

# NAIS STINKS!

*Big government to the rescue again. By Henry Lamb*

Some of the world's finest Texas longhorns live in Ohio. And they love it. Rich grass grows belly high; fresh springwater feeds 16 of the 17 lakes and ponds on the nearly 5,000-acre spread; 62 miles of fencing separates 49 pastures; and the four seasons are as distinct and different as the hills and valleys that define the Dickinson Cattle Company.

Darol Dickinson is no newcomer to the cattle business. He grew up in a cattle family in Colorado. He started raising registered Texas longhorns in 1967. But Colorado's bitter winters and windy, dry summers sent him searching for new land from Mexico to Canada, and many places in between. He found in Ohio enough fertile land to do justice to the business he envisioned.

Darol's cattle are prime breeding stock and home ranch for many international champions. His business includes providing semen and embryos to cattle producers around the world. Son Joel is the hands-on cattle manager, in charge of daily operations. Darol's wife (of 45 years), Linda, is in charge of administration. She's the one who records everything about everything. She pays the bills, keeps the shipments straight, monitors inventory in every pasture, and documents every vaccination and individual health event.

A few years ago, Darol attended a USDA-sponsored "listening session." A federal employee explained a new program: the National Animal Identification System (NAIS). Darol was shocked to learn that the ranch would have to be registered with a new seven-digit identification number in a new government database. He learned that each of his animals would have to have a new identification device bearing a new 15-digit identification number, loaded into another new government database. And he learned that every time one of his animals was moved off the property, the event would have to be reported and recorded in the government database within 24 hours.

"Well, that just left a horrible taste in my mouth," Darol says. "The way it was presented, we had no choice. It was a done deal. We would be forced to sign up."

The USDA spokesman talked about how

foot-and-mouth disease could wipe out an entire herd in a matter of hours, and how dangerous anthrax is, and, of course, he talked about the dreaded mad cow disease. This new USDA program would make it possible for the government to trace any diseased animal back to its source within 48 hours, the group was told. Darol knew something was not right. "It did not pass the basic hubcap sniff test," he says.

He contacted a specialist at Texas A&M, Uvalde, Texas, who confirmed that there had

most livestock inventory, are already identified quite thoroughly. Every new calf is weighed, given a vitamin shot and tagged, the same day it is born. At weaning, each animal is branded with the famous Paintbrush-D brand, along with a unique identification number and the year of birth. In addition, the USDA tags every female with a number that is recorded in a USDA database, along with an ear tattoo. The other ear is tagged with the critter's registered name, so the cowhands can easily identify the cow by sight.

With all this proof-positive identification on each cow, and on the ranch computer, why in the world would USDA require another 15-digit number linked to still another database?

Darol sees the NAIS program as a direct and serious threat to his business. The proven



*Darol Dickinson started raising Texas longhorns in 1967 in Colorado, but he moved to Ohio for better pasture and easier weather. He attended a USDA-sponsored "listening session" to explain a new program for food producers, but something didn't seem right. "It did not pass the basic hubcap sniff test," Darol says.*

not been a case of foot-and-mouth disease in the United States since 1929. He also learned that anthrax is no longer a problem because ranchers can vaccinate against it for 80 cents a head. Mad cow disease is not a problem because it is not contagious, and the new system would do nothing to stop the disease even if a case were discovered.

Darol's cattle, like



PHOTOS COURTESY DAROL DICKINSON



*Judy McGeary (a lawyer) and her husband Michael own 40 acres just outside Austin, Texas. They have a couple of quarter horses, several lambs, a bunch of barred rock chickens and turkeys, and are well on their way to developing a business providing eggs and poultry and lamb chops to a growing neighborhood market. When she discovered that the state of Texas was ready to make the NAIS mandatory, she formed Farm and Ranch Freedom Alliance and is now working on a lawsuit challenging the authority for the USDA to even engage in the NAIS.*



growth of the family business is providing foundation stock for new producers.

“Every year, we help about 75 new producers get into the business,” Darol says. “I can sell them on good quality stock, but I can’t sell them on having to comply with these new regulations that are going to require that they also buy a computer, and tag- or chip-reading equipment, and report to the government every time they turn around.”

Darol thinks the NAIS would destroy the family business in five years or less. That’s why he has become an outspoken critic of it. He spends from two to eight hours a day doing everything he can to oppose the program. He’s even set up his own Web site: NAISstinks.com. It is full of articles and press releases and other information that traces the flawed development of the program back to 2003.

Darol is not going to surrender to this program without a fight. His resistance, along with a near rebellion by the majority of animal owners, caused USDA to abandon its initial plans to make the program mandatory and, in 2006, the agency announced that the

program would henceforth be voluntary. But what USDA means by “voluntary” is anything but voluntary.

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Judith McGeary is working on a lawsuit that challenges the authority for the USDA to even engage in the National Animal Identification System. Part of the argument deals with how USDA is funding organizations and states to force participation in the NAIS, while USDA claims that the program is voluntary.

Judith was perfectly content living with her husband Mike on their 40 acres just outside Austin, Texas. Mike retired from the Coast Guard, and Judith turned her Stanford BS into a degree in environmental law from the University of Texas. Life was great. They had a couple of quarter horses, several lambs, a bunch of barred rock chickens and turkeys, and were well on their way to developing a business providing eggs and poultry and lamb chops to a growing neighborhood market.

“I remember it well,” Judith says. “Mike came in and told me he had heard that the government was going to require us to put a microchip into every one of our chickens.”



PHOTO COURTESY, JUDITH MCGEARY

*Judith McGeary says, "My chickens and turkeys range over the pasture. How am I going to report the death of one of them within 24 hours, if I don't even know about it? When a fox gets a bird, I might not even find a pile of feathers. It's just ridiculous."*

That was the day Judith discovered the NAIS. "I told Mike it had to be an Internet rumor; not even the government can be that stupid."

Chickens do not require a microchip under the NAIS plan, but they do require an individual 15-digit identification number, along with each of her horses and lambs and turkeys.

"It's just ridiculous," Judith says. "My chickens range over the pasture. They produce far better eggs than the caged factory hens. How am I going to report the death of one of my chickens within 24 hours, if I don't even know about it? When a fox gets a chicken, I might not even find a pile of feathers. It's just ridiculous."

Judith was already concerned about government regulations that seemed to be squeezing small farmers, especially farmers who are trying to use responsible, sustainable, best practices. She had talked to Mike and to some of her friends about the need for an organization to try to deal with some of the legislative issues. When she discovered that the state of Texas was ready to make the NAIS mandatory, the decision was made. She formed Farm and Ranch Freedom Alliance (<http://farmandranchfreedom.org/content/>).

Almost simultaneously, she got involved with the creation of the Liberty Ark Coalition (<http://libertyark.net>), as a founding member of the steering committee. She began researching, writing, and helping others get

informed about the impact this program would have on all livestock owners.

"It will put us out of business," she says. "And it's not just the cost and aggravation this program will put on us personally, because it will have the same impact on thousands of other small operators. USDA should be encouraging small farmers and homesteaders to produce what they can for local markets. Instead, they are deliberately trying to dry up any competition to the big guys."

Along with Sally Fallon, president of the Weston Price Foundation, Gary Cox, and a few other attorneys, farmers, and activists, Judith helped to form the Farm-to-Consumer Legal Defense Fund ([www.ftcdf.org/](http://www.ftcdf.org/)). In May, the group sent a 25-page Notice of Intent to Sue to USDA, alleging that the NAIS has not followed proper rule-making procedures, has not met environmental impact assessment standards, has not been subjected to a cost-benefit analysis, and a variety of other shortcomings.

There are thousands, perhaps hundreds of thousands, of livestock owners who do not yet know they are subject to the reach of the NAIS. Everyone who owns even a single horse or chicken or pig or sheep or any of 29 different species will be subject to the NAIS. Even though the program is said to be voluntary, no one believes it will stay that way. In fact,

the former secretary of the Department of Agriculture has said that USDA retains the authority to make the program mandatory whenever it deems it necessary.

USDA apparently is not concerned about the Fourth Amendment to the U.S. Constitution, which is supposed to guarantee that every citizen is "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures...." A mandatory NAIS would force individuals to surrender private, personal information about their property and their movements to the government without probable cause, without a warrant, and for no good reason, as far as many people can see.

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Bert "Nevada" Smith is one of those people. Bert is a western rancher who has seen it all. In his part of the country near Layton, Utah, ranches are measured in sections, not acres. His cattle have no need of a government-assigned number, and his ranch has no place in a federal database. Just ask him.

"My brand is enough identification," Bert says. "Every load I sell is certified healthy by a state veterinarian. The USDA's got no business poking its nose around my ranch and my cattle." And he's not at all bashful about telling the USDA so. Bert has been quite outspoken at cattle association meetings in both Nevada and Utah. USDA big wheels invited to promote the NAIS don't escape Bert's withering condemnation of the program.

He has seen the USDA's shenanigans over the years. He is especially skeptical of its claim that the NAIS is

"not even the government can be that stupid."

voluntary. He remembers when USDA said that signing up for grazing allotments was voluntary, and how ranchers all over the West lost both their water rights and grazing rights when voluntary became mandatory.

Bert really gets upset about the money USDA is paying organizations to promote the NAIS. "Why, it's bribery. What else can you call it when USDA gives the Future Farmers of America \$600,000 to teach the kids to persuade their parents to register their premises in NAIS?"

He's even more upset with the major trade associations for taking the government money. "They've got their hand in the honey-pot, and they've sold out their members," he says. "These trade associations and breed registry organizations should be helping their members shut down NAIS, instead of promoting it."



PHOTOS COURTESY BERT SMITH



*Bert Smith is a rancher in Layton, Utah. In his part of the country, ranches are measured in sections, not acres. He's unhappy with the NAIS. "My brand is enough identification. Every load I sell is certified healthy by a state veterinarian. The USDA's got no business poking its nose around my ranch and my cattle."*

There has been a lot of Internet speculation that use of the word "premises" in USDA's registration forms somehow strips constitutional protection from the property owner, or converts the property owner into a "tenant" of the federal government.

Jim Burling, director of litigation at the Pacific Legal Foundation, says: "I can see no way that the use of the word 'premises' versus 'property' has any impact on the ability of the government to enter property without a search warrant. The underlying nature of the property rights cannot be changed by a label. Referring to property as the 'premises' in no way converts a fee simple property into a leasehold."

Bert's not so sure. He is in full agreement with R-CALF (Ranchers-Cattlemen Action Legal Fund), one of the few livestock organizations that opposes the NAIS. R-CALF advises its members: "Registering a premises without entering into a contract that expressly limits the federal government's authority over the premises may result in subjecting the premises and its registrant to all future rules, regulations and policies that the federal government may later decide to impose upon such registrant."

Aside from the possible legal hocus-pocus, Bert is convinced that the NAIS is just not necessary. "Animals are already identified with a brand, and they have to be certified healthy before they can be sent to the slaughterhouse. All the NAIS is going to do is put the little guy out of business," he says.

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The opposition to the NAIS expressed by Darol, Judith and Bert is just a sampling of the sentiments expressed by animal owners across the nation. Already, at least 15 state legislatures have responded to appeals from animal owners by entering legislation to prohibit mandatory NAIS at the state level. Four states (Arizona, Missouri, Nebraska, and Kentucky) have actually enacted laws to this effect.

USDA claims that the NAIS is needed to provide a mechanism to trace the origin of a diseased animal within 48 hours. But the agency has no evidence that the need for or benefit from this mechanism outweighs the cost. When pressed, USDA employees admit that an electronic trace-back system will open new international markets—for the larger meat exporters. But even when pressed, USDA has no answer for why the rest of animal owners should have to bear the burdens of cost and aggravation for the benefit of the big exporters.

It was the big exporters and the manufacturers of the electronic tags and tag-reading equipment—all members of the National Institute for Animal Agriculture—that largely designed the program and prevailed upon the feds to implement it.

USDA may have miscalculated the strength of the opposition to its NAIS. When first introduced, USDA expected the program to be fully implemented by early 2009. They anticipated that every premise where a livestock animal is housed would be registered;

that every livestock animal would be identified, most with a computer-readable tag or chip; and that every off-premise movement would be reported to the government within 24 hours.

Obviously, this is not going to happen by 2009, if ever. The rate of new signups has slowed, and people who were registered are beginning to request that their names and premises be removed from the databases. It's a sure bet that even more states will be introducing anti-NAIS legislation next year.

But the federal government carries the big stick—money. State legislatures are aware that USDA can withhold federal funds if a state fails to knuckle under to the demands of the federal agency. Consequently, the anti-NAIS campaign continues to focus on Congress, as well as on state legislatures.

The jury is still out on NAIS. Whether USDA will be responsive to the expressed will of the animal owners who do not want it, or responsive to the members of the NIAA who do, remains to be seen. One thing is certain: Darol, Judith, Bert, and hundreds of thousands of other animal owners are not going to sit idly by and let USDA steamroll over them without a fight. If you're a gambler, be careful which way you bet. ■

*Henry Lamb is founder of the Environmental Conservation Organization and chairman of Sovereignty International.*