

***COMPLAINT CONCERNING ANIMAL WELFARE AND
VIOLATIONS OF EXISTING OHIO ADMINISTRATIVE CODE***

Submitted to:
Livestock Care Standards Board via
Ohio Department of Agriculture
Division of Animal Health
8995 East Main Street
Reynoldsburg, OH 43068-3399

CC: Electronically transmitted to each member of the Livestock Care Standards Board at the email addresses provided by the ODA

Submitted by:
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March 9, 2022

Complaint Re: Fairfield Pork, Wood County, Ohio, and related matters

Attached as a report on this facility and an examination of related matters to animal welfare and the history of animal welfare concerns in Ohio. The complaint is supported by appendices, which can be found listed on Page 32.

It is my intention that all documents are to be made a part of this complaint.

In addition to filing this complaint, with the Ohio Department of Agriculture Livestock Care Standards Board, I am forwarding the complaint, along with specific recommendations to the Ohio General Assembly to improve the conditions for livestock animal welfare in state law.

Signed: _____ **Date** _____

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Executive Summary

I am a resident of the State of Ohio and submit this complaint for these reasons:

There is a violation in law concerning the welfare of sows, gilts and piglets being housed on a medium Concentrated Animal Feeding Operation (CAFO) known as Fairfield Pork, Inc. 2988 Custar Road, Deshler, Wood County, Ohio, a gestation and farrowing facility which claims to house 2,100 to 2,200 breeding sows at a time, and 2,400 animals in total.

This medium CAFO was constructed in 2016 to house breeding/gestating sows in gestation stalls, which is some five years after the effective date of Ohio Administrative Code 901:12-8-02 (G)(4) and (5), which prohibits the use of the gestation stalls of the type present in the facility. The facility was not constructed to meet legal requirements.

I further make this complaint due to the likely additional abuses those 2,400 Fairfield Pork animals suffer directly caused by the illegal use of gestation stalls, including:

1. Being forced into unnatural behaviors and environments such as lying, feeding and sleeping while in animal waste; inability for each to lie fully recumbent on their sides with limbs fully extended or to turn or perform other natural physical movements at will;
2. Being deprived of means to perform instinctual behaviors such as avoidance of common waste areas; wallowing, rooting, nesting, caring for their young, and building social hierarchies—each of these behaviors found when sows are bred in natural settings;
3. Being deprived of any and all enrichment activities which animal behaviorists conclusively recommend for sows in confinement;
4. Developing abnormal behaviors, such as sham or vacuum chewing, bar biting, and aggression toward other animals;
5. Being subjected to painful procedures to satisfy the demands of confinement rather than the health and welfare of the animals such as castration, tail-docking, ear-notching and teeth-clipping, each likely without anesthetics, as is common in industry practices known as “processing.”

I further make this complaint due to apparent violations in existing law and regulations regarding the responsibilities of the Ohio Department of Agriculture to monitor the operations of both CAFOs and of Concentrated Animal Feeding Facilities (CAFFs).

I further make this complaint due to an entirely inadequate body of regulations under the authority, direction and control of the Ohio Department of Agriculture Director as they apply to livestock welfare, notably as compared to the extensive and specific regulations created under the same authority for the welfare of other animal species, specifically dog breeding facilities. Surely, the Livestock Care Standards Board and the Ohio General Assembly regard the animals raised for food production to be no less living, conscious, feeling or important than those kept as pets in our homes. The deficiency of Ohio’s regulations and statutes regarding CAFOs and CAFFs allows the very conditions Fairfield Pork animals suffer to continue.

It appears that the Livestock Care Standards Board is not doing the job with which it is tasked, instead being created at the behest of and for the interests of industrial agriculture, not for the interests of animal welfare and Ohio citizens.

Without a doubt, Fairfield Pork and other livestock animals are equally suffering across the state.

Relevant history, authorities, laws and regulations

In 2009, with rising public demand to improve the treatment of farm animals, Ohio's General Assembly responded by placing on that year's ballot a constitutional amendment to create the Livestock Care Standards Board. The legislation was developed and endorsed by the Ohio Farm Bureau and its allies. The *Cincinnati Enquirer* accurately reported what was really going on:¹

“The Farm Bureau-developed amendment is an attempt to thwart a potential 2010 ballot proposal by the U.S. Humane Society, which could seek to ban tight confines for pigs, chickens, veal calves and other livestock.”

To keep that from happening, the Ohio Farm Bureau PAC, with contributions totaling \$5.5 million—much from Ohio's industrial agribusinesses, out-of-state corporations and factory farm lobbies²—succeeded in getting almost two-thirds of Ohio voters to support the 2009 amendment. No doubt most of these voters believed they were improving living conditions for farm animals.

The following year, a Humane Society/citizen initiative did indeed materialize and more than 500,000 Ohioans signed petitions for a second Constitutional Amendment, which would have created specific requirements for the LCSB to: 1) establish minimum humane standards within six years; 2) require housing large enough to allow animals to stand, turn around, lie down and freely extend their limbs; 3) require that cows and pigs be killed in a humane manner and not by strangulation; and 4) prohibit the transporting and processing for human consumption of cows and calves too sick or injured to stand or walk.³

But just as the signatures were about to be submitted, a “last-minute compromise was hammered out by Gov. Ted Strickland, the Humane Society of the United States, other animal welfare groups, and the Farm Bureau.” An editorial by *The Blade* prophetically opined:⁴

Faced with the prospect of a ballot issue in November that would have set considerably more-humane standards for the care of farm animals, the Ohio Farm Bureau blinked. Unfortunately, that blink will appear more like a wink to chickens and hogs that will continue to live in unbearable conditions in Ohio's factory farms...But it will be up to [animal welfare groups] to make sure [the Governor], the legislature, the Farm Bureau, and the standards board live up to their end of the bargain.

Since then, the intent of Ohio's voters and concerns for animal welfare obviously have not resulted in meaningful improvements. The examples of Fairfield Pork (and a second “identical” Kalmbach Swine Management facility) demonstrate that there is clear lack of oversight of animal feeding facilities which violate the very rules promulgated by the LCSB.

¹ Jim Siegel. “Even easy bills tough to pass.” *The Cincinnati Enquirer*. Jul 7, 2009. Accessed 22 Jan 2022.

² Campaign Finance. “Political Action Committee Files – File Transfer Page – PAC Contributions - 2009.” *Ohio Secretary of State Frank LaRose*.

https://www6.ohiosos.gov/ords/f?p=CFDISCLOSURE:73::NEW:NO:RP:P9_TYPE:NEW. Accessed 11 Jan 2022.

³ Livestock Board Amendment. “Constitution Amendment: Amends Article XIV.” *Certified by Ohio Attorney General*. February 5, 2010. <https://www.ohioattorneygeneral.gov/getattachment/63be15ee-4321-4b4f-8f81-6ec071f93c3d/Livestock-Board-Amendment.aspx>. Accessed 22 Jan 2022.

⁴ Blade Opinion. “Dealing on animal care.” *The Blade*. July 3, 2010. Accessed at Newsbank via the Toledo-Lucas County Public Library, 22 Jan 2022.

The 2016 construction of the Fairfield Pork facility in Deshler, Ohio—one of two “identical” facilities according to its Swine Manager—violated the rules of the LCSB by building entire facilities using confinement gestation stalls for pregnant sows. Apparently, these facilities were built, and they continue to operate, with no Ohio Department of Agriculture (ODA) oversight or inspection for compliance with animal welfare protocols.

Thus, these facilities validate the criticisms of those who early on predicted the Board would be captured by the very interests it is supposed to regulate. Those predictions—now realized—were voiced by those who desired animal welfare laws, yet opposed the process, the politics and the member-composition which created the Livestock Care Standards Board.

The question must be asked: How many animal feeding facilities in Ohio are operating with impunity while violating the state’s animal welfare rules, despite that those rules are minimal—especially as compared to the rules for other animals’ protections, such as laws and rules which govern high volume dog breeders? **Is the LCSB in place to protect the welfare of animals or to protect the interests only of the producers?**

Superficially, it may appear that animal welfare was the intended goal of Ohio’s Constitutional Amendment creating the LCSB. But others, through expert and critical analysis have arrived at other opinions.

For example, Lindsay Vick, now a practicing attorney for the U.S. Department of Justice, wrote an influential and heavily-sourced analysis of Ohio’s law as a lengthy “Comment,” which was published in *Animal Law Review* titled “Confined to a Process: The Preemptive Strike of Livestock Care Standards Boards in Farm Animal Welfare Regulations.”⁵ (Appendix 1)

Several excerpts from Vick’s analysis include:

In recent years, livestock care standards boards have emerged as an innovative way for state agencies to regulate farm animal welfare. Far from improving farm animal welfare, however, these boards are frequently a way to codify existing industry standards.

This Comment maintains that the Ohio Livestock Care Standards Board regulations merely codify the existing status quo on Ohio factory farms rather than improving the health and welfare of animals.

The Ohio Livestock Care Standards Board was the first livestock care standards board enacted in the U.S. The OLCSB has served as model legislation for other states.

In 2009, Ohio amended the Ohio Constitution, creating the OLCSB. Agribusiness advocates and the former Governor of Ohio, Ted Strickland, supported the measure, which was known as Issue 2. Purportedly, the OLCSB’s purpose is to establish standards ‘governing the care and well-being of livestock and poultry’ in the state, but the Issue 2 campaign revealed an underlying purpose behind the OLCSB. The crucial purpose of the board is to ‘preempt attempts by groups outside the state to impose standards on livestock and poultry production in the state.’

⁵ Lindsay Vick. “The Preemptive Strike of Livestock Care Standards Boards in Farm Animal Welfare Regulations.” *Animal Law Review*, Lewis & Clark Law School. 2011. https://www.animallaw.info/sites/default/files/lralvol18_1_p151.pdf. Accessed 2 Jan 2022.

Among a wealth of sourced references in the previous citation, Vick footnotes an October 18, 2009, *Crescent-News* article from Defiance, Ohio, titled, “Issue 2 touted as a High Stakes, Pre-emptive Strike.” A state official is quoted as supporting the creation of the Board, saying ‘...we don’t want out-of-state activists telling Ohio farmers how to care for their animals.’ Follow-up research with the *Crescent-News* identifies the speaker as Roy Norman, Senior Organization Director for Ohio Farm Bureau Federation for Defiance, Fulton, Henry and Williams counties. Ohio Farm Bureau Federation is a lobbying organization, registered at Ohio’s Joint Legislative Ethics Committee.⁶

Vick continues:

On its face, Ohio’s amendment appears benign. However, most of the OLCSB’s members represent the agriculture industry, which is interested in ‘healthy’ animals, but not necessarily in those animals’ welfare or behavioral needs. The inclusion on the board of one member of a local humane society is an accommodating gesture; however, local humane societies usually do not work with farm animals, instead focusing on dogs, cats, and pet adoption.

Since its inception, the composition and special interests of the Board which Vick describes is specifically relevant to the nature of this complaint. That is because either:

- 1) Fairfield Pork—the subject of this complaint, whose parent company, Kalmbach Feeds, Inc. is deeply involved and enriched in Ohio’s agriculture industry—flouted the rules regarding the elimination of gestation stalls for breeding sows in new construction after 2011, and continues unimpeded to confine sows in them today in at least 2 facilities; or
- 2) The LCSB never supported a serious intent towards the elimination of gestation stalls or other welfare protocols, by failing to create the oversight and penalty structures for those who violated the rules, including Fairfield Pork and its “identical” sister facility.

After citing the specific standard that was created by the Ohio LCSB in the matter of sow gestation stalls or crates—which grandfathered existing stalls through 2025 while prohibiting their use in new construction—Vick continues, stating it:

...is a vague standard that is potentially difficult to enforce. Because gestation crates are still allowed on farms, inspectors may not be able to determine if sows are kept in the crates only post weaning and for confirmation of pregnancy. Overall, the OLCSB standard phasing out gestation crates is a positive change for farm animal welfare, but this single change is not enough. Further the other OLCSB standards do not implement changes that are so positive.

With regards to enforcement and accountability, in LCSB public meetings, even members of the founding Board expressed serious doubt that the first regulations they were about to codify would hold accountable any factory farm operators who violated the regulations. According to the report *Sentient Cincinnati*, filed after attending LCSB meetings to monitor the process:⁷

⁶ Ohio Lobbying Activity Center. “Ohio Farm Bureau Federation. Lobbyist Forms Filed.” *Joint Legislative Ethics Committee*. <https://www2.jlec-olig.state.oh.us/olac/Reports/FormsFiled.aspx?id=234&type=e>. Accessed 4 Jan 2022.

⁷ Sentient Cincinnati. “Livestock Care Standards Advance Without Enforcement Plan.” *Sentient Cincinnati: Independent news on the human-animal community*. April 25, 2011. <https://sentientcincinnati.com/2011/04/25/livestock-care-standards-advance-without-enforcement-plan/#more-1093> Accessed 19 Jan 2022.

But as the whittled rules move forward, no structure exists to enforce them. While board members discussed plans to educate livestock producers on the new rules, [LCSB member] Dominic Marchese voiced a worry that farmers would be told, ‘Do what you’re doing, and you’ll only be in violation if there’s a complaint. I don’t want to go there,’ said Marchese, an organic beef producer from Trumbull County who said board members had murmured about this possibility...But however the new rules may be presented to farmers, there is no system in place to monitor their compliance...no one has been tasked with looking for them.

Fairfield Pork was built using gestation stalls for pregnant sows and that operation has continued since 2016, validating every concern that members of the Board, the public, editorial writers and animal welfare advocates have voiced in Ohio since the beginning.

Does Livestock Care Standards Board fulfill the role of true livestock care?

Furthering public doubt about the intentions and impartiality of the LCSB, regulations for animal welfare on factory farms have remained static since the Board’s inception in 2011 with only minor amendments:⁸

Number of LCSB rules governing livestock welfare first codified by ODA in 2011	54	100%
Number of unchanged rules since September 29, 2011	48	89%
Number of rules amended on March 28, 2013	4	7%
Number of rules amended on February 12, 2018	1	2%
Number of rules amended on May 20, 2021	1	2%

What should have been only the beginning of protecting animal welfare in Ohio seems to be the end under the current system.

In 2016, the ODA was required to perform a 5-year review of the regulations created in 2011 for Livestock Care Standards. At the end of 2015, the American Society for the Prevention of Cruelty to Animals (ASPCA) had submitted comments regarding proposed changes to the rules.

Beyond the 5-year review process, Ohio’s regulatory agencies are also required to subject regulations to the “Common Sense Initiative” process. That process has the stated purpose “to balance the critical objectives of all regulations with the **cost of compliance by the regulated parties.**”⁹ [Emphasis added. Full report attached as Appendix 2.]

In completing the required CSI report, the ODA stated that when conducting the 5-Year Review of the Standards in 2016, those consulted to review the regulations were not merely the ODA and

⁸ Legislative Services Commission. “Livestock Care Standards Board.” *Ohio Administrative Code*. <https://codes.ohio.gov/ohio-administrative-code/901:12>. Accessed 23 Sep 2021.

⁹ Common Sense Initiative. “Livestock Care Standards.” *Ohio Department of Agriculture*. May 11, 2017. <https://www.registerofohio.state.oh.us/servlet/RooBusinessPDF?ruleActionId=522873&docTypeId=14>. Accessed 20 Feb 2022.

the LCSB, but also “the regulated community”—the very operators which the ODA and the LCSB should be charged with overseeing, monitoring and inspecting.

It seems highly unlikely that “the regulated community” in these matters would be advocates for any measure which might increase their “cost of compliance,” no matter if the ASPCA was bringing forward valid concerns for animal welfare or recommendations to improve the existing standards to protect those same animals.

The CSI Report dated May 11, 2017, stated the outcome for the ASPCA concerns:

On December 16, 2016, the members of the OLCSB were asked if they wished to discuss the comments proposed by ASPCA. The members voted to not incorporate any of the changes requested. Further, the members voted to approve the rules as requiring no changes for the purposes of five year rule review. For those reasons, there have been no changes submitted to these rules.

In addition to members of “the regulated community” who were consulted, the prescribed membership roster of the 2016 LCSB, enumerated in the CSI report, gave a very misleading impression that the Board was not heavily dominated by factory farming owners and operators. In fact, the exact opposite is true. Resumes of the members, along with internet keyword searches, social media posts, and archived media reports reveal instead the true interests of the following Board members:

◇ ***Designated as a “Consumer” on the 2016 LCSB—Bryan Black***

Instead—Owner and operator of Ned Black & Sons LLC. Producer of 1,600 finisher hogs per year and oversees contract finishers. Became Production Supervisor for Kalmbach Swine Management in 2008. Past president of the Ohio Pork Council, board member and past president of the National Pork Producers Council and recognized with the Ohio Pork Industry Excellence Award in 2011 for his “tremendous contributions representing Ohio’s pork industry.” Had chaired the original LCSB swine sub-committee which wrote the swine regulations.

◇ ***Designated as Ohio Senate appointed “Family Farmer”—William Knapke***

Instead—Environmental Manager for Cooper Farms since 1996. In 2014, Cooper Farms reportedly marketed 400,000 hogs annually (increased to 550,000 hogs in 2015). Cooper Farms also produces turkeys and chickens. When Knapke was asked in 2014 what he considered to be the major issue facing the pork industry, he replied in part: “Sow housing...defending attacks from HSUS and similar organizations.” Also in 2014, he was president-elect of the Ohio Pork Producers Board and had served on the National Pork Producers Council.

◇ ***Designated as a “Family Farmer” to the 2016 LCSB—Terrence Stammen***

Instead—Owner of Wabash-Way Holsteins. In 2018, Wabash-Way had 420 milking cattle and 400 heifers on 450 acres in Darke County, up from 100 registered Holsteins in 2008. Also markets Holstein embryos to the UK, Japan, France, Italy, Argentina, Holland and Germany. Member of boards for Ohio Dairy Producer Association and Ohio Holstein Association.

◇ ***Designated as Ohio House appointed “Family Farmer” to the 2016 LCSB—John Surber***

Instead—Owner of Surber Farms now with multiple hog barns in at least four Ohio counties. In 2012, they were producing over 60,000 hogs per year and operations have grown since. Also

owner of a feed manufacturing plant under the name of Premier Feeds, and owner of Feed the World LLC, a world-wide animal exporting operation for pigs and cattle.

Further slanting the Board's perspective that year were the two designated "Statewide Farm Organization" members, Cy Prettyman and Jerry Lahmers. Respectively, they are owners and operators of Prettyman Farms, a direct-to-consumer beef operation, and Lahmer's cow-calf pairs and feedlot operation. Both have achieved high level positions on the OFB Board including Lahmers (president) and Prettyman (vice-president), along with key positions in other agricultural special interest organizations and corporations over many years. (In a vote in 2011 which was later rescinded, Lahmers had voted to keep veal calves in non-turn-around stalls along with several other members of the Board at that time.)

These appointments gave factory farmers at least six LCSB member positions in 2016.

During this time, other problematic members of the Board with deep ties to industrial agriculture were:

David Daniels, ODA Director, who in 2018 was unceremoniously fired by Governor John Kasich. According to media reports, he was "let go because of his prolonged and active opposition to the governor's efforts to improve Lake Erie water quality" resisting Kasich's "controversial executive order allowing the [ODA] to impose new rules on farmers to limit fertilizer runoff that contributes to the toxic blooms in Lake Erie."¹⁰

My family and I lived through the 2014 Toledo water crisis. Neither Kasich nor Daniels were willing to take the necessary steps to stop polluting the Lake and to declare it impaired. We know that runoff upstream from the manure and fertilizer produced and spread by factory farm operators is why those of us downstream still suffer in greater threats to and staggering cost increases for our drinking water supply.

Lisa Hamler-Fugitt was the second LCSB "Consumer" appointment to the Board. She was not what many would consider a typical "consumer," but instead was Executive Director of the Ohio Association of Second Harvest Foodbanks and a lobbyist. According to media reports from 2009, after they publicly endorsed Issue 2, the Ohio Association of Second Harvest Food Banks received substantial meat donations from factory farms, including Kalmbach Swine Management, Heimerl Farms, Maken Bacon Farm and Hord Livestock. (Like Lahmers, Hamler-Fugitt had also voted in favor of non-turn-around stalls for veal calves in 2011 before that decision was revisited and overturned later.)

In Ohio Revised Code 904.02 which enabled the LCSB to form, it states:¹¹

(D) The board shall hold at least three regular meetings each year and may hold additional meetings at times that the chairperson or a majority of the board members considers appropriate. **At the three regular meetings held by the board each year, the board shall conduct a review of the rules governing the care and well-being of livestock** that have been or are proposed to be adopted under section 904.03 of the

¹⁰ Jeremy Pelzer. "Ohio Department of Agriculture director fired for opposing Kasich's algal-bloom policies." *Cleveland.com*. Oct. 19, 2018, updated Jan. 29, 2019.

https://www.cleveland.com/open/2018/10/ohio_department_of_agriculture_1.html. Accessed 20 Feb 2022.

¹¹ Legislative Services Commission. "Section 904.02 Ohio livestock care standards board created." *Ohio Revised Code*. Effective March 31, 2010. <https://codes.ohio.gov/ohio-revised-code/section-904.02>. Accessed 15 Feb 2022.

Revised Code... A majority of the board constitutes a quorum. **The board may act only if a quorum is present and only by majority vote of that quorum.** [Emphasis added]

Documentation received as a part of a recent public records request to the ODA reveals an apparent inattention by LCSB members to take seriously their charge. Attached as Appendix 3 is a meetings' attendance matrix for the Board between March 2014 and November 2017, where three meetings were held each year. Although incomplete for all meetings from 2010 through 2021, the matrix provides a demonstration of the possible lack of seriousness with which the Board takes its charge.

During the period 2014 through 2017:

- Member Bruce McPheron attended 2 out of 10 meetings in three years.
- Member Terrance Stammen attended 4 out of 8 meetings in two and two-thirds years.
- Member Lisa Hamler-Fugit attended 5 out of 10 meetings in three and one-third years.
- Member Jeff LeJeune attended 7 out of 12 meetings in four years, missing 5 meetings in a row from 2016 through 2017.
- Members William Knapke and Ryan Zimmerman each attended 8 out of 12 meetings in four years.

The records returned in response to the public records request are being further analyzed. However, from preliminary review, it appears that quorum may be difficult to achieve at meetings and that vacancies on the Board are not filled promptly, adding further suspicion that the Board's actions are no more than what Lindsey Vick wrote in 2011: "This Comment maintains that the Ohio Livestock Care Standards Board regulations merely codify the existing status quo on Ohio factory farms rather than improving the health and welfare of animals."

Sow housing recommendations of American Veterinary Medical Assoc.: LCSB required consideration

According to ODA itself:¹²

In November 2009 Ohioans overwhelmingly passed State Issue 2, a constitutional amendment requiring that the State of Ohio establish comprehensive livestock care standards. Since then the Ohio Livestock Care Standards Board was created to obtain public input and recommend guidelines for the Ohio Department of Agriculture to adopt as rules under the authority of the Director of Agriculture and State Veterinarian.

As stated in Section [904.03 \(A\) of Ohio Revised Code](#), effective March 31, 2010, the task of the Ohio LCSB:¹³

¹² Animal Health Division. "Livestock Care Standards: History." *Ohio Department of Agriculture*. <https://agri.ohio.gov/wps/portal/gov/oda/divisions/animal-health/livestock-care-standards>. Accessed 23 Sep 2021.

¹³ Legislative Services Commission. "Section 904.03 Factors to be considered in adopting rules governing care and well-being of livestock." *Ohio Revised Code*. Effective March 31, 2010. <https://codes.ohio.gov/ohio-revised-code/section-904.03>. Accessed 23 Sep 2021.

...shall adopt rules in accordance with Chapter 119 of the Revised Code governing the care and well-being of livestock in this state. In adopting those rules, the board shall consider the following factors:

- (7) Generally accepted veterinary medical practices, livestock practice standards, and ethical standards established by the American veterinary medical association.

It should not be lost on the reader that the Ohio statute which created the LCSB charged the Board with adopting rules with consideration of the **“ethical standards established by the American veterinary medical association.”**

According to the American Veterinary Medical Association’s [“Welfare Implication of Gestation Sow Housing,”](#)¹⁴—a peer-reviewed summary primarily of scientific literature—after a discussion of the “pros and cons” of each type of typical housing for gestating sows, this chart summarized their expert findings.

Indicators	Stall	Group Pen		Free Range
Environmental Noise and ammonia				
Exposure to climate				
Exposure to predators				
Exposure to parasites				
Sow’s access to food ration		Non-Competitive	Competitive	
Productivity				
Sow Lameness				If pasture quality is protected
Sow Mobility				
Injuries	Depends on stall width; abrasions, ulcers	Lacerations		
Sow Behavioral Diversity				
Foraging Opportunities				
Inter-Sow Aggression		Non-Competitive	Competitive	

*Non-Competitive= Electronic sow feeder, free-access stall
Competitive= trickle feeding, floor feeding, non-gated feeding stalls*

Good	Some Risk	Increased Risk	Poor	Insuff. Data
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Clearly, in comparing the housing options for

gestating sows, 7 of 12 Indicators for gestation “Stall” housing come with risks to the welfare of animals, ranging from “Poor” to “Some Risk.” Further, only the gestation “Stall” option for sow housing has three Indicators classified as “Poor.” No other option for gestation housing has this objectionable of a record according to professional veterinarians with the American Veterinary Medical Association and **whose standards must be considered as required by statute** for creating regulations to govern Ohio animal welfare.

Consistently since its inception, at least one member of the LCSB, including the long-term vice chair and former State Veterinarian, also has been a member of the American Veterinary Medical Association. At times, additional LCSB members were members of the AVMA. Therefore, the Board had a ready resource to answer any question of what the AVMA regarded as safe housing for sows.

For this and other reasons, it is presumed that the LCSB immediately agreed at its first meetings beginning in March 2010 that stall gestation was not in the best interests for the care and welfare of sows. The Board wrote the regulations approved by the ODA and effective September 29, 2011, to eventually eliminate stall gestation except for very limited circumstances. And that

¹⁴ Animal Welfare Division. “Welfare Implications of Gestation Sow Housing.” *American Veterinary Medical Association*. November 19, 2015. <https://www.avma.org/resources-tools/literature-reviews/welfare-implications-gestation-sow-housing>. Accessed 25 Sep 2021.

“eventual elimination”—still allowing more than 14 years of continued use of gestation stalls in existing facilities—is a stark statement by the LCSB in a lack of regard for sow welfare.

Rule 901:12-8-02 Management¹⁵

(B) All swine housing systems must:

(4) Allow sows and boars in stalls or pens to do each of the following:

(a) Lie down fully on its side in full lateral recumbency without the head having to rest on a raised feeder and have the rear quarters coming in contact with the back of the stall or pen at the same time; and,

(b) Stand without the back touching the top of the stall or pen.

(G) Indoor housing systems for breeding, gestating sows and gilts must meet the following conditions:

(4) Gestation stalls can be used in all existing facilities until December 31, 2025; after which breeding/gestation stalls can only be used post weaning for a period of time that seeks to maximize embryonic welfare and allows for the confirmation of pregnancy;

(5) **After the effective date of this rule, any new construction designed to house breeding/gestating sows, including new construction on an existing facility, must not utilize gestation stalls,** except to allow sows to be housed in breeding/gestation stalls for a period of time that seeks to maximize embryonic welfare and allows for the confirmation of pregnancy. [Emphasis added]

Further, ODA’s “[Livestock Care Standards for Swine](#)” restates those rules in laymen’s terms:¹⁶

Housing Transition

Ohio’s livestock care standards require that anyone raising swine in the State of Ohio transition to employing group housing methods for pregnant sows (after they are confirmed pregnant) by December 31, 2025. When employing this method, mixing of animals must be done in a manner which minimizes aggression and the risk of injury...Gestation stalls for pregnant sows can be used in all **existing facilities** until December 31, 2025. **An existing facility is defined as any building or structure that currently house swine (utilizing any housing system) as of September 29, 2011...After September 11, 2011, any new construction, or new construction on an existing facility, cannot use breeding/gestation stalls except to house sows to maximize embryonic welfare and allow for the confirmation of pregnancy.** [Emphasis added]

There is no ambiguity in this language. After September 11, 2011, no one was permitted to construct a new facility or add new construction to an existing facility using gestation stalls as

¹⁵ Legislative Services Commission. “Rule 901:12-8-01 Management.” *Ohio Administrative Code*. Effective September 29, 2011. <https://codes.ohio.gov/ohio-administrative-code/rule-901:12-8-02>. Accessed 25 Sep 2021.

¹⁶ Division of Animal Health. “Livestock Care Standards for Swine.” Page 4. *Ohio Department of Agriculture*. Pub. August 15, 2011. <https://ocj.com/wp-content/uploads/2011/09/OLCS-Swine-Final.pdf>. Accessed 26 Sep 2021.

overall housing for pregnant sows. **Fairfield Pork (and another “identical” sow feeding operation owned by Kalmbach Feeds) did it anyway.**

Fairfield Pork, Inc., Deshler, Ohio

A livestream video, “[Virtual Field Trip to an Ohio Pig Farm for Middle/High School Students](#),” produced by the Ohio Pork Council, was livestreamed to classrooms on May 13, 2021.¹⁷

The livestream begins at 2:44 with a speaker from the office of the Ohio Pork Council. An interactive video tour of the Fairfield Pork gestation barn begins at 3:30 and ends at 27:02. Later, at 43:47, video at Fairfield Pork resumes inside their office, with demonstrations of workers’ procedures—for example shower-in/shower-out facilities—and other information about the facility. (Screenshots from this video are included with this complaint as Appendix 4.)

This facility is a sow gestation operation for Kalmbach Feeds Inc. (See more on Kalmbach, beginning on Page 23.) Bill Trythall, Kalmbach’s Sow Production Manager, states in the video he is at Fairfield Pork, ^(4:11) “about halfway between Bowling Green and Findlay.” ^(4:20) Trythall states that Fairfield “is a 2,400-head sow farm.” ^(4:14) That number of animals confined in this facility directs that it is not subject to ODA environmental permitting and regulatory controls, permitting which is required of CAFOs housing over 2,500 swine (or over 10,000 swine for weights between 15 and 55 lbs.)

Fairfield Pork’s entire gestation barn, built as new construction in 2016,¹⁸ is comprised of gestation stalls segregated by groups into pen areas. After repeated viewing of the video, it is estimated that 22-24 gestation stalls are grouped into the pen area which Trythall features. It appears that adjacent pens each contain a similar number of stalls and animals.

Statements made and observations about Fairfield Pork from the video

Trythall: “These sows are probably about 50 days bred right now...We ultrasound all of our animals.” ^(6:12)

Therefore, it is clear that pregnancy is already confirmed for their sows. Yet those sows are still being confined in gestation stalls, such that there is no applicable exception for their use found in OAC 901:12-8-02 (G) (4) and (5) as cited above.

Trythall: “These animals, oh they probably weigh between five- and six-hundred pounds. These are fully mature adult sows. These sows will gestate here for about 112 days.” ^(7:49) ¹⁹

¹⁷ Ohio Pork Council. “LIVE Virtual Field Trip to an Ohio Pig Farm for Middle/High School Students.” *Ohio Pork YouTube Channel*. <https://www.youtube.com/watch?v=LGFyGvroc6A&t=1622s>. Accessed 1 Aug 2021. Note: All superscript time stamps throughout this complaint, indicated as ^(0:00), are taken directly from this livestream video.

¹⁸ Auditor Matthew Oestreich. “McKinley Land Development Parcel G24-309-280000007002.” *Wood County, OH*. <https://beacon.schneidercorp.com/Application.aspx?AppID=1075&LayerID=26134&PageTypeID=4&PageID=10596&Q=1054758426&KeyValue=G24-309-280000007002#>. Accessed 27 Sep 2021. Note: See Page 23 of this complaint for a detailed discussion of the relationships between Fairfield Pork, McKinley Land Development and Kalmbach Swine Management.

¹⁹ To correspond to subsequent metric references in this complaint, the metric conversion for the size of the sows the Swine Manager is featuring is 226.8 kg to 272.2 kg.

As discussed in the section of this complaint on Page 23, Kalmbach’s division known as McKinley Land Development constructed this facility in 2016 (see footnote 18 for link to county auditor’s record), and Trythall boasts with considerable praise about it:

Trythall: “This sow farm is really cool that we’re in today. It’s got all the bells and whistles. Lots of technology.” (4:34)

Trythall: “This farm has all the bells and whistles. I always call it the Star Trek farm.” (14:18)

Trythall: “These are Vissing easy access stalls.” (6:41)

It is unknown if the currently available Vissing Agro “[free access stall](#)” is identical to that used in Fairfield Pork’s construction in 2016,²⁰ although for the current product, Vissing Agro states: “the original design has been maintained.” After examining Vissing’s website materials, the gestation stalls constructed at Fairfield Pork in 2016 and demonstrated in the video on May 13, 2021, appear to be substantially identical in size to the stalls Vissing Agro markets. (Current Vissing Agro product brochure with specifications is attached as Appendix 5.)

Vissing Agro, a Danish corporation, markets a singular gestation stall with dimensions that can be configured with slight differences for length and width. From their product brochure, the current “free access stalls” have these specifications (conversations added):

	Vissing specification	Metric conversion	U.S. conversion to nearest hundredth	U.S. conversion to nearest 1/8 in
Height	100 cm	1.00 m	39.37 in	39-3/8 in
Widths	60 cm	.60 m	23.62 in	23-5/8 in
	65 cm	.65 m	25.59 in	25-5/8 in
	70 cm	.70 m	27.56 in	27-1/2 in
	75 cm	.75 m	29.53 in	29-1/2 in
Length incl. trough Model L	240 cm	2.40 m	94.49 in	94-1/2 in
Length incl. trough Model XL	250 cm	2.50 m	98.43 in	98-3/8”

Therefore, at its smallest dimensions, the volume of a Vissing gestation stall measures 50.85 ft³ (1.44 m³). At its largest dimensions, the volume of a Vissing gestation stall measures 66.22 ft³ (1.875 m³). See table on Page 14 which demonstrates the insufficiency of these stalls for gestating sows.

A January 2021 study entitled “[Static and Dynamic Space Usage of Late-Gestation Sows](#),” commissioned by the American Society of Agricultural and Biological Engineers (ASABE), (Appendix 6) states the following on Page 151:²¹

²⁰ Vissing Agro. “Free Access Stall.” https://vissingagro.dk/wp-content/uploads/2021/05/EN_VA-AEdehvileboks_050521.pdf. Accessed 21 Aug 2021.

²¹ S. M. Leonard et al. “Static and Dynamic Space Usage of Late Gestation Sows.” *American Society of Agricultural and Biological Engineers*, Vol. 64(1), pp 151-159. March 11, 2020. <https://elibrary.asabe.org/abstract.asp?AID=51978&t=3&dabs=Y&redir=&redirType=>. Accessed 25 Sep 2021.

Space allocation in breeding, gestating, and farrowing sow housing is an important economic and animal welfare issue for commercial swine producers. Excess space per animal increases barn construction, equipment, and maintenance costs; conversely, inadequate space per animal can lead to reduced sow welfare, development of sores, and reduced productivity (Curtis et al., 1988; Barnett et al., 2011).

The study further states:

In modern commercial swine production, there is a trend of an increasing number of piglets born per sow (Stalder, 2017). This trend may suggest that sow body capacity has increased due to advances in genetics and nutrition to accommodate the additional piglets during gestation. In 2011, Danish Landrace \times Large White sows were determined to have increased on average 0.07 m in body length and 24 kg in weight compared to measurements from a similar sow breed taken in 1994 (Moustsen et al., 2011).

Size increases since 1994 of 24 kg converts to a 53 lb. weight increase, while a 0.07 m increase in body length converts to almost an additional quarter foot in sow length. Size increases are found in all commercial pig breeds. Clearly, pork producers knew of these increases. In fact, they were creating the trends toward larger sows by manipulating genetics and nutrition to produce the largest number of piglets per sow as a result. At Fairfield Pork, after stating that a sow with a litter of eight piglets is not a “good producer”:

Trythall: *“We would hope that we average about 14 born alive.” (24:39)*

In addition to violating the regulations created by the Ohio LCSB prohibiting gestation stalls in new construction after 2011, Fairfield Pork constructed gestation stall housing which was sorely inadequate to accommodate these size increases.

Only an ODA inspection of the facility could confirm whether they meet the requirements set forth in rules that any stalls allow a 600 pound animal to “Lie down fully on its side in full lateral recumbency without the head having to rest on a raised feeder and have the rear quarters coming in contact with the back of the stall or pen at the same time.” or to “Stand without the back touching the top of the stall or pen.” The measurements alone suggest that it is not likely possible that those animal welfare rules are met at Fairfield Pork.

The ASABE study concludes:

Space usage for the static postures and dynamic transitions for sows of average body weight (228 kg) was 1.96 m \times 1.15 m \times 0.93 m (length \times width \times height). Space usage for sows of 95th percentile body weight (267 kg) was 2.04 m \times 1.12 m \times 0.95 m. This information offers an improved understanding of modern sow space usage and can be used to inform guidelines for individual sow stall dimensions. Further work is needed to obtain sow space usage for turning around, feeding, and defecating and to evaluate the impact of varying space restrictions on sow welfare and productivity.

The conclusions of the ASABE study (Page 158) demonstrate the inadequacy of the Vissing Agro gestation stalls at Fairfield Pork, even configured as the largest sizes allowed. The following conversion chart shows that a sow weighing up to 600 pounds is confined for months to the space of no more than a standard kitchen refrigerator. That’s the same as three or four adult persons in the same space. That is before consideration is given to vital body movements for these confined animals.

In other words, Vissing’s measurements do not even allow for sows to comfortably turn around, feed or defecate. Even absent consideration of those critical body movements, Fairfield Pork’s likely space allocations per sow are inhumane.

	LxWxH (in meters)	Cubic Volume	U.S. Volume Conversions
Minimum space in Vissing Agro gestation stall (converted from cm to m)	2.4 x 0.60 x 1	1.44 m ³	50.9 ft ³
Maximum space in Vissing Agro gestation stall (converted from cm to m)	2.5 x 0.75 x 1	1.875 m ³	66.2 ft ³
ASABE Conclusion: Minimum sow space needs for sow weighing 228 kg (or 502 lb.)	1.96 x 1.15 x 0.93	2.096 m ³	74.0 ft ³
ASABE Conclusion: Minimum sow space needs for sow weighing 267 kg (or 588 lb.)	2.04 x 1.12 x 0.95	2.181 m ³	77.0 ft ³

Note: See Footnote 22 for a reference point

Compounding matters, this is not the only operation which Kalmbach constructed in this manner. Without revealing the name of the second facility, Kalmbach’s Swine Manager admits:

Trythall: “We actually have our two newest sow farms that we have built in the last couple of years. They’re identical to this design. Both barns are the same.”^(14:22)

Despite an Ohio regulation prohibiting the construction of sow gestation facilities using gestation stalls, Kalmbach Swine Management blatantly displayed their contempt for both animal welfare and the law by fully constructing two gestation barns using Vissing Agro stalls throughout, each with substandard space accommodations for the sows they intended on breeding. Their Fairfield Pork was indisputably constructed in 2016. The second facility must be identified, but as it is “identical,” it was likely constructed at the same time, certainly well-after 2011.

Based on the recommendations of the American Society of Agricultural and Biological Engineers, the Vissing stalls which Kalmbach’s Sow Production Manager is boasting about in the video are potentially 34% smaller than they are supposed to be minimum space available to their gestating sows weighing up to 600 lbs. each.

Fairfield Pork Pen 1

Reviewing the video in its entirety, the majority of the camera view from Trythall’s tour allows the viewer to capture activities in three adjacent pens. But the focus of his discussion is predominantly on an area referred to in this complaint as “Pen 1.”

In that featured pen throughout the video, sows which are in a lying position in stalls almost universally are not able to recline fully on their sides. In many of the video frames, viewers can clearly see that the only position those sows assume is a sternum-to-the-floor position. Even if

²² Point of reference: According to refrigerator manufacturer [Maytag](#) and utilizing an online volume conversion [calculator](#), maximum volume for a standard kitchen refrigerator is 47.4 ft³, merely 3.5 ft³ smaller than Fairfield Pork’s possible space allotment in a Vissing gestation stall housing a pregnant sow weighing up to 600 lbs. That standard kitchen refrigerator is approximately 30 ft³ smaller than recommendations by ASABE for the same sow.

this facility was constructed in strict adherence to the applicable OAC—which it was not—the facility is in direct violation of OAC 901:12-8-02 (B)(4)(a) which states that all housing systems must allow sows in stalls to “lie down fully on their sides, in full lateral recumbency.”

Although the video does not enter the farrowing barn, there are slides of sows and piglets in farrowing stalls. It is unknown which facility these slides demonstrate. However, farrowing stalls appear to be very insufficient space for sows, similar or worse than the space available in gestation stalls. An example screenshot of their slide is included in Appendix 4, page 6.

Further, another aspect of the rule (applicable only to “existing facilities”) is ignored by Fairfield Pork as well, to the detriment of the animals. It is evident from segments of the video that sows lying down in stalls have their rear quarters coming in contact with the back of the stall.

As the video’s perspective is from the back ends of the gestation stalls, it is difficult to ascertain the position of sows’ heads. But the administrative rules for existing facilities states that the animals must not have their head resting on a raised feeder. Given the limited dimensions of their gestation stall as described above, animal welfare authorities should pay close attention to this aspect of Fairfield Pork’s facilities for all animals, especially the largest sized animals.

The video covers a period where it is not a time for feeding at the stalls’ front-end troughs. Inside the stalls, for sows that are not lying down—most often in that sternum-to-floor position—but standing in those gestation stalls, several seem to stand in one position for the entire 24 minutes of the video. They demonstrate no other movement inside that confined space and no backward movements to exit the stall as Trythall states they are able to do “at their leisure.” (6:40)

There should be equal concern in both adequate space for animals to recline as well as the abnormal behaviors exhibited by pigs confined in stalls, including those standing in that confined space for extended periods.

The question should be: Are these animals standing in a severely confined space for extended periods because it is either too uncomfortable or impossible for them to lie down in a stall? Further, are they standing while practicing abnormal behaviors, such as bar biting or vacuum chewing which may be out of view by the camera? See further information on abnormal behaviors beginning in the next section.

Inhumane conditions for Fairfield Pork sows and why standards of animal care were what Ohio voters wanted in the first place

In a domino effect, the worse the animals at Fairfield Pork are housed and treated—while Kalmbach Swine Management ignores instinctual behaviors and flaunts Ohio regulations—the more likely it is for the animals to develop aggressive and abnormal behaviors, which Kalmbach likely will then address with even more inhumane conditions and procedures.

As described by The Humane Society of the United States report titled “[About Pigs](#)” (Appendix 7), the deprivations for animals housed in stalls and pens is disturbing, including those at Fairfield Pork.²³ The sows shown in their video, whether those in stalls or the few which circulate in the “loafing pen,” are deprived of any activity instinctive to swine and which are

²³ The Humane Society of the United States. “About Pigs.” May 2015. <https://www.humanesociety.org/sites/default/files/docs/about-pigs.pdf>. Accessed 26 Sep 2021.

widely reported, such as: wallowing, rooting, foraging, nest building, and avoidance of areas used for defecation and urination away from their sleeping and feeding areas.

In fact, regarding this last instinctual behavior, the Fairfield Pork video demonstrated a shocking level of feces and urine present throughout, despite the use of slatted floors with an underground manure pit which Trythall stated is 20 feet deep. ^(21:30) Animal waste was evident in both stalls and in the “loafing pen” area. It also appeared that manure may be coating the skin of several of the animals, an abhorrent condition for pigs.

It is a widely accepted myth that pigs are “dirty” animals, frequently linked to a misperception that pigs wallow in their own waste. Among other reasons, pigs use mud-wallowing in natural settings to cool their bodies, while in those same settings, their waste area is far removed.

Pig avoidance of their waste cannot be stated any more plainly than cited in the [Merck Veterinary Manual](#), widely known as a primary reference for veterinarians:²⁴ “Pigs under free-range conditions will also choose one place to defecate.” In a natural environment, the sows would be able to remove themselves from the areas where they leave their waste. Fairfield Pork’s sows cannot avoid it, and are forced to lie down in and move through their own waste.

For example, notice the close views available at these points in the video demonstrating the feces and urine present in the pen and gestation stalls:

- In the pen: At 6:53, 7:59, 15:15, and 19:32
- In the gestation stalls: At 14:43, 14:59, 22:21, 22:29, and from 22:51 thru 23:03.

While forced to live, eat and sleep in waste-covered stalls and pens—something the sows would unmistakably avoid in a natural setting—they are also deprived of the instinctual behavior of mud wallowing at Fairfield Pork. Citing from the abstract of the study “[Review of wallowing in pigs: Description of the behaviour and its motivational basis](#),” researcher Mark Bracke expanded on then-available research regarding wallowing behavior in pigs:²⁵

Wallowing, i.e. coating the body surface with mud, is a natural behaviour of pigs, commonly observed in feral pigs and wild boar, but rarely provided for in current housing systems for domestic pigs...The common perception is that pigs wallow mainly for cooling, sunburn protection and the removal of ecto-parasites. Little scientific evidence exists for other functions than thermoregulation. Pigs lack functional sweat glands and wallowing in mud is an effective behavioural control mechanism in pigs to prevent hyperthermia. Wallowing, however, may also serve other functions, e.g. in scent-marking and sexual behaviour. In addition, wallowing in pigs, like dustbathing in poultry, may be indicative of positive welfare and, perhaps, the performance of the behaviour is ‘hardwired’ and rewarding in itself. If so, wallowing could be an important element of a good life in pigs.

²⁴ Gary M. Landsberg, DVM et al. “Social Behavior of Swine.” *Merck Veterinary Manual*. Merck Sharp & Dohme Corp. June 2016. <https://www.merckvetmanual.com/behavior/normal-social-behavior-and-behavioral-problems-of-domestic-animals/social-behavior-of-swine>. Accessed 17 Nov 2021.

²⁵ M.B.M. Bracke. “Review of wallowing in pigs: Description of the behaviour and its motivational basis.” *Applied Animal Behaviour Science*, Volume 132, Issues 1-2. June 2011. Pages 1-13. <https://www.sciencedirect.com/science/article/abs/pii/S0168159111000219#!>. Accessed 17 Nov 2021.

The irony of this cruel, extraordinary mismanagement demonstrates that factory farming now validates the myth of “dirty” pigs. Fairfield Pork pigs’ skin is coated with manure while being deprived of the needed mud-wallowing to aid in achieving a “good life” for that same animal.

The Humane Society of the United States “About Pigs” report describes natural swine social structures and cites from multiple animal behavioral studies.²⁶ Alternative to these natural social structures, the report describes aggressiveness, combativeness and abnormal behaviors for animals that are intensively confined in industrial operations:

Pigs belong to relatively stable social hierarchies, which play an important role in maintaining group harmony. Whereas unfamiliar pigs who are intensively confined and crowded in industrial operations will engage in aggressive, agonistic behavior, in the wild, pigs are naturally gregarious animals and group members maintain close contact, often synchronizing their behavior. The dominance order is maintained by subordinate animals who simply avoid provoking aggressive interactions. Social recognition, or the ability to identify familiar individuals, is a key to forming these stable relationships.

These social connections begin after birth on a piglet’s first day, both between each mother and her individual piglets, as well as among the littermates. But social groups on CAFOs and CAFFs are determined by the producers, not by the pigs. This includes Fairfield Pork:

Trythall: The swine industry is divided into two departments technically. Most companies run this way. We have the sow farms where the pigs that are born and raised until they’re weaned from their mom. And once those pigs are weaned, then they go into our other department which would be called finishing department. This is where pigs are grown out to market weight where then they are harvested at a packing plant. (4:58)

Throughout the industry, and practiced at Fairfield Pork, piglets are weaned by force from their mother at 20 or 21 days. According to the description in the Humane Society’s “About Pigs,” natural weaning is a slow and gradual process, and piglets continue to suckle until 14-17 weeks of age.

CAFOs and CAFFs, including Fairfield Pork, interrupt the well-documented bonds that form within that pig family by taking newborn piglets from the birth sow and placing those piglets with a different sow to satisfy the over-production intensities specifically created by these confined facilities. “About Pigs” reports that there are times when allowed to live in natural settings sows living in groups will allow a piglet from another sow’s litter to nurse. This is a self-selection process that is interfered with routinely when they are held in confinement.

Trythall illustrates this common Fairfield Pork practice of moving piglets to a different sow by showing a randomly-grabbed sow record card which shows that the sow tracked on the card farrowed eight liveborn piglets. He then states:

Trythall: “Not a great production. We would hope that we average about 14 born alive. She’s kind of a mediocre producer...on day 20, weaned 15 pigs, no mortality. So, she didn’t have a lot of pigs, but we put pigs on her and was able to raise 15 of them. (24:37)

Furthermore, the decision by Fairfield Pork to commercially breed sows to carry “an average of 14 piglets” is counter to pigs’ inherent natures. As stated in the Humane Society report, “The average litter size is four to seven piglets,” for pigs in the wild. Instead, Fairfield Pork expects

²⁶ The Humane Society of the United States. “About Pigs.”

their sows to increase their litter size by 200% or more of what the sows would naturally produce. A natural number of animals in a litter is “not great production.”

Making matters worse, while ignoring strong bonds between littermates, there are many dividing points for Fairfield Pork litters as Fairfield only operates gestation and farrowing barns. Once removed from the mother after reduced weaning times, 12-15 pound piglets then leave Fairfield Pork, are placed on trucks, often by the hundreds, and are transported first to nurseries—in Ohio, up to 10,000 piglets could be confined in nurseries. Then, in subsequent weeks, they are re-transported to finishing operations. In both these facilities, further divisions in social groups are determined by human selection and confinements.

“Is Boredom Driving Pigs Crazy?”

In a paper titled “[Is Boredom Driving Pigs Crazy?](#)” (Appendix 8), Tammy McCormick Donaldson, M.S. in Animal Behavior and PhD candidate in Animal Behavior at Washington State University, writes specifically about the negative psychological effects on pigs produced by the type of confinement conducted by Fairfield Pork:²⁷

The European Union ruled in January of 2003 that pigs must be provided with manipulatable material such as straw, peat moss, and mushroom compost. The reason for such a ruling was that the European ruling body determined that exploration, rooting and manipulation behaviors are deeply embedded in the pigs' evolutionary history and thwarting of these behaviors by restricted movement and non-manipulatable materials is considered cruel. The new European Union (EU) ruling is backed by an accumulation of research findings showing that "environmental enrichment" reduces aggressive and stereotypical behaviors, whereas boring and restrictive environments can predispose to stress, fighting and vices. Environmental enrichment is defined as an improvement in the biological functioning of captive animals by adding something to the environment. Environmental enrichments are thought to decrease stereotypies by increasing foraging behavior by allowing the pigs substrate to manipulate and decrease their time inactive.

There is no evidence whatsoever at Fairfield Pork’s facility of environmental enrichment for the sows—only gestation stalls and concrete slatted floor. Even the Vissing Agro product brochure (Appendix 5) includes a photograph of their product used in conjunction with straw on the slatted floors in the pen areas for pigs to manipulate.

Further, it appears that the pigs in that same Vissing photo appear to not have docked tails, calling into question the claimed necessity of this common practice in U.S. swine CAFOs and CAFFs when environments supporting animal welfare are not addressed in humane ways. All sows in the Fairfield Pork video show docked tails.

Donaldson defines stereotypies:

Stereotypies or fixed repetitive actions are behaviors that appear when the animals are bored or frustrated and the onlooker may regard this as an indicator of poor

²⁷ Tammy McCormick Donaldson. “Is Boredom Driving Pigs Crazy?” *Behave: Stories of Applied Animal Behavior*. University of Idaho. https://www.webpages.uidaho.edu/range556/appl_behave/projects/pigs_ster.html. Accessed 27 Sep 2021.

welfare...Some examples of stereotypes in pigs are pacing, bar biting, vacuum chewing (chewing when nothing is present), and chain chewing.

Other sources define “vacuum chewing” as “sham chewing” where the animal salivates profusely.

Segments of the Fairfield Pork video suggest that this chewing-when-nothing-is-present behavior and of the unnatural behavior of nosing swine waste on their concrete slatted floors may be behaviors which are practiced by Fairfield sows. These should be officially investigated by animal welfare overseeing bodies. Those segments are at:

- 9:05 to 9:13 sow at back of pen (sham chewing)
- 10:51 to 11:05 sow walking toward back of pen (sham chewing)
- 12:47 to 12:52 sow at center of pen where urine and feces are apparently present, and where the sow is also seen nosing animal waste
- 13:38 to 13:46 sow walking along the gated stalls on the far side of the pen (sham chewing)
- 21:25 to 21:37 where the sow in the segment clearly shows the tell-tale white mouth salivation evident in sham chewing
- 26:38 to 26:48 sow walking toward back of pen in front of stalls (sham chewing)

Donaldson nails down the true interest in pork producing CAFOs and CAFFs—that of maintaining profits, not of animal welfare:

Although pork producers would like to decrease the incidence of these destructive stereotypic behaviors in pigs, the current production environments do not allow for increased space or complexity of the enclosures. Producers require an economic incentive to replace current systems with an environment with more foraging opportunity.

When all instincts are quashed and sows are confined in stalls for the majority of their existence, the pork industry’s response to the resulting and predictable aggression and self-mutilation behaviors has been to create standard “processing” procedures which inflict even greater abuses on animals. As previously stated, every sow in the Fairfield Pork video has a docked tail, indicating that Fairfield participates in the “processing” procedures typical of the industry.²⁸

As admitted by the farm animal confinement industry, tail docking is inflicted on pigs to address one of several aggressive behaviors in those confined environments, that of tail biting. Other abnormal behaviors of confined animals can include “pacing, bar biting, vacuum chewing (chewing when nothing is present), and chain chewing” as cited in the Donaldson article.

Regarding pacing, the limitations of the video prevent tracking on a specific animal, such as when an animal exits and then reenters the frame. However, it appears that pacing might be

²⁸ In the Fairfield Pork livestream, the segments related to farrowing barns were shown from prerecorded segments without indications of which CAFO/CAFF was featured in that recorded material. Therefore, it is unknown which processing procedures Fairfield Pork specifically utilizes. But each are commonly done throughout the industry and are done in the earliest days of a piglet’s life while still in farrowing barns, some as early as the first day. All are a response to CAFO management challenges rather than having anything to do with natural pig behavior. For further reference on these procedures, see this [YouTube video by Farm Builder](#), a farmer successfully raising pigs in a completely pastured environment.

exactly the behavior being exhibited by several of the animals in the “loafing pen,” throughout the video as there is little else for them to do.

Additional animal welfare concern should be the health and safety of the animals confined in the “loafing pen” area as evidenced in these segments:

- 6:52 – sow’s back right leg slipping on apparent urine on the concrete slatted floor
- 7:07 to 7:11– sow’s rear and underbelly may show evidence of clinging manure on body
- 7:13 to 7:17 – (partially off camera) a squeal of an animal as if it may be in an aggressive confrontation with that same manured-sow and which then moves quickly away appearing to slip its back right leg on the feces/urine-covered concrete slatted floor
- 8:25 – the sow with possible manure clinging to its skin as described above, after only partially entering an open gate on a gestation stall, then backs out of that stall and appears to slip with its back right leg on the manure on the concrete slatted floor
- 13:54 – sow with what may be encrusted manure covering both sides of its face and snout
- 14:08 to 14:17 –the same sow described above, with perhaps manure coating its rear end and underbelly, chewing on the bars of the raised gate of a gestation stall.²⁹
- 19:22 to 19:27 – one sow aggresses on a second sow at the front of the frames forcing the second sow to retreat off camera
- 20:34 to 20:45 – video taken from the back of the stall shows a standing sow on the right inside a gestation crate, with its face/snout clearly not in the feeding trough but instead apparently bar biting the front of the gestation stall

When all of these pork industry abnormalities—abnormalities employed by Kalmbach Swine Management at their facilities—are considered together, including...

- constant genetic manipulations to create larger sows and litters
- forcing a constant pig diet of manufactured feed instead of foraging on pasture
- preventing natural rooting and wallowing behaviors
- forcing animals to live in an environment where they are unable to naturally escape their own wastes, not to mention the noxious odors from a 20 foot deep manure pit
- preventing the important, detailed nesting behaviors for sows about to farrow
- destroying social groupings including those between a sow and her piglets
- weaning piglets at least 11 weeks earlier than the natural order of things
- and forcing just-weaned piglets separation not only from their mother but from littermates by removing them by truckloads to various other sites

...it is the height of animal disrespect and cruelty to then force pregnant sows into extremely confining gestation stalls, restricting their natural movement, for the vast majority of their lives, to be bred up to 5 times in a 2-year period.

Kalmbach Swine Management proves that even a state-imposed regulation to prohibit stall gestation construction was of no concern to them in at least two of their facilities—Fairfield

²⁹ Since little of the Fairfield Pork video is focused on the front end of the gestation stalls, this video alone is unable to document many clear images of instances of bar biting by confined animals inside the gestation stalls, Bar biting is where the sows will chew the bars of the stall until they are bloodied. A thorough on-site inspection by the ODA would determine the presence of this disturbing behavior for Fairfield’s sows.

Pork in 2016 and the second which Kalmbach should be forced to identify. Both facilities should then be shut down and Kalmbach should be sanctioned with civil penalties.

AVMA recommendations to benefit swine welfare are ignored by the LCSB

Beyond Fairfield Pork, the pork industry as a whole routinely inflicts unnecessary pain on the swine species. “Processing” procedures—done on newborn piglets—include tail docking with clippers or cauterizing tools; clipping or grinding off newborn piglets teeth; ear-notching done to identify the birth order of piglets;³⁰ and castration. According to the U.S. Pork Center of Excellence, each is performed typically without anesthesia and causes great distress to animals.³¹

In July 2014, the American Veterinary Medical Association wrote “Welfare Implications of Teeth Clipping, Tail Docking and Permanent Identification of Piglets,” where they confirmed that pigs experience pain and risk with each of these procedures.³² There is an Ohio requirement in law that AVMA recommendations must be considered by the LCSB (see page 9). Yet, the Board has not addressed rules for eliminating processing procedures for swine, nor have these types of procedures been eliminated for other animal species. The AVMA states:

Piglets may undergo a battery of procedures during the first few days or weeks of life, potentially including tooth-clipping, tail docking, castration, and ear-notching or another identification method such as tagging or tattooing. Each of these procedures involves a degree of tissue damage potentially resulting in the piglet experiencing pain. As it is generally accepted that pigs experience pain, and pain compromises welfare, it would be desirable for these procedures to be refined or replaced with practical alternatives, so long as this results in a net benefit to the animal.

Other concerns of the processing procedures, as stated by the AVMA, include: “...increase[d] behaviors suggestive of discomfort;” “...injuries [to tongues and gums] and “...painful inflammation or abscesses of teeth;” “...physiological and behavioral responses indicating acute stress;” “...increased sensitivity to pain;” and that ear-notching is “... “considered painful.”

Despite eleven years of opportunity, holding at least three meetings per year, the LCSB has seemingly ignored the animal suffering in these procedures as well as the required recommendations of the AVMA. **Only the slightest mention is made for “humane” procedures regarding teeth (tusk) trimming, calling it “acceptable” in Ohio’s regulations. There is no requirement for anesthetic, analgesics or procedural training for any of these processing procedures.**³³ (Additional painful procedures for other livestock species are allowed in these rules as well.)

³⁰ There are few close-up shots of sows’ ears in the Fairfield Pork video and no video in the farrowing barn. But ear notching is seen on at least one of the Fairfield Pork’s mature sows at 22:50 minutes.

³¹ Christina Phillips. “How to Process Piglets.” *U.S. Pork Center of Excellence*. November 10, 2009. <https://porkgateway.org/resource/how-to-process-piglets/>. Accessed 23 Dec 2021.

³² Literature Reviews. “Welfare Implications of Teeth Clipping, Tail Docking and Permanent Identification of Piglets.” *American Veterinary Medical Association*. July 15, 2014. <https://www.avma.org/resources-tools/literature-reviews/welfare-implications-teeth-clipping-tail-docking-and-permanent-identification-piglets>. Accessed 23 Dec 2021.

³³ Legislative Services Commission. “Rule 901:12 Livestock Care Standards Board.” *Ohio Administrative Code*. Effective March 21, 2016. <https://codes.ohio.gov/ohio-administrative-code/901:12>. Accessed 2 Mar 2022.

Piglet castration is a standard of complete insensitivity on the part of the LCSB. Despite at least 30 meetings of the Board over the past ten years, as well as the required five-year review of all the rules in 2016, there is no rule whatsoever addressing castration of piglets. Even as they are minimal, at least there are specific rules on castration for dairy and beef cattle, goats, sheep, llamas and alpacas, and members of the equine species, stating for each that castration must be performed “in a humane manner” and specifying at least a consideration of “pain management.”

There is no regulation whatsoever for piglet castration—no specification for a “humane manner” to the procedure nor consideration of the animal’s pain.

Since the LCSB’s inception, several Board members also have been members of the AVMA. Yet the recommendations of this professional veterinary organization on procedures which bring pain to animals are either ignored or are silenced by other Board members with substantial connections to the agricultural industry.

Fairfield Pork, Pen 2

Examining the Fairfield Pork video closely, focusing on the first adjacent pen to that which is featured in a video stream lasting almost 24 minutes, not a single animal leaves any gestation stall which they occupy. Close examination of the video indicates that sows are indeed confined inside those stalls, yet not a single one leaves any stall. Early in the video, Trythall states:

Trythall: “These are Vissing easy access stalls. As you can see, the animals can come and go at their leisure.”^(6:41)

Clearly, that is not the case for all animals in the barn throughout a given day. In fact, Vissing Agro’s product brochure makes it abundantly clear that, “The [Free Access Stalls] can be locked sequentially as well as individually both from the front and rear end of the stall.”³⁴

Fairfield Pork obviously is evading any accountability by housing 2,400 animals in a nonpermitted facility-type often referred to as a “one-under.” This is a well-recognized practice by CAFOs, to stay at least “one-under” the ODA permitting thresholds of 2,500 animals on a sow gestation operation and a tactic employed to avoid scrutiny of manure management and potential pollution discharges. Whether the sows can “come and go at their leisure,” or not is unknown, since this “one-under” facility is unregulated and uninspected by the even the same standards as permitted facilities, with such permits not addressing animal welfare requirements.

The ODA and/or the Ohio LCSB apparently conducted no review or inspection of the construction of this facility to determine that gestation stalls were being installed in 2016, violating Rule 901:12-8-02. It is highly doubtful that any regular inspection is being conducted and no provision for regular inspections for animal welfare can be found in either law or the rules created by the LCSB. It is just as doubtful that any inspection has ever been conducted at Fairfield Pork—even once—to determine how long these illegally confined sows are held inside gestation stalls each day, despite management assurances to middle and high school students.

³⁴ Vissing Agro. “Free Access Stall.”

Fairfield Pork, Pen 3

Beyond Pen 2 where the sows remain in stalls with all gates closed, and no sows are seen moving about for any portion of the 24 minutes of livestream, there is a third pen where it appears that *all* sows—perhaps up to 22 to 24 animals—are outside the stalls and lying together in the pen, in an area which is likely no larger than the combined lying down area of the stalls surrounding that pen.

What is quite peculiar about this pen is that there is barely any standing or movement among the sows at any time they are in view in that 24-minute video. Rather than movement, it appears that in this group, the sows are recumbent for extended periods of time. Again, this seems a direct contradiction to their instinctual behaviors, including needs to roam, explore, root and forage.

Kalmbach Swine Management

[Kalmbach Swine Management LLC](#) (KSM) is a division of Kalmbach Feeds Inc., headquartered at 7148 SR 199, Upper Sandusky, OH 43351.³⁵ Fairfield Pork is either wholly owned by or under contract to Kalmbach for breeding, gestating and farrowing all the pigs in that operation. Kalmbach has at least 12 other contract barns. (See Appendix 9 for Kalmbach’s map of all Kalmbach Swine contracts for 2020.)

There are two factory swine gestation farms that the Kalmbach Swine Manager admits in the livestreamed video were built using gestation stalls in very recent years—both in violation of ORC 901:12-8-02 (G)(4) and (5).

What is Kalmbach’s motivation to observe any other regulations which may be in place protecting animal welfare or public health in a total of 13 swine factory farms (or in their many poultry factory farms for that matter)? As was expressed, including by members of the LCSB as the rules for sow gestation stalls and other aspects of animal welfare were being codified, is Kalmbach operating under the assumption that “we only comply when a complaint is filed, and we are caught?” This deserves the scrutiny of the ODA despite that Kalmbach is savvy enough to know how to stay “one-under” from permitting, and then, any oversight, limited as it may be.

The following two sections of this complaint describe techniques which are being employed by Kalmbach to avoid the oversight of the ODA, and, frankly, by the ODA itself in what appears to be similar avoidance to scrutiny from the public.

Kalmbach’s holdings are vast

One definition of a “shell corporation,” found at [Investopedia](#)³⁶ is a business which is “sometimes used illegitimately, such as to disguise business ownership from law enforcement or the public.” Considering that definition and their violation of regulations as evidenced in their

³⁵ Kalmbach Swine Management. “Contract Barns.” *Kalmbach Feeds, Inc.* <https://www.kalmbachfeeds.com/barns/>. Accessed 1 Aug 2021.

³⁶ Will Kenton. “Shell Corporation.” *Investopedia*. October 24, 2020. <https://www.investopedia.com/terms/s/shellcorporation.asp>. Accessed 16 Nov 2021.

video tour, I think perhaps the state might place under scrutiny Kalmbach Swine Management and their 13 contract swine barns, all called by different names, yet with most owned directly by Kalmbach Feeds, Inc. (See Appendix 10 for an address list and more ownership details of those 13 operations with links to county auditors' websites and referencing the Ohio Secretary of State's business registrations for each.)

In the factory farm industry, corporations such as Kalmbach are known as "integrators," as described by U.S. Senator Cory Booker of New Jersey:³⁷

A handful of firms have come to dominate the processing of livestock and poultry. Many of these firms are vertically integrated, controlling successive stages of the food chain. These "integrators" contract with farmers to raise livestock or poultry for them. The integrators retain ownership of the animals, but the contract growers are forced to absorb the risks and the costs, often incurring large amounts of debt.

Specific to Fairfield Pork, a method to perhaps conceal Kalmbach's activities is found in the actual construction of the Fairfield Pork operation at 2988 Custar Road in Deshler, Ohio. Despite that in the Ohio Pork Council live-streamed video it is referred to as "Fairfield Pork," closer inspection of Wood County Auditor's records reveals that in 2016, all 9 structures on that site were constructed by and are still owned by [McKinley Land Development LLC](#).³⁸ That includes the gestation barn where gestation stalls were installed in violation of Ohio Administrative Code. Property tax bills for the site are mailed to McKinley Land Development LLC, 4207 County Rd 16, Pandora, OH 45877. (See Appendix 11.)

Yet, a business registration search at the Ohio Secretary of State shows that on September 9, 2015, the articles of organization for [McKinley Land Development LLC](#) were filed with the Secretary of State.³⁹ The registered agent for McKinley Land Development is Paul M. Kalmbach at the Kalmbach headquarters address in Upper Sandusky. Paul M. Kalmbach is CEO of Kalmbach Feeds Inc. (See Appendix 12.)

Further, Wood County Auditor's records show that a property at [24141 Deshler Road, Deshler](#) is owned by "Fairfield Pork," but all tax payment billing is sent to Kalmbach headquarters in Upper Sandusky.⁴⁰ This 3 bedroom, 2 bath residential property is nearby to the 2988 Custar Road CAFO barns. Ohio Secretary of State business registration for [Fairfield Pork, Inc.](#) again shows the registered agent is Paul Kalmbach at the headquarters address.⁴¹ (See Appendix 13.)

Additional study of the Appendix 10 listed operations demonstrates that at several other of Kalmbach's factory farms, there appears to be a similar subsidiary ownership structure: Kalmbach owns the facility (and likely everything in it including the animals and their waste) as

³⁷ U.S. Senator Cory Booker. "Booker Unveils Bill to Reform Farm System." *Office of Senator Cory Booker*. December 16, 2019. <https://www.booker.senate.gov/news/press/booker-unveils-bill-to-reform-farm-system>. Accessed 23 Nov 2021.

³⁸ Auditor Matthew Oestreich. "McKinley Land Development, Parcel G24-309-280000007002."

³⁹ Secretary of State Frank LaRosa. "McKinley Land Development Business Registration." *Ohio Secretary of State*. <https://bizimage.ohiosos.gov/api/image/pdf/201525202462>. Accessed 16 Nov 2021.

⁴⁰ Auditor Matthew Oestreich, "Fairfield Pork." Parcel G24-309-190000012001." *Wood County*, <https://beacon.schneidercorp.com/Application.aspx?AppID=1075&LayerID=26134&PageTypeID=4&PageID=10596&Q=93193309&KeyValue=G24-309-190000012001>. Accessed 16 Nov 2021.

⁴¹ Secretary of State Frank LaRosa. "Fairfield Pork." *Ohio Secretary of State*. <https://bizimage.ohiosos.gov/api/image/pdf/201634102710>. Accessed 16 Nov 2021.

well as owning a nearby residence for an employee to live in. Or they employ the person residing at a residential parcel nearby to a factory farm with whom they contract.

Detailed research on Kalmbach at the Ohio Secretary of States Business search shows that Kalmbach is prolific in creating a multi-layered corporate structure of subsidiaries. In total Paul Kalmbach, his immediate family members or his attorneys are listed as the registered agents for 72 different corporate entities in Ohio alone. Three each are listed as “Cancelled” or “Dead.” The remaining 66 corporate entities are “Active.” The revenues from this strategy are quite rewarding with [Dun & Bradstreet](#) reporting Kalmbach revenues of \$90.89 million.⁴²

Is this a web of complex connections purposely meant to deflect the scrutiny that an organization deserves? Is the LCSB or the ODA and/or its director willing to bring scrutiny to at least two CAFOs which were built in violation of the law? Or to bring transparency to the factory farm industry as a whole—to require the same or greater regulatory control and inspection for animal welfare as the state requires of high volume dog breeders who receive that scrutiny when housing six animals vs. CAFOs and CAFFs housing thousands or even tens of thousands?

ODA transparency? Factory farm transparency?

Unlike the transparency provided by other governmental agencies, the ODA does not afford the public ready access at their website to any relevant information for animal feeding facilities in any community, including on any matters related to animal welfare. To members of the public, ODA officials seem unwilling—wholly resistant—to bring that transparency to factory farming.

The ODA will not provide that transparency, to even include the locations of CAFFs and CAFOs. Yet, when it comes to high volume dog breeders (which are regulated by a related ODA division), ODA provides a comprehensive listing at their website, with owners’ names, license numbers and addresses for the almost 500 high-volume dog breeders in the state.⁴³

At the ODA website regarding CAFFs and CAFOs, there are:

- No listings of the CAFFs and CAFOs in the state, the locations and the numbers of animals housed in any given year
- No inspection reports provided after complaints concerning animal welfare are raised
- No listings of disciplinary actions taken against operators in violation
- No information on integrators who own the animals through contracts with mere employees (as well as potentially owning the facility itself, the land, the feed, the manure, and even the employee housing. In the case of Fairfield Pork, each is owned by Kalmbach.)
- No identification for permits to install, permits to operate or NPDES permits and no tracking mechanism to determine the status of these environmental permits

⁴² Dun & Bradstreet Business Directory. “Kalmbach Feeds, Inc.” *Dun & Bradstreet*. https://www.dnb.com/business-directory/company-profiles.kalmbach_feeds_inc.8f645083cefa148d87fff5785fca2443.html. Accessed 16 Nov 2021.

⁴³ Ohio Department of Agriculture. “High Volume Dog Breeders List.” *ODA Division of Animal Health*. December 27, 2021. <https://agri.ohio.gov/divisions/animal-health/resources/cdb-list-hvdb>. Accessed 3 Jan 2022.

- No compliance data
- No disclosures of taxpayer-funded awards to animal feeding facilities, such as property tax forgiveness on agricultural properties or federal subsidies to agriculture corporations
- No directory of the membership and full disclosure of all the agricultural interests of any ODA Board, including the LCSB.

All of this information is in the public interest. After filing public records requests, perhaps a limited amount of information may be forthcoming on large and major CAFFs (the only ones which always require permits to install, permits to operate and/or NPDES permits). However, Ohio has “around 230 permitted CAFFs, but thousands of [C]AFOs that do not require any kind of permit or registration with ODA.”⁴⁴ Therefore, **NONE** of the data on those thousands of medium and small CAFOs might ever be obtained, even with public records requests. (Small and medium CAFOs are those with under 2,500 breeding sows, 10,000 nursery pigs, 700 dairy cows or 125,00 chickens, for example.)

When it comes to enforcement of animal welfare, there is no provision in Ohio laws or regulations—whether an operation is a CAFF or is a CAFO of any size—for required inspections or licensure. Further, if after complaint, an animal welfare inspection at a facility is deemed necessary by the ODA Director, under ORC 904.04 (B),⁴⁵ the operator is given advance notice of such inspection, affording any operator opportunity to remove potential evidence of neglect or abuse of the animals confined in that operation. If factory farms have legal operations and nothing to hide, why would they not welcome annual inspection? Why won’t the ODA and the General Assembly require and conduct annual inspections for CAFFs and CAFOs in the laws they are charged to create, as they have for high-volume dog breeders?⁴⁶

Also required of high-volume dog breeders, in both Ohio Revised and Administrative Codes, is a license, renewed annually.^{47,48} These licenses include criminal background checks. Yet, no licensure for animal feeding facilities of any size is required in Ohio.

There are at least 282 careers or business types in the state which require licensure and/or permits to direct their operations,⁴⁹ everything from barbers to motels to restaurants to auto dealers. Many are further required to submit to annual inspections by oversight authorities. Like factory farms, hundreds of thousands of these regulated businesses in Ohio are also private corporations or owners. If these private corporations, businesses and employees are held to this standard why are the businesses of factory farming held to an unequal standard? It is for the

⁴⁴ Adam Rissien. “Ohio’s Concentrated Animal Feeding Facilities: A Review of Statewide Manure Management and Phosphorus Applications in the Western Lake Erie Watershed.” *Ohio Environmental Council*. <https://theoec.org/wp-content/uploads/2019/09/Manure-Report.pdf>. Accessed 10 Feb 2022.

⁴⁵ Legislative Services Commission. “Section 904.04 Administration and enforcement of chapter.” *Ohio Revised Code*. Effective March 31, 2010. <https://codes.ohio.gov/ohio-revised-code/section-904.04>. Accessed 3 Jan 2021.

⁴⁶ Legislative Services Commission. “Section 956.10 Inspections.” *Ohio Revised Code*. Effective September 28, 2018. <https://codes.ohio.gov/ohio-revised-code/section-956.10>. Accessed 3 Jan 2021.

⁴⁷ Legislative Services Commission. “Section 956.04 High volume dog breeder license.” *Ohio Revised Code*. Effective September 28, 2018. <https://codes.ohio.gov/ohio-revised-code/section-956.04>. Accessed 3 Jan 2021.

⁴⁸ Legislative Services Commission. “Section 901:1-6-08 Licensing.” *Ohio Administrative Code*. Effective October 10, 2013. <https://codes.ohio.gov/ohio-administrative-code/rule-901:1-6-08>. Accessed 3 Jan 2021.

⁴⁹ Ohio.gov. “Licenses and Permits.” *State of Ohio*. <https://ohio.gov/jobs/resources/licenses-and-permits>. Accessed 1 Feb 2022.

public's benefit that licensing and inspections laws are in place, and the production of the food supply and livestock welfare is equally as important and should require these measures.

Fairfield Pork, with their admitted 2,400 swine, is a clear example of one which was likely never inspected by the ODA since its construction in 2016—neither inspected for water quality matters, nor inspected for animal welfare matters or for compliance with the LCSB created regulations for animal housing. Had transparency been the intention of the ODA, perhaps the Fairfield Pork operation (and their second “identical” facility) might have been earlier discovered and sanctioned for their construction using gestation stalls throughout, in violation of the LCSB-created regulations, thus preventing the suffering of thousands of animals.

And when it comes to ODA transparency, a comparison demonstrates that other Ohio governmental agencies are vastly more forthcoming with data. For example, any citizen can go to the Ohio Department of Education website and find massive data reports in each of these areas and more, all readily available for download, without having to file public records requests:⁵⁰

- Performance Data (Letter Grades) for every [Ohio school district](#) as a whole and for every [Ohio school at building level](#)
- Performance Data (Letter Grades) for every [Ohio charter school](#) (Community Schools which involve private management companies)
- Enrollment, attendance and graduation rates at a [building level](#) for all schools
- [Educator Conduct search](#) mechanisms to examine disciplinary actions concerning educators
- Advisory council memberships ([EMIS Advisory Council](#) as an example), their affiliations, who nominated them to the Council, meeting minutes and annual reports (currently 3+ years-worth in the case of EMIS)
- [Membership on the State Board of Education](#) with biographical information, whether each member was elected or appointed and by whom, terms of office, email contacts and photographs of each member.
- Monthly detailed State Funding Reports for over 600 [traditional school districts](#) so that community members can discover how their tax dollars are being spent
- Monthly detailed State Funding Reports for over 300 [charter schools](#) (Community Schools which involve private management companies receiving those funds, reports which also allow funding transparency to taxpayers)
- [Directory of every Ohio Community School](#) with name, address, contact information, administrators by name and identified private management company.

As the ODA director is also the Chair of the LCSB, in the public's interest, she should require her department to post transparent and comprehensive information on CAFFs and CAFOs, similar in detail to what is provided by the Ohio Department of Education in its depth and scope.

And it is certainly past time for the ODA to inspect Fairfield Pork and any operation which has flouted the law, and shut down and sanction all violators.

⁵⁰ Data. *Ohio Department of Education*. <https://education.ohio.gov/Topics/Data>. Accessed 1 Feb 2022.

This year, the Livestock Care Standards Board is required to review the regulations for animal welfare. In the face of well-connected animal integrators who have openly disregarded the rules the Board created more than 10 years ago—rules which have generally remained unchanged since—it is past time for the LCSB to create animal welfare regulations which are for the benefit of the animals and not for the Big Ag lobby.

Kalmbach (and others) and abuse of CAFO/CAFF animals

We have built a food supply centered around meat. The point of this complaint is not to debate the benefits or detriments of consuming a diet intensely concentrated in meat-based products. Nonetheless, there is no acceptable reason why animals providing that meat must be abused. And there is certainly no reason why state regulatory agencies cannot hold meat producers to higher standards and oversight.

Gestation stalls are abusive to a 500-600 lb. sow and the state recognized that and banned them for new construction effective in 2011. With total disregard, Kalmbach built a new facility at Fairfield Pork in 2016 and installed gestation stalls throughout. According to the admission of their swine manager, there is a second facility identically constructed. (To be sure, it was completely unreasonable that in 2011 the state gave existing sow facilities until the end of 2025 to remove gestation stalls at their facilities—over 14 years to continue to abuse the millions of sows which have been confined in them.)

Close examination of lax laws and rules under which CAFFs/CAFOs are permitted to operate in Ohio makes it clear that there are many other abuses occurring for all animals in confined animal feeding facilities/operations. The laxity of the laws and rules, and of oversight for violators, allow the waste of those animals to pollute our water supplies as well. The secretive actions and tangled tactics of the corporations who own CAFFs/CAFOs are supported by the ODA and are intensely promoted and vigorously protected by various agricultural trade groups. These strategies have occluded consumers' ready ability to know how CAFO/CAFF animals are bred, gestated, raised and slaughtered, as well as their abilities to know the sources of agricultural water and air pollution.

It is inarguable: All agriculturally confined animals are sentient—that is, by definition they have the capacity to experience feelings and sensations. We are well-familiar with other sentient animals—our dogs. The disparities in how the state regulates the breeding and raising of these two categories of animals is vast and highly disturbing. Appendix 14 lays out an extensive comparison matrix between Ohio's dog vs. livestock regulations and laws. Like every Appendices herewith cited, it is intended to be a complete part of this complaint.

While at the same time holding sentient animals categorized as livestock in minimally regulated confinement, and causing them limitless suffering with all of factory farms attendant abuses and harms, the state has created an entirely separate protection system for that second category of sentient animals—dogs. The public would be outraged if dog breeders were permitted to treat dogs in the same manner which swine, cows, calves, poultry, sheep, goats, equine species, llamas and alpacas are permitted to be treated in factory farms.

Breeding/confinement for both dogs and for livestock are under the authority of the ODA so the responsibility falls to them to protect the welfare of the tens of millions of agriculture animals in

the state, at least as much as it falls to them to protect dogs bred, gestated, raised and sold here. In this charge, they have utterly failed.

In addition to the previously discussed annual inspections for high volume dog breeders—which include criminal background checks—these dog breeders are under the responsibility of the same enforcement authority, the ODA. The ODA webpage for Commercial Dog Breeders is unambiguous in demonstrating ODA’s authority to regulate and inspect. There are extensive links to all relevant laws, rules and additional resources on dog welfare.⁵¹

Comparatively and unlike ODA’s Commercial Dog Breeders webpage with its extensive information, there is little information at the ODA Livestock Care Standards webpage, with the exception of a link to Ohio Administrative Code. Unlike the Dog Breeders page, there are no links to Ohio Revised Code nor are there other resources which an operator or a citizen could refer when studying animal welfare requirements.

In fact, there may be an intentional enforcement escape clause posted at ODA’s [Livestock Care Standards](#). This posted statement creates unclear authorities with conflicting jurisdictions, thereby muddling enforcement.⁵²

Livestock care standards are separate from Ohio's animal cruelty laws and are enforced independently. Mistreatment of livestock may constitute a violation of both livestock care standards and animal cruelty laws. While ODA enforces livestock care standards, local law enforcement enforces animal cruelty laws.

Since no provisions for regular livestock animal welfare inspections exist in Ohio law or regulations, on what basis does the state confirm the number of animals housed at each CAFF and CAFO to monitor continuing compliance, not only for animal welfare mandates but with the requirements for manure management? Does the state merely observe an “honor system” with “promises” by CAFF and CAFO owners? Clearly, that failed with monitoring Fairfield Pork and at least a second Kalmbach CAFO. Who monitors when a “one-under” suddenly turns into a “one-over” facility? Only regular inspections and licensure would begin to hold the operators to account.

Why has the General Assembly not similarly codified in law the charges of the applicable two oversight boards for dog welfare and farm animal welfare?

There is no more opportune time for the ODA to extensively expand the protections for the welfare of factory farm animals of every species of livestock. The ODA-created Regulations found in Ohio Administrative Code for *every* category of livestock in all aspects of their production, of their lives and of their deaths, is due for a 5-year review by May 11, 2022.

The public should hold the ODA and the General Assembly accountable for expanding and enforcing animal protection.

⁵¹ Animal Health Division. “Commercial Dog Breeders.” *Ohio Department of Agriculture*. <https://agri.ohio.gov/divisions/animal-health/resources/commercial-dog-breeders>. Accessed 3 Jan 2022.

⁵² Animal Health Division. “Livestock Care Standards: Rules.” *Ohio Department of Agriculture*. <https://agri.ohio.gov/wps/portal/gov/oda/divisions/animal-health/livestock-care-standards>. Accessed 3 Jan 2022.

Conclusions

These are the immediate responsibilities of the Ohio Department of Agriculture

1. Fairfield Pork and a second unnamed sow breeding facility were built and are operating by Kalmbach Feeds in violation of Ohio Administrative Code 901:12-8-02 (G)(4) and (5). **The Ohio Department of Agriculture and the Ohio Livestock Care Standards Board must act on behalf of the animals housed there and sanction Kalmbach Feeds for their blatant violation of these regulations. Under Ohio Revised Code 904.03, as the Livestock Care Standards Board, you were to determine civil penalties to be assessed against persons who violate the rules. Those must be applied to their fullest extent in this case because the violations are flagrant.**
2. **The Fairfield Pork facility and the unnamed second Kalmbach Feeds sow facility operating in an identical manner must be shut down now.** The animals housed at these facilities should be seized (as would be done with a High Volume Dog Breeder) and relocated to animal sanctuaries and/or sustainable hog farms committed to animal welfare protocols for food production. Kalmbach Feeds should be required to pay for all costs associated with these transfers.

These are not “family” farms, they are factory farms. The self-incriminating evidence is before you in the Ohio Pork Council video. And it is clear that Kalmbach Feeds is the responsible party and clearly has the means to pay any penalty imposed:

- “Fairfield Pork’s” land, barns and illegal gestation stalls are owned by Kalmbach
 - Kalmbach Swine Management, overseer for this factory farm, is owned by Kalmbach
 - The 2,400 animals at Fairfield Pork are owned by Kalmbach
 - The yearly \$100,000 worth of Fairfield Pork manure (which Kalmbach Swine Manager, Bill Trythall called “black gold” in the video) ^(26:42) is owned by Kalmbach
 - The residence likely used by Fairfield Pork’s day-to-day manager is owned by Kalmbach
 - The crops grown for animal feed where the Fairfield Pork manure is likely spread are owned by Kalmbach for their feed production company.
3. Annual revenues of \$90.89 million likely makes Kalmbach Feeds one of the largest corporate owners of factory farm operations in Ohio. There are at least 13 sow breeding facilities alone. The corporation contracts for poultry operations as well.

Certainly, Kalmbach can and must be made to do better by all of their animals. It is the Livestock Care Standards Board and the Ohio Department of Agriculture’s responsibility, codified in law, to hold them accountable for *all* of their animal operations.

4. **As is widely reported, Mr. Bryan Black, who is a Kalmbach Swine Management Production Supervisor since 2008, must recuse himself from any decisions regarding Kalmbach facilities.** Any member of this board who has had an established business relationship with any Kalmbach facility should also recuse.
5. **With an upcoming rules review in 2022, the Livestock Care Standards Board should work diligently to revise, expand and create significant livestock welfare requirements**

to insure the best animal protection provisions in the country for all livestock. This should include but should not be limited to:

- Annual animal welfare inspections for all CAFFs/CAFOs
- Significant and enforceable penalties for all violators of animal welfare regulations
- Requirements to establish veterinarian-client-patient relationship for CAFF/CAFO animals
- Elimination of all “processing” procedures for each animal species done without anesthetic, and requirements that those procedures be performed by a licensed veterinarian
- Careful, detailed examination by the LCSB to determine which of those “processing” procedures are even necessary for animal welfare—not merely for the convenience of the operators (See Footnote 28 for a description of these procedures for sows.)

6. The Livestock Care Standards Board should work with the Ohio General Assembly to require licensing of every animal feeding facility in the state, with requirements for background checks, annual renewal, and any other provision for licensure in the state imposed on other careers and/or businesses, including annual inspections.

7. The Director of the Ohio Department of Agriculture, who is simultaneously the Chair of the Livestock Care Standards Board, should require the posting of information regarding CAFFs and CAFOs at the ODA website as it pertains to:

- Location
- Permitting status for Permits to Install, Permits to Operate and NPDES permits, as well as licensure status when that change is effected in Ohio law
- Number and types of animals housed in the facility
- Ownership and parent corporate connections
- History of violations
- Disciplinary actions taken
- Yearly membership of the LCSB and any sub-committees appointed, terms and political parties of those involved, and each of those persons’ prescribed interests for board membership and their affiliations
- All welfare standards under review in any given year and the voting record of each member
- Any and all other reports in the public interest.

List of Appendices

- Appendix 1: Confined to a Process: The Preemptive Strike of Livestock Care Standards Boards in Farm Animal Welfare Regulations, by Lindsay Vick, Rogers Williams University Law Review for *Animal Law Vol 18:151*
- Appendix 2: Livestock Care Standards Business Impact Analysis CSI, by Ohio Department of Agriculture
- Appendix 3: Untitled attendance roster matrix for Livestock Care Standards Board 2014 through 2017. Source: Public Records Request to Ohio Department of Agriculture
- Appendix 4: Screenshots from Ohio Pork Council's Live Virtual Field Trip to an Ohio Pig Farm for Middle/High School Students, posted to YouTube May 13, 2021
- Appendix 5: Product brochure for Free Access Stalls by Vissing Agro, Denmark
- Appendix 6: Static and Dynamic Space Usage of Late-Gestation Sows, by S. M. Leonard et al, American Society of Agricultural and Biological Engineers
- Appendix 7: About Pigs, Humane Society of the United States
- Appendix 8: Is Boredom Driving Pigs Crazy?, by Tammy McCormick Donald, M.S. and PhD candidate in Animal Behavior, Washington State University
- Appendix 9: Promotional brochure for Summer Internship Program and Swine Farm Map, Kalmbach Swine Management
- Appendix 10: Kalmbach Swine Facilities in Ohio with locations and links to County Auditor's by parcel numbers
- Appendix 11: Wood County Auditor Matthew Oestreich full parcel description for Fairfield Pork, built by McKinley Land Development LLC a Kalmbach Feeds subsidiary, including evidence of construction date for entire facility (2016)
- Appendix 12: Articles of Organization and Incorporation Documents for McKinley Land Development LLC, listing Paul M. Kalmbach as the incorporating agent
- Appendix 13: Articles of Organization and Incorporation Documents for Fairfield Pork, Inc., listing Paul Kalmbach and Stefan McDaniel as incorporating agents.
- Appendix 14: Comparison: Welfare of Dogs vs. Livestock in Ohio Laws/Regulations, compiled by Margaret Daly-Masternak