

295

**ORDINANCE NO. 39**

AN ORDINANCE PROTECTING FARM PRIVACY AND PROFITABILITY BY NULLIFYING THE FEDERAL AND STATE LIVESTOCK TRACKING AND PREMISES IDENTIFICATION LAWS AND REGULATIONS AS IT RELATES TO THE COUNTY OF QUAY, NEW MEXICO; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the United States Department of Agriculture (USDA) is proposing a mandatory National Animal Identification System (NAIS) to be in place by 2009; and

**WHEREAS**, the primary justifications for the NAIS given by the USDA are animal health issues, specifically foot-and-mouth disease and bovine spongiform encephalopathy; and,

**WHEREAS**, the USDA's imposition of animal tracking and identification system will impose costs upon small farmers, and create an undue financial burden upon them; and,

**WHEREAS**, the USDA has already put into place necessary safeguards to ensure the safety of the American beef supply and the prevention of the transmission of livestock disease; and

**WHEREAS**, in order to promote public safety, health, and welfare, and preserve the rights of farmers' right to earn a living through agriculture and prevent the violation of the Tenth Amendment of the Constitution of the United States, i.e., "The powers not delegated to the United by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," deem it necessary to nullify the National Animal Identification System within the County of Quay.

**NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF QUAY, NEW MEXICO.**

**Section 1. Purpose.**

The purpose of this Ordinance is to preserve the rights of farmers' to earn a living through agriculture and prevent the violation of the Tenth Amendment of the Constitution of the United States, i.e., "The powers not delegated to the United by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," by nullifying the National Animal

Identification System within the County of Quay and by doing so, promoting public safety, health, and welfare of the citizens within the County of Quay.

**Section 2. Fundamental and Inalienable Rights.**

In support of the goals to promote and preserve the rights of the citizens of Quay County, the Board of County Commissioners declares that any and all actions taken by government that deny the people's inalienable and fundamental rights, either individually or collectively, are illegitimate, unauthorized, and void.

**Section 3. Animal Tracking and Premises Identification.**

The Board of County Commissioners recognizes that the United States Department of Agriculture has adopted a National Animal Identification System (NAIS) that was created by agribusiness corporations and their trade associations. That System will require mandatory farm registration and animal identification by January, 2008. Under that System, premises identification will require the registration of homes keyed to global positioning systems, and those registrations will be maintained in a federal database using a seven digit premises identification number. Animal identification will require a tag or microchip which will contain a radio frequency identification device, and may also require a collection of genetic material and/or a retinal scan of every registered animal.

**Section 4. Impact of Animal Tracking and Premises Identification.**

It is the belief of the Board of County Commissioners that a mandatory animal tracking and premises identification system will (1) impose costs for registration on small farmers that threaten margins of farm profitability; (2) require owners of even one animal to register their home and animal(s) into a federal database; (3) require owners of animals to report the birth date of each of their animals, report times that the animals leave or enter the property, report the loss or replacement of an animal's tag, and report the death of an animal -- all within twenty-four hours of those events; (4) require veterinarians to report animal owners who have not complied with the animal tracking system to the United States Department of Agriculture, with enforcement to be carried out by that agency; and (5) enable the federal government to seize privately owned farm animals without due process or other constitutional protections. It is the belief of the Board of County Commissioners that governmental animal tracking and premises identification therefore violates the Fourth Amendment, Fifth Amendment, Fourteenth Amendment, and First Amendment federal constitutional rights of the people of Quay County.

**Section 5. Definitions.**

As used throughout this Ordinance, the following words and phrases shall have the following meanings:

297

“Corporation” shall mean any corporation organized under the laws of any state of the United States or any country.

“Families” shall mean natural persons related to one another within the fourth degree of kinship according to civil law, or their spouses.

“Family farm corporations” shall mean corporations or syndicates engaged in farming or the ownership of agricultural land, in which seventy-five percent (75%) of the partnership interests, shares, stock, or other ownership interests are held by members of a family or a trust created for the benefit of a member of that family.

“Independent family farm operation” shall mean agricultural operations wholly owned and operated by families or by family farm corporations.

“Person” shall mean a natural person.

“Syndicate” shall include any limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or any country.

**Section 6. Statement of Law.**

Any law requiring a mandatory animal identification or premises registration system within the County of Lincoln shall be null and void within the County of Quay.

**Section 7. Enforcement.**

Any person who violates any of the provisions of this Ordinance shall be punishable by a fine of up to three hundred dollars (\$300.00) and/or imprisonment of no more than ninety (90) days, or both.

**Section 8. Conflict Clause.**

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 9. Severability Clause.**

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections hereof.

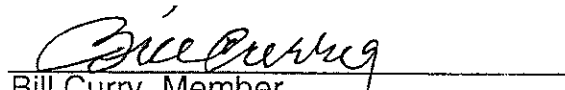
**Section 10. Effective Date.**

This Ordinance shall take effect thirty days after recording in the Public Records of Quay County.

**PASSED, APPROVED, and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2006.

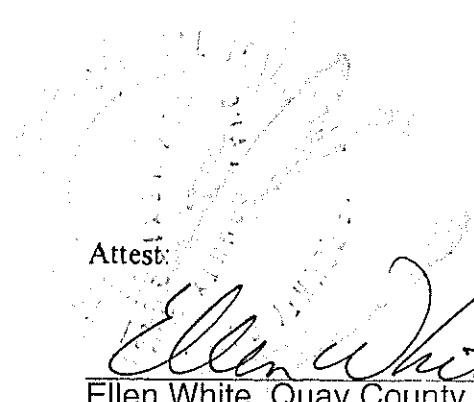

**BOARD OF COMMISSIONERS OF  
Quay COUNTY, NEW MEXICO**

  
Franklin McCasland, Chairperson

  
Bill Curry, Member

  
Robert Lopez, Member

Attest:

  
  
Ellen White, Quay County Clerk