February 21, 2021

Testimony in Opposition to SB 151 - Bovine Manure Tax Credit

Chair Golden and Members of the Natural Resources & Wildfire Recovery Committee:

Friends of Family Farmers is a farmer-led non-profit that has advocated for family-scale agriculture for over 15 years. We are in opposition to SB 151's provision to extend the sunset on Oregon's bovine manure tax credit program until January 1, 2028.

While this tax credit originally included other materials, like woody biomass, it now only applies to bovine manure. There are interesting clean energy options for using woody biomass to make renewable hydrogen. However, we take issue with the bovine manure tax credit because Oregon should not use public dollars to support large, private corporations at a time when Oregon is facing a budget shortfall, and we do not believe that renewable natural gas, or factory farm gas, which is derived from bovine manure, is truly clean energy. Further, this tax credit incentivizes outdated systems of agriculture and energy that Oregon needs to move away from as the state promotes a 100% Clean future and racial equity.

Throughout Covid-19 we saw the breakdown of industrial ag systems, which highlighted the need for resilient local food systems, including raising animals on pasture, not in the few confined operations that utilize this tax credit. Now is the time to re-regionalize our food system—not continue to consolidate it, which tax schemes like this support.

Elected leaders should be using Oregonian's tax dollars to protect independent family farming and invest in truly clean energy like wind, solar, and potentially renewable hydrogen and geothermal power.

Lack of Transparency or Independent Verifiability and Accountability

If extended, this tax credit cost is projected to cost Oregon over $15 million through 2027.

And since 2019, over 75% of the $5 million annual tax credit went to Oregon's largest dairy operation, Threemile Canyon Farms, which has roughly 70,000 cows in confinement. Resilient Infrastructure Group recently acquired the RNG ("renewable" natural gas) facility associated with Threemile Canyon Farms from Equilibrium Capital. The facility was developed in partnership with Threemile Canyon Farms. Resilient Infrastructure Group is owned by Partners Group, a Switzerland-based private equity firm with $109 billion in assets. Ostensibly, this level of capital will make it even easier for Threemile Canyon Farms to sell factory farm gas to California in lucrative contracts. Our understanding is that this is already underway, further highlighting that Threemile Canyon Farms does not need additional millions in public subsidization.

Yet, despite this, the bovine manure tax credit lacks any independently verifiable outcome metrics. There is no independent monitoring to quantify its costs or benefits for the climate, air quality or to taxpayers.

The issues regarding the lack of independent data, verifiability and transparency for the manure digester tax credit are not new and were confirmed in testimony from then-ODOE Director Michael Kaplan in June 2016 before the Joint Interim Committee on Department of Energy Oversight. In response to a question on return on investment on the biomass tax credits, and about the bovine manure tax credit specifically, Director Kaplan acknowledged that he could not summarize or justify the return on investment to the State of Oregon. He said "I have a really hard time, based on the data that we have, the way it's collected, the way it's housed, in demonstrating through an ROI the return on investment for the money spent by the state." He added, "it is certainly something that I have a really hard time justifying with the data that I have at hand."
See http://oregon.granicus.com/MediaPlayer.php?clip_id=21930 at approximately the 2 hour 20 minute mark for the exchange.

Despite the fact that the bovine manure tax credit program has no system of accountability to independently verify its outcomes and cannot be shown to be an efficient use of limited state resources, the Legislature in 2016 did extend the credit until the end of 2021 but should not make the same mistake this session and continue to use tax payer dollars for another seven years.

Oregon Lacks a Dairy Air Emissions Program - No Independent Tracking of Methane or other Air Emissions

In 2008, consensus recommendations were developed by range of stakeholders for the creation of an Oregon Dairy Air Emission Program. This program explicitly called for air quality monitoring and both voluntary and regulatory approaches to address significant sources of these air emission in Oregon. This included support for tax credits for a range of best management practices, not solely digesters. However, this program was never created and the state of Oregon still does not independently monitor or track methane or other air emissions from dairy or other livestock operations, including those operations that have taken advantage of this tax credit.

As new large dairies move to Oregon, including the potential for Easterday Farms to operate a 30,000-cow dairy on the formerly disastrous Lost Valley Dairy site (despite currently being embroiled in bankruptcy proceedings amidst serious fraud allegations), we believe a larger Oregon Dairy Air Emissions Program must be created before the state takes seriously any proposal to extend the bovine manure tax credit.

In short, because Oregon lacks the Dairy Air Emissions Program proposed by the Oregon Dairy Air Quality Task Force in 2008, there is no monitoring or tracking of methane or other air contaminant emissions associated with a growing number of exceedingly large dairy operations in Oregon. This is important, because while bovine manure digesters are intended to capture methane from manure, they do not address methane produced during the rumination process of livestock like dairy cows. These are methane emissions that cows exhale. The EPA has estimated that these emissions are the vast majority of methane emissions from dairy cows and manure digesters do not reduce this significant source of methane emissions associated with large dairy operations. Further, methane digesters do not generally address emissions of ammonia and other harmful emissions from large dairy and other livestock operations. Ammonia emissions from large dairies, including from the largest beneficiary of the bovine manure tax credit to date, have been identified as a significant source of air pollution in the Columbia River Gorge. And to illustrate how serious these other emissions have been, in 2005, Threemile Canyon Farms was the largest source of ammonia emissions in the United States.

Additionally, research suggests that the establishment of perennial pasture for grazing animals can be an effective climate mitigation strategy, sequestering huge sums of carbon in soils including from manure dropped onto these pastures by cows grazing on them. If one of Oregon's policy goals with the bovine manure tax credit is to reduce methane emissions from dairy operations, we believe that we also need to find ways to incentive grazing dairy cows on pasture to reduce methane emissions and increase long-term carbon sequestration in soils. Lastly, despite the significant costs to the state from the tax credit as currently designed, the amount of energy produced by methane digesters is largely inconsequential relative to Oregon's overall energy use.

Current Bovine Manure Tax Credit Primarily Benefits Larger Confinement Operations, Not Small and Mid-Sized Farms or Pasture-based Operations

A major concern of ours about the current tax credit is that the structure of the credit itself effectively incentivizes large confinement livestock operations. It is paid on a per ton of manure basis, which means that the primary use of public dollars for this tax credit have gone to the very largest dairy operation in the state that generates the most manure. Since manure digesters need a steady supply of manure for year-round operation, this tax credit actually encourages confinement livestock management systems, rather than those which prioritize having animals outdoors and on pasture, practices which have multiple environmental and animal health benefits.

For smaller and mid-sized operations, particularly those which graze animals on pasture for significant portions of the year, the current animal manure tax credit is either not useful or does not pencil out. The primary beneficiary of the manure digester tax credit to date and looking forward will remain Threemile Canyon Farms.

However, large dairies like Threemile Canyon Farms have made it hard for small farmers to survive. Across the U.S., large dairies, like Threemile Canyon Farms, have overproduced and flooded the market with cheap milk, driving smaller operations out of business. 40 years ago Oregon was home to more than 4000 dairies, mostly small, family-owned businesses. Now just over 200 remain. Oregon should use the tax credit funds to help support a new generation of small dairy farmers, which would be better for the state's water and air quality, and would support more diversified rural economic development.

Recommendations

We respectfully ask that you oppose extending the manure digester tax credit sunset any further via SB 151. Because of Oregon's failure to establish an overarching air emissions program for large dairies, we would instead urge you to let this tax credit sunset.

Given the substantial costs to the state of the current bovine manure tax credit, let alone if extended through 2028, we believe additional recommendations are warranted to better address the underlying policy questions around methane and other air contaminant emissions from large dairy operations.

These include:

- The Legislature or Environmental Quality Commission should establish a dairy air quality program similar to that proposed in 2008 by Oregon's Dairy Air Quality Task Force so that methane and other air emissions from large confinement dairy operations in Oregon are monitored and reported annually. If future tax credits for animal manure digesters are considered, it is imperative that an overall dairy air quality monitoring and improvement program is in place first, and that clear and measurable goals for reducing dairy related methane and other air emissions are developed, particularly in regions with air quality issues like the Columbia River Gorge. Additionally, any tax incentives aimed at encouraging air quality or methane reduction best management practices should not solely be limited to manure digesters and should include incentives for pasture-based management practices.

- Instead of offering tax credits for larger dairy operations, it should be a requirement that new, large dairy confined or concentrated animal feeding operations in Oregon that are likely to have significant methane emissions build and operate animal manure digesters. The construction and operation of animal manure digesters should be a cost of doing business in Oregon for new, large dairy operations, not incentivized through tax credits.

- Lastly, any manure related tax credits offered in the future should be designed to primarily help small and mid sized farms adopt either digester technology or to encourage alternative management practices that reduce emissions, particularly in regions where multiple benefits related to air and water quality can be quantified. If considering animal manure related tax credits, incentives to encourage producers to get cows outdoors and on pasture more of the year and incentivizing practices like rotational grazing and soil carbon sequestration should be prioritized for the use of limited state dollars.

Thank you for your consideration.

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