

## Written Testimony in favor of SB 85

TO: Chair Golden and Vice-Chair Girod and Members of the Senate Committee on Natural Resources  
FROM: Ron Bunch for Friends of Family Farmers and Farmers Against Foster Farms  
RE: Support of SB 85 – Moratorium on Approval of Tier 2 CAFOs  
Date: March 3, 2022

It is important to pause the state's siting approval of Tier 2 CAFOs for many reasons. These have been addressed in depth by other testimony. **However, it's important address public engagement and the land use process specifically.** This is because these matters were brought up by Oregon Department of Agriculture (ODA) staff at your February 28, 2023, work session and we wish to express our views about them.

Fundamentally, people do not have meaningful public notice and participation opportunities in decision-making when industrial scale CAFOs are proposed. Further, they do not have opportunities for full recourse associated with the operation of CAFOs. If engagement of impacted people and their quality life are desired outcomes, then legislative action is needed.

This is because ODA's emphasis on CAFO related public involvement is focused on compliance with [federal and state water quality standards](#) and not the full range of CAFOs' impacts. [ODA references land use requirements and the need for land use compatibility statements](#) as part of its engagement and review efforts. However, this is little more than a "check-the-box" exercise. For example, after local land use compatibility is determined by a county planning department that a proposed CAFO is in an agricultural zone, one can immediately make county application for building permits. The applicant can later seek a CAFO approval from the state, which is almost always forthcoming. Public meetings may occur, but the land use process can do little to affect the location and design of CAFOs or require conditions of approval to address compatibility and quality of life issues. A key principle here is that CAFO's are now outright permitted uses in non-hazard agricultural zones.

Furthermore, the ability to seek recourse of CAFOs' nuisance or quality of life impacts are constrained by statute. For example, [ODA's website](#) is specific that "Oregon Revised Statute [ORS 468B.217](#) is the agency's authority for receiving and investigating CAFO complaints." This limits complaints to the control of water pollution. This significantly constrains the ability of people to address quality of life issues, posed by CAFOs such as odor and air pollution, dust, truck traffic, traffic safety, glare, hours of operation, flies and other vectors etc. This is probably a reason that many of the complaints received by ODA about CAFOs are considered non-valid.

Current Oregon statutes also limit the ability of to seek recourse against the nuisance and livability impacts of CAFOs or to engage the land use system to address impacts and compatibility issues. For example, [ORS 215.253](#) prohibits cities, counties, or any other political subdivisions from enacting laws that restrict or regulate any farm use in an exclusive farm use

zone. The exception is the lawful exercise of authority to address the health safety and welfare of citizens. Furthermore [ORS 30.930 – 30.947](#), Oregon’s right to farm law, when adopted decades ago did not envision the advent of industrial scale CAFOs. Because these uses can be defined as “farms” by the statute the ability of the public to seek recourse from their impacts is very limited

File: Land Use SB 85 Written Testimony