

ORIGINAL

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

MAR 31 2003

CLERK, U.S. DISTRICT COURT
BY _____
DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

EMPACADORA DE CARNES DE §
FRESNILLO, S.A. DE C.V., ET AL. §

VS. § CIVIL ACTION NO. 4:02-CV-804-Y

TIM CURRY, District Attorney, §
Tarrant County, Texas, ET AL. §

ORDER GRANTING UNITED STATES
DEPARTMENT OF AGRICULTURE'S MOTION TO DISMISS

Pending before the Court is defendant United States Department of Agriculture ("USDA")'s Motion to Dismiss [doc. # 22-2], filed October 11, 2002. Having carefully considered the motion and the response, the Court concludes that it should be GRANTED.

The plaintiffs, which are involved in horsemeat processing, filed a complaint on September 26, 2002, seeking to enjoin defendants Tim Curry, District Attorney of Tarrant County, Texas, and Bill Conratt, District Attorney of Kaufman County, Texas, from enforcing Chapter 149 of the Texas Agriculture Code. See TEX. AGRICULTURE CODE ANN. § 149.001 et seq. (Vernon 2003). The plaintiffs claim that either Chapter 149 has been repealed or is preempted by federal law. The plaintiffs included the USDA as a defendant on the basis that the USDA was a "party needed for just adjudication."

In its motion, the USDA claims that it should be dismissed because no relief has been sought against it and it is not a necessary party. The plaintiff, on the other hand, argues:

The USDA has a significant interest that could be adversely affected by the outcome of this litigation. As the agency responsible for implementing the standards concerning the regulation of meat and meat products in both interstate and foreign commerce, Defendants'

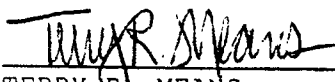
threatened prosecution under Chapter 149 directly challenges and contradicts the USDA's guidelines and its interpretation of federal policy that concludes [Texas Agriculture Code Chapter] 149 is preempted."

(Pls.' Resp. at 2.)

After reviewing the parties' arguments and the relevant law, the Court is not convinced that the USDA is a proper party to this lawsuit. The plaintiff admits that it has sought no relief from the USDA and the Court is not convinced by their argument that the USDA has an "interest that 'as a practical matter' will be impeded by a possible outcome of the litigation." (Pls.' Resp. at 2.) The USDA's interpretation of whether Chapter 149 of the Texas Agriculture Code is preempted by federal law, although of interest to the Court, does not make the USDA a necessary party to this lawsuit.

Based on the foregoing, it is ORDERED that the USDA's Motion to Dismiss [doc. # 22-2] is GRANTED. All claims against the USDA in the above-styled and numbered lawsuit are DISMISSED.

SIGNED March 31, 2003.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

TRM/knv