

A Regular Meeting of the Town of Avon was held on Thursday, April 8, 2010 at 6:00 P.M. at the Avon Opera Block/Town Hall with the following members present:

PRESENT: Supervisor David LeFeber, Deputy Supervisor Kelly Cole, and Councilmen Donald Cook, Thomas Mairs, and James Blye

OTHERS: Recreation Chairman Kim McDowell, Attorney James Campbell, Highway Superintendent Robert Ayers, Town Engineer Timothy Rock, Water Superintendent Daniel McKeown, Code Enforcement Officer Anthony Cappello and Town Clerk Sharon Knight

VISITORS: Judy Falzoi, Claire Prine, Rachel Washburn, Bruce Clarke, Helge Heen, Bruce Howlett and his Attorney Mr. Howard

Supervisor LeFeber called the meeting to order at 6:02 P.M.

Pledge of Allegiance

Supervisor LeFeber asked for any public comments and Visitor Judy Falzoi addressed the Board. She shared the following information:

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Page 1A

1739 Athena Drive
Avon, NY 14414
April 7, 2010

APR X 8 2010

CHARLES W. KNIGHT
TOWN CLERK / TAX COLLECTOR

Dear Avon Town Board:

At last month's board meeting I asked you to consider adding disclosure of agricultural practices to all real estate property transactions in the Town/Village of Avon. Currently this disclosure is required by NYS when property is sold in an agricultural district but not in residential zones. (Section 310 of Agricultural Protection Act) **Changing farm law is not my intent. Rather, my intent is to provide full disclosure of agriculture practice to all property buyers in Avon that may be affected by farm practice.**

Since Avon is creating subdivisions within agriculture districts and making these areas residential zones, no disclosure of farming and its possible effects is given to buyers. Royal Springs is one such subdivision with farming surrounding its borders. People buying in this subdivision are not given notice of farm protection, or that a farm is operational, or the far-reaching Right-to Farm Law that protects farming but takes away rights of the person who lives in a residential zone who has a problem with a farming practice.

For example: *(I have spoken at board meetings several times about this situation)*

A cornfield less than one acre in area is about 120 feet across from my home. This area is in an agricultural district and protected by Right-to-Farm Law that allows a farmer to use a 120-140 dB propane cannon as a bird deterrent during growing season. The farmer may use this every two minutes, 24-hours per day, as long as he wants, and I have no way to stop this due to farm law. I was not given any notification of agricultural practices and thought this field was inactive when I purchased my home in 2009. The seller of this home gave me a disclosure about the condition of the home but was not required to disclose the existence of a farm or the noise created by the use of a propane cannon. The Town of Avon had received many complaints in the pass about this so it was a known problem for some.

At last month's board meeting, no one (including the lawyer James Campbell) seemed to think municipal law could be amended to include broader notification of agriculture outside of an agriculture zone. When no one would ask Mr. Campbell to look into this, I asked if the board wanted me to see if other counties provided broader notification through agriculture disclosure to prospective buyers of real estate. I've attached information found on the internet that proves Avon's municipal law can expand the NYS disclosure notice to include people buying outside an agriculture district/zone but within an area that may be affected by farming practices.

Attached: Albany County, Wyoming County, Steuben County, Erie County,
Elmira-Corning, Town of Lloyd)

Currently NY Senators Aubertine, Stachowski, Valesky, Winner, and Young have proposed **Bill No. S05428** that will require "purchasers of real property within 500 feet of the boundary of an agricultural district to be provided with disclosure of farming activities within such district." It is currently under review. *It does not provide enough disclosure.*

Although this is a first step toward fair, honest disclosure this does not go far enough. Along with this Section 310 disclosure, a copy of the Right-to-Farm Law and the consequences to a homeowner seeking relief from a farming practice in NYS should be added. The NYS farming law is so broad it does not list acceptable farming practice but allows for almost any practice that is useful to farming production. A checklist of farming practices used in Avon should be given to a buyer with a warning to ask about any practice that is not understood before closing on a home. This should be added: **Avon municipal law provides no protection when there is a dispute between farmer and homeowner involving farm practices.** All these documents should be signed by both seller and buyer.

With this letter, I am now asking for actual commitment by the Town Board, along with the Village Board, to proceed to implement my suggestions immediately. I would like a letter in writing in response to my request. If I do not hear from you within this month, I will assume you are not willing to provide fair, honest disclosure of what it means to buy real estate in Avon.

This will in no way stop me from pursuing fair, honest disclosure in real estate transactions but I will finally know that my local government is not interested in making sure all new residents understand what farm protection really means to them.

This has been a year long journey based upon personal need. Each step along the way from the first blast of a cannon last July to this point has been a difficult process. Yes...I wish the propane cannon would no longer threaten me. However, my research has finally solidified my resolve to protect future homebuyers from my situation.

So...I'll leave the farm law as is but will actively pursue expanded notification of farm law and consequences to home buyers - on agricultural land as well as residential zones.

Planning guides, including Avon's hired consultant, Donald Naetzer's recommendation were not followed when Royal Springs (PUD) was developing. Now the land owner, Peter Kolokouris, is asking for approval of phase 2 that is still bordered by agricultural land. Will the Town Board demand restrictions that will avoid conflict between different land usages? Expanding Royal Springs is a good thing but it must be done with thoughtful planning.

I hope the next homebuyer in Royal Springs will be given disclosure of agricultural practices, summary of the Right-to-Farm law, and a list of farming practices that are not protected under Avon municipal law. Everyone buying in Avon should receive this.

Sincerely,

Judith A. Falzoi

Judith A. Falzoi
438-4400

**ELMIRA/CORNING
AGRICULTURAL DISTRICT DISCLOSURE FORM AND NOTICE**

For property commonly known as: _____

When any purchase and sale contract is presented for the sale, purchase, or exchange of real property located partially or wholly within an agricultural district established pursuant to the provisions of article 25-aa of the Agricultural and Markets law, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:

It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law.

Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.

Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the state board of real property services as provided for in section three hundred thirty-three of the real property law.

Initial all that apply:

- _____ The aforementioned property **is located** in an Agricultural District.
- _____ The aforementioned property is **not located** in an Agricultural District.
- _____ The aforementioned property is located within approximately a **one-mile radius of agricultural activity**.

I have received and read this disclosure notice.

Seller: _____ **Date:** _____ **Purchaser:** _____ **Date:** _____

Seller: _____ **Date:** _____ **Purchaser:** _____ **Date:** _____

New subdivisions that are developed contiguous with farmland should be clustered and should be required to provide vegetative buffer strips and windbreaks to minimize the potential for conflicts between agricultural and residential land uses. Buffer strips and windbreaks protect farmers from nuisance complaints by members of the new residential community who do not understand the urgency of time and the procedures used in many farming practices. Buffer zones can serve to supplement agricultural notices that should be placed on all subdivision plat maps in the Town.

Finally, to strengthen farmers' protection against nuisance suits, the Town should require that homeowners sign a disclosure notice and legally binding disclaimer, which includes right-to-farm notices and provisions, prior to closing on a home adjacent to an active farm. Such a notice should be required on the deeds of new subdivisions within 200 feet of a farm and within 2,000 feet of a certified Agricultural District.

ALBANY COUNTY, NEW YORK

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CHRISTOPHER M. KNIGHT
TOWN CLERK / TAX COLLECTOR

SECTION 5. Notification to Real Estate Buyers.

Lands in agricultural districts; disclosure.

When any purchase and sales contract is presented for the sale, purchase, or exchange of real property located in Albany County partially or wholly within an agricultural district established pursuant to the provisions of Agriculture and Markets Law Section 310 of Article twenty-five-AA or within 500 feet of an Agricultural District, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following: "It is the policy of Albany County to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective buyers that the property they are about to acquire lies partially or wholly within an Agricultural District or within 500 feet of an Agricultural District and that farming activities occur within the area. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective buyers are also informed that the location of property may impact the ability to access water and/or sewer services for such property under certain circumstances."

A copy of this notice shall be included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made. Receipt of such disclosure notice shall be recorded on a property transfer report prescribed by the state board of real property services as provided for in section three hundred thirty three of the real property law.

WYOMING COUNTY

SECTION 6 - NOTIFICATION OF REAL ESTATE BUYERS

In order to promote harmony between farmers and their new neighbors, Wyoming County requires landholders and/or their agents and assigns to provide written disclosure notice to prospective purchasers and occupants as follows: "This property is within Wyoming County and it is the policy of the County to conserve, protect, and encourage the development of farm operations within our borders for the production of food and other products and one should be aware of the inherent potential conditions associated with such purchases or residence. Such conditions may include, but are not limited to, noise, odors, fumes, dust, smoke, insects, operation of machinery during any hour, day or night, storage, and disposal of plant and animal waste products and the application of chemical fertilizers, soil amendments, herbicides, and pesticides by ground or aerial spraying or other methods.

Property owners and residents of Wyoming County should be aware that farmers have the right to undertake generally accepted practices and one should expect such conditions as a normal and necessary aspect of living in an agricultural area.

The failure to include a documented disclosure notice shall not affect the validity of such purchase and sale contract.

STEBEN COUNTY

Agricultural Disclosure New Residential Development: For the purpose of giving due notice of nearby farming uses to proposed new residential areas adjacent to unimproved land being farmed or suitable therefore, Steuben County will encourage and support a local Planning Board requirement that any applicant for an adjacent major or minor subdivision, as a condition of approval of such application, to include a provision in each and every deed conveying all or any portion of the lands thereby subdivided, as well as on filed final subdivision maps, the following record notice to and waiver by grantees of such present or future proximate farming uses, which provision shall be made to run with the land.

“The grantee hereby acknowledges notice that agricultural operations exist **throughout the town** and that there are presently or may in the future be farm uses **adjacent or in close proximity** to the within described premises. The grantee acknowledges that farmers have the right to undertake farm practices which may generate dust, odor, fumes, noise, and vibrations associated with agricultural practices, and that these practices are permitted under the town or in the absence of a local right to farm law, Steuben County’s Right to Farm Law, and, by acceptance of this conveyance, the grantee does hereby waive objection to such activities.

The risk of any impact of these agricultural uses on the purchase of property is specifically to be borne by the purchaser of that property.

Agricultural Disclosure at Time of Property Transfer: Steuben County will implement and encourage local implementation of the agriculture disclosure requirement as prescribed in NYS Agriculture and Markets Law Article 25AA §310.

ERIE COUNTY

Section 5. Real Property Sale Disclosure Notice.

When any purchase and sale contract is presented for the sale, purchase, or exchange of residential real property located **within the county of Erie**, the contract of sale shall include a disclosure notice, which states the following:

It is the policy of Erie county to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that farming activities occur within Erie county. Such farming activities may include, but not be limited to, activities that cause noise, dust, fumes, odors, smoke, insects, operation of machinery during any hour of the day or evening, storage and disposal of plant and animal waste products, and the application of fertilizers, soil amendments, and pesticides by ground or aerial spraying or other method. Property owners and residents of Erie county should be aware that farmers have the right to undertake generally accepted practices and one should expect such conditions as a normal and necessary aspect of living in an agricultural area

Judy asked each Board member to share their opinion on her request.

Supervisor LeFeber suggested there are many types of things that might be helpful for the buyers to know such as an unruly neighbor or a specific type of commercial business and the Town can not identify all of the possible disclosures.

Councilman Blye addressed the required three acres requirement in the Town stating it is related to the need of septic and wells which are not needed in the Planned Unit Development.

Attorney Campbell stated that if the Board adopts this type of law they take on the burden to enforce and that becomes a liability of the Town.

Councilman Cook stated that he would not be pursuing as the people in Avon love the Town and he will not take such action as long as he is in office.

Deputy Supervisor Cole stated that this discussion is ongoing and not a planned part of the agenda and the discussion has once again exceeded the normal practice of three minutes allowed for visitor comments. He suggested any further discussion should be requested in advance and be a part of the agenda.

Councilman Mairs stated he would take action after Senator Young and others have taken action at the State level.

DISCUSSION – YOUTH RECREATION

Supervisor LeFeber welcomed Youth Recreation Chairman Kim McDowell and she addressed the Board stating interviews for the summer positions will be held on April 18th and the 25th. One additional interviewing date will be scheduled. There are 50 playground applicants and 22 positions plus substitutes will be needed. There are 20 swimming applications with 12 positions plus substitutes.

Supervisor LeFeber asked if Caledonia would be participating in our swimming program and Chairman McDowell stated they would be coming for the first two sessions only and that the swimming instructors would be considered to serve as substitutes for the playground positions.

Interviews were held for the two open board positions and the recommendation for appointments were Rachel Washburn and Claire Prine.

Supervisor LeFeber welcomed Claire and Rachel to the meeting and they addressed the Board.

Claire Prine stated she graduated from Avon in 1985, works at the New York State Department of Environmental Conservation and has two children that have participated

in the programs. She is interested in trying to involve older children into the program in the future.

Rachel Washburn participated in the recreation programs when she was growing up in Avon. She has three children 7, 6 and 4 and likes to be involved in their activities.

Councilman Cook recommended we move forward with the appointments and the Board took the following action.

RESOLUTION #59 AMENDING THE 2010 COMPENSATION SCHEDULE

On motion of Councilman Cook, seconded by Deputy Supervisor Cole the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to add the following to the 2010 Compensation Schedule

2010 Town of Avon Employee Compensation Schedule

| Name | Position/Duties | Status | 2009 Rate | 2010 Rate |
|------------------|-------------------------------|------------|-------------|-------------|
| Prine, Claire | Youth Recreation Board Member | Part Time* | \$40.00/mo. | \$40.00/mo. |
| Washburn, Rachel | Youth Recreation Board Member | Part Time* | \$40.00/mo. | \$40.00/mo. |

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Aye, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

RESOLUTION #60 APPROVAL OF MINUTES

On motion of Councilman Blye, seconded by Supervisor LeFeber the following resolution was

ADOPTED AYES 3 NAYS 0 ABSTAIN 2 (Councilmen Cook and Mairs)

RESOLVE to approve the minutes of March 25, 2010 as presented.

Vote of the Board: Councilman Blye - Aye, Councilman Mairs – Abstain, Councilman Cook - Abstain, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

DISCUSSION – HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Ayers reported on the following:

Installing the guardrail at the High School parking lot between the soccer field and sidewalk will be scheduled.

Using the Government surplus, a heavy duty forklift was secured in the amount of \$1,000.00. Pickup is scheduled for next Wednesday in Pennsylvania.

The invoice for the work performed on the air compressor for the Milton Cat 2007 was reduced by fifty percent after several requests and discussions with other Towns that had also received the discount for the same type of work.

The department is working on spring clean-up of winter weather including equipment and road sides. After the State approves a budget, summer work will be planned.

In the year 2015 all road signs will need to be reflective.

DISCUSSION – ATTORNEY REPORT

Attorney James Campbell provided the following report:

The required easements for the Route #39 water district expansion have been identified and no houses are on these properties. Since all properties are owned by Mr. Heen, they will be sought through his Attorney, Mr. Coniglio.

HSBC has provided a rate of 1.92 percent for the Bond Anticipation Note for the Henty Road water project. No additional resolutions are necessary and all documents will be executed after tonight's meeting. HSBC will sign and cut a check on Friday.

There have been continued discussions with Scott Hess regarding LeClaire Fleming. Scott's Attorney has recognized they have issues with LeClaire Fleming, not the Town of Avon. Supervisor LeFeber stated we continue to spend money on this issue and a dollar amount of return needs to be determined. We still have not received the \$525,000.00 in grant dollars.

LeClaire Fleming is claiming payment regarding their proposed change order. It was determined and continues to be determined that the change order was not necessary. An additional six days of work was performed; however, this was not approved as a change order. LeClaire Fleming is even claiming the work took more than six hours. Attorney James Campbell will prepare a letter of response that the work was completed outside the boundaries of the contract.

The Board will consider the draft proposed local law regarding Electrical Inspectors at a future meeting. The current electrical issues in the Royal Springs Development are in the hands of the Developer Peter Kolokouris.

At the Planning Board Meeting, held earlier this week, there was discussion on the referral from the Zoning Board of Appeals regarding a request from the East Avon Fire Department to install an LCD sign. The cost of the sign is \$20,000.00 to \$30,000.00. Our Town Code does not allow for this type of sign and the Planning Board did not make

any recommendation to the Zoning Board of Appeals. An amendment to the code may be considered. A conditional use permit may be issued.

Work continues with AT&T to increase the lease rental agreement. Several attempts to contact them have been made and they are currently playing phone tag.

DISCUSSION – WATER REPORT

Water Superintendent McKeown reported on the following:

A water leak in front of the Baylor's resident was reported and fixed within a couple of hours notice.

Reading meters has begun.

The Henty Road water project is completed.

He will be away next Wednesday and Thursday and Village Employee Kirk Vanderbilt will be available if needed.

DISCUSSION – OPERA BLOCK

Deputy Supervisor Cole reported on the following:

The elevator people still have not been here and were called more than two weeks ago.

The door lock from the State Bank to the Opera Block was fixed today.

An adjustment was made to the light sensors in upstairs hallway and they are now working well.

All the outside lights are working and can be adjusted to be turned on and off at specific times.

Another court grant was approved in the amount of \$18,000.00. The number of files being used by the Village Court was discussed.

It was recommended to release all of the dollars for O'Connell Electric.

DISCUSSION - ASHANTEE PLANNED UNIT DISTRICT (PUD) ZONING

Supervisor LeFeber welcomed Bruce Clarke, Helge Heen, Bruce Howlett and his Attorney, Mr. Howard.

Attorney Campbell led the discussion asking Mr. Clarke to share his concerns. Bruce Clarke shared his concerns, including but not limited to the following:

He researched the property before purchasing.

The use of the riding hall was not and is not an approved use.

He has lived on the property for nine years.

The truck traffic vibrates his home and the noise level is high.

Property was sold by Helge Heen with his knowledge of the limited zoning of the property and what Mr. Howlett's intended use of the property did not fit.

The residents are looking to the Town for relief
He feels bad for Mr. Howlett
His dog ate poison from the riding hall.

Attorney James Campbell asked if use has changed since the sale of the property and Mr. Clarke responded that since the sale the properties use has become a commercial business.

Attorney James Campbell then asked, what are you experiencing throughout the year? Mr. Clarke replied that it's not just a farmer, it's a commercial business, there is a generator in front of the place, corn dust with the trucks operating within the building, sometimes you can not see the trucks inside due to the dust. The things keep snowballing.

He continued stating another barn is owned by a neighboring resident Mr. & Mrs. Gunther, but they do not own the property. When it was built there was no public notice.

Attorney James Campbell asked Mr. Howard to address the Board and he stated that his client Mr. Howlett rented the space for several years before his purchasing. Nothing has been recorded at the County Clerk's Office that would have told the owner that the intended use was not allowed. The building has been used by King Cole Bean and Birds Eye for the same use in past years. Mr. Howlett is an active farmer that needs a place to be used for storage. He sympathizes with the residents concerns and would like to assist in a resolution.

Mr. Clarke stated the use is to store in the fall over a two to three week period. Harvesting soy in October and corn in November and remove as needed. When it rains the ten wheelers can not harvest so they are used to transport.

Attorney James Campbell suggested the parties meet to resolve what is best for the them and execute an agreement. Some of the discussion could include the use of fans, generators and/or restricting the time of truck traffic.

Attorney James Campbell further stated he has reviewed the Town files and he did not know if the zoning classification was completed properly. Mr. Clarke stated that the PUD talked about each parcel and it's allowed use and grain storage was not an approved use.

Town Clerk Knight provided the following documentation received in the Town Clerk's Office to be inserted in the minutes as follows:

White Paper
"Ashantee Riding Hall"

April 7, 2010

John and Mary Liccini
4575 Ashantee Lane Avon, NY 14414
Phone 226-2415

RECEIVED

APR 7 2010

CHRISTOPHER M. KNIGHT
TOWN CLERK / TAX COLLECTOR

Ladies and Gentleman of the Avon Town Board,

We regret we can not be present at the board meeting this week on April 8, 2010. I am the Acting Frontline Manager of the Federal Aviation Administration Flight Standards District Office, Rochester, NY, this week and my duties prevent me from being out of contact with the Emergency Communications Center.

I would like to take this time to present our views on the use of the Ashantee riding hall as a grain storage facility.

History: When we bought the house in August of 1995, at 4575 Ashantee Lane we were told that this area was a planned development area of residential housing. There was to be a central conservatory of approximately 70 acres with development housing surrounding the perimeter. The zoning was "agricultural". The riding hall was vacant at the time. This residential planning was clearly reflected in the Multiple Listing Service advertisement, see exhibit #1. This also was reflected in the contract to purchase the house and we, as buyers were required to construct at least a 2 car garage within the first 24 months after purchase. See exhibit #2. To keep with the residential development, the garage architecture was to compliment the house and was to be pre-approved by Mr. Helga Heen before submitting the plans for a building permit to the Town of Avon. This was all accomplished at our expense.

Approximately 4 years ago we noticed that the "Riding Hall" was being used as a grain storage facility. To the best of my knowledge, for the first two years the storage and truck traffic was light and I assumed that a local farmer was storing his crop for the winter. About two years ago, the truck traffic increased dramatically and I noticed the inside of the building was modified with very high (10 foot to 14 foot) concrete barriers on three sides to accommodate increased storage capacity. I assumed Mr. Heen or a local farmer made the modification. In October, 2009 my neighbor, Mr. Joseph Schill stated that the "Riding Hall" was sold to Howlett Farms, Inc. and they were responsible for the modification and increased truck traffic.

Current issues:

1. Zoning: To our understanding, the area is zoned as "agricultural". Howlett Farms, Inc. is listed in the New York State Department of Agriculture and Markets as a licensed farm product dealer. See exhibit #3. As such Howlett Farms, Inc. buys, sells and possibly manages large quantities of grain from area farmers. In practice, Howlett Farms, Inc. stores grain when the market price is low and sells grain when the market prices rise. Webster's New World Dictionary defines this activity as a merchant, not a farmer. To our understanding, Howlett Farms, Inc. (a merchant) is operating a commercial enterprise as the grain stored is not the grain grown by Howlett Farms, Inc. To put this situation in perspective, we see no difference dealing in grain as dealing in agricultural tractor sales. A company such as Lakeland

Equipment, a local agricultural tractor and implement dealer, would not be allowed to operate their commercial business in a zoned agricultural area with planned residential housing.

2. **Truck traffic and electrical generator noise:** Heavy tractor trailers loaded with approximately 80,000 lbs of grain are proceeding up a moderate incline to the "Riding Hall" during the autumn harvest and down the same residential road during spring. During these times the commercial traffic volume is constant, possible 6 days a week for weeks on end. At times it starts as early as 0700 hours and continues after dark. In addition, between the above periods of autumn and spring, occasional truck traffic at random times are noticed. These commercial trucks generate loud, almost thunderous noise as they pull the grade to the "Riding Hall", brakes squealing as they stop and the warning beepers blaring as they back into the building amplified by the cavernous interior. These 50 ton commercial rigs (40 tons of grain and 10 tons of truck and trailer) consume most of the road width and may be overstressing the road bed itself. Although we do not have young children at home at this time, if we have grandchildren, we would see these commercial trucks and the associated high volume of traffic as a danger to children riding bicycles and playing in our residential area. We stand united with the Schills and the Clarks in expressing our alarm and concern for the safety of their children. Electrical generators are kept running constantly all through the day, sometimes 12 to 14 hours each day and the noise is annoying to say the least. There is no longer a peaceful autumn or spring day listening to the one note moan of the gasoline powered generator and fan.
3. **Public Health Issues:** Commercial Grain storage presents multiple and unique hazards for both the workers and people nearby the storage facilities, especially when storage is placed in a residential area. The following is a brief summary of these hazards:
 - a. **Vermin,** all matter of vermin are attracted to grain, particularly when stored in a building that is less secure than a silo or manufactured bin designed expressly for grain storage. The "Riding Hall" has multiple cracks in the concrete and floor, openings in the fiberglass windows and cupolas and the doors do not fit tight to the ground or walls. Rats, possums, raccoons, skunks and pigeons are all scavengers that are attracted to grain and can easily spread disease through contact and feces droppings. Children are especially susceptible to being infected. The poison applied to the area is best regarded as a reactive measure and not preventative and can be a danger into itself. Mr. Schill's dog was inadvertently poisoned last year by the same bait meant for vermin.
 - b. **Corn Dust, associated grain toxins and pesticide particulates,** the ventilation fans drive a large amount of corn dust from the "Riding Hall" in the direction of residential housing. At times, it coats the lawn, buildings and cars and sifts inside the homes. The typical affects for people of regularly breathing corn dust include, but are not limited to, asthma, respiratory infections, loss of respiratory efficiency and allergy reactions to corn and other grains due to a build up of dust in the lungs. Stored grain temperature must be closely monitored, something we have never seen Howlett Farms, Inc. perform, to prevent stimulation of bacterial growth and mold which can trigger violent reactions in some people. Pesticide particulates come with the dust due to the fact that they were applied to the grain during the growing season. The long term affects of inhaling these pesticide particles are largely unknown but can not be regarded as safe by any means, especially for developing children. See exhibit #4.
 - c. **Grain storage facility explosions and fire.** Risk of explosions and fire with resulting loss of life, injury and property damage is all too frequent and real. When they occur, they are stunningly brutal and catastrophic. Exposing residential home owners and their families to

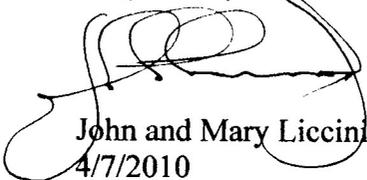
this real and ever present danger 24/7 is a highly risky endeavor which compromises their general safety and well being. It unnecessarily exposes the Town of Avon to increased risk of law suit if such an explosion occurs at the "Riding Hall". A brief search on the internet resulted in 610,000 results for "corn dust explosions". See exhibit #5

Suggested Corrective actions:

Option #1 Allow only true agricultural uses as defined by the zoning law. Upholding the law is the obvious and safest solution. We wonder why the Avon Town board and/or the original owner, Mr. Helga Heen, or the present owner, Howlett Farms, Inc. have been slow to take this measure when there appears to be clear safety hazards, inconvenience to residential home owners and a breaking of trust at the time of property purchases. The matter of trust relates to the agreement at the time of property purchase to build a garage to compliment the residential planning. We are only asking fair and equal treatment in that if we were required to build a garage to maintain the residential plan, then other parties should be held to the same result. That is, use the "Riding Hall" for true agricultural purposes and not commercial purposes masquerading as agricultural uses.

Option #2 Restructure the "Riding Hall". Restructuring the "Riding Hall" and access to the Hall to minimize the above issues could be an option. It would involve bringing full electrical power to the building, positively sealing the floor, walls, and roof. The overhead doors should be moved to the south side of the building and all venting should be to the south facing overhead doors. Road access by trucks would then be from a new road beginning at route 39 and approaching the "Riding Hall" from the south side facing Far View Golf Course. All these modifications would minimize truck traffic, noise, public health, venting and vermin issues. The explosion and fire hazard will continue however, as that may be impossible to be reasonably mitigated. Further, the Avon Town Board should rezone the area as residential and issue a variance to Howlett Farms, Inc. The variance also should state that Howlett Farms, Inc. does not further develop the site for increased grain storage. The variance should further state that once Howlett Farms, Inc. sells or transfers the property the variance will expire and all grain storage or commercial enterprise will cease.

Respectfully submitted,



John and Mary Liccini
4/7/2010



Attachments

Original search criteria:

APR 11 / 2010

MLN: 746370
 GRAR MLS SINGLE FAMILY RESIDENTIAL
 ML# 746370 AD 2194 /AVON-GENESED ROAD Area 122/AVON Stat A
 NStr FOWLERVILLE ROAD Subdiv Lot Auction #I 0
 Cnty LIVINGSTN TM# 00000000000000000000000000000000 Zip 14414 YrBlt+/- 1900/
 School 242001/ AVON LotSz+/- 245X250 / Acres+/- 2.00

OFFICE INFORMATION

LA PublicID 2043 Broker YNLFO1 Offc Phn 716-243-3553 Fax# 716-243-5048
 LA Name LINFOOT, JOHN LA Home Phn 716-243-4707 2nd Phn 716-243-2110
 Owner Name HEEN, HELGE Owner Phn 716-382-3180
 CS 3 CB 3

GENERAL INFORMATION

Type EXISTNG/ / #Bedrms 3 / #Baths 2 / #Rms 8 1st 1 1 0
 Style CAPECOD/ / Constrc VINYL / 2nd 2 1
 Garage .0/ / Drivewy STONE / /
 Basemnt FULL / / Floors W/WSM /WOODSM /
 Attic CRAWLSP/ / Kit/Din EAT-IN /FORMAL /
 Lot Inf PRIV-RD/ / / / / WtrFr N/

Rem: NICELY RENOVATED COLONIAL IN AN AREA OF LARGE LOT HOMES. IT WILL BE RE-
 QUIRED THAT THE PURCHASER CONSTRUCT A 2 CAR GARAGE SATISFACTORY TO OWNER.
 BROKEN OUT OF A LARGE PARCEL. TAXES AND ASSESSMENT TO BE DETERMINED.

Dir:

INTERIOR AND EXTERIOR FEATURES

EXHIBIT

Add Rooms OPENPORC/ / / / /
 Inter Feat 220ELEC /COPPERSM/ / / / /
 KitchAppl DISHWSHR/ / / / /
 Exter Feat / / / / /
 Strm/Scrn COMBOSM / / / Firepl NONE /
 Handicap / / / / Insul WALLSM / /

UTILITIES INFORMATION

Heat/Cool FORCAIR / / / / /
 Sewer SEPTIC / / / WtrHeat ELEC /
 Water PUBLICAV

FINANCIAL INFORMATION

Possible Fin CONV / / / / /
 Existing Fin / / / / /
 1st Mtg Bal \$ 2nd Mtg Bal \$ Cash to Asm \$
 1st Mtg Pmt \$ 1st Pmt Incl 1st IR %
 1st Mtg Hold 1st Mtg Acct 1st Mtg Due
 Escrow Agent KEY BANK Total Tax \$ 0 Assessments \$ 0
 Assessed Val \$ 0 MO HOA Fee \$

SHOWING, OCCUPANCY AND PHOTO INFORMATION

Show Inst LISTER / / / Occup ATCLOSE / /
 Photo Inst PHOTOSUB Photo Real

-THIS INFORMATION IS CONFIDENTIAL, DEEMED RELIABLE BUT NOT GUARANTEED-

PROPOSED ASHANTEE DEVELOPMENT

- GOALS :
1. To develop certain areas only and leave the rest as farmland or woodland to be guaranteed as such through a conservancy forever.
 2. To make the pond and stream available as a nature conservancy and the riding hall as a center for horses.
 3. To develop a unique area with the above features as well as the nearness to the Farview Golf Course and in some cases exceptionally good views of the Genesee Valley and other surroundings.
 4. To use existing roads and driveways without disturbing the country any more than necessary, limiting the roads to be dedicated to the town to a minimum, relying to a great extent on private driveways.

CONDITIONS :

1. The development will progress in stages.
 - A. STAGE I has the required roads in place. Some driveways need to be completed and should proceed first. Water is now available for 9 units. The water system will be enlarged and updated when the proposed main waterline has been completed to the Fowlerville Road.
 - B. STAGE II needs a road along the Farview Golf Course boundary as well as the completion of the proposed waterline along that boundary before it can be undertaken.
 - C. STAGE III will start when STAGES I & II are well under way. STAGE III will have some larger lot sizes and allow the building of a barn for a few horses.
 - D. Townhouses are proposed for the east side of the pond. There are about four acres for this.

2.
All the people at Ashantee would have access to the pond and stream at certain areas as well as the riding facilities. A conservancy will be formed to manage this with a yearly fee for upkeep.

RESTRICTIONS :

The houses must be two stories and have at least 2000 sq, ft. All outside chimneys must be covered by brick, masonry or stone or be sided the same as the house.

The fences must be of wood or wood faced.

Outdoor storage of equipment will not be allowed.

The STAGE II houses may be restricted to 2500 sq. ft. or larger.

Helge Henn
5/25/92

EXHIBIT
2

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APR X 7 2010

CHRISTOPHER M. KNIGHT
TOWN CLERK / TAX COLLECTOR

SUPPLEMENTAL AGREEMENT

HELGE K. HEEN AND LESLIE C. HEEN, hereinafter "Seller" and JOHN L. LICCINI, JR. and MARY M. LICCINI, hereinafter "Buyer" hereby agree, covenant and represent as follows:

Regarding the sale of premises at 2194 Avon-Geneseo Road:

1. Seller agrees to install a new water line at the premises in order to accommodate, facilitate and be in compliance with the requirements of any new subdivision and/or water district rules and regulations.

2. Seller and Buyer have agreed that Buyer will construct a new garage at the premises, specifically, two car garage matching and/or architecturally complementing the existing home and exterior finish color and roof slope to be completed one year from the date of the completion of sale; Seller reserves the right to approve the plan for the same.

3. It is anticipated that the Buyer may position the garage so that it may be constructed above the new water line.

4. Seller agrees that if there should be some deficiency in the water line, other than any damage caused by Buyer, Buyers' agents, contractors, or employees in the construction of the garage, that Seller will reroute and install a replacement or repaired water line at the premises.

5. Buyer agrees to pay to the Seller those sums due and owing for water service at the premises within ten (10) days of presentation to Buyer of a water bill and meter reading from the meter at the premises.

Helge K. Heen

Helge K. Heen

Leslie C. Heen

Leslie C. Heen

John L. Liccini, Jr. by Mary M. Liccini, Attorney in fact

John L. Liccini, Jr.

Mary M. Liccini

Mary M. Liccini

STATE OF NEW YORK)
) SS.:
COUNTY OF LIVINGSTON)

On this 31st day of August, 1995, before me, the subscriber, personally appeared Helge K. Heen and Leslie C. Heen, to me known and known to me to be the same person described in and who executed the foregoing Instrument, and they duly acknowledged to me that they executed the same.

Traci A. Sporno

Notary Public

TRACI A. SPORNO
Notary Public, Reg# 6021472
State of New York, Monroe County
My Commission Expires December 13, 1995

STATE OF NEW YORK)
) SS.:
COUNTY OF LIVINGSTON)

On this 30 day of August, 1995, before me, the subscriber, personally appeared John L. Liccini, Jr. and Mary M. Liccini, to me known and known to me to be the same person described in and who executed the foregoing Instrument, and they duly acknowledged to me that they executed the same.

by Mary M. Liccini, attorney in fact

[Signature]

Notary Public

STEPHEN J. PHETERSON
Notary Public in the State of New York
Commission expires Aug. 31, 1997

NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

Directory of Licensed Farm Product Dealers

for the license period May 1, 2009 to April 30, 2010

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APR X 7 2010

The following is a current listing of all farm product dealers who are licensed by the Department of Agriculture and Markets. This list is updated weekly. For daily updates, please call 1-800-554-4501. Producers should verify a dealer is licensed before making delivery of farm products.

SALESMAN KNIGHT
TOWN CLERK / TAX COLLECTOR

| LICENSEE | DBA | ADDRESS | TELEPHONE |
|--------------------------------------|----------------------------------|--|----------------|
| 5 KINDER FARM, LLC D/B/A | IMAGINE MOORE FINGER LAKES WINES | 197 N. MAIN STREET NAPLES NY 04512 | (585) 690-0140 |
| A & J PRODUCE CORP | | 138-144 NYC TERMINAL MARKET BRONX NY 10474 | (718) 589-7877 |
| ACKERMAN-BEARDSLEY- BENNETT, INC. | | 454 HURRICANE LN. PO BOX 556 WILLISTON VT 05495 | (802) 863-9850 |
| ADM MILLING CO. | | 250 GANSON ST. PO BOX 487 BUFFALO NY 14240 | (913) 491-9400 |
| ADM MILLING CO./HUDSON | | PO BOX 398 ROUT 28B HUDSON NY 12534 | |
| AGRIFROST, LLC | | 156 W. HARRISBURG AVE. PO BOX 9 RHEEMS PA 17570 | (717) 361-8972 |
| ALESSI, CHARLES J. & SUSAN SR. | | 11328 GOWANDA STATE RD. N. COLLINS NY 14111 | (716) 337-2400 |
| ALLEN FEED SERVICES, INC. | | RTE. 34B, PO BOX 8 POPLAR RIDGE NY 13136 | (315) 364-7984 |
| ALLEN WARREN L. | DBA W&E ALLEN | 10131 RESHA RD. CASTORLAND N | (315) 346-6706 |
| ALLEN'S INC. | | 180 STATE STRE BROCKPORT NY | |
| ALLEN'S INC | | 15 CHURCH STF BERGEN NY 144 | |
| ALLEN'S INC | | 40 STEVENS ST OAKFIELD NY 1- | |
| ALLEN'S, INC. | | 305 EAST MAIN BOX 250 SILOAM SPRING AR 72761 | |
| ALLSTATE APPLE EXCHANGE, INC. T/A | HUDSON RIVER FRUIT DIST. | 65 OLD INDIAN RD., PO BOX 246 MILTON NY 12547 | (845) 795-2121 |
| AMERICAN FRUIT&VEGETABLE CO., INC | | 205 MUSHROOM BLVD. ROCHESTER NY 14623 | (585) 427-7715 |
| AMPKO DISTRIBUTION SERVICES, LLC | | 889 HARRISON AVE. 3RD FL. POB 777 RIVERHEAD NY 11901 | (631) 369-7000 |
| ANDY'S PRODUCE INC. | | 101 W. COURT ST. SYRACUSE NY 13204 | (315) 471-3332 |
| ANTHONY ROAD WINE CO INC | | 1225 ANTHONY RD. PENNYAN NY 14527 | (315) 536-2182 |
| ANTONUCCI WHSLE PRODUCE CO., INC | | 274 S. MAIN ST. GLOVERSVILLE NY 12078 | (518) 726-2189 |
| APPLE ACRES, LLC | | 4833 CHERRY VALLEY TURNPIKE LAFAYETTE NY 13084 | (315) 877-5144 |
| APPLE KING PRODUCE PACKAGING | A WAREHOUSE CORP | 38 WISNESKI RD GOSHEN NY 10924 | (845) 339-0164 |

EXHIBIT
#3

SEE 2ND PAGE

| | | | |
|---------------------------------------|---------------------------|---|----------------|
| HEWITT BROS., INC. | | 147 LOCKE NY 13092 | (315) 497-0900 |
| HINERWADEL'S, INC. | | 5300 W. TAFT RD. N SYRACUSE NY 13212 | (315) 458-1050 |
| HITT'S, J. E. HAY & STRAW, LLC | | 5433 STATE HWY 12 NORWICH NY 13815 | (607) 334-2778 |
| HOFFMAN, E. WILLIAM | | 10980 TRANSIT RD. PAVILION NY 14525 | (585) 734-3935 |
| HOLLAR & GREENE PRODUCE CO., INC | | 230 CABBAGE ROW PO BOX 3500 BOONE NC 28607 | (828) 264-2177 |
| HOLLENBECK, ARTHUR J. & SON, INC. | | 5 CATATONK LANE OWEGO NY 13827 | (607) 687-2509 |
| HOUGHTON FARM SUPPLY, INC. | | 15194 NYS RTE. 193, PO BOX 876 PIERREPONT MANOR NY 13674 | (315) 465-5311 |
| HOUSE OF BARI FOODS, INC. | | 220 RAPHAEL AVE. SYRACUSE NY 13211 | (315) 455-7353 |
| HOWLETT FARMS, INC. | | 1112 E. RIVER RD. AVON NY 14414 | (593) 746-2122 |
| HUDSON VALLEY FRUIT JUICE, INC. | | 33 WHITE ST. HIGHLAND NY 12528 | (973) 399-0101 |
| HUNT COUNTRY VINEYARDS, LLC | | 4021 ITALY HILL RD. BRANCHPORT NY 14418 | (315) 595-2612 |
| INTERNATIONAL TRADE MARKETING, INC | | 3422 SHOAL LINE BLVD. HERNANDO BEACH FL 34607 | |
| INTERNATIONAL TRADE MARKETING, INC | | 202 LAKE MIRIAM DRIVE LAKELAND FL 33813 | |
| INTERNATIONAL TRADE MKTG., INC. | | 220 FOOD CENTER DR. BRONX NY 10474 | (631) 270-7388 |
| INTERSTATE COMMODITIES INC. | | 7 MADISON ST., PO BOX 607 TROY NY 12081 | (518) 272-7212 |
| INTERSTATE COMMODITIES, INC. | BRANCH-NORTHEAST BIOFUELS | 376 OWENS RD FULTON NY 13069 | |
| J J FEEDS, INC. | | 145 COUNTY RTE. 33 CENTRAL SQUARE NY 13036 | (315) 668-2671 |
| J. MARGIOTTA CO., LLC | | 100-105 NYC TERMINAL MKT BRONX NY 10474 | (718) 378-5300 |
| JACOBSON FARMS, INC. | | 272 MAC DOUGALL RD. FULTON NY 13069 | (315) 598-8850 |
| JACOBSON, BURT D. | DBA BURT'S PRODUCE | 142 BLACK CREEK RD. OSWEGO NY 13126 | (315) 529-2685 |
| JADOS, JOSEPH J. | | 177 PULASKI HIGHWAY, PO BOX 11 PINE ISLAND NY 10969 | (845) 258-4118 |
| JANOWSKI BROS., INC | | 3912 STATE RTE. 26 VERNON CENTER NY 13477 | (315) 829-3771 |
| JAYA PRODUCE, INC. | | 114 N. 13TH ST. BROOKLYN NY 11211 | (718) 599-1600 |
| JEFFERDS, MARGARET R. | | 464 RTE. 446 CUBA NY 14727 | (718) 968-3005 |
| JOEY'S BROKERAGE OF SYRACUSE | NEW YORK, INC. | 2100 PARK ST SYRACUSE NY 13206 | (315) 471-6354 |
| JUDSON'S, INC. | | AUSTINVILLE RD. PO BOX 67 COLUMBIA CROSS RD PA 16914 | (570) 297-2150 |
| KANIK, PETER CHRISTIAN | DBA PETE'S SWEETS | PESHA RD CASTORLAND NY 13620 | (315) 773-3742 |
| KATZMAN, S. PRODUCE INC. | | 153-157 NYC TERMINAL MARKET BRONX NY 10474 | (718) 391-4100 |
| | DBA CATSKILL MOUNTAIN | 65 CHARLIE WOOD RD | |

Hypersensitivity pneumonitis due to occupational inhalation of fungi-contaminated corn dust

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¹ Allergy Unit, Hospital Virgen del Puerto, Plasencia (Cáceres); Spain

² Centro de Salud, Castillo de Bayuela (Toledo); Spain

Abstract: Hypersensitivity pneumonitis or extrinsic allergic alveolitis can be defined as a lung disease caused by a wide group of antigens that reach the lung by inhalation of organic and/or inorganic dust of various sources. The dust of the stored maize corn has been reported as cause of respiratory symptoms. During the storage process, maize corn dust can be contaminated by moulds and thermophilic actinomycetes, which have not been described until now as the causing antigens of these symptoms. We present a case of occupational hypersensitivity pneumonitis in an agricultural worker who cultured and stored maize corn. Clinical findings, precipitating antibodies, and evolution after having removed him from his work, confirmed the diagnosis. In our case, *Aspergillus* species contaminating the maize corn dust are probably the antigens that caused the disease.

Key words: Hypersensitivity pneumonitis, *aspergillus ssp*, maize, corn, farmer, molds, fungi

Introduction

Hypersensitivity pneumonitis (HP) or extrinsic allergic alveolitis can be defined as a lung disease caused by a wide group of antigens that reach the lung by inhalation of organic and/or inorganic dust from various sources [1, 2]. Despite extensive studies the exact immunologic mechanisms of HP are not fully known. Antigen exposure stimulates the formation of circulating IgG antibodies in exposed individuals. The clinical findings in HP with the presence of these antibodies in sera have been considered to match the concept of an immune complex-mediated reaction. HP is characterized both by proliferation of CD8+ cytotoxic lymphocytes and by an exuberant production of antibody, especially IgG, presumably from proliferation of plasma cells stimulated by CD4+ TH1 lymphocytes. Both these pathways start after inhaled antigen-carrying particles are ingested by macrophages [1, 2]. Unfortunately, many of the details of the cellular interactions that are responsible for the immunopathogenesis of HP are still obscure. The corn dust has been also involved in respiratory diseases [3, 4].

We report a case of HP due to fungi-contaminated corn dust in a farmer.

Case report

A 50-year-old non-smoking man was seen with an history of progressive dyspnoea, fatigue, unproductive cough, and chest tightness. No personal history of atopy was present. He had been working at a corn plantation for 15 years. Initially, the appearance of symptoms occurred 4 to 6 hours after occupational exposure to dust of stored corn dust, with accompanying fever, chills, and general malaise. He tolerated the green corn dust environment. On holidays these symptoms decreased but they progressively became permanent. After a weekend, the occupational exposure resulted in severe recurrence of the disease, and hospital admission was needed.

Crackles were heard on chest auscultation. Blood differential count showed 14300 leukocytes/mm³, predominantly neutrophils, without eosinophilia. Arterial blood gas determinations revealed a pH of 7.4, a PaCO₂ of 35.3 mmHg, and a PaO₂ of 60 mmHg. A chest roentgenogram showed bilateral micronodular infiltrates. Gallium-67 lung scanning showed an uptake of 67% (normal value, <60%). High-resolution computed tomography showed a diffuse "ground glass" pattern with septal thickening and small centrilobular nodules.

Pulmonary function testing showed a total lung capacity of 71% predicted, functional residual capacity of 75% predicted, forced vital capacity of 72% predicted, forced expiratory volume in 1 second of 82% predicted, and carbon monoxide diffusion in the lungs of 70% predicted. The patient exercised by Bruce's protocol, which showed arterial oxygen desaturation from 90% at baseline to 82% after 4½ minutes. Total lung capacity, as determined by plethysmography, was 71% of predicted value. Single-breath carbon monoxide diffusion test revealed a carbon monoxide transfer lung capacity of 70% of predicted value.

Bronchoscopy findings showed normal gross anatomy. Bronchoalveolar lavage (BAL) was also performed. Results of BAL fluid cultures for bacteria, fungi, and mycobacteria were negative. BAL fluid cell count showed a predominance of lymphocytes, 45%; with 40% alveolar macrophages, 10% neutrophils, and 5% eosinophils. Histological findings of a transbronchial biopsy showed mild interstitial lymphocyte infiltrate with occasional epithelioid non caseating granulomas.

Allergy study

On the basis of this information, a presumptive diagnosis of occupational HP due to corn dust was made. Skin prick tests with aeroallergens were negative, including immediate and delayed reading to the fungi skin prick tests.

As manufacturing procedures of corn storage could favour mold contamination, a fungal culture of the corn dust of our patient was performed. It showed a luxuriant growth of several species of *Aspergillus*.

A corn dust extract was made with several samples from the patient's warehouse. These samples were crushed to obtain a thin dusty material. Two grams of this dusty material were diluted in 20 ml of phosphate-buffered saline (PBS). The solution was shaken for 24 hours and then passed through a 0.22 µm Millipore filter (Millipore Corp., Bedford, Mass.). Intradermal test with this extract was positive at 6 hours. Intradermal tests with *Aspergillus fumigatus* extract was positive at 6 hours, whereas no reaction was observed to other allergens.

Total serum IgE was 50 kU/L. Specific IgE antibodies to fungi and grass pollens were assessed by CAP system (Pharmacia, Uppsala, Sweden) with negative results. Precipitating antibodies IgG to fungi and grass pollens were measured by fluoride-enzyme-immuno-analysis (FEIA, CAP system, Pharmacia, Uppsala, Sweden). Precipitating antibodies were detected against *Aspergillus fumigatus*, *Aspergillus clavatus* and *Aspergillus* ssp. Precipitating antibodies against the same molds were also detected in BAL fluid. Specific IgG antibodies against corn dust were not detected by the ELISA method. Precipitating antibodies against the extract of patient's corn dust were detected by the

Outcherlony method of immune-diffusion. Precipitating antibodies against corn dust were not detected. Analysis of the patient's serum did not reveal precipitins to other common antigens, including thermophilic actinomycetes. While the patient was hospitalized undergoing evaluation (with a 4-week sick leave) his symptoms decreased and his PaO₂ as determined by room air arterial blood gases increased to normal value (PO₂ 85 mmhg), with a short course of corticosteroids. Complete pulmonary function testing was normal after 6 months. He went home without any therapy. He has not resumed work, and no symptoms have been referred to date.

Discussion

HP is the result of a cell-mediated immune response of the lung to a wide variety of inhaled antigens. The mainstay of diagnosis and management is a careful exposure history and further avoidance of the causative agent if it is identified. With further clarification of the eliciting agents, molecular and immunobiologic mechanisms, and staging scheme, targeted and stage-specific therapeutic strategies might also improve clinical outcomes [2]. The most common hypersensitivity pneumonitis occurring in the farm environment is farmer's lung, which is classically caused by exposure to various thermophilic actinomycetes that grow in hay, compost, and silage [1,2]. The environmental conditions of corn dust favoured the contamination by molds. It is important to look for these agents to assess the real etiology of each case (5-9). In our patient, HP due to inhalation of fungi-contaminated corn dust was diagnosed. It illustrates the value of a site visit in the diagnosis of occupational lung disease. Clinical findings, positive precipitins, and evaluation of the patient confirmed the diagnosis without needing inhalation bronchial challenge, and ruled out the grain-dust-induced airway disease caused by endotoxin [1-4]. In our patient, the antigens of *Aspergillus* species are the etiologic agents of the HP.

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Viable Fungi in Corn Dust

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Department of Environmental Health, University of Cincinnati, Cincinnati, Ohio 45267²; *Northern Regional Research*
Center, Agricultural Research Service, U.S. Department of Agriculture, Peoria, Illinois 61604³

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Numbers of viable fungal propagules in corn dusts in southern Georgia were estimated during various farm and grain elevator operations in 1979, 1980, and 1982. A six-stage Andersen sampler for viable microbial particles was used to sample the dusts with various agar media. The most abundant fungi in corn dusts were species of yeasts: *Aspergillus*, *Penicillium*, *Cladosporium*, *Alternaria*, *Helminthosporium*, and *Fusarium*. However, the relative abundance of these fungi differed between years. There was a greater incidence of the *Aspergillus flavus* group in the hot, dry year of 1980 compared with the cooler, wetter years of 1979 and 1982. Fungi in the corn dusts sampled numbered between 10^4 and 10^9 viable propagules per m^3 of air. By contrast, outdoor air often contained fewer than 10^4 viable fungal propagules per m^3 . Most *A. flavus* propagules were deposited at stages three and four of the Andersen sampler, which correspond to the trachea, primary bronchi, and secondary bronchi in the human respiratory system. In an assessment of the air spores by exposing sterile petri dishes, more large-spored fungi, like *Alternaria tenuis*, and fewer small-spored fungi, such as *A. flavus*, were detected when compared with colony counts from petri dishes exposed to air in the Andersen sampler.

Spores and other organic particles of actinomycetes, bacteria, and fungi are almost always present in air (6, 9, 10, 12, 15, 22), but their concentration can be affected by many farm operations (14, 16) and by handling and processing food and feed after harvest (4, 13, 15). Microorganisms may be present in large numbers in the clouds of dust which swirl around combine harvesters. From 10^6 to 10^8 spores have been measured per m^3 of air at the cutter bar and at the straw discharge. Spore numbers usually are $<10^5/m^3$ outdoors; however, handling moldy grain or hay indoors can result in more than 10^9 spores per m^3 of air (14, 16).

Fungal spores in dust are important because some fungi are pathogenic and can cause three main types of disease in humans: allergy, poisoning, and infection. Allergy may be defined as the acquired, specific, altered capacity to react (19) after exposure to an allergen and is characterized by a reaction not present before sensitization (17). Allergic reactions may be immediate or delayed for several hours after exposure to the allergen (18). The type of allergy caused by inhalation of spores depends on the constitution of the subject, the nature of the inhaled particle, and the degree of exposure (15). Poisoning is caused by the ingestion of toxic fungal metabolites (mycotoxins) in food or in inhaled particles (20). In infection (mycosis), living tissue is invaded by fungal mycelium (3, 11).

In some previous aerobiological studies, the air spores were measured with gravity samplers (such as sticky microscope slides or horizontal petri dishes filled with sterile nutrient medium) (5, 10, 22). In other studies, the air spores were measured with suction traps, which were intended to parallel the respiratory tracts of humans and animals (9, 13-15). The incidence of airborne viable propagules of the *Aspergillus flavus* group in the United States has been investigated only rarely (5, 9; M. G. Holtmeyer and J. R. Wallin, Bull. Mo. Acad. Sci. Suppl. 6, p. 7, 1978; M. G. Holtmeyer and J. R. Wallin, Phytopathol. News 12, p. 204-205, 1978).

In this study, numbers of viable fungi in dusts in southern Georgia associated with combine-harvesting, handling, drying, grinding, and feeding of corn were estimated.

MATERIALS AND METHODS

Spore sampling. A six-stage Andersen sampler for viable microbial particles (1, 2), with an airflow rate of 0.028 m^3/min , was used to sample dusts. Initial sampling time was 30 s; however, problems were encountered with overloaded petri dishes. Sampling times were reduced to as little as 5 s (according to the concentration of the dust sampled). With such short sampling periods, the time taken to attain the correct airflow rate through the Andersen sampler represented a large fraction of the total sampling time. To achieve a proper airflow rate through the Andersen sampler, a rubber adapter was used to mate the inlet orifice of the Andersen sampler to the holder of a glass fiber filter (203 by 254 mm); this excluded virtually all fungal particles but did not measurably affect the airflow rate. Samples were taken by removing this filter from the orifice for the duration of the sampling period. For convenience and practicality, sterile plastic petri dishes, each of which contained 45 ml of medium, were used in the Andersen sampler. Sorenson et al. (23) achieved results comparable to those obtained with glass petri dishes with this volume of medium.

Assessment of the microflora. Media used were 2% malt extract agar (21), 10% malt salt agar (malt extract plus 10% NaCl), and a medium selective for the isolation of *A. flavus* and *Aspergillus parasiticus* (7). After exposure, petri dishes were placed in an incubator at 26°C for 3 to 7 days. Fungi were identified to genus and species, with special emphasis on *Aspergillus* and *Penicillium* species. Numbers and kinds of fungal colonies, both on Andersen sampler plates and on petri dishes exposed to air in various locations for 1 to 5 min, were determined. Numbers of viable fungal propagules per cubic meter of air were calculated (9).

Dust samples and locations. Combine harvester dusts were sampled in 1979, 1980, and 1982 on farms in several counties of southern Georgia. Dusts associated with augering freshly

* Corresponding author.

TABLE 1. Viable fungal component of corn dusts in southern Georgia in 1980 and 1982^a

| Fungus | Corn dust at grain elevator during unloading from trucks (1980) | | Corn dust behind combine harvester (1982) | | Corn dust from loading truck (1982) |
|---------------------------------|---|-------|---|-------------------|-------------------------------------|
| | Range | Mean | Mean a.m. samples | Mean p.m. samples | Mean |
| <i>Aspergillus flavus</i> group | 0.01–0.55 | 0.15 | 0.03 | 0.02 | 0.04 |
| <i>Cladosporium</i> spp. | <0.01–0.01 | <0.01 | 0.04 | 0.21 | 0.02 |
| <i>Fusarium</i> spp. | 0.0–<0.01 | <0.01 | <0.01 | 0.0 | <0.01 |
| <i>Penicillium</i> spp. | 0.002–0.01 | 0.01 | 0.08 | 0.17 | 0.01 |
| Yeasts | 0.0–0.01 | 0.01 | 0.04 | 0.06 | 0.02 |
| Other fungi | 0.002–0.02 | 0.01 | 0.01 | 0.03 | 0.01 |
| Total fungi | 0.033–0.49 | 0.18 | 0.20 | 0.49 | 0.10 |

^a Spore density was estimated in millions per cubic meter of air with an Andersen sampler.

harvested corn from combine harvesters into trucks were sampled in 1979 and 1982. Dusts generated by transport of corn into and out of a grain elevator were sampled during each of the three years. In 1979 dust blown from corn in a warm-air drier was sampled, and in 1980 corn dusts associated with feed grinding indoors and pig feeding in the sow house of a total confinement pig rearing operation were assessed.

RESULTS AND DISCUSSION

Between the times of flowering and harvest for field corn in Georgia (June through September), the conditions were hotter and drier in 1980 than in 1979 and 1982, in which the mean temperatures, evaporation, and rainfall were similar to each other. Hot, dry weather conditions are known to increase the incidence of the *A. flavus* group on corn and other crops (8, 25). The *A. flavus* group here refers to the species *A. flavus* Link and *A. parasiticus* Speare which were both identified from samples of corn dusts in each year. However, over 90% of the *A. flavus* group isolates were *A. flavus* and the remainder were *A. parasiticus*. Other *Aspergillus* species isolated occasionally and in small numbers were *A. candidus* Link, *A. clavatus* Desmazieres, *A. fumigatus* Fresenius, *A. niger* van Tieghem, *A. ochraceus* Wilhelm, *A. oryzae* (Ahlburg) Cohn, *A. tamarii* Kita, *A. terreus* Thom, and *A. versicolor* (Vuillemin) Tiraboschi. Several *Eurotium* species with *Aspergillus* anamorphs were encountered infrequently. *Penicillium citrinum* Thom and *P. funiculosum* Thom were the most commonly isolated penicillia, with much smaller numbers of *P. piceum* Raper and Fennell, *P. purpurogenum* Stoll, *P. rugulosum* Thom, *P. variable* Sopp, and several other species. Other genera identified among the colonies from corn dusts were *Alternaria*, *Cephalosporium*, *Chaetomium*, *Cladosporium*, *Epicoccum*, *Fusarium* (mostly *Fusarium moniliforme* Sheldon), *Gibberella*, *Helminthosporium*, *Mucor*, *Paecilomyces*, *Rhizopus*, *Scopulariopsis*, and *Trichoderma*. Various unidentified yeast species were sometimes very numerous.

The viable fungal component of combine harvester dusts, containing between 10^5 and 10^7 viable fungal propagules per m^3 of air in 1979, was dominated by yeasts too numerous to count reliably even with the shortest exposure time (30 s). Yeasts were also abundant in 1982 (Table 1), but fewer were found in the hot, dry season of 1980. The *A. flavus* group was a major component of combine harvester dusts in all years (Table 2). As many as 1.2×10^6 viable propagules of the *A. flavus* group were found per m^3 of air in 1980 (Table 2), and these comprised 60 to 80% of the total number of colonies counted. By contrast, less than 20% of the total number of colonies isolated from combine harvester dusts in 1979 and 1982 were the *A. flavus* group (Table 1). In those years, there were fewer than 10^2 viable propagules per m^3 of air. *Penicillium* species were a major component of the viable fungi in those dusts but were more numerous in 1979 and 1982 (Table 1) than in 1980 (Table 2). *Cladosporium* and *Fusarium* species were common and numerous in each year (Table 1). Many other species were found in combine harvester dusts in small numbers.

Dust released during the transfer of corn from combine harvester to truck (Table 1) contained much the same fungi as combine dust but usually there were fewer (around 10^5 viable fungi per m^3 of air), probably because many fungal propagules had been blown off the corn during the combine-harvesting operation.

Dust blown from corn during warm-air drying on the farm also contained between 10^5 and 10^7 viable fungal propagules per m^3 of air. The identity of these fungi was virtually the same as that of those found in combine harvester and auger dusts.

Dust from corn transported into and out of a grain elevator usually contained more *Aspergillus* and *Penicillium* species and fewer yeasts, *Fusarium*, and *Cladosporium* species per m^3 of air (Tables 1 and 3) than did combine harvester, auger, or dryer dusts. The *A. flavus* group comprised between 40% (1979, Table 2) and almost 90% (1980, Table 3, and 1982, Table 1) of the total viable fungi. However, numbers of *A. flavus* propagules were greatest in 1980 (Table 3).

TABLE 2. Viable fungal component of corn dusts in southern Georgia in 1979 and 1980^a

| Fungus | 1979 Corn dusts from trucks unloading at grain elevator | | 1980 Corn dusts behind combine harvesters | | 1980 Corn dusts from trucks unloading at grain elevator | |
|---------------------------------|---|------|---|------|---|------|
| | Range | Mean | Range | Mean | Range | Mean |
| <i>Aspergillus flavus</i> group | 0.01–0.83 | 0.33 | 0.7–1.2 | 0.94 | 0.4–1.1 | 0.80 |
| Total aspergilli | 0.02–0.83 | 0.33 | 0.8–1.2 | 1.0 | 0.4–1.1 | 0.81 |
| <i>Penicillium</i> spp. | 0.05–0.52 | 0.33 | 0.1–0.2 | 0.14 | 0.01–0.2 | 0.10 |
| Total fungi | 0.01–1.21 | 0.78 | 1.1–1.6 | 1.36 | 0.4–1.3 | 0.94 |

^a Spore density (millions per cubic meter of air) estimated with an Andersen sampler.

TABLE 3. Viable fungal component of dusts estimated with Andersen sampler in southern Georgia, 1980^a

| Sample no. | Inside sow house | | | | Inside feed grinding shed | | | | | | |
|---------------------------------|------------------|-------|-------|-------|---------------------------|-------|-------|-------|-------|-------|-------|
| | A | B | C | Mean | D | E | F | G | H | I | Mean |
| <i>Aspergillus flavus</i> group | | | | | | | | | | | |
| a | 11.7 | 12.2 | 6.1 | 10.0 | 98.6 | 64.7 | 102.3 | 81.2 | 77.9 | 105.1 | 88.3 |
| b | 54.9 | 53.7 | 48.4 | 52.9 | 69.9 | 70.9 | 73.0 | 69.9 | 80.5 | 69.6 | 71.9 |
| <i>Aspergillus</i> spp. total | | | | | | | | | | | |
| a | 12.1 | 12.3 | 6.6 | 10.3 | 99.2 | 65.1 | 103.3 | 82.3 | 79.0 | 106.2 | 89.2 |
| b | 56.8 | 54.2 | 52.4 | 54.5 | 70.4 | 71.3 | 73.7 | 70.8 | 81.6 | 70.3 | 72.6 |
| <i>Penicillium</i> spp. | | | | | | | | | | | |
| a | 5.6 | 6.1 | 2.9 | 4.9 | 27.5 | 19.8 | 33.2 | 29.2 | 17.8 | 29.1 | 26.1 |
| b | 26.3 | 26.9 | 23.0 | 25.9 | 19.5 | 21.7 | 23.7 | 25.1 | 18.4 | 19.3 | 21.3 |
| Total fungi | | | | | | | | | | | |
| a | 21.3 | 22.7 | 12.6 | 18.9 | 141.0 | 91.3 | 140.2 | 116.2 | 96.8 | 151.0 | 122.8 |
| b | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

^a a, Spore density in millions per m³ of air; b, proportion, expressed as percentage of total.

Grinding corn for pig feed inside a shed and feeding sows with an automatic feeding system (Table 3) in 1980 resulted in a much greater density of viable fungal spores compared with outdoor air. The *A. flavus* group was predominant among the fungi isolated (72% of all colonies counted). Aflatoxin was found in this corn (1,240 to 1,850 ng/g). More than 60 young pigs died as a result of acute aflatoxicosis after eating this feed (cause of death determined by Veterinary Diagnostic and Investigational Laboratory, Tifton, Ga., and aflatoxin content was determined by O. L. Shotwell).

The proportion of viable propagules deposited beneath each stage of the Andersen sampler was dependent upon particle size (Table 4). Most *A. flavus* group colonies were collected at stages 3 (38%) and 4 (24%) of the Andersen sampler. Consequently, ca. 25% of the *A. flavus* group propagules that were detected were a particle size often associated with penetration of the pulmonary region in humans. This is important because Wicklow and Shotwell (24) have found an average concentration of 153,000 ng of total aflatoxins per g in the spores of five strains of toxigenic *A. flavus* and 27,600 ng/g in the spores of four strains of toxigenic *A. parasiticus*.

When petri dishes were exposed to dusty air (gravity sampling) and then incubated, most of the species of fungi isolated with the Andersen sampler were found. However, a much greater proportion of large-spored fungi (such as

Alternaria and *Helminthosporium* species), compared with small-spored fungi (such as *Aspergillus* and *Penicillium* species), was isolated on petri dishes exposed to dusty air than on Andersen sampler petri dishes.

Harvesters and handlers of corn in southern Georgia in 1979, 1980, and 1982 were exposed to airborne concentrations estimated to be up to 10⁷ viable fungal propagules per m³ of air. With 0.028 m³ (medium work) of air breathed in per min and only 10% of the spores inhaled (4), a worker could have inhaled over 16 × 10⁶ fungal spores per h. However, the fungi almost certainly were underestimated because Andersen sampler plates were often overloaded with colonies (even with minimum exposure time), resulting in: the multiple deposition of airborne particles at one site; deposition of particles composed of several to many spores at one site (e.g., spore heads of *A. flavus*); deposition of viable particles on the internal walls of the Andersen sampler; and interference and antagonism between colonies. No estimate was made of nonviable spores, and the agar media and incubation temperature used (26°C) were inevitably to some extent selective (10). Thus, considerably more fungal spores, plus actinomycetes and bacteria, were present than those estimated in these corn dusts. The identified fungi included species known to cause infection and allergy and produce mycotoxins.

Because of the nature of many agricultural operations,

TABLE 4. Particle size distribution in the Andersen sampler compared with the region of greatest deposition in the human respiratory system and the proportion of different fungal colonies isolated from various dusts on each Andersen sampler stage

| Andersen sampler stage | Spore diameter (μm) ^a | Region of maximum deposition ^a | % Total colonies for each group: | | |
|------------------------|----------------------------------|---|----------------------------------|--|-------------------------|
| | | | <i>A. flavus</i> | <i>Alternaria</i> spp., <i>Cladosporium</i> spp., <i>Helminthosporium</i> spp. | <i>Penicillium</i> spp. |
| 1 | >7 | Upper respiratory tract | 15.0 | 28.5 | 11.7 |
| 2 | 4.7-7 | Pharynx | 20.6 | 13.9 | 13.2 |
| 3 | 3.3-4.7 | Trachea and primary bronchi | 38.2 | 17.0 | 18.9 |
| 4 | 2.1-3.3 | Secondary bronchi | 24.3 | 18.1 | 35.5 |
| 5 | 1.1-2.1 | Terminal bronchi | 1.8 | 17.0 | 17.0 |
| 6 | 0.65-1.1 | Alveoli | 0.2 | 5.5 | 3.6 |

^a Andersen Sampler, Inc., 1976.

engineering controls are often impractical if not impossible. Air quality standards have not been developed yet for viable fungi. However, in view of the potential hazards involved, worker exposure to dust should be kept to a minimum. Since most fungal spores are $>2 \mu\text{m}$ in diameter, it is probable that an appropriate Department of Health and Human Services-approved respirator would provide adequate protection. Cabs on combine harvesters with a filtered air supply also greatly reduced the exposure of workers to high concentrations of fungal spores (14).

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MATERIAL SAFETY DATA SHEET

Product Name: Corn Products

4. FIRST AID MEASURES

EYES: Flush with water for 15 minutes. Consult a physician if irritation persists.

SKIN: Wash with soap and water.

INHALATION: Move to fresh air.

5. FIRE FIGHTING MEASURES

FLASH POINT: N/A

FLAMMABLE LIMITS:

LFL: 55 gm/m³

UFL: Unknown

EXTINGUISHING MEDIA: Foam, CO₂, dry chemical, water fog.

SPECIAL FIRE FIGHTING PROCEDURES: Do not use direct hose stream if dust can be dispersed into air. Dust dispersed by water stream in the presence of an ignition source could cause an explosion.

FIRE AND EXPLOSION HAZARDS: If improperly handled, stored, and/or exposed to an ignition source, this material may burn. Airborne dust in sufficient concentration when confined and exposed to a sufficient ignition source can explode.

6. ACCIDENTAL RELEASE MEASURES

GENERAL: Dust is explosive. Eliminate ignition sources.

Use care to avoid creating dusty conditions. Sweep up and repackage or dispose of in accordance with local, state and federal regulations.

7. HANDLING AND STORAGE

GENERAL: May form flammable dust-air mixtures. Use handling practices that minimize dust generation and accumulation.

STORAGE: Store in a dry place.

MATERIAL SAFETY DATA SHEET

Product Name: Corn Products

8. EXPOSURE CONTROL/PERSONAL PROTECTION

ENGINEERING CONTROLS: Provide adequate general or local ventilation to keep dust levels below the exposure limits.

RESPIRATORY PROTECTION: Provide a NIOSH/MSHA approved respirator if exposure limits are exceeded.

SKIN PROTECTION: Clean body-covering as needed.

EYE PROTECTION: Safety glasses or goggles.

9. PHYSICAL AND CHEMICAL PROPERTIES

APPEARANCE: yellow: whole, cracked or rolled grains or powder

ODOR: Characteristic

SPECIFIC GRAVITY: No information available

% VOLATILE: N/A

MELTING POINT: N/A

BOILING POINT: N/A

VAPOR PRESSURE: N/A

VAPOR DENSITY: N/A

10. STABILITY AND REACTIVITY

GENERAL: Stable

REACTIVITY: None

INCOMPATIBLE MATERIALS AND CONDITIONS TO AVOID:

Dusty conditions exceeding the Lower Flammable Limit (LFL). Ignition sources.

11. OTHER INFORMATION

Follow procedures specified in the National Fire Protection Association Codes and Standards for handling combustible dusts. Maintain good housekeeping to avoid dust buildup.

Effective Date: May 4, 1993
Revision date: July 1, 2004
Revision date: February 2006

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Page 6U

COWTOWN NIGHT
TOWN CLERK / TAX COLLECTOR

3 men burned in corn dust explosion

by Astrid Galvan - Dec. 29, 2008 11:11 AM
The Arizona Republic

Explosions at a grain elevator rocked the city of Maricopa on Monday, sending a large fireball into the air and severely burning three workers.

Maricopa police and fire crews were dispatched shortly after 9 a.m. to Arizona Grain Inc., on Cowtown Road near White and Parker Road.

Fire Division Chief Mark Boys said welders were working on a tower near a grain elevator when hot metal apparently hit a device used to scoop grain out of the elevator, igniting corn dust and causing an explosion. A second, much larger explosion occurred moments later when more corn dust ignited, sending smoke and dust high into the air above the city of 37,000. The blast could be heard throughout the city, police said.

Three workers who were offloading corn onto a silo pit suffered first- and second-degree burns to mostly their faces and arms. Two of the men, ages 34 and 47, have been Arizona Grain employees for about a year. The third man was a truck driver, officials said.

The three were airlifted to the Arizona Burn Center at Maricopa Medical Center, where one man was in critical condition Monday afternoon while the other two were in good condition, Boys said.

Boys said the men were lucky to survive the explosion, which was so intense it lifted a

semitruck carrying 80,000 pounds of grain.

"The force was just tremendous," Boys said.

Officials said this is the first such incident at Arizona Grain.

Dust and grain-elevator explosions are some of the most powerful and dangerous types, Boys noted.

Almost 50 firefighters from Valley agencies responded to the explosion, which did not cause any other fires, damage or injuries.

Arizona Grain, the parent company of ethanol-production company Pinal Energy, is based in Casa Grande.

The Maricopa site supplies feed grains.

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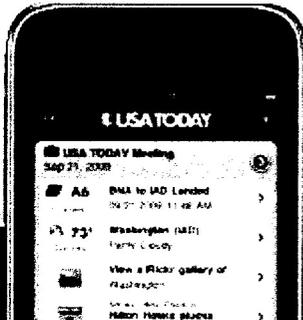
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Grain Dust Peril

Page 6V

Latest Grain Elevator Blast Renews Safety Concerns

*Volume 13 Issue 4
MANISHA PAREKH*

It is almost a joke to think that the main ingredient in something as wholesome and ordinary as bread can be a deadly explosive. But after the tragedy that struck Wichita, KS, on June 8, 1998, no one is laughing.

A grain dust explosion caused extensive damage to a half-mile-long grain elevator facility. It also resulted in the deaths of seven employees. Ten employees were injured, and three employees are still in critical condition.

Urban Search and Rescue Team (USAR) personnel, many of whom had also worked on the scene of the Oklahoma City federal courthouse bombing, were faced with the daunting task of locating survivors and recovering bodies in an unstable structure filled with more than six million bushels of grain, the dust from which could explode again at any time.

For fire and rescue personnel, the task was a difficult one. And for those in industry, it was a reminder about the ever-present threat of dust explosions.

"The timing couldn't have been worse," Larry Phillips, Safety and Health Director for the North Dakota Grain Dealers' Association, said. "The facility exploded a month or two before the regularly scheduled review of (current grain dust) regulations by the OSHA. But it is important to remember — and OSHA has stressed this — the timing (of the review) had been scheduled long before the explosion, as are reviews of all OSHA regulations. OSHA mandates all regulations be reviewed every 10 years, whether or not there have been problems."

Even if the Wichita explosion does not have a significant impact on OSHA's review, it should encourage facilities to face the constant threat posed by grain dust.

BRIEF OVERVIEW

The first documented dust explosion occurred in a Turin, Italy, bakery in 1785. The explosion was caused by the ignition of flour dust by a lamp in a bakery storeroom. Fortunately, the explosion did not cause any fatalities. It did lead to the realization that grain dust is a highly explosive substance that must be handled carefully.

A famous modern-day grain dust explosion was the second one to occur at a large export grain silo plant in Corpus Christi, TX. The April 1981 explosion resulted in nine fatalities, 30 injuries, and more than \$30 million in actual material damages. The suspected cause of the explosion was thought to be smoldering lumps of milo grain which ignited a dust cloud in a bucket elevator, though there has never been a consensus as to the cause.

In 1997, there were 16 grain dust explosions in the U.S., according to a Wichita Eagle article. According to a report released by Robert W. Schoeff, professor emeritus, Kansas State University, and Ralph Regan, safety director, U.S. Department of Agriculture's Federal Grain Inspection Service, 13 grain dust explosions were reported in the United States during 1996. During 1995, 14 grain dust explosions were reported, and the ten-year average for grain dust explosions was reported as 13 explosions.

In March 1988, the Occupational Safety and Health Administration (OSHA) passed new regulations regarding safety standards for the grain industry. The standard, OSHA 1910.272, set numerical level limits on the amount of dust that was allowable in certain areas of bucket elevators, which are simply conveying systems using an endless belt with a drive pulley at the top to bring the grain to the top of the structure. Since 1988, the number of grain dust explosions has decreased significantly, though it is impossible to say whether that is a direct effect of OSHA 1910.272.

THE SCIENCE OF A GRAIN DUST EXPLOSION

For a dust explosion to occur, several factors must come together, according to *Dust Explosions in Process Industries* by Rolf K. Eckhoff. First, there must be fuel, or grain dust. The critical parameter for grain particle size is 0.1 mm or smaller. As the size of the particle decreases, the risk of a deflagration or explosion increases.

The dust concentration contributes to the dust's flammability. In order for a dust explosion to take place, the concentration must be between 40 grams per cubic meter and 4000 grams per cubic meter. The actual limits may vary based upon particle size and

composition.

However, the lower explosive limit is generally reached only in areas near grain handling and processing equipment. This limit is not usually reached in areas where employees actually work. Also, the dust must be in suspension in order for an explosion to take place; dust that is simply lying on the ground is not an imminent threat.

Another contributing factor is composition of the dust. Natural and synthetic organic materials, coal and peat, and metals can give rise to explosive dusts. Also, the moisture content of the dust is important. The drier the dust, the higher the risk of ignition.

The second major factor is the presence of oxygen, which is necessary for combustion.

The third major factor is the ignition source. Sparks from welding and cutting equipment, or cigarettes, can ignite dust. If a bolt, or some other piece of metal, located on moving equipment rubs or scrapes against another metal surface, sparks again could result, leading to an explosion. A choked bucket elevator, a conveyor belt slipping, an electrical malfunction, or lightning could also start a fire leading to an explosion.

Finally, in order for an explosion to occur, the ignition must take place within an confined space. An explosion is defined as the tremendous pressures built up and released instantaneously, an explosion can not take place in an open area. However, a dangerous flash fire could result.

It is also important to recognize that there are two major types of dust explosions: the primary explosion and the secondary explosion. The primary dust explosion is initiated by an ignition source. Secondary explosions occur when the blast wave from a primary explosion propagates and causes layers of dust in other areas to become suspended in air. Dust suspension by the primary explosion is extremely flammable. It can be ignited by the primary dust flame within microseconds of each other.

PREVENTION

When it comes to grain dust explosions, prevention needs to receive the utmost attention. According to Phillips, the best way to prevent a dust explosion is to eliminate the dust, period.

"A dust explosion can't take place without dust," he said. "The best method of prevention is good old housekeeping. As you see dust beginning to build up and it shouldn't get at it right away.

"Housekeeping is just as important, if not more important, as all of the (job) responsibilities of the workers. Managers have to realize that in order to keep these places safe, they have got to take care of the dust."

Robert Schoeff, a dust expert who works at Kansas State University, said if any one of the four elements necessary for an explosion is removed an explosion cannot occur.

"It's not practical in agribusiness to eliminate the oxygen (with inerting gases)," Schoeff said. "Focus should be on controlling the dust, keeping it out of suspension, or controlling the concentration."

Schoeff suggested using pneumatic dust collectors or spraying edible mineral oil on grain in order to prevent the generation of dust. Machinery should also be checked regularly for points where grain might spill out and accumulate.

The best way to prevent dust explosions is to eliminate ignition sources, he said. Dust controlling measures will help prevent a secondary explosion, but not a primary explosion.

Phillips said that grain elevator managers need to be aware of all possible ignition sources. There can be many.

"Explosions are caused by improper welding and cutting operations, cutting, or repairs in the elevator without taking the proper precautions, employees smoking (in the elevator area), overheated bearings, and malfunctioning equipment, among other factors as well," he said.

Adherence to standards regarding hot work permits, the use of the proper types of repair tools, mandates against employees smoking in elevator areas, and routine preventive maintenance of machinery can help alleviate the possibility of ignition. Some elevators have gone so far as to not permit any smoking whatsoever on the grounds of the elevator.

Schoeff also stressed the role of proper maintenance in preventing secondary explosions. Dust should not escape if machinery is in correct working order. He suggests using of explosion suppression systems that can sense pressure change associated with the

combustion that can lead to an explosion.

IN CASE OF EXPLOSION

Page 6X

"Handle a dust explosion with kid gloves," Phillips said. "As long as there is an ignition source (such as a fire) remaining, there is the possibility of another explosion."

Both Phillips and Schoeff cautioned fire personnel about using water fog nozzles in a straight stream setting. Water sprayed by a straight stream pattern on to smoldering grain could cause dust to become suspended, leading to another explosion.

"If there is a residual fire, use a fogging nozzle," Schoeff said. "Don't hit it the grain with a straight spray. It is best to adopt a defensive strategy."

Phillips advised using as much water as necessary, but keeping pressure flow low.

"Use volume, not pressure. You can't just bust in and treat it like a regular structure fire."

Phillips also stressed that rescue services should keep their own safety in mind.

"Rescue services are there to preserve life and property — life first, property second," Phillips said. "Don't risk your life to save property. Property can be replaced. You can't put a price on life."

Rescue personnel need to be aware of the unique dangers associated with grain dust explosions, such as shifting grain, fatigued structures, and hidden spotfires. They also need to deal with the structural instability of the elevator in the proper manner. When grain dust explosions occur, the overpressures can be high enough to cause reinforced concrete to fail or wooden cribbing, and, in some cases, total failure of the structure.

"You need to be very careful," Phillips said. "There needs to be some pretty fancy and well-thought out shoring to go in and get the victims out."

"Take each explosion on a case by case basis," he said. "Each one is different."

It is important to realize that in the 200 years since the Turin explosion, the depth of knowledge about grain dust explosions has grown considerably.

Now, it is simply a matter of applying that knowledge in order to safely put bread on our tables.

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Cindy Findley wrote on 07/06/2009 @ 04:17:29 pm

John Astad, an expert on combustible dust incidents, recently authored an interesting article on OSHA's upcoming combustible dust rulemaking at <http://tinyurl.com/CyberRegs-July-eNews>.

Mr. Howlett stated there are things that could address some of the concerns, however; they are expensive. A resolution would need to be made prior to the expenditure.

Attorney James Campbell suggested the town act as a passive player and each party could list their concerns and meet. The Town needs to determine if the PUD exists and then changes could be harmonized within the PUD.

Mr. Clarke stated the value of his home would be reduced with the commercial use.

Attorney James Campbell stated that Local Laws are used to change zoning and within a PUD the uses of the property are controlled by the Town Board by identifying them in the PUD.

DISCUSSION CODE ENFORCEMENT OFFICER

Code Enforcement Officer Anthony Cappello reported on the following:

Supervisor LeFeber read the Planning Board minutes from the September 15, 2009 minutes as follows:

Motion to approve the site plan for East Avon Vintage Drive-In Theatre fourth screen site plan, dated 7/23/2009 and prepared by Larry Heininger, PE, with the following conditions:

1. Town of Avon Code Enforcement Officer or Engineer must be notified at least three days in advance so inspection can be made at all stages of parking area/drainage system construction, including the installation of the six inch depth of #2 crushed stone, the two inch depth of #1 crushed stone, and bedding fabric.
2. The Town Engineer must complete a site inspection and approve the installation of the stormwater system, at the applicant's expense, prior to the issuance of any certificate of occupancy or compliance.

Code Enforcement Officer Cappello stated that in September of 2009, a building permit was approved and we were not notified to complete the inspections. A letter was sent to the property owner stating he would be responsible for any costs due to his failure to acquire timely inspections as required. The project was inspected today by Engineer Rock along with Mr. Dean and the parking area, bedding fabric and drainage was found to be completed properly. Mr. Rock recommended the approval be granted once the other conditions of the Planning Board approval are addressed.

Engineer Rock also reported that National Grid has also cleaned-out their detention pond and the drainage in the area should be better. He also agreed with the Attorney that "stop work orders" need to be issued when building is being completed without inspections.

The Fire Marshall still needs to approve and there are other issues to be solved prior to issuing a certificate of occupancy.

Supervisor LeFeber reported the filing of a deed of a subdivision at the County Clerk's Office without Town approval. There was a sale of a portion of property owned by John Halpin to Paul Stein. The two attorneys involved were Bob Docherty and John Porter. This type of subdivision has a process and this process was not followed thus leaving out the Town of Avon's ability to hold a public hearing.

Attorney James Campbell stated that we are allowing ourselves to be seen as not enforcing our code.

DISCUSSION - ENGINEERING REPORT

Engineer Rock reported on the following:

Work continues on the Route #39 project. Approval has been received by the New York State Department Of Transportation and the water supply permit has been approved by New York State Department of Conservation. After New York State Rural Development approves, we can go out to bid. A copy of the contract for construction was provided to the Town Attorney for his review. The sale of the BAN for \$212,000.00 is scheduled for July. This area should have water this fall.

RESOLUTION #61 PAYMENT OF BILLS

On motion of Councilman Mairs, seconded by Deputy Supervisor Cole the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to accept for payment Abstract 2010-6A in the following amounts:

Concerning ABSTRACT of Claims Number 2010-6A including claims as follows:

| | |
|--|---|
| General Fund | Voucher #141 through #163 in amounts totaling \$3,862.25 |
| Highway Fund | Voucher #72 through #81 in amounts totaling \$12,176.30 |
| Water Fund | Voucher #53 through #58 in amounts totaling \$73,055.24 |
| Cemetery Fund | No Voucher |
| Opera Block Capital Improvement | Voucher # 11 through # 15 in amounts totaling \$34,585.54 |
| Royal Springs Lighting | No Voucher |
| Cross Roads Drainage District | No Voucher |
| Bruckel Drainage District | No Voucher |
| Royal Springs Drainage | No Voucher |
| Town Of Avon Fire Protection | No Voucher |

**Water Capital
Improvement** No Voucher

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Aye, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber – Aye

RESOLUTION #62 PAYMENT OF BILLS

On motion of Councilman Cook, seconded by Councilman Blye the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to accept for payment Abstract 2010-7 in the following amounts:

Concerning ABSTRACT of Claims Number 2010-7 including claims as follows:

| | |
|--|---|
| General Fund | Voucher #164 through #186 in amounts totaling \$23,685.04 |
| Highway Fund | Voucher #82 through #92 in amounts totaling \$1,689.53 |
| Water Fund | Voucher #59 through #72 in amounts totaling \$8,788.56 |
| Cemetery Fund | No Voucher |
| Opera Block Capital Improvement | Voucher # 16 through # 16 in amounts totaling \$24.88 |
| Royal Springs Lighting | Voucher # 4 through # 4 in amounts totaling \$1,011.20 |
| Cross Roads Drainage District | No Voucher |
| Bruckel Drainage District | No Voucher |
| Royal Springs Drainage | No Voucher |
| Town Of Avon Fire Protection | No Voucher |
| Water Capital Improvement | No Voucher |

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Aye, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber – Aye

**RESOLUTION #63 RECEIVE MONTHLY REPORTS FROM SUPERVISOR
AND TOWN CLERK**

On motion of Councilman Blye, seconded by Deputy Supervisor Cole the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to accept the monthly reports for March from the Supervisor, and the Town Clerk Report as shown below:

Town Clerk March Report:

| | |
|---|-----------------|
| Total Local Shares Remitted: | \$433.61 |
| County Treasurer for Dog Licenses | \$45.82 |
| New York State Department of Health | \$.00 |
| NYS Ag. & Markets for spay/neuter program | \$12.00 |
| NYS Environmental Conservation | \$251.32 |
| TOTAL | \$742.75 |

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Aye, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

DISCUSSION – OUTSTANDING ITEMS

The following three items will be discussed at a future meeting:

- A contract with the Avon Preservation & Historical Society
- Amend the Town of Avon Letterhead
- New building policies and procedures

DISCUSSION – JOINT VILLAGE AND TOWN BOARD MEETING AGENDA ITEMS

Supervisor LeFeber asked the Board for any agenda items for their scheduled meeting with the Village and the following list was generated:

- March 1st date to establish a water rate has passed without action of the Town or Village Board.

- Open position of the Water Works Committee Member.

- The unapproved request for annexation of land to the Village by Hanson/Ash
- Possible grant funding from downtown revitalization working with Louise Wadsworth for the third floor Opera Block/Town Hall. The recent extension of the downtown area to King Cole Bean and Duffys.

- There may be funding from Livingston County financial contribution to fund for signage in the downtown area.

- Court security and use of the metal detector.

- Jennifer Sargeant's handling of Village Court money and not being employed by the Village.

- An update of the Avon Village Police use of the North meeting room.

- Kraft receiving a reduced rate that has become a burden to the Town through Schedule C, in the amount of \$34,000.00.

DISCUSSION – WORK STATIONS – IT UPDATE

Supervisor LeFeber opened a discussion on the number of work stations used in the Town Clerk's Office. Town Clerk Knight stated that there have been four work stations since 2000 or 2001. One on each of the desks, the laptop on the counter and the State

provided computer for sales of the Hunting and Fishing. She questioned if the real concern is the security of her office as this office is the only office in the Opera Block/Town Hall that can not be secured. A sliding metal gate is available for use but does not protect the counter which houses the money drawers, laptop, the State owned computer as well as other documents. When the Town Clerk's Office is closed and other offices are open exposure is enhanced and puts the office contents in jeopardy. A recommendation to build an additional wall and insert a gate similar to the Code office was requested by the Town Clerk.

A second request was made to limit key access to the Town Clerk and her Deputies as she is solely responsible for the contents of her office. Supervisor LeFeber stated that we are required by law to provide space and that he did not have a key. Deputy Supervisor Cole reported that yes there are other key fobs that open the closet area and they include the Supervisor, Deputy Supervisor, Clerk of the Works and the Fire Department. A report of fob activity could be provided. It was suggested to purchase a safe, if needed. Vital records, money and notary stamp are some identified items in the area.

The Board questioned why the use of the metal gate stopped? Town Clerk Knight stated that it doesn't provide the needed security.

The Board agreed to have Hurricane Technology change the e-mail addresses to the avon-ny.org and complete an asset inventory.

Supervisor LeFeber question the increased use of the color printer. Town Clerk Knight agreed the cost per copy is high, however; if the printer is available for use it will be used. Many publications are no longer mailed and are printed in color. Water Superintendent McKeown stated that he prints photos. Town Clerk Knight offered to complete a history of use but the Board appeared to not require the information.

Supervisor LeFeber discussed the request to have all word programs the same in the Town Clerk's office as there are currently three different Microsoft versions.

DISCUSSION - OPEN ITEMS

Councilman Mairs asked Highway Superintendent Ayers what highway employees would be working on Dump Day scheduled in May. Highway Superintendent responded that he expects the same two employees.

Deputy Supervisor Cole reported that Mary Flick is the "Citizen of the Year" and the dinner is scheduled for May 8th at the Avon Inn. The Board will provide a plaque.

Deputy Supervisor Cole also reported that the Rotary/Lions Ambulance purchased the church on Lake Road.

The Board discussed the recommendation to purchase blinds for the front windows. Councilman Blye will review the recommendation of Clerk to the Justice Janis Cole.

On motion of Councilman Mairs, seconded by Councilman Blye, the meeting adjourned at 9:15 P.M.

Respectfully submitted by, _____
Sharon M. Knight, CMC/RMC, Town Clerk