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Testimony on SB 103 Senate Committee on Environment and Natural Resources

Chair Dembrow, Members of the Committee

Friends of Family Farmers represents small and mid-sized family farmers across Oregon. We have a long history working to address the problems associated with very large confined and concentrated animal feeding operations (CAFOs) in Oregon and served on the state's Task Force on Dairy Air Quality in 2007. More recently, we have participated in the work group discussions regarding SB 876. We are very concerned about the trend in Oregon of fewer but larger dairy farmsⁱ, and opposed the Lost Valley mega-dairy from the beginning due to the harmful impacts to Oregon's small and mid-sized dairy farms, groundwater resources, and air quality.

We are submitting comments today in support of SB 103 because it is the only proposal currently before you that would place a moratorium on issuing permits for new mega-dairies in Oregon, while implementing several long overdue reforms to how Oregon oversees very large CAFOs like the 30,000-cow Lost Valley farm operation. In speaking with dairy farmers we work with, we have heard that the definition of 'industrial' dairy in the bill is concerning because it could apply to some dairies under 2500 cows. Because of these concerns, we would support an amendment to adjust this definition.

However, placing a 'time-out' on new permits for very large CAFOs so that new reforms can be enacted is absolutely necessary to ensure that what went wrong with Lost Valley cannot happen again the next time another operation of this scale seeks to move to or expand in our state.

The history of Lost Valley clearly demonstrates that it was a combination of loopholes in state law and failures by state agencies during the permitting process that led to the Lost Valley fiasco. It was not simply 'one bad actor.' Problems with agency oversight included:

- Construction of the facility began improperly months before the CAFO permit was approved but no fines or penalties were issued.
- Agency staff focused on meeting arbitrary deadlines to approve the CAFO permit for Lost Valley while questions were ignored about the likely pressure to tap restricted groundwater for dairy operations should they approve the permit.
- The CAFO permit was approved and thousands of cows were allowed on site before permanent water rights were secured for dairy operations, before construction of manure containment infrastructure was completed, and before a final Animal Waste Management Plan was approved. This despite the fact that Lost Valley was located in a region with contaminated drinking water and in a restricted groundwater area with declining supplies.

- The DEQ and ODA actively promoted the supposed 'economic benefits' of the facility in the absence of any economic analysis or consideration of the economic crisis facing many family dairy farms in Oregon. Mega-dairies are flooding the market with milk, driving down prices to historically low levels that are putting family farms out of business in Oregon and across the country.
- The agencies allowed an ongoing series of violations at the facility to become 'severe' before taking significant action, despite the fact that many of these problems stemmed from the agencies approving the CAFO operating permit prematurely.

In addition, a 2008 program to require mega-dairies to reduce their air pollution was still not in effect at the time of permitting, raising significant concerns about the state of Oregon approving a massive new industrial-scale source of haze-causing ammonia and methane, a potent greenhouse gas.

Ultimately, Lost Valley racked up over 200 permit violations in a little more than a year of operation, including liquid manure spilling out of lagoons and threatening groundwater, as well as application of manure far exceeding agronomic rates. Lost Valley also utilized an exemption in state law for stock watering to tap millions of gallons of restricted groundwater, which state agencies were warned was possible in advance of approving the permit. The state ultimately took Lost Valley to court and revoked its CAFO permit, but the process of closing the facility down lasted for nearly another year. Nonetheless, the speed with which one of the nation's largest and most controversial mega-dairies was shut down by the same state agencies that allowed it to operate was unprecedented.

The State of Oregon clearly failed throughout the process of permitting Lost Valley and in the implementation of its CAFO program. Unless significant reforms are made to how operations of this scale are permitted and regulated in the future, the state agencies responsible could easily make the same mistakes again next time.

SB 103 would place a moratorium on issuing permits for *new* mega or industrial sized dairies in Oregon, while implementing several long overdue reforms to how Oregon oversees very large CAFOs like the 30,000-cow Lost Valley operation. While key points and definitions in the bill can be debated, at the core of SB 103 is the reasonable concept that mega-dairies should be regulated differently than other large dairies. The agency failures associated with Lost Valley underscore that new rules and approaches are needed for operations of this very large scale.

Key provisions in SB 103 we urge you to support include:

- A **'time-out'** on issuing new permits for very large ('industrial') dairy operations until significant reforms are adopted in how the CAFO program addresses or prevents their impacts.
- Within a year of bill passage, a requirement by ODA to complete an **economic study to determine the effect of very large dairies on the economic viability of small and medium sized dairy farms**, including but not limited to the effect mega-dairies have on milk prices. As part of this, ODA would have to identify changes to state policies or incentives to help small and medium sized dairies counteract any negative economic impacts caused by industrial dairies.

- By 2021, an air emissions program for very large dairies modeled on the consensus 2008 recommendations of Oregon's Dairy Air Quality Task Force would have to be adopted.
- New industrial dairies would be required to secure all water rights necessary for operation before they could be permitted and the use of unpermitted groundwater for stock watering would be limited to 5000 gallons per day.
- Local counties could adopt stronger rules for the siting of new industrial dairies that state agencies would be required to respect.

There is currently no formal definition for what size constitutes a 'mega' or 'industrial' dairy operation. Federal and state rules define dairies with over 700 milking cows as 'large' but we are now seeing new operations that are at least ten times that size, with some significantly larger. Because of their size, the largest mega-dairies produce manure, urine and wastewater on the scale of some of Oregon's larger cities, and emissions of ammonia and methane that rival many of the larger industrial sources in the state. Mega-dairies require tremendous amounts of water to operate, and pose significant risks to water quality, water quantity, air quality and the climate. In addition, mega-dairies are making it increasingly difficult for dairy farms that are smaller in size to be economically viable and stay in business.

Friends of Family Farmers counts Oregon dairy farmers among our membership, and we have seen family run dairy farms in Oregon that are among the best environmental stewards in the state, grazing animals on pasture, protecting soil and water, and caring for the land while producing the highest quality dairy products. We are firm believers that well managed grazing and pasture management is part of the solution to a number of environmental challenges, including climate change.

Thank you for your consideration,

Ivan Maluski
Policy Director

ⁱ State of Oregon Employment Department; *Oregon Dairy Production Stalls as Milk Prices Fall*; August 30, 2018 - <https://www.qualityinfo.org/-/oregon-dairy-production-stalls-as-milk-prices-fall>