

## **USDA ordered to quit buying anti-Prop. 2 ads**

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A federal judge accused the U.S. Department of Agriculture of ignoring the law on government involvement in political campaigns Monday and ordered the agency not to spend any money collected from egg producers on ads against a state ballot measure that would ban cramped cages for hens and other farm animals.

A government lawyer described the ads as "neutral and educational" and said they were unrelated to the Nov. 4 initiative, Proposition 2. But U.S. District Judge Marilyn Hall Patel of San Francisco was skeptical of that claim after hearing from a Humane Society lawyer that the government-backed ads featured a No on 2 spokesman with a message that dovetailed with the opposition campaign's theme.

"They seem to have ignored the statutory proscription," Patel said, referring to a law that bans spending federally regulated funds to influence government policy.

She ordered the USDA to extend through Nov. 4 an agreement it accepted last month to refrain from spending any money under its control on advertising aimed at California voters.

Prop. 2 would prohibit the confinement of egg-laying hens, pregnant pigs or veal calves in cages that prevent them from standing up, lying down or turning around freely. It is supported by animal-protection advocates and opposed by farm groups, which say the measure would outlaw safe caging practices and drive egg producers out of California.

In a lawsuit filed Aug. 13, sponsors of Prop. 2 said the American Egg Board voted to spend \$3 million against the ballot measure at a November meeting in Napa. The board is a government-supervised group of 18 egg producers that uses fees from the industry to research and promote egg products.

The USDA assured Prop. 2 sponsors that no such expenditures were planned, the suit said, but documents obtained under the Freedom of Information Act confirmed the egg board's plans. Government records also showed that Agriculture Secretary Ed Schaefer had approved the spending and endorsed the advertising, the plaintiffs said.

Two ads touted the virtues of locally produced eggs and said buying them saves transportation costs and fuel. The ads don't mention Prop. 2, but the announcer is a No on 2 spokesman who is also featured in privately funded campaign commercials declaring that the ballot measure would force Californians to buy more eggs from out of state, said Humane Society lawyer Jonathan Lovvorn.

The egg board "has hatched unlawful plans to influence the election," another Humane Society lawyer, Ralph Henry, told Patel.

The judge winced at the attorney's puns - he accused the USDA of running a "shell game" - but went along with his arguments.

Assistant U.S. Attorney Julie Arbuckle said the USDA could accept an order not to spend any of the \$3 million on California advertising before the election. But she argued it would be too burdensome to review the board's national advertising campaigns and remove any California references.

Patel replied that the department was skirting the law and would have to take any steps necessary to comply.