

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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IOWA CITIZENS FOR	)	
COMMUNITY IMPROVEMENT	)	
2001 Forest Avenue	)	
Des Moines, Iowa 50311,	)	
	)	
ANIMAL LEGAL DEFENSE FUND	)	
525 East Cotati Avenue	)	
Cotati, California 94931,	)	
	)	
ASSOCIATION OF IRRITATED RESIDENTS	)	
29389 Fresno Avenue	)	
Shafter, California 93263,	)	
	)	
INSTITUTE FOR AGRICULTURE	)	
AND TRADE POLICY	)	
2105 First Avenue South	)	
Minneapolis, Minnesota 55404,	)	
	)	
WATERKEEPER ALLIANCE, INC.	)	
180 Maiden Lane, Suite 603	)	
New York, New York 10038, and	)	
	)	
WATERKEEPERS CHESAPEAKE	)	
P.O. Box 11075	)	
Takoma Park, Maryland 20913,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	
	)	
COUNCIL ON ENVIRONMENTAL QUALITY	)	
1650 Pennsylvania Avenue NW	)	
Washington, D.C. 20502,	)	
	)	
MARY NEUMAYR, Chairperson,	)	
Council on Environmental Quality	)	
1650 Pennsylvania Avenue NW	)	
Washington, D.C. 20502,	)	
	)	
<i>Defendants.</i>	)	
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Civ. Action No. 20-cv-2715

## COMPLAINT

1. This is an action for declaratory judgment and injunctive relief, challenging provisions of Defendant Council on Environmental Quality's ("CEQ") Final Rule, 85 Fed. Reg. 43304 (July 16, 2020), that explicitly or effectively exempt federal funding of concentrated animal feeding operations and slaughterhouses from National Environmental Policy Act ("NEPA") review.

2. Concentrated animal feeding operations ("CAFOs") are facilities that confine massive numbers of animals for the purposes of producing meat, dairy, and egg products. A single CAFO can confine in one location up to thousands of cows, thousands of pigs, tens of thousands of turkeys, or millions of chickens. To put these sizes in perspective, a 200-cow dairy CAFO generates around the same amount of sewage waste as a 96,000-person city.

3. CAFOs are often owned, run, or controlled by large corporations. In each major livestock sector, a handful of corporations control more than half of all livestock production.

4. CAFOs and the slaughterhouses they supply (collectively, "the CAFO industry"), which continue to expand throughout the United States, cause and exacerbate climate change and harm rural community and economic health, drinking water quality and quantity, air quality, endangered species, the confined animals themselves, and other aspects of the human environment. They also harm quality of life and depress property values of those living in close proximity to these facilities.

5. The CAFO industry typically propagates in a concentrated fashion. A new slaughterhouse inserts itself into a community and, in short order, new CAFOs will sprout up and existing CAFOs will expand to supply animals for the slaughterhouse. The concentration of

CAFO industry facilities in small geographic areas intensifies their effects on certain communities, watersheds, and ecosystems.

6. The federal government, through various lending programs administered by the Farm Service Agency (“FSA”), Small Business Administration (“SBA”), U.S. Department of Housing and Urban Development, and others, financially supports the CAFO industry.

7. Until CEQ’s 2020 Final Rule, federal agencies had to comply with NEPA to assess the impact of federal funding for the CAFO industry. NEPA analyses—which would take place *before* loans or loan guarantees were approved—serve two key purposes in the CAFO industry context. First, they can provide a governmental record of the harms emanating from industrial animal feeding operations and slaughterhouses, which have long been established as having serious effects on communities and the environment. Second, they provide neighbors, nearby farmers, and advocacy groups—like the Plaintiffs here—with notice of the planned development of new facilities or expansion of existing ones, as well as information about their risks, enabling the public to provide input and raise concerns *before* the federal government authorizes the use of public money. Before the Final Rule, community advocates were able to seek judicial review to redress their injuries when federal agencies failed to afford them the rights to which they are entitled under NEPA and the Administrative Procedure Act (“APA”).

8. CEQ’s new regulations both explicitly and effectively remove that process of analysis, notice, and feedback for the CAFO industry. Rather than presuming that CAFOs warrant a NEPA analysis, as CEQ did under its previous regulations, it now assumes these facilities have no environmental impact and exempts them entirely from NEPA. CEQ has also improperly cabined the scope, depth, and substance of NEPA review of CAFO- and slaughterhouse-related decisions in ways that ignore the CAFO industry’s most substantial

impacts and undermine the NEPA review process. CEQ further attempts to restrict judicial review so that local residents are forced to endure the destruction of their communities without any legal redress under NEPA.

9. CEQ's decision to give yet another free pass to this industry violates both NEPA and the APA. CEQ acted arbitrarily and capriciously, contrary to law, and not in accordance with law in enacting the Final Rule. Further, the Final Rule exceeds CEQ's statutory authority.

10. Plaintiffs request that the Court declare illegal, vacate, and issue an injunction requiring Defendants to withdraw, the portions of the rule that unlawfully restrict NEPA review of federal funding for the CAFO industry. Such relief will ensure the proper analysis of, public notice of, and input on the currently uninhibited and nontransparent flow of federal funds to the CAFO industry.

#### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1361 (mandamus), 28 U.S.C. §§ 2201-02 (declaratory judgment and further relief), and the APA, 5 U.S.C. §§ 701-06 (declaratory and injunctive relief).

12. Venue is proper in this Court under 28 U.S.C. § 1391(e) because Defendants are federal agencies headquartered in the District of Columbia, and because the agency action that forms the basis of this Complaint took place in the District of Columbia.

#### **PARTIES**

13. Plaintiff **Iowa Citizens for Community Improvement** ("CCI") is a membership-based, statewide Iowa nonprofit organization that works to enable Iowans from all walks of life—urban and rural, young and old, immigrants and lifelong Iowans—to make change in their communities by raising their voices and undertaking grassroots advocacy. CCI has

approximately 5,100 dues-paying members around the state, in addition to another 17,000 supporters and activists who sign up to receive CCI emails, take action online, attend meetings, sign petitions, and engage in other forms of activism with and for CCI. Many of CCI's members live near, recreate near, and/or work at agricultural facilities. CCI's organizational priorities include fighting against factory farms and protecting Iowa's clean water and environment, as well as advancing worker justice, racial justice, and immigrants' rights. CCI works to organize workers and has specifically worked in the past to organize in pig production facilities. In carrying out its mission, CCI has inquired with FSA—including by visiting in person at FSA offices—about the extent to which FSA-guaranteed loans are used for medium- and large-sized CAFOs and how the public can stay informed about FSA proposals to supply guaranteed loans to CAFOs. CCI members also alter their life choices—including whether to kayak and swim in certain water bodies—based on their knowledge of the existence and operation of nearby CAFOs. They obtain this information and attempt to influence CAFO funding decisions through the FSA and SBA NEPA review processes. In short, at a time when the Iowa legislature has underfunded the Iowa Department of Natural Resources, resulting in insufficient staffing to investigate and respond to citizen complaints of manure spills or dumping, the notice and information that FSA and SBA provide in the course of preparing NEPA environmental review documents for new or expanding CAFOs in Iowa has become ever more important to CCI's mission and members.

14. Plaintiff **Animal Legal Defense Fund** (“ALDF”) is a national nonprofit organization founded in 1979 in Cotati, California. ALDF's mission is to protect the lives and advance the interests of animals through the legal system. Advocating for effective oversight and regulation of CAFO and slaughterhouse development, expansion, and pollution across the United

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