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U.S. Senate Date: Thursday, March 8, 2017

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

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LEGISLATIVE HEARING ON S. 2421, THE FAIR AGRICULTURAL REPORTING  
METHOD ACT OF THE NEW REGULATORY DEFINITION OF WATERS OF THE  
UNITED STATES

Thursday, March 8, 2018

United States Senate

Committee on Environment and Public Works

Subcommittee on Superfund, Waste Management, and Regulatory  
Oversight

Washington, D.C.

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

Present: Senators Rounds, Booker, Moran, Ernst, and Van  
Hollen.

Also Present: Barrasso, Carper, Inhofe, Boozman, Wicker,  
Fischer, and Markey.

STATEMENT OF THE HONORABLE MIKE ROUNDS, A UNITED STATES SENATOR  
FROM THE STATE OF SOUTH DAKOTA

Senator Rounds. Well, good morning.

The Environment and Public Works Subcommittee on Superfund, Waste Management, and Regulatory Oversight is meeting today to conduct a legislative hearing on S. 2421, the Fair Agricultural Reporting Method, or FARM Act.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or CERCLA, was established to manage hazardous waste and respond to environmental emergency spills and natural disasters. Under CERCLA, the owner or operator of a facility must report the release of a certain amount of hazardous substance to authorities within 24 hours. This is to make certain that first responders have the information they need to adequately respond to a release of a hazardous substance into the environment and surrounding community.

Although ammonia and hydrogen sulfide are both considered hazardous substances under CERCLA, and both are emitted into the air from animal manure, Congress never intended normal agricultural operations and American farmers to be subject to the reporting requirements under these laws. CERCLA was intended to make certain State and Federal officials have the information they need in the event they have to respond to an emergency release of a hazardous substance. It is unlikely

Federal officials would be required to respond to an emergency release at a cattle operation or a poultry farm, particularly one resulting from animal waste or emissions.

Further, it is unlikely the U.S. Coast Guard, which coordinates CERCLA reporting, has the resources to manage the nearly 200,000 farms that would be required to report their daily activities under this rule. This additional burden on resources could potentially hinder the ability of first responders to respond to real emergencies.

Accordingly, in 2008, the Environmental Protection Agency released a rule exempting animal waste at agricultural operations from CERCLA reporting. However, in 2017, the D.C. Circuit Court, in *Waterkeeper Alliance v. EPA*, vacated the EPA's 2008 rule. This decision leaves approximately 200,000 American farmers subject to bureaucratic and burdensome reporting and paperwork, the requirements that may overwhelm first responders, while the benefits of this regulation are questionable at best.

That is why I have worked with Senator Fischer, Chairman Barrasso, Ranking Member Carper, and the rest of my bipartisan colleagues to introduce the Fair Agricultural Reporting Method, or FARM Act. This legislation would reinstate the CERCLA reporting exemption for air emissions from animal wastes so that American farmers and ranchers will not be burdened by needless Federal regulations and can continue to do what they do best.

American farmers and ranchers are already required to comply with multiple Federal regulations governing how they run their operations. Complying with these Federal regulations require hours of paperwork, time, money, and resources, all of which take away from actually being able to work on their land. We should not make them subject to additional layers of bureaucracy that Congress never intended them to be subject to.

It should also be noted that CERCLA is the basis for EPA's Superfund program. This law was intended to allow the EPA to coordinate cleanups of hazardous waste or Superfund sites. A U.S. farm or ranch is most certainly not a Superfund site and should not be regulated as such. The FARM Act prevents U.S. farmers and ranchers from being subject to needless regulations that have no environmental benefit.

I would like to thank Senator Fischer and Chairman Barrasso for their leadership on this issue. I am glad we were able to work in a bipartisan fashion to move this bill forward.

Our witnesses today are members of the agricultural community, with decades of experience in farming and ranching. They are well versed in agricultural operations and how Federal regulations affect their way of life, and their ability to do business and provide the food that we all rely on. I would like to thank our witnesses for being here today with us, and I look forward to hearing their testimony.

Now I would like to recognize Senator Booker for a five-minute opening statement.

Senator Booker.

[The prepared statement of Senator Rounds follows:]

STATEMENT OF THE HONORABLE CORY A. BOOKER, A UNITED STATES  
SENATOR FROM THE STATE OF NEW JERSEY

Senator Booker. I am really grateful, Chairman Rounds, to be able to serve with you on this Committee; it is exciting to have the opportunity to partner with you. I hope it is as well as my partnership with Senator Fischer. She and I were a great tag team. She is still mad at me for leaving her in the other committee.

But I want to thank our witnesses for being here today. I think this is just a really important conversation. The issue of air emissions from large CAFOs and the impact of those emissions on neighboring property owners is indeed a very serious issue, life-threatening issue.

As animal waste breaks down, it emits dangerous pollutants, specifically ammonia and hydrogen sulfide, as the Chairman said. To protect the health of the small family farmers and other residents who live near these massive CAFOs, there are currently two laws that require reporting of emissions of ammonia and hydrogen sulfide at levels of 100 pounds per day.

The first law, CERCLA, which the Chairman mentioned, requires reporting of these emissions to the Coast Guard National Response Center. The second law, EPCRA, requires reporting of emissions from extremely hazardous substances to State and local authorities. In 2008, again, as the Chairman

detailed, the EPA attempted to exempt all CAFOs from having to report their emissions under CERCLA, and also attempted to exempt all but the largest CAFOs from reporting under EPCRA.

Last year, the D.C. Circuit Court struck down the attempt by the EPA to exempt reporting emissions of hydrogen sulfide and ammonia from CAFOs. The D.C. Circuit Court, in its decision, stated the risk of harm of those emissions isn't just theoretical; people have become seriously ill and even died as a result of them.

EPA itself has found that hydrogen sulfide can cause respiratory irritation and cause central nervous system effects one mile downwind when emitted at current reportable quantity of 100 pounds per day. Of those affected, children are the most at risk for lung disease and health effects, and the closer a child lives to a CAFO, the greater the risk of asthma symptoms.

At the last meeting of this Committee, I talked about my 2016 trip to Duplin County, North Carolina. Given the focus of today's hearing, I want to again talk about my trip and my firsthand experiences going to Duplin County.

In 2016, residents from Duplin came to Washington, telling lawmakers that they desperately needed help. There are about 60,000 people that live in Duplin County, but there are more than 2 million pigs being raised there. And the primary way that the waste from those 2 million pigs is disposed of is by

pipng it into huge, open-air lagoons and then spraying the waste out onto open fields, what I witnessed myself, with my own eyes.

These residents that came to Washington complained about suffering from serious respiratory problems such as asthma and chronic lung disease caused by living near these lagoons and spray fields. So, when I visited Duplin County, I wanted to see these conditions firsthand, and what I saw there is something I will never, ever forget.

I saw pig waste being sprayed; I saw how the wind was carrying the mist. Some of the spray would fall, but I watched it mist onto adjacent properties. I smelled what was a wretched, horrible smell standing hundreds and hundreds of yards away, and how that smell permeated the entire community. I heard heart-breaking stories from residents who said they too often felt like prisoners in their own homes.

In fact, I met a veteran from foreign wars who said I fought for my Country overseas and I came back and am a prisoner in my own home. They talked about how they no longer can have cookouts in their backyards; that they can't even open their windows or run their air conditioning because of that toxic smell.

So when we have legislation before us that would create exemptions from reporting, I think we need to be very careful

how we proceed. Under current law, we still have communities like Duplin County, where people are truly suffering, where their rates of respiratory illness and other diseases are higher than the general population.

I was happy to see that this bill, S. 2421, only proposes to exempt CAFOs from reporting under CERCLA, and not under EPCRA. And I know that Senator Carper and others fought to limit the scope of the bill before signing on. But the problem is that the EPA is again taking action to exempt CAFOs from having to report these emissions under EPCRA. If the EPA is successful in creating a complete exemption, local residents will no longer have access to information about the levels of these harmful chemicals being emitted literally into their front yards, as I know we will see from one witness.

Some farmers should not have to file unnecessary paperwork. I believe that very strongly. And ranchers who engage in pasture-based farming, like Mr. Mortenson does, should not have to calculate emissions and file forms.

But larger CAFOs are a different story. The type of operations that I saw in North Carolina, and the type in Iowa that Mr. Kuhn will describe in his testimony, create serious health risks. This is about people. This is about their lives, their livelihoods, their property values, and their health. And as it currently stands, reporting under EPCRA is not difficult;

large CAFOs have been doing it for years and a reporting mechanism is already in place.

So, I hope that between Congress and the EPA we can find a path forward that gives clarity to small farmers that they do not need to report their emissions, but that continues to require reporting under EPCRA by CAFOs that emit over 100 pounds per day of ammonia or hydrogen sulfide, serious dangerous agents.

Thank you, Senator Rounds, for this, which, again, I think is an urgently needed conversation, and I look forward to hearing from our witnesses.

[The prepared statement of Senator Booker follows:]

Senator Rounds. Thank you, Senator Booker, and I look forward to working with you on this Committee, as well as the Ranking Member.

Traditionally, in this Subcommittee, we would allow the Chairman and the Ranking Member of the full Committee to also have an opportunity to visit. Senator Barrasso just had to leave to go to a business meeting, so he has indicated that he would pass on his opportunity at this point. However, we are privileged in that Ranking Member Carper is here, and at this time I would like to ask Senator Carper if he would like to make an opening statement.

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

Senator Carper. Yes, I would. Thank you.

I appreciate very much the Chairman and the Ranking Member hosting this hearing today. Thank Senator Fischer and others for trying to lead us to a principled compromise, where we are mindful of the need to protect public health and, at the same time, to make sure that an industry which provides a lot of jobs in this Country, the ag industry, is able to be successful and compete in the world.

Delaware is not a big State. I go home almost every night; went home last night. We have three counties; the largest one is in Southern Delaware. Sussex County is the third largest county in America. It is a little State, but the third largest county in America.

We raise more chickens there, I am told, than any County in America. Last time I checked, we raise more soybean than any county in America. And I think the last time I checked we raise more lima beans than any county in America, and I think we have more five-star beaches than any county in America. So it is a little State, but that is quite a county, isn't it? But we have a lot of people who live there and we want to make sure they have a good environment in which to live; clean air, clean water.

We raise a lot of chickens on Delmarva, as Bill knows, Delaware, Maryland, and the Virginia eastern shore, and for years the farmers have taken chicken litter, chicken manure, and mixed with sawdust, which is usually on the floor of the chicken house; they mix it together and use it for fertilizer and spread it on farm fields all over Delmarva and certainly all over Sussex County in order to support raising soybeans, corn, and other crops.

For years and years we were not very good environmental stewards with the way we spread our chicken litter on our farm fields. Didn't do a good job. As Bill knows, a lot of our farm fields drain into creeks, drain into ditches, and eventually into rivers, Nanticoke River, which flows into the Chesapeake Bay. The Chesapeake Bay badly degraded and we were one of the reasons why it was badly degraded.

About 20 years ago, my last term as governor, we put together a farmer-led initiative, nutrient management commission, farmer-led, includes some environmentalists, includes the Department of Natural Resources and Environmental Control, and we figured out a way to make sure that folks who were spreading chicken litter on farm fields, which is high in phosphorus, high in nitrogen. It is good fertilizer, relatively expensive, we have to figure out what to do with it.

For those who, starting in the late 1990s, were going to be

spread chicken litter, they had to get a plan. They had to submit a plan, say this is my plan, here is how I am going to do it; have to have their soil tested to make sure it was appropriate for receiving chicken litter, how much could go onto the farm fields that would be safe for public health, and to make sure that the farmers were adhering to their nutrient management plan. We have been doing that for over 15 years.

Senator Van Hollen and Senator Cardin will tell you that the quality of the water in the Chesapeake Bay has significantly improved. Is it perfect? No, it is not. Delaware was not a good neighbor for many, many years. I think we are a much better neighbor today. They have a neighbor up to the north, Pennsylvania, so do we. I don't think Pennsylvania has sort of -- we have to get them online.

But Delaware is a much better neighbor today. Can we do better? Sure, we can always do better. Everything I do, everything all of us do, we can do better. But I just want to give you that for a little bit of context.

I have known Bill Satterfield forever. When I was elected State Treasurer at the age of 29, every time you get on the radio, if you are State Treasurer, it is not a hot commodity like being a Senator. Every now and then I would get invited to Radio Station WDOV -- was that the name of the station? -- WKEN in Dover, Delaware. One of the folks who was on, one of the

people who did this talk radio, and one of the folks who did some of the program and some of the interviews was Bill Satterfield.

He was nice enough to invite me to be on his show from time to time, and on my way, driving on Route 8 to WKEN to do the interview, I would drive -- was it a Tastee-Freez? -- I would drive by Tastee-Freez on my way. I love chocolate milkshakes. I would stop and get a chocolate milkshake. He was a co-owner. Who was the other guy who was a co-owner with you? Yeah, Rick.

And I would get a chocolate milkshake and then I would go do the interview, and he would say to me at the beginning of the interview, he would say, "How are you doing today?" And I would say, "great." There was a Tastee-Freez on the way out here on Route 8, and I love to stop there and get a chocolate milkshake; in fact, I am having one right now. And you guys make the best -- I don't know who owns that place, but they make the best chocolate milkshake.

But, anyway, from those humble beginnings, me, a State Treasurer, and Bill as a radio interview personality, he went on to join the Delmarva poultry industry in 1986, was named their Executive Director in 1993, and he works to advance the interests of our Delmarva poultry farmers. I said earlier ag is a big deal in our State, and especially in the southern part of the State.

I have said a million times before to my colleagues that it is possible to have clean air, it is possible to have clean water, cleaner air, cleaner water, and good public health, and still have jobs; and there is always a balance, and sometimes it is not easy to find that balance, but we think we are working toward that and still will continue to do this.

But I said in our full Committee here on ag issues last month, I acknowledged that sometimes environmental requirements can be complex. They can be confusing to those who farm, especially when those rules apply suddenly to them, and that is what happened in April of 2017 when the D.C. Circuit Court of appeals invalidated an EPA rule from 2008.

That rule had exempted all farms in the Nation, as we have heard today, from reporting requirements for hazardous air emissions from animal waste under CERCLA. That rule also exempted small and medium-sized farms from reporting under the Emergency Planning and Community Right-to-Know Act, which we know as EPCRA, but left in place, reporting requirements for large farms.

But with the FARM Act, the legislation that we are holding this hearing on today, we are hoping to provide certainty to farmers by legislatively exempting all farms under CERCLA, as was done by EPA in its 2008 rule.

One thing I worked hard on this legislation with Senators

Fischer and Barrasso and others, as we were developing this legislation, is to make sure the FARM Act makes no change to EPCRA reporting, no change. And I think Senator Booker has mentioned this already.

I just want to thank both Senator Barrasso, I want to thank Senator Fischer, others, other staffs and others for working with my staff and me and agreeing not to amend EPCRA in this bill. This is an issue that was critical for many members on our democratic side. We have repeatedly heard concerns from State and local officials, public health experts and other members of our communities who want information about what is in their air, and this bill seeks to strike a careful balance. As a result, it enjoys broad, bipartisan support. My hope is that that broad support can be translated into prompt legislative action.

Again, my thanks to all who played a role in crafting this compromise which is before us today.

Senator Booker and I show up most Thursdays, we will do it later today, at a Bible study group led by our Chaplain, Barry Black, for about a half an hour. It is for those seven or eight of us who need the most help, right?

One of the things that Chaplain Black, who is retired Navy Admiral, former Chief of Chaplains for the Navy and Marine Corps, he always reminds us every week of the Golden Rule: treat

other people the way we want to be treated and love thy neighbor as thyself. And this is an effort, I think, a good faith effort to try to make sure that we are true to that admonition.

We are not there yet, but it is striving toward perfection. Keep striving, keep striving, and hopefully some day we will get there. Maybe we will even get to Heaven. Who knows?

Thank you so much.

[The prepared statement of Senator Carper follows:]

Senator Rounds. Thank you, Senator Carper. I think Senator Booker was right as he suggested to me that not only will they probably clip your message here on behalf of your local Chamber of Commerce, but probably the dairy and milk industries will as well. Chocolate malts sound very good, actually.

I would also make note that Senator Carper has suggested that this is a bipartisan effort. A lot of that has to do with the leadership of Senator Fischer and her work here to gather both Republicans and Democrats as part of this. She currently has 12 Democrats and 21 Republicans on this as cosponsors, and that says a lot about the leadership that she has provided.

I would like to give Senator Fischer the opportunity to visit a little bit about this legislation before we move directly to our witnesses.

Senator Booker. And I would like to note for the record it was her birthday last week. She is now, I think, 38.

[Laughter.]

Senator Fischer. That would be correct.

[Laughter.]

STATEMENT OF THE HONORABLE DEB FISCHER, A UNITED STATES SENATOR  
FROM THE STATE OF NEBRASKA

Senator Fischer. Thank you, Chairman Rounds and Ranking Member Booker, for convening today's legislative hearing on important bipartisan legislation that would ensure common-sense policies prevail for our farmers, our ranchers, and our livestock markets.

Mr. Chairman, I thank you for your support, and to my other EPW colleagues, Chairman Barrasso, Ranking Member Carper, Senators Inhofe, Ernst, Moran, Duckworth, Wicker, and Boozman, for supporting this important legislation. I would also like to thank the witness panel for their willingness to share their time and experience with our Committee this morning.

Since my first day in Congress I have worked with my Senate colleagues to promote policies that enable our ag producers to prosper, while also safeguarding our environment. The bill before us today, the Fair Agricultural Reporting Method, or the FARM Act, would provide greater certainty for ag producers. It will protect farmers and ranchers from burdensome reporting requirements for animal waste emissions under the Superfund law, also known as CERCLA.

When CERCLA was enacted, Congress never intended the law to affect normal production agricultural practices. Instead, the law is meant to address dangerous industrial pollution, chemical

plant explosions, and the release of hazardous materials into the environment.

In an effort to clarify that animal manure is not a hazardous chemical emission, the EPA published a final rule in 2008 that exempted most livestock operations from animal waste emission reporting requirements under CERCLA. But last year the U.S. Court of Appeals for the D.C. Circuit vacated the 2008 rule, noting that the EPA does not have the authority to grant the reporting requirement exemption.

The Court's decision created confusion, and it created that for both the EPA and ag producers, and that sent a clear message that a legislative fix from Congress is needed to clarify these reporting requirements. My legislation does exactly that.

The FARM Act codifies the original intent from the EPA's 2008 rule by mirroring the intent of the exemption. It does so by providing an exemption for air emissions from animal waste from CERCLA reporting requirements. Most importantly, it provides ag producers with greater certainty by reinstating the status quo that producers have been operating under since EPA's final 2008 rule.

It is important to also note that while EPA administers CERCLA, producers must notify the National Response Center, which is housed under the U.S. Coast Guard, of their animal waste emission releases. The NRC reported that their daily

calls jumped from an average to 100 to 150 to well over 1,000 a day, creating at times a two-hour wait delay. Due to the extreme influx of reports, the director of the NRC wrote to me that without the CERCLA exemption, the increased reporting would absolutely hinder the Coast Guard's ability to respond to real emergencies around this Country.

We all want clean air and we want clean water. Our farmers and ranchers understand this better than most, and it is important for us to provide them the necessary tools that they need to continue to feed our Nation and to feed the world. America's farm and ranch families are currently experiencing a tough economy. We have depressed markets and we have tight margins. They shouldn't also have to worry about reporting their animal waste emissions.

This is an issue where we can provide a solution. It is one of those rare moments where everyone involved, our stakeholders, the EPA, and the National Response Center, all want a fix, and I am grateful for the bipartisan interest in seizing this opportunity.

I am looking forward to today's discussion and I thank my 33 colleagues on both sides of the aisle for joining me in this legislation.

Thank you, Mr. Chairman.

[The prepared statement of Senator Fischer follows:]

Senator Rounds. Thank you, Senator Fischer and, once again, thanks for the leadership on this. This is very, very important. Any time you bring together both Republicans and Democrats in these numbers, that says a lot about the work that you put into it, so thank you.

At this time, Senator Barrasso, who is the Chairman of our full Committee, has again rejoined the Subcommittee.

Senator Barrasso, would you care to make any opening comments?

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

Senator Barrasso. Well, thank you very much, Mr. Chairman. I want to thank you, as well as Ranking Member Booker, for convening this hearing on S. 2421, the Fair Agricultural Reporting Method Act, the FARM Act. It is important bipartisan legislation that is going to help bring clarity to ranchers and to farmers in Wyoming and all across the Country. I cosponsored the bill, strongly support it, and compliment Senator Fischer for its introduction.

The Comprehensive Environmental Response, Compensation, and Liability Act, CERCLA, was enacted by Congress to give EPA the authority, the authority to respond to hazardous industrial pollution that threatens the environment and public health. It is an important and necessary law, provides tools to clean up polluted sites, and to hold responsible parties accountable.

But when applied to the everyday activities of ranches and farms, it really makes very little sense. That is why, in 2008, the EPA finalized a rule to clarify that farming ranches are exempted from air emission reporting requirements under CERCLA. Even the Obama Administration agreed that farmers and ranchers should be relieved of some of this burdensome regulation.

In April of 2017, the D.C. Circuit Court nullified the Obama Administration rule, mandating new onerous reporting

requirements for up to 100,000 farms and ranches.

Now, Mr. Chairman, I was home in Wyoming the last two weekends, one weekend in Riverton, Wyoming, the Fremont County Cattlemen's Association; last weekend in Big Piney and Marbleton, Wyoming at the Green River Valley Cattlemen's Association. Look, I continue to hear how out of touch the environmental regulations have become, and this is a textbook example. The people who labor year-round to feed, to clothe, to house our Nation should not be burdened with the time and money it takes to estimate and to record and to file emissions reports that even the EPA has said it does not need or want.

That is why enacting the FARM Act is critical. It is a common-sense bill. It protects ranchers and farmers in Wyoming and around the Nation from punishing and unnecessary Federal Government regulations. It eliminates regulatory uncertainty by putting into law the CERCLA animal air emissions exemption that producers have relied on since the EPA's 2008 rule. I believe it is an important bill.

I would like to again thank Chairman Rounds, Ranking Member Booker for holding this hearing, and especially like to thank Senator Fischer for bringing it to us, bringing it to the Senate as we move forward on this bill.

Thank you, Mr. Chairman.

[The prepared statement of Senator Barrasso follows:]

Senator Rounds. Thank you, Chairman Barrasso.

Our first witness for today's hearing is Mr. Todd Mortenson, who is the Owner-Operator of Mortenson Ranch in South Dakota. On a personal note, Todd lost his father, Clarence, just this last week, who was a good friend of mine, a real gentleman, and truly, with regard to modern sustainable ag practices, probably one of the fathers of making it a reality in South Dakota.

First of all, my condolences to you and to your family on the loss of your family, but also in South Dakota the loss of a real gentleman and a true part of the pride that we have in our State. So, just on a personal note, that loss is felt.

Todd is the owner and operator of the Mortenson Ranch in Stanley County, South Dakota. His cow calf operation sits along the beautiful Cheyenne River and Todd focuses on conservation and stewardship of his land. He has restored more than 90 percent of his 19,000-acre ranch back to native grasses, shrubs, and trees, and for this Todd was recognized by the Sand County Foundation as the Leopold Conservation Award winner in 2011.

The Mortenson Ranch was also the subject of a multi-year study conducted by the South Dakota State University and, in my opinion, is a gold standard for striking a perfect balance between ranching, economics, and environmental conservation.

I first went out to Todd's ranch way back in the 1990s and

I saw what they were doing for water improvement on livestock improvement, pasture improvement, bringing broadleaf back in and so forth, and it can be pointed to as a true success story for sustainable ag.

Senator Carper is still here. I would like to yield to Senator Carper to introduce our second witness at this time.

Senator Carper?

Senator Carper. I think I have done about as much harm to Bill Satterfield's reputation as anybody can. But if you didn't get the drift of my earlier statements when I talked about him, a little bit about his background.

Agriculture is hugely important in all of our States, but particularly in southern Delaware, and a big part of that is poultry. We always face, in every one of our States, the question can we have cleaner air, cleaner water, and still have jobs. Can we have better public health and still have jobs? And I always say it is a false choice to say you have to choose one or the other. We can have both. And part of what we want to do is make sure that we do a better of adhering to that thought, and I think Bill understands that, and he has helped to provide leadership for a big consortium of folks who raise chickens, process chickens, export chickens all over the world, and we are grateful for his service in that regard and I am just grateful for his friendship over all these years.

Senator Booker. Mr. Chairman, I just want to note for the record that Mr. Satterfield did not bring chocolate milkshakes for everybody.

[Laughter.]

Senator Rounds. Duly noted.

Senator Van Hollen. Mr. Chairman, if I just could, I believe, if I am not wrong, that Mr. Satterfield actually, if you still live in Salisbury, you are a Marylander, so we are very proud to have you as a Marylander, and thank you for being here.

Senator Carper. But he still votes in Delaware. No, I am just kidding.

[Laughter.]

Senator Carper. For the record, he does not.

Senator Rounds. We won't get into that today.

Mr. Satterfield, welcome.

Senator Carper. Thank you, Bill.

Senator Rounds. Our third witness for today's hearing is Mr. Mark Kuhn, Floyd County Supervisor, Floyd County, Iowa, and we welcome you, as well, to this very special panel. Thank you, sir, for being here.

Now we will turn to our first witness, Mr. Todd Mortenson, for five minutes.

Mr. Mortenson, you may begin.

STATEMENT OF TODD MORTENSON, MORTENSON RANCH, MEMBER, NATIONAL  
CATTLEMEN'S BEEF ASSOCIATION

Mr. Mortenson. Good morning. My name is Todd Mortenson. My wife, Deb, and I, along with our sons, Quinn and Jack, live on a ranch in Stanley County, South Dakota, along the Cheyenne River. I am a member of the South Dakota Cattlemen's Association and the National Cattlemen's Beef Association, and today I am representing cattle producers from across the Country.

Thank you, Chairman Rounds and Ranking Member Booker, for allowing me to testify on CERCLA reporting for agriculture and the importance of the FARM Act.

Farmers and ranchers truly are America's original environmentalists. We care more than anyone about the land that we manage because the environmental quality of our operations directly impacts not only the health of our livestock, but the water we drink and the air we breathe. I work hard to implement management practices that improve the environmental sustainability of my ranch so that someday I can pass it on to my sons. For example, we move cattle to the uplands during the summer months, allowing increased native plant growth and decreased sediment flow through the ranch creeks.

While I fully support best management practices that improve environmental quality, I cannot support needless

requirements that burden the agricultural community while providing no benefit. A prime example of this is the burdensome reporting requirement under CERCLA which requires farmers and ranchers to report manure orders to multiple Federal agencies for emergency response coordination. Let me say that again, because the absurd bears repeating. CERCLA reporting requires farmers and ranchers to report manure odors to the Federal Government so that the Federal Government can coordinate an emergency response to manure odors.

On my pasture-based cow calf operation, I manage 1,295 cows on 19,000 acres. Because my cattle are so spread out, the concentration of emissions is extremely low. But CERCLA does not consider concentration, only release. It makes no difference whether my cattle are spread over 10 acres or 10,000 acres; if my cattle emit over 100 pounds of ammonia or hydrogen sulfide per day, I am required to report their emissions to the Coast Guard and the EPA.

It is clear that Congress never intended for CERCLA to govern agricultural manure odors. The EPA understands this and, in 2008, exempted agricultural operations from CERCLA reporting requirements. While the exemption was put in place by the George W. Bush Administration, it was defended in court by the Obama Administration. In defending the exemption, the Obama EPA argued that Congress did not include an exemption for manure

emissions because they never dreamed that these low-level emissions would fall into the possible realm of regulation.

However, in April 2017, environmental groups won their lawsuit and the D.C. Circuit Court eliminated these important exemptions. When the mandate issues in May, nearly 200,000 farmers and ranchers will be required to report low-level manure odors to the Federal Government.

Reporting is no simple task; it is a three-step process that requires, at minimum, one year to complete. The first step is an initial call to the Coast Guard, the agency tasked with coordinating emergency response for the Nation's hazardous emergencies, such as oil spills and chemical explosions.

The Coast Guard is on record stating that these reports don't help them at all. In fact, they only hurt their ability to respond to environmental and public health emergencies. For quotes from the Coast Guard's declaration to the D.C. Court, you can see my written testimony. In summary, the Coast Guard indicated that early calls in November from some livestock operations increased wait times to report emergency releases by up to two hours.

The initial call is followed by two written reports to the EPA sent over the span of one year. These reports require detailed information regarding my cattle's emissions, information that I simply do not have. Research in this area is

limited, to say the least. Only two land grant universities have done research to establish an emissions calculator, and, as a pasture-based producer, there is no available science to meet the statutory burden.

It should also be noted that this reporting requirement is not a one-and-done obligation; any time I decide to increase the size of my herd, I am required to start the process all over again.

To clarify these exemptions, Congress needs to change the law to reflect its intent that livestock producers are exempt from CERCLA reporting requirements. The FARM Act, introduced just a couple of weeks ago, provides the relief that livestock owners and first responders need under CERCLA, and has the same bipartisan support exhibited under the Bush and Obama Administrations.

CERCLA is one of our most important environmental statutes, providing the tools we need to effectively clean up releases that harm both the environment and public health. Unfortunately, we all know that environmental agencies are given low priority at both Federal and State level. The FARM Act will ensure that precious time and monetary resources are not siphoned from important cleanup efforts to address a paperwork requirement with no environmental or public health benefit.

As May 1st quickly approaches, only Congress can ensure

that the agriculture community is protected from this reporting burden, the reliability of our emergency response coordination is maintained, and the integrity of the Superfund law is not degraded.

Thank you for your time and thank you for your support of the FARM Act.

[The prepared statement of Mr. Mortenson follows:]

Senator Rounds. Thank you, Mr. Mortenson.

We will now turn to our second witness, Mr. Bill Satterfield.

Mr. Satterfield, you may begin.

STATEMENT OF BILL SATTERFIELD, EXECUTIVE DIRECTOR, DELMARVA  
POULTRY INDUSTRY, INC.

Mr. Satterfield. Good morning, Chairman Rounds, Ranking Member Booker, Mr. Van Hollen, and Senator Carper. Thank you for the trip down memory lane. What I do not recall is whether I charged you for that milkshake.

[Laughter.]

Senator Carper. Paid in full.

Mr. Satterfield. I am Bill Satterfield. I am the Executive Director of Delmarva Poultry Industry Incorporated, which is the trade association for the meat chicken industry in Delaware, the eastern shore of Maryland, and the eastern shore of Virginia. On behalf of America's chicken, turkey, and egg farmers, I thank the leadership of this Committee and our Delmarva Peninsula Senators for introducing the FARM Act. As you have heard, this will restore the CERCLA reporting requirement exemption to the limited purpose, which was never intended to be low-level air emissions from animal manure emissions.

The FARM Act is needed because EPA's original farm reporting exemption was challenged in court and, in its decision, the court adopted a strict reading of the CERCLA statute and concluded that Congress did not authorize EPA to create the exemptions. Therefore, failure to amend the CERCLA

statute now to remove the reporting requirement for farm air emissions reporting will subject, as we have heard, 200,000 farmers or more to these reporting requirements. Congress needs to clarify its intent immediately. The FARM Act will do this.

While CERCLA is a valuable tool to protect the public and the environment from accidental releases of hazardous substances, it is hard to believe it was ever the intent of Congress to extend the reporting requirements to farms that incidentally release ammonia that is generated as manure decomposes. This guided our 2005 petition requesting an exemption from CERCLA reporting.

After considering the request, EPA developed a rule that provided a narrow exemption for farms for reporting low level continuous releases of ammonia and hydrogen sulfide. EPA's exemption was based on Congress's intended purpose of notifying the National Response Center only when a truly hazardous substance is released. The NRC and the Coast Guard have indicated on several occasions that they did not intend to do anything with the information.

While it is true that ammonia, which in significant concentrations and volumes is a substance reportable under CERCLA, it is a by-product of manure decomposition. The concentrations on poultry farms are at very low levels and they dissipate rapidly into the air.

University of Georgia researchers, in 2009, found that ammonia concentrations were lower as distance from the poultry houses increased. At no time during that study did the measured ammonia levels meet or exceed OSHA's ammonia odor detection threshold levels, and this underscores EPA's rationale for providing the exemption in 2008. Similarly, we cannot imagine that local emergency response agencies, if they even get this information, would do anything other than scratch their head and say, what are we supposed to do now?

The EPA's anticipation on reporting concerns was entirely correct. In November of last year, poultry farmers from the Delmarva Peninsula and other parts of the Country attempted to initiate the then required CERCLA reporting process. One such grower is Sharon, who operates a poultry farm near Marydel, Maryland, just across the border from Delaware.

Upon calling the NRC to provide an initial notification of a continuous release, a recording informed her that NRC would not be accepting telephone notifications. And, as feared, as Senator Fischer was saying, the system was overloaded. The reporting to Sharon told her to submit the initial response in email form.

Well, you need to understand that many farmers do not use email, do not have email, so requiring email notification is not practical and could result in these farmers, wishing to be

compliant with the law, being in violation. Sharon is 73 years old; never has owned a computer, never used email, so that was not an option for her.

That is just one example of the numerous breakdowns in the reporting system starting last November. This indicates that the NRC did not recognize these reports as emergencies that require an immediate response or action.

Requiring the emissions monitoring is difficult. Calculating air emission levels is very complicated and it is hard to do, and there needs to be a whole lot more research on how do you do it, because chicken houses differ, the age of the birds have a factor, the age of the litter material, the weather, the treatment of the birds inside the house all play factors.

So, simply put, CERCLA was never intended to force farmers to report low level emissions from normal, everyday agricultural operations.

On behalf of Delmarva Poultry Industry Incorporated and the entire poultry industry nationwide, we thank the Committee and its members for introducing this Act. This bill will put enormous regulatory relief to countless farmers across America without, without sacrificing human health and will give them more time to focus on their vocation, which is producing food for America and the world.

I appreciate the opportunity to testify and would be happy to answer any questions at any time. Thank you.

[The prepared statement of Mr. Satterfield follows:]

Senator Rounds. Thank you, Mr. Satterfield.

We will now turn to our third witness, Mr. Kuhn.

Mr. Kuhn, you may begin.

STATEMENT OF MARK KUHN, FLOYD COUNTY SUPERVISOR, FLOYD COUNTY

Mr. Kuhn. Thank you, Chairman Rounds and Ranking Member Booker for inviting me to address the Subcommittee, and welcome from Iowa, hello from Iowa, Senator Ernst, the Hawkeye State.

I am a farmer and current member of the Board of Supervisors from Floyd County, Iowa. I served six terms as a State representative and was one of 12 legislators who drafted the last major change to Iowa's confined animal feeding law in 2002. I know how essential it is to monitor air emissions from CAFOs and why results should be shared with neighbors, communities, and emergency responders.

According to Iowa State University, Iowa's hogs, cattle, and poultry produce a combined total of 50 million tons of manure each year. Amid growing concerns about public health and the environment in 2001, Iowa Governor Tom Vilsack asked the College of Agriculture at Iowa State University and the College of Public Health at the University of Iowa to provide guidance regarding the impact of air quality surrounding CAFOs on Iowans and recommended methods for reducing and/or minimizing emissions.

Based on an analysis of peer-reviewed, duplicated, legitimate, and published scientific research, the consensus of the entire study group was that hydrogen sulfide and ammonia should be considered for regulatory action. Both of these gases

have been measured in the general vicinity of livestock operations at concentrations of potential health concern for rural residents under prolonged exposure.

In April 2002, Governor Vilsack signed new livestock regulations into law giving the Iowa Department of Natural Resources authority to develop air quality rules and monitor CAFOs. During the next two years, three attempts by the DNR to establish regulations for hydrogen sulfide and ammonia were nullified after strong opposition from the CAFO industry.

In March 2004, the industry introduced through friendly legislators a bill to set air emission standards. The bill was passed by the legislators, but vetoed by Governor Vilsack. In his veto message, Vilsack stated the bill represented a significant step backwards because it would not adequately protect the health of Iowans and it would set a standard so lenient it would undermine the credibility of the CAFO industry.

Nothing has changed in Iowa since the joint university report 16 years ago, with two key exceptions: Iowa has more than four times as many CAFOs as they did then and the pork industry is about to go hog-wild again. An unprecedented increase in packing plant capacity in Iowa, fueled by the demand for exported pork to China, will likely result in an onslaught of new CAFOs.

It is clear to me that the CAFO industry is opposed to any

air emission regulations. It intends to continue business as usual as long as State elected officials in Iowa allow it. This isn't a rural versus urban issue; it affects all Iowans. It pits neighbor versus neighbor all too often. It pits farmer versus farmer.

Please be assured these reporting requirements do not affect small family farms. The CAFO industry is industrialized factory farm agriculture. It is vertically integrated from top to bottom; giant corporations get the profits from the hogs they own and process at their packing plants, local farmers build the barns and get the manure, while neighbors get the pollution.

A preponderance of evidence shows that toxic air emissions from CAFOs can adversely affect immediate neighbors and nearby communities. Those with allergies, asthmatics, especially children, in which asthma is more common, and adults with COPD are at particular risk.

In Iowa it takes a good neighbor to be a good neighbor. I will close with the story of one good neighbor family in Floyd County. Jeff and Gail Schwartzkopf bought a house in the country near the small town of Rudd four years ago. Thirty days after they moved into their new home, they learned a large CAFO was going up 1,987 feet south of them. Once it was built and populated with thousands of squealing pigs, their lives changed forever.

According to Gail, "We tried to make the best of it, but nothing worked. We stopped enjoying the outdoors. We hate the stench, the biting flies, our burning eyes, scratchy throat, fatigue, digestive issues, and insomnia because we worry about our health. We can't open our windows or hang our clothes on the line to dry. There are only five or six days out of a month when it doesn't smell like rotten eggs."

The Schwartzkopf family is surrounded by three large CAFOs. They should be protected from toxic air emissions that impact their health and diminish their quality of life, but Iowa lawmakers refuse to act. So now it is up to you to protect their access to air emission information under both CERCLA and EPCRA.

This is a picture of Gail and her family, and the view from their front yard. The last thing Gail told me before I left for Washington, D.C. was "I wish this picture was scratch-and-sniff so all those Senators could partake of the toxic emissions and polluted air if only for a little while."

Thank you for listening.

[The prepared statement of Mr. Kuhn follows:]

Senator Rounds. Thank you, Mr. Kuhn, for your testimony today.

At this time, each of the Senators will have five minutes to ask questions of our witnesses. I will begin. Before I actually start with questions, I would like to ask unanimous consent to include two letters of support for this legislation and ask they be entered into the record of this meeting, a letter from the American Farm Bureau and a letter from the Wyoming Stock Growers Association.

Hearing none, we will enter it.

[The referenced information follows:]

Senator Rounds. With that, first of all, Mr. Mortenson, if I could just begin with you. I am familiar with where your ranch is and I know it is on the Cheyenne River and it overlooks the Oahe Dam and Reservoir. It is one of the most beautiful lakes in all of America, in my opinion; it is 180 miles long, 5, 6 miles wide in some areas, and you can go out and look down 10 foot and see the bottom. It is a couple hundred feet deep in a lot of areas, but it is absolutely beautiful and the water is clear.

America's ranchers, just as you, are on the front line of the Nation's conservation efforts. Ranchers like yourself are truly our best stewards of the land. Can you talk about what you do to protect the environment and South Dakota's natural resources and maybe also, on a brief basis, why you do it?

Mr. Mortenson. I will start with the last question, why you do it. It is the right thing to do because we all have to breathe the same air and drink the water. Like you said, we are on Lake Oahe, we are on the Cheyenne River arm of Lake Oahe, so what runs off my ranch basically goes all the way to New Orleans, so I am very cognizant of what that is and make sure that I am doing the best that I can to stop any pollution.

Now, as Senator Rounds indicated earlier, SDSU, the college in Brookings, has done research on the ranch, quite extensively, and one of the research projects they had had to do with water

quality; and what they found out is that the water running off our ranch is cleaner than the water that runs onto it from the neighboring farms and ranches. So we are very proud of that fact, that we are doing the right thing environmentally to clean up not only the water, but the air.

We practice what we call holistic management, and that means we take into account everything on the ranch, from the people to the land to the wildlife; and all of those things are interconnected, and if any of them aren't healthy, the whole system will fail. So we make sure that everything has a chance to thrive on the ranch, regardless of whether it is livestock or the trees, the shrubs, anything like that. We are very conscientious about the environment we live in.

Senator Rounds. You are a volunteer fireman, as well. Can you comment a little bit about what it would do with regard to first responders if we actually had to try to get the Corps of Engineers to respond? I am not even sure where the nearest Corps of Engineers office is and how many hundreds of miles away it is from our part of the world, but can you comment a little bit about what the impact would be if your local emergency responders had to respond to the call each time one of these reports was to be filed?

Mr. Mortenson. Certainly. Not only am I a volunteer fireman, but I am also a first responder, EMS first responder,

and it adds another layer, basically, of paperwork that you would have to do and potentially could slow down your response time. I am going to a Superfund site out in the middle of Stanley County somewhere; now I have to worry about, is it for real, or is it a chemical that I am worried about, or is it a cow pie that I might step in and slip and fall.

Those are very real concerns because, as a first responder, your first duty is to make sure that the scene is safe. So you can't enter a scene until you have determined that, and this will just slow down that response time.

Senator Rounds. Sometimes I think, when we get into these meetings here in D.C., we start talking about manure and we start talking about it as this thing which has little value. Can you talk about the value of manure as we see it, in terms of the ag operations and the value that we have with regard to manure?

Mr. Mortenson. Absolutely. In my operation, it is a pasture-based operation, obviously, and there is a little bug that we monitor, it is called the dung beetle. And that dung beetle, when that pat hits the ground, those things come from all over the place. They have little antenna that they sense the smell and they zoom in on those cow pats. They make little balls, lay their eggs in these little manure balls, and then roll them into a hole. They roll them away from the cow pat,

dig a hole, and down into it it goes.

When the eggs hatch, the larvae feed on the manure, and then when they are big enough, they come out. What does that do? Several things: it fertilizes the ground, number one, and, number two, it aerates the ground, it opens the ground up so the water percolates into the ground a lot easier. So the cow pat is very important to the overall health of our range land.

Senator Rounds. Do you know any producers out there right now that actually don't value manure in their operations?

Mr. Mortenson. None. I mean, with the cost of commercial fertilizer, this is, by far and away, the cheapest and the best product that is out there. And, like I say, for me, Mother Nature is doing the work; she is the one that is putting the fertilizer into the ground.

Senator Rounds. Mr. Mortenson, thank you.

Senator Booker.

Senator Booker. Mr. Chairman, if it is okay with you, I am going to defer to my Ranking Member and my colleague. Before I do, I just want to ask unanimous consent to submit into the record materials from the Congressional Research Service analyzing the effects of S. 2421, the FARM Act.

Senator Rounds. Without objection.

Senator Booker. Thank you.

[The referenced information follows:]

Senator Carper. I want to thank my colleague for yielding and giving me this opportunity to ask some questions so I can get going to another important meeting.

Thank you all for being here, for your testimony.

I want to come back to something that Mr. Satterfield said, talking about I think it was the University of Georgia that you talked about, with the level of emissions with respect to the poultry industry? Was that the University of Georgia?

Mr. Satterfield. University of Georgia, yes, sir.

Senator Carper. In about 30 seconds, just give us that real quick synopsis of that study.

And then what I am going to ask is Mr. Kuhn to compare and contrast what you presented to us today with what the University of Georgia is reporting here. Please. Just real briefly.

Mr. Satterfield. The University of Georgia study was looking at concentrations of ammonia outside of chicken houses, parts per million versus mass or volume of emissions that come out of the houses, so what is the air quality. And the study found that the measurements were made further and further away from the chicken houses, the ammonia detection levels kept going down and down and down. At no time during that study did the odor threshold levels exceed or meet OSHA's standards. And even when there were ammonia levels detected, they were well below EPA's standard.

So, you have to understand that as you move farther away, you are not impacting the neighbors as much as some people would have you believe. And it is important to understand that inside the chicken house, if the ammonia is too high, those birds are not going to live. Taking care of the animal, the welfare of the animal is the number one job of our growers, and preventing ammonia creation is among their top priorities.

If the ammonia is over 25 parts per million, it is hazardous for the birds, obviously not good for the farmers who are in the houses working with the houses. So a lot of efforts are made to keep the ammonia levels low. Some of that is done through improvements in feed conversion, the conversion of the feed ingredients into meat. We see each year a better feed conversion, more of the nutrients being made into meat, which means there is less opportunity for nitrogen to come out the rear end of the chicken and eventually form ammonia.

There are products available that can be put down in the chicken houses between flocks that will lower the pH, they are acid products that lower the pH, which discourages the formation of ammonia. That is an important part of the process. The U.S. Department of Agriculture's Natural Resources Conservation Service provides cost-share money for that.

Keeping the houses dry is important because the ammonia needs moisture to form. It is also good for bird health.

And then we have a program, as you know because you have been out on some farms, where we have a full-time employee whose job is to work with chicken growers to put up vegetative buffers around the chicken houses; trees, bushes, tall grasses. So those things help keep the ammonia levels low, keep them from dissipating to neighboring properties. As the Georgia study found, even without all those things, there still is a low level moving off the property.

Senator Carper. All right, thanks. Thanks very much.

What Mr. Satterfield is talking about reminds me of our layered approach that we have for border security. It is not just one thing, it is like a whole host of things to enable us to keep bad people and bad products from coming across our borders.

Mr. Kuhn, thank you very much for your testimony. It is great to have you here as well. Just react very briefly, if you will, I don't have much time, just real briefly, maybe about a minute, to what Mr. Satterfield has said in the Georgia study.

Mr. Kuhn. Yes, certainly.

Senator Carper. Mr. Chairman, could I ask unanimous consent the University of Georgia study that Mr. Satterfield has talked about be made a part of the record, please?

Senator Rounds. Is there objection?

Without objection.

[The referenced information follows:]

Senator Carper. Mr. Kuhn.

Mr. Kuhn. Yes. Thank you, Senator Carper. The results of documented research in Iowa are different than what Mr. Satterfield has described. Really, when the manure that is contained in one of these buildings is agitated and applied to the land, there is about one million --

Senator Carper. You are talking about poultry or one of the hog --

Mr. Kuhn. This is the hog CAFO like this.

Senator Carper. Yes, I understand.

Mr. Kuhn. There is about one million gallons of liquid manure underneath that building.

Senator Carper. One million gallons?

Mr. Kuhn. One million gallons. And numerous Iowa farmers have lost their lives due to high level of toxic gases. They really emit four different types of toxic gas: one, ammonia, which is constantly there; carbon dioxide; hydrogen sulfide; and methane. We have had numerous instances where farmers have gone in to repair something in the bottom of the pit, they have been asphyxiated; their son goes in to get them, they are asphyxiated. This is very sad, but true.

It should come as no surprise that when thousands of animals are confined in a building directly on top of all the manure they produce, it is going to stink. The farmer will tell

you it is the smell of money, but the neighbor would say it stinks to high heaven.

If the pharmaceutical plant in my hometown has a release of a toxic chemical, they are required to notify local, State, and national officials. Why should it be any different for corporate factory farms? We want all of our corporate citizens to be good stewards of our precious natural environment.

Senator Carper. Thank you very, very much.

And I want to again thank Senator Booker for letting me go ahead of him. Thanks so much.

Senator Rounds. Thank you, sir.

Senator Fischer.

Senator Fischer. Thank you, Mr. Chairman.

Mr. Satterfield, it is my understanding that there is a regulatory framework already in place for producers to comply with environmental rules and laws at both the State and the Federal level. In your experience, would including the additional reporting requirement under CERCLA result in any environmental benefit?

Mr. Satterfield. Senator Fischer, I don't believe so. This is a law dealing with emergency responses; it is not a law to measure emissions, to quantify and aggregate emissions, to then make policy decisions on whether additional regulations are needed because those levels may meet a certain threshold. So I

don't see any environmental benefit or human health benefit, at least from the chicken industry perspective, and that is all I can speak from, from keeping the requirement that farmers have to report.

With our chicken farms, the families live on the farm; they are family-owned farms. They live there, their children live there, and it is not a corporate operation. It may be with hogs in Iowa, I don't know, but, for us, the families live there. And if conditions were that bad, they would do other things to keep those ammonia levels low and inside the houses.

Senator Fischer. Thank you.

Mr. Mortenson, you stated in your testimony that complying with this reporting requirement is a multi-step process and it takes one year to comply. This is followed by additional reporting any time you add cattle to your operation.

I am a cattle rancher from Nebraska, and I understand the problems that ranchers are going to face, given that moving cattle between pastures under a plan of grazing system that we have could trigger additional reporting, among other problems, with the compliance, so this just sounds like a bad deal; and it is applying a law to agriculture that was never designed to be applied to production agriculture.

When the court issues its mandate on May 1st, walk me through the process that you are going to have to go through to

comply with this new law.

Mr. Mortenson. Thank you for the question, Senator Fischer. The first step is reporting to the National Response Center through the Coast Guard. And after that you have 30 days to send your written report in to the EPA, your regional EPA office, and, for me, that would be in Denver. And then after a one-year anniversary, you have 30 days again to re-report and note any changes or anything.

Now, for me, there is no scientific basis out there to gather that material. On a pasture-based system like I run, there is just nothing out there, so I am not going to be able to provide any sort of accuracy to the information that I supply.

As you said, I move the cattle around. I am in three different counties. During the spring, after they calve and are processed, the cows go to six different leases, so am I going to have to report that again? And when the cows are calving, my numbers go from one number, they just double, so what am I going to do now, do I have to report that I have baby calves on the ground?

It is just a reporting nightmare, and the EPA, on their page that you have to kind of go through, says it can take up to 10 hours to do this report in May. I don't have 10 hours to sit around and make guesstimates in May; it is just a busy time of the year for farmers and ranchers.

Senator Fischer. Right. Do you believe that the FARM Act is going to address that cumbersome process?

Mr. Mortenson. Yes, I do. I have great confidence in it.

Senator Fischer. You also discussed concerns about Federal agencies having a database on farm and ranch locations, and, justifiably, you note the concerns of supplying the Federal Government with personal information regarding the location of these operations, which in many cases coincides with exactly where we raise our families. Can you please explain why this is concerning for producers who can gain access to this information and what you believe the FARM Act can do to alleviate some of those concerns?

Mr. Mortenson. I think it is very dangerous when you start putting personal information out there for the public to digest. In this case, a Superfund designation on my ranch I think would attract a lot of attention; and not only on my ranch, but all the other ranches around the Country. You are giving them your location, you are giving them the number of cattle you run, so, to me, it puts me in a very dangerous situation, I feel.

I think this FARM Act will address that; we won't have to report, so, therefore, the numbers and where the cattle are will remain, you know, as personal information.

Senator Fischer. Thank you, sir.

Senator Rounds. Senator Van Hollen.

Senator Van Hollen. Thank you, Mr. Chairman. Thank you and the Ranking Member and my colleagues.

And to all the witnesses who are here, appreciate your testimony. I joined with Senator Carper and a number of my colleagues on a letter to Scott Pruitt at the EPA asking them to ask the court to continue the stay while we try to figure this out. I am trying to understand all the testimony and read through a lot of material.

Mr. Mortenson, I think you make a very good point, differentiating between the concentration of certain emissions, like ammonia, versus the mass of emissions, because from a human health perspective, of course, it is the concentration that has the biggest impact on human health, and I think that is a very important point.

Mr. Satterfield, welcome and thank you for all you do on behalf of the eastern shore's economy in Maryland. You drew the distinction and said that CERCLA never anticipated that the CERCLA reporting requirements would apply to "low level emissions" from these ongoing operations. What is the threshold for low level emissions and what is beyond that?

Mr. Satterfield. I do not have a numeric threshold for low level emissions versus higher level emissions. I don't have it in front of me. We can do some research and find out. But my point was that there is very little ammonia coming out of those

chicken houses because there is very little ammonia in the chicken houses if the birds are being properly cared for and the house is being properly managed.

Senator Van Hollen. Right. So I think those are all really good points. You drew this distinction, and from a human health perspective there is a distinction, right? So what I am trying to figure out, if we say that there is no obligation to report emissions under any circumstances, would that mean that even if there were concentrated emissions, maybe they weren't doing the job properly in one of the poultry houses and there were emissions that were concentrated to a point that it could have an impact on human health to the neighbor? If we pass this, what duty would remain with respect to farmers and reporting on those kind of emissions?

Mr. Satterfield. Well, as I tried to point out, this is an emergency response bill. Does the admission of emissions trigger the need for emergency responders such as Mr. Mortenson to come out and do something?

Senator Van Hollen. Right. And I agree. And probably 99 percent of the cases would never reach that concentrated level. I think it is a really important point on the concentration. You have a big spread-out farm, you may have a lot of emissions, but they are not concentrated enough to have impact on human health.

My question is, if you remove this requirement, in the event there was something that was not a low level emission, that was a high level concentrated emission, if we get rid of this entirely, is there any duty to report?

And my understanding is, if you get rid of it entirely, there is no duty to report something that we might all agree could have an impact on human health. So I am just trying to understand this provision, and you had used that term, and I have seen it used before, low level emissions; so then the question is if there was not an intent to apply this to low level emissions, does that mean there was an intent to apply it to high level, concentrated emissions.

Mr. Satterfield. I just cannot imagine from a chicken house there would be an escape of ammonia that would endanger the community.

Senator Van Hollen. Okay. And I defer to your expertise on that.

Mr. Kuhn, I don't know if, in your experience with some of the other concentrated feed lots, non-poultry, pork, whatever, in your experience, have there ever been emissions that would trigger a requirement to protect human health?

Mr. Kuhn. Most certainly there have been.

Senator Van Hollen. Outside the boundary of the operation. Because testimony on OSHA regulations is interesting testimony.

With respect to impact on human health outside the perimeter of a farming operation.

Mr. Kuhn. In my earlier remarks I referenced attempts to establish regulations and thresholds for hydrogen sulfide and ammonia. The DNR did extensive testing over a period of years to determine at the property line or at the separated distance, that means at the place of the residence, were there direct, verifiable emissions of odors that affect human health, and they found there were.

In Iowa, 1,000 animal units is equal to 1,000 live cattle. Unlike Mr. Mortenson, in Iowa they are built in confined feeding operations, 1,000 cattle, and certainly in some cases there are emissions that would threaten public health at the property line.

Senator Van Hollen. Mr. Chairman, if I could just ask one more, because the CRS report that I believe the Ranking Member asked to be put in the record has not yet arrived at the Committee, is that correct?

Senator Rounds. That would be correct.

Senator Van Hollen. Okay. And I understand one of the questions here is whether or not this legislation also eliminates the requirements to report under Community Right-to-Know. And I received a document, I believe from the Ranking Member, who is a co-sponsor of the bill, that indicates that

under the legislation, under Senator Fischer's legislation, that the reporting requirements under the Community Right-to-Know Act would remain in place under this legislation with respect to large farms and medium farms. It says those would still be required. And maybe this is a question Senator Fischer and I can talk about later.

But, Mr. Satterfield, what is your understanding of the impact of this legislation under the Community Right-to-Know requirements?

Mr. Satterfield. It is my understanding, Senator Van Hollen, that the FARM Act does absolutely nothing to the Community Right-to-Know Act.

Senator Van Hollen. Okay.

Mr. Satterfield. It just deals with CERCLA.

Senator Van Hollen. And the last comment I will make, Mr. Chairman, because I really am trying to figure this out with you, is in the decision, in the court decision, the judge said, in the final rule, that cutting back on CERCLA reporting requirements had the automatic effect of cutting back on Community Right-to-Know reporting and disclosure requirements. Is there something I am missing here, that is it an automatic flow-through? In other words, it doesn't touch that statute, but the Community Right-to-Know statute is directly linked with the CERCLA statute in terms of triggering reporting

requirements?

Mr. Satterfield. My understanding is that, under CERCLA, the reports go to the National Response Center operated by the Coast Guard, and then 30 days later a written report to the regional EPA office. Under the EPCRA, the Community Right-to-Know, it is my understanding that those reports go to the local and State emergency responders, not necessarily to the Federal people. So there are two different reporting systems, two different purposes.

Senator Van Hollen. And they are totally independent, so this legislation, while it may impact CERCLA requirements, would not impact the Community Right-to-Know requirement?

Mr. Satterfield. That is my understanding, sir.

Senator Van Hollen. Thank you.

Thank you, Mr. Chairman.

Senator Rounds. All right.

Senator Boozman.

Senator Boozman. Thank you, Mr. Chairman, and thank you all very much for being here.

Mr. Mortenson, something that is problematic about the new reporting requirement is that it likely affects over 200,000 agriculture producers across the Country. Traditionally, as we have talked about, EPA regulates the large concentrated animal feeding operations, but the court decision goes way beyond that.

We are talking about feed lots, cow calf producers, stockers, poultry, et cetera, et cetera. There doesn't seem to be a limit on who is impacted by the new requirements.

Tell me what your buddies are thinking, in the sense of can they comply with this? What is their concern? You know, again, the solution to these problems need to come from the ground up, rather than a judge or somebody that has never been on a farm making some very, very important decisions. Tell me about your buddies.

Mr. Mortenson. Thank you, Senator Boozman, for the question. For the most part, the people that I have talked to, my neighbors, don't have any idea that this is even coming, so if nothing is done by Congress, on the first of May a big surprise is coming to them, and they are not going to be happy, to say the least, to be labeled as polluters, when all they are doing is the same agriculture that has been going on in this Country for hundreds of years, grazing cattle.

There are a lot more people who will be regulated under this that have no contact with the government. Not everybody signs up for a government program. There are a lot of people up there that step away from them just so they can keep their private business private. So now you are going to net those people that don't have any contact with the government as far as regulations, and I don't think that is the intention.

Senator Boozman. Right.

Mr. Mortenson. And again I will go back to the anger issue. When people learn, when this gets out in the Country widespread, everybody understands what is going to be required. We went through the animal ID thing a few years ago when you saw the anger there. I think this will be ten times worse, because basically it gives the government the same kind of information that the animal ID was going to give, and the anger in the Country will be tremendous.

Senator Boozman. Very good.

Mr. Satterfield, Arkansas produces a lot of chickens, a lot of poultry, much like the Delmarva Peninsula; we have that in common. Again, we talked about this, but tell me, tell the Committee how poultry growers keep their ammonia levels low. I know that, again, my experience has been that these are not huge, corporate-owned entities, these are family farms that people work in, young people are out there working in and participating. Tell me how you strive to do that.

Mr. Satterfield. Thank you, sir.

Senator Boozman. And tell me about the success in striving, what you are accomplishing.

Mr. Satterfield. These are family-owned farms on the Delmarva Peninsula who have contracts with the chicken companies, and the chicken companies have certain animal welfare

standards, and the grower's primary job is to make sure the conditions in those chicken houses are good for the birds; one, because it is the right thing to do and because if there are problems because of high ammonia levels, that is not good for the animal. That does not allow the bird to grow to its full potential and that cuts into the income of the families.

So keeping moisture levels low in the houses is important because moisture is necessary in the creation of ammonia. About 20 years ago, the watering systems in these chicken houses -- and the birds are raised on the floor, they are not in cages -- the watering systems changed from open troughs or open pans to a nipple drinker system kind of like a water fountain. The bird pecks at it, the drop comes down, so you have less water going onto the litter, less potential for human conditions, less potential for the development of ammonia. So that has been an important poultry health step.

The USDA provides cost-share money for acidic products to go in the chicken houses on the bedding material, when the birds are not in there, to reduce the pH, which will nullify the creation of ammonia, so that is important.

The feed conversion I mentioned, the more of the feed that goes into the creation of meat, less nitrogen is coming out the rear end of the bird, less opportunity for ammonia to be created.

So those are the big ones. And then we have our buffers program to capture the emissions once they come out of the chicken houses in low levels. Remember, the birds are down here on the floor; a human being up here. If he is smelling a lot of ammonia, imagine what the little chick is smelling. If there is too much ammonia, it impairs the quality of the bird and the quality of the paws, the feet of the birds, which are a very valuable export product. So high ammonia levels reduce the quality of the product that the companies want to sell, so everybody has an interest in keeping those ammonia levels down.

Senator Boozman. So the reality is, through science and technology, there has been tremendous advancement in recent years in that regard.

Thank you, Mr. Chairman, we appreciate it.

Senator Rounds. Thank you, Senator.

Senator Markey, I know you just pulled in. Are you prepared to ask some questions at this time?

Senator Markey. Yes, I am. Thank you. Thank you, Mr. Chairman, very much.

Mr. Kuhn, do you agree that high doses of emissions can pose a health hazard to workers and nearby communities?

Mr. Kuhn. Certainly.

Senator Markey. According to the CDC, these emissions can cause "chemical burns to the respiratory tract, skin, and eyes;

chronic lung disease; and even death.”

Mr. Kuhn, do you agree that nearby communities should be able to find out whether they are being exposed to high quantities of these chemicals?

Mr. Kuhn. Yes, I do.

Senator Markey. The CERCLA reporting requirements are triggered for farms that emit more than 100 pounds of ammonia or hydrogen sulfide a day. Some of these larger farms emit as much as 2,000 pounds of ammonia daily, and these are dangerous chemicals, and animal agriculture operations account for about three-quarters of our national ammonia pollution, according to the EPA. Unfortunately, the bill we are considering here would permanently keep the public from understanding where that pollution is coming from by removing reporting requirements.

Mr. Satterfield, since the D.C. Circuit Court decision last April that farms should report hazardous emissions from animal waste as directed under CERCLA, have farmers had success in working with the EPA to get clear guidance put in place to explain how to report their emissions?

Mr. Satterfield. No, sir, they have not.

Senator Markey. And to what do you attribute that?

Mr. Satterfield. Part of the problem is the difficulty in measuring emissions from chicken houses. There was a study done in 2007, the National Air Emissions Monitoring Study, to develop

emission factors that would allow farmers, on their farms, to calculate it. When the data were collected, it went to the EPA Scientific Advisory Committee, which said these are not good data. We don't have a real good way to measure the emissions and to share the measurement techniques with the farmers, because the emissions depend upon the age of the bird, the breed of the bird, the age of the bedding material on the floor, whether it has been around for years or just months, the climate, the humidity.

So one-size-fits-all does not work for every chicken house. So until EPA figures out what is the best method to give to every grower for him or her to measure emissions, there is no way that that person accurately can measure the emissions.

Senator Markey. So do you think that the Trump EPA should do a better job in working with farmers, collaborating with the farmers to make the reporting work for everyone, is that what you are saying? The Trump EPA is not collaborating well with the farmers?

Mr. Satterfield. Well, I am not saying they are not collaborating. And I think a new study is underway. I think that was on the EPA website in late 2017 or early 2018, that efforts are underway to develop --

Senator Markey. I appreciate that. But what you are saying, right now, the farmers are left to muddle through the

issues themselves, without getting the full cooperation from the Trump EPA, and they are just leaving the farmers out there on their own and in a state of confusion, almost like chickens with their heads cut off, right? They don't have a direction that they are being given by the EPA.

CERCLA actually does require the communities to have information they need to protect themselves. If industries emit dangerously high levels of hazardous chemicals, they should be reporting that under CERCLA. If we carve out a huge industry, we will cut into the safety of American families.

So, Mr. Kuhn, how would you solve this problem? What do you think the EPA should be doing here so that we can keep the standards which we have, but ensure that there is much closer collaboration going on between the Trump EPA and the farmers?

Mr. Kuhn. Well, I would like to mention that the ability already exists to measure hydrogen sulfide, ammonia, and even odor. After the passage of the legislation in 2004, the DNR was required to do studies on emissions of hydrogen sulfide and ammonia. They are trained in doing that. Inspectors were even taught about scentometers, where they could determine on a regular basis the odor that is emitted from these.

So I am a little concerned that we talk about technology at one time and then we say we don't have the ability to test it. Certainly, we do. So I just don't believe that -- I am not

really trusting the EPA when they promulgate the guidance on their new rule that would eliminate this. There needs to be it somewhere, and it is not coming from the State and it is not coming from CERCLA. It is not going to come from EPCRA. Who is going to provide it? People like the Schwartzkopfs are still suffering.

Senator Markey. I agree with you, and I think the EPA should just, in the words of Bill Belichick, do their job, get it done, cooperate, send clear guidance, and I think we would be in a much better position.

So I thank you, Mr. Chairman; I thank the Ranking Member.

Senator Rounds. Thank you.

Senator Inhofe.

Senator Inhofe. Thank you, Mr. Chairman.

Let me apologize to the Committee here. I have been chairing the Armed Services Committee and I fear that what I am going to ask has already been covered, but it hasn't been covered to me yet, so if there is a little redundancy here, I do apologize for that.

The FARM Act, I am a cosponsor of that, it exempts the registered pesticide products in air emissions from animal waste from reporting requirements. In December, the EPA published a final rule to exempt all farms from reporting these. The rule was struck down last April by the U.S. Court of Appeals, the

D.C. Circuit.

This would be to Mr. Mortenson. In your testimony you say that the biggest challenges in your industry are urban encroachment, natural disasters, and government overreach. I know a little bit about that, the lengths of government, what they can do and control every aspect of American life. I spent a number of years chairing this Committee and we lived through that.

I find it interesting that the last Administration agreed that these reporting requirements weren't needed or wanted by agencies tasked with responding to emergency situations. Yet, the environmentalists sued, and you have to wonder why, as you stated in your written testimony, there is no environmental benefit, but it seems there is a lot of very specific information that is required in reporting these emissions.

So I would ask you, is there concern among your community, the farmers and ranchers, about how this information could be used to someone's disadvantage if it were in the wrong hands?

Mr. Mortenson. Thank you for the question, Senator Inhofe. Yes, there is. We are quite proud of our environmental record not only on the ranch, but as a State. We have done a very good job of keeping the waters --

Senator Inhofe. That is interesting you start off with that, because that is so obvious. The ones who are really

concerned are the ones who own the land, and yet there is this idea that Government has to come in and tell you how to make your land look right and farm right.

But go ahead.

Mr. Mortenson. Absolutely. One thing I would like to mention, our ranch was one of four that was featured in a Smithsonian exhibit called Legacy of the Land, and it ran for six months and then it was taken by the Library Association throughout the Country on a four-year tour. So, you know, we are trying to do the right thing by the environment. It is very important to us; we make our living off it.

So the problem I see coming is that people don't know this thing is coming; a lot of them are unaware of it. And on May 1st it is going to hit the fan, you know, the manure is literally going to hit the fan, because they then have 30 days to report, and where is the information? Where do I get information on pasture-based livestock to make any kind of judgment on how much ammonia or hydrogen sulfide my cattle are producing, and how does that change over the seasons?

I talked about the dung beetle earlier. They are burying that cow pat within an hour of it hitting the ground. In the wintertime, obviously, they are not, but there is so much science that is lacking here that there is no way I can make accurate report; and if you get junk in, you get junk out.

Senator Inhofe. Yes. I am very familiar with your area; I spent some time with the Chairman there. There is a lot of beauty there and I was not aware that you were singled out and honored in such a way, and I am very proud of you.

Mr. Satterfield, your testimony addresses the fact that information that would be reported is viewed by the EPA as essentially useless. I know the Coast Guard shares this view. Yet, your industry and the rest of the ag community will be charged with reporting these largely unknown and low-level emissions.

Is there concern among the industries as to the ability or inability to report this information accurately and the potential legal liability that they would be exposed to if they don't?

Mr. Satterfield. The method does not exist to give chicken growers the formula on how to measure emissions from their houses. EPA, as I mentioned to Senator Markey, put on its website it is in the process of trying to figure this out again. There was an effort a dozen years ago or more, millions of dollars spent to try to figure this out, and it couldn't be figured out.

So EPA, according to its website a few months ago, is going to try again, and then, and only then, will the growers, the chicken growers, the family farmers have the tools they need to

figure out what their emissions are.

One of the concerns we have is that a lower threshold is to be reported based on the EPA current guidance, an upper threshold, and then a yearly total. Well, the activists often take the numbers that best suit their purpose, which would be the upper threshold, and say that is it, for every chicken house, for 365 days a year, we have a huge problem out there, when in fact, when a little itty-bitty chick in a house of them, 25,000 to 30,000 birds, is not producing the upper threshold, which is at the maximum time coming out of the houses.

There are times between flocks there is no ammonia being sent out of the houses. So that is a concern, that the numbers are going to be turned by the critics of the animal agricultural industry to suit their purposes.

Senator Inhofe. And they seem to be in charge, too, quite often.

Let me just end on a positive note. Mr. Mortenson, you are probably familiar with the partnership program. We did this program, it was back during the Obama Administration, and they came out and they inspected, at our request, in fact, I made this a requirement, to get confirmation that they make at least two trips to my State of Oklahoma and really spend some time on the farms and the ranches.

They came up with the conclusion that they are the ones who

are really concerned about their own land, about the environment. I thought that was a great discovery, because that kind of broke the ice for the first time in my memory that Government doesn't know as much about your land as you do.

Mr. Mortenson. Absolutely. We hosted the regional -- Senator Inhofe. Was that Fish and Wildlife you hosted?

Mr. Mortenson. No, it was the EPA Administrator out of Denver, and I can't remember what her name is.

Senator Inhofe. Oh, okay.

Mr. Mortenson. Very fine lady. But we gave her a tour of the ranch and she was really taken aback by what is going on on the land, and the care that we not only give livestock, but the land and the water, and our concern for the health of it all, how it all works together as a system; and if part of it isn't healthy, none of it is healthy.

So it is very important to us, and I speak for myself and, I think, the industry as a whole, that the environmentalist part of it is the most important part. We are trying to do the right thing, and I believe we are.

Senator Inhofe. I believe you are, too.

Mr. Chairman, pardon the interruption, Senator Booker. Thank you for your tolerance.

Senator Rounds. Thank you, Senator Inhofe.

Senator Booker, I think you have outlasted everybody else

on your side. I think it is your turn.

Senator Booker. I appreciate that, sir, and, again, thank you very much for this hearing.

Mr. Kuhn, could we just go real quick and just give a general answer of do you support this bill, S. 2421, and why or why not?

Mr. Kuhn. No, I do not, as it is currently written. I think it is a step backwards. People like the Schwartzkopfs and thousands of neighbors like them in Iowa have waited a long time. I explained the process through which the State of Iowa went, when they attempted to establish meaningful air emission standards for Iowa, and that failed.

I understand that the U.S. Coast Guard might not be the best place for this type of information to be presented, but for the Schwartzkopfs and other families like them, they want it somewhere, and they are not getting the answers they need now.

Neighbors do have the right and the need to know. When the manure is spread on the fields, I mentioned about a million gallons from a typical tank, it can be spread immediately adjacent to a neighbor's residence or their private drinking water well, and the CAFO operator is given up to 24 hours to incorporate it into the soil.

During that time, the smell from literally hundreds of thousands of gallons of liquid manure can be overwhelming, and

both the State representative and county supervisor have been called many times by my constituents, who have no place to turn but leave their homes.

Secondly, neighbors also need to know everything they can about dangerous air emissions so they can provide that data to their doctor when explaining the symptoms that affect their personal health. Hydrogen sulfide and ammonia emissions can have serious short- and long-term consequences. Neighbors need to be able to document that exposure so they can receive proper treatment for their conditions. The conditions that the Schwartzkopf family suffers from are real.

And, finally, as I stated in my written remarks, there is a real reason why eliminating dangerous air emissions would be detrimental to a neighbor. Last year, Governor Terry Branstad signed a law that limits damages that can be awarded to a person who wins a lawsuit against a CAFO. The new law requires "objectively documented medical evidence and proven to be caused by the facility." That terminology would eliminate studies and research done by universities and rely on actually documented research that the neighbors have to find for themselves. If reporting requirements under CERCLA and EPCRA are eliminated, good neighbors like the Schwartzkopfs will not be able to access information and, therefore, denied any chance for justice in Iowa against the powerful CAFO industry.

Senator Booker. And I think it is important the trends. New Jersey actually has a lot of farms. We actually are the Garden State and produce a lot of this Nation's produce. But there is a trend going through farming in America, which is small and mid-sized farms are getting fewer and far between, and these massive operations, massive agribusinesses are coming about. You are seeing that in the poultry industry and the pork industry.

As you said, some of these massive companies are not even American companies, like Smithfield, which is a Chinese-owned company; and these concentrations mean the imagery I grew up with of farming and the farmers that I know a lot of in New Jersey, which are small farmers and not producing the kind of waste that we are talking about, but these massive agribusinesses do create these hazards.

And the expansion you talked about in your earlier remarks of what is happening in Iowa, one thing you didn't mention on the record, as we look out the front yard of the Schwartzkopfs, the CAFO there has the right to expand; they could literally put another CAFO. As we see the pork industry growing in the State of Iowa, this expansion could have even a bigger deleterious effect on average Iowans, correct?

Mr. Kuhn. Yes, it does. This particular CAFO did not require what is called a master matrix application because it

falls one pig short of 1,000 animal units; and typically the industry builds them at that level so they don't have to go through this county process.

But when they expand, as this site did attempt to expand, they have to go through the county for a hearing, and the county goes out and it is actually the responsibility of the Board of Supervisors to ensure that that application meets all separation distances and passes a minimum threshold, sort of a pass-fail test.

Well, in this case, when the operator decided to expand his CAFO, he was required to come before the county board, and at that time, according to the laws of the State of Iowa, another site closer to this one was approved; and the only reason it is not in this picture is because the operator failed to start construction within one year. If they did, we could have seen another CAFO, which would have been about 1,878 feet from the bedroom window of the Schwartzkopfs.

So that is the problem we have. The owners of the CAFO don't live near it; the owners of the pigs don't live near it. But the Schwartzkopfs and the rural residents do.

Senator Booker. Well, I don't know if this is real or not, that you introduced legislation in the Iowa legislature that would have said that people who own CAFOs have to live near them. Probably would have solved the problem real quick if that

became the issue.

I just want to finish, because I have a lot of respect for Mr. Mortenson and the industry that you are in, the cattle industry. In New Jersey it is a common saying to say someone is all hat and no cattle, but, sir, you are hat and cattle, and I have a lot of respect for that.

In my opening statement, I agree, I said, I hope you heard, that pasture-based ranchers like you should not have to do this kind of emissions reporting; it really, to me, as you said, it borders on the absurd or crossed over into the border of the absurd. But there is a fundamental difference between the type of livestock raising that you do and what goes on in these large CAFOs with huge manure lagoons where numerous people have died.

And I want to put into the record, I only grabbed one article of the death as a result of these CAFOs. If I may put that into the record.

Senator Rounds. Without objection.

[The referenced information follows:]

Senator Booker. As a direct result of emissions. But you know that there is a fundamental difference between what Mr. Kuhn is talking about and the kind of animal agriculture that you do, sir.

Mr. Mortenson. Yes, I do. I understand the difference. And I am not an expert on that end of it, the CAFOs; I have no experience with them. I am just here to tell you about a ranch in Stanley County that is scared to death of this thing.

Senator Booker. And I respect that.

And I want to say for the record that the Chairman has not invited me to come out and visit your county. I hope he does. I try to pull him to Jersey all the time.

But your testimony says that there are no large CAFOs in your county, and I respect that, but someone in another State, who lives just a couple thousand feet from a huge CAFO, whose health and whose children's health are having to deal with the stench, have to deal with not being able to put clothing on the line, have to deal without having to open their windows.

You can understand why someone living next to that would be begging for the help of the government. And governments were established in this Nation, if you read our founding documents, for the protection of the citizenry. You can understand why folks would be appealing to the government to please do something about the health and safety risks that they are

experiencing as a result of these CAFOs, is that correct?

Mr. Mortenson. Yes, I can understand that.

Senator Booker. Thank you, sir.

And the last point I want to make is that reasonable regulations, as a former mayor, I had to cut through so much unreasonable regulations to deal with trying to get things done and help people get jobs, and economic opportunity is so important.

But what we see often here, and I see this in the river in Newark, New Jersey, is often what businesses do is they externalize their costs onto other people and they internalize their profits. That is not the free market; that is finding ways to do shortcuts that are hurting Americans. It is perverting capitalism and the free market by pushing costs out to the commons and internalizing profits. The river in Newark, New Jersey is polluted because of the bad practices of businesses. Large corporations, through a type of corporate villainy or theft from the future, did that.

Right now, I talked to the head of the EPA in our hearing that the Illinois River is being polluted by a lot of the waste of animals that have been pouring into those rivers.

So I am just hoping, Mr. Chairman, that we can find a balance, or I should really say to rebalance the scales to get rid of unneeded regulations on the people and ranchers, but to

make sure that families, now a growing number of American families, as these CAFOs, as you said, in Iowa, are becoming more prevalent in our society as folks like the Chinese are finding very creative ways to outsource their pollution onto Americans and import the finished product into their countries, that we find a way to rebalance the scales for health and safety for suffering families suffering from respiratory diseases, cancers, and the like, and to undo the undue regulations that are ranchers like Mr. Mortenson. I believe we can find that balance, but I think we still have work to do.

Thank you, sir.

Senator Rounds. Thank you, Senator Booker.

I think, just to wrap this up, first of all, the idea behind the subcommittee is to really be able to get in to look at the issues, learn a little bit more about the legislation involved, and to recognize that sometimes, as Mr. Kuhn has brought out there, there are issues that many cases your local units of government, as a mayor would understand, as a State legislator would understand, I am a former State legislator, that the question in many cases is where do you best address some of the issues, where is the best place to go.

One size does not fit all. We have different sizes here, different types of activities, all of which are trying to be addressed by one single piece of legislation.

I think what we have learned today is, number one, there is a need to address the challenges that are found within the legislation or found within the rulemaking processes of the EPA today. The second part is that there is room for not just Federal, but also State and local zoning, and rulemaking to be involved in this as well.

I have appreciated what all three of you have had to offer to this process today. The legislation before us is, in my opinion, a very good attempt to try to fix what is an impending disaster for a lot of small farms across this entire Country. At the same time, we recognize the need to try to address the concerns of all of our citizens across the Country as well.

So I want to thank Senator Booker for his participation in this, as well as the rest of our Committee members. I would really like to thank all of our witnesses today for their testimony; you have all provided valuable information to us as we move forward.

So, at this time, I would once again say that the record for this subcommittee will be open for two weeks, and that would bring us until Thursday, March 22nd.

With that, this hearing is adjourned.

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