

IDAHO POTATO COMMISSION RULEMAKING HEARING  
July 31, 2018

Burley Inn & Convention Center  
800 North Overland Avenue  
Burley, Idaho

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

Michael Kane, Hearing Officer  
Frank Muir  
Pat Kole  
Gracie Bingham  
Todd Gerratt  
Andrew Mickelsen  
Rep. Scott Bedke  
Rep. Megan Blanksma  
Rob Roche  
Craig Searle  
Todd Cornelison  
Mike Larsen  
Comm. Randy Hardy  
Brian Hansen  
Dan Moss  
Dean Gibson  
Jerry Callen  
Zak Miller  
Mark Darrington  
Randy Bauscher

1 (Proceedings begin.)

2 MR. KANE: All right. Can I have the sign-in  
3 sheet, please? Thank you very much. All right. Let's go  
4 on the record or are we already on the record?

5 UNIDENTIFIED SPEAKER: We're going.

6 MR. KANE: We're on the record. Well, good  
7 afternoon, everyone, on this hot sweltering day. Thank you  
8 all for being here.

9 This is the time and place set for the negotiated  
10 rulemaking hearing. The second hearing, actually,  
11 involving the Idaho Potato Commission's proposed rules  
12 governing nominations and elections for candidates to be  
13 selected for commissioner under IDAPA 29.01.03, Docket No.  
14 29-0103-1801. It's a new chapter and this, as I said, is  
15 done pursuant to notice.

16 It is now 5:10 p.m. on July 31, 2018. We are at  
17 the Burley Inn and Convention Center on 800 North Overland  
18 Avenue in Burley, Idaho. My name is Michael Kane. I'm an  
19 attorney from Boise and I have been assigned to run these  
20 hearings.

21 Many of you -- I've seen a lot of familiar faces --  
22 were at the last meeting and I see a lot of people have  
23 signed up. Let me just take a moment to see what I have  
24 here. All right. It looks like only one person has  
25 explicitly said they wanted to testify. We have somebody

1 with a question mark and of course we're going to have a  
2 presentation from the commission staff. Is that correct?

3 MR. KOLE: Correct.

4 MR. KANE: All right. All right. So for those of  
5 you that were not present at the last hearing on July 24 in  
6 Eagle, one package of proposed exhibits were given to me  
7 and those were numbered 100 through 122. My understanding  
8 is that instead of having something we're going to put up  
9 back on the screen behind me electronically that each of  
10 you have been given a package of these proposed exhibits.  
11 Actually actual exhibits now because they've been entered.

12 Does anyone not have a packet? All right. My  
13 understanding is that one exhibit is added to the packet  
14 that we had in Boise and that is Exhibit No. 115A which I  
15 guess is probably about in the middle of your packet and my  
16 understanding is that there is a proposed change to 115.  
17 Do you wish to substitute 115A for 115? Is that correct?

18 MR. KOLE: Correct.

19 MR. KANE: All right. So that will be done. And I  
20 understand that you also have a written comment that you  
21 wish to have marked today.

22 MR. KOLE: We do. This would be a letter that I  
23 received just today during the lunch hour from IACI and I  
24 would ask that it be marked as Exhibit 123 and that Ms.  
25 Bingham read the contents of the letter into the record.

1 MR. KANE: Do you feel comfortable doing that now?

2 MR. KOLE: Sure.

3 MR. KANE: All right.

4 MS. BINGHAM: It's dated July 30, 2018. "Dear  
5 Mr. Kole, the IACI Potato Processors Executive Committee  
6 (the committee) met on June 30, 2018 and discussed proposed  
7 Rule 29.01.03. The committee has expressed concerns  
8 regarding the rule as it relates to a mail-in nomination  
9 process and has requested further information regarding  
10 this proposal at our next meeting on August 29, 2018."

11 "In addition, the committee reviewed the draft  
12 legislation from the commission. While the committee is  
13 supportive of updating the law regarding the process, there  
14 was substantial concern regarding the proposal to  
15 redistrict the current IPC commissioner districts. The  
16 committee did support updating the statute to better define  
17 growers, shippers and processors and to clarify that each  
18 entity only gets one vote in whatever designation they have  
19 chosen. Again, the committee would request a chance to  
20 discuss the proposed legislation with you further at our  
21 August 29 meeting."

22 "Thank you for the opportunity to express our  
23 initial feedback regarding the proposed rules and  
24 legislation the IPC are currently considering. We look  
25 forward to additional discussions regarding these issues in

1 the future. Sincerely, John Eaton, vice president."

2 MR. KANE: Okay. Thank you. Why don't you give  
3 that back to Mr. Kole and if you would make an electronic  
4 copy for me so I can have it for my package and then of  
5 course can you put these on the website? Is that what  
6 you're doing?

7 MR. KOLE: Correct.

8 MR. KANE: Then anyone can view them when that gets  
9 done. When do you think you can make that happen?

10 MR. KOLE: We can make that happen on Thursday.

11 MR. KANE: All right. Thank you.

12 All right. Well, the way I would propose to do  
13 this is very similar to the way we did it in Eagle and that  
14 is I would first of all defer to Mr. Pat Kole who will  
15 describe the proposed rule and the proposed statutes that  
16 we're going to be discussing.

17 I think it would probably be wise also if you could  
18 walk through the exhibits and explain what you've got here  
19 for those of us that -- for those -- the people here that  
20 were not present in Eagle. And then once you're finished,  
21 I would propose that anyone who wishes to put forth any  
22 testimony or information, this would be an opportune time  
23 for them to do that.

24 So, Mr. Kole, the floor is yours.

25 MR. KOLE: Thank you. Let me just make one comment

1 about Exhibit 123. I know that this contains a  
2 typographical error in that the committee actually met on  
3 July 30. Not June 30. So just a few days ago.

4 With that, I'm going to give that to Ms. Bingham  
5 for her to take care of uploading it onto the website and  
6 the other administrative details.

7 Beginning just with a few overview comments. The  
8 IPC has held nomination meetings for representatives as  
9 growers initially and then eventually shippers and then  
10 eventually processors as it evolved from a grower-based  
11 commission to an industry-based commission.

12 It is unique in the potato world in that most of  
13 the commissions, in fact all of the other commissions do  
14 not have shipper and processor members directly. They have  
15 some in the case of Washington state, for example,  
16 processor representation but those are non-voting and  
17 advisory members.

18 As the commission evolved, times changed and during  
19 the changes, the definitions between what constitutes a  
20 shipper and what constitutes a grower and what constitutes  
21 a processor in the statute have not kept pace with how the  
22 industry has evolved.

23 This all culminated at a nomination meeting held  
24 this year in March. Prior to that meeting taking place,  
25 and if you look at your exhibit packet, Exhibit 100, the

1 commission promulgated a set of guidelines that included  
2 the statutory definitions as well as the way that the  
3 agency had interpreted the statute over the course of its  
4 operations. It also included, if you look at Exhibit 101,  
5 an example of the grower nominating ballot, the shipper and  
6 processor nominating ballots.

7 In this guidance, it was made clear that absentee  
8 ballots and proxy ballots were not permitted.  
9 Nevertheless, at that meeting, there were submitted ballots  
10 that were both proxies and absentee ballots. They were  
11 submitted on forms not developed or printed by the  
12 commission but were designed to look very much like  
13 commission documents.

14 As a result of that, the commission instructed me  
15 to send correspondence to the attorney general's office  
16 which is Exhibit 106. Following the receipt of that, in  
17 Exhibit 107, the attorney general provided his guidance  
18 back to the commission about the election and the process  
19 that was taken.

20 On April 20, the commission wrote to the grower  
21 nominees to advise that there would be a discussion of the  
22 results of the nomination meeting as well as the guidance  
23 received from the attorney general at a follow-up meeting.

24 The commissioners decided that they would go  
25 forward with administrative rules and try to clarify to the



1 extent that they possibly could the process by which  
2 nominations would take place. That's Exhibit 109.

3 Exhibit 110 then was promulgated and published in  
4 the administrative bulletin of the State of Idaho that set  
5 forth the dates, times and places for these hearings to  
6 take place and obtain input from the public.

7 As a result of that, the commissioners had several  
8 meetings and at those meetings, the commissioners took what  
9 was Exhibit 111, 112 -- I'm sorry. 111 as well as 113, 114  
10 and 115 and made comments and edits and changes to each of  
11 these documents.

12 Now, the process that we're going through right now  
13 is to obtain and get the benefit of insights from you  
14 members of the industry, the legislature and the public.  
15 We want to have your thoughts on what we're trying to do.  
16 What we're trying to do in a nutshell is this: We are  
17 trying to clarify what constitutes a grower and what  
18 constitutes a shipper and what constitutes a processor so  
19 that it is clear that people appointed to those positions  
20 by the governor are actual growers, shippers and processors  
21 recognizing that there are many operations now where a  
22 grower is also an owner in a shipping operation or a grower  
23 is also an owner in a processing operation. And so the  
24 language that we use in the post-statutory changes and the  
25 administrative rules that are going to be adopted clarifies

1 who those people are qualified to be.

2 Let me just turn to probably the way that we're  
3 trying to accomplish this. If you look at the first  
4 proposed legislation which is Exhibit 113, there is three  
5 changes that are made. The first one is to say that  
6 grower -- all commissioners serve at the pleasure of the  
7 governor. I will return to that in just a moment.

8 The second change in line 28 on page 1 is to strike  
9 Custer and Lemhi because Custer and Lemhi Counties appear  
10 twice in the statute and they can only be in one district,  
11 not both.

12 The third change on page 2 from lines 14 through  
13 lines 28, take out the statutory definitions and  
14 requirements of holding nomination meetings and hearings at  
15 a certain time and instead says that the commission shall  
16 adopt rules relating to the way that nominations are made.

17 Turning backwards for just a moment back to  
18 Exhibit 111, these are the proposed administrative rules  
19 that would set forth what is going to be proposed. In a  
20 nutshell is to look at what a person predominantly derives  
21 their income from and make that the criteria by which a  
22 grower, shipper or processor is defined. Correspondingly  
23 going forward for just a moment to exhibit -- sorry. These  
24 pages get stuck together -- 115. 115 in the code defines  
25 what is a grower, what is a shipper and what is a

1 processor.

2 I'd like to encourage you to look at page 1 of  
3 Exhibit 115 where it talks about is it actively engaged in  
4 the production of potatoes in the State of Idaho and  
5 derives a substantial portion of its income from there. On  
6 page 2 of that statute, there is the further -- Mr. Bedke.

7 REP. BEDKE: Mr. Chairman, Pat, so I'm looking at  
8 Exhibit 109 has the query box checked and the approved box  
9 checked so it's not a proposal. It's a temporary rule.  
10 Correct?

11 MR. KOLE: It is proposed to be a temporary rule.  
12 The commissioners have not voted on this rule yet.

13 REP. BEDKE: It's not been acted on yet.

14 MR. KOLE: No.

15 REP. BEDKE: Thank you.

16 MR. KANE: Thank you.

17 MR. KOLE: The idea would be to --

18 REP. BEDKE: Just wanted you to know we're  
19 listening back here.

20 MR. KOLE: Okay. It would be perhaps at the Sun  
21 Valley meeting the end of August that the commissioners,  
22 after these hearings have been held and the hearing  
23 officer's report received, the possibility that that would  
24 be adopted as a temporary rule.

25 MR. BEDKE: All right. Thank you.

1           MR. KANE: For the record, I don't know if the  
2 speaker's comments were heard on this audio that we're  
3 making here so I think what I'm going to do is if anyone  
4 else wishes to pose questions as we go, why don't you come  
5 up here, get a little closer to the microphone so we're all  
6 making sure we have a clean record. Go ahead.

7           MR. KOLE: Thank you. So I want to just draw a  
8 contrast between 115 and 115A. If you look at page 2 of  
9 115, it provides -- I'm sorry. Page 1, that the shipper  
10 designates the entity that will be responsible for  
11 submitting the ballots and -- I just lost my -- I think --  
12 yeah. So we have to go actually to page 2 on 115A and you  
13 will see there at line 24 the changing from licensed to do  
14 business to transacting business in the State of Idaho.

15           The change was made as a result of further research  
16 and input that was received just prior to the hearing in  
17 Eagle and essentially, we have, for example, a company,  
18 Ore-Ida, that is processing potatoes in the State of Idaho.  
19 They're not licensed to do business in the State of Idaho  
20 but they transact business in the State of Idaho and,  
21 therefore, under the long-arm statute, would be subject to  
22 the jurisdiction of the State of Idaho. But if we put the  
23 requirement that they were just licensed to do business,  
24 they could make an argument that they were not subject to  
25 the jurisdiction of the State of Idaho. So that's the

1 change that's made there.

2 All right. So what, in a nutshell, we're trying to  
3 do is we're trying to pair up the timing by which these  
4 activities -- these statutes would go into effect. Now,  
5 there's a third piece of legislation that was alluded to in  
6 the letter that was received from IACI. That legislation  
7 would propose to redistrict the Idaho Potato Commission.

8 The reason why the commissioners put this forth was  
9 to get industry input into the way the industry has  
10 changed. If you look at the five grower commissioner  
11 positions, in the far western part of the state, that  
12 district has less than 5 percent of the potato growers in  
13 the state present in that district. If you look at the  
14 district that we are currently in, there's about 7 or 8  
15 percent of the potato production here and if you look at  
16 the district in between, the other grower district between  
17 Mountain Home and here, it's about 4 or 5 percent. So  
18 you've got three districts that are substantially below 10  
19 percent.

20 If you look at the other part of the state, the  
21 western part -- the eastern part of the state, you have two  
22 grower commissioners that represent that part of the state  
23 and they make up all of the rest of the potato production.  
24 And so there's a significant -- one way to look at it is --  
25 if you look at it on a production basis, there's a wide

1       disparity.

2               There's also been difficulties finding people who  
3 are interested as serving as commissioners in the western  
4 part of the state as opposed to the eastern part of the  
5 state.

6               Now, there are other factors that need to be looked  
7 at and that's what IACI is alluding to in their letter.  
8 Some of those factors are the value of production. There  
9 are factors that look at geographic representation, the  
10 culture of potato growers in a particular area. It differs  
11 based upon the geography where these growers are located.  
12 And so this is where I hope people in this area that would  
13 be combined into a district might want to make comments  
14 about.

15              COMM. HARDY: I want to clarify something.

16              MR. KANE: Could you identify yourself, please?

17              COMM. HARDY: Randy Hardy. I'm commissioner of  
18 this district. This district is actually 19 percent.  
19 We're not in the 8 or 7 percent.

20              MR. KOLE: Okay. I'm sorry, Randy.

21              COMM. HARDY: Our district is really representative  
22 of the (inaudible) commission. (Inaudible.)

23              MR. KOLE: Okay. Frank.

24              MR. MUIR: Mr. Kole, just to clarify. We're  
25 talking about consolidation of the two districts. There's

1 a little bit of confusion on some members visiting the  
2 hearing last time. There's only discussion of combining  
3 two. Two far west districts.

4 MR. KOLE: The two far west districts.

5 MR. KANE: Let me stop. Do I understand then that  
6 the proposal statute 114 is proposing to affect two  
7 districts and the rest of them are going to remain  
8 unchanged? Is that correct?

9 MR. KOLE: No. There's actually -- the one  
10 district is what would be called in legislative terms a  
11 floterial district where you've got essentially two growers  
12 that are nominated from one district and it's proposed in  
13 this legislation to make those two separate individual  
14 districts. So right now, you've got two in one and then  
15 three others. This would have five separate distinct  
16 districts.

17 MR. KANE: All right.

18 MR. KOLE: Thank you. Now I want to return to  
19 the -- at the pleasure of the governor language.

20 As part of the process, IPC as an executive branch  
21 agency has to submit to the Division of Financial  
22 Management and to the governor's office its legislative  
23 idea and obtain permission to be able to go forward and  
24 propose legislation.

25 In this case, because of the election for a new

1 governor, the current governor has said to administrative  
2 agencies only mission critical legislation can be part of  
3 the governor's package in the upcoming legislature. And we  
4 were able to obtain permission from the governor that we  
5 would be able to make these legislative ideas move forward.  
6 Other ideas, we're not.

7           So one of those -- one of the additions though was  
8 that the governor feels very strongly that when an agency  
9 opens up its legislation, the language "serving at the  
10 pleasure of the governor" should be included and this stems  
11 from a dispute involving the State Highway Transportation  
12 Board and the Transportation's director from several years  
13 ago and as a result of that, an omnibus piece of  
14 legislation was passed by the legislature that changed some  
15 50 different state agencies that have boards or commissions  
16 so that it was clear that all of those boards and  
17 commissioners -- their commissioners or board members  
18 served at the pleasure of the governor.

19           In addition to that, when the wheat commission and  
20 the barley commission tried to change their statutes in the  
21 last four years, again, they were required to insert  
22 language that said that the commissioners served at the  
23 pleasure of the governor.

24           So what is the final part of this that's so  
25 important? One vote per person. One of the issues that



1 came up at that March meeting was multiple votes cast by  
2 the same people and in looking at the argument advanced,  
3 the argument was to the effect that under Idaho law, that's  
4 how it's done for irrigation districts, that you vote your  
5 shares. And that same provision could technically apply to  
6 school board elections where -- or not school board  
7 elections. School levy elections where taxes are proposed  
8 to be increased.

9 Now, the legislature's taken that off the table and  
10 all levy auctions now, it's one person, one vote. Under  
11 the Idaho Constitution though, it is possible just as like  
12 irrigation districts that that requirement could be  
13 possibly put back into law. For everything else, the  
14 principal (inaudible) in Article 1, Section 20 of the Idaho  
15 Constitution is one person, one vote for each position  
16 representing somebody as a state commissioner or board  
17 member or legislator, statewide official.

18 So in a nutshell, Mr. Kane, that's a broad  
19 overview. I'm more than happy to answer questions. I know  
20 I've covered a lot of material in a very short period of  
21 time.

22 MR. KANE: I'll ask a question first. The proposed  
23 statute, your Exhibit 113, at the pleasure of the governor,  
24 my impression was that was something the governor was  
25 insistent upon as a result of the North Carolina Dental

1 Board case. Is that your impression as well?

2 MR. KOLE: I know that that was part of the case  
3 but I also know that it involved a situation with the Idaho  
4 State Transportation Board.

5 MR. KANE: Could you just for my benefit tell me  
6 what that situation was?

7 MR. KOLE: The benefit -- what happened was the  
8 governor was displeased with the director and wanted that  
9 director to be discharged. The board refused to follow the  
10 governor's recommendation.

11 MR. KANE: Okay. All right. So Mr. Kole just  
12 offered to answer any questions and I know we have a couple  
13 of people signed up to testify and we have a couple of  
14 people that came a little bit late and may have signed a  
15 sheet back there and I don't know if the plan is for those  
16 people that arrived a little bit late if they're planning  
17 on testifying so could we get that? It looks like we do  
18 have one gentleman that also wishes to testify.

19 It's a little unorthodox to start firing questions  
20 from the floor so why don't we do this. Can I have a show  
21 of hands of people that wish to pose questions to Mr. Kole  
22 at this time? One gentleman. Why don't you come on up,  
23 speaker, two people. All right.

24 REP. BEDKE: Mine is procedural in nature so.

25 MR. KANE: For the record, would you please state

1 your name?

2 REP. BEDKE: My name is Scott Bedke and I am the  
3 house representative for this district here.

4 So rules are the offspring of legislation and so  
5 just technically, so the rule that you're putting forward  
6 that will probably be approved by the commission in August,  
7 as you said, is that the offspring of 22-1202 as presently  
8 constituted?

9 MR. KOLE: No. It would be as amended.

10 REP. BEDKE: Okay. But it won't be amended until,  
11 you know -- it can't be amended until the next session.

12 MR. KOLE: Correct. We were --

13 REP. BEDKE: So that would be illegitimate  
14 offspring.

15 MR. KOLE: We were --

16 MR. KANE: Why don't you tell us what you really  
17 think.

18 REP. BEDKE: Well, you know, you just -- you might  
19 as well now as then.

20 MR. KOLE: Right. So what -- we're caught in that  
21 bind because under the Idaho Administrative Procedures Act,  
22 there is that hiatus where rules cannot be adopted once a  
23 deadline kicks in until after the next legislative session.

24 REP. BEDKE: Right.

25 MR. KOLE: So in meeting with the office of the

1 administrative rules, we explained that dilemma to them.  
2 Their advice to us was to use a temporary rule recognizing  
3 that that rule would not -- could not be used until the  
4 statute was amended.

5 REP. BEDKE: So it's a pending temporary and it has  
6 no effect until after the passage of -- of this then.

7 MR. KOLE: Correct. That's why it contains an  
8 emergency clause.

9 REP. BEDKE: All right. I just didn't want to get  
10 the cart ahead of the horse here.

11 MR. KOLE: Right. We were caught, Mr. Speaker, in  
12 a spot where the statute as presently written says that we  
13 have to conduct these nomination meetings before or by  
14 March 31 of each year. And so we recognize that --

15 REP. BEDKE: With the old boundaries or with the  
16 new boundaries or the proposed boundaries?

17 MR. KOLE: Okay. So the proposed boundaries are  
18 not proposed. That statute says it's got an effective date  
19 of 2020. And so it would be just the appointments that are  
20 going to take place in 2019 that would be impacted but they  
21 would get placed under the old statute. And under the old  
22 statute, none of the changes that would be made in 2020  
23 would be impacted by legislation.

24 REP. BEDKE: I did have a chance to read the  
25 attorney general's opinion and he has blessed this

1 constitutionally proper to do it the way you've described.

2 MR. KOLE: He was not asked that question. He was  
3 asked about the nomination process only.

4 REP. BEDKE: All right. Well, arguably, you ought  
5 to ask him.

6 MR. KOLE: Thank you.

7 MR. KANE: Thank you, Mr. Speaker. Sir, did you  
8 say you had some questions?

9 MR. MILLER: I have a question.

10 MR. KANE: Please step up here. State your name  
11 for the record and please spell your last name.

12 MR. MILLER: Zak Miller. I can spell that if you  
13 need.

14 MR. KANE: I don't think I need to.

15 MR. MILLER: Idaho Farm Bureau. My question comes,  
16 Pat, just I've got a pretty good idea of the one vote, one  
17 farmer idea but when it refers to entity. So if an entity  
18 has multiple participants, be it family or partnership, and  
19 they have exposure to multiple lines, i.e., processing,  
20 shipping and growing, how does that work? Does -- if  
21 there's five members of the family or entity, do they all  
22 get to vote or do they have to designate one? And can they  
23 designate participant A as a shipper, participant B as a  
24 processor, participant C as a grower?

25 MR. KOLE: So if they're under one common entity,

1 that entity has one vote. If they have multiple corporate  
2 entities and those entities are clearly delineated as a  
3 growing operation or a shipping operation or a processing  
4 operation and that entity pays those taxes that are due to  
5 the Idaho Potato Commission separately as an entity, they  
6 would have a vote. But if they're commingled, they have  
7 one vote.

8 MR. KANE: And for my help, could you show me where  
9 it says what you just said? Is that in this proposed rule?

10 MR. KOLE: It is. If you look at 13.05.

11 MR. KANE: What's the exhibit?

12 MR. KOLE: It is Exhibit 111. Each grower, shipper  
13 or processor may only vote on one ballot and may only vote  
14 one time for each position to be filled on behalf of  
15 himself, partners, corporations, association and/or any  
16 other business unit.

17 MR. KANE: All right. Thank you. Mr. Miller, does  
18 that answer your question?

19 MR. MILLER: I believe that meets my satisfaction,  
20 yeah.

21 MR. KANE: Thank you. All right. Can I -- I  
22 suppose we have two people that may wish to -- yes.

23 REP. BLANKSMA: I have one question as a  
24 clarification question.

25 MR. KANE: Please step up. Thank you.

1           REP. BLANKSMA: I'm Megan Blanksma, District 23,  
2           District B, house representative. And so my question I  
3           guess, Mr. Kole, is you got the recommendation from the  
4           attorney general to rerun the election. When did you rerun  
5           that election?

6           MR. KOLE: So the commissioners took a look at that  
7           and they decided that they had the discretion to either run  
8           the re-election or just keep the current list of nominees.  
9           After an extensive debate --

10          REP. BLANKSMA: Because when was that -- when was  
11          that determined? At what meeting? How do we get minutes  
12          on that? What was that process?

13          MR. KOLE: That I believe took place at the April  
14          meeting and we can provide you with copies of the minutes.

15          REP. BLANKSMA: Because that would be interesting  
16          that you asked the attorney general what the opinion was  
17          and he clearly said that the election was invalid and then  
18          it was chosen not to follow his recommendations.

19          MR. KOLE: Correct.

20          REP. BLANKSMA: So that's why I would be curious to  
21          see the minutes and maybe make those available at the next  
22          meeting or to those who are here.

23          MR. KOLE: Yes. We'd be happy to do that.

24          MR. KANE: Thank you. I wasn't quite sure what the  
25          answer was though. Did you -- the commission decided to do

1 what exactly?

2 MR. KOLE: The commission decided not to have  
3 another nomination meeting but to let the names go to the  
4 governor.

5 MR. KANE: Okay. Thank you.

6 MR. KOLE: And I think why don't we just ghost mark  
7 if it's acceptable as the next exhibit those minutes and  
8 post them to the web page.

9 MR. KANE: All right. Well, will that be 124 then?

10 MR. KOLE: 124.

11 MR. KANE: I'll make a note to myself. So those  
12 are minutes of which meeting?

13 MR. KOLE: April meeting of the Idaho Potato  
14 Commission.

15 MR. KANE: Okay. All right. There's a couple of  
16 people that have asked to testify and I still have a  
17 question mark. So why don't we get to the question mark  
18 first. Todd Cornelison.

19 MR. CORNELISON: I was going to testify when I  
20 signed in. I didn't see a lot of shipper representation  
21 here. They are here. I'm not actually from this valley so  
22 I'm sure they've got it covered.

23 MR. KANE: All right. Thank you. Then the next  
24 person I have is Randy Hardy who wants to testify. IPC  
25 commissioner. Mr. Hardy. And I just stated your name so



1 you don't need to repeat.

2 COMM. HARDY: Okay. I know it already.

3 MR. KANE: All right.

4 COMM. HARDY: As I said, I'm a commissioner  
5 representing this district and the bulk of my comments are  
6 written so I'm going to need to read them. I apologize for  
7 that.

8 We had the first of these three hearings last week  
9 in Boise as part of our commissioner meeting and there was  
10 -- Stephanie Mickelsen was there to make a statement  
11 following that. That was July 24. On July 28, she sent  
12 out an e-mail to several members of the potato industry.  
13 Some of you in this room may have received this. Some of  
14 you may have received it secondhand. But there were some  
15 inconsistencies or at least some items that she stated in  
16 that that went out to growers that we feel like needs some  
17 clarification. And so we're taking this opportunity to do  
18 that.

19 MR. KANE: Actually, before you do that, have we  
20 made that e-mail an exhibit or is there a plan to do so?

21 MR. KOLE: No. There's no plan to do so.

22 MR. KANE: Okay. You're going to be clarifying  
23 something that I haven't seen.

24 COMM. HARDY: I'm going to be (inaudible).

25 MR. KANE: Okay. All right. Go ahead.

1           COMM. HARDY: Okay. I will state the quotations  
2 from her e-mail as we go. First thing that's quoted,  
3 "After the disaster nominating meeting this spring, the IPC  
4 was instructed to work with the stakeholders in creating  
5 rules and rewrite the code to reflect a new and updated  
6 IPC. (Inaudible) decided to create some new rules with no  
7 input from potato growers. We were told by a current  
8 commissioner that they hadn't even seen the rewrite until  
9 the very morning of the first public hearing."

10           Our statement to that is -- that's in quote. Our  
11 statement is as a result of the actions of the Mickelsen  
12 family, the Idaho Potato Commission has directed the staff  
13 to take actions to prevent a repeat of the quote, disaster  
14 the Mickelsens created at the nomination meeting. This  
15 directive was made at the public meeting of the IPC after  
16 hours of discussion.

17           In crafting draft rules, Mr. Kole reviewed the laws  
18 of the potato commissions including Washington, Oregon,  
19 Michigan, Maine, other commodity commissions in Idaho  
20 including wheat and barley commissions and also consulted  
21 as required by state law with the Idaho governor's office,  
22 the Division of Financial Management and the Office of  
23 Administrative Rules.

24           Following that process, an entire morning was spent  
25 by the commissioners in a public meeting where growers

1 reviewed and commented on the drafts. Based on that input,  
2 changes were made based on the comments made.

3 At the next two commission public meetings, there  
4 was further discussion about and changes made to these  
5 proposals. The draft rules are currently just that, a  
6 draft. The purpose of having informal hearings is to  
7 solicit input from industry members and the draft gives us  
8 framework to build upon.

9 Because the IPC is only proposing temporary rules,  
10 the IPC is not required by law to hold public meeting --  
11 public hearings. However, in the vested interest of the  
12 industry, IPC is gathering input from stakeholders. The  
13 IPC submitted a public notice of the intent to promulgate  
14 rules which is published in the administrative bulletin on  
15 July 4.

16 The bulletin listed the dates of upcoming hearings  
17 and we posted our draft legislation to the website for  
18 public view. We sent out Potato Pulse on July 6 notifying  
19 the industry of that bulletin and directing them to visit  
20 the website to be abreast 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, quote, licensed  
24 to do business in, unquote, to transacting business in.  
25 This particular change has nothing to do with the growers

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

5 Another quote from the e-mail that was sent.  
6 Quote, the IPC is proposing rules that will limit voting on  
7 growers that have ownership in shipping and processing  
8 facilities. The IPC is also trying to make it one vote for  
9 any common ownership entity. The problem with this whole  
10 proposal is that first off, how in the world will they ever  
11 police that? How will they find who owns what business?  
12 What information isn't -- that information isn't even  
13 required by the Idaho State Secretary -- or Idaho Secretary  
14 of State.

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

23 Our statement to that is the IPC is operated under  
24 the principal of one person, one vote since it started  
25 nominations -- since it started nominations for being a

1 commissioner. This is true for elections to Congress,  
2 statewide positions such as governor, Secretary of State,  
3 the Idaho legislature, county commissioners, city councils,  
4 school boards.

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

13 The IPC -- this is another quote from the e-mail.  
14 The IPC wants to make some funny rule that if you vote as a  
15 grower then you would be unable to vote as a shipper,  
16 processor for a period of three years. They're totally  
17 ignoring or completely misunderstanding the legal entities  
18 and how they must have a legal representation to vote for  
19 them as they aren't a sole proprietorship. Maybe we  
20 growers should vote on the process (inaudible) shipper  
21 representatives on the IPC.

22 Our statement, in fact, since nominations for IPC  
23 commissioners began which is over 75 years ago or 80, the  
24 law requires the commissioners be a grower, shipper or  
25 processor. You couldn't be a part grower, part shipper or

1 part processor. Times have changed and the law has not  
2 kept up with the emergence of growers who have ownership in  
3 packing sheds or processing plants.

4 What the IPC is proposing is simply this: What a  
5 person predominantly is will determine what they are.  
6 We've followed this practice for several years basically.  
7 Well, forever but it's been honored. Once they make that  
8 declaration, then that is who they will represent for the  
9 next three years which is the length of term for being a  
10 commissioner. This would prevent someone from running for  
11 commissioner as a grower one year, a shipper the next year  
12 and a processor the following year.

13 Another statement from the e-mail. Pat Kole is  
14 also proposing we would add language to the Idaho Code that  
15 says all commissioners shall serve at the pleasure of the  
16 governor. Well, depending upon who the governor -- who's  
17 in the governor's office at a particular time, that is a  
18 really bad idea. If the state is paying the IPC tax, then  
19 I think it would be a reasonable proposal. However, since  
20 the growers are paying the tax, they should have the total  
21 and complete say about who is representing them on the  
22 commission.

23 The commission's position is the IPC is a state  
24 agency. The IPC is required to follow the process that  
25 requires approval from the governor to submit legislation

1 to the legislature for consideration. When this proposal  
2 was submitted by the IPC -- when this proposal was  
3 submitted, the IPC asked if including this language "serves  
4 at the pleasure of the governor" was required. The answer  
5 was yes. It is also important to know this. The language  
6 is already in the statutes of the wheat and barley  
7 commission.

8 Another statement from the e-mail. "The commission  
9 needs to take the time to rewrite the entire code section.  
10 If you listen to Pat Kole, he will tell you all the reasons  
11 why we can't do that. The Idaho Code on the IPC hasn't  
12 been rewritten in a good 50 years. We need to work  
13 together to update our commission to reflect the current  
14 state of the industry, the current needs of the growers it  
15 serves."

16 The IPC's statement to that is this is an election  
17 year. The governor has stated that he wants to give  
18 whoever is elected as Idaho's next governor a clean slate  
19 (inaudible) agenda. As such, only mission critical  
20 legislation can be proposed by state agencies. After  
21 reviewing IPC's proposals and learning of the above  
22 referenced disaster at the nomination meeting, the  
23 governor's office and the Division of Financial Management  
24 gave the IPC permission to propose changes to the  
25 nomination process. It is neither a quick nor simple

1 process to propose legislation, particularly this year.

2 Another statement from the e-mail. "We need to  
3 have a referendum code section that allows the growers the  
4 ability to call for referendums if we believe a change  
5 needs to take place. Although code refers to a referendum,  
6 it doesn't really spell out how that can actually occur."

7 Our statement to that is the IPC's unique and it is  
8 an industry commission with two shipper commissioners, two  
9 processor commissioners in addition to the five grower  
10 commissioners. Clearly grower commissioners have the  
11 majority voice at all times. Having the input, insight and  
12 industrywide perspective of the entire industry has served  
13 everyone well. There's a reason why Idaho potatoes is the  
14 produce industry's most recognized brand.

15 Final statement from e-mail. "IACI which is the  
16 Idaho Association of Commerce and Industry lobbying group  
17 is fighting very hard against having certain individuals  
18 appointed to the IPC. IACI shouldn't be involved in the  
19 activities of the nominations or the appointment of IPC  
20 commissioners."

21 The fact is -- this is our statement. IACI has a  
22 potato committee that includes frozen and dehydrated potato  
23 companies. These companies pay assessments to the IPC.  
24 IACI, IGSA and PGI have all been involved in the nomination  
25 and appointment process for years.



1           That's our statement, Mr. Kane.

2           MR. KANE: Do you want to enter that into the  
3 record, what you just read to us? It would be helpful for  
4 me.

5           COMM. HARDY: That's fine. The main reason we  
6 wanted to read this is for clarification for those that may  
7 be coming that got the e-mail but were not at the original  
8 meeting.

9           MR. KANE: All right. Well, I think it would  
10 probably be wise to go ahead and get this marked. What are  
11 we at? 125 now?

12          MR. KOLE: 125.

13          MR. KANE: And if it goes up on your website, then  
14 that would make it clear for those people that aren't here  
15 or will not be here tomorrow then. It will also be very  
16 helpful to me to have that.

17          COMM. HARDY: That's fine.

18          MR. KANE: Thank you. Hand that over. I'll get  
19 that to Mr. Kole. If you'll mark that as 125.

20           I have a question, if I may, Mr. Kole. The "at the  
21 pleasure of the governor" line which I thought that  
22 pertained to not the actual selection but if you had a  
23 particularly unfortunate appointee that either wasn't  
24 attending the meetings or who knows what might have  
25 happened, the governor would have the ability to remove

1 that person which would then lead to another nomination  
2 process. Is that correct?

3 MR. KOLE: That is correct.

4 MR. KANE: All right. Okay. All right. I think  
5 we have one more person that is signed up and then we'll  
6 open the floor to anyone else that wishes to speak. Andrew  
7 Mickelsen. Come on up, sir. And for the record, I know I  
8 have it written down here but could you spell your last  
9 name for the record?

10 MR. MICKELSEN: Yes. My name is Andrew Mickelsen.  
11 That's M-i-c-k-e-l-s-e-n and I am with Mickelsen Farms.

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

13 MR. MICKELSEN: So I have a couple things that I  
14 say that I propose or support. We appreciate that we're  
15 here at this point where we're actually starting to look at  
16 making some changes and I think we've got some good things  
17 and some things that could use some work.

18 First off, I do support the changes to the  
19 nominating process whereby commissioners are elected by  
20 ballot. However, I oppose the current dates proposed. We  
21 wonder if it would be more beneficial to move those dates  
22 to a time that works better for the farmers' growing  
23 season. Maybe in late fall and have the nominees -- or the  
24 new commissioner go in like January or February. Something  
25 where it allows the farmers a little bit more time to be

1 involved.

2 March can start to be a pretty busy time for  
3 farmers. It's real easy to let that mail get lost in an  
4 office during that time frame. I know all of us have done  
5 it. We get going planting and that's where our letters  
6 just kind of set to the side for a while while we go with  
7 the more important matters.

8 MR. KANE: Before you go on to the next subject,  
9 that's not the first time that somebody's mentioned the  
10 timing of the nominations. What about that, Mr. Kole?

11 MR. KOLE: I think the commissioners would take  
12 that under advisement and give it serious consideration.

13 MR. KANE: Do you have a specific date,  
14 Mr. Mickelsen?

15 MR. MICKELSEN: I talked -- maybe we have the  
16 nomination process from November 15 to December 15 and then  
17 from December 15 to January 15 is voting, something along  
18 those lines. But I feel like that's something that the  
19 commissioners could probably discuss and come up with a  
20 time frame there that would work.

21 MR. KANE: So you're thinking late fall, early  
22 winter.

23 MR. MICKELSEN: Yeah. And then that would also  
24 deal with the problem of trying to get it in early if we  
25 could just get it postponed, leave current commissioners in

1 a little bit longer so we could do that nomination process  
2 later in the year.

3 MR. KANE: You said get it in a little --

4 MR. MICKELSEN: Well, they wanted to get the bill  
5 in so that they could do the nominations in March.

6 MR. KANE: All right. Go ahead.

7 MR. MICKELSEN: Okay. Second thing, I know this  
8 comes up a lot but I oppose the changes in Exhibit 113  
9 where the words "and shall serve at the pleasure of the  
10 governor" is added. I believe that the Idaho Potato  
11 Commission was set up as a self-governing agency and as  
12 such, should be governed by those paying for the  
13 commission. The State does not provide funds for the daily  
14 operations of the Idaho Potato Commission.

15 There was reference earlier to a transportation  
16 board issue. I would imagine that that transportation  
17 board was probably funded by the government; not by people  
18 driving the cars or something like that. So I would  
19 imagine that those are probably different scenarios. I  
20 think that where this is being paid for independent of the  
21 government, I think we should be able to have things a  
22 little bit differently.

23 MR. KANE: So are you suggesting then you just want  
24 that language lined out entirely?

25 MR. MICKELSEN: Yes. And I also have some other

1 things later on about the nomination process going through  
2 the governor also.

3 MR. KANE: All right. Go ahead, sir.

4 MR. MICKELSEN: Okay. One of the things that was  
5 brought up in that e-mail that was discussed but we do have  
6 concerns about the commission's ability to contact each  
7 grower or as I checked with our shed and from what I hear  
8 from other packing facilities also, they get a bill from  
9 the IPC. They send their dues in. It does not list the  
10 growers. It just sends them back money based on the amount  
11 of potatoes going through that facility.

12 So as of right now, it does not seem that there's  
13 an appropriate system in place in order to contact these  
14 growers to give them the ballots for voting or to even know  
15 who's current on their dues.

16 MR. KANE: Okay. I confess, I'm a little confused  
17 as a layman. Do you have a response to that, Mr. Kole?

18 MR. KOLE: I believe we will obtain a letter from  
19 our financial manager explaining how the process works for  
20 the next hearing.

21 MR. KANE: Okay. The next hearing as of tomorrow?

22 MR. KOLE: Yes.

23 MR. KANE: All right.

24 MR. MICKELSEN: But that would be true though at  
25 this point in time, there's really not a system in place?

1           MR. KOLE: No. Actually there is a system in  
2 place. I just think it's better that she explain that  
3 system. There are one -- there were one or two sheds that  
4 were not providing a list of growers but that I believe has  
5 been corrected but I want to verify that.

6           MR. KANE: Does that have anything to do with any  
7 of the specific proposed statutes or rules that --

8           MR. MICKELSEN: It would go right along with the  
9 nominating process. They have to have information to get  
10 to the correct people.

11          MR. KANE: All right.

12          MR. MICKELSEN: If we can't get to the growers,  
13 then we're not going to be able to get the nomination votes  
14 that we need --

15          MR. KANE: Got it.

16          MR. MICKELSEN: -- to make it run effectively.

17          MR. KANE: Got it. Okay.

18          MR. MICKELSEN: We want to be able to get  
19 everybody. Not those -- just those that are participating  
20 in e-mails and things like that.

21          MR. KANE: Okay. Thank you.

22          MR. MICKELSEN: One of the concerns that I have  
23 that just as we're going through all this that I always  
24 like to bring up, I do have concerns that Idaho potatoes  
25 are cheaper than any other state. Growers in Idaho pay

1 more to their commission than any other state does. We  
2 currently pay \$50 an acre for the commission. I'm  
3 concerned that we're not benefitting a greater amount than  
4 we are currently paying and what that leads to is the  
5 question of the referendum that was mentioned in the  
6 e-mail.

7 Currently there's no way besides getting the  
8 commissioners all on board or going to the legislature to  
9 change the assessment rate. And I feel like that is  
10 something that if a majority of the growers, leave out the  
11 commissioners, leave out the legislators, feel that there  
12 needs to be a change that they have a way to come in and  
13 ask for changes. I just feel like that's appropriate for  
14 something where we're paying in all the money to it.

15 MR. KANE: Okay. So does that have application to  
16 any of the proposed statutes or the rule? In other words,  
17 what you're speaking of now, does that -- would you ask for  
18 something to be added or --

19 MR. MICKELSEN: That would probably be something to  
20 be added. Some of these are things that as have been  
21 alluded to, we think that things should be maybe taken to  
22 the next level and worked on a little bit more. And so  
23 we're just letting -- making sure that those other concerns  
24 we've seen are at least known.

25 MR. KANE: So when you speak about a referendum, is

1 the referendum used in terms of changing the assessment  
2 rate?

3 MR. MICKELSEN: Initially, there is some language  
4 in there of one point a referendum was used to change the  
5 assessment rate. Since then, some of the language is in  
6 there but it seems to have been changed where the  
7 legislature has approved that. I personally would like to  
8 see that power go back into the growers. Since the growers  
9 are paying for it, they're fully funding it without the  
10 state legislature, I don't know why the state legislature  
11 is deciding what the assessment should be.

12 MR. KANE: Thank you.

13 MR. MICKELSEN: My next one here, as we're talking  
14 about these grower commissioners and districting, I do have  
15 some concerns. We are -- I come from an operation where we  
16 grow seed, we grow commercial potatoes, we grow processed  
17 potatoes, we pack potatoes, we ship them and we process  
18 them. One of the areas that has been somewhat neglected we  
19 feel is seed growers. I have concerns that seed growers  
20 are not having any representation on the Idaho Potato  
21 Commission. These seed growers have a unique understanding  
22 of the industry and the seed is a very big part of what  
23 makes the Idaho potato what it is. I think that that's  
24 something that needs to be taken into consideration.

25 While we talked about them not being allowed to



1 vote, things like that, almost every single seed grower  
2 sends at least a portion of their potatoes to a processor  
3 or facility of some sort where they are most likely paying  
4 the dues and assessments but because they're growing it for  
5 seed, they're not quite classifying as a grower. Is that  
6 correct, Pat?

7 MR. KANE: Hang on a second. Are you telling me  
8 that you don't think that seed growers are classified as  
9 growers or processors or shippers?

10 MR. MICKELSEN: I don't think so.

11 MR. KANE: Mr. Kole, do you have a response to  
12 that?

13 MR. KOLE: The statute says that potatoes are only  
14 assessed if they are for human consumption and so for most  
15 of the seed potato growers, they do not pay an assessment  
16 on any of the seed potatoes that are produced. It's only  
17 if they have what are known as seed tops or seed potatoes  
18 that are not utilizable as seed potatoes that they divert  
19 those into human consumption and that's when they might pay  
20 an assessment.

21 MR. KANE: All right. So are the seed growers then  
22 completely unrepresented in the commission at this time and  
23 is this --

24 MR. KOLE: Only in the sense that they don't have a  
25 formal seat but, for example, Commissioner Toevs serves on

1 the IPC. He has a seed potato operation as well as a  
2 commercial operation. The seed operation is smaller. It's  
3 not as big as his commercial operation so he pretty much  
4 wears both hats in terms of his view of the industry. But  
5 there is no formal seed potato seat on the commission.

6 We looked at one time at is there a way of doing a  
7 calculation where you would say the current assessment for  
8 commercial potatoes is X. What would an equivalent  
9 assessment be for a seed commissioner if they paid an  
10 equivalent tax on all of their potatoes. It would be  
11 complicated but I'm sure an algorithm could be developed  
12 that would make that calculation.

13 The seed potato growers that we talked to about  
14 that basically said we're not interested in that. We've  
15 got our own organization. We'll stay over here. So I  
16 don't know if that's changed but that's where they were.

17 MR. KANE: The organization you're referring to is  
18 what?

19 MR. KOLE: Idaho Crop Improvement Association.

20 MR. KANE: Okay.

21 UNIDENTIFIED SPEAKER: Mr. Kane, may I suggest that  
22 Mr. Kole also talks about the (inaudible) seed facility  
23 that the IPC has committed to fund over a million dollars  
24 over the next 10 years that will support the seed industry  
25 here? At the same time, at this point, the seed growers

1       only provide the IPC with \$60,000 per year, \$2 per acre.  
2       So they're getting a heck of a return on their investment.

3               MR. KANE:   Okay.  Rather than have him basically  
4       speak to what you just said, I'm going to ask you to come  
5       up when this gentleman's finished and you can make a record  
6       of whatever you want to have on the record.  I'm not sure  
7       we picked you up.

8               UNIDENTIFIED SPEAKER:  Okay.

9               MR. KANE:  All right.  All right, sir.  Anything  
10       else?

11              MR. MICKELSEN:  Can I just say one thing to that  
12       real quick?

13              MR. KANE:  To what?

14              MR. MICKELSEN:  To the whole seed grower thing?

15              MR. KANE:  Sure.

16              MR. MICKELSEN:  While it may not be a significant  
17       portion that they are paying, maybe it is only \$60,000,  
18       they are still paying and if we're going to classify  
19       growers as small as five acres as qualified to be a part of  
20       the commission, they are still paying something and I don't  
21       think that you have to say they necessarily have to say  
22       they pay the same portion.  That's all I have on that.

23              MR. KANE:  Okay.  Do you have more?

24              MR. MICKELSEN:  Yes.

25              MR. KANE:  Okay.

1           MR. MICKELSEN: Another concern that I have is --  
2 this is probably not anything in direct reference here but  
3 as we're discussing the whole thing, I have concerns about  
4 the processors in the state that are purchasing Idaho  
5 potatoes and they do not use the Grown in Idaho label.  
6 They do not market it. They don't use it in any way  
7 whatsoever and all these growers are still being required  
8 to pay that tax with minimal to no benefit.

9           MR. KANE: But what you're speaking to is outside  
10 of the proposed statute and rules that we have before us?

11           MR. MICKELSEN: Probably. And probably still fall  
12 in a little bit of the background as we're looking at these  
13 different factors here.

14           MR. KANE: Okay.

15           MR. MICKELSEN: This one I know does fall in there.  
16 I oppose sending three nominated names to the governor for  
17 him to select one. There are other commodity commissions  
18 in the state and nation that elect commissioners for  
19 commodity commissions without governor involvement.

20           In our past nomination meeting, it was almost  
21 difficult to find three names to send to the governor for  
22 the shippers and processors. When this occurs, sometimes  
23 that third name is thrown in just because they need one.  
24 Theoretically, there's a 33 percent chance that that  
25 commissioner that gets appointed could be the commissioner

1 that was -- the name that was just thrown in instead of  
2 somebody that they really wanted to put on that commission.

3 Additionally one of the big concerns I have is  
4 there's a great discrepancy in the way that it's set up  
5 here. Potentially between the three nominees sent forward  
6 to the governor, one could have 100 votes while maybe third  
7 place has one, you know, out of the three that are sent and  
8 no consideration is given based upon the votes of the  
9 growers and what they're saying.

10 I think another way to look at that is if we did  
11 that with state legislators and we said, you guys go vote.  
12 We're going to take the top three and send them to the  
13 governor, I don't think people would feel like their voice  
14 is being heard. And that is how I currently feel with the  
15 system that's in place. I feel like my voice is not heard  
16 because the person I vote for is not given the  
17 consideration of my vote. They're only thrown into a group  
18 of people that are then sent to the governor.

19 MR. KANE: Let me see if I understand you. So you  
20 propose to completely cut out the governor from the  
21 appointment process?

22 MR. MICKELSEN: I would like to see, if nothing  
23 else, if the governor needs to be involved, I would at  
24 least like to send one name and then have the governor  
25 approve that name or confirm the name that we sent. Not

1 send him three names and then he has to choose between the  
2 three names.

3 MR. KANE: You're referring to 22-1202?

4 MR. MICKELSEN: I'm not sure.

5 MR. KANE: Okay. I'm sorry. 113 I think is the  
6 nominating --

7 MR. MICKELSEN: Well, no, because it would be on --  
8 do you know which one that would be on, Pat?

9 MR. KOLE: It's on the front of that one.

10 MR. KANE: I'm sorry.

11 MR. MICKELSEN: It's three names.

12 UNIDENTIFIED SPEAKER: In the rules too, right?

13 MR. KOLE: 1202.

14 MR. KANE: So it is 1202?

15 MR. KOLE: Yeah. It is three names that are  
16 submitted to the governor.

17 MR. KANE: What about the scenario of two people  
18 might be nominated but coming up with a third name I think  
19 almost out of the air, what about --

20 MR. MICKELSEN: Yeah. And I've seen that at the  
21 nomination meetings.

22 MR. KANE: What would you like to tell us about  
23 that?

24 MR. KOLE: Basically, we have had some instances  
25 and one of the reasons for looking at western Idaho has

1       been a lack of candidates. We have instituted a program  
2       whereby using things like the Potato Industry Leadership  
3       Program, we are getting more younger growers that are  
4       involved and interested in being part of the industry and I  
5       think we have taken the steps necessary to make sure that  
6       we'll have a healthy viable pool of candidates for each of  
7       the positions.

8               MR. KANE: Is this limited to growers only or is  
9       there also (inaudible) processors?

10              MR. KOLE: No. Processors are invited to go in  
11       leadership. In fact, one of them has been selected for  
12       this next year.

13              MR. KANE: Okay. All right, sir. Go ahead.

14              MR. MICKELSEN: I have another one so -- one of the  
15       things that was brought up that I just feel like I should  
16       address in Boise that was brought up about these large  
17       growers that are trying to take control of the commission.  
18       There is no grower in the state with the new redistricting  
19       proposals that would have enough votes to take any district  
20       without others' support. Even if we went to the system  
21       where votes were by production, the largest grower might  
22       grow 20,000 acres of potatoes. Each of these districts  
23       would be made up of approximately 60,000 acres and so they  
24       would in no way have the majority.

25              However, as I look at these districts, some of

1 these districts on the other side of the state, our farm  
2 alone grows as many acres as that whole district does and  
3 I'm sure that this whole conversation would be very  
4 different if we farmed in that district and we had one seat  
5 to ourselves. They would be very upset that one person  
6 over there could monopolize and that's what's happening  
7 with this district.

8 To Mr. Kole's point of redistricting, I am  
9 supportive of that. I believe that trying to shoot for  
10 this 20 percent and breaking up each district so we don't  
11 have one-half of the state with half -- 70 percent of  
12 potato production having two commissioners that get thrown  
13 around. I think that we're heading in the right direction  
14 by looking at that.

15 I would make the comment that was made before that  
16 we look at doing this in IDAPA so that it be changed  
17 instead of having to do a legislature change if production  
18 changes again. We never know with PCN or with the dairies  
19 going up how potato production in the state may shift and  
20 if it shifts, I think we need to be able to adjust. Maybe  
21 every ten years, five years, whatever it may be to  
22 appropriately represent the industry and those that are  
23 farming potatoes at that time.

24 MR. KANE: So you're proposing something similar to  
25 what was spoken about last time that you like the general



1 idea of what they're proposing in Exhibit 114 as to the  
2 redistricting. You just feel it should be done by rule  
3 rather than statute?

4 MR. MICKELSEN: Yes. Just so that we can adjust it  
5 as changes are made. But I do support the concept there of  
6 adjusting the districts. I know it's tough for these  
7 people that come from the districts that have 3 percent and  
8 7 percent because they don't want to give up control but  
9 production has cut back significantly in those areas and  
10 the adjustments need to be made.

11 MR. KANE: Okay. Thank you.

12 MR. MICKELSEN: Last one here is I oppose the  
13 current proposed definition of growers, shippers and  
14 processors. In the e-mail, it was brought up and I think a  
15 lot of that has to do with some of these definitions seem  
16 to be a little bit vague and not extremely clear.

17 One of the concepts that keeps coming up is one  
18 man, one vote. We bring that up. I think we -- I think  
19 Pat has alluded that what Randy said might not quite be  
20 right (inaudible) that it is allowed to vote by production.  
21 But right now, I look at an operation like ours. My family  
22 farm, we have seven partners in the farm and we don't get  
23 one man, one vote.

24 They're trying to tell us that for our operation, a  
25 large operation with seven different owners in it, you

1 know, seven people have come together to farm, we get one  
2 vote for the seven and that's part of where we're having  
3 the problem here. That's why I would be in support of  
4 either doing it by production or figuring out a way where  
5 at least one man gets one vote because right now, we're  
6 losing that.

7 We don't have that option in our operation and some  
8 of these smaller operations, there's a father and son that  
9 kind of farm together, kind of don't, and they kind of  
10 separate out and so then they've got two maybe. I'm  
11 curious what this definition of commingle of companies are.  
12 That's very vague. How are you going to define that? How  
13 are you going to spell that out?

14 We were the people in the nomination meeting that  
15 had some different entities that voted. Those entities  
16 each had their own set of dues that they had paid to the  
17 IPC. Each more than five acres. But they don't want to  
18 define an entity as an individual. We can't count  
19 individuals as individuals. We're commingling it together  
20 so that if you have to work with other people, you're being  
21 punished for it.

22 MR. KANE: Okay. For the record, you said  
23 currently. You really mean the proposal, don't you, as  
24 opposed to the current law?

25 MR. MICKELSEN: I'm not sure what the law would be

1 defined as because as they sent it to the attorney general,  
2 I feel that the attorney general didn't have all the  
3 correct information to truly make the correct call there  
4 but he tried to spell it out that you can't separate it out  
5 at all.

6 This is very jumbled and I feel like it needs to be  
7 fixed. If nothing else, I feel that for growers, each  
8 owner that is active in it should at least get a vote if we  
9 don't want to go by production. But to take a partnership  
10 or other things like this and take it less than one man to  
11 one vote, I think that's where people have concerns and  
12 heartburn.

13 MR. KANE: Okay. Do you have -- I'm guessing not  
14 right now. Do you have a specific idea of what then the  
15 proposed statute would look like in light of what you just  
16 said?

17 MR. MICKELSEN: I know we have proposed based on  
18 dues for any of them that could work, for shippers,  
19 processors and growers. The truth is that there are enough  
20 farmers here. They are separated out enough that if you  
21 went and got the support of your neighbors, you could get  
22 the votes that you need and you could override any large  
23 grower.

24 But large growers deserve a voice on the commission  
25 just as well as small growers do. Right now, I think

1 there's less than 10,000 acres represented by the growers  
2 on the commission out of 320,000 acres grown in the State  
3 of Idaho. I think that it's okay to have a couple big  
4 farmers in there maybe that have some -- that are paying a  
5 lot of the dues, that are involved in the industry.

6 But it feels like the commission has been anti any  
7 sort of big farmer but big farmers have input too. They  
8 want to have their voice heard and they at least don't want  
9 their voice cut in sevenths because they're combining one  
10 entity with seven owners.

11 MR. KANE: Okay. Here's what I'm going to ask you  
12 to do. We have till August 15 to provide written comments.  
13 If you have a specific idea that you would like to see  
14 incorporated in the statutory changes, I'd ask if you would  
15 put that in writing, get it to the commission in enough  
16 time to let them absorb it because they've already said  
17 that they're trying to hear from everyone. I'm guessing  
18 this is still a free-flowing process so it's kind of hard  
19 to incorporate some of the ideas without having something  
20 to at least look at. So if you could do that, they would  
21 appreciate it and I would too because I have to --

22 MR. MICKELSEN: A lot of these I've already given  
23 to them.

24 MR. KANE: -- basically come up with some kind of a  
25 recommendation.

1 MR. MICKELSEN: Okay.

2 MR. KANE: Thank you.

3 MR. MICKELSEN: Yes.

4 MR. KANE: Anything else?

5 MR. MICKELSEN: No.

6 MR. KANE: All right. Thank you very much. All  
7 right. Did you wish to come forward then and make a record  
8 on --

9 UNIDENTIFIED SPEAKER: Because the seed issue is  
10 not really part of the current proposal, I don't think that  
11 point needs to be made for the record unless somebody wants  
12 to make it.

13 MR. KANE: All right. I'm not sure that came out  
14 on the recording but apparently the staff doesn't wish to  
15 speak on the seed grower issue.

16 UNIDENTIFIED SPEAKER: Correct.

17 MR. KANE: All right. So can I have a show of  
18 hands? Does anybody else wish to speak or make a record on  
19 anything -- yes, sir. Come on up here. State your name  
20 and spell your last name.

21 MR. DARRINGTON: Mark Darrington,  
22 D-a-r-r-i-n-g-t-o-n.

23 MR. KANE: Welcome. I'm smiling because I think I  
24 know a relative of yours.

25 MR. DARRINGTON: I probably do too.

1 MR. KANE: All right, sir. Go ahead.

2 MR. DARRINGTON: My name is Mark Darrington. I'm a  
3 sole proprietor and grower of 28 years in the greater  
4 Declo, Idaho area. My comments today represent my personal  
5 thoughts and perception of the Idaho Potato Commission.  
6 These comments are directed to the State of Idaho and  
7 members of said commission.

8 I see the IPC as a state-regulated association more  
9 steeped in tradition and efforts of the past than a tool  
10 for those who are taxed and looking for a return on that  
11 investment. To say that there is nothing positive  
12 happening would be an overstatement. I congratulate and  
13 thank the IPC and Lamb Weston for their cooperation in the  
14 launch of the Idaho fry. Well done. Thank you.

15 As the current status of other issues, I believe  
16 that there are several. Representation of the tax dollars  
17 received and taking into account which segment of the  
18 industry generated the money. I'm told that 35 percent is  
19 generated by fresh, 65 percent comes from the processing  
20 industry including dehydration. I also recognize that some  
21 of the larger production areas are less peopled or less  
22 people populated and so we do have to give consideration of  
23 some political realities of where the people are and the  
24 power that the people wield. We have to -- let's see. So  
25 I tend to lean toward that grower representation needs to

1 represent the end use of the potato, be it fresh or  
2 processed.

3 I'm going to go off on a bit of an unrelated  
4 tangent here but I believe Mr. Mickelsen did as well and I  
5 might agree with him on some things.

6 I believe the fresh side of our industry is in  
7 total chaos and until those factions come to some meeting  
8 of the mind, fresh promotion is literally harming Idaho --  
9 or literally harming Idaho in name and reputation. This is  
10 evidenced in the Huffaker newsletter and price report.  
11 It's also evidenced by Mr. Frank Muir's comments last year  
12 at the Bannock Hotel potato conference. He said we are  
13 shipping a lot of mixed quality and our consumers are  
14 giving negative feedback.

15 In my words and experience, we're committing a  
16 self-defeating behavior with what we ship. I remember  
17 well -- and this is my item no. 3. I remember well brand  
18 recognition of Rambler, Studebaker, of Oldsmobile. I  
19 remember Gleem toothpaste. I also remember RC Cola. But  
20 anyone younger than 50 in the room doesn't recognize what  
21 I'm referring to so let's talk about Facebook and its  
22 crash. Big name icons can and do crash and disappear but I  
23 don't believe in critiquing without giving a solution.

24 It's time to redefine the purpose of the IPC for  
25 each and all sectors of the Idaho potato industry. It's

1 time to recognize and respond to change in lifestyle and  
2 role of technology in all of our everyday activities. And  
3 it's time to build a new strategy and implement it. At the  
4 present, we are adrift relying on tradition and small  
5 successes to define a multi billion dollar business.  
6 Respectfully submitted, Mark Darrington.

7 MR. KANE: Do you want to turn that in, the  
8 document you have?

9 MR. DARRINGTON: You may have it.

10 MR. KANE: Thank you very much. So what are we at?  
11 126?

12 MR. KOLE: 6.

13 MR. DARRINGTON: I'm happy to discuss any of these  
14 if anybody wants to talk about it or I'm happy to just  
15 let --

16 MR. KANE: Okay. Since I'm still controlling this  
17 hearing, how about this: You just made your statement.  
18 I'm going to ask Mr. Kole to speak to it. He may need a  
19 moment to get organized but some of the things I think I  
20 heard really aren't -- well, I know are not pertinent to  
21 the issue.

22 MR. DARRINGTON: That's exactly right.

23 MR. KANE: All right. But speak to me more about  
24 the fresh and did you say processed?

25 MR. DARRINGTON: Yes.



1           MR. KANE: Are you suggesting that each of those  
2 industries have a separate commissioner?

3           MR. DARRINGTON: I am saying that the  
4 representation needs to reflect where that money came from  
5 because I would ask Mr. Muir or Pat what percentage of the  
6 budget goes toward promoting fresh versus what percent goes  
7 to promoting processed.

8           MR. KANE: Okay.

9           MR. KOLE: I think Mr. Muir's best qualified to  
10 respond to that.

11          MR. KANE: All right. Before we start bringing  
12 more people up, are you --

13          MR. DARRINGTON: I'm finished.

14          MR. KANE: Well, thank you very much. I appreciate  
15 it.

16          MR. DARRINGTON: You're welcome.

17          MR. KANE: So we just heard some interesting  
18 comments. Some of them not pertinent to the materials  
19 before us but some perhaps are. Did you wish to either ask  
20 someone to speak to that or are you prepared to speak to it  
21 yourself?

22          MR. KOLE: Well, Mr. Muir should speak to the  
23 budgetary issues. I did want to address what Mr.  
24 Darrington brought up about actual revenue. He is correct  
25 in the sense that roughly 31.8 percent of the revenue

1 received by the IPC is for fresh industry. Roughly 40.69  
2 percent is from the frozen industry. 21.8 percent from the  
3 dehy industry and 2.26 percent from the chip industry. So  
4 there's quite a little bit of revenue that directly relates  
5 to the process side of the industry.

6 I'll go into one thing that Mr. Muir can come right  
7 up and correct me on. The fresh industry operates as, if  
8 you will, a good will cover for the rest of the industry.  
9 There is a perception of healthiness that comes from a  
10 fresh potato. That provides cover for all the processed  
11 potato products that are then developed.

12 People don't naturally think of french fries as  
13 being healthy even though there are health benefits that we  
14 are discovering and beginning to work on promotions but by  
15 having that shield through the fresh industry, there is  
16 additional benefit, corollary benefit that does benefit the  
17 rest of the industry and the process sector particularly.

18 MR. MUIR: You're starting to sound like a  
19 marketing guy, Pat. Can I answer the question then?

20 MR. KANE: Well, I guess the -- if I heard the  
21 comment right, that perhaps I have it right, some of the  
22 process industry is under-represented. I think that's what  
23 I heard. And if so, what would you like to tell me about  
24 that and is there room for maneuver in this scheme that you  
25 have before us.

1           MR. MUIR: Okay. First I'm Frank Muir, president  
2 and CEO of the Idaho Potato Commission. And I just in  
3 general terms to start out, 80 percent of IPC's budget go  
4 to what I call working dollars and in laymen's terms and  
5 non- profits, that's the gold standard.

6           If you go out and you look at any American Heart  
7 Association or American Red Cross or any of those, they  
8 won't even be close to 80 percent of all their dollars  
9 collected going to working dollars which means it's working  
10 for you. Not paying salaries, not paying for offices. Not  
11 paying for those things. So first of all, the whole  
12 programs that we spend are going towards working for you.

13           In terms of the process, fresh, Mr. Kole makes a  
14 great point. Part of what was happening 15 years ago, if  
15 you recall, we were at the peak of the Atkins Diet on the  
16 front covers of "Time" and "Newsweek" which another brand  
17 that you can now include, Mark, on your list that's gone  
18 that were the Atkins Diets.

19           And they were saying don't eat potatoes, don't eat  
20 bananas, don't eat apples, don't produce -- don't eat  
21 orange juice -- don't drink orange juice. We were the  
22 first industry to fight back in 2003 to say the potatoes  
23 are nutritious and you should be eating them.

24           The citrus organization in Florida contacted our  
25 office wanting to know how we were doing that. How did you

1 dare fight back against the Atkins Diet and was it working.  
2 The Florida Citrus Commission then followed suit and  
3 started doing that blender advertising showing what you --  
4 what an orange generates for you. That was directly a  
5 result of our communication. Then we hired Denise Austin  
6 to come in for 10 years and fight back that potatoes are  
7 nutritious for you.

8           Everybody forgets what this industry -- the  
9 situation was 15 years ago. Potatoes were headed down.  
10 Farm (inaudible) revenue was going south. The image of the  
11 brand, the agencies that were hired by the commission did  
12 brand recognition. The Idaho brand had very little value  
13 in the minds of the consumers. Potatoes were generic. Not  
14 only were they generic, they were not something that was  
15 nutritious to eat.

16           So all that had to be fought back against and the  
17 point that Pat was making was our saying that potatoes are  
18 nutritious allowed Simplot, Lamb Weston, McDonald's,  
19 everybody else to ride on that halo that we were creating  
20 because they couldn't go out and say french fries were  
21 healthy.

22           Remember supersize me that was killing the  
23 McDonald's ad where supersize went down to where you  
24 couldn't offer supersized french fries? Everybody kind of  
25 forgets that was going on. I talked to processors back

1 then, asked them how they feel about the campaigns we're  
2 doing because we can't directly reference french fries  
3 unless we're talking about baked and so forth. They loved  
4 what we were doing because they did realize we could say  
5 speech they couldn't say.

6 So all the benefits when we're out there pounding  
7 the nutrition message that Denise did for ten years and now  
8 since that time, we're now the only potato in America  
9 certified by the American Heart Association as heart  
10 healthy. You couldn't get that on french fries but what it  
11 does is creates a halo again on the potato -- the Idaho  
12 potato. That declaration is on our truck as it's traveling  
13 around America.

14 I don't know if you guys realize this but this six  
15 ton potato truck that replaced Denise Austin -- I'm sure  
16 she's not too happy that a six ton lady replaced her but  
17 that's basically what happened. That truck is now  
18 traveling almost 160,000 miles. People drive for hours to  
19 see the truck. That's like we drive six hours to go see a  
20 commercial? That's what they're doing now. Because we've  
21 made the Idaho potato cool and relevant again. All of that  
22 has a halo effect on processed potatoes.

23 If you look now on the side of the potato truck, we  
24 have french fries there, we have the baked potatoes, we  
25 have mashed potatoes. We've covered all our industry in

1 that truck but, again, all the nutritional benefits on the  
2 back of the truck where everybody driving behind it are  
3 seeing it.

4 All that has a benefit to you. If you start  
5 talking specific dollars -- so the advertising promotion,  
6 general promotions benefit everybody. Start looking at  
7 specific programs like potato lovers' month. If you look  
8 at the food service programs (inaudible) manages. Those  
9 are all related not only to fresh but to processed as well.

10 The food service is important to the process  
11 sector. A lot of folks are doing fresh fries. They will  
12 convert over to processed fries because it's also the Idaho  
13 brand. They can carry it if it's 100 percent Idaho.

14 We've been doing a couple of critical things with  
15 the process industry that's important for everybody to  
16 know. Probably a lot of people don't know. We've been  
17 working -- we worked with Dr. Joe Gunther to generate an  
18 analysis to then present to the processing industry company  
19 by company that the next processing plant should be built  
20 here in Idaho. I've already had meetings with Simplot.  
21 We're in the process of meeting with Lamb Weston. I have a  
22 meeting with the CEO of Lamb Weston scheduled here in the  
23 near future. We're going up to Kennewick to meet with all  
24 of their senior people there because truth be told if  
25 you -- well, we'll get to that.

1           What's happening in the Twin Falls plant is 100  
2 percent Idaho potatoes being processed. I'll come back to  
3 that here in a second.

4           There are other -- McCain is looking to build  
5 another plant here and I have to be careful what I say  
6 because I can't say things publicly. We're bringing  
7 processing back to this state so anybody who's thinking,  
8 well, we're not the IPC because we don't have a certain  
9 kind of commissioner on there, we're not representing that  
10 industry, let me tell you. I've worked with a lot of  
11 commissioners the last 15 years here. I've never seen one  
12 of them come in and say I'm just interested in this or act  
13 like they're just interested in one thing. They take an  
14 oath to represent this industry and that's what they do and  
15 that's how I look at it. I look at what will help Idaho  
16 sell more potatoes, grow the industry and I don't look at a  
17 percent saying, geez, am I spending 20 percent of my time  
18 in the right place? I'm always looking at every decision  
19 we spend, does this benefit the entire Idaho brand as part  
20 of that.

21           And as an example of that, we spend I'd say  
22 probably -- I spent almost eight, ten years working with  
23 all the processors to try to get to a 100 percent grown in  
24 Idaho product.

25           To Mr. Mickelsen's point earlier, they're not

1 required -- processors are not required to put the Grown in  
2 Idaho seal on it. What I'm trying to do is get them  
3 converted that they want to put the Grown in Idaho seal.

4 Lamb-Weston finally did their own research after  
5 making several presentations to them over several years,  
6 they went out and reviewed their research and they came  
7 back and said, "Frank, your brand's even stronger than you  
8 say it is."

9 That wasn't true 15 years ago. As a result of  
10 their own research, they developed a line called Runion  
11 (phonetic), Idaho and you know what? They're using our  
12 grower that appears in the fresh commercials to appear in  
13 the frozen commercials. You can't get much more  
14 (inaudible) than that. They're advertising for us. We're  
15 now cycling our advertising with theirs.

16 They're also using -- asked our permission to use  
17 the same ad agency that produces our commercials to produce  
18 theirs and now they've also transferred one of their major  
19 brands over to this same agency. They're looking at how do  
20 you expand more and they're looking -- it's completely  
21 tapped out the Twin Falls plant candidly already. It's  
22 going that well. They're already looking at the next new  
23 future Grown in Idaho products for breakfast and so forth.

24 There's now other processors that are going, wow,  
25 what have we been missing and now they're bringing back and



1 putting Grown in Idaho or putting 100 percent Idaho  
2 certified like Simplot's classic white on the food service  
3 line.

4           So for me to get a specific answer what percent of  
5 every dollar goes to each one of the industries? I almost  
6 don't care and I hope you'd look at it you don't care  
7 either because if we haven't proved in the last 15 years  
8 that we're trying to grow all sectors, then, you know,  
9 honestly we haven't done a good job of communicating to you  
10 because that is definitely our objective.

11           The fresh industry has frustrated me. I have been  
12 frustrated and you all know the last couple years we've  
13 talked about the quality and we've put a major emphasis on  
14 improving quality and shippers are stepping up and  
15 improving quality. It is better this year but it does  
16 create a base where the image of the potato, if it is not  
17 good quality, like Mark said a few minutes ago, if you're  
18 not maintaining that premium quality, then magically they  
19 start looking at the generic potato from another state.

20           Remember that we have a buy local program in all 50  
21 states right now. We shouldn't be the number one brand  
22 right now. In fact, we grow market share. We don't --  
23 we're not declining. We're a national produce organization  
24 in an environment where all states are funding their own  
25 buy local program and that's something you should be proud

1 of because that's what your brand's doing.

2 So again, I mean if I summed it up, I'd have to go  
3 down and look at dollar to dollar and try to answer the  
4 specific question but I think it's more important that you  
5 understand how we look at things and we have some former  
6 commissioners that are here as well as current  
7 commissioners that could probably testify whether or not  
8 I'm saying things that are, you know, close to truth or  
9 not.

10 MR. KANE: So I'm trying to boil down --

11 MR. MUIR: What I just said?

12 MR. KANE: -- what you said. Thank you.

13 MR. MUIR: It's always hard.

14 MR. KANE: I think what I'm hearing is that at  
15 least it's your impression that the processors are not  
16 being unfairly excluded from the process. No pun intended.  
17 That the overarching mission of the commission is to look  
18 out for all of the industry. Is that what I'm hearing?

19 MR. MUIR: That's exactly what you're hearing. And  
20 I tell you it's more so --

21 MR. KANE: You don't see the need to perhaps be  
22 over-inclusive more than you already are as to processors?  
23 Is that what you're telling me?

24 MR. MUIR: What I would also add to that is so  
25 let's say this district right here. Randy Hardy is

1 representing this district over here. There were three  
2 individuals -- and I don't even remember who the other two  
3 were at this point because the growers had the opportunity  
4 to put in three individuals. He didn't want to have  
5 somebody who was a fresh grower. They would vote not to  
6 put him as one of the three but they respected Randy enough  
7 that if he came in as a commissioner, he'd represent the  
8 fresh side and the process side. And I can say because  
9 I've seen him not only in the IPC but in the NPC and  
10 Potatoes USA, he sets aside his specific hat and thinks  
11 about the industry.

12 You know, Randy Bauscher did the same thing when he  
13 served as a commissioner. They set aside what they're  
14 individually interested in and if they start steering that  
15 way, when I -- I know what they're in. Dan Moss, same  
16 thing. Dan's got involvement in everything and he looks at  
17 things the way a commissioner should look at it, how does  
18 it benefit the entire industry. Not just Moss Farms.

19 And if there's -- if I have to face situations as a  
20 CEO or I think somebody's trying to push us where it's  
21 benefitting, I'll have a private conversation with them and  
22 see where that's going but I'd say 99 percent of the time,  
23 they're really looking at the entire industry. They've  
24 sworn an oath that they're supposed to do that anyway.

25 MR. KANE: Right. Okay.

1 MR. MUIR: Okay.

2 MR. KANE: And I saw a hand. Mr. Darrington, you  
3 look like you want to --

4 MR. DARRINGTON: Just a brief statement and then  
5 one question. The statement would be the point --

6 MR. KANE: If you want to come up, sir, because I'm  
7 not sure you're being recorded and -- why don't you come on  
8 up here.

9 MR. DARRINGTON: The statement I would like to make  
10 is redistricting is important but I believe we're facing a  
11 challenge much larger than redistricting. And the question  
12 would be with all of these great programs of promotion, why  
13 is it then that Idaho potatoes are selling at a substantial  
14 discount in the fresh market?

15 MR. KANE: Okay. Does anyone else present wish to  
16 come up here and get on the hot seat and make a record of  
17 anything? I'm seeing nobody.

18 MR. CORNELISON: I'll make one statement. Mr.  
19 Darrington alluded to it.

20 MR. KANE: Please state your name for the record  
21 and spell your last name.

22 MR. CORNELISON: My name is Todd Cornelison,  
23 C-o-r-n-e-l-i-s-o-n. We have had many conversations of the  
24 validity of the market news that he's referring to. There  
25 is a lot of assumptions that go into those calculations

1 that I personally as a grower do not agree with and just --  
2 yes, that news shows Idaho at a disadvantage but the  
3 assumptions in those calculations, I can't swallow it.  
4 Therefore I talked to a grower just two weeks ago from  
5 Wisconsin who are supposedly getting \$11. He said he's  
6 going to pull \$3 off all year of that particular market  
7 news.

8 So only because that particular document was  
9 brought up, I feel like I had to defend the fact that we're  
10 a lot closer to that -- to what they say our market  
11 conditions are than what this particular grower is and in  
12 my experience, it's been that way for years.

13 MR. KANE: So are you in favor of these particular  
14 proposals by the --

15 MR. CORNELISON: Oh, now you're going to put me on  
16 the hot seat, huh?

17 MR. KANE: Well, since you're here.

18 MR. CORNELISON: Okay. I see a need for  
19 redistricting. I think potato production has transferred.  
20 Many of the ways that we're talking about, if we don't stay  
21 with one man, one vote, an organization my size would never  
22 see any type of seat on the Idaho Potato Commission.  
23 There's just no way I could get to it.

24 I see Mr. Mickelsen has said that you can bring  
25 friends in but it's been tough to do that in the past. Can

1 you do it? Yeah. It would be tough. Is he right? If you  
2 had enough, could you get it done? It's possible. Would  
3 people put in the effort? Probably not. What would happen  
4 on the ground is the organization that came in with 10  
5 votes ahead would probably get it 90 percent of the time.  
6 That's my experience.

7 MR. KANE: So I'm hearing you like this post  
8 statute.

9 MR. CORNELISON: One vote, one man.

10 MR. KANE: Okay. Thank you. Thank you. Anyone  
11 else wish to speak at this time? Speaker. Come on up  
12 here. This is an interesting role reversal. I'm rather  
13 enjoying it.

14 REP. BEDKE: Well, you guys, I know most of you in  
15 the room pretty well and -- I want to remind -- I want to  
16 tell you a story that happened to me personally. At the  
17 first of my political career, I was representing the Idaho  
18 Cattle Association and it's a fractious bunch and -- you  
19 know, and there are strong personalities in that as well  
20 and we were at an impasse and we went through our process  
21 at the convention and we did come out of that convention  
22 speaking with one voice on an important pending issue  
23 nationally.

24 And so we made our pilgrimage. We were going quite  
25 often back in those days and sitting down with the various

1 senators and (inaudible) were in the senate back then.

2 The Owyhee County Cattlemen which is a large group  
3 of very active members had a position that was different  
4 than the Idaho Cattle Association which was the rest of the  
5 state and we went and met back in Senator Craig's office  
6 and we both made our pitches in there and he -- well, the  
7 upshot of the conversation at that point was never come  
8 back here again and make me pick between my friends.

9 And so that's kind of where you guys are here now  
10 and you're going to come to the legislature and you guys  
11 are going to have your legislators, the people that you're  
12 going to -- you know, so western Idaho is going to lose  
13 some seats it looks like here. If they're okay with that,  
14 fine. If they're not okay with that, that's not as fine  
15 because they represent a big chunk of the legislature.

16 So they're going to come in and we're going to  
17 make -- the path that you're on is going to end up at the  
18 legislature. Whatever rules you pass will have to be  
19 approved by the legislature. You know, they'll have some  
20 temporary effect until the legislature meets. If this is  
21 not resolved in an organic level, then it's going to become  
22 a beauty contest at the legislature which you want to  
23 avoid.

24 And you know, so to the extent that you're going to  
25 use the legislature as the final arbiter here, we're going

1 to have a bunch of different meetings and we'll have --  
2 when there are committees and you'll make your passionate  
3 case and whether you're the rising tide floats all ships,  
4 that's what Frank's testimony boiled down to is -- and the  
5 halo effect or taxation without representation which is  
6 kind of what some of the other comments boiled down to and  
7 you're going to make legislators that don't -- that aren't  
8 anymore involved in your industry than going to your  
9 banquet once a year. By the way, that's becoming -- that's  
10 a way better banquet than it was 15 years ago.

11 So I would just -- you guys -- the brains are in  
12 this room and the other rooms that you'll have up and down  
13 the valley here to fix this. You got a problem or you  
14 wouldn't be having this. Pat, you guys know that. So, you  
15 know -- and everybody's right is the biggest problem here.  
16 But I would -- but don't make the legislature pick on this  
17 I mean because then -- because then you're making them pick  
18 between their friends and that never works out too well.  
19 And if I were the chairman, I would send you back to the  
20 drawing board and come with a unified voice to the  
21 committee.

22 On these types of -- I mean on Idaho potato things,  
23 I mean you would want that -- you'd give us the impression  
24 that everything's all good in the industry and we want --  
25 we want -- those of us that represent the areas know that



1 there's always been a rub between the fresh and the  
2 processors. We get that. But most legislators don't have  
3 any concept of what you're talking about there and so  
4 therefore they're ill-equipped to make seminal decisions  
5 that are going to affect your bottom line.

6 So to the extent that you can come to the  
7 legislature with one voice and, you know, whether -- and  
8 this serve at the governor thing will be driven by that  
9 North Carolina case. So I mean it -- I get what your point  
10 is but that will -- that's changing every one of these  
11 commissions. So if you're -- that's a whole another  
12 discussion.

13 So anyway, that's the upshot of my deal is for you  
14 guys to come together as an industry and don't make the  
15 legislature pick. You think it's populated by a bunch of  
16 Solomonesque folks. They're not. And it's better --

17 UNIDENTIFIED SPEAKER: Except for the two of us  
18 (inaudible).

19 REP. BEDKE: But we have decided biases both you  
20 and I and, you know, so it would be better if you got this  
21 thing solved. I don't know if that's germane to your  
22 hearing, Mr. Hearing Officer, but that would be my plea to  
23 the growers -- well, to the potato industry. That is all  
24 three. So --

25 MR. KANE: Thank you.

1 REP. BEDKE: Take it for what it's worth.

2 MR. KANE: If I could simply comment, I would say  
3 that -- I would thank the speaker for those temperate and  
4 moderating words and obviously it's going to be as  
5 difficult as a potential legislature for me to pick what's  
6 better but that's kind of the task I've been given until  
7 somebody changes the ball game.

8 I also would agree totally about the comment about  
9 North Carolina case. That's why I brought it up. I do  
10 understand that there's some thinking that maybe we can do  
11 it a different way but I believe that the U.S. Supreme  
12 Court has spoken on that. And telegraphing, I'll tell you  
13 right now, that's probably the way I'm going to write the  
14 recommendation at least as to that.

15 Mr. Kole, do you have anything you want to wrap up  
16 before we get finished?

17 MR. KOLE: No. I think the speaker wrapped it up  
18 as well as could be done.

19 MR. KANE: All right. Well, thank you all very  
20 much for coming. We have one more hearing tomorrow and let  
21 me reiterate that there is the ability to write comments.  
22 I would urge you very strongly if you wish to write some  
23 comments, they're going to be due by August 15. That tells  
24 you where to mail it or send it by e-mail in the published  
25 notice. I'm going to need that kind of information from

1 you in order to make an informed recommendation.

2 So thank you very much and I think with that, we  
3 will now go off the record and close the meeting.

4 (Proceedings concluded.)

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STATE OF IDAHO            )  
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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 July 31, 2018;  
that the foregoing pages 1 through 75 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 26th day of August, 2018.

  \_/s/ Tamara A. Weber \_\_\_\_\_  
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