



THE TRUTH ABOUT **PROP 2**

How the landmark animal welfare
law fails animals and California



EXECUTIVE SUMMARY

California's Proposition 2, the landmark 2008 legislation that barred certain forms of intensive confinement on farms, promised to improve the lives of millions of animals. However, an investigation by the international animal rights network Direct Action Everywhere (DxE) into one of the state's largest and most celebrated egg farms, JS West of Modesto, CA, shows Prop 2 has failed to stop intensive confinement, disease and abuse. California voters have not gotten what they voted for.

DxE investigators found crowded, filthy conditions at JS West's flagship "humane certified" farm in Atwater, CA, which supplies corporations such as Safeway, Costco and Trader Joe's under brand names including Cal Eggs and Lucerne. Footage shot by DxE at the facility shows hundreds of stressed, diseased and dying animals crammed into cages. "The crowding is so severe that most of the birds will never have a moment where they have sufficient free space," said noted veterinarian Dr. Sherstin Rosenberg.

Documents obtained by DxE through California Public Records Act requests show that JS West has violated the space requirements of Prop 2 and even the minimal space requirements (116 square inches) of California's Shell Egg Food Safety regulations.

"Putting hens in 116 square inches of space – that is beyond hell," said a high-ranking California animal services officer. "You get these birds that are just psychotic out of their minds. They resort to cannibalism, they're stressed, they're mad, they're diseased."

Yet JS West has not been reported to relevant authorities. Indeed, despite repeated instances of criminal animal abuse documented by the California Department of Food and Agriculture (CDFA), there has

yet to be a single enforcement action anywhere in the state since Prop 2 went into effect on January 1, 2015.

Prop 2 has received so little support from state authorities – many of which, when asked, declared they had no knowledge of the law's existence – that it is hardly law at all. The animal services officer believes that Prop 2 is virtually null due to the state's lack of support.

California's failure to enforce Prop 2, however, is simply the latest instance of a pattern of failure to protect animals raised on farms. Previously, in 2010, state and federal regulators, including both the CDFA and the federal Food and Drug Administration (FDA), were caught unaware when egg producers including the JS West co-owned NuCal Foods recalled half a billion eggs for salmonella contamination. (Salmonella poisoning can be fatal to the elderly, young children and those who are immune compromised.)

During the investigation of the JS West facilities, DxE rescued one of the birds, who they named "Emma," from the brink of death. Emma, who had fallen ill due to the unhealthy environment in the barn, would have been trampled to death if she had not been removed and rushed to receive veterinary care. Emma thrives today at an animal sanctuary – one of the rare few animals raised on farms who escape the suffering inherent in animal agriculture.

Truly effective protection for animals will require not just honest enforcement of existing law but a transformation in our legal paradigm – to stop treating animals as property and give them the rights of legal persons. Animals also deserve better than callous exploitation and abuse. They deserve lives that are truly safe, happy and free from violence.

CONFINEMENT SYSTEMS FOR LAYING HENS



Hillandale Farms, Gettysburg, PA, 2015. Photo by HSUS.

BATTERY CAGES

Wire enclosures, each the size of a file drawer stacked one on top of another housing up to 10 hens. Each bird usually gets around 67 square inches of space (8 inches by 8.3 inches) – less than the size of a sheet of printer paper.



Dwight Bell Ranch, Atwater, CA, 2015. Photo by DxE.

ENRICHED COLONY HOUSING

Wire enclosures measuring 4 feet by 12 feet holding about 60 hens. Allow hens a bit more space – 116 square inches (about 11 inches by 10.5 inches) – approximately 20 percent more than a single sheet of printer paper. May contain perches and nesting areas.



Petaluma Farms, Petaluma, CA, 2014. Photo by DxE.

CAGE-FREE

Typically barren sheds packed with chickens. Not much more space than a colony cage. Hens may get as little as 144 square inches (12 inches by 12 inches.)



I. THE INVESTIGATION

Donning sanitary coveralls and covers for their shoes, Direct Action Everywhere investigators entered two JS West facilities, the [Dwight Bell Ranch](#) in Atwater, CA and the [Hilmar Farm](#) in Hilmar, CA, during 2015. JS West's Dwight Bell Ranch has been presented as a model of a good animal welfare program and as an example of adherence to the requirements of California's Prop 2. That proposition, which requires that animals have enough space to spread their limbs and turn around in their cages, was initially considered a major advance in animal welfare when it became law.

DxE investigators sought to determine if this noted farm was, in fact, complying with Prop 2, which went into effect January 1, 2015. Unfortunately, instead of finding happy, healthy chickens with room to roam and spread their wings, members of DxE found countless dead, sick and injured hens crowded in so-called "enriched colony housing." Despite the euphemistic label, many hens were so crammed into the cages they could barely move.

Modesto-based JS West, one of the [largest egg producers](#) in the state of California, was supposed to be the best of the best when it came to the industry addressing the mandates of Prop 2.

After a New York Times reporter visited the Dwight Bell Ranch, the paper published an article in March 2014 titled "[Wishing They All Could Be California Hens](#)"

EMMA'S BIRTHDAY

For a baby hen on a "humane certified" egg farm, terror began on Day 1.

[Editor's note: While we don't know the exact details of Emma's life, we pieced together this narrative from what we do know specifically about Emma, and from what we know about how the hundreds of millions of hens suffering in farms across the country spend their first weeks. This story is their story.]

Emma was born from suffering.

In the 14 days before her birthday, her mother starved in darkness because of the industry practice of forced molting. The lights had gone out. The food and water slowed to a trickle. When the young mothers realized this was not a temporary problem, anxiety transformed into terror. Some went into a frenzy, flailing uncontrollably in what is aptly called "the death throes." In the cramped conditions of the farm, this caused a wave of panic throughout the enclosure. Limbs were broken. Faces were maimed, And thousands of young mothers -- especially the weakest and most feeble -- were trampled to death, as others huddled in fear. In the aftermath, many resorted to cannibalism in a desperate attempt to survive.

When the lights finally came back on, and the food and water were replenished, the mothers flung themselves

A VETERINARIAN'S ASSESSMENT

After viewing video footage and photographs of hens at the JS West Dwight Bell Ranch in Atwater, CA, Dr. Sherstin Rosenberg, DVM, provided the following assessment:

The most striking thing about this footage is the dramatic overcrowding. In virtually all of the cages, a hen would not be able to walk, turn around, or spread her wings without bumping into another hen or the cage wire. The crowding is so severe that most of the birds will never have a moment where they have sufficient free space.

Over the 5 months during which this footage was captured, there is a dramatic decline in the body condition of the hens. Initially the birds are fully feathered, and many appear generally healthy. Five months later, these same birds have feather thinning or loss over much of their bodies. Large numbers of them are suffering from clearly visible and painful health problems (ocular disease, abscesses, open wounds, vent prolapse) requiring veterinary care.

Additionally, dead hens in advanced stages of decay are found in several of the cages. Based on my professional experience and training, the hens living in this facility are systematically subjected to needless suffering caused by insufficient living space and gross neglect.

Sherstin Rosenberg, DVM, is a doctor of veterinary medicine who has written expert assessments for animal cruelty cases, testified at a Prop 2 hearing in 2008, and spent four years as a Board Member of Humane Society of Silicon Valley, chairing its ethics committee. Dr. Rosenberg did her undergraduate studies at Stanford University, followed by a veterinary degree from the University of California at Davis. She has extensive experience caring for chickens and operates a rescue clinic with over 150 birds.

and declaring hens in JS West's enriched colonies were "living the good life." And a Wall Street Journal article headlined "Cracking California's Egg Rules" began, "About 150,000 hens at egg producer JS West Inc. appear to have scored an upgrade. They cluck and cackle in an air-conditioned hen house that got a \$3.2



million renovation this year.”

Yet on seven visits to the Atwater facility, and three visits to JS West's Hilmar Farm, over a period of six months, DxE investigators documented on video and/or photographed (both video and photos with GPS location verified metadata):

- Dead and rotting chicken bodies on the floors of

at the yellow gruel as if it were manna from heaven. Emma's mother was one of the hardy few who survived. After 14 days of starvation and darkness, fate rewarded Emma's mother with a single perfect egg. But the egg slowly rolled away on the slanted wire floor. Some mother hens yearn to protect their eggs as fiercely as a pregnant human mother will protect her developing baby. After 14 days of starvation, 14 days of darkness, even this small gift was taken away. It was one of the last cruelties she endured. Within days, Emma's mother was thrown into a landfill and buried alive.

BIRTH ON A FARM

Weeks later, Emma would emerge from the egg. Young chicks, like all young birds, have two urgent needs when they are born: the need for their mother, and the need for food. But of the two, finding their mother takes priority. Chicks, like human children, cling to their mothers. They will follow her into cold, into danger, and even to their deaths. Every chick knows that survival is impossible without your mother, food or water be damned.

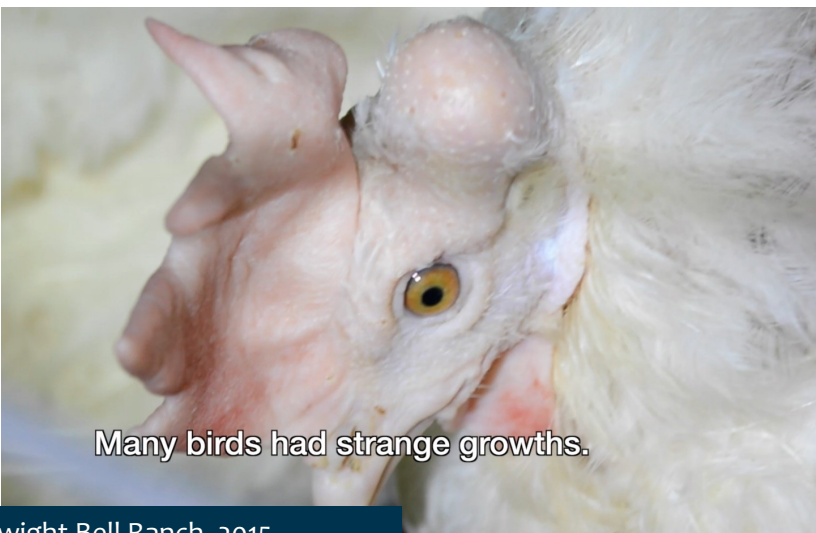
But it is the first and most basic right -- the right to her mother -- that Emma was denied. When her tiny head popped out of her shell, she looked around her, and all

some cages.

- Numerous chickens with grotesque growths and abscesses on their heads and elsewhere.
- Birds starving because their beaks had been mangled from “beak-trimming” – a standard industry procedure where chicks’ beaks are partially burned off to prevent the birds from pecking each other to death in crowded conditions. Beak-trimming is painful to birds and can interfere with their ability to eat.
- Birds with serious injuries to their legs and bodies.
- Birds naked from the loss of feathers.
- Crowding, which in some cases was so severe that birds were forced to roost on top of one another.
- Documents showing hundreds of birds dying each week in just one of the barns.
- Chickens with long overgrown nails that made it difficult for them to stand or walk.

Like battery cages, colony houses are made entirely of wire. The wire not only causes many chickens to lose their protective feathers and body heat, but also leads to significant foot problems. Wire is not a natural surface for chickens to walk on, and their feet get cut and injured. Often they end up with a painful condition called Bumblefoot, a sac of infection on the bottom of the foot. As in battery cages, it’s not uncommon for chickens to end up stuck in the wire, often with their limbs broken or injured.

At the Atwater facility, among many diseased and injured birds, DxE found one particularly thin chicken, apparently suffering from dehydration and starvation. She could not even stand. Other chickens trampled her body as she attempted to roll away. DxE investigators removed her from the cage and the barn to provide life-saving veterinary treatment. Today that chicken, named Emma (see sidebar), lives at a peaceful animal sanctuary where she has plenty of room to flap her wings, dust bathe, run around and enjoy her life. There were many more hens in as bad



Many birds had strange growths.

Sick hens at JS West Dwight Bell Ranch, 2015.





BEFORE AND AFTER

Emma, skinny and frail at time of rescue (left), is now healthy and happy (right).

or worse condition as Emma, but DxE lacked the resources to rescue all of them.

Though JS West has received good press, the company has come under a bad light in years past. In 2010 JS West sold salmonella-contaminated eggs. (See sidebar.) Moreover, the egg cooperative it partially owns, NuCal Foods, was accused in a number of lawsuits of violating antitrust laws including conspiring to limit egg production and control egg prices. (See sidebar.) And according to a February 12, 2015 CDFA Shell Egg Food Safety (SEFS) report, during an inspection the day before the report was written, a SEFS inspector found that JS West was not providing hens with the required space in one of their Hilmar Farm barns.

II. HISTORY

PROP 2 – THE BIG DISAPPOINTMENT

Prop 2 passed in 2008 with a whopping 63 percent of the California vote. At the time, Prop 2 was the most supported referendum in California state history.

Officially named the “Prevention of Farm Animal Cruelty Act,” Prop 2 outlaws confining pregnant pigs, calves raised for veal and laying hens on farms so that they can’t turn around, fully extend their limbs, lie down or stand up. Violations can lead to both fines and imprisonment. Because California has essentially no pig breeding or veal farms, Prop 2 affects few animals beyond laying hens.

The law specifies that egg laying hens have a right to spread their wings without touching the side of the

she could see was an endless mass of scared, crying chicks, each one shrieking loudly for their mother. But in this violent place, no mothers would be found.

Emma was tossed onto a conveyor belt. The male chicks next to her would be picked out and thrown down into a dark hole, with blades churning and blood spraying everywhere. They would sometimes watch as their own bodies were ripped up into a thousand pieces, ground up into pet food.

Emma heard these terrified cries. She, and all the other chicks, would have had a sense of what those cries meant. Chickens have a well-developed sense of communication at birth, with at least 24 distinct sounds and meanings – well beyond a human infant. There was no need for this sophisticated language, however, for Emma to understand her brothers’ cries. Every animal on this planet understands the language of fear. So, when Emma herself was seized, and her head shoved in the direction of a loud, burning machine, Emma must have thought her end had come. But Emma would live on, as this machine would only take a portion of her beak, and not her life.

THE GROWER BARN

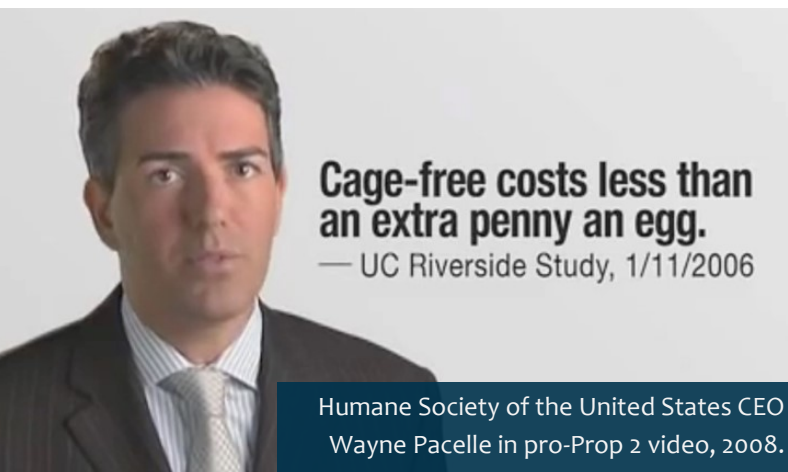
In a panicked, mutilated state, Emma was trucked off in a bin with thousands of her sisters to the JS West “grower barn” at the Dwight Bell Ranch in Atwater, CA. Disease, infection, and bleeding were rampant. Hundreds of the chicks would be dead on arrival. But the ones who survived would face their next ordeal: the pullet cage.

enclosure or another bird. There are exceptions for transport, rodeos, fairs, 4-H projects, lawful slaughter, research and veterinary purposes.

For almost 10 years before Prop 2 passed, activists fought for legislation in California to protect animals raised on farms for food. Repeatedly, animal protection bills died in the California state legislature under the objections of powerful agribusiness interests.

Eventually in 2008, animal rights activists took the plight of laying hens directly to the voters of California. Despite opposition from a number of newspapers and, of course, the egg industry itself, Prop 2 garnered support from many, including some celebrities, veterinarians, politicians, labor unions and even some farmers.

The pro-Prop 2 forces spent about \$10 million versus the opposition's \$8 million. Ultimately, the initiative passed with a strong show of public support.



WHAT VOTERS THOUGHT THEY'D BE GETTING

Many Californians believed Prop 2 mandated that California hens be housed cage-free. Ads, including one featuring a song by Stevie Wonder titled "Uncaged," showed hens breaking free of battery cages, and the Yes on Prop 2 campaign organized under the banner of cage-free.

But the words "cage-free" were not in the actual proposition and are not in the law. Instead, the law requires that hens be allowed to "fully [spread] both wings without touching the side of an enclosure or other egg-laying hen."

Here, Emma would be forced to spend the next 140 days of her life, stuffed shoulder to shoulder with thousands of other birds. But unlike the more mature birds of the layer barn, the young hens in this barn were skittish and agitated. The slightest movement from one end would send bodies and wings crashing everywhere. Fractures or other severe injuries were common. Disease was even more common, as the stress, confinement, and filth compromised the young birds' immune systems.

Emma did not grow as quickly as the other chicks. Perhaps she lost some early battles over food or water. Perhaps she took the blow of being denied her mother especially hard. But the result was that she was unusually small. By her fifth week, she was beginning to lose feeling in her right leg, perhaps victim to a viral infection that attacked her nerves. She tried to stay in the corner, away from the other birds, to ensure that she would not be trampled or bludgeoned when the fights broke out. By her eighth week, her leg had stiffened to the point that she could barely move it. She could only access food and water once every few days, when the others happened to leave her enough space that she could break through, for a moment, to quench her thirst. By her 10th week, she could no longer stand. She was collapsed on the wire floor, her legs splayed out painfully, and all she could do was roll to the left or the right, smashing her face into wire, when the other birds walked next to, or on top of her in their frantic struggle for survival.

Over the next few days, Emma became starved and dehydrated. Death was coming, and it was slow and painful, a combination of deprivation and blunt force trauma.

That was the state Emma was in when DxE investigators found her.

"She's seriously injured."

"Oh my god..."

"We need to help her!"

And with that, Emma's life suddenly transformed. Emma became the one in a billion who is saved.

COLONY HOUSING: AN ATTEMPT TO ADDRESS CONSUMERS AND PROP 2

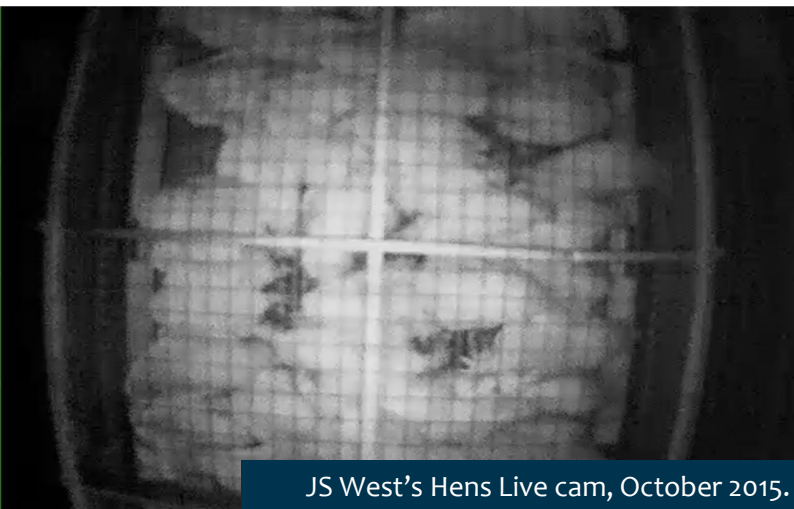
After two failed attempts to stop Prop 2 in the courts, JS West decided to implement the enriched colony system as a response to Prop 2.

In 2012 JS West spent \$7.2 million to outfit their Dwight Bell facility with enriched colony systems. The cages are 4 ft by 12 ft and are designed to house 60 laying hens, while battery cages are about the size of a file drawer and have been known to house up to 10 chickens. Although these larger cages still don't give the hens room to extend their wings, JS West asserted to the press that their new system met Prop 2 requirements.

JS West was the first farm in California to introduce colony housing and other companies such as Willamette Farms in Oregon and [Cal-Maine Foods](#), the largest egg producer in the country, have followed suit. At least one California egg producer has retooled his existing battery cages to make one enclosure out of two or more.

JS WEST PROMOTING COLONY CAGES

To give consumers their own view of colony housing, JS West installed a multi-camera [webcam system](#) in one of the Dwight Bell barns. Visitors to the company's website can watch dark, grainy, black and white, apparently live video of chickens in the enclosures. Due to the quality of the webcast streams, it's hard to get a clear picture.



JS West's Hens Live cam, October 2015.

SAVING EMMA

The system failed Emma. The New York Times falsely said she was "living the good life," when the paper ran a story about hens at the Dwight Bell facility. The American Humane Association fraudulently certified her life as "humane." And the government failed in its promise to prevent birds like Emma from suffering from illegal confinement.

That left Emma dependent on our ragtag, grassroots team of volunteers and whistleblowers for her rescue. We carried her out, carefully holding her paralyzed leg. When we got outside, we quickly wrapped her up tightly in a blanket, to keep her warm, and rushed her to the car waiting outside the farm.

We gave her water, which she eagerly drank, and tried to give her food, which she was at first too weak to take down. Then we drove off to our triage site, where we dripped baby food into her mouth through a syringe and gave her more fluids after weeks of dehydration. We washed off her backside, which was filthy with diarrhea. We rushed her to the vet and found that she was likely suffering from Marek's disease. Emma would need constant care if she was to survive, much less walk again.

But Emma's spirit was still high. She would chirp and wiggle and clean her feathers every chance she got. We made her a swing to stand on, with harnesses to hold up her useless leg. (One of the most adorable scenes from her recovery occurred when she was sitting attentively in her box, watching along with us as we reviewed videos that explained how to make a device for her to stand.) But she would fuss over the harness, so it was eventually replaced by a "towel donut" made by wrapping multiple towels in concentric circles.

Each day she became stronger. Each day she made a little bit of progress in her struggle to stand. And then one day, she did it. She redeveloped the ability to stand. The smiles on our faces -- the smile on my face to this day -- when I see Emma hopping around with one partially paralyzed leg are as important to remember as the torment of her captivity. Because those smiles -- and Emma's happiness -- show us the true meaning of "humane." — Wayne Hsiung

III. CONDITIONS

THE PLIGHT OF LAYING HENS

Poultry are arguably the most mistreated of all species of animals raised for food. Laying hens appear to have it the worst with at least 90 percent of them in the U.S. living out their short lives in battery cages with no more than 67 square inches of space. Their sensitive beaks are typically burned off with radiation, often making it impossible for them to eat or drink for days, weeks or sometimes ever. Under these conditions, countless chickens die and their bodies are left to rot in the cages or on the floor of the hen houses with the remaining live hens. Those are the females.

The male laying hens, which have minimal commercial use, are either ground up alive for pet food or fertilizer or suffocated to death in dumpsters or garbage bags shortly after hatching.

In battery cage systems feces and urine typically drop on the hens below from the caged birds above. The wire cages rub their often featherless skin raw or sometimes they get caught in the wire. Unable to move they starve and their dead bodies are left to rot amongst live birds.

Throughout the industry, these sentient beings are slaughtered at about two years of age, after they are no longer able to produce enough eggs. At that point laying hens are routinely yanked out of cages or up from the floor by poorly paid workers. The birds' bones are broken without a second's hesitation in the rapid pace of work.

JS West utilizes commercial hens bred to lay about 360 eggs a year. Chickens naturally produce [about 10-15 eggs a year](#). The demands of laying so many eggs can cause hens to become what is known as "egg-bound." The chicken simply cannot pass the egg and more eggs get lined up behind it in her body. If not removed, the eggs rot and ultimately kill the hen. Laying so many eggs also causes the hens to be prone to cancer of the reproductive system and a condition called prolapse where the hen's oviduct falls out of her body and hangs out of her vent. The ailment is

painful and fatal if left untreated.

Laying hens housed in cages inside barns (whether battery or colony) cannot express such natural behaviors as dust bathing, running, preening, wing-flapping, foraging, and even, for some, walking. They never breathe fresh air, feel warm sunlight or experience the outdoors. They are kept from knowing their mothers or raising their babies.

HOW JS WEST TREATS LAYING HENS

JS West's enriched colony enclosures are designed to give laying hens 116 square inches each. It is the same measurement required by the California Department of Food and Agriculture (CDFA). Although not required to monitor for violations of Prop 2, the CDFA is responsible to monitor farms for violations of Shell Egg Food Safety regulations.

While the Shell Egg Food Safety regulations are designed to protect consumers, not animals, they do have a minimum space requirement for hens – 116 square inches. That's about 10.5 inches by 11 inches (slightly wider than a piece of printer paper) and quite a bit less than Prop 2 requirements.

What can a chicken do with 116 square inches of space? Not much, according to Marian Ellina Dawkins, a Fellow of the Royal Society of London for Improving National Knowledge, a noted British biologist who is professor of animal behavior at the University of Oxford. Dawkins' paper, "[Space needs of laying hens](#)," published in *British Poultry Science* in 1989 revealed that a hen needs 175-420 square inches to flap her wings.

In short, the space provided hens at JS West facilities – and the vast majority of egg farms in the country, even those deemed "cage-free" or "humane" – is a violation of both animal welfare and Prop 2.

IV. ENFORCEMENT

A BREACH OF TRUST

It appears that no one in California state government has responsibility for the enforcement of Prop 2. Spokespeople for both the California Department of



Sick and languishing JS West hens, 2015.



Public Health and the California Department of Food and Agriculture insisted it's not their job to make sure egg laying hens are not being abused. The only agencies that might be responsible for enforcing Prop 2 would be local police departments and local prosecutors.

A high-ranking California animal services officer said during a recent interview that there are large obstacles preventing local police departments from enforcing Prop 2. The first is location. There is no local database indicating where the egg-laying facilities are. Even if they knew the location of the farms, officers lack the authority to enter them and training on how to properly enforce the law. Finally, district attorneys have historically shown little interest in enforcing animal cruelty laws, including Proposition 2.

Confirming the animal services officer's assessment,

JS WEST BARN 'NOT COMPLIANT' IN 2015

Even though Proposition 2 isn't enforced at all in California, the state does have an agency whose goal it is to ensure that "eggs sold in California are of known quality, origin, grade and size."

The California Department of Food and Agriculture must verify that eggs sold in the state have been properly handled, labeled, transported and refrigerated and are wholesome and safe to eat. The agency's Shell Egg Food Safety (SEFS) regulations also require that hens each have at least 116 square inches of space.

It's hard to understand how the California Department of Food and Agriculture can adequately do its job since inspections are only done every three years.

Still, in February 2015, one of JS West's Hilmar Farm barns was found to be non-complaint with the space requirements of the SEFS regulations, which is less than the minimum threshold for Proposition 2.

Notes: *House Not Compliant RE-Audit*

space requirements, which would also make them in violation of Prop 2. CDFA failed to report these violations to criminal authorities.

DxE also found that many other egg farms had received approval last year from the CDFA with so-called “desk audits,” meaning the owners of the farms themselves simply indicated on a form they were in compliance.

This blatant lack of Prop 2 enforcement could have been avoided by the writers of the initiative – the law contains no mechanism for ensuring compliance or even auditing.

At this time, federal law does not provide an animal welfare safety net to make up for this lack in state law. The USDA “offers [voluntary] verification audits of egg-laying barns to determine if a company meets industry developed animal husbandry standards for egg-laying flocks.” One of the keys here is “industry developed animal husbandry standards.” It means, of course, that if industry decides it’s OK to cram 10 hens into a cage the size of a file drawer for the hens’ entire lives, then it’s OK. The other key is “voluntary.”

JS West’s Dwight Bell Ranch, the same ranch that housed thousands of hens in life-threatening conditions, received a USDA AA certification. That AA grade is found in a USDA shield on the packaging for JS West’s eggs. These eggs are sold at stores including Costco, Safeway and Trader Joe’s under brand names that include Cal Eggs and Lucerne.

JS West’s eggs are sold under the Cal Eggs brand.



Third party animal welfare monitoring also generally fails to adequately protect animals from suffering on farms. Most of these groups including the American Humane Association, the Food Alliance and Humane Farm Animal Care approve severe confinement and mutilations such as so-called “beak trimming,” a painful sometimes fatal procedure routinely performed on chicks and the castration of pigs without anesthesia.

JS West received an American Humane Association certification.

V. IMPLICATIONS

THE CAGE FREE PHENOMENON

The passage of Prop 2 showed that the public cares about how animals who are raised and killed for food are treated. And not just in California. A 2015 Gallup Poll showed the vast majority of Americans believe that animals deserve protection, with almost a third claiming animals warrant as much protection as humans. A recent survey by the Humane Research Council shows that 79% of Americans believe that animals must be protected from “all suffering and harm caused by humans.” Both results are significant increases from prior years.

Despite caring for animals, many Americans continue to eat meat and/or animal products. To resolve this tension, many have turned to so-called “humanely raised” animals and “cage-free” eggs. Of course, Prop 2 itself was passed as a way to address the conundrum of an egg-hungry public and widespread concern about the hens.

Consumers throughout the country have demanded so-called “cage-free” chicken housing. And some big corporations such as McDonald’s, Target, Burger King, Wal-Mart, Denny’s, Subway, Starbucks, Nestle, Dunkin’ Donuts, General Mills, Costco and others have, in response to that pressure, vowed to go completely cage-free in the next 5-to-10 years. (See bottom photo, page 3.)

Although there is no legal definition for “cage-free,” the USDA says that a “cage free environment consists

of the source flock(s) being able to freely roam a building, room, or enclosed area with unlimited access to food and fresh water during their production cycle, and may or may not have access to the outdoors.”

In 2014 and 2015 DxE investigated two cage-free Whole Foods Market suppliers. One was an egg farm, Petaluma Farms in Petaluma, CA, and the other produced turkeys, Diestel Turkey Ranch in Jamestown, CA. While both were certified “humane,” DxE investigators found anything but.

At both facilities, which were nothing more than barren sheds, investigators were immediately assaulted by the noxious air, thick with ammonia and particles of dried feces and feathers, when they entered. Manure was piled up in some places as much as a foot high. Investigators found chickens and turkeys in both facilities trapped in it. There was severe crowding and many birds were missing large patches of feathers and others showed signs of difficulty breathing. A significant number were panting, a sign of acute distress in birds. They had untreated wounds from fighting. Many dead and rotting bodies could be seen. A large portion of the birds appeared to be languishing.

In a 2015 report on hen housing by the Coalition for Sustainable Egg Supply (CSES), a group of animal-health scientists, egg suppliers and food companies

JS WEST NAMED IN ANTI-TRUST SUIT

Unhappy about the price of eggs, a collection of mega food corporations – Kraft, Kellogg, General Mills and Nestle -- sued some of the country’s biggest egg producers in 2010 including Nu-Cal Foods, Inc. (partially owned by JS West) and Cal-Maine Foods, Inc. for anti-trust violations and price fixing.

Nu-Cal was co-founded by JS West in 1996 and Gary West served as both vice chairman and chairman while the alleged anti-trust violations were going on.

Also named in the suit was the giant agricultural cooperative, United Egg Producers (UEP). Nu-Cal is a member. Again Gary West was an officer at UEP in 2004 and became UEP chair in 2008.

The food giants accused the egg producers of taking “many joint collective actions as part of the industry's overarching conspiracy that was designed to fix, raise, maintain, and/or stabilize the prices of shell eggs and egg products, including but not limited to significant efforts to manage and/or reduce supply.”

It was alleged [in the complaint](#) that “NuCal members JS West and Sunrise Farms signed a commitment sheet in late 2004 to either reduce flock size or dispose of hens in a conspiracy to reduce egg supply.”

While the lawsuit is still active, many of the defendants have settled with the plaintiffs. Without admitting guilt, NuCal signed a [settlement agreement](#) on August 2, 2014 to provide \$1,425,000 to a fund to compensate Class Members (see [settlement agreement](#) for more information).

SALMONELLA-CONTAMINATED EGGS SOLD BY JS WEST

Animal welfare and accusations of anti-trust violations haven’t been JS West’s only problems. The company sold more than 400,000 salmonella-contaminated eggs to retailers in 2010, according to court documents. Those eggs were part of a half billion contaminated eggs that were voluntarily recalled that year, but not before some of them [sickened 62,000 people](#) nationwide, according to the Santa Rosa Press Democrat. (Salmonella poisoning can be lethal to young children, the elderly and to individuals with compromised immune systems.)

In May, June and July of 2010, NuCal Foods, an agricultural co-op co-founded by JS West (and of which JS West is an owner) bought millions of eggs from two Iowa egg producers – Wright County Egg and Hillandale Farms of Iowa – apparently not knowing they were contaminated with salmonella. Four hundred thousand of those eggs were shipped to JS West’s Dwight Bell Ranch and Hilmar Farms facilities. Those locations were confirmed by press releases issued by NuCal on [August 17](#) and [August 20, 2010](#) that are currently archived at the U.S. Food and Drug Administration website.

The out-of-state salmonella eggs were comingled with JS West eggs and packaged under a number of brand names including Lucerne and Cal Eggs. They were sold to retailers including Safeway and Costco. It stands to reason that JS West failed to do its own testing for salmonella before the company exposed the product to the public in 2010.

Additionally, at a time when customers were increasingly interested in “buying local,” JS West misled consumers by including non-California eggs in Cal Eggs packaging.

including McDonald's and Sysco Corp., the researchers found that hen mortality was double in cage-free (also known as aviary) facilities compared to other systems. When it came to air quality, cage-free was 8-10 times worse than other systems, according to the CSES study.

There is no evidence that any of these systems – caged, cage-free or even free range – are better than others. All cause significant animal suffering.



WHAT MUST BE DONE

The tale of Prop 2 is a cautionary one. Many voters, consumers and animal advocates believed that Prop 2 would usher in a new era of animal welfare. DxE's investigation, however, shows the promise of Prop 2 has turned out to be more fiction than reality. Birds in California farms continue to be confined in the most deplorable conditions, and state authorities have played a game of hot potato in denying responsibility for the law. Regulators and advocates alike should therefore understand the limitations of similar animal welfare efforts in Massachusetts, where voters are also being promised a future free of cruel animal confinement.

DxE's investigation of Prop 2 shows that even the most "humane" farms are invariably engaged in practices that cause large amounts of animal suffering and that state regulatory bodies lack the knowledge, motivation or capacity to enforce anti-cruelty laws.

The lesson drawn from DxE's findings, however, extends beyond Prop 2. After the 2010 recall of half a billion salmonella-contaminated eggs, the FDA committed to more aggressively regulating

misconduct by egg farms, including improper labeling. Yet both FDA and CDFA inspectors have been asleep at the wheel – or worse, actively complicit in disguising criminal misconduct – in allowing egg farms to continue to raise animals in filthy, abusive and oft-illegal conditions while marketing their products as "humane."

True progress on animal welfare requires two fundamental reforms – [legal standing for animals](#) and the creation of independent agencies committed to protecting animals rather than promoting industry. The animals victimized by agriculture need state and federal agencies expressly devoted to protecting animals, much like the Consumer Financial Protection Bureau's mandate to protect consumers. The formation of such independent agencies, in turn, depends crucially on fundamental political reform for animals, including recognition of animals' moral and legal personhood. Until animals are treated as sentient beings, rather than as commodities to be exploited, efforts to improve their welfare will almost inevitably be evaded or ignored.

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