

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF STARK

SOUTHWEST JUDICIAL DISTRICT

State of North Dakota, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Gary Dassinger, )  
 )  
 Defendant. )

ORDER

Case No. 45-2017-CV-393

[1] This Court has before it a Petition to Seize Neglected Animal and a Petition for Disposition of Seized Animal. The Court heard testimony and received evidence pursuant to a hearing which stretched over a three day period, culminating on June 14, 2017. The Plaintiff, the State of North Dakota, (hereafter "State") was represented by Stark County State's Attorney Tom Henning and Assistant Stark County State's Attorney Amanda Engelstad. The Defendant, Gary Dassinger, (hereafter "Dassinger") was represented by attorney Thomas Murtha IV. The Court took the matter under advisement in order to issue a written decision. The following is the Court's decision on this case.

HISTORY OF THE CASE

[2] This case commenced when the State filed a Petition to Seize Neglected Animal dated May 18, 2017, against Dassinger. This Petition was filed with the Court on May 22, 2017.

[3] On May 22, 2017, the Honorable Dann Greenwood signed an Order to Seize Neglected Animal, directing that seventy horses, twenty cows and other livestock, other than dogs or cats, be seized from the Defendant, Gary Dassinger.

[4] On May 23, 2017, the State filed a Petition for Disposition of Seized Animal, which was dated May 18, 2017. On May 23, 2017, the Honorable Dann Greenwood signed an Order for Disposition of Seized Animal allowed for the seized animals to be sold, placed for adoption or to provide for their humane destruction.

[5] On May 22, 2017, Dassinger was served with the Petition and Order to Seize Neglected Animal. On May 24, 2017, Dassinger was served with the Order for Disposition of Seized Animal.

[6] On May 25, 2017, Dassinger filed a Motion for Temporary Restraining Order. This Motion was also served on the State on May 25, 2017. Dassinger also requested an expedited time for response to the Motion.

[7] This case was then assigned to the undersigned Judge on May 25, 2017.

[8] On May 25, 2017, the State objected to Dassinger's Motion for Temporary Restraining Order.

[9] The Court then granted an expedited review of the Motion for Restraining Order.

[10] The Court then held a status conference with the attorneys at their request. The Court and the parties discussed the restraining order and some other issues that had arisen that needed immediate resolution. Based on this telephone conference, the Court signed two Orders. The first Order entitled Order for Temporary Restraining Order, granted a temporary restraining order, ordering that while the Order to Seize Neglected Animals would remain in place, the disposition of the animals would be stayed pending a hearing. The Stark County Sheriff's Department had custody of the animals in the meantime and were responsible for their care under the seizure order.

[11] The Court also signed an Order for Return of Mare and Foal which belonged to a different individual than Dassinger. The Court allowed this horse and foal to be returned to their owner upon proof of ownership.

[12] Both of these Orders were dated May 25, 2017.

[13] The Court then signed an Order following Status Conference dated May 26, 2017 to clear upon some inconsistencies in the May 25, 2017 Order for Temporary Restraining Order.

[14] On May 26, 2017, Dassinger filed an Answer to the Petition to Seize Neglected Animal and an Answer to the Petition for Disposition of Seized Animal.

[15] On May 30, 2017, a hearing was set to address the issues in this case. The hearing was set for June 5, 2017, for four (4) hours.

[16] On May 31, 2017, Dassinger made a motion for a preliminary injunction to prevent the State from removing, destroying or disposing of any animal pursuant to the Court's previous order, pending a Rule 60(b) motion to dismiss.

[17] On June 5, 2017, the Court began the first of three days of testimony and evidence on this case. The intent of the Court was to address the underlying Petitions and to address all issues so that a final decision could be made. The parties agreed that time was somewhat of a factor due to the expense the State was incurring as well as Dassinger's lack of being able to sell his animals as he believed appropriate. The Court and the parties were also cognizant of the weather conditions which are pertinent to this case in that Dassinger's pasture land was being depleted due to the lack of rainfall.

[18] Four hours of testimony and evidence were taken on June 5, 2017. Additional testimony and evidence were heard on June 13<sup>th</sup> and June 14<sup>th</sup> as well.

[19] At the conclusion of the day on June 14<sup>th</sup>, testimony and the presentation of evidence ended, as the Court's schedule did not allow for any additional days of testimony without an extended

period of time passing before a new date could be set. Both the State and Dassinger were allowed to present testimony and evidence to the Court.

[20] The Court then allowed both parties to submit their final closing arguments and responses by June 30, 2017. The Court had also allowed Dassinger to make an argument regarding the alleged unconstitutional nature of the statute in question in this case.

[21] This Court now makes its decision based upon the pleadings in the case, the testimony presented at trial, the evidence presented and received by the Court, the arguments of counsel, and all pertinent case law and statutes. The Court did not factor into its decision any outside source not presented at the trial, nor was the Court's decision influenced by the consideration of gossip, innuendo, rumor, or public or private opinion.

[22] The Court's decision is set out below.

#### ANALYSIS

N.D.C.C. § 36-21.2-05 states:

Seizure of animal - Court order.

1. A law enforcement officer may petition the court for an order directing the seizure of any animal believed to have been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter.

2. The court may act without notice to the animal's owner or to the person having custody or control of the animal and may rely solely on testimony or an affidavit in

considering the petition.

3. In the order for seizure, the court may direct that a veterinarian humanely destroy an animal if the veterinarian, upon examining the animal, determines that the animal is experiencing excruciating pain or suffering and that the animal's pain or suffering is not likely to be alleviated using reasonable medical interventions.

[23] This section has been amended by the 2017 Legislature, but the changes are not effective until August 1, 2017 and are not applicable to this case.

N.D.C.C. § 36-21.2-06 states:

Law enforcement - Duty upon seizure - Notification.

1. Upon seizing an animal as provided for in section 36-21.2-05, the law enforcement officer shall provide care for the animal, either directly or through a contractual arrangement with another person. For purposes of this subsection, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.

a. If the owner and the person having custody or control at the time of the seizure are known to the officer, the officer shall:

(1) Provide notice of the seizure to the owner and the person having custody or control of the animal; and

(2) Petition the court for an order directing the animal's disposition.

b. If the animal's owner is not known to the law enforcement officer, the officer shall publish notice of the animal's seizure in the official newspaper of the county and indicate that if the owner does not claim the animal within five days, the animal

will be sold, placed for adoption, or humanely destroyed, at the direction of the law enforcement officer.

(1) If the owner does not claim the animal within five days, as required by this subdivision, the law enforcement officer shall sell the animal, place the animal for adoption, or provide for its humane

destruction.

(2) If the owner is identified within the five-day period, the law enforcement officer shall petition the court for an order directing the animal's disposition.

2. In ruling on a petition for an animal's disposition under this section, a court may direct that the animal be sold, placed for adoption, humanely destroyed, or returned to its owner, with or without conditions.

N.D.C.C. § 36-21.2-07 states:

Costs of seizure and care - Responsibility of owner - Lien.

1. If convicted of violating this chapter, the owner of an animal seized under section 36-21.2-05 is responsible for all costs related to the animal's seizure, including required notifications, attorney's fees, court costs, and any costs incurred in providing the animal with care or in providing for its destruction in accordance with section 36-21.2-06.

2. a. The law enforcement agency that seized the animal has a lien upon the animal for all costs incurred as a result of the seizure and conviction. The lien is superior to any other claim or lien.

b. If the lien is not satisfied by the animal's owner, the law enforcement agency may apply to the court for an order enforcing the lien.

3. If a seized animal is sold, the proceeds must be used first to satisfy the lienholder to the extent of the lien and second to satisfy any other claims involving the animal. Any remaining proceeds must be returned to the owner, as directed by the court. If the owner is unknown, any proceeds otherwise payable to the owner must be deposited in the general fund of the county.

[24] The first issue to be determined is whether at the time the Petition was filed in this matter any animal which was the subject of this case was neglected, abused, treated cruelly, or subjected to any act or omission in violation of Chapter 36-21.2, N.D.C.C.

and in particular, N.D.C.C. §36-21.2-05. Several definitions are provided by the North Dakota Century Code regarding abuse and neglect of animals.

[25] N.D.C.C. § 36-21.2-01(3) defines "neglect" of animals other than cats and dogs as:

3. For purposes of this chapter, "neglect" with respect to all animals other than those included in subsection 2, means the failure to provide:

a. Food and water that is:

- (1) Appropriate for the species and the breed; and
- (2) Sufficient to sustain the animal's health;

b. Minimal protection from adverse weather conditions, as appropriate for the species and the breed; and

c. Medical attention in the event of an injury or illness, as appropriate for the species and the breed.

N.D.C.C. § 36-21.2-02(2) defines "animal abuse" as:

2. For purposes of this chapter, "animal abuse" means any act or omission that results in physical injury to an animal or that causes the death of an animal, but does not include any act that falls within the definition of animal cruelty, as set forth in section 36-21.2-03.

Finally, N.D.C.C. § 36-21.2-03(2) defines "animal cruelty" as:

2. For purposes of this chapter, "animal cruelty" means:

- a. Breaking an animal's bones;
- b. Causing the prolonged impairment of an animal's health;
- c. Mutilating an animal; or
- d. Physically torturing an animal.

[26] The Court heard testimony from Sheriff Terry Oestreich and Dr. Kim Brummond regarding their visit to the Dassinger farm on April



22, 2017. Both Sheriff Oestreich and Dr. Brummond described a situation involving multiple animals (horses and cattle) who were very thin to emaciated, lack of water for some of the animals, poor quality of feed or no feed, dangerous conditions for the horses in particular, such as exposed tin in areas where the animals could be injured upon contact with it, inadequate pens and fencing, pens that had not been cleaned for quite some time, causing potential hazards for the animals, animals with medical conditions requiring attention, and dead or rotting corpses of animals that were within a short distance of a hay source causing concerns for contamination.

[27] Not all of the animals within Dassinger's care and control were viewed by Dr. Brummond. She testified that she did not have the opportunity to observe the pregnant mares out in the pasture. She did, however, observe many animals and provided a body score at that time for the animals she observed. Dr. Brummond provided extensive testimony about the scoring system she used to address an animal's health. The scoring system was called the Henneke body condition scoring system. This scoring system is used by veterinarians to give a score for an animal from a (1), which is emaciated, to a (9) which is an animal who is overweight and has bulging areas of fat. An ideal body score would be somewhere in the middle, around a (5), but Dr. Brummond testified that a score

of (4) or less can be worrisome. Plaintiff's Exhibit No. 59 shows the Hennecke Body Condition Scoring System.

[28] Plaintiff's Exhibit Nos. 4-48 are pictures taken on April 22, 2017, while at the Dassinger farm. These pictures show animals in various states of health, show the condition of the animals' pens and show pictures of dead animals near a hay source.

[29] Dr. Brummond testified that many of the animals she scored less than a (3), with several animals scoring only a (1) using the Hennecke Body Condition Scoring System. She described the mare who had just given birth to a foal as lying down, lacking vigor. The foal should have weighed more than it did. She gave the foal a score of (3). The mare was given a score of (1). Dr. Brummond did note that it was expected that she would lose some of her conditioning after giving birth, from  $\frac{1}{2}$  to 1 point on the scoring system. Dr. Brummond did take this mare and foal immediately back to her clinic, where they were given food and water. This horse and foal improved over several days' time and were eventually released to their actual owner, who was not Gary Dassinger. Plaintiff's Exhibit Nos. 60-67 show this mare and foal.

[30] Plaintiff's Exhibit No. 68 is Dr. Brummond's written report from her investigation at the Dassinger farm on April 22, 2017. The Court finds Dr. Brummond to be a credible source and an expert as a licensed veterinarian to conduct this investigation and

provide a report of the conditions of the animals (horses and cattle) on the Dassinger farm on April 22, 2017.

[31] Based on these findings and the exhibits (pictures) which were received into evidence, this Court finds that on April 22, 2017, Gary Dassinger had multiple animals on his farm who were neglected pursuant to N.D.C.C. § 36-21.2-01(3), in that they did not have food and water appropriate for the species and the breed, and sufficient to sustain the animal's health, and medical attention in the event of an injury or illness, as appropriate for the species and the breed. The hay did not appear to be of a quality to sustain the health of the horses. There were several water sources, although testimony was provided that a mature stallion was in a pen with one of the water sources. The stallion "guarded" this water source, which prevented the weanlings from being able to access this water source, leaving them with none.

[32] The pens in particular contained debris. While this may not necessarily be concerning, the horses' exposure to exposed tin and fences that were falling down certainly did not provide appropriate shelter. The Court notes Plaintiff's Exhibit No. 15 in particular, which shows a very thin young horse standing near a downed fence. This shows the danger to this horse of stepping into the wire and causing physical damage to the horse.

[33] There was not much testimony about the outbuildings. Dr.

Brummond testified that the outbuildings were in a "state of collapse". She did not enter the outbuildings.

[34] The Court also notes that several of the animals were in need of not just medical attention, but immediate medical attention. Dr. Brummond removed the mare and foal previously discussed due to their condition.

[35] Dr. Brummond testified about a black mare (Plaintiff's Exhibit Nos. 36, 37, 38 and 40) who was found down in a pasture north of Dassinger's house. She testified that the soil was "dug up" indicating the mare had previously attempted to rise, but was unable to get up. This mare had to be helped to her feet by Dr. Brummond and others. Dr. Brummond testified that the mare was crippled, covered with lice and needed to be euthanized because of her poor condition. She was given a body score of (1).

[36] Dr. Brummond also testified about a gelding (Plaintiff's Exhibit Nos. 41-48) found in a pasture north of Dassinger's house. The horse was lame, on three legs and appeared to be in extreme pain. His hock was extremely swollen, and the horse was in septic shock. There was a wound on his leg that appeared to be a healed scar. The right rear leg was atrophied. The horse could not put weight on this leg. Dr. Brummond gave this horse a body score of (1) and recommended he be euthanized.

[37] Testimony was provided by not only Dr. Brummond, but John

Connor, who was hired by Dassinger to work for him, and by the other veterinarians who testified in this case, as to the fact that the horses and cattle suffered from parasites or lice. The Court was not given a clear picture of the normal practices of ranchers regarding treating lice or parasites. What was made clear is that it is a personal decision of the individual rancher whether to treat animals for parasites on a regular basis or on a more sporadic time schedule. However, the Court was provided with ample testimony from various witnesses that stated an infestation of parasites can affect the health of a horse or cow, depending on the infestation.

[38] Dr. Brummond testified that most of the animals she examined had parasites and should have been treated, as this decreases the animal's ability to absorb nutrients. Given the poor body condition of several of the animals on the Dassinger farm, these animals should have been treated for lice or parasites, as they needed the ability to absorb every nutrient they could get.

[39] Testimony was also provided about several of the weanlings dragging lead ropes attached to their halters. While this is not a reason to seize an animal, the Court does find it to be a concern due to the debris in the pens with the horses upon which the horse could catch his lead rope and cause serious injury to himself.

[40] Dassinger argues that many other ranchers have animals that

get sick or are in thin condition, and his are no exception. The Court agrees that animals can get sick, they can be thin for various reasons, and sometimes, they die despite the rancher's best efforts. This is not the situation on the Dassinger farm. These animals were not given proper nutrition and water. The animals' medical needs were not addressed. While Dassinger's piles of dead animals are not necessarily the issue, the fact that they are simply rotting within feet of his food source is a contamination concern.

[41] Based on this evidence, this Court would conclude that on April 22, 2017, several of Dassinger's animals or those in his care were neglected pursuant to N.D.C.C. § 36-21.2-01. It would have been appropriate for the State to petition to seize and dispose of these animals on April 22, 2017.

[42] However, the State did not bring a petition on April 22, 2017. Instead, they chose to give Dassinger an opportunity to correct and remedy the situation.

[43] The State sent Dassinger a letter asking him to correct the situation. Although Dassinger attached a copy of this letter to his Motion for Preliminary Injunction as Exhibit No. 1, and his Motion for Temporary Restraining Order, this letter was not received into evidence in the trial before this Court. There was, however, enough testimony provided through witnesses for this Court

to determine that the State had sent a letter with conditions in it to Dassinger to give him the opportunity to rectify the situation.

[44] Dr. Brummond then accompanied the Stark County Sheriff's Department back to the Dassinger ranch on May 10, 2017 for a follow-up visit. Her report was received into evidence at Plaintiff's Exhibit No. 69. Based on this report, the animals appeared to be improving and received improved body scores. Other issues appeared to have been addressed, although the animals had not yet been treated for parasites.

[45] Dr. Brummond then did a final follow-up visit on May 22, 2017 at the Dassinger ranch. Dr. Brummond did note improved body scores, but did not view many of the animals, as they were turned out to pasture and were not able to be viewed upon close inspection. The cattle could not be examined closely, as Dr. Brummond was not given access to them for a close viewing.

[46] Of note from these two visits were improvement in the body scores, and some attention given by someone at the Dassinger ranch to the water situation involving the stallion and the dead rotting animals. It is also of note that the pastures had greened up by this time so most of the animals were grazing.

[47] Two other veterinarians have been involved in this case. The first veterinarian is Dr. Carolyn Woodruff, who has a veterinary practice in Beulah, North Dakota. Dr. Woodruff was contacted by

Dassinger to do an examination of his animals. She stated he wanted an outside objective opinion.

[48] Dr. Woodruff went to the Dassinger ranch on May 18, 2017. Dassinger and Dr. Woodruff then together examined the animals on the ranch. Dr. Woodruff then wrote a report from her examination, which was received into evidence as Defendant's Exhibit No. C. This report was dated May 22, 2017. Dr. Woodruff's report was mainly based upon her own findings and statements from Dassinger. Dr. Woodruff did state that she was aware of the alleged neglect issues.

[49] Dr. Woodruff was aware of the Hennecke Body Condition Scoring System. She testified that she has been a veterinarian for nearly forty years, but has never seen an animal with a body score of (1). She did state she has seen an animal with a body score of (2).

[50] Dr. Woodruff's findings show a much better situation than Dr. Brummond encountered a month earlier. The animals that she viewed were given body scores of (3), (4), or (5). Many of these animals were out to pasture. Dr. Woodruff testified that the grass was green and tall.

[51] Dr. Woodruff did make recommendations to Dassinger to improve his situation, some of which were the same recommendations made by Dr. Brummond earlier in the month. Those included feeding the proper quality hay to the cattle and horses. She did note the



dilapidated nature of the buildings and pen systems, and recommended parasite treatment.

[52] Dr. Woodruff did note the continued presence of underweight animals, but felt that they are expected to improve on green pastures.

[53] This Court, while giving credit to Dr. Woodruff for her many years of experience, felt that her involvement in the matter was somewhat jaded. First, Dr. Woodruff appeared to rely on Dassinger's descriptions of what had happened, taking him at his word for the previous condition of the animals. She did not contact Dr. Brummond to get a professional's opinion as to what the situation was on April 22, 2017.

[54] The Court was also disturbed by the Facebook post that Dr. Woodruff freely admitted she wrote and posted on Facebook, regarding the situation at the Dassinger farm. She was clearly influenced by Dassinger's statements to her, and that reflected in her Facebook post. She showed her bias on behalf of Dassinger by posting a personal opinion and stating facts that appeared to be incorrect. The Court cannot find that Dr. Woodruff's statements were without bias because of this evidence. The Court also noted that during her testimony, Dr. Woodruff appeared uncertain of her own findings at times. This was corroborated by her testimony that during a break, she did some research on the Internet about a topic

upon which she had been questioned, and appeared to second guess her own opinions at times.

[55] Therefore, while this Court gave some weight to Dr. Woodruff's testimony, it did not carry the weight this Court gave to Dr. Brummond's evidence.

[56] The third veterinarian involved in this case is Dr. Chance Noyce. Dr. Noyce is a licensed veterinarian who has a mobile practice in southwest North Dakota. He has been practicing for two years.

[57] Dr. Noyce had worked with Dassinger in the past. His first visit to the Dassinger farm was on February 16, 2016, to castrate four yearling colts. His second visit to the farm was on April 8, 2017, to examine some mares and to certify them to be shipped. He found those four mares to have average body conditions.

[58] On April 24, 2017, Dr. Noyce was contacted by Dassinger. Dassinger informed him that he had been accused of animal neglect and said that he had to have a care plan put in place.

[59] On April 25, 2017, Dr. Noyce did make a herd management consultation plan with Dassinger. He walked through the farm with Dassinger and wrote a document of things upon which Dassinger could make improvements. This document was received into evidence as Plaintiff's Exhibit No. 76. Dr. Noyce's recommendations pursuant to this document, involved the removal of the dead animals, removal

of the manure from the corrals and removal of the debris in the corral system. He recommended that the animals be treated for parasites, and that proper feed and water be available to the animals. He did recommend that the lead ropes be removed to prevent injury to the yearlings.

[60] At the time of this visit, Dr. Noyce felt that the cattle and horses had normal body conditions. He made another visit to the Dassinger farm on April 29, 2017, at which time he deloused, dewormed and vaccinated the yearlings and a two-year-old for tetanus.

[61] At the time he was there on April 29, 2017, Dr. Noyce observed that the manure was being removed from the corral and family and friends were present cleaning up debris. He also treated a few wounds that were brought to his attention.

[62] On May 6, 2017, he visited the Dassinger farm again for a follow-up. He noted that two ferrriers were present to address the horses' hooves, and that the corral had been cleaned. The rest of the livestock was in the pasture on grass.

[63] The Court finds that Dr. Noyce is a credible source, although somewhat lacking in the experience of Dr. Brummond or Dr. Woodruff. He certainly appeared to be cognizant of the issues at the Dassinger farm, as his herd management consultation document addresses most of the same issues Dr. Brummond had with Dassinger's

animals. He did not appear to believe the situation was as dire as Dr. Brummond testified.

[64] This Court heard the testimony of three veterinarians, all three of whom were credible in varying degrees. Based on their testimony, the Court finds that had the Petition been filed on April 22, 2017, there was clear and convincing evidence that several of Dassinger's animals were neglected pursuant to N.D.C.C. § 36-21.2-01(3), which would have resulted in the seizure and potential disposition of those animals.

[65] However, the Petition to Seize Neglected Animal, dated May 18, 2017, and filed on May 22, 2017, and the subsequent Petition for Disposition of Seized Animal, dated May 18, 2017, and filed on May 23, 2017, were filed at a time when the situation had been corrected to the point that seizure and disposition were no longer appropriate.

[66] All three veterinarians agreed that the situation had improved by May 18, 2017, thus negating the need to bring a Petition to Seize the Animals.

[67] The Court notes that while there has been improvement in Dassinger's situation, there appears to continue to be a need for further improvement. Regardless of that fact, this Court finds that there is now an appropriate water source and feed. The corrals have been cleaned and the manure removed. The animals have

been treated for parasites. These animals will continue to require these basics as decreed by North Dakota statute, but it will be up to Gary Dassinger to provide these basics. If he fails to do so, he may be subject to further scrutiny pursuant to North Dakota law.

[68] The State gave Dassinger the chance to rectify his situation, even though Chapter 36-21.2 did not require them to provide this courtesy to Dassinger. Because they did so, they lost this case. However, they acted with reason and the understanding of taking a person's property without notice while balancing their duty to enforce the laws of the state of North Dakota.

[69] The Court does wish to note that N.D.C.C. § 36-21.2 does not provide that any individual be provided a hearing before his animals may be seized or disposed. Despite that fact, all of the parties in this case, the State and Dassinger, along with this Court, agreed that Dassinger should be entitled to due process by the means of a hearing before any final disposition of Dassinger's animals could be completed. It is for this reason that the Court heard nearly three days of testimony.

[70] So while this Court found neglect on April 22, 2017, it has not been provided clear and convincing evidence that on May 18, 2017, the animals of Gary Dassinger met the definition of "neglect" pursuant to N.D.C.C. § 36-21.2-01(3). Therefore, the Petition to Seize Neglected Animals and the Petition for Disposition of Seized

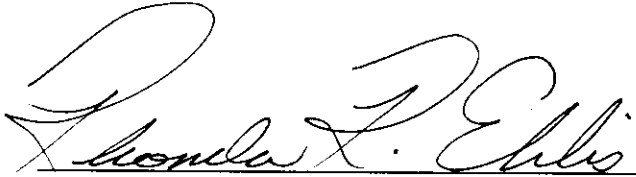
Animals are DENIED. The animals are to be returned to the care of Gary Dassinger, or their owners, effective with the date of this Order. If any of the animals were removed from the Dassinger farm and housed elsewhere, Dassinger is to contact the Stark County Sheriff's Department on July 10, 2017, to arrange for their transportation back to the farm. Effective with the date of this Order, Dassinger is now financially responsible for his animals again, and for the care and feeding of these animals, or any of those under his care. The Court reminds Dassinger that it is his duty now to provide this basic care for his horses and cattle, despite the drought conditions that currently prevail in southwest North Dakota.

[71] N.D.C.C. § 36-21.2-07 discusses the costs of seizure and care of the animals. As the statute requires a conviction before a law enforcement agency has a lien upon the animal, and before any costs may be recouped, this issue will either have to be addressed in the pending criminal matters against Gary (Gerald) Dassinger, or be pursued in a separate collection case.

[72] The Court declines to address the constitutional issues raised by Dassinger at the trial and in his closing arguments. There is no need to discuss these constitutional issues as Dassinger has prevailed.

Dated this 10<sup>th</sup> day of July, 2017.

BY THE COURT:

  
\_\_\_\_\_  
Rhonda R. Ehlis  
District Judge

CERTIFICATE OF SERVICE

The undersigned, Kay Erickson, does hereby certify that on July 10, 2017, she caused copies of the above document to be mailed or emailed to the following:

Amanda Engelstad  
Thomas F. Murtha IV

  
\_\_\_\_\_  
Kay Erickson