

IDAHO POTATO COMMISSION RULEMAKING HEARING
August 1, 2018

Shoshone Bannock Hotel
700 Bannock Trail
Fort Hall, Idaho

TRANSCRIPTION BY:
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A P P E A R A N C E S:

Michael Kane, Hearing Officer
Pat Kole
Gracie Bingham
James Hoff
Shawn Boyle
Travis Blacker
Dan Nakamura
Marc Gibbs
Rick Shawrer
Britt Raybould
Randy Hardy
Rod Furniss
Andrew Mickelsen
Boyd Foster
Carl Taylor
David Robison
Todd Cornelison
Kim Wahlen
Bryan Mickelsen
Kevin Loveland
Tanner Wahlen
(Illegible) Mickelsen

1 (Proceedings begin.)

2 MR. KANE: It is now just about ten after 5:00 p.m.
3 We are at the Shoshone Bannock Hotel, 777 Bannock Trail,
4 Fort Hall. I'll assure you that of the three hearings
5 we've had, this room is by far the most opulent. So enjoy
6 yourselves. I guess these seats go back a bit. So make
7 yourselves comfortable.

8 My name is Michael Kane. I am the hearing officer
9 in this matter. We are here on rules -- proposed rules
10 governing nominations and elections for candidates to be
11 selected for potato commissioner, IDAPA 29.01.03, Docket
12 No. 29.0103.1801. This is a proposed new chapter and this
13 is negotiated rulemaking which means that the commission
14 has charged me with taking information from you and
15 ultimately rendering a recommendation to the commission.

16 The first two hearings were very free flowing. We
17 would hope that would also occur today and at the end of it
18 all, by August 15, anyone who wishes to provide written
19 materials may do that and I will take that into
20 consideration as well.

21 So let me make a record here of what has happened
22 before. The first thing you should be aware of is that you
23 should have a packet of information which are exhibits that
24 were put together by the staff at the potato commission for
25 me to review and we've gone over all of these and we'll

1 probably be speaking about a lot of them today. So that
2 should be 100 through 122.

3 In the last hearing, we had several more items that
4 were marked to be considered and I'll make a record of
5 those. They are not electronically up on the web yet -- on
6 the website but they will be probably by the end of the
7 week I would think. Is that right, Mr. Kole?

8 MR. KOLE: Yes.

9 MR. KANE: And I would ask you to review these and
10 if you have any comments on them, then please provide them
11 to the staff and they will get them to me.

12 The first one is -- has been marked as 123 and this
13 is from -- in your world, that's a \$10 fine, isn't it?
14 123. It's a letter from IACI to Mr. Pat Kole dated July
15 30, 2018. I think probably the best thing to do is let's
16 make a little more of a record of that when you are
17 speaking, Mr. Kole.

18 We also have two exhibits, 124A and 124B, which
19 Mr. Kole will be speaking of and these are minutes of two
20 meetings of the potato commission. These were requested,
21 if my memory is correct, by Representative Megan Blanksma
22 and she wanted them into the record so Mr. Kole got them
23 and is going to have them in the record and he's going to
24 scan them and put them on the website.

25 We have 125 which is an undated three-page document

1 which was read into the record yesterday which Mr. Kole may
2 wish to refer to and it is I guess you would call it
3 something of a rebuttal to an e-mail that went out to many
4 potato growers, processors and shippers.

5 We have another document from Mark Darrington,
6 August 1, 2018. This is 126 which is another letter that
7 was submitted into the hearing yesterday regarding his
8 comments and Mr. Kole will be able to speak to that as
9 well.

10 And then finally I have been asked by Mr. Kole to
11 include a United States Supreme Court case, North Carolina
12 State Dental Board versus The Federal Trade Commission
13 which Mr. Kole believes is relevant to our discussion and
14 frankly, for those of you that were with us yesterday, the
15 speaker of the house also felt it was relevant so we've
16 decided to include it into the record for everyone's
17 review.

18 If you have written materials and you wish to have
19 them submitted today, we will certainly do that. We'll
20 have it marked as an exhibit and we will go ahead and put
21 that on the website as well and that will be something else
22 I'll be considering.

23 All right. The way we've been doing this is we've
24 been having Mr. Kole make a presentation and for those of
25 you who are here for the third time, try not to repeat with

1 him as he speaks and after that, what we've been doing is
2 we've been allowing questions of Mr. Kole and what I would
3 ask you to do if you have questions, probably the best
4 thing to do would be to come forward and put your questions
5 to Mr. Kole rather than shout it from the audience.

6 After that, you will have the ability to come up
7 here and sit next to us and make a record of any statement
8 you wish to make. We have approximately it looks like
9 about six or seven people who are signed up that wish to
10 speak about this matter and I see we have some more people
11 coming in so perhaps we'll have more.

12 So with that, Mr. Kole, did you want to make any
13 further record before we got going here?

14 MR. KOLE: No. I'm ready to start.

15 MR. KANE: All right. Then Mr. Kole, would you
16 please go through the exhibits that we have here, explain
17 the process that the commission has engaged in to get here
18 and speak to the people about what it is that the staff is
19 recommending here.

20 MR. KOLE: Thank you very much, Mr. Kane. I'll try
21 to be brief but also cover all of the relevant points so
22 that people are informed as to why this process is taking
23 place.

24 It began in March of 2018 when nominations for
25 positions on the Idaho Potato Commission as a commissioner

1 were opened up. Each year as a nine member commission,
2 there are three members of the commission that are up for
3 either reappointment or for a new commissioner position.
4 The statutes require that three names be nominated for each
5 of those positions and those nominations are then sent to
6 the governor of the State of Idaho who selects one person
7 from those three nominees. They're not always but in this
8 case, they were grower, shipper and processor commissioner
9 openings at this particular meeting.

10 Prior to the meeting, there was a request for
11 clarification as to the nomination process for Idaho Potato
12 Commissioners. That is Exhibit 100, the first exhibit in
13 your package.

14 In addition to that, provided with it were the
15 potato commission nominating ballots for grower, processor
16 and shipper which represent Exhibits 101, 102 and 103
17 respectively. The meeting was duly called to order by
18 Chairman Lynn Wilcox and contrary to the written
19 instructions that were provided and the guidance provided
20 at that meeting, there were proxy ballots submitted,
21 Exhibit 104, and absentee ballots submitted, 105, even
22 though those were items that in the prior guidance provided
23 to the industry were clearly not acceptable.

24 As a result of that, guidance was sought from the
25 attorney general's office which is Exhibit 106 in your

1 package.

2 Exhibit 107 represents the attorney general's
3 response relative to the guidance sought. In that
4 document, the attorney general indicated that it was his
5 recommendation that there could be a renomination meeting
6 held for the grower position that was of the three nominees
7 that were elected -- or selected at that particular
8 meeting.

9 Exhibit 108 is a letter dated April 20, 2018, that
10 was sent to the four candidates for grower commission
11 positions and notification that the commission would be
12 discussing what action it wanted to take at its upcoming
13 meeting on April 25.

14 At that commission meeting, the commissioners
15 directed staff at the Idaho Potato Commission to
16 investigate and come forward with recommendations as to how
17 best to address what happened at the nomination meeting.
18 The staff recommended adopting an administrative rule
19 pursuant to the Idaho Administrative Procedures Act and
20 making statutory changes to the Idaho Potato Commission's
21 statute.

22 Exhibit 109 represents what is required under the
23 administrative -- Administrative Procedures Act which is
24 notification that we would like to request the ability to
25 make an administrative rule.

1 Exhibit 110 represents the notice of intent to
2 promulgate rules and negotiated rulemaking which was duly
3 published in the Idaho Administrative Code.

4 Exhibit 111 represents the draft of the rules that
5 were prepared by the Idaho Potato Commission staff after
6 consulting with not only the commissioners but in two
7 public meetings and after I reviewed several states'
8 statutory authority for different potato commissions
9 including Washington, Oregon, Maine, Wisconsin, North
10 Dakota.

11 Exhibit 112 represents the approval that is
12 required in order to enter into rulemaking both from the
13 Office of Administrative Rules, the governor's office and
14 the Division of Financial Management.

15 Exhibit 113 represents the first effort at drafting
16 statutory language in order to complete the ability of the
17 Idaho Potato Commission to adopt the administrative rules
18 that were marked as Exhibit 111.

19 Now, in Exhibit 113, there was two proposed
20 changes. The first time did not include the language found
21 on page 1 of that exhibit in line 21 which said that potato
22 commissioners would serve at the pleasure of the governor.
23 That was subsequently added and let me explain why. Staff
24 from the Idaho Potato Commission met with the governor's
25 staff and with the Division of Financial Management. We

1 were told in no uncertain terms that in order to be
2 acceptable to the governor's office, this language had to
3 be included.

4 Reference was made earlier to a Supreme Court case,
5 North Carolina State Board of Dental Examiners versus The
6 Federal Trade Commission which I would now ask be entered
7 into the record as Exhibit 127. In short, the Idaho -- the
8 U.S. Supreme Court indicated that for an agency to be
9 exempt from federal anti-trust laws, there had to be
10 oversight of that state agency by the executive branch of
11 government.

12 In this case, the dentists had gotten together and
13 had letters sent to dental practitioners telling them to
14 cease and desist their dental related activities. Because
15 of those letters, FTC, the Federal Trade Commission,
16 believed that there was anti-trust liability on the part of
17 the State of North Carolina. And in fact that's what the
18 Supreme Court held, that if there is no active supervision,
19 there is anti-trust liability that is possible for anti-
20 competitive behavior. As a result, the governor in this
21 state has taken the position that active supervision means
22 that commissioners serve at his pleasure.

23 Turning to page 2 of that exhibit, you will see
24 that in line 14 through line 26, the current existing
25 process for making nominations to the Idaho Potato

1 Commission is stricken and instead, the legislature will be
2 asked to pass language allowing for the adoption of
3 administrative rules so that we can nominate commissioners
4 pursuant to those same rules which of course are subject to
5 oversight and approval by the Idaho legislature.

6 On page 3, there is a Section 2 which declares this
7 to be an emergency so that this could go into effect prior
8 to the next round of nominations for the Idaho Potato
9 Commission which are required to be submitted under the
10 statute by March 31 of 2019.

11 So essentially what we're going to ask the
12 legislature to do is repeal the requirement that we have to
13 do this in March so that we have enough time to be able to
14 put our new process into place with the administrative
15 rules I've previously referred to.

16 In Exhibit 114, you will see that there is a
17 proposal on page 1 through page 2 that would take and
18 change the boundaries of the Idaho Potato Commission grower
19 commissioners. What has happened over the years is that
20 there have been an increasing shift of production of
21 potatoes from the western part of the state to the eastern
22 part of the state and to explain this part, I'd like to
23 defer for just a minute to Mr. Travis Blacker who will
24 explain both what the representation numbers are and what
25 the proposed changes to the boundaries would be.

1 MR. KANE: Mr. Blacker, if you'd take a seat over
2 here, we'll pass the microphone and if you would go ahead
3 and follow up on what Mr. Kole was saying.

4 MR. BLACKER: Sounds good. So I'm talking about
5 this packet that most of you probably got over there on the
6 table. So the first page is how the districts are
7 currently right now so we've got District 1 which is over
8 on the east side of the state. That represents about 67
9 percent of the acres grown in Idaho and currently out of
10 that district, there's two grower commissioners that are
11 serving. District 2B is about 17 percent with one grower
12 over there. District 2A is 12 percent with one grower over
13 there and then District 3 is about 3 percent. That's the
14 western side of the state and that's one grower as well.

15 And the proposed districts are on the second page.
16 What we tried to do is we tried to make it so that there
17 would be five districts with five growers of roughly about
18 20 percent of the acres in each district and what we did is
19 we've got District 1 which is up there in Madison, Freemont
20 County. That's about 24 percent. District 2 would be
21 Clark, Butte and Bingham County. That's about 24 percent.
22 District 3 which is Power County, Oneida and east, that's
23 about 22 percent. Magic Valley area which is about 18
24 percent and then western Idaho which is about 12 percent.
25 So it's not perfect but it gets us closer to where we're at

1 than right now.

2 MR. KANE: Thank you. So do I understand what you
3 did was you drew the lines that would be coincidental to
4 county boundaries?

5 MR. BLACKER: Yes, that's right.

6 MR. KANE: Hence the 12 percent versus the 18
7 percent?

8 MR. BLACKER: Right.

9 MR. KANE: All right. Thank you. Let's do this.
10 Why don't we have this marked as 128 and there are some
11 helpful annotations on here about the percentages that
12 somebody wrote in pen, probably Mr. Blacker. If I could
13 have this be the actual exhibit, I think that would be
14 probably helpful. Let's call that 128. Thank you.

15 MR. KOLE: So as I said, that was Exhibit 114 that
16 you have in your packet. This contains a rather unusual
17 enforcement enactment clause found on page 3. It says that
18 this section will be in full force and effect for
19 appointments to the commission on or after September 1,
20 2020. In other words, a delayed enactment date.

21 The reason for that is that coincidentally, the
22 commissioners that would be impacted by the change in
23 boundaries are either eligible -- one will be eligible for
24 reappointment and she is in the larger district so
25 Commissioner Hasenoehrl could be reappointed. The other

1 two commissioners, Commissioner Blanksma and Commissioner
2 Hardy leave the commission at that time and so it just
3 works out with the delayed enactment clause that there is
4 the opportunity to not displace an existing commissioner.

5 The last exhibit in this is Exhibit 115. 115 is
6 the one that deals with the definitional section of the
7 Idaho Potato Commission which is found in Section 22-1204
8 Idaho Code. And in this section, what we have tried to do
9 is address the problem that's been created by evolution
10 within the industry.

11 At the time the statute was first put in place, a
12 grower was a grower, a shipper was a shipper, processor was
13 a processor. You would be hard pressed now to not find a
14 grower that doesn't have some ownership interest in a
15 shipping facility.

16 UNIDENTIFIED SPEAKER: Excuse me. Could you speak
17 a little more directly into the mike? (Inaudible.)

18 MR. KOLE: Sure. A condition that we're all
19 getting familiar with. So the idea here was to clarify the
20 definitions of what constituted a grower, shipper and
21 processor because as currently written, if you are a grower
22 and with one narrow exception, if you're a grower in a
23 cooperative -- a true cooperative where you are running
24 your own potatoes for packing, you are ineligible because
25 you are also a shipper to be nominated to a grower position

1 on the Idaho Potato Commission.

2 So this makes it clearer that if you are a grower
3 and you are actively engaged in the production of potatoes
4 and derive a substantial portion of your income therefrom,
5 that you are not primarily engaged in shipping or
6 processing of potatoes, that you grow potatoes on five
7 acres or more and that you've been actively engaged in
8 growing potatoes in the State of Idaho for a period of at
9 least three years prior to nomination and you have paid
10 your assessments to the commission in each of the preceding
11 three calendar years, that you are eligible for appointment
12 to the Idaho Potato Commission as a grower.

13 And each grower entity will designate annually who
14 its voting representative to the commission will be. You
15 can only vote as has been the case forever in one ballot in
16 any election.

17 The term processor is also most closely defined and
18 I'm going to ask you to skip -- first look at lines 25, 26
19 and 27 on page 2 and then flip to Exhibit 115A and look at
20 the language there. We made a change in the definition of
21 processors. The reason why we did this is that when we
22 first were drafting this, we looked at whether or not a
23 processor in order to be eligible to vote was licensed to
24 do business in the State of Idaho. What we found as we
25 were going through the process listening to comments

1 getting testimony was that we really wanted it to be
2 transacting business.

3 I'll give you an example. Ore-Ida. They buy a lot
4 of potatoes in the State of Idaho but they're not licensed
5 to do business in the State of Idaho. They transact
6 business in the State of Idaho. So this brings Ore-Ida
7 into jurisdiction in the State of Idaho. If we had written
8 it the other way that we initially drafted it, we would not
9 have had that ability.

10 As I mentioned, this is a complicated process so if
11 you look at Exhibit 116, this is our web page. This web
12 page has a specific page for members of the public to go to
13 and make comments, view exhibits, take a look at everything
14 that the commission is proposing. It will be updated
15 regularly as we go through this process.

16 The most important thing here though for you is
17 this: We have made it incredibly easy to submit comments.
18 All you have to do is click on the link at the bottom and
19 it will take you to a page where all you have to do is fill
20 in what you want to say. Click submit and it will be
21 electronically sent to the Idaho Potato Commission office.

22 We've tried to be as transparent as we possibly
23 can. We've sent out letters to the industry and to all of
24 the legislators about what we're doing. Exhibit 117 is an
25 example of that. Exhibit 118 is a Potato Pulse publication

1 that we put out which went to the industry as well.

2 And then finally, in Exhibit 119, I wanted to just
3 provide two examples in 119 and 120. There's been some
4 discussion at the prior meetings about at the pleasure of
5 the governor. When the wheat commission and the barley
6 commission opened up their statutes, the legislature
7 inserted at the pleasure of the governor in both statutes.

8 The legislature also has done this for over 50
9 boards and commissions throughout the state such as the
10 Board of Professional Land Surveyors, the Board of
11 Accountancy, the Board of Medical Examiners so this is very
12 common language. The governor's being very proactive to
13 try to limit the liability of the state and therefore
14 protect the general fund of the State of Idaho from any
15 kind of liability.

16 Exhibit --

17 UNIDENTIFIED SPEAKER: Pat, is it okay to ask
18 questions right now?

19 MR. KANE: You're going to have questions -- you'll
20 have that opportunity. I'm going to ask -- let's let him
21 finish the presentation and then anyone that wants to pose
22 a question go through me and we'll get you up here and
23 we'll get it done for you.

24 MR. KOLE: So just to get the last few items in the
25 record as was mentioned, the Idaho Association of Commerce

1 and Industry has written a letter essentially expressing
2 some concerns but wanting to work with the commission
3 through the process in order to get what they believe is
4 the best possible outcome. IACI represents through its
5 potato committee the potato processing industry in the
6 State of Idaho.

7 The potato processing industry accounts -- right
8 now, the fresh industry, if you look at the assessments
9 paid to the Idaho Potato Commission, about 31.8 percent of
10 the assessments come from the fresh potato industry. The
11 frozen potato industry, the assessment total is 40.69
12 percent of the assessment dollars coming into the
13 commission. The dehy industry represents 21.8. Chip
14 industry 2.2 and I'm -- I had this in the back of my mind.
15 I believe that this (inaudible) is 3.44 percent. I'm just
16 going to have to wait for a minute as my mind clears up and
17 I remember exactly what that stands for.

18 UNIDENTIFIED SPEAKER: Is it seed?

19 MR. KOLE: No, I don't think it's seed.

20 UNIDENTIFIED SPEAKER: Processors.

21 MR. KOLE: Processors. Yeah.

22 All right. At the other hearings, there was a
23 question raised as to how the commission went through the
24 process that it ended up in now.

25 In April, the commissioners had decided at the

1 meeting that was held -- it was a regularly scheduled
2 meeting that they would decide to reopen the nomination
3 process for the grower commissioner and have new elections.

4 Upon reflection at their May meeting, they reversed
5 that determination and decided instead to let the names
6 that were selected at that March meeting go forward to the
7 governor for his consideration. So those minutes are now
8 part of the record and they explain how the commission made
9 that determination.

10 We're now at Exhibit 125. 125 I believe is
11 something that was going to be addressed by Mr. James
12 Hoff, a current commissioner on the Idaho Potato
13 Commission.

14 MR. KANE: Are we going to do that now or are you
15 going to finish up?

16 MR. KOLE: I could finish up and answer questions.

17 MR. KANE: Why don't we do that.

18 MR. KOLE: Okay.

19 UNIDENTIFIED SPEAKER: Why don't we have
20 Exhibit 125 in the record here?

21 MR. KANE: Let me answer that. It was brand-new
22 just yesterday and we're going to have it posted on the
23 website but we didn't have the opportunity because we are
24 here rather than back in Boise. Go ahead.

25 MR. KOLE: Are there other questions?

1 MR. MICKELSEN: I have a couple.

2 MR. KANE: All right. You're going to pose some
3 questions to Mr. Kole as -- because I see you're also
4 signed up to speak.

5 MR. MICKELSEN: Yeah. Yeah, I have some questions.

6 MR. KANE: All right. Come on up here then, sir.
7 You're a familiar face from last night. Mr. Mickelsen, you
8 have some questions for Mr. Kole.

9 MR. MICKELSEN: Yes.

10 MR. KANE: Let's get this over to you.

11 MR. MICKELSEN: Okay. I have a couple questions
12 here. I'll ask them all so they can be heard and then
13 maybe Pat can address them as we go through. We talked
14 about this some but some of the people here at this meeting
15 would be a little bit more curious to clarify the
16 commingling of entities that has been talked about when it
17 comes to voting.

18 I would also be curious to know more what we define
19 as primarily and substantial. I don't know if that means
20 that if your processing plant does really well that you own
21 and more of your income comes from that in a given year,
22 does that mean you're no longer a grower?

23 I'm also curious with this. Can you vote after
24 paying the first year of dues or do you have to pay dues
25 for three years before you're eligible to vote? I know

1 it's clear that you have to be three years to be a
2 commissioner so that's some clarification there.

3 The other thing that I had a question on is we've
4 talked about the processors. I have some reservations and
5 concerns there in that it's kind of a question you must be
6 a resident of Idaho to be a grower commissioner but we're
7 not having those same stipulations on shippers or
8 processors which seems like that could be an unfair
9 advantage for some growers maybe if their residency is in
10 another state but they grow a lot of potatoes in Idaho.
11 Why would a processor be entitled to have somebody that's a
12 citizen of Oregon be on the commission when maybe a
13 grower's kind of in the same boat there.

14 MR. KANE: Okay. So you went through four
15 questions and I tried to write them down. I hope Mr. Kole
16 was able to.

17 MR. KOLE: I wasn't.

18 MR. KANE: First of all, we should probably clarify
19 what of the various exhibits you're referring to when you
20 speak about these questions. Are you talking about the
21 various --

22 MR. MICKELSEN: Pat knows I think which ones.

23 MR. KANE: -- proposed statutes? We should get
24 those in the record. I'm thinking it's probably 114
25 primarily if I have this right.

1 MR. MICKELSEN: Yeah, right.

2 MR. KANE: Okay. Let's start with the commingling
3 of entities question. Do you understand the question,
4 first of all? I confess I don't. Maybe you better
5 clarify.

6 MR. MICKELSEN: It talks -- there's been discussion
7 and I think it's referenced in there about how if there's
8 common ownership in things that businesses are -- I'm
9 curious to know what the exact definition we're shooting
10 for there of saying if you have two entities but there's
11 common ownership, are they only one entity with a vote?
12 That is what I'm referring to if that makes sense.

13 MR. KANE: I think so. Do you have a response?

14 MR. KOLE: I think so.

15 MR. KANE: You know what? Sit over here. It would
16 be easier than me putting the microphone back and forth.
17 I'll trade places with you. Maybe I'll stand behind you
18 and kind of referee if need be.

19 MR. KOLE: So the effort that's been made here is
20 to try to develop language that most directly comports and
21 is consistent with Article 1, Section 20 of the
22 Constitution of the State of Idaho.

23 Article 1, Section 20 creates a limited (inaudible)
24 of exemptions for where no property qualification can be
25 put in place of electors. So it says no property

1 qualifications shall ever be required for any person to
2 vote or hold office except in school elections or elections
3 creating indebtedness or irrigation district elections as
4 to which last named elections the legislature may restrict
5 the voters to landowners.

6 So what this enshrines, if you look back at the
7 history of the constitutional convention is the concept of
8 one person, one vote. So what we have tried to do in the
9 language that we have drafted is to make it as clear as
10 possible that if you own multiple entities, you still only
11 have one vote and that's -- that's -- it's never going to
12 be picture perfect and there will always be ways that
13 people, for example, could maybe in a family have one
14 brother over here that qualifies as a shipper and he's in a
15 separate entity and one brother over here who's a grower
16 and he qualifies as a grower.

17 MR. MICKELSEN: My example --

18 MR. KANE: Let him finish.

19 MR. KOLE: So as I said, we can never ever get that
20 so that there couldn't be somebody who created and
21 developed a system whereby they could essentially subvert
22 it. But we've tried to be as exact as we possibly can and
23 the language that is used makes it very clear that the
24 intent is one person, one vote.

25 MR. MICKELSEN: Okay. So my example would be is I

1 have a neighbor just across the road from me. Him and his
2 son farm. They have some separate farm ground that they
3 own. They're kind of trying to separate out the finances.
4 I would imagine maybe they have different dues that they
5 pay because they kind of farm together. They share some of
6 that equipment. Would that be something where you would
7 classify them as they are one grower or would that be two?

8 MR. KOLE: So if they have both paid separately
9 taxes on their potatoes and they have separate land over
10 five acres that they both own, they would be classified as
11 two growers.

12 MR. MICKELSEN: Okay. I think that answers that
13 question.

14 MR. KANE: Great. Well, why don't we go to the
15 second one which I have down as primarily and substantial,
16 how do you define those terms? Are those terms too vague I
17 think is the question.

18 MR. KOLE: I would say that the commissioners when
19 we went through these terms spent hours trying to get it as
20 correct as they possibly could. And again what they looked
21 at is if you use the word "primarily," it legally means
22 that that is your primary source of income, over 50
23 percent. So if you're over 50 percent, you're primarily.

24 "Substantially" was added as just sort of a
25 buttressing word legally to make it clear that we were

1 trying to absolutely insist that it's what you are
2 primarily and substantially engaged in.

3 MR. MICKELSEN: Did you see any problems with the
4 example I said if the process business makes more money,
5 does that kick me out as a grower?

6 MR. KOLE: No, not necessarily. It might kick you
7 out as an individual but you might not be the designated
8 representative.

9 MR. MICKELSEN: What if the whole business, the
10 ownership's all equal and all the different things so
11 you're saying if me as a grower, if my processing plant
12 made more money on a good year than the farm did, then you
13 would define me as no longer being a grower?

14 MR. KOLE: That could be the outcome but I don't --
15 as I said, we debated this back and forth and we could not
16 find a better way of defining it.

17 MR. MICKELSEN: Would it be better to just take out
18 "primary" and leave "substantial"?

19 MR. KOLE: That's a question that we'll be
20 absolutely looking at.

21 MR. MICKELSEN: Okay.

22 MR. KANE: Are we at your third question?

23 MR. MICKELSEN: Yes.

24 MR. KANE: Let's put that on the record. I
25 probably should have just taken this with me.

1 MR. MICKELSEN: The next question --

2 MR. KANE: Vote after paying dues on the first
3 year.

4 MR. MICKELSEN: Yeah. Yes.

5 MR. KOLE: Voting would be allowed. Serving as a
6 commissioner would not.

7 MR. MICKELSEN: Okay. Good answer there. Then the
8 last one was --

9 MR. KANE: Processors, why not residence.

10 MR. MICKELSEN: Yeah.

11 MR. KOLE: So processing entities generally
12 speaking have a state of incorporation. Not all of the
13 process that we have in this state are incorporated in this
14 state. Nevertheless, they pay taxes and their employees
15 are residents of the State of Idaho. So if one of their
16 employees who is a resident in the State of Idaho and they
17 have a presence and pay taxes, they could be designated as
18 the representative for that processing entity.

19 If they don't have residence in the State of Idaho
20 -- and we had this come up with Ore-Ida where they wanted
21 to put a member on the commission but they were a resident
22 of the State of Oregon, they were not allowed to run.

23 MR. MICKELSEN: So are you saying in the future
24 though with the language that you've changed that they
25 would be eligible?

1 MR. KOLE: No.

2 MR. MICKELSEN: Okay. So it would still be limited
3 to only residents of the State of Idaho that would be
4 eligible to serve on the commission.

5 MR. KOLE: Correct.

6 MR. MICKELSEN: Okay. You answered my questions.

7 MR. KANE: Thank you. Before we move, Mr. Kole,
8 does anybody have any other questions you'd like to pose at
9 this time? Come on up, sir. State your name for the
10 record. Spell your last name, please.

11 MR. TAYLOR: Carl Taylor, T-a-y-l-o-r. Just a
12 follow-up to what Andrew was asking. I've been a grower my
13 whole life and my brother was the shipper. He's retired.
14 Now I have considerable interest in shipping facilities.
15 Do my facilities have to designate someone else to vote for
16 the shippers?

17 MR. KOLE: You could not wear two hats so if you
18 wanted to have that shipping entity representative, yes.

19 MR. TAYLOR: Okay.

20 MR. KANE: All right.

21 MR. WAHLEN: I have a question. I want to speak
22 too but can I just ask the question from here?

23 MR. KANE: Why don't you come on up. Are you going
24 to be speaking?

25 MR. WAHLEN: Yeah.

1 MR. KANE: All right. Go ahead and ask your
2 question and let's -- state your name for the record and
3 spell your last name, please.

4 MR. WAHLEN: Kim Wahlen, W-a-h-l-e-n. So Pat, my
5 question is define for us a little bit at the pleasure of
6 the governor.

7 MR. KOLE: So literally speaking, at the pleasure
8 of the governor means with no cause. So if, for example, a
9 governor wanted to fire somebody for whatever reason, he
10 would be able to do so for no reason at all.

11 MR. WAHLEN: Okay. All right. Thank you.

12 MR. KANE: All right. Let me now begin going down
13 the list. There are quite a few people who have signed up
14 to testify. I should probably make a record here that at
15 the last two hearings, there were quite a few well taken
16 suggestions about potential changes to the code regarding
17 the potato commission and maybe it was time to revise
18 different sections of the code and they were very well
19 thought out questions and I thought pretty well answered
20 too.

21 But what I want to tell you is that I'm going to be
22 limited to speaking to only the proposed statutes and rules
23 in front of me so while you can certainly make a record
24 about your general feelings about what ought to change
25 beyond this, it's not really going to be very helpful to me

1 because I'm not going to be able to speak to it.

2 I should tell you also that there are suggestions
3 that there will be more statutory ideas coming forward in
4 the next session once the new governor takes office but
5 please understand that I'm only limited to what I have
6 before me.

7 So with that, I would like to invite Mr. James Hoff
8 who is the first person on the list.

9 COMM. HOFF: Thank you, Mr. Kane.

10 MR. KANE: H-u-f --

11 COMM. HOFF: H-o-f-f.

12 MR. KANE: H-o-f-f. Thank you very much, sir.

13 COMM. HOFF: Thank you. I guess we need to -- at
14 this point, we'll enter Exhibit 125 and I'll read through
15 that. Is that correct?

16 MR. KANE: You have -- 125 is already before us,
17 correct?

18 COMM. HOFF: Is it? So I will read that.

19 MR. KANE: We don't need to introduce it but go
20 ahead and speak to it.

21 COMM. HOFF: Okay. On July 28, an e-mail was sent
22 to members of the Idaho potato industry that was not
23 accurate. The e-mail was from Stephanie Mickelsen.

24 COMM. HARDY: Get that microphone (inaudible).

25 COMM. HOFF: How's that, Randy?

1 COMM. HARDY: Perfect.

2 COMM. HOFF: Thank you. The e-mail was from
3 Stephanie Mickelsen. Here is what was said and then what
4 is true. Her comments are, "After the disaster of the
5 nominating meeting this spring, the IPC was instructed to
6 work with the stakeholders and create new rules and rewrite
7 the code to reflect a new and updated IPC. Pat Kole's
8 decided to create some new rules with no input from the
9 potato growers. We were told by a current commissioner
10 that they had never seen the rewrite until that morning of
11 the first public hearing."

12 Facts. As a result of the actions of March,
13 Stephanie and Andrew Mickelsen, the Idaho Potato Commission
14 directed the staff to take actions to prevent a repeat of
15 the disaster the Mickelsens caused at the nomination
16 meeting.

17 This directive was made at a public meeting of the
18 IPC after hours of discussion and crafting draft rules.
19 Mr. Kole reviewed the laws of potato commissions including
20 Washington, Oregon, Michigan and Maine and other commodity
21 commissions in Idaho including the wheat and barley
22 commissions and also consulted as required by state law
23 with the Idaho governor's office, the Division of Financial
24 Management and the Office Of Administrative Rules.

25 Following that process, an entire morning was spent

1 by the commissioners in a public meeting where the growers
2 were reviewed -- where growers reviewed and commented on
3 the drafts. Upon -- based upon that input, changes were
4 made based on the comments made. At the next two
5 commission public meetings, there were further discussions
6 about and changes made to these proposals.

7 The draft rules are currently just that, a draft.
8 The purpose of having informal hearings is to solicit input
9 from industry members and the draft gives us framework to
10 build upon. Because the IPC is only proposing temporary
11 rules, the IPC is not required by law to hold public
12 hearings. However, in the best interest of the industry,
13 the IPC is gathering input from stakeholders. The IPC
14 submitted a public notice of intent to promulgate the rules
15 which was published in the administrative bulletin on July
16 4. The bulletin listed the dates of upcoming hearings and
17 we posted our draft legislation to the website for public
18 view. We sent out a Pulse on July 6 notifying the industry
19 that the -- of that bulletin and directing them to visit
20 the website to view drafts of our legislation and rules.

21 At the hearing on July 24, there was one very small
22 change made in the language that related to a processor.
23 That change was this: Changing the words licensed to do
24 business in to transacting business in. This particular
25 change has nothing to do with growers at all. Further, it

1 is important to understand that the purpose of having these
2 informal hearings is to fine tune what's being proposed and
3 to make changes. Nothing is final at this stage.

4 Second comment from Mickelsens. "The IPC is
5 proposing rules that will limit voting on growers that have
6 ownership in shipping and processing facilities. The IPC
7 is also trying to make -- is trying to make it one vote for
8 any common ownership entity. The problem with this whole
9 proposal is that first off, how in the world will they ever
10 police that? How will they find who owns what business?
11 That information isn't even required by the Idaho Secretary
12 of State's office.

13 They need to address the bigger problem of how do
14 you allow multiple owners of a business the right to vote
15 or do you vote by production? The real problem is that
16 currently, a farm with five acres has one vote and a farm
17 with multiple owners that might have 10,000 acres is only
18 allowed one vote. It won't even allow different owners of
19 a single entity to vote under their current proposal."

20 The facts. The IPC has operated under the
21 principal of one person, one vote since it started
22 nominations for being a commissioner. This is true for
23 elections to congress, statewide positions such as
24 governor, Secretary of State, the Idaho legislature, county
25 commissioner, city council, school boards and more.

1 This comment suggests that the bigger a grower is,
2 the more votes a grower should get. This would be harmful
3 to small growers and the IPC's duty is to represent the
4 entire industry regardless of size. The practical impact
5 of what the Mickelsens are proposing is a property
6 qualification for both voting or holding office as an IPC
7 commissioner. This is prohibited under Article 1, Section
8 20 of the Idaho Constitution.

9 Third statement. "The IPC wants to make some funny
10 rule that if you vote as a grower, then you would be unable
11 to vote as a shipper or processor for a period of three
12 years. They're totally ignoring and completely
13 misunderstanding legal entities and how they must have a
14 legal representative to vote for them as they aren't a sole
15 proprietorship. Maybe we growers should vote on the
16 processor and shipper representatives on the IPC."

17 The facts. Since nominations for IPC commissioner
18 began, the law required that commissioners be a grower,
19 shipper or processor. You couldn't be part grower, part
20 shipper or part processor. Times have changed and the law
21 has not kept up with the emergence of growers who have
22 ownership in packing sheds or processing plants.

23 What the IPC is proposing is simply this: When a
24 person predominantly -- what a person predominantly is will
25 determine what they are. Once they make that declaration,

1 then that is who they will represent for the next three
2 years which is the length of a term for being a
3 commissioner. This would prevent someone from running for
4 the commission as a grower one year, a shipper the next
5 year and a processor the following year.

6 Statement no. 4 by Mickelsens. "Pat Kole was also
7 proposing that we add language to the Idaho Code that says
8 all commissioners shall serve at the pleasure of the
9 governor. Well, depending on who is in the governor's
10 office at a particular time, this is a really bad idea. If
11 the state is paying the IPC tax, then I think that would be
12 a reasonable proposal. However, since the growers are
13 paying the tax, they should have the total and complete say
14 who is representing them on the commission."

15 The facts. The IPC is a state agency. The IPC is
16 required to follow a process that requires approval from
17 the governor to submit legislation for the legislature to
18 consider. This -- this -- when this proposal was
19 submitted, the IPC asked if this language "serve at the
20 pleasure of the governor" was required. The answer was
21 yes. It is also important to note this language is already
22 in the statutes of the wheat and barley commission.

23 Statement no. 5. "The commission needs to take the
24 time to rewrite the entire code section. If you listen to
25 Pat Kole, he will tell you all the reasons why we can't do

1 that. The Idaho Code on the IPC hasn't been rewritten in a
2 good 50 years. We need to work together to update our
3 commission to reflect the current state of the industry and
4 the current needs of the growers it serves."

5 Facts. This is an election year. The governor has
6 stated that he wants to give whoever's elected as Idaho's
7 next governor a clean slate to set their own agenda. As
8 such, only mission critical legislation can be proposed by
9 agencies. After reviewing IPC's proposals and learning of
10 the above referenced disaster at the nomination meeting,
11 the governor's office and the Division of Financial
12 Management gave the IPC permission to propose changes to
13 the nomination process. It is neither a quick nor simple
14 process to propose legislation, particularly this year.

15 Statement no. 6. "We need to have a referendum
16 code section that allows growers the ability to call for
17 referendums if we believe a change needs to take place.
18 Although code refers to a referendum, it doesn't really
19 spell out how that can actually occur."

20 Facts. IPC is unique in that it is an industry
21 commission with two shipper commissioners and two processor
22 commissioners in addition to the five grower commissioners.
23 Clearly grower commissioners have the majority vote at all
24 times. Having that input, insight and industrywide
25 perspective of the entire industry has served everyone

1 well. There's a reason why Idaho potatoes is the produce
2 industry's most recognized brand.

3 Statement no. 7. "IACI, Idaho Association of
4 Commerce and Industry lobbying group is fighting very hard
5 against having certain individuals appointed to the IPC.
6 IACI shouldn't be involved in these activities of the
7 nominations or the appointments of IPC commissioners."

8 Facts. IACI has a potato committee that includes
9 frozen and dehydrated potato companies. These companies
10 pay assessments to the IPC. IACI, IGSA and PGI and have
11 all been involved in the nomination and employment process
12 for years.

13 Stephanie asked that we come to the meetings in
14 Burley and Fort Hall on Tuesday and Wednesday. We strongly
15 welcome your presence and participation and we urge you to
16 come learn what is true.

17 That concludes Exhibit 125.

18 MR. KANE: All right. Do you have anything else
19 that you wish to speak to at this time?

20 COMM. HOFF: I do, yes.

21 MR. KANE: Please do.

22 COMM. HOFF: Yes. I'd like to make a few points.
23 As far as I think it's Exhibit 101 through 103,
24 clarification on eligibility of a grower, shipper,
25 processor. Yes, the industry has changed significantly

1 since the statutes have been revisited. Even though I vote
2 as a commissioner in favor of a grower, shipper candidate,
3 I can understand why a grower, shipper could be there as a
4 grower if their primary role is a grower. I would be in
5 favor of a grower position being held by just a grower.
6 I've come to this conclusion after a lot of discussion with
7 individuals that are just growers.

8 Proposal -- so this is -- I think it refers to
9 Exhibit 111, proposal to improve the nomination and voting
10 for commissioner candidates, the nomination being in the
11 spring. For people that have used the system that has been
12 in place, there definitely needs to be a change. A
13 proposed change falls more in line with what is being --
14 what is being done in the ag sector like our irrigation
15 canal companies (inaudible) and things like that.

16 Going to 114, I believe that we need to have it
17 remain as a one vote per farming operation. It's very
18 critical and should absolutely be one operation, one vote.
19 Otherwise the operators -- a lot of operations would not
20 have their fair voice heard.

21 Further, proposal for redistricting approval. The
22 proposal makes sense to have another seat where there is
23 more production so I can see the need to shift a
24 commissioner position over here and granted, it won't be
25 till 2020. And that's about all I have.

1 MR. KANE: All right. Thank you, sir.

2 COMM. HOFF: Okay. Thanks.

3 MR. KANE: Appreciate it. All right. Travis
4 Blacker, did you want to come up for a second time?

5 MR. BLACKER: No.

6 MR. KANE: So you're done.

7 MR. BLACKER: Yep.

8 MR. KANE: Okay. Britt Raybould. Hello. I don't
9 need to have you spell your name because we all know the
10 name Raybould in our world.

11 REP. RAYBOULD: I should clarify that I'm speaking
12 today as a grower and not in any other capacity. How's
13 that?

14 MR. KANE: Much better.

15 REP. RAYBOULD: So in looking over the proposed
16 changes that have been put forward before the group, I
17 understand why both were proposed. It's clear that there
18 is additional definitions that we need given that our
19 industry has changed and evolved over the years so it is a
20 necessity to do those modifications, particularly as it
21 relates to the definitions of who's a grower, who's a
22 shipper, who is a processor. I think it's beneficial for
23 us to have clarity around that.

24 Now, that said, I'm not convinced that we are at
25 the point as I look at the other issues facing the state

1 and the upcoming legislature that I think it makes a lot of
2 sense to open the discussion around changing the districts.
3 That is going to be an issue that I think requires some
4 additional time and energy spent on it, particularly given
5 I think the strength of the opinion on the western side of
6 the state as it relates to these changes.

7 So while I am supportive of moving ahead with the
8 changes related to the nomination process and to the
9 definition of the different categories, I think it would be
10 beneficial for us as an industry to take this next year and
11 ensure that we have consensus on the movement of these
12 district lines because as Pat noted in his opening remarks,
13 we technically have until 2020 when there is this change-
14 over where we won't be kicking anyone out of the areas that
15 are under discussion and it creates I think a little more
16 maneuvering room, particularly since we're looking at this
17 from a legislative process.

18 There's going to be a lot of things that I think
19 are going to need to be dealt with between January and
20 March and I have some concerns about how successful we can
21 be as an industry getting what we want to see through as it
22 relates to these districting changes during the 2019
23 session.

24 So I'm not advocating against making changes. I
25 just am not sure in terms of timing that this is the best

1 time to move ahead with those district changes in the
2 coming session. Thank you.

3 MR. KANE: Thank you. Andrew Mickelsen. Step
4 right up here, sir.

5 MR. MICKELSEN: So I listened to you last time and
6 I brought some things to give you this time.

7 MR. KANE: All right. In the last 24 hours?

8 MR. MICKELSEN: Yep. So first thing though I would
9 like to say, this just came up, I had not looked at those
10 boundaries and how they were established exactly. I don't
11 think they go far enough now that I've looked at the
12 percentages. So while I've spoke in favor of it yesterday,
13 after looking at the actual percentages, I feel like we're
14 not going far enough to get those balanced and we still
15 have a 12 percent in one and 24 percent in another.

16 MR. KANE: Okay. Do you have any proposed ideas on
17 what they might look like as far as making it more
18 equitable?

19 MR. MICKELSEN: I still go with -- I still go with
20 put it in IDAPA and be able to change it every ten years to
21 keep them close. I think that there would be counties that
22 could be moved over and get that closer but I think they're
23 still trying to protect certain areas.

24 MR. KANE: Okay.

25 MR. MICKELSEN: I have three -- four sets of papers

1 that I've got here. One a letter; one the statutes on the
2 Washington Potato Commission; one a list of the licensed
3 fresh Idaho potato processors and one of the licensed fresh
4 Idaho potato shippers.

5 MR. KANE: All right. Why don't we make a record
6 of each of them individually and you're asking that these
7 be marked and admitted then; is that right?

8 MR. MICKELSEN: Yes. Because I think that they'd
9 be helpful for your consideration.

10 MR. KANE: All right. So the first one is
11 8-1-2018, today, "to whom it may concern," and then "my
12 name is Andrew Mickelsen." Is this going to be essentially
13 what you're going to be testifying to?

14 MR. MICKELSEN: Yes.

15 MR. KANE: All right. And then why don't we have
16 this admitted. I confess I've lost track of what number we
17 are.

18 UNIDENTIFIED SPEAKER: 129.

19 MR. KANE: So we're at 129 now. Do you need to
20 refer to this as part of your testimony?

21 MR. MICKELSEN: I have a copy here.

22 MR. KANE: All right.

23 MR. MICKELSEN: And these are mentioned within the
24 letter.

25 MR. KANE: And these being potato commission rules

1 or statutes?

2 MR. MICKELSEN: Statutes of the Washington Potato
3 Commission.

4 MR. KANE: All right.

5 MR. MICKELSEN: Actually I should give you this
6 one. This one has the --

7 MR. KANE: All right. Thank you. Let's make that
8 130. Licensed fresh Idaho potato processors. It looks
9 like a website of some sort.

10 MR. MICKELSEN: From the Idaho Potato Commission.

11 MR. KANE: All right. Let's make that 131 and
12 licensed fresh Idaho potato shippers also from the
13 commission's website, correct?

14 MR. MICKELSEN: Correct.

15 MR. KANE: 133.

16 UNIDENTIFIED SPEAKER: 132.

17 MR. KANE: 132, okay. Thank you.

18 MR. MICKELSEN: Okay. I'm going to read through
19 this. I'll try to be brief. Briefer than yesterday.

20 MR. KANE: Okay.

21 MR. MICKELSEN: To whom it may concern, my name is
22 Andrew Mickelsen. I'm a seventh generation Idaho potato
23 farmer. My family operation has focused on Idaho potato
24 production for far longer than I have been alive. While I
25 grow some other crops, potatoes are our passion and focus.

1 From our humble beginnings, we now grow seed potatoes, grow
2 commercial, fresh and processed potatoes, package potatoes
3 and process potatoes. Our livelihood literally depends on
4 the success of the Idaho potato market's price and demand.
5 Without potatoes, our operation cannot succeed.

6 While many can say they depend on the Idaho potato
7 as much as we do, no one can say they depend on it more.
8 Our comments and pushes for changes within the commission
9 is not a reckless attempt to destroy the Idaho potato.
10 Instead, we are pushing for changes so that the Idaho
11 potato can thrive through my lifetime and the lifetime of
12 my children.

13 In order for the continued success of the Idaho
14 potato, changes must be made. Representation on the Idaho
15 Potato Commission is key. Whenever an issue arises about
16 the Idaho potato, everyone turns first to the Idaho Potato
17 Commission to ask their opinion. That is why it's so
18 important that we have proper representation on that
19 commission.

20 2.5 percent of our growing costs each year is
21 roughly what we pay to the Idaho Potato Commission. Any
22 farmer knows that 2 and a half percent can make the
23 difference between making it or breaking it in farming.

24 Right now, we pay approximately \$50 an acre for the
25 commission. It cannot be questioned that the Idaho Potato

1 Commission has helped build and strengthen the Idaho
2 potato. The commission must be given credit for their
3 accomplishments over the year. We'd not be where we are
4 today without the Idaho Potato Commission.

5 The current election and makeup of commissioner
6 districts does not propose fair or equal representation to
7 Idaho potato growers. The districts aren't evenly split.
8 The election of commissioners is politicized by having the
9 governor select one out of three names submitted. We can
10 never trust that the commission we are voting for will be
11 put on the commission.

12 Currently, growers control five of the nine
13 commissioner seats. The IPC tax is intended to charge the
14 growers, processors and shippers while farmers all wish
15 that when an additional cost is added to their operation,
16 they could pass it on to the consumers. It's pretty
17 obvious that this cost ends up going to the farmers.
18 They're the ones that foot the bill.

19 The Washington Potato Commission is designed with
20 the farmers in mind. Nine of their 15 commissioners are
21 grower. Five commissioners are appointed by the nine
22 grower commissioners. Those five commissioners are made up
23 of other industry representatives such as processor packing
24 facilities. The 15th commissioner is appointed by the
25 Washington Department of Ag. Their commissioners are

1 directly elected by their growers. If the commission is
2 not running the way the growers want, then the growers can
3 put in the commissioners they want and remove the others.
4 Because the commissioners are elected directly, they are
5 far more accountable to growers than they are to the
6 governor.

7 The Idaho Potato Commission has carved out two
8 seats for processors and two seats for shippers on the
9 commission. In the state at this time, that sheet showed
10 fresh Idaho potato processors. Now I believe there's
11 only nine of that list because one has been merged into
12 another one. So there are nine licensed fresh Idaho potato
13 processors at the current time. 22 percent of those
14 processors are represented at all times because of their
15 two commission seats.

16 In the seat -- in the state, there are 40
17 licensed -- around 40 licensed fresh Idaho potato shippers.
18 5 percent of the shippers are represented at all times because
19 they have the two commissioners.

20 I tried to find out further information as to how
21 many potato farmers there are in the state but assuming an
22 average of 500 acres of potatoes, that would put
23 approximately 640 potato farmers in Idaho. Less than 1
24 percent of growers are represented on the commission with
25 their five commissioners. This does not sound like one

1 man, one vote to me.

2 It is time for growers to be in control of the
3 commission. Growers are smart and capable enough to be
4 able to vote for the proper industry representative to put
5 on the commission to think more about just their own farm,
6 to be able to decide what is right to spend on marketing.
7 If growers mess up the commission, they will be the ones
8 who pay the price. Let growers have the power to decide
9 their own fate.

10 If shippers and processors are going to have
11 guaranteed seats on the commissions, let the growers vote
12 them in. The growers most appropriately represent
13 processors and shippers. The processors and shippers get
14 every potato they use from the growers.

15 If we can resolve these concerns on the commission,
16 we can move the Idaho potato forward to greater success
17 than ever before. Idaho growers have built that brand by
18 working as hard and diligently as they do to provide the
19 highest quality of potato. Andrew Mickelsen.

20 MR. KANE: Thank you. Does that complete your --

21 MR. MICKELSEN: Yes, it does.

22 MR. KANE: All right. We have that in the record
23 so thank you. It looks like you put a lot of effort into
24 it in the last 24 hours and I appreciate that.

25 MR. MICKELSEN: Yep.

1 MR. KANE: Okay. All right. Boyd Foster.

2 MR. FOSTER: Somebody barked my name.

3 MR. KANE: Oh, I get it. This is a practical joke?
4 There's no law that says you have to testify.

5 MR. FOSTER: My name is Carl Taylor. T-a-y --

6 MR. KANE: You really are Boyd Foster?

7 MR. FOSTER: I am Boyd Foster, F-o-s-t-e-r.

8 MR. KANE: Forgive me. I don't get the inside
9 joke. You'll have to fill me in later.

10 MR. FOSTER: It really isn't a good joke.

11 MR. KANE: All right.

12 MR. FOSTER: Since I've been called up, I do have
13 two opinions that I would like to share. One of them is
14 Article 114 I believe is where you're talking about the
15 grower. Not the map. So on item 114, it seems to me like
16 we're going the wrong direction in the fact that before,
17 there were more people that could vote. Now with the
18 consolidation and the size of the farm and the farming
19 operations, the consolidation with growing and shipping and
20 processing, in the future, we're going to have actually
21 less individuals qualified to vote and I think that's the
22 wrong direction as far as representation from the industry
23 if we go that direction.

24 I would like that to be revised and so it was based
25 more on how much possibly tax was paid by an entity so they

1 could be represented as a grower, shipper or a processor.
2 Just an opinion.

3 The one that I feel strongly about is the mapping
4 that we have and I'm not sure why we have to look at it by
5 county and draw county lines. It seems to me if you look
6 at a Google Earth picture of Idaho, you see the growing
7 areas and if -- by doing it by county, we're going to have
8 a lot of growers that are farming in multiple counties but
9 they're in different districts when it comes to the
10 commission.

11 And if we could do it more by a growing area, you
12 would have less of a conflict with those growers being able
13 to get behind a candidate that they would like to be as a
14 commissioner and probably have their voice better heard
15 than being divided by counties because of the growing areas
16 that do exist.

17 MR. KANE: Can you tell me what a growing area is?
18 Is that a term of art in your world? I'm not familiar with
19 it.

20 MR. FOSTER: Again, I was just thinking and while
21 we're here, if you looked at Google Earth or your local
22 weather at night and it shows where the storms are, you see
23 where the growing areas in Idaho are. An example would be
24 Jefferson County and Clark County. Right now, they're in
25 different districts according to this map but if you look

1 at the -- a map, a satellite map, it would show that this
2 whole area, Mud Lake, Terreton -- Mud Lake and Hamer would
3 be in the same area where they would be divided by county.
4 You have some growers that are growing in Bonneville County
5 and Jefferson but they're in two different districts.

6 It's just very confusing to me if we draw those
7 lines on county line maps instead of the growing area map.
8 Twin Falls. Then you have the desert. And then you have
9 Mountain Home. If you go the other direction, you have
10 kind of growing areas. Does that make more sense?

11 MR. KANE: So are you telling me that basically
12 these growing areas are discrete enough that you could be
13 able to tell by looking at a map this area is different
14 from that area even if they're somewhat in the same general
15 region?

16 MR. FOSTER: You know, I believe you could. I
17 believe you could see the growing areas and then there's
18 many resources to say how many potatoes are grown in that
19 growing area and then the districts could be allocated more
20 fairly by production like you've tried to do trying to get
21 20 percent for each district. But they're not in an area
22 where the growers are working in that same area. The
23 county lines make it very difficult in my opinion.

24 MR. KANE: Here's what I'm going to ask you to do.
25 If you could put what you just told me into writing.

1 MR. FOSTER: Be glad to do that.

2 MR. KANE: That would probably be helpful. You
3 have until August 15. Maybe a map or something. It's hard
4 for me to try to articulate what I think I just heard. How
5 would I express a growing area that I would put into a
6 proposed statute?

7 MR. FOSTER: I'd be glad to do that.

8 MR. KANE: All right. If you would.

9 MR. FOSTER: That's --

10 MR. KANE: Anything else?

11 MR. FOSTER: No, that's all.

12 MR. KANE: All right. Thank you, sir.

13 MR. FOSTER: Thanks.

14 MR. KANE: All right. Carl Taylor has a blank but
15 did you wish to speak, sir?

16 MR. TAYLOR: Yeah.

17 MR. KANE: It wasn't a blank. It was the line so I
18 couldn't tell if that was a yes or a no.

19 MR. TAYLOR: That was a maybe.

20 MR. KANE: All right.

21 MR. TAYLOR: Maybe to add to what Boyd said. Water
22 districts would be a good part of that model. Water
23 districts go across county lines and they're more
24 geographically aligned than the counties are.

25 MR. KANE: All right.

1 MR. TAYLOR: Okay. First of all, I want to give a
2 little background so that what I say is not mistaken. I'm
3 a firm believer in the one grower, one vote. I've been a
4 part of multiple co-ops for many years. I've been in the
5 leadership in several in Idaho and nationally to promote
6 one grower, one vote.

7 But in my opinion, there's a little element that's
8 missing in the one grower, one vote structure and I'd also
9 agree with Boyd. We're headed down the wrong road as we
10 limit the amount of people that vote through these new
11 rules.

12 And what's missing is, in my opinion, are some of
13 the checks and balances. All of our legislators have a
14 house of representatives and the senate which gives some
15 balance to equalizing based on population or geography.
16 And the difference between 5 acres and 10,000 acres gets to
17 be pretty big when you're the guy paying the 10,000 acres.
18 I'm not paying that but the ones that are contributing the
19 money in many ways don't have the checks and balances that
20 usually is given in a structure with one grower and one
21 vote.

22 I realize the processors and the dehydrators pay
23 the money also but it all comes from the growers and I
24 don't want to get into a debate of who's paying it because
25 I will argue it's all coming from the growers. No offense

1 taken I hope.

2 But I think as we're restructuring, that needs to
3 be kept in mind that we're moving away from the production
4 being represented in a fair way and the political
5 environment -- no matter who the governor is, the political
6 environment that affects the commission is one of the
7 things that detracts from the checks and balances that I'm
8 talking about and I don't want to say names but there are
9 many outside organizations that have a direct influence on
10 the potato commission and on the governor and anyone
11 politically involved as we find out who the next commission
12 is going to be.

13 The growers aren't voting on a commissioner. The
14 voters or growers are voting on three people to put on the
15 commission. So as we look at restructuring, I think we
16 need to be creative of how we find a way to put some checks
17 and balances in place so that the guy that's paying on 10
18 or 15,000 acres is not victimized because he's a grower
19 from up north and he's a big grower and we don't want to
20 have him or for whatever reason. He's got as many rights
21 as anybody does.

22 So I'm in favor of revisiting the codes and putting
23 checks and balances in place. Not doing away with one
24 grower, one vote. I think that's the key and the backbone
25 to our industry being successful but not allowing outside

1 interest to put those other growers at risk by having
2 checks and balances in place.

3 MR. KANE: All right. I'm going to ask you also as
4 I asked Mr. Foster if you have a specific idea in mind that
5 you think that would encapsulate what you just said that
6 could be put into a statute, if you could put that in
7 writing and get that to me, that would be very helpful.

8 MR. TAYLOR: There's probably a lot of variations
9 and some of them might be against code but the governor
10 appointing, maybe that doesn't have to be the final say.
11 Maybe that can go back to the growers based on production.
12 Maybe that can just be a step. Possibly there can be an
13 escalating scale where those that have a lot of production
14 have more input in who the nominees are because they're not
15 truly voting on them.

16 MR. KANE: Okay.

17 MR. TAYLOR: And that's why we have very well
18 educated competent people helping with these rules. The
19 trick is to help them decide that they want to do it. Not
20 find reasons why we don't want to do it.

21 MR. KANE: All right. Well, one of the things that
22 has impressed me is that the commission has stated that
23 this is not final and that they're working towards finality
24 because they have to do something if they're going to have
25 anything soon to the governor. So my impression is that

1 it's an open-ended process so, again, if you have some
2 specific ideas in mind, I would ask you to get them to the
3 commission, get them to me and perhaps there's a way
4 forward.

5 MR. TAYLOR: Okay. Thank you.

6 MR. KANE: Thank you. All right. I have -- is it
7 Todd Cornelison with a question mark?

8 MR. CORNELISON: I think everything's been said.

9 MR. KANE: All right. Thank you. I cannot make
10 this name out. Can you?

11 UNIDENTIFIED SPEAKER: Kim Wahlen.

12 MR. KANE: Kim Wahlen? Is Kim Wahlen here and
13 would you still like to testify? You put yes.

14 MR. WAHLEN: I just want to say one (inaudible).

15 MR. KANE: Come on up here.

16 MR. WAHLEN: Yeah. First of all, I just want to
17 thank Frank and Pat, the commissioners for putting on this
18 hearing. I think this is good. Let the growers speak and
19 thanks to you, sir, for being here.

20 I'd like to say -- give a little background like
21 Carl did. I'm not an opponent of the Idaho Potato
22 Commission. I'm a proud taxpayer. I believe there's a lot
23 of great things that have happened over the years and I'm
24 in favor of most of what they're doing today.

25 My challenge and the reason I'm here to the hearing

1 today is I want to speak to the serve at the pleasure of
2 the governor. I think when our -- you know, when he was
3 elected governor, whoever it may be -- I don't have -- any
4 of them. But they were allowed to be elected by the
5 people, by the taxpayers. They get to elect the one person
6 they want.

7 We didn't -- in Idaho, when we elected Governor
8 Otter, we didn't send three names to the White House. We
9 elected one man. I don't know why the governor would not
10 allow us to have the same privilege.

11 Taxation without representation is the start of a
12 lot of fights in this world and there's a lot of huge
13 taxpayers in the audience. I could say I'm in favor of the
14 one man, one vote but I think we arrived at an age of
15 sophistication where we can probably change that a little
16 bit and still give everybody a voice. I think every grower
17 should have a voice but for heaven's sake, like I talked to
18 a grower this morning that couldn't make it and he said,
19 well, if everybody has the same voice, no matter how
20 many -- how many acres you grow or how much taxes you pay,
21 then cap us at 10,000. Cap us at \$10,000 each, you know.
22 Then a grower -- and there's growers in the room here that
23 I know that I'm sure arrived at the closest figure of a
24 half a million dollars annually.

25 So, you know, it's easy to say and it sounds, you

1 know, great. Every man gets a voice. Well, everybody
2 should but we also should have -- be able to arrive at
3 something where there's -- there's a mixture. There's a
4 mixture that when the country was organized, you know, we
5 had every state and some states had a lot of people so we
6 have the senate with two each and the house. I think we
7 can have some good minds. We can arrive at a mixture of
8 something that would be fair. That's all I have to say.

9 In closing, I guess the theme of my comments would
10 be let the growers elect their representatives and I think
11 it's completely unfair that some think that we are not
12 capable. We're capable of sending the checks, capable of
13 backing up the funds but we're not capable of electing
14 those who we want to represent us. I think that's -- I
15 think that's a crime. Thank you.

16 MR. KANE: Do you want to perhaps articulate a plan
17 more in keeping with what you just said in writing so we
18 can at least look at it and --

19 MR. WAHLEN: Sure.

20 MR. KANE: As I said, you have some time and I
21 don't think the process is just going to stop on August 15
22 to continue the dialogue with the commission staff and the
23 commissioners.

24 MR. WAHLEN: So you'd like me to write my feelings
25 about why I feel that way?

1 MR. KANE: No, not why. I'm thinking about --
2 we've been hearing about somehow taking into account the
3 larger growers. I think that's what I'm hearing but I'm
4 not quite sure how we get there and if you have some
5 thoughts on how we get there, tell me and we'll go from
6 there.

7 MR. WAHLEN: Okay. Thank you.

8 MR. KANE: All right. Thank you, sir. All right.
9 I think that is it as far as people who signed up but we're
10 not going to close the proceedings. In light of what we
11 just heard, is there anybody who also would like to come
12 forward and speak on any subject obviously before us. Yes,
13 sir. Come on up here. Please state your name for the
14 record and spell your last name.

15 MR. BOYLE: Shawn Boyle, B-o-y-l-e.

16 MR. KANE: Thank you. Go ahead.

17 MR. BOYLE: And I am president and general counsel
18 of the Idaho Growers Shippers Association. We represent
19 every fresh pack potato shed in Idaho and I guess I just
20 wanted to be on the record in stating that we agree with
21 the commission adopting rules to govern itself as opposed
22 to having to open up the statutes every time it wants to
23 make an adjustment or a change. And so Exhibit 111 I think
24 is extremely wise that the commission have the flexibility.
25 For example, with the new nomination process, it's

1 saying that it will be mailed out. Nominations will be
2 mailed out. That's the proposal. Well, that's a baby step
3 in the right direction as opposed to having it posted in
4 the newspaper but I can see that it will only be a short
5 period when we'll be saying, okay, let's have that e-mailed
6 out or let's have the nomination process online and Carl
7 Taylor can be sitting in his potato shed or in his tractor
8 and say I want to vote for this commissioner and there's
9 electronic processes in place that -- I can see that
10 changing quickly.

11 So having the administrative rules for the
12 commission to make those changes is wise. I look at the
13 Idaho State Bar Commission and how they do their nomination
14 processes is probably as good as anyone because it's
15 critiqued by nothing but attorneys all day. So -- that's
16 their process. It's electronic, right?

17 So my other comment was just in -- just in support
18 of establishing clear rules as far as voting. I think
19 there currently could be some gamesmanship in gaining some
20 votes and, as you know, to set up an LLC in Idaho with
21 \$100, we could go take a grower who grows 50 acres and set
22 up 16 LLC's tomorrow and have him cast his 16 votes so
23 obviously there's need and I think the commission is
24 addressing those concerns and so we're -- I'm here on
25 behalf of Idaho Growers Shippers Association saying that we

1 support that process and hope to contribute if there's a
2 way that we can help to clarify those rules to make sure
3 that there is a fair voting process that a grower -- again,
4 I'm picking on Carl Taylor but Carl Taylor shows up
5 thinking he's going to cast one vote and another grower
6 shows up thinking they're going to cast 16 votes, there's
7 just -- it's unfair playing field. There needs to be
8 established rules there and I think we're on the right
9 track.

10 MR. KANE: So let me see if I can encapsulate what
11 I think I'm hearing. You like the Rule 111 and you like
12 the two proposed statutes?

13 MR. WAHLEN: Yes.

14 MR. KANE: All right. Thank you.

15 MR. WAHLEN: Thank you.

16 MR. TAYLOR: Could you clarify -- does common
17 interest in entities take you back down to one vote?

18 MR. KANE: I didn't catch it. Do you want to come
19 up and restate your question, sir?

20 MR. TAYLOR: Shawn's issue. Does common interest
21 in entities limit you still to one vote?

22 MR. KANE: All right. I think that's a question
23 for Mr. Kole, right, who is prepared to answer it I think.

24 MR. TAYLOR: Yes or no would be fine.

25 MR. KANE: You're talking to a lawyer.

1 MR. KOLE: As Carl knows, I'm a recovering lawyer.
2 It's a 12-step program and I haven't quite reached the 12th
3 step yet. I keep falling off the wagon.

4 So what we're trying to do is thread a needle and
5 the answer to your question is that we have debated back
6 and forth how we can try to define this and if you look at
7 what we did --

8 MR. KANE: What are you referring to, Pat?

9 MR. KOLE: I'm referring first to Exhibit 111 I
10 believe.

11 MR. KANE: The rule?

12 MR. KOLE: The rule. So in the qualifications
13 section --

14 MR. KANE: Is that the last page?

15 MR. KOLE: The last page. We have said that each
16 grower, shipper or processor may only vote on one ballot
17 and may only vote one time for each position to be filled
18 on behalf of himself, partners, corporation, association
19 and/or any other business unit. A grower, shipper or
20 processor is entitled to only one vote no matter how many
21 farms, packing facility, processing plants, entities or any
22 other type of business organization he has an ownership
23 interest in.

24 Now, if you have a family member that separately
25 meets the definitions and qualifies or a business partner

1 that separately meets the qualifications, then that person
2 can vote. And so there is a possibility no matter how
3 carefully you phrase these rules that there could be some
4 gamesmanship but if you've got business entities where
5 there is people with different ownership interest, they
6 are -- they can separately qualify to vote.

7 MR. TAYLOR: The way I read that common interest
8 means only one vote.

9 MR. KOLE: Only one vote for that one entity.

10 MR. TAYLOR: Yeah. But if you've got three
11 corporations that all have the same owners, it's still just
12 one vote.

13 MR. KOLE: That is what the intention was when this
14 was drafted.

15 MR. TAYLOR: Okay.

16 MR. KANE: But if you have three corporations owned
17 by essentially the same people, do they also get three
18 votes?

19 MR. KOLE: The intention was that if they're all
20 commingled, there was one vote.

21 MR. KANE: And how would you determine commingling?
22 The rule takes care of it?

23 MR. KOLE: You look at the rule and you'd look at
24 the way they paid their taxes.

25 MR. KANE: Got it.

1 MR. KOLE: So if you had entities that paid their
2 assessments -- if you have entities that are writing out
3 different checks and they are different legal structures
4 filing different tax returns, they would have a vote.

5 MR. KANE: Each entity would have a vote.

6 MR. KOLE: Each would have a vote.

7 MR. KANE: Thank you. All right. Is anyone else
8 here that wishes -- yes, sir. We've got some more
9 volunteers. Please state your name for the record and
10 spell your last name.

11 COMM. HARDY: I'm Randy Hardy, H-a-r-d-y.
12 Currently sitting commissioner from the Magic Valley. I
13 just felt like I wanted to address the concerns of the
14 large growers and whether they're being fairly represented
15 on the commission and I kind of get the feel that you want
16 to have more say. You think you need to have more
17 influence. You start going down that road, it's going to
18 get really rocky.

19 And I say that because when we meet as a
20 commission, five growers, two processors, two shippers and
21 we meet in our commission meetings, all those hats come off
22 and we try our very best to do what's best for the Idaho
23 industry despite where we come from.

24 I think if we were to meet and all of a sudden
25 there's somebody there at the table that is the biggest

1 assessment payer in the state and we all of a sudden have
2 to start thinking about what he's thinking and how his
3 money's being spent as opposed to the rest of us on there,
4 then I think you're going to see some decisions come out of
5 the commission that may not be for the best good of the
6 industry or individuals on it.

7 I'm not saying we discount where you're coming from
8 but I truly believe on the commission that those who pay
9 the most in have the opportunity to get the most out
10 because the programs that are being conducted and I hear
11 the argument, yeah, our returns in Idaho are the least of
12 any state and I would argue that somewhat. That falls on
13 marketers. Not promotion.

14 Nobody's forcing you to be a big grower and I'm not
15 a big grower but I'm big for me because I'm a family farm.
16 But I want to give one example. Frank has done an awful
17 lot of work in the last couple years trying to promote
18 Idaho as the spot of an additional processing plant or two
19 or three. We feel like we have the acreage. We feel like
20 we have the environment. We've hired Joe Gunther to put
21 together a report that basically says that.

22 Frank was very, very, very instrumental in getting
23 Lamb Weston on to devote the Twin Falls plant to an Idaho
24 branded frozen product that's very successful. If he were
25 up here, he would tell you that he has appointments set up

1 with several of the other processors.

2 One thing I took upon myself to do in some
3 conversations that I had with some growers in eastern Idaho
4 a couple months ago is I drafted a letter that Frank could
5 take with him in those meetings that said if any
6 processor's interested in being anywhere along the Snake
7 River in Idaho, whether it's Magic Valley, whether it's up
8 here, whether it's further east, I was confident that we
9 could put together a group of growers from any one of those
10 areas that could sit down with them and help identify ideal
11 land to build it on, available water, what the
12 infrastructure of the community's like, transportation
13 availability, getting in and out, energy ability, energy
14 infrastructure. What's the community like? What's the
15 labor force like?

16 Anyway, we identified ten items that we felt like
17 we as growers could perhaps help that processing company to
18 help identify an area that might work for them.

19 I signed that as a commissioner. I'm 100 percent
20 fresh grower. I did that for the processing industry. I
21 feel like every one of us on the commission do that when
22 we're in that role. We're looking out for the best good of
23 the entire industry in helping it grow and, again, I hear
24 your concerns. You spend a lot of money. I spend a lot of
25 money. I personally am really passionate about what's

1 happening because I've been around this industry for a long
2 time on the national boards.

3 And 15 years ago, I was really concerned about
4 where Idaho was headed because a lot of my friends in those
5 industries were starting to grow Norkotahs in places like
6 Oklahoma, Florida, Arkansas, Arizona and I'm going they're
7 going to run us right out of our business because they can
8 grow them locally. Most of those areas found out that they
9 cannot consistently grow a successful crop. One grower in
10 Oklahoma had a crop of Norkotahs that every potato sprouted
11 in the ground it got so warm and so he quit doing them.

12 So in the last 10 or 15 years, I've seen that kind
13 of acreage production come back to Idaho and right now,
14 we're no. 1 in food service. Last year for the first time,
15 there's more potatoes sold into food service than sold into
16 fresh. Idaho owns that market and we're going to continue
17 to.

18 Last year, we had an over-abundant crop. Everybody
19 was concerned what we were going to do with it. Not saying
20 the commission did it but we as a state moved 38 million
21 sacks of fresh potatoes out of the state. The most we ever
22 had. That should have been a sagebrush year. 20 years
23 ago, it would have been a sagebrush year but we moved every
24 potato.

25 There are a lot of positive things happening in

1 this state and a lot of them are because of the work of the
2 potato commission. And we are concerned about the feelings
3 of every one of you as growers but I just felt like you
4 needed to know that we who sit on the commission understand
5 all that and whether it's Dan Nakamura representing Idahoan
6 or me as a grower, we go into those commission meetings
7 with your best interest at heart.

8 MR. KANE: Thank you. My impression is that you
9 all take an oath, do you not, when you get the job to
10 support the industry and the State of Idaho, correct?

11 COMM. HARDY: Yes.

12 MR. KANE: I saw a hand beginning to go up. Yes,
13 sir. Come on back up here.

14 MR. FOSTER: If you don't mind, Mr. Kane. Boyd
15 Foster, F-o-s-t-e-r. One of the concerns I have is that it
16 just reminded me as we started talking about entities and
17 number of votes that an entity can have, quite a few years
18 ago, we were limited by acres for a BPA credit which forced
19 growers to create many entities so they could get that BPA
20 credit. And we were very creative as a growing industry to
21 make sure that we had every bit of that credit that we
22 possibly could have.

23 That's what I see happening here is all of a sudden
24 we're going to be forced to create a whole bunch of
25 entities so that we have a whole bunch of votes to

1 represent the acres that we are farming. Then that's the
2 unknown that was mentioned earlier. That's the unknown is
3 who's going to show up with 16 votes and who's going to
4 show up with one vote the way that this is going.

5 What we do know for sure is who has paid a tax.
6 That's -- that's record and if the vote could be
7 established more on who pays the tax, then they might
8 create more entities to pay more taxes in different names
9 but it's still very legitimate and there will be no
10 surprises.

11 MR. KANE: Thank you, sir.

12 MR. FOSTER: Thank you, Mr. Kane.

13 MR. KANE: All right. The way I've been doing it
14 on each previous meeting allow Mr. Kole to kind of sum up
15 and perhaps respond to some of the concerns that have been
16 expressed so I'm going to, again, give him the microphone
17 and let him speak to anything he wants to speak to.

18 MR. KOLE: Well, first off, I'd like to thank
19 everybody for coming out here. It's obviously a busy time
20 of the year and you've got a lot of other things that you'd
21 probably rather be doing than being here.

22 I think what we tried to do in creating this was to
23 balance out the competing interests that have been
24 articulated very well here. We've tried to set a parameter
25 as best we could using the skill and knowledge of not only

1 growers, shippers, processors, members of the public,
2 legislators to create a system whereby to the greatest
3 extent possible, we could get fair representation in the
4 voting process by setting up a system that allowed people
5 to vote by mail initially until we could as Shawn was
6 talking about create an electronic system for voting. We
7 will get people who have never ever voted before to
8 actually come and vote.

9 The second part of it is that we tried to make it
10 really clear that the taxes that are paid, you had to pay
11 the taxes in order to be an eligible voter as Mr. Foster
12 was just talking about. Can people create multiple tax
13 paying entities? If they want to, sure they can. Do they
14 want to do the paperwork all the time?

15 I think what's going to happen is you're going to
16 see greater consensus emerge within the industry because
17 the voting process will ensure that people have the chance
18 to make their voice heard and there will be more of an
19 effort made by people to go out, talk to their neighbors,
20 their fellow growers, campaign and get the votes to be on
21 the commission.

22 We could look at other systems. We could look and
23 say one of the grower commissioners has to be a thousand
24 acres or less, one of the grower commissioners has to be a
25 thousand to 2,500 or 2,500 to 5,000. Go -- you know, just

1 change it in a way that we would stratify the membership of
2 the commission and we would get what Randy Hardy has just
3 talked about. We'd get people voting for that particular
4 constituency and then not voting for the best interests of
5 what the industry needs.

6 We just need to always keep in mind one thing. We
7 need good people to serve on the commission and we've had
8 them. A lot of them are here in the room and they've done
9 a lot of work for no compensation. They've devoted hours
10 and hours of their time.

11 I think that we will continue to get those kind of
12 people if we can just clarify a few of these things and get
13 moving forward and looking down the road at what's best for
14 us all.

15 MR. KANE: Thank you. All right. Let me make a
16 record here. I have done this now for three hearings and
17 what I have found is that there is a unified element within
18 the industry that recognizes that Idaho needs to be
19 supported, the Idaho potato brand needs to be supported.
20 There are different ways of doing things and we've had some
21 very interesting discussions regarding those ways.

22 As Mr. Kole said on the first day, this is still a
23 work in progress so I'm going to recommend that anyone who
24 thinks that they have a better idea than what we have in
25 front of us at this time to get it in writing. It's one

1 thing to say I have concerns about something. It's
2 something else to say I've got a proposal to look at. We
3 have a relatively short window that can be accomplished and
4 I know that the commission will be continue the dialogue
5 irrespective of what I end up recommending.

6 Understand also that the rule process is up or
7 down. Once it goes to the legislature, there's no amending
8 a rule so you need to come together to the extent you can
9 with any proposed changes to the rules although frankly,
10 I've heard very few regarding the rule proposed in front of
11 you. Just understand that you only have one shot at this.
12 The statutes of course is different. That can be amended
13 at the pleasure of the legislature.

14 So I would thank all of you for being here and I
15 just want to say it's been a genuine pleasure working with
16 you and the other people that I've worked with over the
17 last three meetings. It's a new world for me. I don't
18 deal in agriculture very often but it's certainly been a
19 great learning experience and thank you. And with that, I
20 will close the meeting.

21 (Proceedings concluded.)
22
23
24
25

STATE OF IDAHO)
) SS
COUNTY OF CANYON)

I, TAMARA A. WEBER, State-certified and licensed transcriber, do hereby certify:

That the foregoing transcript is a transcript of an audio file made of the proceedings in the matter of Idaho Potato Commission Rulemaking Hearing held August 1, 2018; that the foregoing pages 1 through 70 of this transcript contains as accurate and complete a transcription of said audio file as I was able to make.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of August, 2018.

 _/s/ Tamara A. Weber _____
 TAMARA A. WEBER, CSR
 Idaho CSR License No. 278
 Transcriber