

# The Truth of the Matter

*The real story behind a complaint against the NC pork industry*

**I**N THE LATE SUMMER OF 2014, three groups opposed to modern livestock farming in North Carolina leveled a new – and startling – claim against the state’s pork industry. The groups alleged in a formal complaint that the location of more than 2,000 hog farms in North Carolina amounts to discrimination by farmers against neighboring communities “on the basis of race and national origin.”

Launching a civil rights claim was a novel approach for the Waterkeeper Alliance, the North Carolina Environmental Justice Network (NCEJN), and the Rural Empowerment Association for Community Help (REACH).

Their complaint, filed Sept. 3, 2014, did not specifically target any one farm or pork-producing company. Rather, it was filed at the U.S. Environmental Protection Agency and took aim at the state’s Department of Environmental Quality (DEQ) – the state agency that issues permits for hog farms.

Specifically, the groups alleged that the permits the state had granted violated Title VI of the Civil Rights Act of 1964, which says federal funds cannot be spent to foster discrimination based on race, color, or national origin. Agencies, such as DEQ, that violate the act could see their federal funding curtailed.

In short, the groups said, the civil rights complaint was a new “lever” in their efforts against hog farms.

After lodging the complaint, the groups and their allies have highlighted the allegation of racial discrimination at every turn, in many venues. Their efforts have kicked up a cloud of negative headlines and unfavorable coverage from an unquestioning and receptive media and blogosphere. And the claim

has found its way into the public policy arena in various ways at both the state and federal levels. For the past year, according to the groups, they have been engaged in private mediation with DEQ about their complaint. But stop for a moment and consider: What if they got it wrong?

That’s the purpose of this special report in the NC Pork Report. It’s to provide an in-depth examination of the issue and to outline the truth of the matter as it relates to this unfounded and inaccurate complaint.

If you read no further, you should know this: The allegation is patently false.

How do we know? Our conclusion is based on information generated and published by the complainants themselves as well as by research commissioned in 2017 by the NCPC Board of Directors using the exact same data as the complainants.

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To understand the allegation and what has followed, it is helpful to start at the beginning. That’s not when the complaint was filed. It is when a sympathetic university professor was asked to produce a written report to serve as the basis for the allegation of discrimination.

The professor’s written report purports to show there is racial discrimination in how DEQ issues permits to hog farms. The date of the report is Aug. 29, 2014 – just five days before the

Title VI complaint was filed. The title of the report is “Industrial Hog Operations in North Carolina Disproportionately Impact African-Americans, Hispanics and American Indians.”

It was written by Steve Wing and Jill Johnston.

Wing was not an impartial observer.

At the time he authored the report, Wing was a board member (and board secretary) at NCEJN – one of the organizations that filed the complaint – and a professor at UNC Chapel Hill. The NCEJN lists one other board member that year. Official records show Wing devoted 15 hours per week to NCEJN in 2014, when he authored his report. (Johnston at the time was a postdoctoral researcher at UNC Chapel Hill.)

Wing, who died in late 2016, spoke in several forums about his efforts to produce a “disproportionate impact” study and that it was meant to “support” the groups’ complaint. Wing also has said he provided support in meetings with regulators, at “public protests,” and in lawsuits filed against pork producers.

There were no disclosures of conflicts in the complaint’s disproportionate impact study.

What Wing made clear is that the idea for the civil rights claim study came from a lawyer.

That lawyer is Marianne Engelman Lado. In 2014, she worked at a law firm called Earthjustice (formerly known as the Sierra Club Legal Defense Fund). She’s now at Yale Law School.

Her idea?

“Her idea was – let’s file a civil rights complaint against the state,” Wing said in late 2014 while giving a talk in Boston. “Because the state permits these companies to pollute people’s homes with

feces and urine and it disproportionately affects people of color who are impacted by these operations.”

Wing for years had worked to produce health studies on behalf of the complaining groups. (See related sidebar). Now, he set out to assist Lado with her idea for a civil rights action.

Lado’s goal was simple. “Why do we use civil rights strategies?” she said in one talk.

A civil rights claim, she explained, brings opponents of hog farms together and provides them language and framing to use in their efforts against the farms; it “increases the visibility of the issue of race” as part of their advocacy agenda; and the claim itself provides “leverage” in concert with other tactics against the farmers. She has characterized the claim as a “lever.”

“When you file the civil rights suit,” Lado told an audience in Washington D.C., “people will sit down and talk to you in a way that if you didn’t file a civil rights suit, they may not.”

Wing echoed her views in a speech.

“The lawyers in the civil rights complaint are not very – they don’t think the prospects for EPA cutting off funds to North Carolina are very great,” he said. “They recognize that the greatest prospects are from having communities become organized to put pressure on their – on the authorities, on the politicians and opinion leaders and so on. So, I think the most important part, really, of the research and of the civil rights complaint is that we hope it will contribute to a popular movement for change.”

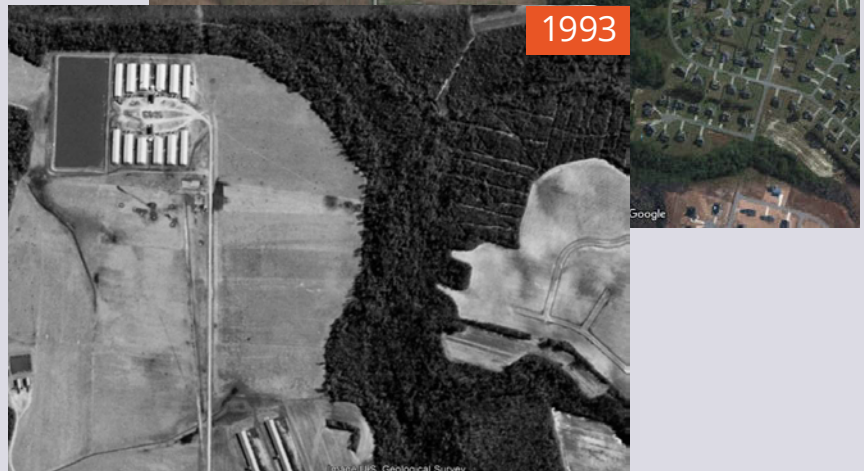
### CRAFTING A STUDY

It is important to know that the Wing and Johnston study, which was written to support the discrimination claim, relies on two key choices. Both choices were necessary to reach their desired result.

Their first choice was that they identified a three-mile radius as the area “affected” by the issuance of a DEQ permit to a hog farm.

Wing was asked about his choice.

“Any distance would be arbitrary,” he said. “But we picked one that we thought would be inclusive of most people who would be affected on a more routine basis.”



## IN PLACE FOR YEARS, HOG FARMS COEXIST

The state passed a moratorium that halted the construction of new hog farms in 1997. While the farms have been static, the areas around them have not.

Using Google Earth, the North Carolina Pork Council has documented numerous examples across Eastern North Carolina of neighborhoods, churches, shopping areas, businesses, country clubs, and other development sprouting near farms.

Big farms. Small farms. Multiple farms. There are no exceptions.

In some cases, cul-de-sacs now border farm entry roads – lanes where, once, there were only crop fields. Drive these neighborhoods and what’s clear is that many neighboring homes have swimming pools, swing sets, trampolines, fire pits, screened porches, patios and more, all where families enjoy the outdoors near the farms.



It is probably difficult for most people to even accurately imagine what a three-mile radius around a single farm looks like or encompasses.

It takes the average person about one hour to walk three miles.

Picture the Interstate 440/40 Beltline loop that encircles Raleigh, for example. The Beltline is roughly a three-mile radius around a single point (near Cameron Village shopping area).

A three-mile radius of the White House takes in most of Washington D.C.. A three-mile radius encompasses just about the entire city of San Francisco. A three-mile radius around the Empire State Building in New York City includes much of lower and midtown Manhattan as well as swaths of neighboring boroughs, encircling an area where 1.1 million people live.

A three-mile radius captures an area of 28 square miles.

According to the complainants' own data, nearly 1 million people in North Carolina live within three miles of a hog farm. Some counties are entirely within three miles of a hog farm, underscoring what a large area the three-mile radius is.

When Wing and Johnston ran the numbers, using the 2010 Census, the population demographics at the three-mile radius of hog farms in North Carolina was shown to be approximately 61 percent white and 28 percent African-American.

That result is not evidence of discrimination in where hog farms were located.

In order to show discrimination, they had to compare with some other area – and show that a significantly greater population of African-Americans or other minorities is within three miles of hog farms than in the comparison area.

But what area?

They created one.

In crafting a custom-made “study area,” they excluded the population of the state’s five largest cities (saying as the reason that they have no agriculture). They also excluded from their “study area” some (but not all) mountain and foothills counties. They included numerous counties – but not all – that don’t have any hog farms at all.

Their choices left a custom-made “study area” with a population of 6.5 million people. It stretched from Cape Hatteras in the east to Appalachian State University in the west.

When Wing and Johnston ran the numbers, using the 2010 Census, the population of the “study area” was shown to be approximately 70 percent white and 21 percent African-American.

Then, they compared the population within a three-mile radius of farms with their “study area.”

And doing this, they arrived at their result.

In the language of academia, they reduced this to comparisons among subsets of the different areas. Their result was that 13 percent of white people are within three miles of a farm as a proportion of the overall study area, and that 20 percent of African-American people or people of color are within three miles of a farm as a proportion of the overall study area. They computed the difference between 20 percent and 13 percent, and reported a conclusion based on that. This led to their main finding, which is that African-Americans or people of color are 1.5 times more likely to be located within three miles of a farm than whites (20 percent being 1.5 times more than 13 percent).

What Wing and Johnson essentially did was compare the demographics of North Carolina’s coastal plain (where hog farms are located) with the demographics of the state’s broad piedmont and coastal regions.

This is the basis for the allegation of discrimination.

Their conclusion – and all of the media coverage that followed – was based only on this notion of a larger proportion of African-Americans and other minorities living among the nearly 1 million people within three miles of hog farms than are living in the custom “study area” of 6.5 million people.

But the complaining groups’ study actually demonstrates very little about the specific location of permitted farms and the surrounding communities where the farms are located.

The truth is not as complicated.

One way to begin to understand how misguided the claim is would be to simply look at the counties in North Carolina and sort them by concentration of African-American population.

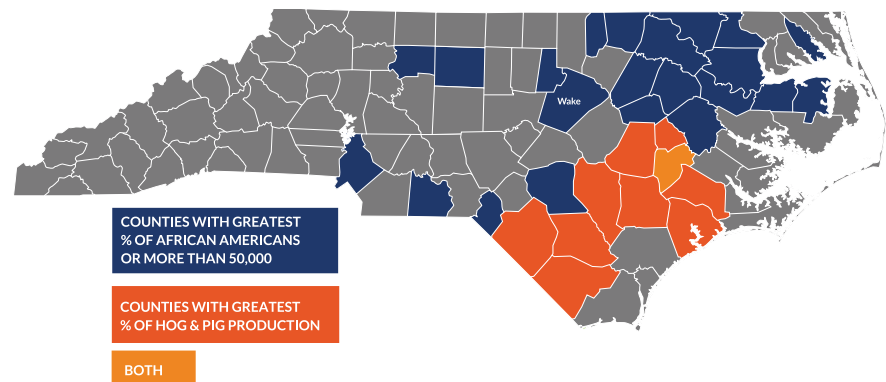
When you do that, what you would see is straightforward. The pork industry is not located in the predominately African-American counties, nor in the top counties for African-American population. In fact, of the top 20 counties for African-American percentage, only one – Lenoir County – is even a top 10 hog producing county. Additionally, of the counties in North Carolina with more than 50,000 African-Americans, none are among the top hog producing counties.

## OBJECTIVE STUDIES

In 2017, the North Carolina Pork Council sought to conduct a more detailed demographic analysis. Resolution Economics

### North Carolina demographics

This map shows, by county, where 66 percent of the African-American population in North Carolina is located. It includes the top 20 counties by percentage as well as all counties with 50,000 or more African-Americans. The top hog producing counties, representing 80 percent of the hogs and pigs in the state, are also shown.



LLC in Washington, DC, was commissioned to perform this work.

The firm recommended two methods for objective analysis – a concentric-circle analysis and a farm-by-farm analysis. Both would use the same data and methods from the 2010 Census as used by the complaining groups.

The NC Pork Council agreed to both.

It's easy to think of the concentric-circle analysis instead as a "donut" analysis. Picture two circles around a farm – one in a tight radius and the other farther away.

Using concentric circles, this type of analysis compares the population living closer to a farm with those who live in the surrounding community a bit farther away – but who would still use the same roads, go to the same grocery stores, attend the same schools, and otherwise have the same community resources.

Resolution Economics looked at the population living within ½ mile, ¾ mile and 1 mile of permitted hog farms. The idea was to then compare those close-in populations with those who live in a zone 1- to 5-miles away or even 1- to 10-miles away.

The reason for the various measures was to eliminate the rigidity that comes with basing a result on only one fixed and arbitrary difference – exactly what the complainants did to arrive at their result.

What the data from these concentric circle analyses makes clear is that the population living nearest hog farms – within a half-mile, three-quarters of a mile and one mile – is approximately 60 percent white and less than 24 percent African-American. (Recall that this result is generally consistent with the complainants' data even out to the three-mile range.)

Again, this data does not establish in any way that DEQ was discriminatory in issuing permits to hog farms.

Still, a next step could involve comparing that population near the farm with a ring of people who live farther away.

In each instance, the data shows that whites live in greater numbers in the zones closer to the farms than in the next ring out. And that African-Americans live in greater numbers in the zones farther away from the farms than in the area closest in.

### Populations around hog farms

Census data show that the demographics of populations around hog farms in North Carolina are more than 2-to-1 white to African-American, no matter what distance from the farm is measured. This data shows that the state's Department of Environmental Quality has not engaged in discrimination in issuing permits to farms in the state.

CATEGORY	0.5 MILE	0.75 MILE	1 MILE	5 MILES	10 MILES
WHITE	61.5%	60.5%	59.5%	57.2%	60.6%
AFRICAN AMERICAN	21.1%	22.4%	23.7%	30.0%	26.8%
OTHER	17.4%	17.1%	16.8%	12.8%	12.6%
TOTAL POPULATION	84,598	152,662	237,352	2,042,179	4,284,583

Source: 2010 Census Data

The data from the 2010 Census shows that there is no disproportionate impact on African-Americans or people of color using this objective approach.

In a report, Resolution Economics concluded that "the proportion of African Americans and people of color among the residents living near permitted hog farms is generally lower than the proportion of African Americans and people of color living farther away within the same general geographic area."

This is the opposite of discrimination.

Resolution Economics also examined each permitted farm individually, analyzing the demographics of the census block where each is located.

The results show at a one-mile radius that:

- 68 percent of hog farms in North Carolina are in areas where African-American

#### An objective look

In a concentric circle analysis, the population closest to a hog farm is compared with those living farther away.



residents make up 30 percent or fewer of the population.

- Only 13.5 percent of hog farms are located in communities where a majority of residents are African-American.
- A total of 5.1 percent of hog farms are located in communities where 70 percent or more residents are African-American.

"Farms are represented in all categories," Resolution Economics concluded, adding that the result is "a pattern that would not be expected if farm locations were closely linked to a particular racial distribution."

Again, this shows there is not discriminatory, disparate or disproportionate impact in the permitting of hog farms by the state DEQ in North Carolina.

### STRONG DISAGREEMENT

In their complaint, the groups claimed that DEQ's permitting system allows hog farms in North Carolina "to operate with grossly inadequate and outdated systems of controlling animal waste and little provision for government oversight, which has an unjustified disproportionate impact on the basis of race and national origin against African Americans, Latinos, and Native Americans in violation of Title VI of the Civil Rights Act of 1964."

The NC Pork Council disagrees with these characterizations, whether they are made in formal complaints, in opinion pieces, on blogs, to lawmakers or to the media.

## Farm locations

Resolution Economics LLC analyzed the population demographics of the Census block where each North Carolina hog farm is located. The data shows that farms are dispersed across areas, and that more than two-thirds are located predominantly in areas with 30 percent or fewer African-Americans.

% African Americans	Within 1 mile	
0% to <10%	736	<b>68%</b> of hog farms are in communities where 30% or fewer residents are African American
10% to <20%	378	
20% to <30%	276	
30% to <40%	211	<b>13%</b> of hog farms are in communities where a majority of residents are African American
40% to <50%	128	
50% to <60%	105	<b>5%</b> of hog farms are in communities where 70% or more residents are African American
60% to <70%	67	
70% to <80%	56	
80% to <90%	27	
90% to <100%	11	
100%	11	

Source: 2010 Census Data

In late 2015, NCPC and the National Pork Producers Council formally and legally sought to engage with the complainants and DEQ to address any concerns raised in the civil rights complaint. NCPC requested to participate in a planned mediation session.

But the complainants issued “strong opposition” to the request and NCPC was excluded. NCPC was surprised to not have a “seat at the table” in discussions about hog farmers and neighbors. NCPC was subsequently accused of “intimidation” by the complaining groups related to its efforts to participate.

The issue appeared dormant during much of 2016.

But then, as the Obama administration was winding down, the complainants stepped up lobbying efforts, relying on the inaccurate “disproportionate” claim to press their case. One week before the change in administrations, EPA issued what is known as a preliminary “letter of concern,” among the lowest level actions the agency takes.


In it, the EPA said it had not completed an inquiry, had not established or agreed upon facts and had not reached conclusions of law. In fact, its officials had not interviewed pork industry representatives at all to seek information.

The agency said the letter was considered a part of its ongoing inquiry and was not a “public document.” But the complainants published it.

In its letter, the EPA encouraged the new administration of Gov. Roy Cooper in Raleigh to revisit the issue. Since then, the complainants have said they are again in mediation with DEQ about the complaint. And again, the pork industry in North Carolina has offered to assist, but has not been a part of those discussions.

The resolution of the activist groups’ complaint could have a direct impact on thousands of people – African-American, white and Latino – whose livelihoods depend on the pork industry.

The EPA’s “letter of concern” made clear that the allegation of discrimination – indeed, the basis of the civil rights complaint – flows from the Wing and Johnston study. The EPA noted that the study had not been refuted in any way by DEQ.

The North Carolina Pork Council has provided additional relevant information to both the state and federal agencies, showing there is not a basis for the discriminatory claim. 

## HEALTH CLAIMS REQUIRE CLOSE SCRUTINY

Groups complaining about hog farms in North Carolina often raise alarms about health issues. They cite odor, asthma and blood pressure concerns as reported by UNC professor Steve Wing, who also authored the study on alleged discrimination.

### Odor

Ten years ago, Wing set out to study odor on hog farms. He asked a group of 101 volunteers, recruited by an activist group opposed to hog farms, to measure the odor outside their homes twice a day for two weeks. The participants, each of whom lived within a mile and a half of a hog farm, were told to rate odor on a scale from 0 (no odor) to 8 (very strong).

The study results:

- No Odor (0) .....40.6%
- Very Faint (>0 to <2).....39.9%
- Faint/Moderate (>2 to <5).....17.2%
- Strong/Very Strong (5 to 8) .....2.3%

The results show what we already know. Farms have occasional odor.

But 80 percent of the time, the participants said there was either no odor or that it was very faint. The odor was rated as strong or very strong only 2.3 percent of the time.

### Asthma

Opponents sometimes point to a study by Wing that says hog farm “exposure” is “associated with” wheezing symptoms of adolescents.

The odd thing is – that’s not what the study’s data shows.

Wing looked at a 1999-2000 study of middle schoolers in North Carolina and their wheezing symptoms – a stand-in for asthma – and then compared that study to proximity with hog farms.

What was the result?

Students within two miles of a farm reported less wheezing than those who were between two- and three-miles of a farm.

“...schools that were located within two miles had a lower prevalence of current wheezing,” the study reported.

Wing changed the final study report, then, to only make comparisons at a 3-mile radius of the farms (which is a very large area). Even then, the differences were slight.

### Blood pressure

Activists also claim living near farms increases people’s blood pressure.

But, again, the data doesn’t bear that out. Wing’s work is described as showing that hog farms cause increased blood pressure. It’s not true.

The data Wing presents shows that the study participants reported very slight blood pressure increases – and, more importantly, that all the measurements were well within medically acceptable levels.

**Go to [ncpork.org](http://ncpork.org) for a more in depth look at these health claims.**