



Defending Agriculture

Legal, environmental hot button issues that impact U.S. farmers.

Who Wants to Regulate and Shut Down CAFOs?

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I wrote recently about attacks against animal agriculture. On Sept. 21, 2009, the United States Humane Society (HSUS) and other environmental organizations filed a petition with the United States Environmental Protection Agency (EPA) to govern air pollution emissions from Confined Animal Feeding Operations (CAFOs) utilizing a section of the Clean Air Act.

I thought it would be interesting for many of you to have more information about the organizations behind the Sept. 21 petition to EPA. It is always helpful to know the background of your opposition, their true purpose, and also gauge their understanding of agricultural practices.

The HSUS is a national and international non-profit organization. Its goal is protection of all animals. The organization claims to have 10.5 million members, maintains an office in Washington, DC and claims offices and staff in 25 states and foreign countries.

HSUS says it is the most effective animal protection organization in the United States. HSUS has an animal protection litigation section that claims to conduct precedent-setting legal campaigns on behalf of animals. It does this with 13 staff lawyers in Washington, New York, San Francisco, and Seattle.

It further claims to have a network of over 1,000 pro bono lawyers (lawyers who work for free) and dozens of active cases. Agriculture has nothing like this to defend its interests. Have any of you ever seen USDA's lawyers intervene to help out a farmer?

Another organization joining the Humane Society in petitioning EPA is the Dairy Education Alliance (DEA). This alliance claims to be a national coalition of farmers, grass roots activists, public interest lawyers, and economists. DEA claims to have member organizations in 10 states. The alliance operates in conjunction with the Western Environmental Law Center which says it defends the West's air, water, and wild lands since it was created as a law clinic at the University of Oregon's Law School in 1976.

Spotted owl fame The Western Environmental Law Center gained fame over its seven-year litigation regarding the spotted owl. You may recall the victory in this case helped shut down logging in many parts of the West. The DEA claims member organizations such as the Center on the Race, Poverty and the Environment, located in California; Family Farms located in Missouri; the Idaho Concerned Area Residents for the Environment; and the Idaho Rural Council. These organizations want to hold CAFOs accountable for air emissions and educate the public about the serious environmental damage caused by CAFOs.

Another alleged nonpartisan and non-profit organization seeking to regulate air and water pollution from CAFOs is the Environmental Integrity Project (EIP). One of EIP's main areas of focus is 'factory farms,' or CAFOs. EIP was founded by former EPA enforcement attorneys and is supported by a number of major foundations. EIP's founder and executive director resigned from EPA and publicly expressed his frustration with the Bush administration when he claimed it sought to weaken enforcement of the Clean Air Act.

EIP claims to have five attorneys and works with grassroots organizations to force alleged polluters to reduce their emissions. EIP opposes the waste created by CAFOs and does not seem to understand that many of us use the valuable manure for fertilizer. You might think that such organizations would applaud the recycling of material, but apparently EIP does not understand agriculture.

There are several other organizations filing the petition with EPA that I could describe to you but the last one I want to bring to your attention is the Center on Race, Poverty and the Environment, which claims it is an environmental justice litigation organization. It claims it has beaten a 55,000-cow mega-dairy. I assume this means the dairy was never built! It further claims it has cut pollution in California's great agricultural San Joaquin Valley by reducing 7,237 tons of volatile organic compounds and reduced 29,600 tons of ammonia per year. The Center claims thousands breathe cleaner air today as a result of their work.

Improved air quality After reading about these organizations and their claims, one would believe that EPA and the 50 state environmental organizations are hardly doing a thing to maintain air quality standards. As we know, this is not the case because there has been enormous improvement in the nation's air quality since 1970 when the Clean Air Act was passed under the Nixon administration.

Notwithstanding these successes, these groups deserve to be watched carefully because they are smart, have excellent lawyers, and are dedicated to greater regulation of CAFOs. I recently was involved in trying a case in the Midwest where many claims were made with regard to alleged terrible air pollution emitted by a CAFO. We proved these claims to be false and the jury returned a 12 to 0 verdict in my client's favor. This case demonstrates how important it is to deal in facts and not in scare tactics.

Nevertheless, HSUS and the organizations described above with their enormous foundation support, financial resources, legal resources, and close contacts in the Obama administration, are worthy adversaries and agriculture must organize itself in a similar fashion to protect its interests. As you can see, these organizations which filed this petition with EPA are not easily dismissed.

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