May 15th, 2022

United States Department of Agriculture Agricultural Marketing Service

1400 Independence Avenue, SW

Room 3069 South Building

Washington, DC 20250

Re: Competition in Food Retail and Distribution Markets and Access for Agricultural Producers and Small and Midsized Food Processors, docket number AMS-AMS-22-0026-0001.

Dear United States Department of Agriculture Agricultural Marketing Service:

Clean Water Action Minnesota appreciates the opportunity to provide input on the Agricultural Marketing Service's (AMS) questions regarding Competition in Food Retail and Distribution Markets and Access for Agricultural Producers and Small and Midsized Food Processors, docket number AMS-AMS-22-0026-0001. We are environmental health advocates, water protectors, concerned community members, and victims of water, air, and food pollution.

We write to you in response of, "Competition in Food Retail and Distribution Markets and Access for Agricultural Producers and Small and Midsized Food Processors", posted by the Agricultural Marketing Service following President Joe Biden's Executive Order on "Promoting Competition in the American Economy," which creates a White House Competition Council and directs Federal agency actions to enhance fairness and competition across America's economy.

We are concerned about the U.S. Department of Agriculture (USDA) and USDA Agricultural Marketing Service (USDA AMS) continuing to permit the widespread abuse of Concentrated Animal Feedlot Operations, manure lagoons, drain tiles, manure application on top of synthetic agricultural inputs and seeds coated in pesticides and fertilizers, in addition to government subsidies, legislative actions, and lobbying. A discussion of recommendations follows the relevant reports and science provided below.

Sources of Monopolization Are Also Sources of Climate Change

Confined Animal Feedlot Operations (CAFOs) are to blame for monopolization of the beef, chicken, pork, and dairy markets, as well as leading polluters of sewage, phosphorous, nitrogen, antibiotics, fungi, hormones, viruses, parasites, ammonia, bacteria, methane, nitrous oxide, and many more soil, water, air, and human pollutants. CAFOs keep livestock and poultry in confined areas with little to no access to pasture or even the outdoors. When raising livestock in industrial numbers, it is standard to use industrial solutions like manure management, drain tiles, manure applications on crops, as well as high quantity and low quality feed.

According to the IATP, about 90% of the emissions from corporate meat and dairy companies come from the livestock supply chain. These emissions come from growing the feed (usually corn and soy) used for livestock and raising livestock, almost always using pesticides, fertilizers, and treated and/or genetically modified seeds. When raising livestock, sources of agricultural runoff are the standards for CAFOs; drain tiles, manure lagoons, minimal or no buffers, and manure applications in addition to synthetic inputs. Agricultural runoff expedites the growth of algae blooms in nearby watersheds and can contaminate private drinking wells and kill off populations of fish and wildlife, partially due to ammonia. Ammonia is a highly soluble compound from agricultural activities and has become a public concern for health impacts, the acidity of the natural environment, excessive algae production in lakes, and formation of small particles in the air (NRC, 2003). Ammonia is naturally generated by microorganisms when they decompose organic matter or by man-made synthetic processes used for the production of fertilizers, nitric acids, fuels, explosives, and refrigerants. Liquid ammonia as a fertilizer is typically applied directly into soil on farm fields and/or used to make fertilizers for farm crops, lawns and plants.

From a report at Ohio State University, livestock and poultry farming are the largest contributors to ammonia (NH_3) emissions. Additionally, the USEPA national emission inventory states that dairy and beef cattle production contributes about 54% of total ammonia emissions to the atmosphere, poultry production 33%, and swine 12%. In addition, the Minnesota Pollution Control Agency states that, in Minnesota, nearly 75% of all nitrogen contamination comes from row crop production from growing corn and soybeans.

According to the Minnesota Pollution Control Agency:

> Some agricultural practices — such as installing drain tile, cultivating next to bodies of water with no buffer between water and plowed earth, and allowing cattle to graze in and around streams — have accelerated soil erosion and increased sediment and pollutants in rivers and streams. Extreme weather events, particularly high rainfall amounts in short-burst storms, also contribute to the problem.

Findings in Sierra Club Michigan's, "Follow the Manure: Factory Farms and the Lake Erie Algae Crisis," shows that millions of dollars in taxpayer funds continued to be distributed to factory farms as phosphorus contamination levels in the Western Lake Erie Watershed (WLEW) climbed and CAFOs in the watershed were fined for illegal waste discharges. It was also found that**:**

> Indiana's Adams County has received the most federal subsidies to-date ($10,622,663); Michigan's Lenawee County is home to the most CAFOs with environmental violations and the most illegal discharges; and Ohio's Paulding County along with Lenawee are the top manure producers in the WLEW. In addition, CAFOs in the watershed were cited for 112 illegal discharges of waste since 2008, an average of 16 per year, and were fined a total of $1,137,000.

Growing the Feed: Pesticides & Fertilizers

Pesticides and fertilizers from synthetic sources are used by non-organic producers of corn, soy, and other grain. This feed is sold to CAFOs and used in vast amounts, despite cows typically feeding upon grasses native to pastures. Pesticides and fertilizers from synthetic sources were once commonly considered as generally non-toxic to humans and other mammals, however, new research indicates that synthetically-sourced agricultural inputs may have a wide range of environmental effects. Effects from synthetic agricultural inputs are potentially serious, poorly understood, and could ultimately impact millions of Americans. As such, the monopolizing companies who dominate the industrial agricultural markets and their widespread use of Pesticides and fertilizers from synthetic sources are both environmentally damaging and unhealthy for human and animal life.

According to the REAMP Midwest Report, changes in precipitation, along with rising temperatures, are predicted to continue due to climate change. Without technological development, climate change will reduce agricultural productivity in Michigan, Minnesota, Ohio, North Dakota, South Dakota, Wisconsin, Indiana, Missouri, and Nebraska. Floods will continue to erode soils which also reduces surface water quality, causing more nutrient deposits, fish kills, and algae blooms. Further, the warmer winters and higher humidity caused by climate change will induce preferred environmental conditions for pests, bacteria, viruses, and fungi. Additionally, the increasingly hot summers will likely push crops past optimal growing temperatures into the "reproductive failure" zone, including feed such as corn and soybean. Corn and soy crop yields decrease significantly in higher temperatures and drought. As a result, the corn for cattle feed will cost more as poor harvests are expected to drive up prices. Hot weather will continue to affect livestock, as animals tend to eat less and produce less milk, meat, or eggs in high temperatures and humidity.

Drain Tiles

At farms using drain tiles and manure lagoons, hog waste— feces, urine, blood, and pus—drips through slats in the floors and into open pit lagoons, where it is mixed with water. The wastewater typically sits uncovered, which emits noxious odors and gasses including methane. If it is not uncovered, it is pumped out and sprayed as fertilizer on crop fields. Drain tiles can cause leaks, drips, and anomalies if left unsupervised and unprotected, especially when companies like JBS emit 80 million tons of sewage in one year, according to Mighty Earth.

Manure Lagoons

Manure lagoons emit high amounts of methane and nitrous oxide and are also highly vulnerable to natural disasters such as hurricanes and floods, which can put neighbors and local water at risk. CAFOs decouple grazing animals from grasslands, which can be an efficient and ecological alternative to intensive feedlot operations. The less farmers rely on natural manure spreading via pastured livestock means farmers apply more synthetic fertilizers, which emit even more nitrous oxide. Think Progress states that per year, 5 top meat companies deposit 162 million tons of manure per year into manure lagoons, into fields, into watersheds, and into the ground. In total,

the top meat companies discharged nearly 220 million tons of manure and facility waste using practices that directly threaten nearby waterways with contamination, by either discharging pollutants directly into waterways, spreading pollutants onto the surrounding landscape, or storing pollutants in earthen impoundments that are highly prone to flooding and overflowing. This is approximately 500 times more sewage waste than is generated by New York City each year, yet unlike human waste, this waste from the meat industry is left untreated when it washes into waterways.

Manure Applications in Addition to Synthetic Inputs

It can be common for farmers to utilize both synthetic fertilizers as well as manure as a fertilizer, especially considering how the fertilizer costs have continued to rise due to monopolization. This affects the amount of nitrogen and phosphorous, as well as sewage, antibiotics, fungi, hormones, viruses, parasites, ammonia, bacteria, methane, nitrous oxide, and many more soil, water, air, and human pollutants. Variable rates and testing of soil composition must be a standard for all farmers utilizing any form of fertilizer, synthetic or organic. There are resources and communities to assist in understanding variable rates of application, as well as general understanding of the implications of fertilizer application which prove to be helpful to farmers, especially emerging farmers.

Injustices in Monopolization of Food Systems

Past USDA programs have failed to prioritize Black, Indigenous, People of Color Farmers and to dismantle monopolies. As of 2014, less than 2% of farmers are Black in the United States and make less than their white counterparts. A review of USDA data by Webster Davis of the Missouri Chapter of the NAACP showed that the number of black farmers peaked in 1920, when 927,710 farmers owned about 15 million acres of land. By 1959, the number had declined to 272,500, and black farmers accounted for only 7.3 percent of all farmers. The number of black farmers has continued to decline, and in 2012 there were only 44,629; just 1.4 percent of farmers. An investigation by The Counter found that the USDA promoted misleading data to depict a fictional renaissance in Black farming. That narrative falsely inflated the department's record on civil rights—and ultimately cost Black farmers land, money, and agency.

The Institute for Agriculture and Trade Policy (IATP) *Closed out: How U.S. farmers are denied access to conservation programs*, IATP utilized USDA Data to report that, between 2010 and 2020, just 31% of farmers who applied to the Environmental Quality Incentives Program (EQIP) and only 42% of farmers who applied to the Conservation Stewardship Program (CSP) were awarded contracts. Overall, it was found that EQIP refused 946,459 contracts and CSP refused 146,425 contracts, at least partially for lack of funds. Contract denial rates vary widely by state, but some of the lowest approval rates occurred in major agriculture states. This report is especially concerning considering that the practices supported by EQIP and the whole farm approach supported by CSP assist farmers in reducing greenhouse gas emissions while assist in adapting to climate change.

Midwest states awarded between 1-13% of their EQIP contracts to “socially disadvantaged producers,” or Farmers of Color. In some cases, this low percentage of contracts awarded to farmers of color reflects the low total number of farmers of color in that state. However, it is worth noting that states such as better support Farmers of Color in EQIP contracts, which could reflect the large number of farmers who identify as Native American in the state as a whole. EQIP, similar to CSP, commits 5% of its funds to farmers of color. Despite this set-aside, only two Midwest states meet that 5% commitment — South Dakota and Michigan. However, by using EQIP funds, Kansas has supported and enacted hundreds of projects directed at soil and water conservation, including cover crops, conservation crop cover, and prescribed grazing, setting a precedent for future state actions with EQIP.

It needs to be addressed that USDA Administrator Tom Vilsack has not supported emerging, socially disadvantaged, Black, Indigenous, and People of Color farmers. During the Obama administration, Vilsack was appointed Administrator of the USDA. The Counter investigated Vilsack’s record under Obama and found out that the agency cherry-picked data to falsely show a revival of resources for black farmers, despite Black farmers receiving less in USDA loans under Vilsack when Obama was president than it did under President George W. Bush. In 2015, less than 0.2% of the agency’s $5.7 billion in small loans, or about $11 million, went to Black farmers. The agency was more than six times as likely to foreclose on a Black farmer than a white one from 2006 to 2016. To reiterate, USDA policies contributed to Black farmers losing roughly 90% of the land they owned from 1910 to 1997.

Additionally, communities that live near factory farms are usually low-income communities and communities of color; making this a critical environmental justice issue. A study published by BMC Public Health states that, “many environmental pollutants are known to have disproportionate effects on Black, Indigenous and People of Color (BIPOC) as well as communities of low-income and wealth. The reasons for these disproportionate effects are complex and involve hundreds of years of systematic oppression kept in place through structural racism and classism in the United States of America.”

A press release of the aforementioned BMC Public Health report posted by the Center for Biological Diversity found that disproportionate exposure, weak farmer protections, unequal risks, and poisonous housing causes higher pesticide toxicity in Black, Indigenous, and People of Color. Through tracking over the past 20 years, it was found that 12 harmful pesticides were found in the blood and urine of Black or Mexican Americans at a rate five times higher than in whites. It is also estimated that 10,000 to 20,000 predominantly Latine agricultural workers fall ill to pesticide exposure, yet they continue to be excluded from pesticide protections provided to the general public.

Additionally, In California, Louisiana, Georgia, South Carolina, Tennessee, Arkansas and Missouri, people of color make up about 38% of the population, but 63% of the population living near the 31 pesticide manufacturing plants in violation of environmental laws like the Clean Air Act and Clean Water Act. In New York, pesticide application occurs in 80% of low-income housing facilities; 30% of pregnant African American and Dominican women in New York City had at least eight pesticides detected in a home air-monitoring study.

Through these discoveries and a focus on Black, Indigenous, People of Color and Women's economic empowerment, land rights, GHG emissions, deforestation, living incomes for small-scale producers, and human rights, it is recommended that the AMS:

· Continue to follow the Executive Order from the President:

- o Issue new rules under the Packers and Stockyards Act making it easier for farmers to bring and win claims, stopping chicken processors from exploiting and underpaying chicken farmers, and adopting anti-retaliation protections for farmers who speak out about bad practices

- o Issue new rules defining when meat can bear "Product of USA" labels, so that consumers have accurate, transparent labels that enable them to choose products made here.

- o Develop a plan to increase opportunities for farmers to access markets and receive a fair return, including supporting alternative food distribution systems like farmers markets and developing standards and labels so that consumers can choose to buy products that treat farmers fairly.

- o Invest an estimated $50 million in technical assistance and research and development to help independent business owners, entrepreneurs, producers, and other groups, such as cooperatives and worker associations, create new capacity or expand existing capacity.

- o Dedicate $100 million to support development of a well-trained workforce, safe workplaces, and good-paying, quality jobs by working closely with partner organizations, including labor unions, with expertise in workforce development and worker health and safety.

- o Deploy $100 million in American Rescue Plan funds, to make more than $1 billion in guaranteed loans available immediately.

- o Provide $100 million in reduced overtime inspection costs to help small and very small processing plants keep up with unprecedented demand.

- o Award $32 million in grants to 167 existing meat and poultry processing facilities to help them reach more customers by becoming Federally inspected through the Meat and Poultry Inspection Readiness Grants Program.

· Increase land ownership opportunities (outreach, grants, networks, support, requirements, and protections) for Black, Indigenous, and People of Color, as well as Women, those with low income sources, Queer people, and other Emerging Farmers.

· Enact and strengthen existing requirements such as EQIP and CSP for strong welfare and climate-protecting capacity limits in Concentrated Animal Feedlot Operations for;

- o Head count (general capacity of animals)

- Manure output
- Methane production

· Provide financial support and educational support for existing farmers to transition to Indigenous practices, commonly known as regenerative agriculture. Such farming prioritizes;

- Not using synthetic inputs (pesticides, fertilizers, herbicides, fungicides, etc.)
- Cover Cropping
- Crop Rotation
- Not Tilling the Soil
- Crop Diversity
- Integrating Animals
- Utilizing Native Species and Growing Instructions

· Prioritize sustainable grazing systems in livestock budgeting and set asides, especially resources for grazing specialists in local USDA offices. For some states without immense livestock, the 50% livestock requirement could be removed altogether.

· Regulate methane emissions from industrial hog and dairy operations and reject factory farm gas.

· Improve federal food subsidy programs to increase access to healthy food for children and adults through the USDA's Child Nutrition Reauthorization Act and Farm to School Program, including the Supplemental Nutrition Assistance Program (SNAP) and it's 2021 Trial of Instacart SNAP acceptance. In order to address food inaccess and food apartheid, Instacart must accept SNAP at all of its retailers, not just those included in the 2021 trial period.

· Phase out and limit the use of synthetic agricultural inputs produced by companies that control the agricultural input market. It is strongly urged to phase out and/or ban the use of synthetic agricultural inputs, especially in instances where pregnant women and children could be exposed, including farmworkers and their families, as well as those who consume foods produced using highly synthetic inputs. This includes canceling seed treatment uses immediately.

· Deny humane or animal-welfare claims without adequate standards and ban the "natural" label.

· Require products to carry a "raised with antibiotics" label and specify whether animals were given antibiotics and for which production purposes.

· Update Salmonella performance standards and require producers to test for Salmonella and STECs, not just generic E. coli. Additionally, no prior notice should be given to plants when taking samples for STECs or Salmonella.

· Address decades of discrimination by the USDA and fund at least 20,000 land grants a year to Black farmers, as well as establishing an independent civil rights oversight board at the USDA, as encouraged by the Justice for Black Farmers Act by Senator Cory Booker (D-N.J.).

· Prioritize actions similar to the American Rescue Plan Act delivers historic debt relief to socially-disadvantaged farmers and ranchers by paying up to 120 percent of loan balances (as of January 1, 2021) for Farm Service Agency Direct and Guaranteed Farm Loans, and Farm Storage Facility Loans. This includes making an official statement reporting that there was no alleged discrimination against white farmers; over 90% of all farmers are white.

· Remove the "10 worst industrial practices included in EQIP", identified by IATP

- Underground Outlet
- Subsurface Drain
- Waste Storage Facility
- Waste Facility Cover
- Closure of Waste Impoundment
- Manure Transfer
- Animal Mortality Facility
- Emergency Animal Mortality Management
- Roof Runoff Management
- Pumping Plant for Water Control

Specifically, Illinois, Iowa, Kansas, Michigan, Minnesota, Ohio, North Dakota, South Dakota, and Wisconsin deserve to be prioritized for climate-protecting EQIP funding and sustainable agricultural practices as they make up 42% of all agricultural emissions. In 2019, these midwestern states with CAFOs emitted more than the combined emissions from the region's 58 highest emitting coal plants, according to REAMP. EQIP funding cannot continue to award dairy farmers funding into CAFO practices; 43 farmers were given an average of $143,000 each in Minnesota to put in (industrial) waste storage facilities. EQIP is designed to go towards practices that improve the environment and should not go to industrial facilities that perpetuate monopolies in all agricultural markets and United States food systems.

Conclusion

The USDA and the USDA AMS should also take any additional warranted and just actions to protect ecosystem and human health as they become apparent from the agency's review of the emerging science. In addition, the USDA and the USDA AMS must also take any needed steps

to safeguard soil, water, human, livestock, and pollinator health from unreasonable adverse environmental impacts. Ultimately, the USDA AMS must address the cumulative impacts of industrial meat production, industrial agricultural input production, and market control of food markets as it results in climate change and pollution.

Respectfully,

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Alaina Lawrence, Climate Food and Water Policy Organizer, Clean Water Action Minnesota

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