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Nebraska Livestock Development Policy: The Road Not Taken

For over a decade, Nebraska has been engaged in a civil war between proponents of additional livestock production and opponents who see large livestock facilities as threats to smaller producers, communities and the environment. Major issues have included corporate farming requirements, county livestock zoning, municipal livestock regulation, water quality contamination and livestock odors. County livestock zoning regulations remain a significant battleground. Livestock proponents would like to implement a system like Iowa's, where counties cannot zone livestock facilities and state environmental regulations establish only minimal animal feeding operation (AFO) setback requirements (3,000 foot maximum or 0.5682 mile). Significant Nebraska livestock policy milestones include:

- 1997: Public controversy over large proposed swine confinements first emerge.
- 1997: Nebraska Supreme Court rules that farrowing cooperatives violate Initiative 300 corporate farming requirements (*Pig Pro Nonstock Cooperative v Moore*, 253 Neb 72).
- 1997: Strengthening of Department of Environmental Quality (DEQ) livestock waste control permitting regulations to protect ground water and reduce phosphorous pollution.
- 1998: Interim county zoning legislation withdrawn/defeated.
- 1998: Historically low hog prices forced many small producers out of business.
- 1999: Interim county zoning legislation adopted.
- 2000: Nebraska Supreme Court rules that counties cannot regulate AFOs (animal feeding operations) without first adopting county zoning (*Enterprise Partners v Perkins County*, 260 Neb 650).
- 2002: Nebraska Supreme Court rules that counties may zone AFOs (*Premium Farms v Holt County*, 263 Neb 415).
- 2002: Nebraska Court of Appeals rules that livestock odors can reduce residential property values (*Livingston v Jefferson County*, 10 NebApp 934).

Market Report	Yr Ago	4 Wks Ag	11/30/12
<u>Livestock and Products,</u>			
<u>Weekly Average</u>			
Nebraska Slaughter Steers, 35-65% Choice, Live Weight.....	\$125.13	\$ *	\$125.50
Nebraska Feeder Steers, Med. & Large Frame, 550-600 lb.....	160.53	161.42	161.64
Nebraska Feeder Steers, Med. & Large Frame 750-800 lb.....	146.66	147.83	153.37
Choice Boxed Beef, 600-750 lb. Carcass.....	193.92	195.34	195.65
Western Corn Belt Base Hog Price Carcass, Negotiated.....	84.35	80.44	84.11
Pork Carcass Cutout, 185 lb. Carcass, 51-52% Lean.....	89.38	85.41	84.68
Slaughter Lambs, Ch. & Pr., Heavy, Wooled, South Dakota, Direct.....	163.50	86.25	98.50
National Carcass Lamb Cutout, FOB.....	399.52	302.18	300.54
<u>Crops,</u>			
<u>Daily Spot Prices</u>			
Wheat, No. 1, H.W. Imperial, bu.....	6.13	8.39	8.24
Corn, No. 2, Yellow Nebraska City, bu.....	6.03	7.44	7.55
Soybeans, No. 1, Yellow Nebraska City, bu.....	11.32	15.07	14.39
Grain Sorghum, No. 2, Yellow Dorchester, cwt.....	10.04	12.59	12.73
Oats, No. 2, Heavy Minneapolis, MN, bu.....	3.37	3.82	4.04
<u>Feed</u>			
Alfalfa, Large Square Bales, Good to Premium, RFV 160-185 Northeast Nebraska, ton.....	155.00	237.50	*
Alfalfa, Large Rounds, Good Platte Valley, ton.....	132.50	215.00	215.00
Grass Hay, Large Rounds, Good Nebraska, ton.....	95.00	190.00	215.00
Dried Distillers Grains, 10% Moisture, Nebraska Average.....	220.00	287.25	293.50
Wet Distillers Grains, 65-70% Moisture, Nebraska Average.....	74.00	107.25	107.00
*No Market			



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- 2002: Nebraska Court of Appeals rules that county officials violated open meeting requirements in granting zoning permit for dairy near trout stream (*Alderman v Antelope County*, 11 NebApp 412).
- 2002: Concern regarding the effect of county zoning regulations on livestock expansion led to the formation of the “Nebraska Agriculture Industry Partnership,” a wide ranging coalition of livestock industry supporters endorsed by then Governor Mike Johanns and then Representative Tom Osborne.
- 2002: LB1285, introduced by livestock development supporters, would have studied how to improve the livestock development climate in Nebraska. Opposed by livestock development opponents, LB1285 was indefinitely postponed by the Agriculture Committee, 5-3. This was (to me) a stunning political defeat for livestock development supporters.
- 2003: Nebraska Supreme Court ruled the city of Alma could regulate AFOs in order to protect community water supply (*State ex rel Alma v Furnas County Farms*, 266 Neb 558).
- 2003: Livestock friendly counties legislation adopted; currently 20 counties have been designated as livestock friendly: Adams, Banner, Box Butte, Cuming, Dawes, Deuel, Gage, Garden, Grant, Hitchcock, Jefferson, Keith, Kimball, Lincoln, Morrill, Saline, Scotts Bluff, Sheridan, Wayne and Webster.
- 2005: Initiative 300 invalidated by federal courts; appeals ran out in 2007; made it easier for corporate livestock development projects to proceed, although some stymied by restrictive county livestock zoning ordinances.

In this same time period the number of zoned counties in Nebraska has more than doubled, from 32-34 to over 90. Most newly zoned counties adopted zoning in order to control whether large AFOs could locate within the county. Some counties have two to three mile setbacks for new AFOs. Several proposed AFOs have been denied county zoning permits.

Livestock supporters have fought back with an unsuccessful 2002 legislative attempt (LB1285) to study the economic importance of the livestock industry in Nebraska, perceived as a prelude to rolling back county livestock zoning authorities along the line of Iowa. As noted above, this study proposal was defeated 5-3 in the Agriculture Committee, a committee normally very supportive of commercial agricultural interests. The adopting 2003 livestock friendly county legislation was a political fallback position for livestock development supporters after the 2002 LB1285 disappointment.

There is no doubt that livestock development is economically beneficial to Nebraska. However, widespread public opposition to new AFOs will continue to stymie that development. Following are a list of issues that should be addressed relative to future Nebraska livestock development.

1. ***Odor footprinting techniques should be developed and evaluated for use in AFO zoning decisions.*** University of Minnesota researchers have developed odor footprints for swine confinements, and University of Nebraska-Lincoln researchers have developed footprints for open cattle feedlots. This technique has generated considerable interest

within the Nebraska zoning community, and may be a way to establish a more science-based foundation for AFO zoning setback regulations in the future.

2. ***Counties should consider providing incentives for livestock operators implementing advanced odor reduction and environmental protection practices and facilities.*** Many Nebraska counties already do this by having different setbacks for AFOs, depending upon the manure handling system or processes employed. AFO operators can qualify for a smaller setback by e.g., covering manure pits or by using facultative lagoons to reduce odors.
3. ***Livestock operators and their allies should directly address the odor issue.*** Livestock odors are an inevitable byproduct of livestock production. Yet many livestock proponents act as if livestock odors don’t exist, except in the imagination of AFO opponents. Livestock groups should be proactive in promoting odor-reducing management practices and even regulations, but should also admit that livestock odors can be reduced but are difficult to eliminate. Pretending that odors are not a legitimate issue for discussion robs livestock proponents of the credibility they need if progress is going to be made over the current livestock development impasse. Failure to do so only increases the likelihood that the political defeat suffered by livestock development supporters in 2002 will be repeated.
4. ***Livestock advocates must accept that not all counties and not all Nebraska citizens will embrace very large AFOs.*** It seems likely that very large livestock facilities will generate significant (and in some cases unacceptable) levels of odor, dust and flies, despite the use of the very best management practices and facilities. Livestock industry supporters should acknowledge this. Failure to do so runs the risk of creating strong public opposition to **all** livestock facilities, not just the very largest ones.

Livestock production is crucial to Nebraska’s economic future. But until livestock advocates become more candid about the adverse impacts of large-scale livestock production, little progress is likely to be made in promoting additional livestock development in Nebraska.

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