

## Michigan Swine ISO still Threatens Heritage Breeds

Pete Kennedy, Esq. – June 27, 2012

On April 1, 2012, an Invasive Species Order (ISO) issued by the Michigan Department of Natural Resources (DNR) went into effect despite infringing upon private property rights, criminalizing swine pet owners, depriving small hog farms of earning a livelihood from their investment in breeding heritage swine, and denying consumers the freedom to obtain the pork of their choice. Even restaurant owners and gourmet chefs are feeling the repercussions, no longer able to serve locally grown and harvested pork to eager diners. The ISO prohibits the possession of certain swine and a violation of the ISO is a felony punishable by up to two years in jail and a \$20,000 fine for harboring an “invasive species”.

The Michigan DNR has defined “invasive species swine” (in a December 2011 declaratory ruling), as any pig that exhibits certain characteristics. Many of the characteristics listed describe just about any heritage breed of swine. Even more troubling, the DNR characteristics are often displayed in swine that are raised outside, not in confinement. The DNR order not only threatens the livelihoods of heritage breed hog farmers across the State of Michigan but it also sets a very dangerous precedent across the United States for those choosing not to raise animals in confinement.

Since this is not a law passed by the Michigan Legislature but an action (an order) taken by a state agency, the Governor of Michigan, Rick Snyder, has the power to tell DNR to rescind the ISO; but so far, he has refused to do so in spite of thousands of people contacting his office over the past few months. An indication of how unpopular the ISO has been is that DNR Director Rodney Stokes—the name associated with the ISO more than any other—was recently forced to step down from his position. The strategy of the governor and DNR looks to be waiting out the opposition to the ISO, hoping the issue will quietly go away. To help ensure that does not happen, an online petition has been set up so those opposing the ISO can fax Governor Snyder asking him to order DNR to rescind the ISO.

This being a national issue, participation is greatly needed from across the U.S. There are reports that a number of other states are looking to see whether Michigan DNR gets away with enforcing this ISO because, if they do, other states will be trying to implement the exact same thing. **Do your part to make sure this does not happen and send a fax to Governor Snyder.**

During the last couple of months, DNR has been very quiet in the media about the ISO; however, make no mistake about it, they are moving ahead with its implementation. DNR has filed counterclaims against heritage breed hog farmers Mark Baker and Roger Turunen, game ranch operator Greg Johnson and swine pet owner Matt Tingstad, seeking court orders for each to depopulate their pigs and to pay civil fines for possessing prohibited “invasive species swine.”

The four individuals had each sued earlier this year to have the ISO struck down. In Tingstad’s case DNR even added his girlfriend, Melissa Perez, as a co-defendant because Perez is a co-owner of the pet pigs. In addition to the counterclaims, DNR has also filed a civil suit against the game preserve, Renegade Ranch, seeking an order depopulating the ranch’s pigs and fines for possessing a prohibited species. On May 10, DNR conducted a court ordered inspection of Renegade Ranch to determine how many prohibited swine were on the property; the judge handling the case has ordered the department not to seize any pigs on the ranch for now.

Aside from the individual lawsuits against DNR, it looks like a national organization will soon be trying to overturn the ISO in the courts. On June 1, the Center for Food Safety (CFS) sent DNR a “Notice of

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Intent to Sue” letter notifying the department that CFS intended to file suit to strike down the ISO. In a letter sent with the Notice, CFS Executive Director Andrew Kimbrell points out that:

“From the perspective of many farmers, the breadth and application of the ISO is unclear and subjects them to potential felony charges, fines, and incarceration for simply pursuing their livelihood . . . heritage pig farmers and breeders are in effect subject to the ISO and the criminal implications, and consumers of heritage pig products are unable to enjoy locally and sustainably raised organic pork products.”

The Notice charges that the ISO violates numerous provisions of the federal and Michigan Constitution as well as the Michigan Consumer Protection Act and the Michigan Family Farm Development Act. In its letter, CFS requests a response from DNR within 30 business days of its receipt. The nonprofit has thousands of Michigan members.

On the legislative front, Governor Snyder continues to be at odds with members of his own party over the ISO including Representative Kevin Daley (Chair of the Michigan House Agriculture Committee) and Representative Ed McBroom who are both farmers. Governor Snyder still has yet to respond to a March 30 letter from sixteen Senators and Representatives (both Democrats and Republicans) asking him to either rescind the ISO or amend it so it only applies to feral swine (pigs running at large outside fences), “not those under the husbandry of humans and inside a fence.”

The biggest obstacle to the legislature rescinding the ISO through the passage of legislation remains the Agricultural Leaders of Michigan (ALM), a coalition of agri-business groups. ALM consists of Greenstone Farm Credit Services, Potato Growers of Michigan Inc., Michigan Allied Poultry Industries Inc., Michigan Milk Producers Association, Michigan Pork Producers Association, the Michigan Agri-Business Association and the Michigan Corn Growers Association. ALM was responsible for killing a March 29 effort in the Michigan Senate that would have delayed the implementation date of the ISO.

If the ALM had their way, all farm animals in Michigan would be raised in confinement facilities and there would be no opportunity to purchase animal products from those raising them differently. ALM has been a consistent source of misinformation claiming that swine raised outside are diseased, are a threat to become feral, and are a threat to spread disease to animals raised in confinement. According to DNR’s website, less than 50 feral swine were killed in Michigan in 2011 despite a state shoot-on-sight law that allows Michigan landowners, licensed hunters and others to legally shoot any “free-ranging pig running at large.”

For its own part, the Michigan Pork Producers Association is claiming that neither it nor the DNR “have any interest in deterring niche producers from continuing to operate as usual unless the producer is using the breeds or types o hogs prohibited by the ISO...”, knowing that under the DNR’s declaratory ruling, the department can determine that a hog is prohibited under the ISO if it possesses physical characteristics common to any pig even if the animal was raised under the husbandry of humans. In other words, all pigs not raised in confinement cannot possess even one illegal DNR characteristic listed in the declaratory ruling; this is impossible since all swine will have at least one DNR characteristic and would therefore be an invasive species and illegal to own.

The ISO is a significant threat to private property rights, freedom of food choice, the ability of small farmers to make a living, and genetic diversity. ALM, like the rest of agri-business, wants only the



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white pork produced and they want it produced inside of buildings in confinement. If the public stays quiet concerning the ISO, and it's allowed to stand, the right for farmers to raise food animals the way many people want them raised (outdoors and not in confinement) is on the path to becoming illegal.

Use the [online petition](#) to remind the Michigan Governor to rescind the Michigan DNR Invasive Species Order on Swine.

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### Hyperlinks for PDF

**declaratory ruling** – issued December 13, 2011 by DNR =  
<http://www.farmtoconsumer.org/docs/MDNR-DeclaratoryRuling-2011-12-13-Final.pdf>

**online petition** – “FAX PETITION: Stop the Unjust Slaughter of Heritage Breeds in Michigan & Potentially Nationwide”, sends fax to Michigan Gov. Rick Snyder to “Rescind swine ISO” =  
<http://www.farmtoconsumer.org/petitions/pnum1097.php>

**Notice of Intent to Sue** – letter to DNR Director Rodney Stokes from Center for Food Safety (CFS), 1 June 2012 = <http://www.farmtoconsumer.org/docs/CFS-Letter.DNR.06.01.2012.pdf>

**March 30 letter** – Letter from Michigan legislators to Gov Snyder, 30 March 2012 =  
<http://www.farmtoconsumer.org/docs/Ltrto-GovSnyder-frMILegislators-033012.PDF>

**Agricultural Leaders of Michigan** – ALM website, “About Us” webpage =  
<http://agleadersmi.com/About%20Us/Pages/default.aspx>

**March 29 effort** – Kimberly Hartke article and video post, “Big Pig Lobbyist Uses Cloakroom Tactics to Foil Small Farm Defense”, 3 April 2012 =  
<http://hartkeisonline.com/animal-husbandry/big-pig-lobbyist-uses-cloakroom-tactics-to-foil-small-farm-defense/>

**DNR's website** – Michigan Dept. of Natural Resources, “Number of Feral Swine Reports in Michigan by County per Year”, updated 12 June 2012 =  
[http://www.michigan.gov/documents/dnr/FS\\_sightings\\_kill\\_6\\_12\\_12\\_388724\\_7.pdf](http://www.michigan.gov/documents/dnr/FS_sightings_kill_6_12_12_388724_7.pdf)

**shoot-on-sight** – DNR website, “Rules for Shooting Feral Swine” =  
[http://www.michigan.gov/dnr/0,4570,7-153-10370\\_12145\\_55230-230093--,00.html](http://www.michigan.gov/dnr/0,4570,7-153-10370_12145_55230-230093--,00.html)