Chapter Excerpt from the Award-Winning Book **CAFO**

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“Paying the Polluters”
PAYING THE POLLUTERS
Animal Factories Feast on Taxpayer Subsidies

MARThA NOBLE

THE CAFO SECTOR SPIN MACHINE, including the world’s largest meat and poultry packers, claims that CAFOs are “economically efficient” without mentioning the billions of dollars plucked each year from the public purse or the costs inflicted by pollution on others. The truth is that public funds are handed to CAFOs for building infrastructure, pollution control facilities and equipment, subsidized energy costs and feed grains, and precious USDA-sponsored research.

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Rural residents, rural communities, public drinking water treatment facilities, and many others struggle with the flood of water and air pollutants coming from industrialized animal factories. One would think that the federal and state governments would discourage this model of production—but the opposite is true. The world’s largest meat, poultry, and dairy processors have tapped into a bonanza of public subsidies. The industry receives grants, cost-share for capital construction, federal and state research dollars, tax credits, and other public funds to underwrite its proliferation—often in the guise of “conservation” and “pollution control.”

Every year, according to the Union of Concerned Scientists, U.S. taxpayers shell out at least $7 billion to subsidize or clean up after CAFOs, with an additional $4.1 billion spent over the years to control leaking manure storage facilities. Controlling animal factory waste and emissions to protect air and water quality and the public health
should be a cost of doing business. But instead of applying a “polluter pays” principle to CAFOs, the animal factory sector has used its political clout to fashion publicly funded “pay the polluter” schemes. Perversely, the bigger the pollution problem posed by a large-scale animal factory, the more likely it is to rake in large amounts of public funding. Public dollars from federal, state, and local government coffers underwrite ever-larger animal factories with ever-growing pollutant streams. The result is what Brother David Andrews, former executive director of the National Catholic Rural Life Conference, has termed a “fecal flood.”

Despite the industry’s spin, CAFOs are not the only way to raise livestock and poultry. Thousands of farmers and ranchers integrate crop production, pastures, or forages with livestock and poultry to balance nutrients within their operations and minimize off-farm pollution through conservation practices and land management. By remaining a reasonable size and raising feed locally, they avoid some of the skyrocketing costs for energy, constructed infrastructure, and other features of industrialized animal agriculture.2 Yet these sustainable producers, who must compete with factory farms for market share, receive comparatively little or no public funding for their sound management decisions.

FARM BILL SUBSIDIES: FROM FEED TO FECES
Passed every five to seven years by the federal government, the farm bill is the single largest source of public subsidies to animal factories. The animal factory sector has floated atop a sea of cheap corn, soybeans, and other feeds subsidized by the farm bill’s commodity programs. Tufts University’s Global Development and Environment Institute estimates that between 1997 and 2005, the industrial animal sector saved over $35 billion because farm program subsidies lowered the price of purchased feed.3 Small and midsize farmers who grew their own feed grains and raised livestock in diversified systems received modest program benefits, but most farmers and ranchers who raised livestock on grass-based pasture systems received no such commodity subsidies.

The “implicit subsidy” of cheap market feed prices gives the
greatest advantage to industrial livestock production, with huge operations using purchased feeds. Among the biggest winners in this system are the meat and poultry companies that dominate the market. The Tufts research estimates, for example, that between 1997 and 2005, Tyson Foods, which controlled over 20 percent of the chicken market, received an implicit subsidy of $2.6 billion because of low-priced feed. Smithfield Foods, which held over 30 percent of the pork market, received $2.54 billion over that same period.

The Environmental Quality Incentives Program (EQIP), the major farm bill conservation program for agricultural “working land,” has become another deep funding pool for CAFOs. Prior to the farm bill reauthorization in 2002, EQIP funds were primarily focused on helping small livestock operators develop safer ways to handle waste. But in 2002, the industry used its political influence to turn EQIP into a publicly funded cash cow to pay the costs for CAFO infrastructure in the name of environmental compliance. Restrictions were removed on paying for large-scale waste lagoons, animal waste spraying systems, and other waste facilities. The payment limit for a five-year EQIP contract was raised from $50,000 to $450,000. Moreover, that amount could be paid to each investor in a CAFO, so that larger operations can get many times the nominal payment limit. USDA’s Natural Resources Conservation Service (NRCS), the agency that implements EQIP, shifted its priorities from the most cost-efficient applications to those applicants with the greatest pollution potential. Since 2002, the farm bill has essentially expended hundreds of millions of taxpayer dollars to increase the overall amount of CAFO waste in communities around the country. In many states, NRCS even established special funding pools to ensure that CAFOs could get EQIP dollars, even if the end result was net environmental degradation.

The Union of Concerned Scientists has reported that CAFOs received an estimated $100 million per year in EQIP funding in 2002–2006, with the amount rising to $125 million in 2007. A more recent study by the Campaign for Family Farms and the Environment (CFFE) estimates that 1,000 dairy and hog CAFOs have received $35 million per year from EQIP funding since 2002, with an additional unknown amount going to industrial poultry, beef cattle, aquaculture, and other animal operations. The USDA claims that it cannot
Anatomy of a hog CAFO. The barns can house between 1,000 and 2,500 hogs. Underground storage tanks beneath each barn drain into an adjacent “lagoon,” tinged pink possibly from the sulfur-reduced bacteria. The liquefied waste is sprayed on the fields through a “manure cannon”.
determine the exact amount of EQIP funding provided to CAFOs. This is hard to believe, given that the agency has established separate EQIP funding pools for CAFOs. In addition, although CAFO operators must sign contracts that specify the practices being funded under EQIP, Congress has prohibited the release of individual information based on privacy concerns. Congress did not prohibit aggregation of funding data, but the USDA has consistently refused to make comprehensive, accurate aggregated CAFO data available. The public deserves better accountability from the USDA for this use of public funds, which can result in net degradation of our air and water resources.

Alarmingly, the recently passed 2008 farm bill is poised to provide even greater EQIP subsidies for animal factories. Over $7.3 billion in EQIP funding has been authorized for fiscal years 2008 through 2012, a large portion of which is targeted to fund factory farms. In addition to general funding from EQIP, CAFOs will benefit from a new EQIP Air Quality Initiative with a total of $150 million. In many states, this EQIP funding is being targeted to large-scale CAFOs. The 2008 farm bill lowered EQIP program payment limits to $300,000 over six years but carved out an exception for EQIP contracts with “special environmental significance,” which can receive up to $450,000 over six years. The higher funding level is for “technologies” that will result in “significant environmental improvement.” In other words, the largest factory farms, designed to generate and release the highest level of pollutants, can line up for the largest EQIP payments for publicly funded add-ons such as methane digesters and waste lagoon covers.

SUBSIDIZED WATER CONTAMINATION

In many states, EQIP funds, federal Clean Water Act funds, and other public dollars are used to underwrite the transportation of poultry litter away from areas with high concentrations of CAFOs. In 2004, the NRCS in Alabama established an EQIP-funded poultry litter redistribution program to pay for the transportation of poultry litter out of nutrient-saturated areas. But there is no limit on new or expanding CAFOs in these nutrient-saturated areas. Rather than
focusing on incentives to reintegrate crop, livestock, and poultry production on individual farms, the program ultimately provides a public funding stream that facilitates locating even more poultry CAFOs in watersheds already overburdened with high levels of nutrient pollution. Using poultry litter to replace synthetic fertilizer has its merits. But, as noted by a consultant on Alabama poultry waste, most of the poultry litter is applied to fields based on its nitrogen content. This can lead to a buildup of soil phosphorus and increase the risk of phosphorus runoff into waterways. What’s more, the rules limiting poultry litter application in winter and wet weather (according to nutrient management plans), or requiring cover during storage, are not strictly enforced. Without these safeguards, transporting poultry litter may ultimately result in transferring water pollution problems from CAFOs to other areas.

On the Delmarva Peninsula (Delaware, Maryland, and Virginia) of the Chesapeake Bay region, over 600 million broiler chickens are raised each year, generating over 2 billion pounds of poultry CAFO waste. Both EQIP funding and state funds have subsidized the transport of some of this waste away from areas with high levels of soil nutrients to other areas in the region. Although the nutrients in this poultry litter may have benefits, even if nutrient levels are controlled there is a major complication. Industrial poultry litter contains other pollutants, including heavy metals, pharmaceuticals, and pathogens. Researchers at Johns Hopkins University have identified arsenic in poultry litter as a particular pollutant of concern. Poultry growers regularly add arsenicals to feed to prevent parasitic infections and promote growth. Most of the arsenic is excreted by the animals and appears in poultry litter in a form that can be readily leached from soil and move into surface and groundwater. Arsenic can also be absorbed from the soil by many plants. Arsenic is recognized as a human health threat associated with a wide array of diseases and with human birth defects. In the long run, publicly funded poultry litter transportation could result in spreading arsenic contamination throughout the Chesapeake Bay region.

Despite the billions of EQIP dollars flowing to CAFOs, there is no assurance that the end result will be a net gain for environmental improvement. Prohibitions on the release of information and poor
record keeping by NRCS prevent the public from knowing what taxpayer dollars are being used for, or the environmental outcomes of that funding. The likely result is a net increase in CAFO air and water pollution, with the public continuing to pay a high bill for CAFO construction.

**STATE FUNDING**

In addition to federal subsidies, large-scale animal factories have been scoring significant direct funding streams from state governments. One glaring example is an award of a total of $155,723 in public funding to Fair Oaks Dairy, an Indiana CAFO with more than 32,000 cows, to defray the costs of building methane digesters, which produce electricity from gases in manure. In 2002, this single operation received $95,723 from the U.S. government, $30,000 from the Indiana Department of Commerce’s energy policy division, and another $30,000 in matching funds from the state for a methane digester. Although the owners of the dairy control significant assets in the confined dairy industry and Fair Oaks is the largest dairy east of the Mississippi River, this conglomerate can still draw on the public purse to pay for profit-making ventures on its dairy farm.

Another example of state CAFO funding is a dairy owned by the Timothy den Dulk family in Ravenna, Michigan, which received $1 million from the Michigan Public Service Commission for a methane digester. In 2006, this dairy was reported to have 4,000 cows producing about 155 million pounds of manure annually. Timothy den Dulk’s assets included shares in dairy farms that milk approximately 30,000 cows in California, New Mexico, Michigan, Ohio, and Indiana as well as dairy heifer operations with almost 60,000 cows in five other states. Just one of these operations, Quality Milk Sales, Inc., in New Mexico, produced about 350 loads of milk per day with $600,000,000 in yearly sales. Despite these resources, this well-heeled dairy received taxpayer dollars to pay for energy-producing methane digesters that will further offset the operation’s costs. In addition, not surprisingly, two den Dulk family members joined with Michael McCloskey, the co-owner of Fair Oaks Dairy, to form the Fair Oaks
This underwater photograph shows the dead zone on the seafloor of the Gulf of Mexico. Every year, nutrients flowing into the gulf from industrial farms thousands of miles away contribute to an explosive algae bloom. As the algae die and decompose, the area becomes hypoxic—starved for oxygen—devastating sea life.
Farm Supply Company, which raked in over $900,000 in USDA commodity program subsidies from 2002 through 2006.  

**ATTRACTING FOREIGN CAFO INVESTORS**

Subsidies for CAFOs can also be folded into the structure of unlikely programs. One of these is the federal government’s EB-5 investment visa program. Under provisions for immigration to rural areas under EB-5, a foreign resident investor or group of foreign investors who provide at least $500,000 in a new commercial business or a restructured or expanding business in a rural area in the United States is eligible to jump to the head of the line for a permanent U.S. resident visa (“green card”). This privilege is retained if the investment generates five direct or indirect jobs. The EB-5 program also includes regional centers, which focus on establishing certain types of enterprises.

The EB-5 program has a checkered history with regard to CAFOs. There is no requirement that the EB-5-funded enterprises protect or improve the environment and the public health of the community in which they are located. In addition, EB-5 allows passive investment, which can increase absentee ownership in rural areas. In Iowa, an EB-5 regional center is focused on attracting young farm families from Europe to establish dairy operations on farms of 40 to 80 acres with between 250 and 500 cows—large dairies but not megadairies. In contrast, the Center for Rural Affairs found that the EB-5 regional center in South Dakota focuses on CAFO megadairies funded by passive investment. The center found that the South Dakota EB-5 program had funded at least nine megadairies, with at least 1,700 cows at an estimated cost of $6.8 million per megadairy.

Among the critics of the South Dakota EB-5 program is Bill DuBois, a resident of Marshall, Minnesota, who has pointed out that the influx of EB-5 investment capital has spurred an advance of megadairy factories in South Dakota that threatens small dairy producers and attracts large taxpayer subsidies. DuBois is a member of I-29ers for Quality of Life, which opposes the proliferation of industrialized dairies. The group has found that these big dairies get public subsidies for roads, infrastructure, and other needs. In
addition, I-29ers for Quality of Life estimates that the megadairies’ manure-handling operations have been underwritten by as much as 90 percent with public money.13

AGENCIES BETRAYING THE PUBLIC TRUST

One of the largest indirect subsidies provided to the CAFO industry is the acquiescence of federal, state, and local governments in allowing the industry to shift the costs of controlling waste to surrounding residents and communities in the form of polluted air and water resources and decreased public health. Foot dragging on effective enforcement at the federal level is chronic. The U.S. Environmental Protection Agency (EPA) implemented a revised Clean Water Act regulation for CAFOs in 2003, after being under a court order to do so since 1997. The regulation was successfully challenged by environmental groups in 2005, in part because important information about the nutrient management plan for manure and other CAFO waste could be kept from the public.14 In response, in 2008 the EPA approved an even weaker regulation that allows large-scale CAFOs to self-certify that they do not intend to discharge pollutants. The public receives no notice of these self-certifications, and there is no required inspection of the CAFO by a regulatory agency. Moreover, a CAFO can have waste spills from many separate sources on the CAFO and recertify each time that its problems have been addressed.15 The Michigan Department of Environmental Quality’s public comments on this EPA regulation correctly observed that the regulation “appears to have been advanced by the lobbyists for the factory farms as a self-serving means of exempting factory farms from regulation, contrary to any other sector regulated by the Clean Water Act.”16

The EPA has also avoided enforcement against CAFOs for violations of air pollution laws. Pending a study of CAFO air emissions, the EPA has entered into an agreement allowing thousands of large-scale CAFOs to avoid meeting Clean Air Act requirements as well as the requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA) for reporting air emissions of hazardous substances. The study is not scheduled for comple-
tion until late 2010, and regulations will likely not be reimposed until 2012.\textsuperscript{17} Overall, the EPA has ducked effective CAFO regulation, ignoring its legal duty to protect the public health and environment from CAFO pollution.

Congress is aware of the EPA’s inaction but has yet to require effective agency regulation. In September 2008, the U.S. House of Representatives Committee on Energy and Commerce held a hearing on a CAFO report submitted by the Government Accountability Office, an investigative arm of Congress. The report, entitled \textit{Concentrated Animal Feeding Operations: EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality}, concludes that the EPA has not yet assessed the extent to which CAFO air and water pollution is harming human health and the environment because the agency has failed to obtain key data on the amount of pollutants that CAFOs are discharging. Neither the EPA nor the USDA could provide reliable, comprehensive data on the number, location, and size of CAFOs that have been issued permits and the amount of discharges released.\textsuperscript{18}

At the state level, the CAFO industry has successfully lobbied many state legislatures to preempt local planning and public health regulations that could limit the concentration, size, and siting of CAFOs, moving the control of zoning from counties to the state level. But then these states fail to enforce the pollution control laws and leave local residents waiting days for the agencies to respond to complaints of CAFO air and water pollution. Untimely investigation and ineffective monitoring of CAFO pollution gives many state agencies the cover to contend that they have no evidence of CAFO violations.

With few exceptions, state environmental regulators allow CAFOs to repeatedly violate water and air pollution regulations with nothing more than a slap on the hand. Regulatory foot dragging is the norm, and action rarely happens unless a life-threatening situation arises or a citizens’ group tries to enforce state and federal laws. For example, in June 2008, several families living near the Excel megadairy in northwest Minnesota had to flee as their homes were enveloped with toxic levels of hydrogen sulfide emitted from the dairy’s waste lagoon. State health officials had recommended that residents leave because the hydrogen sulfide concentration levels exceeded 200 times the state air...
quality standard. But this evacuation need never have happened. The state attorney general and the Minnesota Pollution Control Agency, in announcing that they were jointly suing the dairy, also indicated that the Excel Dairy had repeatedly violated state air quality standards, environmental protection laws, and feedlot operating permits. Local residents had complained for years that the dairy’s fumes were causing headaches and nausea. Effective state monitoring and strict, swift enforcement of regulations—rather than a “polluter is always right” policy—could have put Excel Dairy on notice that it could not impose the burden of its toxic liability on the local community. But even more outrageous, months after the evacuation of residents and a declaration by the Minnesota state toxicologist that hydrogen sulfide levels in homes near the megadairy were still dangerously high, the Minnesota Pollution Control Agency continued to negotiate pollution control measures with the megadairy owner. Rather than clamp down and close the polluting dairy, state officials told local residents it was up to them to decide whether to abandon their homes as negotiation over cleanup of manure basins dragged into 2009.

Many states actually facilitate CAFO proliferation. For years, North Carolina has recognized that the thousands of open waste lagoons and the effluent sprayfields of large-scale hog CAFOs in the state impose significant burdens on the state’s public health and its environment. The state has had a moratorium on the establishment of new hog CAFOs since 1997. But the moratorium was not imposed until North Carolina became the second-largest hog producer in the country, with over 10 million hogs in the eastern part of the state. The moratorium applies only to new hog CAFOs. Existing CAFOs continue to use inadequate waste-handling systems, to rebuild them, and to even expand existing operations with substandard waste-handling systems.

In 2000, the state of North Carolina entered into an agreement with Smithfield Foods, the world’s largest pork processor, which contracts with hundreds of hog CAFOs. Under the agreement, over $17.1 million was expended for research on alternatives to the hog waste lagoons and sprayfields that cover the state’s coastal plain. In 2006, North Carolina State University researchers released a report identifying five alternative waste-handling systems that could reduce
ammonia emissions and pathogens from hog CAFOs and significantly decrease public health and environmental risks. These alternative technologies were more expensive than the open cesspits and sprayfields, but estimates were that the hog industry in the state would shrink only about 12 percent if it paid to adopt the technology—a reasonable adjustment to protect the state’s public health and environment.

Smithfield and the hog CAFO industry, however, simply said no to these alternatives. Instead, in 2007, the state legislature adopted a voluntary Lagoon Conversion Program under which the public is to pay polluting CAFOs up to 90 percent of the costs for adopting less-polluting alternatives to open waste cesspits and open-air spraying of hog waste.²¹

So far, the message from federal and state legislatures and regulatory agencies to sustainable farmers and ranchers, rural residents, and communities is clear. CAFOs can violate environmental laws with impunity and routinely impose public health hazards on surrounding populations, while neighboring residents and communities must bear the costs of coping with the pollution or pony up with the rest of us to pay the polluters, even for measures that actually increase the CAFO fecal flood. Meanwhile, the factory farm sector trumpets its “economic efficiency” while collecting billions of dollars in public subsidies at all levels of government, and every year livestock and poultry CAFOs grow larger and more concentrated. Sustainable farmers and ranchers are left to compete on an uneven playing field against some of the world’s largest corporations and their allies.

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