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March 14, 2023

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

RE: Food & Water Watch Written Testimony on SB 85-1

Dear Chair Golden and members of the Committee,

Food & Water Watch (FWW) submits the following written testimony in support of SB 85-1, which would enact a moratorium on permitting of the very largest new and expanding factory farms, enabling regulators a pause in which to adopt much-needed reforms. FWW is a national, non-profit organization that 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 livestock industry in every sector, driven by factory farms and giant agribusiness companies, is one of the most urgent reasons Oregon must enact a factory farm moratorium. As a handful of companies have taken control of the livestock industry, countless family farms have been driven out of business. Just four processors slaughter 85% of U.S. beef cattle and more than half of all broiler chickens.¹ Over the past 50 years, chicken production has skyrocketed, while the number of chicken farms has plummeted by more than 98%.² More than 99% of U.S. broiler chickens are now raised under contract with processors like Foster Farms.³

¹ White House, *Fact Sheet: The Biden-Harris Action Plan for a Fairer, More Competitive, and More Resilient Meat and Poultry Supply Chain*, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/03/fact-sheet-the-biden-harris-action-plan-for-a-fairer-more-competitive-and-more-resilient-meat-and-poultry-supply-chain/> (Jan. 03, 2022).

² Pew Trusts, *Big Chicken: Pollution and Industrial Poultry Production in America*, <https://www.pewtrusts.org/en/research-and-analysis/reports/2011/07/26/big-chicken-pollution-and-industrial-poultry-production-in-america> (Jul. 26, 2011).

³ USDA Econ. Res. Serv., *Fees paid to growers for raising broiler chickens varied widely in 2020*, <https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=104642> (Sept. 08, 2022).

Dairy is not faring better. 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 1980.⁴ This trend has increased in the past decade.⁵ 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.”⁶ It should come as no surprise that the biggest winners are the biggest factory farms, with “net returns increas[ing] with herd size in every year” from 2005 through 2018.⁷ The difference in returns between the largest and smallest dairies has had profound impacts on who has managed to stay in business; only the 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*.”⁸

Dairy farms across the nation are suffering from the effects of this industrialization, overproduction, 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.⁹ 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.¹⁰ 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.¹¹ Oregon’s remaining family dairy farms are facing unsustainable economic pressure to ‘get big or get out,’ and the moratorium on factory farms proposed by SB 85-1 is essential to slowing the overproduction and declining net returns driving so many farms out of the state’s dairy business.

This unchecked corporate consolidation within livestock sectors has in turn led to geographic concentration of livestock production in certain regions and communities where dominant companies own processing infrastructure. This has also had the unfortunate effect of concentrating the industry’s waste production and environmental impacts in these regions and communities.¹² A single factory farm can produce the waste of a mid-sized city; but unlike cities, factory farms dispose of their waste untreated by spreading it on crop land – often at rates far too

⁴ 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>.

⁵ *Id.* at 5.

⁶ *Id.* at 6.

⁷ *Id.*

⁸ *Id.* (emphasis added).

⁹ *Id.* at 7-8.

¹⁰ State of Oregon Employment Department, “Oregon Dairy Production Stalls as Milk Prices Fall (Aug. 30, 2018).

¹¹ *Consolidation in U.S. Dairy Farming* at 49.

¹² *Id.* at 40.

high for crops to absorb. The result is leaching of dangerous pollutants like nitrate into groundwater and spills and runoff into rivers and streams.¹³

It is no longer subject to debate that factory farms 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.”¹⁴ 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.

Oregon scientists have attributed significant groundwater nitrate contamination in the LUBGWMA to concentrated animal feeding operations (CAFOs) and irrigation of CAFO waste.¹⁵ State scientists have specifically concluded that Threemile Canyon Farms is likely contributing to the area’s contamination,¹⁶ but that is just one of ten permitted and active CAFOs within the LUBGWMA.¹⁷ 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.¹⁸ Nearly all of this waste is land applied to agricultural lands, contributing significantly to the “irrigated agriculture” component of the GWMA’s overall contamination.¹⁹ 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

¹³ See, e.g., Nat’l Ass’n of Local Boards of Health, *Understanding Concentrated Animal Feeding Operations and Their Impact on Communities* (2010), https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf.

¹⁴ 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).

¹⁵ 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., <https://www.documentcloud.org/documents/6657182-2020-01-16-FINAL-Petition-for-Emergency-Action.html>.

¹⁶ 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.

¹⁷ 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/>.

¹⁸ SDWA Petition at 16.

¹⁹ *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) (available as Appendix I as attached to the EPA Emergency Petition) (categorizing 90% of CAFO waste available for crops under “irrigated agriculture”).

soil, and eventually into the region's particularly vulnerable and shallow aquifers, even when constructed according to current technical standards.²⁰

The state's existing water pollution permitting process for factory farms is clearly not preventing groundwater contamination. But despite this decades-old contamination problem and extensive research showing that factory farm 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.²¹ Only the moratorium proposed by SB 85-1 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.

Factory farms also emit large quantities of air pollution that endangers public health and fuels climate change, including ammonia, volatile organic compounds, methanol, and methane. Recent research shows that air pollution from U.S. livestock farms, primarily ammonia, is responsible for more than 12,700 deaths each year – more than are attributable to coal-fired power plants.²² Nonetheless, in Oregon, air pollution and greenhouse gases from factory farms are entirely unregulated. Moreover, Oregon's Department of Environmental Quality recently rejected a citizen petition for rulemaking to finally implement central recommendations of the Dairy Air Quality Task Force by adopting a commonsense dairy air emissions regulatory program.²³ Certain factory farm biogas digesters must obtain permits, but these permits ignore the factory farm's own emissions. What's more, Threemile Canyon Farms has experienced multiple violations of its digester air pollution permit even while receiving lucrative credits from California's Low Carbon Fuel Standard program.²⁴ The moratorium proposed by SB 85-1 would allow DEQ to reconsider adopting public health and climate protections from the huge factory farms driving this pollution, while preventing the problem from growing worse.

The status quo is rife with regulatory gaps and deficiencies, and as a result is failing Oregon's family farms, rural communities, and environment. A thoughtful analysis of the

²⁰ 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).

²¹ 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>.

²² Domingo, et al., *Air quality-related health damages of food*, PNAS (May 10, 2021), <https://www.pnas.org/doi/10.1073/pnas.2013637118>.

²³ Tracy Loew, Statesman Journal, *Oregon Environmental Quality Commission rejects petition to regulate dairy air pollution* (Nov. 10, 2022); see also Food & Water Watch et al., *Petition to Promulgate Dairy Air Emissions Regulatory Program*, <https://www.foodandwaterwatch.org/wp-content/uploads/2022/08/2022.8.17-Dairy-Air-Petition.pdf>.

²⁴ Oregon Dep't of Env'tl Quality, *Notice of Civil Penalty Assessment and Order*, Case No. AQ-V-ER-2022-059 (Jan. 19, 2023), <https://www.oregon.gov/deq/nr/012023WOFPNW.pdf>; Food & Water Watch, *Oregon Mega-Dairy Digester Received California Green Energy Credits As It Violated Air Quality Law* (Jan. 20, 2022), <https://www.foodandwaterwatch.org/2022/01/20/oregon-mega-dairy-digester-received-california-green-energy-credits-as-it-violated-air-quality-law/>.

reforms needed to protect Oregon's environment, communities, and farms requires a time out from the expansion of the factory farm industry.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tarah Heizen".

Tarah Heizen
Legal Director, Food & Water Watch