

Gregory Lee Niewendorp

4185 Beishlag Road
East Jordan, MI 49735

To: State of Michigan
Department of Agriculture
Mitch Irwin, Director
P.O. Box 30017
Lansing, MI 48909

Certified Mail - Return Receipt Requested
Certified Mail # _____
Also by fax transmission

Your office indicated an intent to place a quarantine on my farm. Your authorized representative Mr. Kevin Lauterwasser on February 21, 2007 stated in the alleged **QUARANTINE** that I violated: "**Annual TB Whole Herd Testing.**"

PLEASE BE ADVISED, without obtaining the information requested in this communication, I am unable to acknowledge your alleged authority to place a quarantine on my farm, and therefore must insist that until you have shown me compliance with the statutory mandates (which must be met prior such a quarantine being placed) that you are from my perspective without authority to act.

Prior to your alleged **QUARANTINE**, I had voluntarily met with Dr. Dan Graham, DVM, who is head of the TB Eradication Program and expressed my concerns to him about TB being a contagious disease. I specifically verbally requested documentation from the Department showing that indeed Bovine TB actually is a contagious disease, **MCL 287.703(12)** which states:

"Contagious disease" means an illness due to a specific infectious agent or suspected infectious agent or its toxic products which arises through transmission of that agent or its products from an infected animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host vector, or the inanimate environment, or via an airborne mechanism.

Absent a clear showing that TB is a contagious disease as defined above, it is my position that you are without authority and indeed are exceeding your authority by attempting to Quarantine my Farm.

No response from the Department has been received. I am renewing that request by this communication in writing. I believe that I am entitled ascertain that you are acting within the scope of your authority since this action has a direct impact on my constitutional rights, and I am entitled to constitutional protections.

Further, you have alleged that my non-compliance with your request constitutes a crime involving a felony charge with a \$1,000.00 to \$50,000.00 fine and imprisonment of up to 5 years or both. Being threatened with a felony charge by the state, I am entitled to my full constitutional guarantees.

Please be advised that based upon the criminal consequences, my constitutional rights against self-incrimination prohibit me from signing the **Compliance Statement**.

You are aware that my farm is posted with No Trespassing signs and are subject to all legal consequences arising from any unauthorized entry. You are advised that your Department is not to enter onto my farm without a properly executed search warrant since any entry by your department would be to obtain criminal evidence which mandates a search warrant. My position against your entry onto my premises is not affected

by the authority granted to the state veterinarian **MCL 287.708(3)** since all law enforcement agencies are required in such circumstances to have a valid search warrant.

Please provide written documentation (with specificity) how any disease you may suspect on my farm provides an "**economic impacts**" required by the general definition of disease, **MCL 287.703(17)**.

The **USDA** has provided a Special Grant to the Michigan Agricultural Experiment Station as reported in the **MAES**, January 7, 2007 publication. Please advise whether the proposed actions on my farm are part of a surveillance and or monitoring program.

Further, I make by a formal **FOIA** request that you provide the underlying authority which allows you to to carry out this surveillance and monitoring which must be present as required by **MCL 287.708 (1)(e)**.

My review of the USDA Special Grants material appears to have established the Program without the requested epidemiology as reported in the **MAES** January 7, 2007 publication.

From my perspective this is nothing more than a research program carried out *under the guise of fighting a contagious disease*.

This program by mandating my cattle to be utilized in this research program, ordering a quarantine of my farm and without proper compensation to myself, or the giving right to not participate or opt out of this program constitutes a fraud.

This premise is based on the fact that your office has still not provided me with the epidemiological basis showing both the contagious nature of the disease and how my farm is directly at risk based on the Director's determination.

Further, until such information is provided, it is my position that the Director by ordering an (*alleged*) **Quarantine** of my farm is acting fraudulently beyond the scope of your authority and are using my cattle without my express authorization in a experimental research project.

Please be Advised, my refusal to allow the testing is based upon your department's failure to provide me with the basis underlying your authority to so act.

Please Be Advised, it is my understanding that the state, as part of this experimental program, plans to inject my cattle with allegedly toxic substances.

Further, prior to any such injection, I require clear scientific evidence showing that there is no risk to any of my cattle by such experimental injections and an agreement by the state to indemnify and hold me harmless from any unseen or unintended consequences arising from such injection or some other reaction caused by such injection, this indemnity is not to be waived by the provisions my acceptance of any indemnity you might pay under this program where you require my total release of the state from all liability, **MCL 287.714(6)** which provision from my perspective is unconscionable making this provision unconstitutional.

Further, as part of a formal FOIA request, provide me with a copy of the Bovine Tuberculosis Eradication, Uniform Methods and Rules which you are following effective January 1, 2005 or any amendments thereto, and show the Number of CFT tests conducted and how these tests (on a consecutive time frame) have remained in compliance with those standards.

Further, it is my position that these standards do not constitute an epidemiological basis for the proposed action and are experimental in nature and I should not be required to subject my cattle to such experimental procedures.

Further, your proposed injection of my cattle with a toxic substance may have a direct adverse impact on my own long term study of alleviating mineral deficiencies and that effect on the health and improved immunology of my animals.

Further, I have orally indicated to Dr. Graham my willingness to become a test program to allow the Department to take tissue, blood and milk samples, and allow monitoring disclosure of my management program which will meet any of your objectives without the potential adverse impact caused by your proposed injections intended to be done without providing me with the supporting documentation. If you agree to this proposal we will enter into contract negotiations to set forth all protocols for such a program.

Further, it is my position that the statute **MCL 287.742 (6) (b)** makes correct reference to brucellosis surveillance but fails to properly cite **9 CFR 77** when referring to tuberculosis surveillance. Please advise if this is an incorrect reference or whether amendment has been made to the USDA applicable rules and procedures. Also as a formal **FOIA** request provide a copy of the applicable rules, procedures and guidelines for tuberculosis surveillance as conducted through the cattle identification program.

Further, I am informed and believe it to be true that a determination by Horizon Organic Milk does not approve the codifold tuberculin testing material for milk that they purchase.

Further, I make a formal **FOIA** request for any material obtained by or in possession of your department relating to the position taken by Horizon Organic Milk, and any studies or other research within your department or in its possession regarding the effect of these injected substances on organic milk and that this be provided prior to any ordered injection of my cattle.

I further request under this **FOIA** to be advised as to any studies regarding the long term effect of any such injection of my cattle.

This may adversely impact every animal so injected as to both its present and future viability in my farming operation.

All of my review of available material causes me to determine that this is a fraudulent attempt to carry out research on my cattle without my consent and without offering a negotiated fair market value for involving my farm in experimental testing that could pose unknown adverse impact on my cattle, their offspring and therefore on my entire farming operation.

As a further condition of my willingness to proceed with this experimental program, I will require the state to agree to indemnify and hold me harmless both for damage to my animals caused by your experimental program and potential future damage to my farming operation due to unintended and unknown results from such experimental injections.

Please be Advised, I request a copy of the epidemiological review of the contagious nature of the Bovine TB, and, if one has not been done, I request such an epidemiological review be done.

Further, I request a waiver of the annual TB Whole Herd Testing as reference in the alleged **Quarantine Notice** (and throughout the state) by the Director pursuant to **MCL 287.708(6)** pending the completion of the epidemiological review.

Please be Advised, I do not have any suspicion that any animals on my premises are affected by any reportable disease.

In placing this alleged quarantine on my farm, you are maintaining that you do suspect such an animal being on my premises.

I am making a formal request that you immediately provide me with the scientific basis constituting your reason for making the determination that you suspect that such an animal is on my premises.

This must be given to provide a basis in law for infringement of my constitutional rights caused by imposition of the alleged quarantine of my property and threat of criminal allegations charging me with a felony. I take this as a very serious threat against myself, my family, my farm and my ability to provide for my family. All done without providing me with the necessary fundamental due process.

I am requesting a copy of the latest report which you filed with the legislature pursuant to **MCL 287.714 (11)**, this is intended to be a formal **FOIA** request to your Department.

I am informed you have determined that my farm is in a high risk area under **MCL 278.709 (11)**.

Provide me with the closest TB positive tested cattle to my premises and the number of cattle so tested, the distance to my premises and the disease vector factors upon which you are relying to include my property within this high risk area.

It is further my position that your current demand for whole herd testing of privately owned cattle farms appears to be an unfunded mandate since in the event you are taking an animal you must specifically request special funding from the legislature **MCL 287.714 (5)** which since this is part of a federally mandated program stands in clear violation of **2 U.S.C. 1531-1538** and also the **Michigan Elliot-Larson Civil Rights Act** by discrimination against the agricultural and live stock producers and raisers.

Submitted this 28th day of February, 2007

(signed)

Gregory Lee Niewendorp

cc. Animal Industry Division, Michigan Department of Agriculture, Attn., Reg. Agent Kevin Lauterwasser, 16860 M-32 East, P.O. Box 758, Atlanta, MI 49709-9900