



March 9, 2017

Testimony in Support of SB 197 Senate Committee on Environment and Natural Resources

Chair Dembrow, Members of the Committee:

Friends of Family Farmers represents small and mid-sized farmers and ranchers across Oregon. We appreciate the opportunity to testify today in support of SB 197, a bill to ensure the adoption of long-overdue rules to regulate air contaminant emissions from large dairy confined animal feeding operations (CAFOs) consistent with the 2008 recommendations of Oregon's Task Force on Dairy Air Quality.

Our organization served on Oregon's Task Force on Dairy Air Quality in 2008, and we count Oregon dairy farmers among our membership. Some of these farmers are among the best environmental stewards in the state, grazing animals on pasture, protecting soil and water, caring for the land, and producing the highest quality dairy products. We are firm believers that well managed grazing and pasture management can be part of the solution to climate change and other environmental challenges. We are not anti-dairy. In fact, our strong support for small and mid-sized farms is why we are vocal critics of the trend towards larger and larger dairies that have contributed to the dramatic decline of small and mid-sized family dairy farms in this state.

In 2002, Oregon had over 1100 dairy farms, mostly small and mid-sized, but now there are fewer than 250, a decline of more than 75% even as overall cow numbers have gone up. According to the Oregon Employment Department, between 2002 and 2007, the first five years after Threemile Canyon Farms came to the state, Oregon lost nearly half of its dairy farms, an average nine per month for five straight years. At that point, Threemile had over 50,000 cows on site while the average dairy farm in Oregon had 200.

The significant air pollution generated at Threemile is part of what led the Legislature to pass SB 235 in 2007, a bill that both authorized the air emissions rules that SB 197 would ensure are created, and which established a Dairy Air Quality Task Force to make recommendations on what an air quality program should look like to balance both environmental and economic considerations.

But despite our critique of the trends in agriculture that Threemile represents, we came together with them on the Dairy Air Quality Task Force in consensus a decade ago in supporting an Oregon Dairy Air Emissions Program, which included both voluntary and regulatory approaches to addressing air pollution. Unfortunately, a decade later, this program has still not been established, even as a new mega-dairy, this one with 30,000 cows, is proposed not far from Threemile.

SB 197 would simply require that the Environmental Quality Commission move forward with rules to create an Oregon Dairy Air Emissions Program consistent with the consensus recommendations of the Oregon Dairy Air Quality Task Force in 2008. The recommendations originally called for this rulemaking to occur in late 2009, including air quality monitoring, the development of voluntary best management practices, emissions targets, technical assistance, research, and agency staffing. In 2015, the emissions targets were to become mandatory, and new dairies were to be required to comply with the program.

Because we lack the program called for a decade ago, the state is woefully unprepared to address air pollution associated with increasingly large dairies moving into the state. It is our view that a state approach that only offers tax credits for manure digesters in the absence of the overarching air emissions program the Task Force proposed is at risk of subsidizing large-scale confinement operations at the

expense of smaller dairy operations where digesters are not needed due to their management practices or because they are not economical. Additionally, digester tax credits were never intended as a standalone approach, they were agreed to by the Task Force as a part of larger air emissions program that included air quality monitoring, increased agency staffing, technical assistance, support for a variety of best management practices, and ultimately regulatory approaches aimed at curbing the most significant sources of air pollution.

The Dairy Air Quality Task Force ‘strongly’ recommended the creation of the program called for by SB 197, outlining a specific timeline, and funding to be provided for agency staffing, air quality monitoring, and the potential for tax credits to assist with compliance. The Task Force described the proposed Oregon Dairy Air Emissions Program and timeline as ‘an optimal balance between the need to protect air quality and ensure the viability of Oregon’s dairies.’

The 2008 Dairy Air Quality Task Force Report has been provided to you, but I want to highlight some key elements if you have not had an opportunity to review the report:

- The Task Force expressed a desire to improve our understanding of emissions from dairies, improve our ability to quantify these emissions, reduce these air emissions and prevent future problems from arising
- The Task Force specifically recommended that the Environmental Quality Commission, working with ODA, DEQ, and the Department of Human Services (DHS), should adopt rules to implement the proposed “Oregon Dairy Air Emissions Program” as a whole, based upon carefully crafted Guiding Principles.
- The Program would start as a voluntary program, and move into a state mandatory program pursuant to the recommended conditions and schedule.
- The Task Force wrote: “Taken as a whole, the recommendations represent an optimal balance between the need to protect air quality and ensure the viability of Oregon’s dairies, and they chart a clear and positive path forward for all Oregonians. . . . In order to maintain this positive and balanced momentum, the Task Force believes it is imperative that the Legislature provide the funding for this necessary and evolving program.”
- The Task Force recommended an ongoing, multi-stakeholder Dairy Air Advisory Committee (DAAC) to advise and make recommendations about the Program implementation details.
- Guiding principles for the Program included allowing flexibility for dairy farmers to make decisions that are compatible with their operations and other environmental obligations and providing economic feasibility and stability for dairy farmers
- Program elements included: Starting as a voluntary program, known as “Phase I” at the completion of the Dairy Air Quality Task Force process (2009) and moving into a state mandatory program during “Phase II,” (2015).
- The Task Force agreed that, “new dairies should be required to comply with the Program upon startup.”
- ODA and DEQ were supposed to develop an interim list of recommended air Best Management Practices (BMPs) in collaboration with the Oregon Dairy Farmers Association (ODFA), Oregon State University (OSU), National Resources Conservation Service (NRCS), and the stakeholders identified for the DAAC. They were to collect and assess baseline data about what is currently occurring on Oregon dairies to decrease air emissions.
- The Task Force recommended that tax incentives be provided to encourage dairies to meet BMP targets established for Phase I and should be provided for dairies to create an incentive for early action. Tax credits were intended to cover a wide range of BMPs, not solely anaerobic digesters.
- The Task Force recommended funding for ODA to determine compliance, provide technical assistance, and conduct any enforcement, and that ODA should develop a periodic report of BMPs

in use based on reports and inspections. ODA would check Program implementation and compliance at the time of the annual CAFO water quality inspection. Annual reports would be provided to EQC and the Board of Agriculture. Further, ODA would determine compliance, provide technical assistance, and conduct any enforcement.

- Guidance for recommended BMPs included: Tiers based on dairy size/resources (for example, 700 cows and above could be one level, 200 - 699 could be another level, and less than 200 cows could be another level); as well as the development of both Phase I and II BMP targets for each tier.
- The Task Force recommended that the following resources be provided to implement the recommended Program:
 - Tax credits (of a variety of types, not solely digesters) for voluntary participation during Phase I and exceeding the requirements during Phase II if the tax credit program were to be extended after 2014;
 - Resources to ODA for Program implementation, monitoring and compliance;
 - Resources to DEQ for rule development, Program implementation, and air monitoring;
 - Resources to DHS for technical assistance, consultation, and risk communication; and
 - Funding for OSU to conduct research and development of demonstration projects, BMPs tailored to Oregon's needs, the effectiveness of BMPs, their impact on air emissions, and funds for education, outreach, and technical assistance
- The timeline for the program included:
 - 2009: Funding for 2 FTE (1 ODA, 1 DEQ) for program and rule development, baseline surveys and \$500,000 for OSU to develop BMPs
 - 2009: Adopt rules for the program at the EQC, conduct baseline surveys, seek tax credits for Phase I voluntary BMPs (ending in 2014)
 - 2010: DAC to recommend revisions to BMP list based, targets and program structure. Tax credits used to help dairies meet Phase I targets until 2014
 - 2011: DAC recommends targets that would become mandatory in 2015
 - 2013: Ongoing funding for monitoring, agency staffing, research, BMP refinement, tax credits
 - 2015: Targets become mandatory, ODA implements the program, ensures compliance and issues annual Program report

SB 197 does not stray from these recommendations, it merely ensures that the program we all agreed to as part of the Dairy Air Quality Task Force will finally be created. It explicitly requires consultation with agencies like the Oregon Department of Agriculture and the creation of a rules advisory committee that includes the dairy industry, environmental public interest organizations and academic experts.

We strongly urge your support for SB 197 and to move this important bill forward to the Ways and Means Committee with a 'do-pass' recommendation.

Thank you for your consideration.

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