



NAIS Lawsuit Filed

Farm-to-Consumer Legal Defense Fund sends notice to Michigan and USDA to stop implementation of the NAIS and correct violations or face litigation.

5/21/2008

Farmers opposed to the National Animal Identification System (NAIS), a U.S. Department of Agriculture (USDA) plan to electronically track every livestock animal in the country, have another group in their corner.

The Farm-to-Consumer Legal Defense Fund (FTCLDF) and Farm-to-Consumer Foundation moved to stop the USDA and the Michigan Department of Agriculture (MDA) over its mandatory implementation of the NAIS, according to a release.

Michigan, like the states of Indiana, Wisconsin, Illinois, North Carolina, and Colorado, have transformed the "Voluntary" NAIS into mandatory programs based on current state health programs, such as tuberculosis, pseudorabies, and brucellosis.

Legal Defense Fund's move to sue is the first example of legal recourse against NAIS and asks USDA/MDA to stop implementation immediately and to correct violations or face litigation with unspecified financial claims for relief.

Attorneys for the Farm-to-Consumer Legal Defense Fund sent a Notice of Intent to Sue letter to the USDA and the MDA asking that the USDA and MDA to "immediately suspend the funding and implementation of NAIS," and "fully and fairly examine" whether there is even a need for such a program.

Taaron Meikle, Fund president, said that contrary to USDA's claim, NAIS will do nothing to protect the health of livestock and poultry.

"At a time when food safety and costs are a concern, the USDA has spent over \$118 million to promote a program that will burden everyone from pleasure horse owners to ranchers and small farmers to individuals who raise a few chickens or steers on their own land for their own use."

Once fully implemented, the NAIS program would require every person who owns even one livestock or poultry animal (a single chicken or a pet pony) to register their property with the state and federal government, to tag each animal, and to report "events" to a database within 24 hours.

Reportable events would include such things as a private sale, a state fair, or a horse show.

The Notice charges that USDA has never published rules regarding NAIS, in violation of the Federal Administrative Procedures Act; has never performed an Environmental Impact Statement or an Environmental Assessment as required by the National Environmental Policy Act; is in violation of the Regulatory Flexibility Act that requires them to analyze proposed rules for their impact on small entities and local governments; and violates religious freedoms guaranteed by the Religious Freedom Restoration Act.

"We also think there are constitutional issues at stake here," Meikle noted. "The requirement to use electronic ear tags or RFID chips violates the religious beliefs of some farmers, such as the Amish, and provisions in a memorandum of understanding between the USDA and the MDA could violate the Fourth and Fifth Amendments to the Constitution by requiring the state to stop and inspect vehicles carrying livestock without a warrant or probable cause."

The MDA has implemented the first two stages of NAIS –property registration and animal identification – for all cattle and farmers across the state as part of its mandatory bovine tuberculosis disease control program, which is mandated by a grant from the USDA.

"While touted as a disease control program, the NAIS will drive many small farmers out of business" Meikle noted, "and burden every person who owns even one horse, chicken, cow, goat, sheep, pig, llama, alpaca, or other livestock animal with expensive and intrusive government regulations."

Joe Golimbieski, a farmer from Standish, Michigan and Fund member, explains: "The cost of the tags is just the start.



We're at the mercy of whatever price the stockyards charge to do the tagging. And our farm doesn't have extra employees to deal with paperwork. NAIS is likely to put us out of business."

Gary Cox, General Counsel for the Fund, states that "USDA and MDA have exceeded their authority and they have completely failed to follow the proper procedures. We are calling on the agencies to immediately halt implementation of the program or face appropriate action."

The Farm-to-Consumer Legal Defense Fund's mission is to defend the freedoms and to broaden the rights of sustainable farmers and their consumers to produce and consume local, nutrient-dense foods. The Notice of Intent to Sue the (USDA) and (MDA) is available at www.farmtoconsumer.org

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Excerpts from the Lawsuit

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Quote from Legal Defense Fund President

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- Taaron Meikle, Fund president

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