



# Growing Influence

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The Political Power of Agribusiness and the Fouling of America's Waterways



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Fouling of America's Waterways



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# Executive Summary

**T**he agribusiness lobby is well known as one of the most powerful in Washington, D.C., and many states. Less well known is the fact that big agribusiness interests are among the largest roadblocks to cleaner water for the American people.

Big agribusiness corporations have invested millions of dollars in campaign contributions and lobbying to defend agricultural practices that pollute America's rivers, lakes and ocean waters and to defeat common-sense measures to clean up our waterways. **Over the past decade, just 10 agribusiness corporations or groups gave more than \$35 million in campaign contributions to congressional candidates.**

As the water pollution problems caused by big agribusiness continue to mount – ranging from the growing “dead zones” in the Chesapeake Bay and the Gulf of Mexico to the fouling of countless streams and lakes with excessive nutrients, bacteria, sediment and pesticides – the time has come for public officials to resist the entrenched power of big agribusiness and

implement strong measures to protect our waterways.

**Pollution from agribusiness is a growing threat to America's waterways.**

- According to the U.S. Environmental Protection Agency, pollution from agriculture contributes to poor water quality in more than 100,000 miles of rivers and streams in the United States, along with 2,500 square miles of lakes and 2,900 square miles of estuaries. These waters are so polluted that they are unsafe for fishing, swimming, or the maintenance of healthy populations of wildlife.
- The number of documented areas of low dissolved oxygen off America's coasts – often called “dead zones” – has increased from 12 in 1960 to 300 today. This includes the dead zone in the Gulf of Mexico, which covered a record area of roughly 8,000 square miles in 2008 – roughly the size of New Jersey.

**Big agribusiness is among the nation's most powerful special interest lobbies.**

- Over the past decade, ten large agribusiness interests gave \$35 million to congressional candidates – led by the American Farm Bureau, which gave \$16 million. (See Table ES-1.) Additionally, agribusiness interests gave more than \$120 million to state-level candidates, party committees and ballot measures.
- From 2005 to 2010, the 10 leading agribusiness interests spent \$127 million lobbying Congress and federal agencies, fielding 159 lobbyists in 2010 – one lobbyist for every four members of the House and the Senate. Monsanto and the American Farm Bureau led the pack, fielding 80 lobbyists in Washington, D.C., in 2010. (See Table ES-2.)

**Big agribusiness has used its political power to stand in the way of clean water for all Americans. Recent examples include:**

- *Denying Clean Water Act protection to key waterways:* Big agribusiness interests – including lobbyists from Monsanto, Cargill, Land O'Lakes and Perdue (through the National Turkey Federation) – blocked a 2010 effort to restore Clean Water Act protections to all American waterways, increasing the likelihood that polluters, including agribusiness interests, will be able to pollute intermittent waterways, isolated wetlands and sensitive headwaters streams with impunity.
- *Derailing Chesapeake Bay cleanup:* Agribusiness lobbyists – including lobbyists working for Tyson Foods and the American Farm Bureau – derailed a comprehensive Chesapeake Bay restoration bill in 2010 that would have required all pollut-

**Table ES-1: Agribusiness Contributions to Congressional Candidates**

Rank	Agribusiness Interest	2000-2010 Total
1	American Farm Bureau Federation	\$16,005,100
2	American Crystal Sugar	\$7,616,600
3	Dean Foods	\$2,563,900
4	Land O'Lakes	\$1,491,100
5	Monsanto	\$1,383,100
6	Archer Daniels Midland	\$1,349,000
7	ConAgra	\$1,260,100
8	Smithfield Foods	\$1,256,100
9	Cargill	\$1,100,600
10	Tyson Foods	\$1,016,200
<b>Total</b>		<b>\$35,041,800</b>

ers to do their share to restore the ecologically imperiled bay to health, while also providing billions of dollars in funds for bay cleanup.

- *Opposing long-overdue pesticide protections:* Agribusiness interests, led by CropLife America (a D.C. lobby representing pesticide manufacturers) backed legislation that would prevent the EPA from closing a long-standing loophole in its regulation of pesticide discharges to waterways – even though the regulation does not apply to the use of pesticides on crops. The American Farm Bureau, Monsanto, Crystal Sugar, and Land O’Lakes were the four top contributors to the 2010 congressional campaign of the bill’s sponsor, Rep. Collin Peterson (MN), collectively giving more than \$50,000. Although the bill failed to pass in 2010, it is likely to return in the 2011 session of Congress.

- *Standing in the way of clean water at the state level:*
  - *Retaliating against opponents* by backing state legislation to defund an environmental law clinic in Maryland that represented organizations objecting to the discharge of dangerous bacteria into the Pocomoke River by chicken producer Perdue Farms.
  - *Securing lax regulation on concentrated animal farms* in Illinois through the expenditure of millions of dollars in contributions to candidates for state office and the hiring of dozens of lobbyists.
  - *Silencing local communities concerned about the pollution impacts of dairy megafarms* in Wisconsin by securing new siting rules for factory dairy farms allegedly written by the dairy industry itself.

**Table ES-2: Federal Lobbying Expenditures of Selected Agribusiness Interests**

Rank	Agribusiness Interest	Spending on Federal Lobbying, 2005-2010	Number of Lobbyists in 2010
1	Monsanto	\$42,381,000	30
2	American Farm Bureau	\$33,580,000	50
3	Tyson Foods	\$12,987,000	7
4	Cargill	\$7,316,000	26
5	Archer Daniels Midland	\$6,860,000	12
6	Smithfield Foods	\$6,675,000	17
7	Dean Foods	\$6,603,000	6
8	American Crystal Sugar	\$4,449,000	1
9	JBS Swift & Co	\$3,601,000	5
10	Land O’Lakes	\$2,465,000	5
<b>Total</b>		<b>\$126,918,000</b>	<b>159</b>



*Governments should protect and restore America's waterways by banning the worst agribusiness practices, including the over-application of manure on cropland (pictured here).*

**Federal and state governments should stand up to corporate agribusiness lobbyists and protect and restore America's waterways by:**

- Banning the worst agribusiness practices, including unsafe storage of manure and the over-application of manure on cropland.
- Guaranteeing Clean Water Act protection to all of America's waterways.
- Holding corporate agribusiness responsible for its pollution by clarifying that corporations that own animals are legally responsible for the waste they produce.
- Enforcing existing laws by requiring agribusiness operations to meet specific limits on pollution where necessary to restore a polluted waterway to health, requiring factory farms that discharge to waterways to obtain water pollution permits for their operations, and ensuring that state governments properly implement the Clean Water Act.
- Giving environmental laws real teeth by beefing up inspections and ensuring that repeated or serious violations of water pollution laws are met with real penalties, not slaps on the wrist.
- Ensuring environmental transparency by giving citizens access to detailed information about factory farms and other agribusiness facilities in their communities, including information about discharges of pollution to the environment.
- Encouraging better agricultural practices and considering systemic reforms to ensure that American agriculture delivers safe, healthy food without destroying our waterways.

# Introduction

The “right of the people ... to petition the Government for a redress of grievances” is an inviolable principle of the American democratic system. Enshrined in the First Amendment, it guarantees Americans the ability to speak their minds to public officials about matters of public concern.

Some interests, however, are able to speak more loudly than others in the halls of power. Powerful corporate interests have the resources to invest millions of dollars in campaign contributions, congressional lobbying (with lobbying messages often delivered by well-connected former public officials), and slick media campaigns to get their point across.

No special interest plays the game of insider influence better than big agribusiness. In recent decades, lobbyists for agribusiness have scored big in their lobbying

efforts – securing massive farm subsidies, requirements for the use of corn ethanol in vehicles, lax regulations for the construction of concentrated animal feeding operations, and a host of other victories. Moreover, every politician who hopes to ascend to the presidency, amass power in Congress, or keep his or her office in a state dominated by big agribusiness, knows that crossing the powerful agribusiness lobby is a potentially fatal career move – and therefore faces a strong incentive to support agribusiness-backed policies.

The power of the agribusiness lobby on Capitol Hill is well known – even legendary. But many Americans might be surprised at the uses to which the agribusiness lobby has applied its power – particularly big agribusiness’ battles to deny clean water for all Americans.

photo: Jim Parkin, istockphoto.com



photo: Ken Hammond, USDA



*Many Americans might be surprised at the uses to which the agribusiness lobby has applied its power – particularly big agribusiness' battles to deny clean water for all Americans.*

Time and again, at every level of government, big agribusiness has stood in the way of public policies designed to protect Americans' access to clean water in their communities for drinking, fishing, swimming and the maintenance of a healthy environment. They have even used their power to resist efforts to restore cherished, long-suffering waterways such as the Chesapeake Bay to health.

While these lobbying efforts are often couched in terms of protecting the interests of small farmers, the real beneficiaries of weaker clean water protections are big agribusiness corporations that benefit from a system in which the costs imposed by water pollution are kept off the corporate balance sheet and instead

offloaded onto farming families, communities and the environment.

Big agribusiness has spent millions of dollars on Capitol Hill and in state capitals nationwide to avoid taking responsibility for the damage they have caused to America's waterways. As this report shows, they have often succeeded, leaving the nation burdened with massive water pollution problems.

The time has come to take the mask off of the anti-clean water agenda of big agribusiness, and for America's leaders to take the actions necessary to protect our waterways – and the health of our people, wildlife and environment – from the increasing threat posed by water pollution from agribusiness activities.

# Big Agribusiness: Fouling America's Waterways

**B**ig agribusiness firms have reshaped how America produces its food over the past several decades – increasing their control of agricultural markets and over the food production process. These changes have led to agricultural practices that magnify the potential for pollution – from the concentration of thousands of animals and their waste in small feedlots to the massive planting of chemical-intensive crops such as corn.

## The Impact of Pollution from Agribusiness

Corporate agribusiness<sup>1</sup> imposes a heavy – and growing – toll on America's waterways. From the creation of dead zones in the Gulf of Mexico, the Chesapeake Bay and Lake Erie to the pollution of countless local rivers, streams and lakes with nutrients, sediment and pathogens, the impact of agribusiness on the nation's waterways is severe:

- **Rivers, streams and lakes:** According to the U.S. Environmental Protection Agency (EPA), pollu-

tion from agriculture contributes to poor water quality in more than 100,000 miles of rivers and streams in the United States, along with 2,500 square miles of lakes and 2,900 square miles of estuaries.<sup>2</sup> These waters are so polluted that they are unsafe for fishing, swimming, or the maintenance of healthy populations of wildlife. These figures greatly understate the impact of agribusiness pollution on America's waterways, since they include only waterways whose quality has been assessed by state governments and those for which a cause of pollution was listed. Only 26.5 percent of America's river and stream miles and 42 percent of our lakes by area have been fully assessed for their water quality.<sup>3</sup>

- **Estuaries and ocean waters:** The problems extend to America's coastal waters, where the number of documented areas of low dissolved oxygen – often called “dead zones” because oxygen levels are too low to support marine life – has increased

from 12 in 1960 to 300 today. This includes the dead zone in the Gulf of Mexico, which covered a record area of roughly 8,000 square miles in 2008 – roughly the size of New Jersey.<sup>4</sup> The increase in coastal dead zones has coincided with the expansion of industrial agribusiness in the United States.<sup>5</sup>

## Sources of Agribusiness Pollution

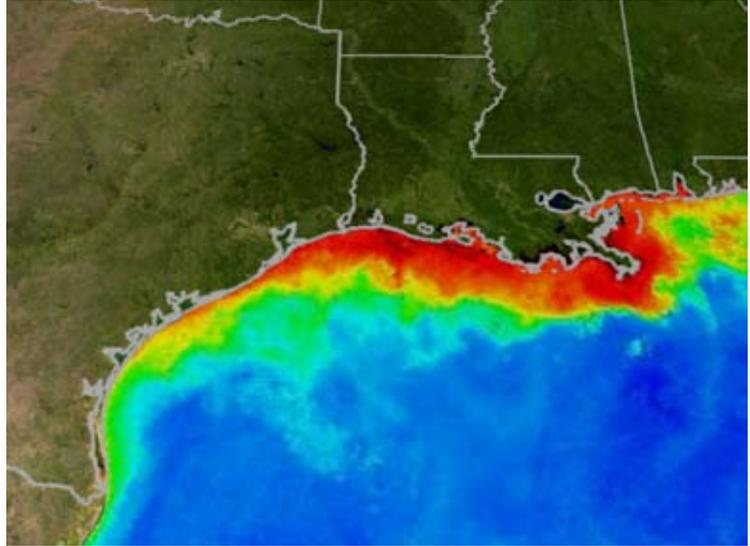
Agricultural pollution finds its way into waterways through runoff from farm fields or discharges from subsurface tile drainage systems, which carry pollution from farm fields into nearby waterways. Animal waste from factory farms, for example, might be sprayed on nearby fields and wash off into a nearby river, carrying bacteria and polluting nutrients with it. Or, pesticides applied to fields might wash off into waterways and impact the plants, animals, and humans that use that water.

In addition, concentrated animal feeding operations (CAFOs) also have the potential to pollute via direct discharges of manure from leaking, ruptured or overflowing manure lagoons. Finally, industrial facilities that process farm outputs into consumer products – from slaughterhouses to ethanol plants – may also discharge pollutants into waterways.

Major forms of agricultural pollution include:

- **Nutrients:** Industrial agribusiness relies on heavy application of fertilizer containing nutrients such as nitrogen and phosphorus to promote crop growth. Whether in the form of manufactured fertilizer or manure, nutrients can be washed off the land into surrounding waterways, where they can fuel

*photo: NASA/Goddard Space Flight Center Scientific Visualization Studio*



*This image, generated by NASA, shows the shape of the dead zone in the Gulf of Mexico in 2004. The dead zone, a region of low dissolved oxygen levels, is caused by runoff of nutrients into the Mississippi River basin. Excess nutrients fuel the growth of algae blooms, which decompose, consuming oxygen from the water and threatening the health of the half-billion-dollar fishery in the Gulf.*

the growth of algae, depleting waterways of oxygen and sometimes triggering fish kills. At the most extreme end of the scale, nutrient runoff can lead to the creation of marine dead zones, as in the Chesapeake Bay, where a section of the bay becomes oxygen-starved each summer as a result of nutrient-fueled algae blooms.

- **Sediment:** Sediment pollution results from overgrazing, certain tillage practices, and water management practices that allow rainfall to run off land too quickly, carrying valuable topsoil with it. Washed into rivers and streams, soil can cloud the water and diminish the light received by aquatic plants. It also settles in the stream, disrupting ecosystems by filling in spawning grounds or otherwise altering the streambed, clogs the gills of fish, and smothers shellfish beds. Sediment also provides a vehicle for many other

agricultural pollutants, embedded in particles of soil, to wash into waterways.<sup>6</sup>

- **Pathogens:** Animal waste contains bacteria and viruses that are harmful to humans and animals. When animals are kept in concentrated environments like CAFOs, large volumes of pathogen-bearing waste are produced. These wastes can find their way into waterways through accidental spills, ruptures or flooding of manure storage lagoons, or runoff from farm fields sprayed with liquid manure. Pathogens can render water unsafe for human consumption or use, contaminate shellfishing areas, and contribute to fish kills and other ecosystem damage.<sup>7</sup>
- **Pesticides:** Chemicals applied to kill unwanted plants and insects on cropland can wash into waterways, rendering that water unsafe for human consumption and use and threatening aquatic plants and animals. Pesticides can also contaminate fish and shellfish, rendering them unsafe for human consumption.

## Corporate Agribusiness Bears Responsibility for Mounting Environmental Impacts

The spread of large-scale industrial agriculture – driven by corporate agribusiness interests – is increasingly responsible for the impacts of farming on America’s water supplies.

The past few decades have seen a dramatic shift away from small-scale family farming toward an industrial agricultural system of fewer and larger farms, dominated by a few extremely powerful corporations.

The consolidation of agribusiness in the United States has been dramatic. For example, the top four firms in each sector now slaughter 83 percent of the nation’s beef and 66 percent of the nation’s pork, while producing 58 percent of the nation’s broiler chickens.<sup>8</sup> Even agricultural markets that had once been local or regional in scope are becoming increasingly consolidated. Fewer than 200 companies now own 95 percent of the laying hens in the United States, compared with 2,500 companies in 1987.<sup>9</sup>

Along with this consolidation of control of America’s food system by a few large corporations has come a shift toward fewer and larger farms. The transition from small animal farms to concentrated animal feeding operations has occurred with lightning speed. Between 1987 and 2007, for example, the United States lost more than half of its dairy farms and nearly 70 percent of its pig farms, with an increasing share of production taking place on the very largest farms – often CAFOs with hundreds to thousands of animals at a single site.<sup>10</sup> In 1987, it took more than 16,000 hog and pig farms to produce half of the nation’s sales. By 2007, the same share of sales was produced by just over 1,700 farms.<sup>11</sup>

At the same time has come a shift toward “vertical integration,” in which corporate agribusiness firms control virtually the entire food production process, from the genetic manipulation of seeds and livestock through crop and livestock production, processing, and marketing of final products to the consumer. In the vertically integrated model, the only portion of the process that occurs “out of house” is raising animals from youth to slaughter. Nominally independent growers raise animals or crops under contract with agribusiness corporations – contracts that typically contain strict conditions detailing how the grower must operate. The “arm’s length” relationship between

photo: Lynn Betts, USDA Natural Resources Conservation Service



*Whether in the form of manufactured fertilizer or manure, nutrient pollution can be washed off the land into surrounding waterways, where it can fuel the growth of algae, depleting waterways of oxygen and sometimes triggering fish kills.*

the grower and the corporation allows the corporation to own the animals and crops while shifting the burden of compliance with environmental rules to the grower.

Decentralized agriculture is not inherently good for waterways, nor is large scale agriculture universally harmful. Traditional forms of farming can create problems for waterways, and there are ways to minimize or even eliminate the negative impacts of agribusiness operations on our water. On the whole, however, agribusiness-driven changes in America's system of food production have concentrated and magnified the threat to our waterways posed by farming.

CAFOs, for example, confine hundreds to thousands of animals in small areas, where they are fed on commodity grain (subsidized by taxpayers), often produced far away. The manure from these animals is often stored in open-air lagoons and later spread on land. Manure

spread in appropriate volumes has value as fertilizer, but over-spreading of manure is common – and in some places, given the vast volume of manure produced in particular watersheds, inevitable – resulting in manure washing into waterways, bringing nutrients and pathogens with it.

At the other end of the cycle, the conversion of vast areas of land to corn or soy production – for the production of both animal feed and other products – requires the input of large amounts of chemical fertilizers and pesticides, which also can find their way into waterways.

The corporate agribusiness interests that have used their political clout to create and profit from today's highly polluting system of food production are also using their political clout to defend and expand that system – regardless of its impact on America's waterways.

# Big Agribusiness: Standing in the Way of Clean Water for All Americans

The first step in protecting America's waterways from pollution from agricultural activities is to properly enforce the nation's bedrock environmental protections – particularly the Clean Water Act. Proper implementation and enforcement of environmental laws would, among other things:

- Ensure that pollution from agribusiness activity does not make waterways unsafe for fishing, swimming or wildlife by requiring reductions in discharges to waterways that fail to meet water quality standards.
- Require large agribusiness facilities with the potential to harm waterways – such as concentrated animal feeding operations (CAFOs) – to obtain permits limiting their pollution discharges, backed up with tough penalties for those who violate those permits.
- Encourage and require farmers to use best practices to limit the impact of their activities on the environment.
- Hold big agribusiness corporations – particularly vertically integrated firms – responsible for the pollution created by animals raised by contract farmers.
- Guarantee Clean Water Act protection for all of America's waterways.

All of these measures reflect simple common sense. It was a similar set of principles that enabled America to restore the health of many waterways after passage of the Clean Water Act in 1972, despite the devastating legacy of pollution from industrial facilities.

Yet, for decades, agribusiness interests have succeeded in persuading state and federal officials to allow agribusiness practices that harm our waterways and

to evade responsibility for reducing their pollution and restoring our waterways to health. The result is the devastating water quality problems that affect cherished waterways such as the Chesapeake Bay and Gulf of Mexico, as well as countless smaller water bodies across the United States.

Agribusiness interests often couch their agenda as defending the interests of the family farmer. But it is corporate interests far removed from traditional farming that wield power in state capitals and in Washington, D.C., using their power to forward their own interests and stand in the way of clean water for all Americans.

## Sources of Power: How Big Agribusiness Gets its Way

The agribusiness lobby is one of the most powerful interest groups in Washington, D.C., and in some state legislatures. Their power is reinforced by the vast resources big agribusiness firms spend on campaign contributions to candidates for public office and lobbyists to

work the halls of legislatures and agency offices. It is also reinforced by the insider connections the agribusiness lobby has built with the government agencies that are supposed to regulate its conduct.

## Campaign Contributions

To amass power, big agribusiness has long made campaign contributions to lawmakers who play key roles in the regulation of agricultural practices. Things have come a long way from the days when former Archer Daniels Midland CEO Dwayne Andreas gave \$25,000 in cash to Richard Nixon's presidential re-election bid (a transaction mentioned in Nixon's articles of impeachment)<sup>12</sup>, and the time in 1989 when chicken magnate and former Pilgrim's Pride CEO Bo Pilgrim personally distributed \$10,000 campaign checks to key legislators on the floor of the Texas Senate.<sup>13</sup> But agribusiness interests continue to invest large amounts of money in political candidates.

Through contributions to candidates for elected office, agribusiness interests

**Table 1: Agribusiness Contributions to Congressional Candidates**

Rank	Agribusiness Interest	2000-2010 Total
1	American Farm Bureau Federation	\$16,005,100
2	American Crystal Sugar	\$7,616,600
3	Dean Foods	\$2,563,900
4	Land O'Lakes	\$1,491,100
5	Monsanto	\$1,383,100
6	Archer Daniels Midland	\$1,349,000
7	ConAgra	\$1,260,100
8	Smithfield Foods	\$1,256,100
9	Cargill	\$1,100,600
10	Tyson Foods	\$1,016,200
<b>Total</b>		<b>\$35,041,800</b>

exercise influence over the composition of government – increasing the odds that individuals with views favorable to agribusiness rise to positions of power. By helping to finance lawmakers’ re-election or otherwise advance their political careers, agribusiness gains access and influence.

Between 2000 and 2010, ten large agricultural interests gave \$35 million to candidates

running for Congress. The American Farm Bureau led the pack, giving \$16 million.<sup>14</sup> (See Table 1.)

The largest agribusiness corporations focus their contributions toward members of Congress with the greatest power over their business operations, especially members who sit on environmental or agriculture committees. For

## Tracking Power: Focusing on Big Agribusiness Firms

Agricultural issues affect many Americans and American businesses. From farm equipment manufacturers to supermarket chains, a wide variety of special interests have a stake in agricultural policy.

In this report, we focus on campaign contributions and lobbying expenditures from 12 agribusiness interests – 11 corporations and one trade association, the American Farm Bureau Federation. These agribusiness interests were chosen based on their size and power, and on the relevance of their advocacy agendas or business practices to issues related to water pollution.

They are:

- **The American Farm Bureau**, ranked by *Fortune* magazine as one of America’s 25 most powerful special interest groups.<sup>21</sup> The American Farm Bureau promotes the interests of farm corporations in Washington D.C., and in state capitals.<sup>22</sup> For decades, they have spent millions fighting environmental regulations of all kinds.<sup>23</sup> (For more on the American Farm Bureau, see text box on page 20.)
- **American Crystal Sugar**, America’s largest sugar beet processor. The company operates sugar processing facilities in the Midwest that have

violated Clean Water Act pollution limits.<sup>24</sup>

- **Archer Daniels Midland (ADM)**, the Midwest’s largest corn processor. ADM has driven policy changes that have made corn the dominant crop in the Midwest, increasing the use of heavy chemical fertilizers and pesticides, much of which washes into the Mississippi River.<sup>25</sup> Nutrient pollution from this fertilizer is the leading cause of the New Jersey-sized dead zone that develops in the Gulf of Mexico every year.<sup>26</sup>
- **Cargill**, the largest privately held company in America and a leading producer of grain, pork and beef products.<sup>27</sup> Blood and wastewater discharged from Cargill’s hog slaughtering plants have polluted rivers across the Midwest, including the Illinois River in Illinois and the Loutre River in Missouri.<sup>28</sup>
- **ConAgra**, one of America’s largest packaged food manufacturers and owner of America’s largest meatpacking plant.<sup>29</sup> In 2006, a U.S. district court judge fined ConAgra \$244,000 for violating the Clean Water Act with discharge from a facility in Minnesota.<sup>30</sup>

example, in 2010, Monsanto's political action committee gave its largest senatorial candidate contribution (\$12,000) to Blanche Lincoln (D-AR), then Chairwoman of the Agriculture, Nutrition, and Forestry Committee. Monsanto's second largest senatorial contribution (\$10,000) went to Roy Blunt (R-MO), a member of the Subcommittee on Energy

and Environment. The company's third largest senatorial contribution (\$9,250) went to Mike Crapo (R-ID), the ranking member of the Subcommittee on Water and Wildlife.<sup>16</sup>

Agricultural firms can use campaign contributions to help ideological allies retain positions of power. For example, in an attempt to limit the scope of the Clean

- **Dean Foods**, America's largest dairy company.<sup>31</sup> In the 1990s, Dean Foods dairy processing facilities illegally discharged pollutants into a public water treatment facility in Pennsylvania. A federal judge found that the company made more than \$2 million in additional profit from failing to correct the pollution discharge, and fined the company more than \$4 million, one of the largest penalties under the Clean Water Act that had been assessed at the time.<sup>32</sup>
- **JBS Swift & Co.**, the world's largest beef producer. JBS-owned plants across the United States have a legacy of pollution – including the dumping of dangerous bacteria and polluting chemicals into Pennsylvania's Skippack Creek, killing tens of thousands of fish.<sup>33</sup>
- **Land O'Lakes**, the second-largest cooperative in America and a major dairy and egg producer. The company, composed of thousands of agricultural producers and processors, handles more than 12 billion pounds of milk annually and does business in every state and more than 50 countries.<sup>34</sup> According to the company website, "As a \$12 billion company, Land O'Lakes has the available resources to allow [its opinion on] policies to be heard at the highest level of government."<sup>35</sup>
- **Monsanto**, America's largest biotech business. The company is well-known for genetically modifying seeds to make crops resistant to RoundUp, a widely-used pesticide formula and frequent water contaminant.
- **Perdue**, America's third largest chicken producer.<sup>36</sup> Nutrients from chicken litter produced by Perdue's chicken farms on the Delmarva Peninsula pollute the Chesapeake Bay, where they contribute to massive algae blooms and a recurring dead zone.<sup>37</sup>
- **Smithfield Foods**, the world's largest pork producer.<sup>38</sup> Phosphorus, nitrogen, ammonium, and other toxins from Smithfield Food's hog factories have poisoned the Neuse River in North Carolina.<sup>39</sup> Smithfield's waste has killed billions of fish and devastated the local ecosystem.
- **Tyson Foods**, which produces 20 percent of the nation's chicken.<sup>40</sup> Nutrients and toxins from the chicken litter produced by Tyson's chicken farms in eastern Oklahoma and northwestern Arkansas have polluted the Illinois River, Tenkiller Lake, Grand Lake o' the Cherokees, and many more nearby waters, rendering many areas unsafe for swimming or fishing.<sup>41</sup>

Water Act, Representative Mike Simpson (R-ID) filed an amendment to the fiscal year 2011 appropriations bill to prohibit the U.S. EPA from using taxpayer dollars to implement laws or regulations that would protect all of America's waterways – leaving smaller streams and wetlands unprotected.<sup>17</sup> During this session of Congress, American Crystal Sugar made a \$10,000 contribution to Rep. Simpson's re-election campaign, his second largest contribution. Representative Simpson is the ranking Republican on the House Appropriations subcommittee that funds the EPA.<sup>18</sup>

Agribusiness firms also fund the campaigns of individuals running for state office and engage in state-level political campaigns. Over the past decade, large agribusiness interests gave more than \$120 million to state-level candidates, party committees and ballot measures.<sup>19</sup> Of direct contributions to state-level candidates, nearly 80 percent went to candidates who ultimately won election.<sup>20</sup>

photo: USDA



*The revolving door is another source of power for large agribusiness. For example, Ann Veneman (pictured here), Agriculture Secretary under George W. Bush, formerly directed a biotech firm that became part of Monsanto.*

## Lobbying Expenditures

Agribusiness interests exercise influence over government decisions by lobbying legislators and regulatory officials in Washington, D.C. and in state capitals around the country. Through lobbying, big agribusiness firms ensure that legislators and regulators hear the companies' positions directly, and increase the odds of obtaining a favorable decision.

Congressional lobbying disclosure records show that industrial agriculture interests prioritize lobbying on water pollution issues. In the third quarter of 2010 (the most recent quarter on record), the American Farm Bureau deployed more lobbyists on water – ten – than on any other issue.<sup>42</sup> The American Farm Bureau's agenda spanned issues from the scope of the Clean Water Act, to the regulation of the pesticide atrazine, to rules affecting pollution from factory farms.<sup>43</sup>

From 2005 to 2010, ten of America's most powerful agriculture interests spent \$126.9 million lobbying Congress and regulatory agencies in Washington D.C. In 2010, major agricultural interests fielded 159 lobbyists – at least one for every four members of Congress. Monsanto and the American Farm Bureau topped the list, spending \$42.4 million and \$33.6 million over the period, respectively. Together, these two interests fielded 80 lobbyists in 2010.<sup>44</sup> (See Table 2.)

## The Revolving Door

Sometimes, however, the influence of an organization's lobbying cannot be measured in the amount of dollars spent on lobbyists. *Who* the lobbyists are often means a great deal. When members of Congress or regulators are lobbied by people who were friends, allies or co-workers, their arguments often carry special weight. Even better for special interests is when former employees are

**Table 2: Federal Lobbying Expenditures of Selected Agribusiness Interests**

Rank	Agribusiness Interest	Spending on Federal Lobbying, 2005-2010	Number of Lobbyists in 2010
1	Monsanto	\$42,381,000	30
2	American Farm Bureau	\$33,580,000	50
3	Tyson Foods	\$12,987,000	7
4	Cargill	\$7,316,000	26
5	Archer Daniels Midland	\$6,860,000	12
6	Smithfield Foods	\$6,675,000	17
7	Dean Foods	\$6,603,000	6
8	American Crystal Sugar	\$4,449,000	1
9	JBS Swift & Co	\$3,601,000	5
10	Land O'Lakes	\$2,465,000	5
<b>Total</b>		<b>\$126,918,000</b>	<b>159</b>

brought onto the staff of regulatory agencies to enforce the laws that govern the industries from which they recently received a paycheck – and for whom friends and colleagues may still work.

The shifting of people from industry to government employment and back again is known as Washington’s “revolving door,” and the agribusiness industry isn’t the only industry that uses it to its political advantage. But agribusiness interests have been successful in placing their people in senior positions in regulatory agencies and in using former elected representatives and government employees to make their case.

During the administration of George W. Bush, for example, agribusiness executives and lobbyists were placed in positions of influence throughout the government. Agriculture Secretary Ann Veneman formerly directed the biotech firm Calgene, which later became part of Monsanto.<sup>57</sup> Her chief of staff, Dale Moore, previously worked as the executive director for legislative

affairs at the National Cattlemen’s Beef Association (NCBA), a trade association aligned with the interests of large meat-packing companies.<sup>58</sup> Deputy Secretary James Moseley previously co-owned a large factory farm in Indiana.<sup>59</sup> Floyd Gaibler rose to the position of deputy under-secretary, from a previous post as the executive director of the dairy industry’s National Cheese Institute.<sup>60</sup> Before becoming Veneman’s Assistant Secretary for Congressional Relations, Mary Waters worked for ConAgra Foods as senior director and legislative counsel.<sup>61</sup>

Agribusiness interests have also used former government officials to help plead their case as lobbyists on Capitol Hill. The American Farm Bureau Federation, for example, employed a host of former congressional staffers to plead its case on clean water issues in 2010, including the former chief economist of the Senate Agriculture Committee and a former subcommittee staff director for the House Agriculture Committee.<sup>62</sup>

photo: American Farm Bureau Federation



*American Farm Bureau President Bob Stallman (right) giving the “golden plow,” the organization’s highest award, to Congressman Kenny Hulshof (R-MO) in March 2008. The Farm Bureau presented the same award to Senator James Inhofe (R-OK) in 2010 for his work to block efforts to solve global warming.*

## The Farm Bureau: The Voice of Agriculture?

The American Farm Bureau Federation, along with state and county Farm Bureaus, are among the most powerful lobbying organizations in America. The Farm Bureau touts itself as the “voice of agriculture.” But the organization’s sources of funding and agenda have led many – including some farmers – to suggest that the Farm Bureau puts the needs of corporate agribusiness above the needs of the small farmers.

**Members vs. customers** – The Farm Bureau is more than the grassroots advocacy organization it purports to be. Farm Bureau organizations are at the center of a web of affiliated businesses, including insurance companies, banks, and investment firms. Many Farm Bureau “members” – including non-farmers – have been required to join the Farm Bureau in order to access these services. Media accounts often refer to the American Farm Bureau as representing “more than 6.2 million member families.”<sup>46</sup> Given, however, that there are only roughly 2 million farm families in the United States – and that many farm families join the Farm Bureau solely to purchase insurance – the Farm Bureau cannot be said to “represent” these families’ interests.

**Big money and conflicts of interest** – The Farm Bureau’s network of businesses generate vast amounts of income for the organization and its agenda, making it one of the richest non-profit organizations in America.<sup>47</sup> For instance, FBL Financial Group is a firm owned by 24 state Farm Bureau organizations that markets life insurance, annuities and mutual funds under several business names.<sup>48</sup> In 2009, FBL Financial paid state Farm Bureau groups \$1.9 million in royalties for use of the Farm Bureau name.<sup>49</sup> Sometimes, the Farm Bureau’s financial interests conflict with those of its members. For example, Farm Bureau business affiliates have held investments in, or engaged in business

## The Farm Bureau: The Voice of Agriculture?

(continued)

partnerships with, companies such as Cargill, ConAgra, Syngenta and Land O'Lakes – corporations that buy raw agricultural products or sell crop inputs in massive quantities and have the market power to set the prices that farmers pay for inputs or receive for their goods.<sup>50</sup> If the Farm Bureau represents the economic interests of food processors, it cannot equally represent the interests of food producers.

**Trade group, self-dealer or ideological club?** – The Farm Bureau purports to represent the interests of farmers, but its 240 pages of policy positions go well beyond those related to agriculture or rural communities. The American Farm Bureau Federation has policy positions supporting school prayer, backing the establishment of English as the official language of the United States, opposing statehood for Washington, D.C., and opposing same-sex marriage or “granting special privileges to those that participate in alternative lifestyles.”<sup>51</sup> On environmental issues, the Farm Bureau opposes any mandatory limits on pollution linked to global warming and the organization holds that the science surrounding global warming is unsettled – in contrast to the overwhelming scientific evidence to the contrary.<sup>52</sup> The Farm Bureau also takes extensive policy positions on insurance issues that directly affect the health of its affiliated business enterprises. These positions may or may not be the views of the small subset of Farm Bureau members that set the organization’s policy – or those that provide the best benefits for the Farm Bureau’s own financial coffers – but they do not necessarily represent the views of its 6 million “member” families, much less “the voice of agriculture.”<sup>53</sup>

**Policy from the bottom-up or top-down?:** The Farm Bureau takes great pride in its “bottom-up” policy development process, which provides ample opportunity for participation and democratic process in the setting of policy. But with 240 pages of policy positions – many of them vague – great discretion is left to Farm Bureau staff to determine day-to-day organizational priorities. Sometimes these priorities conflict with the interests of farm families, and even with one another. For example, the American Farm Bureau states that “the federal government and state agencies [should] ... consult with the county government prior to implementing any laws ... which would affect the economy, customs and culture of their county” – a radical local-rights position.<sup>54</sup> Yet, the Farm Bureau has also been a supporter of siting laws, such as the one in Wisconsin (see page 30), that limit local control over the construction of CAFOs.<sup>55</sup> In the late 1990s, Farm Bureau staff lobbied against legislation that would have placed a moratorium on agribusiness mergers, despite the adoption of a policy position by Farm Bureau members the previous year asking the organization to take a more aggressive stand on mergers.<sup>56</sup> The breadth of the Farm Bureau’s policy positions leaves the organization’s staff a great deal of leeway to pursue day-to-day lobbying priorities that benefit the organization’s self-interest and the interests of corporate agriculture – even at the expense of farm families.

## Big Agribusiness: Undermining Clean Water Laws, Diluting Enforcement, and Thwarting New Environmental Protections

The numbers – the millions of dollars in campaign contributions and dozens of lobbyists – don't begin to tell the real story of the agribusiness lobby's insider influence, and the impact it has on our waterways. From Capitol Hill to state capitals, big agribusiness interests have worked to undermine key clean water protections and to silence those who question their actions.

The following stories illustrate the many ways in which agribusiness interests have used their power to stand in the way of clean water for all Americans.

### Removing the Protective Umbrella of the Clean Water Act

Since 1972, the federal Clean Water Act has reduced the use of America's waterways as a dumping ground for industrial waste and pollution. For decades, the law was interpreted to apply to all waterways in the United States – an interpretation that both recognized the interconnectedness of hydrological systems and provided a uniform blanket of clean water protection across the country.

In 2001 and 2006, however, the U.S. Supreme Court issued decisions that put into question the extent of Clean Water Act protections for smaller water bodies and wetlands.<sup>63</sup> The court's actions narrowed the scope of the law and left open the possibility that polluters could foul smaller waterways with impunity.<sup>64</sup>

Among the critical waterways whose Clean Water Act protection is threatened are isolated wetlands, intermittent waterways, and headwaters streams for

drinking water source areas that supply water for more than 117 million Americans.<sup>65</sup> These waterways provide more than 20 million acres of essential habitat for wildlife, including migratory birds, trout and salmon. In addition, these waterways help to support hunting, fishing, bird watching and boating, which are important sources of recreation and economic activity.<sup>66</sup>

In 2010, the U.S. House of Representatives considered legislation (H.R. 5088) that would restore the protection that these waterways had historically enjoyed under the Clean Water Act.<sup>67</sup> The bill re-affirmed special treatment for the agricultural community – in particular codifying an exemption for croplands that had already been converted from wetlands as long as the land is used for agricultural production.<sup>68</sup> Senator Russell Feingold (D-WI) introduced a parallel bill in the Senate in 2009, called the “Clean Water Restoration Act,” or S.787.<sup>69</sup>

Unimpressed with the level of special treatment for agriculture, large agribusiness firms immediately targeted these bills for defeat in the 111<sup>th</sup> Congress. Outside the Capital Beltway, the American Farm Bureau worked to generate opposition to the bill by stoking fears among farmers, ranchers and private landowners.<sup>70</sup> The organization claimed that the legislation was a massive “land grab” by the federal government and would regulate literally every puddle of water on a farmer's field.<sup>71</sup> Responding to this criticism, the author of the House bill, Rep. James Oberstar (D-MN), said, “That assertion is patently absurd, probably unconstitutional, and logistically impossible.”<sup>72</sup>

On Capitol Hill, large agribusiness interests used their lobbyists to push for the bill's demise. The bill was subjected to a withering assault by lob-

byists from the American Farm Bureau, Monsanto, Cargill, Land O'Lakes, and Perdue (through the National Turkey Federation), as reported in Senate lobbying disclosure reports.<sup>73</sup>

Contrary to the organization's public posture that the bill was a threat to ordinary landowners, a lobbyist for the Farm Bureau hinted at the real objection that industrial agriculture had to the legislation when he said, "Most of the things farmers and ranchers do are generally covered by permit exemptions [... But] unfortunately, those [permit exemptions] don't reflect modern agricultural practices."<sup>74</sup>

It is precisely those "modern" agricultural practices – such as factory farming, manure and fertilizer overapplication and high-volume meat processing – that have impact on waterways and require the oversight provided under the Clean Water Act.

Ultimately, the agribusiness lobby prevailed in preventing Congress from restoring full Clean Water Act protection to all of America's waterways – leav-

ing these waterways, and the health and welfare of the people and wildlife who depend on them, at risk.

## Undermining Efforts to Protect Chesapeake Bay

The Chesapeake Bay is the nation's largest estuary, and one of the most productive estuaries in the world. It serves as a home for more than 3,600 species of plants and animals, as well as a cornerstone of both the mid-Atlantic economy and the region's culture.<sup>75</sup>

For decades, however, the bay has been threatened. As long ago as 1983, a congressionally mandated report found that the bay suffered from nutrient pollution, a decline in seagrasses, pollution from toxic chemicals, and overfishing.<sup>76</sup> While the problems facing the Chesapeake are complex, many of them can be traced back to agricultural activities – particularly chicken farming – in the bay's vast watershed.

Companies such as Tyson and Perdue own the 568 million chickens raised on

*photo: NASA*



*This satellite image shows the Chesapeake Bay, the nation's largest estuary. Agricultural activities in the Bay watershed, particularly chicken farming, contribute to nutrient pollution, low oxygen levels and dead zones – damaging the Bay ecosystem.*

the Delmarva Peninsula along the eastern shore of the Chesapeake Bay. These chickens produce an estimated 1.1 billion pounds of chicken litter (manure mixed with sawdust and bedding materials) each year – containing phosphorus, nitrogen and other chemicals, such as arsenic (which is an additive in some chicken feed).<sup>77</sup>

Nutrients in chicken litter invade the Chesapeake Bay ecosystem by washing into nearby waterways, often from manure storage piles or manure that has been improperly or excessively applied as fertilizer.<sup>78</sup> Once in the water, these excess nutrients fuel the growth of algae “blooms” that flourish briefly and then die, consuming oxygen as they decay. As a result, levels of dissolved oxygen in the water drop below the concentration needed to support fish, crabs and oysters.

The result of this pollution is serious degradation to the Chesapeake Bay ecosystem. From 2007 to 2009, only 12 percent of the Chesapeake Bay had sufficient levels of dissolved oxygen in the summer.<sup>79</sup> Oyster and soft shell clam populations have declined to a fraction of their historic levels, while the federal government officially declared the blue crab fishery a disaster in 2009, granting emergency aid to the industry.<sup>80</sup>

To address the pollution of the Chesapeake Bay, Senator Benjamin Cardin (D-MD) and Representative Elijah Cummings (D-MD) introduced the Chesapeake Clean Water and Ecosystem Restoration Act (otherwise known as S. 1816 and H.R. 3852), in the 111<sup>th</sup> Congress. The legislation would have required all polluters of the bay – including agribusiness – to do their share to reduce the flow of pollution. It would have reinforced pollution limits set by the EPA and created a nutrient trading program, allowing businesses and farmers in the bay watershed to exchange credits

and make a profit by reducing their pollution – creating as much as \$85 million a year in new revenue for farmers.<sup>81</sup> The bill also included \$2.25 billion in funds and grants for projects to restore the bay and to establish proper oversight programs.<sup>82</sup>

The *Baltimore Sun* noted that “the Chesapeake’s plight has become so desperate that this [bill] amounts to, if not a last stand, then perhaps a last, best hope for a turnaround.”<sup>83</sup>

However, despite the clear problem of excessive chicken litter in the bay watershed, Perdue and its allies worked to weaken – and ultimately kill – the Chesapeake Clean Water and Ecosystem Restoration Act. As of September 2010, more than a dozen major agribusiness interests reported lobbying on the legislation, including:

- The American Farm Bureau and its state affiliates,
- The National Chicken Council, representing members including Tyson Foods,
- The National Milk Producers Federation, representing members including Land O’Lakes, and
- The National Turkey Federation, representing members including Cargill and Perdue.

To confuse the issue and divide legislators, the Farm Bureau supported an alternative, much weaker bill called the Chesapeake Bay Reauthorization and Improvement Act. The bill, sponsored by Representative Bob Goodlatte (R-VA), focused on incentive payments for farmers to voluntarily reduce pollution, rather than improved enforcement of rules necessary to clean up the bay.

The Farm Bureau encouraged all members of Congress to support Goodlatte’s bill in lieu of the tougher Chesapeake

## Hindering Cleanup of the Chesapeake Bay at the U.S. EPA

The American Farm Bureau and its agribusiness allies are doing more than lobbying against the Chesapeake Clean Water and Ecosystem Restoration Act in Congress. These powerful interests are also hindering the effort to clean up Chesapeake Bay by interfering with regulatory efforts to limit nutrient pollution.

In late December 2010, the U.S. Environmental Protection Agency implemented a “pollution diet” for the Chesapeake Bay under the Clean Water Act. This program will help limit nutrient pollution from all sources in the watershed and help restore the bay to health.<sup>88</sup>

However, on January 9, 2011, American Farm Bureau President Bob Stallman announced a lawsuit against the Environmental Protection Agency to stop enforcement of the new rules.<sup>89</sup> Stallman alleges that the plan is built on “inaccurate assumptions and flawed data.”<sup>90</sup>

To support those allegations, the Farm Bureau and its allies commissioned a for-hire consulting organization, Limno-Tech, to produce a report analyzing the EPA effort. The report compares the EPA pollution diet with figures from the Department of Agriculture, “which are much more favorable to farmers.”<sup>91</sup>

The Chesapeake Bay Foundation called the Farm Bureau lawsuit “a cynical ploy to reverse years of hard work by farmers who want to do their part to help achieve clean water.”<sup>92</sup> The organization’s director, William Baker, wrote in the *Baltimore Sun*:

*Over the last year, the Farm Bureau has stood alone in its role as a massively funded national lobbying organization seemingly intent on frustrating progress toward clean water. It has consistently opposed every responsible effort to reduce pollution. [...] Many farmers privately tell us the Farm Bureau does not represent their interests. [...] By its unwillingness to join bay farmers, state agencies, nonprofits, local governments and the EPA in working to reduce pollution, the Farm Bureau is showing its commitment to the status quo: dirty water, human health impacts, and a fragmentation of the farm community.*

States will be refining their plans to reduce nutrient pollution in 2011, and the Farm Bureau lawsuit will proceed. The ultimate outcome for the Chesapeake Bay remains uncertain.

Clean Water and Ecosystem Restoration Act.<sup>84</sup> The move allowed members of Congress to position themselves as in favor of a cleaner Chesapeake Bay and in sync with the Farm Bureau at the same time – despite the fact that the weaker bill would actually fail to clean up the bay.<sup>85</sup>

The Senate version of the strong Chesapeake Clean Water and Ecosystem Res-

toration Act passed out of committee, but never came up for a vote before the full chamber.<sup>86</sup> In the waning days of the 2010 lame duck congressional session, Majority Leader Harry Reid attempted to pass the bill as part of an omnibus package of public lands and water legislation called the America’s Great Outdoors Act (S. 303). How-

ever, Republican leaders threatened to filibuster the bill, and House Natural Resources Chairman-elect Doc Hastings (R-WA) vowed to fight any effort to push the measure through.<sup>87</sup> Ultimately, the bill died without ever reaching a full vote in either the House or the Senate.

In killing the bill, industrial agriculture prevented the allocation of \$2.25 billion in funding for water quality improvement and put the future of the Chesapeake Bay in doubt.

## Rolling Back New Pesticide Regulations

Pesticides applied to crops wash off in rainwater, contaminating lakes, rivers and groundwater.<sup>93</sup> Pesticides are chemicals designed to be toxic to weeds or insects – and they can cause serious damage to ecosystems, wildlife, and human health.

Under the 1972 Clean Water Act, state and federal environmental protection agencies have oversight over direct discharges of pesticides to waterways. The Clean Water Act already carries a broad exemption for the use of pesticides on farm fields, exempting pesticides flowing into waterways via irrigation return flows and agricultural runoff.<sup>94</sup> But for many years, the EPA failed to issue permits for direct applications of pesticides to waterways – for example, the control of mosquitoes and aquatic weeds.<sup>95</sup>

Under the Bush Administration in 2006, the EPA issued a rule codifying the exemption of pesticide use from additional regulation. Both clean water groups and industry challenged the rule. In the resulting court case, resolved in 2009, the Sixth Circuit of the U.S. Court of Appeals concluded that this rule “was inconsistent with the unambiguous language utilized by Congress in the Clean Water Act and did not further the general goal of restoring and maintaining the integrity of the

Nation’s waters.”<sup>96</sup> To comply with the court ruling, the EPA is preparing to require permits for applications of pesticides directly to or near waterways, which will begin in April 2011.<sup>97</sup>

The new permitting process will not affect farm operations, but big agribusiness – teaming up with pesticide manufacturers – has worked to stop the new rules from taking effect, arguing that they may create a precedent for future regulation of pesticide use on farms.

In September 2010, Representative Collin Peterson (D-MN), Chairman of the House Agricultural Committee, introduced H.R. 6273, a bill that would allow polluters to discharge pesticides into our waterways without a permit.<sup>98</sup> If H.R. 6273 passed, it would prevent state and federal environmental agencies from overseeing proposed uses of pesticides in or directly around waterways under the Clean Water Act.<sup>99</sup>

According to congressional lobbying expenditures, Land O’Lakes and the Minnesota Farm Bureau lobbied on H.R. 6273 during the third quarter of 2010 as the bill was being drafted. Land O’Lakes’ spent \$170,000 lobbying on “permits for pesticide applications (H.R. 6273, S. 3735)” among other issues.<sup>100</sup>

Large agribusiness firms have also cultivated influence with Representative Peterson through campaign contributions. The top four contributors to Peterson’s 2010 congressional campaign included the American Farm Bureau (\$16,750), Monsanto (\$14,999), American Crystal Sugar (\$10,700), and Land O’Lakes (\$10,250).<sup>101</sup>

## Retaliating Against Clean Water Advocates in Maryland

The insider political influence of big agribusiness isn’t only used to affect public policy. It is also used to silence opponents and dominate public policy debates.

University law school clinics are a prime example. Law clinics serve a dual purpose: they provide critical, on-the-job training experience for aspiring lawyers while also providing representation to citizens who – unlike giant agribusiness corporations – would otherwise lack access to the legal system.<sup>102</sup>

However, when a law clinic takes on a case against the interests of powerful corporations, it can come under attack. Powerful interests know that threats are effective, even if they do not result in new rules or restrictions for the law clinic. For example, one 2005 survey of law clinic professors found that 12 percent had experienced direct political pressure, and one in six “self-censored” their choices about what types of cases students should take on in order to avoid controversy.<sup>103</sup>

One recent example of agribusiness using bullying tactics happened in Maryland in 2010 over the alleged pollution of the Chesapeake Bay by manure from a factory farm, in violation of the Clean Water Act. Students at the University of Maryland Law Clinic, under the guidance of seasoned professors, joined a case for the Waterkeeper Alliance, the Assateague Coastkeeper and the Assateague Coastal Trust, which alleged that that Perdue Farms and one of its contract growers had allowed manure to pollute the bay. In response, legislators supporting Perdue threatened the law clinic’s funding.<sup>104</sup>

In September 2009, Kathy Phillips, the Assateague Coastkeeper, flew over a factory chicken farm on the Delmarva Peninsula. Looking down, she saw a large heap of what appeared to be manure, covering approximately one-eighth of an acre, connected directly to the Pocomoke River via a drainage ditch.<sup>105</sup>

After landing, she located the farm and sampled water from the Pocomoke

River downstream from the drainage ditch. She found *E. coli*, a dangerous pathogen prevalent in animal waste, at levels more than 1,000 times higher than Maryland standards for labeling a waterway “impaired.”<sup>106</sup> Exposure to virulent strains of *E. coli* can cause severe diarrhea in adults and kill children.

To stop the *E. coli* pollution, the Assateague Coastkeeper, the Assateague Coastal Trust and the Waterkeeper Alliance enlisted the University of Maryland Environmental Law Clinic to supplement their own lawyers in a suit against Perdue Farms and the chicken grower who owned the waste heap for violating the Clean Water Act. The lawsuit was monumental – for the first time ever, citizens used the Clean Water Act to hold a big poultry company responsible for the practices of its contract farms and for polluting the Chesapeake Bay.<sup>107</sup>

Perdue Farms is the third-largest chicken company in the country and a powerful interest in Maryland politics.<sup>108</sup> Following the filing of the suit, Perdue CEO Jim Perdue told newspapers that Phillips’ lawsuit was “one of the largest threats to the family farm in the last fifty years.”<sup>109</sup> Three days after the lawsuit was filed, Perdue met with senators in Annapolis, asking them to rein in the law clinic.<sup>110</sup> One of the senators, J. Lowell Stoltzfus, introduced an amendment to the state budget requiring the law clinic to give the Senate its expenditure history and other sensitive information for the prior two years or lose \$250,000 in state funding.<sup>111</sup> The House Appropriations Committee passed another measure supported by Sen. Stoltzfus, withholding \$500,000 from the law school until the law clinic made their expenditure record accessible.<sup>112</sup> Historically, Perdue had been one of Sen. Stoltzfus’ largest contributors. In 2004, Perdue gave Stoltzfus \$3,669 for his reelection campaign.<sup>113</sup>

Perdue also had strong support from Maryland Governor Martin O'Malley and several state regulatory agencies. Governor O'Malley characterized the law clinic and the Waterkeeper organizations as "deep pocket" interests who risked "bankrupting a farmer" – speaking about the contract grower and not the larger Perdue Farms, Inc.<sup>114</sup> In March 2010, the same month as the budget debate in the Maryland House of Delegates, Governor O'Malley honored Jim Perdue for "innovation in environmental stewardship" with the state's highest civilian award, the Governor's International Leadership Award.<sup>115</sup>

At the award ceremony, Governor O'Malley said, "Jim is one of the people I turn to for advice on a variety of issues."<sup>116</sup>

In several cases, state regulatory agencies downplayed the issue. According to the *Baltimore Sun*, "a spokeswoman for the Maryland Department of the Environment told reporters [...] that inspectors had collected samples and that most of the sludge pile had been removed to a local landfill" in early January 2010.<sup>117</sup>

However, the agency was disseminating false information. The Waterkeeper Alliance conducted its own investigation and tipped off the *Baltimore Sun*, which ran the story two weeks later.<sup>118</sup> In fact, the agency had never sampled the ditch near the waste pile. The farm had not disposed of the pile in a landfill, but had instead moved the pile further from the drainage ditch. *E. coli* levels in the water remained at levels unsafe for human contact, according to the Assateague Coastkeeper.<sup>119</sup>

According to a former director of the law clinic, Rena Steinzor, the legislative attempt to withhold funding from University of Maryland was a clear effort to stifle citizen engagement in protecting the Chesapeake Bay. "It is an effort," she said, "to chill and intimidate us for taking cases

that cause trouble in Annapolis."<sup>120</sup>

Robert Kuehn, a law professor at Washington University in St. Louis and an expert on attacks on law clinics, noted that the threat against the University of Maryland Law Clinic served its purpose even though it was ultimately withdrawn. According to Kuehn, "one legislator boasted that the university now knows 'we'll be watching' if it takes on other [favored] business interests".<sup>121</sup>

## Promoting Lax Regulation of Factory Farms in Illinois

In September 2010, a concerned citizen walking along Lone Tree Creek, a tributary of Illinois' Sangamon River, noticed the stream was choked with brown-colored water, motionless fish and dead frogs. The citizen immediately reported the finding to Illinois' emergency management officials.

The water contained ammonia, probably leaking from a manure disposal field. The spill killed 40,000 fish, and an unknown number of mussels, crayfish, and mudpuppies – an endangered species.<sup>122</sup>

Although the Illinois EPA refused to make a definitive identification of the source of the spill, it had apparently leaked into the river from a drainage tile beneath a manure disposal field at the Stone Ridge Dairy Farm in McLean County, the state's largest dairy farm, home to 3,100 cows.<sup>123</sup> Apparently, the dairy farm had been "applying liquid cow manure as well as 'lagoon solids, which are the solid part of the cow manure that sink to the bottom of the lagoon,'" to its drainage fields at the time of the spill.<sup>124</sup>

Like most factory farms in Illinois, the Stone Ridge Dairy Farm did not have a permit to discharge pollution under the Clean Water Act.<sup>125</sup>

While the Clean Water Act is a federal law, much of the day-to-day responsibility for enforcing that law resides with the

states. In 45 states – including Illinois – state officials are responsible for issuing permits to polluters that are consistent with federal standards and the protection of waterways, and taking enforcement action against polluters that violate those permits.<sup>126</sup>

Citizens in Illinois had long complained that, when it came to factory farms, the state of Illinois was falling far short of its responsibilities under the Clean Water Act. A U.S. EPA investigation, published in 2010, found that Illinois' factory farm regulatory program "does not meet the minimum threshold for an adequate program."<sup>127</sup> According to the U.S. EPA, Illinois had failed to issue or enforce permits for the vast majority of the 3,200 factory farms that likely require oversight under the Clean Water Act; failed to inspect factory farm activities; failed to respond in a "timely or adequate way" to detected violations of the Clean Water Act; and used weaker enforcement policies for factory farms than those used for other types of water pollution sources, among other shortcomings.<sup>128</sup>

Since Illinois is a state with a strong agriculture industry, it is not surprising that agricultural interests are well represented in the state capital in Springfield. Even so, the agribusiness industry's investments in cultivating political clout are jaw-dropping.

The Illinois Agricultural Association (the state's Farm Bureau affiliate) maintains a stable of 20 registered lobbyists working to influence legislative policy and administrative decision-making.<sup>129</sup> The organization spent \$3.3 million on government affairs in 2008 alone, out of a total budget of more than \$40 million.<sup>130</sup>

Agricultural interests have also spent big on contributions to political campaigns in Illinois. According to the National Institute on Money in State

Politics, agricultural interests have donated more than \$6 million to state level political campaigns in Illinois since 2000, including more than \$360,000 in contributions to gubernatorial candidates in 2010.<sup>131</sup>

Agribusiness interests have used their clout to support a host of bills in the Illinois Legislature to chill the rising opposition to factory farm development in the state. Among the bills supported by agribusiness interests were efforts to:

- Eliminate public hearings on new construction at all but the very largest factory farms;<sup>132</sup>
- Exempt some factory farms from requirements to prepare waste management plans;<sup>133</sup>
- Make it illegal for anyone to take a photo of a factory farm;<sup>134</sup> and
- Protect factory farm owners from so-called nuisance lawsuits.<sup>135</sup>

Agribusiness interests' political clout also potentially extends to the legal arena. Residents of rural Jo Daviess County have expressed strong concern about a proposed 11,000-cow dairy farm to be built in the county. The dairy threatens to pollute the Apple River with contamination from the 90 million gallons of manure it would spread on nearby fields every year.<sup>136</sup>

In 2008, the Jo Daviess County Board voted overwhelmingly to reject the megadairy, but the Illinois Department of Agriculture overruled the decision and issued the factory farm a permit. The battle against the project is now being fought in court, with several decisions coming down in favor of the megadairy owner and against concerned citizens – the latest in December 2010.<sup>137</sup>

The local Farm Bureau chapter is supporting the megadairy, and asked the statewide Farm Bureau to pay for the

megadairy owner's legal fees and contribute lawyers to the fight.<sup>138</sup> This action stands in stark contrast to the official policy position of the national Farm Bureau that "state agencies [should] ... consult with the county government prior to implementing any laws ... which would affect the economy, customs and culture of their county."<sup>139</sup>

## Rewriting the Law on Industrial Dairies in Wisconsin

When Judy Treml turned on the faucet in her Kewaunee County home in March 2004, brown water flowed from the tap, smelling like manure. Her 6-month-old daughter had consumed contaminated water and grew ill with vomiting and diarrhea. The family ended up in the hospital emergency room.<sup>140</sup>

As documented by the *Wisconsin State Journal*, the Treml family had a private well on their property, and their groundwater had been contaminated by tens of thousands of gallons of untreated manure

disposed of on a nearby farm field by Stahl Farms.<sup>141</sup>

In Brown County, Wisconsin, factory farms hold 41,000 dairy cows that produce more than 260 million gallons of manure annually, much of which dairy owners dispose of on nearby fields. In one incident documented by the *New York Times*, untreated manure contaminated more than 100 private wells in the town of Morrison, sickening many residents.<sup>142</sup>

Factory dairy farms are proliferating in Wisconsin, threatening the state's deeply entrenched family farming tradition. The spread of factory dairy farms has been aided by permitting procedures that enable megafarm owners to roll over the objections of rural communities and concerns about the impact of those farms on water quality.

An investigation by the *Wisconsin State Journal* in 2010 found that the Dairy Business Association (DBA) pressured Wisconsin's Department of Natural Resources (DNR) to ease oversight of the state's largest dairy farms – those with 700 or more cows.<sup>143</sup> According to e-mails obtained by the newspaper, the Dairy Business Association was given an opportunity to help author new rules to streamline the permitting process for new factory dairy farms.<sup>144</sup>

The DBA also worked closely with the Department of Agriculture, Trade and Consumer Protection (DATCP) to write a law governing the siting of factory dairy farms, which limits the authority of local governments to object to the construction of new factory farms.<sup>145</sup> According to the *Wisconsin State Journal*, a lawyer who represented DBA and large farm owners encouraged dairy farmers to forward questions about the law to the association, writing "we wrote the law and are in the best position to tell you what it means."<sup>146</sup>

The DBA and other agribusiness interests have used several tools to build politi-

photo: USDA National Resources Conservation Service



*The spread of factory dairy farms in Wisconsin has been aided by permitting procedures that enable megafarm owners to roll over the objections of rural communities and concerns about the impact of those farms on water quality.*

cal clout. One of them is the revolving door. For example, the former DATCP official responsible for new siting law, David Jelinski, was later hired by the Dairy Business Association, becoming its government affairs director.<sup>147</sup> The organization employs six registered lobbyists – including Jelinski – to ply the halls in Madison.<sup>148</sup>

The DBA has also succeeded in shifting the cost of environmental compliance to taxpayers. After news outlets publicized the drinking water well contamination in Kewaunee and Brown counties, Wisconsin created rules prohibiting manure spraying during winter and increased oversight requirements for large dairy farms. However, the Dairy Business Association and its allies lobbied for and won a provision requiring the state “to finance up to 70 percent of the cost of following the new regulations.”<sup>149</sup> In addition, the DBA has secured federal earmarks totaling more than \$380,000, ostensibly to help Wisconsin farmers comply with environmental regulations.<sup>150</sup>

The result of the agribusiness industry’s influence has been lax oversight by state government and increasing restrictions on local governments’ power to protect their communities from the impacts of factory farms on waterways and their communities.

As of February 2010, in the seven years DNR has been in charge of overseeing new or expanded dairy farms, the agency had never turned down a permit request – nor revoked a permit after rule violations.<sup>151</sup> Moreover, DNR rarely inspects any dairy operation outside of the initial permit process – and sometimes not even then.<sup>152</sup>

Recent years have also seen a series of instances in which rural communities have been rendered all but powerless in addressing the impacts of proposed factory farms on their communities. The town of Little Black, for example,

objected to a proposal for a 4,000-cow dairy farm. Experts hired by the town found that the farm’s proposed manure disposal plan didn’t have enough acreage to prevent water contamination.

However, town officials received a warning letter from DATCP – signed by David Jelinski – on April 21, 2009. The letter stated: “If you choose to pursue local requirements beyond the scope of the state siting law, the town will expose itself to unnecessary legal challenges from applicants and other interested parties that the town may not be able to defend.”<sup>153</sup>

The power of big agribusiness over environmental policy in Wisconsin could increase even further under newly elected Gov. Scott Walker. Walker was elected in 2010 with the support of the Wisconsin Farm Bureau, which launched a political action committee called “Volunteers for Agriculture,” spending more than \$120,000 on Walker’s behalf.<sup>154</sup> In addition, agriculture interests overall directly gave Walker more than \$260,000 to fuel his campaign.<sup>155</sup> After his election, Walker told the DBA that he was looking for a state agriculture secretary who had the “support and respect of industry groups like the DBA and others.”<sup>156</sup> Among the candidates he considered was Wisconsin Farm Bureau president Bill Bruins, owner of a dairy farm – although he finally settled on Ben Brancel, a beef farmer and former Agriculture Secretary from 1997-2001 under Governor Tommy Thompson.<sup>157</sup>

A key component of Gov. Walker’s agenda is reducing the number of business regulations of all kinds. The Governor announced a special legislative session beginning in January 2011 with the explicit goal of reducing state regulations and banning what Walker considers “frivolous” lawsuits.<sup>158</sup> Moreover, Walker aims to “give the governor’s office the power to approve or reject agency rules, which are put in place to implement legislation and have the same power as law.”<sup>159</sup>

## Big Agribusiness in State Capitols

Other recent examples of the influence of large agribusiness interests in state capitols include:

- *Iowa* – After agribusiness interests donated nearly \$250,000 to his campaign, Terry Branstad won election as Governor of Iowa. His top funder, donating more than \$100,000, was Bruce Rastetter – the chief executive of a company that manufactures corn ethanol – and his family.<sup>160</sup> During a previous term as governor in 1995, Branstad signed a bill into law that took authority over decisions around the siting of factory farming operations away from local governments, enabling factory farms to proliferate across Iowa.<sup>161</sup> In his current term, Branstad has promised to “streamline” permitting and regulations affecting agribusiness, with the goal of doubling agricultural production by 2050.
- *Pennsylvania* – After the Pennsylvania Farm Bureau complained of onerous local government regulations interfering with farmers’ ability to site and operate factory farms, Pennsylvania’s legislature took action. In 2005, the legislature passed a policy, called the Agriculture, Communities and Rural Environment initiative (or ACRE), that allowed farmers to appeal local ordinances around factory farm practices directly to the state attorney general.<sup>162</sup> Tom Corbett, the current Governor of Pennsylvania, filed more than 30 lawsuits against townships under this law when he was attorney general, facilitating the siting and operation of many factory farms.<sup>163</sup>
- *Ohio* – Newly-elected Governor John Kasich of Ohio appointed a former regional manager of Perdue Farms, Scott Nally, as the director of the state’s Environmental Protection Agency.<sup>164</sup>
- *New Mexico* – After beginning her term as governor on January 1, 2011, Susana Martinez issued an executive order that eliminated a pending regulation controlling waste discharge from dairy farms, as well as a rule requiring the state to reduce emissions of global warming pollution.<sup>165</sup>
- *Missouri* – Every year since 2003, the agribusiness lobby has attempted to pass a bill through the state legislature eliminating local control over factory farm siting decisions. For example, in 2007, Senator Chris Koster (R-District 31) introduced a bill deceptively called the Missouri Farm and Food Preservation Act that would have eliminated local government health and property rights ordinances aimed at protecting citizens and small farmers from the harmful impacts of factory farms. The Missouri Farm Bureau and 18 large commodity organizations made it their top legislative priority that year, and Governor Matt Blunt (R) placed the bill in his top three legislative priorities.<sup>166</sup> Although the bill failed, large agribusiness continues to push for reduced local control. In 2010, Missouri Attorney General Chris Koster (D), with praise from the Farm Bureau, successfully overturned a lower court ruling protecting a historical landmark from having a 4,800 hog factory farm built nearby.<sup>167</sup> In 2011, Representative Casey Guernsey (R-District 3), with support from the Farm Bureau, has introduced a bill that would limit an individual’s right to seek fair compensation for damage done by factory farms – capping damages allowed in any nuisance lawsuit.<sup>168</sup>

# Policy Recommendations

**B**ig agribusiness interests have long used their insider political clout to undermine protection for America's waterways. But with problems ranging from the "dead zones" in the Gulf of Mexico and the Chesapeake Bay to local pollution from factory farms growing more widespread and severe, state and federal officials must find the political courage to make big agribusiness do its share to clean up our waterways.

Specifically, state and federal officials should:

## 1. Ban the worst agribusiness

**practices:** States should ban practices such as the winter spreading of manure in cold-weather states, which dramatically increases the potential for runoff into rivers and streams, and storage of manure in open piles or unlined lagoons. States

should establish moratoriums on new CAFO permits until adequate permit requirements are in place.

## 2. Guarantee protection to all of America's waterways

– A core protection of the federal Clean Water Act is that discharges of pollution to our waterways are strictly limited in permits written to ensure clean water. However, a series of court decisions, culminating in the U.S. Supreme Court's 2006 decision in the case of *Rapanos v. United States*, have threatened to strip this protection from thousands of intermittent and headwaters streams and isolated wetlands across the country. Consequently, where CAFOs or other industrial agribusiness operations begin dumping pollu-

tion into one of these unprotected waters, U.S. EPA would have little ability to stop them. Already, EPA reports that more than 500 enforcement cases have been compromised because of this new legal loophole. Either Congress or federal agencies can rectify this problem by clarifying that the Clean Water Act protects all of America's waterways.

**3. Hold corporate agribusiness responsible for its pollution.**

Vertically integrated poultry and pork firms have been allowed to gain the benefits of control over the production process while disclaiming responsibility for the pollution their animals produce. State and federal law should clearly assign joint and several liability for the waste produced at contract farm operations to vertically integrated firms. This simple clarification of legal responsibility will provide vertically integrated firms with a powerful incentive to invest in the pollution controls necessary to keep animal waste out of our waterways.

**4. Enforce existing laws.** Existing clean water laws give the state and federal governments several powerful tools to address pollution from agribusiness. Often, however, these tools are left unused. Specifically, governments should:

- a. Require agribusiness operations to implement mandatory, enforceable, numeric reductions in nutrient runoff or other forms of pollution as part of comprehensive plans (known as Total Maximum Daily Loads, or TMDLs) to meet water quality standards in specific waterways.
- b. Issue water pollution permits for all CAFOs and do so promptly.

- c. Guarantee uniform enforcement across states. The U.S. Environmental Protection Agency should ensure that states take sufficient action to prevent agribusiness pollution, or withdraw enforcement authority from states that persistently refuse to do so.

**5. Give environmental laws real teeth.**

Even when agribusiness firms are caught in the act of polluting our waterways, the penalties and enforcement actions to which they are subject are typically so small that they fail to deter future pollution or compensate for the additional profits received as a result of skirting environmental laws. To provide a real deterrent to pollution from corporate agribusiness, state and federal governments should beef up enforcement by adding additional inspectors and enforcement officers, and create tough penalties for major or repeated violations of environmental laws, including mandatory minimum penalties, and bans that prevent repeat violators of environmental laws anywhere in the nation from securing new permits.

**6. Empower local communities.** Several states limit the ability of local zoning boards to ban or impose conditions on factory farming operations. Since local communities bear the brunt of factory farm operations, they should have the authority to prohibit or limit them – as they would with most other land use/zoning decisions in most states. States should eliminate any provisions or policies that limit the authority of local governments to regulate land use related to factory farm operations.

**7. Ensure environmental transparency.** In 2008, the U.S. Government Accountability Office issued a report

concluding that “no federal agency collects accurate and consistent data on the number, size and location of CAFOs.”<sup>169</sup> The lack of information about CAFOs makes it virtually impossible for citizens to assess their impact on the environment or their compliance with environmental standards. The federal government should devise systems to provide the public with more information about pollution from agribusiness operations.

**8. Encourage and require better practices.** Federal and state governments, acting in cooperation with farming organizations and the extension services of land-grant universities, should continue to provide outreach, information, and resources to help farmers implement practices that reduce the flow of polluted runoff to America’s rivers and streams. This incentives-based “best practices” approach has proven to be inadequate as the cornerstone of the nation’s effort to address agribusiness pollution, but it remains an important element of any program to ensure that farmers are aware of better ways to produce crops and are able to implement those solutions quickly. Some of these practices should be mandatory, such as planting winter grains wherever manure has been applied and leaving wooded buffer zones next to waterways.

**9. Shift subsidies.** At the root of the water pollution problem caused by agribusiness is a system of food production that is heavily subsidized

by the public and controlled by only a few firms. Public subsidies have helped make America’s food system worse both for Americans’ health and for our waterways, and facilitated the emergence of massive agribusiness firms with tremendous control over the marketplace. State and federal governments should shift public subsidies to foster a more sustainable system of food production for the future. The Department of Justice is currently reviewing anti-trust concerns within the agribusiness sector, and Congress is expected to take up the Farm Bill in 2012. In particular, Congress should fix the Environmental Quality Incentives Program (EQIP) to ensure that it benefits a larger number of small farms. The program was intended to help farmers make improvements to their operations to benefit the environment. However, in the 2002 Farm Bill, Congress opened up the program to large livestock operations, required 60 percent of available funds to go toward livestock operations and created a very large payment cap. As a result, most of the money now tends to go toward large factory farms for manure management systems.<sup>170</sup> This is a cost of doing business that large factory farms should cover without subsidies. The program should be restructured to eliminate unfair subsidies for the construction or expansion of industrial livestock operations, to deliver the maximum amount of environmental benefit per dollar spent, and to reach a larger number of farmers.

# Notes

1. There are many potential definitions of “agribusiness.” The term is sometimes used as a generic description for business-oriented farms, or as a catch-all term for the entire agriculture sector of the economy, including businesses that manufacture or supply products used on farms. In this report, we mean the term “agribusiness” to refer to agricultural production carried out at a large scale. “Agricultural production” includes not only the raising of plants or animals on the farm itself, but also the processing of raw materials from farms into consumer-ready products. There are other economic actors – such as food retailers – that have potentially great impacts on how food is produced in the United States, but we do not address those actors in this report. “Large scale” is an inherently subjective term, but can be interpreted to refer to production at an industrial scale.

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