

## NFO files suit, wins appeal

CORNING, Iowa — The National Farmers Organization board of directors has directed the NFO legal staff to file a case to challenge the statutes imposing a 50-cent per hundred weight tax on dairy farmers and a suit will be filed within the next few days, according to Richard Green, chief counsel for NFO.

The NFO attorneys have indicated that a principal ground for attack on the statute will be the unconstitutional delegation of legislative authority to the Secretary of agriculture.

The attorneys said the new law simply says that the secretary "may" impose this tax at his discretion. It does not give him any standards or guidelines or criteria. Thus, he may do it as his whim, and may do it for reasons not in the minds of the legislators when they gave the secretary that authority.

Another ground for filing will be the failure of the Department of Agriculture to comply with the laws regulating the making of rules.

"What we will be seeking is a

declaratory judgment that the secretary's order is unlawful and prohibiting the collection of the tax.

In other NFO legal issues, the U.S. Circuit Court of Appeals in St. Louis, Mo., has awarded \$164,000 to NFO to cover its costs in appealing a decision of federal district court in Kansas City in a suit involving dairy cooperatives. NFO President DeVon Woodland said the award appears to be precedent-setting in two ways.

Woodland said the award was made before final judgment in the case, which was sent back to the court in Kansas City for determination of damages that NFO is entitled to recover from three dairy cooperatives, Associated Milk Producers, Inc., Mid-America Dairymen, Inc., and Central Milk Producers Co-op.

The case has not yet been returned to the Kansas City court because those cooperatives have indicated an intention to ask the Supreme Court of the United States to review the court of Appeals decision.

Counsel Green said it is also the first time this court has awarded to a victorious party in an antitrust case reimbursement of actual expenses for items other than those included as costs of appeals by statute. Green said the award appears to be the highest single award this court has ever granted on an appeal.

Earlier, the Circuit Court here had dismissed multi-million dollar lawsuits that AMPI and Mid-America had brought against NFO while upholding NFO's countersuit against those cooperatives.

The Appeals Court ruled that NFO did not violate antitrust laws, but said those three dairy cooperatives did conspire to monopolize milk sales during the

late 1960s and early 1970s.

Woodland noted that the decade-long court suit has been a substantial financial burden for the organization over the years and NFO had made numerous attempts to settle the suit before and during the trial.

"This award is the first step in recovering not only costs but also damages," Woodland said.

The Court of Appeals directed that AMPI, Mid-Am and CMPC each pay to NFO one-third of the award.



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