

Corporations use law to deny community rights

by Jonathan Clark

Despite what the name Agriculture, Communities, and Rural Environment (ACRE) sounds like, the new law, signed by Gov. Ed Rendell on July 8, is actually designed not to help rural communities but to help agribusiness corporations site Concentrated Animal Feeding Operations (CAFOs) in rural communities that do not want them.

CAFOs are industrial operations where livestock and poultry are confined by the thousands under one roof, generating hundreds of thousands of gallons of waste. In 2003 the American Public Health Association recommended a precautionary moratorium on new CAFOs, citing public health risks, including contaminated groundwater and air pollution. Rural communities are also concerned about the social and economic consequences of CAFOs. Owned and operated either by agribusiness corporations or by contract farmers who raise those corporations' hogs, CAFOs drive small-scale, independent family farmers out of business.

In response to the concerns of local citizens, a dozen townships in rural Pennsylvania have passed anti-corporate farming ordinances banning CAFOs. If hundreds of other town-

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ships were to follow the lead of this dozen, the agribusiness corporations that produce pork and poultry in Pennsylvania might be driven out of the state. Taking aim directly at these anti-corporate farming ordinances, ACRE declares ordinances that "[r]estrict[ed] or limit[ed] the ownership structure of a normal agricultural operation" to be illegal. ACRE is therefore an attempt to shield agribusiness corporations from democratically enacted ordinances by making it illegal for a rural community to say no to industrial agriculture.

ACRE empowers Pennsylvania Attorney General Tom Corbett to review ordinances and determine whether these ordinances are "unauthorized." If the attorney general determines that CAFOs are "normal agricultural operations," he may nullify the anti-corporate farming ordinances. In reaching his decision, the attorney general may consult the secretary of the Pennsylvania Department of Agriculture, Dennis Wolff, who was one of the most vocal advocates lobbying for the pas-

sage of ACRE, as well as the dean of the College of Agricultural Sciences at Penn State, Robert Steele, whose college offers a free service that has helped agribusiness corporations site CAFOs.

"Normal agricultural operations" is a term defined in the Pennsylvania Right to Farm Law. Passed in 1982, this law was designed to protect farmers from lawsuits and ordinances prompted by exurbanites who move near farms and then complain about the smell. But the law protected only "normal agricultural operations," which were defined as "The customary and generally accepted activities, practices, equipment and procedures that farmers adopt, use or engage in year after year."

By the late 1990s, it had become apparent that CAFOs were not generally accepted in many rural communities in Pennsylvania, as evidenced by the growing number of township ordinances that aimed to ban them. In addition, in 1997 the Kentucky attorney general used citizen opposition to conclude that CAFOs were not protected by Kentucky's Right to Farm Law, citing citizen opposition as evidence that CAFOs were not "accepted and customary" in Kentucky. In 1998, faced with increasing local opposition to CAFOs, the Pennsylvania Farm Bureau and the Pennsylvania Grange—instead of siding with rural communities and independent family farmers—convinced the Pennsylvania General Assembly to change the definition of "normal agricultural operations" to include industrial agriculture. The term now "includes new activities, practices, equipment and procedures, consistent with technological development within the agricultural industry." This definition is so broad that, during the 1998 Pennsylvania legislative debates, Rep. Sara Steelman commented that "we are now giving farmers or farm corporations very considerable powers to do almost anything and defend it under the right to farm."

Thanks to this new definition, CAFOs can be forced into rural communities that don't want them. "Normal agricultural operations" is a term intended to legitimize corporate activities against which communities have attempted to protect themselves," said Ben Price, an activist with the Community Environmental Legal Defense Fund (CELDF), the organization that helped draft the anti-corporate farming ordinances.

But some say CAFOs are just part of the natural evolution of agriculture. According to PSU's Dean Steele, "The agribusiness sector,

including farming, is like any other business sector in that it includes a diversity of business sizes and ownership structures." Walt Peechatka, executive vice president of PennAg Industries, a group representing Pennsylvania agribusinesses, agreed. Whether owned and operated by contract farmers or by agribusiness corporations, CAFOs, according to Mr. Peechatka, are normal agricultural operations. As he put it, "The statutes are written broadly to cover all types of agriculture, and the continuing evolution of agricultural production.... Pennsylvania agriculture's diversity is one of its strengths." Jim Shirk, marketing coordinator for Wenger Feed Mills, suggested that contract production can actually be an economic lifeline for family farmers. "These contracts provide a steady source of reliable income, minimize the impact of market fluctuations, and in many cases allow the next generation to keep their family on the farm."

But where Peechatka sees diversity and Shirk sees an opportunity for family farmers, Tom Linzey, founder of CELDF, sees a system that "concentrates agricultural production in the hands of a few producers, which results in a monopolistic marketplace which actually drives independent family farmers out of business." Although some contract farmers profit by running CAFOs, CAFOs are also part of a corporate industrial model that, with the support of government policies such as ACRE, has caused a net loss of livestock farmers. According to the late rural sociologist Frederick H. Buttel in an essay entitled "Continuities and Disjunctures in the Transformation of the U.S. Agro-Food System," industrialization and corporate concentration have nearly eliminated moderate-scale, independent poultry, cattle and hog farmers. In the book *Hungry for Profit: The Agribusiness Threat to Farmers, Food, and the Environment*, rural sociologist William D. Heffernan, who studied contract farming for 30 years, wrote that contract production is profitable for some farmers in the short term, when they have a choice among firms, but in the long-term, when one or two firms control the market in an area, "growers find themselves in a financial crisis."

Industrial agriculture isn't inevitable. In *Pigs, Profits, and Rural Communities*, anthropologist Walter Goldschmidt, one of the first to describe the negative effects of industrial agriculture on the social fabric of rural communities, argues that industrial agriculture "is the result of laws and policies ... put in place by those who profit from it." Tom Linzey believes rural communities should have the right to use local laws to resist industrialization and corporate concentration by defining "the type of agriculture they believe is sustainable—both economically and environmentally."

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