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The 2006 Agricultural Identification Survey and the NASS/NAIS Identity

by

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Like many small-farm advocates, I have been fielding questions over the past few weeks about the above survey being sent out by the National Agricultural Statistics Service (NASS). Many people ask if there is any relationship between the survey and the data being collected (often without the knowledge or consent of farmers) for the National Animal Identification System (NAIS). As we shall see, although USDA personnel won't admit it, NASS data is the foundation of the USDA's aggressive pursuit of NAIS.

To my great surprise, in this morning's mail I myself received a 2006 Agricultural Identification Survey (2006 AIS). I say "to my great surprise," because I am not and never have been engaged in any type of commercial agriculture whatsoever. I have never before received any type of communication from NASS.

The envelope states in very large letters, "YOUR RESPONSE IS REQUIRED BY LAW." The envelope further states that the due date is January 29, 2007. As explained below, it is clear that many people receiving this form are not in fact "REQUIRED BY LAW" to answer it. Further, a recipient has only a couple of weeks between the receipt of the form and the purported deadline, and it would be impossible for the average non-lawyer to do enough research within that time to figure out whether he/she is or isn't actually required to respond.

The form itself begins with several general questions, such as "Do you own or rent any land?" "Do you grow vegetables, hay or nursery stock?" "Do you receive government payments?" The questions appear deliberately designed to imply that anyone who would answer "yes" is among those "REQUIRED BY LAW" to fill out this

form. The USDA is thus casting a very wide net in this particular intrusion into the lives of American citizens, because, frankly, just about everyone who is not homeless “owns or rents” real estate; some 75 million people in the United States “grow vegetables,” and some 60 million people receive “government payments.” (See 2007 Statistical Abstract of the United States, Table 1226 (vegetable gardening); Table 528 (government transfer payments).)

Now, perhaps it is possible that this “wide net” might not be as intrusive as it appears. After all, maybe NASS has only sent this form to people reasonably assumed to be farmers. But in fact it was distressingly easy to confirm that intrusiveness and deliberate over-inclusiveness are the hallmarks of the NASS approach. This morning, I called the information number listed on the form and spoke to a woman at the USDA’s Helena, Montana call center. According to her, the call center is being swamped with calls from people who live in cities and have nothing to do with agriculture. She stated that the call center employees really have no idea of why or how all these people have been sent the 2006 AIS. When asked for some conjecture as to how so many unnecessary people could have been included in the mailings, the woman explained that, for example, anyone who had ever subscribed to a “horse magazine” might have been included in the database.

Now, that raises interesting questions. How is the USDA/NASS getting the subscription lists of “horse magazines”? Why and how are “horse magazines,” or, for that matter, any rural-life publication, any breed association, feed store, or private or public livestock or horticultural enterprise whatsoever, giving their member/subscriber/customer lists to the government without telling their members, subscribers, or customers?

Or, worse yet, how is the government accessing such lists or databases without the awareness of the businesses or organizations in question? During times when the Executive Branch of the United States Government has secretly gathered the records of most people’s incoming and outgoing phone calls, and the President asserts a right to open your mail and my mail without a warrant, this is not a trivial question.

Returning to the first page of the form, we see the wide net growing ever wider. The form states: “Many people who don’t consider themselves farmers or ranchers actually meet the definition of a farm or ranch and are important to agriculture.” “We need your completed form even though you may not be actively farming, ranching, or conducting any other type of agricultural activity.” Finally, the first page of the form reinforces the threat of the “REQUIRED BY LAW” language of the envelope: “ ‘Response to this survey is legally **required** by Title 7, U.S. Code.’ ” (Emphasis in original.) (Note the single-double quotation marks – the threat actually is in quotation marks, employing that common tenth-grade stylistic conceit of “quoting” something to make it appear extra-important.) One senses evasions aplenty here -- the form has referred to the “definition of a farm or ranch” but nowhere tells us that definition. It suggests that anyone receiving a form has a legal obligation to answer it, even though their enterprise may not meet the definition of a “farm.”

Given the foregoing ambiguities, I had further questions about the definition of a “farm” and the possible legal penalties for not responding to the 2006 AIS. Specifically, I asked if my understanding of the definition of “farm” as an operation with at least \$1000 in sales from agriculture was correct. (See 2002 Census of Agriculture, FAQs, www.nass.usda.gov/census_of_agriculture/frequently_asked_questions/index.asp#1.) Further, having found the penalty listed in 7 USC § 2204g (d) (2), namely, that a “person . . . who refuses or willfully neglects to answer a question . . . shall be fined not more than \$100,” I noted that, insofar as the 2006 AIS actually contains 42 separate questions, it could be important to know whether there was a separate \$100 fine for each unanswered question, or just a single \$100 fine for not answering the entire 2006 AIS. These questions were beyond the purview of the call-center woman, so she made a note of the questions, referred them to a member of the NASS professional staff, and promised that the NASS staff member would call me with the answers.

The next day, January 12, 2007, I received a call from Jody Sprague, a NASS statistician. First we addressed the question of the “farm” definition. Ms. Sprague conceded that someone whose property or operation did not meet the “farm” definition would have no obligation to answer the 2006 AIS. She also conceded that the basic definition of a “farm” as an operation with at least \$1000 in agricultural sales was correct, but explained that in addition to the gross sales figures, NASS also assigns certain “point values” for particular agricultural activities. If the points add up to 1000, your operation would meet the definition of a “farm.” When asked for an example of how the point values work, Ms. Sprague explained that 5 equines would equal a farm but 4 would not. (Subsequently, she explained that each equine equals 200 points.) When asked how many cattle equal a “farm,” Ms. Sprague said she did not know. At one point Ms. Sprague said that NASS wanted, through the 2006 AIS, to determine if they could delete people who should not be on their mailing list. But for the most part she contended the opposite, e.g., that she would “advise” anyone who had received the form to fill it out; and that even a person with one horse should complete the questionnaire, although she previously had conceded that someone with fewer than 5 horses would not meet the definition of a “farm” and therefore would not be required to fill out the survey.

We next turned to the issue of how NASS may have compiled its mailing list for the 2006 AIS. First Ms. Sprague maintained that the sources of the NASS mailing list are “confidential.” I noted the call-center woman’s reference to a subscription to a “horse magazine” as a source of names, and asked for some other possible sources. Ms. Sprague said that growers’ associations, such as the Wheat Growers’ Association and Barley Growers’ Association, were examples of sources. I asked for more examples but she was reluctant to give any, claiming that some are “confidential” and some are “not confidential.” She explained the overall process of list building thus: as NASS comes across lists where there are “possibilities of agricultural activity,” NASS incorporates those names into its mailing list.

We returned to the subject of “point values” for different livestock. Explaining that many people were likely to have questions about this, I asked if Ms. Sprague could

find out for me the point values of cattle or other non-equine livestock. She put me on hold for a long while. Subsequently, she gave me the following point values: beef cattle, 310 points per head; dairy cattle, 2000 points per head; goats and sheep, 50 points per head. (I wanted to ask about chickens, but I was getting the distinct sense that I might be pushing my luck.)

Ms. Sprague stressed that she did not want people to be concentrating on the point values. For example, she noted that people should not say they have 4 horses if they really have 5 horses, “because it wouldn’t be ethical.” (But apparently under the NASS moral code, rummaging through some of those Choicepoint-type consumer profiles to track your reading habits is perfectly “ethical.” And, as we shall see, the NASS moral code also permits forking over your data to states that are in hot pursuit of the NAIS premises-registration quotas imposed as a condition for the states’ continued receipt of federal NAIS grant money.)

We went on to the question of the \$100 non-compliance fine. Ms. Sprague assured me that a farmer’s failure to answer any or all of the 42 total questions on the 2006 AIS would only result in a single \$100 fine. She also said that the fine is “rarely enforced” and that if any “producer” “chooses” not to report, no one from NASS would seek them out.

Finally, I asked Ms. Sprague if there were any relationships between NASS and the APHIS NAIS program, and she said, “Absolutely none.” I asked her if any other agency, state or federal, would ever be allowed to use NASS’s database to solicit premises IDs for NAIS, and she said, “Absolutely not.” And indeed, pursuant to 7 U.S.C. § 2204g (f) (3), “Information obtained [for NASS surveys] may not be used for any purpose other than the statistical purposes for which the information is supplied.”

Several weeks ago, Missouri antiNAIS activist Doreen Hannes sent a series of questions about Missouri’s solicitation of NAIS premises IDs to Steve Goff, DVM, the Animal ID Administrator of the Missouri Department of Agriculture (MDA). Dr. Goff provided written answers on December 20, 2006. When asked where the MDA had obtained addresses for its solicitation of NAIS premises IDs, Dr. Goff stated: “the mailing was done through a contract with the USDA National Agricultural Statistics Service.”

I won’t answer my 2006 Agricultural Information Survey. Instead, I will send a copy of this article to my Congressman and my two United States Senators. I will ask them to have the House and Senate Agriculture Committees investigate the rampant and shameful abuses of federal law and common morality inherent in NASS’s compilation of its mailing lists and use of those lists to promote the APHIS National Animal Identification System. Why will I do this? Because I don’t live by the USDA’s false code of ethics; I answer to a higher authority.