**No. 15-35960**

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**UNITED STATES COURT OF APPEALS**
**FOR THE NINTH CIRCUIT**

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ANIMAL LEGAL DEFENSE FUND, *et al.*,
*Plaintiff-Appellees*,

v.

LAWRENCE WASDEN,
in his official capacity as Attorney General of Idaho,
*Defendant-Appellant*,

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On Appeal from the United States District
Court for the District of Idaho
Case No. 1:14-CV-104 (Honorable B. Lynn Winmill)

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# BRIEF OF *AMICI CURIAE* FOOD & WATER WATCH AND CENTER FOR BIOLOGICAL DIVERSITY IN SUPPORT OF AFFIRMANCE

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## CORPORATE DISCLOSURE STATEMENT

*Amici Curiae* Food & Water Watch and Center for Biological Diversity hereby state that they are nonprofit corporations, have no parent corporations, and do not issue stock.

## IDENTITIES AND INTERESTS OF THE *AMICI*

*Amici* Food & Water Watch (FWW) and the Center for Biological Diversity (Center) are public interest and environmental nonprofit 501(c)(3) organizations dedicated to protecting consumer rights, health, and the environment with regard to food and agriculture. *Amicus* FWW is a membership organization that advocates for common-sense policies that will result in healthy, safe food, and access to safe and affordable drinking water. *Amicus* the Center is a member organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. *Amici* believe that their history and experience with regard to the food system, and particularly industrial livestock production and the effects of food production methods on food safety and the environment, will aid the Court in considering the questions on appeal. *Amici curiae* file this brief under the authority of Federal Rule of Appellate Procedure 29.[1]

Counsel for *amici* conferred with counsel for Appellant and Appellees, and all parties consent to *amici* filing this brief.

[1] Pursuant to Federal Rule of Appellate Procedure 29(c), *amici curiae* Food & Water Watch and the Center for Biological Diversity certify that undersigned counsel authored this brief in full. Fed. R. App. P. 29(c)(5). Further, no party, any party's counsel, nor any person other than the *amici curiae* or their counsel contributed money intended to fund preparing or submitting this brief.

## INTRODUCTION

Nowhere is transparency and enforcement of existing laws more important than with our current food production systems, particularly with respect to animal agriculture. Despite laws in Idaho[2] and other states that prohibit cruelty to animals, as well as federal regulations requiring withholding of bacteria- and disease-ridden animals from the food supply and pasteurization of dairy products, the meat industry regularly violates these laws. In addition to common industry practices such as tail docking and de-beaking to keep animals from attacking each other in extreme confinement, investigators have witnessed factory farm and slaughterhouse workers committing numerous animal welfare crimes, such as punching, kicking, and stabbing animals, dragging them with chains, and spraying them in the face with high-pressured hoses.[3]

Such practices introduce sick and injured animals into our food supply and endanger public health.[4] American livestock production is now dominated by industrial-scale animal factories,[5] and the meat, eggs, and dairy products

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[2] Idaho Code Ann. tit. 25, Ch. 35 (West 2016).

[3] Paul Solotaroff, *In the Belly of the Beast*, Rolling Stone (2013), http://www.rollingstone.com/feature/belly-beast-meat-factory-farms-animal-activists.

[4] *See* Jane Velez-Mitchell, *Factory Meat, Cruel and Bad for Us*, CNN (Mar. 15, 2014), http://www.cnn.com/2014/03/14/opinion/velez-mitchell-animal-cruelty/.

[5] Doug Gurian-Sherman, *CAFOs Uncovered: The Untold Costs of Confined Animal Feeding Operations*, Union of Concerned Scientists, 1, 10 (2008), http://www.ucsusa.org/assets/documents/food_and_agriculture/cafos-

originating in these facilities are leading causes of foodborne illness. The Environmental Protection Agency (EPA) has found that "[m]ore than 150 pathogens associated with industrial livestock production are also associated with risks to humans, including the six human pathogens that account for more than 90% of food and waterborne diseases in humans."[6]

The undercover investigations prohibited by Idaho's "Interference with Agricultural Production" law, Idaho Code Ann. § 18-7042 (Idaho Law), protect consumers and public health by filling the gap created by inadequate federal and state inspection programs. These investigations are currently the public's best defense against foodborne illnesses that are caused by contaminated animal products, because government has proven ineffective time and again at protecting food safety. By making it a crime to document the violation of animal cruelty and food safety laws at livestock operations, slaughterhouses, and dairy processing plants, the Idaho Law improperly criminalizes activities that play an important role in protecting our food supply.

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uncovered.pdf; Farm Forward, http://farmforward.com/ending-factory-farming/ (last visited Jun. 17, 2016).

[6] National Pollutant Discharge Elimination System Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations, 68 Fed. Reg. 7179 (Feb. 12, 2003) (codified at 40 C.F.R. pts. 9, 122, 123, 412).

# ARGUMENT

## I. FOODBORNE ILLNESS ASSOCIATED WITH INDUSTRIAL ANIMAL AGRICULTURE IS A SIGNIFICANT AND GROWING THREAT TO PUBLIC HEALTH

The federal Centers for Disease Control and Prevention (CDC) estimates that foodborne illness sickens approximately one in six Americans—48 million people—every year, putting 128,000 people in the hospital and killing 3,000 annually.[7] Animal products are responsible for a large percentage of these foodborne illnesses: meat and poultry products cause an estimated 22% of illnesses and 29% of deaths, and dairy and eggs cause an estimated 20% of illnesses and 15% of deaths.[8] Between 1998 and 2008, dairy products were the leading cause of hospitalizations. Over the same period, poultry was responsible for 19% of deaths—more than any other single food commodity.[9] Some of the most common and harmful foodborne illnesses include Norovirus, *Salmonella*, *Campylobacter*, and *Escherichia (E.) Coli*, which cause a broad range of symptoms including fever, abdominal cramps, diarrhea, vomiting, respiratory illness, and blood infections.[10]

Trends in the incidence of foodborne illness associated with meat, poultry,

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[7] CDC, *Estimating Foodborne Illness in the United States*, (Apr. 17, 2014), https://www.cdc.gov/foodborneburden/estimates-overview.html.
[8] *Id.*
[9] John A. Painter et al., *Attribution of Foodborne Illnesses, Hospitalizations, and Deaths to Food Commodities by using Outbreak Data, United States, 1998–2008*, 19–3 Emerging Infectious Diseases 407, 409 (2013), http://wwwnc.cdc.gov/eid/article/19/3/pdfs /11-1866.pdf.
[10] CDC, *Trends in Foodborne Illness in the United States, 2012*, (Apr. 18, 2014), https://www.cdc.gov/features/dsfoodnet2012/index.html.

and dairy products are not encouraging. According to the CDC, 2012 foodborne illness tracking data "showed a lack of recent progress in reducing foodborne infections and highlight the need for improved prevention."[11] Compared with 2006-2008, incidence of *Campylobacter* in 2012 had increased 14%, and *Vibrio* infections increased 43%. Comparing the same years, "incidence of laboratory-confirmed *Listeria*, *Salmonella*, and Shiga toxin-producing *E. coli* (STEC) O157 infection did not change significantly," indicating that the safety of animal products in our food supply is not making any forward progress, and in some cases is getting worse.[12] Strains of these pathogens are rapidly becoming drug-resistant;[13] six antibiotic-resistant microorganism are currently linked to foodborne illness,[14] and new "superbugs" resistant even to antibiotics of last resort are appearing at hog slaughterhouses.[15] Additionally, a strain of *E. coli* has recently become heat resistant, which means even thoroughly cooked animal products may

[11] *Id*.
[12] *Id*.
[13] *See* Ellen Silbergeld et al., *Industrial Food Animal Production, Antimicrobial Resistance, and Human Health*, 29 Annual Rev. of Public Health 151, 151–69 (2008).
[14] CDC, *Antibiotic Resistance Threats in the United States, 2013*, 1, 36 (2013), http://www.cdc.gov/drugresistance/threat-report-2013/pdf/ar-threats-2013-508.pdf.
[15] Lena H. Sun, Updated: Superbug Found in Illinois and South Carolina, Washington Post (Jun. 15, 2016), https://www.washingtonpost.com/news/to-your-health/wp/2016/06/14/superbug-found-in-second-pig-sample-in-u-s/.

threaten consumers with live pathogens.[16]

The industrial scale of factory farm livestock, egg, and dairy production and processing can make contamination more likely and worsen the impact when foodborne illness is introduced into the food supply. CDC experts have explained that "[t]he new highly industrialized way we produce meat has opened up new ecological homes for a number of bacteria,"[17] such that "even infrequent contamination of commercially distributed products can result in many illnesses."[18] For example, industrial ground beef production "make[s] it possible for meat from dozens or even hundreds of cattle to go into any given hamburger patty."[19]

## II. ANIMAL WELFARE VIOLATIONS AND UNSANITARY PRACTICES INCREASE THE RISK OF FOODBORNE ILLNESS

The way in which animals are raised and slaughtered has direct and serious effects on the safety of our nation's food supply. Factory farm conditions are typically crowded and stressful, making confined animals inherently susceptible to illness; cruelty violations significantly exacerbate these threats. Such stressed, sick,

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[16] Ryan G. Mercer et al., *Genetic Determinants of Heat Resistance in Escherichia coli*, 6 Frontiers in Microbiology 1,1 (2015), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4563881/.

[17] Modern Meat (PBS 2002) (quoting Dr. Robert Tauxe, head of the CDC's Foodborne and Diarrheal Diseases branch), http://www.pbs.org/wgbh/pages/frontline/shows/meat/etc/synopsis.html.

[18] Painter, *supra* note 9 at 411.

[19] G. L. Armstrong et al., *Emerging Foodborne Pathogens:* Escherichia coli O157:H7 *as a Model of Entry of a New Pathogen into the Food supply of the Developed World*, 18 Epidemiologic Revs. 29, 44 (1996).

or injured animals are more likely to come into contact with, harbor, and spread pathogens that can multiply throughout the food supply if not properly removed from the supply chain.

### A. Mistreatment of Dairy Cows Increases the Risk that *Salmonella* and Other Pathogens Will Contaminate the Dairy Supply

Idaho is home to a large and growing dairy industry, ranking third in the nation for total dairy cows.[20] Between 2007 and 2012, the number of dairy cows in the state grew by more than 45,000, while the average dairy facility size grew nearly 25% to more than 2,600 cows.[21] Considering dairy products are a leading cause of foodborne illness, the public has a strong interest in ensuring that Idaho's dairy operations are not committing animal welfare violations or engaging in unsanitary practices that increase the risk of contamination of the dairy supply.

Studies have found that "[t]he prevalence of foodborne pathogens in milk is influenced by numerous factors such as farm size, number of animals on the farm, hygiene, [and] farm management practices . . . ."[22] Poor dairy management and unsanitary or inhumane facility conditions can lead cows to "become infected

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[20] National Agricultural Statistics Service, USDA, 2012 Census of Agriculture 271 (2014), https://agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf.

[21] Food & Water Watch, www.factoryfarmmap.org (last visited Jun. 6, 2016).

[22] S.P. Oliver et al., *Foodborne Pathogens in Milk and the Dairy Farm Environment: Food Safety and Public Health Implications*, 2 Foodborne Pathogens and Disease 115, 116 (2005).

[with pathogens such as *Salmonella*, *Campylobacter*, and shiga toxin-producing *E. coli*] through consumption of water and other feedstuffs contaminated with feces and other cattle secretions/excretions."[23] Some of these pathogens can in turn cause mastitis in infected cows, "in which case the organism can be directly excreted into milk."[24]

As the high rates of foodborne illness from dairy products show, pasteurization is often inadequate to address dairy contamination. In some cases pasteurization fails to kill all harmful bacteria,[25] and, in others, pathogens from raw products spread in processing plants, leading to post-pasteurization contamination.[26] Thus, there is a significant public health interest in keeping dairies clean, preventing contamination and mastitis through good farm management and humane practices, and in identifying dairy cows with mastitis and removing them from production while administering medical treatment. Where facilities fail to do so, undercover investigations can play a critical role in identifying sources of potentially dangerous dairy products threatening the food supply.

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[23] *Id.* at 120.
[24] *Id.*
[25] *See* Sonja J. Olsen et al., *Multidrug-Resistant* Salmonella Typhimurium *Infection for Milk Contaminated After Pasteurization*, 10-5 Emerging Infectious Diseases 932, 933, http://wwwnc.cdc.gov/eid/article/10/5/pdfs/03-0484.pdf.
[26] *Id.*

### B. Slaughtering Sick, Injured, and "Downer" Cows Increases the Risk that *Salmonella*, *E. Coli*, and Mad Cow Disease Will Contaminate Our Food Supply

The public health threats attributable to dairy industry cruelty do not end at the production facility; "spent" dairy cows are typically sent to slaughter at the end of their profitable milking lives to be processed into beef.[27] Such dairy cows "account for approximately 75% of downed cattle,"[28] or cattle too sick or injured to rise from a recumbent position, due in part to poor management and maintenance of dairy facilities.[29] USDA's Animal and Plant Health Inspection Service (APHIS) estimates the number of non-ambulatory cows at 195,000 per year.[30] Sick and downer cows pose a significant public health risk if they are not prevented from entering the food supply. These cows are more likely to harbor *Salmonella* and *E. Coli* than other cows,[31] as more time spent lying down leads to increased contact with manure.[32] Once infected, cows are also more likely to shed

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[27] HSUS, An HSUS Report: The Welfare of Cows in the Dairy Industry, 1 (2009), http://www.humanesociety.org/assets/pdfs/farm/hsus-the-welfare-of-cows-in-the-dairy-industry.pdf.
[28] *Id*. at 8.
[29] *Id*.
[30] OIG, USDA, Audit Report: Animal and Plant Health Inspection Service and Food Safety and Inspection Service: bovine spongiform encephalopathy (BSE) surveillance program – Phase I 21 (2004), www.oig.usda.gov/webdocs/50601-9-final.pdf.
[31] *See* J. F. Edwards et al., *A Bacteriologic Culture and Histologic Examination of Samples Collected from Recumbent Cattle at Slaughter*, 207 J. of the Am. Vet. Med. Assoc. 1174, 1174–76 (1995).
[32] T. Grandin, *A.M.I. Sponsors Stunning and Handling Conference*, Meat & Poultry 48–49 (1999).

pathogens due to stress.[33] Slaughter can transfer intestinal bacteria to animal carcasses, and bacteria on animal hides can contaminate exposed meat during hide removal.[34]

Downer cows are also more likely to be infected with mad cow disease.[35] Such cattle "will eventually stumble, fall, and experience seizures, coma, and death."[36] Humans who consume infected cattle products can develop a human variant of the illness, Creutzfeldt-Jakob disease, which has no known treatment and ultimately results in memory impairment, dementia, and death.[37] Infected and high-risk cattle parts include brains, skulls, eyes, spinal cords, and other central nervous system tissues.[38] During the widely used slaughter practice of captive bolt stunning, such contaminated central nervous system tissues "may become widely dispersed across . . . the slaughter-dressing environment and within derived

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[33] J. S. Spika et al., *Chloramphenicol-resistant* Salmonella newport *Traced Through Hamburger to Dairy Farms: A Major Persisting Source of Human Salmonellosis in California*, 316 New Eng. J. Med. 565, 565–70 (1987).
[34] Sarah Klein & Caroline Smith DeWaal, Risky Meat: A CSPI Field Guide to Meat and Poultry Safety 9 (2013), http://cspinet.org/foodsafety/PDFs/RiskyMeat_CSPI_2013.pdf.
[35] OIG, *supra* note 30 at 2.
[36] Use of Material Derived From Cattle in Human Food and Cosmetics, 81 Fed. Reg. 14718, 14718 (Mar. 18, 2016) (codified at 21 C.F.R. pts. 189 & 700).
[37] Use of Material Derived From Cattle in Human Food and Cosmetics Interim Rule, 69 Fed. Reg. 42256, 42257 (Jul. 14, 2004).
[38] *Id*. at 42258– 59.

carcasses including meat entering the human food chain."[39] There are no pre-slaughter tests for BSE.[40] Moreover, cooking—or even irradiating—contaminated meat does not kill BSE or make it less transmissible,[41] making it even more essential to ensure that high-risk downer cattle are properly identified and separated from the cattle intended for human consumption, as required by federal regulations.

### C. Unsanitary and Inhumane Conditions on Egg and Poultry Farms Expose Consumers to *Salmonella* and *E. coli* Contamination

Ninety-five percent of U.S. laying hens are raised in extreme confinement in vertically stacked "battery cages,"[42] which studies consistently show breed more pathogens than "cage-free" systems.[43] These facilities are hard to clean and disinfect, allow manure to drop onto birds, promote rodent and insect disease vectors, and increase stress—all of which make hens more susceptible to

[39] D.J. Daly et al., *Use of a Marker Organism T Model the Spread of Central Nervous System Tissue in Cattle and the Abattoir Environment during Commercial Stunning and Carcass Dressing*, 68 Applied & Envtl. Microbiology 791, 791 (2002).
[40] 69 Fed. Reg. at 42259.
[41] FSIS, USDA, *Bovine Spongiform Encephalopathy – "Mad Cow Disease,"* http://www.fsis.usda.gov/wps/portal/fsis/home (search "BSE") (last visited Jun. 14. 2016).
[42] HSUS, A Comparison of the Welfare of Hens in Battery Cages and Alternative Systems 1 (2008), http://www.humanesociety.org/assets/pdfs/farm/hsus-a-comparison-of-the-welfare-of-hens-in-battery-cages-and-alternative-systems.pdf.
[43] HSUS, Food Safety and Cage Production 2–3 (2011), http://www.humanesociety.org/assets/pdfs/farm/report_food_safety_eggs.pdf.

*Salmonella* infection and increase shedding of the bacteria.[44] Eggs can be contaminated with *Salmonella* during formation and/or after the hens lay the eggs.[45] This means "eggs from infected birds can be laid with the bacteria prepackaged inside."[46] The bacteria can "then survive sunny-side-up, over-easy, and scrambled cooking methods."[47]

Similarly, birds raised for meat are highly susceptible to disease due to "crowding, handling, transport, food and water deprivation, exposure to unusual pathogens, unsanitary conditions, and malnutrition . . . ."[48] When slaughtered, these birds can readily spread *E. coli* and *Salmonella* "from carcass to carcass and throughout the plant as the carcasses move through the processing line."[49] In short, on-farm animal welfare abuses in every livestock sector make it more likely that infected animals will reach the slaughterhouse, and ultimately, the dinner table.

## III. GOVERNMENT REGULATION HAS PROVEN INEFFECTIVE AT ADEQUATELY PROTECTING OUR FOOD SUPPLY

Despite the prevalence of foodborne illness from factory farm livestock and

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[44] *Id*. at 4–5 (2011).
[45] Inne Gantois et al., *Mechanisms of Egg Contamination by Salmonella Enteritidis*, 33 Federation of Eur. Microbiological Societies Rev. 718, 721–30 (2009).
[46] HSUS, Food Safety and Cage Production, *supra* note 43 at 2.
[47] *Id.*
[48] S. Shini et al., *Understanding Stress-induced Immunosuppression: Exploration of Cytokine and Chemokine Gene Profiles in Chicken Peripheral Leukocytes*, 89 Poultry Science 841, 844 (2010).
[49] The Microbiology of Poultry Meat Products 293 (F. E. Cunningham & N.A. Cox eds., 1987).

the established links between contaminated products and inhumane practices, federal oversight of factory farms is virtually nonexistent.[50] This heightens the need for strong USDA Food Safety Inspection Service (FSIS) oversight once diseased and injured animals reach slaughter, yet inspections of slaughter and processing operations have proven inadequate to protect public health.[51] In fact, overall recalls of meat, poultry, dairy, and egg products increased every year from 2012 to 2015, with approximately 20 million pounds of potentially unsafe animal products recalled after entering the food supply last year alone.[52]

However, where government oversight has often failed to prevent high-risk animal products from entering the food supply, undercover investigations have succeeded. One of the most important undercover investigations in recent history was the 2007 Humane Society of the United States (HSUS) investigation of a

[50] *See, e.g.* Gov't Accountability Office, Concentrated Animal Feeding Operations: EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality from Pollutants of Concern 4 (2008), http://www.gao.gov/new.items/d08944.pdf.

[51] For example, in 2012, the USDA OIG audited of dozens of hog slaughterhouses found that FSIS "do[es] not deter swine slaughter plants from becoming repeat violators of [food safety and humane laws]." OIG, USDA, Food Safety and Inspection Service – Inspection and Enforcement Activities At Swine Slaughter Plants, Audit Report 24601-0001-41 1 (May 2013), https://www.usda.gov/oig/webdocs/24601-0001-41.pdf.

[52] FSIS, USDA, *Summary of Recall Cases in Calendar Year 2015*, http://www.fsis.usda.gov/wps/portal/fsis/topics/recalls-and-public-health-alerts/recall-summaries/.

California cattle processing plant operated by Hallmark/Westland.[53] Undercover HSUS investigators documented and released videos of "egregious abuse of cattle awaiting slaughter," including "electric shocks, spray from high-pressure water hoses, and the ramming of cattle with a forklift," which were "apparent attempt[s] to force non-ambulatory cattle to rise for slaughter."[54] Such downer cows must be inspected and often condemned as unsafe for human consumption, but in this case Hallmark employees took "deliberate actions . . . to bypass required inspections" *and* FSIS in-plant staff failed to comply with their own inspection procedures.[55] The USDA Office of the Inspector General, in its audit report on the incident, "concluded that there is an inherent vulnerability that humane handling violations can occur and not be detected by FSIS inspectors."[56] The investigation led to the largest meat recall to date—143 million pounds—much of which had made its way into "school lunches and other federal nutrition programs."[57] It also resulted in criminal and civil enforcement actions against the plant and its employees. The

[53] *See* OIG, USDA, *Audit Report: Evaluation of FSIS Management Controls Over Pre-Slaughter Activities*, at i, iii (Nov. 2008), http://www.usda.gov/oig/webdocs/24601-07-KC.pdf.
[54] *Id*. at i, iii.
[55] *Id*. at iii.
[56] *Id*.
[57] Andrew Martin, *Largest Recall of Ground Beef is Ordered*, N. Y. Times (Feb. 18, 2008), http://www.nytimes.com/2008/02/18/business/18recall.html?_r=1.

facility permanently closed the following year.[58]

The abuses at Hallmark were not an anomaly, and that case was far from the only example of undercover investigations succeeding where government oversight has failed. A 2015 Mercy for Animals investigation at a Tyson chicken factory farm showed workers throwing, stabbing, and beating birds, many of which were sick or injured. The facility closed as a result, and its operators pled guilty to criminal cruelty to animals.[59] A 2014 HSUS investigation at a New Jersey cattle slaughterhouse found workers kicking calves and dragging them to slaughter with chains when the USDA inspector was not present; the footage led USDA to close the facility until it could comply with food safety and humane laws.[60]

Initiatives to de-regulate slaughtering facilities threaten to undermine even the lax federal oversight demonstrated by these and other investigations. FSIS recently issued regulations to adopt the "New Poultry Inspection System," which allows poultry slaughter facilities to choose to *reduce* the number of federal

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[58] *See* Animal Law Coalition, Westland/Hallmark Shuts Down Permanently (Feb. 25, 2008), https://animallawcoalition.com/westlandhallmark-shuts-down-permanently/; HSUS, Owners of Infamous Calif. Slaughterhouse Pay Millions to Settle Government Fraud Case (Nov. 27, 2013), http://www.humanesociety.org/news/press_releases/2013/11/Hallmark_settlement_112713.html.

[59] Matt Rice, *Closed for Cruelty: MFA Investigation Shuts Down Factory Farm*, Mercy for Animals, http://www.mfablog.org/closed-for-cruelty-mfa-investigation-shuts (last visited Jun 16, 2016).

[60] Michael Diamond, *USDA shutters N.J. slaughterhouse over calf treatment*, USA Today, http://www.usatoday.com/story/news/nation/2014/01/28/usda-suspends-slaughterhouse-catelli-bros/4957189/ (last visited Jun. 16, 2016).

inspectors on their slaughter lines, decreasing FSIS oversight of individual carcasses for fecal contamination and other visible problems.[61] Numerous facilities have signed up to participate.[62] Consequently, the investigations prohibited by the Idaho Law will play an increasingly critical role to fill the food safety gaps left by lax government oversight of the livestock industry.

## CONCLUSION

Industrial livestock production contributes to widespread foodborne illness, as well as numerous hospitalizations and deaths, every year. The Idaho Law threatens public health by prohibiting investigations with a proven track record of uncovering illegal and dangerous factory farming and slaughter practices, where government agencies have repeatedly failed. *Amici* urge the Court to affirm.

DATED: June 27, 2016 Respectfully Submitted,

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[61] Modernization of Poultry Slaughter Inspection, 79 Fed. Reg. 49566 (Aug. 21, 2014) (codified at 9 C.F.R. pts. 381 & 500).
[62] Food & Water Watch, https://www.foodandwaterwatch.org/sites/default/files/poultry_plants_participating_in_the_new_poultry_inspection_system2.pdf (last visited Jun. 15, 2016).

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**CERTIFICATE OF COMPLIANCE PURSUANT TO FED. R. APP. P 29(d) & 32 (a)(7) AND NINTH CIRCUIT RULES**

1. I certify that pursuant to Federal Rule of Appellate Procedure 32(a), the attached brief of *Amici Curiae* is proportionally spaced, has a typeface of 14 point Times New Roman, and, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii), contains 3,535 words.

2. I further certify that all privacy redactions have been made.

3. I further certify that all paper copies submitted to this Court are or will be exact copies of this version, which is being submitted electronically via the Court's CM/ECF system.

DATED: June 27, 2016

Respectfully submitted,

By: */s/ Hannah Connor*
Hannah Connor

## CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of June, 2016, I electronically filed the foregoing *Amicus Curiae* Brief with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the Court's CM/ECF system, which sent electronic notification to all counsel of record.

*/s/ Hannah Connor*
Hannah Connor