

March 4, 2023

Written testimony in support of SB 85  
82nd Oregon Legislative Assembly--2023 Regular Session

TO: The Honorable Members of the Senate Committee on Natural Resources

My name is Joyce Tischler. I serve as Professor of Practice, Animal Law at the Center for Animal Law Studies at Lewis & Clark Law School in Portland OR. I am writing this letter in support of SB 85. The views expressed herein are mine only and do not represent views of Lewis & Clark Law School.

I teach a full semester law course on Industrial Animal Agriculture Law, both in person and online. My students study the laws and policies related to concentrated (sometimes referred to as “confined”) animal feeding operations (CAFOs), the dominant system of food animal production in the U.S. and many other parts of the world.

As one segment of the course that I teach, I share with my students two independent studies and reports that were published in the U.S. in 2008. Studies that are fifteen years old would generally be considered out-of-date, but the problems caused by the CAFO system have not been alleviated in a measurable way, and in some ways, have gotten worse. Thus, these studies and recommendations are still quite relevant. I offer a summary of these reports for your review, and urge you, as well as the Department of Agriculture, to review the full reports for more comprehensive information about the problems uncovered about the CAFO system.

In 2008, the Union of Concerned Scientists, released a report titled, *CAFOs Uncovered The Untold Costs of Confined Animal Feeding Operations*,  
<https://www.ucsusa.org/sites/default/files/2019-10/cafos-uncovered-full-report.pdf>

The authors of this report raised several concerns about the CAFO system. On traditional farms, animals were raised on pasture and their manure was used as a source of fertilizer for crops. The CAFO system is very different. It houses very large numbers of animals in relatively small areas or inside buildings. These large numbers of animals produce massive amounts of manure.<sup>1</sup>

The storage of this manure, in large pits called “lagoons,” produces serious environmental consequences. The untreated waste from these lagoons may leak and contaminate groundwater and potable water in wells. Or, the lagoons overflow, releasing untreated waste into nearby waterways, killing fish and harming the aquatic environment.

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<sup>1</sup> According to a report from the National Association of Boards of Health: “CAFO manure contains a variety of potential contaminants. It can contain plant nutrients such as nitrogen and phosphorus, pathogens such as *E. coli*, growth hormones, antibiotics, chemicals used as additives to the manure to clean equipment, animal blood, silage leachate from corn feed, or copper sulfate used in footbaths for cows.” See, Carrie Hribar, *Understanding Concentrated Animal Feeding Operations and Their Impact on Communities*, National Ass’n of Boards of Health 2010, at 2, [https://www.cdc.gov/nceh/ehs/docs/understanding\\_cafos\\_nalboh.pdf](https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf)

The waste from the manure storage facilities (lagoons) is disposed of by spreading it onto crop fields. Often, the amount of waste being spread on the fields is far more than the fields can absorb, causing additional pollution of groundwater and surface water.

Rural communities situated next to or near CAFOs have suffered from water pollution, air pollution, devaluation of their homes and property, and illnesses related to air and water pollution.

Additionally, because the CAFO system houses animals in large numbers and close confinement, the animals experience a greater propensity for illness and disease. The response of the CAFO industry has been to feed the animals subtherapeutic doses of antibiotics on a regular basis in food and water. The unintended result of that overuse of antibiotics has been the rise of resistant bacteria, sometimes called superbugs, which are making it harder to treat common human illnesses with the antibiotics in existence today. This is a serious public health concern.

Finally, the Union of Concerned Scientists report noted that livestock production causes the release of heat trapping gases, such as methane, and this is contributing to the overarching issue of climate change.

The Union of Concerned Scientists offered the following recommendations to deal responsibly with the problems caused by the CAFO system. These recommendations can be found at pp. 5-7 of the report:

- “Strict and vigorous enforcement of antitrust and anti-competitive practice laws under the Packers and Stockyards Act (which cover captive supply, transparency of contracts, and access to open markets)
- “Strong enforcement of the Clean Water Act as it pertains to CAFOs, including improved oversight at the state level or the takeover of responsibilities currently delegated to the states for approving and monitoring and enforcement of National Pollution Discharge Elimination System (NPDES) permits; improvements could include more inspectors and inspections, better monitoring of manure-handling practices, and measurement of pollution prevention practices
- “Development of new regulations under the Clean Air Act that would reduce emissions of ammonia and other air pollutants from CAFOs, and ensure that CAFO operators cannot avoid such regulations by encouraging ammonia volatilization
- “Continued monitoring and reporting of ammonia and hydrogen sulfide emissions as required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly referred to as the “Superfund”) and the Emergency Planning and Community Right-to-Know Act (EPCRA)
- “Replacement of farm bill commodity crop subsidies with subsidies that strengthen conservation programs and support prices when supplies are high (rather than allowing prices to fall below the cost of production)

- “Reduction of the current \$450,000 EQIP project cap to levels appropriate to smaller farms, with a focus on support for sound animal farming practices
- “Revision of slaughterhouse regulations to facilitate larger numbers of smaller processors, including the elimination of requirements not appropriate to smaller facilities, combined with public health measures such as providing adequate numbers of federal inspectors or empowering and training state inspectors
- “Substantial funding for research to improve alternative animal production methods (especially pasture-based) that are beneficial to the environment, public health, and rural communities”

A separate report on the CAFO system was published in 2008 by the Pew Commission on Industrial Farm Animal Production. That report is titled, *Putting Meat on the Table: Industrial Farm Animal Production in America*, [https://www.pewtrusts.org/-/media/legacy/uploadedfiles/phg/content\\_level\\_pages/reports/pcifapfinalpdf.pdf](https://www.pewtrusts.org/-/media/legacy/uploadedfiles/phg/content_level_pages/reports/pcifapfinalpdf.pdf) (hereafter, “Pew Commission Report”).

The Pew Commission Report was the result of a two-year study funded by The Pew Charitable Trusts through a grant to the Johns Hopkins Bloomberg School of Public Health. The Commission’s charge was to review the dominant industrial farm animal production system and to develop consensus recommendations to solve the problems they found. The Commission included cattle ranchers, a former Secretary of the U.S. Dept of Agriculture, a state senator from North Dakota, and a former governor of Kansas; in other words, the farm industry and farming states were well represented. Near the beginning of the Pew Commission Report, Robert Martin, Executive Director of this Commission, stated, “The present system of producing food animals in the United States is not sustainable and presents an unacceptable level of risk to public health and damage to the environment, as well as unnecessary harm to the animals we raise for food.” (Pew Commission Report at viii).

For your convenience, I have summarized (with a few direct quotes) the problems that the Pew Commission identified as being caused by the CAFO system for farmed animal production:

- The release of tremendous quantities of untreated animal waste into the environment is causing harm to air quality, contamination of surface waters, and degradation of soil where the waste is dumped.
- The subtherapeutic use of antibiotics in the feed and water of CAFO animals is causing a public health threat of antimicrobial resistance in humans who depend on antibiotics in the treatment of common infections and disease.
- The people and communities living near where CAFOs are built have been forced to bear significant negative impacts. These are often low-income communities, whose residents suffer from foul odors, flies, damage to their respiratory and neurobehavioral health; children are more likely to develop asthma; residents experience an inability to spend time outside their homes or in their backyards; they experience a loss of home value (sometimes by 50%) and negatively impacted air quality that causes asthma in children and a variety of ailments and diseases related to polluted air.

- “In rural communities where fewer, larger farms have replaced smaller, locally owned farms, residents have experienced lower family income, higher poverty rates, lower retail sales, reduced housing quality, and persistent low wages for farm workers.” (at 49).
- “Globally, greenhouse gas emissions from all livestock operations account for 18% of anthropogenic greenhouse gas emissions, exceeding those from the transportation sector...” (at 27).
- Finally, the crowded and dirty conditions that the animals are raised in cause long-term suffering, cruelty, and in many cases, death prior to their being sent to the slaughterhouse. Conditions at slaughterhouses are equally egregious.

The Pew Commission’s key recommendations are quoted directly from the Report. With regard to public health, those recommendations are (See, pp. 60-73):

1. “Restrict the use of antimicrobials in food animal production to reduce the risk of antimicrobial resistance to medically important antibiotics.
2. “Clarify antimicrobial definitions to provide clear estimates of use and facilitate clear policies on antimicrobial use.
3. “Improve monitoring and reporting of antimicrobial use in food animal production in order to accurately assess the quantity and methods of antimicrobial use in animal agriculture.
4. “Improve monitoring and surveillance of antimicrobial resistance in the food supply, the environment, and animal and human populations in order to refine knowledge of antimicrobial resistance and its impacts on human health.
5. “Increase veterinary oversight of all antimicrobial use in food animal production to prevent overuse and misuse of antimicrobials.
6. “Implement a disease-monitoring program and a fully integrated and robust national database for food animals to allow 48-hour trace-back through phases of their production.
7. “Fully enforce current federal and state environmental exposure regulations and legislation, and increase monitoring of the possible public health effects of IFAP on people who live and work in or near these operations.
8. “Increase research on the public health effects of IFAP on people living and working on or near these operations, and incorporate the findings into a new system for siting and regulating IFAP.
9. “Strengthen the relationships between physicians, veterinarians, and public health professionals to deal with possible IFAP risks to public health.
10. “Create a Food Safety Administration that combines the food inspection and safety responsibilities of the federal government, USDA, FDA, EPA, and other federal agencies into one agency to improve the safety of the US food supply.
11. “Develop a flexible risk-based system for food safety from farm to fork to improve the safety of animal protein produced by IFAP facilities.
12. “Improve the safety of our food supply and reduce use of antimicrobials by more aggressively mitigating production diseases (disorders associated with IFAP management and breeding).”

The Pew Commission's recommendations with regard to the environment are (See, pp. 74-81):

1. "Improve enforcement of existing federal, state, and local IFAP facility regulations to improve the siting of IFAP facilities and protect the health of those who live near and downstream from them.
2. "Develop and implement a new system to deal with farm waste (that will replace the inflexible and broken system that exists today) to protect Americans from the adverse environmental and human health hazards of improperly handled IFAP waste.
3. "Increase and improve monitoring and research of farm waste to hasten the development of new and innovative systems to deal with IFAP waste and to better our understanding of what is happening with IFAP today.
4. "Increase funding for research into improving waste handling systems and standardize measurements to allow better comparisons between systems."

The Pew Commission made the following recommendations for improved animal welfare (See, pp. 82- 87):

1. "The animal agriculture industry should implement federal performance-based standards to improve animal health and well-being.
2. "Implement better animal husbandry practices to improve public health and animal well-being.
3. "Phase out the most intensive and inhumane production practices within a decade to reduce IFAP risks to public health and improve animal well-being; these practices include the following:" gestation and farrowing crates for sows, battery cages for egg-laying hens, tethering and/or individual housing for calves, force feeding of fowl, tail docking of dairy cattle, and forced molting of egg-laying hens.
4. "Improve animal welfare practices and conditions that pose a threat to public health and animal well-being; such practices and conditions include the following:" flooring and housing conditions at feedlots and for dairy cows, flooring and housing conditions for pigs, current methods of killing unwanted male chicks, depopulation methods, methods for catching birds, painful body altering procedures, poor air quality in buildings that causes harm to the animals and workers, ammonia burns suffered by birds living in litter, and weaning practices that cause dairy calves, piglets and beef cattle to be stressed and more susceptible to disease.
5. "Improve animal welfare research in support of cost-effective and reliable ways to raise food animals while providing humane animal care.

The Commission also recommended that the federal government strengthen the 28 Hour Law and other laws covering the transport of farmed animals, so that animals are not overcrowded or driven long distances without appropriate care. Finally, the Commission recommended that fowl be covered under the Humane Methods of Slaughter Act.

The final set of recommendations included in the Report deal with the impacts on the people and communities that live near or next to CAFOs (See, pp. 88-93):

1. "States, counties, and local governments should implement zoning and siting guidance governing new IFAP operations that fairly and effectively evaluate the suitability of a site for these types of facilities.

2. “Implement policies to allow for a competitive marketplace in animal agriculture to reduce the environmental and public health impacts of IFAP.”

In 2013, five years after the release of the 2008 report, the Pew Commission analyzed the response to its earlier report, finding that the federal administration and Congress had acted “regressively” in policymaking on industrial food animal system issues.

Robert S. Lawrence, MD, director of the Johns Hopkins Center for a Livable Future, which produced the report, said, “There has been an appalling lack of progress. The failure to act by the USDA and FDA, the lack of action or concern by the Congress, and continued intransigence of the animal agriculture industry have made all of our problems worse.”

John Carlin, the Chair of the Pew Commission and former governor of Kansas stated, “If the last five years has shown us anything, it is that the public is more engaged than ever in the food system,” ... “The results of this analysis show that our policymakers are really not listening to their constituents.”

The CAFO system has serious unintended consequences on the environment, the people who live near CAFOs, public health, due to the continued overuse of antibiotics, the animals raised in these facilities, and the workers who work in them. The CAFO industry has not effectively curbed the harms it is causing and federal and state representatives have shown a consistent preference for protecting and supporting the industry, instead of the many Americans who are suffering from the harms wrought by the CAFO system.

The Oregon Legislature has an opportunity to listen to its constituents and hear their concerns. It can learn from these reports, as well as the expertise of unbiased (i.e., non-CAFO industry) scientists who have studied and reported on the CAFO system since 2008.

I encourage the Oregon Legislature to pass SB 85, and maintain the status quo, until the Oregon Department of Agriculture can conduct a robust and good faith analysis of the true impacts of the CAFO system. The citizens of the State of Oregon present and future, deserve a transparent analysis of this unsustainable and damaging system of food production.

Sincerely,

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