

**Personal Narrative by Terry Spence
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The History of Premium Standard Farms, and The Citizens of Lincoln Township

In January of 1989, Premium Standard Farms Swine Operation was fined in Iowa for construction of a swine facility near the Ledges State Park. The company had commenced construction of a lagoon without the proper approval or permit from the Iowa Department of Natural Resources. The company was fined seven hundred dollars and banned from any further construction. The Iowa governor's office said that talks with company leaders characterized an attitude of "we're building, and therefore, we have to exist."

After being ousted from Iowa, the company turned its focus to Missouri while drawing support from Missouri's Governor John Ashcroft, Missouri Representative Katie Steel; Beth Wheeler, John Danforth and Phil Tate. These officials participated in putting the links together for them to re-locate and do business in Missouri.

In the final hours of the 1993 Missouri legislative session, an amendment was piggybacked, or buried, onto an economic development bill that would exempt Putnam, Sullivan, and Mercer Counties from Missouri's Corporate Farming Law of 1975. That law placed a ban on Corporate Farming in Missouri. The amendment would thus allow Premium Standard Farms an exemption to operate and do business in those three counties to raise swine.

Serious questions arose as to how this amendment was approved without public knowledge, or participation, by county and local citizens who might be affected by this type of operation, but the fix was in, and it was hurriedly hushed up. This amendment also helped Premium Standard Farms obtain millions of dollars of Wall Street financing that was needed for their planned Missouri Operations.

Missouri Operations

After obtaining the exemption from Missouri's Corporate Farming Law, Premium Standard Farms moved rapidly to exploit all three counties for the expansion of their Swine Facilities in which they planned to raise over two million hogs. Once construction had been nearly completed in Mercer County, their focus turned in 1994 to Lincoln Township in Putnam County for another large feeding complex. This proposed complex would consist of ninety-six buildings and twelve lagoons with a capacity of twenty-five million gallons. It would house approximately one hundred and six thousand head. The facility was to be located within a mile radius of nearly thirty family residences.

After meeting with company officials, and the Missouri Department of Natural Resources on numerous occasions, the township citizens felt it was in our

best interest to draft and place a zoning ordinance in our community. The ordinance would be designed to protect the health, safety and welfare of the general public, to protect property values, to secure the most economical use of the land, and to facilitate adequate provisions for public improvements. Missouri Statutes grant townships the authority to place zoning ordinances to preserve and protect the land use, as well as the welfare of its inhabitants.

The Local Battle

On June 30, 1994, Lincoln Township adopted, by the vote of the people, a Comprehensive Planning and Zoning Ordinance that would not exclude hog feedlots or CAFOs, but would require designated setbacks from family residences, and a security bond placed on the lagoons that would be constructed. The security bond was intended to hold the company liable for clean up if the operation ceased, rather than leaving the financial burden on the township or county.

On July 1, 1994, the day after Lincoln Township implemented its Zoning Ordinance, the Missouri Department of Natural Resources (MDNR) issued Letters of Approval (LOA) for the construction of nine lagoons at the Whitetail Facility in Lincoln Township. The MDNR had been properly notified that the zoning ordinance was forth coming and would be in effect on June 30, 1994. MDNR issued the LOAs even though they contradicted Missouri guidelines on issuing an LOA for a facility that was to be located within a zoned region.

The company commenced construction on the lagoons on July 5, 1994, four days after receiving MDNR's approval. On July 13, 1994, the Township's Code Enforcement Officer sent a letter to Premium Standard Farms informing them of their non-compliance with the ordinance and a request to meet and discuss the issue. On July 29, 1994, Premium Standard Farms filed a lawsuit against Lincoln Township for \$7.9 million dollars for the taking of their property rights. The intent of the suit was to intimidate and harass local citizens, but it didn't work. The company underestimated how much pride we had in our rural community, our way of life, and how determined we were to preserve and protect it. On October 6, 1994, Lincoln Township filed a counterclaim to Premium Standard Farms Petition, seeking enforcement of the township ordinance and abatement of the facility on the grounds that it was a public nuisance.

April 1, 1995, Willie Nelson and Farm Aid traveled to Lincoln Township to participate in a rally protesting the giant hog company's attempt to sue our small township of two hundred and fifty residents for \$7.9 million. The event was portrayed as the "David and Goliath battle in North Missouri".

The event hosted around three thousand participants along with thirty organizational leaders from all across the United States. These leaders presented statements in defiance of the conduct of this company. Right before the rally, and after considerable press coverage, Premium Standard Farms withdrew the count

for the monetary damages of \$7.9 million and made the statement, “The case is not about money, it's about retro-active zoning of our facilities.”

Following the rally, a six-day “Journey for Justice” march from Lincoln Township to Ames, Iowa was launched on April 25, 1995. Neighboring Iowa Farmers along the route joined Missouri Farmers and other participants in the six-day march to Ames. The Journey for Justice group participated in nightly meetings in rural towns along the way in order to educate communities on corporate industrialization and corporate control, the destruction of rural communities and the ill effects of large factory farms. People needed to realize that these types of operations were beginning to crop up all over the United States . The ultimate purpose of the march to Ames, Iowa, was to meet with U.S. Secretary of Agriculture Dan Glickman and President Clinton, who were attending the National Rural Conference. We hoped to broaden their awareness of the consolidation, concentration and mass destruction being done by corporate entities like Premium Standard Farms in Northern Missouri.

One hundred and fifty protestors rallied outside the conference, while designated members participated in addressing their concerns to President Clinton and the U.S. Secretary of Agriculture Dan Glickman. A commitment was received at the conference in Ames for a meeting to be held between the Journey for Justice Group and the Secretary of Agriculture in Washington, D.C. on June 12, 1995, to discuss the issue.

At the D.C. meeting, Secretary Glickman committed to come to Lincoln Township on November 11, 1995, to listen to the concerns of area residents about Premium Standard Farms and the consolidation of the pork industry, and also to see the facility and where it was situated in the township. More than two hundred seventy leaders from Missouri, Iowa, Minnesota, Wisconsin, Illinois, Kansas, Oklahoma and North Carolina attended the meeting during an ice storm to express their concerns over the consolidation and concentration of animal agriculture.

End of Township Lawsuit

On May 31, 1996, the Putnam County Circuit Court Judge ruled on the lawsuit filed by Premium Standard Farms against Lincoln Township's zoning ordinance. The ruling stated that the state statute requiring members of a township board of adjustment to be freeholders was unconstitutional. It further stated that the state statute violated the Equal Protection Clause of the 14th Amendment of the U.S. Constitution. The Judge also found the zoning ordinance adopted on June 29, 1994, to be void because it didn't comply with the state statutes. The Judge also ruled that a township did not have the authority to require closure bonds on lagoons because they were considered agriculture and agriculture was exempt under Missouri Statutes.

The Township appealed the Circuit Court ruling to the Missouri Supreme Court, but after considerable time, the Supreme Court ruled that under Missouri Statutes, agricultural buildings, structures and water impoundments are exempt from zoning. The Supreme Court further ruled that Lincoln Township's Zoning Ordinance did not have the authority to regulate Premium Standard Farms' building and lagoons, because they were considered farm structures.

Township residents did not look at this as a total defeat, but rather, a legal clarification of the Missouri Statutes so that following counties could focus on other protective measures that might regulate these types of operations (such as health ordinances).

State Battle

From 1994 through 2004, the state battle has been a nightmare with relentless meetings and hearings at the Missouri legislature, Missouri Department of Natural Resources (MDNR), Missouri Clean Water Commission (MCWC), Governors Office and the Missouri Attorney General's Office. The MDNR put the “carriage before the horse” when they allowed Premium Standard Farms to commence operations in Missouri. The procedure that followed was to implement rules and regulations for this company as the facilities developed, with little understanding, or realization, of the magnitude of the problems that were to later develop.

Beginning in the fall of 1995, Premium Standard Farms had numerous spills and mishaps, which polluted many miles of creeks and streambeds and killed over 180,000 fish in Northern Missouri. The state, as usual, was reluctant through this time frame to enforce any compliance standards against the conduct of this company.

After pure pressure by private citizens and demoralizing the state in the press, the state finally figured out that the facilities weren't built to design plan. The engineer had placed his seal of certification for approval on the construction without even inspecting the facilities. After heavy pressure and repeated complaints from private citizens, the engineer surrendered his Missouri license in March of 2001 and is no longer able to work in this state. In 1996 the MDNR finally made a move to penalize the company for its environmental mishaps and fish kills. The company agreed to a fine of \$241,084 in a settlement “negotiated” by the Missouri Department of Natural Resources.

Just by “coincidence,” the official state files regarding the environmental compliance record of Premium Standard Farms were sealed and referred to the Missouri Attorney General's Office for enforcement action nine days after Citizen's Legal Environmental Action Network (CLEAN) filed its federal lawsuit against the company. On October 17, 1997, the Missouri Attorney General's Office filed a sixty-day notification with the company on its intent to file a lawsuit in federal court for

violations of the state and federal water pollution laws. The company was told if they entered into a consent judgment within sixty days that addressed the violations with a permanent remedy, the states federal suit could be avoided. As usual this was nothing but hot air and media attention, with no actions, remedies, or follow-up taking place.

Again on January 19, 1999, the Attorney General's Office filed a state suit against Premium Standard Farms alleging the states largest hog farm was in violation of state environmental laws. Again, just by “coincidence”, twelve days after the U.S Department of Justice and the Federal EPA joined the CLEAN case, the state of Missouri reached a settlement with Premium Standard Farms in which a consent decree was entered between the parties. The company was to pay a one million dollar fine with \$650,000 up front plus \$350,000 on condition of future compliance. The company also was to spend \$25,000,000 with at least one-half in the first three years and the balance within five years to determine a “next generation technology” to handle their effluent. The deadline for final spending was to be in January of 2004. At that date, the company had only spent approximately one-half (\$12,000,000) towards meeting their obligations under the state consent decree. Again the state was lax while extending the terms of their own consent decree, even though the company was still having relentless spills and pollution problems prior to the granted extension.

On June 4, 2002, the Missouri Attorney General's Office filed yet another lawsuit against Premium Standard Farms for fourteen incidents that violated Missouri's Clean Water Law. This lawsuit, plus the violations that had occurred since the suit was filed, were in direct violation of the 1999 consent decree arranged between the state and Premium Standard Farms. CLEAN attempted to intervene in this suit, using our knowledge of the company from the federal suit, but the Attorney General's Office persuaded the court to dismiss our request, stating that CLEAN would only cloud the issues and slow the process down.

Five-Year Federal Battle

On April 1, 1997, Citizens Legal Environmental Action Network (CLEAN) served a sixty-day notification of intent to bring suit under the Federal Clean Water Act and Clean Air Act against Premium Standard Farms and the United States Environmental Protection Agency. CLEAN is comprised of forty families that reside near Premium Standard Farms Facilities. On July 2, 1997, CLEAN filed suit against Premium Standard Farms and the Federal EPA for ongoing violations of the Federal Clean Water Act and Clean Air Act. EPA was named as a defendant because of its failure to properly oversee Missouri 's Department of Natural Resources and for failing to enforce federal environmental law against this company. EPA was eventually dropped from the suit as a defendant in hopes that they would be more beneficial as a partner in the litigation that was to follow.

On July 22, 1999, two years after CLEAN's filing, the United States filed a motion to intervene on behalf of CLEAN's pending suit against Premium Standard Farms. CLEAN welcomed the intervention of the U.S. Department of Justice and the Federal EPA after years of wasted time and energy working with the Missouri Department of Natural Resources and the Missouri Attorney General's Office, both reluctant to rein this habitual polluter into compliance. Little did we know at the time that this was a devastating mistake which we would later regret. CLEAN, the U.S. EPA, and the U.S. DOJ had hoped that Missouri would join with the citizen's suit to bring an end to the chronic history of this company, but Missouri declined saying that their 1999 consent decree would bring change and new technology, which would bring this company into compliance. In reality it amounted to "prejudice over pollution" in regards to Missouri claiming that they could control this company's conduct. It was well known that Missouri and the Federal EPA had prior conflicts over challenges to the state's authority.

With the EPA and the U.S Department of Justice's presence in the case, CLEAN soon realized that we were being shut out, with the main negotiating being done by the federal government and industry attorneys. We were in attendance at every meeting that took place over the five-year period, mostly in Washington, D.C. and a few times in Kansas City, MO. All through the process, we knew it wasn't headed in the right direction and that we had no control or guidance on what was being discussed. Little did we know until a consent decree had been reached and signed in 2002, that the EPA had been told by higher-up officials to get out of the case and never take on another of this type. Two of the main EPA officials involved with our case resigned shortly after the consent decree was signed due to the injustice that was placed on this case and the restrictions barring them from enforcing the federal laws against industrial polluters in agriculture.

The federal Consent Decree is still effective and will be until all the company's facilities have adopted a selected technology to deal with their waste. Deadlines for complying are set forth in the decree along with other stipulations and compliance schedules. CLEAN is regularly engaged with legal council to make sure the company adheres and complies with each step of the decree.

Personal Effects of Conflict

I, my family, friends, and close allies have endured the conflicts and turmoil of the past eleven years and have stayed dedicated to our cause because we hold the belief that justice will prevail at some point in time if we, as individuals, stay dedicated and committed to preserving the environmental integrity that must be sustained for future generations.

Yes, there has been personnel anguish, stress, frustration and disappointments with each passing day over the last eleven years. Doing what one thinks is right sometimes jeopardizes the fundamentals in life that we all take for granted: family, friends, relatives, community, work and even church. I will point

out in the following paragraphs some of the things that have taken place in regards to my family and me for taking a stand for what we believe in against a corporate entity that intruded on our lives and our community in 1994.

My first commitment began when Premium Standard Farms entered Lincoln Township in 1995. I was appointed as the designated spokesperson for the township when Premium Standard Farms filed the \$7.9 million lawsuit against the township for our zoning ordinance. Being a lifelong farmer, I was never one to be involved in issues that didn't relate to farming or my personal business. With the lawsuit and Willie Nelson's presence, I went from being a quiet person to one that was traveling and constantly on the phone. I was suddenly involved in organizing, strategizing, doing press interviews on the local, state, and national levels, and dealing with attorneys in our litigation to defend our zoning ordinance. It's amazing how a person can react, or respond, when something is about to jeopardize one's family, home, livelihood, or community.

As time wore on and the press issues broadened, my family and I could see that friends and associates we had known for years, and even relatives, were now distancing themselves from our presence, either because they disagreed with the stand we took, or didn't want to be seen associating with someone that criticized the state's ugly stepchild, Premium Standard Farms. Local businesses that I, and my family, had done farm business with for many years even seemed bothered by our presence. My wife and I, and our children, began to notice that people in our church congregation even started ignoring us at church services; the ones that did speak had little to say. My wife and I had been a member of our local church congregation for thirty-two years before we decided to leave and find another church that appreciated our presence at their services, and not judge us for the fundamental things in life we believed in. To this day and many years later, only one person ever asked why we left our original congregation. The minister never once attempted to visit or make contact, to see what was wrong, or to find out why we left.

Even though my entire family stands united with me in my attempt to make this company comply with the law, it has placed a heavy burden upon them. My wife had been the Deputy Circuit Clerk and Recorder of Putnam County for sixteen years before her boss retired from the Circuit Clerk's Office in 1998. In prior years no one had made a bid for the Circuit Clerk's job until my wife, with sixteen years of experience, placed her name on the ballot for election. Putnam County has always been a strong Republican County and my wife ran on the Republican ticket for that election. Nine other candidates, some of which we've assumed were backed by Premium Standard Farms, ran against her in the primary. My wife survived the primary and only won the general election by a mere 42 votes. Never before had the Republican ticket come close to losing in Putnam County.

Her four-year term expired in the fall of 2002 and she lost the bid for re-election, lacking only two years to reach her full retirement under the Missouri state retirement plan. This just goes to show how far a "company town" will bow to try

and intimidate anyone that interferes with the company's business. My wife worked with the public on a daily basis for over twenty years at this job, even with employees of Premium Standard Farms. She always kept her thoughts and our differences about the company outside her work. The fact was, the company wasn't after her or her position. They simply wanted to get to me in whatever way they could to deflect my determination on pursuing them any further.

I have to really admire my wife for hanging in there with me through thick and thin. She had devoted twenty years of her life to this career in hopes of drawing a decent retirement in her later years, something that's rare in rural America these days. Little did the company know that our 38 years together were more binding, and carried more strength, than their stupid corporate mentality. Again they lose, and I'm still pursuing.

These are just a few of the things that ordinary citizens across the United States go through on a daily basis when challenging the power and wealth of major corporations. I, as well as many others throughout the past eleven years, have sacrificed much and paid dearly for standing and opposing the myth of industrialized agriculture and fighting to end the damage it causes to our environment as well as the damaging effects on human health for those that live near Concentrated Animal Feeding Operations. Listed below are a few of the sacrifices:

- Financial burdens - I cannot count the number of meetings, hearings, negotiations, conference calls, plane tickets, mileage, hotel bills, meals, and days lost from work over the last eleven years in fighting this corporation. The most disgusting part of it all is that every person who participated across the table at these events received a salary or were paid by our tax dollars. The private citizen does it out of the earnest of their hearts, no matter what the cost.**
- Neglect - I look at myself and the last eleven years I've devoted to this cause and find that twelve years of my life have escaped (gone) and I'll soon be 58 years of age. What I regret the most is the loss of quality time that could have been devoted to my wife, family, and grandchildren – something that can never be replaced. Even though I have guilty feelings about the time I've spent away from my family on this issue, I'm rewarded when they say they are proud of me for standing up for what I believe in. I'm assured that each of them understands that this issue will have a definite effect on their future. So, I guess that's why I do what I do.**
- Community loss - I realize that the victory and justice we continue to work towards in our endeavors against Premium Standard Farms will never correct the damage that this company has already done to our community and environment. The animosity, mistrust, and division that the company has stirred up in our community, as well as the environmental degradation that has already taken place, could not be undone if Premium Standard Farms left today. In reality, this has been a no-win situation for our community since they first located here. If there was**

“true justice” in our State and Federal legal systems, companies like Premium Standard Farms would be held accountable for their actions and misconduct. However, the community disruption caused by their presence, as I mentioned earlier, would likely never heal.

In an earlier paragraph, I referenced the effects industrialized agriculture may have on the health and environment for future generations. As individuals, one never knows the impression that we may leave on others when it comes to issues we support in opposition to environmental destruction. Just recently, my grandson presented me with a forty-five minute PowerPoint presentation of my last eleven years worth of endeavors that was inclusive of meetings, media, speaking engagements, presentations, etc. I guess the heading that really struck me the most, coming from a teenager, was the one that said “You Have to Stand for Something.” There are times when we try to define the specific wins and losses in this battle, but the important thing is what we instill in those that are on the sidelines. They are the ones who will someday further the fundamental values that we have tried to preserve for them.

In summary, I'm very proud of my family, the individuals within Lincoln Township, the members of Family Farms for the Future, and the members of Citizens Legal Environmental Action Network (CLEAN) for their unity, dedication, and commitment over the last eleven years. Even though we may not have won all the battles, we stood together, challenged, and tested all avenues of the legal system in search of justice at the highest levels. We, as private citizens, left a trail through the legal system that clearly demonstrates that the democracy in this country is not of the people, by the people and for the people, but rather, of the corporations, by the corporations, and for the corporations.

In May of 2004 a class-action lawsuit was filed seeking a class-action status to represent all property owners within a ten-mile radius of all the facilities the company owns in Northern Missouri as well as farms that are owned by individual contractors for the company.

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The narrative above is primarily an overview of the events that took place over the past eleven years. This narrative was not inclusive of all intimidations, harassments, and threats that were endured by individual citizens throughout this time frame.