

FILED

January 4, 2024

**STATE OF MINNESOTA
IN COURT OF APPEALS**

**OFFICE OF
APPELLATE COURTS**

Daley Farm of Lewiston, L.L.P., Ben)	Appellate Court Case No.
Daley, Michael Daley, and Stephen)	A23-1953
Daley,)	
)	
Plaintiffs/Appellants,)	
)	
vs.)	
)	
The County of Winona,)	
)	
Defendant/Respondent,)	
)	
and)	
)	
Land Stewardship Project and)	
Defenders of Drinking Water,)	
)	
Intervenor/Defendant.)	
)	

**MOTION FOR LEAVE TO PARTICIPATE AS AMICI CURIAE BY THE
MINNESOTA MILK PRODUCERS ASSOCIATION, et al.**

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Pursuant to Minnesota Rules of Civil Appellate Procedure 129.01, the Minnesota Milk Producers Association¹, Minnesota Farm Bureau Federation², Minnesota Pork Producers Association³, Minnesota State Cattlemen’s Association⁴, and Winona County Farm Bureau⁵ (hereinafter referred to collectively as “Agricultural Groups”) move this Court for an Order granting leave to file a brief *amici curiae* in support of Appellants and in support of reversing the District Court’s Judgment finding that the Winona County Board of Adjustment did not act in an unreasonable, arbitrary, or capricious manner by denying the Appellants’ request for a variance. The Agricultural Groups collectively represent the owners of millions of livestock animals in the State of Minnesota, many of which are regulated by the federal Environmental Protection Agency (EPA), the Minnesota Pollution Control Agency (MPCA), and local units of government. The Agricultural Groups’ interest in this case is public in nature.

¹ The Minnesota Milk Producers Association is a trade association representing the interests of approximately 450 members, with offices at P.O. Box 65, Brooten, MN 56316.

² The Minnesota Farm Bureau Federation consists of 78 county farm bureaus with approximately 30,000 member families who are farmers, ranchers, and others who have an interest in the future of agriculture, with offices at 3080 Eagandale Place, Eagan, MN 55121.

³ The Minnesota Pork Producers Association is a trade association representing the interests of more than 700 member-farmers, with offices at 151 St. Andrews Ct, Suite 810, Mankato, MN 56001.

⁴ The Minnesota State Cattlemen’s Association is a trade association representing the interests of approximately 1,000 members, with offices at P.O. Box 12, Maple Plain, MN 55359.

⁵ The Winona County Farm Bureau is a trade association representing the interests of approximately 630 members, with offices at P.O. Box 735, St. Charles, MN 55972.

The broad legal issue raised in this appeal is whether the Daley family farm was treated fairly by the Winona County Board of Adjustment. This Court, as well as Winona County and the District Court below, are essentially caught in the crossfire of what amounts to a decades-old war between differing factions within the livestock industry over what constitutes a “proper” farming operation. Intervenor/Defendant Land Stewardship Project (LSP) in particular, has, for decades, promoted the idea that only certain kinds of farming operations should be allowed by society to operate.

The legislature passed upon this policy question in 1972 with the enactment of the State’s anti-corporate farm law (Minn. State. § 500.24) which essentially prohibits non-family owned or controlled corporations from raising livestock in the State of Minnesota. This law – adopted by most states in the Midwest and the Central part of the United States – was designed to keep multi-national corporations from squeezing out family farming operations. This Court would benefit from a thorough examination of the strengths of the corporate farm law and the various farming structures that are allowed to operate in Minnesota as it considers whether the Daley family farm was treated fairly in this case.

Contrary to LSP’s views on the matter, the Daley family farm is NOT a “corporate factory farm.” Ironically, it is farming operations like the Daleys that our society should be advocating for rather than actively opposing. The Daley farm is a multi-generational, independent family-owned and operated business, with no outside investment of any kind, that simply wants to modernize and expand in order to include the next generation of family farmers. The record below clearly shows that LSP members, some of whom were in decision-making positions in this matter, were actively working against the Daleys even though the Daley farm is a model family farm. The Agricultural Groups believe the District

Court erred by finding that the process was not tainted following the District Court's remand because LSP's activism against the Daleys occurred throughout the entire process.

Furthermore, the Daley family farm is highly regulated by both the state and federal governments. Those regulations include obtaining operating permits, construction permits, annual reporting, greenhouse gas emissions reporting, use of cover crops, and strict adherence to a manure management plan that governs when, where and how manure may be applied to the Daley's fields as crop fertilizer. A comprehensive review of the state and federal regulations the Daley family farm is currently subject to, and would continue to be subject to, would assist this Court in reaching its conclusion about whether the Winona County Board of Adjustment did, in fact, act in an unreasonable, arbitrary, and capricious manner in denying the Daley's request for a variance.

In addition, the Agricultural Groups are concerned that upholding the District Court's ruling with respect to Minn Stat. § 15.99 will replace certainty with uncertainty as it relates to the approval of livestock permits issued by local units of government. Under that section, variance or permit applications are automatically approved if they are not denied by the local unit of government within 60 days. If the District Court's ruling is not reversed, the members of the Agricultural Groups who may someday find themselves in a similar situation would be in legal limbo if the 60-day clock did not have a date certain upon which it started to tick.

Livestock farmers across the State of Minnesota have a significant interest in the issue of whether biased, anti-agricultural groups should hold sway over the expansion of their family farms to include the next generation. This Court should be afforded the benefit of a comprehensive presentation of the public policy consequences of upholding the

District Court's ruling. A brief *amici curiae* would assist the Court with the broader public policy questions raised in this appeal.

The Agricultural Groups, therefore, request an Order granting their request to file a brief *amici curiae* to respond to the public policy concerns resulting from the ruling in favor of Winona County and the Intervenors in this case.

Dated: January 4, 2024

Respectfully submitted,

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CERTIFICATE OF DOCUMENT LENGTH

I hereby certify that this document conforms to the requirements of the applicable rules, is produced with proportional Times New Roman font, and the length of this document is 965 words, exclusive of caption and signature block. This document was prepared using Microsoft Office Word.

Dated: January 4, 2024

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