



April 1, 2021

Chair Senator Beyer  
Senate Committee on Energy and Environment  
RE: Hearing on SB583

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Chair Beyer and Members of the Committee:

We urge you to support SB583. Urgent action is needed to prevent further harm to Oregonians and our shared environment from massive, polluting mega-dairies. The climate crisis is already upon us and we have no time to spare in curbing our climate emissions. Mega-dairies are an unregulated source of greenhouse gases and cause other air and water pollution in surrounding communities. A moratorium on new or expanded mega-dairies is necessary to stop the proliferation of these unnecessary and dangerous operations. Please accept this testimony on behalf of Center for Food Safety (CFS).

### **Background and Credentials**

CFS's mission is to empower people, support farmers, and protect the earth from harmful industrial agriculture. CFS promotes truly sustainable, ecological farming as the only way both feed humanity and protect our health, rural economies, and the environment that sustains us. Through groundbreaking legal, scientific, and grassroots action, CFS protects and promotes the public's right to safe food and a healthy environment. CFS has nearly one million members nationwide and tens of thousands in Oregon.

CFS has long had a program to address industrial animal agriculture, or Animal Factories, through which it seeks to enforce federal and state environmental protection laws (including the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and more) and improve the regulatory system to protect our environment and people from the pollution, public health disasters, and economic harms from animal factories. This work includes enforcement of these laws, especially the CWA and RCRA, against mega-dairies that pollute surrounding communities and endanger public health, as well as work at the regulatory and legislative levels to improve protections at the outset. CFS commented on the proposed CWA NPDES permit for Lost Valley and has actively worked to ensure this mega-dairy follows Oregon and federal law since it was proposed. When it became clear that Lost Valley would continue to grossly violate its permit, and the state's legal action against the owner Greg te Velde was insufficient to stop the endangerment, hundreds of CFS members called on the state to revoke the NPDES permit in June, 2018. Throughout the Lost Valley catastrophe, CFS has worked to represent the interests of its members and the public to prevent pollution and negative public health impacts from any new or expanded mega-dairies in Oregon, including any Lost Valley successor.

As a member of the Stand Up to Factory Farms coalition, CFS is working to protect Oregon from becoming a magnet for polluting mega-dairies. With the sale of the Lost Valley

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property to the Easterday Farms, the threat of a new massive mega-dairy in an area with critical and already-polluted groundwater looms ahead.<sup>1</sup> Even with Cody Easterday's recently discovered \$244 million fraud against Tyson Beef, a charge to which he just pled guilty,<sup>2</sup> the state has *still* not publically denied Easterday's application to re-open Lost Valley mega-dairy.

## Mega-Dairy Water Pollution

We know factory farms pollute water - agriculture is the leading polluter of US waters and weak federal rules allow most factory farms to avoid meaningful regulation. Large confined animal feeding operations (CAFOs) are a major source of water pollution, including ground and surface water, and air pollution, given their collection of massive amounts of animal waste in a single location.

Contaminants in animal waste include excess nutrients, pathogens and bacteria, and the pharmaceuticals that confinement operations need to quell disease outbreaks among overcrowded animals.<sup>3</sup> In fact, 70 percent of the total volume of medically important antibiotics in the U.S. sold for animal agriculture.<sup>4</sup> This overuse of antibiotics has led to antibiotic resistance, which is one of the leading global threats to our public health in recent years. So too are the zoonotic diseases, like the novel coronavirus, which come from animals—especially those in intensive confinement—and threaten the globe with another deadly pandemic.

In 2018, Oregon's large dairy CAFOs produced 5 billion pounds of manure—42 times the waste produced by the population of Portland.<sup>5</sup> Lost Valley alone was going to produce 187 million gallons of wastewater each year. This animal waste is not treated like municipal waste, and its concentration on a relatively small parcel of land means major air and water pollution concerns for the surrounding community. To deal with the excessive waste accumulated in a mega-dairy, operators use the “lagoon and spray” system, collecting waste in open pits called “lagoons” and spraying it onto fields (or exporting it to farms to be sprayed on those fields). However, lagoons leak and spills happen, and when waste water is sprayed onto crop fields it can easily be over-applied, leaching into groundwater or running

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<sup>1</sup> [https://www.capitalpress.com/ag\\_sectors/dairy/easterday-family-plans-to-re-open-states-second-largest-dairy/article\\_f865bd7e-9f49-11e9-ad7c-5febdb96b54c.html](https://www.capitalpress.com/ag_sectors/dairy/easterday-family-plans-to-re-open-states-second-largest-dairy/article_f865bd7e-9f49-11e9-ad7c-5febdb96b54c.html).

<sup>2</sup> [https://www.opb.org/article/2021/04/01/cody-easterday-washington-rancher-at-heart-of-alleged-cattle-fraud-pleads-guilty-in-federal-court/?utm\\_medium=email&utm\\_campaign=First%20Look%20April%201%202021&utm\\_content=First%20Look%20April%201%202021+CID\\_7663531cb993f4fac22be2ac33d09315&utm\\_source=firstlook&utm\\_term=Learn%20more](https://www.opb.org/article/2021/04/01/cody-easterday-washington-rancher-at-heart-of-alleged-cattle-fraud-pleads-guilty-in-federal-court/?utm_medium=email&utm_campaign=First%20Look%20April%201%202021&utm_content=First%20Look%20April%201%202021+CID_7663531cb993f4fac22be2ac33d09315&utm_source=firstlook&utm_term=Learn%20more)

<sup>3</sup> CFS, *Opting Out of Industrial Meat* (2018), at 5-6, 9-10, [https://www.centerforfoodsafety.org/files/opt-out\\_final-med\\_10824.pdf](https://www.centerforfoodsafety.org/files/opt-out_final-med_10824.pdf).

<sup>4</sup> Pew, *Antibiotics and Animal Agriculture: A Primer* (2016), <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/12/antibiotics-and-animal-agriculture-a-primer>.

<sup>5</sup> ODA. “Oregon AFO Spreadsheet 2018.” 2018. Available on file at CFS; EPA. “Risk Assessment Evaluation for Concentrated Animal Feeding Operations.” EPA/600/R-04/042. May 2004 at 9, <https://nepis.epa.gov/Exe/ZyPDF.cgi/901V0100.PDF?Dockey=901V0100.PDF>; World Population Review. “Portland, Oregon Population 2018.” 2018 at 2.

off into surface water.<sup>6</sup> In streams and rivers, or ponds and lakes, excess nutrient can cause harmful algal blooms, a danger to both human health and wildlife, especially fish.<sup>7</sup> This is already happening in Oregon<sup>8</sup> and more mega-dairies threaten more catastrophic manure spills.

## Climate Crisis and Mega-Dairies

One needs to look no further than the increasingly intense wildfire season in Oregon to see that we have no time to waste in curbing our greenhouse gas emissions. Eastern and Central Oregon—home to many of the state’s existing mega-dairies—were particularly devastated by the climate fires last summer. Mega-dairies, which are confined animal feeding operations with thousands of dairy cows, contribute significantly to climate change in Oregon and nationwide, through their methane and nitrous oxide emissions.<sup>9</sup> At mega-dairies, methane comes directly from cows (enteric emissions) and off-gasses from the enormous manure lagoons where the waste anaerobically rots. Livestock production is indeed the main source of the powerful greenhouse gas methane in the United States. Manure management (including the lagoon-and-spray systems that mega-dairies and other CAFOs use) was one of the top sources of methane emissions in 2018, with total emissions increasing by close to 60 percent between 1990 and 2018.<sup>10</sup> Dairy operations specifically are a large part of these increases in manure methane emissions.<sup>11</sup> And in Oregon, agriculture is the *leading source* of methane emissions.<sup>12</sup>

Yet mega-dairies face no controls or limits to their methane production. Even where Governor Brown has taken a lead to try and reduce Oregon’s emissions, mega-dairies are ignored.<sup>13</sup> Without any required controls on methane (and other air emissions), new or expanding mega-dairies are free to set up shop in Oregon and undermine efforts to reduce the State’s greenhouse gas emissions. Oregon cannot be a true climate leader without taking on the mega-dairy industry’s role in the climate crisis, and Oregonians understand that this industry must do its share.

Even if mega-dairies voluntarily attempt to “control” their methane emissions through manure digesters, these technologies are expensive – and typically divert public funding

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<sup>6</sup> CFS, *Opting Out of Industrial Meat* (2018), at 15-16.

<sup>7</sup> *Id.* at 19.

<sup>8</sup> Plaven, George. “Oregon DEQ hands out \$63,750 in fines for manure digester overflow.” *Statesman (OR) Journal*. June 19, 2020, [https://www.capitalpress.com/ag\\_sectors/water/oregon-deq-hands-out-63-750-in-fines-for-manure-digester-overflow/article\\_27ef98da-b24a-11ea-8e63-efef06e70b61.html#:~:text=%E2%80%94Oregon%20environmental%20regulators%20have%20issued.overflow%20into%20a%20nearby%20creek](https://www.capitalpress.com/ag_sectors/water/oregon-deq-hands-out-63-750-in-fines-for-manure-digester-overflow/article_27ef98da-b24a-11ea-8e63-efef06e70b61.html#:~:text=%E2%80%94Oregon%20environmental%20regulators%20have%20issued.overflow%20into%20a%20nearby%20creek).

<sup>9</sup> CFS Opt Out Report at 18; U.S. EPA, *Greenhouse Gas Emissions: Overview of Greenhouse Gases*, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases> (last accessed Feb. 6, 2020). *See also* The Urgent Case for a Moratorium on Mega-Dairies in Oregon (Nov. 2020), [https://stoporegonmegadairies.files.wordpress.com/2021/02/fs\\_2011\\_ormegadairies-21feb17-web.pdf](https://stoporegonmegadairies.files.wordpress.com/2021/02/fs_2011_ormegadairies-21feb17-web.pdf).

<sup>10</sup> EPA. “Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2018.” 2018 at ES-16, ES-22 and 2-20, <https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2018>.

<sup>11</sup> *Id.* 2-20.

<sup>12</sup> *See* Urgent Case for a Moratorium on Mega-Dairies in Oregon, n.36 (2020).

<sup>13</sup> <https://www.oregon.gov/newsroom/Pages/NewsDetail.aspx?newsid=52622>.

from truly renewable energy, only work on the largest mega-dairies – further disadvantaging Oregon’s family-scale farms, and do nothing to address the water pollution and other environmental problems caused by factory farms. This technology does not even capture the majority of methane emitted by factory farms and *at best* can only capture the additional methane created by the lagoon-and-spray system mega-dairies use. Moreover, by creating a profitable revenue source from the sale of factory farm gas, digesters serve to further entrench this disastrous method of food production.

Indeed, methane digesters encourage factory farms to get bigger and bigger in order to profit from this dirty energy production.<sup>14</sup> Threemile Canyon mega-dairy’s recent permit to expand its dirty gas production, using fossil fuel pipelines to send it to California as supposedly “renewable” gas,<sup>15</sup> is a prime example of the unintended consequences of the failure to regulate mega-dairy emissions coupled with allowing the industry to sell digester credits into a cap-and-trade system. Soon mega-dairies won’t be in the cheap milk business, they will be in the dirty gas business.

In conclusion, Oregon needs a moratorium now if we have any hope of restoring our clean water and preventing the worst impacts of climate change. SB583 is a necessary step to preserving Oregon’s future.

Sincerely,



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<sup>14</sup> Jessica McKenzie, *The misbegotten promise of anaerobic digesters*, The Counter (Dec. 3, 2019), <https://thecounter.org/misbegotten-promise-anaerobic-digesters-cafo/?fbclid=IwAR3JHUu-I4hMpRcPF29SOTLLuRF6rMVXc5J4UrFhWsOIpl5eCHOL0fKd9A>; Food & Water Watch, *FACT SHEET: Dirty Biogas Has No Place in the United States’ Clean Energy Future*, <https://www.foodandwaterwatch.org/insight/biogas-factory-farm-waste-has-no-place-clean-energy-future>.

<sup>15</sup> Cassandra Profita, *Environmental Groups Oppose New Gas Project at Oregon Mega-Dairy*, OPB (Apr. 26, 2019), <https://www.opb.org/news/article/environmental-groups-oppose-new-natural-gas-project-oregon-mega-dairy/>.