

# Hearing On Beef Checkoff Lawsuit This Week

BILLINGS, Mont. — In the first lawsuit of its kind in the nation, U.S. Department of Agriculture Administrative Law Judge Dorothea Baker will come to Billings, Montana from Washington, D.C. to hear arguments in a case against a Billings-area ranch couple charged with refusing to pay the mandatory one dollar per head Beef Checkoff fee.

Scheduled for August 4 at the Yellowstone County Courthouse, the hearing comes at the culmination of a nationwide campaign in which over 120,000 cattle producers have signed a petition calling for a vote to terminate the controversial Checkoff. Referendum supporters predict that by early fall they will have far exceeded the requirement that 10 percent of producers nationwide sign petitions to trigger a vote.

The case could have major implications for this internal battle within the cattle industry. USDA is seeking an \$11,000 civil penalty against the Charter family for refusing to pay \$250 in checkoff fees on cattle they sold in October 1997 and April 1998. The Charters boycotted the Checkoff on the grounds that USDA's Agricultural Marketing Service is acting illegally by approving grants totaling over \$54 million in Checkoff funds annually for the National Cattlemen's Beef Association (NCBA).

"The charges are directed against us, but in the eyes of thousands of cattle producers across the country it's USDA that's on trial here, not the Charter family," said Jeanne Charter whose family's third-generation ranching operation is located in the Bull Mountains north of Billings. "USDA and NCBA are way out of line. They're completely unaccountable to grassroots producers and they're using the power of government in support of policies that are destroying family operators nationwide."

Both individually, and as leaders of the grassroots Montana citi-

zens group, Northern Plains Resource Council, the Charters have been outspoken critics of USDA and NCBA policies, and of the Checkoff in particular.

"There are other ranchers out there boycotting the Checkoff, but we were singled out because we've exercised our right to free speech," she said. "Now ranchers everywhere will be watching to see if we get a fair trial."

Congress established the Beef Checkoff in 1985 with the Beef Promotion and Research Act which mandates cattle producers to pay \$1 per head for each animal sold in the U.S. The Act requires these funds to be used for beef promotion and research. In 1995 USDA approved the merger of two existing industry groups to create the NCBA. USDA designated the new group as the primary recipient of Checkoff funds.

Checkoff dollars currently fund close to 90 percent of NCBA's budget. Seventy-percent of NCBA's overhead costs, and two-thirds of the \$10 million NCBA spends on staff salaries and benefits are funded with producers' Checkoff dollars. Many ranchers struggling to stay in business in the face of disastrously low cattle prices charge that NCBA is part of the problem.

USDA and NCBA's handling of the referendum campaign has only inflamed the anger of many grassroots producers. USDA is threatening procedural delays that could hold off a referendum for years. At the same time, tremendous controversy has erupted over USDA's refusal to stop NCBA from using millions of producers' checkoff dollars to fund a one-sided, pro-Checkoff public relations campaign targeted at winning the producer vote. Referendum supporters have had to raise all their funds privately.

"It's like forcing ranchers to pay a tax to fund Earth First!, and then allowing Earth First! exclusive use of that money to oppose efforts to repeal the tax," said

Steve Charter.

On August 4, the Charters plan to argue that NCBA is not eligible to receive checkoff funds because the Act requires recipient organizations to have been active and ongoing prior to 1985.

They will also argue that NCBA is violating the Act's prohibition on using checkoff funds to lobby or in any manner influence governmental action. NCBA claims to conduct its lobbying activities using funds raised exclusively through voluntary membership dues. NCBA has only approximately 30,000 dues paying members, but in every public statement, including numerous comments in the Congressional Record, NCBA describes itself as "The marketing organization and trade association for America's one million cattle ranchers and farmers."

The Charters will argue that the Checkoff violates their right to free speech by forcing them to economically support an organization which they believe campaigns against their interests.

The Charters believe reestablishing open and competitive markets is the only hope independent producers have for winning a fair price for their cattle. They object to NCBA's strong advocacy for abandoning a competitive-bid market structure in the beef industry in favor of a centralized system controlled by a handful of giant multinational corporations. They say NCBA promotes increased

vertical integration of the industry, opposes government policing or markets and directly subsidizes increased horizontal monopolization in the retail sector. Several NCBA projects provide millions of Checkoff dollars in promotional marketing assistance to SYSCO and other giant food conglomerates that already dominate the retail market. The Charters also point to NCBA's opposition to R-CALF's (the Rancher-Cattlemen's Action Legal Fund) anti-dumping lawsuit against Mexico; and NCBA's support for so-called free trade agreements which, they charge, allow conglomerates like IBP virtually unrestricted leverage to suppress competition and depress prices by flooding U.S. markets with cheap imported beef.

Finally, the Charters will argue that USDA has failed to uphold a provision of the Act requiring equitable and fair treatment for all segments of the beef industry that enjoy unique consumer identity. The Charters have a business called Country Marketing Services that markets grass-fed, hormone-free beef which, they argue, is a product that has a clear identity with consumers. However, a proposal for promotional assistance that they submitted under the Act was denied on the grounds that it did not fit within the Act's parameters.

"The current law is fundamentally unfair and needs to be reformed," said Jeanne Charter. "USDA has shown extreme favoritism toward NCBA and the status quo. The bottom line is Congress ought to act to fix this mess. Unfortunately Congress is doing nothing. We had to go out and get ourselves sued just to get a public hearing on the Checkoff."

Although NCBA supporters warn that the Checkoff battle will have an all-or-nothing outcome and ranchers can't afford to abolish the beef promotion program, the Charters say there is an alternative. The Northern Plains Resource Council supports a directable and refundable checkoff system that would give producers the choice of designating whether to send their money to NCBA or other groups such as R-CALF, or to opt for a refund.

Northern Plains Resource Council is acting as fiscal agent of a legal defense fund for the Charters, and the citizens group has worked to raise money to cover some of their legal expenses. "When any of our members choose to put themselves personally on the line, it's important that they're not out there on their own," said NPRC Chairman and Willard, Montana rancher Jerry Sikorski.



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