

27TH ANNUAL
ANIMAL LAW CONFERENCE

PORTLAND, OREGON
OCTOBER 25-27, 2019

Factory Farming and Climate Change

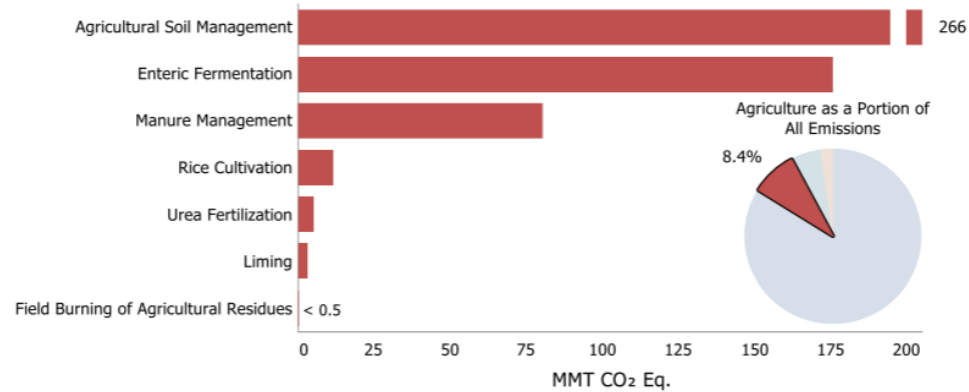
Danny Waltz

Animal Legal Defense Fund



Factory Farms Contribute to Climate Change

Figure 5-1: 2017 Agriculture Chapter Greenhouse Gas Emission Sources (MMT CO₂ Eq.)



U.S. Greenhouse Gas Emissions and Sinks

1990-2017



The Federal Government Has Not Regulated Factory Farms' Climate Emissions

Air Compliance Agreement (Clean Air Act)

ENVIRONMENTAL PROTECTION AGENCY

[OAR-2004-0237; FRL-7864-4]

Animal Feeding Operations Consent Agreement and Final Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of consent agreement and final order, and request for public comment.

SUMMARY: The EPA is offering animal feeding operations (AFOs) an opportunity to sign a voluntary consent agreement and final order (henceforth referred to as the "Air Compliance Agreement" or the "Agreement"). A copy of the Air Compliance Agreement is attached as an Appendix to this notice. The sign-up period for eligible AFOs to sign the Agreement will run for 90 days from the date of this notice.



- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the "Fair Agricultural Re-
- 5 porting Method Act" or the "FARM Act".

Factory Farm Emissions Reporting (EPCRA and CERCLA)



NEPA May Provide a Solution

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WILDEARTH GUARDIANS, *et al.*,

Plaintiffs,

v.

ZINKE, *et al.*,

Defendants,

:
:
:
:
:
:
:
:
:
:
:

Civil Action No.: 16-1724 (RC)

Re Document Nos.: 55, 60, 61, 62, 63,
71

Plaintiffs contend that

GHG emissions from oil and gas drilling were reasonably foreseeable at the leasing stage here, and that BLM could have reasonably quantified and forecasted those emissions. *See* Pls. Mem. at 13–16. They argue that BLM’s failure to quantify GHG emissions was thus contrary to NEPA. *See id.* The Court agrees.



Factory Farm Emissions Can be Quantified

Example Calculation of Methane Emissions from Anaerobic Lagoons

The approach used in EPA’s greenhouse gas inventory to calculate methane emissions from AFO’s is discussed in section 8.2.4. Methane emissions are calculated using equation F.1:

Methane Emissions (per head) = $VS_{\text{excreted}} \times B_o \times 0.67 \text{ kg/m}^3 \times \text{MCF}$ (F.1)

Where:

- VS_{excreted} = Volatile solids excreted (kg/yr)
- B_o = Maximum methane producing capacity ($\text{m}^3 \text{CH}_4/\text{kg VS}$)
- MCF = Methane conversion factor based on the waste management system (%)
- 0.67 = Methane density at 20 °C, 1 atmosphere (kg/m^3)

Calculation of Methane Emissions From 500AU Swine Model Farm in Iowa in 1999

Month	Average Monthly Temperature ^a			r ^b	Volatile Solids (kg)				Methane Emitted (kg) ^e
	(K)	(C)	(F)		Produced ^c	Adjusted Production ^d	Cumulative Produced ^c	Consumed ^f	
October	284.4	11.3	52.3	0.19	13,341	10,673	10,673	2,028	973
November	277.6	4.4	39.9	0.10	12,911	10,329	18,974	1,856	891
December	271.3	(1.8)	28.7	0.05	13,341	10,673	27,791	1,445	694



Minnesota State Court Offers Path Forward

In re: Daley Farms, A19-0207 (Minn. Ct. App. Oct. 14, 2019)

Body copy and text to st: The MPCA's response to the MCEA's comment suggests that it did not consider greenhouse-gas emissions before it denied an EIS. Not only are greenhouse-gas emissions absent from the animal-feedlot EAW form, but they are also missing from the EIS order issued by the MPCA after the public-comment period. The MPCA does not dispute that large dairy-farm operations like Daley Farms emit methane, a greenhouse gas that contributes to climate change, and that greenhouse-gas emissions could have the potential for significant environmental effects.⁸ The MPCA's reliance on the absence of greenhouse-gas emissions on the animal-feedlot EAW form shows that the MPCA failed to take a "hard look" because it "entirely failed to consider an important aspect of the problem." See CARD, 713 N.W.2d at 832.



ALDF and a Coalition of Groups Have Sued Over Federal Subsidies to Medium-sized Factory Farms



FSN | Food Safety News



Hereford cattle

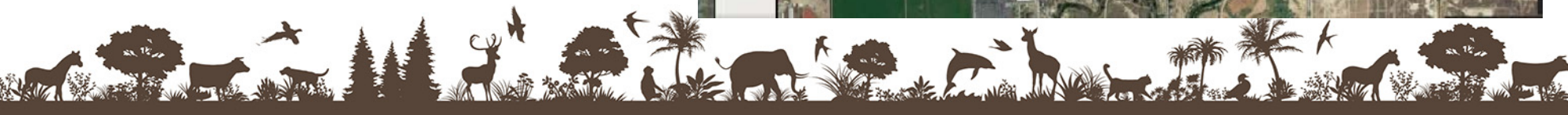
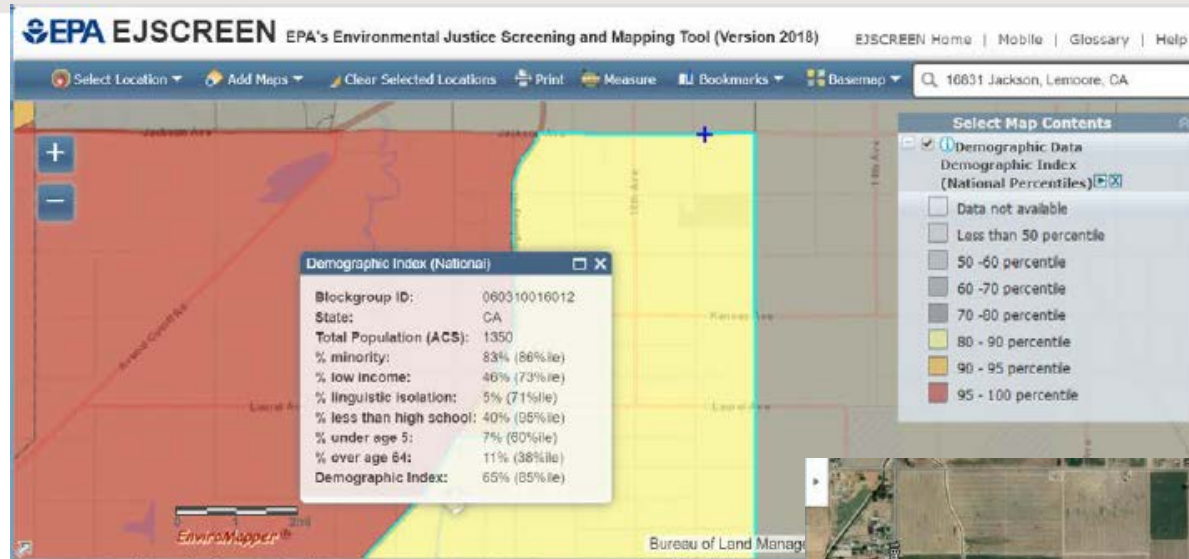
3-year old break for medium-sized CAFOs gets challenged in D.C. court

By [Dan Flynn](#) on March 27, 2019

Animal and environmental organizations, joined by several rural community activists, want a U.S. District Court judge to strike down Obama-era regulations that give a break to smaller mid-sized concentrated animal feeding operations (CAFOs).



Factory Farms and Environmental Justice



NEPA Requires Consideration of All Animals Affected by the Factory Farms

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Extinction Countdown

America's Freshwater Mussels Are Going Extinct--Here's Why That Sucks



6. *Effects on wildlife and the animals confined at medium CAFOs.*

FSA lending support for medium CAFOs also has cumulatively significant effects on animals. CAFOs, including medium CAFOs, have the potential to adversely affect endangered or threatened animals or their critical habitat. *See* 40 C.F.R. § 1508.27(b)(9).

Finally, medium CAFOs have are cumulatively significant because of the detrimental effects of their operations on the animals confined within the operations. *Cf. Am. Oceans Campaign*, 183 F. Supp. 2d at 20 (agency failed to consider how “fishing practices and gear may” damage fish habitat and harm healthy fish populations). For instance, the intensive confinement and steady provision of low-dose antibiotics, among other practices at CAFOs, cause an increased risk that the confined animals will be susceptible to antibiotic resistant bacteria and other disease. Martin Decl. ¶¶ 11-13.



Status of the NEPA Lawsuit

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Dakota Rural Action, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	Civ. Action No. 18-2852
)	
v.)	PLAINTIFFS' OPPOSITION TO
)	MOTION FOR REMAND
U.S. Department of Agriculture, <i>et al.</i> ,)	WITHOUT VACATUR AND
)	
<i>Defendants.</i>)	CROSS-MOTION FOR SUMMARY
)	JUDGMENT

Accordingly, the Court updates the briefing schedule as follows: Defendants shall file any reply in support of their [31] Motion for Voluntary Remand and any opposition to Plaintiffs' [35] Motion for Summary Judgment on or before NOVEMBER 7, 2019. Plaintiffs shall file any reply in support of their [35] Motion on or before NOVEMBER 14, 2019. Signed by Judge Colleen Kollar-Kotelly on October 22, 2019. (lccck1)



Thank You!

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