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# Fedl Court Revives Suit On Downed Animals In Food Supply

## DOW JONES NEWSWIRES

WASHINGTON (AP)--A federal appeals court last week resurrected a lawsuit against the government over the sale of livestock so sick or injured they must be dragged to market.

An animal rights group, arguing the practice puts consumers at risk, hopes to use the case to pry more information out of the government. Farm Sanctuary claims regulators aren't doing enough to prevent mad cow disease from entering the food supply.

The legal fight stems from the Department of Agriculture's rules on immobile livestock, often referred to as "downed animals." An estimated 130,000 such animals are brought to slaughterhouses each year - the vast majority of them are milk cows that are no longer productive.

USDA inspectors working at private slaughterhouses determine whether particular downed animals can be slaughtered for food.

A trial judge had dismissed a 1998 case brought by a member of Farm Sanctuary, but the Second Circuit Court of Appeals reversed that decision, reinstating the lawsuit.

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Gene Baustin, the group's president, said he believed the decision would force the USDA to describe exactly what it does and doesn't do in screening animals before allowing them into the food supply.

"Our firm belief is that none of the downed animals that are approved for human consumption have ever been tested for mad cow disease," said Baustin. He argued the USDA's policies on downed animals are

"bad for human health and bad for animal health."

USDA spokeswoman Julie Quick, while not commenting on the lawsuit, said that every immobile animal goes through a pre-death and post-death inspection, and any animal exhibiting possible symptoms of neurological disease is checked for mad cow disease.

The fatal brain-wasting disease can be transmitted to humans.

Some lawmakers tried to pass legislation barring meat from downed animals from entering the food supply. The measure passed in the Senate but failed in the House.

The National Milk Producers Federation, a group representing dairy farmers, said the legislative effort was a bad idea, but supports further study of the issue by the USDA.

"There's this sort of fallacy of logic that says if an animal can't move, that's evidence of mad cow disease, said NMPF spokesman Chris Galen. "If they have a broken leg or bad hip, that doesn't necessarily mean they have mad cow disease, just like if a person can't get up out of their chair, it doesn't mean they have Alzheimer's."

In the lawsuit, filed in 1998, plaintiff Michael Baur argued the USDA's practices exposed him as a consumer to a significant health risk, and that the outbreak of mad cow disease in England had showed the seriousness of the risk.

A written ruling dismissed that charge, calling the possibility of infection from mad cow disease too "remote" to justify the lawsuit.

The three-judge panel ruled 2-1 that Baur has "successfully alleged a credible threat of harm from downed cattle."

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