

STATE OF WISCONSIN

**Plaintiff,**

v.

**Cases No. 2011-CM-696****Vernon D. Hershberger****Defendant,**

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**JURISDICTION CHALLENGED  
MOTION TO QUASH OR DISMISS**

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On or about December 06, 2011 the Assistant Attorney General for the Wisconsin Department of Justice, ERIC D. DEFORT caused a criminal complaint to be filed against named defendant Hershberger. See Criminal Complaint filed with the above-stated court case number. Named individual defendant challenges the jurisdiction of the court and challenges the jurisdiction of Plaintiff, and defective Complaint.

"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but rather should dismiss the action." Melo v. U.S. 505 F 2d 1026. "There is no discretion to ignore lack of jurisdiction." Joyce v. U.S. 474 2D 215. "The burden shifts to the court to prove jurisdiction." Rosemond v. Lambert, 469 F 2d 416. "Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." Latana v. Hopper, 102 F. 2d 188; Chicago v. New York 37 F Supp. 150.

**HISTORY**

At the first hearing of this case on January 11, 2012, Judge James Evenson denied my Motion for Continuance to seek counsel denying me fair and competent representation and jurisdiction challenges. I objected to preserve my right to jurisdiction challenges. I reassert herein my objection to Judge Evenson's denial of my right for time to seek counsel that is imminent to achieving a fair trial. His decision has destroyed the court's ability to provide a fair trial for me and my right to a fair trial. Also, the court forced me to sign a Bond agreement under

duress of deadly force. Sound jurisdiction challenges are presented herein and the case should be quashed or dismissed.

## **BACKGROUND**

The DATCP's Complaint in this instant case is a retaliation against me, Vernon Hershberger (herein titled Defendant in pro per), my family and all owners of the Grazin' Acres Family Farm. Our farm problems with licensing and permits came to a head when the DATCP began to introduce and implement the "Mark of the Beast" program called National Animal Identification System ("NAIS"). I and other farmers were told by agents DATCP that it would be strictly a voluntary program, implemented for greater farm safety, detection and prevention.

When it was implemented, it turned from a voluntary system to a racketeering and thug system of governance. NAIS put livestock owners under closer surveillance than terrorists, drug dealers, convicted sex offenders and child molesters. Currently, only convicted sex offenders and child molesters have to register their premises. NAIS is the very model of how an unresponsive Executive Branch agency can cooperate with a globalist industrial agriculture and a technocratic corporate elite to force an undesired program upon an unwilling populace.

In communism, government owns the means and method of production. In fascism, government controls the means and method of production. When we, the people, that is many farmers rejected NAIS, we were threatened with losing our permits and licenses, ultimately our livelihoods and farms. Government would own our farms by seizures. Premises ID was a way to track permits, licenses and NAIS compliance. All were direct roads from our forefathers republic, in which we the people control our lives, liberty and pursuits of happiness, to fascism and from fascism to communism where the people do not control or own anything. Government and government agents would. Thus the Mark of the Beast.

Some farmers of we the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, formed a more perfect government, insuring domestic tranquility that promotes general welfare according to the Constitutions. The preamble to the Wisconsin and U.S. Constitutions begin, "We the people have the right to compel government to act within constitutional limits". Our Constitution does not begin "We the corporations" or "We the special interests", or "I Queen Elizabeth II", or "The DATCP", but "We the people". Governmental oaths of office, sworn before Almighty God (the Creator of our unalienable rights), creates an obligation by government agents and employees of authority (who are people-empowered public

servants) to not be puppets for the beast, whether it be corporations or government agents hungry for more power and money.

In 2009, I and other Wisconsin farmers decided to opt-out of the program for DATCP. We did this by not renewing our Premises IDs, licenses and permits. DATCP agents told us that Premises ID was not an opt-out program. Some of us did not renew. In the 2009 case of Wisconsin vs. Emanuel Miller Jr., Clark County Circuit Court Judge Jon Counsell indirectly agreed with we, the farmers' that our Christian view that Premises ID and NAIS programs constitute in our beliefs the Mark of the Beast and that both programs were not enforceable programs and laws. The circuit court held that the premises registration requirement violated the rights of Emanuel Miller, Jr. under Article I, Section 18 of the Wisconsin Constitution, "the right of every person to worship Almighty God according to the dictates of conscience shall never be infringed; ... nor shall any control of, or interference with, the rights of conscience be permitted."

As the court noted in the Miller case, there are a number of shortcomings with the premises-registration program; mainly that the Department of Agriculture and Consumer Protection (DATCP) will still have to go door-to-door in the event of a disease outbreak to find possible contamination in a herd. The court found that there has never been a single instance in any state in which premises registration has assisted in making the containment of an animal disease outbreak faster or less expensive.

Even the state's witness Dr. Paul McGraw testified that Premises ID has never assisted Wisconsin or any other state with a disease outbreak. The court found that "premises registration, and particularly the number, may hinder or delay disease tracking." The court recognized that the fire number should be regarded differently than the Premises ID number because Emanuel Miller's religious objection was to the Premises ID number and it was not for the court "to impose its interpretation of what is or isn't a reasonable religious belief."

I realized that the Mark of the Beast was imbedded in the Wisconsin government from which I had to withdraw my farm completely. I pursued my rights of we the people to self-govern under God's laws of compassion to feed and care for my fellow man rather than greed for money, control and power. Over the course of 2010 and into 2011, I learned how to legally do that under God's natural laws, using common sense, common law and the Constitutions of Wisconsin and United States for America, articulated herein.

On March 24, 2010, I dissolved my Grazin' Acres Limited Liability Company through the State of Wisconsin Department of Financial Institutions, Division of Corporate and Consumer Services. On August 30, 2010, I sent a letter to DATCP withdrawing from electronic ID, thinking I was withdrawing from both Premises ID and NAIS. Again, on September 25, 2010, through the attorney for Food To Consumer Legal Defense Fund, I clarified to Melissa Cochran of DATCP that I would not renew my Premises ID as well as reject NAIS. I and other farmers were threatened that we would have our food-production licenses and permits revoked or not renewed by DATCP. From there Wisconsin could starve us or seize our property and own our farms, both fascist and communist acts.

Since permits and licenses were the early steps toward disempowering God's natural laws of providing food for my family and brethren, I did not renew my agricultural license or permit and notified DATCP of that decision. DATCP agents threatened me with prosecution and loss of my families livelihood by preventing me from farming and helping to feed my brethren, and ultimate, my dearest connection with God. DATCP and the Wisconsin government did not offer me anything but tyranny and a road from God.

As you can see by Wisconsin government's language in the Complaint, it is describing my circumstances in a light of criminality rather than my deep Christian belief that I must feed my family, brethren and me with God-given health-giving organic food. In its complaint, pages 6-7, items 11 and 12, DATCP describes my display shelves as "retail" shelves to prejudice the reader, especially the judge in this court, against me. I pray to God that the judge does not fall victim to DATCP's criminality spin. I do not engage in any retail endeavor, period. DATCP claims that I violated law by rejecting the impoundment/embargo of the food in my display/store room. Store means storage not retail sales.

All of the Complainant's assertions of facts do not constitute retail sales, period. Complainant tries to paint a culpable picture of a criminal dealing with illegal goods. But the reality is, I and my family are just farmers growing food the healthy old fashion way, enjoying the fruits of our labors on our tiny private Christian farm. Complainant has no proof of sales to anyone at all because there is no one to whom food was sold. I reiterate, only owners and their families of the farm consume the foods. I attest that all of the food consumed was consumed by owners and their families and no other unless someone came in the night and stole some.

**COMPLAINT AND PROSECUTION VIOLATE DEFENDANT'S CIVIL RIGHTS,  
ESPECIALLY BECAUSE THEY ARE MALICIOUSLY RETALIATION**

Complainant Jacqueline Owens ordered an unjust and illegal seizure, embargo and impound of food and we disregarded it because it was unGodly, unjust and illegal. It was grossly illegal because we had notified her of our new standing, outside normal DATCP regulations. Additionally and most importantly, the act of destroying food that would feed God's hungry children, and ordering them to starve is an abomination of God's laws. Even in man's laws, in *CAMARA v. MUNICIPAL COURT OF SAN FRANCISCO*, 387 U.S. 523; 87 S. Ct. 1727; 18 L. Ed. 2d 930; 1967 U.S. LEXIS 1254, the court stated that the basic purpose of the Fourth Amendment is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials; the Amendment thus gives concrete expression to a right of the people which is basic to a free society.

Administrative searches to enforce a municipal fire, health, or housing inspection program being significant intrusions upon the interests protected by the Fourth Amendment, such searches, when authorized and conducted without a warrant procedure, lack the traditional safeguards which the Fourth Amendment guarantees to the individual. A warrant issued for no valid probable cause is no warrant at all. Since defendant and all related parties did not and are not conducting public commerce that endangers the public in any way, the State has no interest in private activities conducted at our farm.

Contrary to the assumption of *Frank v. Maryland, supra*, Fourth Amendment interests are not merely "peripheral" where municipal fire, health, and housing inspection programs are involved whose purpose is to determine the existence of physical conditions not complying with local ordinances. Pp. 529-531.

The State has no evidence that the private foods from the farm were sold to the public, because none was. There was no claim by the public that the food caused anyone harm. There was no injured party. This lawsuit lacks the elements of causes of action and is defective. "*The burden of proof is on him who makes the claim.*" Administrative Law requires proof of claim, 5 U.S.C. § 556(d) Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision. "*Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof.*"

Regarding the claim that I violated DATCP's "holding order" (embargo, impound and seizure), as humans and Christians we could not destroy the food or let it decay. To do so would

have been detrimental to the well being of all owners of the food of which many are children, a hardship on the family farm and the Hershberger family, including all of the nine (9) Hershberger children. It would have caused a degree of starvation and malnutrition. The State would have been responsible for harm to the health of several hundred people had any of us executed DATCP's "holding order". By disregarding DATCP's retaliatory impound of owners food, owners prevented harm to hundreds of people. If owners had effected the illegal and frivolous impound of owners food, owners would have been harmed and DATCP as well as the State of Wisconsin would have been responsible/culpable and a legal remedy could have been pursued.

An agency of the government must scrupulously observe rules, regulations or procedure which it has established. When it fails to do so, its action cannot stand and courts will strike it. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 74 S.Ct. 499, 98 L.Ed. 681; *United States v. Heffner*, 420 F.2d 809; *Service v. Dulles*, 1 L.Ed. 2d 1403; *Nelson v. I.N.S.*, 232 F. 3d258.

Any administrative warrants that the DATCP agency obtained are also erroneous, illegal, bogus and void making the inspections and impounds violations of Defendants 4th Amendment right under the U.S. Constitution. There is no statutory authority for the inspection or initial investigation, especially in light of the fact that DATCP was notified of our farms new structure and self-governance opposing the toxic regulations made by DATCP.

Additionally, Complainant Jacqueline Owens failed to take and file her oath of office and bond (covered in my motion to Quash for Defective Complaint). The Complaint is GROSSLY defective and should fail.

### **RIGHT OF ASSOCIATION**

Since the farm is co-owned by members, members and their families may enjoy the fruits of their farm without need for license or permits. I, Vernon Hershberger, interact with private members in a 1st and 14th private membership association.

The U.S. Supreme Court ruled that the public domain is separate from the private domain of a private membership association in numerous cases. *N.A.A.C.P. v. Button*, 371 U.S. 415; *Pierce v. Society of Sisters*, 268 U.S. 510; *Roberts v. United States*, 82 L.Ed. 2d 462; *Baird v. Arizona*, 401 U.S. 1. These cases also ruled that private membership associations are outside DATCP's and this court's jurisdictions and authorities, being exempt.

I, Grazin' Acres Family Farm and its owners and governors are also exempt from Dairy Plant License under Wis. Stat. sec. 97.20(e)1., because said farmstead is privately owned and operated through voluntary monetary contributions from it's members for the sole purpose of maintenance of the farm and production of farm goods. In our system at our farm, owners/members are also operators of the farm in that they have a say in the growing, maintenance and production of farm goods in exchange for their voluntary monetary contributions. It is so stated in our contract with our co-owners who are privately organized under Right To Choose Healthy Food, Trust. "Operator" as defined by Merriam-Webster Dictionary is: one that operates a business.

### **EXEMPTION**

Wis. Stat. sec. 97.20(e) *License exemptions*. A dairy plant license under this section is not required for:

1. A farm manufacturing or processing dairy products solely for consumption by the owner or operator of the farm, or members of the household or nonpaying guests or employees; 4. A dairy plant that is exempted from licensing by department rule.

Since March 2010. the products we grow are not sold, ever. The food we produce is consumed by the farm owners and their families only; the farming families and no one else. Any payment the family receives from owners is a contribution for my family's managing and executing farm chores and needs, that is labor, supplies and overhead costs only. In the spirit of cooperation and understanding, several times we notified DATCP of our new standing and separation from it and our eliminating all standard toxic health-department regulations. DATCP's Complaint is a retaliation for our separation from overextended State authority and control for which we are protected by the 10th Amendment of the U.S. Constitution.

### **10th Amendment - Protection of Individual Rights Against Unjust and Illegal Law**

In Bond v. United States, Syllabus CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT decided June 16, 2011, it states that federalism secures the freedom of the individual. It allows States to respond, through the enactment of positive law, to the initiative of those who seek a voice in shaping the destiny of their own times without having to rely solely upon the political processes that control a remote central power.

These objects cannot be vindicated by the Judiciary in the absence of a proper case or controversy; but the individual liberty secured by federalism is not simply derivative of the rights of the States.

Federalism also protects the liberty of all persons within a State by ensuring that laws enacted in excess of delegated governmental power cannot direct or control their actions. See *ibid.* By denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power. When government acts in excess of its lawful powers, that liberty is at stake.

The limitations that federalism entails are not therefore a matter of rights belonging only to the States. States are not the sole intended beneficiaries of federalism and the 10th Amendment. See *New York, supra*, at 181. An individual has a direct interest in objecting to laws that upset the constitutional balance between the National Government and the States, and the States Government and the people's sovereignty when the enforcement of those laws causes injury that is concrete, particular, and redressable. Fidelity to principles of federalism is not for the States alone to vindicate.

The recognition of an injured person's standing to object to a violation of a constitutional principle that allocates power within government is illustrated, in an analogous context, by cases in which individuals sustain discrete, justiciable injury from actions that transgress separation of powers limitations. Separation-of-powers principles are intended, in part, to protect each branch of government from incursion by the others. Yet the dynamic between and among the branches is not the only object of the Constitution's concern. The structural principles secured by the separation of powers protect the individual as well, and were designed by our forefathers to mainly protect the individual.

*Clinton v. City of New York*, 524 U. S. 417, 433–436 (1998) (injured parties have standing to challenge Presidential line-item veto) with *Raines v. Byrd*, 521 U. S. 811, 829–830 (1997) (Congress Members do not); see also, e.g., *Free Enterprise Fund v. Public Company Accounting Oversight Bd.*, 561 U. S. \_\_\_\_ (2010); *Plaut v. Spendthrift Farm, Inc.*, 514 U. S. 211 (1995); *Bowsher v. Synar*, 478 U. S. 714 (1986); *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50 (1982); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579 (1952); *A. L. A. Schechter Poultry Corp. v. United States*, 295 U. S. 495 (1935). If the constitutional structure of our Government that protects individual liberty is compromised,

individuals who suffer otherwise justiciable injury may object. Objection can take many forms, such as boycotts and defiance of the unjust laws.

Just as it is appropriate for an individual, in a proper case, to invoke separation-of-powers or checks-and-balances constraints, so too may a litigant, in a proper case, challenge a law as enacted in contravention of constitutional principles of federalism. That claim need not depend on the vicarious assertion of a State's constitutional interests, even if a State's constitutional interests are also implicated. The unconstitutional action can cause concomitant injury to persons in individual cases and is actionable in a court.

An individual who challenges federal action on these grounds is, of course, subject to the Article III requirements, as well as prudential rules, applicable to all litigants and claims. Individuals have “no standing to complain simply that their Government is violating the law.” *Allen v. Wright*, 468 U. S. 737, 755 (1984). It is not enough that a litigant “suffers in some indefinite way in common with people generally.”

For my 10th Amendment rights to apply, I must have sustained harm or been threatened with imminent harm. The State agents threatened our lives by threatening our food supply for my wife and 9 children as well as the other farm-owners and their families including their children. At least 200 lives were threatened with starvation if I/we had consented to the holding/embargo/impound/seizure of DATCP.

The State overreached its authority in our private endeavor to grow and produce simple health-giving foods without the contamination of industrial agriculture. It is impossible to acquire healthy food from any market, even those that claim to be organic, such as the fraudulent rhetoric of Whole Foods Stores. My farm co-owners and I have gone to great lengths to supply our families with the best food we can grow that are not contaminated with industrial chemicals that cause health problems. In fact, DATCP regulations inflict contamination to our foods. The DATCP adds nothing beneficial to our private arrangement with its licenses and permits.

Regarding food safety, the spin word to make food regulations accepted and adopted around licensing and permits offer NO preventative value because the revolving doors of commerce are insufficiently monitored and regulated to afford real protection to the individual food producers within this State. Thus, increased regulatory burdens are without preventive merit. In this instant case, that is more true since the food safety is completely monitored by the owners who are the only ones who consume the food grown.

Charging me, the stated Defendant, with violations of law is wrong and a violation of my rights under the Constitution for the United States of America, Amendments 1, 4, 9, and 10.

“An offence created by [an unconstitutional law],” the Court has held, “is not a crime.” *Ex parte Siebold*, 100 U. S. 371, 376 (1880). “A conviction under [such a law] is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment.” *Id.*, at 376–377. If a law is invalid as applied to the criminal defendant’s conduct, the defendant is entitled to go free.

Any argument by Plaintiff that the licensing and permit laws would be applied unequally would be inapplicable and moot. *Eisenstadt v. Baird*, 405 U. S. 438, 452–455 (1972) (reversing conviction for distributing contraceptives because the law banning distribution violated the recipient’s right to equal protection); cf. *Craig v. Boren*, 429 U. S. 190, 192, 210, and n. 24 (1976) (law penalizing sale of beer to males but not females aged 18 to 20 could not be enforced against vendor). See also *Grayned v. City of Rockford*, 408 U. S. 104, 107, n. 2 (1972); *Welsh v. United States*, 398 U. S. 333, 361–362 (1970) (Harlan, J., concurring in result) (reversal required even if, going forward, Congress would cure the unequal treatment by extending rather than invalidating the criminal proscription).

In short, a law “beyond the power of Congress,” for any reason, is “no law at all.” *Nigro v. United States*, 276 U. S. 332, 341 (1928).

Additionally, “*Conspiracy to Interfere with Civil Rights*” is actionable pursuant to the 5th, 6th, 8th and 14th Amendments to the United States Constitution; as well as article I, sections 1, 6, 7 and 8 of the Wisconsin Constitution; sections 968.01-03 and 971.31(2) and (5) of the Wisconsin Statutes; *State v. Fawcett*, 145 Wis. 2d 244, 250, 426 N.W.2d 91, and *State v. Van Bronkhorst*, 2001 WI App 190, 247 Wis. 2d 247, 633 N.W. 2d 236.

I seek restoration of the Constitutional market in light of economic deprivation caused by the failure of governmental agencies to meet the provisions of the AAA Act that granted authority over raw material production as commerce. History shows that Wisconsin has failed for over 60 years to make good on compensating statutory takings as required in 7 U.S.C. § 602, and that this breach of statute raises questions to jurisdictional authority granted therein, rendering the entire position as beyond its powers (*ultra vires*). Bear in mind the Federalist Papers clearly declare that agriculture was not deemed commerce.

The U.S. Supreme Court in numerous cases has ruled that business and commerce can be conducted in the public domain or the private domain. The type of business or commerce is not confined to any field of human interest.

### **Amendments of Wisconsin Constitution - Protection of the Individual**

#### **Article 1 Section 1**

“All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed.”

Our farm is our life and what sustains our families through the grace of God. We are all entitled to the liberty of growing/farming the food we want as well as consuming the food we want. According to God's laws, we pursue happiness for ourselves and family by feeding ourselves healthy food that we grow. In this instant case in which government infringes upon our ability to do that is a violation of our liberties protected by federal and State Constitutions. Deprivation of an individual's rights to freely, naturally, organically grow food to feed God's children, my brethren with health-giving food, violates this basic law as well as Christian laws.

#### **Article 1 Section 18**

“The Wisconsin Constitution offers more expansive protections for freedom of conscience than those offered by the 1st amendment. When an individual makes a claim that state law violates his or her freedom of conscience, courts apply the compelling state interest/least restrictive alternative test, requiring the challenger to prove that he or she has a sincerely held religious belief that is burdened by application of the state law at issue. Upon such a showing, the burden shifts to the state to prove that the law is based in a compelling state interest that cannot be served by a less restrictive alternative. *Noesen v. Department of Regulation and Licensing*, 2008 WI App 52, 311 Wis. 2d 237, 751 N.W.2d 385, 06–1110.”

I stand here before you as a devout Christian with the love of God that fills my entire being. There are no papers that can attest to it but God dwells inside the man where no man can see but his actions reveal. I attest to you that I am the Christian man who stands strong that I may freely feed my fellow man, my brethren healthy food so that they may enjoy the good health given by God's bounty on our Christian farm Grazin' Acres Family Farm. 1 John 3:16, "Hereby perceive we the love of God, because he laid down his life for us: and we ought to lay down our

lives for the brethren." Genesis 1:31, "And God saw every thing that he had made, and, behold, it was very good." 1 John 3:18, "My little children, let us not love in word, neither in tongue; but in deed and in truth.

I am here to ensure that I will help and care for my brethren and stand strong against any tyranny that forces my brethren to be hungry and sick without God's bounty of health-giving food or lay my life down in the name of Christ.

Freedom of conscience as guaranteed by the Wisconsin constitution is not constrained by the boundaries of protection set by the U.S. Supreme Court for the federal provision. As applied to Amish, requiring slow-moving vehicle signs on buggies unconstitutionally infringed on religious liberties. Requiring Amish buggies to carry slow-moving vehicle signs furthered a compelling state interest, but was not shown to be the least restrictive means of accomplishing that interest. *State v. Miller*, 202 Wis. 2d 56, 549 N.W.2d 235 (1996), 94–0159. "The free exercise clause of the 1st amendment protects not only the right to freedom in what one believes, but extends (with limitations) to acting on those beliefs."

The State must show a compelling state interest that cannot be served in a less restrictive way. The only real state interest in prosecuting me is money, power and control. DATCP and the State of Wisconsin would have to admit that the only reason they are bothering me with this lawsuit is because I haven't paid the existence fee, that is, permits and licenses. There is also no "less restrictive" manner to extort people.

The signs would have been a valid safety interest, to be seen at night by faster vehicles yet the court allowed them to choose for themselves. This relates to this instant case because the State claims it is in our best safety interests to be governed with licenses and permits. Yet, its regulations require the usage of very toxic chemicals in food production and preparation for the public. We are against such toxic industrial methods and we will not violate our temples of God, our bodies with those harmful chemicals.

The State does not want us to choose for ourselves with its regulations. If we cannot legally acquire healthy food because of government-agricultural regulations, we will be forced to grow or buy much less health-giving food, against God's natural laws. How is that not controlling and interfering with the right to conscience if we are forced to consume foods we deem unhealthy and poisonous?

Contrarily, the statute clearly states, "...no control over the rights of conscience shall be permitted", making the regulations unlawful and illegal to our farm and its owners.

### **Article 4 Section 22**

“The legislature may confer upon the boards of supervisors of the several counties of the state such powers of a local, legislative and administrative character as they shall from time to time prescribe.”

Accordingly, in early 2010, the new owners of our private farm Grazin' Acres Family Farm is now a village. We created our own Board of Supervisors under the title of Right To Choose Healthy Food, Trust contract. We are self-governed. We have chosen to follow our own rules and regulations for growing health-giving natural food that God intended as well as its preparation, packaging and labeling. Our regulations oppose contaminating health-department standards that were installed by the lobbying of conglomerate medical, agricultural and food-processing interests with junk science and twisted statistics.

### **Article 11 Section 3**

“Cities and villages organized pursuant to state law may determine their local affairs and government, subject only to this constitution and to such enactments of the legislature of statewide concern as with uniformity shall affect every city or every village. The method of such determination shall be prescribed by the legislature” not agents of regulative government bodies.

An explanation from the constitution itself:

“No conflict was found between an ordinance and a statute dealing with related subject matter when the former was paramountly in the local interest and the latter was of statewide concern. State ex rel. Michalek v. LeGrand, 77 Wis. 2d 520, 253 N.W.2d 505.” We are legally self-governed according to the constitution and legally outside the requirements for Wisconsin government agricultural permits and licenses.

### **COMMON LAW AXIOMS THAT APPLY TO OUR FARMING CUSTOMS**

"A custom, grounded on a certain and reasonable cause, supersedes the common law."  
"The custom of a place is to be observed." "A custom of a manor and place is to be observed."  
"Custom can neither arise from nor be taken away by injury." "A prescriptive and lawful custom overcomes the law." "Custom is the best interpreter of the Law.”

For centuries, it has been custom to grow truly eco-bio-organic food as we do. As I stated earlier, I co-operate an association based on private membership; as such Hale v. Henkel that

applies in this case, "The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property. His rights are such as existed by the law of the land antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution...He owes nothing to the public so long as he does not trespass upon their rights."

DATCP has failed to state a claim upon which relief can be granted as there exists no injured party nor any who could claim imminent harm. A request for administrative hearing to establish persona jurisdiction has not taken place in clear contrast to Kelley v. Goldberg where a failure to provide an administrative hearing was deemed denial of due process. Therefore, this Complaint is not only premature but a violation of procedural law.

## **CONCLUSION**

In this instant case, both personal and/or subject matter jurisdiction fail to this court, the State, complainant and Complaint. The Defendant is not engaged in activity that requires State oversight including permits and licenses and therefore is not within the State's or the court's jurisdiction. Defendant did not violate regulations and laws. The State's case is defective, lacking elements of cause of action as well as lacking personal and/or subject matter jurisdiction. Accordingly, the just and equitable resolution is for this court to honorably grant this motion to quash or dismiss.

Dated this 13th day of January, 2012.

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Defendant sovereign seeking counsel  
Vernon Hershberger, non-commercial farmer  
Citizen of God's Christian community at  
Grazin' Acres Farm, Village  
S6145 HWY23, Loganville, WI 53943

**I CERTIFY** that a true and correct copy of the foregoing *JURISDICTION CHALLENGED Motion to Quash or Dismiss* has been furnished by mail/hand delivery to:

J.B. Van Hollen  
Attorney General  
c/o Eric D. Defort  
Assistant Attorney General  
Wisconsin Department of Justice  
Special Prosecutor for the County of Sauk  
State Bar No.: 1041760  
P.O. Box 7857, Madison, WI 53707

Dated this 13th day of January, 2012.

\_\_\_\_\_  
Vernon Hershberger, non-commercial farmer