

**Testimony of Nicholas Nemec  
Holabird, South Dakota**

**September 6, 2007  
Before the US Senate Environment and Public Works Committee**

Thank you, Madam Chair and members of the Committee for giving me this opportunity to testify. My name is Nicholas Nemec. I am a farmer and rancher from central South Dakota where I raise cattle, wheat, sunflowers, corn, and hay on 4,100 acres in Hyde County. From 1993-1996, I represented six central South Dakota counties in the state legislature.

I am here today representing the Western Organization of Resource Councils (WORC) and Dakota Rural Action (DRA), two non-profit organizations that have worked proactively for family farm agriculture in the West for nearly 30 years. WORC is a network of grassroots organizations from seven western states that includes 9,700 members and 44 local community groups. About a third of WORC's members are family farmers and ranchers. WORC has many members who are affected by or could be affected by large factory farms and are working on the issue in local, state, and federal government settings.

My roots in agriculture and South Dakota run deep. My great-great-grandparents and great-grandparents immigrated to America from Eastern Europe early in the last century. They homesteaded in South Dakota in 1907 and in their struggle to establish a foothold in this country and a future life for our family they experienced all the hardships that were so common to homesteaders, including the death of my great-great-grandmother, who was bitten by a rattlesnake at the door of her sod house. That original homestead is now owned by my uncle and last week, at the South Dakota State Fair, was recognized as a Century Farm.

Those roots were threatened in early 1997, when Tyson Foods approached our county commissioners with a plan to construct over 100 hog confinement barns that would feed nearly 520,000 hogs each year and plans to build more barns in future years. All this would happen that spring in a small county of only 860 square miles and 1,600 people. The county commissioners and the city council both passed resolutions welcoming Tyson Foods and their hogs to our county under the guise of "economic development". With the endorsement of the two local governing bodies in hand, Tyson Foods thought the door was open for a major expansion into South Dakota. Little did they know that the South Dakota state motto is "Under God the People Rule" and in Hyde County the people would eventually rule.

My wife and I and our neighbors were very worried because we knew that our county had no zoning ordinances of any kind or even a requirement for building permits. We were worried that we might wake up someday and find a large hog barn being built across the fence or down the road from our farms. Hyde County is in the Prairie Pothole region of South Dakota. It is an area with tens of thousands of acres of shallow lakes

and wetlands and many intermittent streams. This area is one of the premier duck nesting areas in North America. One of those streams, South Medicine Knoll Creek, meanders for two miles through my farm. I have several shallow wells on the banks of the creek that I use to water cattle. I have watched this creek grow from a few isolated fishing holes to a river 100 yards wide and 8 feet deep in less than a day. Our county was experiencing severe flooding that spring. The creeks were high and the lakes were full. People were concerned about the pollution that could be caused if the dikes around one of the manure cesspools at the proposed hog barns would fail. That manure would run into our lakes and streams, killing wildlife and vegetation and contaminating our shallow aquifers. Those kinds of failures had occurred in North Carolina. We were also concerned about runoff from fields where manure had been applied at rates greater than the crops could use.

We are rural people and are used to and not afraid of the smell of a little manure. But we also know that the more manure you have the worse it smells and we didn't want to wake up every morning and spend everyday smelling hog manure. Promises by Tyson Foods to be a good neighbor and glowing testimonials from Hughes County, Oklahoma, where Tyson had a similar operation did not allay our concerns. With very little difficulty we were able to contact citizens of Hughes County who told a very different story about living amongst tens of thousands of hogs. They told of being prisoners in their own homes, unable to open the windows because the stench of manure cesspools permeated everything. They told of being unable to enjoy the outdoors because the stench was so overwhelming that it made their eyes water and gave them headaches. In short, their quality of life was what we feared ours would become.

Our oldest daughter has asthma. My wife and I had read that particulate matter in the air around large hog confinement barns and the stench from the manure cesspools triggered asthma attacks in some people. Watching your child fight to get air during an asthma attack and rushing her to a hospital is a scary experience that we didn't want to go through ever again that I wish no other parent has to go through.

The opponents to the Tyson plan began meeting and formed an ad hoc group to determine what, if anything, could be done to slow or stop Tyson Foods. We contacted several lawyers and learned that in our state the citizens of a county have the right to circulate petitions to force a special election on an initiated measure. With the help of Dakota Rural Action, we began drafting an ordinance to require a setback from residential structures. We also set up several informational meetings to gauge the level of concern. Eventually an ordinance was written that prohibited locating a manure management system for livestock housed in barns closer than four miles from any existing residential structure.

The hard fought election divided our county with the rural residents, farmers, and ranchers supporting the proposed ordinance and the local business community in town opposing it. Tyson Foods' purchase of multiple full page ads in the local eight page newspaper was seen as another heavy-handed attempt to sway the election. The ordinance passed by a margin of 56%-43%. The rural vote of 75%-25% versus the town

vote of 46%-54% reveals the divisive effect this issue had on our small community pitting urban against rural, with the rural residents, mainly ag producers, supporting stricter controls.

It also illustrates the distinction that many of us in agriculture make between this new model of livestock production and the family farm model that is traditional in our rural communities, and that I still believe is the most sustainable for our rural communities.

I call these new operations “factory farms” to distinguish them from traditional family farms. When neighboring landowners challenged a huge pork feeding facility in Grand Forks County, North Dakota, District Judge Bruce Bohlmann hit the nail on the head when he said the facility was “not a farming operation” but a “pig factory.”

This term refers to the model of production only. I do not use it as a negative term to pass judgment on the individual owners or farmers who are developing these large-scale farming operations. I know that there are many responsible, conscientious farmers who work diligently to prevent their factory farming operations from having the environmental consequences that my neighbors and I are so concerned about. However, I also know that, regardless of these efforts by some factory farm operators, these operations inherently have impacts and pose risks that traditional family farms do not.

For this reason, factory farms have become an extremely polarizing issue in our rural communities as an aging population of farmers struggles to provide financially successful options to bring young farmers back to rural areas, while weighing the inherent impacts and risks of the factory farm model of production.

The factory farm model is often promoted and presented as an essential shift for the future of our rural economy, and the logical next step in the modernization and industrialization of agriculture. It is, in fact, bringing with it a host of new concerns, never before presented by traditional family farms. Communities are suddenly dealing with regulating and permitting operations that are touted as agriculture, when in fact, they are more similar to industrial production facilities than traditional family farms.

The reality is that factory farms have proven to have many unanticipated consequences to clean air, pristine landscapes, precious water resources, and the high quality of life that sets our rural communities apart. What’s more, the promises of jobs, income and prosperity remain largely unfulfilled.

The unplanned, unregulated expansion of these operations threatens the very communities that their proponents claim they will enhance, yet they have expanded dramatically over the past 30 years, and are continuing to do so.

- South Dakota Ag statistics show that by 2002, our state lost more than 80% of the dairy farms and more than 83% of the hog farms that were operating in 1982. However, over the same time period, we only lost 20% of our hogs and half of our

dairy cows. In other words, South Dakota's remaining dairy farms are two and a half times larger than they were 25 years ago, and our hog farms nearly five times larger than they were 25 years ago.

- In Iowa the average inventory of hogs per farm increased from 250 in 1980 to 1,430 in 2000 – over five times larger.
- In Missouri, while the total number of hogs stayed the same, the average size of an operation grew from 180 in 1985 to 1,227 in 2005 – nearly seven times larger.

This shift in farming methods is recent and far-reaching enough to have swamped many local and state governing bodies with ballooning costs to school districts, road maintenance, and environmental costs.

Townships, counties and even states across the nation are struggling to handle these impacts. Many have established moratoriums as they attempt to put into place adequate, comprehensive laws and regulations to protect their citizens, natural resources, and their quality of life from the unintended and often accidental consequences of factory farm development.

Hyde County, South Dakota, is not unique in setting tough standards for factory farms. Throughout the network of WORC chapters in seven western states, we can point out numerous examples of agricultural leaders and communities standing up to the industrial scale feedlots and attempting to protect their natural resources and quality of life.

In Hyde County and elsewhere, we are protecting our local environment, but stronger state and national rules are needed. Pollution doesn't know or care about state lines. While we in Hyde County have tried to protect our local environment, we also knew that we couldn't protect ourselves from manure spills in counties upstream with a county zoning ordinance. Water, creeks and for that matter manure run downhill and don't respect county or state lines.

I understand that there are proposals to exempt factory farms from some of our federal environmental laws, and I urge you to oppose these efforts, and to preserve the clean air and water standards we have for factory farms and all of agriculture, as well as those that ensure that toxic waste sites are cleaned up, and that the public is given information about emissions of pollutants and contaminants.

As a farmer and rancher, I do not feel threatened by these laws, and I do not believe that any factory farm operator need fear them either. They are not designed to punish responsible farmers of any size or type, and I am not aware of a single instance when they have been used to do so.

These laws were designed to insure the health and well-being of my family, my land, and my downstream and downwind neighbors. Today more than ever, we need to maintain and even strengthen them to protect the communities in which factory farms are operating. If factory farm operators are going to manage large numbers of livestock in

small, confined units, let them do so by internalizing the full costs of their operations by managing and treating the wastes, and containing harmful emissions, and by receiving an appropriate penalty if they fail to do so.

Thank you.