

## **10/23/2003 Entry: "Court Rules Pork Checkoff Unconstitutional"**

Court rules pork checkoff unconstitutional

The Checkoff's days are numbered

CINCINNATI, Ohio-- The Sixth Circuit Court of Appeals affirmed a federal judge's ruling that the mandatory pork checkoff program is unconstitutional and should end. Hog farmers climbed off their combines to call on USDA and the National Pork Producers Council (NPPC) to stop delaying the inevitable and end the pork checkoff now. This ruling supports the contention of the Campaign for Family Farms (CFF), which since 1998 has argued through petition drives, a vote and a lawsuit that the pork checkoff forces independent farmers to support a system that hurts them.

"Hog farmers voted it down, now two federal courts have decided the mandatory pork checkoff is unconstitutional and is entirely invalidated," said Hampton hog farmer Mark McDowell, an Iowa CCI member and CFF spokes person. "This is a big victory for family farmers and for democracy in America."

In ruling the pork checkoff unconstitutional, the Sixth Circuit rejected USDA's novel argument that the pork checkoff is a government program. The court found that the pork checkoff "compels [hog farmers] to express a message with which they do not agree," and struck down the entire Pork Act.

Susan Stokes, legal director for Farmers' Legal Action Group (FLAG) and attorney for the Campaign for Family Farms, said, "This decision is vindication of the rights of independent hog farmers, who have been fighting this illegitimate and unconstitutional checkoff for more than five years."

"This is a huge victory for independent family farmers," said Rhonda Perry, a hog farmer member of the Missouri Rural Crisis Center and CFF spokesperson. "The pork checkoff has forced family farmers to pay into a program that supports corporate concentration, industrialization and the factory farm system of livestock production, which drives family farmers out of business. The end of the checkoff is long overdue."

Although the ruling invalidates the pork checkoff, farmers expressed concern Wednesday that the NPPC and the USDA will use the courts to delay the end of the program and continue collecting millions of dollars in checkoff fees.

"There is absolutely no reason to keep collecting the checkoff fees -- USDA and NPPC should not ask for a stay, should not keep delaying, and should quit collecting our money and let justice prevail. It's over." said Minnesota hog farmer Jim Joens, a member of the Land Stewardship Project and CFF spokesperson.

The pork checkoff program was started in 1986 after Congress passed a law mandating that hog farmers pay into the fund. It generates about \$45-\$50 million annually. Money collected under the program goes to the National Pork Board. In recent years, most of that money ended up in the coffers of the National Pork Producers Council.

The mandatory pork checkoff has been controversial among hog farmers for many years. In 1998, the Campaign for Family Farms initiated a national petition drive calling for a hog farmer referendum to decide if the program should be ended. That led to a vote conducted by the USDA in August-September 2000 in which over 30,000 U.S. hog producers voted 53% to 47% to terminate the mandatory pork checkoff. Following the announcement of the vote results in January 2001, then U.S. Secretary of Agriculture Dan Glickman ordered the termination of the program.

However, in a move that shocked hog farmers, the industry and various members of Congress, President Bush's newly appointed Ag Secretary Ann Veneman cut a back room deal with the National Pork Producers Council in February 2001 to throw out the results of the democratic vote and force hog farmers to keep paying the checkoff. This action led to the Campaign's lawsuit against USDA, which includes a specific claim that the mandatory pork checkoff violates hog producers' constitutional rights by infringing on the First Amendment.

"It is time for the USDA to wave the white flag on Pork the Other White Meat", stated David Moeller, staff attorney for Farmers' Legal Action Group.

The Campaign for Family Farms (CFF) is a coalition of farm and rural groups that are leading the fight against the corporate takeover of the hog industry and working for policies that support independent family farmers. The Sixth Circuit recognized that CFF is devoted to "ensuring the continued existence of family farms, particularly hog farms". CFF member groups include Iowa Citizens for Community Improvement, Land Stewardship Project, Missouri Rural Crisis Center, Illinois Stewardship Alliance and Citizen Action Coalition of Indiana. Farmers' Legal Action Group (FLAG) represents CFF and the individual hog farmers in the lawsuit.

You can read the decision at:

<http://pacer.ca6.uscourts.gov/opinions.pdf/03a0373p-06.pdf>