



Harmful Bills Highlight 2017 State Legislative Session

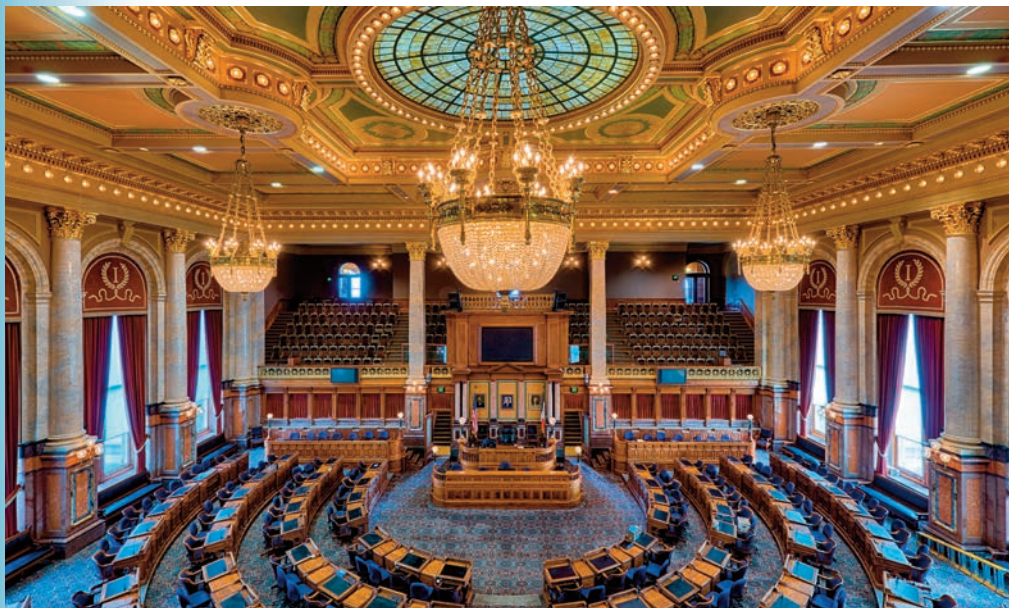


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By Diane Rosenberg
President and Executive Director

The 2017 Iowa legislative session was deeply challenging for Iowans demanding clean water, protections from CAFOs, and a future encompassing sustainable agriculture. Several pieces of very concerning legislation were either enacted or left as “unfinished business” to be taken up during the 2018 session.

The following is an overview of several “bad” bills that will impact Iowa citizens that were addressed in this year’s session.

Senate File 447: Nuisance Lawsuit Limitations

Senate File 447, which went into effect July 1, 2017, limits compensatory damages in nuisance lawsuits against CAFOs. The bill, modeled after ALEC (American Legislative Exchange Council) legislation, specifies three categories of awards:

Property Damages: Compensation is now limited only to the decline in the fair market value of a home that occurs after a CAFO is built nearby. This provides very little protection for homeowners forced to move if their homes become uninhabitable from noxious CAFO odors.

Medical Damages: Compensatory damages may be paid for one’s “past, present, and future adverse health condition” only if it can be proven that the CAFO was the direct cause of harm.

Quality of Life Damages: The law caps awards to 1.5 times property damages plus whatever medical damages may be determined.

Further, once a CAFO owner is sued, the nuisance is classified as a permanent nuisance. Should the CAFO continue to cause harm to neighbors, follow-up nuisance lawsuits can’t be filed. Previously the law allowed for lawsuits to be filed as

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In the News

Iowa CCI, FWW Submit Petition to Fix Broken Master Matrix

Iowa Citizens for Community Improvement (Iowa CCI) and Food & Water Watch (FWW) filed a petition on July 18 with the Department of Natural Resources (DNR) to strengthen the Master Matrix – a scoring system for factory farm applications created 15 years ago by the state legislature. The petition was filed during the Environmental Protection Commission (EPC) meeting.

The Master Matrix is supposed to provide a comprehensive review of environmental and community risks, allowing counties to recommend denial of facilities that will have harmful impacts. But the Matrix developed by the DNR has proven so easy to pass that it has amounted to little more than a rubber stamp: Applicants only need to satisfy enough of the listed criteria to obtain 50 percent of the available points – an “F” by most standards. DNR records show that only 2.2 percent of applications have been denied.

Counties across Iowa have recognized the Master Matrix is failing, and are taking a stand for real local protections from factory farms. Through resolutions and letters, at least 13 counties have now

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JFAN NEWSLETTER

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LEGISLATION *continued from p. 1*

temporary nuisances which could be re-filed for recurring harm. The new law provides no incentive to correct current or prevent future nuisances.

A lawsuit can only be filed if a CAFO violates state or federal law or if it either interferes with a neighbor's use and enjoyment of their property for an extended amount of time and if the CAFO doesn't use best management practices or is classified as a habitual violator. The new law doesn't apply to lawsuits that are already in the court system.

An earlier version of the bill also included a provision that would have require plaintiffs to pay legal fees and court costs if they lost the case, but that provision was stricken from the passed version. An amendment that would protect existing property owners from infringing CAFOs was rejected.

The bill was introduced by Sen. Dan Zumbach from eastern Iowa who said the law was designed to protect the livestock industry. "This is an economic bill" he said in a *Des Moines Register* article (6/17/17) allowing for damages that are "fair and equitable."

How Did Local Legislators Vote?

- Sen. Mark Chelgren and Rep. David Heaton voted to **FOR** SF 447.
- Sen. Rich Taylor and the late Rep. Curt Hanson voted **AGAINST** SF 447.

House File 484 – Dismantling the Des Moines Water Works

Rep. Jared Klein, a Washington County CAFO owner, sponsored a failed attempt to dismantle the Des Moines Water Works and replace it with a regional water utility, reported the *Des Moines Register* (2/17/17). House File 484 would have dissolved the five-member DMWW board of directors leaving the City of Des Moines and its suburbs to appoint a regional board.

The move was backed by Iowa Farm Bureau, Iowa Pork Producers Association, and Smithfield Foods among others. It was opposed by numerous clean water advocacy groups, private residents, representatives from three water utilities the bill would have shut down, and the heads of Keokuk and Waterloo's water utilities.

"It's clear to me the bill is intended to get at us because of our lawsuit. It sends its own message: Don't step in the way of

Big Ag or you'll suffer the consequences," said DMWW CEO and General Manager Bill Stowe in a *Huffington Post* article (3/9/17).

The fight over this bill was contentious and sustained. During a hearing at the Iowa State Capitol in March, 183 people signed up to speak; 171 against the bill and eight in favor.

"The bill does not protect ratepayer in-



**The Raccoon River is one of the sources
of Des Moines' drinking water**

Photo: Christine Warner Hawks

vestments or ensure future investments will be made wisely," said Josh Mendelbaum, an attorney with the Environmental Law and Policy Center at the hearing. "Instead it abruptly places responsibility for the provision of safe drinking water and investment in water infrastructure with entities that don't have the experience or expertise in doing so. Just like in Flint, Michigan," reported the *Des Moines Register*.

The House bill would have made the current Des Moines, Urbandale and West Des Moines water utilities into city departments controlled by the Des Moines City Council who would then approve spending and policy decisions. Opponents said this would make the DMWW a political football.

Efforts have already been underway to create a regional water authority. Urbandale mayor E. J. Giovannetti who sits on the Central Iowa Regional Drinking Water Commission said, "Just give us time. We'll get it done. But do not politicize the Water Works."

Iowa law already exists to allow citizens to dissolve an independent utility by a majority vote.

Lobbying and a strong public outcry stalled the bill this year, but it remains on the calendar for reconsideration in 2018.

The DMWW is expecting and preparing for another assault against the utility during the next legislative session.

IS THE NEW CAFO NUISANCE LAW CONSTITUTIONAL?

In a recent interview, attorney David E. Sykes, JFAN's legal counsel, expressed his opinion that the new CAFO nuisance law is unconstitutional on several grounds. Among other legal concerns, he says, it limits a citizen's right to "due process of law" as guaranteed to Iowa citizens by both the Iowa and U.S. Constitutions.

Sykes predicts it will only be a matter of time before this new law is challenged by an appropriate case in civil court on constitutional grounds, and in due course, appealed to the Iowa Supreme Court for a determination of its ultimate constitutionality.

Presently, Sykes and litigation co-counsel Steve Wandro and Jennifer De Kock in Des Moines have the former Iowa Right to Farm law "Iowa Code section 657.11A" on appeal before the Iowa Supreme Court. They are arguing it is unconstitutional on its face regarding a case representing local residents against a large hog CAFO in Batavia, Iowa entitled: *Honomichl et.al. valley View Swine, LLC, et al.*

Both sides have already submitted legal briefings, and as of press time, the parties were waiting for the Iowa Supreme Court to schedule oral arguments. After the oral arguments are presented, the Iowa high court will take the case under advisement and ultimately decide on the outcome with a formal ruling.

Concerned about the importance of this case, the Iowa Association of Justice also filed an Amicus Curiae Brief (commonly known as a "friend of the court" brief) on behalf of the plaintiffs.

Sykes stated the constitutional challenge to both these onerous pro-CAFO laws could have a significant impact in the future as to how CAFOs operate in Iowa. He expressed his hope that through this challenge, CAFOs will, in time, be forced by law to become "Good Neighbors" by mitigating the odor and contaminants they put into the air, land and water with cost effective mitigation technologies already available in the industry and used in other locations around the world.

LEGISLATION *continued from p. 2*

Leopold Center Defunded; Nearly Eliminated

In a move that caught many by surprise, the Iowa Legislature voted to eliminate the Leopold Center for Sustainable Agriculture in what was billed as an attempt to fix a \$118 million budget shortfall.

The Center, a national leader in sustainable agriculture and fountainhead of research on soil and water quality, regional rural food systems, and increasing farmer profits, had just celebrated its 30th anniversary, reported the April 19, 2017 *Des Moines Register*.

A groundswell of opposition, disbelief, and outrage erupted in response. "Has the Iowa Legislature lost its mind?" wrote the *Iowa State Daily*.



The Leopold Center often provided funding to help with conservation efforts.

The state's agricultural budget, which included the Leopold Center, was reduced by \$4.3 million to \$38.8 million for fiscal year 2018. Republican lawmakers said the decision to eliminate the Center was to help it meet the state's budget in the face of the revenue shortfall.

However, the Leopold Center's nearly \$2 million funding came from a \$1.5 nitrogen fertilizer tax and only \$400,000 from the

Iowa Board of Regents, reports *Civil Eats* (5/5/17). The nitrogen fertilizer tax revenues, instead, were shifted to the Iowa Nutrient Research Center at Iowa State University, which was established by the State Legislature in 2013 to "respond to the need for continued research and innovation to address Iowa's water quality needs."

Amendment 1394 was introduced in the House to protect the Leopold Center, but it failed by a vote of 52-46. Despite a strong showing of support for the Leopold Center from across Iowa – and the nation – the legislature moved ahead with eliminating the Center by a vote of 29-21 in the Senate and 58-41 in the House.

Leopold Center supporters then urged Governor Branstad to line item veto its elimination. Governor Branstad signed the original law that established the Leopold Center in 1987.

Governor Branstad did agree, and his line item veto preserved the Leopold Center, but without funding, and some of its current grants had to be cancelled. The Center was also transferred to Iowa State University's College of Agriculture and Life Sciences. Leopold Center Director Mark Rasmussen remains, but all other staff members were transferred to other ISU departments.

The Leopold Center is creating a task force to help plot the future of the Center. Research funding will have to come from gifts, donations, and grants. ISU is evaluating options to privately fund the center.

There is concern in some advocacy circles that the State Legislature may again try to eliminate the Leopold Center entirely in 2018.

LEGISLATION *continued on p. 8*

JFAN
Annual Meeting!
Thursday, October 19
ALAN GUEBERT!

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COLUMNIST OF THE
"FOOD AND FARM FILE"**



OUR ACTIVITIES AT A GLANCE:

JFAN Working Hard for You

by Diane Rosenberg
President and Executive Director

JFAN Becomes Chamber Legislative Forum Sponsor

JFAN joined this year with several area organizations and businesses to sponsor the 2017 Fairfield Area Chamber of Commerce Legislative Forum. Four monthly Saturday morning events provided an opportunity for constituents to meet with their state elected officials. JFAN became a sponsor in time for the fourth forum and has plans to do so again in 2018.

The Chamber's Legislative Forums give state representatives and senators an opportunity to update constituents on bills under consideration then answer questions from the audience. The forums were well attended this year after Chamber Executive Director Detra Dettman relocated the event to the Fairfield Public Library and opened them up to the public. In prior years, they were held as breakfasts at the Best Western for Chamber members only and attracted a limited number of people.

Time constraints prevent everyone having the ability to ask questions, but sponsors are given a chance to introduce their organization and priority in posing questions. In 2018, JFAN will welcome suggestions from supporters in formulating questions for elected officials.

New Environmental Lobby Group Looking for Members

Corporations spend a lot of time and money lobbying at the State House to help shape laws that benefit their bottom lines, often at the expense of the environment. Advocates who want to protect the environmental need to make their presence known too.

A citizen lobby group is currently forming that will lobby state and local elected officials on a range of environmental issues. The SE Iowa Environmental Lobby Group will bring together individuals who want to advocate for better legislation regarding factory farms, climate change, water quality, air quality, pesticide drift, and more.

The group will organize several Lobby

Days in Des Moines during the legislative session as well as schedule meetings with elected officials when the legislature is not in session and legislators are back at home in their districts.



Photo: Shutterstock.com/Monkey Business Images

Organizers are reaching out to JFAN and other Jefferson County organizations to invite interested supporters to join the group. It welcomes newcomers to lobbying, seasoned advocates, experts on environmental issues who can serve as consultants, and those who simply have a story to tell. Training will be provided to those just getting their feet wet in legislative outreach.

There is strength in numbers. If you have something to say and want to do it with a group of people, contact SEIowaEnvironmentalLobby@gmail.com

Several New CAFOs Proposed for Jefferson County

This spring saw several new CAFOs proposed in or around Jefferson County. In some cases, neighbors reached out to JFAN for help after receiving our information packets about the proposed construction. All the CAFOs are many miles away from Fairfield and Maharishi Vedic City, but are close to some of the other county cities. A total of nearly 4.78 million gallons of manure will be generated each year by these CAFOs and will primarily be spread in Jefferson County according to manure management plans filed with the DNR.

CAFOs Outside Jefferson County

Coppock CAFO – A 4950-head nursery hog confinement is being considered in Washington County on land owned by Chris

Boshart within Coppock limits. The city of Coppock resides at the juncture of Jefferson, Washington, and Henry Counties.

The 4950 nursery hogs equates to 495 animal units (AU), given the small size of nursery pigs. This is under the 500 AU threshold requiring DNR notification. A manure management plan and construction design statement isn't required. There will be no separation distances required from homes, businesses, and churches, although there are a few mandated for water sources and wells.

Community members reached out to JFAN for help after discovering a small legal notice in the *Washington Journal* requesting public comments for an environmental review being conducted by Farm Services Agency (FSA). An environmental review is required if government funds, such as a government-backed loan, are being requested. The review enables the agency to prepare an Environmental Assessment (EA) that provides a snapshot of potential environmental impacts.

JFAN prepared and submitted to the FSA a six-page report with several environmental concerns, and numerous community members also submitted comments. Once the FSA completes the EA, the community will have 14 days to comment. If there are significant environmental issues, the FSA could require the CAFO owners to prepare a more comprehensive and costly Environmental Impact Statement. JFAN will assist community members in their review of the EA when it becomes available.

Letters were sent to approximately 100 families within a two-mile radius of the proposed CAFO site as well as a thriving food and drink business on the Skunk River in Coppock. JFAN has met with the Coppock mayor and city council and is providing ongoing informational guidance and support to the community. City council members say nearly all residents are opposed to the confinement with many expressing concerns for their wells.

Aaron Adam – Aaron Adam proposed a 4998-head CAFO right across the street from Jefferson County on Jefferson-Keokuk Road and 330nd Street in the southeast corner of Keokuk County. Keokuk hasn't adopted the Master Matrix. This is the third CAFO for Mr. Adam; he also owns AMA Farms and AMA Farms-2 with relative Matt Adam. The CAFO will be built within two miles of 56 families. 1,574,370 gallons of manure will be pro-

duced, much of which could be spread in Jefferson County.

CAFOs within Jefferson County

5 Adam Site – In April, Troy and Amanda Adam of Richland proposed a 2400 wean to finish CAFO on 130th Street, Packwood in Black Hawk Township in a neighborhood of 49 families. Several neighbors reached out to JFAN for assistance, and we provided initial informational support. While very concerned about its impacts, the community didn't come together to oppose the CAFO. 613,200 gallons of manure will be produced.

Spencer Attwood – Bill's Home – Mr. Attwood is building a 2480-head confinement on Salina Road in Lockridge Township, within a mile of two other 2480-head CAFOs, bringing the swine population in this neighborhood to nearly 7500 hogs. JFAN alerted 76 families. This is Mr. Attwood's second confinement. 598,920 gallons of manure will be produced.

Josh Hickenbottom – An expansion to a 1200-head CAFO owned by Josh Hickenbottom on 245th Street, Batavia in Des Moines Township will increase the number of hogs at his site to 2465 in a neighborhood of 80 families. A total of 595,297 gallons of manure will be produced.

Sam Collora – Mr. Collora will be constructing a 2480-head wean to finish hog CAFO on 160th Street, Brighton in Walnut Township. The site is close to two other CAFOs each with 2400 hogs increasing the swine population to 7,280 hogs within a half-mile of each other. JFAN alerted 53 families in the area. 598,920 gallons of manure will be produced.

Buch Farms LLC – Brandon Buch proposed a 2480-head hog confinement on Columbine Boulevard, Packwood, in Polk Township. This is adjacent to his 2480-head CAFO, Just Pigs, LLC. Buch is using the LLC loophole by building his CAFO in a separate LLC name. This allows Mr. Buch to skirt the required Master Matrix, Construction Permit, and greater separation distances for larger confinements. 803,520 gallons of manure will be generated. The CAFO will be built in a neighborhood of 53 families within a two-mile radius.

Gavin Stacey CAFO - Gavin Stacey is constructing a 1200-head CAFO on Walnut Avenue in Section 3 of Lockridge Township in a neighborhood of 51 people. JFAN found out about the CAFO from concerned neighbors who called when they

In the News

2016 Report: DNR Impaired Waters List Increases Again

The Iowa Department of Natural Resources new draft impaired waters list is out, and the news isn't good. Over half of all the lakes, rivers, streams and wetlands tested are impaired, and another 22% are partially impaired, reports the Iowa DNR. Less than one quarter of all the water bodies tested meet water quality standards.

A Snapshot of 2016 Findings:

- 52% of rivers, 61% of Iowa's lakes and reservoirs, and 83% of wetlands were tested
- 750 water bodies are impaired with 1,096 impairments (some water bodies may have more than one segment impaired)
- 54.4% of water bodies are impaired
- 21.8% of water bodies are partially impaired
- Only 23.7% meet water quality standards
- 423 out of 813 stream and river impairments are caused by bacteria
- 91 out of 283 impairments of 145 lakes, reservoirs, and wetlands are impaired by algae growth
- 109 fish kills of which 43 caused by animal waste and 17 by fertilizer spills

A water body is considered impaired when it doesn't meeting water quality standards for one or more of it's intended uses, such as drinking, recreation, or an aquatic habitat.

The 750 water body impairments include both Category 4 and 5 impairments. A Category 4 impairment doesn't require a plan to reduce pollutants where a Category 5 does.

Only Category 5 impairments are included on the final Section 303(d) impaired waters list submitted to the US Environmental Protection Agency every two years. The Category 5 list for 2016

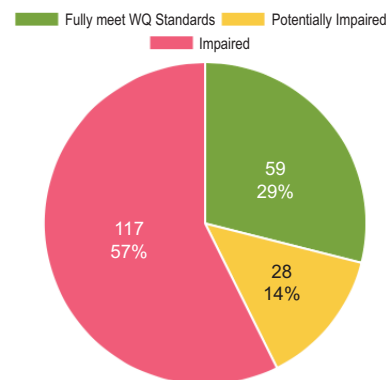
noticed construction underway.

There are no applications required for CAFOs this size, and in cases like this, neighbors are an important source of information. If you ever suspect construction in your community, contact JFAN at 641-209-6600 or jfan@lisco.com and we will investigate.

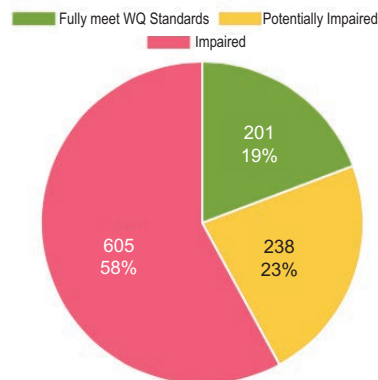
contains 608 water bodies for a total of 818 impairments.

In 2014, the numbers for combined Category 4 and 5 impairments were 736 water bodies with 1062 impairments.

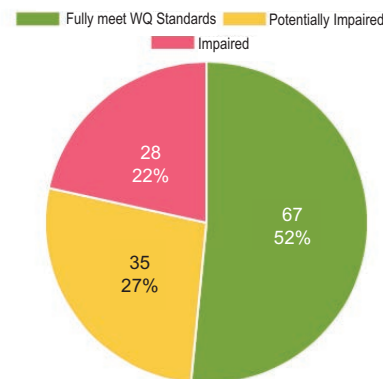
Lakes and Reservoirs 204 Assessed



Rivers and Streams 1044 Assessed



Wetlands 130 Assessed



Graphics Courtesy of the Iowa Department of Natural Resources

NEWS BRIEFS

FROM IOWA, THE US AND BEYOND

Utah Ag-Gag Repealed

Calling it a violation of First Amendment Rights, a federal judge overturned a 2012 Utah ag-gag law that prohibited filming farm and slaughterhouse facilities, reports NPR (7/8/17).

US District Judge Robert Shelby rejected defendants' claims that the law keeps animals and farm workers safe from injury or disease.



Photo: Mercy for Animals

The Animal Legal Defense Fund, PETA and Utah Animal Rights Coalition Director Ann Meyer brought the challenge against the state after Meyer was arrested while filming a sick cow being moved with heavy machinery at a Draper City slaughterhouse. She was standing on public property, and the charge was later dropped.

Shelby's ruling noted testimony by several defendants, including by State Rep. John Mathis, a sponsor of the law, that the ag-gag responded to "a trend nationally of some propaganda groups...with a stated objective of undoing animal agriculture in the United States." Another comment made by sponsor Sen. David Hinkins said, "vegetarian people that [are] trying to kill the animal industry" were the target of the law.

Judge Shelby first acknowledged the importance of the country's agricultural industry but then wrote, "Utah undoubtedly has an interest in addressing perceived threats to the state agricultural industry, and as history shows, it has a variety of constitutionally permissible tools at its disposal to do so. Suppressing broad swaths of protected speech without justification, however, is not one of them."

The Utah overturn follows a district court judge's 2015 ruling that Idaho's ag-gag was unconstitutional under the First Amendment and Equal Protection Clause. The Idaho ruling is currently on appeal.

North Carolina Also Passes Restrictive Hog Nuisance Law

Overriding Gov. Roy Cooper's veto, the North Carolina General Assembly enacted a law limiting compensatory damages in CAFO nuisance lawsuits, reports Food and Water Watch (5-15-17). The law limits damages to current property values, which are already diminished from their proximity to the CAFO.

Gov. Cooper originally vetoed the bill, saying in a statement, "The agriculture and forestry industries are vital to our economy and we should encourage them to thrive. But nuisance laws can be used to protect property rights and make changes for good." But the NC House and Senate overrode the veto 74-40 and 30-18, respectively, mostly along Republican/Democrat party lines.

Proponents of the law said lawsuits hurt the industrial hog industry. Opponents say that not only does the law unreasonably limit property rights but also unfairly affects impoverished neighborhoods and communities of color where CAFOs tend to locate.

The new law was in response to 26 federal lawsuits filed against Smithfield Foods, which was acquired by the Chinese company WH Group and is operated by Murphy-Brown, its subsidiary. "Essentially North Carolina's elected officials are doing the bidding of a Chinese-owned company at the expense of the health and quality of life of North Carolinians," writes FWW Factory Farm Coordinator Krissy Kasserman.

In the original language, the law would have applied retroactively, impacting 500 plaintiffs in the 26 lawsuits, but the final wording of the bill struck that language.

Opponents say the law will discourage neighbors suffering from odor and flies from filing lawsuits, affecting approximately 270,000 North Carolinians who live within a half-mile of a CAFO.

As in Iowa, several have questioned the constitutionality of the compensatory cap.

Additional Sources: The Progressive Pulse (5/5/17), WRAL.com (5/5/15), National Hog Farmer (5/8/17)

Hometown Newspaper Wins Pulitzer Covering Big Ag

The coveted Pulitzer Prize was awarded to a small town Iowa newspaper in Buena Vista County for its hard-hitting editorials surrounding the Des Moines Water Works lawsuit reports *The Guardian* (4/10/17). *The Storm Lake Times* is a family run news outfit with a 10-member staff owned by brothers Art and John Cullen.

The newspaper attempted to uncover the source of funding for the defendants in the DMWW lawsuit. The DMWW sued the Buena Vista, Sac and Calhoun County in March 2015 in an attempt to address nitrate pollutants flowing into the Raccoon River. The rivers are the drinking water source for a half million Des Moines area residents, and the utility was forced run a costly nitrate removal system to make the water safe to drink. (See story on page 8.)



From L to R, Tom, Art and John Cullen. Art penned the winning editorials.

Photo: Dolores Cullen

County funds to fight the lawsuit were undisclosed until the paper's dogged investigative work uncovered that Farm Bureau and Iowa Corn Growers were paying the \$1 million legal fees. The paper worked with the Iowa Freedom of Information Council to force the release of public documents. The prize was awarded for the paper's ten editorials written by Art Cullen critical of the secrecy and Iowa's failure to adequately address its water crisis.

The Pulitzer committee awarded the prize "for editorials fueled by tenacious reporting, impressive expertise and engaging writing that successfully challenged powerful corporate agricultural interests in Iowa."

To read the award-winning editorials visit: <http://bit.ly/2p3TXzt>

Jeff Co Supervisors Refuse to Consider CAFO Resolution

By Diane Rosenberg
President and Executive Director

Jefferson County Supervisors Dick Reed and Lee Dimmitt refused JFAN's request to formally consider a resolution in support of a moratorium on new and expanding CAFOs after a protracted attempt to get the resolution on their agenda for formal consideration.

A CAFO moratorium would temporarily suspend new construction until the Master Matrix was adequately repaired or water impairments were reduced to 100. It would not impact CAFOs already operating.

In March, Supervisor Dee Sandquist agreed to place a moratorium resolution on the agenda for "public discussion" purposes, but not for formal consideration. Approximately 75 people turned out with a majority in support of a resolution. Comments were taken for an hour, and an overwhelming majority were in support of the county adopting a resolution.

At the conclusion of the meeting, Reed said the supervisors needed time to digest the comments, and the resolution would be placed back on a future meeting agenda

That never happened.

In anticipation of a continued resolution discussion, JFAN embarked on an active campaign encouraging supporters to sign



petitions; write letters to the editor; and email, call, and meet with supervisors urging them to adopt a moratorium resolution.

A Postcard Party featured JFAN board members Drs. John Ikerd and Francis Thicke answering participant questions while postcards were written to supervisors. Nearly 300 postcards were sent.

Numerous letters to the editor were published, including three from JFAN. Over 1300 people signed a petition supporting a moratorium resolution for Jefferson County.

In June, JFAN approached Supervisor Dee Sandquist and asked to have the resolution placed back on the agenda. This time around, Sandquist requested we ask Supervisors Dimmitt and Reed. Dimmitt flat out refused, and Reed said he would discuss it at the next supervisor meeting with Dimmitt and Sandquist on June 26.

However Reed never did. During the public comment period JFAN reminded him of his agreement, but Reed said the

supervisors couldn't discuss the question because it wasn't on the present agenda. Six people in attendance spoke out in support, but Reed and Dimmitt refused.

During the July 10 supervisor meeting, JFAN used the public comment period to present the petition and make a formal request to have the resolution addressed at the next supervisor meeting. Fifteen people attended in support.

Reed said the board had decided on March 27 to not take up the resolution again, but when reminded of what he actually said during that earlier meeting, Reed did not dispute the correction.

Reed allowed approximately a half hour for comments then ended the session. There was no agreement to allow for a formal consideration of the resolution again.

Nine counties have already passed moratorium resolutions or written letters and another four have passed resolutions solely asking for a more stringent Master Matrix.

Supervisor Reed says he represents all Jefferson County residents. Then why refuse the request of over 1300 supporters to, at the very least, provide a thoughtful consideration of a moratorium resolution and take an up and down vote? In JFAN's opinion, this is an affront to the democratic process of fair representation.

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JFAN, Inc. • P.O. Box 811 • Fairfield, IA 52556

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☐ \$ _____

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**Thank you for all you do
to support JFAN!**

LEGISLATION *continued from p. 3*

How Did Local Legislators Vote?

House Amendment 1394 to preserve the Leopold Center:

- The late Rep. Curt Hanson voted **FOR** Amendment 1394
- Rep. David Heaton voted **AGAINST** Amendment 1394

For Senate File 510, Agricultural Appropriations Bill that Eliminated the Leopold Center:

- Sen. Mark Chelgren and Rep. David Heaton voted **FOR** SF 510.
- Sen. Rich Taylor and the late Rep. Curt Hanson voted **AGAINST** SF 510.

Water Quality Not Addressed – Pollution Trading Introduced

Two bills were introduced to address Iowa's water quality issues, but neither made it to the floor for a vote.

The House version, HF 612, proposed creating a pollution-trading program, euphemistically called a "Nutrient Exchange", as a means of addressing Iowa's quality problem. Like cap and trade programs, it would have allowed corporations and cities with financial means to fund water quality improvement efforts in exchange for their continued ability to pollute. The DNR would be responsible for regulating the program. (See "Water Pollution Trading: Paying to Pollute Our Waterways" published in the *Spring/Summer 2016 JFAN Newsletter* to learn why water pollution trading will not reduce water pollution.)

The program would have created \$7.9 million of additional costs between 2017 and 2030 to be borne by an already underfunded DNR, according to a Fiscal Services Division report. No funding sources were identified.

Additionally, HF 612, along with the Senate's version, SF 512, proposed to redirect \$232 million from the Rebuild Iowa Infrastructure Fund and \$289 million from the General Fund through a metered water tax, to pay for voluntary water quality programs. In essence, this amounts to using public money to pay farmers to address water quality problems primarily caused by farming practices in the state.

Both the House and the Senate were not able to come to an agreement on addressing water quality in 2017. It's expected to be a serious focus in the 2018 legislative session.

Iowa Flood Center Threatened

The State Legislature also eyed eliminating the Iowa Flood Center by striking \$1.5 million in state funding from the education budget, reported *The Gazette* (4/11/17).

The State Legislature established the Iowa Flood Center in 2009 in response to the 2008 floods that devastated Iowa City, Cedar Rapids and other eastern cities.

Based at the University of Iowa, the Iowa Flood Center provides real-time flood mapping allowing communities to learn how rising waters may affect them.

"Pulling the funding for that project would be short sighted. I'm kind of shocked they are even considering it," said Johns County Emergency Manager Dave Wilson in *The Gazette* article.

Losing funding would have impacted a \$96 million, five-year federal Housing and Urban Development project to learn how to address flood mitigation and improve water quality.

The Iowa Flood Center resides in the C. Maxwell Stanley Hydraulics Lab, home of the Iowa Institute of Hydraulic Research. (IIHR). The Institute has state-of-the-art nitrate sensors that provide real-time nitrate levels at 41 streams throughout Iowa.

After public outcry, an amendment to the education appropriations bill was passed restoring \$1.2 million in funding.

Because the organization and its affiliates are involved in real-time nitrate testing, environmental groups are concerned the Iowa Flood Center might once again be threatened in 2018.

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called on DNR, legislators, and Governor Reynolds for a moratorium on new and expanding factory farms and/or changes to the Master Matrix.

"In the absence of legislative leadership to protect rural communities through real local control over factory farms, the DNR must use its authority to strengthen the toothless Master Matrix process," said Wenonah Hauter, Executive Director of Food & Water Watch. "With counties and citizens across the state demanding reform of the broken Matrix process, the time is ripe for DNR to act."

Unless the Petitioners agree to an extension, DNR will have 60 days to act by either granting the petition and initiating a rulemaking or denying the petition. A denial by the DNR would be subject to review in state court.

In the News

Ruling in DMWW Lawsuit: Utility Has No Standing



A federal judge dismissed the Des Moines Water Works (DMWW) lawsuit in March saying the Iowa Legislature is the appropriate body to address the state's water quality crisis, according to a DMWW press release.

In March 2015, Des Moines Water Works' Board of Trustees filed a federal lawsuit against the Sac, Buena Vista, and Calhoun boards of supervisors in their capacities as trustees of 10 drainage districts. The complaint alleged the drainage districts are point source polluters of the Raccoon River, as defined by the Clean Water Act and the Iowa Code. It demanded the drainage districts take all necessary actions to comply with the Clean Water Act (CWA).

The DMWW also demanded monetary damages equal to the harm the drainage districts caused by their unlawful discharge of nitrate. The utility was forced to use its expensive denitrification system to make drinking water safe for 500,000 customers at a cost of \$1.5 million in 2015 alone.

The ruling by Judge Leonard Strand said the drainage districts have no authority to compensate the DMWW for harm; therefore the utility has no standing to sue the drainage districts. As a result, the court didn't address whether agricultural drainage tile is considered a "point source," i.e., an identifiable source of pollution. Had it been ruled a point source, CWA protections could have regulated water coming from the tiles. Currently, agricultural runoff is considered a non-point source, exempt under the CWA.

The DMWW Board of Trustees unanimously decided not to appeal the decision at a board meeting, reports *The Des Moines Register* (4/11/17).