

**SOUND AGRICULTURAL PRACTICE  
Opinion Number 04-1**

**SUBJECT:** Request for an opinion pursuant to Section 308 of the Agriculture and Markets Law as to the soundness of certain agricultural practices conducted by Raymond and Jane Weiss, Tracey Harrington and Tim Bramen, Town of Fenton, Broome County, New York.

**REQUESTER:** Raymond and Jane Weiss, Tracey Harrington and Tim Bramen  
1312 NYS Route 369  
Chenango Forks, New York 13746

**Preliminary Statement**

In August, 2002, Raymond Weiss requested the Department's review of certain practices on a horse farm, which he owns with his wife, Jane Weiss, and operates with his daughter Tracey Harrington and Tim Bramen. Mr. Weiss requested that the Commissioner issue an opinion as to the soundness of several practices on the farm, including the keeping of animals which results in noise from a donkey braying, a dog barking and roosters crowing; odor from a hog pen located along a property line with a neighbor; lighting for a horse riding arena; the reconditioning of a riding arena that results in the blowing of dust; the storage of manure adjacent to a property line; various types of fencing located along a neighboring property line; the abatement of overland flow of water onto a neighbor's lawn; and proximity of animals grazing near springs/cisterns that are used by both the farmer and a neighbor. In response to Mr. Weiss's request, the Department conducted a sound agricultural practice review of the farm operation, including its riding arena and manure handling/storage, noise, odor, lighting and water management practices.

**Information Considered in Support of the Opinion**

1. Mr. Weiss and his wife, Jane Weiss, own a farm consisting of over 173.5 acres of land located within Broome County Agricultural District No. 4. Mr. Weiss states that his daughter, Tracey Harrington, manages the farm. Mr. Weiss and his daughter breed, sell, board and train horses on the farm, which includes an outdoor riding arena/exercise area. On August 20, 2002, Dr. Robert Somers, Chief of the Department's Agricultural Protection Unit, conducted a field review of the Weiss farm. Dr. Somers observed that the farm is a working horse farm, which specializes in painted horses, and consists of over 50 horses owned by the Weiss's; 14 horses owned by others boarded at the farm; and several other livestock (approximately 12 hogs, 3 fallow deer, 3 goats, one donkey, 20+ domestic turkeys, and chickens with a rooster). On Dr. Somers' August 11, 2003 visit to the farm, the livestock included approximately 30 buffalo, 20 deer, three to four emus, two peacocks, several turkeys and horses. The donkeys, hogs and dog had been removed from the farm prior to this last visit.

Dr. Somers observed that the barn on the property is an old dairy barn with two silos. The barn has been modified to include stalls to hold horses boarded there. Other outbuildings include a maintenance garage and several small sheds which are used for the housing of turkeys and chickens. Fenced corals and pastures, an alfalfa field, a farm residence and a fenced-in training/riding area are also present. A number of paddocks exist on the north

side of the Weiss home and are used to contain horses and deer. The hogs were located on the south side of the garage/maintenance building and were bred and sold by the farm. In addition to the owned land, Mr. and Mrs. Weiss rent land for the production of hay which is also sold. Mr. Weiss reported that the farm receives an agricultural assessment.

2. The farm is located in the Town of Fenton's Agricultural-Residential District, in which "Agriculture" is a permitted use. The property (map attached) is generally surrounded by smaller parcels of land, although parcel size ranges from less than one acre to more than 114 acres. Several residential properties lie to the north of the Weiss farm, along NYS Route 369, and one residence adjoins the Weiss farm, south of the Weiss's home and agricultural out-buildings.
3. On September 16, 2002 the Department sent, to 14 landowners who own land adjacent to the Weiss farm boundary, notice of the request to conduct a sound agricultural practice review on the Weiss farm. In response to the Department's invitation to them for comment on certain farm practices, four responses were received; from: Charles and Anita Martin, Roland Hurlburt, Thomas and Rose Illsley, and Lanny and Viola Fromm.
4. In a letter to the Department, dated September 27, 2002, the Martins state that they have a right to take water from a spring that is located on the Weiss property. The Martins state that the pipe conveying the water from the spring to their property was severed by the Weiss's and that the fence surrounding the spring was removed; leaving the spring exposed to possible contamination from the Weiss's livestock. The Martins state that the Weiss's penned a donkey on the property line and moved the donkey in with the pigs. The Martins indicate that the pigs have undermined the fence and have dug out the roots of trees planted along the property line. The Martins complained about the odor from the pigs, the stagnant pools of water within 100 feet of their home and the escape of some of the piglets onto their property. The Martins state that a barbed wire fence was erected on the north and east sides of their property. The Martins state that they have been injured by the wire while mowing their lawn. The Martins also indicated that the spotlight installed on the back of the Weiss's garage is pointed directly at their home and the light shines into their windows. The Martins stated that the Weiss's drag the riding arena, which also adjoins their property line, and that the activity creates a lot of dust, which settles on their home and clothes-lined garments. The Martins further state that a dog owned by the Weiss's and penned near the property line barks constantly, and lights from trucks used by the Weiss's and their acquaintances shine in the Martins' back door and window at all hours of the night and early morning, particularly in winter. They also indicate that a seven foot high mound of manure from the Weiss farm has been located near the property line and the manure has moved onto their lawn, killing the grass and making their dog physically sick. The Martins state that the Weiss's used a bulldozer to spread manure over the property rather than remove the pile of manure as ordered by the Town. The Martins also contend that the ditch that controls spring melt water has been destroyed and that the Weiss's have used the pigs, dog and donkey as a form of harassment. The Martins submitted photographs to the Department to support their claims.
5. On November 21, 2002, the Department sent a letter to Mr. and Mrs. Martin to obtain further information regarding the concerns expressed in the Martins' September 27, 2002 letter. A response received on December 18, 2002 is summarized as follows:

On May 6, 1998, the Martins had a 1000-gallon holding tank installed on the Weiss property. The Martins contend that on April 22, 2000, Ray Weiss and Tim Bramen removed the fencing from the spring area and that livestock defecate and urinate on top of the holding tank. The Martins had their well tested in February of 2002 and indicated that they would have it tested again to see if there is any contamination from animal feces. The Martins indicated that they would send the Department copies of the February 2002 test report and of the report for the planned testing when it is completed. The reports have not been received.

The Weiss's penned their dog behind the Martin property and the Martins state that the dog barks at all hours of the day and night. On November 8, 2002, the Weiss's moved the dog farther up the hill away from the Martin property. The Martins contend that people howl and woof to make the dog bark.

On June 27, 2002 the Weiss's placed a donkey on the north property line. The Martins indicate that the donkey brays at all hours of the day and night, noting that the donkey was quiet when it ran with the horses.

The Martins state that water from the spring runs through the hog pen and that the standing water is a perfect breeding ground for mosquitoes and bacteria. They state that the odor from the pigs is unbearable at times during the summer and that the smell is present during all seasons.

The Martins state that the spotlight on the Weiss's equipment shed is left on all night, every night. The light shines into one of the Martins' bedroom windows and makes it difficult to sleep.

The Martins contend that on May 30, 2002 the Weiss's spread the pile of manure on the property line and covered it with hay. They state that the manure was about two feet thick and that none of the manure was taken away. The Martins state that Mr. Martin dug a ditch on the western property line in 1967 to keep the runoff off of their property. They state that Mr. Weiss changed the flow of the water resulting in a problem whenever there is a heavy rain. The water comes down across the Martins' property bringing with it manure, hay, etc. They state that they never had water running onto their property until Mr. Weiss altered the topography and changed the direction of runoff from the spring.

The Martins indicate that the Weiss's usually use a three-wheeler with a drag behind it to recondition the riding arena and that sometimes they use a tractor. The Martins contend that the Weiss's drag the arena every other day, and sometimes twice a day. They also state that the Weiss's let their children ride a three-wheeler around the arena. This generates dust, which 90% of the time blows toward the Martins' home. The Martins indicate that the dust gets into the house and may affect their daughter's asthma.

6. In a letter to the Department, dated September 28, 2002, the Fromms stated that the land in question has been operated as a farm for over 100 years. The Fromms indicate that the prior owner of the Weiss farm also had horses, chickens, cows and pigs, as did the Fromms. No one ever complained about these animals. The Fromms stated that the noises coming from the Weiss property include natural sounds frequently heard on a farm and that dogs are used to protect livestock. They state that Mr. Weiss land-spreads both the horse manure and hog manure and the odor is "a natural left over by-product." The

Fromms note that the fencing on the Weiss property is designed to keep dogs and anything else off the Martin property. The lights are used to protect against coyotes, which have been over-running this area. The Fromms stated that it has been an unusually dry summer and that they have received more dust from the 10-wheeler trucks traveling along Route 369 than from the Weiss's operation.

7. In a letter to the Department, dated October 1, 2002, the Illsleys stated that they have been farmers all their lives and see nothing wrong with roosters crowing, donkeys braying and farm dogs barking. They state that if every neighbor complained about farm noise, there would not be any farmers. The Illsleys indicate that the Weiss farm appears to be very neat and clean and they do not see a problem with hogs. They express the view that the cost of erecting a fence along adjoining property lines should be a shared expense.
8. In a letter to the Department, dated October 7, 2002, Mr. Hurlburt states that his farm borders the Weiss farm. He states that the donkey brays all day and night and keeps himself and his wife awake. Mr. Hurlburt states that the dog barks half the night. He further states that the arena is dragged with a four-wheeler at a high rate of speed, causing a significant amount of dust; that pigs are housed on the property line, causing very bad odors; and that bright flood lights on the Weiss's garage are left on all night. Mr. Hurlburt stated that the manure pile on the property line was bulldozed flat and that portion of the Weiss property is now two feet higher than his property.
9. Agriculture and Markets Law §308, subdivision 1, paragraph b requires that the Commissioner consider whether an agricultural practice is conducted by a farm owner or operator as part of his or her participation in the Agricultural Environmental Management (AEM) program as set forth in Agriculture and Markets Law Article 11-A. Mr. Weiss indicated that he does not participate in the AEM program.
10. Dr. Somers visited the Weiss operation on August 20, 2002, September 27, 2002, and August 11, 2003. Between September 2002 and August 2003 the Department held its review in abeyance pending a farm visit and evaluation of water management practices on the Weiss farm by the Broome County Soil and Water Conservation District. Field visits were used to examine specific practices and on-farm uses of land as requested by Mr. Weiss. Dr. Somers timed his September 27<sup>th</sup> visit to coincide with the arrival of tropical storm Lulu into New York. According to climatological data for that date, as acquired from [www.erh.noaa.gov/er/bgm/cli/bgm/sep02.bgm](http://www.erh.noaa.gov/er/bgm/cli/bgm/sep02.bgm), the Binghamton weather station reported a total rainfall of 1.36 inches, an average temperature of 59 degrees F. (24-hour range from 50 to 67 degrees), and an average wind speed of 11.6 miles-per-hour for September 27, 2002. On August 20, 2002, the average temperature was 67 degrees F, ranging from 58 to 76 degrees F. On August 11, 2003 the average temperature was 68 degrees F, ranging from 64 to 72 degrees F. The temperature on these dates is important since, generally, the higher the air temperature is, the more volatile the gas from decomposing manure is.
11. Riding Area/Arena – The riding arena is located between the driveway to the Weiss's house and the property of their neighbor, Martin. The arena is rectangular in shape and bounded by a wooden plank fence. The floor of the arena is composed of sand. Dr. Somers indicated that the sand packs fairly well and several areas showed signs of water ponding on the surface during each visit. Dr. Somers indicated that on his August 11, 2003 visit to the farm, it appeared that the arena had been reconditioned earlier that week because furrows in the sand could be observed. On one occasion, horse hoof prints were observed

in the sand, covering no more than 5 to 10 percent of the surface area. On August 20, 2002, Mr. Weiss stated that the fenced riding area is used more for showing horses than it is for training or by the boarders. Mr. Weiss indicated that the boarders liked to ride their horses on the property and take them swimming in a pond located in a pasture above the house and springs. He stated that the arena had been used about 10 times during the summer of 2002. It is difficult to say how often the type of dust generated in the pictures provided by the Martins occurs. Mr. Weiss stated that the arena is reconditioned as needed and that during 2002, the riding surface of the arena was reconditioned approximately 10 times. The Martins state that the arena is dragged more frequently, every other day and sometimes twice a day. The Martins also contend, as evidenced in one of the photographs, that kids ride ATVs in the arena, stirring up dust in the process.

12. Spotlight Illuminating the Back Portion of the Arena Adjacent to the Martin Property – The Martins contend that the halogen lamp used by the Weiss's to illuminate the back portion of the riding arena is directed at their house. In the Martins' December 16, 2002 letter to the Department, they state that "[t]he spotlight is left on all night, every night." Another neighbor, Lanny Fromm, disputes this allegation as does Mr. Weiss. The Department has not been at the farm at night. When Dr. Somers observed the light on his first two visits to the farm, the light was located on the back eave of the garage/maintenance shed and pointed toward the back half of the arena. Pictures taken by the Martins indicate that the light illuminated the side of their house. On Dr. Somers' last visit to the farm, August 11, 2003, the halogen light had been relocated to the side of the maintenance building (90 degrees from its original position) so that it directly illuminated the arena and not the Martins' home.
13. Manure Storage – Prior to the conduct of this review, the Weiss farm operation stored their manure/wood shavings from the barn and paddocks on a flat ledge located up-slope and behind the Martin home. This area provided easy access from the barn and provided a flat surface to minimize off-site movement. Pictures provided by the Martins, however, showed that the nutrient rich runoff from the Weiss farm burned the grass on that portion of their lawn that adjoins the Weiss farm. When Dr. Somers visited the farm in August, 2002, the manure pile was not there. Mr. Weiss indicated that in February 2002, he stopped stockpiling the manure at that location. Mr. Weiss moved the manure pile to a portion of the property that is approximately 1,500 feet from the Martins' home. The Martins contend that Mr. Weiss stockpiled the manure from the end of September, 2001 to the end of May, 2002 and spread the manure over the surface of the soil, where it had been stockpiled, on May 30, 2002. They state that the manure was spread to a depth of two feet above the original surface of the soil. Mr. Weiss stated that his normal procedure is to dry stack the manure/wood chips behind the Martin home and spread the manure on his fields in the spring. When Dr. Somers visited the farm in August, 2002, excess manure was not observed on the ground. Dr. Somers walked the area where the manure had been spread and observed rocks protruding through the surface layer of the soil. It appears that the manure spread over the surface in May of that year may have oxidized and/or had been incorporated into the soil.

During Dr. Somers' subsequent visits to the farm, stockpiled manure from the barn and paddock areas was not observed in the farmstead complex. Dr. Somers reported that he examined the Martin property on each of his three field visits and did not observe any nutrient damage and/or water movement from the Weiss farm onto the Martins' lawn. There was no evidence that the lawn had been burned from excess nutrient loading from

August of 2002 to August of 2003. Mr. Weiss indicated that a defined ditch had been established along the back of the Martins' property line so that any water moving off the hill, above the Martin home, would run laterally and parallel to the property line and enter a man-made ditch that proceeded westward until it reached the highway drainage ditch. Dr. Somers reported that he did not see any visible deposition of manure and/or sediment in the highway ditch.

14. Odor from Hog Pen- Mr. Weiss erected a holding pen that was located between the garage/maintenance shed and the Martin property. At the time of Dr. Somers' August 20, 2002 and September 27, 2002 visits, the holding pen was used to house pigs and a donkey. Dr. Somers did not detect any noticeable odors emanating from the pen at any time during his three visits to the farm and did not observe piles or excess manure in the pen.
15. Noise from Farm Dog and Animals- Noise from the dog and farm animals, including a donkey, hogs, free-range chickens and roosters was not, at the times of Dr. Somers' visits, excessive and appeared to be the same as found on most farms. Mr. Weiss informed Dr. Somers that he used the donkey to help keep predators at bay, which is a common agricultural practice employed to protect sheep, goats, and other small farm animals. Mr. Weiss stated that a colt had been maimed and eventually died from wounds sustained during an attack by feral dogs. Mr. Weiss also purchased a dog, which was penned adjacent to the hog pen and a pen used to raise turkeys, to help protect his animals. The dog had visual contact with a flat area in a field where horses congregate and are fed. Some protection had to be afforded to both the fowl and the hogs because their pens were located in a place that could not be seen from the farm residence. The garage/maintenance shed obstructed the farmer's view. Dr. Somers reports that the only time the dog barked during his field visits in 2002 was when he appeared in view of the dog without Mr. Weiss present. When Mr. Weiss was present or when he was not in view of the dog, it did not bark. When Dr. Somers visited the farm in August of 2003, Mr. Weiss informed him that he had removed the donkeys, hogs and dog from the farm because he did not want to antagonize the Martins.
16. When Dr. Somers visited the farm on August 11, 2003 a new 10 to 12' wooden plank fence had been installed along the perimeter of that portion of the farm that lies adjacent to the Martin residence/property. Within the former hog pen, a run-in shelter had been constructed to house three Black Angus beef cattle. The pen was neat and no excess amounts of manure were present. Thus, it appeared that the manure was being removed from the enclosure.
17. Access to the Springs by Farm Animals- On Dr. Somers' August, 2002 visit to the farm, he walked to the springs on the Weiss farm and saw that a fence was not present to protect the water source. Several hoof prints were observed adjacent to the two spring houses which were located in such a manner that it would be difficult for them to become contaminated by manure. The spring houses were at the base of a hill with trees growing behind and along side them. It is unlikely that horses and/or other farm animals would congregate above the spring house due to the slope and vegetation. During his September, 2002 visit, Dr. Somers observed a single strand of barbed wire in front of the spring houses, which appears to have been erected to keep the farm animals away from the spring.

Below the spring, a 1000-gallon water holding tank had been installed by the Martins in May of 1998. Mr. Weiss states that the water from the spring used to be the farm's sole source

of water for both domestic and farm use. Mr. Weiss stated that he had a well drilled shortly after purchasing the property and that the spring water is no longer used by the Weiss's except to feed a small pond located downslope from the two spring houses. The Martins state that they used the spring water for outside use, but the line was damaged by the Weiss's and they have not been allowed access by the Weiss's to repair the line. This issue concerning the Martins' alleged right of access to and usage of the spring and holding tank is outside the scope of this review as these activities do not involve agricultural practices.

18. Abatement of Overland Flow of Water - The Broome County Soil and Water Conservation District visited the farm in June 2003 to examine the issues related to water on that portion of the Weiss farm that may impact the Martins. District employee Chip McElwee performed a drainage assessment and provided the Department and Mr. Weiss with his findings. Mr. McElwee stated that he examined the diversion that Mr. Weiss had installed to collect water from the farm before it entered the Martins' property. Mr. McElwee stated in his report that the diversion appeared adequate to address the preexisting drainage problems and seemed to correct the problem.

### Findings

Based upon the facts, information and circumstances described above, and in consultation with the Advisory Council on Agriculture; the New York State College of Agriculture and Life Sciences at Cornell; the USDA Natural Resources Conservation Service; and the Sound Agricultural Practices Guidelines<sup>1</sup> by which agricultural practices are evaluated, I find the following:

1. The Department has found no evidence or received other information indicating that Raymond and Jane Weiss, Tracey Harrington or Tim Bramen have been cited for any violation of law or regulation in relation to odor, lighting, fencing, or water quality. Tracy Harrington was cited by the Town of Fenton's Dog Warden on three charges of violating Section 55.5(b) of the local ordinance, "Barking Dog." Ms. Harrington was found guilty and fined \$25 for each violation.
2. Noise from Farm Animals - In a prior Sound Agricultural Practice Review (Opinion 93-4), former Commissioner Richard McGuire concluded that the use of Maremma guard dogs to protect sheep from predators in that case was a sound agricultural practice. The Opinion cites expert literature which concludes that the barking of dogs is a natural method used by the dog to warn potential predators that they are venturing into a dangerous situation. In that Opinion, donkeys were also concluded to be used by farmers to keep predators at bay. Based on all of the information considered, including reports of Dr. Somers' visits to the farm in 2002 (when he observed the donkey, dog, hogs and roosters) and 2003 (when he observed the roosters), the noise generated by these animals is not excessive for a

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<sup>1</sup> On November 1, 1993 the NYS Advisory Council on Agriculture published its report entitled *Protecting the Right of New York Farmers to Engage in Sound Agricultural Practices*. The Council developed guidelines to assist the Commissioner of the Department of Agriculture and Markets in determining what is sound pursuant to Section 308 of the Agriculture and Markets Law. The Guidelines state that the practice 1) should be legal; 2) should not cause bodily harm or property damage off the farm; 3) should achieve the results intended in a reasonable and supportable way; and 4) should be necessary. The sound agricultural practices guidelines recommended by the Advisory Council on Agriculture are given significant weight in assessing agricultural practices.

farm operation. The use of the dog and the donkey to keep potential predators at bay was necessary because the area where the horses tended to congregate and the pen that held the piglets and sows could not be seen from the house.

3. Odor from Hog Pen - No unusual odor emanating from the hog pen was detected by Dr. Somers during his visits to the farm in 2002 when the pen was used by hogs, nor during his 2003 visit to the farm when the pen was used by the three beef cows. Further, Dr. Somers did not observe piles or excess manure in the pen.
4. Lighting for Horse Riding Arena - Pictures from the Martins depicting the amount of light from a halogen lamp used to illuminate the horse arena that fell upon their house clearly show that the light could pose a nuisance when used at night. However, by August of 2003, the light had been moved 90 degrees to shine away from and parallel to the Martin house. Furthermore, a 10 to 12 feet solid plank fence had been constructed, which further screened the Martin residence from some of the stray lighting that may still be present. The Department has been unable to determine whether the lights are left on all night, as claimed by the Martins and denied by Mr. Weiss and Mr. Fromm, a neighbor across the street from the Martins.
5. Reconditioning of Riding Arena - The movement and blowing of dust from the horse riding arena may occur when the arena is dragged to level the riding surface. Prevailing winds may also pick up and redistribute smaller soil particles within the arena. In a prior Sound Agricultural Practice Review (Opinion 01-5), I found that the dragging of a riding arena is a necessary practice and that dust can be generated when the activity is performed. A farmer should minimize the amount of dust generated and should conduct the practice early in the morning when the ground is damp or install a watering system to dampen the soil surface prior to dragging. The Department did not observe the dragging of the riding arena, or the amount of resulting dust, due to the infeasibility of observing the practice without prior notice to the Weiss farm. The existence of the 10 to 12 feet board planked fence will help reduce soil particle drift onto the Martin property, however.

The operation of four-wheelers in the arena for recreational purposes is not an agricultural practice, and therefore is not addressed in this Opinion.

6. Storage of Manure - When the practice was examined in August of 2002 through August of 2003, manure/bedding material was observed approximately 1,500 feet away from the Martin residence. No manure piles or stacks were observed adjacent to the Martins' property boundary nor any burning of the Martins' lawn during the Department's one year review period.
7. Fencing for Animal Control - The fencing on the property line between the Weiss farm operation and the Martin property appeared to serve its purpose, although some of it was not attractive. Three types of fencing, including barbed wire, hog wire and snow fence were installed to keep the various farm animals, including chickens, dogs and piglets, from entering the Martin property. The current fence is a solid wood plank fence that will further prevent stray farm animals from entering onto the Martins' property. Allegations by the Martins of bodily injury from the barbed wire fence have not been substantiated to the Department.

8. Abatement of Overland Flow of Water - At one time, excess nutrients were being carried from the Weiss farm onto the Martin property. Grass adjacent to and near the property boundary appeared to be burned from excess nutrients. The manure pile which was adjacent to the Martin property was removed. A defined ditch/channel was created to capture the overland flow of water from the Weiss farm pasture, which is upslope from the Martin residence, and divert such water into a defined channel that eventually runs into the road drainage system. No overland flow of water was observed entering the Martin property nor any nutrient burning of the Martins' lawn. The diversion ditch installed at the Weiss farm appears to address the preexisting drainage problems.
9. Exclusion of Animals from Springs/Cisterns - When the two springs on the Weiss property were first examined in August of 2002, horses were not restrained from going near the springs. However, by September of 2002, a strand of barbed wire had been installed to keep the horses away from the springs.

#### Conclusion

Based on the foregoing and in accordance with Section 308 of the Agriculture and Markets Law, I conclude that the following practices as conducted on the Weiss farm are sound agricultural practices: the keeping of farm animals that generate noise; the keeping of hogs and cattle that generate odor from the hog pen; lighting of the horse riding arena; storage of manure; the fencing along the property line between the Weiss farm and the Martin residence; the creation of a diversion ditch to abate overland flow of water onto the Martin property; and the grazing of animals in the spring area. While noting Ms. Harrington's conviction for violations of the Town's barking dog ordinance, the numerous countervailing factors described above lead me to conclude that the keeping of a dog that barks, for purposes of protecting farm animals against predators, is also a sound agricultural practice.

The information available relative to the reconditioning of the Weiss's riding arena does not provide a basis upon which to conclude whether such manner of reconditioning is a sound agricultural practice.

I do not conclude that the prior placement of the halogen light to illuminate the riding arena and the movement of nutrient rich surface water onto the Martins' lawn are sound. If the lights in the riding arena are on all night, when not needed for farm purposes, such use is not a sound agricultural practice.

6/25/04

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Date



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Nathan L. Rudgers  
Commissioner