You
4 understand that?

5 **A. I understand that.**

6 **Q. Okay. And I'm --**

7 **A. If you want to get into long-term plans, if the area**
8 **gets developed to the extent that some hope, then quite**
9 **frankly, that land will be worth much more as some kind**
10 **of developable parcel as opposed to agricultural land.** 13:39
11 **And if we have the opportunity to market it, then we'll**
12 **take our marbles and develop somewhat further away.**
13 **But to be honest, we're kind of at the point where**
14 **that's going to be the next generation's call.**

15 **Q. So when you say "it's the next generation's call," I**
16 **mean you've got two permitted operations, one that's**
17 **approaching 30 years and one that's 25 years old. So**
18 **with this expansion proposal, is 25 to 30 years kind of**
19 **the life of one of these facilities, to your mind?**

20 **A. That all depends on how good of care you take of them.** 13:39
21 **The original barns that we're looking to replace, they**
22 **were -- the larger barn raised in its current state was**
23 **raised in 1978. My brother manages that particular**
24 **facility and he does a lot of work to keep it**
25 **functional. It is showing its age. New barns were**

S. VAN'T LAND

Questioned by Mr. Kennedy

1 built, and there's a lot more concrete and a lot more
2 plastic to keep things good. My anticipation would be
3 that 40 or 50 years would not be unreasonable.

4 Q. All right. And then, finally, and I'm asking this
5 question because earlier on you talked about compliance
6 with the AOPA, and yet I think we had -- we heard a bit
7 of a discussion on 48-hour incorporation and it's one
8 thing complying with AOPA, but one of the provisions of
9 AOPA is that you'll also comply with your permit.

10 Do you think you're complying with your permit?

13:40

11 A. To be honest, when I saw that written there, it was a
12 surprise to me. I wasn't aware that that condition was
13 on the permit. That permit was applied to and written
14 to my dad, and it's not something that I was aware of.

15 Since we had gotten that permit on that location,
16 we had switched to a direct seeding model, and reading
17 the AOPA guidelines regarding manure management in
18 general, that was what we were following. So that was
19 a bit of naivety on my part perhaps, and we were not
20 aware of that.

13:41

21 So as part of this whole process I'd like to get
22 some final determination on that to get some clarity on
23 exactly what the best method is going forward on that.

24 Q. I know you wouldn't be the first operator that the NRCB
25 has suggested perhaps reading your permit is a good

S. VAN'T LAND

Questioned by Mr. Kennedy

1 idea.

2 Do you have a sense as to what the go-forward plan
3 is? You're not in compliance, you've still got that
4 condition. I'm going to say it's a little late to ask
5 the board to consider any change today because parties
6 should be getting notice if you're asking for a change
7 to a permit.

8 **A. Okay.**

9 Q. You have to initiate that appropriately. What do you
10 do? You've got manure that you're going to be
11 spreading, I assume, in the spring?

13:42

12 **A. I guess my question would be to go to back to the NRCB
13 as to what land does that refer to.**

14 Q. Well, as I read the condition, it applies to all the
15 manure you're taking off from this operation. Do you
16 read it any differently?

17 **A. My interpretation of it would have been the land that
18 we had at the time, which would have been this 200-acre
19 home quarter and right now it's on a piece of land that
20 is nowhere near here.**

13:42

21 Q. I'm going to suggest if that's the interpretation
22 you're applying, perhaps you need to have a discussion
23 with the NRCB office in Lethbridge.

24 **A. Okay. I will do that.**

25 Q. Good. Mr. Van't Land, thank you. Those were my

S. VAN'T LAND

Questioned by Mr. Graham

1 questions. Thank you for answering them.

2 **A. You're welcome.**

3 **MR. KENNEDY:** Mr. Chair, I'm done.

4 **THE CHAIR:** Thank you, Mr. Kennedy.

5 Mr. Graham, do you have any questions for

6 Mr. Van't Land?

7 **MR. GRAHAM:** Thank you.

8 **MR. GRAHAM QUESTIONS THE WITNESS:**

9 **Q.** Just for clarification for my part, where is your
10 access to your barns on the NE 22?

11 **A.** Our driveway goes north so we're accessing off Township
12 Road 9-4.

13 **Q.** Was that Kipp Road or Kipp Highway?

14 **A.** Yes.

15 **Q.** It doesn't go onto 25?

16 **A.** No. We have no direct access onto 25.

17 **Q.** One other question. Did you get an interpretation
18 from what -- from the IDP, I think it's wrote as an
19 IMDP, but did you get an indication from anybody on how
20 to interpret that, or was that your own interpretation?

21 **A.** To be honest, that was our own interpretation and
22 that's part of why we've gone through the permitting
23 process before we've invested anything but time is to
24 clarify that. We didn't want to waste a bunch of time
25 and effort before finding out that the process was not

13:43

13:44

S. VAN'T LAND

Questioned by Ms. Roberts

1 going to move forward.

2 Q. Thank you. That's all, Mr. Chair.

3 THE CHAIR: Thank you, Mr. Graham.

4 Ms. Roberts?

5 **MS. ROBERTS QUESTIONS THE WITNESS:**

6 Q. Yeah, Mr. Van't Land, I know we've spent a lot of time
7 talking about permitted number of birds and so on, and
8 I thank you for your explanation about quotas and that
9 it's done in kilograms rather than number of birds.
10 However, *AOPA* deals with number of animals, and when
11 permits are issued, it is for number of animals, not
12 body weight.

13:45

13 So, if the Board chooses to uphold the approval
14 officer's decision, in Appendix D of the decision
15 summary, the deemed capacity at NE 22 is 50,000 birds.
16 I gather from some comments that you had made before
17 that you might not agree with that deemed capacity.

18 A. It -- the numbers because of the way that quota is
19 allocated, yeah, it's been shifted.

20 Now, to be fair, like we've been operating within
21 very close to the \$50,000 -- \$50,000, I'm sorry -- the
22 50,000 bird limit as our operation prefers not to
23 market into the KFC market, so we don't have the need
24 to place more birds than our limit is -- is set at. If
25 the permitted number is limited within -- if the

13:45

S. VAN'T LAND

Questioned by Ms. Stuart

1 120,000 bird request stands, that would give us more
2 leeway in that regard, but it also indicates to us that
3 the KFC market is not available to us then.

4 Q. Okay. So -- so either way, if the Board upholds the
5 approval officer's decision 50,000 is the number as per
6 the decision, if the Board chooses to overturn that
7 decision, your request is for 120,000 birds maximum at
8 NE 22?

9 A. Yes.

10 Q. Okay. Great. That ends my questions. Thank you.

13:46

11 THE CHAIR: Thank you, Ms. Roberts.

12 Ms. Stuart?

13 MS. STUART QUESTIONS THE WITNESS:

14 MS. STUART: Thank you, Mr. Chair.

15 Q. Mr. Van't Land, I do have a couple of questions. I
16 think they primarily pertain to your submission,
17 Exhibit 18. If I could ask the document manager to
18 pull that up. And page 2, I think. Not page 2. Hang
19 on. Yes, page 2.

20 Okay. Kind of a housekeeping thing. The adjacent
21 quarters I think have created some confusion in terms
22 of the transcript and people talking about northeast
23 and northwest when it's been opposite. And I thought I
24 would just take the opportunity to double check what
25 you've written in the last two paragraphs of this -- of

13:47

S. VAN'T LAND

Questioned by Ms. Stuart

1 this page?

2 A. Oh, you caught me.

3 Q. And I see three land locations, but I'm wondering if
4 the northeast and northwest should be switched, but
5 given this is your formal submission, I thought it
6 might be prudent to give you an opportunity to just
7 double check that?

8 A. No, I appreciate you catching that. I made the same
9 mistake that has been made all day, getting northeast
10 northwest mixed up. That last paragraph should
11 definitely be reversed.

13:48

12 Q. So I'm thinking the one that says Trevor's yard, that
13 second last paragraph, that the county are promoting
14 further residential development. I think that should
15 be on the northwest?

16 A. Yes. Trevor's yard is the northwest. So in the last
17 paragraph where it says "northeast," it should say
18 "northwest." You're correct.

19 Q. As well. Okay. Just to clarify. Thanks so much.

20 Now, just to provide some context to my next
21 couple of questions. And I think for the most part
22 you've answered them, but, you know, we've heard a lot
23 of discussion surrounding runoff, and just to clarify,
24 you know, perhaps why we have an interest in that,
25 given that the approval officer did not in their

13:49

S. VAN'T LAND**Questioned by Ms. Stuart**

1 decision address runoff given that the permit was
2 denied, we are compelled as a Panel to address the
3 directly affected parties' concerns.

4 And as the Chair described at the beginning,
5 there's this formality to it, that they're directly
6 affected parties but, really, they're your neighbours,
7 you're all neighbours. And I guess I'm wondering,
8 given the questions we heard from your neighbours, can
9 you provide some insight for me why you believe there
10 is that disconnect between your perception of where
11 runoff is coming from and your neighbours' perception
12 of where runoff is coming from and how you reconcile
13 those two?

13:50

14 **A. It is something that's interesting. I've heard it said**
15 **before: The whiskey's for drinking; the water is for**
16 **fighting.**

17 And we've had drainage issues on other quarters,
18 and I know it's been a difficult thing to reconcile.
19 That's why when I first started going down this
20 process, I wanted to find out where does the water go
21 because some of the pictures which Mr. Clifton showed
22 in his submission show a lot of water in a lot of
23 different places.

13:50

24 And I mean those pictures are what they are, and
25 he's absolutely right. Those places were underwater.

S. VAN'T LAND

Questioned by Ms. Stuart

1 You look at where the water can come from, and I look
2 at the maps, and I look -- I've got about as much land
3 draining into that basin as he does. And so it's open
4 to interpretation which way that water flows.

5 Now, when I look at the culverts and the lay of
6 the land, when the neighbour that is to the northeast
7 of us, his land is lower than all three of our quarter
8 sections, the rest of us. The water is going to flow
9 downhill, and that -- I don't know how else to say it.
10 That's why I got the map is because I wanted to be able
11 to demonstrate that.

13:51

12 Q. Okay.

13 A. As far as Mr. Bedster is concerned, I share them. He
14 has a pile of water going through his place. And
15 regardless of whether -- and I will maintain there's no
16 water coming from our place. But I mean you look at
17 the amount of watering he has coming from south of him,
18 and it is amazing the river of water that runs through
19 there. It -- so I feel for the challenges that he has
20 in his location.

13:51

21 But I just want to reinforce that we're not adding
22 to that water. The concerns he has about my neighbour
23 to the south pumping, that is water that gets stranded
24 between his driveway and the edge of his field. That
25 driveway is on the edge of what used to be an old

S. VAN'T LAND

Questioned by Ms. Stuart

1 irrigation canal which is high point. And if anything,
2 if that driveway was removed, that water would run
3 further onto our field and head towards Highway 25 and
4 north.

5 So there is no water running from our field into
6 that installation.

7 Q. Okay. Thank you.

8 Mr. Kennedy asked you, I think if we look back at
9 Exhibit 18, page 3, and I think you referenced in the
10 third paragraph under drainage that Alberta Environment
11 and Parks had not raised any concerns. And of course,
12 you kind of addressed this, there's a bit of a
13 disconnect between the Alberta Environment and Parks'
14 submission on January 31st in the email that was
15 submitted through Mr. -- with Mr. Clifton's submission
16 and your statement that there are no concerns.

13:52

17 Given that that email, does that suggest to you
18 there may be issues to resolve on that front?

19 A. It -- to me it's a bit of a disconnect because I know I
20 gave Mr. Huscroft a tour. He came down, and we went,
21 and we got my truck, and we drove all over the field
22 where the drainage concerns are. And he took a bunch
23 of pictures, and I showed him all the relevant details
24 and brought him back to the things he wanted to see and
25 double-check on, and we did all that.

13:53

S. VAN'T LAND

Questioned by Ms. Stuart

1 And at that point in time, I asked him where
2 things stood, and he indicated that he was going to go
3 back and consult some historical aerial photos of the
4 area to find out what changes appear to have been made
5 and the way the water used to flow back as far back as
6 aerial pictures. And I'm not sure how far back those
7 records exist.

8 But he was going to check with him, and I told him
9 if he had any concerns or anything that he needed my
10 attention with, to get ahold of me. So he has my
11 email, and he has my phone number. So I'm not really
12 sure what else to do with that.

13:54

13 Q. Thank you.

14 And then my last question in that same document,
15 document manager, on page 2 of 37, the last paragraph
16 under "Rationale For Construction," you describe in the
17 very last sentence: (as read)

18 "If the permit is not granted, we would
19 examine our options for renovating
20 Trevor's barns."

13:54

21 And that would be on that NW 22-09-22. Can you
22 elaborate what your vision of that would be, given the
23 country residential plan for that area?

24 A. It's definitely not Plan A. But right now we have a
25 certain amount of production that we would like to

S. VAN'T LAND

Questioned by The Chair

1 maintain. And if the powers that be deemed fit that
2 it's best to keep it where it is, then we plan to
3 explore our options for improving those barns to
4 current standards.

5 And we haven't gone too far down that road because
6 we are hoping that this one is the road we will take.

7 So if in the event that the permit is not granted
8 and the status quo is deemed to be the best situation
9 to move forward with, then we will explore our options
10 for improving that operation there.

13:55

11 Q. Okay. Thanks very much, Mr. Van't Land.

12 MS. STUART: And, Mr. Chair, that concludes my
13 questions.

14 THE CHAIR: Thanks, Ms. Stuart.

15 Just a couple of clarification questions,
16 Mr. Van't Land.

17 **THE CHAIR QUESTIONS THE WITNESS:**

18 Q. The storage that you talked about that would continue
19 on the northwest quarter, that's been in accordance
20 with short-term storage requirements under the act?

13:55

21 A. I believe so.

22 Q. So -- and so there's no formal storage --

23 A. Northwest quarter, I mean there's some storage there
24 that, like I say, it's a defunct feedlot. So we have
25 places there where the storage is caught, and it

S. VAN'T LAND

Questioned by The Chair

1 **doesn't run off site, so...**

2 **Q. And it's -- it's this old feedlot, that's a permanent**
3 **feedlot still or is that --**

4 **A. No, there's no cattle there. We stopped feeding cattle**
5 **there 16 or 17 years ago, and my dad was a huge**
6 **believer in using as much concrete as possible in order**
7 **to maintain animal comfort.**

8 **So we've got these great big concrete pads that**
9 **have managed drainage on them. We took down the**
10 **corrals and the feed bunks, and we've got these pads**
11 **that we use for equipment storage and some manure**
12 **storage.**

13 **Q. So the manure is stored on concrete, then?**

14 **A. Yes.**

15 **Q. And it's stored every year?**

16 **A. In the event that we're going to spread it on the**
17 **adjacent quarter, then it will be spread -- it will be**
18 **stored there. But like right now, like there's very**
19 **little manure there at the moment because we're**
20 **anticipating spreading it on a different field. So**
21 **we've bulk hauled it away, and it's temporarily stored**
22 **on that field.**

23 **Q. Okay. Mr. Kennedy explored this a little bit with you.**
24 **If it were to be the case that the County, and we'll**
25 **hear from them, but if there is concern about ongoing**

13:56

13:57

S. VAN'T LAND

Questioned by The Chair

1 storage, whether it is, you know, sort of annual or not
2 on the northwest, in other words, if the thinking was
3 Well, that will be abandoned in its entirety for
4 livestock or manure associated with livestock and the
5 Board were to approve the application and had a
6 condition that no manure would be stored there, that
7 would be something that would work within the
8 operation, you would make it work for the operation?

9 **A. If we have to make it work, we will, but it would be a**
10 **detriment to -- yeah, to the logistics of the**
11 **operation. I'm a logistics person.**

13:58

12 But it -- if we're required not to store manure
13 there, it -- yeah, I would not be happy about it,
14 but...

15 **Q. And it was never -- it was never a consideration when**
16 **you were putting the application forward for the**
17 **northeast to consider building an outside storage pad**
18 **that would be essentially, you know, meet the AOPA**
19 **requirements and would allow you to do some of the**
20 **short-term storage on the site?**

13:58

21 **A. I guess my question would be why waste the land? It --**
22 **in our operation, we're picturing this as essentially,**
23 **for all intents and purposes, just moving the barns**
24 **from one site to another. And the rest of the**
25 **operation outside the poultry production would remain**

1 **more or less the same.**

2 Q. Okay. That's all I have for questions. Thank you.
3 And I appreciate the fact that it's been a bit of a
4 long time on the stand. You've done a nice job of
5 answering the questions, and I really appreciate it.

6 Did you have any redirect that you perhaps would
7 like to make now, based on all the questions that came
8 to you over the last -- well, since lunch and a little
9 bit before lunch as well?

10 A. I think I've talked to every point I can think of at
11 the moment, so I will continue making notes, and I
12 think I have an opportunity later on to bring things
13 up. So I will if I have to. But I think I've
14 addressed everything that I had intended to talk about.

13:59

15 THE CHAIR: Right. I mean you'll have an
16 opportunity for closing comments for sure. Okay.
17 Well, thank you, Mr. Van't Land, and we'll move to our
18 next party, so for now you're done. Thank you.

19 (WITNESS STANDS DOWN)

20 THE CHAIR: So we have Ms. Janzen from the
21 County. Ms. Janzen, are you there, and are you
22 available?

14:00

23 MS. JANZEN: Yes, I am.

24 THE CHAIR: Okay, thank you. So you mentioned
25 before lunch that you would have -- you had some short

H. JANZEN

1 remarks to make, and here's your opportunity for
2 presenting. And then we'll ask you some -- same folks
3 that will be asking you questions afterwards. So take
4 it away, thank you.

5 MS. JANZEN: Do I need to be sworn or affirmed
6 in?

7 THE CHAIR: Yes, you do. I'm sure glad you
8 remembered that so thank you. Ms. Vespa usually jumps
9 in as well so...

14:00

10
11 **H. JANZEN** (For Lethbridge County), affirmed

12 A. Thank you, Mr. Chairman.

13 So with that, I do want to -- I'm obviously not
14 going to go through my whole submission. I'm sure
15 everybody's had a chance to look at that.

16 I just wanted to highlight a few very brief
17 points, and then I will be open to any questions that
18 anybody may have.

19 So we've already discussed this at length I think
20 this morning with regards to how municipalities see the
21 hierarchy of planning.

14:01

22 And so within Lethbridge County, we follow the
23 *Municipal Government Act* with regards to the hierarchy
24 of statutory plans. As per the *Municipal Government*
25 *Act*, the Intermunicipal Development Plan prevails over

H. JANZEN

1 the County's Municipal Development Plan, and I had
2 presented that in my original comments to Ms. Weisbach
3 when the application was submitted to County for
4 comment. And you'll see that in my -- the submissions
5 that are provided to the Board.

6 With regards to the proposed expansion, the
7 County, in conjunction with the Town of Coalhurst, felt
8 that the proposed expansion on the northeast quarter
9 met the policies of the Intermunicipal Development Plan
10 as per Section 4.1.5, as once again we've already
11 discussed somewhat at length.

12 In their application, Double H Feeders did
13 indicate that their -- they were going to be
14 decommissioning the existing operation on the northwest
15 quarter. As I think Mr. Van't Land said, that was
16 a -- that's what their application is. And then it's
17 noted in their -- the technical document, which the
18 Board has in their exhibit packages as Exhibit Number 3
19 on page number 2, just indicating that that was the
20 intent of Mr. Van't Land was to decommission that
21 operation and consolidate his operation on the
22 northeast quarter. With regards to -- and this is just
23 information for the Board; it's not like you can use
24 this as a decision-making point.

25 But the County is undertaking a new Municipal

14:02

14:02

H. JANZEN

1 Development Plan which will be going forward for County
2 council approval in March, and it will more adequately
3 address the hierarchy of plans indicating that the IDP
4 supercedes and prevails over the MDP if there's any
5 discrepancy between the two.

6 We noted that that was a concern. Municipalities
7 tend to -- we follow the *MGA* very closely, and I guess
8 we'd always presumed that the NRCB understood that IDPs
9 prevailed. When we would receive the applications,
10 referral applications, they always asked if there was
11 any other statutory documents that would impact a
12 proposal. And so we include Intermunicipal Development
13 Plans frequently in our comments to the approval
14 officer.

15 But with that, I think that concludes kind of my
16 very brief comments, Mr. Chairman, so I'm open to any
17 questions.

18 THE CHAIR: All right. Thank you, Ms. Janzen.

19 Does the Town, Ms. Horvath, do you have any
20 questions for Ms. Janzen?

21 MS. HORVATH: No, I don't. Thank you.

22 THE CHAIR: Thank you. And do any of the
23 neighbours have questions for Ms. Janzen?

24 And if so, we can start with Ms. Schmid. But I'm
25 not hearing any, but that doesn't necessarily mean you

14:03

14:04

H. JANZEN**Questioned by Ms. Schmid**

1 don't have a question if there's a screen I can't see.
2 Oh there, now I can see. Did you have questions for
3 Ms. Janzen?

4 MS. SCHMID: I do, but I just need a minute to
5 think about how to ask it.

6 THE CHAIR: Sure. We'll give you a minute.
7 And Mr. and Mrs. Bedster or Mr. Clifton in the
8 meantime, do you have a question; we can move to
9 someone else?

10 Okay. All right just take a moment if you could,
11 and then we'll get to you, Ms. Schmid.

12 Thanks for your patience, Ms. Janzen.

13 **A. No problem.**

14 **MS. SCHMID CROSS-EXAMINES THE WITNESS:**

15 Q. I guess, maybe you can answer it better for me. Just
16 with regards to the county supporting, like,
17 Double H Feeders expansion, you mentioned, and I don't
18 have the wording in front of me but basically if there
19 were the negative impacts to the neighbours in the
20 communities, like, how is that, I guess, going to be
21 considered maybe moving forward after all of this
22 debate?

23 **A. So when the county is looking at a referral from the**
24 **NRCB, knowing that we're not the final decision-maker,**
25 **we looked at, along with the town because an**

14:05

14:06

H. JANZEN

Questioned by Ms. Schmid

1 Intermunicipal Development Plan is not just the county,
2 it is an agreement between the town and the county, we
3 look at what's existing in the area, what are some
4 possible best outcomes in terms of future development
5 and planning.

6 And so with regards to impacts, we're looking at,
7 especially with confined feeding operations, does an
8 existing operation if they want to expand, would it
9 meet the minimum distance separation, which I do
10 believe Mr. Van't Land's application does for the
11 expansion.

12 And then with the decommissioning, it was seen as
13 a net benefit to the Coalhurst area given the country
14 residential and the proximity to the town, and the fact
15 that they would not be necessarily drastically
16 increasing their feedlot numbers but they would have a
17 marked improvement in terms of their -- the
18 modernization of the facility from their northwest
19 operation to their northeast.

20 THE CHAIR: Ms. Schmid, do you have a
21 follow-up?

22 MS. SCHMID: I do, but I don't know if it
23 really is going to apply.

24 Q. Just speaking to the modernization and expansion, Scott
25 had mentioned about bringing over old equipment from

14:07

14:08

H. JANZEN

Questioned by Ms. Schmid

1 the other barn due to cost reasons. And I just
2 wondered how that works to support modernization?

3 **A. I'm not an expert on equipment unfortunately,**
4 **Mr. Chairman, so I don't believe I'm qualified to**
5 **answer that particular question.**

6 THE CHAIR: Fair enough.

7 MS. SCHMID: That was my questions.

8 THE CHAIR: Sorry, that is all your questions?

9 MS. SCHMID: Yes.

10 THE CHAIR: Okay. Thank you.

14:08

11 Mr. and Mrs. Bedster, you had no questions? And
12 Mr. Clifton?

13 MR. CLIFTON: No questions.

14 THE CHAIR: Okay. Thank you.

15 Ms. Vance, Field Services?

16 MS. VANCE: I have no questions. Thank you.

17 THE CHAIR: Thank you. And, Mr. Kennedy?

18 MR. KENNEDY: Mr. Van't Land, I don't know
19 whether you canvassed him. If you did, I do have
20 questions, but...

14:09

21 THE CHAIR: I am sorry, I did miss

22 Mr. Van't Land, sorry.

23 Do you have questions?

24 MR. VAN'T LAND: I don't have a question for

25 Ms. Janzen. I can address the equipment modernization

H. JANZEN**Questioned by Mr. Kennedy**

1 topic if you want --

2 THE CHAIR: We're sort of - we're out of step,
3 so I think we're going to leave that, Mr. Van't Land.

4 MR. VAN'T LAND: I have no questions.

5 THE CHAIR: Thank you.

6 MR. KENNEDY: Mr. Van't Land has a rebuttal
7 evidence opportunity and he can bring that forward
8 then. So it's not an opportunity lost; it's just not
9 the time now.

10 **MR. KENNEDY QUESTIONS THE WITNESS:**

14:09

11 Q. Ms. Janzen, I only have a couple of questions, and I
12 thank you for your submission. It was very clear and
13 very succinct. But I think we heard something that I'm
14 not sure that the County addressed or, frankly, the
15 Town has addressed, and that is the continued storage
16 of manure on the northwest quarter.

17 As that is the described plan -- and it can happen
18 in one of two ways: One is if the permit for the
19 northwest quarter is surrendered, it would surrender
20 the permit for even manure authorization, so any manure
21 storage facilities would lose that capacity.

14:10

22 So it would probably be a temporary manure storage
23 site, so he'd have to move it around and he can only
24 store X number of months over a period of time on that
25 site, and -- but there will still be manure stored in

H. JANZEN**Questioned by Mr. Kennedy**

1 proximity to the town within the IDP constraint area.
2 Do you have any concerns about that? Does it change
3 your opinion or your submission to the Board in any
4 way?

5 **A. I mean, I wasn't aware that there was permanent storage**
6 **at that particular location.**

7 With regards to temporary storage, the county does
8 allow for stockpiling to occur on properties that are
9 within the fringe areas as long as it's meeting the
10 required setbacks to county -- sorry, from roadways and
11 also from adjacent properties.

14:11

12 So, I mean, we live in a rural municipal -- I'm
13 the planner for the rural municipality, so I understand
14 that, you know, manure is something that exists and
15 people have to store it. We do hope that operators are
16 very considerate of their adjacent landowners with
17 regards to stockpiling. We work very closely with the
18 NRCB with regards to compliance and making sure that
19 there is very little impact to adjacent landowners.

20 So with regards to temporary storage, I don't
21 believe the county would have any particular concerns.
22 Permanent storage might be something that we might have
23 more concerns on, particularly if there was any
24 opportunities for more residential development in that
25 area.

14:12

H. JANZEN

Questioned by Mr. Kennedy

1 I did note that there are -- where the Van't Lands
2 have the NW 22-9-22, they actually own about 1, 2, 3,
3 4, 5 parcels, smaller titles in that particular
4 quarter, so I can see how things have kind of shifted
5 around there.

6 So I hope that answers your question, Mr. Kennedy.

7 Q. It also raises a bunch more but not for you.

8 But as a planning authority, does it cause you to
9 have any concern when the NRCB says there are
10 circumstances where we would not have regard for the
11 IDP provisions?

14:13

12 A. Yeah, the county, we try very hard to ensure that we're
13 planning and working with our adjacent urban
14 municipalities, so Intermunicipal Development Plans are
15 very highly ranked in the county in terms of
16 enforcement, and we rely heavily on them. They're
17 not -- they aren't shelved documents at all.

18 As seen in this particular case, we want to see
19 our agricultural operators have opportunities, but
20 recognizing that there could be some constraints in
21 terms of new operations.

14:13

22 So I think Ms. Horvath might have more from the
23 town's perspective, but we do hope that the NRCB will
24 reconsider how they view those higher level statutory
25 documents going forward.

H. JANZEN

Questioned by Mr. Kennedy

1 Q. And when the county now looks at a planning -- puts its
2 mind to a planning consideration, an MDP, there's an
3 MDP provision but there's an IDP provision which
4 prevails over that MDP provision, do you just read the
5 IDP provision over the MDP provision?

6 A. So when we're looking at amending -- or, sorry, with
7 our new revised MDP, we are looking to bring everything
8 into compliance with the IDP. So like I said
9 cross-referencing those documents. We don't carbon
10 copy policies from the MDP to the IDP but we do make 14:14
11 reference. We understand there was maybe -- we should
12 have made those considerations a little bit earlier on
13 just for consistency between the documents, but we do
14 see the need to tie them together more closely just so
15 there is not any confusion from any other provincial
16 agency.

17 Q. Not quite my question. So my question was this: If
18 you're looking at provision in the MDP, and let's use
19 the one we have as an example and you're trying to
20 apply the provision that says this is an MDP exclusion 14:15
21 zone, full stop, and an IDP provision which is a little
22 more relaxed, I think that's what the Commission says,
23 is do you now read the IDP provision at the end and not
24 read the MDP provision?

25 A. Yeah, that would be correct. The IDP would prevail

H. JANZEN

Questioned by Mr. Graham

1 because of the discrepancy between the two. Sorry for
2 the confusion.

3 Q. So when you look at your MDP, it's as if it's been
4 amended by that IDP provision?

5 A. That's correct.

6 Q. Okay. Thank you, Ms. Janzen. That's very helpful.

7 MR. KENNEDY: Those are all my questions.

8 THE CHAIR: Thanks, Mr. Kennedy.

9 Ms. Roberts, do you have questions?

10 MS. ROBERTS: I have no questions. Thank you,
11 Ms. Janzen, for your clear explanation.

14:16

12 THE CHAIR: Thanks, Ms. Roberts.

13 Ms. Stuart.

14 MS. STUART: I have no questions. Thank you.

15 THE CHAIR: And Mr. Graham.

16 MR. GRAHAM: Yeah. Just a couple of
17 clarifications.

18 MR. GRAHAM QUESTIONS THE WITNESS:

19 Q. In I think it's Document 7, I just would like a
20 clarification on Section 3.4.6 where it says:
21 (as read)

14:16

22 "Primarily Ag is governed by the land
23 use bylaws of Ag subdivision and
24 policies."

25 So I'm assuming when that -- at least my assumption is

H. JANZEN

Questioned by Mr. Graham

1 when that land becomes -- or Coalhurst grows, that land
2 could be subdivided; is that what that is referring to?

3 **A.** So I do believe with regards to that particular policy
4 in the IDP, that it's referring to that -- any lands
5 that we've identified as primarily agriculture, such as
6 the Van't Lands' property, that they could apply if
7 they wanted to -- if it met the policies of the land
8 use bylaw, they could apply to subdivide say a first
9 parcel out of a quarter section, or if there was, but
10 feedlots compromise the ability to subdivide under the
11 county land use bylaw.

14:17

12 So if there was no feedlot on there, they could
13 apply to subdivide, they could apply to do an area
14 structure plan or any other planning document on there.
15 The provision of the feedlot on there does limit their
16 opportunities for any type of subdivision on the
17 property.

18 I hope that answers your question.

19 **Q.** Yeah, I think so. Thank you. I have one more. On the
20 same document, but it's planning area 2 in the concept
21 plan, the SE 27-SE 22 has that red half circle in it.

14:18

22 **A.** Mm-hmm.

23 **Q.** And it says it's for highway commercial and light
24 industrial. Is that kind of -- where does that come
25 from? Is that tied back to what we just talked about

H. JANZEN

Questioned by Mr. Graham

1 on the primarily ag or -- because I was confused when I
2 looked at that.

3 A. I can appreciate that. That particular area, we
4 identified that particular node as potential for
5 highway commercial and light industrial due to the
6 proximity to a highway corridor. So in the future if
7 there was a demand for more highway commercial in this
8 area, that would be the area where we would redirect
9 that type of development to. In order to do that type
10 of development, they would have to rezone to an
11 industrial or commercial use and go through that
12 planning process to establish that.

14:19

13 So it would be requiring additional approvals by
14 county council to ensure that that development was
15 sound. That's the reason why we had that in there was
16 to allow for some highway commercial along Highway 25.

17 Q. So just to follow up to that, then, these barns could
18 be -- could hinder that, could it not?

19 A. Because they're non-residential, and as long as they
20 weren't anywhere where they would have like food
21 processing, the County wouldn't see a conflict between
22 those two uses. Usually highway commercial is things
23 like equipment sales, trucking companies, things of
24 that nature. So having the feedlot close to commercial
25 or industrial, there isn't necessarily a conflict of

14:19

1 **use .**

2 MR. GRAHAM: Thank you, Mr. Chair, that's all.

3 THE CHAIR: Thank you, Mr. Graham.

4 And sometimes the frustration of going last, but
5 sometimes the luxury of going last is all the questions
6 have been asked and answered.

7 So I have no further questions, Ms. Janzen, but I
8 do thank you for and agree with the Panel members, with
9 their compliments, that were very concise and succinct
10 answers very clear, thank you very much.

14:20

11 MS. JANZEN: Thank you.

12 THE CHAIR: Now based on our questions, did
13 you have any redirect that you wanted to provide,
14 Ms. Janzen?

15 **A. No, I do not.**

16 THE CHAIR: Okay. Thank you very much.

17 (WITNESS STANDS DOWN)

18 THE CHAIR: So up next we have the Town of
19 Coalhurst. So, Ms. Horvath, are you -- where are you
20 here? There you are, perfect, I've got you on my
21 screen.

14:20

22 MS. HORVATH: Thank you.

23 THE CHAIR: We can have you sworn in or
24 affirmed, yes, I remembered.

25

D. HORVATH

1 **D. HORVATH** (For the Town of Coalhurst), affirmed

2 THE CHAIR: Thank you, and please proceed.

3 A. Thank you very much.

4 I'm just going to spend a little bit of time
5 introducing myself and sort of my role.

6 I'm a senior planner with the Oldman River
7 Regional Services Commission, and I've been a planner
8 with the Commission for about 23 years. And my area
9 assignments have included the Town of Coalhurst for the
10 past about 16 years. So I was around when we did do
11 the work on the Intermunicipal Development Plan. So
12 hopefully if there's any questions on that, I'll be
13 able to provide some input to that.

14:21

14 As my colleague, Ms. Janzen, she's covered a lot
15 of what I had to include, so I don't want to waste any
16 time by repeating some of that. But I maybe will speak
17 to the one sort of outstanding item which is sort of
18 new information to me as well is this idea that there
19 would still be manure storage at that location that was
20 proposed to be decommissioned.

14:22

21 So it is my understanding that the Van't Lands
22 came to Town council in April of 2021. I was not at
23 that meeting so, again, I'm working on information that
24 I've received from the CAO, as well as the one
25 remaining councillor. As everyone realizes we had an

D. HORVATH

1 election in October, and four of my five councillors
2 that would have been included in that discussion are no
3 longer on council. So we're kind of working on what
4 was historic information from those meetings.

5 So it was my understanding that the idea that the
6 decommissioning would include everything, that the
7 entire operation would cease, including any manure
8 storage or activity on the site. So if that is
9 definitely not the case, I think that we would not be
10 in support of that with, I guess, a permanent manure
11 storage. 14:23

12 I think we would agree with the comments of
13 Lethbridge County with regards that we understand there
14 is temporary storage. As she said, we live in a very
15 rural area. We understand those types of things and
16 would have no objection to that part of a permit. If
17 it was going to be there temporarily or moving on
18 certain months of the year, that would be all right,
19 but to have permanent storage, I think we would be less
20 likely to support that. 14:24

21 So that's all I really have to add to the hearing.
22 So if there's any questions, I'd be happy to answer
23 them.

24 THE CHAIR: Great. Thank you very much,
25 Ms. Horvath.

D. HORVATH**Questioned by Mr. Kennedy**

1 Ms. Janzen, with the County, did you have any
2 questions?

3 MS. JANZEN: No, I don't have any questions.

4 THE CHAIR: And neighbours, Ms. Schmid,
5 Mr. and Mrs. Bedster, Mr. Clifton, do any of you have
6 questions for Ms. Horvath?

7 MR. CLIFTON: No.

8 MR. BEDSTER: No.

9 MS. SCHMID: No.

10 THE CHAIR: All right, hearing none.

14:24

11 Mr. Van't Land, do you have a question for
12 Ms. Horvath?

13 MR. VAN'T LAND: I do not.

14 THE CHAIR: And, Ms. Vance?

15 MS. VANCE: We do not have any questions
16 either. Thank you.

17 THE CHAIR: Thank you.

18 Mr. Kennedy.

19 **MR. KENNEDY QUESTIONS THE WITNESS:**

20 Q. I have one question, and it's this, Ms. Horvath, is --
21 and it's the same question that I asked the County.

14:25

22 And it is as a planning authority, do you have concerns
23 that the NRCB might not be having regard for provision
24 in an Intermunicipal Development Plan?

25 A. I would say yes, especially as an urban municipality

D. HORVATH

Questioned by Mr. Kennedy

1 because, again, most of the time in our urban municipal
2 development plans, we don't deal with livestock and
3 confined feeding operations as policy areas. So we
4 rely on our rural neighbours to ensure that our
5 interests are protected.

6 I guess one thing that sort of, from what I've
7 heard today as well is that the Municipal Development
8 Plan, even on a rural, is a very high level document;
9 it covers a lot of land area. And so these
10 Intermunicipal Development Plans are more site
11 specific. While they're still general in nature, they
12 are specific to each urban municipality and the unique
13 situation that they may find themselves in with regards
14 to existing development or long-term development.

14:26

15 So yeah, it is of great concern that the
16 Intermunicipal Development Plan policies are not given
17 a higher priority.

18 Q. Thank you. And the other piece is this, and this is an
19 area that's been identified in the Intermunicipal
20 Development Plan and with, you know, the potential for
21 growth from perhaps even both sides, perhaps from the
22 City of Lethbridge, as well as the Town of Coalhurst.
23 And I know that the planning documents are
24 forward-looking.

14:26

25 But what we heard from Mr. Van't Land was, you

D. HORVATH

Questioned by Mr. Kennedy

1 know, this barn could well be current and operable for
2 50 years. Does that cause any concern, do you think,
3 from the Town of Coaldale's (verbatim) support of that
4 operation being put in place?

5 **A. I think that's an excellent question because I think**
6 **that's -- if the proposal was on the existing site**
7 **which was closer to Coalhurst and we knew that was**
8 **going to be there for 50 years, that creates an**
9 **incredible constraint to further development within**
10 **that.**

14:27

11 I guess the thought is, you know, as we go out in
12 distance from the Town boundary, there's less likely to
13 be development. So, again, the crop (phonetic) will
14 come from the core and out. And as such, if that
15 development is in its current location in the northeast
16 quarter where Ms. Janzen indicated that both the
17 municipalities had agreed that the Kipp Road, as it has
18 been known, or 94 is a paved connection between Highway
19 3 and Highway 25, we would anticipate that there would
20 be development in that location, that this could be
21 compatible to.

14:28

22 Or, again, as Mr. Van't Land mentioned, you know,
23 sometimes these larger barns or buildings can be
24 converted to something different, and as well would
25 give them that opportunity.

D. HORVATH

Questioned by Mr. Kennedy

1 So I think from a planning perspective, the
2 current location was of support by the municipality
3 because they felt that, yes, they understand these
4 things. When people make investments, they're there
5 for a long time. And to direct that investment to
6 where it may make the most sense is really what
7 planning is all about. And definitely from the Town's
8 perspective, the further away from our boundary, the
9 better it is.

10 Understanding that that's why in this particular
11 one, the Town of Coalhurst, in discussions with the
12 County, understood that there's investment and existing
13 operators, and that's why we maybe took a less hard
14 line on no expansions, no new ones. We said, okay,
15 well, no new ones, we can understand that, but we have
16 to understand that there are people that may need to
17 expand, but how do we do that in a way that is
18 beneficial to the municipality.

19 Q. Sure. Thank you. Those are my questions. I have some
20 outstanding questions, but I think you've probably
21 given me the best answer you can in terms of, you know,
22 what the siting of the short-term manure storage
23 facility, short-term manure storage on this site might
24 mean.

25 And what I now hear is there's all kinds of lands

14:29

14:29

D. HORVATH**Questioned by Mr. Kennedy**

1 that are owned by the family along, you know, in the
2 northwest quarter that may not be covered by the
3 existing deemed permit. So any cancellation or any
4 conditions associated with that may not apply to those
5 other lands?

6 So we've got a lot of uncertainty related to what
7 short-term manure storage might look like on a
8 go-forward basis, and I think unfortunately we're not
9 going to get -- we may not have all of the answers to
10 that by the time this hearing closes.

14:30

11 **A. I agree. I noticed that as well when Ms. Janzen was**
12 **speaking that, yeah, there's six separate titles and**
13 **whether or not -- what that first original**
14 **grandfathered permit from 1998 looked like and what it**
15 **actually entailed, I guess, perhaps wasn't at the front**
16 **of mind. When it was before Town council, it was the**
17 **idea that that operation in that location was going**
18 **to -- to no longer be, and that was sort of what was**
19 **presented to them.**

20 I don't think they understood that well, it could
21 happen on one of the other titled parcels that really
22 sort of, I guess, undermined what their thought process
23 of what they were supporting I think.

14:31

24 So that does provide a little uncertainty for the
25 Town.

D. HORVATH**Questioned by Ms. Roberts**

1 Q. I see Mr. Van't Land making notes. Perhaps when he
2 gets his rebuttal opportunity, he may speak to the
3 question which may or may not -- may be helpful to the
4 Panel and to the Town.

5 But, Ms. Horvath, thank you for your answers.

6 A. Thank you.

7 THE CHAIR: Mr. Kennedy?

8 MR. KENNEDY: Yes.

9 THE CHAIR: Thank you.

10 Ms. Roberts.

14:32

11 **MS. ROBERTS QUESTIONS THE WITNESS:**

12 Q. Yes, Ms. Horvath, *AOPA's* standards and administration
13 regulations Section 5, and nobody has to go there, I'll
14 just comment on it. That section defines what
15 operators are allowed to do and what they're not
16 allowed to do for short-term solid manure storage. And
17 there are a number of items listed there, but I think
18 that the prime concern I'm hearing from the Town could
19 be the location of those short-term storage sites.

20 And in that portion of the standards and admin
21 regulation, one of the things that is stated is that
22 those storage sites have to be not less than 150 metres
23 from the nearest residence that isn't owned or under
24 control of the owner or operator of the manure. And
25 then they also define what actually is meant by "short

14:32

D. HORVATH**Questioned by Ms. Roberts**

1 term," and it's meant to be no accumulative -- no more
2 than seven months over a three-year time period.

3 So I would think that in this particular case,
4 what that could mean, I'll say worst-case scenario for
5 the Town, could be that there could be a solid manure
6 storage pile in one location for a seven-month time
7 period, but then it couldn't be in that particular
8 location until three more years had passed.

9 So you had commented that probably from the Town's
10 perspective, temporary storage is okay. Having, I'll
11 say, those parameters around it, you know, what short
12 term actually means, it could be seven months, but
13 would have to be more than 150 metres from the nearest
14 residence. Do you have anything, any additional
15 thoughts on that? Do you believe that that could be
16 acceptable to the Town?

17 **A. I do. Given those parameters, I do believe that that**
18 **would be acceptable. That particular part of our**
19 **community only has one or two residents.**

20 So, again, I think the more impacted residents
21 would be actually County residents, so again, I think
22 we would have no problem with that -- that scenario.

23 Q. Okay. Thank you.

24 MS. ROBERTS: That's all the questions for me,
25 Mr. Chair.

14:33

14:34

1 THE CHAIR: Thanks, Ms. Roberts.

2 Ms. Stuart.

3 MS. STUART: Thank you, Mr. Chair. My
4 questions have been answered. Thanks, Ms. Horvath.

5 THE CHAIR: And, Mr. Graham.

6 MR. GRAHAM: Thank you. No, I have no
7 questions at this time, Mr. Chair.

8 THE CHAIR: Thank you. And I have no further
9 questions either, Ms. Horvath. And like Ms. Janzen,
10 thank you very much for very clear, concise answers.
11 Thank you.

14:35

12 MS. HORVATH: Thank you.

13 THE CHAIR: And did you have -- based on the
14 questions you had, did you have any redirect for the
15 Panel?

16 MS. HORVATH: I do not. Thank you.

17 THE CHAIR: All right. Thank you very much.

18 (WITNESS STANDS DOWN)

19 THE CHAIR: So, Ms. Schmid, it's your
20 opportunity to provide any direct evidence that you
21 might have or if you wanted to explore or highlight
22 anything that's particularly significant to you, this
23 is your opportunity.

14:35

24 Did you have something prepared or are you ready
25 to present?

M. SCHMID

1 MS. SCHMID: I am. Can I just have a minute?

2 THE CHAIR: Sure. Take a quick minute. It's
3 sort of laid out --

4 MS. SCHMID: It's okay. It's okay.

5 THE CHAIR: We show a lot of deference,
6 Ms. Schmid, because I mean, this is new, it's probably
7 a little bit intimidating, so if you need to take a
8 couple of minutes, go ahead and do that.

9 MS. SCHMID: It's okay. I guess --

10 THE COURT REPORTER: Excuse me, excuse me --

14:36

11 THE CHAIR: Sorry. We need to swear in.
12 Thank you.

13 Go ahead, Ms. Vespa.

14

15 **M. SCHMID (In their own stead), affirmed**

16 THE CHAIR: Thank you.

17 **A. So I guess basically for the letter I submitted, more**
18 **of my concerns with this expansion were just around the**
19 **health effects it could have for neighbours and**
20 **communities, especially, you know, if you look at how**
21 **things are going to expand in the next 50 years.**

14:37

22 **And I'm more concerned with, like, the air quality**
23 **and how that impacts, like, the health -- like**
24 **respiratory health stats. I don't think there was much**
25 **done to address that, and I don't think that moving**

M. SCHMID

1 forward it's really going to be a consideration until
2 it's actually a real problem.

3 But I also wonder, too, about the long-term
4 ecological impacts on that natural drain when you add
5 additional barns to it that are much bigger than what's
6 already there and how that looks even just with effect
7 of groundwater and runoff and drains and natural drains
8 and things like that.

9 I don't know, I guess I have more concerns on like
10 not having any compliance for air quality because I
11 know it's a big concern.

12 THE CHAIR: Sorry, are you --

13 A. I'm not sure what else to add.

14 THE CHAIR: Oh, okay. So are you completed
15 what you wanted to say? I mean, I know that you all
16 had opportunities in terms of the questions previously
17 to Double H, as an example, but this is an opportunity
18 to do what you've done, but if there's nothing more to
19 add, then we'll move to see if there's any questions
20 that others may have of you.

21 A. Sure. Yes, I'm done.

22 THE CHAIR: You're good? Okay, thank you.

23 Ms. Janzen?

24 MS. JANZEN: I have no questions.

25 THE CHAIR: Ms. Horvath?

14:38

14:39

M. SCHMID**Cross-examined by Mr. Van't Land**

1 MS. HORVATH: I have no questions.

2 THE CHAIR: Mr. and Mrs. Bedster?

3 MR. BEDSTER: No, none really.

4 THE CHAIR: Mr. Clifton?

5 MR. CLIFTON: No.

6 THE CHAIR: Mr. Van't Land?

7 MR. VAN'T LAND: Yes.

8 **MR. VAN'T LAND CROSS-EXAMINES THE WITNESS:**

9 Q. I just want to -- Ms. Schmid has brought up a lot of
10 concerns about air quality, and I want to understand
11 those concerns, that I -- if the air quality is bad,
12 then that is definitely something I want to be aware of
13 and if there's a reasonable mitigation, I would
14 definitely pursue it.

14:40

15 I guess my question would be in order to try to
16 understand the problem if she's ever had the
17 opportunity to document particular times when the air
18 has been particularly of poor quality so that I can
19 find out how that would mesh with what I'm doing here.

20 **A. Can I respond to that?**

14:40

21 THE CHAIR: Yes, the question is put to you.

22 Please do.

23 **A. I absolutely guarantee that moving forward, I will**
24 **document every day, hour, and minute that there is an**
25 **air quality concern.**

M. SCHMID

Questioned by Mr. Kennedy

1 Q. MR. VAN'T LAND: I appreciate that because I
2 mean -- we're neighbours, and if all goes well, I hope
3 we're neighbours for a long time, and if there's
4 something that I'm doing or can do to mitigate the
5 concerns, then I want to do that, but I can't fix
6 something that I'm not aware of either. So that's my
7 comment there. And I'm done.

8 THE CHAIR: Thank you, Mr. Van't Land.
9 Ms. Vance?

10 MS. VANCE: I have no questions. Thank you. 14:41

11 THE CHAIR: Thank you. Mr. Kennedy? On mute.
12 Hi, Mr. Kennedy. Did you have questions?

13 MR. KENNEDY: I did have a question and I was
14 halfway through it when I realized I was on mute.

15 THE CHAIR: Oh, okay. No problem.

16 MR. KENNEDY: I apologize.

17 THE CHAIR: No problem. Thank you.

18 MR. KENNEDY: Now, I'll start over again.

19 **MR. KENNEDY QUESTIONS THE WITNESS:**

20 Q. Ms. Schmid, I'm looking at your written submission, and 14:41
21 the only question I have relates to a statement that
22 you make near the end of that submission, and that
23 statement reads: (as read)

24 "Real estate research shows depreciated
25 land values when commercial operations

M. SCHMID**Questioned by Mr. Kennedy**

1 are developed in rural agricultural
2 settings."

3 So the Board, you know, hears this concern, and, you
4 know, it takes every opportunity to assess what
5 information is available, what research information is
6 available. So you've made a reference, but we don't
7 have the specific research. Can you direct us as to
8 where we would find what you're referring to.

9 **A. So just a general Google search, but also my friend was**
10 **formerly in real estate, so having discussions with him**
11 **about how commercial confined feeding operations impact**
12 **basically our resale value and what that would look**
13 **like.**

14:42

14 **Q.** Okay. But not -- I mean, our Board deals with
15 technical research all the time. You're not referring
16 to a technical research paper on the subject?

17 **A. No.**

18 **Q.** Thank you.

19 Ms. Schmid, thank you. That's the only question
20 that I had. Your submission otherwise is very clear.

14:43

21 **THE CHAIR:** Thank you, Mr. Kennedy.

22 Mr. Graham, did you have any questions?

23 **MR. GRAHAM:** No, I think everything I've got
24 down here is already covered. Thank you, Mr. Chair.

25 **THE CHAIR:** Ms. Stuart?

M. SCHMID

Questioned by Ms. Roberts

1 MS. STUART: Thanks, Mr. Chair.

2 Ms. Schmid, thanks so much for presenting today,
3 and I have no questions for you.

4 THE CHAIR: Thank you. Ms. Roberts?

5 MS. ROBERTS: I have a question for Ms. Schmid.

6 **MS. ROBERTS QUESTIONS THE WITNESS:**

7 Q. You had commented that you had concerns about
8 compliance regarding air quality, and the question that
9 I have is, is there anything specific you had in mind
10 that you believe the NRCB needs to do with regard to
11 that or -- or consideration of it?

14:44

12 A. I think maybe where my concerns come from, and I'm not
13 exactly sure how it would look moving forward, but
14 like, environment is constantly monitoring the air
15 quality, and where I'm concerned about is, like, the
16 ammonia and the other elements that enter the air
17 contaminate or pollute it, and I'm more concerned about
18 at what point is that air quality coming out of those
19 barns detrimental to a health exacerbation, but I'm not
20 sure who would follow that or what that would look
21 like.

14:44

22 But it's kind of sad to hear that, even through
23 all of this, that was never considered because we are
24 downwind, we do have a child that has respiratory
25 issues and on days when the odour is bad, I mean she is

M. SCHMID

Questioned by Ms. Roberts

1 bad. So my question is, what about air quality?
2 Should I have done more about that? Probably. I just
3 didn't know.

4 So I just wanted to know how do you monitor that,
5 how do you make that better because we're not the only
6 people that's going to impact because 50 years from
7 now, what's the population going to look like?

8 Q. Okay. So if I get this right, then, you don't have any
9 specific parameters or anything like that that you're
10 looking for. What you're looking for, really, is an
11 explanation of how this is considered for CFOs. Would
12 that be fair?

14:45

13 A. Yes.

14 Q. Okay. Thank you.

15 MS. ROBERTS: That's all, Mr. Chair.

16 THE CHAIR: And thank you, Ms. Roberts.

17 Thank you, Ms. Schmid. I have no further
18 questions, but on behalf of the Panel, I appreciate
19 your participation at the hearing and you stepping up.
20 So thank you very much.

14:46

21 Did you have -- based on the questions that you
22 did get, though, did you have anything to redirect to
23 the panel?

24 A. I don't know if it counts as a redirect, but moving
25 forward for any other confined feeding operation, would

A. BEDSTER

1 they consider air quality and how that impacts
2 surrounding communities and neighbours.

3 THE CHAIR: Okay. Thank you.

4 (WITNESS STANDS DOWN)

5 THE CHAIR: Mr. and Mrs. Bedster, did you have
6 any direct evidence that you would like to contribute,
7 and if so, we'll have you sworn or affirmed.

8 MR. BEDSTER: Well, just one comment to make,
9 though.

10 THE CHAIR: Just before you do. If you're
11 going to comment, you're more than welcome to. We're
12 inviting you to do that, but let's have you either
13 sworn in or affirmed first.

14:46

14

15 **A. BEDSTER** (In their own stead), affirmed

16 THE CHAIR: Mrs. Bedster, had you planned
17 on --

18 MS. BEDSTER: No, that's fine, thanks. I'm just
19 agreeing with what I'm hearing. Finding it very
20 interesting.

14:47

21 THE CHAIR: Thank you very much.

22 Mr. Bedster, please proceed.

23 **A.** Well, we've been there 42 years now where we live. We
24 live down approximately 2 miles south of a dairy farm
25 and there was never a time that -- there was 80 head of

A. BEDSTER

Cross-examined by Mr. Van't Land

1 cattle they milked. So you've got a fair amount of
2 manure, but where we're at now, over the last, I don't
3 know for sure, I'm going to say 15 to 20 years there's
4 some days, some nights you don't open your windows, you
5 don't open your doors because if you open your windows
6 and doors, it smells like manure.

7 So that's my -- along with what Mrs. Schmid said,
8 it's quite pungent sometimes. Whether it's cattle,
9 chickens, or horses or cows, it's definitely
10 somewhat -- well, it is a problem out there.

14:48

11 I guess that's about all I have to comment on.

12 THE CHAIR: Okay. Well, thank you,
13 Mr. Bedster.

14 **A. You're welcome.**

15 THE CHAIR: Are there any questions from
16 Ms. Janzen?

17 MS. JANZEN: No, I have no questions.

18 THE CHAIR: Ms. Horvath?

19 MS. HORVATH: I have no questions.

20 THE CHAIR: Thank you. Ms. Schmid?

14:49

21 MS. SCHMID: No questions.

22 THE CHAIR: And Mr. Clifton?

23 MR. CLIFTON: No questions.

24 THE CHAIR: Mr. Van't Land.

25 **MR. VAN'T LAND CROSS-EXAMINES THE WITNESS:**

A. BEDSTER**Cross-examined by Mr. Van't Land**

1 Q. Again, just a clarification. I've been down wind of --
2 a strong wind as well, and I'm also not a fan. But I
3 was wondering if Mr. Bedster was able to take note.
4 Normally when people are spreading manure, it's pretty
5 obvious who's spreading where. And on the times when
6 he found it particularly bad, if he noted where that
7 smell was coming from?

8 Given where he's at, I'm willing to bet that it's
9 probably feedlot manure, and I do know that Matt is
10 pretty diligent about turning it in to deal with the
11 odour. 14:49

12 But at any rate, just to clarify whether we're
13 responsible for that smell or not, I was wondering if
14 he has been able to document when he's noticed that
15 it's particularly bad?

16 A. No, I have not documented, but you're partly right on
17 that from the neighbour to the west of us. But there's
18 also been times when there's a northwest wind, and it
19 has been poultry. And it's definitely a different
20 odour between cows and poultry. 14:50

21 So equal matters, equal things, they're both --
22 they're both on the table.

23 Q. Okay. I was just looking to clarify that. I have no
24 further questions.

25 THE CHAIR: Thank you, Mr. Van't Land.

B. CLIFTON

1 Ms. Vance?

2 MS. VANCE: No, I have no questions.

3 THE CHAIR: Thank you.

4 Mr. Kennedy?

5 MR. KENNEDY: I have no questions either. Thank
6 you.

7 THE CHAIR: Ms. Stuart?

8 MS. STUART: I have no questions, thank you.

9 THE CHAIR: Ms. Roberts?

10 MS. ROBERTS: I have no questions, Mr. Chair. 14:50

11 THE CHAIR: Mr. Graham?

12 MR. GRAHAM: No questions, Mr. Chair, thank
13 you.

14 THE CHAIR: Thank you, Mr. Bedster. We really
15 appreciate your participation. I have no questions.
16 Did you have anything to redirect?

17 **A. No, not at this time.**

18 THE CHAIR: Okay. Thank you.

19 (WITNESS STANDS DOWN)

20 THE CHAIR: Mr. Clifton, were you going to
21 make a submission or provide any direct evidence today? 14:51

22 MR. CLIFTON: Yes.

23 THE CHAIR: Okay. Thank you. Ms. Vespa.

24

25 **B. CLIFTON (In their own stead), affirmed**

B. CLIFTON

1 THE CHAIR: And I do notice your voice is a
2 bit softer. So if the mic is closer, if you could
3 speak towards the camera if that's where the mic is,
4 that would be great. Thanks.

5 A. A lot of the stuff that I had we kind of touched on a
6 little bit here with the swales and the drainage.

7 I do have that letter from -- or that email from
8 Logan Huscroft saying that I do have an open file with
9 them concerning this matter. How that goes, I guess
10 we'll see and see what compliance we get.

14:52

11 The other concern with that is any manure that is
12 spread on the land and not incorporated can come with
13 that runoff on wet years. So that's all contaminated
14 and eventually goes to the Old Man River which is only
15 a mile and a half away.

16 Another thing we should touch on is the no-till
17 farming. Being that we are in the rural urban fringe
18 or the MDP, whatever you want to call it there, in
19 consideration for the neighbours for the odour. I
20 don't know why we can't incorporate this rule. He's
21 stated that he has no intent to do it, so there is no
22 regard for the neighbours. It's more, I guess, looking
23 out for himself.

14:53

24 I've also touched on the reduced land value. I
25 have a dry corner which would be in the southwest

B. CLIFTON

1 corner of my property directly across the highway from
2 these barns, a 5-1/2 acre dry corner that I can
3 subdivide out. It has city water, it has gas, it has
4 power, everything there. But how can I effectively
5 market that when it's directly downwind from a 120,000
6 bird operation?

7 The quality of life is also down. The odour at
8 times is so bad, you can't go out and enjoy a night in
9 the hot tub. You can't have guests over on the deck.
10 It's bad.

14:54

11 Chicken manure is probably right up there with pig
12 manure. It's one of the most potent manures there are.
13 It has its -- it's very high in ammonia. It's not a
14 pleasant smell.

15 We don't have air conditioning in our house. We
16 can't open our windows at night to cool off when it's
17 30 degrees in the summer. You open the windows, your
18 house smells like manure. Your clothes smell like
19 manure. There's really nothing you can do to get away
20 from it.

14:55

21 The other thing I was going to ask too was what is
22 the life expectancy of the barns; we've kind of touched
23 on that already: 50 years approximately-ish. What's
24 the development like or going to be like in our area in
25 that time? Like are they wasting their money now

B. CLIFTON

1 trying to build these barns just to have them be
2 commissioned or have -- you know, be down this same
3 road again? I don't know.

4 What -- what impacts to the directly affected
5 neighbours are going to be reduced if this goes ahead?
6 Like, there's already impacts from the existing
7 operation. What's going to be done to the existing
8 operation to bring it up to modern because it's already
9 30 years old or 25 years old or whatever it is. So
10 what's going to be done to that to help these impacts?
11 Is he going to be compliant with his manure spreading,
12 his farming practices, everything, to help improve
13 these impacts?

14:56

14 I've included some pictures; we've seen the swales
15 there. But if you go, I don't know which one the
16 submissions is there. Exhibit Number 20. If you can
17 pull up the pictures on that, please.

18 THE CHAIR: Is this the correct picture,
19 Mr. Clifton?

20 A. Yeah, that's the first picture. That is the area
21 directly west of Double H's existing barns. So this
22 was after a big rain, I believe 2011-ish; I'm not
23 100 percent sure on the year. This was prior to those
24 swales being dug.

14:57

25 So now any manure spread on the land all closed

B. CLIFTON

1 into this water. So now that these swales drainage is
2 dug, all flows basically towards us which would be
3 heading north, this picture is taken from Kipp Road
4 looking south, now that comes to their -- where the
5 swale ends right at the county ditch and flows east
6 towards Highway 25.

7 So if we scroll down to the next picture or the
8 next three pictures, that is Highway 25 looking
9 directly east towards my place. This shows the ditch
10 full of water and it backing up onto my land.

14:58

11 The next picture kind of shows a bigger, broader
12 angle of how full the ditch is and how much it backs up
13 into me. These were all prior to the work that was
14 done on Double H's land. So this is kind of what I got
15 already, but now that that whole quarter is being
16 drained, it all comes to me.

17 Now I get even more. It hasn't happened yet, but
18 it will. I don't know when, but how much is that going
19 to affect me then?

20 I guess, you know, what comes with the water,
21 what's in that manure? We don't know.

14:59

22 So I don't know -- like as medication that's in
23 the manure or anything, whatever, cleaning agents that
24 they use in the barn, I don't know what's all there.

25 And then the third picture is kind of another

B. CLIFTON

1 better angle kind of looking southwest. You can kind
2 of see how it backs up there.

3 We've already touched on the letter from
4 Logan Huscroft that he has been out. He does see a
5 compliance issue with it all, and it will be looked at.

6 Another thing I want to talk about was the manure
7 storage that would be on the northwest which I think
8 we've kind of covered that already.

9 I think -- I think that's it.

10 THE CHAIR: Well, thank you, Mr. Clifton.

15:00

11 Ms. Janzen, any questions?

12 MS. JANZEN: No. I don't have any
13 questions.

14 THE CHAIR: Ms. Horvath?

15 MS. HORVATH: I don't have any questions.

16 THE CHAIR: Ms. Schmid?

17 MS. SCHMID: I don't have any questions.

18 THE CHAIR: Or Mr. and Mrs. Bedster?

19 MR. BEDSTER: No questions.

20 THE CHAIR: Thank you.

15:00

21 Mr. Van't Land?

22 MR. VAN'T LAND: I have no questions.

23 THE CHAIR: Ms. Vance?

24 MS. VANCE: I have no questions either, thank
25 you.

B. CLIFTON

Questioned by Mr. Kennedy

1 THE CHAIR: Thank you.

2 Mr. Kennedy?

3 **MR. KENNEDY QUESTIONS THE WITNESS:**

4 Q. Yeah, I have one, and it's going to sound like a
5 strange question, Mr. Clifton. But those photos that
6 you showed that are in your Exhibit, did you say they
7 were from 2011?

8 A. I believe that is the year. The camera didn't have a
9 date stamp, so I'm not a hundred percent sure on the
10 year. That was one of the years that I know we had the
11 big rain and this happened, but I can't be a
12 hundred percent sure of the year.

13 Q. And you took those pictures to document what?

14 A. It was just a random just to show all the water.

15 Q. Oh, okay.

16 A. Because I've had issues kind of in the past with the
17 flooding there, and it was just random luck that I
18 actually had this picture to show how much flooding he
19 had on his land.

20 Q. And so you talk about, you know, the swale construction
21 and drainage construction that's taken place I think
22 more recently. Is that fair?

23 A. The swales were dug within the last two to three years.

24 Q. I think we heard from Mr. Van't Land that it was a
25 couple of years ago perhaps?

15:01

15:01

B. CLIFTON

Questioned by Mr. Kennedy

1 **A. Yeah.**

2 **Q. But you had issues with the standing water or the**
3 **accumulating water 11 years ago, and what were you**
4 **attributing that to?**

5 **A. The natural drain where it goes through the**
6 **southwest -- I don't know what the actual is, to the**
7 **northeast of us, what was that location, the**
8 **southwest 26 where he states that the water runs**
9 **through, can't handle that much water at once.**

10 **Q. Right.**

15:02

11 **A. So that is the way it goes, but because it can't handle**
12 **it, it backs up the county ditch and uses me kind of as**
13 **a holding pond, I guess, until it can eventually flow**
14 **through.**

15 **Q. But none -- do I take it none of those photos were**
16 **actually of your land?**

17 **A. The ones I submitted there?**

18 **Q. Yes.**

19 **A. The last three are of my land that shows how it backs**
20 **up the ditch and then floods onto me.**

15:03

21 **Q. Thank you. Those are my questions.**

22 **I'm sorry, from your home, you don't own the land**
23 **north of the Kipp Highway?**

24 **A. No. I am -- I'm directly east of Double H.**

25 **Q. Right. Okay. Halfway through that quarter section?**

B. CLIFTON

Questioned by The Chair

1 **A. I've got the whole quarter there.**

2 Q. Yeah, I'm sorry, your home is halfway through the
3 quarter?

4 **A. Yeah, the home is -- yeah, a quarter mile east of**
5 **Highway 25.**

6 Q. Got it. Okay. Thank you. Those are my questions.
7 Appreciate the responses.

8 THE CHAIR: Thank you, Mr. Kennedy.

9 Mr. Graham, do you have any questions?

10 MR. GRAHAM: No questions at this time. Thank
11 you, Mr. Chair.

15:04

12 THE CHAIR: Ms. Stuart?

13 MS. STUART: No, Mr. Chair, I have no
14 questions. Thank you.

15 THE CHAIR: And Ms. Roberts?

16 MS. ROBERTS: I have just one question for
17 Mr. Clifton.

18 **MS. ROBERTS QUESTIONS THE WITNESS:**

19 Q. In your verbal submission, Mr. Clifton, you mentioned
20 reduced quality of life, and you specifically mentioned
21 odour concerns. Was there -- were there any other
22 items that might -- that are concerns of yours that
23 would fit under reduced quality of life, or is it
24 primarily odour?

15:04

25 **A. It's primarily the odour, yes.**

B. CLIFTON

Questioned by The Chair

1 Q. Okay. Thank you.

2 MS. ROBERTS: That's all, Mr. Chair.

3 THE CHAIR: Okay. Thank you.

4 **THE CHAIR QUESTIONS THE WITNESS:**

5 Q. Mr. Clifton, just a couple of quick questions. You
6 have been, from your submission, obviously in contact
7 with Alberta Environment. So you are clear that it is,
8 in terms of surface water flows and activity in terms
9 of altering surface water on the land as opposed to
10 just the CFO site itself, is the responsibility of
11 Alberta Environment and Parks? Is that --

12 **A. Yeah, I'm aware of that. But I was also informed that**
13 **any manure that could be on the land that comes with**
14 **that water is an NRCB issue.**

15 Q. Exactly right. That was going to be my question if you
16 were aware of that. Right, so thank you.

17 **A. Yeah.**

18 Q. So, thank you very much. Those are the questions that
19 I have.

20 Did you have anything that you wanted to redirect
21 to us based on the questions?

22 **A. Not that I can think of at the moment.**

23 THE CHAIR: Thank you very much and really
24 appreciate your participation today. Thank you.

25 (WITNESS STANDS DOWN)

15:05

15:05

B. CLIFTON**Questioned by The Chair**

1 THE CHAIR: We've got rebuttal evidence from
2 Mr. Van't Land, and Mr. Van't Land, question to you, do
3 you have rebuttal evidence and, if you do, how long do
4 you think it would take you?

5 MR. VAN'T LAND: I have a number of points that I
6 would like to clarify through. I can't see it taking
7 longer than 10 or 15 minutes.

8 THE CHAIR: But then we do have -- also we
9 have closing arguments, an opportunity for everyone to
10 have closing arguments.

11 I'm just wondering -- I think we're going to be
12 fine on time by the looks of things, so I really
13 appreciate everybody being clear and succinct
14 throughout the day, so thank you very much.

15 Well, let's just take a quick ten-minute break
16 until 3:15 and return, and I think we're still going to
17 be fine for time.

18 So if we could just break until 3:15 and come back
19 and wrap it up. Thank you very much.

20 (ADJOURNMENT)

21 THE CHAIR: Welcome back, everyone. The
22 question is do we have everyone? We do. We're just
23 waiting for Lethbridge boardroom, the neighbours.
24 There we go. Perfect.

25 Everybody can hear me? We're good? Okay.

15:06

15:07

S. VAN'T LAND

Questioned by The Chair

1 Thank you.

2 Okay. Mr. Van't Land, just to remind you and
3 confirm that you're still under oath. I think you were
4 affirmed but you're still under oath, so with that
5 understanding, let's proceed please.

6

7 **S. VAN'T LAND** (For Double H Feeders), previously affirmed

8 A. Okay. I wanted to take this opportunity just to go
9 through some of the questions that have come up and
10 perhaps some misunderstanding or, again, just
11 clarifications.

15:19

12 Top of my list is the question regarding equipment
13 modernization.

14 MS. FRIEND: Excuse me, I'm sorry to interrupt
15 but, Peter, Sandi just texted me and she lost her
16 connection. So she's asking, Mak, if you're online,
17 could you send Sandi another email invite to her home
18 email, please.

19 THE CHAIR: Or just if you can -- I think you
20 can just invite her as well, Mak, by the participants.
21 Just invite them, might be quicker.

15:20

22 MR. ELHAKIM: Yes, I'm on it.

23 THE CHAIR: Thank you. Appreciate it.

24 Thanks, Laura.

25 A. Am I free to continue?

S. VAN'T LAND

Questioned by The Chair

1 THE CHAIR: Let's just wait one minute. If we
2 needed to, Sandi could catch up on transcripts, but it
3 might be easier to just see if it will be short term or
4 long term and then we'll move on.

5 MR. ELHAKIM: She should be in shortly.

6 THE CHAIR: She thinks it's going to work
7 relatively quickly, otherwise -- I'm not sure how that
8 dial-in works. Maybe we can just get her to dial in.

9 MR. ELHAKIM: If she wants.

10 THE CHAIR: It's pretty tough to understand
11 you, Mak. It's sort of like you're in this forever
12 echo for some reason.

13 MR. ELHAKIM: Sorry about that. Yeah, I sent
14 her the invitation, but she should be in shortly.

15 THE CHAIR: Okay. Thank you.

16 MR. ELHAKIM: You're welcome.

17 THE CHAIR: Mak?

18 MR. ELHAKIM: Yes.

19 THE CHAIR: Sandi has asked -- she doesn't see
20 another invite. She said she needs an invite. Did you
21 send that?

22 MR. ELHAKIM: Yes, I did. Is her email
23 ssroberts?

24 MS. FRIEND: Yes. If you could send it to the
25 one with the number in it.

15:22

15:23

S. VAN'T LAND

Questioned by The Chair

1 MR. ELHAKIM: Yes. 857 --

2 MS. FRIEND: Yeah, exactly. We don't want to
3 give it out, but...

4 MR. KENNEDY: I was going to suggest in a pinch,
5 because there is a period of time before that it
6 would -- Ms. Roberts would be asking questions, she
7 could watch the YouTube channel and that feed and then
8 come in later.

9 THE CHAIR: I'll let her know that and when
10 she comes in she comes in. Let's do that. Or, Laura,
11 could you phone Sandi on her cell -- she's been
12 answering -- and just let her know to maybe do that on
13 the YouTube, and then she can catch up when she gets
14 brought in so we can keep rolling.

15 MS. FRIEND: Yes.

16 THE CHAIR: Thank you.

17 Okay, Mr. Van't Land, sorry about that. First
18 glitch of the day, wouldn't you know it. So please
19 proceed.

20 **A. If that's the worst thing that happens today, it's**
21 **still a good day.**

22 A number of questions came up throughout the
23 conversations today that I wanted to just clarify and
24 maybe provide some light on. There was some concern
25 over the equipment modernization versus bringing

15:24

15:24

S. VAN'T LAND

Questioned by The Chair

1 equipment over from the old barns.

2 There's some aspects of a chicken barn that are
3 night and day different from 20 years ago and some that
4 haven't changed a bit. Computer systems that are
5 running ventilation, and vents and fan design have
6 improved greatly over the years.

7 If I buy a brand-new feed pan today, it is
8 indistinguishable from the one that I bought 20 years
9 ago. So things like feed pans, drinkers, those types
10 of things we're planning to bring over and repurpose
11 where we can. Things like fans and vents and lighting,
12 those things are all going to be selected -- selected
13 new.

15:25

14 There's been a fair bit of comment about manure
15 storage and operation decommission and specifically
16 what that means. And sometimes I feel like -- I want
17 to be clear that I wasn't trying to deceive anybody
18 when I was talking to either the town or the county or
19 anyone else for that matter.

20 In my mind, manure storage is a separate issue
21 from where we're raising the birds. So I apologize if
22 that was unclear. And I just wanted to make the point
23 that, on northwest we have a fair number of neighbours
24 in close proximity to our operation there, and we have
25 stored the manure in different places over the years.

15:25

S. VAN'T LAND

Questioned by The Chair

1 And in communication with those neighbours, and
2 out of deference to them and their preferences, we have
3 kind of stored the manure to where it seems to be the
4 least nuisance to anybody in the neighbourhood.

5 We try to maintain good relations with our
6 neighbours and we've been working with them, and there
7 have been multiple times when we had selected a spot
8 and they found that to be a nuisance so we selected a
9 different spot, and we've done that a couple of times
10 and we've landed where we are.

15:26

11 So it's not a case of trying to end-run around any
12 kind of a rule; it's more a case of trying to
13 be -- just try to be -- yeah, maintain good relations
14 with our nearest neighbours who are close to that
15 operation.

16 There was some concern about the level of ammonia
17 that comes from the barns and that might be sifted
18 downwind. Part of the permit that we have -- or permit
19 is perhaps the wrong word -- the authorization we have
20 from the Alberta Chicken Producers to be able to grow
21 birds is we have to sustain an audit every year for the
22 On-Farm Food Safety Assurance Program and Animal Care
23 Program that works inside of that.

15:26

24 What goes alongside those two programs, one of the
25 things we monitor in the barn is ammonia levels, and

S. VAN'T LAND

Questioned by The Chair

1 one of the goals of the ventilation system is to keep
2 that ammonia down to a healthy level for both the birds
3 and the people that are in the barns.

4 So I just wanted to say that that is something
5 that we monitor and keep down deliberately. It's
6 mostly for the health of the birds, but the side effect
7 of that is there is not large amounts of ammonia coming
8 out of the barn.

9 I think back to Coalhurst. I don't know how good
10 people's memories are, but I can remember the chicken
11 barns. There was a friend of my dad had chicken barns
12 right across from the community centre and where the
13 current gas station is. There used to be chicken barns
14 there, and those are things that we keep in mind when
15 we are looking at moving our existing -- our existing
16 operation away from the town. We've been --

17 Since I've been involved with the farm, it's been
18 coffee talk quite often as to how long it's going to
19 take for Lethbridge or Coalhurst to get to us, and if
20 the last 20 years is any indication that, in 50 years,
21 they still won't be here.

22 But regardless of that fact, in the event that
23 development does pick up to a pace where the character
24 of the neighbourhood changes, what also happens then is
25 the prices for land also change and then there's an

15:27

15:28

S. VAN'T LAND

Questioned by The Chair

1 incentive. If it becomes a point where development is
2 so dense that it's no longer a viable option to run a
3 poultry operation, then typically land values would
4 increase and we'd be, from that point on, better off to
5 trade up to an area further away, expand our acres and
6 perhaps take the opportunity to expand the operation.
7 But in the short term, we try to build things as well
8 as we can, and take care of them, and run with them
9 accordingly.

10 Bryan had shown a number of pictures. If the
11 document handlers could bring up Document Number 20. I
12 think it was picture number -- on page 2 is the one
13 that I'm particularly interested in.

15:29

14 That picture there shows -- he's exactly right,
15 that's our field. You're standing on the Kipp Highway
16 looking south, seeing the water accumulate, and what
17 you see there is that the water is accumulating away
18 from the road ditch. The prevailing land there, the
19 water -- the land doesn't flow into the ditch until
20 there's a volume of water just because of the lay of
21 the land, and we have not touched the level of the
22 culvert or the final drain into the road ditch.

15:29

23 So we have run a swale down the middle of that
24 piece, and it's precisely because of pictures like this
25 where if we can take that pond that's several hundred

S. VAN'T LAND

Questioned by The Chair

1 feet wide, and if we can get it down to a fraction of
2 that size and essentially store the water until it
3 dissipates naturally, that has been the goal from the
4 start of this improvement.

5 So I just wanted to highlight that.

6 That essentially covers the points that I wanted
7 to come around back to. So it's one of those days
8 where I think I've said everything three times and I'm
9 not sure if I've necessarily covered everything, but
10 that is the end of my presentation for the moment.

15:30

11 So I submit the floor for the next step in the
12 process.

13 THE CHAIR: Okay. Sorry, did -- I just missed
14 the last couple of sentences there. Did everybody
15 freeze or is it just my computer perhaps? Everybody
16 froze?

17 Sorry, I think what I got, Mr. Van't Land, is
18 you're completed, you're complete with your rebuttal
19 evidence, you're good and you're ready for questions;
20 do I have that right?

15:31

21 A. I think so, yeah. The last thing I said of note was
22 talking about the picture that Bryan had submitted. So
23 if that came through clear, then, yes, I'm ready to
24 move on.

25 THE CHAIR: Okay.

S. VAN'T LAND**Ms. Schmid cross-examined the witness**

1 Ms. Friend, do we have an update on Ms. Roberts?

2 MS. FRIEND: No. Sandi isn't connected yet.

3 We're going to try another email address, so it will
4 still be another few minutes.

5 THE CHAIR: Okay. So we'll start with -- I
6 mean, there's a list ahead of --

7 MS. FRIEND: She's watching on YouTube.

8 THE CHAIR: Okay. And if necessary, she
9 texted a question -- it's a little awkward, but if she
10 has a question, she can text that in if we need to,
11 just to make this work, so. Okay, thank you.

12 So, Ms. Janzen, do you have any follow-up
13 questions for Mr. Van't Land based on his rebuttal?

14 MS. JANZEN: No, I don't have any other
15 questions.

16 THE CHAIR: Ms. Horvath?

17 MS. HORVATH: No, I don't have any questions.

18 THE CHAIR: I'm not sure whose -- I don't
19 think that's my computer, but it's coming through
20 somewhere. Is everybody hearing that dinging
21 happening? Okay, thanks.

22 Ms. Schmid?

23 MS. SCHMID: Hello. Yes, and I don't even need
24 a minute.

25 THE CHAIR: Okay, perfect. Go ahead.

15:31

15:32

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 MS. SCHMID CROSS-EXAMINES THE WITNESS:

2 Q. Okay. So my questions are just for some clarification
3 for Scott when he had mentioned about the odour and his
4 surrounding neighbours and how they just didn't have
5 any concerns about it, and if they did, he was willing
6 to work with them. And I just wanted to know if those
7 neighbours are downwind from the storage and what
8 that -- maybe why there's not so much concern about it?

9 A. I would comment that those neighbours are -- they're
10 bordering our field very closely, and if they have
11 concerns, we work with them.

15:32

12 And it -- to be honest, you've never raised a
13 concern with me, so I've never had a chance to address
14 it. So that's the other side of it.

15 Q. I just wanted to know, though, if they were downwind
16 from the storage?

17 A. Some are, yes.

18 Q. My next point that I would like clarification on. When
19 you talk about animal welfare and ammonia levels in the
20 barn, you have to keep that at a certain level. And I
21 can appreciate that. But by keeping that ammonia level
22 down, does that increase what's being put out through
23 the fans into the environment and then going back to
24 the air quality?

15:33

25 A. Not really because, in keeping the ammonia level down,

S. VAN'T LAND

Cross-examined by Ms. Schmid

1 the reality is that what we're actually managing is the
2 moisture level, and it's the interaction of the
3 moisture and the manure and the microbes that generates
4 the ammonia.

5 And in keeping the density of the ammonia down in
6 the barn, the air coming out of the barn is obviously
7 not going to be any more of a -- of a concentration of
8 ammonia than what's in the barn.

9 So as that goes out and dissipates into the
10 general environment, then -- the further downwind you
11 get, the less of a concentration there is also.

15:34

12 Q. Thank you. Those are my questions.

13 THE CHAIR: Thank you, Ms. Schmid.

14 Mr. and Mrs. Bedster?

15 MR. BEDSTER: I guess not. I just -- we talked
16 about the ammonia. All I can tell you is I know people
17 that worked in barns for years on a colony, especially
18 on pigs, and they kept the ammonia down there, but the
19 gentleman damn near died.

20 They had to be taken out of the barns and, you
21 know, do a different chore on the colony as per se.
22 But the amount of ammonia that was in there, I guess
23 for some reason, the limits got out of control or
24 whatever, but his being there all the time did really
25 affect the gentleman.

15:34

S. VAN'T LAND**Cross-examined by Mr. Clifton**

1 THE CHAIR: Okay. So there was not really a
2 question for --

3 MR. BEDSTER: No.

4 THE CHAIR: -- Mr. Van't Land. Okay, thank
5 you.

6 Mr. Clifton.

7 **MR. CLIFTON CROSS-EXAMINES THE WITNESS:**

8 Q. I just wanted to touch on that picture that he brought
9 up there with the -- west of his barns. That was taken
10 before the swales were down.

15:35

11 THE CHAIR: Did you want that posted? Oh,
12 here we go. Okay, thank you.

13 Q. MR. CLIFTON: Yeah. So he said that the swales
14 were there, there's a gravel dispersion pit by the
15 road.

16 So now how big is that gravel dispersion pit?
17 Like, will it handle all this water to disperse it out,
18 or is it just going to go up and over that and down the
19 county ditch? Because this picture was taken prior to
20 all that being dug. So now that's just all extra water
21 now?

15:36

22 A. There is a point where, if there's so much water, it
23 really doesn't matter what you do; it's going to flow.

24 The nature of the dispersion pit is, because it's
25 below the level of the culvert, the idea is that it

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 decreases the surface area where the water come in and
2 the tile can engage the surrounding ground and slowly
3 seep into the ground and away through groundwater
4 mitigation, the way it does now, the way this water
5 disappeared. Because I can tell you that pond was
6 there a long time, and it didn't run anywhere. It goes
7 down. And yeah, once the water goes down, I'm not an
8 expert to tell you what happens to it after that.

9 But I can say too, and I don't know if it's
10 relevant to some of the memories you're maybe having is 15:36
11 the culvert underneath my driveway where this water or
12 anything over a certain level would run, when they
13 improved the Kipp Highway, it could be 40 years ago,
14 when they ran the new irrigation or the new telephone
15 line, they plowed through that culvert. And that was a
16 point of concern for us for many, many years. We could
17 never quite figure out why that water would never move
18 because we'd have a pond on one side and be dry on the
19 other.

20 And the County did replace that culvert, I'm 15:37
21 trying to think, we couldn't come up with a date, and
22 it could have been around 15 years ago. It would have
23 probably been before this. But if the perception of
24 water flow has changed since then, then that might be
25 the case why that might be. And that is something

S. VAN'T LAND

Cross-examined by Mr. Clifton

1 that -- replacing that culvert with a proper culvert,
2 functioning culvert was something that essentially
3 restored the natural water flow instead of altering it.

4 All these swales and work that we've done hasn't
5 changed direction of water or the volume of water that
6 moves; it simply tries to manage the amount of
7 cross-section of field that it damages before
8 it -- before it moves.

9 Q. So what you're saying is that, in this picture, for
10 instance, this water here, wouldn't go down the county
11 ditch if there was a swale dug?

15:38

12 A. No, because we never touched the height of the culvert.

13 Q. The culvert is level with the ground at the county
14 ditch, though, so the swale being dug brings this
15 water --

16 A. I spent a lot of time with a laser out there two years
17 ago, and our low spot adjacent to that is probably
18 about six inches below that culvert.

19 Q. No further questions.

20 THE CHAIR: Okay. Thank you, Mr. Clifton.

15:38

21 Ms. Vance?

22 MS. VANCE: I have no questions, thank you.

23 THE CHAIR: Thank you.

24 Mr. Kennedy.

25 MR. KENNEDY: Yeah, I have a couple of

S. VAN'T LAND

Questioned by Mr. Kennedy

1 questions.

2 **MR. KENNEDY QUESTIONS THE WITNESS:**

3 Q. And, again, Mr. Van't Land, it's to deal with the
4 northwest quarter and manure storage on that.

5 So you mentioned, you know, your relationship with
6 neighbours and your accommodating their concerns when
7 you're storing manure. I assume that's with the
8 temporary manure storage that you're storing there?

9 **A. Yes.**

10 Q. Okay. And I assume that when you're having those
11 discussions with neighbours, it's because they -- they
12 are troubled from time to time. Is that fair?

13 **A. Troubled, it -- we cross paths from time to time, and
14 they -- you express a concern. And we do our best to
15 work with them on that.**

16 Q. Okay. And we've had this discussion elsewhere, and you
17 know, it's the potential for an approval, and NRCB
18 approvals under *AOPA* have no time limit.

19 So whatever's -- if you should get an approval,
20 there is no time limit. It may not be limited to 50
21 years; it's potentially forever.

22 And I think it's probably a reasonable forecast to
23 say what's around that northwest quarter will look a
24 great deal different as each decade progresses. Is
25 that a reasonable assumption?

15:39

15:40

S. VAN'T LAND

Questioned by Mr. Kennedy

1 **A. Your guess is as good as mine.**

2 It -- I would characterize that area as there's a
3 lot of acreages, so a lot of it hinges on whether
4 people choose to maintain them as acreages or pursue
5 further development. It -- that's just the character
6 of the area around that particular barn.

7 **Q.** But facing the same choices that you said at sometime
8 you might face on the northeast quarter, the land
9 values may dictate more densification?

10 **A. That is entirely possible.**

15:41

11 **Q.** Yeah. Okay. And you're saying that you have a desire
12 to continue temporary storage on the northwest quarter.
13 AOPA says you can do temporary storage and you get
14 seven months, but only for every three years.

15 How many months over a three-year period do you
16 want to be able to store manure on the northwest
17 quarter throughout anywhere on the northwest quarter?

18 **A.** Our preference is during the summer months, before and
19 after there's a crop on the field, we spread it
20 straight out of the barn when we can. We haul it when
21 we can.

15:41

22 It -- to be honest, every year is different.

23 It -- that's -- that's not a simple question to answer.

24 **Q.** Well, you know, with the Board looking at a situation
25 where, you know, if they say "approved

S. VAN'T LAND**Questioned by Ms. Stuart**

1 notwithstanding," it's a now and forever decision, if
2 they were to include a condition that would go at least
3 in part to assessing future land conflicts, land use
4 conflicts and say, "Yes, you can continue to use this
5 as a temporary storage on the northeast quarter," but
6 in total you might only be able to do that for only
7 seven months for each three-year period, does that work
8 for you?

9 **A. We can make it work.**

10 Q. Okay. Mr. Van't Land, I appreciate those answers.

15:42

11 THE CHAIR: Thanks, Mr. Kennedy.

12 Ms. Roberts, welcome back. Now we're on a
13 different screen, so I did see you. And are you still
14 there?

15 MS. ROBERTS: I still am here, yay.

16 THE CHAIR: Okay, awesome, thanks. Please, do
17 you have any questions?

18 MS. ROBERTS: No, I don't. Thank you,
19 Mr. Chair.

20 THE CHAIR: Okay. Ms. Stuart.

15:42

21 MS. STUART: Thanks, Mr. Chair. Just have one.

22 **MS. STUART QUESTIONS THE WITNESS:**

23 Q. I don't think we have to bring up the exhibit, but it
24 is Exhibit 17, which is the IDP that Mr. Kennedy
25 previously referred to, page 78, Section 4.1.5, which,

S. VAN'T LAND

Questioned by Ms. Stuart

1 if the Board were to consider the IDP, talks about
2 that, you know, the core of that particular issue, that
3 permit holders may be allowed to expand operations if
4 it is to upgrade and modernize demonstrating changes
5 that will reduce negative impacts (odours) to the rural
6 and urban residents.

7 So Mr. Van't Land, my question to you is could you
8 take this opportunity to clarify exactly for us what
9 upgrading and modernizing steps you would take were the
10 Board to overturn the approval officer's decision in
11 terms of upgrading and modernizing and addressing odour
12 concerns in the consolidation of your operation?

15:43

13 **A. I think the primary consideration we have as far as the**
14 **modernization would be a case of taking the existing**
15 **double-decker barns and rebuilding them as a more**
16 **appropriate model that is used primarily in broiler**
17 **production today.**

18 The primary concern we have there is the proximity
19 to the town of Coalhurst and the number of neighbours
20 that we have in close proximity to those barns. And a
21 significant portion of our rationale for wanting to
22 pursue this project is to take that production and move
23 it away from the residential development that has gone
24 on there, and depending what happens in the future, may
25 continue to encroach upon that location.

15:44

S. VAN'T LAND

Questioned by The Chair

1 I made reference to at least two sets of chicken
2 barns that I remember being what's now in the middle of
3 Coalhurst, and those were in the neighbourhood of 40
4 years ago. And that's why we're looking to move
5 outside before that becomes a reality and to make sure
6 that that production is in a place where it makes sense
7 to produce chickens.

8 It -- being on a quarter section, having sat down
9 and counted, I think there's ten subdivisions out of
10 that quarter section which indicates in the future, I
11 mean there's the opportunity to have all kinds of
12 different development there that have nothing to do
13 with agriculture. Whereas on the adjacent quarter,
14 it's a whole quarter surrounded by more or less whole
15 quarters, and that's a more appropriate place to have
16 that kind of development.

17 Q. Okay. Thank you.

18 THE CHAIR: Thanks, Ms. Stuart.

19 Mr. Graham.

20 MR. GRAHAM: No questions at this time. Thank
21 you.

22 THE CHAIR: Mr. Van't Land, just a follow-up
23 to Ms. Stuart's question.

24 THE CHAIR QUESTIONS THE WITNESS:

25 Q. I think this is fair, but if not, you know, you can let

15:45

15:45

S. VAN'T LAND

Questioned by The Chair

1 me know.

2 In terms of the IDP, in terms of modernizing, and
3 you had it in parenthesis, as Ms. Stuart points out,
4 you know, things like mitigating negative effects like
5 odour. And that's -- we've heard that today; that's a
6 big one. What would be your sense in terms of source
7 of odour from storage versus spreading versus the
8 continuous operation of the barn, in terms of severity,
9 where would you rank those?

10 A. I would say the least severe is storage. You take that
11 manure and pile it. As long as you don't disturb it,
12 then it -- the perimeter of that pile dissipates fairly
13 quickly.

15:46

14 An ongoing concern is the barn, so I would say
15 that is probably -- probably I guess the second level
16 of nuisance would be the spreading of the manure
17 because obviously you're taking that pile, disturbing
18 it, spreading it over a wide area. We've never gotten
19 a nuisance complaint over spreading.

20 So I characterize -- I mean we have run a hog
21 operation and a cattle operation in the past, and when
22 I compare the three manures, broiler manure is by far
23 the least nuisance factor to it compared to the other
24 two types of manure.

15:46

25 And then the ongoing operation of the chicken

S. VAN'T LAND

Questioned by The Chair

1 barns, as I characterize it, the barns we have that
2 we're looking to take down, we have neighbours that
3 drive within 500 feet of those barns almost on a daily
4 basis, and they're -- to be honest, they're surprised
5 that they're active.

6 So the nuisance factor of a running chicken barn,
7 I would characterize that as low.

8 Q. And you're spreading manure currently I mean to meet
9 AOPA guidelines presumably but on the northwest
10 quarter?

15:47

11 A. There's some that gets spread on the northwest quarter.
12 There's -- I think there's about 40 acres of the
13 northwest quarter that has cropland that we -- that we
14 currently operate on. And then there's the
15 160 -- probably about 150 acres by the time you take
16 the yard out on the northeast quarter.

17 Q. Are there other lands that you own closer to
18 Coaldale [verbatim] that would be spread or stored?

19 A. You mean Coalhurst but --

20 Q. What did I say, sorry? Coalhurst, I'm sorry.

15:48

21 A. You're not the first one to make that mistake.

22 This is -- this is the closest land we have to
23 Coalhurst. We have two more parcels of land: There's
24 one that's about three quarters of a mile north from us
25 from my northeast quarter on Highway 25, and then

1 there's another half section of land that's, I don't
2 know exactly, about 60 miles away kind of in the
3 northwest direction.

4 THE CHAIR: Okay. Thank you. Those are all
5 my questions. Thank you very much.

6 Did you have any -- you had quite a few questions
7 on your rebuttal. Did you have any redirect based on
8 those questions or...

9 **A. No.**

10 THE CHAIR: Okay. Thank you very much, and
11 thanks for your participation today.

12 (WITNESS STANDS DOWN)

13 THE CHAIR: We do have an opportunity for
14 everyone to provide a closing argument, and we'll have
15 you, Mr. Van't Land start. And then we'll have Field
16 Services, and I'll go through the order after that.
17 But you'll start, and then you do have an opportunity
18 for a reply at the end of it.

19 So take it away for now, and you'll -- as I say
20 you'll have an opportunity for a reply.

21 MR. VAN'T LAND: Okay. I just want to take the
22 opportunity to thank you and the rest of the Board for
23 hearing this rebuttal.

24 My family has been running this farm here. My
25 grandfather bought the northwest quarter in 1954, so

15:48

15:49

1 we've seen a lot of development here over the years.
2 We've had this parcel where I'm sitting on right now,
3 the northeast quarter, for at least the last 50 years,
4 and we're in it for the long haul.

5 My grandfather started it, then my dad, and now
6 I'm here, and my son and my nephew are very much
7 becoming involved in the farm. So we're looking at
8 this with a long horizon in mind.

9 With that, we're looking at being sustainable,
10 we're looking at being responsible, and we want to do
11 things in such a way that we maintain good
12 relationships with the County, with the Town, with our
13 neighbours. We don't want to be a nuisance or to be
14 that neighbour that people wish wasn't there.

15 When we look at our northwest location, it's at a
16 point where we have to spend a bunch of money on
17 something, as far as how that operation runs. And when
18 we look at our options, we thought that it would be
19 very advantageous. It seems to suit the intent as we
20 see it of the IDP, as far as future development, that
21 the broiler operation be moved further away from the
22 town of Coalhurst.

23 The northeast quarter is listed as primarily
24 agriculture. That semicircle of light industry
25 potential development, it seems obvious that there's

15:50

15:50

1 not an intent to have further residential development
2 in this area but rather to go to more of an industrial
3 side which we feel having a feedlot-type operation,
4 intensive livestock operation is going to be more
5 appropriate in this area.

6 Knowing that -- yeah, obviously I'm biased, but I
7 mean I've run a hog farm, I've run a cattle farm, and
8 I've run a chicken farm, and of the three, the nuisance
9 factor of a broiler farm is far, far lower than the
10 rest. And that is something that we take into
11 consideration when we're planning.

15:51

12 I would encourage our neighbours that have
13 concerns, when something ruffles them, like for crying
14 out loud, let me know. It -- there's nothing I can do
15 about a problem I don't see. And my perception at this
16 point has been that there has not been a nuisance
17 factor.

18 So if, in the future, when there is one, by all
19 means let me know. And if there's something that we
20 can do to mitigate that, we've done it for other
21 neighbours, and we will definitely do it for you. We
22 know that your families have been there a long time
23 too, and we don't want to -- to -- to ruffle that
24 relationship.

15:51

25 Again, we're looking to be responsible owners.

1 We're looking to be -- obviously we're business owners,
2 this farm has to make sense at the same time, so
3 logistics always figure in.

4 Our children are becoming involved; it's the
5 fourth generation of our family that has farmed this
6 farm, and we're excited about that. And your guess is
7 as good as mine as to what the future holds.

8 But that pretty much summarizes why we want to do
9 what we want to do. We've talked a lot about the
10 details of what's going to happen here, depending on
11 what the Board's decision is at this moment.

12 But I thank everybody for taking the time.
13 There's been a lot of documentation for everybody to go
14 through, and I can't imagine the hours that the Board
15 puts in looking to review it and become familiar with
16 it and I thank you for that. And with that I will
17 close my arguments.

18 THE CHAIR: Thank you, Mr. Van't Land. Thank
19 you very much.

20 Ms. Vance, do you have any closing arguments?

21 MS. VANCE: I do, Mr. Chair. I hadn't
22 anticipated it, but I think the discussion between
23 Mr. Cumming and Mr. Kennedy in particular suggests that
24 it might be appropriate to do so.

25 And I do want to begin by thanking some of the

15:52

15:52

1 other parties for their patience on what may appear to
2 be somewhat of an academic point, but to our approval
3 officers, and I suspect to municipalities, it is very
4 much an everyday working thing that is very important.

5 Ultimately, you know, our submission is as it
6 stands in Exhibit 16. NRCB Field Services does seek
7 guidance from the Board. We are grateful that the
8 Board might take this opportunity to provide such
9 guidance to Field Services. And as I mentioned,
10 guidance I think would be valuable to all sorts of
11 parties going forward.

15:53

12 The Chair of the Panel did speak about statutory
13 interpretation, and that is a great deal of what is
14 going on in this academic-sounding issue.

15 I wonder if document managers could just bring up
16 Section 20(1)(a) of *AOPA*. There is no exhibit number
17 because it's not an exhibit, but I believe that the
18 document managers have that. It's on page 19 of mine;
19 I don't know if it will be 19 of this one. Almost
20 there.

15:54

21 Perfect. Thank you very much.

22 And I'll be focusing on (1)(a) because that is the
23 provision under which Ms. Weisbach made her decision,
24 but of course there is a (b) part as well to keep in
25 mind.

1 So statutory interpretation in a nutshell consists
2 of looking at text, context, and purpose. And if the
3 Board Panel is interested in wondering where I've come
4 up with that formula, it is from a case called *Rizzo &*
5 *Rizzo Shoes* out of Supreme Court [1998] 1 SCR 27. It's
6 a well-known leading case in statutory interpretation,
7 and I'm happy to provide that case as well.

8 But, basically, you look at the ordinary sense,
9 the grammatical sense, the context, the purpose, the
10 objectives of the legislation. So it's a holistic
11 exercise, not just a plain text reading which I
12 appreciate.

13 However, part of it is text, and I -- it sounds as
14 if the Board might go down a path of considering
15 guidance in the form of IDP provisions prevailing over
16 MDP provisions to the extent that it would affect how
17 we read 20(1)(a). 20(1)(a) talks about inconsistency
18 with the MDP land use provisions must deny. It is
19 difficult to interpret your way out of that, to be
20 frank. I'm not saying it cannot be done, however.

21 If the Board considers this, I would suggest that
22 you include some hypotheticals as you work your way
23 through this, and the hypotheticals I'm going to give
24 you are in their very basic form. We're not exploring
25 how you decide if something is inconsistent because

15:56

15:56

1 that is a whole other question.

2 But, essentially, there's four that I can see:
3 Scenario A is if the MDP says yes to the application
4 and the IDP says yes; Scenario B is if the MDP says yes
5 and the IDP says no; Scenario C, if the MDP says no and
6 the IDP says no; and finally Scenario D is if the MDP
7 says no and the IDP says yes. And I would submit that
8 Scenarios B and D are the ones, of course, that will
9 make us scratch our head.

10 If the Board interprets IDP paramountcy as
11 applying to somewhat change Section 20(1), I would just
12 suggest as a possibility this theory: The theory would
13 be that one could read in the concept of validity, so
14 it would be a valid land use provision. And I suppose
15 by operation of law, if one thing prevails over
16 another, that other may not be valid. There may be a
17 better term than "valid," but that's -- I'm thinking
18 that that's one way to do it is to kind of read that
19 in.

15:58

20 And I suppose the next question I would ask, and
21 this relates in part to Mr. Kennedy's question
22 concerning our paragraph 23 where I confessed I'm not
23 sure the "and" was scrutinized as much as maybe it
24 could have been, although I think it still stands. And
25 part (b) is this idea of a policy or framework under

15:59

1 which an approval officer would look at the extent to
2 which an MDP refers, cross-references, incorporates
3 land use provisions of an IDP or just the IDP itself.
4 And I would just ask the question, if the IDP provision
5 is going to prevail in the face of an MDP provision
6 that is inconsistent, do we need to even have that
7 concept, that trigger of cross-referencing in that kind
8 of a framework.

9 Those are my submissions. I'm certainly welcome
10 to take any questions that you might have.

16:00

11 THE CHAIR: Mr. Kennedy?

12 MR. KENNEDY: Sorry, I'm having trouble hitting
13 the unmute button.

14 I have no questions. I think the submission is
15 very clear and very helpful and appreciated.

16 THE CHAIR: I would agree. Panel members, any
17 questions?

18 Hearing none. Thanks, Ms. Vance.

19 MS. VANCE: Thank you.

20 THE CHAIR: Thank you very much.

16:01

21 Ms. Janzen?

22 MS. JANZEN: I have no further comments for the
23 Board.

24 THE CHAIR: Okay. Thank you. And thanks for
25 your participation.

1 Ms. Horvath?

2 MS. HORVATH: Great. No, I don't have anything
3 else. And, again, thank you very much for inviting us
4 into the process today.

5 THE CHAIR: And just a quick comment, the
6 Board in the past has had times where County or Town
7 has been reluctant and perhaps even failed to show up
8 at the hearing on request, and I must say it's been
9 delightful to have you. You've added to the process,
10 and, you know, your ability to come and provide direct
11 but also -- evidence but also answer questions from the
12 Panel and from other participants is very useful, very
13 helpful. So thank you both.

16:01

14 Ms. Schmid, sorry, do you have any questions -- or
15 not any questions, do you have any closing argument?

16 MS. SCHMID: Yes, I do.

17 THE CHAIR: Okay, please proceed, thank you.

18 MS. SCHMID: So my closing argument is just
19 around -- well, first of all, thank you guys for
20 hearing us. I know it's been a long day, but this is
21 near and dear to our hearts, so I do thank you for your
22 time. I know it can be spent in other places.

16:02

23 So going through this hearing today has been
24 intimidating and exhausting, so sorry if I repeat
25 myself. But in hearing some of the responses from

1 Mr. Van't Land and also like the discrepancies that
2 were in the documentation that has been submitted, like
3 I just have noted, like non-compliance with NRCB
4 policies already in place, making a remark of not
5 willing to work within those policies and requirements,
6 also with doing unauthorized work with the Environment
7 to create those swales and how that impacts the
8 drainage.

9 I also don't think that there was fair
10 representation for the negative effects so what adding 16:03
11 two more barns to what's already in place would look
12 like if it was approved.

13 I also feel like concerns for potential
14 contaminated runoff water, whether it's medication
15 that's in the feed for the chickens and how that stays
16 in the barn the whole time and then when they clean the
17 barn and it's stored outside or they spread it and it's
18 close to the environment and the elements and
19 eventually turns into runoff and what that looks like.
20 It's not just the short-term, it's the long-term 16:03
21 impact.

22 Like Mr. Bedster has already made reference that
23 three of his children have had cancer. We have a
24 five-year-old daughter that has respiratory concerns
25 and it just -- with expansion I don't feel like there's

1 sufficient evidence that supports how modernization and
2 expansion are going to make those negative impacts less
3 if that makes sense.

4 And I think that pretty much sums up my concerns
5 and my closing statements.

6 THE CHAIR: Thank you, Ms. Schmid.
7 Mr. and Mrs. Bedster?

8 MR. BEDSTER: What has been said is impacted
9 because some things, what I have said are really just
10 kind of pushed aside, that it can't happen or whatever, 16:04
11 and that really is not the way it is. If it happened
12 once, it's happened quite a few times, I would say.

13 So it's just my word against their word or
14 compliance, however you want to say this, but if it
15 goes through, and it happens again, then what? What
16 does the NRCB do then? Come in and slap a hand, or
17 what takes place?

18 I guess that's everything.

19 THE CHAIR: Okay. Thank you, Mr. and
20 Mrs. Bedster.

21 Mr. Clifton? 16:05

22 MR. CLIFTON: I guess I'd like to thank
23 everybody for their time and to allow us to express our
24 concerns.

25 At the end of the day, it's still within the I

1 call it the rural/urban fringe area, which is labelled
2 under the *County Bylaw Act* as prohibited.

3 As for the expansion, it's kind of a grey area as
4 what they described. If it does go through, I would
5 like to see that condition on the existing permit
6 carried forward, for the 48-hour manure incorporation
7 to help reduce the odour. And I guess a little more
8 compliance and consideration for neighbours. That's
9 all.

10 THE CHAIR: Thank you, Mr. Clifton.

16:06

11 Mr. Van't Land, you have an opportunity to reply.
12 You've heard comments from all parties in closing. Did
13 you have any reply to those?

14 MR. VAN'T LAND: I just want to again one more time
15 to take the opportunity to thank everybody involved.
16 This has opened my eyes to a number of perspectives
17 that I had not considered previously. Concerns have
18 been brought up that are ones that I was not aware of
19 and now I am, and I appreciate that and those will
20 definitely be part of our consideration going forward.

16:07

21 Obviously, it is my desire to move forward with
22 this project, but I want to make -- have good relations
23 with the neighbours at the same time. So with the best
24 of the both worlds, we're going to find a way to do
25 both of those things, but at this point, it's the

1 Board's decision as to how they want to move forward.

2 And, again, I appreciate the opportunity to make
3 the submission. Thank you.

4 THE CHAIR: Thank you, Mr. Van't Land. Thank
5 you very much.

6 Well, this is a time to close, but just a couple
7 of closing remarks.

8 On behalf of the Panel, I'd like to thank everyone
9 for your participation in the process, and interesting,
10 you know my notes, I used the words "intimidating" -- 16:07
11 that these proceedings can be intimidating and,
12 Ms. Schmid, I think that's the exact word that you used
13 and we recognize that. It is a difficult process, in
14 particular for folks that, you know, it's not your
15 everyday thing to participate in hearings, we get that.
16 But we also get the fact that you stepped up, you came,
17 you participated, you asked questions, you delivered
18 direct evidence, and we really appreciate that from all
19 participants. So thank you very much on behalf of the
20 Panel. 16:08

21 A couple of administrative thank yous.

22 Ms. Kaminski and Ms. Taylor from the NRCB, they were
23 our document managers. Once again, just a stellar job.
24 Those documents came up in a hurry, right to the right
25 page numbers. And often before we even had the number,

1 they were up, so thank you very much. It was a job
2 really well done.

3 And, Ms. Vespa, court reporter, awesome. And, as
4 usual, you catch me when I forget to get people sworn
5 in, so I appreciate that as well. But you folks do a
6 really good job on the transcripts for us, so thank you
7 very much on a very difficult job.

8 And our Zoom host from MNP, Mr. Elhakim. Thank
9 you very much, Mak. You did a great job including when
10 we had a glitch with Sandi. You got her back on track
11 and included with Ms. Roberts. But thank you very much
12 for spending the entire day with us and making sure our
13 Zoom ran smoothly.

16:09

14 So we've received a ton of very helpful
15 information today. We're going to consider all of this
16 information, including all the submissions made to
17 date, and we'll provide a decision to all the parties
18 at the same time in written format.

19 Our longstanding performance target for the Board
20 is to issue a decision within 30 working days, so
21 roughly six weeks, the close of the hearing. And I
22 don't see any reason why we won't meet that target here
23 as well. So within six weeks, you should be seeing a
24 decision from the Board.

16:09

25 So thank you once again, everyone, including

1 Ms. Friend who is behind the scenes and sometimes in
2 front of the scenes, done a great job getting everybody
3 organized and making sure that everything ran smoothly.
4 So thank you very much, Ms. Friend, and also
5 Mr. Kennedy for the support you give to the Panel.

6 So with that, I now adjourn and the hearing is now
7 closed. So safe travels everyone that is travelling
8 and have a good evening. Thank you very much.

9 (PROCEEDINGS ADJOURNED AT 4:10 P.M.)

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11 PROCEEDINGS CONCLUDED

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1 Certificate of Transcript

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3 We, the undersigned, hereby certify that the foregoing
4 pages 1 to 229 are a complete and accurate transcript of
5 the proceedings taken down by us in shorthand and
6 transcribed from our shorthand notes to the best of our
7 skill and ability.

8 Dated at the City of Calgary, Province of Alberta, on
9 February 10, 2022.

10

11

12

"Lorelee Vespa"

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Lorelee Vespa, CSR(A) RPR CRR

14

Official Court Reporter

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"Deanna DiPaolo"

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Deanna DiPaolo, CSR(A)

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Official Court Reporter

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