1616 P Street, NW
Suite 300
Washington, DC 20036
T +202.683.2500
F +202.683.2501
foodandwaterwatch.org

April 1, 2021

Senate Committee on Energy and Environment
900 Court St. NE
Salem, OR 97301

RE: Food & Water Watch Written Testimony on SB 583

Dear Chair Beyer and members of the Committee,

Food & Water Watch (FWW) submits the following written testimony in support of SB 583, which would enact a moratorium on permitting of new and expanding mega-dairies until Oregon enacts much-needed reforms to protect communities, family farms, animal welfare, and the environment. FWW is a non-profit organization with more than one million members and supporters nationwide. FWW mobilizes regular people to build political power to move bold and uncompromised solutions to the most pressing food, water, and climate problems of our time. FWW uses grassroots organizing, media outreach, public education, research, policy analysis, and litigation to protect people's health, communities, and democracy from the growing destructive power of the most powerful economic interests. FWW submits this testimony on behalf of its more than 38,000 members and supporters across Oregon.

The rapid consolidation of the dairy industry is of the most urgent reasons Oregon must enact a mega-dairy moratorium. Industrial mega-dairies are undeniably responsible for the industry consolidation that is harming Oregon's family farms and its environment. Nationally, herd size expansion and increases in milk production have led to dramatic price fluctuations in recent decades, with an overall steady decrease in net returns since 1980.[1] This trend has increased in the past decade.[2] Milk production has nonetheless continued to increase. USDA research confirms that this is because "[s]ome groups of dairy farms appear to earn consistently high returns, even as others lose money and gradually contract."[3] It should come as no surprise that the biggest winners are the biggest mega-dairies, with "net returns increas[ing] with herd size in every year" from 2005 through 2018.[4] The difference in returns between the largest and smallest dairies has had profound impacts on who has managed to stay in business; only the

[1] USDA Econ. Res. Serv., *Consolidation in U.S. Dairy Farming*, ERR-274 4-5 (Jul. 2020), https://www.ers.usda.gov/publications/pub-details/?pubid=98900.
[2] *Id*. at 5.
[3] *Id*. at 6.
[4] *Id*.

largest category of facilities studied had positive net returns in most years, while "for farms in the smallest herd size class" – 50-99 cows – "net returns are negative *in every year*."[5]

Dairy farms across the nation are suffering from the effects of this industrialization, over-production, and resulting low milk prices, and are going out of business at alarming rates. Nationally, the U.S. lost more than half of its licensed dairies between 2002 and 2019 as the industry has shifted towards fewer, larger operations.[6] Over the past twenty years, Oregon has lost approximately forty percent of its Grade A licensed dairies, even as cow numbers in the state have increased.[7] Corresponding to national trends, Oregon's dairy farm losses have been concentrated in the smaller herd size farms. Oregon has lost dairies with anywhere from ten to 999 cows between 2007 and 2017, only seeing industry expansion in the largest size category and in non-commercial dairy farms with fewer than 10 cows.[8] Oregon's remaining family dairy farms are facing unsustainable economic pressure to 'get big or get out,' and the moratorium on mega-dairies proposed by SB 583 is essential to slowing the overproduction and declining net returns driving so many farms out of the state's dairy business.

This unchecked consolidation has in turn led to geographic concentration of the dairy industry in certain regions and communities, which has also concentrated the industry's waste production and environmental impacts.[9] A single mega-dairy can produce the waste of a mid-sized city, which it disposes of untreated by spreading it on crop land. Oregon's growing concentration of mega-dairies in Morrow and Umatilla Counties has resulted in threats to Oregon's rivers and streams, air pollution that harms quality of life and public health in rural communities as well as degrading visibility in the Columbia Gorge, and groundwater contamination that further threatens public health in nearby communities.

It is no longer subject to debate that mega-dairies are contaminating Oregon groundwater resources and threatening drinking water for citizens in rural communities. More than 20 years ago, Oregon established the Lower Umatilla Basin Groundwater Management Area (LUBGWMA) to address the region's persistent nitrate contamination. Nitrates are associated with increased risks of certain cancers and "blue baby syndrome."[10] They are colorless, odorless, and boiling only concentrates them. As a result, residents reliant on well water often must – if they can afford to – dig new wells or purchase expensive water treatment systems to bring their drinking water within federal and state public health standards.

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[5] *Id*. (emphasis added).
[6] *Id*. at 7-8.
[7] State of Oregon Employment Department, "Oregon Dairy Production Stalls as Milk Prices Fall (Aug. 30, 2018).
[8] *Consolidation in U.S. Dairy Farming* at 49.
[9] *Id*. at 40.
[10] DEQ, *Fact Sheet: Nitrate in Drinking Water* (Aug 15, 2017); JoAnn Burkholder et al., *Impacts of Waste from Concentrated Animal Feeding Operations on Water Quality*, 115 ENVTL. HEALTH PERSPECTIVE 308, 310 (2008).

Oregon scientists have attributed significant groundwater nitrate contamination in the LUBGWMA to concentrated animal feeding operations (CAFOs) and irrigation of CAFO waste.[11] State scientists have specifically concluded that Threemile Canyon Farms is likely contributing to the area's contamination,[12] but that is just one of ten permitted and active CAFOs within the LUBGWMA.[13] The approximately 150,000 animals housed on these CAFOs introduce enormous amounts of nitrogen to the region in the form of animal waste—approximately 4.3 billion pounds annually.[14] Nearly all of this waste is land applied to agricultural lands, contributing significantly to the "irrigated agriculture" component of the GWMA's overall contamination.[15] But first these huge quantities of waste are collected and stored in "lagoons" that are known to leak and leach nitrogen-heavy waste into the underlying soil, and eventually into the region's particularly vulnerable and shallow aquifers, even when constructed according to current technical standards.[16]

The state's existing water pollution permitting process for mega-dairies is clearly not preventing groundwater contamination. But despite this decades-old contamination problem and extensive research showing that mega-dairy land application of waste is a leading contributor to it, the state is now considering permitting yet another nearly 30,000 cow dairy on the site of the failed Lost Valley Farm operation.[17] Only the moratorium proposed by SB 583 would protect Oregonians from such additional sources of nitrate pollution in this already contaminated area and allow the state to enact long overdue safeguards for essential drinking water supplies in environmental justice communities.

The status quo is failing Oregon's family farms, rural communities, and environment. A thoughtful analysis of the reforms needed to protect Oregon's environment, communities, and farms requires a time out from the expansion of the mega-dairy industry.

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[11] Oregon DEQ, "Estimation of Nitrogen Sources, Nitrogen Applied, and Nitrogen Leached to Groundwater in the Lower Umatilla Basin Groundwater Management Area" (Jun. 13, 2011) at ii and 1; Oregon DEQ, "Analysis of Groundwater Nitrate Concentrations in the Lower Umatilla Basin Groundwater Management Area," (Feb. 23, 2012) at Table 5-1, Table 5-2, Figure 1-1. *See also* Petition for Emergency Action Pursuant to the Safe Drinking Water Act § 1431, 42 U.S.C. § 300i, to Protect Citizens of the Lower Umatilla Basin in Oregon from Imminent and Substantial Endangerment to Public Health Caused by Nitrate Contamination of Public Water Systems and Underground Sources of Drinking Water ("SDWA Petition") (Jan. 16, 2020), at Section IV.C.

[12] Phil Richerson, DEQ Nonpoint Source Hydrologist, memo to ODA titled "'Why I believe TMCF is currently impacting groundwater quality" (2017), released by ODA in response to public records request, on file with FWW.

[13] *Id*. at 15; Final Draft Second Lower Umatilla Basin Groundwater Management Area Local Action Plan ("Second Action Plan") (Jan. 09, 2019) at 63, https://lubgwma.org/second-local-action-plan/.

[14] SDWA Petition at 16.

[15] *Id.*; DEQ Water Quality Division, Estimation of Nitrogen Sources, Nitrogen Applied, and Nitrogen Leached to Groundwater in the Lower Umatilla Basin Groundwater Management Area, at 6, 11-12 (Jun. 13, 2011) (hereafter Estimation of N Sources) (available as Appendix I as attached to the EPA Emergency Petition) (categorizing 90% of CAFO waste available for crops under "irrigated agriculture").

[16] Second Action Plan at 10-11, Estimation of N Sources (discussing the region's particularly vulnerable and shallow aquifers), 18-19 (discussing CAFO waste storage lagoons).

[17] Kristin Kraemer, Tri-City Herald, *Coalition calls to block Easterday mega-dairy permit south of Tri-Cities* (Feb. 18, 2021) https://www.tri-cityherald.com/news/business/agriculture/article249317880.html.

Thank you for your consideration.

Sincerely,

Tarah Heinzen
Legal Director, Food & Water Watch