



December 23, 2003 11:38 p.m. EST

## US BSE Scare Follows Appeals Crt Ruling On Sick Animals

### DOW JONES NEWSWIRES

WASHINGTON (AP)--The United States' first major mad cow scare comes just a week after a court decision reviving a lawsuit against the government's policy on so-called "downer" animals so sick or injured they must be dragged to market.

The suit, pushed by members of the New York-based animal rights group Farm Sanctuary, claims the Department of Agriculture is not doing enough to protect consumers from mad cow disease in the meat of downed animals.

The 2nd U.S. Circuit Court of Appeals resurrected the 1998 lawsuit last week, finding a lower judge had wrongly dismissed the case. In dismissing the case, the judge found the possibility of infection from mad cow disease in America too remote to justify the suit.

The appeals panel disagreed, ruling 2-1 that the man who brought the case, Michael Baur, had "successfully alleged a credible threat of harm from downed cattle."

Most of the estimated 130,000 downed animals brought to slaughterhouses every year are milk cows who are no longer productive.

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USDA officials declined to comment on the resurrection of the lawsuit last week but defended their screening procedures. Officials said 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.

Department officials have been reluctant to support an across-the-board ban on downer animals, which often end up in pet food, in the human food supply. They've warned that a ban would lead farmers to bury the sick and injured animals on the farm instead of sending them to be rendered, raising the risk that diseases would spread to other livestock and wildlife.

Rendering, a process that basically cooks meat that goes into food for pets and livestock, kills most disease.

Farm Sanctuary president Gene Baustin argued the USDA's insufficient efforts have risked both human and animal health, and suggested consumers might be "eating the evidence" of a serious health risk.

Opponents of the use of downed animals tried to get a ban on the practice through Congress earlier this year. The measure passed in the Senate but failed in the House.

The sponsor of the House measure, Rep. Gary Ackerman of New York, said Tuesday that both the industry and the federal government had failed to heed warnings. Ackerman argued the fallout from the single case could have a crippling effect on the meat industry.

Wayne Pacelle, a lobbyist for the Humane Society of the United States, called on the government to impose an immediate ban on "the slaughter of any downed animals for human consumption."

On the Net:

Farm Sanctuary: <http://www.farmsanctuary.org>

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[http://online.wsj.com/article/0,,BT\\_CO\\_20031223\\_007195,00.html](http://online.wsj.com/article/0,,BT_CO_20031223_007195,00.html)

*Updated December 23, 2003 11:38 p.m.*

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