

**In the United States Court of Appeals
for the Eighth Circuit**

No. 06-1308

JOHN GALE, in his official capacity as Secretary of State of Nebraska;
JON BRUNING, in his official capacity as Attorney General of Nebraska;

Appellants,

v.

JIM JONES; TERRENCE M. SCHUMACHER; SHAD DAHLGREN;
HAROLD G. RICKERTSEN; TODD EHLER; ROBERT E. BECK, III,

Appellees.

**Motion of Proposed *Amici Curiae* National Farmers Union,
National Family Farm Coalition, American Corn Growers Association,
Minnesota Farmers Union, Land Stewardship Project, North Dakota
Farmers Union, Dakota Resource Council, South Dakota Farmers
Union, Dakota Rural Action, Iowa Farmers Union, Iowa Citizens for
Community Improvement, Missouri Farmers Union, Missouri Rural
Crisis Center, Arkansas Farmers Union, Campaign for Family Farms,
Western Organization of Resource Councils, Federation of Southern
Cooperatives, Illinois Farmers Union, Illinois Stewardship Alliance,
Indiana Farmers Union, Citizens Action Coalition of Indiana,
Powder River Basin Resource Council, Kansas Farmers Union,
Wisconsin Farmers Union, Ohio Farmers Union, Michigan Farmers
Union, Pennsylvania Farmers Union, Rocky Mountain Farmers Union,
Montana Farmers Union, Utah Farmers Union, Texas Farmers Union,
Alaska Farmers Union, Oregon Farmers Union, Washington Farmers
Union, and California Farmers Union for Leave to File Brief
as *Amici Curiae* in Support of Appellants and
in Support of Reversal of the Judgment Below**

Jessica A. Shoemaker (MN Lic. No. 0352238)
Lynn A. Hayes (MN Lic. No. 0142372)
Karen R. Krub (MN Lic. No. 0272644)
FARMERS' LEGAL ACTION GROUP, INC.

360 N. Robert Street, Suite 500
St. Paul, Minnesota 55101
Telephone: 651-223-5400
Facsimile: 651-223-5335
Email: jshoemaker@flaginc.org
Email: lhayes@flaginc.org
Email: kkrub@flaginc.org

Attorneys for Amici Curiae

National Farmers Union, National Family Farm Coalition, American Corn Growers Association, Minnesota Farmers Union, Land Stewardship Project, North Dakota Farmers Union, Dakota Resource Council, South Dakota Farmers Union, Dakota Rural Action, Iowa Farmers Union, Iowa Citizens for Community Improvement, Missouri Farmers Union, Missouri Rural Crisis Center, Arkansas Farmers Union, Campaign for Family Farms, Western Organization of Resource Councils, Federation of Southern Cooperatives, Illinois Farmers Union, Illinois Stewardship Alliance, Indiana Farmers Union, Citizens Action Coalition of Indiana, Powder River Basin Resource Council, Kansas Farmers Union, Wisconsin Farmers Union, Ohio Farmers Union, Michigan Farmers Union, Pennsylvania Farmers Union, Rocky Mountain Farmers Union, Montana Farmers Union, Utah Farmers Union, Texas Farmers Union, Alaska Farmers Union, Oregon Farmers Union, Washington Farmers Union, and California Farmers Union

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, National Farmers Union, National Family Farm Coalition, American Corn Growers Association, Minnesota Farmers Union, Land Stewardship Project, North Dakota Farmers Union, Dakota Resource Council, South Dakota Farmers Union, Dakota Rural Action, Iowa Farmers Union, Iowa Citizens for Community Improvement, Missouri Farmers Union, Missouri Rural Crisis Center, Arkansas Farmers Union, Campaign for Family Farms, Western Organization of Resource Councils, Federation of Southern Cooperatives, Illinois Farmers Union, Illinois Stewardship Alliance, Indiana Farmers Union, Citizens Action Coalition of Indiana, Powder River Basin Resource Council, Kansas Farmers Union, Wisconsin Farmers Union, Ohio Farmers Union, Michigan Farmers Union, Pennsylvania Farmers Union, Rocky Mountain Farmers Union, Montana Farmers Union, Utah Farmers Union, Texas Farmers Union, Alaska Farmers Union, Oregon Farmers Union, Washington Farmers Union, and California Farmers Union (collectively, “Proposed *Amici Curiae*”) respectfully request the Court’s permission to submit a brief as *amici curiae* in this action in Support of Appellants and in Support of Reversal of the Judgment Below.

Given the potential implications of the district court’s decision beyond the State of Nebraska, Proposed *Amici Curiae* request permission to file an *amici*

curiae brief of up to 7,000 words in length. Proposed *Amici Curiae*'s brief is submitted herewith.

PROPOSED AMICI CURIAE

1. The **National Farmers Union** (NFU), officially called the Farmers Educational and Cooperative Union of America, is a farm organization with a membership of nearly 250,000 farm and ranch families throughout the United States. NFU is a federation, with the presidents of the 23 state and one regional (covering three states) Farmers Union organizations serving as its board of directors. For more than 100 years, NFU's primary goal has been to sustain and strengthen family farm and ranch agriculture.
2. The **National Family Farm Coalition** (NFFC) represents 35 grassroots farm and rural advocacy organizations in more than 30 states. Formed in 1986, the coalition coordinates the efforts of a growing network of grassroots organizations committed to preserving and enhancing a family farm production system in the United States. NFFC's work includes education, outreach, and advocacy for stable rural communities, safe food, and the preservation of natural resources through family farming.
3. **American Corn Growers Association** (ACGA) is America's leading progressive commodity association, representing the interests of corn producers in 35 states. Since its inception in 1987, the ACGA has worked

tirelessly to enhance farm income and protect rural communities. ACGA members work together on economic, policy, and research issues affecting rural communities.

4. **Minnesota Farmers Union** (MFU) is a non-profit membership-based organization with approximately 23,400 members, about 95 percent of whom are Minnesota farmers. Founded in 1929, MFU works to protect and enhance the economic interests and quality of life of family farmers and ranchers in rural communities. MFU has lobbied at the Minnesota legislature to protect Minnesota's corporate farming law, Minn. Stat. § 500.24.
5. The **Land Stewardship Project** (LSP) is a membership organization founded in 1982 and based in Minnesota. LSP's mission is to foster an ethic of stewardship for farmland, promote sustainable agriculture, and develop sustainable communities. Hundreds of LSP's members are family farmers, and farming is an important element of the economies and environment of Minnesota's rural communities where these members live. LSP supports and has worked to preserve Minnesota's corporate farming law.
6. Founded in 1927, **North Dakota Farmers Union** (NDFU) is a producer-controlled organization dedicated to serving its 37,000 North Dakota family members. NDFU believes that the family farm system of agriculture is the only

way to ensure rural and urban stability, national prosperity, the preservation of human and natural resources, and the dignity of the individual and the family.

7. **Dakota Resource Council** (DRC) is a grassroots organization formed in 1978 to protect North Dakota's natural resources, rural communities, and agricultural economy. DRC is working for preservation of family farms, enforcement of corporate farming laws, protection of groundwater and clean air, and renewable energy.
8. **South Dakota Farmers Union** (SDFU) is a grassroots organization of about 10,000 members and has been the voice of South Dakota farm families for nearly a century. SDFU works as farmers' "hired hand" in the halls of state and federal government.
9. **Dakota Rural Action** (DRA) is a grassroots family agriculture and conservation group that organizes South Dakotans to protect family farmers and ranchers and main street businesses while preserving natural resources, a clean environment, and a unique rural way of life. Formed in 1987, DRA makes supporting a family-based system of agriculture a top priority.
10. **Iowa Farmers Union** (IFU) is a non-profit advocacy group representing family farmers across the state of Iowa. IFU's mission is to promote a viable system of sustainable agriculture and a high quality of life in rural

communities. IFU supports and has worked to preserve Iowa's restrictions on corporate ownership of farmland and livestock.

11. **Iowa Citizens for Community Improvement** (Iowa CCI) is a membership-based, multi-issue community organization. Iowa CCI works in both rural and urban areas to achieve community improvement and social, economic, and environmental justice. Iowa CCI has more than 1,800 members statewide, including hundreds of family farmers. Iowa CCI supports and has worked to protect Iowa's restrictions on corporate farming.

12. **Missouri Farmers Union** (MFU) is a non-profit membership-based organization with approximately 1,500 members, all of whom are Missouri farmers. Founded in 1999, MFU works to protect and enhance the economic interests and quality of life of family farmers and ranchers in rural communities. MFU has been active in lobbying for family farmers and ranchers and has encouraged the passage of a stricter Missouri corporate farming law.

13. The **Missouri Rural Crisis Center** (MRCC) is a non-profit organization founded in 1985 by Missouri farmers and rural citizens, with more than 5,500 member families statewide today. MRCC's mission is to preserve family farms, promote stewardship of the land and environmental integrity, and strive for justice among diverse groups, both rural and urban.

14. **Arkansas Farmers Union** (AFU) is a non-profit membership-based organization with approximately 13,900 members. AFU works to protect and enhance the economic interests and quality of life of family farmers and ranchers in rural communities.
15. The **Campaign for Family Farms** (CFF) is an unincorporated association of family farm and community membership organizations including Iowa CCI, MRCC, LSP, Illinois Stewardship Alliance, and the Citizens Action Coalition of Indiana. CFF and its members seek to develop and implement farm policies, farming practices, and marketing systems that help family farms and rural communities thrive. CFF and its member organizations believe corporate farming laws, which restrict non-family-based corporations' involvement in farming, are an important part of state policy supporting family farming.
16. **Western Organization of Resource Councils** (WORC) is a network of grassroots organizations from seven states that includes 9,500 members and 45 local community groups. WORC's seven state organizations are: DRC (North Dakota), DRA (South Dakota), the Idaho Rural Council (Idaho), the Northern Plains Resource Council (Montana), Oregon Rural Action (Oregon), the Powder River Basin Resource Council (Wyoming), and the Western Colorado Congress (Colorado). WORC's mission is to advance the vision of a democratic, sustainable, and just society through community action.

17. The **Federation of Southern Cooperatives** (FSC) is a service, resource, and advocacy association for a constituency of 25,000 low-income families organized into over 100 cooperatives in rural communities across the South. An outgrowth of the Civil Rights Movement, the Federation was chartered in 1967 by 22 low-income cooperatives to help African Americans and poor people to produce a livable income and save their rural way of life. One of FSC's mission areas is advocacy for public policy changes to assist family farmers and rural poor people to improve their lives and communities.
18. **Illinois Farmers Union** (ILFU) is a non-profit advocacy group representing family farmers across the state of Illinois. ILFU has more than 700 members statewide. Founded in 1954, ILFU is committed to providing effective grassroots leadership to build a sustainable economic system in which family farms and rural communities thrive and prosper. ILFU has worked to preserve Illinois's restrictions on corporate ownership of farmland and livestock.
19. The **Illinois Stewardship Alliance** (ISA) is a membership organization founded in 1974 as the Illinois South Project. ISA is a citizens' organization that promotes a safe and nutritious food system, family farming, and healthy communities by advocating diverse, humane, socially just and ecologically sustainable production and marketing practices.

20. **Indiana Farmers Union** (INFU) is a producer-driven membership organization with approximately 750 members. INFU's primary goal is to sustain family farms and strengthen rural Indiana. INFU supports passage of a corporate farming law in Indiana and nationally.
21. Founded in 1974, **Citizens Action Coalition of Indiana** (CAC) is a non-profit coalition of organizations with more than 250,000 individual members throughout Indiana. For over two decades, CAC has worked to empower citizens and promote economic and environmental justice, including promotion of family-farm-based agriculture.
22. Founded in 1973, the **Powder River Basin Resource Council** is a grassroots organization of ranchers and landowners working to conserve Wyoming's natural resources and preserve and strengthen family ranches and farms to ensure a future for the state's small towns and rural economies. Powder River has more than 1,000 members, primarily in northeastern Wyoming.
23. **Kansas Farmers Union** (KFU) is a non-profit membership-based organization with approximately 9,000 members, a significant number of whom are Kansas farmers. Founded in 1907, KFU works to protect and enhance the economic interests and quality of life of family farmers and ranchers in rural communities. KFU policy supports legislation similar to Nebraska's corporate farm law in Kansas.

24. **Wisconsin Farmers Union (WFU)** is committed to enhancing the quality of life for family farmers, rural communities, and all people through educational opportunities, cooperative endeavors, and civic engagement. Chartered in 1930, WFU has a long history of advocacy on behalf of family farms and rural people, and is a strong proponent of Wis. Stat. Ann. § 182.001, which restricts corporate involvement in agriculture.
25. **Ohio Farmers Union (OFU)** is a non-partisan, non-profit advocacy group and service provider to a membership consisting of approximately 5,800 families. For 72 years, OFU has engaged in activities in Ohio with a goal of supporting and sustaining a family-farm-based system of agriculture. OFU's primary goal is to sustain and strengthen family farm and ranch agriculture. OFU supports the rights of communities to express their preferences in structuring their societies and supports legislation such as Nebraska's I-300.
26. **Michigan Farmers Union (MIFU)** is a statewide family farm and rural advocacy organization. Established in 1932, MIFU is dedicated to strengthening the family farm system. Its policies are designed to reaffirm the family farm structure as the primary agricultural system and to assure rural and urban stability, the preservation of human and natural resources, and the dignity of the individual and family.

27. **Pennsylvania Farmers Union** (PFU) has approximately 1,400 members. PFU's mission includes supporting family-farm-based agriculture.
28. **Rocky Mountain Farmers Union** (RMFU) represents approximately 23,000 family farm and ranch members in Colorado, New Mexico, and Wyoming, with its principal place of business in Colorado. Founded in 1907, RMFU works to protect and enhance the economic interests and quality of life of family farmers and ranchers and the rural communities where they live.
29. The **Montana Farmers Union** (MFU) is a non-profit membership-based organization with approximately 1850 members, about 95 percent of whom are Montana farmers. Established in 1916, MFU is organized to serve the interests of Montana farm and ranch families, along with rural communities, through the principles of education, legislation, and cooperation for economic prosperity and quality of life for all Montanans.
30. **Utah Farmers Union**, a non-profit organization, was chartered in 1954 and currently has about 2,700 members. Its family farmer and rancher membership is concerned about corporate engagement in agriculture.
31. **Texas Farmers Union** promotes and protects the interests of family farmers and ranchers and others who live in rural communities, to inform and educate agricultural producers about their economic environment and about legislation which might affect their well-being.

32. **Alaska Farmers Union** (AKFU) is dedicated to the growth and expansion of agriculture and the family farm in Alaska. AKFU believes in the importance of viable family farm enterprises for local communities and beyond.
33. **Oregon Farmers Union** is a state farmer organization with a national focus on promoting policies beneficial to rural America.
34. **Washington Farmers Union** (WAFU) is a state-based farm organization committed to the sustainability of family farming. WAFU's work includes efforts to support family farmers by achieving fair markets for farmers and addressing environmental issues in Washington state.
35. **California Farmers Union** (CFU) works to promote the well-being of rural California and specifically supports California family farmers. CFU serves its membership by presenting the organization's policies to lawmakers at the local, state, and national level. CFU also assists with the development of farmer-owned cooperatives.

INTEREST OF PROPOSED *AMICI CURIAE*

These organizations and their members support and promote a family farm system of agriculture in order to foster vital rural communities. The district court's decision striking down Nebraska's Constitutional provision, known as Initiative 300, that prohibits (with certain exceptions) non-family-owned corporations from

owning farm or ranch land and from farming or ranching in the state undermines family farming to the detriment of rural communities.

These organizations believe an agricultural sector composed of family farmers and ranchers is the best foundation for achieving thriving rural communities. For-profit corporations are creatures of state law designed to allocate capital in what is deemed the most “efficient” manner without regard to communities, neighborhoods, and families. In contrast, family farms, and the families that operate them, strive for different goals: building sustainable rural communities; promoting responsible stewardship of soil, water, and other resources; and ensuring through family ownership that land can be farmed by future generations.¹

Proposed *Amici Curiae* believe that allowing non-family-owned corporations to enter into farming and ranching in Nebraska, and potentially in other states with similar restrictions on corporate farming, would undermine family farms and the rural communities they support. These organizations have advocated for many years to preserve and strengthen the family farm system of agriculture and to foster the vital rural communities that system supports.

If the district court’s decision is not reversed, it could open the floodgates to challenges to laws in eight other states that, in varying degrees, restrict non-family-

owned corporations from engaging in farming and owning agricultural land. *See* Iowa Code §§ 9H.1, 9H.3 to 9H1.5, and 202B.101 to 202B.402; Kan. Stat. §§ 17-5902 to 17-5904; Minn. Stat. § 500.24; Mo. Rev. Stat. §§ 350.010 to 350.040;² N.D. Cent. Code §§ 10-06.1-01 to 10.06.1-27;³ Okla. Const. Art. XXII § 2 and Okla. Stat. tit. 18, § 951; S.D. Codified Laws §§ 47-9A-1 to 47-9A-23; and Wis. Stat. § 182.001.

As the Minnesota legislature has eloquently declared in its corporate farm law, such state laws are essential to the preservation of the general welfare of rural society:

The legislature finds that it is in the interests of the state to encourage and protect the family farm as a basic economic unit, to insure it as the most socially desirable mode of agricultural production, and to enhance and promote the stability and well-being of rural society in Minnesota and the nuclear family.

¹ *See generally* Marty Strange, *Family Farming: A New Economic Vision* 32-42 (1988).

² The Missouri Supreme Court determined that Missouri's restriction on corporate ownership of farmland serves a legitimate state interest and protects the welfare of its rural citizens. *State ex rel. Webster v. Lehdorff Geneva, Inc.*, 744 S.W.2d 801, 806 (Mo. 1988).

³ The United States Supreme Court ruled that North Dakota's statute barring all corporations, except cooperatives, from owning farmland is an appropriate application of a state policy against the concentration of farming lands in corporate ownership. *Asbury Hospital v. Cass*, 326 U.S. 207, 214-15 (1945).

Minn. Stat. § 500.24, subd. 1. The Proposed *Amici Curiae* support, and many have worked to enact and preserve, state laws that assist in the promotion of the social welfare benefits associated with family farming and, therefore, these organizations have an interest in seeking this Court's reversal of the lower court's decision in this case.

For the foregoing reasons, Proposed *Amici Curiae* respectfully request that their Motion for Leave to File Brief as *Amici Curiae* be granted.

Dated: April 3, 2006.

Respectfully submitted,

/s/ Jessica A. Shoemaker

Jessica A. Shoemaker (MN Lic. # 0352238)

Lynn A. Hayes (MN Lic. # 0142372)

Karen R. Krub (MN Lic. # 0272644)

FARMERS' LEGAL ACTION GROUP, INC.

360 N. Robert Street, Suite 500

St. Paul, Minnesota 55101

Telephone: 651-223-5400

Facsimile: 651-223-5335

Email: jshoemaker@flaginc.org

Email: lhayes@flaginc.org

Email: kkrub@flaginc.org

Attorneys for Proposed *Amici Curiae*
National Farmers Union, National Family
Farm Coalition, American Corn Growers
Association, Minnesota Farmers Union,
Land Stewardship Project, North Dakota
Farmers Union, Dakota Resource Council,
South Dakota Farmers Union, Dakota Rural
Action, Iowa Farmers Union, Iowa Citizens
for Community Improvement, Missouri
Farmers Union, Missouri Rural Crisis

Center, Arkansas Farmers Union, Campaign for Family Farms, Western Organization of Resource Councils, Federation of Southern Cooperatives, Illinois Farmers Union, Illinois Stewardship Alliance, Indiana Farmers Union, Citizens Action Coalition of Indiana, Powder River Basin Resource Council, Kansas Farmers Union, Wisconsin Farmers Union, Ohio Farmers Union, Michigan Farmers Union, Pennsylvania Farmers Union, Rocky Mountain Farmers Union, Montana Farmers Union, Utah Farmers Union, Texas Farmers Union, Alaska Farmers Union, Oregon Farmers Union, Washington Farmers Union, and California Farmers Union

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eighth Circuit Rule 26.1A, none of Proposed *Amici Curiae* National Farmers Union, National Family Farm Coalition, American Corn Growers Association, Minnesota Farmers Union, Land Stewardship Project, North Dakota Farmers Union, Dakota Resource Council, South Dakota Farmers Union, Dakota Rural Action, Iowa Farmers Union, Iowa Citizens for Community Improvement, Missouri Farmers Union, Missouri Rural Crisis Center, Arkansas Farmers Union, Campaign for Family Farms, Western Organization of Resource Councils, Federation of Southern Cooperatives, Illinois Farmers Union, Illinois Stewardship Alliance, Indiana Farmers Union, Citizens Action Coalition of Indiana, Powder River Basin Resource Council, Kansas Farmers Union, Wisconsin Farmers Union, Ohio Farmers Union, Michigan Farmers Union, Pennsylvania Farmers Union, Rocky Mountain Farmers Union, Montana Farmers Union, Utah Farmers Union, Texas Farmers Union, Alaska Farmers Union, Oregon Farmers Union, Washington Farmers Union, or California Farmers Union is a publicly held corporation nor is owned in any part by a publicly held corporation.

/s/ Jessica A. Shoemaker

JESSICA A. SHOEMAKER

Dated: April 3, 2006

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2006, I served the foregoing Motion of Proposed *Amici Curiae* National Farmers Union, National Family Farm Coalition, American Corn Growers Association, Minnesota Farmers Union, Land Stewardship Project, North Dakota Farmers Union, Dakota Resource Council, South Dakota Farmers Union, Dakota Rural Action, Iowa Farmers Union, Iowa Citizens for Community Improvement, Missouri Farmers Union, Missouri Rural Crisis Center, Arkansas Farmers Union, Campaign for Family Farms, Western Organization of Resource Councils, Federation of Southern Cooperatives, Illinois Farmers Union, Illinois Stewardship Alliance, Indiana Farmers Union, Citizens Action Coalition of Indiana, Powder River Basin Resource Council, Kansas Farmers Union, Wisconsin Farmers Union, Ohio Farmers Union, Michigan Farmers Union, Pennsylvania Farmers Union, Rocky Mountain Farmers Union, Montana Farmers Union, Utah Farmers Union, Texas Farmers Union, Alaska Farmers Union, Oregon Farmers Union, Washington Farmers Union, and California Farmers Union for Leave to File Brief as *Amici Curiae* in Support of Appellants and in Support of Reversal of the District Court by causing two copies to be mailed to each of the following:

Stephen D. Mossman
Matson Ricketts Davies Stewart &
Calkins
134 S. 13th Street, Suite 1200
Lincoln, NE 68508-1901

Jon Bruning, Attorney General
State of Nebraska
2115 State Capitol Building
P.O. Box 98920
Lincoln, NE 68509

L. Steven Grasz
Thomas H. Dahlk
Michael S. Degan
Rebecca B. Gregory
Blackwell Sanders Peper Martin
1620 Dodge Street, Suite 2100
Omaha, NE 68102

David D. Cookson
Justin D. Lavene
Katherine J. Spohn
Attorney General's Office
2115 State Capitol Building
P.O. Box 98920
Lincoln, NE 68509

David A. Jarecke
Crosby Guenzel
134 S. 13th Street, Suite 400
Lincoln, NE 68508-1981

/s/ Jessica A. Shoemaker
JESSICA A. SHOEMAKER