



Testimony of the Confederated Tribes of the Umatilla Indian Reservation
to the Senate Committee on Environment and Natural Resources
Oregon Legislative Assembly
on SB 103, SB 104, and SB 876 regarding industrial dairies and their emissions
March 21, 2019

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) supports the concepts contained in SB 103, SB 104, and SB 876 concerning large confined animal feeding operations. However, the CTUIR believes that SB 876 can be significantly improved by addressing exempt water use by industrial dairies and their associated air quality problems. Industrial dairies such as the Lost Valley Farm require enormous amounts of water and emit a wide variety of pollutants that impact air quality and harm neighboring communities and the environment. The CTUIR hopes that provisions of SB 103, SB 104, and SB 876, can be further refined and potentially combined to begin to reduce the impacts of these intensive industrial operations.

Lost Valley Farm was approved in the lower Umatilla Basin, within a critical groundwater restricted area where groundwater use is generally restricted due to quantity and quality problems. Water use from the aquifer is closely regulated due to years of withdrawals in excess of recharge. Lost Valley Farm used groundwater from deep aquifer wells under both the stockwater exemption and the industrial exemption. While Lost Valley Farm eventually sought legitimate water rights and limited their use of the exemptions, the fact remains that under current Oregon law, a dairy like Lost Valley Farm, which was permitted for 30,000 cows, can withdraw an *unlimited* amount of water so long as it is necessary for “stockwatering.” Oregon law should be changed to reflect that dairies that exceed 2,500 animals (or 700 if there is no seasonal daily pasture access) are *industrial operations* and not eligible for the Oregon stockwatering groundwater permit exemption.

ORS § 537.545 lists the seven uses of groundwater which are exempt from permit application, registration, or groundwater right certification. Among these exemptions, only stockwatering lacks a substantive numerical limitation on the amount of water that can be used for the exempt use. This means that a farm with 100,000 cows may withdraw as much water as required from an aquifer without a certificated water right, an amount of water that can be millions of gallons of water a day. Lost Valley Farm was located in an area where use of groundwater is restricted due to both contamination and overuse. Limiting stockwatering to 5,000 gallons per day or defining stockwatering as an industrial use, which is limited to 5,000 gallons per day, is a reasonable limitation for all of Oregon, but especially critical groundwater areas, and comports with the existing limits on every other exempt use.

In 2007, the Oregon Legislature established a Task Force to study air emissions from agricultural operations including Confined Animal Feeding Operations (CAFOs) and dairies to evaluate alternatives for reducing emissions. The Oregon Legislature gave the Oregon Environmental Quality Commission (EQC) the authority to implement the Task Force’s recommendations in ORS 468A.020(2)(c); however, those recommendations remain largely unimplemented. The recommendations addressed the fact that there are essentially *no* air quality regulations for CAFOs. The CTUIR believes now is the time to revisit and implement the Task Force Report and its recommendations. The CTUIR supports directing and funding the Environmental Quality Commission and the Department of Environmental Quality to fully implement the recommendations of the report. These recommendations, developed over a decade ago, would be a critically important step in better protecting Oregon’s cherished environment, if they were finally carried out.

Specifically, the CTUIR supports Sections 1, 10, and 11 of SB 103 that address the stockwater exemption for industrial dairies. These provisions (or some combination of them) could, if enacted, provide for a reasonable limitation on exempt groundwater use. Also, the CTUIR supports Sections 3-5 of SB 103 directing the EQC to promulgate and implement air quality regulations for agricultural operations. The CTUIR encourages the Committee to include these provisions in any legislation that moves forward to more comprehensively and effectively address large confined animal feeding operations and some of the problems associated with them.

Finally, the CTUIR would like to see “federally recognized tribal governments in Oregon” included among those entities (federal, state and local governments) consulted regarding the receipt by the applicant of all necessary permits in Section 3(4)(b) of SB 876. Tribes are often co-managers of the many resources that may be affected by industrial dairy activities. We will always maintain a strong connection—via exercise of Treaty Rights and cultural and traditional practices—to these resources, requiring our ongoing engagement and participation in the regulatory systems that apply to them.

The CTUIR thanks this Committee and the Interim Senate Committee on Environment and Natural Resources for the opportunity to testify on these legislative proposals. We appreciated the opportunity to testify on September 25, 2018, on this matter, as well as Senator Dembrow’s invitation to participate in the CAFO work group, where we brought forward the concerns expressed above.