

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MARQUETTE

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FORSYTH TOWNSHIP,      :
                        :
      Plaintiff,      :
                        :
vs.                    :   File No. 12-50325 CZ
                        :   Honorable Thomas L. Solka
RANDY AND LIBBY BUCHLER, :
OWNERS SHADY GROVE FARM :
U.P., LLC,             :
                        :
      Defendants.    :
- - - - -X

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DEPOSITION OF GARY D. TAYLOR,

taken by counsel for the Defendants before Kelli M. Mulcahy, Certified Shorthand Reporter of the State of Iowa, at 2321 North Loop Drive, Suite 121, Ames, Iowa, commencing at 2:03 p.m., Thursday, October 25, 2012.

APPEARANCES:

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For the Plaintiff:      KEVIN W. KOCH, ESQ.
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For the Defendants:    F. MICHELLE HALLEY, ESQ.
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KELLI M. MULCAHY - CERTIFIED SHORTHAND REPORTER

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>
Gary D. Taylor	4	57	77

E X H I B I T S

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1 P R O C E E D I N G S

2 GARY D. TAYLOR,

3 called as a witness by counsel for the Defendants,
4 being first duly sworn by the Certified Shorthand
5 Reporter, was examined and testified as follows:

6 MS. HALLEY: Okay.

7 MR. KOCH: Before we begin, can I caution
8 that I think if there is a noise made that the
9 recording will block for a moment, and so if there's
10 rustling of papers and noise in front of any
11 microphone, it tends to have a momentary disruption,
12 and that's going to cause problems in terms of
13 listening and examining.

14 THE WITNESS: Okay.

15 MS. HALLEY: So I think one solution to that
16 is for whoever is not speaking at the time, if you
17 can have your phone on mute, it will really block out
18 a lot of that peripheral background noise. So I know
19 when I'm not on that I will do my very best to be
20 muted as much of the time as possible when I don't
21 feel like I'm about to say something.

22 MR. KOCH: Thanks.

23 MS. HALLEY: All right.

24 THE WITNESS: And if you give me just a
25 second, all of my papers are piled up right in front

1 of the phone, so let--

2 MR. KOCH: I mean, that's what just
3 happened, I think.

4 MS. HALLEY: All right.

5 THE WITNESS: Let me move them to the other
6 side of the table before we get started.

7 MS. HALLEY: All right. Good improvement.

8 MR. KOCH: Thank you.

9 THE WITNESS: All right. I think that's
10 about as good as I'm going to be able to do.

11 MS. HALLEY: Okay. We're here deposing
12 Mr. Taylor.

13 DIRECT EXAMINATION

14 BY MS. HALLEY:

15 Q. Mr. Taylor, I'm Michelle Halley. I am the
16 attorney representing the defendants, Randy and Libby
17 Buchler, in the matter of the Forsyth Township versus
18 Randy and Libby Buchler. And this is a case in
19 Michigan, even though you are physically located in
20 Iowa.

21 I'd like to start by just asking you if,
22 when I originally contacted you to serve as an expert
23 witness in this matter, to clarify, whether or not I
24 had asked about your availability to appear in person
25 for the trial on the dates of November 20th and 21st.

1 MR. KOCH: And, Michelle, has the witness
2 been sworn?

3 MS. HALLEY: Yes.

4 MR. KOCH: Okay. Thanks.

5 A. Yes, you did.

6 MS. HALLEY: I think we did that before we
7 started with the papers.

8 MR. KOCH: Go ahead.

9 A. Yes, you did.

10 BY MS. HALLEY:

11 Q. Okay.

12 A. You did ask me about my availability.

13 Q. And what was your response?

14 A. The issue I have is that I have a father
15 with some health issues who lives in Nebraska, where
16 I grew up, about four hours away from Ames, Iowa,
17 where--excuse me--where we are today and where I
18 live, and I've been spending considerable amount of
19 time back and forth with--with Dad while he's dealing
20 with these health issues.

21 MR. KOCH: Mr. Taylor, your voice is fading
22 on me. I don't know if you're moving from the phone
23 or not, but you've come on strong and then I lose
24 your voice.

25 THE WITNESS: Okay. Let me--let me move the

1 phone a little closer.

2 MS. HALLEY: Oh, that's much better.

3 THE WITNESS: Okay. Did you-- I don't know
4 what you heard.

5 MR. KOCH: I heard that you've got an ailing
6 mother and you're spending time with them, and that
7 is apparently the reason you can't make the trial
8 date.

9 THE WITNESS: Right. Actually, it's my
10 father.

11 MR. KOCH: Okay.

12 THE WITNESS: Although--although my mom has
13 her share of issues too, it's currently Dad.

14 MR. KOCH: Okay.

15 BY MS. HALLEY:

16 Q. Okay. So we are conducting this deposition
17 as a deposition de bene esse, meaning that we are
18 doing--we're performing this deposition in lieu of
19 having you testify at the trial, rather than in
20 addition to having you testify at the trial in
21 November.

22 A. Okay.

23 Q. Is that your understanding?

24 A. That is, yes.

25 Q. Okay. Very well. Mr. Taylor, I would like

1 to look at your curriculum vitae for a few moments.
2 And I would appreciate it if you first could explain
3 your education.

4 A. Sure. I--

5 MS. HALLEY: And wait just a minute. Let's
6 go ahead and mark this as Exhibit 1, Mr. Taylor's CV.

7 (Deposition Exhibit No. 1 was
8 marked for identification.)

9 A. I have a bachelor's degree in business
10 administration from Northwest Missouri State
11 University from 1985. I have a law degree from the
12 University of Nebraska, 1988, and I have a master's
13 degree in community and regional planning from Iowa
14 State University which I received in 1996.

15 BY MS. HALLEY:

16 Q. Okay. And what is your current employment?

17 A. I am an associate professor and an extension
18 land use specialist in the department of community
19 and regional planning at Iowa State University.

20 Q. Okay. And prior to that employment-- Well,
21 when did you begin with that employment?

22 A. Back in 2004. Prior--

23 Q. Okay.

24 A. Prior to coming to Iowa State, I was at
25 Michigan State University. I was an extension local

1 government specialist in the department of
2 agricultural economics, and that was for a period
3 from the end of--the end of '99, first part of 2000
4 until I came here in 2004.

5 Q. All right. And prior to that, according to
6 your CV, you practiced law?

7 A. I did.

8 Q. In the late eighties and early nineties; is
9 that true?

10 A. That's correct. I practiced law out in
11 Oregon. I also worked as a planning consultant for a
12 firm in the Seattle area and I worked for a
13 regional--a regional planning commission, regional
14 council of government, in Wisconsin.

15 Q. Okay. Could you explain a little bit about
16 the work you did specifically while you were at
17 Michigan State University in relation to the Michigan
18 Right to Farm Act?

19 A. Sure. Actually, one of the--it might have
20 been the first extension educational program that I
21 worked on at MSU was on the '99 amendments to the
22 Michigan Right to Farm law. They had just adopted
23 those amendments not too long before I arrived.

24 And Pat Norris, who is a professor at MSU,
25 Lynn Harvey, who is also a professor at MSU, and I

1 created an educational program, roughly three hours,
2 for local officials and for actually anybody who was
3 interested in the topic to talk about the Right to
4 Farm law and the changes that the 1999 amendments
5 made to the law. And so that was the first thing.
6 That was my first exposure to the Right to Farm Act.

7 Since that time, I kept up with--I kept up
8 with everything that went on with regard to the Right
9 to Farm Act, primarily keeping up with the court
10 cases, with the Michigan appellate court cases, that
11 addressed the Right to Farm law in some degree--to
12 some degree.

13 Wrote three--wrote three articles for a
14 publication that is put out by Mark Wyckoff,
15 Planning & Zoning News, which is a pretty widely read
16 professional--professional journal in Michigan for
17 planners and zoning administrators and local
18 officials. Wrote three articles that appeared in
19 Planning & Zoning News on the Right to Farm Act,
20 couple--

21 Q. In about what years did you write those
22 articles?

23 A. I think I'm going to have to look. The
24 first two were right after the amendments, right
25 after the '99 amendments, so they're on page 8 of my

1 CV. Those two articles came out in 2000.

2 We wrote another article in 2007, after the
3 Court had made several--several--had written several
4 opinions with regard to Right to Farm and brought in
5 some of the information that we had about GAAMPs and
6 how GAAMPs were being used. That article came out in
7 2007.

8 And then the last publication with regard to
9 Right to Farm was an article that Pat Norris, Mark
10 Wyckoff and I wrote for the Michigan State University
11 Law Review that appeared in MSU Law Review in 2011.

12 Q. And is the title of that article "When Urban
13 Agriculture Meets the Michigan Right to Farm Act:
14 The Pigs's in the Parlor"?

15 A. That is it, yes.

16 Q. Okay.

17 A. Yes. It's listed on page 2 of--

18 Q. Uh-huh. And then there are numerous
19 publications, peer-reviewed articles,
20 non-peer-reviewed articles, along with a report. You
21 also indicate that you contributed to a chapter in a
22 book related to land use, not the Right to Farm Act
23 in specific but land use in Michigan in general, as
24 well as numerous presentations at academic
25 conferences, academic papers, book reviews, numerous

1 selected articles.

2 And then later, further down in your
3 curriculum vitae, some of this begins sort of on page
4 10, it begins to talk about some of the workshops and
5 things like that that you have developed and
6 presented.

7 Could you just talk about those for a
8 moment?

9 A. The whole thing? Yeah. My--

10 Q. Well--

11 A. My position at Michigan State, I was
12 extension local government specialist. I was also on
13 the land use area of--the extension land use area of
14 expertise team and--because of my background with--my
15 background in planning.

16 And so at Michigan State, besides the Right
17 to Farm program that I already talked about, I was
18 involved in developing an educational curriculum for
19 local officials called Citizen Planner that's
20 actually still going on today at Michigan State.
21 It's an 18-hour certification program for planning
22 commissioners, zoning board members, elected
23 officials.

24 As I said, I was involved in developing that
25 curriculum in the beginning and then making some

1 updates as it went on. I came to Iowa State in 2004,
2 and, really, my--the primary area I focused on since
3 arriving at Iowa State has been land use planning and
4 zoning.

5 And so I've done just a lot of different
6 extension work related to planning and zoning. I
7 have a planning and zoning workshop that I conduct
8 annually for local officials in Iowa that generally
9 gets 250 to 300 people annually.

10 I'm regularly doing presentations for
11 planners, American Planning Association members. I
12 do the annual planning law update at their
13 conference. I do regular presentations for the Iowa
14 county zoning officials. I have a blog that I keep
15 up with planning and zoning cases from around the
16 Midwest.

17 So I've read just about every zoning-related
18 case from the surrounding states over the past, oh,
19 at least three years. Not that I haven't missed one,
20 probably, here and there, but from all the state
21 courts in the surrounding states and the Eighth,
22 Seventh, and Sixth Circuit federal courts.

23 Q. Okay. And that, the Sixth Circuit, includes
24 the state of Michigan?

25 A. Correct.

1 Q. Yeah.

2 A. Okay. They don't all show up in the blog.
3 I try to screen some of them out for their relevance
4 and importance. But a good share of them do show up,
5 and I at least--I at least take a review of all of
6 the cases that I'm aware of.

7 Q. Uh-huh. Have you ever served as an expert
8 witness before now, Mr. Taylor?

9 A. It was years ago. It was years ago when I
10 was still out West.

11 Q. Uh-huh.

12 A. And I know you asked me that previously. I
13 honestly don't remember the year. It was '96, '98--

14 Q. Uh-huh.

15 A. --somewhere in there. As part of having an
16 extension appointment like I've had since--since I
17 started at Michigan State is that you're really--part
18 of the agreement of your appointment is that you
19 don't do expert witnessing or consulting in your
20 field in state.

21 Q. Okay.

22 A. So when I was in Michigan, I didn't do
23 any--any in-state consulting. Since I've come to
24 Iowa State, I haven't done any in-state consulting--

25 Q. Uh-huh.

1 A. --or expert witnessing either. So that's a
2 long answer to yes, but it's been 15 years or more.

3 Q. Uh-huh. And the break of time has been
4 because it's been precluded by your extension
5 appointments, not of--not any other reason?

6 A. Yeah.

7 Q. Is that accurate?

8 A. Yeah, that's correct.

9 Q. Okay.

10 MS. HALLEY: So, Mr. Koch, I'm going to move
11 to have Mr. Taylor designated as an expert witness.
12 And, of course, the judge will make that decision
13 when the time comes, but I would rely on his
14 testimony so far and also the CV that is now Exhibit
15 1 to this deposition.

16 MR. KOCH: Yeah. The judge makes that
17 determination, but I suspect I know that he is going
18 to qualify Mr. Taylor as an expert with those
19 qualifications, so I'm happy to proceed.

20 MS. HALLEY: Okay.

21 BY MS. HALLEY:

22 Q. Mr. Taylor, let's move into talking-- I
23 know we're going to talk in more detail in a bit
24 about your Michigan State Law Review article that was
25 published in 2011, co-authored with Patricia Norris

1 and Mark Wyckoff, but I'm just curious at this point
2 about what the impetus behind that article was.

3 A. Yeah. Good question. We-- Pat and I had
4 particularly been following the Right to Farm issues
5 since '99, and with the amendments that were made in
6 '99 that changed the relationship between the
7 federal--excuse me--between the state law and local
8 ordinances, we were seeing some interesting case law
9 come out of the--out of the Michigan appellate
10 courts.

11 And there were really questions. Several
12 issues seemed to be converging at the same time, the
13 primary one being the emergence of urban agriculture
14 in the Detroit area in particular, but generally
15 around the country.

16 And so when we started to look at these
17 cases and the implications of these cases for urban
18 agriculture and the ability of local governments to
19 get their arms around urban agriculture, it
20 really--it raised some serious questions for us as to
21 whether, from a planning perspective, the way the
22 two--the way the law was evolving, whether it
23 actually made sense from a planning perspective to
24 have the Right to Farm Act be such a preeminent
25 factor in the location of farming operations.

1 That sounds like an a academic answer. I
2 think that was all one breath. That was--

3 Q. All right. So let's back up for just a
4 minute and talk about the GAAMPs. How are the GAAMPs
5 related to the Right to Farm Act? What are they
6 generally? How are they put together? Who puts them
7 together?

8 A. Yeah. The GAAMPs are-- GAAMP stands for
9 generally accepted agricultural and management
10 practices. In the '99 amendments to the Right to
11 Farm law, the GAAMPs took on an increased importance
12 from what they were before.

13 The GAAMPs--GAAMPs are supposed to be a set
14 of best practices for agricultural operations that
15 are put together by the Michigan Department of Ag
16 and--MDARD. They're put together by MDARD in
17 consultation with experts from Michigan State
18 University and other places. It's really they are a
19 set of best practices that are designed to protect
20 environmental resources, protect animal health,
21 things of that nature.

22 Q. Okay.

23 A. So GAAMPs come into the Right to Farm law in
24 two ways. They-- If a farm operation is following
25 GAAMPs, then that farm operation--and it's determined

1 that they're following GAAMPs, then that farm
2 operation is protected from nuisance suits by--from
3 the neighbors.

4 The other way that GAAMPs--

5 Q. Just from the neighbors?

6 A. What's that?

7 Q. Just from neighbors?

8 A. Well, they are protected from nuisance
9 suits, period, which could mean a couple of different
10 things, which we'll get to in a second.

11 Q. Okay.

12 A. The other way that GAAMPs come into the
13 Right to Farm law is that after 1999, they added a
14 provision to the Right to Farm law, which is
15 286.474(6), which essentially says that local
16 ordinances are preempted by the Right to Farm to the
17 extent that they extend, revise, or conflict with
18 GAAMPs.

19 And so essentially, local ordinances like
20 zoning ordinances, other types, I suppose, nuisance
21 ordinances, are unenforceable if it's determined that
22 that local ordinance is in some way in conflict with
23 GAAMPs.

24 Q. Okay. Now, I want to just review the
25 documents that you have had the opportunity to review

1 in preparation for this deposition.

2 A. Okay.

3 Q. Have you been able to read certain materials
4 relevant to this--to this particular case? Have you
5 read the complaint filed by Forsyth Township?

6 A. I have. I can just--

7 Q. And the answers to the complaint?

8 A. I have. I can just go-- I have them in a
9 stack. If you want me to go through the stack, it
10 might-- I went--

11 Q. Okay.

12 A. I--I looked at the summons and complaint,
13 the sets of interrogatories--

14 Q. Okay.

15 A. --that were--that were requested from both
16 sides, the answers to the interrogatories that were
17 provided--

18 Q. How about Mr. Whitman's deposition?

19 A. Yes. And so I've looked at those. I have a
20 copy and I've reviewed the deposition of Wayne
21 Whitman. I'm not sure what date that deposition was
22 taken. Thursday, August 30th. So I've looked at
23 that.

24 Q. Okay.

25 A. Also in my stack here-- Yeah. Yeah.

1 Those-- Oh, I have a copy of a warranty deed--

2 Q. Okay.

3 A. --that Todd Ketola and Connie Ketola, 6985
4 Goldwin, Brighton, Michigan, conveyed a piece of
5 property to Jamie Gollakner and Kristy Gollakner. I
6 have a warranty deed.

7 Q. Okay.

8 A. I have a quitclaim deed where the property
9 that I believe is the issue that we're talking about,
10 the Reids quit-claimed the property to Libby.

11 Q. Libby Buchler?

12 A. Libby Buchler, yes.

13 Q. Okay.

14 A. And so those are the ones that I think are
15 specific to this case.

16 Q. How about the Forsyth Township zoning
17 ordinance?

18 A. Yes. The Forsyth Township zoning ordinance
19 I have on my iPad right here.

20 Q. Okay. And how about an aerial photograph
21 with a map of the area of the Buchlers' farm imposed
22 upon it?

23 A. Yeah. It says 254 South Francis Mine Drive
24 at the top.

25 Q. Uh-huh.

1 A. Yeah. I have taken a look at that as well.

2 Q. Okay. And I know we'll be discussing some
3 other more specific documents, but I wanted to make
4 sure that you've had the opportunity review the
5 documents that are unique to this case.

6 MR. KOCH: Michelle, I'm going to just pose
7 if we get to 5 o'clock and we're not done, I'm going
8 to have to suspend the operation and continue it,
9 okay?

10 MS. HALLEY: Well, we'll have to deal with
11 that if it happens. Let's try to avoid it, okay?

12 MR. KOCH: All righty. Okay. I think we
13 addressed this before we started--before I agreed to
14 the deposition, that I was in a time crimp, so if we
15 get to 5 o'clock, I have a township meeting that I
16 have to attend.

17 MS. HALLEY: Uh-huh. Okay.

18 MR. KOCH: So if we're there, that's what
19 I'm going to do.

20 MS. HALLEY: All right.

21 MR. KOCH: Thanks.

22 BY MS. HALLEY:

23 Q. Now, Mr. Taylor, have you had the
24 opportunity talk with Mr. Buchler about the farm
25 operation in lieu of the visit that you cannot do

1 because of your work and family commitments?

2 A. Right. I did. I did have a conversation
3 with Randy Buchler yesterday, yesterday early
4 afternoon. We were on the phone for about 45
5 minutes.

6 Q. Uh-huh.

7 A. And so he--he gave me basically a
8 chronologic history of when he moved onto the
9 property, some of the--some of the changes in the
10 surrounding land uses since 2001 when he moved onto
11 the property, his history with chickens and sheep on
12 the property.

13 Let's see. What else did we talk about?

14 His discussion with--or his pursuit of MAEAP
15 verification, Michigan Agriculture Environmental
16 Assurance Program, his pursuit of MAEAP certification
17 and where he's at with that right now.

18 Q. And why don't you tell us where he--where
19 that lies, to the best of your understanding.

20 A. Sure. To the best of my understanding--

21 MR. KOCH: And before you answer,
22 Mr. Taylor, if you're going to talk about what
23 Mr. Buchler has said, then I'm going to object to the
24 hearsay basis. And he's going to be testifying.

25 THE WITNESS: Okay.

1 A. My understanding is that Holly Wendrick,
2 from the conservation district, came out to visit his
3 site sometime this summer. They drew up an action
4 plan, which primarily included recording activities,
5 farm-related activities; when he spread manure, you
6 know, when he applied chemicals, when to do soil
7 testing, so on and so forth.

8 On October 18th--

9 MS. HALLEY: Everything okay?

10 MR. KOCH: I'm-- Yes. We've got-- I'm in
11 a fire hall, and so that's what--

12 MS. HALLEY: Oh, okay. Okay.

13 MR. KOCH: Go ahead.

14 A. According to Mr. Buchler, earlier this
15 month--

16 MR. KOCH: That's an objection as to
17 "according to Mr. Buchler." That's hearsay.

18 THE WITNESS: Okay.

19 A. --MDARD inspectors came out with Holly
20 Wendrick and verified compliance with the MAEAP
21 standards and that they verbally indicated to him, is
22 my understanding, that--

23 MR. KOCH: This is a continuing objection if
24 you're testifying as to what Mr. Buchler has told
25 you.

1 THE WITNESS: I understand that.

2 BY MS. HALLEY:

3 Q. Mr. Taylor, I think we will be able to cover
4 this ground in specifics with Mr. Buchler, so I think
5 it might be more helpful if you explain how a MAEAP
6 certification--we're talking about the Buchlers, but
7 in general how those MAEAP certifications interact
8 with the GAAMPs and the Right to Farm Act.

9 A. Sure. That's probably-- That makes sense.
10 MAEAP certification-- Actually, MAEAP was--MAEAP
11 existed, the MAEAP verification process existed,
12 before 2011, but in 2011 MAEAP certification actually
13 was put into the state code--or the Michigan state
14 code.

15 And my understanding from reviewing
16 Mr. Whitman's deposition and information that I
17 located on a MAEAP Web site, which is a document that
18 I'm going to refer to here somewhere-- I think you
19 have a copy of this Web site.

20 My understanding is that since MAEAP was put
21 into place that when the Department of Ag verifies
22 that a farm meets MAEAP standards, at the same time
23 they are saying that GAAMPs are being followed and
24 that the farm has implemented practices specific to
25 system requirements.

1 So MAEAP certification--

2 Q. So just for the record, is your
3 understanding of what-- We're using the acronym
4 MAEAP. Does that stand for the Michigan Agriculture
5 Environmental Assurance Program?

6 A. It is. Correct. Correct.

7 Q. Okay.

8 A. It's a program under the Department of Ag &
9 Rural Development. It's a program.

10 And so if a farm has been reviewed, if an
11 assessment has been made of certain standards
12 relating to cropping and livestock and the use of
13 general farmstead activities, use of chemicals, and
14 so on and so forth, if a farm's practices have been
15 reviewed and verified, then that verification also
16 means that the farm meets generally accepted ag
17 management practices, GAAMPs.

18 Q. Okay. And you mentioned that you've
19 referenced Mr. Whitman's deposition in which he
20 discusses this issue and you also reference a Web
21 page.

22 A. Yes.

23 Q. Could you tell us about that Web page?

24 MS. HALLEY: And I would like to confirm
25 with the court reporter there and mark that as

1 Exhibit--I believe we're on Exhibit 2.

2 A. Sure. Do you want to talk about
3 Mr. Whitman's deposition or you just want to talk
4 about the Web site?

5 I'm not sure I'm--I'm not sure I-- Oh, it
6 is. It's on page 53 of Mr. Whitman's deposition
7 where he said--he was asked that for a farm to gain
8 MAEAP verification, they had to be meeting the
9 requirements of applicable GAAMPs, and his response
10 was yes.

11 Q. Okay.

12 A. And so I have to confess I don't know of
13 any--I couldn't point you to the specific policy
14 within the Department of Ag.

15 Q. Uh-huh.

16 A. I'm just going by his--by his deposition and
17 what's indicated on this Web site. That's Web site
18 of the--of the Department of Ag & Rural Development.

19 (Deposition Exhibit No. 2 was
20 marked for identification.)

21 BY MS. HALLEY:

22 Q. And for the record, do you have a printout
23 of that Web site with you, that particular page?

24 A. I do. And the court reporter has just
25 marked it as Exhibit 2.

1 Q. Okay. And do you happen to have the link on
2 the page there?

3 A. I honestly don't know if the copy that I
4 printed out is the entire link. I apologize.

5 Q. Okay. I'm going to say my understanding of
6 what the link is, and just to verify that we are
7 looking at the same document.

8 A. Okay.

9 Q. It would be `www.michigan.gov/mdard`--a long
10 list of numbers--0,4610,7-125-1567_1599_
11 25432-12819-- ,00.

12 A. Dot HTML.

13 Q. Dot HTML, yes.

14 A. Actually, the copy that Kelli had does
15 have--it has--it has the link, the Web address at the
16 top, but it kind of cuts off the text, and so the
17 copy that I have has all the text but cuts off the
18 Web--the Web address.

19 Q. But can you tell that it's the same
20 document?

21 A. It is. It definitely is.

22 Q. And what part of this document is most
23 relevant to what we're discussing here, which is how
24 the MAEAP certification interacts with GAAMPs and the
25 Right to Farm Act?

1 A. It's near the bottom of the Web page. It's
2 under No. 3. It says, "Third-party verification is
3 where MDARD verifies the farm after the requirements
4 of Phase 1 and 2 are met, the State's Generally
5 Accepted Agriculture and Management Practices
6 (GAAMPs) are being followed, and the farm has
7 implemented practices specific to system
8 requirements."

9 Q. Okay. And your interpretation of that
10 statement by the MDARD is--

11 A. Well, my interpretation is Mr. Whitman's
12 interpretation, which is if--if a farm is MAEAP
13 verified, then it means that they are following
14 GAAMPs.

15 Q. Okay. All right. Let's go on and talk
16 about the Michigan Right to Farm Act and in specific
17 about its relationship to local zoning ordinances
18 and-- Well, let's just start with that, the
19 relationship of the Michigan Right to Farm Act in
20 relation to local zoning ordinances and how the
21 GAAMPs and now the MAEAP certification work together
22 in a cohesive fashion, if, in fact, you believe that
23 they do.

24 A. Uh-huh. Okay. Sure. One of the
25 changes--one of the most significant changes that was

1 made to RTFA back in 1999 was that it added this
2 preemption provision, which is MCL 286.474, sub 6,
3 and it says, "Beginning June 1, 2000, except as
4 otherwise provided in this section, it is the express
5 legislative intent that this act preempt any local
6 ordinance, regulation or resolution that purports to
7 extend or revise in any manner the provisions of this
8 act or generally accepted agricultural and management
9 practices developed under this act. Except as
10 otherwise provided in this section, a local unit of
11 government shall not enact, maintain or enforce an
12 ordinance, regulation or resolution that conflicts in
13 any manner with this act or generally accepted
14 agriculture and management practices developed under
15 this act."

16 And so we addressed this--we addressed this
17 language in our law review article, and the way we--

18 Q. Let's mark that law review article as
19 Exhibit No. 3 and just confirm that the article we're
20 talking about is--the citation would be 2011 Michigan
21 State Law Review review page 365, and the title is,
22 "When Urban Agriculture Meets Michigan's Right to
23 Farm Act: The Pig's In The Parlor."

24 (Deposition Exhibit No. 3 was
25 marked for identification.)

1 BY MS. HALLEY:

2 Q. And you are one of the authors of this
3 article?

4 A. Correct. Correct.

5 Q. Okay.

6 A. So we talk about a number of issues related
7 to the Right to Farm Act in this article, but one of
8 the things that we specifically discuss is the code
9 section that I just talked about. And we start
10 talking about that on page 384 of the law review
11 article, and the way we have looked at this is this
12 really raises two questions or it--it raises two
13 circumstances under which a township ordinance or
14 any--I should say any local ordinance is preempted
15 and unenforceable.

16 And so if you--if you read the code section,
17 there's an "or" in there that says, "...manner the
18 provisions of this act or" GAAMPs, and so it really
19 raises two questions. A township ordinance can be
20 found unenforceable if it extends, revises or
21 conflicts with the provision of the Right to Farm
22 Act. It also says that a local ordinance can be
23 unenforceable to the extent that it extends, revises,
24 or conflicts with GAAMPs.

25 Q. Uh-huh.

1 A. And so as we read the case law, it seems
2 pretty clear that in the first circumstances, where
3 it says extends, revises or conflicts with the
4 provisions of the Right to Farm Act, they are talking
5 about how it is applied so that if a local farming
6 operation is found to comply with GAAMPs, then a
7 township ordinance cannot be enforced against
8 that--that farming operation if the township
9 ordinance prohibits something that GAAMPs allows.

10 The second circumstance is basically a
11 facial challenge, if you will, a facial challenge to
12 the local ordinance. If the local ordinance sets out
13 standards that are different, that extend, revise, or
14 conflict with the standards found in GAAMPs, then the
15 local ordinance can--can be found to be unenforceable
16 regardless of what the farming operation is doing.

17 Q. So in the first instance, as-- Strike that.
18 Never mind.

19 So you've had the opportunity to review the
20 Forsyth Township zoning ordinance that is at issue in
21 this matter, correct?

22 A. Uh-huh. Correct.

23 Q. Okay. Now--

24 A. And it's--

25 Q. --based on your analysis, do you see parts

1 of that ordinance that you would consider to be in
2 conflict with the Right to Farm Act or the GAAMPs,
3 either one?

4 A. Yeah, I do. And I'll step through my
5 reasoning here.

6 Back to the first question--

7 Q. Uh-huh.

8 A. --or the first part, I guess, the first part
9 of how I look at it, does the local ordinance extend,
10 revise or conflict with the Right to Farm Act.

11 There are a couple of cases that are
12 important; the Shelby Township versus what I've
13 always pronounced at Papesh--I don't know whether it
14 is Papesh or not, Papesh--that Michigan Court of
15 Appeals case. There are a couple of unpublished
16 Court of Appeals decisions; Almont Township versus
17 Dome and Milan Township versus Jaworski.

18 Q. And all of those cases are discussed in this
19 law review article?

20 A. That's correct.

21 Q. Okay.

22 A. That's correct. So if MDARD or a court, for
23 that matter, finds that a farm operation is meeting
24 the requirements of the Right to Farm Act and would
25 be afforded nuisance protection as a result, then any

1 local law that would limit the operation would be
2 found to be unenforceable.

3 So that in the case that we're talking
4 about, in the Buchler case, if it is, in fact, the
5 case that Mr. Buchler's farm receives MAEAP
6 certification and MAEAP certification indicates
7 compliance with GAAMPs, then compliance with GAAMPs
8 would afford Mr. Buchler nuisance protection under
9 the Right to Farm Act and so he would, in other
10 words, be allowed to continuing his farming operation
11 as is under the Right to Farm Act.

12 And so under this clause at 474, sub 6, any
13 local ordinance, in our case the Forsyth Township
14 ordinance, that prohibits agricultural operations in
15 the lake residential district would be unenforceable
16 because under Shelby Township, to the extent that it
17 allows the township to preclude a farm operation that
18 is protected by the Right to Farm Act, that's
19 considered to be a conflict. That's considered to be
20 a conflict between the Right to Farm Act and the
21 township ordinance.

22 Q. Okay.

23 A. And so just stepping through, one of
24 the--one of the exhibits, I think, that you--that we
25 want to take a look at is--it's a decision tree which

1 is based on a decision tree that Pat Norris and I put
2 together back in 2007.

3 Q. Okay. So I want to go ahead and let's mark
4 this as Exhibit 4 and make sure we're looking at the
5 same document, titled, "Who is protected from
6 nuisance suits under the Right to Farm Act," and the
7 date at the top says, "May 5, 2009."

8 A. Uh-huh.

9 Q. And then at the bottom there is a notation
10 that says, "The RTFA, its interpretation and
11 application regularly changes. This decision tree is
12 up to date to January 12, 2012. Please regularly
13 check for updates."

14 A. That's correct.

15 (Deposition Exhibit No. 4 was
16 marked for identification.)

17 BY MS. HALLEY:

18 Q. Okay.

19 A. Okay. The title isn't--the title doesn't
20 reflect the original title for it. I think our
21 original title back in 2007 is, "Who is eligible for
22 protection," because--

23 Q. 2009?

24 A. No. When Pat and I put it together and it
25 appeared in our 2007 article--

1 Q. Oh, okay. Uh-huh.

2 A. --I'm saying I think our title was, "Who is
3 eligible." We weren't as presumptuous to say that
4 they were protected.

5 Q. I see.

6 A. But anyway, if you step through this and up
7 to the point where you ask the question of whether
8 they're--whether the Buchlers are complying with
9 GAAMPs, which, as I said, you know, that's not my
10 call, but I think pretty clearly they have a farm
11 operation that is producing a farm product. They're
12 engaged in commercial production.

13 Based on my conversation, my understanding
14 of what the Buchlers are doing, they're selling eggs
15 that are produced by the laying hens that are on
16 their farm.

17 Q. Uh-huh.

18 A. So up to that point, I think my--my
19 understanding is that the Buchlers meet all of those
20 tests up to Question 4, which is does the farm or
21 farm operation comply with GAAMPs.

22 Q. And if, in fact, the Buchlers do have MAEAP
23 certification, which implies or includes GAAMPs
24 compliance, then what's the next--what's the next
25 step on the chart?

1 A. Well, then the next step is that the farm
2 would presume to be protected from nuisance suits,
3 which was the purpose of the Right to Farm Act, the
4 original purpose of the Right to Farm Act.

5 Q. Okay.

6 A. And so, as I said earlier, when you read the
7 cases, the interpretation by the courts have been
8 that if--if a farm is protected from nuisance suits
9 under the Right to Farm Act then any local ordinance
10 that would preclude them from operating would be in
11 conflict with the Right to Farm Act.

12 Q. Okay. I want to back up for just a second
13 and talk about the map, the aerial photo with the map
14 imposed on it with the 254 South Francis Mine Drive.

15 MS. HALLEY: And let's go ahead and label
16 this as Exhibit No. 5 to this deposition.

17 (Deposition Exhibit No. 5 was
18 marked for identification.)

19 BY MS. HALLEY:

20 Q. And what is your understanding of the nature
21 of the neighborhood there, just from looking at this
22 map? How would you characterize the density of the
23 population in the neighborhood?

24 A. Well, as I look at the map, it's--it's a
25 pretty low-density residential area.

1 Q. Okay.

2 A. My understanding is that at least two of the
3 surrounding properties weren't residences when--when
4 the Buchlers moved in back in 2001; that, in fact,
5 Mr. Buchler's wife's, Libby's, uncle owned some of
6 this property, sold it off, and that a couple--one of
7 the houses--a house to the south and a house to the
8 north came along later, back in the mid-2000s.

9 And just, again, it's kind of a-- I can't
10 judge the scale very well, other than what's noted on
11 the map, some of the distances noted on the map.

12 Q. Okay.

13 A. But there's a fairly good separation between
14 their property and some of the surrounding houses,
15 you know. I--

16 Q. About how much property is your
17 understanding that the Buchlers have?

18 A. My understanding is they have about five to
19 six acres that is labeled--

20 Q. If I told you it was closer to 6 1/2, would
21 you quibble with that?

22 A. No. No.

23 Q. Okay. Okay.

24 A. And it is my understanding that when they
25 moved onto the property in 2000--or in 2001,

1 they--the whole property was actually roughly 13
2 acres and that the uncle, Libby's uncle, owned some
3 of that, and so it got down to 6 1/2 acres as they
4 sold it off to what are now their neighbors.

5 Q. Uh-huh. Okay.

6 MS. HALLEY: Okay. And did we mark the map
7 as No. 5?

8 MR. KOCH: Yeah, you did.

9 MS. HALLEY: Okay. Thanks.

10 BY MS. HALLEY:

11 Q. Okay. So while we're looking at the map,
12 the Buchlers' neighbors to the north are the
13 Gollakners, Jamie and-- Oh, I don't remember the
14 wife's name right now.

15 But you've had the occasion to look at the
16 deed to the Gollakner property, right?

17 A. Uh-huh. Correct.

18 MS. HALLEY: And let's label that as No. 6,
19 please, to the deposition.

20 (Discussion off the record.)

21 (Deposition Exhibit No. 6 was
22 marked for identification.)

23 BY MS. HALLEY:

24 Q. Okay. Now, Mr. Taylor, anything about that
25 deed, which appears to be the deed for the property

1 just north of the Buchlers', seem relevant to you for
2 this case?

3 A. Yeah. The paragraph just above the date and
4 signature lines and the treasurer's certificate--

5 Q. Uh-huh.

6 A. --it says, "This property may be located
7 within the vicinity of farmland or a farm operation.
8 Generally accepted agricultural and management
9 practices which may generate noise, dust, odors and
10 other associated conditions may be used and are
11 protected by the Michigan Right to Farm Act."

12 There is a provision in the Right to Farm
13 Act, 286.473c, and it talks about disclosures,
14 sellers' disclosures.

15 Q. Uh-huh.

16 A. It says, "A seller of real property located
17 within one mile of a property boundary of a farm or
18 farm operation may voluntarily make available to the
19 buyer the following statement," and then it quotes a
20 statement that is--

21 Q. Uh-huh.

22 A. --it's similar. It's not identical, but
23 it's similar to that statement in the warranty deed.
24 And so--

25 Q. Okay.

1 A. --you know, not knowing exactly the history
2 behind that, I--I am simply assuming, I guess, that
3 that is on there because of this provision of the
4 code and because the Buchlers have been raising
5 chickens and sheep and have a farm operation and
6 they're within one mile of the-- Gollakners; is that
7 what it--

8 Q. Uh-huh. Well, that's my pronunciation.

9 A. Okay. Gollakners.

10 Q. Yes. Okay. And there's another deed in
11 your packet, the deed for the Buchlers' property.
12 The number at the top in the right-hand corner is
13 2004R-04907. Do you have that one?

14 A. Yes.

15 Q. And does that have a similar provision?

16 A. It does. Do you want her to mark it as
17 Exhibit 7?

18 Q. Yes. We're on No. 7, yes. Thank you.

19 (Deposition Exhibit No. 7 was
20 marked for identification.)

21 A. Yes, it does. It has--I believe it's the
22 identical language.

23 BY MS. HALLEY:

24 Q. Uh-huh.

25 A. And so, again, that just suggests to me that

1 this has been a farming--an agricultural neighborhood
2 or an agricultural area--well, that it was an
3 agricultural area at the time that the quitclaim deed
4 was signed over on 2004, April of 2004.

5 MS. HALLEY: Uh-huh. Now, just a little
6 clean-up point. We did not assign a number to the
7 township ordinance. Let's give it No. 8, even though
8 that's not the number in which we discussed them, but
9 that doesn't really matter.

10 (Deposition Exhibit No. 8 was
11 marked for identification.)

12 BY MS. HALLEY:

13 Q. Okay. So far in our discussion, Mr. Taylor,
14 what is your opinion about whether or not the
15 Michigan Right to Farm Act supersedes the Forsyth
16 Township zoning ordinance as it relates to the
17 regulation of agriculture and specifically as it
18 relates to the Buchlers' farming activities?

19 A. Yeah. Well, I think as I--as I explained
20 earlier, my rationale for thinking that as it applies
21 to the Buchlers' property the township ordinance is
22 unenforceable because-- If it is--if it is the case
23 that they--that they get this MAEAP verification,
24 then the township ordinance is unenforceable against
25 them.

1 What I haven't talked about yet is the other
2 half of--

3 Q. Uh-huh.

4 A. --the preemption. And the preemption
5 provision in the court--in the statute, which says
6 that local ordinances that conflict with GAAMPs are
7 unenforceable whether or not the Buchlers, or anybody
8 for that matter, are complying with GAAMPs.

9 And I think in that case as well my--my
10 conclusion is that the township ordinance is
11 unenforceable. If you take a look at, again, the
12 township ordinance, the provision that--that is
13 relevant here, which is the lake residential
14 district, it doesn't allow for animal agriculture at
15 all.

16 Q. Can you direct us to the pages of the
17 ordinance that you are looking at right now? I
18 believe it's Section IV, pages 21 and 22.

19 A. That's the provisions for the lake
20 management district?

21 Q. For the lake residential district.

22 A. Or, lake--yeah, excuse me, lake residential
23 district. Yeah. IV---

24 Q. Section IV, pages 21 to 22?

25 A. Yes. It has a list of permitted uses, which

1 doesn't include agriculture, and my understanding is
2 that's also the basis of the complaint that's filed--
3 that was filed against the Buchlers. So I'm assuming
4 the township's interpretation is that it doesn't
5 allow for animal agriculture.

6 When you look at the various GAAMPs,
7 published GAAMPs, the most relevant siting--the most
8 relevant GAAMP being the site selection GAAMP, the
9 site selection GAAMP has siting provisions in it that
10 if an animal--if an animal agricultural operation
11 meets these siting restrictions, these siting
12 criteria, then they are complying with GAAMPs, and so
13 any--any ordinance that would prohibit animal
14 agriculture where the siting criteria of GAAMPs
15 allows animal agriculture--

16 MR. KOCH: Hold on. I've lost you. Sound
17 drop.

18 THE WITNESS: Can you hear me now?

19 MR. KOCH: I can hear you, but at the lower
20 level. Oh, jeez, I'm running low on-- Michelle, I
21 might lose you. I'm looking at a low power sign.
22 I'm going to plug this thing back in, and I'll have
23 to call back if I lose you, okay?

24 MS. HALLEY: Okay. We'll pause.

25 Are you still there, Kevin?

1 (No response.)

2 MS. HALLEY: Nope. I guess we'll have to
3 wait a moment.

4 (Discussion off the record.)

5 BY MS. HALLEY:

6 Q. So we left off--where we left off, we were
7 discussing--we were talking about GAAMPs, and
8 specifically the site selection GAAMPs, so I wanted
9 to go ahead and get that marked as Exhibit No. 9 and
10 confirm the title of the document is the "Generally
11 Accepted Agriculture and Management Practices for
12 Site Selection and Odor Control for New and Expanding
13 Livestock Production Facilities," dated January 2012,
14 and from the Michigan Commission of Agriculture &
15 Rural Development in Lansing, Michigan.

16 (Deposition Exhibit No. 9 was
17 marked for identification.)

18 A. Okay. It's marked as Exhibit 9.

19 BY MS. HALLEY:

20 Q. Okay. Thank you. Okay.

21 A. So, yeah, if you look at these GAAMPs and
22 you step through--you step through some of the
23 siting--siting criteria, there are--there is a
24 paragraph on page 13 that says that animal production
25 facilities with the capacity of 50 animal units

1 or--or less-- No. I'm sorry. I'm reading the wrong
2 one.

3 "Producers with new and expanding livestock
4 production facilities that have a total capacity less
5 than 50 animal units," which is the Buchlers because
6 they have 100 chickens and--or I don't know, in the
7 low hundred--low hundreds of chickens and somewhere
8 between five to ten sheep is my understanding, and
9 then if you look at the table on animal units,
10 they're well below 50 animal units.

11 Q. Uh-huh.

12 A. It says that, "The...site review and
13 verification process will use criteria applicable to
14 a 50-animal unit facility." So then you step back to
15 the tables, specifically Tables 2 and 3, and,
16 regardless of whether we're talking about 2 or 3--

17 Q. Could you-- The pages of those tables?

18 A. Yeah. Pages 6 and--

19 Q. Uh-huh.

20 A. --7.

21 Q. Okay.

22 A. There's two tables. And it gives you
23 separation distances from property line, property
24 line setbacks and the number of non-farm residences
25 within that distance.

1 Q. Uh-huh.

2 A. So without looking specifically at the
3 Buchlers, there are siting criteria in place in these
4 GAAMPs that conflict with an ordinance like the
5 township--like the Forsyth Township ordinance that
6 actually out-and-out prohibits--prohibits animal
7 operations in the lake management district--excuse
8 me; I keep saying lake management--lake residential
9 district.

10 So you can conceivably--you can easily come
11 up with a situation where a farm operation could meet
12 these setback--these setback requirements and the
13 separation distances for non-farm residences in the
14 lake management district and still--they could be
15 compliant with those GAAMPs and at the same time be
16 prohibited by the township ordinance.

17 And so--

18 Q. Okay.

19 A. And if you read--you know, if you take a
20 look at the court cases, again, some of the same ones
21 that I already talked about and that we talk about in
22 our law review article, there is a particularly--
23 Kind of getting spread out on the table here.

24 There is particularly appropriate language
25 in the Shelby Township case that says to the extent

1 that--to the extent that there is a size limit, or in
2 the Rothbury, the Double J--Rothbury versus Double J
3 case, the prohibition of an animal operation--the
4 prohibition of an accepted farming activity that
5 would be allowed by GAAMPs would be unenforceable.
6 The township ordinance would be unenforceable.

7 Q. Could you direct us to what page you're
8 looking at of your article where that's discussed?

9 A. Yeah. I've got another--

10 Q. I thought that's what you were reading from.

11 A. No. That was mostly from--that's from
12 memory--

13 Q. Okay.

14 A. --from this, going over this many times over
15 the last many years.

16 Q. Yes.

17 A. Page 387 is where this discussion takes
18 place.

19 Q. Okay. Thank you.

20 A. Starts on page 387.

21 Q. Okay. All right. Anything you want to add
22 on that second phase of the analysis?

23 A. Yeah. The reason one of the exhibits is--or
24 what is about to be an exhibit, what's about to be
25 Exhibit 10, I think, which is the GAAMPs Draft 2013,

1 which is not in place yet, it's just a draft for
2 review by the Michigan Department of Ag, but it's
3 exactly--it's like the updated version of the 2012
4 GAAMP that we just talked about.

5 Q. Okay.

6 A. The title page is, "Generally Accepted
7 Agriculture and Management Practices for Site
8 Selection and Odor Control for New and Expanding
9 Livestock Production Facilities, Draft 2013."

10 MS. HALLEY: Okay. Let's go ahead and have
11 that marked as Exhibit 10--I believe we're on No.
12 10--the 2013 draft, yes, then.

13 (Deposition Exhibit No. 10 was
14 marked for identification.)

15 BY MS. HALLEY:

16 Q. Okay.

17 A. I think our--I think our analysis that we
18 have in the law review article of that relationship
19 between local ordinances and GAAMPs, the interplay of
20 GAAMPs, is really borne out by the changes that
21 they're proposing in these--in this 2013 draft
22 because in several locations they've added language.

23 For example, page--

24 Q. I believe page 5 is the first--

25 A. Well, I'm looking at page-- Yeah. Page 5,

1 page 6, page 7 and several other locations in here
2 they've done two things. They have reduced
3 the--they've made GAAMPs apply--apply--applicable to
4 all operations, regardless of the number of animal
5 units, so they dropped the lower threshold from 50
6 down to 0 is the first thing they did.

7 Then the second thing they did is add
8 language all over the place that says new operations
9 "in areas where local zoning allows for agricultural
10 use." So what they're trying to do, as I read these
11 drafts, is override the understanding that
12 GAAMPs--that GAAMPs superseded township zoning by
13 trying to add this language.

14 So when they keep adding language that says
15 "in areas where local zoning allows for agricultural
16 use," they are attempting, they are attempting to say
17 that you look at local zoning first, the implication
18 being is without that language in these older
19 versions and what the court seems to have played off
20 on is the fact that that language is not in there and
21 that--

22 Q. So when you say the older version, do you
23 mean the version that currently applies?

24 A. Yeah. I mean--I mean 2012, yeah.

25 Q. Okay.

1 A. And, actually, it goes back before that, but
2 I think the relevant one that we're talking about is
3 2012.

4 Q. Okay.

5 A. Yeah.

6 Q. Okay.

7 A. So it appears that they are attempting,
8 through the GAAMPs, to return township zoning-- Or I
9 should say local zoning. I keep saying township
10 zoning. But they're attempting to return local
11 zoning to a place where it has some control over
12 agricultural uses.

13 Q. What is your understanding about the state
14 of affairs right now?

15 A. Well, my understanding right now is if there
16 is a local ordinance that sets out standards for
17 siting, for location, for nature of the use that are
18 different than GAAMPs then the GAAMPs control.

19 Q. Okay.

20 A. There's one other thing which I think is
21 important which I kind of skipped over, thinking
22 about it. There was something added in 2012 to the
23 GAAMPs. If you look back at--I guess it's Exhibit 9,
24 which is the 2012 GAAMPs--

25 Q. Uh-huh.

1 A. --on Roman numeral--page Roman numeral III,
2 which is the preface, they added--they added language
3 that says, "This GAAMP does not apply in
4 municipalities with a population of 100,000 or more
5 in which a zoning ordinance has been enacted to allow
6 for agriculture, provided that the ordinance
7 designates existing agricultural operations present
8 prior to the ordinance's adoption as legal
9 nonconforming uses as identified by the Right to Farm
10 Act for purposes of scale and type of agricultural
11 use."

12 They added that specifically because there
13 was concern with all the urban agriculture that was
14 coming--that was developing in Detroit. There has
15 been concern expressed by Detroit that the Right to
16 Farm Act allowed any type of--that the Right to Farm
17 Act allowed these agricultural operations, these
18 urban ag operations, to start up in Detroit, and
19 Detroit didn't have any control over them through
20 their zoning ordinance.

21 Q. Because of the Right to Farm Act?

22 A. Correct.

23 Q. Okay.

24 A. And so my understanding is that this
25 language is specifically in response to that concern.

1 Q. I see. Now, I think there's one more
2 document we were going to discuss today, and that's
3 Policy 8--

4 A. Correct.

5 Q. --the Michigan Commission of Agricultural &
6 Rural Development Policy No. 8 related to the Right
7 to Farm program.

8 A. Uh-huh. Correct. So this is Exhibit 11?

9 Q. Yes.

10 (Deposition Exhibit No. 11 was
11 marked for identification.)

12 THE WITNESS: So Kelli just marked it as
13 Exhibit 11.

14 BY MS. HALLEY:

15 Q. Okay. Great.

16 A. A couple of the court cases have zeroed in
17 on this Policy No. 8 on page 26 of this policy
18 manual.

19 Q. Uh-huh.

20 A. One, two, three--the fourth full paragraph,
21 it says, "The Commission recognizes the diversity of
22 Michigan's agricultural industry, which produces more
23 than 200 commodities using a multiplicity of varied
24 management procedures and techniques, and will strive
25 to define specific practices encompassing all sectors

1 of the industry. Given the breadth of the industry,
2 it is the policy of this Commission that Generally
3 Accepted Agriculture and Management Practices include
4 any traditional farming practice which is not
5 detrimental to the environment or human and animal
6 health."

7 A couple of the cases, and, again, I'm
8 shuffling papers here, the Almont case and the Milan
9 case--

10 Q. Uh-huh.

11 A. --they both indicate that just because there
12 isn't a written GAAMP, that one of the eight--one of
13 the eight written GAAMPs that Mr. Whitman identified
14 in his deposition--

15 Q. Uh-huh.

16 A. --that the absence of a written adopted
17 GAAMP doesn't preclude the landowner from getting
18 protection from the Right to Farm Act so long as what
19 they are following are best practices.

20 And in particular it was the--it was the
21 Almont Township--the Almont versus Dome case.
22 Landowner moved a mobile home in onto his Christmas
23 tree farm for sales of Christmas trees. And there's
24 nothing in any GAAMP anywhere about that addresses
25 that.

1 Q. Uh-huh.

2 A. However, somebody from the Michigan
3 Department of Ag said, well, this is a pretty
4 accepted practice on Christmas tree farms, and
5 because of that and because of this language in
6 Policy No. 8, the court said, well, if it's an
7 accepted practice, then they still get nuisance
8 protection under the Right to Farm Act.

9 Because it's--

10 Q. So--

11 A. Because it's a GAAMP because they--it's an
12 accepted practice, kind of what we half-jokingly
13 referred to in our law review article as small letter
14 GAAMPs, not capitalized GAAMPs, but--

15 Q. Uh-huh. Uh-huh.

16 A. --sort of the unwritten, small-letter GAAMPs
17 that apparently exist and are understood by farmers
18 and people in the agricultural industry but haven't
19 made their way into a published, adopted--one of the
20 eight published, adopted GAAMPs.

21 And so the reason I guess I think that that
22 is--could be important in this case to the extent
23 that-- And I don't have firsthand knowledge of this,
24 but to the extent that the MAEAP verification is--

25 Q. Uh-huh.

1 A. --based on some generally accepted best
2 practices of agricultural activity, that that could
3 be--that could be the basis for Mr. Whitman's--that
4 could be the assumption underlying the notion that
5 MAEAP verification means that the farm is compliant
6 with GAAMPs.

7 Q. Okay. And let's say that because the
8 Buchlers do not have enough animal units--they don't
9 have the minimum amount of animal units discussed in
10 the definition for the livestock production facility,
11 but you--sounds like this notion that just because
12 there's not a written GAAMP to apply to every
13 specific situation, would it then be your opinion
14 that they could still be afforded protection by the
15 Right to Farm Act even though their operation doesn't
16 rise to the definition of a livestock production
17 facility in the GAAMPs?

18 MR. KOCH: That's been asked, that's been
19 answered. That's also leading. I'll object on both
20 grounds.

21 BY MS. HALLEY:

22 Q. Go ahead and answer, Mr. Taylor.

23 A. Yeah. I think--I think if you step back for
24 a second and you look at the big picture, it would be
25 kind of an absurd result if you were to say that a

1 large, you know, 1,000-, 2,000-animal unit livestock
2 operation could be afforded nuisance protection by
3 complying with GAAMPs, but a small, 100-chicken, you
4 know, 10-goat, whatever the case may be, a small
5 operation could not get nuisance protection because
6 the GAAMPs don't specifically touch on that size of
7 operation. That makes no sense. It doesn't make any
8 sense under the Right to Farm Act under just the way
9 it is, the whole structure of it.

10 Q. Uh-huh. Okay.

11 A. And so--and so I--

12 Q. I just want to--

13 A. I guess let me-- I guess to say it a
14 different way, the reason that I am assuming that the
15 reason that this language is in Policy No. 8 is
16 because the Michigan Department of Ag
17 understands--well, that's what is stated in
18 there--there are so many different variations to
19 farming operations.

20 There's such a variety, particularly in
21 Michigan, you know. It's a totally different
22 agricultural landscape than what we have here in
23 Iowa. There's just such a variety of fruits,
24 vegetables, traditional row crops, animals that you
25 can't write a GAAMP on everything.

1 And just because there isn't a GAAMP written
2 on your size of an operation or the type of operation
3 that you run doesn't mean that you don't have an
4 agricultural operation that shouldn't be afforded
5 nuisance protection.

6 Q. Okay. Thank you. All right. In an effort
7 to get us to our 5 o'clock closing, just want to
8 clarify, Mr. Taylor, all of the documents that we
9 discussed today that have been given exhibit numbers
10 are documents that you relied on in developing your
11 opinions about the matters we discussed today; is
12 that true?

13 A. That's correct.

14 MS. HALLEY: Okay. And so, Mr. Koch, I'll
15 be offering these, some of these, anyway, as exhibits
16 in our trial.

17 BY MS. HALLEY:

18 Q. And, Mr. Taylor, anything else that you
19 would like to add before I turn it over to Mr. Koch
20 for cross-examination?

21 A. No, I don't think so.

22 MS. HALLEY: Okay. Thanks.

23 Go ahead, Kevin.

24 MR. KOCH: Okay. Thank you.

25

1 CROSS-EXAMINATION

2 BY MR. KOCH:

3 Q. Mr. Taylor, how did you get involved in this
4 matter?

5 A. Michelle contacted me. I couldn't tell you
6 the exact date. A month ago--

7 Q. All right.

8 A. --six weeks ago.

9 Q. I'm sorry. Go ahead.

10 A. A month to six weeks ago, I'm guessing.

11 Q. Okay. And what was the nature of the
12 contact? How?

13 A. She called me. She said that Mark Wyckoff
14 had referred her to me. She initially contacted
15 Mark, who was one of the co-authors of our paper.

16 Q. Uh-huh. Okay. And how many conversations
17 have you had with the Buchlers' attorney?

18 A. I would say at least--at least four.

19 Q. All right. Have you exchanged any written
20 materials by e-mail or by letter?

21 A. What you have seen, yes. And a couple of--
22 Yeah. I mean, we exchanged these via e-mail
23 attachments.

24 Q. Okay. And did you exchange messages or
25 e-mails to one another?

1 A. We did. We exchanged some messages as well.

2 Q. All right. Did you have any other written
3 communications besides those e-mails either way?

4 A. None that I recall.

5 Q. All right. Would you have a problem
6 reproducing the e-mails that you and Michelle have
7 exchanged?

8 MS. HALLEY: I'm going to object to the
9 grounds that this is--

10 THE WITNESS: It would be work product.

11 MS. HALLEY: --these materials were
12 developed in preparation for litigation and are
13 subject to attorney-client privilege and in
14 preparation for litigation.

15 MR. KOCH: All right. Let me explore that,
16 then.

17 BY MR. KOCH:

18 Q. Mr. Taylor, how many e-mails do you think
19 you have exchanged?

20 A. I don't know. Altogether probably--probably
21 ten. I mean if you count just e-mails that just had
22 attachments with them.

23 Q. Uh-huh. Is there information contained in
24 those e-mail messages that I don't have--

25 A. No.

1 Q. --upon which you relied?

2 A. No. Upon which I relied? No.

3 Q. Uh-huh.

4 A. No. None that I--none that I would not
5 characterize as-- No. In terms of factual
6 information, there is not.

7 Q. Okay. All right. And did you make any
8 written reports?

9 A. I made some notes to myself.

10 Q. Could you kindly attach those notes? They
11 bear on your opinions that you gave today?

12 A. I--I did. I made these--I made some notes
13 kind of outlining my thought processes.

14 Q. Okay.

15 MS. HALLEY: I'm continuing my objection.

16 MR. KOCH: All right. Well, then that's
17 going to be an issue at trial because I'm asking for
18 them.

19 BY MR. KOCH:

20 Q. What is your understanding as to why you're
21 testifying?

22 A. My understanding is that I am testifying as
23 an expert witness on behalf of the Buchlers.

24 Q. And what was your purpose in testifying?

25 A. To render my opinion as to the applicability

1 of Right to Farm and the relationship of the Right to
2 Farm Act to the enforceability of local zoning.

3 Q. Are you being compensated for what you are
4 doing?

5 A. Yes, I am.

6 Q. And what is that compensation?

7 A. It is an hourly rate.

8 Q. Okay. Can you tell us about that?

9 MS. HALLEY: I object on the grounds of
10 relevance. Irrelevant.

11 BY MR. KOCH:

12 Q. Oh, okay. Well, then I'm going to ask that
13 you answer that question.

14 MR. KOCH: And your objection is preserved,
15 but I think that that is certainly relevant,
16 Michelle. So, I mean, you can preserve an objection.

17 BY MR. KOCH:

18 Q. But I'd ask you to tell us what's your
19 hourly rate and how much--how many hours have you
20 booked so far.

21 A. Sure. Hourly rate is 150 an hour, and up to
22 this point I'm going to assume it looks to be about
23 eight hours.

24 Q. No difference in charge for this portion of
25 your services, testimony, versus consulting?

1 A. No.

2 Q. All right. Have you ever been to the
3 property in issue?

4 A. I have not.

5 Q. And you have spoken one time with Randy
6 Buchler?

7 A. I have.

8 Q. Did you make notes as to what was said by
9 Mr. Buchler to you?

10 A. I did.

11 Q. And I would request a copy of those. And
12 certainly, then, you did rely on what he told you,
13 didn't you?

14 A. I did. I relied on it to the extent that he
15 gave me a chronology of what happened, and that was
16 basically what the notes reflect.

17 Q. And can you describe the notes?

18 MS. HALLEY: I object on the same grounds.

19 MR. KOCH: This is foundation material, so--
20 But your objection is noted.

21 A. I guess they're handwritten notes on--on
22 legal pad.

23 BY MR. KOCH:

24 Q. Uh-huh. And about how many pages, would you
25 estimate?

1 A. Looks to be about 2 1/2 pages.

2 Q. Thank you.

3 A. It includes a not-to-scale drawing of--

4 Yeah. Yeah. Two and a half pages.

5 MR. KOCH: All right. Well, just for
6 clarity, that's a request that I am making that those
7 be produced.

8 BY MR. KOCH:

9 Q. Now, can you turn to the 2013 proposed
10 GAAMPs for site selection?

11 A. Yes. I have them.

12 Q. And can you please turn to what would be
13 page 5 under Roman numeral III at the top,
14 "Determining Acceptable Locations For Livestock
15 Production Facilities."

16 A. Roman numeral III, yes.

17 Q. Okay. On page 5. And if we're on the same
18 page, it states in the middle of the page, "Category
19 1 Sites:" and then it has two paragraphs beneath that
20 underlined heading.

21 Are you with me?

22 A. Yes.

23 Q. All right. I'm going to draw your attention
24 to the last sentence of that first paragraph, which
25 says-- Well, why don't you read the last sentence of

1 that first paragraph under "Category 1 Sites,"
2 please.

3 A. Sure. It says, "New and expanding livestock
4 production facilities should only be constructed in
5 areas where local zoning allows for agriculture
6 use--agriculture uses."

7 Q. Uh-huh. Now, do you think that the
8 Buchlers' operation is properly characterized as a
9 new and expanding livestock production facility?

10 A. I think they raise chickens and sheep and
11 sell the eggs--and they sell the eggs in town and
12 make wool--or they don't make the wool, actually, the
13 sheep make the wool. They make products from the
14 wool.

15 Q. All right. Is that an answer to my
16 question?

17 A. Yes, it is. I would say yes.

18 Q. All right. Is that the same language from
19 the current GAAMP--

20 A. It is.

21 Q. --at the same location in that applicable
22 GAAMP from 2012?

23 A. It is. Actually, if you look at page--if
24 you look at the 2012 GAAMP--

25 Q. That language is identical, isn't it?

1 A. --on page 5, yes.

2 Q. All right. Now I'm going to have you turn
3 to page 8 of the proposed site selection GAAMP.

4 A. Yes.

5 Q. And I'll draw your attention to that top
6 paragraph under "Category 2 Sites."

7 A. Okay.

8 Q. Can you read the second to last sentence in
9 that paragraph, please?

10 A. Yes. "New and expanding livestock
11 production facilities should only be constructed in
12 areas where local zoning allows for agriculture
13 uses."

14 Q. Thank you. Is that identical language to
15 the currently applicable language from GAAMP from
16 2012?

17 A. I'm pretty sure it is, yes.

18 Q. All right. Then I'm going to have you turn
19 a couple more pages to page 10.

20 A. In which?

21 Q. I'm sorry. We're on the 2013 proposed
22 GAAMPs, which is, I guess, Exhibit--I think it's 10
23 or 11.

24 A. Okay.

25 Q. At the top of the page, under the heading,

1 would you kind of read the first sentence?

2 A. "Category 3 Sites"?

3 Q. Correct.

4 A. "Category 3 Sites: Sites generally not
5 appropriate for new and expanding livestock
6 facilities"?

7 Q. Yeah. That's the one. And I'm asking you
8 to read the first sentence of that paragraph that
9 follows.

10 A. Okay. "New"-- Let's see. "New and
11 expanding livestock production facilities should not
12 be sited in areas where local zoning does not allow
13 for agriculture uses."

14 Q. Thank you. Is that language also identical
15 to the current counterpart in the 2012 GAAMP for site
16 selection/odor control?

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

18 Q. Well, is that new language or is that
19 difference in the word of "constructed" that has been
20 crossed out and "sited" replacing that word?

21 A. Yes, I think that's how it's different.

22 Q. And is that the only difference?

23 A. As far as I am aware. From my recollection,
24 I think that is the only difference.

25 Q. All right. Thank you. Then I'll have you

1 turn one more page to page 11.

2 A. In which document?

3 Q. I'm sorry. Until I tell you differently,
4 I'm on the same exhibit. It's the 2013 proposed.

5 A. Okay.

6 Q. Is paragraph 3 on page 11 the same as the
7 current GAAMP counterpart for residential zones?

8 A. I believe so, yes.

9 Q. All right. Thank you. And I think you
10 already spoke to the changes that are on page 14 of
11 the same exhibit under Roman numeral IV, "Site Review
12 and Verification Process," where there is language in
13 those first two paragraphs under that heading that
14 has been crossed out.

15 A. That's correct.

16 Q. And that you described as the elimination of
17 that 50-animal unit minimum for this particular
18 GAAMP?

19 A. That's correct.

20 Q. Now, does that suggest to you that with the
21 current GAAMP and the proposed GAAMP having identical
22 language in all of the provisions that you've just
23 read that zoning is recognized in the GAAMP?

24 A. It suggests to me-- It suggests to me a
25 couple of things. It suggests to me that the

1 addition of the language that we talked about earlier
2 is meant to reinsert local zoning--it is the
3 Department of Ag's attempt to reinsert local zoning
4 into the equation, into the relationship between
5 township--excuse me--local zoning and the GAAMPs.

6 Q. Are you suggesting that it was not there
7 previously?

8 A. I'm suggesting that the courts have not
9 consistently been recognizing it.

10 Q. All right. Well, are you--in the cases that
11 you have referred to in the article that is attached
12 as an exhibit--

13 A. Uh-huh.

14 Q. --are any of those Court of Appeals
15 decisions published opinions?

16 A. The Shelby Township case is published.

17 Q. All right. Are any of the others that are
18 referred to in your article published?

19 A. No. They are--they are not published cases.

20 Q. All right. In fact, you do talk about the
21 Supreme Court ordering the reversal of one of those
22 unpublished cases in one--in one respect at least,
23 don't you?

24 A. That's correct. The Supreme Court--the
25 Supreme Court was referencing the fact that there is

1 an absence of language in the GAAMPs related to what
2 I would call height, bulk, traditional regulation of
3 structures and not--

4 Q. All right.

5 A. They don't really--

6 Q. But otherwise the cases that have expanded
7 and given broad interpretation, like the Papesh case
8 and other cases that you have cited, which are
9 explicit in your article's direction about the
10 expansion of the reach of the act, those are
11 unpublished opinions, aren't they?

12 A. That is correct.

13 Q. They don't have any precedential value, do
14 they?

15 A. They have persuasive value, I guess I would
16 say.

17 Q. Which, to answer my question, means they
18 don't have precedential effect, do they?

19 A. Correct.

20 Q. Okay. Now, your article seemed to start out
21 with a focus on two municipalities, Troy and Shelby
22 Township.

23 A. Correct. And that was a result of the
24 two--two of the cases that we talk about in the--in
25 the article.

1 Q. All right. And do you think that the
2 comparison is valid that any of the municipalities
3 that you are discussing in this article--and I'm
4 talking about the most recent article, about "When
5 Urban Agriculture Meets Michigan's Right to Farm
6 Act"--are they comparable to the municipality here?

7 A. Well, as I said, we--we opened that article
8 with those two cases because those are jurisdictions
9 where Right to Farm Act cases had been litigated. If
10 you're asking me whether Forsyth Township in--in the
11 Upper Peninsula has the same population density, the
12 same development patterns, I would say no, but that's
13 not--that's not the crux of the issue.

14 Q. Do you know the population of Forsyth
15 Township?

16 A. I do not.

17 Q. Do you know the area of Forsyth Township?

18 A. I generally know the area of Forsyth
19 Township.

20 Q. Do you have any idea as to the population
21 density of Forsyth Township?

22 A. I do not.

23 Q. And if I told you that in comparison to
24 Troy, with that ratio 2,409, or Shelby Township,
25 2,096 people to each mile, and if Forsyth Township

1 has 6,164 residents over a 188-square-mile area that
2 equates to 32.79 people, is your article really an
3 apt analogy in comparing the phenomenon that you're
4 commenting on in the article to this region?

5 A. I don't think it was meant to be.

6 Q. Okay.

7 A. The article was directed at the
8 interpretations of Michigan Right to Farm--the
9 interaction of Michigan Right to Farm with local
10 zoning. I mean, we're--

11 Q. All right.

12 A. --pretty explicit in our article where
13 we--we advocate for a stronger role for local zoning
14 than what has been interpreted by the courts.

15 Q. Do you know whether or not the Buchlers
16 sought any type of compliance with the township
17 ordinance before they began their agricultural
18 operation?

19 A. I only know what I read in the documents
20 that I reviewed for the testimony, which my
21 understanding is that they had not.

22 Q. Do you know whether or not they familiarized
23 themselves with those local zoning provisions before
24 beginning their agricultural operation?

25 A. I do not know one way or the other.

1 Q. Do you know if they made any attempt to
2 either inform themselves or to comply with the
3 ordinance before they were requested to by the
4 township zoning officials?

5 A. Again, only--only from what I know from what
6 I reviewed in these documents. I think--
7 Specifically, I think I am thinking about the
8 interrogatories.

9 Q. Do you know whether there was an active
10 farming operation on site before they began their
11 agricultural operations?

12 A. From what I understand, again, from the
13 interrogatories is that there were no--there was no
14 animal agriculture anyway.

15 Q. Have you read the deposition of the other
16 witness who has been deposed?

17 A. Mr. Whitman?

18 Q. No. Art Nardeen (phonetic).

19 A. No, I have not.

20 Q. Do you have any other information that you
21 did use that you have not disclosed, apart from your
22 communications or communications to you--to or from
23 Michelle, the attorney for the Buchlers?

24 A. Not that I--not that I am aware of, no.

25 Q. And the guidelines of the Michigan

1 Commission of Agriculture and Rural Policies, that's
2 an exhibit that Michelle has offered.

3 A. Correct.

4 Q. Are you aware that they direct the
5 Commission to define the GAAMPs by formal resolution,
6 that practices will be reviewed annually and revised
7 by the Commission when necessary?

8 A. Yes, I am aware of that. There--

9 Q. And--

10 A. There seems to be--

11 Q. I'm sorry?

12 A. There seems to be a conflict in their own
13 policy guidelines.

14 Q. And go ahead and expand on that for me in
15 the few minutes we've got left.

16 A. Well, I'm just saying that Policy 8 says
17 that we recognize GAAMPs--we recognize practices as
18 generally accepted agricultural and management
19 practices even--even if they aren't-- Well, the
20 language, it is--

21 Q. Well, in this-- Go ahead and finish.

22 A. Yeah. "It is the policy of this commission
23 that generally accepted agricultural and management
24 practices include any traditional farming practice
25 which is not detrimental to the environment or human

1 and animal health."

2 Q. All right. You're going to acknowledge that
3 there is a component in the GAAMPs that does look to
4 what the community expresses as its desire for its
5 zones; is that accurate?

6 A. I would--I would say this: I think you have
7 to look at what the 1990 amendment--1999 amendments
8 did. It did two things. It added the preemption
9 language in--now I've got papers
10 scattered--27--excuse me--474, sub 6, which didn't
11 exist before because before 1999 the language in
12 there said that--that local zoning still applied.
13 That wasn't the exact language, but it essentially,
14 the '99 language, inserted that preemption--or the
15 1999 amendment inserted that preemption. So that's
16 one thing it did.

17 The second thing it did was direct the
18 Department of Ag to develop the site selection GAAMPs
19 that we're talking about. So to interpret the
20 language in the site selection GAAMP as putting local
21 zoning in a place of--I guess in a place of
22 preeminence would undermine completely the purpose of
23 the '99 amendments.

24 Q. Well, nobody's talking about preeminence.
25 We're talking about a component, a consideration of

1 the community's desires as expressed in their zoning
2 ordinance. Don't you acknowledge that that is a
3 continuing part of the GAAMPs as this act directed
4 they be developed?

5 A. I--I would--

6 Q. You've cited language in the current and the
7 proposed that I've asked you to read--

8 A. Right. Right.

9 Q. --that recognizes that community input,
10 doesn't it?

11 A. Yeah. And it says--the language says
12 "should." And my assumption is that it says "should"
13 because there is some recognition that to put
14 township zoning back into the equation runs
15 completely counter to what the '99 amendments were
16 set out to accomplish.

17 I mean, Mr. Whitman himself, in his
18 deposition, said that the--and I guess I'm
19 paraphrasing, said that the goal of the GAAMPs was to
20 create a set of uniform statewide standards.

21 Q. Uh-huh.

22 A. The goal of putting the preemption language
23 of township zoning or of local zoning in the '99
24 amendments was to prevent the situation where, if a
25 local unit of government did not want agricultural

1 operations, all they had to do was zone it out.

2 The preemption language was put into the '99
3 amendments--it was put into the Right to Farm by the
4 '99 amendments specifically to prevent that from
5 happening. So, yes--

6 Q. I-- Yes.

7 A. Let me say this: Yes, the Michigan
8 Department of Agriculture in the GAAMPs did put that
9 language that says "should" consider township-- I
10 keep saying township.

11 Q. Yes. Community.

12 A. Yes. "Should" consider local zoning.

13 Q. Okay. My final question, because I've got
14 to go to a meeting immediately, is there was a GAAMP
15 that did apply to the Buchlers' operation except for
16 the size of their operation; isn't that correct?

17 That under the previous, the current 2012
18 GAAMP, as Mr. Whitman had testified, they were able
19 to seek certification under the GAAMP despite the
20 fact that they had less than the minimum animal units
21 addressed in the appropriate GAAMP table, couldn't
22 they?

23 A. Yeah. It was optional.

24 Q. All right.

25 A. Yeah. If you read--

1 Q. So it's not like this is a new GAAMP that
2 we're talking about with the Buchlers' operation;
3 it's just the size of the operation that differs with
4 regard to a GAAMP that has been established for some
5 time?

6 A. You mean the difference between 2012 and the
7 draft of 2013? Yes.

8 Q. No. I mean--I mean the fact that they could
9 have fit under the 2012 GAAMP for site selection and
10 odor control by complying with the over 50-animal
11 minimum unit directives. Wasn't that the way that
12 the policy was enforced--let's say is enforced in
13 2012?

14 A. I guess I'm not sure--

15 MS. HALLEY: I have to object. I think that
16 question is vague and unclear.

17 BY MR. KOCH:

18 Q. Well, I'm going to have to-- Did you want
19 to answer further?

20 A. Let me--let me read this, and you can tell
21 me if this is what you're thinking about. And this
22 is in the 2012 GAAMPs, page 13. "Producers with new
23 and expanding livestock production facilities that
24 have a total capacity less than 50 animal units may
25 request siting verification from MDARD."

1 Q. Yes.

2 A. Yes, that was in the--that was in the GAAMPs
3 in 2012.

4 MR. KOCH: Okay. That is all I have, and I
5 am being summoned because the meeting has begun.
6 And, Michelle, if you have further exam, I guess
7 we're having to have to put it over.

8 MS. HALLEY: I just had actually one
9 question.

10 MR. KOCH: Go ahead.

11 MS. HALLEY: Just one.

12 REDIRECT EXAMINATION

13 BY MS. HALLEY:

14 Q. Mr. Taylor, do you know, when did the GAAMPs
15 first mention local zoning? Do you know?

16 A. I don't know. That's a pretty-- That's a
17 broad question. We're talking about a lot of GAAMPs.

18 Q. The site selection GAAMP.

19 A. Well, the site selection GAAMP first came
20 into being after '99, and I don't have the earliest
21 copies of it.

22 Q. Okay. So my point is that this language
23 appeared in the GAAMPs after the 1999 amendment; is
24 that accurate?

25 A. Well, the GAAMP itself appeared after the

1 '99 amendment.

2 Q. Okay.

3 A. I mean the site selection GAAMP.

4 Q. Uh-huh.

5 A. Because MDARD was directed by the
6 legislation--by the amendment to develop this GAAMP.

7 MS. HALLEY: Okay. I don't think I have any
8 further questions.

9 MR. KOCH: I don't either.

10 (Proceedings concluded at 4:05 p.m.)

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1 C E R T I F I C A T E

2 I, the undersigned, a Certified Shorthand
3 Reporter of the State of Iowa, do hereby certify that
4 there came before me at the time, date and place
5 hereinbefore indicated, the witness named on the
6 caption sheet hereof, who was by me duly sworn to
7 testify to the truth of said witness' knowledge, that
8 the witness was thereupon examined under oath, the
9 examination taken down by me in shorthand and later
10 reduced to typewriting through the use of a
11 computer-aided transcription device under my
12 supervision and direction, and that the deposition is
13 a true record of the testimony given and of all
14 objections interposed.

15 I further certify that I am neither attorney
16 or counsel for, nor related to or employed by any of
17 the parties to the action in which this deposition is
18 taken, and further that I am not a relative or
19 employee of any attorney or counsel employed by the
20 parties hereto, or financially interested in the
21 action.

22 Dated at Des Moines, Iowa, this 31st day of
23 October, 2012.

24 /s/ Kelli M. Mulcahy
25 CERTIFIED SHORTHAND REPORTER

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