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Idaho

State appeals district court ruling that invalidated 'ag gag' law

By SEAN ELLIS
Capital Press

BOISE — The question of whether Idaho's Agricultural Security Act is constitutional is headed to the 9th U.S. Circuit Court of Appeals.

The Idaho attorney general's office will ask the appeals court to reverse a district court judge's decision earlier this year that invalidated key provisions of the statute, which opponents refer to as an "ag-gag" law.

The law makes it a crime to film an agricultural operation without the owner's consent or gain employment with a

farm operation through deception with the intent to cause it harm.

The legislation was crafted by the Idaho Dairymen's Association and supported by most Idaho farm groups.

"I'm glad to hear it's being appealed," said Sen. Jim Patrick, a Republican farmer from Twin Falls who sponsored the legislation in the Idaho Senate.

"It's a private property rights issue for all of agriculture, not just cattle," he said.

A coalition of animal rights, civil liberties and other groups filed a lawsuit against the law in federal court in Ida-

ho. Chief U.S. District Judge B. Lynn Winmill struck down the major provisions of the law, agreeing with plaintiffs that it violated the First Amendment's free speech provision as well as the U.S. Constitution's Equal Protection Clause.

In his Aug. 3 ruling, Winmill stated that "an agricultural facility's operations that affect food and worker safety are not exclusively a private matter. Food and worker safety are matters of public concern. Moreover, laws against trespass, fraud, theft and defamation already exist. These types of laws serve the property and

privacy interests the state professes to protect through the passage of (the legislation) but without infringing on free speech rights."

Winmill also wrote that the law discriminates based on viewpoint, saying that the natural effect of the recording and misrepresentation provisions "is to burden speech critical of the animal-agriculture industry."

IDA attorney David Claiborne applauded the state's decision to appeal Winmill's ruling.

"We feel very confident we will be able to obtain a reversal of many aspects of Judge

Winmill's decision," he said.

Claiborne said the bill was crafted in a way that prohibits certain conduct on private property but doesn't single out a specific group.

"It only prohibits recording in non-public areas on private property, where people have a reasonable expectation of privacy," he said. "The court kind of overlooked that fact. That's an important concern we will bring up during the appeal."

Representatives of plaintiffs expressed confidence the 9th Circuit will uphold Winmill's decision.

The law's intent "is to

shield animal abusers from public scrutiny (and) it's clear the law in intended to stifle and suppress the speech of a specific group of people," said Mercy for Animals President Nathan Runkle. "We believe that the judge rightly deemed it unconstitutional and that it will and should be upheld."

Animal Legal Defense Fund Senior Attorney Matthew Liebman in an email statement said his group expects the 9th Circuit "will agree with us that Idaho's ag-gag law violates the First Amendment by silencing critics of the meat, egg and dairy industries."



From left to right, Sara Erb, Margie Cooke, Susan Brown and Elizabeth Kohtz receive Woman of the Year awards Dec. 2 during Idaho Farm Bureau Federation's annual meeting in Fort Hall.

Idaho Farm Bureau honors four women

By JOHN O'CONNELL
Capital Press

FORT HALL, Idaho — The Idaho Farm Bureau Federation has honored a dairy veterinarian, a livestock auction owner, a Christmas tree farmer and a potato farmer and rancher with the organization's Woman of the Year awards.

The awards, presented during a Dec. 2 luncheon in conjunction with the organization's annual convention, recognized a woman in each Farm Bureau district who has made outstanding contributions to agriculture.

Award recipient Elizabeth Kohtz, president of Twin Falls County Farm Bureau, was raised on a dairy and has worked as a dairy veterinarian for 11 years. She's employed by Cedar Ridge Dairy, which has more than 10,000 cows.

Kohtz was also among 10 women from around the country chosen by American Farm Bureau Federation to participate in a two-year program, which recently finished, for young leaders in agriculture. She was also selected to represent farming and ranching during the recent shareholders meeting of Dean Foods, the nation's largest dairy processor.

Kohtz said the meeting in Dallas marked the first time Farm Bureau has had a voice before the company's shareholders.

Award recipient Sara Erb

years.

"The livestock auction has a big role in the agriculture industry," Erb said. "We're the middle guy to help the buyers and to help their sellers."

Erb was raised on a farm and ranch, where she said she learned to appreciate the value of hard labor, "working from sunup to sundown."

Margie Cooke owns Forever Green Tree Farm in St. Maries with her husband, Larry. In addition, she has a full-time job as a nurse.

Her farm, which they purchased 35 years ago, specializes in providing Christmas-season memories for families — hosting sleigh rides, meetings with Santa Claus and a U-pick tree operation, in addition to wholesale sales.

They also have a shop with holiday merchandise. Cooke said her land is ideally located for a Christmas tree farm, as there's plenty of natural rainfall for the evergreens, and raising them at 3,500 feet makes them winter hardy for sale in cold environments.

Award recipient Susan Brown and her husband, Randy, own a potato farm and cow-calf operation with 416 mother cows in Madison County.

In addition to her involvement with Farm Bureau, Brown serves as a local precinct chairwoman with the Republican Party. In that capacity, she's helped elect lawmakers to the state Legislature.

PCN panel considering compensating affected growers

By JOHN O'CONNELL
Capital Press

IDAHO FALLS, Idaho — Discussions among members of an Idaho State Department of Agriculture pale cyst nematode program advisory committee have turned toward compensating growers for past and future hardships due to farming under quarantine.

The growers and industry leaders on the committee, who met Dec. 8, acknowledge finding the funding will be a challenge.

"We feel like there ought to be some help there that at least keeps a person whole as they grow through this," said Bryan Searle, a Shelley farmer on the committee who has fields under quarantine, speaking on behalf of other affected growers.

The only confirmed U.S. infestation of PCN — a microscopic worm that feeds on potato roots — was detected in dirt from Eastern Idaho potatoes in 2006. Currently, 2,897 acres within a 7.5-mile radius in Bonneville and Bingham counties are under quarantine. The growers are prohibited from planting spuds while their fields undergo rigorous PCN eradication treatments, which have included the use of the powerful fumigant methyl bromide in the past.

Some quarantined growers have filed a lawsuit alleging methyl bromide has tainted their soil, and alfalfa from



Members of an Idaho State Department of Agriculture pale cyst nematode program advisory committee discuss proposed changes to the program, including compensation for affected growers, during a Dec. 8 meeting in Idaho Falls.

treated ground has made livestock sick.

Another 7,419 acres are being regulated, facing special sanitation and testing requirements for known associations with infested fields.

The committee quickly dismissed eight previously proposed alternatives to the current program it deemed would adversely affect trade. The plan they're now seriously considering entails retiring land from production — or at least potato production — for up to three decades, which is the maximum duration PCN cysts are known to remain viable in soil in the absence of a host.

St. Anthony grower Jeff Raybould suggested a one-time payment — perhaps \$3 million — to be divvied among landowners in the pro-

gram to compensate for soil damage and other losses.

For future years, he advised an extra penny potato assessment per hundred-weight, which would generate roughly \$1 million per year to pay growers to idle land, similar to a conservation easement.

"We've got to put our arms around a solution and move forward," Raybould said, emphasizing his funding numbers are open for debate. "We can't continue to offload this problem on a handful of individuals in the state."

Raybould advised approaching the state Legislature for the one-time payment. The committee discussed increasing the Idaho Potato Commission's assessment to cover the continuing payments, though some were uncomfortable

granting the organization additional authority to redirect revenue to individual growers. They also suggested creating a stand-alone entity to administer the assessment. Both options would require legislative action.

Though USDA has indicated it won't be in the business of buying or leasing land, IPC President and CEO Frank Muir suggested approaching the agency for funding anyway, given the apparent repercussions to growers who followed its methyl bromide program.

"I'll be surprised if there's rousing support for a tax increase," Muir said.

ISDA Director Celia Gould said her agency has commenced research into what crops can be grown safely on land treated with methyl bromide.

Tina Gresham, director of USDA's PCN program, said one field that's advanced through the program was planted to red potatoes this season, and testing for viable cysts is underway. Furthermore, she said the program is awaiting data on use of a trap crop, planted in two commercial fields this season to stimulate hatching in the absence of a host, and is researching other tools such as biological controls, alternative chemicals and resistant potato varieties.

The committee is scheduled to meet again at 1 p.m. Jan. 6 in Idaho Falls.

Pocatello ranch provides holiday wagon tradition

By JOHN O'CONNELL
Capital Press

POCATELLO, Idaho — Back when Cherie and Jim Hart raised cattle and buffalo, their draft horses had an important job, helping them distribute feed throughout snowdrift-covered pastures.

Hart Ranch, which once kept a herd of about 75 mother cows and 20 bison, got out of the livestock business in 2005, and is now solely focused on



Residents of the Pocatello, Idaho, area take a wagon tour Dec. 12 to check out holiday lights.

alfalfa production.

But their six draft horses are still earning their keep, as the stars of a longstanding Pocatello agri-tourism tradition. The city's former mayor granted the Harts lifetime permission to take groups on horse-drawn wagon rides through

city streets. Their route passes by some of the largest homes in the community, highlighting holiday lights, and ends at the couple's renovated dairy barn, where guests are served Dutch-oven dinners. Groups have ranged from 15 to 80 people, traveling in a train of

wagons covered in lights and playing Christmas music. They charge \$25 per adult and \$13 per child for the ride and meal.

"It's really just a way to share with those people what these big horses can do," Cherie Hart said. "It's all about the experience — an experience of the Old West and the way things used to be."

Their 2,000-acre ranch on the outskirts of Pocatello was homesteaded by Jim Hart's grandparents nearly 110 years ago. Visitors can still find wagon ruts and relics left by travelers on the Oregon Trail.

They started offering wagon rides in 2000, originally basing them out of a tepee, where they served hot dogs and chili. In 2004, Cherie Hart and her cousins renovated a dilapidated dairy barn into a reception hall with a dance floor and a bar for serving Dutch-oven dinners. They also offer catering and wagon services for weddings, and a local funeral home sometimes uses their draft horses to pull a funeral buggy.

Cherie Hart said the ranch occasionally uses the draft horses for farm labor, such as pulling a harrow or road grader.

Rick Giles, president of the Southern Idaho Draft Horse Association, said insurance takes a large chunk out of profits for members who use their animals for agri-tourism, but many still offer public services, such as wedding transportation, due to their love of working with their horse teams.

Giles, who runs a 40-acre farm in Magic Valley, said some members earn a supplemental income with their horses by working with a sled-ride service at Sun Valley Ski Resort. A couple of members have a carriage business.

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