

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**IN RE GENETICALLY MODIFIED RICE
LITIGATION**

)
)
)
)
)

4:06 MD 1811 CDP

ALL CASES

DECLARATION OF LUCY S. CAPOCACCIA, MAI

SCOPE OF THE ASSIGNMENT

I was asked to analyze the appropriate methodology that would be used to evaluate claims of property damage made by plaintiffs. The appropriate procedure is called the Before and After Valuation Technique. The Before and After Valuation Technique measures the difference between the value of the whole property before the occurrence of an event and the value after the event.

In order to accurately use this technique, the appraiser must look closely at all of the characteristics of the specific property, which is the subject of the study. Also required would be looking at any differences that would affect value between the before and after time periods, which might also have an effect on the value of the property.

APPRAISER BACKGROUND

My appraisal experience began with the Mississippi Department of Transportation, formerly the Mississippi State Highway Department. My job involved appraising highway right-of-ways, which were needed for road expansion projects. An appraisal is the actual process of developing an opinion of value.

This job involved appraising all types of land varying from residential to agricultural. I traveled statewide for 2 ½ years performing these appraisals. In this position, I was also required to testify for the department on numerous occasions when an agreement as to the just compensation could not be reached. This would involve me testifying as to the value which I had arrived upon in the original appraisal report.

I have been working as an independent fee appraiser with Leland Speakes & Associates since 1992. My job now involves appraising any type of commercial, industrial, agricultural, or special purpose property. In any given year, I appraise between 15 and 30 agricultural properties, ranging from 50 acres up to thousands of acres.

STANDARD METHODOLOGY FOR EVALUATING CLAIMS OF DAMAGE TO AGRICULTURAL LAND

I. Introduction

The Before and After Valuation Technique is the appropriate standard methodology for evaluating claims of damage to agricultural land. This technique involves performing two appraisals, one determining the value prior to the event claimed to cause damage and a second after the event. Other factors that potentially could change the value of a particular property are controlled for and the difference, if any, between the two appraisals can provide a reliable estimate of whether any damage to the market value occurred.

II. Methodology of Appraising Agricultural Land

The standard methodology for appraising agricultural land involves a complete inspection of the property. This includes riding the boundaries, focusing on all four corners, observing the characteristics of the property such as wells, land leveling, and any other attached improvements. The appraiser obtains property data from the property owner including any information that he might have in regard to total percentage of cultivated acres, production yields, aerial photographs, and any information concerning irrigation and land forming.

The appraisal process is a systematic way of developing a value indication using methods and techniques; examples are Cost Approach, Direct Sales Comparison Approach, and Income Capitalization Approach.

The general layout of the land is analyzed. Is the farm one contiguous tract or separate tracts? How far are these separate tracts from each other and how difficult would it be to transport farm equipment?

The property owner or tenant is asked about the production history of the land and what crops have historically been planted. In addition, it is helpful to know about crop rotations and set aside acreage.

After a physical inspection is made, a soil type analysis is made. This involves going to the U. S. Department of Agriculture, Farm Service Agency (FSA) office and obtaining the map showing the subject property's location. The soils then can be characterized into class types and analyzed as far as the general make-up of the property. The capability class progresses from the less restricted soils to soils with the greatest agricultural limitations. The classes of soil types are defined as follows:

Class I soils have few limitations that restrict their use.

Class II soils have moderate limitations that reduce the choice of plants or require special conservation practices.

Class III soils have severe limitations that reduce the choice of plants, require special conservation practices, or both.

Class IV soils have very severe limitations that reduce the choice of plants, require very careful management, or both.

The next characteristic the appraiser will want to look at is the estimated crop allotments and yields for the different parts of an appraised parcel. Crop allotment is the number of acres the federal government allots to a farm for example: tobacco, cotton, or rice allotments. This information is obtained from local county agricultural offices. This information is most helpful in appraising an agricultural property. Yields can vary as a result of different management practices, weather, variety of crops, insects, and diseases.

The next characteristic of the property which can have a significant impact on its appraised value is whether or not it has had any land forming or precision leveling. This involves bringing in specialized equipment which is used precisely to level the land so that irrigation can be utilized at its highest and best use. This has a direct effect on the farms' productivity, and therefore its market value.

Also considered are any building improvements, such as shops, sheds, headquarter office, manager's house, grain bins, etc. Some farms have extensive building improvements while others have none. Sometimes farm headquarters are located on a separate tract, which is farmed by the same owner or tenant. Based on the locations of these improvements, in regard to the overall farm, they can have a significant impact on its market value. This analysis is different for each farm and has to be analyzed on a property-by-property basis.

A. Cost estimate for improvements

If it is felt that the improvements have a significant contribution in the overall value of the property, a cost estimate is usually obtained because it is difficult to find sales of just the farm improvements. This estimate can either be from a contractor which deals with farm improvements, or through a cost estimating service, such as the Marshall – Swift Valuation Service.

After the cost estimate is made, the appropriate depreciation must be deducted. Depreciation is estimated by looking at the current condition of the improvement and making a comparison between its condition and the overall expected life of the improvement. This life figure can also be obtained from a cost service or from a builder of this type of improvement.

B. Direct Sales Comparison Approach

One of the generally accepted valuation techniques for appraising agricultural land is the Direct Sales Comparison Approach. In this approach, a search is made for recent sales of comparable properties to be compared to the subject property. In making this search for sales, the same characteristics are looked at, as were discussed in the analysis of the subject property. Preferably these sales have taken place within the recent past and involve sales of similar size, irrigation improvements, building improvements, soils, and overall farmland characteristics.

It is important to verify all of the information possible regarding agricultural sales. Public databases or records do not contain all the information about recent sales needed to use in the Direct Sales Comparison Approach. It is preferred to get this information from individuals actually involved in the transaction. This could involve the property owner, the tenant, an adjoining property owner, a family member, an attorney who handled the sale, etc.

In order to get accurate information about these agricultural sales, it is very important to have good relationships with people involved in the buying and selling of agricultural land. This can involve pension funds, life insurance companies, farm brokers, farm appraisers, farm lenders such as the Federal Land Bank, and county agricultural agents.

One of the first items that we look at when confirming a sale is what type of land conveyance was involved. Did it involve an all cash sale, third party financing, second party or seller financing, or a contract for deed? The appraiser has to be aware of any and all influences and motivations that might have had an effect on the price paid. For instance, during the actual growing season, the crops on the land may transfer along with the land to the buyer. However, during the non-growing season, there would be no crops to convey, so two similar parcels could bring different prices per acre based on when they sold. Different water rights can also affect sales prices.

In the Direct Sales Comparison Approach, the ideal situation is to find three to six sales, which all involve properties with similar characteristics as the subject property. This is not always available. However, if you can find a couple of very comparable properties, a fairly reliable paired sales analysis can be made. This analysis simply involves comparing each characteristic between two sales and extracting an adjustment for any differences between the two properties. Once this analysis is made, the indicated adjustments can be made to the sales to reflect the value for the subject. After the needed adjustments have been made to each of the sales, an analysis is made of the value indications from the comparable sales. Sometimes these indications can offer a fairly wide range depending upon land size, and other characteristics that have been discussed. As mentioned, this approach is felt to be very reliable for valuing agricultural farmland because it is felt that most investors in this type of property are highly concerned and interested as to what other similar type properties have sold for.

C. Income Capitalization Approach

The other standard approach, which can be used in valuing farmland, is the Income Capitalization Approach. The principal method for deriving the value of agricultural cropland is to analyze the owner/tenant lease arrangement. In some instances, the landlord receives a part of the harvested crop, say 25%. The landlord may pay a share of the expenses for irrigation and maintenance of the equipment rented to the farm tenant. The landlord also generally pays all real estate taxes and insurance. The appraiser has to determine the specific arrangements in the lease. If the sales used have different lease agreements than the property being appraised, some adjustments may have to be made to the fair market rent amount.

Another common arrangement is to rent farmland on a cash basis. The availability of rental rates from other farms helps in this analysis. The appraiser would determine the fair market rent for the subject property based on its current lease as well as comparing it to the other comparable properties. In most instances, the tenant pays for all of their own expenses related to their production. However, if there is a share arrangement, some of these expenses may be paid by the property owner. The appraiser will still compare a share arrangement with cash rent to determine if they are basically equal after the expenses are paid. It is preferred to use local farm rental rates when doing this analysis.

Sometimes leased irrigation equipment such as pivot systems provides extra rent in farm leases. Both cash leases and sharecrop leases are typically negotiated each year, but some may have several year leases.

After the potential gross income for the property is estimated, any applicable expenses have to be deducted. The most common expense to be deducted is real estate taxes. This is the only yearly fixed expense an owner of farm land usually has. After this deduction is made, net operating income is estimated.

The next step in this approach is the selection of a capitalization rate. Speculative purchasers of farmland may be motivated by the prospect of long-term appreciation. Farmland values are directly correlated with the related demand for farm products. Therefore, when land prices rise faster than demand for the crops, capitalization rates will decline. Agricultural rates tend to be lower than rates for most other types of real estate. The most reliable location to get these capitalization rates is from other properties, which have been sold and were being leased out under a similar situation as the property being appraised. Other sources for rates can be farm management companies, other farmers, and pension funds for larger operations. There are also several services which report this type of information on a statewide basis. Even though this information can be helpful, it is still more desirable to have local market data.

After a capitalization rate is selected, it is then divided into the net operating income to arrive at an estimate of market value. The value from this approach is usually somewhat less than the value by the direct sales comparison approach. This is mainly due to the fact that a property may have a large amount of uncultivated land and the rent agreement may be set on the cultivated acres. In the sales approach, every acre is valued as part of the whole farm, even if the land is classified as wasteland. Wasteland is considered to be land which is not currently in cultivation, such as ditches and turn rows.

III. Final Analysis

After the two approaches are completed, the appraiser correlates the indications to arrive at the fair market value. Depending upon the quality of the information obtained for each approach, the appraiser determines which value indication is the most supported and applicable for the property.

MATERIAL CONSIDERED

The Appraisal of Real Estate, 12th Edition, The Appraisal Institute, 2001

The Dictionary of Real Estate Appraisal, 4th Edition, The Appraisal Institute, 2002

Land Valuation, James Boykin, 2001

CERTIFICATION

I declare under the penalty of perjury to the best of my knowledge and belief that:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are my personal, impartial, and unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest or bias with respect to the parties involved.

I have not been the author of any publications within the last 10 years.

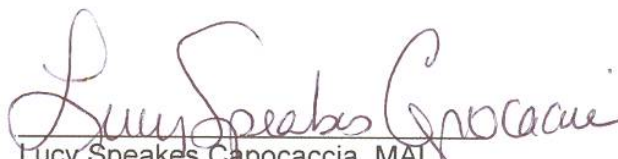
I have charged my customary hourly fee of \$125 per hour for the time spent preparing this report.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

This report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.

As of the date of this report, I have completed the requirements of the continuing education program of the Appraisal Institute.

I have not been a party to a deposition or testified in any court within the last 4 years.


Lucy Speakes Capocaccia, MAI
Certified General Appraiser GA-221

March 3, 2008

QUALIFICATIONS

OF

LUCY SPEAKES CAPOCACCIA, MAI

1. Professional Designations Awarded:
 - MAI – Member, Appraisal Institute Certificate #11471
 - State Certified General Real Estate Appraiser #GA-221
 - Mississippi Real Estate Brokers License #16119

2. Professional Training: Special Appraisal Courses - Appraisal Institute
 - Principles of Real Estate Appraisal, Brookhaven College, Dallas, Texas
 - Appraisal Procedures, University of Alabama
 - Residential Valuation, Houston, Texas
 - Standards of Professional Practice, Jackson, MS
 - Capitalization Theory & Techniques, Parts A & B, University of Colorado
 - Advanced Applications, Dallas, Texas
 - Report Writing and Valuation Analysis, University of Georgia
 - Advanced Income Capitalization, Nashville, Tennessee

Special Seminars:

Attended many special seminars on right-of-way appraising and eminent domain proceedings offered by the International Right-Of-Way Association.

3. Education:
 - Bachelor of Business Administration, Degree in Real Estate-Mortgage Finance, Mississippi State University, December 1989

4. Experience:
 - June 1992 - Present, Partner, Fee Appraiser, Leland Speakes & Associates

 - April 1990 - June 1992, Staff Appraiser for Mississippi State Highway Department. Performed right-of-way appraisal work statewide.

Appraisal experience encompasses all types of real estate both urban & rural, private, institutional, as well as governmental. Specializing in the appraisal of commercial and industrial properties, as well as large agricultural tracts.

5. Approved Appraiser for:
 - Mississippi Department of Transportation
 - Department of Housing and Urban Development
 - Mortgage Loan Companies
 - United States Fish & Wildlife Service
 - Internal Revenue Service
 - U. S. Corps of Engineers
 - Federal Home Loan Bank
 - Farm Credit Services
 - Federal Deposit Insurance Corporation
 - Area Mortgage Banks and other Lenders

6. Major Appraisal Assignments:
 - Medical clinics
 - Large industrial properties including manufacturing plants, processing plants, and large warehouse distribution centers
 - Multi-tenant shopping centers
 - Large free-standing single tenant commercial properties
 - Cotton, Rice, Soybean, and Corn Farms ranging from 100 acres to 10,000 acres
 - Appraisal of commercial catfish farms and processing plants
 - Extensive market value studies involving environmentally impacted properties for two of the largest environmental lawsuits in the state of Mississippi
 - Special use properties including churches, cold storage's facilities, and movie theaters
 - Multi-tenant apartment properties

7. Qualified expert witness for:
 - Justice of Peace Court
 - County Court
 - Chancery Court
 - Circuit Court
 - U. S. District Court: Mississippi

8. Offices Held:
 - President – Mississippi Chapter of the Appraisal Institute
 - Vice President – Mississippi Chapter of the Appraisal Institute
 - Board of Directors of the Mississippi Chapter of the Appraisal Institute
 - Treasurer – Mississippi Chapter of the Appraisal Institute