

Chair Golden and Members of the Senate Committee on Natural Resources:

My name is Jonathan S. Leo. I am a resident of Omaha, Nebraska, I am an environmental, land use, and administrative law attorney, and I have been active in county-level planning and zoning ordinance regulation of large CAFO permitting and enforcement, primarily in eastern Nebraska, for the past seven (7) years. I have worked with small farmers, rural residential land owners, and rural school districts in counties with zoning ordinances that require conditional (or special) use permits for all large CAFOs as well as with small farmers and rural residential land owners who live in counties with no zoning ordinances whatsoever. These small farmers and business people and rural residents want their counties to be able to prevent large chicken CAFOs (principally those controlled by Costco's Lincoln Premium Poultry (LPP) subsidiary) from being sited and operated closer than one mile or, in certain cases, one-and-one-half miles, from residences and such other sensitive occupancies as hospitals, rest and nursing homes, schools, houses of worship, and active cemeteries.

I have also testified in the Nebraska Unicameral Legislature in 2019 and this year in efforts (so far successful) to oppose Right-to-Farm legislative amendments that would effectively prohibit any nuisance lawsuits from being filed in state courts by all but a tiny number of majority-interest property owners who live less than ½ mile from the offending nuisance source. Additionally, I worked with a Lancaster County (NE) Animal Feedlot Text Amendment Advisory Group in 2019-2020 to recommend changes to that County's Planning Department and Board of Commissioners that would strengthen its CAFO ordinance by making it more robust and sensitive to the concerns of long-time rural landowners, small farmers, and commercial business owners, as well as requiring that permit applications for large CAFOs contain substantially more enforceable protections for soil and surface water health and post-closure care *before* the first public hearing on the application. Almost all of those recommendations were incorporated by the County Board into a new CAFO land-use ordinance, effective in 2020.

I am writing to you today to share my experience with the chicken industry in Nebraska, and to alert you to the potential dangers of allowing these operations to take root in your state.

It is my understanding that efforts to expand industrial-scale, large chicken CAFOs in Oregon are connected to some of the same East Coast-based players that have brought their operations to a number of rural eastern Nebraska communities, particularly those in counties with little or no zoning ordinances or other land use controls. Far and away the largest single Costco/Lincoln Premium Poultry contract broiler chicken CAFO operator in Nebraska is Jody Murphey, the managing partner of a private, equity investment firm named Gallus Capital LLC of Wilmington, NC. Murphey's Gallus Capital LLC is the "contract grower" of choice for Lincoln Premium Poultry in Nebraska: out of a

total of 144 non-resident-owned barns with a total capacity of 6,840,000 chickens, Murphey/Gallus Capital's share is 132 barns with a total capacity of 6,270,000 chickens.

Costco's Lincoln Premium Poultry is not alone in its marketing pitch to revenue-hungry local governments that its contract broiler chicken raising barns are the surest way to return traditional "family" farms to these communities. The increasingly vertically integrated corporate entities that control these markets appeal to the same myths of days-gone-by just as surely as they betray those promises. Out-of-state equity investment, limited liability corporations are not only the antithesis of "family farms," but they have no connection to and no financial or other social interest in the health of the communities they invade – often without any prior notice to the land owners and occupants who live and work closest to their industrial-scale livestock growing operations. They are not accountable to the people who are their neighbors and, because of the vacuum of regulations, let alone local or state government enforcement, they can easily afford not to care about their adverse public health and environmental impacts.

In eastern Nebraska, I have seen how these large-scale, absentee corporate CAFOs can harm rural communities, polluting their air and water, and making life miserable for many of their residents. I work closely with a 4th-generation small farmer whose land is now located barely one-half mile north (and almost always down-wind from) a set of 3 16-barn Lincoln Premium Poultry broiler chicken barns operated by Jody Murphey/Gallus Capital LLC. The putrid odor of chicken waste combined with decomposing chicken carcasses "composting" with the waste in "mortality sheds" that are open to the winds and rain is literally overwhelming and often prevents him from returning home from his farm machinery sales and maintenance business or, if he can return, from going outside with his dog or preparing dinner on his grill in his own yard without being overcome by nausea. Additionally, the noise from and frequency of semi-trailer traffic that traverses the graded dirt county roads to service these barns is often – and, at times, an unbearable – nuisance and hazard in its own right.

Moreover, the health risks associated with these operations are very real, and can have long-lasting effects on the health of our families and communities. Scientists at the University of Nebraska Medical Center have recently published studies showing a correlation between nitrate contamination of surface waters and some groundwater resources in the proximity of livestock production facilities and the high incidence of central nervous system cancers and, particularly, brain cancer in children across parts of the state of Nebraska. While clear evidence of causation has not yet been established, the fact that the correlations alone are evident should be reason enough to put a halt to the further proliferation of these industrial-scale, large CAFOs until more studies have been done and more state and local permitting controls and better enforcement systems are in place.

Based on my experiences, I urge you to be cautious when it comes to the corporate, vertically-integrated broiler chicken industry. These operations promise jobs and

economic growth and may even deliver moderate, short-term returns on those promises, but the environmental, natural resource, and potential public health damages they create can be far greater than any benefits they may deliver. This imbalance becomes an even greater certainty if state right-to-farm laws and local land use and zoning ordinances either prohibit or are silent about the imposition of liability or other accountability criteria for those harms. If you allow these operations to take root in your state, you *will* be putting your rural communities, local farms and businesses, and the health and well-being of your citizens at risks that are likely to be far greater than the temporary economic benefits you're promised to receive.

I strongly encourage you to enact SB 85 to impose a moratorium on new or expanded industrial CAFOs until June 30, 2031 in order to give you the time necessary to comprehensively study the environmental, natural resource, and public health threats these facilities present. Such a moratorium can and should also be used to evaluate and make appropriate additions and amendments to your state statutory and regulatory regimes governing the permitting, siting, operations, and closure and post-closure care for industrial CAFOs. Additionally, I respectfully suggest that such a moratorium can be used to evaluate the capabilities of state and local agricultural, environmental, and public health departments and agencies to ensure that they have the necessary funds to enforce those laws, regulations, and ordinances by personnel whose numbers and training are commensurate with the number and size of existing and proposed new and expanded industrial CAFOs. I have seen firsthand the damage that can be and is being done, and I do not want anyone else to have to go through what we are experiencing in Nebraska.

Thank you for your consideration of these remarks.