



## National Association of Conservation Districts

Testimony  
Of  
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President  
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Before the  
Senate Environment and Public Works Committee  
An Examination of the Potential Human Health, Water Quality, and Other Impacts of the  
Confined Animal Feeding Operation Industry

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Good morning, I am Olin Sims, President of the National Association of Conservation Districts (NACD) and a rancher from McFadden, Wyoming. On my family operation, the Sims Cattle Company in the Rock Creek Valley, we run a 700 cow/calf operation on 22,000 acres of deeded, private, state and federal leases in southern Wyoming. The ranch retains ownership of all calves and feeds to finish in Nebraska.

I was first elected to my local Conservation District, Medicine Bow Conservation District, as a Rural Supervisor in 1987 and have served as an area director since 1996. As a national officer of NACD I am required to maintain my local elected position in Wyoming. Conservation Districts across the country are led by Boards that have been locally elected or appointed by state officials. We represent members of the community, landowners, farmers, ranchers, businessmen and women or anyone that has a keen interest in the protection of natural resources in their local community.

Across the United States, nearly 3,000 conservation districts are helping local people to conserve land, water, forests, wildlife and related natural resources. We share a single mission: to coordinate assistance from all available sources -- public and private, local, state and federal -- in an effort to develop locally-driven solutions to natural resource concerns. More than 17,000 members serve in elected or appointed positions on conservation districts' governing boards. Working directly with more than 2.3 million cooperating land managers nationwide, their efforts touch more than 1.5 billion acres of private forest, range and crop land. NACD believes that every acre counts in the adoption of conservation practices. We work with landowners across the country—urban, rural, row crop farmers, ranchers, forestland owners and specialty crop producers on the plains, in the hills and on both coasts--so we know that no one program, practice, or policy will work for everyone. We support voluntary, incentive-based programs that present a range of options, providing both financial and technical assistance to guide landowners in the adoption of conservation practices, improving soil, air and water quality and providing habitat and enhanced land management.

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Established under state law, conservation districts are local units of state government charged with carrying out programs for the protection and management of natural resources at the local level. Our members work with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) as well as state and county programs to assist livestock producers in developing, understanding, and implementing the terms of their individual nutrient management plans. Each state may address the needs of livestock producers a little differently and included in my testimony are a few examples of what local Conservation Districts are doing across the country.

### Locally-led Conservation

Local county-level Conservation Districts assist in the implementation of Federal conservation programs, working with the USDA's NRCS and the Farm Service Agency (FSA). Our members see the benefits of appropriate technical assistance and offering financial assistance when working with private landowners. As members of our local communities, our neighbors frequently want to take the correct action, but need the technical information to know what those actions may be, the education and training to be able to apply new practices and requirements to their operations and in some cases financial assistance to make a change in an agriculture operation.

The major Farm Bill program that assists livestock producers is the Environmental Quality Incentives Program (EQIP). EQIP provides cost-share funding (generally 50% federal, 50% from landowner) for specific systems and practices, construction, and the development of Comprehensive Nutrient Management Plans (CNMPs). Conservation districts assist in gathering local input and priorities for these programs, addressing the most pressing natural resource issues within the state. Livestock producers in all states can apply for assistance under EQIP.

Several states have also entered into agreements with FSA and identified watershed and water bodies that would benefit from a federal/state partnership under the Conservation Reserve Enhancement Program (CREP). While this program focuses on buffer strips, filter strips and retirement of certain acreage from production and does not specifically address livestock operations, it is utilized to focus broader efforts for water quality improvements and leveraging state and federal funds.

EPA's 319 Non Point Source Grant Program is frequently utilized in states to address concerns on animal feeding operations. Several Conservation Districts or State Associations receive these grants to assist livestock producers (non CAFOs) on proper management of their operations and protecting water quality.

Conservation Technical Assistance is considered the backbone for these federal programs as well as state and local programs. Technical Assistance is the individualized guidance and information that helps a landowner make a change. It could be engineering design work, assistance from an

agronomist or localized information for soil types, habitat, nutrient reduction strategies and know-how for application of conservation practices and structures or the development and implementation of nutrient management plans.

### CAFO Regulations

NACD provided comments to EPA on their CAFO regulations on several occasions. In our written comments to the agency, NACD expressed support for the elimination of duty to apply requirement for all CAFOs. NACD supports EPA's proposal for the revised regulation that would require only those CAFOs that discharge or propose to discharge to apply for a National Pollutant Discharge Elimination System (NPDES) permit.

NACD agrees with including CNMPs as a component of NPDES permits for CAFOs. We also agree that associated production and/or land application areas, as defined in the proposed regulation, should be included within the permit only for the CAFO permittee. It should not include off-site application of CAFO-generated wastes. In modifying a nutrient management plan, we support allowing the operation to modify implementation and report modifications to the permitting authority while not requiring public review. An operator must have flexibility in meeting the goals of the nutrient management plan providing for some alteration in cropping and practices as appropriate for their operation.

NACD also supported the action by EPA this summer to extend the compliance deadline for obtaining a comprehensive nutrient management plan. As you will note from our specific state examples, Conservation Districts and individual producers are actively working on developing and implementing comprehensive nutrient management plans. While this work is underway, we did not see that it would have been possible to meet the July 31, 2007 deadline and therefore we support the extension to February 27, 2009.

With regard to unpermitted large CAFOs and AFOs not required to obtain permits, we would encourage all operators to work with voluntary conservation programs and their local conservation districts to determine the conservation practices that best suit their specific operations. Landowners are frequently seeking assistance in applying conservation practices, but are limited by the technical knowledge to implement these practices correctly.

Conservation Districts are actively working with livestock producers with various sizes of operations. NACD is facilitating information between our states and individual districts to share success stories and information. We are pleased to provide the committee with several examples of outreach and implementation efforts from across the country.

### State Examples

In my home state, the **Wyoming** Association of Conservation Districts, in cooperation with the Wyoming Department of Agriculture, Wyoming Department Environmental Quality (DEQ),

NRCS and livestock industry in Wyoming, initiated an Animal Feeding Operation/Confined Animal Feeding Operation Program in 1997.

The effort was implemented from 1997 – 2001 with projects continuing to be implemented to date. Educational efforts were funded in part utilizing Clean Water Act section 319 funds. The goals of this effort were to 1) Inform and educate livestock producers on potential impacts of AFO's on water quality/resource conditions and also an understanding of federal/state regulatory requirements 2) establish demonstration projects to further awareness and 3) to provide the necessary cost-share and technical assistance to Wyoming livestock industry.

The first two years of the program the primary focus was aimed at elevating the level of awareness within the livestock industry on federal regulatory requirements through the development of a educational brochure which was distributed to 3,000 livestock producers (producers owning 200 head of livestock or more) and the development and distribution of a self-assessment for producers to utilize to determine their risk. Over 22 educational workshops were held throughout the state with more than 1,250 livestock producers attending.

A cooperative agreement was also developed with NRCS which dedicated two field staff to providing dedicated assistance to producers to assess their operations and develop plans for modifications if necessary.

Approximately 15 demonstration sites on animal feeding operations were implemented throughout the state on animal feeding operations program that had “unacceptable conditions” as defined by the federal regulations. Tours were conducted of the sites after completion.

In addition, due to the high demand from livestock producers to address unacceptable conditions on AFO's, NRCS dedicated \$225,000 at the state level in EQIP funds to specifically meet the need for AFO cost share. Wyoming also sought additional funds from the national level and received \$105,000 through NRCS to add additional technical assistance to meet the demand. After the educational efforts were conducted, a huge increase in assistance was experienced by NRCS and folks in some areas were put on a waiting list.

In addition, the local conservation districts through their water quality improvement efforts have continued to fund a number of animal feeding operation projects as part of efforts to address impairments on surface waters within the state. Funding for these are typically from a variety of sources including producers, local funds, CWA 319 and/or EQIP funds. All districts that have waters listed on the state's 303(d) list as being impaired due to bacteria (E. Coli) have local programs to assist producers within these watersheds to address their operations if unacceptable or contributing conditions exist.

NRCS reports that in 2006 an additional 21 projects and in 2007, 28 projects were funded through the statewide EQIP set aside fund.

Regarding Concentrated Animal Feeding Operations, in Wyoming all CAFO's (based on the size threshold) are required to obtain a NPDES permit from Wyoming DEQ. DEQ started requiring that the permit include the nutrient management plan prior to the final adoption of the EPA regulatory revisions. There are 63 CAFO permits issued in Wyoming.

In **New Mexico**, the New Mexico Association of Conservation Districts worked to ensure that conservation programs made sense for the dairy operations within their state. After initial concern about a process that was too complicated the Association worked to ensure dairy producers could utilize conservation assistance programs. Today, the State Technical Committee that establishes priorities for the implementation of USDA Farm Bill Conservation programs at the state level sets aside EQIP funding to assist CAFOs in developing CNMPs. The Association has also worked to obtain state funds for additional technical assistance to CAFOs. The Association has been able to contract with retired NRCS employees to provide additional resources to develop CNMPs.

The **South Dakota** Association of Conservation Districts and member districts work on several outreach and implementation efforts with livestock operators within the state. For animal feeding operations, the Association provides, through an EPA 319 nonpoint pollution grant, cost-share to design nutrient management systems in targeted watersheds to meet Total Maximum Daily Loads (TMDL) goals. Under this grant, the Association staff work with the producer from initial contact through full implementation. The producer pays 25% of the cost of the engineer to design the system with 319 funding providing the other 75%. Once the design work is complete, the Association staff helps the producer apply through EQIP or local watershed projects for cost-share assistance for any needed construction assistance such as sediment ponds, lagoons, vegetated treatment areas, etc. To date, 69 producers are involved in the program.

South Dakota's work on existing CAFOs includes an agreement with NRCS to provide technical assistance to producers to implement their nutrient management plans. Once a CNMP is complete, a producer frequently needs assistance with the requirements of the plan, and guidance on the maintenance of their operation to comply with the plan. Agronomists help to ensure continued proper application rates of nitrogen and phosphorus. Producers are taught how to correctly obtain a soil sample, a water sample, and a manure sample and how to interpret the results so that they can correctly apply the required amounts. The Association's employees have taught producers how to calibrate their application equipment – including using portable scales so that producers can weigh their manure spreaders and find out how much they really hold.

On an annual basis, the Association staff sits down with the producer and re-evaluates their plan so that they can see how well it is working or what they may need to do differently. This really helps when the producer is using rented land for application - sometimes they don't keep the lease and then they need to re-work their application plans for new land. The goal is that, after a few years, the producer gains the technical skills to manage his own CNMP. The Association has learned that they are asking the producers to adopt a whole new way of doing things and that

requires transfer of technical knowledge. They don't expect producers to be able to learn it on their own because it can be overwhelming.

CAFO operators can also seek financial assistance for development of CNMPs and construction cost-share through the EQIP programs.

In **Minnesota**, Conservation Districts play an important role as an intermediary between producers and communities where CAFOs are proposed. Districts are often called upon to provide hearings for public comments when establishment of a CAFO is being considered. The district can help to vet issues raised by their local community, and can also provide information to the community on the environmental impact of proposed CAFOs. This service as a moderator ensures that dialogue is established between public and private interests during CAFO planning phases.

Minnesota districts also assist CAFOs with different approaches ensuring proper nutrient management. They can serve as a bridge between CAFOs and NRCS when operators wish to apply for federal assistance through programs such as EQIP. Districts also facilitate and promote EQIP opportunities for operators, and provide assistance to operators interested in applying for EQIP. Finally, Districts promote creation of nutrient management plans in TMDL areas and Well Head Protection Areas, and encourage CAFO operators with existing NMPs to meet with Certified Crop Advisors to revisit their plan and make sure its provisions are current with soil conditions.

In **Oklahoma** the Conservation Commission has taken the lead on two different watershed projects addressing water pollution. In cooperation with federal state and local partners, these projects resulted in improved water quality. The Peacheater Non Point Source National Monitoring Program Project included the Adair and Cherokee County Conservation Districts, NRCS, USGS, EPA, Oklahoma State University Extension, and the Oklahoma Scenic Rivers Commission. This project was funded through a 319 grant to work with landowners to implement riparian management, buffer and filter strips, composters and animal waste storage facilities, improved pasture management and septic systems. Through the installation of BMPs, the phosphorus loading to Peacheater Creek was reduced by 69%.

A similar project was conducted on the Eucha/Spavinaw Watershed where 319 funds, state priority watershed funds and individual landowner funds were used on a locally-led effort. A Local Watershed Advisory Group was established to recommend BMPs and cost-share rates. The program included the Delaware County Conservation District in Oklahoma and the Benton County Conservation District in Arkansas, as well as the City of Tulsa, USGS, NRCS, EPA, Oklahoma State University Extension, and the Arkansas Soil and Water Conservation Commission. The project included riparian management, buffer and filter strips, streambank stabilization, composters and animal storage facilities, pasture establishment and management, proper waste utilization and septic systems. The project resulted in a 31% decrease in phosphorus loading to Beaty Creek in the Eucha/Spavinaw Watershed.

This area in the Eucha/Spavinow Watershed is also an EQIP priority area and this past spring became a CREP area. The primary objectives of the Oklahoma CREP are to install field buffers to trap sediment, nutrients and bacteria; reduce sediment loading by up to 3,702 tons, phosphorus loading by up to 19,825 pounds and nitrogen loading by up to 191,887 pounds annually. These goals are to be achieved by voluntary enrollment in 14 or 15 year Conservation Reserve Program contracts and 15 year or permanent state easements, as well as enrolling adjacent non-CREP riparian acreage into a state incentives program (FSA CREP fact sheet). Oklahoma has a variety of voluntary conservation programs working together to address nutrient and sediment loading to improve water quality as well as improving wildlife habitat.

Thanks to a proactive approach to working with poultry producers in **Texas**, most poultry facilities were already in compliance with EPA when they recently made changes that defined larger dry-litter operations as CAFO's.

Soil and Water Conservation Districts in Texas have been working with the state for several years to assist poultry facilities to comply with state laws. All operations in Texas are required to have a Water Quality Management Plan, which is equivalent to a CNMP.

These CNMPs included virtually all of the technical components of a CAFO permit under the EPA NPDES Permitting Program; consequently, the industry was well prepared for the EPA regulation changes. Soil and Water Conservation Districts in Texas provide the technical and financial assistance to develop and implement these CNMPs so they comply with federal and state CAFO regulations.

The districts employ technical service providers to develop the CNMPs and assist producers with the installation. Local districts also provide state-appropriated cost share funding. District employees also work with the poultry operations to "maintain" the implemented status of CNMPs through annual status reviews and by providing soil sampling services.

Soil and Water Conservation Districts in **North Carolina** in partnership with the state's Soil and Water Conservation Commission, have led an aggressive and proactive approach to dealing with the state's major livestock and poultry industries.

In 1983 the North Carolina General Assembly authorized the NC Agriculture Cost Share Program to improve water quality associated with agriculture in three nutrient sensitive areas that covered 16 counties. The program was expanded in 1990 to include 96 Soil and Water Conservation Districts covering all 100 counties.

The program provides 75% cost share for producers to implement resource management practices and encouraged the use of new and emerging technologies. Highlights of the program include the installation of 3559 waste management structures to properly store and manage dry

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and wet animal waste; the installation of 815 mortality management systems to properly manage livestock mortalities to minimize water quality impacts; and the placement of over 950 miles of fencing in combination with other practices to exclude livestock from streams.

While the program addresses a range of agriculture-related water quality issues, 2500 permitted facilities are often a focus of the activities. Approximately \$58.1 million (38%) of the funds have been directed to CAFOs and AFOs.

According to the program's recent annual report, the program is delivered locally by 494 elected and appointed Soil and Water Conservation District supervisors and by over 400 local staff of districts and federal partners. District supervisors are responsible for seeing that state funds are spent where they are most needed to improve water quality. District supervisors are required to develop a prioritization ranking system for administering the program in their respective districts to maximize the benefits to the state's water quality goals. Applications are evaluated and prioritized by the District and Districts are required to inspect at least 5% of the contracts annually.

The cost share program is not the only activity in NC to help better manage livestock and poultry operations. In 1993, the NC state government established a non-discharge rule requiring all farms meeting the following threshold numbers to register with the appropriate state agency and to secure a certified animal waste management plan by 1997. The size requirements are as follows:

- 250 swine (55 pounds or greater)
- 100 or more confined cattle
- 75 horses
- 1000 sheep
- 30,000 confined poultry with liquid waste system

These plans must be certified by a technical specialist designated by the NC Soil and Water Conservation Commission. The technical specialists are often conservation district employees. These requirements became a part of the state and NPDES permitting process in 1996.

In 1999, in the wake of flooding devastation from Hurricanes Dennis, Floyd, and Irene, the State initiated a buyout program for active swine operations in the 100-year floodplain. The state has invested over \$16 million to operate this program to date, and has removed 39 swine operations from harm's way in the floodplain. Another grant of \$3 million has just been approved to continue this popular and highly successful flood hazard mitigation program with the expectation that another 6-7 high-priority operations will be included. Participating operations must agree to allow a conservation easement on the property to prevent future CAFO operation on the property and to prevent development of the property for non-agricultural uses.

Just this year, NC passed legislation that established a permanent moratorium on the construction of new lagoons and a new Lagoon Conversion Program where producers can receive cost share assistance to voluntarily convert from conventional lagoon and spray field systems to "approved"

innovative animal waste management systems. The program supports systems that produce marketable by products, reduce or eliminate the emission of ammonia and greenhouse gases, and are capable of being connected to a centralized waste collection and treatment.

The NC Soil and Water Conservation Commission and conservation districts will be involved in the development and implementation of this exciting new initiative.

As you can see, communication and collaboration among interested parties have established exciting programs and policies in NC. In many cases the success of the programs can be tied to a goal of locally led programs with involvement and support of conservation districts.

The Sussex Conservation District in **Delaware** has four conservation planners on staff funded through a Nonpoint Source Pollution Section 319 Grant and the state of Delaware. These planners are funded to provide nutrient management plans to Sussex County landowners.

Upon request, the Sussex Conservation District provides producers with technical and financial assistance. A conservation planner visits the farm to assess their resource concerns and provide the farmer with a comprehensive nutrient management plan. The District also provides financial assistance through a cost-share program for BMPs that address water quality issues. Some of the BMPs that the District provides cost-share assistance are poultry manure structures, poultry carcass composters, poultry incinerators, poultry windbreaks, animal waste systems, heavy use area protections (concrete pads at the ends of chicken houses or manure structures), and cover crops. With the District's cost-share program, structural BMPs have to be ranked because we always get more requests for funds than we have cost-share money.

The District also administers a 3% low interest Agricultural Nonpoint Source loan program that allows farmers to finance, at a low rate, their portion of BMPs that is not covered through cost-share. The normal cost-share rate for BMPs is 75% meaning that the farmer must come up with the remaining 25%. For example, they can also use the 3% loan to purchase a front-end loader for their composting operation or a calibratable manure spreader.

The District also works closely with the Delaware Nutrient Management Program. Delaware's program, which was established with the passing of the Nutrient Management Law in 1999, mandates all landowners with 10 or more acres or 8 animal units be required to have a nutrient management plan by 2007. We are proud to say that the Sussex Conservation District assisted the Delaware Nutrient Management Program in meeting this goal.

If there is conservation or nutrient management concerns on a farm, the District staff may accompany the representatives from the Nutrient Management Program to the farm to discuss alternatives or solutions to whatever issues the farmer is facing. The Delaware Nutrient Management Program also offers cost-share assistance to poultry operators for manure relocation and nutrient management planning. The manure relocation program takes manure from farms that have excess manure and ships it to farms that need the manure or for alternative uses. The

cost-share is used to cover the transportation costs. In western Sussex County, there is a manure pelletizing plant that manufactures and packages pelletized manure to be sold to retail locations for fertilizer.

The Cayuga County Soil and Water Conservation District in Auburn, **New York** has had many beneficial interactions with CAFOs in Cayuga County. The District has about half a dozen conservation professionals that work regularly with CAFOs on multiple projects including: BMPs, bunk silos, manure storage and transfer systems, milk house waste reduction, barn yard runoff, crop planning and erosion control. The District has worked extensively with farmers to educate them about conservation tactics, and efficient agricultural techniques. The nutrient management specialists have worked to lower the environmental impacts of manure waste on the community and environment. The District has been involved with vermicomposting, drag hose application; manure additives and wind powered manure agitators all of which limit CAFOs waste problems.

The most ambitious of the District's projects has been the construction of a Community Methane Biodigester. The Biodigester will centralize manure collection from 3 local CAFOs on the District's campus. The manure, along with food waste, will be anaerobically digested to create "environmentally-friendly" biogas, liquid fertilizer and solid compost. The Biodigester will address nutrient runoff and loading problems in the Finger Lakes. The Biodigester will make the liquid fertilizer much more nutrient balanced for reapplication to the farm fields, while removing the solid, nutrient rich, compost out of the watershed by selling it separately to gardeners and nurseries. The Biodigester will also eliminate pathogens and odor caused by the spread of manure and that make community relations difficult for CAFOs.

At a recent NACD Northeast Region meeting, a Conservation District shared a proactive approach in working with CAFOs. The district realized that in the event of an agriculture emergency such as a manure spill, they could provide assistance both to the operator and to emergency management personnel who would respond by serving in an advisory capacity.

To that end, the district has established a relationship with 911 officials and local fire departments so that they are aware of agriculture related emergencies and how to respond. As a result, the local 911 center created a database of resources to utilize for agriculture emergencies, including the local conservation district. The district has also provided outreach to local CAFO operators to provide instruction on how to develop agriculture emergency plans and procedures for contacting authorities in the event of an agriculture emergency. In doing so, the district is also helping CAFO operators stay in compliance with regulations, which require notification in the event of an emergency.

As these examples demonstrate, each state or local conservation district may take a slightly different approach to addressing environmental concerns in the local area. We have provided

only a few examples, but most states have similar efforts and Conservation Districts across the country are assisting in the delivery on Farm Bill Conservation Programs, prioritizing local projects and natural resource issues within the state. Each state may take a different approach, but there is a consistent theme of working with landowners, providing technical assistance, financial assistance and expertise to help them make changes to their operations, or alter practices that is critical to our success. Conservation Districts across the country have been working with landowners for 70 years, and we will continue to seek solutions that benefit our communities and protect natural resources. Proactively working with landowners, educating, teaching and providing useful information, expertise and guidance is critical to the success of our efforts. We believe that flexibility should be built into federal programs and requirements to allow states to build upon their own successful efforts. NACD and our member state associations and individual districts look forward to continuing to work with landowners to ensure the protection of our natural resources.