TESTIMONY OF JOHN ECHEVERRIA
SUBMITTED TO THE HOUSE AGRICULTURE COMMITTEE
APRIL 30, 2025

I respectfully submit this testimony in connection with the Committee's consideration of potential amendments to Vermont's Right to Farm law. I urge the Committee to **oppose** proposals to change and expand the current law to include immunity against **legal claims that agricultural operators have injured their neighbors by flooding or otherwise trespassing on their land.**

For the record, my name is John Echeverria, and I reside in Strafford Vermont I have been a practicing attorney for more than 45 years and am a Professor at Vermont Law and Graduate School. Two of my particular specialties are water law and property law. I taught the Water Resources Law course at VLGS for many years; served as the General Counsel of American Rivers, the leading national river conservation organization; and have participated in a variety of litigation matters involving water issues. I also have taught the Property course at VLGS, written numerous books and articles on property issues, and served as counsel in property rights cases at all levels of the federal and state court systems. I have testified on numerous occasions on water and property issues before committees of the U.S. Congress as well as committees of the Vermont General Assembly.

In brief, I submit that if Vermont's Right to Farm law were expanded to include a grant of immunity against trespass claims the statute would frequently and routinely cause unconstitutional violations of Vermonters' private property rights. Beyond that, it would seriously erode the tradition of neighborly relations among Vermont landowners by authorizing agricultural operators to seriously harm their neighbors with impunity. I recently explained this legislative issue to a non-lawyer friend, why said, "It's just common sense that you shouldn't dump your water on your neighbor's land." I believe this simple statement sums up the argument very well. I urge the Committee to keep this commonsense wisdom in mind while exploring the legal and policy questions raised by this proposal.

Background on Relevant Legal Doctrines.

To set the stage for a discussion of the Right to Farm law and possible amendments to that law, it will be useful to lay out some background information regarding (1) Vermont's surface water drainage doctrine; and (2) protections against "takings" of private property under the U.S. and Vermont Constitutions.

Surface Water Drainage Law. Vermont has a longstanding legal doctrine, whiich is part of the property rights of every Vermont landowner, protecting them from harmful actions by upstream landowners causing water to flow in unnatural quantities or velocity onto the lands of downslope neighbors.

Judge Mary Teachout, an experienced Vermont Superior Court Judge, recently provided an excellent description of this doctrine:

> "Upper and lower property owners have reciprocal rights and duties as to surface water drainage. The upper owner has the right to have the surface water pass to lower lands in its natural condition. The lower owner must accept the natural flow of such waters upon his land. As a general proposition, an upper property owner cannot artificially increase the natural flow of water to a lower property owner or change its manner of flow by discharging it onto the lower land at a different place from its natural discharge. But, in cases involving only increased flowage and not a change in the place of discharge, an upper owner may increase the flow as long as it causes no injury to the lower property. The burden is on the plaintiff to show that the defendant increased the natural flow and this increase resulted in injury to the plaintiff. If this is established, the mere fact that flood conditions existed, or that the water was unusually high, will not protect the defendants. Of course the defendant will be liable only for that portion of the damage attributable to its increased flowage.

Chapin v. Spector, 2015 WL 10860532 (Sup. Ct. September 3, 2015) (internal quotations omitted), *aff'd sub nom*. *Regan v. Spector*, 203 Vt. 463 (2016). *See also Powers v. Judd*, 150 Vt. 290, 292 (1988), quoting *Swanson v. Bishop Farm*, Inc., 140 Vt 606, 610 (1982) (stating traditional Vermont surface water doctrine).

Under the established Vermont law of surface water drainage, an "artificial" increase in the natural flow of water or a change in the manner of water flow to a downslope neighbor can be accomplished in a variety of ways, including, for example, by creating ditches or berms, or installing culverts or tile drains. When a downslope landowner is unlawfully injured by an increase in flow or change in manner of water flow by an upslope landowner, the downslope owner is entitled to sue for injunctive relief or damages. *See Powers v. Judd*, 150 Vt. 290, 292-294 (1988).

Takings Doctrine. The U.S. and Vermont Constitutions protect property owners from government "takings" of their private property which do not serve a "public use" (or a "necessity," under the Vermont Constitution). And even when these conditions are satisfied, the government action will be unconstitutional unless the government pays appropriate compensation for the property taken. *See* U.S. Constitution. amend. V ("Nor shall private property be taken for public use, without just compensation."); Vt Constitution, Ch. 1, Art. 2 ("That private ought to be subservient to public uses when necessity requires it, nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.").

The U.S. and Vermont Constitutions impose different constraints on government action affecting private property depending on whether the government is restricting the owner's use of their property or is taking some action that results in an occupation or invasion of the owner's private property.[1]

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[1] The Vermont Supreme Court generally interprets the Vermont Takings Clause in accordance with the U.S. Supreme Court's interpretations of the federal Takings Clause, U.S. Const. amend. V. However, the Vermont Supreme Court recently explained in *Gladchun v. Eramo*, 217 Vt. 481, 490 (2023), that "the Vermont Constitution vigorously protects private-property ownership," and that "Vermont's unique character and history" supports "a robust commitment to private-property ownership." Thus, the Vermont Supreme Court might interpret the Vermont Takings Clause as providing more protection for private property rights than the federal Takings Clause in some contexts. However, the U.S. Supreme Court's precedents interpreting the federal Takings Clause are sufficient to demonstrate that amending the Vermont Right to Farm law to include trespass would routinely result in unconstitutional takings.

On the one hand, the U.S. Supreme Court has recognized that government regulations and other types of government actions restricting the use of private property may, depending on the circumstances, result in unconstitutional takings of property rights. The Court has instructed that to determine whether a use restriction results in a taking, courts should generally apply a multi-factor balancing test focused on the economic impact of the use restriction, the extent of the restriction's interference with investment-backed expectations, and the character of the government action. *See Penn Central Transportation Co. v. New York City,* 438 U.S. 104, 124 (1978). The is self-evidently a very fact-intensive inquiry and it is often difficult to predict whether this type of taking claim will succeed or not. (For the very special, rare situation where a restriction on use is so severe that it destroys the economic value of a property, the Supreme Court has established a *per se* takings rule that almost invariably leads to the conclusion that the use restriction effects a taking. *See Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1016 (1992)).

On the other hand, the Supreme Court has established a very different, much more expansive test for so-called "physical takings." In the recent case of *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 147 (2021), the Supreme Court stated that when the government *physically* takes private property, "the Takings Clause imposes **a clear and categorical obligation** to provide the owner with Just Compensation." *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 147 (2021) (emphasis added). In other words, if a government action fits into the physical takings category, then the action is automatically a taking, without the need to examine the facts and circumstances of the particular case.

The *Cedar Point* Court explained that government can cause a physical taking in *three* different ways. First, the Court said, "[t]he government commits a physical taking when it uses its power of eminent domain to formally condemn private property." *Id*. Second, it effects a physical taking "when the government physically takes possession of property without acquiring title to it." *Id*. And thirdly, and of most direct relevance to the debate over trespass in the right-to-farm context, "the government effects a taking when it occupies property." *Id*.

The constitutional protection against government occupations of private property, the Supreme Court has explained, is rooted in the longstanding recognition that "the power to exclude" is "one of the most treasured strands in an owner's bundle of property rights." *Loretto v. Teleprompter Manhattan CATV,* 458 U.S. 419, 435 (1982). *See also Cedar Point Nursery,* 594 U.S. at 150 (observing that "we have stated that the right to exclude is 'universally held to be a fundamental element of the property right,' and is 'one of the most essential sticks in the bundle of rights that are commonly characterized as property'"), quoting *Kaiser Aetna v. United States*, 444 U.S. 164, 176, 179–180 (1979).

The Supreme Court has provided considerable guidance on the scope of the categorical takings rule for physical occupations. The Court has recognized that a physical taking occurs not only when government itself occupies property, but also when government enacts a law or adopts a regulation authorizing third parties to occupy private property without owner permission. *See, e.g., Nollan v. California Coastal Commission*, 483 U.S. 825 (1987). In addition, the Supreme Court has made clear that physical occupations are categorical takings "whether [they are] permanent or temporary," *Cedar Point Nursery*, 594 U.S. at 153, and "even if they are intermittent as opposed to permanent." *Id*.

Over the years, the U.S. Supreme Court has identified many different types of government actions (or government-authorized actions by private parties) that have resulted in physical-occupation takings, including government airplanes flying through private airspace above private land, *see United States v. Causby*. 328 U.S. 256 (1946); government permission to the public to use boats on a private lake, *see Kaiser Aetna v. United States*, 444 U.S. 164 (1979); a state law allowing cable companies to install wires on the exterior of a privately-owned apartment building, *see Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982); and a state agency order permitting the public to pass across private oceanfront property. *See Nollan v. California Coastal Comm'n*, 483 U.S. 825, 831 (1987). In a 2024 decision, the Vermont Supreme Court summarized these cases by stating "[t]he upshot of this line of precedent is that government-authorized invasions of property—whether by plane, boat, cable, or beachcomber—are physical takings requiring just compensation." *In re DJK, LLC WW & WS Permit*, 323 A.3d 911, 922 (Vt. 2024).

Importantly for present purposes, the U.S. Supreme Court has specifically recognized that government flooding or government-authorized flooding of private property is a physical-occupation taking. In *Pumpelly v. Green Bay Company*, 80 U.S. 166 (1871), one of the Supreme Court's earliest takings cases, the Court ruled that a farmer presented a valid taking claim when a private company, acting with authorization from the State of Wisconsin, built a dam that created a reservoir flooding the farmer's land. In the modern era, in *Arkansas Game & Fish Commission v. United States,* 568 U.S. 23 (2012), the Supreme Court held that the United States could be held liable for a taking when the U.S. Army Corp of Engineers adopted a modified operations plan for a dam which resulted in additional seasonal flooding of downstream property over an eight-year period.

In the *Cedar Point* case, the Supreme Court identified three narrow exceptions to the categorical takings rule for physical occupations. The only exception of any conceivable relevance in the present discussion involves "isolated physical invasions [] not undertaken pursuant to a granted right of access," which the Court said could constitute "trespasses" without necessarily rising to the level of a constitutional taking. 594 U.S. at 159-160. The Supreme Court cited two examples to illustrate the narrow scope of this exception. First, citing a hypothetical scenario invented by a federal appeals court judge, *see Hendler v. United States*, 952 F.2d 1364, 1377 (Fed. Cir. 1991) (Plager, J.), the Court said that a government employee who parked a government truck by the side of the road on private property to eat his lunch would not be committing an unconstitutional taking on behalf of the government. Second, the Supreme Court pointed to an older Court precedent, *Portsmouth Harbor Land & Hotel Co. v. United States*, 260 U.S. 327 (1922), in which the Court explained that the government firing of military guns over a neighboring property two times over the course of two and one half years did not establish a government taking, but more persistent firing of the guns over the property could establish a taking.[2]

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[2] The second exception identified by the *Cedar Point* Court was for "government-authorized physical invasions [that] will not amount to takings" if "they are consistent with longstanding background restrictions on property rights." 594 U.S. at 160. I know of no "background principle" of Vermont law that would permit a property owner to flood his or her neighbor; indeed, as discussed above,

Adding Trespass to Right to Farm Legislation Would Unconstitutionally Take Private Property Rights by Imposing Physical Occupations on Landowners.

Applying the rules governing physical-occupation takings claims laid out by the U.S. Supreme Court, the addition of trespass in Vermont's Right to Farm legislation would consistently result in unconstitutional violations of private property rights. Adding trespass to right to farm legislation would also likely generate substantial claims for financial compensation against the State, imposing potentially significant but hard to quantify financial burdens on taxpayers.

The classic definition of a trespasser is one who intentionally "(a) enters land in possession of [another], or causes a thing or a third person to do so, or (b) remains on the land, or (c) fails to remove from the land a thing which he is under a duty to remove." Restatement (Second) of Torts, § 158. In the context of right to farm legislation, the most obvious example of trespass is activity that causes flood waters to enter the land of another. A trespass also might occur as a result of a farmer storing agricultural equipment on a neighbor's land or building a fence encroaching on the neighbor's land and devoting the neighbor's land to the farmer's own farming enterprise.

Vermont surface water drainage doctrine generally makes it unlawful for one property owner to flood a downstream neighbor. Under the Court's third exception, the Supreme Court said a government occupation of private property will not be a taking if it is imposed as a condition of the government's grant of some kind of benefit (such as a discretionary permit), provided the government could have declined to grant the benefit without effecting a taking and the condition serves the same objective that would have been served by denial of the benefit. 594 U.S. at 161, citing *Dolan v. City of Tigard*, 512 U.S. 374, 384, 393 (1994); *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 831 (1987). This special rule relating to government "exactions" has no relevance in the right-to-farm context.

As described above, takings doctrine draws a sharp line between claims based on use restrictions and claims based on physical occupations. Claims based on use restrictions are generally evaluated using a complex balancing test and, in practice, generally (but not always) fail. By contrast, claims based on physical occupations are generally held to be *per se* or automatic takings and generally succeed.

Applying this framework to right to farm legislation, the current Vermont legislation's approach of granting immunity only against nuisance lawsuits rarely results in unconstitutional infringements on private property rights. A nuisance is typically defined as a "nontrespassory invasion of another's interest in the private use and enjoyment of land." Restatement (Second) of Torts, § 821D. Providing a farmer immunity from a nuisance claim effectively allows the farmer to continue to engage in a nuisance-causing activity and thus allows the interference with the neighbor's use of their land to continue Accordingly, takings claims based on the nuisance provisions in right to farm legislation would generally be evaluated using the multi-factor balancing test applicable to restrictions on the use of property. And under that test, as discussed above, the courts will generally conclude that protections against nuisance suits in right to farm legislation do not result in unconstitutional impairments of private property rights. In point of fact, I am aware of no Vermont case holding that the Right to Farm law's grant of immunity against nuisance claims has resulted in a taking.

Other state courts which have considered the issue have generally rejected takings claims based on nuisance provisions in right to farm legislation. In 1998, in *Bormann v. Board of Supervisors*, 584 N.W.2d 309 (Iowa), the Iowa Supreme Court ruled that the nuisance immunity provision in the Iowa right to farm law was an unconstitutional taking. In my view, the *Bormann* case was wrongly decided because the Iowa Court failed to apply the deferential balancing test which applies to claims based on use restrictions. Other state supreme courts which have addressed the question have disagreed with *Bormann* and concluded that nuisance provisions do not violate neighbors' private property rights.

On the other hand, if the Vermont Right to Farm law were extended to trespass, the law would routinely result in unconstitutional takings under the rules governing physical occupations. A trespass is not merely an interference with the

neighbor's use of his or her land, as with a nuisance, but an actual physical occupation – by persons, or by material things – of the land of another. Farming activity resulting in the flooding of a neighbor's land is the most obvious type of trespass that could arise In the Aerie Point case, the Superior Court found that the installation of subsurface tile drains resulted in a persistent increase in the volume and velocity of water flowing onto the neighbors' land. She concluded that this flooding was an unlawful trespass and enjoined it.

Expanding the right to farm law to bar this type of trespass claim would clearly result in an unconstitutional taking of private property. The legislation would in effect affirmatively allow farmers to engage in trespasses (or occupations) of their neighbors' land. If the Vermont Right to Farm law were changed to bar landowners in future cases like the Aerie Point case from bringing trespass claims, the landowners would be forced to suffer a physical occupation of their property and be subjected to unconstitutional takings of their private property.

The U.S. Supreme Court has adopted a common-sense approach for evaluating whether a government authorization of an occupation effects a taking: whether, prior to the action alleged to effect the taking, the owner had the right to exclude the government or third parties from the property, and then the government took action to eliminate that right. For example, in *Cedar Point Nursery,* involving a takings challenge to a California regulation granting union organizers a right of access to a raisin grower's processing facilities, the Supreme Court said there was a taking because, "without the access regulation, the growers would have had the right under California law to exclude union organizers from their property," but then "the access regulation took that right from them." 594 U.S. at 155. *See also Darby Development Company, Inc. v. United States*, 112 F4th 1017, 1034 (Fed Cir. 2014) (ruling that government order barring landlords from evicting tenants for non-payment of rent resulted in physical-occupation takings).

Applying this analysis to an Aerie Point-type case and other similar cases, it is apparent why amending the Vermont Right to Farm law to include trespass would result in unconstitutional takings. Under Vermont's law of surface drainage, property owners subjected to persistent flooding as a result of neighboring farming activities can sue to stop the flooding, as the plaintiffs did in the Aerie Point case. If trespass were added to the Right to Farm law, the

legislature would take away the neighbors' "right to exclude" and unconstitutionally violate their private property rights.

If the Right to Farm legislation were amended to include trespass, neighbors subjected to unconstitutional occupation of their properties would have the option, if they had the financial resources to do so, to sue the State of Vermont for financial compensation, on the ground that implementation of the amended Right to Farm law violated their private property rights. After the landowners spent a lot of money on lawyers, and the Attorney General's office spent a great deal of time and effort defending against the claim, landowners would likely receive large (but difficult to quantify in advance) financial payments from the State. Ultimately, the taxpayers would end up paying the tab for the legislature's decision to create a right to farm regime that routinely violates the private property rights of landowners.

However, commonly, likely in the vast majority of cases, landowners subjected to flooding and other actions resulting in physical occupations of their private property would lack the financial resources to sue to protect their constitutional rights in court. Neighbors could complain to farmers about the physical invasions of their property, but farmers could point to the trespass immunity in the Right to Farm law as justification for continuing their practices. The neighbors would be effectively powerless to protect their land and their constitutional rights. Vermonters would suffer these injuries, but they could do nothing about them. In this fashion, amending the Right to Farm legislation to include trespass would fundamentally change the rules governing neighborly relations among Vermont landowners.

It has been observed that there appear to be no reported cases specifically holding that trespass provisions in right to farm legislation in other states have resulted in takings. But this is hardly surprising given that apparently only two states across the Nation have taken the extreme step of adding trespass to their right to farm laws. The more important point is that the general doctrine governing physical occupations, and the precedents applying this doctrine to various different kinds of occupations, including occupations by flooding, demonstrate that adding trespass to Vermont's Right to Farm law would subject landowners to unconstitutional takings of their private property.

As discussed, the Supreme Court's *Cedar Point* decision recognizes that certain isolated trespasses will not rise to the level of unconstitutional occupation of private property. But every significant, persistent trespass onto private land that might conceivably give rise to actual trespass litigation would involve the kind of persistent invasion of private property that would support claims of unconstitutional taking. Moreover, the *Cedar Point* Court distinguished between "isolated" government trespasses that would not be takings and invasions of private property "undertaken pursuant to a granted right of access." If the Vermont statutes were amended to create a general immunity from trespass claims against agricultural operators, the result would be government-authorized flooding "pursuant to a granted right of access." Thus, amending the Vermont Right to Farm law to include trespass would consistently violate private property rights.

It has also been suggested that the constitutional takings concerns raised by the idea of adding trespass to right to farm legislation could be addressed by adding language stating that the trespass immunity would not apply whenever the neighbor could demonstrate in court that the immunity would result in a taking. This approach would add to the burden imposed on neighbors by right to farm legislation by forcing them to prove both a trespass and a taking in court. It would also be nonsensical because in all (or at least essentially all) cases conferring immunity from trespass claims based on harmful additional flooding, the immunity would produce unconstitutional takings; it would be pointless and unreasonable to place the burden on neighbors to prove the taking in each individual case when it is clear that a taking will occur in every or essentially every case.

Finally, it bears emphasis that the law is designed not only to govern the outcomes of litigation but also to define the rules that govern everyday relations in our communities, including relations between neighboring landowners. Vermont should continue to be governed by the commonsense principle that "you shouldn't dump your water on your neighbors' land." Leaving trespass out of the right to farm law is consistent with and will help bolster this commonsense principle.

Comments on Latest Judiciary Committee Draft of S. 45

Finally, I want to add a few comments on the latest draft of S. 45 produced by the House Judiciary Committee (identified as Draft No. 2.1 – S. 45, 4/9/2025 - MOG – 8:59 a.m.) Specifically, I wish to comment on the new definition of a

"nuisance" included in this draft as well as a set of new, interrelated provisions granting agricultural operators immunity from suit for injuries or damages they may cause in connection with certain runoff or flooding events.

In my view, these provisions are highly problematic because they muddle the distinction between nuisance and trespass. As I have discussed, the basic definition of a nuisance is a *non-trespassory* interference with the use and enjoyment of land, whereas a trespass involves an actual *entry* onto private property by people or things. The version of S. 45 that passed in the Senate included immunity from suit based on both nuisance claims, the traditional focus of Vermont's Right to Farm legislation, and trespass. The House Judiciary Committee subsequently eliminated the trespass language from S. 45. My understanding is that the Committee took this step based on concerns that trespass is an especially egregious invasion of a neighbor's private property and that conferring immunity from trespass claims would result in unconstitutional takings of private property rights. I believe the Committee made an appropriate modification to S. 45 in light of these concerns.

The problem, in my view, with the new provisions included in the latest draft of S. 45 is that they insert immunity for at least certain forms of trespass – flooding in particular – back into the bill. Adding this new language would revive the concerns – authorizing egregious invasions of neighbors' private property, and taking private property rights in violation of the U.S. and Vermont Constitutions – that apparently motivated the elimination of trespass language from S. 45. In addition, these new provisions are confusing and difficult to understand. Farmers and other landowners would have a hard time applying these provisions to their everyday activities and the Vermont courts would be faced with thorny questions of statutory interpretation, the answers to which might well make the legal regime relating to flooding even more confusing.

Turning to the specifics of these new provisions, Section 5752(4) states that nuisance "means any interference with reasonable use and enjoyment of land, including interference from smoke, odors, particulate matter, dust, noise or vibration. 'Nuisance,' as used in this chapter, includes all claims that meet the requirements of this definition regardless of whether a complainant designates a claim as brought in nuisance, negligence, trespass, or any other area of law or

equity." This language would appear to allow a defendant to raise a nuisance immunity defense to what, in reality, is a trespass claim. Trespasses, particularly flooding, commonly cause damage to the invaded property, which could be characterized as causing "interference with the reasonable use and enjoyment of land" within the meaning of the bill. Under the bill language, a trespass could be recharacterized as a nuisance even though, according to the conventional understanding, a trespass necessarily involves a physical entry onto private property whereas a nuisance is a non-trespassory invasion of interests of land.

I recommend that the Committee consider jettisoning the confusing and awkward definition of nuisance in the latest version of S. 45 and stick with the traditional definition of a nuisance as a non-trespassory interference with the use and enjoyment of land.

Also problematic is the language in Section 5752(5) offering definitions, in the alternative, of a "25-year, 24-hour rainfall event," and of an "[a]nnual exceedance probability," and the language in Section 5753(d) using these definitions to create a partial immunity from liability for injuries or damages due to an agricultural activity "causing runoff or flooding."

This language would do explicitly what the definition of nuisance appears to do implicitly: confer immunity from "nuisance" claims which in reality are trespass claims because they arise from actual physical entries onto private property. Again, this muddling of trespass and nuisance would authorize the types of egregious infringements of private property and unconstitutional takings that the elimination of trespass language from S. 45 was ostensibly designed to avoid.

Section 5753(d) appears to confuse natural variations in water flow across the landscape depending on the weather and artificial actions that farmers might take on their property that wrongfully increase the volume or velocity of water flowing onto neighbors' land. Under the Vermont law of surface water drainage, the downslope landowner must accept the natural flow of water from his or her upslope neighbor, and the volume of these flows and even their capacity to (naturally) cause downstream damage will vary depending on the level of naturally occurring precipitation. What the law of surface drainage condemns, and what takings doctrine makes unconstitutional, is *artificial* actions authorized by the government that harmfully increase the flow of water relative to the natural

baseline. Because this bill language would apparently provide immunity, even for artificial actions, in periods of very high flows, when the capacity of natural water flows to cause downslope damages is at its highest, this bill language would appear to provide immunity from the most damaging actions by upstream farmers.

It is also noteworthy that the language of section 5753(d) is simply incoherent because it states that the nuisance protection in the bill will not affect a landowner's right to recover for injuries sustained due to "agricultural activity" causing runoff or flooding "unless the runoff or flooding was caused" by large natural precipitation events. This makes no sense, because flooding or runoff caused by agricultural activity is obviously distinct from runoff or flooding caused by natural precipitation.

I recommend that the Committee simply eliminate misguided and confusing section 5753(d), and the associated definitions in section 5752(5), from the bill.

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Thank you for the opportunity to testify. I will be happy to answer any questions you may have.