

December 7, 2022

The Honorable Tom Vilsack
Secretary
United States Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

Dear Secretary Vilsack:

We write to ask that no conservation funding allocated by the Inflation Reduction Act (IRA) go toward the ballooning factory farm gas industry, which is further harming environmental justice communities across the country. Subsidizing digesters and promoting methane production at large factory farms is incompatible with the Justice40 Initiative and President Biden's whole-of-government approach to addressing environmental injustice. Industrial animal agriculture has already decimated small family farms and is built upon the exploitation of farm workers, communities, animals, and the environment. It is responsible for approximately 37% of all methane emissions in the United States.¹ Yet, to date no measures from the United States Department of Agriculture (USDA) have effectively reduced those greenhouse gas (GHG) emissions or addressed the substantial intersectional harm and gross environmental injustice connected to this industry. In fact, emissions from animal agriculture have continued to increase while emissions from other sectors have decreased, and frontline communities continue to face intolerable pollution resulting in adverse health impact. This flies in the face of President Biden's and USDA's commitment to environmental justice.² We request real reform that dismantles environmental injustice in these communities—not funding that exacerbates it.

The IRA includes investments intended to address the worsening climate crisis by reducing GHG emissions by roughly 40 percent below 2005 levels by 2030.³ Approximately \$20 billion has been allocated to support USDA's agricultural conservation programs, such as the Environmental Quality Incentives Program and the Regional Conservation Partnership Program, as well as tax credits and funding for renewable energy and biofuels.⁴ One such incentive, an extension of the Energy Investment Tax Credit (Section 48) creates a 30% credit for "qualified biogas properties," including factory farms with methane digesters.⁵ This amount balloons to 50% for certain facilities in "high energy" areas, which are already overburdened with negative externalities from energy production—a clear environmental injustice. And only facilities under construction by 2025 are eligible for the full credit, which means it will likely drive a significant and sudden increase in construction. With this tax credit codified into law, gas-producing factory farms will already benefit immensely, and thus, we urge USDA not to allocate any

¹ The White House, The White House Office of Domestic Climate Policy, U.S. Methane Emissions Reduction Action Plan 6 (2021), <https://www.whitehouse.gov/wpcontent/uploads/2021/11/US-Methane-Emissions-Reduction-Action-Plan-1.pdf> (citing EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2019 (2021)).

² See, e.g., Exec. Order No. 14,008, 86 Fed. Reg. 7,619 (Feb. 1, 2021); Environmental Justice, The White House, <https://www.whitehouse.gov/environmentaljustice/> (last visited Sep. 26, 2022); Justice 40, The White House, <https://www.whitehouse.gov/environmentaljustice/justice40/> (last visited Sep. 26, 2022); USDA Announces Next Steps in Biden-Harris Administration Initiative to Increase the Benefits of Federal Investments Going to Underserved Communities, USDA (June 24, 2022), <https://www.usda.gov/media/press-releases/2022/06/24/usda-announces-next-steps-biden-harris-administration-initiative>; USDA, Initial Justice40 Covered Programs list, <https://www.usda.gov/sites/default/files/documents/usda-justice-40-programs.pdf> (last visited Sep. 26, 2022) (listing the Environmental Quality Incentives Program and the Regional Conservation Partnership Program).

³ United States Department of Energy, Office of Policy, The Inflation Reduction Act drives significant emissions reductions and positions America to reach our climate goals (2022), https://www.energy.gov/sites/default/files/2022-08/8.18%20InflationReductionAct_Factsheet_Final.pdf.

⁴ 16 U.S.C. §3839aa-2 (2022).

⁵ 26 U.S.C. §48 (2022).

additional funding from the IRA to the use or expansion of methane digesters or production of factory farm gas.

Agricultural policy that supports the entrenchment and expansion of factory farms is a barrier to real mitigation of the climate crisis and to more sustainable and just farming methods and a diversified food system.⁶ Factory farm gas production is only compatible with industrial animal agriculture that produces far more waste than can be responsibly managed, and perversely encourages the use of liquified manure management systems – the cheapest and most environmentally destructive form of manure management. Factory farm gas incentives have already created a “manure gold rush” by establishing revenue streams for the manufacture of liquid manure.⁷ These incentivize the further expansion and consolidation of the largest factory farms, which are already major polluters and sources of environmental injustice.⁸ In fact, methane digesters are not even economically feasible unless a facility has a massive herd size. For example, in California, digester technology requires a minimum of 2,000 cows to be economically viable.⁹ The same is true for pig farming operations; EPA AgSTAR has noted that most methane digesters “are not profitable until greater than 10,000 hogs are incorporated.”¹⁰ Such herd sizes only exist on factory farms, so incentives for factory farm gas further divert resources and undercut small operations, especially pasture-based producers who will never be able to profit from manure. The Biden Administration has committed to combating consolidation in agriculture, and subsidizing factory farm gas production would directly contradict that commitment.¹¹

Increased herd sizes will significantly increase the amount of methane released into the environment through enteric emissions, while also continuing to increase emissions of other GHGs such as nitrous oxide and carbon dioxide. Indeed, research is finding that GHG emissions from factory farm gas production and use is significantly higher than previously understood, undercutting the supposed climate benefits of factory farm gas even more.¹² Expansion and consolidation of large factory farms creates a commensurate increase in the pollution and environmental injustice that this industry is already

⁶ Ruthie Lazenby, *Rethinking Manure Biogas: Policy Considerations to Promote Equity and Protect the Climate and Environment*, Vermont Center for Agriculture & Food Systems (August 2022), https://www.vermontlaw.edu/sites/default/files/2022-08/Rethinking_Manure_Biogas.pdf.

⁷ See, e.g., Phred Dvorak, *California's Green-Energy Subsidies Spur a Gold Rush in Cow Manure, A lucrative state incentive to make natural gas from dairy waste is attracting companies from Amazon to Chevron*, Wall Street J. (Feb. 19, 2022), <https://www.wsj.com/articles/californias-green-energy-subsidies-spur-a-gold-rush-in-cow-manure-11645279200>.

⁸ Sarah Kaplan, *Air pollution from farms leads to 17,900 U.S. deaths per year, study finds*, Washington Post (May 10, 2021), <https://www.washingtonpost.com/climate-environment/2021/05/10/farm-pollution-deaths/> (citing Nina G. G. Domingo et al., *Air quality-related health damages of food*, Proceedings of the National Academy of Sciences (May 10, 2021), <https://www.pnas.org/doi/full/10.1073/pnas.2013637118>); Julia Kravchenko et al., *Mortality and Health Outcomes in North Carolina Communities Located in Close Proximity to Hog Concentrated Animal Feeding Operations*, 79 N.C. Med. J. 278 (Sep. 10, 2018), <https://www.ncbi.nlm.nih.gov/pubmed/30228132>; Steve Wing and Jill Johnston, *Industrial Hog Operations in North Carolina Disproportionately Impact African-Americans, Hispanics and American Indians* (Aug. 29, 2014), <http://www.ncpolicywatch.com/wp-content/uploads/2014/09/UNC-Report.pdf>; Carrie Hribar, Nat'l Assoc. of Local Bds. of Health, *Understanding Concentrated Animal Feeding Operations and Their Impacts on Communities* (2010), Centers for Disease Control and Prevention, https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf.

⁹ Ass'n of Irrigated Residents et al., *Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard 25* (Oct. 27, 2021), <https://food.publicjustice.net/wp-content/uploads/sites/3/2021/10/Factory-Farm-Gas-Petition-FINAL.pdf> (“Petition for Rulemaking”).

¹⁰ *Id.*

¹¹ *FACT SHEET: The Biden-Harris Action Plan for a Fairer, More Competitive, and More Resilient Meat and Poultry Supply Chain*, The White House (Jan. 3, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/03/fact-sheet-the-biden-harris-action-plan-for-a-fairer-more-competitive-and-more-resilient-meat-and-poultry-supply-chain/>.

¹² See, e.g., Semra Bakaloglu et al., *Methane Emissions Along Biomethane and Biogas Supply Chains Are Underestimated*, 5 One Earth 724–736 (June 17, 2022), <https://www.sciencedirect.com/science/article/pii/S2590332222002676>; Michael A. Holly et al., *Greenhouse Gas and Ammonia Emissions from Digested and Separated Dairy Manure During Storage and After Land Application*, 239 Agric. Ecosystems & Env't 410, 418 (Feb. 15, 2017), <https://doi.org/10.1016/j.agee.2017.02.007>.

responsible for, including dangerous ammonia emissions¹³ and the significant methane emissions—like those from enteric fermentation, feed production, and farm operations—that methane digesters cannot capture.¹⁴

USDA policy should be living up to its commitment to mitigate environmental injustice, not creating additional burdens for the BIPOC and low-income rural communities that are already bearing the brunt of factory farm pollution. For example, communities in California’s San Joaquin Valley, which are disproportionately Latino/a/e and low-income, already suffer some of the worst air and water quality in the country due in large part to the extreme concentration of dairy factory farms in the region.¹⁵ Indeed, 1,200 residents of the San Joaquin Valley die prematurely each year from PM2.5 pollution alone.¹⁶ Moreover, residents lack access to safe drinking water due to extreme nitrate contamination from the factory farms occupying their communities.¹⁷ Manure digesters do nothing to address or reduce nitrate pollution from waste applications in and around factory farms.

Likewise, in North Carolina, the second largest hog producer in the country, Black, Latino/a/e, and Native American families are much more likely than white families to live close to industrial hog operations, and thus are more likely to bear the burden of pollution and adverse health outcomes than their white counterparts.¹⁸ Moreover, families who live nearby these industrial animal operations get sick more often, stay sick longer, and die from common illnesses at a higher rate than people living farther away.¹⁹ Air pollution from hog operations in Sampson and Duplin counties, the top two hog-producing counties in the country, has caused 178 premature deaths according to recent research from the National Academy of Sciences.²⁰ Tacking on digesters to the factory farms responsible for these injustices, turning their pollution and harmful practices into a new revenue stream, only makes things worse.²¹

In addition to failing to address this industry’s environmental injustice and climate damage, the digesters themselves also create additional pollution and public health risks. First, they rely on dirty fossil natural gas infrastructure, including leaky pipelines, which leads to the further entrenchment of this infrastructure. Second, they leak methane and manure and can even explode. For example, a digester on a North Carolina factory farm recently ruptured, spilling three million gallons of “gelatinous gray foam”—

¹³ Emma Foehringer Merchant & Grace van Deelen, *California Has Provided Incentives for Methane Capture at Dairies, but the Program May Have ‘Unintended Consequences’*, Inside Climate News (Sep. 19, 2022), <https://insideclimatenews.org/news/19092022/dairy-digesters-methane-california-manure/>.

¹⁴ Enteric fermentation methane emissions are 27% of the United States’ total methane emissions, while manure management methane emissions are only 10%. The White House, *supra* note 1, at 6. Enteric fermentation methane emissions cannot be captured and increase commensurate with herd sizes.

¹⁵ Petition for Rulemaking, *supra* note 8, at 9.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Steve Wing et al., Environmental Injustice in North Carolina’s Hog Industry, 108 ENV’T HEALTH PERSPECTIVES 225, 225 (2000), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1637958/pdf/envhper00304-0081.pdf> (finding hog operations are located disproportionately in communities with higher dependence on wells for household water supply).

¹⁹ Julia Kravchenko et al., Mortality and Health Outcomes in North Carolina Communities Located in Close Proximity to Hog Concentrated Animal Feeding Operations, 79 N.C. MED. J. 278, 278 (2018), <https://doi.org/10.18043/nmc.79.5.278> (documenting physical and mental health risks in communities near industrial hog operations)

²⁰ Nina G.G. Domingo et al., Air Quality-Related Health Damages of Food, 118 PROCS OF THE NAT’L ACAD. SCIS. 1 (2021), <https://www.pnas.org/content/118/20/e2013637118>.

²¹ Southern Envtl. Law Center, Complaint under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, regarding the North Carolina Department of Environmental Quality’s Issuance of Permit Nos. AWI310035, AWI301139, AWI230466, and AWS820005 (Sep. 27, 2021), <https://www.southernenvironment.org/wp-content/uploads/2021/09/2021-09-27-Title-VI-Complaint-Index-DEQ-Biogas-Permits.pdf>.

enough “to fill more than four Olympic-sized swimming pools.”²² At least 37,000 gallons of the waste reached wetlands.²³ Like the burdens of factory farm pollution, the burdens of factory farm gas production are not—and cannot—be equitably borne.²⁴ These concerns echo the sentiments of United States Senators Cory Booker, Kirsten Gillibrand, Bernie Sanders, Elizabeth Warren, and Edward Markey, who wrote to the USDA in August 2022 requesting more information about methane digester efficacy for climate change mitigation and environmental justice impact.

In sum, factory farm gas production props up the largest industrial animal agriculture corporations that have a long history of profiting from pollution at the public’s expense. Investment in this industry will incentivize these unsustainable corporations to expand their operations, further entrenching us in an unsustainable and unjust food system. USDA’s conservation spending should be directed toward sustainable and effective climate stewardship practices and to truly renewable energy initiatives that reduce emissions at the source, mitigate environmental injustice, and bring economic prosperity back to rural communities.

Thank you for your consideration.

Sincerely,

350Brooklyn
350 Eugene
350 Ventura County Climate Hub
7 Directions of Service
Acterra
Alabama Rivers Alliance
Alliance of Nurses for Healthy Environments
Allied Scholars for Animal Protection
American Society for the Prevention of Cruelty to Animals (ASPCA)
American Sustainable Business Network
Animal Legal Defense Fund
Animal Partisan
Assateague Coastal Trust
A Stone's Throw Bed & Breakfast
Beyond Extreme Energy
Brighter Green
Buffalo River Watershed Alliance
Butte County Local Food Network

²² Adam Wagner, ‘*Really terrible science experiment*’ leads to weeks-long spill from NC hog-waste lagoon, *The News & Observer* (Sep. 6, 2022), *see also*, Sound Rivers, *Wayne Co. toxic spill exposes lack of NCDEQ transparency* (Sep. 7, 2022), <https://soundrivers.org/wayne-co-toxic-spill-exposes-lack-of-ncdeq-transparency/> (the spill was likely closer to 3 million gallons of nutrient- and bacteria-laden foam; 37,400 gallons was the number initially cited by the facility in its public notice, but months later they stated that the actual number was approximately 3 million gallons).

²³ *Id.*

²⁴ See, e.g., North Carolina Dep’t of Env’tl. Quality, *Swine Farm Permit Modifications Associated with the Align RNG Proposed Project*, Draft Environmental Justice Report (Dec. 22, 2020), <https://deq.nc.gov/media/17678/download>; Southern Env’tl. Law Center, *Complaint under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d*, regarding the North Carolina Department of Environmental Quality’s Issuance of Permit Nos. AWI310035, AWI301139, AWI230466, and AWS820005 (Sep. 27, 2021), <https://www.southernenvironment.org/wp-content/uploads/2021/09/2021-09-27-Title-VI-Complaint-Index-DEQ-Biogas-Permits.pdf>.

Campaign for Family Farms and the Environment
Cape Fear River Watch
Caretakers of God's Creation
Cedar Lane Environmental Justice Ministry
Center for Biological Diversity
Center for Food Safety
Church Women United in New York State
Clean Water for North Carolina
Climate 911
Climate Action Now
Compañeras Campesinas
Compassion in World Farming USA
Cultivate Empathy for All
Dakota Resource Council
Dakota Rural Action
DC Voters for Animals
Direct Action Everywhere
Don't Gas the Meadowlands Coalition
Earth Ethics, Inc.
Endangered Species Coalition
Environmental Justice Ministry Team, Cedar Lane UU Church
Extinction Rebellion San Francisco Bay Area
Factory Farming Awareness Coalition
Fair Start Movement - fairstartmovement.org
Farm Action
Farm Aid
Farm Forward
Farm Sanctuary
Farmworker Association of Florida
Food Animal Concerns Trust (FACT)
Food & Water Watch
Friends of Family Farmers
Friends of the Earth
GMO/Toxin Free USA
Government Accountability Project/Food Integrity Campaign
Grassroots International
Green America
GreenLatinos
Green REV Institute
Green State Solutions
GROW North Texas
Hawai'i Alliance for Progressive Action (HAPA)
HEAL (Health Environment Agriculture Labor) Food Alliance
Health Care Without Harm
Humane Society International

Humane Society Legislative Fund
Hungry Planet
Illinois Council of Trout Unlimited
Iowa Citizens for Community Improvement
In Defense of Animals
Infinite Agriculture
Institute for Agriculture and Trade Policy
Interfaith EarthKeepers
International Center for Technology Assessment
Jefferson County Farmers & Neighbors, Inc.
Johns Hopkins Center for a Livable Future
Just Transition Alliance
Lake Pepin Legacy Alliance
Lake Erie Waterkeeper
Land Stewardship Project
LEAD for Pollinators, Inc.
Learned On, LLC
Locust Point Community Garden
Mangrove Action Project
Maryland Legislative Coalition
Mercy For Animals
Mid-Missouri Peaceworks
Milwaukee Riverkeeper
Missouri Coalition for the Environment
MLC Climate Justice Wing
National Farm Worker Ministry
National Sustainable Agriculture Coalition
Non-GMO Project
Northeast Organic Dairy Producers Alliance
North American Climate, Conservation and Environment (NACCE)
North Carolina Clinicians for Climate Action
North Carolina Environmental Justice Network
Novasutras
NYCLASS
Ohio Ecological Food and Farm Association
Ophelia's Blue Vine Farm
OrganicEye
People for a Healthy Environment
Phoenix Zones Initiative
ProVeg International
Public Justice
Rachel Carson Council
Real Food Media
Regeneration Health International

Resource Renewal Institute
River Guardian Foundation
Rural Coalition
San Francisco Bay Physicians for Social Responsibility
Santa Cruz Climate Action Network
Sierra Club
Sisters of Charity Federation
Sisters of St. Dominic of Blauvelt, New York
Socially Responsible Agriculture Project
Sound Rivers
Southern Environmental Law Center
Species Unite
Stop the Algonquin Expansion
Sunrise Movement
Terra Advocati
The Foodshed Network
The Humane League
The Humane Society of the United States
The Raven Corps
TIAA-Divest! From Climate Destruction
Toxic Free North Carolina
Unite North Metro Denver
Voters For Animal Rights
Wall of Women
Waterkeeper Alliance
Waterkeepers Chesapeake
Waterway Advocates
WESPAC Foundation, Inc.
West End Revitalization Association WERA
Women, Food and Agriculture Network (WFAN)
World Animal Protection
www.gmoscience.org
Yadkin Riverkeeper