

## NEWS &amp; ISSUES

# A one-cow dairy, a legal conflict

## Massachusetts moves to shut down cow-share program

By NED OLIVER  
Contributing writer

SANDISFIELD, Mass.

In the span of a week, Brigitte Ruthman got three letters from the state: one via first-class mail, another via certified mail, and finally, a hand-delivered copy posted on her front door.

Ruthman was being ordered to cease and desist from distributing raw milk from her one-cow dairy in the rural southern Berkshires.

She'd never met the Massachusetts Department of Agricultural Resources agent who sent the letter, and she says her farm was never inspected by the state prior to its decision to shut her down.

"They were trolling the Internet when they found me," Ruthman explained.

Ruthman was running a small cow-share program through which three other people invested in her cow and, in exchange, received shares of the cow's raw, unpasteurized milk.

As a result, Ruthman's tiniest of dairy operations is now at the center of an ongoing debate over the sale of dairy shares in Massachusetts, a conflict that's pitting some small farmers against the state.

State regulators insist that farmers who set up cow- and herd-share operations still have to register with the state and abide by its regulations. But farmers like Ruthman say the state's regulations are so onerous as to make it impossible for small dairy operations to be economically viable.

Ruthman and her supporters say state laws are silent with regard to cow shares. They say the Department of Agricultural Resources is overstepping its authority.

But the agency's regulators say their rules are reasonable, not prohibitively expensive, and are intended to prevent any outbreak of illness from dairy products.

Mike Cahill, the director of the department's division of animal health, said his agents were indeed surfing the Internet when they sent out cease-and-desist orders to farmers who were advertising unlicensed dairies online.

"There are more producers now than five years ago," Cahill said. "We want to make sure people producing are doing it within the confines of the law."

He said his department has only had to send out one other cease-and-desist order to a farmer



Ned Oliver photo

Brigitte Ruthman pours fresh milk from her lone cow, Daisy, into bottles at her farm in the southern Berkshires. State agriculture officials have ordered her to stop supplying the milk to three people who bought shares of the cow. The state claims the cow-sharing operation amounts to an unlicensed dairy.

who set up a cow-share operation and wasn't also registered with the state. A department spokeswoman also said it is standard practice for the state to send out three separate cease-and-desist orders to a single dairy operator.

### A question of scale?

Ruthman, who works full-time as a newspaper reporter in Connecticut, says the effort to shut down her tiny dairy operation is an absurd waste of the state's time.

"The government has one way, and they don't bend," Ruthman said.

She said she looked into registering her

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dairy with the state and found it would cost her about \$80,000 to come into compliance with a thick set of regulations. Ruthman said she had already spent \$60,000 setting up her dairy and simply couldn't afford the extra expense.

"They don't want to recognize that there's a scale issue," Ruthman said. "This is a four-cow dairy barn. Manure never sits on the floor for more than 30 seconds."

Ruthman grew up working on dairy farms. She said she doesn't have any problem meeting certain standards and was emphatic that her operation is far cleaner than the average U.S. dairy. She says that she's been told she would need to install drainage and septic systems, running hot water and plastic covers on the wooden walls of her barn.

"The income from distributing milk is not enough to support the infrastructure they want," she said.

Ruthman currently provides milk to three other people who own a stake in her cow, Daisy. They each paid \$80 to buy a share of Daisy, and they each contribute \$20 a month for her room and board. In exchange, they get a half-gallon of unpasteurized milk a week.

In addition to Daisy, Ruthman keeps three heifers and a steer, all heirloom breeds — "the very kind settlers would have brought to this field in the 1700s," she said.

Ruthman also keeps 105 chickens, whose eggs she sells at markets in Connecticut.

She says she's not a "liberal-hippie rule-breaker." She said she had a lawyer draw up contracts for her cow-share system only after

*continued on next page*



Ned Oliver photo

Ruthman says the small scale of her operation makes it cost-prohibitive to invest in the kind of infrastructure required for large dairy farms. But she says that infrastructure isn't necessary since she isn't selling milk to the general public.

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*See map on page 17*

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- 12/12 • Caffè Lena • Three Spirits Tell Stories of the Season, a benefit for Caffè Lena • 3 pm • \$20

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 12/12 • Christmas Oratorio Tea • performance by Nacre Dance Company based on Charles Weidman's later version of "Christmas Oratorio" that tells the story of the Nativity through modern dance • 1 & 4 pm • The Universal Preservation Hall • info or tickets at 518-584-2627 or [www.universalpreservationhall.org](http://www.universalpreservationhall.org)  
 12/16 • Waldorf School • Firefly Store holds its Holiday Sale featuring natural, handmade, old fashioned toys including books, dolls, craft and art supplies, wooden toys, juggling items and stocking stuffers (also on 12/4 and 12/5) • today's time 3-6 pm • The Waldorf School of Saratoga Springs Early Childhood Center, Lake Avenue, Saratoga Springs

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she realized that becoming a registered dairy wouldn't work in her case.

Ruthman also insists that her cow-share operation is legal.

Advocacy groups like the Northeast Organic Farming Association of Massachusetts are backing her up.

Winton Pitcoff, the coordinator of the association's raw-milk network, described cow-share arrangements like Ruthman's as "a private contract between informed individuals" — not something state regulators should be trying to oversee.

"Herd share should be allowed to operate unhindered," Pitcoff said.

Most cow shares are low-key operations exactly because of situations like Ruthman's, he added. About 40 states don't have any laws on the books about cow-share programs, while four states prohibit them and four states have passed legislation to allow them, Pitcoff said.

**Direct-to-consumer model**

Pete Kennedy, a lawyer and president of the Farm to Consumer Legal Defense Fund in Washington, D.C., said cow-share operations are completely different from standard dairy farms. The milk being produced by these operations isn't being sold to the general public, but only to people with an ownership stake in the herd.

"You're dealing with a situation where the cow owner has the opportunity to make an informed decision, look over the farm, and decide whether they think that farmer is capable of producing safe milk," Kennedy said. "Who is the government protecting?"

He said Ruthman is potentially in a situation to set a legal precedent that would make it easier for other farmers to set up cow-share programs.

But Cahill insisted that the Department of Agricultural Resources is protecting consumers who aren't always in a position to identify safe farming practices. The department has taken

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# Milk *continued from page 10*

the position that legally sharing the ownership of an animal doesn't change the fact that a farmer is providing most of the care for the animal and distributing milk to consumers.

"Regardless of whether the milk is sold through a one-time sale or a share purchase, or a monthly maintenance fee, or by the gallon, it's all still the sale of milk," Cahill said. "That's why she needs the certificate of registration."

Cahill also said the fact that Ruthman's milk isn't pasteurized isn't a factor in the dispute. Under current Massachusetts law, registered dairy farms are allowed to sell raw milk at the farm.

Still, Cahill said consuming unpasteurized dairy products constitutes a health risk.

According to the U.S. Food and Drug Administration, raw milk can contain bacteria that pose health risks, especially for pregnant women, the elderly, children and people with weakened immune systems. The U.S. Centers for Disease Control says more than 800 people have gotten sick since 1998 from consuming raw milk or cheese made from raw milk.

"Louis Pasteur invented pasteurization because people were getting sick from pathogens in milk," Cahill said.

### Going without pasteurization

Fans of raw milk say the government agencies

are overstating the risk. Technology, they say, has made the handling of milk far cleaner and safer than in the days of Pasteur.

Supporters of raw milk have been pushing to loosen state restrictions on its sale, arguing that consumers who are aware of its potential health risks should be able to buy it easily if they prefer. Raw-milk devotees generally pay premium prices for it — typically \$5 to \$6 per gallon, compared with the \$1.10 to \$1.25 per gallon farmers typically receive by selling milk to conventional dairy processors.

In Vermont, legislators acted two years ago to double the amount of raw milk individual farmers are allowed to sell — increasing the limit from 6 to 12 gallons per day and removing a ban on advertising the product. Supporters want the state to go further by allowing farmers to sell unlimited quantities of raw milk.

In Massachusetts, state Rep. Anne Gobi, D-Spencertown, is working on legislation that would allow licensed dairies to deliver raw milk to customers — rather than forcing customers to come to the farm, as is required now.

Gobi said she buys raw milk herself and prefers its fuller taste. She discounted concerns about health risks as overblown.

"Pasteurization is fairly new," Gobi said. "Everybody used to drink raw milk. I just think getting back to nature and supporting sustainable farming are great things."

Gobi said her legislation won't address cow-

share operations, however. She said she thinks some regulations for farmers like Ruthman are necessary. But the state's regulations shouldn't be so onerous that they push raw milk sales underground, she added.

State Rep. William "Smitty" Pignatelli, D-Lenox, whose district includes Sandisfield, said he's visited Ruthman's farm and has been meeting with Gobi. But he said the concept of cow shares doesn't currently have much support on Beacon Hill.

He said the issue isn't well understood, adding that larger dairies don't support the distribution model as an alternative to state registration.

"I have sympathy for Brigitte," Pignatelli said. "I find it strange that the MDAR is cracking heads over one cow when we don't fully understand the issues."

Pignatelli said the issue isn't going away. And neither Ruthman nor the Department of Agricultural Resources gave any hint that they're backing down.

Cahill said his agency has ordered Ruthman to stop distributing milk. He said that if Ruthman is found to be violating the order, his department could issue fines and take other legal actions.

Ruthman said she sees herself as defending a way of life that is threatened — and that she's prepared for a legal fight if necessary.

"I'm on a mission," Ruthman said. "I want small farming to work. We can't turn all these fields into second homes."

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