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Committee on Environment  
and Public Works Washington, D.C.

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HEARING ON THE IMPACT OF FEDERAL ENVIRONMENTAL REGULATIONS AND  
POLICIES ON AMERICAN FARMING AND RANCHING COMMUNITIES

Wednesday, February 7, 2018

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:03 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Shelby, Cardin, Merkley, Gillibrand, Booker, Markey, Duckworth, and Van Hollen.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES  
SENATOR FROM THE STATE OF WYOMING

Senator Barrasso. Good morning. I call this hearing to order.

Today we will hold a hearing on the impact of federal environmental regulations and policies on American farming and ranching communities.

The discussion here today is not about the value of environmental regulations, but about how some federal regulations can be inflexible, antiquated, duplicative, and ultimately harmful to American agriculture, a critical part of our Nation's economy.

Members of this Committee should work to ensure environmental laws are strong and effective, without being overly burdensome. This is often a difficult task.

The United States is blessed with diverse ecosystems that often require different kinds of stewardship to remain healthy. In Wyoming, we have an abundance of sagebrush prairie, coniferous forests, a variety of mountain habitats and wetlands. Wyoming ranchers and farmers are familiar with each ecosystem and its needs. This is where they work, live, and invest their energies.

Farmers and ranchers are the original stewards; they understand that landscapes and watersheds need to be healthy to

support native plants, wildlife, crops, and livestock. They are living proof that interacting with nature can be done in an environmentally sound way, often leaving the resources in better condition than they found them.

Washington policies do not always translate well in rural America. When I am home in Wyoming, I often hear how out of touch environmental regulations have become. For far too long the people who feed, clothe, and house our Nation have been burdened by policies that fail to reflect on-the-ground realities.

We can look no further than the Obama Administration's failed Waters of the United States Rule. Under that rule, farmers and ranchers across the Country were told that irrigation ditches, ponds, and puddles were "navigable waters" and could be regulated by the Federal Government.

I am happy to say that, last week, the delay in implementation of the WOTUS rule became final, giving the EPA and the Army Corps of Engineers time to make sure that any new rule protects America's water resources, while not unnecessarily burdening farmers, ranchers, small businesses, and communities across America.

When writing legislation, Congress must take care to ensure policy actually achieves the desired objective. Agencies must do the same when developing regulations. I believe that we

should prioritize, updating and revising policies that, while well intentioned, were not designed to micromanage agriculture production.

One example is the new animal waste emission reporting requirements. Over the past several months, farmers and ranchers struggled to comply with ambiguities and an ambiguous agency directive following an April 2017 decision in the D.C. Circuit Court. That decision fundamentally changed reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act and the Emergency Planning and Community Right-to-Know Act, collectively known as CERCLA and EPCRA.

The ruling meant up to 100,000 farmers and ranchers, who have never been required to report under these laws, were suddenly required to comply. Even though they wanted to comply with the ruling, the process and the implications of compliance were unclear. Because both CERCLA and EPCRA were not written with the intent of regulating these farms and ranches, the requirement to report emissions from animal waste came without context and largely without any agency guidance.

Let me now turn to NEPA, the National Environmental Policy Act. We cannot discuss environmental regulations and their impact on agriculture operations without mentioning NEPA. NEPA is at the core of every decision in each land use plan, resource

management proposal, trailing and crossing permit, and grazing allotment that farmers and ranchers need.

NEPA is not limited to agriculture. For years we have discussed the effect NEPA has had on delaying the construction of roads, bridges, parks, reservoirs, and other critical infrastructure.

While environmental analysis can be important in many cases, completing NEPA takes far too long. As NEPA delays stifle improvements around the farm or ranch areas, calves and lambs grow and are sold, ecosystems need change, and farmers, ranchers, and their families wait for an answer. As we will hear from today's witnesses, these are families whose lives, livelihoods, hopes and dreams are inseparable from the lands and the waters that they work so hard to keep clean.

These are not the only examples of punishing regulations that farmers and ranchers and the communities they live in face. Today we will also hear about duplicative permitting requirements of the application of pesticides already covered under the Federal Insecticide, Fungicide, and Rodenticide Act, or FIFRA; issues of privacy and the collection of data on farmers and ranchers, on how the Endangered Species Act has been implemented and the subsequent negative impact on farming and ranching operations.

These and other examples will be discussed so we, as a

Committee, can better understand how we can help these hard-working communities across our Country.

Before we move on to our witnesses today, I would like to turn to the Ranking Member, Senator Carper, for his remarks.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES  
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Thanks, Mr. Chairman. Thanks very much for bringing us all together today.

And a special thanks to our witnesses. I feel privileged to be able to introduce Michael Scuse, our Secretary of Agriculture for a second tour, in a moment.

But first let me give a brief statement, then I would like to introduce Michael.

No other sector of our Nation's economy's success is more closely tied with the quality of our environment than is the agriculture sector. Farmers are our Nation's original conservationists. They understand better than anyone else the need for clean air, for clean water, and high quality soil in order to produce the food that we need not just to feed ourselves, but really to feed the world.

In Delaware, over 40 percent of our land is dedicated to farming, and our State's agriculture sector employs some 30,000 Delawareans, while contributing nearly \$8 billion a year to our State's economy. I am proud to say that First State farmers are first in the Nation for the value of product produced per acre, first in the number of lima beans harvested, and I think in Sussex County, which is the third largest county in America, first in production of broilers, chickens, by county. We do all

this while practicing exceptional environmental stewardship while our farming community is working closely in partnership with USDA, with State agencies, and our universities.

Our Nation's environmental laws have been instrumental in helping us deliver clean air, clean water, and productive lands for our farmers and our ranchers. I should add to that list our foresters, our fishing communities, because their success is also greatly dependent on a healthy environment and vital ecosystems.

For example, EPA has found that the 2005 Clean Air Act rules that protect our lungs from ground smog also protect our crops and animals, to the tune of \$13 billion in estimated benefits by 2020. The Clean Air Act also protects crops from damaging ultraviolet radiation by protecting the planet's ozone layer and limiting the use of ozone-depleting chemicals. In fact, it turns out that those Clean Air Act protections will prevent an estimated 7.5 percent drop in future crop yields in 2075.

There are other environmental issues where we need to act and do more to help our farmers. For example, climate change is already disrupting the livelihood of farmers and ranchers. The Federal Government's third national climate assessment found that "Climate disruptions to agricultural production have increased in the past 40 years and are projected to increase

over the next 25 years. By mid-century and beyond, these impacts will be increasingly negative on most crops and livestock.”

The Climate Science Special Report released in November of 2017 confirmed these trends. I look forward to hearing the testimony of our witnesses on this topic.

Other environmental programs have created new income opportunities for farmers. The Renewable Fuel Standard has been a major economic driver in farm communities across our Country. In addition, tens of thousands of farmers across our Country are enrolled in USDA’s conservation programs that pay farmers for the water quality and habitat conservation services they provide and protect.

I acknowledge, though, that sometimes environmental requirements can be complex. The Chairman has referred to this already. But those requirements can be confusing to those who farm. One such example is the air emissions reporting requirement for farms under two laws, the Comprehensive Environmental Response, Compensation, and Liability Act, known as CERCLA, and the Emergency Planning and Community Right-to-Know, known as EPCRA.

In 2008, the Bush Administration promulgated a rule that exempted all but the largest farms from reporting under these laws. In 2017, the D.C. Circuit Court overturned the 2008 rule,

putting farmers on notice that they would soon need to begin reporting. Unfortunately, EPA's reporting guidance to farmers for this reporting has been confusing and it has been unhelpful.

Along with a number of other colleagues here in this room and outside this room, I have been pushing EPA for several months to do better. EPA agreed it had more work to do and, at our urging, agreed to request more time from the court to continue developing a workable guidance and, if necessary, to give Congress the time to act on this issue. Thankfully, the court agreed and, last week, as we know, gave EPA until May 1st to get this right.

With the 2008 rule no longer in place, I am committed to working toward a solution that balances the burden of this reporting on our farmers with the legitimate needs of public health and emergency response officials, and the right of local community members to know about the pollution in their air. This is what the Bush Administration sought to do in 2008 and it is how I believe we should proceed now.

If I could, Mr. Chairman, just do a quick word of introduction on Michael Scuse, who is joining us today. I am tempted just to read his bio; it is incredible. I won't do that, but really an incredible record of service and achievement.

The Scuse family is highly regarded in our State. We have

three counties. Smyrna is in the middle of our State, just north of Dover. The Scuse family has farmed there forever and has enjoyed great success and really been a role model for a lot of folks in farming and outside of farming.

I mentioned in my statement that farmers were our first original conservationists. The Scuse family is a great example of that.

In addition to serving through the work that he has done with his own family business, he has served as our Secretary of Agriculture not once, for eight years, almost eight years, under Governor Ruth Ann Minner, but he also served as her chief of staff for a period of time; and in the current administration of Governor John Carney he is again our Secretary of Agriculture and we are delighted that he is.

In addition to that, he was asked, in the Obama Administration, to come down here and to serve in Washington in a number of senior leadership positions, including Undersecretary at the Department of Ag, Acting Deputy Secretary of Agriculture, Acting Secretary of Agriculture for our Country. Just extraordinary and I am just thrilled that he could be here today. He is a good friend, someone that we are just honored to say that he is a Delawarean.

We are honored that you are here today with us, Michael, and I salute you for all that you have done and continue to do.

Thank you for joining us.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you, Senator Carper.

Before we head to the panel, we have a number of introductions to be made. Senator Ernst and Senator Moran have introductions.

Senator Ernst.

Senator Ernst. Thank you, Mr. Chair.

Today I have the great honor of introducing a fellow Iowan, Dr. Howard Hill, a hog farmer from Cambridge, who serves as President of the National Pork Producers Council and is a veterinarian with Iowa Select Farms.

Previously, Dr. Hill was Director of Veterinary Services and Multiplication for Murphy Family Farms in Rose Hill, North Carolina, and was head of veterinary microbiology in the Iowa State University Diagnostic Laboratory.

Dr. Hill served as President of NPPC for the 2014-2015 term and, prior to that, was a member of the NPPC Board of Directors, serving on a number of committees and co-chairing the Environmental Policy Committee. He also served on the Board of Directors of the Iowa Pork Producers, where he was the Chairman of the Research Committee and the Contract Growers Committee.

Dr. Hill owns a sow farrow-to-finish farm, which produces breeding stock for DanBred USA. He also partners with his son on the family farm, where they have a pure-bred angus herd and 2,500 acres of row crops.

Thank you for being here today, Dr. Hill. We look forward to hearing your testimony. Thank you so much.

Senator Barrasso. Thank you, Senator Ernst.

Senator Moran.

Senator Moran. Mr. Chairman, thank you. Thank you to you and the Ranking Member for having our hearing, and it is an honor for me to introduce to the Committee Donn Teske, a Kansas farmer from Wheaton, Kansas in the northcentral part of our State. Donn has been actively engaged in the National Farmers Union and the Kansas Farmers Union for a very long time. He is a leader in agriculture and rural America, and I hold Donn in high regard for his love for and passion for small towns across our State. He recognizes fully, as most of us do, that if rural America is going to have a future, it is because farmers and ranchers are having success.

I appreciate him, and especially here on the conservation issue. He has a great love for the land and understands how important clear skies and good soil and clean water is to Kansans across our State.

So, Donn, I welcome you to the Committee and I thank you for your testimony; I look forward to hearing it.

Senator Barrasso. Thank you, Senator Moran.

We also have joining the panel Mr. Zippy Duvall, who is the President of the American Farm Bureau Federation, but first we

are going to hear from Mr. Niels Hansen.

Niels joins us today from Rawlins, Wyoming. He is the immediate past President of the Wyoming Stock Growers Association, currently serves as the Secretary and Treasurer for the Public Lands Council. As a third-generation rancher, Niels knows that raising cattle, sheep, and horses is full of challenges. Over the years, Niels has worked with the University of Wyoming and the Bureau of Land Management to develop cooperative range land monitoring, which has allowed Niels to become intimately familiar with both the needs of his livestock and the needs of range land ecosystems.

His successful stewardship is evident in the longevity and success of his family ranch, which has also been recognized for many years in Wyoming and nationally. The Bureau of Land Management recognized Niels's ranch with the BLM Range Land Management Stewardship Award in 2000, and in 2001 the ranch was named the Little Snake River Conservation District Cooperator of the Year.

Niels has been recognized repeatedly for his leadership in the industry and in his community. He has served as a member of the Rawlins Search and Rescue, and was inducted into the Wyoming Agriculture Hall of Fame in 2011.

Niels, I am pleased to have you with us here today to lend your wealth of experience to the Committee. I ask that you

please proceed.

STATEMENT OF NIELS HANSEN, SECRETARY-TREASURER, PUBLIC LANDS  
COUNCIL, MEMBER, NATIONAL CATTLEMEN'S ASSOCIATION

Mr. Hansen. Thank you, Chairman Barrasso, Ranking Member Carper, members of the Committee. Thank you for having me here today to address how the federal regulations affect my ranch and others across the Country.

My name is Niels Hansen. My family has been ranching in our area for 120 years. Today, my son is home taking care of the ranch so that I can be with you today to discuss these issues.

As stated, I am the past President of the Wyoming Stock Growers Association, past Chairman of the Wyoming State Grazing Board, a member of the National Cattlemen's Association, and I currently serve as Secretary-Treasurer for the National Public Lands Council.

Our ranch covers 230,000 acres of ground in Central Wyoming; consists of private and BLM in the checkerboard land pattern. We span over three watersheds.

Beyond ranching, I spent much of the last 30 years working on these issues that we are discussing today in Wyoming, in Washington, D.C., and across the West. As recently as last week, at the National Cattlemen's Convention, I taught a class on working with federal agencies and trying to educate people how to get along and work towards a goal.

In our interactions with the federal agencies, our first priority is always to identify common ground and to work together. But we are constantly tangled in a web of federal regulations. I am here today to talk about just a few of those regulations that impact my ranch and my family.

As long as it remains on the books, the Obama era WOTUS rule continues to be a serious threat to our operation. On our ranch, we wrestle with the management of three watersheds. None of them drain directly into adjacent federal waters, but under the ambiguous and overreaching 2015 rule, it is impossible to know whether we are exempt or not. As a family rancher, I should not need to hire hydrologists, engineers, and attorneys to figure this out.

I am grateful the Administration has taken steps to roll back this rule and replace it with something more workable, but more work still needs to be done. The ranching community stands ready to help in any way we can.

Another regulation I shouldn't be wrestling with in our cow-calf operation is the reporting requirements under CERCLA and EPCRA. The simple fact is emissions from normal livestock operations should not be covered under this rule. In particular, it is absurd to require such reporting for a 3,000-head operation like mine spread across 60 square miles. Such an operation would never require a coordinated emergency response.

Congress needs to fix this.

As we all know, you can't discuss ranching anywhere in the Country without taking into account wildlife management. Two pieces of legislation that make it very difficult for me are the Endangered Species Act and the Migratory Bird Act. However well intended, ESA is 40 years old. It needs to be updated to reflect lessons learned and the issues of today. The path forward must work for all, not just environmental litigants that pay their bills with proceeds from legal settlements. Our best opportunity to modernize ESA is through last year's bipartisan Western governors' recommendations to this Committee.

But only addressing ESA does not solve the whole problem. The Migratory Bird Act is working so well that populations of ravens are exploding on my ranch and around the West. This Act allows for proportionate response to growing populations that threaten both the Sage Grouse and our young livestock, but federal agencies are slow to grant us necessary perdition authority and expanded baiting flexibility. For me, it is the ravens. In other parts of the Country the cormorants, black vultures, and other predators are the issue.

In conclusion, please recognize that the ranchers are your eyes and ears on the land. We are your best tool to achieve any real conservation objectives on the ground. Turn us loose. No one is more dedicated to the health of the land than those of us

who are dependent on it. Let the ranchers do what we do best. Everyone will benefit; the species, the ecosystem, and the rural communities.

Thank you again for hearing my testimony. I look forward to answering any questions.

[The prepared statement of Mr. Hansen follows:]

Senator Barrasso. Well, thank you so much for traveling here from Wyoming and thanks for that excellent testimony. We appreciate it.

Mr. Duvall.

STATEMENT OF ZIPPY DUVALL, PRESIDENT, AMERICAN FARM BUREAU  
FEDERATION

Mr. Duvall. Good morning, Chairman Barrasso, Ranking Member Carper, and members of the Committee. I appreciate the opportunity to come talk to you about real-world impact on overregulation of farmers and ranchers. My name is Zippy Duvall, and I am a beef and poultry farmer in Georgia. My son is at home right now, he is fourth generation, and also providing large animal veterinary medicine in our community.

I was elected President of the American Farm Bureau two years ago, and I visited farms in all 50 States since I have become President and I talked to them about the things that keep them awake at night. The two issues that have come up at almost every farm that I have visited were the lack of adequate legal supply of labor and the burden of overregulation on their farms.

Regulatory process today is a product of decades of administrative and judicial decisions without much effort to integrate these decisions into a system that makes sense to all of us. Farmers and ranchers have shared their stories about the impact of regulations on their lives and their farms as I visit them.

In West Virginia, a poultry farmer who operates one of the cleanest farms that we have ever seen is spending tens of thousands of dollars on legal bills to defend their farm in

court against EPA's misinterpretation of the Clean Water Act.

Federal officers, without any authority from Congress and without public notice, have used what amounts to extortion against ranchers in Utah to force them to hand over their private water rights as a condition of getting federal grazing permits.

The Endangered Species Act has not been successful in recovering listed species; only 50 species have been recovered out of 1,661 species listed in the past 45 years. That is a 3 percent success rate. Eleven species have gone extinct while under this federal protection. Meanwhile, the ESA has made it harder for farmers and ranchers to use their land and protect their livestock.

And, last, but not least, the EPA, under provisions of the previous administration, finalized the Waters of the U.S. rule that epitomizes the failure of our current regulatory system. The law that governs this process, the Administrative Procedure Act, is more than 70 years old and is way overdue for reform, especially when you consider how social media can shape public input.

Finally, Mr. Chairman, I have met farmers and ranchers who are not sure that they want to encourage their children to remain on the farm. And I remind you the average age of the American farmer is 58 years old. A generation of farmers and

ranchers will be hanging up their hats within a few years, and we need to ask ourselves who is going to be willing to step up and take the place to grow the food for our tables in America and around the world.

As committed as young people are, like my son, Zeb, who are farming and ranching, they cannot continue if the over-regulatory burdens continue to grow. Farm income is down about 50 percent, compared to five years ago, but I assure you the regulatory costs have not gone down any. These facts would give pause to even the most dedicated farmer and rancher around this Country.

I would like to close with a quote from a statesman from my home State, President Jimmy Carter. He signed an executive order in March 1978 that states "Regulations should not impose unnecessary burdens on the economy, on individuals, on public and private organizations, or on State and local governments. Regulations should be developed through a process which ensures that compliance costs, paperwork, and other burdens on the public are minimized."

And then there is President Trump's executive order of a year ago that requires agencies to repeal two rules for every one rule that they issue. And in signing that executive order, the President said, "Every regulation should have to pass a simple test: Does this make life better or safer for American

workers and consumers?"

This is not a partisan issue. This is about allowing our farmers and businesses to be productive. It is about a goal that I believe we all share, a regulatory process that is credible, one that we can get behind, instead of having to fight against.

Thank you, Mr. Chairman, and I am glad to answer any questions that you and your colleagues have.

[The prepared statement of Mr. Duvall follows:]

Senator Barrasso. Thank you very much, Mr. Duvall, for your testimony.

Dr. Hill.

STATEMENT OF DR. HOWARD HILL, DIRECTOR OF VETERINARY SERVICES  
AND MULTIPLICATION IOWA, PRESIDENT, NATIONAL PORK PRODUCERS  
COUNCIL

Mr. Hill. Good morning, Chairman Barrasso, Ranking Member Carper, and members of the Committee. I would also like to give a special thanks to my home State Senator, Joanie Ernst, who has done a tremendous amount of work for Iowa farmers.

My name is Dr. Howard Hill. I am a veterinarian and pork producer from Cambridge, Iowa, and past President of the National Pork Producers Council, on whose behalf I am testifying today.

Pork producers are deeply committed to responsibly managing their animals and the manure they produce to protect water and air quality, and to maximize the manure's benefit and value as a vital source of nutrients for crops we grow. NPPC and pork producers have a long and proud history of working cooperatively with environmental regulators at the State and federal levels, and are supportive of federal environmental policies and programs if they are grounded in three primary principles: one, the environmental performance expectations for producers have a high probability of resulting in meaningful environmental improvements; two, the measures involved are practical and affordable; and, three, producers are given a realistic amount of time to adopt the measures and associated systems to their

operations so they can continue to be profitable and successful.

NPPC has worked with EPA on numerous occasions to ensure the Agency's rules meet those principles and that they ultimately protect the environment. One of the best examples of our cooperative effort was the National Air Emissions Monitoring Study of the emissions of swine operations. Pork producers used about \$6 million of their own funds to support that EPA-supervised third-party study and approximately 5,000 swine facilities enrolled with EPA in air consent agreements that made the work possible.

But, when necessary, NPPC will fight bad environmental policies and programs. Pork producers do not oppose environmental regulations, but they will oppose rules that are not sound, effective, and practical. An example of the latter is the requirement to report air emission releases under CERCLA and EPCRA. Almost all livestock farmers are now required to report ammonia emissions that result from natural breakdown of animal waste.

When EPA first issued the rules on those reports in 2008, all the livestock farmers were exempt from CERCLA reporting and all but the largest operations were exempt from EPCRA because producers and EPA never believed that routine agriculture emissions from manure constituted the type of emergency or crisis that CERCLA or EPCRA were intended to address. Animal

agriculture also never understood how the reporting of farm emissions to the U.S. Coast Guard under CERCLA would have supported the legitimate emergency response purpose of those regulations.

The reports that were required under EPCRA had to be made to State and local emergency response authorities in January 2009. At the time, EPA completely dropped the ball. The Agency failed to provide any guidance to farmers on how to report emissions, and it failed to provide guidance to the State and local agencies that were going to receive those reports; and, as a result, chaos ensued.

Almost all producers trying to report emissions had difficulty reaching State and local emergency response authorities either because phone lines were overwhelmed or fax machines just ran out of paper. Those who did manage to get through and submit reports were met with disbelief and confusion. Statements such as "Why are you submitting this to us?" and "What are we supposed to do with this information?" were common. In Illinois, for example, farmers were told there was no rule requiring reporting and that this was merely an internet hoax. In the southeast, EPA told local authorities that their reports were supposed to be submitted to EPA's Water Office.

In the wake of that chaos, NPPC and other agriculture

groups, in early 2009, filed lawsuits challenging EPA's 2008 rule. Last April, the D.C. Circuit finally ruled in this case, throwing out the agricultural exemption from the two reporting rules and forcing tens of thousands of livestock farmers to figure out how to estimate and report their emissions. The latest industry estimate of the number of animal producers now subject to reporting requirements is over 200,000.

While the pork industry is certainly prepared to comply with CERCLA and EPCRA once the appeals court mandates take effect, it should be noted that EPA, the U.S. Coast Guard, and State and local emergency response authorities have all gone on record saying not only is there no need for this information, but that its volume will create a major management challenge for them and that it will interfere with their other legitimate emergency functions. It is for this reason that NPPC is supporting a legislative fix to address the requirements in CERCLA and, if possible, EPCRA, and we urge members of this Committee to do likewise.

To conclude, pork producers are proud of their environmental efforts over the past 50 years, a period that has seen the amount of pork produced double, while the use of feed, water, and land has been reduced significantly and our carbon footprint has decreased by 35 percent. NPPC and the U.S. pork industry stand ready to work with Congress, federal and State

agencies, and anyone who is willing to work with us to help producers improve our environmental stewardship efforts and to address new challenges. Thank you.

[The prepared statement of Mr. Hill follows:]

Senator Barrasso. Thank you very much, Dr. Hill.

Secretary Scuse.

STATEMENT OF MICHAEL SCUSE, SECRETARY OF AGRICULTURE, STATE OF  
DELAWARE

Mr. Scuse. Good morning, Chairman Barrasso and Ranking Member Carper, members of the Committee. I appreciate the invitation to speak to you today about the impacts of federal regulations and policies on American farming and ranching communities.

Delaware has benefitted from many of the environmental policies and regulations that have come from our federal partners. We are able to see examples on a daily basis that are benefitting not only our family farms, but also the State and our efforts to improve the overall environment.

Middletown, Delaware, once a large farming community, continues to have good neighborly relations today. While our understanding of agriculture might not be the same as the original farm community, Middletown citizens have embraced agriculture through education and advocacy from the local agriscience programs, cooperative extension, as well as farm groups.

As you can imagine, the influx of additional residents has increased the usage of water resources, while farmers still need to irrigate their crops. Through the town's wastewater treatment plant, wastewater is recycled and used to spray irrigation on those neighboring farms, as part of the Chesapeake

Watershed, making sure runoff does not occur, it is extremely important.

Delaware farmers are able to utilize a variety of conservation practices supported by research. The monies that are provided for conservation districts and supplemented by USDA NRCS have been extremely important in enhancing and supporting the usage of cover crops. These crops not only can reduce the amount of soil loss from wind and water erosion, but can also scavenge residual nutrients and release them during the next growing season.

EPA has helped generate funds to support one of the best nutrient management programs in the Country, thanks to now Senator Carper, then-Governor Carper. With a talented staff dedicated to helping farmers and protecting the environment, we have been able to update our compliance standards, meeting the regulations set forth by EPA. We have been able to fund collaborations with third-party specialists, like Tetra Tech, to develop modeling and enhanced data to support our new compliance standards.

The Renewable Fuel Standard has increased demand for corn. In 2000, American farmers produced 10 billion bushels of corn. By 2016, farmers were producing 14.6 billion bushels of corn to meet the demand. Many people look at the Renewable Fuel Standard creating a demand for corn dedicated to ethanol that

improves our air quality and lessens our demand on non-renewable resources, but it also created additional feed markets.

Poultry litter relocation programs have spawned a growing industry between poultry farms without acreage to utilize those in need of fertility. It has offered an alternative option to farmers who have phosphorous overload and cannot apply poultry litter to their fields. The program has also created compost products and pilot energy generation projects.

In Delaware, we have noted climate changes, including patterns of increased temperate with risk of drought and extreme rainfall events. In addition to the obvious effects of increasingly frequent drought conditions, climate change is also predicted to result in higher frequency and intense rainstorms. Increasing intervals of intense storms presents a risk for agriculture BMP practices that are designed for trapping and treating capacity for storm water or combined water flows from agricultural areas. These intense rainfall events will impact crops as the timing of these intense rainfalls could result in crop failures, such as when the crop has not yet emerged in the early development, and thus much more susceptible to flooding.

In some cases, rainfall can also destroy older crops, particularly fruits and vegetables, like watermelons and cantaloupes, that have substantial input cost. Likewise, warmer winter temperatures can lead to fruit trees setting earlier

blossoms, which increases the chance of frost-freeze damage, as was witnessed in the Mid-Atlantic in the spring of 2016.

Lastly, as the climate warms/changes, there is the chance that certain agricultural and forest pests may expand their ranges. For instance, some pest ranges may have been limited by cold temperatures. But as that maximum low temperature for an area rises, then that pest now is able to expand its range and survive where it previously could not.

The Delaware Agriculture Department is partnering with USDA NRCS on agriculture conservation through programs like the Environmental Quality Incentives Program, that help with cover crops and practices that improve our environment and the Agriculture Conservation Easement Program, or Ag Land Easements, that benefit Delaware's Farmland Preservation program. But there is a need for streamlining efforts. The ACEP-ALE was instituted, replacing an older program, and it took us three years of negotiation until terms were agreed upon. In those three years, Delaware lost its funding.

The uncertainty and continuation of deadline extension surrounding CERCLA has caused confusion for producers and States, and there is a need for a legislative fix. We cannot keep putting farmers on notice, wondering when they will be hit with legal liability for untimely or inaccurate reporting.

Farmers and ranchers value and understand the need to

protect waters of the U.S. The Department of Agriculture and the States are willing to put the effort to assist farmers, but we would appreciate a common-sense approach to address the issues, as well as timely outreach and education materials to WOTUS. We need a clear definition that is objective.

Finally, an additional option to improving the environmental conditions would be to remove environmentally sensitive tillage acreage from consideration, changing the CRP program acreage from 24 million to 30 million acres.

Ladies and gentlemen, our farmers and ranchers are in fact the first true environmentalists, and I want to thank you for the opportunity for being here today.

[The prepared statement of Mr. Scuse follows:]

Senator Barrasso. Thank you very much for your testimony.

Mr. Teske.

## STATEMENT OF DONN TESKE, VICE PRESIDENT, NATIONAL FARMERS UNION

Mr. Teske. Thank you, Chairman Barrasso, Ranking Member Carper, for this opportunity to visit today.

And especially thank you, Senator Moran, for that more than gracious introduction. I have had the honor of considering the Senator a friend for many, many years, and the bad thing about that is he learns all the dirt on me, so this makes me a little nervous.

My wife, Cathy, and I farm a farm operation in Wheaton, Kansas, in Pottawatomie, on the eastern edge of the Flint Hills. It is ranching and cropping. We farm it along with our children and grandchildren, and we got a slug of grandchildren. Grandchildren are fun. I am the fifth generation on the farm. God willing, our children will be the sixth and grandchildren seventh, and my goal here today is to work together to try and figure out how to give them a world they can prosper and thrive in.

I currently serve as Vice President of the National Farmers Union. I am not quite sure how that ever worked out, but, when I was contacted to visit with you today, my initial thoughts were to decline the invitation; I thought it would be too controversial and didn't think I was any expert to talk about it. Upon further contemplation, I kind of suspected that most of the testimony would be pretty aggressively antagonistic, and

I see that was right.

[Laughter.]

Mr. Teske. And I thought maybe my experiences with the EPA and some of my thoughts could bring some perspective to it all. So, this is a good discussion to have.

Most of us in this room are of the age to remember when the rivers were burning in our cities. We fixed them. It didn't break us. Our goal through this is to create a world for our grandchildren that they can thrive and prosper in, and it is our responsibility. This isn't something to push off on our children. And it is too late for our ancestors.

So, somehow, we have to figure out how to work together to protect our environment and to allow our farmers to farm profitably. And we can do that. But throwing the baby out with the bath water by eliminating all regulations is just irresponsible. So, we need to work together and think how to do this.

I already have Rob's ulcer acting up I am rambling away from the script, but he will have to put up with that.

My next thing I wanted to talk about was WOTUS. When WOTUS was introduced, it created a vicious backlash, and probably rightly so. It wasn't prepared right; it wasn't introduced right. Administrator Jackson appointed me to a Farmer Rancher Advisory Committee to the EPA and then, later on, Administrator

McCarthy reappointed me to that, and it is called, and I have to read it off. I have a button and I can't even remember how to say it.

It is the Farm, Ranch, and Rural Communities Federal Advisory Committee. So, anyhow, that is actually a pretty good deal. I consider it a conduit between rural America and the wonks in the EPA, and that is a good thing. We were never brought into this discussion as WOTUS was developed or introduced, and I wonder how a farmer relationship in there might have changed that and how it might have been perceived.

Another grumbling point along that is the fact that in over a year, we have not had a phone call or an email, so it shouldn't really matter what administration is in charge. I think the communication between rural America and EPA would be a good thing. Why has that ceased to happen?

I need to hurry up or I won't cover the top parts.

In the 1990s, I worked for the Kansas Rural Center's Clean Water Farms Project. This is a win-win thing. This was EPA 319 Funds, and I worked with farmers across the State of Kansas improving their water quality. They get a stipend grant to help them toward that. We hosted tours on it to show their neighbors what they were going. It was all just great. And this is an example of how good things can happen as you do this.

Another great thing was Farmer's Union's Carbon Credit

Program. We were the Nation's leader in carbon sequestration; it was modeled after the successful project of the Iowa Farm Bureau. We had over 5 million acres enrolled in carbon sequestration practices and they got paid a stipend for that. These are good things.

The Renewable Fuel Standard. I have seven seconds to talk about it. Keep it; it is a good deal.

[Laughter.]

Mr. Teske. Thank you.

[The prepared statement of Mr. Teske follows:]

Senator Barrasso. Well, thank you very much for your testimony.

Thank you, Senator Moran, for taking a picture of him as he just concludes that testimony. He can keep talking if you need to shoot him. Take three or four.

Senator Moran: The Chairman never gives anyone more time.

[Laughter.]

Senator Barrasso. Let me get started.

Mr. Secretary, I noted that you gave positive remarks about the Renewable Fuel Standard, the RFS, in your testimony. I would just note that just last week your boss, the governor of Delaware, petitioned the EPA to reduce the burdens of the Renewable Fuel Standard on refineries in Delaware and across the Country. Your governor actually stated that the RFS "will undoubtedly severely harm the State of Delaware, the entire Middle Atlantic Region, and the national economy."

And I ask unanimous consent to enter that governor's petition from the governor of Delaware in the record.

[The referenced information follows:]

Senator Barrasso. Mr. Hansen, like many producers in the West, you have a great deal of experience in dealing with federal agencies that administer grazing permits. You have also worked for decades with the agencies, the University of Wyoming, State experts to develop and to maintain coordinated ecosystem monitoring. You have seen the NEPA process in action countless times.

Can you describe for me the differences that you have seen before federal NEPA processing and the State process for things like range management improvements, economic, environmental in terms of value of public lands?

Mr. Hansen. Thank you, Mr. Chairman. When we were working with the State of Wyoming, probably the biggest issue that we deal with is water development, and we are generally looking at about a six-month process to turn the permits around with the State of Wyoming. Depending on which watershed I am in, working with the BLM, I am guaranteed at least a year, probably two, occasionally more. The paperwork and time involved is just ridiculous and very burdensome.

Senator Barrasso. In your discussion with fellow ranchers in Wyoming, are you more or less confident in the economic direction of ranching and farming under this Administration versus dealing with the previous Administration?

Mr. Hansen. Yes, very much so.

Senator Barrasso. Okay. And what do you think has changed to make things better for ranching and farming in Wyoming and in other States?

Mr. Hansen. Definitely have a can-do attitude in the agencies. There is a desire to work with the people on the land again, back to what we had prior to the last Administration. We had people in the agencies that were reaching out and identifying issues that we could get together on. Prior to that it was a very negative environment and the morale in the agencies was horrible; we were losing good people right and left.

Senator Barrasso. I think at the end of the answer to your previous question you talked about how much time it takes to do some of this federal paperwork. You know, in 2008, when the EPA provided an exemption to small farms and ranches from reporting animal waste emissions under the Comprehensive Environmental Response Compensation Liability Act, CERCLA, and EPCRA, the Agency determined that limiting the scope of reporting under those two laws would reduce the time burden on farms and ranches required to report. This was the estimation then of the EPA in 2008: 1,290,000 hours over a 10-year period.

Now, the D.C. Circuit Court overturned that exemption, as you know, in April of 2017, forcing farmers and ranchers to report all of these things. So, Mr. Hansen, Mr. Hill, and

Duvall, the producers that you represent, do they have the ability to spend this kind of time trying to comply with these laws?

Mr. Hansen. Mr. Chairman, the major problem, no, we don't have the time. But we don't have the tools. There is no way to do it on a range livestock operation. It is impossible.

Senator Barrasso. Mr. Duvall?

Mr. Duvall. Yes, sir. You know, when we start thinking about reporting, and I expected this question would probably come up because it is a big issue across farmland, there is an individual farm concern that we have, but I would like for the Committee to think about two other concerns, one being public safety concerns. You know, if we asked 200,000 farmers to report to the National Response Center, which they have to respond to, it would overwhelm them and draw resources away from actual emergencies.

The second issue I would like for you to think about is a national security issue, because as our farmers start reporting their animals and what is being emitted there, then we are going to create a roadmap that anybody can find any farm anywhere where our food system is produced; and those people that lurk around our world trying to do harm to our Country and to our people will have access to our food supply, and that is a very dangerous area to go into.

And then I will talk about the individual farmer. The individual farmer will have to give up his personal information, where he lives, and that exposes him to being harassed by activists all around. And don't think that is not happening, because it does happen.

Senator Barrasso. Dr. Hill, anything you would like to add to this?

Mr. Hill. Yes. As my friend from Wyoming has said, they don't have the tools to do that, and the NAEMS Study was designed to help EPA develop those factors, which that program was done back in the early 2000s and still hasn't been completed. We would at least like to see those factors developed so that producers do have some way of estimating, and it would only be estimates of what their emissions are in case they do have to report it.

The other thing is we don't consider farming and the emissions from a farm as an emergency; that is an everyday process. And we ask ourselves who wants this information, and, in some cases, it is the advocates that don't want livestock production, and they can misuse that information. In the case of Prestige Farms, who was trying to build a packing plant in Mason City, Iowa, they had reported back in earlier their emissions and 45 farms, and the activists brought that information and made the people in the community believe that

those 45 reports were violations and got the people so aroused that they eventually voted down allowing that packing plant to occur.

Senator Barrasso. Thank you very much.

Senator Carper.

Senator Carper. I was asked by Senator Booker to yield to him. I am happy to do that.

Before I do that, I would just ask unanimous consent to submit for the record a document that demonstrates the robust benefit, as pointed out by Secretary Scuse, of the Renewable Fuel Standard in Delaware and also in other parts of our Country.

The issue that is before us here is East Coast refineries and how they are affected by the volatility, the lack of clarity, opaqueness, if you will, of RINs, and that is the issue that our governor is raising. EPA could help us resolve this, and we have asked them to help us do that, to play a constructive role, and my hope is that they will.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Barrasso. Senator Booker.

Senator Booker. Thank you very much, Chairman Barrasso, and thank you for your generosity, Senator Carper.

In 2006, residents from Duplin County, North Carolina came to Washington, asking for help. Now, there are about 60,000 people that actually live in this county in North Carolina, but there are more than 2 million pigs being raised there to produce pork. And the waste from 2 million pigs, as you probably know, Mr. Hill, is equivalent to the waste of about 20 million people that would produce. And the primary way pig waste is being disposed of in Duplin County is by piping it into huge open-air manure lagoons and spraying the waste out onto open fields.

These residents came to Washington complaining about suffering from very serious respiratory problems like asthma, higher rates of asthma, higher rates of eye irritation, depression, and numerous other health problems caused by living near these lagoons and the spray fields.

I was so astonished by this, we don't really have these in New Jersey, that I actually went down to Duplin County to see, firsthand, what was going on. I saw the pig waste being sprayed; I watched it with my own eyes. I saw how it was misting off of the spray fields into the local community, carrying it onto adjacent properties, and the wretched smell, everywhere we went, around there in people's communities and

their homes is something I won't forget.

I met with local residents in a large group and heard their stories, painful stories about how the drinking water in their wells has been poisoned by runoff from the CAFOs and how they felt like prisoners in their own homes; how they couldn't run their air conditioners, couldn't open their windows.

So, while I agree that we need to make sure our farmers do not have unnecessary government regulations and red tape, I also know that something has to be done about these horrible conditions I saw that nobody would want their families to live in that is harming farmers and the communities they live in. And I really want to be clear here, because I do not think it should be contract farmers, who, too, are living in challenging conditions, often making very low wages at really rough margins. I don't think these folks, these good, hardworking Americans, some of the most hardworking people I have made, they should not have to solve this problem.

It is the big, huge integrators who make billions of dollars in profits. One of the biggest companies down there is a Chinese-owned company that in many ways, with the pork that is being shipped to their country, they are outsourcing these problems to us, while taking the benefit of our pork.

So, Mr. Hill, my time is short, but this was one of the more painful things I have seen as an American. And it is a

long answer to the question, I am sure, so just to respect my time, my limited time, could you please provide to me a written response for the record about what steps your industry is taking to reduce the harmful impact of the kind of CAFOs that I saw and they are having on real American people? Could you provide that answer for me in writing, sir?

Mr. Hill. Possibly, we could do that. You know, we have the largest population of swine in Iowa, and we have used new technology to apply manure.

Senator Booker. And, sir, just for my own time, I apologize, I don't mean to interrupt you, but I have other questions. Could you just respond in writing? What I saw there, no human being should have to live in those conditions. The property values around those CAFOs have gone way down. People have been on that soil since the 1800s. Please just respond to me in writing, because I have some other questions I would like to ask you, Mr. Hill.

Mr. Hill, some of these family farmers are right behind you, incredible Americans who I have come to just have a reverence for and respect. They are in the hearing room today, including some hog farmers amongst them. They have expressed serious concerns to me about a different problem, the Pork Checkoff Program, which they are required to pay into, but too often feel doesn't work to their interests.

As you know, last week a federal court found that payments of millions of dollars of checkoff funds from the Pork Board to your organization, the Pork Producers Council, were improper and they said they must stop.

Senator Lee, a Republican Senator from Utah, and I have introduced a bipartisan bill that would make reforms to the Checkoff Program. So, do you agree that it would be beneficial to make those programs more transparent so that family farmers like the folks behind you, who are doing so much of the real work in America, can quickly see the budgets and expenditures that are approved by the USDA?

And do you agree that it is good to have periodic independent audits of those checkoff programs so there is a fundamental fairness for, again, these small family farmers who are struggling so much? And do you agree that checkoff funds should only be used in ways that benefit all farmers paying into them, especially and including small family farmers that are here today?

Mr. Hill. And they are. They are being used to the benefit of everybody. We export, now, 26 percent of all of our pork. That increases the value of every pig about \$50. In 1993, we were a net importer of pork. So those funds are used for a lot of different things, but part of it is used for developing customers outside of the United States, which our

industry depends on, which helps every producer that is raising pigs.

Senator Booker. My time has expired, Mr. Chairman, but a judge has disagreed with the gentleman's answer, and you can see from the heads shaking back and forth no, there are a whole bunch of local farmers around this Country who are not getting the benefit and feel really mistreated by this program. I think it is something that we and Senator Lee and I are trying to lead this, that we should reform and change.

Senator Barrasso. Thank you, Senator Booker.

Senator Inhofe.

Senator Inhofe. Thank you, Mr. Chairman.

You know, in my work on this Committee, and having chaired the Committee for a number of years, it is not difficult to understand and come to the conclusion that a lot of these costly and outrageous rules are about one thing and one thing only, and that is control, and primarily federal control.

I have looked at some of the regulations that this Administration has done away with, and I tie that directly to the success, economic success, the GDP that is coming in and jumping up from 1.5 percent a year to over 3 percent a year; and good things are happening.

One of the regulations that I was trying to do away with, and this was a year ago, it was the first one that this

President was successful in doing away with with the congressional review process, was a rule that was put in by the previous Administration that said that if you are a domestic oil or gas company and you are competing with China or someone else, you have to give them all of the playbook that you are using, actually putting them at a disadvantage over our opposition overseas.

Now, it was easy to draw up a CRA and pass it. It did pass; we had a signing ceremony. But, you know, the fact that we have all these regulations out there is really pretty outrageous.

Mr. Duvall, you mentioned in your opening statement, you talked about the WOTUS bill. Now, I know that when I went around my State of Oklahoma before, you took a position, and most of the other organizations took the same position that are representing farmers, that in my area of Oklahoma, in western Oklahoma, it is very arid, and those people out there, of all the regulations that were put in by the previous Administration, that was the number one regulation, and it ended up being the number one regulation also from the American Farm Bureau and other organizations.

So, I would just ask you if there is anything that you didn't say about that particular regulation that would either be costly, how it would be costly or inconvenient, and have a

negative effect.

Mr. Duvall. Yes, sir. If you start looking at some of the conservation practices that we put on the ground to protect our soil and water on our farms, and you start transitioning land from one use to another, not commercial to agriculture, but one agricultural practice to another, there are unbelievable permitting procedures that certain areas of the Country or the Country has to go through to be able to do that.

Senator Inhofe. Are you familiar with the panhandle of Oklahoma?

Mr. Duvall. Not really. I am coming to the panhandle of Oklahoma, though.

Senator Inhofe. Their concern was, after a rain, that could, all of a sudden, be considered to be a wetland.

Mr. Duvall. Yes, sir.

Senator Inhofe. And, all of a sudden, you lose the State jurisdiction and the federal jurisdiction takes over. Do you see that consistently around the Country?

Mr. Duvall. I see it consistently, and also I see a variance of determination between agencies of what really is a wetland, what is not.

Senator Inhofe. That is exactly right.

Mr. Duvall. And it is unclear to farmers how they can perceive what their land really is.

Senator Inhofe. I appreciate that very much because that certainly is true.

Mr. Hansen, I want to do this real quickly here because you probably are familiar with what we try to do with the Lesser Prairie Chicken and the ESA. We had seven States, I am sorry, five States, Oklahoma, Texas, Kansas, New Mexico, and Colorado, that got together and they determined what they could do and what kind of reform that they could have, and everyone agreed it was near perfect, it was everyone deciding at home what the solution was.

Now, you sometimes wonder if we go through all that trouble through the private sector, the landowners, and the landowners we know are the ones who are most concerned about the endangered species, about their own farms and taking care of environmental problems, why it is that you look at others doing that and government just doesn't seem to put much weight behind that? I am talking about local suggestions, local programs that are working. Ever thought about that, Mr. Hansen?

Mr. Hansen. All the time, Senator. It is very frustrating to work on trying to find a solution to an issue that is identified on the land and then have the rug pulled out from under you. In the situation you address, the Fish and Wildlife Service was privy to all the conversations, all the negotiations, the plan that was built. They knew what was

coming; they agreed to it and then pulled the rug out from under those operators.

Senator Inhofe. That is exactly what happened. And, by the way, Fish and Wildlife did agree. They also agree that the best stewards of the land are the landowners themselves, so they need to be listened to also.

Mr. Hansen. Yes, sir.

Senator Inhofe. Thank you very much.

Senator Barrasso. Thank you, Senator Inhofe.

Senator Carper.

Senator Carper. I am happy to yield to Senator Merkley, and I will have a chance to ask some questions later on.

Jeff, we are happy you are here.

Senator Merkley. Well, thank you very much, Senator.

I appreciate you all bringing your experiences here to Capitol Hill. One of the things that is important to my farmers back in Oregon is the Agricultural Research Service. The Administration had proposed a significant cut, \$360 million cut, to ARS and closing 17 ARS laboratories across the Country. And, on a bipartisan basis, we worked to keep that program, recognizing its impact on the yield of our crops, new diseases, and the importance of exploring the qualities of different plants that might work under different conditions.

So, I just wanted to ask you, Mr. Duvall, with your role,

do you support the Agricultural Research Service? Do you feel it is important to American agriculture?

Mr. Duvall. By all means, Senator. It is so important for our Country to invest in research and development in agricultural business. And if you look around the world, we are being outspent in research and development dollars, and that really is alarming to us and very concerning to us, that other parts of the world are having the opportunity to catch up and go ahead in some areas. So, research and development is a very key thing that we need to do to help our farmers stay on the cutting edge and being competitive in the world.

Senator Merkley. Well, I am not sure what the next Trump budget will look like, we will have it soon, but if it proposes cuts again, I hope we will have your support, continuing to preserve those programs.

A second piece that is important to a number of my farmers and ranchers are the conservation programs, conservation stewardship program, Environmental Quality Incentives Program, or EQUIP. This weekend I was out visiting 16 little towns in Northeast Oregon. In one of the towns I met with a rancher who is also a local county commissioner, and he said his ranching operation would have gone down if it wasn't for the conservation program that helped provide support and resources to make the balance, if you will, the books balance. And I hadn't heard it

put quite in those terms, that it made the difference between making it or not making it, but, in general, is the Farm Bureau supportive of these conservation programs?

Mr. Duvall. Yes, sir. You have also hit on another topic that is very important to us. You know, if we are going to be required by regulation to do certain things, and, of course, as farmers, we want to be able to take care of our land and our water, so to have a partnership through those programs with the general public and the government, a partnership, and I will emphasize that, to help us do the right thing, help us do the right thing, because we are making huge investments ourselves in those same projects.

Senator Merkley. Well, these are voluntary programs that I think is pretty much a win-win for everyone.

Mr. Duvall. It is voluntary and it is cost-sharing.

Senator Merkley. By the way, he also talked to me about his concern on the Sage Grouse, because we have had a voluntary program where ranchers can essentially adopt a certain number of measures, and then they are protected from any rules that the Endangered Species Act might invoke in the future by having been upfront and helping, and we had hundreds of ranchers sign up for this in Oregon.

I am not really asking a question about it, I am just noting that they are very concerned about the partnership that

had been put together to try to avoid a listing might fall apart under some of the pressures from the current Administration.

I also wanted to ask about the agricultural workforce. Many of us here from our orchardists, from our wine makers, from our growers in almost every field, the importance of farm workers to make that economy function and that a whole lot of traditional workers that have been there year after year are not showing up under the current prevailing commentary and attitude towards the role of farm workers.

Does the Farm Bureau support working to essentially embrace the role of our farm workers as part of our agricultural economy?

Mr. Duvall. Our existing farm workers that are here in the Country are skilled workers, and our business requires skilled workers, and it is vitally important. It is the biggest limiting factor to farms to be able to be productive, add to the economy of their community, and to be able to create additional jobs, whether it be on the farm or manufacturing or performing finished products of our commodities after we grow them, so it is a critical issue. It is the most restraining issue that we have outside of regulation.

Senator Merkley. I certainly look forward to working with you all as we endeavor to address this challenge. Thank you.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Merkley.

Senator Wicker.

Senator Wicker. Dr. Hill, my friend from New Jersey outlined a very graphic situation in North Carolina, and in a minute I want to give you an opportunity to respond to that because the response on the record will be helpful to hundreds of people, but there are thousands of people listening on television. I think they need to know that I think that what you are about to tell us is that it doesn't have to be that way, and in your farms in Iowa you have a solution there.

But what we are talking about with regard to CERCLA and EPCRA is a reporting requirement, and Congress thought, we thought we had recognized that certain farmers should be excluded from this reporting requirement and the U.S. Court of Appeals for the D.C. Circuit disagreed with this exemption. The decision has now been stayed and farmers really don't know where they are.

I notice that Mr. Scuse, in his testimony, Secretary Scuse said that we need a legislative fix. And I think probably, Dr. Hill and Mr. Duvall, you agree with that. Mr. Scuse said, "We cannot keep putting farmers on notice, wondering when they will be hit with legal liability for untimely or inaccurate reporting." So, I think maybe we have bipartisan support here, and consensus, that we need a legislative fix.

I will tell the members of the panel that Senator Fischer and Senator Donnelly, a Republican and a Democrat, intend to introduce legislation this week, the Fair Agriculture Reporting Method Act, which would clarify this rule to exempt all animal feeding operations from CERCLA reporting and small operations from EPCRA reporting requirements.

So, if you could speak to that, Dr. Hill and Mr. Duvall, but also go ahead and finish your thought, which might give some reassurance in Duplin County, North Carolina that they don't have to experience what was described by my friend from New Jersey.

Mr. Hill. Thank you. Well, first of all, I would say we would support that bill 100 percent. We need clarity. What producers fear now is that they are going to use inadequate tools to try to estimate these emissions, and then, if they are wrong, they are going to get huge penalties. So that bill would be supported by us.

I think Senator Booker misrepresented the pork industry in North Carolina. I worked in North Carolina for five years. That is a gross misrepresentation of the farms in North Carolina. They do use different technology than we do in Iowa. They have a growing crop year-round, we do not, so they can use spray fields to apply mainly dewater the lagoons. It is not raw manure that they are putting on the Bermuda grass.

In Iowa, almost all of our manure today is incorporated at the four- to six-inch, number one, to prevent runoff; number two, to prevent smell. So, we feel like we have made tremendous progress in this manure application, and there is new technology for pit additives, polymers that reduce odor dramatically that producers are using, that, along with cover crops. We see a tremendous increase in cover crops in Iowa. So I think producers are trying to do everything they can to be good stewards.

Senator Wicker. Mr. Duvall, what would the Farm Bureau think about this legislation that I described from Senator Donnelly and Senator Fischer? And do we agree that what we are talking about here is an unfortunate decision by the Circuit Court about a reporting requirement on these small operations?

Mr. Duvall. We do agree with that, Senator, and we applaud the Senators that are getting involved in trying to fix something that is wrong, that is wrong, and be very difficult. My neighbor to my left here has explained it very eloquently. It would be put our farmers at risk. I have 400 mama cows that have a calf by their side, spread over 1,500 acres in Gainsbourg, Georgia. How in the world am I going to monitor that? How am I going to report that? And then I have four chicken houses. How am I going to report the emissions of those animals?

It just puts us a big liability. There is no need in doing it and it was not the intent of the Congress that we think it was, so we would agree with that and applaud it.

Senator Wicker. Thank you very much.

And thank you, Mr. Chairman.

Senator Barrasso. Thank you.

Senator Duckworth.

Senator Duckworth. Thank you, Mr. Chairman.

And thank you to our witnesses for joining in this very important conversation.

In my home State of Illinois, the agricultural community is our backbone, but also our heart. I have witnessed firsthand how, when our farmers thrive, the entire State thrives.

One policy of critical importance to our farmers is the Renewable Fuel Standard, which requires our transportation fuel to be mixed with biofuels. Since it was enacted, the policy has helped us cut our dependence on foreign oil and our greenhouse gas emissions, which is critical to our efforts to combat climate change.

It is also an important economic policy. In Illinois alone, the RFS supports more than 4,000 jobs and generates more than \$5 billion in economic impact. Nationwide, it supports 86,000 jobs and has helped generate \$8.7 billion in tax revenues that go to schools, roads, firefighters, all the first

responders.

Mr. Scuse, can you please share how the RFS is helping revive rural and agricultural communities?

Mr. Scuse. Sure. Thank you. Thank you. I would like to comment on the Chairman's comment earlier about Governor Carney and his opposition to the Renewable Fuel Standard. It deals with the purchase of the RINs, or the credits, and the blending, and that is something that needs to be addressed because of the speculation that has driven the cost of those RINs up, and that is something that does need to be addressed.

But when you look at the Renewable Fuel Standard and what it has been able to do for our rural communities, we are producing 4.6, 4.8 billion bushels of corn now every year. If we weren't using approximately 4.5 billion bushels of that for the ethanol industry, which is improving our environment, the price of corn would be so far below production that we would not be able to produce corn in this Country.

And when you look at the feed value of the by-product, in 2012, when we had one of the worst droughts in the history of the United States and there were those that were arguing to set the Renewable Fuel Standard aside because of the fear that there would not be enough corn, livestock producers -- I traveled across the United States talking to producers during the drought -- livestock producers in every single State that I visited said

please do not allow EPA to set that fuel standard aside; we need the dry distillers grain to feed our livestock, whether it was the dairy industry, the pork industry, or the beef industry.

So, when you look at a more cost-effective feed, if you look at the money, and Senator Moran said it like you just did, the health of our rural communities is depending on the health and well-being of our farmers and ranchers in this Country, and the Renewable Fuel Standard has done that; it has created jobs, it has improved the environment, and it has given our producers another outlet for the crops that they produce to help keep those rural communities viable.

Senator Duckworth. So changing biofuel production in this Country, as EPA Administrator Pruitt, who comes from an oil-producing State, has called to do for the RFS, could actually negatively impact farm prices and farm income.

Mr. Scuse. Yes, it could have, and would have, a large negative impact on the price that our producers are receiving for the corn that they produce. And the reality is most vehicles on the road today could use E-15. And we now have stations across the United States that are now putting in blend pumps so that producers or consumers have a choice, they can get E-15; and in many cases now there are stations that are providing E-85, so I think that is the direction that we need to go in, with a renewable energy, not one that we have to pump out

of the ground that is not renewable. And, again, this one is helping our rural communities across the Country and our livestock producers.

Senator Duckworth. Thank you. I have been burning E-85 in my F-150 since 2006, so she burns nice and clean.

Fifty-five percent of my home State is experiencing drought conditions, and the trend nationally is that drought conditions are on the rise. Whether you believe they are associated with changing climate or not, the fact is that our farmers and ranchers are concerned that growing seasons are changing, and not necessarily for the better.

Mr. Teske, as a farmer and a leader in the agricultural community, can you please share what types of tools and resources farmers and ranchers need to help you adapt to these changing climate conditions?

Mr. Teske. Thank you, Senator Duckworth. In Kansas, it is very obvious that we have a changing climate, and so, you know, I see farmers getting ready to plant corn and going out in the fields in March, and I go to just shake my head. You know, there is a coffee shop thing that everybody here, they get their machines ready and then they want to be the first ones out in the field, but actually it is working more and more. In my own operation, I was an organic farmer for 13 years. I finally gave that up because of the changing weather patterns. And our

springs have changed so much that it got to the point where I couldn't slip in between weather events and get the ground worked up and worked down and planted, so I had to change my operation to match the weather patterns. I wish I was still organic.

Farmers are planting more and more on catastrophic events. I heard the governor of Iowa, a few years back, talking about it was the goal of Iowa to deal with climate change by tiling the entire State. You know, weather patterns affect different areas dramatically, and I happen to be on top of the world, so I don't have to worry about floods, but I do have to worry about maintaining my stream banks and dealing with ever-changing climate, especially with livestock.

Senator Duckworth. Thank you. I am out of time, Mr. Chairman.

Senator Barrasso. Thank you, Senator Duckworth.

Senator Fischer.

Senator Fischer. Thank you, Mr. Chairman. I am very excited you are holding this hearing today. I am a rancher, so I appreciate Senator Duckworth's comments about farming and ranching communities as the backbone and the heart of a State, because that is true in Nebraska as well.

So, thank you, Senator.

And what a great panel we have; Farmers Union, Farm Bureau.

I loved your comments, sir, on the RFS and E-15. I have some legislation on that, so that is great.

I appreciated, Dr. Hill, that you had the opportunity to respond when Senator Wicker asked you to earlier comments made by Senator Booker, so I appreciate that. My husband and I, we do have a cattle ranch. Our sons are fourth generation Sand Hills ranchers.

We understand conservation. We understand being true environmentalists. Our family does; our neighbors in the Sand Hills do; ag producers all across the State of Nebraska do; and ag producers, farmers and ranchers, all across the United States understand it. We take care of the land. We live on the land. We want clean air, we want clean water, and we manage our livelihood, our lives to make sure that we have that and that we continue to preserve it for future generations.

I am going to talk to another rancher now. So, Mr. Hansen, thank you so much for being here. I would like to build off of Senator Barrasso's comments a little bit, if we can. In your statement, you discussed reporting requirements for animal waste odors under CERCLA and the EPCRA, and with CERCLA reports, those are directed to the National Response Center, and that is operated by the United States Coast Guard. I don't know if people are aware of that.

They are used by the Federal Government to facilitate a

Government-coordinated emergency response effort to animal waste odors; and, to me, this really doesn't make a lot of sense. Not only is there no added value of these reporting requirements, but the abundance of farm reports is going to jam up the response personnel at the National Response Center and prevent them from responding, I think, to true emergencies.

Mr. Hansen, can you please describe what measures cattle producers would have to take to comply with all of these reporting requirements?

Mr. Hansen. Thank you, Senator. We have no tools to do that, so I can't answer the question, I'm sorry.

Senator Fischer. Well, then you can't fill out the report, right?

Mr. Hansen. Pardon?

Senator Fischer. You can't fill out the report.

Mr. Hansen. Exactly.

Senator Fischer. Right.

Mr. Duvall and Dr. Hill, you both were talking about privacy concerns with these reports, and also concerns with activists coming onto personal private property. Do you have anything to add to comments that you made earlier on that, either one of you?

Mr. Duvall. You know, our farmers and ranchers are in a very difficult economy right now; we don't need to put any

burden on them. And this presents a huge liability issue for them. Farmers and ranchers aren't doing anything wrong out there, but when you give them a tool as far as reporting there, and I would answer the same, we have no way of measuring that.

And we would have to hire some expert, and the Government could disagree with the expert and make us hire a different one and spend thousands and thousands of dollars that we can't afford to do in a very bad economy. Even when it is good we couldn't afford it.

Senator Fischer. Thank you.

Mr. Hansen, you also mention in your written testimony the compliance challenges producers face as a result of the Spill Prevention, Control, and Countermeasure, the SPCC rule for on-farm fuel storage. And while WRDA did include a provision that I championed that would provide more flexibility, this overreach continues to weigh heavily on the minds of farmers and ranchers in Nebraska and across our Country.

As you noted, this rule was originally applied to oil refineries, but now ag producers are being forced to also comply. So, what do you believe must be done so that we can alleviate that burden of that SPCC rule for our farmers and ranchers on the fuel storage?

Mr. Hansen. Thank you, Senator. You know, I guess I would have to say we just need to exempt the people out on the ground.

It is such a different situation; the risk is minimal compared to what the Act is designed to address.

Senator Fischer. Right. And in the previous Administration there was a study done that we had requested on this Committee, and I would just point out that one of the areas studied was leakage with jet fuel. I don't know too many farms and ranches that have jet fuel there. So, I think when you have a flawed study, it leads to flawed policy and flawed decision-making.

So I would hope that we could move ahead not just on the CERCLA rule, but also on the SPCC and in other number of rules that are out there that people on the land, everyday producers who are trying to take care of their families, take care of their communities, find such a disadvantage in trying to fight government every single day.

Thank you.

Senator Barrasso. Thank you, Senator Fischer.

Senator Carper. Thanks, Mr. Chairman.

I will start on a lighter note. Before we started the hearing, I asked Mr. Duvall, I said, where did you get a name like Zippy, and he told me, and I think this is worth repeating, just very briefly, Mr. Duvall, also known as Zippy. I don't know many Zippys

Mr. Duvall. Mr. Senator, this is the first time I've ever

been asked that.

Senator Carper. Probably in a congressional hearing.

Mr. Duvall. In a congressional hearing, I will tell you that.

Senator Carper. We could put you under oath, if it is necessary.

Mr. Duvall. Well, by my father's words, he said I was my mother's first C-section, second child. He was wanting a big family so he could get all his farm work done, and it disappointed him, so the nurses said, that's a piece of cake; we'll put a zipper in her stomach. So, I got nicknamed Zipper and it got moved over to Zippy in the years to come.

Senator Carper. Does not seem to have impeded your progress in life, Mr. President.

Mr. Duvall. Thank you, Senator.

Senator Carper. Mr. Teske, I wanted to just clarify what I think you said earlier. In the past year, I understood you said the Agriculture Advisory Committee has not yet heard from this Administration. Is that what you said?

Mr. Teske. Could you repeat that?

Senator Carper. I thought I heard you say earlier, you talked about hearing from the previous Administration, I think with respect to the Agriculture Advisory Committee, and I think you also said that you have not heard yet, by phone, by email,

whatever, from the current Administration. Did I hear you correctly?

Mr. Teske. Yes. Administrator McCarthy had reappointed me right before she left that position, with the intention of having some continuation from the previous advisory group to the next advisory group, and so I would have liked to have thought that, if there was any action going on, I would have known about it, and it has been total silence.

Senator Carper. All right, thanks.

Mr. Teske. I think that is a loss for us all.

Senator Carper. I think you are probably right. Thank you for telling us that.

If I could, Mr. Secretary, Secretary Scuse, a question relating to waters of the U.S. Help us to understand, was it not the intention and the result of the Obama Administration's Clean Water Rule to create certainty in the regulatory process?

I heard for years that farmers didn't understand; they needed clarity in terms of where they would get in trouble. Developers needed clarity and certainty, predictability, with whether they would get into trouble by developing or raising crops in ways that were inconsistent with the Clean Water Act. And, as a result of that, the effort was launched to develop what we call the waters of the U.S. We did literally a town hall meeting on a farm in Delaware, as you may recall, and had

farmers there, developers there, and we had folks from EPA, from the Army Corps of Engineers. This was like a couple years ago, to actually understand what was being asked; what was needed in the way of certainty.

And it sounds like, from some of the testimony we have heard here and comments in other places, that everything was fine and we didn't have uncertainty before. Actually, I think we had a lot. So WOTUS was an effort to try to deal with that.

You were in the middle of this as the Acting Secretary, the Acting Deputy Secretary, and so forth, so your thoughts, please, I think would be illuminating. You were on the inside.

Mr. Scuse. Thank you, Senator. I think, you know, we need to take a step back and look at why all of this happened. And if memory serves me correctly, all of this resulted from a Supreme Court hearing with the EPA in the Chicago area, where there was a wetland that they deemed was waters of the U.S. that was not connected to any other waters.

So, when you look at the confusion with that case, and then the EPA attempted to define what in fact were waters of the U.S. and the overreach by the EPA in attempting to come to what constituted waters of the U.S., I think that is when we started down the road to look at what does constitute waters of the U.S.; what do we need to put in place to protect certain waters that we have across the United States.

So, the last Administration attempted to bring that certainty, in fact, to the producers and to other areas of the United States to show what in fact was waters of the U.S.

As the Senator pointed out, there were the hearings in the State of Delaware, reached out to all of our communities that we thought would be impacted. But, unfortunately, I don't know, Senator, that that happened in other areas of the United States. But this was an attempt by the Obama Administration to bring some clarity that was being demanded by all the sectors; not just the agriculture sector, but other sectors as well, as to what did in fact constitute waters of the U.S.

Senator Carper. Thank you very much. My recollection was that as the Waters of the U.S. rule was being developed, there were four years of extensive public outreach and regulation development, four years; hundreds of meetings with farmers, ranchers, developers, State and local leaders, and others, including in our State; a review of some 1,200 peer-reviewed scientific studies; robust legal policy and economic analyses; and consideration of over 1 million public comments without any effort to rebut the rule or build a new informed or credible basis to pursue a different course. A million comments, and I am told they were essentially all responded to.

So, I just want to put that out there for the record. Thank you for your clarification, as well.

Mr. Chairman, if I could, maybe one last question, and this will be for the entire panel. Again, thank you all for coming here today. I appreciate what you do in your lives in the real world, the rest of the world, with your families and all, and we appreciate very much your being here and sharing your insights with us, regardless of what your first names are.

As the Chairman knows, I like to look for win-win opportunities, he does too, and rather than being in conflict with one another, I see many potential opportunities for win-win outcomes with regard to environmental policy in farming and ranching communities. You have talked about that today, each one of you have.

For example, if there is an application in fertilizer that could reduce farmers' input costs and reduce nitrogen runoff and greenhouse gas emissions of nitrous oxide, roll till farming is another we oftentimes hear about, but oftentimes there are barriers that prevent us from achieving these win-win outcomes.

We here in Congress can help break down those barriers so that we can then all seize these opportunities, and maybe each of you could just give us a good example of a win-win opportunity out there that is waiting to be seized if we would just seize it, and how you might help us achieve that.

And, if I could, I am just going to start off. I was joking with him earlier, he had his hat on and everything and I

said, I was just listening yesterday to one of my favorite CDs, Glenn Campbell's Greatest Hits. The Chairman and I are big music buffs. And the first song there was Rhinestone Cowboy. You came in here today and I said, there's a rhinestone cowboy.

But, actually, you are the real deal, so would you just lead us off, please, Niels? Would you just lead us off, please? Again, we are looking for a win-win, just an example of another win-win opportunity. You cited a number of them in each of your testimonies, win-win opportunities where cleaner environment, cleaner air, cleaner water, and actually more profitable farming actually coexist well. They work together; they don't exclude another.

But just another, maybe, example of where can do that, should do that. If you have an example of an area that you think is fertile for us to explore and to participate, to help nurture, we would be happy to do that. If anybody else wants to jump in. Zippy, you look like you are ready to say something.

Mr. Duvall. Yes, sir, Mr. Senator. There are a lot of situations where we have regulations that are overlapping and we are looking into things twice, where, you know, if we could just simplify it and do it efficiently, for example, FIFRA has, over 40 years, had the responsibility of doing approval of pesticides. You know, there is no reason for the Clean Water Act to be involved in it and ask them to make the same judgments

that FIFRA has been doing for 40 years. And that is just one example.

You know, farmers and ranchers want to do the right thing; and, in the past, we used to go to our extension service or the FSA to ask for advice and get help and look for a partner for us to do the right thing on the farm. We are scared of our federal agencies now. We are actually fearful of them because we know that they could cost us hundreds of thousands of dollars trying to arrange permitting and hiring consultants and lawyers to be able to get to that.

We want to be a partner with our Federal Government. We want to have agencies that are friendly to us, and we are hoping that we can work with you to make that happen.

Senator Carper. Thank you.

Others, please? Mr. Hill?

Mr. Hill. I would use the example of the nutrient reduction program that we have in Iowa that is supported by our governor, our past governor, and our current governor, and also by our secretary of agriculture. It is a voluntary cooperative project; it was just funded by the State legislature for over a 10-year period for \$300 million. It is projects that producers work in conjunction with State regulatory agencies to put processes in place to reduce runoff, reduce contamination of water, and I think it is the right way to go, a cooperative,

voluntary program, rather than somebody from Washington coming down and saying this is what you have to do. Producers respond to it a heck of a lot better.

Senator Carper. Thank you for that.

I would just say to Secretary Scuse it reminds me a little bit of what we did in Delaware, what we have done in Delaware.

Would you opine for us, too, Michael?

Mr. Scuse. You know, Senator, there are a lot of different examples. You know, I look at what we did in Delaware when we created, when you created, as then-governor, the Nutrient Management Commission and the great things that we have been able to do to help clean up our waters that ultimately discharge into the Chesapeake.

I mean, there is a great example of everyone working together to make that happen. And the latest Chesapeake Bay model, I think you will be pleased to know, will show that Delaware has had tremendous improvements in a very short period of time.

You know, we heard about the act for those that are endangered species. I am here to tell you that, yes, there are some things that could be done differently, but in my home State of Delaware, your home State of Delaware, governor, pretty much every day now I am seeing bald eagles, something that, when I was a child, we never ever saw today. You look at some of the

other things that are occurring where --

Senator Carper. Bald eagles or did you say Philadelphia Eagles?

[Laughter.]

Senator Carper. I couldn't resist. I could not resist. Excuse me.

Mr. Scuse. Good catch, Senator. I said bald eagles. I meant Philadelphia Eagles.

You know, you look at, by working together, we all know, all of us at this table understand that there is a serious issue with honey bees across the United States; and with USDA, EPA, and our State partners working together to help find a solution to those problems in areas, we are making a difference.

The monarch butterfly is an issue where we are seeing rapid declines of the monarch butterfly. But now we have States working with our federal partners to plant, you know, milkweed along some of our highways to make sure that, you know, we have the proper habitat for those areas.

And I know there is legislation that you are working here to renew that, but the Pesticides Registration Act that helps companies do the research for our producers to help them do a better job and get better projects to our producers, there is another area where these things actually do work.

Can there be a better job? There is no doubt about it.

Senator, there can be a better job in many of these areas. But I think what we need to do when we start looking at regulation is working together with all of those that are ultimately impacted, and listening and finding a solution. And in that way we can eliminate, in my opinion, some of the problems that we have had over past Administrations with the implementation of regulations.

Senator Carper. Let me just ask the other panelists if you approve that message, would you raise your hand?

Let the record show the other four panelists raised their hands. Good.

All right, Mr. Teske, please, same question, please.

Mr. Teske. Thank you, Senator. There are two things I would like to discuss, and both of them are in regards to mitigating and adapting to climate change, which is something I am passionate personally about. Number one is whatever we do as we move forward to mitigate climate problems, a huge part of that is going to have to be agricultural involvement. We are the stewards of the land. We are the stewards of the carbon sink.

Another, if cap-and-trade ever comes to be and we can reimplement a carbon trading program, that is a win-win all the way around. That is sequestering carbon; that is making better soils; that is paying a producer a stipend for doing the right

thing. That is just logical. And the models there can be very successful and it can make significant differences quickly. It isn't going to be the only solution to the problem, but we are a key part of it.

And then the other one is the further evolution of the renewable fuels and the Renewable Fuel Standard. If we can grow beyond the status of corn ethanol into perennial crops and higher value crops that use less moisture and less nutrients, we could see dramatic differences in our future with renewable fuels.

So, I think there is potential in both and win-wins in both.

Senator Carper. Thank you very much.

Mr. Chairman, I kid him when I say I go to Wyoming about every other week, Camden Wyoming; it is a little town just south of Delaware.

But we have great pressures in our State, a little State. A lot of people want to come to our beaches; great five star beaches. And a lot of people come, which is good. Tourism is real important for us, but it drives development; and we have to be careful that we just don't overdevelop our State.

One of the things we worked on when I was governor and, before that, Mike Castle, and since then with your administration when you worked with Governor Minner, was how do

we encourage farmers to stay on the land. And one of the best ways to encourage farmers to stay on the land, instead of development taking over, is with farmers being able to make money and to be profitable. And, Mr. Teske, you just mentioned a couple of things that will actually help to do that, and I think we need to be mindful of that.

There are obviously things that we disagree on that we talked about here today, but there is actually a lot that we agree on, and the Chairman's colleague from Wyoming, Mike Enzi, Senator Enzi likes to talk about the 80:20 rule. When I first heard him talk about it, he said the 80:20 rule explained why he and Ted Kennedy got so much done on the Health, Education, Labor, and Pension Committee; one a very conservative Republican, the other a very liberal Democrat.

Mike Enzi introduced me to the 80:20 rule. He said, Ted and I agree on 80 percent of the stuff; we disagree on 20 percent of the stuff. And what we decided to do was focus on the 80 percent where we agree; set the other 20 percent aside for another day. That is the 80:20 rule, right out of the mouth of a former mayor of Gillette, Wyoming. It is actually a good rule for not just the Health, Education, Labor Committee, but a good rule for this Committee and I think for the Congress as a whole.

This has been a wonderful hearing. Thank you all.

Mr. Chairman, thanks for bringing us together.

Senator Barrasso. Thank you, Senator Carper.

Mr. Hansen, it looked like you were trying to say something to answer one of the responses. Anything you would like to add today?

Mr. Hansen. Thank you, Senator. I would like to address Senator Carper's question. I have to ask your forgiveness. I am very dedicated about what I do, but I can't hear a thing.

[Laughter.]

Mr. Hansen. When it comes to working together, the field is ripe with opportunity in the West on federal lands and, on our operation, we have proven that there is common ground and there is a lot of common ground, but we always run into the headache of the federal regulation.

NEPA is a huge one. We get tied up in the paperwork, the decision-making process on something that should be really simple to do. So, expanded authority on categorical exclusions, if we could get a lot of the red tape pulled out of the way, the unnecessary questions and timetables, would really assist us in improving things on the land. And every time we do something good on the land, it affects everything. On our operation, we have increased our elk population, our mule deer population, our antelope population, and have increased our livestock, creating a more profitable operation.

Senator Carper. Thank you. That was worth waiting for. Thanks very much.

Senator Barrasso. And when I asked three of you earlier about the time it would take to try to do some of this paperwork requirements, I think you had said, Mr. Hansen, you didn't have the tools and the time, Dr. Hill as well.

While you raised the issue about trying to report, and Senator Fischer did as well, to this National Response Center on the release, it is the Coast Guard, of all things. They have expressed concern that this dramatic increase in reporting is going to overwhelm the capacity to deal with this. They estimate the volume of calls that they get now, the NRC would increase from about 100 calls a day to over 1,000, hindering their own ability to respond to real emergencies. So that is the additional side of this that sometimes government comes up with ideas and mandates that make it a lot harder for them to do the job that we need them to do in terms of the guarding of the coasts.

I do have one question for you, Mr. Duvall, because it has to do with waters of the U.S. and the Clean Water Act. The Corps of Engineers is the agency that makes the vast majority of jurisdictional determinations that identify waters that are regulated under the Clean Water Act. Now, according to testimony this Committee heard during a hearing with the Corps

last year, in April, the Corps was not included fully in this whole process that we just had outlined here, in terms of developing the 2015 WOTUS rule. You talked about 1 million people testifying and all of those things.

In fact, the Corps stated that they did not believe that the rule and the preamble, as ultimately finalized, they say "were viable from a factual, scientific, or legal basis." And the Corps went on to say "It would be incredibly difficult for the Corps leaders, regulatory and legal staff, to advance and defend this rule." So that is the Corps of Engineers.

They also testified in statements and characterizations that the WOTUS rule is a joint product by the EPA and the Corps, which is what the EPA said, a joint product of the EPA and the Corps the Corps says are flat false, flat-out false.

So, my question to you is, given these statements by the Corps of Engineers, how much faith do we have in the science behind the current WOTUS rule as proposed by the previous Administration?

Mr. Duvall. We have no faith in it because in different Corps districts you have different people that are making those determinations and judgments, and there is no scientific basis that they can base their decisions on. And we can show you situation after situation where farmers have spent money with consultants and lawyers, and were able to put in for a permit,

for a Corps or a regulatory person to say, no, I don't agree with you and send you back to the drawing board to spend that money again and try to get them to agree with you. And it is all over the board; there is no consistency.

You know, I had the opportunity to have lunch with Mr. Pruitt the other day, and he asked me what did we need in the Clean Water Act, a definition of navigable waters. I said, you know, a farmer knows his land better than anyone else does anywhere, especially better than the people looking at it from a computer, and we ought to be able to ride out in that field in our pickup and simply be able to identify what navigable waters are and waters of the U.S. And if we could do that, we could take a huge financial burden off our farmers. We could create more jobs, add to our communities; and we are not going to destroy it. My land, every piece of it is like my house. I am not going to do anything to destroy or hurt my land or the water around it, because I want my great-great-grandchildren to be able to be there.

Senator Barrasso. Senator Carper, you had a quick question?

Senator Carper. Just a quick unanimous consent request, Mr. Chairman, to submit additional documents related to the topic of environmental regulatory impacts on farming and ranching communities for the record.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Carper. And again to say to our friends and witnesses, thank you so much for joining us today.

Senator Barrasso. Thank you all. Other members may submit questions for the record, and we ask that you respond quickly. The record of this hearing will stay open for the next two weeks. I want to thank all the witnesses for your time, your testimony on this very important issue.

The hearing is adjourned.

[Whereupon, at 11:50 a.m. the committee was adjourned.]